

January 28, 1997

13021 Beaver Dam Road
Hunt Valley, Md. 21030

Department of Permits and Development
111 Westchester Avenue
Towson, Maryland 21204
Attention: Mr. Arnold Jablon

Reference Case #93-41A

Request - Spirit of Intent of the Order - Modification of Special Exception

Dear Mr. Jablon:

I respectfully request your consideration for the allowance of a greenhouse in lieu of existing nursery as approved and red-lined on attached plan. This greenhouse will be constructed of plastic/w/aluminum frame thus making it removable and portable. There is an existing 14' high berm with mature plantings of a minimum height of 8' along I-83 to the east. (pictures of property enclosed).

Thank you for your consideration of this request.

Sincerely,

MICHAEL E. TURLEY

Speed
Letter

In the interest of speed and economy, we are replying to your letter with marginal notes. If you need more information, do not hesitate to call or write. Thank you for your interest.



January 31, 1997

8th Election District

Dear Mr. Turley:

Staff has reviewed your request in light of zoning cases 93-41-A and 93-324-SPHXA. Due to the fact that the zoning commissioner granted the latter case in part in accordance with petitioners exhibit "A" as well as a detailed restrictive covenant agreement, this office is unable to approve any changes to the approved plans and agreements without a special hearing to amend the same.

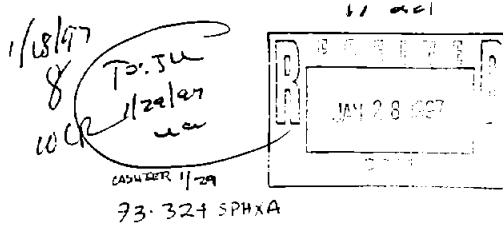
If you have any further questions, feel free to contact me at 887-3391.

Very truly yours,

John L. Lewis
Planner II
Zoning Review

JLL:rye

c: zoning cases 93-41-A
93-324-SPHA



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Hunt Valley, Md. 21030

Department of Permits and Development
111 Westchester Avenue
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Attention: Mr. Arnold Jablon

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Sincerely,

MICHAEL E. TURLEY

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January 31, 1997

8th Election District

Dear Mr. Turley:

Staff has reviewed your request in light of zoning cases 93-41-A and 93-324-SPHXA. Due to the fact that the zoning commissioner granted the latter case in part in accordance with petitioners exhibit "A" as well as a detailed restrictive covenant agreement, this office is unable to approve any changes to the approved plans and agreements without a special hearing to amend the same.

If you have any further questions, feel free to contact me at 887-3391.

Very truly yours,

John L. Lewis
Planner II
Zoning Review

JLL:rye

c: zoning cases 93-41-A
93-324-SPHA

IN RE: PETITIONS FOR SPECIAL HEARING. * BEFORE THE
SPECIAL EXCEPTION & VARIANCES -
1230' S of Beaver Dam Road, 500' * ZONING COMMISSIONER
W of Baltimore-Harrisburg. Exp. * OF BALTIMORE COUNTY
(13021 Beaver Dam Road)
8th Election District * Case No. 93-324-SPHXA
3rd Councilmanic District

Michael E. Turley
Petitioner

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a consolidation of Petitions for Special Hearing, Special Exception and Variances filed in the instant Case No. 93-324-SPHXA by the owner of the subject property, Michael E. Turley, through his attorney, T. Rogers Harrison, Esquire, and the Motion for Reconsideration filed by Charles Carroll, a Protestant, through his Counsel, Deborah C. Dopkin, Esquire, as to related Case No. 93-41-A in which a Petition for Variance was partially granted. Within Case No. 93-324-SPHXA, the Petitioner seeks relief, pursuant to the Petition for Special Hearing, to approve an amendment to the previously approved site plan in Case No. 93-41-A and to amend Lot 2 of the Final Development Plan for Bishop's Pond. As to the Petition for Special Exception, approval is sought for the use of the subject property as a Landscape Service Operation in an R.C. 4 zone, pursuant to Section 1A03.3.B7(c) of the B.C.Z.R. Further, the Petition for Special Exception requests a number of variances relating to the proposed use. These variances arise pursuant to Section 1A03.7C of the Baltimore County Zoning Regulations (B.C.Z.R.) as well as Sections 404.1 and 404.3 thereof. Specifically, relief is sought as follows: From Section 404.1A to permit an internal roadway to have a setback of 0 feet in lieu of the required 25 feet from any property line; from Section 404.1C which requires loading and unload-

ing from a residentially zoned property to take place 100 feet from any property line or 50 feet within a fully enclosed structure, in order to utilize the existing shed and barn; from Sections 404.1C and 404.3A and 404.3A.C2 to permit an existing screened earth berm in lieu of the required screening and planting, pursuant to Sections 404.3B and 3C; and from Section 409.8A2 to permit driveways in panhandle area not to be paved or macadam surfaced but to have a crusher run surface, as shown on the site plan entered into evidence as Petitioner's Exhibit A.

As to the Motion for Reconsideration, an adjacent property owner, Charles Carroll, requests a reconsideration of the amended findings in prior Case No. 93-41-A. Since the relief granted in the older case relates to the relief requested in the instant case, the issues are combined herein and will be discussed together.

Appearing at the most recent hearing in support of the Petitions filed were Michael E. Turley, property owner, and Paul Lee, Registered Professional Engineer. The Petitioner was represented by T. Rogers Harrison, Esquire. Appearing as a Protestant in the matter was Charles Carroll, adjoining property owner. Mr. Carroll was represented by Deborah Dopkin, Esquire.

A description of the property and history thereof is helpful in examining the issues. The subject property is known as 13021 Beaver Dam Road, consists of 21.8014 acres, more or less, zoned R.C. 4 and is improved with a nursery, barn and two sheds. Said property was originally part of a larger tract, known as Pine Hill Farm, which was subdivided into three lots. A final development plan for the subdivision, known as Bishop's Pond, was approved in 1988. That subdivision plan has been amended on two prior occasions, once by the owners of Lot 1 and later by the owner of Lot

- 2 -

3. Lot 1, which immediately abuts the subject property, is owned by the Hunt Valley Presbyterian Church and is proposed for development with a church building and related facilities thereon. Lot 2, which is the subject of this hearing, is currently used as a turf and nursery farm. Lot 3 is owned by Charles Carroll, the Protestant in this matter, and is improved with a dwelling which was the centerpiece of the original Pine Hill Farm. Apparently, the three owners of these lots have had their differences over the use of these properties.

Mr. Turley testified that he has owned his property since July 1991. Subsequent to his purchase, and at his request, the property was designated as a reduced acreage farm, pursuant to Section A-17 of the Baltimore County Zoning Commissioner's Policy Manual.

The current litigation before me originally arose as a result of a Petition for Variance filed by Mr. Turley in Case No. 93-41-A. Within said Petition, the property owner sought relief from the strict adherence to a number of Sections within the B.C.Z.R. Specifically, four variances were requested from Sections 1A03.4.B4 and 102.2 of the B.C.Z.R. Other variances were requested from a number of requirements set forth in Section 404.1, et seq., of the B.C.Z.R. Following a lengthy hearing on the issues presented, I authored a 12-page Opinion and Order, dated November 13, 1992, in which some of the relief sought was granted, some was denied, and some was dismissed as premature. Specifically, I held that the Petitioner was ineligible to obtain variance relief from the provisions of Section 404.1, et seq., of the B.C.Z.R., in that he had not first obtained the lawful designation of the property as a Landscape Service Operation as defined by that Section. That is, since the Petitioner had failed to legally establish the property's use as one of those identified within Section 404.1,

- 3 -

et seq., those Sections could not be applied to the Petitioner's property and variance relief therefrom was inapplicable. In essence, the Petitioner attempted to place the cart before the horse by obtaining variance relief from specific area and setback requirements when said relief sprang only from a use which had not yet been designated.

