

PETITION OF	*	BEFORE THE
MAIDEN CHOICE ASSOCIATES	*	ZONING COMMISSIONER
Petitioner	*	BALTIMORE COUNTY
	*	Case No: 93-49-SPHXA

**** **

POST HEARING MEMORANDUM

I. Statement Of The Case

This proceeding involves hearings on several petitions, one for a special exception pursuant to Section 432.3.a.2 of the Baltimore County Zoning Regulations, which requests an increase in density of up to DR 14.5 units on approximately 13.1 acres owned by the Petitioner on Maiden Choice Lane, Baltimore County, Maryland, so as to permit a Class B elderly housing facility on which would be sited 190 housing for the elderly units. In connection therewith, the Petition seeks a determination that the existing chapel building has historic or architectural significance so as to permit additional density for such use, and variances to the Zoning Regulations to permit a building of 60 feet in height in lieu of 50 feet of height in the O-1 zone, and a waiver of the residential transition area to permit a portion of a proposed greenhouse structure attached to one of the buildings from the required 100 foot setback to 60 feet.

The case also involves a petition for variance from the side elevation of an existing accessory building (the "Chapel"), to permit a setback distance from 18 feet in lieu of 30 feet as required by the Regulations, and a petition for a variance to permit 343 parking spaces in lieu of 351 spaces.

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- C. The development will not be detrimental to the use, peaceful enjoyment, economic value or development of surrounding properties and the general neighborhood. [Bill No. 36, 1988.]

Section 502--SPECIAL EXCEPTIONS [B.C.Z.R., 1955]

502.1--Before any Special Exception may be granted, it must appear that the use for which the Special Exception is requested will not: [B.C.Z.R., 1955; Bill No. 45, 1982.]

- a. Be detrimental to the health, safety, or general welfare of the locality involved; [B.C.Z.R., 1955.]
- b. Tend to create congestion in roads, streets or alleys therein; [B.C.Z.R., 1955.]
- c. Create a potential hazard from fire, panic or other dangers; [B.C.Z.R., 1955.]
- d. Tend to overcrowd land and cause undue concentration of population; [B.C.Z.R., 1955.]
- e. Interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences, or improvements; [B.C.Z.R., 1955.]
- f. Interfere with adequate light and air; [B.C.Z.R., 1955; Bill No. 45, 1982.]
- 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 [Bill No. 45, 1982.]
- h. Be inconsistent with the impermeable surface and vegetative retention provisions of these Zoning Regulations. [Bill No. 45, 1982.]

Section 307.1--VARIANCES [B.C.Z.R., 1995; Bill No. 107, 1963,]. The Zoning Commissioner of Baltimore County and the County Board of Appeals, upon appeal, shall have and they are hereby given the power to grant variances:

only in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and where strict compliance with the zoning regulations for Baltimore County would result in practical difficulty or unreasonable hardship, or. . . .

(1) The residential transition area (RTA) is a 100-foot area, including any public road or public right-of-way, extending from a D.R. zoned tract boundary into the site to be developed.

(2) The purpose of an RTA is to assure that similar housing types are built adjacent to one another or that adequate buffers and screening are provided between dissimilar housing types.

b. Generation of residential transition area. {Bill No. 2, 1992.}

An RTA is generated if the property to be developed lies adjacent to land zoned D.R. 1, D.R. 2, D.R. 3.5, D.R. 5.5, or R.C. which:

(1) contains a single-family detached, semi-detached or duplex dwelling within 150 feet of the tract boundary; or

(2) is vacant, less than two acres in size, and contains a buildable area at least 20 feet by 30 feet on which a dwelling meeting all required setbacks can be erected.

c. Variance of RTA. {Bill No. 2, 1992.}

(1) Notwithstanding the provisions of Section 307, the hearing officer, upon the recommendation of Public Works, Planning and Zoning, Environmental Protection and Resource Management, Zoning Administration and Development Management, Recreation and Parks, Community Development, or the Economic Development Commission, may determine the amount of RTA in cases where a single tract is more than two acres, is vacant, or contains no more than one single-family detached, semi-detached or duplex dwelling.

(2) The RTA for a tract may be modified as directed by findings pursuant to Section 26-206 and Section 26-282 of the Code. However, the hearing officer may not reduce the amount of RTA unless the officer specifically finds and determines that such a reduction will not adversely impact the residential community or development on the land adjacent to the property to be developed.

d. A residential transition use is any use: {Bill No. 2, 1992.}

(1) permitted as of right under paragraph 1B01.1A;
or

Section 204--0-1 (OFFICE BUILDING) ZONES. [Bill No. 167, 1980.]

204.1--Declaration of Findings.

- A. It is likely that continued residential use or moderate-density residential development of certain sites in predominantly residential areas near commercial zones or on heavily traveled, congested motorways would not be economically feasible. [Bill No. 167, 1980.]
- B. Because of their proximity to residences, business zoning of these sites is not appropriate. [Bill No. 167, 1980.]
- C. Because public facilities serving these sites are not designed to serve intensive residential development, high-density residential zoning of these sites is not appropriate. [Bill No. 167, 1980.]
- D. A repealed provision of these Zoning Regulations allowed construction of office buildings by special exception in D.R. 16 zones; R-D zoning regulations are too stringent for many sites on which office buildings have been constructed or their construction authorized under that provision. [Bill No. 167, 1980.]
- E. With appropriate restrictions, office-building development somewhat more intensive than that permitted or allowable under the R-D zoning classification is likely to be the most suitable and economically feasible use of these sites and zoning of the sites to make such development allowable would be in the public interest. [Bill No. 167, 1980.]

204.2--Statement of Legislative Policy.

- A. The O-1 zoning classification is established primarily to accommodate development or limited enlargement of medium-size conventional office buildings on sites that should not be restricted by regulations of the R-D or moderate-density D.R. classifications, for reasons stated in the declaration of findings above. [Bill No. 167, 1980.]
- B. It is intended that buildings and uses in O-1 zones shall be highly compatible with the present or prospective uses of nearby residential property. [Bill No. 167, 1980.]

APPROVED JUL 0 1 1989

Section 432.--ELDERLY HOUSING FACILITIES IN D.R. ZONES. [Bill No. 36, 1988.]

- A. Elderly housing facilities are permitted in all D.R. Zones under the conditions set forth below. Such uses shall also comply with the requirements of the zones in which they are located and with all other applicable provisions of the zoning regulations, except as herein modified. [Bill No. 36, 1988.]
- B. Development of elderly housing facilities is especially encouraged on property containing existing institutional uses to promote such facilities on these properties, maximum residential density, maximum building height standards, and residential transition area restrictions may be altered, as set forth below. For the purposes of this section, institutional uses shall be convents, orphanages, schools, seminaries, officially designated historic buildings, hospital campuses, and churches on sites containing at least 10 acres. [Bill No. 36, 1988.]

432.1--In General. The following provisions shall apply to assisted living facilities, continuing care facilities, and housing for the elderly (collectively referred to as elderly housing facilities) in D.R. Zones, unless otherwise indicated. [Bill No. 36, 1988.]

- A. 1. Housing for the elderly and assisted living facilities of three or fewer shall be permitted by right. [Bill No. 36, 1988.]
2. Continuing care facilities shall be permitted by special exception. Assisted living facilities of four or more and assisted living facilities developed in conjunction with a nursing home shall be permitted by special exception. [Bill No. 36, 1988.]
3. Elderly housing facilities are not permitted in any Baltimore County Historic District. [Bill No. 36, 1988.]
4. An applicant for a special exception to develop an elderly housing facility may combine in the same special exception petition a request for modification or waiver of the maximum residential density standard or building height standard as set forth in Section 432.2 or a request for modification or waiver of residential transition area restrictions, or all as set forth in Section 432.2, 432.3, and 432.4. [Bill No. 36, 1988.]

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
LEGISLATIVE SESSION 1988, LEGISLATIVE DAY NO. 6

BILL NO. 36-88

MS. BARBARA F. BACHUR, COUNCILWOMAN

BY THE COUNTY COUNCIL, MARCH 21, 1988

A BILL ENTITLED

AN ACT concerning

Elderly Housing Facilities

FOR the purpose of amending the Baltimore County Zoning Regulations in order to define certain types of facilities for the housing of the elderly; permitting these facilities in certain residential zones of the County, either by right or by special exception; providing for such facilities established in connection with a hospital; permitting certain of these facilities to be developed under certain conditions on a property which contains institutional or historic buildings; authorizing the modification or waiver of certain of the Zoning Regulations when applied to such facilities; providing for parking requirements; and generally relating to elderly housing facilities in Baltimore County.

BY repealing

Section 101 - Definitions, the definition of Housing for the Elderly and Life Care Facility or Continuing Care Facility, Baltimore County Zoning Regulations, as amended.

BY repealing and re-enacting, with amendments,

Section 101-Definitions, by adding the definitions of Assisted Living Facility, Continuing Care Facility, Housing for the Elderly, and Elderly Housing Facility, Baltimore County Zoning Regulations, as amended

BY adding

Section 432
Baltimore County Zoning Regulations, as amended

BY repealing, and re-enacting, with amendments

Sections 1A04.4, 1B01.1.A.1, 1B01.1.C., 1B01.2.C.1., 1B02.2.A.,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter stricken from existing law.
~~Strike-out~~ indicates matter stricken from bill.
Underlining indicates amendments to bill.

ZONING



HEARING CHECKLIST

REVISED FEBRUARY 1, 1991

This checklist is provided to you, for your information only, and is not to be considered legal advice.

First, and most importantly: You must understand that the hearing you have requested is a quasi-judicial hearing and you are responsible for meeting the burden of law required by the Baltimore County Zoning Regulations (B.C.Z.R.). A judicial hearing is an adversary process and, therefore, there may be opposition to your request. During a judicial hearing, the parties will be permitted to testify, present evidence and cross-examine witnesses. Either the Zoning Commissioner or the Deputy Zoning Commissioner will rule on the evidence and testimony to determine whether or not the petition will be granted.

Second: You must understand that you are permitted to have representation by an attorney of your choice. You are not required to have an attorney, but it is recommended that you consider obtaining legal representation. But, if you are incorporated, it is considered a requirement that you be represented by an attorney.

Third: It is strongly recommended that you read and understand the requirements of the Baltimore County Zoning Regulations.

Fourth: No employee of the Baltimore County Zoning Office may provide legal advice to anyone. The representatives and opinions of any employee are not to be construed as definitive in any case. Only the decision of the Zoning Commissioner rendered after the statutory required public hearing is considered dispositive in matters relating to the interpretation of the B.C.Z.R.

Even though there may not be opposition in a given case, your request may be denied.

For further information or to make an appointment, please contact:

Baltimore County Zoning Office
Development Control
111 West Chesapeake Avenue
Room 113
Towson, MD 21204
Telephone: 887-3391

Non-Residential Properties

Variances
Special Exceptions
Use Permits
Special Hearings

ZONING COMMISSIONER'S POLICY MANUAL

SECTION 102.2

A. MIXED USES ON ONE PROPERTY

1. If several uses are proposed as separate structures on one property, each use must meet the zoning requirements as if it was a separate parcel.
2. Even if subdivision of the property is not proposed, the Zoning Commissioner may require that a line of division either a lease line or a zoning use division line between each use be shown on the plat.
 - a. Conditions: The following guidelines have been formulated so that this matter can be handled consistently:
 - i. Both existing and proposed uses, as divided, must be able to meet the B.C.Z.R. requirements with respect to area, density, parking, setbacks between buildings and to the division lines as if they were property lines.
 - ii. Residential density may be calculated on the overall property acreage if all uses are residential and is allowed in that zone.
 - b. Interpretation: This determination may be subject to a Special Hearing at the discretion of the Zoning Commissioner.

B. SETBACKS AND BUILDINGS ACROSS ZONE LINES

1. If the property is bisected by a zone or a use and setback limitation line, the required applicable setbacks (for a building legally located in one of these zones) would be measured to the property or street right of way line and not the zone line.

The only exceptions to this method of measuring setbacks would be:

- a. If there is a specific use limitation within a certain distance of a particular zone, then the distance would have to be maintained, or if possible, a variance may be applied for.
 - b. If there are 2 principal buildings proposed in different zones, on the same property, in close proximity, then the greatest distance between principal buildings will have to be maintained or a variance granted.
2. If a building is proposed across a zone or use and setback limitation line, regardless of what percentage of the building is on each side, the setbacks for each section of the building will be determined and applied separately, according to each separate zone or zone proximity requirement.

432.2 Provisions for Approving - This section applies **ONLY** to existing hospitals which must first meet the requirements of BCZR Section 432.B; i.e. that sites **must** contain at least 10 acres.

- B. Density bonus requests must take into account the provisions of BCZR Section 102.1; i.e. that yard space and/or area requirements for one use **CANNOT** be used for another use.

(see Pickersgill, Case #'s 89-444 & 89-538 wherein this policy was further interpreted and applied)

432.3 Provisions for Modifying or Waiving - This section applies to the institutional and/or historic buildings, except hospitals, which must first meet the requirements of BCZR Section 432.B; that sites **must** contain at least 10 acres.

Hospitals are **ONLY** eligible for the density and height bonuses in BCZR Section 432.2.

- A.1 Density bonus requests **must** take into account the provisions of BCZR Section 102.1, i.e. that yard space and/or area requirements for one use **CANNOT** be used for another use.

(see Pickersgill, Case #'s 89-444 & 89-538 wherein this policy was further interpreted and applied)

Petition for Special Hearing

A proposed Elderly Housing Facility, St. Dominic's Place, to be built in close proximity to the campus of the Maiden Choice Medical Center and Catonsville Medical Center, both comprehensive Outpatient Medical Facilities. Previously, the site was home to the Dominican Sisters and has an old cemetery for the Sisters which has been preserved on the site. Currently, with the development of Maiden Choice Medical Center, the Chapel and Convent buildings have been adaptively reused for medical offices on the site. In particular, the Chapel has both historic significance and architectural presence on the site. The development of St. Dominic's Place would adaptively reuse this building as a dining and/or community space. The exterior of the proposed community buildings will be compatible with the original architecture. The proposed site plan also incorporates the preserved cemetery as a focal point along the paths connecting the two residential buildings. Conclusively, to determine that a density increase is permitted under Section 432.3.A.2. for St. Dominic's Place.

Petition for Special Exception

A special exception to increase of density to DR 14.5 in order to allow for an elderly housing facility, St. Dominic's Place, that will be of an adequate number of units to support common space necessary for community activities and allow for the enhancement of site amenities. Proposed for Phase I are 100 housing units, with a second phase of an additional 90 units. This residential community will replace buildings previously approved for the site which include two office buildings (115,500sq.ft.) and a residential building (36,000sq.ft.).

In addition, a request for the residential transition area (RTA) restrictions in the DR 5.5 to be waived from 100 feet, just where the portion of the proposed greenhouse building (1500 sq.ft.) falls in the DR 5.5 zone. In addition to allow for a modification of building height standard to 60', in lieu of 50', in the O-1 zone and portion of the DR 5.5 zone where a corner of the proposed building is placed (not within a R.T.A.). The location of the building footprint and minimal height modifications for the proposed Elderly Housing Facility will minimize the impact of the building footprint on this sloping site, take advantage of southern orientation on the site and to develop a sense of 'community', with both phases of the development to remain in close proximity to the medical campus.

Conclusively, for a 'Class B' Elderly Housing Facility, an increase of density to DR 14.5 (density units per acre), a 60' height in lieu of 50' (O-1 zone and portion of DR 5.5 zone as mentioned above)), and to be waived from the R.T.A. requirements to the best extent possible in the case of 60' setback in lieu of 100' (this involves an area of 1500' sq.ft. within the R.T.A., of a proposed greenhouse building). The proposed changes will have no detrimental effect to the health, safety, and general welfare of the locality involved.

Petition for Variance

To permit a distance of 18' setback from the side elevation of an accessory building, Chapel, to Medical Office (Building C) in lieu of 30', to allow for the existing Chapel building to be adaptively reused as a dining facility for St. Dominic's Place. Also to permit a 60' height in lieu of 50' for the residential buildings so that the density of a 'community' may be established on the site. Finally, to permit 343 parking spaces in lieu of 351 spaces as the availability of developer sponsored van service and other ridesharing will be provided to prospective residents of the housing.

[illegible]

1ST DOCUMENT of Level 1 printed in FULL format.

*** THIS DATA IS FOR INFORMATION PURPOSES ONLY. CERTIFICATION CAN ONLY BE OBTAINED THROUGH THE OFFICE OF MARYLAND STATE DEPARTMENT OF ASSESSMENTS AND TAXATION. ***

MARYLAND DEPT. OF ASSESSMENTS & TAXATION, CORPORATE RECORD

NAME: ROSTIC MANAGEMENT AND DEVELOPMENT, INC.

TYPE: DOMESTIC CORPORATION, ORDINARY BUSINESS - STOCK

STATUS: FORFEITED

STATUS-DATE: 10/03/1991

DATE OF INCORPORATION/QUALIFICATION: 01/11/1989 08:29 AM

ADDRESS:

MAILING: 720 MAIDEN CHOICE LA
CATONSVILLE MD
21228

PRINCIPAL: 2938 ROSEMAR DR.
ELLCOTT CITY, MARYLAND 21043-0000

STATE OF INCORPORATION/REGISTRATION: MARYLAND

RESIDENT AGENT: ROSE M. MACHIRAN

RESIDENT OFFICE: 2938 ROSEMAR DR.
ELLCOTT CITY, MARYLAND 21043-0000

CAPITAL/STOCK: AUTHORIZED TO ISSUE STOCK

NUMBER: D2709954

HISTORY:

DATE: 10/03/1991

TRANSACTION: FORFEITED-PROCLAMATION OF THE DEPARTMENT

COMMENTS: FAILURE TO FILE A PERSONAL PROPERTY RETURN (FORM # 1)
DUE APRIL 15, 1990.

TAX HISTORY:

	CURRENT YEAR	PREVIOUS YEAR
DATE RCVD:	05/14/1992	01/10/1992
LAST ASSESSMENT:	INITIAL ASSESSMENT	INITIAL ASSESSMENT
LAST ASSESSMENT DATE:	06/03/1992	01/22/1992
PERS. PROPERTY:		
STATE BASE:	2,310	3,430
SUB-DIV BASE:	2,310	3,430
TOWN BASE:	0	0
ASSESSMENT		
ESTIMATED:	NO	NO
PENALTY AMOUNT:	0	0
LAST CERTIFICATION:	06/03/1992	01/22/1992

only if in strict harmony with the spirit and intent of said height, area, off-street parking, or sign regulations, and only in such manner as to grant relief without injury to public health, safety, and general welfare. They shall have no power to grant any other variances.

Baltimore County Code, Article 26, states:

ARTICLE X. HISTORICAL AND ARCHITECTURAL PRESERVATION

Section 26-531. Definitions.

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section: . . .

"Exterior architectural features" means the architectural style, general design, and general arrangement of the exterior of a building or other structure, including the kind and texture of the building materials and the type and style of all windows, doors, light fixtures, signs, and other similar exterior features.

"Historic district" means an area in the county wherein there are located structures which have historical, cultural, education, or architectural value, the preservation of which is deemed to be for the educational, cultural, economic, and general welfare of the inhabitants of the county.

"Structures" means any man-made or natural combinations of materials to form stable constructions, including but not limited to buildings, bridges, towers, walls, trees, and rock formations. (Code 1978, §22-141)

Section 26-532. Purpose.

In providing for the protection, enhancement, and perpetuation of those structures and districts in the county of historical, architectural, archaeological, or cultural merit, the following objectives are sought to be attained:

- (1) To safeguard the heritage of the county as embodied and reflected in such structures and districts;
- (2) To stabilize and improve property values in such districts and in the county generally;
- (3) To foster civic pride in the beauty and noble accomplishments of the past;
- (4) To strengthen the economy of the county; and

Wednesday, March 19, 1986

MAIDEN CHOICE

COUNTY REVIEW GROUP - THOSE PRESENT

Robert E. Covahey, Chairman - Dept. of Public Works
Susan Carrell, Co-Chairman - Office of Planning

Agency Representatives

Bob Bowling	- Developers Engineering Division
Gregory M. Jones	- Traffic Engineering
Larry Pilson	- Health Department
Capt. Jos. Kelly	- Fire Department

Developer and/or Representatives

David Thaler	- D. S. Thaler & Associates, Inc.
Bob Royer	- D. S. Thaler & Associates, Inc.
Steve McGarry	- McGarry Associates
David A. Carney	- Attorney - Owner
Norberto M. Machiran	- Physician/owner

Mr. Covahey opened the meeting at 10:05 a.m., introduced the staff, and explained the purpose of the meeting.

Mr. McGarry and Mr. Thaler presented the plan.

Ms. Carrell summarized the staff comments submitted from the Developers Engineering Division, Traffic Engineering, Health Department, Building Plans Review, Storm Water Management Review Section, Fire Department, Bureau of Sanitation, Office of Zoning, Office of Planning. These comments have been made a part of these minutes, and a copy was also given to the developer and developer's engineer.

The staff comments to be addressed are as follows:

Developers Engineering Division required highway improvements and water main extension in McTavish Avenue. If this project is developed in two phases and McTavish Avenue is total in the second phase, improvements would be deferred until the second phase proceeds. Building Plans Review questioned the 30-foot right-of-way. A note is to be added to the Plan that the 30-foot right-of-way will be abandoned. Zoning requested that a note be added that no commercial use is intended. Planning made extensive comments on this project, and it was determined that a Continued Meeting would be necessary. An interim meeting between the Developer's Engineer and the Planning Office was recommended.

Outstanding Issues are as follows:

1. Show clearly Phase I and Phase 2.
2. State that only Phase I is being approved.
3. Schematic for Phase II as it effects Phase I (submitted information not adequate).
4. Section 22-104 requirements.
5. Section 204.2 requirements.
6. Elevation drawings for all 4 sides.
7. Information on future building and parking.
8. Remove old cross-section from schematic landscape plan.
9. Amenity open space limitations.

The meeting was adjourned at 11:00 a.m.

R.E.C.

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COUNTY REVIEW GROUP MEETING MINUTES

July 16, 1986

MAIDEN CHOICE ASSOCIATION

COUNTY REVIEW GROUP - Those Present

Robert Covahey, Chairman - Department of Public Works
Gary Kerns, Co-Chairman - Office of Current Planning

Agency Representatives

Stephen Weber - Traffic Engineering

Developer and/or Representatives

Stephen McGarry	- McGarry Architects
David A. Carney	- Maiden Choice Association
D. S. Thaler	- D. S. Thaler & Assoc.
C. Wayne Caples	- D. S. Thaler & Assoc.

Mr. Covahey opened the meeting at 3:35 p. m., introduced the staff, and explained the purpose of the meeting.

Mr. Thaler presented the Plan.

Mr. Kerns summarized the staff comments submitted from Health Dept., Fire Dept., Storm Water Management, Land Acquisition, Traffic Engineering, Office of Planning, Office of Zoning and Developers Engineering Division. These comments have been made a part of these minutes, and a copy was also given to the developer and the developer's engineer.

The staff comments to be addressed are as follows: Traffic Engineering recommends that the proposed 24 foot access on the northwest side of the proposed traffic circle be eliminated. This issue was discussed and the area will be adjusted to the satisfaction of the Department of Traffic Engineering. Planning commented on the Floor Area Ratio calculation and the impact which this could have on the Plan. The 12 car parking area on the west side of building D is not acceptable. There were also recommendations made regarding landscaping. Zoning comments #1 and #11 will be checked directly with the Zoning Office for clarification. Comments #3 and #4 have been complied with on other revised plan which will be given to the Zoning Office. A note is required on the Plan that areas counted as Amenity Open Space between 7 and 10 feet wide adjoining or within a parking area must be suitably planted. Decisions will be required by the Zoning Office regarding the parking, zoning line and the Floor Area Ratio calculations.

CONCLUSION: After discussion it was determined that the Plan would be approved. When the Zoning Office makes a decision on the outstanding issues, if a variance is required the Developers will apply. If the variance is not granted, a special zoning hearing and a new County Review Group Meeting will be required. The meeting was adjourned at 4:05 p. m.

R. E. C.

SUBJECT: COUNTY REVIEW GROUP COMMENTS
FROM: OFFICE OF PLANNING AND ZONING

DATE: 16 July 1986

PROJECT NAME: <u>Maiden Choice</u>	PLAN	<u></u>
COUNCIL & ELECTION DISTRICT <u>C-1 I-294</u>	PLAN EXTENSION	<u></u>
	REVISED PLAN	<u>xxxxxxx</u>
	PLAT	<u></u>

2) continued

A final landscape plan will be required prior to issuance of building permits. The proposed buffer on the southeast property line may require additional planting. This should be coordinated with the Baltimore County landscape architect.

An arborist should be present for staking out areas to be cleared and should also be available to assist in establishing the protective measures needed to ensure the health of specimen trees on the site identified for retention. In view of the large number of trees which are to be retained on the site, the developer should consider the use of "automatic" irrigation.

BALTIMORE COUNTY, MARYLAND

SUBJECT: COUNTY REVIEW GROUP COMMENTS
FROM: OFFICE OF PLANNING AND ZONING

DATE: March 19, 1986

PROJECT NAME: <u>MAIDEN CHOICE ASSOCIATES</u>	PLAN	<u>XXXXXXXXXXXXXXXXXXXX</u>
COUNCIL & ELECTION DISTRICT <u>I-294</u>	PLAN EXTENSION	<u> </u>
	REVISED PLAN	<u> </u>
	PLAT	<u> </u>

The Office of Planning and Zoning has reviewed the subject plan dated March 13, 1986 and has the following comments:

The site plan should be divided and clearly labeled as to the boundaries of Phase I and Phase II. Site data, development information, etc. should be shown separately for each phase as appropriate. The plan should clearly state that only Phase I is the subject of a CRG submission at this time.

Phase II is to be shown as a schematic plan and is to provide information to the County and the local area residents as to the implication of the future development of the remaining portion of the site. Site limitations such as steep slopes, flood plains, drainage courses, existing woodlands, residential transition areas, problems of site access and circulation, all may affect the design and functioning of Phase I and must be adequately resolved at least in a schematic manner at this time. This issue is of special importance where development is to take place under O-1 zoning regulations and there is a need for proof of compatibility between office development and adjacent existing and proposed residential uses.

The information submitted as a "schematic" plan for Phase II is inadequate. Not only is it impossible to establish a degree of compatibility" between the two phases of development, the proposed vehicular access to Phase II through the parking areas of Phase I requires further study. This may result in changes being needed to the site layout of Phase I and/or Phase II.

Section 22-104 of the Development Regulations requires the following:

DEVELOPMENT OF PROPERTY IN AN O-1 or O-2 ZONE SHALL BE DESIGNED TO ACHIEVE THE FOLLOWING OBJECTIVES:

THE DEVELOPMENT WILL NOT PRODUCE SIGNIFICANT ADVERSE ENVIRONMENTAL EFFECTS.

The following are among the matters that must be considered in making this finding:

- (i) Preservation or appropriate replacement of trees or other significant vegetation;
- (ii) Effects on significant geological formations;
- (iii) Changes in grade;
- (iv) Potential erosion, siltation and runoff.

THE DEVELOPMENT WILL HAVE NO SIGNIFICANT ADVERSE IMPACT UPON, AND, TO THE EXTENT FEASIBLE, WILL GENERALLY ENHANCE AREAS NEARY. In making this finding, the following are among the matters that must be considered:

- (i) Landscaping, including the landscaping of parking areas;
- (ii) The way in which parking areas may be dispersed on the site, so that each of them will be relatively small;

- (iii) Design and placement of signs;
- (iv) Outdoor lighting;
- (v) Prospective number of employees;
- (vi) Hours of operation;
- (vii) Present uses near the site; and
- (viii) Prospective residential development nearby.

The site will be used with careful regard for conservation of energy and for the safety and convenience of those who will work or do business there, those nearby, and the public in general. In making this finding, the following are among the matters that must be considered:

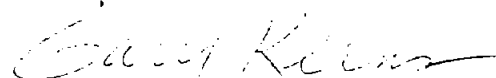
- (i) Number, design, location of automobile and service entrances to and exits from the site;
- (ii) Layout of parking areas;
- (iii) Design and location of pedestrian ways and crossings;
- (iv) Encouragement of transit usage, if the site will be served by public transit;
- (v) Building mass and orientation, access to light and air, and microclimate; and
- (vi) Aspects of energy efficiency not included in the matters listed above.

The use or development will be in accordance with the purposes of THE CLASSIFICATION OF THE ZONE WITHIN WHICH IT WILL BE SITUATED, particularly in light of that classification's declaration of findings and statement of legislative policy, (see below) and will be in accordance with the purposes of THE ZONING REGULATIONS IN GENERAL, including the purposes set forth or referred to in Title 2 of the Baltimore County Code, 1978, as amended.

Section 204.2 of the Zoning Regulations requires that buildings and uses in O-1 zones shall be highly compatible with the present or prospective uses of nearby residential property.

In light of the above, the information that has been submitted is not adequate to make a determination of compatibility or compliance with Section 22-104. Elevation drawings showing all four sides of the proposed buildings must be submitted. The schematic elevations which were submitted on March 17, 1986 do not adequately demonstrate the relationship between the development and adjacent residential uses, nor does it adequately show the character of the buildings. Further, a schematic of the building, parking etc. for the "future building" has not been submitted and is not included in the cross section. The building mass and orientation of the future building is important to address at this time as well as parking and circulation. In addition, the future residential area is important because of its relationship to the office development in terms of design and access.

The schematic landscape plan shows a cross section which differs from the one submitted on March 17, 1986. It should be removed from that plan. The site contains a number of significant trees which should be more clearly identified. Every effort must be given to retain as many as possible in the design. The existing trees shown in the island at the entrance should be identified. It is not clear that these trees are to be retained as part of the entrance design or if adequate space and protection has been provided in this design. Significant trees exist at the rear of building Nos. 2 and 3. They should be identified on the plan and retained if possible. The required screening for the parking spaces along Maiden Choice Lane is not shown on the plan.


Gary Kerns

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June 2, 1997

Mr. Lawrence E. Schmidt,
Zoning Commissioner for Baltimore County
400 Washington Avenue
Towson, MD 21204

RE: Opinion Letter/ Case No: 93-65-SPHXA/ 3310 Black Rock Road (the "Property")

Dear Mr. Schmidt:

I represent Mr. Ed Royston who is the new owner of 3310 Black Rock Road. I have spoken to you on two occasions on the telephone with regard to this Property and I would first like to thank you for the help and direction which you have given to me. I write this letter seeking an opinion as to your Order in the above referenced case. I am enclosing a copy of the Order for your convenience.

In the Order, a mobile home was designated as the primary residence on the Property. Additionally, it was ordered that there shall be no new construction on the site, which was apparently forbidden because of the large amount of debris and various structures which had accumulated under the prior owner.

The current situation under Mr. Royston is as follows: The mobile home which is designated as the primary residence by your Order is fast deteriorating. Mr. Royston would like to remove the mobile home and to build a new home which would replace the mobile home as the primary residence. This would not violate the R.C.2 zoning as there would remain only one principal dwelling, according to Mr. Bruce Doak, the surveyor who appeared on behalf of the prior owner and who is very familiar with this Property. He did however recommend that I request an opinion letter as to how to proceed and to find out specifically, if a new Special Hearing would be required in order for Mr. Royston to remove the mobile home and build a new home as his primary residence. Enclosed, please find a check in the amount of \$40.00. Thank you in advance for your time.

Sincerely,


Jason H. Brand

JUN 9

*Spoke to
Carl Richards
we agreed to
that Special
Hearing was
necessary,
I called
Brand,
we'll
file
then
Carl
7/1/97*

PETITION OF	*	BEFORE THE
MAIDEN CHOICE ASSOCIATES	*	ZONING COMMISSIONER
Petitioner	*	BALTIMORE COUNTY
	*	Case No: 93-49-SPHXA

**** **

POST HEARING MEMORANDUM

I. Statement Of The Case

This proceeding involves hearings on several petitions, one for a special exception pursuant to Section 432.3.a.2 of the Baltimore County Zoning Regulations, which requests an increase in density of up to DR 14.5 units on approximately 13.1 acres owned by the Petitioner on Maiden Choice Lane, Baltimore County, Maryland, so as to permit a Class B elderly housing facility on which would be sited 190 housing for the elderly units. In connection therewith, the Petition seeks a determination that the existing chapel building has historic or architectural significance so as to permit additional density for such use, and variances to the Zoning Regulations to permit a building of 60 feet in height in lieu of 50 feet of height in the O-1 zone, and a waiver of the residential transition area to permit a portion of a proposed greenhouse structure attached to one of the buildings from the required 100 foot setback to 60 feet.

The case also involves a petition for variance from the side elevation of an existing accessory building (the "Chapel"), to permit a setback distance from 18 feet in lieu of 30 feet as required by the Regulations, and a petition for a variance to permit 343 parking spaces in lieu of 351 spaces.

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The public hearing on the petitions was properly advertised in accordance with the requirements, and the matter came on for hearing before the Zoning Commissioner on October 6, 14, and December 3 and 29, 1992. All of the staff and agency reports were favorable, and recommended the approval of the various petitions, subject to the comments contained in the various reports from the Department of the Zoning Administration and Development Management (ZADM), Office of Planning and Zoning, Office of Zoning, Department of Environmental Protection and Resources Management (DEPRM), Department of Public Works' Development Engineering Division, Traffic Engineering, and Fire Protection Bureau, and the Department of Community Development.

Testimony in behalf of the Petitioner was presented through Dr. Norberto Machiran, a general partner of the Petitioner, Dr. Jack Long, an affiliate of Rostic Management and Development, Inc., the management and development company affiliated with Dr. Machiran, Ms. Jane Willeboordse, an architect, and Mr. Hugo Liem, a traffic consultant.

The Protestants consist of (a) the following physicians who occupy or own condominium units within the Maiden Choice Complex and contiguous to the proposed facilities: Drs. James Carey, Aldo Paz-Guevan, Zahid Butt, Chao-Son Teng, Gloria Damien, and A. Shams Pirzadeh, and (b) a neighbor, Christina Sasser, and Eleanor VanDevender, the Zoning Committee Chair, and Treasurer of the Maiden Choice Community Association.

Additional witnesses who testified in clarification or in support of the Protestants, consisted Mr. John McGrain, the Chief

of the Landmark's Preservation Commission for Baltimore County, Maryland, James Patton, an engineer and planning consultant, and Katherine Mues, a biologist from the U. S. Army Corps of Engineers.

II. Statement of Facts

The property that is the subject of the various petitions contains a total of 13.1 acres on five parcels, all as shown on the final subdivision plats for the property. (Exhibits to the Petitions) To the east of the project, the Charlestown Retirement Community sits across Maiden Choice Lane. To its southeast and southwest sides, it is abutted by the Broadfield Community which has 5 rows of 49 townhouses ringing those two sides. (See CRG Plan) To the north, except for 4 residences located on Maiden Choice Lane and McTavish Avenue on the northwest corner, it is substantially undeveloped. To the west and separated by the hill and existing woods is situated a development of several single, detached residences in the Catonsville Knolls subdivision. Tree buffers along the Broadfield community, Catonsville Knolls and McTavish Avenue provide existing and proposed screening from the adjacent residential communities. There are no road or pedestrian access points to the property other than on Maiden Choice Lane. The topography of the parcel creates natural transitions between the various residential communities and Charlestown.

In 1986 and 1987, the Petition processed through the Baltimore County CRG Group, a development plan that resulted in

the approval for both parcels. The plan only included 13% of the total buildings for residential purposes. The site now contains 53,000 square feet of office facilities within four buildings. The unbuilt office buildings would have five floors within a building envelope of 65,500 and 50,000 square feet, and would result in two buildings larger than that which is proposed on Parcel A as part of those petitions. The one proposed office building was sited between the existing Building D and the convent building, and if built in accordance with approved plans, would require the relocation of the preponderance of the parking for Building D in an area the Petitioner proposes to site parking pursuant to its facilities proposed under the petition. (See Declaration of Cross Use Easements, Covenants and Restrictions, dated May 18, 1988, and recorded among the Land Records of Baltimore County in Liber 7880, folio 796, Protestant's Exhibit 4). The other approved office building would be sited generally at the same location as one of the two buildings on Parcel A, but on a smaller envelope of space.

The proposed housing for the elderly facilities would be located in two buildings in the same general location as the three buildings that were sited on the approved CRG plan, except that the one elderly building located in the area near the existing convent would be further distant from Building D and would permit the retention of the existing parking area owned by the Petitioner, and used primarily by the owners and patients for Building D. The site of the proposed 100 unit building on Parcel

- (5) To promote the use of historic districts and landmarks for the education, pleasure, and welfare of the residents of the county.

(Code 1978, §22-142)

IV. Argument

1. THE PETITION AS FILED AND AS AMENDED AND SUPPLEMENTED BY THE EVIDENCE AND TESTIMONY OF THE PETITIONER COMPLIES WITH THE TECHNICAL FILING REQUIREMENTS FOR THE SPECIAL EXCEPTION, SPECIAL HEARING AND VARIANCES REQUESTED.

Much of the time expended in the last three days of hearing on this matter was spent on discussion and debate over the sufficiency of the filings by the Petitioner and whether there was enough information to adequately assess the Petition to determine whether it complied with the various criteria involved for the relief requested. Counsel for the Protestants and their engineering and planning consultant focused on a number of matters which they contended made the submission fatally defective, namely, the failure to have:

- All of the parties in interest join in on the Petition;
- A legally sufficient metes and bounds descriptions;
- A list and identification of the types of elderly units for the project;
- Some of the Form E checklist materials include a topographic map (which is not required)
- 10 acres of land as required by Section 432;
- The Landmarks Preservation Commission and/or its staff review and comment upon the Petition;

B would contain 77,000 more space than that which is approved on the CRG, and the elderly building on Parcel A would contain 39,000 square feet less than what was approved on the CRG plan.

The architectural design for the proposed elderly facilities would involve buildings of similar scale and size of the buildings that were previously approved, and would have architectural design and masonry finishes similar to the existing facilities at the Maiden Choice complex.

The only traffic circulation and parking changes between the approved plan and existing conditions would involve straightening of the existing driveway as it passes in front of the entrance of Building D as was suggested by the transportation officials from Baltimore County, Maryland. An additional means of ingress and egress onto Maiden Choice Lane would be provided by a new private driveway located on the property of the Petitioner and located generally along and outside of the property line of the Building D property ("Lot 1").

The average daily trips between the approved plan usage for office use and the proposed elderly use shows a change in ADT's from 1596 per day for the office use to 513 per day for the elderly use.

By covenant the use of the proposed housing for the elderly facilities would consist of 114 one-bedroom units and 76 two-bedroom units and would be limited to individuals 60 years of age and older, who would be required to sell or transfer their units to purchasers or individuals who fall within the age limitation set forth in the Contracts and Deeds.

III. Statutes and Codes

The relevant provisions of Section 432 state as follows:

SECTION 432. ELDERLY HOUSING FACILITIES IN D.R. ZONES [Bill No. 36, 1988.]

432.1 In General. The following provisions shall apply to assisted living facilities, continuing care facilities, and housing for the elderly (collectively referred to as elderly housing facilities) in D.R. Zones, unless otherwise indicated. [Bill No. 36, 1988.]

A.4. An applicant for a special exception to develop an elderly housing facility may combine in the same special exception petition a request for modification or waiver of the maximum residential density standard or building height standard as set forth in Section 432.2 or a request for modification or waiver of residential transition area restrictions. (emphasis supplied)

432.3 Provisions for modifying or waiving maximum residential density standards for elderly housing facilities on property containing institutional or historic buildings. [Bill No. 36, 1988.]

If a person seeks to develop an elderly facility on a property that contains one or more existing institutional or historic buildings, the Zoning Commissioner may, by special exception, modify or waive the maximum residential density standard specified for the zone in which the development is located, but only in accordance with the conditions set forth below. (emphasis supplied)

A. Before granting a density increase hereunder, the Zoning Commissioner shall determine that the proposed development falls into one of the following categories: [Bill No. 36, 1988.]

2. The development involves property where no existing institutional use will be continued. If the development falls into this category, adaptive reuse of existing institutional or historic

buildings is encouraged. The Zoning Commissioner may grant a density increase only if existing institutional or historic buildings are incorporated in the plat accompanying the petition. (emphasis supplied)

- B. As a condition of granting a density increase for proposed development that falls into the category described in subparagraph 432.3.A.2, the Zoning Commissioner shall comply with the requirements herein with respect to each existing institutional or historic building that is suitable for adaptive reuse. [Bill No. 36, 1988.]
1. If the building is not on the final historic landmarks list of the Landmarks Preservation Commission but the Zoning Commissioner determines that the building has historic or architectural significance, the Commissioner shall find that adequate guarantees have been made for the exterior preservation or restoration of the building, or that any exterior alterations or repairs and any new exterior construction will be architecturally compatible with the original building. [Bill No. 36, 1988.] (emphasis supplied)
- C. Before granting any density increase under this subsection 432.3, the Zoning Commissioner shall determine that: [Bill No. 36, 1988.]
1. The subject property is suitable for the type of development proposed; [Bill No. 36, 1988.]
2. The balance of the tract outside of the building envelope will be used only for such open space and recreational uses as are permitted by right or by special exception in D.R. Zones; [Bill No. 36, 1988.]
3. The development will not be detrimental to the use, peaceful enjoyment, economic value or development of surrounding properties and the general neighborhood; and [Bill No. 36, 1988.]
4. The density increase will satisfy all other criteria stated in Section 502.1 of these regulations. [Bill No. 36, 1988.]
- D. Upon establishing a hearing date for any petition for a special exception hereunder, the Zoning Commissioner shall promptly forward a copy of the petition to the County Landmarks Preservation Commission for review and comment with regard to historic preservation factors. At the hearing, the Zoning Commissioner shall consider

in evidence without testimony thereto, absent objection by any party to the case, any comments from the Director of Planning and Zoning or the County Landmarks Preservation Commission or any duly submitted relevant report or comments from any other county department or agency. . . [Bill No. 36, 1988.]

- E. In approving a density increase hereunder, the Zoning Commissioner shall specify the density approved, which may not exceed the maximum gross residential density permitted in the D.R. 16 Zone. [Bill No. 36, 1988.]
- F. The Zoning Commissioner shall require an elderly housing facility which has been developed in accordance with the provisions of this subsection to attempt to provide for a system of community participation in the following manner: the petition for special exception shall include a statement that a board of advisors to the facility has been established composed of members selected by the board of directors of the communities surrounding the facility. If at the time of the filing of the petition for special exception, no such board exists, the developer shall seek to establish such a board by soliciting membership by means of advertisement. . . The failure of the elderly housing facility to successfully establish the board of advisors shall not invalidate the granting of the special exception or prevent the granting of the special exception, if such failure results from the refusal of the community members to participate. [Bill No. 36, 1988] (emphasis supplied)

432.4 Provisions for modifying or waiving the residential transition area restrictions for elderly housing facility developments [Bill No. 36, 1988.]

The Zoning Commissioner may, by special exception, notwithstanding subparagraph 1B01.1.B.1.b.7., modify or waive the residential transition area restrictions in cases where an elderly housing facility development would be severely or adversely affected by the restrictions set forth in paragraph 1B01.1.B.1.b. if the the Zoning Commissioner determines that: [Bill no. 36, 1988.]

- A. Compliance with all or part of the residential transition area restrictions will cause unreasonable hardship on the development; [Bill No. 36, 1988.]
- B. The quality of the site design and amenities provided would justify a modification ow waiver of the residential transition area restrictions; and [Bill No. 36, 1988.]

- C. The development will not be detrimental to the use, peaceful enjoyment, economic value or development of surrounding properties and the general neighborhood. [Bill No. 36, 1988.]

Section 502--SPECIAL EXCEPTIONS [B.C.Z.R., 1955]

502.1--Before any Special Exception may be granted, it must appear that the use for which the Special Exception is requested will not: [B.C.Z.R., 1955; Bill No. 45, 1982.]

- a. Be detrimental to the health, safety, or general welfare of the locality involved; [B.C.Z.R., 1955.]
- b. Tend to create congestion in roads, streets or alleys therein; [B.C.Z.R., 1955.]
- c. Create a potential hazard from fire, panic or other dangers; [B.C.Z.R., 1955.]
- d. Tend to overcrowd land and cause undue concentration of population; [B.C.Z.R., 1955.]
- e. Interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences, or improvements; [B.C.Z.R., 1955.]
- f. Interfere with adequate light and air; [B.C.Z.R., 1955; Bill No. 45, 1982.]
- 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 [Bill No. 45, 1982.]
- h. Be inconsistent with the impermeable surface and vegetative retention provisions of these Zoning Regulations. [Bill No. 45, 1982.]

Section 307.1--VARIANCES [B.C.Z.R., 1995; Bill No. 107, 1963,]. The Zoning Commissioner of Baltimore County and the County Board of Appeals, upon appeal, shall have and they are hereby given the power to grant variances:

only in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and where strict compliance with the zoning regulations for Baltimore County would result in practical difficulty or unreasonable hardship, or. . . .

only if in strict harmony with the spirit and intent of said height, area, off-street parking, or sign regulations, and only in such manner as to grant relief without injury to public health, safety, and general welfare. They shall have no power to grant any other variances.

Baltimore County Code, Article 26, states:

ARTICLE X. HISTORICAL AND ARCHITECTURAL PRESERVATION

Section 26-531. Definitions.

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section: . . .

"Exterior architectural features" means the architectural style, general design, and general arrangement of the exterior of a building or other structure, including the kind and texture of the building materials and the type and style of all windows, doors, light fixtures, signs, and other similar exterior features.

"Historic district" means an area in the county wherein there are located structures which have historical, cultural, education, or architectural value, the preservation of which is deemed to be for the educational, cultural, economic, and general welfare of the inhabitants of the county.

"Structures" means any man-made or natural combinations of materials to form stable constructions, including but not limited to buildings, bridges, towers, walls, trees, and rock formations. (Code 1978, §22-141)

Section 26-532. Purpose.

In providing for the protection, enhancement, and perpetuation of those structures and districts in the county of historical, architectural, archaeological, or cultural merit, the following objectives are sought to be attained:

- (1) To safeguard the heritage of the county as embodied and reflected in such structures and districts;
- (2) To stabilize and improve property values in such districts and in the county generally;
- (3) To foster civic pride in the beauty and noble accomplishments of the past;
- (4) To strengthen the economy of the county; and

- (5) To promote the use of historic districts and landmarks for the education, pleasure, and welfare of the residents of the county.

(Code 1978, §22-142)

IV. Argument

1. THE PETITION AS FILED AND AS AMENDED AND SUPPLEMENTED BY THE EVIDENCE AND TESTIMONY OF THE PETITIONER COMPLIES WITH THE TECHNICAL FILING REQUIREMENTS FOR THE SPECIAL EXCEPTION, SPECIAL HEARING AND VARIANCES REQUESTED.

Much of the time expended in the last three days of hearing on this matter was spent on discussion and debate over the sufficiency of the filings by the Petitioner and whether there was enough information to adequately assess the Petition to determine whether it complied with the various criteria involved for the relief requested. Counsel for the Protestants and their engineering and planning consultant focused on a number of matters which they contended made the submission fatally defective, namely, the failure to have:

- All of the parties in interest join in on the Petition;
- A legally sufficient metes and bounds descriptions;
- A list and identification of the types of elderly units for the project;
- Some of the Form E checklist materials include a topographic map (which is not required)
- 10 acres of land as required by Section 432;
- The Landmarks Preservation Commission and/or its staff review and comment upon the Petition;

- A board of advisors for community participation pursuant to Section 432.3F.

The Petitioner, primarily through Ms. Jane Willeboordse, detailed the procedure that she followed to file and how she worked in concert with the County Departments, having had at least five work sessions with the Zoning Office and several more with the Planning and Zoning Office, working most closely with Messrs. Mitch Kellman and Pat Keller.

The Petition had as an attachment the Site Plan which showed all of the criteria relative to the approved CRG and included the square foot areas of all approved and proposed office buildings, including the individual characteristics of Parcels A and B, Convent and Chapel, the site acreage, the Floor Area Ratio ("FAR") open space and parking. Not included in the petition was the specific type of housing units and the delineated parking spaces on the site plan, but this was covered by the evidence presented by the Petitioner.

The property that is the subject of the Petition is contained within the two Final Subdivision Plans for the project which consisted of "Plat 1 of 2" and "Plat 2 of 2, Maiden Choice Associates," as recorded among the land records of Baltimore County, Maryland in Liber No. 58, folio 37 and 38. Ms. Willeboordse explained that the Zoning office at the time that the Petition and Plats were filed, requested a legal description to accompany the submission and she was permitted to prepare a legal description which she did from the information shown on the Final Subdivision Plats, and attached those descriptions with the

notation "For zoning purposes only." The recorded plats containing subdivision, clearly demonstrate the development location and intent of this paragraph.

Although the Petitioner did not own, at the time of filing the Petition, Lots 1 and 4, which are shown on Plat One of Two of the Final Subdivision Plat, the notes on the site plan describe the submission as applying to the undeveloped acreage as being 8.8 minus .41, and the existing acreage as involving Lots 2, 3 and 5 consisting of 4.79 acres. No mention was made of Lots 1 or 4, the property on which the physician protestants have their condominium units. The cross easements for the project, supra, granted rights of ingress, egress, parking, utilities, with the right of modification as required by Baltimore County in accordance with the County's requirements. (See ¶ 7.C and 14.0 thereof.) These rights would permit the circulation between the various parcels so as to permit one integral project among the various parcels owned by the Petitioner.

Although the Petitioner made a mistake in including on the original site plan additional parking that would be sited on Lot 1 owned by the Council of Unit Owners of Building D, after conferring with representatives of the Council of Unit Owners and realizing that the owners were not interested in having additional parking sited on the front portion of Building D, the Petitioner amended its site plan, conferred with the appropriate County agencies and departments, obtained approval for the traffic and circulation, and formally submitted that amended plan as part of the evidence on the continuation of the hearing before the

- A board of advisors for community participation pursuant to Section 432.3F.

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Commissioner on October 14, 1992. The changes that were made to the site plan consisted of the deletion of parking on Lot 1, the slight rearrangement of some of the parking on Lot 3 as owned by the Petitioner, and on which part of the parking for the users of Building D is located, enlarged of the suggested parking on Parcel B (the undeveloped parcel), and added the additional driveway on Parcel B out to Maiden Choice Lane, creating a second means of ingress and egress for the property. (See attached plan which is a reduction of the Petitioner's Exhibit 9B.)

The amendment to the plan did not change the siting or size of the proposed housing for the elderly buildings or the amount of parking that was identified in the Petition. After arguments on the Protestants' motions to dismiss based on (a) the lack of clarity in the initial filings, and (b) the fact of the amendment of the site plan, the Commissioner ruled initially that the amended site plan was not such a significant amendment so as to require a reposting or further public advertisement, and that there appeared to be sufficient information under law to allow the case to proceed, noting that the reason for the various information in the filings was to permit the Commissioner to make an intelligible and knowledgeable decision. The Commissioner reserved decisions on further motions to dismiss based on whether the parking would show that it was ample to support the proposed facilities.

After comment by the Protestants that it was not clear to their reviewers as to whether there was adequate information on topography and environmental conditions so as to permit the

orderly development of the property, and that without knowing the specific mix of proposed elderly units, it was difficult to determine whether based on the size and number of residents whether there would be adequate parking for their use, the Petition addressed and satisfied those inquiries through explanation by its architect.

Ms. Willeboordse, through her study and analysis and the assistance of consulting civil engineers and environmental planners, testified that after examination of the site and analysis of existing field data, that the existing undeveloped parcel was able to be effectively graded and, with an agreement to upgrade the Channel and Existing Storm Water Management Pond, a DEPRM variance should issue for this small wetland area.

Section 432.3.D. required the Commissioner upon establishing a hearing date, to promptly forward a copy of the Petition to the Landmarks Preservation Commission for review and comment with regard to historic preservation factors. That required action was overlooked, but it has been cured by the actions and activities that followed with respect to this procedure. The Protestants requested Mr. John McGrain to testify in behalf of the Commission with respect to the involvement of his office on this Petition. Prior to the Hearing on December 3, 1992, Mr. McGrain had been contacted by Ms. Willeboordse and Protestants' counsel and had been supplied information with respect to matters of interest to his office. After providing testimony on information available to him at the time of the December 3, 1992 Hearing, he was requested by the Zoning Commissioner to inspect the property covered by the

Petition and report accordingly. His report and comments were submitted.

Whatever the defects in the preliminary procedure with respect to this proceeding, they have been cured by the processes followed by the Commissioner and Mr. McGrain.

Section 432.3.F. deals with the Commissioner's requirement to provide for a system of community participation, and requires a statement that a board of advisors has been established. However, the failure to have a board does not invalidate the granting of a special exception or prevent it from issuing. The Petitioner is required, however, to advertise in a weekly newspaper serving the community, soliciting community participation through the ad. The Petitioner supplemented its earlier efforts by advertising through the ad which was placed in the Catonsville Times in the issue dated November 11, 1992. Notwithstanding that requirement, the Petitioner through Dr. Machiran, in good faith and in accordance with Section 432.3.F., commenced community networking in 1990 and 1991 (See Petitioner's Exhibit), and had established a group of community participants to advise on the proposed elderly facility. Residents from all of the surrounding neighborhoods were included, and newspaper articles by local press were published after each of the major meetings the group held. That group, however, may not have had all of the formal requirements that Section 432.3.F. calls for. The Petitioner commits to this process and will formally structure a board of advisors in accordance with Section 432.3.F.

The Protestants utilized the testimony of James Patton to chronicle the claimed deficiencies in the Petition and submission. Mr. Patton had not attended nor heard the testimony of the Petitioner's witnesses who provided evidence on the particulars of the project, nor had he listened to the tapes or reviewed the file materials within the County records, other than on a limited basis. Although he had familiarity with the original planning of the project when employed by the engineering firm that had done all the original planning and processed the Final Subdivision Plats obtained the approval of the CRG, and undertook the specific engineerings plans for all the work that is in place, he did not utilize much of that material to provide information for his review and analysis. Instead, he looked at the four corners of the Petition, the Site Plan, and the criteria of Form E to determine what nitpicking things he could find, so as to be able to support his position that the Petition was defective. This witness then attempted to instruct the Commissioner on how he should make a review of the facts and criteria under which the Commissioner is charged with ruling.

Mr. Patton, in a painstaking fashion, attempted to show that the parking may be inadequate, but did not bother to scale the existing parking lots as shown on the original and amended site plans to determine if, indeed, that was the case, while admitting that scaling off of a concept plan is standard procedure.

When complaining about the feasibility of utilizing the proposed new parking area on Parcel B, (the undeveloped parcel), without doing any field or engineering analysis, he concluded that

the parking would not be suitable because of the degree of slopes. However, he admitted under cross examination that the parking within part of the existing project had steeper slopes and was approved by the County agencies for the purposes intended.

Maryland law is clear on the value of expert witnesses. An expert's opinion is of no greater value than the soundness of the reasons given or the facts upon which it is based. A.H. Smith Sand & Gravel Co. v. Department of Water Resources, 270 Md. 652, 667, 313 A.2d 820, 828-29 (1974); Surkovich v. Doub, 258 Md. 263, 272, 265 A.2d 447, 451 (1970).

There was considerable discussion on the question as to whether the Petitioner proposed "dwelling units" or "density units" in accordance with its request for increased density. The calculation in the Petition speaks to one unit per dwelling unit. However, as an elderly facility within the existing O-1 and DR5.5 zoning districts, it would be permitted to have a calculation determined by density units. As explained by Mr. Patton, the one-bedroom units would calculate at a .75 density per unit and the two bedroom units would calculate as one density unit per unit. Accordingly, the effective density increase under the Petitioner's request, would equal approximately 12.4 density units per acre on the Petitioner's property.

2. THE PETITIONER HAS FILED A PETITION THAT COMPLIES WITH THE REQUIREMENTS OF SECTION 432 THAT WITH THE EVIDENCE SUPPORTS A DETERMINATION BY THE ZONING COMMISSIONER THAT THE INCORPORATION OF THE EXISTING CHAPEL BUILDING ALONG WITH THE OTHER HISTORICAL STRUCTURES HAS HISTORIC OR ARCHITECTURAL SIGNIFICANCE SO AS TO PERMIT THE GRANTING OF A DENSITY INCREASE BY THE COMMISSIONER.

The evidence in the proceeding reflects an interesting and noteworthy history for the Petitioner's property. The initial facilities at the property were part of the location of the establishment of a convent by the Dominican Sisters of the Perpetual Rosary, an affiliate of the original order established by St. Dominic in 1206. The existing group of this Order was started in 1880 and the Order relocated to the site in 1910, establishing an original chapel and convent buildings so as to enhance its cloistered life style. Their facilities predated the commencement of St. Charles Seminary across Maiden Choice Lane and after some of their original buildings were first destroyed by fire and then razed because of disrepair, a local benefactor built a replacement chapel for their continued use at this property. The chapel building, built in 1957, consists of a Georgian Revival style building in dark red brick which was a noted style in the twentieth century that dates back to the early 1900's, and replicates the styles of chapels seen in Maryland and Virginia in the early 1700's. It was described by Mr. McGrain as a nice piece of architecture, noting the slate roof and design of the windows.

As part of developing the property, Dr. Machiran testified that initially, the County Planners as part of the CRG, required the property owner to honor and preserve the existing

institutional and religious buildings, and include those buildings as part of any redevelopment of the property at the time the initial phases of the CRG plan was implemented. Those requirements resulted in a significant setback of the location of the Buildings C&D that were constructed on the site being located within a significant set back from Maiden Choice Lane. A number of the hundred-year-old spruce trees that were chronicled by Mr. McGrain have been retained within the setback and buffer area that are preserved as the entrance piece, with a chapel and convent to the site. To the rear the Petitioner has retained many of the large trees that date back to the use by the religious order in its early days. Also, the Petitioner has refurbished and protected the cemetery where many of the nuns that served at this location were buried.

Mr. McGrain, who made two visits and inspections of the site and relevant buildings, submitted his report which confirmed the evidence and testimony of the Petitioner and the historic and architectural features of the chapel, grounds and other structures. His comments distinguished the more modern features of the convent building as opposed to the historic and architectural features of the chapel. He confirmed that the criteria under which he performed his professional function was pursuant to Article X, Historical and Architectural Preservation Sections 26-531, et seq., of the County Code. When asked whether the purpose provisions as enumerated in Section 26-532 applied, he confirmed that the criteria of subparagraphs (1) through (4) of Section 26-532 would apply to the proposed Maiden Choice elderly

facilities with the retention of the chapel. He explained the Landmarks Preservation Commission had not been requested to determine or classify the Maiden Choice chapel and/or convent as one of its landmarks, noting that procedurally, the Commission has not as yet addressed any post World War II buildings for inclusion within the Historic District or been requested to make any of the Maiden Choice buildings a landmark.

Webster's Third New International Dictionary of the English Language, Unabridged, contains the following definitions for "historical" and "historic":

Historical--1. Of, relating to, or having the character of history esp. as distinguished from myth or legend. b: Based on or dealing with history (studies); true to history; accurate in respect to history (reproducing the manners of the period with) c: Used in the past and reproduced in historical presentations. d: Based on, resulting from, or acknowledged to be true because of past events or experiences. . .

Historic--a: Important, famous, or decisive in history; historic buildings, b: having considerable importance, significance, or consequences (an historical occasion).

Determination as a landmark is not the only criteria for suitability under Section 432 for determination. The Commission need only determine that the chapel is of historic or architectural significance. A building such as the chapel is historic if that building is important, of significance, or have some consequences as a result of its existence. The County planners felt it was important because they requested that the

chapel be retained. A benefactor and civic leader, Ralph DiChiaro, felt it was important because he rebuilt the old chapel in the style and design of the past.

The architectural significance has been detailed by Mr. McGrain in his testimony and the reference to the architectural features of the Georgian Revival style. He noted that the buildings present a pleasing appearance and are well integrated within the new office buildings. He noted that the clear open space of the nave could be used as a meeting place. This is similar to the purposes outlined by the Petitioner through its witnesses.

The prior uses within the chapel showed a wooden grille that was characteristic of cloister orders who maintained almost complete withdrawal from the world. Details of the uses and history of the nuns at this location, utilized the chapel were reported in the literature furnished through the Dominican Sisters of the Perpetual Rosary. The history of the Baltimore Foundation of the Order dated August 22, 1958; the February 5, 1961 Sun pages attached which provided a then 50 year history on the local order; the list of nuns internal at the cemetery, and the letter dated November 10, 1992 from the Superior of the Order in Milwaukee, in which she complemented the purposed use of the facilities, all of which were supplied to Mr. McGrain and commented upon by Dr. Machiran. All of this material and testimony speaks to the historic important of the existing retained facilities and their conformance to the standard set forth in Section 432.3.B.

Pertinent provisions of Mr. McGrain's report on the last two pages, are as follows:

The concept of cloistered religious orders living a life of strict withdrawal from the ordinary life of the world, dates from the time of Saint Dominic in the 13th century and was the Catholic response to the break-away group called the Albigensians who practiced a more rigorous regimen than some of the older and well established monasteries and convents, some of which had become lax in their observances.

Externally, the chapel is the best building and has a wooden Georgian Revival cornice along the sides. There is a bare three brick bay window on the south side with windows of colored, frosted glass. The main chapel windows are round-topped, similar to colonial churches, such as St. Thomas in Garrison Forest or the church at Joppa. The window frames and cornice were originally painted white as shown in photographs as recently as 1985. (Catholic Review, July 245, 1985).

On the grounds, some tall blue spruce trees from the previous ownership survive in a walled enclosure...

The closing of the convent due to the decline in its membership (which once stood at 27), was a somewhat historic event, that created a certain amount of newspaper controversy, including one headline, "Nuns Distrusted Diocese, Land-Sale Agent Says," (Sun, April 21, 1981). The sisters had been reluctant to close the institution and it had taken a special emissary of the Pope, a Father Jude Mead,

notation "For zoning purposes only." The recorded plats containing subdivision, clearly demonstrate the development location and intent of this paragraph.

Although the Petitioner did not own, at the time of filing the Petition, Lots 1 and 4, which are shown on Plat One of Two of the Final Subdivision Plat, the notes on the site plan describe the submission as applying to the undeveloped acreage as being 8.8 minus .41, and the existing acreage as involving Lots 2, 3 and 5 consisting of 4.79 acres. No mention was made of Lots 1 or 4, the property on which the physician protestants have their condominium units. The cross easements for the project, supra, granted rights of ingress, egress, parking, utilities, with the right of modification as required by Baltimore County in accordance with the County's requirements. (See ¶ 7.C and 14.0 thereof.) These rights would permit the circulation between the various parcels so as to permit one integral project among the various parcels owned by the Petitioner.

Although the Petitioner made a mistake in including on the original site plan additional parking that would be sited on Lot 1 owned by the Council of Unit Owners of Building D, after conferring with representatives of the Council of Unit Owners and realizing that the owners were not interested in having additional parking sited on the front portion of Building D, the Petitioner amended its site plan, conferred with the appropriate County agencies and departments, obtained approval for the traffic and circulation, and formally submitted that amended plan as part of the evidence on the continuation of the hearing before the

C.P., to determine that the interests of all parties were being respected. Closure took place on November 22, 1980.

(Evening Sun, November 22, 1980).

