VENABLE LLP

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ARNOLD JABLON
(410) 494-6298

aejablon@venable.com

13 May 2009

Timothy M. Kotroco, Director
Department of Permits and Development Management
County Office Building
111 West Chesapeake Ave
Towson, Maryland 21204

Re: Stevenson University
1525 Greenspring Valley Road
Relocation of Identification Sign

Dear Mr. Kotroco:

Please be advised that I represent Stevenson University.

Presently, the University has at its main entrance to the University, at Greenspring Valley Road and Spring Ave (the main access road onto the University campus), a monument "identification" sign, with the words "Stevenson University". This sign is 5.6' x 3.0', surrounded by a brick supporting structure. Stevenson proposes to relocate this sign approximately 450' to the rear on Spring Ave., to an existing island where Spring Ave intersects with another, unnamed, campus road, as more particularly shown on the attached Exhibit 1, the site plan for the University property. The relocated sign will be approximately 5.8' x 5.3' See Exhibit 2, picture of existing sign and rendering of the relocated, proposed sign. We are requesting that you agree that this sign may be moved without hearing.

If I might provide a brief history. In case No. 92-285 SPHXA, the Zoning Commissioner, and the Board of Appeals on appeal, along with other relief granted, approved an overall variance for signage of 105.2 S.F. in lieu of the permitted 30 S.F. under the sign regulations in effect at that time. The identification sign to which I refer above was included within this omnibus variance relief. While the proposed ID sign will be somewhat larger, based on the signage erected pursuant to the variance, it would

still fit within the overall 105.2 S.F. granted. As importantly, while the existing ID sign is clearly visible from Greenspring Valley Road, it will not be visible in its proposed location as it will be approximately 450' removed from Greenspring Valley, down a curved Spring Ave. The natural screening existing on Greenspring Valley Road on both sides of the entrance on Spring Ave. would further obscure any visibility. As you are aware, pursuant to §450.2C..1., signs not visible from a highway are exempt from the requirement of the current sign regulations, as set forth in §450.

Therefore, we request that you agree that, as described above, the Stevenson University Identification sign presently located at the corner of Spring Ave., on campus, and Greenspring Valley Road may be moved without a hearing. If you agree with our conclusion, I am requesting that you sign on the appropriate signature line provided below and request that you return the attached copy of this letter to me.

Sincerely,

Arnold Jablon

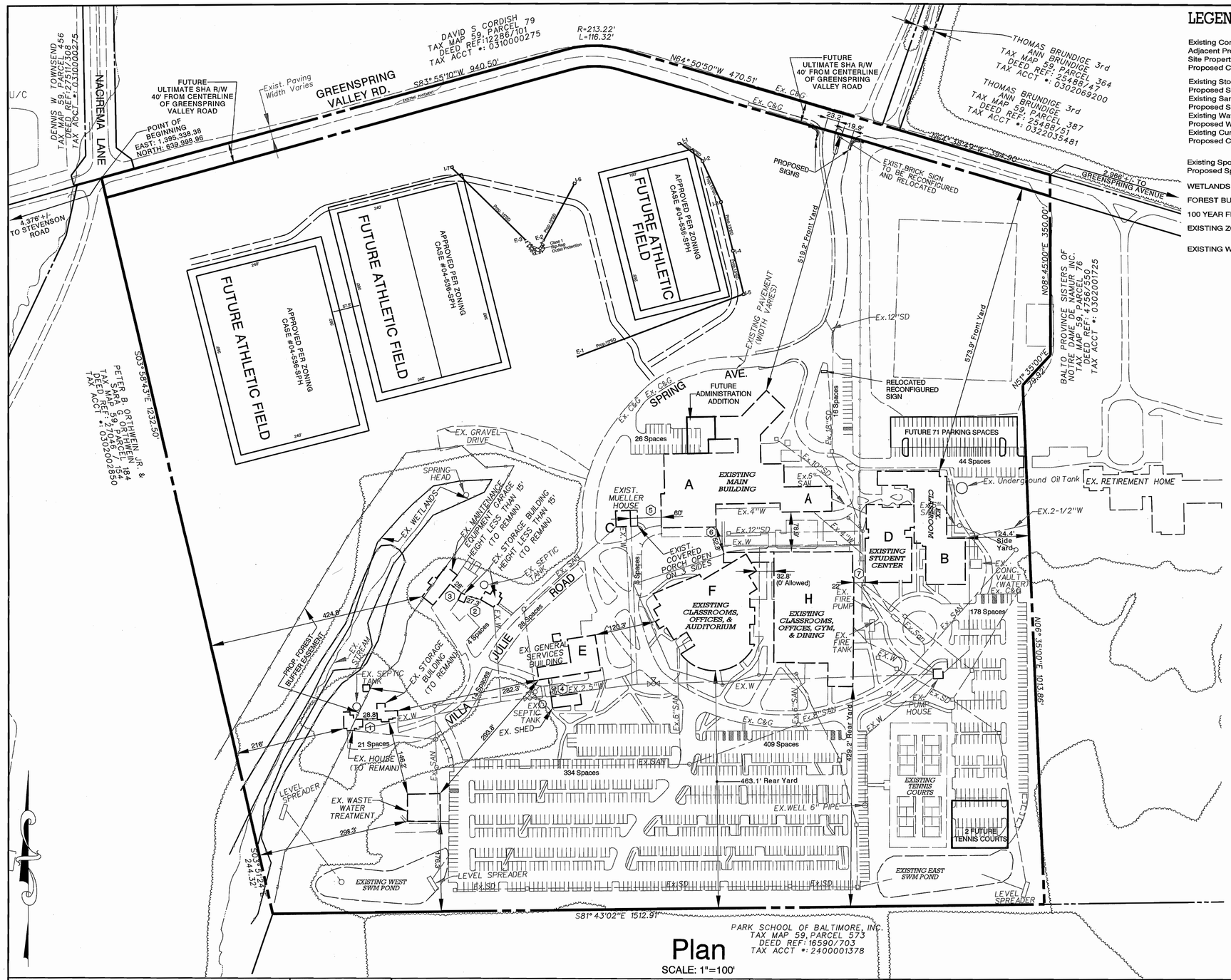
/01 TK/wcp

Timothy Kotroco, Director

5/26/09

Date

Department of Permits and Development Management


GREENSPRING VALLEY RD.
NAGIREMA LANE
FUTURE ULTIMATE SHA R/W 40' FROM CENTERLINE OF GREENSPRING VALLEY ROAD
POINT OF BEGINNING EAST: 1,395,238.38 NORTH: 639,998.96
Exist. Paving Width Varies
S83°55'10"W 940.50'
R=213.22' L=116.32'
N64°50'50"W 470.51'
Ex. C&G
DAVID S. CORDISH TAX MAP 59, PARCEL 79 DEED REF: 12286/101 TAX ACCT #: 0310000275
DENNIS W. TOWNSEND TAX MAP 59, PARCEL 456 DEED REF: 27511/308 TAX ACCT #: 0310000275
U/C
4,376'+/- TO STEVENSON ROAD
S03°58'43"E 1232.50'
PETER B. ORTHWEIN JR. & TARA G. ORTHWEIN TAX MAP 59, PARCEL 184 DEED REF: 27076/ 155 TAX ACCT #: 0302002650
FUTURE ATHLETIC FIELD
APPROVED PER ZONING CASE #04-536-SPH
FUTURE ATHLETIC FIELD
APPROVED PER ZONING CASE #04-536-SPH
FUTURE ATHLETIC FIELD
APPROVED PER ZONING CASE #04-536-SPH
Class 1 Pump Station Outlet Protection
Ex. Pole 12/20
Pole 12/20
E-1
E-2
E-3
E-4
E-5
E-6
E-7
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E-39
E-40

General Notes

1. ELECTION DISTRICT: 3

2. COUNCILMANIC DISTRICT: 2

3. OWNER NAME & ADDRESS:

   STEVENSON UNIVERSITY,
   1525 GREENSPRING VALLEY ROAD
   STEVENSON, MD 21153

4. PROPERTY ADDRESS AND DATE:

   1525 GREENSPRING VALLEY ROAD
   STEVENSON, MD 21153
   MARCH 5, 2009

5. NET AREA OF SITE (USING FUTURE ULTIMATE R/W LINE AS FRONT PROPERTY LINE): 58.4755 AC +/- (2,547,191.42-SF +/-)

6. GROSS AREA OF SITE (INCLUDES 30-FT OF FUTURE ROAD R/W): 59.7956 AC +/- (2,604,695.38-SF +/-)

7. DEED AREA OF SITE: 60.2364 AC +/- (2,623,897.58-SF +/-)

8. PREVIOUS COMMERCIAL PERMIT: UNKNOWN

9. APPROXIMATE DATE OF LAST IMPROVEMENT: 2000

10. ZONING HEARINGS: SEE TABLE

11. CRG, WAIVERS, DRC OR DEVELOPMENT PLANS: UNKNOWN

12. ZONING: RC 2

13. DEED REFERENCE: 4756/550

14. EXISTING USE: UNIVERSITY
    PROPOSED USE: UNIVERSITY

EXISTING BUILDINGS:	STORIES	GROSS FLOOR AREA
A. LEARNING & RESOURCES CENTER (LIBRARY)	2	27,463 S.F.
A. LEARNING & RESOURCES CENTER (ADMIN)	2	6,867 S.F.
A. LEARNING & RESOURCES CENTER (ART WING)	2	4,060 S.F.
B. CLASSROOM (KNOTT HALL)	3	42,432 S.F.
C. MUELLER HOUSE (OFFICES)	2	1,993 S.F.
D. STUDENT CENTER (CLASSROOMS & OFFICES)	2	15,384 S.F.
E. GENERAL SERVICES BUILDING (COLLEGE STORE)	1	5,083 S.F.
F. WEST BUILDING (CLASSROOMS, OFFICES & AUDITORIUM)	3	45,074 S.F.
H. EAST BUILDING (CLASSROOMS, OFFICES, GYM & DINING)	2	49,307 S.F.
TOTAL EXISTING BUILDING AREA		197,663 S.F.

PROPOSED BUILDINGS:	STORIES	GROSS FLOOR AREA
G. FUTURE ADDITION TO ADMINISTRATION BLDG IS STILL PROPOSED PER THE PREVIOUS ZONING CASES	1	3,400 S.F.
EXISTING & PROPOSED BUILDING AREA:		201,063 S.F.

15. EXISTING FLOOR AREA RATIO: 197,663/2,623,898 = 0.075
16. PROPOSED FLOOR AREA RATIO: 201,063/2,623,898 = 0.077

17. SIGNS: SEE SHEET 4 OF 4

18. UTILITIES: EXISTING PRIVATE WELL & SEWAGE SYSTEMS

19. FLOODPLAIN:
    FEMA FLOODPLAIN: X
    A BALTIMORE COUNTY FLOODPLAIN EXISTS ON SITE.

20. HEIGHT DETERMINATION:

    MAXIMUM HEIGHT OF EXISTING BUILDINGS IS 54.8 FT.

21. FIRE HYDRANTS:

    N/A - RURAL AREA
    EXISTING UNDERGROUND 20,000 GALLON TANK ON SITE.

21. PARKING TABULATION:

EXISTING PARKING	1079 SPACES
FUTURE REMOVED PARKING (building addition and 2 tennis courts)	49 SPACES
FUTURE PARKING AREA	71 SPACES
TOTAL PARKING PROPOSED	1,101 SPACES

22. THE SITE IS NOT LOCATED WITHIN A DEFICIENT ZONE PER THE BALTIMORE COUNTY BASIC SERVICES MAPS, WATER SUPPLY AREA MAP, SEWAGE AREA MAP, AND TRANSPORTATION MAP.

23. THE BUREAU OF TRAFFIC ENGINEERING AND PLANNING HAS CONFIRMED THAT THE SUBJECT SITE IS NOT WITHIN A TRAFFIC DEFICIENT AREA.

24. LIGHTING: TO BE IN ACCORDANCE WITH PREVIOUS ZONING ORDERS.

25. ALL PARKING AND DRIVE AISLES ARE PAVED WITH ASPHALT & WILL BE PERMANENTLY STRIPED ON A DURABLE AND DUSTLESS SURFACE.

26. STORMWATER MANAGEMENT: PROVIDED IN EXISTING FACILITIES.

27. LANDSCAPING:

    RC-2 ZONING IS EXEMPT FROM REQUIREMENTS OF BALTIMORE COUNTY LANDSCAPE MANUAL. LANDSCAPE REQUIREMENTS OF THE ZONING ORDER HAVE BEEN MET ONSITE. A FINAL LANDSCAPE PLAN HAS BEEN APPROVED FOR THIS SITE.

28. WASTEWATER TREATMENT PLANT IS A FACILITY CONSTRUCTED TO TREAT THE EFFLUENT OF VILLA JULIE COLLEGE.

29. THERE SHALL BE NO CLEARING, GRADING, CONSTRUCTION OR DISTURBANCE OF VEGETATION IN THE FOREST BUFFER, EXCEPT AS PERMITTED BY THE BALTIMORE COUNTY DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT.

30. ANY FOREST BUFFER SHOWN HEREON IS SUBJECT TO PROTECTIVE COVENANTS WHICH MAY BE FOUND IN THE LAND RECORDS OF BALTIMORE COUNTY AND WHICH RESTRICT DISTURBANCE AND THE USE OF THESE AREAS

31. CONTINUING USE VARIANCES HAVE BEEN GRANTED FOR THE EXISTING HOUSES THAT ARE NOW WITHIN THE PROPOSED FOREST BUFFER .

Zoning History

A. ON JULY 10, 1992 THE ZONING COMMISSIONER OF BALTIMORE COUNTY, IN CASE NO: 92 285 SPHXA APPROVED A PETITION FOR SPECIAL EXCEPTION FOR A PRIVATE COLLEGE IN AN RC 2 ZONE, A SPECIAL HEARING FOR A MODIFIED PARKING PLAN AND A RESIDENTIAL CARETAKER DWELLING AS AN ACCESSORY USE TOGETHER WITH REQUESTED VARIANCES. THE SPECIAL EXCEPTION FOR A (CLASS B) GROUP CHILD CARE CENTER WAS REMOVED FROM THE REQUEST AND THEREFORE DENIED. THE ZONING COMMISSIONER'S ORDER WAS APPEALED TO THE COUNTY BOARD OF APPEALS.

B. ON JULY 23, 1993 THE COUNTY BOARD OF APPEALS APPROVED THE FOLLOWING ORDER:

IT IS THEREFORE THIS 23RD DAY OF JULY, 1993 BY THE COUNTY BOARD OF APPEALS FOR BALTIMORE COUNTY ORDERED THAT THE PETITION FOR SPECIAL HEARING TO APPROVE A MODIFIED PARKING PLAN AND A RESIDENTIAL CARETAKER DWELLING AS AN ACCESSORY USE TO THE COLLEGE BE AND IS HEREBY GRANTED, AND IT IS FURTHER ORDERED THAT THE PETITION FOR SPECIAL EXCEPTION TO APPROVE THE USE OF PROPERTY FOR A PRIVATE COLLEGE, BE AND IS HEREBY GRANTED, AND IT IS FURTHER ORDERED THAT THE REQUESTED VARIANCE TO PERMIT A MAXIMUM OF HEIGHT OF 48 FT. IN HEIGHT WITHIN BUILDING ENVELOPE "F" IN LIEU OF THE PERMITTED 35 FT. FOR TWO PROPOSED BUILDINGS BE AND IS HEREBY DENIED; AND IT IS FURTHER ORDERED THAT THE FOLLOWING VARIANCES BE AND ARE HEREBY GRANTED SAID VARIANCES TO PERMIT:

1. 42 FT BETWEEN EXISTING BUILDINGS #1 AND #2 IN LIEU OF THE REQUIRED 70 FT;
2. 30 FT. BETWEEN EXISTING BUILDING #3 AND EXISTING STORAGE BUILDING IN LIEU OF THE REQUIRED 70 FT;
3. 32 FT. BETWEEN EXISTING MAINTENANCE EQUIPMENT BUILDING AND EXISTING STORAGE BUILDING IN LIEU OF THE REQUIRED 70 FT;
4. 40 FT. BETWEEN EXISTING BUILDING "E" AND EXISTING SHED IN LIEU OF THE REQUIRED 70 FT;
5. 60 FT. BETWEEN EXISTING BUILDING "C" AND EXISTING BUILDING "A" IN LIEU OF THE REQUIRED 70 FT;
6. 60 FT. BETWEEN EXISTING BUILDING "A" AND PROPOSED ENVELOPE "F" IN LIEU OF THE REQUIRED 70 FT;
7. 20 FT. BETWEEN EXISTING BUILDING "D" AND PROPOSED BUILDING ENVELOPE "F" IN LIEU OF THE REQUIRED 70 FT;
8. A TOTAL OF 105.2 SQ. FT. OF EXISTING SIGNS IN LIEU OF THE PERMITTED 30 SQ. FT.;
9. A MAXIMUM HEIGHT OF 39S FT. IN LIEU OF THE PERMITTED 35 FT. FOR EXISTING BUILDING "A";
10. MAXIMUM HEIGHT OF 54.8 FT. IN LIEU OF THE PERMITTED 35 FT. FOR EXISTING BUILDING "B";
11. A DISTANCE OF 0 FT. IN LIEU OF THE REQUIRED 70 FT. BETWEEN THE TWO PROPOSED BUILDINGS WITHIN BUILDING ENVELOPE "F"; AND
12. 503 PARKING SPACES 8 FT. WIDE x 18 FT. DEEP IN LIEU OF THE REQUIRED 8.5 FT. WIDE x 18 FT. DEEP.

THE FOLLOWING RESTRICTIONS ARE CONDITIONS PRECEDENT TO THE RELIEF GRANTED HEREIN:

1. THE PETITIONER IS HEREBY MADE AWARE THAT PROCEEDING AT THIS TIME IS AT ITS OWN RISK UNTIL 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. CONSTRUCTION OF THE WASTEWATER TREATMENT PLANT AS SHOWN ON THE PETITIONER'S SITE PLAN SHALL BE PERMITTED AS AN ACCESSORY STRUCTURE/USE TO THE COLLEGE. THEREFORE, USE OF THE WWTP SHALL BE LIMITED STRICLY TO THE COLLEGE AND USE BY ADJOINING PROPERTIES IS PROHIBITED.
3. TOTAL STUDENT ENROLLMENT AT THE COLLEGE SHALL BE LIMITED TO 2,500 STUDENTS. THIS LIMITATION SHALL NOT APPLY TO STUDENTS WHO EXCLUSIVELY ATTEND OFF-SITE/SATELLITE CAMPUSES OR PROGRAMS, OR WHO ARE ENROLLED THROUGH A CORRESPONDENCE PROGRAM. IT IS THE INTENT OF THIS RESTRICTION TO LIMIT NUMBER OF STUDENTS WHO ATTEND THE CLASSES OR REGULARLY USE THE FACILITIES ON THE SUBJECT SITE.
4. STUDENT GROWTH SHALL BE LIMITED TO 5 PERCENT PER YEAR. THE BASE YEAR SHALL BE DETERMINED TO BE TOTAL ON CAMPUS STUDENT ENROLLMENT FOR THE FALL 1993 SEMESTER. STUDENT ENROLLMENT FOR SUCCEEDING ACADEMIC YEARS SHALL BE LIMITED TO 5 PERCENT OF THE ENROLLMENT IN THE FALL SEMESTER OF EACH SUCCEEDING YEAR UNTIL TOTAL ENROLLMENT REACHES 2,500 STUDENTS.
5. THE MAXIMUM DISCHARGE OF THE WWTP SHALL BE 50,000 GALLONS PER DAY.
6. ALL CONSTRUCTION AND EXTERIOR PHYSICAL PLANT IMPROVEMENT SHALL BE LIMITED TO THAT SHOWN ON THE PETITIONER'S SITE PLANS SUBMITTED AT THE HEARING.
7. ALL MODIFICATIONS TO THE ABOVE RESTRICTIONS AND THE RELIEF GRANTED WITHIN THIS ORDER SHALL BE CONSIDERED ONLY AFTER A PUBLIC HEARING.
8. THE PETITIONER SHALL SUBMIT SEMI ANNUAL REPORT TO THE ZONING COMMISSIONER TO INSURE COMPLIANCE WITH RESTRICTIONS 3, 4 AND 5 ABOVE. UPON REQUEST AND REASONABLE NOTICE, THE PETITIONER SHALL PERMIT A REPRESENTATIVE OF THE ZONING ENFORCEMENT DIVISION TO MAKE AN INSPECTION OF THE SUBJECT PROPERTY, AND SHALL MAKE AVAILABLE TO THAT INSPECTOR ALL BOOKS, RECORDS AND REPORTS NECESSARY TO CONFIRM COMPLIANCE WITH THE RESTRICTIONS STATED HEREIN.

C. ON APPEAL TO THE CIRCUIT COURT FOR BALTIMORE COUNTY, CASE NO.: 93CV7403, ON APRIL 1994, THE HONORABLE BARBARA KERR HOWE, PRESIDING, REVERSED THE COUNTY BOARD OF APPEALS ORDER OF JULY 23, 1993 AND REMANDED THE CASE TO THE COUNTY BOARD OF APPEALS FOR FURTHER PROCEEDINGS. FROM THIS ORDER, VILLA JULIE COLLEGE, THE PETITIONER, APPEALED TO THE COURT OF SPECIAL APPEALS.

D. ON MAY 4, 1995, IN CASE NO.: 1033, SEPTEMBER TERM 1033, THE COURT OF SPECIAL APPEALS, IN AN UNREPORTED PER CURIAM OPINION, REVERESED THE DECISION OF THE CIRCUIT COURT, AND AFFIRMED THE SPECIAL EXCEPTION FOR A PRIVATE COLLEGE, THE SPECIAL HEARING, FOR A MODIFIED PARKING PLAN AND A CARETAKERS RESIDENCE AS AN ACCESSORY USE. THE COUNTY COARD OF APPEALS ORDER RELATED TO VARIANCES REMAINS IN FULL FORCE AND EFFECT AS THE PART OF THE ORDER WAS NOT APPEALED. THE COURT OF SPECIAL APPEALS FURTHER REVERSED THAT PART OF THE RESTRICTION OF THE COUNTY BOARD OF APPEALS ORDER LIMITING THE COLLEGE GROWTH LIMITATION TO 5% PER YEAR AND MODIFIED RESTRICTION 5 OF THE COUNTY BOARD OF APPEALS LIMITING DISCHARGE OF THE WASTE WATER TREATMENT PLANT TO 50,000 GALLONS PER DAY BY DIRECTING THE LIMITATION TO BE EXPRESSED AS AVERAGE GALLONS PER DAY. THE COURT REMANDED THE CASE WITH DIRECTIONS THAT THE CIRCUIT COURT AFFIRM IN PART AND REVERSE IN PART THE DECISION OF THE BOARD OF APPEALS. CONSISTENT WITH THE COURT OF SPECIAL APPEALS OPINION.

E. ON THE 12TH DAY OF JULY, 1995 JUDGE HOWE, IN CASE NO.: 93CV7403, SIGNED THE FOLLOWING ORDER:

1. BOARD OF APPEALS TO IMPOSE A 50,000 GALLON PER DAY MAXIMUM CAPACITY REDUCTION IS REVERSED. THE DISCHARGE CAPACITY OF VILLA JULIES PROPOSED WASTE WATER TREATMENT PLANT SHALL BE SET ON A DAILY AVERAGE OF 50,000 GALLONS PER DAY, COMPUTED IN ACCORDANCE WITH THE MDE'S COMAR REGULATIONS.
2. CASE REMANDED TO THE BALTIMORE COUNTY ZONING BOARD FOR CONFORMING ACTION.

F. JULY 24, 1995, CIRCUIT COURT, SUPERCEDES ORDER OF JULY 12, 1995. AFFIRMED SPECIAL HEARING, SPECIAL EXCEPTION, AND VARIANCES, REVERSED 5% STUDENT GROWTH LIMITATION, REVERSED 50,000 GPD WASTEWATER TREATMENT PLAN DISCHARGE LIMITATION, REMANDED TO BOARD OF APPEALS TO SET THE WASTEWATER TREATMENT PLANT CAPACITY AT A DAILY AVERAGE OF 50,000 GPD.

G. ON JUNE 30, 1998 THE ZONING COMMISSIONERS OF BALTIMORE COUNTY, IN CASE NO. 98-394 SPH & 98-475 SPH APPROVED AMENDMENTS TO THE SITE PLAN, AND DENIED PARKING ALONG THE HAUL ROAD.

H. JULY 30, 1998, ORDER ON MOTION FOR RECONSIDERATION, CASE NUMBER 98-394-SPH & 98-475 SPH, ORDER AMENDED AS IT RELATED TO LIGHTING OF PARKING LOTS.

I. AUGUST 25, 1998, ORDER ON MOTION FOR RECONSIDERATION, CASE NUMBERS 98-394 SPH & 98-475 SPH, ORDER AMENDED AS IT RELATED TO LIGHTING OF PARKING LOTS & THE ENTIRE SITE.

J. SEPTEMBER 20, 2004, ZONING CASE NO. 04-536 SPH, ORDER AMENDED PREVIOUSLY APPROVED SITE PLANS TO INCLUDE THE ENTIRE PROPERTY IN THE SPECIAL EXCEPTION AREA, AND TO PERMIT PROPOSED ATHLETIC FIELDS ON THE FRONT OF THE PROPERTY.

MATIS WARFIELD, INC.
CONSULTING ENGINEERS
10540 YORK ROAD, SUITE M
HUNT VALLEY, MARYLAND 21030
PHONE:410.683.7004 -- FAX:410.683.1798

OWNER/DEVELOPER
Stevenson University
1525 Greenspring Valley Road
Stevenson, MD 21153

REVISIONS

NO.	DESCRIPTION	BY	DATE

DESIGN SAW
DRAWN CJR/LNR
CHECK SAW
APPR

Stevenson University - Greenspring

Plan to Accompany Zoning Variance and Special Hearing
1525 Greenspring Valley Road

Baltimore County Maryland Councilmanic District No.: 2 Election District No.: 3

DATE: 04/23/2009 SCALE: 1"=100'

DRAWING NO. Z-2

SHEET NO. 2 OF 4

(A) CASE NO. 92-285-SPHXA, JULY 10, 1992

IT IS THEREFORE ORDERED by the Zoning Commissioner for Baltimore County, this 10th day of July 1992 that the Petition For Special Hearing to approve a modified parking plan and a residential caretaker dwelling as an accessory use to the College, as more particularly shown on Petitioner's Exhibits Nos. 2 and 25, be and is hereby approved; and,

IT IS FURTHER ORDERED that the Petition for Special Exception to approve the use of the property for a private college and a group child care center (Class B), be and is hereby GRANTED IN PART and DENIED IN PART, so as to grant the Petition for Special Exception to allow a private college, in accordance with the Petitioner's site plan and as restricted below, and so as to deny the Petition for Special Exception to permit a group child care center (Class B); and,

IT IS FURTHER ORDERED that the Petition for Zoning Variance to permit variances from Sections 102.2, 1A01.3.B.3, 413.1.b. and 409.3 of the B.C.E.R., as more fully set forth in schedule A, which is attached hereto and made a part hereof, be and is hereby GRANTED, subject, however to the following restrictions which are conditions precedent to the relief granted herein:

1. The 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. Construction of the waste water treatment plant as shown on the Petitioner's site plan, shall be permitted as an accessory structure/use to the College. Therefore, use of the W.W.T.P. shall be limited strictly to the College and use by adjoining properties is prohibited.

3. Total student enrollment at the College shall be limited to 2500 students. This limitation shall not apply to students who exclusively attend offsite/satellite campuses or programs or, who are enrolled through a correspondence program. It is the intent of this restriction to limit the number of students who attend the classes or regularly use the facilities on the subject site.

4. Student growth shall be limited to 5% per year. The base year shall be determined to be total on campus student enrollment for the Fall 1992 semester. Student enrollment for succeeding academic years shall be limited to 5% of the enrollment in the prior year. in the last semester of each succeeding year

5. The maximum discharge of the W.W.T.P. shall be 50,000 gallons per day.

6. In view of the Petitioner's withdrawal of that portion of the Petition for Special Exception for the group child care center, there shall be no child care services on site.

7. All construction and exterior physical plant improvement shall be limited to that shown on the Petitioner's site plans submitted at the hearing.

8. All modifications to the above restrictions and the relief granted within this Order shall be considered only after a public hearing.

9. The Petitioner shall submit semi-annual reports to this office to insure compliance with Restrictions 3, 4, and 5 above. Upon request and reasonable notice, the Petitioner shall permit a representative of the Zoning Enforcement Division to make an inspection of the subject property, and shall make available to that inspector all books, records and reports necessary to confirm compliance with the restrictions stated herein.

LAWRENCE E. SCHMIDT
Zoning Commissioner for
Baltimore County

(B) CASE NO. 92-285-SPHXA, JULY 23, 1993

ORDER

IT IS THEREFORE this 23rd day of July, 1993 by the County Board of Appeals for Baltimore County

ORDERED that the Petition for Special Hearing to approve a modified parking plan and a residential caretaker dwelling as an accessory use to the college be and is hereby GRANTED; and it is further

ORDERED that the Petition for Special Exception to approve the use of the property for a private college, be and is hereby GRANTED; and it is further

ORDERED that the requested variance to permit a maximum of height of 48 ft. in height within building envelope "F" in lieu of the permitted 35 ft. for two proposed buildings be and is hereby DENIED; and it is further

ORDERED that the following variances be and are hereby GRANTED, said variances to permit:

1. 42 ft. between existing Buildings #1 and #2 in lieu of the required 70 ft.;
2. 30 ft. between existing Building #3 and existing storage building in lieu of the required 70 ft.;
3. 32 ft. between existing maintenance equipment building and existing storage building in lieu of the required 70 ft.;
4. 40 ft. between existing Building "E" and existing shed in lieu of the required 70 ft.;
5. 60 ft. between existing Building "C" and existing Building "A" in lieu of the required 70 ft.;
6. 60 ft. between existing Building "A" and proposed envelope "F" in lieu of the required 70 ft.;
7. 20 ft. between existing building "D" and proposed building envelope "F" in lieu of the required 70 ft.;
8. a total of 105.2 sq. ft. of existing signs in lieu of the permitted 30 sq. ft.;
9. a maximum height of 39.5 ft. in lieu of the permitted 35 ft. for existing Building "A";
10. maximum height of 54.8 ft. in lieu of the permitted 35 ft. for existing Building "B";
11. a distance of 0 ft. in lieu of the required 70 ft. between the two proposed buildings within building envelope "F"; and
12. 503 parking spaces 8 ft. wide x 18 ft. deep in lieu of the required 8.5 ft. wide x 18 ft. deep.

The following restrictions are conditions precedent to the relief granted herein:

1. The 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. Construction of the wastewater treatment plant as shown on the Petitioner's site plan shall be permitted as an accessory structure/use to the college. Therefore, use of the WWTP shall be limited strictly to the college and use by adjoining properties is prohibited.
3. Total student enrollment at the college shall be limited to 2,500 students. This limitation shall not apply to students who exclusively attend off-site/satellite campuses or programs, or who are enrolled through a correspondence program. It is the intent of this restriction to limit the number of students who attend the classes or regularly use the facilities on the subject site.
4. Student growth shall be limited to 5 percent per year. The base year shall be determined to be total on campus student enrollment for the Fall 1993 semester. Student enrollment for succeeding academic years shall be limited to 5 percent of the enrollment in the Fall semester of each succeeding year until total enrollment reaches 2,500 students.
5. The maximum discharge of the WWTP shall be 50,000 gallons per day.
6. All construction and exterior physical plant improvement shall be limited to that shown on the Petitioner's site plans submitted at the hearing.
7. All modifications to the above restrictions and the relief granted within this Order shall be considered only after a public hearing.
8. The Petitioner shall submit semi-annual reports to the Zoning Commissioner to insure compliance with Restrictions 3, 4 and 5 above. Upon request and reasonable notice, the Petitioner shall permit a representative of the Zoning Enforcement Division to make an inspection of the subject property, and shall make available to that inspector all books, records and reports necessary to confirm compliance with the restrictions stated herein.

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

William T. Hackett, Chairman

John G. Disney

Harry E. Buchheister, Jr.

(C) CASE NO. 93CV2112, APRIL 1, 1994

ORDER

This case having come before this court on appeal from a decision by the County Board of Appeals of Baltimore County dated July 23, 1993, oral arguments and memoranda having been considered, it is this 1st day April, 1994 ORDERED by the Circuit Court for Baltimore County, that the decision of the County Board of Appeals of Baltimore County dated July 23, 1993 is hereby REVERSED AND REMANDED for further proceedings in accordance with this opinion. Costs are to be paid by appellants, Villa Julie College, Inc.

Barbara Kerr Howe
Judge Barbara Kerr Howe

(D) CASE NO. 92-285-SPHXA, MAY 4, 1995

The complete absence of any evidence in the record to support the daily maximum capacity limitation, coupled with the testimony of Mr. Bauer and Mr. Chadsey and the references in COMAR to average capacity limitations, mandates that we direct the circuit court to reverse the Board's decision to impose a 50,000 gallon per day maximum capacity restriction, and, instead, set the discharge capacity of Villa Julie's proposed waste water treatment plant at a daily average of 50,000 gallons per day, computed in accordance with the MDE's COMAR regulations.

JUDGMENT OF THE CIRCUIT COURT FOR BALTIMORE COUNTY REVERSED; CASE REMANDED WITH DIRECTIONS THAT THE CIRCUIT COURT AFFIRM IN PART AND REVERSE IN PART THE DECISION OF THE BOARD OF APPEALS OF BALTIMORE COUNTY, CONSISTENT WITH THIS OPINION, AND FURTHER TO REMAND THE CASE TO THE BOARD FOR CONFORMING ACTION BY IT; APPELLEES TO BEAR THE COSTS.

(E) CASE NO. 93CV7403, JULY 12, 1995

ORDER

It is this 12th day of July, 1995, ordered by this court that the decision of the Baltimore County Zoning Board of Appeals to impose a 50,000 gallon per day maximum capacity restriction is reversed. The discharge capacity of Villa Julie's proposed waste water treatment plant shall be set at a daily average of 50,000 gallons per day, computed in accordance with the MDE's COMAR regulations.

CASE REMANDED TO THE BALTIMORE COUNTY ZONING BOARD FOR CONFORMING ACTION.

Barbara Kerr Howe
Hon. Barbara Kerr Howe

(F) CASE NO. 93CV7403, JULY 24, 1995

ORDER

It is this 24th day of July, 1995, ORDERED as follows:

1. This Order supersedes the Order entered by the Court in this matter on July 12, 1995 (and filed by the clerk on July 14, 1995).
2. Those portions of the July 23, 1993 Order of the County Board of Appeals for Baltimore County in Case No. 92-285-SPHXA granting the Petition for Special Hearing, Petition for Special Exception and specified variances are hereby affirmed.
3. That portion of the aforementioned Order of the County Board of Appeals limiting student growth at Villa Julie College to five percent per year is hereby reversed.
4. That portion of the aforementioned Order of the County Board of Appeals restricting the maximum discharge of the proposed wastewater treatment plant to 50,000 gallons per day is hereby reversed.
5. This case is hereby remanded to the County Board of Appeals for Baltimore County and the Board is directed to set the capacity of the proposed wastewater treatment plant at a daily average of 50,000 gallons, computed in accordance with MDE's COMAR Regulations.

Barbara Kerr Howe
The Honorable Barbara Kerr Howe,
Circuit Judge

(G) CASE NO. 98-394-SPH & 98-475-SPH, JUNE 30, 1998

FINDINGS OF FACT AND CONCLUSIONS OF LAW

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 30th day of June, 1998 that the Petition for Special Hearing filed in Case No. 98-394-SPH, seeking approval of amendments to the site plan previously approved in Case No. 92-285-SPHXA, to reflect the construction of new tennis courts in the rear of the site and a reconfiguration of the parking provided in that area, the reconfiguration and legitimization of parking inadvertently left off the original plan, including a finding that the existing parking in that area is permitted, and finally, the approval of parking on an interim basis near proposed Building G, until such time as that building is constructed, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

1) The Petitioners may apply for their permits and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until the 30-day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.

2) Prior to the issuance of any future permits, the Petitioners shall submit a revised site plan for inclusion in the files for both Cases Nos. 98-394-SPH and 98-475-SPH, which sets forth the modified relief granted herein and any minor deviations which have naturally occurred since the original approval of the site plan filed in prior Case No. 92-285-SPHXA.

3) When applying for a building permit, the site plan and/or landscaping plan filed must reference this case and set forth and address the restrictions of this Order.

IT IS FURTHER ORDERED that the Petition for Special Hearing filed in Case No. 98-394-SPH to approve a new parking area along the previously designated dirt strip, now known as Ensl Road, in accordance with Petitioner's Exhibit 1, be and is hereby DENIED; and,

IT IS FURTHER ORDERED that the Petition for Special Hearing filed in Case No. 98-475-SPH seeking a determination of some 24 issues identified within the Petition relative to the potential growth of the College and the existing and future uses of the subject property, and in particular, whether the College has adhered to the site plan and Opinion issued by the County Board of Appeals in prior Case No. 92-285-SPHXA, be and is hereby GRANTED in part, and DENIED in part. Specifically, that portion of the Petition for Special Hearing seeking a denial of the proposed new parking area on Ensl Road, is hereby GRANTED, and all other issues raised within the Petition, all as more set forth herein, shall be DENIED.

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

(H) CASE NO. 98-394-SPH & 98-475-SPH, JULY 30, 1998

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 30th day of July, 1998 that the Order issued in the above-captioned matter on June 30, 1998, be and shall hereby AMENDED as follows:

a) All lighting within parking areas on the subject property shall be of a low-level character and shall be directed downward so as not to cause glare and/or reflection onto adjacent residential properties.

b) Only lighting on or immediately adjacent to the buildings as is necessary for security purposes shall remain on after 11:00 PM on any given evening. All other lighting, including lighting in the parking lot, shall be extinguished by 11:00 PM each evening.

c) No additional lighting and/or landscaping plans need be submitted; however, shall be in accordance with the plan approved and identified as Petitioner's Exhibit 1.

IT IS FURTHER ORDERED that all other terms and conditions of the Order issued June 30, 1998, shall remain in full force and effect.

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

(I) CASE NO. 98-394-SPH & 98-475-SPH, AUGUST 25, 1998

ORDER ON MOTION FOR RECONSIDERATION

NOW THEREFORE, IT IS ORDERED this 25th day of August, 1998 by the Zoning Commissioner for Baltimore County that:

(1) the existing outside lights of Villa Julie College shall be as set forth on the site plan which was previously approved and incorporated in case No. 92-285-SPHXA;

(2) that as to new lighting, Villa Julie College will be permitted to maintain lighting on the campus on a 24 hour basis as is necessary to maintain adequate security. It is further anticipated that the aforesaid 24 hour lighting will be low-level in nature and will be located either on the facade of campus buildings or immediately adjacent thereto;

(3) that as to proposed parking lots, said lighting will be routinely extinguished by 11:00 P.M. However, in the event of a "special" event on campus (e.g., concert, sports event, etc.) such parking lot lighting will be allowed to remain on until after the special event has concluded and the attendees have left the premises;

(4) that for all the proposed and existing lighting on campus, same should be directed and focused in a manner downward or towards the interior of the property and not designed or installed so as to cause any improper glare or reflection towards neighboring properties; and,

(5) as to the specifics of the height, wattage, glare, design, etc., of the lighting, same shall be in accordance with the approved site plan and shall not violate any Baltimore County or other governmental standards.

LAWRENCE E. SCHMIDT

(J) CASE NO. 04-536-SPH, SEPTEMBER 20, 2004

FINDINGS OF FACT AND CONCLUSIONS OF LAW

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 20th day of September 2004 that the Petition for Special Hearing to approve an amendment to the previously approved site plans in prior Cases Nos. 98-394-SPH and 92-285-SPHXA to reflect the proposed addition of athletic fields to the existing college campus, in accordance with Petitioner's Exhibit 2, be and is hereby GRANTED, subject to the following restrictions:

1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, the Petitioners are hereby made aware that proceeding at this time is at their own risk until the 30-day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.

2) Compliance with the terms and conditions of the Restrictive Covenant Agreement referenced herein, a copy of which has been incorporated into the Case File and is made a part hereof.

3) When applying for a building permit, the site plan filed must reference this case and set forth and address the restrictions of this Order.

Any appeal of this decision must be entered with thirty (30) days of the date hereof.

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

MATIS WARFIELD, INC.
CONSULTING ENGINEERS
10540 YORK ROAD, SUITE M
HUNT VALLEY, MARYLAND 21030
PHONE:410.683.7004 -- FAX:410.683.1798

OWNER/DEVELOPER
Stevenson University
1525 Greenspring Valley Road
Stevenson, MD 21153

REVISIONS			
NO.	DESCRIPTION	BY	DATE

DESIGN SAW
DRAWN CJR/LNR
CHECK SAW
APPR

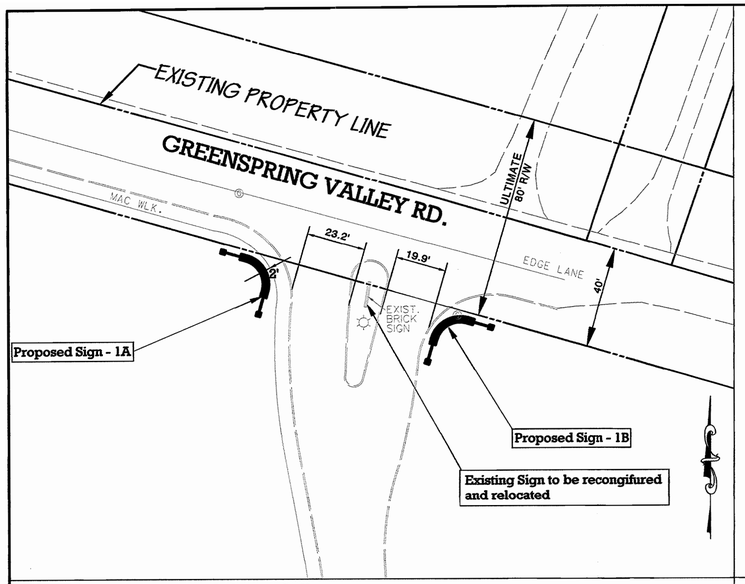
Stevenson University - Greenspring

Plan to Accompany Zoning Variance
and Special Hearing
1525 Greenspring Valley Road

Baltimore County Maryland Councilmanic District No.: 2 Election District No.: 3

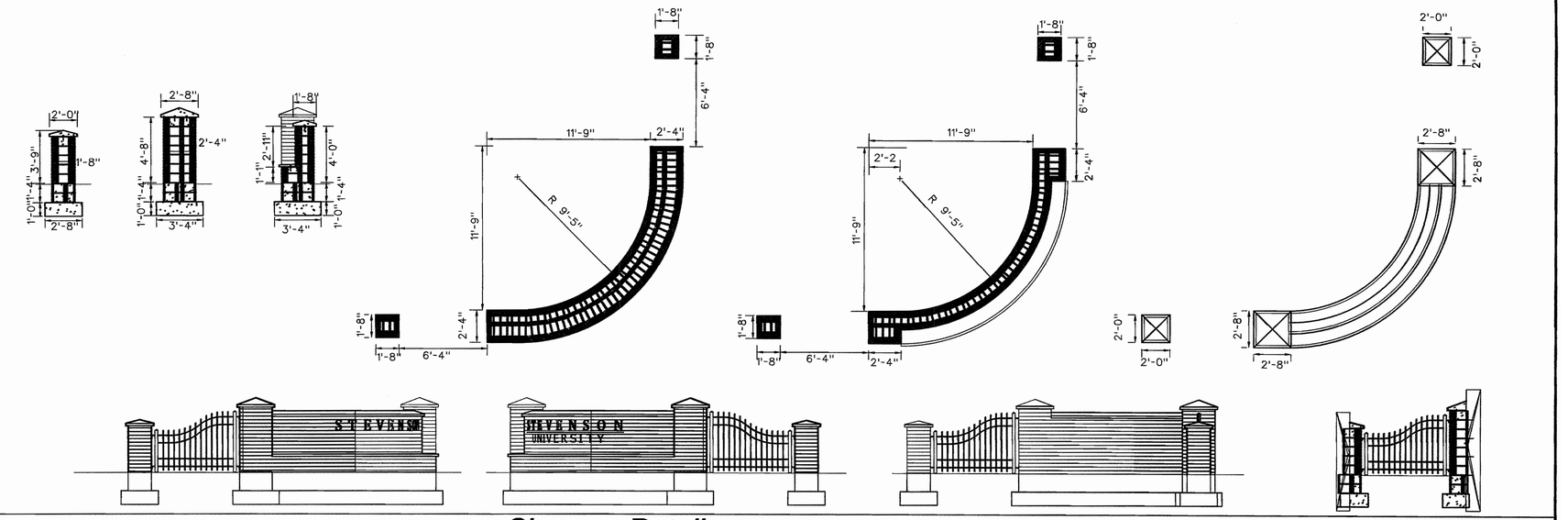
DATE: 04/23/2009 SCALE: 1"=100'

DRAWING NO. Z-3
SHEET NO. 3 OF 4



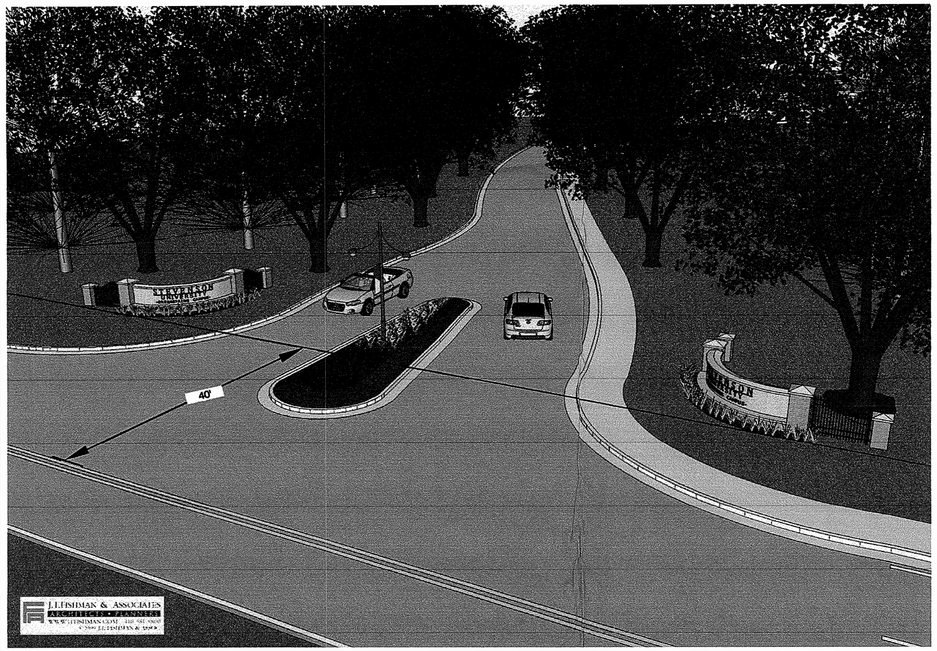
Plan View

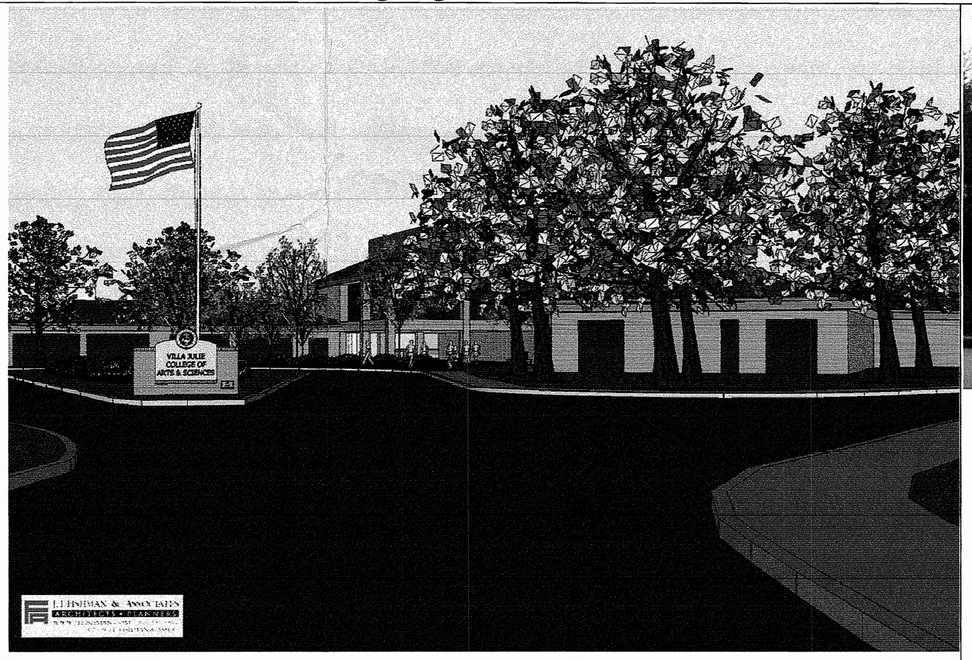
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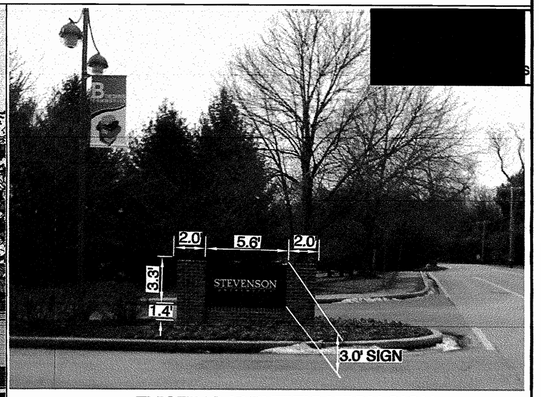
Signage Details

SCALE: 1"=5'

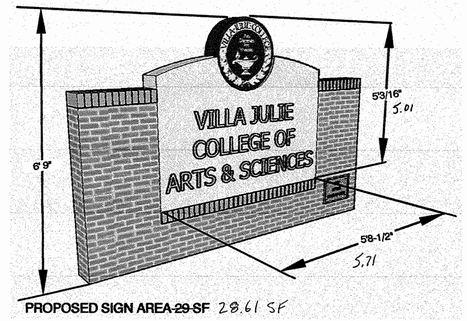




Perspective Views



EXISTING IDENTIFICATION SIGN



PROPOSED SIGN AREA ~~29 SF~~ 28.61 SF

RECONFIGURED AND RELOCATED SIGN

Identification Sign
Area allowed = 25 sf
Height allowed = 6 ft

PROPOSED SIGN TABLE
* = Variance Required

SIGN #	EXISTING (E) PROPOSED (P) RELOCATED (R)	TYPE	SIGN AREA (SF)	SIGN HEIGHT (FT)
1A	P	IDENTIFICATION	27.5+/-*	4.00
1B	P	IDENTIFICATION	27.5+/-*	4.00

DESIGN AND DRAWING BASED ON MARYLAND COORDINATE SYSTEM HORIZONTAL NAD 83/91 AND VERTICAL NAD 88.

MATIS WARFIELD, INC.
CONSULTING ENGINEERS
10540 YORK ROAD, SUITE M
HUNT VALLEY, MARYLAND 21030
PHONE:410.683.7004 -- FAX:410.683.1798

OWNER/DEVELOPER
Stevenson University
1525 Greenspring Valley Road
Stevenson, MD 21153

REVISIONS			
NO.	DESCRIPTION	BY	DATE

DESIGN SAW
DRAWN RDG
CHECK SAW
APPR

Stevenson University - Greenspring

Plan to Accompany Zoning Variance and Special Hearing
1525 Greenspring Valley Road
Baltimore County Maryland Councilmanic District No.: 2 Election District No.: 3

DATE: 04/23/2009 SCALE: AS SHOWN

DRAWING NO. Z-4
SHEET NO. 4 OF 4

7/95

VILLA JULIE COLLEGE, INC.
S/side Greenspring Valley Road,
9' East of Nacirema Lane

#92-28-SPHXA
8th Election District
3rd Councilmanic District

Jan. 15, 1992	Petitions filed by Benjamin Bronstein, Esquire, on behalf of Villa Julie College, Inc., for a Special Hearing to approve a modified parking plan and to approve a residential caretaker dwelling as an accessory use to a college; a Special Exception to permit a private college and group childcare center (Class B) in an R.C. 2 zone; and for Variances (13 in number).
July 10	Order of the Zoning Commissioner in which Special Hearing was Approved; Special Exception GRANTED in part and DENIED in part; and Variances GRANTED with restrictions.
August 6	Notice of appeal filed by Michael J. Collins, Esquire, on behalf of Northwest Land Corporation.
August 7	Notice of appeal filed by J. Carroll Holzer, Esquire, on behalf of Valleys Planning Council and community associations.
	Notice of Appeal filed by K. Donald Proctor, Esquire, on behalf of Mr. & Mrs. Barton Mitchell, Clark Farm Associates, and Mr. & Mrs. Timothy Rodgers.
November 5	Pre-hearing conference held in Board's office attended by all Counsel.
November 25	Letter from J. Carroll Holzer, Esquire, counsel for Valleys Planning Council, et al, submitting copy of Memorandum of Law to the Zoning Commissioner containing legal issues.
November 30	Motion in Limine to Limit the Scope of Issues filed by Benjamin Bronstein, Esquire, on behalf of Villa Julie College, Inc.
December 10	Valleys Planning Council, et al, Response to Motion in Limine to Limit the Scope of Issues filed by J. Carroll Holzer, Esquire.
December 21	Opposition of Northwest Land Corporation to Motion in Limine to Limit the Scope of Issues filed by Michael J. Collins, Esquire.
Feb. 17, 1993	Hearing before Board on Motion in Limine to Limit the Scope of Issues (argument on Motion only).
March 4	Ruling on Motion in Limine to Limit the Scope of Issues issued by Board; Motion GRANTED.
March 5	Order for Appeal filed in the Circuit Court for Baltimore County by K. Donald Proctor, Esquire, on

behalf of Barton S. Mitchell, et al from Board's March 4, 1993 Ruling (93-CV-02112/46/194).

March 5, 1993 Order for Appeal filed in the Circuit Court for Baltimore County by J. Carroll Holzer, Esquire, on behalf of Valleys Planning Council, et al, from Board's March 4, 1993 Ruling (93-CV-02112 /46/194).

" Order for Appeal filed in the Circuit Court for Baltimore County by Michael J. Collins, Esquire, on behalf of Northwest Land Corporation, from Board's March 4, 1993 Ruling (93-CV-02112 /46/194).

March 9 Hearing Day #1 before the Board of Appeals; continued to Day #2.

March 10 Hearing Day #2 before the Board of Appeals; continued to Day #3.

March 11 Hearing Day #3 before the Board of Appeals; continued to Day #4.

March 12 Hearing Day #4 before the Board of Appeals; continued to Day #5.

" Certificate of Notice sent to interested parties (93-CV-02112/46/194).

March 15 Petition for Appeal filed in the Circuit Court by K. Donald Proctor, Esquire (93-CV-02112/46/194).

" Amended Notice of Appeal filed in the Circuit Court by J. Carroll Holzer, Esquire (93-CV-02112/46/194).

" Petition for Appeal by the Valleys Planning Council, et al filed in the Circuit Court by J. Carroll Holzer, Esquire (93-CV-02112/46/194).

March 16 Petition for Appeal by Northwest Land Corporation filed in the Circuit Court by Michael J. Collins, Esquire (93-CV-02112/46/194).

March 19 Hearing Day #5 before the Board of Appeals; continued to Day #6.

March 26 Hearing Day #6 before the Board of Appeals; continued to Day #7.

March 31 Hearing concluded before the Board of Appeals.

April 14 Motion to Dismiss filed in the Circuit Court for Baltimore County by Benjamin Bronstein, Esquire, on behalf of Villa Julie College, Inc. (93-CV-02112/46/194).

April 19 Memorandum In Lieu of Final Argument filed by J. Carroll Holzer, Esquire, HOLZER, MAHER, DEMILIO & LEE, on behalf of Valleys Planning Council, et al.

April 19, 1993 Post-Hearing Memorandum of Protestants, Barton S. and Elizabeth Mitchell, Timothy M. and Mary Stewart Rodgers and Clark Farm Associates, by their attorney, K. Donald Proctor, Esquire, MILES AND STOCKBRIDGE.

" Memorandum of Northwest Land Corporation In Lieu of Final Argument filed by their attorney, Michael J. Collins, Esquire, NEUBERGER, QUINN, GIELEN & RUBIN, P.A.

" Memorandum of Petitioner, Villa Julie College, Inc., filed by their attorneys, Benjamin Bronstein, Esquire, and Michael J. Chomel, Esquire, EVANS, GEORGE AND BRONSTEIN.

July 23 Opinion and Order of the Board GRANTING Petition for Special Hearing to approve modified parking plan and a residential caretaker dwelling as an accessory use to the college; GRANTING Petition for Special Exception to approve use of property as private college; GRANTING Petition for Variances as delineated in Order, subject to restrictions as set forth in Order.

August 4 Motion for Reconsideration and Clarification filed by Benjamin Bronstein, Esquire.

August 11 Answer to Villa Julie Motion for Reconsideration filed by J. Carroll Holzer, Esquire.

" Ruling DENYING Motion for Reconsideration and Clarification issued by the Board of Appeals.

August 13 Answer and Motion to Dismiss Villa Julie's Motion for Reconsideration filed by Michael J. Collins, Esquire, on behalf of Northwest Land Corporation.

August 17 Petition for Judicial Review filed in the Circuit Court for Baltimore County by Benjamin Bronstein, Esquire, EVANS, GEORGE AND BRONSTEIN, on behalf of Villa Julie College, Inc.

August 20 Copy of Petition filed by Benjamin Bronstein, Esquire, on behalf of Villa Julie College, Inc., received by the Board of Appeals.

" Petition for Judicial Review filed in the Circuit Court for Baltimore County by K. Donald Proctor, Esquire, Counsel for Barton S. & Elizabeth Mitchell, Clark Farm Associates, and Timothy M. & Mary Stewart Rodgers, Petitioners.

" Petition for Judicial Review filed in the Circuit Court for Baltimore County by J. Carroll Holzer, Esquire, on behalf of Valleys Planning Council, Homeowners of Greenspring, Greenspring Valley Association, Velvet Valley Association and Douglas

A. Carroll, III, Mr. & Mrs. Henry G. Hagen, Mr. & Mrs. Lawrence P. Naylor, III, Mr. & Mrs. Richard S. Buck, Mr. & Mrs. J. Stephen Immelt and Mr. & Mrs. Thomas F. Obrecht as individuals.

August 23 — Certificate of Notice and/or letter of notification of Petition for Judicial Review sent to interested parties.

August 24 — Copy of Petition for Judicial Review filed by K. Donald Proctor, Esquire, on behalf of Barton S. & Elizabeth Mitchell, et al, received by the Board of Appeals.

Aug 24, 1993 — Second Certificate of Notice /Cross Appeal and/or letter of notification of Petition for Judicial Review sent to interested parties.

" — Petition for Judicial Review filed in the Circuit Court for Baltimore County by Michael J. Collins, Esquire, on behalf of Northwest Land Corporation.

August 27 — Copy of Petition for Judicial filed by Michael J. Collins, Esquire, on behalf of Northwest Land Corporation received by the Board of Appeals.

" — Third Certificate of Notice and/or letter of notification of Petition for Judicial Review sent to interested parties.

August 30 — Copy of Petition for Judicial Review filed by J. Carroll Holzer, Esquire, on behalf of Valleys Planning Council, et al, received by the Board of Appeals.

" — Fourth Certificate of Notice and/or letter of notification of Petition for Judicial Review sent to interested parties.

Sept. 13, 1993 ✓ — Transcript of testimony filed; Record of Proceedings filed in the Circuit Court for Baltimore County.

April 5, 1994 ✓E — Memorandum Opinion and Order of the CCt REVERSING CBA and REMANDS TO CBA for further proceedings. (Barbara Kerr Howe, J.)

May 4, 1995 ✓E — Order from the CSA REVERSING CCt; REMANDED to CCt for AFFIRM I/P and REVERSE I/P the CBA; & REMAND to CBA for conforming action.
(APPEAL FILED 5/25/95 TO CSA)

July 27, 1995 E — Order issued by the CCt (which supersedes the Order filed on 7/14/95), wherein the case was REMANDED TO THE CBA directing to set the capacity of the proposed wastewater treatment plant at a daily average of 50,000 gallons, computed in accordance with MDE's COMAR Regulations. (Barbara Kerr Howe, J.)

92-285-SPHXA
Villa Julie College
CCt reverses and
remands to BOA
4/1/94 -
Hon. Barbara Kerr Howe

PETITION OF VILLA JULIE COLLEGE, INC.	*	IN THE
FOR JUDICIAL REVIEW OF THE DECISION OF THE COUNTY BOARD OF APPEALS FOR BALTIMORE COUNTY	*	CIRCUIT COURT
IN THE CASE OF: IN THE MATTER OF THE APPLICATION OF VILLA JULIE COLLEGE, INC. FOR A SPECIAL HEARING, SPECIAL EXCEPTION, AND VARIANCES ON THE PROPERTY LOCATED ON THE SOUTH SIDE OF GREENSPRING VALLEY ROAD, 9' EAST OF NACIREMA LANE (1521 Greenspring Valley Road) 8TH ELECTION DISTRICT, 3RD COUNCILMANIC DISTRICT	*	FOR BALTIMORE COUNTY
IN THE BALTIMORE COUNTY BOARD OF APPEALS Case No. 92-285-SPXHA	*	93CV7403

* * * * * * * * * * * * *

IN RE:	*	IN THE
PETITIONS FOR SPECIAL HEARING, SPECIAL EXCEPTION AND ZONING VARIANCE	*	CIRCUIT COURT FOR BALTIMORE COUNTY
VILLA JULIE COLLEGE, INC.	*	Case No. 93CV2112

* * * * * * * * * * * * *

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COUNTY BOARD OF APPEALS
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MEMORANDUM OPINION

HOLDING

The County Board of Appeals for Baltimore County erred when it granted Villa Julie College, Inc.'s Motion in Limine and excluded testimony and declined to decide whether Villa Julie College, Inc. should be permitted to install a new sewage system.

FILED APR 05 1994

29 RH cc: Proctor, Collins, Bronstein, Wiedenhammer

ISSUES PRESENTED

Villa Julie College, Inc., Appellant, through its counsel, Benjamin Bronstein and Michael Chomel present the following issues for review:

1. Did the Board of Appeals err in imposing a cap on yearly increase in student enrollment to 5%, when there was no evidence whatsoever before the Board to support such a restriction?

2. Did the Board of Appeals err in failing to provide that the daily discharge from the waste water treatment plant be framed in terms of an average, when all of the evidence before the Board was that the discharge should be in terms of average?

3. Did the Board of Appeals err in imposing a cap on total student enrollment of 2,500 students, when there was no credible evidence before the Board to support the imposition of such a restriction?

4. Did the Board of Appeals err in limiting discharge from the waste water treatment plant to 50,000 gallons per day when the State of Maryland Department of the Environment authorized a discharge of up to 63,000 gallons per day average, where there was no evidence before the Board to support a reduction in the maximum daily discharge authorized by the State of Maryland?

Barton S. and Elizabeth Mitchell, Clark Farm Associates and Timothy M. and Mary Stewart Rodgers, Petitioners through their counsel, K. Donald Proctor present the following issues for judicial review:

1. Is County Council Resolution 2-91, which amends only Baltimore County's Water and Sewer Plan, and which does not purport to amend the Baltimore County Zoning Regulations, merely a planning action which does not authorize the construction of a waste water treatment plant, independent of the requirements of the Baltimore County Zoning Regulations?

   A. Have either the Federal or the State Governments preempt the field of zoning as to the location of a sewage treatment plant?

B. Does the County Water and Sewerage Plan as a planning action limit the County's pre-existing zoning regulations?

C. Was the Zoning Commissioner required to determine whether the proposed community sewage treatment plant is a permissible use in the R.C. 2 zone?

D. Do the Baltimore County Zoning Regulations regulate the use and location of private community waste water treatment plants?

E. Is the proposed waste water treatment plant an accessory use?

2. Did the Board of Appeals err in excluding evidence of the impact of the proposed waste water treatment plant on these petitioners, their property, and the surrounding R.C. 2 zone?

3. Does the evidence in this case fail to meet the standard for special exceptions established by the Court of Appeals in Schultz v. Pritts, 291 Md. 1 (1981)?

Valleys Planning Council, et al, Appellants, through their counsel, J. Carroll Holzer present the following issues for review:

1. The County Board of Appeals erred in conducting its deliberations in the Motion in Limine and in regard to its final order of July 23, 1993 in private and not in compliance with the Open Meeting Law (State Government Article, Sections 10-501 et. seq.). This issue has already been the subject of separate Petition to Enforce pursuant to the aforesaid law and was decided by the Honorable Judge Howe. Cases brought by other parties were consolidated in Case No.: 93CV3628; 93CV5637; 93CV5478. Judge Howe ruled that Section 10-501 et seq. State Government Article of the Annotated Code of Maryland applied to the County Board of Appeals proceedings. The open meetings issue was raised in Case No. 93CV2112 as well as in the appeal in this case.

2. The County Board of Appeals erred in approving a waste water treatment facility for use by the college in an R.C. 2 zone.

3. The County Board of Appeals erred in granting Villa Julie's request for Motion in Limine - precluding consideration of evidence relevant under Baltimore County Zoning Regulation 502.1.

Northwest Land Corporation, through its counsel, Michael Collins, presents the following issues for review:

1. Did the Board of Appeals commit reversible error by failing to determine whether Villa Julie College, Inc.'s proposed sewage water treatment plant is a permissible use in the R.C. 2 zone?

2. Did the Board of Appeals commit reversible error by failing to consider the adverse effects of Villa Julie's proposed expansion, including the proposed sewage treatment plant, in granting a special exception to the College?

3. Did the Board of Appeals commit reversible error by permitting Villa Julie the right to build and operate a "multiused" sewage treatment plant when the only use authorized by the Baltimore County Master Water and Sewer Plan is a "community" plant serving Villa Julie and its neighbor, the Sisters of Notre Dame de Namur?

STATEMENT OF THE CASE

Villa Julie College, Inc. (hereinafter "Villa Julie") petitioned the Zoning Commissioner of Baltimore County, Maryland for a Special Hearing and Exception to approve the use of Villa Julie in accordance with a new site plan. The requests of Villa Julie included approving: a modified parking plan: a modified caretaker dwelling as an accessory use to Villa Julie; a special exception to permit a private college in an R.C. 2 zone; and thirteen variances.

July 10, 1992, Commissioner Schmidt approved the Special Hearing, granted the special exception, approved the modified parking plan, approved the modified caretaker's dwelling as an

accessory use, and granted variances from Sections 102.2, 1Ai.3.B.3, 413.1.b., and 409.3 of the Baltimore County Zoning Regulations on property zoned R.C. 2.

The zoning commissioner held that a waste water treatment plant was permitted as an accessory use to the College. However he also held that it was not permitted a as matter of right pursuant to the Baltimore County Council's amendment to the County Water and Sewer Plan, as Villa Julie had argued.

All parties appealed to the County Board of Appeals for Baltimore County (hereinafter "CBA"). November 30, 1992 Villa Julie filed a Motion in Limine. Valley's Planning Council, et al. (hereinafter "Valley's Planning"), Northwest Land Corporation (hereinafter "Northwest"), and Barton S. Mitchell, et al. (hereinafter "Mitchell") responded and on March 4, 1993 the CBA granted the Motion in Limine. The CBA held that the construction of Villa Julie's waste water treatment plan was mandated by Baltimore County Council Resolution 2-91. They therefore subsequently took testimony regarding only the capacity of the plant, and not on its legality or suitability in the locality.

The CBA conducted seven days of testimony beginning on March 8, 1993 and concluding on March 31, 1993.

July 23, 1993 the CBA granted Villa Julie's Petition for Special Hearing. Further, the CBA granted Villa Julie's Petition for Special Exception, with restrictions including a total student enrollment of 2,500, a student growth limit of 5% per year, and a maximum waste water discharge of 50,000 gallons per

day. Finally the CBA granted Villa Julie's Petition for Variances subject to restrictions, and denied one variance request relating to the height of two proposed new buildings.

All parties appealed to this Honorable Court and oral argument was heard on March 2, 1994.

STATEMENT OF THE FACTS

The Greenspring Valley is an R.C. 2 zone (Agricultural Preservation) and is not designated for a public water or sewer service under the Baltimore County Water and Sewer Plan (a planning device mandated by Section 9-503 of the Environment Article of the Annotated Code of Maryland).

Villa Julie College, Inc. is a commuter college located on 60 acres of land in the middle of Greenspring Valley and predates the R.C. 2 zoning of the valley. Northwest owns 160 acres to the south of Villa Julie and is crossed by the intermittent stream at issue. Mitchell, et al, own surrounding land which is also crossed by the intermittent stream, the Mitchells themselves being to the immediate west of Villa Julie. The Valleys Planning Council is a non-profit land preservation organization.

As discussed above, Villa Julie has expansion and renovation plans for the college.

MOTION IN LIMINE

March 4, 1993, the Board of Appeals granted a Motion in Limine requested by Villa Julie. The Board wrote:

> "The Baltimore County Council specifically addressed this issue at this site in Resolution 2-91, Item #6, in which the County authorized a community water system and community sewerage treatment plant with capacity subject to special exception. The Board will take no testimony and no evidence on whether or not the two systems can be installed but will take evidence as to the capacity as it relates to the capacity issued by the State."

Evidently, the Board believed that the County Council's revision to the Water Supply and Sewerage Plan gave Villa Julie and the Sisters of Notre Dame de Namur the right to use a community sewage treatment plant. Indeed, the language used by the County Council seems to imply this intent. It wrote:

> "The maps attached hereto and marked as Exhibit 6 entitled "Villa Julie College and Baltimore Province - Sisters of Notre Dame Revision to the Water Supply and Sewerage Plan" are hereby approved with special authorization to operate an existing community water system for the combined properties and with special authorization to operate a community sewage treatment plant for the combined properties, with capacity subject to a special exception to the R.C. 2 Zoning. This authorization is also granted pursuant to Section 34-7 of the Baltimore County Code, 1978."

The County Council made specific reference to capacity being subject to a special exception. Thus the primary question is whether the County Council, regardless of its intent, can create a use permitted as of right by amending a plan, or in the alternative whether it can grant a special exception by amending a plan. This court holds that it can do neither. Further, since the fact finding proceedings before the Board of Appeals were tainted by the exclusion of relevant evidence, this case must be remanded for proceedings consistent with this opinion.

Section 9-501 et seq. of the Environment Article of the Md. Code Ann. (1993), titled County Water and Sewerage Plans, is the

provision which requires counties to develop such plans. Section 9-504 titled, County Plans - Required; review by governing body of county; revision or amendment, reads in relevant part:

> (a) Requirement - Each county shall have a county plan or a plan with adjoining counties that:
> (2) Covers at least the 10-year period next following adoption by the county governing body; and
> (3) Deals with:
> (ii) Sewerage Systems

Section 9-502, titled Scope of Subtitle. reads in relevant part:

> (c) Conflict with other laws, rules, or regulations. -- Any rule or regulation adopted under this subtitle does not limit or supersede any other county, municipal, or State law, rule, or regulation that provides greater protection to the public health, safety, or welfare.

The Court of Special Appeals in Boyds Civic Ass'n v. Montgomery County,. 67 Md. App. 131, 506 A.2d 675 (1986), in deciding whether the adoption of a master plan confers any rights, the violation of which would make it subject to appeal, discussed the relationship of master plans to zoning issues. The court wrote:

> "Simply stated, the essential distinction between a master plan and comprehensive zoning is that the former merely recommends area development and proposes future land use and zoning classifications, while the latter determines presently permitted uses for the property (emphasis used by Court of Special Appeals). ... Although cases ... indicate the master plan phase is becoming a more essential step in the zoning process ... Maryland's view of master plans still mirrors those of the majority of other states -- that it is advisory only." Boyds 67 Md. App. at 143.

More recently, the Court of Special Appeals revisited the question of whether an amendment to a plan can be a zoning action because of its piecemeal nature. In Gregory v. Board of County Comm'rs, 89 Md. App. 635, 644, 599 A.2d 469 (1991), the Court of

Special Appeals stated clearly that "the adoption of a particular amendment to the plan cannot be isolated from the context of the plan as a whole." The court also said that:

> "The purpose of such plans is to have each county in the State project how it will "provide for the orderly expansion and extension" of public water supply and sewerage systems within its boundaries. Md. Envir. Code Ann. Section 9-505. Thus a county's comprehensive water and sewerage plan has, by definition, a broad or comprehensive land use planning basis in 'the systematic and orderly development of a community.'" Gregory 89 Md. App at 643 quoting Stephens I, 41 Md. App. at 501, 397 A.2d 289, quoting State v. Ohio Power Co., 163 Ohio St. 451, 460, 127 N.E.2d 394 (1955).

In the case sub judice, the amendment to the master plan authorized a community sewage treatment plant. A community sewerage system, as defined by Section 9-501 et seq. of the Md. Envir. Code Ann. (1993), is "a publicly or privately owned sewerage system that serves at least 2 lots." The community served here is Villa Julie College, Inc. and the Sisters of Notre Dame de Namur.

Thus, the Zoning Commissioner or Board of Appeals is authorized by the amendment to the master plan to consider granting the Villa Julie/Sisters of Notre Dame community a special exception. In making this determination, the Commissioner or Board of Appeals must apply the Baltimore County Zoning Regulations, taking into particular account Section 502 and Section 1A01.2(C). The Board of Appeals would have erred in granting Villa Julie's Motion in Limine for the community sewage system if this had been the requested relief.

However, what was actually requested was a special exception for a sewage system for Villa Julie only. The Board of Appeals erred in granting Villa Julie's Motion in Limine which precluded evidence as to the propriety of a sewage system serving Villa Julie only. Accordingly, this case is remanded to the Board for the taking of evidence and finding of facts on whether the system should be permitted.

Having determined the issue of the Motion in Limine, this court will not address the balance of issues.

Barbara Kerr Howe

Judge Barbara Kerr Howe

Clerk to Notify.

True Copy Test
SUZANNE MENSH, Clerk
Per Pamela G. Hall
Assistant Clerk

4-1-94

PETITION OF VILLA JULIE COLLEGE, INC.	*	IN THE
FOR JUDICIAL REVIEW OF THE DECISION OF THE COUNTY BOARD OF APPEALS FOR BALTIMORE COUNTY	*	CIRCUIT COURT
IN THE CASE OF: IN THE MATTER OF THE APPLICATION OF VILLA JULIE COLLEGE, INC. FOR A SPECIAL HEARING, SPECIAL EXCEPTION, AND VARIANCES ON THE PROPERTY LOCATED ON THE SOUTH SIDE OF GREENSPRING VALLEY ROAD, 9' EAST OF NACIREMA LANE (1521 Greenspring Valley Road) 8TH ELECTION DISTRICT, 3RD COUNCILMANIC DISTRICT	*	FOR BALTIMORE COUNTY
IN THE BALTIMORE COUNTY BOARD OF APPEALS Case No. 92-285-SPXHA	*	93CV7403

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COUNTY BOARD OF APPEALS
94 APR -6 AM 11:52

IN RE:	*	IN THE
PETITIONS FOR SPECIAL HEARING,	*	CIRCUIT COURT
SPECIAL EXCEPTION AND	*	FOR
ZONING VARIANCE	*	BALTIMORE COUNTY
VILLA JULIE COLLEGE, INC.	*	Case No. 93CV2112

ORDER

This case having come before this court on appeal from a decision by the County Board of Appeals of Baltimore County dated July 23, 1993, oral arguments and memoranda having been considered, it is this 1st day April, 1994 ORDERED by the Circuit Court for Baltimore County, that the decision of the

FILED APR 05 1994

County Board of Appeals of Baltimore County dated July 23, 1993 is hereby REVERSED AND REMANDED for further proceedings in accordance with this opinion. Costs are to be paid by appellants, Villa Julie College, Inc.

Barbara Kerr Howe

Judge Barbara Kerr Howe

Clerk to Notify.

True Copy Test
SUZANNE MENSH, Clerk
per Pamela O. Hall
Assistant Clerk

9-27-93

CIRCUIT COURT FOR BALTIMORE COUNTY

PETITION OF VILLA JULIE COLLEGE, ET AL

Civil Action No. 93Cv7403
Agency Case No. _____

VS.

_____

Notice

Pursuant to Maryland Rule 7-206(e), you are advised that the Record of Proceedings was filed on Sept. 24,1993.

Clerk

rlb

Date mailed: 9/24/93

Copy to:

K. Donald Proctor
Michael Collins
Beniamin Bronstein
Kathleen C. Weidenhammer
J. Carroll Holzer

RECEIVED
COUNTY BOARD OF APPEALS
93 SEP 27 PM 12:10

9-13-93

IN THE CIRCUIT COURT *
FOR BALTIMORE COUNTY *

PETITIONS OF *
VILLA JULIE COLLEGE, INC. *
1525 Greenspring Valley Road
Stevenson, MD 21153 and *

BARTON S. & ELIZABETH MITCHELL *
1701 Greenspring Valley Road
Stevenson, MD 21153; *

CLARK FARM ASSOCIATES *
1704 Hillside Road
Stevenson, MD 21153; *

TIMOTHY M. & MARY STEWART RODGERS *
1425 Greenspring Valley Road
Stevenson, MD 21153 and *

NORTHWEST LAND CORPORATION *
1 Pomona North
Pikesville, MD 21208 and *

VALLEYS PLANNING COUNCIL, ET AL *
at 305 Washington Avenue, Suite 502
Towson, MD 21204 *

FOR JUDICIAL REVIEW OF THE DECISION OF * CIVIL ACTION NO.
THE COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY * 93-CV-07403/59/285
Room 49, Courthouse, 400 Washington Ave.
Towson, MD 21204 *

IN THE CASE OF: IN THE MATTER OF *
THE APPLICATION OF VILLA JULIE COLLEGE,
INC., FOR A SPECIAL HEARING, SPECIAL *
EXCEPTION AND VARIANCES ON PROPERTY
LOCATED ON THE S/s GREENSPRING VALLEY *
ROAD, 9' E OF NACIREMA LANE
(1521 GREENSPRING VALLEY ROAD) *
8TH ELECTION DISTRICT
3RD COUNCILMANIC DISTRICT *

Case No. 92-285-SPHXA *

RECEIVED AND FILED
93 SEP 13 PM 12:01
CLERK OF THE CIRCUIT COURT
BALTIMORE COUNTY

* * * * * * * * * * * * *

PROCEEDINGS BEFORE THE ZONING COMMISSIONER AND THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

TO THE HONORABLE, THE JUDGE OF SAID COURT:

And now come William T. Hackett and Harry E. Buchheister, Jr.,

constituting the County Board of Appeals of Baltimore County, and in answer to the Petition for Judicial Review directed against them in this case, herewith return the record of proceedings had in the above-entitled matter, consisting of the following certified copies or original papers on file in the Office of the Zoning Commissioner and the Board of Appeals of Baltimore County:

ENTRIES FROM THE DOCKET OF THE BOARD OF APPEALS
AND THE OFFICE OF THE ZONING COMMISSIONER

No. 92-258-SPHXA

Jan. 15, 1992	Petitions filed by Benjamin Bronstein, Esquire, on behalf of Villa Julie College, Inc., for a Special Hearing to approve a modified parking plan and to approve a residential caretaker dwelling as an accessory use to a college; a Special Exception to permit a private college and group childcare center (Class B) in an R.C. 2 zone; and for Variances (13 in number).
February 21	Posting of the subject property.
February 13	Publication in newspaper.
February 14	Comments of Baltimore County Zoning Plans Advisory Committee.
March 10	Hearing held on Petition by the Zoning Commissioner (total of 6 days).
March 1992	Motion to Dismiss Petition for Special Exception filed by J. Carroll Holzer, Esquire, on behalf of Valleys Planning Council, et al.
	Motion to Dismiss Petition for Special Exception filed by K. Donald Proctor, Esquire, on behalf of Barton S. Mitchell, et al.
May 15	Memorandum in Opposition to Motion to Dismiss Petition for Special Exception filed by Benjamin Bronstein, Esquire, on behalf of Villa Julie College, Inc.
May 26	Protestants' Post-Hearing Memorandum filed by K. Donald Proctor, Esquire, on behalf of Barton S.

	Mitchell, et al.
May 16, 1992	Memorandum in Lieu of Final Argument filed by J. Carroll Holzer, Esquire, on behalf of Valleys Planning Council, et al.
"	Memorandum in Support of Petition for Special Exception and Variances filed by Benjamin Bronstein, Esquire, on behalf of Villa Julie College, Inc.
July 10	Order of the Zoning Commissioner in which Special Hearing was Approved; Special Exception GRANTED in part and DENIED in part; and Variances GRANTED with restrictions.
August 6	Notice of appeal filed by Michael J. Collins, Esquire, on behalf of Northwest Land Corporation.
August 7	Notice of appeal filed by J. Carroll Holzer, Esquire, on behalf of Valleys Planning Council and community associations.
"	Notice of Appeal filed by K. Donald Proctor, Esquire, on behalf of Mr. & Mrs. Barton Mitchell, Clark Farm Associates, and Mr. & Mrs. Timothy Rodgers.
November 5	Pre-hearing conference held in Board's office attended by all Counsel.
November 25	Letter from J. Carroll Holzer, Esquire, counsel for Valleys Planning Council, et al, submitting copy of Memorandum of Law to the Zoning Commissioner containing legal issues.
November 30	Motion in Limine to Limit the Scope of Issues filed by Benjamin Bronstein, Esquire, on behalf of Villa Julie College, Inc.
December 10	Valleys Planning Council, et al, Response to Motion in Limine to Limit the Scope of Issues filed by J. Carroll Holzer, Esquire.
December 21	Opposition of Northwest Land Corporation to Motion in Limine to Limit the Scope of Issues filed by Michael J. Collins, Esquire.
Feb. 17, 1993	Hearing before Board on Motion in Limine to Limit the Scope of Issues (argument on Motion only).

March 4, 1993	Ruling on Motion in Limine to Limit the Scope of Issues issued by Board; Motion GRANTED.
March 5	Order for Appeal filed in the Circuit Court for Baltimore County by K. Donald Proctor, Esquire, on behalf of Barton S. Mitchell, et al from Board's March 4, 1993 Ruling (93-CV-02112/46/194).
"	Order for Appeal filed in the Circuit Court for Baltimore County by J. Carroll Holzer, Esquire, on behalf of Valleys Planning Council, et al, from Board's March 4, 1993 Ruling (93-CV-02112 /46/194).
"	Order for Appeal filed in the Circuit Court for Baltimore County by Michael J. Collins, Esquire, on behalf of Northwest Land Corporation, from Board's March 4, 1993 Ruling (93-CV-02112 /46/194).
March 9	Hearing Day #1 before the Board of Appeals; continued to Day #2.
March 10	Hearing Day #2 before the Board of Appeals; continued to Day #3.
March 11	Hearing Day #3 before the Board of Appeals; continued to Day #4.
March 12	Hearing Day #4 before the Board of Appeals; continued to Day #5.
March 12	Certificate of Notice sent to interested parties (93-CV-02112/46/194).
March 15	Petition for Appeal filed in the Circuit Court by K. Donald Proctor, Esquire (93-CV-02112/46/194).
"	Amended Notice of Appeal filed in the Circuit Court by J. Carroll Holzer, Esquire (93-CV-02112/46/194).
"	Petition for Appeal by the Valleys Planning Council, et al filed in the Circuit Court by J. Carroll Holzer, Esquire (93-CV-02112/46/194).
March 16	Petition for Appeal by Northwest Land Corporation filed in the Circuit Court by Michael J. Collins, Esquire (93-CV-02112/46/194).
March 19	Hearing Day #5 before the Board of Appeals; continued to Day #6.
March 26	Hearing Day #6 before the Board of Appeals;

continued to Day #7.

March 31, 1993 Hearing concluded before the Board of Appeals.

April 14 Motion to Dismiss filed in the Circuit Court for Baltimore County by Benjamin Bronstein, Esquire, on behalf of Villa Julie College, Inc. (93-CV-02112/46/194).

April 19 Memorandum In Lieu of Final Argument filed by J. Carroll Holzer, Esquire, HOLZER, MAHER, DEMILIO & LEE, on behalf of Valleys Planning Council, et al.

" Post-Hearing Memorandum of Protestants, Barton S. and Elizabeth Mitchell, Timothy M. and Mary Stewart Rodgers and Clark Farm Associates, by their attorney, K. Donald Proctor, Esquire, MILES AND STOCKBRIDGE.

" Memorandum of Northwest Land Corporation In Lieu of Final Argument filed by their attorney, Michael J. Collins, Esquire, NEUBERGER, QUINN, GIELEN & RUBIN, P.A.

" Memorandum of Petitioner, Villa Julie College, Inc., filed by their attorneys, Benjamin Bronstein, Esquire, and Michael J. Chomel, Esquire, EVANS, GEORGE AND BRONSTEIN.

July 23 Opinion and Order of the Board GRANTING Petition for Special Hearing to approve modified parking plan and a residential caretaker dwelling as an accessory use to the college; GRANTING Petition for Special Exception to approve use of property as private college; GRANTING Petition for Variances as delineated in Order, subject to restrictions as set forth in Order.

August 4 Motion for Reconsideration and Clarification filed by Benjamin Bronstein, Esquire.

August 11 Answer to Villa Julie Motion for Reconsideration filed by J. Carroll Holzer, Esquire.

" Ruling DENYING Motion for Reconsideration and Clarification issued by the Board of Appeals.

August 13 Answer and Motion to Dismiss Villa Julie's Motion for Reconsideration filed by Michael J. Collins, Esquire, on behalf of Northwest Land Corporation.

Aug. 17, 1993	Petition for Judicial Review filed in the Circuit Court for Baltimore County by Benjamin Bronstein, Esquire, EVANS, GEORGE AND BRONSTEIN, on behalf of Villa Julie College, Inc.
August 20	Copy of Petition of Villa Julie College, Inc., for Judicial Review received by the Board of Appeals.
"	Petition for Judicial Review filed in the Circuit Court for Baltimore County by K. Donald Proctor, Esquire, on behalf of Barton S. & Elizabeth Mitchell, Clark Farm Associates, and Timothy M. & Mary Stewart Rodgers, Petitioners.
"	Petition for Judicial Review filed in the Circuit Court for Baltimore County by J. Carroll Holzer, Esquire, on behalf of Valleys Planning Council, Homeowners of Greenspring, Greenspring Valley Association, Velvet Valley Association and Douglas A. Carroll, III, Mr. & Mrs. Henry G. Hagen, Mr. & Mrs. Lawrence P. Naylor, III, Mr. & Mrs. Richard S. Buck, Mr. & Mrs. J. Stephen Immelt and Mr. & Mrs. Thomas F. Obrecht as individuals.
August 23	Certificate of Notice and/or letter of notification of Petition for Judicial Review sent to interested parties.
August 24	Copy of Petition for Judicial Review filed by K. Donald Proctor, Esquire, on behalf of Barton S. & Elizabeth Mitchell, et al, received by the Board of Appeals.
"	Second Certificate of Notice /Cross Appeal and/or letter of notification of Petition for Judicial Review sent to interested parties.
"	Petition for Judicial Review filed in the Circuit Court for Baltimore County by Michael J. Collins, Esquire, on behalf of Northwest Land Corporation, Petitioner.
August 27	Copy of Petition for Judicial Review filed by Michael J. Collins, Esquire, on behalf of Northwest Land Corporation received by the Board of Appeals.
"	Third Certificate of Notice and/or letter of notification of Petition for Judicial Review sent to interested parties.
August 30	Copy of Petition for Judicial Review filed by J. Carroll Holzer, Esquire, on behalf of Valleys Planning Council, et al, received by the Board of Appeals.

Aug. 30, 1993 Fourth Certificate of Notice and/or letter of notification of Petition for Judicial Review sent to interested parties.

September 13 Transcript of testimony filed.

Petitioner's Exhibit No.

1 -Resume of Dane Bauer
2 -County Water Supply Plan (G. Neff)
3 -Plat of Site (2 sheets)
4 -Colored Map of site of Villa Julie
5 -Site Plan for Wastewater Plant (schematic)
6 -Photo of Quonset Hut WW Plant
7 -Photo of Clarifier Unit
8 -College Catalogue of VJ
9 -Exhibit of Julie College & Valley
10-Zoning Map -RDF for V. Julie (1971)
11-Villa Julie College Zone in 1988 map
12-Villa Julie College Zoning Context Map
13-Aerial Photo of V.J. Property
14-Map -Neighbors Property Lines
15-Photo Board of Properties **(IN C.B. OF A. EXHIBIT CLOSET)**
16-Site Analysis Plan in color
17-Master Plan for V.J.C.
18-Site Section A-A Altitude of Bldgs
19-Chart of Distances from Property
20-ID only -U.S. Dept. of Com. (for Rich Davis)
21-ID only -Calm Wind & Wind Direction Packet
22A-K -Series of ten maps
23-Resume of Samuel Crozier
24A -Villa Julie Vicinity Distance Map (NAMES)
24B -Villa Julie Vicinity Distance Map
25-Letter Zaw-Mon to Mr. Neff
26-Letter Mr. Neff to Mr. Zaw-Mon 5/27/92
27-Resume of W. Guckert
28-Balto Co Traffic Signal Invent 3/3/93
29-V.J. Student Population (Day & Hr.)
30-Left Turn Proposal

31-Basic Services Trans Map (1992)
32-Resume of Fred N. Chadsey, IV
33-Elevation Maps -2 sheets
34-Basic Services Map 1992
35-Sup to Plan for Green Spring Valley
36-Balto Urbanization Area Map A
37-Balto Co Public Schools -Dept. Plan (ID)
38-Zoning Map 4D (for ID)
39-Fax Map (for ID)
40-Review of Ad. Law Judge (ID)
41-The Traffic Group V. Julie (ID)

Protestants' Exhibit No. 1 -Letter from Dept. of P.W. (Keys to Reaver)
2 -Letter from Dept. of Envir to County Council
3 -Letter re Off-Campus Housing
4A-I -Letters from file of Dir of P.W. (A-I)
5 -Student Class Enrollment from V.J. to WG
6 -Vitae of Dr. Linaweaver
7 -VJ Population, Water & WWater Characteristics
8 -*ID -Letter from Del.
9 -Proffer from A. Klein
10-Valley Plan Council, Inc.
11-Green Spring Valley Asso.
12-Velvet Valley Neighborhood Asso.
13-Falls Road Comm Assn
14-Carl Beall
15-Letter Douglas Carroll
16- " Ms. Denrich
17- " Henry Hagan
18-Resume of Martin Wells
19-Wells & Asso. Villa Julie Traffic Impact
20-Zoning Advisory Comments
21-Resume of Norman Gerber
22-Chart Devel Intensities by Gerber
23-Resolution 2-91 County Council

Sept. 13, 1993 Record of Proceedings filed in the Circuit Court for Baltimore County.

Record of Proceedings pursuant to which said Order was entered and upon which said Board acted are hereby forwarded to the Court, together with exhibits entered into evidence before the Board.

However, all tangible material or evidence of an unwieldy or bulky nature will be retained in the Board of Appeals' office and upon request of the parties or the Court will be transmitted to the Court by whomever institutes the request.

Respectfully submitted,

Kathleen C. Weidenhammer
Administrative Assistant, County Board
of Appeals of Baltimore County
Room 49 - Basement, Old Courthouse
400 Washington Avenue
Towson, Maryland 21204 (410) 887-3180

cc: Benjamin Bronstein, Esquire
Michael Chomel, Esquire
Michael J. Collins, Esquire
J. Carroll Holzer, Esquire
K. Donald Proctor, Esquire

8/13/93

IN RE: PETITIONS FOR SPECIAL	*	BEFORE THE
HEARING, SPECIAL EXCEPTION AND	*	COUNTY BOARD OF APPEALS
ZONING VARIANCE	*	OF BALTIMORE COUNTY
VILLA JULIE COLLEGE, INC.,	*	Case No. 92-285-SPHXA
Petitioner	*	
	*	

* * * * *

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ANSWER AND MOTION TO DISMISS VILLA JULIE'S MOTION FOR RECONSIDERATION

Northwest Land Corporation ("Northwest"), by its undersigned counsel, hereby files this Answer and Motion to Dismiss to Villa Julie College, Inc.'s ("Villa Julie") Motion for Reconsideration and Clarification of the Decision of the Board of Appeals, and says:

1. Northwest objects to any reconsideration of the Board's ruling by only two (2) of the (3) members participating in the case. The resignation and replacement of John Disney makes reconsideration of the Board's decision impossible, and potentially invalid. All of the parties had notice of Mr. Disney's impending resignation and replacement. It is now too late for any reconsideration of the Board's ruling and Villa Julie's motion for reconsideration must be dismissed.

2. Northwest denies the allegation in the motion for reconsideration that there was no evidence presented to the Board from which determination was made to limit Villa Julie's future student population and rate of growth. In fact, there was substantial evidence before the Board that Villa Julie's petition for special exception should have been denied in its entirety.

There was testimony before the Board from property owners adjoining the College that Villa Julie's proposed future growth would have an adverse impact and be detrimental to the health, safety and general welfare of the area. There was testimony from the Office of Planning and Zoning recommending a limitation of Villa Julie's growth. There was testimony from Pierce Lineweaver that the College's present water usage and waste water disposal is far in excess of any of the other property owners in the RC-2 Zone.

The uncontroverted evidence before the Board was that Villa Julie's sewerage problem is a "self-created heath problem." (See Order of the Board of Appeals dated July 23, 1993 at 9). It is beyond dispute that Villa Julie's present sewerage problem is a result of an overloaded septic system. The College's failing system is confirmation of the fact that Villa Julie has overgrown its property and that any future expansion will further overcrowd the land.

Finally, expert testimony established beyond a doubt that the Greenspring Valley is a unique RC-2 zoned area, surrounded by urban and suburban encroachment on three sides. In this respect, Norman Gerber stated his expert opinion that growth as proposed by the College is not consistent with the spirit and intent of the RC-2 zone. Thus, there was more than ample evidence before the Board that the petition for special exception be denied, let alone sufficient evidence to support the Board's decision to limit Villa Julie's future growth.

3. Northwest denies the contention of Villa Julie that

the Board's decision limiting the discharge from the waste water treatment plant to 50,000 gallons per day was not based on evidence before the Board. The evidence before the Board was that 2,500 students and the other faculty, administrators and staff at the College will generate no more than 50,000 gallons per day of sewerage. Thus, the Board limited Villa Julie to this discharge.

Northwest asserts that it was error to permit any discharge whatsoever, but it reserves this issue for appeal of the Board's decision. Unfortunately, the Board's decision to exclude testimony concerning the appropriateness of the proposed waste water treatment plant located in an RC-2 Zone resulted in the erroneous conclusion that there was a "governmental ruling permitting the discharge of treated waste water into a swale which has been ruled by a State Administrative Judge as a state waterway, a tributary to the Jones Falls, thereby acceptable as a channel for the treated waste water." (See Order of the Board of Appeals dated July 23, 1993 at 9.) In fact, the Department of Environment has specifically excluded consideration of the question of whether Villa Julie's use of the swale, which runs through Northwest's property, constitutes a nuisance, trespass or violation of Northwest's riparian rights.

4. Finally, it is astounding that Villa Julie now requests that the Board deliberate its decision in open session, as it was required to do under Maryland's Open Meeting Law. This argument is an absolute reversal of the College's earlier position before the Board, and Mr. Bronstein's numerous comments to the

Board during the hearing that there was no requirement to deliberate in open session in this case. All counsel recognized the Board's reluctance to deliberate in open session in this case. Protestants, however, were forced into the awkward position of alerting the Board to the fact that State law now mandates such open deliberations. Rather than join Protestants in their request for open deliberations, counsel for Petitioner repeatedly suggested to the Board that such open deliberations were unnecessary. Villa Julie has no one to blame but itself if it is now "in the position of having its ability to construct the waste water treatment plant delayed for extensive period of time" because of the Board's decision not to deliberate in public.

Furthermore, the "cure" suggested by Villa Julie cannot take place. In the first place, it is absurd to suggest that the Board re-create its deliberations for public consumption. It is beyond question that the Board will not participate in such a charade. It is unbelievable that Villa Julie would suggests that the Board entertain the public with a reenactment of its previous closed door deliberations.

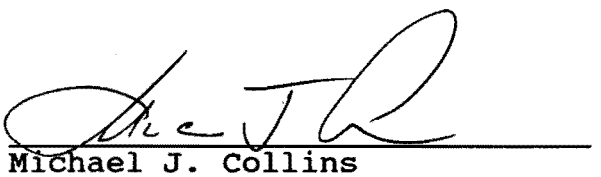
Second, the Open Meetings law violation has already occurred. There are three Circuit Court cases pending on the issue of the Open Meetings law, which are now consolidated and specially set for hearing. Villa Julie has asked to intervene in these cases. Any potential "cure" of the Board's violation rests in the hands of the Honorable Barbara Kerr Howe. In this respect the motion for reconsideration comes too late. The Board no longer has

jurisdiction over this issue.

Finally, Mr. Disney has resigned and is no longer an member of the Board of Appeals. Northwest objects to any effort to effect a "cure" of the Open Meetings Law with less than all of the Board members who rendered the decision available for such deliberations. Thus, Villa Julie's motion for reconsideration and clarification must be dismissed.

WHEREFORE, Northwest Land Corporation respectfully requests that Villa Julie's Motion for Reconsideration be dismissed or, in the alternative, denied.

Respectfully submitted,



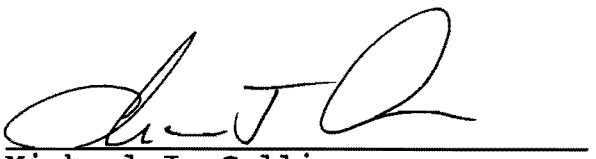
Michael J. Collins

Neuberger, Quinn, Gielen, Rubin
& Gibber, P.A.
27th Floor, Commerce Place
One South Street
Baltimore, Maryland 21202
(410) 332-8520

Attorneys for Northwest Land Corporation

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 13th day of August, 1993, a copy of the foregoing Answer to Villa Julie Motion for Reconsideration was mailed, first-class, postage prepaid to Benjamin Bronstein, Esquire, Evans, George and Bronstein, Susquehanna Bldg., Ste. 205, 29 W. Susquehanna Ave., Towson, Maryland 21204; K. Donald Proctor, Esquire, Miles & Stockbridge, 600 Washington Avenue, Towson, Maryland 21204, J. Carroll Holzer, Esquire, Holzer, Kaher, DeMilio & Lee, 305 W. Chesapeake Ave., Ste. 105, Towson, Maryland 21204.



Michael J. Collins

IN RE: PETITIONS FOR SPECIAL	*	BEFORE THE
HEARING, SPECIAL EXCEPTION AND	*	COUNTY BOARD OF APPEALS
ZONING VARIANCE	*	OF BALTIMORE COUNTY
VILLA JULIE COLLEGE, INC.,	*	Case No. 92-285-SPHXA
Petitioner	*	
	*	

* * * * *

ORDER

Upon consideration of the Motion for Reconsideration and Clarification of the Decision of the Board of Appeals filed by Villa Julie, and the oppositions filed thereto by Valley's Planning Council and Northwest Land Corporation,

It is this _____ day of August, 1993, ORDERED that the Motion for Reconsideration and Clarification is hereby DISMISSED and DENIED.

_____
Chairman, Board of Appeals

8/11/93

IN THE MATTER OF THE THE APPLICATION OF VILLA JULIE COLLEGE, INC. FOR A SPECIAL HEARING, SPECIAL EXCEPTION AND VARIANCES ON PROPERTY LOCATED ON THE SOUTH SIDE GREENSPRING VALLEY ROAD, 9' EAST OF NACIREMA LANE (1521 GREENSPRING VALLEY RD) 8TH ELECTION DISTRICT 3RD COUNCILMANIC DISTRICT	*	BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY CASE NO. 92-285-SPHXA

* * * * * * * * *

RULING ON MOTION FOR RECONSIDERATION AND CLARIFICATION

Upon this Board's review and consideration of Petitioner's Motion for Reconsideration and Clarification filed by Benjamin Bronstein, and Evans, George and Bronstein, its attorneys in the above-captioned case, and the Answer to Villa Julie Motion for Reconsideration filed by J. Carroll Holzer, Esquire, on behalf of Valleys Planning Council, et al,

IT IS HEREBY this 11th day of August, 1993 by the County Board of Appeals of Baltimore County **ORDERED** that

1. Petitioner's request for a hearing on its Motion for Reconsideration and Clarification is hereby **DENIED**; and

2. Petitioner's Motion for Reconsideration and Clarification is hereby **DENIED**.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

William T. Hackett
William T. Hackett, Chairman

Harry E. Buchheister, Jr.
Harry E. Buchheister, Jr.

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

August 11, 1993

Benjamin Bronstein, Esquire
EVANS, GEORGE AND BRONSTEIN
Susquehanna Building, Suite 205
29 W. Susquehanna Avenue
Towson, MD 21204

RE: Case No. 92-285-SPHXA
Villa Julie College, Inc.
Motion for Reconsideration and Clarification

Dear Mr. Bronstein:

Enclosed is a copy of the Ruling on Motion for Reconsideration and Clarification issued this date by the County Board of Appeals in the subject matter.

Very truly yours,

Kathleen C. Weidenhammer/cm

Kathleen C. Weidenhammer
Administrative Assistant

encl.

cc: Michael Chomel, Esquire
Michael J. Collins, Esquire
J. Carroll Holzer, Esquire
K. Donald Proctor, Esquire

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8/10/93

IN THE MATTER OF THE APPLICATION OF VILLA JULIE COLLEGE, INC. FOR A SPECIAL HEARING, SPECIAL EXCEPTION AND VARIANCES ON PROPERTY LOCATED ON THE SOUTH SIDE GREEN SPRING VALLEY ROAD 9 FEET EAST OF NACIREMA LANE	*	BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY
(1521 GREENSPRING VALLEY ROAD)	*	Case No.: 92-285-SPHXA
8th Election District 3rd Councilmanic District	*	

* * * * * * * * * * * *

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COUNTY BOARD OF APPEALS
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ANSWER TO VILLA JULIE
MOTION FOR RECONSIDERATION

Valleys Planning Council, et al., Protestants, by **J. Carroll Holzer**, their attorney files this Answer to the Motion for Reconsideration and Clarification of the Decision of the Board of Appeals dated July 23, 1993 and says:

1. That on July 23, 1993 the Board of Appeals issued a Decision in the Villa Julie case signed by Board members Hackett, Disney and Buchheister. Since that time Board member Disney, effectively was terminated as a Board member on the payroll of Baltimore County on July 31, 1993. Counsel understands that the new Board member Robert Schuetz officially replaced Mr. Disney on August 2, 1993. A Motion for Reconsideration is inappropriate in that the original Board will not be in a position to review or reconsider its Decision.

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Secondly, counsel for The Valleys Planning Council objects to a Reconsideration and review conducted by only two (2) of the three (3) members participating in the case.

WHEREFORE, it is respectfully requested that the Motion for Reconsideration and Clarification be denied.

2. The Valleys Planning Council takes exception to the suggestion in the Motion for Reconsideration that there was no evidence presented to the Board from which the limitation of the total number of students to 2,500 or the five percent (5%) per year was found. In fact, there was ample testimony supported by the testimony of the Office of Planning and Zoning as to the suggested limit of 2,500 students. Similarly, there was evidence to support the five percent (5%) per year limitation on the student growth.

Additionally, testimony from Pierce Lineaweaver from the residence and numerous other witnesses provide the appropriate factual foundation to support a limitation of the discharge from the wastewater treatment plant to 50,000 gallons per day. It is interesting that Villa Julie in a Motion In Limine prevented Appellants from introducing more evidence in that regard. In line with that testimony, testimony from the Villa Julie College's own expert supported the proposition that the Sisters Demeur utilized 10,000 gallons per day.

3. It is with astonishment that counsel for Valleys Planning Council read Villa Julie's position in respect to the Open Meetings Law. Apparently, Villa Julie is now suggesting that the Board deliberate and comply with the Open Meetings Law when they took the exact opposite position before both the Board and before the Circuit Court of Baltimore County that the Board was not required to comply with the Open Meetings Law as set forth in the Maryland State Government Code, Annotated Section 10-501 et seq.

However, the position of Villa Julie comes as too little and too late in that Protestants would certainly vehemently oppose the Board, after the fact, having a perfunctory Open Meetings hearing to restate the Decision obviously rendered on July 23, 1993. For starters, it would appear to be a sham if the Board were to adopt the suggestion of Villa Julie College at this point in light of Villa Julie's stated position even as recently as last week before the Circuit Court of Baltimore County.

Secondly, Protestants would oppose such an effort to cure any none compliance iwth the State law in view of the fact that there are only two (2) of the three (3) members of the Board who rendered the Opinion available.

WHEREFORE, for all the reasons aforesaid, Protestants respectfully suggest the Motion for Reconsideration and Clarification be denied by the Board.

J. CARROLL HOLZER, Esquire
Holzer, Maher, Demilio & Lee
305 West Chesapeake Avenue
Suite 105
Towson, Maryland 21204
410-825-6961

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 10th day of August, 1993, a copy of the aforegoing Answer to Villa Julie Motion for Reconsideration was mailed, postage pre-paid to: Benjamin Bronstein, Esquire, Evans, George and Bronstein, Susquehanna Building, Suite 205, 29 West Susquehanna Avenue, Towson, Maryland 21204, Nancy W. Young, Esquire, Niele Friedman, Esquire, Office of the Attorney General, Department of the Environment, 2500 Broening Highway, Baltimore, Maryland 21224, Michael J. Collins, Esquire, Neuberger, Quinn, Gielen, Rubin & Gibber, P.A., Commerce Place, 27th Floor, One South Street, Baltimore, Maryland 21201 and K. Donald Proctor, Esquire, Miles & Stockbridge, 600 Washington Avenue, 3rd Floor, Towson, Maryland 21204.

J. CARROLL HOLZER, Esquire

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8/4/93

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IN THE MATTER OF THE APPLICATION OF	*	BEFORE THE
VILLA JULIE COLLEGE, INC.	*	COUNTY BOARD OF APPEALS
FOR A SPECIAL HEARING, SPECIAL EXCEPTION AND VARIANCES ON PROPERTY LOCATED	*	OF
ON THE SOUTH SIDE GREENSPRING VALLEY ROAD, 9' EAST OF	*	BALTIMORE COUNTY
NACIREMA LANE (1521 GREENSPRING VALLEY RD.)	*	CASE No. 92-285-SPHXA
8TH ELECTION DISTRICT 3RD COUNCILMANIC DISTRICT	*	

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COUNTY BOARD OF APPEALS
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MOTION FOR RECONSIDERATION AND CLARIFICATION

Villa Julie College, Inc., Petitioner, by Benjamin Bronstein and Evans, George and Bronstein, its attorneys, files this Motion For Reconsideration and Clarification of the Decision of the Board of Appeals for Baltimore County dated July 23, 1993, and says:

1. On July 23, 1993, the Board of Appeals issued a decision which granted the College's Petition For Special Exception, Petition For Special Hearing, and Petition For Variances (except for the variance relating to height of two proposed new buildings). The Board's decision, however, purported to impose certain restrictions on the grant of the special exception including:

a) Total student enrollment at the College limited to 2,500 students;

b) Student growth limited to 5% per year;

c) Maximum discharge of the Wastewater Treatment Plant (WWTP) limited to 50,000 gallons per day.

2. These restrictions contained in the Board's decision are unsupported by the testimony and evidence in the record before the Board and cannot be sustained.

3. There was no evidence presented to the Board during the seven full days of testimony in this case in which referred, related or pertained to a limit on yearly growth in the student population. The restriction imposed by the Board limiting growth in student enrollment to 5% per year is wholly without foundation in the record.

Where the action of a Board of Appeals is not supported by substantial evidence, the Board's decision cannot be said to be "fairly debatable", and the Board's action falls into the category of being arbitrary, capricious and a denial of due process of law. Ocean Hideaway Condominium Association v. Boardwalk Plaza Venture, 68 Md App 650, 515 A2d 485 (1986). One of the ways in which an administrative agency acts arbitrarily is by reaching a decision unsupported by the facts in the record. Where the record is devoid of evidence sufficient to raise a debatable issue, a reviewing court has the implicit power to declare a finding of a zoning administrative body invalid. Mayor and City Council of Baltimore v. Bruce 46 Md App 704, 420 A2d 1272 (1980).

4. Similarly, there was no evidence of a factual nature before the Board of Appeals to support the imposition of a 2,500 student limit on total enrollment. The only testimony in this regard came from John Dillon, of the Office of Planning and Zoning. On closer examination, however, Mr. Dillon acknowledged that the Office of Planning and Zoning performed no in-depth study, but merely pulled that figure "out of a hat." (T. 3/3/93 at p. 39-40) It is clear, then, there was absolutely no factual basis for the

imposition of that limit. The 2,500 figure was an arbitrary figure, and cannot serve as the evidentiary basis necessary to support an otherwise groundless denial to the College of its rights.

5. The limitation of discharge from the WWTP to 50,000 gallons per day is not based on the evidence before the Board. The limitation fails to recognize the natural variation in water usage of an institution such as Villa Julie. The State of Maryland in the National Pollutant Discharge Elimination System (NPDES) permit issued by the Maryland Department of Environment (MDE) recognized the natural variation in water usage of an institution such as the College by providing for a discharge limit of 60,000 gallons per day, based on a 30 day average. All the testimony before the Board was predicated on a 30 day average. Utilization of a 30 day average is consistent with the limitations adjudged permissible by the State, and more accurately reflects the nature of water usage at the college, than does an inflexible discharge per day limitation.

6. Additionally, the reduction of discharge from the requested 60,000 gallons per day average figure (approved by the Maryland Department of the Environment in the NPDES permit proceeding) to 50,000 gallons per day was not based on the evidence before the Board. In its decision, the Board of Appeals assigned the figure of 10,000 gallons per day to wastewater discharge by the Sisters of Notre Dame de Namur. There was no evidence to support the assumption by the Board that the Sisters utilized 10,000 gallons per day. Indeed, the only testimony on this point came

from Dane Bauer, when counsel for Protestants cross-examined Mr. Bauer. (T. March 10, 1993 at 17.) Counsel for Protestants, Carroll Holzer, interrogated Mr. Bauer as follows:

> (Mr. Holzer) Q. Did you include in your calculations presented to the state in terms of the need for disposal of certain amount of gallons per day, did you include the amount of gallons that would come from the Sisters property?
>
> (Mr. Bauer) A. Yes, in the earlier -- in the very first submittals, yes, sir.
>
> Q. That was approximately what, do you recall? 5,000 gallons?
>
> A. It was, or less, in that neighborhood.
>
> Q. 5,000 gallons or less per day.

The only evidence before the Board on this issue, then, was a statement by counsel for Protestants, affirmed by Mr. Bauer, that the utilization of the Sisters was 5,000 gallons or less per day. The record is, therefore, devoid of any evidence to support the Board's allocation of 10,000 gallons a day usage to the Sisters, and the limitation of discharge by the College to 50,000 gallons per day cannot be sustained.

7. Villa Julie also requests the Board of Appeals to reconsider its position with respect to the application, vel non, of the Open Meetings Law, Maryland State Government Code Annotated Section 10-501 et seq. The refusal of the Board to deliberate in open session in this proceeding has placed the College in the position of having its ability to construct the WWTP (shown by the testimony to be essential for the correction of an existing health problem) delayed for an extensive period of time. Villa Julie

suggests that deliberation by the Board at this time on the Motion for Reconsideration could, in effect, cure any prior non-compliance with the Open Meetings Law.

WHEREFORE, Villa Julie College, Inc., Petitioner, requests the Board of Appeals for Baltimore County to reconsider and clarify its decision of July 23, 1993, by removing the restriction on on-campus enrollment, by removing the restriction on yearly increase in growth, by permitting a discharge of 60,000 gallons per day as requested, and clarifying its order to provide that the permitted discharge be calculated on a seven day average, and by holding public deliberations.

Benjamin Bronstein
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20 W. Susquehanna Avenue
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Towson, Maryland 21204
(410) 296-0200

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on this 4 day of _____, 1993, a copy of the foregoing MOTION FOR RECONSIDERATION AND CLARIFICATION was sent via facsimile and mailed by U. S. Mail, first class, postage pre-paid to Michael J. Collins, Esquire, Neuberger, Quinn, Gielen & Rubin, P.A., Equitable Bank Center, Tower II, 100 South Charles Street, Baltimore, Maryland 21201; J. Carroll Holzer, Esquire, Holzer, Maher, Demilio & Lee, 305 West Chesapeake Avenue, Suite 105, Towson, Maryland 21204; and K. Donald Proctor, Esquire, Miles & Stockbridge, 600 Washington Avenue, Suite 300, Towson, Maryland 21204.

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DOUGLAS A. STUBBS

RECEIVED
COUNTY BOARD OF APPEALS
93 AUG -4 AM 10:57

August 4, 1993

William T. Hackett, Chairman
County Board of Appeals for Baltimore County
Old Courthouse
400 Washington Avenue
Towson, Maryland 21204

Re: Villa Julie College, Inc.
Case No. 92-285-SPHXA

Dear Chairman Hackett:

Enclosed please find a Motion for Reconsideration and Clarification filed this date in the above referenced case.

I note that under Rule 2.a. of the Board's Rules of Practice and Procedure, no hearing shall be conducted on the Motion without at least ten (10) days' notice to all parties of record or their counsel of record. Additionally, it is my understanding that under Rule 10, the Board of Appeals' decision must be made within thirty (30) days from the date of the decision in question.

The Board's Order was filed on July 23, 1993. Based on the Board's Rules of Practice and Procedure, it would seem that a hearing on the Motion must be scheduled on or after August 14, 1993, and that a decision on the Motion must be rendered on or before August 23, 1993.

Thank you for your kind consideration and cooperation in this regard.

Sincerely,

EVANS, GEORGE AND BRONSTEIN

Benjamin Bronstein

BB:mbk
Enclosure

cc: Michael J. Collins, Esquire (via fax and first class mail)
J. Carroll Holzer, Esquire (via fax and first class mail)
K. Donald Proctor, Esquire (via fax and first class mail)

1/23/93

IN THE MATTER OF THE THE APPLICATION OF VILLA JULIE COLLEGE, INC. FOR A SPECIAL HEARING, SPECIAL EXCEPTION AND VARIANCES ON PROPERTY LOCATED ON THE SOUTH SIDE GREENSPRING VALLEY ROAD, 9' EAST OF NACIREMA LANE (1521 GREENSPRING VALLEY RD) 8TH ELECTION DISTRICT 3RD COUNCILMANIC DISTRICT	*	BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY CASE NO. 92-285-SPHXA

* * * * * * * * *

O P I N I O N

This is an appeal from the decision of the Zoning Commissioner for Baltimore County, Maryland, dated July 19, 1992 in which the Petition for Special Exception to approve the use of the property for a private college in accordance with the site plan was granted, with certain restrictions; and granted a Petition for Special Hearing to approve a modified parking plan and a residential caretaker dwelling as an accessory use to the college; and granted the Petition for Zoning Variances to permit variances from sections of the Baltimore County Zoning Regulations (BCZR) on property zoned R.C. 2.

Appearing before the Board were the following legal counsel: Benjamin Bronstein, Esquire, and Michael Chomel, Esquire, representing Villa Julie College, Inc.; J. Carroll Holzer, Esquire, representing the Valleys Planning Council and a number of individuals; H. Donald Proctor, Esquire, representing Barton and Elizabeth Mitchell, Clark Farm Associates, and Tim and Mary Rodgers; and Michael J. Collins, Esquire, representing Northwest Land Corporation.

Appearing and testifying for Villa Julie College were the

following: Dave Bowers, representing the Maryland Environmental Service; Michael Lancaster, Chief Business Officer, Villa Julie College; Samuel Crozier, Landscape Architect & Land Planner; Gene Neff, Director of Public Works; Wesley Guckert, Traffic Engineer; and Frederick Chadsey, P.E., Water Resource Engineer.

Appearing and testifying in opposition to Villa Julie were the following: F. Pierce Linaweaver, P.E., Civil and Environmental Engineer; Guana Clark Watts, Landscape Architect and partner in Clark Farm Associates; Elizabeth Mitchell, neighbor abutting Villa Julie; Timothy Rodgers, neighbor; Jervis Spencer Finney, neighbor; Thomas O'Brecht, neighbor; Martin Wells, traffic expert; Gordon Sugar, abutting property owner; Clarence Mielke, contract farmer for this area; James Highsaw, Natural Resource Planner; Paul Scheidt, Director, Maryland Agricultural Land Preservation Foundation; John Contestable, Chief of Engineering Access for State of Maryland; John Dillon, Deputy Chief of Community Planning; Norman Gerber, Professional Planner; Oscar Keys, Engineer, formerly with the Department of Public Works; James Dieter, Director of the Department of Environmental Protection & Resource Management; and, as an independent witness, James Gracey, representing Trout Unlimited; and entered by Holzer and not objected to were nine letters, Protestants' Exhibits 9 through 17, in opposition to Villa Julie.

Direct testimony from these witnesses consumed some 7 full days and produced some 64 exhibits for this Board's consideration.

In considering the merits of the case before the Board,

numerous issues were presented, often asserting meritorious arguments on both sides. Consideration had to be given to construction of a wastewater treatment plant (WWTP), earlier approved by the Baltimore County Council to eliminate a long-existing septic system failure at the college. Whether an R.C. 2 zone allows a WWTP was acknowledged by this Board as a result of the County Council's action in amending its water & sewage plan and passing Resolution 2-91 on January 7, 1991, authorizing the joint use of a wastewater treatment facility by Villa Julie College and the Sisters of Notre Dame de Namur. The Treatment capacity of the plant and the plans for discharge were momentous considerations for the Board in light of testimony from experts on both sides of the matter.

Although the college has existed for several decades and qualifies to continue as a nonconforming use, the institution seeks a Special Exception to enable it to expand, a factor that is restricted under its present nonconforming status. The different variances are requested for a building expansion of 100,000 sq. ft. to eliminate crowded instructional areas and to accommodate an increased enrollment anticipated in future years. On this matter, the Board must decide whether the extent of the intended growth of Villa Julie College, at its location in the Greenspring Valley, is proper under the specifications of the special exception law, Section 502.1 of the BCZR.

Since the college's establishment in 1947, sewage disposal has been accomplished by a septic system, there being no public water

or sewage in the R.C. 2 zoned valley. Testimony has established that the Greenspring Valley is situated upon a rich and plentiful aquifer which runs reasonably close to the surface. Although a concern of property owners, the college has been granted by the State a 60,000 gallon/day water draw from the valley aquifer. The location of the disposal field for the college at present is on the adjacent property of the Sisters of Notre Dame de Namur, with whom the college was once affiliated. The system was designed for disposal of 6,000 gallons of wastewater per day, but with physical expansion in the past two decades, the system is receiving up to 28,000 gallons per day solely from the college. Recognizing the failure of the system in 1989, attempts to repair the septic system have not succeeded and approximately 8,000 gallons of wastewater have to be trucked away each day. Since there was no testimony on the remaining 20,000 gallons /day, the Board will assume it is absorbed through the existing septic system.

Dave Bowers, representative of the Maryland Environmental Services (MES), a quasi state, public and private agency, testified to his retention to study the problem of wastewater treatment at Villa Julie. Based on studies involving the Maryland State Department of Environment (MDE) and the Baltimore County Department of Environmental Protection and Resource Management (DEPRM), Mr. Bowers recommended the construction of a WWTP that would treat up to 60,000 gallons of wastewater per day. He reviewed for the Board at length the operations of the planned WWTP, its location, size, procedures and operations, maintenance, measures for emergencies,

and the treatment and discharge into an existing stream that originates on campus. The plant was described as a "state of the art" filtration system that could be open to view, but which will be housed in a shed-like structure in a wooded area and would be comparable to farm buildings in the agricultural zone.

Subsequent to the County Council's authorization of a WWTP by Resolution 2-91 to solve the septic problem at the college, Villa Julie applied for a permit from MDE to discharge 62,900 gallons per day into the stream leading to the Jones Falls, which was approved in May 1992.

Counsel for the Protestants raised issue over the plan to discharge into an intermittent stream, treated effluent that will flow across Protestants' properties for one-quarter mile to the Jones Falls. Counsel for protesting property owners described the intermittent stream as more like a swale than a stream.

Protestants' attorneys countered that Council's amendment of the Master Water and Sewer Plan authorized construction of a WWTP in an R.C. 2 zone provided for a "community plant" to service both the college and the Sisters. However, testimony in this hearing revealed that the Sisters of Notre Dame would not participate with the college in the WWTP, but would use their septic system. Gene Neff, Director of Public Works for Baltimore County, testified that this would change the WWTP from a "community plant" to a "multi-use plant" that under Section 101 (BCZR) is an accessory structure that can serve only one user and must be located on its property. Mr. Neff said an amendment to the authorization can be readily

accomplished and bring the proposed WWTP into conformity.

The Baltimore County Council has designated a college as a permissible use by special exception in an R.C. 2 zone, and thereby conditionally compatible with the uses in an R.C. 2 zone. The determining factor in this case is whether the standards of Section 502.1 of the BCZR are met by the college in their proposed use.

Section 502.1 provides that the use for the Special Exception requested will not:

a. Be detrimental to the health, safety, or general welfare of the locality involved;

b. Tend to create congestion in roads, streets or alleys therein;

c. Create a potential hazard from fire, panic or other dangers;

d. Tend to overcrowd land and cause undue concentration of population;

e. Interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences, or improvements;

f. Interfere with adequate light and air;

g. 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

h. Be inconsistent with the impermeable surface and vegetative retention provisions of these Zoning Regulations.

The above standards of 502.1 will be addressed in a general manner in subsequent referral to the issues of this case.

Of particular importance in this matter, the Petitioner for a special exception in an R.C. 2 zone must show that the use

(expansion) would not be detrimental to the primary agricultural uses in the vicinity. (Section 1A01.2.C of the BCZR.) Addressing Protestants' concern that the college does nothing to enhance agriculture, the Board is convinced that the college will not be detrimental to the surrounding agricultural use as it exists today in the Greenspring Valley. Testimony by Mr. Clarence Mielke, the contract farmer for most of the acreage in the valley, indicated that he had no present traffic problems in moving equipment to the properties by road, often crossing land from one farm to another. In all of his farming operations, Mr. Meilke said he endeavored to move equipment at the early hours of the morning to avoid delays for himself and others. He did testify that recent subdivision of acreage for large estate lots in the Greenspring Valley has reduced his operations there. We also note that on their plan, the college has not taken from their present open land. None of the college property now utilized for agriculture will be affected or diminished by the proposed building plans.

Another concern of the Protestants is an "existing" traffic congestion along the Greenspring Valley Road and the inevitable traffic increase that could result with a college expansion, coupled with an increase of general traffic on this connector road to the beltway. The traffic study by Petitioner's expert, West Guckert, was persuasive that the "A" levels of service at the college entrance and the major intersections in the locale today would continue, assuring that the traffic in and out of the college could even double. Testimony by Mr. Guckert stated that the

college generated increase in traffic would not tend to create congestion at the college entrance or at the major intersection of Greenspring Valley Road. He noted that the college can manage it population by how they schedule classes in off-peak hours. Petitioner also plans an 800-foot left turn lane at the college entrance and a widening of the road to four lanes, improvements that will be required by the State Highway Administration. In Mr. Guckert's opinion, the planned road work is capable of accommodating an increased enrollment. John Contestable's testimony affirms this finding.

In opposition, Protestants' expert in traffic engineering, Martin Wells, found that existing traffic levels near the college entrance at peak student schedule times are presently taxing the capacity of Greenspring Valley Road. An increased enrollment would create a very adverse condition.

However, testimony by John Contestable, Chief of Engineering Access for the State Highway Administration of plans for widening Greenspring Valley Road at the college entrance and acceleration/deceleration lanes of 800 ft. was convincing that these measures will suffice to handle satisfactorily the additional traffic generated by proposed expansion at Villa Julie.

The Board has been troubled by the Petitioner's proposal to discharge treated wastewater into a stream that crosses the property of nearby neighbors. This Board has heard numerous protests involving water runoff across neighbors' properties caused by a construction in which we sustained the protest. In this case,

we consider a government ruling permitting the discharge of treated wastewater into a swale which has been ruled by the State Administrative Judge as a state waterway, a tributary to the Jones Falls, and thereby acceptable as the channel for the treated wastewater. One of the neighbors, Gordon Sugar, offered the college a right-of-way for a sewer line across his acreage to the Jones Falls but was refused. The Board feels this solution could be a cure-all for much of the opposition to Villa Julie's needs for correcting a self-created health problem, provide for future expansion, and bring no detriment to the surrounding community. The Board states this opinion with awareness that the matter of the stream is not within our jurisdiction. There is assurance in the plan to minimize any thermal shock to the stream.

Expert testimony has attested to the fact that the subject location is unlike other areas zoned R.C. 2 that are remote and not bordered on three sides by residential development. Counsel for the Petitioner argues that the Greenspring Valley cannot be likened to the purely agricultural areas of northern Baltimore County.

Villa Julie has occupied its present location since 1947 without any infringement or adverse effect on its neighbors. The testimony presented by Counsel for Villa Julie College in this case meets the standard annunciated by the Court of Appeals in Schultz v. Pritts. The law establishes that a special exception use has an "adverse effect" and must be "denied" when it is determined from the facts and circumstances that the grant of the requested special

exception use would result in an adverse effect upon adjoining and surrounding properties which is unique and different from the adverse effect that would otherwise result if located anywhere within the zone. Schultz v. Pritts, 291 Md. 1, 432 A.2d 1319 (1981)

As the Board perceives the impact that the college has had on the surrounding R.C. 2 zone, we find that the college is not detrimental to the health, safety or general welfare and the special exception should be granted as based upon its present enrollment and physical facilities. However, the Board is wary as to the future impact the proposed expansion may bring to the locale.

The proposed physical expansion of the college is extensive, and expressed fears by Protestants are understandable. Because the college is in an agricultural preservation zone, the degree of growth warrants control under a granted special exception. As determined by the Zoning Commissioner, the Board concurs that limiting the enrollment of the college is reasonable. Norman Gerber, expert witness, stated that the college could increase in size, but the proposed expansion, if unbridled, will be detrimental and change the character of the valley. Mr. Gerber asserted that the college "as proposed" is not in the spirit and intent of the zone and that Section 502.1 tests the need for limitations.

Counsel for the Petitioner argues that the site plan is self-limiting. He asserts that the County Council did not intend to limit the size of the college. In regard to the limitation on the

wastewater treatment plant, the Council did not set a maximum limit; yet, Resolution 2-91 in authorizing the operation of a community sewage treatment for Villa Julie and Sisters of Notre Dame specifies "with capacity subject to a Special Exception to the R.C. 2 zoning." Other evidence exhibits the State's acknowledgement that the capacity issue is a County decision.

The Maryland Department of Environment (MDE) authorized a flow of 60,000 gallons per day into the stream, based at that time on a permit for a "community Plant" for two institutions. It has been ascertained that the Sisters of Notre Dame discharged approximately 10,000 gallons into the septic system per day. Dr. Pierce Linaweaver, testifying for the Protestants, concluded that Villa Julie is currently using approximately 25,000 gallons per day with a student population of 1,770. Therefore, the Board concurs that the capacity of 60,000 gallons by MDE should be reduced by the 10,000 gallons the Sisters of Notre Dame discharged for a capacity of 50,000 gallons per day for the college WWTP. The Board is reminded of testimony that the plant has a design capacity greater than what the actual flow of the college might be (50,000 gallons) which allows for future growth and permits flexibility in the future. Mr. Linaweaver translates this capacity to a student population of 2,500 registered for classes at the Villa Julie campus. Mr. Jack Dillon of the Baltimore County Planning Office testified that the Office of Planning and Zoning has concerns as to the possibility of uncontrolled expansion once the new buildings are constructed and the WWTP is installed. If unchecked, a

repetition of the current situation could occur. In order to ensure effective control, it is recommended that any growth above 2,500 students should be subject to the granting of an additional special exception by the Zoning Commissioner.

Imposition of a ceiling on total student enrollment from the present 1,700 is not to place the college at a disadvantage but to be in accord with the need to best maintain the character of the valley. The college is known for its excellent programs, and for its diligence in recruiting students. The Board is cognizant of several private colleges in the State which limit their enrollment for various reasons. It may be necessary for the college to offer off-campus classes at satellite centers, as does Johns Hopkins, Loyola College, the University of Maryland, and others.

In regard to a mathematical cap with a 5 percent increase in enrollment over the previous year for on-campus students, it is well known that high school graduates apply and are accepted by several colleges. The number of new students as well as other under graduates who report the first day is an unknown. Therefore, the Board will allow the increased annual enrollment at the Villa Julie campus to be based on a 5 percent increase of the total campus enrollment for the Fall semester of the previous college year to a maximum of 2,500. The Board has taken into consideration that the construction of new buildings was to eliminate over-crowded instructional areas, provide for new programs, and add student extra-curricular facilities, as well as a rise in student enrollment. The construction plan assured in the granting of the

special exception was to correct these inadequacies and not to guarantee that the new building will readily be filled with students. When the college requires a change in this limitation, an additional public hearing will be necessary to determine how the installation of the WWTP, the improvements to Greenspring Valley Road, and the expansion of the physical campus have actually affected the surrounding locale. As a result of all this testimony, the Board will find as a fact that Section 502.1 has been met, and the special exception should be granted with appropriate restrictions.

Villa Julie's Petition for Zoning Variances in this case feels it is justified in that strict compliance with the BCZR would result in a practical difficulty and an unreasonable hardship. Most variances requested relate to distances between existing buildings in the interior of the college property, and not adjoining property of other owners as in many variance requests. These distance variances will permit design of a multi-level building which will not spread out into open space of the campus. The plan's goal is to achieve an "intimate campus" without the new construction using present open areas. Samuel Crozier, Petitioner's landscape architect, designed the plan to avoid removing wooded areas, and to build taller buildings to reduce the impervious roof area of a lower structure of the same square footage. Major aspects of the Plan were designed so that the campus will have less impact on Greenspring Valley Road and adjacent residents. The new construction will generally

interconnect with existing buildings in such a building envelope that they will hardly be seen from the road. Mr. Crozier opined that if the variances are not granted he doesn't know whether the desired 100,000 sq. ft. expansion will fit in the building envelope.

Counsel for the Protestants asserted that the request for variances has not met the legal requirement of Section 307.1, that "practical difficulty or unreasonable hardship" must be demonstrated. Protestants claim that the Plan is based on "cost" factors for the college and to accomplish "aesthetic" objectives. Counsel referred to numerous cases of "where" a variance should be granted. In reviewing these legal decisions, the Board feels that the testimony of Norman Gerber and others in this hearing describing the Villa Julie property and its location as "unique" makes our consideration under 307.1 somewhat broader. As Protestants argue, Villa Julie has the ability within the building envelope or its boundaries to comply with the BCZR. However, changes have to be made under Resolution 2-91 by the County Council, and, to accomplish these plans, expert testimony by Frederick Chadsey referred to a design team of a dozen specialists from government and industry that worked on the plan to solve various problems and hardships that confronted the college's future needs. From these studies the Petition for Variances came forward, and in the opinion of this Board, are presented to resolve practical difficulties in their effort to satisfy, among many considerations, the preservation of the pristine aspects of the

Greenspring Valley. The Board feels that Section 307.1 is met.

In regard to the variance for height of the new buildings, the Board views this proposed elevation as not in harmony with the spirit and intent of the R.C. 2 zone. The Board realizes that today a new institution would not be approved under the present BCZR. However, Villa Julie is in place and seeks to expand. Petitioner cites testimony by witnesses who speculate that the college could grow to 3,500+ students before being detrimental to its environs, a size the Plan obviously expects to satisfy. However, the enrollment is to be limited to 2,500 and the scale of the building construction to accommodate and satisfy the enrollment goal of the college could b reduced so as not to require a height variance of 20 feet for Building "B" and for 13 feet for two buildings within building envelope "F". Petitioner cites the topography descent from Greenspring Valley Road as a factor that allows the increased height of a multi-story building that will not be too obvious from the road. However, the Board is cognizant of testimony by Mr. Crozier that he never tried to devise a plan to comply with the 35-foot height restriction. Expert witnesses for the Protestants maintain that the desired aesthetics and cost factors can be accomplished by broadening the base of the buildings and complying with height restrictions of the BCZR.

The Petition for Special Hearing for modified parking has merit and the relocation will obviously enhance this important aspect of a college for commuters, as well as the stormwater management plan.

The variance for signage applying to directional signs within and along the campus driveways is reasonable.

The Board is basically impressed with the proposed design for improvements as shown on the site plan. The design team has confined its plan to a 16-acre campus of the 60-acre property. The buildings are positioned in an enclosed quadrangle that will bring intimacy to the students and staff while having little impact to its neighbors and the surrounding environs.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property (McLean v. Soley, 270 Md. 216, 1973).

To prove practical difficulty or unreasonable hardship, the Petitioner must meet the following:

1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;

2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and

3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

It is clear from the testimony that if some of the variances are granted, such use, as proposed and controlled, will not be contrary to the spirit of the BCZR, and will not result in any injury to the public good.

It has been recognized that special circumstances and conditions exist that are unique to this site, and that the

requirements from which the Petitioner seeks relief will restrict the use of the land due to the special conditions unique to this particular location. In addition, the variances to be granted will not cause any injury to the public health, safety, and general welfare. Further, granting of these variances will be in strict harmony with the spirit and intent of the BCZR.

O R D E R

IT IS THEREFORE this 23rd day of July, 1993 by the County Board of Appeals for Baltimore County

ORDERED that the Petition for Special Hearing to approve a modified parking plan and a residential caretaker dwelling as an accessory use to the college be and is hereby **GRANTED**; and it is further

ORDERED that the Petition for Special Exception to approve the use of the property for a private college, be and is hereby **GRANTED**; and it is further

ORDERED that the requested variance to permit a maximum of height of 48 ft. in height within building envelope "F" in lieu of the permitted 35 ft. for two proposed buildings be and is hereby **DENIED**; and it is further

ORDERED that the following variances be and are hereby **GRANTED**, said variances to permit:

1. 42 ft. between existing Buildings #1 and #2 in lieu of the required 70 ft.;

2. 30 ft. between existing Building #3 and existing storage building in lieu of the required 70 ft.;

3. 32 ft. between existing maintenance equipment building and existing storage building in lieu of the required 70 ft.;

4. 40 ft. between existing Building "E" and

existing shed in lieu of the required 70 ft.;

5. 60 ft. between existing Building "C" and existing Building "A" in lieu of the required 70 ft.;

6. 60 ft. between existing Building "A" and proposed envelope "F" in lieu of the required 70 ft.;

7. 20 ft. between existing building "D" and proposed building envelope "F" in lieu of the required 70 ft.;

8. a total of 105.2 sq. ft. of existing signs in lieu of the permitted 30 sq. ft.;

9. a maximum height of 39.5 ft. in lieu of the permitted 35 ft. for existing Building "A";

10. maximum height of 54.8 ft. in lieu of the permitted 35 ft. for existing Building "B";

11. a distance of 0 ft. in lieu of the required 70 ft. between the two proposed buildings within building envelope "F"; and

12. 503 parking spaces 8 ft. wide x 18 ft. deep in lieu of the required 8.5 ft. wide x 18 ft. deep.

The following restrictions are conditions precedent to the relief granted herein:

1. The 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. Construction of the wastewater treatment plant as shown on the Petitioner's site plan shall be permitted as an accessory structure/use to the college. Therefore, use of the WWTP shall be limited strictly to the college and use by adjoining properties is prohibited.

3. Total student enrollment at the college shall be limited to 2,500 students. This limitation shall not apply to students who exclusively attend off-site/satellite campuses or programs, or who are enrolled through a correspondence

program. It is the intent of this restriction to limit the number of students who attend the classes or regularly use the facilities on the subject site.

4. Student growth shall be limited to 5 percent per year. The base year shall be determined to be total on campus student enrollment for the Fall 1993 semester. Student enrollment for succeeding academic years shall be limited to 5 percent of the enrollment in the Fall semester of each succeeding year until total enrollment reaches 2,500 students.

5. The maximum discharge of the WWTP shall be 50,000 gallons per day.

6. All construction and exterior physical plant improvement shall be limited to that shown on the Petitioner's site plans submitted at the hearing.

7. All modifications to the above restrictions and the relief granted within this Order shall be considered only after a public hearing.

8. The Petitioner shall submit semi-annual reports to the Zoning Commissioner to insure compliance with Restrictions 3, 4 and 5 above. Upon request and reasonable notice, the Petitioner shall permit a representative of the Zoning Enforcement Division to make an inspection of the subject property, and shall make available to that inspector all books, records and reports necessary to confirm compliance with the restrictions stated herein.

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

William T. Hackett

William T. Hackett, Chairman

John G. Disney

John G. Disney

Harry E. Buchheister, Jr.

Harry E. Buchheister, Jr.

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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

William T. Hackett

William T. Hackett, Chairman

John G. Disney

John G. Disney

Harry E. Buchheister, Jr.

Harry E. Buchheister, Jr.

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

July 23, 1993

Michael J. Collins, Esquire
NEUBERGER, QUINN, GIELEN
& RUBIN, P.A.
Equitable Bank Center Tower II
100 South Charles Street
Baltimore, MD 21201

Re: Case No. 92-285-SPHXA /
Villa Julie College, Inc.

Dear Mr. Collins:

Enclosed please find a copy of the final Opinion and Order issued this date by the County Board of Appeals of Baltimore County in the subject matter.

Very truly yours,

Kathleen C. Weidenhammer
Administrative Assistant

cc: Benjamin Bronstein, Esquire
Michael Chomel, Esquire
J. Carroll Holzer, Esquire
K. Donald Proctor, Esquire
Ms. Carolyn Manuszak/Villa Julie College
P. David Fields
Lawrence E. Schmidt
Timothy M. Kotroco
W. Carl Richards, Jr. /ZADM
Donald T. Rascoe /ZADM
Docket Clerk /ZADM
Arnold Jablon, Director /ZADM

Printed with Soybean Ink on Recycled Paper

4/19/93

IN RE: PETITIONS FOR SPECIAL HEARING, SPECIAL EXCEPTION AND ZONING VARIANCE VILLA JULIE COLLEGE, INC., PETITIONER	*	BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY
	*	Case No. 92-285-SPHXA

* * * * * * * * * * * * *

POST-HEARING MEMORANDUM OF PROTESTANTS, BARTON S. AND ELIZABETH MITCHELL, TIMOTHY M. AND MARY STEWART RODGERS AND CLARK FARM ASSOCIATES

Barton S. and Elizabeth Mitchell, Timothy M. and Mary Stewart Rodgers, and Clark Farm Associates, Protestants, by their attorney, K. Donald Proctor, submit this Post-Hearing Memorandum.

These Protestants adopt the Memoranda filed by Protestants, Valleys Planning Council, et al. and Northwest Land Corporation, and the issues and arguments discussed therein. These Protestants will limit themselves in this Memorandum to the issues of the capacity of the Wastewater Treatment Plant as required to be fixed by this Board, and the variances sought by the Protestants, Villa Julie College, Inc.

CAPACITY OF THE WASTEWATER TREATMENT PLANT

In early 1991, at the initiative of Villa Julie, the Baltimore County Council amended its Water and Sewer Plan to grant to Villa Julie and the adjacent property of the Baltimore Provence-Sisters of Notre Dame:

> "Special authorization to operate a community sewage treatment plant for the

> combined properties, with capacity subject to a special exception to the RC-2 zoning."

This Board in its March 4, 1993 ruling on Motion in Limine to limit the scope of issues ruled that:

> "The Baltimore County Council specifically addressed this issue at this site in resolution 2-91, item #6, in which the County authorized a . . . community sewerage treatment plant with capacity subject to special exception. The Board will . . . take evidence as to the capacity as it relates to the capacity issued by the State."

In approving the Baltimore County Council's amendment to the Water and Sewer Plan, the Department of the Environment wrote to the County Council in June of 1991 and stated with specific reference to the amendment concerning Villa Julie:

> "Amendment 6 as adopted, authorizes the operation of a community sewage treatment plant without establishing its capacity. After the capacity as been established, the County must submit an amendment to the County Plan stating the final design capacity of this wastewater facility."

Any consideration of whether to grant the special exception requested in this case, and any consideration of the appropriate size at which to fix the capacity of the wastewater treatment plant, must begin with an analysis of the purposes of the RC and RC-2 zones under the Baltimore County Zoning Regulations.

First, in § 1A00.1e, it is found that "urban sprawl development" is "impair[ing]" the utility of the road system." § 1A00.2 states that it is the purpose of the Resource

Conservation Zones to "protect both natural and man-made resources from compromising effects of specific forms and densities of development."

§ 1A01.1 A1(d) specifically finds as to the RC-2 zone that:

> "Continued urban intrusion into productive agricultural areas not only destroys the specific area upon which the development occurred, but is incompatible with the agricultural use of the surrounding area."

§ 1A01.1B states as to the purpose of the RC-2 zone:

> "The RC-2 zoning classification is established pursuant to the legislative findings above in order to foster conditions favorable to a continued agricultural use of the productive agricultural areas of Baltimore County by preventing incompatible forms and degrees of urban uses."

In addition to the criteria which must be established by Villa Julie under § 502.1 of the Zoning Regulations, in order to demonstrate entitlement to the special exception (including proof that the proposed use will not "tend to overcrowd land"), § 1A01.2C of the Zoning Regulations specifically requires with respect to any special exception in the RC-2 zone that this Board must "find that the use would not be detrimental to the primary agricultural uses in its vicinity."

The land of each of these Protestants is devoted to agricultural use, as established by the testimony of each of these Protestants at the hearing. As quoted above, the purpose of the RC-2 zoning classification is to:

"Foster conditions favorable to a continued agricultural use . . . by preventing incompatible forms and degrees of urban uses." (Emphasis added).

The evidence in this case is overwhelming that Villa Julie's present use, not to speak of its proposed use, is inconsistent with the objectives of the RC-2 zoning classification.

These Protestants produced as an expert witness, Dr. F. Pierce Linaweaver, a civil and environmental engineer with significant and substantial experience with wastewater treatment plants. Dr. Linaweaver is the former Director of Public Works for Baltimore City, and in that capacity had responsibility for wastewater treatment in the Baltimore Metropolitan area, and has worked in private practice dealing with wastewater treatment for many years.

Dr. Linaweaver testified with regard to his analysis of the existing and proposed wastewater treatment systems at Villa Julie, as summarized on his chart entitled "Population, Water and Wastewater Characteristics" of Villa Julie under the existing and proposed wastewater systems. Dr. Linaweaver testified that based on the current existing population of students and staff at Villa Julie, the current water use is 24,900 gallons per day, and the current wastewater flow is 22,400 gallons per day. Dr. Linaweaver testified that this rate of water consumption and wastewater discharge was the equivalent of 100 dwelling units upon Villa Julie's premises, a density, which Dr. Linaweaver

equated to the DR-2 zoning classification. Thus, Villa Julie's current rate of water consumption and wastewater discharge on its approximately 60 acre parcel is already many many times in excess of the rate of consumption and discharge contemplated in the RC-2 Zone.

Dr. Linaweaver was of the opinion that the existing failing septic system at Villa Julie needed to be corrected. He assumed, for purposes of his analysis (in light of this Board's March 4, 1993 ruling) that a wastewater treatment plant was the alternative which had been selected by the County Council (T. 3/19/93 at 164). Dr. Linaweaver testified that the permit issued in 1982 for water appropriation at the rate of 10,000 per day, and the then existing wastewater septic system, were generally consistent with the RC-2 zone. The existing flow generated by Villa Julie is, however, in Dr. Linaweaver's opinion, inconsistent with the RC-2 zone. Permitting the installation of a wastewater treatment plant on Villa Julie's premises is in Dr. Linaweaver's opinion justified, solely because it cures the potential public health problem created by the failing septic system, in spite of the adverse precedent setting nature of such a plant in the RC-2 zone. Dr. Linaweaver, was, however of the opinion that such a plant should not be a basis for growth within the RC-2 zone. Accordingly, in Dr. Linaweaver's opinion, the wastewater treatment plant should be sized at a capacity of

28,000 per day. Even a plant which would permit growth at 5.5% per year at Villa Julie for 5 years would not exceed 41,000 per day. In Dr. Linaweaver's opinion:

> "I recognize that the success of the college would then have to continue through satellite operations and simply, in effect, cap the growth at its current level which solves the existing problem. It's already out of scale with what was there 10 years ago, but it's there."

In a similar vein, Norman Gerber testified as to the equivalent dwelling unit impact of traffic currently generated by Villa Julie's campus. Mr. Gerber testified that the current level of traffic generated by Villa Julie is the equivalent of 246 dwellings, a figure which would increase to 453 dwellings by the year 2000, based on Villa Julie's projected rate of growth (T. 3/31/93 at 71-74).

In short, Villa Julie's present intensity of land use is already incompatible with the RC-2 zone. In the words of § 1A01.1B of the Baltimore County Zoning Regulations:

> "The RC-2 zoning classification is established . . . to foster conditions favorable to a continued agricultural use . . . by preventing incompatible forms and degrees of urban uses."

Villa Julie's current use of the land is an "incompatible form and degree of urban use." Unquestionably, any further growth or other intensification of use of the land will exacerbate this situation. For these reasons, it is respectfully

requested that this Board fix the capacity of the proposed wastewater treatment plant at 28,000 per day, a size which, in the opinion of Dr. Linaweaver, is sufficient to cure the existing health problem on the premises, while at the same time, it does not permit that wastewater treatment plant to be used as a vehicle for growth, a use which would be inconsistent with the RC-2 zone.

VARIANCES

Under § 307.1 of the Baltimore County Zoning Regulations, Villa Julie has the burden of demonstrating that its requested variances, "would result in practical difficulty or unreasonable hardship." Villa Julie has failed to meet this burden. These Protestants are particularly concerned with variance No. 11 which proposes a variance to permit a maximum height of 48 feet in lieu of the permitted 35 feet for the two proposed buildings. These Protestants own land and reside to the south of Villa Julie, down grade from Villa Julie's property. The requested variance will be clearly visible from Clark Farm Associates' property.

There was absolutely no evidence in this case, particularly in light of the land available to Villa Julie to construct the two proposed buildings, which would demonstrate in any way that

a refusal to grant the variances would result in practical difficulty or unreasonable hardship to Villa Julie.

K. Donald Proctor
MILES & STOCKBRIDGE
600 Washington Avenue
Suite 300
Towson, Maryland 21204
(410)823-8110

Attorney for Protestants, Barton S. and Elizabeth S. Mitchell, Clark Farm Associates, and Timothy S. and Mary Stewart Rodgers

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 19th day of April, 1993, a copy of the foregoing Post-Hearing Memorandum was mailed, postage prepaid, to:

Benjamin Bronstein, Esquire
EVANS, GEORGE AND BRONSTEIN
Susquehanna Building
Suite 205
29 West Susquehanna Avenue
Towson, Maryland 21204

Michael J. Collins, Esquire
NEUBERGER, QUINN, GIELEN & RUBIN, P.A.
Equitable Bank Center Tower II
100 South Charles Street
Baltimore, Maryland 21201

J. Carroll Holzer, Esquire
HOLZER, MAHER, DEMILIO & LEE
305 West Chesapeake Avenue
Suite 105
Towson, Maryland 21204

K. Donald Proctor

DN/VJC:C2710003.PHM

LAW OFFICES
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101 BAY STREET
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FAIRFAX, VIRGINIA 22030

30 WEST PATRICK STREET
FREDERICK, MARYLAND 21701

22 WEST JEFFERSON STREET
ROCKVILLE, MARYLAND 20850

1450 G STREET, N.W.
WASHINGTON, D.C. 20005

April 19, 1993

HAND DELIVERED

William T. Hackett, Chairman
County Board of Appeals
for Baltimore County
Old Courthouse, Room 49
400 Washington Avenue
Towson, Maryland 21204

RE: Villa Julie College, Inc., Petitioner
Case No. 92-285-SPHXA

Dear Mr. Hackett:

We are enclosing herewith the original and three copies of the Post-Hearing Memorandum of the Protestants Barton S. and Elizabeth Mitchell, Clark Farm Associates, and Timothy M. and Mary Stewart Rodgers.

Very truly yours,

K. Donald Proctor

KDP/dn
Enclosure

cc: Benjamin Bronstein, Esquire
Michael J. Collins, Esquire
J. Carroll Holzer, Esquire

DN/VJC:Hackett.ltr

RECEIVED
COUNTY BOARD OF APPEALS
93 APR 19 PM 3:25

GRAHAM LANDSCAPE ARCHITECTURE

Prot. No 8

Jay Graham, ASLA
Partner

Project Assignment:
Principal, Designer

Education:
Bachelor of Architecture, 1969
Master of Landscape Architecture, 1972
from University of Virginia

Years of Experience:
26 years
14 years with
Graham Landscape Architecture

Professional Registration:
Registered Landscape Architect
in Maryland, 1976
in Virginia, 1986
Registered Architect
in Virginia, 1974

Professional Affiliations:
American Society of
Landscape Architects,
President, Maryland Chapter 1995-1996
Landscape Architecture Foundation,
Board Member, 1980-1981
Washington Architectural Forum,
Board Member, 1993-1995
1,000 Friends of Maryland,
Board Member, 1998

Publications:
Time Saver Standards for
Landscape Architecture
Section 620: Interior Landscape
McGraw-Hill Book Company, 1988
"A Vision Shared or a Chance Missed"
Freehand Magazine
Maryland AIA, 1995

As Principal in Charge of Design, Jay Graham oversees the development and implementation of design and maintains the focus on fulfilling each client's expectations.

Mr. Graham brings an extensive background in landscape architecture services, including prior positions at the University of Virginia and RTKL Associates. He has specialized experience in educational facilities, residential, and high-profile projects. His creative ideas in landscape design, as well as his attention to detail and his success in executing the narrative impact of a project, have won him recognition.

Mr. Graham's experience with the design of academic facilities includes master planning, as well as site specific design. Mr. Graham is keenly aware of the need to have the landscape convey a strong, positive image for the institution.

Mr. Graham has also become a contributor and author on topical issues concerning landscape design. Several published pieces include, "The Thoughtfully Furnished Garden," "Art in the Landscape," and "A Vision Shared or a Chance Missed." Many of the firm's projects, such as the fountain at the Governor's Mansion, the historic Porto Bello estate, and the Baltimore-Washington International Airport, have been published and won awards.

PROJECT EXPERIENCE

University of Rochester
Rochester, New York
Wilson Commons Quadrangle

Strategic Facilities Plan

University of Virginia
Charlottesville, Virginia
Newcomb Hall

Law School

St. Mary's College
St. Mary's City, Maryland
William Donald Schaefer Hall

Baltimore Hall

St. Mary's Hall Renovation

Margaret Brent Hall

Kent Hall Renovation

United States Naval Academy
Annapolis, Maryland
Visitor's Center

Entrance Boulevard and Main Gate

Physical Training Facility

Wor-Wic Community College
Salisbury, Maryland
Master Plan

Miles Point
Town of St. Michael's, Maryland

Baltimore-Washington International Airport
Anne Arundel County, Maryland

Professional Resume of Tunnie Ping

- Co-founder and Principal of Windward Associates, Inc., Consulting Engineers and Land Surveyors - 1983
- Education : Associate Degree - Civil Engineering and Business Management
  Johns Hopkins University - 1968
- Maryland Registered Professional Land Surveyor - 1983
- Delaware Registered Professional Land Surveyor - 1986
- Continuously employed in the field of civil engineering and land surveying for over 30 years

Protestants
~~#~~
#10

County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180
FAX: 410-887-3182

From: Case No. 98-394-SAH

1) Prot. Pet. Ex #9B - Transparency 8½ x 11 (475)
2) Pet. Exh 10 A B & C - Pic
3) Pet Ex 9 - Landscape Pl. - colored
4) Pro. Pet Exh 9A+B - Colored aerial (475)

J. Carroll Holzer, Esq. - 9-8-99 - CW
will return 9-10-99 / DEPOSITION

Exhibit taken 9/10/99 by Jack Dillon /VPC for duplication (to the COB)

Protestant's Exhibit Nos. 11, 12 & 13 (98-475-SPH)

Jack Dillon 9/10/99

Jack Dillon /VPC 9/10/99

Printed with Soybean Ink on Recycled Paper

ZONING COMMISSIONER

PETITIONER'S EXHIBIT 16

CHRONOLOGY

07/23/93 Board of Appeals 92/285 SPHXA

05/04/95 Court of Special Appeals reverses and remands

06/07/95 B. Bronstein's letter to Kurt Kugelberg, DRC Chairman (Exhibit)

06/20/95 Valley Planning Council opposes request (Exhibit)

07/14/95 Don Rascoe's reply letter (Exhibit)

08/09/95 Valley Planning files appeal together with Richard Buck (Exhibit)

12/12/95 Notice of Hearing

01/17/96 John Bernstein withdraws appeal (Exhibit)

01/26/96 Board of Appeals signs Order of Dismissal (Exhibit)

12/16/97 Development Plan filed Chadsey

12/29/97 DRC approves

01/06/98 B. Bronstein's letter to A. Jablon request Haul Road approval to site plan (Exhibit)

01/09/98 A. Jablon's reply - Administrative approval only (Exhibit)

03/09/98 Valley Planning Council files for zoning violation including interior and Haul Road parking (Exhibit)

04/17/98 Petition filed in this case (Exhibit)

05/01/98 Hearing Officer findings (Exhibit)

05/27/98 VJC notifies Hearing Officer it will desist from parking pending special hearing (Exhibit)

05/28/98 Valley Planning Council files Special Hearing (Exhibit)

LAW OFFICES
GEORGE AND BRONSTEIN, LLP
SUSQUEHANNA BUILDING, SUITE 205
29 WEST SUSQUEHANNA AVENUE
TOWSON, MARYLAND 21204
(410) 296-0200
FAX: (410) 296-3719

HARRIS JAMES GEORGE
BENJAMIN BRONSTEIN

CONSTANCE K. PUTZEL
OF COUNSEL

January 6, 1998

Arnold Jablon, Director
Department of Zoning Administration
and Development Management
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

RE: **Villa Julie College**
Case No.: 92-285-SPHXA

Dear Mr. Jablon:

On December 29, 1997 the DRC approved a minor amendment to the development plan (letter Exhibit 1). As you can see, Villa Julie proposed adding parking on a dirt road previously used to haul dirt to a stockpile which has since been removed. The College believes that the proposed parking provides a superior location for faculty and student parking and is within the spirit and intent of the approved Special Exception Plan (letter Exhibit 2) and the Baltimore County Zoning Regulations.

The proposed parking will provide minimal adverse aesthetic impact in that the parking is located at the southern end of a large farm field where the contours of the land and a landscape buffer virtually obscure visual impact to the surrounding area, including Green Spring Valley Road which is 600 feet more or less to the north. Additional landscaping will be provided and no existing vegetation is being removed. All work can be accomplished under the current grading permit.

§407 of the Baltimore County Zoning Regulations designates parking for colleges at 1 per employee plus visitor spaces and student parking as determined by the Zoning Commissioner. Villa Julie is a vibrant living institution and therefore its site plan occasionally requires refinement. The site plan approved by the Zoning Commissioner and the Board of Appeals remains intact and will remain so if this amendment to the special exception plan is approved. Requiring the College to submit to an adversarial zoning

ZONING COMMISSIONER
PETITIONER'S EXHIBIT 12

process on any minor change would make a mockery of the zoning process, particularly in light of the previously protracted litigation. I submit that the proposed plan meets with the spirit and intent of the Baltimore County Zoning Regulations and the spirit and intent of the special exception plan.

Thank you for your kind consideration in this matter.

Very truly yours,

GEORGE AND BRONSTEIN, LLP

Benjamin Bronstein

BB/mlh
Enclosure

bcc: Carolyn Manuszak, President
Rick Chadsey, P.E.

Baltimore County
Department of Permits and
Development Management

Director's Office
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
(410) 887-3353
Fax: (410) 887-5708

January 9, 1998

Mr. Benjamin Bronstein, LLP
Susquehanna Building, Suite 205
29 West Susquehanna Avenue
Towson, Maryland 21204

RECEIVED
JAN 14 1998
GEORGE & BRONSTEIN, LLP

Dear Mr. Bronstein:

Re: Villa Julie College Case No. 98-285-SPHXA

I am in receipt of your letter, dated January 6, 1998, in which you request approval of a change to the approved site plan in the above referenced case. The proposed change is for the addition of a parking area. You state that this change is minor and within the spirit and intent of the approved order.

I cannot agree that the proposed change should be approved administratively as a "de minimus" change. The development regulations clearly state that only a "material" change to an approved development plan be required to undergo approval in the same manner as the original approval. A "refinement" only needs to be approved administratively by the DRC. In the instant matter, this was done. There is no similar provision for approved zoning plans. There is no question that changes to zoning plans, by way of variances and special exceptions, as approved by the zoning commissioner, are treated differently than development plans approved in his capacity as hearing officer.

This is not to say that the zoning office will not consider changes if in its opinion the proposed changes meet the spirit and intent of the approved plan. However, it is the posture of the zoning office that the only changes that may be considered for administrative approval are those which have no impact on zoning issues, e.g., movement of a building within an approved envelope, the expansion of a proposed building by approximately 10% within the envelope that will not effect the approved parking calculations, or a change in use that has no impact on the approved plan or the requisite zoning requirements as approved. Most importantly, the criteria includes the zoning office's conclusion that the intention of the zoning commissioner, as stated in his approval, would not be altered or effected by the proposed change.

ZONING COMMISSIONER

PETITIONER'S EXHIBIT 13

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on Recycled Paper

In the instant situation, you are requesting an addition to the plan, which may have been, if requested originally, an important consideration to the zoning commissioner in arriving at his decision. The point is that I cannot form a clearly defined opinion from the approved site plan whether as it would have or not. This is sufficient for the zoning office to require that a petition for special hearing be filed in order for the zoning commissioner to make that determination. I would suggest that you file the petition to amend the approved site plan or, in the alternative, to have the zoning commissioner determine that the proposed addition is so minor that an amendment need not be required and could be done administratively. This petition is not for a special exception and is not subject to Section 502.1, but rather to Section 500.7, Baltimore County Zoning Regulations.

If you require further information, please feel free to contact me.

Sincerely,

Arnold Jablon
Director

AJ/cab

ZONING COMMISSIONER

PETITIONER'S EXHIBIT_____

LAW OFFICES
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29 WEST SUSQUEHANNA AVENUE
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HARRIS JAMES GEORGE
BENJAMIN BRONSTEIN

CONSTANCE K. PUTZEL
OF COUNSEL

May 7, 1998

Stanley J. Schapiro, Code Official
Permits and Development Management
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

ZONING COMMISSIONER
PETITIONER'S EXHIBIT 14

RE: **Citation Case No.: 98-0179**
1525 Greenspring Valley Road
Villa Julie College

Dear Mr. Schapiro:

The purpose of this letter is to request a modification of your Order of May 1, 1998. Please be advised that pending a disposition of the special hearing before the Zoning Commissioner which is now scheduled for June 4, 1998 at 10:00 a.m., the College will desist from permitting parking along the "Haul Road" and along the service road known as Cottage Lane. It will also limit the parking next to the administration building to 18 in number as permitted.

I trust that this will eliminate the need for any further proceedings as well as abate the imposition of any civil penalty. Thank you for your kind attention to this matter.

Very truly yours,

GEORGE AND BRONSTEIN, LLP

Benjamin Bronstein

BB/mlh

cc: Carolyn Manuszak, President
Villa Julie College

ZONING COMMISSIONER
PETITIONER'S EXHIBIT 11

Baltimore County
Department of Permits and
Development Management

Code Inspections and Enforcement
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

Code Enforcement: 410-887-3351, Extension 7285
Building Inspection: 410-887-3953
Plumbing Inspection: 410-887-3620
Electrical Inspection: 410-887-3960

BALTIMORE COUNTY UNIFORM CODE ENFORCEMENT CITATION

SERVE ON RESIDENT AGENT/CORPORATE OFFICER (IF APPLICABLE)
CATHERINE A. CURTIS
1525 GREENSPRING VALLEY RD

Citation/Case No. 98-0179

Name (s) VILLA JULIE COLLEGE INC.

Address 1525 GREENSPRING VALLEY RD. STEVENSON MD. 21153

Owner ☒ Occupant ☐ Related Citations _____

Location and Date (s) of Violation: 1/12/98 ; 2/6/98 ; 3/4/98

@ 1525 GREENSPRING VALLEY RD.

Vehicle License No.: _____ Vehicle ID: _____

IT IS FORMALLY CHARGED BY BALTIMORE COUNTY THAT THE ABOVE NAMED PERSON(S) DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY LAWS OR REGULATIONS (CIRCLE RELEVANT ZONE BELOW, IF APPLICABLE):

§ 1B01(DR)	§ 1A01(RC2)	§ 1A02(RC3)	§ 1A03(RC4)	§ 1A04(RC5)
§ 200(RAE)	§ 202(ROA)	§ 204(RO)	§ 205(OR1)	§ 206(OR2)
§ 207(O3)	§ 210(SE)	§ 216(BMM)	§ 221(BMB)	§ 229(CB)(BLR)
§ 230(BL)	§ 233(BM)	§ 236(BR)	§ 240(MR)	§ 247(MLR)
§ 253(ML)	§ 256(MH)			

1) BCZR 500.4 ; 500.6 ; 500.9
2) 26-121 BCC
3) FAILURE TO REMOVE PARKING EXCEPTION.
4) FAILURE TO COMPLY WITH DEVELOPMENT PLAN.
5) _____
6) _____
7) NOT SHOWN ON SPEC.
8) _____

(Unless otherwise noted, all references are to zoning regulations.)

IMPORTANT TO READ REVERSE FOR IMPORTANT INFORMATION AND DIRECTIONS

VIOLATION SITE

NOTICE TO DEFENDANT

Pursuant to Section 1-8, Baltimore County Code a penalty has been assessed as a result of the violation cited herein in the amount indicated:

$ 1,000.00

If you do not contest this citation, you must pay this penalty by check or money order, payable to the Director of finance, Baltimore County, Maryland, and return a copy of this citation with payment to:

Director of Permits and Development Management
County Office Building, Room 111
111 West Chesapeake Avenue
Towson, Maryland 21204

If you contest this citation or proposed assessment of penalty, you must file a written request for a quasi-judicial hearing before the code official or designee within fifteen (15) days from the date of service of this citation. A quasi-judicial hearing has been pre-scheduled for:

4/23/98 9AM
Rm 106

At this hearing, you are entitled to be represented by an attorney, present witnesses and evidence, and cross-examine any witnesses against you. An attorney can be helpful to you by: (a) explaining the charges in this citation, (b) helping you at trial, and (c) helping you to get a fair penalty if found in violation.

ZONING COMMISSIONER

PETITIONER'S EXHIBIT_____

This pre-scheduled hearing will be canceled if you choose to pay the assessed penalty or if you fail to request the hearing in writing within the time required. Failure to contest the citation or proposed assessment of penalty, if any, by either not paying the penalty or by not requesting the quasi-judicial hearing, shall result in the citation and its penalty becoming a non-appealable, final order of the code official. Failure to appear at the requested hearing will also result in the citation and civil penalty becoming a non-appealable, final order of the code official.

If you are the owner of the property, failure to pay the assessed penalty shall constitute a lien on the property and shall be collectible in the same manner and to the same extent as real estate taxes. In addition, failure to correct the violation(s) shall result in appropriate judicial action for enforcement, including civil contempt, which could result in imprisonment.

I do solemnly affirm that the contents stated above are correct to the best of my knowledge, information, and belief.

3/9/98 _____
Date Inspector's Signature

Citation must be served by 3/24/98

Detach and send the completed form below to:

Director of Permits and Development Management
County Office Building, Room 111
111 West Chesapeake Avenue
Towson, MD 21204

Citation Number _____

NOTICE OF INTENTION TO DEFEND

I hereby elect to stand trial before the code official or designee for the violation(s) charged in this citation.

_____ _____
Date Defendant (Please Print Your Name and Sign)

Address _____

36 Preservation Briefs

HPS

Technical Preservation Services

Protecting Cultural Landscapes: Planning, Treatment and Management of Historic Landscapes

Charles A. Birnbaum, ASLA

Table of Contents

- Developing a Strategy and Seeking Assistance
- Preservation Planning for Cultural Landscapes
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- Recording Treatment Work and Future Research Recommendations
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Cultural landscapes can range from thousands of acres of ruraltracts of land to a small homestead with a front yard of lessthan one acre. Like historic buildings and districts, these specialplaces reveal aspects of our country's origins and developmentthrough their form and features and the ways they were used. Culturallandscapes also reveal much about our evolving relationship withthe natural world.

A cultural landscape is defined as "a geographic area,including both cultural and natural resources and the wildlifeor domestic animals therein, associated with a historic event,activity, or person or exhibiting other cultural or aestheticvalues." There are four general types of cultural landscapes,not mutually exclusive*: historic sites, historic designed landscapes,historicvernacular landscapes, and ethnographic landscapes.* Theseare defined on the Table on page 2.1

Historic landscapes include residential gardensand community parks, scenic highways, rural communities, institutionalgrounds, cemeteries, battlefields and zoological gardens. Theyare composed of a number of character defining features whichindividually or collectively contribute to the landscape's physicalappearance as they have evolved over time. In addition to vegetationand topography, cultural landscapes may include water featuressuch as ponds, streams, and fountains; circulation features suchas roads, paths, steps, and walls; buildings; and furnishings,including fences, benches, lights and sculptural objects.

Depo. Exh # 3

Most historic properties have a cultural landscape component thatis integral to the significance of the resource. Imagine a residentialdistrict without sidewalks, lawns and trees or a plantation withbuildings but no adjacent lands. A historic property consistsof all its cultural resources - landscapes, buildings, archeologicalsites and collections. In some cultural landscapes, there maybe a total absence of buildings.

This Preservation Brief provides preservation professionals, culturalresource managers, and historic property owners a step-by-stepprocess for preserving historic designed and vernacular landscapes,two types of cultural landscapes. While this process is ideallyapplied to an entire landscape, it can address a single featuresuch as a perennial garden, family burial plot, or a sentineloak in an open meadow. This Brief provides a framework and guidancefor 9 undertaking projects to ensure a successful balance betweenhistoric preservation and change.

Definitions

Historic Designed Landscape **-** a landscape that wasconsciously designed or laid out by a landscape architect, mastergardener, architect, or horticulturist according to design principles,or an amateur gardener working in a recognized style or tradition.The landscape may be associated with a significant person(s),trend, or event in landscape architecture; or illustrate an importantdevelopment in the theory and practice of landscape architecture.Aesthetic values play a significant role in designed landscapes.Examples include parks, campuses, and estates.

Historic Vernacular Landscape **-** a landscape thatevolved through use by the people whose activities or occupancyshaped that landscape. Through social or cultural attitudes ofan individual, family or a community, the landscape reflects thephysical, biological, and cultural character of those everydaylives. Function plays a significant role in vernacular landscapes.They can be a single property such as a farm or a collection ofproperties such as a district of historic farms along a rivervalley. Examples include rural villages, industrial complexes,and agricultural landscapes.

Historic Site **-** a landscape significant for itsassociation with a historic event, activity, or person. Examplesinclude battlefields and president's house properties.

Ethnographic Landscape **-** a landscape containinga variety of natural and cultural resources that associated peopledefine as heritage resources. Examples are contemporary settlements,religious sacred sites and massive geological structures. Smallplant communities, animals, subsistence and ceremonial groundsare often components.

Developing a Strategy and Seeking Assistance

Nearly all designed and vernacular landscapes evolve from, orare often dependent on, natural resources. It is these interconnectedsystems of land, air and water, vegetation and wildlife whichhave dynamic qualities that differentiate cultural landscapesfrom other cultural resources, such as historic structures. Thus, their documentation,treatment, and ongoing management require a comprehensive, multi-disciplinaryapproach.

Today, those involved in preservation planning and managementfor cultural landscapes represent a broad array of academic backgrounds,training, and related project experience. Professionals may haveexpertise in landscape architecture, history, landscape archeology,forestry, agriculture, horticulture, pomology, pollen analysis,planning, architecture, engineering (civil, structural, mechanical,traffic), cultural geography, wildlife, ecology, ethnography,interpretation, material and object conservation, landscape maintenanceand management. Historians and historic preservation professionalscan bring expertise in the history of the landscape, architecture,art, industry, agriculture, society and other subjects. Landscapepreservation teams, including on-site management teams and independentconsultants, are often directed by a landscape architect withspecific expertise in landscape preservation. It is highly recommendedthat disciplines relevant to the landscapes' inherent featuresbe represented as well.

Additional guidance may be obtained from State Historic PreservationOffices, local preservation commissions, the National Park Service,local and

state park agencies, national and state chapters ofthe American Society of Landscape Architects, the Alliance forHistoric Landscape Preservation, the National Association of OlmstedParks, and the Catalog of Landscape Records in the United Statesat Wave Hill among others.2

A range of issues may need to be addressed when considering howa particular cultural landscape should be treated. This may includethe in-kind replacement of declining vegetation, reproductionof furnishings, rehabilitation of structures, accessibility provisionsfor people with disabilities, or the treatment of industrial propertiesthat are rehabilitated for new uses.

Preservation Planning for Cultural Landscapes

Careful planning prior to undertaking work can help prevent irrevocabledamage to a cultural landscape. Professional techniques for identifying,documenting, evaluating and preserving cultural landscapes haveadvanced during the past 25 years and are continually being refined.Preservation planning generally involves the following steps:historical research; inventory and documentation of existing conditions;site analysis and evaluation of integrity and significance; developmentof a cultural landscape preservation approach and treatment plan;development of a cultural landscape management plan and managementphilosophy; the development of a strategy for ongoing maintenance;and preparation of a record of treatment and future research recommendations.

The steps in this process are not independent of each other, norare they always sequential. In fact, information gathered in onestep may lead to a re-examination or refinement of previous steps.For example, field inventory and historical research are likelyto occur simultaneously, and may reveal unnoticed cultural resourcesthat should be protected.

The treatment and management of cultural landscape should alsobe considered in concert with the management of an entire historicproperty. As a result, many other studies may be relevant. Theyinclude management plans, interpretive plans, exhibit design,historic structures reports, and other.

These steps can result in several products including a CulturalLandscape Report (also known as a Historic Landscape Report),statements for management, interpretive guide, maintenance guideand maintenance records.

Cultural Landscape Reports

A Cultural Landscape Report (CLR) is the primary report that documentsthe history, significance and treatment of a cultural landscape.A CLR evaluates the history and integrity of the landscape includingany changes to its geographical context, features, materials,and use.

CLWs are often prepared when a change (e.g. a new visitor's centeror parking area to a landscape) is proposed. In such instances,a CLR can be a useful tool to protect the landscape's character-definingfeatures from undue wear, alteration or loss. A CLR can providemanagers, curators and others with information needed to makemanagement decisions.

A CLR will often yield new information about a landscape's historicsignificance and integrity, even for those already listed on theNational Register. Where appropriate, National Register filesshould be amended to reflect the new findings.

Historical Research

Research is essential before undertaking any treatment. Findingswill help identify a landscape's historic period(s) of ownership,occupancy and development, and bring greater understanding ofthe associations and characteristics that make the landscape orhistory significant. Research findings provide a foundation tomake educated decisions for work, and can also facilitate ongoingmaintenance and management operations, interpretation and eventualcompliance requirements.

A variety of primary and secondary sources may be consulted. Primaryarchival sources can include historic plans, surveys, plats, taxmaps, atlases, U. S. Geological Survey maps, soil profiles, aerialphotographs, photographs, stereoscopic views, glass lantern slides,postcards, engravings, paintings, newspapers, journals, constructiondrawings, specifications, plant lists, nursery catalogs, householdrecords, account books and personal correspondence. Secondarysources include monographs, published histories, theses, NationalRegister forms, survey data, local preservation plans, state contextsand scholarly articles. (See Figures 5-7, page 4.)

Contemporary documentary resources should also be consulted. Thismay include recent studies, plans, surveys, aerial and infraredphotographs, Soil Conservation Service soil maps, inventories,investigations and interviews. Oral histories of residents, managers,and maintenance personnel with a long tenure or historical associationcan be valuable sources of information about changes to a landscapeover many years. (Figures 8-9, page 4) For properties listed inthe National Register, nomination forms should be consulted.

Preparing Period Plans

In the case of designed landscapes, even though a historic designplan exists, it does not necessarily mean that it was realizedfully, or even in part. Based on a review of the archival resourcesoutlined above, and the extant landscape today, an *as-builtperiod plan* may be delineated. For all successive tenures of ownership, occupancyand landscape *change, period pl* **us** should be generated(see Figure 13, page 6). Period plans can document to the greatestextent possible the historic appearance during a particular periodof ownership, occupancy, or development. Period plans should bebased on primary archival sources and should avoid conjecture.Features that are based on secondary or less accurate sourcesshould be graphically differentiated. Ideally, all referencedarchival sources should be annotated and footnoted directly on*period plans.*

Where historical data is missing, period plans should reflectany gaps in the CLR narrative text and these limitations consideredin future treatment decisions (See Treatments for Cultural Landscapeson page 13.)

Inventorying and Documenting Existing Conditions

Both physical evidence in the landscape and historic documentationguide the historic preservation plan and treatments. To documentexisting conditions, intensive field investigation and reconnaissanceshould be conducted at the same time that documentary researchis being gathered. Information should be exchanged among preservationprofessionals, historians, technicians, local residents, managersand visitors.

To assist in the survey process, National Register Bulletins havebeen published by the National Park Service to aid in identifying,nominating and evaluating designed and rural historic landscapes.Additionally, Bulletins are available for specific landscape typessuch as battlefields, mining sites, and cemeteries.6

Although there are several ways to inventory and document a landscape,the goal is to create a baseline from a detailed record of thelandscape and its features as they exist at the present (consideringseasonal variations).7 Each landscape inventory should addressissues of boundary delineation, documentation methodologies and techniques, the limitationsof the inventory, and the scope of inventory efforts. These aremost often influenced by the timetable, budget, project scope,and the purpose of the inventory and, depending on the physicalqualities of the property, its scale, detail, and the interrelationshipbetween natural and cultural resources. For example, inventoryobjectives to develop a treatment plan may differ considerablycompared to those needed to develop an ongoing maintenance plan.Once the criteria for a landscape inventory are developed andtested, the methodology should be explained.

Preparing Existing Condition Plans

Inventory and documentation may be recorded in plans, sections,photographs, aerial photographs, axonometric perspectives, narratives,video-or any combination of techniques. Existing conditions shouldgenerally be documented to scale, drawn by hand or generated bycomputer. The scale of the drawings is often determined by thesize and complexity of the landscape. Some landscapes may requiredocumentation at more than one scale. For example, a large estatemay be documented at *a* small scale to depict its spatialand visual relationships, while the discrete area around an estate mansionmay require a larger scale to illustrate individual plant materials,pavement patterns and other details. The same may apply to *an* entire rural historic district and a fenced vegetable garden containedwithin. (See Figures 14-15, page 8).

When landscapes are documented in photographs, *registrationpoints* can be set to indicate the precise location and orientationof features. Registration points should correspond to significantforms, features and spatial relationships within the landscapeand its surrounds (see Figure 22, page 1 1 for an example.) The points may also correspondto historic views to illustrate the change in the landscape todate. These locations may also be used as a management tool todocument the landscape's evolution, and to ensure that its character-definingfeatures are preserved over time through informed maintenanceoperations and later treatment and management decisions.

All features that contribute to the landscape's historic charactershould be recorded. These include the physical features describedon page 1 (e.g. topography, circulation), and the visual and spatialrelationships that are character defining. The identificationof existing plants, should be specific, including genus, species,common name, age (if known) and size. The woody, and if appropriate,herbaceous plant material should be accurately located on theexisting conditions map. To ensure full representation of successionalherbaceous plants, care should be taken to document the landscapein different seasons, if possible.

Treating living plant materials as a curatorial collection hasalso been undertaken at some cultural landscapes. This process,either done manually or by computer, can track the condition andmaintenance operations on individual plants. Some sites, suchas the Frederick Law Olmsted National Historic Site, in Brookline,Massachusetts have developed a field investigation numbering systemto track all woody plants. (See Table, page 9) Due to concemfor the preservation of genetic diversity and the need to replacesignificant plant materials, a number of properties are beginningto propagate historically important rare plants that are no longercommercially available, unique, or possess significant historicassociations. Such herbarium collections become a part of a site'snatural history collection.

Once the research and the documentation of existing conditionshave been completed, a foundation is in place to analyze the landscape'scontinuity and change, determine its significance, assess itsintegrity, and place it within the historic context of similarlandscapes.

Reading the Landscape

A noted geographer stated, "The attempt to derive meaningfrom landscapes possesses overwhelming virtue. It keeps us constantlyalert to the world around us, demanding that we pay attentionnot just to some of the things around us but to all of them-thewhole visible world in all of its rich, glorious, messy, confusing,ugly, and beautiful complexity."4

Landscapes can be read on many levels-landscape as nature, habitat,artifact, system, problem, wealth, ideology, history, place andaesthetic.5 When developing a strategy to document a culturallandscape, it is important to attempt to read the landscape inits context of place and time. (See Figures 16-17, page 8)

Reading the landscape, like engaging in archival research, requiresa knowledge of the resource and subject area as well as a willingnessto be skeptical. As with archival research, it may involve serendipitousdiscoveries. Evidence gained from reading the landscape may confirmor contradict other findings and may encourage the observer andthe historian to revisit both primary and secondary sources with a fresh outlook.Landscape investigation may also stimulate other forms of researchand survey, such as oral histories or archeological investigations,to supplement what appeared on-site.

There are many ways to read a landscape-whatever approach is takenshould provide a broad overview. This may be achieved by combiningon-the-ground observations with a bird's-eye perspective. To beginthis process, aerial photographs should be reviewed to gain anorientation to the landscape and its setting. Aerial photographscome in different sizes and scales, and can thus portray differentlevels of detail in the landscape. Aerial photographs taken ata high altitude, for example, may help to reveal remnant fieldpatterns or traces of an abandoned circulation system; or, portionsof axial relationships that were part of the original design,since obscured by encroaching woodland areas. Low altitude aerialphotographs can point out individual features such as the arrangementof shrub and herbaceous borders, and the exact locations of furnishings,lighting, and fence alignments. This knowledge can prove beneficialbefore an on-site visit.

Aerial photographs provide clues that can help orient the viewerto the landscape. The next step may be to view the landscape froma high point such as a knoll or an upper floor window. Such avantage point may provide an excellent transition before physicallyentering the cultural landscape.

On ground, evidence should then be studied, including character-definingfeatures, visual and spatial relationships. By reviewing supportingmaterials from historic research, individual features can be understoodin a systematic fashion that show the continuum that exists onthe ground today. By classifying these features and relationships,the landscape can be understood as an artifact, possessing evidenceof evolving natural systems and human interventions over time.

For example, the on-site investigation of an abandoned turn-of-the-centuryfarm complex reveals the remnant of a native oak and pine forestwhich was cut and burned in the mid-nineteenth century. This previoususe is confirmed by a small stand of mature oaks and the presenceof these plants in the emerging secondary woodland growth thatis overtaking this farm complex in decline. A ring count of thetrees can establish a more accurate age. By *reading* othercharacter-defining features-such as the traces of old roads, remnanthedgerows, ornamental trees along boundary roads, foundation plantings,the terracing of grades and remnant fences -the visual, spatialand contextual relationships of the property as it existed a centuryago may be understood and its present condition and integrityevaluated.

The findings of on-site reconnaissance, such as materials uncoveredduring archival research, may be considered primary data. Thesefindings make it possible to inventory and evaluate the landscape'sfeatures in the context of the property's current condition. Character-definingfeatures are located in situ, in relationship to each other andthe greater cultural and geographic contexts.

Historic Plant Inventory

Within cultural landscapes, plants may have historical or botanicalsignificance. A plant may have been associated with a historicfigure or event or be part of a notable landscape design. A plantmay be an uncommon cultivar, exceptional in size, age, rare andcommercially/ unavailable. If such plants are lost, there wouldbe a loss of historic integrity and biological diversity of thecultural landscape. To ensure that significant plants are preserved,an inventory of historic plants is being conducted at the NorthAtlantic Region of the National Park Service.8 Historical landscapearchitects work with landscape managers and historians to gatheroral and documented history on the plant's origin and potentialsignificance. Each plant is then examined in the field by an experthorticulturist who records its name, condition, age, size, distribution,and, any notable botanic characteristics.

Plants that are difficult to identify or are of potential historicalsignificance are further examined in the laboratory by a planttaxonomist who compares leaf, fruit, and flower characteristicswith herbarium specimens for named species, cultivars and varieties.For plants species with many cultivars, such as apples, roses,and grapes, specimens may be sent to specialists for identification.

If a plant cannot be identified, is dying or in decline, and unavailablefrom commercial nurseries, it may be propagated. Propagation ensuresthat when rare and significant plants decline, they can be replacedwith genetically-identical plants. Cuttings are propagated andgrown to replacement size in a North Atlantic Region HistoricPlant Nursery.

- 1. The Arnold Arboretum's preservation technician, lilac specialist,and horticulturist compare lilacs from the Vanderbilt MansionNational Historic Site in Hyde Park, New York with lilac specimensin the Arboretum's living collection. (courtesy Olmsted Center)
- 2. The Arnold Arboretum's horticulturist and preservationtechnician examine an enormous black locust tree at the Home ofF.D. Roosevelt National Historic Site in Hyde Park, NY. (courtesyOlmsted Center)

3. The Arnold Arboretum's horticulturist, landscape historian,and preservation technician examine shrubs at the Longfellow NationalHistoric Site in Cambridge, MA. (courtesy Olmsted Center)

Site Analysis: Evaluating Integrity and Significance

By analyzing the landscape, its change over time can be understood.This may be accomplished by overlaying the various period planswith the existing conditions plan. Based on these findings, individualfeatures may be attributed to the particular period when theywere introduced, and the various periods when they were present.

It is during this step that the *historic significance* ofthe landscape component of a historic property and its integrityare determined. Historic significance is the recognized importancea property displays when it has been evaluated, including whenit has been found to meet National Register Criteria.9 A landscapemay have several areas of historical significance. An understandingof the landscape as a continuum through history is critical inassessing its cultural and historic value. In order for the landscapeto have integrity, these character-defining features or qualitiesthat contribute to its significance must be present.

While National Register nominations document the significanceand integrity of historic properties, in general, they may notacknowledge the significance of the landscape's design or historicland uses, and may not contain an inventory of landscape featuresor characteristics. Additional research is often necessary toprovide the detailed information about a landscape's evolutionand significance useful in making decision for the treatment andmaintenance of a historic landscape. Existing National Registerforms may be amended to recognize additional areas of significanceand to include more complete descriptions of historic propertiesthat have significant land areas and landscape features.

Integrity is a property's historic identity evidenced bythe survival of physical characteristics from the property's historicor prehistoric period. The seven qualities of integrity are location,setting, feeling, association, design, workmanship and materials.10When evaluating these qualities, care should be taken to considerchange itself. For example, when a second-generation woodlandovertakes an open pasture in a battlefield landscape, or a woodlandedge encloses a scenic vista. For situations such as these, thereversibility and/or compatibility of those features should beconsidered, both individually, and in the context of the overalllandscape. Together, evaluations of significance and integrity,when combined with historic

research, documentation of existing conditions, and analysis findings,influence later treatment and interpretation decisions. (See Figure21-23)

Developing a Historic Preservation Approach and Treatment Plan

Treatment may be defined as work carried out to achieve a historicpreservation goal-it cannot be considered in a vacuum. There aremany practical and philosophical factors that may influence theselection of a treatment for a landscape. These include the relativehistoric value of the property, the level of historic documentation,existing physical conditions, its historic significance and integrity,historic and proposed use (e.g. educational, interpretive, passive,active public, institutional or private), long- and short-termobjectives, operational and code requirements (e.g. accessibility,fire, security) and costs for anticipated capital improvement,staffing and maintenance. The value of any significant archeologicaland natural resources should also be considered in the decision-making process. Therefore,a cultural landscape's preservation plan and the treatment selectedwill consider a broad array of dynamic and interrelated considerations.It will often take the form of a plan with detailed guidelinesor specifications.