Following the issuance of my Order, the Petitioner caused there to be filed a Motion for Reconsideration related to the two variances I had denied which had been requested from Section 1A03.4.B.4 and 102.2 of the B.C.Z.R. Although no additional hearing was held, I reconsidered my decision and amended same by granting the variances requested. Therefore, within Case No. 93-41-A, four variances were approved and are more fully set forth in my Amended Order dated February 8, 1993. Further, the original Order was incorporated and adopted therein, thereby affirming approval of the amendment to the Final Development Plan for Bishop's Pond, and dismissing as premature the variances which arose from Section 404.1, et seq., of the B.C.Z.R.

Following the issuance of the Amended Order, the Protestant, Mr. Charles Carroll, through his Counsel, filed his own Motion for Reconsideration, requesting a re-review of the issues presented in Case No. 93-41-A.

Contemporaneously with the filing of said Motion for Reconsideration by Mr. Carroll, was the filing of the instant Petitions for Special Hearing, Special Exception and Variances in Case No. 93-324-SPHXA as more fully described above. Further, as noted above, the cases were combined for the purposes of hearing and disposition.

At the public hearing in the instant Case, the parties presented a Restrictive Covenant Agreement, dated May 5, 1993 which has been received and marked into evidence as Joint Exhibit 1. Apparently, this document

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reflects a comprehensive settlement of the disputes between the parties, namely, Mr. Turley, both individually and as President of MET Limited, and Mr. Carroll. The document governs restrictions on the use of the Turley property as a landscape service operation, proposed landscape and architectural plans, and similar agreements. I have reviewed Joint Exhibit 1 and find it to be both reasonable and appropriate. Therefore, pursuant to the parties' request, I shall grant the relief requested herein and shall incorporate as a condition to my approval the terms and provisions of said Restrictive Covenant Agreement.

Moreover, at the public hearing before me, uncontradicted testimony was presented to provide the requisite record necessary to grant the relief requested and include the restrictive covenants set forth in the parties' agreement. Particularly, testimony was received from Mr. Paul Lee, the Professional Engineer who prepared the site plan. Mr. Lee corroborated my earlier Findings of Fact as set forth in both my initial and Amended Opinions in Case No. 93-41-A. By reference thereto, I hereby incorporate those findings within this Opinion. Mr. Lee described the subject property, as more clearly depicted on Petitioner's Exhibit 1, the site plan of the property, and he fully described the existing and proposed improvements, including the contemplated building construction and landscaping. Further, he discussed the use of the subject property as a landscape service operation and the nature of that use.

As to the Petition for Special Exception, Mr. Lee fully discussed the requirements contained within Section 502.1 of the B.C.Z.R. As is well-settled, a special exception is a zoning tool enabling the hearing authority to adjudge the appropriateness of certain uses which have been predetermined to be conditionally proper in a given zone. See Section 502

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of the B.C.Z.R. and Schultz v. Fritts, 291 Md.1, 432 A2d, 1319 (1981). Further, a special exception is "part of the comprehensive zoning plan sharing the presumption that, as such, it is in the interest of the general welfare and therefore valid." Anderson v. Sawyer, 23 Md.1, App. 612, 329 A2d, 716 (1974), at Page 617.

Based upon Mr. Lee's uncontradicted testimony, I am persuaded that the Petition for Special Exception should be granted. The character of the general locale is consistent with the proposed use of the subject property as a landscape service operation. Moreover, I am satisfied that the Petitioner has adduced the requisite testimony sufficient to establish that the proposed use will not be detrimental to the health, safety or general welfare of the locale. Thus, the Petitioner has complied with the standards set forth in Section 502.1 of the B.C.Z.R. and the Petition for Special Exception shall be approved.

Further, Mr. Lee presented testimony regarding the requested variances from Sections 404.1A, 404.1C, 404.3A, 404.3C2, 404.3B, 404.3C and 409.8A2 of the B.C.Z.R. Again, Mr. Lee's testimony was uncontradicted in this respect. In essence, he noted that the variances were necessary to provide optimum use of the property and preserve existing structures. That is, in many instances, the variances were required to legitimize distances between existing buildings. In Mr. Lee's view, the Petitioner would suffer practical difficulty if the variances were denied.

Mr. Lee also noted that the Petitioner intends to remove an existing 12' x 20' shed. The removal of this shed would render moot a variance granted in the initial case under the Amended Order; to wit, from Sections 1A03.4.B.4 and 102.2 to permit a distance of 52 feet between buildings in

- 6 -

lieu of the required 100 feet between the shed and the proposed addition to the existing barn.

Further, Mr. Lee noted that the Petitioner has agreed to pave that portion of the driveway, which is owned in-fee by him, that accesses his site from Beaver Dam Road. As shown on the site plan, the driveway is V-shaped, with a sharp curve in the middle of its length as same leads from Beaver Dam Road to the Petitioner's property. From that V curve to the Petitioner's site, the driveway is owned in-fee by the Petitioner. For the distance from Beaver Dam Road to the curve, the Petitioner does not own the driveway, but merely enjoys an easement for use of same. The Petitioner has agreed to install a durable and dust-free surface on that portion of the driveway owned by him in-fee. The remaining portion not owned by him but utilized under an easement shall remain in its present condition with a tar and chip surface.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

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

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It is clear from the testimony that if the variance is granted, such use, as proposed, will not be contrary to the spirit of the B.C.Z.R. and will not result in any injury to the public good.

After due consideration of the testimony and evidence presented, it is clear that practical difficulty or unreasonable hardship will result if the variances are not granted. It has been established that special circumstances or conditions exist that are peculiar to the land or structures which are the subject of these variance requests and that the requirements from which the Petitioner seeks relief will unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the variances requested will not cause any injury to the public health, safety or general welfare. Further, the granting of the Petitioner's request is in strict harmony with the spirit and intent of the B.C.Z.R.

Having addressed the special exception and variances requested in Case No. 93-324-SPHXA, attention is next turned to the Petition for Special Hearing. Therein, the Petitioner seeks an amendment to the site plan to amend Lot 2 of the Development Plan for Bishop's Pond. Consistent with the Restrictive Covenant Agreement referenced herein, as well as the relief granted as to the Petitions for Special Exception and Variances, I am persuaded that the relief sought within the Petition for Special Hearing should be granted. Clearly, the final development plan for Bishop's Pond should be amended so as to bring same into compliance with the site plan approved in this case.

Having addressed those issues presented in Case No. 93-324-SPHXA, attention is now given to the Motion for Reconsideration filed by the Protestant in Case No. 93-41-A. As to that Motion, same shall be granted

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in part and denied in part. That is, as noted above, the 12' x 20' shed is to be removed and the variance for same is therefore, unnecessary. Thus, the variance relief granted within the Amended Order in Case No. 93-41-A shall be sustained, but for that variance relating to the 12' x 20' shed.

Pursuant to the advertisement, posting of the property, and public hearing on these Petitions held, and for the reasons given above, the relief requested within the Petitions for Special Hearing, Special Exception and Variances shall be granted and the Motion for Reconsideration denied.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 3rd day of September, 1993 that the Petition for Special Hearing to approve an amendment to the previously approved site plan in Case No. 93-41-A and to amend Lot 2 of the Final Development Plan for Bishop's Pond, in accordance with Petitioner's Exhibit A and Joint Exhibit 1, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that the Petition for Special Exception for the use of the subject property as a Landscape Service Operation in an R.C. 4 zone, in accordance with Petitioner's Exhibit A and Joint Exhibit 1, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that the Petition for Special Exception in which variance relief is sought from the Baltimore County Zoning Regulations (B.C.Z.R.) as follows: From Section 404.1A to permit an internal roadway to have a setback of 0 feet in lieu of the required 25 feet from any property line; from Section 404.1C which requires loading and unloading from a residentially zoned property to take place 100 feet from any property line or 50 feet within a fully enclosed structure, in order to utilize the existing shed and barn; and from Sections 404.1C and 404.3A and

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404.3A.C2 to permit an existing screened earth berm in lieu of the required screening and planting, pursuant to Sections 404.3B and 3C, in accordance with the site plan entered into evidence as Petitioner's Exhibit A, be and are hereby GRANTED, subject to the following restrictions:

1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.