All of the foregoing, show that the chapel and the structure, as combined with the history of the use at this site, and the commitment to the preservation of some of its important features and functions, demonstrates and confirms that the chapel, and the structures on the site when combined with its historic background, has historic significance and/or architectural significance.

The original CRG contained an engineer's note that reads as follows:

16. There are no wetlands, critical areas, archaeological sites, endangered species, habitats, historic buildings or hazardous materials sites on this proposed development.

The Protestants argue that this note is a bar to the Petitioner seeking and obtaining a determination that the chapel and related structures do not have historic or architectural significance. Such a contention is without merit. In 1986, when the engineers processed the CRG plan, the procedure then in existence would have required the engineer and/or owner to address the then existing laws relative to the matters noted. Parcel B was only under partial development and Parcel A was proposed for full development. If any of the then existing buildings were on the National Historic Register or had been under the jurisdiction of the State Historical Trust through the Corps of Engineers

jurisdiction, or, had the Landmarks Preservation Commission assumed jurisdiction because of a determination that the property had been indentified on the preliminary or final historical landmarks lists, then the engineers would have been required to inform the County of such condition. However, none of those conditions existed and, therefore, the engineers placed the notation as it was listed on the CRG note.

With the adoption of the Section 432 legislation, the determination of an historic building would be different because of that leiglstation and the note, if made after the effective date of that specified legislation, would have been different.

3. THE PETITIONER HAS ESTABLISHED THAT THE CRITERIA FOR THE GRANTING OF THE SPECIAL EXCEPTION PURSUANT TO THE SECTION 432(E.) A.-C. AND SECTION 501 HAVE BEEN SATISFIED.

This proceeding involves the requested use of the most benign and favored uses within any type of land use regulations, namely, residential housing for the elderly. History has shown that the elderly citizens of our community represent the least intrusive type of individuals to surrounding or adjacent property owners and residents. Because of age and other infirmities that senior citizens experience, their activities, movements and mobility are less intensive than other classes of people and involve limited movements and activities on property. Most elderly residents are retired and have a tendency not to be involved in nighttime activities other than in their own residences. Because of the topography and other existing site conditions and the layout of

the proposed development plan, the likelihood of their intrusion into adjacent nonelderly communities and facilities is remote.

The Petitioner, by providing a community van, the trips of the users will be more organized and reduced within the Maiden Choice site. Mr. Liem's un rebutted evidence that the Average Daily Trips (ADT's) would be less than one-third of those generated by the existence of the office use from the approved CRG plan, i.e., 513 elderly ADTs as opposed to 1596 ADTs for the office use, with peak hour (a.m. and p.m.) usage by the elderly being 5% and 7% for a.m. and p.m. respectively of the total anticipated office use ADTs for the site, demonstrates that the elderly would be favored to the approved existing uses.

The program of the Petitioner, which consists of providing for sale housing in a condominium scheme, within the affordable range, will permit those residents of the community who can no longer manage and maintain larger homes that they have outgrown, to purchase replacement residences in a size and scale that would provide a more stable and more secure lifestyle.

From a zoning standpoint, the use of the property for multi-family elderly housing, is a natural transition from the contiguous townhouse use and the existing office buildings.

The opposition and resistance to the petitions have been based on ill-informed assumptions on the part of several practicing physicians located within the existing Maiden Choice complex. The unsupported arguments raised by the physician protestants consist of their opinion that the mixed use of the property for residential elderly housing and medical offices are

not compatible and that the construction of buildings of similar size and scale with residential as opposed to office use therein, in some fashion affects the property values of their units and/or space. Some complained that they did not have adequate detail of the proposed use, but Dr. Carey and others recognized that they were generally aware for some time that Dr. Machiran proposed elderly housing for a portion of the site. Others complained that they bought their units with the belief that the future plans would involve additional office buildings, a use which they strongly support. Mr. Patton, again, without any facts to support his opinion, opined that the use of the property for the elderly, as requested by the Petitioner, had the potential of gravely overcrowding the site, and would have a resulting effect of having a greater impact than continued office use and expenses for the property. He was never able to provide a logical basis for that opinion. How can one support a use that involves at least three times the total trips on the property and twenty times the amount of peak hour traffic and then argue that such use for the elderly is incompatible with a continuation of the office development?

The only non-physician protests came from two individuals, Ms. Christina Sasser, the occupant of the single family detached home located to the Northwest side of the property at 620 Maiden Choice Lane, complained that she did not want to see the loss of any of the existing woods on Parcel B. She had concern over the prospective loss of wildlife from the development, and the potential effect of service vehicles coming to the elderly facilities. She further noted that the existing elderly facilities

such as Park Caton and Charlestown could serve the needs within the community. The only item that deals with the criteria for the special exception, would relate to the service vehicles. These facilities do not have uses which would generate any meaningful service vehicles coming to the residential units. The service vehicles for residential would be less than that which is required in a commercial facility.

The Petitions are simply offering an alternative to Park Caton which claims to have a very long waiting list, and also have strict income requirements, and also an alternative to Charlestown which, in addition to claiming a waiting list, may also be frequently priced beyond the level of affordability for residents in the surrounding communities.

Ms. Eleanor VanDevender, the treasurer and zoning chairperson of the Maiden Choice Community Association, which serves an area located to the South of Wilkens Avenue, a half a mile distant from the property and generally covering a geographic area further distant between the Beltway, Route 1 and Southwestern Boulevard, testified in opposition to the Petition. The Board of that community association deferred recommendation or action on the proposed use until after Ms. VanDevender had an opportunity to attend the first day of the hearings. Complaining about a lack of timely notice and coordination with the Community Association, she indicated that she had a concern over crime within the area, and the traffic and pedestrian hazards created by the use of the elderly residents from the project along Maiden Choice Lane and Wilkens Avenue. She further noted that the elderly who would

occupy the property would represent traffic hazards because of the higher percentage accidents by the elderly as opposed to other driving classifications.

Although the Rules of Evidence and Participation are liberal in administrative and zoning hearings, the law of Maryland is more strict in determining whether parties have standing or are an aggrieved party in a proceeding. Neither Ms. VanDevender nor the members of the Maiden Choice Community Association reside within sufficient proximity to the property to have legal standing in this matter, especially if they are not impacted by the use of the property which they can neither see nor hear. The boundary of the community's jurisdiction is one-half mile from the Petitioner's property and can neither be seen nor heard by the anticipated use of the Petitioner's property.

In the case of White v. Major Realty, Inc., 251 Md. 63, 246 A.2d 249 (1968), the Court determined that protestants were not aggrieved when the subject property was one-half mile away and no evidence was presented that the property of the protestants would be depreciated in value by the proposed rezoning or that the protestants could even see the property. See, also, Dubay v. Crane, 213 A.2d 487 (1965).

Katherine Mues was a strange witness. The apparent purpose of this witness was to discredit in some fashion, the Petitioner's use of the property. According to Ms. Mues, the Corps of Engineers received an unidentified complaint that there may have been some violation of federal wetlands law and she then visited the site and, after a brief inspection, concluded that there had

been some recent grading in an area described on Lot 1 on which Building D was developed, and in a wooded portion of Parcel B. After providing a written citation to the property owner in care of Maiden Choice Association, no further action has been taken by the Corp of Engineers.

The area in which Ms. Muies has complained, is owned by the physician group in Building D and the improvements and site work was done by another entity with no affiliation with Maiden Choice Associates. The area in which there was a complaint concerning the wooded portion, that area was not disturbed as part of the construction of the storm water management pond on Parcel b; that facility being the only work undertaken on Parcel B by Maiden Choice Associates, since its ownership of the property. The comments of Ms. Muies have relevance to the issues in this proceeding. At such time as the Petitioner would develop Parcel B, it will be required to comply with all laws and requirements of County, State and Federal government, including the wetlands jurisdiction of the Corp of Engineers.

Other than the physicians, the only other primary neighbor to the project is the Broadfield Community, which is contiguous on almost two full sides of the property and which has been developed to a combined density of DR5.5 and DR10.5, with some of its most intense development of townhomes being contiguous and adjacent to the Petitioner's property. When you measure the amount of homes in the immediately and the adjacent public road to those properties next to Maiden Choice, it results in 49 homes with 4.5 acres, having an effective density of 9 dwelling units per acre.

The Broadfield Community, as represented by its Board of Directors, informed the Zoning Commissioner of its tentative support for the requested increased density for the elderly, subject to two conditions, namely, (1) providing additional tree buffering, and (2) a request for a traffic signal near the Petitioner's property, so as to facilitate pedestrian crossing of Maiden Choice Lane for the residents.

Through the testimony of Drs. Machiran and Long, Ms. Willeboordse and Mr. Liem, the Petitioner has presented ample evidence to demonstrate that the undeveloped portion of the two sites covered by this Petition, when developed and used, would not have an adverse impact on adjacent and vicinal properties.

The size and scale of the proposed buildings are similar to that which has been previously approved through the County review process, and represents a much less intensive use than the continued development of the property for office purposes.

The articulated complaints of the physician protestants speak to the desire of those property owners that the Petitioner continue to provide permanent open space for the undeveloped land. The argument that the further use of the undeveloped property for compatibly designed buildings housing the elderly would have adverse financial impact on the value of the existing medical offices owned by the physicians, is specious. No credible evidence was provided that would imply that the value of the existing office facilities would be impaired by such proposed use. From an image standpoint, how can one argue that an elderly building would affect how, and under what circumstances, patients

and staff coming to the office facilities would think any less of the physicians and the space which they occupy because there is an elderly building near their offices within the same campus?

Leprosy was effectively treated many years ago and the future of Maiden Choice are not contagious to the complaining physicians.

The criteria of Section 432.C, 1.-4., and of Section 502, subparagraphs a. - h., have been satisfied by reason of the evidence presented through the Petitioner's witnesses and evidence, when coupled with a background that would have a residential use, elderly housing, which will be less intensive both as to total number of users and the amount of vehicles that would use the property for such use. In addition, the size of the buildings on Parcel A would be smaller than those which are permitted under the CRG Plan and with the razing of Building A (the convent), there would be no over-crowding of the site.

4. THE GRANTING OF THE WAIVERS AND VARIANCES REQUESTED WOULD BE CONSISTENT WITH THE COUNTY'S CRITERIA AND WOULD NOT HAVE AN ADVERSE EFFECT ON ADJACENT USES.

The four requested items of additional relief, consist of:

- (a) a parking waiver for a Class B building in which the Petitioner's commits to provide van service; and
- (b) a waiver of the bulk regulations of the district for the height of the proposed elderly buildings; and
- (c) a residential transition waiver of the setback for the one building in which there would be sited within the residential transition area a portion of a one-story greenhouse; and
- (d) the granting of a variance of 12 feet for a side yard setback in an area between two existing buildings which had been constructed in accordance with then-existing setback requirements.

With respect to parking, the testimony of Ms. Willaboordse, as confirmed through the County Staff Review Process, identifies 239 parking spaces as necessary under present County regulations for the as-is use of the property, including Building A which would be razed. The elderly parking without relief would be _____. The regulations permit a decrease in parking requirements for elderly buildings when the facilities provide van service. The parking approved for the Park Caton project, was at 1 space per unit because that project involved government tax credits. Ms. Willaboordse examined the existing parking positions at that facility, and found out that there were surplus parking spaces under the existing conditions of one car per a unit.

The history at Park Caton should apply to Maiden Choice, and, as such, the proposal for the approved one space per 1.5 units, should be adequate and sufficient for the needs of the proposed elderly buildings.

The height of the residential buildings for the additional 10 feet was requested because of the architectural intent to create a residential-style roof line which necessitated the additional height. Because of the distance between those buildings and the residential homes to the Broadfield side of the property, the additional height will not have any adverse impact upon the adjacent property owners, and especially in light of the tree buffer that exists and would be enhanced in further development of the property.

Commissioner on October 14, 1992. The changes that were made to the site plan consisted of the deletion of parking on Lot 1, the slight rearrangement of some of the parking on Lot 3 as owned by the Petitioner, and on which part of the parking for the users of Building D is located, enlarged of the suggested parking on Parcel B (the undeveloped parcel), and added the additional driveway on Parcel B out to Maiden Choice Lane, creating a second means of ingress and egress for the property. (See attached plan which is a reduction of the Petitioner's Exhibit 9B.)

The amendment to the plan did not change the siting or size of the proposed housing for the elderly buildings or the amount of parking that was identified in the Petition. After arguments on the Protestants' motions to dismiss based on (a) the lack of clarity in the initial filings, and (b) the fact of the amendment of the site plan, the Commissioner ruled initially that the amended site plan was not such a significant amendment so as to require a reposting or further public advertisement, and that there appeared to be sufficient information under law to allow the case to proceed, noting that the reason for the various information in the filings was to permit the Commissioner to make an intelligible and knowledgeable decision. The Commissioner reserved decisions on further motions to dismiss based on whether the parking would show that it was ample to support the proposed facilities.

After comment by the Protestants that it was not clear to their reviewers as to whether there was adequate information on topography and environmental conditions so as to permit the

The variance for the height of the buildings, applies primarily to the building with two wings located on Parcel A. It is only a small portion of a corner of the building on Parcel B that would be impacted by the Bulk Regulations relative to this building.

To the extent that the Commissioner would be unwilling or unable to make a determination under the criteria of Section 307.1, the buildings as shown on the Petition, could be reduced by one floor which would result in a net loss in units of 38.

The request for the portion of the greenhouse consisting of one story tucked in the remote corner of the developed property, when screened from adjacent properties by the existing tree-line that would remain, and by reason of the significant elevation change between the greenhouse and the residential properties below it, the facility would not be visible from adjacent properties. The steep slopes that surround the envelope on which this building would be sited, create the practical difficulties and a hardship that would satisfy the criteria for the variance.

As to the request for the variance of 12 feet between the existing chapel building and Building C, that condition exists as a result of the planning requirements as part of the CRG. The Petitioner was required to provide circular traffic patterns serving as a ring outside the proposed office buildings and did so as part of its planning process. The subdivision lines within the five lots that constitute Parcel A, were primarily for financing purposes. Unlike circumstances where there are separate parcels divided by public streets, the new buildings were sited close to

the existing religious buildings, so as to affect a condition of a campus. The change in use between office and elderly housing, would not adversely impact the other users of the property.

The criteria of Section 307.1, when coupled with the public policy for the encouraging of housing for the elderly under Section 432, has been satisfied with respect to these requested variances.

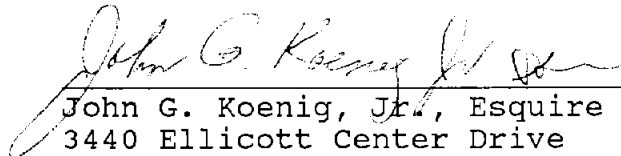
CONCLUSION

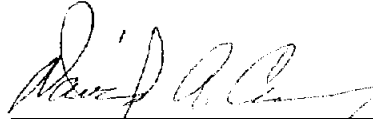
The Petitioner's plans involve a request for a use that is consistent with the existing CRG plan that was processed and approved by Baltimore County, Maryland, and which satisfied the compatibility test between the adjacent residential uses and the then proposed office use. With buildings, parking, driveways, landscaping, and buffering substantially similar to the CRG Plan, and with a proposed use that is far less intensive than an office use, housing for the elderly, at the requested level, satisfies the criteria for approval.

The request by the Petitioner for 190 units represents a recommendation made by the County staff as to that which would be appropriate. If it would serve the best interest of Baltimore County and the other interest of the neighborhood to limit the amount of elderly housing to a number of units that would bring

the total amount of proposed buildings consistent with that which was previously approved, the Petitioner would accept such revisory action.

RESPECTFULLY SUBMITTED,

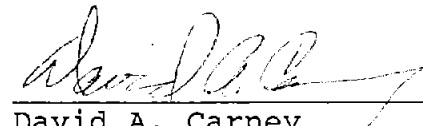

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 19th day of January, 1993, a copy of the foregoing Post-Hearing Memorandum was hand delivered to Douglas L. Burgess, Esquire, and Stephen J. Nolan, Esquire, at Court Towers, Suite 700, 210 W. Pennsylvania Avenue, Towson, Maryland 21204, attorneys for Protestants.


David A. Carney

dac\maiden\maiden.brf

PETITIONER:	*	BEFORE THE
MAIDEN CHOICE ASSOCIATES	*	BALTIMORE COUNTY
"ST. DOMINIC'S PLACE"	*	ZONING COMMISSIONER
720 MAIDEN CHOICE LANE	*	CASE NO.: 93-49-SPHXA
1st Election District	*	ITEM #54
1st Councilmanic District	*	

* * * * *

PROTESTANTS' POST-HEARING MEMORANDUM

CATONSVILLE CONDOMINIUM ASSOCIATION, INC., JAMES CAREY, M.D., CHAO-SON TENG, M.D., GLORIA DAMIEN, M.D., YUNYONG YUNYONGYING, M.D., A. SHAMS PIRZADEH, M.D., ZAHID BUTT, M.D., ALDO PAZ-GUEVARA, M.D., NADER G. GARY, M.D., and DAVID STROBEL, M.D., some of the Protestants herein, by their attorneys, STEPHEN J. NOLAN, DOUGLAS L. BURGESS and NOLAN, PLUMHOFF AND WILLIAMS, CHARTERED, file this memorandum in opposition to the zoning petitions filed by Maiden Choice Associates.

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- f. Incompatibility - Residential Use Will Overwhelm Planned Medical Office Use

g. Inconsistency with Spirit and Intent

h. Parking - Not Enough to Satisfy Even
Existing Useages

III. <u>Conclusion</u>	56
APPENDIX (separately compiled)	APPX

WITNESS SUMMARIES

Counsel for the above-named Protestants/Property Owners sets forth as follows a summary of the witness testimony which was presented during the course of the four hearing days. However, specific comments concerning the deficiencies in the Petitioner's case will be reserved for the Argument segment of this Memorandum.

Day One - October 2, 1992:

NORBERTO MACHIRAN, M.D.

Dr. Norberto Machiran, also known as Dr. Tico Machiran, was the first witness for the Petitioner. He identified himself as the managing partner for the Rostic Corporation and also Maiden Choice Associates. He indicated that Rostic was a managing agent corporation and Maiden Choice Associates was a partnership whose purpose was to develop 720 Maiden Choice Lane. He indicated that he was familiar with the site since 1972, having grown up in the neighborhood.

In 1983, Maiden Choice Associates acquired the property. In 1985, Dr. Machiran moved his medical office into the old convent building and remodeled the same into offices. There are currently a group of eight (8) offices in the convent. He indicated that 99 percent of his patients come

from the Catonsville-Arbutus area and that his practice of population consisted of 245 patients out of 1,125 in the 56-65 year range. He indicated that housing was a concern for a number of these patients that are in this age range.

Dr. Machiran was asked a number of questions, one of which concerns the staffing of the office facility and proposed elderly housing. He indicated that at minimum, three (3) full-time staff members, under the direction of Rostic, would operate the facility as well as a number of part-time people. He deferred specifics on the operations until a later time but emphasized that he was trying to minimize the cost. Regarding questions on the greenhouse operation, he had no knowledge of this and indicated that the architect would testify regarding that operation. Furthermore, information regarding federal and state assistance to the elderly housing residents was not known by him at the time of his direct examination. Regarding security, Dr. Machiran indicated that someone else would address that issue.

JACK LONG, Ph.D.

Jack Long indicated that he was a psychotherapist and doctor of clinical social work. He has been the vice president of Rostic since 1985. He indicated that he has been working on an elderly housing facility plan. One of the reasons he is working on the plan is that 20 percent of his patients are

orderly development of the property, and that without knowing the specific mix of proposed elderly units, it was difficult to determine whether based on the size and number of residents whether there would be adequate parking for their use, the Petition addressed and satisfied those inquiries through explanation by its architect.

Ms. Willeboordse, through her study and analysis and the assistance of consulting civil engineers and environmental planners, testified that after examination of the site and analysis of existing field data, that the existing undeveloped parcel was able to be effectively graded and, with an agreement to upgrade the Channel and Existing Storm Water Management Pond, a DEPRM variance should issue for this small wetland area.

Section 432.3.D. required the Commissioner upon establishing a hearing date, to promptly forward a copy of the Petition to the Landmarks Preservation Commission for review and comment with regard to historic preservation factors. That required action was overlooked, but it has been cured by the actions and activities that followed with respect to this procedure. The Protestants requested Mr. John McGrain to testify in behalf of the Commission with respect to the involvement of his office on this Petition. Prior to the Hearing on December 3, 1992, Mr. McGrain had been contacted by Ms. Willeboordse and Protestants' counsel and had been supplied information with respect to matters of interest to his office. After providing testimony on information available to him at the time of the December 3, 1992 Hearing, he was requested by the Zoning Commissioner to inspect the property covered by the

elderly. He indicated that his older patients had some common recurring concerns regarding housing. Those concerns are safety, accessibility, money, and the fear of dying in one's home and not being found. He indicated, in his opinion, that the Petitioner's proposed plan would address those concerns by balancing safety, convenience and independence with a Reach-Out Program. He also discussed the greenhouse project and the use of flower sales and produce sales off site in order to defer the cost of condominium fees. Regarding the condominium fees, he did not know how much they would be per month, but indicated that any profits made by various projects would be distributed to the association and its members in order to defer costs. Regarding safety, he indicated that there would be 24-hour security and medical alert. Regarding medical staff availability, he demurred on the issue of whether there would be any full-time employees of the elderly facility available to meet their medical needs. On the otherhand, he indicated that the staff of the medical office facility would be available to service the needs of the population. Dr. Long also indicated that there would be coffee shops, exercise and meeting rooms, and a nature trail, but he could not provide specifics on the exact location of these facilities. Dr. Long also mentioned development of a barter system and "time dollar system", but once again, he could not give specifics on their utilization.

Regarding the van service, he indicated that it would be used to cut down on the transportation needs of the residents, but he could give no details on whether this was an optional or mandatory amenity; he indicated that at first there would be no additional charge for the van service. The hours of operation and scope of the service were not indicated. Regarding grocery and laundry charges, Dr. Long admitted that there would probably be additional charges for these type of services.

In cross-examination, Dr. Long admitted that the Reach-Out Program he envisioned for the facility has never been actually utilized before and that it was a concept plan only. When asked if similar programs had been tested for actual progress and implementation, Dr. Long admitted that the program had not been tested, although he did mention that craft, exhibits and commercial flea markets would form part of the basis for the generation of the funds. Regarding the initiation of the plans to change the medical campus from an office to an elderly housing facility, he did not know exactly when the plans were changed, but he indicates that perhaps they were changed in July 1990. In response to a question regarding the three employees, he indicated that he was satisfied with that number of employees if the elderly population was generally fit, however, he never detailed the estimated number of elderly residents to be housed in this development. Regarding the coffee shop, he testified that he anticipated

that there would be a coffee shop that would be open to the community and the public as an income-producing business.

JANE WILLEBOORDSE

Ms. Jane Willeboordse testified that she was a registered architect with a B.A. in environmental design and architecture from North Carolina State. She indicated that she has had experience in the Baltimore area, both in restoration architecture as well as accessibility housing and disability work. She testified that she has been working with Rostic as a consultant for approximately one year. She stated that she visited the property on numerous occasions. When referring to her plan, she indicated that she made a change on the plan regarding traffic to redesign and refine the entrance in a manner different from what the 1986 CRG approval shows. Ms. Willeboordse also indicated that the Petitioner was going through the Refinement Committee of the old CRG process to try to amend the previously approved CRG (and second revised CRG) site plan [July 16, 1986, Amended April 12, 1988]. The Petitioner's architect was told by the Refinement Committee that Petitioner need not go through the new development process, but could continue through the old CRG process as a minor amendment.*

* The CRG Plan and Minutes only show development approval for Phase One. The proposed future elderly housing Phase Two, however, was never submitted or approved by the CRG. See Appendix, CRG Minutes.

When asked if the property was accurately described, she testified that it was and that the boundary lines were as shown on the plan.

Regarding the history of the site, Petitioner's design expert indicated that the chapel had been used by the Dominican Sisters as well as the convent, but that said buildings had already been adaptively reused for medical offices in previous years. She indicated that the chapel and convent were significant as the house and place of worship of the Dominican Sisters and that the chapel had some aesthetic appeal. She testified that the county had no record of the chapel or convent being historically designated but that the cemetery had been preserved by Dr. Machiran as part of the previous adaptive reuse. She also stated that the chapel and convent were connected and that their conversion into offices occurred in 1988. She described the build-out of other new modern medical offices known as Building C and Building D which were completed in 1988 and 1989. Ms. Willeboordse indicated that the originally proposed Buildings E and F shown on the CRG plan were not constructed but instead, they were now shown as residential buildings on the current proposed amended plan. She then described the proposed redevelopment and the phases of the project, stating that the first phase of the proposed residential facility would be located toward the north and west

of the site with a one hundred unit condominium building.* This building would be sited in a wooded area and would have common access with the rest of the medical campus facility. She indicated that Phase Two would be comprised of two buildings around a court-yard which would be placed over top of the convent, which is to be razed.

Petitioner's architect described the architectural details of both proposed five story buildings indicating that Petitioner was seeking a variance to permit a 60 foot building height in lieu of the maximum 50 feet, with brick exteriors and a pitched roofs. Additionally Ms. Willeboordse explained that the two-story greenhouse, which was a possible source of a small amount of income, necessitated an RTA waiver. Additionally, Petitioner was requesting an 18 foot variance in lieu of the 30 feet required between the existing medical office and "chapel" offices. She also indicated that in Phase Two, the "chapel" might be adaptively reused for a dining or restaurant facility but that was unclear.

Regarding the proposed parking, the witness testified that she had a flow-through traffic plan around the existing circle and she was eliminating the present dead-end situation by continuing the parking in a circular manner throughout the

* Although some plans referred to a residential condominium, there was some confusion and lack of clarity on the fourth hearing day because many of the Petitioner's exhibits referred to an "apartment" building and "leases".

site. She also indicated that there would be daily van service and she proposed widening the radius circle of the main drive and increasing green space and median space. She also indicated that a more current revised plan would be instituted showing a second access on Maiden Choice Lane with a right turn in and right turn out only that would be an entrance for the medical patients of Building D, and it would keep excess patient traffic off the main circle.

Ms. Willeboordse also discussed the parking requirements, and she indicated that she had used a ratio of 1 parking space to 1.5 units and she characterized the parking variance Petitioner was seeking as being a "minor" one based on the proposed usage and provided spaces.

HUGO O. LIEM, JR.

Mr. Hugo Liem testified as Petitioner's traffic expert. He indicated that he had compared the trip generation emanating from two comparable build-out proposals. The one proposal was the original amended CRG, which he anticipated a medical office campus build-out and the new proposal which was the subject of this hearing, to wit, a largely residential complex. The figures he used for trip generation on the residential side indicated that less trips were generated as a result of the residential use. However, when questioned, he testified that his trip generation was based on Sunday residential trips versus office use during the business week.

He also indicated that Maiden Choice Lane would be sufficient to handle the traffic generated by the site. In general, he maintained that there were no adverse impacts caused by traffic generated by the site plan.

At this point of the first hearing day, Petitioner had completed its case in chief. It is important to note that the Protestants/Property Owners were not represented by counsel during the first hearing day. Undersigned counsel were not retained until shortly before the second hearing day.

DR. YUNYONG YUNYONGYING (DR. YING)

Dr. Ying was the next witness. He testified that he was an owner of a condominium unit in Building D and that he was opposed to the residential housing facility plan.

DR. CHAO-SON TENG (DR. TENG)

Dr. Teng was the next witness, and he testified that he also was an owner of a condominium unit in Building D. He was opposed to the predominately residential nature of the plan.

Day Two - October 14, 1992:

JANE WILLEBOORDSE

In the second hearing day, Petitioner reopened its case and Jane Willeboordse was recalled by the Petitioner to make some changes to the site plan and explain the same. The Protestants/Property Owners, now represented by counsel, objected to the amendment to the site plan. Petitioner's architect stated that not only was the proposed new entrance adjacent to Building D, but parking that had originally been shown as proposed and surrounding Building D, was now removed from that area and relocated to the north and west onto an adjoining tract owned by the Petitioner. Ms. Willeboordse testified that she did this in order to attempt to solve many of the problems raised at the first hearing regarding ownership of the land surrounding Building D, and to attempt to address objections by the Protestants/Property Owners to having the parking placed on their land without their consent. When cross-examined regarding a possible RTA problem that was not considered, she admitted for the first time as she looked at it, that there would be an RTA problem with the adjoining Sasser residence. Under questioning, she also denied that there were any problems with the description of the property or the ownership as she presented the Petition, description and special exception plan to the Zoning Department. In response

to questioning regarding discrepancies in the same, the witness stated that she only did what the Zoning Office suggested to her and she did not independently ascertain whether the filing requirements were met.

**DR. ZAHID BUTT, DR. A. SHAMS PIRZADEH (DR. SHAMS),
DR. GLORIA DAMIEN, AND DR. ALDO PAZ-GUEVARA**

Dr. Paz and Dr. Damien all testified that they were owners of condominium units within the medical complex and were vigorously opposed to the proposed elderly housing facility. Dr. Butt testified that as an owner, he was never consulted regarding the plan, nor did he sign a petition nor agree to the use of his property in the manner shown on the plan. Additionally, he was greatly concerned regarding the parking layout and indicated that the site was extremely overcrowded as a result of the elderly housing facility. Dr. Butt pointed out that only the housing facility would face the existing parking lot used by the doctors and their patients. This overnight facility would obviously use the spaces so that when the doctors and patients arrive in the morning, there would be no space for them and everyone would be inconvenienced from using their current convenient parking spaces and forced to use the overflow lot. He pointed out that the overflow lot is at a substantially different grade than the entrance to his building and would be farther for his patients to walk and very inconvenient.

Dr. Shams testified regarding the extreme adverse impact caused on his arthritic and handicapped patients by the overflow lot and the difficulties they would encounter coming to his office, if they ever had to park in the overflow lot. Dr. Shams indicated that this would negatively impact his practice and devalue his investment in his condominium office.

Dr. Paz testified that elderly patients would be impacted by the additional crime that would be potentially generated by a housing facility. He noted that elderly people are the victims of crime because of their perceived defenseless nature, and therefore, the site would become more of a magnet for crime than it already is. He said that the facility already had to take out a public phone booth on the site because it attracted vagrants and property damage. He questioned why the plan did not provide for security and fencing of the type provided by the facility across the street, the Charlestown Retirement Community.

Dr. Damien testified that she was an owner of a condominium in Building C, and she questioned the ability of Rostic Management to handle the elderly housing facility given their poor track record in the past for managing the existing building complex. She indicated with regard to maintenance on her existing building, it was very difficult to get even routine items fixed and therefore questioned whether Rostic

Petition and report accordingly. His report and comments were submitted.

Whatever the defects in the preliminary procedure with respect to this proceeding, they have been cured by the processes followed by the Commissioner and Mr. McGrain.

Section 432.3.F. deals with the Commissioner's requirement to provide for a system of community participation, and requires a statement that a board of advisors has been established. However, the failure to have a board does not invalidate the granting of a special exception or prevent it from issuing. The Petitioner is required, however, to advertise in a weekly newspaper serving the community, soliciting community participation through the ad. The Petitioner supplemented its earlier efforts by advertising through the ad which was placed in the Catonsville Times in the issue dated November 11, 1992. Notwithstanding that requirement, the Petitioner through Dr. Machiran, in good faith and in accordance with Section 432.3.F., commenced community networking in 1990 and 1991 (See Petitioner's Exhibit), and had established a group of community participants to advise on the proposed elderly facility. Residents from all of the surrounding neighborhoods were included, and newspaper articles by local press were published after each of the major meetings the group held. That group, however, may not have had all of the formal requirements that Section 432.3.F. calls for. The Petitioner commits to this process and will formally structure a board of advisors in accordance with Section 432.3.F.

could handle an even more difficult situation of hundreds of elderly residence on the site. Therefore, she said she was very suspect regarding Rostic or Dr. Machiran's ability to properly manage the tremendous needs and cares of the proposed housing facility.

Additionally, all of the physician property owners testified that they had their own patients and caseload and were in no position to drop an existing patient in order to handle an emergency for the elderly housing facility. In other words, they were dismayed that, without consulting them, Dr. Machiran did not provide for the elderly housing facility to have its own medical care, but rather presumed that doctors in the existing facility, including the protestants, would simply render services.

ELEANOR SASSER

Ms. Eleanor Sasser testified that she owned a house on Maiden Choice Lane that immediately adjoins the property. She stated her opposition to the project, indicating that the area already had too many elderly housing facilities. She also testified that she worked for Charlestown, and had personally observed the frequent number of unsafe driving maneuvers attempted by elderly residents.

Additionally, she is opposed to the impact of the proposed new parking lot on her house, and indicated that she was not consulted prior to the hearing regarding the revisions

to the plan. She indicated that this overdevelopment and additional parking would adversely impact on open space, the quiet and solitude, much of which is lacking in the area due to the busy nature of Maiden Choice Lane.

COLIN BARNETT

Mr. Colin Barnett indicated that he lived in a residence that was downstream of the stormwater management pond. He testified that he anticipated problems with the proposed nature walk or trail around the pond area in that unsupervised trails often are magnets for crime and unsupervised activities. He would like to keep that activity away from his backyard.

He also indicated that there was a stream running through the area which was not shown on the plan, and he was concerned about the environmental impacts. He also stated that he would be greatly disturbed should the stormwater from the site impact on his backyard or home.

Day Three - December 3, 1992:

JOHN McGRAIN

Mr. John McGrain testified that he was a planner working for the Baltimore County Department of Planning and Zoning. He has been assigned as the planner with expertise in the area of Historic Preservation, and has been so engaged in that field since the 1970s with Baltimore County.

Regarding this particular site, he stated he was contacted by the Petitioner approximately one week before his testimony and that materials were sent to him regarding the site. He indicated that in general, structures of less than 50 years of age were not significant historically for historic preservation purposes. Mr. McGrain's testimony was continued to a later hearing day to allow him to visit the site and personally observe the premises and report back to the Commissioner.

JAMES S. PATTON, P.E.

Mr. James Patton was called to the stand as the next witness for the Protestants/Property Owners. He testified he was a professional engineer and a land planner and qualified as an expert in both fields, without objection.

In directing his attention to the site plan as amended, Mr. Patton indicated that he was familiar with the site and the proposal of the Petitioner. One of the issues that concerned him regarding the site was the Petition and its failure to include the Protestants as owners and willing participants in the special exception process. Mr. Patton reviewed the tract boundaries as described on the description accompanying the Petition and indicated it included land owned by the Protestants. Additionally, the site plan appeared to include land owned by the Petitioner. The copy of the 200

scale map required as part of the submittal process indicated the site as consisting of land owned by the Protestants. Accordingly, the Petition and supporting documents as reviewed appear to him to be in violation of Form E, which is part of the Commissioner's Zoning Policy Manual regarding requirements for submittal of Zoning Petitions on non-residential properties. The Policy Manual has been adopted by the County Council as law, thereby specifying the legal requirements for zoning petition relief.

Referring to the site plan, Mr. Patton noted that the description, as sealed by an architect, differed from the description shown on the site plan if you attempted to verify it by comparing it with the metes and bounds description. Additionally, Mr. Patton pointed out the policy manual requirement that a description and plat be sealed by an engineer or surveyor or landscape architect, and Mr. Patton noted that Ms. Willeboordse was an architect. Mr. Patton explained that the scope of expertise of an architect was limited to the building footprint and a radius of five feet beyond the footprint. Thus, the presentation of site plans and a sealed description was beyond her scope of expertise and her license as an architect under Maryland law.

Additionally, Mr. Patton went through the notes in the plan and indicated there were a number of deficiencies therein. Regarding the breakdown of dwelling units versus

density units, the plan was insufficient by failing to specifically detail such information. Mr. Patton explained that all other Section 432 petitions and hearings have information of this sort set forth on the plan, and this information is essential for the proper analysis of the impact of the proposed development on the site. Without this information on the plan, it is difficult for county reviewing agencies to analyze and assess the plan, and it is difficult for community members and protestants to view the plan in the file and determine the scope of the project.

Mr. Patton also noted that the right-of-way information was sketchy and did not explain the cross easement that evidently is an area of concern regarding mutual use of the property.

Regarding Petitioner's information on proposed parking, Mr. Patton testified that the zoning checklist had not been followed nor the regulations. Page ten of Form E provides that information regarding parking should be shown on the plan, including striping, screening, compliance with the landscape manual, layout and aisle widths, entrances, and elimination of dead end bays and backing into drive aisles. Mr. Patton explained that unlike other site plans submitted in Baltimore County, there was no indication as to the number of spaces and where they were allocated nor which were handicapped spaces and other information regarding parking.

Mr. Patton also stated that the one parking space to 1.5 units ratio used on the Petitioner's plan note was an error and inconsistent with the regulations. First of all, the term unit did not distinguish between a density and dwelling unit. Secondly, the ratio in the parking regulations for Class B elderly housing as indicated with a note on the plan, should be the ratio of one parking space per one dwelling unit. Mr. Patton indicated that the proper way to show parking would be to show the full parking required and then the requested variance from that required amount. What the Petition did is show the amount of parking at a lower ratio, presuming a van sharing arbitrary ratio of 1 to 1, rather than showing the full ratio and then asking a variance from that because of any van-sharing analysis.

Accordingly, Mr. Patton testified the analysis on the plan was an error, and the Department of Traffic Engineering was not able to realize that approximately 100 parking spaces were not provided on the plan as would be required under the regulations without a variance or modification.

Mr. Patton then went through the Section 432 analysis and began by indicating that the plan was unclear regarding the type of residents that were being sought and also the type of dwelling unit that was being proposed. He explained that the definitions of elderly housing facility included an assisted living facility, continuing care facility or Class A or Class B

housing for the elderly. The type of resident is important depending on the definition of the type of facility, because continuing care facilities limit residents to persons who are sixty (60) years or older only. Housing for the elderly, under the definitions, allows housing for the elderly to mean persons greater than sixty-two (62) years of age or persons, regardless of age, with physical and developmental disability.

Accordingly, if the Petitioner is speaking of persons with physical or developmental disabilities that will be housed at the site, regardless of age, the impacts are significantly different than persons who are greater than sixty-two (62) years old. Nowhere is this set forth on the plan.

Additionally, Mr. Patton stated that since the Petitioner did not limit its definition of the mix of density units between beds at .25 density units per bed or .50 density units per units for efficiencies or .75 density units per 1 bedroom or 1 density unit per unit for 2 bedrooms, it is unclear under the 190 units asked for by the Petition and plan how many actual dwelling units and/or density units are being proposed. Conceivably, under the efficiency scheme, the Petitioner could be asking for 380 efficiencies on the site. The impact of 380 people on a site of this size would be tremendous, but that information is needed in order to analyze traffic, impacts, safety, security, parking, and the impact on nearby residents and the medical practices currently occurring at the facility.

Mr. Patton then proceeded to explain that the RAE Zone under Baltimore County Code, Section 200.2(A)(4)(b) allows elderly housing facilities as a matter of right. Mr. Patton pointed out that the 0-1 Zone allows elderly housing facilities only as special exceptions under Section 204.3(B)(1) of the Regulations. Mr. Patton went on to indicate that it is allowed as a special exception by reference to uses allowed by special exception in a D.R.5.5 Zone. Mr. Patton pointed out that a close reading of the D.R.5.5. Regulations indicate that housing for the elderly is only allowed if the use involves a modification or waiver under Subsection 432.2, 432.3 or 432.4. Mr. Patton then indicated that Section 432.2, regarding a hospital facility, was not applicable. He also indicated that Section 432.3, regarding historic structures, was not applicable because the convent and "chapel" were less than 50 years of old. Additionally, he indicated that Section 432.4 was inapplicable because RTA waivers were not necessary to the project under the standards of practical difficulty and unreasonable hardship under the 432.4 regulations. He indicated that the greenhouse could be built without practical difficulty if it was slightly modified in its footprint. Additionally, he indicated that the historical use was not available anymore because the chapel and convent had been adaptively reused already.

Accordingly, looking at the Regulations, and construing them strictly without a Commissioner's finding of historic use or RTA necessity under Section 432, Protestants' expert land planner concluded that housing for the elderly is unavailable at this site and no housing for the elderly, regardless of the density units, can be constructed on this site in compliance with the Regulations.

When asked about the Section 502.1 analysis, Mr. Patton testified that the Petitioner had not provided sufficient information on its plan to fully undertake a 502.1 analysis. This is because of the deficiencies he indicated already regarding the site and the filing of the Petition. Especially critical is the density versus dwelling unit breakdown, and Mr. Patton indicated that without that dwelling unit mix, it was difficult to perform an analysis, and therefore, he was forced to conclude that the Petitioner did not meet its burden under Section 502.1.

Before Mr. Patton's examination concluded, the Commissioner recessed the hearing for continuation and completion on December 29, 1992.

Day Four - December 29, 1992:

At the outset of the fourth hearing day, Mr. Nolan entered his appearance as co-counsel on behalf of the Protestant Physicians.

JOHN McGRAIN

Mr. John McGrain was recalled to the stand by the Protestants and questioned regarding the alleged historic nature of the site. He indicated that he had an opportunity to view the site both inside and outside and also take slides of the site. With a series of slides he showed what he observed to the Commissioner and those in the hearing room.

Evidentially, the chapel building dated from 1957 and is pseudo Georgian and rather plain in construction and appearance. The construction materials are brick; they mimic, although rather plainly, a colonial style. The interior of the chapel has been renovated into medical offices, and the vaulted ceiling has been covered over with a false drop ceiling.

The convent building was built in 1968 and consists of very plain and ordinary architecture both inside and out, consistent with the austere nature of the order. Mr. McGrain stated that he was not interested, from his historical preservation standpoint, in the historic nature of the building, and did not believe that they constituted historic buildings under that standard. Although he admitted that ultimately the Commissioner had to make the determination regarding historic value, from his perspective, the buildings and structures on the site had no historic value in his opinion.

Of special importance was Mr. McGrain's reading into the record of the Petitioner's own plan notes (Note No. 16)

The Protestants utilized the testimony of James Patton to chronicle the claimed deficiencies in the Petition and submission. Mr. Patton had not attended nor heard the testimony of the Petitioner's witnesses who provided evidence on the particulars of the project, nor had he listened to the tapes or reviewed the file materials within the County records, other than on a limited basis. Although he had familiarity with the original planning of the project when employed by the engineering firm that had done all the original planning and processed the Final Subdivision Plats obtained the approval of the CRG, and undertook the specific engineerings plans for all the work that is in place, he did not utilize much of that material to provide information for his review and analysis. Instead, he looked at the four corners of the Petition, the Site Plan, and the criteria of Form E to determine what nitpicking things he could find, so as to be able to support his position that the Petition was defective. This witness then attempted to instruct the Commissioner on how he should make a review of the facts and criteria under which the Commissioner is charged with ruling.

Mr. Patton, in a painstaking fashion, attempted to show that the parking may be inadequate, but did not bother to scale the existing parking lots as shown on the original and amended site plans to determine if, indeed, that was the case, while admitting that scaling off of a concept plan is standard procedure.

When complaining about the feasibility of utilizing the proposed new parking area on Parcel B, (the undeveloped parcel), without doing any field or engineering analysis, he concluded that

admitting that there were in fact no historical buildings on the site.

Additionally, Mr. McGrain submitted a report which detailed his findings and the methods in review he used to determine the findings he reported.

MS. SANDY MUES

Ms. Sandy Mues was called to the stand next by the Protestants. She indicated that she was on the staff of the Army Corps of engineers, and she was aware of the site. She indicated that there is an outstanding violation on the site concerning wetlands, and she had notified Dr. Machiran by letter, as well as a phone call to his staff with a message, indicated that the violation existed. She further indicated that she had received no response to the violation from Dr. Machiran. She also testified that she believed that there were "waters of the United States", to wit, a free running stream on the site, and she denied that it was an ephemeral stream or drainage ditch. The nature of the federal violation had to do with filling in a wetland area. The general area of the violation was shown by Ms. Mues to be the area where parking is proposed to be placed by the Petitioner.

JAMES S. PATTON, P.E.

Mr. James Patton resumed the stand and was subjected to further questioning. He indicated that the review of the County records indicated that the CRG plan which was approved

for this site indicated a note that there were no historic structures on the site. He further indicated that the CRG represented the owner's, Maiden Choice Associates, previous representations to the County regarding the site and historic structures.

Additionally, Mr. Patton testified regarding the title of the site and Cross Easement Covenants in the Land Records between the Protestants and Petitioners. In particular, he noted that the Plan did not provide for parking at the five per thousand square foot ratio provided in the Covenants, and additionally, the Covenants did not allow Parcel B, where the 100 unit housing facility is proposed, to park on Parcel A, where the medical campus facility is currently located.

Additionally, Mr. Patton performed an analysis of the new revised parking lot, and showed that the slopes generated by the site would create a difficult engineering problem and present grades that would result in impact onto the wetlands, as well as a difference in grade between the access road and the proposed parking lot. From an engineering standpoint, the proposed parking lot was designed on extremely steep and difficult surfaces, making access to Building D of the Protestants extremely hazardous for the patients of Building D.

Mr. Patton went through the Petitioner's plan notes and further elaborated on the deficiencies in the parking and the problem in the gross versus net area of the site

calculations. Particularly, Mr. Patton noted that the site area was incorrect as to both gross and net calculations based on current record plats for the site as recorded in the Land Records of Baltimore County.

Mr. Patton indicated that the net area available for development was incorrect and that this calculation is critical under the "Haines-Pickersgill" analysis of mixed uses on a site, as promulgated in the Zoning Commissioner Policy Manual.

Mr. Patton indicated that the 90 unit phase was drawing on density acreage that was previously dedicated to useage for parking, open space, and area requirements needed to support the existing office buildings.

Accordingly, the Petitioner's double counting of site acreage for dual purposes, to wit, allowing a density for elderly housing facility to be drawn out of land that was already fully dedicated to and developed for a different use, namely, parking and open space for the existing medical office facility.

PROTESTANTS' MOTION FOR JUDGMENT

On behalf of the Protestants/Property Owners, Mr. Nolan made and renewed a Motion to Dismiss the Petitioners at this point in the hearing. However, that Motion was withdrawn after the Zoning Commissioner ruled that any dismissal mid-hearing would be without prejudice as far as refiling of a revised site plan.

ELEANOR VANDEVENDER

Ms. Eleanor VanDevender testified on behalf of the Maiden Choice Community Organization. She presented papers and testimony indicating that she was their duly authorized agent to speak on their behalf and represented the official position of the organization. Mrs. VanDevender explained the areas and boundaries of her Association and indicated what its concerns were. Among other things, she stated that there was entirely too much traffic on Maiden Choice Lane and the area was already overly impacted by a tremendous number of elderly housing facilities that were already established in the immediate area.

Furthermore, she testified that in the area of the proposed project, there is no shoulder or sidewalk on Maiden Choice Lane. Additionally, she indicated that Maiden Choice Lane was impacted already by a number of side streets and turnoffs and her Association believed that they would continue to be difficult for senior drivers to negotiate. She also indicated that she had a concern for safety and security in the area with the increasing age of the population. She testified also that no crosswalks or traffic signal lights are available on Maiden Choice Lane in the area of the project, and she questioned what accidents would occur to pedestrians who might try to venture down to the Wilkens Shopping Center and buy groceries or other necessities.

Ms. VanDevender also testified that there was community concern regarding the further expansion of the facilities because it had been her experience that once elderly housing facilities had been established in the area, they just keep expanding and they become a burden on the community. She also indicated that the local school was over capacity by 20%, and if the condominiums were later resold to persons other than the elderly, the schools would be impacted.

Furthermore, she testified that she was not contacted by the Petitioner nor invited to serve on an advisory board for the project as is required by the Section 432 Regulations. She indicated that no board member or officer from her Association, to her knowledge, had been contacted by the Petitioner.

JAMES CAREY, M.D.

James Carey, M.D., was the next person to testify on behalf of the Protestants. He indicated that he was the President of the Catonsville Condominium Association, Inc. and that the Association had been in existence since 1990. He described the Building D office building in which he owned a condominium, and in which other members of the Condominium Association had offices, was built about two (2) years ago. He further indicated that none of the officers of the Association were contacted to be made part of an advisory board as required by the Section 432 Regulations.

He also indicated that the parking, as proposed by the Petitioner, would definitely impact upon their practices, and Dr. Machiran had promised previously that there would be no impact upon their building for any elderly housing facility, and in fact, it would not access through their site, but rather through a separate means of access. Dr. Carey emphasized that it was extremely difficult to get concrete answers from the Petitioner regarding its development plans, and the Petitioner always seemed to be changing its plans and any information received from Dr. Machiran was subject to change.

The Petitioner began its rebuttal case by recalling Ms. Jane Willeboordse.

JANE WILLEBOORDSE

In rebuttal, Petitioner's architect stated that she was again amending the plan to deal with many of the comments of the Protestants. In response to questions, she revealed for the first time the proposed dwelling unit mix that is planned by the Petitioner. Additionally, she indicated that she wished to reconfigure the parking one more time in order to solve a potential RTA problem.

HUGO O. LIEM, JR.

Mr. Liem resumed the stand and indicated that he had obtained some traffic counts on Maiden Choice Lane. However, upon questioning, it was discovered that the traffic counts

were performed not by him, but by another company which was not under his supervision or control. The Commissioner sustained counsel's objections to the introduction of such counts.

NORBERTO MACHIRAN

Dr. Machiran resumed the stand and indicated that he would place a restriction on the resale of condominium units to make sure the new buyer was an elderly person. Additionally, regarding the advisory board, he indicated that he could not include members of the Maiden Choice or Broadfield Community Association because he went into the phone book to look for the phone numbers of Community Associations, and they were not listed in the Yellow Pages.

Regarding the grading and wetlands violations referred to by the Army Corps Engineer, he indicated that the grading was not done by him, and he had never heard of the violation before Ms. Mues had testified.

He was also cross-examined about his previous statements regarding the opposition he had to the expansion of Charlestown because of the impact on local emergency services at hospitals in the area. Dr. Machiran indicated that his opposition was to elderly persons from outside the area, and not the over-burdening of the hospitals, per se.

Dr. Machiran also denied any knowledge that the Director of Traffic for Baltimore County has forbidden any crosswalks or traffic signal lights from appearing on Maiden Choice Lane in the area of the proposed elderly housing facility.

ARGUMENT

A. THE REQUIREMENTS OF SECTION 432 HAVE NOT BEEN MET

1. Historic Buildings - Section 432.3

One fundamental flaw in Petitioner's case is the complete absence of historic buildings on the subject site. Only the presence of historic buildings would permit a Petition under the provisions of Section 432.3 of the Zoning Regulations for a density increase. Additionally, only the presence of historic buildings allows a special exception. As indicated by Mr. Patton, the Regulations indicate that a special exception for housing for the elderly under the D.R.5.5 zone (and by reference the 0-1 zone) requires a modification or waiver under Section 432 before a special exception can be granted in such a zone. (See Appendix, D.R.5.5. Uses.) Accordingly, a historic building finding is a necessary predicate to both the special exception and the density bonus.

Petitioners have asked for a special hearing to determine that "in particular, the Chapel has both historic significance and architectural presence on the site." (See Appendix, Petitioner's Petition for Special Hearing, Special Exception and Variance.) In a previous sentence in the Petition, the Petitioner admits that the "chapel" and convent buildings have already been adaptively reused for medical offices on the site. The Petition then goes on to indicate

that the development of St. Dominic's Place (elderly housing facility) would adaptively reuse this building as a dining and/or community space. Accordingly, the Petitioner admits in its own pleadings that the property has already been adaptively reused by a previous conversion of the former chapel.

Additionally, the Petitioner has admitted in its original CRG and amended CRG plan notes that there were no historic buildings nor wetlands on the site. Having admitted previously that there were no historic buildings on the site in submittals to the County, and having not rebutted this admission against interest at the hearing, the Petitioner is bound by this designation and the Commissioner should find absolutely that there are no historic buildings on the site.

Additionally, referring to the testimony, Petitioner plans to raze the former convent building, thereby destroying the continuity and integrity of any historic preservation argument.

What remains is a former chapel, and not a very old one at that. The testimony indicated the chapel (now medical office) was built in 1957* and consists of very plain construction and ordinary mortar, with no attempts to imitate the original colonial design that is characteristic of genuine and authentic historic reproductions.

* Note that the current version of Annotated Code of Maryland is primarily a 1957 codification and not considered "historic".

Although the Petitioner referred repeatedly to the preserved cemetery, a look at Section 432 indicates that only buildings, and not sites or cemeteries, are the focus of the Bills preservation efforts. Additionally, with the razing of the convent, it appears that no effort has been made by the Petitioner to replace it with a building that follows the footprint of the original layout, once again destroying any argument that there is an integrity preserved by the site adaption.

As indicated previously, the testimony of John McGrain was extremely illustrative on the point of any alleged historic significance. He indicated that absent the presence of a "famous figure" or "space age technology" event at the site, it would not be considered appropriate to consider any buildings of less than 50 years of age as having historic significance. The subject "chapel" building being of rather plain construction and limited age, there is no historic building on the site under Section 432 associated with this proposed redevelopment.

The Petitioner, in its case, ignored the requirements of Section 432 and in its presentation regarding historic buildings. Section 432.3(D) indicates that there should be a referral to the Landmark Preservation Commission of all Section 432 petitions that raise a historic building issue. The Petitioner never requested the Commissioner to make this

the parking would not be suitable because of the degree of slopes. However, he admitted under cross examination that the parking within part of the existing project had steeper slopes and was approved by the County agencies for the purposes intended.

Maryland law is clear on the value of expert witnesses. An expert's opinion is of no greater value than the soundness of the reasons given or the facts upon which it is based. A.H. Smith Sand & Gravel Co. v. Department of Water Resources, 270 Md. 652, 667, 313 A.2d 820, 828-29 (1974); Surkovich v. Doub, 258 Md. 263, 272, 265 A.2d 447, 451 (1970).

There was considerable discussion on the question as to whether the Petitioner proposed "dwelling units" or "density units" in accordance with its request for increased density. The calculation in the Petition speaks to one unit per dwelling unit. However, as an elderly facility within the existing O-1 and DR5.5 zoning districts, it would be permitted to have a calculation determined by density units. As explained by Mr. Patton, the one-bedroom units would calculate at a .75 density per unit and the two bedroom units would calculate as one density unit per unit. Accordingly, the effective density increase under the Petitioner's request, would equal approximately 12.4 density units per acre on the Petitioner's property.

referral, and this was in fact done only at the instigation of the Protestants. Additionally, in the presentation of its case, Petitioner never provided, as is suggested by Section 432.3(B)(1), any "adequate guarantees" for the exterior preservation or restoration of the building. Section 432.3(A)(2) indicates that the locations of any buildings which will be replaced (to wit, the convent), will be conforming to the location of the new buildings. The Regulations require any limitations in placing the new buildings on the footprint of the old must be documented as to engineering, typographical and practical limitations at the time of application. The Petitioner has not done so.

Additionally, the Petitioner has given no explanation why one of the buildings was being razed and one was being converted, and the burden is on the Petitioner under the Section 432.3(A)(2) Regulations to establish that the buildings being razed are unsuitable for adaptive reuse, if in fact they are historic. Therefore, Petitioner is conceding that the former convent, built in 1969 is not historic. Query the distinction between the convent and its adjoining "chapel" built only ten (10) years before it.

Additionally, the Preamble to Section 432 gives a preference to sites of at least ten acres. Also, Zoning Commissioner Policy Manual, pages 4 - 127 indicate that "sites must contain at least ten acres". (emphasis added) (See

Appendix) However, looking at the site, it became clear that the site was bifurcated by the lands of the Protestants, also known as Lot 1 in the plats presented into evidence. The site thus contains two separate non-contiguous tracts of less than ten acres. As previously indicated, this Petition is predicated on one large unified tract that has CRG approval. In fact, the 100 unit building tract is non-contiguous and has never been subject to nor received CRG approval. (See Appendix) Accordingly, the 100-unit building proposed in the northwesterly part of the site is physically separated by Lot 1 from the main campus of the existing facility. The Petitioner conveyed out Lot 1, thereby physically separating the two tracts, rendering them non-contiguous. Accordingly, each tract is less than ten (10) acres in size, and the tract with 100-unit building as proposed cannot rely on the neighboring noncontiguous tract, but must stand and be judged on its own. The testimony at the hearing was that that tract was wooded and unimproved, and there were no historic buildings mentioned on that site.

Although not asked for in Petitioner's special hearing or special exception request, certain references to the former Dominican Sisters useage indicate Petitioner may be alluding to institutional uses under Section 432.3. This relief is not available to Petitioner because it was not asked for, nor do the terms of the statute fit the site. An "institutional use"

is defined in B.C.Z.R. Section 432.B as "convents, orphanages, schools, seminaries, officially designated historic buildings, hospital campus and churches on site of at least ten acres". Furthermore, B.C.Z.R. Section 432.3.A.1 requires a continuation of an institutional use. This has not occurred. In the alternative, B.C.Z.R. Section 432.3.A.2 requires an adaptive re-use of institutional buildings when the institutional use is discontinued, and states specific findings must be made regarding new buildings.

The site contains neither ten acres nor the current adaptive re-use of an institutional building. The institutional use discontinued over ten years ago, and adaptive re-use of the buildings already occurred. Accordingly, no relief is available to Petitioner under historic or institutional building theories.

2. RTA Waiver - Section 432.4

Finally, regarding the provisions of Section 432.4, the Protestants submit Petitioner did not meet its burden to show any unreasonable hardship or severe impacts that would merit an RTA waiver. The waiver was requested in the greenhouse area (attached to the 100 unit building), but a slight site footprint modification would solve their problems and alleviate the need for a waiver. Furthermore, the Planning Department recommended against an RTA waiver.

3. Section 432 - Miscellaneous Requirements

Regarding the other requirements to Section 432, the Petitioner, taking all of the evidence together, made little or no effort to comply with the sections regarding an Advisory Board. The spirit and intent of the legislation, as well as its actual wording, requires the Petitioner to set up an Advisory Board composed of representatives from local community organizations. They should meet at least four times in the year before the Petition is filed. In contrast, the Petitioner did not assemble a representative Board nor did it place the advertising as required by the legislation to assemble such a Board. In contrast, the Petitioner's managing partner indicated that he made an attempt to locate local community organizations by looking in the Yellow Pages. However, he admitted he did not think to ask Mr. Jack Manley (who was on Petitioner's "Committee" and is the husband of Councilwoman Manley) for information on how he could obtain lists of local community organizations. Nor did the Petitioner utilize his familiarity with the community organizations by his participation in the Advisory Board of the Charlestowne hearings in order to gather information regarding local community organizations. The Petitioner's explanation of these matters creates the impression that the Petitioner was purposely not interested in following the spirit and intent of Section 432 in its development plans. In contrast, the

Petitioner has preferred to deal with community groups in a fait-accompli summary manner, sharing its plans (which the architect, Willeboordse, indicated were being formed over the past year) with truly representative members of the community only a couple of days before the initial hearing. The Petitioner, having failed to work with the community in the planning of the elderly housing facility, can be questioned regarding its ability to operate such a center in harmony with the community if it cannot even cooperate in the planning and design phase.

Finally, comparing the Petition and the Section 432 Regulations, no where in its filing (or before they closed their case) has the Petitioner limited its request by any formal written guarantee that the residents will be ambulatory elderly residents sixty-two (62) years of age or older. What the Protestants are left with is a Petition that if granted is subject to any use permitted by the Regulations. The Section 101 definition of elderly housing facility includes persons regardless of age who have mental or physical disabilities. The Petitioner has never provided the Commissioner nor the Protestants with the actual documents that would provide restrictive guarantees to the community regarding the residency of the facility. It is the Petitioner's burden to do this at the hearing in order to show, as alleged verbally, that there would be a limitation as to the adverse impacts.

B. THE SITE PLAN, PETITION, AND SUPPORTING DOCUMENTS WERE MATERIALLY INSUFFICIENT AND IN VIOLATION OF COUNTY LAW

Form E of the Zoning Commissioner's Policy Manual, which is attached in the index, is a compilation of submittal requirements for a non-residential Petition. The submittal requirements have a warning at their inception that the staff of the zoning office is not to give legal advice, but rather the Petitioner is to rely on its own zoning, legal and engineering experts for preparation and processing of the Petition and Plan. Additionally, as the Commissioner is aware, all Petitioners are given a standard letter by Mr. Jablon's office indicating that they are proceeding at their own risk and are not to rely on the ZADM staff or office for legal advice.

The Form E has detailed and rigorous requirements for submittal. As we have seen in this case, the filing requirements are there for a reason and cases become difficult if not impossible to try and hear on a reasoned basis without the submittal requirements being strictly followed. The Site Plan, for example, is the heart of the Petition and it is one that is circulated to all County offices and also kept in the Archives once a petition is granted or denied. The Site Plan is the basis from which information is gathered, discussed and analyzed regarding relief sought by the Petitioner. The Site Plan is also the record document upon which approval is granted or denied. Without an accurate Site Plan, it is difficult for

Protestants, County agencies, and especially an enforcement agency pulling the file five years after the hearing, to determine whether the proposal and Site Plan complies with the regulations and the Commissioner's Order.

One of the most basic elements of a Site Plan is the outlines of the property. As the Commissioner is aware, the official 200 scale zoning maps in Baltimore County will note all special exceptions, special hearings and variances that are granted as to any sites in Baltimore County. The description is supposed to emanate at the convergence of the nearest intersecting street and thence outline the property in a metes and bounds manner and return to the point of beginning. With this accurate description, Jun Fernando or other personnel at the zoning office can accurately locate on the 200 scale the land that is subject to the special exception. Since a special exception or other relief continues in perpetuity, it is extremely important as a matter of the zoning office files that a proper description be presented by the Petitioner.

The Plan that was originally submitted by the Petitioner contained a gross violation of the Protestants' property rights in that parking was placed around their building without their consent. Additionally, even with subsequent modifications of the Plan as the hearing continued, the Petitioner to this day is violating the Protestants' property rights. For example, Petitioner had the duty and

burden to explain to the Commissioner the terms and details of any right it had to use Petitioners' property by means of cross-easement. While Petitioner mentions this cross-easement, they fail to note or examine its terms. Petitioner had the affirmative obligation to show the source or legal property right it had to allow occupants or residents of the 100-unit building to park on the medical campus facility in chief. The Protestants submit that the cross-easement referred to by the Petitioner, and entered into evidence gives only the rights of the occupants and residents of the 100-unit building to cross over or ingress and egress on the land of the medical campus facility, but no right to park. Additionally, the testimony of the engineer, Mr. Patton indicated that the site description did not agree with the metes and bounds description shown on the Site Plan. In fact, even a layman can read the description and compare it with the Site Plan and figure out that the bearings and distances are different. In a certain area, there is a 30-foot gap along Maiden Choice Lane which is unexplained on the description and different than what is shown on the Site Plan. Additionally, looking at the Site Plan, it is at best unclear that the Protestants' Lot 1 and Building D is meant to be excluded from the Plan as filed. The description which was filed and sealed by the architect and testified to as being accurate, in fact, includes the lands of the Protestants, without Protestants having signed and assented to the

Petition. This was never revised by the Petitioner during the case and in fact the Protestants object to an architect providing descriptions and site outlines as this is beyond the scope of the expertise and licensing of an architect. Accordingly, the Zoning Procedures Manual does not allow an architect to seal descriptions or Site Plans, and this case is an example of how they can be grossly wrong and misleading if a non-expert in the field is allowed to prepare the same.