Adopting such a plan, in concert with a preservation maintenanceplan (page 18-19), acknowledges a cultural landscape's ever-changingexistence and the interrelationship of treatment and ongoing maintenance.Performance standards, scheduling and record keeping of maintenanceactivities on a day-to-day or month-to-month basis, may then beplanned for. Treatment, management, and maintenance proposalscan be developed by a broad range of professionals and with expertisein such fields as landscape preservation, horticulture, ecology,and landscape maintenance.

The selection of a primary treatment for the landscape, utilizingthe Secretary of the Interior's Standards for the Treatment ofHistoric Properties, establishes an overall historic preservationapproach, as well as a philosophical framework from which to operate.Selecting a treatment is based on many factors. They include managementand interpretation objectives for the property as a whole, theperiod(s) of significance, integrity, and condition of individuallandscape features.

For all treatments, the landscape's existing conditions and itsability to convey historic significance should be carefully considered.For example, the life work, design philosophy and extant legacyof an individual designer should all be understood for a designedlandscape such as an estate, prior to treatment selection. Fora vernacular landscape, such as a battlefield containing a largelyintact mid-nineteenth century family farm, the uniqueness of thatagrarian complex within a local, regional, state, and nationalcontext should be considered in selecting a treatment.

The overall historic preservation approach and treatment approachcan ensure the proper retention, care, and repair of landscapesand their inherent features.11 In short, the Standards act asa preservation and management tool for cultural landscapes. Thefour potential treatments are described in the box opposite.

Landscape treatments can range from simple, inexpensive preservationactions, to complex major restoration or reconstruction projects.The progressive framework is inverse in proportion to the retentionof historic features and materials. Generally, preservation involvesthe least change, and is the most respectful of historic materials.It maintains the form and material of the existing landscape.Rehabilitation usually accommodates contemporary alterations oradditions without altering significant historic features or materials,with successful projects involving minor to major change. Restorationor reconstruction attempts to recapture the appearance of a property,or an individual feature at a particular point in time, as confirmedby detailed historic documentation. These last two treatmentsmost often require the greatest degree of intervention and thus,the highest level of documentation.

In all cases, treatment should be executed at the appropriatelevel reflecting the condition of the landscape, with repair workidentifiable upon close inspection and/or indicated in supplementalinterpretative information. When repairing or replacing a feature,every effort should be made to achieve visual and physical compatibility.Historic materials should be matched in design, scale, color andtexture.

A landscape with a high level of integrity and authenticity maysuggest preservation as the primary treatment. Such a treatmentmay emphasize protection, stabilization, cyclical maintenance,and repair of character-defining landscape features. Changes overtime that are part of the landscape's continuum and are significant in their own right may be retained,while changes that are not significant, yet do not encroach uponor erode character may also be maintained. Preservation entailsthe essential operations to safeguard existing resources. (Figures27-28)

Rehabilitation is often selected in response to a contemporaryuse or need-ideally such an approach is compatible with the landscape'shistoric character and historic use. Rehabilitation may preserveexisting fabric along with introducing some compatible changes,new additions and alterations. Rehabilitation may be desirableat a private residence in a historic district where the homeowner'sgoal is to develop an appropriate landscape treatment for a frontyard, or in a public park where a support area is needed for itsmaintenance operations. (Figures 29-31)

When the most important goal is to portray a landscape and itscharacter-defining features at an exact period of time, restorationis selected as the primary treatment. Unlike preservation andrehabilitation, interpreting the landscape's continuum or evolutionis not the objective. Restoration may include the removal of featuresfrom other periods and/or the construction of missing or lostfeatures and materials from the reconstruction period. In

allcases, treatment should be substantiated by the historic researchfindings and existing conditions documentation. Restoration andreconstruction treatment work should avoid the creation of a landscapewhose features did not exist historically. For example, if featuresfrom an earlier period did not co-exist with extant features froma later period that are being retained, their restoration wouldnot be appropriate. (Figures 32-34)

In rare cases, when evidence is sufficient to avoid conjecture,and no other property exists that can adequately explain a certainperiod of history, reconstruction may be utilized to depict avanished landscape. The accuracy of this work is critical. Incases where topography and the subsurface of soil have not beendisturbed, research and existing conditions findings may be confirmedby thorough archeological investigations. Here too, those featuresthat are intact should be repaired as necessary, retaining theoriginal historic features to the greatest extent possible. Thegreatest danger in reconstruction is creating a false pictureof history.

False historicism in every treatment should be avoided. This appliesto individual features as well as the entire landscape. Examplesof inappropriate work include the introduction of historic-lookingbenches that are actually a new design, a fanciful gazebo placedin what was once an open meadow, executing an unrealized historicdesign, or designing a historic-looking landscape for a relocatedhistoric structure within "restoration."

Landscape Interpretation

Landscape interpretation is the process of providing the visitorwith tools to experience the landscape as it existed during itsperiod of significance, or as it evolved to its present state.These tools may vary widely, from a focus on existing featuresto the addition of interpretive elements. These could includeexhibits, self-guided brochures, or a new representation of alost feature. The nature of the cultural landscape, especiallyits level of significance, integrity, and the type of visitationanticipated may frame the interpretive approach. Landscape interpretationmay be closely linked to the integrity and condition of the landscape,and therefore, its ability to convey the historic character andcharacter-defining features of the past. If a landscape has highintegrity, the interpretive approach may be to direct visitorsto surviving historic features without introducing obtrusive interpretivedevices such as free-standing signs. For landscapes with a diminishedintegrity, where limited or no fabric remains, the interpretiveemphasis may be on using extant features and visual aids (e.g.markers, photographs, etc.) to help visitors visualize the resourceas it existed in the past. The primary goal in these situationsis to educate the visitor about the landscape's historic themes,associations and lost character-defining features or broader historical,social and physical landscape contexts.

Treatments for Cultural Landscapes

Prior to undertaking work on a landscape, a treatment planor similar document should be developed. The four primary treatmentsidentified in the Secretary of the Interior's Standards for theTreatment of Historic Properties12, are:

Preservation *is defined as the act or process of applyingmeasures necessary to sustain the existing form, integrity, andmaterials of an historic property. Work, including preliminarymeasures to protect and stabilize the property, generally focusesupon the ongoing maintenance and repair of historic materialsand features rather than extensive replacement and new constructionsNew additions are not within the scope of this treatment; however,the limited and sensitive upgrading of mechanical, electricaland plumbing systems and other code-required work to make propertiesfunctional is appropriate within a preservation project.*

Rehabilitation *is defined as the act or process of makingpossible a compatible use for a property through repair, alterations,and additions while preserving those portions or features whichconvey its historical or cultural values.*

Restoration *is defined as the act or process of accuratelydepicting the form, features, and character of a property as itappeared at a particular period of time by means of the removalof features from other periods in its history and reconstructionof missing features from the restoration period. The limited andsensitive upgrading of mechanical, electrical and plumbing systemsand other code-required work to make properties functional isappropriate within a*

restoration project.

***Reconstruction** is defined as the act or process of depicting,by means of new construction, the form, features, and detailingof a non-surviving site, landscape, building, structure, or objectfor the purpose of replicating its appearance at a specific periodof time and in its historic location.*

Developing a Preservation Maintenance Plan and Implementation

Throughout the preservation planning process, it is importantto ensure that existing landscape features are retained. Preservationmaintenance is the practice of monitoring and controlling changein the landscape to ensure that its historic integrity is notaltered and features are not lost. This is particularly importantduring the research and long-term treatment planning process.To be effective, the maintenance program must have a guiding philosophy,approach or strategy; an understanding of preservation maintenancetechniques; and a system for documenting changes in the landscape.

The philosophical approach to maintenance should coincide withthe landscape's current stage in the preservation planning process.A Cultural Landscape Report and Treatment Plan can take severalyears to complete, yet during this time managers and propertyowners will likely need to address immediate issues related tothe decline, wear, decay, or damage of landscape features. Therefore,initial maintenance operations may focus on the stabilizationand protection of all landscape features to provide temporary,often emergency measures to prevent deterioration, failure, orloss, without altering the site's existing character.

After a Treatment Plan is implemented, the approach to preservationmaintenance may be modified to reflect the objectives definedby this plan. The detailed specifications prepared in the TreatmentPlan relating to the retention, repair, removal, or replacementof features in the landscape should guide and inform a comprehensivepreservation maintenance program. This would include schedulesfor monitoring and routine maintenance, appropriate preservationmaintenance procedures, as well as ongoing record keeping of workperformed. For vegetation, the preservation maintenance programwould also include thresholds for growth or change in character,appropriate pruning methods, propagation and replacement procedures.

To facilitate operations, a property may be divided into discretemanagement zones (Figure 41). These zones are sometimes definedduring the Cultural Landscape Report process and are typicallybased on historically defined areas. Alternatively, zones createdfor maintenance practices and priorities could be used. Examplesof maintenance zones would include woodlands, lawns, meadow, specimentrees, and hedges.

Training of maintenance staff in preservation maintenance skillsis essential. Preservation maintenance practices differ from standardmaintenance practices because of the focus on perpetuating thehistoric character or use of the landscape rather than beautification.For example, introducing new varieties of turf, roses or treesis likely to be inappropriate. Substantial earth moving (or movementof soil) may be inappropriate where there are potential archeologicalresources. An old hedge or shrub should be rejuvenated, or propagated,rather than removed and replaced. A mature specimen tree may requirecabling and careful monitoring to ensure that it is not a threatto visitor safety. Through training programs and with the assistanceof preservation maintenance specialists, each property could developmaintenance specifications for the care of landscape features.

Because landscapes change through the seasons, specificationsfor ongoing preservation maintenance should be organized in acalendar format. During each season or month, the calendar canbe referenced to determine when, where, and how preservation maintenanceis needed. For example, for some trees structural pruning is bestdone in the late winter while other trees are best pruned in thelate summer. Serious pests are monitored at specific times ofthe year, in certain stages of their life cycle. This detailedcalendar will in turn identify staff needs and work priorities.

Depending on the level of sophistication desired, one approachto documenting maintenance data and recording change over timeis to use a computerized geographical or visual information system.13Such a system would have the capability to include plans and photographsthat would focus on a site's landscape features.

6 See National Park Service *National Register Bulletins* underSelected Reading (opposite).

7 The Historic American Buildings Survey, HABS, has generatedstandards for landscape documentation that they now utilize ona number of projects. Specifically, a case study on recordinghistoric landscapes is included in *Recording Historic Structures,* pp. 206-219. See Selected Reading (opposite).

8 This is being undertaken with technical assistance from theOlmsted Center for Landscape Preservation a partnership betweenthe National Park Service and the Arnold Arboretum of HarvardUniversity that provides cultural landscape technical assistance,technology development and training.

9 See *National Register Bulletin 16A: How to Complete the NationalRegister Registration Form.* Washington, D.C.: U.S. Departmentof the Interior, National Park Service, Interagency ResourcesDivision, 1991.

10 Ibid.

11 The standards are general principles for the treatment of buildings,structures, sites, objects, districts and landscapes. The treatmentstandards are one set of standards included in the broader groupknown as the *Secretary of the Interior's Standards for Archaeologyand Historic Preservation.*

12 The Secretary of the Interior is responsible for establishingprofessional standards and providing advice on the preservationand protection of all cultural resources listed on or eligiblefor the National Register of Historic Places. For a copy of thebrochure, *The Secretary of the Interior's Standards for theTreatment of Historic Properties*, 1992 contact the NationalPark Service Preservation Assistance Division (424) Box 37127Washington, DC 20013-7127.

13 A visual information system, a computer-aided mapping programwith a linked database, has been developed for the historic landscapeat the Frederick Olmsted National Historic Site. Data can be accesseddirectly from a digitized map such as information on each plantincluding identification, age, location, size, condition, andmaintenance history.

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Washington, D.C. September, 1994

to develop and make available information concerning historic properties. Technical Preservation Services (TPS), Heritage Preservation Services Division, National Park Service prepares standards, guidelines, and other educational materials on responsible historic preservation treatments to a broad public.

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The Secretary of the Interiors Standards for the Treatment of Historic Properties with Guidelines for the Treatment of Cultural Landscapes



Preservation of the Cultural Continuum
Canyon de Chelly National Monument, AZ

The Secretary of the Interior's Standards for the Treatment of Historic Properties and Guidelines for the Treatment of Cultural Landscapes provide guidance to landscape owners, managers, landscape architects, preservation planners, architects, contractors, and project reviewers who are planning and implementing project work.



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Introduction

The Secretary of the Interior is responsible for establishing professional standards and providing advice on the preservation of cultural resources listed in or eligible for listing in the National Register of Historic Places. In partial fulfillment of this responsibility, the Secretary of the Interior's Standards for Historic Preservation Projects were developed in 1976. They consisted of seven sets of standards for the acquisition, protection, stabilization, preservation, rehabilitation, restoration, and reconstruction of historic buildings.

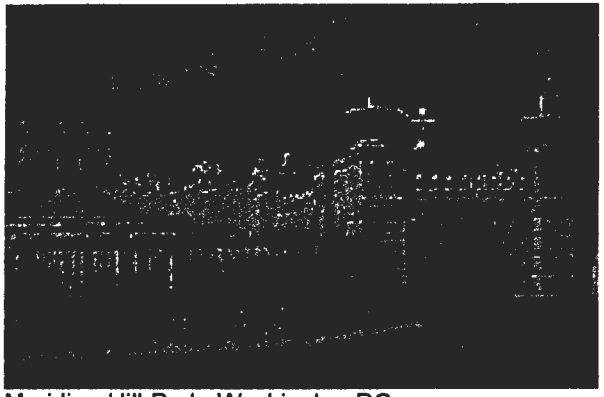
Since their publication in 1976, the Secretary's Standards have been used by State Historic Preservation Officers and the National Park Service to ensure that projects receiving federal money or tax benefits were reviewed in a consistent manner nationwide. The principles embodied in the Standards have also been adopted by hundreds of preservation commissions across the country in local design guidelines

In 1992, the Standards were revised so that they could be applied to all historic resource types included in the National Register of Historic Places--buildings, structures, sites, objects, districts, and landscapes. The revised Standards were reduced to four sets by incorporating protection and stabilization into preservation, and by eliminating acquisition, which is no longer considered a treatment. Re-titled, *The Secretary of the Interior's Standards for the Treatment of Historic Properties,* this new, modified version addresses four treatments: preservation, rehabilitation, restoration, and reconstruction. The *Guidelines for the Treatment of Cultural Landscapes* illustrate how to apply these four treatments to cultural landscapes in a way that meets the Standards.

Of the four, Preservation standards require retention of the greatest amount of historic fabric, including the landscape's historic form, features, and details as they have evolved over time. *Rehabilitation* standards acknowledge the need to alter or add to a cultural landscape to meet continuing or new uses while retaining the landscape's historic character. *Restoration* standards allow for the depiction of a landscape at a particular time in US history by preserving materials from the period of significance and removing materials from other periods. *Reconstruction* standards establish a framework for recreating a vanished or non-surviving landscape with new materials, primarily for interpretive purposes.

The Secretary of the Interior's Standards for the treatment of Historic properties, revised in 1992, were codified as *36* CFR Part 68 in the 12 July 1995 *Federal Register(Vol. 60,* No. 133) with an "effective" date of 11 August 1995. The revision replaces the 1978 and 1983 versions of 36 CFR 68 entitled The Secretary of the *Interior's Standards for Historic Preservation Projects.*

Preservation Planning and the Treatment of Cultural Landscapes


Meridian Hill Park, Washington DC

CAREFUL PLANNING PRIOR TO TREATMENT can help prevent irrevocable damage to a cultural landscape. Professional techniques for identifying, documenting, and treating cultural landscapes have advanced over the past twenty-five years and are continually being refined. As described in the National Park Service publication, Preservation Brief #36: Protecting Cultural Landscapes, the preservation planning process for cultural landscapes should involve: historical research; inventory and documentation of existing conditions; site analysis and evaluation of integrity and significance; development of a cultural landscape preservation approach and treatment plan; development of a cultural landscape management plan and management philosophy; development of a strategy for ongoing maintenance; and, preparation of a record of treatment and future research recommendations.

In all treatments for cultural landscapes, the following general recommendations and comments apply:

1. Before undertaking project work, research of a cultural landscape is essential. Research findings help to identify a landscape's historic period(s) of ownership, occupancy and development, and bring greater understanding of the associations that make them significant. Research findings also provide a foundation to make educated decisions for project treatment, and can guide management, maintenance, and interpretation. In addition, research findings may be useful in satisfying compliance reviews (e.g. Section 106 of the National Historic Preservation Act as amended).
2. Although there is no single way to inventory a landscape, the goal of documentation is to provide a record of the landscape as it exists at the present time, thus providing a baseline from which to operate. All component landscapes and features (see definitions below) that contribute to the landscape's historic character should be recorded. The level of documentation needed depends on the nature and the significance of the resource. For example, plant material documentation may ideally include botanical name or species, common name and size. To ensure full representation of existing herbaceous plants, care should be taken to document the landscape in different seasons. This level of research may most often be the ideal goal for smaller properties, but may prove impractical for large, vernacular landscapes.

3. Assessing a landscape as a continuum through history is critical in assessing cultural and historic value. By analyzing the landscape, change over time -the chronological and physical "layers" of the landscape -can be understood. Based on analysis, individual features may be attributed to a discrete period of introduction, their presence or absence substantiated to a given date and, therefore the landscape's significance and integrity evaluated. In addition, analysis allows the property to be viewed within the context of other cultural landscapes.
4. In order for the landscape to be considered significant, character-defining features that convey its significance in history must not only be present, but they also must possess historic integrity. Location, setting, design, materials, workmanship, feeling and association should be considered in determining whether a landscape and its character-defining features possess historic integrity.
5. Preservation planning for cultural landscapes involves a broad array of dynamic variables. Adopting comprehensive treatment and management plans, in concert with a preservation maintenance strategy, acknowledges a cultural landscape's ever-changing nature and the interrelationship of treatment, management and maintenance.

Some Factors to Consider When Selecting an Appropriate Treatment

The Standards are neither technical nor prescriptive, but are intended to promote responsible preservation practices that help protect our Nation's irreplaceable cultural resources. They cannot be used to make essential decisions about which contributing features of a cultural landscape should be retained and which can be changed . But once a specific treatment is selected, the Standards can provide the necessary philosophical framework for a consistent and holistic approach for a cultural landscape project.

A treatment is a physical intervention carried out to achieve a historic preservation goal -- it cannot be considered in a vacuum. There are many practical and philosophical variables that influence the selection of a treatment for a landscape. These include, but are not limited to, the extent of historic documentation, existing physical conditions, historic value, proposed use, long and short term objectives, operational and code requirements (e.g. accessibility, fire, security) and anticipated capital improvement, staffing and maintenance costs. The impact of the treatment on any significant archeological and natural resources should also be considered in this decision making process. Therefore, it is necessary to consider a broad array of dynamic and interrelated variables in selecting a treatment for a cultural landscape preservation project.

For some cultural landscapes, especially those that are best considered ethnographic or heritage landscapes, these

Guidelines may not apply. However, if people working with these properties decide that community coherence may be affected by physical place and space--or if there is potential for loss of landscape character whose significance is rooted in the community's activities and processes (or other aspects of its history)--this guide may be of service.

- **Change and Continuity:** There is a balance between change and continuity in all-cultural resources. Change is inherent in cultural landscapes; it results from both natural processes and human activities. Sometimes that change is subtle, barely perceptible as with the geomorphological effects on landform. At other times, it is strikingly obvious, as with vegetation, either in the cyclical changes of growth and reproduction or the progressive changes of plant competition and succession. This dynamic quality of all cultural landscapes is balanced by the continuity of distinctive characteristics retained over time. For, in spite of a landscape's constant change (or perhaps because of it), a property can still exhibit continuity of form, order, use, features, or materials. Preservation and rehabilitation treatments seek to secure and emphasize continuity while acknowledging change.

- **Relative Significance in History:** *A* cultural landscape may be a significant resource as a rare survivor or the work of an important landscape architect, horticulturist or designer. It may be the site of an important event or activity, reflect cultural traditions, or other patterns of settlement or land use. This significance may be derived from local, regional, or national importance. Cultural landscapes may be listed in the National Register of Historic Places individually or as contributing features in a historic district. In some instances, cultural landscapes may be designated National Historic Landmarks by the Secretary of the Interior for their exceptional significance in American history.

- **Integrity and Existing Physical Condition:** Prior to selecting a treatment, it is important to understand and evaluate the difference between integrity and existing conditions. Integrity is the authenticity of a cultural landscape's historic identity: it is the physical evidence of its significance. Existing conditions can be defined as the current physical state of the landscape's form, order, features and materials. For example, the integrity of an abandoned garden may be clear based on its extant form, features, and materials, but existing conditions may be poor, due to neglect or deferred maintenance.

- **Geographical Context:** The *surroundings* of a cultural landscape, whether an urban neighborhood or rural farming area, may contribute to its significance and its historic character and should be considered prior to treatment. The setting may contain *component landscapes or features* (see definitions, page 9) which fall within the property's historic boundaries. It also may be comprised of separate properties beyond the landscape's boundaries, and perhaps those of the National Register listing. The landscape context can include the overall pattern of the circulation networks, views and vistas into and out of the landscape, land use, natural features, clusters of structures, and

division of properties.

- Use. Historic, current, and proposed use of the cultural landscape must be considered prior to treatment selection. Historic use is directly linked to its significance [bottom left], while current and proposed use(s) can affect integrity and existing conditions. Parameters may vary from one landscape to another. For example, in one agricultural landscape, continuation of the historic use can lead to changes in the physical form of a farm to accommodate new crops and equipment. In another agricultural property, new uses may be adapted within the landscape's existing form. Order and features.

- **Archeological Resources:** Prehistoric and historic archeological resources may be found in cultural landscapes above and below the ground [below] and even under water. Examples of prehistoric archeological resources include prehistoric mounds built by Native-Americans. Examples of historic archeological resources include remnants of buildings, cliff dwellings, and villages; or, features of a sunken garden, mining camp, or battlefield. These resources not only have historical value, but can also reveal significant information about a cultural landscape. The appropriate treatment of a cultural landscape includes the identification and preservation of significant archeological resources. Many landscape preservation projects include a site archeologist.

- **Natural Systems:** Cultural landscapes often derive their character from a human response to natural features and systems. The significance of these natural resources may be based on their cultural associations and from their inherent ecological values. Natural resources form natural systems that are interdependent on one another and which may extend well beyond the boundary of the historic property. For example, these systems can include geology, hydrology, plant and animal habitats, and climate. Some of these natural resources are particularly susceptible to disturbances caused by changes in landscape management. Many natural resources such as wetlands or rare species fall under local, state, and federal regulations, which must be considered. Since natural resource protection is a specialized field distinct from cultural landscape preservation, a preservation planning team may want to include an expert in this area to address specific issues or resources found within a cultural landscape. Natural systems are an integral part of the cultural landscape and must be considered when selecting an appropriate treatment.

- **Management and Maintenance:** Management strategies are long-term and comprehensive. They can be one of the means for implementing a landscape preservation plan. Maintenance tasks can be day-to-day, seasonal, or cyclical, as determined by management strategies. Although routine horticultural activities, such as mowing and weeding, or general grounds maintenance, such as re-laying pavement or curbs, may appear routine, such activities can cumulatively alter the character of a landscape. In contrast, well-conceived management and maintenance activities can sustain character and integrity over an extended period. Therefore, both the management and maintenance of cultural landscapes should be considered when selecting a treatment.

- **Interpretation**: Interpretation can help in understanding and "reading" the landscape. The tools and techniques of interpretation can include guided walks, self-guided brochures, computer-aided tours, exhibits, and wayside stations. Interpretive goals should compliment treatment selection, reflecting the landscape's significance and historic character. A cultural landscape may possess varying levels of integrity or even differing periods of significance, both of which can result in a multi-faceted approach to interpretation. In some cases, interpretation and a sound interpretive strategy can inform decisions about how to treat a landscape.

- **Special Requirements:** Work that must be done to meet accessibility, health and safety, environmental protection or energy efficiency needs is usually not part of the overall process of protecting cultural landscapes; rather this work is assessed for its potential impact on the cultural landscape.

- **Accessibility Considerations:** It is often necessary to make modifications to cultural landscapes so that they will be in compliance with current accessibility code requirements. Three specific Federal laws require accessibility to certain cultural landscapes: the Architectural Barriers Act of 1968, Section 504 of the Rehabilitation Act of 1973, and the Americans With Disabilities Act of 1990. Federal rules, regulations and standards have been developed which provide guidance on how to accomplish access to historic areas for people with disabilities. Work must be carefully planned and undertaken so that it does not result in the loss of character-defining features. The goal is to provide the highest level of access with the lowest level of impact on the integrity of the landscape.

- **Health and Safety Considerations:**. In undertaking work on cultural landscapes, it is necessary to consider the impact that meeting current health and safety codes (for example, public health, life safety, fire safety, electrical, seismic, structural, and building codes) will have on character-defining features. For example, upgrading utility service, storm or sewer drainage systems requires trenching which can disturb soils, plants and archeological resources. Special coordination with the responsible code officials at the state, county, or municipal level may be required. Securing required permits and licenses is best accomplished early in project planning work. It is often necessary to look beyond the "letter" of code requirements to their underlying purpose; most modern codes allow for alternative approaches and reasonable variance to achieve compliance.

- **Environmental Protection Requirements:** Many cultural landscapes are affected by requirements that address environmental issues. Legislation at the federal, state and municipal level have established rules and regulations for dealing with a variety of natural resources -- including water, air, soil and wildlife. Work predicated on such legislation must be carefully planned and undertaken so that it does not result in the loss of a landscape's character-defining features. Securing required permits and licenses should be considered early in project work, and special efforts should be made to coordinate with public agencies responsible for overseeing specific environmental

concerns.

● **Energy Efficiency:** Some features of a cultural landscape, such as buildings, structures, vegetation and furnishings, can play an energy-conserving role. Therefore, prior to undertaking project work to achieve greater energy efficiency, the first step should always be to identify and evaluate existing historic features to assess their inherent energy conserving potential. If it is determined that such work is appropriate, then it needs to be carried out with particular care to insure that the landscape's historic character is retained.

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XREF #: B273085 TAX ACCOUNT #: 0322035480 DISTRICT/PRECINCT 03 13
OWNERS INFORMATION (LAST, FIRST)
FEE: 954.00 NAME: [redacted]
PAID: 954.00 ADDR: 1525 GREENSPRING VALLEY RD., STEVENSON, MD 21153
PAID BY: APP
DATES APPLICANT INFORMATION
[redacted] NAME: ANDREW FERRETTI
[redacted] COMPANY: GEORGE W. STEPHENSJR & ASSOC, INC
OCCPNCY: ADDR1: 658 KENILWORTH DR-STE100
ADDR2: TOWSON, MD 21204
INSPECTOR: 03C PHONE #: 825-8120 LICENSE #:
NOTES: JB/JP

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PF2 - APPROVALS PF4 - ISSUE PERMIT PF8 - NEXT PERMIT PF10 - INQRY

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TENANT
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IMPRV 7 GRADING ENGNR: GEORGE W. STEPHENS & ASSOC
USE 23 GRADING SELLR:

FOUNDATION BASE [redacted]
CONSTRUC FUEL SEWAGE WATER
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CENTRAL AIR
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RESIDENTIAL CAT:
#EFF: #1BED: #2BED: #3BED: TOT BED: TOT APTS:
1 FAMILY BEDROOMS: PASSWORD:

Exh. 6

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HEIGHT:
STORIES:

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CORNER LOT:

GARBAGE DISP:
POWDER ROOMS:
BATHROOMS:
KITCHENS:

ZONING INFORMATION
DISTRICT:
PETITION:
DATE:
MAP:

LOT SIZE AND SETBACKS
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SIDE STREET:
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SIDE SETB: NC/NC
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IMPROVEMENTS: 9362900.00
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SECTION:
LIBER: 000
FOLIO: 000
CLASS: 01

PLANNING INFORMATION
MSTR PLAN AREA: SUBSEWER: CRIT AREA: PASSWORD:

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PF1 - GENERAL PERMIT PF3 - INSPECTIONS PF8 - NEXT SCREEN CLEAR - MENU
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ENVRMNT	06/10/96	01	TT
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                                    --------------------
ENTER - GENERAL PERMIT    PF4 - ISSUE PERMIT
PF3 - INSPECTIONS         PF8 - GENERAL SCREEN W/NEXT PERMIT  CLEAR - MENU
                                                              PANEL BP1003M
TIME:  13:26:33      AUTOMATED PERMIT TRACKING SYSTEM   LAST UPDATE  06/17/96
DATE:  06/17/96       GENERAL PERMIT APPLICATION DATA       PLD      11:41:08

PERMIT #: B274226     PROPERTY  ADDRESS
RECEIPT #: A304044    1525        GREENSPRING VALLEY DR
CONTROL #: GR           SUBDIV:   2640 W OF GREENSPRING AV
XREF #:    B274226    TAX ACCOUNT #: 0322035480     DISTRICT/PRECINCT 03   13
                           OWNERS INFORMATION (LAST, FIRST)
FEE:       40.00      NAME: VILLA JULIE COLLEGE
PAID:      40.00      ADDR: 1525 GREENSPRING VALLEY DR.  21153
PAID BY: APPL
          DATES              APPLICANT INFORMATION
APPLIED: 06/17/96      NAME: ANDREW FERRETTI
ISSUED:  06/17/96   COMPANY: GEO.W.STEPHENS,JR. & ASSOC.,INC.
OCCPNCY:              ADDR1: 658 KENILWORTH DR.  STE#100
                      ADDR2: 21204
INSPECTOR: 03R      PHONE #: 825-8120           LICENSE #:
NOTES: VLC/JP

                                                      PASSWORD :
                                    --------------------
ENTER - PERMIT DETAIL  PF3 - INSPECTIONS   PF7 - DELETE        PF9 - SAVE
PF2 - APPROVALS        PF4 - ISSUE PERMIT  PF8 - NEXT PERMIT   PF10 - INQRY
                                                              PANEL BP1004M
TIME:  13:26:37      AUTOMATED PERMIT TRACKING SYSTEM   LAST UPDATE  06/17/96
DATE:  05/12/98           BUILDING DETAIL 1                   PLD      11:43:58
                                                  TRACT:          BLOCK:
PERMIT # B274226     PLANS:  CONST 00   PLOT 6   PLAT 0   DATA 0   EL 2   PL 2
                        TENANT
BUILDING CODE: 2        CONTR: TBD
IMPRV 7   GRADING       ENGNR:
USE  17   COLLEGE      SELLR:

FOUNDATION    BASE       WORK: GRADE 19,500 SF.OF DISTURBED AREA FOR UTILITIES
                               PERMIT EXPIRES (2) YEARS FROM DATE OF ISSUE.
CONSTRUC FUEL SEWAGE WATER     FOR GRADING ONLY.
                  2E     2E
CENTRAL AIR
ESTIMATED COST
15,000.00          PROPOSED USE: COLLEGE & GRADING
OWNERSHIP: 1       EXISTING USE: COLLEGE
RESIDENTIAL CAT:
#EFF:      #1BED:      #2BED:      #3BED:      TOT BED:        TOT APTS:
1 FAMILY BEDROOMS:                        PASSWORD:
                                    --------------------
```

(3)

```
ENTER - NEXT DETAIL     PF2 - APPROVALS      PF7 - PREV. SCREEN  PF9 - SAVE
PF1 - GENERAL PERMIT    PF3 - INSPECTIONS    PF8 - NEXT  SCREEN  CLEAR - MENU
                                                                 PANEL BP1005M
TIME:  13:26:45      AUTOMATED PERMIT TRACKING SYSTEM    LAST UPDATE  06/17/96
DATE:  05/12/98            BUILDING DETAIL 2                  PLD      11:43:58

PERMIT #: B274226          BUILDING SIZE                LOT SIZE AND SETBACKS
                           FLOOR:   19500               SIZE: 60.2364 AC.
                           WIDTH:                       FRONT STREET:
GARBAGE DISP:              DEPTH:                       SIDE  STREET:
POWDER ROOMS:              HEIGHT:                      FRONT SETB:     NC
BATHROOMS:                 STORIES:                     SIDE  SETB:     NC/NC
KITCHENS:                                               SIDE STR SETB:
                           LOT NOS:                     REAR  SETB:     NC
                           CORNER LOT:
ZONING INFORMATION                                      ASSESSMENTS
DISTRICT:                  BLOCK:                       LAND:          1561620.00
PETITION:                  SECTION:                     IMPROVEMENTS: 9362900.00
DATE:                      LIBER:   000                 TOTAL ASS.:
MAP:                       FOLIO:   000
                           CLASS:   01
PLANNING INFORMATION
MSTR PLAN AREA:      SUBSEWER:       CRIT AREA:              PASSWORD:
                                     ----------
ENTER - NEXT DETAIL     PF2 - APPROVALS      PF7 - PREV. SCREEN  PF9 - SAVE
PF1 - GENERAL PERMIT    PF3 - INSPECTIONS    PF8 - NEXT  SCREEN  CLEAR - MENU
                                                                 PANEL BP1018M
TIME:  13:26:55      AUTOMATED PERMIT TRACKING SYSTEM    LAST UPDATE  06/17/96
DATE:  05/12/98          APPROVALS DETAIL SCREEN             PLD      11:45:10

PERMIT #: B274226   CONTROL #: GR
AGENCY      DATE       CODE  COMMENTS
--------    --------   ----  --------
SEDI CTL    06/17/96    01   MM/JP
ZONING      06/17/96    01   CAM/JP
PUB SERV    06/17/96    01   CAM/JP
ENVRMNT     06/17/96    01   MM/JP
PERMITS     06/17/96    01   SMD/JP...P/U...PER "AUTH.TO RELEASE"
```

(9)

```
 01 THRU 09 INDICATES AN "APPROVAL" ** 10 THRU 99 INDICATES A "DISAPPROVAL"
                                    ---------------------
ENTER - GENERAL PERMIT    PF4 - ISSUE PERMIT
PF3 - INSPECTIONS         PF8 - GENERAL SCREEN W/NEXT PERMIT  CLEAR - MENU
                                                                PANEL BP100
TIME:  13:27:16      AUTOMATED PERMIT TRACKING SYSTEM   LAST UPDATE  07/31/97
DATE:  07/31/97       GENERAL PERMIT APPLICATION DATA        PDM      11:07:11

[PERMIT # B311132]    PROPERTY  ADDRESS
RECEIPT #: A333084    1525        GREENSPRING VALLEY DR
CONTROL #: GR           SUBDIV:  2640 W OF GREENSPRING AV
XREF #:    B311132    TAX ACCOUNT #: 0322035480     DISTRICT/PRECINCT 03   1
                           OWNERS INFORMATION (LAST, FIRST)
FEE:         40.00    NAME: VILLA JULIE COLLEGE
PAID:        40.00    ADDR: 1525 GREENSPRING VALLEY DR. 21153
PAID BY: APP
          DATES             APPLICANT INFORMATION
[APPLIED: 07/16/97]    NAME: ANDREW FERRETTI
[ISSUED:  07/31/97] COMPANY: G.W. STEPHENS JR. & ASSOC. INC
OCCPNCY:              ADDR1: 658 KENILWORTH DRIVE SUITE 100
                      ADDR2: TOWSON, MD. 21204
INSPECTOR: 03R     PHONE #: 410-825-8120       LICENSE #:
NOTES: KRA/LW

                                                    PASSWORD :
                                    ---------------------
ENTER - PERMIT DETAIL  PF3 - INSPECTIONS   PF7 - DELETE        PF9 - SAVE
PF2 - APPROVALS        PF4 - ISSUE PERMIT  PF8 - NEXT PERMIT   PF10 - INQRY
                                                                PANEL BP100
TIME:  13:27:20      AUTOMATED PERMIT TRACKING SYSTEM   LAST UPDATE  07/16/97
DATE:  05/12/98          BUILDING DETAIL 1                  PDM      10:21:53
                                                  TRACT:          BLOCK:
[PERMIT # B311132]  PLANS:  CONST 0    PLOT 8   PLAT     DATA     EL 2   PL 2
                       TENANT
BUILDING CODE: 2       CONTR:
IMPRV 7                ENGNR: GWS INC
USE  23   GRADING      SELLR:

FOUNDATION   BASE       [WORK - GRADING AND SODDING FOR ATHLETIC FIELD:
                        16000 SF OF DISRURBED AREA]
CONSTRUC FUEL SEWAGE WATER    [PERMIT EXPIRES 2 YEARS FROM DATE OF ISSUE]
                 2E     2E
CENTRAL AIR
ESTIMATED COST
10000.00          [PROPOSED USE: COLLEGE & GRADING]
OWNERSHIP: 1     EXISTING USE: COLLEGE
RESIDENTIAL CAT:
#EFF:      #1BED:      #2BED:      #3BED:      TOT BED:        TOT APTS:
1 FAMILY BEDROOMS:                  PASSWORD:
                                    ---------------------
ENTER - NEXT DETAIL    PF2 - APPROVALS     PF7 - PREV. SCREEN  PF9 - SAVE
PF1 - GENERAL PERMIT   PF3 - INSPECTIONS   PF8 - NEXT  SCREEN  CLEAR - MENU
                                                                PANEL BP100
TIME:  13:27:27      AUTOMATED PERMIT TRACKING SYSTEM   LAST UPDATE  07/16/97
DATE:  05/12/98          BUILDING DETAIL 2                  PDM      10:21:53
```

ENTER - NEXT DETAIL PF2 - APPROVALS PF7 - PREV. SCREEN PF9 - SAVE
PF1 - GENERAL PERMIT PF3 - INSPECTIONS PF8 - NEXT SCREEN CLEAR - MENU
PANEL BP1018

TIME: 13:27:39 AUTOMATED PERMIT TRACKING SYSTEM LAST UPDATE 07/31/97
DATE: 05/12/98 APPROVALS DETAIL SCREEN PLR 11:39:04

PERMIT #: B311132 CONTROL #: GR

AGENCY	DATE	CODE	COMMENTS
SEDI CTL	07/23/97	01	JH/TT
ZONING	07/25/97	01	JCM/WCR NO CHANGE IN USE.
PUB SERV	07/16/97	01	CAM/LW
ENVRMNT	07/30/97	01	GWM-07-30 CB////EIR-07-29 VK
PERMITS	07/31/97	01	DAS SC

01 THRU 09 INDICATES AN "APPROVAL" ** 10 THRU 99 INDICATES A "DISAPPROVAL"

ENTER - GENERAL PERMIT PF4 - ISSUE PERMIT
PF3 - INSPECTIONS PF8 - GENERAL SCREEN W/NEXT PERMIT CLEAR - MENU



Issued

APPLICATION FOR PERMIT
BALTIMORE COUNTY MARYLAND
OFFICE OF THE BUILDING ENGINEER
TOWSON, MARYLAND 21204

DATE: 10-12-95

OEA: 1A&B/SP
HISTORIC DISTRICT/BLDG.

PERMIT #: B250725
RECEIPT #: A269529
CONTROL #: C-
XREF #:

FEE: 1164. +5. +120.
PAID: 1289.
PAID BY: Applt
INSPECTOR:

I HAVE CAREFULLY READ THIS APPLICATION AND KNOW THE SAME IS CORRECT AND TRUE, AND THAT IN DOING THIS WORK ALL PROVISIONS OF THE BALTIMORE COUNTY CODE AND APPROPRIATE STATE REGULATIONS WILL BE COMPLIED WITH WHETHER HEREIN SPECIFIED OR NOT AND WILL REQUEST ALL REQUIRED INSPECTIONS.

BUILDING 1 or 2 FAM.
CODE CODE _____
BOCA CODE ✓

TYPE OF IMPROVEMENT
1. ✓ NEW BLDG CONST
2. ___ ADDITION
3. ___ ALTERATION
4. ___ REPAIR
5. ___ WRECKING
6. ___ MOVING
7. ___ OTHER _____

PROPERTY ADDR: 1525 EASTON SPRING VALLEY ☐ YES ☑ NO
STEVENSON MD 21153
SUBDIV: 2640 W of Greenspring Ave ☐ DO NOT KNOW
TAX ACCOUNT #: 0322035980 DISTRICT/PRECINCT 03 13

OWNER'S INFORMATION (LAST,FIRST)
NAME: VILLA JULIE COLLEGE, INC.
ADDR: 1525 EASTON SPRING VALLEY RD 21153

DOES THIS BLDG. HAVE SPRINKLERS YES — NO —

APPLICANT INFORMATION
NAME: Robert Clancy
COMPANY: VILLA JULIE COLLEGE
STREET 1525 EASTON SPRING VALLEY RD
CITY,ST,ZIP STEVENSON MD 21153
PHONE #: 486 7000 MHIC LICENSE #: _____
APPLICANT SIGNATURE: Robert Clancy TRACT: _____ BLOCK: _____
PLANS: CONST 3 PLOT 14 PLAT — DATA 6 EL 2 PL 2
TENANT
CONTR: WHITING - TURNER
ENGNR: Tigar & Snead, Inc. Architect #8246-C
SELLR:

DESCRIBE PROPOSED WORK: Erect Shell Building. Separate Permit Required To Complete Interior. Issuance of this Permit Does Not Grit Baltimore County To Issue Subsequent Permits. 211'4" x 63'8" x 56' = 46,590 ☆

TYPE OF USE

RESIDENTIAL
01. ___ ONE FAMILY
02. ___ TWO FAMILY
03. ___ THREE AND FOUR FAMILY
04. ___ FIVE OR MORE FAMILY (ENTER NO UNITS) _____
05. ___ SWIMMING POOL
06. ___ GARAGE
07. ___ OTHER

NON-RESIDENTIAL
08. ___ AMUSEMENT, RECREATION, PLACE OF ASSEMBLY
09. ___ CHURCH, OTHER RELIGIOUS BUILDING
10. ___ FENCE (LENGTH HEIGHT)
11. ___ INDUSTRIAL, STORAGE BUILDING
12. ___ PARKING GARAGE
13. ___ SERVICE STATION, REPAIR GARAGE
14. ___ HOSPITAL, INSTITUTIONAL, NURSING HOME
15. ___ OFFICE, BANK, PROFESSIONAL
16. ___ PUBLIC UTILITY
17. ✓ SCHOOL (COLLEGE), OTHER EDUCATIONAL
18. ___ SIGN
19. ___ STORE MERCANTILE ___ RESTAURANT SPECIFY TYPE _____
20. ___ SWIMMING POOL SPECIFY TYPE _____
21. ___ TANK, TOWER
22. ___ TRANSIENT HOTEL, MOTEL (NO. UNITS _____)
23. ___ OTHER _____

WILL SUBMIT DATA SHEETS ALB

TYPE FOUNDATION: ___ SLAB ___ BLOCK ✓ CONCRETE
BASEMENT: 1. ✓ FULL 2. ___ PARTIAL 3. ___ NONE

TYPE OF CONSTRUCTION: ___ MASONRY ✓ WOOD FRAME ✓ STRUCTURE STEEL ___ REINF. CONCRETE

TYPE OF HEATING FUEL: 1. ✓ GAS 2. ___ OIL 3. ___ ELECTRICITY 4. ___ COAL

TYPE OF SEWAGE DISPOSAL: 1. ___ PUBLIC SEWER ___ EXISTS ___ PROPOSED; 2. ✓ PRIVATE SYSTEM ✓ SEPTIC ✓ EXISTS ___ PROPOSED; ___ PRIVY ___ EXISTS ___ PROPOSED

TYPE OF WATER SUPPLY: 1. ___ PUBLIC SYSTEM ___ EXISTS ___ PROPOSED; 2. ✓ PRIVATE SYSTEM ✓ EXISTS ___ PROPOSED

CENTRAL AIR: 1. ✓ 2. ___
ESTIMATED COST OF MATERIALS AND LABOR: $ 7 Mil
PROPOSED USE: College Shell Bldg For Future Classrooms/Offices
EXISTING USE: College

OWNERSHIP: 1. ✓ PRIVATELY OWNED 2. ___ PUBLICLY OWNED 3. ___ SALE 4. ___ RENTAL

RESIDENTIAL CATEGORY: 1. ___ DETACHED 2. ___ SEMI-DET. 3. ___ GROUP 4. ___ TOWNHSE 5. ___ MIDRISE 6. ___ HIRISE
EFF: #1BED: #2BED: #3BED: TOT BED: TOT APTS/CONDOS:
FAMILY BEDROOMS
GARBAGE DISPOSAL 1. ___ Y 2. ___ N
POWDER ROOMS
BATHROOMS KITCHENS
CLASS A1 LIBER FOLIO

BUILDING SIZE
FLOOR 46550
WIDTH 211'4"
DEPTH 63'8"
HEIGHT 56'
STORIES 2+Roof
LOT #'S
CORNER LOT 1. ___ Y 2. ✓ N

LOT SIZE AND SETBACKS
SIZE 60.236Ac
FRONT STREET
SIDE STREET
FRONT SETBK 940
SIDE SETBK 560/890
SIDE STR SETBK
REAR SETBK 530
ZONING

APPROVAL SIGNATURES — DATE

BLD INSP	:	:
BLD PLAN REV	: OK TO FILE ALB	: 10/12/95
FIRE	: 17A	:
BLDG CTL	: 4 ENC OK TO FILE-CK	: 10/12/95
ZONING	: 11A TIM OK TO FILE	: 10/12/95
DEPRM	: 11	:
ENVIRON SERV	: 4 ENG. OK to file	: 10/12/95
PERMITS	:	:

DRC LTR JUNE 26, 95

MAKE CHECKS PAYABLE TO BALTIMORE COUNTY MARYLAND -- NO PERMIT FEES REFUNDED

Wants To

1100 ☆ +5+12

Plans Require Notes To Delete Floor Plans Per ALB, Waived

Plans

TAX # 03-22-035480

APPLICATION FOR PERMIT
BALTIMORE COUNTY MARYLAND
OFFICE OF THE BUILDING ENGINEER
TOWSON, MARYLAND 21204

DATE: 4-9-96

OEA: COPY LC

HISTORIC DISTRICT/BLDG. ☐ YES ☒ NO ☐ DO NOT KNOW

OK For 4-10-96

RMIT #: B266286
CEIPT #: A296300
NTROL #: C-
EF #:

E: 144.00' x 51.00' x 121.00'
ID: 160.00'
ID BY: ppl
SPECTOR:

HAVE CAREFULLY READ THIS APPLICATION O KNOW THE SAME IS CORRECT AND TRUE, O THAT IN DOING THIS WORK ALL PROVI- ONS OF THE BALTIMORE COUNTY CODE AND PROPRIATE STATE REGULATIONS WILL BE PLIED WITH WHETHER HEREIN SPECIFIED NOT AND WILL REQUEST ALL REQUIRED SPECTIONS.

BUILDING 1 or 2 FAM. CODE ____ BOCA CODE X

YPE OF IMPROVEMENT
.X NEW BLDG CONST
.____ ADDITION
.____ ALTERATION
.____ REPAIR
.____ WRECKING
.____ MOVING
.____ OTHER

PROPERTY ADDRESS 1525 Greensprng Valley Rd. Stevenson, MD. 21153
SUBDIV: N/A 03-22-035480
TAX ACCOUNT #: ~~Bath Co # 330-0480~~
OWNER'S INFORMATION (LAST,FIRST) DISTRICT/PRECINCT 03 13
NAME: Villa Julie College (Inc.
ADDR: 1525 Greenspring Valley Rd Stevenson, MD 21153

DOES THIS BLDG. HAVE SPRINKLERS YES ___ NO X

APPLICANT INFORMATION
NAME: Robert W. Clancy
COMPANY: Villa Julie College
STREET 1525 Greenspring Valley Rd.
CITY,ST,ZIP Stevenson, MD. 21153
PHONE #: (410)-486-7000 MHIC LICENSE #: N/A
APPLICANT SIGNATURE: Robert W Clancy TRACT: ____ BLOCK: ____
PLANS: CONST 3X PLOT 10 PLAT 0 DATA 10 EL ____ PL ____
TENANT Villa Julie College
CONTR: The Whiting-Turner Contracting Company
ENGNR: George, Miles and Buhr
SELLR:

DESCRIBE PROPOSED WORK:
Construction of a new, state approved, wastewater treatment facility on the property of Villa Julie College.
60' x 50 x 25'6" = 3,000 SF Refer to B266286
for extra Allowed Per Zoning Hearing!

YPE OF USE

RESIDENTIAL
1.___ ONE FAMILY
2.___ TWO FAMILY
3.___ THREE AND FOUR FAMILY
4.___ FIVE OR MORE FAMILY (ENTER NO UNITS)____
5.___ SWIMMING POOL
6.___ GARAGE
7.___ OTHER

NON-RESIDENTIAL
08.___ AMUSEMENT, RECREATION, PLACE OF ASSEMBLY
09.___ CHURCH, OTHER RELIGIOUS BUILDING
10.___ FENCE (LENGTH ____ HEIGHT ____)
11.___ INDUSTRIAL, STORAGE BUILDING
12.___ PARKING GARAGE
13.___ SERVICE STATION, REPAIR GARAGE
14.___ HOSPITAL, INSTITUTIONAL, NURSING HOME
15.___ OFFICE, BANK, PROFESSIONAL
16.___ PUBLIC UTILITY
17.___ SCHOOL, COLLEGE, OTHER EDUCATIONAL
18.___ SIGN
19.___ STORE ___ MERCANTILE ___ RESTAURANT
SPECIFY TYPE ____
20.___ SWIMMING POOL
SPECIFY TYPE ____
21.___ TANK, TOWER
22.___ TRANSIENT HOTEL, MOTEL (NO. UNITS ____)
23.X OTHER Wastewater Treatment Facility

Waive Data
Sheets Ctd
1 Issued

YPE FOUNDATION: 1.___ SLAB 2.___ BLOCK 3.X CONCRETE
BASEMENT: 1.___ FULL 2.___ PARTIAL 3.X NONE

TYPE OF CONSTRUCTION: 1.___ MASONRY 2.X WOOD FRAME 3.___ STRUCTURE STEEL 4.___ REINF. CONCRETE

TYPE OF HEATING FUEL: 1.___ GAS 2.___ OIL 3.X ELECTRICITY 4.___ COAL

TYPE OF SEWAGE DISPOSAL: 1.___ PUBLIC SEWER ___EXISTS ___PROPOSED 2.X PRIVATE SYSTEM ___ SEPTIC X EXISTS ___PROPOSED ___ PRIVY ___EXISTS ___PROPOSED

TYPE OF WATER SUPPLY: 1.___ PUBLIC SYSTEM ___EXISTS ___PROPOSED 2.X PRIVATE SYSTEM X EXISTS ___PROPOSED

CENTRAL AIR: 1.___ 2.___
ESTIMATED COST: $ 1,260,000 OF MATERIALS AND LABOR
PROPOSED USE: Wastewater Treatment Facility
EXISTING USE: School

OWNERSHIP 1.X PRIVATELY OWNED 2.___ PUBLICLY OWNED 3.___ SALE 4.___ RENTAL

RESIDENTIAL CATEGORY: 1.___ DETACHED 2.___ SEMI-DET. 3.___ GROUP 4.___ TOWNHSE 5.___ MIDRISE 6.___ HIRISE
#EFF: ____ #1BED: ____ #2BED: ____ #3BED: ____ TOT BED: ____ TOT APTS/CONDOS: ____
1 FAMILY BEDROOMS ____
GARBAGE DISPOSAL 1.___Y 2.___N BATHROOMS ____ CLASS 1
POWDER ROOMS ____ KITCHENS ____ LIBER ____ FOLIO ____

BUILDING SIZE
FLOOR 3,000 ft²
WIDTH 50 ft
DEPTH 60 ft
HEIGHT 25'-4"
STORIES 1
LOT #'S ____
CORNER LOT 1.___Y 2.___N

LOT SIZE AND SETBACKS
SIZE 60.276AC
FRONT STREET ____
SIDE STREET ____
FRONT SETBK ____
SIDE SETBK ____
SIDE STR SETBK ____
REAR SETBK 160'
ZONING ____

APPROVAL SIGNATURES — DATE

BLD INSP		
BLD PLAN	[illegible] E. Nevins	4/9
FIRE	[illegible] E. Nevins	4/9
SEDI CTL		
ZONING	[illegible]	4/10/96
PUB SERV		
ENVRMNT	4/9 NC. Ostafile - M. [illegible]	4/9
PERMITS		

MAKE CHECKS PAYABLE TO BALTIMORE COUNTY MARYLAND -- NO PERMIT FEES REFUNDED

THE VALLEYS
PLANNING COUNCIL, INC.

212 Washington Avenue
P.O. Box 5402
Towson, Maryland 21285-5402
410-337-6877
410-296-5409 (FAX)

December 29, 1997

Mr. Donald T. Rascoe
Development Manager
Department of Permits and Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204

Re: Villa Julie refinement of development plan for additional parking

Dear Mr. Rascoe,

The proposed "minor amendment " to the Villa Julie College development plan is of serious concern to us. We believe that this proposal is more than a minor amendment because it utilizes land not previously identified as future parking as part of the Special Exception case. Furthermore, it begins to encroach into the view corridor along Green Spring Valley Road. We find this unacceptable. I would urge you to recommend that this be refiled as an amendment to the Special Exception and have them file for a hearing before the Zoning Commissioner

Sincerely

Jack Dillon
Executive Director

Prot. No 14

Cc: Richard B. Buck
David Cordish


Depo. Exh # 8



Depo. Exh # 7

Depo. Exh# 9





Depo. Exh # 6

Petitioner's Ex. 10 A, B & C

98-394-SPH
98-475-SPH



09/14

ORDERS
OPINIONS
MEMORANDA

19920285 'A'

supplemental

(1)

8-30-93

IN THE CIRCUIT COURT *
FOR BALTIMORE COUNTY *

PETITION OF *

Valleys Planning Council, Homeowners of Greenspring, Greenspring Valley * Association, Velvet Valley Association, Falls Road Community Association and * Douglas A. Carroll, III, Mr. & Mrs. Henry G. Hagen, Mr. & Mrs. Lawrence P. * Naylor, III, Mr. & Mrs. Richard B. Buck, Mr. & Mrs. J. Stephen Immelt and Mr. & * Mrs. Thomas F. Obrecht as individuals, at 305 West Chesapeake Avenue, Suite 105* CIVIL Towson, MD 21204 ACTION
* No. 93-CV-07403
/59/285

FOR JUDICIAL REVIEW OF THE DECISION OF * THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY * Room 49, Courthouse, 400 Washington Towson, MD 21204 *

IN THE CASE OF: IN THE MATTER OF THE APPLICATION OF VILLA JULIE COLLEGE, * INC., FOR A SPECIAL HEARING, SPECIAL EXCEPTION AND VARIANCES ON PROPERTY * LOCATED ON THE S/s GREENSPRING VALLEY ROAD, 9' E OF NACIREMA LANE * (1521 GREENSPRING VALLEY ROAD) 8TH ELECTION DISTRICT * 3RD COUNCILMANIC DISTRICT *

Case No. 92-285-SPHXA

* * * * * * * * * * * * *

FOURTH CERTIFICATE OF NOTICE

Madam Clerk:

Pursuant to the provisions of Rule 7-202(e) of the Maryland Rules of Procedure, William T. Hackett and Harry E. Buchheister, Jr., constituting the County Board of Appeals of Baltimore County, have given notice by mail of the filing of the Petition for Judicial Review to the representative of every party to the proceeding before it; namely, J. Carroll Holzer, Esquire, HOLZER, MAHER, DEMILIO & LEE, 305 W. Chesapeake Avenue, Suite 105, Towson, MD 21204, Counsel for The Valleys Planning Council, et al, Petitioners; K. Donald Proctor, Esquire, MILES & STOCKBRIDGE, 600

FILED AUG 30 1993

Washington Avenue, Suite 300, Towson, MD 21204, Counsel for Barton S. & Elizabeth Mitchell, Clark Farm Associates, and Timothy M. & Mary Stewart Rodgers; Benjamin Bronstein, Esquire, and Michael Chomel, Esquire, EVANS, GEORGE AND BRONSTEIN, Susquehanna Building, Suite 205, 29 W. Susquehanna Avenue, Towson, MD 21204, Counsel for Villa Julie College, Inc.; and Michael J. Collins, Esquire, NEUBERGER, QUINN, GIELEN, RUBIN & GIBBER, P.A., 100 S. Charles Street, Tower II, Baltimore, MD 21201, Counsel for Northwest Land Corporation, a copy of which Notice is attached hereto and prayed that it may be made a part hereof.

Kathleen C. Weidenhammer
Administrative Assistant
County Board of Appeals of
Baltimore County, Room 49, Basement -
Old Courthouse, 400 Washington Avenue
Towson, MD 21204 (410-887-3180)

I **HEREBY CERTIFY** that a copy of the foregoing Certificate of Notice has been mailed to J. Carroll Holzer, Esquire, HOLZER, MAHER, DEMILIO & LEE, 305 W. Chesapeake Avenue, Suite 105, Towson, MD 21204, Counsel for The Valleys Planning Council, et al, Petitioners; K. Donald Proctor, Esquire, MILES & STOCKBRIDGE, 600 Washington Avenue, Suite 300, Towson, MD 21204, Counsel for Barton S. & Elizabeth Mitchell, Clark Farm Associates, and Timothy M. & Mary Stewart Rodgers; Benjamin Bronstein, Esquire, and Michael Chomel, Esquire, EVANS, GEORGE AND BRONSTEIN, Susquehanna Building, Suite 205, 29 W. Susquehanna Avenue, Towson, MD 21204, Counsel for Villa Julie College, Inc.; and Michael J. Collins, Esquire, NEUBERGER, QUINN, GIELEN, RUBIN & GIBBER, P.A., 100 S. Charles Street, Tower II, Baltimore, MD 21201, Counsel for Northwest Land Corporation on this 30th day of August, 1993.

Kathleen C. Weidenhammer
Administrative Assistant
County Board of Appeals of
Baltimore County, Room 49, Basement -
Old Courthouse, 400 Washington Avenue
Towson, MD 21204 (410) 887-3180

8-30-93

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

August 30, 1993

Benjamin Bronstein, Esquire
EVANS, GEORGE AND BRONSTEIN
Susquehanna Building, Suite 205
29 W. Susquehanna Avenue
Towson, MD 21204

RE: Civil Action No. 93-CV-07403
Villa Julie College, Inc. -Petitioner
(Case No. 92-285-SPHXA)

Dear Mr. Bronstein:

Notice is hereby given, in accordance with the Maryland Rules of Procedure, that a Petition for Judicial Review was filed on August 20, 1993 in the Circuit Court for Baltimore County from the decision of the County Board of Appeals rendered in the above matter, a copy of which was received by the Board from the Circuit Court on August 30, 1993. Any party wishing to oppose the petition must file a response within 30 days after the date of this letter, pursuant to Rule 7-202(d)(2)(B) of the Maryland Rules.

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

Very truly yours,

Kathleen C. Weidenhammer

Kathleen C. Weidenhammer
Administrative Assistant

Enclosure

cc: Michael J. Chomel, Esquire
Carolyn Manuszak
K. Donald Proctor, Esquire
Michael J. Collins, Esquire
P. David Fields
Lawrence E. Schmidt
Timothy M. Kotroco
W. Carl Richards
Docket Clerk /ZADM
Arnold Jablon, Director /ZADM

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8-30-93

County Board of Appeals of Baltimore County

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

August 30, 1993

J. Carroll Holzer, Esquire
HOLZER, MAHER, DEMILIO & LEE
305 W. Chesapeake Avenue, Suite 105
Towson, MD 21204

RE: Civil Action No. 93-CV-07403
Villa Julie College, Inc. -Petitioner
(Case No. 92-285-SPHXA)

Dear Mr. Holzer:

The Board has received this date a copy of your Petition for Judicial Review filed in the Circuit Court for Baltimore County on August 20, 1993. In accordance with Rule 7-206(c) of the Maryland Rules of Procedure, the County Board of Appeals is required to submit the record of proceedings in the above-entitled matter to the Circuit Court for Baltimore County.

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 in accordance with Rule 7-206(c).

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

Very truly yours,

Kathleen C. Weidenhammer
Administrative Assistant

Enclosure

cc: Valleys Planning Council, et al

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8-27-93

IN THE CIRCUIT COURT *
FOR BALTIMORE COUNTY

PETITION OF NORTHWEST LAND CORPORATION *
1 Pomona North
Pikesville, MD 21208

FOR JUDICIAL REVIEW OF THE DECISION OF *
THE COUNTY BOARD OF APPEALS OF
BALTIMORE COUNTY *
Room 49, Courthouse, 400 Washington Ave. CIVIL ACTION NO.
Towson, MD 21204 * 93-CV-07403/59/285

IN THE CASE OF: IN THE MATTER OF *
THE APPLICATION OF VILLA JULIE COLLEGE,
INC., FOR A SPECIAL HEARING, SPECIAL
EXCEPTION AND VARIANCES ON PROPERTY *
LOCATED ON THE S/s GREENSPRING VALLEY
ROAD, 9' E OF NACIREMA LANE *
(1521 GREENSPRING VALLEY ROAD)
8TH ELECTION DISTRICT *
3RD COUNCILMANIC DISTRICT

Case No. 92-285-SPHXA
* * * * * * * * * * * *

RECEIVED AND FILED
93 AUG 27 PM 1:37
CLERK OF THE CIRCUIT COURT
BALTIMORE COUNTY

THIRD CERTIFICATE OF NOTICE

Madam Clerk:

Pursuant to the provisions of Rule 7-202(e) of the Maryland Rules of Procedure, William T. Hackett and Harry E. Buchheister, Jr., constituting the County Board of Appeals of Baltimore County, have given notice by mail of the filing of the Petition for Judicial Review to the representative of every party to the proceeding before it; namely, Michael J. Collins, Esquire, NEUBERGER, QUINN, GIELEN, RUBIN & GIBBER, P.A., 100 S. Charles Street, Tower II, Baltimore, MD 21201, Counsel for Northwest Land Corporation, Petitioner; K. Donald Proctor, Esquire, MILES & STOCKBRIDGE, 600 Washington Avenue, Suite 300, Towson, MD 21204, Counsel for Barton S. & Elizabeth Mitchell, Clark Farm Associates, and Timothy M. & Mary Stewart Rodgers; Benjamin Bronstein, Esquire, and Michael Chomel, Esquire, EVANS, GEORGE AND BRONSTEIN,

Susquehanna Building, Suite 205, 29 W. Susquehanna Avenue, Towson, MD 21204, Counsel for Villa Julie College, Inc.; and J. Carroll Holzer, Esquire, HOLZER, MAHER, DEMILIO & LEE, 305 W. Chesapeake Avenue, Suite 105, Towson, MD 21204, Counsel for The Valleys Planning Council, et al, a copy of which Notice is attached hereto and prayed that it may be made a part hereof.

Kathleen C. Weidenhammer

Kathleen C. Weidenhammer
Administrative Assistant
County Board of Appeals of
Baltimore County, Room 49, Basement -
Old Courthouse, 400 Washington Avenue
Towson, MD 21204 (410-887-3180)

I HEREBY CERTIFY that a copy of the aforegoing Certificate of Notice has been mailed to Michael J. Collins, Esquire, NEUBERGER, QUINN, GIELEN, RUBIN & GIBBER, P.A., 100 S. Charles Street, Tower II, Baltimore, MD 21201, Counsel for Northwest Land Corporation, Petitioner; K. Donald Proctor, Esquire, MILES & STOCKBRIDGE, 600 Washington Avenue, Suite 300, Towson, MD 21204, Counsel for Barton S. & Elizabeth Mitchell, Clark Farm Associates, and Timothy M. & Mary Stewart Rodgers; Benjamin Bronstein, Esquire, and Michael Chomel, Esquire, EVANS, GEORGE AND BRONSTEIN, Susquehanna Building, Suite 205, 29 W. Susquehanna Avenue, Towson, MD 21204, Counsel for Villa Julie College, Inc.; and J. Carroll Holzer, Esquire, HOLZER, MAHER, DEMILIO & LEE, 305 W. Chesapeake Avenue, Suite 105, Towson, MD 21204, Counsel for The Valleys Planning Council, et al on this 27th day of August, 1993.

Kathleen C. Weidenhammer

Kathleen C. Weidenhammer
Administrative Assistant
County Board of Appeals of
Baltimore County, Room 49, Basement -
Old Courthouse, 400 Washington Avenue
Towson, MD 21204 (410) 887-3180

8-27-93

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

August 27, 1993

Benjamin Bronstein, Esquire
EVANS, GEORGE AND BRONSTEIN
Susquehanna Building, Suite 205
29 W. Susquehanna Avenue
Towson, MD 21204

RE: Civil Action No. 93-CV-07403
Villa Julie College, Inc. -Petitioner
(Case No. 92-285-SPHXA)

Dear Mr. Bronstein:

Notice is hereby given, in accordance with the Maryland Rules of Procedure, that a Petition for Judicial Review was filed on August 24, 1993 in the Circuit Court for Baltimore County from the decision of the County Board of Appeals rendered in the above matter. Any party wishing to oppose the petition must file a response within 30 days after the date of this letter, pursuant to Rule 7-202(d)(2)(B) of the Maryland Rules.

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

Very truly yours,

Kathleen C. Weidenhammer

Kathleen C. Weidenhammer
Administrative Assistant

Enclosure

cc: Michael J. Chomel, Esquire
Carolyn Manuszak
K. Donald Proctor, Esquire
J. Carroll Holzer, Esquire
P. David Fields
Lawrence E. Schmidt
Timothy M. Kotroco
W. Carl Richards
Docket Clerk /ZADM
Arnold Jablon, Director /ZADM

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8-27-93

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

August 27, 1993

Michael J. Collins, Esquire
NEUBERGER, QUINN, GIELEN
RUBIN & GIBBER, P.A.
27th Floor, Commerce Place
One South Street
Baltimore, MD 21202

RE: Civil Action No. 93-CV-07403
Villa Julie College, Inc. -Petitioner
(Case No. 92-285-SPHXA)

Dear Mr. Collins:

In accordance with Rule 7-206(c) of the Maryland Rules of Procedure, the County Board of Appeals is required to submit the record of proceedings in the above-entitled matter to the Circuit Court for Baltimore County.

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 in accordance with Rule 7-206(c).

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

Very truly yours,

Kathleen C. Weidenhammer

Kathleen C. Weidenhammer
Administrative Assistant

Enclosure

cc: Northwest Land Corporation

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8-24-93

IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY

PETITION OF

BARTON S. & ELIZABETH MITCHELL
1701 Greenspring Valley Road
Stevenson, MD 21153

and

CLARK FARM ASSOCIATES
1704 Hillside Road
Stevenson, MD 21153

and

TIMOTHY M. & MARY STEWART RODGERS
1425 Greenspring Valley Road
Stevenson, MD 21153

FOR JUDICIAL REVIEW OF THE DECISION OF
THE COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY
Room 49, Courthouse, 400 Washington
Towson, MD 21204

IN THE CASE OF: IN THE MATTER OF
THE APPLICATION OF VILLA JULIE COLLEGE,
INC., FOR A SPECIAL HEARING, SPECIAL
EXCEPTION AND VARIANCES ON PROPERTY
LOCATED ON THE S/s GREENSPRING VALLEY
ROAD, 9' E OF NACIREMA LANE
(1521 GREENSPRING VALLEY ROAD)
8TH ELECTION DISTRICT
3RD COUNCILMANIC DISTRICT

Case No. 92-285-SPHXA

CIVIL
ACTION
No. 93-CV-07403
/59/285

RECEIVED AND FILED
93 AUG 24 PM 3:12
CLERK OF THE CIRCUIT COURT
BALTIMORE COUNTY

SECOND CERTIFICATE OF NOTICE /Cross Appeal

Madam Clerk:

Pursuant to the provisions of Rule 7-202(e) of the Maryland Rules of Procedure, William T. Hackett and Harry E. Buchheister, Jr., constituting the County Board of Appeals of Baltimore County, have given notice by mail of the filing of the Petition for Judicial Review to the representative of every party to the

proceeding before it; namely, K. Donald Proctor, Esquire, MILES & STOCKBRIDGE, 600 Washington Avenue, Suite 300, Towson, MD 21204, Counsel for Barton S. & Elizabeth Mitchell, Clark Farm Associates, and Timothy M. & Mary Stewart Rodgers, Petitioners; Benjamin Bronstein, Esquire, and Michael Chomel, Esquire, EVANS, GEORGE AND BRONSTEIN, Susquehanna Building, Suite 205, 29 W. Susquehanna Avenue, Towson, MD 21204, Counsel for Villa Julie College, Inc.; J. Carroll Holzer, Esquire, HOLZER, MAHER, DEMILIO & LEE, 305 W. Chesapeake Avenue, Suite 105, Towson, MD 21204, Counsel for The Valleys Planning Council, et al; and Michael J. Collins, Esquire, NEUBERGER, QUINN, GIELEN, RUBIN & GIBBER, P.A., 100 S. Charles Street, Tower II, Baltimore, MD 21201, Counsel for Northwest Land Corporation, a copy of which Notice is attached hereto and prayed that it may be made a part hereof.

Kathleen C. Weidenhammer

Kathleen C. Weidenhammer
Administrative Assistant
County Board of Appeals of
Baltimore County, Room 49, Basement -
Old Courthouse, 400 Washington Avenue
Towson, MD 21204 (410-887-3180)

I HEREBY CERTIFY that a copy of the aforegoing Certificate of Notice has been mailed to K. Donald Proctor, Esquire, MILES & STOCKBRIDGE, 600 Washington Avenue, Suite 300, Towson, MD 21204, Counsel for Barton S. & Elizabeth Mitchell, Clark Farm Associates, and Timothy M. & Mary Stewart Rodgers, Petitioners; Benjamin Bronstein, Esquire, and Michael Chomel, Esquire, EVANS, GEORGE AND BRONSTEIN, Susquehanna Building, Suite 205, 29 W. Susquehanna

Avenue, Towson, MD 21204, Counsel for Villa Julie College, Inc.; J. Carroll Holzer, Esquire, HOLZER, MAHER, DEMILIO & LEE, 305 W. Chesapeake Avenue, Suite 105, Towson, MD 21204, Counsel for The Valleys Planning Council, et al; and Michael J. Collins, Esquire, NEUBERGER, QUINN, GIELEN, RUBIN & GIBBER, P.A., 100 S. Charles Street, Tower II, Baltimore, MD 21201, Counsel for Northwest Land Corporation on this 24th day of August, 1993.

Kathleen C. Weidenhammer
Administrative Assistant
County Board of Appeals of
Baltimore County, Room 49, Basement -
Old Courthouse, 400 Washington Avenue
Towson, MD 21204 (410) 887-3180

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

August 24, 1993

Benjamin Bronstein, Esquire
EVANS, GEORGE AND BRONSTEIN
Susquehanna Building, Suite 205
29 W. Susquehanna Avenue
Towson, MD 21204

RE: Civil Action No. 93-CV-07403
Villa Julie College, Inc. -Petitioner
(Case No. 92-285-SPHXA)

Dear Mr. Bronstein:

Notice is hereby given, in accordance with the Maryland Rules of Procedure, that a Petition for Judicial Review was filed on August 20, 1993 in the Circuit Court for Baltimore County from the decision of the County Board of Appeals rendered in the above matter. Any party wishing to oppose the petition must file a response within 30 days after the date of this letter, pursuant to Rule 7-202(d)(2)(B) of the Maryland Rules.

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

Very truly yours,

Kathleen C. Weidenhammer
Administrative Assistant

Enclosure

cc: Michael J. Chomel, Esquire
Michael J. Collins, Esquire
J. Carroll Holzer, Esquire
P. David Fields
Lawrence E. Schmidt
Timothy M. Kotroco
W. Carl Richards
Docket Clerk /ZADM
Arnold Jablon, Director /ZADM

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County Board of Appeals of Baltimore County

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

August 24, 1993

K. Donald Proctor, Esquire
MILES & STOCKBRIDGE
600 Washington Avenue, Suite 300
Towson, MD 21204

RE: Civil Action No. 93-CV-07403
Villa Julie College, Inc. -Petitioner
(Case No. 92-285-SPHXA)

Dear Mr. Proctor:

In accordance with Rule 7-206(c) of the Maryland Rules of Procedure, the County Board of Appeals is required to submit the record of proceedings in the above-entitled matter to the Circuit Court for Baltimore County.

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 in accordance with Rule 7-206(c).

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

Very truly yours,

Kathleen C. Weidenhammer
Administrative Assistant

Enclosure

cc: Barton S. & Elizabeth Mitchell
Clark Farm Associates
Timothy M. & Mary Stewart Rodgers

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8-23-93

RECEIVED
COUNTY BOARD OF APPEALS
93 AUG 27 AM 11:21

PETITION OF:	*	IN THE
NORTHWEST LAND CORPORATION 1 Pomona North Pikesville, Maryland 21208	*	CIRCUIT COURT
FOR JUDICIAL REVIEW OF: THE DECISION OF THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY Old Courthouse 49 400 Washington Avenue Towson, Maryland 21204	*	OF MARYLAND
	*	FOR
IN THE CASE OF THE APPLICATION OF VILLA JULIE COLLEGE, INC. FOR A SPECIAL HEARING, SPECIAL EXCEPTION AND VARIANCES ON PROPERTY LOCATED ON THE SOUTH SIDE, GREENSPRING VALLEY ROAD, NINE FEET EAST OF NACIREMA LANE (1521 GREENSPRING VALLEY ROAD)	*	BALTIMORE COUNTY
	*	Case No. 92285-SPHXA
8TH ELECTION DISTRICT 3RD COUNCIL MAN. DISTRICT	*	

* * * * *

PETITION FOR JUDICIAL REVIEW

Petitioner, Northwest Land Corporation, by its undersigned counsel, requests judicial review of the opinion and order of the County Board of Appeals of Baltimore County, dated July 23, 1993, in the case of Villa Julie College, Inc., Case No. 92-285-SPHXA. This Petitioner was a party to the proceeding before the County Board of Appeals for Baltimore County.

Michael J. Collins, Esquire
Neuberger, Quinn, Gielen, Rubin
& Gibber, P.A.
27th Floor, Commerce Place
One South Street
Baltimore, Maryland 21202

Attorneys for Northwest Land
Corporation

RECEIVED AND FILED
93 AUG 24 AM 9:26
CLERK OF THE CIRCUIT COURT
BALTIMORE COUNTY

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 23rd day of August, 1993, a copy of the foregoing Petition for Judicial Review was mailed, first-class, postage prepaid to:

Benjamin Bronstein, Esquire
Evans, George and Bronstein
Susquehanna Bldg., Ste. 205
29 W. Susquehanna Ave.
Towson, Maryland 21204

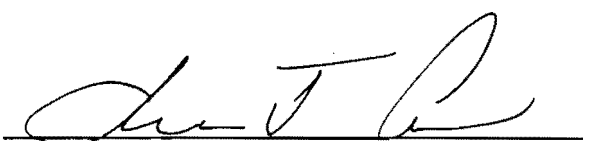
K. Donald Proctor, Esquire
Miles & Stockbridge
600 Washington Avenue
Towson, Maryland 21204

J. Carroll Holzer, Esquire
Holzer, Kaher, DeMilio & Lee
305 W. Chesapeake Ave., Ste. 105
Towson, Maryland 21204

J. Joseph Curran, Jr.
Jack Schwartz
Mary O'Malley Lunden
Office of the Attorney General
200 Saint Paul Place
Baltimore, Maryland 21202

Mary R. Craig
James J. Doyle, III
Doyle & Craig, P.A.
25 S. Charles Street, #1910
Baltimore, Maryland 21201

H. Emslie Parks
Michael J. Moran
Nancy C. West
400 Washington Avenue
Towson, Maryland 21204



Michael J. Collins

8-23-93

IN THE CIRCUIT COURT *
FOR BALTIMORE COUNTY
*
PETITION OF VILLA JULIE COLLEGE, INC.
1525 Greenspring Valley Road *
Stevenson, MD 21153
*
FOR JUDICIAL REVIEW OF THE DECISION OF
THE COUNTY BOARD OF APPEALS * CIVIL
OF BALTIMORE COUNTY ACTION
Room 49, Courthouse, 400 Washington * No. 93-CV-07403
Towson, MD 21204 /59/285
*
IN THE CASE OF: IN THE MATTER OF
THE APPLICATION OF VILLA JULIE COLLEGE, *
INC., FOR A SPECIAL HEARING, SPECIAL
EXCEPTION AND VARIANCES ON PROPERTY *
LOCATED ON THE S/s GREENSPRING VALLEY
ROAD, 9' E OF NACIREMA LANE *
(1521 GREENSPRING VALLEY ROAD)
8TH ELECTION DISTRICT *
3RD COUNCILMANIC DISTRICT
*
Case No. 92-285-SPHXA
* * * * * * * * * * * * *

CERTIFICATE OF NOTICE

Madam Clerk:

Pursuant to the provisions of Rule 7-202(e) of the Maryland Rules of Procedure, William T. Hackett and Harry E. Buchheister, Jr., constituting the County Board of Appeals of Baltimore County, have given notice by mail of the filing of the Petition for Judicial Review to the representative of every party to the proceeding before it; namely, Benjamin Bronstein, Esquire, and Michael Chomel, Esquire, EVANS, GEORGE AND BRONSTEIN, Susquehanna Building, Suite 205, 29 W. Susquehanna Avenue, Towson, MD 21204, Counsel for Villa Julie College, Inc., Petitioner; K. Donald Proctor, Esquire, MILES & STOCKBRIDGE, 600 Washington Avenue, Suite 300, Towson, MD 21204, Counsel for Barton S. and Elizabeth Mitchell, et al,; J. Carroll Holzer, Esquire, HOLZER, MAHER,

FILED AUG 23 1993

DEMILIO & LEE, 305 W. Chesapeake Avenue, Suite 105, Towson, MD 21204, Counsel for The Valleys Planning Council, et al; and Michael J. Collins, Esquire, NEUBERGER, QUINN, GIELEN, RUBIN & GIBBER, P.A., 100 S. Charles Street, Tower II, Baltimore, MD 21201, Counsel for Northwest Land Corporation, a copy of which Notice is attached hereto and prayed that it may be made a part hereof.

Kathleen C. Weidenhammer
Administrative Assistant
County Board of Appeals of
Baltimore County, Room 49, Basement -
Old Courthouse, 400 Washington Avenue
Towson, MD 21204 (410-887-3180)

I **HEREBY CERTIFY** that a copy of the aforegoing Certificate of Notice has been mailed to Benjamin Bronstein, Esquire, and Michael Chomel, Esquire, EVANS, GEORGE AND BRONSTEIN, Susquehanna Building, Suite 205, 29 W. Susquehanna Avenue, Towson, MD 21204, Counsel for Villa Julie College, Inc., Petitioner; K. Donald Proctor, Esquire, MILES & STOCKBRIDGE, 600 Washington Avenue, Suite 300, Towson, MD 21204, Counsel for Barton S. and Elizabeth Mitchell, et al,; J. Carroll Holzer, Esquire, HOLZER, MAHER, DEMILIO & LEE, 305 W. Chesapeake Avenue, Suite 105, Towson, MD 21204, Counsel for The Valleys Planning Council, et al; and Michael J. Collins, Esquire, NEUBERGER, QUINN, GIELEN, RUBIN & GIBBER, P.A., 100 S. Charles Street, Tower II, Baltimore, MD 21201, Counsel for Northwest Land Corporation on this 23rd day of August, 1993.

Kathleen C. Weidenhammer
Administrative Assistant
County Board of Appeals of
Baltimore County, Room 49, Basement -
Old Courthouse, 400 Washington Avenue
Towson, MD 21204 (410) 887-3180

County Board of Appeals of Baltimore County

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

August 23, 1993

J. Carroll Holzer, Esquire
HOLZER, MAHER, DEMILIO & LEE
305 W. Chesapeake Avenue, Suite 105
Towson, MD 21204

RE: Civil Action No. 93-CV-07403
Villa Julie College, Inc. -Petitioner
(Case No. 92-285-SPHXA)

Dear Mr. Holzer:

Notice is hereby given, in accordance with the Maryland Rules of Procedure, that a Petition for Judicial Review was filed on August 17, 1993 in the Circuit Court for Baltimore County from the decision of the County Board of Appeals rendered in the above matter. Any party wishing to oppose the petition must file a response within 30 days after the date of this letter, pursuant to Rule 7-202(d)(2)(B) of the Maryland Rules.

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

Very truly yours,

Kathleen C. Weidenhammer

Kathleen C. Weidenhammer
Administrative Assistant

Enclosure

cc: K. Donald Proctor, Esquire
Michael J. Collins, Esquire
P. David Fields
Lawrence E. Schmidt
Timothy M. Kotroco
W. Carl Richards
Docket Clerk /ZADM
Arnold Jablon, Director /ZADM

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County Board of Appeals of Baltimore County

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

August 23, 1993

Benjamin Bronstein, Esquire
EVANS, GEORGE AND BRONSTEIN
Susquehanna Building, Suite 205
29 W. Susquehanna Avenue
Towson, MD 21204

RE: Civil Action No. 93-CV-07403
Villa Julie College, Inc. -Petitioner
(Case No. 92-285-SPHXA)

Dear Mr. Bronstein:

In accordance with Rule 7-206(c) of the Maryland Rules of Procedure, the County Board of Appeals is required to submit the record of proceedings of the petition for judicial review which you have taken to the Circuit Court for Baltimore County in the above-entitled matter within sixty 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 within sixty days, in accordance with Rule 7-206(c).

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

Very truly yours,

Kathleen C. Weidenhammer

Kathleen C. Weidenhammer
Administrative Assistant

Enclosure

cc: Michael Chomel, Esquire
Carolyn Manuszak
Villa Julie College, Inc.

Printed with Soybean Ink on Recycled Paper

8-20-93

CROSS APPEAL

RECEIVED
COUNTY BOARD OF APPEALS

93 AUG 24 AM 11:51

PETITION OF	*	IN THE
BARTON S. & ELIZABETH MITCHELL 1701 Greenspring Valley Road Stevenson, Maryland 21153	*	CIRCUIT COURT
and	*	
CLARK FARM ASSOCIATES 1704 Hillside Road Stevenson, Maryland 21153	*	FOR
and	*	BALTIMORE COUNTY
TIMOTHY M. & MARY STEWART RODGERS 1425 Greenspring Valley Road Stevenson, Maryland 21153	*	Civil Action No. 59/285/93CV 7403
FOR JUDICIAL REVIEW OF THE DECISION OF THE	*	
COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY Old Courthouse, Room 49 400 Washington Avenue Towson, Maryland 21204	*	
IN THE CASE OF	*	
THE APPLICATION OF VILLA JULIE COLLEGE, INC. FOR A SPECIAL HEARING, SPECIAL EXCEPTION AND VARIANCES ON PROPERTY LOCATED ON THE SOUTH SIDE GREENSPRING VALLEY ROAD, 9' EAST OF NACIREMA LANE (1521 GREENSPRING VALLEY RD) 8TH ELECTION DISTRICT 3RD COUNCILMANIC DISTRICT	*	
Case No. 92-285-SPHXA	*	

* *

FILED AUG 20 1993

PETITION FOR JUDICIAL REVIEW

Barton S. and Elizabeth Mitchell, Clark Farm Associates, and Timothy M. and Mary Stewart Rodgers, Petitioners, request judicial review of the Opinion and Order of the County Board of Appeals of Baltimore County dated July 23, 1993 in the case of Villa Julie College, Inc., Case No. 92-285-SPHXA. Each of these Petitioners was a party to the proceeding before the County Board of Appeals for Baltimore County.

K. Donald Proctor
MILES & STOCKBRIDGE
Suite 300
600 Washington Avenue
Towson, Maryland 21204
(410)823-8110

Attorney for Petitioners,
Barton S. and Elizabeth
Mitchell, Clark Farm
Associates, and Timothy M.
and Mary Stewart Rodgers

dn/VJC:C271000.PET

8/20/93

RECEIVED
COUNTY BOARD OF APPEALS

93 AUG 24 AM 11:52

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY	:	CIVIL
PETITION OF:	:	
Valleys Planning Council, Homeowners of Greenspring, Greenspring Valley Association, Velvet Valley Association, Falls Road Community Association and Douglas A. Carroll, III, Mr. & Mrs. Henry G. Hagen, Mr. & Mrs. Lawrence P. Naylor, III, Mr. & Mrs. Richard B. Buck, Mr. & Mrs. J. Stephen Immelt and Mr. & Mrs. Thomas F. Obrecht as individuals, at 305 West Chesapeake Avenue, Suite 105, Towson, Maryland 21204.	:	ACTION CASE NO.: 59/285/93CV 7403
FOR JUDICIAL REVIEW OF THE DECISION OF THE BALTIMORE COUNTY BOARD OF APPEALS 400 Washington Avenue, Room 49 Old Court House Towson, Maryland 21204.	:	
IN THE CASE OF: IN THE MATTER OF THE APPLICATION OF VILLA JULIE COLLEGE, INC. FOR A SPECIAL HEARING, SPECIAL EXCEPTION AND VARIANCES ON PROPERTY LOCATED ON THE SOUTH SIDE OF GREENSPRING VALLEY ROAD, 3RD COUNCILMANIC DISTRICT Case No.: 92285-SPHXA	:	

PETITION FOR JUDICIAL REVIEW

Valleys Planning Council, et al., by and through their Attorney, J. Carroll Holzer, hereby request judicial review by the Circuit Court for Baltimore County pursuant to Rule 7-202, from the opinion and Order of the County Board of Appeals dated

LAW OFFICES
HOLZER, MAHER, DEMILIO
& LEE
305 W. CHESAPEAKE AVENUE
SUITE 105
TOWSON, MARYLAND
21204

(410) 825-6960
FAX: (410) 825-6964

July 23, 1993. All petitioners listed in the case caption were parties before the County Board of Appeals.

J. Carroll Holzer, Esquire
Holzer, Maher, Demilio & Lee
Suite 105
305 West Chesapeake Avenue
Towson, Maryland 21204
410-825-6961
Attorney for Petitioners

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 20th day of August, 1993, a copy of the foregoing Petition for Judicial Review was served, in accordance with Maryland Rule 7-202, upon the County Board of Appeals prior to filing of said with the Circuit Court. On this same day, a copy of the foregoing Petition was mailed postage pre-paid to: Benjamin Bronstein, Esquire, Evans, George & Bronstein, 29 W. Susquehanna Avenue #205, Towson, Maryland 21204; K. Donald Proctor, Esquire, Miles & Stockbridge, 600 Washington Avenue, Towson, Maryland 21204; Michael Collins, Esquire, Neuberger, Quinn, Gielen & Rubin, P.A., Commerce Place, 27th Floor, One South Street, Baltimore, Maryland 21202-3201; and the Board of Appeals, 400 Washington Avenue, Basement, Old Court House, Towson, Maryland 21204.

J. Carroll

Pet-2/Judrev.JCH

8/27/93 Conversation w/Sterling Leese re Carroll's Petition for Judicial Review which Sterling hand-delivered to CCT on 8/20/93 --

we have not yet received a stamped copy from the CCt --although a copy of Michael Collins' Petition filed on 8/24/93 has been forwarded to the Board.

Sterling will stop in CCt -- will advise as to status and location of our copy.

Received by the Board 8/30/93

8-17-93

MJC/mlg/08.12.93

RECEIVED
COUNTY BOARD OF APPEALS

93 AUG 20 AM 11:28

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY *
PETITION OF VILLA JULIE COLLEGE, INC.
GREEN SPRING VALLEY ROAD *
STEVENSON, MARYLAND 21153
*
FOR JUDICIAL REVIEW OF THE DECISION OF THE
COUNTY BOARD OF APPEALS FOR BALTIMORE COUNTY * CIVIL
COURTHOUSE
400 WASHINGTON AVENUE * ACTION
TOWSON, MARYLAND 21204
* NO.:
IN THE CASE OF: IN THE MATTER OF THE
APPLICATION OF VILLA JULIE COLLEGE, INC. * 59/285/93CV7403
FOR A SPECIAL HEARING, SPECIAL EXCEPTION
AND VARIANCES ON THE PROPERTY LOCATED ON *
THE SOUTH SIDE GREENSPRING VALLEY ROAD,
9' EAST OF NACIREMA LANE *
(1521 GREENSPRING VALLEY ROAD)
8TH ELECTION DISTRICT *
3RD COUNCILMANIC DISTRICT
*
IN THE BALTIMORE COUNTY
BOARD OF APPEALS *
CASE NO. 92-285-SPXHA
* * * * * * * * * * * * * *

PETITION FOR JUDICIAL REVIEW

Villa Julie College, Inc., Petitioner, pursuant to Maryland Rule 7-202, requests judicial review of the Opinion and Order of the County Board of Appeals of Baltimore County dated July 23, 1993 in the above captioned matter. Petitioner, Villa Julie College, Inc. was a party to the agency proceeding.

EVANS, GEORGE AND BRONSTEIN

Received
Circuit Court for Baltimore County
8/17/93
(Per Gloria Butta)

Benjamin Bronstein
205 Susquehanna Building
29 West Susquehanna Avenue
Towson, Maryland 21204
(410) 296-0200

6/23/93

IN THE MATTER OF:	*	BEFORE THE
VILLA JULIE COLLEGE, INC.	*	COUNTY BOARD OF APPEALS
Petition for special hearing, special exception and zoning variance	*	OF BALTIMORE COUNTY
	*	Case No. 92-285 SPHXA
8th Election District 3rd Congressional District	*	
	*	

* * * * *

RECEIVED
COUNTY BOARD OF APPEALS
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LINE

CHANGE OF ADDRESS

Clerk:

Please note that there has been a change of address for counsel for Northwest Land Corporation.

Neuberger, Quinn, Gielen, Rubin
& Gibber, P.A.
27th Floor, Commerce Place
One South Street
Baltimore, Maryland 21202

Michael J. Collins

Michael J. Collins
Neuberger, Quinn, Gielen, Rubin
& Gibber, P.A.
27th Floor, Commerce Place
One South Street
Baltimore, Maryland 21202

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 23rd day of June, 1993, a copy of the foregoing Change of Address was mailed first-class, postage prepaid to Benjamin Bronstein, Esquire, Evans, George and Bronstein, Susquehanna Bldg., Suite 205, 29 W. Susquehanna Avenue, Towson, Maryland 21204; K. Donald Proctor, Esquire, Miles & Stockbridge, 600 Washington Avenue, Towson, Maryland 21204; and J.

file notes

Carroll Holzer, Esquire, Holzer, Kaher, DeMilio & Lee, 305 W. Chesapeake Avenue, Suite 105, Towson, Maryland 21204.

Michael J. Collins

Michael J. Collins

4-19-93

MJC/mlh/04.19.93

IN THE MATTER OF:	*	BEFORE THE BOARD OF APPEALS
THE VILLA JULIE COLLEGE, INC.	*	FOR BALTIMORE COUNTY
	*	CASE NO.: 92-285-SPHXA

* * * * * * * * * * * * * *

MEMORANDUM OF PETITIONER, VILLA JULIE COLLEGE, INC.

Villa Julie College, Inc., Petitioner, by Benjamin Bronstein, Michael J. Chomel and Evans, George and Bronstein, its attorneys, files this Memorandum in Support of the Petition for Special Hearing, Petition for Special Exception and Petition for Variances filed in this case.

I

Statement of the Case

This is an appeal from the decision of the Zoning Commissioner for Baltimore County, Maryland dated July 10, 1992, in which Commissioner Schmidt granted the Petition for Special Exception to approve the use of the property in question for a private college, in accordance with the site plan filed therewith, with certain restrictions, and granted the Petition for Special Hearing to approve a modified parking plan and a residential caretaker dwelling as an accessory use to the College, and granted the Petition for Zoning Variances to permit variances from sections 102.2, 1A01.3.B.3, 413.1.b. and 409.3 of the Baltimore County Zoning Regulations ("B.C.Z.R.") on property zoned R.C.2 (agricultural).

Both a number of Protestants and the College appealed the decision of the Zoning Commissioner. A de novo hearing was held

before the Board of Appeals for Baltimore County ("Board") consisting of seven (7) days of testimony. A number of witnesses, both expert and lay, appeared and testified. Additionally, a number of proffers of testimony were made on behalf of the Protestants. At the conclusion of the hearing, the Board requested written memoranda to be submitted by all parties.

II

Legal Standards

Under the B.C.Z.R., private schools are permitted by special exception in R.C.2 zones. B.C.Z.R., Section 1A01.2.C.6. Before a special exception may be granted by either the Board or the Zoning Commissioner it is required under Section 502.1 of the B.C.Z.R. that the requested special exception use will not:

a. be detrimental to the health, safety or general welfare of the locality involved;

b. tend to create congestion in roads, streets or alleys therein;

c. create a potential hazard from fire, panic or other dangers;

d. tend to overcrowd land and cause undue concentration of population;

e. interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences, or improvements;

f. interfere with adequate light and air;

g. be inconsistent with the purposes of the property's zoning classification nor in any other way inconsistent with the spirit and intent of the B.C.Z.R.; nor

h. be inconsistent with the impermeable surface and vegetative retention provisions of the B.C.Z.R.

In addition to the requirements of Section 502.1, the Board

must be satisfied that the proposed special exception use (private college) 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. B.C.Z.R., Section 1A01.2.C.

In Schultz v Pritts, 291 Md. 1, 432 A.2d 1319 (1981), the Court of Appeals set forth in detail the 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 welfare, and therefore, valid." 432 A.2d at 1325. The Court emphasized that the Baltimore County Council in its legislative capacity specifically pre-determined that the special exception uses permitted under the B.C.Z.R. are allowed in specified zones despite the fact that such uses may produce adverse effects. Id at 1330.

The Court laid down the principle that a proposed use requested by special exception may only be denied when the 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 that use irrespective of its location within the zone in question. Id at 1327, 1330. In order to deny a requested special exception, there must be a showing of "strong and substantial evidence" that the use in question at the proposed location would have adverse effects above and beyond those inherent

ones ordinarily associated with such use in that particular zone. Id.

III

Statement of Facts

Villa Julie College is located in the Greenspring Valley area of Baltimore County on a 60 acre parcel of land, zoned R.C.2. Located on the valley floor in an agricultural preservation area, Villa Julie has extensive frontage on Greenspring Valley Road, which serves as its sole access. In addition to Villa Julie, other institutions (including St. Pauls School, Maryvale, Sisters of Notre Dame De Namur, Mensana, Koinonia, and the Greenspring Valley Country Club) are located on the valley floor and within the agricultural preservation area. The remaining land in the area of the College consists primarily of baronial estate homes. Testimony was that the owners of these estates are not engaged in agriculture themselves but rent out some of their property to a contract farmer while enjoying resulting tax credits and a beneficial tax assessment.

Greenspring Valley Road is designated as a rural collector on the Federal Highway Functional Classification Map. The College is also served by public transportation.

Prior to the advent of Rural Conservation zoning, the College existed as a use of right in the R.D.P. zone. In 1976 (without notice to the College) Villa Julie was rezoned R.C.2. A private college is permitted in this zone as a special exception.

Villa Julie began in 1947 as an adjunct of the Sisters of

Notre Dame De Namur. In 1967, the College was separated from the Sisters and became a private, non-profit educational institution guided by a Board of Trustees comprised of distinguished business, civic and professional leaders from the Baltimore metropolitan area.

Villa Julie is a four year college and has been awarded accreditation by the Middle States Association of Colleges and Schools. The College has instituted innovative programs offering students a choice of professional career possibilities in such diverse areas as nursing, computer programs, paralegal studies, medical laboratory technician, and court reporting.

The College is engaged in a number of programs with local institutions and businesses, including a nursing program which is a joint venture with Union Memorial Hospital, a medical laboratory technician program which is a joint venture with Johns Hopkins Hospital, and other co-op programs where students are placed in their prospective fields with businesses throughout the Baltimore Metropolitan area. The College also had training programs with companies such as Maryland National Bank, Baltimore Gas and Electric Company, and Proctor and Gamble.

Villa Julie has had an excellent record in placing graduates in jobs. Until 1992, the percentage of graduates which became employed was in the mid to upper 90 percentile. In 1992 that figure dropped to 84% (which is still outstanding considering the condition of the local and national economics). Graduates of the College are highly sought after by employers in the Baltimore area,

demonstrated by the fact that in February, 1993 the College received 364 written requests from local employers seeking Villa Julie graduates for open full-time positions. There were also 33 requests for part-time positions in that same month.

The College has a current enrollment of 1776 students, 1075 full-time and 701 part-time, fifty-five percent (55%) of whom are Baltimore County residents. The average yearly growth rate over the past decade has been approximately 8%. The College also maintains a summer program, with a 1992 enrollment of 360 students.

The College's current payroll is approximately $5,000,000.00. It has a combined faculty and staff of 317, 54% of whom are Baltimore County residents. All of the students commute. The College has no on site dormitory facilities, nor are any proposed in the site plan; the College does, however, assist students with off campus housing, on request.

The existing facilities total 103,000 sq. ft of building area. The site plan proposes two new buildings totaling 98,000 sq. ft. (to be located within a flexible building envelope), a small addition to the Learning Resource Center and a waste water treatment plant. Under the plan, the number of parking spaces will be increased from 681 to 1040 total spaces. The Maryland General Assembly has passed a $3,000,000.00 bond, designated for the construction of a new academic center.

Mr. Michael Lancaster, chief business officer of Villa Julie, testified in detail as to the present lack of facilities at the College. For example, faculty offices have a minimum of 4 members

per office, with some being used by 6 faculty members in a space designed for fewer. The library is too small to hold the number of volumes necessary for a 4-year college under the guidelines of the Middle States Association (the association by which Villa Julie is accredited). Seventy-one percent (71%) of the College classrooms exceed State guideline standards for a maximum use, and seventy-five percent (75%) of the special classrooms (including computer labs, science labs, theater and lecture hall) receive maximum use under State guidelines. There are no present indoor athletic facilities, and the existing locker room facilities are woefully inadequate for physical education or athletic teams.

Mr. Lancaster then explained that the proposed new buildings would be utilized for classroom space, physical education facilities, administrative offices, study, and faculty space. One of the proposed new buildings will also contain a lecture hall, computer lab, arts and graphics classrooms and a theater. The proposed buildings would enable expansion of the library to meet Middle States Association standards.

The campus on which the College is located adjoins the property of the Sisters of Notre Dame de Namur. At some point in late 1989 or early 1990 the septic system which serves the College (located on the Sisters' property) began to overflow. The College engaged Maryland Environmental Services, Inc. ("MES"), a quasi-state entity which supervises numerous waste water disposal systems in the State of Maryland and has conceded expertise in this area to make recommendations to the College for a plan of action to resolve

the existing problem.

MES and Baltimore County authorities performed a review and analysis of the College property and determined that a private waste water treatment plant ("WWTP") was the most appropriate means of resolving the failed septic system. The Baltimore County Department of Environmental Protection and Resource Management ("DERPM"), Office of Planning and Zoning ("OPZ") and Department of Public Works ("DPW") jointly prepared, and the Baltimore County Council approved, an amendment to the County Master Water and Sewer Plan which authorized the construction of a private waste water treatment plant on the College property. The Master Water and Sewer amendment authorizes a community system for Villa Julie College and the Sisters of Notre Dame; the Sisters have elected at this time not to participate in the WWTP, and have renovated their existing septic fields.

Under the Federal Clean Water Act, the State of Maryland has been delegated authority by the federal government to administer programs relating to water pollution and waste water discharge in the State of Maryland. This delegated authority is exercised for the State by the Maryland Department of the Environment ("MDE"). See, Md. Code Annot., Environmental Article, Title 9, Subtitles 2 and 3; COMAR 26.08.01 et seq. Pursuant to the regulations promulgated by MDE, the College has applied for a permit under the National Pollutant and Discharge Elimination System ("NPDES").

After public hearing (at which the Protestants in this case appeared), MDE issued a Notice of Final Determination indicating

that it would approve a discharge by the College (exclusive of any participation by the Sisters) of up to 60,000 gallons per day average of treated waste water predicated on the College's anticipated need for the next five years. The Protestants have taken an administrative appeal from that determination.

Villa Julie College has also applied for a water appropriations permit from the Water Resources Administration of MDE. That application is pending and is the subject of an independent administrative proceeding.

The location of the WWTP as shown on the Plat to go with the Petitions in this case was selected after a thorough review and analysis (Petitioner's Exhibit 3). Mr. Dane Bauer testified on behalf of the Petitioner, and was accepted as an expert in water and wastewater management. Mr. Bauer has degrees in microbiology and environmental engineering, and until recently was employed by MES until his promotion. He has been the project manager for the Villa Julie College WWTP project.

Mr. Bauer testified that the selected site is the most appropriate on the College property for a number of reasons, including its suitability for gravity flow. The plant will be located in an area of the College property which will minimize its visual impact -- Mr. Bauer testified that the area is generally lightly wooded, and includes some mature trees approximately 60 to 100 feet tall and a number of smaller trees 20 ft. in height. The WWTP will discharge into what is characterized as an intermittent stream located on the College property, which eventually flows into

the Jones Falls.

The plant will be a self-contained, prefabricated facility known as a Rotating Biological Contactor ("RBC") facility. The majority of the facility is located underground, with some parts above-ground. The treatment portion of the facility is covered in a manner similar to the quonset-type structure shown in Petitioner's Exhibit 6. A significant part of this treatment facility will be enclosed in a pavilion-type structure approximately fourteen (14) feet tall, a roof and screened sides, having an appearance appropriate to its valley-type setting in its resemblance to a small barn or similar structure. The plant is designed to control odors and prevent odor emissions by providing covering and adequate venting.

The WWTP will contain an ultraviolet (UV) disinfection unit, selected because it is one of the best performing and easiest to maintain units currently available. The plant was further designed, with input from DEPRM, with an artificial wet land which will provide a final polishing treatment. The actual physical design of the structure is not yet completed, because it is dependent in part upon the capacity for which the plant is to be designed.

MES ascertained the current flow of wastewater at the College by utilizing several methods which are standard within the industry, including a plumbing fixture count, calculations based on standard criteria relating to water usage of students and faculty, and installation of water meters. Those methods established a

current flow at the College of between 27,000 and 32,000 gallons of waste water per day. Utilizing these figures, and based on historical data indicating an average yearly enrollment increase of 8%, MES applied for a discharge permit in the amount of 60,000 gallons average daily flow with 100,000 gallons per day average peak flow.

MES will operate the facility (in addition to its design and construction supervision roles). It should be noted that MES has extensive experience in operating plans of this nature, and employs 120 licensed operators (20 of whom have received the highest available level of certification). MES supervises between 65 and 70 waste water treatment plants in the State, five (5) of which are RBC plants. Mr. Bauer testified that the RBC design has twenty years of improvements and refinements, resulting in a plant which is "very reliable, especially in varying amounts of water and varying amounts of concentrations." MES has had "good experience" with the RBC units under its supervision.

There are standard operating procedures established for RBC plants, under which the operators go through a daily checklist and monitor such details as the amount of chemicals in the tank, weather factors, the intensity of the UV treatment process, and the actual functioning of the system. The operator must maintain daily monitoring reports, kept at the site, which are submitted to the State on a monthly basis.

Mr. Bauer testified that the proposed plant was one of the most complex, comprehensive systems in the State. It has multiple

levels of treatment, including processes lacking in similar facilities. As a result, a failure in one component in the system (particularly in light of the UV filter) does not result in a discharge which violates NPDES permit limits.

The design includes a standby generator in the event electrical service to the campus is interrupted. An extended interruption will present no problem, because the system has a reserve capacity built into the initial inflow tank, and MES has emergency equipment stationed in each region providing access to motors, portable generators, and replacement parts "with in an hour or two." The system has alarms, including bells, signals, and automatic telephone signals, which will alert service personnel to any malfunction. Even under a "worst case" scenario, supposing the most calamitous situation involving extended interruption in electrical service and unavailability or inaccessibility of emergency or replacement parts, the College would do what anyone else would do when they are in that sort of situation (e.g., when their toilets do not function properly) -- cease use of the facilities until the situation is remedied (i.e., limit activities on the campus until the problem is rectified).

The plant has a design capacity greater than the actual present flow of the College, which allows for future growth and permits flexibility in the future. Mr. Bauer described the design capacity of the WWTP as similar to that of a building footprint. Under the Baltimore County Master Water and Sewer Plan, a multi-use facility is a facility which serves one property. The facility in

the present case will be a multi-use facility within the scope of that definition. The current amendment to the County Master Water and Sewer plan authorizes a community plant for the College and Sisters, although the Sisters have elected not to participate at this time. Mr. Neff testified that it would be necessary to amend the Master Water and Sewer Plan for inventory purposes to reflect the multi-use nature of the system, describing this as a "very simple, very minor inventory change." Mr. Neff also testified the College has the present right to operate a multi-use system under the existing amendment to the Master Water and Sewer Plan. Even Mr. Norman Gerber, who testified on behalf of the Petitioners as an expert land planner, testified that as long as the WWTP is utilized by Villa Julie College it is an accessory use and permitted in an R.C.2 zone.

There is no difference, from a design perspective, in the configuration of the plant, whether it is designated as a multi-use facility or a community plant. To an observer, there is only what Mr. Bauer described as an "incremental" difference in the visible portion of the facility between a small plant and a larger capacity plant. An RBC plant designed with a functional capacity greater than the actual flow of waste water is advantageous, because the plant will operate more efficiently.

The stream into which the discharge from the WWTP will flow is approximately 1 to 2 feet in width and 2 to 3 inches deep. Sixty thousand gallons of discharge added to that stream will increase its depth by approximately 1/2 inch. A flow of 100,000 gallons

into the stream will add no more than 1 or 2 inches in the narrowest portions of the stream. Given the quantities and the velocities involved, Mr. Bauer testified that there would be no erosion to the stream bed from the WWTP discharge.

Mr. Chadsey is a licensed civil engineer and site planner who was accepted as an expert in site plan preparation and design, and the design of storm water management facilities. A discharge of 100,000 gallons per day average from the WWTP was characterized by Mr. Chadsey as "negligible" in relation to storm water runoff. Mr. Frederick Chadsey testified on behalf of the Petitioner. For comparison purposes, a flow of 60,000 gallons per day average was described as approximately equal to a two inch pipe full of water, while 100,000 gallons per day average was described as the flow coming from a 1 1/2 inch copper pipe under typical house pressure. This amount of flow is unlikely to cause any flooding along the stream, and will not cause erosion to the stream bed. There will be no difference in erosion impact between a discharge of 30,000 gallons per day <u>average</u> and a discharge of 100,000 gallons per day <u>average</u>.

The proposed WWTP will be a state-of-the-art facility; it has an anticipated construction cost of approximately $1,000,000, with an estimated operational budget of $50,000 per year. Given the current economic climate, in which governmental funding to education is being dramatically cut back, and private gifts are declining, it is necessary for the College to generate on its own the funds necessary for the construction and continued operation of

the treatment plant and the proposed buildings. In order to do so, an increase in tuition will be necessary -- it would require an unmanageable and drastic increase in tuition per student to cover the capital and operating cost of the plant based on the College's current enrollment. Part of the funds needed for capital improvements must be generated through an increase in student population.

Accordingly, the College engaged Crozier and Associates, land use planners, to review the existing facilities and prepare a Master Plan, including expanded facilities in harmony with the existing College environment and compatible with the Greenspring Valley. This Master Plan provides for two additional buildings set in back of the existing structures on campus (away from Greenspring Valley Road) and a small addition to the Library Resource Center, all situated in such a way as to preserve and promote the small school atmosphere and retaining open areas and buffers. The construction will alleviate current overcrowding, and provide needed facilities and additional classroom space.

As part of the process of creating the Master Plan, the College assembled as what is referred to as the "design team." This team included Mr. Bauer from MES, Mr. Crozier, a licensed landscape architect, Mr. Chadsey, a licensed civil engineer, and Wes Guckert, a traffic engineer. Mr. Crozier explained that the College directed the design team to create a plan which would maintain the current "small school environment" and minimize any impact on the Greenspring Valley and surrounding land uses. The

Master Plan accomplishes this directive by locating the parking so as to select the thinnest trees on the site (not mature trees), and keeping a compact, courtyard-type design which promotes the small-college atmosphere. In developing the Master Plan, Mr. Crozier testified that he performed an analysis of the site as it presently exists, taking into account existing open areas, visibility from Greenspring Valley Road, the orientation of existing buildings, and traffic and pedestrian circulation at the site.

The Master Plan proposes no buildings in the forest buffer area. The new buildings will be located behind existing structures on the property, which will screen them from visibility on Greenspring Valley Road. The topography of the College property declines from Greenspring Valley Road towards the Jones Falls. The Master Plan utilizes the topography of the site to shield the new buildings from view by locating them behind the existing buildings and away from Greenspring Valley Road. Mr. Crozier also pointed out that the Baltimore County landscaping regulations will require additional landscaping buffers and vegetative plantings for screening surrounding property. No area on the College property currently being utilized for agriculture will be affected by the proposed building plan.

Given these design features, Mr. Crozier was of the opinion that the WWTP would also generally not be observable from off site, noting that even during the wintertime there is a "very filtered view" toward the Mitchell residence, the closest residence to the WWTP site.

Mr. Crozier testified that the plan proposed in this case by Villa Julie is quite similar to the one previously requested by St. Paul's school and approved in a prior zoning case, noting in particular that St. Paul's is located in an R.C.2 zone and has received approval (with support from the Valleys Planning Council) for a flexible site plan showing building envelopes rather than specific building footprints. Villa Julie has modeled its proposal on that approved in the St. Paul's case, including a flexible site plan and new buildings. Villa Julie does not criticize the decision in the St. Paul's (or the Valley's Planning Council position in that case). The College is requesting similar flexibility regarding the location of facilities as that granted to St. Paul's under its zoning order.

Both Mr. Crozier and Mr. Chadsey gave expert opinions that the requested special exception for a private college and special hearing for a modified parking plan met the requirements of Section 502.1 of the B.C.Z.R., and would not be detrimental to the primary agricultural uses in the vicinity.

Mr. Crozier further testified that the variances requested in this case were justified in that strict compliance with the B.C.Z.R. would result in a practical difficulty and an unreasonable hardship, and that the variances, if granted, would be in strict harmony with the intent of Section 307 of the B.C.Z.R. and would not injure the public heath, safety or general welfare. In support of this position he noted that most of the variances related to distances between existing buildings or between existing buildings

and proposed buildings. Generally, this requirement is designed to protect neighboring or adjoining property owners, a rationale which does not apply in the present case since all the buildings are located in the interior of the College property. The requested variances for distances between the buildings also provide flexibility in locating the new buildings within the designated building envelope. These distance variances, as well as the requested variance for height, will permit flexibility in designing a multi-level structure which is not spread out over a large area of the campus.

The variances will promote and maintain the "intimate campus" that presently exists and will provide areas for intellectual and social exchange between students and faculty. It will also promote efficient use of time by student, decreasing the amount of time spent traversing the campus from location to location.

Both Mr. Chadsey and Thomas Obrecht (one of the Protestants) testified that if the requested height variances were granted it would reduce the impervious roof area and reduce construction costs by permitting a slightly taller building, rather than requiring the square footage to be spread out over what is presently open space. As Mr. Crozier explained, "the more we [can] do that, the less impact this campus will have on Greenspring Valley Road as well as the adjacent residents."

In support of the Petition for Special Hearing for modified parking, Mr. Crozier testified that he performed a survey of student cars which disclosed that students generally own or drive

smaller than average cars. This permits a reduction in the width of parking spaces from 8 1/2 feet to 8 feet, allowing a smaller parking area (an impervious surface) than would otherwise be required.

The site plan provides for more than doubling the present water storage for fire purposes, from 25,000 gallons to a total of 55,000 gallons. The additional 30,000 gallons will be dedicated solely to fire fighting.

Mr. Chadsey explained that the past development on the property did not require storm water management, so that at present there are no storm water management facilities on the property. The proposed site plan provides for extensive storm water management facilities in accordance with Baltimore County regulations, under which the design of the storm water management facility will minimize diversion of drainage from one property to another, and is designed so that the rate of flow leaving the site at the intermittent stream is no greater than it is today.

The storm water management concept reflected on the site plan complies with Baltimore County and State regulations which address the rate of storm water flow. Neither State nor County regulations address the total volume of storm water runoff. As Mr. Chadsey explained, at this stage in the process what is involved is a concept plan; Baltimore County does not require an actual design or construction plans for the storm water management system. There will be a minimal amount of additional volume as a result of the development proposed on the site plan; Mr. Chadsey testified that

the existing soil on the College property is a clay material with little absorption, so that the increased run-off from impervious surfaces (as opposed to the existing clay) will be minimal.

In arriving at the proposed storm water management plan, the College consulted with DEPRM and with Trout Unlimited. After these consultations, the system was designed to minimize any thermal shock to the intermittent stream. Mr. Jim Gracie, President of the Maryland Chapter of Trout Unlimited, testified that he was shown a copy of the Villa Julie site plan, and that the Villa Julie plans regarding storm water met with his approval. These features constitute a substantial benefit, because presently there exists thermal shock to both the intermittent stream and the Jones Falls from storm water runoff from surrounding properties, as well as the College property. Moreover, the artificial wetlands will provide water quality treatment for the storm water as well as for the discharge from the WWTP.

A number of the Protestants do not have direct access to Greenspring Valley Road. Clark Farm Associates and Northwest Land properties have access onto Hillside Drive, while Mr. and Mrs. Hagan, have access onto Greenspring Avenue. Other Protestants, including Jervis Finney, Richard Buck, Stephen J. Immelt and Douglas Carroll, live a substantial distance away from the College.

Several of the Protestants appeared and testified. Generally, their testimony related to generalized "fears" or "concerns" that traffic "might increase", that the WWTP "might malfunction" or that there "might be" some impact on their wells. None of the

Protestants, however, testified that they have actually had problems with their wells. Indeed, Mr. Rogers testified that his well and the wells of at least two of his neighbors produced more than three gallons per minute based on the Baltimore County recharge test, and affirmatively testified that neither he nor anyone around him had experienced a problem with their wells (other than when the electricity goes out and the pump does not function). Water and wells concerns will be addressed by the Water Resources Administration in the course of the groundwater appropriations permit process.

Gordon Sugar, sole owner of Northwest Land Corporation, testified that he has experienced no problems with respect to the College, except possibly with lights. None of the other Protestants could relate any traffic problems directly to the College, other than Mr. Obrecht who testified that on occasion he cannot immediately enter Greenspring Valley Road in the morning from his driveway. He admitted, however, that there are no cars standing in line in front of his house, and the traffic is flowing through. Mr. Obrecht's testimony is inconsistent with both traffic experts, who testified to the existence of a level of service "A" at the College entrance. Mr. Obrecht further testified that he has access to Greenspring Valley Road by way of Nacirema Lane. There was no testimony before the Board of any difficulty experienced by vehicles entering Greenspring Valley Road (in either direction) from Nacirema Lane.

The Protestants also testified to their concern about the

impact on agriculture. None of the Protestants actually farm their property. For example, Mr. Sugar testified that he has ten tenant houses on Northwest Land Corporation property, but that none of those tenants farms the land. All of the Protestants testified that their land is farmed by a contract farmer, Clarence Mielke of Carroll County, Maryland.

Mr. Mielke testified that he brings his farm equipment down Falls Road and then moves from farm to farm (west to east) across the valley. He ordinarily moves his farm equipment very early in the morning (3:00 or 4:00 a.m.), during the day when there is no traffic on the roads, or late at night (10:00 or 11:00 p.m.). Mr. Mielke does not ordinarily take his farm equipment on Greenspring Valley Road, but works across the valley from east to west, one farm at a time, so that he does not have to utilize Greenspring Valley Road.

Mr. Mielke said the proposed discharge into the intermittent stream would not be a problem to agriculture unless it caused some sort of flooding. There is a culvert on the Clark Farm Associates' property that enables him to take his equipment across the intermittent stream whether there is water in it or not. The only evidence of adverse impact on agriculture was Mr. Mielke's testimony that the subdivision Mr. Rodgers made of his property diminished the area of farming that he is able to do there and has made it more difficult for Mr. Mielke to farm that property.

No farmer other than Mr. Mielke testified. Mr. Mielke's testimony was favorable to the requested special exception in that

it demonstrated how Greenspring Valley Road is not a part of the farming process in Greenspring Valley, that it does not serve as a conduit for farm equipment. There was, therefore, no testimony against Villa Julie College on this issue.

The remaining concerns expressed by the Protestants were generalized concerns regarding impacts to the Jones Falls, to the general "ambience" of the Valley, and on traffic.

Mr. Guckert, an expert in traffic and transportation planning, testified that the intersection of Greenspring Valley Road and Park Heights Avenue (to the west of the College) is presently operating at a level of service "B", and that the intersection with Greenspring Avenue (to the east of the College) is operating at a level of service "A".

Mr. Guckert performed a traffic study and analysis of the College, utilizing both machine counts and turning movement counts over seven days -- a four day period in 1990 and a three day period in 1993. The traffic counts were conducted from 7:00 a.m. until 7:00 p.m., thereby taking into account not only the morning and evening peak hours, but the mid-day period as well. Mr. Guckert testified that his traffic study disclosed that in the morning almost 70% of the traffic to the College is from the east, while during evening hours traffic volumes are generally balanced travelling eastbound and westbound. There is an "A" level of service at the intersection of the College entrance and Greenspring Valley Road.

Mr. Guckert performed an analysis of traffic conditions along

Greenspring Valley Road in connection with the expansion anticipated by the Master Plan. In performing his calculations, Mr. Guckert took the existing traffic volume at the school throughout the day, and assumed that school enrollment (and traffic) would increase at a rate of 8% per year, compounded. He also assumed an increase in background traffic along Greenspring Valley Road of 3% per year (a conservative number in light of the fact that the State Highway Administration records demonstrate an increase of approximately 2 1/2% per year over the past ten years).

Utilizing these assumptions, Mr. Guckert opined that if traffic in and out of the school during the morning and evening peak hours were doubled, there would still exist a level of service "A" at the College entrance. This level of service "A" would be maintained even though the number of cars entering or leaving the College were quadrupled during off peak hours (between the hours of 9:00 a.m. and 4:00 p.m.).

Mr. Guckert gave his expert opinion that doubling the number of trips during peak (a.m. and p.m.) hours and quadrupling the number of trips in off-peak hours would not result in congestion on Greenspring Valley Road, that the level service would remain "A".

Mr. Guckert also opined that this increase in traffic would not tend to create congestion either at the College entrance, or at the intersections of Greenspring Valley Road with Park Heights and Greenspring Avenues. Mr. Guckert testified that the sight distance at the School entrance is "excellent" in both directions and exceeds the 350 foot minimum that would be required for the 35 mile

per hour speed limit. In his opinion, a left turn lane at the College entrance would facilitate westbound traffic (during peak a.m. hours), but would not affect the "A" level of service existing at the College entrance.

The testimony of Mr. Guckert further disclosed that the College can maintain an acceptable level of service within the parameters of Baltimore County with an increased enrollment; as Mr. Guckert noted, Villa Julie has a "unique opportunity" to manage traffic flow in and out of the college campus by scheduling classes in off-peak hours. The additional classroom space provided for in the new buildings which are the subject of the request for special exception permit the College to schedule classes at non-peak hours, thereby providing the College with a greater ability to manage its student population on campus and reduce impact on traffic.

V

Discussion of Authority

A. THE SPECIAL EXCEPTION AND SPECIAL HEARING REQUESTS SHOULD BE GRANTED.

A special exception use is part of the comprehensive zoning plan sharing the presumption that, as such, it is in the interests of the general welfare, and therefore, valid. Schultz v Pritts, 291 Md. 1, 432 A.2d 1319, 1325 (1981).

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

presumption. Id.

The duties given the administrative officer or board are to judge whether the neighboring properties in the general neighborhood would be adversely affected and whether the use in the particular case is in harmony with the general purpose and intent of the plan. Id.

While the applicant for special exception has the burden of adducing testimony which will show that the proposed use meets the prescribed standards and requirements, the applicant does not have the burden of establishing affirmatively that the proposed use would be a benefit to the community. Id.

If the applicant shows to the satisfaction of the Zoning Commissioner that the proposed use would be conducted without real detriment to the neighborhood and would not actually adversely affect the public interest, the applicant has met its burden. Id.

Where 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, the denial of an application for special exception use is arbitrary, capricious, and illegal. Id. Citing, Turner v Hammond, 270 Md. 41, 310 A.2d 543, 550-51 (1973); Rockville Fuel and Feed Company v Board of Appeals of Gaithersburg, 257 Md. 183, 262 A.2d 499, 502 (1970); Montgomery County v Merlands Club, Inc., 202 Md. 279, 96 A.2d 261, 264 (1953); Anderson v Sawyer, 23 Md. App. 612, 329 A.2d 716, 720 (1974).

The specific nature of the requisite adverse effect which will

justify the denial of a special exception was defined in Deen v Baltimore Gas and Electric Company, 240 Md. 317, 214 A.2d 146, 153 (1965). In the Deen case, Baltimore Gas and Electric Company requested a special exception use that would permit construction of high tension transmission lines above ground. The Baltimore County Zoning Regulations then in effect provided that a special exception use could not be granted if the requested use would "be detrimental to the health, safety or general welfare of the locality involved." (This is the same language embodied in current B.C.Z.R., Section 502.1(a)).

The Baltimore County Board of Appeals granted the requested special exception use for that portion of the proposed transmission lines that would traverse a rural area not then serviced by public water or public sewer facilities. The grant of the special exception was affirmed on appeal to the Circuit Court.

The case was then appealed to the Court of Appeals of Maryland, which affirmed the action of the Board and the Circuit Court in granting the special exception use. In language which is quite pertinent to the case at bar, the Court of Appeals declared:

> Appellants assert that it was error for the Board to fail to consider the future effects which the high tension wires would have on the health, safety and general welfare of the locality 'which could be reasonably anticipated in the normal course of its development.' This factor was without relevance in this case, because there was no evidence produced at the hearing which would show that the effect of high tension wires on the future health, safety and general welfare of this area would be in any respect different than its effect on any other rural area. Section 502.1 implies that the effect on

> health, safety or general welfare must be in some sense unique or else a special exception could never be granted in such an area for the above ground location of high tension wires. The only evidence as to future conditions was testimony revealing the possibility of future residential development of this land but such a possibility alone does not come close to showing a future deleterious effect upon the public health, safety or general welfare." 214 A.2d at 153 (emphasis supplied)

A similar analysis was applied and a similar result was reached in the subsequent case of Anderson v Sawyer, supra. In Anderson, a property owner requested a special exception use that would permit construction of a funeral home in a residential zone. Evidence was presented by the protestants to show that the requested special exception use would tend to create congestion and unsafe conditions on neighboring roads and streets (the same criteria set forth in current B.C.Z.R., Section 502.1(b)), and would have a depressing psychological effect that would interfere with the enjoyment of the adjoining properties, make them less saleable, and prevent them from appreciating in value as much as other homes in the area.

The Baltimore County Board of Appeals found that the grant of the requested special exception use would create traffic problems and would, in fact, "be detrimental otherwise to the general welfare of the locality involved." The Board denied the requested special exception use.

The Circuit Court for Baltimore County reversed the denial of the requested special exception. This action of the Circuit Court was upheld on appeal by the Court of Special Appeals of Maryland,

thereby requiring the grant of the requested special exception use. The Court of Special Appeals agreed with the trial court that there was no probative evidence to show any adverse effect. Of particular interest in connection with the present case, the court observed with respect to the alleged depreciation of value and enjoyment of neighboring properties:

> There can be no doubt that an undertaking business has an inherent depressing and disturbing psychological effect which may adversely affect persons residing in the immediate neighborhood in the enjoyment of their homes and which may lessen the values thereof. Indeed, it is precisely because of such inherent deleterious effects that the action of a local legislature in prohibiting such uses in a given zone or zones will be regarded as promoting the general welfare and as constitutionally sound. But in the instant case the legislature of Baltimore County has determined that as part of its comprehensive plan funeral home are to be allowed in residential zones notwithstanding their inherent deleterious effects. By defining a funeral homes as an appropriate use by way of special exception, the legislature of Baltimore County has, in essence, declared that such uses, if they satisfy the other specific requirements of the ordinance, do promote the health, safety and general welfare of the community. As part of the comprehensive zoning plan this legislative declaration shares in a presumption of validity and correctness which the courts will honor.
>
> The presumption that the general welfare is promoted by allowing funeral homes in a residential use district, notwithstanding their inherent depressing effects, cannot be overcome unless there are strong and substantial existing facts or circumstances showing that the particularized proposed use has detrimental effects above and beyond the inherent ones ordinarily associated with such uses. Consequently, the bald allegation that a funeral home use is inherently

> psychologically depressing and adversely influences adjoining property values, as well as other evidence which confirms that generally accepted conclusion, is insufficient to overcome the presumption that such a use promotes the general welfare of a local community. Because there were neither facts not valid reasons to support the conclusion that the grant of the requested special exception would adversely affect adjoining and surrounding properties in any way other than would result from the location of any funeral home in any residential zone, the evidence presented by the protestants was, in effect, no evidence at all.

329 A.2d at 724 (citations omitted; emphasis supplied).

The case law establishes that a special exception use has an adverse effect and must be denied when it is determined from the facts and circumstances that the grant of the requested special exception use would result in an adverse effect upon adjoining and surrounding properties which is unique and different from the adverse effect that would otherwise result from the development of such a special exception use located anywhere within the zone. Schultz v Pritts, supra at 1327.

The cases further establish that the appropriate standard to be used in determining whether a requested special exception use would have an adverse effect and, therefore, should be denied is whether there are facts and circumstances which show that the particular use proposed at the particular location proposed would have any adverse effects above and beyond those inherently associated with such a special exception use irrespective of its location within the zone. Id. Conversely, if the evidence produced by the Protestants fails to show that the particular use

proposed at the particular location proposed would have an adverse effect (above and beyond those inherently associated with such a special exception use irrespective of its location within the zone), then the special exception should be granted. Id., Deen v Baltimore Gas and Electric Company, supra; Anderson v Sawyer, supra.

Section 502 of the Baltimore County Zoning Regulations govern special exceptions. The prefatory note to Section 502 recognizes that certain types of uses are required to secure permission to allow them to be placed in a zone in which their uncontrolled occurrence may cause unsatisfactory results of one kind or another. Because under certain conditions they could be detrimental to the health, safety or general welfare of the public, a special exception use is permitted only if granted by the Zoning Commissioner. Id.

The testimony of the lay witnesses, the surrounding neighbors, is essentially the same. Their testimony is that they have "concerns" about various perceived issues. Their testimony, however, failed to direct itself to the crux of the matter to be decided -- will the grant of the special exception to Villa Julie College, pursuant to the site plan before the Board, have an adverse effect upon adjoining and surrounding properties which is unique and different from the adverse effect that would otherwise result from the development of such a special exception use anywhere within a R.C.2 zone. The neighbors' expressed concern which was in the nature of a generalized "fear" of the future, was

not directed to this critical point; the testimony of the lay witnesses failed even to rise to the level of the testimony as to future conditions which was held in Deen v Baltimore Gas and Electric Company, supra, to be insufficient to justify the denial of the requested special exception.

It is important to remain focused on the fact that this case involves a specific site plan. The site plan in question is "self-limiting", it does not provide for unlimited or "uncontrolled" future growth which was the main concern of the Protestants. The limited issue to be decided in this case is whether the grant of the special exception in the context of the proposed site plan will have an adverse impact upon adjoining and surrounding properties which is "unique and different" from the adverse effect that would otherwise be associated with the grant of the special exception elsewhere in a R.C.2 zone.

The Protestants in this case seem to take the erroneous position that any impact justifies denial of the special exception. This position reflects an inaccurate understanding of the law. As the Maryland courts have recognized, a special exception use will have an adverse impact. It is only where that adverse impact will be greater in the proposed location than elsewhere in the zone that the requested special exception may permissibly be denied. Schultz v Pritts, supra.

This case presents a unique opportunity to look back into the future -- to review a track record of a proposed special exception use, to look back 45 years in time and to see that the College has

had no adverse impact on agriculture. For over 45 years the College has been (as conceded by the Protestants) a "good neighbor". The College was a permitted use until the zoning of the property was changed in 1979. There is not a scintilla of testimony to the effect that Villa Julie has had an adverse impact on agriculture or traffic.

Generally, a non-conforming use is a disapproved use which is intended to "wither on the vine". This does not apply to Villa Julie, because the College once was a permitted use, and the County Council has given its legislative imprimatur to the College by allowing such an institution in a R.C.2 zone (as a special exception).

It is also instructive to note that the two buildings proposed on the site plan are at the rear of the College property, substantially set back from Greenspring Valley Road and on the other side of the existing buildings. The two proposed buildings will not take away any presently utilized agricultural property. This is in complete contradistinction from the subdivision and development of neighboring property, where ornate and elaborate houses of over 8,000 sq. feet have been constructed in the midst of what was formerly actively farmed agricultural property. It is with ill-grace the Protestants make such a contention.

The Protestants have not produced any facts tending to show that the College, or the proposed site plan, would have an adverse impact within the rule of Schultz v Pritts.

One of the Protestants' expert witnesses, Norman Gerber,

specifically acknowledged that the College could substantially increase in size without having an adverse impact. Mr. Gerber speculated that there is a "potential" that "in the long run" if the College "expanded greatly", it may have a detrimental effect. Mr. Gerber could not say at what point the College expansion would have a negative impact, but acknowledged that it would take an expansion larger than that proposed under the site plan before the Board. Mr. Gerber said that "doubling a school this size might well do it. Something less won't." He went on to say that "by the time you get up to 2,000 more [students] that probably will be too much. Where it is between [one and 2000 more students] I don't know for sure."

Mr. Gerber acknowledged that there is no institutional zone in Baltimore County. Since there is no institutional zone, Villa Julie (and similar institutions) are necessarily zoned like the surrounding properties. It should be noted that both the Baltimore County Master Plan and the Plan for the Valleys designate the College's land use as "institutional". It is beyond dispute that Villa Julie's character as an institution in the Valley is clearly established, and formally recognized. Further, the County Council recognized that a private college in an R.C.2 zone does not have to be an agricultural school, as Mr. Gerber suggested -- the R.C.2 regulations specifically provide for agriculture-related businesses as special exceptions in a R.C.2 zone, but attach no such requirement to a private school.

Mr. Gerber and Dr. Linaweaver testified for the Protestants

that the amount of waste water generated by the College and the number of traffic trips in and out of the College were greater than that of a single family dwelling. This does not constitute an adverse impact within either Schultz v Pritts or Section 502.1 of the B.C.Z.R.. The County Council understood that a private college would be a more intense use than the surrounding agricultural land at the time it enacted the R.C. zone and permitted a private college within that zone. Even Protestants' expert, Dr. Linaweaver, acknowledged that there are other permitted uses in a R.C.2 zone that are more intense in their water usage than agriculture. Both Dr. Linaweaver and Mr. Gerber acknowledged that a private college is permitted in a R.C.2 zone as a special exception, and that there is no limitation on the size of private colleges set forth in the B.C.Z.R.. Clearly, had the County Council intended to limit the size or equivalent intensity of development of a private college in a R.C.2 zone, it could easily have done so. By not so doing, the Council obviously intended to allow private colleges in an R.C.2 zone which would have a higher "intensity of use" than the surrounding agricultural uses.

Also, Dr. Linaweaver's figures are skewed. He admitted that his testimony and analysis are based on the underlying premise that the WWTP should be sized only to handle the existing flow of the College. Moreover, in arriving at his figures relating to current usage, Dr. Linaweaver included Sundays, holidays, weekends, and summer months when the College is not in session. This results in an inaccurate calculation, since water usage by the College is

concentrated Monday through Friday during the school year.

That the proposed site plan will not have an adverse impact is further demonstrated by the testimony of Protestants' expert, Mr. Gerber, who acknowledged that a private college (such as Villa Julie) would have the same impact any place in the R.C.2 zone -- it would have the same amount of water usage, the same number of students arriving -- producing the same impact any place in the zone. Mr. Gerber did not testify that the College would have an adverse impact at this location in the R.C.2 zone different than the impact inherently associated with a private college irrespective of its location within the zone; his testimony was no more than that the College's impact "might be" more severe or less severe in other locations.

The other expert proffered by Protestants also failed to establish by his testimony that there would be any adverse impact as a result of the proposed site plan. Martin Wells, a traffic engineer, did not himself perform any detailed traffic counts, but relied upon figures provided to him by a third party. He merely took "spot counts" to attempt to verify the information he received.

Mr. Wells used what he called a link level analysis, under which a level of "C" or better is acceptable in a rural area. Mr. Wells acknowledged that the supplement to the Plan for the Valleys provides that a level "D" or better should be maintained on Greenspring Valley Road. Applying his link level analysis to the counts he was provided Mr. Wells said that the links on either side

of the College have a level of service of "D" in both morning and afternoon.

Mr. Wells' testimony went only to peak hours, not to off peak hours. In rebuttal, Mr. Guckert testified that the information in the ASHTO Highway Capacity Manual for two lane link analysis (on which Mr. Wells relied for his link analysis) has been found by Mr. Guckert and his peers, as well as a number of counties in Maryland, to be statistically unreliable. The counties which have determined the link method for 2 lane rural roads to be statistically unreliable include Carroll, Howard, Prince George's, Frederick and Washington. Baltimore County does not use a link analysis for its general review of traffic studies and the Basic Services Maps. Mr. Guckert testified that, based on the 3000 or so traffic studies he has done throughout this region and the country, not only do the above counties reject the link method for being statistically unreliable, but Anne Arundel and Cecil County also recognize a problem with link analysis.

Mr. Guckert explained how using a link analysis gives contradictory results. For example, an intersection with a level of service ratio of .63 or less would be considered to have an "A" level of service. However, under ASHTO, if you move away from that intersection to a link which has a ratio of .37, you get a level of service "D", which is defined as unacceptable. Mr. Guckert testified that it was not reasonable or statistically reliable to say that where you have an intersection which is functioning at a level of service "A", when you move away from that intersection

where there is less traffic (in the link) you get a lower (unacceptable) level of service of "D". This is one of the reasons why the link analysis is not widely used, and is not used at all by Baltimore County when performing a Basic Services analysis.

Mr. Guckert also testified that if you apply the ratio for intersections to the links to the east and west of Villa Julie College, you would get a level of service "A" (rather than "D" to which Mr. Wells testified).

Mr. Guckert explained that the deficiency in the link analysis is that the ASHTO Highway Capacity Manual is based on 2 lane roadways and rural areas in the midwest. Local governments throughout the State of Maryland have found that there is no correlation between that data and the conditions that actually exist in Maryland. As Mr. Guckert put it, it is essentially a case of comparing "apples and bananas".

Although Mr. Wells testified that the accident rate on Greenspring Valley Road was higher than the state average for two lane rural roads, he was unable to locate any of the accidents along Greenspring Valley Road, or say whether any of the accidents involved students or traffic going to and from the College. In addition, his testimony in this regard is lessened by the fact that his comparison was to two lane rural roads (not collector roads). This is an invalid and unfair comparison. Indeed, Mr. Wells testified that from his perspective it "doesn't make any difference" is a major collector or arterial road, or is merely a minor farm road.

It is important to note Mr. Wells' testimony that the proposed increase in school enrollment under the site plan would have no adverse impact on levels of service at the intersections over and above the impact from anticipated growth and background traffic on Greenspring Valley Road. Mr. Wells, then, agreed in his testimony with Mr. Guckert. According to Mr. Wells, assuming a three percent background increase in traffic on Greenspring Valley Road there would be no impact (even at peak hours) should the College enrollment increase to 2,538 students at the following intersections with Greenspring Valley Road: Stevenson Road, the College entrance, Greenspring Avenue, and Falls Road. Mr. Wells testified that the only impact of such an enrollment increase would be at the intersection of Greenspring Valley Road and Park Heights Avenue, which would drop from levels of service "B" in the morning and "A" in the afternoon, to "C" in the morning and "B" in the afternoon -- still acceptable levels of service. Mr. Wells also gave his opinion that undesirable levels of service on the links will occur on either side of the College entrance in the future with or without the College expansion.

Mr. Wells' testimony, then, confirms that of Mr. Guckert -- any increase in College enrollment anticipated by the site plan before this Board will have no impact on levels of service. It cannot be said that any increase in traffic generated by the College will have an adverse impact (within the meaning of Schultz v Pritts) when the levels of service will remain the same regardless of the traffic generated by the College.

Moreover, there was no testimony from Mr. Wells regarding non-peak hours. The testimony of Mr. Guckert that the number of trips could be quadrupled in non-peak hours is therefore uncontradicted.

The instant case is distinguishable from the decision of the Court of Appeals in Board of County Commissioners for Cecil County v Holbrook, 314 Md. 210, 550 A.2d 664 (1988). Holbrook involved the location of a mobile home in a location where it was clearly visible from an expensive, custom-built residence on an adjoining property. The evidence in Holbrook was that the mobile home in question was from 80 to 100 feet away from the front yard of the adjoining residence. This testimony was substantiated by photographs.

In the present case, the testimony disclosed that the shed-like building in which the waste water treatment plant will be contained will have an outward appearance similar to any farm building in an agricultural zone. The structure will be located in a wooded area of the property hundreds and hundreds of feet from the nearest neighbor. The photograph showed that the structure will be barely (if at all) visible from the Mitchell residence. Moreover, the testimony of Mr. Bauer established that the substantial portion of the physical plant will be below grade, and that all vents will be connected to an odor control system. This is in complete opposition to the Holbrook case in which the landowner had an "unobstructed view" of the nearby trailer. Additionally, the proposed academic buildings will be located behind the existing College facilities and will not be visible from

Greenspring Valley Road.

The Holbrook case is further distinguishable because the Harford County Zoning Ordinance involved required the requested special exception use must not "substantially diminish or impair property values in the neighborhood". That standard is not embodied, either expressly or by implication, in Section 502.1 of the B.C.Z.R.

The facts in the present case are also distinguishable from the case of People's Counsel for Baltimore County v Mangione, 85 Md. App. 738, 584 A.2d 1318 (1991). In Mangione, the requested special exception involved a proposal to build a new convalescent home on a four acre parcel inside a single-family detached home area of Lutherville, which was zoned D.R.5.5. The property in question was located one block from York Road in a residential area.

Factors which were found to justify the administrative agency in denying the special exception included the fact that the proposed convalescent home would sit on "the prominent or dominant terrain above the neighborhood, which would block out light from the west; and with prevailing breezes from the west, would generate odors from the central kitchen as well as from the dumpster". 584 A.2d at 1324. In addition, there was testimony that the development would exacerbate erosion created by the development and storm water runoff. Id. There was also testimony about small arterial streets whose only access to York Road from the community was by way of narrow, winding streets and that the increased

traffic generated by the proposed use would jeopardize safety of the children playing in the streets. Id.

The Villa Julie proposal does not involve an intrusion into a densely developed residential area. There is absolutely no testimony in this case about children playing in Greenspring Valley Road who would be endangered by additional traffic. Moreover, the undisputed testimony was that the two proposed buildings will be behind the existing buildings and will not be visible from Greenspring Valley Road. Another differentiating factor is that the College property topography decreases in elevation from north (Greenspring Valley Road) to the south, which will further minimize any visual impact of the proposed buildings. This is quite different than the situation in the Mangione case where a new, dissimilar use was to be begun on prominent and dominant terrain above the neighborhood.

Villa Julie has existed in its present location for over four and a half decades, without any adverse impact on the neighborhood. It is not a new use, and will not generate an adverse impact in this particular location greater than the adverse impact of a private college use elsewhere in an R.C.2 zone.

The expert testimony produced by Petitioner in the instant case establishes that granting of the requested special exception to Villa Julie College will not have an adverse impact within the standard annunciated by the Court of Appeals in Schultz v Pritts. Testimony as to traffic impact and other factors in the present case does not rise to the level of either Holbrook or Mangione.

Under these circumstances, neither of these cases in persuasive as a basis for denying the requested special exception.

Similarly, the fact that the roofs of the proposed academic structures might be visible to Mr. Obrecht is to be distinguished. Mr. and Mrs. Obrecht (who recently acquired their property) are simply not entitled to see no new roofs within the view from their lofty perch. When all is said and done, Mr. and Mrs. Obrecht are not entitled to move to the Valley and have the roof area within their sight line permanently frozen in time.

SUMMARY

Both Mr. Crozier and Mr. Chadsey gave expert opinions that granting of the Petitions for special exception and special hearing would have no adverse impact. Mr. Crozier also pointed to the recent special exception granted to St. Paul's School (similarly located in part on the Valley floor) which was supported by the Valley's Planning Council, one of the Protestants in this case. There is no basis for discriminating against one educational institution (Villa Julie) when a similar special exception was granted to another institution in an analogous situation (St. Paul's). To do so would raise the specter of a violation of the doctrine of equal protection under the laws.

Mr. Gerber, the expert land planner who testified on behalf of Protestants, acknowledged that he could not say at what point the College expansion would have a negative impact, he thought that doubling a school this size might be enough, or if you add 2000 more students, there would "probably" be an adverse impact.

Protestants' own expert, then, conceded that there would be no impact until (at least) student enrollment reaches the level of 3500 to 3700 students. This testimony is tantamount to acknowledging that the proposed site plan will not have an adverse impact within the meaning of Schultz v Pritts.

The evidence before the Board is that Baltimore County government supports the proposed waste water treatment plant. Mr. Dieter of DEPRM unequivocally testified that the College's septic system has failed.

Mr. Bauer testified that alternatives have been explored and that the waste water treatment plant was the best solution under the circumstances (since there is little or no likelihood that public sewer will be extended to the property in the near future). MDE has addressed all the concerns raised by Protestants and has determined that discharge into the stream on the College property is allowable and that discharge of 60,000 gpd average is acceptable.

There is simply no rational basis to put a limit in the amount suggested by the Protestants on the amount of gallonage the College can utilize. The County Council authorized a waste water treatment plant without any specific limit on its size; had the County Council intended to set a maximum size limit on the plant, it could easily have done so in the Amendment to the County Master Water and Sewer Plan.

The amount of the discharge from the treatment plant can only be limited by the Board if the Board finds an independent basis to

do so under Section 502.1. The College drives the size of the waste water treatment plant; the waste water treatment plant does not determine the size of the College. The waste water treatment plant is not a growth-limiting tool -- if the size of the College is limited it must be for an independent reason, not as a result of an arbitrary rejection of the MDE determination that 60,000 gpd average is a permissible and allowable discharge.

Similarly, the waste water treatment plant is not in itself a reason to limit the size of the College. The uncontradicted testimony in this case is that a waste water treatment plant is the only mode of resolving the existing septic failure on the College property which is: (1) authorized by the Baltimore County Master Water and Sewer Plan; and (2) the means of disposal mandated by the County Council through the amendment to the Master Water and Sewer Plan. The record is devoid of evidence to limit the size of the waste water treatment plant (since water quality issues are to be determined by the State). There are no land use reasons why the plant should be limited in size. The testimony is to the contrary -- the plant is designed to minimize its visual impact, there will be no erosion, there will be no harm to agricultural uses.

Villa Julie College suggests that the initial plan capacity be set at 60,000 gallons per day average in accordance with the NPDES permit issued by the Maryland Department of the Environment, with the right for the College to request an increase to 100,000 gallons per day average, subject to water quality approval by the State under the NPDES permit. The actual physical capacity or size of

the plant should be set sufficiently large to encompass anticipated additional needs -- Mr. Lancaster and Mr. Bauer both testified that an increased water need could be generated by the College without addition of additional students. The size of the plant should anticipate increased need for this potential. Additionally, Mr. Bauer testified that a larger RBC plant operates more efficiently than a plant which is operating at its maximum capacity.

The Baltimore County Zoning Regulations specifically permit (as a special exception) a private college in a R.C.2 zone. Given that fact, where better placed in a R.C.2 zone could the college be located than the present Villa Julie property? The testimony establishes that Greenspring Valley Road is, in effect, an arterial commuter road. It is not a single-lane "farm" road.

The College is located in an agricultural preservation area (Greenspring Valley) which is surrounded by residential development, as opposed to a purely agricultural area such as the agricultural areas of northern Baltimore County. The nature of Greenspring Valley with its baronial estates and fields leased to contract farmers, and the surrounding patterns of development, lead to the conclusion that the present College property is the most appropriate place for its location in a R.C.2 zone, and that the special exception should be granted because the College will not have an adverse impact within the ambit of Schultz v Pritts, supra.

There is no rational basis on which this Board may properly limit the size of the College. As a non-conforming use (its present status) the College could increase its enrollment, since an

increase in student enrollment is an intensification and not an expansion. In light of its present facilities, by so doing the College would be required to schedule classes at inconvenient hours or overcrowd classrooms, resulting in a deleterious effect on the quality of the education and educational experience which the students presently receive. Either alternative would degrade rather than enhance the educational experience.

OPZ in its ZAC comments, approves the site plan and supports the special exception. OPZ suggests a maximum of 2,500 students. The testimony of Mr. Dillon establishes that OPZ did not have before it any information relating to traffic, and performed no in-depth study before arriving at this figure. The only testimony before the Board is that an increase in enrollment will not have an adverse impact. Mr. Guckert testified that an increase in enrollment would not have an adverse impact on traffic, and this opinion was confirmed by Protestants' expert, Mr. Wells. Protestants' expert, Norman Gerber, said that the College could increase to between 3,500 and 3,700 students before it would have any adverse impact. Protestants have produced no facts whatsoever to show any adverse impact.

Imposition of any arbitrary ceiling on total student enrollment would place the College in a position of being forced to prefer full-time students over part-time students, and would compromise the ability of the College to continue providing its present type and quality of education to all students. A flat limit on the total number of students would fail to take into

account students taking classes off campus (e.g., students in the nursing program at Union Memorial Hospital), as well as students enrolled in the night school and students enrolled in the summer session. Such a restriction on total student enrollment would not be reasonably related to the impact (if any) resulting from the number of students on campus at any one time, and would therefore be arbitrary.

The five percent per year increase in enrollment imposed by the Zoning Commissioner cannot be sustained. Such an inflexible mathematical cap is impossible to administer in the context of the College admissions process. As Mr. Lancaster testified, there is a discrepancy between the number of students accepted and the number who enroll. There is simply no way for the College to predict how many of the students it accepts will, in fact, actually register for class on the first day of school. Further, it is common knowledge that students drop out, and that not all students present on the first day of classes will complete the semester.

It would be inherently unfair to place the College in a position where it would be in violation of the zoning order should a single student more than the arbitrary five percent show up for enrollment -- the actual number of students is not a number over which the College has such control that it should be held responsible for failure to comply. Moreover, the College will have to construct a complete new building which will need to be filled with students; it is unreasonable to expect the College to build the structure and then fill it only at the rate of five percent per

year (or construct five percent of the building per year!).

Neither Clark Farm Associates, Northwest Land Corporation, nor Mr. and Mrs. Hagan have access to Greenspring Valley Road. Their concerns about traffic on Greenspring Valley Road are no greater than that of any member of the general public. Mr. Rodgers lives east of the Sisters' property, and is two properties east of the College entrance. It is hardly likely that he will be impacted by any increase in traffic related to the College, since the testimony of Mr. Guckert is that the majority of traffic travels from east to west in the morning.

Mr. Obrecht is not a party to this case. As previously argued, Petitioner has moved to strike Mr. Obrecht as a party because he failed to take an appeal from the decision of the Zoning Commissioner as required by governing law. Since Mr. Obrecht is only a witness, his testimony can only characterize traffic generally -- since he is not a party he cannot be found to be adversely affected by the traffic. In any event, the testimony of Mr. Guckert is that he observed no difficulty with the traffic flow of Greenspring Valley Road from the Obrecht property. Even Mr. Obrecht testified that traffic was not "stacked up" in front of his property, but was flowing smoothly.

The Protestants are seeking to limit the size of the College in this case by saying that there is a traffic impact. The simple fact of the matter is that their <u>own expert</u>, Mr. Wells, testified that there would be <u>no additional impact</u> along Greenspring Valley Road as a result of an increase of student enrollment over and

above the background increase in traffic which is to be expected.

Mr. Guckert's testimony about quadrupling of student trips in non-peak hours and evenings is absolutely uncontradicted. Mr. Wells' testimony only went to peak hours in the mornings and afternoons. Mr. Wells' testimony is further weakened by the fact that he applied standards which are not utilized by Baltimore County, and which have been rejected by the majority of the other counties in this State, as well as by other experts in traffic engineering. This is clearly demonstrated through Mr. Wells' testimony that the intersection of Greenspring Valley Road and Falls Road had a level service of "F". The 1992 Baltimore County Basic Services Transportation Area Map (Petitioner's Exhibit 31), indicates that the level of service at that intersection is "C" or better. Clearly, Mr. Wells' "standards" are at variance with those standards utilized in Baltimore County, which have been approved by the Baltimore County Council. Mr. Wells seemingly utilized his own unique standards in contravention of the County Council's mandated procedures and standards. His testimony is even contradicted by his own client, the Valleys Planning Council, which in the supplement to the Plans for the Valleys says that level of service "D" should be maintained on Greenspring Valley Road (rather than the level of service "C" to which Mr. Wells testified).

The Master Water and Sewer Plan is a planning document. Gregory v Board of County Commissioners of Frederick County, 89 Md. App. 635, 599 A.2d 469 (1991) (an amendment to a County Master Water and Sewer Plan is not a "zoning action", but is a planning

action). To the extent the Master Water and Sewer Plan does not permit the College to operate a multi-use facility under the authorization for a community plant, that issue will have to be determined in another forum. It is not a decision to be made at this stage in this proceeding by this Board.

The evidence before the Board does not support any finding that the requested special exception and accompanying site plan will have an adverse impact within the meaning of Schultz v Pritts. The requested special exception should be granted.

B. THE PETITION FOR VARIANCES SHOULD BE GRANTED

Pursuant to B.C.Z.R., Section 307.1, the Board of Appeals, in this appeal is empowered to grant variances from height and area regulations in cases where strict compliance with the Zoning Regulations would result in practical difficulty or unreasonable hardship.

The testimony of Mr. Crozier and Mr. Chadsey for the Petitioner was that the requested variances and issue were designed to create a more compact "footprint" for the buildings and to promote efficient usage of the property. The variances are designed to promote the creation of a courtyard environment between the existing and proposed new buildings and to provide flexibility in the design and location of the two new buildings. Mr. Crozier further testified that the B.C.Z.R. building setbacks and distances between buildings do not relate to single-user owners, but are intended to govern buildings located on separately owned parcels.

Mr. Chadsey testified that it would be difficult to construct

the buildings as proposed without the variances because of the topography of the College site. Spreading out the structure would create additional experts and engineering problems (including retaining walls) It would also create a larger roof and greater impervious surface. This testimony is buttressed by that of one of the Protestants, Mr. Obrecht, (himself a developer) who acknowledged that it would cost less to erect a building of 100,000 square feet if it was three or four stories tall, as opposed to being spread out on one level.

The testimony as to the signs was to the effect that the requested variances relate to existing signs, and will not exceed the total signage permitted by Baltimore County. There will be no change in the one sign visible from Greenspring Valley Road, only to directional and identification signs within the campus.

Both Mr. Crozier and Mr. Chadsey rendered expert opinions that a practical difficulty or unreasonable hardship existed sufficient to justify the granting of these variances. The requested variances should be granted.

VI

Conclusion

In sum, the testimony establishes that the proposed site plan will not generate an adverse impact within either the meaning of Section 502.1 of the Baltimore County Zoning Regulations, or the scope of Schultz v Pritts. The plan under consideration will tend to promote agriculture in that it will have no impact on the present agricultural practices in the Valley and will not remove

any presently cultivated land from agriculture. It is somewhat disingenuous of some of the Protestants to have subdivided their property, taking substantial areas out of agriculture and rendering it, as Mr. Mielke testified, more difficult for him to farm, and then come before this Board and complain that Villa Julie's plan (which will have no impact whatsoever on agriculture) should be denied.

The additional buildings will not have an adverse impact. The College will maintain deep setbacks from Greenspring Valley Road by maintaining the existing agricultural area and athletic fields in the front of the property, and the new buildings are located behind existing facilities and blended into the College topography.

In light of the testimony and evidence produced, the Petition for Special Exception, Petition for Special Hearing and Petition for Variances should be granted.

With regard to the capacity of the waste water treatment plant, the testimony establishes that there is no appreciable difference in physical size between a larger plant (of 60,000 or 100,000 gallons per day average) and a smaller plant. There is no additional threat of erosion or flooding from a plant of 100,000 gallons per day average as opposed to 60,000 gallons per day average, or less. The larger the plant is sized, the more efficiently it will be able to perform its waste water treatment function. The evidence is devoid of any facts demonstrating a land use reason to limit the size of the plant.

Under these circumstances, there is no reasonable basis for

the Board to size the plant at less than the requested 60,000 gallons per day average, in accordance with the NPDES permit issued by the Maryland Department of the Environment, with the right for the College to request an increase to 100,000 per day average, subject to water quality approval by the State under the NPDES permit.

WHEREFORE, Villa Julie College, Inc., Petitioner, respectfully requests that the Zoning Commissioner for Baltimore County enter an order:

1. Dismissing Thomas Obrecht as a party to this proceeding; and

2. Granting a special exception for a private college in a R.C.2 zone with a waste water treatment plant having a discharge of 60,000 gallons per day average, in accordance with the NPDES permit issued by the Maryland Department of the Environment, with the right for the College to request an increase to 100,000 gallons per day average, subject to water quality approval by the State under a NPDES permit.

3. Approving a special hearing for a modified parking plan and a residential caretaker dwelling as an accessory use to a college.

4. Granting variances to permit a distance of:

A. 42 ft between existing Buildings #1 and 2 in lieu of the required 70 ft;

B. 30 ft between existing Building #3 and existing storage building in lieu of the required 70 ft.

C. 32 ft between existing maintenance equipment building and existing storage building in lieu of the required 70 ft;

D. 40 ft between existing Building "E" and existing shed in lieu of the required 70 ft;

E. 60 ft between existing Building "C" and existing Building "A" in lieu of the required 70 ft;

F. 60 ft between existing Building "A" and proposed envelope "F" in lieu of the required 70 ft.

G. 20 ft between existing Building "D" and proposed building envelope "F" in lieu of the required 70 ft.

H. to permit a total of 105.2 sq ft of existing signs in lieu of the permitted 30 sq ft;

I. to permit a maximum height of 39.5 ft in lieu of the permitted 35 ft for existing Building "A";

J. to permit maximum height of 54.8 ft in lieu of the permitted 35 ft for existing Building "B";

K. to permit a maximum of height of 48 ft in height within building envelope "F" in lieu of the permitted 35 ft for 2 proposed buildings;

L. to permit a distance of 0 ft in lieu of the required 70 ft between the 2 proposed buildings within building envelope "F";

M. to permit 503 parking spaces 8 ft wide x 18 ft deep n lieu of the required 8.5 ft wide x 18 ft deep.

Respectfully submitted,

_____

Benjamin Bronstein

_____

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Evans, George and Bronstein
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29 West Susquehanna Ave.
Towson, Maryland 21204
(410) 296-0200

Attorneys for Villa Julie College, Inc., Petitioner

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on this _____ day of _____, 1993, a copy of the foregoing was mailed, postage pre-paid to J.

Carroll Holzer, Esquire, Holzer, Maher, Demilio and Lee, 305 West Chesapeake Avenue, Suite 105, Towson, Maryland 21204, and K. Donald Proctor, Esquire, Miles and Stockbridge, Suite 300, 600 Washington Avenue, Towson, Maryland 21204 and Michael J. Collins, Esquire, Neuberger, Quinn, Gielen & Rubin, P.A., Equitable Bank Center, Tower II, 100 S. Charles Street, Baltimore, Maryland 21201, attorneys for Protestants.

Benjamin Bronstein

4/19/93

IN THE MATTER OF THE PETITION FOR SPECIAL EXCEPTION, SPECIAL HEARING AND VARIANCE BY VILLA JULIE COLLEGE, INC.	*	BEFORE THE
	*	BOARD OF APPEALS
	*	OF
	*	BALTIMORE COUNTY
	*	Case No.: 92-285-SPHXA Item 146
	*	

* * * * * * * * * * * * * *

MEMORANDUM IN LIEU OF FINAL ARGUMENT

Valleys Planning Council, Homeowners of Greenspring, Greenspring Valley Association, Velvet Valley Association, Falls Road Community Association and Douglas A. Carroll, III, Mr. & Mrs. Henry G. Hagen, Mr. & Mrs. Lawrence P. Naylor, III, Mr. & Mrs. Richard B. Buck and Mr. & Mrs. J. Stephen Immelt, Mr. & Mrs. Thomas F. Obrecht, individuals, by their attorney, **J. Carroll Holzer**, Holzer, Maher, Demilio & Lee, submit this Memorandum in Lieu of Final Argument before the Board of Appeals of Baltimore County.

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PREFACE

"The pressure of urbanization in the Valleys is perhaps more intense than in any other area of the Baltimore region. The Valleys are encroached on three (3) sides by recent growth; highway construction has created great development potential; recent studies of sewerage and drainage indicate no permanent barriers to high density development. If uncontrolled, this growth will surely wipe out the historic character and amenity of the area. Only the present pattern of responsible ownership and the concern of the County government delays calamity.

Good public policy would appear to coincide in this case with enlightened owner or self interest. Both recognize the need for retaining the natural beauty of the Valleys for private and public good. The objective of both is not to oppose inevitable change but rather to prevent the rape of the countryside which

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unplanned, disorderly development will surely entail. This objective is not based on aesthetics or sentiment. Preliminary analysis clearly shows that early speculative development can have a devastating effect upon the realization of the full potential of the area. A few may make great profits at the expense of many. Public policy and the interest of residents and land owner alike coincide in the objective of ensuring both optimum development and equitable distribution of benefits."

Planned for the Valleys - 1962
Updated 1989
Adopted by Baltimore County

"This office has serious concerns as to the possibility of uncontrolled expansion of the College once the new buildings are constructed and the sewerage treatment plant is installed. If unchecked, a repetition of the current situation could occur and the County could be faced with the need for emergency action and to address pollution and overcrowding of facilities. In order to ensure effective control, it is recommended that any growth of the College above 2,500 students should be subject to the granting of an additional Special Exception by the Zoning Commissioner. The College should be required to submit enrollment figures each school year to the Zoning Commissioner who will then ensure that the zoning population of the College will not exceed 2,500 without a public hearing to amend the Special Exception."

Baltimore County Office of
Planning and Zoning
March 6, 1992

The issue before this County Board of Appeals is one which extends far beyond the limited positions of each of the parties to this matter, which have been the subject of so many days of testimony. The greater issue that this Board will decide is whether or not Baltimore County's plan for the Valleys for

1962, as updated in 1989 and reaffirmed as late as the Zoning Advisory Comments in 1992 from the Planning Office, will prevail. The test for this Board is whether it can balance the overall interest of the public in the Valley and the preservation thereof relating to agriculture and environmental aspects, with the need to permit reasonable and limited growth and use of the land by the Villa Julie College.

Protestants believe this Board will face no greater challenge than this case, nor will any decision of the Board have more far reaching effects than its final decision in regard to this request for a Special Exception by Villa Julie.

STATEMENT OF THE CASE

This case comes before the Board of Appeals (hereinafter "CBA") as a result of three (3) Petitions filed by Villa Julie College, Inc. The first requests a Special Exception for a private college in an RC 2 Zone. The second requests a Special Hearing for the CBA to approve a modified parking plan and to approve a residential caretaker dwelling as an accessory use to a college.

Thirdly, a Petition for thirteen (13) zoning variances of which nine (9) are to vary distances between existing buildings on the present campus. One variance is to permit existing signage which exceeds the permitted 30 square feet and three (3) variances relating to a proposed new structures, permitting

a maximum height of 48 feet, permitting zero distances between buildings and a reduction to eight (8) feet width of 503 parking places.

The Protestants (hereinafter "Protestants") in this case include five (5) Community Associations and Umbrella Organizations located in the area of the Villa Julie College as well as six (6) families, who owned property either adjacent to or adjoining or in the immediate vicinity of Villa Julie College, who are impacted by the proposed requests of the Petitioner.

FACTS

Protestants believe it would insult the intelligence of the Board to attempt to restate seven (7) days of testimony and facts presented to the CBA in this Memorandum. Facts appropriate to the various legal arguments will be set forth in those sections of this Memorandum.

LEGAL AND PROCEDURAL POINTS OF CONCERN TO PROTESTANTS

Legal and Procedural Points of Concern to Protestants will be examined at this point in the Memorandum, prior to a more complete analysis of the facts and law as it relates to the substantive issue of whether or not Villa Julie College, Inc. (hereinafter, the "Petitioner") should be granted a Special Exception, variances and the request contained in the Special Hearing.

LEGAL ISSUE NO. 1

THE PROPOSED SEWERAGE TREATMENT PLANT IS NOT A PERMITTED USE IN AN RC 2 ZONE, NOR IS IT PERMITTED BY SPECIAL EXCEPTION

The Protestants previously in this case had adopted and incorporated the Motion to Dismiss the Petition for Special Exception and Memorandum filed by fellow Protestants Mitchell, Clark Farm Associates, Rogers and Obrecht, by their attorney, **K. Donald Proctor.** The Memorandum of Law submitted by Mr. Proctor before the Zoning Commissioner on this issue would likewise be incorporated. The sum and substance of the Mitchell Motion and Memorandum was that the proposed sewerage treatment plant was not a permitted use in the R.C. 2 Zone, nor can it qualify for a Special Exception in that zone. This issue was precluded from presentation by this Board by its granting of its Motion in Limine on March 4, 1993, which is already the subject of exceptions taken to that ruling by the Protestants.

LEGAL ISSUE NO. 2

FINDING THAT A WASTEWATER TREATMENT FACILITY IS AUTHORIZED IN THE RC 2 ZONE BY THE CBA's RULING IN THE MOTION IN LIMINE, DOES THE INSTANT PETITION FOR SPECIAL EXCEPTION FAIL TO REQUEST PERMISSION TO INCLUDE A WASTEWATER TREATMENT PLANT

Protestants, mindful that the Plat to accompany Petition for Special Exception, contains an envelope for a "wastewater treatment plant area;" nevertheless, submits that the

Petitioner has failed to so include the request for a wastewater treatment facility within the instant Petition for Special Exception. (It should likewise be noted that the Plat contains information in regard to the location of the Sisters of Notre Dame DeNamur Retirement Home and of other adjacent property owners without the automatic assumption that those items on the Plat are to be incorporated in the Request for Special Exception).

Protestants submit that they are not alone in the contention that the instant Petition for Special Exception does not include the wastewater treatment facility. I would refer to the Zoning Advisory Committee comments dated March 6, 1992 from the Office of Planning and Zoning by Jack Dillon and Jeffrey Long, adopted and incorporated in the Record, which in Paragraph 3(c) state the following:

> "**Although the present Petition request does not cover the proposed sewerage treatment plant**, this Office fully supports the conditions requested by the Deparment of DEPRM which deal with treatment plant facilities."

It is clear that the Planning Office, which by Code, provides comments to the Zoning Commissioner and the CBA as part of the Zoning Procedure, did **not** consider that this Petition requested a proposed sewerage treatment plant. That would explain why the Department of Planning has not taken a position on the issue as to whether the RC 2 Zone allows for a sewerage treatment plant.

Furthermore, it is clear that had the Office of Planning considered that this request included a proposed sewerage treatment plant, they may well have added additional comments concerning said facility.

WHEREFORE, the Protestants respectfully request the CBA dismiss the instant Petition for Special Exception as it relates to the wastewater treatment facility and require Villa Julie to file a separate Petition for Special Exception for a wastewater treatment facility.

LEGAL ISSUE NO. 3

ASSUMING ARGUENDO THAT A WASTEWATER TREATMENT FACILITY IS AUTHORIZED IN AN RC 2 ZONE, PROTESTANTS SUBMIT THAT THIS FACILITY IS DESIGNATED A "COMMUNITY FACILITY," WHICH BY DEFINITION INCLUDES TWO (2) OR MORE PROPERTIES; THEREFORE THE VILLA JULIE COLLEGE AND SISTERS DeNAMUR BOTH MUST PETITION FOR A SPECIAL EXCEPTION FOR THE INSTANT AFORESAID WASTEWATER TREATMENT FACILITY

This issue is an adjunct to Legal Issue No. 2 in that it is clear that the Office of Planning for Baltimore County assumed there would be a separate Petition for Special Exception filed for a wastewater treatment facility as reflected in their ZAC comments of March 6, 1992. The requirement for a separate petition for wastewater treatment facility is explained by the proposition that in the instant case two (2) properties, (Villa Julie and Sisters DeNamur) are to be serviced by this "Community facility."

Clearly, as Protestants have raised throughout the course of the hearing in this case, the use by the Sisters DeNamur of this proposed facility, **as well as the future use of the property of the Sisters DeNamur** must be taken into account by the CBA to determine the impact of the wastewater treatment facility servicing both Villa Julie's property and the Sisters property upon the surrounding community. No evidence has been presented in this record before the CBA as to the effect and impact of the Sisters property as it relates to BCZR 502.1.

It is submitted by the Protestants that is not the intent of the Baltimore County Code, nor of the Baltimore County Zoning Regulations. The impact of the Special Exception for the proposed wastewater treatment plant should include the impact of **all** property utilizing or authorized to utilize said facility upon the surrounding property owners and community.

Protestants argument on this issue is additionally supported by the action of the Baltimore County Council when it enacted the amendments to the Baltimore County Sewer and Water Plan as previously discussed during the course of this case. By Resolution Number 2-91, passed by the County Council on January 7, 1991 and introduced as an exhibit before the CBA, the Baltimore County Council, in paragraph 6 thereof, indicated the following:

> "The maps attached hereto and marked as Exhibit 6 and titled Villa Julie College and Baltimore province - Sisters of Notre Dame, revision to the water supply and sewerage plant are hereby approved with special authorization to operate an existing **community water system for the combined properties** and with special

authorization to operate a **community sewerage treatment plant for the combined properties**, with capacity subject to a Special Exception to the RC 2 Zoning."

It is clear from the maps attached thereto that both Villa Julie and the Sisters property are encompassed in the revision. It is further clear from their language that their intent was to require the **capacity of the community sewerage** treatment plant to be the subject of a Special Exception to the RC 2 Zoning. This language clearly refers to the Baltimore County Council's intent that the CBA determine the impact of the sewerage treatment facility serving both properties upon the community. That requirement has not been satisfied in the present case in that the evidence of the Sisters use and future use of this facility is not in the record.

WHEREFORE, the Protestants respectfully request that the CBA deny the Petition for Special Exception and require a new petition to be filed and joined by both Villa Julie College and the Sisters DeNamur.

LEGAL ISSUE NO. 4

IN THE ALTERNATIVE TO LEGAL ISSUE NO. 3, THE BALTIMORE COUNTY SEWER AND WATER PLAN MUST BE AMENDED AS TESTIFIED TO BY THE DIRECTOR OF PUBLIC WORKS, GENE NEFF AND OSCAR KEYES, TO A MULTI-USE FACILITY

Villa Julie, during the course of this hearing, has contended that it does not intend to allow the Sisters DeNamur to connect to the wastewater treatment facility. That position

would require an amendment to the Baltimore County Sewer and Water Plan, to amend the current community facility to reflect a "multi-use facility."

The testimony of the Director of Public Works, Gene Neff, reflects that such an amendment would be required. The testimony of Oscar Keyes suggested that the amendment needed to be presented to the Planning Board as well as Baltimore County Council for purposes of this amendment.

If Villa Julie continues to take the position that the Sisters DeNamur will not be permitted to tie into the wastewater treatment facility, then the Protestants request the CBA to place a condition on the granting of a Special Exception. The County's Water and Sewer Plan must be amended to reflect a multi-use facility by Villa Julie alone, prior to the Special Exception taking effect. That is, that the obtaining of the appropriate amendment of the County Council be a condition precedent to the granting of a Special Exception.

LEGAL ISSUE NO. 5

VILLA JULIE PROPOSED EXPANSION REQUIRES CRG APPROVAL

Villa Julie filed a request with Baltimore County for a County Review Group meeting and review of this Plan on June 18, 1991, CRG No. 91177. To date, such approval has not been granted.

Protestants would submit that, under Petitioners Petition for Special Exception, variance and Special Hearing, that the CBA could insure that this matter is brought to the attention of the proper County authorities so as to avoid the need for additional litigation as to this point. Protestants are not eager to take an appeal from an additional stage in the development process for Villa Julie's proposed request on this point and would suggest that judicial economy would benefit from a clarification of this point for all parties in the future.

LEGAL ISSUE NO. 6

ASSUMING ARGUENDO, THAT A WASTEWATER TREATMENT FACILITY IS PERMITTED IN AN RC 2 ZONE AND THAT THE PRESENT PETITION COMPLIES WITH THE BALTIMORE COUNTY ZONING REGULATIONS, THE CBA HEREIN IS EMPOWERED, AUTHORIZED AND REQUIRED TO SET CAPACITY OF THE WASTEWATER TREATMENT FACILITY

The CBA of Baltimore County pursuant to Section 502.1 of the Baltimore County Zoning Regulations is empowered and required in reviewing the proposed request to be governed by the requirement that before any Special Exception may be granted, the Zoning Commissioner shall find that the use for which the Special Exception is requested will not be "detrimental to the health, safety or general welfare of the locality involved." And furthermore, that the use will "not create a potential hazard from fire, panic or other dangers;

and finally, will not 'interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences or improvements.'"

It is clear then, that the Protestants in the instant case have raised the issue of water appropriation and use, as well as sewerage disposal and methods for such disposal. Implicit in the three (3) provisions cited above is the requirement that the CBA shall, and must, exercise his discretion to insure protection for the public, health, safety and welfare. Certainly, the capacity of the wastewater sewerage facility proposed, which shall empty into an intermittent stream, as well as the appropriation of groundwater from the site are relevant factors for consideration of the CBA as well as for potential limitations if so desired.

Secondly, it is clear that while the State has a function in approving discharge permits, nothing precludes the CBA from exercising his discretion within Zoning concepts in regard to the granting of a Special Exception. See Ad-Soil, Inc. v. Queen Anne's County Commissioners, 307 Md. 307 (1986), wherein the Court determined that the General Assembly has not pre-empted the field of sewerage treatment so as to preclude exercise of control by Zoning Regulations in this field. The Court there reviewed the statutory provisions under which County water and sewer plants are promulgated, finding that

those provisions which contained the bulk of the state law governing sewerage management are replete with references to the current legislative authority of local jurisdictions.

Again, in Gregory v. Frederick County Commissioners, 89 Md. App. 635 (1991), the Court recognized the independence of the Zoning Regulations and requirements.

Thirdly, the Baltimore County Council has expressed its thoughts on the matter by Resolution 2-91, passed by the Baltimore County Council on January 7, 1991 with the Councilman for the District served by Villa Julie, Councilman Dutch Ruppersberger presiding, in which the Council amended the Baltimore County Water Supply and Sewerage Plan in paragraph 6 thereof and approved "with special authorization to operate an existing community water system for the combined properties and with special authorization to operate a community sewerage treatment plant for the combined properties (Villa Julie College and Sisters of Notre Dame), **with capacity subject to a Special Exception to the RC 2 Zoning**."

Finally, as if that were not enough, the Protestants have submitted documentation in the form of correspondence from the State itself which reflects the State's recognition of the inherent right of Baltimore County Zoning Authorities to impose capacity restrictions.

WHEREFORE, the Protestants respectfully request the CBA to impose such capacity restrictions on the Wastewater Treatment Plan to **the extent of the capacity required to satisfy the current health situation**, allegedly occurring on the Villa Julie site. Protestants would submit that the unrebutted testimony of Dr. Pierce Lineaweaver is that a current requirement for 24,900 gallons per day is the present wastewater disposal flow of the Villa Julie College.

LEGAL ISSUE NO. 7

PETITIONER HAS NOT MET ITS LEGAL BURDEN AS TO THE REQUESTED VARIANCES NUMBER 11, 12 AND 13

Petitioners requested variances, Numbers 11, 12 and 13, all relate to height, distances and parking width requirements for the proposed **new** buildings. Testimony presented by Petitioners in regard to these variances was produced by witness, Sam Crozier. Crozier testified as to the hardship involved in the location and height of the new buildings on the basis that "we prefer to have these variances because they allow us to create a college atmosphere."

He further testified that the variances were necessary to create a "intimate" atmosphere on the campus. And again, Crozier testified that he requested the aforestated variances in order not to have "the buildings spread out... **it would make it more economical**..." Crozier further acknowledged that he had never tried to devise a plan to comply with the 35' height restriction. (T. 3/11/93, 60-65).

The Protestants suggest that Section 307.1, Baltimore County Zoning Regulations, providing for Variances, requires a three-fold test of whether or not the variance should be granted by this Board. First, the Petitioner must show "practical difficulty or unreasonable hardship." Second, the variance may be granted only if in strict harmony with the spirit and intent of the said area restrictions. Third, the variance may be granted only if granting it will not result in substantial injury to the public health, safety and welfare.

Turning to the first aspect of the variance requirement, that of "practical difficulty or unreasonable hardship," an interesting and difficult dilemma has been presented by the Petitioner in this case and that is, in their collective testimony, it is quite clear that they have not met the legal stand required.

The only purported reason given by the Petitioner for the requested grant of the variances, was that in addition to making it more economical for Villa Julie, that it satisfied some perceived aesthetic purpose. That is not sufficient under the law.

With the evidence in its current state as suggested above, Protestants argue that such testimony does not constitute practical difficulty or unreasonable hardship and therefore, the Petitioners have failed to meet their burden under Section 307.1 and the cases that interpret variances.

The following are a series of cases which address the issue of when to grant a variance and perhaps can shed some light upon this issue for the Board of Appeals.

a. Easter v. City of Baltimore, 195 Md. 395 (1950). This early case dealing with the granting of a variance under Baltimore City ordinance set forth the proposition that a request which would make the property more profitable is not a sufficient ground to justify relaxation of setback requirements.

In addition in this case, prior exceptions to zoning requirements (a variance granted to allow an adjacent store, a setback variance) is not in and of itself controlling. That is, ill-advised or illegal variances do not furnish the grounds for a repetition of a wrong. This case begins an examination of variances which was followed by;

b. Gleason v. Keswick Improvement Association, Inc., 197 Md. 46 (1950). In this case, the Petitioner requested a variance along with a special exception to allow a commercial use of a residential zoned property. The Court, in citing Rathkopf On Law of Zoning and Planning, page 262, to the extent that "where a person purchases property with the intention to apply to the Board of Appeals for a variance from the restrictions imposed by the ordinance, he cannot contend that such restrictions cause him such a peculiar hardship that entitles him to the special privileges which he seeks."

Further in this case, the Court emphasized that a variance to make property more profitable is not a sufficient ground to justify the granting of a variance.

c. Salisbury Board of Zoning Appeals, et al. v. Bounds, 240 Md. 547 (1965). Justice Marbury for the Court of Appeals in analyzing a zoning variance request found that a self-inflicted hardship cannot be the basis for a variance. The Court again cited to #2 Rathkopf, The Law of Zoning and Planning, Paragraph 48-1 sets forth the proposition that self-inflicted hardship cannot form the basis of the grant of a variance.

It further states that where there has been an act on part of the property owner or his predecessor which has physically so affected the property as to create a unique circumstance, which, in itself created a practical difficulty or hardship in conforming to the restriction of the ordinance, it is not appropriate to grant relief.

In the instant case, it is clear that Villa Julie has the ability within the building envelope or within its property boundaries to comply with the Baltimore County Zoning Regulations and that here the request is being made for an alleged "aesthetic reason." That is not sufficient to comply with the legal requirements of the cases cited herein.

d. Kearney v. City of Baltimore, 201 Md. 130 (1952). In the Kearney case, a homeowner sought a variance from a side yard requirement. The Board of Appeals denied the requested variance ultimately on the basis that the need to justify an exception must be substantial and urgent, and not merely for the convenience of the applicant. Inasmuch as the aim of the ordinances to prevent exceptions as far as possible, and a liberal construction allowing exception for reasons that are not substantial and urgent would have the tendency to cause discrimination and eventually destroy the usefulness of the ordinance. 201 Md. at pg. 137.

e. McLean v. Soley, 270 Md. 208. This case is most often cited by Administrative Agencies in granting variances because it attempts to summarize the requirement of "practical difficulty or unreasonable hardship. In McLean, at pg. 213 and 214, the Court sets forth its requirements for those terms.

It makes the point that the standard for granting a variance is whether or not strict compliance with the regulations which result in practical difficulty or unreasonable hardship; and that it should be granted only if in strict harmony with the spirit and intent of the Zoning Regulations, and only in a manner as to grant relief for that substantial injury to the public health, safety and general welfare. These are the elements of the test previously set forth in this Memorandum as the issue.

It is submitted that they must be examined separately as well as jointly in analyzing the case. In the McLean case, at page 214, the Court in analyzing practical difficulty again cites #2 Rathkopf, The Law of Zoning and Planning, Section 45-28 and 29 analyzing practical difficulty as: (1) "whether compliance with the strict letter of restrictions governing area, setbacks, frontage, height, bulk or density, would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome."

In the instant case, it is clear that complying with the strict letter of restrictions does not unreasonably prevent the owner from using his property and complying with the Regulations.

In summary then, we believe a careful analysis of the McLean v. Solely case clearly supports the proposition that this request of the Petitioner must be denied.

f. Anderson v. Board of Appeals, 22 Md. App. 28 (1974). In the Anderson case, there is a remarkable similarity between the status of the evidence as presented there and here. A key witness for the Petitioner, Mr. Herbert Fleischer, an architect, engineer and land planner, whose testimony is summarized at pg. 34, wherein he sets forth the basis for the variance request there that the subject property had a "intriguing natural beauty with distinct contours and

vegetation which should not be disturbed." He testified that the variances should be granted to allow placing a number of buildings in what would be a "well organized project."

In cross-examination, when asked what hardship he would suffer if the variance was not granted, he replied "maybe poor planning." His testimony is very similar to that of Mr. Crozier.

The Court in Anderson in looking at the standard for this area variance in that case found that the only hardship or practical difficulty alleged by the applicant there as a result of the strict application of the ordinance was a "loss of profit" and "maybe poor planning." The Court found that this evidence falls far short of a showing of unnecessary hardship as defined by the ordinance of Chesapeake Beach as well as the Court of Appeals.

The Court in Anderson at pg. 42 found that there the testimony established unequivocally that not only was it possible to develop the land in accordance with the zoning requirements, but that it also could perhaps be less costly than the method of development proposed. Based upon that record, the Court of Appeals reversed and found that the granting of the variance was arbitrary and capricious and could not be sustained.

Protestants would submit that the analogy between Anderson case and the instant case based on the testimony of Mr. Crozier are remarkably similar. The "hardship" or "practical difficulty" must burden the petitioner requesting the variance, not some alleged third party, or non-applicant. See Anderson.

WHEREFORE, Protestants request the CBA deny the above cited variances for all the above reasons.

LEGAL ISSUE NO. 8

VILLA JULIE HAS FAILED TO ESTABLISH THAT THE SPECIAL EXCEPTION REQUESTED WILL "FOSTER CONDITIONS FAVORABLE TO AN AGRICULTURAL USE;" THEREFORE THE SPIRIT AND INTENT OF RC 2 ZONING CLASSIFICATION HAS NOT BEEN MET

The Petitioners, in the instant case, clearly did not present any evidence either through testimony or exhibits, from which the CBA could conclude that the request for Special Exception by the College herein, "fosters or enhances" the agricultural use of the land. Nothing in the Villa Julie College curriculum relates to fostering or enhancing agriculture per se. As Norman Gerber testified, "it's an urban college."

Protestants submit that in the case of a Special Exception falling within an RC 2 Zone, that in addition to those requirements of 502.1, the Petitioner has an additional responsibility of establishing that the use requested will not be a "**detriment** to agriculture" and further that it must

"**foster or enhance**" that condition favorable to a continued agricultural use of a productive areas of Baltimore County by preventing incompatible forms and degrees of urban uses. Here, there is a significant question as to whether or not it is the requested use by the College as a detriment to agriculture based upon the testimony of Mr. Mielke, the farmer, currently farming in excess of 300 acres of property in the valley in the immediate vicinity of Villa Julie College. He testified that the increased traffic will certainly hamper his ability to move farm implements and equipment on Greenspring Valley Road and the surrounding road system.

He further testified on cross-examination that the placing of additional water in what is now intermittent stream bed will produce a loss of acreage for farming as well as a difficulty in moving his farm implements across the stream bed that does not exist at the present time.

Even more significant in this case, is the fact that there is no evidence which can be presented by the Petitioners to show that the College in any way fosters or enhances conditions favorable to a continued agricultural use of this area.

The Special Exception request for a College in an RC 2 Zone must comply with the Zoning Regulations unique to agricultural zones. Baltimore County Zoning Regulation, Section 1, A01.1A.B "Purposes" states:

> "The RC 2 Zoning Classification is established pursuant to the legislative bindings above in order to **foster conditions favorable to a continued agricultural use** of the productive agricultural areas

of Baltimore County by preventing incompatible forms and degrees of urban uses." (emphasis supplied).

This Section has been interpreted by the Zoning Commissioner of Baltimore County in Case No.: 90-492-SPHA, In RE: Petition for Special Hearing and Zoning Variance Black Pine Farm, incorporated herein and attached hereto, as placing the burden upon the Petitioner to demonstrate that the requested relief, if granted, will meet the letter and spirit of these Regulations. As such, the Zoning Commissioner found that the question inherent in this Section is whether the Petitioners' proposal will **foster** conditions favorable to a continued agricultural use of the subject site.

It is clear in this case that as suggested before, the Petitioners never presented evidence of this aspect and nor could they. The Baltimore County Board of Appeals also in Case No.: 85-132X, In the Matter of the Application of Meadowcliff, A New Covenant Church, recognized the affirmative requirement placed upon the Petitioner under Baltimore County Zoning Regulation 1A01.2.C in its decision in finding that "a legislative history of Baltimore County Zoning Regulation 1A01.2.C as reflected in Bill 178-79, mandates that uses proposed within an RC 2 Zone **should support** agricultural purposes. (emphasis supplied)... From the testimony and evidence received, we find as a fact that, if the proposed Special Exception were granted, the proposed use would not support agriculture, both on site and in the vicinity..."

WHEREFORE, the Protestants respectfully request the CBA deny the request for Special Exception.

LEGAL ISSUE NO. 9

THE CBA ERRED IN GRANTING THE MOTION IN LIMINE WHICH PRECLUDED EVIDENCE AND TESTIMONY BEING PRESENTED BY THE PROTESTANTS WHICH RELATED TO BALTIMORE COUNTY ZONING REGULATIONS SECTION 502.1 AS IT RELATED TO IMPACT 502.1.

The granting of the Petitioner's Motion in Limine effectively precluded the protestants from examining important impacts of this proposed Special Exception as proposed by Villa Julie as it related to Section 502.1 and specifically the following Sections:

1. **Section 502.1A** - That the granting of the Special Exception with the wastewater treatment facility would negatively impact the health, safety or general welfare of the locality involved. See the Proffer of Richard Klein in his complete report.

2. **Section 502.1E** - Interfere with adequate provisions for ... water, sewerage, ... the Protestants would have provided testimony relating not only to the negative environmental impact of this discharge upon the intermittent stream, but also upon the effects of the proposed withdrawal of water from the ground in the quantities suggested by Villa Julie.

By the granting of the Motion in Limine, Protestants were effectively precluded from providing testimony in this regard.

The inconsistency of the Board in applying this Motion in Limine to the instant case, can be seen by an examination of the Board's previous conduct in the case of the Greystone Golf Course. "In the Matter of the application of Furman Hendrix for a Special Exception for a Country/Golf Club," Case No.: 90-19 SPHX and CBA 90-165. In that case, even though the State had issued a water appropriations permit to the Petitioner in the amount of 120,000 gallons per day, the Board recognized its authority and jurisdiction to reduce the water appropriation to 60,000 gallons per day as being within its ability and authority under Section 502.1.

Protestants were precluded from presenting such evidence and obtaining such a result by the Board's granting of the Motion in Limine in this matter. Protestants respectfully submit the Board's conduct was in error and would request the Board to reconsider and grant a new hearing on that basis.

LEGAL ISSUE NO. 10

THE OPEN MEETINGS LAW

Protestants requested that the CBA reconsider its granting of the Motion in Limine in view of the fact that their deliberations were not in an open session. In an appropriate Motion filed with this Board and contained in its file, the

Protestants requested that the Board reconsider its decision on the Motion in Limine and reverse its decision or grant an continuance and comply with the Open Meetings Law. Protestants renew their Motion at this point.

In addition, Protestants respectfully request the final deliberations of this Board be held in open session in compliance with the State Open Meetings Law as heretofore and previously set out in Protestants Motion.

LEGAL ISSUE NO. 11

THOMAS F. OBRECHT STANDING

Thomas F. Obrecht desires to be a party to the proceeding before the CBA. Before the Zoning Commissioner he was a party represented by K. Donald Proctor, Esquire, who appeared and testified. He did no file an appeal to the CBA.

Timely appeals were filed by others to the CBA. Obrecht appeared and testified as to his interest in and objection to the request of Villa Julie for an unlimited Special Exception.

Protestants submit that Obrecht is a party to these proceedings and has standing by virtue of Morris v. Howard Research and Development Corporation, 278 Md. 417, (1976).

PROTESTANTS POSITION UPON THE SUBSTANTIVE ISSUES AS THEY RELATE TO THE GRANTING OF A SPECIAL EXCEPTION FOR THE PROPOSED EXPANSION OF VILLA JULIE COLLEGE

A. HISTORY

The present Petitions filed by Villa Julie College present the first opportunity that the County, the neighborhood and the public has had to review the development and growth of the

Villa Julie College in the Valley since its inception in 1947 as a one year Medical Secretarial School. The School opened in September, 1947 with seven (7) students. From those modest beginnings in an existing mansion on the site, the School has changed its curriculum from a one year medical secretarial course to what is described today in the Villa Julie 1989 catalog as being a "independent co-educational four year college which offers Bachelor's and Associate's Degrees, whose commitment is to be a very good college."

From seven (7) students, it has grown in the intervening forty-five (45) years to consist of 1,776 students with a faculty and employee staff of over 300 for a total population of over 2,000 persons. It physically expanded in 1950, 1952 and again in 1961, and again in 1971 and again in the early 1980s and finally the present request in 1992 to double its physical plant from 103,000 square feet today to over 201,000.

The College is requesting an unlimited number of students, faculty and employees by this Petition.

B. <u>PROTESTANTS POSITION</u>

Protestants submit that as exampled by the failing septic system (which is not failing due to any geological fault of the property, but is failing because Villa Julie College over the years attempted to place 28,000 gallons of sewerage disposal per day in a system designed for 6,000 gallons per day); that

the property and site in question has been overburdened and overtaxed to the detriment of the surrounding community and its neighbors. Villa Julie is a non-conforming use which has grown to its maximum, (if not exceeded it), and in doing so, has taxed the property to the detriment of the surrounding community which now precipitates the need to introduce a wastewater treatment facility in the Valley to solve their problem.

The CBA should not reward the conduct of Villa Julie by granting an unlimited Special Exception. **It is not the neighborhoods responsibility to accept the detrimental results which will occur if the College is allowed to continue to grow at its present pace in the present location**.

Protestants further submit that if the CBA, in its discretion, determines to "legitimize" the function of a College on this RC 2 property, and to solve what is **alleged** to be an existing health problem in regard to the failing septic system, then the CBA should limit such approval to the present population and gallons of wastewater at the demonstrated present level of operation. That is to say, 1,776 students with 310 employees and faculty and 25,000 gallons per day of sewerage should be the limitation imposed by the CBA as part of any approval of a Petition for Special Exception.

The Baltimore County Planning Office in conference with DEPRM suggested, as testified by Jack Dillon, during the hearing before the CBA that after extensive discussion and conferencing, that an appropriate and reasonable balance between the need for the School to grow and the need to preserve the Valley, would be balanced at approximately 2,500 students. If that figure were to be accepted by the CBA, that would equate to a total population of Villa Julie of 3,000 and translate into a 50,000 gallon per day capacity of the wastewater treatment facility. That further translates into a DR 5.5 equivalent zoning. Protestants, while not enamored by the Planning Office proposal, find it an acceptable compromise as it relates to the issue before the CBA.

C. **REASONING FOR PROTESTANTS POSITION BASED UPON TESTIMONY BEFORE THE CBA**

1. The Protestants position in regard to not granting the Special Exception request is supported by the testimony of former Planning Director of Baltimore County, Norman Gerber, who testified that, in the case of non-conforming uses, model zoning ordinances around the country presume (from a planning standpoint) that the non-conforming use will ultimately cease. He testified that many ordinances include sunset provisions for non-conforming uses and it is expected in normal planning procedure that these uses will disappear.

In the instant case, good planning practices would generally presume that the College is inappropriate for its present location, particularly as it relates to the purposes and concepts of the Baltimore County Master Plan and the RC 2 Zone applied to the property. Mr. Gerber supported Protestants arguments earlier presented in this Memorandum in the course of testifying that as Villa Julie's request relates to agriculture, the proposed expansion is detrimental to agriculture and that the School does not foster conditions favorable to the continued agricultural use in this area.

He testified that most of the Valley consists of prime and productive soil and that the uses of the College interferes with farming; that it is an urban College and that it has increased traffic problems making it more difficult to move farming equipment; it will increase the flow of water in the intermittent stream thereby deleting land from agricultural preservation making farming more difficult; and that it has overcrowded the land by having an impact on groundwater supply of approximately 400 plus houses. That is the equivalent of reclassification from DR 3.5 to DR 10.5. He further analyzed the traffic impact equating to density of 453 DU's by the year 2000. He also testified that the **subject property is unlike other** areas zoned RC 2, which therefore presents a unique

situation for this site in that this Valley is bounded on three (3) sides by urban development; that public water and sewer available at edges of the Valley could be extended if it were not for the County laws and planning to date; that it has very good access to the Beltway and the Jones Falls expressway. This is contrasted to most other areas zoned RC 2 which are more remote. He concluded that the character of the Greenspring Valley is very fragile, and that Villa Julie has reached its maximum growth at the present time.

2. Dr. Pierce Lineaweaver, testifying on behalf of the Protestants, likewise supported the proposition that no increase in the present utilization of the Villa Julie property should be granted in view of certain environmental constraints.

Dr. Lineaweaver measured current water use for the Villa Julie College measured from the actual metered usage and concluded that Villa Julie is currently using 24,900 gallons per day at a student population of 1,776, which equates to equivalent zoning of DR 2.

In contrast, he compared the Zoning Commissioner's Order setting the maximum gallons per day at 50,000 gallons translated into 2,500 students, and the equivalent zoning of DR 5.5. In comparison, if at five (5) years, 60,000 gallons per day capacity were to be set on the wastewater treatment facility, that translates to an equivalent zoning of DR 5.5 and

finally a ten (10) year at eight percent (8%) use translates to 90,000 gallons per day, a total population of 4,400 students with the equivalent zoning of DR 10.5.

Protestants would submit that it is clear from Protestants Exhibit No. 7 that the CBA should permit 28,000 gallons per day, which translates into the existing population of 1,776 students and 2,100 total population which equates to a zoning of DR 2.

3. Martin Wells, Protestants traffic expert, in applying the Baltimore County Zoning Regulations standards of 502.1, found that the Villa Julie expansion proposal will exacerbate "congestion problems" on Greenspring Valley Road and at Greenspring Avenue and Falls Road intersections. He further found that the additional traffic generated by background traffic growth and Villa Julie College expansion will add to the traffic accident exposure on Greenspring Valley Road which operates at a non-desirable level of Service "D" in the vicinity of the College. **Wells testified that Greenspring Valley Road experienced twenty-one percent (21%) more accidents than the average road of its kind in the State of Maryland in the past three (3) years.**

Villa Julie presently accounts for seven percent (7%) to twenty-six percent (26%) of all peak hour traffic on Greenspring Valley Road and that the College will add 105 to

188 peak hour trips to the Greenspring Valley Road if it is expanded as planned. In applying the "ASHTO" standards, which the State of Maryland utilizes (even though Baltimore County has a different method of counting level of service at intersections), Wells concluded that the Park Heights Avenue, Stevenson Road and Villa Julie College driveway intersections with Greenspring Valley Road presently operate at acceptable levels of service. The Greenspring Avenue intersection, however, operates at an undesirable level of Service "D" in the P.M. hour and Falls Road **fails** at level of service after A.M. and P.M. peak hours.

The Protestants called John Contestible, Chief of State Highway Engineering Access Permits Division, who testified that, **at the present time**, the traffic would warrant an 800 foot left turn lane, but that State Highway Administration could not require such improvement unless a permit was required.

Since the College must now apply for a permit, the State Highway Administration is now able to require such improvements. The improvement that will be required to Greenspring Valley Road consists of widening the road to a four (4) lane highway tapering in each direction for a total of 800 feet.

Protestants submit that this change will negatively affect the "scenic" nature of Greenspring Valley Road and set an immediate precedent for such requirements along the road in other areas.

4. The Protestants presented the testimony of Jim Highsaw of the Maryland Environmental Trust who testified that 150 acres on seven (7) different easements were recorded with his Conservation Easement Program in the Green Spring Valley. The purpose of the State program is to ensure the Valley remains as agricultural land and scenic open space. His department viewed the Valley as an important area to preserve based upon a number of objective criteria which included the U.S. Department of the Interior so determining the critical nature of the Valley in 1977, Baltimore County's critical concern in 1977, Baltimore County's Agricultural Protection and the fact that the Valley consists of open land with a high percentage of farming.

Likewise, the Protestants presented the testimony of Paul Scheidt, Executive Director of the Agricultural Preservation Foundation. He testified in regard to the Maryland Agricultural Land Preservation Foundation and the fact that 260 acres in Green Spring Valley alone were in the Maryland Land Preservation protection.

5. Jack Dillon of the Baltimore County Planning Office reiterated the Planning Office concern for the potential and limited growth in the Valley when he testified over the period since 1947 to date, the College grew to its present size, although there are no accurate records in the County of the various expansion projects.

He further testified that "the Office of Planning and Zoning has serious concerns as to the possibility of uncontrolled expansion of the College once the new buildings are constructed and the sewerage treatment plant is installed. If unchecked, a repetition of the current situation could occur and the County could be faced with the need for emergency action to address pollution and overcrowding of the facility.

In order to ensure effective control, it is recommended that any growth of the College above 2,500 students should be subject to the granting of an additional Special Exception by the Zoning Commissioner. The College should be required to submit enrollment figures each school year to the Zoning Commissioner, who will then ensure that the student population of the College will not exceed 2,500 without a public hearing to amend the Special Exception...

He further testified that any request for student population above 2,500 would need to be justified in relation to school facilities, traffic, parking and an analysis of

sewerage treatment and stormwater management facilities. As previously stated, he further confirmed that the present Petition does not cover the proposed sewerage treatment plant. He finally testified that in the opinion of the Office of Planning, if the College were **not** located in the Green Spring Valley and if this were a Petition for Special Exception to prove a new institutional use, the Office of Planning and Zoning would not support a new institutional use.

6. Oscar M. Keyes testified on behalf of the Protestants as the County official responsible for the Baltimore County Sewer and Water Plant. He substantially testified that the presentation of Villa Julie to the Planning Board and to the Baltimore County Council which resulted in Resolution 2-91 on January 7, 1991 proposed joint use of the wastewater treatment facility by Villa Julie College and the Sisters DeNamur. He now understands that is not correct and opined that it would be necessary for the Planning Board and the County Council to review and amend the master Baltimore County Sewer and Water Plan.

Secondly, he testified that it was the belief of all parties that the wastewater treatment facility was to be released into a stream and that subsequently, it has been determined that this was an intermittent stream which would be dry at certain portions of the year. He opined that would not

be in compliance with Baltimore County's procedures which had been adopted over the years. He further opined that in the septic system of the Sisters is not failing and that the septic system for Villa Julie clearly is not failing, but is simply overburdened by the amount of waste currently being deposited which is significantly in excess of what the system was constructed to accommodate.

He testified he did not believe the system was failing, but simply overflowing in that approximately 27,000 gallons per day were flowing into Villa Julie's system, that they were pumping 8,000 per day, that the septic system was handling approximately 19,000 gallons per day and it was intended to serve only 10,000 gallons per day. He concluded that it is doing more that is actually functioning almost twice as much as its intended capacity.

Keyes further corroborated all of the documentation and identified the documents which were contained and previously submitted during the course of the hearing during the CBA as to his conclusions and opinions.

Protestants Exhibit No. 4 includes a letter to Gene Neff from Oscar Keyes dated September 21, 1992, said correspondence being written after both parties appealed to the CBA. In this report, Mr. Keyes translates the appropriate gallons per day into equivalent density or dwelling units and

concluded that 60,000 gallons per day approval of the wastewater treatment facility would be the equivalent of 267 dwelling units or DR 5.5 zoning. If this were extended to 90,000 gallons per day, that would translate to DR 10.5 zoning. He concluded that the Zoning Commissioner's ruling permitting 50,000 gallons per day translated to DR 3.5.

He further in this report questioned the appropriateness of the amount of groundwater withdrawal as being unreasonable; that was being suggested by the College. In concluding, Mr. Keyes stated the following in his letter of September 21, 1992:

> "It is especially sad, regardless of the outcome of the appeals that every check and balance, rule or regulation, established to control growth in the rural area, has failed to identify a potential problem for debate until the State water appropriation had been overtaxed to the extent of 17,000 gallons per day and the septic system overloaded to a similar extent. The School was blessed if the site will support additional groundwater appropriations (without concurrent recharge) should deficit drafting be authorized by government. **The Valley, as a community of interest, must suffer the consequences of the failure of government to have debated these issues long before the Valley or the School was placed in jeopardy.**"

SPECIAL EXCEPTION - LEGAL STANDARD

It is well recognized in Maryland that the case of Shultz v. Pritts, 291 Md. 1, 432 A.2d 1319 (1981) was the principal case setting forth the appropriate guidelines and standards to be used by the CBA in determining whether a

requested Special Exception use would have an adverse effect upon the health, safety or welfare of the community or neighborhood. This case, decided in 1981, and the Opinion authored by the late Judge Rita Davidson has been principally cited by Hearing Examiners, Zoning Commissioners, Boards of Appeal, as well as Circuit Courts in their analysis of the facts presented in their individual cases. It is interesting to note that the basis for the ultimate standard as presented in Shultz v. Pritts was derived from a Baltimore County case captioned Deen v. Baltimore Gas & Electric, 240 Md. 317 (1965), in which the Baltimore Gas & Electric Company was requesting a Special Exception use for overhead high tension transmission lines. In that case, the Court of Appeals established the principle that "[is] the effect of high tension wires on health, safety and welfare of this area...in any respect different than its effect on any other rural area. Section 502.1 (the Baltimore County Zoning Regulations) implies that the effect on health, safety or general welfare must be in some sense unique or else a Special Exception could never be granted in such an area for the above ground location of high tension wires." This case then formed the standard relied upon by Judge Davidson in Shultz v. Pritts. (It is hard to imagine how anyone could establish that high tension wires would be any more deleterious in one area than in any other area of the same

zone in a rural area). The Court in Shultz, applied the same standard as it had in Deen and articulated what has now become the general holding of the case and that is:

> "We now hold that the appropriate standard to be used in determining whether a requested Special Exception use would have an adverse effect and, therefore, should be denied is whether there are facts and circumstances that the particular use proposed at the particular location proposed would have any adverse effect above and beyond those inherently associated with such a Special Exception use irrespective of its location within the zone." At page 1331.

However, the Court, in the same Opinion, at page 1327, stated the same principle in a slightly different fashion and that was:

> "[These] cases establish that a Special Exception use has an adverse effect and must be denied when it is determined from the facts and circumstances that the grant of the requested Special Exception uses would result in an adverse effect upon adjoining and surrounding properties unique and different from the adverse effect that would otherwise result from the development of such a Special Exception use located anywhere within the Zone."

Because administrative agencies and Courts in many jurisdictions in the State struggled with the application of the Shultz v. Pritts standard and have on more than one occasion cited it as requiring the granting of a Special Exception because the Protestants failed to establish "uniqueness," the Court of Appeals granted cert. and vacated a Court of Special Appeals decision in the case of Board of County Commissioners v. Holbrook, 314 Md. 210, 550 A.2d 664

(1988). The Honorable Judge Harry Cole wrote the Opinion for the Court in the Holbrook case, and incidentally also sat on the Court at the time of Shultz v. Pritts.

The facts in the Holbrook case are very important to understand before analyzing the facts as presented in the instant case by the Protestants. In the words of the Court in Holbrook,

> "Holbrook obtained a temporary building permit in July, 1985, which permitted him to move a mobile home onto his heavily wooded 2.8 acre parcel of land located in a sparsely developed rural area of Cecil County. He placed his mobile home in a small clearing near the border line between his property and a 1.5 acre tract owned by Mr. & Mrs. Peters. In October, 1985, the Peters completed construction of a new residence with a value of $147,000.00 located less than 150 feet from their neighbor's mobile home... Alarmed at the prospect that their unobstructed view of the nearby trailer would become permanent (when Holbrook applied for a permanent Special Exception), the Peters protested granting of the Special Exception on the basis, that "I do object to a trailer being permanently adjacent to my property because I feel it would be detrimental to the value of my home." Mrs. Peters offered six (6) photographs in evidence.

It is also important to understand that the Court of Special Appeals reversed the Circuit Court and the Board of Appeals' denial of the Special Exception and held "under Shultz, the proper test to be applied by the Board in determining whether to deny the Special Exception was whether evidence was presented which demonstrated that a mobile home on the Appellant's land had any adverse impact effects on the neighboring properties above and beyond those inherently

associated with such a Special Exception use irrespective of its location within the AR Zone." The Court of Special Appeals held that since there was no substantial evidence before the Board of Appeals to meet that test, the denial of the Appellant's application was arbitrary, capricious and illegal.

Judge Cole, in reversing the Court of Special Appeals, cited the previously recited standard from Shultz v. Pritts and specifically pointed out that:

> "We then defined the specific nature of the requisite adverse impact required to warrant denial of the Special Application: (a) a Special Exception use has an adverse effect and must be denied when it is determined from the facts and circumstances that the grant of the request of Special Exception use would result in an adverse effect upon adjoining and surrounding properties unique and different from the adverse effect that would otherwise result from the development of such a Special Exception use located elsewhere within the Zone." At page 217.

The Court went on to state:

> "We believe that the facts and circumstances of this case evidenced by the undisputed testimony in photographic exhibits clearly satisfy the Shultz standard of particular impact. (emphasis supplied). The evidence revealed that the Peters built their $147,000.00 house in a uniquely valuable heavily forested low growth area. Moreover, photographs clearly depict the direct and approximate view of the mobile home from the Peters home. The Board found that this evidence vividly indicated that the debilitating effect of the mobile home on the value of the Peters property, inferring thereby that the trailer's continued presence would create significantly greater adverse effects in this location than were it located in other areas in the Zone."

The Court of Appeals found that the mobile home in this particular location would impair neighboring property value to a greater extent than it would elsewhere in the Zone.

It is submitted by the Protestants that the application of the Holbrook case to the instant one will clearly provide the CBA with the authority, in view of the evidence presented, to deny the Special Exception request for reasons set forth.

Finally, a recent Court of Special Appeals case, People's Counsel for Baltimore County, et al. v. Nicholas Mangione, 85 Md. App. 738, 584 A.2d 1318 (1991) also establishes that the burden placed upon Protestants by many administrative bodies based upon Shultz v. Pritts is not as severe as the applications have warranted. In People's Counsel v. Mangione, a Special Exception was requested in Baltimore County for a nursing home on a four (4) acre parcel inside a single family detached home area of Lutherville in Baltimore County zoned DR5.5. In that case, the Baltimore County Board of Appeals found that the proposed project would overwhelm and dominate the surrounding landscape. The Court of Special Appeals recited Judge Cole's comments in Holbrook as well as quoting from Shultz v. Pritts when it was stated "a 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. (emphasis supplied). In Mangione, the Baltimore County Board of Appeals relied upon and the Court of Special Appeals affirmed, that testimony of odors being generated from the site, as well as traffic on narrow winding streets, as well as the project dominating the surrounding landscape, were all appropriate factors from which the trier of fact could determine that the Shultz standard of particular adverse impact was satisfied.

If these then are the legal standards by which the CBA must view the requested Special Exception of Villa Julie, it is submitted by Protestants that clearly if the College were not already located on the site that the facts would require the denial of a Special Exception.

In this case, the CBA should also deny the Special Exception in order to limit the future growth at this site (or in the alternative, if it is felt that the institution should be "legitimized," no expansion should be allowed). The record is replete with testimony and evidence supporting the proposition that this site is "unique and unusual" and complies with the standard as set forth in Holbrook and Shultz v. Pritts.

First, Greenspring Valley Road is a "unique roadway." It has been designated a scenic highway by the State; it has been

characterized as a rural road by all of the witnesses, which still services a metropolitan area and it is probably the only rural road in Maryland with Metropolitan Bus Service.

Second, it is a "unique site" in that it overlies a huge water supply, which has been protected for years by the Baltimore County government, with such protection incorporated into the Master Plan of the County. It has, in fact, been designated as a potential water source for the metropolitan area in the event of an emergency.

Third, it is in an RC 2 Zone that lies so close to the metropolitan area that it differs from other RC 2 Zones in Baltimore County. Norman Gerber testified as to the unique nature of this RC 2 property and to the tremendous pressure and stress placed upon such property by potential development.

Fourth, Oscar Keyes described the Villa Julie site and requested wastewater treatment plant as "unique" in that there is no other site such as this in which the wastewater treatment plant will empty into an intermittent stream bed; creating a new channel across the property of owners who would not normally have been affected.

Fifth, both County Department heads, Neff and Dieter, referred to the uniqueness of the site in the County's approval of a wastewater treatment facility to solve an alleged failing septic system which was self-created by Villa Julie.

Sixth, the Office of Planning and Zoning, in its ZAC comments, clearly sets forth the uniqueness of the Villa Julie institution being located on the floor of Greenspring Valley. None of the other institutions in the Valley are located on its floor.

Seventh, Baltimore County Master Plan for the Valley itself defines the uniqueness of the site and location as opposed to other RC Zones in Baltimore County.

Clearly, the Protestants have met and surpassed the legal requirements of Holbrook and Shultz and have further established by the overwhelming weight of testimony that Villa Julie has a negative and adverse effect on the surrounding property and neighborhood and should be denied pursuant to the CBA's responsibility under the Baltimore County Zoning Regulations Section 502.1.

WHEREFORE, Protestants respectfully submit that the CBA should deny the request of the Petitioner's for the Special Exception. In the alternative, enforceable and specific conditions should be established limiting the size of the wastewater treatment facility to solve existing failing septic

system (28,00 gallons per day) and to the existing school population of 1,776 students and 2,093 total population.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 19th day of April, 1993, a copy of the aforegoing Memorandum in Lieu of Final Argument was mailed, postage pre-paid to: Benjamin Bronstein, Esquire, Evans, George and Bronstein, Susquehanna Building, Suite 205, 29 West Susquehanna Avenue, Towson, Maryland 21204, K. Donald Proctor, Esquire, Miles & Stockbridge, 600 Washington Avenue, 3rd Floor, Towson, Maryland 21204 and Michael J. Collins, Esquire, Neuberger, Quinn, Gielen & Rubin, P.A., 100 South Charles Street, Equitable Tower II, Baltimore, Maryland 21201.

J. CARROLL HOLZER, Esquire

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4/19/93

IN THE MATTER OF:	*	BEFORE THE
VILLA JULIE COLLEGE, INC.	*	COUNTY BOARD OF APPEALS
Petition for special hearing, special exception and zoning variance	*	OF BALTIMORE COUNTY
	*	Case No. 92-285 SPHXA
8th Election District 3rd Congressional District	*	

* * * * * *

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MEMORANDUM OF NORTHWEST LAND CORPORATION
IN LIEU OF FINAL ARGUMENT

Northwest Land Corporation, by its undersigned counsel hereby submits this Memorandum in Lieu of Final Argument.

STATEMENT OF THE CASE

This case comes before the Board of Appeals of Baltimore County as the result of three Petitions filed by Villa Julie College, Inc ("Villa Julie"). The first request is a special exception for a private college in an R.C.2 zone. The second request is a special hearing to approve a modified parking plan and to approve a residential caretaker dwelling as an accessory use to the college. Third, Villa Julie requests thirteen zoning variances, nine of which are to vary the distances between existing buildings on the present campus.

With particular regard to the zoning variances, one of the requested zoning variances is to permit existing signage which exceedS the permitted 30 square feet. Three of the variances relate to proposed new structures. The first requests a maximum height of 48 feet for such structures from the 35 foot height maximum. The second requests zero distances between the buildings. There is also a request to reduce 503 parking places to eight feet in width.

Villa Julie's proposed new construction includes a 45,000 square foot academic center building, a 50,000 square foot general purpose building and 3,300 square foot expansion of its existing learning resource center. These new structures will add approximately 100,000 additional square feet of space, nearly doubling the size of Villa Julie's existing physical plant. The College will also add a significant amount of new parking. noticeably absent from the Petition for Special Exception, however, is the College's most controversial proposal: the installation and construction of a sewage treatment plant.

FACTUAL BACKGROUND

Northwest Land Corporation ("Northwest") is the owner of approximately 160 acres of prime farm land directly south of the Villa Julie campus. Northwest is owned entirely by Gordon Sugar. Mr. Sugar, through Northwest, has owned this parcel of land since 1965. For nearly thirty years Northwest has farmed its property and, in every respect, Northwest's use of its land has been consistent with the spirit and intent of the R.C.2 zone.

The very small intermittent stream to which Villa Julie proposes to dump its sewerage effluent runs through the upper northwest corner of Northwest's land. Indeed, this alleged stream is better characterized as a swale, which is bone dry for part of the year. The issue of Villa Julie's right to dump its effluent is not before this Board, but that fact that the stream is intermittent obviously concerned Oscar Keys:

> A: I don't feel comfortable that I would have at any point recommended anything in a

positive sense about the treatment plant discharging into an intermittent stream, having no way to get the effluent to running waters of the state without trespassing against several property owners to get there.

Q: In other words, an intermittent stream means a times of the year it may be dry, is that correct?

A: That's correct.

Q: And in those dry periods, you then expressed a concern that they would be putting effluent into the dry stream bed when there was no flowing water, it that correct?

A: That's correct.

(March 31, 1993 - Transcript of Hearing at 114).

In fact, when Villa Julie and the Baltimore Province Sisters of Notre Dame (the "Sisters") requested an amendment to the Master Water and Sewer Plan, the intermittent stream was characterized to the County Council as a perennial stream.

Q: Now Mr. Keys, when the matter was presented to the Planning Board, what was your understanding as to discharge of the effluent from the wasterwater treatment facility into what kind of stream?

A: It was for a perennial stream that was determined early on in my review before it went to any other agencies, because their request in writing was that they be permitted to discharge to the Jones Falls. That's where they started their request. And in examining the facts, I didn't find their property to be anywhere approximate to the Jones Falls, as far as I can tell.

Q: What perennial stream were they asking to discharge into?

A: The people representing Villa Julie

Q: MES people?

A: Yes, MES. Said they had determined that the stream running down through the corner of the property, down through the Jones Falls was a perennial stream, therefore, water of the State at all times and under the jurisdiction of the State.

* * * *

A: So any presentations by anyone to the Planning Board or [County] Council or anyone else was that this plant was to discharge to the waters of the State.

(March 31, 1993 - Transcript of Hearing at 112-113).

Clearly, the Baltimore County Council was misinformed when it adopted the resolution authorizing a change in the County Water and Sewer Plan to allow a community sewer system serving Villa Julie and the Sisters. It was the County Council's understanding that the proposed plant's discharge would be to a perennial stream: waters of the State. Instead, the discharge will enter a small, intermittent stream which runs through Northwest's land. In fact, for a significant part of the year the only flow in the intermittent stream will be sewerage effluent from Villa Julie.

The Board should also recall that for many years Villa Julie has deposited as much as 24,000 gallons per day of waste water into a septic system designed for 6,000 to 10,000 gallons per day. As early as 1989 the College recognized its septic system was overtaxed by continued growth in student enrollment. The septic system will now be abandoned. Plainly, Villa Julie's growth in the last several years has outstripped its 60 acre property, to the detriment of its surrounding neighbors.

LEGAL ISSUES

I. Villa Julie Does Not Have The Right To Construct Or Operate A Sewage Treatment Plant Serving Only Its Property.

The County Water and Sewerage Plan adopted by the County Council of Baltimore County, dated January 7, 1991, allows Villa Julie and the Baltimore Province of the Sisters of Notre Dame special permission to operate a "community" sewage system for the combined properties, subject to a special exception to the R.C.2 zoning. Section 9-501(b) of the Environment Article defines a "community sewerage system" as "a publicly or privately owned sewerage system that serves at least 2 lots." The Sisters, however, did not join Villa Julie in its Petitions before this Board. The Sisters are not a party to this Appeal, nor a party before the Zoning Commissioner below.

Indeed, the testimony before this Board is that Villa Julie plans to operate the sewer treatment plant solely for the benefit of its property. Gene Neff, the Director of Public Works of Baltimore County, testified that the type of plant proposed by Villa Julie to his department is not a community plant as authorized by the County Council, but is properly characterized as a multiuse plant:

> A: The community designation is for more than one property and multiuse is for one property. My opinion is that it [Villa Julie's plant] would commit to multiuse classification.

(Transcript dated March 12, 1993 at 5).

A multiuse plant is defined under section 9-501(i) of the Environment Article as "a sewerage system that :

(1) Serves only 1 lot;

(2) Serves a number of individuals;

(3) Has a treatment capacity of more than 5,00 gallons a day; and

(4) Is not publicly owned or operated.

Md. Code Environment Ann., Section 9-501(i). The sewage treatment plant at issue in this case will serve only 1 lot: Villa Julie College. The plant is envisioned to serve Villa Julie's student, teachers and staff, with a capacity in excess of 5,000 gallons per day. The plant will be privately owned. In every respect, the plant proposed by Villa Julie is a multiuse plant as defined by the Code.

The problem for Villa Julie, however, is that the Baltimore County Council only authorized a "community sewerage system." See Resolution 2-91. It is undisputed that the Baltimore County Water and Sewer Plan must be amended or revised before Villa Julie is allowed to install or operate a "multiuse" plant on its property. Gene Neff testified that Villa Julie must return before the Baltimore County Council in order to amend the Baltimore County Water and Sewer Plan:

> Q: And if the Sisters - - if Villa Julie decided it didn't want to allow the Sisters to participate in their plan because A, they didn't contribute to it, or for whatever reason they don't want them to participate, from a pure standpoint of complying with the COMAR regulations, and from the past practice of Baltimore County Department of Public Works, would there have to be an amendment, a new amendment to the water and sewerage plan to show that Villa Julie College was operating a multiuse system versus a community system?

A: There would be a minor change in the classification that shows it is a multiuse amendment versus a community amendment.

Q: And that minor change would have to go to the Baltimore County Council for approval, would it not?

A: That's correct.

(Transcript dated March 12, 1993 at 22-23).

Mr Neff is correct. The Baltimore County Water and Sewer Plan requires amendment before Villa Julie may install and operate a multiuse sewerage system on its property. Neff is wrong, however, when he states the amendment would be a "minor change."

In order to amend the Baltimore Master Water and Sewer Plan, the Code requires that the County Council submit the proposed revision or amendment to each official planning agency that has jurisdiction in the County and to any comprehensive agency that has area-wide jurisdiction over the proposed revision or amendment. Md. Code Environment Ann., Sec. 9-506. Furthermore, section 9-503(d) of the Environment Article requires that before a county governing body adopts any revision or amendment to its county plan, the governing board shall:

(i) Conduct a public hearing on the county plan, revision, or amendment that may be conducted jointly with other public hearings or meetings, and

(ii) Give the principal elected official of each municipal corporation that is affected notice of the county plan, revision, or amendment at least 14 days before the hearing.

(2)(i) Notice of the time and place of the public hearing, together with a summary of the plan, revision or amendment, shall be published in a least 1 newspaper of general

> circulation in the county once each week for 2 consecutive weeks, with the first publication of notice appearing at least 14 days before the hearing.

Accordingly, any amendment to the Baltimore County Water and Sewer Plan sought by Villa Julie will require a public hearing and proper notice. The County Council can reject the proposed amendment. If the proposed amendment is approved by the County Council, the amended Plan must be submitted to the Maryland Department of Environment ("MDE") for approval. The MDE can approve or disapprove of the plan, in whole or in part. The Department may make its own modifications to the plan or take other appropriate action. Md. Code Environment Ann., Sec. 9-507. Indeed, before the Department takes any final action on a proposed revision or amendment to a county water and sewer plan, the MDE must submit the proposal to the Department of Natural Resources for advise on natural resources matters; to the Department of State Planning for advise on local planning issues; to the Department of Agriculture for advice on the impact of the revision on local water or potentially productive agricultural land. Md. Code Environment Ann., Sec. 9-507. Obviously, there is a highly regulated process of submittals to various public agencies, a public hearing, voting by the county governing board, and state approval before a revision is incorporated into a county plan.

Villa Julie does not have any right whatsoever to install and operate a multiuse sewerage system on its property. Gene Neff repeated contradicted himself on this issue:

Q: So the Sisters have certain rights as the

amendment stands now that you're saying would be changed, I assume, by changing the designation to a multiuse. You don't propose to say that the Sisters have a right to operate their own wastewater treatment plant, do you?

A: No.

Q: As it stands now, the Sisters have a right, a legal right as a consequence of the amendment, to tie into a wastewater treatment plant to service their sewerage needs, correct?

A: If the two properties can work out an arrangement, they do have that right.

Q: And the same is true for Villa Julie, if the two properties can work out that arrangement, then Villa Julie has that right?

A: Correct.

Q: But as it stands right now, before that amendment takes place, Villa Julie does not have the right to operate a multiuse system on their property, do they?

A: I disagree. I think they do have that right to operate a multiuse system.

Q: And do the Sisters?

A: Yes.

Q: So they both have equal right to operate two multiuse systems, is that your testimony?

A: That's my testimony.

(Transcript dated March 12, 1993 at 26-28). However, moments later Neff changed his mind.

Q: Is it you testimony. I just want to make sure I was clear on what you said. Is it your testimony that it is your opinion that both Villa Julie and the Sisters at this time have the right to install a wastewater treatment plant?

A: No, that's not my testimony.

Q: Oh, it isn't?

A: No, it's not.

(Transcript dated March 12, 1993 at 33).

Fortunately, the amendment to the Baltimore County Master Water and Sewer Plan was written in clear and uncomplicated language:

> The maps attached hereto and marked as Exhibit 6 entitled Villa Julie College and Baltimore Providence -- Sisters of Notre Dame, revision to the water supply and sewerage plant are hereby approved with special authorization to operate an existing community water system for the combined properties and with special authorization to operate a community sewerage plant for the combined properties, with capacity subject to a special exception to the R.C.2 zoning.

Thus, the only approved County Plan allows installation of a community sewerage system for the combined properties of Villa Julie and the Sisters. Villa Julie's proposal to construct and operate a multiuse plant does not comply with County Council resolution 2-91, which designates any sewerage system to be "a community system for the combined properties." Section 9-511 of the Environment Article states unequivocally that a sewage treatment plant may not be constructed unless it conforms to the county master water or sewer plan:

> Unless they conform to the county plan or revision, the following systems and facilities may not be installed or extended:
>
> (2) A sewerage system;

Md. Code Environment Ann. Sec. 9-511. Thus, Villa Julie may not

install a sewerage system which does not comply with the County Plan. It may not, therefore, install a multiuse plant.

Villa Julie has put the cart before the horse. It has come before this Board requesting the right to operate a multi-use sewerage facility on its property. Villa Julie has gone so far as to ask that the Board provide no limitation whatsoever on the plant's capacity. This Protestant submits that Villa Julie cannot unilaterally amend the Water and Sewer Plan of Baltimore County. Until Villa Julie obtains the necessary amendment to the Water and Sewer Plan, this Board should preclude the College from installation and/or operation of the sewage treatment plant or dismiss the College's Petition for Special Exception as it relates to the proposed plant.

There is a distinct probability that the County Council will reject Villa Julie's proposal for a multiuse plant now that it is clear that the effluent discharge is to a small, intermittent stream, as opposed to the perennial stream previously represented to the Council by Villa Julie. Certainly, the Board will want to know what intention, if any, the Sisters have with regard to the plant. It is extremely unlikely that the Sisters will give away the right to tie into the proposed plant. Given that the County Council may take steps unanticipated by the Board, in the alternative, the Board should reserve its decision on setting any capacity for the plant until such time as the County Council amends the Master Water and Sewer Plan.

II. The Board Should Deny Villa Julie's Petition For Special Exception, Or, In The Alternative, Exercise Its Zoning Authority To Limit The College's Growth.

Before any special exception may be granted to Villa Julie, it must appear from the testimony and evidence that the College will not:

> (a) be detrimental to the health, safety, or general welfare of the locality involved;
>
> (b) tend to create congestion on roads, streets or alleys therein;
>
> (c) create a potential hazard from fire, panic or other dangers;
>
> (d) tend to overcrowd land and cause undue concentration of population;
>
> (e) interfere with adequate protection for schools, parks, water, sewerage, transportation or other public requirements, conveniences, or improvements;
>
> (f) interfere with adequate light and air;
>
> (g) be inconsistent with the purposes of the property's zoning classification or, in any way, inconsistent with the spirit and intent of the zoning regulations; and
>
> (h) be inconsistent with the impermeable surface and vegetative retention provisions of these zoning regulations.

B.C.Z.R. 502.1

In Board of County Commissioners v. Holbrook, 314 Md. 210, 550 A.2d 664 (1984), the Court of Appeals defined the specific nature of the requisite adverse impact required to warrant denial of a special exception request:

> In summary, where the facts and circumstances indicate that the particular special exception use and location proposed would cause an adverse effect upon the adjoining and

> surrounding properties unique and different, in kind or degree, than that inherently associated with such a use regardless of its location within the zone, the application should be denied.

Id. at 218, 550 A.2d 664; see also Shultz v. Pritts, 291 Md. 1, 432 A.2d 1319 (1981). Thus, if the proposed use causes an adverse effect on the surrounding landowners unique in degree than that intrinsically related with such a use, the petition for special exception should be rejected.

Finally, Villa Julie bears an additional burden under section 1A01.2.C of the B.C.Z.R., which states, in the pertinent part, that before any special exception may be granted in an R.C.2 zone there must be a specific finding that "the use would not be detrimental to the primary agricultural uses in its vicinity." In the same manner, section 1A01.B states: "The R.C.2 zoning classification is established pursuant to the legislative findings above, in order to foster conditions favorable to agricultural use of the productive agricultural areas of Baltimore County by preventing incompatible forms and degrees of urban uses."

A. The R.C.2 Zone.

The Resource Conservation zone ("R.C.2") is intended to foster the development of agriculture and prevent urban uses. Intensive development is prohibited in the R.C.2 zone. B.C.Z.R. 1A00.1 and 1A00.2 In testimony before the Board, Oscar Keys described the theory behind the establishment of the R.C.2 zone:

> A: So whole theory of a resource area is recharge, take it out, use it, recharge the groundwater, and you have an equal amount applied by nature what you're using so that it

stays in reasonable good quality and quantity.

Q: If you take the 50,00 gallons [per day] the Zoning Commissioner indicated as an example, what effect does that have?

A: That's to be a complete depletion at this time, to take it out of the ground, put it through a treatment plant and dispose of it across property line.

So there's no recharge to benefit either the college property or anybody else in the valley. And it will take 220 acres of land, somebody's land to put rainfall into the groundwater to match what they [Villa Julie] are taking and throwing away.

So the whole concept of withdrawal and disposal, not recharge, recycling of materials, is, to my mind, moving away from the concept the Council established in resource conservation zoning. And the proposal that a treatment plant might be the only way to preserve the existing, if the septic tank totally failed, do not suggest that it's an alternative method of growth or change the whole nature of the R.C. zones.

(Transcript dated March 31, 1993 at 128-129). Keys went on to express his opinion that the proposed sewage treatment plant should not be utilized to serve growth, but rather to resolve a public health problem, if any, that may exist at the College. (Id). To permit the College to utilize the sewage treatment plant as a means for expansion was clearly seen by Keys as "inconsistent with the spirit and intent of the [R.C.2] zoning regulations." B.C.Z.R. 502.1(g).

Norman Gerber testified to his long experience as a land planner for Baltimore County and his role in developing master plans for the Greenspring Valley and other valleys in Baltimore County. He described the Greenspring Valley in the following

manner:

> I think it's unique in the County because it is for a number of reasons, but one I just discussed a little while ago, it is bounded on three sides by urban development with urban utilities, sewerage and water available to it. . . . It's not like a typical R.C.2 land which is remote. That land typically does not have all those factors, urban development, urban utilities and facilities immediately adjacent to it that could be expanded into the Valley if the County so chose to permit.
>
> It's been a longstanding policy that the county does not want to permit expansion of sewerage through this Valley or water lines to this Valley. The attempt has been to keep the roads and the surrounding areas free of urban type development activities as possible.

(Transcript dated March 31, 1993 at 59).

> The valleys should be preserved. And the master plan identifies it as an agricultural conservation category. It identifies it as a scenic corridor . . . And it also identified that fact it's along a National Historic Register for Historic District. . .

(Transcript dated March 31, 1993 at 60). Gerber went on to express his opinion that the College's expansion must be limited. He expressed his concern that the College is not consistent with the spirit and intent of the R.C. Zone. Id. at 64.

Gerber also testified that the traffic generated by the College's expansion at some point will create a sufficient nuisance that the farmer will say, "I've had enough," and the productive agriculture of the Valley will be lost. Id. at 65. Gerber testified that Villa Julie's expansion "will tend to overcrowd the land," and he estimated that the traffic generated by the College is the equivalent of 246 dwelling units. Id. at 71.

With regard to the College's proposed expansion. Gerber calculated that the new growth would be "as if an additional 186 houses were built on this property." Id. at 72.[1] This density of development clearly troubled Gerber. Gerber said that such expansion would overcrowd the land, given the R.C.2 zone and the requirement that any land use foster conditions favorable to agricultural by preventing incompatible forms and degrees of urban uses.

B. The Proposed Sewage Treatment Plant Constitutes An Incompatible Form Of Urban Use For The College's Property.

With regard, to the proposed sewage treatment plant, Dr. F. Pierce Linaweaver agreed with Oscar Keys that Villa Julie should not use the sewage treatment plant as a vehicle for growth. Dr. Linaweaver began his analysis of Villa Julie's waste water generation with a count of the metered water use from September 24, 1991 through September 1, 1992 at the College. Dr. Linaweaver determined that amount to be 24,00 gallons per day. (Transcript dated March 19, 1993 at 150, 154). Dr. Linaweaver noted that amount of water appropriation used by Villa Julie was the equivalent to 96 dwelling units located on the College's 60 acres. (Id.) He said the zoning equivalent for 96 dwelling units on 60 acres is D.R.2. According to Dr. Linaweaver's projections, if the College is permitted to grow 5.5% per year in population, Villa Julie will require a sewage treatment plant capacity of 41,000 gallons per day. (Id. at 163). The College's waster water

[1]The transcript has an error and states "886" houses.

generation would be the equivalent of 182 dwelling units. (Id.) This density would be the equivalent of D.R.3.5 zoning. (Id.)

Of even greater concern is Villa Julie's proposal to utilize 60,000 gallons per day of water by 1996 - just three years from now. Such heavy water appropriation would be the equivalent of 267 dwelling units and the density of D.R.5.5 zoning. By the year 2001, Villa Julie expects its water usage to jump to 90,000 gallons per day or the equivalent of 400 dwelling units and zoning of D.R.10.5. Clearly, such intense usage and growth is beyond the spirit and intent of the R.C.2 zone and inconsistent with the primary agricultural purposes of the land. Obviously, this pattern of water appropriation would require an extremely large sewage treatment plant.

Dr. Linaweaver was asked, based upon his education, employment and experience, and his knowledge of the Villa Julie project, if he had an opinion of the capacity which should be fixed with the Villa Julie sewage treatment plant. He testified as follows:

> Allowing such a facility is an area with an R.C.2, you know, the resource conservation agricultural zoning, as an exception, has a significant precedent setting nature, . . .
>
> However, allowing capacity for growth is totally another issue. In this location in zoning, a plant should not be basis for growth.
>
> Well, I think the permits of a decade ago were in keeping with the resource conservation and the R.C. zoning at that time, but the College has grown rather dramatically over the last ten years and the last decade and the intensity of the land use is now the

> equivalent of the D.R.2 zoning. Any further growth at their site is only going to exacerbate the intensity of the land use and continue to raise that question about the present, and I think the capacity of the plant to solve the existing problem of 28,000 gallons per day is what ought to be determined as to the facility that should be built to solve the existing problem.

(Transcript dated March 19, 1993 at 164-165). The import of Dr. Linaweaver's testimony is that Villa Julie's present use and future intended use of its property is: "detrimental to the health, safety, or general welfare of the locality involved;" "tends to overcrowd land and cause undue concentration of population; is "inconsistent with the purposes of the property's zoning classification;" and "inconsistent with the spirit and intent of the zoning regulations." B.C.Z.R. 502.1(a); 502.1(d); 502.1(g). Linaweaver testified that if a sewage treatment plant must be built, its capacity should be set a 24,000 gallons per day.

C. The Proposed Sewage Treatment Plant Will Particularly Adversely Effect Villa Julie's Neighbors.

Any proposed sewage treatment plant will have a particularly adverse effect on adjoining landowners such as Northwest. The pristine intermittent stream which runs through Northwest's land will, as a consequence of Villa Julie's sewerage discharge, become a perennial stream. This is a direct violation of Northwest's riparian right to use and enjoyment of the stream in its natural condition. In effect, Villa Julie's discharge is a trespass upon Northwest's land. The effluent discharge results from water drawn from the Cockeysville Marble aquifer by Villa

Julie. Only a small amount of this water is actually consumed by the College. The necessity to discharge some 24,000 gallons per day of treated sewerage is solely the result of Villa Julie's mismanaged expansion, to the detriment of the College's neighbors.

Second, Villa Julie has chosen to locate plant within a hundred feet or so of Northwest's property line. The plant will be clearly visible from Northwest's property. Any odors from the plant, and the artificial wetlands associated with the plant's discharge, will adversely effect Northwest. If Villa Julie, like its neighbors, utilized a septic system for treatment of its sewerage, there would be no problem of odor emanating from the College.

Finally, in the event of a spill or other event where untreated sewage is discharged from the plant, the discharge will enter Northwest's property by way of the intermittent stream. How is Northwest expected to resolve such a spill. Certainly the type of plant Villa Julie plans to install is not failure proof. In fact, the evidence before the Board that spills do occur and Northwest will suffer particular harm if such a spill should take place.

D. There Is Not A Single Item In Villa Julie's Petitions Evidencing A Use Of The College's Property Which Advances The Valley's Agricultural Or Protects Against Urban Uses.

There is no evidence before the Board that any item in Villa Julie's three petitions fosters "conditions favorable to agricultural use of the productive agricultural areas of Baltimore County by preventing incompatible forms and degrees of urban uses."

Section 1A01.B. Indeed, as demonstrated above, the zoning equivalent of Villa Julie's expansion is urban in nature, as opposed to advancing the area's productive agriculture.

With particular respect to increasing urbanization, Martin Wells, a traffic engineer, offered his opinion that expansion by Villa Julie will exacerbate an already over-congested situation Greenspring Valley Road. Wells looked specifically at the "link of road" which runs between the intersection immediately to the east and west of the College. He found that:

> The link level of service, west of the College and east of the College, Greenspring Valley Road as a link operates at a level service "D" both in the morning and afternoon, "D" as in dog, which is unacceptable.

(Transcript dated March 19, 1993 at 73). Wells also reviewed the accident history of Greenspring Valley Road and determined that the "link" had 21-percent more accidents than the average rural road in Maryland. (Id. at 79). Wells testified that expansion of the College would only worsen the level of service on Greenspring Valley Road.

Villa Julie's traffic expert, Wes Guckert, testified that the link method must be tailored to the specific conditions of the road or the analysis was suspect. However, it is clear from Guckert's testimony that he never performed any "link" analysis.

> Q: With regard to the realistically observed conditions of this particular road has, for example some turns and twists in it that bring the speed limit down to 20 miles?
>
> A: That is correct.
>
> Q; It also is a two lane road with no

shoulders?

A: That's correct.

Q: It also has visibility problems along the stretch of Greenspring Valley Road immediately east of the College?

A: And we just had all these things earlier, that is correct.

Q: And just so that we are clear on this, the intersection analysis doesn't take into account those types of problems that occur on the link.

A; It looks at different things, that is correct.

* * *

Q; And the fact of the matter is, Mr. Guckert, you never did a link analysis for this particular stretch of road.

A: That is correct. . . .

(Transcript dated March 31, 1993 at 161-163). Villa Julie never asked its traffic expert to perform a "link" analysis of Greenspring Valley Road. The clear implication is that such an analysis, if conducted, would find an already overcrowded link on Greenspring Valley Road, which expansion at the College is certain to worsen. In fact, the State Highway Department has required Villa Julie to add a left turn lane and expand its existing right turn lane at the entrance to the College. At Villa Julie's entrance, Greenspring Valley Road will widen from two to four lanes in order to accommodate Villa Julie's increasing enrollment and traffic.

Finally, the testimony of Mr. Mielke, a farmer who farms in excess of 300 acres of property in the Valley in the immediate

vicinity of Villa Julie, is that increased traffic will certainly hamper his ability to move farm implements and equipment on Greenspring Valley Road in the surrounding road system. He further testified that the discharge from the proposed wastewater treatment plant will produce a loss of acreage for farming as well as difficulty moving his farm implements across the stream that does not exist at the present time.

Certainly, the proposed doubling of students at the College does not contribute to "conditions favorable to agricultural use of the productive agricultural areas of Baltimore County by preventing incompatible forms and degrees of urban uses." In fact, Villa Julie's use of its property, the additional parking, the doubling of its physical plant and increasing enrollment is just the type of incompatible forms and degrees of urban uses prohibited in the R.C.2 zone and its petition for special exception should be denied.

III. Villa Julie Has Failed To Meet Its Burden As To Variances Number 11, 12 And 13.

Villa Julie's requested variances, numbers 11, 12 and 13, all relate to the height, distance and parking width requirements for the proposed new construction. In support of the requested variances, the Petitioners presented Samuel Crozier, a landscape architect. Crozier testified, however, that Villa Julie never attempted to size its site plans or architectural planning to meet with the R.C.2 zone height, distance, and parking width requirements.

Q: Mr. Chairman, I respectfully suggest that

> it's a valid question to ask on a variance where, what they are saying is we want to violate the height regulations by thirteen feet, to simply say because we want to save space, to simply say why you can't comply with the 35 foot height restriction and particularly because you have already asked for a variance which says these two buildings could run together into one, so my question is from the concept of the plan, if you have the variance which is granted that allows you to have zero feet between those buildings, why cannot you take the same square footage and still adhere to the regulation which says 35 feet high?
>
> A: That program hasn't been tested, and again, we are asking for the 100,000 square feet within this envelope. Its all we are asking for.
>
> Q: So what you have just said was you never tried to even design a plan which would comply to the 35 foot height restriction and still fit within the building envelope that you're requesting, isn't that true?
>
> A: Because the direction was to make this campus and the building as compact as possible, to have the least impact on the community as possible.

(Transcript dated March 11, 1993 at 64-65). Although Crozier guessed that it may be more economical to build the buildings higher than wider, there was nothing particularly unique about that hardship as it related to the variances.

Section 307.1 of the Baltimore County zoning regulations requires a threefold test of whether or not variances should be granted by the Board. First, the petitions must show "practical difficulty or unreasonable hardship." Second, the variances may be granted only if in strict harmony with the spirit and intent of the area restrictions. Third, the variances may be granted only if granting will not result in substantial injury to the public

health, safety and welfare.

With regard to the first test of "practical difficulty or unreasonable hardship," Villa Julie has made no effort whatsoever to design its new construction within the parameters of the zoning regulations. The only purported reason given by the Petitioner, in addition to an uncertain and purely speculative calculation that it may be less expensive to build higher than wider, was a perceived aesthetic purpose for the variances. The fact remains that Villa Julie never attempted to design its new construction in conformity with the zoning restrictions on height. The College does not know if it will cost more or cost less to comply with the height limitation of 35 feet. Simply stated, the College has demonstrated no practical difficulty or unreasonable hardship and the variances should be denied. See e.g. Anderson v. Court of Appeals, 22 Md. App. 28 (1974).

Second, the proposed doubling of the College's physical plant is not "in strict harmony with the spirit and intent of the area restrictions." The R.C.2 zone is designated for resource conservation. The uncontested evidence before the Board is that Villa Julie's proposed construction will require construction of two storm water management ponds. No other property owner in the Valley must utilize storm water management ponds. Section 1A01.B states: "The R.C.2 zoning classification is established . . . in order to foster conditions favorable to agricultural use of the productive agricultural areas of Baltimore County by preventing incompatible forms and degrees of urban uses." Villa Julie's

planned construction is clearly urban in character and incompatible with its surrounding neighbors' farms.

CONCLUSION

For the above-stated reasons, the Board should: (1) dismiss Villa Julie's Petition for Special Exception as it relates to the installation and construction of a sewerage treatment system; (2) deny Villa Julie's Petition for Special Exception; and (3) deny Villa Julie's request for variances Nos. 11, 12 and 13.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 19th day of April, 1993, a copy of the foregoing Memorandum of Northwest Land Corporation in Lieu of Final Argument was mailed first-class, postage prepaid to:

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Michael J. Collins

4/19/93

MJC/mlh/04.19.93

IN THE MATTER OF:	*	BEFORE THE BOARD OF APPEALS
THE VILLA JULIE COLLEGE, INC.	*	FOR BALTIMORE COUNTY
	*	CASE NO.: 92-285-SPHXA

* * * * * * * * * * * * * *

MEMORANDUM OF PETITIONER, VILLA JULIE COLLEGE, INC.

Villa Julie College, Inc., Petitioner, by Benjamin Bronstein, Michael J. Chomel and Evans, George and Bronstein, its attorneys, files this Memorandum in Support of the Petition for Special Hearing, Petition for Special Exception and Petition for Variances filed in this case.

I

Statement of the Case

This is an appeal from the decision of the Zoning Commissioner for Baltimore County, Maryland dated July 10, 1992, in which Commissioner Schmidt granted the Petition for Special Exception to approve the use of the property in question for a private college, in accordance with the site plan filed therewith, with certain restrictions, and granted the Petition for Special Hearing to approve a modified parking plan and a residential caretaker dwelling as an accessory use to the College, and granted the Petition for Zoning Variances to permit variances from sections 102.2, 1A01.3.B.3, 413.1.b. and 409.3 of the Baltimore County Zoning Regulations ("B.C.Z.R.") on property zoned R.C.2 (agricultural).

Both a number of Protestants and the College appealed the decision of the Zoning Commissioner. A de novo hearing was held

(3)

before the Board of Appeals for Baltimore County ("Board") consisting of seven (7) days of testimony. A number of witnesses, both expert and lay, appeared and testified. Additionally, a number of proffers of testimony were made on behalf of the Protestants. At the conclusion of the hearing, the Board requested written memoranda to be submitted by all parties.

II

Legal Standards

Under the B.C.Z.R., private schools are permitted by special exception in R.C.2 zones. B.C.Z.R., Section 1A01.2.C.6. Before a special exception may be granted by either the Board or the Zoning Commissioner it is required under Section 502.1 of the B.C.Z.R. that the requested special exception use will not:

a. be detrimental to the health, safety or general welfare of the locality involved;

b. tend to create congestion in roads, streets or alleys therein;

c. create a potential hazard from fire, panic or other dangers;

d. tend to overcrowd land and cause undue concentration of population;

e. interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences, or improvements;

f. interfere with adequate light and air;

g. be inconsistent with the purposes of the property's zoning classification nor in any other way inconsistent with the spirit and intent of the B.C.Z.R.; nor

h. be inconsistent with the impermeable surface and vegetative retention provisions of the B.C.Z.R.

In addition to the requirements of Section 502.1, the Board

must be satisfied that the proposed special exception use (private college) 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. B.C.Z.R., Section 1A01.2.C.

In Schultz v Pritts, 291 Md. 1, 432 A.2d 1319 (1981), the Court of Appeals set forth in detail the 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 welfare, and therefore, valid." 432 A.2d at 1325. The Court emphasized that the Baltimore County Council in its legislative capacity specifically pre-determined that the special exception uses permitted under the B.C.Z.R. are allowed in specified zones despite the fact that such uses may produce adverse effects. Id at 1330.

The Court laid down the principle that a proposed use requested by special exception may only be denied when the 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 that use irrespective of its location within the zone in question. Id at 1327, 1330. In order to deny a requested special exception, there must be a showing of "strong and substantial evidence" that the use in question at the proposed location would have adverse effects above and beyond those inherent

ones ordinarily associated with such use in that particular zone. Id.

III

Statement of Facts

Villa Julie College is located in the Greenspring Valley area of Baltimore County on a 60 acre parcel of land, zoned R.C.2. Located on the valley floor in an agricultural preservation area, Villa Julie has extensive frontage on Greenspring Valley Road, which serves as its sole access. In addition to Villa Julie, other institutions (including St. Pauls School, Maryvale, Sisters of Notre Dame De Namur, Mensana, Koinonia, and the Greenspring Valley Country Club) are located on the valley floor and within the agricultural preservation area. The remaining land in the area of the College consists primarily of baronial estate homes. Testimony was that the owners of these estates are not engaged in agriculture themselves but rent out some of their property to a contract farmer while enjoying resulting tax credits and a beneficial tax assessment.

Greenspring Valley Road is designated as a rural collector on the Federal Highway Functional Classification Map. The College is also served by public transportation.

Prior to the advent of Rural Conservation zoning, the College existed as a use of right in the R.D.P. zone. In 1976 (without notice to the College) Villa Julie was rezoned R.C.2. A private college is permitted in this zone as a special exception.

Villa Julie began in 1947 as an adjunct of the Sisters of

Notre Dame De Namur. In 1967, the College was separated from the Sisters and became a private, non-profit educational institution guided by a Board of Trustees comprised of distinguished business, civic and professional leaders from the Baltimore metropolitan area.

Villa Julie is a four year college and has been awarded accreditation by the Middle States Association of Colleges and Schools. The College has instituted innovative programs offering students a choice of professional career possibilities in such diverse areas as nursing, computer programs, paralegal studies, medical laboratory technician, and court reporting.

The College is engaged in a number of programs with local institutions and businesses, including a nursing program which is a joint venture with Union Memorial Hospital, a medical laboratory technician program which is a joint venture with Johns Hopkins Hospital, and other co-op programs where students are placed in their prospective fields with businesses throughout the Baltimore Metropolitan area. The College also had training programs with companies such as Maryland National Bank, Baltimore Gas and Electric Company, and Proctor and Gamble.

Villa Julie has had an excellent record in placing graduates in jobs. Until 1992, the percentage of graduates which became employed was in the mid to upper 90 percentile. In 1992 that figure dropped to 84% (which is still outstanding considering the condition of the local and national economics). Graduates of the College are highly sought after by employers in the Baltimore area,

demonstrated by the fact that in February, 1993 the College received 364 written requests from local employers seeking Villa Julie graduates for open full-time positions. There were also 33 requests for part-time positions in that same month.

The College has a current enrollment of 1776 students, 1075 full-time and 701 part-time, fifty-five percent (55%) of whom are Baltimore County residents. The average yearly growth rate over the past decade has been approximately 8%. The College also maintains a summer program, with a 1992 enrollment of 360 students.

The College's current payroll is approximately $5,000,000.00. It has a combined faculty and staff of 317, 54% of whom are Baltimore County residents. All of the students commute. The College has no on site dormitory facilities, nor are any proposed in the site plan; the College does, however, assist students with off campus housing, on request.

The existing facilities total 103,000 sq. ft of building area. The site plan proposes two new buildings totaling 98,000 sq. ft. (to be located within a flexible building envelope), a small addition to the Learning Resource Center and a waste water treatment plant. Under the plan, the number of parking spaces will be increased from 681 to 1040 total spaces. The Maryland General Assembly has passed a $3,000,000.00 bond, designated for the construction of a new academic center.

Mr. Michael Lancaster, chief business officer of Villa Julie, testified in detail as to the present lack of facilities at the College. For example, faculty offices have a minimum of 4 members

per office, with some being used by 6 faculty members in a space designed for fewer. The library is too small to hold the number of volumes necessary for a 4-year college under the guidelines of the Middle States Association (the association by which Villa Julie is accredited). Seventy-one percent (71%) of the College classrooms exceed State guideline standards for a maximum use, and seventy-five percent (75%) of the special classrooms (including computer labs, science labs, theater and lecture hall) receive maximum use under State guidelines. There are no present indoor athletic facilities, and the existing locker room facilities are woefully inadequate for physical education or athletic teams.

Mr. Lancaster then explained that the proposed new buildings would be utilized for classroom space, physical education facilities, administrative offices, study, and faculty space. One of the proposed new buildings will also contain a lecture hall, computer lab, arts and graphics classrooms and a theater. The proposed buildings would enable expansion of the library to meet Middle States Association standards.

The campus on which the College is located adjoins the property of the Sisters of Notre Dame de Namur. At some point in late 1989 or early 1990 the septic system which serves the College (located on the Sisters' property) began to overflow. The College engaged Maryland Environmental Services, Inc. ("MES"), a quasi-state entity which supervises numerous waste water disposal systems in the State of Maryland and has conceded expertise in this area to make recommendations to the College for a plan of action to resolve

the existing problem.

MES and Baltimore County authorities performed a review and analysis of the College property and determined that a private waste water treatment plant ("WWTP") was the most appropriate means of resolving the failed septic system. The Baltimore County Department of Environmental Protection and Resource Management ("DERPM"), Office of Planning and Zoning ("OPZ") and Department of Public Works ("DPW") jointly prepared, and the Baltimore County Council approved, an amendment to the County Master Water and Sewer Plan which authorized the construction of a private waste water treatment plant on the College property. The Master Water and Sewer amendment authorizes a community system for Villa Julie College and the Sisters of Notre Dame; the Sisters have elected at this time not to participate in the WWTP, and have renovated their existing septic fields.

Under the Federal Clean Water Act, the State of Maryland has been delegated authority by the federal government to administer programs relating to water pollution and waste water discharge in the State of Maryland. This delegated authority is exercised for the State by the Maryland Department of the Environment ("MDE"). See, Md. Code Annot., Environmental Article, Title 9, Subtitles 2 and 3; COMAR 26.08.01 et seq. Pursuant to the regulations promulgated by MDE, the College has applied for a permit under the National Pollutant and Discharge Elimination System ("NPDES").

After public hearing (at which the Protestants in this case appeared), MDE issued a Notice of Final Determination indicating

that it would approve a discharge by the College (exclusive of any participation by the Sisters) of up to 60,000 gallons per day average of treated waste water predicated on the College's anticipated need for the next five years. The Protestants have taken an administrative appeal from that determination.

Villa Julie College has also applied for a water appropriations permit from the Water Resources Administration of MDE. That application is pending and is the subject of an independent administrative proceeding.

The location of the WWTP as shown on the Plat to go with the Petitions in this case was selected after a thorough review and analysis (Petitioner's Exhibit 3). Mr. Dane Bauer testified on behalf of the Petitioner, and was accepted as an expert in water and wastewater management. Mr. Bauer has degrees in microbiology and environmental engineering, and until recently was employed by MES until his promotion. He has been the project manager for the Villa Julie College WWTP project.

Mr. Bauer testified that the selected site is the most appropriate on the College property for a number of reasons, including its suitability for gravity flow. The plant will be located in an area of the College property which will minimize its visual impact -- Mr. Bauer testified that the area is generally lightly wooded, and includes some mature trees approximately 60 to 100 feet tall and a number of smaller trees 20 ft. in height. The WWTP will discharge into what is characterized as an intermittent stream located on the College property, which eventually flows into

the Jones Falls.

The plant will be a self-contained, prefabricated facility known as a Rotating Biological Contactor ("RBC") facility. The majority of the facility is located underground, with some parts above-ground. The treatment portion of the facility is covered in a manner similar to the quonset-type structure shown in Petitioner's Exhibit 6. A significant part of this treatment facility will be enclosed in a pavilion-type structure approximately fourteen (14) feet tall, a roof and screened sides, having an appearance appropriate to its valley-type setting in its resemblance to a small barn or similar structure. The plant is designed to control odors and prevent odor emissions by providing covering and adequate venting.

The WWTP will contain an ultraviolet (UV) disinfection unit, selected because it is one of the best performing and easiest to maintain units currently available. The plant was further designed, with input from DEPRM, with an artificial wet land which will provide a final polishing treatment. The actual physical design of the structure is not yet completed, because it is dependent in part upon the capacity for which the plant is to be designed.

MES ascertained the current flow of wastewater at the College by utilizing several methods which are standard within the industry, including a plumbing fixture count, calculations based on standard criteria relating to water usage of students and faculty, and installation of water meters. Those methods established a

current flow at the College of between 27,000 and 32,000 gallons of waste water per day. Utilizing these figures, and based on historical data indicating an average yearly enrollment increase of 8%, MES applied for a discharge permit in the amount of 60,000 gallons average daily flow with 100,000 gallons per day average peak flow.

MES will operate the facility (in addition to its design and construction supervision roles). It should be noted that MES has extensive experience in operating plans of this nature, and employs 120 licensed operators (20 of whom have received the highest available level of certification). MES supervises between 65 and 70 waste water treatment plants in the State, five (5) of which are RBC plants. Mr. Bauer testified that the RBC design has twenty years of improvements and refinements, resulting in a plant which is "very reliable, especially in varying amounts of water and varying amounts of concentrations." MES has had "good experience" with the RBC units under its supervision.

There are standard operating procedures established for RBC plants, under which the operators go through a daily checklist and monitor such details as the amount of chemicals in the tank, weather factors, the intensity of the UV treatment process, and the actual functioning of the system. The operator must maintain daily monitoring reports, kept at the site, which are submitted to the State on a monthly basis.

Mr. Bauer testified that the proposed plant was one of the most complex, comprehensive systems in the State. It has multiple

levels of treatment, including processes lacking in similar facilities. As a result, a failure in one component in the system (particularly in light of the UV filter) does not result in a discharge which violates NPDES permit limits.

The design includes a standby generator in the event electrical service to the campus is interrupted. An extended interruption will present no problem, because the system has a reserve capacity built into the initial inflow tank, and MES has emergency equipment stationed in each region providing access to motors, portable generators, and replacement parts "with in an hour or two." The system has alarms, including bells, signals, and automatic telephone signals, which will alert service personnel to any malfunction. Even under a "worst case" scenario, supposing the most calamitous situation involving extended interruption in electrical service and unavailability or inaccessibility of emergency or replacement parts, the College would do what anyone else would do when they are in that sort of situation (e.g., when their toilets do not function properly) -- cease use of the facilities until the situation is remedied (i.e., limit activities on the campus until the problem is rectified).

The plant has a design capacity greater than the actual present flow of the College, which allows for future growth and permits flexibility in the future. Mr. Bauer described the design capacity of the WWTP as similar to that of a building footprint. Under the Baltimore County Master Water and Sewer Plan, a multi-use facility is a facility which serves one property. The facility in

the present case will be a multi-use facility within the scope of that definition. The current amendment to the County Master Water and Sewer plan authorizes a community plant for the College and Sisters, although the Sisters have elected not to participate at this time. Mr. Neff testified that it would be necessary to amend the Master Water and Sewer Plan for inventory purposes to reflect the multi-use nature of the system, describing this as a "very simple, very minor inventory change." Mr. Neff also testified the College has the present right to operate a multi-use system under the existing amendment to the Master Water and Sewer Plan. Even Mr. Norman Gerber, who testified on behalf of the Petitioners as an expert land planner, testified that as long as the WWTP is utilized by Villa Julie College it is an accessory use and permitted in an R.C.2 zone.

There is no difference, from a design perspective, in the configuration of the plant, whether it is designated as a multi-use facility or a community plant. To an observer, there is only what Mr. Bauer described as an "incremental" difference in the visible portion of the facility between a small plant and a larger capacity plant. An RBC plant designed with a functional capacity greater than the actual flow of waste water is advantageous, because the plant will operate more efficiently.

The stream into which the discharge from the WWTP will flow is approximately 1 to 2 feet in width and 2 to 3 inches deep. Sixty thousand gallons of discharge added to that stream will increase its depth by approximately 1/2 inch. A flow of 100,000 gallons

into the stream will add no more than 1 or 2 inches in the narrowest portions of the stream. Given the quantities and the velocities involved, Mr. Bauer testified that there would be no erosion to the stream bed from the WWTP discharge.

Mr. Chadsey is a licensed civil engineer and site planner who was accepted as an expert in site plan preparation and design, and the design of storm water management facilities. A discharge of 100,000 gallons per day average from the WWTP was characterized by Mr. Chadsey as "negligible" in relation to storm water runoff. Mr. Frederick Chadsey testified on behalf of the Petitioner. For comparison purposes, a flow of 60,000 gallons per day average was described as approximately equal to a two inch pipe full of water, while 100,000 gallons per day average was described as the flow coming from a 1 1/2 inch copper pipe under typical house pressure. This amount of flow is unlikely to cause any flooding along the stream, and will not cause erosion to the stream bed. There will be no difference in erosion impact between a discharge of 30,000 gallons per day <u>average</u> and a discharge of 100,000 gallons per day <u>average</u>.

The proposed WWTP will be a state-of-the-art facility; it has an anticipated construction cost of approximately $1,000,000, with an estimated operational budget of $50,000 per year. Given the current economic climate, in which governmental funding to education is being dramatically cut back, and private gifts are declining, it is necessary for the College to generate on its own the funds necessary for the construction and continued operation of

the treatment plant and the proposed buildings. In order to do so, an increase in tuition will be necessary -- it would require an unmanageable and drastic increase in tuition per student to cover the capital and operating cost of the plant based on the College's current enrollment. Part of the funds needed for capital improvements must be generated through an increase in student population.

Accordingly, the College engaged Crozier and Associates, land use planners, to review the existing facilities and prepare a Master Plan, including expanded facilities in harmony with the existing College environment and compatible with the Greenspring Valley. This Master Plan provides for two additional buildings set in back of the existing structures on campus (away from Greenspring Valley Road) and a small addition to the Library Resource Center, all situated in such a way as to preserve and promote the small school atmosphere and retaining open areas and buffers. The construction will alleviate current overcrowding, and provide needed facilities and additional classroom space.

As part of the process of creating the Master Plan, the College assembled as what is referred to as the "design team." This team included Mr. Bauer from MES, Mr. Crozier, a licensed landscape architect, Mr. Chadsey, a licensed civil engineer, and Wes Guckert, a traffic engineer. Mr. Crozier explained that the College directed the design team to create a plan which would maintain the current "small school environment" and minimize any impact on the Greenspring Valley and surrounding land uses. The

Master Plan accomplishes this directive by locating the parking so as to select the thinnest trees on the site (not mature trees), and keeping a compact, courtyard-type design which promotes the small-college atmosphere. In developing the Master Plan, Mr. Crozier testified that he performed an analysis of the site as it presently exists, taking into account existing open areas, visibility from Greenspring Valley Road, the orientation of existing buildings, and traffic and pedestrian circulation at the site.

The Master Plan proposes no buildings in the forest buffer area. The new buildings will be located behind existing structures on the property, which will screen them from visibility on Greenspring Valley Road. The topography of the College property declines from Greenspring Valley Road towards the Jones Falls. The Master Plan utilizes the topography of the site to shield the new buildings from view by locating them behind the existing buildings and away from Greenspring Valley Road. Mr. Crozier also pointed out that the Baltimore County landscaping regulations will require additional landscaping buffers and vegetative plantings for screening surrounding property. No area on the College property currently being utilized for agriculture will be affected by the proposed building plan.

Given these design features, Mr. Crozier was of the opinion that the WWTP would also generally not be observable from off site, noting that even during the wintertime there is a "very filtered view" toward the Mitchell residence, the closest residence to the WWTP site.

Mr. Crozier testified that the plan proposed in this case by Villa Julie is quite similar to the one previously requested by St. Paul's school and approved in a prior zoning case, noting in particular that St. Paul's is located in an R.C.2 zone and has received approval (with support from the Valleys Planning Council) for a flexible site plan showing building envelopes rather than specific building footprints. Villa Julie has modeled its proposal on that approved in the St. Paul's case, including a flexible site plan and new buildings. Villa Julie does not criticize the decision in the St. Paul's (or the Valley's Planning Council position in that case). The College is requesting similar flexibility regarding the location of facilities as that granted to St. Paul's under its zoning order.

Both Mr. Crozier and Mr. Chadsey gave expert opinions that the requested special exception for a private college and special hearing for a modified parking plan met the requirements of Section 502.1 of the B.C.Z.R., and would not be detrimental to the primary agricultural uses in the vicinity.

Mr. Crozier further testified that the variances requested in this case were justified in that strict compliance with the B.C.Z.R. would result in a practical difficulty and an unreasonable hardship, and that the variances, if granted, would be in strict harmony with the intent of Section 307 of the B.C.Z.R. and would not injure the public heath, safety or general welfare. In support of this position he noted that most of the variances related to distances between existing buildings or between existing buildings

and proposed buildings. Generally, this requirement is designed to protect neighboring or adjoining property owners, a rationale which does not apply in the present case since all the buildings are located in the interior of the College property. The requested variances for distances between the buildings also provide flexibility in locating the new buildings within the designated building envelope. These distance variances, as well as the requested variance for height, will permit flexibility in designing a multi-level structure which is not spread out over a large area of the campus.

The variances will promote and maintain the "intimate campus" that presently exists and will provide areas for intellectual and social exchange between students and faculty. It will also promote efficient use of time by student, decreasing the amount of time spent traversing the campus from location to location.

Both Mr. Chadsey and Thomas Obrecht (one of the Protestants) testified that if the requested height variances were granted it would reduce the impervious roof area and reduce construction costs by permitting a slightly taller building, rather than requiring the square footage to be spread out over what is presently open space. As Mr. Crozier explained, "the more we [can] do that, the less impact this campus will have on Greenspring Valley Road as well as the adjacent residents."

In support of the Petition for Special Hearing for modified parking, Mr. Crozier testified that he performed a survey of student cars which disclosed that students generally own or drive

smaller than average cars. This permits a reduction in the width of parking spaces from 8 1/2 feet to 8 feet, allowing a smaller parking area (an impervious surface) than would otherwise be required.

The site plan provides for more than doubling the present water storage for fire purposes, from 25,000 gallons to a total of 55,000 gallons. The additional 30,000 gallons will be dedicated solely to fire fighting.

Mr. Chadsey explained that the past development on the property did not require storm water management, so that at present there are no storm water management facilities on the property. The proposed site plan provides for extensive storm water management facilities in accordance with Baltimore County regulations, under which the design of the storm water management facility will minimize diversion of drainage from one property to another, and is designed so that the rate of flow leaving the site at the intermittent stream is no greater than it is today.

The storm water management concept reflected on the site plan complies with Baltimore County and State regulations which address the rate of storm water flow. Neither State nor County regulations address the total volume of storm water runoff. As Mr. Chadsey explained, at this stage in the process what is involved is a concept plan; Baltimore County does not require an actual design or construction plans for the storm water management system. There will be a minimal amount of additional volume as a result of the development proposed on the site plan; Mr. Chadsey testified that

the existing soil on the College property is a clay material with little absorption, so that the increased run-off from impervious surfaces (as opposed to the existing clay) will be minimal.

In arriving at the proposed storm water management plan, the College consulted with DEPRM and with Trout Unlimited. After these consultations, the system was designed to minimize any thermal shock to the intermittent stream. Mr. Jim Gracie, President of the Maryland Chapter of Trout Unlimited, testified that he was shown a copy of the Villa Julie site plan, and that the Villa Julie plans regarding storm water met with his approval. These features constitute a substantial benefit, because presently there exists thermal shock to both the intermittent stream and the Jones Falls from storm water runoff from surrounding properties, as well as the College property. Moreover, the artificial wetlands will provide water quality treatment for the storm water as well as for the discharge from the WWTP.

A number of the Protestants do not have direct access to Greenspring Valley Road. Clark Farm Associates and Northwest Land properties have access onto Hillside Drive, while Mr. and Mrs. Hagan, have access onto Greenspring Avenue. Other Protestants, including Jervis Finney, Richard Buck, Stephen J. Immelt and Douglas Carroll, live a substantial distance away from the College.

Several of the Protestants appeared and testified. Generally, their testimony related to generalized "fears" or "concerns" that traffic "might increase", that the WWTP "might malfunction" or that there "might be" some impact on their wells. None of the

Protestants, however, testified that they have actually had problems with their wells. Indeed, Mr. Rogers testified that his well and the wells of at least two of his neighbors produced more than three gallons per minute based on the Baltimore County recharge test, and affirmatively testified that neither he nor anyone around him had experienced a problem with their wells (other than when the electricity goes out and the pump does not function). Water and wells concerns will be addressed by the Water Resources Administration in the course of the groundwater appropriations permit process.

Gordon Sugar, sole owner of Northwest Land Corporation, testified that he has experienced no problems with respect to the College, except possibly with lights. None of the other Protestants could relate any traffic problems directly to the College, other than Mr. Obrecht who testified that on occasion he cannot immediately enter Greenspring Valley Road in the morning from his driveway. He admitted, however, that there are no cars standing in line in front of his house, and the traffic is flowing through. Mr. Obrecht's testimony is inconsistent with both traffic experts, who testified to the existence of a level of service "A" at the College entrance. Mr. Obrecht further testified that he has access to Greenspring Valley Road by way of Nacirema Lane. There was no testimony before the Board of any difficulty experienced by vehicles entering Greenspring Valley Road (in either direction) from Nacirema Lane.

The Protestants also testified to their concern about the

impact on agriculture. None of the Protestants actually farm their property. For example, Mr. Sugar testified that he has ten tenant houses on Northwest Land Corporation property, but that none of those tenants farms the land. All of the Protestants testified that their land is farmed by a contract farmer, Clarence Mielke of Carroll County, Maryland.

Mr. Mielke testified that he brings his farm equipment down Falls Road and then moves from farm to farm (west to east) across the valley. He ordinarily moves his farm equipment very early in the morning (3:00 or 4:00 a.m.), during the day when there is no traffic on the roads, or late at night (10:00 or 11:00 p.m.). Mr. Mielke does not ordinarily take his farm equipment on Greenspring Valley Road, but works across the valley from east to west, one farm at a time, so that he does not have to utilize Greenspring Valley Road.

Mr. Mielke said the proposed discharge into the intermittent stream would not be a problem to agriculture unless it caused some sort of flooding. There is a culvert on the Clark Farm Associates' property that enables him to take his equipment across the intermittent stream whether there is water in it or not. The only evidence of adverse impact on agriculture was Mr. Mielke's testimony that the subdivision Mr. Rodgers made of his property diminished the area of farming that he is able to do there and has made it more difficult for Mr. Mielke to farm that property.

No farmer other than Mr. Mielke testified. Mr. Mielke's testimony was favorable to the requested special exception in that

it demonstrated how Greenspring Valley Road is not a part of the farming process in Greenspring Valley, that it does not serve as a conduit for farm equipment. There was, therefore, no testimony against Villa Julie College on this issue.

The remaining concerns expressed by the Protestants were generalized concerns regarding impacts to the Jones Falls, to the general "ambience" of the Valley, and on traffic.

Mr. Guckert, an expert in traffic and transportation planning, testified that the intersection of Greenspring Valley Road and Park Heights Avenue (to the west of the College) is presently operating at a level of service "B", and that the intersection with Greenspring Avenue (to the east of the College) is operating at a level of service "A".

Mr. Guckert performed a traffic study and analysis of the College, utilizing both machine counts and turning movement counts over seven days -- a four day period in 1990 and a three day period in 1993. The traffic counts were conducted from 7:00 a.m. until 7:00 p.m., thereby taking into account not only the morning and evening peak hours, but the mid-day period as well. Mr. Guckert testified that his traffic study disclosed that in the morning almost 70% of the traffic to the College is from the east, while during evening hours traffic volumes are generally balanced travelling eastbound and westbound. There is an "A" level of service at the intersection of the College entrance and Greenspring Valley Road.

Mr. Guckert performed an analysis of traffic conditions along

Greenspring Valley Road in connection with the expansion anticipated by the Master Plan. In performing his calculations, Mr. Guckert took the existing traffic volume at the school throughout the day, and assumed that school enrollment (and traffic) would increase at a rate of 8% per year, compounded. He also assumed an increase in background traffic along Greenspring Valley Road of 3% per year (a conservative number in light of the fact that the State Highway Administration records demonstrate an increase of approximately 2 1/2% per year over the past ten years).

Utilizing these assumptions, Mr. Guckert opined that if traffic in and out of the school during the morning and evening peak hours were doubled, there would still exist a level of service "A" at the College entrance. This level of service "A" would be maintained even though the number of cars entering or leaving the College were quadrupled during off peak hours (between the hours of 9:00 a.m. and 4:00 p.m.).

Mr. Guckert gave his expert opinion that doubling the number of trips during peak (a.m. and p.m.) hours and quadrupling the number of trips in off-peak hours would not result in congestion on Greenspring Valley Road, that the level service would remain "A".

Mr. Guckert also opined that this increase in traffic would not tend to create congestion either at the College entrance, or at the intersections of Greenspring Valley Road with Park Heights and Greenspring Avenues. Mr. Guckert testified that the sight distance at the School entrance is "excellent" in both directions and exceeds the 350 foot minimum that would be required for the 35 mile

per hour speed limit. In his opinion, a left turn lane at the College entrance would facilitate westbound traffic (during peak a.m. hours), but would not affect the "A" level of service existing at the College entrance.

The testimony of Mr. Guckert further disclosed that the College can maintain an acceptable level of service within the parameters of Baltimore County with an increased enrollment; as Mr. Guckert noted, Villa Julie has a "unique opportunity" to manage traffic flow in and out of the college campus by scheduling classes in off-peak hours. The additional classroom space provided for in the new buildings which are the subject of the request for special exception permit the College to schedule classes at non-peak hours, thereby providing the College with a greater ability to manage its student population on campus and reduce impact on traffic.

V

Discussion of Authority

A. THE SPECIAL EXCEPTION AND SPECIAL HEARING REQUESTS SHOULD BE GRANTED.

A special exception use is part of the comprehensive zoning plan sharing the presumption that, as such, it is in the interests of the general welfare, and therefore, valid. Schultz v Pritts, 291 Md. 1, 432 A.2d 1319, 1325 (1981).

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

presumption. Id.

The duties given the administrative officer or board are to judge whether the neighboring properties in the general neighborhood would be adversely affected and whether the use in the particular case is in harmony with the general purpose and intent of the plan. Id.

While the applicant for special exception has the burden of adducing testimony which will show that the proposed use meets the prescribed standards and requirements, the applicant does not have the burden of establishing affirmatively that the proposed use would be a benefit to the community. Id.

If the applicant shows to the satisfaction of the Zoning Commissioner that the proposed use would be conducted without real detriment to the neighborhood and would not actually adversely affect the public interest, the applicant has met its burden. Id.

Where 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, the denial of an application for special exception use is arbitrary, capricious, and illegal. Id. Citing, Turner v Hammond, 270 Md. 41, 310 A.2d 543, 550-51 (1973); Rockville Fuel and Feed Company v Board of Appeals of Gaithersburg, 257 Md. 183, 262 A.2d 499, 502 (1970); Montgomery County v Merlands Club, Inc., 202 Md. 279, 96 A.2d 261, 264 (1953); Anderson v Sawyer, 23 Md. App. 612, 329 A.2d 716, 720 (1974).

The specific nature of the requisite adverse effect which will

justify the denial of a special exception was defined in Deen v Baltimore Gas and Electric Company, 240 Md. 317, 214 A.2d 146, 153 (1965). In the Deen case, Baltimore Gas and Electric Company requested a special exception use that would permit construction of high tension transmission lines above ground. The Baltimore County Zoning Regulations then in effect provided that a special exception use could not be granted if the requested use would "be detrimental to the health, safety or general welfare of the locality involved." (This is the same language embodied in current B.C.Z.R., Section 502.1(a)).

The Baltimore County Board of Appeals granted the requested special exception use for that portion of the proposed transmission lines that would traverse a rural area not then serviced by public water or public sewer facilities. The grant of the special exception was affirmed on appeal to the Circuit Court.

The case was then appealed to the Court of Appeals of Maryland, which affirmed the action of the Board and the Circuit Court in granting the special exception use. In language which is quite pertinent to the case at bar, the Court of Appeals declared:

> Appellants assert that it was error for the Board to fail to consider the future effects which the high tension wires would have on the health, safety and general welfare of the locality 'which could be reasonably anticipated in the normal course of its development.' This factor was without relevance in this case, because there was no evidence produced at the hearing which would show that the effect of high tension wires on the future health, safety and general welfare of this area would be in any respect different than its effect on any other rural area. Section 502.1 implies that the effect on

> health, safety or general welfare must be in some sense unique or else a special exception could never be granted in such an area for the above ground location of high tension wires. The only evidence as to future conditions was testimony revealing the possibility of future residential development of this land but such a possibility alone does not come close to showing a future deleterious effect upon the public health, safety or general welfare." 214 A.2d at 153 (emphasis supplied)

A similar analysis was applied and a similar result was reached in the subsequent case of Anderson v Sawyer, supra. In Anderson, a property owner requested a special exception use that would permit construction of a funeral home in a residential zone. Evidence was presented by the protestants to show that the requested special exception use would tend to create congestion and unsafe conditions on neighboring roads and streets (the same criteria set forth in current B.C.Z.R., Section 502.1(b)), and would have a depressing psychological effect that would interfere with the enjoyment of the adjoining properties, make them less saleable, and prevent them from appreciating in value as much as other homes in the area.

The Baltimore County Board of Appeals found that the grant of the requested special exception use would create traffic problems and would, in fact, "be detrimental otherwise to the general welfare of the locality involved." The Board denied the requested special exception use.

The Circuit Court for Baltimore County reversed the denial of the requested special exception. This action of the Circuit Court was upheld on appeal by the Court of Special Appeals of Maryland,

thereby requiring the grant of the requested special exception use. The Court of Special Appeals agreed with the trial court that there was no probative evidence to show any adverse effect. Of particular interest in connection with the present case, the court observed with respect to the alleged depreciation of value and enjoyment of neighboring properties:

> There can be no doubt that an undertaking business has an inherent depressing and disturbing psychological effect which may adversely affect persons residing in the immediate neighborhood in the enjoyment of their homes and which may lessen the values thereof. Indeed, it is precisely because of such inherent deleterious effects that the action of a local legislature in prohibiting such uses in a given zone or zones will be regarded as promoting the general welfare and as constitutionally sound. But in the instant case the legislature of Baltimore County has determined that as part of its comprehensive plan funeral home are to be allowed in residential zones notwithstanding their inherent deleterious effects. By defining a funeral homes as an appropriate use by way of special exception, the legislature of Baltimore County has, in essence, declared that such uses, if they satisfy the other specific requirements of the ordinance, do promote the health, safety and general welfare of the community. As part of the comprehensive zoning plan this legislative declaration shares in a presumption of validity and correctness which the courts will honor.
>
> The presumption that the general welfare is promoted by allowing funeral homes in a residential use district, notwithstanding their inherent depressing effects, cannot be overcome unless there are strong and substantial existing facts or circumstances showing that the particularized proposed use has detrimental effects above and beyond the inherent ones ordinarily associated with such uses. Consequently, the bald allegation that a funeral home use is inherently

> psychologically depressing and adversely influences adjoining property values, as well as other evidence which confirms that generally accepted conclusion, is insufficient to overcome the presumption that such a use promotes the general welfare of a local community. Because there were neither facts not valid reasons to support the conclusion that the grant of the requested special exception would adversely affect adjoining and surrounding properties in any way other than would result from the location of any funeral home in any residential zone, the evidence presented by the protestants was, in effect, no evidence at all.

329 A.2d at 724 (citations omitted; emphasis supplied).

The case law establishes that a special exception use has an adverse effect and must be denied when it is determined from the facts and circumstances that the grant of the requested special exception use would result in an adverse effect upon adjoining and surrounding properties which is unique and different from the adverse effect that would otherwise result from the development of such a special exception use located anywhere within the zone. Schultz v Pritts, supra at 1327.

The cases further establish that the appropriate standard to be used in determining whether a requested special exception use would have an adverse effect and, therefore, should be denied is whether there are facts and circumstances which show that the particular use proposed at the particular location proposed would have any adverse effects above and beyond those inherently associated with such a special exception use irrespective of its location within the zone. Id. Conversely, if the evidence produced by the Protestants fails to show that the particular use

proposed at the particular location proposed would have an adverse effect (above and beyond those inherently associated with such a special exception use irrespective of its location within the zone), then the special exception should be granted. Id., Deen v Baltimore Gas and Electric Company, supra; Anderson v Sawyer, supra.

Section 502 of the Baltimore County Zoning Regulations govern special exceptions. The prefatory note to Section 502 recognizes that certain types of uses are required to secure permission to allow them to be placed in a zone in which their uncontrolled occurrence may cause unsatisfactory results of one kind or another. Because under certain conditions they could be detrimental to the health, safety or general welfare of the public, a special exception use is permitted only if granted by the Zoning Commissioner. Id.

The testimony of the lay witnesses, the surrounding neighbors, is essentially the same. Their testimony is that they have "concerns" about various perceived issues. Their testimony, however, failed to direct itself to the crux of the matter to be decided -- will the grant of the special exception to Villa Julie College, pursuant to the site plan before the Board, have an adverse effect upon adjoining and surrounding properties which is unique and different from the adverse effect that would otherwise result from the development of such a special exception use anywhere within a R.C.2 zone. The neighbors' expressed concern which was in the nature of a generalized "fear" of the future, was

not directed to this critical point; the testimony of the lay witnesses failed even to rise to the level of the testimony as to future conditions which was held in Deen v Baltimore Gas and Electric Company, supra, to be insufficient to justify the denial of the requested special exception.

It is important to remain focused on the fact that this case involves a specific site plan. The site plan in question is "self-limiting", it does not provide for unlimited or "uncontrolled" future growth which was the main concern of the Protestants. The limited issue to be decided in this case is whether the grant of the special exception in the context of the proposed site plan will have an adverse impact upon adjoining and surrounding properties which is "unique and different" from the adverse effect that would otherwise be associated with the grant of the special exception elsewhere in a R.C.2 zone.

The Protestants in this case seem to take the erroneous position that any impact justifies denial of the special exception. This position reflects an inaccurate understanding of the law. As the Maryland courts have recognized, a special exception use will have an adverse impact. It is only where that adverse impact will be greater in the proposed location than elsewhere in the zone that the requested special exception may permissibly be denied. Schultz v Pritts, supra.

This case presents a unique opportunity to look back into the future -- to review a track record of a proposed special exception use, to look back 45 years in time and to see that the College has

had no adverse impact on agriculture. For over 45 years the College has been (as conceded by the Protestants) a "good neighbor". The College was a permitted use until the zoning of the property was changed in 1979. There is not a scintilla of testimony to the effect that Villa Julie has had an adverse impact on agriculture or traffic.

Generally, a non-conforming use is a disapproved use which is intended to "wither on the vine". This does not apply to Villa Julie, because the College once was a permitted use, and the County Council has given its legislative imprimatur to the College by allowing such an institution in a R.C.2 zone (as a special exception).

It is also instructive to note that the two buildings proposed on the site plan are at the rear of the College property, substantially set back from Greenspring Valley Road and on the other side of the existing buildings. The two proposed buildings will not take away any presently utilized agricultural property. This is in complete contradistinction from the subdivision and development of neighboring property, where ornate and elaborate houses of over 8,000 sq. feet have been constructed in the midst of what was formerly actively farmed agricultural property. It is with ill-grace the Protestants make such a contention.

The Protestants have not produced any facts tending to show that the College, or the proposed site plan, would have an adverse impact within the rule of Schultz v Pritts.

One of the Protestants' expert witnesses, Norman Gerber,

specifically acknowledged that the College could substantially increase in size without having an adverse impact. Mr. Gerber speculated that there is a "potential" that "in the long run" if the College "expanded greatly", it may have a detrimental effect. Mr. Gerber could not say at what point the College expansion would have a negative impact, but acknowledged that it would take an expansion larger than that proposed under the site plan before the Board. Mr. Gerber said that "doubling a school this size might well do it. Something less won't." He went on to say that "by the time you get up to 2,000 more [students] that probably will be too much. Where it is between [one and 2000 more students] I don't know for sure."

Mr. Gerber acknowledged that there is no institutional zone in Baltimore County. Since there is no institutional zone, Villa Julie (and similar institutions) are necessarily zoned like the surrounding properties. It should be noted that both the Baltimore County Master Plan and the Plan for the Valleys designate the College's land use as "institutional". It is beyond dispute that Villa Julie's character as an institution in the Valley is clearly established, and formally recognized. Further, the County Council recognized that a private college in an R.C.2 zone does not have to be an agricultural school, as Mr. Gerber suggested -- the R.C.2 regulations specifically provide for agriculture-related businesses as special exceptions in a R.C.2 zone, but attach no such requirement to a private school.

Mr. Gerber and Dr. Linaweaver testified for the Protestants

that the amount of waste water generated by the College and the number of traffic trips in and out of the College were greater than that of a single family dwelling. This does not constitute an adverse impact within either Schultz v Pritts or Section 502.1 of the B.C.Z.R.. The County Council understood that a private college would be a more intense use than the surrounding agricultural land at the time it enacted the R.C. zone and permitted a private college within that zone. Even Protestants' expert, Dr. Linaweaver, acknowledged that there are other permitted uses in a R.C.2 zone that are more intense in their water usage than agriculture. Both Dr. Linaweaver and Mr. Gerber acknowledged that a private college is permitted in a R.C.2 zone as a special exception, and that there is no limitation on the size of private colleges set forth in the B.C.Z.R.. Clearly, had the County Council intended to limit the size or equivalent intensity of development of a private college in a R.C.2 zone, it could easily have done so. By not so doing, the Council obviously intended to allow private colleges in an R.C.2 zone which would have a higher "intensity of use" than the surrounding agricultural uses.

Also, Dr. Linaweaver's figures are skewed. He admitted that his testimony and analysis are based on the underlying premise that the WWTP should be sized only to handle the existing flow of the College. Moreover, in arriving at his figures relating to current usage, Dr. Linaweaver included Sundays, holidays, weekends, and summer months when the College is not in session. This results in an inaccurate calculation, since water usage by the College is

concentrated Monday through Friday during the school year.

That the proposed site plan will not have an adverse impact is further demonstrated by the testimony of Protestants' expert, Mr. Gerber, who acknowledged that a private college (such as Villa Julie) would have the same impact any place in the R.C.2 zone -- it would have the same amount of water usage, the same number of students arriving -- producing the same impact any place in the zone. Mr. Gerber did not testify that the College would have an adverse impact at this location in the R.C.2 zone different than the impact inherently associated with a private college irrespective of its location within the zone; his testimony was no more than that the College's impact "might be" more severe or less severe in other locations.

The other expert proffered by Protestants also failed to establish by his testimony that there would be any adverse impact as a result of the proposed site plan. Martin Wells, a traffic engineer, did not himself perform any detailed traffic counts, but relied upon figures provided to him by a third party. He merely took "spot counts" to attempt to verify the information he received.

Mr. Wells used what he called a link level analysis, under which a level of "C" or better is acceptable in a rural area. Mr. Wells acknowledged that the supplement to the Plan for the Valleys provides that a level "D" or better should be maintained on Greenspring Valley Road. Applying his link level analysis to the counts he was provided Mr. Wells said that the links on either side

of the College have a level of service of "D" in both morning and afternoon.

Mr. Wells' testimony went only to peak hours, not to off peak hours. In rebuttal, Mr. Guckert testified that the information in the ASHTO Highway Capacity Manual for two lane link analysis (on which Mr. Wells relied for his link analysis) has been found by Mr. Guckert and his peers, as well as a number of counties in Maryland, to be statistically unreliable. The counties which have determined the link method for 2 lane rural roads to be statistically unreliable include Carroll, Howard, Prince George's, Frederick and Washington. Baltimore County does not use a link analysis for its general review of traffic studies and the Basic Services Maps. Mr. Guckert testified that, based on the 3000 or so traffic studies he has done throughout this region and the country, not only do the above counties reject the link method for being statistically unreliable, but Anne Arundel and Cecil County also recognize a problem with link analysis.

Mr. Guckert explained how using a link analysis gives contradictory results. For example, an intersection with a level of service ratio of .63 or less would be considered to have an "A" level of service. However, under ASHTO, if you move away from that intersection to a link which has a ratio of .37, you get a level of service "D", which is defined as unacceptable. Mr. Guckert testified that it was not reasonable or statistically reliable to say that where you have an intersection which is functioning at a level of service "A", when you move away from that intersection

where there is less traffic (in the link) you get a lower (unacceptable) level of service of "D". This is one of the reasons why the link analysis is not widely used, and is not used at all by Baltimore County when performing a Basic Services analysis.

Mr. Guckert also testified that if you apply the ratio for intersections to the links to the east and west of Villa Julie College, you would get a level of service "A" (rather than "D" to which Mr. Wells testified).

Mr. Guckert explained that the deficiency in the link analysis is that the ASHTO Highway Capacity Manual is based on 2 lane roadways and rural areas in the midwest. Local governments throughout the State of Maryland have found that there is no correlation between that data and the conditions that actually exist in Maryland. As Mr. Guckert put it, it is essentially a case of comparing "apples and bananas".

Although Mr. Wells testified that the accident rate on Greenspring Valley Road was higher than the state average for two lane rural roads, he was unable to locate any of the accidents along Greenspring Valley Road, or say whether any of the accidents involved students or traffic going to and from the College. In addition, his testimony in this regard is lessened by the fact that his comparison was to two lane rural roads (not collector roads). This is an invalid and unfair comparison. Indeed, Mr. Wells testified that from his perspective it "doesn't make any difference" is a major collector or arterial road, or is merely a minor farm road.

It is important to note Mr. Wells' testimony that the proposed increase in school enrollment under the site plan would have no adverse impact on levels of service at the intersections over and above the impact from anticipated growth and background traffic on Greenspring Valley Road. Mr. Wells, then, agreed in his testimony with Mr. Guckert. According to Mr. Wells, assuming a three percent background increase in traffic on Greenspring Valley Road there would be no impact (even at peak hours) should the College enrollment increase to 2,538 students at the following intersections with Greenspring Valley Road: Stevenson Road, the College entrance, Greenspring Avenue, and Falls Road. Mr. Wells testified that the only impact of such an enrollment increase would be at the intersection of Greenspring Valley Road and Park Heights Avenue, which would drop from levels of service "B" in the morning and "A" in the afternoon, to "C" in the morning and "B" in the afternoon -- still acceptable levels of service. Mr. Wells also gave his opinion that undesirable levels of service on the links will occur on either side of the College entrance in the future with or without the College expansion.

Mr. Wells' testimony, then, confirms that of Mr. Guckert -- any increase in College enrollment anticipated by the site plan before this Board will have no impact on levels of service. It cannot be said that any increase in traffic generated by the College will have an adverse impact (within the meaning of Schultz v Pritts) when the levels of service will remain the same regardless of the traffic generated by the College.

Moreover, there was no testimony from Mr. Wells regarding non-peak hours. The testimony of Mr. Guckert that the number of trips could be quadrupled in non-peak hours is therefore uncontradicted.

The instant case is distinguishable from the decision of the Court of Appeals in Board of County Commissioners for Cecil County v Holbrook, 314 Md. 210, 550 A.2d 664 (1988). Holbrook involved the location of a mobile home in a location where it was clearly visible from an expensive, custom-built residence on an adjoining property. The evidence in Holbrook was that the mobile home in question was from 80 to 100 feet away from the front yard of the adjoining residence. This testimony was substantiated by photographs.

In the present case, the testimony disclosed that the shed-like building in which the waste water treatment plant will be contained will have an outward appearance similar to any farm building in an agricultural zone. The structure will be located in a wooded area of the property hundreds and hundreds of feet from the nearest neighbor. The photograph showed that the structure will be barely (if at all) visible from the Mitchell residence. Moreover, the testimony of Mr. Bauer established that the substantial portion of the physical plant will be below grade, and that all vents will be connected to an odor control system. This is in complete opposition to the Holbrook case in which the landowner had an "unobstructed view" of the nearby trailer. Additionally, the proposed academic buildings will be located behind the existing College facilities and will not be visible from

Greenspring Valley Road.

The Holbrook case is further distinguishable because the Harford County Zoning Ordinance involved required the requested special exception use must not "substantially diminish or impair property values in the neighborhood". That standard is not embodied, either expressly or by implication, in Section 502.1 of the B.C.Z.R.

The facts in the present case are also distinguishable from the case of People's Counsel for Baltimore County v Mangione, 85 Md. App. 738, 584 A.2d 1318 (1991). In Mangione, the requested special exception involved a proposal to build a new convalescent home on a four acre parcel inside a single-family detached home area of Lutherville, which was zoned D.R.5.5. The property in question was located one block from York Road in a residential area.

Factors which were found to justify the administrative agency in denying the special exception included the fact that the proposed convalescent home would sit on "the prominent or dominant terrain above the neighborhood, which would block out light from the west; and with prevailing breezes from the west, would generate odors from the central kitchen as well as from the dumpster". 584 A.2d at 1324. In addition, there was testimony that the development would exacerbate erosion created by the development and storm water runoff. Id. There was also testimony about small arterial streets whose only access to York Road from the community was by way of narrow, winding streets and that the increased

traffic generated by the proposed use would jeopardize safety of the children playing in the streets. Id.

The Villa Julie proposal does not involve an intrusion into a densely developed residential area. There is absolutely no testimony in this case about children playing in Greenspring Valley Road who would be endangered by additional traffic. Moreover, the undisputed testimony was that the two proposed buildings will be behind the existing buildings and will not be visible from Greenspring Valley Road. Another differentiating factor is that the College property topography decreases in elevation from north (Greenspring Valley Road) to the south, which will further minimize any visual impact of the proposed buildings. This is quite different than the situation in the Mangione case where a new, dissimilar use was to be begun on prominent and dominant terrain above the neighborhood.

Villa Julie has existed in its present location for over four and a half decades, without any adverse impact on the neighborhood. It is not a new use, and will not generate an adverse impact in this particular location greater than the adverse impact of a private college use elsewhere in an R.C.2 zone.

The expert testimony produced by Petitioner in the instant case establishes that granting of the requested special exception to Villa Julie College will not have an adverse impact within the standard annunciated by the Court of Appeals in Schultz v Pritts. Testimony as to traffic impact and other factors in the present case does not rise to the level of either Holbrook or Mangione.

Under these circumstances, neither of these cases in persuasive as a basis for denying the requested special exception.

Similarly, the fact that the roofs of the proposed academic structures might be visible to Mr. Obrecht is to be distinguished. Mr. and Mrs. Obrecht (who recently acquired their property) are simply not entitled to see no new roofs within the view from their lofty perch. When all is said and done, Mr. and Mrs. Obrecht are not entitled to move to the Valley and have the roof area within their sight line permanently frozen in time.

SUMMARY

Both Mr. Crozier and Mr. Chadsey gave expert opinions that granting of the Petitions for special exception and special hearing would have no adverse impact. Mr. Crozier also pointed to the recent special exception granted to St. Paul's School (similarly located in part on the Valley floor) which was supported by the Valley's Planning Council, one of the Protestants in this case. There is no basis for discriminating against one educational institution (Villa Julie) when a similar special exception was granted to another institution in an analogous situation (St. Paul's). To do so would raise the specter of a violation of the doctrine of equal protection under the laws.

Mr. Gerber, the expert land planner who testified on behalf of Protestants, acknowledged that he could not say at what point the College expansion would have a negative impact, he thought that doubling a school this size might be enough, or if you add 2000 more students, there would "probably" be an adverse impact.

Protestants' own expert, then, conceded that there would be no impact until (at least) student enrollment reaches the level of 3500 to 3700 students. This testimony is tantamount to acknowledging that the proposed site plan will not have an adverse impact within the meaning of Schultz v Pritts.

The evidence before the Board is that Baltimore County government supports the proposed waste water treatment plant. Mr. Dieter of DEPRM unequivocally testified that the College's septic system has failed.

Mr. Bauer testified that alternatives have been explored and that the waste water treatment plant was the best solution under the circumstances (since there is little or no likelihood that public sewer will be extended to the property in the near future). MDE has addressed all the concerns raised by Protestants and has determined that discharge into the stream on the College property is allowable and that discharge of 60,000 gpd average is acceptable.

There is simply no rational basis to put a limit in the amount suggested by the Protestants on the amount of gallonage the College can utilize. The County Council authorized a waste water treatment plant without any specific limit on its size; had the County Council intended to set a maximum size limit on the plant, it could easily have done so in the Amendment to the County Master Water and Sewer Plan.

The amount of the discharge from the treatment plant can only be limited by the Board if the Board finds an independent basis to

do so under Section 502.1. The College drives the size of the waste water treatment plant; the waste water treatment plant does not determine the size of the College. The waste water treatment plant is not a growth-limiting tool -- if the size of the College is limited it must be for an independent reason, not as a result of an arbitrary rejection of the MDE determination that 60,000 gpd average is a permissible and allowable discharge.

Similarly, the waste water treatment plant is not in itself a reason to limit the size of the College. The uncontradicted testimony in this case is that a waste water treatment plant is the only mode of resolving the existing septic failure on the College property which is: (1) authorized by the Baltimore County Master Water and Sewer Plan; and (2) the means of disposal mandated by the County Council through the amendment to the Master Water and Sewer Plan. The record is devoid of evidence to limit the size of the waste water treatment plant (since water quality issues are to be determined by the State). There are no land use reasons why the plant should be limited in size. The testimony is to the contrary -- the plant is designed to minimize its visual impact, there will be no erosion, there will be no harm to agricultural uses.

Villa Julie College suggests that the initial plan capacity be set at 60,000 gallons per day average in accordance with the NPDES permit issued by the Maryland Department of the Environment, with the right for the College to request an increase to 100,000 gallons per day average, subject to water quality approval by the State under the NPDES permit. The actual physical capacity or size of

the plant should be set sufficiently large to encompass anticipated additional needs -- Mr. Lancaster and Mr. Bauer both testified that an increased water need could be generated by the College without addition of additional students. The size of the plant should anticipate increased need for this potential. Additionally, Mr. Bauer testified that a larger RBC plant operates more efficiently than a plant which is operating at its maximum capacity.

The Baltimore County Zoning Regulations specifically permit (as a special exception) a private college in a R.C.2 zone. Given that fact, where better placed in a R.C.2 zone could the college be located than the present Villa Julie property? The testimony establishes that Greenspring Valley Road is, in effect, an arterial commuter road. It is not a single-lane "farm" road.

The College is located in an agricultural preservation area (Greenspring Valley) which is surrounded by residential development, as opposed to a purely agricultural area such as the agricultural areas of northern Baltimore County. The nature of Greenspring Valley with its baronial estates and fields leased to contract farmers, and the surrounding patterns of development, lead to the conclusion that the present College property is the most appropriate place for its location in a R.C.2 zone, and that the special exception should be granted because the College will not have an adverse impact within the ambit of Schultz v Pritts, supra.

There is no rational basis on which this Board may properly limit the size of the College. As a non-conforming use (its present status) the College could increase its enrollment, since an

increase in student enrollment is an intensification and not an expansion. In light of its present facilities, by so doing the College would be required to schedule classes at inconvenient hours or overcrowd classrooms, resulting in a deleterious effect on the quality of the education and educational experience which the students presently receive. Either alternative would degrade rather than enhance the educational experience.

OPZ in its ZAC comments, approves the site plan and supports the special exception. OPZ suggests a maximum of 2,500 students. The testimony of Mr. Dillon establishes that OPZ did not have before it any information relating to traffic, and performed no in-depth study before arriving at this figure. The only testimony before the Board is that an increase in enrollment will not have an adverse impact. Mr. Guckert testified that an increase in enrollment would not have an adverse impact on traffic, and this opinion was confirmed by Protestants' expert, Mr. Wells. Protestants' expert, Norman Gerber, said that the College could increase to between 3,500 and 3,700 students before it would have any adverse impact. Protestants have produced no facts whatsoever to show any adverse impact.

Imposition of any arbitrary ceiling on total student enrollment would place the College in a position of being forced to prefer full-time students over part-time students, and would compromise the ability of the College to continue providing its present type and quality of education to all students. A flat limit on the total number of students would fail to take into

account students taking classes off campus (e.g., students in the nursing program at Union Memorial Hospital), as well as students enrolled in the night school and students enrolled in the summer session. Such a restriction on total student enrollment would not be reasonably related to the impact (if any) resulting from the number of students on campus at any one time, and would therefore be arbitrary.

The five percent per year increase in enrollment imposed by the Zoning Commissioner cannot be sustained. Such an inflexible mathematical cap is impossible to administer in the context of the College admissions process. As Mr. Lancaster testified, there is a discrepancy between the number of students accepted and the number who enroll. There is simply no way for the College to predict how many of the students it accepts will, in fact, actually register for class on the first day of school. Further, it is common knowledge that students drop out, and that not all students present on the first day of classes will complete the semester.

It would be inherently unfair to place the College in a position where it would be in violation of the zoning order should a single student more than the arbitrary five percent show up for enrollment -- the actual number of students is not a number over which the College has such control that it should be held responsible for failure to comply. Moreover, the College will have to construct a complete new building which will need to be filled with students; it is unreasonable to expect the College to build the structure and then fill it only at the rate of five percent per

year (or construct five percent of the building per year!).

Neither Clark Farm Associates, Northwest Land Corporation, nor Mr. and Mrs. Hagan have access to Greenspring Valley Road. Their concerns about traffic on Greenspring Valley Road are no greater than that of any member of the general public. Mr. Rodgers lives east of the Sisters' property, and is two properties east of the College entrance. It is hardly likely that he will be impacted by any increase in traffic related to the College, since the testimony of Mr. Guckert is that the majority of traffic travels from east to west in the morning.

Mr. Obrecht is not a party to this case. As previously argued, Petitioner has moved to strike Mr. Obrecht as a party because he failed to take an appeal from the decision of the Zoning Commissioner as required by governing law. Since Mr. Obrecht is only a witness, his testimony can only characterize traffic generally -- since he is not a party he cannot be found to be adversely affected by the traffic. In any event, the testimony of Mr. Guckert is that he observed no difficulty with the traffic flow of Greenspring Valley Road from the Obrecht property. Even Mr. Obrecht testified that traffic was not "stacked up" in front of his property, but was flowing smoothly.

The Protestants are seeking to limit the size of the College in this case by saying that there is a traffic impact. The simple fact of the matter is that their <u>own expert</u>, Mr. Wells, testified that there would be <u>no additional impact</u> along Greenspring Valley Road as a result of an increase of student enrollment over and

above the background increase in traffic which is to be expected.

Mr. Guckert's testimony about quadrupling of student trips in non-peak hours and evenings is absolutely uncontradicted. Mr. Wells' testimony only went to peak hours in the mornings and afternoons. Mr. Wells' testimony is further weakened by the fact that he applied standards which are not utilized by Baltimore County, and which have been rejected by the majority of the other counties in this State, as well as by other experts in traffic engineering. This is clearly demonstrated through Mr. Wells' testimony that the intersection of Greenspring Valley Road and Falls Road had a level service of "F". The 1992 Baltimore County Basic Services Transportation Area Map (Petitioner's Exhibit 31), indicates that the level of service at that intersection is "C" or better. Clearly, Mr. Wells' "standards" are at variance with those standards utilized in Baltimore County, which have been approved by the Baltimore County Council. Mr. Wells seemingly utilized his own unique standards in contravention of the County Council's mandated procedures and standards. His testimony is even contradicted by his own client, the Valleys Planning Council, which in the supplement to the Plans for the Valleys says that level of service "D" should be maintained on Greenspring Valley Road (rather than the level of service "C" to which Mr. Wells testified).

The Master Water and Sewer Plan is a planning document. Gregory v Board of County Commissioners of Frederick County, 89 Md. App. 635, 599 A.2d 469 (1991) (an amendment to a County Master Water and Sewer Plan is not a "zoning action", but is a planning

action). To the extent the Master Water and Sewer Plan does not permit the College to operate a multi-use facility under the authorization for a community plant, that issue will have to be determined in another forum. It is not a decision to be made at this stage in this proceeding by this Board.

The evidence before the Board does not support any finding that the requested special exception and accompanying site plan will have an adverse impact within the meaning of Schultz v Pritts. The requested special exception should be granted.

B. THE PETITION FOR VARIANCES SHOULD BE GRANTED

Pursuant to B.C.Z.R., Section 307.1, the Board of Appeals, in this appeal is empowered to grant variances from height and area regulations in cases where strict compliance with the Zoning Regulations would result in practical difficulty or unreasonable hardship.

The testimony of Mr. Crozier and Mr. Chadsey for the Petitioner was that the requested variances and issue were designed to create a more compact "footprint" for the buildings and to promote efficient usage of the property. The variances are designed to promote the creation of a courtyard environment between the existing and proposed new buildings and to provide flexibility in the design and location of the two new buildings. Mr. Crozier further testified that the B.C.Z.R. building setbacks and distances between buildings do not relate to single-user owners, but are intended to govern buildings located on separately owned parcels.

Mr. Chadsey testified that it would be difficult to construct

the buildings as proposed without the variances because of the topography of the College site. Spreading out the structure would create additional experts and engineering problems (including retaining walls) It would also create a larger roof and greater impervious surface. This testimony is buttressed by that of one of the Protestants, Mr. Obrecht, (himself a developer) who acknowledged that it would cost less to erect a building of 100,000 square feet if it was three or four stories tall, as opposed to being spread out on one level.

The testimony as to the signs was to the effect that the requested variances relate to existing signs, and will not exceed the total signage permitted by Baltimore County. There will be no change in the one sign visible from Greenspring Valley Road, only to directional and identification signs within the campus.

Both Mr. Crozier and Mr. Chadsey rendered expert opinions that a practical difficulty or unreasonable hardship existed sufficient to justify the granting of these variances. The requested variances should be granted.

VI

Conclusion

In sum, the testimony establishes that the proposed site plan will not generate an adverse impact within either the meaning of Section 502.1 of the Baltimore County Zoning Regulations, or the scope of Schultz v Pritts. The plan under consideration will tend to promote agriculture in that it will have no impact on the present agricultural practices in the Valley and will not remove

any presently cultivated land from agriculture. It is somewhat disingenuous of some of the Protestants to have subdivided their property, taking substantial areas out of agriculture and rendering it, as Mr. Mielke testified, more difficult for him to farm, and then come before this Board and complain that Villa Julie's plan (which will have no impact whatsoever on agriculture) should be denied.

The additional buildings will not have an adverse impact. The College will maintain deep setbacks from Greenspring Valley Road by maintaining the existing agricultural area and athletic fields in the front of the property, and the new buildings are located behind existing facilities and blended into the College topography.

In light of the testimony and evidence produced, the Petition for Special Exception, Petition for Special Hearing and Petition for Variances should be granted.

With regard to the capacity of the waste water treatment plant, the testimony establishes that there is no appreciable difference in physical size between a larger plant (of 60,000 or 100,000 gallons per day average) and a smaller plant. There is no additional threat of erosion or flooding from a plant of 100,000 gallons per day average as opposed to 60,000 gallons per day average, or less. The larger the plant is sized, the more efficiently it will be able to perform its waste water treatment function. The evidence is devoid of any facts demonstrating a land use reason to limit the size of the plant.

Under these circumstances, there is no reasonable basis for

the Board to size the plant at less than the requested 60,000 gallons per day average, in accordance with the NPDES permit issued by the Maryland Department of the Environment, with the right for the College to request an increase to 100,000 per day average, subject to water quality approval by the State under the NPDES permit.

WHEREFORE, Villa Julie College, Inc., Petitioner, respectfully requests that the Zoning Commissioner for Baltimore County enter an order:

1. Dismissing Thomas Obrecht as a party to this proceeding; and

2. Granting a special exception for a private college in a R.C.2 zone with a waste water treatment plant having a discharge of 60,000 gallons per day average, in accordance with the NPDES permit issued by the Maryland Department of the Environment, with the right for the College to request an increase to 100,000 gallons per day average, subject to water quality approval by the State under a NPDES permit.

3. Approving a special hearing for a modified parking plan and a residential caretaker dwelling as an accessory use to a college.

4. Granting variances to permit a distance of:

A. 42 ft between existing Buildings #1 and 2 in lieu of the required 70 ft;

B. 30 ft between existing Building #3 and existing storage building in lieu of the required 70 ft.

C. 32 ft between existing maintenance equipment building and existing storage building in lieu of the required 70 ft;

D. 40 ft between existing Building "E" and existing shed in lieu of the required 70 ft;

E. 60 ft between existing Building "C" and existing Building "A" in lieu of the required 70 ft;

F. 60 ft between existing Building "A" and proposed envelope "F" in lieu of the required 70 ft.

G. 20 ft between existing Building "D" and proposed building envelope "F" in lieu of the required 70 ft.

H. to permit a total of 105.2 sq ft of existing signs in lieu of the permitted 30 sq ft;

I. to permit a maximum height of 39.5 ft in lieu of the permitted 35 ft for existing Building "A";

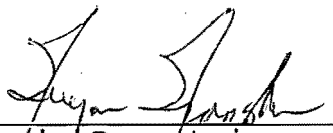
J. to permit maximum height of 54.8 ft in lieu of the permitted 35 ft for existing Building "B";

K. to permit a maximum of height of 48 ft in height within building envelope "F" in lieu of the permitted 35 ft for 2 proposed buildings;

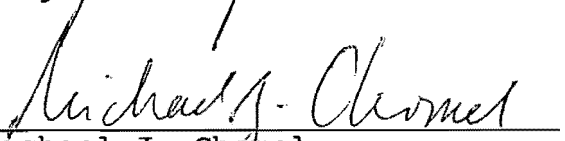
L. to permit a distance of 0 ft in lieu of the required 70 ft between the 2 proposed buildings within building envelope "F";

M. to permit 503 parking spaces 8 ft wide x 18 ft deep n lieu of the required 8.5 ft wide x 18 ft deep.

Respectfully submitted,



Benjamin Bronstein



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Evans, George and Bronstein
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(410) 296-0200

Attorneys for Villa Julie College, Inc., Petitioner

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on this 19 day of April, 1993, a copy of the foregoing was mailed, postage pre-paid to J.

Carroll Holzer, Esquire, Holzer, Maher, Demilio and Lee, 305 West Chesapeake Avenue, Suite 105, Towson, Maryland 21204, and K. Donald Proctor, Esquire, Miles and Stockbridge, Suite 300, 600 Washington Avenue, Towson, Maryland 21204 and Michael J. Collins, Esquire, Neuberger, Quinn, Gielen & Rubin, P.A., Equitable Bank Center, Tower II, 100 S. Charles Street, Baltimore, Maryland 21201, attorneys for Protestants.

Benjamin Bronstein

3/16/93

IN RE: PETITIONS FOR SPECIAL HEARING, SPECIAL EXCEPTION AND ZONING VARIANCE VILLA JULIE COLLEGE, INC.,	*	IN THE
	*	CIRCUIT COURT
	*	FOR
Petitioner	*	BALTIMORE COUNTY
CASE NO. 92-285-SPHXA	*	Case No.

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PETITION FOR APPEAL BY NORTHWEST LAND CORPORATION

Northwest Land Corporation ("Northwest Land"), by its undersigned counsel, petitions this Court, pursuant to Maryland Rule B2, regarding the March 4, 1993 decision of the County Board of Appeals of Baltimore County and states as follows:

1. The above-captioned matter is a request by Villa Julie College ("Villa Julie") for a special exception to permit the operation and expansion of a private college. Villa Julie's present use of the premises is nonconforming in the Green Spring Valley. Villa Julie's plan for development includes a doubling in the size of its physical plant from 100,000 square feet to 200,000 square feet. The College also proposes to replace its septic system with a wastewater treatment plant with the capacity to treat approximately 60,000 gallons of wastewater per day. The wastewater treatment plant will discharge its effluent into an intermittent stream which crosses the property of Northwest Land Corporation.

2. Baltimore County has determined that Villa Julie's septic system has failed and that a public health hazard has been created by the college's overflowing septic system. The original system was designed for approximately 8,000 gallons of wastewater per day. It is believed that Villa Julie currently generates approximately 27,000 gallons of wastewater per day. In order to

resolve any overflowing of this system, Villa Julie has been pumping approximately 8,000 gallons of sewage per day from its septic system and hauling that sewage from its premises by truck.

3. On January 7, 1991 the Baltimore County Council passed a resolution sought by Villa Julie and its neighbor, the Sisters of Notre Dame (the "Sisters"), and amended the Baltimore County Water and Sewage Plan in order to permit Villa Julie and the Sisters to operate an existing community water system for the combined properties and granted special authorization to operate a community sewage treatment plant for the combined properties, with the capacity subject to a special exception to the RC-2 Zoning.

4. Before the Zoning Commissioner, it was argued that Villa Julie was required to demonstrate not only its authority under the Baltimore County Water and Sewage Plant to operate a wastewater treatment, but also its authority under the Baltimore County Zoning Regulations to operate such a facility in the RC-2 Zone. The Zoning Commissioner in his July 10, 1992 Order agreed that a wastewater treatment plant was permissible only if it conformed to the Baltimore County Zoning regulations. The Zoning Commissioner permitted the wastewater treatment plant as an accessory use in the RC-2 Zone serving only Villa Julie, even though the County Council's authorization under Resolution 2-91 required the proposed wastewater treatment plant to serve both Villa Julie's and the Sisters' property.

5. All parties appealed various aspects of the Zoning Commissioner's July 10, 1992 Order to the County Board of Appeals

for Baltimore County. In a Motion in Limine filed by Villa Julie College before the Board of Appeals, the College sought to prohibit, inter alia, any evidence by this Appellant of any alternative methods to sewage treatment available to Villa Julie, or any argument by this Appellant that Villa Julie is required to demonstrate its authorization under the RC-2 Zone to operate a wastewater treatment plant.

6. On March 4, 1993, after deliberations in closed session, the County Board of Appeals rendered its decision and stated:

> The Baltimore County Council specifically addressed this issue at this site in Resolution 2-91, item #6, in which the County authorized a community water system and community sewage treatment plant with capacity subject to special exception. The Board will take no testimony and no evidence on whether or not the two systems can be installed, but will take evidence as to the capacity as it relates to the capacity issued by the State.

7. In rendering this decision, the Board ruled, as a matter of law, that Villa Julie is entitled to operate a wastewater treatment plant on its premises, irrespective of the Baltimore County Zoning Regulations.

8. This Appellant submits that the March 4, 1993 decision of the County Board of Appeals is a final order and is in error for the following reasons:

a. The Baltimore County Water and Sewerage Plan must conform with all local zoning requirements.

b. The Baltimore County Zoning Regulations do not permit a wastewater treatment plant within the RC-2 Zone either as

a permitted use or as a special exception.

c. The Open Meeting Law (State Government Article, §§ 10-501 et. seq.) requires that the Board's deliberations and decision be conducted in open session.

WHEREFORE, Northwest Land Corporation petitions this Court to vacate the County Board of Appeals decision of March 4, 1993 and direct the County Board of Appeals to hear evidence of alternative methods of treatment of sewage at the Villa Julie premises, to hear argument regarding whether a wastewater treatment plant is a permissible use on Villa Julie's premises under the Baltimore County Zoning Regulations, and to deliberate and render its decision in open session.

Respectfully submitted,

Michael J. Collins

Neuberger, Quinn, Gielen, Rubin
& Gibber, P.A.
100 S. Charles Street, Tower II
Baltimore, Maryland 21201
(410) 332-8520

Attorney for Appellant Northwest Land Corporation

CERTIFICATE OF SERVICE
ON BOARD OF APPEALS

I HEREBY CERTIFY that on this 16th day of March, 1993, a copy of this Petition for Appeal by Northwest Land Corporation was hand-delivered to the Board of Appeals for Baltimore County.

Michael J. Collins

Attorney for Appellant Northwest Land Corporation

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 16th day of March, 1993, a copy of the foregoing Petition for Appeal by Northwest Land Corporation was mailed, first-class, postage prepaid to:

Benjamin Bronstein, Esquire
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Miles & Stockbridge
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J. Carroll Holzer, Esquire
Holzer, Kaher, DeMilio & Lee
305 W. Chesapeake Ave., Ste. 105
Towson, Maryland 21204

Michael J. Collins

7002

3/15/93

IN RE:	*	IN THE
PETITION FOR SPECIAL HEARING,	*	CIRCUIT COURT
SPECIAL EXCEPTION AND	*	FOR
ZONING VARIANCE	*	BALTIMORE COUNTY
THE VILLA JULIE COLLEGE, INC.	*	Case No.: 93 CV 2112
Petitioner	*	
CBA 92-285-SPHXA	*	

* * * * * * * * * * * * *

AMENDED NOTICE OF APPEAL

J. Carroll Holzer, on behalf of his clients, The Valleys Planning Council, Homeowners of Greenspring, Greenspring Valley Association, Velvet Valley Association, Falls Road Community Association and Douglas A. Carroll, III, Mr. & Mrs. Henry G. Hagan, Mr. & Mrs. Lawrence P. Naylor, III, Mr. & Mrs. Richard B. Buck and Mr. & Mrs. J. Steven Immelt, Thomas F. Obrecht, Protestants/Appellants hereby note an appeal to the Circuit Court for Baltimore County from a decision of the County Board of Appeals dated March 4, 1993, relating to a final zoning determination that a wastewater treatment facility is a permitted use in an R.C. 2 Zone; and further that the Board erred in refusing to consider evidence relating to criteria relevant under BCZR 502.1.

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COUNTY BOARD OF APPEALS
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J. CARROLL HOLZER, Esquire
Holzer, Maher, Demilio & Lee
305 West Chesapeake Avenue
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410-825-6960
Attorney for Appellants

LAW OFFICES
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& DEMILIO
305 W. CHESAPEAKE AVENUE
SUITE 105
TOWSON, MARYLAND
21204
(301) 825-6960

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 15th day of March, 1993, a copy of the aforegoing Amended Notice of Appeal was hand delivered to: Chairman William T. Hackett, Baltimore County Board of Appeals, Old Courthouse, Towson, Maryland 21204, Benjamin Bronstein, Esquire, Evans, George and Bronstein, Susquehanna Building, Suite 205, 29 West Susquehanna Avenue, Towson, Maryland 21204, K. Donald Proctor, Esquire, Miles & Stockbridge, 600 Washington Avenue, 3rd Floor, Towson, Maryland 21204 and Michael J. Collins, Esquire, Neuberger, Quinn, Gielen & Rubin, P.A., 100 South Charles Street, Equitable Tower II, Baltimore, Maryland 21201.

J. CARROLL HOLZER, Esquire

not\villa-j.amd

3/15/93

IN RE:	*	IN THE
PETITION FOR SPECIAL HEARING,	*	CIRCUIT COURT
SPECIAL EXCEPTION AND	*	FOR
ZONING VARIANCE	*	BALTIMORE COUNTY
THE VILLA JULIE COLLEGE, INC.	*	Case No.: 93 CV 2112
Petitioner	*	
CBA 92-285-SPHXA	*	

* * * * * * * * * * * * *

PETITION FOR APPEAL
BY THE VALLEYS PLANNING COUNCIL, et al.

J. Carroll Holzer, on behalf of his clients, The Valleys Planning Council, Homeowners of Greenspring, Greenspring Valley Association, Velvet Valley Association, Falls Road Community Association and Douglas A. Carroll, III, Mr. & Mrs. Henry G. Hagan, Mr. & Mrs. Lawrence P. Naylor, III, Mr. & Mrs. Richard B. Buck and Mr. & Mrs. J. Steven Immelt, Thomas F. Obrecht, petition this Court from a decision of the County Board of Appeals dated March 4, 1993, relating to a final zoning determination that a Wastewater Treatment Facility is a permitted use in an R.C. 2 Zone; and further that the Board erred in refusing to consider evidence relating to criteria relevant under BCZR 502.1.

1. This case is a request by Villa Julie College for a special exception in the RC-2 Zone (Agricultural Preservation) to permit the operation of a private college. Villa Julie's present use of its premises as a private college

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in the Greenspring Valley is non-conforming. Villa Julie's plan of development for the premises includes doubling the size of its education facilities from 100,000 square feet to 200,000 square feet, and also proposes the installation of a 60,000 gallon per day Wastewater Treatment Plant. It is further proposed that the Wastewater Treatment Plant would discharge effluent into the intermittent stream which empties into the Jones Falls at a site above some of the Appellants property.

2. Villa Julie's septic system on its premises was designed to receive and treat approximately 8,000 per day of sewage. Villa Julie is currently generating approximately 30,000 per day of sewage on its premises. Baltimore County has determined that Villa Julie's septic system has failed and that a condition detrimental to the public health has been created by Villa Julie's over-flowing septic system. During the interim, Villa Julie has been pumping approximately 8,000 gallons of sewage per day from its septic tanks and hauling that sewage from the premises.

3. Villa Julie sought and received from the Baltimore County Council an amendment to the Baltimore County Water and Sewerage Plan. Under the Plan, there is no planned public water or sewage service in the Greenspring Valley where Villa Julie College is located. The Baltimore County Council

in Resolution 2-91 passed on January 7, 1991, granted the following authority to Villa Julie College and its neighbor, Sisters of Notre Dame:

> "Special authorization to operate an existing community water system for the combined properties and with special authorization to operate a community sewage treatment plant for the combined properties, with capacity subject to a special exception to the RC-2 Zoning."

4. Before the Zoning Commissioner, the Appellants argued that Villa Julie College was required to demonstrate not only its authority under the Baltimore County Water and Sewerage Plan to operate a Wastewater Treatment Plant, but also its authority under the Baltimore County Zoning Regulations to operate a Wastewater Treatment Plant in the RC-2 Zone. The Zoning Commissioner in his July 10, 1992 Order agreed, but found that the Wastewater Treatment Plant was an accessory use in the RC-2 Zone, even though the County Council's authorization under Resolution 2-91 requires the Wastewater Treatment Plant to serve more than one lot.

5. All parties appealed various aspects of the Zoning Commissioner's July 10, 1992 Order to the County Board of Appeals for Baltimore County. Before the County Board of Appeals, Villa Julie College filed a "Motion in Limine" to prohibit, among other things, any evidence by these Appellants of any alternative methods of sewage treatment available to

Villa Julie, or any argument by these Appellants that Villa Julie is required to demonstrate its authorization under the RC-2 Zone to operate a Wastewater Treatment Plant.

6. On March 4, 1993, after deliberation in closed session, the County Board of Appeals rendered its decision on Villa Julie's "Motion in Limine." The Board granted the motion, stating:

> "The Baltimore County Council specifically addressed this issue at this site in Resolution 2-91, item #6, in which the County authorized a community water system and community sewerage treatment plant with capacity subject to special exception. **The Board will take no testimony and no evidence on whether or not the two (2) systems can be installed but will take evidence as to the capacity as it relates to the capacity issued by the State**."

7. The Board in rendering this decision was held, as a matter of law, that Villa Julie College is entitled to operate a Wastewater Treatment Plant on its premises, irrespective of the provisions of the Baltimore County Zoning Regulations.

8. These Appellants submit that the March 4, 1993 decision of the County Board of Appeals is in error for the following reasons:

a. The Baltimore County Water and Sewerage Plan must conform with all local zoning requirements.

b. The Baltimore County Zoning Regulations do no permit a Wastewater Treatment Plant within the RC-2 Zone either as a permitted use or as a special exception.

c. The Open Meeting Law (State Government Article, §§ 10-501 et. seq.) requires that the Board's deliberations and decision to be conducted in open session as per Memo from Valleys Planning Council to set aside the Ruling on Motion in Limine filed March 9, 1993 before the Board.

9. The Board in granting the Motion in Limine, likewise erred by granting the Motion to limit the testimony introduced by the Appellants as such testimony relates to the impact of the Wastewater Treatment Facility upon the environment and neighborhood surrounding Villa Julie in violation of the Board's charged responsibility to consider such impact under the BCZR, Section 502.1.

10. The Board erred in granting the Motion in Limine by precluding the Appellants from introducing testimony before the Board related to the impact of water appropriation from the ground upon the surrounding property and community in violation of the Board's charged responsibility to consider such impact under the BCZR, Section 502.1.

11. The Board erred in granting the Motion in Limine as it restricted Appellants ability to present evidence and testimony relating to the issues of:

a. feasible alternatives to the Wastewater Treatment Facility

b. whether the existing septic system on the Villa Julie property has failed.

12. That the Board in granting the Motion in Limine violated Appellants due process by ruling contrary to previous decisions of the Board, as such decisions relate to the BCZR, Section 502.1 and the application of that Section to proposed water appropriation and water discharge.

13. Such other and further issues as may be determined upon a review of the transcript.

WHEREFORE, these Appellants petition this Court to vacate the County Board of Appeal's decision of March 4, 1993 and direct the County Board of Appeal's to hear evidence of alternative methods of treatment of sewage at Villa Julie's premises, to hear argument regarding whether a Wastewater Treatment Plant is a permissible use on Villa Julie's premises under the Baltimore County Zoning Regulations, to hear evidence relating to the import of the Wastewater Treatment Facility upon the environment and community under BCZR 502.1; to hear evidence relating to the impact of water appropriations upon the community under BCZR 502.1.

J. CARROLL HOLZER, Esquire
Holzer, Maher, Demilio & Lee
305 West Chesapeake Avenue
Suite 105
Towson, Maryland 21204
410-825-6960
Attorney for Appellants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 15th day of March, 1993, a copy of the aforegoing Petition for Appeal by the Valleys Planning Council, et al., was hand delivered to: Chairman William T. Hackett, Baltimore County Board of Appeals, Old Courthouse, Towson, Maryland 21204, Benjamin Bronstein, Esquire, Evans, George and Bronstein, Susquehanna Building Suite 205, 29 West Susquehanna Avenue, Towson, Maryland 21204, K. Donald Proctor, Esquire, Miles & Stockbridge, 600 Washington Avenue, 3rd Floor, Towson, Maryland 21204 and Michael J. Collins, Esquire, Neuberger, Quinn, Gielen & Rubin, P.A., 100 South Charles Street, Equitable Tower II, Baltimore, Maryland 21201.

J. CARROLL HOLZER, Esquire

pet-2\villa-j.pet

3/15/93

IN RE: PETITIONS FOR SPECIAL HEARING, SPECIAL EXCEPTION AND ZONING VARIANCE VILLA JULIE COLLEGE, INC., PETITIONER	*	BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY
	*	CASE NO. 92-285-SPHXA

* * * * * * * * * * * * *

PETITION FOR APPEAL BY
BARTON S. AND ELIZABETH MITCHELL,
CLARK FARM ASSOCIATES, AND
TIMOTHY M. AND MARY STEWART RODGERS

Barton S. and Elizabeth Mitchell, Clark Farm Associates, and Timothy M. and Mary Stewart Rodgers, Appellants, by their attorney, K. Donald Proctor, petition this Court, pursuant to Maryland Rule B2, regarding the March 4, 1993 decision of the County Board of Appeals of Baltimore County and say:

1. This case is a request by Villa Julie College for a special exception in the RC-2 Zone (Agricultural Preservation) to permit the operation of a private college. Villa Julie's present use of its premises as a private college in the Greenspring Valley is non-conforming. Villa Julie's plan of development for the premises includes the doubling the size of its education facilities from 100,000 square feet to 200,000 square feet, and also proposes the installation of a 60,000 gallon per day wastewater treatment plant. It is further proposed that the wastewater treatment plant would discharge effluent into the intermittent stream which crosses the property of two of these Appellants, all of whom are adjoining property owners.

2. Villa Julie's septic system on its premises was designed to receive and treat approximately 8,000 per day of sewage. Villa Julie is currently generating approximately 30,000 per day of sewage on its premises. Baltimore County has determined that Villa Julie's septic system has failed and that a condition detrimental to the public health has been created by Villa Julie's over-flowing septic system. During the interim, Villa Julie has been pumping approximately 8,000 gallons of sewage per day from its septic tanks and hauling that sewage from the premises.

3. Villa Julie sought and received from the Baltimore County Council an amendment to the Baltimore County Water and Sewerage Plan. Under the Plan, there is no planned public water or sewage service in the Greenspring Valley where Villa Julie College is located. The Baltimore County Council in Resolution 2-91 passed on January 7, 1991, granted the following authority to Villa Julie College and its neighbor, Sisters of Notre Dame:

> "Special authorization to operate an existing community water system for the combined properties and with special authorization to operate a community sewage treatment plant for the combined properties, with capacity subject to a special exception to the RC-2 Zoning."

4. Before the Zoning Commissioner, these Appellants argued that Villa Julie College was required to demonstrate not only its authority under the Baltimore County Water and Sewerage Plan to

operate a wastewater treatment plant, but also its authority under the Baltimore County Zoning Regulations to operate a wastewater treatment plant in the RC-2 Zone. The Zoning Commissioner in his July 10, 1992 Order agreed, but found that the wastewater treatment plant was an accessory use in the RC-2 Zone, even though the County Council's authorization under Resolution 2-91 requires the wastewater treatment plant to serve more than one lot.

5. All parties appealed various aspects of the Zoning Commissioner's July 10, 1992 Order to the County Board of Appeals for Baltimore County. Before the County Board of Appeals, Villa Julie College filed a "Motion in Limine" to prohibit, among other things, any evidence by these Appellants of any alternative methods of sewage treatment available to Villa Julie, or any argument by these Appellants that Villa Julie is required to demonstrate its authorization under the RC-2 Zone to operate a wastewater treatment plant.

6. On March 4, 1993, after deliberations in closed session, the County Board of Appeals rendered its decision on Villa Julie's "Motion in Limine". The Board granted the motion, stating:

> "The Baltimore County Council specifically addressed this issue at this site in Resolution 2-91, item #6, in which the County authorized a community water system and community sewerage treatment plant with capacity subject to special exception. The

Board will take no testimony and no evidence on whether or not the two systems can be installed but will take evidence as to the capacity as it relates to the capacity issued by the State." (emphasis added).

7. The Board in rendering this decision has held, as a matter of law, that Villa Julie College is entitled to operate a wastewater treatment plant on its premises, irrespective of the provisions of the Baltimore County Zoning Regulations.

8. These Appellants submit that the March 4, 1993 decision of the County Board of Appeals is in error for the following reasons:

a. The Baltimore County Water and Sewerage Plan must conform with all local zoning requirements.

b. The Baltimore County Zoning Regulations do not permit a wastewater treatment plant within the RC-2 Zone either as a permitted use or as a special exception.

c. The Open Meeting Law (State Government Article, §§ 10-501 et. seq.) requires that the Board's deliberations and decision be conducted in open session.

WHEREFORE, these Appellants petition this Court to vacate the County Board of Appeal's decision of March 4, 1993 and direct the County Board of Appeals to hear evidence of alternative methods of treatment of sewage at Villa Julie's premises, to hear argument regarding whether a wastewater treatment plant is a permissible use on Villa Julie's premises under the Baltimore

County Zoning Regulations, and to deliberate and render its decision in open session.

K. Donald Proctor
MILES & STOCKBRIDGE
600 Washington Avenue
Suite 300
Towson, Maryland 21204
(410)823-8110

Attorney for Appellants,
Barton S. and Elizabeth S.
Mitchell, Clark Farm Associates,
and Timothy S. and Mary Stewart
Rodgers

CERTIFICATE OF SERVICE
ON BOARD OF APPEALS

I HEREBY CERTIFY that on this 15th day of March, 1993, a copy of this Petition for Appeal was hand-delivered to the Board of Appeals for Baltimore County.

K. Donald Proctor

Attorney for Appellants,
Barton S. and Elizabeth S.
Mitchell, Clark Farm Associates,
and Timothy S. and Mary Stewart
Rodgers

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 15th day of March, 1993, a copy of the foregoing Petition for Appeal was mailed, postage prepaid, to:

Benjamin Bronstein, Esquire
EVANS, GEORGE AND BRONSTEIN
Susquehanna Building
Suite 205
29 West Susquehanna Avenue
Towson, Maryland 21204

Michael J. Collins, Esquire
NEUBERGER, QUINN, GIELEN & RUBIN, P.A.
Equitable Bank Center Tower II
100 South Charles Street
Baltimore, Maryland 21201

J. Carroll Holzer, Esquire
HOLZER, MAHER, DEMILIO & LEE
305 West Chesapeake Avenue
Suite 105
Towson, Maryland 21204

K. Donald Proctor

DN/VJC:C2710005.PET

3-15-93

LAW OFFICES
MILES & STOCKBRIDGE
600 WASHINGTON AVENUE
TOWSON, MARYLAND 21204

TELEPHONE 410-821-6565
FAX 410-823-8123

10 LIGHT STREET
BALTIMORE, MARYLAND 21202

300 ACADEMY STREET
CAMBRIDGE, MARYLAND 21613

101 BAY STREET
EASTON, MARYLAND 21601

K. DONALD PROCTOR
410-823-8110

11350 RANDOM HILLS ROAD
FAIRFAX, VIRGINIA 22030

30 WEST PATRICK STREET
FREDERICK, MARYLAND 21701

22 WEST JEFFERSON STREET
ROCKVILLE, MARYLAND 20850

1450 G STREET, N.W.
WASHINGTON, D.C. 20005

March 15, 1993

HAND DELIVERED

Clerk of the Circuit Court
for Baltimore County
County Courts Building
401 Bosley Avenue
Towson, Maryland 21204

RECEIVED
COUNTY BOARD OF APPEALS
93 MAR 15 PM 3:09

RE: Villa Julie College, Inc., Petitioner
Before the County Board of Appeals
for Baltimore County
Case No. 92-285-SPHXA

Madam Clerk:

We deliver herewith for filing the Petition for Appeal of Appellants, Barton S. and Elizabeth Mitchell, Clark Farm Associates, and Timothy M. and Mary Stewart Rodgers in the above matter.

Very truly yours,

K. Donald Proctor

KDP/dn
Enclosure

cc: William Hackett, Chairman
County Board of Appeals
Benjamin Bronstein, Esquire
Michael J. Collins, Esquire
J. Carroll Holzer, Esquire
(w/enclosure)

3/12/93

IN THE MATTER OF THE APPLICATION OF VILLA JULIE COLLEGE, INC. FOR A SPECIAL HEARING, SPECIAL EXCEPTION AND VARIANCES ON PROPERTY LOCATED ON THE SOUTH SIDE GREENSPRING VALLEY ROAD, 9' EAST OF NACIREMA LANE 8TH ELECTION DISTRICT 3RD COUNCILMANIC DISTRICT	*	IN THE CIRCUIT COURT FOR BALTIMORE COUNTY CV Doc. No. 46 Folio No. 194
BARTON S. MITCHELL, ET AL; THE VALLEYS PLANNING COUNCIL, ET AL; AND NORTHWEST LAND CORPORATION -PLAINTIFFS ZONING CASE NO. 92-285-SPHXA	*	File No. 93-CV-2112

* * * * * * * * *

CERTIFICATE OF NOTICE

Madam Clerk:

Pursuant to the provisions of Rule B-2(d) of the Maryland Rules of Procedure, William T. Hackett and Harry E. Buchheister, Jr., 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, K. Donald Proctor, Esquire, MILES & STOCKBRIDGE, 600 Washington Avenue, Suite 300, Towson, MD 21204, Counsel for Barton S. and Elizabeth Mitchell, et al, Plaintiffs; J. Carroll Holzer, Esquire, HOLZER, MAHER, DEMILIO & LEE, 305 W. Chesapeake Avenue, Suite 105, Towson, MD 21204, Counsel for The Valleys Planning Counsel, et al, Plaintiffs; Michael J. Collins, Esquire, NEUBERGER, QUINN, GIELEN, RUBIN & GIBBER, P.A., 100 S. Charles Street, Tower II, Baltimore, MD 21201, Counsel for Northwest Land Corporation, Plaintiff; Benjamin Bronstein, Esquire, and Michael Chomel, Esquire, EVANS, GEORGE AND BRONSTEIN, Susquehanna Building, Suite 205, 29 W. Susquehanna Avenue, Towson, MD 21204, Counsel for Villa Julie

College, Inc., Defendant; 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.

Kathleen C. Weidenhammer
Administrative Assistant
County Board of Appeals of Baltimore County, Room 49, Basement - Old Courthouse, 400 Washington Avenue
Towson, MD 21204 (410-887-3180)

I HEREBY CERTIFY that a copy of the aforegoing Certificate of Notice has been mailed to K. Donald Proctor, Esquire, MILES & STOCKBRIDGE, 600 Washington Avenue, Suite 300, Towson, MD 21204, Counsel for Barton S. and Elizabeth Mitchell, et al, Plaintiffs; J. Carroll Holzer, Esquire, HOLZER, MAHER, DEMILIO & LEE, 305 W. Chesapeake Avenue, Suite 105, Towson, MD 21204, Counsel for The Valleys Planning Counsel, et al, Plaintiffs; Michael J. Collins, Esquire, NEUBERGER, QUINN, GIELEN, RUBIN & GIBBER, P.A., 100 S. Charles Street, Tower II, Baltimore, MD 21201, Counsel for Northwest Land Corporation, Plaintiff; Benjamin Bronstein, Esquire, and Michael Chomel, Esquire, EVANS, GEORGE AND BRONSTEIN, Susquehanna Building, Suite 205, 29 W. Susquehanna Avenue, Towson, MD 21204, Counsel for Villa Julie College, Inc., Defendant; and Michael B. Sauer, Esquire, c/o County Board of Appeals, Room 49, Basement - Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 on this 12th day of March, 1993.

Kathleen C. Weidenhammer
Administrative Assistant
County Board of Appeals of Baltimore County, Room 49, Basement - Old Courthouse, 400 Washington Avenue
Towson, MD 21204 (410) 887-3180

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

March 12, 1993

J. Carroll Holzer, Esquire
HOLZER, MAHER, DEMILIO & LEE
305 W. Chesapeake Avenue, Suite 105
Towson, MD 21204

RE: Case No. 92-285-SPHXA /
Villa Julie College, Inc.

Dear Mr. Holzer:

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,

Kathleen C. Weidenhammer
Administrative Assistant

Enclosure

cc: K. Donald Proctor, Esquire
Michael J. Collins, Esquire

Printed on Recycled Paper

County Board of Appeals of Baltimore County

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

March 12, 1993

Michael J. Collins, Esquire
NEUBERGER, QUINN, GIELEN
& RUBIN, P.A.
Equitable Bank Center Tower II
100 South Charles Street
Baltimore, MD 21201

RE: Case No. 92-285-SPHXA /
Villa Julie College, Inc.

Dear Mr. Collins:

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,

Kathleen C. Weidenhammer
Administrative Assistant

Enclosure

cc: K. Donald Proctor, Esquire
J. Carroll Holzer, Esquire

Printed on Recycled Paper

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

March 12, 1993

K. Donald Proctor, Esquire
MILES & STOCKBRIDGE
600 Washington Avenue
Towson, MD 21204

RE: Case No. 92-285-SPHXA /
Villa Julie College, Inc.

Dear Mr. Proctor:

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,

Kathleen C. Weidenhammer

Kathleen C. Weidenhammer
Administrative Assistant

Enclosure

cc: J. Carroll Holzer, Esquire
Michael J. Collins, Esquire

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

March 12, 1993

Benjamin Bronstein, Esquire
EVANS, GEORGE AND BRONSTEIN
Susquehanna Building, Suite 205
29 W. Susquehanna Avenue
Towson, MD 21204

RE: Case No. 92-285-SPHXA
(Villa Julie College, Inc.)

Dear Mr. Bronstein:

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,

Kathleen C. Weidenhammer
Administrative Assistant

Enclosure

cc: Ms. Carolyn Manuszak,
Villa Julie College, Inc.
P. David Fields
Lawrence E. Schmidt
Timothy M. Kotroco
W. Carl Richards, Jr.
Docket Clerk -Zoning
Arnold Jablon, Director of
Zoning Administration

Printed on Recycled Paper

3/9/93

IN THE MATTER OF	*	BEFORE THE COUNTY
THE APPLICATION OF	*	BOARD OF APPEALS
VILLA JULIE COLLEGE, INC.	*	OF
FOR A SPECIAL HEARING,	*	BALTIMORE COUNTY
SPECIAL EXCEPTION AND	*	Case No.: 92-285-SPHXA
VARIANCE	*	

* * * * * * * * * * * * *

VALLEYS PLANNING COUNCIL, et al.
MOTION TO SET ASIDE THE RULING
ON MOTION IN LIMINE,
REQUEST FOR POSTPONEMENT,
REQUEST FOR VOIDING THE ACTION OF THE
BOARD OF APPEALS
ON THE RULING ON MOTION IN LIMINE

The Valleys Planning Council, et al., by **J. Carroll Holzer**, Holzer, Maher, Demilio & Lee, counsel for Appellants, in the above captioned matter hereby moves to set aside the ruling on the Motion in Limine by the Baltimore County Board of Appeals in the above captioned case number dated March 4, 1993 and require compliance pursuant to the Annotated Code of Maryland, State Government, Sections 10-505, 10-506, 10-507 and 10-510 for the following reasons:

1. The Baltimore County Board of Appeals received a Motion in Limine filed by Villa Julie College, Inc. and responses thereto filed by all three Appellant parties, including Valleys Planning Council, represented by counsel of record.

LAW OFFICES
HOLZER, MAHER
& DEMILIO
305 W. CHESAPEAKE AVENUE
SUITE 105
TOWSON, MARYLAND
21204

(301) 825-6960

2. That on Wednesday, February 17, 1993, legal arguments were held on the Motion in public session before the Board of Appeals and no decision was rendered nor consideration of the arguments was made at that time.

3. That on Thursday, March 4, 1993, two working days before the hearing scheduled for Tuesday, March 9, 1993, the Board of Appeals issued its ruling on Motion in Limine to limit the scope of the issues.

4. The Board failed to comply with the Annotated Code of Maryland, State Government, Section 10-505 by not holding an open session which was required for purposes of their "deliberation;" further, the Board failed to provide reasonable notice of when deliberations would take place to all parties and the public in general pursuant to Section 10-506.

5. That the above captioned matter was a hearing which required an open session pursuant to Section 10-503 of the subtitle; it was a meeting to consider a Special Exception, variance, conditional use, zoning classification, the enforcement of any zoning law or regulation or any other zoning matter.

6. That the Appellants, Valleys Planning Council, et al., had been prejudiced by the failure of the Board to comply with the above Sections of the Maryland Annotated Code.

7. That because of the lateness of the Board's ruling it adds a substantial impact on the ability of the Appellants, Valleys Planning Council to conduct its case before the Board scheduled for Tuesday, March 9th through Friday, March 12th and Friday, March 19, 1993.

8. That the Appellants, Valleys Planning Council have already noted an appeal to the ruling on the Motion in Limine, to the Circuit Court of Baltimore County on Friday, March 5, 1993, alleging among other things, violation of due process in limiting the scope of this hearing. The Board's decision of March 4, 1993, precludes consideration of one or more the important criteria which the Board has a responsibility to review pursuant to Section 502.1 of the Baltimore County Zoning Regulations. Such exclusion from consideration during this hearing deprives the Appellants of their due process and equal application of the Baltimore County Zoning Regulations.

In addition, the Board's Order is final as it relates to its conclusion that Villa Julie has a right to place a wastewater treatment plant in a facility within the R.C. 2 Zone, which issue is a substantial legal issue advanced by the Appellants, Valleys Planning Council. The Zoning Commissioner felt it relevant to consider this issue and the Appellants are being precluded by the Board's Decision on the Motion in Limine from making a record for appeal concerning this issue.

9. Appellants, Valleys Planning Council, by this Motion, hereby request the Board to continue the hearing on this matter until such time as the appeal on the Motion in Limine relating to the above issues is reviewed by the Circuit Court for Baltimore County and secondly, a postponement of the hearing scheduled for March 9th through March 12th and March 19, 1993 until the Circuit Court can rule upon the impropriety of the Order of the Board dated March 4, 1993.

10. It is the intention of the Appellants, Valleys Planning Council, to include this issue of the State Annotated Code, Section 10-505 as a portion of its Petition in the appeal to the Circuit Court.

11. Appellants, Valleys Planning Council, hereby notifies the Board of Appeals that if compliance to Section 10-505 et al. is not made in regard to the Board's Order on its ruling in Motion in Limine dated March 4, 1993, that Appellants intend to Petition to the Circuit Court pursuant to Section 10-510, Enforcement and request a determination as to the applicability of the Sections and Order of the Circuit Court requiring the public body (Board of Appeals) to comply with this Section; or a voiding the action of the public body pursuant to Section 10-510(b)(iii).

12. Appellants will hereinafter refer to this subtitle referred to above as "the Open Meetings Act." (1991 Chapter 655).

A copy of the Annotated Code, Section 10-503 through 10-512 is attached hereto for the benefit of the Board as Exhibit A.

WHEREFORE, Appellants, Valleys Planning Council, respectfully request:

1. That this Honorable Board postpone the hearing scheduled for Tuesday, March 9th through Friday, March 12th and Friday, March 19, 1993, pending disposition of the appeal.

2. Schedule an open hearing on the record to comply with the Open Meetings Law after proper notification to the parties and public to discuss the ruling on the Motion in Limine; and

3. To comply with all other aspects of the Open Meeting Law.

Respectfully submitted,

J. CARROLL HOLZER, Esquire
Holzer, Maher, Demilio & Lee
305 West Chesapeake Avenue
Suite 105
Towson, Maryland 21204
410-825-6960

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 9th day of March, 1993, a copy of the aforegoing Valleys Planning Council, et al., Motion to Set Aside the Ruling on Motion in Limine, Request for Postponement, Request for Voiding the Action of the Board of appeals on the Ruling on Motion in Limine was mailed, postage pre-paid to: Benjamin Bronstein, Esquire, Evans, George and Bronstein, Susquehanna Building, Suite 205, 29 West Susquehanna Avenue, Towson, Maryland 21204, Michael J. Collins, Esquire, Neuberger, Quinn, Gielen & Rubin, P.A., 100 South Charles Street, Equitable Tower II, Baltimore, Maryland 21201 and K. Donald Proctor, Esquire, Miles & Stockbridge, 600 Washington Avenue, 3rd Floor, Towson, Maryland 21204.

J. CARROLL HOLZER, Esquire

c:\wp\mot-2\limine.vjc

(e) *Effect of complaint and action by Board.* — The filing of a complaint under subsection (a) of this section and action by a person acting for the Board under subsections (b), (c), and (d) of this section may not prevent or bar the Board from considering and acting on a written complaint filed in accordance with § 10-502.5 of this subtitle. (1991, ch. 655; 1992, ch. 22, § 3.)

Cross reference. — See Bill review letter note to § 10-502.1 of this article.

Effect of amendment. — The 1992 amendment, effective July 1, 1992, substituted "this subtitle" for "this act" in (b) and substituted "this subtitle" for "the act" in (c).

Editor's note. — Section 5, ch. 655, Acts 1991, provides that, except as otherwise provided in §§ 3 and 4 of the act, § 1 of the act shall take effect July 1, 1992.

Section 22, ch. 22, Acts 1992, provides that § 3 of the act shall take effect July 1, 1992.

§ 10-503. Scope of subtitle.

(a) *Not applicable.* — Except as provided in subsection (b) of this section, this subtitle does not apply to:

(1) a public body when it is carrying out:

(i) an executive function;

(ii) a judicial function; or

(iii) a quasi-judicial function; or

(2) a chance encounter, social gathering, or other occasion that is not intended to circumvent this subtitle.

(b) *Applicable.* — The provisions of this subtitle apply to a public body when it is meeting to consider:

(1) granting a license or permit; or

(2) a special exception, variance, conditional use, zoning classification, the enforcement of any zoning law or regulation, or any other zoning matter. (An. Code 1957, art. 76A, §§ 8, 9; 1984, ch. 284, § 1; ch. 285, § 8; 1991, ch. 655.) New since July 1992

Effect of amendment.

The 1991 amendment, effective July 1, 1992, in (a), added the exception in the introductory language, deleted former (1) and (2), and redesignated the remaining paragraphs accordingly; and added (b).

Bill review letter. — Chapter 655, Acts 1991 (Senate Bill 170) was approved for constitutionality and legal sufficiency, as it was determined that the bill did not override State constitutional privileges and immunities. (Letter of Attorney General dated May 6, 1991).

Cited in Sugarloaf Citizens Ass'n v. Northeast Md. Waste Disposal Auth., 323 Md. 641, 594 A.2d 1115 (1991).

§ 10-504. Conflict of laws.

Whenever this subtitle and another law that relates to meetings of public bodies conflict, this subtitle applies unless the other law is more stringent. (An. Code 1957, art. 76A, § 15; 1984, ch. 284, § 1; 1991, ch. 655.)

Cross reference. — See Bill review letter note to § 10-503 of this article.

Effect of amendment. — The 1991 amendment, effective July 1, 1992, reenacted the section without change.

Waiver of attorney-client privilege. — This section provides legislative authority for a public body to waive its attorney-client privilege by flatly prohibiting closed meetings in the municipal charter. City of College Park v. Cotter, 309 Md. 573, 525 A.2d 1059 (1987).

3/5/93

IN RE:	*	IN THE
THE VILLA JULIE COLLEGE, INC.	*	CIRCUIT COURT
CBA 92-285-SPHXA	*	FOR
	*	BALTIMORE COUNTY
	*	Case No.:

* * * * * * * * * * * * *

NOTICE OF APPEAL

J. Carroll Holzer, on behalf of his clients, The Valleys Planning Council, Homeowners of Greenspring, Greenspring Valley Association, Velvet Valley Association, Falls Road Community Association and Douglas A. Carroll, III, Mr. & Mrs. Henry G. Hagan, Mr. & Mrs. Lawrence P. Naylor, III, Mr. & Mrs. Richard B. Buck and Mr. & Mrs. J. Steven Immelt, Protestants/Appellants hereby note an appeal to the Circuit Court for Baltimore County from a decision of the County Board of Appeals dated March 4, 1993, relating to a final zoning determination that a wastewater treatment facility is a permitted use in an R.C. 2 Zone; and further that the Board erred in refusing to consider evidence relating to criteria relevant under BCZR 502.1.

J. CARROLL HOLZER, Esquire
Holzer, Maher, Demilio & Lee
305 West Chesapeake Avenue
Suite 105
Towson, Maryland 21204
410-825-6960
Attorney for Appellants

LAW OFFICES
HOLZER, MAHER
& DEMILIO
105 W. CHESAPEAKE AVENUE
SUITE 105
TOWSON, MARYLAND
21204

(301) 825-6960

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 5th day of March, 1993, a copy of the aforegoing Notice of Appeal was hand delivered to: Chairman William T. Hackett, Baltimore County Board of Appeals, Old Courthouse, Towson, Maryland 21204, Benjamin Bronstein, Esquire, Evans, George and Bronstein, Susquehanna Building Suite 205, 29 West Susquehanna Avenue, Towson, Maryland 21204, K. Donald Proctor, Esquire, Miles & Stockbridge, 600 Washington Avenue, 3rd Floor, Towson, Maryland 21204 and Michael J. Collins, Esquire, Neuberger, Quinn, Gielen & Rubin, P.A., 100 South Charles Street, Equitable Tower II, Baltimore, Maryland 21201.

J. CARROLL HOLZER, Esquire

not\villa-j.not

RONALD L. MAHER
J. CARROLL HOLZER
CAROLE S. DEMILIO
THOMAS J. LEE

J. HOWARD HOLZER
1907-1989

LAW OFFICES
HOLZER, MAHER, DEMILIO & LEE
305 W. CHESAPEAKE AVENUE
SUITE 105
TOWSON, MARYLAND 21204
(410) 825-6960
FAX (410) 825-6964

CARROLL COUNTY OFFICE
1315 LIBERTY ROAD
ELDERSBURG, MARYLAND 21784
(410) 795-8556
FAX (410) 795-5535

SUITE 700
1725 DeSALES STREET, N.W.
WASHINGTON, D.C. 20036

(1)

March 5, 1993
#6592

HAND DELIVERED

Chairman William T. Hackett
Baltimore County Board
of Appeals
Old Courthouse
Towson, Maryland 21204

RE: Appeal/Decision of March 4, 1993

Dear Chairman Hackett:

Enclosed please find my client's Order of Appeal from the Decision of the Board dated March 4, 1993. I would respectfully request that the Board continue the hearing scheduled for Tuesday through Friday, March 9, 1993 through March 12, 1993 on the basis that the effect of the Board's Decision is to substantially deny my client's due process in regard to a de novo hearing before the Board.

The Board's ruling means that it has made a final legal determination as to the right of Villa Julie to place a wastewater treatment facility within the R.C. 2 Zone. The Board's Decision precludes further evidence and argument on a legal issue which was debated thoroughly and intensely before the Zoning Commissioner.

Secondly, the Board's Decision of March 4, 1993 precludes consideration of one or more of the important criteria which the Board has responsibility to review pursuant to Section 502.1 of the Baltimore County Zoning Regulations, thereby depriving my client's of due process in violation of the law.

Received 3/05/93 C.O.A.R.

It would appear to be an extraordinary misuse of the Board's time as well as the parties, in hearing testimony so reduced in effect, by the Board's Decision and then requiring an additional and subsequent hearing in the event of a remand from the Circuit Court on this matter. Protestants/Appellants suggest that this case should be tried all at once rather than piecemeal on these issues and in the interest of judicial economy.

I therefore respectfully request that the matter be continued in sufficient time to notify all parties and perspective attendees of the postponement.

Thank you very much for your consideration.

Very truly yours,

J. Carroll Holzer

JCH:mlg

Enclosure

IN RE: PETITIONS FOR SPECIAL HEARING, SPECIAL EXCEPTION AND ZONING VARIANCE VILLA JULIE COLLEGE, INC., PETITIONER	*	BEFORE THE
	*	COUNTY BOARD OF APPEALS
	*	OF BALTIMORE COUNTY
	*	CASE NO. 92-285-SPHXA

* * * * *

ORDER FOR APPEAL BY NORTHWEST LAND CORPORATION

Mr. Clerk:

Please enter an Appeal on behalf of Northwest Land Corporation from the decision of the County Board of Appeals of Baltimore County in the above-captioned case dated March 4, 1993.

Respectfully submitted,

Michael J. Collins

Neuberger, Quinn, Gielen, Rubin & Gibber, P.A.
100 S. Charles Street, Tower II
Baltimore, Maryland 21201
(410) 332-8520

Attorney for Northwest Land Corporation

I HEREBY CERTIFY that on the 5th day of March, 1993, a copy of this Order for Appeal was served on the Board of Appeals for Baltimore County by hand delivery prior to the filing of this Order of Appeal.

Michael J. Collins

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 5th day of March, 1993, a copy of the foregoing Order of Appeal was telecopied and mailed, first-class, postage prepaid to Benjamin Bronstein, Esquire, Evans, George and Bronstein, Susquehanna Bldg., Ste. 205, 29 W. Susquehanna Ave., Towson, Maryland 21204; K. Donald Proctor, Esquire, Miles & Stockbridge, 600 Washington Avenue, Towson, Maryland 21204, J. Carroll Holzer, Esquire, Holzer, Kaher, DeMilio & Lee, 305 W. Chesapeake Ave., Ste. 105, Towson, Maryland 21204.

Michael J. Collins

3/5/93

(3)

LAW OFFICES
NEUBERGER, QUINN, GIELEN, RUBIN & GIBBER, P.A.

EQUITABLE BANK CENTER TOWER II
100 SOUTH CHARLES STREET
BALTIMORE, MARYLAND 21201
(410) 332-8550
FAX (410) 332-8594

(WRITER'S DIRECT DIAL NO.)

(410) 332-8520

March 5, 1993

HAND DELIVERED

The Honorable William T. Hackett
Chairman
Baltimore County Board of Appeals
Old Court House
400 Washington Avenue - Room 49
Towson, Maryland 21204

Re: Villa Julie College, Inc., Petitioner
Case No. 92-285-SPHXA

Dear Mr. Hackett:

Enclosed please find a copy of an Order of Appeal from your March 4, 1993 decision in this matter which will be filed with the Circuit Court for Baltimore County immediately following service of this Order upon you.

Northwest Land Corporation respectfully requests that a hearing scheduled to commence on Tuesday, March 8, 1993, be postponed until this appeal is resolved. I would be most appreciative if you could advise me as soon as possible whether the hearing will be postponed. If necessary, we will apply to the Circuit Court for an Order staying further proceedings.

Very truly yours,

Michael J. Collins

MJC:kmw
Enclosures

cc: Benjamin Bronstein, Esquire
J. Carroll Holzer, Esquire
K. Donald Proctor, Esquire
92121801.mjc

RECEIVED
COUNTY BOARD OF APPEALS
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RECEIVED
COUNTY BOARD OF APPEALS

93 MAR -5 PM 3:43

IN RE: PETITIONS FOR SPECIAL HEARING, SPECIAL EXCEPTION AND ZONING VARIANCE VILLA JULIE COLLEGE, INC., PETITIONER	*	BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY
	*	CASE NO. 92-285-SPHXA

* * * * * * * * * * * * *

ORDER FOR APPEAL BY
BARTON S. AND ELIZABETH MITCHELL,
CLARK FARM ASSOCIATES, AND
TIMOTHY M. AND MARY STEWART RODGERS

Mr. Clerk:

Please enter an appeal on behalf of Barton S. and Elizabeth Mitchell, Clark Farm Associates, and Timothy M. and Mary Stewart Rodgers, Protestants, from the decision of the County Board of Appeals of Baltimore County in the above case dated March 4, 1993.

K. Donald Proctor
MILES & STOCKBRIDGE
600 Washington Avenue
Suite 300
Towson, Maryland 21204
(410)823-8110

Attorney for Protestants,
Barton S. and Elizabeth S.
Mitchell, Clark Farm Associates,
and Timothy S. and Mary Stewart
Rodgers

CERTIFICATE OF SERVICE
ON BOARD OF APPEALS

I HEREBY CERTIFY that on this 5th day of March, 1993, a copy of this Order for Appeal was served on the Board of Appeals for Baltimore County by hand delivery prior to the filing of this Order of Appeal.

K. Donald Proctor

Attorney for Protestants,
Barton S. and Elizabeth S.
Mitchell, Clark Farm Associates,
and Timothy S. and Mary Stewart
Rodgers

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 5th day of March, 1993, a copy of the foregoing Order of Appeal was telecopied and mailed, postage prepaid, to:

Benjamin Bronstein, Esquire
EVANS, GEORGE AND BRONSTEIN
Susquehanna Building
Suite 205
29 West Susquehanna Avenue
Towson, Maryland 21204

Michael J. Collins, Esquire
NEUBERGER, QUINN, GIELEN & RUBIN, P.A.
Equitable Bank Center Tower II
100 South Charles Street
Baltimore, Maryland 21201

J. Carroll Holzer, Esquire
HOLZER, MAHER, DEMILIO & LEE
305 West Chesapeake Avenue
Suite 105
Towson, Maryland 21204

K. Donald Proctor

DN/VJC:C271003.ORD

LAW OFFICES
MILES & STOCKBRIDGE
600 WASHINGTON AVENUE
TOWSON, MARYLAND 21204

TELEPHONE 410-821-6565
FAX 410-823-8123

10 LIGHT STREET
BALTIMORE, MARYLAND 21202

300 ACADEMY STREET
CAMBRIDGE, MARYLAND 21613

101 BAY STREET
EASTON, MARYLAND 21601

K. DONALD PROCTOR
410-823-8110

11350 RANDOM HILLS ROAD
FAIRFAX, VIRGINIA 22030

30 WEST PATRICK STREET
FREDERICK, MARYLAND 21701

22 WEST JEFFERSON STREET
ROCKVILLE, MARYLAND 20850

1450 G STREET, N.W.
WASHINGTON, D.C. 20005

March 5, 1993

HAND DELIVERED

William T. Hackett, Chairman
County Board of Appeals
of Baltimore County
Old Courthouse, Room 49
400 Washington Avenue
Towson, Maryland 21204

RECEIVED
COUNTY BOARD OF APPEALS
93 MAR -5 PM 3:43

RE: Villa Julie College, Inc., Petitioner
Case No. 92-285-SPHXA

Dear Mr. Hackett:

We serve herewith a copy of an Order for Appeal from your March 4, 1993 decision in this matter which will be filed with the Circuit Court for Baltimore County immediately after the service of this Order upon you.

We would respectfully request that the hearing scheduled to commence on Tuesday, March 8, 1993 be postponed until this appeal is resolved. It would be appreciated if you could advise us as soon as possible whether you will postpone the hearing, since, if you do not, it may be necessary for us apply to the Circuit Court for an order staying further proceedings.

Very truly yours,

K. Donald Proctor

KDP/dn
Enclosure

cc: Benjamin Bronstein, Esquire (by telecopier)
Michael J. Collins, Esquire (by telecopier)
J. Carroll Holzer, Esquire (by telecopier)
(w/enclosure)

DN/VJC:Board.ltr

3/4/93

IN THE MATTER OF THE THE APPLICATION OF VILLA JULIE COLLEGE, INC. FOR A SPECIAL HEARING, SPECIAL EXCEPTION AND VARIANCES ON PROPERTY LOCATED ON THE SOUTH SIDE GREENSPRING VALLEY ROAD, 9' EAST OF NACIREMA LANE (1521 GREENSPRING VALLEY RD) 8TH ELECTION DISTRICT 3RD COUNCILMANIC DISTRICT	*	BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY CASE NO. 92-285-SPHXA

* * * * * * * * *

RULING ON MOTION IN LIMINE TO LIMIT THE SCOPE OF ISSUES

The Board is in receipt of a Motion in Limine to Limit the Scope of Issues filed by Benjamin Bronstein, Esquire, and Michael J. Chomel, Esquire, Counsel for Petitioner in the above-entitled matter, and the Responses thereto.

Based upon this Board's review and consideration of the foregoing Motion and Responses, having duly considered all the issues raised contained therein, and upon review of argument of Counsel received by this Board, we hereby **GRANT** the Motion. The Baltimore County Council specifically addressed this issue at this site in Resolution 2-91, Item #6, in which the County authorized a community water system and community sewerage treatment plant with capacity subject to special exception. The Board will take no testimony and no evidence on whether or not the two systems can be installed but will take evidence as to the capacity as it relates to the capacity issued by the State.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

William T. Hackett
William T. Hackett, Chairman

Harry E. Buchheister Jr.
Harry E. Buchheister, Jr.

DATE: March 4, 1993

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

March 4, 1993

Benjamin Bronstein, Esquire
EVANS, GEORGE AND BRONSTEIN
Susquehanna Building, Suite 205
29 W. Susquehanna Avenue
Towson, MD 21204

RE: Case No. 92-285-SPHXA
Villa Julie College, Inc.

Dear Mr. Bronstein:

Enclosed is a copy of the Ruling on Motion in Limine to Limit the Scope of Issues issued this date by the County Board of Appeals in the subject matter.

Very truly yours,

Kathleen C. Weidenhammer
Administrative Assistant

encl.

cc: Michael Chomel, Esquire
Michael J. Collins, Esquire
J. Carroll Holzer, Esquire
K. Donald Proctor, Esquire

Printed on Recycled Paper

3/2/93

IN THE MATTER OF	*	BEFORE THE
THE VILLA JULIE COLLEGE, INC.	*	BOARD OF APPEALS
ZONING COMMISSIONER	*	FOR
DECISION APPEAL	*	BALTIMORE COUNTY
	*	Case No.: 92 285-SPHXA

* * * * * * * * * * * * *

MOTION TO RECUSE

The Valleys Planning Council, Homeowners of Greenspring, Greenspring Valley Association, Velvet Valley Association, Falls Road Community Association and Douglas A. Carroll, III, Mr. & Mrs. Henry G. Hagan, Mr. & Mrs. Lawrence P. Naylor, III, Mr. & Mrs. Richard B. Buck and Mr. & Mrs. J. Steven Immelt, individuals, by their attorney, **J. Carroll Holzer**, Holzer, Maher, Demilio & Lee, hereby submit this Motion to Recuse on their behalf and says:

1. The Appellant Community Associations, consisting in part, of the Valleys Planning Council, have individual members which form the basis of their membership. Counsel for the Valleys Planning Council, on or about February 16, 1993, received a letter and attachments from Barbara A. Cochran, M.D., 13733 Cuba Road, Hunt Valley, Maryland 21030. A letter containing various attachments in regard to the issue of this Motion, is attached as Exhibit A through E hereto.

LAW OFFICES
HOLZER, MAHER
& DEMILIO
305 W. CHESAPEAKE AVENUE
SUITE 105
TOWSON, MARYLAND
21204

(301) 825-6960

93 MAR -3 AM 10:42
COUNTY BOARD OF APPEALS
RECEIVED

2. In Exhibit A, the writer indicates that "as a member of the Valleys Planning Council, one of the Community Associations you represent in the above referenced case, I wish to bring an issue to your attention which causes me great concern." She further raised in the letter - "In 1992, Comprehensive Map Process, for example, Mr. Lipowitz represented a request by Grempler Realty for rezoning and asked the Valleys Planning Council on the Falls Road Community Association to be involved in the resolution of this request. At the same time, he was sitting on the Board hearing two (2) cases which involved these two (2) Community Associations."

Further, she raises the question that "Mr. Lipowitz's firm, Azrael, Gann and Franz, regularly advertise in The Daily Record, that their "principals" include past members, Baltimore City Board of Municipal and Zoning appeals, past and present members, Baltimore County Board of Appeals." She then concludes, "this is a clear conflict of interest and I have made a formal protest this indicated by the attached material."

Continuing, she states:

> "As a member of one of your client organizations in this case, I do not feel that we will be appropriately served by having someone who represents zoning clients sit on the Board of Appeals hearing this case."

Finally, she says:

> "It is my request that you bring this request to the attention of the appropriate authority before the case is heard."

3. The writer attaches as Exhibit B, a Daily Record notice purporting to represent that the firm of Azrael, Gann and Franz currently has a member sitting on the Baltimore County Board of Appeals. She alleges that person is Judson Lipowitz and that the current notice running in The Daily Record presents the appearance of a conflict of interest in favor of developers. (See Exhibit C).

4. Attached as Exhibit C is a letter previously directed to the Baltimore County Board of Appeals including Mr. Lipowitz dated August 13, 1992, in which the conflict of interest issue is raised and more specifically, the fact that Valleys Planning Council was contacted to be a party in the resolution of that specific case.

Further, in the same letter, the writer raises the issue of the applicability of Section 28-82(a) and Section 28-82(a)(2) of the Baltimore County Code which refers to the disclosure of the interest when certain employment creates a conflict of interest or an appearance of conflict of interest. She further refers to Section 1000 of the Baltimore County Code [Charter] requires disqualification from participating in decisions or other actions in which there is a conflict between official duties and his private interest.

She further relies on Section 1001(b) of the Baltimore County Code [Charter] and says:

> "The provisions of Article X shall be broadly construed and strictly enforced for the purpose of preventing those persons in public service from securing an economic advantage, however, indirect from their public service."

She further states:

> "The employment relationship (of Mr. Lipowitz) may impair his impartiality of judgment."

Attached as Exhibit E is the letter dated September 16, 1992, to the Baltimore County Board of Appeals reaffirming her position.

6. Exhibit E contains the attachment of a Petition on Appeal in the matter of Case No.: 90-477-SPHX (Circuit Court for Baltimore County, Case No.: 92-CV-11650) in which she raises the issues in Exhibit A through D on appeal in the Circuit Court.

WHEREFORE, Appellants submit that based upon the documentation forwarded to their counsel on February 16, 1993 and provided to the Board and all parties at that time, that they would respectfully request Judson Lipowitz to voluntarily

recuse himself from participation in this case due to the aforegoing Exhibits A through E, for the purpose of avoiding the appearance of a conflict of interest.

Respectfully submitted,

J. CARROLL HOLZER, Esquire
Holzer, Maher, Demilio & Lee
305 West Chesapeake Avenue
Suite 105
Towson, Maryland 21204
410-825-6960

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 2ND day of March, 1993, a copy of the aforegoing Motion to Recuse was mailed, postage pre-paid to: Benjamin Bronstein, Esquire, Evans, George and Bronstein, Susquehanna Building, Suite 205, 29 West Susquehanna Avenue, Towson, Maryland 21204, K. Donald Proctor, Esquire, Miles & Stockbridge, 500 Washington Avenue, Towson, Maryland 21204 and Michael J. Collins, Esquire, Neuberger, Quinn, Gielen & Rubin, P.A., Equitable Bank Center, Tower II, 100 South Charles Street, Baltimore, Maryland 21201.

J. CARROLL HOLZER, Esquire

c:\wp\mot-2\vj-recuse.mot

BARBARA A. COCHRAN, M.D.
INTERNAL MEDICINE
6506 PARK HEIGHTS AVENUE
BALTIMORE, MARYLAND 21215
764-1955

Home Address: 13733 Cuba Road
Hunt Valley, Maryland 21030

February 16, 1993

J. Carroll HOlzer, Esq.
Holzer, Maher, Demilio & Lee
305 West Chesapeake Avenue, Suite 105
Towson, Maryland 21204

Re: Villa Julie College, Inc.
Case No.: 92-285-SPHXA

Dear Mr. Holzer:

As a member of The Valleys Planning Council, Inc., one of the community associations which you represent in the above referenced case, I wish to bring an issue to your attention which causes me great concern.

It is my understanding that Judson Lipowitz will sit on the Board to hear the appeal of the Villa Julie College case. I do not feel that Mr. Lipowitz is an appropriate person to hear such an appeal in as much as he is engaged as an attorney in various zoning proceedings in Baltimore County. In the 1992 Comprehensive Zoning Map Process, for example, Mr. Lipowitz represented a request by Grempler Realty for rezoning and asked The Valleys Planning Council and the Falls Road Community Association to be involved in the resolution of this request. At the same time he was sitting on the Board hearing two cases which involved these two community associations.

In addition, Mr. Lipowitz' firm, Azrael, Gann and Granz, regularly advertises in The Daily Record that their "principals include past members, Baltimore City Board of Municipal and Zoning Appeals, past and present members, Baltimoe County Board of Appeals."

This is a clear conflict of interest, and I have made a formal protest as indicated by the attached material.

As a member of one of your client organizations in this case, I do not feel that we will be appropriately served by

Exh. A

ZONING AND LAND USE

AZRAEL, GANN & FRANZ
101 East Chesapeake Avenue
Fifth Floor
Towson, Maryland 21204
(410) 821-6800
Contact: Jonathan A. Azrael, Esquire
Keith S. Franz, Esquire

AV rated. Real Estate and Land Use, Acquisitions and Development, Zoning, Condemnation and Brokerage Law and Litigation. Principals include past members, Baltimore City Board of Municipal and Zoning Appeals, past and present members, Baltimore County Board of Appeals.

Exh. B

DVII 12

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 Worrall of the Valleys Planning Council

That a question of conflict of interest was raised

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

That the firm of Azrael, Gann, and Franz, of which Mr. Lipowitz is a partner, has continued to represent the Gremplers

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

Exh. C

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-SPHZ. 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.

Ex. D

Ex. D

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
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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

EA. E

12/18/92

IN THE MATTER OF:	*	BEFORE THE BOARD OF APPEALS
THE VILLA JULIE	*	FOR BALTIMORE COUNTY
COLLEGE, INC.	*	Case No. 92-285-SPHXA
WASTEWATER TREATMENT PLANT	*	

* * * * *

OPPOSITION OF NORTHWEST LAND CORPORATION TO MOTION IN LIMINE TO LIMIT THE SCOPE OF ISSUES

Northwest Land Corporation ("Northwest"), by its undersigned counsel, hereby submits this Opposition to the Motion of Villa Julie College, Inc. ("Villa Julie") In Limine to Limit the Scope of Issues. Northwest adopts by reference, as though fully set forth herein, the Responses to the Motion in Limine to Limit the Scope of Issues submitted by Baton S. and Elizabeth Mitchell, et al. and Valleys Planning Council, et al. The arguments set forth therein will not be restated here.

In its motion to limit the scope of the issues, Villa Julie asks this Board to exclude evidence concerning feasible alternatives to the College's proposed method of sewage disposal; to exclude evidence concerning whether or not the septic system serving the College has failed; and to exclude evidence regarding the effects, if any, of the proposed waste water treatment plant and water appropriation on the College's neighbors. For the reasons stated below, each of these requests should be rejected.

I. The Issue Of Whether There Are Alternatives To A Private Waste Water Treatment Plant At Villa Julie College Is Properly Before The Board Of Zoning Appeals.

In its motion in limine, Villa Julie contends that the Board of Zoning Appeals (the "Board") is precluded from considering

whether viable alternatives exist to the College's proposed method of sewage disposal. In support of this argument, Villa Julie sets forth two contradictory lines of reasoning. First, the College contends that the County Council's "legislative" decision to permit Villa Julie to utilize a private waste water treatment plant for sewage disposal, as a matter of law, precludes this Board from considering other alternative means of sewage disposal for the College. See, Motion In Limine To Limit The Scope Of Issues at 1-2. Next, the College argues that the comprehensive federal and State regulatory scheme governing environmental protection and water quality standards "occupies the field" such that local authorities, presumably local governmental authorities like the Baltimore County Council, may not assert any zoning control over waste water treatment alternatives. See, Motion In Limine To Limit The Scope Of Issues at 4-5. These arguments were not persuasive to the Zoning Commissioner below, nor are they supported in the law.

A. The Amendment of the Baltimore County Master Water and Sewer Plan To Permit The Waste Water Treatment Plant Merely Recommends Area Development, While The Board of Zoning Appeals Is Charged With Determining Presently Permitted Uses For Property.

Villa Julie argues that the decision to amend the Baltimore County Water and Sewer Plan was a "planning action" undertaken by the County Council which is not subject to this Board's review. As authority for this contention, the College cites the case of Citizens for Rewastico Creek v. Commissioners of Hebron, 67 Md.App. 466, 508 A.2d 493 (1986).

The Rewastico case involved the planning and construction

of a large municipal sewage treatment plant. The town of Hebron conducted various studies of alternative plants, obtained state and federal funding, and, after public hearings, a Facilities Plan was approved by the Federal Department of Environment. At the discharge permit hearing, a citizens group tried to revisit the issue of whether the plant was necessary and introduce new evidence of design alternatives to the plant. In its affirmation of the Hearing Officer's ruling to exclude such evidence, the Rewastico Court held that the pertinent federal and state administrative regulations did not require reconsideration of design alternatives at what was the last stage of a lengthy administrative approval process. Id. at 474, 508 A.2d 493.

The Rewastico decision offers no support whatsoever to Villa Julie. The subject of the Rewastico controversy was the planned construction of a large municipal plant, which, if such a plant were proposed in Baltimore County, would be exempt from the Baltimore County Zoning Regulations. See, City of Baltimore v. State of Maryland 281 Md. 217 (1977); Glascock v. Baltimore County, 321 Md. 118 (1990). The subject of this case involves Villa Julie's Request for Special Exemption and Petition for Zoning Variance, including its proposal to build a waste water treatment plant on College property: all proper subjects for the Board's review. Furthermore, the Rewastico case is not a zoning case. Plainly, the state and federal administrative scheme discussed in Rewastico differs both procedurally and substantively from the zoning regulations at issue in this case. The comparison suggested

by Villa Julie is one of apples to oranges.

In fact, the Baltimore County Council's decision to amend the Baltimore County Water and Sewer Plan to permit location of a private waste water treatment plant at Villa Julie has no effect whatsoever on this Board's consideration of whether to grant the College a right to construct such a plant. In Boyds Civic Association v. Montgomery County, 67 Md. App. 131, 143 (1986), the Court of Special Appeals spoke directly to this issue:

> Simply stated, the essential distinction between a master plan and comprehensive zoning is that the former merely recommends area development and proposes future land use and zoning classifications, while the latter determines presently permitted uses for property. (Emphasis in original).

The Boyds Court held that although amendments to the master plans were "increasingly an essential step in the zoning process," the master plan itself "is advisory only." Id.

Similarly, in Montgomery County v. Woodward & Lothrop, Inc., 280 Md. 686, 704 (1977), the Court of Appeals found that planning documents such as master or general plans "represent only a basic scheme generally outlining planning and zoning objectives in an extensive area, and are in no sense a final plan; they are continually subject to modification . . .." The College is simply incorrect in its assertion that amendment to the County Water and Sewer Plan forecloses consideration of the propriety of the proposed waste water treatment plant or feasible alternatives thereto.

The County Council's decision to amend the Master Water and Sewage Plan did not confer upon Villa Julie the right to

construct its proposed plant. In Gregory v. Board of County Commissioners, 89 Md.App. 635 (1991), the Court held that the Frederick County Council's adoption of an amendment to the County's water and sewage plan had no impact, in and of itself, on allowable uses of properties as determined by their zoning classification. In this regard, if it was sensible for the County Council to consider various alternative means of sewage disposal available to the College before approving amendment of the County Water and Sewer Plan, then surely it is appropriate for the Board to consider such alternatives when determining whether to grant Villa Julie the right to build its waste water treatment plant.

B. Neither The Federal Nor The State Government Have Preempted The Field Of Zoning As To The Location Of A Private Waste Water Treatment Plant

Villa Julie argues that the federal and state regulatory scheme governing environmental protection and water quality standards "occupies the field," such that local authorities may not assert zoning control with respect to the location of a private waste water treatment plant. This argument has no merit whatsoever.

Section 1251(b) of the Federal Water Pollution Control Act expressly reserves to the states the field of land use regulation:

> It is the policy of Congress to recognize, preserve, and protect the primary responsibilities and rights of states to prevent, reduce and eliminate pollution, [and] to plan the development and use . . . of land and water resources . . . ."

33 U.S.C. Sections 1251-1376, 33 U.S.C. Section 1251(b). In the

same manner, the statement of legislative purpose set forth by the Maryland General Assembly in its enactment of the State's zoning and planning regulations expressly reserves to local governments broad control over zoning and land use matters:

> It has been and shall continue to be the policy of this State that planning and zoning controls shall be implemented by local government.

Md. Code Article 66B Ann., Section 4.01(d)(2).

Furthermore, the Court of Appeals has held that State regulations governing sewerage issues do not manifest a legislative purpose to pre-empt local zoning control where the local jurisdictions seek to impose restrictions more stringent than those required by the state. In Ad + Soil, Inc. v. County Commissioners of Queen Anne's County, 307 Md. 307, 333 (1986), the Court of Appeals found that State statutory provisions governing sewage management contemplate "a two-tiered regulatory process under which local jurisdictions would retain authority to enforce zoning controls against state permit holders . . .." Concluding that there was no pre-emption of county water and sewer plans, the Ad + Soil Court stated:

> Section 9-502(c) [of the Environmental Article] states that '[a]ny rule or regulation [of the Department] adopted under this subtitle does not limit or supersede any other county, municipal, or state law, rule, or regulation that provides greater protection to the public health, safety or welfare.'

There is no question that Baltimore County may impose more restrictive environmental controls through its zoning regulations than any minimum standard established by the State. If it is determined that operation of a private waste water treatment plant

is an impermissible use of the College's property, then a thorough examination of alternative means of sewerage disposal is required.

II. The Issue Of Whether The Existing Septic System On The Villa Julie College Has Failed Should Not Be Precluded Because The County Council Has Approved An Amendment To The Master Water And Sewage Plan Permitting The Waste Water Treatment Plant.

As authority for its argument that this Board should exclude evidence concerning whether or not the septic system serving the College has failed, Villa Julie resurrects its erroneous contention that once the County Council gave its approval to the College's plan to build a waste water treatment plant, "the issue of the failing septic system [was] foreclosed from consideration in this proceeding." See, Motion In Limine To Limit The Scope Of Issues at 6. The fact remains, however, that the County Council's decision to amend the Master Water and Sewage Plan has no legal effect on these proceedings and was strictly an advisory decision. See, Gregory, supra at 641. The relevance of evidence concerning the septic system's alleged failure is clear: if it is impermissible for the College to construct a waste water treatment plant on its property, then evidence concerning the extent of alleged failure of the septic system is critical to any analysis of alternative methods available to the College for sewage disposal.

III. The Board Clearly Has The Authority And Jurisdiction To Consider The Effect Of The Proposed Waste Water Treatment Plant And Villa Julie's Water Appropriation.

Section 502.1(e) of the Baltimore County Zoning Regulations requires that in order for a special exemption to be

granted, "there shall be no interference with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences or improvements." Villa Julie misconstrues this regulation to mean that unless a public water or sewer system is interfered with, the County Zoning Regulations do not apply. That is a nonsensical and tortured reading of the regulation.

On its face, section 502.1(e) applies to any interference with adequate provisions for water and sewerage. Indeed, if Villa Julie was correct, which it is not, then this Board would be helpless to regulate growth which threatened private provisions for water (i.e. well water) or sewage disposal (i.e septic fields). As the Court of Special Appeals said in Love v. Montgomery County, 85 Md.App. 477, 494-95 (1990):

> Zoning is an exercise of police power and, to be valid, must be in the general public interest for the promotion of health, safety or general welfare of the community. It is an exercise of the police power which takes away, for public good, some rights of individuals to use their property as they please while giving them rights to restrict injurious uses of others' property.

Clearly, regulation of the private waste water treatment plant proposed by Villa Julie is within the inherent police power of this Board.

Furthermore, there are several other sections of 502.1 which require specific findings by this Board regarding the effect of Villa Julie's operation of the planned waste water treatment plant and its water appropriation. Section 502.1(a) requires a determination that any requested special exception will not "[b]e

detrimental to the health, safety, or general welfare of the locality involved. Section 502.1(d) requires a finding that a special exception request will not "[t]end to overcrowd the land and cause undue concentration of population." Section 502.1(g) requires a finding that a special exception request will not "[b]e 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."

With regard to consistency with the spirit and intent of the Baltimore County Zoning Regulations, Villa Julie is located in a Resource Conservation Zone classified as RC-2. The purpose of a RC-2 classification is set forth in section 1A01.1B:

> The RC-2 Zoning Classification is established pursuant to the legislative findings above in order to foster conditions favorable to a continued agricultural use of the productive agricultural areas of Baltimore County by preventing incompatible forms and degrees of urban uses.

Section 1A01.1A1(d) specifies that "[c]ontinued 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." Indeed, the Board is required under Section 1A01.2C to determine that Villa Julie's proposed use of its property will not "[b]e detrimental to the primary agricultural uses in the vicinity." The College's proposed waste water treatment plant and requested water appropriation are obviously subject to these regulations.

Despite Villa Julie's protestations to the contrary, this Board is not precluded from hearing evidence concerning the effect

of Villa Julie's water appropriation or the proposed waste water treatment plant on its neighbors. To the contrary, the Board is charged with the responsibility to oversee these proposals and ensure their compliance with local zoning law. Villa Julie's operation of its planned waste water treatment plant is a central issue of this Appeal.

IV. Conclusion

For the above stated reasons Northwest Land Corporation respectfully requests that the Motion In Limine To Limit the Scope Of Issues be denied.

Respectfully submitted,

Michael J. Collins

Neuberger, Quinn, Gielen, Rubin & Gibber, P.A.
100 S. Charles Street
Tower II
Baltimore, Maryland 21201
(410) 332-8520

Attorneys for Northwest Land Corporation

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 18th day of December, 1992, a copy of the foregoing Opposition of Northwest Land Corporation to Motion in Limine to Limit the Scope of Issues was mailed, first-class, postage prepaid to Benjamin Bronstein, Esquire, Evans, George and Bronstein, Susquehanna Building, Suite 205, 29 West Susquehanna Avenue, Towson, Maryland 21204; K. Donald Proctor, Esquire, Miles & Stockbridge, 500 Washington Avenue, Towson, Maryland 21204; and J. Carroll Holzer, Esquire, Holzer, Maher, Demilio & Lee, 305 West Chesapeake Avenue, Suite 105, Towson, Maryland 21204.

Michael J. Collins

12/18/92

(4)

LAW OFFICES
NEUBERGER, QUINN, GIELEN & RUBIN, P. A.

EQUITABLE BANK CENTER TOWER II
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FAX (410) 332-8594

(WRITER'S DIRECT DIAL NO.)
(410) 332-8520

December 18, 1992

HAND DELIVERED

The Honorable William T. Hackett
Chairman
Baltimore County Board of Appeals
Old Court House
400 Washington Avenue - Room 49
Towson, Maryland 21204

Re: Villa Julie College

Dear Mr. Hackett:

Please find enclosed for filing, Opposition of Northwest Land Corporation to Motion in Limine to Limit the Scope of Issues in the above-captioned matter.

Kindly date stamp and return the enclosed photocopy to me in the enclosed stamped, self-addressed envelope.

Thank you for your cooperation.

Very truly yours,

Michael J. Collins

MJC:kmw
Enclosures

cc: Benjamin Bronstein, Esquire
J. Carroll Holzer, Esquire
K. Donald Proctor, Esquire

92121801.mjc

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COUNTY BOARD OF APPEALS
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12/10/92

IN THE MATTER OF	*	BEFORE THE
THE VILLA JULIE COLLEGE, INC.	*	BOARD OF APPEALS
WASTEWATER TREATMENT PLANT	*	FOR
	*	BALTIMORE COUNTY
	*	Case No.: 92 285-SPHXA

* * * * * * * * * * * * *

VALLEYS PLANNING COUNCIL, et al.
RESPONSE TO MOTION IN LIMINE
TO LIMIT THE SCOPE OF ISSUES

The Valleys Planning Council, Homeowners of Greenspring, Greenspring Valley Association, Velvet Valley Association, Falls Road Community Association and Douglas A. Carroll, III, Mr. & Mrs. Henry G. Hagan, Mr. & Mrs. Lawrence P. Naylor, III, Mr. & Mrs. Richard B. Buck and Mr. & Mrs. J. Steven Immelt, individuals, by their attorney, **J. Carroll Holzer**, Holzer, Maher, Demilio & Lee, submit this Response to Villa Julie's Motion in Limine and says:

I.

The Issues as Presented in the Motion in Limine request this Board to exclude evidence on the related issues of whether or not the existing septic system on the Villa Julie College property has failed; whether or not there are feasible alternatives to a private wastewater treatment plant to correct the failure; and whether the issue of water appropriation is germane to the matters being presented to this Board.

LAW OFFICES
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& DEMILIO
305 W. CHESAPEAKE AVENUE
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TOWSON, MARYLAND
21204

(301) 825-6960

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RECEIVED

This Response of the Appellants/Protestants, Valleys Planning Council, et al., is appropriate to all the issues raised.

First, the issues presented by Villa Julie are already presented in the Memorandum in Lieu of Final Argument that was filed earlier in this proceeding with the Board along with my cover letter of November 24, 1992. The discussions in that Memo related to legal Issues 1, 2, 3, 4 and 6 is hereby incorporated and adopted for the reasons stated therein.

Secondly, the Valleys Planning Council, et al., adopted the Post-Hearing Memorandum of Mitchell, Clark, Rogers, Obrecht & Blue, which were incorporated in our Memorandum and which is attached hereto as Exhibit A supporting the legal proposition in opposition to the requested Motion in Limine.

Thirdly, the Zoning Commissioner in his findings of fact and conclusions of law, addressed these issues in his Opinion, p. 5-17, which is attached hereto as Exhibit B. While Valleys Planning Council, et al., do not agree entirely with the Decision of the Zoning Commissioner as it relates to this case and from which an appeal was taken, Protestants certainly agree with the proposition recognized by the Zoning Commissioner that these issues are appropriately considered a part of this case and the fundamental position that these issues must be explored before the Board of Appeals.

WHEREFORE, the Valleys Planning Council respectfully requests that this Honorable Board deny the Motion in Limine as to all requests.

Respectfully submitted,

J. CARROLL HOLZER, Esquire
Holzer, Maher, Demilio & Lee
305 West Chesapeake Avenue
Suite 105
Towson, Maryland 21204
410-825-6960

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 10th day of December, 1992, a copy of the aforegoing Response to Motion in Limine to Limit the Scope of Issues was mailed, postage pre-paid to: Benjamin Bronstein, Esquire, Evans, George and Bronstein, Susquehanna Building, Suite 205, 29 West Susquehanna Avenue, Towson, Maryland 21204, K. Donald Proctor, Esquire, Miles & Stockbridge, 500 Washington Avenue, Towson, Maryland 21204 and Michael J. Collins, Esquire, Neuberger, Quinn, Gielen & Rubin, P.A., Equitable Bank Center, Tower II, 100 South Charles Street, Baltimore, Maryland 21201.

J. CARROLL HOLZER, Esquire

ans\valleys.ans

IN THE MATTER OF THE PETITION FOR SPECIAL EXCEPTION BY VILLA JULIE COLLEGE, INC.	*	BEFORE THE
	*	ZONING COMMISSIONER
	*	OF BALTIMORE COUNTY
	*	92-285-XA
	*	ITEM 146

* * * * * * * * * * * * * *

PROTESTANTS' POST-HEARING MEMORANDUM

Barton S. Mitchell and Elizabeth Mitchell, Clark Farm Associates, Timothy M. Rodgers and Mary Stewart Rodgers, Mr. and Mrs. Thomas F. Obrecht, and Mr. and Mrs. Richard F. Blue, Protestants, by their attorney, K. Donald Proctor, submit this Post-Hearing Memorandum.

1. The Zoning Commissioner is Required to Determine Whether the Proposed community Sewage Treatment Plant is a Permissible Use in the RC-2 Zone.

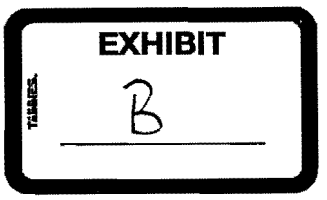
Section 500 of the Baltimore County Zoning Regulations ("BCZR") leaves no doubt that the Zoning Commissioner is required to determine whether the proposed sewage treatment plant is a permissible use in the RC-2 Zone. Under Section 500.1 of the BCZR, the Zoning Commissioner must review all applications for building permits and "satisfy himself that...the proposed building or use of land, building or structure, complies in all respects with the regulations then in effect with respect to zoning." Section 500.4 similarly requires in all cases of a new use of land where no building permit is required, that the Zoning

EXHIBIT A

exception law. Clearly, the future of the College, as well as the Greenspring Valley, hangs in the balance.

Proposed Waste Water Treatment Facility

Much of the testimony and evidence presented concerned the college's proposal to construct and operate a waste water treatment plant ("W.W.T.P.") on site. This facility would be constructed to handle and dispose of the sewage and waste water generated by the College. The issues generated by this proposal are many and complex. Not only can the parties not agree as to whether the W.W.T.P. is an appropriate method of disposing of the College's sewage, there is threshold disagreement as to whether consideration of the proposed facility is an issue within my jurisdiction. It is of particular note that the College's Petitions for Special Exception, Special Hearing and Variance make no reference to the W.W.T.P., a fact which was not lost on the Office of Planning and Zoning. Specifically, within that office's Zoning Advisory comment dated March 6, 1992, authored by Jack Dillon and Jeffrey Long, it was noted that, "Although the present Petition request does not cover the proposed treatment plant, this office fully supports the conditions requested by the Department of Environmental Protection and Resource Management (D.E.P.R.M.) which deals with treatment plant facilities." (Emphasis added). Further, as is evidenced by the wording within its Petitions for relief, the College claims that I lack the authority to determine the propriety of the W.W.T.P. In contrast, the Protestants aver that same should be considered in the context of this case and, further, that the W.W.T.P. should not be permitted or, if so permitted, its size and output limited. Prior to addressing the issues, generated by this proposed facility, an overview of the history relating to the present need for the W.W.T.P. is in order.



[redacted]

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IN THE MATTER OF:	*	BEFORE THE BOARD OF APPEALS
THE VILLA JULIE COLLEGE, INC.	*	FOR BALTIMORE COUNTY
WASTEWATER TREATMENT PLANT	*	CASE NO.: 92-MDE-WMA-063-480

* * * * * * * * * * * * * *

MOTION IN LIMINE TO LIMIT THE SCOPE OF ISSUES

Villa Julie College, Inc., by Benjamin Bronstein, Michael J. Chomel and Evans, George and Bronstein, its attorneys, moves to limit the scope of issues in this proceeding, and says:

I. THE BOARD OF APPEALS SHOULD EXCLUDE EVIDENCE ON THE ISSUE OF WHETHER THERE ARE ANY FEASIBLE ALTERNATIVES TO A PRIVATE WASTEWATER TREATMENT PLANT.

1. The Protestants in a special exception proceeding before the Zoning Commissioner raised the issue of whether there are any "feasible alternatives" to a private waste water treatment plant under C.O.M.A.R., Section 26.08.02.05.B(1).

2. The Code of Maryland Regulations ("C.O.M.A.R."), Section 26.08.02.05.B.(1) provides that "discharges to intermittent streams are not permitted when feasible alternatives are available." It is anticipated that the Protestants will raise this issue on this appeal.

3. Preliminarily, it must be noted that from a legal perspective there are no "feasible" alternatives to a private waste water treatment plant. Any other form of treatment is not authorized on this site by the Baltimore County Master Water and Sewer Plan.

4. The determination of what is the preferred method of treatment has already been decided by the Baltimore County Council

when it amended the Baltimore County Master Water and Sewer Plan to allow a private waste water treatment plant on the College property. Sewage treatment alternatives are to be considered in the planning stage, (i.e., at the time of the Master Water and Sewer Plan Amendment), they are not to be considered at the time of subsequent proceedings. Citizens for Rewastico Creek v. Commissioners of Hebron, 67 Md. App. 466, 508 A.2d 493, (cert. denied 307 Md. 260, 513 A.2d 314 (1986)) As the Court of Special Appeals noted in the Rewastico Creek case:

> "The latter step of the process, at issue here, involves only the obtaining of a discharge permit from the State. As the Department and the Circuit Court concluded, the provisions Citizens rely upon do not require a reconsideration of treatment alternatives at the discharge permit stage. To find otherwise would alter the carefully constructed and already time-consuming administrative process. The clear intent of the regulatory scheme is that treatment alternatives be considered in the facility planning stages of the process." (emphasis supplied)

5. The Maryland Department of the Environment has exclusive authority and jurisdiction over the issuance of a permit to the College to discharge into the intermittent stream in question. The State has been delegated power of the federal government under the Clean Water Act and its amendments, and MDE acts as part of the federal regulatory scheme in considering applications for discharge permits.

The Federal Pollution Control Act (the Clean Water Act) requires that a person hold a federal national pollutant discharge elimination system (NPDES) permit prior to discharging pollutants

into any navigable waters of the United States. 33 U.S.C. Sections 1341(a), 1342 (1987). Where a state program meets certain requirements, the United States Environmental Protection Agency (EPA) approves the program and suspends its own NPDES licensing program in that state. The EPA continues to receive copies of applications for NPDES permits and retains the power to veto state NPDES permits.

Maryland is qualified and has been delegated the power by EPA to issue permits in this state. In adopting regulations governing the issuance of permits, MDE is required to consider, among other things, the character of the area involved, the nature of the receiving body of water, and the technical feasibility and the economic reasonableness of measuring or reducing the particular type of water pollution at issue. Maryland Environmental Code Annot., Section 9-313 (1987).

The Protestants have raised the very same issues they are raising in this case before MDE as part of the discharge permit process. The issues relating to discharge of effluents are the subject of litigation in a proceeding entitled In the Matter of: The Villa Julie College, Inc. Wastewater Treatment Plant before the law judge of the Office of Administrative Hearings, Case No.: 92-MDE-WMA-063-480. To allow them to raise the same considerations in this fourum, before this Board, would impose an undue burden upon the College to litigate the same issues twice, with the attendant risk of inconsistent decisions.

Between the federal regulatory scheme and the state statutory scheme enacted by the General Assembly relating to water quality, this field has been fully occupied and precludes local regulation of (or interference with) the determination of issues relating to discharge permits and water quality which are solely within the provence of MDE under the federal and state regulatory enactments. In a similar context, the Court of Appeals has held that where there is a comprehensive procedure enacted by the State (or the federal government) there cannot be permitted a parallel system of regulation by local governing bodies. County Council v Montgomery Association, 274 Md. 52, 325 A.2d 112, 333 A.2d 596 (1975), involved local ordinances which purported to regulate campaign finance practices of candidates for political offices of county executive and county councilmen in Montgomery County. The Court of Appeals held that the state regulatory scheme precluded the assertion of control by the local government, recognizing that if the county ordinances were upheld, a dual system of regulating election finances would exist in the county "which would inevitably lead to utter confusion." 333 A.2d at 602.

In light of the comprehensiveness of the state legislation, and the unreasonable consequences which would ensue from concurrent regulation, the Court of Appeals concluded that the local authorities could not assert control in this area. Id. In the present case, there is a comprehensive (indeed, national) scheme for addressing water quality and discharge issues. The Maryland

Department of the Environment exercises this broad authority, and is presently addressing the specific concerns which Protestants purport to raise in this case relating to feasible alternatives. To allow the Protestants to raise those issues in this proceeding is not authorized by law and would be unfair to Villa Julie in requiring it to litigate the same issue in two different fora, creating exactly the sort of dual system of regulation which the Court of Appeals condemned as "inevitably lead[ing] to utter confusion."

Under these circumstances, the issue of feasible alternatives is not properly before this Board, and it would be appropriate for the Board to limit the scope of the issues in connection with this proceeding to exclude all issues relating to feasible waste water treatment alternatives.

6. Alternatively, the language of C.O.M.A.R., Section 26.08.02.05.B(1) can be read as prohibiting discharges to intermittent streams only when non-intermittent streams are available on the property. Under this analysis, the "feasible alternatives" referred to in the regulation do not refer to alternative treatment modalities, but to whether non-intermittent streams are available to receive the discharge.

Under either analysis, it is clear that the proposed discharge into the intermittent stream from a private waste water treatment plant is the only feasible alternative on the College site.

In summary, the issues in this case should be limited to exclude consideration of other means of sewage treatment because

the existence of alternative means of sewage disposal; (1) is in part a planning matter decided by the County Council; and (2) is a Clean Water Act matter decided by MDE pursuant to the authority delegated to the State by the federal government.

II. THE BOARD OF APPEALS SHOULD EXCLUDE EVIDENCE ON THE ISSUE OF WHETHER THE EXISTING SEPTIC SYSTEM ON THE VILLA JULIE COLLEGE PROPERTY HAS FAILED.

The Protestants in this special exception proceeding have raised the issue of whether the existing septic system on the College property has failed. This matter is not an issue properly before the Board in this proceeding, and evidence thereof should not be received. The County Council based on a recommendation of the Directors of DEPRM, Planning and Public Works, approval by the Planning Board after public hearing enacted an amendment to the Master Water and Sewer Plan which specifically authorized a private waste water treatment plant on the College property. This legislative determination is not subject to reversal or appeal by the Board of Appeals for Baltimore County. The remedy of Protestants, if any they have, lies with the County Council and not with this Board. The County Council having given its formal approval to a private waste water treatment plant, this issue of a failing septic system is foreclosed from consideration in this proceeding.

III. THE BOARD OF APPEALS SHOULD EXCLUDE EVIDENCE CONCERNING THE PRIVATE WASTE WATER TREATMENT PLANT ON THE VILLA JULIE PROPERTY AND ON THE ISSUE OF WATER APPROPRIATION.

The Protestants in the special exception proceeding have indicated they intend to raise the issue of water appropriation by

Villa Julie College. The College has to apply for and receive a water appropriations permit from the Water Resources Administration of the Maryland Department of Natural Resources. There is a detailed application, review and approval process which addresses all concerns which the Protestants have raised in connection with the usage of water by Villa Julie College.

B.C.Z.R., Section 502.1(e) provides that in granting a special exception the issue of whether the proposed special exception will "interfere with adequate provisions for schools, parks, water, sewage, transportation or other public requirements, conveniences, or improvements" must be addressed. Protestants have raised their concerns relating to the waste water treatment plant (sewage) and water appropriations under Section 502.1(e). This section is not applicable to the present special exception requested by Villa Julie.

Villa Julie proposes a private waste water treatment plant. The disposal of sewage is inherent in the usage of property -- it is a matter which is regulated, but not permitted in the first instance by local authorities. The Baltimore County Council has reviewed this situation and has concluded that a private waste water treatment is the appropriate (indeed, the only) method for sewage treatment and disposal on the College site. The waste water treatment plant itself, however, remains a private facility, which is subject to regulation by the appropriate state and federal authorities, but is not the factor addressed under B.C.Z.R., Section 502.1.

Section 502.1 clearly applies to public water and sewer. If there is an existing public water system, then, the county may address the impact of a proposed special exception on that existing public water system under 502.1(e). Where there is no existing public water system, however, then the state through the Water Resources Administration of the Department of Natural Resources, retains the power to make determinations relating to what water usage will be permitted. This review and determination process incorporates considerations of protection of neighboring land owners (which are the concerns raised by the Protestants in this proceeding), and provides a complete scheme of protection. In the present case, there is no existing public water system. As a result, the determination of what water appropriation is permissible falls within the scope of the power of the State, not Baltimore County or this Board. To reach any other conclusion would be to create the dual system of regulation which the Court of Appeals condemned in County Council v Montgomery Association, supra. Similarly, the reference to public sewage in B.C.Z.R., Section 502.1(e) refers to the impact a proposed special exception may have on existing public sewage facilities. There are no public sewage facilities involved the present case -- only a private waste water treatment plant which has been given an imprimatur of approval by the County Council. The concerns of the Protestants relating to water quality and discharge issues are being fully addressed in the course of an administrative and regulatory review

process relating to the discharge permit and approvals for the proposed plant. Under these circumstances it is a matter of State, not Baltimore County, concern and jurisdiction.

This reading of both the local and State regulations provides for a complete plan of protection for residents of Baltimore County. Where there are existing public water or sewage systems, the County considers the impact of the proposed special exception on those existing systems. Where there are no existing systems (as in the present case), then the State under its retained power as sovereign and protector of all citizens exercises jurisdiction to determine what sewer discharges or water appropriations or other matters may be permitted without adverse impact on surrounding citizens and land owners. Any other reading of these statutes and regulations would create the dual system of regulation prohibited by the Court of Appeals, and would create undue confusion and conflicting results. The Board of Appeals should exclude evidence relating to: (1) water appropriation and impact on surrounding land owners, and (2) the design and discharge requirements of the private waste water treatment plant.

WHEREFORE, Villa Julie College, Inc. requests that the issues on this appeal be limited so as to exclude the issues (1) of whether any feasible alternatives to the proposed discharge into an intermittent stream is available; (2) whether the existing septic system on the College property has failed; and (3) the evidence as

to the effects, if any, of water appropriation and as the operation of a waste water treatment plant on surrounding landowners.

EVANS, GEORGE AND BRONSTEIN

Benjamin Bronstein

Michael J. Chomel

Michael J. Chomel
205 Susquehanna Building
29 West Susquehanna Avenue
Towson, Maryland 21204
(410) 296-0200

Attorneys for Villa Julie College, Inc.

REQUEST FOR HEARING

Villa Julie College, Inc. hereby requests a hearing on its Motion in Limine to Limit the Scope of Issues.

Benjamin Bronstein

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on this 20 day of November, 1992, a copy of the foregoing was mailed, postage pre-paid to K. Donald Proctor, Esquire, Miles & Stockbridge, 500 Washington Avenue, Towson, Maryland 21204, J. Carroll Holzer, Esquire, Holzer, Maher, Demilio & Lee, 305 West Chesapeake Avenue, Suite 105, Towson, Maryland 21204, Michael J. Collins, Esquire, Neuberger, Quinn, Gielen & Rubin, P.A., Equitable Bank Center, Tower II, 100 South Charles Street, Baltimore, Maryland 21201.

Benjamin Bronstein

8/10/92

BB/mlh/087.07.92/522.00

IN RE: PETITIONS FOR SPECIAL HEARING SPECIAL EXCEPTION & ZONING VARIANCE S/S Greenspring Valley Road, 0 ft. E of Nacirema Lane 1521 Greenspring Valley Road 8th Election District 3rd Councilmanic District Villa Julie College, Inc. Petitioner	*	BEFORE THE ZONING COMMISSIONER FOR BALTIMORE COUNTY CASE NO.: 92-285-SPHXA

* * * * * * * * * * * * * *

ORDER TO ENTER APPEAL

On behalf of the Petitioner, Villa Julie College, Inc., please enter an appeal to the Board of Appeals from the order of the Zoning Commissioner dated July 10, 1992.

EVANS, GEORGE & BRONSTEIN

PAYMENT
8-10-92
ZONING OFFICE

Benjamin Bronstein
205 Susquehanna Building
29 West Susquehanna Avenue
Towson, Maryland 21204
(410) 296-0200

CERTIFICATE OF MAILING

I HEREBY CERTIFY, that on this 10 day of August, 1992, a copy of the Order to Enter Appeal has been mailed, postage pre-paid to K. Donald Proctor, Esquire, Miles & Stockbridge, 500 Washington Avenue, Towson, Maryland 21204 and J. Carroll Holzer, Esquire, Holzer, Maher, DeMilio & Lee, 305 W. Chesapeake Avenue, Ste. 105, Towson, Maryland 21204, attorneys for Protestants.

Benjamin Bronstein

MICROFILMED

8/7/92

IN RE: PETITIONS FOR SPECIAL HEARING SPECIAL EXCEPTION & ZONING VARIANCE S/S Greenspring Valley Road, 0 ft. E of Nacirema Lane 1521 Greenspring Valley Road 8th Election District 3rd Councilmanic District	*	BEFORE THE ZONING COMMISSIONER OF BALTIMORE COUNTY Case No.: 92 285 SPHXA
Villa Julie College, Inc. Petitioner	*	

* * * * * * * * * * * * *

NOTICE OF APPEAL
TO COUNTY BOARD OF APPEALS

Protestants in the above captioned case Valleys Planning Council, Homeowners of Greenspring, Greenspring Valley Association, Velvet Valley Association, Falls Road Community Association and Douglas A. Carroll, III, Mr. & Mrs. Henry G. Hagen, Mr. & Mrs. Lawrence P. Naylor, III, Mr. & Mrs. Richard B. Buck and Mr. & Mrs. J. Stephen Immelt, individuals, by their attorney, **J. Carroll Holzer**, Holzer, Maher, Demilio & Lee, hereby note an appeal of the decision of the Zoning Commissioner in Case No.: 92 285 SPHXA rendered on July 10, 1992 as it relates to the Petition for Special Exception, Petition for Zoning Variance and Petition for Special Hearing.

J. CARROLL HOLZER, Esquire
Holzer, Maher, Demilio & Lee
305 West Chesapeake Avenue
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Towson, Maryland 21204
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RECEIVED
AUG 7th 1992
ZONING OFFICE

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MICROFILMED

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 7th day of August, 1992, a copy of the aforegoing Notice of Appeal was mailed, first-class, postage pre-paid to: Benjamin Bronstein, Esquire, Evans, George & Bronstein, Susquehanna Building, Suite 205, 29 West Susquehanna Avenue, Towson, Maryland 21204; Baltimore County Board of Appeals, Basement, Old Courthouse, Towson, Maryland 21204 and K. Donald Proctor, Esquire, Miles & Stockbridge, 600 Washington Avenue, 3rd Floor, Towson, Maryland 21204.

J. CARROLL HOLZER, Esquire

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LAW OFFICES
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FREDERICK, MARYLAND 21701

22 WEST JEFFERSON STREET
ROCKVILLE, MARYLAND 20850

1450 G STREET, N.W.
WASHINGTON, D.C. 20005

August 7, 1992

HAND DELIVERY

The Honorable Lawrence E. Schmidt
Zoning Commissioner
Baltimore County
Suite 113 - Court House
400 Washington Avenue
Towson, Maryland 21204

Re: Petitions for Special Hearing,
Special Exception and Zoning
Variance
Case No. 92-285-SPHXA
Villa Julie College, Inc.

Dear Mr. Schmidt:

Please enter an appeal to the Baltimore County Board of Appeals from your Order of July 10, 1992 in this matter approving the Petition for Special Hearing, granting the Petition for Special Exception, and granting the Petition for Zoning Variances, on behalf of Barton S. and Elizabeth Mitchell, Clark Farm Associates, and Timothy M. and Mary Stuart Rodgers. The addresses of the Appellants are as follows:

Barton S. and Elizabeth Mitchell
1701 Greenspring Valley Road
Stevenson, Maryland 21153

Clark Farm Associates
1704 Hillside Road
Stevenson, Maryland 21153

Timothy M. and Mary Stuart Rodgers
1425 Greenspring Valley Road
Stevenson, Maryland 21153

Clark Farm Associates is a family partnership comprised of the following members, whose mailing addresses are as follows:

Dr. and Mrs. Gaylord Lee Clark
1704 Hillside Road
Stevenson, Maryland 21153

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Mr. and Mrs. A. Rutherford Holmes
3130 Golf Course Road, West
Owings Mills, Maryland 21117

Ms. Juliana C. Watts
7511 L'Hirondelle Club Road
Towson, Maryland 21204

Ms. Letitia Yensho
5527 Mattfeldt Avenue
Baltimore, Maryland 21209

I have been advised today by Charlotte Radcliffe, your appeal clerk, that since Northwest Land Corporation (Gordon Sugar), through its attorney, Michael Collins, has already entered an appeal from your July 10, 1992 Order and paid the applicable filing fees, then no filing fee is required in connection with this appeal by my clients.

Could you please stamp the enclosed additional copy of this letter to acknowledge receipt of this appeal this date.

Very truly yours,

K. Donald Proctor

KDP/pm

Enclosures

cc: Benjamin Bronstein, Esquire
J. Carroll Holzer, Esquire
Michael J. Collins, Esquire
Mr. and Mrs. Barton S. Mitchell
Dr. and Mrs. Gaylord Lee Clark
Ms. Juliana C. Watts
Mr. and Mrs. A. Rutherford Holmes
Mr. Robert I. Hankey
Mr. and Mrs. Timothy M. Rodgers
Ms. Letitia Yensho

8-5-92

LAW OFFICES
NEUBERGER, QUINN, GIELEN & RUBIN, P.A.

EQUITABLE BANK CENTER TOWER II
100 SOUTH CHARLES STREET
BALTIMORE, MARYLAND 21201
(410) 332-8550
FAX (410) 332-8594

(WRITER'S DIRECT DIAL NO.)
(410) 332-8520

August 5, 1992

Baltimore County Zoning Commissioner
111 W. Chesapeake
Room 109
Towson, Maryland 21204

Attn: Charlotte Ratcliffe

In Re: Petitions for Special Hearing, Special Exemption and Zoning Variance S/S Green Spring Valley Road, 0 ft. E of Nacirema Lane
1521 Green Spring Valley Road
8th Election District
3rd Councilmanic District

Villa Julie College, Inc., Petitioner
Case No. 92-285-SPHXA

Dear Ms. Ratcliffe:

Enclosed please find writtennotice that Northwest Land Corporation hereby requests an appeal of all three of the petitions relative to the above-captioned matter.

Very truly yours,

Michael J. Collins

Neuberger, Quinn, Gielen
& Rubin, P.A.
Attorneys for Northwest Land
Corporation

MJC:kmw
Enclosure

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8-6-92
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LAW OFFICES
NEUBERGER, QUINN, GIELEN & RUBIN, P. A.

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100 SOUTH CHARLES STREET
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FAX (410) 332-8594

(WRITER'S DIRECT DIAL NO.)
(410) 332-8520

August 5, 1992

Lawrence E. Schmidt
Zoning Commissioner for Baltimore County
111 W. Chesapeake
Room 109
Towson, Maryland 21204

In Re: Petitions for Special Hearing, Special Exemption and Zoning Variance S/S Green Spring Valley Road, 0 ft. E of Nacirema Lane
1521 Green Spring Valley Road
8th Election District
3rd Councilmanic District

Notice of Appeal

Villa Julie College, Inc., Petitioner
Case No. 92-285-SPHXA

Dear Mr. Schmidt:

This law firm represents Northwest Land Corporation, the owner of property located adjacent to Villa Julie College, Inc. Northwest Land Corporation hereby gives its Notice of Appeal of the Zoning Commissioner's decision regarding the Petitions for Special Hearing, Special Exemption and Zoning Variance by Villa Julie College, Inc. Northwest's corporate representative is Gordon Sugar. Northwest Land Corporation's address is 1 Pomona North, Pikesville, Maryland 21208. Enclosed you will find a check in the amount of $635.00, which the Zoning Commission has told us is the appropriate filing fee as required

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in the zoning regulations.

Very truly yours,

Michael J. Collins

Michael J. Collins KMW

Neuberger, Quinn, Gielen
& Rubin, P.A.
Attorneys for Northwest
Land Corporation

MJC:kmw
Enclosure

8/7/92

IN RE: PETITION FOR SPECIAL	*	BEFORE THE
EXCEPTION BY VILLA JULIE	*	ZONING COMMISSIONER
COLLEGE, INC.	*	OF BALTIMORE COUNTY
	*	Case No. 92-285-XA
	*	

* *

AFFIDAVIT OF RETURN OF SERVICE

I, PATRICIA H. ROLLINS, swear and affirm that I am a competent private person over eighteen (18) years of age and not a party to this case, and that I did serve the Subpoena in the above-captioned action upon Benjamen Bronstein, Esquire, on Tuesday, April 14, 1992 at 2:45 p.m. at 29 W. Susquehanna Avenue, Suite 205, Towson, Maryland 21204.

Description of the individual is as follows: Caucasian male; 5'8"; 160 lbs.; wire rim glasses, and approximately 45 years old.

I DO SOLEMNLY DECLARE AND AFFIRM under the penalties of perjury that the matters and facts set forth herein are true and correct to the best of my knowledge, information and belief.

RECEIVED
APR 15 1992
ZONING COMMISSIONER

Patricia H. Rollins

Patricia H. Rollins
Legal Assistant
MILES & STOCKBRIDGE
600 Washington Avenue
Towson, Maryland 21204
(301)823-8247

DN/Misc3:C2710001.AFF

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 7th day of August, 1992, a copy of the aforegoing Notice of Appeal was mailed, first-class, postage pre-paid to: Benjamin Bronstein, Esquire, Evans, George & Bronstein, Susquehanna Building, Suite 205, 29 West Susquehanna Avenue, Towson, Maryland 21204; Baltimore County Board of Appeals, Basement, Old Courthouse, Towson, Maryland 21204 and K. Donald Proctor, Esquire, Miles & Stockbridge, 600 Washington Avenue, 3rd Floor, Towson, Maryland 21204.

J. CARROLL HOLZER, Esquire

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7/10/92

IN RE: PETITIONS FOR SPECIAL HEARING * BEFORE THE
SPECIAL EXCEPTION & ZONING VARIANCE
S/S Greenspring Valley Road, 0 ft. ZONING COMMISSIONER
E of Nacirema Lane
1521 Greenspring Valley Road * OF BALTIMORE COUNTY
8th Election District
3rd Councilmanic District * Case No. 92-285-SPHXA

Villa Julie College, Inc. *
Petitioner

****

FINDINGS OF FACTS AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition for Special Hearing, Petition for Special Exception, and Petition for Zoning Variance filed by Villa Julie College, Inc. As to the Petition for Special Exception, authorization was originally requested to permit a private college and group child care center (Class B) in an R.C.2 zone. Subsequently, the special exception was amended to delete the request for a group child care center. Therefore, that portion of the special exception will be denied and only the request to approve a college considered. As to the special hearing, the College seeks approval of a modified parking plan and a residential caretakers dwelling as an accessory use to the College. As to the zoning variances, there are 13 specific variances requested. They are specifically listed on the Petition and will not be set forth again herein, rather are incorporated by reference. The need for these variances is generated by proposed construction on the site. Specifically, the Petitioner proposes to construct an academic center building and an administration building. Further, expansion of the existing learning resource center building is contemplated. The majority of the variances requested relate to the various height and distance between building requirements of the Baltimore County Zoning Regulations ("B.C.Z.R.") Further, a parking variance is requested to permit 503 parking spaces of the dimension 8 ft. wide by 18 ft.

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By Mr. Gouvt

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deep in lieu of the required 18-1/2 ft. wide and 18 ft. deep. Also, the College seeks a variance from the sign requirements of Section 413.1.b. of the B.C.Z.R., to permit a sign of 105.2 sq. ft. in lieu of the permitted 30 sq. ft.