2) The terms, conditions and restrictions contained within the Restrictive Covenant Agreement executed by the Petitioner, Michael E. Turley and the Protestant, Charles Carroll, be and are hereby incorporated herein as conditions precedent to the relief granted. A copy of the said Restrictive Covenant Agreement has been attached hereto and expressly made a part hereof.

3) Upon request and reasonable notice, Petitioners shall permit a representative of the Zoning Enforcement Division to make an inspection of the subject property to insure compliance with this Order and the restrictive covenant agreement in the event it becomes necessary to do so as a result of a complaint.

4) When applying for any permits, the site plan filed must reference this case and set forth and address the restrictions of this Order.

IT IS FURTHER ORDERED that the Petition for Variance seeking relief from Section 409.8.A2 to permit driveways in panhandle area not to be paved or macadam surfaced but to remain in their present condition with a tar and chip surface, be and is hereby GRANTED in part and DENIED in part, in accordance with the following: The Petitioner shall macadam pave that portion of the driveway owned by him in-fee simple while that portion of the driveway utilized by him under an easement agreement shall remain in its present condition with a tar and chip surface. The internal roads within the subject site need not be paved.

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IT IS FURTHER ORDERED that the Motion for Reconsideration filed by the adjoining property owner, Charles Carroll, as to the amended findings in prior Case No. 93-41-A, be and is hereby GRANTED in part, and DENIED in part, pursuant to the comments herein. To wit, the variances granted from Sections 1A03.4.B4 and 102.2 of the B.C.Z.R. to permit as follows: 1) a side yard setback of 3 feet in lieu of the required 50 feet from the property line for an existing 22' x 75' shed; 2) a distance of 45 feet in lieu of the required 100 feet from an existing 22' x 75' shed to an existing 44' x 50' barn; and 3) a distance of 40 feet in lieu of the required 100 feet from an existing 22' x 75' shed to a proposed 30' x 24' shed, be and are hereby affirmed, and the variance to permit a distance of 52 feet in lieu of the required 100 feet for an existing barn with the proposed addition to an existing 12' x 20' shed, be and is hereby DISMISSED AS MOOT, due to the Petitioner's intent to remove the said 12' x 20' shed.

IT IS FURTHER ORDERED that all other terms and conditions of the Original and Amended Order issued in Case No. 93-41-A shall remain in full force and effect.

LES:bjs

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

ORDER RECEIVED FOR FILING
Date 9/3/93
By [Signature]

- 11 -

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

Suite 113 Courthouse
400 Washington Avenue
Towson, MD 21204

August 11, 1993

(410) 887-4386

T. Rogers Harrison, Esquire
105 W. Chesapeake Avenue, Suite 300
Towson, Maryland 21204

Deborah C. Dopkin, Esquire
Rosolio, Silverman & Kotz
502 Washington Avenue, Towson, Md. 21204

RE: PETITIONS FOR SPECIAL HEARING, SPECIAL EXCEPTION & VARIANCE
1230' S of Beaver Dam Road, 500' W of Baltimore-Harrisburg Exp.
(13021 Beaver Dam Road)
8th Election District - 3rd Councilmanic District
Michael E. Turley - Petitioner
Case No. 93-324-SPHXA

Dear Mr. Harrison & Ms. Dopkin:

Kindly find enclosed a proposed Findings of Fact and Conclusions of Law in the above-captioned matter. I apologize for the delay in sending same to you, but I have endeavored to make sure that same is complete and reflects the understanding proffered at the hearing on May 5, 1993.

As to the original case, I granted four variances relating to setback distances for existing and proposed improvements on the subject site. I also granted the Petitioner for Special Hearing permitting an amendment to the site plan. The remaining portions of the requested relief within the Petition for Variance were dismissed as premature. Within the variance relating to the 12' x 24' shed, I understand that Mr. Turley is to remove this shed and this variance is therefore not necessary. However, the other three variances which were granted are affirmed, as is the Petition for Special Hearing.

As to the new case, all of the relief requested is granted, including the special exception for a landscape service operation, the special hearing for an amendment of the site plan, and all of the numerous variances. Moreover, I have incorporated the Restrictive Covenant Agreement as a condition of the relief granted.

I ask that each of you review the Order to make certain it complies with the Agreement proffered at the hearing. Ms. Dopkin, if there are any specific restrictions which you want particularly identified, I am

Printed on Recycled Paper

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

Suite 113 Courthouse
400 Washington Avenue
Towson, MD 21204

September 3, 1993

(410) 887-4386

T. Rogers Harrison, Esquire
105 W. Chesapeake Avenue, Suite 300
Towson, Maryland 21204

RE: PETITIONS FOR SPECIAL HEARING, SPECIAL EXCEPTION & VARIANCE
1230' S of Beaver Dam Road, 500' W of Baltimore-Harrisburg Exp.
(13021 Beaver Dam Road)
8th Election District - 3rd Councilmanic District
Michael E. Turley - Petitioner
Case Nos. 93-324-SPHXA and 93-41-A

Dear Mr. Harrison:

Enclosed please find a copy of the decision rendered in the above-captioned matter pursuant to the hearing held on April 13, 1993 and the subsequent meeting held on September 2, 1993. The Petitions for Special Hearing, Special Exception and Variance in Case No. 93-324-SPHXA have been granted, and the Motion for Reconsideration in Case No. 93-41-A has been denied, in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Zoning Administration and Development Management office at 887-3391.

Very truly yours,

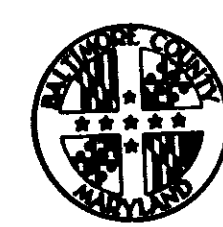
LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

cc: Deborah C. Dopkin, Esquire, Rosolio, Silverman & Kotz
502 Washington Avenue, Towson, Md. 21204

People's Counsel

File



Petition for Special Hearing to the Zoning Commissioner of Baltimore County

for the property located at 13021 Beaver Dam Road
which is presently zoned RC4

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, to determine whether or not the Zoning Commissioner should approve an amendment to the site plan (Case 93-41A) and to amend Lot 2 of the Approved Development Plan of Bishop Pond.

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.

Why do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser/Lessor: Michael E. Turley

(Type or Print Name) [Signature]

Signature

(Type or Print Name)

Address

City State Zipcode

Signature

Address

City State Zipcode

Signature

Address

City State Zipcode

Signature

Address

City State Zipcode

Signature

Address

City State Zipcode

Signature

Address

City State Zipcode

Signature

Address

City State Zipcode

ORDER RECEIVED FOR FILING
Date 9/3/93
By [Signature]



Petition for Special Exception AND VARIANCES to the Zoning Commissioner of Baltimore County

for the property located at 13021 Beaver Dam Road
which is presently zoned RC 4

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 herein described property for

A Landscape Service Operation in a RC 4 Zone and for certain variances as more particularly described in attached Exhibit A.

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.