Most importantly regarding the site area is the failure to correctly calculate gross and net acreage. Mr. Patton testified that to the best of his ability, without the benefit of a field survey, which was Petitioners' obligation to do but was never done, the gross area of the site and net area site were calculated incorrectly in a grossly incorrect manner. Without a correct site area it is impossible to perform an analysis of the Plan because gross and net site areas are needed to determine amenity open space, floor area ratio, calculation of density and other critical factors.

The most material problem with Petitioners' analysis was pointed out by Mr. Patton. Mr. Patton indicated he was involved in the Pickersgill case decided by former Commissioner J. Robert Haines. In that case, Commissioner Haines indicated that the site area that has already been utilized and designated for other uses cannot be utilized again, or "double dipped" again for a new use on the site. The density and

related site acreage having already been used, is exhausted and unavailable for other distinct uses. This is an important concept and consistent with Regulations. However, on questions regarding Petitioner's site analysis on this point, architect Willeboordse indicated that she was not precisely sure what area had already been used so she just used a simple method of subtracting out the Protestants' lot and the other condominium building as well as some area in the entrance way to determine the net site area. As indicated by Mr. Patton's testimony, the Petitioner has grossly overstated the net area available for development on the Plan.

Once the predicate is shown to be incorrect, to wit, the site area, the other numbers which emanate from the site area including density and other calculations are also flawed. The Petitioner has the burden of proof to accurately provide the site data to the Commissioner, and this having been established as incorrect, the Petitioners have not met the burden to provide accurate information as required by law nor for the Protestants and the Commissioners in the County agencies to make informed decisions regarding the project.

Additionally, it was not until the afternoon of the fourth day of the hearing for the Petitioners to admit to the significance of the dwelling unit versus a density unit breakdown and the necessity for a unit mix disclosure on the Site Plan. As the Commissioner is aware, on all other Site

The public hearing on the petitions was properly advertised in accordance with the requirements, and the matter came on for hearing before the Zoning Commissioner on October 6, 14, and December 3 and 29, 1992. All of the staff and agency reports were favorable, and recommended the approval of the various petitions, subject to the comments contained in the various reports from the Department of the Zoning Administration and Development Management (ZADM), Office of Planning and Zoning, Office of Zoning, Department of Environmental Protection and Resources Management (DEPRM), Department of Public Works' Development Engineering Division, Traffic Engineering, and Fire Protection Bureau, and the Department of Community Development.

Testimony in behalf of the Petitioner was presented through Dr. Norberto Machiran, a general partner of the Petitioner, Dr. Jack Long, an affiliate of Rostic Management and Development, Inc., the management and development company affiliated with Dr. Machiran, Ms. Jane Willeboordse, an architect, and Mr. Hugo Liem, a traffic consultant.

The Protestants consist of (a) the following physicians who occupy or own condominium units within the Maiden Choice Complex and contiguous to the proposed facilities: Drs. James Carey, Aldo Paz-Guevan, Zahid Butt, Chao-Son Teng, Gloria Damien, and A. Shams Pirzadeh, and (b) a neighbor, Christina Sasser, and Eleanor VanDevender, the Zoning Committee Chair, and Treasurer of the Maiden Choice Community Association.

Additional witnesses who testified in clarification or in support of the Protestants, consisted Mr. John McGrain, the Chief

2. THE PETITIONER HAS FILED A PETITION THAT COMPLIES WITH THE REQUIREMENTS OF SECTION 432 THAT WITH THE EVIDENCE SUPPORTS A DETERMINATION BY THE ZONING COMMISSIONER THAT THE INCORPORATION OF THE EXISTING CHAPEL BUILDING ALONG WITH THE OTHER HISTORICAL STRUCTURES HAS HISTORIC OR ARCHITECTURAL SIGNIFICANCE SO AS TO PERMIT THE GRANTING OF A DENSITY INCREASE BY THE COMMISSIONER.

The evidence in the proceeding reflects an interesting and noteworthy history for the Petitioner's property. The initial facilities at the property were part of the location of the establishment of a convent by the Dominican Sisters of the Perpetual Rosary, an affiliate of the original order established by St. Dominic in 1206. The existing group of this Order was started in 1880 and the Order relocated to the site in 1910, establishing an original chapel and convent buildings so as to enhance its cloistered life style. Their facilities predated the commencement of St. Charles Seminary across Maiden Choice Lane and after some of their original buildings were first destroyed by fire and then razed because of disrepair, a local benefactor built a replacement chapel for their continued use at this property. The chapel building, built in 1957, consists of a Georgian Revival style building in dark red brick which was a noted style in the twentieth century that dates back to the early 1900's, and replicates the styles of chapels seen in Maryland and Virginia in the early 1700's. It was described by Mr. McGrain as a nice piece of architecture, noting the slate roof and design of the windows.

As part of developing the property, Dr. Machiran testified that initially, the County Planners as part of the CRG, required the property owner to honor and preserve the existing

Plans for Section 432 hearings, the dwelling unit mix versus density units is required to be set forth on the Plan. This emanates from the definition of a density unit which is contained in the definitions of the Zoning Regulations. As a necessary predicate for any analysis that impacts under Section 432 and 502.1, the Commissioner must know the proposed resident mix of the population, as well as the type of dwellings and how they relate to the density units requested and their placement on the site. In its petition and plan, the Petitioner refers generally to units and does not distinguish between density and dwelling units. It became apparent during the hearing that the Petitioners were not aware of the difference between the two, and were unfamiliar with the requirements to show the mix. In fact, in their whole case before they closed their side of the case, and prior to rebuttal, the Petitioners never disclosed the dwelling versus density unit mix.

Accordingly, once again, it was impossible for the Commissioner, the Protestants, the County Reviewing Agencies, as well as persons who might review the file five years later to determine exactly what the Plan was providing for. As filed, the Plan could have been asking for 190 density units, and left unclear on the point of the dwelling mix, a future developer to whom this project was conveyed could, consistent with the note on the Plan, establish a 760 bed assisted living facility for mentally disabled youth on the medical campus.

Although this is an extreme example, obviously the number of residents has tremendous impact on the project and the community and this ought to be spelled out or limited by the Petitioner and the Petitioner has the positive duty to do so.

Regarding the parking analysis, once again the notes provided by the Petitioner are incorrect on the Site Plan. The Commissioner is referred to Section 409.6 which indicates the required number of parking spaces for a Class B elderly housing facility, which is what the asterisks on the Plan indicates is the basis of the parking calculation. If one reads the Regulations, it indicates that the ratio of the parking spaces to dwelling units is one (1) to one (1). First of all, the Plan never identified the number of dwelling units just "units" and therefore the calculation is difficult to do from the start. Secondly, the Plan assumes the ratio of 1.5 units per parking space as the base calculation.

The proper way to calculate a variance note on parking, as the Commissioner knows, is to identify the required number of spaces under the most strict reading of the Code. From that point, the Petitioner can then ask for a variance to allow a modification to use a different ratio, as is impliedly requested by asking for a ratio of 1.5 due to a van pool transportation system. What the Petitioner has in fact done, is ask for a variance in number of spaces from an already modified figure due to the presumed ratio of 1.5 rather than

1.0. Petitioner has not even asked, as the Regulation provides, to modify the ratio from 1.0 to 1.5, but has assumed that ratio as a predicate in its formula on parking. Accordingly, once again the analysis provided by the Petitioner as to parking is fundamentally flawed and the Petitioner has the burden to properly present that analysis and has never done so. Additionally, the Petitioner presented no testimony whatsoever regarding practical difficulty or unreasonable hardship for fulfilling the variance standard under the Code.

Regarding the design layout of the parking, it is extremely difficult to follow. Petitioner has the burden to show an orderly and countable layout both for the present purposes of the hearing and for future records. No where on the Plan did the Petitioner put the number of parking spaces in each area, and it is left up to someone with a scale or ruler on a difficult scale, to wit, 50 scale, to try to re-establish the Petitioners' thinking on the layout of the parking.

Moreover, there are numerous areas in which the parking provides deficient and unworkable internal circulation, as well as violates the parking regulations because of backing into the drive aisles. This was never addressed nor requested as a variance by the Petitioner.

Additionally, the Petitioner's plan was deficient in that Petitioner was still revising the plan as part of its rebuttal on the afternoon of the fourth hearing day over the

repeated objections of Protestants. The revisions did not have the benefit of advertising, posting and recirculation to all County Departments. The original submittal was improper in calculations, so the predicates upon which the County reviewed the information were never shown to them. For example, on cross-examination, architect Willeboordse admitted that she never indicated, in showing the revised plans to traffic engineering, that without the variance or modification 50 to 100 parking spaces were not provided on the plan.

The plan was also insufficient in explaining, as Petitioner has the burden to, how the adverse impacts and environmental impacts would be dealt with on the plan. For example, the new parking area designed in the midst of the hearing by the Petitioner is in a steep and environmentally sensitively area. It is in the area of an existing Army Corps Engineers violation, and an area which has never been reviewed for a parking lot by the Department of the Environmental Protection and Resource Management nor the Planning and Zoning Office, at least, there is testimony lacking on that point.

Additionally, by failing to provide topographical information on the plan, which is an optional submittal item under the Commissioner's Rules, the Petitioner failed to meet its burden to show that patients and residents could safely and adequately utilize the proposed parking without endangering their lives. The new proposed parking lot is at best

impractical and, at worse, a hazard to the safety, health and welfare of medical office owners, nearby residents and patients, as well as to the environment.

C. THE PETITIONER'S PLAN CREATES BURDENSOME ADVERSE IMPACTS WHICH PREVENT COMPLIANCE WITH THE STANDARDS UNDER SECTION 432, SECTION 502.1 AND THE SPIRIT AND INTENT OF THE REGULATIONS

The determination by the Commissioner regarding adverse impacts is largely a discretionary and subjective matter. Accordingly, when deciding these issues, the Commissioner must take into account the planning, organizational, and sensitivity of the developer's planning, design and operations team. In the present case, it is abundantly clear that the Petitioner has not planned or presented a project following even the most elementary requirements of County, State and Federal Regulations. There have been repeated misapplications and mistakes regarding the plan, and an obvious question must arise in the mind of the Commissioner. How can the Petitioner be expected to do detailed design, build out and operate a project properly, if it cannot even complete the fundamental requirements of the planning stage in an organized and detailed manner? The fundamentals of any project are in the site planning and engineering basics of the site development. If this basic level of development is flawed, the resulting project and its build out will be repeatedly hindered by the problems and adverse impacts.

In fact, the physicians of Building C, which was developed by Maiden Choice Associates, indicate that this is precisely what happened with regard to their building, both as to its construction and also operation.* Accordingly, the Petitioner has a poor record regarding both site planning, as shown in the many mistakes and ambiguities in the hearing, as well as in the operation of even a relatively small commercial project, to wit, Building C. How will it operate an infinitely more complex 24 hour residential facility effectively? The presence of many Protestant Physicians at all the hearing dates, taking time off from their busy practices, is strong evidence of the great concern for Petitioner's lack of ability to handle this project properly.

Additionally, the Protestants' testimony regarding the diminishment of the economic value of their condominium property was unrebutted, and thus the Commissioner must presume that the impact upon the doctors, as well as their practice, will be adverse.

Regarding the community impacts, the Commissioner became aware at the early stages of the hearing that the community was greatly concerned about and vocally opposed to

* Petitioner indicated that "Rostic" would manage and operate the elderly housing facility. Dr. Damien testified Rostic so far has mismanaged Building C in her opinion. It is interesting to note Rostic cannot even manage its own corporate affairs, its charter having been revoked in 1990. See Appendix - Rostic - Charter Forfeited.

this project. A review of the Commissioner's file reveals an inch of letters, all of which express concern and opposition to the project. Obviously, many of these residents are working people and cannot take off time to attend the hearing, especially one of such length as this. However, they did express themselves by taking the time to write a letter, and the file is full of opposition from the neighborhood to this project.

The concerns amongst these letters, as well as the testimony of neighborhood people, indicates that the area is over-saturated already with elderly housing facilities, and traffic on Maiden Choice Lane, from the layman's prospective, is over-burdened already. Additionally, the community expressed concern regarding elderly drivers, and in fact, Mr. Liem, the Petitioner's expert, admitted that elderly drivers are over-represented in turning and backing accidents. As the Commissioners is aware, Maiden Choice Lane has no lights or cross-walks, and thus, the turns in and out of the proposed facility would be extremely dangerous and cause further accidents in the area.

Additionally, concerns were raised regarding the security and safety of patients and present and future residents of the area because of the magnet that an elderly population is for crime. There was testimony that there is currently a problem with vagrants and minor property damage

associated with the former public telephone that was outside the building owned by the Protestants. Despite this history, Petitioner indicated it would not fence the site.

Mr. Nolan demonstrated that the current mix of the medical campus facility would be diluted by over 100 owners of residential condominium residential units who would have a greater voice in the operation of the campus than the current eight physicians who own medical office condominiums.

The environmental impacts have been discussed again and again. There is no evidence that Petitioner has met its burden to show it has solved, or can solve, rather than ignore, the wetlands issues on the site.

Furthermore, it was demonstrated that the spirit and intent of the 0-1 zone, to wit, medium density housing, was violated by the Petitioner's own admission that it was proposing high density housing for the area.

Regarding the impact of parking, it was demonstrated again and again that the existing parking is barely enough to satisfy the existing uses, without superimposing 190 density units, and their related larger number of dwelling units, and their relating larger number of persons per dwelling unit on the site, all in need of transportation and parking to meet basic needs of food, laundry, and medical care. In fact, it was demonstrated that the parking calculations are in error, and in fact, the parking for the area is almost 100 spaces

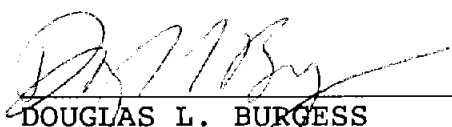
short. Additionally, the Petitioner presented no evidence that it has a legal right for the 100 unit building to park on the medical campus facility where the Protestants' parking currently exists. Additionally, the Protestants' patients would be extremely impacted by the de facto loss of their existing parking area in front of Building D caused by the overnight parkers from the proposed one hundred unit residential building taking all or substantially all of their spaces.

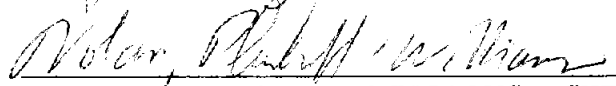
Additionally, the proposed additional parking on the vacant lot to the north of the Protestants' building is an environmentally sensitive area, as well as an area that would create great danger due to the slope elevations to any patients or residents who tend to be elderly in nature, who would use such area. Accordingly, that parking is unfeasible, both from an engineering standpoint and a safety and practicality standpoint.

CONCLUSION

Protestants submit that the Petitioner's Request for Special Hearing, Special Exception, and Variance be denied for the reasons stated heretofore.


STEPHEN J. NOLAN

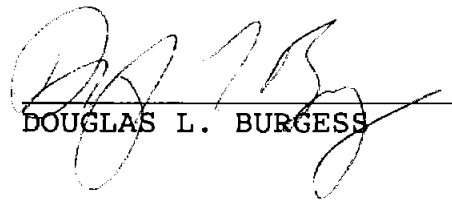

DOUGLAS L. BURGESS


NOLAN, PLUMHOFF & WILLIAMS, CHTD
Suite 700, Court Towers
210 West Pennsylvania Avenue
Towson, Maryland 21204
(410) 823-7800

Attorneys for
Catonsville Condominiums
Association, Inc., et al.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 15th day of January, 1993, a copy of the foregoing Protestants' Post-Hearing Memorandum was ~~mailed postage prepaid~~ ^{hand delivered} to David A. Carney, Esquire, Reese and Carney, 10715 Charter Drive, Columbia, Maryland 21044.


DOUGLAS L. BURGESS

3101C

LAW OFFICES
NOLAN, PLUMHOFF
& WILLIAMS,
CHARTERED

institutional and religious buildings, and include those buildings as part of any redevelopment of the property at the time the initial phases of the CRG plan was implemented. Those requirements resulted in a significant setback of the location of the Buildings C&D that were constructed on the site being located within a significant set back from Maiden Choice Lane. A number of the hundred-year-old spruce trees that were chronicled by Mr. McGrain have been retained within the setback and buffer area that are preserved as the entrance piece, with a chapel and convent to the site. To the rear the Petitioner has retained many of the large trees that date back to the use by the religious order in its early days. Also, the Petitioner has refurbished and protected the cemetery where many of the nuns that served at this location were buried.

Mr. McGrain, who made two visits and inspections of the site and relevant buildings, submitted his report which confirmed the evidence and testimony of the Petitioner and the historic and architectural features of the chapel, grounds and other structures. His comments distinguished the more modern features of the convent building as opposed to the historic and architectural features of the chapel. He confirmed that the criteria under which he performed his professional function was pursuant to Article X, Historical and Architectural Preservation Sections 26-531, et seq., of the County Code. When asked whether the purpose provisions as enumerated in Section 26-532 applied, he confirmed that the criteria of subparagraphs (1) through (4) of Section 26-532 would apply to the proposed Maiden Choice elderly

PETITIONER:	*	BEFORE THE
MAIDEN CHOICE ASSOCIATES	*	BALTIMORE COUNTY
"ST. DOMINIC'S PLACE"	*	ZONING COMMISSIONER
720 MAIDEN CHOICE LANE	*	CASE NO.: 93-49-SPHXA
1st Election District	*	ITEM #54
1st Councilmanic District	*	

* * * * *

APPENDIX

TO

PROTESTANTS' POST HEARING MEMORANDUM

(Maiden Choice Associates Hearing)

APPENDIX
TO
PROTESTANTS' POST HEARING MEMORANDUM

(Maiden Choice Associates Hearing)

LEGISLATION

1. Section 101, Definitions
"Density Unit"
"Elderly Housing Facility"
"Housing for the Elderly"
2. Section 1B01.1B1d&e, Residential Transition Areas
3. Section 1B01.1C24, D.R.5.5 Uses Permitted by Special Exception [only] - Housing for Elderly - if it involves modification or waiver under Subsection 432.2, 432.3 or 432.4
4. Section 1B02.2, Regulations, Standards and Controls for Density, Bulk, Open Space and Parking
5. Section 204.2, 0-1 Purpose
6. Section 409.6, Required Number of Spaces - Parking
7. Section 432, B.C.Z.R., Elderly Housing Facility
8. Bill 36-88 (enclosed)
9. Form E, Zoning Commissioner's Policy Manual
10. Mixed Uses On One Property, Zoning Commissioner's Policy Manual
11. Elderly Housing, Zoning Commissioner's Policy Manual

PLEADINGS

1. Petition for Special Hearing, Special Exception and Variance
2. 200' Scale Zoning Map Attached to Petition

EXHIBITS

1. Rostic - Charter Forfeited per Inquiry with State Department
2. CRG Minutes, Maiden Choice

Controlled-Environment Structure: A temporary or permanent structure enclosed by glass or plastic, utilized exclusively to cultivate plants, to protect plants from the elements, or to produce plants out of season. {Bill No. 41, 1992.}

Country Club: A 9- or 18-hole golf course with a clubhouse and other appropriate facilities, which may include other recreational facilities (see Section 406A). [Bill No. 62, 1978.]

Country Inn: A bed and breakfast inn that also contains a full-service restaurant which also serves the general public. A country inn is allowable only in a building originally constructed as a one-family dwelling pursuant to the provisions and procedures prescribed in Section 402E of these regulations. [Bill No. 113, 1988.]

County Trucking-Facilities-Development Officials: A committee consisting of the county administrative officer, as chairman; the directors of Planning, Public Works, Permits and Licenses, and Traffic Engineering; and the director of the Industrial Development Commission; or their respective designees. [Bill No. 18, 1976.]

["Density, Gross"] and definition deleted by Bill No. 106, 1963.]

["Density, Gross Residential"] and definition added by Bill No. 106, 1963; deleted by Bill No. 100, 1970.]

["Density, Net"] and definition deleted by Bill No. 100, 1970.]

Density Unit: An expression of extent or density of dwelling use as related to number of rooms in, or type of, dwelling unit, so that:

Each efficiency apartment is equivalent to 0.50 density unit;

Each 1-bedroom dwelling unit is equivalent to 0.75 density unit ;

Each 2-bedroom dwelling unit is equivalent to 1.00 density unit;

Each dwelling unit with 3 or more bedrooms is equivalent to 1.50 density units; [Bill No. 100, 1970.]

Design Provisions, Adopted: Design provisions adopted by the Planning Board under the authority of Subsection 504.1 of these regulations. [Bill No. 98, 1975.]

Diametral Dimension (of a lot): The diameter of the largest circle that may be inscribed within lot lines. [Bill No. 98, 1975.]

Disabled Person: Any person who at the time of the filing of a petition for special exception for a home occupation of a disabled person has been determined to be disabled or handicapped pursuant to the provisions and procedures prescribed in Subsection 13-616(A)(1) of the Transportation Article of the Annotated Code of Maryland, 1977 Volume, 1980 Cumulative Supplement, as

by open space or yards and not attached to any other dwelling by any means. Single-family detached dwellings to be developed as part of an alternative site design shall be considered alternative site design dwellings. {Bill No. 2, 1992.}

Dwelling, Two-Family: A two-family house containing two dwelling units each of which is totally separated from the other with an unpierced ceiling and floor extending from exterior wall to exterior wall or by an unpierced wall extending from ground to roof. {Bill No. 2, 1992.}

Elderly Housing Facility: The term "elderly housing facility" includes an assisted living facility, a continuing care facility, or a Class A or Class B housing for the elderly facility. [Bill No. 36, 1988.]

Enclosed Mall: A shopping center containing an enclosed pedestrian concourse or connecting enclosed pedestrian concourses to which at least 75% of the establishments therein front onto and have their only direct access (except as required for emergency use). [Bill No. 29, 1982.]

Environmental Impact Statement: A comprehensive study which accurately discloses the environmental consequences or enhancement of a proposed action. Such a statement must include the following:

1. a detailed description of the proposed action including information and technical data adequate to permit a careful assessment of environmental impact.

2. discussion of the probable impact on the environment, including any impact on ecological systems and any direct or indirect consequence that may result from the action.

3. any adverse environmental effects that cannot be avoided.

4. alternatives to the proposed action that might avoid some or all of the adverse environmental effects, including analysis of cost and environmental impact of these alternatives.

5. an assessment of the cumulative, long-term effects of the proposed action including its relationship to short-term use of the environment versus the environment's long-term productivity.

6. any irreversible or irretrievable commitment of resources that might result from the action or which would curtail beneficial use of the environment. [Bill No. 98, 1975.]

Excavations, Uncontrolled: The digging of soil, sand, gravel, rock, minerals, clay or other earthen material from a land surface for any of the following purposes:

members of the immediate family, and no mechanical equipment is used except such as may be used for domestic purposes. A "Home Occupation" does not include fortune-telling. [B.C.Z.R., 1955, Bill No. 124, 1978; No. 27, 1981.]

Hospital: An institution which is licensed as a hospital by the state and which receives inpatients and provides medical, surgical, psychiatric or obstetrical care. This term includes any health-related facilities which are established in connection with a hospital and are located on the same site as the hospital. Such health-related facilities shall include, but not be limited to, diagnostic facilities, rehabilitation centers, laboratories, training facilities, outpatient care facilities, facilities for chronic or convalescent care and elderly housing facilities. [B.C.Z.R., 1955; Bill No. 37, 1988.]

["Hospital, Class A" and "Hospital, Class B" and definitions deleted by Bill No. 100, 1970.]

Hotel or Motel: A building or group of buildings containing guest rooms or units, where, for compensation, lodging is provided on a daily, weekly or similar short-term basis. A hotel or motel shall be deemed to include any establishment which provides residential living accommodations on a short-term basis such as an apartment hotel. A hotel or motel may contain restaurants, meeting rooms, recreation facilities, lounges, retail shops and personal services as ancillary uses. [B.C.Z.R., 1955; Bill No. 82, 1984.]

✓ Housing for the Elderly: Class A: A building, a section of a building, or a group of buildings that contains dwellings where the occupancy of the dwellings is restricted to persons 60 years of age or older or to couples where either the husband or wife is 60 years of age or older, and to any person, regardless of age, who has a physical or developmental disability. Class A housing for the elderly is constructed under the applicable provisions of a federal or state housing or tax act.

Class B: A building, a section of a building, or a group of buildings that contains dwellings where the occupancy of the dwellings is restricted to persons 60 years of age or older or to couples where either the husband or wife is 60 years of age or older and to any person, regardless of age, who has a physical or developmental disability. Class B housing for the elderly is not constructed under the provisions of a federal or state housing or tax act. [Bill No. 36, 1988.]

Indigenous Crops: Produce which can be grown in the area under natural conditions, without the help of controlled-environment structures. {Bill No. 41, 1992.}

Industrial Park, Planned: An integral industrial development for which an overall plan has been approved by the Office of Planning and Zoning, and which is under common ownership or control. [Bill No. 40, 1968.]

(1) The residential transition area (RTA) is a 100-foot area, including any public road or public right-of-way, extending from a D.R. zoned tract boundary into the site to be developed.

(2) The purpose of an RTA is to assure that similar housing types are built adjacent to one another or that adequate buffers and screening are provided between dissimilar housing types.

b. Generation of residential transition area. {Bill No. 2, 1992.}

An RTA is generated if the property to be developed lies adjacent to land zoned D.R. 1, D.R. 2, D.R. 3.5, D.R. 5.5, or R.C. which:

(1) contains a single-family detached, semi-detached or duplex dwelling within 150 feet of the tract boundary; or

(2) is vacant, less than two acres in size, and contains a buildable area at least 20 feet by 30 feet on which a dwelling meeting all required setbacks can be erected.

c. Variance of RTA. {Bill No. 2, 1992.}

(1) Notwithstanding the provisions of Section 307, the hearing officer, upon the recommendation of Public Works, Planning and Zoning, Environmental Protection and Resource Management, Zoning Administration and Development Management, Recreation and Parks, Community Development, or the Economic Development Commission, may determine the amount of RTA in cases where a single tract is more than two acres, is vacant, or contains no more than one single-family detached, semi-detached or duplex dwelling.

(2) The RTA for a tract may be modified as directed by findings pursuant to Section 26-206 and Section 26-282 of the Code. However, the hearing officer may not reduce the amount of RTA unless the officer specifically finds and determines that such a reduction will not adversely impact the residential community or development on the land adjacent to the property to be developed.

d. A residential transition use is any use: {Bill No. 2, 1992.}

(1) permitted as of right under paragraph 1B01.1A;
or

Section 204--0-1 (OFFICE BUILDING) ZONES. [Bill No. 167, 1980.]

204.1--Declaration of Findings.

- A. It is likely that continued residential use or moderate-density residential development of certain sites in predominantly residential areas near commercial zones or on heavily traveled, congested motorways would not be economically feasible. [Bill No. 167, 1980.]
- B. Because of their proximity to residences, business zoning of these sites is not appropriate. [Bill No. 167, 1980.]
- C. Because public facilities serving these sites are not designed to serve intensive residential development, high-density residential zoning of these sites is not appropriate. [Bill No. 167, 1980.]
- D. A repealed provision of these Zoning Regulations allowed construction of office buildings by special exception in D.R. 16 zones; R-D zoning regulations are too stringent for many sites on which office buildings have been constructed or their construction authorized under that provision. [Bill No. 167, 1980.]
- E. With appropriate restrictions, office-building development somewhat more intensive than that permitted or allowable under the R-D zoning classification is likely to be the most suitable and economically feasible use of these sites and zoning of the sites to make such development allowable would be in the public interest. [Bill No. 167, 1980.]

204.2--Statement of Legislative Policy.

- A. The O-1 zoning classification is established primarily to accommodate development or limited enlargement of medium-size conventional office buildings on sites that should not be restricted by regulations of the R-D or moderate-density D.R. classifications, for reasons stated in the declaration of findings above. [Bill No. 167, 1980.]
- B. It is intended that buildings and uses in O-1 zones shall be highly compatible with the present or prospective uses of nearby residential property. [Bill No. 167, 1980.]

APPROVED JUL 0 1 1989

Section 432.--ELDERLY HOUSING FACILITIES IN D.R. ZONES. [Bill No. 36, 1988.]

- A. Elderly housing facilities are permitted in all D.R. Zones under the conditions set forth below. Such uses shall also comply with the requirements of the zones in which they are located and with all other applicable provisions of the zoning regulations, except as herein modified. [Bill No. 36, 1988.]
- B. Development of elderly housing facilities is especially encouraged on property containing existing institutional uses to promote such facilities on these properties, maximum residential density, maximum building height standards, and residential transition area restrictions may be altered, as set forth below. For the purposes of this section, institutional uses shall be convents, orphanages, schools, seminaries, officially designated historic buildings, hospital campuses, and churches on sites containing at least 10 acres. [Bill No. 36, 1988.]

432.1--In General. The following provisions shall apply to assisted living facilities, continuing care facilities, and housing for the elderly (collectively referred to as elderly housing facilities) in D.R. Zones, unless otherwise indicated. [Bill No. 36, 1988.]

- A. 1. Housing for the elderly and assisted living facilities of three or fewer shall be permitted by right. [Bill No. 36, 1988.]
2. Continuing care facilities shall be permitted by special exception. Assisted living facilities of four or more and assisted living facilities developed in conjunction with a nursing home shall be permitted by special exception. [Bill No. 36, 1988.]
3. Elderly housing facilities are not permitted in any Baltimore County Historic District. [Bill No. 36, 1988.]
4. An applicant for a special exception to develop an elderly housing facility may combine in the same special exception petition a request for modification or waiver of the maximum residential density standard or building height standard as set forth in Section 432.2 or a request for modification or waiver of residential transition area restrictions, or all as set forth in Section 432.2, 432.3, and 432.4. [Bill No. 36, 1988.]

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
LEGISLATIVE SESSION 1988, LEGISLATIVE DAY NO. 6

BILL NO. 36-88

MS. BARBARA F. BACHUR, COUNCILWOMAN

BY THE COUNTY COUNCIL, MARCH 21, 1988

A BILL ENTITLED

AN ACT concerning

Elderly Housing Facilities

FOR the purpose of amending the Baltimore County Zoning Regulations in order to define certain types of facilities for the housing of the elderly; permitting these facilities in certain residential zones of the County, either by right or by special exception; providing for such facilities established in connection with a hospital; permitting certain of these facilities to be developed under certain conditions on a property which contains institutional or historic buildings; authorizing the modification or waiver of certain of the Zoning Regulations when applied to such facilities; providing for parking requirements; and generally relating to elderly housing facilities in Baltimore County.

BY repealing

Section 101 - Definitions, the definition of Housing for the Elderly and Life Care Facility or Continuing Care Facility, Baltimore County Zoning Regulations, as amended.

BY repealing and re-enacting, with amendments,

Section 101-Definitions, by adding the definitions of Assisted Living Facility, Continuing Care Facility, Housing for the Elderly, and Elderly Housing Facility, Baltimore County Zoning Regulations, as amended

BY adding

Section 432
Baltimore County Zoning Regulations, as amended

BY repealing, and re-enacting, with amendments

Sections 1A04.4, 1B01.1.A.1, 1B01.1.C., 1B01.2.C.1., 1B02.2.A.,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter stricken from existing law.
~~Strike-out~~ indicates matter stricken from bill.
Underlining indicates amendments to bill.

ZONING



HEARING CHECKLIST

REVISED FEBRUARY 1, 1991

This checklist is provided to you, for your information only, and is not to be considered legal advice.

First, and most importantly: You must understand that the hearing you have requested is a quasi-judicial hearing and you are responsible for meeting the burden of law required by the Baltimore County Zoning Regulations (B.C.Z.R.). A judicial hearing is an adversary process and, therefore, there may be opposition to your request. During a judicial hearing, the parties will be permitted to testify, present evidence and cross-examine witnesses. Either the Zoning Commissioner or the Deputy Zoning Commissioner will rule on the evidence and testimony to determine whether or not the petition will be granted.

Second: You must understand that you are permitted to have representation by an attorney of your choice. You are not required to have an attorney, but it is recommended that you consider obtaining legal representation. But, if you are incorporated, it is considered a requirement that you be represented by an attorney.

Third: It is strongly recommended that you read and understand the requirements of the Baltimore County Zoning Regulations.

Fourth: No employee of the Baltimore County Zoning Office may provide legal advice to anyone. The representatives and opinions of any employee are not to be construed as definitive in any case. Only the decision of the Zoning Commissioner rendered after the statutory required public hearing is considered dispositive in matters relating to the interpretation of the B.C.Z.R.

Even though there may not be opposition in a given case, your request may be denied.

For further information or to make an appointment, please contact:

Baltimore County Zoning Office
Development Control
111 West Chesapeake Avenue
Room 113
Towson, MD 21204
Telephone: 887-3391

Non-Residential Properties

Variances
Special Exceptions
Use Permits
Special Hearings

facilities with the retention of the chapel. He explained the Landmarks Preservation Commission had not been requested to determine or classify the Maiden Choice chapel and/or convent as one of its landmarks, noting that procedurally, the Commission has not as yet addressed any post World War II buildings for inclusion within the Historic District or been requested to make any of the Maiden Choice buildings a landmark.

Webster's Third New International Dictionary of the English Language, Unabridged, contains the following definitions for "historical" and "historic":

Historical--1. Of, relating to, or having the character of history esp. as distinguished from myth or legend. b: Based on or dealing with history (studies); true to history; accurate in respect to history (reproducing the manners of the period with) c: Used in the past and reproduced in historical presentations. d: Based on, resulting from, or acknowledged to be true because of past events or experiences. . .

Historic--a: Important, famous, or decisive in history; historic buildings, b: having considerable importance, significance, or consequences (an historical occasion).

Determination as a landmark is not the only criteria for suitability under Section 432 for determination. The Commission need only determine that the chapel is of historic or architectural significance. A building such as the chapel is historic if that building is important, of significance, or have some consequences as a result of its existence. The County planners felt it was important because they requested that the

ZONING COMMISSIONER'S POLICY MANUAL

SECTION 102.2

A. MIXED USES ON ONE PROPERTY

1. If several uses are proposed as separate structures on one property, each use must meet the zoning requirements as if it was a separate parcel.
2. Even if subdivision of the property is not proposed, the Zoning Commissioner may require that a line of division either a lease line or a zoning use division line between each use be shown on the plat.
 - a. Conditions: The following guidelines have been formulated so that this matter can be handled consistently:
 - i. Both existing and proposed uses, as divided, must be able to meet the B.C.Z.R. requirements with respect to area, density, parking, setbacks between buildings and to the division lines as if they were property lines.
 - ii. Residential density may be calculated on the overall property acreage if all uses are residential and is allowed in that zone.
 - b. Interpretation: This determination may be subject to a Special Hearing at the discretion of the Zoning Commissioner.

B. SETBACKS AND BUILDINGS ACROSS ZONE LINES

1. If the property is bisected by a zone or a use and setback limitation line, the required applicable setbacks (for a building legally located in one of these zones) would be measured to the property or street right of way line and not the zone line.

The only exceptions to this method of measuring setbacks would be:

- a. If there is a specific use limitation within a certain distance of a particular zone, then the distance would have to be maintained, or if possible, a variance may be applied for.
 - b. If there are 2 principal buildings proposed in different zones, on the same property, in close proximity, then the greatest distance between principal buildings will have to be maintained or a variance granted.
2. If a building is proposed across a zone or use and setback limitation line, regardless of what percentage of the building is on each side, the setbacks for each section of the building will be determined and applied separately, according to each separate zone or zone proximity requirement.

ZCPM

ELDERLY HOUSING

432.2 Provisions for Approving - This section applies **ONLY** to existing hospitals which must first meet the requirements of BCZR Section 432.B; i.e. that sites **must** contain at least 10 acres.

- B. Density bonus requests must take into account the provisions of BCZR Section 102.1; i.e. that yard space and/or area requirements for one use **CANNOT** be used for another use.

(see Pickersgill, Case #'s 89-444 & 89-538 wherein this policy was further interpreted and applied)

432.3 Provisions for Modifying or Waiving - This section applies to the institutional and/or historic buildings, except hospitals, which must first meet the requirements of BCZR Section 432.B; that sites **must** contain at least 10 acres.

Hospitals are **ONLY** eligible for the density and height bonuses in BCZR Section 432.2.

- A.1 Density bonus requests **must** take into account the provisions of BCZR Section 102.1, i.e. that yard space and/or area requirements for one use **CANNOT** be used for another use.

(see Pickersgill, Case #'s 89-444 & 89-538 wherein this policy was further interpreted and applied)

Petition for Special Hearing

A proposed Elderly Housing Facility, St. Dominic's Place, to be built in close proximity to the campus of the Maiden Choice Medical Center and Catonsville Medical Center, both comprehensive Outpatient Medical Facilities. Previously, the site was home to the Dominican Sisters and has an old cemetery for the Sisters which has been preserved on the site. Currently, with the development of Maiden Choice Medical Center, the Chapel and Convent buildings have been adaptively reused for medical offices on the site. In particular, the Chapel has both historic significance and architectural presence on the site. The development of St. Dominic's Place would adaptively reuse this building as a dining and/or community space. The exterior of the proposed community buildings will be compatible with the original architecture. The proposed site plan also incorporates the preserved cemetery as a focal point along the paths connecting the two residential buildings. Conclusively, to determine that a density increase is permitted under Section 432.3.A.2. for St. Dominic's Place.

Petition for Special Exception

A special exception to increase of density to DR 14.5 in order to allow for an elderly housing facility, St. Dominic's Place, that will be of an adequate number of units to support common space necessary for community activities and allow for the enhancement of site amenities. Proposed for Phase I are 100 housing units, with a second phase of an additional 90 units. This residential community will replace buildings previously approved for the site which include two office buildings (115,500sq.ft.) and a residential building (36,000sq.ft.).

In addition, a request for the residential transition area (RTA) restrictions in the DR 5.5 to be waived from 100 feet, just where the portion of the proposed greenhouse building (1500 sq.ft.) falls in the DR 5.5 zone. In addition to allow for a modification of building height standard to 60', in lieu of 50', in the O-1 zone and portion of the DR 5.5 zone where a corner of the proposed building is placed (not within a R.T.A.). The location of the building footprint and minimal height modifications for the proposed Elderly Housing Facility will minimize the impact of the building footprint on this sloping site, take advantage of southern orientation on the site and to develop a sense of 'community', with both phases of the development to remain in close proximity to the medical campus.

Conclusively, for a 'Class B' Elderly Housing Facility, an increase of density to DR 14.5 (density units per acre), a 60' height in lieu of 50' (O-1 zone and portion of DR 5.5 zone as mentioned above)), and to be waived from the R.T.A. requirements to the best extent possible in the case of 60' setback in lieu of 100' (this involves an area of 1500' sq.ft. within the R.T.A., of a proposed greenhouse building). The proposed changes will have no detrimental effect to the health, safety, and general welfare of the locality involved.

Petition for Variance

To permit a distance of 18' setback from the side elevation of an accessory building, Chapel, to Medical Office (Building C) in lieu of 30', to allow for the existing Chapel building to be adaptively reused as a dining facility for St. Dominic's Place. Also to permit a 60' height in lieu of 50' for the residential buildings so that the density of a 'community' may be established on the site. Finally, to permit 343 parking spaces in lieu of 351 spaces as the availability of developer sponsored van service and other ridesharing will be provided to prospective residents of the housing.

1ST DOCUMENT of Level 1 printed in FULL format.

*** THIS DATA IS FOR INFORMATION PURPOSES ONLY. CERTIFICATION CAN ONLY BE OBTAINED THROUGH THE OFFICE OF MARYLAND STATE DEPARTMENT OF ASSESSMENTS AND TAXATION. ***

MARYLAND DEPT. OF ASSESSMENTS & TAXATION, CORPORATE RECORD

NAME: ROSTIC MANAGEMENT AND DEVELOPMENT, INC.

TYPE: DOMESTIC CORPORATION, ORDINARY BUSINESS - STOCK

STATUS: FORFEITED

STATUS-DATE: 10/03/1991

DATE OF INCORPORATION/QUALIFICATION: 01/11/1989 08:29 AM

ADDRESS:

MAILING: 720 MAIDEN CHOICE LA
CATONSVILLE MD
21228

PRINCIPAL: 2938 ROSEMAR DR.
ELLICOTT CITY, MARYLAND 21043-0000

STATE OF INCORPORATION/REGISTRATION: MARYLAND

RESIDENT AGENT: ROSE M. MACHIRAN

RESIDENT OFFICE: 2938 ROSEMAR DR.
ELLICOTT CITY, MARYLAND 21043-0000

CAPITAL/STOCK: AUTHORIZED TO ISSUE STOCK

NUMBER: D2709954

HISTORY:

DATE: 10/03/1991

TRANSACTION: FORFEITED-PROCLAMATION OF THE DEPARTMENT

COMMENTS: FAILURE TO FILE A PERSONAL PROPERTY RETURN (FORM # 1)
DUE APRIL 15, 1990.

TAX HISTORY:

	CURRENT YEAR	PREVIOUS YEAR
DATE RCVD:	05/14/1992	01/10/1992
LAST ASSESSMENT:	INITIAL ASSESSMENT	INITIAL ASSESSMENT
LAST ASSESSMENT DATE:	06/03/1992	01/22/1992
PERS. PROPERTY:		
STATE BASE:	2,310	3,430
SUB-DIV BASE:	2,310	3,430
TOWN BASE:	0	0
ASSESSMENT		
ESTIMATED:	NO	NO
PENALTY AMOUNT:	0	0
LAST CERTIFICATION:	06/03/1992	01/22/1992

Wednesday, March 19, 1986

MAIDEN CHOICE

COUNTY REVIEW GROUP - THOSE PRESENT

Robert E. Covahey, Chairman - Dept. of Public Works
Susan Carrell, Co-Chairman - Office of Planning

Agency Representatives

Bob Bowling	- Developers Engineering Division
Gregory M. Jones	- Traffic Engineering
Larry Pilson	- Health Department
Capt. Jos. Kelly	- Fire Department

Developer and/or Representatives

David Thaler	- D. S. Thaler & Associates, Inc.
Bob Royer	- D. S. Thaler & Associates, Inc.
Steve McGarry	- McGarry Associates
David A. Carney	- Attorney - Owner
Norberto M. Machiran	- Physician/owner

Mr. Covahey opened the meeting at 10:05 a.m., introduced the staff, and explained the purpose of the meeting.

Mr. McGarry and Mr. Thaler presented the plan.

Ms. Carrell summarized the staff comments submitted from the Developers Engineering Division, Traffic Engineering, Health Department, Building Plans Review, Storm Water Management Review Section, Fire Department, Bureau of Sanitation, Office of Zoning, Office of Planning. These comments have been made a part of these minutes, and a copy was also given to the developer and developer's engineer.

The staff comments to be addressed are as follows:

Developers Engineering Division required highway improvements and water main extension in McTavish Avenue. If this project is developed in two phases and McTavish Avenue is total in the second phase, improvements would be deferred until the second phase proceeds. Building Plans Review questioned the 30-foot right-of-way. A note is to be added to the Plan that the 30-foot right-of-way will be abandoned. Zoning requested that a note be added that no commercial use is intended. Planning made extensive comments on this project, and it was determined that a Continued Meeting would be necessary. An interim meeting between the Developer's Engineer and the Planning Office was recommended.

Outstanding Issues are as follows:

1. Show clearly Phase I and Phase 2.
2. State that only Phase I is being approved.
3. Schematic for Phase II as it effects Phase I (submitted information not adequate).
4. Section 22-104 requirements.
5. Section 204.2 requirements.
6. Elevation drawings for all 4 sides.
7. Information on future building and parking.
8. Remove old cross-section from schematic landscape plan.
9. Amenity open space limitations.

The meeting was adjourned at 11:00 a.m.

R.E.C.

2

COUNTY REVIEW GROUP MEETING MINUTES

July 16, 1986

MAIDEN CHOICE ASSOCIATION

COUNTY REVIEW GROUP - Those Present

Robert Covahey, Chairman - Department of Public Works
Gary Kerns, Co-Chairman - Office of Current Planning

Agency Representatives

Stephen Weber - Traffic Engineering

Developer and/or Representatives

Stephen McGarry	- McGarry Architects
David A. Carney	- Maiden Choice Association
D. S. Thaler	- D. S. Thaler & Assoc.
C. Wayne Caples	- D. S. Thaler & Assoc.

Mr. Covahey opened the meeting at 3:35 p. m., introduced the staff, and explained the purpose of the meeting.

Mr. Thaler presented the Plan.

Mr. Kerns summarized the staff comments submitted from Health Dept., Fire Dept., Storm Water Management, Land Acquisition, Traffic Engineering, Office of Planning, Office of Zoning and Developers Engineering Division. These comments have been made a part of these minutes, and a copy was also given to the developer and the developer's engineer.

The staff comments to be addressed are as follows: Traffic Engineering recommends that the proposed 24 foot access on the northwest side of the proposed traffic circle be eliminated. This issue was discussed and the area will be adjusted to the satisfaction of the Department of Traffic Engineering. Planning commented on the Floor Area Ratio calculation and the impact which this could have on the Plan. The 12 car parking area on the west side of building D is not acceptable. There were also recommendations made regarding landscaping. Zoning comments #1 and #11 will be checked directly with the Zoning Office for clarification. Comments #3 and #4 have been complied with on other revised plan which will be given to the Zoning Office. A note is required on the Plan that areas counted as Amenity Open Space between 7 and 10 feet wide adjoining or within a parking area must be suitably planted. Decisions will be required by the Zoning Office regarding the parking, zoning line and the Floor Area Ratio calculations.

CONCLUSION: After discussion it was determined that the Plan would be approved. When the Zoning Office makes a decision on the outstanding issues, if a variance is required the Developers will apply. If the variance is not granted, a special zoning hearing and a new County Review Group Meeting will be required. The meeting was adjourned at 4:05 p. m.

R. E. C.

SUBJECT: COUNTY REVIEW GROUP COMMENTS
FROM: OFFICE OF PLANNING AND ZONING

DATE: 16 July 1986PROJECT NAME: Maiden Choice

PLAN

COUNCIL & ELECTION DISTRICT C-1 I-294

PLAN EXTENSION

REVISED PLAN

xxxxxxx

PLAT

2) continued

A final landscape plan will be required prior to issuance of building permits. The proposed buffer on the southeast property line may require additional planting. This should be coordinated with the Baltimore County landscape architect.

An arborist should be present for staking out areas to be cleared and should also be available to assist in establishing the protective measures needed to ensure the health of specimen trees on the site identified for retention. In view of the large number of trees which are to be retained on the site, the developer should consider the use of "automatic" irrigation.

BALTIMORE COUNTY, MARYLAND

SUBJECT: COUNTY REVIEW GROUP COMMENTS
FROM: OFFICE OF PLANNING AND ZONING

DATE: March 19, 1986

PROJECT NAME: <u>MAIDEN CHOICE ASSOCIATES</u>	PLAN	<u>XXXXXXXXXXXXXXXXXXXX</u>
COUNCIL & ELECTION DISTRICT <u>I-294</u>	PLAN EXTENSION	<u> </u>
	REVISED PLAN	<u> </u>
	PLAT	<u> </u>

The Office of Planning and Zoning has reviewed the subject plan dated March 13, 1986 and has the following comments:

The site plan should be divided and clearly labeled as to the boundaries of Phase I and Phase II. Site data, development information, etc. should be shown separately for each phase as appropriate. The plan should clearly state that only Phase I is the subject of a CRG submission at this time.

Phase II is to be shown as a schematic plan and is to provide information to the County and the local area residents as to the implication of the future development of the remaining portion of the site. Site limitations such as steep slopes, flood plains, drainage courses, existing woodlands, residential transition areas, problems of site access and circulation, all may affect the design and functioning of Phase I and must be adequately resolved at least in a schematic manner at this time. This issue is of special importance where development is to take place under O-1 zoning regulations and there is a need for proof of compatibility between office development and adjacent existing and proposed residential uses.

The information submitted as a "schematic" plan for Phase II is inadequate. Not only is it impossible to establish a degree of compatibility" between the two phases of development, the proposed vehicular access to Phase II through the parking areas of Phase I requires further study. This may result in changes being needed to the site layout of Phase I and/or Phase II.

Section 22-104 of the Development Regulations requires the following:

DEVELOPMENT OF PROPERTY IN AN O-1 or O-2 ZONE SHALL BE DESIGNED TO ACHIEVE THE FOLLOWING OBJECTIVES:

THE DEVELOPMENT WILL NOT PRODUCE SIGNIFICANT ADVERSE ENVIRONMENTAL EFFECTS.

The following are among the matters that must be considered in making this finding:

- (i) Preservation or appropriate replacement of trees or other significant vegetation;
- (ii) Effects on significant geological formations;
- (iii) Changes in grade;
- (iv) Potential erosion, siltation and runoff.

THE DEVELOPMENT WILL HAVE NO SIGNIFICANT ADVERSE IMPACT UPON, AND, TO THE EXTENT FEASIBLE, WILL GENERALLY ENHANCE AREAS NEARY. In making this finding, the following are among the matters that must be considered:

- (i) Landscaping, including the landscaping of parking areas;
- (ii) The way in which parking areas may be dispersed on the site, so that each of them will be relatively small;

- (iii) Design and placement of signs;
- (iv) Outdoor lighting;
- (v) Prospective number of employees;
- (vi) Hours of operation;
- (vii) Present uses near the site; and
- (viii) Prospective residential development nearby.

The site will be used with careful regard for conservation of energy and for the safety and convenience of those who will work or do business there, those nearby, and the public in general. In making this finding, the following are among the matters that must be considered:

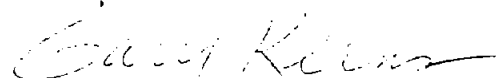
- (i) Number, design, location of automobile and service entrances to and exits from the site;
- (ii) Layout of parking areas;
- (iii) Design and location of pedestrian ways and crossings;
- (iv) Encouragement of transit usage, if the site will be served by public transit;
- (v) Building mass and orientation, access to light and air, and microclimate; and
- (vi) Aspects of energy efficiency not included in the matters listed above.

The use or development will be in accordance with the purposes of THE CLASSIFICATION OF THE ZONE WITHIN WHICH IT WILL BE SITUATED, particularly in light of that classification's declaration of findings and statement of legislative policy, (see below) and will be in accordance with the purposes of THE ZONING REGULATIONS IN GENERAL, including the purposes set forth or referred to in Title 2 of the Baltimore County Code, 1978, as amended.

Section 204.2 of the Zoning Regulations requires that buildings and uses in O-1 zones shall be highly compatible with the present or prospective uses of nearby residential property.

In light of the above, the information that has been submitted is not adequate to make a determination of compatibility or compliance with Section 22-104. Elevation drawings showing all four sides of the proposed buildings must be submitted. The schematic elevations which were submitted on March 17, 1986 do not adequately demonstrate the relationship between the development and adjacent residential uses, nor does it adequately show the character of the buildings. Further, a schematic of the building, parking etc. for the "future building" has not been submitted and is not included in the cross section. The building mass and orientation of the future building is important to address at this time as well as parking and circulation. In addition, the future residential area is important because of its relationship to the office development in terms of design and access.

The schematic landscape plan shows a cross section which differs from the one submitted on March 17, 1986. It should be removed from that plan. The site contains a number of significant trees which should be more clearly identified. Every effort must be given to retain as many as possible in the design. The existing trees shown in the island at the entrance should be identified. It is not clear that these trees are to be retained as part of the entrance design or if adequate space and protection has been provided in this design. Significant trees exist at the rear of building Nos. 2 and 3. They should be identified on the plan and retained if possible. The required screening for the parking spaces along Maiden Choice Lane is not shown on the plan.


Gary Kerns

chapel be retained. A benefactor and civic leader, Ralph DiChiaro, felt it was important because he rebuilt the old chapel in the style and design of the past.

The architectural significance has been detailed by Mr. McGrain in his testimony and the reference to the architectural features of the Georgian Revival style. He noted that the buildings present a pleasing appearance and are well integrated within the new office buildings. He noted that the clear open space of the nave could be used as a meeting place. This is similar to the purposes outlined by the Petitioner through its witnesses.

The prior uses within the chapel showed a wooden grille that was characteristic of cloister orders who maintained almost complete withdrawal from the world. Details of the uses and history of the nuns at this location, utilized the chapel were reported in the literature furnished through the Dominican Sisters of the Perpetual Rosary. The history of the Baltimore Foundation of the Order dated August 22, 1958; the February 5, 1961 Sun pages attached which provided a then 50 year history on the local order; the list of nuns internal at the cemetery, and the letter dated November 10, 1992 from the Superior of the Order in Milwaukee, in which she complemented the purposed use of the facilities, all of which were supplied to Mr. McGrain and commented upon by Dr. Machiran. All of this material and testimony speaks to the historic important of the existing retained facilities and their conformance to the standard set forth in Section 432.3.B.

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June 2, 1997

Mr. Lawrence E. Schmidt,
Zoning Commissioner for Baltimore County
400 Washington Avenue
Towson, MD 21204

RE: Opinion Letter/ Case No: 93-65-SPHXA/ 3310 Black Rock Road (the "Property")

Dear Mr. Schmidt:

I represent Mr. Ed Royston who is the new owner of 3310 Black Rock Road. I have spoken to you on two occasions on the telephone with regard to this Property and I would first like to thank you for the help and direction which you have given to me. I write this letter seeking an opinion as to your Order in the above referenced case. I am enclosing a copy of the Order for your convenience.

In the Order, a mobile home was designated as the primary residence on the Property. Additionally, it was ordered that there shall be no new construction on the site, which was apparently forbidden because of the large amount of debris and various structures which had accumulated under the prior owner.

The current situation under Mr. Royston is as follows: The mobile home which is designated as the primary residence by your Order is fast deteriorating. Mr. Royston would like to remove the mobile home and to build a new home which would replace the mobile home as the primary residence. This would not violate the R.C.2 zoning as there would remain only one principal dwelling, according to Mr. Bruce Doak, the surveyor who appeared on behalf of the prior owner and who is very familiar with this Property. He did however recommend that I request an opinion letter as to how to proceed and to find out specifically, if a new Special Hearing would be required in order for Mr. Royston to remove the mobile home and build a new home as his primary residence. Enclosed, please find a check in the amount of \$40.00. Thank you in advance for your time.

Sincerely,

Jason H. Brand

JUN 9

*Spoke to
Carl Richards
we agreed to
that Special
Hearing was
necessary,
I called
Brand,
we'll
file
then
Carl
7/14/97*

Pertinent provisions of Mr. McGrain's report on the last two pages, are as follows:

The concept of cloistered religious orders living a life of strict withdrawal from the ordinary life of the world, dates from the time of Saint Dominic in the 13th century and was the Catholic response to the break-away group called the Albigensians who practiced a more rigorous regimen than some of the older and well established monasteries and convents, some of which had become lax in their observances.

Externally, the chapel is the best building and has a wooden Georgian Revival cornice along the sides. There is a bare three brick bay window on the south side with windows of colored, frosted glass. The main chapel windows are round-topped, similar to colonial churches, such as St. Thomas in Garrison Forest or the church at Joppa. The window frames and cornice were originally painted white as shown in photographs as recently as 1985. (Catholic Review, July 245, 1985).

On the grounds, some tall blue spruce trees from the previous ownership survive in a walled enclosure...

The closing of the convent due to the decline in its membership (which once stood at 27), was a somewhat historic event, that created a certain amount of newspaper controversy, including one headline, "Nuns Distrusted Diocese, Land-Sale Agent Says," (Sun, April 21, 1981). The sisters had been reluctant to close the institution and it had taken a special emissary of the Pope, a Father Jude Mead,

C.P., to determine that the interests of all parties were being respected. Closure took place on November 22, 1980.

(Evening Sun, November 22, 1980).

All of the foregoing, show that the chapel and the structure, as combined with the history of the use at this site, and the commitment to the preservation of some of its important features and functions, demonstrates and confirms that the chapel, and the structures on the site when combined with its historic background, has historic significance and/or architectural significance.

The original CRG contained an engineer's note that reads as follows:

16. There are no wetlands, critical areas, archaeological sites, endangered species, habitats, historic buildings or hazardous materials sites on this proposed development.

The Protestants argue that this note is a bar to the Petitioner seeking and obtaining a determination that the chapel and related structures do not have historic or architectural significance. Such a contention is without merit. In 1986, when the engineers processed the CRG plan, the procedure then in existence would have required the engineer and/or owner to address the then existing laws relative to the matters noted. Parcel B was only under partial development and Parcel A was proposed for full development. If any of the then existing buildings were on the National Historic Register or had been under the jurisdiction of the State Historical Trust through the Corps of Engineers

jurisdiction, or, had the Landmarks Preservation Commission assumed jurisdiction because of a determination that the property had been indentified on the preliminary or final historical landmarks lists, then the engineers would have been required to inform the County of such condition. However, none of those conditions existed and, therefore, the engineers placed the notation as it was listed on the CRG note.

With the adoption of the Section 432 legislation, the determination of an historic building would be different because of that leiglstation and the note, if made after the effective date of that specified legislation, would have been different.

3. THE PETITIONER HAS ESTABLISHED THAT THE CRITERIA FOR THE GRANTING OF THE SPECIAL EXCEPTION PURSUANT TO THE SECTION 432(E.) A.-C. AND SECTION 501 HAVE BEEN SATISFIED.

This proceeding involves the requested use of the most benign and favored uses within any type of land use regulations, namely, residential housing for the elderly. History has shown that the elderly citizens of our community represent the least intrusive type of individuals to surrounding or adjacent property owners and residents. Because of age and other infirmities that senior citizens experience, their activities, movements and mobility are less intensive than other classes of people and involve limited movements and activities on property. Most elderly residents are retired and have a tendency not to be involved in nighttime activities other than in their own residences. Because of the topography and other existing site conditions and the layout of

the proposed development plan, the likelihood of their intrusion into adjacent nonelderly communities and facilities is remote.

The Petitioner, by providing a community van, the trips of the users will be more organized and reduced within the Maiden Choice site. Mr. Liem's un rebutted evidence that the Average Daily Trips (ADT's) would be less than one-third of those generated by the existence of the office use from the approved CRG plan, i.e., 513 elderly ADTs as opposed to 1596 ADTs for the office use, with peak hour (a.m. and p.m.) usage by the elderly being 5% and 7% for a.m. and p.m. respectively of the total anticipated office use ADTs for the site, demonstrates that the elderly would be favored to the approved existing uses.

The program of the Petitioner, which consists of providing for sale housing in a condominium scheme, within the affordable range, will permit those residents of the community who can no longer manage and maintain larger homes that they have outgrown, to purchase replacement residences in a size and scale that would provide a more stable and more secure lifestyle.

From a zoning standpoint, the use of the property for multi-family elderly housing, is a natural transition from the contiguous townhouse use and the existing office buildings.

The opposition and resistance to the petitions have been based on ill-informed assumptions on the part of several practicing physicians located within the existing Maiden Choice complex. The unsupported arguments raised by the physician protestants consist of their opinion that the mixed use of the property for residential elderly housing and medical offices are

not compatible and that the construction of buildings of similar size and scale with residential as opposed to office use therein, in some fashion affects the property values of their units and/or space. Some complained that they did not have adequate detail of the proposed use, but Dr. Carey and others recognized that they were generally aware for some time that Dr. Machiran proposed elderly housing for a portion of the site. Others complained that they bought their units with the belief that the future plans would involve additional office buildings, a use which they strongly support. Mr. Patton, again, without any facts to support his opinion, opined that the use of the property for the elderly, as requested by the Petitioner, had the potential of gravely overcrowding the site, and would have a resulting effect of having a greater impact than continued office use and expenses for the property. He was never able to provide a logical basis for that opinion. How can one support a use that involves at least three times the total trips on the property and twenty times the amount of peak hour traffic and then argue that such use for the elderly is incompatible with a continuation of the office development?

The only non-physician protests came from two individuals, Ms. Christina Sasser, the occupant of the single family detached home located to the Northwest side of the property at 620 Maiden Choice Lane, complained that she did not want to see the loss of any of the existing woods on Parcel B. She had concern over the prospective loss of wildlife from the development, and the potential effect of service vehicles coming to the elderly facilities. She further noted that the existing elderly facilities

such as Park Caton and Charlestown could serve the needs within the community. The only item that deals with the criteria for the special exception, would relate to the service vehicles. These facilities do not have uses which would generate any meaningful service vehicles coming to the residential units. The service vehicles for residential would be less than that which is required in a commercial facility.

The Petitions are simply offering an alternative to Park Caton which claims to have a very long waiting list, and also have strict income requirements, and also an alternative to Charlestown which, in addition to claiming a waiting list, may also be frequently priced beyond the level of affordability for residents in the surrounding communities.

Ms. Eleanor VanDevender, the treasurer and zoning chairperson of the Maiden Choice Community Association, which serves an area located to the South of Wilkens Avenue, a half a mile distant from the property and generally covering a geographic area further distant between the Beltway, Route 1 and Southwestern Boulevard, testified in opposition to the Petition. The Board of that community association deferred recommendation or action on the proposed use until after Ms. VanDevender had an opportunity to attend the first day of the hearings. Complaining about a lack of timely notice and coordination with the Community Association, she indicated that she had a concern over crime within the area, and the traffic and pedestrian hazards created by the use of the elderly residents from the project along Maiden Choice Lane and Wilkens Avenue. She further noted that the elderly who would

of the Landmark's Preservation Commission for Baltimore County, Maryland, James Patton, an engineer and planning consultant, and Katherine Mues, a biologist from the U. S. Army Corps of Engineers.

II. Statement of Facts

The property that is the subject of the various petitions contains a total of 13.1 acres on five parcels, all as shown on the final subdivision plats for the property. (Exhibits to the Petitions) To the east of the project, the Charlestown Retirement Community sits across Maiden Choice Lane. To its southeast and southwest sides, it is abutted by the Broadfield Community which has 5 rows of 49 townhouses ringing those two sides. (See CRG Plan) To the north, except for 4 residences located on Maiden Choice Lane and McTavish Avenue on the northwest corner, it is substantially undeveloped. To the west and separated by the hill and existing woods is situated a development of several single, detached residences in the Catonsville Knolls subdivision. Tree buffers along the Broadfield community, Catonsville Knolls and McTavish Avenue provide existing and proposed screening from the adjacent residential communities. There are no road or pedestrian access points to the property other than on Maiden Choice Lane. The topography of the parcel creates natural transitions between the various residential communities and Charlestown.

In 1986 and 1987, the Petition processed through the Baltimore County CRG Group, a development plan that resulted in

occupy the property would represent traffic hazards because of the higher percentage accidents by the elderly as opposed to other driving classifications.

Although the Rules of Evidence and Participation are liberal in administrative and zoning hearings, the law of Maryland is more strict in determining whether parties have standing or are an aggrieved party in a proceeding. Neither Ms. VanDevender nor the members of the Maiden Choice Community Association reside within sufficient proximity to the property to have legal standing in this matter, especially if they are not impacted by the use of the property which they can neither see nor hear. The boundary of the community's jurisdiction is one-half mile from the Petitioner's property and can neither be seen nor heard by the anticipated use of the Petitioner's property.

In the case of White v. Major Realty, Inc., 251 Md. 63, 246 A.2d 249 (1968), the Court determined that protestants were not aggrieved when the subject property was one-half mile away and no evidence was presented that the property of the protestants would be depreciated in value by the proposed rezoning or that the protestants could even see the property. See, also, Dubay v. Crane, 213 A.2d 487 (1965).