The above Petitions were the subject of a lengthy hearing before me. A full six days of testimony and argument was offered. Additionally, numerous exhibits, including site plans, photographs, aerial maps, studies and reports were received. The parties also submitted lengthy memoranda outlining the evidence that they believe is germane and setting forth the legal authority for their positions. Further, I visited the site and walked the property. I have also inspected the neighborhood which surrounds the use. All of these things were considered in my deliberations and evaluation of the issues presented.

The Petitioner is Villa Julie College, Inc., a small liberal arts institute of higher learning located on Greenspring Valley Road. The College was represented by Benjamin Bronstein, Esquire and Michael Chomel, Esquire. Numerous members of the Administration, Faculty and student body appeared at the hearing in support of their college. Significant testimony, both expert and from lay witnesses was offered in support of the Petitions.

In opposition to the Petitions, numerous community groups and individual residents appeared. These included the Valleys Planning Council, the Homeowners of Greenspring Association, the Greenspring Valley Association, the Velvet Valley Association, the Falls Road Community Association, Douglas A. Carroll, III, Mr. and Mrs. Henry G. Hagen, Mr. and Mrs. Lawrence P. Naylor, III, Mr. and Mrs. Richard B. Buck and Mr. and Mrs. J. Stephen Immelt. All of these Protestants were represented by J. Carroll Holzer, Esquire. Other Protestants included Barton S. and Elizabeth Mitchell,

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By Mr. Zoning

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Clark Farm Associates , Timothy M. and Mary Stewart Rodgers, Mr. and Mrs. Thomas F. Obrecht, and Mr. and Mrs. Richard F. Blue. These Protestants were represented by K. Donald Proctor, Esquire. Additionally, many citizens of Baltimore County and, in fact, residents outside of the County deluged my office with letters and postcards expressing their position as to the Petitions.

A simple statement of the relevant background is in order. Villa Julie College was established in the late 1940s by the Sisters of Notre Dame who own property immediately next door. In 1967, the College was separated from the Sisters and is now a non-profit institution, governed by a Board of Trustees. It has grown from a small medical secretary's college to an accredited four year college. The present enrollment is approximately 1700 students. Of this number, approximately 53% reside in Baltimore County. There are 190 faculty members and 120 other employees, both full and part time, who work on site.

As to the subject site, Villa Julie College is located on the floor of the Greenspring Valley, an agricultural prize of Baltimore County. The entire site, which encompasses approximately 60 acres, is zoned R.C.2. The sole vehicular access to the College is by Greenspring Valley Road, a State highway. Presently, there exists approximately 103,000 sq. ft. of building on site. This includes a learning and resource center, a classroom known as Knott Hall, the Mueller house which contains offices, a student center and a child day care center. Significant expansion of the physical facilities on site is proposed. This includes construction of a 45,000 sq. ft. academic center, expansion to the learning resource center of approximately 3,300 sq. ft. and a classroom and general purpose building contemplated to be 50,000 sq. ft. Further, realignment of the existing parking is proposed.

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As indicated, Villa Julie is located in an R.C.2 zone. The subject site is nestled on the Greenspring Valley floor. To both the north and south, the Valley rises to a plateau. In terms of uses, the entire Valley is dedicated to agriculture and residential pursuits. There are working farms within the subject locale and numerous large estate homes in which many of the Protestants reside.

Under Section 1A01.2.C.19 of the B.C.Z.R. a college is permitted by special exception. However, use of the property as a school only by special exception was not always the case. The college originally existed as of right and may well qualify to continue as a nonconforming use. However, as provided both in the B.C.Z.R. and under law, a nonconforming use is restricted in terms of its growth. Due to the College's intended expansion, the Petitioner chooses to come before me seeking approval of the use as a special exception rather than under a Petition for Special Hearing to establish a nonconforming use.

In considering the merits of the case before me, numerous issues are presented. The parties hereto disagree as to the relevant facts and those provisions of the regulations involved which need be applied to those facts. Generally speaking, consideration must be given to the proposed construction of a waste water treatment plant to solve the college's existing septic system failure, the merits of the special exception request as it relates to a college in an R.C.2 zone and the variances requested for the proposed new academic buildings.

It must also be stated that this case is not about the merits of Villa Julie as a college. The institution deserves the fine reputation it enjoys. That cannot be disputed. What must be decided is whether the College, at this location, is permissible under the tenants of the special

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exception law. Clearly, the future of the College, as well as the Greenspring Valley, hangs in the balance.

Proposed Waste Water Treatment Facility

Much of the testimony and evidence presented concerned the college's proposal to construct and operate a waste water treatment plant ("W.W.T.P.") on site. This facility would be constructed to handle and dispose of the sewage and waste water generated by the College. The issues generated by this proposal are many and complex. Not only can the parties not agree as to whether the W.W.T.P. is an appropriate method of disposing of the College's sewage, there is threshold disagreement as to whether consideration of the proposed facility is an issue within my jurisdiction. It is of particular note that the College's Petitions for Special Exception, Special Hearing and Variance make no reference to the W.W.T.P., a fact which was not lost on the Office of Planning and Zoning. Specifically, within that office's Zoning Advisory comment dated March 6, 1992, authored by Jack Dillon and Jeffrey Long, it was noted that, "Although the present Petition request does not cover the proposed treatment plant, this office fully supports the conditions requested by the Department of Environmental Protection and Resource Management (D.E.P.R.M.) which deals with treatment plant facilities." (Emphasis added). Further, as is evidenced by the wording within its Petitions for relief, the College claims that I lack the authority to determine the propriety of the W.W.T.P. In contrast, the Protestants aver that same should be considered in the context of this case and, further, that the W.W.T.P. should not be permitted or, if so permitted, its size and output limited. Prior to addressing the issues, generated by this proposed facility, an overview of the history relating to the present need for the W.W.T.P. is in order.

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The College began operations in approximately the late 1940s. It has expanded since that time, both in terms of physical plant and enrollment, although the size and scope of the improvements on campus are not well documented. However, physical expansion apparently occurred in 1950, 1952, 1961, 1971 and in the early 1980s. Due to its location in the Greenspring Valley, the property is not served by public water and sewer. Sewage disposal is now and has always been accomplished by a septic system. The location of the disposal field for the College's system is on the neighboring property owned by the Sisters of Notre Dame de Namur ("Sisters"). The existing system was originally designed for disposal of 6,000 gallons of waste water per day. Testimony presented was that four to five times that amount is presently being released into that system. It is estimated that approximately 28,000 to 29,000 gallons of waste water per day are being generated by the College. In approximately 1989, the failure of the system was recognized. Although attempts to repair the system have been made in the past, those attempts have not succeeded. There can be no dispute that the system must be replaced. Simply stated, the system is overwhelmed by the present demands made upon it. It was not originally designed to handle the present volumes and the soil and subsurface conditions are such that it cannot be repaired.

It is also to be noted that the Villa Julie system was originally believed to be part of a system shared with the Sisters' property next door. However, evidence presented convinces me that, in fact, there are two systems; one for the College and the other for the Sisters' property. The Sisters septic system may or may not be failing but might quite possibly be rehabilitated to handle the limited needs of the Sisters property. The

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future of the Sisters' property and their septic system is not an issue before me.

Due to the failure of the College's system, Villa Julie retained Maryland Environmental Services, ("M.E.S.") a not-for-profit government institution comprised of State and non-State employees in April of 1990. Their representative, Dane Bower, testified at the hearing. He indicated that an extensive study was undertaken by his agency. This study included evaluations of the system and consultations by M.E.S. with the Maryland State Department of Environment ("M.D.E."), Baltimore County's Department of Environmental Protection and Resource Management ("D.E.P.R.M."), and several engineering firms. Based on these studies, a recommendation was made to, and adopted by, the College to construct a waste water treatment plant. This plant will be located in the southwest quadrant of the site. Construction will be in two phases. First, a system to accommodate the College's current volume of waste water will be built. This construction will include the necessary infrastructure to increase the plant's capacity to handle up to 60,000 gallons per day of waste water. When ultimately constructed to its full extent, it will be large enough to handle Villa Julie's proposed enrollment growth.

Under Maryland law, Baltimore County is required to submit to M.D.E., for acceptance, a water supply and sewage plan. In accordance with this requirement, Baltimore County has submitted and received approval of such a plan. In view of the proposed W.W.T.P., an amendment to the County's plan was sought by Villa Julie. This amendment was approved by resolution of the Baltimore County Council on January 7, 1991. (See Petitioner's Exhibit No. 9). That amendment grants authorization from the County for Villa Julie and the Sisters of Notre Dame to operate "a community sewage treatment plant for

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By Jn. Gorsuch

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the combined properties, with a capacity subject to a special exception to the R.C.2 zoning." The significance of the wording used within the amendment will be discussed hereinafter.

In any event, upon submission of the Council's resolution, M.D.E. approved the amendment. (See Petitioner's Exhibit No. 10.) Within their approval, M.D.E. authorized the operation of the community sewage treatment plant for Villa Julie, without establishing its capacity.

Subsequently, Villa Julie appeared before M.D.E.'s Water Management Administration to obtain a State waste water discharge permit. At that time, Villa Julie requested a permit to discharge up to 62,900 gallons per day into an unnamed tributary of the Jones Falls. By their decision dated May 20, 1992, M.D.E. approved the College's request and issued the permit. This was after a public hearing which was attended by the identical Protestants who appeared in the instant case. Further, the Protestants filed an appeal which is currently pending.

That factual foundation having been established, attention is now turned to the questions presented by this proposed construction.

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Date 7/10/92
By Mr. Zoran

Is the proposed W.W.T.P. the best/only way to solve the College's sewage disposal needs?

After considering all of the testimony and evidence offered, the obvious answer to this question is "Yes". This conclusion is overwhelmingly supported by the evidence received. The Protestants suggest that a number of alternatives are available to the College to correct the current failure of the existing system. However, none of these are practical or workable. Clearly, none of the parties desire an extension of the public water and sewer system to the College. For planning/political reasons, this is not an alternative. Testimony was presented that the system was failing both from

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a hydraulic and treatment standpoint. Due to the site conditions, it cannot be repaired. Creation of the septic fields on other portions of the property is, likewise, not practical. The Protestants suggest that a spray irrigation/pump and haul combination system be employed. Presently, the College is dealing with its failing system by hauling sewage from the site on a nearly daily basis. As Mr. Dieter of D.E.P.R.M. testified, this method of disposal is employed on a temporary basis and is not a long range solution. Overall, I am persuaded by the testimony of Messrs. Dieter of D.E.P.R.M., Mr. Neff of Public Services and Mr. Bauer of M.E.S. All of these witnesses testified that the waste water treatment plant is a best and only means of permanent correction of the College's existing sewage disposal failures. Further, and just as significantly, it is to be noted that the W.W.T.P. is the only sewage plan offered by the Petitioner. That is, the College's site plan references only the construction of a W.W.T.P. to solve current/future sewage disposal needs. I will not dictate that the College should consider and/or employ alternative systems.

Does the Zoning Commissioner have the authority/jurisdiction to properly consider the waste water treatment plant?

As indicated heretofore, the Petitioner avers that the issue of the waste water treatment plant is not properly before me. The Petitioner's arguments in this regard are three pronged; namely, (1) that the County Council's amendment of the Master water and sewer plan to permit a W.W.T.P. was a planning, not zoning decision and, therefore, is not within the Zoning Commissioner's jurisdiction; (2) that the Federal and State authority have preempted the field of waste water treatment and discharge thereby precluding Baltimore County from regulating the proposed facility, and (3) that any regulation by Baltimore County would cause a dual system of regulating the

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By M. Gourke

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W.W.T.P. and treated discharge, thereby leading to confusion and imposing an unfair burden upon the Petitioner to litigate the same issue on two separate fronts. For the reasons set forth below, all of their arguments are rejected.

As to the planning vs. zoning argument, both parties cite Gregory v. Board of County Commissioners of Frederick County, 89 Md. App. 635, 599 A2d 469 (1991) as dispositive. That case dealt with an amendment to the Frederick County Comprehensive Water and Sewage Plan similar in nature to the amendment adopted by the Baltimore County Council for the Villa Julie property. In Gregory, Frederick County residents appealed the County Commissioners adoption of the amendment and, on appeal, the case came before the Court of Special Appeals. The Appellate Court held that the adoption of the amendment to the comprehensive water and sewage plan was not a "zoning action" but rather, was a "planning action". As such, the Court concluded that the Board's action was not appealable under Maryland Annotated Code, Article 66B, Section 4.08(a).

Although that case is dispositive on the issue that an amendment to the comprehensive plan is a planning decision, I do not believe that the characterization of the amendment in that context precludes my consideration of the propriety of the construction of the facility. As the Protestants correctly point out in their memorandum, the issue before me is whether a W.W.T.P. is a permitted use at this location under the Baltimore County Zoning Regulations. Simply stated, is the proposed W.W.T.P. a permissible use or structure in an R.C.2 zone, pursuant to the B.C.Z.R. This issue is quite different from that presented in the Gregory case.

The Petitioner requests an overly broad interpretation of the holding in Gregory. If such a theory was adopted, the prerogative of the County

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to govern land use would be lost. I do not believe the holding of Gregory is to be construed in such a sweeping fashion. The Court's opinion supports the view that its holding was to be narrowly construed and not impinge on County land use regulations. Specifically the Gregory Court noted: "The amendment was not substantially concerned with use regulation; while it changed the water supply and sewage services priority categories of the subject properties, it had no impact, in and of itself, on the otherwise allowable uses of the properties as determined by their zoning classifications." (p. 641)

As a second basis for its contention that I am precluded from consideration of the propriety of the waste water treatment plant, the College alleges that Federal and State authority have fully occupied the field of waste water treatment and discharge through M.D.E. The Petitioner notes that it has already endured a lengthy administrative procedure to obtain the waste water discharge permit from M.D.E. Thus, the Petitioner contends that Baltimore County is precluded from consideration of this issue. In their respective arguments concerning this topic, both sides cite that Court of Appeals decision, Ad + Soil, Inc. v. County Commissioners of Queen Anne's County, 307 Md. 327 513 A2d 893 (1986).

For its part, the Petitioner argues that the Federal government has delegated unto M.D.E. a procedure for regulating the issuance of waste water permits. The chain of the permitting process is fully set forth within the Petitioner's Memorandum in Opposition to Motion to Dismiss the Petition for Special Exception. Indeed, the Federal government and State of Maryland have established such procedures. Notwithstanding the establishment of these procedures, I am persuaded by the Protestants' argument that this Federal/State process has not precluded local governments involvement with

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By Mr. Gouch

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the regulation of waste water treatment facilities. As the Court noted in Ad + Soil, "These statutory provisions manifest a general legislative purpose not to prohibit local legislation, but rather to coordinate and supplement such legislation through the enactment of a State wide regulatory panoply. Indeed, this body of State law clearly contemplates a pervasive and vital role for local legislation in the field of sewage management." (p. 904) Further, the Court in Ad + Soil said that the County water and sewage plan "must be consistent with all local zoning regulations." Further, I note that Sections 9-505(a)7 and 9-505(a)9 of the Environmental Article of the Annotated Code which require the County plan to "take into account all relevant planning {and} zoning information. . . " Accordingly, I find that Baltimore County, and more particularly the Office of the Zoning Commissioner, is not precluded from consideration of the waste water treatment facility by the doctrine of State/Federal preemption of this area. Although, I will not repeat their arguments fully herein, I believe that the Protestants have correctly summarized the law and the Ad + Soil holding in their memoranda.

As to the Petitioner's last argument, it is claimed that County "involvement" in the waste water treatment plant would involve dual regulation and, therefore, be unduly burdensome to the Petitioner. With this assertion, I simply do not agree. It is not the intent of this office to regulate the operation of the W.W.T.P. to insure water quality or mirror the function of M.D.E. My examination of this issue is from a land use/zoning perspective. Clearly M.D.E. regulation of the technical operation of the W.W.T.P. will not be affected by my decision.

Is the proposed W.W.T.P. permitted in an R.C.2 zone and, more specifically, is the proposed W.W.T.P. permitted at this site?

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Having determined that I have the authority to consider the proposed W.W.T.P., consideration is now given as to whether the proposed facility at the proposed location is proper, pursuant to the B.C.Z.R.

In this regard, the Protestants offer several arguments. First, the Protestants note that the proposed W.W.T.P. is not a permitted use in an R.C.2 zone, in that it is not identified within the list of those uses which are permitted as of right in an R.C.2 zone within the B.C.Z.R. With this assertion, I agree. Further, it is correctly noted by the Protestants that the W.W.T.P. cannot qualify as a special exception under the regulations. Further, the W.W.T.P. is not a public utility, nor serves a public use, and is, therefore, not permitted on those basis.

Additionally, the Protestants note the absence of language within the Petition for Special Exception requesting approval of the W.W.T.P. Further, it is noted that there is no joint request for special exception by both Villa Julie and the Sisters for their community systems.

Although I concur with the Protestants in all of these respects, I, nonetheless, believe that the W.W.T.P. may be permitted. In making my decision, a determination of the nature of the proposed plant must be made. The plant is not the primary use for this site. Obviously, it is entirely incidental to the use of the property as a College. As was gleaned from the evidence about the history of the system and its failure, Villa Julie's initial notice that their septic system was failing occurred in 1989. At that time, it was believed that Villa Julie and the Sisters shared a common system. Although it was recognized that Villa Julie contributed a high percentage of the total sewage, it was believed that the Sisters property also contributed to and used the failing system. In fact, it is clear that Villa Julie's efforts in obtaining the Council's amendment and subsequent

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approval through M.D.E. were based upon this premise. In fact, it has been determined that that premise is incorrect. The septic systems for the two properties are independent and, as proposed, the W.W.T.P. will serve only the College. In view of that fact, it is clear that the W.W.T.P. constitutes an accessory use or structure, as that term is defined within the B.C.Z.R. Specifically, Section 101 defines an accessory use as a use which "(a) is customarily incident and subordinate to and serves a principal use or structure; (b) is subordinate in area, extent, or purpose to the principal use or structure; (c) is located on the same lot as the principal use or structure served; and (d) contributes to the comfort, convenience or necessity of occupants, business or industry in the principal use or structure served". All of those criteria accurately describe the W.W.T.P. proposed by the Petitioner.

Moreover, as the Protestants correctly point out, the Court of Special Appeals in Carroll County Commissioners v. Zent, 86 Md. App. 745 held that the accessory use may serve only the principal use on the subject property. In fact, I adopted a similar holding in Helix Health System, case No. 92-186-SPH. In my view, the proposed W.W.T.P. can be permitted only as an accessory use or structure. Unfortunately, the Petitioner has found itself in a difficult position due to the incorrect premise which they operated under.

Specifically, when obtaining the amendment to the Master Plan from the County Council, the Petitioner requested authorization to establish a "community sewage treatment plant". A community plant is defined under the relevant State regulation as a plant which serves two or more properties. This is to be distinguished from a "multi-use" plant, which serves only one structure. Believing both the Sisters and Villa Julie systems to be joined, the

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Petitioner obtained authorization for a community system. Thus, the Petitioner finds itself in the uncomfortable position of having obtained approval for a plant to serve two properties, and subsequently discovering that only one property is involved and that, under the B.C.Z.R., only a W.W.T.P. serving one property would be permitted at this location.

As envisioned, the W.W.T.P. will serve Villa Julie only and thus would be a permitted accessory structure under the provisions of the B.C.Z.R. For the reasons set forth above, I believe that construction of a W.W.T.P. is the most logical and preferable solution to the College's waste water problems. Thus, I shall permit installation of same as an accessory structure. The W.W.T.P. can serve the Villa Julie site only. That is, there shall be no tie in to the system by either the Sisters, a subsequent owner of their parcel, or any other landowners. I will restrict the use of the W.W.T.P. to a pure accessory use, leaving the College to deal with the State in whatever means necessary to correct the amendment and properly identify the proposed facility as serving only the subject property.

Regulation of the flow of the waste water treatment discharge.

This is a most difficult question to decide. There was significant testimony and evidence presented on this topic at the hearing. As indicated above, the amendment to the Master Sewer Plan adopted by the County Council provided that authorization to operate a community water system was granted, "with capacity subject to a special exception to the R.C.2 zoning." Further, other exhibits evidence the State's acknowledgement that the capacity issue was to be determined at the County level. Specifically, M.D.E.'s letter confirming the acceptance of the amendment to the County Council dated June 28, 1991 notes that the community sewage treatment is authorized "without any establishment of capacity." The letter goes on to note that

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after capacity has been established, an amendment to the amended plan shall be submitted to the State.

The findings of the State of Maryland within its granting of the application for a State discharge permit are even more significant. Specifically, the State discusses its role, as compared with the County's role, in regulating flow. The State finds "Federal and State water pollution laws and regulations, including discharge permit regulations, are designed to protect water quality and are not designed to, and do not regulate growth." (emphasis added) Later, it is noted again that "a surface discharge permit is not designed to regulate growth but rather to protect water quality." Further, it is noted that limitations on flow are imposed by M.D.E. only, in the event they are necessary to prevent water quality impairment. M.D.E. then goes on to find that there would be no impairment to water quality with a flow of 60,000 gallons per day. Thus, it is abundantly clear that M.D.E., from its standpoint, believes that up to 60,000 gallons per day are permissible and appropriate. However, their viewpoint only considers the water quality issue and not growth issues.

Further, Section 502.1 of the B.C.Z.R. allows me to examine the issues of sewage in considering any special exception before me. Specifically, Section 502.1.e. of the B.C.Z.R. requires that in order for a special exception to be granted, "there shall be no interference with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences or improvements". (emphasis added)

Based on these reasons, I am persuaded that I do have the authority to regulate growth and, therefore, establish flow for so long as I do not permit a higher flow than that approved by M.D.E. That is, my authority only

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extends to that permitted by the State. I must work in concert with M.D.E. and in accordance with their technical findings to assure water quality.

That conclusion, notwithstanding, a further comment is in order. The issue of regulating the amount of flow is much akin to the old analogy of whether the tail is wagging the dog or the dog is wagging its tail. For reasons which will be discussed hereinafter, I am determined to establish limits on the growth of Villa Julie College. The purpose of those limits will be to insure compatibility of the subject use with the surrounding locale. The environmental/sewage issues generated by the waste water treatment plant will be considered. The limitation of flow, a restriction upon the number of students enrolled, or similar restrictions are only means to obtain a stated goal (compatibility with the surrounding locale) and not ends of those means themselves.

Special Exception for a college

Having decided that the waste water treatment plant is permissible, attention must now be given to the Petition for Special Exception. As indicated previously herein, that Petition has been amended to delete the request for a group child care center. Thus, only consideration need be given as to whether the College is a permissible use under the special exception standards.

The case is presented in an unusual fashion in that the College already exists and has been in place for over 40 years. That is, I am not confronted with a question where a special exception use is proposed on undeveloped land; rather, am asked to legitimize an existing use. This provides me with a rare opportunity to consider how the College now impacts its locale rather than speculating on the possible impacts of a proposed special exception use.

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As has been stated many times by the appellate courts of this State, a special exception use is, under law, presumptively valid. By designating a college as a permissible use by special exception in an R.C.2 zone, the Baltimore County Council has identified that use as valid on a prima facie basis. The Courts have repeatedly emphasized this principal in their discussion of special exception law in Maryland. See Schultz v. Pritts, 291 Md. 1 432 A2d 1319 (1981) and Peoples Counsel v. Mangione 85 Md. App. 738, 584 A2d 1318 (1991). Thus, armed with the knowledge that a special exception use has been predetermined by the Council to be conditionally compatible with the uses in a R.C.2 zone, consideration must then be given of the specific standards set forth in Section 502.1. Specifically, the Petitioner has the burden of adducing testimony and evidence that would show the proposed use meets those standards.

A review of that regulation is relevant. Section 502.1 of the B.C.Z.R. provides:

> "Before any special exception may be granted, it must appear that the use for which the special exception is requested will not: (a) be detrimental to the health, safety, or general welfare of the locality involved; (b) tend to create congestion on roads, streets or alleys therein; (c) create a potential hazard from fire, panic or other dangers; (d) tend to overcrowd land and cause undue concentration of population; (e) interfere with adequate provisions for schools, parks, water sewerage, transportation or other public requirements conveniences or improvements; f) interfere with adequate light and air; (g) be inconsistent with the purposes of the property's zoning classification or, in any way, inconsistent with the spirit and intent of the zoning regulations and (h) be inconsistent with the impermeable surface and vegetative retention provisions of these zoning regulations."

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In addition to meeting this test, the Petitioner faces a second hurdle for a special exception to be granted in a R.C.2 zone. Specifically, Section 1A01.2.C. of the B.C.Z.R. provides that a special exception in an R.C.2 zone may be granted. . . "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. . .". Thus, the Petitioner must not only demonstrate that the provisions of Section 502.1 have been satisfied but that the proposed use will not be detrimental to the primary agricultural uses in this locale.

In evaluating the impact of Villa Julie on its locale at the present time, I am convinced that the Petitioner has satisfied their burden. That is, I find that the College has met the standards set forth within Section 502.1 of the B.C.Z.R. Specifically, I do not find that Villa Julie is detrimental to the health, safety or general welfare of the locality. It does not cause congestion in the transportation system, undue concentration of population or overcrowd land, interfere with adequate provisions for public requirements or, otherwise, detrimentally affect the surrounding community. Likewise, the present use is not detrimental to the primary agricultural uses in the vicinity. Thus, I am persuaded that a special exception use consistent with the College's current size and enrollment should be granted. My conclusion, in this respect, is based on the evidence presented, which convinces me that the College does not now adversely affect its surrounding locale and the agricultural uses therein.

Notwithstanding my conclusion in this regard, I cannot be short sighted. The testimony and evidence submitted by the Petitioner was clear; Villa Julie intends on growing. Although the annual growth rate will be modest and consistent with the 8% per year historical rate, any growth causes

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concern. Clearly, this site could not house an institution of higher learning similar to the Towson State University Campus. The constraints of this property, the zoning classification of the property and agricultural characteristics of the surrounding locale are limiting factors. Certainly Villa Julie concedes that it does not wish to become another Towson State University. However, the demands on any small college are enormous. It must grow to survive. To remain stagnant threatens its existence. The question is presented; how much growth should be permitted?

In searching for an answer to this question, several of the factors set forth in Section 502.1 are germane. These will be examined in turn.

One of the considerations as set forth within Section 502.1(b) concerns traffic. As indicated, access to the Villa Julie Campus is from Greenspring Valley road. The Protestants correctly note that this is the only roadway which serves the College; hence all traffic will be borne by it. As to this issue, the Petitioner produced the testimony of Wesley Guckert, an expert Traffic Engineer who owns The Traffic Group, Inc. Mr. Guckert testified as to his extensive traffic analysis of the site and locale. This analysis included traffic counts taken at nearby intersections, as well as counts taken at Villa Julie's entrance. Mr. Guckert also discussed extensive and projected levels of service for the intersections which are nearby. Mr. Guckert concluded that the College causes no present adverse traffic impact in the locale and that, even with modest growth, there will be no adverse affect in the foreseeable future. In his view, the existing road work is sufficient to accommodate an increased number of students in the foreseeable future. Mr. Guckert also notes that not all of the students are on campus in any given time and thus, increased total enrollment may not cause any additional congestion.

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In contrast to this testimony, the Protestants produced Martin J. Wells, the President of Wells and Associates. Mr. Wells also qualified as a traffic engineer, and an expert in the field of traffic engineering. As with Mr. Guckert, Mr. Wells performed an extensive study of the subject locale. However, his conclusions are quite different. He finds that the existing traffic levels near the school entrance at peak use periods are already straining the roadways' capacity. Any increase in the student body, in Mr. Wells' view, would exacerbate an already existing problem.

Also testifying on this issue was John M. Contestabile, Chief of Engineering for the State Highway Administration. Mr. Contestabile described the current plans for the widening of Greenspring Valley Road near the Villa Julie entrance. Mr. Contestabile noted that two additional lanes will be added, one for eastbound traffic and the other for westbound traffic. This will provide a left hand turn lane for westbound traffic and an acceleration/ deceleration lane for eastbound traffic. In Mr. Contestabile's view, there is no safety problem now, and the installation of two additional traffic lanes will accommodate the additional traffic generated by Villa Julie's proposed growth.

In considering all of the testimony presented, I am persuaded that there exists no detrimental affect on traffic congestion caused by the College presently. Further, I am persuaded by Messrs. Guckert and Contestabile that the room for school expansion exists, particularly if Greenspring Valley Road is widened as suggested by the State Highway Administration. With prudent scheduling of classes by the College, I believe that the existing roadway is sufficient to accommodate Villa Julie's proposed growth through, at least, the end of this decade.

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By M. Gorman

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A second issue for consideration under the standards set forth in Section 502.1 arises out of subsection (e), which pertains to considerations of water, sewage and other public requirements. As to sewage, my rationale in permitting the installation of the waste water treatment plant is relevant here. That is, I believe such a facility is the preferable way for Villa Julie to solve its current septic failure. Further, I am persuaded by the voluminous expert testimony that the installation of the W.W.T.P. will not detrimentally affect the surrounding locale. The W.W.T.P. is a state of the art facility and the efforts made by its engineers to control the amount of discharge are impressive. Particularly, when comparing the W.W.T.P. with other alternatives, disposal of sewage and the proposed system is preferable.

As to the water use of the College, only a brief comment is in order. The testimony was convincing that the Valley floor sits upon a rich and plentiful aquifer. There appears to be no danger that either the present use or limited expansion would detrimentally effect the neighbors water supply. Thus, I am convinced that a granting of the special exception will not interfere with adequate water provisions for the surrounding locale.

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By W. Gorman

As to the other provisions of Section 502.1, I am persuaded that Villa Julie has presented sufficient evidence to justify the granting of the special exception. Particularly, the character and credibility of the testimony presented was sufficient to support a finding that the special exception will not be detrimental in any of the areas set forth in Sections 502.1. A. thru F. and 502.1.H. My sole reservation, as it applies to proposed expansion of the College, arises out of the standards set forth in Section 502.1.G.

This particular provision of the B.C.Z.R. is of note. It provides that the special exception may not be granted if it will "Be inconsistent with

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the purposes of the property zoning classification, nor in any way be inconsistent with the spirit and intent of these zoning regulations." This section, goes hand in hand with the provisions of Section 1A01.2.C. As cited above, that section of the B.C.Z.R. provides that the special exception use cannot be detrimental to the primary agricultural uses in its vicinity.

Sections 1A00.1 and 1A00.2 of the B.C.Z.R. set forth the findings and purposes, respectively, used by the County Council to establish the resource conservation zone. Those findings and purposes will not be repeated herein, but speak for themselves. I am charged by the Council to consider those findings and purposes. It is clear that the legislature intended that a classification of R.C. is to foster the development of agriculture and prevent urban sprawl. Intensive development is to be prohibited. Although the above cited sections govern R.C. zones as a whole, similar findings are found within the B.C.Z.R. as they relate to R.C.2 zoning. Specifically, Section 1A01.1.A. and 1A01.1.B. set forth the Council's findings and purposes for that specific zoning classification. It is stated that "The R.C.2 zoning classification is established pursuant to the legislative findings above, in order to foster conditions favorable to a continued agricultural use of the productive agricultural areas of Baltimore County by preventing incompatible forms and degrees of urban uses". Sec. 1A01.1.B. (emphasis added)

Again, as set forth above, I find the present use of the site as a college campus is not inconsistent with those findings and purposes. Uncontrolled expansion, however, would be. The Petitioner correctly points out that Villa Julie is bound by its site plan and amendments thereto and would require a special hearing to amend the approved special exception. Although that is true, the proposed physical expansion is sizeable. Specifically,

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By M. Gronau

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Villa Julie proposes nearly doubling the classroom and office facilities on site. In my view, a corresponding increase of the enrollment would be harmful to the existing agricultural surroundings and detrimental to the subject locale. Thus, the extent of Villa Julie's expansion must be controlled.

Having reached this determination, a method must be found to monitor the expansion of the College. In my view, there are three possibilities, each which enjoys its distinct advantages and disadvantages. These possibilities include limiting the number of students; regulating and limiting the flow of discharge from the waste water treatment plant; and limiting the physical plant on site.

Limiting the number of students is an obvious way to control growth. Unfortunately, it is not fail safe. The College currently has an enrollment of approximately 1700. Some students are full time; whereas, others attend on a part time basis. Although none resides on campus, the detrimental effect which the College might cause to the surrounding locale, occurs when the number of students on campus, <u>at any given time</u>, overwhelms the capacity of the site. For example, if all students attended the same class at the same time, there is no doubt that such a scenario would detrimentally effect the surrounding agricultural locale. The important factor, therefore, is how many students there are on campus at any given time. It is hoped that Villa Julie will wisely schedule its classes and functions to insure that the facility is not overcrowded and does not overwhelm the community at any given time. However, it is recognized that there are some inherent difficulties in scheduling. Certain classes and faculty are available only at certain times, for example.

After considering all of these factors and the need to control Villa Julie's growth, I am convinced that my Order granting the special exception

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By M. Gruber

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should be restricted to control the rate of growth and establish on capacity. Thus, my Order shall be restricted to prevent no more than 2500 students, including both full and part time to be enrolled for classes at the subject campus in any given semester. Students enrolled in correspondence classes or who exclusively attend off site or satellite facilities shall not be included in that maximum. Any requested increase above that limit shall require the College to first petition for a modification of this special exception. That Petition shall require a public hearing. Further, the annual rate of growth of students shall be limited at 5% per year, based upon enrollment for the Fall 1992 school semester. A determination of these figures was not developed lightly or arbitrarily. It is noted that the Zoning Advisory comment from the Office of Planning, likewise, suggests a 2500 student cap. Although I do not know how the Planning Staff reached that conclusion, the figure was reached by me after consideration of the College's historical growth, the number of students presently enrolled, consideration of additional traffic generated by more students and a judgment as to the amount of students which, in my view, would overburden the land and cause real detriment on the surrounding agricultural locale. This is not to say that expansion might not eventually push the number of students over 2500; however, before that occurs, an additional public hearing will be necessary to determine how the installation of the W.W.T.P., the improvements to Greenspring Valley Road, and the expansion of the physical campus have actually affected the surrounding locale.

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As to the discharge capacity of the Waste Water Treatment Plant, I, again, repeat that my decision, in this respect, is not to impinge on the M.D.E.'s authority. The imposition of a restriction by me, in this respect, is intended only to insure limited growth. In calculating the needs of the

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College based upon the proposed student body growth rate stated above, as well as corresponding increased faculty and staff, I believe that a 50,000 gallon per day discharge is appropriate. Thus, Villa Julie shall be restricted to a discharge level no higher than that daily rate. If such an increase is required in the future, a modification of this special exception must be sought by way of a hearing.

As to the last limited factor which might be employed, I have given consideration to restricting the development of the physical plant on site. However, the testimony produced by Villa Julie was that the existing plant is seriously overcrowded and threatens the quality of education provided. In that I believe that the majority of the proposed increase in space will be directed to cure the current overcrowded situation, I shall merely restrict the special exception to the site plan submitted, without further limiting the physical plant.

The request variances

As indicated above, Villa Julie's Petition for Zoning Variances contain some thirteen different variances. Eleven of the variances pertain to height and distance requirements between proposed and existing buildings. One of the variances relates to signage and the last one to the dimension of parking spaces to be provided on the site.

The Protestants do not object to many of the requested variances but are in opposition to five of the variances as they particularly relate to the height of the proposed buildings and their distance from existing structures.

It should first be noted that I am satisfied with the proposed scheme and layout of the Petition's proposed improvements as shown on the site plan. For the reasons set forth in my discussion of the special exception

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above, it is clear that Villa Julie needs more physical plant, not only to accommodate its growth but to satisfy existing needs. The proposed site plan also keeps a large area of the entire lot undisturbed. In fact, there is a significantly sized field in the northwest quadrant of the site which will remain an agricultural use. The buildings, both existing and proposed, are clustered to the rear of the site in a manner designed to produce as little impact as possible on the surrounding locale. Further, the grade of the property has been utilized to reduce the impact of the structures. I have particularly considered the impacts of the proposed building during my site visit. I do not find that, as proposed, the improvements will be overwhelming or out of character with what already exists on site and is permissible.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

> 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
>
> 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
>
> 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

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It is clear from the testimony that if the variances are granted, such use, as proposed, will not be contrary to the spirit of the B.C.Z.R. and will not result in any injury to the public good.

After due consideration of the testimony and evidence presented, it is clear that a practical difficulty or unreasonable hardship will result if the variances are not granted. It has been established that special circumstances and conditions exist that are peculiar to this site, and that the requirements from which the Petitioner seeks relief will unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the variances requested will not cause any injury to the public health, safety and general welfare. Further, granting of the variances will be in strict harmony with the spirit and intent of the B.C.Z.R.

I am particularly concerned that the site remain compatible with the surrounding locale. The improvements proposed, as shown on the site plan, convinces me that the granting of these variances will not destroy that compatibility.

Pursuant to the advertisement, posting of the property, and public hearing on these Petitions held, and for the reasons given above, the relief requested should be granted in part and denied in part.

IT IS THEREFORE ORDERED by the Zoning Commissioner for Baltimore County, this 10th day of July 1992 that the Petition For Special Hearing to approve a modified parking plan and a residential caretaker dwelling as an accessory use to the College, as more particularly shown on Petitioner's Exhibits Nos. 2 and 25, be and is hereby approved; and,

IT IS FURTHER ORDERED that the Petition for Special Exception to approve the use of the property for a private college and a group child

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By W. Monroe

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care center (Class B), be and is hereby GRANTED IN PART and DENIED IN PART, so as to grant the Petition for Special Exception to allow a private college, in accordance with the Petitioner's site plan and as restricted below, and so as to deny the Petition for Special Exception to permit a group child care center (Class B); and,

IT IS FURTHER ORDERED that the Petition for Zoning Variance to permit variances from Sections 102.2, 1A01.3.B.3, 413.1.b. and 409.3 of the B.C.Z.R., as more fully set forth in schedule A, which is attached hereto and made a part hereof, be and is hereby GRANTED, subject, however to the following restrictions which are conditions precedent to the relief granted herein:

1. The 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. Construction of the waste water treatment plant as shown on the Petitioner's site plan, shall be permitted as an accessory structure/use to the College. Therefore, use of the W.W.W.P. shall be limited strictly to the College and use by adjoining properties is prohibited.

3. Total student enrollment at the College shall be limited to 2500 students. This limitation shall not apply to students who exclusively attend offsite/satellite campuses or programs or, who are enrolled through a correspondence program. It is the intent of this restriction to limit the number of students who attend the classes or regularly use the facilities on the subject site.

4. Student growth shall be limited to 5% per year. The base year shall be determined to be total on campus student enrollment for the Fall 1992 semester. Student enrollment for succeeding academic years shall be limited to 5% of the enrollment in the prior year.

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5. The maximum discharge of the W.W.T.P. shall be 50,000 gallons per day.

6. In view of the Petitioner's withdrawal of that portion of the Petition for Special Exception for the group child care center, there shall be no child care services on site.

7. All construction and exterior physical plant improvement shall be limited to that shown on the Petitioner's site plans submitted at the hearing.

8. All modifications to the above restrictions and the relief granted within this Order shall be considered only after a public hearing.

9. The Petitioner shall submit semi-annual reports to this office to insure compliance with Restrictions 3, 4, and 5 above. Upon request and reasonable notice, the Petitioner shall permit a representative of the Zoning Enforcement Division to make an inspection of the subject property, and shall make available to that inspector all books, records and reports necessary to confirm compliance with the restrictions stated herein.

LAWRENCE E. SCHMIDT
Zoning Commissioner for
Baltimore County

LES:mmn

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File

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

Suite 113 Courthouse
400 Washington Avenue
Towson, MD 21204

(410) 887-4386

July 10, 1992

Benjamin Bronstein, Esquire
Evans, George and Bronstein
Susquehanna Building
Suite 205
29 W. Susquehanna Avenue
Towson, Maryland 21204

RE: Petitions for Special Hearing, Special Exception and Zoning Variance
Case No. 92-285-SPHXA
Villia Julie College, Inc.

Dear Mr. Bronstein:

Enclosed please find the decision rendered on the above captioned case. The Petitions for Special Hearing and Zoning Variance have been granted. The Petition for Special Exception has been granted, in part, and denied, in part. Further, the relief granted has been restricted in accordance with the terms of 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,

Lawrence E. Schmidt
Zoning Commissioner

LES:mmn
att.
cc: J. Carroll Holzer, Esquire
Holzer, Maher and DeMilio
K. Donald Proctor, Esquire
Miles and Stockbridge

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5/26/92

IN THE MATTER OF THE PETITION FOR SPECIAL EXCEPTION BY VILLA JULIE COLLEGE, INC.	*	BEFORE THE
	*	ZONING COMMISSIONER
	*	OF BALTIMORE COUNTY
	*	92-285-XA
	*	ITEM 146

* * * * * * * * * * * * *

PROTESTANTS' POST-HEARING MEMORANDUM

Barton S. Mitchell and Elizabeth Mitchell, Clark Farm Associates, Timothy M. Rodgers and Mary Stewart Rodgers, Mr. and Mrs. Thomas F. Obrecht, and Mr. and Mrs. Richard F. Blue, Protestants, by their attorney, K. Donald Proctor, submit this Post-Hearing Memorandum.

1. The Zoning Commissioner is Required to Determine Whether the Proposed community Sewage Treatment Plant is a Permissible Use in the RC-2 Zone.

Section 500 of the Baltimore County Zoning Regulations ("BCZR") leaves no doubt that the Zoning Commissioner is required to determine whether the proposed sewage treatment plant is a permissible use in the RC-2 Zone. Under Section 500.1 of the BCZR, the Zoning Commissioner must review all applications for building permits and "satisfy himself that...the proposed building or use of land, building or structure, complies in all respects with the regulations then in effect with respect to zoning." Section 500.4 similarly requires in all cases of a new use of land where no building permit is required, that the Zoning

Commissioner first determine that "such use is permissible." Section 500.6 grants the Zoning Commissioner, "the power, upon notice to parties in interest, to conduct hearings involving any violation or alleged violation or non-compliance with any zoning regulation, or the proper interpretation thereof, and to pass his order thereon...."

Further, under Section 102.1 of the BCZR, "No land shall be used or occupied and no building or structure shall be erected, altered, located or used except in conformity with these regulations...." The proposed sewage treatment plant unquestionably constitutes one or more structures of substantial size. The RBC (rotating biological control) units are 22' x 14' by 7' high. The clarifiers are partially buried but 5' to 6' will be above ground.

Clearly then, a determination must be made in this case as to whether the proposed community sewage treatment plant is a permissible use in the RC-2 Zone.

2. Neither the Federal Nor the State Governments Have Pre-empted the Field of Zoning as to the Location of a Sewage Treatment Plant.

Villa Julie argues that federal and state law have pre-empted the field of zoning as to the use or location of the sewage treatment plant and that the State has approved the

proposed sewage treatment plant and discharge therefrom. Villa Julie's pre-emption argument is easily disposed of.

First, the Federal Water Pollution Control Act, 33 U.S.C. §§1251-1376, expressly reserves to the states the field of land use regulation. In 33 U.S.C. §1251(b), Congress set forth the policy underlying that Act:

> "It is the policy of Congress to recognize, preserve, and protect the primary responsibilities and rights of states to prevent, reduce and eliminate pollution, [and] to plan the development and use (including restoration, preservation, and enhancement) of land and water resources...." (Emphasis added).

Dealing with an argument similar to that advanced by Villa Julie in this case, the United States Court of Appeals for the Third Circuit said in Bass River Associates v. Bass River Township, 743 F.2d 159, 165 (3d Cir. 1984):

> "These claims are too far fetched to merit serious consideration. It is untenable that Congress by imposing some pollution controls intended to compel the states and local communities to permit the mooring of floating homes, even though there were other legitimate reasons unrelated to pollution for the local decision to exclude such homes. Surely the fact that Congress has authorized regulation of pollution from factories does not mean that it has so pre-empted the field that municipalities must henceforth permit factory construction in hitherto residential areas." (Emphasis added).

Similarly, there is no indication in the applicable Maryland statutes that State law concerning water pollution or sewerage treatment pre-empts the county's zoning authority over sewerage treatment plants. First, as Villa Julie acknowledges, the State Department of the Environment has been expressly required by the

Legislature to deal with local zoning in adopting rules and regulations concerning water pollution control. Thus, Subtitle 3 ("Water Pollution Control") of Title 9 of the Environment Article states in §9-313(b)(4) that, "in adopting any rule or regulation under this subtitle, the Department shall consider...zoning."

Similarly, the Department of the Environment is granted the extraordinary power in Sections 220, 9-221 and 9-222 of the Environment Article to require Baltimore County to extend its existing public sewerage system or to construct and operate a sewerage treatment plant when the Secretary of the Environment finds that such action is necessary to prevent a menace to the public health or comfort, or to prevent pollution of the waters of the State. That power has not been exercised here, but even if it had been, the Department of the Environment has no power to direct where such a plant is to be located. Rather, the location of such a plant is a matter for the determination of the county, just as in zoning. Thus, the Court of Appeals held in Mayor and City Council of Havre de Grace v. State Board of Health, 234 Md. 222, 231 (1964):

> "It is true, of course, that the Order of the Board to construct and put a sewage plant in operation is mandatory, but the ways and means, including the selection of a site, the city chooses to adopt in carrying out the mandate, is discretionary."

In the same manner, it is equally as clear, that the State has not pre-empted local zoning authority over sewerage treatment plants through its legislation concerning county water and sewerage plans. Discussing the State's county water and sewerage plan legislation, the Court of Appeals said in Ad + Soil, Inc. v. County Commissioners of Queen Anne's County, 307 Md. 307, 328 (1986):

> "These statutory provisions manifest a general legislative purpose not to prohibit local legislation, but rather to coordinate and supplement such legislation through the enactment of a state-wide regulatory panoply. Indeed, this body of state law clearly contemplates a pervasive and vital role for local legislation in the field of sewage management."

Indeed, the Court in Ad Soil said that the County Water and Sewerage Plan, "must be consistent with all local zoning regulations," 307 Md. at 327, referring to Sections 9-505(a)(7) and 9-505(a)(9) of the Environment Article which require the County Plan to "take into account all relevant planning [and] zoning information...."

The Court in Ad Soil in concluding that there was no pre-emption of local sewerage management also quoted §9-502(c) of the Environment Article which provides as to County Water and Sewerage Plans that:

> "Section 9-502(c) states that '[a]ny rule or regulation [of the Department] adopted under this subtitle does not limit or supersede any other county, municipal, or state law, rule, or regulation that provides greater protection to the public health, safety or welfare.'"

It is particularly notable that the predecessor of this section was Section 9-515 of the former Health-Environment Article which provided:

> "The provisions of any zoning ordinance, subdivision regulation, building code, or other law of this State or any rule or regulation adopted under any of these or any law, ordinance, rule, or regulation of any municipality or county of this State that establishes standards that afford greater protection to the public health, safety, and welfare of the community shall not be limited or superseded to the extent of its or their greater protection by rules or regulations adopted under this subtitle."

The Revisor's Note to this section of Chapter 542 of the 1983 Acts of the General Assembly of Maryland which amended this language to its current form, states that no substantive change was intended:

> "This section is new language derived without substantive change from former HE §§9-501(1), 9-514, and 9-515.
>
> * * *
>
> In subsection (c) of this section, 'county, municipal, or state law, rule or regulation' is substituted for the former reference to 'zoning ordinance, subdivision regulation, building code, of other law of this State or any rule or regulation adopted under any of these or any...ordinance...of any municipality or county', for clarity."

Speaking of this very language, the Court of Special Appeals in Commissioners of Poolesville v. Montgomery County Council, 24 Md. App. 347, 352 (1975), said:

> "It is clear from a reading of [this section] that the General Assembly of Maryland intended that all laws, ordinances and regulations of municipalities, counties

> or the State itself that impose 'greater protection' than [this subtitle] are not limited or superseded. It logically follows that those ordinances, regulations and laws that provide less protection than [that subtitle] are limited or superseded. The State, acting through the Department, has elected to control growth, at least to the extent that such growth adversely affects water and sewage disposal." (Emphasis added).

Thus, it is clear that to the extent that the Baltimore County Zoning Regulations are more restrictive than the Baltimore County Water and Sewer Plan regarding the use of property for sewerage treatment plants, then the Baltimore County Zoning Regulations control. In this regard, it is especially notable that Section 1A00.2 of the BCZR states that, "it is the purpose of the Resource Conservation Zones to:...(c) protect both natural and man-made resources from compromising effects of specific forms and densities of development."

3. The County Water and Sewerage Plan as a Planning Action Does Not Limit the County's Pre-Existing Zoning Regulations.

Villa Julie argues that since the County Water and Sewer Plan is a planning action, that it is not within the purview of the Zoning Commissioner to review. Villa Julie misperceives the issue here, which is whether the proposed sewerage treatment plant is a permissible use or structure in the RC-2 Zone. Both sides agree that the Court of Special Appeals has recently held in Gregory v. Board of County Commissioners of Frederick County, 89 Md. App. 635 (1991) that an amendment to a county water and sewerage plan is a planning action and not a zoning action:

"The Amendment was not substantially concerned with use regulation; while it changed the water supply and sewerage services priority categories of the subject properties, it had no impact, in and of itself, on the otherwise allowable uses of the properties as determined by their zoning classifications." 89 Md. App. at 641.

The Court in Gregory went on to emphasize:

"Thus the Board's action in the instant case clearly has a broad or comprehensive planning basis....

Indeed, we are unable to conceive of a situation in which the adoption of an amendment to a county's comprehensive water and sewerage plan would lack such a comprehensive basis." 89 Md. App. at 643.

This conclusion by the Court in Gregory is consistent with settled law. As the Court said in Boyds Civic Association v. Montgomery County, 67 Md. App. 131, 143 (1986):

"Simply stated, the essential distinction between a master plan and comprehensive zoning is that the former merely recommends area development and proposes future land use and zoning classifications, while the latter determines presently permitted uses for property. (Emphasis in original.)

Thus, clearly, if the RC-2 Zone does not permit use for a sewerage treatment plant, that result has not been changed by the amendment to the County Water and Sewer Plan involved in this case.

4. The Baltimore County Zoning Regulations Regulate the Use and Location of Private Community Sewerage Treatment Plants.

For the reasons detailed in these Protestants' earlier Memorandum, a copy of which is attached hereto, the proposed sewerage treatment plant is not a "public utility," which is a

use permitted by special exception in an RC-2 Zone. First, Villa Julie has not applied for a special exception for a public utility. Second, Villa Julie, in its Memorandum on this issue filed on May 15, does not argue that this is a public utility use. Instead, it argues only that the sewerage treatment plant is an accessory use.

It is nonetheless clear, and important to recognize, that the Baltimore County Zoning Regulations do intend to deal with the regulation of private community sewerage treatment plants. Thus, "quasi-public uses or utilities" not otherwise permitted as of right are uses permitted by special exception in the ML Zone. See, §253.2(A)(7) of the BCZR. Similarly, Section 412A.1 of the BCZR, in dealing with the disposal of community waste water sludge, expressly recognizes the existence of community waste water treatment facilities, stating:

> "The purpose and intent of this section is to implement regulations to govern the disposal of stabilized sludge from community, municipal, and industrial waste water treatment facilities with respect to location, method, and quantity." (Emphasis added).

Further, "Sewerage System, Public" is a defined term in Section 101 of the BCZR as follows:

> "Sewerage System, Public: A sewerage system which is operated by the county or a public agency of metropolitan or regional jurisdiction, and which is owned by or meets design and performance standards whereby it is eligible for ownership by the county or such agency, whether or not it is part of or connected with the physical facilities of the metropolitan or regional sewerage system."

As pointed out in these Protestants' earlier Memorandum (attached hereto), a public sewerage treatment plant owned by the county or state would be exempt from the Baltimore County Zoning Regulations. See, City of Baltimore v. State of Maryland, 281 Md. 217 (1977); Glascock v. Baltimore County, 321 Md. 118 (1990). The Maryland Environmental Service is, however, expressly subject to the Baltimore County Zoning Regulations. Section 3-102 of the Natural Resources Article, creating the Maryland Environmental Service, subjects the service to local zoning authority:

> "Nothing in this subtitle shall be construed to alter, change, modify, or restrict the zoning or land use planning authority of any municipality or public instrumentality...."

It is thus clear that Baltimore County, in adopting the Baltimore County Zoning Regulations, intended to regulate the location of private community sewerage treatment plants. It is equally as clear that the County did not provide for community sewerage systems as a permitted use or as a use by way of special exception in the RC-2 Zone, although it appears to have done so in the ML Zone.

5. The Proposed Sewerage Treatment Plant is Not an Accessory Use.

The only argument which Villa Julie advances that the proposed sewerage treatment plant is a permitted use in the RC-2 Zone is that it is an "accessory use or structure" under Section

1A01.2(B)(7) of the BCZR. "Accessory use or structure" is defined as:

> "A use or structure which (a) is customarily incident and subordinate to and serves a principal use or structure; (b) is subordinate in area, extent, or purpose to the principal use or structure; (c) is located on the same lot as the principal use or structure served; and (d) contributes to the comfort, convenience, or necessity of occupants, business, or industry in the principal use or structure served...." (Emphasis added).

Section 101, BCZR.

Here, the County Council's Amendment to the Water and Sewerage Plan, discloses that the proposed sewerage treatment plant will be required to serve more than one principal use. Both Villa Julie and the retirement home of the Sisters of Notre Dame will utilize the structure. The attempts by the Sisters to market their property confirms that the Sisters will not willingly allow their rights to use of the proposed sewerage treatment plant be taken away. In any event, as Mr. Neff, the Head of the County's Department of Public Works testified, an amendment to the County Water and Sewerage Plan by the County Council would be necessary to eliminate the community status of the sewerage treatment plant.

Consistent with this, §9-501(b) of the Environment Article, under which the County Water and Sewer Plan was promulgated, defines "community sewerage system" as "a publicly or privately

owned sewerage system that serves at least two lots." (Emphasis added).

Since the sewerage treatment plant will serve more than one principal use, it cannot qualify as an accessory use. The Court in Carroll County Commissioners v. Zent, 86 Md. App. 745, 763 (1991) confirmed this interpretation:

> "An accessory use must be customarily incident to the principal use, serving no other principal use...." (Quoting from the Illinois Intermediate Appellate Court.) (Emphasis added).

Equally as important here, however, is the fact that there is absolutely no evidence in this case that the use of a private sewerage treatment plant is customarily incident to a private college in Baltimore County. Thus, the Court of Special Appeals in Zent also said (quoting from the Supreme Court of New Jersey):

> "Second, it must be determined whether a use which is found to be incident to the permitted use is also a customary use. Generally, a use which is so necessary or commonly to be expected that it cannot be supposed that the ordinance was intended to prevent it will be found to be a customary use."

Villa Julie, in closing argument, attempted to make much of the absence of any reference in the zoning regulations to septic systems. The short and obvious answer to this is that septic systems are customarily incident in the RC-2 Zone to those uses which are permitted as of right or by special exception.

Accordingly, it must be ordered in this case that a private sewerage treatment plant is not permitted in the RC-2 Zone.

6. Villa Julie, Baltimore County, and the State Have Other Viable Alternatives Available for Treatment of Villa Julie's Sewerage Which are Permissible Under the Baltimore County Zoning Regulations.

Villa Julie argues that without the ability to use a sewerage treatment plant, it will have no other alternative for disposition of its sewerage emanating from its failed septic system, a failure which it must be said was induced by Villa Julie's overuse of that system. The evidence in this case is that other alternatives do exist. As James Deiter, of Baltimore County's Department of Environmental Protection and Resource Management, conceded on cross-examination, the State Department of the Environment permits by regulation the use of holding tanks to resolve existing on-site sewerage disposal failures, but does not permit the use of holding tanks for service to new construction or for adding capacity to an existing system. See, Code of Maryland Regulations (COMAR) 26.04.02.03B, which states:

> "B. Holding tanks may be used to resolve existing on-site sewage disposal failures when community sewer facilities are not available or on-site repair is not possible. They may not be permitted to serve new construction or for the purpose of adding capacity to an existing disposal system in order to accommodate a change in property use."

Mr. Deiter also conceded on cross-examination that it was possible for Villa Julie to deal with its existing level of sewage discharge through a combination of holding tanks and a

modest spray irrigation system. It is respectfully suggested that both a holding tank system, which is akin to a septic tank system, and hence "customarily incident" in the RC-2 Zone, and a spray irrigation system which would appear to involve no "structure," are permissible in the RC-2 Zone. It is similarly notable that the Baltimore County Master Plan at Page 30 has specifically endorsed "pump-haul holding tank scenarios" as possible solutions to individual on-site septic systems failures which do not involve extension of metropolitan district facilities. Additionally, as pointed out above, pursuant to Sections 9-220, 9-221, and 9-222 of the Environment Article, the Department of the Environment has the power to order Baltimore County to extend its existing public sewerage system or to construct and operate a sewerage treatment plant where the Department finds that such action is necessary to prevent a menace to the public health or comfort or to prevent pollution of the waters of the State. In that connection, it is notable that the Baltimore County Master Plan (Page 30) also provides in the case of failed septic systems, that, "When metropolitan district facilities must be extended, pipes will be sized to limit capacity to that needed to correct existing problems."

Thus, there are other viable alternatives which are permissible under the Baltimore County Zoning Regulations for the correction of Villa Julie's self-induced failure of its septic

system. Villa Julie's real problem with those other alternatives is, it would appear, that those alternatives do not permit growth at Villa Julie.

7. Villa Julie's Petition Fails to Meet the Criteria for the Granting of a Special Exception Under the Baltimore County Zoning Regulations.

Villa Julie has the burden of demonstrating in this case that its proposed use will not:

a. Be detrimental to the primary agricultural uses in the vicinity. §1A01.2C.

b. Be detrimental to the health, safety, or general welfare of the locality involved. §502.1a.

c. Tend to create congestion in roads, streets or alleys therein. §502.1b.

d. Creates a potential hazard from fire, panic or other dangers. §502.1c.

e. Tend to overcrowd land and cause undue concentration of population. §502.1d.

f. Interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences, or improvements. §502.1e.

g. Interfere with adequate light and air. §502.1f.

h. 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. §502.1g.

i. Be inconsistent with the impermeable surface and vegetative retention provisions of the Zoning Regulations. §502.1h.

Villa Julie has failed to meet this burden in this case.

The short answer in this case is simply that the intensification of land use proposed by Villa Julie is not contemplated by the RC-2 Zone, particularly in this location. Thus, as Dr. Gaylord Clark testified, Villa Julie has "outgrown its pasture," and as Norman Gerber put it, Villa Julie is seeking to impose an urban density on a rural location. The proposed use thus "tends to overcrowd land." §502.1d.

This is not to say that no private college is appropriate in the RC-2 Zone. Obviously, a private college is permitted by special exception in the RC-2 Zone. The issue is, however, one of degree. No one would seriously argue that the University of Maryland's College Park Campus would be appropriate in the Greenspring Valley. Nor would anyone argue that a Villa Julie College of a size which did not already overtax and overuse the roads, traffic, water supply, ability to dispose of sewage, other agricultural uses, fire facilities, and purposes of the zoning, was not appropriate in the RC-2 Zone.

The evidence is clear, however, that Villa Julie at its present size and location already overtaxes and overuses its own

and the surrounding land and vicinity without even considering any growth which would flow from the granting of the proposed special exception.

A brief review of the expressed purposes of the RC and RC-2 Zones under the Baltimore County Zoning Regulations is appropriate. First, in §1A00.1(e), it is found that "urban sprawl development" is "impair[ing] the utility of the road system." Section 1A00.2 states that it is the purpose of the Resource Conservation Zones to "protect both natural and man-made resources from compromising effects of specific forms and densities of development."

Section 1A01.1A1(d) specifically finds as to the RC-2 Zone 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."

Finally, §1A01.1B states as to the purpose of the RC-2 Zone:

> "The RC-2 Zoning Classification is established pursuant to the legislative findings above in order to foster conditions favorable to a continued agricultural use of the productive agricultural areas of Baltimore County by preventing incompatible forms and degrees of urban uses."

The evidence in this case is clear that Villa Julie's present use, not to speak of its proposed use, is inconsistent with these objectives.

A review of the pertinent evidence follows:

1. Sewerage. Villa Julie's septic system was designed for a capacity of 6,000 gallons per day. Villa Julie's current sewerage output is some 26,000 gallons per day. Villa Julie's own witnesses have sought to show that Villa Julie's 60 acres, developed under Villa Julie's plan of development, cannot deal with this sewerage output on site. To deal with this, Villa Julie proposes to install a private sewerage treatment plant. Effluent from this plant is proposed to be discharged into a small intermittent stream which passes through the Mitchell and Clark properties and then into the Jones Falls. Increasing the flow in this intermittent stream with treated sewerage effluent is inconsistent with the stated purpose of §1A00.2 of "protecting...natural...resources from compromising effects of specific forms and densities of development." Further, one of the hallmarks between rural and suburban or urban land use is whether the disposition of sewerage outflow is handled on site. Thus, the need for Villa Julie to dispose of its sewerage off site is itself clear evidence that Villa Julie's use of this site is inconsistent with the rural and agricultural purposes of the RC-2 Zone.

2. Water. Villa Julie's current Water Appropriation Permit issued on February 17, 1982 is for the use of 10,000 gallons per day. Villa Julie's current water use is 30,000 gallons per day.

Villa Julie has applied for a Water Appropriation Permit to use 60,000 gallons per day, and up to 100,000 gallons per day in peak periods. Dr. Pierce Linaweaver testified that Villa Julie's current water usage of approximately 30,000 gallons per day is just about at the level for hydrologic balance on Villa Julie's 60-acre site. Beyond this, he testified, Villa Julie will be encroaching upon its neighbors' water supply. He further testified that a usage of 30,000 gallons per day is comparable to 100 houses on a 60-acre site. Thus, Villa Julie's current water usage, not to speak of its proposed increase in water appropriation, is inconsistent with the density of development contemplated in the RC-2 Zone.

3. Water Runoff. Dr. Gaylord Clark testified to the increase in water runoff from the Villa Julie property into the intermittent stream, particularly from the existing parking lots to the rear of the Villa Julie property. Villa Julie proposes to increase this flow substantially by additional impervious land coverage with substantial new buildings and new parking lots, and from discharge from the proposed sewerage treatment plant. This, again, is inconsistent with the stated purpose of §1A00.2 of "protecting...natural...resources from compromising effects of specific forms and densities of development." Dr. Clark and Mr. Mielke also testified as to the limitations increased flow in the intermittent stream will place on the ability to move farm

equipment from one side of the stream to the other, and to farm in close proximity to the stream. This is, "incompatible with the agricultural use of the surrounding area." See, §1A01.1A1(d).

4. Fire. While Villa Julie proposes to build an additional 100,000 square feet of buildings and to overtax the ground water supply by appropriating up to 100,000 gallons per day from the aquifer, Villa Julie produced no evidence of the ability to deal with the potential of fires on its campus.

5. Roads. Martin Wells, the Protestants' Traffic Engineer, testified that a left-turn lane for westbound traffic on Greenspring Valley Road at the Villa Julie campus is warranted now, and photographs showing current moving backups of morning traffic were placed in evidence. Mr. Obrecht and Mr. Mitchell both testified as to the substantial traffic problem created by the Villa Julie campus, particularly at peak morning hours. John Contestibile, of the State Highway Administration, testified that Villa Julie's plan of development would require the installation of such a left-turn lane. Common logic dictates that any growth of the Villa Julie student body will aggravate this problem, irrespective of Villa Julie's pie-in-the-sky concept of managed scheduling. These traffic issues alone support the finding in §1A00.1(e) that, "urban sprawl development" is "impair[ing] the utility of the road system." These problems further "tend to

create congestion in roads." §502.1(b). Finally, the addition of the left-turn lane on Green Spring Valley Road would fail to "protect both natural and man-made resources from compromising effects of specific forms and densities of development", one of the stated purposes of the Resource Conservation Zone. Section 1A00.2. The evidence was undisputed that Greenspring Valley Road is designated as a Maryland scenic highway. Any road widening will clearly detract from the scenic beauty which exists. Similarly, Mr. Mielke, and Dr. Carroll, both farmers, testified to their current difficulties in moving farm equipment on Greenspring Valley Road. Clearly, at some point, the inability to effectively move farm equipment will directly impinge on the ability to farm in the area. Any traffic emanating from an increased student body at Villa Julie College will only exacerbate this situation and therefore any increase in Villa Julie's student body would "be detrimental to the primary agricultural uses in the vicinity." Section 1A01.2C.

Accordingly, Villa Julie has failed to meet the burden required of it in order to qualify for its requested special exception.

8. Villa Julie Has Failed to Meet the Criteria for the Granting of the Variances Which it Has Requested.

Under §307.1 of the Baltimore County Zoning Regulations, Villa Julie has the burden of demonstrating that its requested

variances, "would result in practical difficulty or unreasonable hardship." Villa Julie has failed to meet this burden.

These Protestants are particularly concerned with requested variances 7, 9, 10, 11 and 12, each of which requests variances of either height for proposed buildings or distances between proposed buildings and proposed buildings or proposed buildings and existing buildings.

It is clear that the height and distance regulations in the RC-2 Zone are designed to "prevent incompatible forms and degrees of urban uses." Section 1A01.1B.

It is undisputed that both the requested substantial height variances and substantial variances for separations between buildings will be clearly visible from both the Clark property to the south of the Villa Julie campus and from the Obrecht property to the north and some 100 feet above the Villa Julie campus. The crowding of buildings on Villa Julie's property and the proposed height thereof will fail to "protect both natural and man-made resources from compromising effects of specific forms and densities of development." Section 1A00.2(c).

Accordingly, Villa Julie's requested variances should be denied.

These Protestants also adopt the arguments asserted by the Valley's Planning Council in its Memorandum filed herein.

In conclusion, the Zoning Commissioner should rule in this

case that the proposed sewerage treatment plant is not permitted in the RC-2 Zone, that Villa Julie has failed to meet its burden of proof for a special exception, and that Villa Julie has failed to meet its burden of proof for its requested variances.

Should the Zoning Commissioner conclude, for some reason, that the sewerage treatment plant is permitted in the RC-2 Zone, then for all of the reasons set forth above, the Zoning Commissioner should limit the capacity of that sewerage treatment plant to Villa Julie's current sewerage output of 26,000 gallons per day. Villa Julie's current size is inconsistent with the RC-2 Zone and any additional growth would only do further damage to the purposes expressed as underlying the RC-2 Zone.

R. Donald Proctor
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Towson, Maryland 21204
(301)823-8110

Attorney for Protestants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 26 day of May, 1992, a copy of the aforegoing Protestants' Post-Hearing Memorandum was mailed to J. Carroll Holzer, Esquire, Holzer, Maher, Demilio & Lee, 305 West Chesapeake Avenue, Suite 105, Towson, Maryland 21204 and to Benjamin Bronstein, Esquire, Evans, George & Bronstein, Suite 205 Susquehanna Building, 29 West Susquehanna Avenue, Towson, Maryland 21204.

K. Donald Proctor

5/26/92

IN THE MATTER OF THE PETITION FOR SPECIAL EXCEPTION, SPECIAL HEARING AND VARIANCE BY VILLA JULIE COLLEGE, INC.	*	BEFORE THE
	*	ZONING COMMISSIONER
	*	OF
	*	BALTIMORE COUNTY
	*	Case No.: 92-285-XA Item 146
	*	

* * * * * * * * * * * * *

MEMORANDUM IN LIEU OF FINAL ARGUMENT

Valleys Planning Council, Homeowners of Greenspring, Greenspring Valley Association, Velvet Valley Association, Falls Road Community Association and Douglas A. Carroll, III, Mr. & Mrs. Henry G. Hagen, Mr. & Mrs. Lawrence P. Naylor, III, Mr. & Mrs. Richard B. Buck and Mr. & Mrs. J. Stephen Immelt, individuals, by their attorney, **J. Carroll Holzer**, Holzer, Maher, Demilio & Lee, submit this Memorandum in Lieu of Final Argument before the Zoning Commissioner of Baltimore County.

STATEMENT OF THE CASE

This case comes before the Zoning Commissioner as a result of three (3) Petitions filed by Villa Julie College, Inc. The first requests a Special Exception for a private college in an RC 2 Zone. The second requests a Special Hearing for the Zoning Commissioner to approve a modified parking plan and to approve a residential caretaker dwelling as an accessory use to a college.

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RECEIVED
MAY 22 1992
ZONING COMMISSIONER

Thirdly, a Petition for thirteen (13) zoning variances of which nine (9) are to vary distances between existing buildings on the present campus. One variance is to permit existing signage which exceeds the permitted 30 square feet and three (3) variances relating to a proposed new structures, permitting a maximum height of 48 feet, permitting zero distances between buildings and a reduction to eight (8) feet width of 503 parking places.

The Protestants (hereinafter "Protestants") in this case include five (5) Community Associations and Umbrella Organizations located in the area of the Villa Julie College as well as five (5) families, who owned property either adjacent to or adjoining or in the immediate vicinity of Villa Julie College, who are impacted by the proposed requests of the Petitioner.

LEGAL AND PROCEDURAL
POINTS OF CONCERN TO PROTESTANTS

Legal and Procedural Points of Concern to Protestants will be examined at this point in the Memorandum, prior to a more complete analysis of the facts and law as it relates to the substantive issue of whether or not Villa Julie College, Inc. (hereinafter, the "Petitioner") should be granted a Special Exception, variances and their request contained in the Special Hearing.

LEGAL ISSUE NO. 1

THE PROPOSED SEWERAGE TREATMENT PLANT IS NOT A PERMITTED USE IN AN RC 2 ZONE, NOR IS IT PERMITTED BY SPECIAL EXCEPTION

The Protestants herein adopt and incorporate the Motion to Dismiss the Petition for Special Exception and Memorandum filed by fellow Protestants, Bart and Elizabeth S. Mitchell, Clark Farm Associates, Rogers and Obrecht, by their attorney, **K. Donald Proctor.**

In addition, Protestants herein adopt and incorporate herein as if it was a part of this Memorandum, the Memorandum of Donald Proctor, Esquire submitted before the Zoning Commissioner on this issue.

It would be duplicious for this writer to restate the legal arguments and citations on this issue. It is clear from the Mitchell Motion and Memorandum that the proposed sewerage treatment plant is not a permitted use in the RC 2 Zone, nor can it qualify for a Special Exception in that Zone.

WHEREFORE, the Protestants respectfully request that the Petition for Special Exception as it relates to the inclusion and permission for a wastewater treatment plant, be denied.

LEGAL ISSUE NO. 2

ASSUMING ARGUENDO THAT THE ZONING COMMISSIONER DETERMINES A WASTEWATER TREATMENT FACILITY IS AUTHORIZED IN THE RC 2 ZONE, THE INSTANT PETITION FOR SPECIAL EXCEPTION FAILS TO REQUEST PERMISSION TO INCLUDE A WASTEWATER TREATMENT PLANT

Protestants, mindful that the Plat to accompany Petition for Special Exception, contains an envelope for a "wastewater

treatment plant area;" nevertheless, submits that the Petitioner has failed to so include the request for a wastewater treatment facility within the instant Petition for Special Exception. (It should likewise be noted that the Plat contains information in regard to the location of the Sisters of Notre Dame DeNamur Retirement Home and of other adjacent property owners without the automatic assumption that those items on the Plat are to be incorporated in the Request for Special Exception).

Protestants submit that they are not alone in the contention that the instant Petition for Special Exception does not include the wastewater treatment facility. I would refer to the Zoning Advisory Committee comments dated March 6, 1992 from the Office of Planning and Zoning by Jack Dillon and Jeffrey Long, adopted and incorporated in the Record, which in Paragraph 3(c) state the following:

> "**Although the present Petition request does not cover the proposed sewerage treatment plant**, this Office fully supports the conditions requested by the Deparment of DEPRM which deal with treatment plant facilities."

It is clear that the Planning Office, which by Code, provides comments to the Zoning Commissioner as part of the Zoning Procedure did not consider that this Petition requested a proposed sewerage treatment plant. That would explain why

the Department of Planning has not taken a position on the issue as to whether the RC 2 Zone allows for a sewerage treatment plant.

Furthermore, it is clear that had the Office of Planning considered that this request included a proposed sewerage treatment plant, they may well have added additional comments concerning said facility.

WHEREFORE, the Protestants respectfully request the Zoning Commissioner to dismiss the instant Petition for Special Exception as it relates to the wastewater treatment facility and require Villa Julie to file a separate Petition for Special Exception for a wastewater treatment facility.

LEGAL ISSUE NO. 3

ASSUMING ARGUENDO THAT A WASTEWATER TREATMENT FACILITY IS AUTHORIZED IN AN RC 2 ZONE, PROTESTANTS SUBMIT THAT THIS FACILITY IS DESIGNATED A "COMMUNITY FACILITY," WHICH BY DEFINITION INCLUDES TWO (2) OR MORE PROPERTIES; THEREFORE THE VILLA JULIE COLLEGE AND SISTERS DeNAMUR BOTH MUST PETITION FOR A SPECIAL EXCEPTION FOR THE INSTANT AFORESAID WASTEWATER TREATMENT FACILITY

This issue is an adjunct to Legal Issue No. 2 in that it is clear that the Office of Planning for Baltimore County assumed there would be a separate Petition for Special Exception filed for a wastewater treatment facility as reflected in their ZAC comments of March 6, 1992. The requirement for a separate petition for wastewater treatment facility is explained by the proposition that in the instant case two (2) properties, (Villa Julie and Sisters DeNamur) are to be serviced by this "Community and facility."

Clearly, as Protestants have raised throughout the course of the hearing in this case, the use by the Sisters DeNamur of this proposed facility, as well as the future use of the property of the Sisters DeNamur must be taken into account by the Zoning Commissioner to determine the impact of the wastewater treatment facility servicing both Villa Julie's property and the Sisters property upon the surrounding community. The Commissioner will recall that throughout the course of the hearing in the instant case, testimony and evidence regarding the Sisters property was precluded from the Record before the Commissioner.

It is submitted by the Protestants that is not the intent of the Baltimore County Code, nor of the Baltimore County Zoning Regulations. The impact of the Special Exception for the proposed wastewater treatment plant should include the impact of all property utilizing or authorized to utilized said facility upon the surrounding property owners and community.

Protestants argument on this issue is additionally supported by the action of the Baltimore County Council when it enacted the amendments to the Baltimore County Sewer and Water Plan as previously discussed during the course of this case. By Resolution Number 2-91, passed by the County Council on January 7, 1991 and introduced as an exhibit before the

Commissioner, the Baltimore County Council, in paragraph 6 thereof, indicated the following:

> "The maps attached hereto and marked as Exhibit 6 and titled Villa Julie College and Baltimore province - Sisters of Notre Dame, revision to the water supply and sewerage plant are hereby approved with special authorization to operate an existing **community water system for the combined properties** and with special authorization to operate a **community sewerage treatment plant for the combined properties**, with capacity subject to a Special Exception to the RC 2 Zoning."

It is clear from the maps attached thereto that both Villa Julie and the Sisters property are encompassed in the revision. It is further clear from their language that their intent was to require the **capacity of the community sewerage** treatment plant to be the subject of a Special Exception to the RC 2 Zoning. This language clearly refers to the Baltimore County Council's intent that the Zoning Commissioner determine the impact of the sewerage treatment facility serving both properties upon the community, by the Zoning Commissioner. That requirement has not been satisfied in the present case in that the evidence of the Sisters use and future use of this facility has not been permitted.

WHEREFORE, the Protestants respectfully request that the Zoning Commissioner deny the Petition for Special Exception and require a new petition to be filed and joined by both Villa Julie College and the Sisters DeNamur.

LEGAL ISSUE NO. 4

IN THE ALTERNATIVE TO LEGAL ISSUE NO. 3, THE BALTIMORE COUNTY SEWER AND WATER PLAN MUST BE AMENDED AS TESTIFIED TO BY THE DIRECTOR OF PUBLIC WORKS, GENE NEFF AND THE DEPUTY DIRECTOR OF PUBLIC WORKS, OSCAR KEYES, TO A MULTI-USE FACILITY

During the course of the proceedings in this case, Villa Julie has "waffled" back and forth as to whether the Sisters DeNamur would be permitted to connect into the wastewater treatment facility. At one point, counsel for Villa Julie suggested that if the Sisters were to pay for the wastewater treatment facility, they would be able to utilize such facility. At another point in the proceedings, counsel for Villa Julie indicated that he would propose a restriction which would prevent any subsequent property owner of the Sisters from tying into the wastewater treatment facility.

Protestants submit that it is not within the purview of Villa Julie to unilaterally amend the Sewer and Water Plan of Baltimore County. Oscar Keyes, the Deputy Director of Public Works clearly testified that if Villa Julie alone was to utilize the wastewater treatment facility, then the Plan would have to be amended to reflect a Multi-Use facility.

Even though the Petitioners called Director Gene Neff, of Public Works, in an effort to rebut the testimony of Keyes, Neff clearly supported the requirement that the Baltimore County Sewer and Water Plan must be amended to accurately

reflect the proposed use of the wastewater treatment facility. It is beyond dispute then, that either Villa Julie must present an amendment to the Baltimore County Council to reflect a multi-use facility, or it must permit the Sisters DeNamur, and their successors and interests the right to tie into such a facility as per the current Baltimore County Sewer and Water Plan.

WHEREFORE, Protestants respectfully request the Zoning Commissioner require Villa Julie to file a new Petition for Special Exception along with the Sisters DeNamur for purposes of approval of a wastewater treatment facility (assuming arguendo that it is permitted in an RC 2 Zone), or in the alternative, require by his Order that the County's Water and Sewer Plan be amended to reflect a multi-use facility by Villa Julie alone.

LEGAL ISSUE NO. 5

VILLA JULIE PROPOSED EXPANSION REQUIRES CRG APPROVAL

Villa Julie filed a request with Baltimore County for a County Review Group meeting and review of this Plan on June 18, 1991, CRG No. 91177. At the time of this hearing, March 10, 1992 through May 15, 1992, Villa Julie, through its counsel contended that it was not a project which required CRG approval. Counsel for Protestants proffered on the record before the Zoning Commissioner that the CRG had not been

withdrawn, that it had not been waived by Baltimore County and that Villa Julie did not fall in an exempt status which would permit the bypassing of the County Review Group process.

While the Zoning Commissioner has expressed some concern that he does not have jurisdiction over this particular issue, Protestants would submit that, under Petitioners Petition for Special Exception, variance and Special Hearing, that the Zoning Commissioner could insure that this matter is brought to the attention of the proper County authorities so as to avoid the need for additional litigation as to this point. Protestants are not eager to take an appeal from an additional stage in the development process for Villa Julie's proposed request on this point and would suggest that judicial economy would benefit from a clarification of this point for all parties in the future.

LEGAL ISSUE NO. 6

ASSUMING ARGUENDO, THAT A WASTEWATER TREATMENT FACILITY IS PERMITTED IN AN RC 2 ZONE AND THAT THE PRESENT PETITION COMPLIES WITH THE BALTIMORE COUNTY ZONING REGULATIONS, THE ZONING COMMISSIONER HEREIN IS EMPOWERED, AUTHORIZED AND REQUIRED TO SET CAPACITY OF THE WASTEWATER TREATMENT FACILITY

The Zoning Commissioner of Baltimore County pursuant to Section 502.1 of the Baltimore County Zoning Regulations is empowered and required in reviewing the proposed request to be governed by the requirement that before any Special Exception

may be granted, the Zoning Commissioner shall find that the use for which the Special Exception is requested will not be "detrimental to the health, safety or general welfare of the locality involved." And furthermore, that the use will "not create a potential hazard from fire, panic or **other dangers**; and finally, will not 'interfere with adequate provisions for schools, parks, **water**, **sewerage**, transportation or other public requirements, conveniences or improvements.'"

It is clear then, that the Protestants in the instant case have raised the issue of water appropriation and use, as well as sewerage disposal and methods for such disposal. Implicit in the three (3) provisions cited above is the requirement that the Zoning Commissioner shall, and must, exercise his discretion to insure protection for the public, health, safety and welfare. Certainly, the capacity of the wastewater sewerage facility proposed, which shall empty into an intermittent stream, as well as the appropriation of groundwater from the site are relevant factors for consideration of the Zoning Commissioner as well as for potential limitations if so desired.

Secondly, it is clear that while the State has a function in approving discharge permits, nothing precludes the Zoning Commissioner from Baltimore County from exercising his discretion within Zoning concepts in regard to the granting of

a Special Exception. See Ad-Soil, Inc. v. Queen Anne's County Commissioners, 307 Md. 307 (1986), wherein the Court determined that the General Assembly has not pre-empted the field of sewerage treatment so as to preclude exercise of control by Zoning Regulations in this field. The Court there reviewed the statutory provisions under which County water and sewer plants are promulgated, finding that those provisions which contained the bulk of the state law governing sewerage management are replete with references to the current legislative authority of local jurisdictions.

Again, in Gregory v. Frederick County Commissioners, 89 Md. App. 635 (1991), the Court recognized the independence of the Zoning Regulations and requirements.

Thirdly, the Baltimore County Council has expressed its thoughts on the matter by Resolution 2-91, passed by the Baltimore County Council on January 7, 1991 with the Councilman for the District served by Villa Julie, Councilman Dutch Ruppersberger presiding, in which the Council amended the Baltimore County Water Supply and Sewerage Plan in paragraph 6 thereof and approved "with special authorization to operate an existing community water system for the combined properties and with special authorization to operate a community sewerage treatment plant for the combined properties (Villa Julie College and Sisters of Notre Dame), **with capacity subject to a Special Exception to the RC 2 Zoning**."

Finally, as if that were not enough, the Protestants have submitted documentation in the form of correspondence from the State itself which reflects the State's recognition of the inherent right of Baltimore County Zoning Authorities to impose capacity restrictions.

WHEREFORE, the Protestants respectfully request the Zoning Commissioner to impose such capacity restrictions on the Wastewater Treatment Plan to the extent of the capacity required to satisfy the current health situation, allegedly occurring on the Villa Julie site. Protestants would submit that the unrebutted testimony of all parties is that a current requirement for 29,000 gallons per day is the present wastewater disposal flow of the Villa Julie College.

LEGAL ISSUE NO. 7

DELETE THE CHILD CARE REQUEST FROM THE SPECIAL EXCEPTION

Protestants wish to remind the Zoning Commissioner that Counsel for Villa Julie has amended the Petition for Special Exception to delete the references and the requests for a child's daycare center. While Counsel verbally made such amendment, it is believed the Plat to accompany the Petition for Special Exception still may contain references to such a facility. Protestants would request that the Zoning Commissioner make clear in his order that such a daycare center is not being approved.

LEGAL ISSUE NO. 8

PETITIONER HAS NOT MET ITS LEGAL BURDEN AS TO THE REQUESTED VARIANCES NUMBER 11, 12 AND 13

Petitioners requested variances, Numbers 11, 12 and 13, all relate to height, distances and parking width requirements for the proposed **new** buildings. The only testimony presented by Petitioners in regard to these variances was produced by witness, Sam Crozier. Crozier testified as to the hardship involved in the location and height of the new buildings on the basis that "we prefer to have these variances because they allow us to create a college atmosphere."

He further testified that the variances were necessary to create a "intimate" atmosphere on the campus. And again, Crozier testified on March 12, 1992 that he requested the aforestate variances in order not to have "the buildings spread out... **it would make it more economical**... and that there was **nothing particularly unique about the hardship** as it related to these variances."

The Protestants suggest that Section 307.1, Baltimore County Zoning Regulations, providing for Variances, requires a three-fold test of whether or not the variance should be granted by this Board. First, the Petitioner must show "practical difficulty or unreasonable hardship." Second, the variance may be granted only if in strict harmony with the

spirit and intent of the said area restrictions. Third, the variance may be granted only if granting it will not result in substantial injury to the public health, safety and welfare.

Turning to the first aspect of the variance requirement, that of "practical difficulty or unreasonable hardship," an interesting and difficult dilemma has been presented by the Petitioner in this case and that is, in their collective testimony, it is quite clear that they have not met the legal stand required.

The only purported reason given by the Petitioner for the requested grant of the variances, was that in addition to making it more economical for him, that it satisfied some perceived esthetic purpose. That is not sufficient under the law.

With the evidence in its current state as suggested above, Protestants argue that such testimony does not constitute practical difficulty or unreasonable hardship and therefore, the Petitioners have failed to meet their burden under Section 307.1 and the cases that interpret variances.

The following are a series of cases which address the issue of when to grant a variance and perhaps can shed some light upon this issue for the Board of Appeals.

a. Easter v. City of Baltimore, 195 Md. 395 (1950). This early case dealing with the granting of a variance under Baltimore City ordinance set forth the proposition that a

request which would make the property more profitable is not a sufficient ground to justify relaxation of setback requirements.

In addition in this case, prior exceptions to zoning requirements (a variance granted to allow an adjacent store, a setback variance) is not in and of itself controlling. That is, ill-advised or illegal variances do not furnish the grounds for a repetition of a wrong. This case begins an examination of variances which was followed by;

b. Gleason v. Keswick Improvement Association, Inc., 197 Md. 46 (1950). In this case, the Petitioner requested a variance along with a special exception to allow a commercial use of a residential zoned property. The Court, in citing Rathkopf On Law of Zoning and Planning, page 262, to the extent that "where a person purchases property with the intention to apply to the Board of Appeals for a variance from the restrictions imposed by the ordinance, he cannot contend that such restrictions cause him such a peculiar hardship that entitles him to the special privileges which he seeks."

Further in this case, the Court emphasized that a variance to make property more profitable is not a sufficient ground to justify the granting of a variance.

c. Salisbury Board of Zoning Appeals, et al. v. Bounds, 240 Md. 547 (1965). Justice Marbury for the Court of Appeals in analyzing a zoning variance request found that a

self-inflicted hardship cannot be the basis for a variance. The Court again cited to #2 Rathkopf, The Law of Zoning and Planning, Paragraph 48-1 sets forth the proposition that self-inflicted hardship cannot form the basis of the grant of a variance.

It further states that where there has been an act on part of the property owner or his predecessor which has physically so affected the property as to create a unique circumstance, which, in itself created a practical difficulty or hardship in conforming to the restriction of the ordinance, it is not appropriate to grant relief.

In the instant case, it is clear that Villa Julie has the ability within the building envelope or within its property boundaries to comply with the Baltimore County Zoning Regulations and that here the request is being made for an alleged "aesthetic reason." That is not sufficient to comply with the legal requirements of the cases cited herein.

d. Kearney v. City of Baltimore, 201 Md. 130 (1952). In the Kearney case, a homeowner sought a variance from a side yard requirement. The Board of Appeals denied the requested variance ultimately on the basis that the need to justify an exception must be substantial and urgent, and not merely for the convenience of the applicant. Inasmuch as the aim of the ordinances to prevent exceptions as far as possible, and a liberal construction allowing exception for reasons that

are not substantial and urgent would have the tendency to cause discrimination and eventually destroy the usefulness of the ordinance. 201 Md. at pg. 137.

e. McLean v. Soley, 270 Md. 208. This case is most often cited by Administrative Agencies in granting variances because it attempts to summarize the requirement of "practical difficulty or unreasonable hardship. In McLean, at pg. 213 and 214, the Court sets forth its requirements for those terms.

It makes the point that the standard for granting a variance is whether or not strict compliance with the regulations which result in practical difficulty or unreasonable hardship; and that it should be granted only if in strict harmony with the spirit and intent of the Zoning Regulations, and only in a manner as to grant relief for that substantial injury to the public health, safety and general welfare. These are the elements of the test previously set forth in this Memorandum as the issue.

It is submitted that they must be examined separately as well as jointly in analyzing the case. In the McLean case, at page 214, the Court in analyzing practical difficulty again cites #2 Rathkopf, The Law of Zoning and Planning, Section 45-28 and 29 analyzing practical difficulty as: (1) "whether compliance with the strict letter of restrictions governing area, setbacks, frontage, height, bulk

or density, would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome."

In the instant case, it is clear that complying with the strict letter of restrictions does not unreasonably prevent the owner from using his property and complying with the Regulations.

In summary then, we believe a careful analysis of the McLean v. Solely case clearly supports the proposition that this request of the Petitioner must be denied.

f. Anderson v. Board of Appeals, 22 Md. App. 28 (1974). In the Anderson case, there is a remarkable similarity between the status of the evidence as presented there and here. A key witness for the Petitioner, Mr. Herbert Fleischer, an architect, engineer and land planner, whose testimony is summarized at pg. 34, wherein he sets forth the basis for the variance request there that the subject property had a "intriguing natural beauty with distinct contours and vegetation which should not be disturbed." He testified that the variances should be granted to allow placing a number of buildings in what would be a "well organized project."

In cross-examination, when asked what hardship he would suffer if the variance was not granted, he replied "maybe poor planning." His testimony is very similar to that of Mr. Crozier.

The Court in Anderson in looking at the standard for this area variance in that case found that the only hardship or practical difficulty alleged by the applicant there as a result of the strict application of the ordinance was a "loss of profit" and "maybe poor planning." The Court found that this evidence falls far short of a showing of unnecessary hardship as defined by the ordinance of Chesapeake Beach as well as the Court of Appeals.

The Court in Anderson at pg. 42 found that there the testimony established unequivocally that not only was it possible to develop the land in accordance with the zoning requirements, but that it also could perhaps be less costly than the method of development proposed. Based upon that record, the Court of Appeals reversed and found that the granting of the variance was arbitrary and capricious and could not be sustained.

Protestants would submit that the analogy between Anderson case and the instant case based on the testimony of Mr. Crozier are remarkably similar. The "hardship" or "practical difficulty" must burden the petitioner requesting the variance, not some alleged third party, or non-applicant. See Anderson.

WHEREFORE, Protestants request the Zoning Commissioner to deny the above cited variances for all the above reasons.

LEGAL ISSUE NO. 9

VILLA JULIE HAS FAILED TO ESTABLISH THAT THE SPECIAL EXCEPTION REQUESTED WILL "FOSTER CONDITIONS FAVORABLE TO AN AGRICULTURAL USE;" THEREFORE THE SPIRIT AND INTENT OF RC 2 ZONING CLASSIFICATION HAS NOT BEEN MET

The Petitioners, in the instant case, clearly did not present any evidence either through testimony or exhibits, from which the Zoning Commissioner could conclude that the request for Special Exception by the College herein, "fosters or enhances" the agricultural use of the land. As a matter of fact, the Zoning Commissioner, on the third day of hearings, March 12, 1992 found that "the College per se does not foster agricultural use."

Protestants submit that in the case of a Special Exception falling within an RC 2 Zone, that in addition to those requirements of 502.1, the Petitioner has a dual responsibility of establishing that the use requested will not be a "**detriment** to agriculture" and further that it must "**foster or enhance**" that condition favorable to a continued agricultural use of a productive areas of Baltimore County by preventing incompatible forms and degrees of urban uses. Here, there is a significant question as to whether or not it is the requested use by the College as a detriment to agriculture based upon the testimony of Mr. Mielke, the farmer, currently farming in excess of 300 acres of property in the valley in the immediate vicinity of Villa Julie College. He testified that the increased traffic

will certainly hamper his ability to move farm implements and equipment on Greenspring Valley Road and the surrounding road system.

He further testified on cross-examination that the placing of one inch of additional water in what is now intermittent stream bed will produce a loss of acreage for farming as well as a difficulty in moving his farm implements across the stream bed that does not exist at the present time.

Even more significant in this case, is the fact that there is no evidence which can be presented by the Petitioners to show that the College in any way fosters or enhances conditions favorable to a continued agricultural use of this area.

The Special Exception request for a College in an RC 2 Zone must comply with the Zoning Regulations unique to agricultural zones. Baltimore County Zoning Regulation, Section 1, A01.1A.B "Purposes" states:

> "The RC 2 Zoning Classification is established pursuant to the legislative bindings above in order to **foster conditions favorable to a continued agricultural use** of the productive agricultural areas of Baltimore County by preventing incompatible forms and degrees of urban uses." (emphasis supplied).

This Section has been interpreted by the Zoning Commissioner of Baltimore County in Case No.: 90-492-SPHA, In RE: Petition for Special Hearing and Zoning Variance Black Pine Farm, incorporated herein and attached hereto, as placing the burden upon the Petitioner to demonstrate that the

requested relief, if granted, will meet the letter and spirit of these Regulations. As such, the Zoning Commissioner found that the question inherent in this Section is whether the Petitioners' proposal will foster conditions favorable to a continued agricultural use of the subject site. See Exhibit #1.

It is clear in this case that as suggested before, the Petitioners never presented evidence of this aspect and indeed, rightly the Zoning Commissioner concluded that the College did not per se foster a condition favorable to a continued agricultural use. The Baltimore County Board of Appeals also in Case No.: 85-132X, In the Matter of the Application of Meadowcliff, A New Covenant Church, recognized the affirmative requirement placed upon the Petitioner under Baltimore County Zoning Regulation 1A01.2.C in its decision in finding that "a legislative history of Baltimore County Zoning Regulation 1A01.2.C as reflected in Bill 178-79, mandates that uses proposed within an RC 2 Zone **should support** agricultural purposes. (emphasis supplied)... From the testimony and evidence received, we find as a fact that, if the proposed Special Exception were granted, the proposed use would not support agriculture, both on site and in the vicinity..." See Exhibit #2.

WHEREFORE, the Protestants respectfully request the Zoning Commissioner deny the request for Special Exception.

PROTESTANTS POSITION UPON THE SUBSTANTIVE ISSUES AS THEY RELATE TO THE GRANTING OF A SPECIAL EXCEPTION FOR THE PROPOSED EXPANSION OF VILLA JULIE COLLEGE

A. HISTORY

The present Petitions filed by Villa Julie College present the first opportunity that the County, the neighborhood and the public has had to review the development and growth of the Villa Julie College in the Valley since its inception in 1947 as a one year Medical Secretarial School. The School opened in September, 1947 with seven (7) students. From those modest beginnings in an existing mansion on the site, the School has changed its curriculum from a one year medical secretarial course to what is described today in the Villa Julie 1989 catalog as being a "independent co-educational four year college which offers Bachelor's and Associate's Degrees, whose commitment is to be a very good college."

From seven (7) students, it has grown in the intervening forty-five (45) years to consist of 1,700 students with a faculty and employee staff of over 300 for a total population of over 2,000 persons. It physically expanded in 1950, 1952 and again in 1961, and again in 1971 and again in the early 1980s and finally the request in 1992 to double its physical plant from 103,000 square feet today to over 201,000.

The College is requesting an unlimited number of students, faculty and employees by this Petition.

B. PROTESTANTS POSITION

Protestants submit that as exampled by the failing septic system (which is not failing due to any geological fault of the property, but is failing because Villa Julie College attempted to place 28,000 gallons of sewerage disposal per day in a system designed for 6,000 gallons per day); that the property and site in question has been overburdened and overtaxed to the detriment of the surrounding community and its neighbors. Villa Julie is a non-conforming use which has grown to its maximum, (if not exceeded it), and in doing so, has taxed the property to the detriment of the surrounding community.

The Zoning Commissioner should not grant the Petition for Special Exception in the opinion of the Protestants, but should require the College to seek alternative solutions if, in fact, they do desire to grow in the future. **It is not the neighborhoods responsibility to accept the detrimental results which will occur if the College is allowed to continue to grow at its present pace in the present location**.

Protestants further submit that if the Zoning Commissioner, in his discretion, determines to "legitimize" the function of a College on this RC 2 property, and to solve what is **alleged** to be an existing health problem in regard to the

failing septic system, then the Commissioner should limit such approval to the present population and gallons of wastewater at the demonstrated present level of operation. That is to say, 1,700 students with 310 employees and faculty and 29,000 gallons per day of sewerage should be the limitation imposed by the Commissioner as part of any approval of a Petition for Special Exception.

C. REASONING FOR PROTESTANTS POSITION BASED UPON TESTIMONY BEFORE THE ZONING COMMISSIONER

1. The Protestants position in regard to not granting the Special Exception request is supported by the testimony of former Planning Director of Baltimore County, Norman Gerber, who testified that, in the case of non-conforming uses, model zoning ordinances around the country presume from a planning standpoint that the non-conforming use will ultimately cease. He testified that many ordinances include sunset provisions for non-conforming uses and it is expected in normal planning procedure that these uses will disappear.

In the instant case, good planning practices would generally presume that the College is inappropriate for its present location, particularly as it relates to the purposes and concepts of the Baltimore County Master Plan and the RC 2 Zone applied to the property. Mr. Gerber supported Protestants arguments earlier presented in this Memorandum in the course of testifying that as this proposal relates to agriculture, the

proposed expansion is detrimental to agriculture and that the School does not foster conditions favorable to the continued agricultural use in this area.

He testified that most of the Valley consists of prime and productive soil and that the uses of the College interferes with farming; that it is an urban College and that it has increased traffic problems making it more difficult to move farming equipment; it will increase the flow of water in the intermittent stream thereby deleting land from agricultural preservation making farming more difficult; and that it has overcrowded the land by having an impact on groundwater of approximately 200 plus houses. He also testified that the **subject property is unlike other** areas zoned and RC 2, which therefore presents a unique situation for this site in that this Valley is bounded on three (3) sides by urban development; that public water and sewer available at edges of the Valley could be extended if it were not for the County laws and planning to date; that it has very good access to the Beltway and the Jones Falls expressway. This is contrasted to most other areas zoned RC 2 which are more remote and thus, the character of the Greenspring Valley is **very fragile**.

Gerber further reasoned that trying to quantify the number of students the increase of the number of students allowed would be arbitrary (as is the Planning Staff's proposal of

2,500), in that from good planning procedures what is there now exceeds what should be there.

2. Dr. Pierce Lineaweaver, testifying on behalf of the Protestants, likewise supported the proposition that no increase in the present utilization of the Villa Julie property should be granted in view of certain environmental constraints.

Dr. Lineaweaver further testified as to the significant impact of expansion at Villa Julie as it related to the groundwater supply. He indicated that while it is recognized that this site lies above a vast underground source of water, that a withdrawal of 29,000 gallons per day from this site met the "water balance" which means that withdrawal of water above that figure begins to encroach upon the surrounding properties (or stated another way that the use of water above that figure exceeds the recharge capacity of the site due to natural rain water). Twenty-nine thousand (29,000) gallons per day equates to 10.6 million gallons per year or 32 1/2 acre feet of water or 6 1/2 inches of water from the water table.

He drew the obvious conclusion that if every property owner utilized their site to this degree (29,000 gallons per day), that would lead to an imbalance of the water supply.

Dr. Lineaweaver further testified the withdrawal of 29,000 gallons per day on an equivalent 60 acre site would equate to the use generated by 100 homes. A withdrawal of 60,000 gallons would equate to 200 plus homes and 90,000

gallons per day would equate to 300-400 homes on a 60 acre site. Protestants submit that this kind of use as proposed by Villa Julie unnecessarily and appropriately encumbers the site and impinges on the health, safety and welfare of the community.

Dr. Lineaweaver further testified that, in his opinion, the wastewater treatment plant construction **for growth** at Villa Julie would be a mistake and he agreed with Oscar Keyes in regard to the impact and effect upon the surrounding community.

3. Martin Wells, Protestants traffic expert, in applying the Baltimore County Zoning Regulations standards of 502.1, found that the Villa Julie expansion proposal will exacerbate "congestion problems" on Greenspring Valley Road and at Greenspring Avenue and Falls Road intersections. He further found that the additional traffic generated by background traffic growth and Villa Julie College expansion will add to the traffic accident exposure on Greenspring Valley Road which operates at a non-desirable level of Service "D" in the vicinity of the College. **Wells testified that Greenspring Valley Road experienced twenty-one percent (21%) more accidents than the average road of its kind in the State of Maryland in the past three (3) years**.

Villa Julie presently accounts for seven percent (7%) to twenty-six percent (26%) of all peak hour traffic on Greenspring Valley Road and that the College will add 105 to 188 peak hour trips to the Greenspring Valley Road if it is expanded as planned. In applying the "ASHTO" standards, which the State of Maryland utilizes (even though Baltimore County has a different method of counting level of service at intersections), Wells concluded that the Park Heights Avenue, Stevenson Road and Villa Julie College driveway intersections with Greenspring Valley Road presently operate at acceptable levels of service. The Greenspring Avenue intersection, however, operates at an undesirable level of Service "D" in the P.M. hour and Falls Road **fails** at level of service after A.M. and P.M. peak hours.

Wells concluded, contrary to the testimony of Guckert that the present level of service at the College entrance and Greenspring Valley Road would warrant an improvement and requirement for a left turn lane. Ultimately, the testimony of Wells was corroborated when the Protestants called John Contestible, Chief of State Highway Engineering Access Permits Division, who testified that, at the present time, the traffic would warrant an 800 foot left turn lane.

Contestible indicated because the College must now apply for a permit, that the State Highway Administration is now able to require such improvements. The improvement that

will be required to Greenspring Valley Road consists of widening the road to a four (4) lane highway tapering in each direction for a total of 800 feet.

Protestants submit that this change will greatly affect the "scenic" nature of Greenspring Valley Road and sets an immediate precedent for such requirements along the road in other areas.

4. Finally, it is important to recall the significant testimony (which will not be recounted here) of Richard Buck, President of the Valleys Planning Council, Anita Prentice, Greenspring Valley Association, Mary L. Williams, Homeowners Association of Greenspring, Shelly Goldseker, Velvet Valley Neighborhood Association and Doug McComas, Executive Director of Falls Road Community Association and individuals, Henry Hagan and Doug Carroll and Jervis Finney, all of whom expressed strong and widespread community concerns about the proposed expansion request of Villa Julie College.

SPECIAL EXCEPTION - LEGAL STANDARD

It is well recognized in Maryland that the case of Shultz v. Pritts, 291 Md. 1, 432 A.2d 1319 (1981) was the principal case setting forth the appropriate guidelines and standards to be used by the Hearing Examiner in determining whether a requested Special Exception use would have an adverse effect upon the health, safety or welfare of the community or

neighborhood. This case, decided in 1981, and the Opinion authored by the late Judge Rita Davidson has been principally cited by Hearing Examiners, Zoning Commissioners, Boards of Appeal, as well as Circuit Courts in their analysis of the facts presented in their individual cases. It is interesting to note that the basis for the ultimate standard as presented in Shultz v. Pritts was derived from a Baltimore County case captioned Deen v. Baltimore Gas & Electric, 240 Md. 317 (1965), in which the Baltimore Gas & Electric Company was requesting a Special Exception use for overhead high tension transmission lines. In that case, the Court of Appeals established the principle that "[is] the effect of high tension wires on health, safety and welfare of this area...in any respect different than its effect on any other rural area. Section 502.1 (the Baltimore County Zoning Regulations) implies that the effect on health, safety or general welfare must be in some sense unique or else a Special Exception could never be granted in such an area for the above ground location of high tension wires." This case then formed the standard relied upon by Judge Davidson in Shultz v. Pritts. (It is hard to imagine how anyone could establish that high tension wires would be any more deleterious in one area than in any other area of the same zone in a rural area). The Court in Shultz, applied the same

standard as it had in Deen and articulated what has now become the general holding of the case and that is:

> "We now hold that the appropriate standard to be used in determining whether a requested Special Exception use would have an adverse effect and, therefore, should be denied is whether there are facts and circumstances that the particular use proposed at the particular location proposed would have any adverse effect above and beyond those inherently associated with such a Special Exception use irrespective of its location within the zone." At page 1331.

However, the Court, in the same Opinion, at page 1327, stated the same principle in a slightly different fashion and that was:

> "[These] cases establish that a Special Exception use has an adverse effect and must be denied when it is determined from the facts and circumstances that the grant of the requested Special Exception uses would result in an adverse effect upon adjoining and surrounding properties unique and different from the adverse effect that would otherwise result from the development of such a Special Exception use located anywhere within the Zone."

Because administrative agencies and Courts in many jurisdictions in the State struggled with the application of the Shultz v. Pritts standard and have on more than one occasion cited it as requiring the granting of a Special Exception because the Protestants failed to establish "uniqueness," the Court of Appeals granted cert. and vacated a Court of Special Appeals decision in the case of Board of County Commissioners v. Holbrook, 314 Md. 210, 550 A.2d 664

(1988). The Honorable Judge Harry Cole wrote the Opinion for the Court in the Holbrook case, and incidentally also sat on the Court at the time of Shultz v. Pritts.

The facts in the Holbrook case are very important to understand before analyzing the facts as presented in the instant case by the Protestants. In the words of the Court in Holbrook,

> "Holbrook obtained a temporary building permit in July, 1985, which permitted him to move a mobile home onto his heavily wooded 2.8 acre parcel of land located in a sparsely developed rural area of Cecil County. He placed his mobile home in a small clearing near the border line between his property and a 1.5 acre tract owned by Mr. & Mrs. Peters. In October, 1985, the Peters completed construction of a new residence with a value of $147,000.00 located less than 150 feet from their neighbor's mobile home... Alarmed at the prospect that their unobstructed view of the nearby trailer would become permanent (when Holbrook applied for a permanent Special Exception), the Peters protested granting of the Special Exception on the basis, that "I do object to a trailer being permanently adjacent to my property because I feel it would be detrimental to the value of my home." Mrs. Peters offered six (6) photographs in evidence.

It is also important to understand that the Court of Special Appeals reversed the Circuit Court and the Board of Appeals' denial of the Special Exception and held "under Shultz, the proper test to be applied by the Board in determining whether to deny the Special Exception was whether evidence was presented which demonstrated that a mobile home on the Appellant's land had any adverse impact effects on the neighboring properties above and beyond those inherently associated with such a Special Exception use irrespective of

its location within the AR Zone." The Court of Special Appeals held that since there was no substantial evidence before the Board of Appeals to meet that test, the denial of the Appellant's application was arbitrary, capricious and illegal.

Judge Cole, in reversing the Court of Special Appeals, cited the previously recited standard from Shultz v. Pritts and specifically pointed out that:

> "We then defined the specific nature of the requisite adverse impact required to warrant denial of the Special Application: (a) a Special Exception use has an adverse effect and must be denied when it is determined from the facts and circumstances that the grant of the request of Special Exception use would result in an adverse effect upon adjoining and surrounding properties unique and different from the adverse effect that would otherwise result from the development of such a Special Exception use located elsewhere within the Zone." At page 217.

The Court went on to state:

> **"We believe that the facts and circumstances of this case evidenced by the undisputed testimony in photographic exhibits clearly satisfy the Shultz standard of particular impact.** (emphasis supplied). The evidence revealed that the Peters built their $147,000.00 house in a uniquely valuable heavily forested low growth area. Moreover, photographs clearly depict the direct and approximate view of the mobile home from the Peters home. The Board found that this evidence vividly indicated that the debilitating effect of the mobile home on the value of the Peters property, inferring thereby that the trailer's continued presence would create significantly greater adverse effects in this location than were it located in other areas in the Zone."

The Court of Appeals found that the mobile home in this particular location would impair neighboring property value to a greater extent than it would elsewhere in the Zone.

It is submitted by the Protestants that the application of the Holbrook case to the instant one will clearly provide the Hearing Examiner with the authority, in view of the evidence presented, to deny the Special Exception request for reasons set forth.

Finally, a recent Court of Special Appeals case, People's Counsel for Baltimore County, et al. v. Nicholas Mangione, 85 Md. App. 738, 584 A.2d 1318 (1991) also establishes that the burden placed upon Protestants by many administrative bodies based upon Shultz v. Pritts is not quite as severe as the applications have warranted. In People's Counsel v. Mangione, a Special Exception was requested in Baltimore County for a nursing home on a four (4) acre parcel inside a single family detached home area of Lutherville in Baltimore County zoned DR5.5. In that case, the Baltimore County Board of Appeals found that the proposed project would overwhelm and dominate the surrounding landscape. The Court of Special Appeals recited Judge Cole's comments in Holbrook as well as quoting from Shultz v. Pritts when it was stated "a 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. (emphasis supplied). In Mangione, the Baltimore County Board of Appeals relied upon and the Court of Special Appeals

affirmed, that testimony of odors being generated from the site, as well as traffic on narrow winding streets, as well as the project dominating the surrounding landscape, were all appropriate factors from which the trier of fact could determine that the Shultz standard of particular adverse impact was satisfied.

If these then are the legal standards by which the Zoning Commissioner must view the requested Special Exception of Villa Julie, it is submitted by Protestants that clearly if the College were not already located on the site that the facts would require the denial of a Special Exception.

In this case, the Zoning Commissioner should also deny the Special Exception in order to limit the future growth at this site (or in the alternative, if it is felt that the institution should be "legitimized," no expansion should be allowed). The record is replete with testimony and evidence supporting the proposition that this site is "unique and unusual" and complies with the standard as set forth in Holbrook and Shultz v. Pritts.

First, Greenspring Valley Road is a "unique roadway." It has been designated a scenic highway by the State; it has been characterized as a rural road by all of the witnesses, which still services a metropolitan area and it is probably the only rural road in Maryland with Metropolitan Bus Service.

Second, it is a "unique site" in that it overlies a huge water supply, which has been protected for years by the Baltimore County government, with such protection incorporated into the Master Plan of the County. It has, in fact, been designated as a potential water source for the metropolitan area in the event of an emergency.

Third, it is in an RC 2 Zone that lies so close to the metropolitan area that it differs from other RC 2 Zones in Baltimore County. Norman Gerber testified as to the unique nature of this RC 2 property and to the tremendous pressure and stress placed upon such property by potential development.

Fourth, Oscar Keyes described the Villa Julie site and requested wastewater treatment plant as "unique" in that there is no other site such as this in which the wastewater treatment plant will empty into an intermittent stream bed; creating a new channel across the property of owners who would not normally have been affected.

Fifth, both County Department heads, Neff and Dieter, referred to the uniqueness of the site in the County's approval of a wastewater treatment facility to solve an alleged failing septic system which was self-created by Villa Julie.

Sixth, the Office of Planning and Zoning, in its ZAC comments, clearly sets forth the uniqueness of this Villa Julie institution located on the floor of Greenspring Valley.

Seventh, Baltimore County Master Plan for the Valley itself defines the uniqueness of the site and location as opposed to other RC Zones in Baltimore County.

Clearly, the Protestants have met and surpassed the legal requirements of Holbrook and Shultz and have further established by the overwhelming weight of testimony that Villa Julie has a negative and adverse effect on the surrounding property and neighborhood and should be denied pursuant to the Zoning Commissioner's responsibility under the Baltimore County Zoning Regulations Section 502.1.

WHEREFORE, Protestants respectfully submit that the Zoning Commissioner should deny the request of the Petitioner's for the Special Exception.

Respectfully submitted,

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305 West Chesapeake Avenue
Suite 105
Towson, Maryland 21204
410-825-6960

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 26th day of May, 1992, a copy of the aforegoing Memorandum of Protestants was mailed, postage pre-paid to: Benjamin Bronstein, Esquire, Evans, George and Bronstein, Susquehanna Building, Suite 205, 29 West Susquehanna Avenue, Towson, Maryland 21204, K. Donald Proctor, Esquire, Miles & Stockbridge, 600 Washington Avenue, 3rd Floor, Towson, Maryland 21204.

J. CARROLL HOLZER, Esquire

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5/26/92

MJC/BB/mlh/522.00/05.26.92

IN THE MATTER OF THE	*	BEFORE THE
PETITION FOR	*	ZONING COMMISSIONER
SPECIAL EXCEPTION BY	*	FOR BALTIMORE COUNTY
VILLA JULIE COLLEGE, INC.	*	CASE NO.: 92-285-XA

* * * * * * * * * * * * * *

MEMORANDUM IN SUPPORT OF PETITION FOR SPECIAL EXCEPTION AND VARIANCES

Villa Julie College, Inc., ("Villa Julie"), Petitioner, by Benjamin Bronstein, Michael J. Chomel and Evans George & Bronstein, its attorneys, files this Memorandum in Support of Petition for Special Exception and Variances filed in the above-captioned case.

I.

INTRODUCTION

Villa Julie College began as an adjunct of the Sisters of Notre Dame de Namur in approximately 1949. In 1967 the College separated from the Sisters and became a private, non-profit educational institution.

The property on which the College is located adjoins that of the Sisters. At some point in late 1989 or early 1990, the septic system which served the College failed. The College engaged Maryland Environmental Services, Inc. ("MES"), a quasi-state entity which supervises numerous waste water disposal systems in the State of Maryland and has conceded expertise in this area.

MES and Baltimore County authorities did a review and analysis of the College property and determined that a private waste water treatment plant ("WWTP") was the most appropriate means to resolve the failed septic system. The Department of Environmental

Protection and Resource Management ("DEPRM"), the Office of Planning and Zoning ("OPZ") and the Department of Public Works ("DPW") jointly prepared, and the Baltimore County Council approved, an amendment to the County Master Water and Sewer Plan which permitted the construction of a private waste water treatment plant on the College property.

Under the federal Clean Water Act, the State of Maryland has been delegated authority by the federal government to administer programs relating to water pollution and waste water discharge in the State of Maryland. This delegated authority is exercised for the State by the Maryland Department of the Environment ("MDE"). See, Memorandum of Understanding between EPA and MDE, dated May 18, 1989, attached to Petitioner's Memorandum in Opposition to Motion to Dismiss Petition for Special Exception.

Pursuant to the regulations promulgated by MDE, the College has applied for a permit under the National Pollution and Discharge Elimination System ("NPDES").

After public hearing (at which the Protestants in this case appeared and raised the same objections which they raised in the instant case), MDE issued a Notice of Final Determination indicating it would approve a discharge by the College of up 60,000 gallons per day ("gpd") of treated waste water predicated on the College's anticipated need for the next five years. The Protestants have taken an administrative appeal from that determination.

The College is located in a Resource Conservation (R.C.2) Zone. Prior to 1969 the College property was zoned RDP (Rural Deferred Planning). The College was a permitted use in the RDP Zone. The College is permitted as a special exception in the R.C.2 Zone.

The proposed WWTP will be a state-of-the-art facility; it has an anticipated construction cost of $1,000,000 with an estimated operational budget of $50,000 per year. Given the current economic climate, in which governmental funding to education is being dramatically cut back, it is necessary for the College to generate on its own the funds necessary for the construction and continued operation of the treatment plant. In order to do so, an increase in tuition will be necessary -- it would require an unmanageable and drastic increase in tuition per student to cover the capital and operating cost of the plant based on the College's current enrollment. The only economically feasible method of resolving the situation is for the College to generate additional revenue through an increased student population.

Accordingly, the College engaged Crozier and Associates, land planners, to review the existing facilities and suggest a proposal for expanded facilities in line with the prior history of the College. The final proposal is for two additional buildings to be set in back of the existing structures on campus (away from Green Spring Valley Road) and a small addition to the Library Resource Center, all situated in such a way as to preserve and promote the small school atmosphere and retaining open areas and buffers. The

new construction will alleviate current overcrowding, provide for core facilities (ex. bookstore, weight room, etc.) and additional classroom space.

Villa Julie thereafter applied for a special exception as a private college in an RC2 zone, pursuant to BCZR, Section 1A01.2.C.19. The College no longer seeks a special exception for a child care facility.

The individuals and groups who appeared before the Maryland Department of the Environment in connection with the discharge permit appeared and objected to the request for special exception. A hearing was held before the Zoning Commissioner for Baltimore County on March 10, 11, 12, 18, April 9, 15 and May 15, 1992.

II.

DISCUSSION OF AUTHORITY

A. THE ISSUE OF ALTERNATIVE WASTE WATER TREATMENT MODALITIES IS NOT A MATTER TO BE DETERMINED BY THE ZONING COMMISSIONER.

Throughout the course of this proceeding, the Protestants have introduced evidence concerning alternative methods of waste water treatment. This evidence does not raise any issue to be decided by the Zoning Commissioner in the context of this proceeding.

On or about January 7, 1991, the County Council for Baltimore County enacted an amendment to the County Master Water and Sewer Plan, Issue No. S-7. Petitioners' Exhibit No. 9. This amendment provided, in pertinent part, that the Master Water and Sewer Plan for Baltimore County was amended to permit a private waste water treatment plant in connection with the failing septic system on the Villa Julie property.

The evidence presented to the Zoning Commissioner discloses that at the time the Baltimore County government was first contacted regarding the need for an amendment to the Master Water and Sewer Plan to address the failed septic system on the College property, it was thought that the septic systems for both the College property and the adjoining property of the Sisters of Notre Dame de Namur were shared. Subsequently, it was ascertained that although both systems are located in the same area (on the Sisters' property), there are separate tile drain fields. Further investigation disclosed that the Sisters' system could be reworked to be effective for their (minimal) needs. Investigation by MES and DEPRM disclosed that the College system, however, could not be reworked because it had failed completely, from both an hydraulic standpoint and from a treatment standpoint.

Although the amendment to the Master Water and Sewer Plan authorized a community system, the subsequent disclosure that the Sisters' system could be reworked prompted them to decline to join with Villa Julie in the waste water treatment plant. Villa Julie had no such option, however, and was required to proceed with the WWTP as the best available method of resolving the existing failure of the College system.

The decision by the Baltimore County Council to authorize a private WWTP is dispositive of this issue as to the type of waste water treatment to be utilized by Villa Julie. The Zoning Commissioner is not authorized by statute, regulation or County Council directive to address this issue. The decision of the

County Council is final and dispositive on the right of Villa Julie to construct a private waste water treatment plant subject to meeting state and federal regulatory standards.

It should further be noted that the protestants were entitled to have and did have their concerns about this matter addressed by the applicable governing authority -- MDE has addressed the factual matters raised in this proceeding by Protestants in the course of the discharge permit process. See, MDE Notice of Final Determination (Petitioner's Exhibit 31). MDE decided that no feasible alternative exists. For both these reasons, then, the issue of alternative waste water treatment methods is not a matter to be decided in this proceeding.

B. THE SPECIAL EXCEPTION REQUEST DOES NOT INVOLVE AN INDEPENDENT DETERMINATION BY THE ZONING COMMISSIONER AS TO THE ALLOWABLE AMOUNT OF DISCHARGE FROM THE WASTE WATER TREATMENT PLANT.

As shown by the testimony and exhibits entered into evidence in the course of this proceeding, the Protestants have raised their concerns in two fora: (1) the NPDES discharge permit process before the Maryland Department of the Environment; and (2) before the Zoning Commissioner in the course of this proceeding. The issue of the capacity of the WWTP is one to be decided by MDE under state and federal law -- it is not a zoning decision to be made by the Zoning Commissioner for Baltimore County.

Preliminarily, in addressing this issue it should be noted that the County Council in the amendment to the Master Water and Sewer Plan indicated that the amount of discharge was to be resolved in a special exception hearing. The ambiguity in the

County Council's directive in this regard was resolved and explained in the testimony of Gene Neff, Director of the Department of Public Works for Baltimore County.

Mr. Neff explained that this language (prepared and submitted to the County Council by his department) meant that the decision of the Zoning Commissioner in either granting or denying the requested special exception would determine the size of the plant -- i.e., if the Zoning Commissioner were to grant the special exception, then the amount of discharge would be that amount as approved by the Maryland Department of the Environment pursuant to the NPDES discharge permit process; if he were to deny the special exception, then the waste water treatment plant would necessarily have to be determined by the present needs of the College and any proposed intensification (as opposed to expansion) of use for the five-year life covered by the permit.

What is pellucid from Mr. Neff's testimony (and from that of James Dieter, Director of DEPRM) is that the amendment to the Master Water and Sewer Plan does not direct the Zoning Commissioner to independently evaluate what the maximum size of the waste water treatment plant should be. Baltimore County does not make this determination; the State (through MDE) makes this determination. The Zoning Commissioner is to decide whether to grant the special exception or not. From that decision the final determination as to the amount of discharge will be made by the Maryland Department of the Environment in the course of the NPDES discharge permit process.

Mr. Oscar Keys testified for the Protestants. He acknowledged that he was testifying as a private citizen, and not as a representative of any authority in the Baltimore County government. In the course of his testimony Mr. Keys expressed his personal opinion, an opinion that was in direct conflict with the testimony of Mr. Neff and Mr. Dieter. Mr. Neff and Mr. Dieter were testifying as the authorized representatives of Baltimore County. Mr. Keys' interpretation of DEPRM regulations is clearly erroneous in light of the testimony from that agency's authorized representative Mr. Dieter, as well as from the Mr. Neff, the Director of Public Works for Baltimore County.

That the Zoning Commissioner is not the proper entity to make a decision as to the permissible amount of discharge is further buttressed by Maryland law. The exhibits introduced into evidence disclose that the areas of water pollution and waste water discharge have been pre-empted from local control since these spheres of decision making are fully occupied by the State of Maryland. Titles 01, 02, 03 and 04 of Title 8 of the Code of Maryland Regulations ("C.O.M.A.R."). These regulations address the minutiae of water pollution and discharge of treated effluent. The governing state statutes, contained in Title 9 of the Environment Article, Annot. Code of Maryland, charge MDE with managing, improving, supervising, controlling and conserving the waters of the State of Maryland, and require MDE to develop comprehensive programs for the control of water pollution.

One may not discharge any pollutants into the waters of this State or operate any facility that discharges pollutants, except as is permitted by a State discharge permit issued by MDE. Maryland Environmental Code Annot., Sections 9-322 (1987). MDE is authorized to adopt rules and regulations that set effluent standards for discharge permits and water quality limitations to protect public health, recreation, industry and wildlife. Maryland Environmental Code Annot., Section 9-314 (1987).

Water quality standards set the maximum allowable short and long term concentrations of pollutants in the water, the permissible temperature range, and the minimum permissible level of dissolved oxygen in the water. Id. at Section 9-314(b)(1). Effluent standards specify the permissible levels of allowable wastes and the physical, thermal, chemical, biological and radioactive properties of allowable wastes. Id. at Section 9-314(b)(2).

The Federal Pollution Control Act (the Clean Water Act) requires that a person hold a federal national pollutant discharge elimination system (NPDES) permit prior to discharging pollutants into any navigable waters of the United States. 33 U.S.C. Sections 1341(a), 1342 (1987). Where a state program meets certain requirements, the United States Environmental Protection Agency (EPA) approves the program and suspends its own NPDES licensing program in that state. The EPA continues to receive copies of applications for NPDES permits and retains the power to veto state NPDES permits.

Maryland is qualified and has been delegated the power by EPA to issue permits in this state. In adopting regulations governing the issuance of permits, MDE is required to consider, among other things, the character of the area involved, the nature of the receiving body of water, and the technical feasibility and the economic reasonableness of measuring or reducing the particular type of water pollution at issue. Maryland Environmental Code Annot., Section 9-313 (1987).

MDE may issue a discharge permit upon its determination that the terms of the permit meet all state and federal regulations, the water quality standards and the appropriate effluent limits. Maryland Environmental Code Annot., Section 9-324 (1987); COMAR 10.50.01.08H(1)(a). The effluent standards established by MDE must be at least as stringent as federal standards. Maryland Environment Code Annot., Section 9-314(c) (1987).

It is clear, then, that MDE, in evaluating and approving a discharge permit, is required to consider, inter alia:

(1) the public health, safety and welfare;

(2) present and future use of the waters of this state for public safety;

(3) the propagation of aquatic life and wildlife;

(4) recreational use of the waters of this state; and

(5) agricultural, industrial and other legitimate uses of the waters of this State. Maryland Environmental Code Annot., Section 9-314(a) (1987).

On March 20, 1992, MDE issued a Notice of Final Determination

(Petitioner's Exhibit 31) regarding the application for a discharge permit by Villa Julie in connection with the WWTP. That Notice of Final Determination approved Villa Julie's request to discharge up to 60,000 gpdof treated wastewater effluent from the College into an unnamed tributary of the Jones Falls, as more fully disclosed in the course of this hearing. In reaching this final determination, MDE considered the following points raised by the Protestants in this case (who also appeared in opposition to the discharge permit request):

1. That the amount of flow allowed by the discharge permit should be restricted to the College's current flow;

2. That discharge not be permitted into the unnamed tributary of the Jones Falls, which is an intermittent stream;

3. That the permit should not be issued until the Baltimore County zoning hearing on the amount of growth to be permitted is held;

4. That more specificity of detail be required in the permit application;

5. That the proposed discharge permit would contravene the riparian rights of downstream property owners;

6. That the discharge permit should not be issued until MDE assesses the impact of growth at the College on its ground water withdrawal;

7. That actual flow and water quality conditions of the Jones Falls where it would receive the flow from the College should be considered in establishing the discharge permit parameters;

8. That the discharge will negatively impact on downstream waters.

The Notice of Final Determination (Petitioner's Exhibit 31) discloses that MDE has considered the points of opposition raised by Protestants in this case and approved the permit over those objections.

In considering and making determinations on applications for NPDES discharge permits, MDE is exercising both federal and state authority. Its endeavors in this regard pre-empt local power over the quantity, quality and existence of the discharge from the WWTP.

The doctrine of pre-emption is grounded upon the authority of the General Assembly to reserve for itself exclusive dominion over an entire field of legislative concern. Ad + Soil, Inc. v County Commissioners of Queen Anne's County, 307 Md. 307, 513 A.2d 893 (1986). The doctrine precludes local legislative bodies from enacting any legislation whatsoever in the pre-empted field. Id. Pre-emption may be accomplished either expressly by statutory language prohibiting local legislation or, impliedly, by other unequivocal conduct of the General Assembly. Id. In either case, the focus of the inquiry is on whether the General Assembly has manifested a purpose to occupy exclusively a particular field. Id.

The applicable statutes and regulations clearly establish the MDE is authorized to and does exercise such broad authority over the field of waste water treatment and discharge that there exists no room for local authorities to act. Maryland Environment Code Annot., Section 9-313(b) (1987) requires MDE to consider, in

adopting any rule or regulation:

(1) existing physical conditions;

(2) the character of the area involved, including surrounding land uses;

(3) priority ranking of waters as to effluent limits;

(4) zoning;

(5) the nature of the existing receiving body of water;

(6) the technical feasibility of measuring or reducing the particular type of water pollution;

(7) the economic reasonableness of measuring or reducing the particular type of water pollution; and

(8) the purpose of sub-title 3 of title 9 of the Environment Article (which is to establish effective programs and to provide remedies to prevent, abate and control pollution of the waters of this State).

In light of the broad scope of authority given to MDE -- authority which it has exercised in the instant case in the Final Notice of Determination -- the entire field has been pre-empted and there is no room for exercise of power by local authorities (including the County Council or Zoning Commissioner).

The conclusion that local authority in this area has been pre-empted is further buttressed by an additional practical consideration. If county authority over the WWTP discharge were permitted, a dual system regulating water quality and effluent discharge would exist which would inevitably lead to utter confusion. See, Ad + Soil, Inc. v County Commissioners of Queen

Anne's County, supra, 513 A.2d at 903. The Court of Appeals has proscribed such a result in County Council v Montgomery Association, 274 Md. 52, 325 A.2d 112 (1975), striking down a county ordinance which would have created a dual system of regulating election finances. The Court of Appeals noted that in light of the comprehensiveness of the state legislation, and the unreasonable consequences that would ensue from concurrent regulation, the power of the local municipality to act had been pre-empted. Id.

The Ad + Soil case is distinguishable from the situation presented in the present proceeding. In Ad + Soil, the storage of sludge was a use of the land which was governed by the Zoning Code. In the instant case, amendment of the Master Water and Sewer Plan to permit and authorize a waste water treatment plant for the College is a planning (not zoning) action. See, Gregory v Board of County Commissioners of Frederick County, 89 Md. App. 635, 599 A.2d 469, 473 (1991). Additionally, both Mr. Dieter, on behalf of DEPRM, and Mr. Neff, Director of Public Works for Baltimore County, both testified without contradiction that Baltimore County does not determine discharge from waste water treatment plants -- that this is a matter for state determination.

The record is devoid of any authority on which the Zoning Commissioner could justify an independent determination of the permissible amount of discharge in direct contravention of the MDE decision to permit 60,000 gallons per day. The reference in BCZR, Section 502.1.e to "schools, parks, water, sewerage, transportation

or other public requirements, conveniences, or improvements" clearly refers to public sewerage and public water, and does not serve as a basis for the Zoning Commissioner to make decisions concerning a private waste water treatment plant which has been authorized by the Baltimore County County Council and for which the Maryland Department of the Environment has determined discharge capability after exhaustive review of all concerns raised by the Protestants in this case.

The record is also devoid of any evidence which could justify the Zoning Commissioner in restricting the size (i.e., amount of discharge of the WWTP). The testimony of Dane Bauer and the Notice of Final Determination together with the testimony of Frederick Chadsey, the site engineer who worked with Trout Unlimited the proposed 60,000 gpd discharge involved in the capacity and designation, establish the proposed 60,000 gallon discharge is well within the capacity and designation of the property, location and stream involved in this proceeding. The uncontradicted evidence is that the discharge into the stream meets all applicable criteria and is, in fact, beneficial (and not adverse) to water quality.

III.

THE ISSUE OF WATER APPROPRIATION IS NOT A MATTER TO BE DECIDED BY THE ZONING COMMISSIONER.

In a similar manner to water pollution, the State of Maryland has enacted broad and detailed regulations dealing with water appropriation. The concerns raised by the Protestants in this case relating to water appropriation involve matters which are to be decided by MDE in the course of the water appropriation permit

process. There is no authority given to the Zoning Commissioner to decide this issue. There is no reference to this matter in the amendment to the Master Water and Sewer Plan, nor do the Baltimore County Code or Zoning Regulations authorize the Zoning Commissioner to determine water appropriation issues. As with the waste water discharge, the reference in BCZR, Section 502.1(e) relates to public water, and does not serve to authorize the Zoning Commissioner to address water appropriation issues in connection with a private water system.

Even were the merits on this matter to be reached, the uncontradicted evidence is that Villa Julie is located on Cockeysville Marble, over one of the most productive aquifers in the State of Maryland, as testified to by Steve Brown of EA Engineering and acknowledged by the Protestants' own expert, Dr. Linaweaver.

The study done by EA Engineering which supports the conclusion that a water appropriations permit allowing the withdrawal of 60,000 gpd by the College is uncontradicted -- the Protestants offered no study tending to oppose or contradict in any respect the findings and conclusions of the EA Engineering study.

IV.

THE SPECIAL EXCEPTION SHOULD BE GRANTED.

A special exception use is part of the comprehensive zoning plan sharing the presumption that, as such, it is in the interests of the general welfare, and therefore, valid. Schultz v Pritts, 291 Md. 1, 432 A.2d 1319, 1325 (1981).

The special exception use is a valid zoning mechanism that delegates to an administrative officer or 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.

The duties given the administrative officer or board are to judge whether the neighboring properties in the general neighborhood would be adversely affected and whether the use in the particular case is in harmony with the general purpose and intent of the plan. Id.

While the applicant for special exception has the burden of adducing testimony which will show that the proposed use meets the prescribed standards and requirements, the applicant does not have the burden of establishing affirmatively that the proposed use would be a benefit to the community. Id.

If the applicant shows to the satisfaction of the Zoning Commissioner that the proposed use would be conducted without real detriment to the neighborhood and would not actually adversely affect the public interest, the applicant has met its burden. Id.

Where 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, the denial of an application for special exception use is arbitrary, capricious, and illegal. Id. Citing, Turner v Hammond, 270 Md. 41, 310 A.2d 543, 550-51 (1973); Rockville Fuel and Feed Company v Board of Appeals of Gaithersburg, 257 Md. 183, 262 A.2d 499, 502

(1970); Montgomery County v Merlands Club, Inc., 202 Md. 279, 96 A.2d 261, 264 (1953); Anderson v Sawyer, 23 Md. App. 612, 329 A.2d 716, 720 (1974).

The specific nature of the requisite adverse effect which will justify the denial of a special exception was defined in Deen v Baltimore Gas and Electric Company, 240 Md. 317, 214 A.2d 146, 153 (1965). In the Deen case, Baltimore Gas and Electric Company requested a special exception use that would permit construction of high tension transmission lines above ground. The Baltimore County Zoning Regulations then in effect provided that a special exception use could not be granted if the requested use would "be detrimental to the health, safety or general welfare of the locality involved." (This is the same language embodied in current BCZR, Section 502.1(a)).

The Baltimore County Board of Appeals granted the requested special exception use for that portion of the proposed transmission lines that would traverse a rural area not then serviced by public water or public sewer facilities. The grant of the special exception was affirmed on appeal to the trial court.

The case was then appealed to the Court of Appeals of Maryland, which affirmed the action of the Board and of the Circuit Court in granting the special exception use. In language which is quite pertinent to the case at bar, the Court of Appeals declared:

> Appellants assert that it was error for the Board to fail to consider the future effects which the high tension wires would have on the health, safety and general welfare of the locality 'which could be reasonably anticipated in the normal course of its

> development.' This factor was without relevance in this case, because there was no evidence produced at the hearing which would show that the effect of high tension wires on the future health, safety and general welfare of this area would be in any respect different than its effect on any other rural area. Section 502.1 implies that the effect on health, safety or general welfare must be in some sense unique or else a special exception could never be granted in such an area for the above ground location of high tension wires. The only evidence as to future conditions was testimony revealing the possibility of future residential development of this land but such a possibility alone does not come close to showing a future deleterious effect upon the public health, safety or general welfare." 214 A.2d at 153 (emphasis supplied)

A similar analysis was applied and a similar result was reached in the subsequent case of Anderson v Sawyer, supra. In Anderson, a property owner requested a special exception use that would permit construction of a funeral home in a residential zone. Evidence was presented by the protestants to show that the requested special exception use would tend to create congestion and unsafe conditions on neighboring roads and streets (the same criteria set forth in current BCZR, Section 502.1(b), and would have a depressing psychological effect that would interfere with the enjoyment of the adjoining properties, make them less saleable, and prevent them from appreciating in value as much as other homes in the area.

The Baltimore County Board of Appeals found that the grant of the requested special exception use would create traffic problems and would, in fact, "be detrimental otherwise to the general welfare of the locality involved." The Board denied the requested

special exception use.

The Circuit Court for Baltimore County reversed the denial of the requested special exception. This action of the Circuit Court was upheld on appeal by the Court of Special Appeals of Maryland, thereby requiring the grant of the requested special exception use. The Court of Special Appeals agreed with the trial court that there was no probative evidence to show any adverse effect. Of particular interest in connection with the present case, the court observed with respect to the alleged depreciation of value and enjoyment of neighboring properties:

> There can be no doubt that an undertaking business has an inherent depressing and disturbing psychological effect which may adversely affect persons residing in the immediate neighborhood in the enjoyment of their homes and which may lessen the values thereof. Indeed, it is precisely because of such inherent deleterious effects that the action of a local legislature in prohibiting such uses in a given zone or zones will be regarded as promoting the general welfare and as constitutionally sound. But in the instant case the legislature of Baltimore County has determined that as part of its comprehensive plan funeral home are to be allowed in residential zones notwithstanding their inherent deleterious effects. By defining a funeral homes as an appropriate use by way of special exception, the legislature of Baltimore County has, in essence, declared that such uses, if they satisfy the other specific requirements of the ordinance, do promote the health, safety and general welfare of the community. As part of the comprehensive zoning plan this legislative declaration shares in a presumption of validity and correctness which the courts will honor.
>
> The presumption that the general welfare is promoted by allowing funeral homes in a residential use district, notwithstanding

> their inherent depressing effects, cannot be overcome unless there are strong and substantial existing facts or circumstances showing that the particularized proposed use has detrimental effects above and beyond the inherent ones ordinarily associated with such uses. Consequently, the bald allegation that a funeral home use is inherently psychologically depressing and adversely influences adjoining property values, as well as other evidence which confirms that generally accepted conclusion, is insufficient to overcome the presumption that such a use promotes the general welfare of a local community. Because there were neither facts nor valid reasons to support the conclusion that the grant of the requested special exception would adversely affect adjoining and surrounding properties in any way other than would result from the location of any funeral home in any residential zone, the evidence presented by the protestants was, in effect, no evidence at all.

329 A.2d at 724 (citations omitted)

The case law establishes that a special exception use has an adverse effect and must be denied when it is determined from the facts and circumstances that the grant of the requested special exception use would result in an adverse effect upon adjoining and surrounding properties which is unique and different from the adverse effect that would otherwise result from the development of such a special exception use located anywhere within the zone. Schultz v Pritts, supra at 1327.

The cases further establish that the appropriate standard to be used in determining whether a requested special exception use would have an adverse effect and, therefore, should be denied is whether there are facts and circumstances which show that the particular use proposed at the particular location proposed would

have any adverse effects above and beyond those inherently associated with such a special exception use irrespective of its location within the zone. Id. Conversely, if the evidence produced by the Protestants fails to show that the particular use proposed at the particular location proposed would have an adverse effect (above and beyond those inherently associated with such a special exception use irrespective of its location within the zone), then the special exception should be granted. Id., Deen v Baltimore Gas and Electric Company, supra; Anderson v Sawyer, supra.

Section 502 of the Baltimore County Zoning Regulations govern special exceptions. The prefatory note to Section 502 recognizes that certain types of uses are required to secure permission to allow them to be placed in a zone in which their uncontrolled occurrence may cause unsatisfactory results of one kind or another. Because under certain conditions they could be detrimental to the health, safety or general welfare of the public, a special exception use is permitted only if granted by the Zoning Commissioner. Id.

Before any special exception can be granted, it must appear that the use for which it is requested will not:

> a. Be detrimental to the health, safety or general welfare of the locality involved;
> b. Tend to create congestion in roads, streets or alleys therein;
> c. Create a potential hazard from fire, panic or other dangers;
> d. Tend to overcrowd land and cause undue concentration of population;
> e. Interfere with adequate provisions for schools, parks, water, sewerage,

transportation or other public requirements, conveniences, or improvements;

f. Interfere with adequate light and air;

g. Be inconsistent with the purposes of the property's zoning classification nor in any other way inconsistent with the spirit and intent of the Baltimore County Zoning Regulations; nor

h. Be inconsistent with the impermeable surface and vegetative retention provisions of the Baltimore County Zoning Regulations. BCZR, Section 502.1.

Section 1A01.2.C further provides that in granting the special exception in any RC2 zone, the hearing authority empowered to hear the petition is to find that the use would not be detrimental to the primary agricultural uses in its vicinity. The testimony adduced during the hearing in the instant case establishes that Villa Julie has met its burden, and that the special exception should be permitted.

The testimony of the lay witnesses, the surrounding neighbors, is essentially the same. Their testimony was that they had "concerns" about various perceived issues. Their testimony, however, failed to direct itself to the crux of the matter to be decided -- will the grant of the special exception to Villa Julie College, pursuant to the site plan before the Zoning Commissioner, have an adverse effect upon adjoining and surrounding properties which is unique and different from the adverse effect that would otherwise result from the development of such a special exception use anywhere within an RC2 zone. The neighbors' expressed concern which was in the nature of a generalized "fear" of the future, was not directed to this critical point; the testimony of the lay

witnesses failed even to rise to the level of the testimony as to future conditions which was held in Deen v Baltimore Gas and Electric Company, supra, to be insufficient to justify the denial of the requested special exception.

It is important to remain focused on the fact that this case involves a specific site plan. The site plan in question is "self-limiting", it does not provide for unlimited or "uncontrolled" future growth which was the main concern of the Protestants. The limited issue to be decided in this case is whether the grant of the special exception in the context of the proposed site plan will have an adverse impact upon adjoining and surrounding properties which is "unique and different" from the adverse effect that would otherwise be associated with the grant of the special exception elsewhere in an RC2 zone.

The Protestants in this case seem to take the erroneous position that any impact justifies denial of the special exception. This position reflects an inaccurate understanding of the law. As the Maryland courts have recognized, a special exception use will have an adverse impact. It is only where that adverse impact will be greater in the proposed location than elsewhere in the zone that the requested special exception may permissibly be denied. Schultz v Pritts, supra.

The thrust of the greater part of the Protestants' case appears to be an effort to have the Zoning Commissioner make rulings on various matters covered by the State statutes contained in the Environmental Article and the COMAR regulations governing

waste water discharge and water pollution (e.g., amount of discharge feasibility of alternative treatment methods, etc.). The authority to make these determinations has not been delegated to the Zoning Commissioner by the State; nor has this authority been delegated to the Zoning Commissioner nor could it lawfully be so delegated by the County Council for Baltimore County. These determinations are functions of the State under the authority delegated pursuant to the Clean Water Act.

The State of Maryland has concluded in the detailed Notice of Final Determination, after public hearing in which the Protestants in this case had full opportunity to voice their objections, that any impact which the discharge from the waste water treatment plant will have on the stream is acceptable. It is not for the Zoning Commissioner to overrule that determination. Ad + Soil, supra. Similarly, the State will determine whether an adverse impact will result from the College's proposed water utilization in the course of the water appropriations permit process. Neither of these issues is a basis for denial of the special exception requested by Villa Julie College.

The opponents will have their day in court on these issues at the State level. There is no denial of their right to be heard (they have been heard once, will be heard again in connection with the adjudicatory hearing, and can press their concerns to the level of the Circuit Court and beyond). It would be improper to impose a double layer of decision making in connection with these issues. Ad + Soil, supra; County Council v Montgomery Association, supra.

This case presents a unique opportunity to look back into the future -- to review a track record of a proposed special exception use, to look back 45 years in time and to see that the College has had no adverse impact on agriculture. For over 45 years the College has been (as conceded by the Protestants) a "good neighbor". The College was a permitted use until the zoning of the property was changed in 1979. There is not a scintilla of testimony to the effect that Villa Julie has had an adverse impact on agriculture or traffic.

Generally, non-conforming use is a disapproved use which is intended to "wither on the vine." This does not apply to Villa Julie, because the College once was a permitted use, and the County Council has given its legislative imprimatur to the College by allowing such an institution in an RC2 zone (as a special exception).

It is also instructive to note that the two buildings proposed on the site plan are at the rear of the College property, substantially set back from Green Spring Valley Road and on the other side of the existing buildings. The two proposed buildings will not take away any presently utilized agricultural property. This is in complete contradistinction from the subdivision and development of neighboring property, where ornate and elaborate houses of over 8,000 sq. feet have been constructed in the midst of what was formerly actively farmed agricultural property. It is with ill-grace the Protestants make such a contention.

The instant case is distinguishable from the decision of the Court of Appeals in Board of County Commissioners for Cecil County v Holbrook, 314 Md. 210, 550 A.2d 664 (1988). In Holbrook, a home owner obtained a temporary building permit which permitted him to move a mobile home onto his property located in a sparsely developed rural area of Cecil County. He placed the mobile home in a small clearing near the borderline between his property and a 1.5 acre tract owned by Mr. and Mrs. Peters.

Mr. and Mrs. Peters subsequently completed construction of a new residence with an appraised value of $147,000.00, located less than 150 feet from the Holbrook's mobile home. One month before completion of the Peters' house, (after abandoning his "alleged" plans to build a house) Holbrook filed an application for a permanent special exception.

Alarmed at the prospect that their unobstructed view of the nearby trailer would become permanent, Mrs. Peters vigorously protested the granting of the special exception. The Cecil County Board of Appeals denied Holbrook's application for special exception use. In support of this decision, it noted that Mrs. Peters appeared in protest, that her testimony was that the mobil home in question was from 80 to 100 feet away and was visible from her front yard. (The visibility of the trailer from the Peters' residence was borne out by photographs). The Board found under the circumstances that the application should be denied "on the grounds that it does otherwise substantially diminish adjacent property values and under Schultz v Pritts, creates significantly adverse

effect in this location than were located in other areas of the zone." 550 A.2d at 666.

Denial of the special exception was upheld by the Court of Appeals which declared:

> We find no cause to question the Board's conclusion that the mobile home, in this particular location, would impair neighboring property value to a greater extent than it would elsewhere in the zone. Countless locations exist within the zone, and indeed, within Holbrook's own property, where the presence of a mobile home would have no effect whatsoever upon adjoining property values. If, for example, trees or topography hid the mobile home from the view of the neighboring property owners, there would remain, as the Board's counsel conceded, absolutely no grounds for denying a special exception.
>
> * * * *
>
> At any rate, in light of the mobile home's high degree of visibility in this particular location, its proximity to the Peters' home, and the markedly disparate values of the Holbrook and Peters residences, we hold that the Board reasonably concluded that the permanent presence of the Holbrook mobile home would create significantly greater adverse effects in this location than were it located elsewhere in the zone.
>
> Accordingly, we reverse the decision of the Court of Special Appeals and reinstate the order of the Board of Appeals of Cecil County, affirmed by the Circuit Court for Cecil County, denying the appellee's application for a special exception.

550 A.2d at 669. The Holbrook case is also distinguishable from the instant case in that the Harford County Zoning Ordinance in question required that the requested special exception use must not "substantially diminish or impair property values in the

neighborhood." Id. Section 502.1 of the BCZR does not contain such a standard.

In the present case, the testimony disclosed that the shed-like building in which the waste water treatment plant will be contained will have an outward appearance similar to any farm building in an agricultural zone. The structure will be located in a wooded area of the property hundreds and hundreds of feet from the nearest neighbor. The photograph showed that the structure will be barely (if at all) visible from the Mitchell residence. Moreover, the testimony of Mr. Bauer established that the substantial portion of the physical plant will be below grade, and that all vents will be connected to an odor control system. This is in complete opposition to the Holbrook case in which the landowner had a "unobstructed view" of the nearby trailer.

The facts in the present case are also distinguishable from two recent decisions: People's Counsel for Baltimore County v Mangione, 85 M.d App. 738, 584 A.2d 1318 (1991) and Gotach Center v Board of County Commissioners of Frederick County, 69 Md. App. 477, 483 A.2d 786.

Initially, it should be noted that in both Mangione and Gotach Center the appellate court was addressing a situation in which the administrative agency had denied a requested special exception use. Once that initial administrative finding was made, the courts are not permitted to overturn that decision or substitute their own judgment for that of the administrative body except in egregious circumstances. Schultz v Pritts, supra.

In Mangione, the requested special exception involved a proposal to build a new convalescent home on a four acre parcel inside a single-family detached home area of Lutherville, which was zoned D.R.5.5. The property in question was located one block from York Road in a residential area.

Factors which were found to justify the administrative agency in denying the special exception included the fact that the proposed convalescent home would sit on "the prominent or dominant terrain above the neighborhood, which would block out light from the west; and with prevailing breezes from the west, would generate odors from the central kitchen as well as from the dumpster." 584 A.2d at 1324. In addition, there was testimony that the development would exacerbate erosion created by the development and storm water runoff. Id. There was also testimony about small arterial streets whose only access to York Road from the community was by way of narrow, winding streets and that the increased traffic generated by the proposed use would jeopardize safety of the children playing in the streets. Id.

The Villa Julie proposal does not involve an intrusion into a densely developed residential area. There is absolutely no testimony in this case about children playing in Green Spring Valley Road who would be endangered by additional traffic. Moreover, the undisputed testimony was that the two proposed buildings will be behind the existing buildings and will not be visible from Green Spring Valley Road. Another differentiating factor is that the College property topography decreases in

elevation from north (Green Spring Valley Road) to the south, which will further minimize any visual impact of the proposed buildings. This is a totally different situation than the Mangione case where a new, dissimilar use was to be begun on prominent and dominant terrain above the neighborhood. Villa Julie has existed in its present location for over four and a half decades, without any adverse impact on the neighborhood. It is not a new use, and will not generate an adverse impact in this particular location greater than the adverse impact of a private college use elsewhere in an RC2 zone.

In the Gotach Center case, the Court of Special Appeals affirmed the denial of an application for special exception. The special exception involved was for a residential private school for the teaching and propagation of holistic medicine. The property on which the proposed school was to be constructed and operated was surrounded on three sides by a single-family residential subdivision.

The Gotach case is clearly distinguishable from the instant case in that the testimony produced by the petitioner in that case was not directed toward the standard annunciated in Schultz v Pritts. Inexplicably, the Petitioner in Gotach introduced evidence more properly directed to the standard enunciated in the case of Gowl v Atlantic Richfield Company, 27 Md. App. 410, 341 A.2d 832 (1975). The Court of Appeals in Schultz v Pritts eviscerated any contention that Gowl was the law of the State, observing that the Gowl standard was less favorable to a Petitioner than the standard

annunciated by the Court of Appeals and Schultz v Pritts.

In Gotach, the Court of Special Appeals observed that the expert testimony produced by the Petitioner (geared as it was to a Gowl type analysis) could properly be discounted by the administrative agency. 483 A.2d at 791. In the absence of any expert testimony establishing that the standard of Schultz v Pritts was met by the proposed special exception use, the action of the administrative agency was upheld by the appellate court in light of the broad deference granted by reviewing courts to decisions of administrative agency decisions.

The expert testimony produced by Petitioner in the instant case (as opposed to Gotach) establishes that granting of the requested special exception to Villa Julie College will not have an adverse impact within the standard annunciated by the Court of Appeals in Schultz v Pritts. Testimony as to traffic impact and other factors in the present case does not rise to the level of either Gotach or Mangione. Under these circumstances, neither of these cases is persuasive as a basis for denying the requested special exception.

Similarly, the fact that the roofs of the proposed academic structures might be visible to Mr. Obrecht is to be distinguished. Mr. and Mrs. Obrecht (who recently acquired their property) are simply not entitled to see no new roofs within the view from their lofty perch. It is undisputed that Villa Julie could build a new shed or other accessory structure, to which Mr. Obrecht would have no right to object. When all is said and done, Mr. and Mrs.

Obrecht are not entitled to move to the Valley and have the roof area within their sight line frozen in permanent stasis.

The main thrust of the expert testimony produced by Protestants related to traffic on Green Spring Valley Road. Mr. Guckert, testifying for Villa Julie College, stated that based on the traffic study he performed the number of students could be doubled during morning and afternoon peak hours, and quadrupled during non-peak hours while still maintaining the same level of service on Green Spring Valley Road. This was the same conclusion reached by Protestants' expert, Mr. Wells. Mr. Wells discussed levels of service at the nearest signalized intersections to Villa Julie College, as well as the lengths on either side of the College entrance as follows:

YEAR 2000 - 3% YEARLY INCREASE IN BACKGROUND TRAFFIC

Name of Intersection	Levels of Service at a.m. & p.m.	
Park Heights Avenue & Green Spring Valley Road	a.m. - A	p.m. - B
Stevenson Road & Green Spring Valley Road	a.m. - A	p.m. - A
College Entrance & Green Spring Valley Road	a.m. - A	p.m. - A
Green Spring Avenue & Green Spring Valley Road	a.m. - D	p.m. - F
Falls Road & Green Spring Valley Road	a.m. - F	p.m. - F
Link Levels	a.m. - E	p.m. - E

YEAR 2000 - IMPACT OF 2538 STUDENTS

Park Heights Avenue & Green Spring Valley Road	a.m. - C	p.m. - B
Stevenson Road & Green Spring Valley Road	a.m. - A	p.m. - A
College Entrance & Green Spring Valley Road	a.m. - A	p.m. - A
Green Spring Avenue & Green Spring Valley Road	a.m. - D	p.m. - F
Falls Road & Green Spring Valley Road	a.m. - F	p.m. - F
Link Levels	a.m. - E	p.m. - E

Mr. Wells' testimony disclosed, then, that the level of service during peak hours will be the same in the year 2000 at the nearest signalized intersections to the College, and on the "links" on either side of the College entrance. It cannot be said that any increase in students from the College will have an adverse impact (within the meaning of Schultz v Pritts) when the level of service will remain the same after factoring in any increase in trips generated by the College.

Of paramount importance, there was no testimony from Mr. Wells regarding non-peak hours. The testimony of Mr. Guckert that the number of trips could be quadrupled in non-peak hours is therefore uncontradicted. Mr. Wells' testimony is consistent with Mr. Guckert's conclusion that any increase in trips will have no adverse impact on traffic within the scope of Schultz v Pritts.

The testimony during the course of the hearing before the Zoning Commissioner was that the Protestants (and, indeed,

substantially all the residents of Green Spring Valley) lease out their agricultural property to a contract farmer. That farmer (the only farmer who testified) said that he moves his farm equipment along Green Spring Valley Road during non-peak hours. This evidence supports the conclusion that any increase in trips will have no adverse impact on either farm or non-farm traffic.

Sam Crozier, the expert land planner who testified on behalf of Villa Julie College, gave his opinion that granting of the special exception would have no adverse impact. Mr. Crozier also pointed to the recent special exception granted to St. Pauls School (which is similarly located in part on the Valley floor), which was supported by the Valley's Planning Council, one of the Protestants in this case. There is no basis for discriminating against one educational institution (Villa Julie) when a similar special exception was granted to another institution in an analogous situation (St. Pauls). To do so would raise the specter of a violation of the doctrine of equal protection under the laws.

The testimony of Mr. Gerber on behalf of the Protestants was essentially that one might be able to find a location within an RC2 zone where the requested special exception might have less of an impact. This testimony fails to rise to the level required to establish that the requested special exception use would have a "unique and different" adverse impact at the proposed location which is <u>greater</u> than that associated with such a use in an RC2 zone generally. Mr. Gerber's testimony was <u>not</u> the same as saying the impact of the school in the present location is: (1) adverse;

and (2) more adverse than inherently associated with a private college use irrespective is the location in an RC2 zone. Mr. Gerber testified that he had "concerns" and "fears", but did not give an expert opinion as to these issues. His testimony will not suffice to justify denial of the requested special exception.

The evidence before the Zoning Commissioner is that three separate agencies of the Baltimore County government -- DEPRM, the Department of Public Works and the Office of Planning and Zoning -- support the proposed waste water treatment plant. Both Mr. Dieter of DEPRM and Mr. Neff, the Director of the Department of Public Works, testified that the College's septic system has failed.

Mr. Dieter and Mr. Bauer testified that alternatives have been explored and that the waste water treatment plant was the best solution under the circumstances (since there is little or no likelihood that public sewer will be extended to the property in the near future). MDE has addressed all the concerns raised by Protestants and has determined that discharge into the stream on the College property is allowable and that discharge of 60,000 gpd is acceptable. See, Notice of Final Determination (Petitioner's Exhibit 31). The testimony of Mr. Bauer from MES was that a 60,000 gpd system was inherently safer than a 30,000 gpd system because of the duplicate (or "backup") systems designed into the larger facility.

The testimony of Steve Brown of EA and Rick Chadsey, as well as Zoning Commissioner Exhibit 1, disclose that recharge of 60,000 gallons will occur. The testimony of Mr. Linaweaver on behalf of

the Protestants was based on the premise that 30,000 gallons was all the College needed. This is simply not the case, because an increase in intensity of use with the present number of students might require more than 30,000 gallons. There is simply no adequate basis to put a cap on the amount of gallonage the College can utilize (either in water appropriation or discharge).

The size of the discharge of the treatment plant can only be limited by the Zoning Commissioner if the Commissioner finds an independent basis under Section 502.1. The College drives the size of the waste water treatment plant, the waste water treatment plant does not determine the size of the College. The waste water treatment plant is not a growth-limiting tool; if the size of the College is to be limited it must be for an independent reason, not as a result of an arbitrary rejection of the MDE determination that 60,000 gpd is a permissible and allowable discharge. The evidence before the Zoning Commissioner does not support any finding that the requested special exception and accompanying site plan will have an adverse impact within the meaning of Schultz v Pritts. The requested special exception should be granted.

The Baltimore County Zoning Regulations specifically permit a college in an RC2 zone. Given that fact, where better placed in an RC2 zone could a college be located than the present Villa Julie property? First, the testimony establishes that Green Spring Valley Road is, in effect, an arterial commuter road. It is not a single-lane "farm" road.

Secondly, the College is located on one of the most productive aquifers in the State. It will have far less impact here than in the far north Baltimore County where well production can be a problem.

Thirdly, the College is located in an agricultural preservation area (Green Spring Valley) which is surrounded by residential development, as opposed to a purely agricultural area such as the agricultural areas of northern Baltimore County. The nature of Green Spring Valley with its baronial estates and fields leased to contract farmers, and the surrounding patterns of development, lead to the conclusion that the present College property is the most appropriate place for its location in an RC2 zone, and that the special exception should be granted because the College will not have an adverse impact within the ambit of Schultz v Pritts, supra.

Lastly, is the size of the College. As a non-conforming use (as present status) the College could increase its enrollment since an increase in student enrollment is an intensification and not an expansion. In light of its present facilities, by doing so the College would be required to schedule classes at inconvenient hours or overcrowd classrooms, resulting in a deleterious effect on the quality of the education and educational experience which the students presently receive. Either alterative would degrade rather than enhance the educational experience.

OPZ in its ZAC comments supports the special exception and suggests a maximum of 2500 students. This figure is consistent

with the testimony of Wes Guckert that the number of students could be quadrupled during non-peak hours. The greatest number of students on campus is approximately 550, between 10:00 and 11:00 a.m. (non-peak traffic hours). Quadrupling this figure would give approximately 2200 students, in line with the OPZ suggestion of 2500 students. From this, it can only be assumed that the limitation of 2500 students suggested by OPZ relates to the number of students registered for class on campus at any one time, rather than an arbitrary figure. Imposition of an arbitrary ceiling on total student enrollment would place the College in a position of being forced to prefer full-time students over part-time students, and would compromise the ability of the College to continue providing its present type and quality of education to all students. A flat limit on the total number of students would fail to take into account students taking classes off campus (e.g., students in the nursing program at Union Memorial Hospital), as well as students enrolled in the night school and students enrolled in the summer session. Such a restriction on total student enrollment would not be reasonably related to the impact (if any) resulting from the number of students on campus at any one time, and would therefore be arbitrary.

V.

THE PETITION FOR VARIANCES SHOULD BE GRANTED.

In the course of day two of the hearing, it was stipulated that variances 1 through 5, and 8 through 10 were not objected to by the Protestants.

Variance number 6 and 7 relate to distances between existing buildings and proposed new building F as shown on Petitioner's Exhibit 2. Variances numbers 11 and 12 relate to height of the two proposed new buildings. Variance 13 refers to the parking places.

Pursuant to BCZR, Section 307.1, the Zoning Commissioner is empowered to grant variances from height and area regulations in cases where strict compliance with the Zoning Regulations would result in practical difficulty or unreasonable hardship.

The testimony of Sam Crozier for the Petitioner was that the requested variances and issue were designed to create a more compact "footprint" for the buildings and to promote efficient usage of the property. Variances 6 and 7 and 11 and 12 are designed to promote the creation of a courtyard environment between the existing and proposed new buildings and to provide flexibility in the design and location of the two new buildings. Mr. Crozier further testified that the BCZR building setbacks and distances between buildings do not relate to single-user owners, but are intended to govern buildings located on separately owned parcels. Mr. Crozier gave his opinion that a practical difficulty or unreasonable hardship existed sufficient to justify the granting of these variances. The requested variances should be granted.

VI.

Conclusion

As Mr. Neff, Director of the Department of Public Works, testified, there is a present, emphatic need to resolve promptly the failed septic system on the College property. This is

recognized by three separate departments of the Baltimore County government, which are all in favor of the proposed private waste water treatment plant. The size of the WWTP is to be determined by MDE not the Zoning Commissioner. In any event, there is no credible evidence to suggest that the WWTP should be limited by the special exception process. It is a function of the State, not local zoning (or other) authorities.

Moreover, this is a College which has existed at this location for 45 years, has been a good neighbor, and has not had an adverse impact on agricultural activity. The expansion which neighbors fear is limited by the site plan.

What Villa Julie is seeking in this case is permission to construct two new buildings which will serve to enable the College to finance a badly needed waste water treatment plant and to alleviate existing overcrowding conditions and lack of core facilities at the College. Contrary to the neighbors' expressed "fears," the College is not seeking unfettered right to expand indefinitely -- what is before the Zoning Commissioner is a self-limiting site plan which does not justify a finding that granting of the special exception, special hearing and variances will result in an adverse impact, as that term is defined by the law of this State.

The objections by the adjoining neighbors with riparian rights in the intermittent stream concerning the proposed discharge into the intermittent stream are somewhat disingenuous in light of the offer by Villa Julie College during the hearing to pipe directly to

the Jones Falls if the necessary easements could be obtained from those very neighbors. Their refusal to grant the easements places the College in the very position of which those neighbors complain -- the necessity of discharging into the intermittent stream. Having created this conundrum, the neighbors should not be permitted to take advantage of it to the detriment of the College.

WHEREFORE, Villa Julie College, Inc., Petitioner, respectfully requests that the Zoning Commissioner for Baltimore County enter an order:

1. Granting a special exception for a private collage in a RC2 zone with a waste water treatment plant the size of the plant to be determined from time to time by the Maryland State Department of Environment Water Management Administration.

Or in the alternative,

The size of the waste water treatment plant shall not exceed 60,000 gpd of treated waste water effluent unless modified by the Maryland State Department of Environment Water Management Administration.

2. Denying the special exception for a group child care center.

3. Approving a special hearing for a modified parking plan and a residential caretaker dwelling as an accessory use to a college.

4. Granting variances to permit a distance of:

A. 42 ft between existing Buildings #1 and 2 in lieu of the required 70 ft;

B. 30 ft between existing Building #3 and existing storage building in lieu of the required 70 ft;

C. 32 ft between existing maintenance equipment building and existing storage building in lieu of the required 70 ft;

D. 40 ft between existing Building "E" and existing shed in lieu of the required 70 ft;

E. 60 ft between existing Building "C" and existing Building "A" in lieu of the required 70 ft;

F. 60 ft between existing Building "A" and proposed building envelope "F" in lieu of the required 70 ft;

G. 20 ft between existing Building "D" and proposed building envelope "F" in lieu of the required 70 ft;

H. to permit a total of 105.2 sq ft of existing signs i lieu of the permitted 30 sq ft;

I. to permit a maximum height of 39.5 ft in lieu of the permitted 35 ft for existing Building "A";

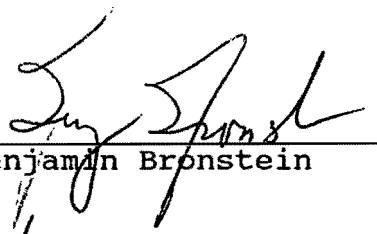
J. to permit maximum height of 54.8 ft in lieu of the permitted 35 ft for existing Building "B";

K. to permit a maximum of height of 48 ft in height within building envelope "F" in lieu of the permitted 35 ft for 2 proposed buildings;

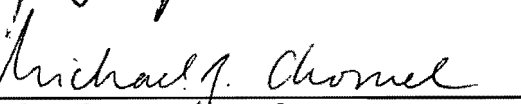
L. to permit a distance of 0 ft in lieu of the required 70 ft between the 2 proposed buildings within building envelope "F";

M. to permit 503 parking spaces 8 ft wide x 18 ft deep in lieu of the required 8.5 ft wide x 18 ft deep.

Respectfully submitted,



Benjamin Bronstein



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Attorneys for Villa Julie College, Inc., Petitioner

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on this 26 day of May, 1992, a copy of the foregoing was mailed, postage pre-paid to J. Carroll Holzer, Esquire, Holzer, Maher, Demilio & Lee, 305 West Chesapeake Avenue, Suite 105, Towson, Maryland 21204, and K. Donald Proctor, Esquire, Miles and Stockbridge, Suite 300, 600 Washington Avenue, Towson, Maryland 21204, attorneys for Protestants.

Benjamin Bronstein

5/15/92

MJC/BB/mlh/522.00/05.14.92

IN THE MATTER OF THE	*	BEFORE THE
PETITION FOR	*	ZONING COMMISSIONER
SPECIAL EXCEPTION BY	*	FOR BALTIMORE COUNTY
VILLA JULIE COLLEGE, INC.	*	CASE NO.: 92-285-XA ITEM 146

* * * * * * * * * * * * * *

MEMORANDUM IN OPPOSITION TO MOTION TO DISMISS PETITION FOR SPECIAL EXCEPTION

Villa Julie College, Inc., ("Villa Julie"), Petitioner, files this Memorandum in Opposition to the Motion to Dismiss Petition for Special Exception filed herein on behalf of Protestants and says:

This case involves an application for a special exception by Villa Julie for a private college an in R.C.2 zone. The evidence before the Zoning Commissioner establishes that the College has been in existence since at least 1949, and is a non-conforming use in the present R.C.2 zone which was established in 1979. Prior to the present zoning, the property was zoned R.D.P. (Rural Deferred Planning), which permitted the College as a use of right.

I

THE MATTER OF THE WASTE WATER TREATMENT PLANT IS NOT PROPERLY BEFORE THE ZONING COMMISSIONER IN THIS PETITION FOR SPECIAL EXCEPTIONS.

Much ado has been made by Protestants regarding a private wastewater treatment plant ("WWTP") which Villa Julie proposes to construct. This is not an issue for the Zoning Commissioner's determination. The evidence adduced establishes that the current septic system utilized by the College (and which is located on the adjoining property of the Sisters of Notre Dame de Namur) has

failed. Villa Julie engaged the services of Maryland Environmental Services, Inc. ("MES"), a quasi-state agency whose responsibility it is to supervise the design, construction and operation of waste water treatment plants throughout the State, to perform an analysis of the College's needs and to propose a solution.

MES evaluated the available alternatives and concluded that a private WWTP was the most appropriate solution.

Title 9, subtitle 5 of the Maryland Environment Code Annot. requires the governing body of each county to adopt and submit to the Maryland Department of the Environment ("MDE") a county plan that concerns, inter alia, sewerage and solid waste disposal. Pursuant to this legislative mandate, Baltimore County has enacted a Master Water and Sewerage Plan. On February 4, 1991, the Baltimore County Council enacted an amendment to the Master Water and Sewerage Plan which authorized a WWTP for the Villa Julie property. This was a planning decision, not a zoning action. See, Gregory v Board of County Commissioners of Frederick County, 89 Md App. 635, 599 A.2d 469, 473 (1991). Since the amendment was not a "zoning" action, it is not within the purview of the Zoning Commissioner to review. Baltimore County Code, Section 26-127 (1991).

Under Title 9 of the Environment Article, MDE is charged with managing, improving, supervising, controlling and conserving the waters of the State of Maryland and is required to develop comprehensive programs for the control of water pollution.

One may not discharge any pollutants into the waters of this

State or operate any facility that discharges pollutants except as is permitted by a State discharge permit issued by MDE. Maryland Environment Code Annot., Sections 9-322, 9-323 (1987). MDE is authorized to adopt rules and regulations that set effluent standards for discharge permits and water quality limitations to protect public health, recreation, industry and wildlife. Maryland Environment Code Annot., Section 9-314 (1987). Water quality standards set the maximum allowable short and long term concentrations of pollutants in the water, the permissible temperature range, and the minimum permissible level of dissolved oxygen in the water. Id. at Section 9-314(b)(1). Effluent standards specify the permissible levels of allowable wastes and the physical, thermal, chemical, biological and radioactive properties of allowable wastes. Id. at Section 9-314(b)(2).

The Federal Pollution Control Act (the Clean Water Act) requires that a person hold a federal national pollutant discharge elimination system (NPDES) permit prior to discharging pollutants into any navigable waters of the United States. 33 U.S.C. Sections 1341(a), 1342 (1987). Where a state program meets certain requirements, the United States Environmental Protection Agency (EPA) approves the program and suspends its own NPDES licensing program in that state. The EPA continues to receive copies of applications for NPDES permits and retains the power to veto state NPDES permits.

Maryland is qualified and has been delegated the power by EPA to issue permits in this state. See attached Memorandum of

Understanding between EPA and MDE, dated May 18, 1989. In adopting regulations governing the issuance of permits, MDE is required to consider, among other things, the character of the area involved, the nature of the receiving body of water, and the technical feasibility and the economic reasonableness of measuring or reducing the particular type of water pollution at issue. Maryland Environment Code Annot., Section 9-313 (1987).

MDE may issue a discharge permit upon its determination that the terms of the permit meet all state and federal regulations, the water quality standards and the appropriate effluent limits. Maryland Environment Code Annot., Section 9-324 (1987); COMAR 10.50.01.08H(1)(a). The effluent standards established by MDE must be at least as stringent as federal standards. Maryland Environment Code Annot., Section 9-314(c) (1987).

It is clear, then, that MDE, in evaluating and approving a discharge permit, is required to consider, inter alia:

(1) the public health, safety and welfare;

(2) present and future use of the waters of this state for public supply;

(3) the propagation of aquatic life and wildlife;

(4) recreational use of the waters of this state; and

(5) agricultural, industrial and other legitimate uses of the waters of this State. Maryland Environment Code Annot., Section 9-314(a) (1987).

On March 20, 1992, MDE issued a Notice of Final Determination (Petitioner's Exhibit 31) regarding the application for a discharge