Why do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser/Lessor: N/A

(Type or Print Name)

Signature

(Type or Print Name)

Address

City State Zipcode

Signature

Address

City State Zipcode

Signature

Address

City State Zipcode

Signature

Address

City State Zipcode

Signature

Address

City State Zipcode

Signature

Address

City State Zipcode

Signature

Address

ORDER RECEIVED FOR FILING
Date 9/3/93
By [Signature]

Exhibit A 93-324-SPHXA

The Petitioner hereby petitions for a Special Exception to permit a Landscape Service Operation in a RC 4 Zone, pursuant to Section 1A03.7C and subject to Section 404.1 and 404.3; and for certain variances required in order to utilize said property as a Landscape Service Operation because of practical hardship and difficulty, as follows:

(1) A variance to Section 404.1A of the BCZR to Permit a 0' setback for internal roadway from any property line as shown on the attached site plan in lieu of required 25';

(2) A variance to Section 404.1C of the BCZR requiring loading and unloading from a residentially zoned property to take place 100' from any property line or 50' within a fully enclosed structure in order to utilize existing shed and barn and from Sections 404.1C and 404.3A and C2 to permit an existing screened earth berm (as shown on plan) in lieu of required screening and planting (as per Section 404.3B and 404.3C).

(3) A variance to Section 409.8A.2 of the BCZR to allow driveways (in pan handle area) NOT to be paved or macadamized but to have a crusher run surface where shown.

(4) To amend the last approved development plan (amended further by variances granted in Case No. 93-41A, 11/13/92 and 2/9/93) of Bishop's Pond for Lot 2 or all changes as shown.

Paul Lee Engineering Inc.
301 W. Pennsylvania Ave.
Towson, Maryland 21204
410-887-3353

DESCRIPTION

13021 BEAVER DAM ROAD
ELECTION DISTRICT 823
BALTIMORE COUNTY, MARYLAND

Beginning for the same at a point on the East side of a 20 foot wide right-of-way and easement area as recorded in Liber SM 8584-696, said point also being located from the intersection of the centerlines of Baltimore-Harrisburg Expressway (I-83) and Beaver Dam Road Westerly along center of Beaver Dam Road 500 feet ± and Southerly along 20 foot right-of-way 1230 feet to the northwest corner of subject property, thence binding on the North side of said property (1) South 37°55'21" East 82.95 feet, (2) South 78°39'36" East 999.18 feet to the West side of Baltimore-Harrisburg Expressway (I-83), thence binding on the West side of Baltimore-Harrisburg Expressway the five following courses and distances: (3) South 04°59'35" East 198.62 feet, (4) South 07°59'20" East 150.01 feet, (5) South 21°09'37" East 102.39 feet, (6) South 08°45'10" East 300.00 feet, and (7) South 10°34'59" East 66.09 feet; thence leaving said West side of Baltimore-Harrisburg Expressway (8) South 24°59'11" West 732.56 feet, (9) North 48°12'30" West 332.25 feet, (10) North 88°25'21" West 48.27 feet, (11) South 84°35'34" West 159.93 feet, (12) North 50°11'05" West 186.13 feet, (13) North 11°58'33" East 1114.14 feet, (14) North 87°36'51" East 96.08 feet, (15) North 62°39'01" East 32.65 feet, (16) Due North 31.00 feet, (17) North 38°49'47" West 98.23 feet, (18) North 78°39'36" West 542.77 feet, to the East side of a 20 foot right-of-way and easement area, thence binding on said East side of 20 foot right-of-way and easement area (19) North 26°54'22" West 25.47 feet, and North 06°54'40" West 57.00 feet to the point of beginning. Containing 21.8014 acres of land, more or less.

2/15/93
Engineers - Surveyors - Site Planners
7/15/92



CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 823 Date of Posting: 4/14/93
Posted for: Special Exception Hearing & Decision
Petitioner: Michael E. Turley
Location of property: 13021 Beaver Dam Rd. - Mt. Baltimore, Md.
Location of Sign: Towson, Beaver Dam Rd. at a house to the West of the intersection
Remarks: 1/2 photos
Posted by: [Signature] Date of return: 4/24/93
Number of Signs: 3

CERTIFICATE OF PUBLICATION

TOWSON, MD., 4/8, 1993
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 4/8, 1993

THE JEFFERSONIAN,

S. Zeke Orlean
Publisher

Baltimore County
Zoning Administration &
Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204

receipt
93-324-SPHXA
Account: R-001-6150
Number: 330

Date: 3/26/93

Petition for Spec. Exception \$300.00
" " Variance \$1250.00
" " Special Hearing \$250.00
any combination not exceed \$1650.00
Owner: Turkey, Michael
Address: 13021 Beaver Dam Road

Please Make Checks Payable To: Baltimore County

Cashier Validation

Baltimore County
Zoning Administration &
Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204

receipt
93-324-S PHXA
Account: R-001-6150
Number: 330

Date:

3/29/93

H9300390

PUBLIC HEARING FEES	QTY	PRICE
020 -ZONING VARIANCE (OTHER)	1	
040 -SPECIAL HEARING (OTHER)	1	
050 -SPECIAL EXCEPTION	1	
070 -SUM OF ABOVE FEES (MAXIMUM)		\$650.00
TOTAL:		\$650.00

LAST NAME OF OFFER: [Signature] Payable To: Baltimore County

Cashier Validation

Baltimore County Government
Office of Zoning Administration
and Development Management

111 West Chesapeake Avenue
Towson, MD 21204

(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: 93-324-SPHXA (Item 330)
13021 Beaver Dam Road
W/S Baltimore-Harrisburg Expressway, 1200' S of intersection of Old Mill and Beaver Dam Roads
8th Election District - 3rd Councilmatic
Petitioner(s): Michael E. Turley
HEARING: WEDNESDAY, MAY 5, 1993 at 9:00 a.m. in Rm. 118, Old Courthouse.

Special Exception for a landscape service operation.
Special Hearing to approve an amendment to the site plan (93-41-4) and to amend lot #2 of the approved Development Plan of Bishop Ford.
Variance to permit a new foot setback for internal roadway from any property line, as shown on the site plan, in lieu of the required 25 feet; to not require loading and unloading from a residentially zoned property to take place 100 feet from any property line or 50 feet within a fully enclosed structure in lieu of the required 100 feet; to permit an existing screened barn (as shown on plan) in lieu of the required screening and planting; to allow driveway (in peninsula area) not to be paved or macadamized, but to have a crushed run surface (as shown on plan); and to amend the last approved development plan (amended further by variances granted in case 93-41-4, 11/13/92 and 2/9/93) of Bishop Ford for lot 2 or all changes as shown.

[Signature]
Arnold Jablon
Director

NOTE: HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.

Baltimore County Government
Office of Zoning Administration
and Development Management

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

April 23, 1993

T. Rogers Harrison, Esquire
105 W. Chesapeake Avenue
Towson, MD 21204

RE: Case No. 93-324-SPHXA, Item No. 330
Petitioner: Michael E. Turley
Petition for Special Hearing and Special Exception

Dear Mr. Harrison:

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 March 25, 1993, and a hearing was 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.



Maryland Department of Transportation
State Highway Administration

O. James Lighitzner
Secretary
Hal Kassoff
Administrator

Ms. Julie Winiarski
Zoning Administration and
Development Management
County Office Building
Room 109
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Baltimore County
Item No.: 433C (MJK)

Dear Ms. Winiarski:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not effected by any State Highway Administration projects.