Katherine Mues was a strange witness. The apparent purpose of this witness was to discredit in some fashion, the Petitioner's use of the property. According to Ms. Mues, the Corps of Engineers received an unidentified complaint that there may have been some violation of federal wetlands law and she then visited the site and, after a brief inspection, concluded that there had

been some recent grading in an area described on Lot 1 on which Building D was developed, and in a wooded portion of Parcel B. After providing a written citation to the property owner in care of Maiden Choice Association, no further action has been taken by the Corp of Engineers.

The area in which Ms. Muies has complained, is owned by the physician group in Building D and the improvements and site work was done by another entity with no affiliation with Maiden Choice Associates. The area in which there was a complaint concerning the wooded portion, that area was not disturbed as part of the construction of the storm water management pond on Parcel b; that facility being the only work undertaken on Parcel B by Maiden Choice Associates, since its ownership of the property. The comments of Ms. Muies have relevance to the issues in this proceeding. At such time as the Petitioner would develop Parcel B, it will be required to comply with all laws and requirements of County, State and Federal government, including the wetlands jurisdiction of the Corp of Engineers.

Other than the physicians, the only other primary neighbor to the project is the Broadfield Community, which is contiguous on almost two full sides of the property and which has been developed to a combined density of DR5.5 and DR10.5, with some of its most intense development of townhomes being contiguous and adjacent to the Petitioner's property. When you measure the amount of homes in the immediately and the adjacent public road to those properties next to Maiden Choice, it results in 49 homes with 4.5 acres, having an effective density of 9 dwelling units per acre.

The Broadfield Community, as represented by its Board of Directors, informed the Zoning Commissioner of its tentative support for the requested increased density for the elderly, subject to two conditions, namely, (1) providing additional tree buffering, and (2) a request for a traffic signal near the Petitioner's property, so as to facilitate pedestrian crossing of Maiden Choice Lane for the residents.

Through the testimony of Drs. Machiran and Long, Ms. Willeboordse and Mr. Liem, the Petitioner has presented ample evidence to demonstrate that the undeveloped portion of the two sites covered by this Petition, when developed and used, would not have an adverse impact on adjacent and vicinal properties.

The size and scale of the proposed buildings are similar to that which has been previously approved through the County review process, and represents a much less intensive use than the continued development of the property for office purposes.

The articulated complaints of the physician protestants speak to the desire of those property owners that the Petitioner continue to provide permanent open space for the undeveloped land. The argument that the further use of the undeveloped property for compatibly designed buildings housing the elderly would have adverse financial impact on the value of the existing medical offices owned by the physicians, is specious. No credible evidence was provided that would imply that the value of the existing office facilities would be impaired by such proposed use. From an image standpoint, how can one argue that an elderly building would affect how, and under what circumstances, patients

and staff coming to the office facilities would think any less of the physicians and the space which they occupy because there is an elderly building near their offices within the same campus?

Leprosy was effectively treated many years ago and the future of Maiden Choice are not contagious to the complaining physicians.

The criteria of Section 432.C, 1.-4., and of Section 502, subparagraphs a. - h., have been satisfied by reason of the evidence presented through the Petitioner's witnesses and evidence, when coupled with a background that would have a residential use, elderly housing, which will be less intensive both as to total number of users and the amount of vehicles that would use the property for such use. In addition, the size of the buildings on Parcel A would be smaller than those which are permitted under the CRG Plan and with the razing of Building A (the convent), there would be no over-crowding of the site.

4. THE GRANTING OF THE WAIVERS AND VARIANCES REQUESTED WOULD BE CONSISTENT WITH THE COUNTY'S CRITERIA AND WOULD NOT HAVE AN ADVERSE EFFECT ON ADJACENT USES.

The four requested items of additional relief, consist of:

- (a) a parking waiver for a Class B building in which the Petitioner's commits to provide van service; and
- (b) a waiver of the bulk regulations of the district for the height of the proposed elderly buildings; and
- (c) a residential transition waiver of the setback for the one building in which there would be sited within the residential transition area a portion of a one-story greenhouse; and
- (d) the granting of a variance of 12 feet for a side yard setback in an area between two existing buildings which had been constructed in accordance with then-existing setback requirements.

With respect to parking, the testimony of Ms. Willaboordse, as confirmed through the County Staff Review Process, identifies 239 parking spaces as necessary under present County regulations for the as-is use of the property, including Building A which would be razed. The elderly parking without relief would be _____. The regulations permit a decrease in parking requirements for elderly buildings when the facilities provide van service. The parking approved for the Park Caton project, was at 1 space per unit because that project involved government tax credits. Ms. Willaboordse examined the existing parking positions at that facility, and found out that there were surplus parking spaces under the existing conditions of one car per a unit.

The history at Park Caton should apply to Maiden Choice, and, as such, the proposal for the approved one space per 1.5 units, should be adequate and sufficient for the needs of the proposed elderly buildings.

The height of the residential buildings for the additional 10 feet was requested because of the architectural intent to create a residential-style roof line which necessitated the additional height. Because of the distance between those buildings and the residential homes to the Broadfield side of the property, the additional height will not have any adverse impact upon the adjacent property owners, and especially in light of the tree buffer that exists and would be enhanced in further development of the property.

The variance for the height of the buildings, applies primarily to the building with two wings located on Parcel A. It is only a small portion of a corner of the building on Parcel B that would be impacted by the Bulk Regulations relative to this building.

To the extent that the Commissioner would be unwilling or unable to make a determination under the criteria of Section 307.1, the buildings as shown on the Petition, could be reduced by one floor which would result in a net loss in units of 38.

The request for the portion of the greenhouse consisting of one story tucked in the remote corner of the developed property, when screened from adjacent properties by the existing tree-line that would remain, and by reason of the significant elevation change between the greenhouse and the residential properties below it, the facility would not be visible from adjacent properties. The steep slopes that surround the envelope on which this building would be sited, create the practical difficulties and a hardship that would satisfy the criteria for the variance.

As to the request for the variance of 12 feet between the existing chapel building and Building C, that condition exists as a result of the planning requirements as part of the CRG. The Petitioner was required to provide circular traffic patterns serving as a ring outside the proposed office buildings and did so as part of its planning process. The subdivision lines within the five lots that constitute Parcel A, were primarily for financing purposes. Unlike circumstances where there are separate parcels divided by public streets, the new buildings were sited close to

the existing religious buildings, so as to affect a condition of a campus. The change in use between office and elderly housing, would not adversely impact the other users of the property.

The criteria of Section 307.1, when coupled with the public policy for the encouraging of housing for the elderly under Section 432, has been satisfied with respect to these requested variances.

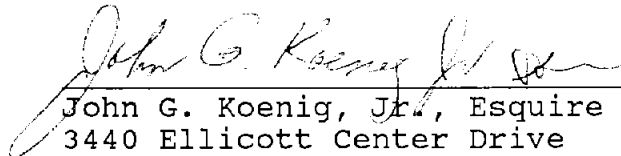
CONCLUSION

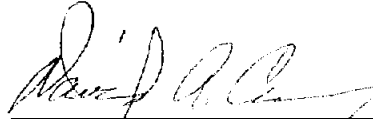
The Petitioner's plans involve a request for a use that is consistent with the existing CRG plan that was processed and approved by Baltimore County, Maryland, and which satisfied the compatibility test between the adjacent residential uses and the then proposed office use. With buildings, parking, driveways, landscaping, and buffering substantially similar to the CRG Plan, and with a proposed use that is far less intensive than an office use, housing for the elderly, at the requested level, satisfies the criteria for approval.

The request by the Petitioner for 190 units represents a recommendation made by the County staff as to that which would be appropriate. If it would serve the best interest of Baltimore County and the other interest of the neighborhood to limit the amount of elderly housing to a number of units that would bring

the total amount of proposed buildings consistent with that which was previously approved, the Petitioner would accept such revisory action.

RESPECTFULLY SUBMITTED,

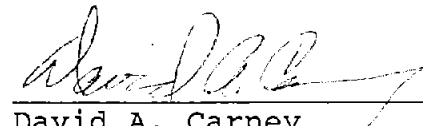

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 19th day of January, 1993, a copy of the foregoing Post-Hearing Memorandum was hand delivered to Douglas L. Burgess, Esquire, and Stephen J. Nolan, Esquire, at Court Towers, Suite 700, 210 W. Pennsylvania Avenue, Towson, Maryland 21204, attorneys for Protestants.


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dac\maiden\maiden.brf

PETITIONER:	*	BEFORE THE
MAIDEN CHOICE ASSOCIATES	*	BALTIMORE COUNTY
"ST. DOMINIC'S PLACE"	*	ZONING COMMISSIONER
720 MAIDEN CHOICE LANE	*	CASE NO.: 93-49-SPHXA
1st Election District	*	ITEM #54
1st Councilmanic District	*	

* * * * *

PROTESTANTS' POST-HEARING MEMORANDUM

CATONSVILLE CONDOMINIUM ASSOCIATION, INC., JAMES CAREY, M.D., CHAO-SON TENG, M.D., GLORIA DAMIEN, M.D., YUNYONG YUNYONGYING, M.D., A. SHAMS PIRZADEH, M.D., ZAHID BUTT, M.D., ALDO PAZ-GUEVARA, M.D., NADER G. GARY, M.D., and DAVID STROBEL, M.D., some of the Protestants herein, by their attorneys, STEPHEN J. NOLAN, DOUGLAS L. BURGESS and NOLAN, PLUMHOFF AND WILLIAMS, CHARTERED, file this memorandum in opposition to the zoning petitions filed by Maiden Choice Associates.

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the approval for both parcels. The plan only included 13% of the total buildings for residential purposes. The site now contains 53,000 square feet of office facilities within four buildings. The unbuilt office buildings would have five floors within a building envelope of 65,500 and 50,000 square feet, and would result in two buildings larger than that which is proposed on Parcel A as part of those petitions. The one proposed office building was sited between the existing Building D and the convent building, and if built in accordance with approved plans, would require the relocation of the preponderance of the parking for Building D in an area the Petitioner proposes to site parking pursuant to its facilities proposed under the petition. (See Declaration of Cross Use Easements, Covenants and Restrictions, dated May 18, 1988, and recorded among the Land Records of Baltimore County in Liber 7880, folio 796, Protestant's Exhibit 4). The other approved office building would be sited generally at the same location as one of the two buildings on Parcel A, but on a smaller envelope of space.

The proposed housing for the elderly facilities would be located in two buildings in the same general location as the three buildings that were sited on the approved CRG plan, except that the one elderly building located in the area near the existing convent would be further distant from Building D and would permit the retention of the existing parking area owned by the Petitioner, and used primarily by the owners and patients for Building D. The site of the proposed 100 unit building on Parcel

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WITNESS SUMMARIES

Counsel for the above-named Protestants/Property Owners sets forth as follows a summary of the witness testimony which was presented during the course of the four hearing days. However, specific comments concerning the deficiencies in the Petitioner's case will be reserved for the Argument segment of this Memorandum.

Day One - October 2, 1992:

NORBERTO MACHIRAN, M.D.

Dr. Norberto Machiran, also known as Dr. Tico Machiran, was the first witness for the Petitioner. He identified himself as the managing partner for the Rostic Corporation and also Maiden Choice Associates. He indicated that Rostic was a managing agent corporation and Maiden Choice Associates was a partnership whose purpose was to develop 720 Maiden Choice Lane. He indicated that he was familiar with the site since 1972, having grown up in the neighborhood.

In 1983, Maiden Choice Associates acquired the property. In 1985, Dr. Machiran moved his medical office into the old convent building and remodeled the same into offices. There are currently a group of eight (8) offices in the convent. He indicated that 99 percent of his patients come

from the Catonsville-Arbutus area and that his practice of population consisted of 245 patients out of 1,125 in the 56-65 year range. He indicated that housing was a concern for a number of these patients that are in this age range.

Dr. Machiran was asked a number of questions, one of which concerns the staffing of the office facility and proposed elderly housing. He indicated that at minimum, three (3) full-time staff members, under the direction of Rostic, would operate the facility as well as a number of part-time people. He deferred specifics on the operations until a later time but emphasized that he was trying to minimize the cost. Regarding questions on the greenhouse operation, he had no knowledge of this and indicated that the architect would testify regarding that operation. Furthermore, information regarding federal and state assistance to the elderly housing residents was not known by him at the time of his direct examination. Regarding security, Dr. Machiran indicated that someone else would address that issue.

JACK LONG, Ph.D.

Jack Long indicated that he was a psychotherapist and doctor of clinical social work. He has been the vice president of Rostic since 1985. He indicated that he has been working on an elderly housing facility plan. One of the reasons he is working on the plan is that 20 percent of his patients are

elderly. He indicated that his older patients had some common recurring concerns regarding housing. Those concerns are safety, accessibility, money, and the fear of dying in one's home and not being found. He indicated, in his opinion, that the Petitioner's proposed plan would address those concerns by balancing safety, convenience and independence with a Reach-Out Program. He also discussed the greenhouse project and the use of flower sales and produce sales off site in order to defer the cost of condominium fees. Regarding the condominium fees, he did not know how much they would be per month, but indicated that any profits made by various projects would be distributed to the association and its members in order to defer costs. Regarding safety, he indicated that there would be 24-hour security and medical alert. Regarding medical staff availability, he demurred on the issue of whether there would be any full-time employees of the elderly facility available to meet their medical needs. On the otherhand, he indicated that the staff of the medical office facility would be available to service the needs of the population. Dr. Long also indicated that there would be coffee shops, exercise and meeting rooms, and a nature trail, but he could not provide specifics on the exact location of these facilities. Dr. Long also mentioned development of a barter system and "time dollar system", but once again, he could not give specifics on their utilization.

Regarding the van service, he indicated that it would be used to cut down on the transportation needs of the residents, but he could give no details on whether this was an optional or mandatory amenity; he indicated that at first there would be no additional charge for the van service. The hours of operation and scope of the service were not indicated. Regarding grocery and laundry charges, Dr. Long admitted that there would probably be additional charges for these type of services.

In cross-examination, Dr. Long admitted that the Reach-Out Program he envisioned for the facility has never been actually utilized before and that it was a concept plan only. When asked if similar programs had been tested for actual progress and implementation, Dr. Long admitted that the program had not been tested, although he did mention that craft, exhibits and commercial flea markets would form part of the basis for the generation of the funds. Regarding the initiation of the plans to change the medical campus from an office to an elderly housing facility, he did not know exactly when the plans were changed, but he indicates that perhaps they were changed in July 1990. In response to a question regarding the three employees, he indicated that he was satisfied with that number of employees if the elderly population was generally fit, however, he never detailed the estimated number of elderly residents to be housed in this development. Regarding the coffee shop, he testified that he anticipated

that there would be a coffee shop that would be open to the community and the public as an income-producing business.

JANE WILLEBOORDSE

Ms. Jane Willeboordse testified that she was a registered architect with a B.A. in environmental design and architecture from North Carolina State. She indicated that she has had experience in the Baltimore area, both in restoration architecture as well as accessibility housing and disability work. She testified that she has been working with Rostic as a consultant for approximately one year. She stated that she visited the property on numerous occasions. When referring to her plan, she indicated that she made a change on the plan regarding traffic to redesign and refine the entrance in a manner different from what the 1986 CRG approval shows. Ms. Willeboordse also indicated that the Petitioner was going through the Refinement Committee of the old CRG process to try to amend the previously approved CRG (and second revised CRG) site plan [July 16, 1986, Amended April 12, 1988]. The Petitioner's architect was told by the Refinement Committee that Petitioner need not go through the new development process, but could continue through the old CRG process as a minor amendment.*

* The CRG Plan and Minutes only show development approval for Phase One. The proposed future elderly housing Phase Two, however, was never submitted or approved by the CRG. See Appendix, CRG Minutes.

When asked if the property was accurately described, she testified that it was and that the boundary lines were as shown on the plan.

Regarding the history of the site, Petitioner's design expert indicated that the chapel had been used by the Dominican Sisters as well as the convent, but that said buildings had already been adaptively reused for medical offices in previous years. She indicated that the chapel and convent were significant as the house and place of worship of the Dominican Sisters and that the chapel had some aesthetic appeal. She testified that the county had no record of the chapel or convent being historically designated but that the cemetery had been preserved by Dr. Machiran as part of the previous adaptive reuse. She also stated that the chapel and convent were connected and that their conversion into offices occurred in 1988. She described the build-out of other new modern medical offices known as Building C and Building D which were completed in 1988 and 1989. Ms. Willeboordse indicated that the originally proposed Buildings E and F shown on the CRG plan were not constructed but instead, they were now shown as residential buildings on the current proposed amended plan. She then described the proposed redevelopment and the phases of the project, stating that the first phase of the proposed residential facility would be located toward the north and west

of the site with a one hundred unit condominium building.* This building would be sited in a wooded area and would have common access with the rest of the medical campus facility. She indicated that Phase Two would be comprised of two buildings around a court-yard which would be placed over top of the convent, which is to be razed.

Petitioner's architect described the architectural details of both proposed five story buildings indicating that Petitioner was seeking a variance to permit a 60 foot building height in lieu of the maximum 50 feet, with brick exteriors and a pitched roofs. Additionally Ms. Willeboordse explained that the two-story greenhouse, which was a possible source of a small amount of income, necessitated an RTA waiver. Additionally, Petitioner was requesting an 18 foot variance in lieu of the 30 feet required between the existing medical office and "chapel" offices. She also indicated that in Phase Two, the "chapel" might be adaptively reused for a dining or restaurant facility but that was unclear.

Regarding the proposed parking, the witness testified that she had a flow-through traffic plan around the existing circle and she was eliminating the present dead-end situation by continuing the parking in a circular manner throughout the

* Although some plans referred to a residential condominium, there was some confusion and lack of clarity on the fourth hearing day because many of the Petitioner's exhibits referred to an "apartment" building and "leases".

B would contain 77,000 more space than that which is approved on the CRG, and the elderly building on Parcel A would contain 39,000 square feet less than what was approved on the CRG plan.

The architectural design for the proposed elderly facilities would involve buildings of similar scale and size of the buildings that were previously approved, and would have architectural design and masonry finishes similar to the existing facilities at the Maiden Choice complex.

The only traffic circulation and parking changes between the approved plan and existing conditions would involve straightening of the existing driveway as it passes in front of the entrance of Building D as was suggested by the transportation officials from Baltimore County, Maryland. An additional means of ingress and egress onto Maiden Choice Lane would be provided by a new private driveway located on the property of the Petitioner and located generally along and outside of the property line of the Building D property ("Lot 1").

The average daily trips between the approved plan usage for office use and the proposed elderly use shows a change in ADT's from 1596 per day for the office use to 513 per day for the elderly use.

By covenant the use of the proposed housing for the elderly facilities would consist of 114 one-bedroom units and 76 two-bedroom units and would be limited to individuals 60 years of age and older, who would be required to sell or transfer their units to purchasers or individuals who fall within the age limitation set forth in the Contracts and Deeds.

site. She also indicated that there would be daily van service and she proposed widening the radius circle of the main drive and increasing green space and median space. She also indicated that a more current revised plan would be instituted showing a second access on Maiden Choice Lane with a right turn in and right turn out only that would be an entrance for the medical patients of Building D, and it would keep excess patient traffic off the main circle.

Ms. Willeboordse also discussed the parking requirements, and she indicated that she had used a ratio of 1 parking space to 1.5 units and she characterized the parking variance Petitioner was seeking as being a "minor" one based on the proposed usage and provided spaces.

HUGO O. LIEM, JR.

Mr. Hugo Liem testified as Petitioner's traffic expert. He indicated that he had compared the trip generation emanating from two comparable build-out proposals. The one proposal was the original amended CRG, which he anticipated a medical office campus build-out and the new proposal which was the subject of this hearing, to wit, a largely residential complex. The figures he used for trip generation on the residential side indicated that less trips were generated as a result of the residential use. However, when questioned, he testified that his trip generation was based on Sunday residential trips versus office use during the business week.

He also indicated that Maiden Choice Lane would be sufficient to handle the traffic generated by the site. In general, he maintained that there were no adverse impacts caused by traffic generated by the site plan.

At this point of the first hearing day, Petitioner had completed its case in chief. It is important to note that the Protestants/Property Owners were not represented by counsel during the first hearing day. Undersigned counsel were not retained until shortly before the second hearing day.

DR. YUNYONG YUNYONGYING (DR. YING)

Dr. Ying was the next witness. He testified that he was an owner of a condominium unit in Building D and that he was opposed to the residential housing facility plan.

DR. CHAO-SON TENG (DR. TENG)

Dr. Teng was the next witness, and he testified that he also was an owner of a condominium unit in Building D. He was opposed to the predominately residential nature of the plan.

Day Two - October 14, 1992:

JANE WILLEBOORDSE

In the second hearing day, Petitioner reopened its case and Jane Willeboordse was recalled by the Petitioner to make some changes to the site plan and explain the same. The Protestants/Property Owners, now represented by counsel, objected to the amendment to the site plan. Petitioner's architect stated that not only was the proposed new entrance adjacent to Building D, but parking that had originally been shown as proposed and surrounding Building D, was now removed from that area and relocated to the north and west onto an adjoining tract owned by the Petitioner. Ms. Willeboordse testified that she did this in order to attempt to solve many of the problems raised at the first hearing regarding ownership of the land surrounding Building D, and to attempt to address objections by the Protestants/Property Owners to having the parking placed on their land without their consent. When cross-examined regarding a possible RTA problem that was not considered, she admitted for the first time as she looked at it, that there would be an RTA problem with the adjoining Sasser residence. Under questioning, she also denied that there were any problems with the description of the property or the ownership as she presented the Petition, description and special exception plan to the Zoning Department. In response

to questioning regarding discrepancies in the same, the witness stated that she only did what the Zoning Office suggested to her and she did not independently ascertain whether the filing requirements were met.

**DR. ZAHID BUTT, DR. A. SHAMS PIRZADEH (DR. SHAMS),
DR. GLORIA DAMIEN, AND DR. ALDO PAZ-GUEVARA**

Dr. Paz and Dr. Damien all testified that they were owners of condominium units within the medical complex and were vigorously opposed to the proposed elderly housing facility. Dr. Butt testified that as an owner, he was never consulted regarding the plan, nor did he sign a petition nor agree to the use of his property in the manner shown on the plan. Additionally, he was greatly concerned regarding the parking layout and indicated that the site was extremely overcrowded as a result of the elderly housing facility. Dr. Butt pointed out that only the housing facility would face the existing parking lot used by the doctors and their patients. This overnight facility would obviously use the spaces so that when the doctors and patients arrive in the morning, there would be no space for them and everyone would be inconvenienced from using their current convenient parking spaces and forced to use the overflow lot. He pointed out that the overflow lot is at a substantially different grade than the entrance to his building and would be farther for his patients to walk and very inconvenient.

Dr. Shams testified regarding the extreme adverse impact caused on his arthritic and handicapped patients by the overflow lot and the difficulties they would encounter coming to his office, if they ever had to park in the overflow lot. Dr. Shams indicated that this would negatively impact his practice and devalue his investment in his condominium office.

Dr. Paz testified that elderly patients would be impacted by the additional crime that would be potentially generated by a housing facility. He noted that elderly people are the victims of crime because of their perceived defenseless nature, and therefore, the site would become more of a magnet for crime than it already is. He said that the facility already had to take out a public phone booth on the site because it attracted vagrants and property damage. He questioned why the plan did not provide for security and fencing of the type provided by the facility across the street, the Charlestown Retirement Community.

Dr. Damien testified that she was an owner of a condominium in Building C, and she questioned the ability of Rostic Management to handle the elderly housing facility given their poor track record in the past for managing the existing building complex. She indicated with regard to maintenance on her existing building, it was very difficult to get even routine items fixed and therefore questioned whether Rostic

could handle an even more difficult situation of hundreds of elderly residence on the site. Therefore, she said she was very suspect regarding Rostic or Dr. Machiran's ability to properly manage the tremendous needs and cares of the proposed housing facility.

Additionally, all of the physician property owners testified that they had their own patients and caseload and were in no position to drop an existing patient in order to handle an emergency for the elderly housing facility. In other words, they were dismayed that, without consulting them, Dr. Machiran did not provide for the elderly housing facility to have its own medical care, but rather presumed that doctors in the existing facility, including the protestants, would simply render services.

ELEANOR SASSER

Ms. Eleanor Sasser testified that she owned a house on Maiden Choice Lane that immediately adjoins the property. She stated her opposition to the project, indicating that the area already had too many elderly housing facilities. She also testified that she worked for Charlestown, and had personally observed the frequent number of unsafe driving maneuvers attempted by elderly residents.

Additionally, she is opposed to the impact of the proposed new parking lot on her house, and indicated that she was not consulted prior to the hearing regarding the revisions

to the plan. She indicated that this overdevelopment and additional parking would adversely impact on open space, the quiet and solitude, much of which is lacking in the area due to the busy nature of Maiden Choice Lane.

COLIN BARNETT

Mr. Colin Barnett indicated that he lived in a residence that was downstream of the stormwater management pond. He testified that he anticipated problems with the proposed nature walk or trail around the pond area in that unsupervised trails often are magnets for crime and unsupervised activities. He would like to keep that activity away from his backyard.

He also indicated that there was a stream running through the area which was not shown on the plan, and he was concerned about the environmental impacts. He also stated that he would be greatly disturbed should the stormwater from the site impact on his backyard or home.

Day Three - December 3, 1992:

JOHN McGRAIN

Mr. John McGrain testified that he was a planner working for the Baltimore County Department of Planning and Zoning. He has been assigned as the planner with expertise in the area of Historic Preservation, and has been so engaged in that field since the 1970s with Baltimore County.

Regarding this particular site, he stated he was contacted by the Petitioner approximately one week before his testimony and that materials were sent to him regarding the site. He indicated that in general, structures of less than 50 years of age were not significant historically for historic preservation purposes. Mr. McGrain's testimony was continued to a later hearing day to allow him to visit the site and personally observe the premises and report back to the Commissioner.

JAMES S. PATTON, P.E.

Mr. James Patton was called to the stand as the next witness for the Protestants/Property Owners. He testified he was a professional engineer and a land planner and qualified as an expert in both fields, without objection.

In directing his attention to the site plan as amended, Mr. Patton indicated that he was familiar with the site and the proposal of the Petitioner. One of the issues that concerned him regarding the site was the Petition and its failure to include the Protestants as owners and willing participants in the special exception process. Mr. Patton reviewed the tract boundaries as described on the description accompanying the Petition and indicated it included land owned by the Protestants. Additionally, the site plan appeared to include land owned by the Petitioner. The copy of the 200

scale map required as part of the submittal process indicated the site as consisting of land owned by the Protestants. Accordingly, the Petition and supporting documents as reviewed appear to him to be in violation of Form E, which is part of the Commissioner's Zoning Policy Manual regarding requirements for submittal of Zoning Petitions on non-residential properties. The Policy Manual has been adopted by the County Council as law, thereby specifying the legal requirements for zoning petition relief.

Referring to the site plan, Mr. Patton noted that the description, as sealed by an architect, differed from the description shown on the site plan if you attempted to verify it by comparing it with the metes and bounds description. Additionally, Mr. Patton pointed out the policy manual requirement that a description and plat be sealed by an engineer or surveyor or landscape architect, and Mr. Patton noted that Ms. Willeboordse was an architect. Mr. Patton explained that the scope of expertise of an architect was limited to the building footprint and a radius of five feet beyond the footprint. Thus, the presentation of site plans and a sealed description was beyond her scope of expertise and her license as an architect under Maryland law.

Additionally, Mr. Patton went through the notes in the plan and indicated there were a number of deficiencies therein. Regarding the breakdown of dwelling units versus

density units, the plan was insufficient by failing to specifically detail such information. Mr. Patton explained that all other Section 432 petitions and hearings have information of this sort set forth on the plan, and this information is essential for the proper analysis of the impact of the proposed development on the site. Without this information on the plan, it is difficult for county reviewing agencies to analyze and assess the plan, and it is difficult for community members and protestants to view the plan in the file and determine the scope of the project.

Mr. Patton also noted that the right-of-way information was sketchy and did not explain the cross easement that evidently is an area of concern regarding mutual use of the property.

Regarding Petitioner's information on proposed parking, Mr. Patton testified that the zoning checklist had not been followed nor the regulations. Page ten of Form E provides that information regarding parking should be shown on the plan, including striping, screening, compliance with the landscape manual, layout and aisle widths, entrances, and elimination of dead end bays and backing into drive aisles. Mr. Patton explained that unlike other site plans submitted in Baltimore County, there was no indication as to the number of spaces and where they were allocated nor which were handicapped spaces and other information regarding parking.

III. Statutes and Codes

The relevant provisions of Section 432 state as follows:

SECTION 432. ELDERLY HOUSING FACILITIES IN D.R. ZONES [Bill No. 36, 1988.]

432.1 In General. The following provisions shall apply to assisted living facilities, continuing care facilities, and housing for the elderly (collectively referred to as elderly housing facilities) in D.R. Zones, unless otherwise indicated. [Bill No. 36, 1988.]

A.4. An applicant for a special exception to develop an elderly housing facility may combine in the same special exception petition a request for modification or waiver of the maximum residential density standard or building height standard as set forth in Section 432.2 or a request for modification or waiver of residential transition area restrictions. (emphasis supplied)

432.3 Provisions for modifying or waiving maximum residential density standards for elderly housing facilities on property containing institutional or historic buildings. [Bill No. 36, 1988.]

If a person seeks to develop an elderly facility on a property that contains one or more existing institutional or historic buildings, the Zoning Commissioner may, by special exception, modify or waive the maximum residential density standard specified for the zone in which the development is located, but only in accordance with the conditions set forth below. (emphasis supplied)

A. Before granting a density increase hereunder, the Zoning Commissioner shall determine that the proposed development falls into one of the following categories: [Bill No. 36, 1988.]

2. The development involves property where no existing institutional use will be continued. If the development falls into this category, adaptive reuse of existing institutional or historic

Mr. Patton also stated that the one parking space to 1.5 units ratio used on the Petitioner's plan note was an error and inconsistent with the regulations. First of all, the term unit did not distinguish between a density and dwelling unit. Secondly, the ratio in the parking regulations for Class B elderly housing as indicated with a note on the plan, should be the ratio of one parking space per one dwelling unit. Mr. Patton indicated that the proper way to show parking would be to show the full parking required and then the requested variance from that required amount. What the Petition did is show the amount of parking at a lower ratio, presuming a van sharing arbitrary ratio of 1 to 1, rather than showing the full ratio and then asking a variance from that because of any van-sharing analysis.

Accordingly, Mr. Patton testified the analysis on the plan was an error, and the Department of Traffic Engineering was not able to realize that approximately 100 parking spaces were not provided on the plan as would be required under the regulations without a variance or modification.

Mr. Patton then went through the Section 432 analysis and began by indicating that the plan was unclear regarding the type of residents that were being sought and also the type of dwelling unit that was being proposed. He explained that the definitions of elderly housing facility included an assisted living facility, continuing care facility or Class A or Class B

housing for the elderly. The type of resident is important depending on the definition of the type of facility, because continuing care facilities limit residents to persons who are sixty (60) years or older only. Housing for the elderly, under the definitions, allows housing for the elderly to mean persons greater than sixty-two (62) years of age or persons, regardless of age, with physical and developmental disability.

Accordingly, if the Petitioner is speaking of persons with physical or developmental disabilities that will be housed at the site, regardless of age, the impacts are significantly different than persons who are greater than sixty-two (62) years old. Nowhere is this set forth on the plan.

Additionally, Mr. Patton stated that since the Petitioner did not limit its definition of the mix of density units between beds at .25 density units per bed or .50 density units per units for efficiencies or .75 density units per 1 bedroom or 1 density unit per unit for 2 bedrooms, it is unclear under the 190 units asked for by the Petition and plan how many actual dwelling units and/or density units are being proposed. Conceivably, under the efficiency scheme, the Petitioner could be asking for 380 efficiencies on the site. The impact of 380 people on a site of this size would be tremendous, but that information is needed in order to analyze traffic, impacts, safety, security, parking, and the impact on nearby residents and the medical practices currently occurring at the facility.

Mr. Patton then proceeded to explain that the RAE Zone under Baltimore County Code, Section 200.2(A)(4)(b) allows elderly housing facilities as a matter of right. Mr. Patton pointed out that the 0-1 Zone allows elderly housing facilities only as special exceptions under Section 204.3(B)(1) of the Regulations. Mr. Patton went on to indicate that it is allowed as a special exception by reference to uses allowed by special exception in a D.R.5.5 Zone. Mr. Patton pointed out that a close reading of the D.R.5.5. Regulations indicate that housing for the elderly is only allowed if the use involves a modification or waiver under Subsection 432.2, 432.3 or 432.4. Mr. Patton then indicated that Section 432.2, regarding a hospital facility, was not applicable. He also indicated that Section 432.3, regarding historic structures, was not applicable because the convent and "chapel" were less than 50 years of old. Additionally, he indicated that Section 432.4 was inapplicable because RTA waivers were not necessary to the project under the standards of practical difficulty and unreasonable hardship under the 432.4 regulations. He indicated that the greenhouse could be built without practical difficulty if it was slightly modified in its footprint. Additionally, he indicated that the historical use was not available anymore because the chapel and convent had been adaptively reused already.

Accordingly, looking at the Regulations, and construing them strictly without a Commissioner's finding of historic use or RTA necessity under Section 432, Protestants' expert land planner concluded that housing for the elderly is unavailable at this site and no housing for the elderly, regardless of the density units, can be constructed on this site in compliance with the Regulations.

When asked about the Section 502.1 analysis, Mr. Patton testified that the Petitioner had not provided sufficient information on its plan to fully undertake a 502.1 analysis. This is because of the deficiencies he indicated already regarding the site and the filing of the Petition. Especially critical is the density versus dwelling unit breakdown, and Mr. Patton indicated that without that dwelling unit mix, it was difficult to perform an analysis, and therefore, he was forced to conclude that the Petitioner did not meet its burden under Section 502.1.

Before Mr. Patton's examination concluded, the Commissioner recessed the hearing for continuation and completion on December 29, 1992.

Day Four - December 29, 1992:

At the outset of the fourth hearing day, Mr. Nolan entered his appearance as co-counsel on behalf of the Protestant Physicians.

JOHN McGRAIN

Mr. John McGrain was recalled to the stand by the Protestants and questioned regarding the alleged historic nature of the site. He indicated that he had an opportunity to view the site both inside and outside and also take slides of the site. With a series of slides he showed what he observed to the Commissioner and those in the hearing room.

Evidentially, the chapel building dated from 1957 and is pseudo Georgian and rather plain in construction and appearance. The construction materials are brick; they mimic, although rather plainly, a colonial style. The interior of the chapel has been renovated into medical offices, and the vaulted ceiling has been covered over with a false drop ceiling.

The convent building was built in 1968 and consists of very plain and ordinary architecture both inside and out, consistent with the austere nature of the order. Mr. McGrain stated that he was not interested, from his historical preservation standpoint, in the historic nature of the building, and did not believe that they constituted historic buildings under that standard. Although he admitted that ultimately the Commissioner had to make the determination regarding historic value, from his perspective, the buildings and structures on the site had no historic value in his opinion.

Of special importance was Mr. McGrain's reading into the record of the Petitioner's own plan notes (Note No. 16)

admitting that there were in fact no historical buildings on the site.

Additionally, Mr. McGrain submitted a report which detailed his findings and the methods in review he used to determine the findings he reported.

MS. SANDY MUES

Ms. Sandy Mues was called to the stand next by the Protestants. She indicated that she was on the staff of the Army Corps of engineers, and she was aware of the site. She indicated that there is an outstanding violation on the site concerning wetlands, and she had notified Dr. Machiran by letter, as well as a phone call to his staff with a message, indicated that the violation existed. She further indicated that she had received no response to the violation from Dr. Machiran. She also testified that she believed that there were "waters of the United States", to wit, a free running stream on the site, and she denied that it was an ephemeral stream or drainage ditch. The nature of the federal violation had to do with filling in a wetland area. The general area of the violation was shown by Ms. Mues to be the area where parking is proposed to be placed by the Petitioner.

JAMES S. PATTON, P.E.

Mr. James Patton resumed the stand and was subjected to further questioning. He indicated that the review of the County records indicated that the CRG plan which was approved

for this site indicated a note that there were no historic structures on the site. He further indicated that the CRG represented the owner's, Maiden Choice Associates, previous representations to the County regarding the site and historic structures.

Additionally, Mr. Patton testified regarding the title of the site and Cross Easement Covenants in the Land Records between the Protestants and Petitioners. In particular, he noted that the Plan did not provide for parking at the five per thousand square foot ratio provided in the Covenants, and additionally, the Covenants did not allow Parcel B, where the 100 unit housing facility is proposed, to park on Parcel A, where the medical campus facility is currently located.

Additionally, Mr. Patton performed an analysis of the new revised parking lot, and showed that the slopes generated by the site would create a difficult engineering problem and present grades that would result in impact onto the wetlands, as well as a difference in grade between the access road and the proposed parking lot. From an engineering standpoint, the proposed parking lot was designed on extremely steep and difficult surfaces, making access to Building D of the Protestants extremely hazardous for the patients of Building D.

Mr. Patton went through the Petitioner's plan notes and further elaborated on the deficiencies in the parking and the problem in the gross versus net area of the site

calculations. Particularly, Mr. Patton noted that the site area was incorrect as to both gross and net calculations based on current record plats for the site as recorded in the Land Records of Baltimore County.

Mr. Patton indicated that the net area available for development was incorrect and that this calculation is critical under the "Haines-Pickersgill" analysis of mixed uses on a site, as promulgated in the Zoning Commissioner Policy Manual.

Mr. Patton indicated that the 90 unit phase was drawing on density acreage that was previously dedicated to useage for parking, open space, and area requirements needed to support the existing office buildings.

Accordingly, the Petitioner's double counting of site acreage for dual purposes, to wit, allowing a density for elderly housing facility to be drawn out of land that was already fully dedicated to and developed for a different use, namely, parking and open space for the existing medical office facility.

PROTESTANTS' MOTION FOR JUDGMENT

On behalf of the Protestants/Property Owners, Mr. Nolan made and renewed a Motion to Dismiss the Petitioners at this point in the hearing. However, that Motion was withdrawn after the Zoning Commissioner ruled that any dismissal mid-hearing would be without prejudice as far as refiling of a revised site plan.

ELEANOR VANDEVENDER

Ms. Eleanor VanDevender testified on behalf of the Maiden Choice Community Organization. She presented papers and testimony indicating that she was their duly authorized agent to speak on their behalf and represented the official position of the organization. Mrs. VanDevender explained the areas and boundaries of her Association and indicated what its concerns were. Among other things, she stated that there was entirely too much traffic on Maiden Choice Lane and the area was already overly impacted by a tremendous number of elderly housing facilities that were already established in the immediate area.

Furthermore, she testified that in the area of the proposed project, there is no shoulder or sidewalk on Maiden Choice Lane. Additionally, she indicated that Maiden Choice Lane was impacted already by a number of side streets and turnoffs and her Association believed that they would continue to be difficult for senior drivers to negotiate. She also indicated that she had a concern for safety and security in the area with the increasing age of the population. She testified also that no crosswalks or traffic signal lights are available on Maiden Choice Lane in the area of the project, and she questioned what accidents would occur to pedestrians who might try to venture down to the Wilkens Shopping Center and buy groceries or other necessities.

Ms. VanDevender also testified that there was community concern regarding the further expansion of the facilities because it had been her experience that once elderly housing facilities had been established in the area, they just keep expanding and they become a burden on the community. She also indicated that the local school was over capacity by 20%, and if the condominiums were later resold to persons other than the elderly, the schools would be impacted.

Furthermore, she testified that she was not contacted by the Petitioner nor invited to serve on an advisory board for the project as is required by the Section 432 Regulations. She indicated that no board member or officer from her Association, to her knowledge, had been contacted by the Petitioner.

JAMES CAREY, M.D.

James Carey, M.D., was the next person to testify on behalf of the Protestants. He indicated that he was the President of the Catonsville Condominium Association, Inc. and that the Association had been in existence since 1990. He described the Building D office building in which he owned a condominium, and in which other members of the Condominium Association had offices, was built about two (2) years ago. He further indicated that none of the officers of the Association were contacted to be made part of an advisory board as required by the Section 432 Regulations.

buildings is encouraged. The Zoning Commissioner may grant a density increase only if existing institutional or historic buildings are incorporated in the plat accompanying the petition. (emphasis supplied)

- B. As a condition of granting a density increase for proposed development that falls into the category described in subparagraph 432.3.A.2, the Zoning Commissioner shall comply with the requirements herein with respect to each existing institutional or historic building that is suitable for adaptive reuse. [Bill No. 36, 1988.]
1. If the building is not on the final historic landmarks list of the Landmarks Preservation Commission but the Zoning Commissioner determines that the building has historic or architectural significance, the Commissioner shall find that adequate guarantees have been made for the exterior preservation or restoration of the building, or that any exterior alterations or repairs and any new exterior construction will be architecturally compatible with the original building. [Bill No. 36, 1988.] (emphasis supplied)
- C. Before granting any density increase under this subsection 432.3, the Zoning Commissioner shall determine that: [Bill No. 36, 1988.]
1. The subject property is suitable for the type of development proposed; [Bill No. 36, 1988.]
2. The balance of the tract outside of the building envelope will be used only for such open space and recreational uses as are permitted by right or by special exception in D.R. Zones; [Bill No. 36, 1988.]
3. The development will not be detrimental to the use, peaceful enjoyment, economic value or development of surrounding properties and the general neighborhood; and [Bill No. 36, 1988.]
4. The density increase will satisfy all other criteria stated in Section 502.1 of these regulations. [Bill No. 36, 1988.]
- D. Upon establishing a hearing date for any petition for a special exception hereunder, the Zoning Commissioner shall promptly forward a copy of the petition to the County Landmarks Preservation Commission for review and comment with regard to historic preservation factors. At the hearing, the Zoning Commissioner shall consider

He also indicated that the parking, as proposed by the Petitioner, would definitely impact upon their practices, and Dr. Machiran had promised previously that there would be no impact upon their building for any elderly housing facility, and in fact, it would not access through their site, but rather through a separate means of access. Dr. Carey emphasized that it was extremely difficult to get concrete answers from the Petitioner regarding its development plans, and the Petitioner always seemed to be changing its plans and any information received from Dr. Machiran was subject to change.

The Petitioner began its rebuttal case by recalling Ms. Jane Willeboordse.

JANE WILLEBOORDSE

In rebuttal, Petitioner's architect stated that she was again amending the plan to deal with many of the comments of the Protestants. In response to questions, she revealed for the first time the proposed dwelling unit mix that is planned by the Petitioner. Additionally, she indicated that she wished to reconfigure the parking one more time in order to solve a potential RTA problem.

HUGO O. LIEM, JR.

Mr. Liem resumed the stand and indicated that he had obtained some traffic counts on Maiden Choice Lane. However, upon questioning, it was discovered that the traffic counts

were performed not by him, but by another company which was not under his supervision or control. The Commissioner sustained counsel's objections to the introduction of such counts.

NORBERTO MACHIRAN

Dr. Machiran resumed the stand and indicated that he would place a restriction on the resale of condominium units to make sure the new buyer was an elderly person. Additionally, regarding the advisory board, he indicated that he could not include members of the Maiden Choice or Broadfield Community Association because he went into the phone book to look for the phone numbers of Community Associations, and they were not listed in the Yellow Pages.

Regarding the grading and wetlands violations referred to by the Army Corps Engineer, he indicated that the grading was not done by him, and he had never heard of the violation before Ms. Mues had testified.

He was also cross-examined about his previous statements regarding the opposition he had to the expansion of Charlestown because of the impact on local emergency services at hospitals in the area. Dr. Machiran indicated that his opposition was to elderly persons from outside the area, and not the over-burdening of the hospitals, per se.

Dr. Machiran also denied any knowledge that the Director of Traffic for Baltimore County has forbidden any crosswalks or traffic signal lights from appearing on Maiden Choice Lane in the area of the proposed elderly housing facility.

ARGUMENT

A. THE REQUIREMENTS OF SECTION 432 HAVE NOT BEEN MET

1. Historic Buildings - Section 432.3

One fundamental flaw in Petitioner's case is the complete absence of historic buildings on the subject site. Only the presence of historic buildings would permit a Petition under the provisions of Section 432.3 of the Zoning Regulations for a density increase. Additionally, only the presence of historic buildings allows a special exception. As indicated by Mr. Patton, the Regulations indicate that a special exception for housing for the elderly under the D.R.5.5 zone (and by reference the 0-1 zone) requires a modification or waiver under Section 432 before a special exception can be granted in such a zone. (See Appendix, D.R.5.5. Uses.) Accordingly, a historic building finding is a necessary predicate to both the special exception and the density bonus.

Petitioners have asked for a special hearing to determine that "in particular, the Chapel has both historic significance and architectural presence on the site." (See Appendix, Petitioner's Petition for Special Hearing, Special Exception and Variance.) In a previous sentence in the Petition, the Petitioner admits that the "chapel" and convent buildings have already been adaptively reused for medical offices on the site. The Petition then goes on to indicate

that the development of St. Dominic's Place (elderly housing facility) would adaptively reuse this building as a dining and/or community space. Accordingly, the Petitioner admits in its own pleadings that the property has already been adaptively reused by a previous conversion of the former chapel.

Additionally, the Petitioner has admitted in its original CRG and amended CRG plan notes that there were no historic buildings nor wetlands on the site. Having admitted previously that there were no historic buildings on the site in submittals to the County, and having not rebutted this admission against interest at the hearing, the Petitioner is bound by this designation and the Commissioner should find absolutely that there are no historic buildings on the site.

Additionally, referring to the testimony, Petitioner plans to raze the former convent building, thereby destroying the continuity and integrity of any historic preservation argument.

What remains is a former chapel, and not a very old one at that. The testimony indicated the chapel (now medical office) was built in 1957* and consists of very plain construction and ordinary mortar, with no attempts to imitate the original colonial design that is characteristic of genuine and authentic historic reproductions.

* Note that the current version of Annotated Code of Maryland is primarily a 1957 codification and not considered "historic".

Although the Petitioner referred repeatedly to the preserved cemetery, a look at Section 432 indicates that only buildings, and not sites or cemeteries, are the focus of the Bills preservation efforts. Additionally, with the razing of the convent, it appears that no effort has been made by the Petitioner to replace it with a building that follows the footprint of the original layout, once again destroying any argument that there is an integrity preserved by the site adaption.

As indicated previously, the testimony of John McGrain was extremely illustrative on the point of any alleged historic significance. He indicated that absent the presence of a "famous figure" or "space age technology" event at the site, it would not be considered appropriate to consider any buildings of less than 50 years of age as having historic significance. The subject "chapel" building being of rather plain construction and limited age, there is no historic building on the site under Section 432 associated with this proposed redevelopment.

The Petitioner, in its case, ignored the requirements of Section 432 and in its presentation regarding historic buildings. Section 432.3(D) indicates that there should be a referral to the Landmark Preservation Commission of all Section 432 petitions that raise a historic building issue. The Petitioner never requested the Commissioner to make this

referral, and this was in fact done only at the instigation of the Protestants. Additionally, in the presentation of its case, Petitioner never provided, as is suggested by Section 432.3(B)(1), any "adequate guarantees" for the exterior preservation or restoration of the building. Section 432.3(A)(2) indicates that the locations of any buildings which will be replaced (to wit, the convent), will be conforming to the location of the new buildings. The Regulations require any limitations in placing the new buildings on the footprint of the old must be documented as to engineering, typographical and practical limitations at the time of application. The Petitioner has not done so.

Additionally, the Petitioner has given no explanation why one of the buildings was being razed and one was being converted, and the burden is on the Petitioner under the Section 432.3(A)(2) Regulations to establish that the buildings being razed are unsuitable for adaptive reuse, if in fact they are historic. Therefore, Petitioner is conceding that the former convent, built in 1969 is not historic. Query the distinction between the convent and its adjoining "chapel" built only ten (10) years before it.

Additionally, the Preamble to Section 432 gives a preference to sites of at least ten acres. Also, Zoning Commissioner Policy Manual, pages 4 - 127 indicate that "sites must contain at least ten acres". (emphasis added) (See

Appendix) However, looking at the site, it became clear that the site was bifurcated by the lands of the Protestants, also known as Lot 1 in the plats presented into evidence. The site thus contains two separate non-contiguous tracts of less than ten acres. As previously indicated, this Petition is predicated on one large unified tract that has CRG approval. In fact, the 100 unit building tract is non-contiguous and has never been subject to nor received CRG approval. (See Appendix) Accordingly, the 100-unit building proposed in the northwesterly part of the site is physically separated by Lot 1 from the main campus of the existing facility. The Petitioner conveyed out Lot 1, thereby physically separating the two tracts, rendering them non-contiguous. Accordingly, each tract is less than ten (10) acres in size, and the tract with 100-unit building as proposed cannot rely on the neighboring noncontiguous tract, but must stand and be judged on its own. The testimony at the hearing was that that tract was wooded and unimproved, and there were no historic buildings mentioned on that site.

Although not asked for in Petitioner's special hearing or special exception request, certain references to the former Dominican Sisters useage indicate Petitioner may be alluding to institutional uses under Section 432.3. This relief is not available to Petitioner because it was not asked for, nor do the terms of the statute fit the site. An "institutional use"

is defined in B.C.Z.R. Section 432.B as "convents, orphanages, schools, seminaries, officially designated historic buildings, hospital campus and churches on site of at least ten acres". Furthermore, B.C.Z.R. Section 432.3.A.1 requires a continuation of an institutional use. This has not occurred. In the alternative, B.C.Z.R. Section 432.3.A.2 requires an adaptive re-use of institutional buildings when the institutional use is discontinued, and states specific findings must be made regarding new buildings.

The site contains neither ten acres nor the current adaptive re-use of an institutional building. The institutional use discontinued over ten years ago, and adaptive re-use of the buildings already occurred. Accordingly, no relief is available to Petitioner under historic or institutional building theories.

2. RTA Waiver - Section 432.4

Finally, regarding the provisions of Section 432.4, the Protestants submit Petitioner did not meet its burden to show any unreasonable hardship or severe impacts that would merit an RTA waiver. The waiver was requested in the greenhouse area (attached to the 100 unit building), but a slight site footprint modification would solve their problems and alleviate the need for a waiver. Furthermore, the Planning Department recommended against an RTA waiver.

3. Section 432 - Miscellaneous Requirements

Regarding the other requirements to Section 432, the Petitioner, taking all of the evidence together, made little or no effort to comply with the sections regarding an Advisory Board. The spirit and intent of the legislation, as well as its actual wording, requires the Petitioner to set up an Advisory Board composed of representatives from local community organizations. They should meet at least four times in the year before the Petition is filed. In contrast, the Petitioner did not assemble a representative Board nor did it place the advertising as required by the legislation to assemble such a Board. In contrast, the Petitioner's managing partner indicated that he made an attempt to locate local community organizations by looking in the Yellow Pages. However, he admitted he did not think to ask Mr. Jack Manley (who was on Petitioner's "Committee" and is the husband of Councilwoman Manley) for information on how he could obtain lists of local community organizations. Nor did the Petitioner utilize his familiarity with the community organizations by his participation in the Advisory Board of the Charlestowne hearings in order to gather information regarding local community organizations. The Petitioner's explanation of these matters creates the impression that the Petitioner was purposely not interested in following the spirit and intent of Section 432 in its development plans. In contrast, the

Petitioner has preferred to deal with community groups in a fait-accompli summary manner, sharing its plans (which the architect, Willeboordse, indicated were being formed over the past year) with truly representative members of the community only a couple of days before the initial hearing. The Petitioner, having failed to work with the community in the planning of the elderly housing facility, can be questioned regarding its ability to operate such a center in harmony with the community if it cannot even cooperate in the planning and design phase.

Finally, comparing the Petition and the Section 432 Regulations, no where in its filing (or before they closed their case) has the Petitioner limited its request by any formal written guarantee that the residents will be ambulatory elderly residents sixty-two (62) years of age or older. What the Protestants are left with is a Petition that if granted is subject to any use permitted by the Regulations. The Section 101 definition of elderly housing facility includes persons regardless of age who have mental or physical disabilities. The Petitioner has never provided the Commissioner nor the Protestants with the actual documents that would provide restrictive guarantees to the community regarding the residency of the facility. It is the Petitioner's burden to do this at the hearing in order to show, as alleged verbally, that there would be a limitation as to the adverse impacts.

in evidence without testimony thereto, absent objection by any party to the case, any comments from the Director of Planning and Zoning or the County Landmarks Preservation Commission or any duly submitted relevant report or comments from any other county department or agency. . . [Bill No. 36, 1988.]

- E. In approving a density increase hereunder, the Zoning Commissioner shall specify the density approved, which may not exceed the maximum gross residential density permitted in the D.R. 16 Zone. [Bill No. 36, 1988.]
- F. The Zoning Commissioner shall require an elderly housing facility which has been developed in accordance with the provisions of this subsection to attempt to provide for a system of community participation in the following manner: the petition for special exception shall include a statement that a board of advisors to the facility has been established composed of members selected by the board of directors of the communities surrounding the facility. If at the time of the filing of the petition for special exception, no such board exists, the developer shall seek to establish such a board by soliciting membership by means of advertisement. . . The failure of the elderly housing facility to successfully establish the board of advisors shall not invalidate the granting of the special exception or prevent the granting of the special exception, if such failure results from the refusal of the community members to participate. [Bill No. 36, 1988] (emphasis supplied)

432.4 Provisions for modifying or waiving the residential transition area restrictions for elderly housing facility developments [Bill No. 36, 1988.]

The Zoning Commissioner may, by special exception, notwithstanding subparagraph 1B01.1.B.1.b.7., modify or waive the residential transition area restrictions in cases where an elderly housing facility development would be severely or adversely affected by the restrictions set forth in paragraph 1B01.1.B.1.b. if the the Zoning Commissioner determines that: [Bill no. 36, 1988.]

- A. Compliance with all or part of the residential transition area restrictions will cause unreasonable hardship on the development; [Bill No. 36, 1988.]
- B. The quality of the site design and amenities provided would justify a modification ow waiver of the residential transition area restrictions; and [Bill No. 36, 1988.]

B. THE SITE PLAN, PETITION, AND SUPPORTING DOCUMENTS WERE MATERIALLY INSUFFICIENT AND IN VIOLATION OF COUNTY LAW

Form E of the Zoning Commissioner's Policy Manual, which is attached in the index, is a compilation of submittal requirements for a non-residential Petition. The submittal requirements have a warning at their inception that the staff of the zoning office is not to give legal advice, but rather the Petitioner is to rely on its own zoning, legal and engineering experts for preparation and processing of the Petition and Plan. Additionally, as the Commissioner is aware, all Petitioners are given a standard letter by Mr. Jablon's office indicating that they are proceeding at their own risk and are not to rely on the ZADM staff or office for legal advice.

The Form E has detailed and rigorous requirements for submittal. As we have seen in this case, the filing requirements are there for a reason and cases become difficult if not impossible to try and hear on a reasoned basis without the submittal requirements being strictly followed. The Site Plan, for example, is the heart of the Petition and it is one that is circulated to all County offices and also kept in the Archives once a petition is granted or denied. The Site Plan is the basis from which information is gathered, discussed and analyzed regarding relief sought by the Petitioner. The Site Plan is also the record document upon which approval is granted or denied. Without an accurate Site Plan, it is difficult for

Protestants, County agencies, and especially an enforcement agency pulling the file five years after the hearing, to determine whether the proposal and Site Plan complies with the regulations and the Commissioner's Order.

One of the most basic elements of a Site Plan is the outlines of the property. As the Commissioner is aware, the official 200 scale zoning maps in Baltimore County will note all special exceptions, special hearings and variances that are granted as to any sites in Baltimore County. The description is supposed to emanate at the convergence of the nearest intersecting street and thence outline the property in a metes and bounds manner and return to the point of beginning. With this accurate description, Jun Fernando or other personnel at the zoning office can accurately locate on the 200 scale the land that is subject to the special exception. Since a special exception or other relief continues in perpetuity, it is extremely important as a matter of the zoning office files that a proper description be presented by the Petitioner.

The Plan that was originally submitted by the Petitioner contained a gross violation of the Protestants' property rights in that parking was placed around their building without their consent. Additionally, even with subsequent modifications of the Plan as the hearing continued, the Petitioner to this day is violating the Protestants' property rights. For example, Petitioner had the duty and

burden to explain to the Commissioner the terms and details of any right it had to use Petitioners' property by means of cross-easement. While Petitioner mentions this cross-easement, they fail to note or examine its terms. Petitioner had the affirmative obligation to show the source or legal property right it had to allow occupants or residents of the 100-unit building to park on the medical campus facility in chief. The Protestants submit that the cross-easement referred to by the Petitioner, and entered into evidence gives only the rights of the occupants and residents of the 100-unit building to cross over or ingress and egress on the land of the medical campus facility, but no right to park. Additionally, the testimony of the engineer, Mr. Patton indicated that the site description did not agree with the metes and bounds description shown on the Site Plan. In fact, even a layman can read the description and compare it with the Site Plan and figure out that the bearings and distances are different. In a certain area, there is a 30-foot gap along Maiden Choice Lane which is unexplained on the description and different than what is shown on the Site Plan. Additionally, looking at the Site Plan, it is at best unclear that the Protestants' Lot 1 and Building D is meant to be excluded from the Plan as filed. The description which was filed and sealed by the architect and testified to as being accurate, in fact, includes the lands of the Protestants, without Protestants having signed and assented to the

Petition. This was never revised by the Petitioner during the case and in fact the Protestants object to an architect providing descriptions and site outlines as this is beyond the scope of the expertise and licensing of an architect. Accordingly, the Zoning Procedures Manual does not allow an architect to seal descriptions or Site Plans, and this case is an example of how they can be grossly wrong and misleading if a non-expert in the field is allowed to prepare the same.

Most importantly regarding the site area is the failure to correctly calculate gross and net acreage. Mr. Patton testified that to the best of his ability, without the benefit of a field survey, which was Petitioners' obligation to do but was never done, the gross area of the site and net area site were calculated incorrectly in a grossly incorrect manner. Without a correct site area it is impossible to perform an analysis of the Plan because gross and net site areas are needed to determine amenity open space, floor area ratio, calculation of density and other critical factors.

The most material problem with Petitioners' analysis was pointed out by Mr. Patton. Mr. Patton indicated he was involved in the Pickersgill case decided by former Commissioner J. Robert Haines. In that case, Commissioner Haines indicated that the site area that has already been utilized and designated for other uses cannot be utilized again, or "double dipped" again for a new use on the site. The density and

related site acreage having already been used, is exhausted and unavailable for other distinct uses. This is an important concept and consistent with Regulations. However, on questions regarding Petitioner's site analysis on this point, architect Willeboordse indicated that she was not precisely sure what area had already been used so she just used a simple method of subtracting out the Protestants' lot and the other condominium building as well as some area in the entrance way to determine the net site area. As indicated by Mr. Patton's testimony, the Petitioner has grossly overstated the net area available for development on the Plan.

Once the predicate is shown to be incorrect, to wit, the site area, the other numbers which emanate from the site area including density and other calculations are also flawed. The Petitioner has the burden of proof to accurately provide the site data to the Commissioner, and this having been established as incorrect, the Petitioners have not met the burden to provide accurate information as required by law nor for the Protestants and the Commissioners in the County agencies to make informed decisions regarding the project.

Additionally, it was not until the afternoon of the fourth day of the hearing for the Petitioners to admit to the significance of the dwelling unit versus a density unit breakdown and the necessity for a unit mix disclosure on the Site Plan. As the Commissioner is aware, on all other Site

Plans for Section 432 hearings, the dwelling unit mix versus density units is required to be set forth on the Plan. This emanates from the definition of a density unit which is contained in the definitions of the Zoning Regulations. As a necessary predicate for any analysis that impacts under Section 432 and 502.1, the Commissioner must know the proposed resident mix of the population, as well as the type of dwellings and how they relate to the density units requested and their placement on the site. In its petition and plan, the Petitioner refers generally to units and does not distinguish between density and dwelling units. It became apparent during the hearing that the Petitioners were not aware of the difference between the two, and were unfamiliar with the requirements to show the mix. In fact, in their whole case before they closed their side of the case, and prior to rebuttal, the Petitioners never disclosed the dwelling versus density unit mix.

Accordingly, once again, it was impossible for the Commissioner, the Protestants, the County Reviewing Agencies, as well as persons who might review the file five years later to determine exactly what the Plan was providing for. As filed, the Plan could have been asking for 190 density units, and left unclear on the point of the dwelling mix, a future developer to whom this project was conveyed could, consistent with the note on the Plan, establish a 760 bed assisted living facility for mentally disabled youth on the medical campus.

Although this is an extreme example, obviously the number of residents has tremendous impact on the project and the community and this ought to be spelled out or limited by the Petitioner and the Petitioner has the positive duty to do so.

Regarding the parking analysis, once again the notes provided by the Petitioner are incorrect on the Site Plan. The Commissioner is referred to Section 409.6 which indicates the required number of parking spaces for a Class B elderly housing facility, which is what the asterisks on the Plan indicates is the basis of the parking calculation. If one reads the Regulations, it indicates that the ratio of the parking spaces to dwelling units is one (1) to one (1). First of all, the Plan never identified the number of dwelling units just "units" and therefore the calculation is difficult to do from the start. Secondly, the Plan assumes the ratio of 1.5 units per parking space as the base calculation.

The proper way to calculate a variance note on parking, as the Commissioner knows, is to identify the required number of spaces under the most strict reading of the Code. From that point, the Petitioner can then ask for a variance to allow a modification to use a different ratio, as is impliedly requested by asking for a ratio of 1.5 due to a van pool transportation system. What the Petitioner has in fact done, is ask for a variance in number of spaces from an already modified figure due to the presumed ratio of 1.5 rather than

1.0. Petitioner has not even asked, as the Regulation provides, to modify the ratio from 1.0 to 1.5, but has assumed that ratio as a predicate in its formula on parking. Accordingly, once again the analysis provided by the Petitioner as to parking is fundamentally flawed and the Petitioner has the burden to properly present that analysis and has never done so. Additionally, the Petitioner presented no testimony whatsoever regarding practical difficulty or unreasonable hardship for fulfilling the variance standard under the Code.

Regarding the design layout of the parking, it is extremely difficult to follow. Petitioner has the burden to show an orderly and countable layout both for the present purposes of the hearing and for future records. No where on the Plan did the Petitioner put the number of parking spaces in each area, and it is left up to someone with a scale or ruler on a difficult scale, to wit, 50 scale, to try to re-establish the Petitioners' thinking on the layout of the parking.

Moreover, there are numerous areas in which the parking provides deficient and unworkable internal circulation, as well as violates the parking regulations because of backing into the drive aisles. This was never addressed nor requested as a variance by the Petitioner.

Additionally, the Petitioner's plan was deficient in that Petitioner was still revising the plan as part of its rebuttal on the afternoon of the fourth hearing day over the

repeated objections of Protestants. The revisions did not have the benefit of advertising, posting and recirculation to all County Departments. The original submittal was improper in calculations, so the predicates upon which the County reviewed the information were never shown to them. For example, on cross-examination, architect Willeboordse admitted that she never indicated, in showing the revised plans to traffic engineering, that without the variance or modification 50 to 100 parking spaces were not provided on the plan.

The plan was also insufficient in explaining, as Petitioner has the burden to, how the adverse impacts and environmental impacts would be dealt with on the plan. For example, the new parking area designed in the midst of the hearing by the Petitioner is in a steep and environmentally sensitively area. It is in the area of an existing Army Corps Engineers violation, and an area which has never been reviewed for a parking lot by the Department of the Environmental Protection and Resource Management nor the Planning and Zoning Office, at least, there is testimony lacking on that point.