permit by Villa Julie in connection with the WWTP. That Notice of Final Determination approved Villa Julie's request to discharge up to 60,000 gallons per day of treated wastewater effluent from the College into an unnamed attributary of the Jones Falls, as more fully disclosed in the course of this hearing. In reaching this final determination, MDE considered the following points raised by the Protestants in this case (who also appeared in opposition to the discharge permit request):

1. That the amount of flow allowed by the discharge permit should be restricted to the College's current flow;

2. That discharge not be permitted into the unnamed tributary of the Jones Falls, which is an intermittent stream;

3. That the permit should not be issued until the Baltimore County zoning hearing on the amount of growth to be permitted is held;

4. That more specificity of detail be required in the permit application;

5. That the proposed discharge permit would contravene the riparian rights of downstream property owners;

6. That the discharge permit should not be issued until MDE assesses the impact of growth at the College on its ground water withdrawal;

7. That actual flow and water quality conditions of the Jones Falls where it would receive the flow from the College should be considered in establishing the discharge permit perameters;

8. That the discharge will negatively impact on downstream

waters.

The notice of final determination discloses that MDE has considered the points of opposition raised by Protestants in this case and approved the permit over those objections.

In considering and making determinations on applications for NPDES discharge permits, MDE is exercising both federal and state authority. Its endeavors in this regard pre-empt local power over the quantity, quality and existence of the discharge from the WWTP.

The doctrine of pre-emption is grounded upon the authority of the General Assembly to reserve for itself exclusive dominion over an entire field of legislative concern. Ad + Soil, Inc. v County Commissioners of Queen Anne's County, 307 Md. 307, 513 A.2d 893 (1986). When properly invoked, the doctrine precludes local legislative bodies from enacting any legislation whatsoever in the pre-empted field. Id. Pre-emption may be accomplished either expressly by statutory language prohibiting local legislation or, impliedly, by other unequivocal conduct of the General Assembly. Id. In either case, the focus of the inquiry must be on whether the General Assembly has manifested a purpose to occupy exclusively a particular field. Id.

The applicable statutes and regulations clearly establish the MDE is authorized and exercises such broad authority over the field of waste water treatment and discharge that there is no room for local authorities to act. Maryland Environment Code Annot., Section 9-313(b) (1987) requires MDE to consider, in adopting any rule or regulation:

(1) existing physical conditions;

(2) the character of the area involved, including surrounding land uses;

(3) priority ranking of waters as to effluent limits;

(4) zoning;

(5) the nature of the existing receiving body of water;

(6) the technical feasibility of measuring or reducing the particular type of water pollution;

(7) the economic reasonableness of measuring or reducing the particular type of water pollution; and

(8) the purpose of sub-title 3 of title 9 of the Environment Article (which is to establish effective programs and to provide remedies to prevent, abate and control pollution of the waters of this State).

In light of the broad scope of authority given to MDE -- authority which it has exercised in the instant case in the Final Notice of Determination -- the entire field has been pre-empted and there is no room for exercise of power by local authorities (including the County Council or Zoning Commissioner).

The conclusion that local authority in this area has been pre-empted is buttressed by an additional practical consideration. If county authority over the WWTP discharge were permitted, a dual system regulating water quality and effluent discharge would exist which would inevitably lead to utter confusion. See, Ad + Soil, Inc. v County Commissioners of Queen Anne's County, supra, 513 A.2d at 903. The Court of Appeals has proscribed such a result in

County Council v Montgomery Association, 274 Md. 52, 325 A.2d 112 (1975), striking down a county ordinance which would have created a duel system of regulating election finances. The Court of Appeals noted that in light of the comprehensiveness of the state legislation, and the unreasonable consequences that would ensue from concurrent regulation, the power of the local municipality to act had been pre-empted. Id.

CONCLUSION

The Zoning Commissioner does not have authority over the WWTP for at least the following reasons:

1. The County Council amended the Master Water and Sewer Plan to permit a WWTP. This was a planning -- not zoning -- decision which is not within the jurisdiction of the Zoning Commissioner.

2. Federal and state authority has fully occupied the field of wastewater treatment and discharge, through the NPDES system enacted and supervised under the aegis of MDE. MDE has fully addressed the issues raised by Protestants in this proceeding, and determined that discharge permit (and WWTP) should be permitted.

3. Any contrary result would give rise to the existence of a dual system of regulating the WWTP and treated effluent discharge, leading inevitably to utter confusion, and requiring the proponent (here, Villa Julie) to litigate the same issue on two separate fronts.

II

Assuming, arguendo, the Zoning Commissioner does have the authority to address the issue of the wastewater treatment plant on

the Villa Julie property, the plant should be permitted as an accessory structure or use.

The facts presented at the hearing establish that the septic system which services Villa Julie has failed. An alternative means of sewerage must be provided, in order to alleviate the threat to public health resulting from the failed septic system. The evidence further establishes that MES and Baltimore County have analyzed a number of available alternatives, including: (1) a septic system located elsewhere on the property; (2) spray irrigation; and (3) extension of public or private sewer to the College property.

Baltimore County and the residents of Green Spring Valley are adamantly opposed to the extension of public or private sewer to the Villa Julie property, rendering this option unfeasible. The testimony discloses that thorough testing demonstrates there is no area on the College property appropriate for a subsurface septic system. Testimony further establishes that a spray system is unacceptable because it would be unable to handle the required quantity of effluent and for aesthetic reasons.

This leaves one alternative -- a private wastewater treatment plant, which is proposed by Villa Julie. The record reflects the proposed WWTP meets all requirements of the state and federal authorities and is a "state of the art" facility. In their Motion to Dismiss, the Protestants suggest that the WWTP: (1) is not a "permitted use in an R.C.2 zone", and (2) "cannot qualify for a special exception in the R.C.2 zone". This argument is fallacious

in that it fails to recognize that sewage disposal is not a primary "use", to be subject to zoning regulations governing uses of property.

Villa Julie is an approved use in an R.C.2 zone (as a special exception). This means that the College has the right to use the property as a school if the applicable requirements under Baltimore County Zoning Regulations, Section 502.1 can be met (which they are in this case). The College has met (if not exceeded) all requirements of the State (and the federal government acting through the state) governing the size, design and discharge of the WWTP.

Disposal of sewage is inherent in the right to use property. Nowhere in the Baltimore County Zoning Regulations is there a prohibition from, or permission for, sewage disposal in connection with use of the premises. BCZR, Section 101 defines "accessory use or structure" as follows:

> A use or structure which - (a) is customarily incident and subordinate to and serves a principal use or structure; (b) is subordinate in area, extent, or purpose to the principal use or structure; (c) is located on the same lot as the principal use or structure served; and (d) contributes to the comfort, convenience, or necessity of occupants, business, or industry in the principal use or structure served; except that, where specifically provided in the applicable regulations, accessory off-street parking need not be located on the same lot.

The WWTP proposed for Villa Julie clearly meets this definition of accessory use or structure. To the extent that the Sisters later want to connect into the property is a matter which is not ripe for

determination at this time. Any potential zoning violation raised in that eventuality will need to be addressed at that appropriate (and later) point in time.

CONCLUSION

1. The location, size and discharge of the wastewater treatment plant is a matter of federal and state regulation, which has pre-empted any authority of Baltimore County or the Baltimore County Zoning Commissioner to regulate.

2. Assuming, arguendo, that the Zoning Commissioner does have authority to address the wastewater treatment plant issue, the WWTP constitutes an accessory use or structure within the Baltimore County Zoning Regulations and is permitted on this property.

EVANS, GEORGE AND BRONSTEIN

Benjamin Bronstein
205 Susquehanna Building
29 West Susquehanna Avenue
Towson, Maryland 21204
(410) 296-0200

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on this 15 day of May, 1992, a copy of the foregoing was hand delivered to J. Carroll Holzer, Esquire, Holzer, Maher, Demilio & Lee, 305 West Chesapeake Avenue, Suite 105, Towson, Maryland 21204, and K. Donald Proctor, Esquire, Miles and Stockbridge, Suite 300, 600 Washington Avenue, Towson, Maryland 21204, attorneys for Protestants.

Benjamin Bronstein

5/ /92

IN THE MATTER OF THE PETITION FOR SPECIAL EXCEPTION BY VILLA JULIE COLLEGE, INC.	*	BEFORE THE
	*	ZONING COMMISSIONER
	*	OF BALTIMORE COUNTY
	*	92-285-XA
	*	ITEM 146

* * * * * * * * * * * * *

MOTION TO DISMISS PETITION FOR SPECIAL EXCEPTION

Barton S. Mitchell and Elizabeth Mitchell, Clark Farm Associates, Timothy M. Rodgers and Mary Stewart Rodgers, and Thomas F. Obrecht, by their attorney, K. Donald Proctor, move that the Petition for Special Exception by Villa Julie College, Inc. be dismissed for the reasons set forth herein and for such additional reasons as will be orally stated at the hearing in this matter.

As the evidence herein demonstrates, Villa Julie's plans contemplate the construction of a sewerage treatment plant. The sewerage treatment plant is intended to treat effluent both from Villa Julie College and from the retirement home of the Sisters of Notre Dame located on the lot immediately to the east of that of Villa Julie.

In January of 1991, the Baltimore County Council approved an Amendment to the Baltimore County Water and Sewer Plan relating to the Villa Julie and Notre Dame properties. Prior to that Amendment, those properties had been scheduled for no planned

service. The Amendment provided "special authorization to operate a community sewage treatment plant for the combined properties, with capacity subject to a special exception to the RC2 zoning."

THE PROPOSED SEWERAGE TREATMENT PLANT
IS NOT A PERMITTED USE IN AN RC2 ZONE,
NOR IS IT PERMITTED BY SPECIAL EXCEPTION

The Amendment of the Baltimore County Water and Sewer Plan by the County Council does not, in and of itself, permit the use of the proposed sewerage treatment plant. As the Court said in Gregory v. Frederick County Commissioners, 89 Md. App. 635, 641 (1991) in discussing an amendment to the Frederick County Water and Sewer Plan:

> "The amendment was not substantially concerned with use regulation. While it changed the water supply and sewerage services priority categories of the subject properties, it had no impact, in and of itself, on the otherwise allowable uses of the properties as determined by their zoning classifications." (Emphasis added).

Accordingly, Villa Julie's property can be used for a sewerage treatment plant only if that use is permitted as of right or by special exception under the Baltimore County Zoning Regulations. See, Kowalski v. Lamar, 25 Md. App. 493, 498 (1975), where the court, interpreting the Baltimore County Zoning Regulations stated: "Any use other than those permitted and being carried on as of right or by special exception is prohibited."

1. There is no permitted use in an RC2 zone for a sewerage treatment plant.

The only use remotely similar is that of "underground sewer mains." (Section 1A01.2B(5)). Obviously, a sewage treatment plant could not qualify within this use.

Nor is a sewerage treatment plant an "accessory use or structure." (Section 1A01.2B(7)). This is because it will serve more than one principal use. "Accessory use or structure" is defined in the Baltimore County Zoning Regulations as:

> "a use or structure which (a) is customarily incident and subordinate to and serves a principal use or structure; (b) is subordinate in an area, extent, or purpose to the principal use or structure; (c) is located on the same lot as the principal use or structure served; and (d) contributes to the comfort, convenience, or necessity of occupants, business, or industry in the principal use or structure served....." (Emphasis added).

Here, Villa Julie's own evidence, as well as the County Council's Amendment to the Water and Sewer Plan, both disclose that the proposed sewerage treatment plant will serve more than one principal use. Both Villa Julie and the retirement home of the Sisters of Notre Dame will utilize the structure. Consistent with this, Section 9-501(b) of the Environment Article of the Annotated Code of Maryland, under which the Baltimore County Water and Sewer Plan was promulgated, defines "community sewerage system" as "a publicly or privately owned sewerage system that serves at least two lots." (Emphasis added).

The Court in Carroll County Commissioners v. Zent, 86 Md. App. 745, 763 (1991) confirmed this interpretation:

> "An accessory use must be customarily incident to the principal use, serving no other principal use..." (Quoting from the Illinois Intermediate Appellate Court). (Emphasis added).

Accordingly, since it will serve more than one principal use, the sewerage treatment plant is not an accessory use or structure.

In addition, there has not been, nor can there be, any evidence that a community sewerage treatment plant is "customarily incident" to a private college.

2. The sewage treatment plant cannot qualify for a special exception in the RC2 zone.

The only special exception in an RC2 zone which might remotely encompass Villa Julie's proposed sewerage treatment plant does not permit the proposed use either. Section 1A01.2(C)(13) permits "public utility uses not permitted as of right" in an RC2 zone. Here, the evidence is that the proposed sewerage treatment plant is to be private. The Baltimore County Zoning Regulations (Section 411) clearly contemplate that a "public utility use" permitted by special exception must relate to a "public utility's service." Section 411 states:

> "For public utility uses permitted only by special exception, in addition to the provisions of §502, the following regulations shall apply.

411.1. The use must be needed for the proper rendition of the public utility's service and the location thereof shall not seriously impair the use of neighboring property." (Emphasis added).

Clearly, Villa Julie is not a public utility. Just as clearly, the General Assembly has specified that the Maryland Environmental Service, which is under contract to Villa Julie, is not a public utility. Section 3-128 of the Natural Resources Article states:

(a) "If the [Maryland Environmental] Service and a municipality or person fail to reach agreement on rates, fees, or other charges to be exacted by the Service, the Public Service Commission, on the petition of either party to the disagreement, shall assume jurisdiction for the purpose of arbitrating the disagreement. The provisions of this section and the jurisdiction of the Public Service Commission shall not apply to any rates, fees, or charges agreed to by contract between the Service and a municipality or person.

(b) The Service may not be deemed to be a public service company within the meaning of Article 78 of the Code, and, except as provided in this section, the jurisdiction and powers of the Public Service Commission do not extend to the Service." (Emphasis added).

As further confirmation of the fact that the proposed use is not a public utility use, Article 78, §24A of the Annotated Code of Maryland, which governs construction of sewage disposal systems, excludes the proposed use from the jurisdiction of the Public Service Commission:

"This section shall not apply to a...government agency, nor to the construction of a...sewerage disposal system by an individual for his own personal or private use or

by a group of individuals for their joint personal or private use. ..."

Finally, Villa Julie obviously does not itself regard the sewerage treatment plant as a public utility use, as it has not filed a petition for special exception for a public utility use.

3. There is no other basis upon which the proposed use by Villa Julie of its property for a community sewerage treatment system can be permitted.

First, the use is not exempt as a "public use." Thus in Board of Child Care v. Harker, 316 Md. 683 (1989), the Court, construing the Baltimore County Zoning Regulations, held that a private entity, even though performing a public use under contract with the State, could not qualify for the State's exemption from zoning regulation.

Second, the General Assembly has not pre-empted the field of sewerage treatment so as to preclude exercise of control by zoning regulations in this field. In Ad-Soil, Inc. v. Queen Anne's County Commissioners, 307 Md. 307 (1986), the Court stated, discussing the statutory provisions under which county water and sewer plans are promulgated, that those provisions, "which contain the bulk of the state law governing sewerage management, [are] replete with references to the concurrent legislative authority of local jurisdictions."

Finally, the fact that Villa Julie has hired the Maryland Environmental Service to act as its consultant in connection with

the proposed sewerage treatment plant does not bring the proposed plant within the exception from zoning regulation generally applicable to the state either. The State's exemption has no applicability where legislation "specifically provides [or] clearly implies that the state is intended to be subject to its provisions." City of Baltimore v. State of Maryland, 281 Md. 217, 223 (1977). See also Glascock v. Baltimore County, 321 Md. 118, 122 (1990).

This is the case here. Section 3-102 of the Natural Resources article, creating the Maryland Environmental Service, subjects the Service to local zoning authority:

> "Nothing in this subtitle shall be construed to alter, change, modify, or restrict the zoning or land use planning authority of any municipality or public instrumentality. ..."

Similarly, §9-502 of the Environment Article governing county water and sewerage plans states:

> "Any rule or regulation adopted under this subtitle does not limit or supersede any other county, municipal, or state law, rule, or regulation that provides greater protection to the public health, safety, or welfare."

See, Ad-Soil, Inc. v. Queen Anne's County Commissioners, supra, 307 Md. at 327 quoting this provision to the effect that state law has not pre-empted this field.

For all of the above reasons, the proposed sewerage treatment plant is neither a permitted use nor a use permitted by

special exception in an RC2 zone. Accordingly, the Petition for Special Exception must be dismissed.

K. Donald Proctor
MILES & STOCKBRIDGE
600 Washington Avenue
Towson, Maryland 21204
(301)823-8110

Attorney for Barton S. Mitchell and Elizabeth Mitchell, Clark Farm Associates, Timothy M. Rodgers and Mary Stewart Rodgers, and Thomas F. Obrecht

3/ /92

IN THE MATTER OF THE	*	BEFORE THE
PETITION FOR	*	ZONING COMMISSIONER
SPECIAL EXCEPTION BY	*	OF
VILLA JULIE COLLEGE, INC.	*	BALTIMORE COUNTY
	*	Case No.: 92-285-XA Item 146
	*	

* * * * * * * * * * * * * *

MOTION TO DISMISS PETITION
FOR SPECIAL EXCEPTION

Valleys Planning Council, Homeowners of Greenspring, Greenspring Valley Association, Velvet Valley Association, Falls Road Community Associations and Douglas A. Carroll, III, Mr. & Mrs. Henry G. Hagan, Mr. & Mrs. Lawrence P. Naylor, III, Mr. & Mrs. Richard B. Buck and Mr. & Mrs. J. Stephen Immelt, individuals, by their attorney, **J. Carroll Holzer**, move that the Petition for Special Exception by Villa Julie College, Inc. be dismissed for the reasons set forth by fellow Protestants, Mitchell, Rodgers, Obrecht and Clark as set forth in their Motion to Dismiss and for the reasons orally set forth at the hearing in this matter. Protestants hereby adopt and endorse the Motion to Dismiss filed by K. Donald Proctor on behalf of his clients as aforesaid.

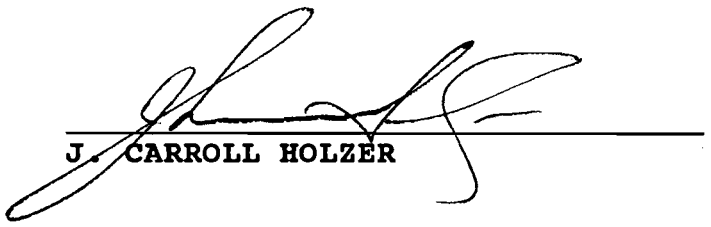
J. CARROLL HOLZER
Holzer, Maher, Demilio & Lee
305 West Chesapeake Avenue
Suite 105
Towson, Maryland 21204
410-825-6960
Attorney for Valleys Planning Council, Homeowners of Greenspring, Greenspring Valley Association, Velvet Valley Association, Falls Road Community Association and Individuals, Douglas A. Carroll, III, M/M Henry G. Hagan, M/M Lawrence P. Naylor, III, M/M Richard B. Buck, M/M J. Stephen Immelt

LAW OFFICES
HOLZER, MAHER
& DEMILIO
305 W. CHESAPEAKE AVENUE
SUITE 105
TOWSON, MARYLAND
21204

(301) 825-6960

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this _____ day of March, 1992, a copy of the aforegoing Motion to Dismiss Petition for Special Exception was mailed, postage prepaid to: Benjamin Bronstein, Esquire, Evans, George and Bronstein, Susquehanna Building, Suite 205, 29 West Susquehanna Avenue, Towson, Maryland 21204, Attorney for Petitioners.



J. CARROLL HOLZER

c:\wp\mot\villa.se

LES

[redacted]

3-10-92 Rm 118 9 am
3-11-92 Rm 118 9 am.
3-12-92 Rm 106 9 am.
3-18-92 Rm 118 9 am.
4-9-92 " 109 9 am
4-15-92 "

MAP NW12E
E. D. ____
DATE 2-21-92
200 BTF
1000 ✓
DP ____

CASE # 92-285-XA Item # 146

CERTIFICATE OF POSTING

1) Posted 2-21-92 Hearing Date See above
2) Posted _____ Hearing Date _____

ADS

1) Paper/Date TT 2-13 Enc ✓
Paper/Date JEFF 2-13 Enc ✓

2) Paper/Date _____ Enc ___
Paper/Date _____ Enc ___

P&A FEES
1) $330.82 PAID MAR 06 1992
2) _____

COMMENTS
Planning ___ Fire ___ Traffic ___
Critical Area ___ SHA ___ EPA ___
Health: ___

Associate _____

Zoning Violation # _____

Prior Hearing(s) _____

MICROFILMED

PAID #330.82

(4)

#146 92-285-XA

92-285-A

APPEAL
92-285-XA

146

SPH

PETITION FOR SPECIAL HEARING

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: 92-285-XA

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 a modified parking plan and to approve a residential caretaker dwelling as an accessory use to a college.

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:

(Type or Print Name)

Signature

Address

City and State

Legal Owner(s):

Villa Julie College, Inc.
(Type or Print Name)

By: Carolyn Nowusak
Signature President
CAROLYN NOWUSZAK

(Type or Print Name)

Signature

Attorney for Petitioner:

Benjamin Bronstein
Evans, George & Bronstein
(Type or Print Name)

Signature Benjamin Bronstein

29 W. Susquehanna Ave., Suite 205
Address

Towson, Maryland 21204
City and State

Attorney's Telephone No.: (301) 296-0200

1525 Green Spring Valley Rd. 486-7000
Address Phone No.

Stevenson, Maryland 21153
City and State

Name, address and phone number of legal owner, contract purchaser or representative to be contacted

Rick Chadsey, P.E.
Name

658 Kenilworth Dr., Ste. 100
Towson, Maryland 21204 825-8120
Address Phone No.

ORDERED By The Zoning Commissioner of Baltimore County, this _____ day of _____, 19_____, 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 _____ day of _____, 19_____, at _____ o'clock _____M.

FILED BY JOHN LEWIS
ANY TIME OR DAY
2 DAYS PRIOR. TIME.
POSTD BY ATTNY

Zoning Commissioner of Baltimore County.

Z.C.O.—No. 1

(over)

MICROFILMED

PETITION FOR SPECIAL EXCEPTION

1A6 SPH

92-285-XA

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

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 private college and a group childcare center (Class B) in a RC2 Zone.

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:

(Type or Print Name)

Signature

Address

City and State

Legal Owner(s):

Villa Julie College, Inc.

(Type or Print Name)

By: Carolyn Manuszak President

Signature CAROLYN MANUSZAK

(Type or Print Name)

Signature

Attorney for Petitioner:

Benjamin Bronstein

Evans, George & Bronstein

(Type or Print Name)

Signature BENJAMIN BRONSTEIN

29 W. Susquehanna Ave., Suite 205

Address

Towson, Maryland 21204

City and State

Attorney's Telephone No.: (301) 296-0200

1525 Green Spring Valley Rd. 486-7000

Address Phone No.

Stevenson, Maryland 21153

City and State

Name, address and phone number of legal owner, contract purchaser or representative to be contacted

Rick Chadsey, P.E.

Name

658 Kenilworth Dr., Ste. 100

Towson, Maryland 21204 825-8120

Address Phone No.

ORDERED By The Zoning Commissioner of Baltimore County, this _____ day of _____, 19_____, 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 _____ day of _____, 19_____, at _____ o'clock _____M.

Zoning Commissioner of Baltimore County.

Z.C.O.—No. 1

(over)

FILED BY JLL
ANY TIME OR DAY
2 DAYS HRNG TIME
RQSTD BY ATTNY

MICROFILMED

Pursuant to the advertisement, posting of property, and public hearing on the Petition and it appearing that by reason of the requirements of Section 502.1 of the Baltimore County Zoning Regulations

PETITION FOR ZONING VARIANCE

SPH 146

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: 92-285-XA

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

Variance from Section as per attached.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (indicate hardship or practical difficulty)

1. Existing buildings which cannot be effectively relocated.
2. Configuration of the site.
3. And for such reasons as may be demonstrated at the time of hearing.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance 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:

(Type or Print Name)

Signature

Address

City and State

Legal Owner(s):

Villa Julie College, Inc.
(Type or Print Name)

By: Carolyn Mannyak
Signature President
CAROLYN MANUS-ZAHL

(Type or Print Name)

Signature

Attorney for Petitioner:

Benjamin Bronstein
Evans, George & Bronstein
(Type or Print Name)

Signature Benjamin Bronstein

29 W. Susquehanna Ave., Suite 205
Address

Towson, Maryland 21204
City and State

Attorney's Telephone No.: (301) 296-0200

1525 Green Spring Valley Rd. 486-7000
Address Phone No.

Stevenson, Maryland 21153
City and State

Name, address and phone number of legal owner, contract purchaser or representative to be contacted

Rick Chadsey, P.E.
Name

658 Kenilworth Drive, Ste.100
Address Towson, Md. 21204 Phone No. 825-8120

ORDERED By The Zoning Commissioner of Baltimore County, this _____ day of _____, 19_____, 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 _____ day of _____, 19_____, at _____ o'clock

_____M.

Zoning Commissioner of Baltimore County.

(over)

FILED BY JLL
ANY TIME OR DAY
~~FEB~~ 2 DAYS' HRNG. TIME
REQ'D BY ATTNY

MICROFILMED

Pursuant to the advertisement, posting of property, and public hearing on the Petition and it appearing that strict compliance with the Baltimore County Zoning Regulations would/would not result in practical difficulty and unreasonable hardship upon the Petitioner(s) and the granting of the variance(s) requested will/will not adversely affect the health, safety, and general welfare of the community, the variance(s) should /should not be granted.

Therefore, IT IS ORDERED by the Zoning Commissioner of Baltimore County, this _____ day of _____, 19____, that the herein Petition for Variance(s) to permit

Variances from Section 102.2 & 1A01.3.B.3 to permit a distance of

1. 42 ft between existing Buildings #1 and 2 in lieu of the required 70 ft.

2. 30 ft between existing Building #3 and existing storage building in lieu of the required 70 ft.

3. 32 ft between existing maintenance equipment building and existing storage building in lieu of the required 70 ft.

4. 40 ft between existing Building "E" and existing shed in lieu of the required 70 ft.

5. 60 ft between existing Building "C" and existing Building "A" in lieu of the required 70 ft.

6. 60 ft between existing Building "A" and proposed building envelope "F" in lieu of the required 70 ft.

7. 20 ft between existing Building "D" and proposed building envelope "F" in lieu of the required 70 ft.

8. Variance from Section 413.1.b to permit a total of 105.2 sq ft of existing signs in lieu of the permitted 30 sq ft.

9. Variance from Section 1A01.3 to permit a maximum height of 39.5 ft. in lieu of the permitted 35 ft. for existing Building "A".

10. Variance from Section 1A01.3 to permit a maximum height of 54.8 ft. in lieu of the permitted 35 ft. for existing Building "B".

11. Variance from Section 1A01.3 to permit a maximum of height of 48 ft in height within building envelope "F" in lieu of the permitted 35 ft. for 2 proposed buildings.

12. Variance from Section 102.2 & 1A01.3.B.3 to permit a distance of 0 ft in lieu of the required 70 ft between the 2 proposed buildings within building envelope "F".

13. Variance from Section 409.3 to permit 503 parking spaces 8 ft wide X 18 ft deep in lieu of the required 8.5 ft wide X 18 ft deep.

MICROFILMED

FROM THE OFFICE OF
GEORGE WILLIAM STEPHENS, JR. & ASSOCIATES, INC.
ENGINEERS
658 KENILWORTH DRIVE, SUITE 100, TOWSON, MARYLAND 21204

146 SPH
92-285-XA

Description to accompany Zoning Petition, August 30, 1991
VILLA JULIE COLLEGE.

Beginning for the same at the intersection formed by the centerline of Green Spring Valley Road (30 foot wide) and the centerline of Nacirema Lane (60 foot wide), said intersection having Baltimore County Metropolitan District coordinate values of North 45931.73 and West 25568.14, running thence leaving said intersection, binding on the centerline of said Green Spring Valley Road, the four following courses:

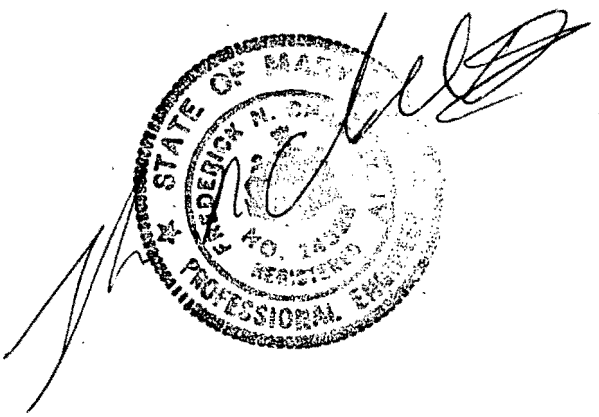
1) North 75 degrees 18 minutes 41 seconds East 940.50 feet,
2) southeasterly by a curve to the right having a radius of 213.22 feet for a distance of 116.23 feet, said curve being subtended by a chord bearing South 89 degrees 04 minutes 19 seconds East 114.80 feet,
3) South 73 degrees 27 minutes 19 seconds East 470.51 feet and
4) South 73 degrees 15 minutes 18 seconds East 394.90 feet,

running thence leaving said centerline the six following courses:

5) South 00 degrees 08 minutes 31 seconds West 350.00 feet,
6) South 42 degrees 58 minutes 31 seconds West 79.92 feet,
7) South 02 degrees 01 minutes 29 seconds East 1013.86 feet,
8) South 89 degrees 40 minutes 29 seconds West 1512.91 feet,
9) North 12 degrees 27 minutes 53 seconds West 244.32 feet and
10) North 12 degrees 35 minutes 12 seconds West 1232.50 feet to the point of beginning.

Containing 60.236 acres of land more or less, 0.661 acres thereof being in the bed of Green Spring Valley Road (30 foot wide).

NOTE: THE ABOVE DESCRIPTION IS FOR ZONING PURPOSES ONLY AND NOT TO BE USED FOR CONVEYANCES OR AGREEMENTS.



MICROFILMED

CERTIFICATE OF POSTING

ZONING DEPARTMENT OF BALTIMORE COUNTY

Towson, Maryland

92-285-SPHXA

District 8th Date of Posting 2-21-92

Posted for: Special Hearing - Special Exception - Variance

Petitioner: Villa Julie College INC.

Location of property: S/S of Greenspring Valley Road, 0 E of Nacarema Lane - 1521 Greenspring Valley Road

Location of Signs: South side of Greenspring Valley Road at entrance to Villa Julie College 1521 Greenspring Valley Rd.

Remarks:

Posted by J. D. Arata Date of return: 2-28-92

Signature

Number of Signs: 4

MICROFILMED

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 118, Baltimore County Courthouse, 400 Washington Avenue
and
Room 106, County Office Building, 111 W. Chesapeake Avenue Towson, Maryland 21204 as follows:

Case Number: 92-285-XA
S/S Greenspring Valley Road, 0' E of Nacirema Lane
1521 Greenspring Valley Rd.
8th Election District
3rd Councilmanic
Petitioner(s):
Villa Julie College, Inc.
Hearing: Tuesday, March 10, 1992 at 9:00 a.m., in room 118, County Courthouse.
Wednesday, March 11, 1992 at 9:00 a.m. in Room 118, County Courthouse.
Thursday, March 12, 1992 at 9:00 a.m. in Room 106, County Office Building.
Wednesday, March 18, 1992 at 9:00 a.m. in Room 118, County Courthouse.

Special Exception: for a private college and a group child care center (Class B). **Special Hearing:** to approve a modified parking plan and to approve a residential caretaker dwelling as an accessory use to a college. **Variance:** to permit a distance of 42 feet between existing Building #1 and #2 in lieu of the required 70 feet, 30 feet between existing Building #3 and existing storage building in lieu of the required 70 feet, 32 feet between existing maintenance equipment building and existing storage building in lieu of the required 70 feet, 40 feet between existing Building "E" and existing shed in lieu of the required 70 feet, 60 feet between existing Building "C" and existing Building "A" in lieu of the required 70 feet, 60 feet between existing Building "A:" and proposed builing envelope "F" in lieu of the required 70 feet, 20 feet between existing Building "D" and proposed building envelop "F" in lieu of the required 70 feet; to permit a total of 105.2 square feet of existing signs in lieu of the permitted 30 square feet; to permit a mixmum height

CERTIFICATE OF PUBLICATION

TOWSON, MD., 2/14, 1992

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 2/13, 1992.

TOWSON TIMES,

S. Zeke Orlinsky

Publisher

$ 230.82

MICROFILMED

4

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 118, Baltimore County Courthouse, 400 Washington Avenue
and
Room 106, County Office Building, 111 W. Chesapeake Avenue Towson, Maryland 21204 as follows:

Case Number: 92-285-XA
S/S Greenspring Valley Road, 0' E of Nacirema Lane
1521 Greenspring Valley Rd.
8th Election District
3rd Councilmanic
Petitioner(s):
Villa Julie College, Inc.
Hearing: Tuesday, March 10, 1992 at 9:00 a.m., in room 118, County Courthouse.
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CERTIFICATE OF PUBLICATION

TOWSON, MD., 2/14, 1992

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 2/13, 1992.

THE JEFFERSONIAN,

S. Zeke Orlinsky

Publisher

$ 230.82

MICROFILMED

CERTIFICATE OF POSTING

ZONING DEPARTMENT OF BALTIMORE COUNTY

Towson, Maryland

92 - 185 SPHA

District 8th Date of Posting 8/14/92

Posted for: Appeal

Petitioner: Villa Julie College, Inc.

Location of property: S/S Greenspring Valley Rd (1571) 0' E/Nacirema La

Location of Signs: Facing roadway on property of Petitioner

Remarks:

Posted by M. Keating Date of return: 8/21/92

Signature

Number of Signs: 1

receipt

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

Account: R-001-6150
Number

Date

9/24/91

H9200146

PUBLIC HEARING FEES	QTY	PRICE
020 -ZONING VARIANCE (OTHER)	1	
040 -SPECIAL HEARING (OTHER)	1	
050 -SPECIAL EXCEPTION	1	
070 -SUM OF ABOVE FEES (MAXIMUM)		$450.00
	TOTAL:	$450.00

LAST NAME OF OWNER: VILLA JUL

Please Make Checks Payable To: Baltimore County $450.00
BA C002:59PM09-24-91

MICROFILMED

Cashier Validation

receipt

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

8/07/92 — Date

A/2000007 — Number

Account: R-001-6150

APPEAL FEES	QTY		PRICE
120 -OF A SPECIAL EXC. ORDER	1	X	$250.00
140 -OF ALL OTHER ORDERS	2	X	$175.00
150 -POSTING SIGNS / ADVERTISING	1	X	$35.00
		TOTAL:	$635.00

LAST NAME OF OWNER: VILLA JULIE COLL

APPEAL FILED BY HOLZER, MAHER & DEMILIO, attorneys on behalf of Valleys Planning Council, Homeowners of Greenspring, Greenspring Valley Association, Falls Road Community Association and Douglas A Carroll, III, Mr. & Mrs. Henery G. Hagen, et al.

MICROFILMED

04A04#0122MICHRC $635.00
BA C001:28PM08-07-92
Please Make Checks Payable To: Baltimore County

Cashier Validation

receipt

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

Account: R-001-6150

Date

Number

92-285-SPHXA

8/11/92 A9300008

APPEAL FEES	QTY		PRICE
120 -OF A SPECIAL EXC. ORDER	1	X	$250.00
140 -OF ALL OTHER ORDERS	2	X	$175.00
150 -POSTING SIGNS / ADVERTISING	1	X	$35.00
		TOTAL:	$635.00

LAST NAME OF OWNER: VILLA JULIE COLL 04A04#0119MICHRC $635.00
BA C012:26PM08-11-92

~~HOWER~~ COLLINS **Please Make Checks Payable To: Baltimore County**

ier Validation

MICROFILMED

receipt

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

Account: R-001-6150

Date

Number 92-285-SPHXA

8/11/92 A9300009

APPEAL FEES	QTY		PRICE
120 -OF A SPECIAL EXC. ORDER	1	X	$250.00
140 -OF ALL OTHER ORDERS	2	X	$175.00
150 -POSTING SIGNS / ADVERTISING	1	X	$35.00
		TOTAL:	$635.00

LAST NAME OF OWNER: VILLA JULIE COLL

MICROFILMED

BRUNSTEIN 04A04#0118MICHRC $635.00
BA C012:25PM08-11-92

Please Make Checks Payable To: Baltimore County

Cashier Validation

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

receipt

Date

Account: R-001-6150
Number

92-285 SPHXM
(174 TOTAL)

8/12/92

C9301248

COPIES:	QTY		PRICE
740 -PHOTOCOPIES	90	X	$1.00
TOTAL:			$90.00

MICROFILMED

Please Make Checks Payable To: Baltimore County $90.00
BA C002:12PM08-17-92

Cashier Validation

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

receipt

Account: R-001-6150

Number

92-285 SPHXA
(179 TOTAL)

Date 8/12/92

C9301248

COPIES:	QTY		PRICE
740 -PHOTOCOPIES	90	X	$1.00
	TOTAL:		$90.00

MICROFILMED

Please Make Checks Payable To: Baltimore County $90.00

BA C002:12PM08-17-92

Cashier Validation

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

receipt

Account: R-001-6150

Date

Number

92-285-SPHXA
(174 TOTAL)

8/12/92

C9301249

COPIES:	QTY		PRICE
740 -PHOTOCOPIES	84	X	$1.00
TOTAL:			$84.00

MICROFILMED

04A04#0016MICHRC $84.00
BA C002:12PM08-17-92

Please Make Checks Payable To: Baltimore County

Cashier Validation

receipt

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

Date 8/12/92

Account: R-001-6150

Number 92-285-SPHXA (1 of 4 TOTAL)

C9301249

COPIES:	QTY		PRICE
740 -PHOTOCOPIES	84	X	$1.00
TOTAL:			$84.00

MICROFILMED

04A04#0016MICHRC $84.00
BA C002:12PM08-17-92

Please Make Checks Payable To: Baltimore County

Cashier Validation

receipt

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

92-285

Date

Account: R-001-6150
Number

3/06/92

M9200491

PUBLIC HEARING FEES	QTY	PRICE
080 -POSTING SIGNS / ADVERTISING	1 X	$330.82
	TOTAL:	$330.82

LAST NAME OF OWNER: VILLA JULIE COLL

PHOTOFILMED

04A04#0117MICHRC $330.82
BA C012:56PM03-06-92

Please Make Checks Payable To: Baltimore County

Cashier Validation

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

DATE: 2.28.92

Villa Julie College, Inc.
1525 Green Spring Valley Road
Stevenson, Maryland 21153

RE:
CASE NUMBER: 92-285-XA
S/S Greenspring Valley Road, 0' E of Nacirema Lane
1521 Greenspring Valley Road
8th Election District - 3rd Councilmanic
Petitioner(s): Villa Julie College, Inc.

Dear Petitioner(s):

Please be advised that $ 330.82 is due for advertising and posting of the above captioned property.

THIS FEE MUST BE PAID. ALSO, THE ZONING SIGN & POST SET(S) MUST BE 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 forward your check via return mail to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 113, Towson, Maryland 21204. It should have your case number noted thereon and be made payable to Baltimore County, Maryland. In order to prevent delay of the issuance of proper credit and/or your Order, immediate attention to this matter is suggested.

/s/

ARNOLD JABLON
DIRECTOR

cc: Benjamin Bronstein, Esq.

MICROFILMED

MEMO TO FILE

RE: ITEM # 146 VILLA JULIE

DATE: OCTOBER 4, 1991

THIS MATTER WAS FILED ON 9-24-91. I AM NOW READY TO SCHEDULE IT FOR HEARING FOR A HEARING DATES IN MID NOVEMBER (13th & 14th).

HOWEVER, AT THE REQUEST OF ATTORNEY BENJAMIN BRONSTEIN THE HEARING DATE IS TO BE DELAYED. MR. BRONSTEIN REQUESTS THAT THE MATTER BE SCHEDULED IN DECEMBER FOR TWO DAYS. IN ACCORDANCE WITH HIS CALENDAR AND WISHES, I HAVE 9th, 10th, AND 11th OF DECEMBER. THE CASE WILL BE SET AROUND THESE DATE, AS AVAILABILITY OF HEARING ROOMS AND HEARING OFFICERS PRESENTS ITSELF.

G. G. STEPHENS

November 1991 - Contacted Bronstein - holding case until March of '92 per his request.

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

JANUARY 28, 1992

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 118, Baltimore County Courthouse, 400 Washington Avenue
and
Room 106, County Office Building, 111 W. Chespeake Avenue
Towson, Maryland 21204 as follows:

CASE NUMBER: 92-285-XA
S/S Greenspring Valley Road, 0' E of Nacirema Lane
1521 Greenspring Valley Road
8th Election District - 3rd Councilmanic
Petitioner(s): Villa Julie College, Inc.
HEARING: TUESDAY, MARCH 10, 1992 at 9:00 a.m. in Room 118, County Courthouse.
WEDNESDAY, MARCH 11, 1992 at 9:00 a.m. in Room 118, County Courthouse
THURSDAY, MARCH 12, 1992 at 9:00 a.m. in Room 106, County Office Building.
WEDNESDAY, MARCH 18, 1992 at 9:00 a.m. in Room 118, County Courthouse.

Special Exception for a private college and a group child care center (Class B).
Special Hearing to approve a modified parking plan and to approve a residential caretaker dwelling as an accessory use to a college.
Variance to permit a distance of 42 feet between existing Buildings #1 and #2 in lieu of the required 70 feet, 30 feet between existing Builidng #3 and existing storage building in lieu of the required 70 feet, 32 feet between existing maintenance equipment building and existing storage building in lieu of the required 70 feet, 40 feet between existing Building "E" and existing shed in lieu of the required 70 feet, 60 feet between existing Building "C" and existing Building "A" in lieu of the required 70 feet, 60 feet between existing Building "A:" and proposed building envelope "F" in lieu of the required 70 feet, 20 feet between existing Building "D" and proposed building envelope "F" in lieu of the required 70 feet; to permit a total of 105.2 squre feet of existing signs in lieu of the prmitted 30 square feet; to permit a maximum height of 39.5 feet in lieu of the permitted 35 feet for existing Building "A"; to permit a maximum height of 54.8 feet in lieu of the permitted 35 feet for existing Building "B"; to permit a maximum of height of 48 feet in height within building envelope "F" in lieu of the permitted 35 feet for 2 proposed buildings; to permit a distance of zero feet in lieu of the required 70 feet between the 2 proposed buildings within building envelope "F"; and to permit 503 parking spaces 8 feet wide x 18 feet deep in lieu of the required 8.5 feet wide x 18 feet deep.

Lawrence E. Schmidt

Zoning Commissioner of
Baltimore County

cc: }Villa Julie College, Inc.
Benjamin Bronstein, Esq.
Rick Chadsey, P.E.
J. Carroll Holzer, Esq.
Donald K. Proctor, Esq.

MICROFILMED

County Board of Appeals of Baltimore County

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

Hearing Room -
Room 48, Old Courthouse
400 Washington Avenue

October 29, 1992

NOTICE OF ASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH RULE 2(b). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c), COUNTY COUNCIL BILL NO. 59-79.

CASE NO. 92-285-SPHXA — VILLA JULIE COLLEGE, INC.
S/s Greenspring Valley Rd., 0' E of Nacirema Lane (1521 Greenspring Valley Road); 8th Election District; 3rd Councilmanic District

SE-Private college in R.C. 2 zone; SPH-Modified parking plan & residential caretakers dwelling as accessory use; VAR-(13) Distance between buildings and height; parking; etc.

7/10/92 - Z.C.'s Order GRANTING SPH and VAR with restrictions and GRANTING SE in part and DENYING in part.

pp'd & reassigned to 3/09, 3/10, 3/11, & 3/12/93 (w/Hold of 3/19/93 if needed) w/ agreement of all counsel 11/05/92

ASSIGNED FOR: THURSDAY, JANUARY 21, 1993 AT 10:00 a.m. DAY# 1
AND
WEDNESDAY, JANUARY 27, 1993 AT 10:00 a.m. DAY# 2

cc: Michael J. Collins, Esquire Counsel for Appellant/Northwest
√Benjamin Bronstein, Esquire Counsel for Appellant/Villa Julie
√J. Carroll Holzer, Esq.-Couns. for Appellnt/Valleys Pl. Counc.
√K. Donald Proctor, Esq.-Counsel for Appellants/Mitchell, et al

Ms. Carolyn Manuszak/Villa Julie College
~~People's Counsel for Baltimore County~~ out per Shirley Hess 10/29/92
P. David Fields
Public Services
Lawrence E. Schmidt
Timothy M. Kotroco
W. Carl Richards, Jr.
Docket Clerk - Zoning
Arnold Jablon, Director of Zoning Administration

Mike Chomel Esq.

LindaLee M. Kuszmaul - Legal Secretary

Printed on Recycled Paper

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

Hearing Room -
Room 48, Old Courthouse
400 Washington Avenue November 5, 1992

NOTICE OF POSTPONEMENT AND ASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH RULE 2(b). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c), COUNTY COUNCIL BILL NO. 59-79.

CASE NO. 92-285-SPHXA VILLA JULIE COLLEGE, INC.
S/s Greenspring Valley Rd., 0' E of Nacirema Lane (1521 Greenspring Valley Road); 8th E; 3rd C

SE-Private college in R.C. 2 zone;
SPH-Modified parking plan & residential caretakers dwelling as accessory use;
VAR-(13) Distance between buildings and height; parking; etc.

7/10/92 - Z.C.'s Order GRANTING SPH and VAR with restrictions and GRANTING SE in part and DENYING in part.

which had been scheduled for hearing on January 21 and 27, 1993 has been **POSTPONED/REASSIGNED** with agreement of all Counsel to the following dates:

REASSIGNED FOR: TUESDAY, 3/09/93; WEDNESDAY, 3/10/93; THURSDAY, 3/11/93; AND, IF REQUIRED, FRIDAY, 3/12/93 AT 10:00 a.m.*

cc: Michael J. Collins, Esquire Counsel for Appellant/Northwest

Benjamin Bronstein, Esquire Counsel for Appellant/Villa Julie
Michael Chomel, Esquire

J. Carroll Holzer, Esq.-Couns. for Appellnt/Valleys Pl. Counc.

K. Donald Proctor, Esq.-Counsel for Appellants/Mitchell, et al

Ms. Carolyn Manuszak/Villa Julie College

P. David Fields
Public Services
Lawrence E. Schmidt
Timothy M. Kotroco
W. Carl Richards, Jr.
Docket Clerk - Zoning
Arnold Jablon, Director of Zoning Administration

Kathleen C. Weidenhammer
Administrative Assistant

***(Also being held as ~~possible~~ Day #5: FRIDAY, 3/19/93 AT 10:00 a.m.)**

Printed on Recycled Paper

County Board of Appeals of Baltimore County

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

Hearing Room -
Room 48, Old Courthouse
400 Washington Avenue

January 27, 1993

NOTICE OF ASSIGNMENT /Motion Only Hearing

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH RULE 2(b). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c), COUNTY COUNCIL BILL NO. 59-79.

CASE NO. 92-285-SPHXA VILLA JULIE COLLEGE, INC.
S/s Greenspring Valley Rd., 0' E of Nacirema Lane
(1521 Greenspring Valley Road); 8th E; 3rd C

SE-Private college in R.C. 2 zone;
SPH-Modified parking plan & residential caretakers dwelling as accessory use;
VAR-(13) Distance between buildings and height; parking; etc.

7/10/92 - Z.C.'s Order GRANTING SPH and VAR with restrictions and GRANTING SE in part and DENYING in part.

Reassigned to 2/17/93 @ 1:00 pm - scheduled conflict

has been scheduled for a **Motions only hearing** (all other assigned hearing dates to remain as scheduled); and has been

ASSIGNED FOR: **THURSDAY, FEBRUARY 11, 1993 AT 10:00 a.m.**

cc: Michael J. Collins, Esquire Counsel for Appellant/Northwest

Benjamin Bronstein, Esquire Counsel for Appellant/Villa Julie
Michael Chomel, Esquire

J. Carroll Holzer, Esq.-Couns. for Appellnt/Valleys Pl. Counc.

K. Donald Proctor, Esq.-Counsel for Appellants/Mitchell, et al

Ms. Carolyn Manuszak/Villa Julie College

P. David Fields
Public Services
Lawrence E. Schmidt
Timothy M. Kotroco
W. Carl Richards, Jr.
Docket Clerk - Zoning
Arnold Jablon, Director of Zoning Administration

Kathleen C. Weidenhammer
Administrative Assistant

Printed on Recycled Paper

County Board of Appeals of Baltimore County

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

Hearing Room -
Room 48, Old Courthouse
400 Washington Avenue

February 2, 1993

NOTICE OF POSTPONEMENT & ASSIGNMENT /Motion Only Hearing

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH RULE 2(b). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c), COUNTY COUNCIL BILL NO. 59-79.

CASE NO. 92-285-SPHXA VILLA JULIE COLLEGE, INC.
S/s Greenspring Valley Rd., 0' E of Nacirema Lane (1521 Greenspring Valley Road); 8th E; 3rd C

SE-Private college in R.C. 2 zone;
SPH-Modified parking plan & residential caretakers dwelling as accessory use;
VAR-(13) Distance between buildings and height; parking; etc.

7/10/92 - Z.C.'s Order GRANTING SPH and VAR with restrictions and GRANTING SE in part and DENYING in part.

which had been scheduled for a **Motions only hearing** on February 11, 1993 has been **POSTPONED** at the request of Counsel for Petitioner and has been reassigned as follows for **Motions only hearing** (all other assigned hearing dates to remain as scheduled); and has been

REASSIGNED FOR: **WEDNESDAY, FEBRUARY 17, 1993 AT 1:00 p.m.**

cc: Michael J. Collins, Esquire Counsel for Appellant/Northwest

Benjamin Bronstein, Esquire Counsel for Appellant/Villa Julie
Michael Chomel, Esquire

J. Carroll Holzer, Esq.-Couns. for Appellnt/Valleys Pl. Counc.

K. Donald Proctor, Esq.-Counsel for Appellants/Mitchell, et al

Ms. Carolyn Manuszak/Villa Julie College

P. David Fields
Public Services
Lawrence E. Schmidt
Timothy M. Kotroco
W. Carl Richards, Jr.
Docket Clerk - Zoning
Arnold Jablon, Director of Zoning Administration

Kathleen C. Weidenhammer
Administrative Assistant

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County Board of Appeals of Baltimore County

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

Hearing Room -
Room 48, Old Courthouse
400 Washington Avenue March 15, 1993

NOTICE OF ASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH RULE 2(b). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c), COUNTY COUNCIL BILL NO. 59-79.

CASE NO. 92-285-SPHXA VILLA JULIE COLLEGE, INC.
S/s Greenspring Valley Rd., 0' E of Nacirema Lane (1521 Greenspring Valley Road); 8th E; 3rd C
SE-Private college in R.C. 2 zone;
SPH-Modified parking plan & residential caretakers dwelling as accessory use;
VAR-(13) Distance between buildings and height; parking; etc.

Day #5 /3/19/93 @ 10 a.m.
Day #6 /3/26/93 @ 9 a.m. 7/10/92 - Z.C.'s Order GRANTING SPH and VAR with
Day #7 /3/31/93 @ 9 a.m. restrictions and GRANTING SE in part and DENYING in
Day #8 /4/02/93 @ 9 a.m. part.

has been assigned the following three dates, in addition to the already scheduled date of Friday, March 19, 1993 at 10:00 a.m.; and has been further

ASSIGNED FOR: FRIDAY, 3/26/93; WEDNESDAY, 3/31/93; AND FRIDAY, 4/02/93
(Above three dates to begin at 9:00 a.m.)

cc: Michael J. Collins, Esquire Counsel for Appellant /Northwest Land Corporation

Benjamin Bronstein, Esquire Counsel for Appellant/Petitioner -
Michael Chomel, Esquire Villa Julie College, Inc.

J. Carroll Holzer, Esquire Counsel for Appellants /Valleys Planning Council, et al

K. Donald Proctor, Esquire Counsel for Appellants /Barton S. Mitchell, et al

Ms. Carolyn Manuszak,
Villa Julie College

P. David Fields
Lawrence E. Schmidt
Timothy M. Kotroco
W. Carl Richards, Jr.
Docket Clerk - Zoning
Arnold Jablon, Director of Zoning Administration

Kathleen C. Weidenhammer
Administrative Assistant

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

April 16, 1993

NOTICE OF DELIBERATION

The County Board of Appeals will deliberate the testimony and evidence received in the matter of:

VILLA JULIE COLLEGE, INC.
CASE NO. 92-285-SPHXA

DATE AND TIME: Tuesday, May 4, 1993 at 9:00 a.m.

LOCATION : Room 48, Basement, Old Courthouse

cc: Michael J. Collins, Esquire Counsel for Appellant/Northwest

Benjamin Bronstein, Esquire Counsel for Appellant/Villa Julie
Michael Chomel, Esquire

J. Carroll Holzer, Esq.-Couns. for Appellnt/Valleys Pl. Counc.

K. Donald Proctor, Esq.-Counsel for Appellants/Mitchell, et al

Ms. Carolyn Manuszak/Villa Julie College

P. David Fields
Lawrence E. Schmidt
Timothy M. Kotroco
W. Carl Richards, Jr.
Docket Clerk - Zoning
Arnold Jablon, Director of Zoning Administration

Kathleen C. Weidenhammer
Administrative Assistant

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County Board of Appeals of Baltimore County

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

April 16, 1993

Benjamin Bronstein, Esquire
EVANS, GEORGE AND BRONSTEIN
Susquehanna Building, Suite 205
29 W. Susquehanna Avenue
Towson, MD 21204

J. Carroll Holzer, Esquire
HOLZER, MAHER, DEMILIO & LEE
305 W. Chesapeake Avenue
Suite 105
Towson, MD 21204

Michael J. Collins, Esquire
NEUBERGER, QUINN, GIELEN
& RUBIN, P.A.
Equitable Bank Center Tower II
100 S. Charles Street
Baltimore, MD 21201

K. Donald Proctor, Esquire
MILES & STOCKBRIDGE
600 Washington Avenue
Towson, MD 21204

Re: Case No. 92-285-SPHXA /
Villa Julie College, Inc.

Dear Counsel:

The issue was raised in open hearing regarding the applicability of Section 10.501 of the Maryland Annotated Code to this Board.

In response thereto, the Board will schedule a meeting to deliberate the testimony and evidence received in the matter of Villa Julie College, Inc., Case No. 92-285-SPHXA.

The Board wishes to make it very clear that, while Section 10-501(a)(2) authorizes that citizens are allowed to observe, no participation by any of these observers in any way will be permitted.

Very truly yours,

William T. Hackett

William T. Hackett, Chairman
County Board of Appeals

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

February 14, 1992

Benjamin Bronstein, Esquire
Evans, George & Bronstein
29 W. Susquehanna Avenue, Suite 205
Towson, MD 21204

RE: Item No. 146, Case No. 92-285-XA
Petitioner: Villa Julie College, et al
Petition for Special Exception

Dear Mr. Bronstein:

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans submitted with the above referenced petition. The attached comments from each reviewing agency are not intended to assure that all parties, i.e. Zoning Commissioner, attorney and/or the petitioner, are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case.

Enclosed are all comments submitted thus far from the members of ZAC that offer or request information on your petition. If additional comments are received from other members of ZAC, 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.

The following comments are related only to the filing of future zoning petitions and are aimed at expediting the petition filing process with this office.

1) The Director of Zoning Administration and Development Management has instituted a system whereby seasoned zoning attorneys who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions filing requirements can file their petitions with this office without the necessity of a review by Zoning personnel.

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2) Anyone using this system should be fully aware that they are responsible for the accuracy and completeness of any such petition. All petitions filed in this manner will be reviewed and commented on by Zoning personnel prior to the hearing. In the event that the peition has not been filed correctly, there is always a possibility that another hearing will be required or the Zoning Commissioner will deny the petition due to errors or imcompleteness.

3) Attorneys and/or engineers who make appointments to file petitions on a regular basis and fail to keep the appointment without a 72 hour notice will be required to submit the appropriate filing fee at the time future appointments are made. Failure to keep these appointments without proper advance notice, i.e. 72 hours, will result in the loss of filing fee.

Very truly yours,

W. Carl Richards, Jr.

W. Carl Richards
Coordinator

WCR:jw

Enclosures

cc: Villa Julie College, Inc.
1525 Green Spring Valley Road
Stevenson, MD 21153

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Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

Your petition has been received and accepted for filing this 15th day of January, 1992.

ARNOLD JABLON
DIRECTOR

Received By:

W. Carl Richards, Jr.
Chairman,
Zoning Plans Advisory Committee

Petitioner: Villa Julie College, Inc., et al

Petitioner's Attorney: Benjamin Bronstein

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BUREAU OF TRAFFIC ENGINEERING
DEPARTMENT OF PUBLIC WORKS
BALTIMORE COUNTY, MARYLAND

DATE: October 23, 1991

TO: Mr. Arnold Jablon, Director
Office of Zoning Administration
and Development Management

FROM: Rahee J. Famili

SUBJECT: Z.A.C. Comments

Z.A.C. MEETING DATE: October 8, 1991

ITEM NUMBER: 146

Access to Greenspring Valley Road is subject to SHA approval.

Rahee J. Famili

Rahee J. Famili
Traffic Engineer II

RJF/lvd

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10/4/91

BALTIMORE COUNTY, MARYLAND

DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT

INTER-OFFICE CORRESPONDENCE

October 3, 1991

TO: Arnold Jablon, Director
Zoning Administration and Development Management

FROM: DIVISION OF GROUND WATER MANAGEMENT

SUBJECT: Zoning Item #146, Zoning Advisory Committee Meeting of October 8, 1991, Villa Julie College, Inc., S/S Greenspring Valley Road, 0' E of Nacirema Lane (#1521 Greenspring Valley Rd.), D-8, Private Water and Sewer

COMMENTS ARE AS FOLLOWS:

Refer to the comments made by the Department of Environmental Protection and Resource Management for the pre-CRG meeting held on August 1, 1991.

SSF:rmp

146ZNG/GWRMP

RECEIVED
OCT 4 1991
ZONING OFFICE

MICROFILMED

Baltimore County Government
Fire Department

700 East Joppa Road Suite 901
Towson, MD 21204-5500

(301) 887-4500

OCTOBER 18, 1991

Arnold Jablon
Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21204

RE: Property Owner: VILLA JULIE COLLEGE, INC.

Location: #1521 GREENSPRING VALLEY ROAD

Item No.: 146 Zoning Agenda: OCTOBER 8, 1991

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.

1. Fire hydrants for the referenced property are required and shall be located at intervals of 300 feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works.

4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.

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: Lt. Jerry Pfeifer
Planning Group
Special Inspection Division

Noted and Approved Cpt. W.F. Rodgers, K.L.
Fire Prevention Bureau

JP/KEK

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92-285XA

3/5/92 To JW

WCR JW 3919-92

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

DATE: March 4, 1992

RECEIVED
MAR 3 1992
ZONING OFFICE

TO: Zoning Advisory Committee

FROM: Oscar M. Keys, Jr., P.E. OMK
Department of Public Works

RE: Villa Julie College
Issue #146 - October 8, 1991

A request was received on behalf of Villa Julie College to amend the BALTIMORE COUNTY WATER SUPPLY AND SEWERAGE PLAN in April, 1990, to allow construction of a sewage treatment plant with discharge to the Jones Falls (Exhibit A). Amendments to the WATER SUPPLY AND SEWERAGE PLAN are subject to a public hearing before the hearing office, i.e., the Baltimore County Planning Board and an affirmative decision by the County under regulations of the State of Maryland. The original request was for approval of a multi-use facility. A multi-use facility, water supply or sewerage disposal, serves only one property owner with a capacity exceeding 5,000 gallons per day. The college was seeking authority for a 40,820 gallon per day facility for both the school and adjacent convent's present use; and 66,875 gallon capacity for future use. When two properties are involved in water supply and/or sewerage system service, the systems are catagorized as Community Systems by State regulations regardless of capacity.

By June 13, 1990, it became apparent that both the existing water supply facilities and existing sewerage facilities might constitute "Community Systems" as defined in COMAR and that both should have been in the inventory of such facilities as they did then exist. By letter of June 13th the school was advised that they would need to have the Sisters of Notre Dame join in their petition to validate it, and additionally requested to assist in correcting the inventory of water supply and sewerage systems in the plan relative to both properties as they then existed (Exhibit B).

The Sisters of Notre Dame joined Villa Julie College in their petition by letter of July 16, 1990 (Exhibit C). On July 18, 1990, having received the concurring petition from the Sisters of Notre Dame, a revision to the WATER SUPPLY AND SEWERAGE PLAN Amendment report on the petition for Villa Julie College was submitted to the Planning Board for the Public Hearing on July 19th (Exhibit D).

In the Public Hearing of July 19, 1990, it was alleged that a well on the property immediately east of the Sisters of Notre Dame was functioning in service to the Sisters' property and possible other

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properties, including the school. This office, Baltimore County and the State of Maryland must know the number of wells and/or springs which are in any way inter-connected, their physical locations, their capacity, and all buildings served by each for all properties which have service across property lines. The system, or systems, must be shown on the maps and in the inventory, Table 4, of the WATER SUPPLY AND SEWERAGE PLAN.

To date, the college has failed to comply with this request.

As applicants for an amendment to the Plan, and as an applicant for special exceptions under the Zoning Code, this office believes the school should have these matters relating to domestic water supply investigated and certified prior to any future grants of special authority by any County agency.

In addition, there has been a significant change in the apparent facts as presented to the Planning Board and County Council relative to the proposed sewage treatment plant effluent discharge. The waters of the state into which the effluent was to discharge was asserted to all to be a perennial stream under the jurisdiction of the State of Maryland and to which the college had reparian rights. It has subsequently been proven to be an intermittent stream. This office has encouraged the establishment of an easement through those properties between the college and the Jones Falls such that the effluent could be piped to an acceptable discharge to the waters of the State. Such arrangements have not yet been successfully reported to this office. Without an easement to the Jones Falls in title to the college, it is not clear that any legally constituted authority in the State of Maryland can resolve the existing nuisance on the property of the Sisters of Notre Dame.

OMK:emc

Attachments:
Exhibit A
Exhibit B
Exhibit C
Exhibit D

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Maryland Department of Natural Resources

Maryland Environmental Service
2020 Industrial Drive
Annapolis, Maryland 21401
(301) 974-7281

William Donald Schaefer
Governor

Torrey C. Brown, MD
Secretary

George G. Perdikakis
Director

Oscar Keyes
Baltimore County Department of Public Works
County Office Building
Towson, MD 21204

April 26, 1990

Dear Mr. Keyes:

By way of introduction, attached is a copy of the letter just sent to the County Executive by the Villa Julie College regarding their sewer project. Pursuant to our contract with the College, we are providing the information necessary for the amendment to the Baltimore County Water and Sewerage Plan which will allow for the issuance of a State discharge permit and construction of a package sewage treatment plant with discharge to Jones Falls.

Villa Julie College is located in Zone R/C-2, map designation W16B, S16B. The College should be considered as a multi-use facility and inventoried as a facility with no planned service, W-7,S-7.

I am the Project Manager representing the College and will be coordinating all aspects of the project with various State and local agencies. Please let me know should you require anything further. I may be reached at 974-7276.

Sincerely,

Lisa M. Reaver
Project Manager

cc: Dane Bauer
Billie Messenger, Villa Julie College
James Dieter, Baltimore County DEPRM

RECEIVED
MAY 1 1990
DEPARTMENT OF PUBLIC WORKS
OF BALTIMORE COUNTY
DIRECTOR

EXHIBIT A

Baltimore County
Department of Public Works
Towson, Maryland 21204

Gene L. Neff, P.E.
Director

June 13, 1990

Dennis F. Rasmussen
County Executive

Ms. Lisa M. Reaver
Project Manager
MARYLAND ENVIRONMENTAL SERVICE
2020 Industrial Service
Annapolis, MD 21401

Re: Villa Julie College + Baltimore Province Sisters of Notre Dame

Dear Ms. Reaver:

We have reviewed your letter of April 26, 1990 and several matters need clarification.

The property is zoned under the zoning laws of Baltimore County as R.C. 2 (Agricultural). Schools and colleges are not a right in this zone but can be considered, or permitted, by special exception. We believe that, at present, the college exists as a nonconforming land use having been in existence prior to the zoning of the land. We have been unable to find a record of any special exceptions having been granted. At present, this office is not in a position to consider the growth factors indicated in your report.

The property is shown on maps W16B and S16B in the WATER SUPPLY AND SEWERAGE PLAN OF BALTIMORE COUNTY (Plan) and is designated W-7, S-7 (No Planned Community or Multi-Use Service). This limits any planned, or permitted, use to domestic water supply and sewage disposal systems on a single property to less than 5,000 gal per day. Clearly, both the college and adjacent property of the Sisters of Notre Dame are nonconforming uses under the Plan also.

Your request, on behalf of both properties, should have been for a special exception to permit a community sewerage system with point source discharge to be built in service to both properties in the S-7 area.

Having raised the issue of nonconformance and planned growth involving both properties, this office is led to believe that all independent water

EXHIBIT B

LAW OFFICES

WHITEFORD, TAYLOR & PRESTON

SUITE 1400
SEVEN SAINT PAUL STREET
BALTIMORE, MARYLAND 21202
TELEPHONE 301-347-8700

500 COURT TOWERS
210 WEST PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204-4515
301-832-2000
FAX: 301-832-2015

SUITE 400
888 17TH STREET, NW
WASHINGTON, D.C. 20006
TELEPHONE 202-835-0606

G. SCOTT BARHIGHT

DIRECT NUMBER
301-832-2050

July 16, 1990

HAND DELIVERED
Mr. Gene L. Neff, Director
Baltimore County Department of Public Works
County Office Building
Towson, Maryland 21204

RE: Master Water Supply and Sewage Plan Amendment
Map Issue No. 90-11, Cycle VII

Dear Mr. Neff:

Please be advised this office represents the Baltimore Province of the Sisters of Notre Dame de Namur, Inc. By her signature below, Sister Joanne Schneberger, Secretary of the Board of Trustees for the Baltimore Province, is indicating the consent of the Baltimore Province to the above-referenced application. This consent will be reviewed by the full Board of Trustees at their next regularly scheduled meeting on August 18, 1990.

Please forward any correspondence regarding this matter to this office to my attention. We look forward to working with Baltimore County and the Villa Julie College to the successful approval of this amendment.

Should you have any questions or comments, please feel free to contact me.

Sincerely,

G. Scott Barhight

Agreed and Accepted.

Sr. Joanne Schneberger, SND
Sr. Joanne Schneberger, Secretary
Board of Trustees
Baltimore Province Sisters of Notre Dame de Namur, Inc.

GSB:cms
cc. Mr. David Fields
Mr. Robert Sheesley
Mr. Oscar M. Keys, Jr.
Mr. John J. Dieter
Donald P. McPherson, III, Esq.
Sr. Marie Kelly
Sr. Joanne Schneberger
Sr. Mary Ann Cook
Ms. Carolyn Manuszak

EXHIBIT C

REVISION
To the Water & Sewerage Plan Amendment Petition

for

VILLA JULIE COLLEGE
July 18, 1990

Property Description Page 90-11
with additions to the Amendment Petition

EXHIBIT D

BALTIMORE COUNTY, MARYLAND
I N T E R O F F I C E C O R R E S P O N D E N C E

TO: Arnold Jablon, Director DATE: October 16, 1991
Zoning Administration and Development Management

FROM: Robert W. Bowling, P.E.

RE: Zoning Advisory Committee Meeting
for October 8, 1991

The Developers Engineering Division has reviewed the subject zoning items and we have no comments for Items 142, 144, 149, 150, 151, 152, 153, 157, and 158.

For Item 145, a minor subdivision is processing now. Our comments will be addressed through that process.

For Item 146, see the County Review Group comments dated August 12, 1991 for this site.

For Item 149, we have no comment on the garage height variance. However, regarding the swimming pool, the road grade or horizontal alignment must be revised so that no retaining wall is needed or that the wall is far enough away from the right-of-way such that failure would not impact the right-of-way.

Robert W. Bowling

ROBERT W. BOWLING, P.E., Chief
Developers Engineering Division

RWB:s

3/5/92 3950-92
TO LES

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

March 4, 1992

TO: Mr. Arnold Jablon, Director
Zoning Admin. and Development Management

FROM: J. James Dieter

SUBJECT: Special Exception - Villa Julie College

The Baltimore County Department of Environmental Protection and Resource Management has, after careful review of all available information pertinent to this matter, made the following determination:

- The subsurface soil absorption waste water system which currently provides the sole means of waste water disposal for the College is degrading the ground water underlying the site. This determination was made by observation of the extremely shallow ground water and rock in the vicinity of the system. Such conditions allow for inadequately renovated waste water to enter ground water. In addition, waste water surfaces periodically in the vicinity of the disposal system. The College is presently pumping the system on an as-necessary basis to keep waste water off the ground surface.

- This Department, in conjunction with Maryland Department of the Environment and Maryland Environmental Services, has conducted a comprehensive review of alternatives for waste water disposal for this facility, including extension of metropolitan sewerage, application of sand-lined trench, spray irrigation and package treatment plant technologies, as a means for final disposal of waste water effluent. The conclusion reached by this alternatives analysis is that the only practical means of waste water disposal for this facility, at this time, is use of a waste water treatment plant followed by surface discharge of treated effluent to a tributary of the nearby Jones Falls.

- Upon determination of the need for surface discharge of treated waste water effluent and in recognition of the sensitive nature of the receiving waters of the Jones

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Falls, this Department insists upon use of some type of best available technology for final polishing of the effluent.

This Department makes a favorable recommendation for approval of the proposed package treatment plant based on the determination described above and in the context of the maximum flow, chemical, physical and biological discharge parameter limits set out in the required NPDES - State Discharge Permit. This recommendation should be conditioned on the school's response to the following points:

- A constructed wetland, which could be part of the storm water management system for this facility, must be properly located. The constructed wetland is to provide final polishing for temperature control and to remove suspended solids and nutrients from the treated sewage effluent prior to discharge to the unnamed tributary of the Jones Falls. This wetland area should be established prior to commencement of operation of the sewage treatment plant.

- If the school has science laboratories, it must demonstrate a means of preventing toxic substances associated with these laboratories from entering the waste water system (i.e. collection and recycling systems).

- The treatment plant must be designed to operate and remove wastes during intersession periods when water usage is low.

- The plant design proposal must address management of any noncontact cooling waters or discharges from boiler blowdown that contain biocides which may affect operation of the sewage treatment plant and the wetland.

- An appropriate Discharge Permit and Permit to Construct the plant must be secured from the Maryland Department of the Environment.

The final design flow for the plant will be governed in large part by the outcome of the decision for a zoning variance which is pending before the Baltimore County Zoning Commissioner. Resolution of this request involves public policy issues beyond the purview of this Department. The final design for the plant raises the issue of school expansion. The plant must take care of existing flows to correct the current failing system

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problem. The technology and plant design could, however, accommodate the proposed expansion of the facilities. The increased flows would be subject to the same conditions and permit limitations previously discussed. If limitations on the numbers of students becomes part of the public policy issue for school expansion, they should be known prior to design and construction approvals.

Additional technical comments on the proposed site plan must be addressed prior to DEPRM development plan approvals. These comments must show compliance to appropriate County laws, regulations and policies. Examples include:

1. The impacts on water quality and streams of discharges from the storm water management ponds require clarification. Particular attention to temperature controls will be required.

2. Outfalls from the plant or storm water management facilities must be located outside the Forest Buffer.

3. A wetland delineation report must be submitted.

4. Intermittent streams and associated wetlands must be accurately shown on the plan.

5. The appropriate Forest Buffer and building setbacks must be shown for all streams, wetlands, and floodplains.

6. All storm water management controls and design standards will have to be met and are subject to review.

7. Other requirements may be applied as part of DEPRM's plan review process.

J. James Dieter, Director
Department of Environmental Protection
and Resource Management

JJD:pmf

cc: Mr. Merreen E. Kelly
Mr. P. David Fields
Mr. Robert J. Aschenbrenner

RECEIVED
MAR 5 1992
ZONING OFFICE

MICROFILMED

BALTIMORE COUNTY MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration and
Development Management

DATE: March 6, 1992

FROM: Gary L. Kerns, Chief
Comprehensive and Community Planning
Office of Planning and Zoning

RECEIVED
MAR 6 1992
ZONING COMMISSIONER

SUBJECT: Villa Julie College, Item No. 146

1. BACKGROUND

Villa Julie College is located in the center of the Greenspring Valley, just west of the intersection of Greenspring Valley Road and Greenspring Avenue. The land form in this part of the Valley is underlaid by Cockeysville marble which is characteristic of an extremely prolific aquifer. As a result, high water tables are present and have contributed to the schools inability to effectively handle waste water under normal septic system technology.

The current zoning is RC-2 agricultural and is consistent with both surrounding area zoning and with the land use map designation of the duly adopted Baltimore County Master Plan 1989-2000. The use of the property as a College began many years ago as an outgrowth of the Sisters of Notre Dame de Namur, which is a teaching order. Over this period the College grew to its present size, though there appears to be no accurate records of the various expansion projects.

2. SPECIAL EXCEPTION REQUEST

The applicant is requesting a Special Exception, a Special Hearing and a Variance to permit a private college and a group child care center in an RC-2 zone. A plat accompanying this petition indicates a proposed 98,044 sq. ft. expansion to the existing College, which will consist of a 44,697 sq. ft. academic center, a 50,000 sq. ft. general classroom and general purpose building, and a 5,000 sq. ft. addition to the existing Learning Resource Center. Elevation drawings and sign details have been attached to the plat. In response to a request from the Office of Planning and Zoning, site sections were also submitted for review.

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3. STAFF REVIEW AND RECOMMENDATION

Based upon a review of the proposed site plan, building elevations and cross-sections, and field visits to the College campus, the Office of Planning and Zoning recommends approval of the Special Exception, the Special Hearing and the proposed Variances, subject to the following:

A. Proposed building materials and final building design should be subject to review and approval prior to issuance of a building permit, by a Design Review Panel to consist of design professionals and community representatives. The Director of Planning should set up the Review Panel and act as the non-voting chairperson.

B. This Office has serious concerns as to the possibility of uncontrolled expansion of the College once the new buildings are constructed and the sewage treatment plant is installed. If unchecked, a repetition of the current situation could occur and the County could be faced with the need for emergency action to address pollution and overcrowding of facilities. In order to ensure effective control, it is recommended that any growth of the College above 2500 students should be subject to the granting of an additional Special Exception by the Zoning Commissioner. The College should be required to submit enrollment figures each school year to the Zoning Commissioner, who will then ensure that the student population of the College will not exceed 2500 without a public hearing to amend the Special Exception.

   Any request for a student population above 2500 would need to be justified in relation to school facilities, traffic, parking, and an analysis of sewage treatment and storm water management facilities.

C. Although the present petition request does not cover the proposed sewage treatment plant, this Office fully supports the conditions requested by the Department of Environmental Protection and Resource Management which deals with treatment plant facilities.

4. ADDITIONAL OBSERVATIONS

A. Development Plan review will be required for this project. The above comments do not limit this Office in its review of the specifics of the detailed plan. Obviously any decision by the Zoning Commissioner will be adhered to.

B. This property is subject to a 1992 Comprehensive Zoning Map Process request (Issue 3-050) for rezoning from RC-2 to RC-5. This Office is opposed to the requested change. The issue is still subject to review by both the Planning Board and County Council.

If there are any further questions, please contact Jeffrey Long in the Office of Planning at 887-3211.

Report prepared by:

Jeffrey Long (for)
Jack Dillon

Jeffrey Long
Jeffrey Long

GLK/JL:lw

ITEM146/TXTLLF

MICROFILMED

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

August 11, 1992

Baltimore County Board of Appeals
Old Courthouse, Room 49
400 Washington Avenue
Towson, Maryland 21204

RE: Petition for Special Hearing, Special Exception and Zoning Variance
S/S Greenspring Valley Road, 0 ft. E of Nacirema Lane
(1521 Greenspring Valley Road)
8th Election District, 3rd Councilmanic District
VILLA JULIE COLLEGE, INC. - Petitioner
Case No. 92-285-SPHXA

Dear Board:

Please be advised that the following appeals of the above referenced case were filed in this office:

(1) Filed August 6, 1992 by Michael J. Collins, Attorney on behalf of Northwest Land Corporation.

(2) Filed August 7, 1992 by J. Carroll Holzer, Attorney on behalf of Valleys Planning Council and community associations

(3) Filed August 7, 1992 by K. Donald Proctor, Attorney on behalf of Mr. & Mrs. Mitchell, Clark Farm Associates and Mr. & Mrs. Rodgers

(4) Filed August 10, 1992 by Benjamin Bronstein, Attorney on behalf of the Petitioner, Villa Julie College, Inc.

All materials relative to the case are being forwarded herewith.

Received 8/13/92
1:00 L.K.
C.B. of A.

Printed on Recycled Paper

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,

Lawrence E. Schmidt
Zoning Commissioner

LES:cer

cc: Carolyn Manuszak - Villa Julie College, Inc.
1525 Green Spring Valley Road, Stevenson, MD 21153

Benjamin Bronstein - Evans, George & Bronstein
29 W. Susquehanna Avenue, Suite 205, Towson, MD 21204

Michael J. Collins - Neuberger, Quinn, Gielen & Rubin, P.A.
100 South Charles Street, Baltimore, Maryland 21201

J. Carroll Holzer - Holzer, Maher, Demilio & Lee
305 West Chesapeake Avenue, Suite 105 Towson, Maryland 21204

K. Donald Proctor - Miles & Stockbridge
600 Washington Avenue, Towson, Maryland 21204

People's Counsel for Baltimore County
Old Courthouse, 400 Washington Avenue, Towson, MD 21204

3/6/92 8

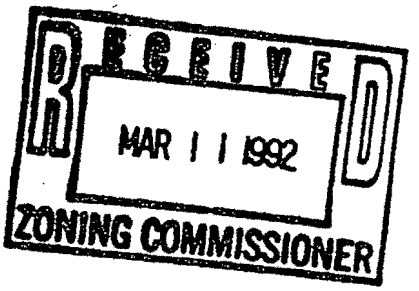
3996-92 GS

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration and
Development Management

DATE: March 6, 1992

FROM: Gary L. Kerns, Chief
Comprehensive and Community Planning
Office of Planning and Zoning



SUBJECT: Villa Julie College, Item No. 146

1. BACKGROUND

Villa Julie College is located in the center of the Greenspring Valley, just west of the intersection of Greenspring Valley Road and Greenspring Avenue. The land form in this part of the Valley is underlaid by Cockeysville marble which is characteristic of an extremely prolific aquifer. As a result, high water tables are present and have contributed to the schools inability to effectively handle waste water under normal septic system technology.

The current zoning is RC-2 agricultural and is consistent with both surrounding area zoning and with the land use map designation of the duly adopted Baltimore County Master Plan 1989-2000. The use of the property as a College began many years ago as an outgrowth of the Sisters of Notre Dame de Namur, which is a teaching order. Over this period the College grew to its present size, though there appears to be no accurate records of the various expansion projects.

2. SPECIAL EXCEPTION REQUEST

The applicant is requesting a Special Exception, a Special Hearing and a Variance to permit a private college and a group child care center in an RC-2 zone. A plat accompanying this petition indicates a proposed 98,044 sq. ft. expansion to the existing College, which will consist of a 44,697 sq. ft. academic center, a 50,000 sq. ft. general classroom and general purpose building, and a 5,000 sq. ft. addition to the existing Learning Resource Center. Elevation drawings and sign details have been attached to the plat. In response to a request from the Office of Planning and Zoning, site sections were also submitted for review.

3. STAFF REVIEW AND RECOMMENDATION

Based upon a review of the proposed site plan, building elevations and cross-sections, and field visits to the College campus, the Office of Planning and Zoning recommends approval of the Special Exception, the Special Hearing and the proposed Variances, subject to the following:

A. Proposed building materials and final building design should be subject to review and approval prior to issuance of a building permit, by a Design Review Panel to consist of design professionals and community representatives. The Director of Planning should set up the Review Panel and act as the non-voting chairperson.

B. This Office has serious concerns as to the possibility of uncontrolled expansion of the College once the new buildings are constructed and the sewage treatment plant is installed. If unchecked, a repetition of the current situation could occur and the County could be faced with the need for emergency action to address pollution and overcrowding of facilities. In order to ensure effective control, it is recommended that any growth of the College above 2500 students should be subject to the granting of an additional Special Exception by the Zoning Commissioner. The College should be required to submit enrollment figures each school year to the Zoning Commissioner, who will then ensure that the student population of the College will not exceed 2500 without a public hearing to amend the Special Exception.

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C. Although the present petition request does not cover the proposed sewage treatment plant, this Office fully supports the conditions requested by the Department of Environmental Protection and Resource Management which deals with treatment plant facilities.

4. ADDITIONAL OBSERVATIONS

A. Development Plan review will be required for this project. The above comments do not limit this Office in its review of the specifics of the detailed plan. Obviously any decision by the Zoning Commissioner will be adhered to.

B. This property is subject to a 1992 Comprehensive Zoning Map Process request (Issue 3-050) for rezoning from RC-2 to RC-5. This Office is opposed to the requested change. The issue is still subject to review by both the Planning Board and County Council.

If there are any further questions, please contact Jeffrey Long in the Office of Planning at 887-3211.

Report prepared by:

Jeffrey Long (for)
Jack Dillon

Jeffrey Long
Jeffrey Long

GLK/JL:lw

RECEIVED
MAR 6 1992
ZONING OFFICE

ITEM146/TXTLLF

APPEAL

Petition(s) for Special Hearing, Special Exception and Zoning Variance
S/S Greenspring Valley Road, 0 ft. E of Nacirema Lane
(1521 Greenspring Valley Road)
8th Election District - 3rd Councilmanic District
VILLA JULIE COLLEGE, INC. - Petitioner
Case No. 92-285-SPHXA

Petition(s) for Special Hearing, Special Exception and Zoning Variance

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 (Included with ZAC Comments)

Petitioner(s) and Protestant(s) Sign-In Sheets (in file)

Petitioner's Exhibits:
1. Plat to accompany Petitions
2. Plat + Elevation Drawing/Sign Variances
3. Analysis
4. Programs List
5. Letter to Valleys Planning Council
6. Letter to Students
7. Resume of Dane S. Bauer
8. Plat highlighting water system
9. Letter to Water Management Admin.
10. Letter to County Council
11. Aerial Photo
12. Letter to Villa Julie College
13. Wastewater T.F. Site Plan
14. 8 1/2 x 12 Photographs of Waste. Plant
15. (No Exhibit marked #15)
16. Vicinity Map
17. Resume of Wes Guckert
18. Context Map
19. Resume of Samuel Crozier
20. Northern Sector Land Use Plan
21. Land Use Plan
22. Zoning Map
23. Photograph Board of Villa Julie Property
24. Master Plan
25. Map and 26.Site Section A-A
27. Wind Study
28. Resume of Frederick N. Chadsey
29. Geologic Map of Cockeysville Quadrangle
30. Board of Trustees/Resource Dev. Council
31. Notice of Final Determination (from State)
32. Transportation Area Map
33., 34., 35. - Letters to Environ. Water Man.

Unmarked Exhibit: Population, Water/Wastewater Characteristics Support Cards and Opposition Letters

MICROFILMED

Protestant's Exhibits:

1. Copy of ZAC Comments from Public Works
2. Resume of Martin J. Wells
3. Letter to Public Services
4A - 4C - Photographs of traffic (a.m.)
5A - 5C - Photographs of traffic (a.m.)
6A - 6C - Photographs of traffic (a.m.)
7A - 7D - Photographs of traffic (a.m.)
8A - 8E - Photographs of traffic (a.m.)
9. Letter to Planning
10. Villa Julie Growth Chart
11. Villa Julie Future Size Projection
12. Opposition of Jervis S. Finney
13. Request for Proposal - Infirmary
14 ABC. Septic Service Work Order
15. Newspaper Article
16. Resume of F. Pierce Lineweaver
17. Population Table
18. Tax Assessment Map
19. Resume of Norman E. Gerber
20. Zoning Map

Zoning Commissioner's Exhibit No. 1. - Sewage Treatment Plant Alternatives Evaluation

Memorandum in Support of Petition for Special Exception and Variances

Memorandum in Opposition to Motion to Dismiss Petition for SPX

Memorandum in Lieu of Final Argument

Motion to Dismiss Petition for Special Exception

Protestants' Post-Hearing Memorandum

Zoning Commissioner's Order dated July 10, 1992 (SPH Approved; SPX Granted in Part and Denied in Part; VAR Granted with Restrictions)

Notices of Appeal received:

(1) Filed August 6, 1992 by Michael J. Collins, Attorney on behalf of Northwest Land Corporation.

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(3) Filed August 7, 1992 by K. Donald Proctor, Attorney on behalf of Mr. & Mrs. Mitchell, Clark Farm Associates and Mr. & Mrs. Rodgers

(4) Filed August 10, 1992 by Benjamin Bronstein, Attorney on behalf of the Petitioner, Villa Julie College, Inc.

MICROFILMED

cc: Carolyn Manuszak - Villa Julie College, Inc.
1525 Green Spring Valley Road, Stevenson, MD 21153

Benjamin Bronstein - Evans, George & Bronstein
29 W. Susquehanna Avenue, Suite 205, Towson, MD 21204

Michael J. Collins - Neuberger, Quinn, Gielen & Rubin, P.A.
100 South Charles Street, Baltimore, Maryland 21201

J. Carroll Holzer - Holzer, Maher, Demilio & Lee
305 West Chesapeake Avenue, Suite 105 Towson, Maryland 21204

K. Donald Proctor - Miles & Stockbridge
600 Washington Avenue, Towson, Maryland 21204

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
Lawrence E. Schmidt, Zoning Commissioner
Timothy M. Kotroco, Deputy Zoning Commissioner
W. Carl Richards, Jr., Zoning Coordinator
Docket Clerk
Arnold Jablon, Director of Zoning Administration and Development Management
Public Services

MICROFILMED

APPEAL

Petition(s) for Special Hearing, Special Exception and Zoning Variance
S/S Greenspring Valley Road, 0 ft. E of Nacirema Lane
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8th Election District - 3rd Councilmanic District
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✓ Description of Property

✓ Certificate of Posting

✓ Certificate of Publication

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✓31. Notice of Final Determination (from State)
✓32. Transportation Area Map
✓33., ✓34., ✓35. - Letters to Environ. Water Man.

(✓ IN BOARD'S CLOSET)

Unmarked Exhibit:
✓ Population, Water/Wastewater Characteristics
✓ Support Cards and Opposition Letters (BROWN FOLDER)

✓E

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- ✓13. Request for Proposal - Infirmary
- ✓14 ABC. Septic Service Work Order
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✓Memorandum in Lieu of Final Argument

✓Motions to Dismiss Petition for Special Exception (2)

✓Protestants' Post-Hearing Memorandum

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✓(3) Filed August 7, 1992 by K. Donald Proctor, Attorney on behalf of Mr. & Mrs. Mitchell, Clark Farm Associates and Mr. & Mrs. Rodgers

✓(4) Filed August 10, 1992 by Benjamin Bronstein, Attorney on behalf of the Petitioner, Villa Julie College, Inc.

cc: Carolyn Manuszak - Villa Julie College, Inc.
1525 Green Spring Valley Road, Stevenson, MD 21153

✱Benjamin Bronstein - Evans, George & Bronstein and Michael Thomas, Esq.
29 W. Susquehanna Avenue, Suite 205, Towson, MD 21204

✱Michael J. Collins - Neuberger, Quinn, Gielen & Rubin, P.A.
~~100 South Charles Street,~~ Baltimore, Maryland ~~21201~~ 21202
27th Floor, Commerce Place One South Street

✱J. Carroll Holzer - Holzer, Maher, Demilio & Lee
305 West Chesapeake Avenue, Suite 105 Towson, Maryland 21204

✱K. Donald Proctor - Miles & Stockbridge
600 Washington Avenue, Towson, Maryland 21204

People's Counsel of Baltimore County
Rm. 304, County Office Bldg., Towson, Md. 21204 out pd Shirley Hess 10/29/92

Request Notification: P. David Fields, Director of Planning & Zoning
Patrick Keller, Office of Planning & Zoning
Lawrence E. Schmidt, Zoning Commissioner
Timothy M. Kotroco, Deputy Zoning Commissioner
W. Carl Richards, Jr., Zoning Coordinator
Docket Clerk
Arnold Jablon, Director of Zoning Administration and Development Management
Public Services

92-285-SPHXA Villa Julie College

10/13/92 -Letter from B. Bronstein, Counsel for Petitioner --requesting pre-hearing conference with WTH to discuss issues involved (conference to include all involved counsel); also requesting that dates be set for hearing since seven days were required at ZC level.

10/15/92 -Letter to B. Bronstein (copies to C. Holzer, M. Collins, and D. Proctor) - advising of pre-hearing conference scheduled for Thursday, October 29 at 1 p.m. for above counsel /set hearing dates, discuss issues, etc.

10/21/92 -Request for rescheduling of pre-hearing conference or later hour on same date from Michael Collins, Esquire -trial scheduled at time of our conference.

10/22/92 -WTH spoke by telephone w/B. Bronstein, M. Collins, C. Holzer and D. Procter -- all counsel are available for reschedule date of 11/05/92 at 10:00 a.m. -- letter to be sent confirming same.
10/22/92 -Letter to all parties -pre-hearing conference on 11/05/92 @ 10 a.m.

10/29/92 - Following parties notified of hearings set for January 21 and 27, 1993 at 10:00 a.m.:

Michael J. Collins, Esquire
Benjamin Bronstein, Esquire
J. Carroll Holzer, Esq.
K. Donald Proctor, Esq.
Ms. Carolyn Manuszak
People's Counsel for Baltimore County
P. David Fields
Public Services
Lawrence E. Schmidt
Timothy M. Kotroco
W. Carl Richards, Jr.
Docket Clerk - Zoning
Arnold Jablon

11/05/92 -Pre-hearing conference held in Board's office; attended by W. Hackett and J.Lipowitz; B. Bronstein, Esquire and Michael Chomel, Esquire; J. Carroll Holzer, Esquire; Donald Proctor, Esquire. Arriving after meeting had started: Michael Collins, Esquire (late due to auto problems; telephoned same prior to start of meeting).

B. Bronstein to file Motion addressing standing of Valleys Planning Council by November 30, 1992; Motions regarding any other matters to be filed by that date as well. Responding memos to be filed thereafter. Upon review by Board (H.L.B.), hearing to be scheduled on Motions only; notices to be sent regarding the motion only hearing at later date.

All parties agreed to postpone matter from January dates previously assigned and to reassign to March 9, 10, 11 and 12, 1993 and March 19, 1993 as a possible 5th day if needed.

11/05/92 -Notice of Postponement and Reassignment sent to all parties; hearing reassigned to Tuesday, 3/09/93; Wednesday, 3/10/93; Thursday, 3/11/93, and, if needed, Friday, 3/12/93. Also holding Friday, 3/19/93 as possible Day #5 if needed.

11/25/92 -Ltr from C. Holzer, Esquire /submitting copy of Memorandum of Law to the Zoning Commissioner containing legal issues.

11/30/92 -Motion in Limine to Limit the Scope of Issues filed by Benjamin Bronstein, Esquire.

12/10/92 -Valleys Planning Council, et al Response to Motion in Limine to Limit The Scope of Issues filed by J. C. Holzer, Esquire.

12/21/92 -Opposition of Northwest Land Corporation to Motion in Limine to Limit Scope of Issues filed by Michael J. Collins, Esquire.

1/27/93 -Notice of Assignment sent to parties /Hearing on Motion ONLY scheduled for Thursday, February 11, 1993 at 10:00 a.m.

2/01/93 -T/C from B. Bronstein; he will be out of town from 2/04/93 which time will include Thursday, 2/11/93. Requesting change of date for hearing on Motion as set for 2/11/93.

2/02/93 -After verifying availability of Board members assigned to this matter, sent Notice of Postponement & Reassignment for Motion hearing only; reassigned to Wednesday, 2/17/93 at 1:00 p.m.

3/03/93 -Motion to Recuse filed by J. Carroll Holzer, Esquire on behalf of Valleys Planning Council, et al.

3/04/93 -Board's Ruling on Motion in Limine to Limit Scope of Issues filed by B. Bronstein and heard by argument of counsel on 2/17/93 issued: Motion GRANTED.

3/05/93 -Order for Appeal filed by K. Donald Proctor, Esquire; J. Carroll Holzer, Esquire; and Michael J. Collins, Esquire in Circuit Court from Board's Ruling of 3/04/93. Request for Postponement made by above counsel pending CCt decision and their pending appeals in CircuitCCourt.

Message to D. Proctor -request denied; also to S. Leese --pursuant to t/c w/Chairman Hackett -he will be in on Tuesday, March 9 to proceed with hearing as scheduled absent Order of court stating otherwise.

3/08/93 -Confirmed Chairman's decision re postponement requests w/J. Carroll Hozler by telephone;

- Letter from B. Bronstein, Esquire -objects to postponement; intends to file Motion to Dismiss in Circuit Court; requests that hearing proceed.

3/15/93 -Notice of Assignment sent to all parties /additional dates scheduled: Friday, March 26; Wednesday, March 31; and Friday, April 2, 1993, all three dates to begin at 9:00 a.m.

3/24/93 -Ltr dtd 3/23/93 from K. Donald Proctor, Esquire, advising of schedule conflicts w/above dates; those dates he will/will not be able to attend; and reservation of right to "Con"adopt evidence presented by Mr. Holzer's

3/24/93 entry(continued)

and Mr. Collins' clients at a later time." Letter included in file.

4/16/93 -Notice of Deliberation sent to all parties as indicated in Zoning file and prior Notices; letter to all Counsel from WTH. Board to deliberate on Tuesday, May 4, 1993 at 9:00 a.m.

4/19/93 -Memo filed by J. Carroll Holzer, Esquire.

-Memo filed by Ben Bronstein, Esq.

- Memo filed by K. Donald Proctor, Esq.

- Memo filed by Michael Collins, Esq.

7/23/93 -OPinion and Order issued by the Board. (H.B.D.)

8/04/93 -Motion for Reconsideration and Clarification filed by Ben Bronstein on behalf of Villa Julie College.

8/13/93 -Answer to Motion for Reconsideration filed by J. Carroll Holzer on behalf of Valleys Planning Council,et al

DAVE

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Permits & Development Management

DATE: October 6, 1999

FROM: Charlotte E. Radcliffe
County Board of Appeals

SUBJECT: Closed File:

92-285-SPHXA /Villa Julie College, Inc.

This case was completed in the upper courts in April, 1994, and the original file and exhibits were returned to your office by John Almond, Records Manager /CCT in August, 1996.

Since no further appeals have been taken, we are hereby closing our file, and returning herewith the only remaining item from the original file which is a large board exhibit. Our records reflect that the Board's file was delivered to the Zoning Commissioner on June 22, 1998 at his request.

/cer

Attachment - (1) large exhibit - photo board

IN RE: PETITION FOR SPECIAL EXCEPTION BY VILLA JULIE COLLEGE, INC.

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 92-285-XA

* * * * * * * * * * *

SUBPOENA

TO: Michael Lancaster
Chief Business Officer
Villa Julie College
1525 Greenspring Valley Road
Stevenson, Maryland 21153

You are hereby summoned and commanded to be and appear personally before the Zoning Commissioner/Deputy Zoning Commissioner of Baltimore County in Room 106, Baltimore County Office Building, 111 West Chesapeake Avenue, Towson, Maryland 21204 and to bring all records of Villa Julie College regarding pumping of septic tanks by Villa Julie College from April 1, 1990 to April 15, 1992.
on the 15th day of April 1992, regarding the above captioned case, for the purpose of testifying at the request of Protestants, c/o K. Donald Proctor, Esquire.

K. Donald Proctor
MILES & STOCKBRIDGE
600 Washington Avenue
Towson, Maryland 21204
(301)823-8110

Mr. Sheriff/Private Process Server:

Please process in accordance with Zoning Commissioner's Rule IV(c).

Zoning Commissioner/Deputy
Zoning Commissioner
for Baltimore County

Issued: 4/14/92

MICROFILMED

BB/mlh/522.00/03.20.92

s/s Greenspring Valley Road	*	BEFORE THE
0' East of Nacerima Lane	*	ZONING COMMISSIONER
8th Election District 3rd Councilmanic District	*	FOR
	*	BALTIMORE COUNTY
Petitioner: Villa Julie College	*	CASE NO.: 92-285-XA

* * * * * * * * * * * * *

SUBPOENA DUCES TECUM

TO: Gene L. Neff
Director of Public Works
for Baltimore County
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

At the request of Benjamin Bronstein, Esquire, attorney for the Petitioner, you are commanded to appear and testify at the following dates, time and place:

Date: Thursday, April 9, 1992 and Wednesday, April 15, 1992

Time: 9:00 a.m.

Place: Room 109, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland 21204

Zoning Commissioner for Baltimore County

Date of Issuance: _____

MICROFILMED

BB/mlh/522.00/03.20.92

s/s Greenspring Valley Road	*	BEFORE THE
0' East of Nacerima Lane	*	ZONING COMMISSIONER
8th Election District 3rd Councilmanic District	*	FOR
	*	BALTIMORE COUNTY
Petitioner: Villa Julie College	*	CASE NO.: 92-285-XA

* * * * * * * * * * * * *

SUBPOENA DUCES TECUM

TO: G. Scott Barhight, Esquire
Whiteford, Taylor and Preston
Court Towers
210 West Pennsylvania Avenue
Towson, Maryland 21204

At the request of Benjamin Bronstein, Esquire, attorney for the Petitioner, you are commanded to appear and testify at the following dates, time and place:

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Time: 9:00 a.m.

Place: Room 109, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland 21204

S/

Zoning Commissioner for Baltimore County

Date of Issuance: _____

MICROFILMED

BB/mlh/522.00/03.20.92

s/s Greenspring Valley Road	*	BEFORE THE
0' East of Nacerima Lane	*	ZONING COMMISSIONER
8th Election District 3rd Councilmanic District	*	FOR
	*	BALTIMORE COUNTY
Petitioner: Villa Julie College	*	CASE NO.: 92-285-XA

* * * * * * * * * * * * *

SUBPOENA DUCES TECUM

TO: P. David Fields
Director of Planning and Zoning
for Baltimore County
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

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Date of Issuance: _____

MICROFILMED

BB/mlh/522.00/03.20.92

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8th Election District 3rd Councilmanic District	*	FOR
	*	BALTIMORE COUNTY
Petitioner: Villa Julie College	*	CASE NO.: 92-285-XA

* * * * * * * * * * * * *

SUBPOENA DUCES TECUM

TO: John J. Dieter
Department of Environmental Protection
and Resource Management
County Courts Building
401 Bosley Avenue
Towson, Maryland 21204

At the request of Benjamin Bronstein, Esquire, attorney for the Petitioner, you are commanded to appear and testify at the following dates, time and place:

Date: Thursday, April 9, 1992 and Wednesday, April 15, 1992

Time: 9:00 a.m.

Place: Room 109, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland 21204

S/

Zoning Commissioner for Baltimore County

Date of Issuance: _____

MICROFILMED

IN THE MATTER OF * BEFORE THE ZONING

Villa Julie College * COMMISSIONER OF

_____ * BALTIMORE COUNTY

_____ * CASE NO. Item # 146

* * * * * * * * * * * * * *

SUBPOENA

Please process in accordance with Zoning Commission Rule IV (c).

TO: Jim Dieter, Director of DEPREM
4th Floor, County Courts Bldg.
Towson, Md.

YOU ARE HEREBY COMMANDED TO: ( ) Personally appear; ( ) Produce documents and or objects only; (X) Personally appear and produce documents or objects;

at Old Courthouse, Room 118, Towson, Md. First Floor
(Place where attendance is required)

on Wednesday the 18th day of March,

19 92, at 9:00 a.m./~~p.m.~~ XXXXX

YOU ARE COMMANDED TO produce the following documents or objects: All documents, plans, correspondence, evaluations as they relate to Villa julie's Special Exception request.

J. Carroll Holzer, 305 W. Chesapeake Ave. Towson 825-6961
(Name of Party or Attorney, Address and Phone Number requesting subpoena)

Date 3/13/92

Lawrence Schmidt
Zoning Commissioner

SHERIFF'S RETURN

( )-Served and copy delivered on date indicated below.
( )-Unserved, by reason of _____
Date: _____ Fee:$ _____

_____
SHERIFF

MICROFILMED

IN THE MATTER OF * BEFORE THE ZONING

Villa Julie College * COMMISSIONER OF

_____ * BALTIMORE COUNTY

_____ * CASE NO. Item # 146

* * * * * * * * * * * * * *

SUBPOENA

Please process in accordance with Zoning Commission Rule IV (c).

TO: David Fields, Director OPZ
4th Floor, County Courts Bldg.
Towson, Md.

YOU ARE HEREBY COMMANDED TO: ( ) Personally appear; ( ) Produce documents and or objects only; (X) Personally appear and produce documents or objects;

at Old Courthouse, Room 118, Towson, Md. First Floor
(Place where attendance is required)

on Wednesday the 18th day of March, 19 92, at 9:00 a.m./~~p.m.~~

YOU ARE COMMANDED TO produce the following documents or objects: Correspondence, reports, evaluations, site plans and other documents that relate to Villa Julie's Special Exception request.

J. Carroll Holzer, 305 W. Chesapeake Ave. Towson 825-6961
(Name of Party or Attorney, Address and Phone Number requesting subpoena)

Date 3/13/92

Lawrence Schmidt
Zoning Commissioner

SHERIFF'S RETURN

( )-Served and copy delivered on date indicated below.
( )-Unserved, by reason of _____
Date: _____ Fee:$ _____

_____
SHERIFF

MICROFILMED

IN THE MATTER OF * BEFORE THE ZONING

Villa Julie College * COMMISSIONER OF

_____ * BALTIMORE COUNTY

_____ * CASE NO. Item # 146

* * * * * * * * * * * * * *

SUBPOENA

Please process in accordance with Zoning Commission Rule IV (c).

TO: Jack Dillon, OPZ
4th Floor
County Courts Bldg.

YOU ARE HEREBY COMMANDED TO: ( ) Personally appear; ( ) Produce documents and or objects only; (X) Personally appear and produce documents or objects;

at Old Courthouse, Room 118, Towson, Md. First Floor
(Place where attendance is required)

on Wednesday the 18th day of March,

19 92, at 9:00 a.m./~~p.m.~~ XXXXX

YOU ARE COMMANDED TO produce the following documents or objects: Correspondence, reports, evaluations, site plans and other documents that relate to Villa Julie's Special Exception request.

J. Carroll Holzer, 305 W. Chesapeake Ave. Towson 825-6961
(Name of Party or Attorney, Address and Phone Number requesting subpoena)

Date 3/13/92

Lawrence Schmidt
Zoning Commissioner

SHERIFF'S RETURN

( )-Served and copy delivered on date indicated below.
( )-Unserved, by reason of _____
Date: _____ Fee:$ _____

SHERIFF

MICROFILMED

IN THE MATTER OF * BEFORE THE ZONING

Villa Julie College * COMMISSIONER OF

_____ * BALTIMORE COUNTY

_____ * CASE NO. Item # 146

* * * * * * * * * * * * * *

SUBPOENA

Please process in accordance with Zoning Commission Rule IV (c).

TO: Oscar Keys, Balto. County Public Works
County Office Bldg. 3rd Floor
Towson, Md.

YOU ARE HEREBY COMMANDED TO: ( ) Personally appear; ( ) Produce documents and or objects only; (X) Personally appear and produce documents or objects;

at Old Courthouse, Room 118, Towson, Md. First Floor
(Place where attendance is required)

on Wednesday the 18th day of March,

19 92, at 9:00 a.m./~~p.m.~~

YOU ARE COMMANDED TO produce the following documents or objects: Files as they relate to sewer and water plan amendment 1990-1991 in the above case.

J. Carroll Holzer, 305 W. Chesapeake Ave. Towson 825-6961
(Name of Party or Attorney, Address and Phone Number requesting subpoena)

Date 3/13/92

Lawrence Schmidt
Zoning Commissioner

SHERIFF'S RETURN

( )-Served and copy delivered on date indicated below.
( )-Unserved, by reason of _____
Date: _____ Fee:$ _____

SHERIFF

MICROFILMED

BALTIMORE COUNTY, MARYLAND
DEPARTMENT ORDER FOR DIRECT PAYMENT

Number DP- 478404

DATE September 10, 1992

PAYEE'S NAME AND ADDRESS	DESCRIPTION	CHECK AMOUNT
Michael J. Collins, Esquire	Refund of Appeal Fee	$635.00
100 South Charles Street	Case No. 92-285-SPHXA	VENDOR/ SOCIAL SECURITY#
Baltimore, Maryland 21201	Villa Julie College, Inc. -	
	Petitioner	ACCOUNTING PERIOD M M Y Y
TYPE CODE #(SEE REVERSE) 20	NEW VENDOR FEDERAL I.D. #	

LN	PURCHASE ORDER	LN	VENDOR INVOICE	FUND	AGENCY	ORG	SUB ORG	OBJ	REV SOURCE	SUB REV	REPT CATG	BS ACCT	AMOUNT	I D	P F
01				001	006				6150				$635.00		
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11															
12															

EXTENSIONS VERIFIED		DISBURSEMENT APPROVED	

REQUESTED BY:
Office of Zoning Administration and Development Management MS# 1105
NAME OF AGENCY OR DEPARTMENT

APPROVED FOR PAYMENT:

[ ] Send Check to Above Department
[X] Mail Check to Payee
[X] Enclosure to be Mailed with Check
[ ] _____

Stella R. Lowery
AUTHORIZED SIGNATURE — DATE: September 10, 1992

MICROFILMED
OFFICE OF FINANCE — DATE

White Copy - To Finance Office
Green Copy - For Purchasing Department
Yellow Copy - For Department's File

REV. 6/91

BALTIMORE COUNTY, MARYLAND
DEPARTMENT ORDER FOR DIRECT PAYMENT

Number DP- 478405

DATE September 10, 1992

PAYEE'S NAME AND ADDRESS	DESCRIPTION	CHECK AMOUNT
Benjamin Bronstein, Esquire	Refund of Appeal Fee	$635.00
29 W. Susquehanna Avenue	Case No. 92-285-SPHXA	VENDOR/ SOCIAL SECURITY#
Suite 205	Villa Julie College, Inc. -	
Towson, Maryland 21204	Petitioner	ACCOUNTING PERIOD M M Y Y
TYPE CODE #(SEE REVERSE) 20	NEW VENDOR FEDERAL I.D. #	

LN	PURCHASE ORDER	LN	VENDOR INVOICE	FUND	AGENCY	ORG	SUB ORG	OBJ	REV SOURCE	SUB REV	REPT CATG	BS ACCT	AMOUNT	I D	P F
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11															
12															

EXTENSIONS VERIFIED		DISBURSEMENT APPROVED	

REQUESTED BY:
Office of Zoning Administration and Development Management MS# 1105
NAME OF AGENCY OR DEPARTMENT

APPROVED FOR PAYMENT:

☐ Send Check to Above Department

☒ Mail Check to Payee

☒ Enclosure to be Mailed with Check

☐ _____

Stella R. Lowery — September 10, 1992
AUTHORIZED SIGNATURE — DATE

MICROFILMED
OFFICE OF FINANCE — DATE

White Copy - To Finance Office
Green Copy - For Purchasing Department
Yellow Copy - For Department's File

REV. 6/91

IN THE MATTER OF THE APPLICATION OF VILLA JULIE COLLEGE, INC. FOR A SPECIAL HEARING, SPECIAL EXCEPTION AND VARIANCES ON PROPERTY LOCATION ON THE SOUTH SIDE GREENSPRING VALLEY ROAD, 9' EAST OF NACIREMA LANE (1521 GREENSPRING VALLEY ROAD) 8TH ELECTION DISTRICT 3RD COUNCILMANIC DISTRICT	*	BEFORE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY CASE NO. 92-285-SPHXA

* * * * * * * * *

S U B P O E N A

Please issue a Subpoena to the following named witness to appear before the County Board of Appeals of Baltimore County at the hearing for the matter captioned above on Wednesday, March 31, 1993 and Friday, April 2, 1993 at 9:00 a.m. in Room 48, Basement, Old Courthouse, located at 400 Washington Avenue, Towson, MD 21204, and continuing thereafter as necessary for such witness' testimony and as scheduled by the Board.

Witness: F. Pearce Linaweaver

NAME: Benjamin Bronstein, Esquire

FIRM: EVANS, GEORGE AND BRONSTEIN

Susquehanna Building, Suite 205
29 W. Susquehanna Avenue
Towson, MD 21204

The witness named above is hereby ordered to so appear before the County Board of Appeals. The Board requests the Sheriff to issue the summons set forth herein.

Kathleen C. Bandel

County Board of Appeals of Baltimore County

93 MAR 19 PM 2:08

RECEIVED
COUNTY BOARD OF APPEALS

IN THE MATTER OF * BEFORE THE

Villa Julie College * COUNTY BOARD OF APPEALS

1521 Greenspring Valley Rd. * BALTIMORE COUNTY

_____ * CASE NO. 92-285-SPHXA

* * * * * * * * * * * * * *

SUBPOENA

Please issue a Subpoena to the following named witness to appear before the County Board of Appeals of Baltimore County at the hearing for the matter captioned above on Tues., Wed.Th. & Friday Mar. 9,10,11,12 at 10:00 A.M. at Room 48, located at Basement Old Courthouse, 400 Washington Ave. Towson and continuing thereafter as necessary for such witness' testimony and as scheduled by the Board.

Witness: Oscar Keyes
Address: Dept. of Public Works
County Office Bldg. Towson

Name: J. Carroll Holzer, Esq.
Firm: Holzer, Maher, Demilio & Lee
Address: 305 W. Chesapeake Ave. #105
Towson, Md. 825-6961

The witness named above is hereby ordered to so appear before the County Board of Appeals. The Board requests the Sheriff to issue the summons set forth herein.

County Board of Appeals of
Baltimore County

Cost: $_____

Summoned: _____, 19___

Not served: _____, 19___

Sheriff of Baltimore County

93 MAR -5 AM 11:37

RECEIVED
COUNTY BOARD OF APPEALS

IN THE MATTER OF:	*	BEFORE THE BOARD OF APPEALS
THE VILLA JULIE COLLEGE, INC.	*	FOR BALTIMORE COUNTY
	*	CASE NO.: 92-285-SPHXA

* * * * * * * * * * * * * * *

SUBPOENA

TO: Dane Bauer
Water Management Administration
2500 Broening Highway
Baltimore, Maryland 21224

At the request of Benjamin Bronstein, Esquire, attorney for the Petitioner, you are commanded to appear and testify at the following date, time and place:

Date: Tuesday, March 9, 1993; Wednesday, March 10, 1993; Thursday, March 11, 1993; and Friday, March 12, 1993

Time: 10:00 a.m.

Place: Hearing Room 48, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204

YOU FURTHER ARE COMMANDED to bring with you to the hearing all records pertaining to Villa Julie College which are within your possession, custody, or control.

Kew

Board of Appeals for Baltimore County

Date of Issuance: _____

93 FEB 18 PM 2:43

RECEIVED
COUNTY BOARD OF APPEALS

4/14/94
OK to file in our file.

CIRCUIT COURT FOR BALTIMORE COUNTY

CIVIL CATEGORY 59/285/93Cv7403 JUDICIAL REVIEW

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY,
PETITION OF VILLA JULIE COLLEGE, INC. (Cross Appellee)

and
BARTON S. AND ELIZABETH MITCHELL, CLARK FARM ASSOCIATES, AND TIMOTHY M. AND MARY STEWART RODGERS (8-20-93)
AND
NORTHWEST LAND CORPORATION(8-26-93)
**********PLTFF'S CONTINUED ON PG. A*********
FOR JUDICIAL REVIEW OF THE DECISION OF THE COUNTY BOARD OF APPEALS FOR BALTIMORE COUNTY COURTHOUSE

IN THE CASE OF: IN THE MATTER OF THE APPLICATION OF VILLA JULIE COLLEGE, INC. FOR A SPECIAL HEARING . SPECIAL EXCEPTION & VARIANCES ON THE PROPERTY LOCATED ON THE SOUTH SIDE OF GREENSPRING VALLEY ROAD, 9' EAST OF NACIREMA LANE
8th ELECTION DISTRICT, 3rd COUNCILMANIC DISTRICT

County Board of Appeals of Baltimore County

Board of Appeals # 92-285-SPXHA

ATTORNEYS

K. Donald Proctor
Miles & Stockbridge
Suite 300
600 Washington Avenue
21204 823-8110
(Barton S. & Elizabeth Mitchell, Clark Farm Assoc. & Timothy M. & Mary Stewart Rodgers)

Michael Collins 27th Fl. Commerce Pl.
1 South St. Balt.,MD 21202(Northwest L

Benjamin Bronstein
205 Susquehanna Bldg
29 W Susquehanna Ave 21204
296-0200 (Villa Julie)

Kathleen C. Weidenhammer
Administrative Assistant
Co. Board of Appeals of Balto Co., Room 49, Basement
Old Courthouse, 400 Washingto Ave
21204 887-3180
c-Bd/App 4-7-94

CIVIL COSTS	9307403
CV CLK	80.00
B LBRY	10.00
CKCHECK TL	90.00
#51157 C001 R01 T16:	08/17/

RECEIVED
COUNTY BOARD OF APPEALS
94 APR 14 PM 3:35

rlb(1) Aug. 17.1993 Petitioner, Villa Julie College's petition for Judicial Review, fd. Copy sent.

rs*(2) Aug. 20, 1993 Petition of BARTON S. and ELIZABETH MITCHELL, CLARK FARM ASSOCIATES & TIMOTHY M. and MARY STEWART RODGERS for Judicial Review fd.

al (3) August 26, 1993 Petition of NORTHWEST LAND CORPORATION for Judicial Review, fd. (recv'd 8-24-93)

al (4) August 27, 1993 Petition of defdts', Valleys Planning Council, Homeowners of Greenspring, Greenspring Valley Association, Velvet Valley Association, Falls Road Community Association, Douglas A. Carroll, III, Mf. and Mrs. Hanry G. Hagen, Mr. and Mrs. Lawrence P. Naylor, III, Mr. and Mrs. Richard B. Buck, Mr. and Mrs. J. Stephen Immelt, and Mr. and Mrs. Thomas F. Obrecht as individual, for Judicial Review, fd. (recv'd 8-20-93)

rs(5) Sept. 8, 1993 County Board of Appeals of Baltimore County's Second Certificate of Notice fd. (rec'd 8-24-93)

PH(6) Sep 17,1993 Rec'd 8/30/93 Fourth Certificate of notice,fd.

PH(7) Sep 17,1993 Rec'd 9/7/93 Petition for judicial review of Villa Julie College, Inc.,fd.

PH(8) Sep 17,1993 Rec'd 9/7/93 Response of Valley Planning Counsil,etal, to Petition,fd.

CASE NO. 93CV7403

lb(9) Sept. 21,1993(rec'd 9/2/93)Cross-petitioners, Barton S. & Elizabeth Mitchell, Clark Farm Assoc& Timothy M & Mary Stuart Rodgers's response to petition for judicial review of Villa Julie College, inc., fd.

lb(10) Sept. 24.1993 (rec'd 9/13/93) Proceedings before the zoning commissioner & the County Board of Appeals of Baltimore County, fd.Notice of filing sent.

ps (11) October 21, 1993 Stipulation for Extension of Time for Filing of Memoranda Pursuant to Maryland Rule 7-207, fd.

jh(12) Oct. 25, 1993, All Parties to this appea; Stipulation For Extension of Time For Filing of Memoranda Pursuant To Maryland Rule 7-207, fd.

s (13) November 4, 1993 Stipulaiton for Extension of Time for Filing of Memoranda Pursuant to MD rule 7-207, fd.

os (14) November 22, 1993 Stipulation for Extension of time for Filing Memoranda Pursuant to Maryland Rule 7-207, fd.

s(15) Dec. 15, 1993 Memorandum of Petitioners, BARTON S. MITCHELL, ELIZABETH MITCHELL, CLARK FARM ASSOCIATES, TIMOTHY M. RODGERS and MARY STEWART RODGERS fd. (rec'd 12-1-93)

s*(16) DEc. 21, 1993 Memorandum of NORTHWEST LAND CORPORATION with Exhibits fd.(rec'd 12-1-93)

al (17) January 7, 1994 Stipulation for extension of time for filing of memoranda pursuant to MD Rule 7-207, fd. (recv'd 12-22-93)

PH(18) Jan 7,1994 Rec'd 12/29/93 Stipulation for extension of time for filing of memorandum,fd.

Transcipt and Brown envelope Box 171 basement

PH(19) Jan 11,1994 Rec'd 12/1/93 Memorandum of Appellant, Villa Julie College,Inc.,fd.

ng(20) Jan. 11, 1994, Vallry Planning Council, et al, appellants, rule 7-207 memorandum with exhibits, fd. (rec'd 12/1/93)

dd(21) Jan. 21, 1994 Stipulation for Extension of Time for filing Memorandum Pursuant to Md. Rule 7-207, fd. (rec'd 1/10/94)

dd(22)*Jan. 28,1994 Memorandum of Appellant, Villa Julir College, Inc. in answer to Appeal memoranda of Appellees/Cross-Appellants, fd. (rec'd 1/17/94)

s(23) Feb. 1, 1994 Appellants Reply Memorandum fd. (rec'd 1-18-94)

s(24) Feb. 1, 1994 Response of NORTHWEST LAND CORPORATION to Memorandum of Appellant fd. (rec'd 1-18-94)

s(25) Feb. 1, 1994 Answering Memorandum of BARTON S. & ELIZABETH MITCHELL, CLARK FARM ASSOCIATES, TIMOTHY M. & MARY STEWART RODGERS to Memorandum of Appellant fd. (rec'd 1-19-94)

am (26) Feb 14, 1994 Stipulation for Extension of Time for filing of reply memoranda, fd. Rec.'d 1/31/94.

(Cont to 285-D)

PH(27) Feb 18,1994 Rec'd 2/7/94 Reply memorandum of PAetitoners',fd.

PH(28) Feb 18,1994 Rec'd 2/7/94 Reply memorandum of Villa Julie in answer to response memoranda,fd.

March 2, 1994 - Hon. Barbara Kerr Howe. H/H Case held Sub-Curia Opinion and order to be fd.

PH(29) Apr 5,1994 Memorandum Opinion and Order of Court Reversing the decision of the Board of Appeals and Remanding case for furthur proceedings,etc,fd. (BKH)

PLTFF'S PAGE:

VALLEYS PLANNING COUNCIL AND
HOMEOWNERS OF GREENSPRING AND
GREENSPRING VALLEY ASSOCIATION AND
VELVET VALLEY ASSOCIATION AND
FALLS ROAD COMMUNITY ASSOCIATION AND
DOUGLAS A. CARROLL, III AND
MR. & MRS. HENRY G. HAGEN AND
MR. & MRS. LAWRENCE P. NAYLOR, III AND
MR. & MRS. RICHARD B. BUCK AND. BUCK AND
MR. & MRS. J. STEPHEN IMMELT AND
MR. & MRS. THOMAS F. OBRECHT AS INDIVIDUALS

J. Carroll Holzer
Suite 105 305 W. Chesapeake Ave
Towson, MD 21204 825-6961

(over for pleading entries)

DOCKET 59 PAGE 285-A CASE NUMBER 93CV7403

3-8-93

RECEIVED
COUNTY BOARD OF APPEALS
93 MAR -8 PM 2:30

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

M E M O

TO: William Hackett, Chairman

FROM: Jud Lipowitz

SUBJECT: Villa Julie College, Inc.

DATE: March 8, 1993

Sorry about my last minute scheduling conflict. Please thank John Disney for me. Obviously, the Motion to Recuse is now moot. I would, however, subject to your approval, like the record to reflect the following information:

1. I do **NOT** have a conflict of interest in the Villa Julie case;

2. None of my clients is a party in the Villa Julie case;

3. None of my clients has even the slightest economic interest in the outcome of the matter;

4. The allegation that my service as an attorney for private clients would impair my impartiality or independence of judgment as a member of the CBA is unfounded and absurd.

If you have any questions, please let me know.

JHL.DOC\BOARD.MEM

To: File

WCR

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director **DATE:** October 6, 1999
Permits & Development Management

FROM: Charlotte E. Radcliffe
County Board of Appeals

SUBJECT: ~~Closed File:~~
92-285-SPHXA /Villa Julie College, Inc.

This memo will serve as notice that the above captioned matter is closed. This case was completed in the upper courts in April, 1994.

Our records reflect the Board's file was delivered to the Zoning Commissioner on June 22, 1998 at his request. The Board has retained copies of all pertinant documents from the case file; therefore, the file can be microfilmed when it is returned to your section by the Zoning Commissioner.

/cer

files are unavailable
√ To Save

BALTIMORE COUNTY, MARYLAND

DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT

INTER-OFFICE CORRESPONDENCE

DATE: September 26, 1995

To: Mr. Wirth - DEPRM, SWM
Mr. Stewart - DEPRM, EIRD
Mr. Seeley - DEPRM, W & S
Mr. Richards - PDM, Development Control
Mr. Ogle - PDM, House Numbers & Street Names
Mr. Bowling - PDM, DES (4)
Capt. Paull - Fire Dept. - 1102F
Mr. Grossman - Rec & Parks
Mr. Small - SHA (3)
Mr. McDaniel - OPZ, Development Review (3)

TO: JLL
RECEIVED
SEP 27 1995
By SCJ

From: Susan Wimbley

Subject: Project Name: VILLA JULIE
Project No.: 95160Z 1525 GREEN-SPRING VALLEY ROAD
PDM No.: III-371
District: 3
Engineer: STEPHENS
Phone No.: 825-8120

Action:
☒ Limited Exemption (26-171.b.9)
☐ Waived Hearing Officer Hearing
☐ CRG Non-material Amendment
☐ Waived CRG Meeting

Please review the attached plan for compliance with current regulations and return comments to this office by **OCT 17, 1995**. If you have no comments or do not need to review this plan, please indicate by placing your initials here _____.

Please initial here if your agency requests PDM, Land Acquisition, to acquire

_____ HIGHWAY WIDENING
_____ GREENWAY
_____ DRAIN/UTILITY EASEMENT
_____ FOREST CONSERVATION
_____ FOREST BUFFER
_____ FLOODPLAIN
_____ PUBLIC WORKS AGRMT
_____ NONE OF THE ABOVE

LTDEXEMP.DOT

VILLA JULIE
1525 Greenspring Valley Road
95-160-Z

Limited Exemption Plan Review
Plan Date: 9/25/95
Comments Due: 10/17/95
Comments Date: 9/28/95
Comments Typed: 9/28/95

Correct the zoning case number in the zoning history notes to 92-285-SPHXA.

The zoning history notes must be complete concerning what specific relief was granted or denied and all restrictions must be listed and addressed.

In addition to the final order and due to the extensive appeal actions in this case, each zoning action, by whom, and the date must be listed.

Key all variances to their location on the plan.

Staff is unable to further review this plan until the above issues are clarified on revised plans.

Any requests for further information from the Zoning Office must include a reference to the limited exemption file #95-160-Z and written correspondence or revised plans must be accompanied by a copy of these comments.

OK SEE
NEXT PAGE.

JOHN L. LEWIS
Planner II

JLL:scj

c: Zoning Case #92-285-SPHXA

11/6/95

TO: JOE MARANTO. SUBJECT: VILLA JULIE COLLEGE

THE PLAN DATED 10/30/95 (DEV PLAN.)

IS WITHIN LIMITS FOR ZONING APPROVAL AS

DISCUSSED WITH THE ZONING COMMISSIONER

ON 11/3/95.

FINAL ZONING APPROVAL AS ALWAYS ARE SUBJECT TO THE OUTCOME OF ANY ZONING PUBLIC HEARINGS.

ITEM # 1460

TO: PETITIONER/ATTORNEY

PETITION PROCESSING FLAG

This petition has been accepted for filing by JOHN LEWIS and has been placed on the zoning hearing agenda. However, the submitted minimum or accepted materials must be corrected/included before the application can be considered correct and complete:

_____ Need an attorney.

_____ Following information is missing:

_____ Descriptions, including accurate beginning point
_____ Actual address of property
_____ Zoning
_____ Acreage
_____ Plats (need 12, only ___ submitted)
_____ 200 scale zoning map
_____ Election district
_____ Councilmanic district
_____ B.C.Z.R. section information/wording
_____ Hardship/practical difficulty information
_____ Owner's signature (need minimum 1 original signature) and/or printed name and/or address and/or telephone number
_____ Contract purchaser's signature (need minimum 1 original signature) and/or printed name and/or address
✓ ~~Signature (need minimum 1 original signature) and/or~~ printed name ~~and/or title~~ of person signing for legal owner/~~contract purchaser~~
_____ Attorney's signature (need minimum 1 original signature) and/or printed name and/or address and/or telephone number -- ATTORNEY CONTACTED BY SOPHIA ON _____.
_____ Notary Public's section is incomplete and/or commission has expired

_____ Residential Variance (Administrative Posting and Approval) will be held in this office until _____ (10 working days). If not corrected and/or completed by that time, it will be returned and a new petition must be filed.

Petition Agenda Check by SCJ

cc: Project Reviewer - LEWIS
Petitioner - VILLA JULIE COLLEGE
Contract Purchaser - —
Attorney - BRONSTEIN
File

* → OK CORRECTED 10/4/91 JJL

Baltimore County
Department of Public Works
Towson, Maryland 21204

Gene L. Neff, P.E.
Director

June 13, 1990

Dennis F. Rasmussen
County Executive

Ms. Lisa M. Reaver
Project Manager
MARYLAND ENVIRONMENTAL SERVICE
2020 Industrial Service
Annapolis, MD 21401

Re: Villa Julie College + Baltimore Province Sisters of Notre Dame

Dear Ms. Reaver:

We have reviewed your letter of April 26, 1990 and several matters need clarification.

The property is zoned under the zoning laws of Baltimore County as R.C. 2 (Agricultural). Schools and colleges are not a right in this zone but can be considered, or permitted, by special exception. We believe that, at present, the college exists as a nonconforming land use having been in existence prior to the zoning of the land. We have been unable to find a record of any special exceptions having been granted. At present, this office is not in a position to consider the growth factors indicated in your report.

The property is shown on maps W16B and S16B in the WATER SUPPLY AND SEWERAGE PLAN OF BALTIMORE COUNTY (Plan) and is designated W-7, S-7 (No Planned Community or Multi-Use Service). This limits any planned, or permitted, use to domestic water supply and sewage disposal systems on a single property to less than 5,000 gal per day. Clearly, both the college and adjacent property of the Sisters of Notre Dame are nonconforming uses under the Plan also.

Your request, on behalf of both properties, should have been for a special exception to permit a community sewerage system with point source discharge to be built in service to both properties in the S-7 area.

Having raised the issue of nonconformance and planned growth involving both properties, this office is led to believe that all independent water

MICROFILMED

EXHIBIT B

systems on both properties may exceed 5,000 gallons per day and would, therefore, be Multi-Use systems under state law and should be indicated as such in our Plan and may need to be classified by the state as a Community System under the Clean Water Act of the Federal Government. As this is a matter involving the health of all resident and student populations on both properties, you or your client should take immediate steps to clarify this matter involving the domestic supply and utilization of drinking water on both properties with all appropriate state authorities as well as with this office.

As Baltimore County is required by the state to have a Water Supply and Sewerage Plan which supports and is compatible with the Land Use Master Plan, zoning the issue which you have raised creates a true dilemma. The Baltimore County Plan clearly supports the intention of the Land Use Master Plan to limit land use in the rural Resource Conservation Zones to that which can be supported by and within the land of the owner. By action of the Baltimore County Council in 1968, Section 34-7 of the Baltimore County Code was adopted. It specifically forbids the discharge of human effluent from any treatment plant without the signed authorization of the directors of Planning, Public Works, and the County Health Officer with the final approval of the Council. The existing Plan is fully compatible with the legislated position of both state and local governments. This is why we interpret your application to be for a special exception to the Plan and not simply an issue of inventory or amendment.

The issue of correcting the inventory applies to all existing nonconforming systems on both properties. Your assistance in obtaining factual information as to each independent water supply and sewerage system now existing on both sites would be gratefully appreciated.

We recognize that your request was submitted in great haste based on the deadline of May 1st for our annual amendment process. Please be advised that if we do not make the July public hearing on the several issues to be corrected, or the special exception sought, we will seek a special hearing, when adequate information is available, independent of the annual cycle based on the operating condition of one or more of the existing systems reported as overloaded.

We recognize the problems associated with the design and sizing of the facilities for these properties, and are aware of your effort to meter water use. I would remind you that the plumbing systems within a private property, including supply and disposal, are matters covered by the Plumbing Code of Baltimore County. You should be cognizant of these requirements irrespective of metering.

MICROFILMED

This office believes the land use - zoning issues relative to growth are a necessary precedent to consideration of the sewerage issue raised based on the state requirement that the Plan support and be compatible with the land use decisions and zoning of the county.

Your assistance, or that of your client, and the neighboring property owner to clarify the many issues which where spawned by your request of April 26, 1990 will be greatfully appreciated.

At the present time, with only one of two property owners having petitioned, we must consider the petition invalid. Time permiting we will, if possible, accept an ammended petition.

Very truly yours,

Oscar M. Keys Jr.
Assistant to the Director of Public Works
Phone 887-3451

OMK:ec
cc: David Fields
Robert Sheesley
Gene L. Neff
Mike Moran
James Dieter
J. L. Hearn
Dane Bauer
Billie Messenger, Villa Julie College

ISS9011C/DASW.SP

MICROFILMED

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

Suite 113 Courthouse
400 Washington Avenue
Towson, MD 21204

(410) 887-4386

January 21, 1992

J. Carroll Holzer, Esquire
Holzer, Maher, DeMilio and Lee
305 W. Chesapeake Avenue
Suite 105
Towson, Maryland 21204

RE: Villa Julie
Item 146

Dear Mr. Holzer:

This is to acknowledge receipt of your letter dated January 14, 1992 regarding the zoning hearing currently scheduled for the above matter for March 10 thru 12th, 1992. Due to the usual uncertainty as to whether your conflicting case might settle or will go forward, as scheduled, I have determined to leave the matter before me on the docket. However, to avoid any conflict, I have set aside an additional day, Wednesday, March 18, 1992, for this case. Thus, if you are unable to appear on March 12th because of your Circuit Court trial, the Villa Julie case will reconvene on March 18th. I have chosen this date in that it was among the dates which all of the parties indicated they were available when the case was originally set.

As to the settlement conference on March 10th, I would suggest a longer lunch break than usual, so that you may be accommodated and attend the conference.

I trust the inclusion of an additional date is acceptable to you and all interested parties, and I am advising them of same by a copy of this letter. Please do not hesitate to contact me should you have any further questions regarding this matter.

Very truly yours,

Lawrence E. Schmidt
Zoning Commissioner

LES:mmn
cc: Don Proctor, Esquire
Ben Bronstein, Esquire
Ms. Margaret Worrall
file

MICROFILMED

3303-92

1/15/92 LES whatever you wish to do is fine with me JC

RONALD L. MAHER
J. CARROLL HOLZER
CAROLE S. DEMILIO
THOMAS J. LEE

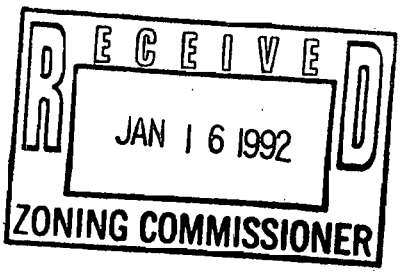
J. HOWARD HOLZER
1907-1989

LAW OFFICES
HOLZER, MAHER, DEMILIO & LEE
305 W. CHESAPEAKE AVENUE
SUITE 105
TOWSON, MARYLAND 21204
(301) 825-6960
FAX (301) 825-6964
DIRECT DIAL:

CARROLL COUNTY OFFICE
1315 LIBERTY ROAD
ELDERSBURG, MARYLAND 21784
(301) 795-8556
FAX (301) 795-5535

SUITE 700
1725 DeSALES STREET, N.W.
WASHINGTON, D.C. 20036

January 14, 1992
FILE NO. #6592



The Honorable Lawrence E. Schmidt
Zoning Commissioner for
Baltimore County
First Floor
County Office Building
Towson, Maryland 21204

RE: Villa Julie

Dear Mr. Schmidt:

Please be advised that I agree to dates of March 10, 11 and 12, 1992 for the above captioned case. I have since received a notice from the Assignment Office in regard to Case No. Jury 90 CG 3233, which I am counsel representing the Plaintiff that I have a pre-trial settlement conference on Tuesday, March 10, 1992 at 1:30 p.m. and a two day jury trial beginning Thursday, March 12, 1992 at 9:30 a.m.

Even though the Circuit Court case was scheduled after your assignment of the Villa Julie case, I believe it takes precedence in that not only is it a Circuit Court case, but that it was previously postponed.

I would therefore appreciate your comments as to willingness to work around this schedule or whether or not this matter should be pulled out for those dates and reassigned by you for alternative hearing date.

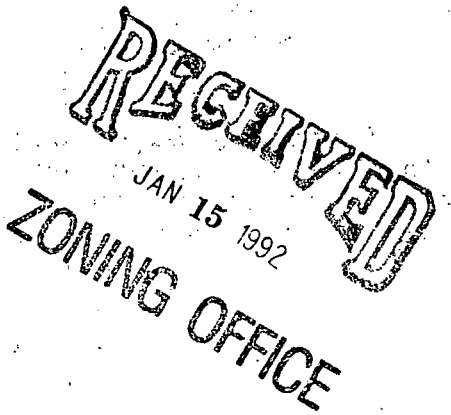
Very truly yours,

J. Carroll Holzer

JCH:mlg

Enclosure

cc: Don Proctor, Esquire
Ben Bronstein, Esquire
Ms. Margaret Worrall



Form CA2

CIRCUIT COURT FOR BALTIMORE COUNTY

Irene Summers — 887-2660
Civil Assignment Commissioner

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

January 13, 1992

J. Carroll Holzer, Esq.
Ronald L. Maher, Esq.

Scott B. Karp, Esq.

RE: Jury 90 CG 3233 -- JAMES DILL VS. WARRENER RENTALS, INC.

SETTLEMENT CONFERENCE DATE: N/A

Conference Room #403 before the Honorable

PRE-TRIAL SETTLEMENT CONFERENCE: Tuesday, March 10, 1992, @ 1:30 p.m.

Conference Room #403 before the Honorable Frank E. Cicone

All counsel and their clients MUST attend these Settlement Conferences in person. All Insurance Representatives or, in domestic cases a corroborating witness MUST attend these Settlement Conferences in person. Failure of attendance in person of all parties listed above can result in sanctions being imposed, unless prior approval of the Court is obtained. THERE WILL BE NO EXCEPTIONS PER ORDER OF JUDGE EDWARD A. DEWATERS, JR.

HEARING DATE: Merits: 2 Days Thursday, March 12, 1992, @ 9;30 a.m.

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 Grimm-887-3497.

UPON RECEIPT OF THIS NOTICE: Counsel shall contact each other to conform calendars for the above date(s). Claim of not receiving notice will not constitute reason for postponement.

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

Suite 113 Courthouse
400 Washington Avenue
Towson, MD 21204

(410) 887-4386

March 13, 1992

Benjamin Bronstein, Esquire
Evans, George and Bronstein
29 W. Susquehanna Avenue
Suite 205
Towson, Maryland 21204

J. Carroll Holzer, Esquire
Holzer, Maher, DeMilio and Lee
305 W. Chesapeake Avenue
Suite 105
Towson, Maryland 21204

Donald K. Proctor, Esquire
Miles and Stockbridge
Sute 300, 600 Washington Avenue
Towson, Maryland 21204

RE: Villa Julie College, Inc., Petitioner
Case No. 92-285-SPHXA

Gentlemen:

Confirming telephone conversation this date with my secretary, please be advised that you have agreed to an additional hearing date of April 9, 1992 regarding the above captioned case. This hearing will be from 9:00 A.M. to 2:00 P.M. in Room 109 of the County Office Building. This date will be in addition to March 18 and April 15.

Thank you for your assistance and cooperation.

Very truly yours,

Lawrence E. Schmidt
Zoning Commissioner

LES:mmn

MICROFILMED

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

Suite 113 Courthouse
400 Washington Avenue
Towson, MD 21204

(410) 887-4386

April 21, 1992

Benjamin Bronstein, Esquire
Suite 205
The Susquehanna Building
29 W. Susquehanna Avenue
Towson, Md. 21204

J. Carroll Holzer, Esquire
Holzer, Maher, Demilio and Lee
305 W. Chesapeake Avenue
Suite 105
Towson, Maryland 21204

Donald Proctor, Esquire
Miles and Stockbridge
Suite 300
600 Washington Avenue
Towson, Maryland 21204

RE: Villa Julie College
Case No. 92-285-SPHXA

Gentlemen:

Confirming telephone conversation with my secretary, recently, it is agreed by all parties that the above captioned case will be continued for hearing at 9:00 A.M. on Friday, May 15, 1992 in Room 106 of the County Office Building, 111 W. Chesapeake Avenue, Towson, Md.

Very truly yours,

Lawrence E. Schmidt

LES:mmn

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Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

FILE COPY

September 10, 1992

J. Carroll Holzer, Esquire
Holzer, Maher, Demilio & Lee
305 West Chesapeake Avenue, Suite 105
Towson, Maryland 21204

Michael J. Collins, Esquire
Neuberger, Quinn, Gielen & Rubin, P.A.
100 South Charles Street
Baltimore, Maryland 21201

Benjamin Bronstein, Esquire
Evans, George & Bronstein
29 W. Susquehanna Avenue, Suite 205
Towson, Maryland 21204

K. Donald Proctor, Esquire
Miles & Stockbridge
600 Washington Avenue
Towson, Maryland 21204

RE: VILLA JULIE COLLEGE, INC. - PETITIONER
1521 GREENSPRING VALLEY ROAD
CASE NO. 92-285-SPHXA

Gentlemen:

After review of the facts, Arnold Jablon - Director of Zoning Administration and Development Management, has determined that in this particular case, only one appeal fee totalling $635.00 is required. Therefore, he has determined it is appropriate that the four (4) appellants split the $635.00 equally for an amount of $158.75 each.

As a result, the County will pay back the appeal fees received from Ben Bronstein and Michael J. Collins who, in turn, will each pay $158.75 to Carroll Holzer.

Additionally, Donald Proctor is now required to pay a portion of the fee to Mr. Holzer totalling $158.75.

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In this fashion everyone will be protected in terms of the appeal.

Very truly yours,

Charlotte E. Radcliffe
Appeal Clerk

/cer

MICROFILMED

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

March 12, 1993

K. Donald Proctor, Esquire
MILES & STOCKBRIDGE
600 Washington Avenue
Towson, MD 21204

RE: Case No. 92-285-SPHXA /
Villa Julie College, Inc.

Dear Mr. Proctor:

I am in receipt of your letter dated March 17, 1993 regarding the recent amendment to Maryland Rule B7(a) and the sixty-day period for our transmittal of the record to the Circuit Court.

Please know that this office was aware of this recent revision, and that our court reporter was advised of the correct date for transmittal of the record in the subject matter. The form letter on our computer has also been changed accordingly.

Very truly yours,

Kathleen C. Weidenhammer
Administrative Assistant

Enclosure

cc: Michael J. Collins, Esquire
J. Carroll Holzer, Esquire
Benjamin Bronstein, Esquire
Michael Chomel, Esquire

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

May 13, 1993

Benjamin Bronstein, Esquire
EVANS, GEORGE AND BRONSTEIN
Susquehanna Building, Suite 205
29 W. Susquehanna Avenue
Towson, MD 21204

J. Carroll Holzer, Esquire
HOLZER, MAHER, DEMILIO & LEE
305 W. Chesapeake Avenue
Suite 105
Towson, MD 21204

Michael J. Collins, Esquire
NEUBERGER, QUINN, GIELEN
& RUBIN, P.A.
Equitable Bank Center Tower II
100 S. Charles Street
Baltimore, MD 21201

K. Donald Proctor, Esquire
MILES & STOCKBRIDGE
600 Washington Avenue
Towson, MD 21204

Re: File No. 93-CV-2112 /
Villa Julie College, Inc.
(Zoning Case No. 92-285-SPHA)

Dear Counsel:

As all counsel is aware, Case No. 92-285-SPHA is presently before the Board of Appeals awaiting the Board's final Opinion and Order. In addition, regarding the subject Circuit Court appeal, it is the understanding of the Board that a Motion to Dismiss that appeal (Circuit Court File No. 93-CV-2112) was filed in the Circuit Court for Baltimore County by Mr. Bronstein on April 14, 1993. Rule B7(b) of the Maryland Rules states that "...the record need not be transmitted until after disposition of a motion to dismiss the appeal...."

Therefore, the record in the above-referenced matter is not being transmitted to the Circuit Court at this time pending disposition of Mr. Bronstein's Motion to Dismiss.

Very truly yours,

Kathleen C. Weidenhammer
Administrative Assistant

cc: Clerk of the Court
File

Printed on Recycled Paper

County Board of Appeals of Baltimore County

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

April 16, 1993

Benjamin Bronstein, Esquire
EVANS, GEORGE AND BRONSTEIN
Susquehanna Building, Suite 205
29 W. Susquehanna Avenue
Towson, MD 21204

J. Carroll Holzer, Esquire
HOLZER, MAHER, DEMILIO & LEE
305 W. Chesapeake Avenue
Suite 105
Towson, MD 21204

Michael J. Collins, Esquire
NEUBERGER, QUINN, GIELEN
& RUBIN, P.A.
Equitable Bank Center Tower II
100 S. Charles Street
Baltimore, MD 21201

K. Donald Proctor, Esquire
MILES & STOCKBRIDGE
600 Washington Avenue
Towson, MD 21204

Re: Case No. 92-285-SPHXA /
Villa Julie College, Inc.

Dear Counsel:

The issue was raised in open hearing regarding the applicability of Section 10.501 of the Maryland Annotated Code to this Board.

In response thereto, the Board will schedule a meeting to deliberate the testimony and evidence received in the matter of Villa Julie College, Inc., Case No. 92-285-SPHXA.

The Board wishes to make it very clear that, while Section 10-501(a)(2) authorizes that citizens are allowed to observe, no participation by any of these observers in any way will be permitted.

Very truly yours,

William T. Hackett

William T. Hackett, Chairman
County Board of Appeals

5-13-93

County Board of Appeals of Baltimore County

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

May 13, 1993

Benjamin Bronstein, Esquire
EVANS, GEORGE AND BRONSTEIN
Susquehanna Building, Suite 205
29 W. Susquehanna Avenue
Towson, MD 21204

J. Carroll Holzer, Esquire
HOLZER, MAHER, DEMILIO & LEE
305 W. Chesapeake Avenue
Suite 105
Towson, MD 21204

Michael J. Collins, Esquire
NEUBERGER, QUINN, GIELEN
& RUBIN, P.A.
Equitable Bank Center Tower II
100 S. Charles Street
Baltimore, MD 21201

K. Donald Proctor, Esquire
MILES & STOCKBRIDGE
600 Washington Avenue
Towson, MD 21204

Re: File No. 93-CV-2112 /
Villa Julie College, Inc.
(Zoning Case No. 92-285-SPHA)

Dear Counsel:

As all counsel is aware, Case No. 92-285-SPHA is presently before the Board of Appeals awaiting the Board's final Opinion and Order. In addition, regarding the subject Circuit Court appeal, it is the understanding of the Board that a Motion to Dismiss that appeal (Circuit Court File No. 93-CV-2112) was filed in the Circuit Court for Baltimore County by Mr. Bronstein on April 14, 1993. Rule B7(b) of the Maryland Rules states that "...the record need not be transmitted until after disposition of a motion to dismiss the appeal...."

Therefore, the record in the above-referenced matter is not being transmitted to the Circuit Court at this time pending disposition of Mr. Bronstein's Motion to Dismiss.

Very truly yours,

Kathleen C. Weidenhammer
Administrative Assistant

cc: Clerk of the Court
File

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

October 15, 1992

Benjamin Bronstein, Esquire
EVANS, GEORGE AND BRONSTEIN
Susquehanna Building, Suite 205
29 W. Susquehanna Avenue
Towson, MD 21204

Re: Case No. 92-285-SPHXA /
Villa Julie College, Inc.

Dear Mr. Bronstein:

The Board is scheduling a pre-hearing conference with all counsel on Thursday, October 29, 1992, at 1:00 p.m. in the Board's office. The purpose of this conference is the scheduling of hearing dates; determining the issues to be heard; and any other matter that may be of concern.

Very truly yours,

William T. Hackett

William T. Hackett, Chairman
County Board of Appeals

cc: J. Carroll Holzer, Esquire
Michael J. Collins, Esquire
K. Donald Proctor, Esquire

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County Board of Appeals of Baltimore County

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

October 22, 1992

Michael J. Collins, Esquire
NEUBERGER, QUINN, GIELEN
& RUBIN, P.A.
Equitable Bank Center Tower II
100 South Charles Street
Baltimore, MD 21201

Re: Case No. 92-285-SPHXA /
Villa Julie College, Inc.

Dear Mr. Collins:

In response to your request and letter dated October 20, 1992, the Board will reschedule the pre-hearing conference previously set for Thursday, October 29, 1992 with regard to the above-entitled matter.

This letter will confirm the rescheduling of this conference to Thursday, November 5, 1992 at 10:00 a.m. in the Board's office (Room 49, Old Courthouse).

Very truly yours,

Kathleen C. Weidenhammer
Administrative Assistant

cc: Benjamin Bronstein, Esquire
J. Carroll Holzer, Esquire
K. Donald Proctor, Esquire

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RECEIVED
COUNTY BOARD OF APPEALS

93 MAR 15 PM 1:27

HOUSE OF DELEGATES

ANNAPOLIS, MARYLAND 21401-1991

RICHARD RYND
11TH LEGISLATIVE DISTRICT
BALTIMORE COUNTY
CO-CHAIRMAN JOINT COMMITTEE ON SPENDING AFFORDABILITY
VICE-CHAIRMAN BALTIMORE COUNTY DELEGATION
ASSISTANT MAJORITY WHIP
APPROPRIATIONS COMMITTEE
SUBCOMMITTEE HEALTH AND THE ENVIRONMENT

BUSINESS ADDRESS:
5A GWYNNS MILL COURT
OWINGS MILLS, MARYLAND 21117-3529
(410) 363-0690

ANNAPOLIS OFFICE:
310 LOWE HOUSE OFFICE BUILDING
ANNAPOLIS, MARYLAND 21401-1991
(410) 841-3342

March 11, 1993

Mr. William T. Hackett, Chairman
Baltimore County Board of Appeals
400 Washington Avenue Room 49
Towson, Maryland 21204

Dear Mr. Hackett:

I am writing to you as a legislator whose area takes in the Villa Julie College at Greenspring Valley Road. I want to voice my opposition to the expansion of the College. The school has rejected the Zoning Commissioner's limit to the current expansion of 2,500 students. I believe that this is even too much.

Villa Julie College is in a residential area. It will have waste water problems, and traffic problems in an area that can not continue its residential personality if uncontrolled expansion is allowed to continue.

I would have enjoyed being a witness at the hearing; but because of my legislative responsibilities, while we are in session, does not allow me to be present.

I can assure you that being on the Appropriations Committee which provides funding for future expansion of Villa Julie, I will be scrutinizing very carefully any funds Villa Julie will request in the future for this unwarranted expansion.

Sincerely,

Richard Rynd

RR:sc

Villa Julie -#6

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 1991, Legislative Day No.1

Resolution No. 2-91

Mr. C.A. Dutch Ruppersberger, III, Councilman
By Request of County Executive

By the County Council, January 7, 1991

A RESOLUTION to amend the Baltimore County Water Supply and Sewerage Plan.

WHEREAS, The Planning Board has considered requests for amendments to the Baltimore County Water and Sewerage Plan, and has received the recommendation from the Department of Public Works, the Department of Environmental Protection and Resource Management and the Office of Planning and Zoning and has reviewed the requested amendments in accordance with the Executive Order concerning the Water and Sewerage Plan Amendment Process, dated April 11, 1990; and

WHEREAS, the Planning Board did on Thursday, July 19, 1990, hold an advertised public hearing on the requests for amendment and did report the same to the Baltimore County Executive; and

WHEREAS, the Baltimore County Executive as well as the Department of Environmental Protection and Resource Management, the Department of Public Works, the Planning Board and the Office of Planning and Zoning have recommended that the Plan be amended in the manner set forth herein.

NOW, THEREFORE, BE IT RESOLVED, by the County Council of Baltimore County, Maryland that the Baltimore County Water Supply and Sewerage Plan, as amended, be and it is hereby further amended as follows:

1. The maps attached hereto and marked as Exhibit 1 entitled "Blaustein Property Revision to the Water Supply and Sewerage Plan" are hereby approved and the Areal Designations and Comprehensive Facilities Planning Line adjusted to agree with the existing zoning.

2. The maps attached hereto and marked as Exhibit 2 entitled "Schroeder Avenue Revision to the Water Supply and Sewerage Plan" are hereby approved and the Areal Designations revised to S-3, W-3 Capital Facilities Area.

3. The maps attached hereto and marked as Exhibit 3 entitled "Footes Hill and Rodgers Tract Revision to the Water Supply and Sewerage Plan" are hereby approved and the Areal Designation revised to S-3, W-3 Capital Facilities Area.

4. The maps attached hereto and marked as Exhibit 4 entitled "Jackson Property Revision to the Water Supply and Sewerage Plan" are hereby approved and the Comprehensive Facilities Line and Planning Area Designation adjusted to permit an RC-4 land use.

6/16/95 9688-95
to WCR for file

LAW OFFICES
KRAMON & GRAHAM, P. A.
COMMERCE PLACE
ONE SOUTH STREET, SUITE 2600
BALTIMORE, MARYLAND 21202-3201
(410) 752-6030
FACSIMILE
(410) 539-1269

MAX HIGGINS LAUTEN
(410) 347-7433

ALSO ADMITTED IN DC

RECEIVED
JUN 15 1995
ZADM

92-285

June 14, 1995

Via Telecopier (410) 887-3406 and U.S. Mail

Mr. David Thomas, P.E.
Chief of General Engineering and
Assistant to the Director
Baltimore County Department of
Public Works
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

RE: Villa Julie College's Petition for Amendment
to County Water and Sewer Plan

Dear Mr. Thomas:

As you know, this firm represents Villa Julie College ("Villa Julie"). On April 28, 1995, I wrote to you requesting that Baltimore County process a technical amendment to the County Water and Sewer Plan changing the wastewater treatment plant designation for Villa Julie from a community plant to a multi-use plant. On May 1, 1995, I tendered to you a formal Petition in that regard.

Subsequent to my April 28 and May 1 correspondence to you, the Water Management Administration of the Maryland Department of the Environment ("MDE") and the Baltimore County Administrative Officer, Merreen Kelly, indicated that no further amendment of the County Water and Sewer Plan is required in order for Villa Julie to install a multi-use wastewater treatment plant. Certain opponents of the proposed wastewater treatment plant objected to MDE's conclusion in that regard, and asked it to reconsider its position. On June 9, 1995, J.L. Hearn, Director of the Water Management Administration of MDE wrote to K. Donald Proctor, Esquire reaffirming MDE's position that no further amendment of the County Water and Sewer Plan is required. I have enclosed a copy of that letter for your reference.

In reliance on the position taken by MDE and Baltimore County in this matter, Villa Julie hereby withdraws its May 1, 1995 Petition for Amendment to the Baltimore County Water Supply and Sewerage Plan.

Thank you for your cooperation in this matter.

Very truly yours,

Max H. Lauten

MHL:daw
Enclosure
cc: Mr. Merreen Kelly
Arnold Jablon, Esquire
Benjamin Bronstein, Esquire
President Carolyn Manuszak

MDE MARYLAND DEPARTMENT OF THE ENVIRONMENT
2500 Broening Highway • Baltimore, Maryland 21224
(410) 631-3000

Parris N. Glendening
Governor

Jane T. Nishida
Secretary

June 9, 1995

K. Donald Proctor
Law Offices of Miles & Stockbridge
600 Washington Avenue
Towson, Maryland 21204-3965

Dear Mr. Proctor:

As you requested in your May 25, 1995 letter, I have reconsidered my May 17th decision that there is no need for Baltimore County to amend its Comprehensive Water and Sewer Plan regarding the Villa Julie College wastewater treatment plant. I conclude that my May 17th decision is correct for the reasons set forth below.

As you know, MDE and Villa Julie College recently prevailed in the Court of Special Appeals in a case involving the Agency's decision to issue a wastewater discharge permit to the College. The College's septic system had failed, and a wastewater treatment plant was determined to be the only feasible solution to this significant public health problem. The Court of Special Appeals held that substantial evidence supported the Agency decision, and that no errors of law were committed.

Shortly after the decision was issued in MDE's case, the Court of Special Appeals also ruled in favor of the College in its appeal from certain rulings in a companion zoning case. The zoning appeal involved, among other things, the College's plans to add additional classrooms, facilities, and the wastewater treatment plant. The zoning appeal did not involve the issue of conformity of the plant to the Plan.

Now that the College has completed the discharge permit process, it needs to quickly move to solve its wastewater problems. You would like to delay this process further by having the Department require an amendment to the Comprehensive Water and Sewer Plan. I do not agree that such an amendment is necessary or required by law.

At the time the Plan was adopted, the County wanted to create an opportunity by which any onsite sewage disposal system problem on both the College's and the Sisters' property could be accommodated. Therefore, the Plan provides that the plant may serve both properties. It later became apparent that the Sisters' sewage disposal system functioned properly and therefore the Sisters' connection to the Villa Julie sewage system was no longer necessary. The Plan's language was intended to accommodate the sewage disposal problems for the two properties and should not be used now to further delay the needed correction to the College's long-standing sewage disposal problems.

1/16/92
It's up to you!

3325-92

LAW OFFICES
EVANS, GEORGE AND BRONSTEIN
SUSQUEHANNA BUILDING, SUITE 205
29 WEST SUSQUEHANNA AVENUE
TOWSON, MARYLAND 21204
(301) 296-0200
FAX: (301) 296-3719

L. ROBERT EVANS
HARRIS JAMES GEORGE
BENJAMIN BRONSTEIN

MICHAEL J. CHOMEL
DOUGLAS A. STUBBS

RECEIVED
JAN 22 1992
ZONING COMMISSIONER

January 15, 1992

The Honorable Lawrence Schmidt
Zoning Commissioner for Baltimore County
First Floor
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

RE: **Villa Julie College**

Dear Commissioner Schmidt:

The purpose of this letter is to document my vigorous opposition to Mr. Holzer's request of January 14, 1992 that the above entitled case be again postponed. I have enclosed a copy of my letter to you of October 25, 1991 relating to the prior postponement requested by Mr. Holzer.

I called Mr. Holzer and cleared the March 10, 11, and 12 dates with him. In addition, I called Gwen Stevens in the Zoning Office and all the witnesses that are likely to testify on behalf of Villa Julie.

It is important that this case go forward. Mr. Holzer's request for a continuance should be with the Circuit Court. If he is unable to try this case let one of his partners try it, or in the alternative let one of his partners try the case in the Circuit Court. If that is not an acceptable suggestion, I suggest Mr. Holzer get his Circuit Court case continued to a new date.

I note on the assignment notice from the Circuit Court that counsel should notify the assignment office 30 days prior to trial in the event a hearing date is "not agreeable". Lastly, I am

MICROFILMED

unaware that a Circuit Court case takes precedence over a previously scheduled administrative hearing.

Very truly yours,

EVANS, GEORGE AND BRONSTEIN

Benjamin Bronstein

BB/mlh
Enclosure
cc: J. Carroll Holzer, Esquire

LAW OFFICES
EVANS, GEORGE AND BRONSTEIN
SUSQUEHANNA BUILDING, SUITE 205
29 WEST SUSQUEHANNA AVENUE
TOWSON, MARYLAND 21204
(301) 296-0200
FAX: (301) 296-3719

L. ROBERT EVANS
HARRIS JAMES GEORGE
BENJAMIN BRONSTEIN

MICHAEL J. CHOMEL
DOUGLAS A. STUBBS

April 22, 1992

VIA FAX

K. Donald Proctor, Esquire
Miles and Stockbridge
Suite 300
600 Washington Avenue
Towson, Maryland 21204

J. Carroll Holzer, Esquire
Holzer, Maher, Demilio & Lee
Suite 105
305 West Chesapeake Avenue
Towson, Maryland 21204

RE: **Villa Julie**

Dear Don and Carroll:

It is my intention to finish the rebuttal testimony early on May 15. At the conclusion of testimony, I would suggest that the balance of the day be set aside for oral argument. I am also requesting that all memoranda be submitted on May 15.

Commissioner Schmidt has set aside 4:00 on either April 28, 29 or May 7 for a conference in this case. I called each of you yesterday and have not received a response. It is my intention to be at Commissioner Schmidt's office on April 28 at 4:00 for the purpose of discussing the schedule for testimony, memoranda and argument.

Very truly yours,

EVANS, GEORGE AND BRONSTEIN

Benjamin Bronstein

BB/mlh
cc: The Honorable Lawrence E. Schmidt

MICROFILMED

LAW OFFICES

EVANS, GEORGE AND BRONSTEIN

SUSQUEHANNA BUILDING, SUITE 205
29 WEST SUSQUEHANNA AVENUE
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L. ROBERT EVANS
HARRIS JAMES GEORGE
BENJAMIN BRONSTEIN

MICHAEL J. CHOMEL
DOUGLAS A. STUBBS

May 26, 1992

HAND DELIVERED

The Honorable Lawrence Schmidt
Zoning Commissioner for Baltimore County
Courthouse
400 Washington Avenue
Towson, Maryland 21204

RE: **Villa Julie College**
Case No.: 92-285-XA

Dear Commissioner Schmidt:

I am enclosing the Petitioner's Memorandum in reference to the above entitled case.

Thank you for your kind consideration.

Very truly yours,

EVANS, GEORGE AND BRONSTEIN

Benjamin Bronstein

BB/mlh
Enclosure
cc: J. Carroll Holzer, Esquire
K. Donald Proctor, Esquire

RECEIVED
MAY 26 1992
ZONING COMMISSIONER

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LAW OFFICES
EVANS, GEORGE AND BRONSTEIN
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L. ROBERT EVANS
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BENJAMIN BRONSTEIN

MICHAEL J. CHOMEL
DOUGLAS A. STUBBS

RECEIVED
JUN - 2 1992
ZONING COMMISSIONER

May 29, 1992

The Honorable Lawrence Schmidt
Zoning Commissioner for Baltimore County
Courthouse
400 Washington Avenue
Towson, Maryland 21204

RE: **Villa Julie College**
Case No.: 92-285-XA

Dear Commissioner Schmidt:

In view of the fact that the Petitioner, Villa Julie College, has the burden of persuasion in the above entitled case, please advise me if you deem it necessary that a reply memorandum be filed. If so, I would appreciate your advising me as to the date required for such filing.

Very truly yours,

EVANS, GEORGE AND BRONSTEIN

Benjamin Bronstein

BB/mlh
cc: J. Carroll Holzer, Esquire
K. Donald Proctor, Esquire

file,
I called
B. Bronstein,
advised no
reply
needed
JS

LAW OFFICES

EVANS, GEORGE AND BRONSTEIN

SUSQUEHANNA BUILDING, SUITE 205
29 WEST SUSQUEHANNA AVENUE
TOWSON, MARYLAND 21204
(301) 296-0200
FAX: (301) 296-3719

L. ROBERT EVANS
HARRIS JAMES GEORGE
BENJAMIN BRONSTEIN

MICHAEL J. CHOMEL
DOUGLAS A. STUBBS

October 12, 1992

The Honorable William T. Hackett
Chairman
Board of Appeals for Baltimore County
Courthouse
400 Washington Avenue
Towson, Maryland 21204

RE: **Villa Julie College, Inc. - Petitioner**
1521 Greenspring Valley Road
Case No.: 92-285-SPHXA

Dear Mr. Hackett:

I represent Villa Julie College in the above entitled case. While this appeal is on your docket its hearing date has not been scheduled.

This case took approximately seven days of hearings before the Zoning Commissioner. It is possible that a hearing before the Board will require more time in that there is additional counsel and the appeal is on the record. I am hereby requesting that you schedule a pre-hearing conference with all counsel for the purpose of establishing hearing dates and defining the issues to be heard by the Board. I hope that this procedure will expedite the hearing process while at the same time providing an economic use of the Board's time.

Thank you for you kind consideration.

Very truly yours,

EVANS, GEORGE AND BRONSTEIN

Benjamin Bronstein

BB/mlh
cc: J. Carroll Holzer, Esquire
Michael J. Collins, Esquire
K. Donald Proctor, Esquire

RECEIVED
COUNTY BOARD OF APPEALS
92 OCT 13 PM 12:32

LAW OFFICES

EVANS, GEORGE AND BRONSTEIN

SUSQUEHANNA BUILDING, SUITE 205
29 WEST SUSQUEHANNA AVENUE
TOWSON, MARYLAND 21204
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FAX: (301) 296-3719

L. ROBERT EVANS
HARRIS JAMES GEORGE
BENJAMIN BRONSTEIN

MICHAEL J. CHOMEL
DOUGLAS A. STUBBS

RECEIVED
COUNTY BOARD OF APPEALS
93 MAR -8 PM 2:29

March 8, 1993

HAND DELIVERED

The Honorable William T. Hackett
Chairman
Board of Appeals for Baltimore County
Courthouse
400 Washington Avenue
Towson, Maryland 21204

RE: **Villa Julie College, Inc., Petitioner**
Case No.: 92-285-SPHXA

Dear Mr. Hackett:

I have received by fax a copy of the Order for Appeal filed by Mr. Proctor on behalf of his clients. Villa Julie College vigorously objects to the requested postponement. No appeal lies from an evidentiary ruling by the Board to the Circuit Court. It is my intention to timely file a Motion to Dismiss with the Circuit Court in view of the fact that the appeal was prematurely noted.

Thank you for your kind consideration.

Very truly yours,

EVANS, GEORGE AND BRONSTEIN

Benjamin Bronstein

BB/mlh
cc: Michael Collins, Esquire (via fax)
J. Carroll Holzer, Esquire (via fax)
K. Donald Proctor, Esquire (via fax)

6/1/95 2420-95
To WDR
& file & case
&

LAW OFFICES

EVANS, GEORGE AND BRONSTEIN

SUSQUEHANNA BUILDING, SUITE 205
29 WEST SUSQUEHANNA AVENUE
TOWSON, MARYLAND 21204
(410) 296-0200
FAX: (410) 296-3719

L. ROBERT EVANS
HARRIS JAMES GEORGE
BENJAMIN BRONSTEIN

MICHAEL J. CHOMEL

June 1, 1995

VIA FAX 887-5781

Merreen E. Kelly
County Administrative Officer
Administrative Office
for Baltimore County
Courthouse Mezzanine
Towson, Maryland 21204

92-285-XA

RE: **Villa Julie College**
Water and Sewer Plan Amendment
Issue No.: 2-91; and
Proposed Water and Sewer Plan Amendment
Issue No.: 95-03

Dear Mr. Kelly:

As you know Villa Julie College has an approved special exception plan permitting the College to build additional facilities including an accessory waste water treatment plant on its site. The original Water and Sewer Plan Amendment 2-91 authorized a community plant. The College intends only to proceed with a multi-user plant, that is to say a plant for its own use and for the use of no one else.

Attached is a letter dated May 17, 1995 from J.L. Hearn, Director of Water Management Administration stating that there is no need to amend the Water and Sewer Plan to reflect a multi-use waste water treatment plant instead of a community plant.

Based on Mr. Hearn's interpretation of the State regulations, I trust that Baltimore County will concur with the State's interpretation that an amendment to the Water and Sewer Plan is not needed. Based on your concurrence, and the letter from Mr. Hearn, Villa Julie College, will withdraw its requested amendment.

RECEIVED
JUN 1 1995
ZADM

Please confirm that Baltimore County does not require an amendment to the Water and Sewer Plan. I would appreciate that confirmation being forwarded to Max H. Lauten, Esquire, Kramon & Graham, Commerce Place, 1 South Street, Suite 2600, Baltimore, Maryland 21202 who is also representing Villa Julie College in this matter, and to David Thomas, P.E., Department of Public Works for Baltimore County.

Very truly yours,

EVANS, GEORGE AND BRONSTEIN

Benjamin Bronstein

BB/mlg
Enclosure

MDE
MARYLAND DEPARTMENT OF THE ENVIRONMENT
2500 Broening Highway • Baltimore, Maryland 21224
(410) 631-3000

Parris N. Glendening
Governor

Jane T. Nishida
Secretary

May 17, 1995

Mr. Max H. Lauten
Law Offices
Kramon & Graham, P.A.
Commerce Place
One South Street, Suite 2600
Baltimore, Maryland 21202-3201

Dear Mr. Lauten:

Thank you for your May 2, 1995 letter which asks if the Baltimore County Water and Sewerage Plan must be amended again to indicate that Villa Julie College, Inc. intends to build a multi-use wastewater treatment plant instead of a community plant.

From a review of the facts as presented in your letter, another amendment is not needed for the College to build a multi-use plant.

I hope that this information satisfies your concern. If you have any questions or need additional information, please call me at (410) 631-3765.

Sincerely,

J.L. Hearn, Director
Water Management Administration

JLH:lp

cc: Mr. David Thomas

DRAFT

June 1, 1995

Max H. Lauten, Esquire
Kramon and Graham, P.A.
Commerce Place
One South Street
Suite 2600
Baltimore, Maryland 21202-3201

RE: **Villa Julie College, Inc.**

Dear Mr. Lauten:

Reference is made to a letter dated May 17, 1995 from J.L. Hearn, Director of Water Management Administration, my conference with you, Carolyn Manuszak, President of Villa Julie College, and Benjamin Bronstein, also counsel for the College, of this date.

The County understands that, in keeping with zoning decisions in this matter, Villa Julie intends to build a multi-use plant rather than a community plant. Predicated on Mr. Hearn's letter and Baltimore County's review of this matter, no further amendment to the Water and Sewer Plan is required.

I hope that this information meets your concerns.

Sincerely,

Merreen E. Kelly
County Administrative Officer

BB/MEK/mlg

LAW OFFICES
MILES & STOCKBRIDGE
600 WASHINGTON AVENUE
TOWSON, MARYLAND 21204

TELEPHONE 301-821-6565
FAX 301-823-8123

10 LIGHT STREET
BALTIMORE, MARYLAND 21202

101 BAY STREET
EASTON, MARYLAND 21601

11350 RANDOM HILLS ROAD
FAIRFAX, VIRGINIA 22030

30 WEST PATRICK STREET
FREDERICK, MARYLAND 21701

22 WEST JEFFERSON STREET
ROCKVILLE, MARYLAND 20850

1701 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20006

K. DONALD PROCTOR
301-823-8110

March 6, 1992

RECEIVED
MAR 6 1992
ZONING COMMISSIONER

HAND DELIVERY

The Honorable Lawrence E. Schmidt
Zoning Commissioner for Baltimore County
Office of Planning and Zoning
Suite 113 - Court House
400 Washington Avenue
Towson, Maryland 21204

Re: Villa Julie
Item No. 146

Dear Mr. Schmidt:

Please be advised that I will be representing several adjoining property owners, including Mr. and Mrs. Barton S. Mitchell and Dr. and Mrs. Gaylord Lee Clark, Jr., in connection with next week's hearings in this matter and I expect to participate actively therein.

Very truly yours,

K. Donald Proctor

KDP/pm

cc: J. Carroll Holzer, Esquire
Benjamin Bronstein, Esquire

MICROFILMED

LAW OFFICES
MILES & STOCKBRIDGE
600 WASHINGTON AVENUE
TOWSON, MARYLAND 21204

TELEPHONE 301-821-6565
FAX 301-823-8123

10 LIGHT STREET
BALTIMORE, MARYLAND 21202

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ROCKVILLE, MARYLAND 20850

1701 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20006

K. DONALD PROCTOR
301-823-8110

May 26, 1992

HAND DELIVERY

The Honorable Lawrence E. Schmidt
Zoning Commissioner for Baltimore County
Suite 113 Courthouse
400 Washington Avenue
Towson, Maryland 21204

Re: Villa Julie College

Dear Commissioner Schmidt:

I am delivering herewith the Post-Hearing Memorandum on behalf of my clients.

Very truly yours,

K. Donald Proctor

KDP/pm

Enclosure

cc: J. Carroll Holzer, Esquire - w/encs.
Benjamin Bronstein, Esquire - w/encs.

RECEIVED
MAY 27 1992
ZONING COMMISSIONER

MICROFILMED

LAW OFFICES
MILES & STOCKBRIDGE
600 WASHINGTON AVENUE
TOWSON, MARYLAND 21204

TELEPHONE 410-821-6565
FAX 410-823-8123

10 LIGHT STREET
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FREDERICK, MARYLAND 21701

22 WEST JEFFERSON STREET
ROCKVILLE, MARYLAND 20850

1450 G STREET, N.W.
WASHINGTON, D.C. 20005

August 7, 1992

HAND DELIVERY

The Honorable Lawrence E. Schmidt
Zoning Commissioner
Baltimore County
Suite 113 - Court House
400 Washington Avenue
Towson, Maryland 21204

Re: Petitions for Special Hearing,
Special Exception and Zoning
Variance
Case No. 92-285-SPHXA
Villa Julie College, Inc.

Dear Mr. Schmidt:

Please enter an appeal to the Baltimore County Board of Appeals from your Order of July 10, 1992 in this matter approving the Petition for Special Hearing, granting the Petition for Special Exception, and granting the Petition for Zoning Variances, on behalf of Barton S. and Elizabeth Mitchell, Clark Farm Associates, and Timothy M. and Mary Stuart Rodgers. The addresses of the Appellants are as follows:

Barton S. and Elizabeth Mitchell
1701 Greenspring Valley Road
Stevenson, Maryland 21153

Clark Farm Associates
1704 Hillside Road
Stevenson, Maryland 21153

Timothy M. and Mary Stuart Rodgers
1425 Greenspring Valley Road
Stevenson, Maryland 21153

Clark Farm Associates is a family partnership comprised of the following members, whose mailing addresses are as follows:

Dr. and Mrs. Gaylord Lee Clark
1704 Hillside Road
Stevenson, Maryland 21153

RECEIVED
AUG 7 1992
ZONING OFFICE

MICROFILMED

Mr. and Mrs. A. Rutherford Holmes
3130 Golf Course Road, West
Owings Mills, Maryland 21117

Ms. Juliana C. Watts
7511 L'Hirondelle Club Road
Towson, Maryland 21204

Ms. Letitia Yensho
5527 Mattfeldt Avenue
Baltimore, Maryland 21209

I have been advised today by Charlotte Radcliffe, your appeal clerk, that since Northwest Land Corporation (Gordon Sugar), through its attorney, Michael Collins, has already entered an appeal from your July 10, 1992 Order and paid the applicable filing fees, then no filing fee is required in connection with this appeal by my clients.

Could you please stamp the enclosed additional copy of this letter to acknowledge receipt of this appeal this date.

Very truly yours,

K. Donald Proctor

KDP/pm

Enclosures

cc: Benjamin Bronstein, Esquire
J. Carroll Holzer, Esquire
Michael J. Collins, Esquire
Mr. and Mrs. Barton S. Mitchell
Dr. and Mrs. Gaylord Lee Clark
Ms. Juliana C. Watts
Mr. and Mrs. A. Rutherford Holmes
Mr. Robert I. Hankey
Mr. and Mrs. Timothy M. Rodgers
Ms. Letitia Yensho

4A.

LAW OFFICES
MILES & STOCKBRIDGE
600 WASHINGTON AVENUE
TOWSON, MARYLAND 21204

TELEPHONE 410-821-6565
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10 LIGHT STREET
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410-823-8110

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FREDERICK, MARYLAND 21701

22 WEST JEFFERSON STREET
ROCKVILLE, MARYLAND 20850

1450 G STREET, N.W.
WASHINGTON, D.C. 20005

December 17, 1992

HAND DELIVERY

The Honorable William T. Hackett,
Chairman
Baltimore County Board of Appeals
Old Court House
400 Washington Avenue - Room 49
Towson, Maryland 21204

Re: Villa Julie College

Dear Mr. Hackett:

My clients, Barton S. and Elizabeth Mitchell, Clark Farm Associates, and Timothy M. and Mary Stuart Rodgers, join in the response of Valleys Planning Council to Villa Julie's Motion in Limine to Limit the Scope of Issues.

My understanding is that you will be scheduling a hearing in connection with this motion, and to the extent necessary, we hereby request such a hearing.

Very truly yours,

K. Donald Proctor

KDP/pm

cc: Benjamin Bronstein, Esquire
J. Carroll Holzer, Esquire
Michael J. Collins, Esquire

RECEIVED
COUNTY BOARD OF APPEALS
92 DEC 17 PM 12:50

LAW OFFICES
MILES & STOCKBRIDGE
600 WASHINGTON AVENUE
TOWSON, MARYLAND 21204

TELEPHONE 410-821-6565
FAX 410-823-8123

10 LIGHT STREET
BALTIMORE, MARYLAND 21202

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410-823-8110

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FREDERICK, MARYLAND 21701

22 WEST JEFFERSON STREET
ROCKVILLE, MARYLAND 20850

1450 G STREET, N.W.
WASHINGTON, D.C. 20005

March 17, 1993

RECEIVED
COUNTY BOARD OF APPEALS
93 MAR 17 PM 4:38

HAND DELIVERED

Kathleen C. Weidenhammer
Administrative Assistant
County Board of Appeals
for Baltimore County
Old Courthouse, Room 49
400 Washington Avenue
Towson, Maryland 21204

RE: Villa Julie College, Inc.
Case No. 92-285-SPHXA

Dear Ms. Weidenhammer:

Thank you for your letter of March 12, 1993, a copy of my letter to Ms. Peatt, the Board's official court reporter is enclosed. Please note as I pointed out in that letter, that effective January 1, 1993 Maryland Rule B7(a) was amended to provide that the record (including any transcript) is to be transmitted to the Circuit Court within 60 days after the filing of the first Petition of Appeal.

Very truly yours,

K. Donald Proctor

KDP/dn
Enclosure

cc: Michael J. Collins, Esquire
J. Carroll Holzer, Esquire
(w/o enclosure)

DN/VJC:Weiden.ltr

LAW OFFICES
MILES & STOCKBRIDGE
600 WASHINGTON AVENUE
TOWSON, MARYLAND 21204

TELEPHONE 410-821-6565
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ROCKVILLE, MARYLAND 20850

1450 G STREET, N.W.
WASHINGTON, D.C. 20005

March 17, 1993

HAND DELIVERED

Ms. Carolyn Peatt
Court Reporter
County Board of Appeals
for Baltimore County
Old Courthouse, Room 49
400 Washington Avenue
Towson, Maryland 21204

RE: Villa Julie College, Inc.
Case No. 92-285-SPHXA

Dear Ms. Peatt:

I am in receipt of Ms. Kathleen C. Weidenhammer's letter of March 12, 1993, copy of which is enclosed.

In connection with this appeal, we will require the transcription of proceedings held on February 17, 1993 at 1:00 p.m. in this matter, and the transcription of proceedings held on March 9, 1993 commencing at 10:00 a.m. and continuing until the calling of the first witness by Villa Julie College.

Effective January 1, 1993, Maryland Rule B7(a) was amended to require the transmission of the record of the proceedings, including any transcript of testimony, to the Clerk of the Circuit Court within 60 days after the filing of the Petition of Appeal. By separate letter to Ms. Weidenhammer of this date, I am pointing out this amendment to her.

Please transcribe the above portions of the proceedings in this matter within sufficient time to permit their transmittal to the Circuit Court within the time limit set forth above. We of

course will assume the cost of such transcription. If anything further is required please do not hesitate to contact me.

Very truly yours,

K. Donald Proctor

KDP/dn
Enclosure

cc: Michael J. Collins, Esquire
J. Carroll Holzer, Esquire
(w/o enclosure)

DN/VJC:Peatt.ltr

LAW OFFICES
MILES & STOCKBRIDGE
600 WASHINGTON AVENUE
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FAX 410-823-8123

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ROCKVILLE, MARYLAND 20850

1450 G STREET, N.W.
WASHINGTON, D.C. 20005

March 23, 1993

RECEIVED
COUNTY BOARD OF APPEALS
93 MAR 24 PM 12: 18

William T. Hackett, Chairman
County Board of Appeals
of Baltimore County
Old Courthouse, Room 49
400 Washington Avenue
Towson, Maryland 21204

RE: Villa Julie College, Inc., Petitioner
Case No. 92-285-SPHXA

Dear Mr. Hackett:

As I explained to the Board at the time it scheduled the additional 3 days of hearings in connection with this matter for Friday, March 26, 1993, Wednesday, March 31, and Friday, April 2, 1993, I have pre-existing conflicts with regard to each of those dates. The Board, however, due to the need to complete this case prior to the expiration of Mr. Disney's term, while acknowledging my conflicts, thought it necessary to schedule these dates, since apparently no others are available.

As a result, I will not be in attendance at the hearing scheduled for Friday, March 26, 1993; may not be at the hearing scheduled for Wednesday, March 31, 1993; and will only be at the afternoon portion of the hearing scheduled for Friday, April 2, 1993. I was, however, able to complete the presentation of my clients' evidence on Friday, March 19, 1993. Further, Mr. Holzer's and Mr. Collins' clients interests are similar to those of my clients, and thus I feel that my clients' interests will generally be protected, even though I am not present.

I reserve the right to adopt evidence presented by Mr. Holzer's and Mr. Collins' clients at a later time.

It would be appreciated if the enclosed copy of this letter could be included in the record of this case.

Very truly yours,

K. Donald Proctor

KDP/dn

cc: Benjamin Bronstein, Esquire
Michael J. Collins, Esquire
J. Carroll Holzer, Esquire

DN/VJC:Hackett.ltr

4908-92

RONALD L. MAHER
J. CARROLL HOLZER
CAROLE S. DEMILIO
THOMAS J. LEE

J. HOWARD HOLZER
1907-1989

LAW OFFICES
HOLZER, MAHER, DEMILIO & LEE
305 W. CHESAPEAKE AVENUE
SUITE 105
TOWSON, MARYLAND 21204
(410) 825-6960
FAX (410) 825-6964

CARROLL COUNTY OFFICE
1315 LIBERTY ROAD
ELDERSBURG, MARYLAND 21784
(410) 795-8556
FAX (410) 795-5535

SUITE 700
1725 DeSALES STREET, N.W.
WASHINGTON, D.C. 20036

April 23, 1992
#6592

The Honorable Lawrence E. Schmidt
Zoning Commissioner for
Baltimore County
First Floor
County Office Building
Towson, Maryland 21204

RE: Villa Julie College

Dear Commissioner Schmidt:

Please be advised that I have just received a fax from Mr. Bronstein of April 22, 1992, indicating that he would like to have oral argument on May 15th and that all memoranda will be submitted on May 15th. I do not agree that is a logical or preferable procedure in light of the fact that we will not know what is rebuttal testimony is until well into May 15th and it will be impossible to incorporate that information into the Memorandum.

Secondly, I am not sure that Mr. Bronstein is correct in believing the rebuttal testimony will be concluded early. Thirdly, I suggested at our last meeting, that a Memorandum would be more appropriate in view of the testimony and legal issues involved and presented by all parties.

I do find that April 28, 1992 at 4:00 p.m. is a convenient time to meet with you and I do intend to be there subject to whether or not the Board of Appeals case that I am involved in on that date is concluded by 4:00 p.m.

Thank you very much for your attention to this matter.

Very truly yours,

J. Carroll Holzer

JCH:mlg

Enclosure

cc: Don Proctor, Esquire
Ben Bronstein, Esquire

RECEIVED
APR 24 1992
ZONING OFFICE

MICROFILMED

LAW OFFICES
EVANS, GEORGE AND BRONSTEIN
SUSQUEHANNA BUILDING, SUITE 205
29 WEST SUSQUEHANNA AVENUE
TOWSON, MARYLAND 21204
(301) 296-0200
FAX: (301) 296-3719

L. ROBERT EVANS
HARRIS JAMES GEORGE
BENJAMIN BRONSTEIN

MICHAEL J. CHOMEL
DOUGLAS A. STUBBS

April 22, 1992

VIA FAX

K. Donald Proctor, Esquire
Miles and Stockbridge
Suite 300
600 Washington Avenue
Towson, Maryland 21204

J. Carroll Holzer, Esquire
Holzer, Maher, Demilio & Lee
Suite 105
305 West Chesapeake Avenue
Towson, Maryland 21204

RE: **Villa Julie**

Dear Don and Carroll:

It is my intention to finish the rebuttal testimony early on May 15. At the conclusion of testimony, I would suggest that the balance of the day be set aside for oral argument. I am also requesting that all memoranda be submitted on May 15.

Commissioner Schmidt has set aside 4:00 on either April 28, 29 or May 7 for a conference in this case. I called each of you yesterday and have not received a response. It is my intention to be at Commissioner Schmidt's office on April 28 at 4:00 for the purpose of discussing the schedule for testimony, memoranda and argument.

Very truly yours,

EVANS, GEORGE AND BRONSTEIN

Benjamin Bronstein

BB/mlh
cc: The Honorable Lawrence E. Schmidt

(1)

RONALD L. MAHER
J. CARROLL HOLZER
CAROLE S. DEMILIO
THOMAS J. LEE

J. HOWARD HOLZER
1907-1989

LAW OFFICES
HOLZER, MAHER, DEMILIO & LEE
305 W. CHESAPEAKE AVENUE
SUITE 105
TOWSON, MARYLAND 21204
(410) 825-6960
FAX (410) 825-6964

CARROLL COUNTY OFFICE
1315 LIBERTY ROAD
ELDERSBURG, MARYLAND 21784
(410) 795-8556
FAX (410) 795-5535

SUITE 700
1725 DESALES STREET, N.W.
WASHINGTON, D.C. 20036

November 24, 1992
#6592

The Honorable William T. Hackett
Chairman
Baltimore County
Board of Appeals
Old Courthouse
400 Washington Avenue
Room 49
Towson, Maryland 21204

RE: Villa Julie Motion

Dear Chairman Hackett:

At the scheduling conference held earlier this month, it was determined that all parties to the Villa Julie matter may desire to file Motions with the Board by Friday, November 27, 1992.

In order to avoid the possibility that relevant Motions concerning the position of Valleys Planning Council and the other Community Associations and individuals I represent, I am hereby submitting the Memorandum of Law to the Zoning Commissioner which contains legal issues which I anticipate will be relevant to the Board. It is not my desire to have these issues addressed prior to the hearing scheduled in March, but simply to preserve that fact that I intend to raise some or all of these concerns at the hearing.

You will recall that this procedure was established by the Board because of Mr. Bronstein's desire to file a Motion challenging the status of The Valleys Planning Council.

Thank you for your consideration.

Very truly yours,

J. Carroll Holzer

JCH:mlg

cc: K. Donald Proctor, Esquire
Michael Collins, Esquire
Benjamin Bronstein, Esquire

Enclosure

RECEIVED
COUNTY BOARD OF APPEALS
92 NOV 25 PM 2:54

RONALD L. MAHER
J. CARROLL HOLZER
CAROLE S. DEMILIO
THOMAS J. LEE

J. HOWARD HOLZER
1907-1989

LAW OFFICES
HOLZER, MAHER, DEMILIO & LEE
305 W. CHESAPEAKE AVENUE
SUITE 105
TOWSON, MARYLAND 21204
(410) 825-6960
FAX (410) 825-6964

CARROLL COUNTY OFFICE
1315 LIBERTY ROAD
ELDERSBURG, MARYLAND 21784
(410) 795-8556
FAX (410) 795-5535

SUITE 700
1725 DeSALES STREET, N.W.
WASHINGTON, D.C. 20036

Direct Dial:
410-825-6961

August 10, 1993
#6592

RECEIVED
COUNTY BOARD OF APPEALS
93 AUG 11 AM 8:50

The Honorable William T. Hackett
Chairman
Baltimore County
Board of Appeals
Old Courthouse
400 Washington Avenue
Room 49
Towson, Maryland 21204

RE: Villa Julie College, Inc.
Case No.: 92-285-SPHXA

Dear Chairman Hackett:

Enclosed please find an Answer to the Motion for Reconsideration and Clarification filed by Benjamin Bronstein, Esquire on behalf of Villa Julie College, Inc.

I would appreciate the Board checking the counsel's calendar before scheduling a date in view of the short notice requested in Mr. Bronstein's letter of August 4, 1993.

Very truly yours,

J. Carroll Holzer

JCH:mlg

Enclosure

LAW OFFICES
NEUBERGER, QUINN, GIELEN & RUBIN, P. A.

EQUITABLE BANK CENTER TOWER II
100 SOUTH CHARLES STREET
BALTIMORE, MARYLAND 21201
(410) 332-8550
FAX (410) 332-8594

(WRITER'S DIRECT DIAL NO.)
(410) 332-8520

August 5, 1992

Baltimore County Zoning Commissioner
111 W. Chesapeake
Room 109
Towson, Maryland 21204

Attn: Charlotte Ratcliffe

In Re: Petitions for Special Hearing, Special Exemption and Zoning Variance S/S Green Spring Valley Road, 0 ft. E of Nacirema Lane
1521 Green Spring Valley Road
8th Election District
3rd Councilmanic District

Villa Julie College, Inc., Petitioner
Case No. 92-285-SPHXA

Dear Ms. Ratcliffe:

Enclosed please find writtennotice that Northwest Land Corporation hereby requests an appeal of all three of the petitions relative to the above-captioned matter.

Very truly yours,

Michael J. Collins

Neuberger, Quinn, Gielen
& Rubin, P.A.
Attorneys for Northwest Land
Corporation

MJC:kmw
Enclosure

RECEIVED
PAYMENT
8-6-92
ZONING OFFICE

MICROFILMED

LAW OFFICES
NEUBERGER, QUINN, GIELEN & RUBIN, P. A.

EQUITABLE BANK CENTER TOWER II
100 SOUTH CHARLES STREET
BALTIMORE, MARYLAND 21201
(410) 332-8550
FAX (410) 332-8594

(WRITER'S DIRECT DIAL NO.)
(410) 332-8520

August 5, 1992

Lawrence E. Schmidt
Zoning Commissioner for Baltimore County
111 W. Chesapeake
Room 109
Towson, Maryland 21204

In Re: Petitions for Special Hearing, Special Exemption and Zoning Variance S/S Green Spring Valley Road, 0 ft. E of Nacirema Lane
1521 Green Spring Valley Road
8th Election District
3rd Councilmanic District

Notice of Appeal

Villa Julie College, Inc., Petitioner
Case No. 92-285-SPHXA

Dear Mr. Schmidt:

This law firm represents Northwest Land Corporation, the owner of property located adjacent to Villa Julie College, Inc. Northwest Land Corporation hereby gives its Notice of Appeal of the Zoning Commissioner's decision regarding the Petitions for Special Hearing, Special Exemption and Zoning Variance by Villa Julie College, Inc. Northwest's corporate representative is Gordon Sugar. Northwest Land Corporation's address is 1 Pomona North, Pikesville, Maryland 21208. Enclosed you will find a check in the amount of $635.00, which the Zoning Commission has told us is the appropriate filing fee as required

RECEIVED
PAYMENT
8-6-92
ZONING OFFICE

MICROFILMED

in the zoning regulations.

Very truly yours,

Michael J. Collins

Michael J. Collins KMW

Neuberger, Quinn, Gielen
& Rubin, P.A.
Attorneys for Northwest
Land Corporation

MJC:kmw
Enclosure

LAW OFFICES
NEUBERGER, QUINN, GIELEN & RUBIN, P. A.

EQUITABLE BANK CENTER TOWER II
100 SOUTH CHARLES STREET
BALTIMORE, MARYLAND 21201
(410) 332-8550
FAX (410) 332-8594

(WRITER'S DIRECT DIAL NO.)
(410) 332-8520

October 20, 1992

William T. Hackett, Chairman
County Board of Appeals
of Baltimore County
Old Courthouse, Room 49
400 Washington Avenue
Towson, Maryland 21204

Re: Case No. 92-285-SPHXA/
Villa Julie College, Inc.

Dear Mr. Hackett:

I am in receipt of your correspondence of October 15, 1992, setting a pre-hearing conference with all counsel for Thursday, October 29, 1992, at 1:00 p.m. in the Board's office. Unfortunately, I have a trial scheduled for that same day and I would be most appreciative if you could set a new date or hold the pre-hearing conference after 4:30 p.m. Thank you for your kind consideration of this request.

Very truly yours,

Michael J. Collins OK

MJC:kmw

cc: J. Carroll Holzer, Esquire OK
K. Donald Proctor, Esquire OK
Benjamin Bronstein, Esquire OK

92101904.mjc

RECEIVED
COUNTY BOARD OF APPEALS
92 OCT 21 PM 12: 18

RECEIVED
COUNTY BOARD OF APPEALS
93 MAR 15 PM 1:27

5.Mars, 1993

the Baltimore County Board of
ZoningAppeals
Room 48
Old Courthouse (new section)
400 Washington Avenue
Towson, Maryland 21204

Gentlemen,

A trip to the West and to Hong Kong prevent me from attending the meeting of the Board in re the hearing of villa julie college for expansion. My wife, Agnes West=Kohler, and I, John I. Kohler, II are the owners of the property known as Ravenscall, on the corner of Green Spring Valley Road and Stevenson Road, aka as 10703 Stevenson Road. This letter comes to advise you that as citizens, property owners, taxpayers, and residents of Baltimore County, Maryland, we both STRONGLY OBJECT to any expansion of any kind at this so-called college.

It is our suggestion that you ask each of the members of the villa julie crowd that testify to do so under oath, and that you remind them of the penalty for perjury in this State and in this County. We strongly question if the so-called sewage treatment is legal, and we ask that you review the testimony, and perhaps ask the office of the Sheriff of Baltimore County to begin to monitor the huge amount of trash and garbage that daily leaves this property. The impact of drawing 50,000 to 60,000 gallons of water a day from the villa julie wells will finish this Valley. This is a group that was to be a small liberal arts college, and now they begin to think in terms of large numbers, and will perjure themselves to any degree to reach their goal.

P.O. Box 714
Brooklandville, Md. 21022
410-825-8487
March 26, 1993

RECEIVED
COUNTY BOARD OF APPEALS
93 MAR 30 AM 11:02

William Hackett, Chairman
Board of Appeals
Baltimore County Courthouse
400 Washington Ave.
Towson, Md. 21204

Proffered testimony in regard to Villa Julie College special exception:

Dear Mr. Hackett,

This letter is to be submitted in lieu of testimony to the Board of Appeals against granting a special exception for Villa Julie College.

I have lived on Greenspring Valley Road for most of my 41 years; I live about three quarters of a mile downstream from (east of) Villa Julie on about 45 acres of actively farmed land. The state made a commitment to the rural character of this area about ten years ago when my family was able to put our property into agricultural preservation. Our farm borders the Jones Falls for about a quarter of a mile.

My objections to granting a special exception to Villa Julie are as follows:

1) Careful and planned growth in this area (the Greenspring, Caves and Worthington Valleys) sets a national standard in managing the pressures of a large metropolitan area upon its surroundings. Baltimore is unique in the proximity of open rural areas to its downtown. This not only makes it pleasant and healthier for those fortunate enough to live in this area, but more importantly, allows the possibility of a clean and safe watershed. The plan for the Valleys, which was developed almost forty years ago based its recommendations on the geology of the area, and I'm fairly sure the geology hasn't changed in the last forty years. The plan was for careful growth on hillsides, maintaining the valley floor as undeveloped as possible, and to limit the expansion of roads, water, and sewer. This has proven to be a wise plan, and our county should be proud of its record of encouraging growth in a careful, planned way.

We should not give up this fine record for an educational institution that can be reproduced in any area in the county. Villa Julie is doing a good job educating competent workers for our city; this does not give it the right to destroy what is special about our city. It is simply a special interest group trying to play on our fears of an inadequate work force to be allowed to break rules that have been in place for many years. Villa Julie exists in this area by special exception; this area is zoned RC-2. The landowners in this area are regulated in what they can do with their property. Villa Julie already operates outside those rules and it is deserving of no further exception than any other local landowner.

2) Villa Julie has consistently broken the rules for a number of years, and this leads me to believe it will continue to do so. Its permit allows it to draw ten thousand gallons per day; it has been drawing twenty-five thousand gallons. What guarantee do we have that Villa Julie will follow the rules in the future?

3) Traffic on Greenspring Valley Road is already very heavy and moves at high speeds when not backed up. At certain times of day, traffic can be backed up in front of Villa Julie by students turning in the driveway. We are foolish to believe that further growth would not cause unsafe driving conditions and/or necessitate the widening of Greenspring Valley Road.

3/26/93

T/C from Norman Gerber

Will be unable to appear today to testify in Villa Julie case. Went to see his doctor /problem with ulcer on leg. Doctor wants him to stay off his leg for four days; his doctor also advised him that he would do whatever is necessary to insure that Mr. Gerber follows his order and stays off the leg.

Anticipates he will be able to appear on Wednesday, March 31, 1993. Requested that this notice be included in the file.

kcw

Maryland Department of Natural Resources

Maryland Environmental Service
2020 Industrial Drive
Annapolis, Maryland 21401
(301) 974-7281

William Donald Schaefer
Governor

Torrey C. Brown, MD
Secretary

George G. Perdikakis
Director

Oscar Keyes
Baltimore County Department of Public Works
County Office Building
Towson, MD 21204

April 26, 1990

Dear Mr. Keyes:

By way of introduction, attached is a copy of the letter just sent to the County Executive by the Villa Julie College regarding their sewer project. Pursuant to our contract with the College, we are providing the information necessary for the amendment to the Baltimore County Water and Sewerage Plan which will allow for the issuance of a State discharge permit and construction of a package sewage treatment plant with discharge to Jones Falls.

Villa Julie College is located in Zone R/C-2, map designation W16B, S16B. The College should be considered as a multi-use facility and inventoried as a facility with no planned service, W-7,S-7.

I am the Project Manager representing the College and will be coordinating all aspects of the project with various State and local agencies. Please let me know should you require anything further. I may be reached at 974-7276.

Sincerely,

Lisa M. Reaver
Project Manager

cc: Dane Bauer
Billie Messenger, Villa Julie College
James Dieter, Baltimore County DEPRM

MICROFILMED

RECEIVED
MAY 1 1990
DEPARTMENT OF PUBLIC WORKS
OF BALTIMORE COUNTY
DIRECTOR

EXHIBIT A

VILLA JULIE COLLEGE

Office of the President

April 24, 1990

Mr. Dennis Rasmussen
County Executive
Executive Office
Old Court Mezzanine
Towson, Maryland 21204

Dear Mr. Rasmussen:

Villa Julie College contracted with GW Stephens & Associates, Inc. and William F. Kirwin, Inc. to prepare an assessment of existing physical site conditions at the College. The preliminary results of this assessment identified problems with our sanitary sewage disposal system.

In April 1990, the College contracted with the Maryland Environmental Service (MES) to provide engineering and technical services to fully evaluate on site sewage disposal alternatives along with other viable options. Among the services contracted is the preparation of any documentation necessary for amendments to the Baltimore County Comprehensive Water and Sewerage Plan.

The College authorizes MES to represent Villa Julie College in matters relating to the evaluation and selection of a sewage disposal system, including making recommendations/applications to the County and State regarding amendments to the County Comprehensive Water and Sewerage Plan.

Sincerely,

Carolyn Manuszak

Carolyn Manuszak
President

cc: Gene Neff, Baltimore County DPW
Robert Sheesley, EP&RM

MICROFILMED

Green Spring Valley Road, Stevenson, Maryland 21153 • Telephone (301) 486-7000

VILLA JULIE COLLEGE

I. Existing Conditions

The sanitary disposal system for the College includes flow from the College as well as flow from the neighboring convent retirement home. This system consists of a series of 18 septic tanks with tile fields located on two fields owned by the Sisters of Notre Dame. In a preliminary assessment done for the College, it was determined that the current septic system is failing. During certain times of the year, these fields are found to be ankle wet and an odor is prevalent in these areas. In addition, the tanks must be pumped out cyclicly on a four month rotation because the system backs up; the soil is incapable of "handling" this amount of liquid.

Consequently, Villa Julie College is concerned about the possible health hazard posed to its students. The College is not only interested in resolving this problem to properly treat the existing flows but would like to implement a sewage disposal system that would assure that the College remains a viable part of the community for the future. Table 1 shows the current population and flows along with the projected figures through the year 2000.

II. Background Information

Four alternatives have been evaluated: 1) augmenting the existing system with septic tanks and subsurface disposal, 2) installing a sewage lagoon and spray irrigation system, 3) connection to the public sewer system, and 4) installing a package unit with ultraviolet disinfection, filters and wetlands or artificial marsh discharge.

On March 27, 1990, representatives of the College, the Baltimore County Department of Environmental Protection and Resource Management (DEPRM), and GW Stephens & Associates conducted soils and water table evaluations, including various test pits and percolation tests. Soils were silt loam containing a distinct heavy red clay with water table varying from 4 to 7 feet below the surface. Percolation results did not meet minimum County/State requirements and the Baltimore County DEPRM ruled out the use of additional on-site subsurface sewage disposal systems.

On April 12, 1990, similar soil and water table evaluations were conducted by representatives of the College, Baltimore County DEPRM, MDE, GW Stephens & Associates, and MES, to both verify earlier evaluations and to assess whether or not the College property could support a spray irrigation system. Similar results were obtained and although a

MICROFILMED

LAW OFFICES

WHITEFORD, TAYLOR & PRESTON

SUITE 1400
SEVEN SAINT PAUL STREET
BALTIMORE, MARYLAND 21202
TELEPHONE 301-347-8700

500 COURT TOWERS
210 WEST PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204-4515
301-832-2000
FAX: 301-832-2015

SUITE 400
888 17TH STREET, NW
WASHINGTON, D.C. 20006
TELEPHONE 202-835-0606

G. SCOTT BARHIGHT

DIRECT NUMBER
301-832-2050

July 16, 1990

HAND DELIVERED
Mr. Gene L. Neff, Director
Baltimore County Department of Public Works
County Office Building
Towson, Maryland 21204

RE: Master Water Supply and Sewage Plan Amendment
Map Issue No. 90-11, Cycle VII

Dear Mr. Neff:

Please be advised this office represents the Baltimore Province of the Sisters of Notre Dame de Namur, Inc. By her signature below, Sister Joanne Schneberger, Secretary of the Board of Trustees for the Baltimore Province, is indicating the consent of the Baltimore Province to the above-referenced application. This consent will be reviewed by the full Board of Trustees at their next regularly scheduled meeting on August 18, 1990.

Please forward any correspondence regarding this matter to this office to my attention. We look forward to working with Baltimore County and the Villa Julie College to the successful approval of this amendment.

Should you have any questions or comments, please feel free to contact me.

Sincerely,

G. Scott Barhight

Agreed and Accepted.

J. Joanne Schneberger, SND
Sr. Joanne Schneberger, Secretary
Board of Trustees
Baltimore Province Sisters of Notre Dame de Namur, Inc.

MICROFILMED

GSB:cms
cc. Mr. David Fields
Mr. Robert Sheesley
Mr. Oscar M. Keys, Jr.
Mr. John J. Dieter
Donald P. McPherson, III, Esq.
Sr. Marie Kelly
Sr. Joanne Schneberger
Sr. Mary Ann Cook
Ms. Carolyn Manuszak

EXHIBIT C

THE VALLEYS
PLANNING COUNCIL, INC.

212 Washington Avenue
P.O. Box 5402
Towson, Maryland 21285-5402
410-337-6877
410-296-5409 (FAX)

SRL/yes
7847-92
9/4/92
S

Charlotte -
please see me

September 2, 1992

J. Carroll Holzer, Esquire
Holzer, Maher, Demilio & Lee
305 W. Chesapeake Avenue, Suite 105
Towson, Maryland 21204

Dear Carroll:

With reference to your billing statement, dated August 13, 1992, and the costs advanced for the Villa Julie College appeal to the Baltimore County Board of Appeals, I met with Arnold Jablon this morning. Mr. Jablon has determined that it was not appropriate for the Valleys Planning Council, et al, to carry the entire cost of the appeal, and that the processing of only your check in our behalf was in error.

Therefore, Mr. Jablon has determined that he will write to all other appellants in the case, directing them to reimburse your office for their proportionate share, $158.75 each.

At that rate, I have reduced the statement billed to us on that item so that we will pay one-fourth (there being four appellants) of the total $635.00 fee, in the amount of $158.75.

Thank you.

Sincerely,

Margaret Worrall

Margaret Worrall
Executive Director

cc: Arnold Jablon

RECEIVED
SEP 4 1992
ZONING OFFICE

MICROFILMED

Peyton S. Cochran, Jr.
3542 Butler Road
Glyndon, MD 21071
March 5, 1992

RECEIVED
MAR 1 1992
ZONING COMMISSIONER

Mr. Lawrence Schmidt
Zoning Commissioner
400 Washington Avenue, Suite 113
Towson, MD 21204

Dear Mr. Schmidt:

I am very concerned with the Villa Julie College unlimited growth proposal. Their present size has caused septic system failure and heavy traffic on Valley Road at certain times of the day. The present parking lot lighting is not harmonious with its county setting.

When Villa Julie was first approved, it was to be a small institution. I support a packaged treatment plant provided that it is sized only for the present college population. A large institution does not fit in the college's present setting.

Very truly yours,

Peyton S. Cochran, Jr.

:nlb
CC: Roger B. Hayden, County Executive
The Honorable C. A. ("Dutch") Ruppersberger

RECEIVED
MAR 11 1992
EXECUTIVE OFFICE

MICROFILMED

William A. Pistell

4/13/92 TO LES 8

RECEIVED
APR 15
ZONING COMMISSIONER

April 8,1992

Councilman C.A. Dutch Ruppersberger
County Council Office
400 Washington Avenue
Towson, Maryland 21204

Re: Villa Julie College Special Exception Hearing

Dear Councilman Ruppersberger,

I have lived in the Green Spring Valley area for 30 years,paid taxes and voted there.In addition, for many years I directed and coordinated the Jones Falls spring clean-up as well as having been an active member of Trout Unlimited involved in monitoring water quality in the watershed.My interest in what Villa Julie has already done and plans to do is therefore multi-fold.

First of all, Villa Julie's request has exposed a web of existing exceptions,contradictions and violations.It is the only institution totally on the valley floor.Presently it represents a non-conforming use of the RC-2 agricultural zoning covering the area in which it is sited.An upzoning to RC-5, which it would like to get in order to legitimize its present status and give it a blank check on future usage, is totally incompatible with the general neighborhood and will set a very dangerous precedent not only in the area but also throughout the County.There are at least three identifiable landholders in the immediate area who will insist on similiar zoning.Such zoning is not in the Master Plan and, if granted, will require public service.

The planned building addition of 98,044 square feet represents a 95% increase in space occupied (103,000 square feet to 201,044 sq. feet). The resulting increase in traffic will require a reconfiguration of the state road (at taxpayer's expense) and will include a widening of the road as well as placement of a divider in the middle of the road. The increase in required parking will double present coverage causing both storm water management problems as well as potential thermal and chemical threats to Jones Falls, a class 3 trout stream.The increase in lighting will change the rural character of the area and turn night into day, an insidious form of pollution.There are many new high priced homes in the immediate area who have relied on existing zoning to protect their substantial investments.They are both voters and taxpayers.

A further byproduct of the expansion request has been the exposure of two major violations of county codes and state permit requirements.First, septic systems which were designed and approved for 10,000 gallons a day are presently handling

RECEIVED
APR 7 1992
EXECUTIVE OFFICE

10808 Hudson Road Owings Mills, Maryland 21117

MICROFILMED

27,000 gallons a day,a variance of 270%.This overusage did not happen overnight and it is clear that the school has been knowingly out of spec for a long time.Where the excess has been going one can only conjecture. A second serious violation is the usage of 30,000 gallons of well water a day when the state permit allows 10,000 gallons.This is a variance of 300%.The school now wants to draw up to 60,000 gallons a day.This equates to 54,000 gallons a day of effluent from the sewage system.

These noncompliances raise two significant issues-why has the county and the state ignored these obvious violations when an ordinary citizen or corporation would have been cited long ago and secondly,can Villa Julie be trusted in the future to protect the community in which it lives?

The school proposes a series of solutions to its sewage disposal problems, all of which involve running effluent into intermittent feeder streams which flow directly into Jones Falls,a class 3 trout stream.I have had an opportunity to examine the area involved.It consists of a well defined wetland;it is in the flood plain and,if a lagoon is permitted,will require the cutting and removal of trees and shrubs, all within the County required 100 foot setbacks.Whether this will result in an illegal lowering of water quality in Jones Falls is a question that cannot be answered by anyone, experts included.How the effluent will be shielded from flood conditions in either or both North Run or Jones Falls, which converge in the immediate area, is another very serious concern.

In summary,the Villa Julie request involves a multiplicity of exceptions to existing codes, regulations and permits and will result,if approved,in total destruction in the character of the valley.It will also set many unacceptable precedents.Further, Villa Julie has put both County and State officials in a very unfair position.The violations which are now public information and a fait accompli,are going to raise questions about the effectiveness of codes and regulations and the selectiveness of their enforcement. 270% and 300% violations cannot be ignored.

While these are not all the issues,they should be addressed.

Sincerely,

W A Pistell

cc: Roger B. Hayden,County Executive
Senator Janice Piccinini
Delegate Ellen Sauerbrey
The Honorable Helen Bentley
Mrs. Douglas Worrall, Valleys Planning Council,Inc
Allan Dale 111,President,Maryland Chapter Trout Unlimited

10808 Hudson Road Owings Mills, Maryland 21117

MAY ~~APRIL~~ 15, 1992

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME	ADDRESS
SHARON PAUL	17 BRICKFORD LANE 21208
Virginia Tanner	Villa Julie College
Michael Lancaster	4 Wellington Circle Owings Mills MD 21117
Mary Elizabeth Rouse	802 Seaword Rd Towson MD 21204
John J. Hopewell	Villa Julie College
Regina Thompson	Villa Julie College
Patty Schultz	Villa Julie College
Loretta P. Reynolds	Villa Julie College 11962 Park Hts. Ave, Owings Mills 21117
Bernadine E. Cochran	145 Chestnut Hill La Reist. MD 21136
Stanley I. Cochran Sr	145 Chestnut Hill Lane W. Reisterstown md. 21136
Leah Benzing	Villa Julie College
Nancy Trivella	Villa Julie College
Carolyn Mamayek	516 E. Seminary Ave.
Lynn Shapiro	Villa Julie College
Kelley Harris	Villa Julie College
Gina Lauer	Villa Julie College
Deborah McBee	Villa Julie College
Glenda L. York	Villa Julie College
Wallace Newsome	VILLA JULIE COLLEGE
Krista Kitts	Villa Julie College
John Bowen	Villa Julie College

PROTESTANT(S) SIGN-IN SHEET

NAME	ADDRESS
Mary E Harper	Box 279 Stevenson 21153
Lawrence K Harper	10531 Park Hghts Ave Pikesville
Elizabeth B Blue	1419 Greenspring Valley rd 21208
James Harper	2518 Caves Rd Owings Mills, 21117
Thom Ridgely Jr	223 Greenspring Valley Rd. Owings Mills Maryland 21117
Loretta Eatm	10802 Hudson Rd Owings Mills md 21117
Mr. C.J.E. Arnold	11042 Greenspring Ave. Lutherville, Md. 21093
Molly Arnold	" " "
Lena T. North	1916 Greenspring Valley Rd. 21153
Jennifer B Shattuck	448 Garrison Forest Rd OM 21117
AMY NEWHALL	2803 CAVES RD. 21117
Susan G. Brenner	10602 Candlewick Rd 21153
Beth BRENNER	" " " "
Frederic H. WEIS	301 GREEN SPRING Valley Rd 21117
Carolyn L Weis	" " " " " 21117
Geoffrey J Cartwright	3519 Englemeade Rd Stevenson 21153
Adonna L Cartwright	" " " " "
Laura Bigg	3920 Stewart Rd Stevenson, MD 21153
Anne Biggs	3920 Stewart Rd - 21153
Brigid Byrd	" "
Cornelia R. Seeley	117 GARRISON FOREST RD. GARRISON MD 21117.
Katharine M. F. Hoffman	17 Cliffhaven Rd. Owings Mills, Md. 21117
Margaret Cook Howard	11044 Greenspring Ave Lutherville md. 21117
Lynne Ellis	11044 Greenspring Ave Lutherville MD 21093

PROTESTANT(S) SIGN-IN SHEET

May 15, 1992

NAME	ADDRESS
Lucy Howard	11044 Greenspring Ave Lutherville MD.
Mr. Mrs. John Howard	2707 Monkton Rd. Monkton MD 21092
Kathie Hussey	2430 Jessup Rd Glyndon MD 21071
Nancy Scheeler	815 Tollwood Rd. Stevenson MD. 21153
Catherine J Ballich	1938 Green Spring Valley Rd "
Nicholas L Ballich	" " " " Stevenson
Wm S. Ballich	1704 " " " " 21153
Diana Garrett	" " " "
Margaret Worrall	

Richard B. Buck
11219 Dunsparg Rd.
Fallston 21093

92-285-XA

Protestant - Villa Julie
92-285-XA

Lawrence R. Katz
1926 Greenspring Valley Rd.
Stevenson, Md 21153

Doreen M. Katz

Protestants

PROTESTANT(S) SIGN-IN SHEET

NAME	ADDRESS
David G. Obre	10724 Parkheights Ave, Owings Mills MD. 21117
Rutherford Holmes	3130 Golf Course Rd O.M. 21117
Mathilda Clark Holmes	3130 Golf Course Rd. O.M. 21117
Stuart K. Rodgers	1425 Greenspring Va. Rd. 21153
James D Cecil	36 Cavenwood Lane 21117
Juliana Clark Watts	2511 L'Hirondelle Club Rd 21204
BARTON S. MITCHELL	STEVENSON, MD 21153
W.S Pitcell	10808 Hudson Rd, OM MD 21117
Harold H Burns, Jr.	5 Candlestick Dr.,
- President, Greenwood Com. Ass'n	Ly Derville, MD 21093
- Firmly opposed To The College's expansion -	
A. DOUGLAS McCOMAS	FALLS RD. COMM. ASSOC P.O BOX 555
Danny Noyes	BROOKLANDVILLE 21022
Susan N. Gladstone	1808 Bywood Lane Stevenson 21153
IRA B. FADER, JR.	3416 HALCYON RD. STEVENSON. 21153
David May	10804 Linson Rd. O.M. 21117
Elizabeth Welch Young	Box 39 Brooklandville Md 21022
WILLIAM K. HIVE	1504 NEAR THICKET LANE 21153
Hyatt Hood Young	Box 39 Brooklandville, Md. 21022
Mr. & Mrs Patrick Donnelly	3117 Golf Course Rd Owings Mills Md 21117 21117
Mrs. Nelson L. Bond, Jr.	3210 Caves Rd, Owings Mills, M
Margery Jo Clark	1704 Hillside Rd Stevenson 21153
David L. Clark MD	1704 Hillside Rd Stevenson Md 21153
Sharon Wiktorin	317 Chattolanee Hill 21117
MRS. Jervis Finney	4028 Stevenson Rd 21153

CORRESPONDENCE

PROPONENTS / OPPONENTS

(SAMPLE)

19920285 "A"

Supplemental

5

ROBERT D. SELLERS
ATTORNEY AT LAW
SUITE 303
401 WASHINGTON AVENUE
TOWSON, MD 21204

(410) 583-1712

March 6, 1992

Mr. Lawrence Schmidt
Zoning Commissioner
400 Washington Avenue
Suite 113
Towson, MD 21204

RE: Villa Julie College, Special Exception Hearing

Dear Mr. Schmidt:

As President of the Sagamore Forest/Worthington Hillside Community Association, representing over 300 families, and as a member of the Valleys Planning Council, I wish to note my opposition to the granting of the Special Exception which has been requested by Villa Julie College. It is the position of my Association that the extensive expansion of that facility will have a serious adverse effect on the rural nature of the Greenspring Valley, the surrounding environment, the traffic volume in the area and the rural nature of the area.

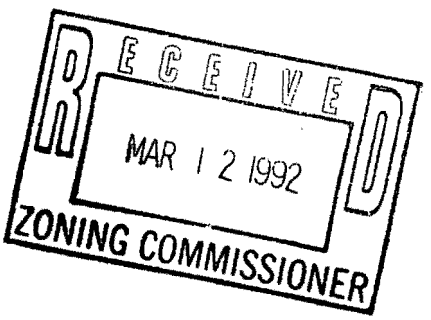
I regret that I will be unable to attend the Hearing in this matter because unfortunately, I will be out of town.

Yours,

Robert D. Sellers

RDS/jpg

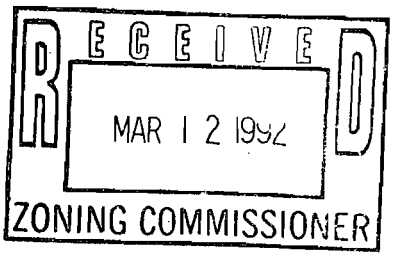
cc: Margaret Worral, Valley Planning Council



OBER FINE ART, INC.

P.O. BOX 185 MONKTON, MARYLAND 21111
TEL 301/771-4833 FAX 301/771-8211

March 9, 1992



Mr. Lawrence Schmidt
Zoning Commissioner
400 Washington Avenue, Suite 113
Towson, Maryland 21204

RE: Villa Julie College

Dear Mr. Schmidt:

As a member of a family who have owned land in various parts of the Green Spring Valley since the Eighteenth Century, I am particularly appalled that anyone would put so much pressure on the little existing open space. The poor Jones Falls cannot handle Villa Julie's proposed expansion. Please do not allow a special exception which will result in enormous sewer and vehicular traffic problems.

Sincerely,

David G. Ober

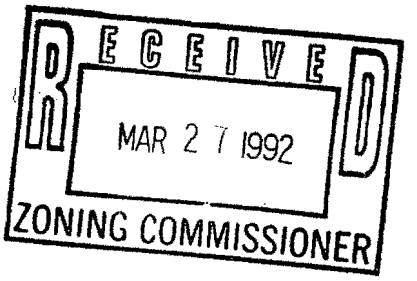
cc: Roger B. Hayden
C.A. Dutch Ruppersberger

NICHOLAS J. FORTUIN, M.D., P.A.
9 EAST CHASE STREET
BALTIMORE, MARYLAND 21202

CONSULTATION BY APPOINTMENT

TELEPHONE 539-6736

March 12, 1992



Mr. Lawrence Schmidt
Zoning Commissioner
400 Washington Avenue
Suite 113
Towson, Maryland 21204

Dear Mr. Schmidt:

As a long time resident of the Green Spring Valley currently residing on Caves Road, I am writing to express my strong opposition to the proposed expansion of the Villa Julie College. I feel strongly that the plans would disrupt many unique features of the Valley. These include the beauty of the area, the traffic pattern, the sanitation, and the unique character of the area. It is of the upmost importance that public officials preserve natural resources such as those that exist in the Green Spring Valley. Rampant development of the type proposed by the College can only lead to further development and major deterioration in the many factors that are so unique and precious in this area.

I feel strongly that growth should be limited and that if expansion is planned, it should be done at a different site. The Green Spring Valley is not a commercial area, and the proposed changes would certainly "commercialize" this area very promptly.

Sincerely yours,

Nicholas J. Fortuin, M.D.

NJF/mon

CC: Roger B. Hayden, County Executive
C. A. Dutch Ruppersberger
The Valley's Planning Council, Inc.

6357-92

THE CHEAPEST GUY IN TOWN!™ Luskin's

This Communication Is From:

☐ 1125 Cromwell Bridge Road
Towson, Maryland 21204
Office: (410) 339-5456
Fax: (410) 832-5266

☐ 7125 Columbia Gateway Drive
Columbia, Maryland 21046
Office: (410) 290-1111
Fax: (410) 290-1009

May 29, 1992

6/15/92
Q
TO file

Zoning Commission of Baltimore
400 Washington Blvd.
Suite 1113
Baltimore, MD

Attention: Mr. Lawrence Schmidt

Since I will be unable to attend the final days of hearings on the proposed Villa Julie special hearing, I want to add my voice to the many others that we are opposed to Villa Julie's plans.

It is my belief that doubling the enrollment in the area and adding a new waste/water treatment plant is not consistent for the citizens in that area.

Sincerely,

Jack Luskin

Jack Luskin

JL/kb

RECEIVED
JUN 15 1992
ZONING OFFICE

"...to be first in performance is the goal that we have set for LUSKIN'S. This will be rated on how well we sell our Brand Name products; and how well our products perform; and how well we provide our customers with service..."

Jack Luskin

May 15, 1992

Mr. Lawence Schmidt
Zoning Commissioner
400 Washington Avenue, Suite 113
Towson, Maryland 21204

Dear Commissioner Schmidt,

I went to the hearing on the Villa Julie Special Exception but by the time I arrived you were on to another case. Please regester my strong opposition to Villa Julie's plan to double their enrollment and to add a waste water treatment plant.

I live on Stevenson Road and work at the offices on the corner of Greenspring Valley Road and Falls Road, so I can attest to the fact that there is much too much pressure on that intersection to handle the daily commuter traffic not to mention the added cars that Villa Julie's expansion will generate.

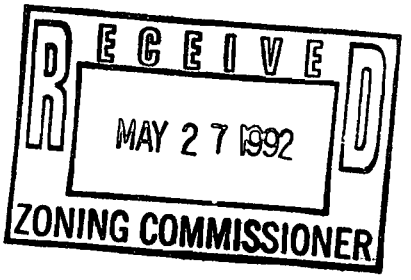
Secondly I'd like to see the county preserve the integrity of Greenspring Valley Road. As a Realtor I have the oppportunity to see how people relocating to this area are impressed by the sheer beauty of Greenspring Valley Road. There are so few roads left that still capture the horse country atmosphere that Baltimore County is known for. This is our chance to preserve that quality, because once we begin changing it and loosening up on the zoning restrictions, we will never get it back. Please help maintain this wonderful asset that the county has.

Thank you for your consideration in this matter.

Sincerely,

Gina Barnhill

Mrs. Gregory Barnhill
10801 Stevenson Road
Stevenson, Maryland 21153



1639-92

October 7, 1991

The Honorable Lawrence E. Schmidt
Zoning Commissioner for Baltimore County
111 West Chesapeake Avenue
Towson, MD 21204

Dear Commissioner Schmidt:

I am a student at Villa Julie College now serving as Student Adviser, and I care deeply about this college.

Therefore I urge you to support our college fully in the zoning and other regulatory requests we are making.

I feel that I am receiving one of the finest educations here that I could find anywhere. I appreciate the high caliber of our faculty, the personal attention they give us, the superior academic program and support services, and Villa Julie's outstanding reputation which will enhance the value of my degree.

I know that I speak for all of my fellow students when I say that Villa Julie must be permitted to continue to grow in order to remain a viable institution that contributes to the health of this and the surrounding counties.

We are asking you and the others in local government to do the right thing by our college, and not to heed the pressures of those who are opposed to us at the same time that they proclaim publicly what a good college and neighbor we are.

Sincerely,

Alex Levas

RECEIVED
OCT 2 1991
ZONING OFFICE