Please contact Bob Small at 410-333-1350 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,

[Signature]
for John Contestabile, Chief
Engineering Access Permits
Division

My telephone number is 410-333-1350

Typewriter for Impaired Hearing or Speech
382-7555 Baltimore Metro - 382-0451 D.C. Metro - 1-800-492-5883 Statewide Toll Free
707 North Calvert St., Baltimore, Maryland 21203-6717

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration &
Development Management

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

DATE: April 13, 1993

SUBJECT: 13021 Beaver Dam Road

INFORMATION:

Item Number: 330

Petitioner: Michael E. Turley

Property Size:

Zoning: R.C. 4

Requested Action:

Hearing Date:

SUMMARY OF RECOMMENDATIONS:

The Office of Planning and Zoning's Community Planning Division met previously with Mr. Turley in reference to Case No. 93-41A. At that time, staff was aware of Mr. Turley's intention to use the property for the purposes of a landscape service operation. In weighing the merits of the instant request, staff considered Sections 404.3.B and 404.3.C of the Baltimore County Zoning Regulations. Section 403.3.B prohibits the retail sale of plants - the plan does not indicate a proposed sales area. In terms of compliance with Section 404.3.C, this office believes that the site is of sufficient size to ensure protection of neighboring dwellings from noise, glare and other nuisance factors with the exception of dust.

In the previous case, John Engel, of the Hunt Valley Presbyterian Church, testified that he had concerns regarding the proposed surface of the driveway. He indicated that the existing crusher run driveway should be "paved in order to prevent dust and dirt from filtering onto [church] property."

Staff is concerned with this potential nuisance as well and recommends that the Variance to Section 409.8.A.2 be denied.

The property's current use is considered to be a farm. Recently, the County Council enacted Bill No. 41-92 which provides for and regulates many agricultural uses, including landscape service operations.

Landscape service operations are allowed in the R.C. 4 zone by Special Exception. The Baltimore County Zoning Regulations separate uses into two categories within each zone so that high impact uses can be evaluated on a case by case basis to determine if the use would be detrimental to the surrounding area.

This office does not believe the requested Special Exception would have an undue impact or be incompatible with other uses of land. The existing grading, berming, and landscaping of the site will mitigate any impact of the proposed landscape service operation. In addition, the proposed hours of operation will not conflict with surrounding land uses. Therefore, based upon a review of the subject request, staff recommends approval of the Special Exception and the Special Hearing to amend the site plan and to amend Lot 2 of the Approved Development Plan of Bishops Pond. However, this office recommends that the Variance to allow driveways (in the panhandle area) not be paved or macadamized, but to have a crusher run surface where shown be denied.

Should the applicant's requests be granted, staff recommends the following conditions:

-Extended storage of any equipment should be limited to vehicles titled to the Petitioner.

-As noted on the plan accompanying this Petition, the hours of operation should be restricted as indicated.

-Any sign located on the property shall be integrated with landscaping and have its location approved by the deputy director of the Office of Planning and Zoning.

-No signs of any type whatsoever shall be erected in order to be visible from I-83.

Prepared by:

Division Chief:

PK/JL:lw

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT
INTER-OFFICE CORRESPONDENCE

April 14, 1993

TO: Mr. Arnold Jablon, Director
Zoning Administration and
Development Management

FROM: J. Lawrence Pilson
Development Coordinator, DEPRM

SUBJECT: Zoning Item #330
Tarley Property; 13021 Beaver Dam Road
Zoning Advisory Committee Meeting of April 5, 1993

The Department of Environmental Protection and Resource Management offers the following comments on the above-referenced zoning item.

1. Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains.

JLP:jbm

TARLEY/TXTRMP

Baltimore County Government
Office of Zoning Administration
and Development Management

111 West Chesapeake Avenue
Towson, MD 21204

April 19, 1993

(410) 887-3353

Michael E. Turley
13021 Beaver Dam Road
Cockeysville, Maryland 21030

RE: PAYMENT OF POSTING AND ADVERTISING FEES
CASE NUMBER: 93-324-SPHXA
13021 Beaver Dam Road

Dear Petitioners:

Be advised that a new policy has been established to effectuate the billing and payment for property posting and legal advertising fees. As in the past, this office will ensure that the legal requirements for posting and advertising are satisfied; the policy change will effect to whom and when these fees are paid.

The above-referenced petition was filed as the new policy was being formulated, and now falls under same. Consequently, one or more of the following applies:

- (X) Posting charges in the amount of \$ 105 are now due. Your check in this amount should be made payable to "Baltimore County, Maryland" and immediately mailed to this office.
- (X) Billing for legal advertising, due upon receipt, will come from and should be remitted directly to the newspaper.
- (X) If you are represented by an attorney, this bill may be forwarded your attorney, who in turn, will either re-route it to you for payment or make payment to the newspaper and later add these charges to his/her accounting for services rendered.

Please be further advised that non-payment of fees will stay the issuance of the Zoning Commissioner's Order.

If you have any questions concerning this letter, you may contact Owen Stephens at 887-3391.

ARNOLD JABLON
DIRECTOR

AJ:ggs
cc: T. Rogers Harrison, Esq.

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

Suite 113 Courthouse
400 Washington Avenue
Towson, MD 21204

March 11, 1993

(410) 887-4386

Deborah C. Dopkin
Attorney at Law
Rosolio, Silverman and Kotz, P.A.
Suite 220, Nottingham Centre
502 Washington Avenue
Towson, Maryland 21204

RE: Petition for Zoning Variance
13021 Beaver Dam Road
Michael E. Turley, Petitioner
Case No. 93-41-A

Dear Mrs. Dopkin:

This is to acknowledge receipt of your Motion for Reconsideration which you have filed in the above case. In view of the fact that this is the second Motion for Reconsideration filed, the previous one filed by the Petitioner through Mr. Harrison, I am persuaded that a hearing should be held for the purpose of entertaining your arguments. Without absolutely precluding the possibility of any testimony being taken, it would be my intention to convene the hearing for the sole purpose of hearing legal argument with respect to the issues raised by the Amended Order as set forth in your Motion for Reconsideration. I believe it is most appropriate to give all parties an opportunity to be heard and considered. I will ask Owen Stephens, the Deputizing Clerk, to schedule this case at the first available date and you will be so notified.

Very truly yours,

Lawrence E. Schmidt
Zoning Commissioner

LES:mmm

cc: T. Rogers Harrison, Esquire
105 West Chesapeake Avenue
Suite 300
Towson, Maryland 21204



Zoning
Enforcement

Baltimore County
Zoning Administration & Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204
(410) 887-3351

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Larry E. Schmidt
Zoning Commissioner

April 1, 1993

FROM: James H. Thompson - DT
Zoning Enforcement Coordinator

SUBJECT: ITEM NO.: 330
PETITIONER: Michael E. Turley

VIOLATION CASE NO.: C-92-1724

LOCATION OF VIOLATION: 13021 Beaver Dam Road
Cockeysville, MD 21030
8th Election District

DEFENDANT: Michael E. Turley
13021 Beaver Dam Road
Cockeysville, MD 21030

Please be advised that the aforementioned petition is the subject of an active violation case. When the petition is scheduled for a public hearing, please notify the following persons:

NAME	ADDRESS
Mr. Charles Carroll	13023 Beaver Dam Road Cockeysville, Maryland 21030
Deborah C. Dopkin, Esquire	Suite 220, Nottingham Centre 502 Washington Avenue Towson, Maryland 21204
T. Roger Harrison, Esquire	Suite 300 105 West Chesapeake Avenue Towson, Maryland 21204

After the public hearing is held, please send a copy of the Zoning Commissioner's Order to the Zoning Enforcement Coordinator, so that the appropriate action may be taken relative to the violation case.

JHT/DT/cmm

DD, HARRISON & BURCH
ATTORNEYS AT LAW
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(410) 888-1235
FAX (410) 888-1042

900 MARYLAND TRUST BUILDING
16 SOUTH CALVERT STREET
BALTIMORE, MARYLAND 21202
(410) 333-0886

April 28, 1993

MARYLAND
Administration
Management
e Avenue
11204

Posting and Advertising Fees
Case No. 93-324-SPHXA
13021 Beaver Dam Road

1 please find our firm's check in the
in payment of posting and advertising fees
the above-captioned matter.