Additionally, by failing to provide topographical information on the plan, which is an optional submittal item under the Commissioner's Rules, the Petitioner failed to meet its burden to show that patients and residents could safely and adequately utilize the proposed parking without endangering their lives. The new proposed parking lot is at best

impractical and, at worse, a hazard to the safety, health and welfare of medical office owners, nearby residents and patients, as well as to the environment.

C. THE PETITIONER'S PLAN CREATES BURDENSOME ADVERSE IMPACTS WHICH PREVENT COMPLIANCE WITH THE STANDARDS UNDER SECTION 432, SECTION 502.1 AND THE SPIRIT AND INTENT OF THE REGULATIONS

The determination by the Commissioner regarding adverse impacts is largely a discretionary and subjective matter. Accordingly, when deciding these issues, the Commissioner must take into account the planning, organizational, and sensitivity of the developer's planning, design and operations team. In the present case, it is abundantly clear that the Petitioner has not planned or presented a project following even the most elementary requirements of County, State and Federal Regulations. There have been repeated misapplications and mistakes regarding the plan, and an obvious question must arise in the mind of the Commissioner. How can the Petitioner be expected to do detailed design, build out and operate a project properly, if it cannot even complete the fundamental requirements of the planning stage in an organized and detailed manner? The fundamentals of any project are in the site planning and engineering basics of the site development. If this basic level of development is flawed, the resulting project and its build out will be repeatedly hindered by the problems and adverse impacts.

In fact, the physicians of Building C, which was developed by Maiden Choice Associates, indicate that this is precisely what happened with regard to their building, both as to its construction and also operation.* Accordingly, the Petitioner has a poor record regarding both site planning, as shown in the many mistakes and ambiguities in the hearing, as well as in the operation of even a relatively small commercial project, to wit, Building C. How will it operate an infinitely more complex 24 hour residential facility effectively? The presence of many Protestant Physicians at all the hearing dates, taking time off from their busy practices, is strong evidence of the great concern for Petitioner's lack of ability to handle this project properly.

Additionally, the Protestants' testimony regarding the diminishment of the economic value of their condominium property was unrebutted, and thus the Commissioner must presume that the impact upon the doctors, as well as their practice, will be adverse.

Regarding the community impacts, the Commissioner became aware at the early stages of the hearing that the community was greatly concerned about and vocally opposed to

* Petitioner indicated that "Rostic" would manage and operate the elderly housing facility. Dr. Damien testified Rostic so far has mismanaged Building C in her opinion. It is interesting to note Rostic cannot even manage its own corporate affairs, its charter having been revoked in 1990. See Appendix - Rostic - Charter Forfeited.

this project. A review of the Commissioner's file reveals an inch of letters, all of which express concern and opposition to the project. Obviously, many of these residents are working people and cannot take off time to attend the hearing, especially one of such length as this. However, they did express themselves by taking the time to write a letter, and the file is full of opposition from the neighborhood to this project.

The concerns amongst these letters, as well as the testimony of neighborhood people, indicates that the area is over-saturated already with elderly housing facilities, and traffic on Maiden Choice Lane, from the layman's prospective, is over-burdened already. Additionally, the community expressed concern regarding elderly drivers, and in fact, Mr. Liem, the Petitioner's expert, admitted that elderly drivers are over-represented in turning and backing accidents. As the Commissioners is aware, Maiden Choice Lane has no lights or cross-walks, and thus, the turns in and out of the proposed facility would be extremely dangerous and cause further accidents in the area.

Additionally, concerns were raised regarding the security and safety of patients and present and future residents of the area because of the magnet that an elderly population is for crime. There was testimony that there is currently a problem with vagrants and minor property damage

associated with the former public telephone that was outside the building owned by the Protestants. Despite this history, Petitioner indicated it would not fence the site.

Mr. Nolan demonstrated that the current mix of the medical campus facility would be diluted by over 100 owners of residential condominium residential units who would have a greater voice in the operation of the campus than the current eight physicians who own medical office condominiums.

The environmental impacts have been discussed again and again. There is no evidence that Petitioner has met its burden to show it has solved, or can solve, rather than ignore, the wetlands issues on the site.

Furthermore, it was demonstrated that the spirit and intent of the 0-1 zone, to wit, medium density housing, was violated by the Petitioner's own admission that it was proposing high density housing for the area.

Regarding the impact of parking, it was demonstrated again and again that the existing parking is barely enough to satisfy the existing uses, without superimposing 190 density units, and their related larger number of dwelling units, and their relating larger number of persons per dwelling unit on the site, all in need of transportation and parking to meet basic needs of food, laundry, and medical care. In fact, it was demonstrated that the parking calculations are in error, and in fact, the parking for the area is almost 100 spaces

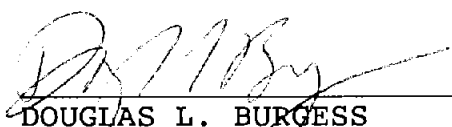
short. Additionally, the Petitioner presented no evidence that it has a legal right for the 100 unit building to park on the medical campus facility where the Protestants' parking currently exists. Additionally, the Protestants' patients would be extremely impacted by the de facto loss of their existing parking area in front of Building D caused by the overnight parkers from the proposed one hundred unit residential building taking all or substantially all of their spaces.

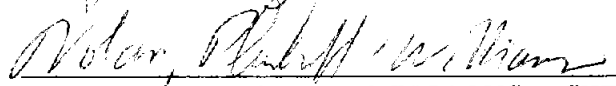
Additionally, the proposed additional parking on the vacant lot to the north of the Protestants' building is an environmentally sensitive area, as well as an area that would create great danger due to the slope elevations to any patients or residents who tend to be elderly in nature, who would use such area. Accordingly, that parking is unfeasible, both from an engineering standpoint and a safety and practicality standpoint.

CONCLUSION

Protestants submit that the Petitioner's Request for Special Hearing, Special Exception, and Variance be denied for the reasons stated heretofore.


STEPHEN J. NOLAN

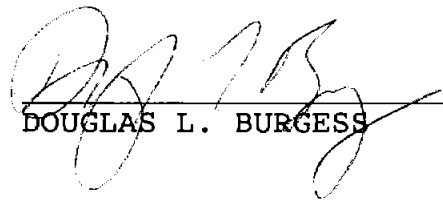

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Association, Inc., et al.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 19th day of January, 1993, a copy of the foregoing Protestants' Post-Hearing Memorandum was ~~mailed postage prepaid~~ ^{hand delivered} to David A. Carney, Esquire, Reese and Carney, 10715 Charter Drive, Columbia, Maryland 21044.


DOUGLAS L. BURGESS

3101C

LAW OFFICES
NOLAN, PLUMHOFF
& WILLIAMS,
CHARTERED

PETITIONER:	*	BEFORE THE
MAIDEN CHOICE ASSOCIATES	*	BALTIMORE COUNTY
"ST. DOMINIC'S PLACE"	*	ZONING COMMISSIONER
720 MAIDEN CHOICE LANE	*	CASE NO.: 93-49-SPHXA
1st Election District	*	ITEM #54
1st Councilmanic District	*	

* * * * *

APPENDIX

TO

PROTESTANTS' POST HEARING MEMORANDUM

(Maiden Choice Associates Hearing)

APPENDIX
TO
PROTESTANTS' POST HEARING MEMORANDUM

(Maiden Choice Associates Hearing)

LEGISLATION

1. Section 101, Definitions
"Density Unit"
"Elderly Housing Facility"
"Housing for the Elderly"
2. Section 1B01.1B1d&e, Residential Transition Areas
3. Section 1B01.1C24, D.R.5.5 Uses Permitted by Special Exception [only] - Housing for Elderly - if it involves modification or waiver under Subsection 432.2, 432.3 or 432.4
4. Section 1B02.2, Regulations, Standards and Controls for Density, Bulk, Open Space and Parking
5. Section 204.2, 0-1 Purpose
6. Section 409.6, Required Number of Spaces - Parking
7. Section 432, B.C.Z.R., Elderly Housing Facility
8. Bill 36-88 (enclosed)
9. Form E, Zoning Commissioner's Policy Manual
10. Mixed Uses On One Property, Zoning Commissioner's Policy Manual
11. Elderly Housing, Zoning Commissioner's Policy Manual

PLEADINGS

1. Petition for Special Hearing, Special Exception and Variance
2. 200' Scale Zoning Map Attached to Petition

EXHIBITS

1. Rostic - Charter Forfeited per Inquiry with State Department
2. CRG Minutes, Maiden Choice

Controlled-Environment Structure: A temporary or permanent structure enclosed by glass or plastic, utilized exclusively to cultivate plants, to protect plants from the elements, or to produce plants out of season. {Bill No. 41, 1992.}

Country Club: A 9- or 18-hole golf course with a clubhouse and other appropriate facilities, which may include other recreational facilities (see Section 406A). [Bill No. 62, 1978.]

Country Inn: A bed and breakfast inn that also contains a full-service restaurant which also serves the general public. A country inn is allowable only in a building originally constructed as a one-family dwelling pursuant to the provisions and procedures prescribed in Section 402E of these regulations. [Bill No. 113, 1988.]

County Trucking-Facilities-Development Officials: A committee consisting of the county administrative officer, as chairman; the directors of Planning, Public Works, Permits and Licenses, and Traffic Engineering; and the director of the Industrial Development Commission; or their respective designees. [Bill No. 18, 1976.]

["Density, Gross"] and definition deleted by Bill No. 106, 1963.]

["Density, Gross Residential"] and definition added by Bill No. 106, 1963; deleted by Bill No. 100, 1970.]

["Density, Net"] and definition deleted by Bill No. 100, 1970.]

Density Unit: An expression of extent or density of dwelling use as related to number of rooms in, or type of, dwelling unit, so that:

Each efficiency apartment is equivalent to 0.50 density unit;

Each 1-bedroom dwelling unit is equivalent to 0.75 density unit ;

Each 2-bedroom dwelling unit is equivalent to 1.00 density unit;

Each dwelling unit with 3 or more bedrooms is equivalent to 1.50 density units; [Bill No. 100, 1970.]

Design Provisions, Adopted: Design provisions adopted by the Planning Board under the authority of Subsection 504.1 of these regulations. [Bill No. 98, 1975.]

Diametral Dimension (of a lot): The diameter of the largest circle that may be inscribed within lot lines. [Bill No. 98, 1975.]

Disabled Person: Any person who at the time of the filing of a petition for special exception for a home occupation of a disabled person has been determined to be disabled or handicapped pursuant to the provisions and procedures prescribed in Subsection 13-616(A)(1) of the Transportation Article of the Annotated Code of Maryland, 1977 Volume, 1980 Cumulative Supplement, as

by open space or yards and not attached to any other dwelling by any means. Single-family detached dwellings to be developed as part of an alternative site design shall be considered alternative site design dwellings. {Bill No. 2, 1992.}

Dwelling, Two-Family: A two-family house containing two dwelling units each of which is totally separated from the other with an unpierced ceiling and floor extending from exterior wall to exterior wall or by an unpierced wall extending from ground to roof. {Bill No. 2, 1992.}

Elderly Housing Facility: The term "elderly housing facility" includes an assisted living facility, a continuing care facility, or a Class A or Class B housing for the elderly facility. [Bill No. 36, 1988.]

Enclosed Mall: A shopping center containing an enclosed pedestrian concourse or connecting enclosed pedestrian concourses to which at least 75% of the establishments therein front onto and have their only direct access (except as required for emergency use). [Bill No. 29, 1982.]

Environmental Impact Statement: A comprehensive study which accurately discloses the environmental consequences or enhancement of a proposed action. Such a statement must include the following:

1. a detailed description of the proposed action including information and technical data adequate to permit a careful assessment of environmental impact.

2. discussion of the probable impact on the environment, including any impact on ecological systems and any direct or indirect consequence that may result from the action.

3. any adverse environmental effects that cannot be avoided.

4. alternatives to the proposed action that might avoid some or all of the adverse environmental effects, including analysis of cost and environmental impact of these alternatives.

5. an assessment of the cumulative, long-term effects of the proposed action including its relationship to short-term use of the environment versus the environment's long-term productivity.

6. any irreversible or irretrievable commitment of resources that might result from the action or which would curtail beneficial use of the environment. [Bill No. 98, 1975.]

Excavations, Uncontrolled: The digging of soil, sand, gravel, rock, minerals, clay or other earthen material from a land surface for any of the following purposes:

members of the immediate family, and no mechanical equipment is used except such as may be used for domestic purposes. A "Home Occupation" does not include fortune-telling. [B.C.Z.R., 1955, Bill No. 124, 1978; No. 27, 1981.]

Hospital: An institution which is licensed as a hospital by the state and which receives inpatients and provides medical, surgical, psychiatric or obstetrical care. This term includes any health-related facilities which are established in connection with a hospital and are located on the same site as the hospital. Such health-related facilities shall include, but not be limited to, diagnostic facilities, rehabilitation centers, laboratories, training facilities, outpatient care facilities, facilities for chronic or convalescent care and elderly housing facilities. [B.C.Z.R., 1955; Bill No. 37, 1988.]

["Hospital, Class A" and "Hospital, Class B" and definitions deleted by Bill No. 100, 1970.]

Hotel or Motel: A building or group of buildings containing guest rooms or units, where, for compensation, lodging is provided on a daily, weekly or similar short-term basis. A hotel or motel shall be deemed to include any establishment which provides residential living accommodations on a short-term basis such as an apartment hotel. A hotel or motel may contain restaurants, meeting rooms, recreation facilities, lounges, retail shops and personal services as ancillary uses. [B.C.Z.R., 1955; Bill No. 82, 1984.]

✓ Housing for the Elderly: Class A: A building, a section of a building, or a group of buildings that contains dwellings where the occupancy of the dwellings is restricted to persons 60 years of age or older or to couples where either the husband or wife is 60 years of age or older, and to any person, regardless of age, who has a physical or developmental disability. Class A housing for the elderly is constructed under the applicable provisions of a federal or state housing or tax act.

Class B: A building, a section of a building, or a group of buildings that contains dwellings where the occupancy of the dwellings is restricted to persons 60 years of age or older or to couples where either the husband or wife is 60 years of age or older and to any person, regardless of age, who has a physical or developmental disability. Class B housing for the elderly is not constructed under the provisions of a federal or state housing or tax act. [Bill No. 36, 1988.]

Indigenous Crops: Produce which can be grown in the area under natural conditions, without the help of controlled-environment structures. {Bill No. 41, 1992.}

Industrial Park, Planned: An integral industrial development for which an overall plan has been approved by the Office of Planning and Zoning, and which is under common ownership or control. [Bill No. 40, 1968.]

IN RE: PETITIONS FOR SPECIAL HEARING, * BEFORE THE
SPECIAL EXCEPTION & ZONING VARIANCE * ZONING COMMISSIONER
SW/2 Maiden Choice La., 500 ft. SE *
of the c/l of Metavish Avenue *
(720 Maiden Choice Lane) * OF BALTIMORE COUNTY
1st Election District * Case No. 93-49-SPHXA
1st Councilmanic District *
Maiden Choice Associates *
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, all for the proposed development known as St. Dominic's Place located on Maiden Choice Lane in Catonsville. The Petitioner, Maiden Choice Associates, proposes construction of a Class B Elderly Housing Facility featuring 190 elderly housing units. As to the Petition for Special Exception, the Petitioner seeks approval of a Class B Elderly Housing Facility, pursuant to Section 432 of the Baltimore County Zoning Regulations (B.C.Z.R.). As to the Petition for Special Hearing, a designation of existing onsite buildings as historically or architecturally significant is requested, thereby permitting an increase of density to 14.5 units per acre. Also sought is a waiver from the R.T.A. requirements to the best extent possible, including a 60 ft. setback in lieu of the 100 ft. required for a building area of 1500 sq. ft. As to the Petition for Zoning Variance, the Petitioner seeks relief from Section 1B02.2.A. of the B.C.Z.R. to permit a building height of 60 ft. in lieu of the required 50 ft. and a variance from Section 1B01.2.C.1 to permit an 18 ft. setback from the side elevation of an accessory building to the elderly housing facility structure in lieu of 30 ft. Lastly, as it relates to parking requirements, a variance from Section 409.6.A.1 of the B.C.Z.R. is requested to permit 343 parking spaces in lieu

of the required 351. All of the requested relief is more particularly shown on the amended site plan which was submitted and marked as Petitioner's Exhibit No. 98.

Following the filing, advertising and posting of the Petition, the matter came in for hearing before the Zoning Commissioner. The hearing consumed four days. Specifically, testimony and evidence was received on October 6, 14, December 3 and 29, 1992. The case proceeded through hearing on those days in a somewhat tortured procedural fashion. On the first day, the Petitioner was represented by John G. Koenig, Jr., Esquire and the Protestants/Interested Persons were not represented. On the second hearing day, Douglas L. Burgess, Esquire of Nolan, Plunhoff and Williams, entered his appearance and participated as the attorney for the Protestants. On the third day, the Petitioner added David A. Carney, Esquire, as co-counsel. Not to be outdone, the Protestants added their own co-counsel on the last hearing day. At that time, Stephen J. Nolan, Esquire entered his appearance and participated in the hearing.

The Petitioner/property owner is identified as Maiden Choice Associates. This is a partnership of, at least, four (4) individuals including Raymond Bahr, David A. Carney, Esquire, Norberto M. Machiran, M.D. and Ralph Updike, M.D. The Protestants are a mixed group. They include the Catonsville Condominium Association, Inc., James Carey, M.D., Chao-Son Teng, M.D., Gloria Damien, M.D., Yunyong Yunyongying, M.D., A. Shams Pirzadeh, M.D., Zahid Butt, M.D., Aldo Paz-Guevara, M.D., Nader G. Gary, M.D., and David Strobel, M.D. Most of these Protestants are physicians who maintain practices on the subject site in the existing medical office buildings. However, other individuals who reside in the surrounding community participated in the hearing in opposition to the Petition.

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In addition to the changing cast as it related to interested persons and attorneys, the hearing was further complicated by ongoing amendment and refinement of the plan. The plan was presented as a two-prong phase development for elderly units. Phase I proposed 100 elderly housing units in a multi-storied building with an accessory greenhouse on the west side of the site. Phase II, which is to be added later, was shown as a twin housing facility in which each building housed 45 units. Further, related parking areas and an internal roadway was shown to serve these proposed buildings. During the course of the hearing, however, the plan was amended. Specifically, the parking area configuration was changed due to objections voiced by a number of Protestants. The most current plan is marked as Petitioner's Exhibit No. 98. This plan continues to show a two phased development which results in a 190 unit elderly housing facility. However, a realigned parking area is shown, as well as a second means of vehicular access to the site from Maiden Choice Lane. At present, the Petitioner seeks approval of the most current site plan marked as Petitioner's Exhibit No. 98.

Significant amounts of testimony and evidence were presented over the course of the four day hearing. This testimony is summarized, in part, in the lengthy legal memorandums submitted after the hearing by counsel for both the Petitioner and the Protestants. Although the record of the case no doubts speaks for itself and the testimony of the witnesses is aptly summarized in the litigant's memorandums, a brief overview of the testimony presented is helpful.

On the first day, testimony was received from Norberto Machiran, M.D., the Managing Partner of the developer, (Maiden Choice Associates) and the President of Rostic, Inc., a corporation which manages the site. Dr. Machiran testified that Maiden Choice Associates owns the subject property

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and that he has been familiar with the site since the early 1970s. He further described the nature of his practice and noted that many of his patients come from the Catonsville/Halethorpe/Arbutus area and that a majority are elderly. He described the nature of medical ailments which most often afflict the elderly and also described the contemplated project. He noted that the Petitioner proposes construction of a 190 condominium units to be purchased by the elderly. As noted above, construction will be in two phases, with the first phase to include 100 units and the second phase, 90 units. Dr. Machiran fully described the history and formulation of this project. He also stated that he believes that a minimum of 150 units must be constructed for the project to be feasible. It is particularly clear that many of the details of the proposed project were not fully formulated at the time Dr. Machiran testified. That is, he was uncertain as to the staffing requirements and many of the details related to the management of the facility.

Also testifying was Jack Long, PhD., a psychotherapist, and Vice President of Rostic. He also described his mix of patients and described the proposed operation of this elderly housing community. He noted that the project was intended to foster a close knit/affordable/self reliant elderly community which would include amenities for the safety and convenience of the residents. Dr. Long's testimony primarily emphasized the conceptual nature of the facility and he was also unable to describe many of the specific details regarding the nature of the operation.

Also testifying on behalf of the Petition was Jane Willeboordse, a Registered Architect who prepared the site plan. The nature of Ms. Willeboordse's qualifications to author the plan was of particular interest to the Protestants. Specifically, they claimed that she lacked the requi-

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site qualifications to prepare the plan, in that she is neither a professional engineer or property surveyor. Nonetheless, she outlined the history of the subject site which is 13.5 acres in total area. Presently, the site is split zoned D.R.5.5 and O-1. Ms. Willeboordse noted that the site received original C.R.G. approval for development on July 16, 1986. Subsequently, the approved C.R.G. plan was amended on April 12, 1988. The C.R.G. plan calls for the redevelopment of two existing buildings on the site, known as the chapel and convent buildings. These buildings have, in fact, been redeveloped and now house medical offices. They are shown on the plan as medical office buildings A & B. The C.R.G. plan also provided for the construction of additional multi-storied medical office buildings. In fact, two additional buildings have been constructed and now occupy the site. These are the buildings which house many of the offices of the Protestants. One of the buildings is located on the east side of the site immediately adjacent to the entrance to the site from Maiden Choice Lane. This building is designated on the plan as Medical Office Building C. The second building, known as Medical Office Building D, is located further to the northwest of the property. These buildings were completed in approximately 1988/89. The C.R.G. plan also called for the construction of two additional buildings on site. However, plans for these additional office buildings have been set aside to accommodate the proposed elderly housing facility.

Ms. Willeboordse also described in detail the proposed plan and the relief requested. She discussed the requested variances as they relate to setbacks and parking, and the special hearing as it related to the proposed increase in density and modification of R.T.A. requirements. She also commented on the special exception as it related to the proposed elderly housing facility. She described in detail the proposed five story buildings

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which will accommodate the elderly housing units. As was the case with several of the other Protestants' witnesses on the first day, there was a distinct impression left from Ms. Willeboordse's testimony that many of the technical details relating to the plan had not been finalized. Specifically, it appeared that many of the engineering considerations had not been firmly established. Rather, it was perceived that the developer was willing to alter its plans, as objections surfaced, rather than presenting a complete and definitive plan.

Also testifying on behalf of the Petition was Hugo O. Liem, Jr., a Traffic Engineer. Mr. Liem qualified as a traffic expert. Much of his testimony was based on the industry manual prepared by the Institute of Traffic Engineers. Mr. Liem admitted that he did not conduct a field study. Rather, based upon his source material, he concluded that the elderly housing facility would have a minimal traffic impact on the surrounding locale. He observed that the facility will have less of a traffic impact on this location than if the remaining office buildings were constructed as shown on the C.R.G. plan.

Drs. Chao-Son Teng and Yunyong Yunyongying also testified on the first day. Both of these doctors conduct their practices in the existing medical office buildings. Both expressed opposition to the project and cited traffic congestion as a primary concern. Further, they did not believe that the mix of elderly housing with medical offices on the same site was appropriate.

Ms. Willeboordse was recalled to testify as the first witness on the second day of the hearing. It was, at this time, that she submitted a new plan marked as Petitioner's Exhibit No. 98. Although the number of parking spaces remained the same (343 in lieu of the required 351) Ms. Willeboordse indicated that the new plan eliminated parking on the north part of the site

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and added a new lot and access to same from Maiden Choice Lane on the west side of the parcel. Following her direct testimony, she was subjected to extensive cross-examination by counsel for the Protestants. This questioning centered on potential difficulties with the residential transition area requirements, an alleged lack of detail in the parking plan, an alleged incorrect designation of ownership of the subject property and a number of other technical requirements which the plan may have lacked.

Also testifying on the second day were Drs. Zahid Butt, A. Shams Pirzadeh, Gloria Damien and Aldo Paz-Guevara. They all occupy medical offices in the building shown on the plan as Building D. They all object to this proposed plan. Many of their objections arise from a perceived incompatible mix of medical offices and an elderly housing facility. Also, concerns were expressed regarding potential overcrowding of the land and traffic/parking congestion.

Also testifying on the second day was Eleanor Sasser and Dr. Colin Barnett, two residents of the surrounding community. Neither of these witnesses are doctors who practice on site but rather homeowners in the surrounding community. Both have concerns regarding a potential over development of the property as well as a possible traffic increase and environmental concerns.

On the third day of hearing, testimony was received by John McGrain, of the Baltimore County Department of Planning and Zoning, and James Patton, a Professional Engineer/Land Planner retained by the Protestants. As to Mr. McGrain, he is the sole employee of the Landmark Preservation Committee and has been referred to in prior decisions of this office as the Historical Concscience of Baltimore County. He described briefly the buildings on site and indicated that the property was not on the County's landmark preserva-

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tion list. However, in that he had not been to the site, his testimony was deferred to allow him an opportunity to conduct an onsite inspection. As to Mr. Patton's testimony, it was lengthy and is well summarized in the Protestant's Memorandum. Mr. Patton set forth a number of alleged improprieties in the plan, both on a technical basis as well as whether the proposal is a proper utilization of this site. Many of the technical aspects related to Ms. Willeboordse's expertise, the lack of participation of all of the property owners on the Petition, the incorrect/incomplete information provided regarding parking and the insufficient information as it relates to a number of density units proposed. Further, Mr. Patton concluded that there was insufficient information both on the plan and presented in the Petitioner's case at the hearing to justify the granting of a special exception under the test set forth in Section 502.1 of the B.C.Z.R.

The final day of the hearing included testimony from both the Petitioner and Protestants. Mr. McGrain was recalled and advised that he had completed his field survey of the site. Much of his findings will be discussed herein within the discussion regarding the historic character of the existing buildings. Testimony was also received from Sandy Mues, a Staff Member of the Army Corps of Engineers. She testified regarding an outstanding violation on the site concerning wetlands and the lack of resolution of this issue. Mr. Patton also testified and defended his conclusions on cross-examination.

Also testifying was Eleanor VanDevender on behalf of the Maiden Choice Community Association. She explained the areas of the Association's concerns as it relates to traffic, an increased number of elderly housing facilities in the area and further adverse effects on the community which she felt would result if the project was approved.

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By Sh. Good

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Date 3/22/93
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$$\begin{array}{r}
 \text{FFKLY} - 0.50 \text{ DENSITY UNITS} \\
 1 \text{ BDRM} - 0.75 \text{ DENSITY UNIT} \\
 2 \text{ BDRM} - 1.00 \text{ DENSITY UNIT} \\
 1 \text{ BED ASSISTY} = 0.25 \text{ DENSITY UNIT}
 \end{array}$$

$$\begin{array}{r}
 3 \text{ AC} \times \text{DR} 5.5 \text{ DENSITY UNITS} = 16.5 \text{ DENSITY UNITS} \\
 16.5 \\
 \hline
 1.00
 \end{array}$$

$$16.5 - 2 \text{ BDRM UNITS}$$

A dream has become a reality with the recent completion of the new Maiden Choice Medical Center on 16 rolling acres in the Catonsville area.

Formerly the site of a religious retreat for the Dominican Sisters of the Perpetual Rosary, the rolling, wooded acreage is now home to a medical complex offering residents of the area state-of-the-art services ranging from treatment by "primary care physicians", to specialized fields such as cardiology, radiologic imaging, rehabilitation medicine, dialysis, psychotherapy, etc.

The dream began when several local physicians and investors purchased the tract that had served as the convent home of the sisters since 1903. Years of declining enrollment in the catholic order and increased costs of maintaining the convent for only a small number of nuns forced the Archdiocese of Baltimore to sell the land and its building.

Following acquisition of the property, Dr. Norberto Machiran and his associates decided to construct a modern medical office complex at the site, while at the same time maintaining as closely as possible the original natural beauty of the site, and the existing architectural style.

"It was our desire to preserve as many of the large trees, as much of the open green spaces in the rolling grounds at

MAIDEN CHOICE MEDICAL CENTER

Prot 21

Improper driving

In most motor-vehicle accidents, factors are present relating to the driver, the vehicle and the road, and it is the interaction of these factors which often sets up the series of events that result in an accident.

The table below relates only to the driver and shows the principal kinds of improper driving which were factors in accidents in 1989. Correcting these improper practices could reduce the number of accidents. This does not mean, however, that road and vehicle conditions can be disregarded.

Kind of Improper Driving	Fatal Accidents			Injury Accidents			All Accidents		
	Total	Urban	Rural	Total	Urban	Rural	Total	Urban	Rural
Total	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
Improper driving	81.8	81.3	82.3	73.7	73.3	73.9	72.7	72.3	72.9
Speed too fast	26.7	27.5	25.8	23.1	23.3	22.8	18.9	17.4	20.5
Right of way	12.2	15.4	10.3	22.4	24.3	20.8	19.3	22.5	16.7
Failed to yield	8.4	10.1	6.5	22.2	25.6	19.3	22.5	26.5	18.7
Passed into lane	2.1	1.7	2.3	2.0	2.2	1.7	1.8	1.9	1.7
Change lanes improperly	1.2	0.6	0.7	5.2	5.0	5.4	4.9	4.5	5.4
Drove into center	4.3	2.4	5.9	1.5	0.9	2.7	1.7	1.2	2.2
Wrong-way driving	0.2	0.3	0.3	2.0	1.5	3.2	2.4	2.1	2.7
Made improper turn	0.7	0.6	0.4	1.5	1.6	1.2	2.6	2.9	1.8
Followed too closely	11.2	10.9	11.5	14.1	13.3	15.8	17.3	17.1	17.6
Other motorist driving	38.1	38.7	37.7	28.3	24.7	29.9	27.3	28.8	25.1
No improper driving stated	18.1	18.6	17.6	26.3	26.7	26.8	22.3	22.8	23.1

Older drivers

Older drivers tend to be overinvolved in traffic accidents according to a special report by a committee of the Transportation Research Board (TRB). Young drivers, however, are the most prone to accident involvement when compared to other age groups on the basis of miles driven. The accident involvement rate decreases after age 25, increases gradually between 35 and 74, and then increases sharply. The same basic "U" shaped curve is found for fatal accident involvement rates.

There are clearly defined crash patterns for older drivers, though the reported pattern varies depending on the study. According to the TRB report, they are often cited in fatal crashes for failure to yield the right of way, and are more likely to be charged with inattention or failure to observe signs and signals. Older drivers are least likely to be cited for reckless driving, driving too fast, or drinking and driving. In accidents of all severities, backing and parking maneuvers, and head-on crashes. These overinvolvements, however, are found only in urban areas, not in rural areas.

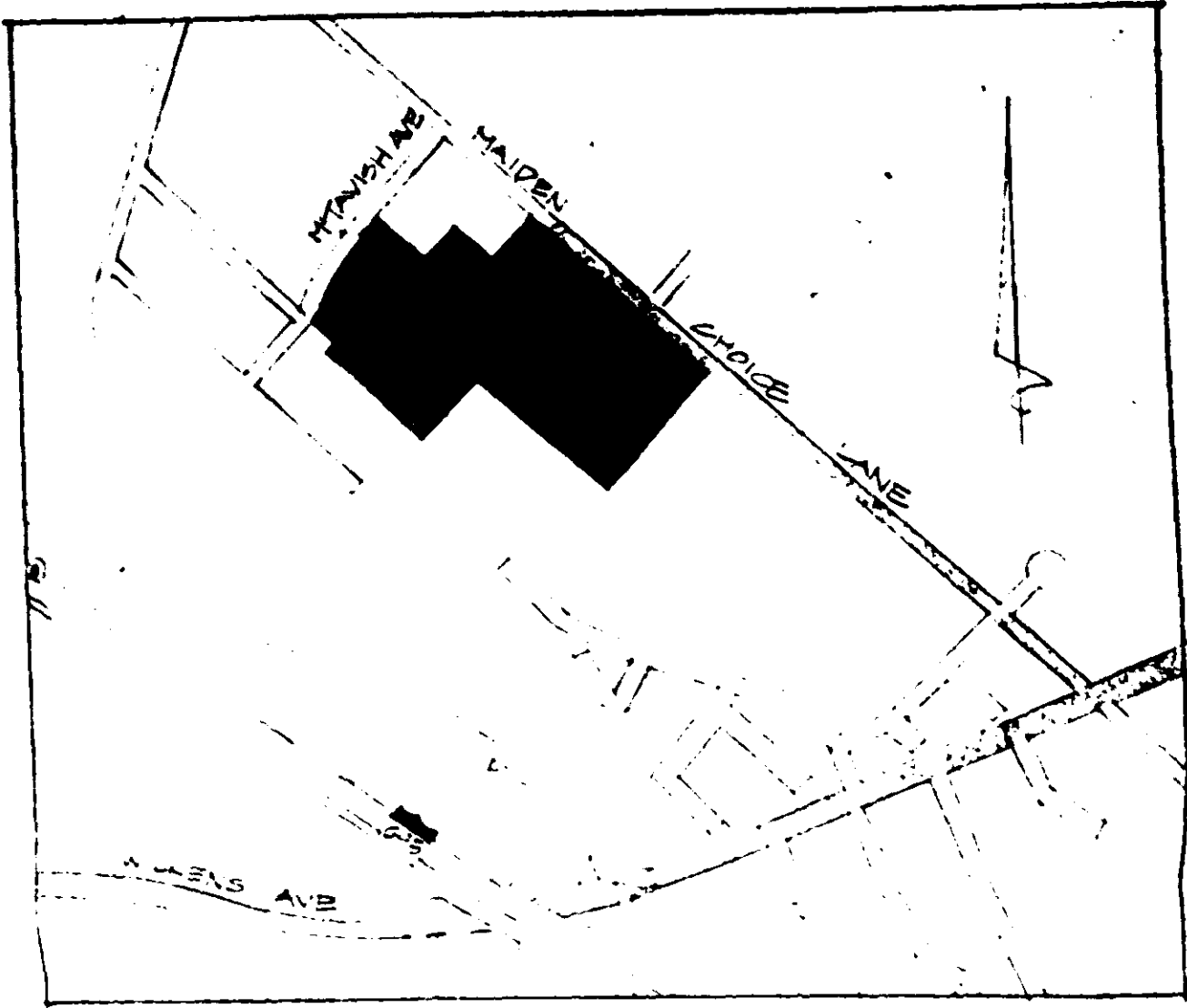
In other reports, Carrelli found that older drivers are more likely to be involved in intersection crashes, commit more right-of-way and signal violations, and less likely to be involved in single-vehicle crashes. Vanik reports that elderly drivers typically have higher involvement rates for failure to yield, improper turning, ignoring stop signs and red lights, and starting up improperly into traffic. Older drivers had higher rates of left turn violations and inattention but there was no evidence that they had problems with backing or changing lanes or drove too slowly.

Transportation Research Board, 1989, "Improvement in an aging society: improving mobility and safety for older drivers," Report 2, Washington, DC: National Research Council. Carrelli, E. C., February 1989, "Older drivers and the aging society," Report 2, Washington, DC: National Research Council. Vanik, B. J., 1987, "Aging and driver performance," SAE Technical Paper 85-0688, Warrendale, PA: Society of Automotive Engineers.

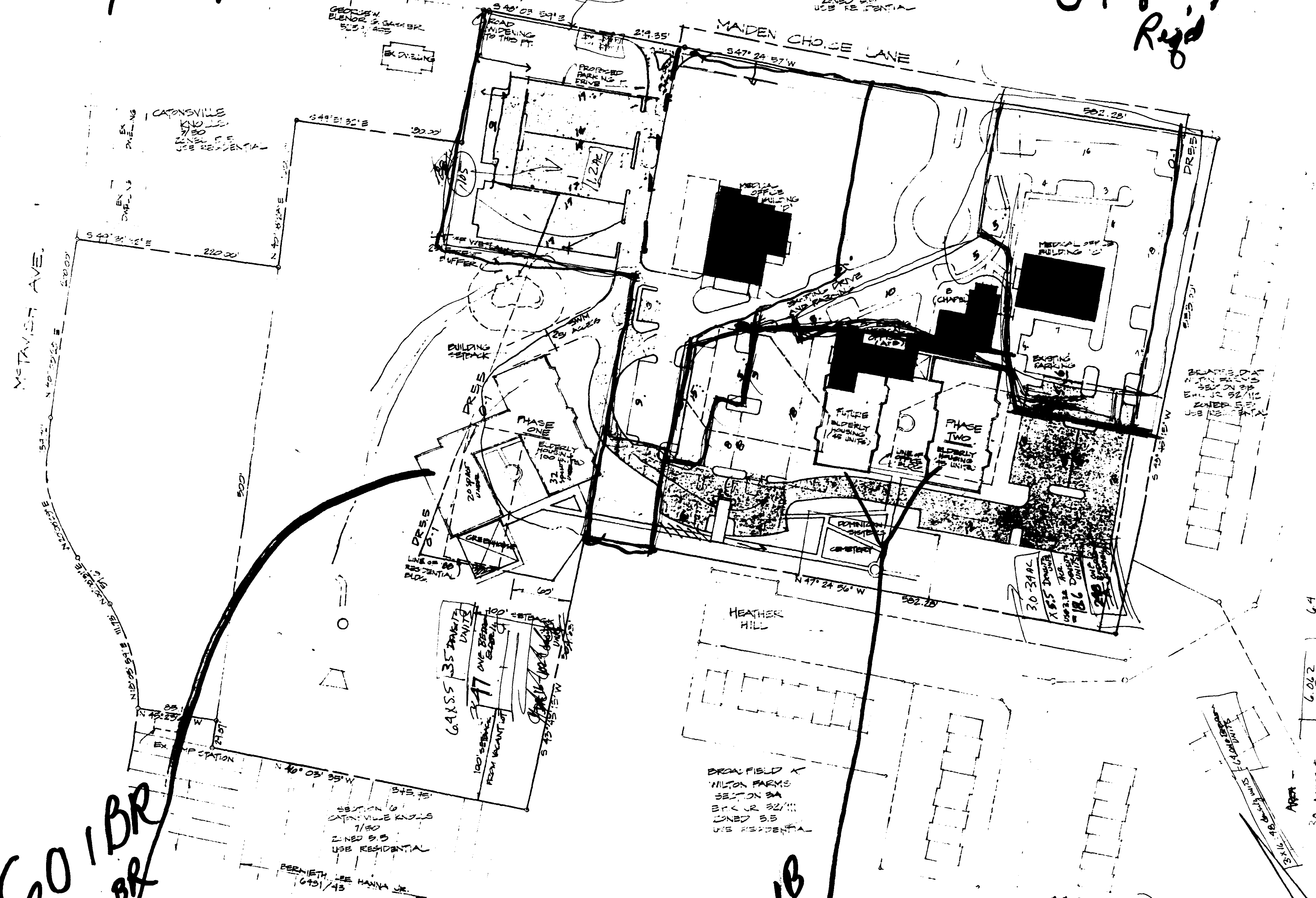
PROTESTANTS

85,000. 1 BR
 100,000 2 BR
 No \$ MO. MAINT.
 FEE

263 in lieu of 348
 Rys



VICINITY



60 1 BR
 40 2 BR
 90
 80
 170 Rys

54 1 BR
 36 2 BR

56
 90
 146 Rys

6.042	6.4
1.541	3.6
7.203	3.6
6.903	
16	
1.9	
10.041	
10.041	
2.0	

ST. DOMINIC'S PLACE

OCTOBER 12 1992

PROTESTANT'S EXH. No 14

Dr. James Carey also testified. He is the President of the Catonsville Condominium Association, Inc. which includes owners of the medical office condominium presently on site. He described a perceived lack of communication between his Association and the Petitioner. He also expressed concerns regarding parking.

On behalf of the Petitioner, Jane Willeboordse, Hugo Liem, Jr. and Dr. Machiran all, again, testified. Ms. Willeboordse described the number and type of dwelling units proposed for the elderly housing facility. As to Mr. Liem, much of his testimony was not permitted, after objection by the Protestants that his later field studies were not actually performed by him or under his supervision and direction. As to Dr. Machiran, he denied any knowledge of the outstanding Army Corps of Engineers' violation testified to by Ms. Mues. He also described efforts which would be made by the Petitioner to insure that the housing was only available to elderly individuals.

A threshold issue to be determined in this case relates to the requested increase in density to permit 14.5 units per acre, pursuant to the Petition for Special Hearing. Specifically, the Petitioner requests an increase in density pursuant to Section 432 of the B.C.Z.R. This section comprehensively regulates elderly housing facilities in D.R. zones and was enacted into law by the passage of Bill No. 36 during the 1988 legislative session.

It is to be initially noted that Section 432.B sets forth the purposes of the legislation and provides that development of elderly housing facilities is to be especially encouraged on property containing existing institutional uses. Further, the section defines institutional uses as convents, orphanages, schools, seminaries, officially designated historic buildings, hospital campuses and churches on sites containing at least 10 acres.

In the instant case, the Petitioner has not requested a density increase based upon the existence of an institutional use on the property. Clearly, there are no active convents, orphanages, schools, seminaries, officially designated historic buildings, hospital campuses or churches on the site. Further, as the Protestants' Memorandum correctly notes, it is questionable whether the property, subject to the Petition, encompasses at least 10 acres. As noted, heretofore, the property has previously been developed pursuant to the C.R.G. plan approved in 1986. As part of that development, the property was parceled into several lots, two of which support the existing buildings. Arguably, these lots cannot be considered as a portion of the tract to be developed, which reduces the remaining net acreage available for development. Further, the lots dedicated to the development of the medical offices bifurcate the property. In any event, the Petitioner has not alleged the existence of an institutional use on the property and, therefore, cannot obtain an increase in density on that basis.

In the alternative, the Petitioner seeks a density bonus under Section 432.3 of the B.C.Z.R. Therein, the regulation permits for a modification of the maximum residential density if development of an elderly housing is proposed on property that contains a historic building. The Petitioner argues that the site does contain a historic building which justifies an increased density.

In this regard, a review of the testimony is appropriate. Initially, this property served as the home for a convent for the Dominican Sisters of the Perpetual Rosary, an affiliate of the original Order established by St. Dominic in the year 1206. The local Order was begun in 1880 and relocated to this property in 1910. Several original buildings, including a chapel and convent, were constructed to serve the purposes of the Order. However,

these structures were eventually destroyed by fire and then razed because they fell into a state of disrepair. The current chapel building was constructed in 1957. As a result of the redevelopment of the property and the approved C.R.G. plan, that building has been converted to medical offices. The existing convent building was constructed in 1969. It, likewise, was converted to medical offices following the redevelopment of the property and the approved C.R.G. plan in 1986.

As to the balance of the grounds, there are a series of tall blue spruce trees near the entrance to the site on the northeast side of the property. Further, a small cemetery containing the remains of 27 nuns of the Order is located in the rear (southern) portion of the property. The actual closure of the Order occurred on November 22, 1980 and Dr. Machiran's group acquired the property for redevelopment shortly thereafter.

In determining whether the property contains a historic building which would qualify for increased density pursuant to Section 432, particular attention must be paid to the language of the statute. It is first to be noted that a density increase is only available if a historic building exists on the site. Further, Section 101 of the B.C.Z.R. defines a number of the terms used in the regulations. Within that section, building is defined as "A structure enclosed with exterior fire walls for the shelter, support or enclosure of persons, animals or property of any kind." This definition is significant, in that the regulations apply only to historic buildings, as opposed to structures or uses of the property. Thus, the existence of the cemetery does not constitute a historic building, nor does the preservation of the line of tall blue spruce trees. Rather, the Petitioner's case must prevail or fail on whether the chapel and convent buildings are historic.

In this regard, Mr. McGrain's testimony is particularly helpful. He regarded, as significant, the fact that the chapel building was constructed in 1957 and the convent building in 1969. Thus, as he correctly noted, the relatively recent construction date of these buildings prohibit consideration of same as historic from an age standpoint. That is, Mr. McGrain noted that the buildings are too young to be listed by the Baltimore County Historical Society and their age, in and of itself, does not justify a designation of the buildings as historic.

A second consideration for evaluation in the context of this case is the previously approved C.R.G. plan. Specifically, the Protestants place great emphasis on that plan and "Note #16" thereon. Within that note, it is stated that "There are no wetlands, critical areas, archeological sites, endangered species habitats, historic buildings or hazardous materials on this site." (emphasis added) Thus, the Protestants argue that the Petitioner has admitted, on the approved C.R.G. plan, that the chapel and convent buildings do not qualify as historic buildings. The Petitioner, however, disputes the effect of the note. As noted in their Memorandum, the Petitioner claims that the engineers who prepared the C.R.G. plan in 1986 were required to only list buildings on the National Historic Register or under the jurisdiction of the State Historic Trust or Landmark Preservation Commission. In that neither the convent nor the chapel have ever been so designated by any of these organizations, the Petitioner believes that the note on the 1986 C.R.G. plan is of no consequence.

The third issue for consideration in this respect is the meaning of the word "historic". Unfortunately, Section 432 of the B.C.Z.R. is silent as to specific standards to be applied in deciding if a building should be deemed historic. Further, Section 101 of the B.C.Z.R. does not define the term.

However, the definitional section of the B.C.Z.R. does state that any word or term not defined therein, shall have the ordinarily accepted definition of the word as set forth in the most recent edition of Webster's Third New International Dictionary of the English Language, Unabridged. As the Petitioner notes in their Memorandum, Webster defines historic as being "important, famous or decisive in history, or having considerable important significance or consequence." Further, historical (a deviation of historic) is defined as "of, relating to or having the character of history, especially as distinguished from myth or legend". Thus, this is the meaning which must be used for deciding the issue.

The next factor which bears on this issue relates to the current state of the convent and chapel building and whether they have lost any historic character which they may have had at one time. As noted above, these buildings have been converted to medical offices. Testimony presented was that there have been a significant number of internal renovations to accomplish this reuse of the buildings. Clearly, neither of the buildings are now being used to further the interests of the religious order which occupied this parcel prior to the closing of the religious Order in 1980.

The fifth and final consideration to be applied in determining this issue, relates to the language within Section 432.3 of the B.C.Z.R. Specifically, in Section 432.3.B.1, a finding must be made that adequate guarantees have been made for the exterior preservation or restoration of the subject building, if said building is not on the final historic landmarks list of the Landmarks Preservation Commission of Baltimore County. If the building is on the Landmarks Preservation Commission list, then Section 432.3.B.2 controls. In that instance, the Zoning Commissioner shall incorporate all pertinent requirements of the Commission as conditions of the special excep-

tion. Further, in Section 432.3.A.2, guidance is provided as to adaptive reuse of historic buildings. Such reuse is encouraged by the regulations and the Commissioner is directed to consider historical, architectural, structural, functional, economic and other pertinent factors in determining whether such buildings are suitable for adaptive reuse.

After careful consideration of all of the tests and standards enunciated above, I am persuaded that the Petitioner has failed to meet its burden and establish that the convent and chapel buildings are of historic character and, thereby, permit an increase in the density available. It can be said that the use of this property at one time was historically significant. The occupation/use of the property by the Dominican Sisters was of historical character, particularly as it relates to the religious tradition of Baltimore County. However, it is not the prior use of this property which is significant in connection with Section 432, but the buildings themselves. These buildings are practically new. The chapel, constructed in 1957 is but 36 years old. The convent, constructed in 1968, is only 25 years old. Certainly, from an age perspective, the buildings are not historic. Further, there was no evidence that any historically significant event took place in these buildings which would justify their designation as historic for that reason. No significant historical figure was born or raised here; no important, famous or decisive event occurred here. Rather, it is clear that the buildings were used for the religious purposes as the Dominican Sisters wound down their occupancy of the property. This fact was clearly not lost on the Petitioner in 1986, who admitted, within Note #16 on the approved C.R.G. plan, that no historic buildings existed on the site. Although such an admission is not now legally binding on the Petitioner, Note

#16 represents an unbiased assessment made by the Petitioner's engineer in 1986 which, I believe, remains accurate today.

As significantly, I agree with the assessment of the Protestants that if the buildings once possessed a historic character, that character was lost during the redevelopment and re-utilization of the property. When the property was redeveloped and the buildings converted to medical offices, the character which may have, at one time, made them historic, was lost. Further, there is no credible evidence that the buildings possess any unique architectural, structural or similar traits that would make them historic. Mr. McGrain testified they were attractive buildings of pleasing design. Nonetheless, they are not historic or architecturally unique. Thus, for all of these reasons, I am persuaded that the Petitioner has failed to meet its burden and, therefore, the special hearing requesting an increase in density must be denied.

Having reached the conclusion to deny the Petition for Special Hearing for the reasons stated above, the remaining requests for relief are moot. Clearly, the plan is based on an increased density to 14.5 units per acre and cannot be approved if the density increase is not allowed. Further, as Dr. Machiran observed, the project is not feasible without the density increase.

Nonetheless, since so much testimony and effort was expended on the other issues presented, I feel compelled to address them. As to the Petition for Special Exception, I am frankly unable to formulate an opinion on whether this use is permissible under the standards set forth in the B.C.Z.R. As noted herein, many of the relevant details relating to the operation of the elderly housing facility had not been decided at the time of the hearing. In that these considerations bear on the issue of whether

the use would adversely effect the surrounding locale, a determination of whether the Petition satisfies the tests in Section 502.1 of the B.C.Z.R. is difficult. Further, although I applaud the Petitioner's flexibility in presenting its plans, the significant amendment made to the plan in mid-hearing is troublesome. Particularly, since traffic flow and parking were identified as significant issues, a change to the plan relocating a parking lot and adding an access point to the property must be considered major. This change was made without the benefit of any testimony from the reviewing County employees as to an evaluation of its impact. As significantly, the dispute over lot ownership/control is significant. As Zoning Commissioner, my authority is limited. Whether I may decide the effect of easements/ownership is questionable. Clearly, it would have been preferable for the Petitioner to obtain a resolution prior to the zoning hearing of the issues surrounding the use of the lots owned by the condominium association on this Petition for Special Exception. For these reasons, a fair and complete evaluation of the remaining issues generated with this case is difficult.

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 denied.

IT IS THEREFORE ORDERED, by the Zoning Commissioner for Baltimore County, this 24th day of March, 1993 that the Petition for Special Hearing, for the designation of existing onsite buildings as historically or architecturally significant, be and is hereby DENIED; and,

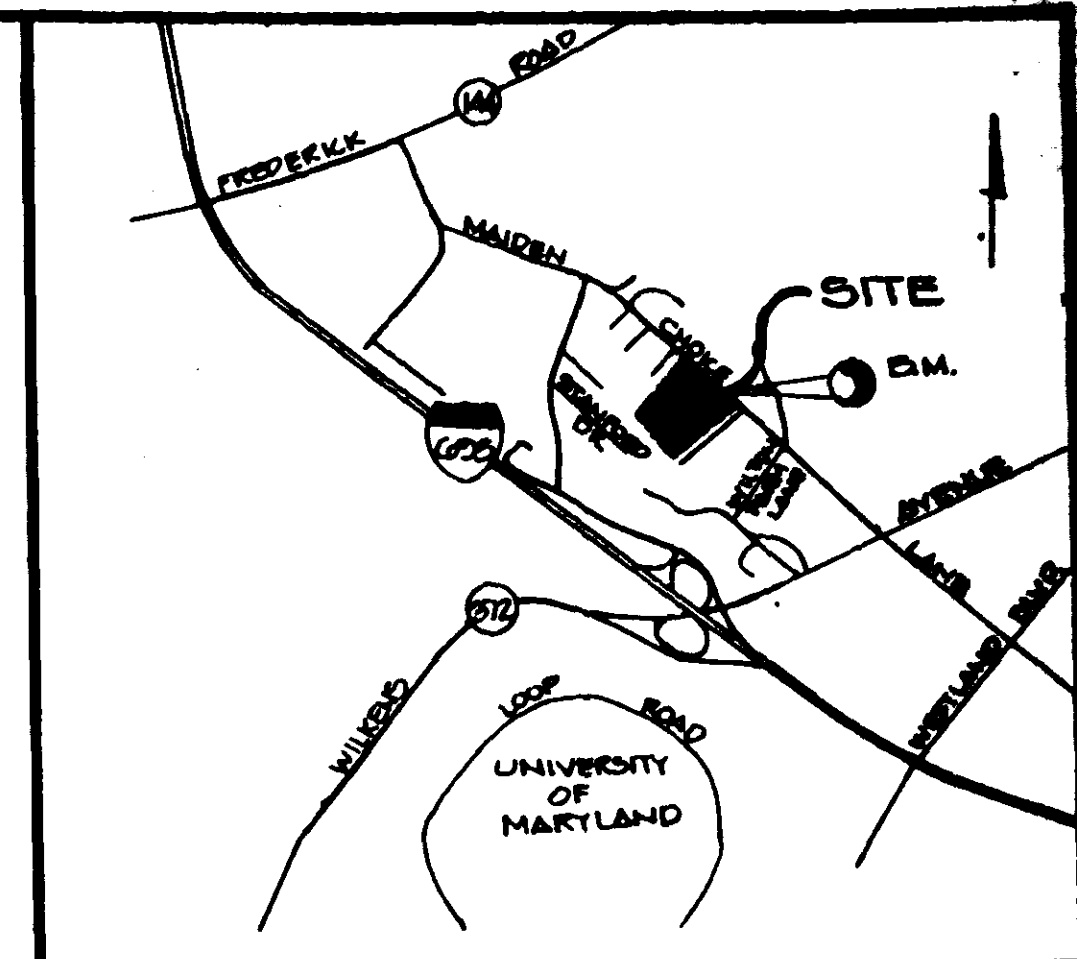
IT IS FURTHER ORDERED that the Petition for Special Hearing to permit an increase of density to 14.5 units per acre, be and is hereby DENIED; and,

COORDINATES					
NO.	NORTHING	EASTING	NO.	NORTHING	EASTING
BD1	-10822.7350	-25244.8716			
LT 9	-10879.1079	-25213.1498			
RW 9	-10445.8523	-25590.3203			
RW 9	-10583.6223	-25440.4230			
LT 15	-10731.1926	-25582.0490			
CD 229	-10704.5143	-25752.6902			
DD 3	-10430.2586	-25584.4386			

W 26.000
S 10.500

N 26.000
S 10.750

S 10.750
W 26.000

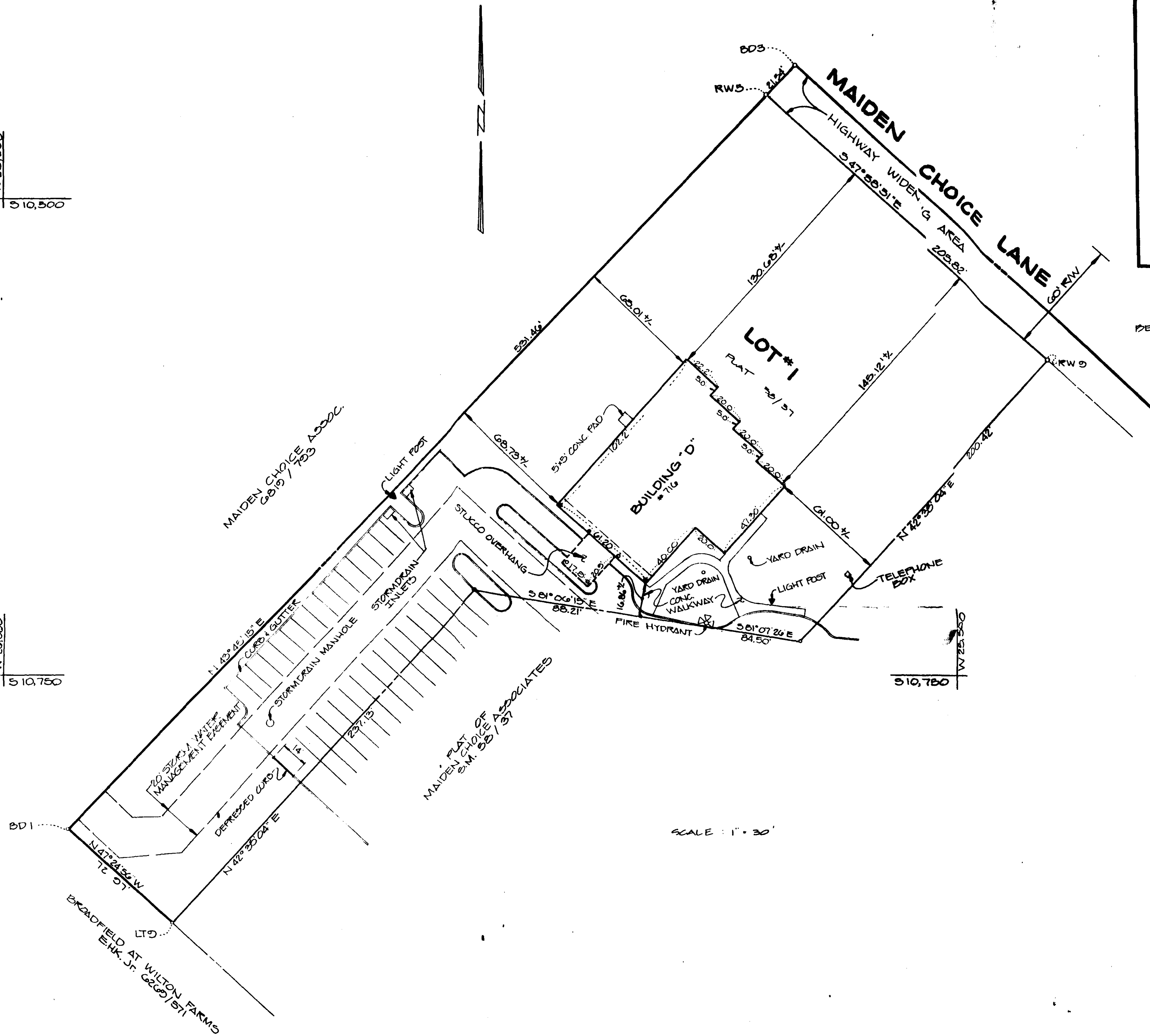


LOCATION MAP

SCALE: 1" = 2000'

BENCH MARK: X 7261 S 10,622.36 W 25,543.45 EL. 310.07
GALVANIZED SPIKE IN MACADAM EAST
SIDE MAIDEN CHOICE LANE'S NORTH
ENTRANCE TO ST. CHARLES.

- NOTES:
- 1) BEARINGS AND DISTANCES HEREON ARE REFERRED TO A RECORDED PLAT ENTITLED "FINAL SUBDIVISION PLAT, PLAT ONE OF TWO, MAIDEN CHOICE ASSOCIATES" AND RECORDED IN BALTIMORE COUNTY PLAT BOOK 34, PAGE 10.
 - 2) FLOOD INSURANCE RATE MAP COMMUNITY PANEL NO. 24000-0590 B, DATED MARCH 2, 1981 SHOWS THIS LAND AS BEING ZONE C.



SCALE: 1" = 30'

Paul Noz

OWNERS CERTIFICATE

THE REQUIREMENTS OF MARYLAND CONDOMINIUM ACT, REAL PROPERTY ARTICLE SECTIONS 11-101 ET SEQ. OF THE ANNOTATED CODE OF MARYLAND (AS AMENDED) CONCERNING THE MAKING OF THE CONDOMINIUM PLAT AND THE SETTING OF MARKERS HAVE BEEN COMPLIED WITH.

James P. 1/31/90
OWNER DATE

SURVEYOR'S CERTIFICATE

I, *James C. Nims*, a REGISTERED PROPERTY LINE SURVEYOR OF THE STATE OF MARYLAND HEREBY CERTIFY THAT THE CONDOMINIUM PLAT SHOWN HEREON, CONSISTING OF SHEETS 1 THRU 4 IS CORRECT THAT THE BUILDING IS LOCATED ON THIS SITE AS SHOWN ON SHEET 1 OF 4, THE CONDOMINIUM PLAT, TOGETHER WITH THE APPLICABLE WORKING OF THE DECLARATION IS A CORRECT REPRESENTATION OF THE CONDOMINIUM DESCRIBED AND THE IDENTIFICATION AND LOCATION OF EACH UNIT AND THE COMMON ELEMENTS AS CONSTRUCTED CAN BE DETERMINED FROM THEM, THAT THE LOCATION AND DIMENSIONS OF ALL EXISTING IMPROVEMENTS HAVE BEEN CAREFULLY ESTABLISHED AND SURVEYED BY A FIELD RUN SURVEY AND THAT UNLESS OTHERWISE SHOWN THERE ARE NO VISIBLE ENCROACHMENTS AND THAT THE REQUIREMENTS OF THE REAL PROPERTY ARTICLE, TITLE 3-108 OF THE ANNOTATED CODE OF MARYLAND (AS AMENDED) AS FAR AS THEY RELATE TO THE MAKING OF THIS PLAT HAVE BEEN COMPLIED WITH.

1/26/90
DATE

NOTE:

COORDINATES AND BEARINGS SHOWN ON THIS PLAT ARE REFERRED TO THE SYSTEM OF COORDINATES ESTABLISHED IN THE BALTIMORE COUNTY METROPOLITAN DISTRICT AND ARE BASED ON THE FOLLOWING TRAVERSE STATIONS.