cc: The Honorable Roger Hayden
The Honorable Charles A. "Dutch" Ruppersberger
The Honorable Janice Piccinini

2440-92

October, 1991

The Honorable Lawrence E. Schmidt
Zoning Commissioner for Baltimore County
111 West Chesapeake Avenue
Towson, MD 21204

Dear Commissioner Schmidt:

When I tell you that my ~~son~~/daughter Jennifer (name of student) is now a student at Villa Julie College you will understand my deep personal interest in urging your support for the zoning and regulatory requests which the college is now making.

My ~~son~~/daughter is receiving an excellent education at Villa Julie, which I know will not only enrich ~~his~~/her life but will be a tremendous help in enabling ~~him~~/her to pursue a most successful career.

The faculty genuinely care about the students, and the tuition is reasonable. The college needs to retain a reasonable growth in student population, which I understand some of its neighbors are opposing. Villa Julie is not a wealthy college, yet is a wonderful asset to the State of Maryland.

We are counting on your support.

Sincerely,

Mr. & Mrs. Robert L. Kirner

cc: The Honorable Roger Hayden
The Honorable C. A. "Dutch" Ruppersberger
The Honorable Janice Piccinini

RECEIVED
NOV 13 1991
ZONING OFFICE

1666-92

Signet Bank/Maryland
7 Saint Paul Street
PO Box 1077
Baltimore MD 21203
301-625-4060

10/3/91
9
TO LES
TO file

Robert C Brennan
Vice President

SIGNET

October 1, 1991

The Honorable Lawrence E. Schmidt
Zoning Commissioner for Baltimore County
111 West Chesapeake Avenue
Towson, MD 21204

Dear Commissioner Schmidt:

As a member of the Villa Julie College Delta Board and a long standing resident of Baltimore County, may I add my strong appeal that you approve the zoning and other regulatory requests that have been made by the college.

In my opinion the presence of Villa Julie College is a stabilizing influence in the Valley and adds to the Valley's prestige as a well respected and successful private college.

From close observation I consider Villa Julie to be one of the finest educational institutions in the state. It is a small college and intends to remain so, but if not permitted to continue the reasonable growth rate requested for the next decade, then Villa Julie cannot remain a viable institution.

I cannot see how such a superior college as this one should be penalized for success and especially so when quality education is one of the public's strongest demands.

I hope for the sake of Baltimore County and all the students now benefiting from the quality education now offered by Villa Julie that we can count on your approval.

Sincerely,

Robert C. Brennan
Vice President

RCB/lt

cc: Honorable Charles A. Ruppersberger
Honorable Roger Hayden
Honorable Janice Piccinini

RECEIVED
OCT 3 1991
ZONING OFFICE

10/2/91 1637-92
S
to file

WILLIAM A. HAHN, JR.
ATTORNEY AT LAW
TEN CHURCH LANE
BALTIMORE, MARYLAND 21208
301-484-0300
FAX 301-484-0317

October 1, 1991

The Honorable Lawrence E. Schmidt
Zoning Commissioner for Baltimore County
111 West Chesapeake Avenue
Towson, Maryland 21204

Dear Commissioner Schmidt: Larry

I am an employer of Villa Julie graduates, and I write to urge your support of the zoning and other regulatory requests which the college is now making.

Villa Julie is one of the finest educational institutions in the state and a major asset to the business and professional communities of the Baltimore metropolitan area. I am confident you regard it as an asset to Baltimore County.

Although Villa Julie is a small college and intends to remain so, it must be permitted to maintain the modest growth in student population it is requesting for the next decade.

If this college should be restricted by the opposition to any growth, which I understand some if its neighbors are making, then Villa Julie could not remain a viable institution.

Yours very truly,

Bill

WILLIAM A. HAHN, JR.

WAHJR:tji

RECEIVED
OCT 2 1991
ZONING OFFICE

JAMES KEELTY & CO., INC.
REALTORS® & PROPERTY MANAGEMENT
P.O. BOX 528, TIMONIUM, MD 21094-0528

JAMES KEELTY
1870-1944

PHONE: (410) 252-8600
FAX: (410) 666-8806

May 18, 1992

The Honorable Lawrence E. Schmidt
Zoning Commissioner for Baltimore
400 Washington Avenue
Suite 113
Towson, MD 21204

Dear Commissioner Schmidt:

I am writing as a member of the Board of Trustees of Villa Julie College to urge you to approve the Special Exception to R.C. 2 zoning which the college is now requesting.

The future of the college will be in jeopardy unless we are allowed the reasonable growth we are asking.

During the zoning hearings, Villa Julie's experts have proven that our master plan will not cause traffic problems, or damage the environment or water supply in the Valley. In fact the treatment plant will be a plus on the quality of the stream water!

As for the fears of some that the college has hidden plans, the flexible envelope takes care of that.

Sincerely,

James Keelty, III

JKIII:lam

RECEIVED
MAY 27 1992
ZONING COMMISSIONER

O: Mr. S. Sheldon Morrill
Ms. Beverly G. Shapiro
Ms. Salley P. Harris
Mr. James Dollar
Ms. Nancy N. Bowers
Mr. Brian R. Naughtor
Mr. Irvin W. Kues
Mr. Stephen Orr
Mr. Christopher Dreisbach
Ms. Joanne Archibald
Ms. Christine Flax
Ms. Meg Strange
Ms. Vickie Rasnic
Ms. Meri Beth Quinan
Ms. Laurie S. Powers
Mr. Harry Wittelsberger

CARD #2

TO: SECOND MASS MAILING TO:
Ms. Sylvia Cohen
Ms. Alice L. Kovens
Mr. Richard Boswell
Ms. Robin L.N. Page
Ms. Robyn Murray
Mr. Alex Lavas
Mr. John F. Sapp
Mr. John L. Stesiak
Ms. Ann E. Crumbley
Mr. Ronald B. Duncan
Mr. James E. Jarvis
Ms. Jan W. Clark
Mr. Ronald W. Hux
Ms. Madeline K. Brengle
Ms. Jerriann W. Wilson
Mr. Alfred A. Betz

DATE: 10/25/91

CARD #1

TO: Ms. Nicole Coppage
Ms. Nijila Avenue
Ms. Carla Ma
Mr. Richard G. Lacombe
Norman E. Johnson
Ms. Jean Behlert
William A. Hahn, Jr., Esq.
Ms. Patricia Weaver
Mr. James P. O'Conor
Ms. Bettie E. Greene
Mr. Charles Siegel
Ms. Allison Matuskey
Mr. John W. Beckley
Ms. Carol Maccini
Mr. Robert C. Brennan

CARD #4

TO: Mr. Thomas Harrison
Ms. Kristine Johansson
Ms. Jenny Strasbaugh
Ms. Robyn Murray
Ms. Kimberly Everhart
Ms. MaRY Whitlock
Ms. Jeannine Dahlka
Ms. Patty Hooper
Ms. Katherine L. Thornton
Ms. Mary Stump
Ms. Kellye A. Goetze
Ms. Florence Grant
Ms. Stacie Schuman
Ms. Whitescan
Ms. Mariah J. Baldock

CARD #3

CARD #5

TO: Sheldon Levitt, Esq.
Mr. Larry Berger
Ms. Cathy Lucos
Ms. Darlene Hearn
Ms. Sandra Banihous
Ms. Regina Camitelli

SUBJECT: Villa Julie College

LETTER PREPARED BY: Donald T. Rascoe, Development Mgr.
Office of Zoning Administration & Development Management

ACTION: Response to inquiry

September 1991

Dear Commissioner Schmidt:

As a student at Villa Julie College I urge you to approve the zoning and other regulatory requests which the college is now making. We should be given the same treatment as other schools in this area, such as St. Paul's and St. Timothy's.

Our neighbors have stated publicly that Villa Julie is an excellent college, and that we have been a "good neighbor" for almost 50 years.

As students and future alumni we intend to keep it that way — but Villa Julie must be permitted to retain a reasonable rate of growth if it is to remain a financially sound institution.

We need your full support to save this college that deserves to be saved.

Sincerely, Sharon Curley
752 Walton Farm Dr.
Balto. Md. 21208

September 1991

Dear Commissioner Schmidt:

As a student at Villa Julie College I urge you to approve the zoning and other regulatory requests which the college is now making. We should be given the same treatment as other schools in this area, such as St. Paul's and St. Timothy's.

Our neighbors have stated publicly that Villa Julie is an excellent college, and that we have been a "good neighbor" for almost 50 years.

As students and future alumni we intend to keep it that way — but Villa Julie must be permitted to retain a reasonable rate of growth if it is to remain a financially sound institution.

We need your full support to save this college that deserves to be saved.

Sincerely, Andrea Garikes Baton

October 1991

Dear Commissioner Schmidt:

As the parent of a Villa Julie student, I urge you to approve the zoning and other regulatory requests which the college is now making.

I am pleased with the outstanding education provided by the college, which I know will be a tremendous asset in the job market, both to our Villa Julie graduate-to-be and to the county and state.

The Villa Julie faculty truly care about students, and the tuition is reasonable. This college needs to be permitted to retain a reasonable growth in student population in order to remain viable and affordable.

We need your full support to save this college that deserves to be saved.

Sincerely,

Franklin R. Varela

October 1991

Dear Commissioner Schmidt:

As the parent of a Villa Julie student, I urge you to approve the zoning and other regulatory requests which the college is now making.

I am pleased with the outstanding education provided by the college, which I know will be a tremendous asset in the job market, both to our Villa Julie graduate-to-be and to the county and state.

The Villa Julie faculty truly care about students, and the tuition is reasonable. This college needs to be permitted to retain a reasonable growth in student population in order to remain viable and affordable.

We need your full support to save this college that deserves to be saved.

Sincerely,

William R. Hoffman (William R. Hoffman)

PETITIONER'S AND PROTESTANTS' EXHIBITS

UNMARKED EXHIBITS

92-285-SPHXA

MICROFILMED

MICROFILMED

(6)

19920285 "A"

Supplemental

F. PIERCE LINAWEAVER, P.E., Ph.D.

Dr. Linaweaver has 36 years of professional environmental and engineering experience in a variety of managerial and technical capacities in the fields of:

* Hazardous waste and risk management issues
* Solid waste management, waste minimization
* Water, wastewater, stormwater and flood control
  - water use, water supply, hydrology, water systems computer modeling, water systems valuation, sewage pumping station reliability study, industrial plant flood control wall and facilities
* Air and water quality, pollution control
  - urban non-point source runoff issues, NPDES permits, industrial wastewater discharge, spill control plans
* Site development
  - industrial park master plan, water quality impact of major residential development, environmental effects of major shopping mall, N.J. mall and residential project stormwater management and hydrologic balance before and after development in Pinelands' region, identified risks regarding potential development in areas under utility moratoria, rural shopping center well supply and septic system
* Overall use of resources as they affect the environment
  - coal supply contract proposal evaluation and present value analysis
* Organizational, managerial, and acquisition issues
* Arbitrated construction contract disputes

Summary Professional Experience

1991-	President, F. Pierce Linaweaver & Associates, Inc.
1987-1991	Executive Vice President, EA Engineering, Science, and Technology, Inc.
1987-1990	President, EA Engineering, Inc. (merged into parent)
1978-1987	Partner, Rummel, Klepper & Kahl, Consulting Engineers, Baltimore, MD
1974-1978	Individual Consulting Environmental and Civil Engineer
1969-1974	Director of Public Works, Baltimore City, water wastewater, stormwater, solid waste, highways public buildings Board of Estimates, Planning Commission, Architectural Commission
1968	Deputy Director of Public Works, Baltimore City
1967-1968	Associate Professor, Environmental Engineering Science, Johns Hopkins University
1966-1967	White House Fellow, Assistant to Secretary of Interior
1966	Research Associate, Resources for the Future, Inc., Washington, DC
1965-1966	Research Associate, Environmental Engineering Science, Johns Hopkins University
1961-1965	Research Assistant, Sanitary Engineering and Water Resources, Johns Hopkins University
1961-1966	Various consulting and teaching activities
1955,1958- Civil 1961	Senior Civil Engineer, Civil Engineer, Assistant Civil Engineer, Junior Engineer, Bureau of Water Supply, Baltimore City
1955-1958	Sanitary and Industrial Hygiene Engineer, U.S. Air Force

Baltimore County Government
Department of Public Works

111 West Chesapeake Avenue
Towson, MD 21204-4604

FILE

March 30, 1992

State of Maryland
Department of the Environment
Water Management Administration
ATT: Mark D. Jacobs
2500 Broening Highway
Baltimore, MD. 21224

RE: Final Determination Published March 20, 1992
Villa Julie College WWTP91-DP-2921

Dear Sir:

The timing of your action during the zoning hearing on the subject property leaves much to be desired.

The letter from Robert Perciasepe, Secretary, Department of the Environment, of June 28, 1991, enclosed, identifies the capacity of the proposed community sewage treatment plant as an issue which must be established by Baltimore County.

This is, among other things, the purpose of the zoning hearings. It is not clear if the issuance of your final determination was deliberately timed to prejudice those hearings or not.

Evidence thus far in the hearing does not support the premise that a treatment plant is "needed to replace the non-repairable failing septic tank system currently serving the College."

There has been no conclusive evidence that the system has failed. The system has been conclusively overloaded. The overload has not, however, caused system failure; periodic pumping or topping off of the system, as described by the College financial officer, reportedly maintains the proper function of the system.

The conclusion in your summary that "Sewage overflow is a threat to the public health and the waters of the State that requires prompt abatement" has not been supported by any evidence that sewage is overflowing, that any land suffers a nuisance, or that the waters of the State have been polluted or contaminated.

READING FILE

Printed on Recycled Paper

Baltimore County Government
Department of Public Works

FILE

111 West Chesapeake Avenue
Towson, MD 21204

May 23, 1991

Carolyn Manuszak, President
Villa Julie College, Inc.
Green Spring Valley Road
Stevenson, Maryland 21153-9999

RE: Villa Julie College
Baltimore County Water and Sewerage Plan Amendment
Your letter of May 9, 1991.

Dear Ms. Manuszak:

This office is anticipating the approval of the amendment relative to your issue by the State Department of Environment on behalf of the State of Maryland. When approved by the State, Baltimore County is required to comply with the Plan.

The Plan, as it existed prior to amendment and now as amended under state regulation, did not and does not permit the extension of public water or sewerage in the Green Spring Valley.

As to St. Paul School, water service was first provided to the school in 1959 or 1960, a decade before the state legislated water supply and sewerage planning as we now know it. This was also well before the citizens of the valley persuaded their government to exclude their valley from the planned urban expansion. As to the recent fire, St. Paul's School plumbing system for water supply was found to be inadequate. Consequently, they modernized their system.

Any alternative to the Plan, as amended for your school, would be subject to the same legal process to achieve a further amendment as was followed to achieve the present amendment. Based on the actions of both the Planning Board and County Council, I do not beleive the extension of public sewerage services to the site of your school to be a viable alternative.

Very truly yours,

Signed by Gene L. Neff

Gene L. Neff, Director
Department of Public Works

GLN:OMK:emc

VJULIE/DASGEN

COPY

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

DATE: March 4, 1992

TO: Zoning Advisory Committee

FROM: Oscar M. Keys, Jr., P.E. OMK
Department of Public Works

RE: Villa Julie College
Issue #146 - October 8, 1991

A request was received on behalf of Villa Julie College to amend the BALTIMORE COUNTY WATER SUPPLY AND SEWERAGE PLAN in April, 1990, to allow construction of a sewage treatment plant with discharge to the Jones Falls (Exhibit A). Amendments to the WATER SUPPLY AND SEWERAGE PLAN are subject to a public hearing before the hearing office, i.e., the Baltimore County Planning Board and an affirmative decision by the County under regulations of the State of Maryland. The original request was for approval of a multi-use facility. A multi-use facility, water supply or sewerage disposal, serves only one property owner with a capacity exceeding 5,000 gallons per day. The college was seeking authority for a 40,820 gallon per day facility for both the school and adjacent convent's present use; and 66,875 gallon capacity for future use. When two properties are involved in water supply and/or sewerage system service, the systems are catagorized as Community Systems by State regulations regardless of capacity.

By June 13, 1990, it became apparent that both the existing water supply facilities and existing sewerage facilities might constitute "Community Systems" as defined in COMAR and that both should have been in the inventory of such facilities as they did then exist. By letter of June 13th the school was advised that they would need to have the Sisters of Notre Dame join in their petition to validate it, and additionally requested to assist in correcting the inventory of water supply and sewerage systems in the plan relative to both properties as they then existed (Exhibit B).

The Sisters of Notre Dame joined Villa Julie College in their petition by letter of July 16, 1990 (Exhibit C). On July 18, 1990, having received the concurring petition from the Sisters of Notre Dame, a revision to the WATER SUPPLY AND SEWERAGE PLAN Amendment report on the petition for Villa Julie College was submitted to the Planning Board for the Public Hearing on July 19th (Exhibit D).

In the Public Hearing of July 19, 1990, it was alleged that a well on the property immediately east of the Sisters of Notre Dame was functioning in service to the Sisters' property and possible other

READING FILE

FILE

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

DATE: March 20, 1992

TO: Gene L. Neff, P.E., Director
Department of Public Works

FROM: Oscar M. Keys, Jr., P.E., Assistant
Department of Public Works

RE: Villa Julie College - Sewer Treatment Plant

Attached is Table 10, BALTIMORE COUNTY WATER SUPPLY AND SEWERAGE PLAN, of Small Sewage Treatment Plants. As a matter of scale, please be aware that the 66,000 gallons per day plant proposed for this site will be the second largest in Baltimore County exceeded only by the Richlyn Manor Waste Water Treatment Plant. Note also this has not been proposed as a final size, merely all that is planned at this time.

Again, as to scale, under current use the college has a water consumption equivalent to a residential community of 162 homes, an urban density approaching Density Residential 2 (DR2).

The proposed future use is equivalent to 278 homes, an urban density approaching Density Residential 3.5 (DR3.5).

This school is located in an RC2 Zone. An agricultural zone with approved use of one (1) home per fifty (50) acres.

On February 28, 1992, Merreen Kelly held an interdepartmental meeting with Planning, Public Works and DEPRM. The Villa Julie issue was revisited to determine if there had been any changes from the community which might foster an altered public position relative to this issue. No altered public position resulted.

Each agency was instructed to forward comments to the "Zoning Advisory Committee". The attached memo of March 4, 1992, was transmitted by this office to the Zoning Advisory Committee.

OMK:emc

Attachments

VJULIE4/DASGEN

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

DATE: March 4, 1992

TO: Zoning Advisory Committee

FROM: Oscar M. Keys, Jr., P.E. OMK
Department of Public Works

RE: Villa Julie College
Issue #146 - October 8, 1991

A request was received on behalf of Villa Julie College to amend the BALTIMORE COUNTY WATER SUPPLY AND SEWERAGE PLAN in April, 1990, to allow construction of a sewage treatment plant with discharge to the Jones Falls (Exhibit A). Amendments to the WATER SUPPLY AND SEWERAGE PLAN are subject to a public hearing before the hearing office, i.e., the Baltimore County Planning Board and an affirmative decision by the County under regulations of the State of Maryland. The original request was for approval of a multi-use facility. A multi-use facility, water supply or sewerage disposal, serves only one property owner with a capacity exceeding 5,000 gallons per day. The college was seeking authority for a 40,820 gallon per day facility for both the school and adjacent convent's present use; and 66,875 gallon capacity for future use. When two properties are involved in water supply and/or sewerage system service, the systems are catagorized as Community Systems by State regulations regardless of capacity.

By June 13, 1990, it became apparent that both the existing water supply facilities and existing sewerage facilities might constitute "Community Systems" as defined in COMAR and that both should have been in the inventory of such facilities as they did then exist. By letter of June 13th the school was advised that they would need to have the Sisters of Notre Dame join in their petition to validate it, and additionally requested to assist in correcting the inventory of water supply and sewerage systems in the plan relative to both properties as they then existed (Exhibit B).

The Sisters of Notre Dame joined Villa Julie College in their petition by letter of July 16, 1990 (Exhibit C). On July 18, 1990, having received the concurring petition from the Sisters of Notre Dame, a revision to the WATER SUPPLY AND SEWERAGE PLAN Amendment report on the petition for Villa Julie College was submitted to the Planning Board for the Public Hearing on July 19th (Exhibit D).

In the Public Hearing of July 19, 1990, it was alleged that a well on the property immediately east of the Sisters of Notre Dame was functioning in service to the Sisters' property and possible other

Log #826

Baltimore County Government
County Executive's Office

Roger B. Hayden
County Executive

400 Washington Avenue
Towson, Maryland 21204
887-2450

July 3, 1991

Mr. Gaylord L. Clark, M.D.
CLARK FARM ASSOCIATES
1704 Hillside Road
Stevenson, MD 21153

RE: Villa Julie College Sewage Treatment Plan
Your letter dated June 11, 1991

Dear Mr. Clark:

I have been advised that the Baltimore County Planning Board did, on July 19, 1990, hold a public hearing relating to the issue you have brought to my attention. The concerns and proposals of neighboring property owners appear in the public record. I am further advised that alternative proposals were made at the February 4, 1991 meeting of the Baltimore County Council and would appear in the record thereof.

Each has clearly determined to authorize a sewage treatment plant to serve Villa Julie College's present needs, and left issues relative to future need or growth to the Zoning Commissioner of Baltimore County to be determined at a Special Exception Hearing. This is necessary as this school exists as a non-conforming use in the valley.

In May of this year, in an effort to explore the proposals of neighboring properties, Carolyn Manuszak, President of the college wrote to Mr. Gene Neff, Director of Public Works. A copy of her inquiry and Mr. Neff's response is enclosed.

I do believe that the Department of Public Works, Department of Environmental Protection and Resource Management, Office of Planning and Zoning, Baltimore County Planning Board, Baltimore County Council, and the Zoning Commissioner of Baltimore County are the appropriate agencies to consider the issues raised. All, with the exception of the Zoning Commissioner, have considered them.

I would suggest that you prepare your position for presentation at the Special Exception Hearing to be scheduled before the Zoning Commissioner in the near future.

Please note that the school does not have a license to "Unrestricted Growth". This is clearly one of the subjects to be considered at the Special Exception Hearing.

90-11

Maryland Department of Natural Resources

Maryland Environmental Service
2020 Industrial Drive
Annapolis, Maryland 21401
(301) 974-7281

William Donald Schaefer
Governor

Torrey C. Brown, MD
Secretary

George G. Perdikakis
Director

Oscar Keyes
Baltimore County Department of Public Works
County Office Building
Towson, MD 21204

April 26, 1990

Dear Mr. Keyes:

By way of introduction, attached is a copy of the letter just sent to the County Executive by the Villa Julie College regarding their sewer project. Pursuant to our contract with the College, we are providing the information necessary for the amendment to the Baltimore County Water and Sewerage Plan which will allow for the issuance of a State discharge permit and construction of a package sewage treatment plant with discharge to Jones Falls.

Villa Julie College is located in Zone R/C-2, map designation W16B, S16B. The College should be considered as a multi-use facility and inventoried as a facility with no planned service, W-7,S-7.

I am the Project Manager representing the College and will be coordinating all aspects of the project with various State and local agencies. Please let me know should you require anything further. I may be reached at 974-7276.

Sincerely,

Lisa M. Reaver
Project Manager

cc: Dane Bauer
Billie Messenger, Villa Julie College
James Dieter, Baltimore County DEPRM

RECEIVED
MAY 1 1990
DEPARTMENT OF PUBLIC WORKS
OF BALTIMORE COUNTY
DIRECTOR

Baltimore County
Department of Public Works
Towson, Maryland 21204

Gene L. Neff, P.E.
Director

June 13, 1990

Dennis F. Rasmussen
County Executive

Ms. Lisa M. Reaver
Project Manager
MARYLAND ENVIRONMENTAL SERVICE
2020 Industrial Service
Annapolis, MD 21401

Re: Villa Julie College + Baltimore Province Sisters of Notre Dame

Dear Ms. Reaver:

We have reviewed your letter of April 26, 1990 and several matters need clarification.

The property is zoned under the zoning laws of Baltimore County as R.C. 2 (Agricultural). Schools and colleges are not a right in this zone but can be considered, or permitted, by special exception. We believe that, at present, the college exists as a nonconforming land use having been in existence prior to the zoning of the land. We have been unable to find a record of any special exceptions having been granted. At present, this office is not in a position to consider the growth factors indicated in your report.

The property is shown on maps W16B and S16B in the WATER SUPPLY AND SEWERAGE PLAN OF BALTIMORE COUNTY (Plan) and is designated W-7, S-7 (No Planned Community or Multi-Use Service). This limits any planned, or permitted, use to domestic water supply and sewage disposal systems on a single property to less than 5,000 gal per day. Clearly, both the college and adjacent property of the Sisters of Notre Dame are nonconforming uses under the Plan also.

Your request, on behalf of both properties, should have been for a special exception to permit a community sewerage system with point source discharge to be built in service to both properties in the S-7 area.

Having raised the issue of nonconformance and planned growth involving both properties, this office is led to believe that all independent water

① Robt. Sheesley heading this up for County; DEPRM has investigated on-site disposal both field spray and drain fields. (Chuck Aschenbrenner)
② MDOE has issued discharge parameters

Baltimore County
Department of Public Works
Towson, Maryland 21204

Gene L. Neff, P.E.
Director

April 30, 1990

Dennis F. Rasmussen
County Executive

Lisa M. Reaver
Project Manager
MARYLAND ENVIRONMENTAL SERVICE
2020 Industrial Drive
Annapolis, MD 21401

RE: Villa Julie College

Dear Ms. Reaver:

Your letter of April 26, 1990 on behalf of the owners of the subject property, relative to a change in the Master Water Supply and Sewerage Plan, has been received by this office.

This matter has been designated Map Issue No. 90-11, Cycle VII, and will be reported to the Office of Planning and Zoning and the Department of Environmental Protection and Resource Management with such additional requests as are received through the month of April.

The plan amendment process to be followed is as established by Policy 20.3, page IV-1, of the BALTIMORE COUNTY DEVELOPMENT PROCEDURES AND POLICY MANUAL.

If I may be of further assistance, please advise.

Very truly yours,

Oscar M. Keys, Jr., P.E.
Assistant to the Director

OMK:emc

cc: Mr. David Fields
Mr. Robert Sheesley
Mr. Gene Neff
Mr. Tom Hamer
Mr. Robert E. Covahey

ISS9011A/DASW.SP

RECEIVED
MAY 1 1990
DEPARTMENT OF PUBLIC WORKS
OF BALTIMORE COUNTY
DIRECTOR

Catonsville Community College
A Baltimore County Community College

800 South Rolling Road
Catonsville, Maryland 21228

Office of the President
(410) 455-4100
Fax # (410) 455-4411

February 1993

Dear Catonsville Community College Student:

As part of our on-going efforts to improve our services to students, we are conducting a survey of our current students to gather their opinions. In order to keep the number of questions we ask you small, we have divided our list of questions into parts and constructed several questionnaires, each of which focuses on some of our services. You have been chosen to respond to one of those questionnaires.

Since we are trying to be economical in our surveying, we have chosen to survey only a small group with each questionnaire. Therefore, your responses are important for us. Please take a few moments to answer the enclosed questionnaire and return it to the Office of Institutional Research using the enclosed envelope. It can be mailed in any mailbox or dropped in the campus mail in any office as you make your way around campus. Please return the questionnaire within two weeks.

Thank you for your time. Rest assured that your responses will remain confidential. They will be reported as part of a summary to the offices providing the services evaluated and will play an integral part of the college's planning and management processes.

Sincerely,

Frederick J. Walsh
President

Enclosure

STUDENT EVALUATION OF COLLEGE SERVICES - NO. 3

This questionnaire is in three parts, one giving us some demographic information about you so we know the characteristics of the people answering our survey, one concerning the quality of the service provided by specific units, and one dealing with the overall quality of the college. There are several versions of this survey, each dealing with different service areas of the college. Taken together they cover the entire range of services offered by the college. These offices have chosen the characteristics of their services on which they wish to be evaluated.

In an attempt to be comprehensive and yet not to overburden anyone with too large a questionnaire, we are taking the approach of asking students to fill out only one questionnaire. Because not everyone has the opportunity to answer questions on each area, your responses are that much more important. Please take the time to respond and return your responses to the Office of Institutional Research in the enclosed postage paid envelope.

Part A - Demographics

1. Social Security Number: _____ - _____ - _____

   We ask for your Social Security number so that we can find out information like your age, gender, ethnic group, number of credits carried, etc., from our records rather than have you fill out questions here which duplicate that information. Please be assured that your responses are confidential and are reported only as part of a group of respondents.

2. What is your marital status?

   ❑ a. Married ❑ b. Unmarried

3. What is your employment status?

   ❑ a. Employed full-time (30 or more hours per week)
   ❑ b. Employed part-time (less than 30 hours per week)
   ❑ c. Unemployed, seeking work
   ❑ d. Unemployed, not seeking work
   ❑ e. Retired
   ❑ f. Other: _____

4. If employed, what is the average number of hours you work per week? _____

5. Where do you work?

   ❑ a. Baltimore County
   ❑ b. Carroll County
   ❑ c. Baltimore City
   ❑ d. Howard County
   ❑ e. Anne Arundel County
   ❑ f. Other Maryland county
   ❑ g. Outside Maryland

REVISION
To the Water & Sewerage Plan Amendment Petition

for

VILLA JULIE COLLEGE
July 18, 1990

Property Description Page 90-11
with additions to the Amendment Petition

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EXHIBIT D

Title 26
DEPARTMENT OF THE ENVIRONMENT
Subtitle 08 WATER POLLUTION

Chapter 01 General

Authority: Environment Article, §§9-313, 9-314, 9-315, 9-319, 9-320, 9-325, 9-327, and 9-328, Annotated Code of Maryland

.01 Definitions.

A. General.

(1) The following definitions describe the meaning of terms used in the water quality and water pollution control regulations of the Department of the Environment (COMAR 26.08.01—26.08.04).

(2) The terms "discharge", "discharge permit", "disposal system", "effluent limitation", "industrial user", "national pollutant discharge elimination system", "person", "pollutant", "pollution", "publicly owned treatment works", and "waters of this State" are defined in the Environment Article, §§1-101, 9-101, and 9-301, Annotated Code of Maryland. The definitions for these terms are provided below as a convenience, but persons affected by the Department's water quality and water pollution control regulations should be aware that these definitions are subject to amendment by the General Assembly.

B. Definitions of Terms.

(1) "Acute toxicity" means the capacity or potential of a substance to cause the onset of deleterious effects in living organisms over a short-term exposure as determined by the Department.

(2) "Administrative order" means a written notification issued by the Department under State law and regulations, and requiring correction of a water pollution condition or compliance with provisions of pertinent law and regulations.

(3) "Advanced waste treatment" means treatment of wastes or wastewaters to:

(a) Reduce the level of specific constituents which are not sufficiently controlled by best available technology (BAT) for industrial discharges or by secondary treatment for municipal discharges; or

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Title 26
DEPARTMENT OF THE ENVIRONMENT
Subtitle 08 WATER POLLUTION

Chapter 02 Water Quality

Authority: Environment Article, §§9-313—9-316, 9-319, 9-320, and 9-325, Annotated Code of Maryland

.01 Surface Water Quality Protection.

A. Purpose. To protect surface water quality, this State shall adopt water quality standards to:

(1) Protect public health or welfare;

(2) Enhance the quality of water;

(3) Protect aquatic resources; and

(4) Serve the purposes of the Federal Act.

B. Water Quality Standards.

(1) The surface water quality standards consist of two parts:

(a) Designated uses of the waters of this State; and

(b) Water quality criteria to protect the designated uses.

(2) Water quality standards shall, wherever attainable, provide water quality for the designated uses of:

(a) Water contact recreation;

(b) Fishing;

(c) Propagation of fish, other aquatic life, and wildlife; and

(d) Agricultural and industrial water supply.

(3) Waters of this State shall be protected for the basic designated uses in Regulation .02A.

(4) Water quality standards shall consider the use and value of public water supplies.

(5) Regulations .02—.08 of this chapter implement this State's water quality standards by:

(a) Defining and establishing specific designated uses for the surface waters of this State;

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(a) In freshwater streams and rivers, a mixing zone width may not exceed one-third of the width of the surface water body;

(b) In lakes, the combined area of all mixing zones may not exceed 10 percent of the lake surface area;

(c) In estuarine areas, the maximum cross-sectional area of the mixing zone may not exceed 10 percent of the cross-sectional area of the surface water body.

COMAR 26.08.02.05

B. Intermittent Streams.

(1) Discharges to intermittent streams are not permitted when feasible alternatives are available.

(2) Effluent limitations for discharges to specific intermittent streams may be determined by the Department on a case-by-case basis.

(3) Effluent limitations may not be less stringent than:

(a) The minimum national effluent guidelines established under the Federal Act;

(b) Those levels necessary to maintain the water quality standards of downstream segments;

(c) Those levels necessary to protect the biological community of the intermittent stream; or

(d) Those levels necessary to protect public health.

.06 Review and Revision.

A. Procedure. Under State law and §303(c) of the Federal Act, the Department shall review and revise its water quality standards as appropriate. Changes shall be transmitted to the EPA.

B. Hearing Transcripts. Transcripts of public hearings on proposed standards revisions shall be available for public inspection in the main office of the Department. Transcripts shall be furnished to the EPA upon request.

.07 Surface Water Use Designation.

A. All surface waters of this State shall be protected for Use I which includes water contact recreation, fishing, and protection of aquatic life and wildlife.

B. For interstate waters, these classifications apply only to those waters within this State.

C. A stream segment is a distinct portion of a sub-basin.

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Title 26
DEPARTMENT OF THE ENVIRONMENT
Subtitle 08 WATER POLLUTION

Chapter 03 Discharge Limitations

Authority: Environment Article, §§9-313, 9-314, 9-315, 9-319, and 9-320, Annotated Code of Maryland

.01 Effluent Limitations.

A. Prohibited Discharges. The following discharges to the waters of this State are prohibited:

(1) The discharge of any waters in excess of 10,000 gallons per day, as a monthly average, or the discharge of any wastes or wastewaters regardless of volume, unless:

(a) Authorized by a discharge permit, or

(b) Subject to control or modification required by a schedule of compliance established by this State;

(2) The discharge of any pollutant in toxic amounts including:

(a) Substances which accumulate to toxic amounts during the expected life of organisms in the surface water, or

(b) Substances which produce deleterious behavioral effects on the organisms;

(3) The discharge of any radiological, chemical, or biological warfare agent;

(4) The discharge of any high level radioactive waste;

(5) Any discharge which would substantially impair anchorage and navigation;

(6) Any discharge to which the Administrator of the Environmental Protection Agency has objected in writing under the Federal Act;

(7) Any discharge which is in conflict with a plan approved by this State;

(8) The discharge of sewage from vessels while moored, berthed, or docked in waters of this State except through a federally and State approved marine sanitation device;

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Title 26
DEPARTMENT OF THE ENVIRONMENT
Subtitle 08 WATER POLLUTION

Chapter 04 Permits

Authority: Environment Article, §§9-313, 9-315, 9-325, 9-327, and 9-328, Annotated Code of Maryland

.01 Application for Discharge Permits.

A. As of the effective date of this regulation, as revised, the Department shall issue State discharge permits in accordance with the provisions and conditions of COMAR 26.08.01—26.08.04 and 26.08.08, inclusive. These regulations are adopted with the intent to satisfy the regulatory requirements of the National Pollutant Discharge Elimination System (NPDES), established pursuant to §402 of the Federal Water Pollution Control Act Amendments of 1972, Title 33, U.S.C.

B. Activities for Which State Discharge Permits Are Required. A person may not commit any of the following acts except as authorized by a State discharge permit issued by the Department of the Environment:

(1) Discharge into the waters of the State any waters in excess of 10,000 gallons per day, as a monthly average, whether the waters are derived from a ground water source, or from a surface water source, from a piped water supply, or from any other source, with the exception of storm water runoff.

(2) Except as provided in COMAR 26.08.02.09A(3) and Regulation .07 of this chapter, discharge into the waters of this State any wastes or wastewaters regardless of volume.

(3) Construct, install, modify, extend, alter, or operate any system for the disposal of wastes or wastewaters into the waters of the State, or a system which may result in a discharge into these waters, regardless of quality or volume, with the exception of storm water runoff.

(4) Increase or otherwise modify in volume, temperature, or concentration, any existing wastes or wastewaters in excess of the discharges authorized by any existing State discharge permit or NPDES permit issued by the Department of the Environment. To the extent that the modification is in excess of limits specified in a State dis-

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Bloodsworth v. State, 307 Md. 164, 167, 512 A.2d 1056 (1986). In *Timney v. State*, 80 Md.App. 356, 563 A.2d 1121 (1989), we stated the elements of the crime of conspiracy:

> A criminal conspiracy consists of the combination of two or more persons to accomplish some unlawful purpose, or to accomplish a lawful purpose by unlawful means. The essence of a criminal conspiracy is unlawful agreement. The agreement need not be formal or spoken, provided there is a meeting of the minds reflecting a unity of purpose and design. In Maryland, the crime is complete when the unlawful agreement is reached, and no overt act in furtherance of the agreement need be shown.

Id. at 366–67, 563 A.2d 1121 (citing *Townes v. State*, 314 Md. 71, 75, 548 A.2d 832 (1988)). The prosecution need not show a formal agreement in order to establish the existence of the criminal conspiracy. *Id.* 80 Md.App. at 367, 563 A.2d 1121. The State is simply required to present facts which would allow the finder of fact to infer that the parties tacitly agreed to commit an unlawful act.

We hold that there was substantial evidence upon which a jury could find Murray's and Tootie's conversation and acts involved a meeting of the minds to distribute crack cocaine.

III. SENTENCING

[6] Murray appealed his sentence on the theory that he was sentenced twice for the same illegal activity with one illegal objective. This argument is also without merit.

In *Wooten–Bey v. State*, 76 Md.App. 603, 628, 547 A.2d 1086 (1988), the appellant was convicted of conspiracy to rob and attempted robbery. On appeal, Wooten–Bey argued that under the Rule of Lenity only a single conviction for robbery was permissible and asked this court to merge his conspiracy to rob conviction into the attempted robbery conviction. In holding that the Rule of Lenity did not apply and in affirming the two sentences, we stated:

> We thus have two separate criminal acts for which the Legislature has provided distinct punishments. Appellant presents us with no case law or legislative history suggesting that the Legislature did not intend to punish both of these criminal acts, nor can it be seriously argued that an ambiguity exists when the statutes are applied in tandem. It makes sense that, because the two crimes and penalties addressed different criminal behavior, separate sentences can be imposed.

Id. at 629, 547 A.2d 1086.

The holding of *Wooten–Bey* is dispositive of Murray's case. Murray received the suspended consecutive five-year sentence for planning to distribute crack cocaine with Wilson. The fifteen-year sentence imposed by the trial court was for Murray's act of actually consummating that plan by distributing the crack cocaine. The trial court did not err in imposing separate sentences for the conspiracy and the distribution charge.

JUDGMENTS AFFIRMED; COSTS TO BE PAID BY APPELLANT.

---

599 A.2d 469

Eugenia N. GREGORY et al.

v.

BOARD OF COUNTY COMMISSIONERS OF FREDERICK COUNTY, Maryland, et al.

No. 163, Sept. Term, 1991.

Court of Special Appeals of Maryland.

MICROFILMED

Dec. 24, 1991.

County residents appealed County Commissioners' adoption of amendment to County comprehensive water and sewage plan. The Circuit Court, Frederick County, G. Edward Dwyer, Jr., J., dismissed challenge. Residents

Even though Officer Allen's testimony was not directly contradicted by another witness, that does not mean it was unchallenged. By his cross-examination of the officer, and in his opening statement as well as his closing argument, Sample's attorney made it abundantly clear that he was challenging Officer Allen's assertion that a gun had been dropped by Sample, or that any bullets were found in a coat pocket, or that if bullets were so found, the coat was shown to have been Sample's. The jury was under no obligation to believe every fact testified to by Officer Allen, even though his testimony was not directly refuted by another witness. We may think the State's evidence was quite strong, as did the trial judge, but it is the jury who must evaluate the officer's credibility and determine what actually occurred. Under the circumstances, we conclude that Sample should have been permitted to comment upon the unexplained[2] absence of fingerprint evidence.

[4] In ruling as he did, the trial judge may have accepted the ground for objection advanced by the prosecutor—that the defendant was precluded from arguing the absence of fingerprint evidence because he had not inquired about such evidence during trial. We said in *Eley*, however, that the defendant has no such burden.

> It would be plainly unreasonable to impose upon a defendant the burden of cross examining the police or of calling the appropriate personnel to the stand when that action might well result in evidence adverse to his interest. It is the State which has the burden of bringing forth the evidence. The defendant need say nothing. *Eley v. State*, 288 Md. at 554, 419 A.2d 384.

The prohibition of comment on the absence of fingerprint evidence in this case was error, and we reverse.

JUDGMENT OF THE COURT OF SPECIAL APPEALS REVERSED. CASE REMANDED TO THAT COURT WITH INSTRUCTIONS TO REVERSE THE JUDGMENT OF THE CIRCUIT COURT FOR BALTIMORE CITY, AND TO REMAND THE CASE TO THAT COURT FOR A NEW TRIAL. COSTS TO BE PAID BY THE MAYOR AND CITY COUNCIL OF BALTIMORE.



314 Md. 210

BOARD OF COUNTY COMMISSIONERS FOR CECIL COUNTY

v.

Lundy B. HOLBROOK.

No. 57, Sept. Term, 1987.

Court of Appeals of Maryland.

Nov. 30, 1988.

Landowner applied for special exception permitting him to maintain mobile home on land which had been zoned for agricultural and limited residential use. The County Board of Appeals denied application and the Circuit Court, Cecil County, Edward D.E. Rollins, Jr., J., affirmed. On appeal, the Court of Special Appeals, 70 Md.App. 207, 520 A.2d 1096, Karwacki, J., reversed and remanded. On certiorari, the Court of Appeals, Cole, J., held that: (1) where facts and circumstances indicate special exception use would have adverse effect on adjoining and surrounding properties' valuation, permit should be denied; (2) due deference was to be given to decisions

2. We do not suggest that the explanation must always be explicit in order to justify limitation of argument. When the surface supposedly touched is such that a trial judge may judicially notice the fact that fingerprints could not be obtained from it, and the record demonstrates the basis for the judge's decision, a defendant may be precluded from arguing that an inference of favorable fingerprint evidence may be drawn from the State's failure to introduce any fingerprint evidence. Even in such a case, however, the defendant would not be precluded, in arguing the meaning of proof beyond a reasonable doubt, from generally contrasting the quality of fingerprint evidence or other highly reliable evidence with the quality of the evidence presented in the case.

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Commission so that the proper standard of proof may be applied.

JUDGMENT OF THE COURT OF SPECIAL APPEALS REVERSED AND CASE REMANDED TO THAT COURT TO AFFIRM THE JUDGMENT OF THE CIRCUIT COURT FOR BALTIMORE CITY. BALTIMORE GAS & ELECTRIC TO PAY THE COSTS.



307 Md. 307

AD + SOIL, INC.

v.

COUNTY COMMISSIONERS OF QUEEN ANNE'S COUNTY

No. 143, Sept. Term, 1985.

Court of Appeals of Maryland.

Aug. 26, 1986.

The operator of sewage sludge storage and distribution facility appealed from decisions of the Circuit Court, Queen Anne's County, Edward D.E. Rollins, J., which, inter alia, upheld zoning board's denial of its applications for variances and the denial of its conditional use permit. Following the grant of certiorari, the Court of Appeals, Murphy, C.J., held that: (1) General Assembly did not preempt field of sludge utilization and therefore did not preclude enactment or enforcement of consistent local zoning laws; (2) amendments to zoning ordinance did not conflict with state statutes governing sludge utilization and therefore were not invalid; and (3) zoning board did not err in declining to grant variances from setback requirements for sewage sludge storage and distribution facility.

Affirmed.

1. **Constitutional Law** ⇐316

At appellate level, constitutional right to be heard is satisfied where the parties are provided an opportunity to present their arguments to court through submission of written briefs, without oral argument.

2. **Constitutional Law** ⇐278.2(2)

Circuit court's decision to issue its judgment in zoning cases without hearing or argument from operator of sewage sludge storage and distribution facility did not violate the operator's right to due process under Article 24 of Declaration of Rights or the operator's statutory rights. Const.Declaration of Rights, Art. 24; Code 1957, Art. 66B, § 4.08(b).

3. **Administrative Law and Procedure** ⇐751

Circuit court's review of administrative agency decision is ordinarily restricted to evidence in record developed before agency.

4. **Municipal Corporations** ⇐111(2)

Doctrine of preemption is grounded upon authority of General Assembly to reserve for itself exclusive dominion over an entire field of legislative concern; while properly invoked, doctrine precludes local legislative bodies from enacting any legislation whatsoever in the preempted field.

5. **Municipal Corporations** ⇐111(2)

Preemption may be accomplished either expressly by statutory language prohibiting local legislation or impliedly by unequivocal conduct of General Assembly; in either case, focus of inquiry must be on whether General Assembly has manifested a purpose to occupy exclusively a particular field.

6. **Zoning and Planning** ⇐14

General Assembly did not preempt field of sludge utilization and therefore did not preclude enactment or enforcement of consistent local zoning laws.

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court. The application shall be filed within thirty days after entry of the judgment or order from which the appeal is sought....

It argued that the trial court's attempt to extend the time for filing the appeal is of no effect, since it had no authority to do so. The State relies upon *Blackstone v. State*, 6 Md.App. 404, 407, 251 A.2d 255 (1969), citing *Cornwell v. State*, 1 Md.App. 576, 578, 232 A.2d 281, *cert. denied*, 247 Md. 739 (1967), wherein it is said: "There is no provision in the Maryland Rules or elsewhere authorizing the lower court to extend the time within which an order of appeal to this Court shall be filed."

We agree with the State and, consequently, will dismiss appellant's application. We are mindful that the cases upon which the State relies were decided in the context of the predecessor Rule to Maryland Rule 8–202, pertaining to appeals of right, rather than in the context of Maryland Rule 8–204, pertaining to Applications for Leave to Appeal. That distinction is of no moment. Maryland Rule 8–202 requires that a "notice of appeal shall be filed within thirty days after entry of the judgment or order from which the appeal is taken." In that regard, it is almost identical to Rule 8–204(b)(1). Moreover, the rationale for requiring strict adherence to the time requirements in the case of appeals of right is no less persuasive where application for leave to appeal is sought. We hold, therefore, that an application for leave to appeal must be filed, as Maryland Rule 8–204(b)(1) prescribes, within thirty days from the date of the judgment from which appeal is sought and that the trial court may not, in the absence of specific authority to do so, extend that time.

APPLICATION FOR LEAVE TO APPEAL DISMISSED.



85 Md.App. 738

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, et al.

v.

Nicholas B. MANGIONE, et ux.

No. 465, Sept. Term, 1990.

Court of Special Appeals of Maryland.

Feb. 1, 1991.

Landowners appealed decision of county board of appeals denying special exception to construct nursing home in residential area. The Circuit Court, Baltimore County, William M. Nickerson, J., affirmed, but then modified order and remanded case for evidentiary hearing. Appeal was taken. The Court of Special Appeals, Cathell, J., held that: (1) circuit court improperly remanded case, and (2) landowners were not entitled to special exception.

Reversed.

1. Zoning and Planning ⇐741

Circuit court order remanding case to county board of appeals for evidentiary hearing on request for special exception to construct nursing home in residential area was final and appealable. Code, State Government, § 10–215(e, g).

2. Zoning and Planning ⇐725, 726

Circuit court's denial of special exception to construct 240–bed nursing home in residential area was improperly modified to remand case to county board of appeals for evidentiary hearing on alleged request to construct 120–bed facility, where nothing indicated that application for 120–bed facility was ever filed with administrative agency or that original application for 240–bed facility was downsized by proper amendment.

3. Administrative Law and Procedure ⇐725

Petition of appeal to circuit court of decision of administrative agency is "pleading."

See publication Words and Phrases for other judicial constructions and definitions.

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DOCKET FILE

92-285-SPHXA
Villa Julie College
CCt reverses and
remands to BOA
4/1/94 -
Hon. Barbara Kerr How

PETITION OF VILLA JULIE COLLEGE, INC.	*	IN THE
FOR JUDICIAL REVIEW OF THE DECISION OF THE COUNTY BOARD OF APPEALS FOR BALTIMORE COUNTY	*	CIRCUIT COURT
IN THE CASE OF: IN THE MATTER OF THE APPLICATION OF VILLA JULIE COLLEGE, INC. FOR A SPECIAL HEARING, SPECIAL EXCEPTION, AND VARIANCES ON THE PROPERTY LOCATED ON THE SOUTH SIDE OF GREENSPRING VALLEY ROAD, 9' EAST OF NACIREMA LANE (1521 Greenspring Valley Road) 8TH ELECTION DISTRICT, 3RD COUNCILMANIC DISTRICT	*	FOR BALTIMORE COUNTY 93CV7403
IN THE BALTIMORE COUNTY BOARD OF APPEALS Case No. 92-285-SPXHA	*	

* * * * * * * * * * * * *

IN RE:	*	IN THE
PETITIONS FOR SPECIAL HEARING, SPECIAL EXCEPTION AND ZONING VARIANCE	*	CIRCUIT COURT FOR BALTIMORE COUNTY
VILLA JULIE COLLEGE, INC.	*	Case No. 93CV2112

* * * * * * * * * * * * *

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MEMORANDUM OPINION

HOLDING

The County Board of Appeals for Baltimore County erred when it granted Villa Julie College, Inc.'s Motion in Limine and excluded testimony and declined to decide whether Villa Julie College, Inc. should be permitted to install a new sewage system.

FILED APR 05 1994

29 Pltf. re: Proctor, Collins, Bronstein, Wiederhorn

291 Md. 1

Roger SCHULTZ et al.

v.

Robert K. PRITTS et al.

No. 153.

Court of Appeals of Maryland.

July 16, 1981.

Applicants for special use permit to construct funeral establishment in single family residential zone appealed the denial of their application by the county board of zoning appeals. The Circuit Court, Carroll County, Donald J. Gilmore, J., reversed and remanded the matter to the board for a new hearing, and application protestants appealed. The Court of Special Appeals dismissed the appeal on the ground that the circuit court's order was not a final judgment. Protestant filed a petition for writ of certiorari and applicants filed a cross petition, both of which the Court of Appeals granted. The Court of Appeals, Davidson, J., held that: (1) circuit court's order remanding the proceeding to the board was a final appealable order; (2) applicants were not denied due process by the board's consideration of cumulative evidence submitted after close of the hearing on the application where applicants acquiesced in submission of the evidence; and (3) the appropriate standard to be used in determining whether requested special exception use would have adverse effect and therefore should be denied is whether there are facts and circumstances that show that particular use proposed at particular location proposed would have any adverse effects above and beyond those inherently associated with such special exception use irrespective of this location within zone.

Vacated and remanded with directions.

Smith, J., concurred in part and dissented in part and filed opinion.

1. Zoning and Planning ⇐741

Circuit court's order, on appeal from decision of county board of zoning appeals denying application for special exception use permit, which remanded case to board and thereby terminated judicial proceeding and denied parties means of further prosecuting or defending their rights in judicial proceeding was appealable final order. Code, Courts and Judicial Proceedings, §§ 12–101(f), 12–301.

2. Administrative Law and Procedure ⇐458

In general, while administrative agencies are not bound by technical common-law rules of evidence, they must observe basic rules of fairness as to parties appearing before them.

3. Constitutional Law ⇐318(1)

When administrative agency relies upon evidence submitted after close of hearing, due process may be violated if no opportunity is provided to challenge evidence by cross-examination or rebuttal; however, when administrative agency relies on evidence submitted after close of hearing, there may be no due process violation when parties are aware that evidence will be considered but make no objection, particularly if evidence is duplicative in nature. U.S.C.A.Const. Amend. 14.

4. Administrative Law and Procedure ⇐482

Question whether to grant rehearing is matter within administrative agency's sound discretion.

5. Constitutional Law ⇐278.2(2)

Where applicants for special use exception acquiesced in submission of written report by traffic expert hired by permit protestants after close of hearing before county board of zoning appeals and were given opportunity to challenge evidence by cross-examination or rebuttal or to request opportunity to challenge newly acquired evidence before board reached its decision, and where evidence was duplicative in nature, applicants were not denied due process of law by receipt of evidence after hearing had been closed. U.S.C.A.Const. Amend. 14.

MICROFILMED

4. Zoning and Planning ⇐590

Landowner's petition of appeal to circuit court after county board of appeals denied request to construct nursing home in residential area was "pleading," and, thus, landowner was bound by admission in petition that application was for 240-bed facility and was prohibited from asserting in motion to alter and amend circuit court judgment that application was for 120-bed facility.

5. Zoning and Planning ⇐678

Special exception is part of comprehensive zoning plan and shares presumption that it is in interest of general welfare and is valid.

6. Zoning and Planning ⇐481

"Special exception" is use which has been legislatively predetermined to be conditionally compatible with uses permitted as of right in particular zone, condition being that zoning body must, in each case, decide under specified statutory standards whether presumptive compatibility exists.

See publication Words and Phrases for other judicial constructions and definitions.

7. Zoning and Planning ⇐747

Court of Special Appeals was required to give due deference to right of administrative agency, such as county board of appeals, to draw all reasonable inferences from facts and circumstances presented before it in proceeding for special exception to construct nursing home in residential area.

8. Zoning and Planning ⇐508

County board of appeals could conclude that 240-bed nursing home in residential area would have particular adverse impact and the landowners were not entitled to special exception to construct home; home was planned for dominant terrain above neighborhood, and testimony indicated problems with residential streets, erosion, and storm water runoff.

Peter Max Zimmerman (Phyllis Cole Friedman, on the brief), for appellant, People's Counsel, Towson.

Michael P. Tanczyn, Towson, for appellant, Dulaney Valley Improvement Ass'n, Inc.

Joseph C. Laverghetta, Towson, for appellees.

Argued before BLOOM, KARWACKI and CATHELL, JJ.

CATHELL, Judge.

[1] This is a zoning appeal from the order of the Circuit Court for Baltimore County remanding the case to the Baltimore County Board of Appeals (hereinafter Board).[1] The appellees, Nicholas B. Mangione et ux., requested a special exception for a nursing home and additional variances to permit a parking lot setback and a larger sign than ordinarily permitted. These requests were denied by the zoning commissioner. On appeal to it, the Board, after a hearing *de novo,* also denied the requests. Thereafter, the appellees appealed the Board's decision to the Circuit Court for Baltimore County. Initially, the circuit court affirmed the Board's decision. Thereafter the appellees filed a Motion to Alter or Amend Judgment. The circuit court granted the appellees' motion and remanded the case to the Board for an evidentiary hearing and finding, modifying its prior order. The appellants, People's Counsel for Baltimore County et al., then appealed to this Court.

1. The appellees argue that this appeal must be dismissed because the order from which the appeal is taken is not a final appealable order. We disagree. In the recent case of *Hickory Hills Limited Partnership v. Secretary of State of Maryland,* 84 Md.App. 677, 581 A.2d 834 (1990), we clarified which orders of the circuit court remanding a case to the administrative agency are final in cases involving Md. State Gov't Code Ann. § 10-215(e). At oral argument an inference was made that the trial judge may have been construing this matter as an appeal under Sec. 10-215(g) when in fact the appellee is not a state agency included within the ambit of that section. Appellant contends that the appeal to the circuit court was pursuant to the B Rules. We need not determine which set of rules was being applied because under either, the trial court's ruling was a final appealable order. Accordingly, appellee's argument that the case should be dismissed is without merit.

WWTP discharge is
Currently to W.J.C. 0-5

DANE BAUER DSM Biology MS Env. J.H.U.
Director Water & Wastewater Facilities - 4 yrs.
Pet #7 Apr 1990 date of MBE Contr.
Survey of existing Sewer System
Team survey
#8 Exhibit copy #2 exhibit collard septic system
#9 Exhibit Annex/Amt to WS&S Plan
#10 Exhib State Approval
Aug 1991 classified by DE as intermittent
60,000 gal 5 yr projection
< 5000 from S. of ND
existing use 28,200 g.p.d.
MD REG MARCH 20th 1992 NPDES PERMIT 1st Public Hrg
GEORGE MILLER — A&E Davis Plant
Rotating Biological Contactor

Cost to operate $5 to $20,000 per yr.

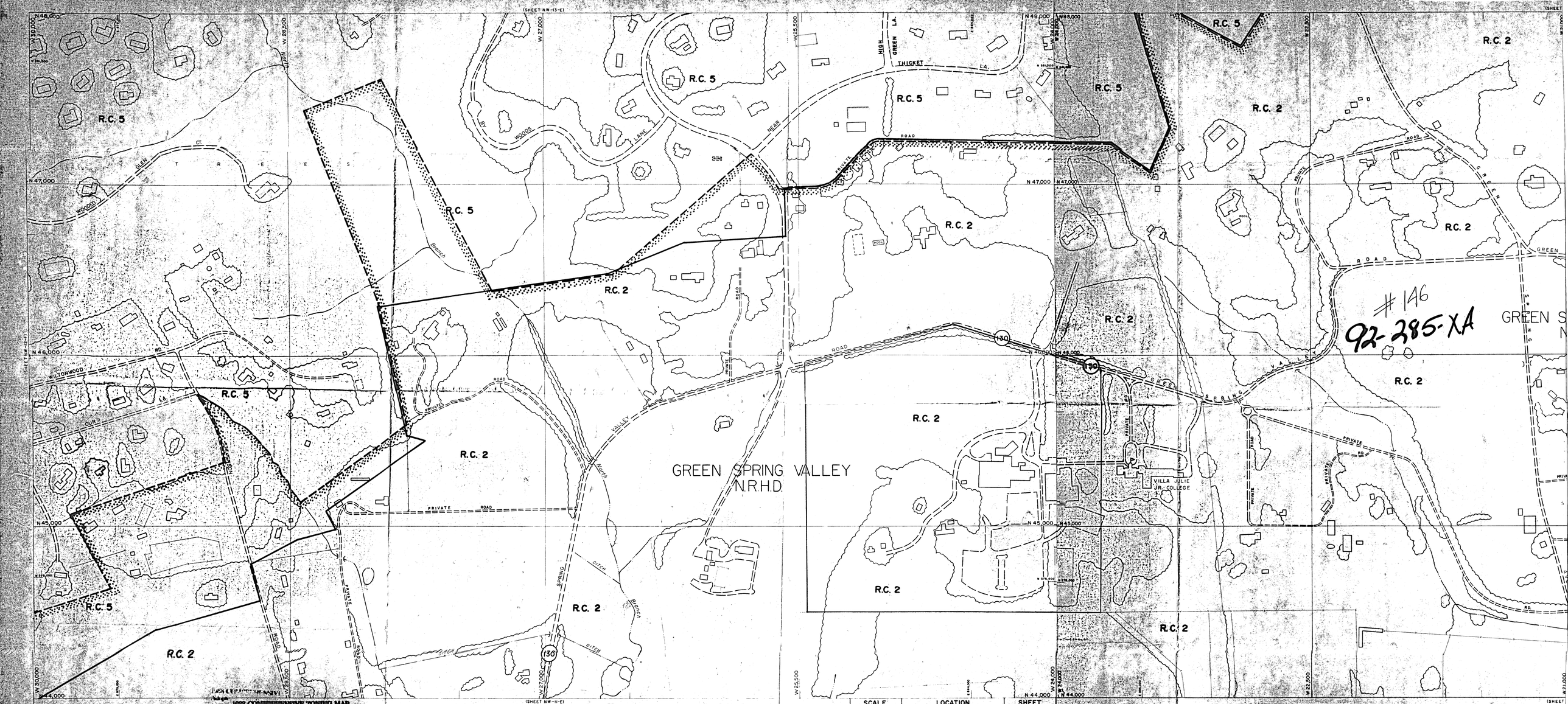
MAR 4, 92 DEPRM

GREENSPRING VALLEY NEIGHBORHOOD

VILLA JULIE COLLEGE

Prof Exh #20

15 14 13 12 11 10 9 8



#146
92-285-XA

GREEN S
N

S-SW

1988 COMPREHENSIVE ZONING MAP
Adopted by the Baltimore County Council
Oct. 13, 1988
Bill Nos. 144-88, 145-88, 147-88, 149-88, 150-88

Chairman, County Council

THIS MAP HAS BEEN REVISED IN SELECTED AREAS.
TOPOGRAPHY COMPILED BY PHOTOGRAMMETRIC METHODS
BY BUCHART-HORN, INC. BALTIMORE, MD. 21210

BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING

OFFICIAL ZONING MAP

SCALE	LOCATION	SHEET
1" = 200'±	STEVENSON	N. W. 12-E
DATE OF PHOTOGRAPHY JANUARY 1986		

S-SW

1988 COMPREHENSIVE ZONING MAP
Adopted by the Baltimore County Council
Oct. 13, 1988
Bill Nos. 144-88, 145-88, 147-88, 149-88, 150-88

Chairman, County Council

THIS MAP HAS BEEN REVISED IN SELECTED AREAS.
TOPOGRAPHY COMPILED BY PHOTOGRAMMETRIC METHODS
BY BUCHART-HORN, INC. BALTIMORE, MD. 21210

BALTIMOR
OFFICE OF PLANN
OFFICIAL Z

MICROFILMED

Table 1
Villa Julie College
Population, Water and Wastewater Characteristics

VILLA JULIE COLLEGE

	Current	Projected – Five Years*
Full–time Students	900	1,322
Part–time Students	700	1,029
Full–time Staff	82	120
Part–time Staff	255	375
Pre–school	30	32
Total	1,967	2,878

* VJC NPDES permit application signed 6 / 5 / 91 ; students 8% growth per year; staff based on half of ten–year plan

GROUNDWATER SUPPLY

Two wells	2 / 17 / 82	10–year Permit	10,000 gpd
Existing water use	metered 9 / 24 / 91 to 10 / 19 / 91		29,000 gpd
Proposed use	10–year WRA Application–Signed 11 / 7 / 91		60,000 gpd

WASTEWATER

Existing Septic System		Design	6,000 gpd
Current Flow	i.e. overflowing / failing septic system		29,000 gpd
Proposed Wastewater Treatment Plant	1991 5–year MDE Application		63,000 gpd

Discharge intermittent stream – tributary to Jones Falls

PETITIONER'S

PROTESTANT'S

EXHIBITS

19920285 "A"
supplemental

7

SEWAGE TREATMENT PLANT

ALTERNATIVES EVALUATION

FOR

VILLA JULIE COLLEGE

STEVENSON, MARYLAND

AND

MARYLAND ENVIRONMENTAL SERVICE

ANNAPOLIS, MARYLAND

GEORGE, MILES & BUHR
ARCHITECTS & ENGINEERS
72 LOVETON CIRCLE
SUITE 102
SPARKS, MARYLAND 21152

DECEMBER, 1991
REVISED FEBRUARY, 1992

Zoning Comiss.
Exhibit
No. 1

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VILLA JULIE COLLEGE
WASTEWATER TREATMENT PLANT

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PROGRAMS OFFERED BY VILLA JULIE COLLEGE

Bachelor of Science

Business Administration
Business Information Systems
Computer Accounting
Computer Information Systems
Liberal Arts and Technology:
    Computer Option, Science Option, Video Option,
Nursing
Paralegal

Associate in Arts

Accounting
Activity Specialist: Geriatrics
Administrative Assistant:
    Accounting Office, Business and Legal office, Travel and Tourism Office,
Administrative Assistant/Medical Assistant
Art
Arts and Sciences:
    Communication, Social and Government Services, Science
Business Administration:
    Communications, Supervisory Management, Travel and Tourism
Chemical Laboratory Technician
Child Development
Communication Arts: Video/Television and Theatre
Computer Information Systems
Court Reporter
General Studies
Medical Laboratory Technician
Paralegal
Pre-Dental Hygiene
Teacher Education

PETITIONER'S EXHIBIT No 4

JUL 23 1991

VILLA JULIE COLLEGE

Office of the President

July 1991

PETITIONER'S EXHIBIT 5

Mrs. Douglas Worrall
Executive Director
Valleys Planning Council, Inc.
P. O. Box 5402
Towson, MD 21204

Dear Mrs. Worrall:

Because Villa Julie College has always tried to be a good neighbor to all those living in and sharing the beauty of Green Spring Valley, a top priority with us at this time is to explain to our neighbors clearly and in complete candor a problem we are facing and how we plan to solve it.

May I say from the outset: you can be assured that a prime consideration in all our planning is, and will continue to be, to do nothing that would adversely affect our neighbors and to preserve the rural loveliness of the Valley.

These are the facts:

Last year, in the course of beginning our master planning for the college for the next decade, it was discovered that we have a failing septic system. This type of problem is familiar to a number of residents of this Valley, I'm sure, because of the high water table and the clay content of the soil in areas such as ours.

After conducting many studies and consulting with environmental authorities and county and state officials, we have concluded that the best way to solve this problem is to install a compact package disposal plant. This plant will be placed at a location on the campus that is fully hidden from public view. It will be a state of the art facility, emitting no odors, and will be monitored by the Maryland Environmental Service, with whom we are under contract.

Some suggestions have been made that the college attempt to hook up with public sewer. Although public sewerage is probably substantially less in cost to the college, we have ruled out this idea because we do not believe it to be in the best interests of the Valley. So you see, we are just as anxious as you to preserve the unspoiled rural character of this Valley.

Villa Julie file

STATE OF MARYLAND
DEPARTMENT OF THE ENVIRONMENT
2500 Broening Highway Baltimore, Maryland 21224
(301) 631- 3574

William Donald Schaefer
Governor

Robert Perciasepe
Secretary

Ref 12

March 9, 1992

Mr. Michael Lancaster, CPA
Chief Business Officer
Villa Julie College
Green Spring Valley Road
Stevenson MD 21153-9999

Dear Mr. Lancaster:

We have reviewed the recently submitted Sewage Treatment Plant Alternatives Evaluation containing actual and projected flow data for Villa Julie College. The flow data indicates that a discharge permit based on 60,000 gallons per day (gpd) of flow is appropriate. Our evaluation of the College's application for a discharge permit is now complete. A Final Determination notice has been forwarded to the Maryland Register. Publication is expected on March 20, 1992. If the Determination is not contested, the permit would be issued on or about April 6, 1992.

If you have any questions or need additional information, please call me at (410) 631-3574.

Sincerely,

Merrylin Zaw-Mon

Merrylin Zaw-Mon, Deputy Director
Water Management Administration

MZM:bab

cc: Mr. J. L. Hearn

WES GUCKERT
PRESIDENT

The Traffic Group

Wes Guckert is a recognized and well respected expert in the field of traffic engineering. Serving as a technical advisor in the areas of traffic impact analysis, traffic signal design, traffic circulation, access studies and transportation planning, Mr. Guckert has played a major role in projects that span the urban and suburban are as of Maryland, Virginia, Pennsylvania, New Jersey, and Delaware. As President of The Traffic Group, Mr. Guckert has managed over 1800 studies for more than 800 clients, including the Towsontown Centre Regional Mall, Bowie New Town Centre, Port America, and the Annapolis Mall Expansion.

Prior to founding The Traffic Group, Mr. Guckert served as a traffic engineering consultant. As Project Manager for various public agency projects, he was responsible for the Maryland 210 Bus Stop Study, the Capital Centre Access Study and the University of Maryland Access Study. In addition, he directed the design and implementation of traffic access systems for regional projects such as National Business Park, Presidential Corporate Center, Largo Town Center, the Milestone Property, Wheaton Plaza, and Salisbury Centre. Early in his career, Mr. Guckert served for 5 years with the Maryland SHA Traffic Division.

A renowned expert in the field, Mr. Guckert is often asked to serve as an independent expert witness, testifying before county and municipal boards and district courts in Maryland, Virginia and Pennsylvania on traffic engineering and transportation planning issues.

JOB HISTORY

1985-Present
President, The Traffic Group, Inc.

1977-1985
Traffic and Transportation Planning Consultant

1972-1977
Maryland State Highway Administration—Traffic Division
Assistant Regional Traffic Engineer

EDUCATIONAL BACKGROUND
Bachelor of Science — University of the State of New York
Civil Engineering Preparation: Johns Hopkins University, Towson State University, and Essex Community College
Traffic Engineering Courses: Northwestern University Traffic Institute; University of Tennessee Transportation Center; University of Maryland

AFFILIATIONS
Institute of Transportation Engineers (I.T.E.)
Urban Land Institute (U.L.I.)
American Planning Association (A.P.A.)
Transportation Research Board (T.R.B.)

I.T.E. PROFESSIONAL COMMITTEES
Traffic Considerations for Special Events
Parking Facilities for Industrial Plants
Internal Transportation Systems for Majority Activity Centers

PUBLICATIONS
I.T.E., "The Evolution of Adequate Public Facilities and Their Effectiveness as Growth Management Tools in Maryland" (Co-Author)

EXAMPLES OF PLACES WHERE MR. GUCKERT HAS QUALIFIED AS AN EXPERT WITNESS

MARYLAND
Planning Board-Allegheny County
Zoning Hearing Examiner, Board of Appeals and Circuit Court-Anne Arundel County
Planning Commission and City Council-City of Annapolis
City Council and Planning Commission-Baltimore
Board of Appeals, Circuit Court, Planning Board, Zoning Hearing Examiner-Baltimore County
Planning Board, Town Commissioners-Town of Bel Air
Planning Board and Board of Appeals-Carroll County
Planning Board and Board of Appeals-Charles County
Planning Commission-City of Frederick
Planning Board and County Commissioners-Frederick County
Zoning Hearing Examiner-Harford County
Planning Board and Zoning Board-Howard County
Zoning Hearing Examiner-Montgomery County
Board of Appeals-Montgomery County
Board of Appeals-Washington County
M-NCPPC (Planning Commission)-Montgomery County
County Council, Zoning Hearing-Prince George's County
M-NCPPC (Planning Commission)-Prince George's County
Planning Board-St. Mary's County

NEW JERSEY
Holmdel Township Planning Board

VIRGINIA
Arlington County Board of Supervisors
Loudoun County Planning Board
Prince William County Planning Board and Board of Supervisors

PENNSYLVANIA
West Whiteland Township Planning Board, Town Council
City of Scranton Board of Appeals

The Traffic Group, Inc. Suite 600 40 W. Chesapeake Avenue Towson, Maryland 21204 (410) 583-8405 Fax (410) 321-8458

3.9.92

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To B BRENTZIN	From JULIE HIGGINS
Co.	Co. CROZIER ASSOC
Dept.	Phone # 366.3330
Fax # 296.3719	Fax #

CROZIER
ASSOCIATES

Pet No 19

SAMUEL CROZIER

Education Ohio State University, Bachelor of Landscape Architecture, 1962
University of Michigan, Master of Landscape Architecture, 1964

Registration State of Maryland / Landscape Architecture

Professional Background 17 years as principal of Crozier Associates, 10 years with other firms

Qualifications After three years with the Rouse Company working with multidisciplinary teams on large scale land planning projects in the new town of Columbia, and on land use feasibility studies for housing, industrial and commercial projects throughout the country, Sam Crozier began his own firm in Baltimore, Md. Under his guidance, Crozier Associates has developed a reputation for unique and creative land planning and landscape architecture.

Sam Crozier has successfully completed many public, private and institutional projects ranging from zoning, land use and masterplanning to detailed site design and construction implementation. Major areas of his practice have included land use planning, zoning studies, commercial and industrial development, park design, housing and community development and institutional planning.

Significant Institutional Projects

The John's Hopkins Bayview Research Campus for The Dome Corporation
Baltimore, Maryland masterplanning through final site design

Villa Julie College for Villa Julie College
Stevenson, Maryland overall masterplanning and site design for a new academic building

UMBC Student Union Plaza for UMBC and the State of Maryland
Catonsville, Maryland site planning for a major campus plaza

Frederick Community College for Frederick community College
Frederick, Maryland site analysis, campus masterplan and report

Prince George's Community College for Prince George's Community College
Largo, Maryland masterplanning and site design for new building additions

Professional Affiliations

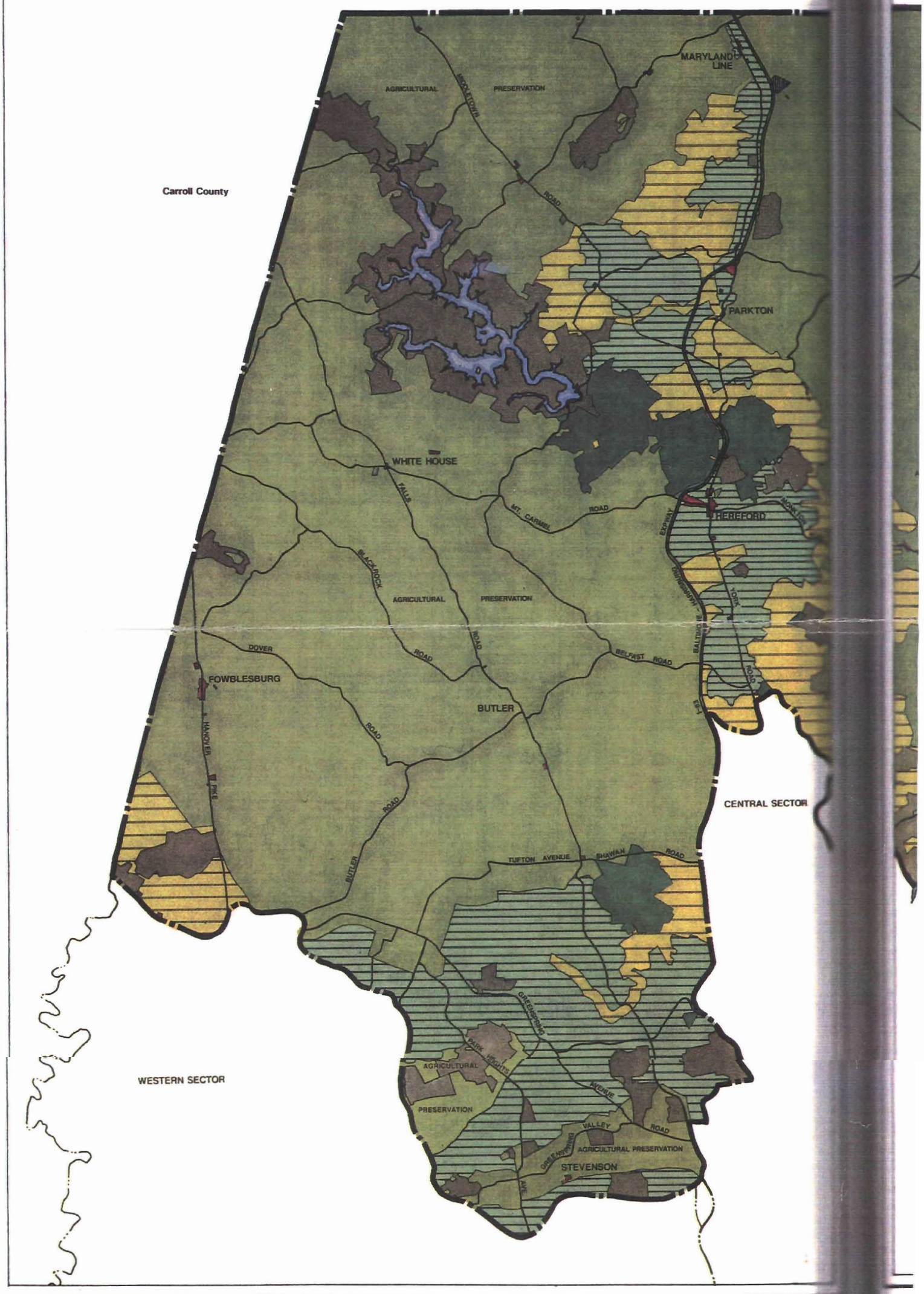
American Society of Landscape Architects, member
ASLA Maryland Chapter, president elect
State of Maryland Board of Examiners of Landscape Architects 1982
Home Builders of Maryland, Land Use Committee, current
Baltimore County Master Plan Review Committee, 1990
Baltimore County Steering Committee for the Design Review Panel, current

LANDSCAPE ARCHITECTURE AND LAND PLANNING
Mill Centre, Suite 400
6000 Chestnut Avenue
Baltimore, Maryland 21211
301/366-3330

LAND USE PLAN

- SECTOR BOUNDARY
- RESOURCE CONSERVATION
- AGRICULTURAL CONSERVATION
- RURAL PROTECTION
- PARK / OPEN SPACE
- INSTITUTIONAL / PRIVATE OPEN SPACE
- SUBURBAN RESIDENTIAL
- LOW DENSITY URBAN RESIDENTIAL
- MEDIUM DENSITY URBAN RESIDENTIAL
- HIGH-RISE URBAN RESIDENTIAL
- COMMERCIAL
- OFFICE
- OFFICE / INDUSTRIAL
- INDUSTRIAL

0 10,000'



Pet's No 21

FREDERICK N. CHADSEY, IV (RICK)

Ref No 28

SUMMARY OF QUALIFICATIONS

Offering over ten years of experience in the field of Civil Engineering as detailed below.

Department Director — Three years of experience in the management of a 40 person multi-disciplined group. Involved long range planning, weekly scheduling, resource usage control, project selection and personnel evaluation. Also involved in overall office management, and strategic and tactical planning in connection with efficiency, effectiveness and future enterprises.

Project Manager — Three years of experience preparing budgets and schedules, cost estimates, managing design team and coordinating project production with other departments within the organization.

CADD Production Coordinator — Four years of experience on an Intergraph VAX and Microstation based system. Involved in the setup of the CADD system including the creation of cells, standards and programs for the automated production of engineering drawings for sewerage, water supply and storm drainage systems, road and highway plans, storm water quantity and quality facilities, grading plans, topographic base maps, boundary plots and record plats.

Water Resource Development and Management — Eight years of experience in environmental quality, distribution design, surface and groundwater hydrology, Hec-2 floodplain and floodway modeling, and TR-55, and TR-20 drainage basin analysis. Two years of experience as Director of Stormwater Management Division.

Project Engineer — Eight years of experience in site development including design of sewerage, water distribution and storm drainage systems, roads and highways, site grading, preparation of specifications, and stormwater quantity and quality facilities. Four years experience in water and wastewater treatment, and as a consulting engineer for the Cities of Choctaw and Anadarko, Oklahoma.

PERSONAL OVERVIEW

Effective communication and coordination with clients, other professionals, citizens' groups and government agencies.

REGISTRATION

Professional Engineer - Oklahoma, P.E. 14118 - 1985
- Maryland, P.E. 14328 - 1985

PETITIONER'S EXHIBIT No. 29

QA No. 3 Atlas Map No. 1

EXPLANATION

UNCONSOLIDATED TO SEMI-CONSOLIDATED — QUATERNARY

Qal — Alluvium (0.5-6m. thick)

Interbedded, poorly-sorted country rock and vein quartz gravels, quartzose sands, micaceous silts and kaolinitic clays. Typically confined to flood plains of perennial streams in valleys and gathering areas dissected by ephemeral streams in upland areas. Sediment size and mineralogy are directly related to the adjacent country rock and geomorphic setting. In rural, deeply dissected areas, alluvium may be mixed with fine to very coarse colluvium. In urban areas this unit cannot be adequately shown since it is commonly overlain by artificial fill and/or has been severely disturbed.

Structural symbols on alluvium represent bedrock exposures in stream valleys. These are typically either along the margins of the flood plain or close to the main channel of the drainage.

Qac — Colluvium and Alluvium (0.5-6m. thick)

Unsorted, massive clays to gravels interbedded with poorly-sorted alluvial(?) sands and gravels. Defined on the basis of lithology, geomorphic setting and soil series.

Unconformity

UNCONSOLIDATED TO SEMI-CONSOLIDATED — CRETACEOUS(?)

ps / pc — Potomac Group (?) (0.5-10m. thick)

Unconsolidated to locally cemented sediments identical with Lower Cretaceous Patuxent Formation sands and clays mapped elsewhere. The sediment caps, however, lack palynological data and are isolated from the continuous Coastal Plain sequence to the east.

ps — *Sand-gravel lithofacies. Poorly to well sorted quartz sands containing variable amounts of vein quartz and quartzite gravel. Framework components are commonly coated with ferric oxides and are locally limonite-cemented. Variable amounts of silt and clay occur in the sands as a matrix. Sands are typically planar to cross-bedded, where exposed below the soil zone. Pebbles commonly range from 1 to 10 cm. in diameter and are concentrated in coarse planar beds or are disseminated in finer sediments.*

pc — *Clay-silt lithofacies. Gray to brown, massively bedded to poorly laminated kaolinitic clay to clayey silt. Delineated in this quadrangle by auger borings and soil series.*

unconformity

INTRUSIVE ROCKS — SILURIAN(?) — PRECAMBRIAN(?)

p — Pegmatite

Massive, coarse-grained to very coarse-grained, light colored rock comprised of muscovite, quartz, and feldspar.

sz — Slaughterhouse Gneiss

Medium-grained, locally massive, orange-weathering biotite-muscovite-microcline-quartz-plagioclase gneiss.

top of crystalline stratigraphic section

BALTIMORE MAFIC COMPLEX

m — Mount Washington Amphibolite

Fine- and medium-grained, generally massive, dark rock consisting of hornblende and plagioclase, and locally, pyroxene. Includes very subordinate (less than 10%) actinolite schist or fels, most commonly as very thin layers (3 cm or less). Variations in hornblende/plagioclase ratio define in places a layering ranging from a few centimeters to more than a decimeter thick. Weathers to a clay-rich, red saprolite enclosing numerous residual cobbles and boulders.

thrust fault

os — Oella Formation

Oella Formation. Fine- to medium-grained biotite-plagioclase-muscovite-quartz schist, locally garnetiferous and chloritic, with subordinate interlayered fine-grained biotite-plagioclase-quartz gneiss or fels (metagraywacke) in beds ranging from a few centimeters to two decimeters in thickness.

s — *serpentinite. Bluish-black, chromite-bearing serpentinite with amphibole and sparse relict olivene and pyroxene. Intricately and irregularly fractured and slickensided. Veined by white magnesite, chalcedony, calcite, deweylite, chrysotile, and common opal. Locally talc -rich.*

os — *Sweethouse Amphibolite Member. Fine-grained epidote amphibolite, commonly laminated, with subordinate interlayered schist and gneiss (described above).*

CAMBRO-ORDOVICIAN(?) — WISSAHICKON SUPERGROUP — GLENARM SUPERGROUP

(g) / (g-k) / (g-s) / ea — Loch Raven Schist

Loch Raven Schist. Uniform, medium- to coarse-grained biotite-plagioclase-muscovite-quartz schist with lenticles and pods of vein quartz. Locally rich in biotite and feldspar. Includes rare quartzite.

(g) — *garnet facies. Garnet common; staurolite and kyanite rare or absent.*

(g-s) — *garnet-staurolite facies. Garnet and staurolite common; kyanite rare or absent.*

(g-k) — *garnet-kyanite facies. Garnet and kyanite common; staurolite rare or absent.*

(g-s-k) — *garnet-staurolite-kyanite facies. Garnet, staurolite, and kyanite all common.*

ea — *epidote amphibolite. Concordant zones of thin-bedded epidote amphibolite ranging from fine-grained to coarse-grained and from finely laminated to uniform. Quartz usually associated with epidote. Locally includes thin beds of quartzite.*

a — *amphibolite. Similar to above but with epidote rare or absent.*

q — *quartz. Massive, milky vein quartz.*

lr — *Rush Brook Member. Fine- to medium-grained, slabby weathering biotite-plagioclase-muscovite-quartz schist, commonly less micaceous and more gneissic, with very subordinate quartzite in layers one to two decimeters or less in thickness. Rarely garnetiferous, but commonly bearing accessory tourmaline.*

m — *marble*

c / cm / cpl / cml — Cockeysville Marble

Contacts between members of the Cockeysville Marble are interpreted as facies boundaries.

c — *Cockeysville Marble undivided.*

cm — *Layered marble member. Metalimestone and metadolostone interlayered generally on a scale of one meter. Metalimestone commonly medium-grained and moderately silicate-rich (chiefly phlogopite), but may be finer-grained or quite pure. Metadolostone generally finer-grained than associated metalimestone, and generally silicate-rich (chiefly phlogopite and tremolite) and calcite-bearing, but locally quite pure. Outcrops commonly weather to a carbonate sand with embedded metadolostone boulders.*

unconformity

PRECAMBRIAN*

pCbl / pCbs / pCbh / pCba — Baltimore Gneiss

pCbl — *Layered gneiss member. Dark and light biotite-microcline-quartz-plagioclase gneiss interlayered generally on a centimeter to decimeter scale; may vary from biotite schist to quartz-feldspar granofels. Locally bears muscovite, and rarely hornblende. Includes augen gneiss in places. Complexly deformed locally.*

pCbs — *Streaked-augen gneiss member. Uniform, medium-grained biotite-microcline-quartz-plagioclase gneiss generally bearing augen that have a stretched appearance; magnetite abundant in places; minor garnet and hornblende locally. Subordinate, fine-grained, dark biotite-quartz-feldspar gneiss generally in layers less than one meter thick.*

pCbh — *Hornblende gneiss member. Similar to the layered gneiss member described above, but with hornblende-bearing dark gneiss constituting about 50% of the total outcrop area. Garnet very rare.*

pCba — *Augen gneiss member. Similar to the layered gneiss member described above, but containing large (1-3 cm), light-colored ovoids (augen) consisting either of feldspar or feldspar and quartz.*

sz — *silicified zone. Massive, silicified, brecciated rock, locally with quartz-crystal-lined vugs.*

For the crystalline rocks primary minerals are listed in order of increasing abundance. Grain size definitions are: fine = less than 1 mm; medium = 1-5 mm; coarse = 5 mm to 3 cm; very coarse = greater than 3 cm.

gld — *Layered metadolostone member. Pure, white metadolostone interlayered on a scale of several decimeters with dark metadolostone containing silicate minerals, mainly diopside (commonly as stubby porphyroblasts), tremolite, phlogopite, and quartz. The darker metadolostone locally contains small patches of calcite (less than one cm in longest dimension), and, in the northern body accessory pyrite. Many outcrops in the northern body are partially disintegrated to dolomite sand.*

c — *calc-silicate fels. Massive rock consisting of diopside, tremolite, quartz, and calcite.*

cpl — *Phlogopitic metalimestone member. Fine- to medium-grained, millimeter- to centimeter-scale interlayered white to bluish-white calcite marble, and purplish, phlogopitic calcite marble or calc-schist with quartz, muscovite, scapolite, feldspar, and accessory diopside and tremolite. Locally, uniformly silicate-rich or silicate- poor. A few outcrops in the Ruxton area include metadolostone. In the vicinity of Moores Branch includes zones of schist of undetermined thickness identical to the schist of sg.*

cml — *Massive metalimestone member. Medium- and coarse-grained, commonly blue-streaked, massive, clean calcite marble. Silicates sparse, and, where present, are chiefly phlogopite with some muscovite, quartz, and tremolite. Includes subordinate fine-grained metalimestone, and very subordinate fine-grained metadolostone, generally silicate-rich, and in zones ranging from a few centimeters to a few tens of meters thick.*

sgs / s / sg — Setters Formation

s — *Undifferentiated sg and sg.*

sgs — *Garnet schist member. Uniform, medium-grained biotite-plagioclase-muscovite-quartz schist with abundant garnet accompanied by either abundant staurolite or kyanite but rarely both.*

sg — *Gneiss member. Fine- and medium-grained schists with a variable biotite/muscovite ratio, locally approaching a gneissic texture. Clots of biotite typically give the rocks a distinctive spotted appearance.*

sq — *Quartzite member. Thin-bedded, medium-grained biotite-muscovite-microcline-quartz schist and fine-grained, slabby-weathering muscovite-microcline quartzite, both commonly bearing tourmeline.*

unconformity

pCbl / pCbs / pCbh / pCba — Baltimore Gneiss

sz — Silicified zone

**Age designations based on radiometric dates on Geologic Map of Maryland (1968).*

contact

Generally approximate or inferred. Distribution and concentration of structural symbols is an approximate measure of the reliability of any contact.

boundary between mineral facies of the Loch Raven Schist

normal fault — U - upthrown side, D - downthrown side

thrust fault — teeth on upper plate

axial trace of anticline or dome

vertical / inclined / horizontal

foliation or schistosity (everywhere virtually parallel to compositional layering)

symmetric / dextrally asymmetric / sinistrally asymmetric

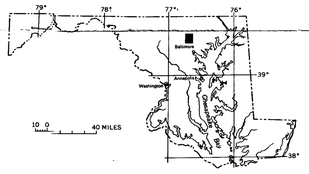
inclined / horizontal

axis and symmetry of minor fold

inclined / horizontal

mineral lineation

QUADRANGLE LOCATION



STATE OF MARYLAND
DEPARTMENT OF NATURAL RESOURCES
MARYLAND GEOLOGICAL SURVEY
Kenneth N. Weaver, Director

Copies of Atlas available from
Maryland Geological Survey
Johns Hopkins University
Baltimore, Maryland 21218

Base map from U. S. Geological Survey, 1957 (photorevised 1966) Cockeysville Quadrangle 7½ Minute Series

Crystalline rocks mapped by William P. Crowley; sediments by Juergen Reinhardt and Emery T. Cleaves.

Field mapping done, 1972-1975.

Map drafted by
Karen R. Kuff and
Margaret P. Ketcham

UTM GRID AND 1966 MAGNETIC NORTH DECLINATION AT CENTER OF SHEET

SCALE 1:24000

CONTOUR INTERVAL 20 FEET
DATUM IS MEAN SEA LEVEL

COCKEYSVILLE QUADRANGLE: GEOLOGY, HYDROLOGY AND MINERAL RESOURCES

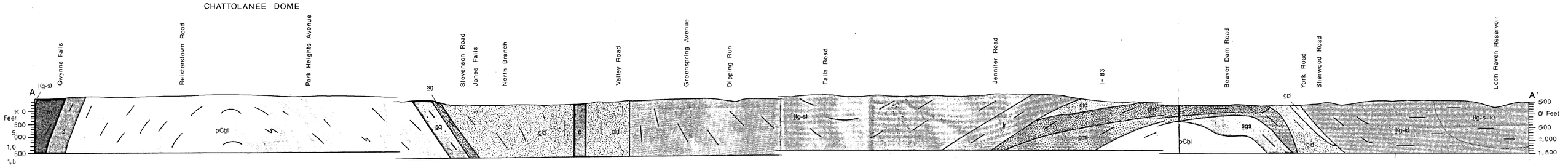
MAP 1. GEOLOGIC MAP OF THE COCKEYSVILLE QUADRANGLE, MARYLAND

By

William P. Crowley, Juergen Reinhardt and Emery T. Cleaves

1975

CHATTOLANEE DOME



CROSS SECTION A - A': Horizontal scale same as map scale, no vertical exaggeration. Discontinuous lines indicate trace of foliation.

Williams & Heintz Map Corporation, Washington, D. C. 20027

BOARD OF TRUSTEES

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President, Villa Julie College

GEORGE L RUSSELL JR, ESQ
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Second District of Maryland

SISTER MARY ELLEN GOENNER
Vice President Emeritus
Villa Julie College

JOSEPH HASKINS JR
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Pet Ex No 30

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Chairman, Greenhill Properties

THE HONORABLE ROBERT F SWEENEY
Chief Judge, District Court of MD

E F SHAW WILGIS MD
Greater Chesapeake Hand Specialists

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Senior Advisor
The Greater Baltimore Committee

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HENRY J KNOTT JR
President
The Henry J Knott Development Co

W WALLACE LANAHAN JR

DONALD S LEVINSON

BERNARD MANEKIN
Chairman, Manekin Corp.

JACK MOSELEY
Past Chairman of the RDC
Chairman and President, Retired
USF&G Corporation

J STEVENSON PECK
Chairman, Retired, Signet Bank/MD

HENRY A ROSENBERG JR
Chairman, CEO, and President
Crown Central Petroleum Corp.

MICHAEL D SULLIVAN
President and CEO
Merry-Go-Round Enterprises, Inc.

OLIVER S TRAVERS JR
President, Schenuit Investments

RECEIVED
MAR 25 1992
EVANS, GEORGE &
BRONSTEIN

Petitioner No. 31

STATE OF MARYLAND
DEPARTMENT OF THE ENVIRONMENT
WATER MANAGEMENT ADMINISTRATION

Public Hearings on Applications For State Discharge Permits

Publication Date: March 20, 1992

The Department of the Environment (MDE) has made tentative determinations on the applications for state discharge permits listed below and has scheduled public hearings as indicated. Persons who wish to present information about any of these tentative determinations may speak at the hearing and/or submit a written statement to the Department of the Environment no later than fifteen days following the hearing, or within thirty days of the publication of this notice, whichever is longer. All comments will be considered in MDE's final decision concerning each application.

Any person who feels adversely affected by any of the final determinations listed below and wishes to contest that determination may request that contested issues be adjudicated. Each request must be in writing to the address given below, must contain the name, address, and telephone number of the requesting person; the specific rights, duties or privileges of the individual which are adversely affected by the final determination, the name of the other party whom the requestor represents, the issues proposed for adjudication, and must be received by MDE within 15 days following the publication of this Notice. The Secretary of MDE will decide whether a request presents valid issues for adjudication, notify all parties of his decision, and may schedule a pre-hearing conference.

Statements should be directed to:

State of Maryland
Department of the Environment
Water Management Administration
Attn: Mark D. Jacobs
2500 Broening Highway
Baltimore, Maryland 21224

NOTICE OF FINAL DETERMINATION

BALTIMORE COUNTY

State Discharge Permit No. 91-DP-2921, NPDES Permit No. MD0066001. On June 14, 1991, Villa Julie College applied for a permit to discharge up to 62,900 gallons per day of treated wastewater effluent from the College into an unnamed tributary of the Jones Falls. Subsequent to filing the permit application, a flow measurement study and Sewage Treatment Plant Alternatives Evaluation was conducted for the College. Based on this new

LAW OFFICES
MILES & STOCKBRIDGE
600 WASHINGTON AVENUE
TOWSON, MARYLAND 21204

TELEPHONE 301-821-8565
FAX 301-823-8123

10 LIGHT STREET
BALTIMORE, MARYLAND 21202

101 BAY STREET
EASTON, MARYLAND 21601

11350 RANDOM HILLS ROAD
FAIRFAX, VIRGINIA 22030

30 WEST PATRICK STREET
FREDERICK, MARYLAND 21701

22 WEST JEFFERSON STREET
ROCKVILLE, MARYLAND 20850

1701 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20006

K. DONALD PROCTOR
301-823-8110

April 2, 1992

BY TELECOPIER AND U. S. MAIL
(410-633-0456)

State of Maryland
Department of the Environment
Water Management Administration
2500 Broening Highway
Baltimore, Maryland 21224

Pet 33

Attention: Mark D. Jacobs

Re: Villa Julie College
State Discharge Permit 91-DP-2921
NPDES Permit No. MD0066001
Notice of Final Determination
Publication Date: March 20, 1991

Gentlemen:

This office, and Thomas M. Downs of Swidler & Berlin, are counsel to Barton S. and Elizabeth Mitchell, Clark Farm Associates (including Dr. and Mrs. Gaylord L. Clark, Mr. and Mrs. Rutherfoord A. Holmes, Ms. Juliana Watts and Ms. Letitia Yensho), Thomas F. Obrecht, Mr. and Mrs. Timothy M. Rodgers and Mr. and Mrs. Richard F. Blue, Jr.

This letter constitutes the written request pursuant to COMAR 26.08.04.01G(9)(a) of each of these property owners for an adjudicatory hearing to appeal the above-referenced final determination. Pursuant to COMAR 26.08.04.01G(9)(b), the following is provided:

(i) Name, address, and telephone number of the person filing the request:

K. Donald Proctor, Esquire
Miles & Stockbridge
600 Washington Avenue
Towson, Maryland 21204
(410)823-8110

RONALD L. MAHER
J. CARROLL HOLZER
CAROLE S. DEMILIO
THOMAS J. LEE

HOWARD HOLZER
1907-1989

LAW OFFICES
HOLZER, MAHER, DEMILIO & LEE
305 W. CHESAPEAKE AVENUE
SUITE 105
TOWSON, MARYLAND 21204
(410) 825-6960
FAX (410) 825-6964

CARROLL COUNTY OFFICE
1315 LIBERTY ROAD
ELDERSBURG, MARYLAND 21784
(410) 795-8556
FAX (410) 795-8535

SUITE 700
1725 DeSALES STREET, N.W.
WASHINGTON, D.C. 20036

April 6, 1992
#6592

State of Maryland
Department of the Environment
Water Management Administration
2500 Broening Highway
Baltimore, Maryland 21224

RE: Villa Julie College
State Discharge Permit 91-DP-2921
NPDES Permit No.: MD0066001
Notice of Final Determination
Publication Date: March 20, 1991

Gentlemen:

This office is counsel to The Valleys Planning Council, Inc; Richard B. Buck, Lawrence P. Naylor, III and J. Stephen Immelt.

This letter constitutes the written request pursuant to COMAR 26.08.04.01G (9)(a) of each of these property owners for an adjudicatory hearing to appeal the above-referenced final determination. Pursuant to COMAR 26.08.04.01G(9)(b), the following is provided:

(i) Name, address and telephone number of the person filing the request:

J. Carroll Holzer, Esquire
Holzer, Maher, Demilio & Lee
305 West Chesapeake Avenue
Suite 105
Towson, Maryland 21204
410-825-6960

Jeff - FYI

March 18, 1992

Department of the Environment
Attention: Mark Jacobs
Re: Permit # 91-DP-2921

Dear Department of the Environment:

I believe that your decision regarding the Villa Julie sewage treatment plant is an error. This letter is to request adjudication of the following issues that adversely affect me as a downstream landowner and neighbor:

1. Alternatives to a treatment plant exist and should be explored. I would like to be given the opportunity to arrange donation of a gravity-fed dedicated private sewer easement through eight landowners' properties. This arrangement would serve the present needs of the college using their existing holding tanks to originate the line.

2. The quality and use of the Jones Falls River would be significantly altered under this new decision. My riparian rights are being violated by 4.2 tons of solids per year.

3. The design stream flow criteria are inaccurate. I will prove this during low flow periods this summer by actual measurements.

4. This department has failed to address the issue of frequent failure and mismanagement of treatment plants. The college must give some financial assurance that downstream damage due to a failure of the system will be repaired. One day of failure of the system will significantly affect the marine life of the Jones Falls and Lake Roland.

5. A solution as presented by your department is not "expeditious" as it has not provided any compromise to the numerous comments received from neighbors to Villa Julie. The decision will, therefore, inevitably result in a long appeal process that will further delay a solution to the present problem. A decision from your office that had presented some effort at a compromise would have resulted in a more expeditious solution. You have simply passed on the problem to a far more cumbersome legal system.

Protestants No 1

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

DATE: March 4, 1992

TO: Zoning Advisory Committee

FROM: Oscar M. Keys, Jr., P.E. OMK
Department of Public Works

RE: Villa Julie College
Issue #146 - October 8, 1991

A request was received on behalf of Villa Julie College to amend the BALTIMORE COUNTY WATER SUPPLY AND SEWERAGE PLAN in April, 1990, to allow construction of a sewage treatment plant with discharge to the Jones Falls (Exhibit A). Amendments to the WATER SUPPLY AND SEWERAGE PLAN are subject to a public hearing before the hearing office, i.e., the Baltimore County Planning Board and an affirmative decision by the County under regulations of the State of Maryland. The original request was for approval of a multi-use facility. A multi-use facility, water supply or sewerage disposal, serves only one property owner with a capacity exceeding 5,000 gallons per day. The college was seeking authority for a 40,820 gallon per day facility for both the school and adjacent convent's present use; and 66,875 gallon capacity for future use. When two properties are involved in water supply and/or sewerage system service, the systems are catagorized as Community Systems by State regulations regardless of capacity.

By June 13, 1990, it became apparent that both the existing water supply facilities and existing sewerage facilities might constitute "Community Systems" as defined in COMAR and that both should have been in the inventory of such facilities as they did then exist. By letter of June 13th the school was advised that they would need to have the Sisters of Notre Dame join in their petition to validate it, and additionally requested to assist in correcting the inventory of water supply and sewerage systems in the plan relative to both properties as they then existed (Exhibit B).

The Sisters of Notre Dame joined Villa Julie College in their petition by letter of July 16, 1990 (Exhibit C). On July 18, 1990, having received the concurring petition from the Sisters of Notre Dame, a revision to the WATER SUPPLY AND SEWERAGE PLAN Amendment report on the petition for Villa Julie College was submitted to the Planning Board for the Public Hearing on July 19th (Exhibit D).

In the Public Hearing of July 19, 1990, it was alleged that a well on the property immediately east of the Sisters of Notre Dame was functioning in service to the Sisters' property and possible other

Prof No 2

WELLS & ASSOCIATES
Suite 700, 2111 Wilson Boulevard, Arlington, Virginia 22201

MARTIN J. WELLS, P.E.
PRINCIPAL ASSOCIATE

PROFILE: Mr. Wells has 16 years experience in traffic, transportation, transit, parking, and pedestrian planning and engineering. He has worked for private real estate developers; federal, state, and local public agencies; and institutions in 30 states and overseas. This experience includes traffic impact studies, transportation analyses of large-scale mixed-use developments, travel demand management studies, parking policy and needs studies, transit planning, and highway and parking facility design. Mr. Wells has provided expert testimony before numerous planning boards, elected officials, administrative hearing officers, and citizens groups.

EXPERIENCE: Traffic Impact Studies. Conducted numerous traffic impact studies for large and small residential, commercial, and mixed-use projects in every major jurisdiction in the Washington metropolitan area and in 15 other states. This includes preparation of reports and expert testimony in support of rezonings, subdivisions, site plan approvals, and comprehensive plan and proffered condition amendments.

Large-Scale, Mixed-Use Developments. Conducted multimodal transportation studies for several million square foot mixed-use residential, office, retail, and hotel projects for the Potomac Yard in Alexandria/Arlington, Virginia; The Gallery at Harborplace in Baltimore, Maryland; Konterra in Prince George's County, Maryland; Carlyle in Alexandria, Virginia; Xerox Landsdowne in Loudoun County, Virginia; Colgate-Palmolive Company in Jersey City, New Jersey; River Walk in New York City; Eden Isles in Slidell, Louisiana.

Interchange Justification Studies. Conducted studies for modifying existing interchanges and for new interchanges on Interstate highways in Virginia, Maryland, New Jersey, Texas, and Louisiana.

Travel Demand Management Studies. Developed travel demand management programs, including group riding, transit, flexible work hour, and other actions, for major development projects in Montgomery and Prince George's County, Maryland; and Alexandria,Virginia.

Maryland Department of Transportation
State Highway Administration

O. James Lighthizer
Secretary
Hal Kassoff
Administrator

Protestants No 3

July 29, 1991

Mr. Robert Covahey, Chief
Bureau of Public Services
County Office Building
Towson, Maryland 21204

Re: Baltimore County
Villa Julie
CRG meeting August 1, 1991
S/S Greenspring Valley Road (MD 130) east of Naciereina Lane

Dear Mr. Covahey:

We have reviewed the submittal for Villa Julie and we offer the following:

We find the plan must be revised to show a proposed 80' right-of-way (40' measured from the centerline) of Greenspring Valley Road prior to CRG signatures.

The following must be accomplished prior to the issuance of any building permits.

- *State Highway Administration's District Traffic Engineer must review the plan for overall adequacy of design of the improvements along Greenspring Valley Road (Plan has been submitted for review and comments are pending).*
- *A complete hydraulic analysis must be reviewed and approved by the SHA for all highway improvements along Greenspring Valley Road.*
- *An access permit must be applied for through our office to accomplish all work within the SHA right-of-way.*

If you have any questions, please contact Larry Brocato (333-1350).

Very truly yours,

John Contestabile, Chief
Engineering Access Permits Division

LL/es

My telephone number is *301-333-1350 (Fax# 333-1041)*

Teletypewriter for Impaired Hearing or Speech
[illegible]-7555 Baltimore Metro - 565-0451 D.C. Metro - 1-800-492-5062 Statewide Toll Free
[illegible] St., Baltimore, Maryland 21203-0717

Baltimore County Office of Zoning Administration
and Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204

PHOTOGRAPHS

PROT. EXHIBITS

4/4 - 8E



7:50 AM

— #1 G A —



7:50 AM

- 12 6 B -



7:50 AM

#3

G K L K



8:02 AM

#1

7A



8:02 AM

#2

7B



8:02 AM

#3

7C



8:02 AM

#4 7D



8:06 Am

Fri 8 A



8806 Am

#2

8 13



8:06 Am

#3 8c



8:06 AM

II 4

8 D



8:06 Am

#5



7:53 AM

Prob 5 A



7:53 Am

#2

5 B



7:53 AM

#3



7:45 AM

Picture #1

Roof. "A"



7:45 AM

#2

4 "B"



7:45 AM

#3

4"C"

THE HOMEOWNERS
OF GREENSPRING LTD.

P.O. BOX 211
STEVENSON, MARYLAND 21153-0211

JUL 3 1 1991

7/5/91

Prot No 9

Mr. Jack Dillon
Baltimore County Office
of Planning and Zoning.
401 Bosley Ave.
Towson,Md. 21204

Dear Mr. Dillon

Approximatly one year ago the Board of Directors of the Homeowners of Greenspring Ltd. approved a plan presented to us by Villa Julie College. The plan solved a serious sewage problem they were facing. We agreed that the problem had to be solved and a sewage treatment plant would be the best solution. Our approval was based on the plan presented to us that the plant would only be of a size that would accomidate they existing enrollment.

It has since come to our attention that Villa Julie College is planning a significant increase in enrollment at their Stevenson campus. We feel this betrays the spirit of the agreement we had with the College. As homeoweners in Greenspring Valley we do not want to see image of the Valley changed.

We still support the building of a sewage treatment plant on the Villa Julie grounds but only to meet their current needs. We are totally opposed to any sizeable expansion of the college on its Stevenson campus.

If you have any questions as to our position on the above, please don't hesitate to contact me at either 363-1100 or 484-2530.

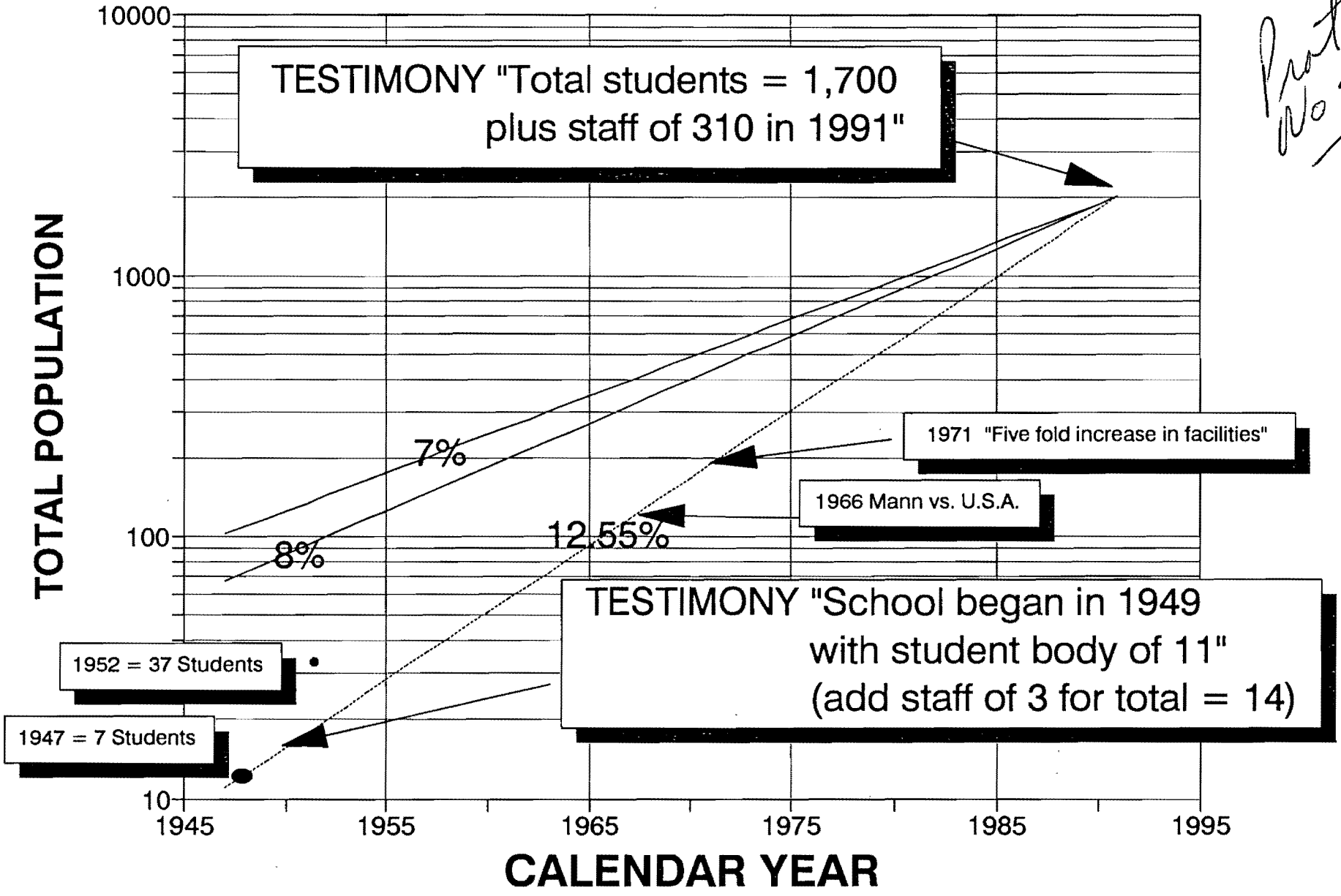
Sincerly,

Stephen M. Dimond
President

cc: Carolyn Manuszak,Villa Julie College

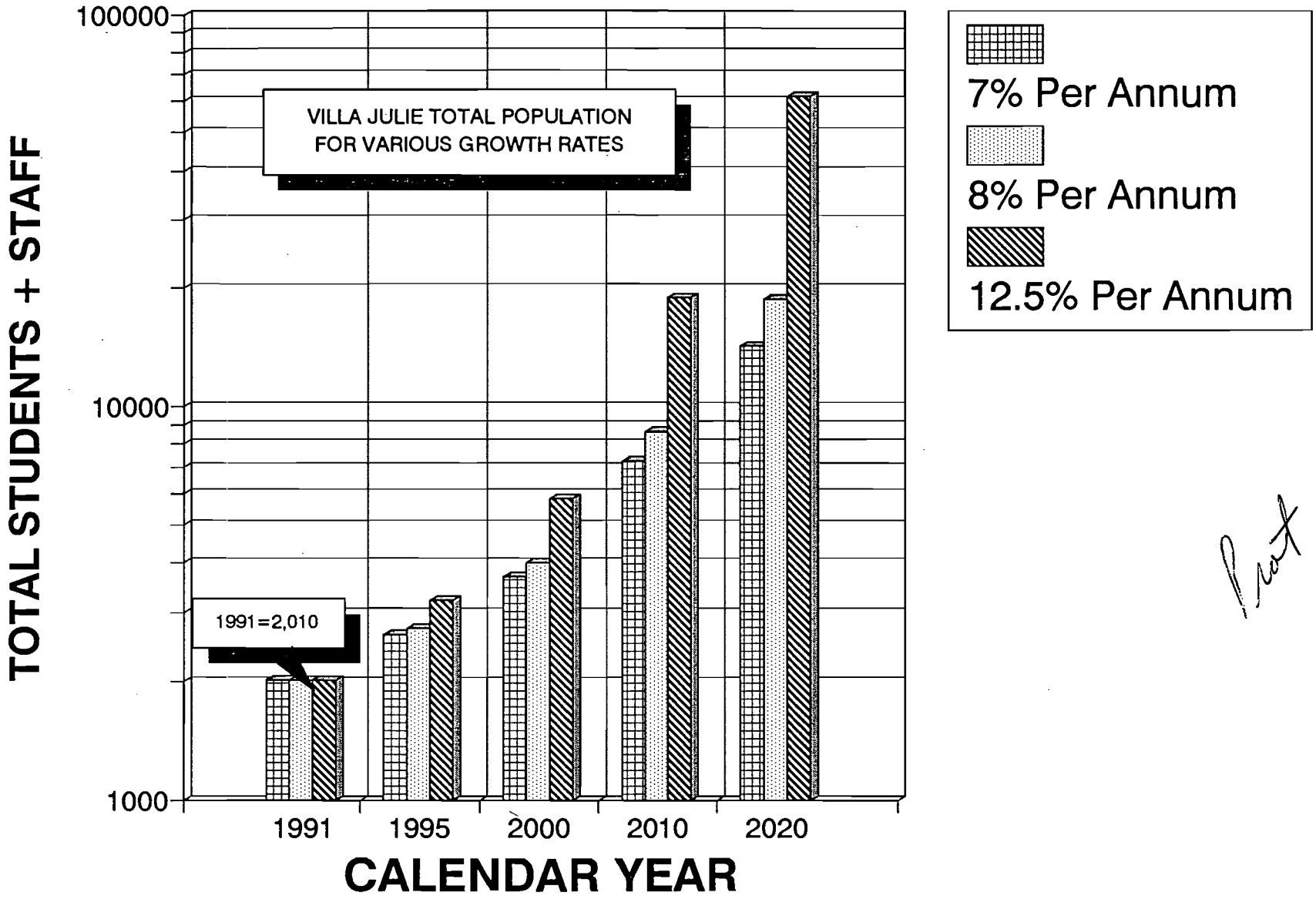
VILLA JULIE GROWTH

In Total Campus Population 1949 to 1991



VILLA JULIE

Future Size Projections



Part No 11

JERVIS S. FINNEY
4028 Stewart Road
Stevenson, Maryland 21153

March 6, 1992

Ptnr 12

J. Carroll Holzer, Esquire
Suite 105
305 West Chesapeake Avenue
Towson, Maryland 21204

Re: Villa Julie College Hearing

Dear Carroll,

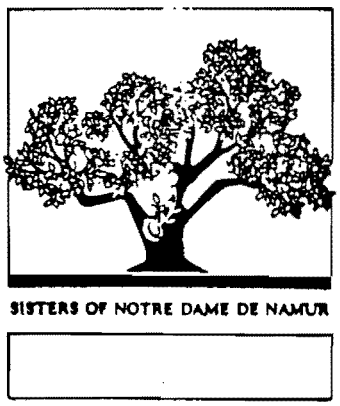
Because professional obligations require me to be in New York on the hearing dates next week, it is my request that you convey to the Zoning Commissioner, via this letter, my complete opposition to the application of Villa Julie College to continue to increase their facilities for increased population.

Put as briefly as I am able, Villa Julie, a non-conforming use from the beginning, has undertaken a change of policy from the past which has already placed too great a strain on the community facilities. By the current significant sewerage problem, overuse of water, and excessive traffic, not to mention lighting and other difficulties, Villa Julie's change to a big institution, obvious now if unknown before, has already put the area's RC-2 zone under serious challenge. Even so, neither I nor anyone I know seeks to unscramble those eggs.

By the same token, however, further expansion - worse yet, expansion by about 6 or 7 percent over several years in the future - would be contrary to proper zoning, and unfair. First, assuming the new septic system would be sufficient and breakdown-free (which I urge the Commissioner not to assume), there is no guarantee that the water, plentiful now, will remain so. Any breakdown in this fragile environment will entail very serious problems, and constitute a welcome mat for the doomsday scenario of public sewer and water in the area.

JUN 13 1991

SISTERS OF NOTRE DAME DE NAMUR
Maryland Province



Prot
No
13

REQUEST FOR PROPOSAL

VILLA JULIE INFIRMARY
1531 Greenspring Valley Road
Stevenson, MD 21153

May 1991

Lot 14A

FREEDOM SEPTIC SERVICE, INC.
239 W. Old Liberty Rd.
Eldersburg, MD 21784

JOB WORK ORDER
№ 12506

DATE OF ORDER: 2-3-92

CUSTOMER'S ORDER NO.	PHONE	MECHANIC	HELPER	STARTING DATE
	486-7000			/ /

BILL TO: VILLA JULIE

ORDER TAKEN BY: sherry

ADDRESS: 1525 GREEN SPRING VALLEY RD.

CITY: STEVENSON, MD 21153

☐ DAY WORK ☐ CONTRACT ☐ EXTRA

JOB NAME AND LOCATION

JOB PHONE

V 27647

DESCRIPTION OF WORK:

Pump Septic:

1/17 2 Loads (4000 gallons each) @ 200.00 ea
1/24 2 Loads (4000 gallons each(@ 200.00 ea
1/27 2 Loads (4000 gallons each) @ 200.00 ea
1/28 2 Loads (4000 gallons each) @ 200.00 ea
1/29 2 Loads (4000 gallons each) @ 200.00 ea
1/30 2 Loads (4000 gallons each) @ 200.00 ea
1/31 2 Loads (4000 gallons each) @ 200.00 ea

Total Due $ 2,800.00

Thank You!

6204827 OK MS

TOTAL MATERIALS		
TOTAL LABOR		
TAX		
TOTAL AMOUNT	$	

DATE COMPLETED / /

WORK ORDERED BY

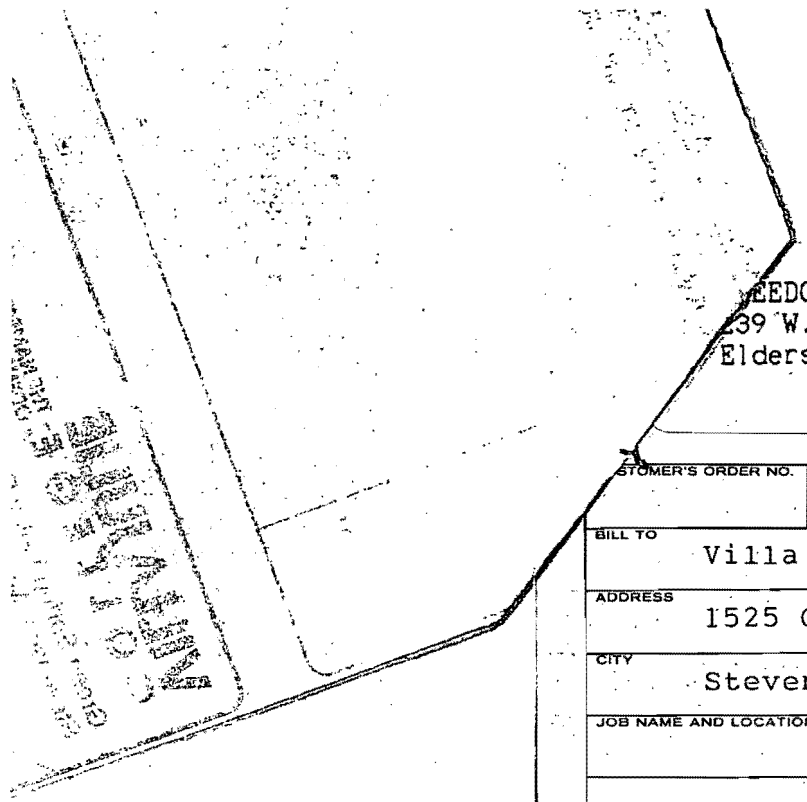
☐ No one home ☐ Total amount due for above work: or ☐ Total billing to be mailed after completion of work

Signature _____

I hereby acknowledge the satisfactory completion of the above described work.

PRODUCT 258-2 NEBS Inc. Groton Mass. 01471.

Plot 14B



FREEDOM SEPTIC SERVICE, INC.
239 W. Old Liberty Rd.
Eldersburg, MD. 21784

JOB WORK ORDER

No ~~I2525~~

DATE OF ORDER: 3-2-92

CUSTOMER'S ORDER NO.	PHONE	MECHANIC	HELPER	STARTING DATE
	486-7000			/ /

BILL TO: Villa Julie College

ORDER TAKEN BY: sherry

ADDRESS: 1525 Green Spring Valley Road

CITY: Stevenson, Md 21153

☐ DAY WORK ☐ CONTRACT ☐ EXTRA

JOB NAME AND LOCATION

JOB PHONE: V28021 620-4827

DESCRIPTION OF WORK:

ok 1m 05

Pump Septic:

2/3 2½ Loads (4000 gallons each) @ 200.00 a loac
2/4 1 Load (4000 gallons each) @ 200.00 a loac
2/5 2 Loads (4000 gallons each) @ 200.00 a loac
2/6 2 Loads (4000 gallons each) @ 200.00 a loac
2/7 2 Loads (4000 gallons each) @ 200.00 a loac
2/11 2 Loads (4000 gallons each) @ 200.00 a loac
2/14 2 LOads (4000 gallons each) @ 200.00 a loac
2/18 2 Loads (4000 gallons each) @ 200.00 a loac
2/20 2 Loads (4000 gallons each) @ 200.00 a loac
2/25 2 Loads (4000 gallons each) @ 200.00 a loac
2/27 2 Loads (4000 gallons each) @ 200.00 a loac
2/28 2 LOads (4000 gallons each) @ 200.00 a loac

Thank YOU!

TOTAL MATERIALS	
TOTAL LABOR	
TAX	
TOTAL AMOUNT	$4,700.00

DATE COMPLETED: / /

WORK ORDERED BY:

☐ No one home ☐ Total amount due for above work: or ☐ Total billing to be mailed after completion of work

Signature _____

I hereby acknowledge the satisfactory completion of the above described work.

PRODUCT 258-2 NEBS Inc. Groton Mass. 01471.

Part 14c

FREEDOM SEPTIC SERVICE, INC.
239 W. Old Liberty Rd.
Eldersburg, MD 21784

JOB WORK ORDER
№ 12804

DATE OF ORDER: 4-2-92

CUSTOMER'S ORDER NO.	PHONE	MECHANIC	HELPER	STARTING DATE
	486-7000			/ /

BILL TO: Villa Julie

ORDER TAKEN BY: sherry

ADDRESS: 1525 Green Spring Valley Road

CITY: Stevenson, Md 21153

☐ DAY WORK ☐ CONTRACT ☐ EXTRA

JOB NAME AND LOCATION:

JOB PHONE:

DESCRIPTION OF WORK:

V28466
620427

3/2 Pump 2 Loads @ $200.00 each
3/4 Pump 2 Loads @ $200.00 each
3/5 Pump 2 Loads @ $200.00 each
3/6 Pump 3 Loads @ $200.00 each
3/9 Pump 2 Loads @ $200.00 each
3/10 Pump 2 Loads @ $200.00 each
3/11 Pump 2 Loads @ $200.00 each
3/12 Pump 1½ Loads @ $200.00 each
3/13 Pump 2 Loads @ $200.00 each
3/18 Pump 2 Loads @ $200.00 each
3/20 Pump 1 Loads @ $200.00 each
3/23 Pump 2 Loads @ $200.00 each
3/24 Pump 2 Loads @ $200.00 each
3/25 Pump 2 Loads @ $200.00 each
3/26 Pump 2 Loads @ $200.00 each
3/27 Pump 2 Loads @ $200.00 each

O.K. MPS

(Page 1)

TOTAL MATERIALS	
TOTAL LABOR	
TAX	
TOTAL AMOUNT	$

DATE COMPLETED: / /

WORK ORDERED BY:

☐ No one home ☐ Total amount due for above work: or ☐ Total billing to be mailed after completion of work

Signature _____

I hereby acknowledge the satisfactory completion of the above described work.

PRODUCT 258-2 NEBS Inc. Groton Mass. 01471.

Prod No 15

OBITUARIES

T. J. Tremper Jr., owned parts stores in Baltimore area


1988

A Mass of Christian burial for Theodore J. Tremper Jr., who owned several auto parts stores in Baltimore, will be offered at 10 a.m. tomorrow at St. William of York Roman Catholic Church, Edmondson Avenue at Cooks Lane.

Mr. Tremper, who was 64, died of heart failure Thursday at Memorial Hospital of Easton. He had been living in semiretirement for four years in St. Michaels.

A native of Perry Hall, Ted Tremper — as he was widely known — attended Towson Catholic High School, where he met his future wife, Mary Rosina Morgan. After serving in the Navy during World War II, he attended Loyola College.

He managed stores on Mount Royal Avenue and in Westminster for the Goodyear Tire and Rubber Co., then moved into wholesale "T.B.A." sales (tires, batteries and accessories) for the Stuart Pressley Co. in Elkridge.

In 1958, Mr. Tremper bought the Southway Auto Supply Store on Hanover Street in South Baltimore. After reviving the business, he opened a second store on Erdman Avenue on the city's east side in 1967.

Mr. Tremper later opened the Central Automotive Warehouse in 1969, eventually expanding to new facilities in the old Govans Car & Trolley Barn on York Road, which he renovated in 1974.

In addition to his wife of 44 years, he is survived by a son, Theodore J. Tremper III of Catonsville; three daughters, Kathleen M. Olson of Hunting Ridge, Susan M. Olson of Shorewood, Wis., and Lynda M. Nolan of Towson; two brothers, Henry Tremper of Joppa and Gerald Tremper of San Diego; three sisters, Rose Coster of Perry Hall, Helen Crowe of Baldwin and Marguerite Lynch of Dewey, Ariz.; and seven grandchildren.

Joseph Miraglia Jr.
Restaurant owner

A Mass will be offered for Joseph S. Miraglia Jr., retired owner of a Highlandtown restaurant and a former boxer, at 10:30 a.m. today at Sacred Heart Roman Catholic Church, 65 Sacred Heart Lane in Glyndon.

Mr. Miraglia, who was 79 and lived in Manchester, died Tuesday of pneumonia at a hospital in Hanover, Pa.

He retired 10 years ago. For more than 40 years, he had owned and operated the Nob Hill Restaurant, a tavern and restaurant specializing in Italian food and seafood.

Earlier, he boxed professionally as a middleweight in Baltimore and in upstate New York, but ended that career when doctors told him he had a detached retina and could be blinded if he continued.

In his last fight, he knocked out Gorilla Gonzales, eighth-ranked contender for the middleweight championship at the time.

The native of Geneseo, N.Y., was educated at Loyola College in Baltimore.

He is survived by three sons, Joseph S. Miraglia III of Houston, Mark T. Miraglia of Burtonsville and Jerome T. Miraglia of Reisterstown; three brothers, Sam J. Miraglia and Salvatore Miraglia, both of Parkville, and Thomas J. Miraglia of Carney; and eight grandchildren.

John H. Schillfarth
GM millwright


1988

A Mass of Christian burial for John H. Schillfarth, a retired millwright for the General Motors Corp. who was active in the United Auto Workers, will be offered at 10:30 a.m. tomorrow at St. Anthony of Padua Roman Catholic Church, 4414 Frankford Ave.

Mr. Schillfarth, who was 68, died Thursday of cancer at his home on Hazelwood Avenue.

He retired four years ago as a journeyman millwright in the Maintenance Department of the GM plant on Broening Highway, where he started working on the assembly line 39 years earlier.

The Baltimore native was a graduate of night courses at the Polytechnic Institute. He served in Europe in Navy construction battalions during World War II.

A woodworker whose projects ranged from children's toys to furniture for family members, he also bowled in a league at the Cedonia Lanes, belonged to the Wilson Point Democratic Club and held season tickets to the Colts games for 30 years.

He is survived by his wife, the former Rose M. Reiss; a son, John Joseph Schillfarth of Baltimore; two daughters, Carolyn M. Fulco of Parkville and Delores A. Scott of Hiwassee, Va.; two brothers, Frederick G. Schillfarth of Forest Hill and Franklin D. Schillfarth of Essex; six sisters, Ruth Argentina and Jean Young, both of Titusville, Fla., May Mullikin of Salisbury, Ethel Hansen of Adelphi, Evelyn Touchard of Taneytown and Barbara Cordwell of Lombardy Beach; six grandchildren; and two great-grandchildren.

Leo F. Minton
Cigar wholesaler

A Mass of Christian burial for Leo F. Minton, a decorated veteran of World War II who was in the wholesale cigar business, will be offered at 10 a.m. tomorrow at St. Ursula's Roman Catholic Church, 8801 Harford [illegible] 80, died Wednes-

business, selling various brands of cigars.

Born in Baltimore, he was a 1942 graduate of Calvert Hall College. He was employed by the Glenn L. Martin Co. before serving in the Army in North Africa and Europe. His decorations included the Bronze Star.

He was a member of the Parkville Post of the American Legion, the Parkville Memorial Post of the Veterans of Foreign Wars, and the Queenstown Lodge of the Loyal Order of the Moose.

He is survived by his wife, the former Angela Selig; a daughter, Bonnie L. Beall of Parkville; a son, Terry G. Minton of Freeland; his mother, Marguerite Wise Minton of Parkville, and eight grandchildren.

Charles A. Scheck
Westinghouse clerk

Services for Charles A. Scheck, a retired engineering clerk at the Westinghouse Electric Corp. plant at the Baltimore-Washington International Airport, will be held at 10:30 a.m. tomorrow at St. Stephen Lutheran Church, Wilkens Avenue and Courtney Road.

Mr. Scheck, who was 88 and a resident of Carville Avenue in Arbutus, died Thursday of heart failure at Howard County General Hospital.

Illness forced him to retire from the engineering support services staff at the plant in 1962. He had worked for Westinghouse in the area for about 25 years.

He is survived by his wife, the former Mary Glancy; a daughter, Mary Hazel O'Donnell of Ellicott City; a son, the Rev. Raymond Scheck of Monrovia; a sister, Helen Scheck of Pennsylvania, and seven grandchildren.

Frank Marshall Jr.
With brokerage firms

Services for Frank B. Marshall Jr., a retired registered representative of a stock brokerage and a member of the board of St. John's College in Annapolis, will be held at 1:30 p.m. tomorrow at Woods Memorial Presbyterian Church, 611 Baltimore-Annapolis Blvd. in Severna Park.

Mr. Marshall, who lived in Round Bay, died Thursday of heart failure at the Anne Arundel Medical Center in Annapolis. He was 67.

He retired one year ago from the Annapolis office of Alex. Brown & Sons Inc. after many years with brokerage firms in the area.

Born in Baltimore, he was a graduate of City College and, in 1945, of St. John's College in Annapolis. He later served on the college's Board of Visitors and Governors.

He had been president of the Annapolis area alumni of St. John's and headed its 1982 fund-raising campaign among alumni. He also was on the board of the Independent College Fund of Maryland, a fund-raising group.

Mr. Marshall served in the Army during World War II.

He is survived by his wife of 42 years, the Ruth Thompson; two daughters, [illegible] Park and Sally Wogs- Eliza-

TODAY'S WEATHER: MOSTLY SUNNY AND MILD

Baltimore-Annapolis area

TODAY: Mostly sunny and mild, high 59. Rain tonight, low 39.
TOMORROW: Rain. High 57, low 40.
TUESDAY: Fair. High 55, low 35.
WEDNESDAY: Sunny. High 55, low 37.
THURSDAY: Sunny. High 55, low 38.

Interstate forecast

I-95 NORTH, to New York: dry
I-95 SOUTH, to North Carolina: rain
I-83, I-81 NORTH, to Pennsylvania and central New York: dry
I-81 SOUTHWEST, to eastern Tennessee: rain
I-70 WEST, to east Ohio: rain
I-68, I-79 NORTH, to northern West Virginia: rain

At the resorts

	Today		Tomorrow	
Atlantic City	Windy	35/55	Rain	35/52
C.Hatteras	Sunny	48/59	Shwrs	50/62
Deep Creek	Cloudy	37/49	Rain	35/45
Ocean City	Sunny	37/53	Rain	35/47
Poconos	Ptcldy	27/48	Rain	30/47

Almanac data

New moon	First quarter	Full moon	Last quarter
Apr. 3	Apr. 10	Apr. 16	Apr. 24

Sun: Rises 5:56 a.m. Sets 6:27 p.m.
Moon: Rises 3:27 a.m. Sets 2:22 p.m.

Star Line (Md. Science Center) 539-7827

Air quality

3 p.m. report Friday: good.

Pollen count

Reading at 8 a.m. Friday for previous 24 hours:
No pollen count due to rain.
25, mold spores: low.

Precipitation at BWI

Yesterday	Trace
Accumulated this month	4.48
Least in March	0.93 in 1966
Most in March	6.80 in 1983
Normal amount in March	3.72
Annual average	41.84
Accumulated this year	8.24

Heating degree days yesterday

Downtown	11	Airport	18
Total season	3,075	Total season	4,069
Norm. season	3,699	Norm. season	4,190

Other weather data at BWI

	7 a.m.	1 p.m.	7 p.m.
Dry bulb temp.	35	49	46
Wet bulb temp.	29	38	34
Relative humidity	49	30	26
Barometer*	29.99	29.94	29.98

*At sea level

Baltimore-Annap. forecast (410) 936-1212
Maritime, recreational, travel (410) 859-5380
Local aviation conditions (410) 760-8603

Weather broadcasts

Baltimore	162.400 MHz
Hagerstown	162.475 MHz
Salisbury	162.475 MHz
Lewes, Del.	162.550 MHz
Washington	162.550 MHz

Records set yesterday

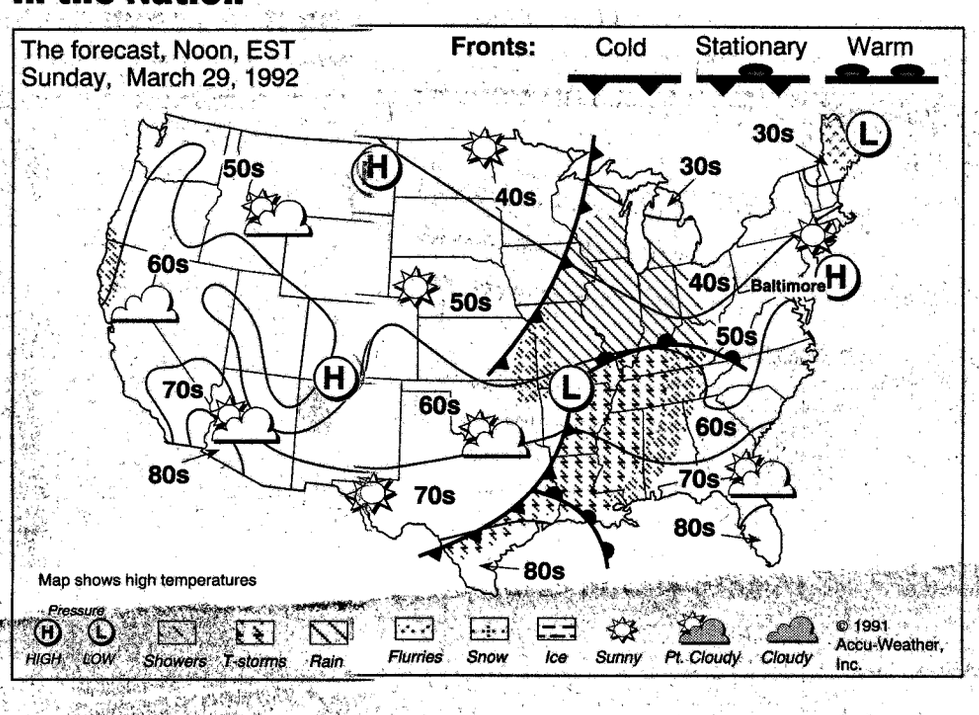
None.

Travelers' forecast

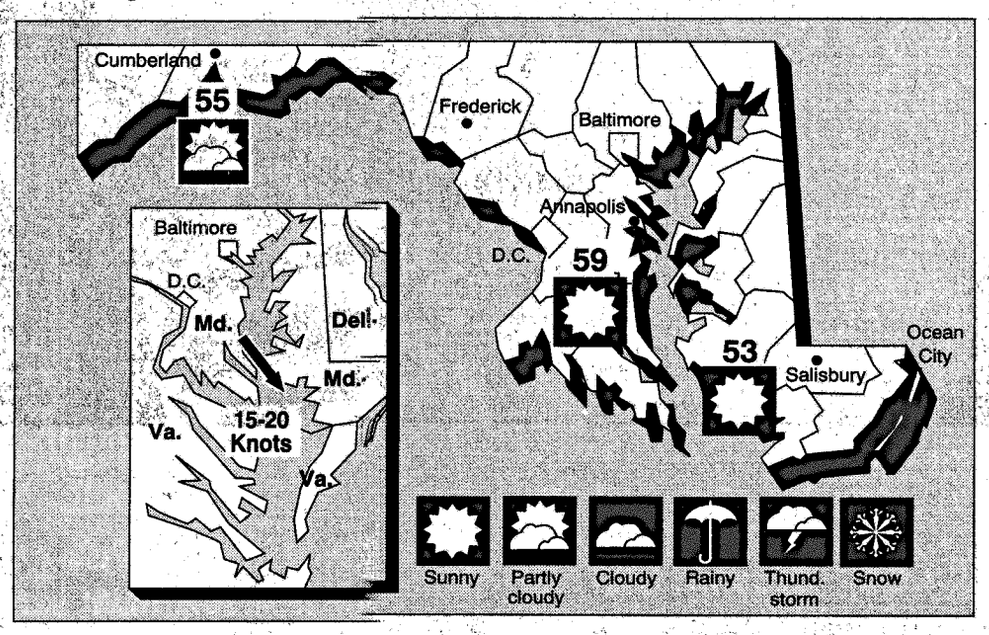
New York City
Sunny. High 52, low 35.
Philadelphia
Sunny. High 53, low 37.

Today's forecast maps

In the Nation



In Maryland



Statewide forecast

Western Maryland
Partly sunny, high 55. Rain tonight, low 37. Rain tomorrow, high 48.

Southern Maryland
Sunny, high 59. Rain tonight, low 37. Rain tomorrow, high 49.

Eastern Shore
Sunny, high 53. Rain tonight, low 37. Rain tomorrow, high 48.

Marine weather

CHESAPEAKE BAY: Today, northwesterly winds at 15 to 20 knots. Waves 1 to 2 feet. Tonight, northwesterly winds at 10 to 15 knots becoming variable at less that 10 knots after midnight. Waves 1 foot.

ATLANTIC, off Ocean City: Today, northwesterly winds at 20 to 25 knots. Seas 6 to 8 feet. Tonight, northwesterly winds at 15 knots becoming variable at 10 knots after midnight.

Tides

	High AM	High PM	Low AM	Low PM
H've Grc	6:35	7:21	1:08	1:01
Ft. McHry	3:21	4:07	9:41	10:08
Sandy Pt.	2:00	2:48	8:16	8:43
Cove Point	---	12:02	5:14	5:41
Ocean City	3:43	4:14	10:02	10:26
CapeHenry	4:50	5:12	10:45	11:01

National temperatures

City	Yest. Hi/Lo	Today Hi/Lo	Tomrw. Hi/Lo	For'c'st for today
Albany	36/29	46/26	49/26	Ptcldy
Anchorage	31/17	32/15	34/20	Mocldy
Atlanta	67/34	62/44	66/52	Rain
Boston	46/35	50/34	51/34	Windy
Buffalo	37/26	46/23	46/30	Sunny
Charleston	59/46	74/42	72/56	Ptcldy
Charlotte	63/37	67/41	65/50	Mocldy
Chicago	47/25	44/38	45/38	Rain
Cincinnati	53/23	55/30	54/44	Rain
Cleveland	40/30	47/22	49/40	Cloudy
Dallas	68/57	73/55	68/50	Ptcldy
Denver	52/40	56/33	65/30	Ptcldy
Detroit	48/26	44/25	47/32	Rain
Harrisburg	Mm/34	54/30	53/35	Sunny
Honolulu	83/66	83/65	83/65	Sunny
Houston	64/60	72/62	74/55	Tstrms
Indianapolis	51/25	53/39	49/39	Rain
Jacksonville	68/41	74/46	75/59	Mocldy
Kansas City	52/42	53/43	53/33	Rain
Las Vegas	68/50	73/48	72/49	Ptcldy
Los Angeles	68/59	67/55	66/55	Ptcldy
Louisville	57/30	58/44	56/47	Rain
Memphis	68/38	69/53	63/53	Tstrms
Miami Beach	78/62	81/61	82/66	Ptcldy
Milwaukee	43/27	39/33	43/33	Rnsnow
Mpls.-St. Paul	41/34	47/32	48/28	Rnsnow
Nashville	60/32	65/44	60/50	Tstrms
New Orleans	72/59	71/64	73/61	Tstrms
New York	43/34	51/33	52/36	Sunny
Oklahoma City	66/51	65/50	63/41	Ptcldy
Orlando	76/57	79/51	80/61	Mocldy
Philadelphia	47/38	55/30	52/38	Sunny
Phoenix	73/55	79/54	78/55	Fair
Pittsburgh	44/30	52/26	52/39	Sunny
Portland, Me.	44/34	46/32	48/27	Ptcldy
Portland, Ore.	64/31	60/40	57/44	Ptcldy
Raleigh Durham	61/31	68/36	65/49	Ptcldy
Richmond	60/29	64/35	55/43	Sunny
St Louis	56/41	61/47	53/41	Shwrs
Salt Lake City	61/41	64/40	61/43	Ptcldy
San Antonio	66/57	75/60	75/55	Ptcldy
San Diego	66/59	66/56	66/56	Ptcldy
San Francisco	63/56	62/54	62/50	Ptcldy
San Juan	86/72	85/71	85/71	Ptcldy
Seattle	61/34	59/36	55/43	Fair
Tampa	78/55	79/54	80/62	Mocldy
Washington	53/38	60/32	51/38	Sunny

Low yesterday: 1 At Negaunee, Mi.
High yesterday: 84 At Fort Myers.

Foreign temperatures Friday

City	Hi/Lo	City	Hi/Lo	City	Hi/Lo
Amsterdam	45/34	Dublin	52/45	Nassau	78/68
Athens	64/45	Frankfurt	50/34	Paris	48/36
Beijing	64/43	Geneva	45/32	Rio	99/72
Berlin	48/32	Hong Kong	64/59	Rome	55/45
Bermuda	69/62	Jerusalem	70/54	Seoul	66/46
Brussels	46/36	London	48/37	Stockholm	35/30
Bu'osAires	75/61	Madrid	55/36	Sydney	75/69
Cairo	86/61	Mex.City	82/54	Tokyo	57/45
Copenhag.	37/32	Montreal	49/32	Toronto	40/23
Dhahran	77/57	Moscow	50/37	Vancouver	50/33

Statewide temperatures

High and low for 24 hours ending 5 p.m. yesterday

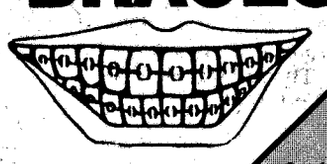
City	Hi/Lo	City	Hi/Lo
Annapolis	58/41	Keysers Ridge	42/29
Bel Air	56/44	North East	56/42
Cumberland	47/30	Pikesville	54/42
Easton	57/42	Salisbury	57/44
Frederick	54/40	Waldorf	58/44
Hagerstown	50/38	Westminster	52/42

City temperatures

A.M.	1	2	3	4	5	6	7	8	9	10	11	12
Temp.	46	45	44	43	42	40	41	43	45	47	47	50
P.M.	1	2	3	4	5	6	7	8	9	10	11	12
Temp.	54	53	54	55	53	52	50	49	48	46	--	--

Downtown high: 55 **Low:** 40 **Airport high:** 51 **Low:** 34
City high on record (yesterday's date): 91 in 1989
City low on record (yesterday's date): 22 in 1982
Year ago today (Airport): Rain, high 60, low 46

The Communication Arts Department of
VILLA JULIE COLLEGE
Presents the well-known play by Thomas Heggen and Joshua Logan
MISTER ROBERTS
April 3, 4, 10 and 11 in the college's Inscape Theatre at 8 p.m.
Directed by Muriel Heineman, Assoc. Prof. of Drama and Communication Arts
For ticket reservations and further information
Call 486-7000

BRACES

HOW MUCH WILL ORTHODONTIC TREATMENT COST?
Our fees vary widely, depending on the severity of the problem, complexity of treatment, and length of time you will need to wear braces. In an effort to make orthodontic treatment more affordable, our office will break up the fee into comfortable, monthly payments over the treatment time (usually 24 months) with no interest or carrying charges added. It is the policy of our office to provide you with an exact fee quote at the initial consultation. This fee includes our entire orthodontic program. Diagnostic records, all appliances (braces), the entire treatment no matter how long it takes, retainers, and follow up visits after the braces are removed are all included. It does not include visits to your family dentist or other dental specialist. Most All Insurance Accepted
FREE CONSULTATION
Orthodontic Associates
Dr. Jeffrey C. Miller D.D.S., P.A.
Orthodontic Specialists for Adults & Children
Catonsville 744-2230
Owings Mills 356-0006
Belair Rd & 695 882-9995
Glen Burnie 761-2499
Columbia 997-2400
B15736

FREE APPLICATION
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553-0304
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TREES & SHRUBS NOW ON SALE
APPLES, CIDER
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668-4488
Open daily 9 am-6pm

SUPERSALE
MARCH 27 FRI 10-8 MARCH 28 SAT 9-6 MARCH 29 SUN 11-5
Super Spring SAVINGS!
Whatever you need for Spring Cycling fun, it's ON SALE this weekend at SUPERSALE!
ANNUAL BIKE TAILGATE SALE TODAY! At Both Locations!
COME SEE OUR EXPANDED TENNIS DEPARTMENT AND ROLLERBLADE DEPARTMENT
PS PRINCETON SPORTS
10730 Little Patuxent Pkwy. Columbia • 995-1894
6239 Falls Road Baltimore • 828-1127
Princeton Sports has substituted a few selected products to provide values equal to or greater than those advertised nationally.

ATTENTION WHOLESALERS/RETAILERS FACTORY REPS
Mature, responsible individual, 20 + yrs experience, all facets of plumbing, heating, wholesale and retail operations. Experience warehousing, inventory control, inside/outside sales, administrative. Strong knowledge plumbing and heating items and related products. Looking for full time, part time position with a responsible growing co. Repond to:
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BALTO MD 21236

LEADTEC SERVICES, ING
"Specialists in Residential Lead Abatement"
LEAD PAINT ABATEMENT TRAINING CLASSES
featuring new technology in Lead Paint Encapsulation
APRIL 13 & 14 8am-4pm
HOLIDAY INN Cromwell Bridge Road
for further information and registration materials write, call or fax
LEADTEC SERVICES, INC
522 Beck Avenue, Baltimore, MD 21221
Call (410) 682-LEAD. Fax (410) 391-8132
sponsored by JBC/AGP SURFACE CONTROL SYSTEMS

NORTHWESTERN LOAN CO.
1701 Penn. Ave. cor Wilson
CASH LOANS
DIAMONDS
Gold, Jewelry, Coins, Silver, Computers
Cameras, TV's, Stereos, VCR's
10-Spd. bikes, Shotguns, Power Tools
WE BUY GOLD, JEWELRY & DIAMONDS
★ Checks Cashed ★
Lowest Rates—Any Amount
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STOP FORECLOSURES
MORTGAGE LOANS
$5,000 to $500,000
MR NORMAN 484-0505

CEO AVAILABLE
Recession Motivated Early Retirement
40 yr. career in retailing as Ch. & CEO. A young 62 yr with tremendous drive & energy. Interested in FT or PT as consultant, troubleshooter, or ass't. to CEO. Avail. to travel on moment's notice. Possess extraordinary amount of common sense w/exc organizational & writing skills. For resume & interview call 532-2787.

MASTECTOMY CENTER
20% OFF All JODEE Surgical Bras In Stock
Sale Extended thru April 30
COMFORT CARE MEDICAL EQUIPMENT
7801 York Rd, Suite 336 (nr Towson State U) 828-0947
1105 North Pt. Blvd Ste 325 (Eastpoint Office Park) 282-9660

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THE BALTIMORE SUN

CASH LOANS
Quick - Confidential
Any Amount
Licensed & Bonded
Pawnbrokers Since 1901
Maryland's Oldest
LIVINGSTON'S
501 E. Balto. St. Cor. Gay St.
727-0262
Mon-Sat 9-5:30

BE INVOLVED WITH ONE OF THE HOTTEST TRENDS OF THE 90S
Unlimited income opportunity, total freedom to enjoy your success. Only highly motivated & open minded entrepreneurs need respond. Please send resume to: FRESH SOLUTIONS 9129 Reisterstown, Rd, Suite 224, Owings Mills, MD 21117

VENDORS WANTED
First annual south of the Harbor Fund Festival
563-2768

CHAPTER 11 DESIGNER FURNITURE WAREHOUSE SALE
1st TIME! OPEN TO THE PUBLIC!
LAST DAY!
TODAY SUNDAY 11-5
up to 70% OFF
everything must go! (prior sales excluded)
all sales as-is and final! delivery-available
Design Pavilion
• furniture • art • accessories • rugs
628-7763
Just N. of Warren Road
10534 York Road, Suite 104 Cockeysville, MD 21030

OWNERS SALE
SAGAMORE FOREST
4BR, 2½ ba Colonial, lge wooded lot w/public water. $295K.
833-1699

HELP NEED FARM ON WATER with no neighbors so couple can continue restoration of large boat. Rental or labor negotiable. Contact Kay 255-1337

Prod No 15

Prot No 16

F. PIERCE LINAWEAVER, P.E., Ph.D.

Dr. Linaweaver is a consultant on environmental, hazardous and solid waste, and engineering matters with considerable technical/expert witness testimony experience. He was Executive Vice President of EA Engineering, Science, and Technology, Inc., a national environmental professional services firm where he had a major role in acquisitions and was responsible for EA's corporate development, technical programs, and quality control for scientific and engineering services. His 36 years of professional environmental engineering experience in a variety of technical and managerial capacities include service as a partner in a large consulting engineering firm, practice as an individual consulting environmental and civil engineer, Baltimore City Director of Public Works, Johns Hopkins University Associate Professor, and White House Fellow at the Department of the Interior. Dr. Linaweaver has served a broad spectrum of private and public clients on environmental, water, and public works engineering and policy matters.

Education

Ph.D.; The Johns Hopkins University; Sanitary Engineering and Water Resources, 1965
B.E.S.; The Johns Hopkins University; Civil Engineering; 1955

Registrations

Registered Professional Engineer, Maryland; 1963
Diplomate, American Academy of Environmental Engineers; 1974

Summary Professional Experience

1991-	President, F. Pierce Linaweaver & Associates, Inc.
1987-1991	Executive Vice President, EA Engineering, Science, and Technology, Inc.
1987-1990	President, EA Engineering, Inc. (merged into parent)
1978-1987	Partner, Rummel, Klepper & Kahl, Consulting Engineers, Baltimore, MD
1974-1978	Individual Consulting Environmental and Civil Engineer
1969-1974	Director of Public Works, Baltimore City, water, wastewater, stormwater, solid waste, highways, public buildings Board of Estimates, Planning Commission, Architectural Commission
1968	Deputy Director of Public Works, Baltimore City
1967-1968	Associate Professor, Environmental Eng. Science, Johns Hopkins University
1966-1967	White House Fellow, Assistant to Secretary of Interior
1966	Research Associate, Resources for the Future, Inc., Washington, DC
1961-1966	Responsible for Residential Water Use Research Project, Johns Hopkins University
1965-1966	Research Associate, Environmental Eng. Science, Johns Hopkins University
1961-1965	Research Assistant, Sanitary Engineering and Water Resources, Johns Hopkins University
1961-1966	Various consulting and teaching activities
1958-1961	Senior Civil Engineer, Civil Engineer, Assistant Civil Engineer, Junior Civil Engineer, Bureau of Water Supply, Baltimore City
1955-1958	Sanitary and Industrial Hygiene Engineer, U.S. Air Force
1955	Junior Civil Engineer, Bureau of Water Supply, Baltimore City

Table 1
Villa Julie College
Population, Water and Wastewater Characteristics

Villa Julie College

	Current	Projected - Five Years*
Full-time Students	900	1,322
Part-time Students	700	1,029
Full-time Staff	82	120
Part-time Staff	255	375
Pre-school	30	32
Total	1,967	2,878

* VJC NPDES permit application signed 6/5/91; students 8% growth per year; staff based on half of ten-year plan

Groundwater supply

Two wells	2/17/82 10-year Permit	10,000 gpd
Existing water use	metered 9/24-10/19/91	29,000 gpd
Proposed use	10-year WRA Application-Signed 11/7/91	60,000 gpd

Wastewater

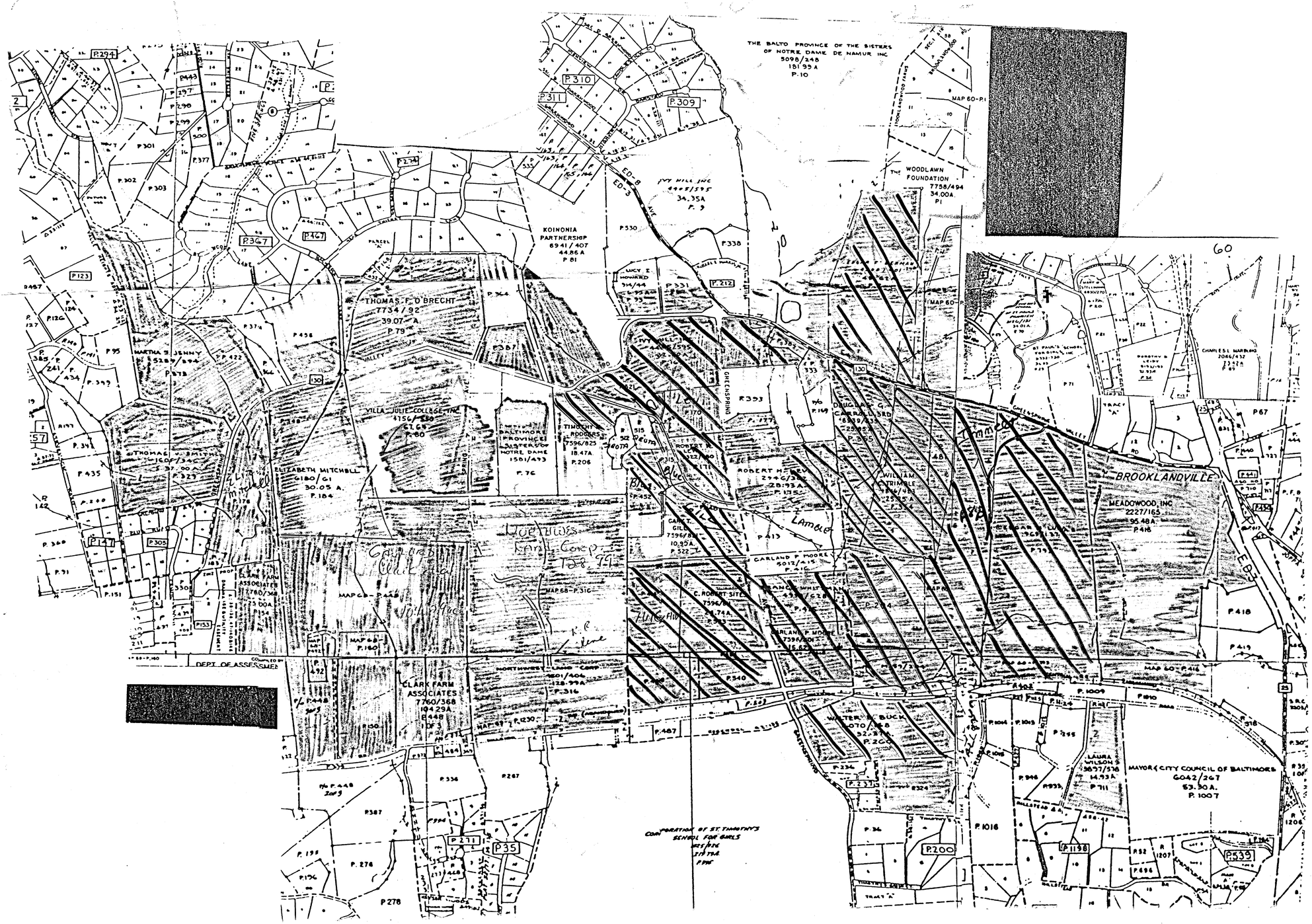
Existing Septic System	Design	6,000 gpd
Current Flow	i.e. overflowing/failing septic system	29,000 gpd
Proposed Wastewater Treatment Plant	1991 5-year MDE Application	63,000 gpd

Discharge intermittent stream -- tributary to Jones Falls

3/5/92 FPL

Prot. Exh 17
(Replicate of large exhibit)

only 20 major properties
50% in agricultural easements
90% currently agricultural use
80% have expressed interest in long term plan + protection.



Prot
No 19

NORMAN E. GERBER, AICP

35 Pickburn Court
Cockeysville, MD 21030

Business
(410)667-4543

Home
(410)667-4232

PROFESSIONAL EXPERIENCE

Preparation of Master Plans and Land Use Regulations

- Prepared comprehensive, policy, small-area, facility and revitalization plans, capital programs and capital budgets.
- Prepared zoning and development ordinances, agricultural land preservation and historic district regulations and growth management programs.
- Conducted demographic, transportation, economic and market studies.

Implementation of Plans and Programs

- Reviewed and approved new development.
- Enforced zoning, agricultural and historic preservation regulations.
- Negotiated plan and facilities projects with community groups, local and state legislative bodies and private sector business.

Other

- Testified before local, state and national boards, commissions and legislatures on the behalf of plans and programs.
- Testified before boards of appeals, circuit courts and the U. S. Tax Court of Appeals on land use issues.
- Prepared RFP's, grant applications, selected consultants and administered contracts.

WORK EXPERIENCE

2/88 to present — NORMAN E. GERBER, AICP, Cockeysville, MD
Principal
Private practice as planning consultant specializing in land planning, preparation of land use regulations property evaluation and expert testimony in zoning and development issues.

2/89 to 10/90 — The City of Laurel, Laurel, MD
The Office of Planning and Zoning
Director
Administered the planning program and enforced the zoning code.

BOA

PETITIONER'S

EXHIBITS

1996 20285 "A"

supplemental

B 6856/32, 34, 36, 38 Mill

8

MARYLAND
ENVIRONMEMTAL
SERVICE

RESUME

Petitioner No 7

DANE S. BAUER

POSITION

Director, Water and Wastewater Programs
Maryland Environmental Service
Department of Natural Resources

EDUCATION

B.S., Microbiology, University of Maryland, College Park, 1970
MHS, Environmental Engineering, Johns Hopkins School of Hygiene and Public Health, 1971

REGISTRATION/BOARDS

Registered Environmental Sanitarian, Maryland, Certificate #171
Chairman, State Board of Certification for Water Supply and Waste Systems Opertors

GENERAL

Mr. Bauer is Administrator of Water and Wastewater Programs for the Maryland Environmental Service and directs the activities of both Engineering and Operational Services including over 160 engineers, scientists, technicians, regional supervisors, plant superintendents, operators, maintenance staff, etc. Currently, he directs both Operations and Maintenance, and Capital Improvements to approximately 135 water supplies, sewage plants and sludge handling facilities for State institutions and corporate clients. He maintains a yearly operating budget of over $10M with typical yearly Capital budgets of $10 to 12M. His background includes 22 years of progressively responsible work in water, wastewater, hazardous and solid waste management in both facility operations and management, and environmental engineering. He has extensive experience in implementing project management and program administration. Specific experience includes wells, septic systems, subdivision of land, innovative and alternative technologies, facility planning, EPA and State construction grants, industrial pretreatment, operation and maintenance of water and wastewater works, EPA/State drinking water standards, NPDES permitting, State construction permitting and sludge management and permitting processes.

BGE Ext. Ex. #1

SPECIAL EXCEPTION / ZONING VARIANCES MAP

LEGEND
- PROPERTY BOUNDARY
- EXISTING PAVING
- EXISTING FENCE
- WETLANDS
- EXISTING LAMP POST
- EXISTING FIRE HYDRANT
- EXISTING TREE LINE
- PROP. PARKING AREA
- PROP BUILDING AREA
- 100 YR. FLOODPLAIN
- 1' FREEBOARD
- EX. OVERHEAD ELECTRIC
- EX. UNDERGROUND ELECTRIC
- EX. SANITARY
- EX. STORM DRAIN
- EX. WATER
- EX. GAS MAIN

EX. PAVED PARKING LOT
FOREST BUFFER — FB —
PROP SANITARY — SS —
PROP. LIGHT
BUILDING RESTRICTION LINE — BRL —
VARIANCE NUMBER (2)
FRONTS OF BUILDINGS

THOMAS F. OBRECHT
7734/92
P. 079

SOIL TYPES & LIMITATIONS

SOIL TYPE	BLDG.-W/BSMT.	BLDG.-W/O BSMT.	PARKING	USDA
BmB2	SLIGHT	SLIGHT	MODERATE	B
CgA	MODERATE	SLIGHT	MODERATE	C
CgB2	MODERATE	SLIGHT	MODERATE	C
CwB2	MODERATE	MODERATE	SEVERE	B
GnB	SEVERE	MODERATE	SEVERE	C
Mo	SEVERE	SEVERE	SEVERE	D

THOMAS W. BRUNIGE
« WIFE
5194/730
P. 387

NELSON H. HENDLER
« WIFE
5862/624
P. 456

ELIZABETH MITCHELL
6180/061
P. 184

NORTHWEST LAND CORPORATION
4501/406
P. 316

SISTERS OF NOTRE DAME DE NAMUR
RETIREMENT HOME
1542/493

SISTERS OF NOTRE DAME

GREENSPRING VALLEY ROAD
NACIREMA LANE
PRIVATE ROAD
245' TRANSITION
300' LEFT TURN LANE
100' TAPER
400' SIGHT DISTANCE
150' TAPER
195' LEFT TURN LANE
EX. ENTRANCE + SIGN
1.22' USE-IN-COMMON RIGHT-OF-WAY 4756/550
SOCCER & LACROSSE FIELD
EX. TRAFFIC SIGN
EX. F.O.
Modern Drive
Main Building A
Ex. Art Wing
Ex. Gas Main
Student Center D
Ex. Care Vault Water Storage to Obtain Fire Prot.
Ex. Tanks to Be Abandoned
Ex. Masonry 6,424.00 L.F. (To Be Removed)
SEE GENERAL NOTE #20
PROP. BLDG. ENVELOPE
Ex. Paving (To Be Removed)
Ex. Gravel Parking Lot
BA 81-0564
Ex. Tennis Courts & Basketball Court (ACCESSORY) BA 81-5471
APPROXIMATE LOCATION OF SANITARY DISPOSAL FIELD (TO BE ABANDONED)
EX. 12" D
EX. 4" W
EX. 8" W
EX. 6" W
EX. 8" S
EX. 10" S
EX. 12" W
EX. 6" S
EX. 4" S
EX. 4" FORCE MAIN
EX. 8" FORCE MAIN
EX. 6" FORCE MAIN
EX. 12

LEGEND

- PROPERTY BOUNDARY
- EXISTING PAVING
- EXISTING FENCE
- WETLANDS
- EXISTING LAMP POST
- EXISTING FIRE HYDRANT
- EXISTING TREE LINE
- PROP. PARKING AREA
- PROP. BUILDING AREA
- 100 YR. FLOODPLAIN
- 1' FREEBOARD
- EX. OVERHEAD ELECTRIC
- EX. UNDERGROUND ELECTRIC
- EX. SANITARY
- EX. STORM DRAIN
- EX. WATER
- EX. GAS MAIN

- EX. PAVED PARKING LOT
- FOREST BUFFER — FB
- PROP. SANITARY — SS
- PROP. LIGHT
- BUILDING RESTRICTION LINE — BRL
- VARIANCE NUMBER
- FRONTS OF BUILDINGS

THOMAS F. OBRECHT
7734/92
P. 079

SOIL TYPES & LIMITATIONS

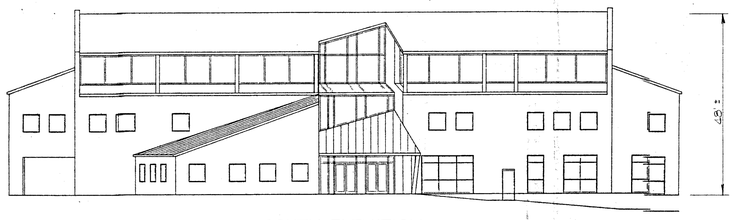
SOIL TYPE	BLDG.- W/BSMT.	BLDG.- W/O BSMT.	PARKING	CLASS
BmB2	SLIGHT	SLIGHT	MODERATE	B
CgA	MODERATE	SLIGHT	MODERATE	C
CgB2	MODERATE	SLIGHT	MODERATE	C
CwB2	MODERATE	MODERATE	SEVERE	B
GnB	SEVERE	MODERATE	SEVERE	C
Mo	SEVERE	SEVERE	SEVERE	D

THOMAS W. BRUNIGE
& WIFE
5194/730
P. 387

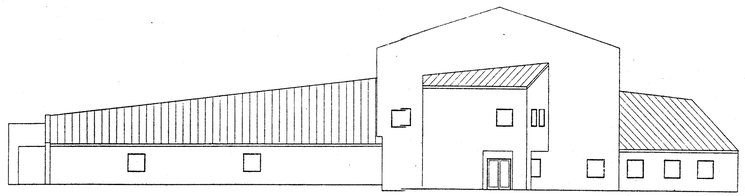
NELSON H. HENDLER
& WIFE
5862/624
P. 456

ELIZABETH MITCHELL
6180/061
P. 184

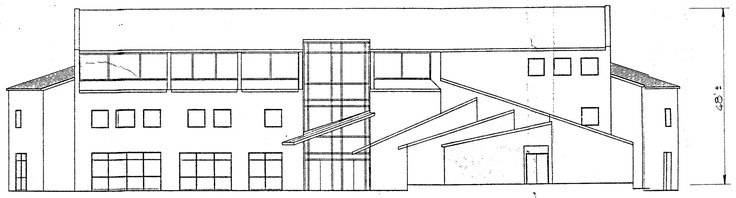
GREENSPRING VALLEY ROAD — 245' TRANSITION — 400' SIGHT DISTANCE — 300' LEFT TURN LANE — 100' TAPER — 150' TAPER — 35' RIGHT TURN LANE — PRIVATE ROAD — NACIREMA LANE — FUTURE STATE ROW BY OTHERS ALIGNED BY GREENSPRING VALLEY ROAD — EX. ENTRANCE SIGN — EX. TRAFFIC SIGN — 22' USE-IN-COMMON RIGHT-OF-WAY 4756/550 — SOCCER & LACROSSE FIELD — SISTERS OF NOTRE DAME DE NAMUR RETIREMENT HOME 1540/493 — SISTERS OF NOTRE DAME — Ex. Main Building A — Ex. Art Wing A — Ex. Student Center D — Ex. Tennis Courts & Basketball Court (ACCESSORY) BA 81-5471 — BA 81-0564 — Ex. Septic Tanks To Be Abandoned — Ex. Paving (To Be Removed) — APPROXIMATE LOCATION OF SANITARY DISPOSAL FIELD (TO BE ABANDONED) — EX. UNDER GROUND OIL TANK — Ex. Conc Vault Water Storage 10,000 Gallon Fire Pool — Ex. Greenhouse — Ex. Maintenance Building (To Be Removed) — Ex. Storage Shed (To Be Removed) — Ex. Day Care Center — Ex. Septic Area & Dilution Boring (To Be Abandoned) — EXISTING DUMPSTERS — Ex. Gravel Parking Lot — Ex. Water Storage — Ex. Pool — Ex. Playground — Ex. Gazebo — Ex. Shed — Ex. Pump House — Ex. Garage — Ex. Barn — Ex. Cottage — Ex. Residence — Ex. Stone Wall — Ex. Fence — Ex. Wood Fence — Ex. Stone Retaining Wall — Ex. Wood Retaining Wall — Ex. Concrete Retaining Wall — Ex. Gravel Drive — Ex. Asphalt Drive — Ex. Concrete Walk — Ex. Flagstone Walk — Ex. Brick Walk — Ex. Gravel Walk — Ex. Asphalt Walk — Ex. Concrete Curb — Ex. Asphalt Curb — Ex. Gutter — Ex. Inlet — Ex. Manhole — Ex. Storm Drain — Ex. Sanitary Manhole — Ex. Sanitary Line — Ex. Water Line — Ex. Gas Line — Ex. Overhead Electric — Ex. Underground Electric — Ex. Telephone — Ex. Cable TV — Ex. Light Pole — Ex. Utility Pole — Ex. Guy Wire — Ex. Fire Hydrant — Ex. Water Valve — Ex. Water Meter — Ex. Gas Valve — Ex. Gas Meter — Ex. Sign — Ex. Mailbox — Ex. Bench — Ex. Flagpole — Ex. Bollard — Ex. Tree — Ex. Shrub — Ex. Hedge — Ex. Rock Outcrop — Ex. Boulder — Ex. Stump — Ex. Log — Ex. Brush — Ex. Grass — Ex. Meadow — Ex. Woods — Ex. Stream — Ex. Pond — Ex. Wetland — Ex. Floodplain — Ex. Drainage Easement — Ex. Utility Easement — Ex. Right-of-Way — Ex. Property Line — Ex. Lot Line — Ex. Building Restriction Line — Ex. Setback Line — Ex. Zoning Line — Ex. Boundary Line — Ex. Survey Line — Ex. Control Point — Ex. Benchmark — Ex. Monument — Ex. Iron Pin — Ex. Concrete Monument — Ex. Stone — Ex. Marker — Ex. Post — Ex. Pole — Ex. Tower — Ex. Antenna — Ex. Satellite Dish — Ex. Transformer — Ex. Pad Mounted Transformer — Ex. Pole Mounted Transformer — Ex. Underground Transformer — Ex. Vault — Ex. Manhole — Ex. Handhole — Ex. Pull Box — Ex. Junction Box — Ex. Conduit — Ex. Duct — Ex. Cable — Ex. Wire — Ex. Fiber Optic — Ex. Telephone Pedestal — Ex. Cable TV Pedestal — Ex. Electric Pedestal — Ex. Gas Pedestal — Ex. Water Pedestal — Ex. Sanitary Pedestal — Ex. Storm Drain Pedestal — Ex. Utility Pedestal — Ex. Utility Box — Ex. Utility Cabinet — Ex. Utility Shelter — Ex. Utility Building — Ex. Utility Tower — Ex. Utility Antenna — Ex. Utility Satellite Dish — Ex. Utility Transformer — Ex. Utility Vault — Ex. Utility Manhole — Ex. Utility Handhole — Ex. Utility Pull Box — Ex. Utility Junction Box — Ex. Utility Conduit — Ex. Utility Duct — Ex. Utility Cable — Ex. Utility Wire — Ex. Utility Fiber Optic — Ex. Utility Telephone Pedestal — Ex. Utility Cable TV Pedestal — Ex. Utility Electric Pedestal — Ex. Utility Gas Pedestal — Ex. Utility Water Pedestal — Ex. Utility Sanitary Pedestal — Ex. Utility



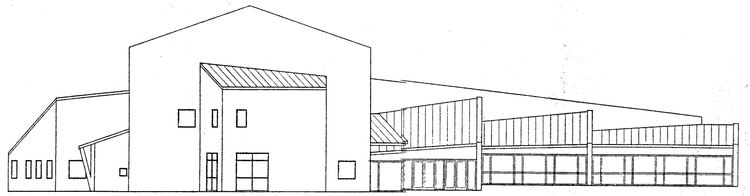
SOUTH ELEVATION



WEST ELEVATION



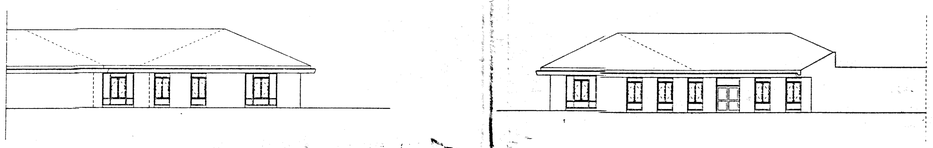
NORTH ELEVATION



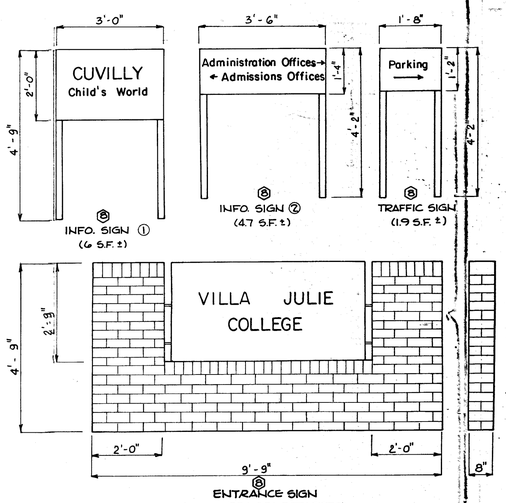
EAST ELEVATION

ACADEMIC CENTER (F)

SEE GENERAL NOTE #24

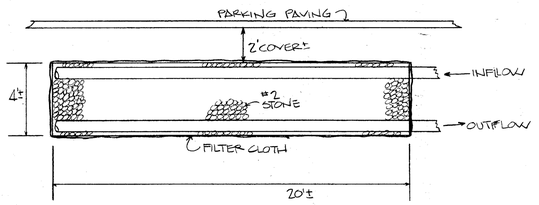


L.R.C. ADDITION (G)



SIGN VARIANCES

AS PER 413.1.b



UNDERGROUND SWM FACILITY FOR 2YR STORM

25. EXISTING HOUSE "I CARETAKER RESIDENCE, INCLUDED EXCESS STRUCTURES IN REARYARD, WEST OF BUILDING 'C' & 'E', DON'T EXCEED 35' IN HEIGHT. HOUSE "I IS CURRENTLY BEING LIVED IN BY A CARE TAKER OF THE SITE.

26. "DAY CARE CENTER"(E) IS A CHILD DEVELOPMENT CENTER USED BY THE STAFF OF VILLA JULIE COLLEGE & STUDENTS. HERE THE "STAFF" TEACHES CHILD DEVELOPMENT SKILLS TO THEIR STUDENTS & PROVIDE CARE TO THE CHILDREN.

27. "SEWER TREATMENT PLANT" IS A FACILITY CONSTRUCTED TO TREAT THE EFFLUENT OF VILLA JULIE COLLEGE.

28. "THERE SHALL BE NO CLEARING, GRADING, CONSTRUCTION OR DISTURBANCE OF VEGETATION IN THE FOREST BUFFER, EXCEPT AS PERMITED BY THE BALTIMORE COUNTY DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT."

29. "ANY FOREST BUFFER SHOWN HEREON IS SUBJECT TO PROTECTIVE COVENANTS WHICH MAY BE FOUND IN THE LAND RECORDS OF BALTIMORE COUNTY AND WHICH RESTRICT DISTURBANCE AND USE OF THESE AREAS."

30. VARIANCES FOR THE EXISTING HOUSES THAT ARE NOW WITHIN THE PROPOSED FOREST BUFFER & THE BUILDING RESTRICTION AREA WILL BE FILED AT D.E.P.R.M.

31. ALL UNDER GROUND UTILITIES SHOULD BE FIELD LOCATED BEFORE ANY DESIGN WORK OR CONSTRUCTION TAKES PLACE. G.W.S. DOESN'T TAKE ANY RESPONSIBILITY FOR THEIR LOCATION SHOWN ON THIS PLAN.

32. ALL LAB WASTE IS STORED IN THE LAB BUILDING & IS DISPOSED OF BY A LICENSED WASTE DISPOSAL COMPANY.

33. STATE INSPECTION SCHEDULE FOR UNDER GROUND TANKS

DIESEL	GAS	OIL
*12-19-86	*01-12-87	*03-09-87

STATE INSPECTS THE UNDER GROUND TANKS EVERY 5 YEARS.
* LAST DATE OF INSPECTION 87-OP-527

D.A. 'A' (DRAINAGE TO THE WEST)

EX. RUNOFF:
2 YR = 17.64 cfs
10 YR = 51.15 cfs
100 YR = 94.91 cfs

PROPOSED RUNOFF:
BYPASS:
2 YR = 12.82 cfs
10 YR = 35.96 cfs
100 YR = 66.11 cfs

TO FACILITY:
2 YR = 9.35 cfs
10 YR = 21.03 cfs
100 YR = 33.59 cfs

ALLOWABLE RELEASE RATES:
2 YR = 17.64 - 12.82 = 4.82 cfs
10 YR = 51.15 - 35.96 = 15.19 cfs
100 YR = 94.91 - 66.11 = 28.80 cfs

2 YR $\frac{Rv}{Ai}$ = 0.5155 $\frac{Vs}{Vr}$ = 0.27 Vr = 0.7793 Vs = 0.2104 Ac.-Ft.

10 YR $\frac{Rv}{Ai}$ = 0.7223 $\frac{Vs}{Vr}$ = 0.20 Vr = 1.6588 Vs = 0.3318 Ac.-Ft. = 14,451.5 C.F.

100 YR $\frac{Rv}{Ai}$ = 0.8574 $\frac{Vs}{Vr}$ = 0.16 Vr = 2.6663 Vs = 0.4266 Ac.-Ft. = 18,583 C.F.

USE Vs = 20,000 C.F. + 1 FOOT FREEBOARD

D.A. 'B' (DRAINAGE TO THE EAST)

EX. RUNOFF:
2 YR = 24.83 cfs
10 YR = 58.41 cfs
100 YR = 97.19 cfs

PROPOSED RUNOFF:
BYPASS:
2 YR = 0.26 cfs
10 YR = 1.21 cfs
100 YR = 2.47 cfs

TO FACILITY:
2 YR = 28.32 cfs
10 YR = 67.23 cfs
100 YR = 108.64 cfs

ALLOWABLE RELEASE RATES:
2 YR = 24.83 - 0.26 = 24.57 cfs
10 YR = 58.41 - 1.21 = 57.20 cfs
100 YR = 97.19 - 2.47 = 94.72 cfs

2 YR $\frac{Rv}{Ai}$ = 0.87 $\frac{Vs}{Vr}$ = 0.15 Vr = 1.8472 Vs = 0.2771 Ac.-Ft.

10 YR $\frac{Rv}{Ai}$ = 0.85 $\frac{Vs}{Vr}$ = 0.16 Vr = 4.1370 Vs = 0.6619 Ac.-Ft.

100 YR $\frac{Rv}{Ai}$ = 0.87 $\frac{Vs}{Vr}$ = 0.15 Vr = 6.7932 Vs = 1.0190 Ac.-Ft.

USE Vs = 48,825 C.F. + 1 FOOT FREEBOARD

GEORGE WILLIAM STEPHENS, JR. AND ASSOCIATES, INC.
CIVIL ENGINEERS & LAND SURVEYORS
658 KENILWORTH DRIVE, SUITE 100
TOWSON, MARYLAND 21204
(301) 825-8120

Ref 2"A" (second page of exhibit #2)

LEGEND

PROPERTY BOUNDARY
EXISTING PAVING
EXISTING FENCE
WETLANDS
EXISTING LAMP POST
EXISTING FIRE HYDRANT
EXISTING TREE LINE
PROP. PARKING AREA
PROP. BUILDING AREA
100 YR. FLOODPLAIN
1' FREEBOARD
EX. OVERHEAD ELECTRIC
EX. UNDERGROUND ELECTRIC
EX. SANITARY
EX. STORM DRAIN
EX. WATER
EX. GAS MAIN
EX. TREES TO REMAIN

EX. PAVED PARKING LOT
FOREST BUFFER
PROP. SANITARY
PROP. LIGHT
BUILDING RESTRICTION LINE
VARIANCE NUMBER
FRONTS OF BUILDINGS

SOIL TYPES & LIMITATIONS

SOIL TYPE	BLDG. - W/BSMT.	BLDG. - W/O BSMT.	PARKING	GRADE
BmB2	SLIGHT	SLIGHT	MODERATE	B
CaA	MODERATE	SLIGHT	MODERATE	C
CaB2	MODERATE	SLIGHT	MODERATE	C
CwB2	MODERATE	MODERATE	SEVERE	D
GnB	SEVERE	MODERATE	SEVERE	C
MaD	SEVERE	SEVERE	SEVERE	D

THOMAS F. OBRECHT
7734/92
P. 079

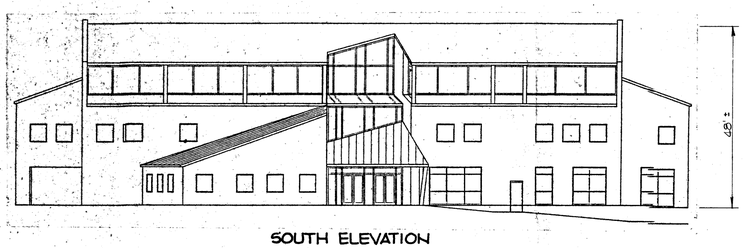
THOMAS W. BRUNIGE
& WIFE
5194/730
P. 387

NELSON H. HENDLER
& WIFE
5862/624
P. 456

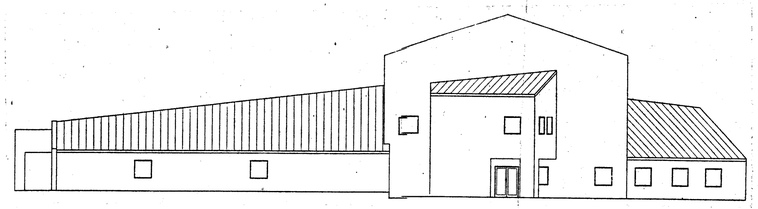
ELIZABETH MITCHELL
6180/0611
P. 184

NORTHWEST LAND CORPORATION
4501/406
P. 316

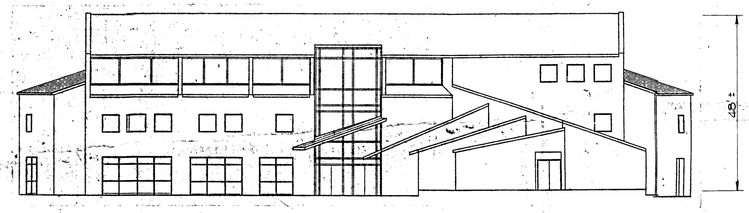
GREENSPRING VALLEY ROAD
NAGREMA LANE
PRIVATE ROAD
22' USE-IN-COMMON RIGHT-OF-WAY 4756/550
265' TRANSITION
300' LEFT TURN LANE
100' TAPER
400' SIGHT DISTANCE
40' TURN LANE
EX. ENTRANCE SIGN
EX. TRAFFIC SIGN
SOCCER & LACROSSE FIELD
SISTERS OF NOTRE DAME RETIREMENT HOME 1548/493
SISTERS OF NOTRE DAME
EX. Main Building A
EX. Art Wing A
EX. Student Center D
EX. Gas Main
EX. Water
EX. Septic Tanks To Be Abandoned
EX. Paving (To Be Removed)
EX. Tennis Courts & Basketball Court (Masonry) BA 81-547I
BA 81-056A
EX. Gravel Parking Lot
APPROXIMATE LOCATION OF SANITARY DISPOSAL FIELD (TO BE ABANDONED)
EX. Modern Dance Studio
EX. Storage Bldg. To Remain
EX. Storage Bldg. To Be Removed
EX. Poly Ground
EX. Poly Core Center
EX. Septic Area Distribution Box
EXISTING DUMPSTERS
EX. UNDERGROUND OIL TANK
EX. Concrete Vault Water Storage
EX. Manhattan Bldg. (Masonry) (Misc.)
EX. Mansion (Masonry) (Misc.)
EX. Stand Pipe
EX. Hot Water
EX. Gas Conn. Box
EX. Gas Conn. Pad
EX. Water Conn.
EX. Water Meter
EX. Septic Tank
EX. Underground
EX. Storage Bldg. To Remain
EX. Storage Bldg. To Be Removed
EX. Entrance Sign
EX. Entrance Gate
EX. Entrance Pillar
EX. Entrance Wall
EX. Entrance Fence
EX. Entrance Light
EX. Entrance Planting



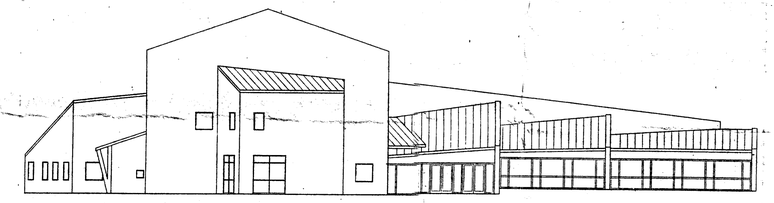
SOUTH ELEVATION



WEST ELEVATION



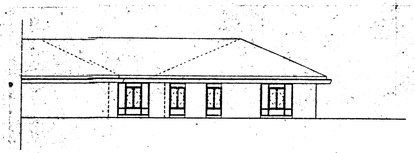
NORTH ELEVATION

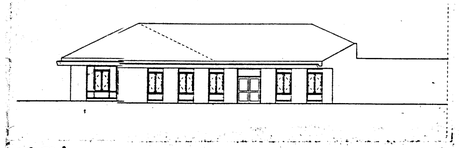


EAST ELEVATION

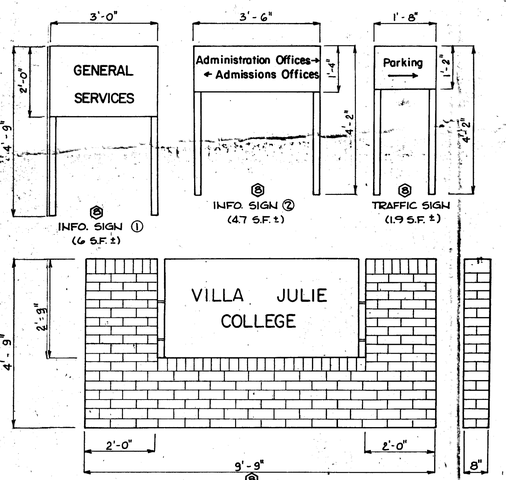
ACADEMIC CENTER (F)

SEE GENERAL NOTE #24



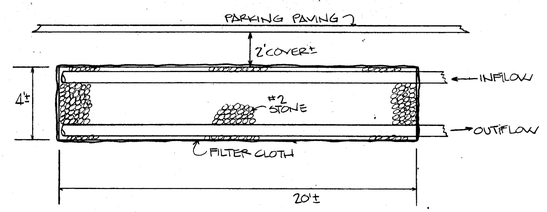


L.R.C. ADDITION (G)



SIGN VARIANCES

AS PER 413.1.D



UNDERGROUND SWM FACILITY FOR 2YR STORM

25. EXISTING HOUSE #1 CARETAKER RESIDENCE, INCLUDED EXCESS STRUCTURES IN REAR YARD W/EST OF BUILDING 'C' & 'E', DON'T EXCEED 35' IN HEIGHT. HOUSE #1 IS CURRENTLY BEING LIVED IN BY A CARE TAKER OF THE SITE.

26. "DAY CARE CENTER"(E) IS A CHILD DEVELOPMENT CENTER USED BY THE STAFF OF VILLA JULIE COLLEGE & STUDENTS. HERE THE "STAFF" TEACHES CHILD DEVELOPMENT SKILLS TO THEIR STUDENTS & PROVIDE CARE TO THE CHILDREN.

27. "SEWER TREATMENT PLANT" IS A FACILITY CONSTRUCTED TO TREAT THE EFFLUENT OF VILLA JULIE COLLEGE.

28. "THERE SHALL BE NO CLEARING, GRADING, CONSTRUCTION OR DISTURBANCE OF VEGETATION IN THE FOREST BUFFER, EXCEPT AS PERMITED BY THE BALTIMORE COUNTY DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT."

29. "ANY FOREST BUFFER SHOWN HEREON IS SUBJECT TO PROTECTIVE COVENANTS WHICH MAY BE FOUND IN THE LAND RECORDS OF BALTIMORE COUNTY, AND WHICH RESTRICT DISTURBANCE AND USE OF THESE AREAS."

30. VARIANCES FOR THE EXISTING HOUSES THAT ARE NOW WITHIN THE PROPOSED FOREST BUFFER & THE BUILDING RESTRICTION AREA WILL BE FILED AT D.E.P.R.M.

31. ALL UNDER GROUND UTILITIES SHOULD BE FIELD LOCATED BEFORE ANY DESIGN WORK OR CONSTRUCTION TAKES PLACE. G.W.S. DOESN'T TAKE ANY RESPONSIBILITY FOR THEIR LOCATION SHOWN ON THIS PLAN.

32. ALL LAB WASTE IS STORED IN THE LAB BUILDING & IS DISPOSED OF BY A LICENSED WASTE DISPOSAL COMPANY.

33. STATE INSPECTION SCHEDULE FOR UNDER GROUND TANKS

DIESEL	GAS	OIL
*12-19-86	*01-12-87	*03-09-87

STATE INSPECTS THE UNDER GROUND TANKS EVERY 5 YEARS.
* LAST DATE OF INSPECTION 87-OP-1527

D.A. 'A' (DRAINAGE TO THE WEST)

EX. RUNOFF:
2 YR - 17.64 cfs
10 YR - 51.15 cfs
100 YR - 94.91 cfs

PROPOSED RUNOFF:
BYPASS:
2 YR - 12.82 cfs
10 YR - 35.96 cfs
100 YR - 66.11 cfs

TO FACILITY:
2 YR - 9.35 cfs
10 YR - 21.03 cfs
100 YR - 33.59 cfs

ALLOWABLE RELEASE RATES:
2 YR - 17.64 - 12.82 = 4.82 cfs
10 YR - 51.15 - 35.96 = 15.19 cfs
100 YR - 94.91 - 66.11 = 28.80 cfs

2 YR $\frac{Q}{Q_1}$ = 0.5155 $\frac{V_s}{V_R}$ = 0.27 V_R = 0.7793 V_s = 0.2104 Ac.-Ft.

10 YR $\frac{Q}{Q_1}$ = 0.7223 $\frac{V_s}{V_R}$ = 0.20 V_R = 1.6588 V_s = 0.3318 Ac.-Ft. = 14,451.5 C.F.

100 YR $\frac{Q}{Q_1}$ = 0.8574 $\frac{V_s}{V_R}$ = 0.16 V_R = 2.6663 V_s = 0.4266 Ac.-Ft. = 18,583 C.F.

USE V_s = 20,000 C.F. + 1 FOOT FREEBOARD

D.A. 'B' (DRAINAGE TO THE EAST)

EX. RUNOFF:
2 YR - 24.83 cfs
10 YR - 58.41 cfs
100 YR - 97.19 cfs

PROPOSED RUNOFF:
BYPASS:
2 YR - 0.26 cfs
10 YR - 1.21 cfs
100 YR - 2.47 cfs

TO FACILITY:
2 YR - 28.32 cfs
10 YR - 67.23 cfs
100 YR - 108.64 cfs

ALLOWABLE RELEASE RATES:
2 YR - 24.83 - 0.26 = 24.57 cfs
10 YR - 58.41 - 1.21 = 57.20 cfs
100 YR - 97.19 - 2.47 = 94.72 cfs

2 YR $\frac{Q}{Q_1}$ = 0.87 $\frac{V_s}{V_R}$ = 0.15 V_R = 1.8472 V_s = 0.2771 Ac.-Ft.

10 YR $\frac{Q}{Q_1}$ = 0.85 $\frac{V_s}{V_R}$ = 0.16 V_R = 4.1370 V_s = 0.6619 Ac.-Ft.

100 YR $\frac{Q}{Q_1}$ = 0.87 $\frac{V_s}{V_R}$ = 0.15 V_R = 6.7932 V_s = 1.0190 Ac.-Ft.

USE V_s = 48,825 C.F. + 1 FOOT FREEBOARD

GEORGE WILLIAM STEPHENS, JR. AND ASSOCIATES, INC.
CIVIL ENGINEERS & LAND SURVEYORS
658 KENILWORTH DRIVE, SUITE 100
TOWSON, MARYLAND 21204
(301) 825-8120

LEGEND

PROPERTY BOUNDARY
EXISTING PAVING
EXISTING FENCE
WETLANDS
EXISTING LAMP POST
EXISTING FIRE HYDRANT
EXISTING TREE LINE
PROP PARKING AREA
PROP BUILDING AREA
100 YR. FLOODPLAIN
1' FREEBOARD
EX. OVERHEAD ELECTRIC
EX. UNDERGROUND ELECTRIC
EX. SANITARY
EX. STORM DRAIN
EX. WATER
EX. GAS MAIN
EX. TREES TO REMAIN

EX. PAVED PARKING LOT
FOREST BUFFER — FB —
PROP SANITARY — SS —
PROP LIGHT
BUILDING RESTRICTION LINE — BRL —
VARIANCE NUMBER (2)
FRONTS OF BUILDINGS

THOMAS F. OBRECHT
7734/92
P. 079

NELSON H. HENDLER
& WIFE
5862/624
P. 456

ELIZABETH MITCHELL
6180/061
P. 184

THOMAS W. BRUNIGE
& WIFE
5194/730
P. 387

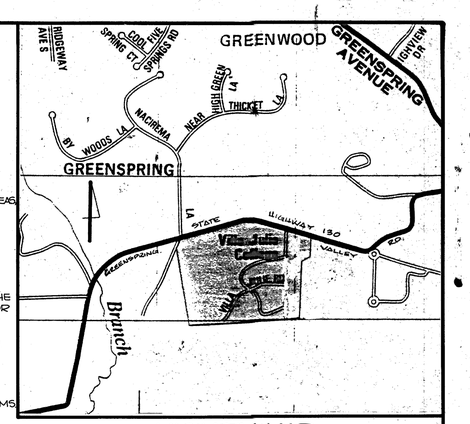
NORTHWEST LAND CORPORATION
4501/406
P. 316

SOIL TYPES & LIMITATIONS

SOIL TYPE	BLDG.-W/BSMT.	BLDG.-W/O BSMT.	PARKING	H.S.G.
BmB2	SLIGHT	SLIGHT	MODERATE	B
CaA	MODERATE	SLIGHT	MODERATE	C
CaB2	MODERATE	SLIGHT	MODERATE	C
CwB2	MODERATE	MODERATE	SEVERE	B
GnB	SEVERE	MODERATE	SEVERE	C
Mo	SEVERE	SEVERE	SEVERE	D

GENERAL NOTES

1. EXISTING ZONING: RC 2
   CURRENT USE: COLLEGE
2. COUNCILMATIC DISTRICT: 3
3. CENSUS TRACT 4038.01
4. WATERSHED 24
5. SUBSEWERSHED 61
6. ELECTION DISTRICT 8
7. TAX #0327035480
8. DEED REFERENCES 4756/550
9. WETLANDS HAVE BEEN FIELD LOCATED; NO SIGNIFICANT GEOLOGICAL FORMATIONS OR OTHER UNUSUAL NATURAL FORMATION, NO CRITICAL AREAS, NO ARCHEOLOGICAL SITES, NO ENDANGERED SPECIES HABITAT AND NO HAZARDOUS MATERIALS ON SITE TO THE BEST OF OUR KNOWLEDGE.
10. TRANSIT SERVICE VIA METRO BUS LINE M-12, SERVICE RUNS APPROX. EVERY HOUR.
11. AREA BETWEEN THE SIGHT LINES & THE CURB LINE MUST BE CLEARED, GRADED & KEPT CLEAR OF OBSTRUCTIONS.
12. ON SITE LIGHTING SHALL BE SO ARRANGED & SHIELDED AS TO CONFINE ALL DIRECT LIGHT RAYS ENTIRELY WITHIN THE BOUNDARY LINES OF THE SITE AND TO PREVENT THE REFLECTED LIGHT RAYS FROM SHINING OR GLARING ONTO ANY PORTION OF ANY ADJACENT MOTORWAY OR INTO THE PATH OF ONCOMING VEHICLES.
13. ALL PARKING, MANUEVERING & AISLE AREAS WILL BE PAVED WITH MACADAM & PERMANENTLY STRIPED.
14. AVERAGE DAILY TRIPS; 13 TRIPS/1,000 S.F. OF BUILDING
    EXISTING - 103,282/1,000 × 13 = 1343 ADT'S
    PROPOSED - 201,326/1,000 × 13 = 2,617 ADT'S
15. STORM WATER MANAGEMENT IS BEING PROVIDED FOR 2 YR & 10 YR. STORMS (SEE SHEET 2)
16. AREA:
    NET AREA OF SITE - 59.68 Ac.±
    GROSS AREA OF SITE - 60.230 Ac.± (BY DEED)



VICINITY MAP

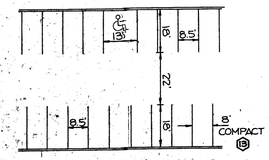
SCALE: 1" = 1000'

17. EXISTING BUILDINGS

	BUILDING G.S.F.	
A LEARNING & RESOURCE CENTER (LIBRARY)	27,463 S.F.	
A LEARNING & RESOURCE CENTER (ADMIN.)	6,867 S.F.	
A LEARNING & RESOURCE CENTER (ART WING)	4,060 S.F.	
B CLASSROOM (KNOTT HALL)	42,432 S.F.	2,033 S.F. STUDENT STUDY 2,033 S.F. COFFEE HOUSE 1,075 S.F. ADMIN.
C MUELLER HOUSE (OFFICES)	11,993 S.F.	
D STUDENT CENTER	15,384 S.F.	
E GENERAL SERVICES BUILDING	5,083 S.F.	
TOTAL EXISTING	103,282 S.F.	

PROPOSED BUILDINGS	BUILDING G.S.F.
F ACADEMIC CENTER	44,697 S.F.
G LRC ADDITION	3,347 S.F.
F GEN. CLASSROOM & GEN. PURPOSE	50,000 S.F.
TOTAL PROPOSED	98,044 S.F.
TOTAL EXISTING AND PROPOSED	201,326 S.F.

18. EXISTING FLOOR TO AREA RATIO: 103,282/2,623,793 = .039
    PROPOSED FLOOR TO AREA RATIO: 201,044/2,623,793 = .076
19. MAXIMUM HEIGHT OF THE PROPOSED BUILDINGS ARE 48 FEET. THIS MEASUREMENT IS TAKEN FROM THE PROPOSED HIGHEST PART OF THE PROPOSED BUILDING TO THE CLOSEST PROPOSED GRADE.
20. LANDSCAPED OPEN SPACE FOR PARKING LOT.
    TOTAL PAVED AREA OF PARKING LOT = 288,802 S.F.±
    MIN. PARKING LOT LANDSCAPED AREA: 7% × 288,802 = 20,216 S.F.±
    LANDSCAPE AREA PROVIDED = 44,918 S.F.±
21. PARKING TABULATION
    PARKING SPA. PROVIDED: 681
    PARKING SPA. PROPOSED: 1040
    (B) COMPACT SPACES PROPOSED = 503 SPACES (8' × 18')
    STANDARD SPACES PROPOSED = 515 SPACES (8.5 × 18)
    HANDICAP SPACES PROPOSED = 22 SPACES
    TOTAL = 1040 SPACES
    HANDICAP SPACES REQUIRED = 20
22. TOPOGRAPHIC SURVEY & BOUNDARY SURVEY WAS PERFORMED BY OTHERS (G.W. STEPHENS TAKES NO RESPONSIBILITY FOR ITS ACCURACY.)
29. THE EXISTING FREE STANDING HOUSES WILL REMAIN ON THE SEPTIC SYSTEMS. IF THE SYSTEMS FAIL, THEY WILL BE HOOKED UP TO THE TREATMENT PLANT.
24. BUILDING ENVELOPE "F" WILL CONTAIN TWO BUILDINGS WITHIN THE SHADED AREA.



TYPICAL PARKING DETAIL
NOT TO SCALE

Pct #3

PLAT TO ACCOMPANY PETITION FOR SPECIAL EXCEPTION, SPECIAL HEARING AND ZONING VARIANCES FOR VILLA JULIE COLLEGE

PLANNING NO.
ELECTION DISTRICT NO. 8
CENSUS TRACT 4038.01
JUNE 5, 1991

PUBLIC SERVICE NO. 911777
COUNCILMATIC DISTRICT NO. 3
BALTIMORE COUNTY, MARYLAND
SCALE: 1" = 100'
SHEET 1 OF 2

REVISIONS		
2/28	⚠ ADDED UNDERGROUND SWM FACILITY FOR 2&10 YR STORM	
2/28	⚠ REDUCED VOLUME OF EAST POND DUE TO ⚠	
2/28	⚠ RECONFIGURED WWV. TP. AREA	
2/28	⚠ ADDED TYP. SEC. FOR UNDERGROUND SWM.	
3/10	⚠ REINFORCED WEST POND & OUTLET	

OWNER
VILLA JULIE COLLEGE
1525 GREENSPRING VALLEY RD.
STEVENSON, MD. 21153
% MICHAEL LANCASTER

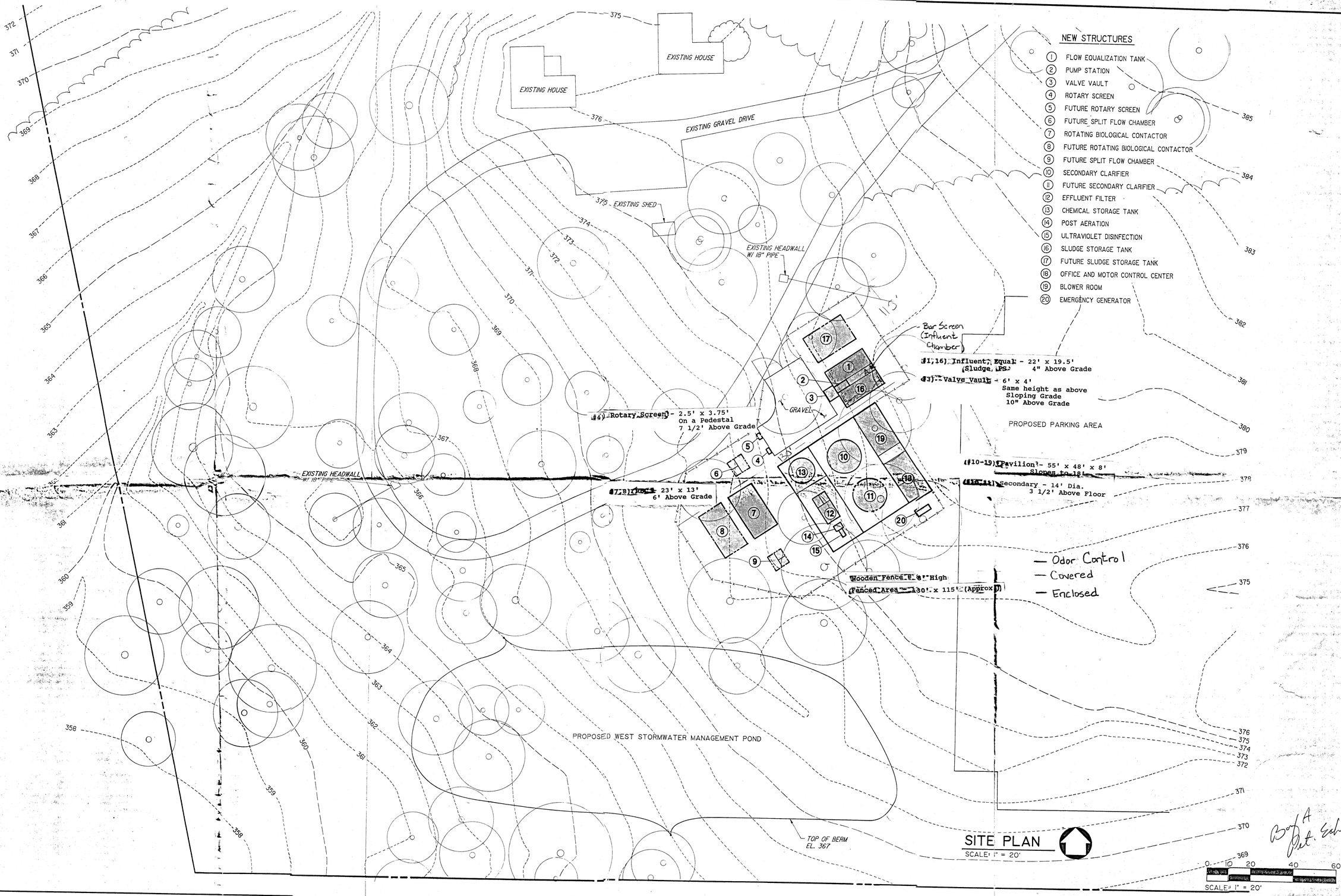
APPLICANT
VILLA JULIE COLLEGE
% EVANS, GEORGE & BRONSTEIN
29 WEST SUSQUEHANNA AVENUE
SUITE 205
TOWSON, MD. 21204
% BENJAMIN BRONSTEIN, ATTY. AT LAW

CROZIER ASSOCIATES
LANDSCAPE ARCHITECTURE AND LAND PLANNING
Mill Centre · Suite 409
2600 Chestnut Avenue
Baltimore, Maryland 21211
301-366-3330

STATE OF MARYLAND — DEREK N. CHAMBERS — NO. 14,828 — REGISTERED PROFESSIONAL ENGINEER

GEORGE WILLIAM STEPHENS, JR. AND ASSOCIATES, INC.
CIVIL ENGINEERS & LAND SURVEYORS
658 KENILWORTH DRIVE, SUITE 100
TOWSON, MARYLAND 21204
(301) 825-8120

FN 6739



SITE PLAN
SCALE: 1" = 20'

0 10 20 40 60
SCALE: 1" = 20'

Bd of A Pet. Exh #5

SCALE	AS SHOWN
DESIGN BY	BF
DRAWN BY	SC
CHECKED BY	BB
JOB NO.	91045
DATE	

Petitioner's No 13

George, Miles & Buhr
Architects, Engineers, Planners
Salisbury ——— Baltimore

SITE PLAN

WASTEWATER TREATMENT FACILITIES
VILLA JULIE COLLEGE
BALTIMORE COUNTY, MARYLAND

SHEET NO.

DRAWING OF

A & E INC. BALTIMORE



Ref. No 14

Zoning PSE Exhibits #6



0211 N-12 47

Bof A Pet Exhibit #7

VILLA JULIE COLLEGE



A FOUR-YEAR COLLEGE OFFERING BACHELOR'S AND ASSOCIATE DEGREES

Cat. Ed #8

CATALOG • 1991 • 1993

GREENSPRING VALLEY ROAD

GREENSPRING VALLEY ROAD

AGRICULTURAL FIELDS

ATHLETIC FIELDS

VISITOR PARKING

ADMINISTRATION WING

PROPOSED EXPANSION

LEARNING RESOURCE CENTER

ADMISSIONS

MUELLER HOUSE

KNOTT HALL

STUDENT CENTER

SISTERS OF NOTRE DAME DE NAMUR RETIREMENT HOME

WOODLAND PATH

FUTURE ACADEMIC CENTER

FUTURE BUILDING

VISITOR PARKING

CHILD'S WORLD

TENNIS COURTS

STREAM

FUTURE SANITARY TREATMENT FACILITY

STORMWATER MANAGEMENT

STORMWATER MANAGEMENT

VILLA JULIE

MASTERPLAN

PET. EXH 24

CROZIER PROBST-

view uphill to top of ridge

the open, agricultural zone and the campus setback from Los Valley Rd. create and maintain the rural character of the school & the valley

650

existing entrance & signage

limited site distance & visibility of entrance

limited visibility from Greenspring V. Rd.

farmed land

lawn

entry drive is well landscaped - most of the campus is not visible from the entry drive

athletic fields

field area is enclosed by hedges

landscaped area is part of entry image & sequence

ADM

open space

building & campus "entry" zone

LIBRARY

terrace

wall

ART

lawn

intimate courtyard

CLASS ROOMS

service area

open space has large grove of beautiful oaks

attractive building edge

maintenance garage

lawn

lawn area is bounded by building, parking & large grove of trees

parking

hedge of large cedars

day care area

has large trees in front, poorly defined vehicular circulation & woods behind

storage bldg.

undefined pedestrian circulation

open space

parking

parking & open space area is bounded by building & woods

circulation issue

large, mature trees

parking

parking lot slopes to the south & is bounded by trees on three sides.

tennis courts

courts are lower than parking & bounded by trees.

large, mature trees

dense, secondary growth

vista to major ridge

dense woods

VILLA JULIE COLLEGE

ANALYSIS

7.17.90

vehicular

VILLA JULIE COLLEGE

VICINITY MAP

Villa Julie College

Sisters of Notre Dame de Namur Retirement Home

Catherine J. Ballich

Nelson H. Hendler & Lee M. Hendler

Thomas F. O'Brecht

Andrea F. Lewis & Neil J. Lewis

Thomas W. Brundige III & Marianne M. Brundige

Koinonia Partnership

Lucy T. Howard

Mary S. Arnold & Charles J. Arnold

Russell Morris et al

The Sisters of Notre dame de Namur, Inc.

Richard H. Piet

Ivy Hill Partnership

Gail R. Gann & Donald S. Gann

Phoebe Berman & Edgar F. Berman

Martha Symington Jenney

Elizabeth S. Mitchell

Thomas W. Smith

Mary Rodgers & Timothy Rodgers

Melanie Van Sant & Paul Van Sant

Estate of Bettie Robinson

Wilbert Sirois & Marcia Whitman

Elizabeth Blue & Richard Blue

Ryda Levi & Robert Levi

Northwest Land Corp.

Clark Farm Associates

Judy Grass & Martin Grass

Laurie Gill & Gary Gill

Florence Lamble & William Lamble

Kingsley Moore & Garland Moore

Irene Maumenee

Elizabeth Hagan & Henry Hagan

Mary Sites & Robert Sites

Green Spring Avenue

Greenspring Valley Road

Jones Falls

Hillside Road

CROZIER ASSOCIATE

LANDSCAPE ARCHITECTURE AND LAND PLANNING

Mill Centre Suite 400
3909 Chestnut Avenue
Baltimore, Maryland 21211
301-366-3330

0 200 400 800

VILLA JULIE COLLEGE

AERIAL PHOTO

CROZIER
ASSOCIATES
LANDSCAPE ARCHITECTURE
AND LAND PLANNING
Mill Centre, Suite 400
3000 Chestnut Avenue
Baltimore, Maryland 21211
301-366-3330 FAX-366-3565

0 200 400 800

Petitioner's No. 11

Dev. Exhibit 13 Book A

94-285-SPHA

Green Spring Valley Historic District

VILLA JULIE COLLEGE

CONTEXT MAP

CROZIER ASSOCIATES
LANDSCAPE ARCHITECTURE AND LAND PLANNING
Mill Centre, Suite 400
3000 Chestnut Avenue
Baltimore, Maryland 21211

0 1000 2000 4000

SUBURBIA
ACADEMY ACRES
TIMBER GROVE
GUNRICH
HUNTER'S GLEN
ST. GEORGES STATION
VELVET HILLS
VALLEY HILLS
WORTHINGTON
WOODSYDE WORTHINGTON
WOODSYDE HEIGHTS
CHESTNUT RIDGE
AUTUMN WINDS
THE WOODS
GREEN VALLEY
BROADRIDGE
RIDGEMONT
BOXER HILL PARK
PADONIA CROSSING
PADONIA PARK
CHAPEL WOODS
BROOKSHIRE
HAMMERSHIRE PARK
GWYNNBROOK
DELIGHT
CEDARMERE
CEDARMERE ELEM. SCH
PLEASANT HILL PARK
MARYLAND CENTER FOR PUBLIC BROADCASTING (WMPB)
JEWISH COMMUNITY CENTER
GWYNNBROOK WILDLIFE MANAGEMENT AREA
DEPT. OF MENTAL HYGIENE
GARRISON FOREST VETERANS CEMETERY
HAR SINAI CEM
THE CAVES
PINEWOOD FARM
CRONHARDT
CAVES PARK
FIVE SPRINGS
GREENWOOD
CHESTNUT RIDGE COUNTRY CLUB
FALLSCROFT
BALTIMORE COUNTRY CLUB
CHAPEL HILL
HILL FARM
MARYVALE PREPARATORY SCHOOL
TRINITY COLLEGE
WOODWARD
ST. PAUL'S SCHOOL
BROOKLANDWOODS
SEMINARY SPRINGS
SEMINARY RIDGE
THE MEADOWS OF GREEN SPRING
BROOKLANDVILLE
GREENSPRING STATION SHOP CTR.
ROSEWOOD
CAVESWOOD
VELVET RIDGE
CAVES FOREST
BAIS YAAKOV SCHOOL FOR GIRLS
VALLEY HEIGHTS
GREENSPRING
KOINONIA FOUNDATION
SISTERS OF NOTRE DAME DE NAMUR
Villa Julie College
PIKESVILLE SPORTSMEN CLUB
BELLTOWN
MORNINGSIDE HEIGHTS
OWINGS MILLS ELEM. SCH
OWINGS MILLS JR. SR. H.S.
OWINGS MILLS CENTER
OWINGS MILLS INDUSTRIAL PARK
TOLLGATE
GARRISON FOREST
DUNBAR
SANDALWOOD
ECCLESTON VALLEY
BARONET WOODS
VELVET VALLEY
BAPTIST HOME OF MARYLAND
THE JEMICY SCHOOL
GREEN SPRING VALLEY
LYSTRA
STEVENSON
ST. TIMOTHY'S SCHOOL
TIMOTHY'S GREEN
THE CLOISTERS (CHILDRENS MUSEUM)
BROOKWOOD
BRIDLESHIRE
STEVENSON PARK
STANTON WOODS
KEYSER WOODS
GLENMAR
FORT GARRISON ELEM. SCH
HALCYON GATE
GARRISON FARMS
LONG MEADOW
WEST WOODVALLEY
CRANWOOD
STEVENSON RIDGE
EDEN ROC
STEVENSON CROSSING
LONG MEADOW EST
DUMBARTON HGTS
BETH TFILOH CONG.
ROCKLAND
ROCKLAND RUN
TWIN RIDGE
RUXTON HILLS
GREEN GATE
THE PARK SCHOOL
MOUNT WILSON
NER ISRAEL RABBINICAL COLLEGE
BERKSHIRE HILLS
FISHTOWN
LYON ACRES
MC DONOGH SCHOOL
MC DONOGH
THOMAS WILSON CENTER (CLOSED)
WOODHOLME COUNTRY CLUB
DRUID RIDGE CEMETERY
Pikesville Reservoir
PIKESVILLE
SUBURBAN CLUB GOLF COURSE
VALLEY STREAM
SUMMIT PARK
SUMMIT PARK ELEM. SCH
PIKESVILLE SR. H.S.
PIKESVILLE MID. SCH
DUMBARTON
WELLWOOD
WELLWOOD E.S.
GREEN SPRING MALL
GREENSPRING MANOR
RICWICK
RANDLEIGH
BONNIE RIDGE
BONNIE VIEW
GOLF COURSE
BALTIMORE
DIXON HILL
CHESWOLDE
GARRISON
VILLAGE OF QUEEN ANNE
CRADDOCK ESTATES
McDONOGH TOWNSHIP PARK
CHATTOLANEE
GREEN SPRING VALLEY HUNT CLUB
ATHLETIC FIELDS
OWINGS MILLS (WCBM)
RADIO TOWERS (WBAL)
RADIO TOWERS (WCAO)
WILLOW GLEN NORTH
WILLOW GLEN NORTH PARK
WINAND E.S.
BELLE FARM ESTATES
OLD COURT ESTATES
OLD COURT ROAD
ST. THOMAS SHOP CTR.
GARRISON FOREST SCHOOL
S.H.A. DIST 4
Owings Mills
OWINGS MILLS BELTWAY CENTER
Green Spring Valley
Valley
Falls
Run
Branch
Jones
Moores
Slaughterhouse
Gwynnbrook
Dipping Pond
Red Run Boulevard
Northwest Expressway
Baltimore Beltway

VILLA JULIE COLLEGE

ZONING

Villa Julie College

GREENSPRING VALLEY ROAD

STEVENSON ROAD

GREEN SPRING AVENUE

PARK HEIGHTS AVENUE

MARYVALE SCHOOL

ST. PAUL'S SCHOOL

KOINONIA FOUNDATION

BAIS YAAKOV SCHOOL FOR GIRLS

ST. TIMOTHY'S

GARRISON FOREST

BALTIMORE BELTWAY

BALTIMORE

0 1000 3000 5000 FEET

(SHEET 28)

BALTIMORE COUNTY OFFICE
OF PLANNING AND ZONING

PIKESVILLE
BALTIMORE COUNTY BASE MAP SERIES

REVISED DATE		
NOV. 60	FEB 74	
SEPT. 64	SEPT. 74	
MAR. 66	JUNE 75	
AUG. 67	FEB. 76	
SEPT. 68	MAY 76	
MAR. 69	JAN. 77	
MAY. 70	MAR. 78	
AUG. 72		
JAN. 73		

20

(SHEET NW-13-E)

W 28,500 North

W 27,000

W 25,500

W 24,000

N 48,000

N 47,000

N 46,000

N 45,000

N 44,000

79-176 A

88-156 A

80-152 A

84-154 X

70-116-X
80-164 X
85-258 SPH

92-285-XA

87-201-SPH
10 PO.B.P.
185.43 Ac.

88-76-A

T R E E S

R. D. P.

ROAD

PRIVATE ROAD

ORCHARD

BRANCH

North Branch

SPRING

DITCH

VALLEY

#0081

#0085

#0086

#0087

#0088

#0089

#0090

#0091

#0092

#0093

#0094

#0095

#0096

#0097

#0098

#0099

#0100

#0101

#0102

#0103

#0104

#0105

#0106

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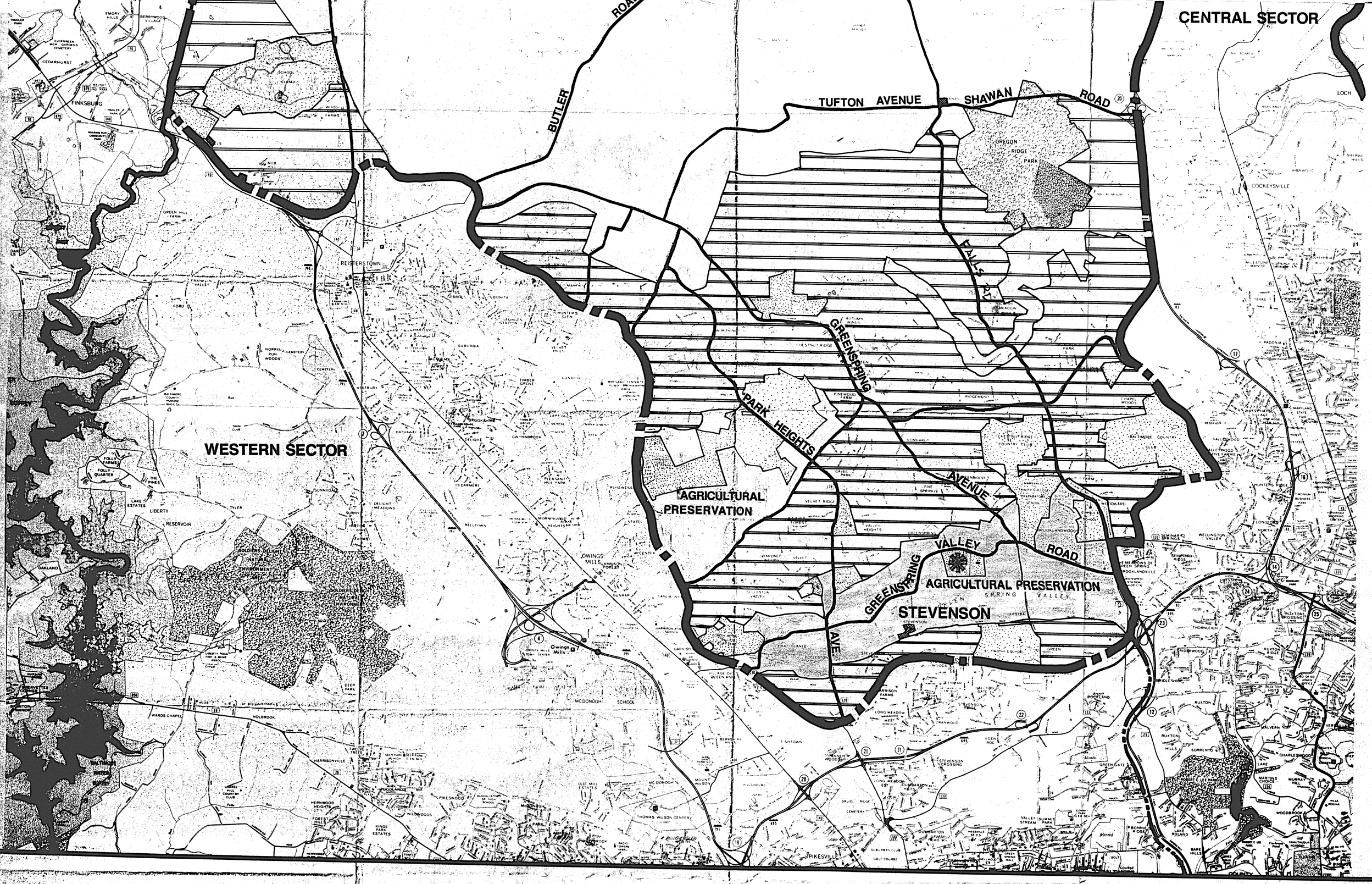
#0120

#0121

#0122

#0123

#0124



NORTHERN SECTOR

LAND USE PLAN

County Executive
Dennis F. Rasmussen

N

scale
2000 0 2000 4000 feet

Map No.
NS-2a

ADOPTED FEBRUARY 5, 1990

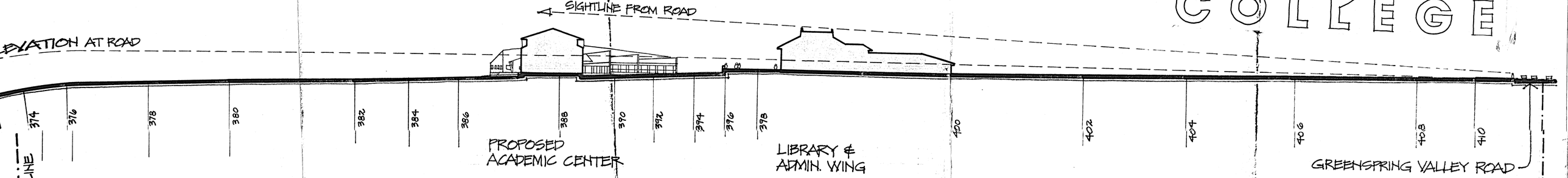
LEGEND

- SECTOR BOUNDARY
- RESOURCE CONSERVATION
- AGRICULTURAL PRESERVATION
- RURAL PROTECTION *
- PARK/OPEN SPACE
- INSTITUTIONAL/PRIVATE OPEN SPACE *
- SUBURBAN RESIDENTIAL
- LOW DENSITY URBAN RESIDENTIAL
- MEDIUM DENSITY URBAN RESIDENTIAL
- HIGH-RISE URBAN RESIDENTIAL
- COMMERCIAL
- OFFICE
- OFFICE/INDUSTRIAL
- INDUSTRIAL

VILLA JULIE COLLEGE

90 285 SHAKA

VILLA JULIE COLLEGE



SITE SECTION A-A

SCALE 1" = 40'

MARCH 1992

NEW ACADEMIC CENTER & ADDITION TO LRC VILLA JULIE COLLEGE
PROBST MASON ING. ARCHITECTS • CROZIER ASSOC. LAND PLANNERS

98-285 SPRA

BOA

PETITIONER'S

EXHIBITS

CON'T

1992 0285 "A"

Supplemental

(9)

ORM CD-64
(Revised)
Prescribed by
DAO. 201-17

38 BofA Ref Ed #20
ID

U.S. DEPARTMENT OF COMMERCE

Asheville, N.C.

I CERTIFY that the attached are authentic and true copies of meteorological records on file in the NATIONAL CLIMATIC DATA CENTER, ASHEVILLE, NORTH CAROLINA.

FOR
RICHARD M. DAVIS
RECORDS CUSTODIAN
DATA ADMINISTRATOR
(Official Title)

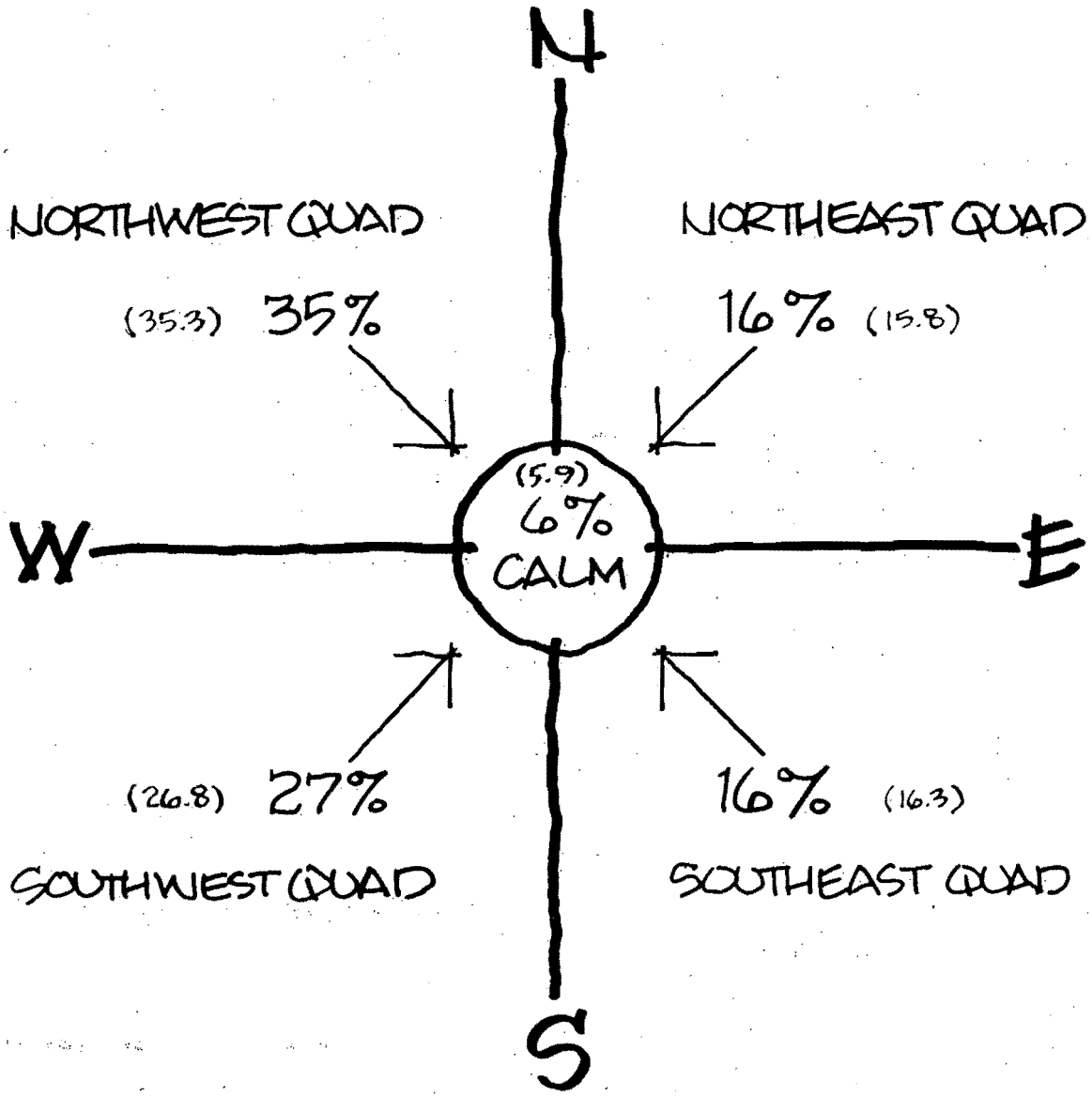
.....

I HEREBY CERTIFY THAT RICHARD M. DAVIS *RECORDS CUSTODIAN, who signed the foregoing certificate, is now, and was at the time of signing, DATA ADMINISTRATOR, NATIONAL CLIMATIC DATA CENTER, and that full faith and credit should be given his certificate as such. I further state that I am the person to whom the said custodian reports.*

IN WITNESS WHEREOF, I have hereunto subscribed my name and caused the seal of the Department of Commerce to be affixed on this date: MAR 0 2 1993

For the SECRETARY OF COMMERCE:

FOR *KENNETH D. HADEEN*
DIRECTOR, NATIONAL CLIMATIC DATA CENTER
(Certifying Officer)



By A Cet Eck #21

ID

Calm Wind & Wind Direction by Percent of Frequency

As recorded on Certified Data(attached) from the National Climatic Data Center, Asheville, North Carolina

Source: Revised Uniform Summary of Surface Weather Observations
Hourly Readings, BWI Airport, 1974 thru 1981(69,808 readings)

Diagram: by Crozier Associates summarizes the above data (all months, all hours)

DAFT McCUNE WALKER, INC. 200 E. PENNA. AVE. 21204 J.O.# 82023Z

R.C. 2

W16,500

#11

Board of Appeals Petitioner's Exhibit #22

Case # 89-101-SPHX

Villa Julie 92-365-SPHA

BL-CR

GREEN STATE SHOPPING CENTER

25

RO

PETITIONER'S EXHIBIT 2

DRAWN

CROZIER
ASSOCIATES

Pet Exh #23

SAMUEL CROZIER

Education
Ohio State University, Bachelor of Landscape Architecture, 1962
University of Michigan, Master of Landscape Architecture, 1964

Registration
State of Maryland / Landscape Architecture

Professional Background
20 years as principal of Crozier Associates, 10 years with other firms

Qualifications
After three years with the Rouse Company working with multidisciplinary teams on large scale land planning projects in the new town of Columbia, and on land use feasibility studies for housing, industrial and commercial projects throughout the country, Sam Crozier began his own firm in Baltimore, Md. Under his guidance, Crozier Associates has developed a reputation for unique and creative land planning and landscape architecture.

Sam Crozier has successfully completed many public, private and institutional projects ranging from zoning, land use and masterplanning to detailed site design and construction implementation. Major areas of his practice have included land use planning, zoning studies, commercial and industrial development, park design, housing and community development and institutional and campus planning.

Significant Institutional Projects

Villa Julie College for Villa Julie College through Probst-Mason, Inc. Stevenson, Maryland overall masterplanning and site design for a new academic buildings and associated site improvements

UMBC New Residence Hall for UMBC and the State of Maryland D.G.S. through Probst-Mason, Inc. Catonsville, MD. masterplanning and site design for a major dormitory included building siting, two major plazas and walkway systems, lighting and landscaping

St. Timothy's School for St. Timothy's School Stevenson, MD. overall campus masterplanning for new buildings, vehicular and pedestrian circulation, recreation facilities and campus wide landscaping

Frederick Community College for Frederick Community College through Probst-Mason, Inc. Frederick, Maryland site analysis, overall campus masterplanning for new buildings, roadways and parking, pedestrian systems and landscaping

Prince George's Community College for Prince George's Community College through Probst-Mason, Inc. Largo, Maryland campus masterplanning and site design for new building additions, new and renovated vehicular and pedestrian circulation

Professional Affiliations
American Society of Landscape Architects, member
ASLA Maryland Chapter, president 1992
State of Maryland Board of Examiners of Landscape Architects 1982
Baltimore County Master Plan Review Committee, 1990
Baltimore County Steering Committee for the Design Review Panel, 1992

LANDSCAPE ARCHITECTURE
AND LAND PLANNING

Mill Centre, Suite 400
3000 Chesnut Avenue
Baltimore, Maryland 21211
410/366-3330

VILLA JULIE COLLEGE

VICINITY MAP

Villa Julie College

Sisters of Notre Dame de Namur Retirement Home

Andrea F. Lewis & Neil J. Lewis

Russell Morris et al

The Sisters of Notre dame de Namur, Inc.

Lucy T. Howard

Mary S. Arnold & Charles J. Arnold

Phoebe Berman & Edgar F. Berman

Catherine J. Ballich

Nelson H. Hendler & Lee M. Hendler

Thomas F. O'Brecht

Thomas W. Brundige III & Marianne M. Brundige

Koinonia Partnership

Richard H. Piet

Ivy Hill Partnership

Gail R. Gann & Donald S. Gann

Melanie Van Sant & Paul Van Sant

Estate of Bettie Robinson

Martha Symington Jenney

Elizabeth S. Mitchell

Thomas W. Smith

Wilbert Sirota & Marcia Whitman

Ryda Levi & Robert Levi

Elizabeth Blue & Richard Blue

Mary Rodgers & Timothy Rodgers

Northwest Land Corp.

Florence Lamble & William Lamble

Judy Grass & Martin Grass

Laurie Gill & Gary Gill

Kingsley Moore & Garland Moore

Clark Farm Associates

Elizabeth Hagan & Henry Hagan

Mary Sites & Robert Sites

Irene Maumenee

Greenspring Valley Road

Green Spring Avenue

Hillside Road

Jones Falls

Scale: 0 200 400 800

CROZIER ASSOCIATE
LANDSCAPE ARCHITECTURE AND LAND PLANNING
Mill Centre, Suite 400
3000 Chestnut Avenue
Baltimore, Maryland 21211
301-366-3330

Thomas F. O'Brecht

Nelson H. Herdler
& Lee M. Herdler

Thomas W. Brundige III
& Marianne M. Brundige

Villa Julie
College

Elizabeth S. Mitchell

Sisters of Notre Dame
de Namur
Retirement Home

Northwest Land Corp.

Clark Farm Associates

Greenspring Valley Road

Green Spring Avenue

Jones Falls

Hillside Road

VILLA JULIE COLLEGE

VICINITY MAP

Bd A Amt 34B

92-285 SP(A)

Pet No 16

CROZIER
ASSOCIATE

LANDSCAPE ARCHITECTURE
AND LAND PLANNING

Mill Centre Suite 400
3000 Chestnut Avenue
Baltimore, Maryland 21211
301- 366- 3330

0 200 400 800

STATE OF MARYLAND
DEPARTMENT OF THE ENVIRONMENT
2500 Broening Highway Baltimore, Maryland 21224
(410) 631- 3574

William Donald Schaefer
Governor

Robert Perciasepe
Secretary

April 22, 1992

Mr. Gene L. Neff, Director
Baltimore County Department
of Public Works
County Office Building
Towson MD 21204

Dear Mr. Neff: Gene

The Maryland Department of the Environment (MDE) was surprised at the contents of a letter dated March 30 from Mr. Oscar Keys of your staff regarding the discharge permit for Villa Julie College. Mr. Keys may not have been aware that MDE has worked closely with the Baltimore County Department of Environmental Protection and Resources Management and the Department of Public Works in addressing the sewage disposal situation at Villa Julie. The Department of Environmental Protection and Resources Management has clearly determined that the College's septic system is not repairable and poses a threat to the public health and the waters of the State. We are in agreement that neither controlling the overflow through periodic pumping and hauling of the septic tank contents nor installation of holding tanks, which are prohibited when other means of sewage disposal can be made available, are viable long-term solutions to the problem.

As you know, I have personally talked to you about the feasibility of providing public sewer service to the Villa Julie facility. You reaffirmed the County's position that it could not extend sewers to serve the Villa Julie facility and, therefore, the County had amended its Water and Sewer Plan to allow a treatment plant for addressing the sewage disposal needs of the College. Although County zoning action will control the development of the site, and will be reflected in the size of the treatment plant that is constructed, the discharge permit will be issued to meet water quality considerations and to abate a failing septic system in a manner that will not create water quality problems.

Please clarify your Department's position in this matter.

Sincerely,

Merrylin Zaw-Mon, Deputy Director
Water Management Administration

MZM/ba

cc: Mr. James Dieter
Mr. J. L. Hearn

Ltr Exh #25
for ID.

GN
Neff

Baltimore County Government
Department of Public Works

111 West Chesapeake Avenue
Towson, MD 21204-4604

May 27, 1992

Ms. Marrylin Zaw-Mon
Deputy Director
Water Management Administration
Maryland Department of Environment
2500 Broening Highway
Baltimore, Maryland 21224

Dear Ms. Zaw-Mon:

I have now had the opportunity to research your April 22nd, 1992 letter regarding Villa Julie College.

First of all, I'm satisfied that the college's septic system has failed. I'm also of the opinion that periodic pumping and hauling is not a permanent solution to the college's problem. After again reviewing all of the studies that have been done, I continue to recognize that a treatment plant is necessary to meet present and future needs of the institution. I'm impressed with the fact that your department moved quickly to issue the discharge permit in order that the college could begin design of a plant, but unfortunately the need for a zoning hearing may cause some delay in construction.

I trust this letter clearly states my department's position. I have already testified in the zoning hearing to the above and supported the need for a permanent solution which can only be accomplished by a treatment plant.

We stand ready to assist your department in anyway in order to resolve this waste water issue.

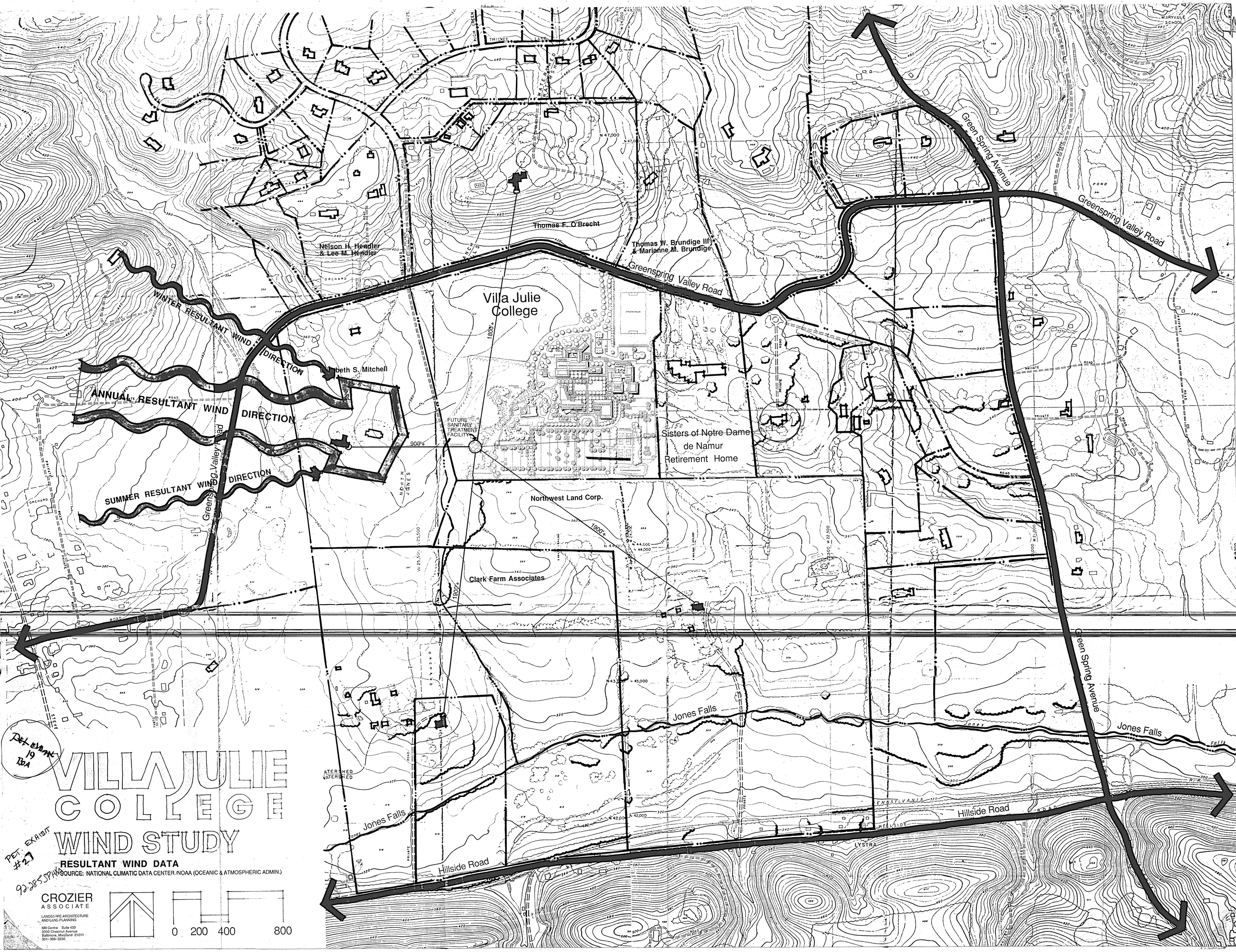
Very truly yours,

Gene L. Neff, P.E.
Director

GLN:pah

92.026/DAASGLN

BofA Pet Exh #26
for ID.



VILLA JULIE COLLEGE

WIND STUDY

RESULTANT WIND DATA

SOURCE: NATIONAL CLIMATIC DATA CENTER /NOAA (OCEANIC & ATMOSPHERIC ADMIN.)

Pet. Exhibit #21 93-285-SPHA

Pet. Exhibit 19 BOA

0 200 400 800

CROZIER ASSOCIATE

LANDSCAPE ARCHITECTURE AND LAND PLANNING

Mill Centre Suite 400
2000 Chestnut Avenue
Baltimore, Maryland 21211
301-366-3330

Pet. Exh #27

The Traffic Group

WES GUCKERT
PRESIDENT

Wes Guckert is a recognized and well respected expert in the field of traffic engineering and transportation planning. Serving as a technical advisor in the areas of traffic impact analysis, traffic signal design, traffic circulation, access studies and transportation planning, Mr. Guckert has played a major role in over 2,000 projects that span the urban and suburban areas of Maryland, Virginia, Pennsylvania, New Jersey, and Delaware. As a result of his expertise, Mr. Guckert has provided consultation on projects throughout the United States.

Early in his career, Mr. Guckert served for five years with the Maryland SHA Traffic Division. Prior to founding The Traffic Group, Mr. Guckert served as a traffic engineering consultant for eight years. As Project Manager for various public agency projects, he was responsible for the Maryland 210 Bus Stop Study, the Capital Centre Access Study and the University of Maryland Access Study. He has directed the design and implementation of traffic access systems for regional projects such as National Business Park, Presidential Corporate Center, Largo Town Center, the Milestone Property, Wheaton Plaza, Salisbury Centre, PortAmerica, Bowie New Town Centre, TowsonTown Center and the Annapolis Mall Expansion.

Mr. Guckert has undertaken Traffic and Transportation Studies for more than ten Wal-Mart Stores in the Maryland region, and within the last two years, The Traffic Group, Inc. has undertaken numerous studies of Value-Oriented Centers and other Regional Malls, including the Great Mall of the Bay Area (Milpitas, California); Chesapeake Factory Outlet Stores (Queenstown and Perryville, Maryland); The Mall at Steamtown (Scranton, Pennsylvania); and is working on two other Great Mall Projects in Kansas City and Tampa.

A renowned expert in the field, Mr. Guckert is often asked to serve as an expert witness, testifying before County and Municipal Boards and District Courts on traffic engineering and transportation planning issues.

In 1992, in anticipation of enforcement of the 1990 Clean Air Act Amendments, Mr. Guckert formed "Transportation Coordinators" as a division of The Traffic Group, Inc. Transportation Coordinators will provide consultation to major employers who need to increase employee automobile occupancy in order to comply with the Clean Air Act Amendments to reduce automobile pollutants.

JOB HISTORY

1985-Present
President, The Traffic Group, Inc.

1977-1985
Traffic and Transportation Planning Consultant

1972-1977
Maryland State Highway Administration—Traffic Division
Assistant Regional Traffic Engineer

EDUCATIONAL BACKGROUND

Bachelor of Science — University of the State of New York
Civil Engineering Preparation: Johns Hopkins University, Towson State University, and Essex Community College
Traffic Engineering Courses: Northwestern University Traffic Institute
University of Tennessee Transportation Center
University of Maryland

AFFILIATIONS

Institute of Transportation Engineers (I.T.E.)
Urban Land Institute (U.L.I.)
American Planning Association (A.P.A.)
Transportation Research Board (T.R.B.)

I.T.E. PROFESSIONAL COMMITTEES

Traffic Considerations for Special Events
Parking Facilities for Industrial Plants
Internal Transportation Systems for Majority Activity Centers

PUBLICATIONS

"The Evolution of Adequate Public Facilities and Their Effectiveness as Growth Management Tools in Maryland" (Co-Author) – I.T.E. 1991 Annual Meeting
"Trip Generation Comparisons of Club Warehouse Stores"
"Value-Oriented Retail Centers – A Follow-Up Report"

PUBLIC AGENCIES CLIENTS

Anne Arundel County, Department of Public Works
Baltimore County, Department of Public Works
Calvert County, Department of Planning and Zoning
City of Westminster, Carroll County
Delaware, Department of Transportation
Federal Highway Administration
Maryland State Highway Administration
Maryland-National Capital Park & Planning Comm., Pr. George's Co. and Montgomery Co.
Prince George's County, Department of Public Works
Town of Bel Air, Harford County
Town of Kensington, Montgomery Co.
Town of Mt. Airy, Carroll County
Montgomery County, Department of Transportation
Washington County, Department of Public Works

The Traffic Group, Inc. Suite 600 40 W. Chesapeake Avenue Towson, Maryland 21204 (410) 583-8405 Fax (410) 321-8458

Cat Sch #28

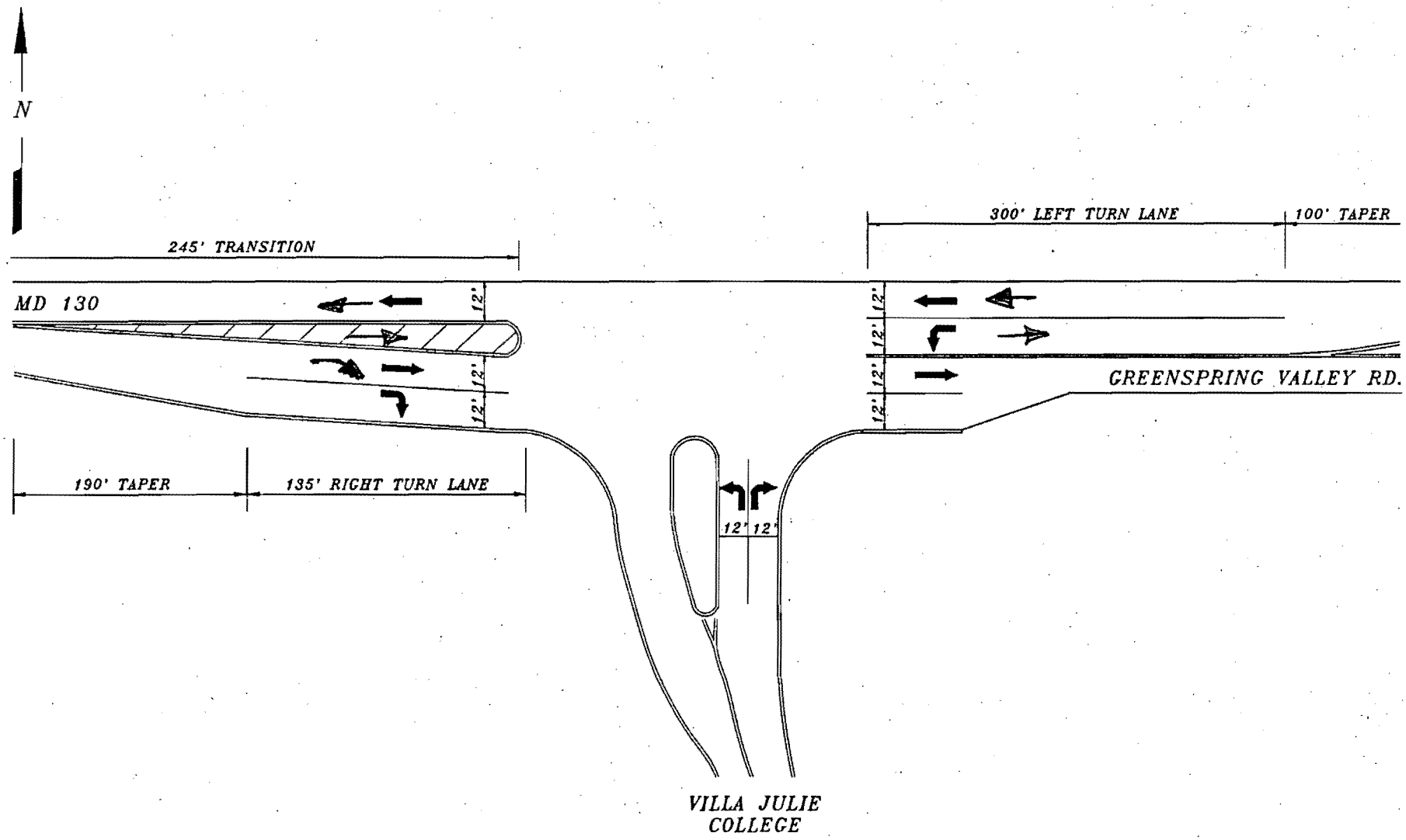
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Count	376	458	8/05/92	C		Falls Rd	Greenspring Valley Rd	Station Dr		Traff	
Count	110	392	2/05/92	B		Falls Rd	Lake Ave	Lake Falls Vil S. C.		Traff	
Count	104	418	2/06/92	B		Falls Rd	Old Court Rd	Ruxton Rd		Traff	
Count	174	341	5/28/91	C		Falls Rd	Seminary Rd			Traff	
Count	237	390	4/09/91	D	A-P	Falls Rd	Shawan Rd	Tufton Ave		Traff	
Count	129	449	5/28/91	B		Falls Rd (SB)	Falls Rd (EB)	Jones Falls Expy	Joppa Rd	Traff	
Count	341	489	8/10/92	A		Fifth Ave	Freeway	Hollins Ferry Rd		Traff	
Count	266	298	2/25/91	A		Fitch Ave	Rossville Blvd			Traff	
State	283	---	6/16/92	A		Fontana La	Philadelphia Rd	Golden Ring Plaza		Traff	
Count	067	044	1/25/93	C		Forest Park Ave	Ingleside Ave	Security Blvd		Traff	
Count	382	455	1/27/92	B		Fork Rd	Harford Rd	Sunshine Ave		Traff	
Count	260	281	9/12/91	A		Forty-Eighth St	German Hill Rd			Traff	
Count	281	311	8/17/92	C		Francke Ave	Kurtz Ave	Ridgely Rd	York Ridge S.C.	Traff	
Count	389	467	12/02/91	B		Franklin Blvd	W Cherry Hill Rd	Tarragon Rd		Traff	
Count	388	345	8/26/92	B		Franklin Square Dr	Rossville Blvd			Traff	
Count	006	292	1/15/92	A		Frederick Rd	Melvin Ave	Sanford Ave		Traff	
Count	209	193	3/31/92	D		Frederick Rd	N Rolling Rd			Traff	
Count	337	403	8/26/91	B		Frederick Rd	Paradise Ave			Traff	
Count	018	295	11/20/90	B		Frederick Rd	Prospect Ave			Traff	
Count	169	151	10/07/92	C		Frederick Rd	S Rolling Rd			Traff	
Count	149	066	11/30/92	A		Galloway Ave	York Rd			Traff	
State	S 078	---	7/27/92	A		Garrison View Rd	Reisterstown Rd	Sweetheart Paper Co.		Traff	
Count	075	012	5/14/91	C	A-P	German Hill Rd	Merritt Blvd			Traff	
Count	224	238	11/07/90	A		German Hill Rd	Plainfield Rd			Traff	
Count	047	365	1/02/92	A		Glen Keith Blvd	Loch Raven Blvd			Traff	
State	S 079	---	10/01/92	D		Golden Ring Rd	Philadelphia Rd			Traff	
Count	245	278	12/29/92	A		Golden Ring Rd	Weyburn Rd			Traff	
State	S 080	---	1/29/93	B		Golden Ring Rd (EB)	Kenwood Ave (SB)	Golden Ring Rd (WB)	Kenwood Ave (NB)	Traff	
Count	113	061	10/28/92	C		Goucher Blvd	Joppa Rd			Traff	
Count	166	159	9/10/90	A		Goucher Blvd	Loch Raven Blvd			Traff	
Count	217	227	6/10/92	A		Goucher Blvd	Prince Rd	Acorn Cir		Traff	
Count	189	060	2/04/92	C		Goucher Blvd	Providence Rd			Traff	
Count	095	036	10/21/92	C		Goucher Blvd	Putty Hill Ave			Traff	
Count	168	158	8/05/91	A		Goucher Blvd	Taylor Ave			Traff	
Count	279	298	2/20/92	B		Greenridge Rd	York Rd			Traff	
Count	180	160	7/07/92	B		Greens La	Liberty Rd	McDonogh Rd		Traff	
Count	265	289	5/12/92	D		Greenside Dr	Padonia Rd	Padonia Vil S.C.		Traff	
Count	482	482	2/13/92	A		Greenspring Ave	Green Summit Rd			Traff	
Count	327	377	12/23/92	A		Greenspring Ave	Greenspring Valley Rd			Traff	
Count	142	113	12/10/91	B		Greenspring Ave	Old Court Rd			Traff	
Count	883	030	3/10/92	C		Greenspring Ave	Smith Ave			Traff	
Count	278	304	2/14/91	A		Greenspring Ave	Willow Glen Dr			Traff	
Count	238	251	10/15/91	C		Greenspring Dr	Timonium Rd			Traff	
State	S 081	---	9/19/91	B		Greenspring Valley Rd	Park Heights Ave			Traff	
State	S 082	---	4/22/92	A		Greenspring Valley Rd	Reisterstown Rd			Traff	
Count	286	316	10/10/90	A		Greenwood Rd	Greenwood Pl	Old Court Rd		Traff	
Count	203	058	1/21/92	B		Gwynn Oak Ave	Security Blvd			Traff	
Count	111	043	5/21/91	B		Gwynn Oak Ave	Windsor Mill Rd	Englewood Ave		Traff	
Count	405	475	1/10/92	A		Gwynnbrook Ave	Owings Mills Blvd			Traff	
State	S 083	---	9/01/92	B		Halethorpe Farms Rd	Selma Ave	Washington Blvd		Traff	
State	S 084	---	10/23/91	B		Hamilton Ave	Rosedale Ave	Philadelphia Rd		Traff	

EXHIBIT 8
VILLA JULIE COLLEGE CURRENT STUDENT ENROLLMENT ON CAMPUS
STUDENT POPULATION BY DAY AND HOUR

Time	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
7-8 AM	—	4	16	35	27	2
8-9	262	244	229	250	211	2
9-10	485	599	429	600	397	158
10-11	518	436	511	505	487	158
11-12 NOON	491	496	467	477	480	126
12-1 PM	458	351	462	425	461	38
1-2	440	2	400	16	379	47
2-3	372	351	330	329	233	47
3-4	256	417	263	449	84	37
4-5	256	249	171	271	—	2
5-6	250	167	171	268	—	—
6-7	333	224	265	288	—	—
7-8	437	436	441	420	—	—
8-9	398	447	397	409	—	—
9-10 PM	343	338	328	253	—	—

Source: Villa Julie College - 1993

Pet. Exh #29



THE TRAFFIC GROUP,INC.

NOT TO SCALE

Cat. Exh #30

EXHIBIT 16
PROPOSED LANE USE AT
VILLA JULIE COLLEGE

1992
BASIC SERVICES
TRANSPORTATION
AREA MAP

○ "D" LEVEL INTERSECTIO
◒ "E" LEVEL INTERSECTIO
● "F" LEVEL INTERSECTIO

October 17, 1991

T-310
T-0
T-455
T-360
T-1115
T-730
T-385
T-680
T-765
T-0
T-175
T-0
T-400
T-0
T-0
T-0
T-490
T-845
T-245
T-715
T-1060
T-1510
T-390
T-505
T-0

APPROVED: BALTIMORE COUNTY PLANNING BOARD.

Harold L. Rea — 10/17/91

CHAIRMAN: BALTIMORE COUNTY PLANNING BOARD — DATE

THIS MAP HAS BEEN ENACTED UNDER BILL NUMBER 197-91 AND IS A PART OF THE BALTIMORE COUNTY ZONING REGULATIONS, 1955, AS AMENDED BY THAT BILL ADOPTED JANUARY 6, 1992.

William S. Howard Jr.

COUNTY COUNCIL OF BALTIMORE COUNTY

Frederick N. Chadsey, IV, P.E.

Coordinator of Residential
Land Development

Towson

Mr. Chadsey has been with the firm since March, 1990. His fields of expertise include

Construction Specifications

Cost Estimating

Expert Witness - Zoning

Flood Plain Studies & Hydraulics

Project Management

Computer Aided Design & Drafting (CADD)

Storm Water Management

Residential, Commercial, Institutional & Industrial Project
Planning & Design

Pet. Exh. #32

Prior to joining Stephens & Associates, Mr. Chadsey was an Associate, Project Manager and CADD Production Coordinator for a local landscape architecture, land planning, engineering and surveying firm. Earlier, he was a Project Manager and Project Engineer for an engineering firm in Oklahoma. In Oklahoma he was involved in the design of several residential, commercial and industrial projects as well as serving as a consulting engineer for several municipalities.

Registration

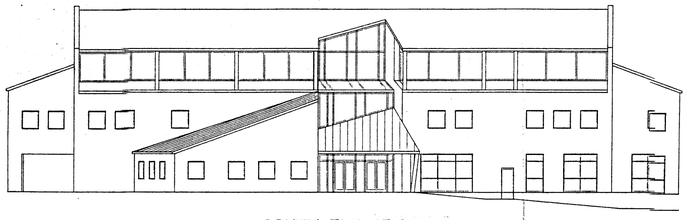
Professional Engineer, Maryland
Professional Engineer, Oklahoma

Education

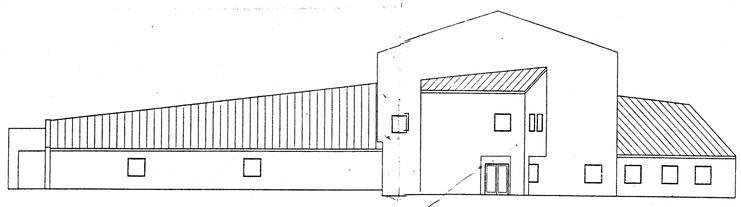
M.S. Water Resource Engineering - Oklahoma State University
B.S. Civil Engineering - Oklahoma State University

Professional Organizations

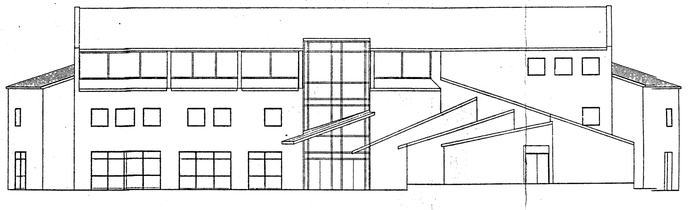
Member - American Society of Civil Engineers
Member - National Society of Professional Engineers (P.E.P.P.)
Member - Engineer's Society of Baltimore



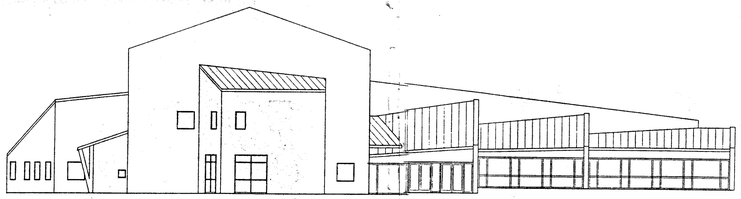
SOUTH ELEVATION



WEST ELEVATION



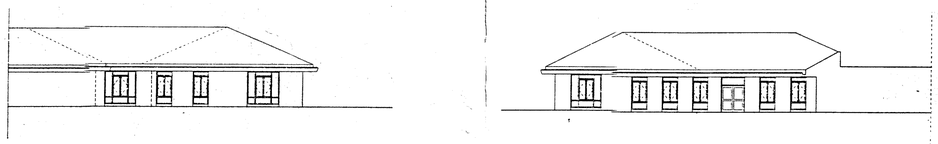
NORTH ELEVATION



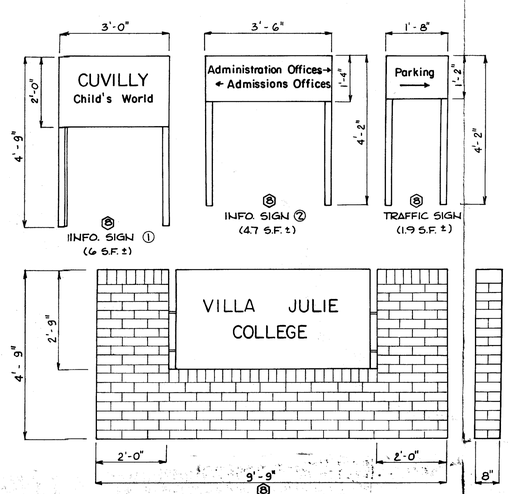
EAST ELEVATION

ACADEMIC CENTER (F)

SEE GENERAL NOTE #24



L.R.C. ADDITION (G)



SIGN VARIANCES

AS PER 413.1.b

GEORGE WILLIAM STEPHENS, JR.
AND ASSOCIATES, INC.

CIVIL ENGINEERS & LAND SURVEYORS

658 KENILWORTH DRIVE, SUITE 100
TOWSON, MARYLAND 21204
(301) 825-8120

29. EXISTING HOUSE #1, CARETAKER RESIDENCE, INCLUDED EXCESS STRUCTURES IN REARYARD, WEST OF BUILDING 'C' & 'E', DON'T EXCEED 35' IN HEIGHT. HOUSE #1 IS CURRENTLY BEING USED IN BY A CARE TAKER OF THE SITE.

26. "DAY CARE CENTER"(E) IS A CHILD DEVELOPMENT CENTER USED BY THE STAFF OF VILLA JULIE COLLEGE & STUDENTS. HERE THE "STAFF" TEACHES CHILD DEVELOPMENT SKILLS TO THEIR STUDENTS & PROVIDE CARE TO THE CHILDREN.

27. "SEWER TREATMENT PLANT" IS A FACILITY CONSTRUCTED TO TREAT THE EFFLUENT OF VILLA JULIE COLLEGE.

28. "THERE SHALL BE NO CLEARING, GRADING, CONSTRUCTION OR DISTURBANCE OF VEGETATION IN THE FOREST BUFFER, EXCEPT AS PERMITED BY THE BALTIMORE COUNTY DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT."

29. "ANY FOREST BUFFER SHOWN HEREON IS SUBJECT TO PROTECTIVE COVENIANTS WHICH MAY BE FOUND IN THE LAND RECORDS OF BALTIMORE COUNTY AND WHICH RESTRICT DISTURBANCE AND USE OF THESE AREAS."

30. VARIANCES FOR THE EXISTING HOUSES THAT ARE NOW WITHIN THE PROPOSED FOREST BUFFER & THE BUILDING RESTRICTION AREA WILL BE FILED AT D.E.P.R.M.

31. ALL UNDER GROUND UTILITIES SHOULD BE FIELD LOCATED BEFORE ANY DESIGN WORK OR CONSTRUCTION TAKES PLACE. G.W.S. DOESN'T TAKE ANY RESPONSIBILITY FOR THEIR LOCATION SHOWN ON THIS PLAN.

32. ALL LAB WASTE IS STORED IN THE LAB BUILDING & IS DISPOSED OF BY A LICENSED WASTE DISPOSAL COMPANY.

33. STATE INSPECTION SCHEDULE FOR UNDER GROUND TANKS

DIESEL	GAS	OIL
*12-19-86	*01-12-87	*03-09-87

STATE INSPECTS THE UNDER GROUND TANKS EVERY 5 YEARS.
* LAST DATE OF INSPECTION 87-OP-1527

D.A. 'A' (DRAINAGE TO THE WEST)

EX. RUNOFF:
2 YR = 17.64 cfs
10 YR = 51.15 cfs
100 YR = 94.91 cfs

PROPOSED RUNOFF:
BYPASS:
2 YR = 12.82 cfs
10 YR = 35.96 cfs
100 YR = 66.11 cfs

TO FACILITY:
2 YR = 9.35 cfs
10 YR = 21.03 cfs
100 YR = 33.59 cfs

ALLOWABLE RELEASE RATES:
2 YR = 17.64 - 12.82 = 4.82 cfs
10 YR = 51.15 - 35.96 = 15.19 cfs
100 YR = 94.91 - 66.11 = 28.80 cfs

2 YR $\frac{Q}{91}$ = 0.5155 $\frac{V_s}{V_R}$ = 0.27 V_R = 0.7793 V_s = 0.2104 Ac.-Ft.

10 YR $\frac{Q}{91}$ = 0.7223 $\frac{V_s}{V_R}$ = 0.20 V_R = 1.6588 V_s = 0.3318 Ac.-Ft. = 14,451.5 C.F.

100 YR $\frac{Q}{91}$ = 0.8574 $\frac{V_s}{V_R}$ = 0.16 V_R = 2.6663 V_s = 0.4266 Ac.-Ft. = 18,583 C.F.

USE V_s = 20,000 C.F. + 1 FOOT FREEBOARD

D.A. 'B' (DRAINAGE TO THE EAST)

EX. RUNOFF:
2 YR = 24.83 cfs
10 YR = 58.41 cfs
100 YR = 97.19 cfs

PROPOSED RUNOFF:
BYPASS:
2 YR = 0.26 cfs
10 YR = 1.21 cfs
100 YR = 2.47 cfs

TO FACILITY:
2 YR = 28.32 cfs
10 YR = 67.73 cfs
100 YR = 108.64 cfs

ALLOWABLE RELEASE RATES:
2 YR = 24.83 - 0.26 = 24.57 cfs
10 YR = 58.41 - 1.21 = 57.20 cfs
100 YR = 97.19 - 2.47 = 94.72 cfs

2 YR $\frac{Q}{91}$ = 0.87 $\frac{V_s}{V_R}$ = 0.15 V_R = 1.8472 V_s = 0.2771 Ac.-Ft.

10 YR $\frac{Q}{91}$ = 0.85 $\frac{V_s}{V_R}$ = 0.16 V_R = 4.1370 V_s = 0.6619 Ac.-Ft.

100 YR $\frac{Q}{91}$ = 0.87 $\frac{V_s}{V_R}$ = 0.15 V_R = 6.7932 V_s = 1.0190 Ac.-Ft.

USE V_s = 48,825 C.F. + 1 FOOT FREEBOARD

92-285-XA

LEGEND

PROPERTY BOUNDARY
EXISTING PAVING
EXISTING FENCE
WETLANDS
EXISTING LAMP POST
EXISTING FIRE HYDRANT
EXISTING TREE LINE
PROP PARKING AREA
PROP BUILDING AREA
100 YR FLOODPLAIN
1' FREEBOARD
EX. OVERHEAD ELECTRIC
EX. UNDERGROUND ELECTRIC
EX. SANITARY
EX. STORM DRAIN
EX. WATER
EX. GAS MAIN

EX. PAVED PARKING LOT
FOREST BUFFER — FB
PROP SANITARY — SS
PROP. LIGHT
BUILDING RESTRICTION LINE — BRL
VARIANCE NUMBER (2)
FRONTS OF BUILDINGS

THOMAS F. OBRECHT
7734/92
P. 079

SOIL TYPES & LIMITATIONS

SOIL TYPE	BLDG. - W/ BSMT.	BLDG. - W/O BSMT.	PARKING	U.S. 1000
BmB2	SLIGHT	SLIGHT	MODERATE	B
CaA	MODERATE	SLIGHT	MODERATE	C
CaB2	MODERATE	SLIGHT	MODERATE	C
CwB2	MODERATE	MODERATE	SEVERE	D
GnB	SEVERE	MODERATE	SEVERE	D
Mo	SEVERE	SEVERE	SEVERE	D

THOMAS W. BRUNIGE & WIFE
5194/730
P. 387

NELSON H. HENDLER & WIFE
5862/624
P. 456

ELIZABETH MITCHELL
6180/061
P. 184

NORTHWEST LAND CORPORATION
4501/406
P. 316

SISTERS OF NOTRE DAME DE NAMUR RETIREMENT HOME
1548/493

GREENSPRING VALLEY ROAD
NIAGARA LANE
PRIVATE ROAD
MACEDON DRIVE
BRUNCH

N 75°18'41" E 347.50'
S 33°29'19" E 213.22'
R = 1116.23'
S 73°15'18" E 245' TRANSITION
S 73°15'18" E 210.00'
N 21°56'21" W 1235.50'
S 89°20'29" W 1512.91'
S 42°58'31" W 79.92'
S 00°08'31" W 350.00'
S 00°08'31" W 1013.86'
W 23500
N 45350
W 24250
N 44350
W 23250
N 44350

ENTRANCE NO. 1 — 300' LEFT TURN LANE — 100' TAPER — 400' SIGHT DISTANCE
ENTRANCE NO. 2 — 245' TRANSITION — 210' TAPER — 400' SIGHT DISTANCE — 135' SIGHT LINE TO LEFT TURN LANE
EX. ENTRANCE SIGN
EX. TRAFFIC SIGN
EX. INFO. SIGN
22' USE-IN-COMMON RIGHT-OF-WAY 4756/550
SOCCER & LACROSSE FIELD
EX. TENNIS COURTS & BASKETBALL COURT (ACCESSORY) — BA 81-5471
EX. TENNIS COURTS — BA 81-0564
EX. GRAVEL PARKING AREA
EX. PAVING (TO BE REMOVED)
EX. UNDER GROUND GAS LINE
EX. GAS MAIN
EX. WATER MAIN
EX. 4" W
EX. 12" D
EX. 2" GAS
EX. 6" GAS
EX. ELECTRIC
EX. TELEPHONE
EX. OVERHEAD WIRES
EX. STORM DRAIN
EX. SANITARY
EX. MANHOLE
EX. INLET
EX. CONC VAULT WATER STORAGE
EX. CONNECTION FIRE PUMP
EX. STUDENT CENTER D
EX. MAIN BUILDING A
EX. DAY CARE CENTER
EX. SHED TO REMAIN
EX. STORAGE BLDG. TO REMAIN
EX. SHED TO BE REMOVED
EX. GREENHOUSE TO REMAIN
EX. GREENHOUSE TO BE REMOVED
EX. SEPTIC TANKS TO BE ABANDONED
EX. SEPTIC AREA (DISTRIBUTION BOX TO BE ABANDONED)
EX. SEPTIC TANK
EX. LEACHFIELD
EXISTING BUMPERS
EXISTING LIGHT STRUCTURES
EXISTING WOOD FENCE TO REMAIN
EXISTING WOOD FENCE TO BE REMOVED
EXISTING STONE WALL TO REMAIN
EXISTING STONE WALL TO BE REMOVED
EXISTING STONE WALL TO BE REMOVED AND REBUILT TO MAINTAIN 10' SETBACK
EXISTING STONE WALL TO BE REMOVED AND REBUILT TO MAINTAIN 15' SETBACK
EXISTING STONE WALL TO BE REMOVED AND REBUILT TO MAINTAIN 20' SETBACK
EXISTING STONE WALL TO BE REMOVED AND REBUILT TO MAINTAIN 25' SETBACK
EXISTING STONE WALL TO BE REMOVED AND REBUILT TO MAINTAIN 30' SETBACK
EXISTING STONE WALL TO BE REMOVED AND REBUILT TO MAINTAIN 40' SETBACK
EXISTING STONE WALL TO BE REMOVED AND REBUILT TO MAINTAIN 50' SETBACK
EXISTING STONE WALL TO BE REMOVED AND REBUILT TO MAINTAIN

1992
BASIC SERVICES TRANSPORTATION AREA MAP

○ "D" LEVEL INTERSECTION
◒ "E" LEVEL INTERSECTION
● "F" LEVEL INTERSECTION

October 17, 1991

T-310
T-0
T-455
T-360
T-1115
T-730
T-385
T-765
T-480
T-0
T-175
T-400
T-0
T-530
T-490
T-845
T-245
T-715
T-1060
T-1510
T-90
T-505
T-0

APPROVED: BALTIMORE COUNTY PLANNING BOARD

David A. Rea
CHAIRMAN: BALTIMORE COUNTY PLANNING BOARD

10/17/91
DATE

THIS MAP HAS BEEN ENACTED UNDER BILL NUMBER 197-91 AND IS A PART OF THE BALTIMORE COUNTY ZONING REGULATIONS, 1955, AS AMENDED BY THAT BILL ADOPTED JANUARY 6, 1992.

William A. Howard III
COUNTY COUNCIL OF BALTIMORE COUNTY

⚠ AMENDED BY RESOLUTION 54-92 ADOPTED AUG. 3, 1992
OAK 8-11-92

Pet Exh #34

The Traffic Analysis Found That Staged Improvements to Key Intersections Could Accommodate All Projected Traffic on Valley Roads Through 2010 and Beyond, and That No Major Road Widening Is Required

A detailed analysis was undertaken of improvements that would be required to accommodate all projected traffic on valleys roads, without diverting and attracting other trips into the area. Recommended improvements were categorized as Immediate Actions, Short Term Actions, and Long Term Actions, as follows:

IMMEDIATE ACTIONS WHICH DESERVE CONSIDERATION

The County should adopt a roadway strategy to allow upgradings to intersections on an as needed basis. Intervening road links should not be widened and should remain two-lane. Improvements should be phased in as needed, with the objective of maintaining a level of service D.

The Valleys Planning Council should maintain its traffic data base to allow Council members and the Roads Committee to continue to evaluate on a systematic basis the relative impacts of valleys versus non-valleys traffic, and the implications of proposed roads improvements in terms of accommodating projected trips as against diverting and attracting additional traffic onto valleys roads.

SHORT TERM ACTIONS WHICH DESERVE CONSIDERATION

Participate in updating the County Comprehensive Plan.
Promote Light Rail Service in both the north central and northwest corridors.

Monitor levels of service at key intersections.
Promote consideration of connection of Owings Mills Boulevard to I-795 at its northern terminus.

Encourage County incentives for flexible working hours, to lessen peak hour traffic.

LONG TERM ACTIONS WHICH DESERVE CONSIDERATION

Promote mixed use development at Owings Mills and Hunt Valley, maximizing internal traffic within each center, and minimizing traffic outside these centers.

Promote the Eastern Bypass to divert truck and regional thru-traffic from the Beltway.

Ultimately consider a Western by-pass north of the Prettyboy Reservoir.

Eliminate the jog between I-83 and the Jones Falls Expressway to lessen Beltway congestion.

Extend I-795 into Baltimore, with measures designed to mitigate potential negative impacts on the Sudbrooke Park Historic District.

A summary of the benefits of these actions is set out in Appendix D.

The Way in Which Public Sewer and Water Service Is Extended Is Also Critical to Continued Realization of Goals Regarding the Form of Growth and Resource Conservation Objectives

The 1979 Baltimore County Growth Management Plan initiated a system of classification of lands in Baltimore County as Existing Communities, Town and Community Centers, New Development Areas, Fringe Development Areas, and Rural areas. (Figures 1 and 2.) A basic factor in this classification system was the URDL line, the Urban Rural Demarcation Line, which defined the boundary between areas in which sewer and water service are intended to be provided and areas intended to remain on private systems. Although it was intended that any redefinitions of areas to be served by public sewer and water be closely coordinated with planning and zoning, in fact these processes have come to be addressed independently.

The County Water and Sewer Plan, as amended through November, 1984, distinguishes among the following categories of areas:

existing service areas, (assumed to include areas to be served by 1986);

areas to be served by 1990;

areas for consideration for service "beyond 1990"; and

areas with "no planned service".

As indicated on the County's Sewer and Water maps, the Valleys are presently designated for "no planned service" for either sewer or water service. Anomolies in past extensions of service areas north of Hunt Valley, for one example, indicate problems that arise, however, when planning for service extension is not coordinated with planning and zoning, and the County's policy against "jumping ridgelines" is violated.

The possibility of future extensions of sewer service in the Valleys area is limited, however, in any case by the overall long range constraint on the Gwynn Falls area based upon the existing and planned capacity of the treatment plant serving this area. This capacity and a related limit on gallons per day is part of the agreement between the City of Baltimore and Baltimore county governing provision of public sewer service to this area.

How can Access Be Improved Within and Near the Valleys and Public Sewer and Water Service Be Extended Beyond Current Service Areas Without Fostering Sprawl and Undermining Resource Preservation Objectives?

Basic recommended policies regarding future road improvements and public services extensions in and near the Green Spring, Caves, Worthington and Western Run Valleys are therefore as follows:

To the degree possible, inter-regional traffic that does not have Baltimore or Baltimore County as its origin or destination should be rerouted to bypass the region entirely, on a new Eastern Bypass, and in the long range, on a Frederick-Westminster-York-Pennsylvania Turnpike link, leaving the Baltimore Beltway to serve as a sort of "Main Street" for local intra-regional traffic;

Within the County, priority should be placed upon improving access within the major centers of Owings Mills and Hunt Valley, to make these centers "work" in terms of internal access and circulation;

Support should also be provided for major improvements that will facilitate traffic movements to and between these centers without causing undue negative environmental and community impacts. Key features of such a policy are extension of the Northwest Expressway, 795, into the city, establishment of a light rail link between Westminster and Owings Mills; and establishment of a new direct link between I-83 and the Jones Falls Expressway;

Local road improvements within the valleys should be limited to those necessary to meet the needs of trips generated within the valleys area, at such time as the specific conditions warranting such improvements are in evidence. Only such restraint will assure that road "improvements" do not spell the demise of the valleys as they are today;

Section 22-82 of the County's Development Procedures and Policy Manual should be amended to add that different requirements may be imposed for street design and construction within historic districts in order to preserve the historic landscape and cultural context, and developing design guidelines for compatible road design and construction within historic districts;

Roads within National Register Districts in the valleys area should be designated as County Scenic Highways, with maximum

Supp.

Cat Exh #35

FEDERAL HIGHWAY FUNCTIONAL CLASSIFICATION

BALTIMORE URBANIZED AREA

MAP A

MARYLAND

PREPARED BY THE

DEPARTMENT OF TRANSPORTATION

STATE HIGHWAY ADMINISTRATION

IN COOPERATION WITH THE

U.S. DEPARTMENT OF TRANSPORTATION

FEDERAL HIGHWAY ADMINISTRATION

LEGEND

RURAL SYSTEM	URBAN SYSTEM
INTERSTATE	INTERSTATE
OTHER PRINCIPAL ARTERIAL	FREEWAY - EXPRESSWAY
MINOR ARTERIAL	OTHER PRINCIPAL ARTERIAL
MAJOR COLLECTOR	MINOR ARTERIAL
MINOR COLLECTOR	COLLECTOR
LOCAL	LOCAL
	FED. AID URBAN BOUNDARY

REVISED: DECEMBER, 1992

FALLSTON

ELDERSBURG
(SEE CARROLL COUNTY MAP)

SEE BALTIMORE CITY MAP

SEE BALTIMORE URBANIZED AREA MAP B

BALTIMORE COUNTY PUBLIC SCHOOLS

DEPARTMENT OF PLANNING

Short-Term Peak Enrollment Forecast

Cat. E&L #37
ID

General Remarks

This report has been prepared to serve as the basis for preparation of the 1993-94 Operating Budget and provide information concerning the pupil capacity of Baltimore County Public Schools.

Topics	Page
Scope and Reliability of Past Short-Term Enrollment Projections	1
Tenth School Day Enrollment Projections for the 1993-94 School Year	2
School Plant Capacity 1992-93	3-5

Department of Planning
September 29, 1992

2050549mN
438430.5mE

36

205055.0mN
443916.9mE

612

609

606 45

603

600

LEO J. UMERLEY
5412/402
194.24 A.
P.17

HILLENDALE COUNTRY CLUB
230.46 A.
MAP 43 - P.69

LEO J. UMBERLEY
4914-604
90.75 A.
P.78

ELMER S. COCHRAN
1661/172
5.0 A.
P.38

A. ERIC DOTT
4001/140
149.75 A.
P.70

BALTO. CO. MD.
6248/68
13.57 A.
P.313

SHIRLEY ALEXANDER
6255/567
41.8 A.
P.52

BOARD OF EDUCATION
(CARROLL MANOR) - ELEM.
948/116
10.75 A.
P.63

WALTER I. ALBRIGHT, ETAL
6340/788
141.00 A.
P.9

TOLLE BROTHERS PARTNERSHIP
8523/730
8572/377
97.54 A.
P.201

AMELIA K. HALE
4218/330
75.38 A.
P.182

ERIC DOTT
5138/382
238.42 A.
P.205

STEPHEN P. HECK
7190/349
62.00 A.
P.118

D. MICHAEL SMITHWICK
7774/67
51.65 A.
P.208

MARK J. DANEKER
5761/673
111.80 A.
P.320

DOROTHY B. WHITE
5320/582
79.07 A.
P.140

MILTON G. WHITE, JR.
4098/326
267.58 A.
P.137

STEWART A. BURK
7059/68
60.09 A.
P.107

MAP43-P.81

MAP53-P.386

MAP43-P.209

M43-P.120

M53-P.74

M53-P.385

M53-P.48

MAP45-P.114

M45-P.124

M45-P.83

M46-P.72

M46-P.160

M46-P.175

MAP45-P.20

MAP53-P.481

201397.3mN
438430.5mE

201397.4mN
443917.0mE

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MD. DEPT. OF ASSESS. & TAX.

Pet. Exh #39
ID

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DEPT. OF ASSESSMENTS & TAXATION
MAP DIVISION

THE INFORMATION SHOWN HEREON HAS BEEN COMPILED FROM DEED DESCRIPTIONS AND IS NOT AN ACTUAL SURVEY IT SHOULD NOT BE USED FOR LEGAL DESCRIPTIONS. USERS NOTING ERRORS ARE URGED TO NOTIFY DEPARTMENT OF ASSESSMENTS & TAXATION, 301 W. PRESTON ST., BALTO. 1, MD.

REVISED TO: DATE MARCH 1992 LIBER 9075

PROPERTY LINE
SUB-DIVISION BOUNDARY
CONTINUING OWNERSHIP - Z I E - Z - Z - C - Z
PARCEL NUMBER - P 349 (ASSIGNED TO IDENTIFY AND INDEX OWNERSHIP. MUST BE PRECEEDED BY MAP NUMBER)
SCALE: 1½" = 600'

BY ATK | LAST P NO P 413 | 100 | PHOTO | QUADRANGLE

SCALE IN FEET
600 0 600 1200 1800

MAP NO. 44

926 929 932 935 941 944

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REDI Real Estate Information Service

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E F G H I J K

21 20 19 18 17 16 15 14

HARFORD

COUNTY

10th. District

11th. District

CARROLL MANOR ELEM

RC 5 RC 2 RC 4 RC C BL BR BL-CR ML-CR ML BM RO

(SHEET 40)

(SHEET 30)

0 1000 3000 5000 FEET

BALTIMORE COUNTY OFFICE
OF PLANNING AND ZONING

PASS COMPREHENSIVE ZONING MAP
Adopted by the County Council

Chairman, County Council

KINGSVILLE

BALTIMORE COUNTY BASE MAP SERIES

REVISED DATE	
APRIL 63	JUNE 73
FEB 66	JAN. 77
SEPT. 68	MAR. 78
MAR 69	
MAY 70	
FEB 72	
FEB. 74	
SEPT 76	

4D

ID
Pct. Exh #38

Published by
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William Donald Schaefer
Governor

John W. Hardwicke
Chief Administrative Law Judge

James G. Klair
Deputy Chief Administrative
Law Judge

OFFICE OF ADMINISTRATIVE HEARINGS

ADMINISTRATIVE LAW BUILDING
GREEN SPRING STATION
10753 FALLS ROAD
LUTHERVILLE, MARYLAND 21093
410-321-2124
FAX 410-321-2040

WRITER'S DIRECT DIAL NO.

March 23, 1993

Pet Exh #40 ID

Timmerman T. Daughtery, Esquire
Director
Office of Community Assistance
Maryland Department of the Environment
2500 Broening Highway
Baltimore, Maryland 21224

RE: OAH No. 92-MDE-WMA-063-840
The Villa Julie College, Inc.
Wastewater Treatment Plant

Dear Counsel:

Enclosed please find the Recommended Decision in the above-captioned case. The Rights to Exception and to Appeal are set forth at the end of the Proposed Decision.

Sincerely,

Suzanne S. Wagner

Suzanne S. Wagner
Administrative Law Judge

SSW:jmw

Enclosures

RECEIVED
MAR 24 1993
EVANS, GEORGE &
BRONSTEIN

cc: Benjamin Bronstein, Esquire
Nancy W. Young, Esquire
Niele Friedman, Esquire
Michael J. Collins, Esquire
K. Donald Proctor, Esquire
J. Carroll Holzer, Esquire
without enclosures

The Traffic Group

Traffic Impact Analysis

for

VILLA JULIE COLLEGE

Baltimore County, Maryland

Prepared for

VILLA JULIE COLLEGE

March 31, 1993

Cat Eye #40 ID

BOA

PROTESTANT'S

EXHIBITS

B708992C-

19920285 "A"

supplemental

150

10

Baltimore County
Department of Public Works
Towson, Maryland 21204

Gene L. Neff, P.E.
Director

June 13, 1990



Dennis F. Rasmussen
County Executive

Ms. Lisa M. Reaver
Project Manager
MARYLAND ENVIRONMENTAL SERVICE
2020 Industrial Service
Annapolis, MD 21401

Re: Villa Julie College + Baltimore Province Sisters of Notre Dame

Dear Ms. Reaver:

We have reviewed your letter of April 26, 1990 and several matters need clarification.

The property is zoned under the zoning laws of Baltimore County as R.C. 2 (Agricultural). Schools and colleges are not a right in this zone but can be considered, or permitted, by special exception. We believe that, at present, the college exists as a nonconforming land use having been in existence prior to the zoning of the land. We have been unable to find a record of any special exceptions having been granted. At present, this office is not in a position to consider the growth factors indicated in your report.

The property is shown on maps W16B and S16B in the WATER SUPPLY AND SEWERAGE PLAN OF BALTIMORE COUNTY (Plan) and is designated W-7, S-7 (No Planned Community or Multi-Use Service). This limits any planned, or permitted, use to domestic water supply and sewage disposal systems on a single property to less than 5,000 gal per day. Clearly, both the college and adjacent property of the Sisters of Notre Dame are nonconforming uses under the Plan also.

Your request, on behalf of both properties, should have been for a special exception to permit a community sewerage system with point source discharge to be built in service to both properties in the S-7 area.

Having raised the issue of nonconformance and planned growth involving both properties, this office is led to believe that all independent water

BOA Prot Exhibit #1

STATE OF MARYLAND
DEPARTMENT OF THE ENVIRONMENT
2500 Broening Highway Baltimore, Maryland 21224
(301) 631- 3084

William Donald Schaefer
Governor

Robert Perciasepe
Secretary

Petition No 10

RECEIVED
JUL 8 1991
BY COUNTY COUNCIL

JUN 28 1991

The Honorable C.A. Dutch Ruppersberger, III
Chairman, Baltimore County Council
Old Court House
Towson MD 21204

Dear Mr. Ruppersberger:

We have completed our review of Cycle VIII, consisting of thirteen Special Amendments to the Baltimore County Water and Sewerage Plan, which were submitted under Resolution 2-91 to the Maryland Department of the Environment. These amendments change the water and sewer service area category designations for several properties located throughout the County.

The Maryland Department of the Environment (MDE) approves these amendments as enacted by the County Council. Amendment 6 as adopted, authorizes the operation of a community sewage treatment plant without establishing its capacity. After the capacity has been established, the County must submit an amendment to the County Plan stating the final design capacity of this wastewater facility.

Thank you for giving us the opportunity to review these amendments. This action completes our review, as required by Section 9-507, Environment Article of State law. If you have any questions or need additional information, please feel free to call me at 631-3084, or have a member of your staff call Mr. J.L. Hearn, Director, Water Management Administration at (301) 631-3567.

Sincerely,

Bob Perciasepe

Robert Perciasepe
Secretary

RP:lp

BofA Prot Exhibits #2

Villa Julie College * Stevenson, Maryland 21153

Office of the President

OFF-CAMPUS RESIDENTIAL FACILITY FOR VJC STUDENTS

EFFECTIVE AUGUST, 1993

In response to numerous requests we have received from Villa Julie students, current and prospective, the college will lease an apartment building which will house 44 students (24 current and 20 incoming students), effective mid-August 1993.

The facility, Wooded Way Apartments, is located on Wooded Way, just off Reisterstown Road and the Beltway. It is 4.5 miles and 7 minutes drive time from the college. The structure is three stories; it contains 11 two-bedroom units which are fully furnished. There will be 4 students to a unit. Each unit contains 2 bedrooms, a living room, kitchen, dining area, and 1 bath. The entire building will be for Villa Julie students.

The facility is within walking distance of restaurants, shopping and entertainment. It is also located on a MTA bus line.

The charge per student per semester is $1,500, including utilities and the cost of a daily shuttle bus between the apartment complex and the college campus. There is a parking area for students who have cars.

APPLICATION CRITERIA. Students who wish to apply for residence must have at least a 2.5 grade point average. Current students are encouraged to apply in groups of four. The order of selection will be ranked according to (a) combined grade point average of the four students who apply for each unit, and (b) seniority. The college reserves the right to determine final selection.

Additional information is available in the Student Services Office.

Resident Assistants. After the resident selection has been made, the college will offer employment to two students for the positions of Resident Assistants. Please see **Claire Moore** if you are interested.

1/93

BJA Cnot Exh #3

FILE

Prot. Exh #4 (A-I)

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Gene L. Neff DATE: September 21,1992

FROM: Oscar M. Keys Jr. OMK

SUBJECT: Villa Julie College

This is to advise that the Zoning Commissioner's decision in the case of a special exception for this school has been appealed by both sides.

The following information should be known:

The stream to which it is proposed to discharge domestic sewage effluent, which was believed to be a perennial stream at the time this issue was considered by the Planning Board and County Council, has been established to be an intermittent stream. This waterway is not now in jeopardy of any septage runoff as the existing overloaded septic system is in a different watershed. While the septic system for Villa Julie is located on the property of the Sisters of Notre Dame adjacent to the school, it has been reported now as a separate system from that of the Sisters'. It was reported that these systems were one when this issue was debated by the Planning Board and County Council.

The school now operates with two 5,000 gallon per day water appropriations from the State of Maryland reportedly issued in 1981. Use of the 10,000 gallons per day would be the equivalent of 44 dwellings[1]. On a property of approximately 67 acres this would be equivalent of 0.7 dwellings per acre or R.C.5 zoning. This intensity of land use is clearly compatible with resource conservation zones.

It was reported on the basis of metering the water use at this school that they are currently appropriating 27,000 gallons per day without concurrent state or county authority. This use is the equivalent of 120 dwellings, or 1.8 dwellings per acre or D.R.2 zoning. This intensity of land use appears to have crossed the threshold of urban impacts.

---

[1] Section 4A02.4 b. 1. of the Baltimore County Zoning Regulations establishes 225 gallons per day as the sewage flow from a three bedroom dwelling.

Villa Julie College
Campus Usage Report by Student Class Schedules

	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
06:00AM - 06:59AM						
07:00AM - 07:59AM		4	16	35	27	2