Very truly yours,
T. Rogers Harrison

Michael E. Turley
13021 Beaver Dam Road
Cockeysville, MD 21030

VOID

5239

RECEIVED
APR 29 1993
ZADM

Previously paid by
Mr. Turley

LAW OFFICES
KAPLAN, HEYMAN, GREENBERG, ENGELMAN & BELORAD, P.A.

TENTH FLOOR-SUN LIFE BUILDING
20 SOUTH CHARLES STREET
BALTIMORE, MARYLAND 21201-0820

(410) 339-9887

FACSIMILE
(410) 782-0889

August 10, 1993

CHARLES B. HEYMAN
NANCY F. GREENBERG
WILLIAM H. ENGELMAN
HERBERT J. BELORAD
EDWARD S. BIRCH, JR.
THEODORE S. MILLER
ABRAHAM L. HIGLER
MARK D. DOPKIN
STANLEY C. FINE
SEARLE C. MITCHELL
KENNETH R. HUBMAN
LOWELL D. HERMAN
HARRIET E. COOPERMAN
WILLIAM D. SHAPIROVITZ, JR.
DANIEL S. KATZ
MICHAEL D. BERMAN
THOMAS D. WOLFE
STEVEN R. FREEMAN
BARRY WEISSMAN

Baltimore County Zoning Commissioner
400 Washington Avenue
Towson, Maryland 21204

RE: Case No. 94-22-A (Item 23)
5 Laurelford Court

Gentlemen:

I am writing on behalf of Marble Hill Partnership, the Developer of the Laurelford subdivision, in opposition to the zoning variance requested in the above-referenced case. The building envelopes in Laurelford are designed to provide ample area for houses which are commensurate with the neighborhood while, at the same time, maintaining setbacks which afford privacy.

The Developer and the Architectural Committee of both the Laurelford and the adjoining Morningside subdivisions have been diligent in enforcing the restrictions set forth on the various subdivision plats as well as in restrictive covenants.

The subject lot is subject to a Declaration of Easements and Restrictions dated October 31, 1989. The Declaration requires approval by the Architectural Committee before construction is commenced on any lot. Mr. and Mrs. Pineau have requested such approval. For the reasons stated in a letter from the Architectural Committee dated August 9, 1993, the approval has been denied. A copy of said letter is enclosed for your reference.

In addition, we call your attention to Section 4.16 of the Declaration of Easements and Restrictions, which provides:

These restrictions shall not be taken as permitting any action or thing prohibited by the applicable zoning laws, or the laws,

LAW OFFICES
ROSOLIO, SILVERMAN & KOTZ, P.A.
SUITE 220, NOTTINGHAM CENTRE
502 WASHINGTON AVENUE
TOWSON, MARYLAND 21204-4814

August 18, 1993

Lawrence E. Schmidt, Esquire
Zoning Commissioner
Suite 113, Courthouse
400 Washington Avenue
Towson, Maryland 21204

RE: Petitions for Special Hearing,
Special Exception and Variance
Case No.: 93-324-SPHXA

Dear Mr. Schmidt:

Thank you for your letter of August 11, 1993 transmitting proposed Findings of Fact and Conclusions of Law in the above captioned matter. I have reviewed the proposed Order and offer only a couple of comments.

The testimony and the Findings indicated that the petitioner agreed to pave that portion of the driveway which he owns in-fee (see first full paragraph, page 7). This is also the understanding of the parties.

However, I believe that in the language beginning with the last paragraph on page 9 and concluding at the top of page 10, you grant a variance from Section 409.8.A2 of the Zoning Regulations to permit driveways in the panhandle area not to be paved or macadam surfaced, but to have a crusher run surface. This directly contradicts both the Findings and the testimony. Mr. Turley agreed to pave this area and, thereby, changed his position from the original Variance Petition so as to eliminate any crusher run surface along the in-fee driveway.

Therefore, I would request that the variance from Section 409.8.A2 be denied, or deemed moot by the subsequent Special Exception Petition and plat and that you require that the in-fee panhandle driveway area will be paved.

I would also note that according to my client, Mr. Carroll, the use in common driveway from Beaver Dam Road is in fact a tar and chip paved surface which has been repaired from time to time with stone filler. You referred to this driveway in the first full

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME ADDRESS
344 W. Pennsylvania Ave. #1004
13021 Beaver Dam Rd.
VOC P.O. Box 5703 Towson 21208
AUS. RD. COMM. ASSN. P.O. Box 55 21022
(interested party)

ORDER RECEIVED FOR FILING

Date 4/26/93
By [Signature]

RESTRICTIVE COVENANT AGREEMENT

THIS AGREEMENT entered into this 5 day of May, 1993, by and between MICHAEL E. TURLEY and W.E.T., LTD. (collectively, "Turley"), having an address of 13021 Beaver Dam Road, Cockeysville, Maryland 21030 and CHARLES RYAN CARROLL, ("Carroll") having an address 13023 Beaver Dam Road, Cockeysville, Maryland 21030.

RECITALS

A. Turley is the owner of a 21.8 ± acre tract of land (the "Turley Property") located on the South side of Beaver Dam Road on the West side of Interstate Route 83, in the Eighth Election District of Baltimore County, Maryland, and known as 13021 Beaver Dam Road; as more particularly described in a certain deed recorded among the Land Records of Baltimore County, Maryland in Liber 8933, folio 702, and shown on Exhibit A attached hereto and made a part hereof.

B. Turley is using the Turley Property as a landscape service operation, with related offices and facilities, parking and other related site amenities (the "Project"); and he has heretofore filed a Petition for Special Exception and Special Hearing (Case No. 93-324 SPHXA) and a plat for the Project with the Zoning Commissioner of Baltimore County, Maryland (the "Petition") pursuant to the Zoning Regulations of Baltimore County §1A03.3.B.7.c and §404.1 and §404.3.

C. Carroll is the owner of a 11.17 ± acre residentially improved property known as 13023 Beaver Dam Road (the "Carroll Property"), which property adjoins the Turley Property; the Carroll Property is more particularly described in a deed recorded among the Land Records of Baltimore County, Maryland in Liber 8843, folio 441.

D. Carroll is willing to forego any opposition to the use and development of the Turley Property as proposed by the Petition provided such use and development are restricted in certain respects as hereinafter set forth.

E. Turley in recognition of the concerns of Carroll is willing to place certain restrictions on the Turley Property in return for the agreements by Carroll described below, with the recognition that the operation of a landscape service operation must have an adverse impact on the Carroll Property unless that operation is subject to suitable and appropriate limitations.

F. In order to make these covenants, restrictions and conditions contained in this Agreement binding and fully effective on the Turley Property, and on the present and future owners and occupants thereof, the parties have entered into this Agreement, to the end and with the intent that Turley, his successors, personal representatives and assigns (except as expressly otherwise herein provided), will hold, use and hereafter convey or foreclose the

CRC
Carroll's
Pet.

ORDER RECEIVED FOR FILING

Date 4/26/93
By [Signature]

Property subject to the said covenants, restrictions and conditions.

AGREEMENTS

NOW, THEREFORE, in consideration of the mutual agreements and understanding herein contained, and for other good and valuable considerations, the receipt and sufficiency of which are hereby mutually acknowledged, the parties hereby agree as follows:

I. TURLEY ON BEHALF OF HIMSELF, HIS PERSONAL REPRESENTATIVES, SUCCESSORS AND ASSIGNS, AGREES AS FOLLOWS:

A. Restrictions on the Turley Property.

1. Permitted Uses.

a. Landscape Service Operation. Upon approval of the Petitions, and satisfaction of the conditions herein contained, the Turley Property shall be used and limited in accordance with the uses shown on Exhibit A, attached hereto and made a part hereof, expressly, as one single family residence and a landscape service operation as permitted pursuant to BCR §404.3(b), and as limited herein. Permitted activities include the planting of horticultural materials, including turf and agricultural plantings; wholesale sales of the same for delivery off-site.