X - 7261 S 10,622.36 W 25,543.45
X - 7262 S 10,257.82 W 25,748.18

OWNER / DEVELOPER

MAIDEN CHOICE INVESTMENT GROUP INC.
716 MAIDEN CHOICE LANE
CATONSVILLE, MARYLAND 21228

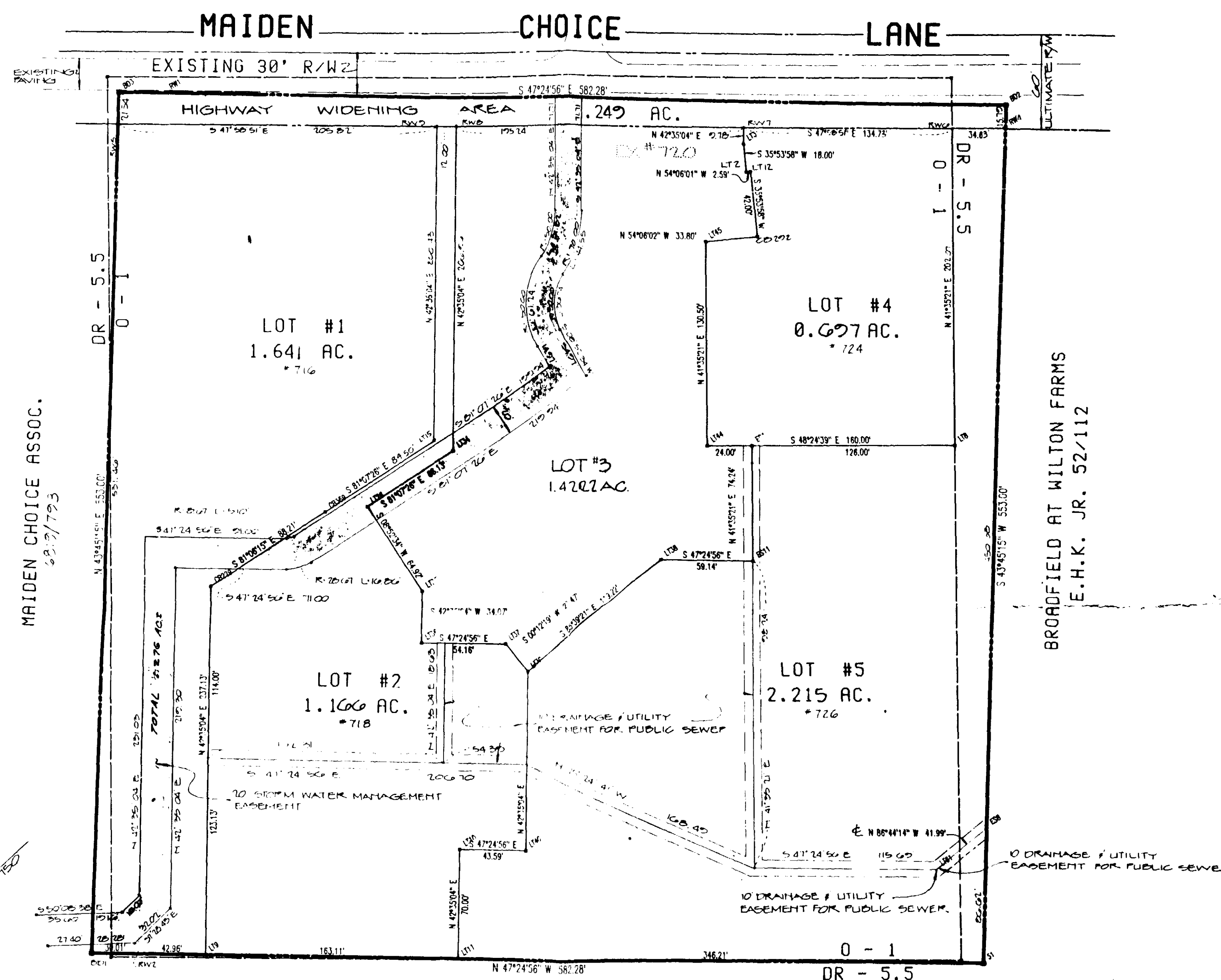
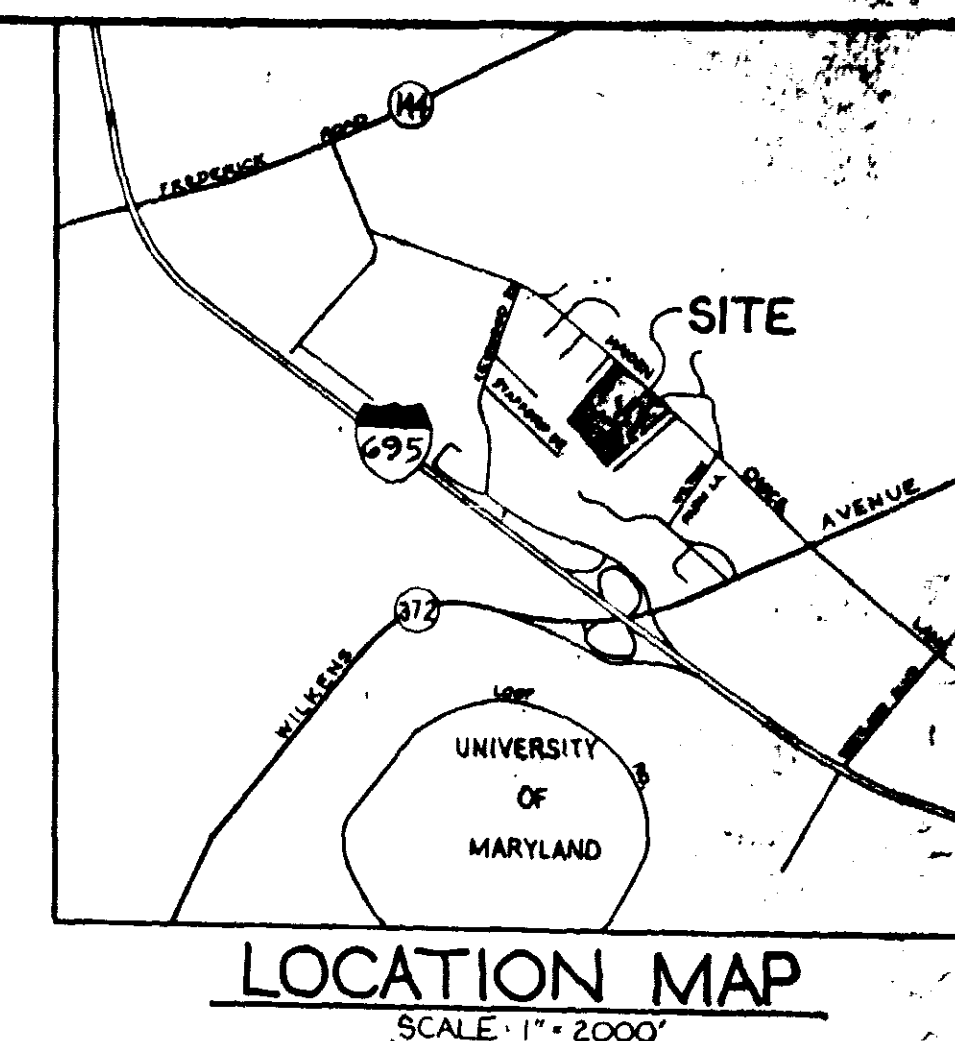
D.S. THALER ASSOCIATES, INC.
CIVIL ENGINEERS - SURVEYORS
7115 AMBASSADOR ROAD
BALTIMORE MARYLAND 21207
344-3647

CATONSVILLE MEDICAL CENTER CONDOMINIUM

716 MAIDEN CHOICE LANE
CATONSVILLE MARYLAND 21228

SHEET 1 OF 4 JANUARY 15, 1990

ST. CHARLES COLLEGE
147/5, 152/156, 448/288



COORDINATE TABLE

NAME	NORTHING	EASTING
BD1	10410.2956	-25584.4358
BD2	10424.3105	-25155.7142
B1	10423.7500	-25538.1500
BD1	10423.7350	-25986.8716
BD1	10450.6001	-25562.3428
BD2	10450.0398	-25947.7786
BD3	10445.8615	-25599.5529
BD4	10435.1192	-25186.0241
BD5	10481.6612	-25441.9034
BD6	10711.5540	-25579.6720
BD7	10718.1505	-25065.5378
BD8	10704.5143	-25752.8802
BD9	10674.1679	-25913.1494
BD10	10701.6041	-25431.5025
BD11	10744.0409	-25477.4561
BD12	10733.5377	-25445.8088
BD13	10727.9754	-25655.9118
BD14	10677.0713	-25777.9071
BD15	10659.7147	-25676.1464
BD16	10653.1571	-25670.1764
BD17	10627.4737	-25713.5297
BD18	10547.3792	-25745.6805
BD19	10549.4759	-25761.0764
BD20	10721.3409	-25291.4409
BD21	10724.7484	-25298.7414
BD22	10744.1297	-25369.7360
BD23	10745.7484	-25307.5774
BD24	10739.7278	-25332.1747
BD25	10725.4544	-25359.5461
BD26	10547.4751	-25445.1676
BD27	10576.7119	-25424.4772
BD28	10542.5145	-25473.7537
BD29	10542.0179	-25517.2087
BD30	10511.8514	-25191.5454
BD31	10497.6777	-25329.4627
BD32	10511.1796	-25474.2472
BD33	10516.7646	-25520.1076
BD34	10540.6148	-25707.1842
BD35	10526.1154	-25677.7454
BD36	10544.4773	-25654.5112
BD37	10585.0135	-25445.4130

DENSITY NOTES

1. GROSS AREA OF SITE: 7.571 AC.
2. EXISTING ZONING: DR-5.5 - 0.950 AC.
3. NO. OF UNITS ALLOWED: 0.950 AC. @ 170 = 162
4. NO. OF LOTS PROPOSED: 5 LOTS
5. PARKING SPACES REQUIRED: 47175 @ 151 = 314
6. PARKING SPACES PROVIDED: 180

NOTES

1. The recording of this plat does not constitute acceptance by the county of any street, easement, park open space, or any other public area shown on the plat.
2. This plat may expire in accordance with the provisions of Section 22-58, B.U. 11-85-87.
3. The recording of this plat does not guarantee installation of streets or utilities by Baltimore County.
4. The information shown hereon may be superseded by a subsequent or amended plat.
5. Additional information concerning this plat may be obtained from the Office of Planning and Zoning and the Department of Public Works.
6. C.R.G. plan approval: 7-10-1988
7. ALL LOTS HAVE THE RIGHT TO USE THE ACCESS AND ANY PARKING SPACES ON SITE.

BROADFIELD AT WILTON FARMS
E.H.K. JR. 6269/571

BROADFIELD AT WILTON FARMS
E.H.K. JR. 52/1111

OWNER/DEVELOPER

MAIDEN CHOICE ASSOCIATES, INC.
C/O MR. DAVID CARNEY, ESQUIRE

REESE & CARNEY 10715 CHARTER DRIVE
COLUMBIA, MARYLAND 21044 (301) 748-4600

FINAL SUBDIVISION PLAT PLAT ONE OF TWO MAIDEN CHOICE ASSOCIATES

FIRST ELECTION DISTRICT: BALTIMORE, MD.
FIRST COUNCILMANIC DISTRICT: JANUARY, 1987
SCALE: 1" = 50'
TAX ACCOUNT: 01-04-500240
DEED OF OWNERSHIP: 6819/793
C.R.G. APPROVED: 7-10-1988
SEWER SHED #14 (PATAPSCO SEWER SHED)

NOTE:
HIGHWAY AND HIGHWAY WIDENING SLOPE, DRAINAGE AND UTILITY EASEMENTS SHOWN HEREON ARE RESERVED INTO THE DEVELOPER AND ARE HEREBY OFFERED FOR DEDICATION TO BALTIMORE COUNTY, MARYLAND. THE DEVELOPER, HIS PERSONAL REPRESENTATIVES AND ASSIGNS SHALL CONVEY SAID AREAS BY DEED TO BALTIMORE COUNTY, MARYLAND AT NO COST.

NOTE:
COORDINATES AND BEARINGS SHOWN ON THIS PLAT ARE REFERRED TO THE SYSTEM OF COORDINATES ESTABLISHED IN THE BALTIMORE COUNTY METROPOLITAN DISTRICT AND ARE BASED ON THE FOLLOWING TRAVERSE STATIONS:

X-7201 S. 10222.36 W. 25.343.45
X-7202 S. 10251.52 W. 25.743.10

NOTE:
THE STREETS AND OR ROADS AS SHOWN HEREON AND THE MENTION THEREOF IN DEEDS ARE FOR THE PURPOSE OF DESCRIPTION ONLY AND THE SAME ARE NOT INTENDED TO BE DEDICATED TO PUBLIC USE. THE FEE SIMPLE TITLE TO THE BEDS THEREOF IS EXPRESSLY RESERVED IN THE GRANTORS OF THE DEED TO WHICH THIS PLAT IS ATTACHED THEIR HEIRS AND ASSIGNS.

OWNERS CERTIFICATE

THE UNDERSIGNED, OWNER OF THE LAND SHOWN ON THIS PLAT, HEREBY CERTIFIES THAT, TO THE BEST OF ITS KNOWLEDGE, THE REQUIREMENT OF SUBSECTION (C) OF SECTION 3-108 OF THE REAL PROPERTY ARTICLE OF THE ANNOTATED CODE OF MARYLAND, HAS BEEN COMPLIED WITH, INsofar AS SAME CONCERNS THE MAKING OF THE PLAT AND SETTING OF THE MARKERS.

SURVEYORS CERTIFICATE

THE UNDERSIGNED, A REGISTERED LAND SURVEYOR OF THE STATE OF MARYLAND, DOES HEREBY CERTIFY THAT HE IS THE SURVEYOR WHO PREPARED THIS PLAT AND THAT THE LAND SHOWN ON THIS PLAT HAS BEEN LAID OUT AND THE PLAT THEREOF HAS BEEN PREPARED IN COMPLIANCE WITH SUBSECTION (C) OF SECTION 3-108 OF THE REAL PROPERTY ARTICLE OF THE ANNOTATED CODE OF MARYLAND PARTICULARLY INsofar AS SAME CONCERNS THE MAKING OF PLAT AND SETTING OF THE MARKERS.

DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT

APPROVED BY BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING



D. S. THALER & ASSOCIATES, INC.

CIVIL ENGINEERS • SURVEYORS
11 WARREN ROAD BALTIMORE, MARYLAND 21208 484-4100

DEPARTMENT OF PUBLIC WORKS

APPROVED BY BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING

P.W.A. COMPLETED 10703 BAP

FINAL PLAT CHECKED
PLANNING: GUY
ENGINEERING: GUY
HOUSE NUMBERS: 2-10-88

COMPUTED BY: G.M.B.

CHECKED BY: M.S.
DRAWN BY: G.M.B.
P.N.: 10703 BAP

ST. CHARLES COLLEGE
147/5, 152/156, 448/288

MAIDEN CHOICE LANE

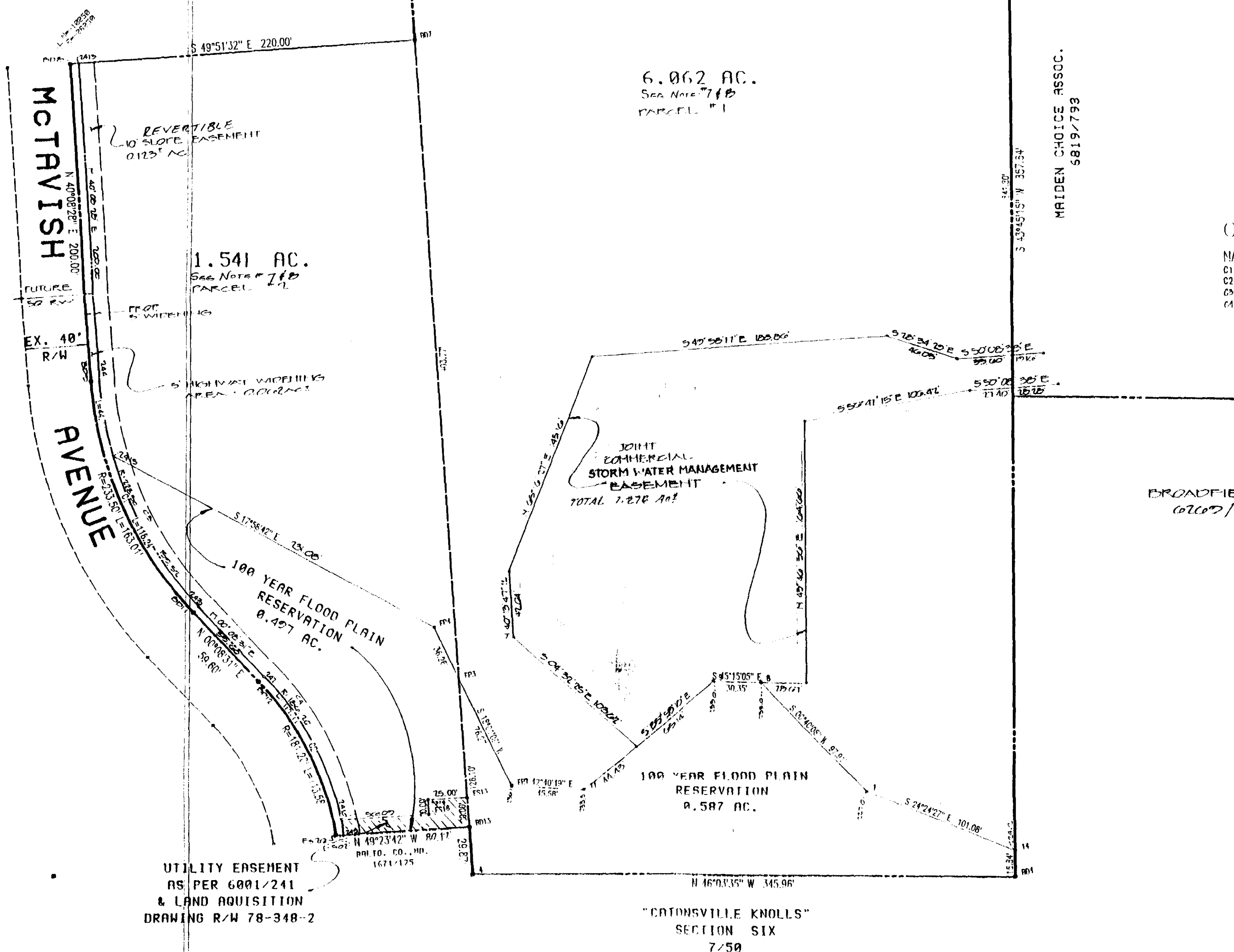
"CATONVILLE KNOLLS"
SECTION FIVE
7/50

COORDINATE TABLE

LINE	FROM	TO	BEARING	DIST.
1	10753.1108	75111.6146		
2	10753.1108	25581.4158		
3	10753.1108	26127.5501		
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95	10753.1108	26127.5501		
96	10753.1108	26127.5501		
97	10753.1108	26127.5501		
98	10753.1108	26127.5501		
99	10753.1108	26127.5501		
100	10753.1108	26127.5501		

OWNER/DEVELOPER

MAIDEN CHOICE ASSOCIATES, INC.
c/o MR. DAVID CARNEY, ESQUIRE
REESE & CARNEY 10715 CHARTER DRIVE
COLUMBIA, MARYLAND 21044
(301) 740-4600



CURVE TABLE

NAME	ANGLE	RADIUS	LENGTH	BEARING	CHORD	TANGENT
C1	38°59'57"	233.50	1-3.01	S 70°08'28" W	159.72	84.99
C2	35°54'52"	180.20	1-3.58	S 18°08'05" W	111.73	58.75
C3	59°59'57"	700.50	1-5.97	S 10°08'28" W	156.50	85.11
C4	52°01'11"	176.50	1-1.11	S 19°09'49" W	115.19	62.51

NOTES

1. The recording of this plat does not constitute or imply acceptance by the county of any street, easement, park open space, or any other public area shown on the plat.
2. This plat may expire in accordance with the provisions of Section 22-68, Bill #56-87.
3. The recording of this plat does not guarantee installation of streets or utilities by Baltimore County.
4. The information shown hereon may be superseded by a subsequent or amended plat.
5. Additional information concerning this plat may be obtained from the Office of Planning and Zoning and the Department of Public Works.
6. C.R.G. plan approval: 7-16-86
7. No Addresses TO BE ISSUED UNTIL FUTURE DEVELOPMENT IS APPROVED.

93-49-SPHXA

FOR ZONING
PURPOSES
ONLY

Final Record
24.58 FOLIO 38
Date MAR 16 1988

Test:
Signature: [Signature]
Clerk

B. NOTE: PARCELS 1 THRU 2 HAVE NOT BEEN SURVEYED AND NO CHANGES HAVE BEEN MADE. THIS SHEET IS ONLY TO PROVIDE THE INFORMATION RELATING TO THE STORM WATER MANAGEMENT EASEMENT.

FINAL SUBDIVISION PLAT PLAT TWO OF TWO MAIDEN CHOICE ASSOCIATES

FIRST ELECTION DISTRICT BALTIMORE, MD.
FIRST COUNCILMANIC DISTRICT MARCH, 1987
SCALE: 1"=50'
TAX ACCOUNT # 01-04-500248 *01-04-500241
01-04-500243 *01-04-500241

C.R.G. APPROVED: 7-16-1986
SEWERSHED #14 (PATASCO SEWER SHED)

#54

NOTE:
HIGHWAY AND HIGHWAY WIDENING, SLOPE, DRAINAGE AND UTILITY EASEMENTS SHOWN HEREON ARE RESERVED TO THE DEVELOPER AND ARE HEREBY OFFERED FOR DEDICATION TO BALTIMORE COUNTY, MARYLAND. THE DEVELOPER, HIS PERSONAL REPRESENTATIVES AND ASSIGNS SHALL CONVEY SAID AREAS BY DEED TO BALTIMORE COUNTY, MARYLAND AT NO COST.

NOTE:
COORDINATES AND BEARINGS SHOWN ON THIS PLAT ARE REFERRED TO THE SYSTEM OF COORDINATES ESTABLISHED IN THE BALTIMORE COUNTY METROPOLITAN DISTRICT AND ARE BASED ON THE FOLLOWING TRAVERSE STATIONS.

X - 1161 S 10°02'30" W 25.843.45
Y - 1161 S 12°51'52" W 25.740.18

NOTE:
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DATE 7/50

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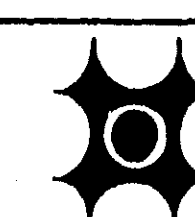
DATE 7/50

DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT

Director: [Signature]
DATE 7-2-88

APPROVED BY BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING

Director: [Signature]
DATE 3-11-88



D. S. THALER & ASSOCIATES, INC. CIVIL ENGINEERS • SURVEYORS

11 WARREN ROAD BALTIMORE, MARYLAND 21208 484-4100

DEPARTMENT OF PUBLIC WORKS

Director: [Signature]
DATE 5-8-88

PWA COMPLETED 18703 BXP

FINAL PLAT CHECKED
PLANNING: [Signature]
ENGINEERING: [Signature]
DATE 3-10-88

COMPUTED BY: [Signature]
CHECKED BY: M.S.
DRAWN BY: G.M.B.
P.N.:

58-36

HYDROGEOLOGIC ENVIRONMENT

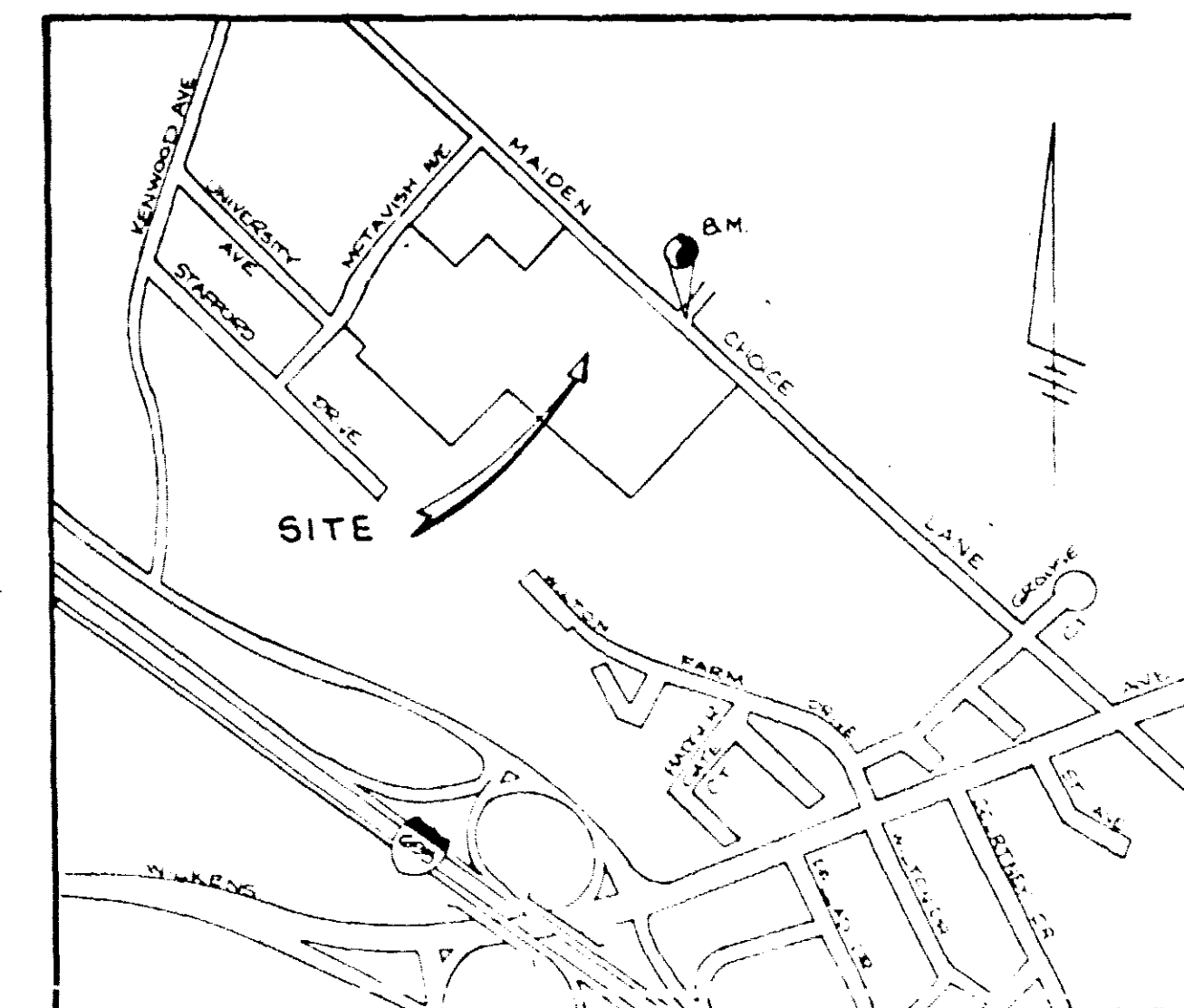
1. Sandstone, highly permeable, interbedded with gravel and coarse sand, locally cemented by ferruginous concretions. These and gravel concretions are irregularly distributed throughout the formation. The sandstone is highly permeable and is the principal source of water to the underlying aquifer. The sandstone is highly permeable and is the principal source of water to the underlying aquifer. The sandstone is highly permeable and is the principal source of water to the underlying aquifer.

HYDROGEOLOGIC MAP

SCALE: 1" = 2000'

AREA	TYPE	BOIL LIMITATIONS	STREETS AND PARKING LOTS
1. 5AC	1. 5AC	SLIGHT	MODERATE - SLOPE
2. 5AC	2. 5AC	SLIGHT	MODERATE - SLOPE
3. 5AC	3. 5AC	SEVERE	MODERATE - SEVERE
4. 5AC	4. 5AC	SEVERE	SEVERE - SLOPE
5. 5AC	5. 5AC	SEVERE	SEVERE - SLOPE

SOILS	USDA TEXTURE	HYDRO SOIL GROUP
1. 5AC	0-25 - GRAVELLY SANDY LOAM, LOAM	A
2. 5AC	0-25 - SILT LOAM, SILTY CLAY LOAM	C
3. 5AC	0-25 - CLAY LOAM, SILTY CLAY LOAM	C
4. 5AC	0-25 - SILT LOAM, SILTY CLAY LOAM	C
5. 5AC	0-25 - CLAY LOAM, SILTY CLAY LOAM	C
6. 5AC	0-25 - SILT LOAM, CLAY LOAM	B



VICINITY MAP

SCALE: 1" = 500'

GENERAL NOTES

1. This plan is prepared in accordance with the provisions of the Maryland Uniform Land Use Regulation Act, Chapter 28, Subchapter 1, of the Code of Maryland Annotated, Title 28, and the provisions of the Maryland Uniform Land Use Regulation Act, Chapter 28, Subchapter 1, of the Code of Maryland Annotated, Title 28.
2. The plan is prepared in accordance with the provisions of the Maryland Uniform Land Use Regulation Act, Chapter 28, Subchapter 1, of the Code of Maryland Annotated, Title 28.
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10. The plan is prepared in accordance with the provisions of the Maryland Uniform Land Use Regulation Act, Chapter 28, Subchapter 1, of the Code of Maryland Annotated, Title 28.

FLOOR AREA IN SQUARE FEET	1	2	3	4	5	6	7	8	9	10
A	1000	1000	1000	1000	1000	1000	1000	1000	1000	1000
B	1000	1000	1000	1000	1000	1000	1000	1000	1000	1000
C	1000	1000	1000	1000	1000	1000	1000	1000	1000	1000
D	1000	1000	1000	1000	1000	1000	1000	1000	1000	1000
E	1000	1000	1000	1000	1000	1000	1000	1000	1000	1000
F	1000	1000	1000	1000	1000	1000	1000	1000	1000	1000

PARKING REQUIREMENTS

PLUG	TYPE	AREA	REQUIREMENTS
A	REAR	1000	1000
B	REAR	1000	1000
C	REAR	1000	1000
D	REAR	1000	1000
E	REAR	1000	1000
F	REAR	1000	1000

PARKING PROVIDED

PLUG	TYPE	AREA	PROVIDED
A	REAR	1000	1000
B	REAR	1000	1000
C	REAR	1000	1000
D	REAR	1000	1000
E	REAR	1000	1000
F	REAR	1000	1000

MAJOR PARKING

1. Major parking is provided in the form of a parking lot adjacent to the building.
2. Major parking is provided in the form of a parking lot adjacent to the building.
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EXISTING GRADES

1. Existing grades are shown on the plan.
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PROPOSED GRADES

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10. Proposed grades are shown on the plan.

CIVIL ENGINEER, SURVEYORS, LANDSCAPE ARCHITECTS
D.S. THALER & ASSOCIATES INC.
11 WARREN ROAD
BALTIMORE, MARYLAND 21208
301-484-4100

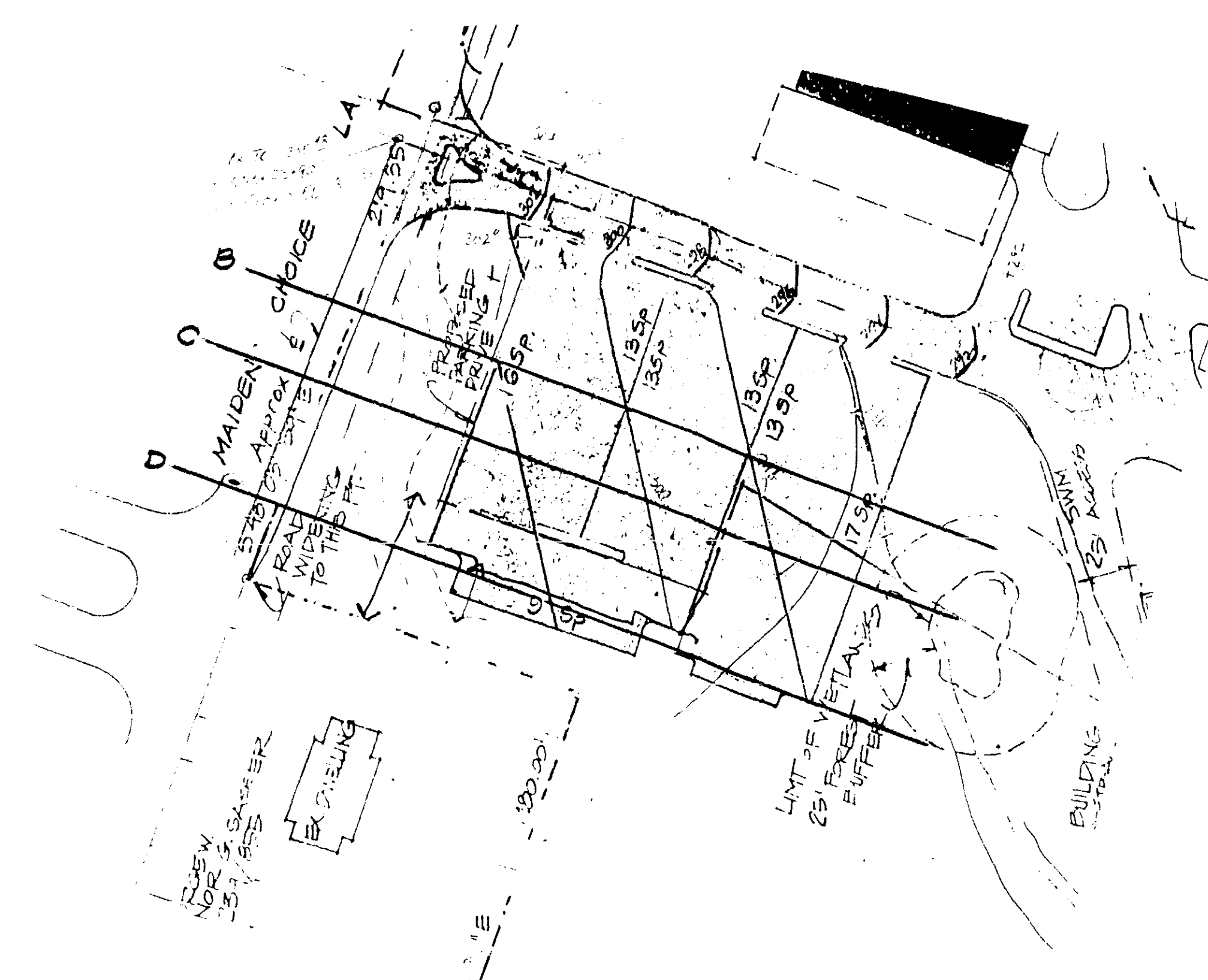
DATE	REVISIONS	BY
1-1-66	ELEVATION, ENTRANCE ALIGNMENT, WATER LINE, STOP, DRAIN, AUSTIN, OPEN AREA & LOT AREA.	RLR
3-14-66	AUSTIN ZONING LINE, SHIFTED PARKING, BLDGS, GRADING, CALC.	RLR

OWNER AND DEVELOPER
MAIDEN CHOICE ASSOCIATES - C/O MR. DAVID CARNEY, ESQUIRE
REESE & CARNEY
1015 CHARTER DRIVE
COLUMBIA, MARYLAND, 21044

FIVE DE
FIRST ELECTION
PUBLIC SERVICES
CRG NO. 85310

CRG PLAN
MAIDEN CHOICE
ASSOCIATES

BALTIMORE COUNTY
PLANNING
NO. 11



158

APPROVALS		

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Pc

Ltd.
Patton Consultants, Ltd.
 605 W. CHESAPEAKE AVE., SUITE 405
 TOWSON, MARYLAND 21204
 (301) 296-2140 Fax (301) 296-9419

SITE PLANNERS • ENGINEERS
 LAND DEVELOPMENT CONSULTANTS

PROTESTANTS EXHIBIT

SCALE
As Shown

PROJ. NO.
9234

NORTH

SHEET NO.

ELECTION DIST.	CENSUS TRACT	COUNCILMANIC
DRAWN	CHECKED	DATE

1 of 2

2
3

NAME

Catmunt.
nd
21228

PETITIONER(S) SIGN-IN SHEET

LAURENCE
10/10/10

PETITIONER(S) SIGN IN GREEN

~~MAIDEN
RACE~~ 220 MAIDEN CHOICE
~~A.D. ARE~~ LA. A.D. ARE AND LIVES

DEFINITIONS

6/10/1945

<u>NAME</u>	<u>ADDRESS</u>	<u>SIGNATURE</u>
James H. Smith	1000 1st St. N.E.	James H. Smith

DAVID J. GREEN 404 MADISON CHOICE LANE

NAME

2

NAM

ADDRESS
10101 Dg. 21448

MADEA CHOICES

PROTESTANT(S) SIGN-IN SHEET

NAP

IT IS FURTHER ORDERED that a waiver from the R.T.A. requirements to the best extent possible, including a 60 ft. setback in lieu of the 100 ft. for a building area of 1500 sq. ft., be and is hereby DISMISSED AS MOOT; and, IT IS FURTHER ORDERED that the Petition for Special Exception for approval of a Class B Elderly Housing Facility, pursuant to Section 432 of the Baltimore County Zoning Regulations (B.C.Z.R.), be and is hereby DISMISSED AS MOOT; and,

IT IS FURTHER ORDERED that the Petition for Zoning Variance from Section 1802.2.A of the B.C.Z.R. to permit a building height of 60 ft., in lieu of the required 50 ft., and a variance from Section 1801.2.C.1 to permit an 18 ft. setback from the side elevation of an accessory building to the elderly housing facility structure, in lieu of 30 ft., be and is hereby DISMISSED AS MOOT; and,

IT IS FURTHER ORDERED that a variance from Section 409.6.A.1 of the B.C.Z.R. to permit 343 parking spaces in lieu of the required 351, be and is hereby DISMISSED AS MOOT.

Any appeal from this decision must be made in accordance with the applicable provisions of law.

LAWRENCE E. SCHMIDT
Zoning Commissioner for
Baltimore County

LES:mn

-17-

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

Suite 113 Courthouse
400 Washington Avenue
Towson, MD 21204

(410) 887-4386

March 18, 1993

John G. Koenig, Jr., Esquire
3440 Ellicott Center Drive, Suite 103
P.O. Box 1424
Ellicott City, Maryland 21041

David A. Carney, Esquire
Maiden Choice Associates
720 Maiden Choice Lane
Catonsville, Maryland 21228

RE: Petitions for Special Hearing, Special Exception
and Zoning Variance
Case No. 93-49-SPHXA
Maiden Choice Associates, Petitioner

Gentlemen:

Enclosed please find the decision rendered on the above captioned case. The Petitions for Special Hearing, Special Exception and Zoning Variance have been denied, in accordance with the attached Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days of the date of the Order to the County Board of Appeals. If you require additional information concerning filing an appeal, please feel free to contact our Appeals Clerk at 887-3391.

Very truly yours,

LAWRENCE E. SCHMIDT
Zoning Commissioner

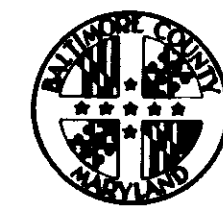
LES:mn

att.

cc: Douglas Burgess, Esquire

Stephen J. Nolan, Esquire

cc: Norberto M. Machiran, M.D.



Petition for Special Exception

93-49-SPHXA
to the Zoning Commissioner of Baltimore County

for the property located at Maiden Choice Lane - Maiden Choice Medical Center
which is presently zoned O-1/DRS.5

This Petition shall be filed with the Office of Zoning Administration & Development Management. The undersigned, legal owner(s) of the property situated 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 Regulations of Baltimore County, to use the ST. DOMINIC'S PLACE PROPOSED ELDERLY HOUSING FACILITY Petition for Special Hearing for the property located at Maiden Choice Lane (Maiden Choice Medical Center) which is presently zoned O-1/DRS.5 To determine that a density increase is permitted under Section 432.3.A.2 for St. Dominic's Place, an Elderly Housing Facility, as the onsite existing buildings are historically and architecturally significant.

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.

Contract Purchaser/Lessee
Legal Owner(s)
Maiden Choice Associates
General Partner
David Carney
Norberto Machiran
Ralph Urdike
Maiden Choice Associates
720 Maiden Choice Lane 410-455-0894
Catonsville, MD 21228
John G. Koenig, Jr.
3440 Ellicott Center Dr., Ste 103
P.O. Box 1424 410-461-6778
Ellicott City, MD 21041
Norberto Machiran
720 Maiden Choice Lane 455-0894
Ellicott City, MD 21041

ESTIMATED LENGTH OF HEARING
1 1/2 hr
RECEIVED BY: DATE: 3/18/93



Petition for Special Hearing

93-49-SPHXA
to the Zoning Commissioner of Baltimore County

for the property located at MAIDEN CHOICE LANE (Maiden Choice Medical Center)
which is presently zoned O-1/DRS.5

This Petition shall be filed with the Office of Zoning Administration & Development Management. The undersigned, legal owner(s) of the property situated 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 Zoning Regulations of Baltimore County, ST. DOMINIC'S PLACE PROPOSED ELDERLY HOUSING FACILITY PETITION FOR SPECIAL EXCEPTION for the property located at Maiden Choice Lane (Maiden Choice Medical Center) which is presently zoned O-1/DRS.5 For a 'Class B' Elderly Housing Facility, an increase of density to DR 14.5 (density units per acre), a 60' height in lieu of 50' (0-1 & portion of DRS.5 zone), and to be waived from the RTA requirements to the best extent possible which includes a 60' setback in lieu of 100' (for a building of 1500 sq.ft.).

Property is to be posted and advertised as prescribed by Zoning Regulations. I, or we, agree to pay expenses of 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.

Contract Purchaser/Lessee
Legal Owner(s)
Maiden Choice Associates
General Partner
David Carney
Norberto Machiran
Ralph Urdike
Maiden Choice Associates
720 Maiden Choice Lane 410-455-0894
Catonsville, MD 21228
John G. Koenig, Jr.
3440 Ellicott Center Dr., Ste 103
P.O. Box 1424 410-461-6778
Ellicott City, MD 21041
Norberto Machiran
720 Maiden Choice Lane 455-0894
Ellicott City, MD 21041

ESTIMATED LENGTH OF HEARING
1 1/2 hr
RECEIVED BY: DATE: 3/18/93



Petition for Variance

93-49-SPHXA
to the Zoning Commissioner of Baltimore County

for the property located at Maiden Choice Lane (Maiden Choice Medical Center)
which is presently zoned O-1/DRS.5

This Petition shall be filed with the Office of Zoning Administration & Development Management. The undersigned, legal owner(s) of the property situated 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 1801.2.C.1 of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reasons: (indicate hardship or practical difficulty) for the property located at Maiden Choice Lane (Maiden Choice Medical Center) which is presently zoned O-1/DRS.5 1 B01.2.C.1 to permit a distance of 18' setback from side elevation of an accessory building to the Elderly Housing Facility in lieu of 30'; and, 1 B02.2.A to permit a 60' height in lieu of 50' (0-1 & portion of DR 5.5 zone). For parking requirements, Section 409.6.A.1, to permit 343 spaces in lieu of 351, as shown on the site plan. (see attached to be determined) 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.

Contract Purchaser/Lessee
Legal Owner(s)
Maiden Choice Associates
General Partner
David Carney
Norberto Machiran
Ralph Urdike
Maiden Choice Associates
720 Maiden Choice Lane 410-461-6778
Catonsville, MD 21228
John G. Koenig, Jr.
3440 Ellicott Center Dr., Ste 103
P.O. Box 1424 410-461-6778
Ellicott City, MD 21041

ESTIMATED LENGTH OF HEARING
1 1/2 hr
RECEIVED BY: DATE: 3/18/93

Petition for Special Hearing

93-49-SPHXA
A proposed Elderly Housing Facility, St. Dominic's Place, to be built in close proximity to the campus of the Maiden Choice Medical Center and Catonsville Medical Center, both comprehensive Outpatient Medical Facilities. Previously, the site was home to the Dominican Sisters and has an old cemetery for the Sisters which has been preserved on the site. Currently, with the development of Maiden Choice Medical Center, the Chapel and Convent buildings have been adaptively reused for medical offices on the site. In particular, the Chapel has both historic significance and architectural presence on the site. The development of St. Dominic's Place would adaptively reuse this building as a dining and/or community space. The exterior of the proposed community buildings will be compatible with the original architecture. The proposed site plan also incorporates the preserved cemetery as a focal point along the paths connecting the two residential buildings. Conclusively, to determine that a density increase is permitted under Section 492.3.A.2 for St. Dominic's Place.

Petition for Special Exception

A special exception to increase of density to DR 14.5 in order to allow for an elderly housing facility, St. Dominic's Place, that will be of an adequate number of units to support common space necessary for community activities and allow for the enhancement of site amenities. Proposed for Phase I are 100 housing units, with a second phase of an additional 90 units. This residential community will replace buildings previously approved for the site which include two office buildings (115,600sq.ft.) and a residential building (96,000sq.ft.).

In addition, a request for the residential transition area (RTA) restrictions in the DR 6.6 to be waived from 100 feet, just where the portion of the proposed greenhouse building (1600 sq.ft.) falls in the DR 6.6 zone. In addition to allow for a modification of building height standard to 60', in lieu of 60', in the O-1 zone and portion of the DR 6.6 zone where a corner of the proposed building is placed (not within a R.T.A.). The location of the building footprint and minimal height modifications for the proposed Elderly Housing Facility will minimize the impact of the building footprint on this sloping site, take advantage of southern orientation on the site and to develop a sense of 'community', with both phases of the development to remain in close proximity to the medical campus.

Conclusively, for a 'Class B' Elderly Housing Facility, an increase of density to DR 14.5 (density units per acre), a 60' height in lieu of 50' (0-1 zone and portion of DR 6.6 zone as mentioned above), and to be waived from the R.T.A. requirements to the best extent possible in the case of 60' setback in lieu of 100' (this involves an area of 1600' sq.ft. within the R.T.A., of a proposed greenhouse building). The proposed changes will have no detrimental effect to the health, safety, and general welfare of the locality involved.

Petition for Variance

To permit a distance of 18' setback from the side elevation of an accessory building, Chapel, to Medical Office (Building C) in lieu of 30', to allow for the existing Chapel building to be adaptively reused as a dining facility for St. Dominic's Place. Also to permit a 60' height in lieu of 50' for the residential buildings so that the density of a 'community' may be established on the site. Finally, to permit 343 parking spaces in lieu of 351 spaces as the availability of developer sponsored van service and other ridesharing will be provided to prospective residents of the housing.

08-14-1992 01:10PM WILLEBOORSE 9875708 P.02

Plat One of Two, currently developed as Maiden Choice Medical Center and Catonsville Medical Center, as recorded in the Land Records of Baltimore County in Plat Book W.P.C. No. 7, folio 60. (REF. S.M.68 folio 37)

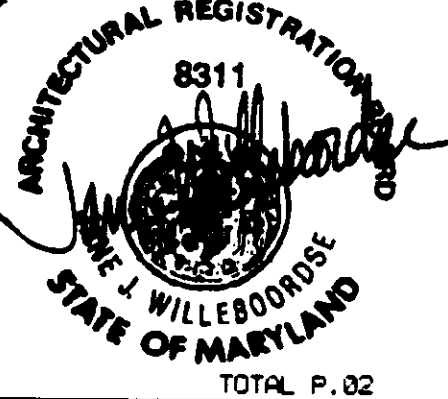
BEGINNING at a stone planted on the Southwest side of the Maiden's Choice Lane, at thirty feet from a point where the second line of the whole tract, crosses the Southwest side of Maiden's Choice Lane, and then running parallel with the second line, and on the Southeast side of a road thirty feet wide, laid out for the use in common with other parts of the whole parcel of land, South forty-eight degrees West, five hundred and fifty-three feet; then, South forty-two degrees and one-half degrees East, five hundred and fifty-two feet; then, parallel with the first line, North forty-eight degrees East, five hundred and fifty-three feet, to the Southwest side of Maiden's Choice Lane, and then bounding on the Southwest side of this road, North forty-two and one-half degrees West, five hundred and fifty-two feet to the beginning. Containing seven acres of land more or less.

Plat Two of Two, the undeveloped portion of the site, Parcel 1 & 2, with the existing storm water management area is located, being the same lot recorded among the Land Records of Baltimore County in Liber W.P.C. No. 367, folio 539. (REF. S.M.68 folio 38)

BEGINNING on the Southwest side of Maiden's Choice Lane at the distance of thirty feet North forty-two degrees West, from the beginning of the land which is recorded among the Land Records of Baltimore County in Liber J.W.S. No. 182, folio 290, which said the place of beginning being also where the North forty-two degrees West, two hundred and four feet more or less to Lot No. 20, Section 5; then, bounding on this lot, South forty-seven degrees thirty minutes West, one hundred and fifty feet; then, bounding on the rear of the lots fronting Maiden Choice Lane, as shown on the Plat, North forty-two degrees thirty minutes West, one hundred and eighty feet to Lot No. 21, Section 5; then, bounding on the rear of the lots fronting on McTavish Avenue as shown, South forty-seven degrees West, one hundred and sixty feet more or less; then, bounding on this side lot, South fifty degrees East, two hundred and twenty feet; then, North forty degrees East, two hundred feet, continuing at a radius of two hundred and thirty-four feet, one hundred and sixty-three feet; then, North zero degrees East, sixty feet, continuing at a radius of one hundred and eighty-one feet, one hundred and fourteen feet; then, bonding along the Baltimore County Lot containing an existing Pump Station, North forty-nine degrees twenty-three minutes West, eighty feet; then, North forty degrees East, thirty feet; then, bounding on the rear of the lots fronting on Stafford Drive as shown, South thirty-nine degrees East, three hundred and fifty-one feet, more or less to intersect the South forty-eight degrees thirty-eight minutes West one thousand, five hundred and fifty-four feet and four inches line of the land recorded among the Land Records in Liber W.P.C. No. 316, folio 516, and continuing the same course in all North fifty degrees forty-five minutes East, eight hundred and sixty feet more or less to the place of beginning. Containing seven and one half acres of land, more or less.

FOR ZONING PURPOSES ONLY

93-49-SPHXA #54



TOTAL P.02

CERTIFICATE OF POSTING

ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 7
Posted for: 2/18/93
Petitioner: 93-49-SPHXA
Location of property: 720 Maiden Choice Lane - (P.O.)
Location of Sign: 720 Maiden Choice Lane - (P.O.)
Remarks: 93-49-SPHXA
Posted by: 93-49-SPHXA
Number of Signs: 3

CERTIFICATE OF POSTING

ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 7A
Posted for: 3/18/93
Petitioner: 93-49-SPHXA
Location of property: 720 Maiden Choice Lane - (P.O.)
Location of Sign: 720 Maiden Choice Lane - (P.O.)
Remarks: 93-49-SPHXA
Posted by: 93-49-SPHXA
Number of Signs: 3

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 1st Date of Posting: 9/1/92
Posted for: Special Hearing & Exception - Petitioner
Petitioner: Maiden Choice Associates
Location of property: 500' SE of c/l Metavish Ave. (120) 321 50/120' SE of c/l Metavish Ave.
Location of Sign: 500' SE of c/l Metavish Ave. (120) 321 50/120' SE of c/l Metavish Ave.
Remarks: See map of property at 120' SE of c/l Metavish Ave.
Posted by: Lawrence E. Schmidt Date of return: 9/1/92
Number of Signs: 3

CERTIFICATE OF PUBLICATION

TOWSON, MD. 9/1/92
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 9/1/92.

THE JEFFERSONIAN,

S. Zafe Publisher

Case: 93-49-SPHXA
Petitioner: Maiden Choice Associates
111 West Chesapeake Avenue
Towson, Maryland 21204
Hearing: Friday, October 2, 1992 at 11:30 a.m. in Room 106, Office Building.
Special Exception for a Class "B" elderly housing facility, an increase in density to D.R. 14.5, a 60 foot height in lieu of 50 feet and to be waived from the R.T.A. requirements to the best extent possible, which includes a 60 foot setback in lieu of 100 feet (for a building area of 1500 sq. ft.).
Special Hearing: to determine if a density increase is permitted as the on-site existing buildings are historic and architecturally significant. Variance to permit a distance of 18 ft. setback from side elevation to an accessory building in lieu of 50 feet and to permit 343 parking spaces in lieu of 351, as shown on the site plan.
LAWRENCE E. SCHMIDT
Zoning Commissioner of Baltimore County
NOTE: HEARINGS ARE HANDICAPPED ACCESSIBLE. FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353. 9/16 Sept 3

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

receipt

Date: 9/13/92 Account: R-001 6150
Number:
PUBLIC HEARING FEES CITY PRICE
020 CONTING. VARIANCE OTHERS
040 SPECIAL HEARING OTHERS
050 SPECIAL EXCEPTION
060 PUBLIC HEARING FEES, CITY PRICE
Please Make Check Payable To: Baltimore County \$650.00
TOTAL \$650.00
CASHIER VALIDATION

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

receipt

Date: 9/13/92 Account: R-001 6150
Number:
PUBLIC HEARING FEES CITY PRICE
020 CONTING. VARIANCE OTHERS
040 SPECIAL HEARING OTHERS
050 SPECIAL EXCEPTION
060 PUBLIC HEARING FEES, CITY PRICE
Please Make Check Payable To: Baltimore County \$650.00
TOTAL \$650.00
CASHIER VALIDATION

Baltimore County
Zoning Administration & Development Management
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

receipt

Date: 9/13/92 Account: R-001 6150
Number:
PUBLIC HEARING FEES CITY PRICE
020 CONTING. VARIANCE OTHERS
040 SPECIAL HEARING OTHERS
050 SPECIAL EXCEPTION
060 PUBLIC HEARING FEES, CITY PRICE
Please Make Check Payable To: Baltimore County \$650.00
TOTAL \$650.00
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: 9-10-92

Maiden Choice Associates
720 Maiden Choice Lane
Catonville, Maryland 21228

RE:
CASE NUMBER: 93-49-SPHXA (Item 54)
500' SE of c/l Metavish Avenue
720 Maiden Choice Lane - Maiden Choice Medical Center
"St. Dominic's Place"
1st Election District - 1st Councilmember
Petitioner(s): Maiden Choice Associates
HEARING: FRIDAY, OCTOBER 2, 1992 at 11:30 a.m. in Rm. 106, Office Building.

Dear Petitioner(s):

Please be advised that \$ 139.55 is due for advertising and posting of the above captioned property and hearing date.

THIS FEE MUST BE PAID AND THE ZONING SIGN & POST SET(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT BE ISSUED. 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 109, Towson, Maryland 21204. Place the case number on the check and make same payable to Baltimore County, Maryland. In order to avoid delay of the issuance of proper credit and/or your order, immediate attention to this matter is suggested.

Carl John

ARNOLD JABLON
DIRECTOR

cc: John G. Koenig, Jr., Esq.

Printed on Recycled Paper

111 West Chesapeake Avenue
Towson, MD 21204

AUGUST 28, 1992

(410) 887-3353

NOTICE OF HEARING

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

or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 93-49-SPHXA (Item 54)
500' SE of c/l Metavish Avenue
720 Maiden Choice Lane - Maiden Choice Medical Center
"St. Dominic's Place"
1st Election District - 1st Councilmember
Petitioner(s): Maiden Choice Associates
HEARING: FRIDAY, OCTOBER 2, 1992 at 11:30 a.m. in Rm. 106, Office Building.

Special Exception for a Class "B" elderly housing facility; and increase in density to D.R. 14.5; a 60 ft. height in lieu of 50 feet; and to be waived from the R.T.A. requirements to the best extent possible, which includes a 60 ft. setback in lieu of 100 feet (for a building area of 1500 sq. ft.)
Special Hearing to determine if a density increase is permitted as the on-site existing buildings are historic and architecturally significant.
Variance to permit a distance of 18 ft. setback from side elevation of an accessory building in lieu of 50 feet, and to permit 343 parking spaces in lieu of 351, as shown on the site plan.

Lawrence E. Schmidt
Lawrence E. Schmidt

Zoning Commissioner of
Baltimore County

cc: Maiden Choice Associates
John G. Koenig, Jr., Esq.

NOTE: HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.

Printed on Recycled Paper

111 West Chesapeake Avenue
Towson, MD 21204

September 29, 1992

(410) 887-3353

John G. Koenig, Jr., Esquire
3440 Ellicott Center Drive, STE 103
P.O. Box 1424
Ellicott City, MD 21041

RE: Item No. 54, Case No. 93-49-SPHXA
Petitioner: Maiden Choice Associates, et al
Petition for Special Exception

Dear Mr. Koenig:

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 indicate the appropriateness of the zoning action requested, but 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 preliminary review by Zoning personnel.

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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
13th day of August, 1992

Carl John
ARNOLD JABLON
DIRECTOR

Received By:
W. Carl Richards, Jr.
Chairman,
Zoning Plans Advisory Committee

Petitioner: Maiden Choice Associates, et al
Petitioner's Attorney: John G. Koenig, Jr.

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BALTIMORE COUNTY GOVERNMENT
OFFICE OF ZONING ADMINISTRATION
AND DEVELOPMENT MANAGEMENT
OFFICE OF PLANNING & ZONING

TO: ARNOLD JABLON, Director
FROM: ROBERT W. BOWLING, Esq.
111 West Chesapeake Avenue
Towson, Maryland 21204

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 indicate the appropriateness of the zoning action requested, but 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.

Robert W. Bowling
ROBERT W. BOWLING, Esq.
111 West Chesapeake Avenue
Towson, Maryland 21204

DATE: 9/1/92

RECEIVED
SEP 4 1992
ZONING OFFICE

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration &
Development Management

DATE: September 15, 1992

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

SUBJECT: Maiden Choice Lane Medical Center

INFORMATION:
Item Number: 54

Petitioner: Maiden Choice Associates

Property Size: 7.3 acres

Zoning: D.R. 5.5, 0-1

Requested Action: Special Hearing, Special Exception, Variance

Hearing Date: / /

SUMMARY OF RECOMMENDATIONS:

This petitioner is requesting a special exception for a class B elderly housing facility, an increase in density to D.R. 14.5, a 60' height in lieu of 50' and to be waived from the RTA requirements. The petitioner is also requesting a special hearing to determine that a density increase is permitted under Section 432.3.A.2 for St. Dominic's Place, as the onsite existing buildings are historically and architecturally significant. Finally, the petitioner is requesting a variance to permit a distance of 18' setback from side elevation of an accessory building to the elderly housing facility in lieu of 30'; to permit a 60' height in lieu of 50' and to permit 343 parking spaces in lieu of the required 351 spaces.

The Office of Planning and Zoning recommends **APPROVAL** subject to the following conditions.

The existing vegetated buffer between this proposed facility and the homes on Lawrence Brooke Road should be retained to the fullest extent possible. Similarly, the existing vegetation should be retained between the proposed facility and the homes along Heather Hill Road. The petitioners are requesting a waiver from the RTA regulations which should not be granted in these two areas.

Prepared by: Pat Keller

Division Chief: Pat Keller

FM/PK/EMch

54-ZAC/ZAC1

Pg. 1

BUREAU OF TRAFFIC ENGINEERING
DEPARTMENT OF PUBLIC WORKS
BALTIMORE COUNTY, MARYLAND

DATE: September 3, 1992

TO: Mr. Arnold Jablon, Director
Office of Zoning Administration
and Development Management

FROM: Raheem J. Famili

SUBJECT: Z.A.C. Comments

Z.A.C. MEETING DATE: August 31, 1992

ITEM NUMBER: 54

- 1) 400 ft. sight lines along Maiden Choice Lane need to be shown.
- 2) Sight lines are to be drawn from the centerline of the proposed access at a point 10 ft. behind the extension of the main road curb line to the center line of the nearest approach lane on the main road.
- 3) All subsequent plans must note that the areas between the sight line and the curb line must be cleared, graded, and kept free of any obstructions.
- 4) It appears that signs A & B are blocking the line of sight.

Raheem J. Famili
Raheem J. Famili
Traffic Engineer II

RJF/lvd

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT
INTER-OFFICE CORRESPONDENCE

TO: Mr. Arnold Jablon, Director
Zoning Administration and
Development Management

DATE: September 10, 1992

FROM: J. Lawrence Pilson JLP/AM
Development Coordinator, DEPRM

SUBJECT: Zoning Item #54
#720 Maiden Choice Lane - Maiden Choice Medical Center
Zoning Advisory Committee Meeting of August 31, 1992

The Department of Environmental Protection and Resource Management offers the following comments on the above referenced zoning item.

Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains.

The plan must show a Forest Buffer Easement (not a 25' wetland setback) and the attached standard notes. The encroachment of the proposed parking lot into the Forest Buffer Easement requires an alternatives analysis.

LP:sp

JABLON/S/TXTSBP

Baltimore County Government
Fire Department



700 East Joppa Road Suite 901
Towson, MD 21204-5500

SEPTEMBER 1, 1992

(410) 887-4500

Arnold Jablon
Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21204

RE: Property Owner: MAIDEN CHOICE ASSOCIATES

Location: SW/S MAIDEN CHOICE LANE

Item No.: +54 (MJK) Zoning Agenda: AUGUST 31, 1992

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.

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: Pat Keller Noted and Approved
Planning/Group Fire Prevention Bureau
Special Inspection Division

JP/REK

RECEIVED
SEP 8 1992

ZONING OFFICE

Department of Recreation and Parks,
Development Review Committee Response
Authorized signature Pat Keller Date 9/8/92

Project Name	Waiver Number	Zoning Issue	Meeting Date
Maiden Choice Associates	54		8/31/92
DED DEPRM RP STP TE	No Comments		
Lyons Mill Partnership	62		
DED DEPRM RP STP TE	No Comments		
Steven Lewis and Mary Ann Kidwell	63		
DED DEPRM RP STP TE	No Comments		
Revisions, Inc.	64		
DED DEPRM RP STP TE	No Comments		
Donald and Margaret Proeschner	65		
DED DEPRM RP STP TE	No Comments		
Francisco and Ada Figueroa	66		
DED DEPRM RP STP TE	No Comments		
Pamela H. and Randall W. Perkins	67		
DED DEPRM RP STP TE	No Comments		
Johnny M. Boyles	68		
DED DEPRM RP STP TE	No Comments		
Donald E. and Mary Bell Grempler	69		
DED DEPRM RP STP TE	No Comment		
Gordon E. Sugar	70		
DED DEPRM RP STP TE	No Comment		
Michael and Patricia Perholtz	71		
DED DEPRM RP STP TE	No Comment		
Dr. Edward and Ann Mishner	72		
DED DEPRM RP STP TE	No Comment		

Baltimore County Government
Department of Environmental Protection
and Resource Management

401 Bosley Avenue
Towson, MD 21204

June 19, 1992

(410) 887-3733

Ms. Theresa Fiscus
LDR International, Inc.
Quarry Park Place
9375 Guilford Road
Columbia, Maryland 21046

Re: Maiden Choice Associates
Forest Buffer

Dear Ms. Fiscus:

In response to a telephone conversation with Mr. Reed Hupman of your office, staff from the Environmental Impact Review Division of this Department re-evaluated the resources on this site and the applicability of Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains to this project.

When this site was originally approved for development in March of 1986, a field review determined that a stream and adjacent wetlands exist on this site. The Water Quality Management Policy which was in effect at the time required a 50 foot stream buffer be shown on development plans. Since that time, this stream has undergone significant changes and it has now become an ephemeral channel. Therefore, the Forest Buffer Easement for this site shall now be measured 25 feet from the limit of the wetlands which have been field-delineated and verified. The Forest Buffer Easement must be shown and labelled on any submitted development plans for this project. The building setback line and standard notes described in our letters to you dated May 12, 1992 must also appear on the plan.

If you have any questions regarding this correspondence, please contact Ms. Valerie Rychwalski at 887-3980.

Very truly yours,

Rocky O. Powell
Rocky O. Powell, Division Director
Environmental Impact Review Division

ROP:VR:ju

FISCUS/TXTJEU

RESOLUTION

At a meeting duly convened on July 2, 1992, of the Maiden Choice Partnership, the Partners holding 100% of the Partnership Interest unanimously approved and authorized Dr. Norberto Machiran to apply for a variance, a special exception and a special hearing for a change from the existing zoning on the property owned by the Maiden Choice Partnership property to affect the approval for an Elderly Housing Facility in accordance with the Petitions to be submitted to Baltimore County, Maryland.

David Carney
David Carney
Partner/Secretary

July 2, 1992

Suite 113 Courthouse
400 Washington Avenue
Towson, MD 21204

October 21, 1992

(410) 887-4386

John G. Koenig, Jr., Esquire
3440 Ellicott Center Drive, Suite 103
P.O. Box 1424
Ellicott City, Md. 21041

Douglas L. Burgess, Esquire
Noian, Plumbhoff & Williams
210 W. Pennsylvania Avenue, Suite 700
Towson, Maryland 21204

RE: PETITIONS FOR SPECIAL HEARING, SPECIAL EXCEPTION AND ZONING VARIANCE
SW/S Maiden Choice Lane, 500' SE of the c/l of Metavish Avenue
(720 Maiden Choice Lane)
1st Election District - 1st Councilmanic District
Maiden Choice Associates - Petitioners
Case No. 93-49-SPHXA

Dear Mr. Burgess:

As previously discussed, this letter will confirm that the above-captioned matter has been scheduled for a continued hearing on Thursday, October 29, 1992 at 1:00 PM in Room 118 of the Old Courthouse.

In that the property will not be reposted and readvertised, I will appreciate your joint efforts to notify all interested parties of the next hearing date. I will make every effort to conclude taking testimony and evidence on October 29, 1992.

Should you have any questions on the subject, please do not hesitate to contact me.