08:00AM - 08:59AM	262	244	229	250	211	2
09:00AM - 09:59AM	485	599	429	600	397	158
10:00AM - 10:59AM	518	436	511	505	487	158
11:00AM - 11:59AM	491	496	467	477	480	126
12:00PM - 12:59PM	458	351	462	425	461	38
01:00PM - 01:59PM	440	2	400	16	379	47
02:00PM - 02:59PM	372	351	330	329	233	47
03:00PM - 03:59PM	256	417	263	449	84	37
04:00PM - 04:59PM	256	249	171	271		2
05:00PM - 05:59PM	250	167	171	268		
06:00PM - 06:59PM	333	224	265	288		
07:00PM - 07:59PM	437	436	441	420		
08:00PM - 08:59PM	398	447	397	409		
09:00PM - 09:59PM	343	338	328	253		
10:00PM - 10:59PM		1				
11:00PM - 11:59PM						

Totals:
Full-time day students: 990 1076
Part-time day students: 202 701
: 496

1600
91 1688

Prot. Exh #5

(Class Maps.wpd)

6029

MAR 02 '93 16:13 VJC4104863552 P.2

Prot Ex L #7

Villa Julie College
Population, Water and Wastewater Characteristics

Component	Year	Size (gallons per day)	Population Students	Population Total	Average Unit Use (Gallons per day per person)	Equivalent Dwelling Units	Equivalent Zoning
Systems							
Groundwater 10-year Permit two wells	February 1982	10,000 gpd	866	1,000	10	40	R.C. 5
Wastewater septic system design capacity		6,000 gpd			6	27	R.C. 5
Existing Flow							
Metered water use 9/24/91-9/1/92	1991-1992	24,000 gpd	1,681	2,018	12	96	D.R. 2
Current water use	1992-1993	24,900 gpd	1,776	2,093	12	100	D.R. 2
Wastewater flow (overflowing/failing septic system & pumping of tanks)	1991-1992	21,600 gpd	1,681	2,018	11	96	D.R. 2
	1992-1993	22,400 gpd	1,776	2,093	11	100	D.R. 2
Proposals							
Wastewater treatment plant George, Miles & Buhr Report (2/92)							
Reported Current	1991	30,695 gpd	1,722	2,089	15	136	D.R. 3.5
5-years, 8%/yr., inc. unit use	1996	60,000 gpd	2,560	3,055	20	267	D.R. 5.5
10-years, 8%/yr., inc. unit use	2001	90,000 gpd	3,745	4,398	20	400	D.R. 10.5
Zoning Commissioner	July 10, 1992	50,000 gpd	2,500	3,000	17	222	D.R. 5.5
Wastewater treatment plant Capacity based on 5.5%/yr. growth for 5 years from 1992-1993 population and increased unit use	1998	41,000 gpd	2,321	2,735	15	182	D.R. 3.5
WWTP capacity to solve existing overflowing/failing septic system	1993	28,000 gpd	1,776	2,093	13	124	D.R. 2

3/17/93 FPL

Villa Julie College
Population, Water and Wastewater Characteristics

Component	Year	Size (gallons per day)	Population Students	Population Total	Average Unit Use (Gallons per day per person)	Equivalent Dwelling Units	Equivalent Zoning
Systems							
Groundwater 10–year Permit two wells	February 1982	10,000 gpd	866	1,000	10	40	R.C. 5
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Current water use	1992–1993	24,900 gpd	1,776	2,093	12	100	D.R. 2
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	1992–1993	22,400 gpd	1,776	2,093	11	100	D.R. 2
Proposals							
Wastwater treatment plant							
George, Miles & Buhr Report (2/92)							
Reported Current	1991	30,695 gpd	1,722	2,089	15	136	D.R. 3.5
5–years, 8%/yr., inc. unit use	1996	60,000 gpd	2,560	3,055	20	267	D.R. 5.5
10–years, 8%/yr., inc. unit use	2001	90,000 gpd	3,745	4,398	20	400	D.R. 10.5
Zoning Commissioner	July 10, 1992	50,000 gpd	2,500	3,000	17	222	D.R. 5.5
Wastewater treatment plan Capacity based on 5.5%/yr. growth for 5 years from 1992–1993 population and increased unit use	1998	41,000 gpd	2,321	2,735	15	182	D.R. 3.5
WWTP capacity to solve existing overflowing/failing septic system	1993	28,000 gpd	1,776	2,093	13	124	D.R. 2

MAR 15 1993

Prot Exh #8
ID

HOUSE OF DELEGATES
ANNAPOLIS, MARYLAND 21401-1991

RICHARD RYND
11TH LEGISLATIVE DISTRICT
BALTIMORE COUNTY
CO-CHAIRMAN JOINT COMMITTEE ON SPENDING AFFORDABILITY
VICE-CHAIRMAN BALTIMORE COUNTY DELEGATION
ASSISTANT MAJORITY WHIP
APPROPRIATIONS COMMITTEE
SUBCOMMITTEE HEALTH AND THE ENVIRONMENT

BUSINESS ADDRESS:
5A GWYNNS MILL COURT
OWINGS MILLS, MARYLAND 21117-3529
(410) 363-0690

ANNAPOLIS OFFICE:
310 LOWE HOUSE OFFICE BUILDING
ANNAPOLIS, MARYLAND 21401-1991
(410) 841-3342

March 11, 1993

Mr. William T. Hackett, Chairman
Baltimore County Board of Appeals
400 Washington Avenue Room 49
Towson, Maryland 21204

Dear Mr. Hackett:

I am writing to you as a legislator whose area takes in the Villa Julie College at Greenspring Valley Road. I want to voice my opposition to the expansion of the College. The school has rejected the Zoning Commissioner's limit to the current expansion of 2,500 students. I believe that this is even too much.

Villa Julie College is in a residential area. It will have waste water problems and traffic problems in an area that can not continue its residential personality if uncontrolled expansion is allowed to continue.

I would have enjoyed being a witness at the hearing; but because of my legislative responsibilities, while we are in session, does not allow me to be present.

I can assure you that being on the Appropriations Committee which provides funding for future expansion of Villa Julie, I will be scrutinizing very carefully any funds Villa Julie will request in the future for this unwarranted expansion.

Sincerely,

Richard Rynd

RR:sc

Prot Exh #9

PROFFER
Richard D. Klein

Potential Environmental Effects Of The Proposed Expansion

Of Villa Julie College

Community & Environmental Defense Services
Post Office Box 206
Maryland Line, Maryland 21105-0206
(410) 329-8194

On Behalf Of

The Valleys Planning Council, Inc.
Post Office Box 5402
Towson, Maryland 21285-5402
(410) 337-6877

March 22, 1993

QUALIFICATIONS

I have 24 years of experience in assessing the impact of human activities upon aquatic systems. Much of this experience was gained through the Maryland Department of Natural Resources (DNR). I worked in DNR's fishery management and water quality assessment units for eight years. While with these units I became proficient in a wide variety of methods for studying the quality of aquatic systems and pin-pointing sources of impact. I learned these methods from the chemists, biologists, and water resources engineers I worked with. I also interpreted data and participated in report preparation. During my last 10 years with DNR I developed a wide variety of environmental impact assessment and mitigation methods. Over the past five years I have conducted environmental impact assessments on more than 300 projects.

Testimony as an Expert on Environmental Impact & Aquatic Systems

I have testified as an expert on aquatic system impacts before: the Board of Appeals of Baltimore County, Maryland (Greystone and George's Transfer); the Zoning Commissioner of Baltimore County, Maryland (Greystone); the Maryland Office of Administrative Hearings (Villa Julie College); the Planning Board of Prince William County, Virginia (Waverley); the Board of Appeals and the Commissioners of Worcester County, Maryland (Lighthouse Sound and Captains Pointe); the Zoning Hearing Examiner and the Planning Board of Montgomery County, Maryland (Marriott/Milestone Project and the VanGrack/McNeil Project); the Maryland Wetlands Administration (Riddle Farm Project); the Planning Board of Prince William County, Virginia (Waverly); the Board of Appeals of Anne Arundel County, Maryland (Back Bay Beach); the Board of Appeals of St. Mary's County, Maryland (Cedar Cove marina); the Board of Appeals Cecil County, Maryland (Old Line Village); the Zoning Hearing Examiner of Prince Georges County, Maryland (Cross Road Trail rubble landfill); the Maryland Critical Areas Commission (Queenstown Harbour); and the Board of Supervisors -Tinicum Township, Pennsylvania (Quarry Valley Country Club).

Wastewater Treatment Facilities

While I was with the Water Quality Services Division and the Fisheries Administration, I participated in a number of studies of the effects of wastewater treatment plants and land application projects upon surface and ground waters. My role included collection of samples from treatment plant effluents, monitoring wells, and surface waters. I also ran analyses on these samples in the State water quality laboratory. I also participated in data interpretation and report preparation.

I initiated a project on behalf of the Maryland Department of Natural Resources to identify deficiencies in the quality of wastewater treatment plant performance and to generate public support for upgrading the level of treatment. A water quality study I managed detected severe degradation as a result of the Woodstock Job Corps Center treatment facility, which is located in Baltimore County. Support provided through my project eventually resulted in $200,000 in improvements at the facility.

THE VALLEYS
PLANNING COUNCIL, INC.

212 Washington Avenue
P.O. Box 5402
Towson, Maryland 21285-5402
410-337-6877
410-296-5409 (FAX)

Pet Exh
10

March 26, 1993

Mr. William Hackett
Chairman
Baltimore County Board of Appeals
400 Washington Avenue
Towson, Maryland 21204

Re: Proffer of testimony before the Board of Appeals in regard to Villa Julie College Special Exception

Dear Mr. Hackett:

I am the president of The Valleys Planning Council, Inc. This non-profit organization of 700 families/individuals is a local land preservation group dedicated to the conservation of the rural character and agricultural integrity of the area bounded by I-695 on the south, the MD/PA line on the north, I-83 on the east, and Rt. 140/Rt.30 on the west.

On February 19, 1991, the Board of Directors of The Valleys Planning Council resolved to oppose "any increase in the current population (approximately 1800 persons) of Villa Julie College and to any consideration of a hook-up to any public systems." The complete text of that resolution in detail is attached.

Therefore, on behalf of The Valleys Planning Council, I wish to oppose the granting of a special exception as requested by Villa Julie College for the following reasons:

1. Unfettered growth at this site, zoned RC2/agricultural preservation, is in conflict with the Master Plan, which charges development in this area to <u>support agriculture</u> as well as not do what is detrimental. Nothing is planned for the college which fosters agriculture is any way, and what is planned will be detrimental.

2. The Green Spring Valley is a unique preserve of RC2 land under particular development pressure from nearby growth areas. To allow Villa Julie College unlimited expansion or capacity to expand will set the precedent for other institutional uses to do the same.

Witness the requests for a change from RC2 to RC5 from both Koinonia and the Villa Julie Infirmary following the rezoning filing from the college. Witness Gene Neff's testimony that the Infirmary next door will be permitted a waste water treatment plant by virtue of the college being permitted one.

Greenspring Valley Association
Incorporated

Prot. Exh #11

Chairman William Hackett
Baltimore County Board of Appeals
Towson, Maryland

March 24, 1993

Re: Proffered Testimony - Villa Julie College

Dear Chairman Hackett:

I am submitting the following information **in opposition** to Villa Julie College's special exception requests.

My name is Carl F. Beall, I live at 10800 Stevenson Road, Stevenson, Maryland; I am Secretary of the Greenspring Valley Association the boundaries of which are Falls Road on the east, Park Heights Avenue on the west, and the ridge of the valley on the north and south. Villa Julie College is located virtually in the middle of this tract.

Our Association was founded on the 10th day of January, 1956, as the Stevenson Improvement Association. The Association has been active in community matters for thirty-seven (37) years. Our Association represents over 400 homeowners within the confines described, with 135 dues paying members. We hold periodic board meetings, open to members, and an annual general membership meeting in June each year.

The current concerns of the Association and its members revolve around several issues. They are:

- increased traffic along the already overburdened Greenspring Valley Road as well as other roads in the vicinity,
- increased use of groundwater from the valley aquifer,
- concern regarding the daily operation and possible breakdown of the sewage treatment plant and resulting environmental damage,
- environmental impact of overuse of land on the floor of the valley,
- precedents being set by allowing the College to operate in conflict with zoning regulations,

VELVET VALLEY NEIGHBORHOOD ASSOCIATION, INC.

10628 PARK HEIGHTS AVENUE

OWINGS MILLS, MARYLAND 21117

Prot Exh #12

March 23, 1993

William Hackett
Chairperson
Baltimore County Board of Appeals

Re: Proferred Testimony Before the Board of Appeals - Villa Julie College

Dear Mr. Hackett:

I am Harlan K. Zinn, President of the Velvet Valley Neighborhood Association, a community located within close proximity to the Villa Julie College. Our Association's constituents live within the boundaries bordered by Park Heights Avenue, Velvet Valley Way and Caves Road. On April 22, 1991, our membership delegated responsibility for review and action on all zoning matters affecting our community within the Greenspring Valley to our Board of Directors.

Since 1991, the Association has consistently taken exception to the proposed expansion of the Villa Julie College. Our members are extremely concerned that an exception to the recent zoning commisioner's recommendations would have significant adverse effects for our immediate community and the larger Greenspring Valley. Specifically, concern is focused on issues of traffic, sewage, water, pollution and unprecedented development growth with no defined ceilings, the scale of the proposed expansion and logistics resulting from such an endeavor.

We are hereby opposed to any change in zoning for Villa Julie College and support the following:

* total college enrollment limit of 2500 through year 2020 with a 5% per year maximum cap;

* proposed waste water treatment plant to be used only for the current college property;

* maximum 50,000 gpd discharge of sewage;

* granting of a special exception only for buildings specified on the earlier plan presented to the zoning commissioner; and,

* maximum water draw of 50,000 gpd after installation of at least 3 installation wells in their impact areas.

VELVET VALLEY NEIGHBORHOOD ASSOCIATION, INC.
10628 PARK HEIGHTS AVENUE
OWINGS MILLS, MARYLAND 21117

March 23, 1993

William Hackett
Chairperson
Baltimore County Board of Appeals

Re: Proferred Testimony Before the Board of Appeals -
Villa Julie College

Dear Mr. Hackett:

I am Harlan K. Zinn, President of the Velvet Valley Neighborhood Association, a community located within close proximity to the Villa Julie College. Our Association's constituents live within the boundaries bordered by Park Heights Avenue, Velvet Valley Way and Caves Road. On April 22, 1991, our membership delegated responsibility for review and action on all zoning matters affecting our community within the Greenspring Valley to our Board of Directors.

Since 1991, the Association has consistently taken exception to the proposed expansion of the Villa Julie College. Our members are extremely concerned that an exception to the recent zoning commisioner's recommendations would have significant adverse effects for our immediate community and the larger Greenspring Valley. Specifically, concern is focused on issues of traffic, sewage, water, pollution and unprecedented development growth with no defined ceilings, the scale of the proposed expansion and logistics resulting from such an endeavor.

We are hereby opposed to any change in zoning for Villa Julie College and support the following:

* total college enrollment limit of 2500 through year 2020 with a 5% per year maximum cap;

* proposed waste water treatment plant to be used only for the current college property;

FALLS ROAD COMMUNITY ASSOCIATION, INC.

P.O. BOX 555
BROOKLANDVILLE, MARYLAND 21022

Ant. Exh #13

March 26,1993

William T. Hackett, Chairman
Board of Appeals for Baltimore County
111 West Chesapeake Avenue
Towson, MD 21204

Subject: Proffered testimony in lieu of testimony relative to Appeal of Villa Julie College request for Special Exception.

Dear Chairman Hackett,

I am Arthur Douglas McComas and I reside at 12405 Falls Road, Cockeysville, Maryland, 21030. I am currently the Executive Director of the Falls Road Community Association, Inc., P.O. Box 555, Brooklandville, Maryland 21022. This letter is intended to state the position of the Officers and Directors of the Falls Road Community Association (FRCA) with regard to the request for Special Exception by the Villa Julie College. The Board has directed me to testify that in accordance with a resolution which was unanimously approved at its February 1992 meeting, it is opposed to the granting of this petition for the reasons stated below.

The Falls Road Community Association (FRCA) represents approximately 1900 homes located in the Resource Conservation Zones bounded by Green Spring Valley Road and Greenspring Avenue on the southwest, Tufton Avenue and Shawan Road on the north, Interstate I-83, the Urban Rural Demarcation line (URDL), Jenifer Road and Mays Chapel Road on the east, Seminary Avenue and Falls Road to the intersection of Falls Road and Greenspring Valley Road. The paid membership for calendar year 1992 was approximately 400 homes.

This request for uncontrolled growth, if we can grasp the essence of the schools' future intent (see attached charts 1 and 2 for historical and projected growth rates), is totally inconsistent with the Master Plan for Baltimore County as adopted by the County Council on February 6, 1990. Page 63 of that document states:

"It is the policy of Baltimore County to protect both the quantity and quality of the ground water resources in the County and to ensure that the resource is managed effectively to provide for continued use by future generations of Baltimore County citizens."

Under the heading "Actions" on that subject the Master Plan requires the preparation of a comprehensive "Ground Water Protection Strategy" is mandated. FRCA has assisted DEPRM in the review of policy issues applicable to this forthcoming document and feels that the size and scope of projected water and sewage use by Villa Julie totally fails to comply with the intent of the anticipated policy document. The map of the Northern Sector on page 124 of the Master Plan clearly shows agricultural

Prot. Exh. #14

Chairman William Hackett
Baltimore County Board of Appeals
Towson, Maryland

March 24, 1993

Re: Proffered Testimony - Villa Julie College

Dear Chairman Hackett:

On behalf of my brother and sisters, joint owners of property in Stevenson, I am submitting the following information **in opposition** to Villa Julie College's special exception requests.

My name is Carl F. Beall, I live at 10800 Stevenson Road, Stevenson, Maryland. We own southwest of the Villa Julie Campus.

More specifically, we have on the northeast corner on this property, the corner closest to Villa Julie, a well which supplies water to eighteen families in Stevenson. Four of those families reside on the Clark property which adjoins Villa Julie. (Our property adjoins the Clark property, opposite from Villa Julie.)

If Villa Julie's increased usage were to adversely affect community water quality or supply, more specifically our well, a whole lot of additional wells would have to be dug. The four wells on the Clark property would have to be drilled about as close to the cause of the problem as is possible!

Within the past eighteen months we have had a well drilled for the property at the corner of Stevenson and Hillside Roads, not more than one and a half miles from Villa Julie. After drilling several hundred feet, we were unable to reach quality water and have had to settle for a water supply which contains iron. A private treatment system has been installed at the location, however, water left overnight in a glass turns rust-colored by morning. The water is not suitable for washing clothes.

As a result, we are requesting that the Board of Appeals deny any special exceptions requested by the College.

If exceptions are granted we request a daily water usage limitation of 25,000 gallons be imposed.

Sincerely,

Carl F. Beall

Carl F. Beall, for
Osborne P. Beall
Dorothea Beall Lankford
Mary Dee Beall Frank

Grant Exh #15

Douglas Carroll
P.O. box 945
Brooklandville, Md.
21022
410-823-2640

William Hackett, Chairman
Board of Appeals
Baltimore County Courthouse
400 Washington Ave
Towson, Md. 21204

3/21/93

Proffered testimony in regard to Villa Julie college special exception.

Dear Mr. Hackett,

This letter is to be submitted in lieu of testimony to the BOA against granting a special exception for Villa Julie College.

I have been a neighbor of Villa Julie College for the last 42 years; I live 3/4 miles downstream, and east on Greenspring Valley Road. My property, which has been in agricultural preservation for 10 years, comprises 60 acres, activly farmed, and borders on 1/3 of a mile of Jones Falls stream. My objections to granting special exception are as follows:

1) It allows growth in an area that has been a prime and unique example of careful land planning, and permanent land covenents. Allowing growth for a special interest group, like the College, gives the message to landowners that planning and committments to open space will not be supported by the Government. Furthermore it allows growth in an area not served by roads, water, sewer, in direct contradiction to the State goals of concentrating growth.

2) Villa Julie has no more right to growth than any of it's neighbors have to begin a new school on their agricultural property.

Prot. Exh # 16

March 18, 1993

Chairman William Hackett
Baltimore County Board of Appeals
re:Proferred Testimony before Board of Appeals
in regard to Villa Julie College

Dear Mr. Hackett,

This letter is to be submitted in lieu of testifying before your Board as to my personal objections to the special exceptions being sought by the Villa Julie College. My name is Barbara Denrich and my address is 2407 Velvet Valley Way. My neighborhood, Velvet Valley, is located off of Park Heights Avenue.

My objections to the proposed expansion of the VJC facility are in regard to the already heavy traffic which we see through our neighborhood as the students use our main thoroughfares, Velvet Valley and Baronet Roads, as a short cut and speed zone on their way to and from school. We have young children who are unable to even ride a bicycle safely within our neighborhood because of this unwanted and careless traffic.

My objections are also in regard to the already tenuous water system which we all share with well and septic systems. I am concerned that any further use on such a large scale could not only cause a tremendous strain on our systems but the larger issue of the entire Greenspring water table as a whole will be threatened.

I would like the board to allow Villa Julie College to take care of their existing problem of overcrowding in their present facility to accommodate their current enrollment but I strongly object to their expansion to accommodate additional students and faculty as well. This proposed expansion will set a dangerous precedent throughout an area which is cherished for its pristine beauty and bucolic nature.

Sincerely,

B Denrich

Barbara Denrich

March 23, 1993

Prot. Exh. #17

10710 Greenspring Avenue
Lutherville, MD 21093

The Honorable William Hackett, Chairman
Board of Appeals
Baltimore County Court House
400 Washington Avenue
Towson, Maryland 21204

SUBJECT: Proffered Testimony Before the BOA in Regard to the Villa Julie College Request for Special Exception

Dear Mr. Hackett:

I am submitting this letter in lieu of testimony to the BOA against the granting of a Special Exception for Villa Julie College.

I, Henry G. Hagan, live at 10710 Greenspring Avenue. My property lies less than 2,000 feet down hill, down wind, and down stream from the Villa Julie College property. I am approximately 3,500 feet from the sight of the proposed waste water treatment plant located on the Villa Julie College property.

I am opposed to the BOA granting a Special Exception for the construction or operation of a waste water treatment plant with a size greater than that required to support the college's current usage.

Although it is obvious that a solution is required for waste water treatment for their current level of utilization, it is against the best interests of the Baltimore County community at

Cnt. Exh. #18

WELLS & ASSOCIATES
Suite 700, 2111 Wilson Boulevard, Arlington, Virginia 22201

MARTIN J. WELLS, P.E.
PRINCIPAL ASSOCIATE

PROFILE: Mr. Wells has 16 years experience in traffic, transportation, transit, parking, and pedestrian planning and engineering. He has worked for private real estate developers; federal, state, and local public agencies; and institutions in 30 states and overseas. This experience includes traffic impact studies, transportation analyses of large-scale mixed-use developments, travel demand management studies, parking policy and needs studies, transit planning, and highway and parking facility design. Mr. Wells has provided expert testimony before numerous planning boards, elected officials, administrative hearing officers, and citizens groups.

EXPERIENCE: Traffic Impact Studies. Conducted numerous traffic impact studies for large and small residential, commercial, and mixed-use projects in every major jurisdiction in the Washington metropolitan area and in 15 other states. This includes preparation of reports and expert testimony in support of rezonings, subdivisions, site plan approvals, and comprehensive plan and proffered condition amendments.

Large-Scale, Mixed-Use Developments. Conducted multimodal transportation studies for several million square foot mixed-use residential, office, retail, and hotel projects for the Potomac Yard in Alexandria/Arlington, Virginia; The Gallery at Harborplace in Baltimore, Maryland; Konterra in Prince George's County, Maryland; Carlyle in Alexandria, Virginia; Xerox Landsdowne in Loudoun County, Virginia; Colgate-Palmolive Company in Jersey City, New Jersey; River Walk in New York City; Eden Isles in Slidell, Louisiana.

Interchange Justification Studies. Conducted studies for modifying existing interchanges and for new interchanges on Interstate highways in Virginia, Maryland, New Jersey, Texas, and Louisiana.

Prot. Exh. #19

VILLA JULIE COLLEGE EXPANSION
TRAFFIC IMPACT ASSESSMENT

WELLS & ASSOCIATES, INC.
Suite 700, 2111 Wilson Boulevard, Arlington, Virginia 22201

3/6/92 X

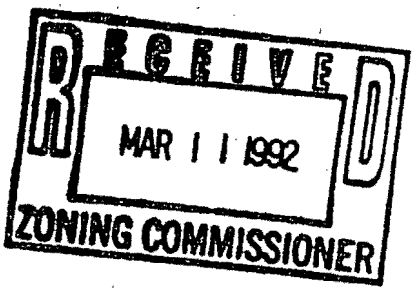
-299-92-A

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration and
Development Management

DATE: March 6, 1992

FROM: Gary L. Kerns, Chief
Comprehensive and Community Planning
Office of Planning and Zoning



SUBJECT: Villa Julie College, Item No. 146

1. BACKGROUND

Villa Julie College is located in the center of the Greenspring Valley, just west of the intersection of Greenspring Valley Road and Greenspring Avenue. The land form in this part of the Valley is underlaid by Cockeysville marble which is characteristic of an extremely prolific aquifer. As a result, high water tables are present and have contributed to the schools inability to effectively handle waste water under normal septic system technology.

The current zoning is RC-2 agricultural and is consistent with both surrounding area zoning and with the land use map designation of the duly adopted Baltimore County Master Plan 1989-2000. The use of the property as a College began many years ago as an outgrowth of the Sisters of Notre Dame de Namur, which is a teaching order. Over this period the College grew to its present size, though there appears to be no accurate records of the various expansion projects.

2. SPECIAL EXCEPTION REQUEST

The applicant is requesting a Special Exception, a Special Hearing and a Variance to permit a private college and a group child care center in an RC-2 zone. A plat accompanying this petition indicates a proposed 98,044 sq. ft. expansion to the existing College, which will consist of a 44,697 sq. ft. academic center, a 50,000 sq. ft. general classroom and general purpose building, and a 5,000 sq. ft. addition to the existing Learning Resource Center. Elevation drawings and sign details have been attached to the plat. In response to a request from the Office of Planning and Zoning, site sections were also submitted for review.

Cert. Exh #20

Ord #4L #21

NORMAN E. GERBER, AICP

35 Pickburn Court
Cockeysville, MD 21030

Business
(410)667-4543

Home
(410)667-4232

PROFESSIONAL EXPERIENCE

Preparation of Master Plans and Land Use Regulations

- Prepared comprehensive, policy, small-area, facility and revitalization plans, capital programs and capital budgets.
- Prepared zoning and development ordinances, agricultural land preservation and historic district regulations and growth management programs.
- Conducted demographic, transportation, economic and market studies.

Implementation of Plans and Programs

- Reviewed and approved new development.
- Enforced zoning, agricultural and historic preservation regulations.
- Negotiated plan and facilities projects with community groups, local and state legislative bodies and private sector business.

Other

- Testified before local, state and national boards, commissions and legislatures on the behalf of plans and programs.
- Testified before boards of appeals, circuit courts and the U. S. Tax Court of Appeals on land use issues.
- Prepared RFP's, grant applications, selected consultants and administered contracts.

WORK EXPERIENCE

2/88 to present — NORMAN E. GERBER, AICP, Cockeysville, MD
Principal
Private practice as planning consultant specializing in land planning, preparation of land use regulations property evaluation and expert testimony in zoning and development issues.

2/89 to 10/90 — The City of Laurel, Laurel, MD
The Office of Planning and Zoning
Director
Administered the planning program and enforced the zoning code.

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 1990, Legislative Day No. 1

Prot. Ext #23

Resolution No. 2-91

Mr. C.A. Dutch Ruppersberger, III, Councilman
By Request of County Executive

By the County Council, January 7, 1991

A RESOLUTION to amend the Baltimore County Water Supply and Sewerage Plan.

WHEREAS, the Planning Board has considered requests for amendments to the Baltimore County Water and Sewerage Plan, and has received the recommendation from the Department of Public Works, the Department of Environmental Protection and Resource Management and the Office of Planning and Zoning and has reviewed the requested amendments in accordance with the Executive Order concerning the Water and Sewerage Plan Amendment Process, dated April 11, 1990; and

WHEREAS, the Planning Board did on Thursday, July 19, 1990, hold an advertised public hearing on the requests for amendment and did report the same to the Baltimore County Executive; and

WHEREAS, the Baltimore County Executive as well as the Department of Environmental Protection and Resource Management, the Department of Public Works, the Planning Board and the Office of Planning and Zoning have recommended that the Plan be amended in the manner set forth herein.

NOW, THEREFORE, BE IT RESOLVED, by the County Council of Baltimore County, Maryland that the Baltimore County Water Supply and Sewerage Plan, as amended, be and it is hereby further amended as follows:

1. The maps attached hereto and marked as Exhibit 1 entitled "Blaustein Property Revision to the Water Supply and Sewerage Plan" are hereby approved and the Areal Designations and Comprehensive Facilities Planning Line adjusted to agree with the existing zoning.

2. The maps attached hereto and marked as Exhibit 2 entitled "Schroeder Avenue Revision to the Water Supply and Sewerage Plan" are hereby

#104 KRUEGER
B... STRAIGHT OAK ...
KRAUMER

19920285 "A"

92-171

DUMMY

PHOTOS

11







GREENSPRING VALLEY ROAD




UNPAPERS















PROPOSED ACADEMIC CENTER SITE





WESTSIDE DRAINAGE AREA





WESTSIDE DRAINAGE AREA



AREA OF PARKING LOT EXPANSION



WESTERN EDGE OF SITE













INTERNAL
SOUTHWEST CORNER







SOUTH PROPERTY EDGE



PANORAMIC VIEWS FROM

VILLA JULIE COLLEGE

DET EXH 23 / AXHAS-SRC-26 15










NO
PARKING

TRANSCRIPTS

19920285 "A"

supplemental

B73486 RS

B73486

12

13

ORIGINAL

IN THE MATTER OF:	*	BEFORE THE
VILLA JULIE COLLEGE, INC.	*	COUNTY BOARD OF APPEALS
Petition for special hearing,	*	OF BALTIMORE COUNTY
special exception and zoning	*	Case No. 92-285-SPHXA
variance	*	February 18, 1993
8th Election District	*	
3rd Councilmanic District	*	

* * * * *

The above-entitled matter came on for hearing before the County Board of Appeals of Baltimore County at the Old Courthouse, Towson, Maryland 21204 at 10 o'clock a.m., February 18, 1993.

* * * * *

Reported by:

C.E. Peatt

ORIGINAL

IN THE MATTER OF:	*	BEFORE THE
VILLA JULIE COLLEGE, INC.	*	COUNTY BOARD OF APPEALS
Petition for special hearing, special exception and zoning variance	*	OF BALTIMORE COUNTY
	*	Case No. 92-285-SPHXA
	*	March 9, 1993
8th Election District	*	
3rd Councilmanic District	*	

* * * * *

The above-entitled matter came on for hearing before the County Board of Appeals of Baltimore County at the Old Courthouse, Towson, Maryland 21204 at 10 o'clock a.m., March 9, 1993.

* * * * *

BOARD MEMBERS:

WILLIAM T. HACKETT, Chairman

JOHN G. DISNEY

HARRY E. BUCHHEISTER, JR.

Reported by:

C.E. Peatt

Civil Action No: 93-CV-07403/59/285

ORIGINAL

IN THE MATTER OF:	*	BEFORE THE
VILLA JULIE COLLEGE, INC.	*	COUNTY BOARD OF APPEALS
Petition for special hearing,	*	OF BALTIMORE COUNTY
special exception and zoning	*	Case No. 92-285-SPHXA
variance	*	March 10, 1993
8th Election District	*	
3rd Councilmanic District	*	

* * * * *

The above-entitled matter came on for hearing before the County Board of Appeals of Baltimore County at the Old Courthouse, Towson, Maryland 21204 at 10 o'clock a.m., March 10, 1993.

* * * * *

BOARD MEMBERS:

WILLIAM T. HACKETT, Chairman

JOHN G. DISNEY

HARRY E. BUCHHEISTER, JR.

Reported by:

C.E. Peatt

Civil Action No: 93-CV-07403/59/285

ORIGINAL

IN THE MATTER OF:	*	BEFORE THE
VILLA JULIE COLLEGE, INC.	*	COUNTY BOARD OF APPEALS
Petition for special hearing,	*	OF BALTIMORE COUNTY
special exception and zoning	*	Case No. 92-285-SPHXA
variance	*	March 11, 1993
8th Election District	*	
3rd Councilmanic District	*	

* * * * *

The above-entitled matter came on for hearing before the County Board of Appeals of Baltimore County at the Old Courthouse, Towson, Maryland 21204 at 10 o'clock a.m., March 11, 1993.

* * * * *

BOARD MEMBERS:

WILLIAM T. HACKETT, Chairman

JOHN G. DISNEY

HARRY E. BUCHHEISTER, JR.

Reported by:

C.E. Peatt

Civil Action No: 93-CV-07403/59/285

ORIGINAL

IN THE MATTER OF:	*	BEFORE THE
VILLA JULIE COLLEGE, INC.	*	COUNTY BOARD OF APPEALS
Petition for special hearing, special exception and zoning variance	*	OF BALTIMORE COUNTY
	*	Case No. 92-285-SPHXA
	*	March 12, 1993
8th Election District	*	
3rd Councilmanic District	*	

* * * * *

The above-entitled matter came on for hearing before the County Board of Appeals of Baltimore County at the Old Courthouse, Towson, Maryland 21204 at 10 o'clock a.m., March 12, 1993.

* * * * *

BOARD MEMBERS:

WILLIAM T. HACKETT, Chairman

JOHN G. DISNEY

HARRY E. BUCHHEISTER, JR.

Reported by:

C.E. Peatt

Civil Action No: 93-CV-07403/59/285

ORIGINAL

IN THE MATTER OF:	*	BEFORE THE
VILLA JULIE COLLEGE, INC.	*	COUNTY BOARD OF APPEALS
Petition for special hearing,	*	OF BALTIMORE COUNTY
special exception and zoning	*	Case No. 92-285-SPHXA
variance	*	March 19, 1993
8th Election District	*	
3rd Councilmanic District	*	

* * * * *

The above-entitled matter came on for hearing before the County Board of Appeals of Baltimore County at the Old Courthouse, Towson, Maryland 21204 at 10 o'clock a.m., March 19, 1993.

* * * * *

BOARD MEMBERS:

WILLIAM T. HACKETT, Chairman

JOHN G. DISNEY

HARRY E. BUCHHEISTER, JR.

Reported by:

C.E. Peatt

Civil Action No: 93-CV-07403/59/285

ORIGINAL

IN THE MATTER OF:	*	BEFORE THE
VILLA JULIE COLLEGE, INC.	*	COUNTY BOARD OF APPEALS
Petition for special hearing,	*	OF BALTIMORE COUNTY
special exception and zoning	*	Case No. 92-285-SPHXA
variance	*	March 26, 1993
8th Election District	*	
3rd Councilmanic District	*	

* * * * *

The above-entitled matter came on for hearing before the County Board of Appeals of Baltimore County at the Old Courthouse, Towson, Maryland 21204 at 9 o'clock a.m., March 19, 1993.

* * * * *

BOARD MEMBERS:

WILLIAM T. HACKETT, Chairman

JOHN G. DISNEY

HARRY E. BUCHHEISTER, JR.

Reported by:

C.E. Peatt

Civil Action No: 93-CV-07403/5-9/285

ORIGINAL

IN THE MATTER OF:	*	BEFORE THE
VILLA JULIE COLLEGE, INC.	*	COUNTY BOARD OF APPEALS
Petition for special hearing,	*	OF BALTIMORE COUNTY
special exception and zoning	*	Case No. 92-285-SPHXA
variance	*	March 31, 1993
8th Election District	*	
3rd Councilmanic District	*	

* * * * *

The above-entitled matter came on for hearing before the County Board of Appeals of Baltimore County at the Old Courthouse, Towson, Maryland 21204 at 9 o'clock a.m., March 31, 1993.

* * * * *

BOARD MEMBERS:

WILLIAM T. HACKETT, Chairman

JOHN G. DISNEY

HARRY E. BUCHHEISTER, JR.

Reported by:

C.E. Peatt

Civil Action No: 93-CV-07403/59/285

3/19/93

To: Glen Stephens

3003-93

IN THE MATTER OF THE APPLICATION OF VILLA JULIE COLLEGE, INC. FOR A SPECIAL HEARING, SPECIAL EXCEPTION AND VARIANCES ON PROPERTY LOCATED ON THE SOUTH SIDE GREENSPRING VALLEY ROAD, 9' EAST OF NACIREMA LANE (1521 GREENSPRING VALLEY RD) 8TH ELECTION DISTRICT 3RD COUNCILMANIC DISTRICT

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* CASE NO. 92-285-SPHXA

RECEIVED
MAR 23 1993
ZADM

RULING ON MOTION IN LIMINE TO LIMIT THE SCOPE OF ISSUES

The Board is in receipt of a Motion in Limine to Limit the Scope of Issues filed by Benjamin Bronstein, Esquire, and Michael J. Chomel, Esquire, Counsel for Petitioner in the above-entitled matter, and the Responses thereto.

Based upon this Board's review and consideration of the foregoing Motion and Responses, having duly considered all the issues raised contained therein, and upon review of argument of Counsel received by this Board, we hereby GRANT the Motion. The Baltimore County Council specifically addressed this issue at this site in Resolution 2-91, Item #6, in which the County authorized a community water system and community sewerage treatment plant with capacity subject to special exception. The Board will take no testimony and no evidence on whether or not the two systems can be installed but will take evidence as to the capacity as it relates to the capacity issued by the State.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

William T. Hackett

William T. Hackett, Chairman

Harry E. Buchheister, Jr.

DATE: March 4, 1993

88/mlh/087.07.92/522.00

IN RE: PETITIONS FOR SPECIAL HEARING
SPECIAL EXCEPTION &
ZONING VARIANCE
S/S Greenspring Valley Road,
0 ft. E of Nacirema Lane
1521 Greenspring Valley Road
8th Election District
3rd Councilmanic District

Villa Julie College, Inc.
Petitioner

* BEFORE THE
* ZONING COMMISSIONER
* FOR
* BALTIMORE COUNTY
*
* CASE NO.: 92-285-SPHXA

ORDER TO ENTER APPEAL

On behalf of the Petitioner, Villa Julie College, Inc., please enter an appeal to the Board of Appeals from the order of the Zoning Commissioner dated July 10, 1992.

EVANS, GEORGE & BRONSTEIN

ZONING OFFICE

Benjamin Bronstein
205 Susquehanna Building
29 West Susquehanna Avenue
Towson, Maryland 21204
(410) 296-0200

CERTIFICATE OF MAILING

I HEREBY CERTIFY, that on this 12 day of August, 1992, a copy of the Order to Enter Appeal has been mailed, postage pre-paid to K. Donald Proctor, Esquire, Miles & Stockbridge, 500 Washington Avenue, Towson, Maryland 21204 and J. Carroll Holzer, Esquire, Holzer, Maher, DeMilio & Lee, 305 W. Chesapeake Avenue, Ste. 105, Towson, Maryland 21204, attorneys for Protestants.

Benjamin Bronstein

IN RE:
PETITIONS FOR SPECIAL HEARING
SPECIAL EXCEPTION & ZONING VARIANCE
S/S Greenspring Valley Road, 0 ft. E of Nacirema Lane
1521 Greenspring Valley Road
8th Election District
3rd Councilmanic District

Villa Julie College, Inc.
Petitioner

* BEFORE THE
* ZONING COMMISSIONER
* OF
* BALTIMORE COUNTY
* Case No.: 92 285 SPHXA

NOTICE OF APPEAL
TO COUNTY BOARD OF APPEALS

Protestants in the above captioned case Valleys Planning Council, Homeowners of Greenspring, Greenspring Valley Association, Velvet Valley Association, Falls Road Community Association and Douglas A. Carroll, III, Mr. & Mrs. Henry G. Hagen, Mr. & Mrs. Lawrence P. Naylor, III, Mr. & Mrs. Richard B. Buck and Mr. & Mrs. J. Stephen Immelt, individuals, by their attorney, J. Carroll Holzer, Holzer, Maher, Demilio & Lee, hereby note an appeal of the decision of the Zoning Commissioner in Case No.: 92 285 SPHXA rendered on July 10, 1992 as it relates to the Petition for Special Exception, Petition for Zoning Variance and Petition for Special Hearing.

J. CARROLL HOLZER, Esquire
Holzer, Maher, Demilio & Lee
305 West Chesapeake Avenue
Suite 105
Towson, Maryland 21204
410-825-6960

LAW OFFICES
HOLZER, MAHER
& DEMILIO
305 W. CHESAPEAKE AVENUE
SUITE 105
TOWSON, MARYLAND
21204
(301) 825-6960

RECEIVED
AUG 7th 1992
ZONING OFFICE

IN RE: PETITIONS FOR SPECIAL HEARING
SPECIAL EXCEPTION & ZONING VARIANCE
S/S Greenspring Valley Road, 0 ft. E of Nacirema Lane
1521 Greenspring Valley Road
8th Election District
3rd Councilmanic District

Villa Julie College, Inc.
Petitioner

* BEFORE THE
ZONING COMMISSIONER
* OF
BALTIMORE COUNTY
* Case No. 92-285-SPHXA

****

FINDINGS OF FACTS AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition for Special Hearing, Petition for Special Exception, and Petition for Zoning Variance filed by Villa Julie College, Inc. As to the Petition for Special Exception, authorization was originally requested to permit a private college and group child care center (Class B) in an R.C.2 zone. Subsequently, the special exception was amended to delete the request for a group child care center. Therefore, that portion of the special exception will be denied and only the request to approve a college considered. As to the special hearing, the College seeks approval of a modified parking plan and a residential caretakers dwelling as an accessory use to the College. As to the zoning variances, there are 13 specific variances requested. They are specifically listed on the Petition and will not be set forth again herein, rather are incorporated by reference. The need for these variances is generated by proposed construction on the site. Specifically, the Petitioner proposes to construct an academic center building and an administration building. Further, expansion of the existing learning resource center building is contemplated. The majority of the variances requested relate to the various height and distance between building requirements of the Baltimore County Zoning Regulations ("B.C.Z.R.") Further, a parking variance is requested to permit 503 parking spaces of the dimension 8 ft. wide by 18 ft.

ORDER RECEIVED FOR FILING
Date 3/23/93
By M. Grant

deep in lieu of the required 18-1/2 ft. wide and 18 ft. deep. Also, the College seeks a variance from the sign requirements of Section 413.1.b. of the B.C.Z.R., to permit a sign of 105.2 sq. ft. in lieu of the permitted 30 sq. ft.

The above Petitions were the subject of a lengthy hearing before me. A full six days of testimony and argument was offered. Additionally, numerous exhibits, including site plans, photographs, aerial maps, studies and reports were received. The parties also submitted lengthy memoranda outlining the evidence that they believe is germane and setting forth the legal authority for their positions. Further, I visited the site and walked the property. I have also inspected the neighborhood which surrounds the use. All of these things were considered in my deliberations and evaluation of the issues presented.

The Petitioner is Villa Julie College, Inc., a small liberal arts institute of higher learning located on Greenspring Valley Road. The College was represented by Benjamin Bronstein, Esquire and Michael Chomel, Esquire. Numerous members of the Administration, Faculty and student body appeared at the hearing in support of their college. Significant testimony, both expert and from lay witnesses was offered in support of the Petitions.

In opposition to the Petitions, numerous community groups and individual residents appeared. These included the Valleys Planning Council, the Homeowners of Greenspring Association, the Greenspring Valley Association, the Velvet Valley Association, the Falls Road Community Association, Douglas A. Carroll, III, Mr. and Mrs. Henry G. Hagen, Mr. and Mrs. Lawrence P. Naylor, III, Mr. and Mrs. Richard B. Buck and Mr. and Mrs. J. Stephen Immelt. All of these Protestants were represented by J. Carroll Holzer, Esquire. Other Protestants included Barton S. and Elizabeth Mitchell,

ORDER RECEIVED FOR FILING
Date 3/23/93
By M. Grant

Clark Farm Associates, Timothy M. and Mary Stewart Rodgers, Mr. and Mrs. Thomas F. Obrecht, and Mr. and Mrs. Richard F. Blue. These Protestants were represented by K. Donald Proctor, Esquire. Additionally, many citizens of Baltimore County and, in fact, residents outside of the County deluged my office with letters and postcards expressing their position as to the Petitions.

A simple statement of the relevant background is in order. Villa Julie College was established in the late 1940s by the Sisters of Notre Dame who own property immediately next door. In 1967, the College was separated from the Sisters and is now a non-profit institution, governed by a Board of Trustees. It has grown from a small medical secretary's college to an accredited four year college. The present enrollment is approximately 1700 students. Of this number, approximately 53% reside in Baltimore County. There are 190 faculty members and 120 other employees, both full and part time, who work on site.

As to the subject site, Villa Julie College is located on the floor of the Greenspring Valley, an agricultural prize of Baltimore County. The entire site, which encompasses approximately 60 acres, is zoned R.C.2. The sole vehicular access to the College is by Greenspring Valley Road, a State highway. Presently, there exists approximately 103,000 sq. ft. of building on site. This includes a learning and resource center, a classroom known as Knott Hall, the Mueller house which contains offices, a student center and a child day care center. Significant expansion of the physical facilities on site is proposed. This includes construction of a 45,000 sq. ft. academic center, expansion to the learning resource center of approximately 3,300 sq. ft. and a classroom and general purpose building contemplated to be 50,000 sq. ft. Further, realignment of the existing parking is proposed.

ORDER RECEIVED FOR FILING
Date 8/12/92
By M. Grant

As indicated, Villa Julie is located in an R.C.2 zone. The subject site is nestled on the Greenspring Valley floor. To both the north and south, the Valley rises to a plateau. In terms of uses, the entire Valley is dedicated to agriculture and residential pursuits. There are working farms within the subject locale and numerous large estate homes in which many of the Protestants reside.

Under Section 1A01.2.C.19 of the B.C.Z.R. a college is permitted by special exception. However, use of the property as a school only by special exception was not always the case. The college originally existed as of right and may well qualify to continue as a nonconforming use. However, as provided both in the B.C.Z.R. and under law, a nonconforming use is restricted in terms of its growth. Due to the College's intended expansion, the Petitioner chooses to come before me seeking approval of the use as a special exception rather than under a Petition for Special Hearing to establish a nonconforming use.

In considering the merits of the case before me, numerous issues are presented. The parties hereto disagree as to the relevant facts and those provisions of the regulations involved which need be applied to those facts. Generally speaking, consideration must be given to the proposed construction of a waste water treatment plant to solve the college's existing septic system failure, the merits of the special exception request as it relates to a college in an R.C.2 zone and the variances requested for the proposed new academic buildings.

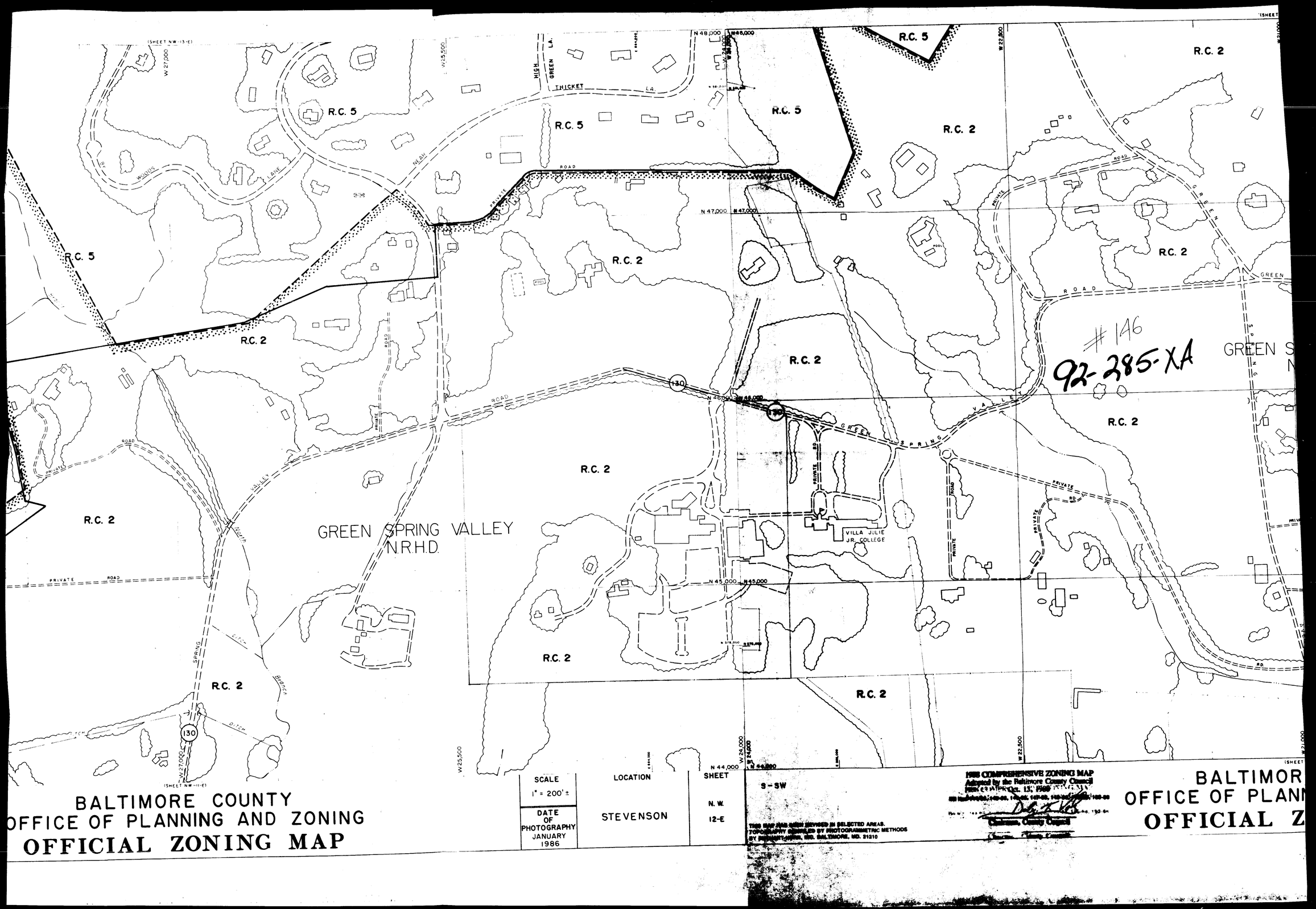
It must also be stated that this case is not about the merits of Villa Julie as a college. The institution deserves the fine reputation it enjoys. That cannot be disputed. What must be decided is whether the College, at this location, is permissible under the tenants of the special

ORDER RECEIVED FOR FILING
Date 8/12/92
By M. Grant

exception law. Clearly, the future of the College, as well as the Greenspring Valley, hangs in the balance.

Proposed Waste Water Treatment Facility

Much of the testimony and evidence presented concerned the college's proposal to construct and operate a waste water treatment plant ("W.W.T.P.") on site. This facility would be constructed to handle and dispose of the sewage and waste water generated by the College. The issues generated by this proposal are many and complex. Not only can the parties not agree as to whether the W.W.T.P. is an appropriate method of disposing of the College's sewage, there is threshold disagreement as to whether consideration of the proposed facility is an issue within my jurisdiction. It is of particular note that the College's Petitions for Special Exception, Special Hearing and Variance make no reference to the W.W.T.P., a fact which was not lost on the Office of Planning and Zoning. Specifically, within that office's Zoning Advisory comment dated March 6, 1992, authored by Jack Dillon and Jeffrey Long, it was noted that, "Although the present Petition request does not cover the proposed treatment plant, this office fully supports the conditions requested by the Department of Environmental Protection and Resource Management (D.E.P.R.M.) which deals with treatment plant facilities." (Emphasis added). Further, as is evidenced by the wording within its Petitions for relief, the College claims that I lack the authority to determine the propriety of the W.W.T.P. In contrast, the Protestants aver that same should be considered in the context of this case and, further, that the W.W.T.P. should not be permitted or, if so permitted, its size and output limited. Prior to addressing the issues, generated by this proposed facility, an overview of the history relating to the present need for the W.W.T.P. is in order.



BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
OFFICIAL ZONING MAP

SCALE	LOCATION	SHEET
1" = 200' ±	STEVENSON	N. W. 12-E
DATE OF PHOTOGRAPHY JANUARY 1986		

S - SW

THIS COMPREHENSIVE ZONING MAP
Adopted by the Baltimore County Council
[illegible] Oct. 13, 1980

[illegible]
Chairman, County Council

THIS MAP HAS BEEN REVISED IN SELECTED AREAS.
TOPOGRAPHY COMPILED BY PHOTOGRAMMETRIC METHODS
BY AERIAT-LAWRENCE, INC. BALTIMORE, MD. 21210

The College began operations in approximately the late 1940s. It has expanded since that time, both in terms of physical plant and enrollment, although the size and scope of the improvements on campus are not well documented. However, physical expansion apparently occurred in 1950, 1952, 1961, 1971 and in the early 1980s. Due to its location in the Greenspring Valley, the property is not served by public water and sewer. Sewage disposal is now and has always been accomplished by a septic system. The location of the disposal field for the College's system is on the neighboring property owned by the Sisters of Notre Dame de Namur ("Sisters"). The existing system was originally designed for disposal of 6,000 gallons of waste water per day. Testimony presented was that four to five times that amount is presently being released into that system. It is estimated that approximately 28,000 to 29,000 gallons of waste water per day are being generated by the College. In approximately 1989, the failure of the system was recognized. Although attempts to repair the system have been made in the past, those attempts have not succeeded. There can be no dispute that the system must be replaced. Simply stated, the system is overwhelmed by the present demands made upon it. It was not originally designed to handle the present volumes and the soil and subsurface conditions are such that it cannot be repaired.

It is also to be noted that the Villa Julie system was originally believed to be part of a system shared with the Sisters' property next door. However, evidence presented convinces me that, in fact, there are two systems; one for the College and the other for the Sisters' property. The Sisters septic system may or may not be failing but might quite possibly be rehabilitated to handle the limited needs of the Sisters property. The

future of the Sisters' property and their septic system is not an issue before me.

Due to the failure of the College's system, Villa Julie retained Maryland Environmental Services, ("M.E.S.") a not-for-profit government institution comprised of State and non-State employees in April of 1990. Their representative, Dane Bower, testified at the hearing. He indicated that an extensive study was undertaken by his agency. This study included evaluations of the system and consultations by M.E.S. with the Maryland State Department of Environment ("M.D.E."), Baltimore County's Department of Environmental Protection and Resource Management ("D.E.P.R.M."), and several engineering firms. Based on these studies, a recommendation was made to, and adopted by, the College to construct a waste water treatment plant. This plant will be located in the southwest quadrant of the site. Construction will be in two phases. First, a system to accommodate the College's current volume of waste water will be built. This construction will include the necessary infrastructure to increase the plant's capacity to handle up to 60,000 gallons per day of waste water. When ultimately constructed to its full extent, it will be large enough to handle Villa Julie's proposed enrollment growth.

Under Maryland law, Baltimore County is required to submit to M.D.E., for acceptance, a water supply and sewage plan. In accordance with this requirement, Baltimore County has submitted and received approval of such a plan. In view of the proposed W.W.T.P., an amendment to the County's plan was sought by Villa Julie. This amendment was approved by resolution of the Baltimore County Council on January 7, 1991. (See Petitioner's Exhibit No. 9). That amendment grants authorization from the County for Villa Julie and the Sisters of Notre Dame to operate "a community sewage treatment plant for

the combined properties, with a capacity subject to a special exception to the R.C.2 zoning." The significance of the wording used within the amendment will be discussed hereinafter.

In any event, upon submission of the Council's resolution, M.D.E. approved the amendment. (See Petitioner's Exhibit No. 10.) Within their approval, M.D.E. authorized the operation of the community sewage treatment plant for Villa Julie, without establishing its capacity.

Subsequently, Villa Julie appeared before M.D.E.'s Water Management Administration to obtain a State waste water discharge permit. At that time, Villa Julie requested a permit to discharge up to 62,900 gallons per day into an unnamed tributary of the Jones Falls. By their decision dated May 20, 1992, M.D.E. approved the College's request and issued the permit. This was after a public hearing which was attended by the identical Protestants who appeared in the instant case. Further, the Protestants filed an appeal which is currently pending.

That factual foundation having been established, attention is now turned to the questions presented by this proposed construction.

Is the proposed W.W.T.P. the best/only way to solve the College's sewage disposal needs?

After considering all of the testimony and evidence offered, the obvious answer to this question is "Yes". This conclusion is overwhelmingly supported by the evidence received. The Protestants suggest that a number of alternatives are available to the College to correct the current failure of the existing system. However, none of these are practical or workable. Clearly, none of the parties desire an extension of the public water and sewer system to the College. For planning/political reasons, this is not an alternative. Testimony was presented that the system was failing both from

a hydraulic and treatment standpoint. Due to the site conditions, it cannot be repaired. Creation of the septic fields on other portions of the property is, likewise, not practical. The Protestants suggest that a spray irrigation/pump and haul combination system be employed. Presently, the College is dealing with its failing system by hauling sewage from the site on a nearly daily basis. As Mr. Dieter of D.E.P.R.M. testified, this method of disposal is employed on a temporary basis and is not a long range solution. Overall, I am persuaded by the testimony of Messrs. Dieter of D.E.P.R.M., Mr. Neff of Public Services and Mr. Bauer of M.E.S. All of these witnesses testified that the waste water treatment plant is a best and only means of permanent correction of the College's existing sewage disposal failures. Further, and just as significantly, it is to be noted that the W.W.T.P. is the only sewage plan offered by the Petitioner. That is, the College's site plan references only the construction of a W.W.T.P. to solve current/future sewage disposal needs. I will not dictate that the College should consider and/or employ alternative systems.

Does the Zoning Commissioner have the authority/jurisdiction to properly consider the waste water treatment plant?

As indicated heretofore, the Petitioner avers that the issue of the waste water treatment plant is not properly before me. The Petitioner's arguments in this regard are three pronged; namely, (1) that the County Council's amendment of the Master water and sewer plan to permit a W.W.T.P. was a planning, not zoning decision and, therefore, is not within the Zoning Commissioner's jurisdiction; (2) that the Federal and State authority have preempted the field of waste water treatment and discharge thereby precluding Baltimore County from regulating the proposed facility, and (3) that any regulation by Baltimore County would cause a dual system of regulating the

W.W.T.P. and treated discharge, thereby leading to confusion and imposing an unfair burden upon the Petitioner to litigate the same issue on two separate fronts. For the reasons set forth below, all of their arguments are rejected.

As to the planning vs. zoning argument, both parties cite Gregory v. Board of County Commissioners of Frederick County, 89 Md. App. 635, 599 A2d 469 (1991) as dispositive. That case dealt with an amendment to the Frederick County Comprehensive Water and Sewage Plan similar in nature to the amendment adopted by the Baltimore County Council for the Villa Julie property. In Gregory, Frederick County residents appealed the County Commissioners adoption of the amendment and, on appeal, the case came before the Court of Special Appeals. The Appellate Court held that the adoption of the amendment to the comprehensive water and sewage plan was not a "zoning action" but rather, was a "planning action". As such, the Court concluded that the Board's action was not appealable under Maryland Annotated Code, Article 66B, Section 4.08(a).

Although that case is dispositive on the issue that an amendment to the comprehensive plan is a planning decision, I do not believe that the characterization of the amendment in that context precludes my consideration of the propriety of the construction of the facility. As the Protestants correctly point out in their memorandum, the issue before me is whether a W.W.T.P. is a permitted use at this location under the Baltimore County Zoning Regulations. Simply stated, is the proposed W.W.T.P. a permissible use or structure in an R.C.2 zone, pursuant to the B.C.Z.R. This issue is quite different from that presented in the Gregory case.

The Petitioner requests an overly broad interpretation of the holding in Gregory. If such a theory was adopted, the prerogative of the County

to govern land use would be lost. I do not believe the holding of Gregory is to be construed in such a sweeping fashion. The Court's opinion supports the view that its holding was to be narrowly construed and not impinge on County land use regulations. Specifically the Gregory Court noted: "The amendment was not substantially concerned with use regulation; while it changed the water supply and sewage services priority categories of the subject properties, it had no impact, in and of itself, on the otherwise allowable uses of the properties as determined by their zoning classifications." (p. 641)

As a second basis for its contention that I am precluded from consideration of the propriety of the waste water treatment plant, the College alleges that Federal and State authority have fully occupied the field of waste water treatment and discharge through M.D.E. The Petitioner notes that it has already endured a lengthy administrative procedure to obtain the waste water discharge permit from M.D.E. Thus, the Petitioner contends that Baltimore County is precluded from consideration of this issue. In their respective arguments concerning this topic, both sides cite that Court of Appeals decision, Ad + Soil, Inc. v. County Commissioners of Queen Anne's County, 307 Md. 327 513 A2d 893 (1986).

For its part, the Petitioner argues that the Federal government has delegated unto M.D.E. a procedure for regulating the issuance of waste water permits. The chain of the permitting process is fully set forth within the Petitioner's Memorandum in Opposition to Motion to Dismiss the Petition for Special Exception. Indeed, the Federal government and State of Maryland have established such procedures. Notwithstanding the establishment of these procedures, I am persuaded by the Protestants' argument that this Federal/State process has not precluded local governments involvement with

the regulation of waste water treatment facilities. As the Court noted in Ad + Soil, "These statutory provisions manifest a general legislative purpose not to prohibit local legislation, but rather to coordinate and supplement such legislation through the enactment of a State wide regulatory panoply. Indeed, this body of State law clearly contemplates a pervasive and vital role for local legislation in the field of sewage management." (p. 904) Further, the Court in Ad + Soil said that the County water and sewage plan "must be consistent with all local zoning regulations." Further, I note that Sections 9-505(a)7 and 9-505(a)9 of the Environmental Article of the Annotated Code which require the County plan to "take into account all relevant planning {and} zoning information. . . " Accordingly, I find that Baltimore County, and more particularly the Office of the Zoning Commissioner, is not precluded from consideration of the waste water treatment facility by the doctrine of State/Federal preemption of this area. Although, I will not repeat their arguments fully herein, I believe that the Protestants have correctly summarized the law and the Ad + Soil holding in their memoranda.

As to the Petitioner's last argument, it is claimed that County "involvement" in the waste water treatment plant would involve dual regulation and, therefore, be unduly burdensome to the Petitioner. With this assertion, I simply do not agree. It is not the intent of this office to regulate the operation of the W.W.T.P. to insure water quality or mirror the function of M.D.E. My examination of this issue is from a land use/zoning perspective. Clearly M.D.E. regulation of the technical operation of the W.W.T.P. will not be affected by my decision.

Is the proposed W.W.T.P. permitted in an R.C.2 zone and, more specifically, is the proposed W.W.T.P. permitted at this site?

Having determined that I have the authority to consider the proposed W.W.T.P., consideration is now given as to whether the proposed facility at the proposed location is proper, pursuant to the B.C.Z.R.

In this regard, the Protestants offer several arguments. First, the Protestants note that the proposed W.W.T.P. is not a permitted use in an R.C.2 zone, in that it is not identified within the list of those uses which are permitted as of right in an R.C.2 zone within the B.C.Z.R. With this assertion, I agree. Further, it is correctly noted by the Protestants that the W.W.T.P. cannot qualify as a special exception under the regulations. Further, the W.W.T.P. is not a public utility, nor serves a public use, and is, therefore, not permitted on those basis.

Additionally, the Protestants note the absence of language within the Petition for Special Exception requesting approval of the W.W.T.P. Further, it is noted that there is no joint request for special exception by both Villa Julie and the Sisters for their community systems.

Although I concur with the Protestants in all of these respects, I, nonetheless, believe that the W.W.T.P. may be permitted. In making my decision, a determination of the nature of the proposed plant must be made. The plant is not the primary use for this site. Obviously, it is entirely incidental to the use of the property as a College. As was gleaned from the evidence about the history of the system and its failure, Villa Julie's initial notice that their septic system was failing occurred in 1989. At that time, it was believed that Villa Julie and the Sisters shared a common system. Although it was recognized that Villa Julie contributed a high percentage of the total sewage, it was believed that the Sisters property also contributed to and used the failing system. In fact, it is clear that Villa Julie's efforts in obtaining the Council's amendment and subsequent

approval through M.D.E. were based upon this premise. In fact, it has been determined that that premise is incorrect. The septic systems for the two properties are independent and, as proposed, the W.W.T.P. will serve only the College. In view of that fact, it is clear that the W.W.T.P. constitutes an accessory use or structure, as that term is defined within the B.C.Z.R. Specifically, Section 101 defines an accessory use as a use which "(a) is customarily incident and subordinate to and serves a principal use or structure; (b) is subordinate in area, extent, or purpose to the principal use or structure; (c) is located on the same lot as the principal use or structure served; and (d) contributes to the comfort, convenience or necessity of occupants, business or industry in the principal use or structure served". All of those criteria accurately describe the W.W.T.P. proposed by the Petitioner.

Moreover, as the Protestants correctly point out, the Court of Special Appeals in Carroll County Commissioners v. Zent, 86 Md. App. 745 held that the accessory use may serve only the principal use on the subject property. In fact, I adopted a similar holding in Helix Health System, case No. 92-186-SPH. In my view, the proposed W.W.T.P. can be permitted only as an accessory use or structure. Unfortunately, the Petitioner has found itself in a difficult position due to the incorrect premise which they operated under.

Specifically, when obtaining the amendment to the Master Plan from the County Council, the Petitioner requested authorization to establish a "community sewage treatment plant". A community plant is defined under the relevant State regulation as a plant which serves two or more properties. This is to be distinguished from a "multi-use" plant, which serves only one structure. Believing both the Sisters and Villa Julie systems to be joined, the

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Petitioner obtained authorization for a community system. Thus, the Petitioner finds itself in the uncomfortable position of having obtained approval for a plant to serve two properties, and subsequently discovering that only one property is involved and that, under the B.C.Z.R., only a W.W.T.P. serving one property would be permitted at this location.

As envisioned, the W.W.T.P. will serve Villa Julie only and thus would be a permitted accessory structure under the provisions of the B.C.Z.R. For the reasons set forth above, I believe that construction of a W.W.T.P. is the most logical and preferable solution to the College's waste water problems. Thus, I shall permit installation of same as an accessory structure. The W.W.T.P. can serve the Villa Julie site only. That is, there shall be no tie in to the system by either the Sisters, a subsequent owner of their parcel, or any other landowners. I will restrict the use of the W.W.T.P. to a pure accessory use, leaving the College to deal with the State in whatever means necessary to correct the amendment and properly identify the proposed facility as serving only the subject property.

Regulation of the flow of the waste water treatment discharge.

This is a most difficult question to decide. There was significant testimony and evidence presented on this topic at the hearing. As indicated above, the amendment to the Master Sewer Plan adopted by the County Council provided that authorization to operate a community water system was granted, "with capacity subject to a special exception to the R.C.2 zoning." Further, other exhibits evidence the State's acknowledgement that the capacity issue was to be determined at the County level. Specifically, M.D.E.'s letter confirming the acceptance of the amendment to the County Council dated June 28, 1991 notes that the community sewage treatment is authorized "without any establishment of capacity." The letter goes on to note that

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after capacity has been established, an amendment to the amended plan shall be submitted to the State.

The findings of the State of Maryland within its granting of the application for a State discharge permit are even more significant. Specifically, the State discusses its role, as compared with the County's role, in regulating flow. The State finds "Federal and State water pollution laws and regulations, including discharge permit regulations, are designed to protect water quality and are not designed to, and do not regulate growth." (emphasis added) Later, it is noted again that "a surface discharge permit is not designed to regulate growth but rather to protect water quality." Further, it is noted that limitations on flow are imposed by M.D.E. only, in the event they are necessary to prevent water quality impairment. M.D.E. then goes on to find that there would be no impairment to water quality with a flow of 60,000 gallons per day. Thus, it is abundantly clear that M.D.E., from its standpoint, believes that up to 60,000 gallons per day are permissible and appropriate. However, their viewpoint only considers the water quality issue and not growth issues.

Further, Section 502.1 of the B.C.Z.R. allows me to examine the issues of sewage in considering any special exception before me. Specifically, Section 502.1.e. of the B.C.Z.R. requires that in order for a special exception to be granted, "there shall be no interference with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences or improvements". (emphasis added)

Based on these reasons, I am persuaded that I do have the authority to regulate growth and, therefore, establish flow for so long as I do not permit a higher flow than that approved by M.D.E. That is, my authority only

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extends to that permitted by the State. I must work in concert with M.D.E. and in accordance with their technical findings to assure water quality.

That conclusion, notwithstanding, a further comment is in order. The issue of regulating the amount of flow is much akin to the old analogy of whether the tail is wagging the dog or the dog is wagging its tail. For reasons which will be discussed hereinafter, I am determined to establish limits on the growth of Villa Julie College. The purpose of those limits will be to insure compatibility of the subject use with the surrounding locale. The environmental/sewage issues generated by the waste water treatment plant will be considered. The limitation of flow, a restriction upon the number of students enrolled, or similar restrictions are only means to obtain a stated goal (compatibility with the surrounding locale) and not ends of those means themselves.

Special Exception for a college

Having decided that the waste water treatment plant is permissible, attention must now be given to the Petition for Special Exception. As indicated previously herein, that Petition has been amended to delete the request for a group child care center. Thus, only consideration need be given as to whether the College is a permissible use under the special exception standards.

The case is presented in an unusual fashion in that the College already exists and has been in place for over 40 years. That is, I am not confronted with a question where a special exception use is proposed on undeveloped land; rather, am asked to legitimize an existing use. This provides me with a rare opportunity to consider how the College now impacts its locale rather than speculating on the possible impacts of a proposed special exception use.

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As has been stated many times by the appellate courts of this State, a special exception use is, under law, presumptively valid. By designating a college as a permissible use by special exception in an R.C.2 zone, the Baltimore County Council has identified that use as valid on a prima facie basis. The Courts have repeatedly emphasized this principal in their discussion of special exception law in Maryland. See Schultz v. Pritts, 291 Md. 1 432 A2d 1319 (1981) and Peoples Counsel v. Mangione 85 Md. App. 738, 584 A2d 1318 (1991). Thus, armed with the knowledge that a special exception use has been predetermined by the Council to be conditionally compatible with the uses in a R.C.2 zone, consideration must then be given of the specific standards set forth in Section 502.1. Specifically, the Petitioner has the burden of adducing testimony and evidence that would show the proposed use meets those standards.

A review of that regulation is relevant. Section 502.1 of the B.C.Z.R. provides:

> "Before any special exception may be granted, it must appear that the use for which the special exception is requested will not: (a) be detrimental to the health, safety, or general welfare of the locality involved; (b) tend to create congestion on roads, streets or alleys therein; (c) create a potential hazard from fire, panic or other dangers; (d) tend to overcrowd land and cause undue concentration of population; (e) interfere with adequate provisions for schools, parks, water sewerage, transportation or other public requirements conveniences or improvements; f) interfere with adequate light and air; (g) be inconsistent with the purposes of the property's zoning classification or, in any way, inconsistent with the spirit and intent of the zoning regulations and (h) be inconsistent with the impermeable surface and vegetative retention provisions of these zoning regulations."

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In addition to meeting this test, the Petitioner faces a second hurdle for a special exception to be granted in a R.C.2 zone. Specifically, Section 1A01.2.C. of the B.C.Z.R. provides that a special exception in an R.C.2 zone may be granted. . . "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. . .". Thus, the Petitioner must not only demonstrate that the provisions of Section 502.1 have been satisfied but that the proposed use will not be detrimental to the primary agricultural uses in this locale.

In evaluating the impact of Villa Julie on its locale at the present time, I am convinced that the Petitioner has satisfied their burden. That is, I find that the College has met the standards set forth within Section 502.1 of the B.C.Z.R. Specifically, I do not find that Villa Julie is detrimental to the health, safety or general welfare of the locality. It does not cause congestion in the transportation system, undue concentration of population or overcrowd land, interfere with adequate provisions for public requirements or, otherwise, detrimentally affect the surrounding community. Likewise, the present use is not detrimental to the primary agricultural uses in the vicinity. Thus, I am persuaded that a special exception use consistent with the College's current size and enrollment should be granted. My conclusion, in this respect, is based on the evidence presented, which convinces me that the College does not now adversely affect its surrounding locale and the agricultural uses therein.

Notwithstanding my conclusion in this regard, I cannot be short sighted. The testimony and evidence submitted by the Petitioner was clear; Villa Julie intends on growing. Although the annual growth rate will be modest and consistent with the 8% per year historical rate, any growth causes

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concern. Clearly, this site could not house an institution of higher learning similar to the Towson State University Campus. The constraints of this property, the zoning classification of the property and agricultural characteristics of the surrounding locale are limiting factors. Certainly Villa Julie concedes that it does not wish to become another Towson State University. However, the demands on any small college are enormous. It must grow to survive. To remain stagnant threatens its existence. The question is presented; how much growth should be permitted?

In searching for an answer to this question, several of the factors set forth in Section 502.1 are germane. These will be examined in turn.

One of the considerations as set forth within Section 502.1(b) concerns traffic. As indicated, access to the Villa Julie Campus is from Greenspring Valley road. The Protestants correctly note that this is the only roadway which serves the College; hence all traffic will be borne by it. As to this issue, the Petitioner produced the testimony of Wesley Guckert, an expert Traffic Engineer who owns The Traffic Group, Inc. Mr. Guckert testified as to his extensive traffic analysis of the site and locale. This analysis included traffic counts taken at nearby intersections, as well as counts taken at Villa Julie's entrance. Mr. Guckert also discussed extensive and projected levels of service for the intersections which are nearby. Mr. Guckert concluded that the College causes no present adverse traffic impact in the locale and that, even with modest growth, there will be no adverse affect in the foreseeable future. In his view, the existing road work is sufficient to accommodate an increased number of students in the foreseeable future. Mr. Guckert also notes that not all of the students are on campus in any given time and thus, increased total enrollment may not cause any additional congestion.

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In contrast to this testimony, the Protestants produced Martin J. Wells, the President of Wells and Associates. Mr. Wells also qualified as a traffic engineer, and an expert in the field of traffic engineering. As with Mr. Guckert, Mr. Wells performed an extensive study of the subject locale. However, his conclusions are quite different. He finds that the existing traffic levels near the school entrance at peak use periods are already straining the roadways' capacity. Any increase in the student body, in Mr. Wells' view, would exacerbate an already existing problem.

Also testifying on this issue was John M. Contestabile, Chief of Engineering for the State Highway Administration. Mr. Contestabile described the current plans for the widening of Greenspring Valley Road near the Villa Julie entrance. Mr. Contestabile noted that two additional lanes will be added, one for eastbound traffic and the other for westbound traffic. This will provide a left hand turn lane for westbound traffic and an acceleration/ deceleration lane for eastbound traffic. In Mr. Contestabile's view, there is no safety problem now, and the installation of two additional traffic lanes will accommodate the additional traffic generated by Villa Julie's proposed growth.

In considering all of the testimony presented, I am persuaded that there exists no detrimental affect on traffic congestion caused by the College presently. Further, I am persuaded by Messrs. Guckert and Contestabile that the room for school expansion exists, particularly if Greenspring Valley Road is widened as suggested by the State Highway Administration. With prudent scheduling of classes by the College, I believe that the existing roadway is sufficient to accommodate Villa Julie's proposed growth through, at least, the end of this decade.

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A second issue for consideration under the standards set forth in Section 502.1 arises out of subsection (e), which pertains to considerations of water, sewage and other public requirements. As to sewage, my rationale in permitting the installation of the waste water treatment plant is relevant here. That is, I believe such a facility is the preferable way for Villa Julie to solve its current septic failure. Further, I am persuaded by the voluminous expert testimony that the installation of the W.W.T.P. will not detrimentally affect the surrounding locale. The W.W.T.P. is a state of the art facility and the efforts made by its engineers to control the amount of discharge are impressive. Particularly, when comparing the W.W.T.P. with other alternatives, disposal of sewage and the proposed system is preferable.

As to the water use of the College, only a brief comment is in order. The testimony was convincing that the Valley floor sits upon a rich and plentiful aquifer. There appears to be no danger that either the present use or limited expansion would detrimentally effect the neighbors water supply. Thus, I am convinced that a granting of the special exception will not interfere with adequate water provisions for the surrounding locale.

As to the other provisions of Section 502.1, I am persuaded that Villa Julie has presented sufficient evidence to justify the granting of the special exception. Particularly, the character and credibility of the testimony presented was sufficient to support a finding that the special exception will not be detrimental in any of the areas set forth in Sections 502.1. A. thru F. and 502.1.H. My sole reservation, as it applies to proposed expansion of the College, arises out of the standards set forth in Section 502.1.G.

This particular provision of the B.C.Z.R. is of note. It provides that the special exception may not be granted if it will "Be inconsistent with

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the purposes of the property zoning classification, nor in any way be inconsistent with the spirit and intent of these zoning regulations." This section, goes hand in hand with the provisions of Section 1A01.2.C. As cited above, that section of the B.C.Z.R. provides that the special exception use cannot be detrimental to the primary agricultural uses in its vicinity.

Sections 1A00.1 and 1A00.2 of the B.C.Z.R. set forth the findings and purposes, respectively, used by the County Council to establish the resource conservation zone. Those findings and purposes will not be repeated herein, but speak for themselves. I am charged by the Council to consider those findings and purposes. It is clear that the legislature intended that a classification of R.C. is to foster the development of agriculture and prevent urban sprawl. Intensive development is to be prohibited. Although the above cited sections govern R.C. zones as a whole, similar findings are found within the B.C.Z.R. as they relate to R.C.2 zoning. Specifically, Section 1A01.1.A. and 1A01.1.B. set forth the Council's findings and purposes for that specific zoning classification. It is stated that "The R.C.2 zoning classification is established pursuant to the legislative findings above, in order to foster conditions favorable to a continued agricultural use of the productive agricultural areas of Baltimore County by preventing incompatible forms and degrees of urban uses". Sec. 1A01.1.B. (emphasis added)

Again, as set forth above, I find the present use of the site as a college campus is not inconsistent with those findings and purposes. Uncontrolled expansion, however, would be. The Petitioner correctly points out that Villa Julie is bound by its site plan and amendments thereto and would require a special hearing to amend the approved special exception. Although that is true, the proposed physical expansion is sizeable. Specifically,

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Villa Julie proposes nearly doubling the classroom and office facilities on site. In my view, a corresponding increase of the enrollment would be harmful to the existing agricultural surroundings and detrimental to the subject locale. Thus, the extent of Villa Julie's expansion must be controlled.

Having reached this determination, a method must be found to monitor the expansion of the College. In my view, there are three possibilities, each which enjoys its distinct advantages and disadvantages. These possibilities include limiting the number of students; regulating and limiting the flow of discharge from the waste water treatment plant; and limiting the physical plant on site.

Limiting the number of students is an obvious way to control growth. Unfortunately, it is not fail safe. The College currently has an enrollment of approximately 1700. Some students are full time; whereas, others attend on a part time basis. Although none resides on campus, the detrimental effect which the College might cause to the surrounding locale, occurs when the number of students on campus, at any given time, overwhelms the capacity of the site. For example, if all students attended the same class at the same time, there is no doubt that such a scenario would detrimentally effect the surrounding agricultural locale. The important factor, therefore, is how many students there are on campus at any given time. It is hoped that Villa Julie will wisely schedule its classes and functions to insure that the facility is not overcrowded and does not overwhelm the community at any given time. However, it is recognized that there are some inherent difficulties in scheduling. Certain classes and faculty are available only at certain times, for example.

After considering all of these factors and the need to control Villa Julie's growth, I am convinced that my Order granting the special exception

ORDER RECEIVED FOR FILING
Date 7/16/92
By Mr. Stark

should be restricted to control the rate of growth and establish on capacity. Thus, my Order shall be restricted to prevent no more than 2500 students, including both full and part time to be enrolled for classes at the subject campus in any given semester. Students enrolled in correspondence classes or who exclusively attend off site or satellite facilities shall not be included in that maximum. Any requested increase above that limit shall require the College to first petition for a modification of this special exception. That Petition shall require a public hearing. Further, the annual rate of growth of students shall be limited at 5% per year, based upon enrollment for the Fall 1992 school semester. A determination of these figures was not developed lightly or arbitrarily. It is noted that the Zoning Advisory comment from the Office of Planning, likewise, suggests a 2500 student cap. Although I do not know how the Planning Staff reached that conclusion, the figure was reached by me after consideration of the College's historical growth, the number of students presently enrolled, consideration of additional traffic generated by more students and a judgment as to the amount of students which, in my view, would overburden the land and cause real detriment on the surrounding agricultural locale. This is not to say that expansion might not eventually push the number of students over 2500; however, before that occurs, an additional public hearing will be necessary to determine how the installation of the W.W.T.P., the improvements to Greenspring Valley Road, and the expansion of the physical campus have actually affected the surrounding locale.

As to the discharge capacity of the Waste Water Treatment Plant, I, again, repeat that my decision, in this respect, is not to impinge on the M.D.E.'s authority. The imposition of a restriction by me, in this respect, is intended only to insure limited growth. In calculating the needs of the

ORDER RECEIVED FOR FILING
Date 7/16/92
By Mr. Stark

college based upon the proposed student body growth rate stated above, as well as corresponding increased faculty and staff, I believe that a 50,000 gallon per day discharge is appropriate. Thus, Villa Julie shall be restricted to a discharge level no higher than that daily rate. If such an increase is required in the future, a modification of this special exception must be sought by way of a hearing.

As to the last limited factor which might be employed, I have given consideration to restricting the development of the physical plant on site. However, the testimony produced by Villa Julie was that the existing plant is seriously overcrowded and threatens the quality of education provided. In that I believe that the majority of the proposed increase in space will be directed to cure the current overcrowded situation, I shall merely restrict the special exception to the site plan submitted, without further limiting the physical plant.

The request variances

As indicated above, Villa Julie's Petition for Zoning Variances contain some thirteen different variances. Eleven of the variances pertain to height and distance requirements between proposed and existing buildings. One of the variances relates to signage and the last one to the dimension of parking spaces to be provided on the site.

The Protestants do not object to many of the requested variances but are in opposition to five of the variances as they particularly relate to the height of the proposed buildings and their distance from existing structures.

It should first be noted that I am satisfied with the proposed scheme and layout of the Petition's proposed improvements as shown on the site plan. For the reasons set forth in my discussion of the special exception

ORDER RECEIVED FOR FILING
Date 7/16/92
By Mr. Stark

above, it is clear that Villa Julie needs more physical plant, not only to accommodate its growth but to satisfy existing needs. The proposed site plan also keeps a large area of the entire lot undisturbed. In fact, there is a significantly sized field in the northwest quadrant of the site which will remain an agricultural use. The buildings, both existing and proposed, are clustered to the rear of the site in a manner designed to produce as little impact as possible on the surrounding locale. Further, the grade of the property has been utilized to reduce the impact of the structures. I have particularly considered the impacts of the proposed building during my site visit. I do not find that, as proposed, the improvements will be overwhelming or out of character with what already exists on site and is permissible.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

> 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
>
> 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
>
> 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

ORDER RECEIVED FOR FILING
Date 7/16/92
By Mr. Stark

It is clear from the testimony that if the variances are granted, such use, as proposed, will not be contrary to the spirit of the B.C.Z.R. and will not result in any injury to the public good.

After due consideration of the testimony and evidence presented, it is clear that a practical difficulty or unreasonable hardship will result if the variances are not granted. It has been established that special circumstances and conditions exist that are peculiar to this site, and that the requirements from which the Petitioner seeks relief will unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the variances requested will not cause any injury to the public health, safety and general welfare. Further, granting of the variances will be in strict harmony with the spirit and intent of the B.C.Z.R.

I am particularly concerned that the site remain compatible with the surrounding locale. The improvements proposed, as shown on the site plan, convinces me that the granting of these variances will not destroy that compatibility.

Pursuant to the advertisement, posting of the property, and public hearing on these Petitions held, and for the reasons given above, the relief requested should be granted in part and denied in part.

IT IS THEREFORE ORDERED by the Zoning Commissioner for Baltimore County, this 10th day of July 1992 that the Petition For Special Hearing to approve a modified parking plan and a residential caretaker dwelling as an accessory use to the College, as more particularly shown on Petitioner's Exhibits Nos. 2 and 25, be and is hereby approved; and,

IT IS FURTHER ORDERED that the Petition for Special Exception to approve the use of the property for a private college and a group child

ORDER RECEIVED FOR FILING
Date 7/16/92
By Mr. Stark

care center (Class B), be and is hereby GRANTED IN PART and DENIED IN PART, so as to grant the Petition for Special Exception to allow a private college, in accordance with the Petitioner's site plan and as restricted below, and so as to deny the Petition for Special Exception to permit a group child care center (Class B); and,

IT IS FURTHER ORDERED that the Petition for Zoning Variance to permit variances from Sections 102.2, 1A01.3.B.3, 413.1.b. and 409.3 of the B.C.Z.R., as more fully set forth in schedule A, which is attached hereto and made a part hereof, be and is hereby GRANTED, subject, however to the following restrictions which are conditions precedent to the relief granted herein:

1. The 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. Construction of the waste water treatment plant as shown on the Petitioner's site plan, shall be permitted as an accessory structure/use to the College. Therefore, use of the W.W.W.P. shall be limited strictly to the College and use by adjoining properties is prohibited.

3. Total student enrollment at the College shall be limited to 2500 students. This limitation shall not apply to students who exclusively attend offsite/satellite campuses or programs or, who are enrolled through a correspondence program. It is the intent of this restriction to limit the number of students who attend the classes or regularly use the facilities on the subject site.

4. Student growth shall be limited to 5% per year. The base year shall be determined to be total on campus student enrollment for the Fall 1992 semester. Student enrollment for succeeding academic years shall be limited to 5% of the enrollment in the prior year.

ORDER RECEIVED FOR FILING
Date 7/16/92
By Mr. Stark

5. The maximum discharge of the W.W.T.P. shall be 50,000 gallons per day.

6. In view of the Petitioner's withdrawal of that portion of the Petition for Special Exception for the group child care center, there shall be no child care services on site.

7. All construction and exterior physical plant improvement shall be limited to that shown on the Petitioner's site plans submitted at the hearing.

8. All modifications to the above restrictions and the relief granted within this Order shall be considered only after a public hearing.

9. The Petitioner shall submit semi-annual reports to this office to insure compliance with Restrictions 3, 4, and 5 above. Upon request and reasonable notice, the Petitioner shall permit a representative of the Zoning Enforcement Division to make an inspection of the subject property, and shall make available to that inspector all books, records and reports necessary to confirm compliance with the restrictions stated herein.

LAWRENCE E. SCHMIDT
Zoning Commissioner for
Baltimore County

LES:mmn

ORDER RECEIVED FOR FILING
Date 7/31/92
By B. McH

-30-

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

Suite 113 Courthouse
400 Washington Avenue
Towson, MD 21204

(410) 887-4386

July 10, 1992

Benjamin Bronstein, Esquire
Evans, George and Bronstein
Susquehanna Building
Suite 205
29 W. Susquehanna Avenue
Towson, Maryland 21204

RE: Petitions for Special Hearing, Special Exception and Zoning Variance
Case No. 92-285-SPHXA
Villa Julie College, Inc.

Dear Mr. Bronstein:

Enclosed please find the decision rendered on the above captioned case. The Petitions for Special Hearing and Zoning Variance have been granted. The Petition for Special Exception has been granted, in part, and denied, in part. Further, the relief granted has been restricted in accordance with the terms of 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,

Lawrence E. Schmidt
Zoning Commissioner

LES:mmn
att.
cc: J. Carroll Holzer, Esquire
Holzer, Maher and DeFilio
K. Donald Procter, Esquire
Miles and Steckbridge

PETITION FOR SPECIAL HEARING

146 SPH

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: 92-285-XA

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 a modified parking plan and to approve a residential caretaker dwelling as an accessory use to a college.

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:	Legal Owner(s):
(Type or Print Name)	Villa Julie College, Inc. (Type or Print Name)
Signature	By: Carolyn Mamunpke Signature President Carolyn Mamunpke
Address	(Type or Print Name)
City and State	Signature

Attorney for Petitioner:
Benjamin Bronstein
Evans, George & Bronstein
(Type or Print Name)

Signature Benjamin Bronstein

29 W. Susquehanna Ave., Suite 205
Address

Towson, Maryland 21204
City and State

Attorney's Telephone No.: (301) 296-0200

1525 Green Spring Valley Rd. 486-7000
Address Phone No.

Stevenson, Maryland 21153
City and State

Name, address and phone number of legal owner, contract purchaser or representative to be contacted

Rick Chadsey, P.E.
Name

658 Kenilworth Dr., Ste. 100
Towson, Maryland 21204 825-8120
Address Phone No.

ORDERED By The Zoning Commissioner of Baltimore County, this _____ day of _____, 19____, 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 _____ day of _____, 19____, at _____ o'clock _____M.

FILED BY JOHN LEWIS
ANY TIME OR DAY
2 DAYS' HRNG. TIME
RQSTD BY ATTNY

Zoning Commissioner of Baltimore County.

Z.C.O.—No. 1

(over)

PETITION FOR SPECIAL EXCEPTION

146 SPH

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: 92-285-XA

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 private college and a group childcare center (Class B) in a RC2 Zone.

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:	Legal Owner(s):
(Type or Print Name)	Villa Julie College, Inc. (Type or Print Name)
Signature	By: Carolyn Mamunpke Signature President Carolyn Mamunpke
Address	(Type or Print Name)
City and State	Signature

Attorney for Petitioner:
Benjamin Bronstein
Evans, George & Bronstein
(Type or Print Name)

Signature Benjamin Bronstein

29 W. Susquehanna Ave., Suite 205
Address

Towson, Maryland 21204
City and State

Attorney's Telephone No.: (301) 296-0200

1525 Green Spring Valley Rd. 486-7000
Address Phone No.

Stevenson, Maryland 21153
City and State

Name, address and phone number of legal owner, contract purchaser or representative to be contacted

Rick Chadsey, P.E.
Name

658 Kenilworth Dr., Ste. 100
Towson, Maryland 21204 825-8120
Address Phone No.

ORDERED By The Zoning Commissioner of Baltimore County, this _____ day of _____, 19____, 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 _____ day of _____, 19____, at _____ o'clock _____M.

Zoning Commissioner of Baltimore County.

Z.C.O.—No. 1

(over)

FILED BY JLL
ANY TIME OR DAY
2 DAYS' HRNG TIME
RQSTD BY ATTNY

PETITION FOR ZONING VARIANCE

SPH 146

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: 92-285-XA

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 Variance from Section as per attached. of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (indicate hardship or practical difficulty)

1. Existing buildings which cannot be effectively relocated.
2. Configuration of the site.
3. And for such reasons as may be demonstrated at the time of hearing.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance 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:	Legal Owner(s):
(Type or Print Name)	Villa Julie College, Inc. (Type or Print Name)
Signature	By: Carolyn Mamunpke Signature President Carolyn Mamunpke
Address	(Type or Print Name)
City and State	Signature

Attorney for Petitioner:
Benjamin Bronstein
Evans, George & Bronstein
(Type or Print Name)

Signature Benjamin Bronstein

29 W. Susquehanna Ave., Suite 205
Address

Towson, Maryland 21204
City and State

Attorney's Telephone No.: (301) 296-0200

1525 Green Spring Valley Rd. 486-7000
Address Phone No.

Stevenson, Maryland 21153
City and State

Name, address and phone number of legal owner, contract purchaser or representative to be contacted

Rick Chadsey, P.E.
Name

658 Kenilworth Drive, Ste.100
Towson, Md. 21204 825-8120
Address Phone No.

ORDERED By The Zoning Commissioner of Baltimore County, this _____ day of _____, 19____, 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 _____ day of _____, 19____, at _____ o'clock _____M.

Zoning Commissioner of Baltimore County.

(over)

FILED BY JLL
ANY TIME OR DAY
2 DAYS' HRNG TIME
RQSTD BY ATTNY

Variances from Section 102.2 & 1A01.3.B.3 to permit a distance of

1. 42 ft between existing Buildings #1 and 2 in lieu of the required 70 ft.
2. 30 ft between existing Building #3 and existing storage building in lieu of the required 70 ft.
3. 32 ft between existing maintenance equipment building and existing storage building in lieu of the required 70 ft.
4. 40 ft between existing Building "E" and existing shed in lieu of the required 70 ft.
5. 60 ft between existing Building "C" and existing Building "A" in lieu of the required 70 ft.
6. 60 ft between existing Building "A" and proposed building envelope "F" in lieu of the required 70 ft.
7. 20 ft between existing Building "D" and proposed building envelope "F" in lieu of the required 70 ft.
8. Variance from Section 413.1.b to permit a total of 105.2 sq ft of existing signs in lieu of the permitted 30 sq ft.
9. Variance from Section 1A01.3 to permit a maximum height of 39.5 ft. in lieu of the permitted 35 ft. for existing Building "A".
10. Variance from Section 1A01.3 to permit a maximum height of 54.8 ft. in lieu of the permitted 35 ft. for existing Building "B".
11. Variance from Section 1A01.3 to permit a maximum of height of 48 ft in height within building envelope "F" in lieu of the permitted 35 ft. for 2 proposed buildings.
12. Variance from Section 102.2 & 1A01.3.B.3 to permit a distance of 0 ft in lieu of the required 70 ft between the 2 proposed buildings within building envelope "F".
13. Variance from Section 409.3 to permit 503 parking spaces 8 ft wide X 18 ft deep in lieu of the required 8.5 ft wide X 18 ft deep.

FROM THE OFFICE OF
GEORGE WILLIAM STEPHENS, JR. & ASSOCIATES, INC.
ENGINEERS
658 KENILWORTH DRIVE, SUITE 100, TOWSON, MARYLAND 21204

146 SPH
92-285-XA

Description to accompany Zoning Petition, August 30, 1991
VILLA JULIE COLLEGE.

Beginning for the same at the intersection formed by the centerline of Green Spring Valley Road (30 foot wide) and the centerline of Nacirema Lane (60 foot wide), said intersection having Baltimore County Metropolitan District coordinate values of North 45931.73 and West 25568.14, running thence leaving said intersection, binding on the centerline of said Green Spring Valley Road, the four following courses:
1) North 75 degrees 18 minutes 41 seconds East 940.50 feet,
2) southeasterly by a curve to the right having a radius of 213.22 feet for a distance of 116.23 feet, said curve being subtended by a chord bearing South 89 degrees 04 minutes 19 seconds East 114.80 feet,
3) South 73 degrees 27 minutes 19 seconds East 470.51 feet and
4) South 73 degrees 15 minutes 18 seconds East 394.90 feet,
running thence leaving said centerline the six following courses:
5) South 00 degrees 08 minutes 31 seconds West 350.00 feet,
6) South 42 degrees 58 minutes 31 seconds West 79.92 feet,
7) South 02 degrees 01 minutes 29 seconds East 1013.86 feet,
8) South 89 degrees 40 minutes 29 seconds West 1512.91 feet,
9) North 12 degrees 27 minutes 53 seconds West 244.32 feet and
10) North 12 degrees 35 minutes 12 seconds West 1232.50 feet to the point of beginning.
Containing 60.236 acres of land more or less, 0.661 acres thereof being in the bed of Green Spring Valley Road (30 foot wide).

NOTE: THE ABOVE DESCRIPTION IS FOR ZONING PURPOSES ONLY AND NOT TO BE USED FOR CONVEYANCES OR AGREEMENTS.

STATE OF MARYLAND
GEORGE WILLIAM STEPHENS, JR.
PROFESSIONAL ENGINEER

CERTIFICATE OF POSTING

ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

92-285-SPHXA

District 8th Date of Posting 2-21-92
Posted for: Special Hearing - Special Exception - Variance
Petitioner: Villa Julie College INC.
Location of property: S/S of Stemping Valley Road 10' E of Nacirema Lane - 1521 Stemping Valley Road
Location of Signs: South side of Stemping Valley Road at entrance to Villa Julie College 1521 Stemping Valley Rd.
Remarks:
Posted by [signature] Date of return: 2-28-92
Signature
Number of Signs: 4

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 118, Baltimore County Courthouse, 400 Washington Avenue and Room 106, County Office Building, 111 W. Chesapeake Avenue Towson, Maryland 21204 as follows:

Case Number: 92-285-XA
S/S Greenspring Valley Road, 0' E of Hacienna Lane
1521 Greenspring Valley Rd.
8th Election District
3rd Councilmanic
Petitioner(s):
Villa Julie College, Inc.
Hearing: Tuesday, March 10, 1992 at 9:00 a.m. in room 118, County Courthouse
Wednesday, March 11, 1992 at 9:00 a.m. in Room 118, County Courthouse
Thursday, March 12, 1992 at 9:00 a.m. in Room 106, County Office Building
Wednesday, March 18, 1992 at 9:00 a.m. in Room 118, County Courthouse

Special Exception: for a private college and a group child care center (Class B). Special Hearing: to approve a modified parking plan and to approve a residential caretaker dwelling as an accessory use to a college. Variance: to permit a distance of 42 feet between existing Building #1 and #2 in lieu of the required 70 feet, 30 feet between existing Building #3 and existing storage Building in lieu of the required 70 feet, 32 feet between existing maintenance equipment building and existing storage building in lieu of the required 70 feet, 40 feet between existing Building "E" and existing shed in lieu of the required 70 feet, 60 feet between existing Building "C" and existing Building "A" in lieu of the required 70 feet, 60 feet between existing Building "A" and proposed building envelope "F" in lieu of the required 70 feet, 20 feet between existing Building "D" and proposed building envelope "F" in lieu of the required 70 feet; to permit a total of 105.2 square feet of existing signs in lieu of the permitted 30 square feet; to permit a maximum height of 39.5 feet in lieu of the permitted 35 feet for existing Building "A"; to permit a maximum height of 54.8 feet in lieu of the permitted 35 feet for existing Building "B"; to permit a maximum of height of 40 feet in height within building envelope "F" in lieu of the permitted 35 feet for 2 proposed buildings; to permit a distance of zero feet in lieu of the required 70 feet between the 2 proposed buildings with in building envelope "F"; and to permit 503 parking spaces 8 feet wide x 18 feet deep in lieu of the required 8.5 feet wide x 18 feet deep.

LAWRENCE E. SCHMIDT,
Zoning Commissioner of
Baltimore County

TJ/2/059 February 13.

CERTIFICATE OF PUBLICATION

TOWSON, MD., 2/14, 19 92

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 2/13, 19 92.

TOWSON TIMES,

S. Zake Orlow
Publisher

$ 230.82

4

CERTIFICATE OF PUBLICATION

TOWSON, MD., 2/14, 19 92

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 2/13, 19 92.

THE JEFFERSONIAN,

S. Zake Orlow
Publisher

$ 230.82

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

receipt

Date

Account: R-001-6150
Number 92-285-SPHXA

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

Account: R-001-6150
Number 92-285-SPHXA (17Y TOTAL)

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

Account: R-001-6150
Number 92-285-SPHXA (17Y TOTAL)

COPIES: QTY PRICE
200 FOOTNOTE COPIES 84 X $1.00
TOTAL: $84.00

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

Account: R-001-6150
Number 92-285-SPHXA (17Y TOTAL)

SPECIAL EXCEPTION, VARIANCE & SPECIAL, attorneys on behalf of Valleys Planning Council, Homeowners of Greenspring, Greenspring Valley Association, Falls Road Community Association and Douglas A Carroll, III, [illegible] v. Baum, et al.

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

Account: R-001-6150
Number

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

Account: R-001-6150
Number 92-285-SPHXA

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

Account: R-001-6150
Number 92-285-SPHXA

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

Account: R-001-6150
Number 92-285

Please Make Checks Payable To: Baltimore County

Cashier Validation

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

DATE: 2.28.92

Villa Julie College, Inc.
1525 Green Spring Valley Road
Stevenson, Maryland 21153

RE:
CASE NUMBER: 92-285-XA
S/S Greenspring Valley Road, 0' E of Hacienna Lane
1521 Greenspring Valley Road
8th Election District - 3rd Councilmanic
Petitioner(s): Villa Julie College, Inc.

Dear Petitioner(s):

Please be advised that $ 330.82 is due for advertising and posting of the above captioned property.

THIS FEE MUST BE PAID. ALSO, THE ZONING SIGN & POST SET(S) MUST BE 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 forward your check via return mail to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 113, Towson, Maryland 21204. It should have your case number noted thereon and be made payable to Baltimore County, Maryland. In order to prevent delay of the issuance of proper credit and/or your Order, immediate attention to this matter is suggested.

/s/
ARNOLD JABLON
DIRECTOR

cc: Benjamin Bronstein, Esq.

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

JANUARY 28, 1992

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 118, Baltimore County Courthouse, 400 Washington Avenue
and
Room 106, County Office Building, 111 W. Chesapeake Avenue
Towson, Maryland 21204 as follows:

CASE NUMBER: 92-285-XA
S/S Greenspring Valley Road, 0' E of Hacienna Lane
1521 Greenspring Valley Road
8th Election District - 3rd Councilmanic
Petitioner(s): Villa Julie College, Inc.
HEARING: TUESDAY, MARCH 10, 1992 at 9:00 a.m. in Room 118, County Courthouse.
WEDNESDAY, MARCH 11, 1992 at 9:00 a.m. in Room 118, County Courthouse
THURSDAY, MARCH 12, 1992 at 9:00 a.m. in Room 106, County Office Building.
WEDNESDAY, MARCH 18, 1992 at 9:00 a.m. in Room 118, County Courthouse.

Special Exception for a private college and a group child care center (Class B).
Special Hearing to approve a modified parking plan and to approve a residential caretaker dwelling as an accessory use to a college.
Variance to permit a distance of 42 feet between existing Buildings #1 and #2 in lieu of the required 70 feet, 30 feet between existing Building #3 and existing storage building in lieu of the required 70 feet, 32 feet between existing maintenance equipment building and existing storage building in lieu of the required 70 feet, 40 feet between existing Building "E" and existing shed in lieu of the required 70 feet, 60 feet between existing Building "C" and existing Building "A" in lieu of the required 70 feet, 60 feet between existing Building "A" and proposed building envelope "F" in lieu of the required 70 feet, 20 feet between existing Building "D" and proposed building envelope "F" in lieu of the required 70 feet; to permit a total of 105.2 square feet of existing signs in lieu of the permitted 30 square feet; to permit a maximum height of 39.5 feet in lieu of the permitted 35 feet for existing Building "A"; to permit a maximum height of 54.8 feet in lieu of the permitted 35 feet for existing Building "B"; to permit a maximum of height of 40 feet in height within building envelope "F" in lieu of the permitted 35 feet for 2 proposed buildings; to permit a distance of zero feet in lieu of the required 70 feet between the 2 proposed buildings within building envelope "F"; and to permit 503 parking spaces 8 feet wide x 18 feet deep in lieu of the required 8.5 feet wide x 18 feet deep.

Lawrence E. Schmidt
Zoning Commissioner of
Baltimore County

cc: Villa Julie College, Inc.
Benjamin Bronstein, Esq.
Rick Chadsey, P.E.
J. Carroll Holzer, Esq.
Donald K. Proctor, Esq.

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

February 14, 1992

Benjamin Bronstein, Esquire
Evans, George & Bronstein
29 W. Susquehanna Avenue, Suite 205
Towson, MD 21204

RE: Item No. 146, Case No. 92-285-XA
Petitioner: Villa Julie College, et al
Petition for Special Exception

Dear Mr. Bronstein:

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans submitted with the above referenced petition. The attached comments from each reviewing agency are not intended to assure that all parties, i.e. Zoning Commissioner, attorney and/or the petitioner, are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case.

Enclosed are all comments submitted thus far from the members of ZAC that offer or request information on your petition. If additional comments are received from other members of ZAC, 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.

The following comments are related only to the filing of future zoning petitions and are aimed at expediting the petition filing process with this office.

1) The Director of Zoning Administration and Development Management has instituted a system whereby seasoned zoning attorneys who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions filing requirements can file their petitions with this office without the necessity of a review by Zoning personnel.

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Zoning Plans Advisory Committe Coments
Date: February 14, 1992
Page 2

2) Anyone using this system should be fully aware that they are responsible for the accuracy and completeness of any such petition. All petitions filed in this manner will be reviewed and commented on by Zoning personnel prior to the hearing. In the event that the petion has not been filed correctly, there is always a possibility that another hearing will be required or the Zoning Commissioner will deny the petition due to errors or incompleteness.

3) Attorneys and/or engineers who make appointments to file petitions on a regular basis and fail to keep the appointment without a 72 hour notice will be required to submit the appropriate filing fee at the time future appointments are made. Failure to keep these appointments without proper advance notice, i.e. 72 hours, will result in the loss of filing fee.

Very truly yours,

W. Carl Richards Jr.

W. Carl Richards
Coordinator

WCR:jw

Enclosures

cc: Villa Julie College, Inc.
1525 Green Spring Valley Road
Stevenson, MD 21153

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

Your petition has been received and accepted for filing this

15th day of January, 1992.

ARNOLD JABLON
DIRECTOR

Received By:

W. Carl Richards Jr.

Chairman,
Zoning Plans Advisory Committee

Petitioner: Villa Julie College, Inc., et al

Petitioner's Attorney: Benjamin Bronstein

Printed on Recycled Paper

BUREAU OF TRAFFIC ENGINEERING
DEPARTMENT OF PUBLIC WORKS
BALTIMORE COUNTY, MARYLAND

DATE: October 23, 1991

TO: Mr. Arnold Jablon, Director
Office of Zoning Administration
and Development Management

FROM: Rahee J. Famili

SUBJECT: Z.A.C. Comments

Z.A.C. MEETING DATE: October 8, 1991

ITEM NUMBER: 146

Access to Greenspring Valley Road is subject to SHA approval.

Rahee J. Famili
Traffic Engineer II

RJF/lvd

BALTIMORE COUNTY, MARYLAND

DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT

INTER-OFFICE CORRESPONDENCE

October 3, 1991

TO: Arnold Jablon, Director
Zoning Administration and Development Management

FROM: DIVISION OF GROUND WATER MANAGEMENT

SUBJECT: Zoning Item #146, Zoning Advisory Committee Meeting of October 8, 1991, Villa Julie College, Inc., S/S Greenspring Valley Road, 0' E of Nacirema Lane (#1521 Greenspring Valley Rd.), D-8, Private Water and Sewer

COMMENTS ARE AS FOLLOWS:

Refer to the comments made by the Department of Environmental Protection and Resource Management for the pre-CRG meeting held on August 1, 1991.

SSF:rmp

146ZNG/GWRMP

RECEIVED
OCT 4 1991
ZONING OFFICE

Baltimore County Government
Fire Department

700 East Joppa Road Suite 901
Towson, MD 21204-5500

(301) 887-4500

OCTOBER 28, 1991

Arnold Jablon
Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21204

RE: Property Owner: VILLA JULIE COLLEGE, INC.

Location: #1521 GREENSPRING VALLEY ROAD

Item No.: 146 Zoning Agenda: OCTOBER 8, 1991

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.

1. Fire hydrants for the referenced property are required and shall be located at intervals of 300 feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works.

4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.

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: [signature] Noted and Approved [signature]
Planning Group
Special Inspection Division
Fire Prevention Bureau

JP/KEK

92-285-XA

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

DATE: March 4, 1992

TO: Zoning Advisory Committee

FROM: Oscar M. Keys, Jr., P.E.
Department of Public Works

RE: Villa Julie College
Issue #146 - October 8, 1991

RECEIVED
MAR 3 1992
ZONING OFFICE

A request was received on behalf of Villa Julie College to amend the BALTIMORE COUNTY WATER SUPPLY AND SEWERAGE PLAN in April, 1990, to allow construction of a sewage treatment plant with discharge to the Jones Falls (Exhibit A). Amendments to the WATER SUPPLY AND SEWERAGE PLAN are subject to a public hearing before the hearing office, i.e., the Baltimore County Planning Board and an affirmative decision by the County under regulations of the State of Maryland. The original request was for approval of a multi-use facility. A multi-use facility, water supply or sewerage disposal, serves only one property owner with a capacity exceeding 5,000 gallons per day. The college was seeking authority for a 40,820 gallon per day facility for both the school and adjacent convent's present use; and 66,875 gallon capacity for future use. When two properties are involved in water supply and/or sewerage system service, the systems are catagorized as Community Systems by State regulations regardless of capacity.

By June 13, 1990, it became apparent that both the existing water supply facilities and existing sewerage facilities might constitute "Community Systems" as defined in COMAR and that both should have been in the inventory of such facilities as they did then exist. By letter of June 13th the school was advised that they would need to have the Sisters of Notre Dame join in their petition to validate it, and additionally requested to assist in correcting the inventory of water supply and sewerage systems in the plan relative to both properties as they then existed (Exhibit B).

The Sisters of Notre Dame joined Villa Julie College in their petition by letter of July 16, 1990 (Exhibit C). On July 18, 1990, having received the concurring petition from the Sisters of Notre Dame, a revision to the WATER SUPPLY AND SEWERAGE PLAN Amendment report on the petition for Villa Julie College was submitted to the Planning Board for the Public Hearing on July 19th (Exhibit D).

In the Public Hearing of July 19, 1990, it was alleged that a well on the property immediately east of the Sisters of Notre Dame was functioning in service to the Sisters' property and possible other

Zoning Advisory Committee
RE: Villa Julie College
March 4, 1992
Page 2

properties, including the school. This office, Baltimore County and the State of Maryland must know the number of wells and/or springs which are in any way inter-connected, their physical locations, their capacity, and all buildings served by each for all properties which have service across property lines. The system, or systems, must be shown on the maps and in the inventory, Table 4, of the WATER SUPPLY AND SEWERAGE PLAN.

To date, the college has failed to comply with this request.

As applicants for an amendment to the Plan, and as an applicant for special exceptions under the Zoning Code, this office believes the school should have these matters relating to domestic water supply investigated and certified prior to any future grants of special authority by any County agency.

In addition, there has been a significant change in the apparent facts as presented to the Planning Board and County Council relative to the proposed sewage treatment plant effluent discharge. The waters of the state into which the effluent was to discharge was asserted to all to be a perennial stream under the jurisdiction of the State of Maryland and to which the college had reparian rights. It has subsequently been proven to be an intermittent stream. This office has encouraged the establishment of an easement through those properties between the college and the Jones Falls such that the effluent could be piped to an acceptable discharge to the waters of the State. Such arrangements have not yet been successfully reported to this office. Without an easement to the Jones Falls in title to the college, it is not clear that any legally constituted authority in the State of Maryland can resolve the existing nuisance on the property of the Sisters of Notre Dame.

OMK:emc

Attachments:
Exhibit A
Exhibit B
Exhibit C
Exhibit D

VJULIE3/DASGEN

3/14 2994 92
TE LES
3

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

March 4, 1992

TO: Mr. Arnold Jablon, Director
Zoning Admin. and Development Management

FROM: J. James Dieter

SUBJECT: Special Exception - Villa Julie College

The Baltimore County Department of Environmental Protection and Resource Management has, after careful review of all available information pertinent to this matter, made the following determination:

- The subsurface soil absorption waste water system which currently provides the sole means of waste water disposal for the College is degrading the ground water underlying the site. This determination was made by observation of the extremely shallow ground water and rock in the vicinity of the system. Such conditions allow for inadequately renovated waste water to enter ground water. In addition, waste water surfaces periodically in the vicinity of the disposal system. The College is presently pumping the system on an as-necessary basis to keep waste water off the ground surface.

- This Department, in conjunction with Maryland Department of the Environment and Maryland Environmental Services, has conducted a comprehensive review of alternatives for waste water disposal for this facility, including extension of metropolitan sewerage, application of sand-lined trench, spray irrigation and package treatment plant technologies, as a means for final disposal of waste water effluent. The conclusion reached by this alternatives analysis is that the only practical means of waste water disposal for this facility, at this time, is use of a waste water treatment plant followed by surface discharge of treated effluent to a tributary of the nearby Jones Falls.

- Upon determination of the need for surface discharge of treated waste water effluent and in recognition of the sensitive nature of the receiving waters of the Jones

Falls, this Department insists upon use of some type of best available technology for final polishing of the effluent.

This Department makes a favorable recommendation for approval of the proposed package treatment plant based on the determination described above and in the context of the maximum flow, chemical, physical and biological discharge parameter limits set out in the required NPDES - State Discharge Permit. This recommendation should be conditioned on the school's response to the following points:

- A constructed wetland, which could be part of the storm water management system for this facility, must be properly located. The constructed wetland is to provide final polishing for temperature control and to remove suspended solids and nutrients from the treated sewage effluent prior to discharge to the unnamed tributary of the Jones Falls. This wetland area should be established prior to commencement of operation of the sewage treatment plant.

- If the school has science laboratories, it must demonstrate a means of preventing toxic substances associated with these laboratories from entering the waste water system (i.e. collection and recycling systems).

- The treatment plant must be designed to operate and remove wastes during intersession periods when water usage is low.

- The plant design proposal must address management of any noncontact cooling waters or discharges from boiler blowdown that contain biocides which may affect operation of the sewage treatment plant and the wetland.

- An appropriate Discharge Permit and Permit to Construct the plant must be secured from the Maryland Department of the Environment.

The final design flow for the plant will be governed in large part by the outcome of the decision for a zoning variance which is pending before the Baltimore County Zoning Commissioner. Resolution of this request involves public policy issues beyond the purview of this Department. The final design for the plant raises the issue of school expansion. The plant must take care of existing flows to correct the current failing system

problem. The technology and plant design could, however, accommodate the proposed expansion of the facilities. The increased flows would be subject to the same conditions and permit limitations previously discussed. If limitations on the numbers of students becomes part of the public policy issue for school expansion, they should be known prior to design and construction approvals.

Additional technical comments on the proposed site plan must be addressed prior to DEPRM development plan approvals. These comments must show compliance to appropriate County laws, regulations and policies. Examples include:

1. The impacts on water quality and streams of discharges from the storm water management ponds require clarification. Particular attention to temperature controls will be required.

2. Outfalls from the plant or storm water management facilities must be located outside the Forest Buffer.

3. A wetland delineation report must be submitted.

4. Intermittent streams and associated wetlands must be accurately shown on the plan.

5. The appropriate Forest Buffer and building setbacks must be shown for all streams, wetlands, and floodplains.

6. All storm water management controls and design standards will have to be met and are subject to review.

7. Other requirements may be applied as part of DEPRM's plan review process.

J. James Dieter, Director
Department of Environmental Protection and Resource Management

JJD:pmf

cc: Mr. Merreen E. Kelly
Mr. P. David Fields
Mr. Robert J. Aschenbrenner

RECEIVED
MAR 5 1992
ZONING OFFICE

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration and Development Management

DATE: March 6, 1992

FROM: Gary L. Kerns, Chief
Comprehensive and Community Planning
Office of Planning and Zoning

RECEIVED
MAR 6 1992
ZONING COMMISSIONER

SUBJECT: Villa Julie College, Item No. 146

1. BACKGROUND

Villa Julie College is located in the center of the Greenspring Valley, just west of the intersection of Greenspring Valley Road and Greenspring Avenue. The land form in this part of the Valley is underlaid by Cockeysville marble which is characteristic of an extremely prolific aquifer. As a result, high water tables are present and have contributed to the schools inability to effectively handle waste water under normal septic system technology.

The current zoning is RC-2 agricultural and is consistent with both surrounding area zoning and with the land use map designation of the duly adopted Baltimore County Master Plan 1989-2000. The use of the property as a College began many years ago as an outgrowth of the Sisters of Notre Dame de Namur, which is a teaching order. Over this period the College grew to its present size, though there appears to be no accurate records of the various expansion projects.

2. SPECIAL EXCEPTION REQUEST

The applicant is requesting a Special Exception, a Special Hearing and a Variance to permit a private college and a group child care center in an RC-2 zone. A plat accompanying this petition indicates a proposed 98,044 sq. ft. expansion to the existing College, which will consist of a 44,697 sq. ft. academic center, a 50,000 sq. ft. general classroom and general purpose building, and a 5,000 sq. ft. addition to the existing Learning Resource Center. Elevation drawings and sign details have been attached to the plat. In response to a request from the Office of Planning and Zoning, site sections were also submitted for review.

3. STAFF REVIEW AND RECOMMENDATION

Based upon a review of the proposed site plan, building elevations and cross-sections, and field visits to the College campus, the Office of Planning and Zoning recommends approval of the Special Exception, the Special Hearing and the proposed Variances, subject to the following:

A. Proposed building materials and final building design should be subject to review and approval prior to issuance of a building permit, by a Design Review Panel to consist of design professionals and community representatives. The Director of Planning should set up the Review Panel and act as the non-voting chairperson.

B. This Office has serious concerns as to the possibility of uncontrolled expansion of the College once the new buildings are constructed and the sewage treatment plant is installed. If unchecked, a repetition of the current situation could occur and the County could be faced with the need for emergency action to address pollution and overcrowding of facilities. In order to ensure effective control, it is recommended that any growth of the College above 2500 students should be subject to the granting of an additional Special Exception by the Zoning Commissioner. The College should be required to submit enrollment figures each school year to the Zoning Commissioner, who will then ensure that the student population of the College will not exceed 2500 without a public hearing to amend the Special Exception.

Any request for a student population above 2500 would need to be justified in relation to school facilities, traffic, parking, and an analysis of sewage treatment and storm water management facilities.

C. Although the present petition request does not cover the proposed sewage treatment plant, this Office fully supports the conditions requested by the Department of Environmental Protection and Resource Management which deals with treatment plant facilities.

4. ADDITIONAL OBSERVATIONS

A. Development Plan review will be required for this project. The above comments do not limit this Office in its review of the specifics of the detailed plan. Obviously any decision by the Zoning Commissioner will be adhered to.

B. This property is subject to a 1992 Comprehensive Zoning Map Process request (Issue 3-050) for rezoning from RC-2 to RC-5. This Office is opposed to the requested change. The issue is still subject to review by both the Planning Board and County Council.

If there are any further questions, please contact Jeffrey Long in the Office of Planning at 887-3211.

Report prepared by:

Jack Dillon

Jeffrey Long

GLK/JL:lw

ITEM146/TXTLLF

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

August 11, 1992

Baltimore County Board of Appeals
Old Courthouse, Room 49
400 Washington Avenue
Towson, Maryland 21204

RE: Petition for Special Hearing, Special Exception and Zoning Variance
S/S Greenspring Valley Road, 0 ft. E of Nacirema Lane
(1521 Greenspring Valley Road)
8th Election District, 3rd Councilmanic District
VILLA JULIE COLLEGE, INC. - Petitioner
Case No. 92-285-SPHXA

Dear Board:

Please be advised that the following appeals of the above referenced case were filed in this office:

(1) Filed August 6, 1992 by Michael J. Collins, Attorney
on behalf of Northwest Land Corporation.

(2) Filed August 7, 1992 by J. Carroll Holzer, Attorney
on behalf of Valleys Planning Council and community associations

(3) Filed August 7, 1992 by K. Donald Proctor, Attorney on behalf of
Mr. & Mrs. Mitchell, Clark Farm Associates and Mr. & Mrs. Rodgers

(4) Filed August 10, 1992 by Benjamin Bronstein, Attorney
on behalf of the Petitioner, Villa Julie College, Inc.

All materials relative to the case are being forwarded herewith.

Printed on Recycled Paper

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,

Lawrence E. Schmidt
Zoning Commissioner

LES:cer

cc: Carolyn Manuszak - Villa Julie College, Inc.
1525 Green Spring Valley Road, Stevenson, MD 21153

Benjamin Bronstein - Evans, George & Bronstein
29 W. Susquehanna Avenue, Suite 205, Towson, MD 21204

Michael J. Collins - Neuberger, Quinn, Gielen & Rubin, P.A.
100 South Charles Street, Baltimore, Maryland 21201

J. Carroll Holzer - Holzer, Maher, Demilio & Lee
305 West Chesapeake Avenue, Suite 105 Towson, Maryland 21204

K. Donald Proctor - Miles & Stockbridge
600 Washington Avenue, Towson, Maryland 21204

People's Counsel for Baltimore County
Old Courthouse, 400 Washington Avenue, Towson, MD 21204

APPEAL:

Petition(s) for Special Hearing, Special Exception and Zoning Variance
S/S Greenspring Valley Road, 0 ft. E of Nacirema Lane
(1521 Greenspring Valley Road)
8th Election District - 3rd Councilmanic District
VILLA JULIE COLLEGE, INC. - Petitioner
Case No. 92-285-SPHXA

Petition(s) for Special Hearing, Special Exception and Zoning Variance

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 (included with ZAC Comments)

Petitioner(s) and Protestant(s) Sign-In Sheets (in file)

Petitioner's Exhibits:
1. Plat to accompany Petitions
2. Plat + Elevation Drawing/Sign Variances
3. Analysis
4. Programs List
5. Letter to Valleys Planning Council
6. Letter to Students
7. Resume of Dane S. Bauer
8. Plat highlighting water system
9. Letter to Water Management Admin.
10. Letter to County Council
11. Aerial Photo
12. Letter to Villa Julie College
13. Wastewater T.F. Site Plan
14. 8 1/2 x 12 Photographs of Waste. Plant
15. (No Exhibit marked #15)
16. Vicinity Map
17. Resume of Wes Guckert
18. Context Map
19. Resume of Samuel Crozier
20. Northern Sector Land Use Plan
21. Land Use Plan
22. Zoning Map
23. Photograph Board of Villa Julie Property
24. Master Plan
25. Map and 26.Site Section A-A
27. Wind Study
28. Resume of Frederick N. Chadsey
29. Geologic Map of Cockeysville Quadrangle
30. Board of Trustees/Resource Dev. Council
31. Notice of Final Determination (from State)
32. Transportation Area Map
33., 34., 35. - Letters to Environ. Water Man.

Unmarked Exhibit: Population, Water/Wastewater Characteristics
Support Cards and Opposition Letters

Protestant's Exhibits:
1. Copy of ZAC Comments from Public Works
2. Resume of Martin J. Wells
3. Letter to Public Services
4A - 4C - Photographs of traffic (a.m.)
5A - 5C - Photographs of traffic (a.m.)
6A - 6C - Photographs of traffic (a.m.)
7A - 7D - Photographs of traffic (a.m.)
8A - 8E - Photographs of traffic (a.m.)
9. Letter to Planning
10. Villa Julie Growth Chart
11. Villa Julie Future Size Projection
12. Opposition of Jervis S. Finney
13. Request for Proposal - Infirmary
14 ABC. Septic Service Work Order
15. Newspaper Article
16. Resume of F. Pierce Lineweaver
17. Population Table
18. Tax Assessment Map
19. Resume of Norman E. Gerber
20. Zoning Map

Zoning Commissioner's Exhibit No. 1. - Sewage Treatment Plant
Alternatives Evaluation

Memorandum in Support of Petition for Special Exception and Variances

Memorandum in Opposition to Motion to Dismiss Petition for SPX

Memorandum in Lieu of Final Argument

Motion to Dismiss Petition for Special Exception

Protestants' Post-Hearing Memorandum

Zoning Commissioner's Order dated July 10, 1992 (SPH Approved; SPX Granted in Part and Denied in Part; VAR Granted with Restrictions)

Notices of Appeal received:

(1) Filed August 6, 1992 by Michael J. Collins, Attorney on behalf of Northwest Land Corporation.

(2) Filed August 7, 1992 by J. Carroll Holzer, Attorney on behalf of Valleys Planning Council and community associations

(3) Filed August 7, 1992 by K. Donald Proctor, Attorney on behalf of Mr. & Mrs. Mitchell, Clark Farm Associates and Mr. & Mrs. Rodgers

(4) Filed August 10, 1992 by Benjamin Bronstein, Attorney on behalf of the Petitioner, Villa Julie College, Inc.

cc: Carolyn Manuszak - Villa Julie College, Inc.
1525 Green Spring Valley Road, Stevenson, MD 21153

Benjamin Bronstein - Evans, George & Bronstein
29 W. Susquehanna Avenue, Suite 205, Towson, MD 21204

Michael J. Collins - Neuberger, Quinn, Gielen & Rubin, P.A.
100 South Charles Street, Baltimore, Maryland 21201

J. Carroll Holzer - Holzer, Maher, Demilio & Lee
305 West Chesapeake Avenue, Suite 105 Towson, Maryland 21204

K. Donald Proctor - Miles & Stockbridge
600 Washington Avenue, Towson, Maryland 21204

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
Lawrence E. Schmidt, Zoning Commissioner
Timothy M. Kotroco, Deputy Zoning Commissioner
W. Carl Richards, Jr., Zoning Coordinator
Docket Clerk
Arnold Jablon, Director of Zoning Administration and Development Management
Public Services

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

Suite 113 Courthouse
400 Washington Avenue
Towson, MD 21204

(410) 887-4386

March 13, 1992

Benjamin Bronstein, Esquire
Evans, George and Bronstein
29 W. Susquehanna Avenue
Suite 205
Towson, Maryland 21204

J. Carroll Holzer, Esquire
Holzer, Maher, DeMilio and Lee
305 W. Chesapeake Avenue
Suite 105
Towson, Maryland 21204

Donald K. Proctor, Esquire
Miles and Stockbridge
Suite 300, 600 Washington Avenue
Towson, Maryland 21204

RE: Villa Julie College, Inc., Petitioner
Case No. 92-285-SPHXA

Gentlemen:

Confirming telephone conversation this date with my secretary, please be advised that you have agreed to an additional hearing date of April 9, 1992 regarding the above captioned case. This hearing will be from 9:00 A.M. to 2:00 P.M. in Room 109 of the County Office Building. This date will be in addition to March 18 and April 15.

Thank you for your assistance and cooperation.

Very truly yours,

Lawrence E. Schmidt
Zoning Commissioner

LES:mmn

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

Suite 113 Courthouse
400 Washington Avenue
Towson, MD 21204

(410) 887-4386

April 21, 1992

Benjamin Bronstein, Esquire
Suite 205
The Susquehanna Building
29 W. Susquehanna Avenue
Towson, Md. 21204

J. Carroll Holzer, Esquire
Holzer, Maher, Demilio and Lee
305 W. Chesapeake Avenue
Suite 105
Towson, Maryland 21204

Donald Proctor, Esquire
Miles and Stockbridge
Suite 300
600 Washington Avenue
Towson, Maryland 21204

RE: Villa Julie College
Case No. 92-285-SPHXA

Gentlemen:

Confirming telephone conversation with my secretary, recently, it is agreed by all parties that the above captioned case will be continued for hearing at 9:00 A.M. on Friday, May 15, 1992 in Room 106 of the County Office Building, 111 W. Chesapeake Avenue, Towson, Md.

Very truly yours,

Lawrence E. Schmidt

LES:mmn

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

Suite 113 Courthouse
400 Washington Avenue
Towson, MD 21204

(410) 887-4386

January 21, 1992

J. Carroll Holzer, Esquire
Holzer, Maher, DeMilio and Lee
305 W. Chesapeake Avenue
Suite 105
Towson, Maryland 21204

RE: Villa Julie
Item 146

Dear Mr. Holzer:

This is to acknowledge receipt of your letter dated January 14, 1992 regarding the zoning hearing currently scheduled for the above matter for March 10 thru 12th, 1992. Due to the usual uncertainty as to whether your conflicting case might settle or will go forward, as scheduled, I have determined to leave the matter before me on the docket. However, to avoid any conflict, I have set aside an additional day, Wednesday, March 18, 1992, for this case. Thus, if you are unable to appear on March 12th because of your Circuit Court trial, the Villa Julie case will reconvene on March 18th. I have chosen this date in that it was among the dates which all of the parties indicated they were available when the case was originally set.

As to the settlement conference on March 10th, I would suggest a longer lunch break than usual, so that you may be accommodated and attend the conference.

I trust the inclusion of an additional date is acceptable to you and all interested parties, and I am advising them of same by a copy of this letter. Please do not hesitate to contact me should you have any further questions regarding this matter.

Very truly yours,

Lawrence E. Schmidt
Zoning Commissioner

LES:mmn
cc: Don Proctor, Esquire
Ben Bronstein, Esquire
Ms. Margaret Worrall

Baltimore County
Department of Public Works
Towson, Maryland 21204

Gene L. Neff, P.E.
Director

June 13, 1990

Dennis F. Rasmussen
County Executive

Ms. Lisa M. Reaver
Project Manager
MARYLAND ENVIRONMENTAL SERVICE
2020 Industrial Service
Annapolis, MD 21401

Re: Villa Julie College + Baltimore Province Sisters of Notre Dame

Dear Ms. Reaver:

We have reviewed your letter of April 26, 1990 and several matters need clarification.

The property is zoned under the zoning laws of Baltimore County as R.C. 2 (Agricultural). Schools and colleges are not a right in this zone but can be considered, or permitted, by special exception. We believe that, at present, the college exists as a nonconforming land use having been in existence prior to the zoning of the land. We have been unable to find a record of any special exceptions having been granted. At present, this office is not in a position to consider the growth factors indicated in your report.

The property is shown on maps W16B and S16B in the WATER SUPPLY AND SEWERAGE PLAN OF BALTIMORE COUNTY (Plan) and is designated W-7, S-7 (No Planned Community or Multi-Use Service). This limits any planned, or permitted, use to domestic water supply and sewage disposal systems on a single property to less than 5,000 gal per day. Clearly, both the college and adjacent property of the Sisters of Notre Dame are nonconforming uses under the Plan also.

Your request, on behalf of both properties, should have been for a special exception to permit a community sewerage system with point source discharge to be built in service to both properties in the S-7 area.

Having raised the issue of nonconformance and planned growth involving both properties, this office is led to believe that all independent water

EXHIBIT B

systems on both properties may exceed 5,000 gallons per day and would, therefore, be Multi-Use systems under state law and should be indicated as such in our Plan and may need to be classified by the state as a Community System under the Clean Water Act of the Federal Government. As this is a matter involving the health of all resident and student populations on both properties, you or your client should take immediate steps to clarify this matter involving the domestic supply and utilization of drinking water on both properties with all appropriate state authorities as well as with this office.

As Baltimore County is required by the state to have a Water Supply and Sewerage Plan which supports and is compatible with the Land Use Master Plan, zoning the issue which you have raised creates a true dilemma. The Baltimore County Plan clearly supports the intention of the Land Use Master Plan to limit land use in the rural Resource Conservation Zones to that which can be supported by and within the land of the owner. By action of the Baltimore County Council in 1968, Section 34-7 of the Baltimore County Code was adopted. It specifically forbids the discharge of human effluent from any treatment plant without the signed authorization of the directors of Planning, Public Works, and the County Health Officer with the final approval of the Council. The existing Plan is fully compatible with the legislated position of both state and local governments. This is why we interpret your application to be for a special exception to the Plan and not simply an issue of inventory or amendment.

The issue of correcting the inventory applies to all existing nonconforming systems on both properties. Your assistance in obtaining factual information as to each independent water supply and sewerage system now existing on both sites would be gratefully appreciated.

We recognize that your request was submitted in great haste based on the deadline of May 1st for our annual amendment process. Please be advised that if we do not make the July public hearing on the several issues to be corrected, or the special exception sought, we will seek a special hearing, when adequate information is available, independent of the annual cycle based on the operating condition of one or more of the existing systems reported as overloaded.

We recognize the problems associated with the design and sizing of the facilities for these properties, and are aware of your effort to meter water use. I would remind you that the plumbing systems within a private property, including supply and disposal, are matters covered by the Plumbing Code of Baltimore County. You should be cognizant of these requirements irrespective of metering.

This office believes the land use - zoning issues relative to growth are a necessary precedent to consideration of the sewerage issue raised based on the state requirement that the Plan support and be compatible with the land use decisions and zoning of the county.

Your assistance, or that of your client, and the neighboring property owner to clarify the many issues which where spawned by your request of April 26, 1990 will be greatfully appreciated.

At the present time, with only one of two property owners having petitioned, we must consider the petition invalid. Time permiting we will, if possible, accept an ammended petition.

Very truly yours,

Oscar M. Keys Jr.
Assistant to the Director of Public Works
Phone 887-3451

OMK:ec
cc: David Fields
Robert Sheesley
Gene L. Neff
Mike Moran
James Dieter
J. L. Hearn
Dane Bauer
Billie Messenger, Villa Julie College

ISS9011C/DASW.SP

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

Hearing Room -
Room 48, Old Courthouse
400 Washington Avenue October 29, 1992

NOTICE OF ASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH RULE 2(b). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c), COUNTY COUNCIL BILL NO. 59-79.

CASE NO. 92-285-SPHXA VILLA JULIE COLLEGE, INC.
S/s Greenspring Valley Rd., 0' E of Nacirema Lane (1521 Greenspring Valley Road); 8th Election District; 3rd Councilmanic District

SE-Private college in R.C. 2 zone; SPH-Modified parking plan & residential caretakers dwelling as accessory use; VAR-(13) Distance between buildings and height; parking; etc.

7/10/92 - Z.C.'s Order GRANTING SPH and VAR with restrictions and GRANTING SE in part and DENYING in part.

ASSIGNED FOR: THURSDAY, JANUARY 21, 1993 AT 10:00 a.m. DAY# 1
AND
WEDNESDAY, JANUARY 27, 1993 AT 10:00 a.m. DAY# 2

cc: Michael J. Collins, Esquire Counsel for Appellant/Northwest

Benjamin Bronstein, Esquire Counsel for Appellant/Villa Julie

J. Carroll Holzer, Esq.-Couns. for Appellnt/Valleys Pl. Counc.

K. Donald Proctor, Esq.-Counsel for Appellants/Mitchell, et al

Ms. Carolyn Manuszak/Villa Julie College
People's Counsel for Baltimore County
P. David Fields
Public Services
Lawrence E. Schmidt
Timothy M. Kotroco
W. Carl Richards, Jr.
Docket Clerk - Zoning
Arnold Jablon, Director of Zoning Administration

RECEIVED
OCT 29 1992
ZONING OFFICE

LindaLee M. Kuszmaul - Legal Secretary

Printed on Recycled Paper

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

Hearing Room -
Room 48, Old Courthouse
400 Washington Avenue January 27, 1993

NOTICE OF ASSIGNMENT /Motion Only Hearing

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH RULE 2(b). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c), COUNTY COUNCIL BILL NO. 59-79.

CASE NO. 92-285-SPHXA VILLA JULIE COLLEGE, INC.
S/s Greenspring Valley Rd., 0' E of Nacirema Lane (1521 Greenspring Valley Road); 8th E; 3rd C

SE-Private college in R.C. 2 zone; SPH-Modified parking plan & residential caretakers dwelling as accessory use; VAR-(13) Distance between buildings and height; parking; etc.

7/10/92 - Z.C.'s Order GRANTING SPH and VAR with restrictions and GRANTING SE in part and DENYING in part.

has been scheduled for a Motions only hearing (all other assigned hearing dates to remain as scheduled); and has been

ASSIGNED FOR: THURSDAY, FEBRUARY 11, 1993 AT 10:00 a.m.

cc: Michael J. Collins, Esquire Counsel for Appellant/Northwest

Benjamin Bronstein, Esquire Counsel for Appellant/Villa Julie
Michael Chomel, Esquire

J. Carroll Holzer, Esq.-Couns. for Appellnt/Valleys Pl. Counc.

K. Donald Proctor, Esq.-Counsel for Appellants/Mitchell, et al

Ms. Carolyn Manuszak/Villa Julie College

P. David Fields
Public Services
Lawrence E. Schmidt
Timothy M. Kotroco
W. Carl Richards, Jr.
Docket Clerk - Zoning
Arnold Jablon, Director of Zoning Administration

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JAN 28 1993
ZONING OFFICE

Kathleen C. Weidenhammer
Administrative Assistant

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

Hearing Room -
Room 48, Old Courthouse
400 Washington Avenue February 2, 1993

NOTICE OF POSTPONEMENT & ASSIGNMENT /Motion Only Hearing

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH RULE 2(b). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c), COUNTY COUNCIL BILL NO. 59-79.

CASE NO. 92-285-SPHXA VILLA JULIE COLLEGE, INC.
S/s Greenspring Valley Rd., 0' E of Nacirema Lane (1521 Greenspring Valley Road); 8th E; 3rd C

SE-Private college in R.C. 2 zone; SPH-Modified parking plan & residential caretakers dwelling as accessory use; VAR-(13) Distance between buildings and height; parking; etc.

7/10/92 - Z.C.'s Order GRANTING SPH and VAR with restrictions and GRANTING SE in part and DENYING in part.

which had been scheduled for a Motions only hearing on February 11, 1993 has been POSTPONED at the request of Counsel for Petitioner and has been reassigned as follows for Motions only hearing (all other assigned hearing dates to remain as scheduled); and has been

REASSIGNED FOR: WEDNESDAY, FEBRUARY 17, 1993 AT 1:00 p.m.

cc: Michael J. Collins, Esquire Counsel for Appellant/Northwest

Benjamin Bronstein, Esquire Counsel for Appellant/Villa Julie
Michael Chomel, Esquire

J. Carroll Holzer, Esq.-Couns. for Appellnt/Valleys Pl. Counc.

K. Donald Proctor, Esq.-Counsel for Appellants/Mitchell, et al

Ms. Carolyn Manuszak/Villa Julie College

P. David Fields
Public Services
Lawrence E. Schmidt
Timothy M. Kotroco
W. Carl Richards, Jr.
Docket Clerk - Zoning
Arnold Jablon, Director of Zoning Administration

Kathleen C. Weidenhammer
Administrative Assistant

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

Hearing Room -
Room 48, Old Courthouse
400 Washington Avenue November 5, 1992

NOTICE OF POSTPONEMENT AND ASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH RULE 2(b). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c), COUNTY COUNCIL BILL NO. 59-79.

CASE NO. 92-285-SPHXA VILLA JULIE COLLEGE, INC.
S/s Greenspring Valley Rd., 0' E of Nacirema Lane (1521 Greenspring Valley Road); 8th E; 3rd C

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ZONING OFFICE

SE-Private college in R.C. 2 zone; SPH-Modified parking plan & residential caretakers dwelling as accessory use; VAR-(13) Distance between buildings and height; parking; etc.

7/10/92 - Z.C.'s Order GRANTING SPH and VAR with restrictions and GRANTING SE in part and DENYING in part.

which had been scheduled for hearing on January 21 and 27, 1993 has been POSTPONED/REASSIGNED with agreement of all Counsel to the following dates:

REASSIGNED FOR: TUESDAY, 3/09/93; WEDNESDAY, 3/10/93; THURSDAY, 3/11/93; AND, IF REQUIRED, FRIDAY, 3/12/93 AT 10:00 a.m.*

cc: Michael J. Collins, Esquire Counsel for Appellant/Northwest

Benjamin Bronstein, Esquire Counsel for Appellant/Villa Julie
Michael Chomel, Esquire

J. Carroll Holzer, Esq.-Couns. for Appellnt/Valleys Pl. Counc.

K. Donald Proctor, Esq.-Counsel for Appellants/Mitchell, et al

Ms. Carolyn Manuszak/Villa Julie College

RECEIVED
NOV 6 1992
ZONING OFFICE

P. David Fields
Public Services
Lawrence E. Schmidt
Timothy M. Kotroco
W. Carl Richards, Jr.
Docket Clerk - Zoning
Arnold Jablon, Director of Zoning Administration

Kathleen C. Weidenhammer
Administrative Assistant

*(Also being held as possible Day #5: FRIDAY, 3/19/93 AT 10:00 a.m.)

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

March 12, 1993

Benjamin Bronstein, Esquire
EVANS, GEORGE AND BRONSTEIN
Susquehanna Building, Suite 205
29 W. Susquehanna Avenue
Towson, MD 21204

RE: Case No. 92-285-SPHXA
(Villa Julie College, Inc.)

Dear Mr. Bronstein:

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,

Kathleen C. Weidenhammer
Administrative Assistant

Enclosure

cc: Ms. Carolyn Manuszak,
Villa Julie College, Inc.
P. David Fields
Lawrence E. Schmidt
Timothy M. Kotroco
W. Carl Richards, Jr.
Docket Clerk -Zoning
Arnold Jablon, Director of
Zoning Administration

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MAR 15 1993
ZONING OFFICE

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

Hearing Room -
Room 48, Old Courthouse
400 Washington Avenue March 15, 1993

NOTICE OF ASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH RULE 2(b). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c), COUNTY COUNCIL BILL NO. 59-79.

CASE NO. 92-285-SPHXA VILLA JULIE COLLEGE, INC.
S/s Greenspring Valley Rd., 0' E of Nacirema Lane (1521 Greenspring Valley Road); 8th E; 3rd C
SE-Private college in R.C. 2 zone; SPH-Modified parking plan & residential caretakers dwelling as accessory use; VAR-(13) Distance between buildings and height; parking; etc.

Day #5 /3/19/93 @ 10 a.m.
Day #6 /3/26/93 @ 9 a.m. 7/10/92 - Z.C.'s Order GRANTING SPH and VAR with
Day #7 /3/31/93 @ 9 a.m. restrictions and GRANTING SE in part and DENYING in
Day #8 /4/02/93 @ 9 a.m. part.

has been assigned the following three dates, in addition to the already scheduled date of Friday, March 19, 1993 at 10:00 a.m.; and has been further

ASSIGNED FOR: FRIDAY, 3/26/93; WEDNESDAY, 3/31/93; AND FRIDAY, 4/02/93
(Above three dates to begin at 9:00 a.m.)

cc: Michael J. Collins, Esquire Counsel for Appellant /Northwest Land Corporation

Benjamin Bronstein, Esquire Counsel for Appellant/Petitioner -
Michael Chomel, Esquire Villa Julie College, Inc.

J. Carroll Holzer, Esquire Counsel for Appellants /Valleys Planning Council, et al

K. Donald Proctor, Esquire Counsel for Appellants /Barton S. Mitchell, et al

Ms. Carolyn Manuszak,
Villa Julie College

P. David Fields
Lawrence E. Schmidt
Timothy M. Kotroco
W. Carl Richards, Jr.
Docket Clerk - Zoning
Arnold Jablon, Director of Zoning Administration

Kathleen C. Weidenhammer
Administrative Assistant

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

April 16, 1993

NOTICE OF DELIBERATION

The County Board of Appeals will deliberate the testimony and evidence received in the matter of:

VILLA JULIE COLLEGE, INC.
CASE NO. 92-285-SPHXA

DATE AND TIME: Tuesday, May 4, 1993 at 9:00 a.m.

LOCATION : Room 48, Basement, Old Courthouse

cc: Michael J. Collins, Esquire Counsel for Appellant/Northwest

Benjamin Bronstein, Esquire Counsel for Appellant/Villa Julie
Michael Chomel, Esquire

J. Carroll Holzer, Esq.-Couns. for Appellnt/Valleys Pl. Counc.

K. Donald Proctor, Esq.-Counsel for Appellants/Mitchell, et al

Ms. Carolyn Manuszak/Villa Julie College

P. David Fields
Lawrence E. Schmidt
Timothy M. Kotroco
W. Carl Richards, Jr.
Docket Clerk - Zoning
Arnold Jablon, Director of Zoning Administration

Kathleen C. Weidenhammer
Administrative Assistant

RECEIVED
APR 19 1993
ZADM.

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning

FILE COPY

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

September 10, 1992

J. Carroll Holzer, Esquire
Holzer, Maher, Demilio & Lee
105 West Chesapeake Avenue, Suite 105
Towson, Maryland 21204

Michael J. Collins, Esquire
Neuberger, Quinn, Gielen & Rubin, P.A.
100 South Charles Street
Baltimore, Maryland 21201

Benjamin Bronstein, Esquire
Evans, George & Bronstein
29 W. Susquehanna Avenue, Suite 205
Towson, Maryland 21204

K. Donald Proctor, Esquire
Miles & Stockbridge
600 Washington Avenue
Towson, Maryland 21204

RE: VILLA JULIE COLLEGE, INC. - PETITIONER
1521 GREENSPRING VALLEY ROAD
CASE NO. 92-285-SPHXA

Gentlemen:

After review of the facts, Arnold Jablon - Director of Zoning Administration and Development Management, has determined that in this particular case, only one appeal fee totalling $635.00 is required. Therefore, he has determined it is appropriate that the four (4) appellants split the $635.00 equally for an amount of $158.75 each.

As a result, the County will pay back the appeal fees received from Ben Bronstein and Michael J. Collins who, in turn, will each pay $158.75 to Carroll Holzer.

Additionally, Donald Proctor is now required to pay a portion of the fee to Mr. Holzer totalling $158.75.

In this fashion everyone will be protected in terms of the appeal.

Very truly yours,

Charlotte E. Radcliffe
Appeal Clerk

/cer

IN RE: PETITION FOR SPECIAL EXCEPTION BY VILLA JULIE COLLEGE, INC. * BEFORE THE * ZONING COMMISSIONER * OF BALTIMORE COUNTY * Case No. 92-285-XA

* * * * * * * * * * * * * * * * * * * *

AFFIDAVIT OF RETURN OF SERVICE

I, PATRICIA H. ROLLINS, swear and affirm that I am a competent private person over eighteen (18) years of age and not a party to this case, and that I did serve the Subpoena in the above-captioned action upon Benjamen Bronstein, Esquire, on Tuesday, April 14, 1992 at 2:45 p.m. at 29 W. Susquehanna Avenue, Suite 205, Towson, Maryland 21204.

Description of the individual is as follows: Caucasian male; 5'8"; 160 lbs.; wire rim glasses, and approximately 45 years old.

I DO SOLEMNLY DECLARE AND AFFIRM under the penalties of perjury that the matters and facts set forth herein are true and correct to the best of my knowledge, information and belief.

RECEIVED
APR 15 1992
ZONING COMMISSIONER

Patricia H. Rollins
Legal Assistant
MILES & STOCKBRIDGE
600 Washington Avenue
Towson, Maryland 21204
(301)823-8247

DM/Mac3/C271000.AFF

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 7th day of August, 1992, a copy of the aforegoing Notice of Appeal was mailed, first-class, postage pre-paid to: Benjamin Bronstein, Esquire, Evans, George & Bronstein, Susquehanna Building, Suite 205, 29 West Susquehanna Avenue, Towson, Maryland 21204; Baltimore County Board of Appeals, Basement, Old Courthouse, Towson, Maryland 21204 and K. Donald Proctor, Esquire, Miles & Stockbridge, 600 Washington Avenue, 3rd Floor, Towson, Maryland 21204.

J. CARROLL HOLZER, Esquire

appeals-1\v-julie.not

IN RE: PETITION FOR SPECIAL EXCEPTION BY VILLA JULIE COLLEGE, INC. * BEFORE THE * ZONING COMMISSIONER * OF BALTIMORE COUNTY * Case No. 92-285-XA

* * * * * * * * * * * * *

SUBPOENA

TO: Michael Lancaster
Chief Business Officer
Villa Julie College
1525 Greenspring Valley Road
Stevenson, Maryland 21153

You are hereby summoned and commanded to be and appear personally before the Zoning Commissioner/Deputy Zoning Commissioner of Baltimore County in Room 106, Baltimore County Office Building, 111 West Chesapeake Avenue, Towson, Maryland 21204 and to bring all records of Villa Julie College regarding pumping of septic tanks by Villa Julie College from April 1, 1990 to April 15, 1992. on the 15th day of April 1992, regarding the above captioned case, for the purpose of testifying at the request of Protestants, c/o K. Donald Proctor, Esquire.

K. Donald Proctor
MILES & STOCKBRIDGE
600 Washington Avenue
Towson, Maryland 21204
(301)823-8110

Mr. Sheriff/Private Process Server:

Please process in accordance with Zoning Commissioner's Rule IV(c).

Zoning Commissioner/Deputy
Zoning Commissioner
for Baltimore County

Issued: 4/14/92

IN RE: PETITION FOR SPECIAL EXCEPTION BY VILLA JULIE COLLEGE, INC. * BEFORE THE * ZONING COMMISSIONER * OF BALTIMORE COUNTY * Case No. 92-285-XA

* * * * * * * * * * * * *

SUBPOENA

TO: Michael Lancaster
Chief Business Officer
Villa Julie College
1525 Greenspring Valley Road
Stevenson, Maryland 21153

You are hereby summoned and commanded to be and appear personally before the Zoning Commissioner/Deputy Zoning Commissioner of Baltimore County in Room 106, Baltimore County Office Building, 111 West Chesapeake Avenue, Towson, Maryland 21204 and to bring all records of Villa Julie College regarding pumping of septic tanks by Villa Julie College from April 1, 1990 to April 15, 1992. on the 15th day of April 1992, regarding the above captioned case, for the purpose of testifying at the request of Protestants, c/o K. Donald Proctor, Esquire.

K. Donald Proctor
MILES & STOCKBRIDGE
600 Washington Avenue
Towson, Maryland 21204
(301)823-8110

Mr. Sheriff/Private Process Server:

Please process in accordance with Zoning Commissioner's Rule IV(c).

Zoning Commissioner/Deputy
Zoning Commissioner
for Baltimore County

Issued: 4/14/92

88/mlh/522.00/03.20.92

s/s Greenspring Valley Road * BEFORE THE
0' East of Nacerima Lane * ZONING COMMISSIONER
8th Election District * FOR
3rd Councilmanic District * BALTIMORE COUNTY
Petitioner: Villa Julie College * CASE NO.: 92-285-XA

* * * * * * * * * * * * * * * * * * * *

SUBPOENA DUCES TECUM

TO: Gene L. Neff
Director of Public Works
for Baltimore County
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

At the request of Benjamin Bronstein, Esquire, attorney for the Petitioner, you are commanded to appear and testify at the following dates, time and place:

Date: Thursday, April 9, 1992 and Wednesday, April 15, 1992

Time: 9:00 a.m.

Place: Room 109, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland 21204

Zoning Commissioner for Baltimore County

Date of Issuance: _____

88/mlh/522.00/03.20.92

s/s Greenspring Valley Road * BEFORE THE
0' East of Nacerima Lane * ZONING COMMISSIONER
8th Election District * FOR
3rd Councilmanic District * BALTIMORE COUNTY
Petitioner: Villa Julie College * CASE NO.: 92-285-XA

* * * * * * * * * * * * * * * * * * * *

SUBPOENA DUCES TECUM

TO: G. Scott Barhight, Esquire
Whiteford, Taylor and Preston
Court Towers
210 West Pennsylvania Avenue
Towson, Maryland 21204

At the request of Benjamin Bronstein, Esquire, attorney for the Petitioner, you are commanded to appear and testify at the following dates, time and place:

Date: Thursday, April 9, 1992 and Wednesday, April 15, 1992

Time: 9:00 a.m.

Place: Room 109, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland 21204

Zoning Commissioner for Baltimore County

Date of Issuance: _____

BB/mlh/522.00/03.20.92

s/s Greenspring Valley Road * BEFORE THE
0' East of Nacerima Lane * ZONING COMMISSIONER
8th Election District * FOR
3rd Councilmanic District * BALTIMORE COUNTY
Petitioner: Villa Julie College * CASE NO.: 92-285-XA

* * * * * * * * * * * * *

SUBPOENA DUCES TECUM

TO: P. David Fields
Director of Planning and Zoning
for Baltimore County
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

At the request of Benjamin Bronstein, Esquire, attorney for the Petitioner, you are commanded to appear and testify at the following dates, time and place:

Date: Thursday, April 9, 1992 and Wednesday, April 15, 1992

Time: 9:00 a.m.

Place: Room 109, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland 21204

Zoning Commissioner for Baltimore County

Date of Issuance: _____

BB/mlh/522.00/03.20.92

s/s Greenspring Valley Road * BEFORE THE
0' East of Nacerima Lane * ZONING COMMISSIONER
8th Election District * FOR
3rd Councilmanic District * BALTIMORE COUNTY
Petitioner: Villa Julie College * CASE NO.: 92-285-XA

* * * * * * * * * * * * *

SUBPOENA DUCES TECUM

TO: John J. Dieter
Department of Environmental Protection and Resource Management
County Courts Building
401 Bosley Avenue
Towson, Maryland 21204

At the request of Benjamin Bronstein, Esquire, attorney for the Petitioner, you are commanded to appear and testify at the following dates, time and place:

Date: Thursday, April 9, 1992 and Wednesday, April 15, 1992

Time: 9:00 a.m.

Place: Room 109, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland 21204

Zoning Commissioner for Baltimore County

Date of Issuance: _____

IN THE MATTER OF * BEFORE THE ZONING
Villa Julie College * COMMISSIONER OF
_____ * BALTIMORE COUNTY
_____ * CASE NO. Item # 146

* * * * * * * * * * * * *

SUBPOENA

Please process in accordance with Zoning Commission Rule IV (c).

TO: Jim Dieter, Director of DEPREM
4th Floor, County Courts Bldg.
Towson, Md.

YOU ARE HEREBY COMMANDED TO: ( ) Personally appear; ( ) Produce documents and or objects only; (X) Personally appear and produce documents or objects;

at Old Courthouse, Room 118, Towson, Md. First Floor
(Place where attendance is required)

on Wednesday the 18th day of March,
19 92, at 9:00 a.m./~~p.m.~~

YOU ARE COMMANDED TO produce the following documents or objects: All documents, plans, correspondence, evaluations as they relate to Villa julie's Special Exception request.

J. Carroll Holzer, 305 W. Chesapeake Ave. Towson 825-6961
(Name of Party or Attorney, Address and Phone Number requesting subpoena)

Date 3/13/92

Lawrence Schmidt
Zoning Commissioner

SHERIFF'S RETURN

( )-Served and copy delivered on date indicated below.
( )-Unserved, by reason of _____
Date:_____ Fee:$_____

SHERIFF

IN THE MATTER OF * BEFORE THE ZONING
Villa Julie College * COMMISSIONER OF
_____ * BALTIMORE COUNTY
_____ * CASE NO. Item # 146

* * * * * * * * * * * * *

SUBPOENA

Please process in accordance with Zoning Commission Rule IV (c).

TO: David Fields, Director OPZ
4th Floor, County Courts Bldg.
Towson, Md.

YOU ARE HEREBY COMMANDED TO: ( ) Personally appear; ( ) Produce documents and or objects only; (X) Personally appear and produce documents or objects;

at Old Courthouse, Room 118, Towson, Md. First Floor
(Place where attendance is required)

on Wednesday the 18th day of March,
19 92, at 9:00 a.m./~~p.m.~~

YOU ARE COMMANDED TO produce the following documents or objects: Correspondence, reports, evaluations, site plans and other documents that relate to Villa Julie's Special Exception request.

J. Carroll Holzer, 305 W. Chesapeake Ave. Towson 825-6961
(Name of Party or Attorney, Address and Phone Number requesting subpoena)

Date 3/3/92

Lawrence Schmidt
Zoning Commissioner

SHERIFF'S RETURN

( )-Served and copy delivered on date indicated below.
( )-Unserved, by reason of _____
Date:_____ Fee:$_____

SHERIFF

IN THE MATTER OF * BEFORE THE ZONING
Villa Julie College * COMMISSIONER OF
_____ * BALTIMORE COUNTY
_____ * CASE NO. Item # 146

* * * * * * * * * * * * *

SUBPOENA

Please process in accordance with Zoning Commission Rule IV (c).

TO: Jack Dillon, OPZ
4th Floor
County Courts Bldg.

YOU ARE HEREBY COMMANDED TO: ( ) Personally appear; ( ) Produce documents and or objects only; (X) Personally appear and produce documents or objects;

at Old Courthouse, Room 118, Towson, Md. First Floor
(Place where attendance is required)

on Wednesday the 18th day of March,
19 92, at 9:00 a.m./~~p.m.~~

YOU ARE COMMANDED TO produce the following documents or objects: Correspondence, reports, evaluations, site plans and other documents that relate to Villa Julie's Special Exception request.

J. Carroll Holzer, 305 W. Chesapeake Ave. Towson 825-6961
(Name of Party or Attorney, Address and Phone Number requesting subpoena)

Date 3/13/92

Lawrence Schmidt
Zoning Commissioner

SHERIFF'S RETURN

( )-Served and copy delivered on date indicated below.
( )-Unserved, by reason of _____
Date:_____ Fee:$_____

SHERIFF

IN THE MATTER OF * BEFORE THE ZONING
Villa Julie College * COMMISSIONER OF
_____ * BALTIMORE COUNTY
_____ * CASE NO. Item # 146

* * * * * * * * * * * * *

SUBPOENA

Please process in accordance with Zoning Commission Rule IV (c).

TO: Oscar Keys, Balto. County Public Works
County Office Bldg. 3rd Floor
Towson, Md.

YOU ARE HEREBY COMMANDED TO: ( ) Personally appear; ( ) Produce documents and or objects only; (x) Personally appear and produce documents or objects;

at Old Courthouse, Room 118, Towson, Md. First Floor
(Place where attendance is required)

on Wednesday the 18th day of March,
19 92, at 9:00 a.m./~~p.m.~~

YOU ARE COMMANDED TO produce the following documents or objects: Files as they relate to sewer and water plan amendment 1990-1991 in the above case.

J. Carroll Holzer, 305 W. Chesapeake Ave. Towson 825-6961
(Name of Party or Attorney, Address and Phone Number requesting subpoena)

Date 3/13/92

Lawrence Schmidt
Zoning Commissioner

SHERIFF'S RETURN

( )-Served and copy delivered on date indicated below.
( )-Unserved, by reason of _____
Date:_____ Fee:$_____

SHERIFF

BALTIMORE COUNTY, MARYLAND
DEPARTMENT ORDER FOR DIRECT PAYMENT

Number DP- 478404

DATE September 10, 1992

PAYEE'S NAME AND ADDRESS	DESCRIPTION	CHECK AMOUNT
Michael J. Collins, Esquire	Refund of Appeal Fee	$635.00
100 South Charles Street	Case No. 92-285-SPHXA	VENDOR/ SOCIAL SECURITY#
Baltimore, Maryland 21201	villa Julie College, Inc. -	
	Petitioner	ACCOUNTING PERIOD M M Y Y
TYPE CODE (SEE REVERSE) 20	NEW VENDOR FEDERAL I.D. #	

LN	PURCHASE ORDER	LN	VENDOR INVOICE	FUND	AGENCY	ORG	SUB ORG	OBJ	REV SOURCE	SUB REV	REPT CATG	BS ACCT	AMOUNT	I D	P F
01				001	006				6150				$635.00		
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07															
08															
09															
10															
11															
12															

EXTENSIONS VERIFIED | DISBURSEMENT APPROVED

REQUESTED BY: Office of Zoning Administration and Development Management MS# 1105
NAME OF AGENCY OR DEPARTMENT

APPROVED FOR PAYMENT:

☐ Send Check to Above Department
☒ Mail Check to Payee
☒ Enclosure to be Mailed with Check
☐ _____

Stella R. Lowery — September 10, 1992
AUTHORIZED SIGNATURE — DATE

OFFICE OF FINANCE — DATE

White Copy - To Finance Office
Green Copy - For Purchasing Department
Yellow Copy - For Department's File

REV. 6/91

BALTIMORE COUNTY, MARYLAND
DEPARTMENT ORDER FOR DIRECT PAYMENT

Number DP- 478405

DATE September 10, 1992

PAYEE'S NAME AND ADDRESS	DESCRIPTION	CHECK AMOUNT
Benjamin Bronstein, Esquire	Refund of Appeal Fee	$635.00
29 W. Susquehanna Avenue	Case No. 92-285-SPHXA	VENDOR/ SOCIAL SECURITY#
Suite 205	Villa Julie College, Inc. -	
Towson, Maryland 21204	Petitioner	ACCOUNTING PERIOD M M Y Y
TYPE CODE (SEE REVERSE) 20	NEW VENDOR FEDERAL I.D. #	

LN	PURCHASE ORDER	LN	VENDOR INVOICE	FUND	AGENCY	ORG	SUB ORG	OBJ	REV SOURCE	SUB REV	REPT CATG	BS ACCT	AMOUNT	I D	P F
01				001	006				6150				$635.00		
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12															

EXTENSIONS VERIFIED | DISBURSEMENT APPROVED

REQUESTED BY: Office of Zoning Administration and Development Management MS# 1105
NAME OF AGENCY OR DEPARTMENT

APPROVED FOR PAYMENT:

☐ Send Check to Above Department
☒ Mail Check to Payee
☒ Enclosure to be Mailed with Check
☐ _____

Stella R. Lowery — September 10, 1992
AUTHORIZED SIGNATURE — DATE

OFFICE OF FINANCE — DATE

White Copy - To Finance Office
Green Copy - For Purchasing Department
Yellow Copy - For Department's File

REV. 6/91

Maryland Department of Natural Resources

Maryland Environmental Service
2020 Industrial Drive
Annapolis, Maryland 21401
(301) 974-7281

William Donald Schaefer
Governor

Torrey C. Brown, MD
Secretary

George G. Perdikakis
Director

Oscar Keyes
Baltimore County Department of Public Works
County Office Building
Towson, MD 21204

April 26, 1990

Dear Mr. Keyes:

By way of introduction, attached is a copy of the letter just sent to the County Executive by the Villa Julie College regarding their sewer project. Pursuant to our contract with the College, we are providing the information necessary for the amendment to the Baltimore County Water and Sewerage Plan which will allow for the issuance of a State discharge permit and construction of a package sewage treatment plant with discharge to Jones Falls.

Villa Julie College is located in Zone R/C-2, map designation W16B, S16B. The College should be considered as a multi-use facility and inventoried as a facility with no planned service, W-7,S-7.

I am the Project Manager representing the College and will be coordinating all aspects of the project with various State and local agencies. Please let me know should you require anything further. I may be reached at 974-7276.

Sincerely,

Lisa M. Reaver
Project Manager

cc: Dane Bauer
Billie Messenger, Villa Julie College
James Dieter, Baltimore County DEPRM

RECEIVED
MAY 1 1990
DEPARTMENT OF PUBLIC WORKS
OF BALTIMORE COUNTY
DIRECTOR

DNR TTY for Deaf: 301-974-3683

EXHIBIT A

VILLA JULIE COLLEGE

Office of the President

April 24, 1990

Mr. Dennis Rasmussen
County Executive
Executive Office
Old Court Mezzanine
Towson, Maryland 21204

Dear Mr. Rasmussen:

Villa Julie College contracted with GW Stephens & Associates, Inc. and William F. Kirwin, Inc. to prepare an assessment of existing physical site conditions at the College. The preliminary results of this assessment identified problems with our sanitary sewage disposal system.

In April 1990, the College contracted with the Maryland Environmental Service (MES) to provide engineering and technical services to fully evaluate on site sewage disposal alternatives along with other viable options. Among the services contracted is the preparation of any documentation necessary for amendments to the Baltimore County Comprehensive Water and Sewerage Plan.

The College authorizes MES to represent Villa Julie College in matters relating to the evaluation and selection of a sewage disposal system, including making recommendations/applications to the County and State regarding amendments to the County Comprehensive Water and Sewerage Plan.

Sincerely,

Carolyn Manuszak
President

cc: Gene Neff, Baltimore County DPW
Robert Sheesley, EP&RM

VILLA JULIE COLLEGE

I. Existing Conditions

The sanitary disposal system for the College includes flow from the College as well as flow from the neighboring convent retirement home. This system consists of a series of 18 septic tanks with tile fields located on two fields owned by the Sisters of Notre Dame. In a preliminary assessment done for the College, it was determined that the current septic system is failing. During certain times of the year, these fields are found to be ankle wet and an odor is prevalent in these areas. In addition, the tanks must be pumped out cyclicly on a four month rotation because the system backs up; the soil is incapable of "handling" this amount of liquid.

Consequently, Villa Julie College is concerned about the possible health hazard posed to its students. The College is not only interested in resolving this problem to properly treat the existing flows but would like to implement a sewage disposal system that would assure that the College remains a viable part of the community for the future. Table 1 shows the current population and flows along with the projected figures through the year 2000.

II. Background Information

Four alternatives have been evaluated: 1) augmenting the existing system with septic tanks and subsurface disposal, 2) installing a sewage lagoon and spray irrigation system, 3) connection to the public sewer system, and 4) installing a package unit with ultraviolet disinfection, filters and wetlands or artificial marsh discharge.

On March 27, 1990, representatives of the College, the Baltimore County Department of Environmental Protection and Resource Management (DEPRM), and GW Stephens & Associates conducted soils and water table evaluations, including various test pits and percolation tests. Soils were silt loam containing a distinct heavy red clay with water table varying from 4 to 7 feet below the surface. Percolation results did not meet minimum County/State requirements and the Baltimore County DEPRM ruled out the use of additional on-site subsurface sewage disposal systems.

On April 12, 1990, similar soil and water table evaluations were conducted by representatives of the College, Baltimore County DEPRM, MDE, GW Stephens & Associates, and MES, to both verify earlier evaluations and to assess whether or not the College property could support a spray irrigation system. Similar results were obtained and although a

LAW OFFICES
EVANS, GEORGE AND BRONSTEIN
SUSQUEHANNA BUILDING, SUITE 205
29 WEST SUSQUEHANNA AVENUE
TOWSON, MARYLAND 21204
(301) 296-0200
FAX (301) 296-3719

L. ROBERT EVANS
HARRIS JAMES GEORGE
BENJAMIN BRONSTEIN
MICHAEL J. CHOMEL
DOUGLAS A. STUBBS

RECEIVED
JAN 22 1992
ZONING COMMISSIONER

January 15, 1992

The Honorable Lawrence Schmidt
Zoning Commissioner for Baltimore County
First Floor
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

RE: **Villa Julie College**

Dear Commissioner Schmidt:

The purpose of this letter is to document my vigorous opposition to Mr. Holzer's request of January 14, 1992 that the above entitled case be again postponed. I have enclosed a copy of my letter to you of October 25, 1991 relating to the prior postponement requested by Mr. Holzer.

I called Mr. Holzer and cleared the March 10, 11, and 12 dates with him. In addition, I called Gwen Stevens in the Zoning Office and all the witnesses that are likely to testify on behalf of Villa Julie.

It is important that this case go forward. Mr. Holzer's request for a continuance should be with the Circuit Court. If he is unable to try this case let one of his partners try it, or in the alternative let one of his partners try the case in the Circuit Court. If that is not an acceptable suggestion, I suggest Mr. Holzer get his Circuit Court case continued to a new date.

I note on the assignment notice from the Circuit Court that counsel should notify the assignment office 30 days prior to trial in the event a hearing date is "not agreeable". Lastly, I am

LAW OFFICES
EVANS, GEORGE AND BRONSTEIN
SUSQUEHANNA BUILDING, SUITE 205
29 WEST SUSQUEHANNA AVENUE
TOWSON, MARYLAND 21204
(301) 296-0200
FAX (301) 296-3719

L. ROBERT EVANS
HARRIS JAMES GEORGE
BENJAMIN BRONSTEIN
MICHAEL J. CHOMEL
DOUGLAS A. STUBBS

April 22, 1992

VIA FAX

K. Donald Proctor, Esquire
Miles and Stockbridge
Suite 300
600 Washington Avenue
Towson, Maryland 21204

J. Carroll Holzer, Esquire
Holzer, Maher, Demilio & Lee
Suite 105
305 West Chesapeake Avenue
Towson, Maryland 21204

RE: **Villa Julie**

Dear Don and Carroll:

It is my intention to finish the rebuttal testimony early on May 15. At the conclusion of testimony, I would suggest that the balance of the day be set aside for oral argument. I am also requesting that all memoranda be submitted on May 15.

Commissioner Schmidt has set aside 4:00 on either April 28, 29 or May 7 for a conference in this case. I called each of you yesterday and have not received a response. It is my intention to be at Commissioner Schmidt's office on April 28 at 4:00 for the purpose of discussing the schedule for testimony, memoranda and argument.

Very truly yours,

EVANS, GEORGE AND BRONSTEIN

Benjamin Bronstein

BB/mlh
cc: The Honorable Lawrence E. Schmidt

LAW OFFICES
EVANS, GEORGE AND BRONSTEIN
SUSQUEHANNA BUILDING, SUITE 205
29 WEST SUSQUEHANNA AVENUE
TOWSON, MARYLAND 21204
(301) 296-0200
FAX (301) 296-3719

L. ROBERT EVANS
HARRIS JAMES GEORGE
BENJAMIN BRONSTEIN
MICHAEL J. CHOMEL
DOUGLAS A. STUBBS

May 26, 1992

HAND DELIVERED

The Honorable Lawrence Schmidt
Zoning Commissioner for Baltimore County
Courthouse
400 Washington Avenue
Towson, Maryland 21204

RE: **Villa Julie College**
Case No.: 92-285-XA

Dear Commissioner Schmidt:

I am enclosing the Petitioner's Memorandum in reference to the above entitled case.

Thank you for your kind consideration.

Very truly yours,

EVANS, GEORGE AND BRONSTEIN

Benjamin Bronstein

BB/mlh
Enclosure
cc: J. Carroll Holzer, Esquire
K. Donald Proctor, Esquire

RECEIVED
MAY 26 1992
ZONING COMMISSIONER

LAW OFFICES
MILES & STOCKBRIDGE
600 WASHINGTON AVENUE
TOWSON, MARYLAND 21204

TELEPHONE 301-821-6565
FAX 301-823-8123

10 LIGHT STREET
BALTIMORE, MARYLAND 21202

101 BAY STREET
EASTON, MARYLAND 21601

11350 RANDOM HILLS ROAD
FAIRFAX, VIRGINIA 22030

30 WEST PATRICK STREET
FREDERICK, MARYLAND 21701

22 WEST JEFFERSON STREET
ROCKVILLE, MARYLAND 20850

1701 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20006

K. DONALD PROCTOR
(301-821-8110

March 6, 1992

RECEIVED
MAR 6 1992
ZONING COMMISSIONER

HAND DELIVERY

The Honorable Lawrence E. Schmidt
Zoning Commissioner for Baltimore County
Office of Planning and Zoning
Suite 113 - Court House
400 Washington Avenue
Towson, Maryland 21204

Re: Villa Julie
Item No. 146

Dear Mr. Schmidt:

Please be advised that I will be representing several adjoining property owners, including Mr. and Mrs. Barton S. Mitchell and Dr. and Mrs. Gaylord Lee Clark, Jr., in connection with next week's hearings in this matter and I expect to participate actively therein.

Very truly yours,

K. Donald Proctor

KDP/pm

cc: J. Carroll Holzer, Esquire
Benjamin Bronstein, Esquire

LAW OFFICES
MILES & STOCKBRIDGE
600 WASHINGTON AVENUE
TOWSON, MARYLAND 21204

TELEPHONE 301-821-6565
FAX 301-823-8123

10 LIGHT STREET
BALTIMORE, MARYLAND 21202

101 BAY STREET
EASTON, MARYLAND 21601

11350 RANDOM HILLS ROAD
FAIRFAX, VIRGINIA 22030

30 WEST PATRICK STREET
FREDERICK, MARYLAND 21701

22 WEST JEFFERSON STREET
ROCKVILLE, MARYLAND 20850

1701 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20006

K. DONALD PROCTOR
(301-823-8110

May 26, 1992

HAND DELIVERY

The Honorable Lawrence E. Schmidt
Zoning Commissioner for Baltimore County
Suite 113 Courthouse
400 Washington Avenue
Towson, Maryland 21204

Re: Villa Julie College

Dear Commissioner Schmidt:

I am delivering herewith the Post-Hearing Memorandum on behalf of my clients.

Very truly yours,

K. Donald Proctor

KDP/pm

Enclosure

cc: J. Carroll Holzer, Esquire - w/encs.
Benjamin Bronstein, Esquire - w/encs.

RECEIVED
MAY 27 1992
ZONING COMMISSIONER

LAW OFFICES
MILES & STOCKBRIDGE
600 WASHINGTON AVENUE
TOWSON, MARYLAND 21204

TELEPHONE 410-821-0565
FAX 410-823-8123

10 LIGHT STREET
BALTIMORE, MARYLAND 21202

300 ACADEMY STREET
CAMBRIDGE, MARYLAND 21613

101 BAY STREET
EASTON, MARYLAND 21601

11350 RANDOM HILLS ROAD
FAIRFAX, VIRGINIA 22030

30 WEST PATRICK STREET
FREDERICK, MARYLAND 21701

22 WEST JEFFERSON STREET
ROCKVILLE, MARYLAND 20850

1450 G STREET, N.W.
WASHINGTON, D.C. 20005

K. DONALD PROCTOR
410-823-8110

August 7, 1992

HAND DELIVERY

The Honorable Lawrence E. Schmidt
Zoning Commissioner
Baltimore County
Suite 113 - Court House
400 Washington Avenue
Towson, Maryland 21204

Re: Petitions for Special Hearing,
Special Exception and Zoning
Variance
Case No. 92-285-SPHXA
Villa Julie College, Inc.

Dear Mr. Schmidt:

Please enter an appeal to the Baltimore County Board of Appeals from your Order of July 10, 1992 in this matter approving the Petition for Special Hearing, granting the Petition for Special Exception, and granting the Petition for Zoning Variances, on behalf of Barton S. and Elizabeth Mitchell, Clark Farm Associates, and Timothy M. and Mary Stuart Rodgers. The addresses of the Appellants are as follows:

Barton S. and Elizabeth Mitchell
1701 Greenspring Valley Road
Stevenson, Maryland 21153

Clark Farm Associates
1704 Hillside Road
Stevenson, Maryland 21153

Timothy M. and Mary Stuart Rodgers
1425 Greenspring Valley Road
Stevenson, Maryland 21153

Clark Farm Associates is a family partnership comprised of the following members, whose mailing addresses are as follows:

Dr. and Mrs. Gaylord Lee Clark
1704 Hillside Road
Stevenson, Maryland 21153

RECEIVED
AUG X 1992
ZONING OFFICE

LAW OFFICES
NEUBERGER, QUINN, GIELEN & RUBIN, P.A.

EQUITABLE BANK CENTER TOWER II
100 SOUTH CHARLES STREET
BALTIMORE, MARYLAND 21201
(410) 332-8550
FAX (410) 332-8594

(WRITER'S DIRECT DIAL NO.)
(410) 332-8520

August 5, 1992

Baltimore County Zoning Commissioner
111 W. Chesapeake
Room 109
Towson, Maryland 21204

Attn: Charlotte Ratcliffe

In Re: Petitions for Special Hearing, Special Exemption and Zoning Variance S/S Green Spring Valley Road, 0 ft. E of Nacirema Lane
1521 Green Spring Valley Road
8th Election District
3rd Councilmanic District

Villa Julie College, Inc., Petitioner
Case No. 92-285-SPHXA

Dear Ms. Ratcliffe:

Enclosed please find writtennotice that Northwest Land Corporation hereby requests an appeal of all three of the petitions relative to the above-captioned matter.

Very truly yours,

Michael J. Collins

Neuberger, Quinn, Gielen
& Rubin, P.A.
Attorneys for Northwest Land
Corporation

MJC:kmw
Enclosure

RECEIVED
8-6-92
ZONING OFFICE

LAW OFFICES
NEUBERGER, QUINN, GIELEN & RUBIN, P.A.

EQUITABLE BANK CENTER TOWER II
100 SOUTH CHARLES STREET
BALTIMORE, MARYLAND 21201
(410) 332 8550
FAX (410) 332 8594

(WRITER'S DIRECT DIAL NO.)
(410) 332-8520

August 5, 1992

Lawrence E. Schmidt
Zoning Commissioner for Baltimore County
111 W. Chesapeake
Room 109
Towson, Maryland 21204

In Re: Petitions for Special Hearing, Special Exemption and Zoning Variance S/S Green Spring Valley Road, 0 ft. E of Nacirema Lane
1521 Green Spring Valley Road
8th Election District
3rd Councilmanic District

Notice of Appeal

Villa Julie College, Inc., Petitioner
Case No. 92-285-SPHXA

Dear Mr. Schmidt:

This law firm represents Northwest Land Corporation, the owner of property located adjacent to Villa Julie College, Inc. Northwest Land Corporation hereby gives its Notice of Appeal of the Zoning Commissioner's decision regarding the Petitions for Special Hearing, Special Exemption and Zoning Variance by Villa Julie College, Inc. Northwest's corporate representative is Gordon Sugar. Northwest Land Corporation's address is 1 Ponona North, Pikesville, Maryland 21208. Enclosed you will find a check in the amount of $635.00, which the Zoning Commission has told us is the appropriate filing fee as required

RECEIVED
8-6-92
ZONING OFFICE

RONALD T. MAHER
T. CARROLL HOLZER
CAROLYN DEMILIO
THOMAS J. LEE

J. HOWARD HOLZER
1907-1969

LAW OFFICES
HOLZER, MAHER, DEMILIO & LEE
305 W. CHESAPEAKE AVENUE
SUITE 105
TOWSON, MARYLAND 21204
410-823-8800
FAX: 410-823-8864

CARROLL COUNTY OFFICE
125 LIBERTY ROAD
ELDERSBURG, MARYLAND 21784
410-795-8556
FAX: 410-795-5335

SUITE 550
1725 DE SALES STREET, N.W.
WASHINGTON, D.C. 20036

April 23, 1992
#6592

The Honorable Lawrence E. Schmidt
Zoning Commissioner for
Baltimore County
First Floor
County Office Building
Towson, Maryland 21204

RE: Villa Julie College

Dear Commissioner Schmidt:

Please be advised that I have just received a fax from Mr. Bronstein of April 22, 1992, indicating that he would like to have oral argument on May 15th and that all memoranda will be submitted on May 15th. I do not agree that is a logical or preferable procedure in light of the fact that we will not know what is rebuttal testimony is until well into May 15th and it will be impossible to incorporate that information into the Memorandum.

Secondly, I am not sure that Mr. Bronstein is correct in believing the rebuttal testimony will be concluded early. Thirdly, I suggested at our last meeting, that a Memorandum would be more appropriate in view of the testimony and legal issues involved and presented by all parties.

I do find that April 28, 1992 at 4:00 p.m. is a convenient time to meet with you and I do intend to be there subject to whether or not the Board of Appeals case that I am involved in on that date is concluded by 4:00 p.m.

Thank you very much for your attention to this matter.

Very truly yours,

J. Carroll Holzer

JCH:mlg

Enclosure

cc: Don Proctor, Esquire
Ben Bronstein, Esquire

RECEIVED
APR 24 1992
ZONING OFFICE

LAW OFFICES
WHITEFORD, TAYLOR & PRESTON

SUITE 1400
SEVEN SAINT PAUL STREET
BALTIMORE, MARYLAND 21202
TELEPHONE 301-347-8700

500 COURT TOWERS
210 WEST PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204-4515
301-832-2000
FAX: 301-832-2015

SUITE 400
888 17TH STREET, NW
WASHINGTON, D.C. 20006
TELEPHONE 202-835-0600

G. SCOTT BARHIGHT
DIRECT NUMBER
301-832-2050

July 16, 1990

HAND DELIVERED
Mr. Gene L. Neff, Director
Baltimore County Department of Public Works
County Office Building
Towson, Maryland 21204

RE: Master Water Supply and Sewage Plan Amendment
Map Issue No. 90-11, Cycle VII

Dear Mr. Neff:

Please be advised this office represents the Baltimore Province of the Sisters of Notre Dame de Namur, Inc. By her signature below, Sister Joanne Schneberger, Secretary of the Board of Trustees for the Baltimore Province, is indicating the consent of the Baltimore Province to the above-referenced application. This consent will be reviewed by the full Board of Trustees at their next regularly scheduled meeting on August 18, 1990.

Please forward any correspondence regarding this matter to this office to my attention. We look forward to working with Baltimore County and the Villa Julie College to the successful approval of this amendment.

Should you have any questions or comments, please feel free to contact me.

Sincerely,

G. Scott Barhight

Agreed and Accepted.

Sr. Joanne Schneberger, SND
Board of Trustees
Baltimore Province Sisters of Notre Dame de Namur, Inc.

GSB:cms
cc. Mr. David Fields
Mr. Robert Sheesley
Mr. Oscar M. Keys, Jr.
Mr. John J. Dieter
Donald P. McPherson, III, Esq.
Sr. Marie Kelly
Sr. Joanne Schneberger
Sr. Mary Ann Cook
Ms. Carolyn Manuszak

EXHIBIT C

William A. Pistell

10808 Hudson Road Owings Mills, Maryland 21117

1/13/92
TO CRG

April 9, 1992

RECEIVED
APR 15
ZONING COMMISSIONER

Councilman C.A. Dutch Ruppersberger
County Council Office
400 Washington Avenue
Towson, Maryland 21204

Re: Villa Julie College Special Exception Hearing

Dear Councilman Ruppersberger,

I have lived in the Green Spring Valley area for 30 years,paid taxes and voted there.In addition, for many years I directed and coordinated the Jones Falls spring clean-up as well as having been an active member of Trout Unlimited involved in monitoring water quality in the watershed.My interest in what Villa Julie has already done and plans to do is therefore multi-fold.

First of all, Villa Julie's request has exposed a web of existing exceptions,contradictions and violations.It is the only institution totally on the valley floor.Presently it represents a non-conforming use of the RC-2 agricultural zoning covering the area in which it is sited.An upzoning to RC-5, which it would like to get in order to legitimize its present status and give it a blank check on future usage, is totally incompatible with the general neighborhood and will set a very dangerous precedent not only in the area but also throughout the County.There are at least three identifiable landholders in the immediate area who will insist on similiar zoning.Such zoning is not in the Master Plan and, if granted, will require public service.

The planned building addition of 98,044 square feet represents a 95% increase in space occupied (103,000 square feet to 201,044 sq. feet). The resulting increase in traffic will require a reconfiguration of the state road (at taxpayer's expense) and will include a widening of the road as well as placement of a divider in the middle of the road. The increase in required parking will double present coverage causing both storm water management problems as well as potential thermal and chemical threats to Jones Falls, a class 3 trout stream.The increase in lighting will change the rural character of the area and turn night into day, an insidious form of pollution.There are many new high priced homes in the immediate area who have relied on existing zoning to protect their substantial investments.They are both voters and taxpayers.

A further byproduct of the expansion request has been the exposure of two major violations of county codes and state permit requirements.First, septic systems which were designed and approved for 10,000 gallons a day are presently handling

THE VALLEYS
PLANNING COUNCIL, INC.

212 Washington Avenue
P.O. Box 5402
Towson, Maryland 21285-5402
410-337-6877
410-296-5409 (FAX)

7847-92
4/14/92
Narrative -
prior to me

September 2, 1992

J. Carroll Holzer, Esquire
Holzer, Maher, Demilio & Lee
305 W. Chesapeake Avenue, Suite 105
Towson, Maryland 21204

Dear Carroll:

With reference to your billing statement, dated August 13, 1992, and the costs advanced for the Villa Julie College appeal to the Baltimore County Board of Appeals, I met with Arnold Jablon this morning. Mr. Jablon has determined that it was not appropriate for the Valleys Planning Council, et al, to carry the entire cost of the appeal, and that the processing of only your check in our behalf was in error.

Therefore, Mr. Jablon has determined that he will write to all other appellants in the case, directing them to reimburse your office for their proportionate share, $158.75 each.

At that rate, I have reduced the statement billed to us on that item so that we will pay one-fourth (there being four appellants) of the total $635.00 fee, in the amount of $158.75.

Thank you.

Sincerely,

Margaret Worrall
Executive Director

cc: Arnold Jablon

RECEIVED
SEP 4 1992
ZONING OFFICE

Peyton S. Cochran, Jr.
3542 Butler Road
Glyndon, MD 21071
March 5, 1992

RECEIVED
MAR 1 1992
ZONING COMMISSIONER

Mr. Lawrence Schmidt
Zoning Commissioner
400 Washington Avenue, Suite 113
Towson, MD 21204

Dear Mr. Schmidt:

I am very concerned with the **Villa Julie College** unlimited growth proposal. Their present size has caused septic system failure and heavy traffic on Valley Road at certain times of the day. The present parking lot lighting is not harmonious with its county setting.

When Villa Julie was first approved, it was to be a small institution. I support a packaged treatment plant provided that it is sized only for the present college population. A large institution does not fit in the college's present setting.

Very truly yours,

Peyton S. Cochran, Jr.

:nlb
CC: **Roger B. Hayden, County Executive**
The Honorable C. A. ("Dutch") Ruppersberger

MAY APR 15, 1992

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME	ADDRESS
Shannon Paul	17 Brickfield Lane 21205
Sue Ann Thiessen	Villa Julie College
Michael Lomonte	4 Williamsburg Court Owings Mills MD 21117
Mary Elizabeth Rose	212 Stanley Rd Towson MD 21204
[illegible]	Villa Julie College
[illegible]	[illegible]
[illegible]	[illegible]
[illegible]	[illegible]

Title 26
DEPARTMENT OF THE ENVIRONMENT
Subtitle 08 WATER POLLUTION

Chapter 03 Discharge Limitations

Authority: Environment Article, §§9-313, 9-314, 9-315, 9-319, and 9-320, Annotated Code of Maryland

.01 Effluent Limitations.

A. Prohibited Discharges. The following discharges to the waters of this State are prohibited:

(1) The discharge of any waters in excess of 10,000 gallons per day, as a monthly average, or the discharge of any wastes or wastewaters regardless of volume, unless:

(a) Authorized by a discharge permit, or

(b) Subject to control or modification required by a schedule of compliance established by this State;

(2) The discharge of any pollutant in toxic amounts including:

(a) Substances which accumulate to toxic amounts during the expected life of organisms in the surface water, or

(b) Substances which produce deleterious behavioral effects on the organisms;

(3) The discharge of any radiological, chemical, or biological warfare agent;

(4) The discharge of any high level radioactive waste;

(5) Any discharge which would substantially impair anchorage and navigation;

(6) Any discharge to which the Administrator of the Environmental Protection Agency has objected in writing under the Federal Act;

(7) Any discharge which is in conflict with a plan approved by this State;

(8) The discharge of sewage from vessels while moored, berthed, or docked in waters of this State except through a federally and State approved marine sanitation device;

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Supp. 1

Title 26
DEPARTMENT OF THE ENVIRONMENT
Subtitle 08 WATER POLLUTION

Chapter 04 Permits

Authority: Environment Article, §§9-313, 9-315, 9-325, 9-327, and 9-328, Annotated Code of Maryland

.01 Application for Discharge Permits.

A. As of the effective date of this regulation, as revised, the Department shall issue State discharge permits in accordance with the provisions and conditions of COMAR 26.08.01—26.08.04 and 26.08.08, inclusive. These regulations are adopted with the intent to satisfy the regulatory requirements of the National Pollutant Discharge Elimination System (NPDES), established pursuant to §402 of the Federal Water Pollution Control Act Amendments of 1972, Title 33, U.S.C.

B. Activities for Which State Discharge Permits Are Required. A person may not commit any of the following acts except as authorized by a State discharge permit issued by the Department of the Environment:

(1) Discharge into the waters of the State any waters in excess of 10,000 gallons per day, as a monthly average, whether the waters are derived from a ground water source, or from a surface water source, from a piped water supply, or from any other source, with the exception of storm water runoff.

(2) Except as provided in COMAR 26.08.02.09A(3) and Regulation .07 of this chapter, discharge into the waters of this State any wastes or wastewaters regardless of volume.

(3) Construct, install, modify, extend, alter, or operate any system for the disposal of wastes or wastewaters into the waters of the State, or a system which may result in a discharge into these waters, regardless of quality or volume, with the exception of storm water runoff.

(4) Increase or otherwise modify in volume, temperature, or concentration, any existing wastes or wastewaters in excess of the discharges authorized by any existing State discharge permit or NPDES permit issued by the Department of the Environment. To the extent that the modification is in excess of limits specified in a State dis-

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Supp. 1

Bloodsworth v. State, 307 Md. 164, 167, 512 A.2d 1056 (1986). In *Townes v. State*, 80 Md.App. 356, 563 A.2d 1121 (1989), we stated the elements of the crime of conspiracy:

> A criminal conspiracy consists of the combination of two or more persons to accomplish some unlawful purpose, or to accomplish a lawful purpose by unlawful means. The essence of a criminal conspiracy is unlawful agreement. The agreement need not be formal or spoken, provided there is a meeting of the minds reflecting a unity of purpose and design. In Maryland, the crime is complete when the unlawful agreement is reached, and no overt act in furtherance of the agreement need be shown.

Id. at 366–67, 563 A.2d 1121 (citing *Townes v. State*, 314 Md. 71, 75, 549 A.2d 832 (1989)). The prosecution need not show a formal agreement in order to establish the existence of the criminal conspiracy. *Id.* 80 Md.App. at 367, 563 A.2d 1121. The State is simply required to present facts which would allow the finder of fact to infer that the parties tacitly agreed to commit an unlawful act.

We hold that there was substantial evidence upon which a jury could find Murray's and Tootie's conversation and acts involved a meeting of the minds to distribute crack cocaine.

III. SENTENCING

[6] Murray appealed his sentence on the theory that he was sentenced twice for the same illegal activity with one illegal objective. This argument is also without merit.

In *Wooten-Bey v. State*, 76 Md.App. 603, 628, 547 A.2d 1086 (1988), the appellant was convicted of conspiracy to rob and attempted robbery. On appeal, Wooten-Bey argued that under the Rule of Lenity only a single conviction for robbery was permissible and asked this court to merge his conspiracy to rob conviction into the attempted robbery conviction. In holding that the Rule of Lenity did not apply and in affirming the two sentences, we stated:

> We thus have two separate criminal acts for which the Legislature has provided distinct punishments. Appellant presents us with no case law or legislative history suggesting that the Legislature did not intend to punish both of these criminal acts, nor can it be seriously argued that an ambiguity exists when the statutes are applied in tandem. It makes sense that, because the two crimes and penalties addressed different criminal behavior, separate sentences can be imposed.

Id. at 629, 547 A.2d 1086.

The holding of *Wooten-Bey* is dispositive of Murray's case. Murray received the suspended consecutive five-year sentence for planning to distribute crack cocaine with Wilson. The fifteen-year sentence imposed by the trial court was for Murray's act of actually consummating that plan by distributing the crack cocaine. The trial court did not err in imposing separate sentences for the conspiracy and the distribution charge.

JUDGMENTS AFFIRMED; COSTS TO BE PAID BY APPELLANT.

599 A.2d 469

Eugenia N. GREGORY et al.

v.

BOARD OF COUNTY COMMISSIONERS OF FREDERICK COUNTY, Maryland, et al.

No. 188, Sept. Term, 1991.

Court of Special Appeals of Maryland.

Dec. 24, 1991.

County residents appealed County Commissioners' adoption of amendment to County comprehensive water and sewage plan. The Circuit Court, Frederick County, G. Edward Dwyer, Jr., J., dismissed challenge. Residents

Even though Officer Allen's testimony was not directly contradicted by another witness, that does not mean it was unchallenged. By his cross-examination of the officer, and in his opening statement as well as his closing argument, Sample's attorney made it abundantly clear that he was challenging Officer Allen's assertion that a gun had been dropped by Sample, or that any bullets were found in a coat pocket, or that if bullets were so found, the coat was shown to have been Sample's. The jury was under no obligation to believe every fact testified to by Officer Allen, even though his testimony was not directly refuted by another witness. We may think the State's evidence was quite strong, as did the trial judge, but it is the jury who must evaluate the officer's credibility and determine what actually occurred. Under the circumstances, we conclude that Sample should have been permitted to comment upon the unexplained[2] absence of fingerprint evidence.

[4] In ruling as he did, the trial judge may have accepted the ground for objection advanced by the prosecutor—that the defendant was precluded from arguing the absence of fingerprint evidence because he had not inquired about such evidence during trial. We said in *Elcy*, however, that the defendant has no such burden.

> It would be plainly unreasonable to impose upon a defendant the burden of cross examining the police or of calling the appropriate personnel to the stand when that action might well result in evidence adverse to his interest. It is the State which has the burden of bringing forth the evidence. The defendant need say nothing. *Elcy v. State*, 288 Md. at 554, 419 A.2d 384.

The prohibition of comment on the absence of fingerprint evidence in this case was error, and we reverse.

2. We do not suggest that the explanation must always be explicit in order to justify limitation of argument. When the surface supposedly touched is such that a trial judge may judicially notice the fact that fingerprints could not be obtained from it, and the record demonstrates the basis for the judge's decision, a defendant may be precluded from arguing that an inference of favorable fingerprint evidence may be drawn from the State's failure to introduce any fingerprint evidence. Even in such a case, however, the defendant would not be precluded, in arguing the meaning of proof beyond a reasonable doubt, from generally contrasting the quality of fingerprint evidence or other highly reliable evidence with the quality of the evidence presented in the case.

JUDGMENT OF THE COURT OF SPECIAL APPEALS REVERSED. CASE REMANDED TO THAT COURT WITH INSTRUCTIONS TO REVERSE THE JUDGMENT OF THE CIRCUIT COURT FOR BALTIMORE CITY, AND TO REMAND THE CASE TO THAT COURT FOR A NEW TRIAL. COSTS TO BE PAID BY THE MAYOR AND CITY COUNCIL OF BALTIMORE.

Landy B. HOLBROOK.

No. 57, Sept. Term, 1987.

Court of Appeals of Maryland.

Nov. 30, 1988.

Landowner applied for special exception permitting him to maintain mobile home on land which had been zoned for agricultural and limited residential use. The County Board of Appeals denied application and the Circuit Court, Cecil County, Edward D.E. Rollins, Jr., J., affirmed. On appeal, the Court of Special Appeals, 70 Md.App. 207, 520 A.2d 1096, Karwacki, J., reversed and remanded. On certiorari, the Court of Appeals, Cole, J., held that: (1) where facts and circumstances indicate special exception use would have adverse effect on adjoining and surrounding properties' valuation, permit should be denied; (2) due deference was to be given to decisions

Commission so that the proper standard of proof may be applied.

JUDGMENT OF THE COURT OF SPECIAL APPEALS REVERSED AND CASE REMANDED TO THAT COURT TO AFFIRM THE JUDGMENT OF THE CIRCUIT COURT FOR BALTIMORE CITY. BALTIMORE GAS & ELECTRIC TO PAY THE COSTS.

307 Md. 307

AD ↕ SOIL, INC.

v.

COUNTY COMMISSIONERS OF QUEEN ANNE'S COUNTY

No. 143, Sept. Term, 1985.

Court of Appeals of Maryland.

Aug. 26, 1986.

The operator of sewage sludge storage and distribution facility appealed from decisions of the Circuit Court, Queen Anne's County, Edward D.E. Rollins, J., which, inter alia, upheld zoning board's denial of its applications for variances and the denial of its conditional use permit. Following the grant of certiorari, the Court of Appeals, Murphy, C.J., held that: (1) General Assembly did not preempt field of sludge utilization and therefore did not preclude enactment or enforcement of consistent local zoning laws; (2) amendments to zoning ordinance did not conflict with state statutes governing sludge utilization and therefore were not invalid; and (3) zoning board did not err in declining to grant variances from setback requirements for sewage sludge storage and distribution facility.

Affirmed.

Md.Rep. 513-515 A.2d—7

court. The application shall be filed within thirty days after entry of the judgment or order from which the appeal is sought. . . .

It argued that the trial court's attempt to extend the time for filing the appeal is of no effect, since it had no authority to do so. The State relies upon *Blackstone v. State*, 6 Md.App. 404, 407, 251 A.2d 255 (1969), citing *Cornwell v. State*, 1 Md.App. 576, 578, 232 A.2d 281, *cert. denied*, 247 Md. 739 (1967), wherein it is said: "There is no provision in the Maryland Rules or elsewhere authorizing the lower court to extend the time within which an order of appeal to this Court shall be filed."

We agree with the State and, consequently, will dismiss appellant's application. We are mindful that the cases upon which the State relies were decided in the context of the predecessor Rule to Maryland Rule 8–202, pertaining to appeals of right, rather than in the context of Maryland Rule 8–204, pertaining to Applications for Leave to Appeal. That distinction is of no moment. Maryland Rule 8–202 requires that a "notice of appeal shall be filed within thirty days after entry of the judgment or order from which the appeal is taken." In that regard, it is almost identical to Rule 8–204(b)(1). Moreover, the rationale for requiring strict adherence to the time requirements in the case of appeals of right is no less persuasive where application for leave to appeal is sought. We hold, therefore, that an application for leave to appeal must be filed, as Maryland Rule 8–204(b)(1) prescribes, within thirty days from the date of the judgment from which appeal is sought and that the trial court may not, in the absence of specific authority to do so, extend that time.

APPLICATION FOR LEAVE TO APPEAL DISMISSED.

85 Md.App. 738

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, et al.

v.

Nicholas B. MANGIONE, et ux.

No. 465, Sept. Term, 1990.

Court of Special Appeals of Maryland.

Feb. 1, 1991.

Landowners appealed decision of county board of appeals denying special exception to construct nursing home in residential area. The Circuit Court, Baltimore County, William M. Nickerson, J., affirmed, but then modified order and remanded case for evidentiary hearing. Appeal was taken. The Court of Special Appeals, Cathell, J., held that: (1) circuit court improperly remanded case, and (2) landowners were not entitled to special exception.

Reversed.

1. Zoning and Planning ⇐741

Circuit court order remanding case to county board of appeals for evidentiary hearing on request for special exception to construct nursing home in residential area was final and appealable. Code, State Government, § 10–215(e, g).

2. Zoning and Planning ⇐725, 726

Circuit court's denial of special exception to construct 240-bed nursing home in residential area was improperly modified to remand case to county board of appeals for evidentiary hearing on alleged request to construct 120-bed facility, where nothing indicated that application for 120-bed facility was ever filed with administrative agency or that original application for 240-bed facility was downsized by proper amendment.

3. Administrative Law and Procedure ⇐725

Petition of appeal to circuit court of decision of administrative agency is "pleading."

See publication Words and Phrases for other judicial constructions and definitions.

291 Md. 1

Roger SCHULTZ et al.

v.

Robert K. PRITTS et al.

No. 153.

Court of Appeals of Maryland.

July 16, 1981.

Applicants for special use permit to construct funeral establishment in single family residential zone appealed the denial of their application by the county board of zoning appeals. The Circuit Court, Carroll County, Donald J. Gilmore, J., reversed and remanded the matter to the board for a new hearing, and application protestants appealed. The Court of Special Appeals dismissed the appeal on the ground that the circuit court's order was not a final judgment. Protestant filed a petition for writ of certiorari and applicants filed a cross petition, both of which the Court of Appeals granted. The Court of Appeals, Davidson, J., held that: (1) circuit court's order remanding the proceeding to the board was a final appealable order; (2) applicants were not denied due process by the board's consideration of cumulative evidence submitted after close of the hearing on the application where applicants acquiesced in submission of the evidence; and (3) the appropriate standard to be used in determining whether requested special exception use would have adverse effect and therefore should be denied is whether there are facts and circumstances that show that particular use proposed at particular location proposed would have any adverse effects above and beyond those inherently associated with such special exception use irrespective of this location within zone.

Vacated and remanded with directions.

Smith, J., concurred in part and dissented in part and filed opinion.

1. Zoning and Planning ⇐741

Circuit court's order, on appeal from decision of county board of zoning appeals denying application for special exception use permit, which remanded case to board and thereby terminated judicial proceeding and denied parties means of further prosecuting or defending their rights in judicial proceeding was appealable final order. Code, Courts and Judicial Proceedings, §§ 12-101(f), 12-301.

2. Administrative Law and Procedure ⇐458

In general, while administrative agencies are not bound by technical common-law rules of evidence, they must observe basic rules of fairness as to parties appearing before them.

3. Constitutional Law ⇐318(1)

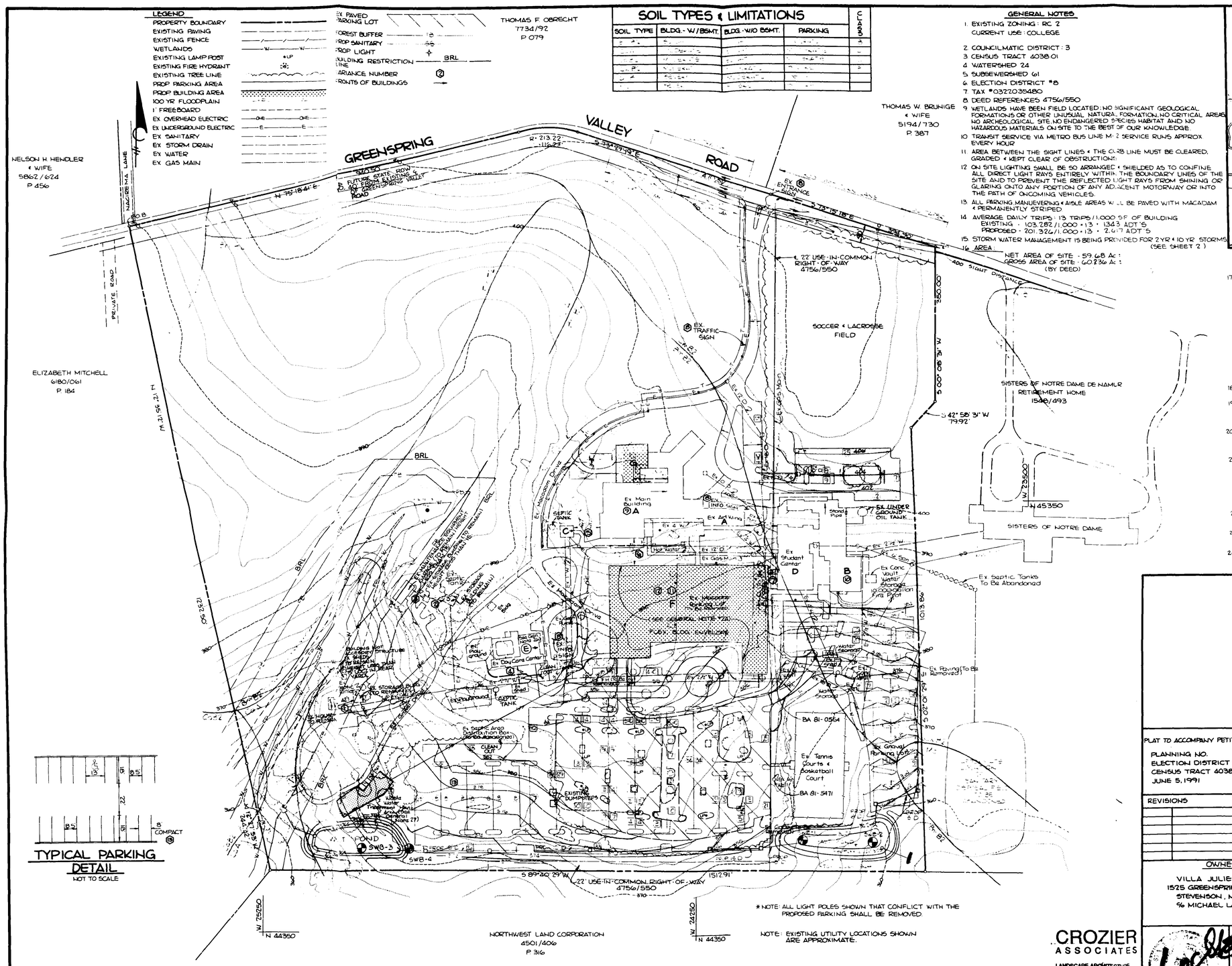
When administrative agency relies upon evidence submitted after close of hearing, due process may be violated if no opportunity is provided to challenge evidence by cross-examination or rebuttal; however, when administrative agency relies on evidence submitted after close of hearing, there may be no due process violation when parties are aware that evidence will be considered but make no objection, particularly if evidence is duplicative in nature. U.S.C.A.Const. Amend. 14.

4. Administrative Law and Procedure ⇐482

Question whether to grant rehearing is matter within administrative agency's sound discretion.

5. Constitutional Law ⇐278.2(2)

Where applicants for special use exception acquiesced in submission of written report by traffic expert hired by permit protestants after close of hearing before county board of zoning appeals and were given opportunity to challenge evidence by cross-examination or rebuttal or to request opportunity to challenge newly acquired evidence before board reached its decision, and where evidence was duplicative in nature, applicants were not denied due process of law by receipt of evidence after hearing had been closed. U.S.C.A.Const. Amend. 14.


LEGEND
PROPERTY BOUNDARY
EXISTING PAVING
EXISTING FENCE
WETLANDS
EXISTING LAMP POST
EXISTING FIRE HYDRANT
EXISTING TREE LINE
PROP PARKING AREA
PROP BUILDING AREA
100 YR FLOODPLAIN
1' FREEBOARD
EX OVERHEAD ELECTRIC
EX UNDERGROUND ELECTRIC
EX SANITARY
EX STORM DRAIN
EX WATER
EX GAS MAIN
EX PAVED PARKING LOT
FOREST BUFFER
PROP SANITARY
PROP LIGHT
BUILDING RESTRICTION LINE
VARIANCE NUMBER
POINTS OF BUILDINGS
SOIL TYPES & LIMITATIONS
SOIL TYPE
BLDG. - W/ BSMT.
BLDG. - W/O BSMT.
PARKING
CLASS
THOMAS F. OBRECHT
7734/92
P 079
THOMAS W. BRUNIGE & WIFE
5194/730
P 387
NELSON H. HENDLER & WIFE
5862/624
P 456
ELIZABETH MITCHELL
6180/061
P 184
NORTHWEST LAND CORPORATION
4501/406
P 316
GREENSPRING VALLEY ROAD
NIAGARA LANE
PRIVATE ROAD
BRL
22' USE-IN-COMMON RIGHT-OF-WAY 4756/550
SOCCER & LACROSSE FIELD
SISTERS OF NOTRE DAME RETIREMENT HOME 1530/493
SISTERS OF NOTRE DAME
Ex Main Building A
Ex Addition
Ex Art Wing
Ex Student Center D
Ex Gym F
Ex Library B
Ex Classroom
Ex Dorm
Ex Dining Hall
Ex Dorm Addition
Ex Dorm Addition (Under Construction)
Ex Dorm Addition (Proposed)
Ex Dorm Addition (To Be Removed)
Ex Dorm Addition (To Be Converted)
Ex Dorm Addition (To Be Converted to Dorm)
Ex Dorm Addition (To Be Converted to Classroom)
Ex Dorm Addition (To Be Converted to Storage)
Ex Dorm Addition (To Be Converted to Office)
Ex Dorm Addition (To Be Converted to Library)
Ex Dorm Addition (To Be Converted to Gym)
Ex Dorm Addition (To Be Converted to Student Center)
Ex Dorm Addition (To Be Converted to Dining Hall)
Ex Dorm Addition (To Be Converted to Art Wing)
Ex Dorm Addition (To Be Converted to Addition)
Ex Dorm Addition (To Be Converted to Main Building)
Ex Dorm Addition (To Be Converted to Septic Tank)
Ex Dorm Addition (To Be Converted to Septic Area)
Ex Dorm Addition (To Be Converted to Septic Distribution Box