In the event the Turley Property is not used as a landscape service operation as provided in this Paragraph A.1.a., nothing contained herein is intended to prohibit the use of the Turley Property for a use permitted as a matter of right pursuant to BCR §1A03.3.A.

b. Residential Occupancy. Turley hereby agrees that he shall construct and reside upon the Turley Property in the residence thereon, and shall complete said residence and occupy the same no later than December 31, 1994, subject to Turley's obtaining financing by July 1, 1993 for the improvements contemplated upon the Turley Property.

2. Prohibited Uses. The following uses shall not be permitted to occur on the Turley Property: retail sales, of any sort; roadside stands; advertising material or signs, visible from any roads adjoining the Turley Property; contractor storage yard; outside storage of trucks and equipment used off-site. Turley shall not assign or sublease the Turley Property or any portion thereof.

3. Building Improvements. Turley shall not construct building improvements, other than as expressly set forth on the Zoning Plat dated 4/23/93, a copy of which is attached hereto as Exhibit A. Permitted building improvements are: an existing

CRC
Pet.

2

the appearance of which conforms to that of the existing barn. Turley has further agreed that the height of the proposed barn addition, shall not exceed an elevation of twenty-five feet (25') at the peak of the roof so long as the plans for and construction of these buildings improvements conform to the provisions of this Paragraph 5.b. and Exhibit B, attached hereto and made a part hereof, Carroll shall not withhold approval of the same. Consents Thereto.

6. Operations. The operation of landscape service operation shall be restricted in the following manner:

a. Hours of operation shall be limited from 6:00 a.m. until 6:00 p.m. Monday through Friday; provided, however, on-site turf and horticultural functions may be conducted on Saturdays from 7:00 a.m. to 5:00 p.m. There shall be no operations conducted on Sundays.

b. Quantity and Type of Equipment. Storage. No more than a total of ten (10) licensed vehicles, including but not limited to trucks and trailers, shall be located on the Turley Property at any one time; of these ten, no more than six (6) will be licensed trucks for use on the roads. All trucks and/or vehicles (as hereinafter defined) shall be for use in the landscape service operation and, when not in actual use, shall be kept and stored inside buildings located on the Turley Property. For purposes of this Agreement trucks and/or vehicles used in the landscape service operation shall refer to employees' vehicles and to those vehicles which arrive at and leave the Turley Property from time to time for use OFF-SITE.

Other equipment (as hereinafter defined) on the Turley Property for any reason not kept and stored inside buildings, shall be stored in a manner and in a location on the Turley Property that is not visible from either the Carroll Property or the Carroll residence. For purposes of this Agreement, other equipment on the Turley Property shall refer to equipment for permitted purposes that is used exclusively ON-SITE.

The prohibitions in this Paragraph 6.b. shall not apply to personal automobiles owned and operated by Michael E. Turley or his immediate family who reside on the Turley Property.

c. Loading. The existing barn is a bank barn, the upper level of which opens facing the Carroll Property. To the extent it is necessary to load and unload hay, straw and other landscape materials into the upper level of the barn through the existing access, trucks, trailers or vehicles used for such loading and unloading shall be promptly loaded and unloaded, and shall remain in place only as long as is necessary for such loading and unloading to be completed. Such vehicles will not be parked, stored or allowed to remain at the entrance to the upper level of

CRC
Pet.

the barn for any reason whatsoever other than as expressly set forth herein.

d. Barn Access. Other than as expressly provided in subparagraph c. above, access to the existing barn and to any addition thereto shall be provided on the east side of the barn or addition and in a manner that is not visible from the Carroll Property.

7. Noise Emissions. Turley will conduct its operations in a manner intended to limit its noise emissions within the limits required pursuant to Code of Maryland Regulation, §§ 26.02.03, et seq. Notwithstanding the provisions of this Paragraph 7, security and burglar alarm systems are not subject to any such limitation.

8. Private Driveway. Access to the Turley Property is by means of a private Easement Area (defined in Paragraph 9.B, below) and by a private panhandle driveway (Shown on Exhibit A as an "Ex. Stone Dr." leaving the private Easement Area at a point identified as "Pt. of Beg." and running east therefrom to the buildings on the Turley Property) which runs across the entire frontage of the Carroll Property. Turley shall, at his sole cost and expense, no later than October 15, 1993, improve the private driveway with a dustless and durable paved surface with the intent and purpose of providing a stable surface for equipment to traverse, to minimize vibration and noise, and to minimize dust caused by vehicles entering and leaving the Turley Property. Turley further agrees, that no less than annually, he will repair, re-surface or repave the private driveway to the extent necessary to maintain the same in good order and repair and achieve the purposes and intent of this Paragraph 8.

9. Signs, Advertising, Towers and Poles.

a. Signs. Turley shall have the right to erect one sign in accordance with § of the BCR and no other signs shall be permitted on the Turley Property. Turley will not seek a variance from those standards and limitations.

b. Turley will not install, erect or permit to be installed or erected on the Property any radio, wireless or other types of vertical transmission towers.

B. Private Easement Area. The Turley Property, the Carroll Property and two adjoining properties share the use in common of a twenty foot wide private easement area pursuant to a Supplemental Easement Agreement (the "Easement Agreement") dated August 14, 1990 and recorded among the Land Records of Baltimore County in Liber 8584 folio 696 (the "Easement Area"), which governs the use, maintenance and respective rights to the Easement Area. The parties

CRC
Carroll's
Pet.

ORDER RECEIVED FOR FILING

Date 4/26/93
By [Signature]

hereto acknowledge that the existence of a landscape service operation on the Turley Property requires modifications to the Easement Agreement to provide for traffic safety, additional maintenance and identification of the bus that such modifications require the written concurrence of all parties subject to thereto.

C. Financing. Turley shall not use the Turley Property for a landscape service operation unless and until Turley obtains financing for the construction of the improvements required by this Agreement, including the landscaping between the Turley and Carroll Properties (Paragraph 4.b) and the road paving of Turley's private panhandle driveway (Paragraph 8).

II. CARROLL, ON BEHALF OF HIMSELF, HIS PERSONAL REPRESENTATIVES, SUCCESSORS AND ASSIGNS, AGREES AS FOLLOWS:

In consideration of the imposition of the restriction upon the Property set forth in Paragraphs I. A through 9 above, Carroll agrees and covenants that it will not oppose Turley in the development of the Turley Property and of the Project as provided herein before any and all governmental bodies or agencies having jurisdiction, including generally, but not limited to hearings and appeals before the Zoning Commissioner and the County Board of Appeals.

III. Conditions Precedent. This Agreement, and particularly the obligations and restrictions set forth above, shall require and be conditioned upon the final approval by the Zoning Commissioner for Baltimore County of the Petitions for Special Exception and Special Hearing with such conditions as are permissible to incorporate the terms of this Restrictive Covenant Agreement, and substantially in accordance with Exhibit A; and

A. There is no appeal of the decision of the Zoning Commissioner taken by Carroll, the Valleys Planning Council, or the Falls Road Community Association from the aforesaid approval which appeal is not vacated within ten (10) days following filing thereof;

B. There is no appeal of taken by any other party which results in a final non-appellable decision denying the Petitions for Special Exception and Special Hearing, and the uses which would be permitted thereby; in such event that the Petitions are denied, and the uses sought by Turley not permitted, then in such events, this Agreement shall automatically terminate and be null and void and of no further force and effect.