Very truly yours,

Lawrence E. Schmidt
LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LPS:bjs

cc: Mr. James S. Wesley, III, President
Broadfield Homeowners' Association
37 Clinton Hill Court, Catonsville, Md. 21228

People's Counsel; File

Baltimore County Government
County Executive's Office

Roger B. Hayden
County Executive

400 Washington Avenue
Towson, Maryland 21204
887-2450

July 16, 1993

Mr. James S. Wesley III
37 Clinton Hill Court
Baltimore, MD 21228

RE: Maiden Choice Medical Center
Request for Zoning Modification
1st Election District

Dear Mr. Wesley:

I have reviewed your letters to me, and my response to the first. Please be advised that I had requested a review of the process by which plans are received, disseminated for comment, scheduled for hearing, and approval. The conclusion is that the process works.

There is no question that certain projects are more controversial than others; it is obvious that communities are extremely sensitive to proposed changes and additions. In order to provide an equitable system, one which allows for the county to be responsible and responsive, the county has developed a system written into law which governs the means by which proposed development is reviewed and approved.

The final authority, with a few limited exceptions, lies with the zoning commissioner. The zoning commissioner is authorized by law to hold a full and public, quasi-judicial hearing, at which all sides to any issue may be heard with testimony and evidence taken. Upon conclusion, a decision is rendered, subject to appeals as permitted by law to the Board of Appeals for Baltimore County, and then to the courts. Indeed, as you well know, that is exactly what transpired in the case to which you draw my attention. In fact, the zoning commissioner denied the proposed project.

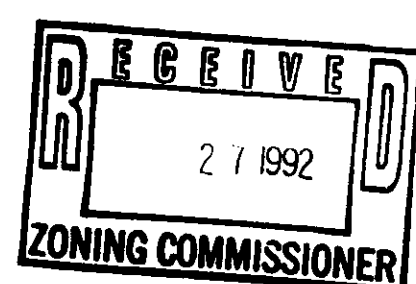
However, you complain that the plans for this project should never have gone as far as the zoning commissioner, and you question the very process that govern same.

PETITION OF * BEFORE THE
MAIDEN CHOICE * ZONING COMMISSION
ASSOCIATES * OF
BALTIMORE COUNTY, MD
CASE NO. 93-49-SPHXA

LINE

I HEREBY CERTIFY that Notice of Continued Public Hearing, a copy of which is attached hereto as Exhibit A, was mailed to each individual on the Protestant(s) Sign In Sheet, copy attached hereto as Exhibit B, on October 23, 1992. Said postcard informed Protestants that a hearing on the above reference case was postponed from October 29, 1992 to December 3, 1992.

John G. Koenig, Jr.
3440 Ellicott Center Drive
Ellicott City, Maryland
410-461-6778
Attorney for Petitioner



CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 26 day of October, 1992, a copy of the foregoing LINE and Exhibits was mailed to Douglas L. Burgess, Esquire, Court Towers, Suite 700, 210 W. Pennsylvania Avenue, Towson, Maryland 21204

John G. Koenig, Jr.

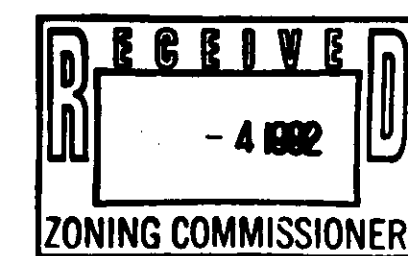
-2-

IN RE: PETITION FOR * BEFORE THE
ST. DOMINIC'S PLACE * ZONING COMMISSIONER
ELDERLY HOUSING FACILITY * OF BALTIMORE COUNTY
(MAIDEN CHOICE ASSOCIATES, * PETITIONER)
Case No. 93-49-SPHXA

AFFIDAVIT OF PRIVATE PROCESS SERVER

The undersigned hereby certifies that she executed service of process upon Peggy Hayes for John McGrain on Monday, November 2, 1992, at the Office of Planning and Zoning, by delivering and leaving with her a copy of the subpoena issued by this Commission. The undersigned further certifies that she is over 18 years of age and is not a party to this action.

I do solemnly declare and affirm under the penalties of perjury that the matters and facts set forth herein are true to the best of my knowledge, information and belief.



Robert M. Cahill
Nolan, Plumbhoff & Williams, Chd.
Suite 700, Court Towers
210 W. Pennsylvania Avenue
Towson, Maryland 21204

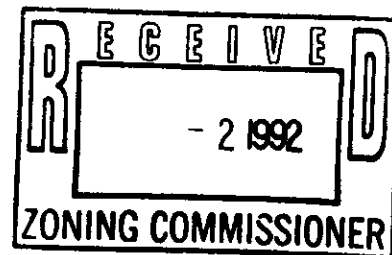
LAW OFFICES
NOLAN, PLUMHOFF
& WILLIAMS,
CHARTERED

2565C

IN RE: PETITION FOR * BEFORE THE
ST. DOMINIC'S PLACE * ZONING COMMISSIONER
ELDERLY HOUSING FACILITY * OF BALTIMORE COUNTY
(MAIDEN CHOICE ASSOCIATES, * PETITIONER)
CASE NO. 93-49-SPHXA

SUBPOENA

TO: John McGrain
4th Floor, Planning & Zoning
New Courts Building
Towson, MD 21204
(410) 887-3211



You are hereby summoned and commanded to be and appear personally before the Zoning Commissioner/Deputy Zoning Commissioner of Baltimore County in Zoning Commissioner's Hearing Room 118, Courthouse, and to bring Historic Preservation List File, on the 3rd day of December, 1992, at 1:00 p.m. (please call to ascertain exact time), regarding the above-captioned case, for the purpose of testifying at the request of Catonsville Condominium Association, Inc., Dr. James Carey, Dr. Zahid Butt, et al.

Douglas L. Burgess
DOUGLAS L. BURGESS
Suite 700, Court Towers
210 W. Pennsylvania Avenue
Towson, MD 21204
(410) 823-7800

Attorney for
Catonsville Condominium
Association, Inc., et al.

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: 11/2/92
2554C

IN RE: PETITION FOR * BEFORE THE
ST. DOMINIC'S PLACE * ZONING COMMISSIONER
ELDERLY HOUSING FACILITY * OF BALTIMORE COUNTY
(MAIDEN CHOICE ASSOCIATES, * PETITIONER)
CASE NO.: 93-49-SPHXA

SUBPOENA

TO: Mrs. Sandy Mews
Western Shore Section
Baltimore Dist. Corp. of Engineers
Post Office Box 1715
Baltimore, Maryland 21203
Phone: 962-3675

You are hereby summoned and commanded to be and appear personally before the Zoning Commissioner/Deputy Zoning Commissioner of Baltimore County in Zoning Commissioner's Hearing Room 118, Courthouse, and to bring Historic Preservation List File, and the 29th day of December, 1992, at 9:00 a.m. (please call to ascertain exact time), regarding the above-captioned case, for the purpose of testifying at the request of Catonsville Condominium Association, Inc., Dr. James Carey, Dr. Zahid Butt, et al.

Douglas L. Burgess
DOUGLAS L. BURGESS
Suite 700, Court Towers
210 W. Pennsylvania Avenue
Towson, MD 21204
(410) 823-7800

Attorney for
Catonsville Condominium
Association, Inc., et al.

MR. SHERIFF/PRIVATE PROCESS SERVER:

Please process in accordance with Zoning Commissioner's Rule IV(c).

ISSUED: 12/24/92
2560C

PETITION OF * BEFORE THE
MAIDEN CHOICE * ZONING COMMISSION OF
ASSOCIATES * BALTIMORE COUNTY
Case No. 93-49-SPHXA

AMENDMENT BY INTERLINEATION

Kindly interlineate the name "The Catonsville Medical Center Condominium, Inc." for "Catonsville Condominium, Inc." in Protestant's previously filed Memorandum in this case.

DOUGLAS L. BURGESS

NOLAN, PLUMHOFF & WILLIAMS, CHD
Suite 700, Court Towers
210 West Pennsylvania Avenue
Towson, Maryland 21204
(410) 823-7800

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 26 day of January, 1993, a copy of the foregoing Amendment by Interlineation was mailed postage prepaid to Dave Carney, Esquire, Reese and Carney, 10715 Charter Drive, Columbia, Maryland 21044.

DOUGLAS L. BURGESS

LAW OFFICES
NOLAN, PLUMHOFF
& WILLIAMS,
CHARTERED

3219C DLB/caw

37 Clinton Hill Court
Catonsville, MD 21228
410-247-9244

October 14, 1992

Commissioner
Baltimore County Zoning Commission
400 Washington Avenue
Towson, MD 21285

Re: Maiden Choice Medical Center Request for Zoning Modification

Dear Sir:

Today, I attended the second hearing on the above topic and was very surprised by the number of apparent flaws in the above Site Plan, as claimed by Mr. Burgess, attorney for those persons in opposition to this change.

I feel, if the allegations are correct, you should remind your staff to be more careful in the future to insure that all pertinent laws and regulations are complied with prior to the submission of Site Plans and that they failed to properly review this particular plan, prior to their submission of the plan to you for the scheduling of hearings. I hope you will require that the plan be resubmitted with all required data. Also, the "new" plan should be critically reviewed by the appropriate departments with regard to the new site for the parking in the northeast corner of the plan, because from my review of the original plan it would appear the part of the parking lot would cover the head of the intermittent stream in that area. There should be a written option by the Traffic Department regarding the new entrance to the parking lot.

Upon it's re-submission I wish to object to failure of the developer to adequately plan for security of their residents. Also, there are no indications in the plan for preserving the privacy of those persons living on Heather Hill Court, which runs behind the southeastern corner of the property. Currently, there is no significant privacy problem because the office buildings are a great distance from the property line. If the plan is approved the parking area will run along that portion of the property and the new building will be closer to the property line. It would be greatly appreciated if the developer would add more trees to that portion of the property to screen Heather Hill Road from the new parking area.

The opinions expressed are mine and do not represent those of the Broadfield Home Owners Association (BHOA). I make this statement due to the fact that I signed in at the hearing as president of BHOA. I was present at the hearing only as an observer on their behalf.

RECEIVED ZONING OFFICE
DATE: 10/16/92

October 20, 1992

Lawrence Schmidt
Zoning Commissioner
Baltimore County Courthouse
Towson, MD

Case #93-49-SPHXA

Dear Mr. Schmidt:

I wish to protest the proposed development in this case.

I live adjacent to the property on which the proposed housing unit is to be built.

In addition to the protests from others which were presented to you in the two hearings, I wish to add the following:

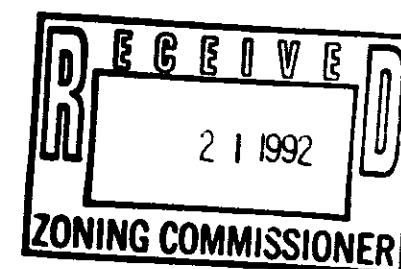
1. If the silt catchment pond is enhanced with walkways and grass as an adjunct to the housing unit, it will attract many people there, especially on the weekends, because there is no such public pond anywhere in the area. This attraction will increase traffic on Maiden Choice Lane and in the complex itself. Furthermore, it will bring people literally to the edge of my backyard, making my house (and the houses of my neighbors) accessible to anyone who wants to enter. A fence would be required to keep them out. But even a fence would not keep out the noise from people enjoying a pond.

2. There is a year-round stream at the southern edge of the property. This stream flows though my neighbor's property at 333 Stafford and very close to my property at 335 Stafford (see enclosed survey). In order to avoid siltation of this stream, it is imperative that as many trees be left standing on the hillside above the stream as possible. Therefore I oppose cutting down trees in the forest. Also, this stream does not appear on the developer's plans. It should.

Sincerely,

Col. Barnett
Dr. Colin Barnett
335 Stafford Drive
Baltimore, MD 21228

Day: 410 581 4550



118 Maiden Choice Lane
Baltimore, Md. 21228
Oct. 14, 1992

Zoning Commissioner
Lawrence Schmidt
Towson, Md. 21228

Dear Sir:

I have lived on Maiden Choice Lane for the past 43 years/
I am much oppressed to additional buildings such as St.
Dominic's Place being built behind the medical center.

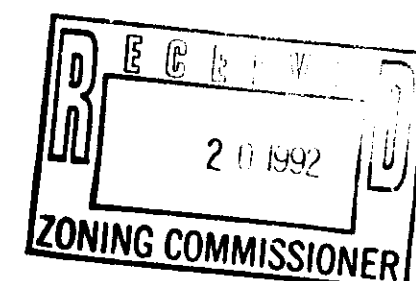
In addition to water, electric etc. problems we have a
traffic problem. The speed limit on Maiden Choice Lane is 25
miles per hour and more seems to abide by it.

I have had my car hit twice in the past two years. The
first time my car was totaled. Sometimes in the morning I
have to wait as long as ten minutes to get out of my driveway.

I do hope this matter will be given your undivided
attention.

Sincerely,

Dorothy A. Licht
Dorothy Licht (Mrs.)
118 Maiden Choice Lane
21228 Md.
747-0646



To the Honorable Lawrence Schmidt,
Commissioner of Zoning
Baltimore County, Md.

Re: Zoning Case # 93-49-SPHXA
Maiden Choice Elderly Housing

My name is Felix R. Vigeveno and I would very much
appreciate if I would be allowed to express my personal opinion
about the petition to obtain the permits necessary to build a
retirement home for the elderly.

My wife and I live in a retirement village in Westminster
since several years to our satisfaction. We therefore believe to
be able to contribute constructively to the present discussions,
which we followed since the first hearing in October.

We know Dr. Machiran since more than 20 years. He still was
a medical student when we met and even in those days we admired
his straightforwardness, honesty and idealism. There is no doubt
that this is a legacy he holds from both his parents.

In 1970 Dr. Machiran already had a vision of helping the
elderly. This project is the realization of his dream.

The idea is to offer an affordable and comfortable home to
people in this particular community to whom the cost of living in
retirement places - as presently available - is far too high.

The uniqueness of this concept will indeed be centered
around the availability of an apartment or a cottage at such
lower occupancy cost than heretofore offered.

Furthermore the immediate presence of a surrounding and
continuous medical help will assure future residents of the care
they may expect while enjoying an independent retirement, or with
assisted living on different levels as the case may be.

Finally this retirement concept may well be the only one in
existence, which may avoid to put these Elderly on State
assistance as well as enabling them to stay in their own
community where after all they have their roots and their social
and religious ties of a lifetime.

I would like to mention that this Court has offered ample
opportunity to everybody who so desired to express their opinion
and opposition to this plan for whatever reason and I admire its
patience.

It seems to me, that Petitioners co-operated fully (as they
indeed should) with each and every department involved in this
Zoning Law process (which is evidenced by the approvals obtained)

5 Keen Mill Court
Baltimore, MD 21228
13 October 1992

Zoning Commissioner
Lawrence Schmidt
400 Washington Avenue, Room 113
Towson, MD 21204

RE: CASE #93-49-SPHXA

Dear Mr. Schmidt:

I am writing to register my protest to the above referenced case.
I am a resident of the Broadfield Community, which is located on
the corner of Maiden Choice Lane and Wilkens Avenue. I am very
concerned over the proposed construction/variances requested by
Maiden Choice Associates.

My concerns are as follows:

- increased traffic on Maiden Choice Lane.
- preservation of the woodland areas (wildlife).
- exception to the building setback line of 100 feet.
- exception to the building density.

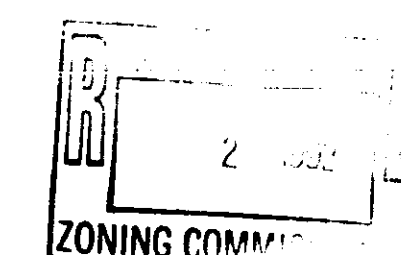
We now have four major housing complexes (Broadfield, Charlestown
Retirement Community, Park Caton Apartments, St. Martin's Home for
the Aged) in the area as well as other residential properties.
Traffic on Maiden Choice is very congested and it is next to
impossible to make a left hand turn across traffic. Adding
another large facility will make Maiden Choice Lane a very
dangerous road with the added vehicles.

I have a four month old baby and enjoy walking the baby in the
stroller. However, I am not even able to cross Maiden Choice to
get to the grocery store, due to the heavy volume of traffic.

I am very disturbed over the proposal and hope that your office
decides against the proposed condominium complex.

Sincerely,

Sherod L. Heckle
Sherod L. Heckle
410-536-5766



October 15, 1992

Mr. Lawrence Schmidt
Zoning Commissioner
Baltimore County Office of Zoning
111 West Chesapeake Avenue
Towson, Maryland 21204

Dear Mr. Schmidt:

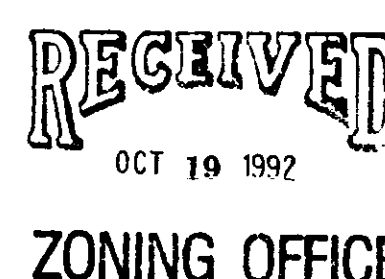
We are protesting the proposed development of St. Dominic's
Place by Maiden Choice Associates (Case #93-49-SPHXA). Our
house is on Laurence Brooke Road and backs up to the Maiden
Choice Medical Center. Even though Maiden Choice Associates
recommended that the condominium complex be constructed, we
believe that a special property exemption should not be
granted for the following reasons:

- 1) There would be a dramatic increase in traffic volume on
both Maiden Choice Lane and Kenwood Avenue that will result
in more automobile accidents and could endanger children.
- 2) The variances in the zoning standards (i.e., density
increase to 14.5 units per acre, height increase to 60 feet,
etc.) would set a bad precedent for residential
neighborhoods in Baltimore County.
- 3) The project will make soil erosion and storm run-off
worse than it is now. In this regard, the construction of
the medical center has already caused an increase in storm
run-off. During a typical rainstorm, we see a stream
flowing in the backs of the houses from the top of Laurence
Brooke Road at Maiden Choice Lane all the way down to
Heather Hill Road.

Accordingly, as responsible residents and taxpayers of
Baltimore County, we request that this project be denied this
special zoning exemption.

Sincerely,

Richard & Sally Russell
Richard & Sally Russell
12 Laurence Brooke Road
Baltimore, Maryland 21228



October 15, 1992

Mr. Victor Ujic
15 Kenwood Avenue
Baltimore, Md. 21218

Mr. Lawrence Schmidt
Zoning Commissioner
County Courthouse, Room 113
400 Washington Avenue
Towson, Md. 21204

Dear Commissioner Schmidt:

My wife and I wish to express our strong opposition to the building of The St. Dominic's Place
(case no. 93-49-SPHXA). We are retired and live on the corner of Kenwood Avenue and
University.

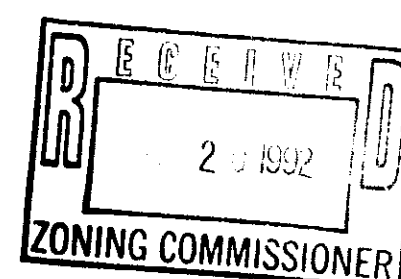
We are primarily concerned with the increased population density, if this project is approved.
Traffic will increase considerably on both Kenwood Avenue and the narrow Maiden Choice.

We enjoy living in an area that has a good mixture of both young people and older people like
ourselves. The interaction of people of all ages teach the young and help older people stay
young. Our neighborhood is already the home of three elderly housing complexes. One more
will seriously upset the balance. We have a friend that is seventy-five and lives in an elderly
community. We laughed when she said her main complaint was that there were too many old
people there, then we looked around, she was right.

We have lived at this address since 1968 and are very concerned with what is happening to our
neighborhood.

Sincerely,

Victor Ujic
Victor Ujic



October 14, 1992

Mr. Lawrence Schmidt, Zoning Commissioner
Room 113
County Courthouse
400 Washington Ave.
Towson, Md. 21204

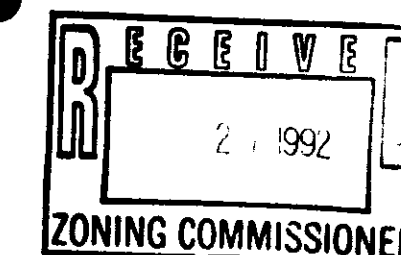
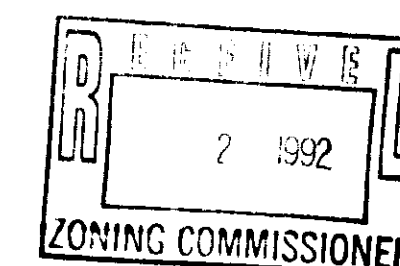
Dear Commissioner Schmidt:

I am writing to express my strong opposition to the proposed condominium complex to be
built behind Maiden Choice Medical Center, case #93-49-SPHXA. I live on Kenwood Ave.,
the street perpendicular to Maiden Choice and experience the extremely heavy traffic on the
already overburdened Maiden Choice Ave everyday. Maiden Choice is a very narrow road most
of the distance between Frederick Ave. and Wilkens Ave., the strip on which this new complex
is proposed. It cannot hold more traffic. It took me over 3 minutes to get onto Maiden Choice
from Kenwood this morning at 11:30 am! And the answer would not be to widen the road since
many of the older single family homes along Maiden Choice are close to the road.

The availability of water and sewer is also a concern to me. I cannot see how another 190
units will not strain the existing system. The increase in population density in this immediate
area over the last 8 years with the sea of Broadfield townhouses on Wilkens and Maiden Choice
(over 700 I am sure) the mega elderly village of Charles Town and the Caton Park have already
strained every infrastructure we have. Most apparent to me is (1) the heavy traffic 90% of which
is speeding on the small residential 25mph road and (2) the high competition for parking spots.
At any time during the day and evening a parking spot at the Wilkens shopping center (corner of
Wilkins and Maiden Choice) is hard to find unless you park at the end of the parking lot. And
people are always waiting for others to exit their parking spots which means more tie ups.

I also think it creates a negative effect to have so many elderly folks in such a small area.
Every homogeneous group has its own characteristics. And it is no different with the elderly. I
think such a high density of one population can create discrimination. We strive for integration
as a general rule in our society and I think this issue should be considered here. It is also
healthier for older people to see and associate with younger people. It has an effect on people
when all they see is old people whose health are failing and/or dying. It is also nice for young
people to associate with the experience and in many cases wisdom of the elderly but we have our
share here. Please encourage distribution of this wealth and let more elderly housing be built
somewhere else.

Another big concern is that the families with children in this area are losing voting rights for
our education system. The older folks here with no young relatives in the immediate area will
not be motivated to vote for bonds or bills to improve our educational system.



14 University Avenue
Catonsville, MD 21228
October 25, 1992

Lawrence Schmidt
Zoning Commissioner
Court House Room 113
400 Washington Avenue
Towson, MD 21204

Dear Mr. Schmidt:

As residents of Catonsville who may be directly effected by
proposed construction near the Maiden Choice Medical Center, we
wish to express opposition to the granting of a zoning variance.

Our concerns are several. First, the drainage at the bottom
of our street is already poor. Many yards become saturated with
even light rain. The wooded area at the end of University and
made a bad situation worse. This is a potential health hazard
with standing water and accompanying insects. If individuals
have testified that the creek bed is dry, they are either
misinformed or misrepresenting the truth.

Secondly, we are already experiencing traffic that has
become dangerous and excessive on Maiden Choice Lane. Many
motorists ignore the speed limit; there has already been a
fatality at Maiden Choice and Kenwood where there is no signal
light. Additional traffic would be unwelcome in our community.

Next, it is no small consideration that part of the beauty
of our neighborhood comes from tall and colorful trees. They
provide shade and help lessen the noise in the area. Previous
development has already sent foxes and other small animals into
the backyards. Crows are migrating into populated sections as
their natural homes are destroyed. The bulldozing of large trees
to be replaced with concrete will detract from the lives of the
community and the wildlife.

That there are real and valid problems with the development
of this site cannot be denied. My neighbors and I cannot be
blamed for questioning why the zoning hearing notices were posted
far from the road and why the publication of the notices was not
fulfilled in our local papers.

In the interest of the residents of the community and to
preserve the ecological balance, please deny the variance
request.

Thank you for your consideration.

Sincerely,
George B. Preislange
Diane E. Preislange

93-49-SPHXA
RECEIVED
JAN 16 1993
ZONING COMMISSIONER

Dear Commissioner Schmidt,
As a longtime Catonsville resident I am writing in protest and complaint concerning "The St. Dominic's Place" and it's notice. I understand that zoning notices were placed inside the Medical Center facility grounds. Not likely to be seen by many!
Also - the hearing notice was listed in "The Jeffersonian" where and what is this? A gain, not likely to be seen (or read) by many Catonsville residents! I, for some one afraid that the residents would object? You bet they must be! And, rightfully so. We have nothing against senior citizens or anyone else. But, enough is enough! We have been saturated in the past several years with building and more building. Especially housing. Broadfield,

October 20, 1992
Lawrence Schmidt
Zoning Commissioner
400 Washington Ave
Rm. 113
Towson, MD 21204

RECEIVED
OCT 21 1992
ZONING COMMISSIONER

RE: CASE # 93-49-SPHXA
St. Dominic's Place
Catonsville, MD
Dear Mr. Schmidt:
Maiden Choice Lane does not need yet another housing complex.
A. The road cannot handle the traffic flow.
B. we bought our house because we liked the woods located directly behind it.
Re: traffic on maiden choice, 2 years ago - September a woman was killed trying to make a left turn off on Kenwood onto Maiden Choice.
You don't have to be a rocket scientist to know another housing complex off of Maiden Choice will increase traffic.
From what I hear from

REESE AND CARNEY
ATTORNEYS AT LAW
10705 CHARTER DRIVE
COLUMBIA, MARYLAND 21044
14001 740 4800
WASHINGTON AREA
(301) 821 5255
BALTIMORE FAX (410) 730 7726
WASHINGTON FAX (301) 821 5273

RECEIVED
JAN 19 1993
ZONING COMMISSIONER

January 19, 1993
The Honorable, Lawrence Schmidt
Zoning Commissioner for Baltimore County
Old Courthouse
400 Washington Avenue, Room 113
Towson, Maryland 21204
In Re: Maiden Choice Associates
Petitioner, Case No: 93-49-SPHXA
Dear Commissioner Schmidt:
Please find enclosed Petitioner's Post-Hearing Memorandum to be filed in reference to the captioned matter.
Very truly yours,
REESE & CARNEY
David A. Carney

DAC/mlk
cc: John G. Koenig, Jr., Esquire
Maiden Choice Associates (Attn: Dr. Norberto Machiran)
Douglas Burgess, Esquire
Stephen Nolan, Esquire

REESE AND CARNEY
ATTORNEYS AT LAW
10705 CHARTER DRIVE
COLUMBIA, MARYLAND 21044
14001 740 4800
WASHINGTON AREA
(301) 821 5255
BALTIMORE FAX (410) 730 7726
WASHINGTON FAX (301) 821 5273

RECEIVED
JAN 19 1993
ZONING COMMISSIONER

January 20, 1993
The Honorable, Lawrence Schmidt
Zoning Commissioner for Baltimore County
Old Courthouse
400 Washington Avenue, Room 113
Towson, Maryland 21204
In Re: Maiden Choice Associates
Petitioner, Case No: 93-49-SPHXA
Dear Commissioner Schmidt:
In the haste of delivering the Post Hearing Memorandum yesterday, we failed to attach to the Memorandum the exhibit that was referenced therein. This exhibit is the same exhibit as the Amended Site Plan, except it has been reduced and has the notations which highlight the changes between the two plats.
Very truly yours,
REESE & CARNEY
David A. Carney

DAC/mlk
cc: John G. Koenig, Jr., Esquire
Maiden Choice Associates (Attn: Dr. Norberto Machiran)
Douglas Burgess, Esquire
Stephen Nolan, Esquire

Cromwood, Coventry,
and Satyr Hill
Community Association

RECEIVED
JAN 25 1993
ZONING COMMISSIONER

January 25, 1993
Baltimore County
Zoning Commissioner
400 Washington Avenue
Towson, MD 21204
Dear Sir:
Enclosed is a copy of a letter I have sent to Baltimore County Zoning Administration and Development Management. I want to be certain that my community association is informed of any hearings the Rock Church may request.
I am writing on behalf of the community association. If a hearing is requested through your office by/for The Rock Church, we request that you inform us of this hearing.
Thank you for your help in this matter.
Sincerely,
C. Kent Merchant, President
1815 Cromwood Road
Baltimore, MD 21234
(410)665-1351

CKM/cm

NEWTON A. WILLIAMS
THOMAS J. RENNER
WILLIAM P. ENGLISHART, JR.
STEPHEN J. NOLAN, JR.
ROBERT L. HANLEY, JR.
ROBERT S. GLUSHAKOW
STEPHEN R. SCHENNING
DOUGLAS L. BURGESS
ROBERT E. CANELL, JR.
E. BRUCE JONES, III
GREGORY J. JONES
J. JOSEPH CURRAN, II
CHRISTINE K. HUSCHER
*ALSO ADMITTED IN N.J.
*ALSO ADMITTED IN NEW JERSEY
LAW OFFICES
NOLAN, PLUMHOFF & WILLIAMS
CHARTERED
SUITE 700, COURT TOWERS
210 WEST PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204-5340
(410) 823-7800
TELEFAX (410) 296-2765
JAMES D. NOLAN
RETIRED 1980
J. EARLE PLUMHOFF
1940-1981
RALPH E. DEITZ
1908-1980
OF COUNSEL
T. BARBAR WILLIAMS, JR.
RICHARD L. SCHAEFFER
WRITER'S DIRECT DIAL
823-7857

January 20, 1993
HAND DELIVERY
The Honorable Lawrence E. Schmidt
Zoning Commissioner's Office
Old Courthouse
Towson, Maryland 21204
Dear Commissioner Schmidt:
Enclosed kindly find Protestant's Memorandum and Appendix in support of its position.
Thank you for your attention to this matter.
Very truly yours,
Douglas L. Burgess

DLB/caw
Enclosure
cc: Dave Carney, Esquire
Counsel for Petitioner, Maiden Choice Associates
James E. Carey, M.D.
President, Catonsville Condominium Association

NEWTON A. WILLIAMS
THOMAS J. RENNER
WILLIAM P. ENGLISHART, JR.
STEPHEN J. NOLAN, JR.
ROBERT L. HANLEY, JR.
ROBERT S. GLUSHAKOW
STEPHEN R. SCHENNING
DOUGLAS L. BURGESS
ROBERT E. CANELL, JR.
E. BRUCE JONES, III
GREGORY J. JONES
J. JOSEPH CURRAN, II
CHRISTINE K. HUSCHER
*ALSO ADMITTED IN N.J.
*ALSO ADMITTED IN NEW JERSEY
LAW OFFICES
NOLAN, PLUMHOFF & WILLIAMS
CHARTERED
SUITE 700, COURT TOWERS
210 WEST PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204-5340
(410) 823-7800
TELEFAX (410) 296-2765
JAMES D. NOLAN
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RALPH E. DEITZ
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RICHARD L. SCHAEFFER
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823-7857

January 26, 1993
Lawrence E. Schmidt, Esquire
Zoning Commissioner for
Baltimore County
Old Courthouse
400 Washington Avenue
Towson, Maryland 21204
RE: Maiden Choice Associates
Case No. 93-49-SPHXA
Dear Commissioner Schmidt:
Kindly find enclosed for filing an Amendment by Interlineation to Protestant's previously filed Memorandum.
Thank you for your attention to this matter.
Very truly yours,
Douglas L. Burgess

DLB:brh
Enclosure
cc: Dave Carney, Esquire
Dr. James Carey, President
(both with enclosures)

January 26, 1993

Mr. Lawrence Schmidt
Zoning Commissioner
400 Washington Avenue
Room 113
Towson, MD 21204
Re: Zoning Case 93-189-A
The Alley Shops

Dear Mr. Commissioner:
In the Baltimore County Office of Planning and Zoning's continuing efforts to assist and promote the revitalization of Pikesville by the endorsement of parking variance such as these I believe that they unwittingly fail to differentiate between the various hardship scenarios. Specifically concerning the Alley Shops project, the fact that there had never before been a restaurant at this site, except for the small gallery in the Alley, did not seem to have a bearing on the case, or it had been intentionally overlooked during the testimony.

I can understand the rational behind the granting of a parking variance for the Pikesville Shopping Center, for example, because those uses generating the high parking demand had existed from time to time for some twenty-five years. I cannot understand how you could seriously consider the Alley Shops argument to be in any way similar to that of the Pikesville Shopping center.

The granting of these parking variances without good reason must stop and I trust in your good judgment when considering the arguments in this case.

Sincerely,
Dr. Kenneth Silver M.D.
6814 Macdon Rd.
Baltimore, Maryland 21209

December 9, 1992

Norberto Machiran, M.D.
Maiden Choice Associates
720 Maiden Choice Lane
Baltimore, Maryland 21228

Dear Dr. Machiran,

Thank you for your welcome and interesting letter and for the photographs enclosed. The copies you had made are excellent.

We have made the identifications you requested and were also happy to see photos of Mrs. Bond and her brother. Please give our love to Rose Marie and also to your wife's parents, and thank them for their care of the Sisters even now. I have been in the cemetery there. It is good to imagine it as you have described it in its present condition. Good, also, to realize that many may come there for quiet moments in a busy and noisy world.

Assuredly, the Sisters at Maiden Choice Lane enfolded the world embroiled in the wars you mentioned. Our community continues a tradition begun during the Bay of Pigs crisis. The crisis was averted and we still have all-day Exposition of the Blessed Sacrament on Fridays. It is a good reminder of the fragile peace the world offers and the strength that comes from the Prince of Peace who made us all and works to unite us to himself and one another. Right now we are being especially mindful of our troops in Somalia and the people they are trying to help. And of course there is the on-going crisis of gang and drug-related violence in our own cities.

The apartment complex you describe sounds like a haven well-deserved by some very special people. Its proximity to medical facilities is a plus that our senior citizens will certainly appreciate. We are being prayerfully mindful of your endeavors on their behalf.

A blessed Advent and Christmas to you.

Mother Miriam Leonard
Mother Miriam Leonard, O.P.

Encs

HISTORICAL PERSPECTIVE

Dominic Guzman (canonized July 3, 1234 - St. Dominic) was born in Caleruega, Spain (Old Castile) in about 1170. He died at Bologna in 1221 at the age of 51. Dominic established a new religious order with permission from Pope Honorius II in 1206, for the purpose of preaching against heresy as preached at the time by the Albigenses in the area of southern France. At first, the house took the character of a religious community dedicated to the spiritual protection of its members and the proper instruction of young children. Eventually a more austere, monastic life developed in his convent. After his death, the then known as the Second Order of St. Dominic spread throughout Europe, strictly cloistered, and bound by the three religious vows: dedicated to penance, manual labor, and the recitation of the Canonical hours.

Present day Dominican Sisters were established by Father Damien Saintourens in 1880, when for the first time, the Dominican Sisters replaced the chanting of the Hours for the recitation of the Rosary. From then on they were known as the Dominican Sisters of the Perpetual Rosary.

In the year of 1891 Father Damien Saintourens sent Mother Rose of St. Mary Wehrle, O.P., Co-foundress of the Dominican Sisters of the Perpetual Rosary to America, the land of success for nascent enterprises. Her task was to set up the Order's first American House at West Hoboken (now Union City), New Jersey.

In the year of 1897 the second Monastery was established in Milwaukee, Wisconsin, and headed by Mother Mary of Jesus Collin, O.P.

In the Year 1899 Mother Rose of St. Mary Wehrle, O.P. set out for Baltimore where the third American Convent of the Sisters of the Perpetual Rosary was established at a temporary residence on Druid Hill Avenue. In 1903 they moved into a house on Woodlawn Avenue in Irvington. In 1904 the residence on Woodlawn Avenue burned to the ground. In the year of 1910 the Sisters moved into the Maiden Choice property after brief stays at temporary sites. The Sisters remained at the Maiden Choice Property until November of 1980 when three of the remaining five Sisters relocated to the monastery in Milwaukee, Wisconsin. Two other Sisters were hospitalized elsewhere.

Of note is the fact that the St. Mary's Seminary, founder of St. Charles College was established in downtown Baltimore since 1791 - the year the Sulpician Fathers first arrived from France. It was not until 1911 that the College was moved to the Maiden Choice site to a summer villa which was used by professors at St. Mary's Seminary on Paca Street. It was only



American foundresses who came to Union City, NJ, Dec. 21, 1891

(from left to right)

Mother Mary Gabriel, Mother Mary of Jesus, Mother Mary Dominic, and Mother Mary of the Rosary

Mother Mary Gabriel, O.P.

Born: 1837, England

Died: October 27, 1914, Baltimore, MD

Was chosen to go as sub-Prioress on the Baltimore foundation, 1899. Was of great help to the French foundresses who knew very little English.

Mother Mary of Jesus Collin, O.P.

Born: January 10, 1847, Paris, France

Died: October 4, 1917, Union City, NJ

Became Prioress of Union City Monastery when the Milwaukee foundation was made in 1897.

Mother Mary Dominic, O.P.

Born: March 18, 1843, Paris, France

Died: November 2, 1920, Union City, NJ

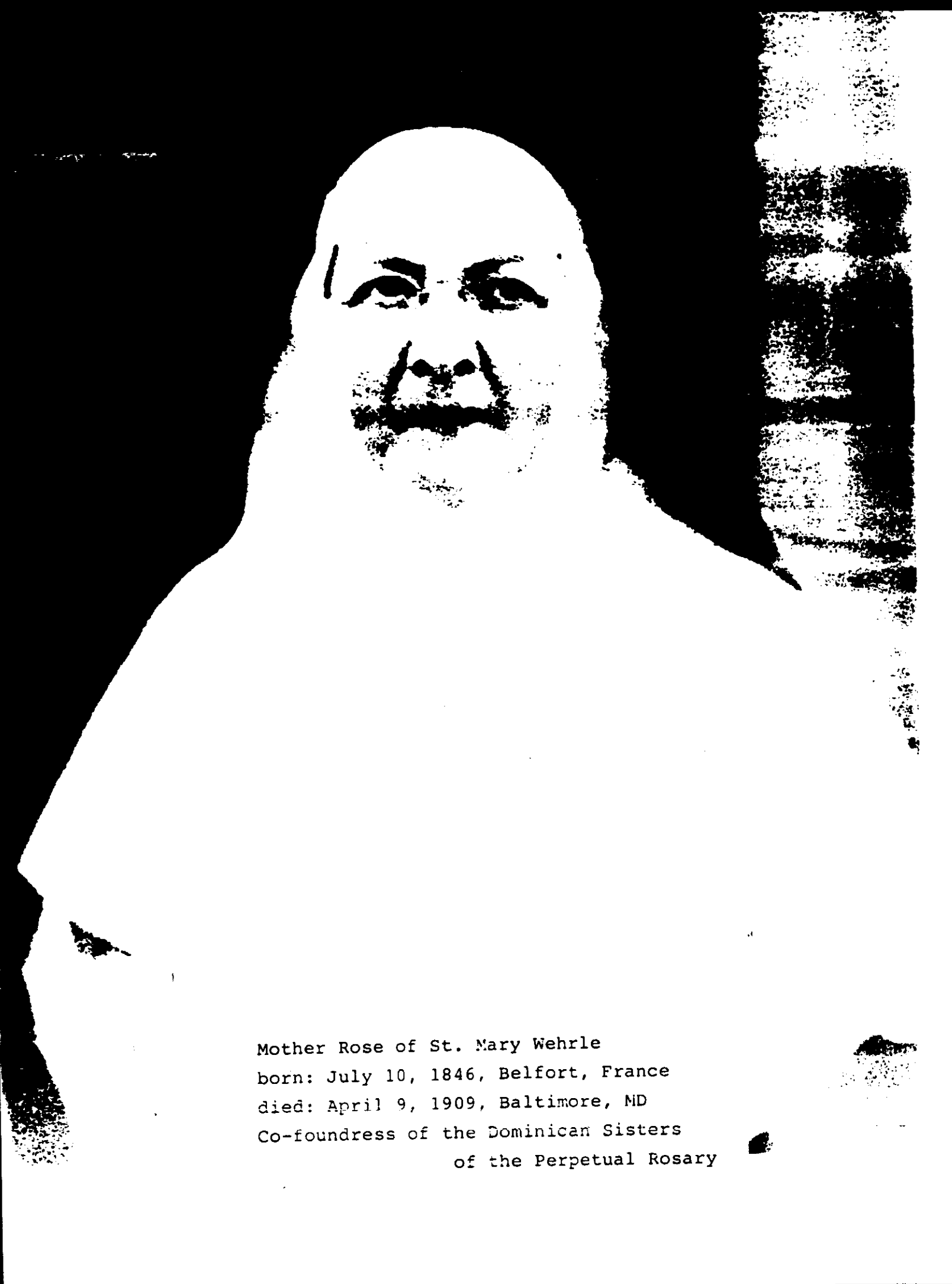
Was chosen for the Rouen, France, foundation in April, 1891, and for the American foundation in December of that same year. Was well versed in mathematics and served as procuratrix of the community.

Mother Mary of the Rosary Garnier, O.P.

Born: February 11, 1863, Paris, France

Died: October 29, 1940, Milwaukee, Wisconsin

Was first Prioress of the Union City and Milwaukee monasteries. Was one of the first postulants received by the Founder, Rev. Damien Saintourens, O.P., in Calais, France. Went with Mother Rose of St. Mary Wehrle on the Rouen foundation, and then was chosen as Prioress of the American foundation.



Mother Rose of St. Mary Wehrle
born: July 10, 1846, Belfort, France
died: April 9, 1909, Baltimore, MD
Co-foundress of the Dominican Sisters
of the Perpetual Rosary

DOMINICAN SISTERS OF THE PERPETUAL ROSARY CEMETERY

720 Maiden Choice Lane, Catonsville, Maryland, 21228

C/O Maiden Choice Associates

Sisters Buried at the Site	Date of Death
1. Sister Mary Joseph, O.P. Cordelia Gillick	July 24, 1900
2. Sister Mary Gertrude, O.P. Catherine Barnett	September 7, 1908
3. Mother Rose of St. Mary Wehrle, O.P. Mother Rose was born in Belfort, France, July 10, 1846. She was Co-Foundress of the Dominican Sisters of the Perpetual Rosary, and sent to this country by the Founder of the Order, the Reverend Damien Saintourens, O.P. Her stone marker is missing.	April 9, 1909
4. Sister Mary Theresa of the Infant Jesus, O.P. Catherine Meehan	August 2, 1911
5. Sister Mary Gabriel, O.P. Catherine Rogers	October 27, 1914
6. Sister Mary Monica, O.P. Mary Stone	December 24, 1918
7. Sister Mary of the Immaculate, O.P. Ella Wicks	November 26, 1919
8. Sister Mary Hyacinth, O.P. Josephine Gothenet	January 5, 1921
9. Sister Mary Joseph, O.P. Jeime Rogers	October 1, 1922
10. Sister Mary Stephen, O.P. Elizabeth Gillen	March 21, 1930
11. Sister Mary Gertrude, O.P. Adele Collignon	March 2, 1939
12. Mother Mary of Jesus, O.P. Ethel Spain	November 18, 1939

NEWS

Page 4 THE ASSAULT TIMES November 21, 1990



Dr. Norberto Machiran, shown here in the cemetery of the former convent of the Dominican Sisters of the Perpetual Rosary, promised to keep the memory of the cloistered order alive when he opened the Maiden Choice Medical Center. Machiran kept convent and chapel structures intact during construction of the medical center.

...To A Fulfilling Future

Boston. The vaulted marble walls are acoustically perfect, and the 65-year-old Casavant Organ, with 2,200 pipes, is no less striking than every other feature of Charlestown's incomparable community Chapel.

This chapel, with its ethereal echoes of seminary chanting, is a ready reminder of the prominent spiritual role St. Charles College played in this nation's development. That the community's new residents use the Chapel daily for Mass and throughout the week for various ecumenical services is an equally pleasing reminder...a reminder that the communicating and sharing of one's faith is the cornerstone upon which spiritual growth is built.

MOST Americans who were born in 1911—the year St. Charles College was rebuilt at Charlestown's present site—would have been pleasantly surprised if told they would live to enjoy the 1980's.

The way we live has changed dramatically since the turn of this century. We live much longer, and stay much healthier. We live much more comfortably. Heat and air conditioning come with turning a dial. Phones and planes keep distant families within easy reach.

We have options. Perhaps they were better times—those days when parents of advancing age combatted loneliness and regained security by moving in with their children; perhaps not. It was a respectable custom, but one which all too often infringed on the lifestyles of everyone involved.

Today's option is designed especially for you. It combines a healthy, active environment and the services you will be needing with an atmosphere which caters to your spirit of independence.

Welcome to a better life! Welcome to Charlestown.



10. THE UNDERSIGNED, DO HEREBY OPPOSE THE PLANS FOR CONSTRUCTION
OF A CONDOMINIUM COMPLEX BEHIND THE MAIDEN CHOICE MEDICAL CENTER.

[illegible]

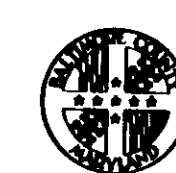
WE, THE UNDERSIGNED, DO HEREBY OPPOSE THE PLANS FOR CONSTRUCTION OF A CONDOMINIUM COMPLEX BEHIND THE MAIDEN CHOICE MEDICAL CENTER.

	NAME	ADDRESS	SIGNATURE
1.	Al. Boland	444 Myay Ln. Elkhart City, ND	A. Boland
2.	Ernyes Davidson	219 Osborne Avenue	Ernyes Davidson
3.	Raymond Davidson	219 Osborne Ave	Raymond Davidson
4.	Barbara Blain	7303 Jean Station Rd	Barbara Blain
5.	Marye Passo	6218 Crowlwood Rd	Marye Passo
6.	CHARRIS VASQUEZ	6584 Dolphin Ct. Glen Burnie, MD	Charris Vasquez
7.	Kathleen Middleton	43 Lumsden Pk. On. Cantonment, Md 21114	Kathleen Middleton
8.	Norma Lewis	125 Valley Rd	Norma Lewis
9.	Joseph Lewis	4414 Pine Hgts	Joseph Lewis
10.	John Spink	1302 McClintock	John Spink
11.	James White	5 Winstead Ct	James White
12.	Leatrice Greenfield	3744 Long's Fork Pk way.	Leatrice Greenfield
13.	Josée A. Butcher	62225 Frederick Rd	Josée A. Butcher
14.	W. A. LANGENFELDER	62225 Frederick Rd	W. A. Langenfelder
15.	Margaret Sellers	1795 Poplar Rd	Margaret Sellers
16.	Margaret Sellers	1795 Poplar Rd	Margaret Sellers
17.	Barbara Heisl	707 Maidens' Choice Lane	Barbara Heisl
18.	Robert Amelburg	6144 Montgomery Rd.	Robert Amelburg
19.	Barbara & David	4008 Hillwood Rd	Barbara & David
20.	Earl & Beulah	7560 Rose Rd	Earl & Beulah
21.	Patricia Updegraff	7560 Rose Rd	Patricia Updegraff
22.	Marye Thoma	7531 TENTH AVE	Marye Thoma

RE: 93-49 SPHXA

Jane Willeboerde Architect
Environmental Design

Commissioner: Please note,
3 copies of 2 Record Plats
(Parcel A+B) were submitted.
Only 1 Plat (Parcel B) was
in the Zoning file.



Notice of Continued Public Hearing

Case #: 93-49-SPHXA

Re: Zoning Commissioner's Hearing on the property known as
720 Maiden Choice Lane

A Continued Hearing has been scheduled for 12/3/03

at 1:00 p.m. at Room 118, Old Courthouse, Towson

(postponed from October 29, 1992)

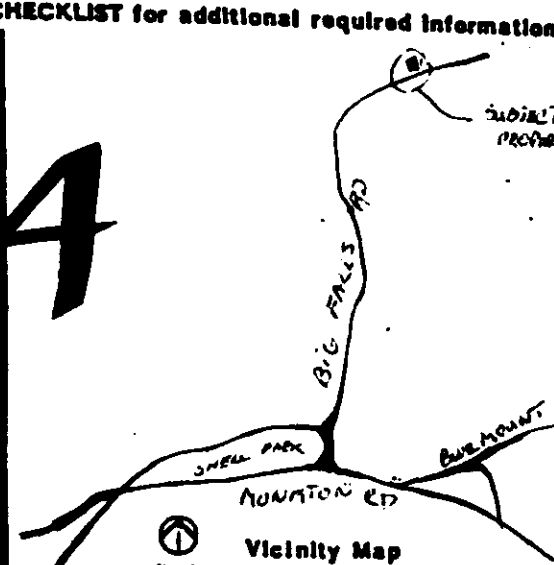
For information, please call the
Office of Zoning Administration & Development Management
at 887-3391

Plat to accompany Petition for Zoning ☒ Variance ☐ Special Hearing

PROPERTY ADDRESS: 17332 BIG FALLS RD see pages 5 & 6 of the CHECKLIST for additional required information
 Subdivision name: LAKESIDE CWA # 1047 Folio 475 CT 6, 1937
 plat book# , folio# , lot# , section#

OWNER: DEWITT H. COLEMAN

93-19-A

**LOCATION INFORMATION**

Councilmanic District: 03
Election District: 07
1"=200' scale map: NW 23-B
Zoning: RC.5
Lot size: 1 43,550
acres square feet

SEWER: ☐ public ☒ private
WATER: ☐ public ☒ private

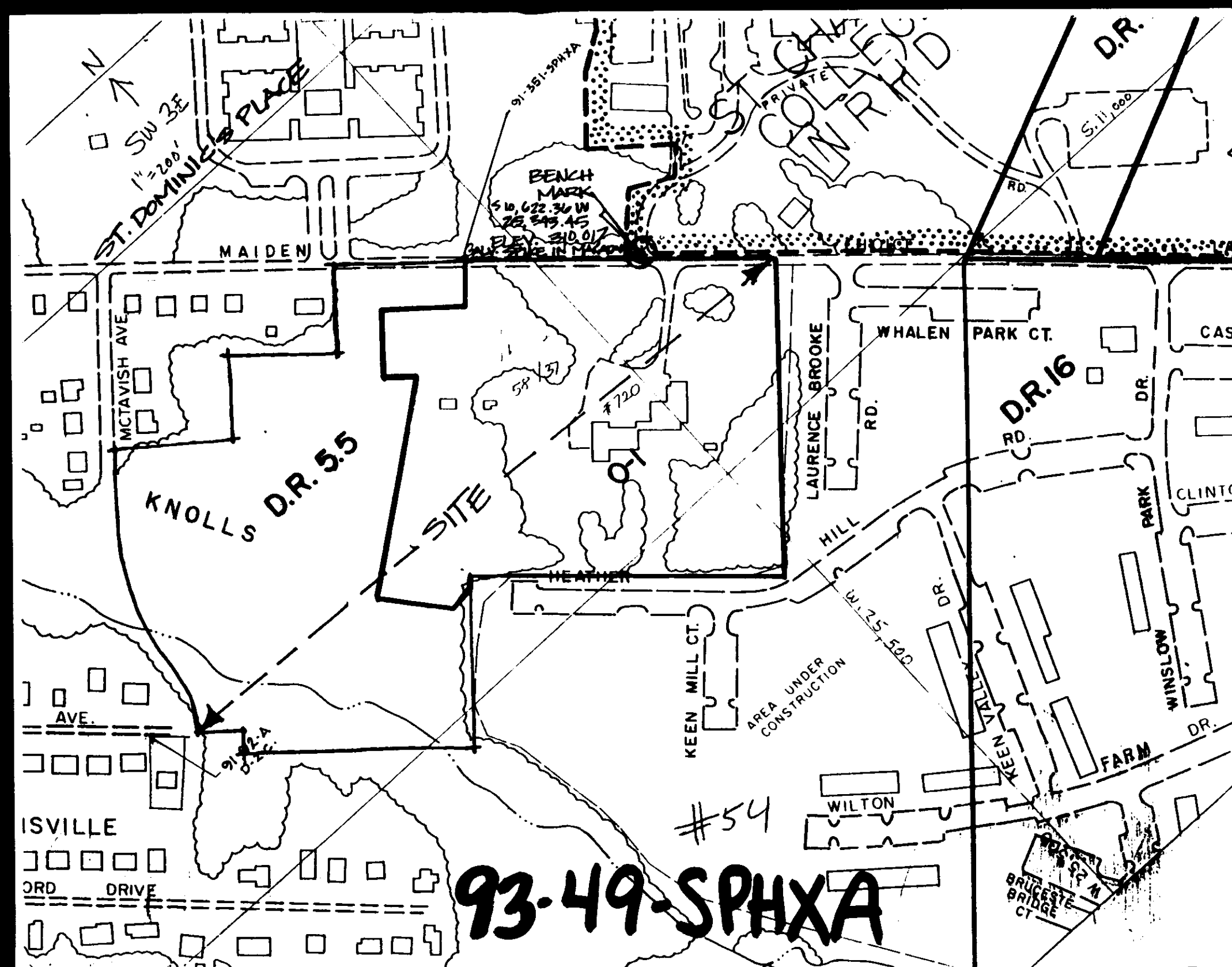
Chesapeake Bay Critical Area: ☐ ☒

Prior Zoning Hearings: None

Zoning Office USE ONLY!
reviewed by: ITEM #: CASE#:

Reg. 74

1. *Journal of Management Studies*, 1996, 33, 1, 1-14.



93-49-SPHX

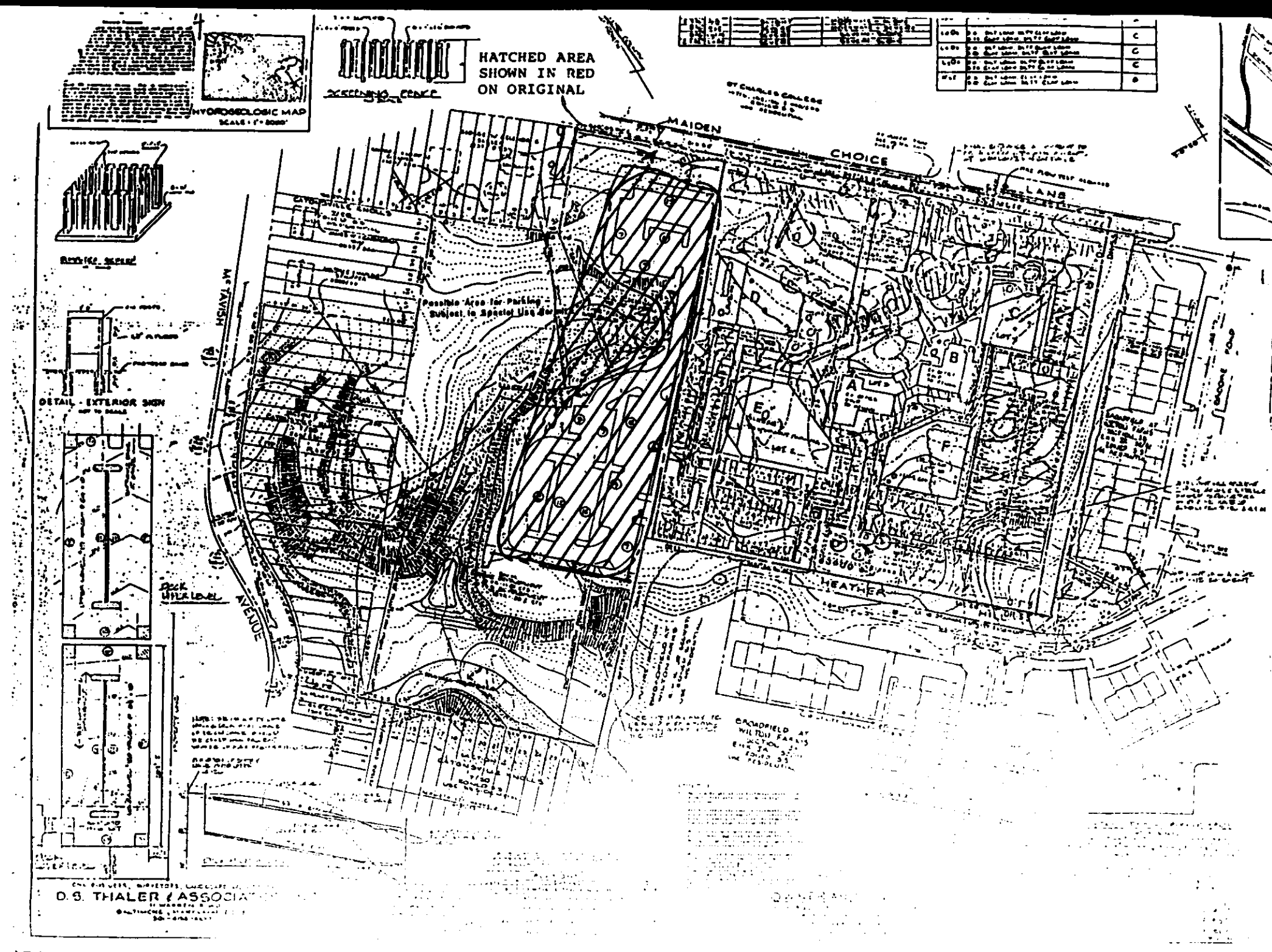


EXHIBIT C

PETITION OF * BEFORE THE
MAIDEN CHOICE ASSOCIATES * ZONING COMMISSIONER
Petitioner * BALTIMORE COUNTY
Case No: 93-49-SPHXA

POST HEARING MEMORANDUM
I. Statement Of The Case

This proceeding involves hearings on several petitions, one for a special exception pursuant to Section 432.3.a.2 of the Baltimore County Zoning Regulations, which requests an increase in density of up to DR 14.5 units on approximately 13.1 acres owned by the Petitioner on Maiden Choice Lane, Baltimore County, Maryland, so as to permit a Class B elderly housing facility on which would be sited 190 housing for the elderly units. In connection therewith, the Petition seeks a determination that the existing chapel building has historic or architectural significance so as to permit additional density for such use, and variances to the Zoning Regulations to permit a building of 60 feet in height in lieu of 50 feet of height in the O-1 zone, and a waiver of the residential transition area to permit a portion of a proposed greenhouse structure attached to one of the buildings from the required 100 foot setback to 60 feet.

The case also involves a petition for variance from the side elevation of an existing accessory building (the "Chapel"), to permit a setback distance from 18 feet in lieu of 30 feet as required by the Regulations, and a petition for a variance to permit 343 parking spaces in lieu of 351 spaces.

PETITIONER: * BEFORE THE
MAIDEN CHOICE ASSOCIATES * BALTIMORE COUNTY
"ST. DOMINIC'S PLACE" * ZONING COMMISSIONER
720 MAIDEN CHOICE LANE * CASE NO.: 93-49-SPHXA
1st Election District * ITEM #54
1st Councilmanic District

PROTESTANTS' POST-HEARING MEMORANDUM

CATONSVILLE CONDOMINIUM ASSOCIATION, INC., JAMES CAREY, M.D., CHAO-SON TENG, M.D., GLORIA DAMIEN, M.D., YUNYONG YUNYONGYING, M.D., A. SHAMS PIRZADEH, M.D., ZAHID BUTT, M.D., ALDO PAZ-GUEVARA, M.D., NADER G. GARY, M.D., and DAVID STROBEL, M.D., some of the Protestants herein, by their attorneys, STEPHEN J. NOLAN, DOUGLAS L. BURGESS and NOLAN, PLUMHOFF AND WILLIAMS, CHARTERED, file this memorandum in opposition to the zoning petitions filed by Maiden Choice Associates.

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A. Day One - October 2, 1992	6
1. Petitioner's Witnesses	
a. Norberto Machiran, M.D.	6
b. Jack Long, Ph.D.	7
c. Jane Willeboordse, R.A.	10
d. Hugo O. Liem, Jr.	13
2. Protestants' Witnesses	
a. Yunyong Yunyongying, M.D.	14
b. Chao-Son Teng, M.D.	14

LAW OFFICES
NOLAN, PLUMHOFF
& WILLIAMS,
CHARTERED

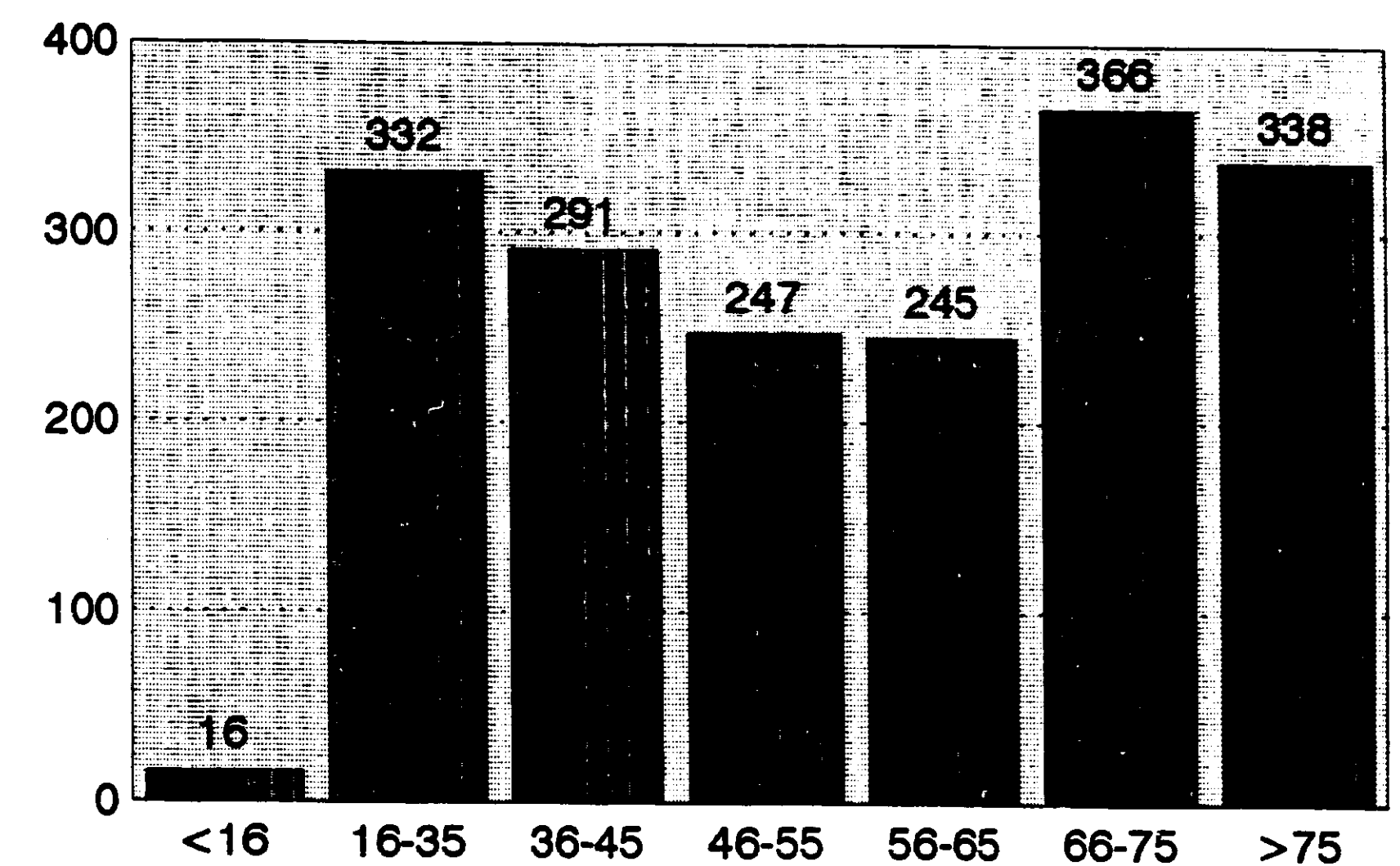
PETITIONER: * BEFORE THE
MAIDEN CHOICE ASSOCIATES * BALTIMORE COUNTY
"ST. DOMINIC'S PLACE" * ZONING COMMISSIONER
720 MAIDEN CHOICE LANE * CASE NO.: 93-49-SPHXA
1st Election District * ITEM #54
1st Councilmanic District

APPENDIX
TO

PROTESTANTS' POST-HEARING MEMORANDUM
(Maiden Choice Associates Hearing)

LAW OFFICES
NOLAN, PLUMHOFF
& WILLIAMS,
CHARTERED

PATIENT DISTRIBUTION BY AGE

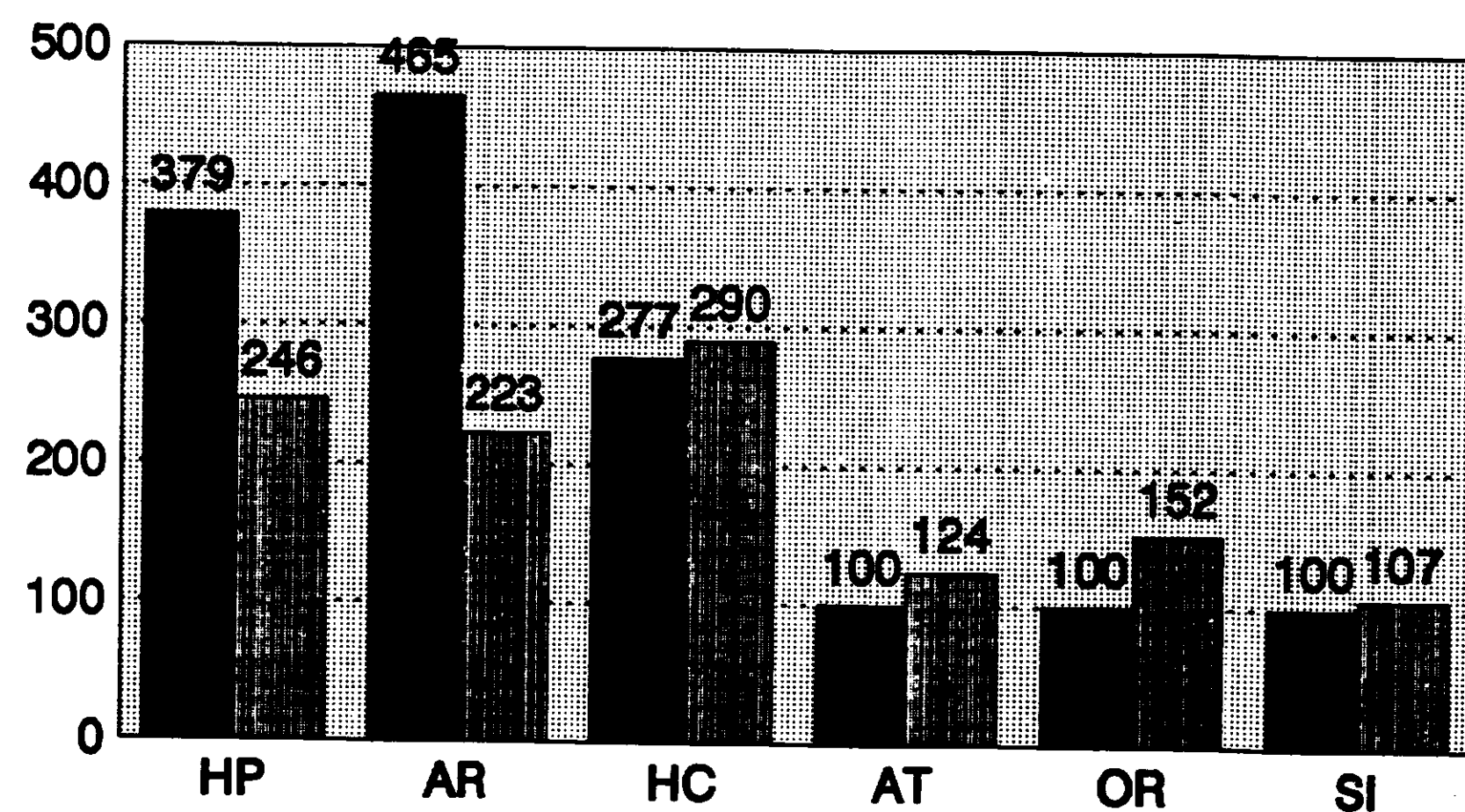


Series 1

Ref No 1

MORBIDITY DATA

National Averages vs. Catonsville Office



Chronic Conditions per 1000 persons > 65 y.o.

HP=Hypertension; AR=Arthritis; HC=Heart conditions;
AT=Atherosclerotic conditions; OR=Orthopedic Impairments; SI=Sinusitis

Agnes Machiran, who was born in 1905 and lived and prayed there until there were only two nuns left in 1985. The two sisters were sick and unable to keep up with the demands and costs of the convent's upkeep. The Archdiocese of Baltimore decided to sell the land and Machiran's group purchased it.

"My wife (Rose Marie) grew up right next to the convent," says Machiran, who specializes in internal medicine. "When she was little, she used to roam these fields and do chores for the sisters. My sister-in-law was even named after one of the nuns, Sister Maria Albert."

Members of Rose Marie's family were among the few people who ever spoke with the sisters face-to-face; most area residents spoke with the

since 1905 and lived and prayed there until there were only two nuns left in 1985. The two sisters were sick and unable to keep up with the demands and costs of the convent's upkeep. The Archdiocese of Baltimore decided to sell the land and Machiran's group purchased it.

Instead of demolishing the two buildings, Machiran convinced his associates and architects to design a medical community around them.

Wilkins workforce boosted

Paul Laphowicz
Like every other government agency in Baltimore County, the Wilkins police precinct on Walker Avenue is bracing for hard times.

With a new Republican county executive and five new Republican county council members all promising to cut spending, the police station doesn't expect to be spared. Its commander looks forward to a decade of tight-budgeting and deepening economic constraints.

"We'll have to do everything a little smarter, more efficiently. We'll have to find ways to reach out and cut costs without affecting service," Capt. William Kallista said last week. "It will certainly increase the demands on us."

So it is with some relief that Kallista announced the addition of four new officers and one new patrol car to his force, which patrols southeastern Baltimore County.

At various times during the day, anywhere from two to six Wilkins

Seven patrolmen fresh from the police academy joined the Wilkins precinct in late October, filling the positions of those outgoing officers and boosting the Wilkins precinct's overall force from 73 to 77 patrolmen.

It was a boost longed for by police planners in July 1989, and it's the kind Kallista knows he is not likely to get again soon. He plans to make good use of it.

For starters, Wilkins will add two to three patrol cars to its night shift, called the "power" shift for its heavy crime activity. In late night and early morning hours, Wilkins will now have 14 officers on patrol at any given time.

With the holiday season upon us — and an expected sharp rise in crime at local stores — Kallista will also dispatch some of the new recruits in foot patrols of local shopping centers and malls.

At various times during the day, anywhere from two to six Wilkins

Two new medical office buildings were constructed on either side of the chapel and convent. Both buildings were designed to complement the original structures.

"The new buildings blend together and beautify the old," says Machiran. "They all have pitched roofs and we used the same type of moldings, trimmings and paint. So now it doesn't look totally separate, and we've managed to maintain the peaceful look of a campus."

Machiran's "campus" consists of his medical office, his brother Manuel's pediatric office and those of 40 other doctors, all affiliated with St. Agnes Hospital. According to Machiran,

remaining land. He dreams, he says, to create housing of some sort for the elderly.

"I'd like to do something residential that's affordable for people on fixed incomes," he says. "We have a large population of elderly people here ... and I see many of them going into nursing homes before they need to, simply because there's no place else that's affordable."

As Machiran walks the grounds of the medical center, he points out where he would like to build homes and where he'd like to put a big greenhouse for its residents, explaining the therapeutic value of planting seeds and watching them grow.

He steps over to where Ralph Boney, art teacher at Dundalk Community College and an Arden resident, is carving a sign out of a large oak log for the center. They discuss the possibilities of a fountain. Boney says that fountains are soothing and tranquil, and Machiran agrees.

Inside his office building, Machiran points to the narrow rooms that were once the sisters' bedrooms. They are the perfect size for examining rooms. So perfect, he says, that in the new buildings they copied the old design for all of the examining rooms.

Machiran feels that Maiden Choice Medical Center belongs to the community. All of the art and decorations are the works of local residents. He even hired some of his own patients to work on the construction crew.

He says the community seems to appreciate these efforts.

Once the cemetery was cleaned and the garden was planted around it, local residents have started to stop by to see the garden and pay their respects. Last week, someone mysteriously placed a white carnation on every grave in the cemetery, paying to Machiran that the promise to the sisters is being fulfilled.

REACHOUT*
Opportunities

- Growing flowers and produce
- Handling consignment shop
- Providing child care & babysitting
- Overseeing aqua farming
- Making crafts for sale
- Exhibiting crafts at flea markets & craft shows
- Assisting at catered events
- Entrepreneurship & management

*Retired Active Helpers of Today and Tomorrow

ST. DOMINIC'S
About the Facility

- AMENITIES
 - + Coffee Shop for lite snacks
 - + Washer & dryers on each floor
 - + Exercise & meeting rooms
 - + Sitting room on each floor
 - + Easy access to medical facility
 - + Nature trail & pond
 - + Greenhouse & garden area
- SERVICES
 - + Medical Alert monitoring
 - + Grocery delivery
 - + Laundry & dry cleaning pickup
 - + Local van service
 - + Reduced medication cost
 - + Medical "house calls"
 - + UMBC extension courses
 - + Supported living (as necessary)
 - + Organized activities
- OPPORTUNITIES
 - + Earned income through REACHOUT
 - + Earned security through TIME DOLLARS

TIME DOLLARS*
Community Services

- Shopping, telephoning, transporting community seniors
- Pre school or latchkey care for neighboring families
- School volunteerism
- Post hospital care
- Home repairs
- Community education courses

* Time dollars are accumulated credits for services.

Baltimore County Government
Department of Environmental Protection
and Resource Management



401 Bosley Avenue
Towson, MD 21204

June 19, 1992

(410) 887-3733

Ms. Theresa Fiscus
LDR International, Inc.
Quarry Park Place
9175 Guilford Road
Columbia, Maryland 21046

Re: Maiden Choice Associates
Forest Buffer

Dear Ms. Fiscus:

In response to a telephone conversation with Mr. Reed Hupman of your office, staff from the Environmental Impact Review Division of this Department re-evaluated the resources on this site and the applicability of Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains to this project.

When this site was originally approved for development in March of 1986, a field review determined that a stream and adjacent wetlands exist on this site. The Water Quality Management Policy which was in effect at the time required a 50 foot stream buffer be shown on development plans. Since that time, this stream has undergone significant changes and it has now become an ephemeral channel. Therefore, the Forest Buffer Easement for this site shall now be measured 25 feet from the limit of the wetlands which have been field-delineated and verified. The Forest Buffer Easement must be shown and labelled on any submitted development plans for this project. The building setback line and standard notes described in our letters to you dated May 12, 1992 must also appear on the plan.

If you have any questions regarding this correspondence, please contact Ms. Valerie Rychalski at 887-3980.

Very truly yours,

Rocky O. Powell

Rocky O. Powell, Division Director
Environmental Impact Review Division

ROP:VR:ju

FISCUS/TXTJEU

Printed on Recycled Paper

LIEM and Associates
3001 Brookwood Road
Ellicott City, Md 21042
Telephone No. (410) 4656803

September 23, 1992

Ms. Jane Willeboordse
5468 Wingborne Court
Columbia, Md. 21045

Dear Ms. Willeboordse:

I have been retained by Maiden Choice Associates to determine the traffic implications of rezoning their property to permit the construction of 190 Elderly Housing Units in stead of constructing two office buildings totaling 115,500 square feet.

The table below shows the average daily traffic (ADT) that would be generated by the construction of 115,500 square feet of office space or 190 Elderly Housing Units. This information is based on the Institute of Transportation Engineers 5th Edition of their Trip Generation report. Also shown is the number of trips during both the morning and after noon peak hours (between 7:00 to 9:00 AM and 4:00 to 6:00 PM). That would be generated by the two uses. This information is also based on the Trip Generation report produced by the Institute of Transportation Engineers.

Estimated two way Trips			
use	ADT 1996	AM peak hour 214	PM peak hour 207
115,500 Sq. Ft. office			
190 Elderly housing Units	513*	10	16

* the estimate is based on the average number of trips that would be generated by 190 elderly housing units on Sunday since no information is available for a week day. The actual number of average daily trips would be less than this number since there would be more trips generated on Sunday then would be generated on an average week day.

If more information is needed please contact me.

Very Truly Yours,

Hugo O. Liem, Jr.
Hugo O. Liem Jr.
Liem and Associates

ZONING COMMISSIONER'S POLICY MANUAL

Section 600- Interpretation

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: J. Robert Haines
FROM: Arnold Jablon
SUBJECT: Enforcement of Private Covenants

The courts have always clearly expressed the position that a governmental entity cannot enforce private covenants. They are entered into by and between private parties, to which the County is not a party. There is no means by which the County could intervene in a matter to which it is not a party. This is no different than any third party intervening in a matter in which two other parties are entwined and in which the third party has no legal interest.

If the violation of the restrictive covenant does not contradict or contravene a County law, rule, or regulation, there is no action for the County to take. I recognize the issue to which Ms. Hickinbotham refers, but the master deed or by laws of the homeowners association should provide for the enforcement of the covenants and the means by which legal action could be instituted and attorney fees and costs charged. If the County were to intervene, it would in effect take over the legal representation of every homeowners or condominium association in the County.

This issue has been raised before the County Board of Appeals and the courts. In each instance, it has been determined that the County has no standing to enforce privately executed covenants. They are recorded to protect the property owners and to provide notice to purchasers that restrictions exist on the use of property; enforcement is specifically reserved to the homeowners and condominium associations.

NJ/sc1

6-1

DECLARATION OF CROSS USE EASEMENTS,
COVENANTS AND RESTRICTIONS

THIS DECLARATION made and entered into this 12th day of May, 1988, by MAIDEN CHOICE ASSOCIATES, a Maryland General Partnership, hereinafter referred to as "Declarant" and/or "Owner" and RICHARD W. PHOEBUS and THOMAS B. FRAME, hereinafter referred to as "Trustees" and HOME FEDERAL SAVINGS BANK hereinafter referred to as "Lender".

WHEREAS, Declarant is the owner of those certain five (5) lots known and described as Lots numbered #1, #2, #3, #4 and #5 as shown on the Final Subdivision Plat ("Final Record Plat") entitled PLAT ONE OF TWO, MAIDEN CHOICE ASSOCIATES, recorded among the Plat Book Records of Baltimore County, Maryland in Plat Book SM 58, Folio 37, on March 16, 1988 (hereinafter referred to as the "Property"), all of such lots are sometimes hereinafter referred to as "Parcel A"; and

WHEREAS, Declarant is also the owner of that certain parcel of land adjacent to Parcel A which adjacent parcel is sometimes hereinafter referred to as "Parcel B" and is more particularly described as PLAT TWO OF TWO, MAIDEN CHOICE ASSOCIATES, recorded among the Plat Book Records of Baltimore County, Maryland in Plat Book SM 58, Folio 38, on March 16, 1988; and

WHEREAS, the Trustees are those certain Trustees described in a Deed of Trust covering Parcel A dated April 21, 1987 and a RCF recorded among the Land Records of Baltimore County, Maryland in Liber 7164, Folio 93, which Deed of Trust secures a loan from the Lender of such date, and the Trustees and Declarant are joining in on this Declaration in order to subordinate the Deed of Trust to the legal operation and effect of this Declaration; and

WHEREAS, the Declarant or its affiliates have obtained the plan approval of the Baltimore County, Maryland County Review Group (the "CRG Plan") as of July 16, 1986, for the proposed development of Parcel A, a copy of which, showing and depicting Parcel A is attached hereto as Exhibit A and intended to be a part hereof, which, amongst other things, deals with the siting of existing and/or proposed buildings, the general location of roadways and parking areas, open space and buffer areas; and

WHEREAS, the CRG Plan approval requires that the development of Parcel A be in phases whereby the plan as approved for the first phase thereof which includes the existing Buildings A and B as located on Lot #3 and prospective construction of Buildings C and D on Lots #1 and #4, respectively, and the related site work as shown on Exhibit B attached hereto and intended to be a part hereof; and

RECEIVED FOR TRANSFER
State Department of
Public Safety & Transfer
Baltimore County

APPROVED FOR TRANSFER
LOT ATTORNEYS
SIGNATURE DATE

APPROVED FOR TRANSFER
COUNTY REVIEW GROUP
SIGNATURE DATE

HISTORIC

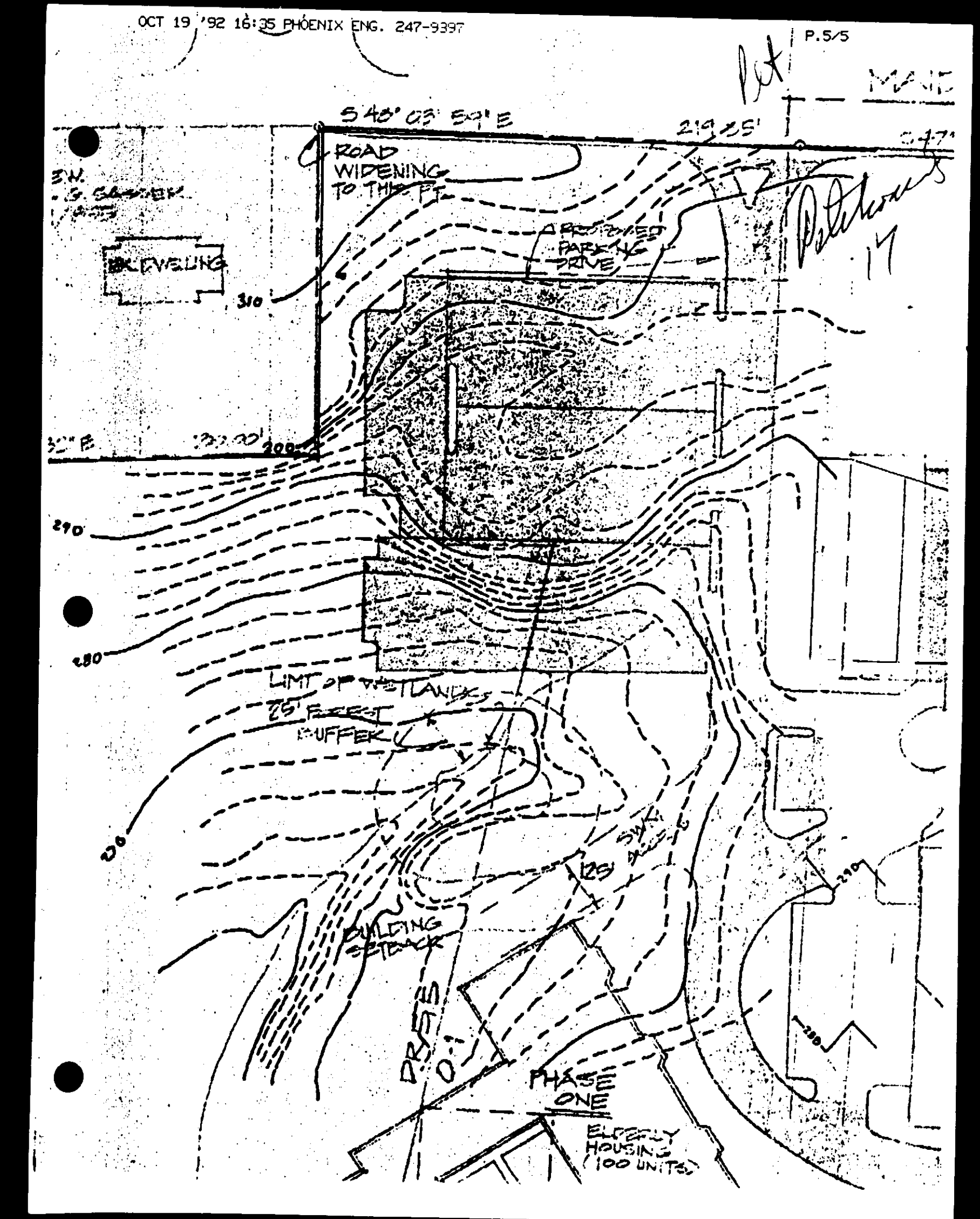
Historic: Having importance in or influence on history; renowned. Likely to become important in history; having considerable contemporary significance.

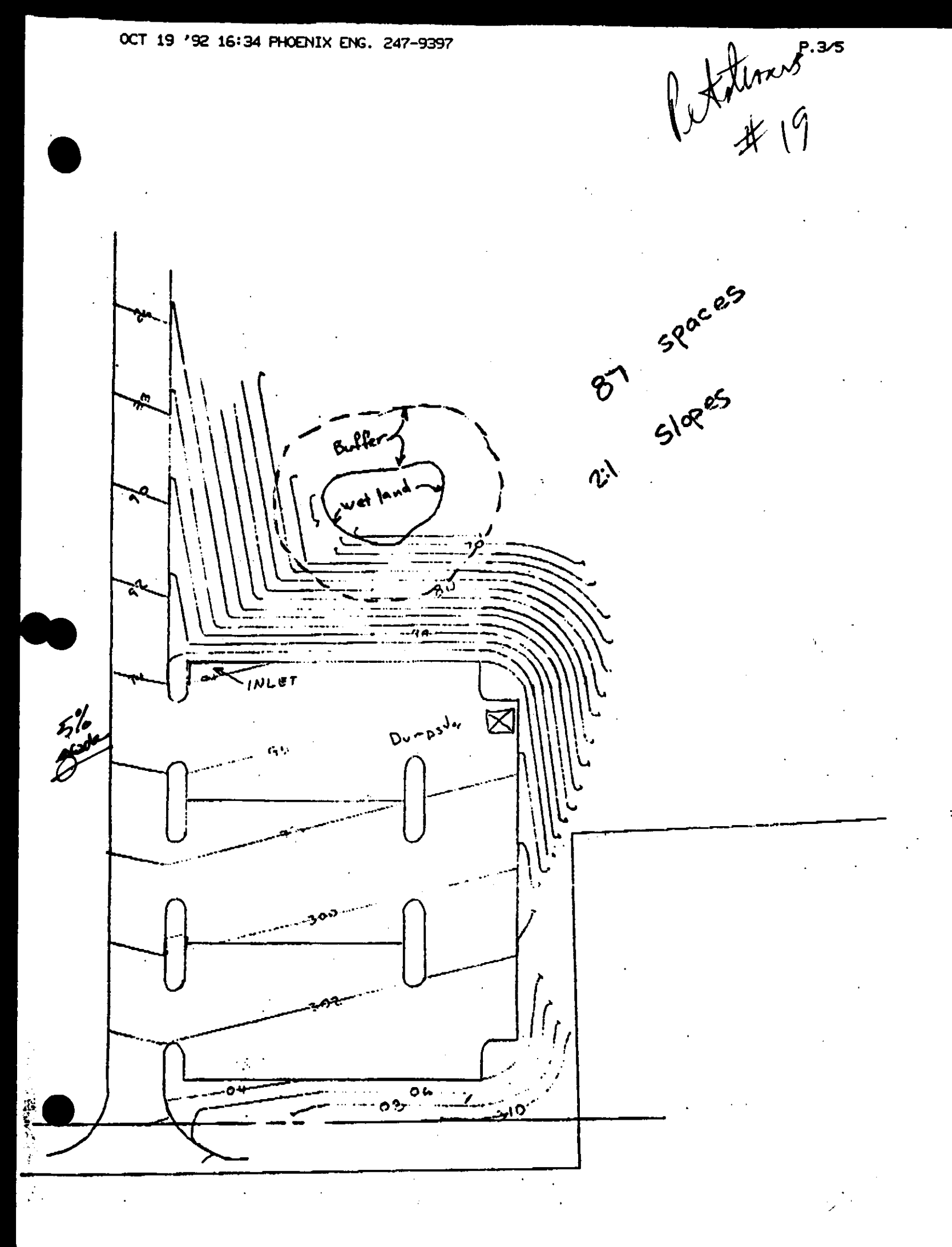
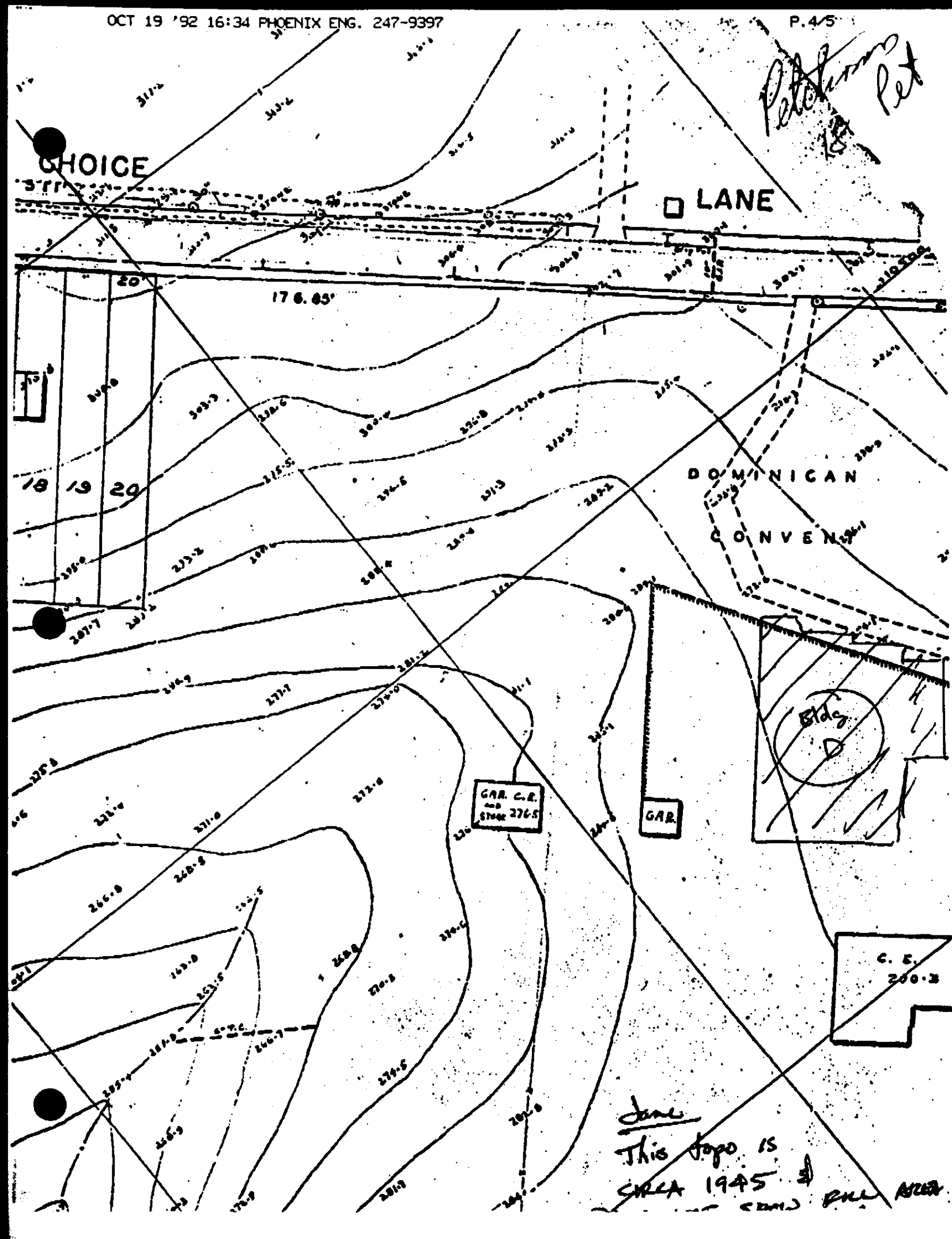
Historic refers to what is important in history. It is also used of what is famous or interesting because of its association with persons or events in history. Associated with events in history.

Historical: Of, relating to, or of the nature of history as opposed to fiction or legend. Based on or concerned with events in history. Having considerable importance or influence in history. Historical refers to anything concerned with history or the study of the past. Historical refers to whatever existed in the past, whether regarded as important or not.

Events are historical if they happened. Historic only if they are regarded as important.

Source: The Torment Webster's Illustrated Encyclopedic Dictionary, 1990 Edition.





Ret No 21

ST. DOMINIC'S PLACE
A Proposal for an Elderly Housing Facility
 A Project of: **ROSTIC MANAGEMENT AND DEVELOPMENT, INC.**
 and
MAIDEN CHOICE ASSOCIATES
 720 Maiden Choice Lane
 Catonsville, Maryland, 21228
 (410) 744-5900
 (410) 455-0894

Proposed # of Units:
 190 Units total.
 114 units one B.R. at 650 sq. ft. each.
 76 units two B.R. at 1000-1100 sq. ft.

Density Unit Calculation:
 190 Units = 161.5 Density Units.
 60 x 1 Bedroom Units = .75 Density Units
 40 x 2 Bedroom Units = 1.00 Density Units

Site Acreage = 13.5 Acres = Proposed DR 12

Elderly Housing - Class B:
 Residents are restricted to persons 60 years of age or older or to couples where either the husband or the wife is 60 years of age or older, or to any person regardless of age who has a physical or developmental disability.

Parking: 190 units at 1 space per 1 1/2 units = 127 spaces.
 A VAN service will be provided on a daily scheduled basis for the residents.

There will be no clearing, grading, construction or disturbance of vegetation in the Forest Buffer, except as permitted by the Baltimore County Department of Environmental Protection and Resource Management.

Any Forest Buffer shown in the plans shall be subject to protective covenants which may be found in the Land Records of Baltimore County and which restrict disturbance and use of these areas.

Patuxent Publishing Company

CATONSVILLE TIMES

Wednesday November 11, 1992 \$5.00

Page 32 THE CATONSVILLE TIMES November 11, 1992

LOST Small black dog, missing since 11/1/92. If found, please call 410-744-5900. Reward \$500.00.

70 MUSTANG 1988 4-cyl. 100,000 miles. \$1,500.00. Call 410-744-5900.

71 HONDA CIVIC 1988 4-cyl. 100,000 miles. \$1,500.00. Call 410-744-5900.

71 MERCEDES CLASSIC 280SL 1968. 4-cyl. 100,000 miles. \$1,500.00. Call 410-744-5900.

71 MERCEDES 1988 4-cyl. 100,000 miles. \$1,500.00. Call 410-744-5900.

72 DUNE BUGGY 1988. 4-cyl. 100,000 miles. \$1,500.00. Call 410-744-5900.

72 FIAT SPIDER CONV 1988. 4-cyl. 100,000 miles. \$1,500.00. Call 410-744-5900.

72 FORD GALAXY 1988. 4-cyl. 100,000 miles. \$1,500.00. Call 410-744-5900.

72 MERCEDES 1988 4-cyl. 100,000 miles. \$1,500.00. Call 410-744-5900.

72 NOVA 1988. 4-cyl. 100,000 miles. \$1,500.00. Call 410-744-5900.

72 OLDS CUTLASS 1988. 4-cyl. 100,000 miles. \$1,500.00. Call 410-744-5900.

ELIZABETH We meet through mutual associates. I moved changed numbers and call 1-800-455-5555. Please have our hand call me with your number again.

SISTER DELLA SPECIALIZING in Elder Care. Can help solve problems. 410-276-1833.

Call 997-4800

Telloni's 25

ST. DOMINIC'S PLACE APARTMENTS
 Election District: 1
 A Proposal
 A Project of: **ROSTIC MANAGEMENT AND DEVELOPMENT, INC.**
 and
MAIDEN CHOICE ASSOCIATES
 720 Maiden Choice Lane
 Catonsville, Maryland, 21228
 (410) 744-5900
 (410) 455-0894

Proposed # of Units: 190 Units total.
 100 units one B.R. at 650 sq. ft. each.
 90 units two B.R. at 1000-1100 sq. ft.

Proposed: 13.57 acres, with three clusters of units, one with 100 units in Parcel S, another two with 45 units each in Lot # 5. Some of the common areas and other supportive facilities would be developed in the old Chapel. All buildings on the site would be communicated with partially covered walks whenever possible.

Parking: 190 units at 1 space per 1 1/2 units = 126 spaces.
 All spaces 8.5' x 18' paved of a durable dustless surface and striped. A VAN service will be provided for the residents which will help greatly decrease the ADT's. Will provide 20 handicap spaces.

There will be minimal clearing, grading or disturbances within the forest buffer.

Elderly Housing Class B Definition BC2R: 60 years or older, limited income. Condominium documents will guarantee that only elderly residents will live in the community.

In addition to apartment units there will be:
 Administration and Management Offices
 Building and Ground Maintenance Shops
 Laundry room on every floor
 Common Recreation and Meeting Room with Kitchen
 Lounges, Card Game Rooms and other common facilities for use of residents and their guests
 Storage for use of residents - outside of their apartments
 Greenhouse and therapeutic pool facility

Ret No 26

Broadfield Homeowners Association, Incorporated
 P.O. Box 24074
 Baltimore, MD 21227
 410-792-8471

December 1, 1992

Commissioner
 Baltimore County Zoning Commission
 400 Washington Avenue
 Towson, MD 21285

Re: Maiden Choice Medical Center Request for Zoning Modification

Dear Sir:

In the time since your last hearing on the above, members of our board of directors has met with the developer and his representatives. During those meeting we were advised that at this time they wish to enlist our input in the further development. In light of those meeting and conditioned upon the following:

- the plan be modified to include sufficient additional trees along the property line separating the development from and both Heather Hill Road and Laurence Brooke Road. This condition must be written into the plan to include the number and type of tree, preferably of the pine variety, to insure year-round privacy.
- plans be finalized, before commencement of construction, to insure that either a pedestrian controlled or standard traffic signal be installed on Maiden Choice Lane to insure the safety of pedestrian residents when crossing. Although, several studies have stated that there is no need, at this time, for such a device we feel that even a healthy younger person has a difficult time crossing this street.

If these conditions are written into the proposal we would be willing to work with the developer on this project. Although, we do not wish any additional building on this site and feel that the developer threat to sell the undeveloped sections to someone else for development is without sufficient financial merit to be feasible.

Although, I will try to be present at the meeting scheduled for December 3, 1992, I felt it important that our view be put on the record, should I not be able to attend.

If you have any questions please feel free to call me at 202-429-3510. Thank you for your attention in this matter.

RECEIVED
 3 1992
ZONING COMMISSIONER

Ret No 1

DEED
 LIBER 8 3 9 3 PAGE 1 6 2

THIS DEED, made January 31, 1990, by and between MAIDEN CHOICE INVESTMENT GROUP, INC., a Maryland corporation ("Grantor"), and ZAHID BUTT and ASFA BUTT, his wife ("Grantee").

WITNESSETH: That in consideration of the sum of \$219,646, receipt whereof is hereby acknowledged by Grantor, the said Grantor does hereby grant and convey unto the said Grantee, as tenants by the entireties, their assigns, and to the survivor of them, his or her personal representatives and assigns, in fee simple, all those condominium units situated in Baltimore County, State of Maryland, and described as follows, that is to say:

BEING KNOWN and designated as Units 302 and 303 in The Catonsville Medical Center Condominium, as established pursuant to the Condominium Declaration made by Grantor, dated January 31, 1990, and recorded or intended to be recorded among the Land Records of Baltimore County prior hereto; the Condominium Plat of the Catonsville Medical Center Condominium recorded or intended to be recorded among the Land Records of Baltimore County in the Condominium Plat Books prior hereto; and the By-Laws of The Catonsville Medical Center Condominium, Incorporated, recorded or intended to be recorded among the Land Records of Baltimore County immediately following the aforesaid Condominium Declaration.

TOGETHER with the improvements therein, and all and every the rights, alleys, ways, waters, privileges, appurtenances, and advantages to the same belonging or in anywise appertaining, including particularly the rights in common with others in the common elements of the aforesaid condominium and also the shares of common profits and common expenses and the number of votes, all as more fully described in the aforesaid Condominium Declaration, Condominium Plat, and By-Laws.

SUBJECT to all the obligations, burdens and duties of each and every Condominium Unit Owner as set forth in the aforesaid Condominium Declaration, Condominium Plat and By-Laws;

SUBJECT FURTHER, to the right and power of The Catonsville Medical Center Condominium, Incorporated to grant such easements, rights-of-way, licenses, privileges of passage and use and similar interests in the common elements, as provided in the said Condominium Declaration.

BEING unit(s) in the Condominium Declaration relating to Lot 1 as laid out and shown on the "Final Subdivision Plat, Plat 1 of 2, Maiden Choice Associates", which Plat is recorded among the Land Records of Baltimore County in Plat Book 58, folio 37.

ALSO BEING part of that property which by Deed dated May 25, 1988 and recorded among the Land Records of Baltimore County in Liber S.M. No. 7880, folio 812, was granted and conveyed by Maiden Choice Associates to Grantor.

RECEIVED FOR TRANSFER
 State Department of Assessments & Taxation
 For Baltimore County
 13190
 B 8291****351434a 8318A

Lawyers Title Insurance Corporation
 NATIONAL HEADQUARTERS
 RICHMOND, VIRGINIA

SCHEDULE A
 10/44/21 Ver. 31, 1988 \$216,000 \$215,646
 112-00-220174
 112-00-220174
 112-00-220174

OWNER'S POLICY
 112-00-220174
 112-00-220174
 112-00-220174

1 The estate or interest referred to herein is at Date of Policy vested in the insured.

2 The land herein described is encumbered by the following mortgage and assignments, if any, and the mortgages if any, shown in Schedule B hereto:

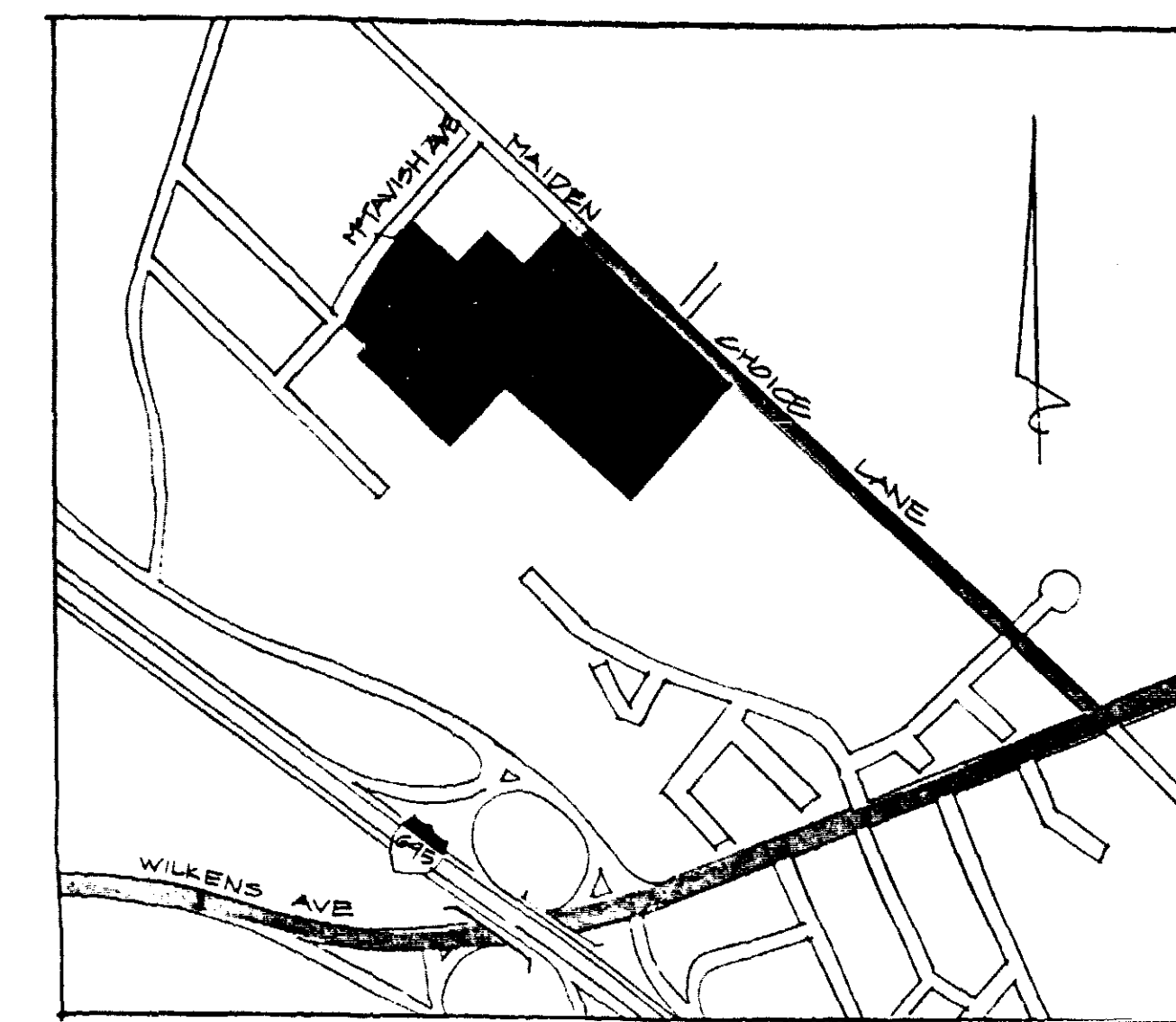
3 d of Trust from the party identified in part 2 above to the insured, recorded in the Land Records of Baltimore County, Maryland in Liber S.M. No. 8393, folio 165

4 For legal description, see Exhibit A attached hereto and incorporated by reference herein.

#4609B/1
 C-26

Towson, Maryland

RECEIVED FOR TRANSFER
 State Department of Assessments & Taxation
 For Baltimore County
 13190
 B 8291****351434a 8318A



VICINITY

CRG PLAN
MAIDEN CHOICE ASSOCIATES
Approved March 19

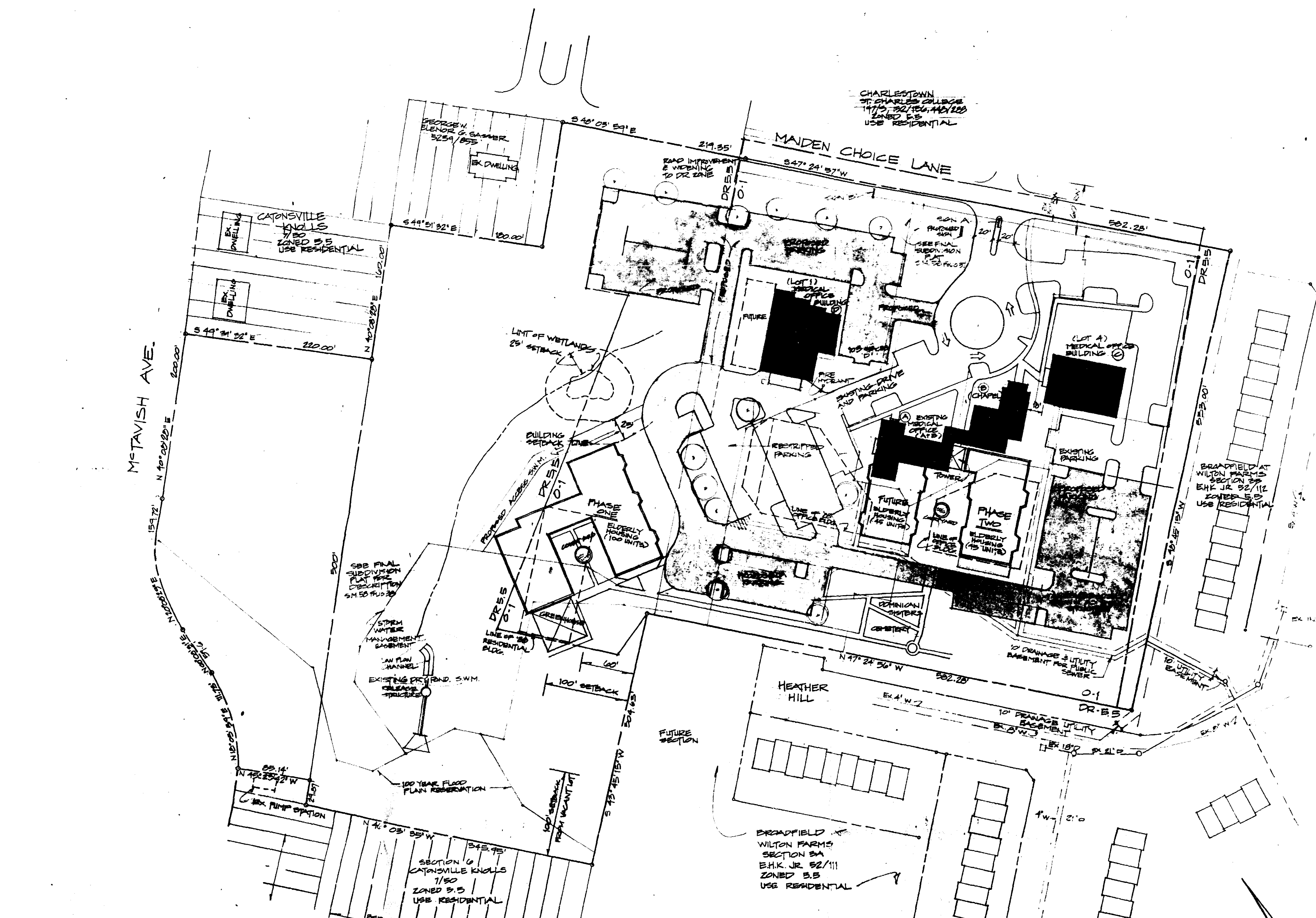
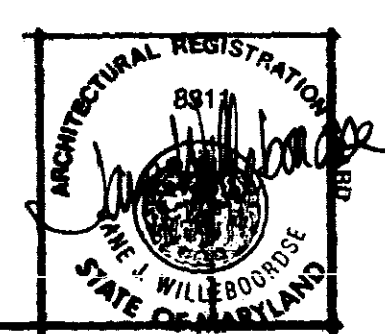
BUILDING	FLOOR AREA SQUARE FEET	BUILDING	SF
MEDICAL OFFICE A. 3 STORY (40')	7548	MEDICAL OFFICE A.	7548
B. 1 STORY (CHAPEL) 3190		B. (CHAPEL)	3190
C. 3 STORY	17,301	C.	17,301
D. 4 STORY	25,018	D.	25,018
(AS BUILT SUBTOTAL 53,067)		PROPOSED RESIDENTIAL PHASE I	113,430
APPROVED OFFICE E. 5 STORY	65,500	PHASE II 5 1/2 STORY (60')	47,000
F. 5 STORY	60,000	SUBTOTAL	219,487
RESIDENTIAL 4 STORY	38,000	PHASE II-RESIDENTIAL (FUTURE 5-STORY) (replace Bldg. A)	43,500
			7548
TOTAL	204,567 SF	TOTAL	249,489 SF

1. Site Acreage
(approved as shown on CRG plan)
ST. DOMINIC'S PLACE
Proposed Elderly Housing Facility
- | EXISTING | UNDVELOPED ACREAGE | 8.88 - 41 acres (for O-1, Bldg. D parking) |
|--------------|--------------------|--|
| 1.42 (Lot 3) | | |
| 2.21 (Lot 5) | | |
| 1.16 (Lot 2) | | |
| TOTAL | 13.15 ACRES | (Proposed 22.14) |
- Building Acreage
1.8 acres
1.16
2.2
TOTAL
6.04 acres
2. Floor Area Ratio
REQUIRED FAR: .55
PROPOSED FAR: .35
202,530SF - (13.15 acres x 43,560 SF)
3. Amenity Open Space
Required ACR: 20.5 (acreage of 8.82) = 1.8 acres
Open Space Provided: 8 acres (minimum)
4. Proposed Building Area - Elderly Housing Units
PHASE I: 89-100 units
PHASE II: 46 units
PHASE I: 46 units
PHASE II: 46 units
TOTAL 196 units
202,530 SF
5. Parking Spaces
Medical Office - 4.6 spaces / 1000 SF
Required: 239 spaces
Future Addition Building D, Required: 19 spaces
Elderly Housing - 1 space / 1.6 unit
Required Phase I & II: 97 spaces
Required for Future Phase II: 30
Less spaces req. for Bldg. A: -34 spaces
Handicapped Spaces Required: 8 (minimum)
Handicapped Spaces Provided: 8 (minimum)
Total Required for Medical Offices: 258
Total Required for Elderly Housing: 83 spaces
REQUIRED: 341 spaces
PROPOSED: 343 spaces

ST. DOMINIC'S PLACE SITE PLAN

PLAN TO ACCOMPANY PETITIONS
(FOR SPECIAL HEARING, EXCEPTION & VARIANCE)
IN ZONING HEARING

AUGUST 12, 1992



GENERAL NOTES

NOTES: - Survey Map No. 1-1-100, 100
Existing Building: 5-1, 55 S.E.
Existing Use: Medical Office, (Class C)
Proposed Use: Medical Office (Class C) and
Elderly Housing Facility (Class B)

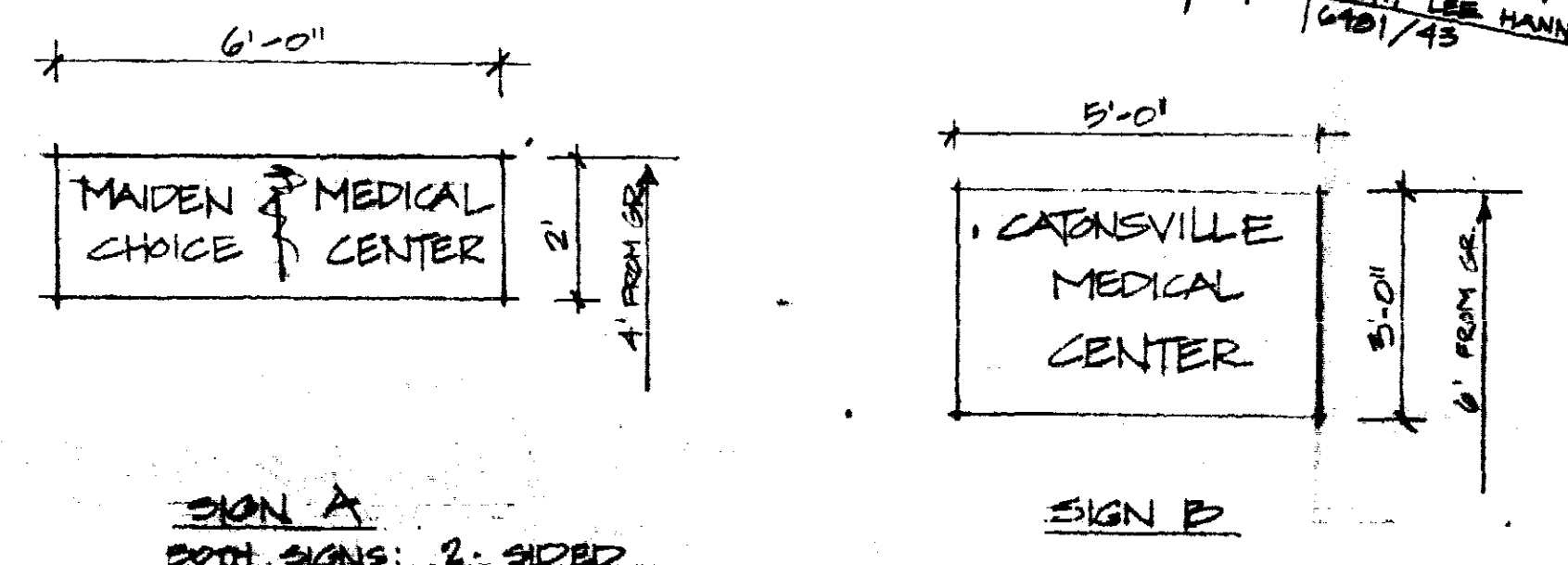
PREVIOUS COMMERCIAL ZONING
Permit Number: 99-0001-000
Public Hearing: 04/14/92

Date of Last Improvement:
Construction completed on Medical Office Building: 1/15/92
Construction completed on Elderly Housing Facility: 1/15/92

DESIGNER: HARRIS, INC. (HARRIS)
A. CDR approved (1/15/92) 1/15/92
B. CDR approved (1/15/92) 1/15/92
C. CDR approved (1/15/92) 1/15/92

Site Located in Baltimore City, Maryland
Survey conducted on site by Harris, Inc. on 1/15/92
Survey conducted on site by Harris, Inc. on 1/15/92
Survey conducted on site by Harris, Inc. on 1/15/92
Survey conducted on site by Harris, Inc. on 1/15/92

MAIDEN CHOICE ASSOCIATES
11111 WILKENS AVE.
CATONVILLE, MARYLAND 21228



SIGN A
20TH SIGN: 2. SHED

SIGN B

93-49-SPHXA

This Deed, Made this 25th day of May, 1992, by and between MAIDEN CHOICE ASSOCIATES, a Maryland General Partnership of Baltimore County in the State of Maryland, of the first part, and MAIDEN CHOICE INVESTMENT GROUP, INC., a Maryland Corporation of the second part.

Witnesseth, That in consideration of the sum of \$225,000.00 and other good and valuable considerations, the receipt of which is hereby acknowledged the said party of the first part:

do es grant and convey unto the said Maiden Choice Investment Group, Inc., its successors, heirs, assigns, in fee simple, all that parcel of ground, situate, lying and being in Baltimore County, aforesaid, and described as follows, that is to say:

BEING known and designated as Lot 1 as laid out and shown on the Final Subdivision Plat, Plat 1 of 2, "Maiden Choice Associates" which Plat is recorded among the Plat Records of Baltimore County in Plat Book 58 folio 37.

BEING a portion of the secondly described property described in a Confirmatory Deed dated April 21, 1987 recorded in Baltimore County in Liber 7504 folio 88 from Dominican Sisters of The Perpetual Rosary, Incorporated unto the Grantor herein.

TOGETHER WITH an easement for installation, use and maintenance of storm water management facilities as shown on the Final Subdivision Plat Plat 2 of 2, "Maiden Choice Associates" which Plat is recorded among the aforesaid Plat Records in Plat Book 58, folio 38.

RECEIVED FOR TRANSFER
State Department of
Assessments & Taxation
for Baltimore County

AGRICULTURAL TRANSFER TAX
NOT APPLICABLE

SIGNATURE [Signature] DATE 6-2-92

MAIDEN CHOICE MEDICAL CENTER

A dream has become a reality with the recent completion of the new Maiden Choice Medical Center on 16 rolling acres in the Catonsville area.

Formerly the site of a religious retreat for the Dominican Sisters of the Perpetual Rosary, the rolling, wooded acreage is now home to a medical complex offering residents of the area state-of-the-art services ranging from treatment by "primary care physicians", to specialized fields such as cardiology, radiologic imaging, rehabilitation medicine, dialysis, psychotherapy, etc.

The dream began when several local physicians and investors purchased the tract that had served as the convent home of the sisters since 1903. Years of declining enrollment in the catholic order and increased costs of maintaining the convent for only a small number of nuns forced the Archdiocese of Baltimore to sell the land and its building.

Following acquisition of the property, Dr. Norberto Machiran and his associates decided to construct a modern medical office complex at the site, while at the same time maintaining as closely as possible the original natural beauty of the site, and the existing architectural style.

"It was our desire to preserve as many of the large trees, as much of the open green spaces in the rolling grounds at

THE MAIDEN CHOICE MEDICAL CENTER, 720 Maiden Choice Lane, Catonsville, is a complex of buildings developed on the former convent property of the Dominican Sisters of the Perpetual Rosary. The purchasers of the property acquired a chapel, residential building, and community building, also an old cemetery at the rear of the property. The sisters had purchased the grounds in 1910 and originally lived in an old frame suburban house on the premises, the former home of a doctor (Deeds WPC 367:539). They had a brick wall around the property and were able to exercise, skate, and play tennis. The first chapel was a frame building; one newspaper account states that Ralph DeChiaro took an interest in the welfare of the congregation and declared that the chapel they seemed to be satisfied with was little more than a termite-eaten garage. DeChiaro built a new brick chapel in 1957 and built the two residential buildings in 1969; the old suburban house had become uninhabitable. The chapel was a memorial to the donor's father. The three buildings are a simplified form of Georgian Revival in dark red brick. The residence is perched on an exposed foundation of smooth poured concrete. Bricks are laid in what seems to be portland cement or modern mortar with no effort to duplicate colonial techniques of thinly laid mortar. The windows are 1-over-1 large panes in sashes rather than imitations of the sashes with many small window lights found in colonial window arrangements.

The buildings present a pleasing appearance and are well integrated with the two newer office buildings. The interiors are severely plain, reflecting the ascetic life led by the nuns. The



PROT.
EX. 13

MAIDEN CHOICE COMMUNITY ASSOCIATION, INC.
P.O. Box 18262, Hialeah, MD 21227

RESOLVED: That at the quarterly meeting of the Maiden Choice Community Association, Inc. held on January 14, 1992, the membership voted that responsibility for review and action on all zoning matters for the period January, 1992 through January, 1993, be placed in the Board of Directors.

The Board consists of the following members:

Michael J. Kilduff, President
Margaret Rickie, Vice President
Eleanor R. VanDevender, Treasurer/Zoning Chairperson
Donna A. Cameron, Secretary
Pat Manoto, Membership Chairperson

AS WITNESS OUR HANDS AND SEAL this 31st day of October, 1992.

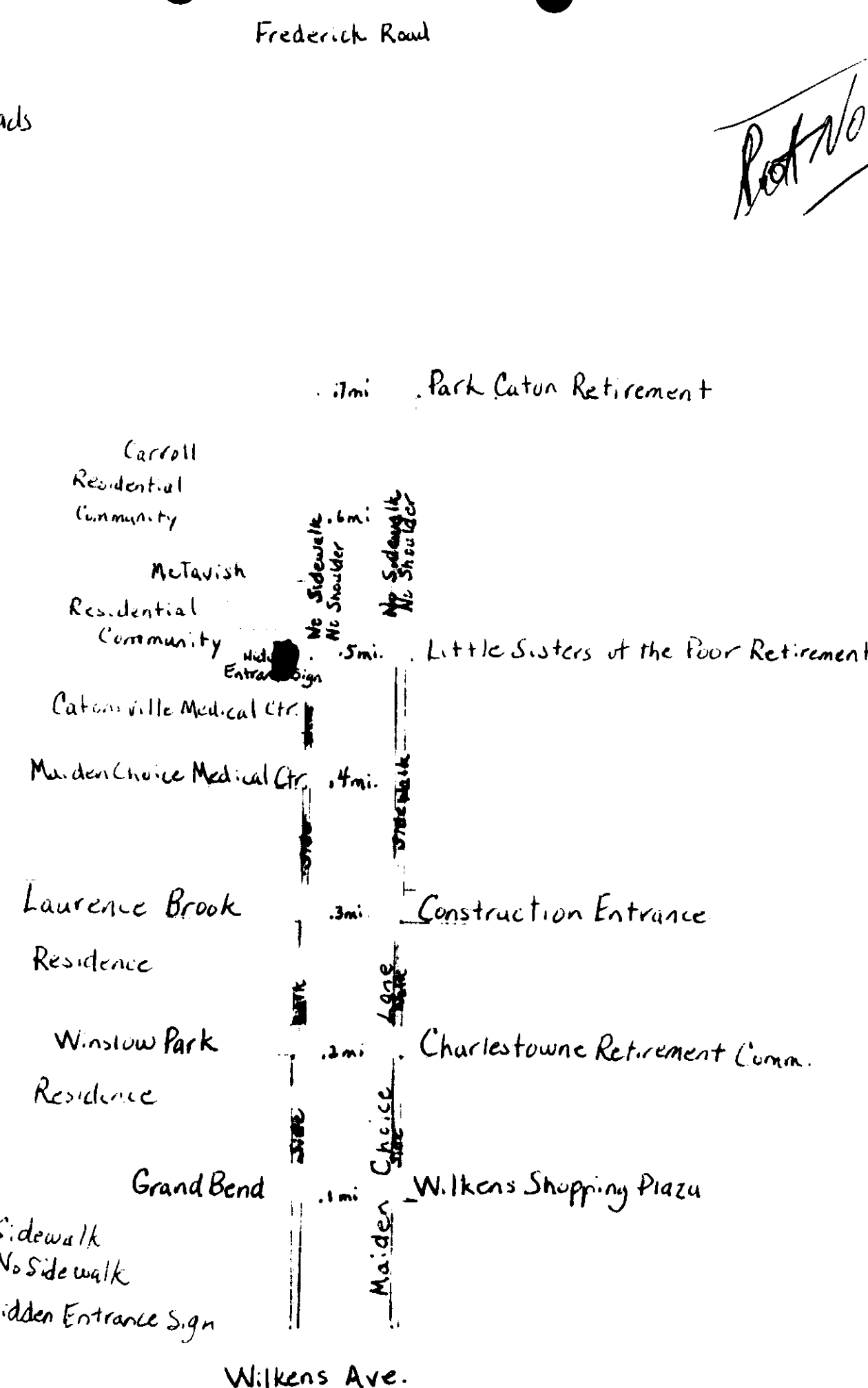
ATTEST: MAIDEN CHOICE COMMUNITY ASSOCIATION, INC.
By: [Signature] Michael J. Kilduff, President
Donna A. Cameron, Secretary

REPORTED CRIME IN ARBUTUS / MAIDEN CHOICE AREA FOR SOUTHWEST CITIZENS ON PATROL
September 7 - October 11, 1992

DATE	BLOCK	ADDRESS	CRIME
9/10/92	1100	Gloria Av	Theft (Misc)
9/10/92	4400	Leads Av	Missing Adult
9/10/92		Wilkins Av & Leads Av	Suspicious Subject
9/10/92	4600	Wilkins Av	Emergency Eval.
9/11/92	4800	Carmella Dr	Child Abuse
9/11/92	1300	Linden Ave	Bad Check
9/12/92	1100	Circle Dr	B & E
9/12/92	4700	Gateway Terr	Accident
9/12/92		Poplar Ave & East Dr.	Traffic Arrest
9/13/92	1000	Howland Sq	B & E
9/13/92	1000	Leads Av	Theft from Veh
9/14/92	5200	Southwestern Blvd.	Accident
9/15/92	4700	Aldgate Orm	Simple Assault
9/15/92		Belwood Grn & Courtney Rd	Trespassing
9/15/92	4200	Hooper Av	Theft (Misc)
9/15/92	1300	Linden Ave	Accident
9/15/92	900	Palladi Dr	Abandoned Vehicle
9/15/92		Westland Bl & Courtney Rd	Accident

This is a list of incidents in which reports were written. Any questions or information regarding any specific incident Contact Officer John Rios 927-0872, in cases of emergency dial 911.

Access Roads



Maiden Choice Lane Paradise - Wilkins

Year	Total Accidents	Fatalities	Injuries
1971	11	0	0
1972	21	0	0
1977	19	0	0
1978	11	0	0
	62	0	0

Speed Survey	Location	Year	Avg
Maiden Choice via Paradise	at Wilkins Park	1978	23.3 MPH
		1979	35.3 MPH

Location	Year	Avg
Maiden Choice via Paradise	1978	23.3 MPH
at Wilkins Park	1979	35.3 MPH