IV. Binding Effect; Duration.

A. While only effective upon satisfaction of the conditions precedent, this Agreement shall be recorded by the either party at

ORDER RECEIVED FOR FILING

Date 4/26/93
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barn, an addition (65' x 44') to the existing barn; an existing shed (22' x 75'); an office/storage building (24' x 30'); a residence (50' x 50'); a future storage building; and a future horse barn; and no other buildings. Turley shall remove the metal shed (20' x 12') shown on the plan.

This restriction may only be modified by written agreement of the parties.

4. Landscape Plan.

a. Prior to the construction of any new buildings on the Turley Property, Turley shall, prepare and submit to Carroll a Landscape Plan showing the fencing, planting and screening to be installed and maintained between their respective properties, including the panhandle driveway serving the Turley Property. The Landscape Plan shall be subject to approval and modification by Carroll, which shall not be unreasonably withheld. The Landscape Plan shall be submitted to Baltimore County for approval, with appropriate security posted therefor.

b. The planting, screening and fencing under Paragraph 4 shall be implemented within thirty days following approval of the Landscape Plan by Baltimore County, subject only to seasonal limitations on planting, not later than October 31, 1993, subject to Turley's obtaining financing by July 1, 1993 for the improvements contemplated upon the Turley Property.

c. For a period of one (1) year following the installation of the landscaping, Turley shall, in accordance with the final landscape plan, replace any plant material that may fail to survive. Turley shall at all times maintain the fencing, planting and screening in good order to maintain an attractive, healthy and effective year-round visual buffer.

d. Upon completion of the installation of plant material in accordance with the Landscape Plan, the planting shall be certified by a licensed landscape architect.

5. Architectural Approval.

a. Turley shall submit plans for the construction of any buildings related to the landscape operation (excluding, specifically, the residence), to Carroll for review and approval of the exterior dimensions and treatment of such buildings, including height, width, and length, doors and openings, and exterior materials, facade and appearance, to assure that the same conform to Exhibit A and have no adverse impact, either visually or practically, upon the Carroll Property.

b. Turley has agreed that the exterior both of the barn addition and of the existing shed be of a wood barn siding,

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Turley's expense within forty (40) days of the issuance of a final non-appellable decision approving the improving the Petitions in accordance with Paragraph III, above, among the Land Records of Baltimore County, Maryland, and the same shall run with and be binding upon the Turley Property and upon all present and future owners thereof, as hereinafter set forth, whether recorded or not and shall inure to the benefit of each of the parties respectively.

B. This Agreement shall remain in effect so long as Turley holds title to and resides upon the Turley Property and does not transfer, assign, convey or in anyway reorganize the controlling interest in MET, Inc. or in the landscape service operation located upon the Turley Property so as to divest Michael E. Turley of the controlling interest in the management and ownership thereof. In the event of such a transfer, this Agreement and the rights conferred upon the Turley Property shall immediately terminate, and, with the exception of Section V. hereof, this Agreement shall thereafter be null and void.

C. Paragraph I.A.1. of this Agreement and the rights to use and operate the Turley Property as a landscape service operation, subject to this Agreement, shall be binding upon the future owners thereof; provided, however, such future owners shall be subject to the following additional restrictions and conditions:

1. There shall be no material change in the character of the use permitted on the Turley Property or the improvements thereon as contemplated by this Agreement; and

2. The continued use of the Turley Property as contemplated herein shall be expressly conditioned upon continuous occupancy of the Turley Property as the primary residence of the owner thereof, and the continuous operation, ownership and management control of the landscape service operation by such future owner; provided, however, such future owners shall be subject to the following additional restrictions and conditions:

3. Operations upon the Turley Property (as provided in Paragraph 6, above) shall further be restricted to limit number of trips to and from the Turley Property (as hereinafter defined) by vehicles/equipment used in connection with the landscape service operation to no more than fifteen (15) trips in any twenty-four hour period. This prohibition shall not apply to personal automobiles owned and operated by the future owner or his immediate family who reside on the Turley Property; and

4. In the event of a violation of this Agreement, Carroll, his successors and assigns, may immediately seek enforcement of this Agreement through injunctive relief without the necessity of pursuing the provisions of Section V, below, or any administrative remedies.

Enforcement.

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A. Prior to seeking judicial enforcement of this Agreement by either party, Carroll or Turley, as the case may be, shall submit any alleged grievance, non-compliance or dispute (a "Complaint") to the other, and the parties shall meet within seven (7) days of receipt of such a Complaint to review and consider all circumstances alleged in the complaint. The parties shall attempt to resolve the complaint within an additional seven (7) days, between themselves, or through a mutually acceptable non-binding mediator or arbitrator, the costs of which shall be divided equally between the parties.

If the parties are unable to agree on appropriate action, or the party who has agreed to take remedial action fails to take such action in the time prescribed, or, in the event the parties fail to agree upon appropriate remedial action, then, and only then, may the aggrieved party initiate enforcement action, in the manner hereinafter set forth:

1. For violations over which Baltimore County or other governmental agency has enforcement jurisdiction, the aggrieved party will file a formal complaint with the appropriate agency to determine the existence of the alleged violation.

2. If the agency deems a violation exists, the party in violation must take corrective action necessary to comply with regulatory requirements and this Agreement, and may be subject to all enforcement provisions authorized by law;

3. For violations over which governmental agencies do not have jurisdiction, or in the event the party in violation fails to voluntarily comply, then and only then may the aggrieved party initiate judicial action, including injunctive relief or civil suit for damages. If the aggrieved party prevails in final non-appealable judicial decision, that party may recover attorneys' fees and costs.

VI. Miscellaneous Provisions.

A. The parties warrant and represent that each owns the property to be burdened or benefitted by this Agreement, as the case may be; that it is duly organized and in existence in accordance with Maryland law and that it has taken all necessary action required to be taken by its charter, by-laws, or other organizational documents to authorize the execution of this Agreement.

B. This Agreement, which may be executed in counterparts, contains the entire understanding of the parties. Any amendment must be in writing, signed by all parties hereto. This Agreement supersedes any prior agreement between the parties (other than the Supplemental Easement Agreement) and by its execution the parties

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and each of them revoke and release any prior agreements between them binding them or their respective properties.

C. Each of the parties warrants that it has carefully read and understands this Agreement, is cognizant of the terms hereof, and has had ample time to consult with counsel of its choice regarding its respective rights and obligation in connection herewith.

D. Failure, in any instance, to enforce any of the covenants, restrictions, and conditions contained in this Agreement shall in no event constitute a waiver or estoppel of the right to enforce the same or any other covenant, restriction, or condition in the event of another violation occurring prior or subsequent thereto.

E. The parties hereto covenant and agree to execute such instrument or instruments as may be necessary from time to time to amend this Agreement as required by any governmental agencies having jurisdiction over the Property in order to obtain all required approvals for development of the Project and to otherwise comply with all applicable laws, regulations and codes, in keeping with the spirit and intent of the Agreement.

F. The Exhibits are attached hereto and made a part hereof solely to illustrate certain of the covenants and restrictions set forth in this Agreement and are not intended as a final depiction of the development of the Property or the Project for any other purpose.

G. Notices required to be given pursuant to this Agreement shall be given in writing, and shall be deemed given upon actual receipt and shall be sent by certified or registered mail, prepaid, or by federal express or other commercial overnight courier services, to the addresses set forth in the first paragraph of this Agreement. Either party may from time to time change its address by serving on the other party notice as above provided.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

ATTEST/WITNESS:

M.E.T., LTD.

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By [Signature] (SEAL)
Michael E. Turley, Jr.

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T. Rogh
[Signature] (SEAL)
Michael E. Turley, Jr.
Charles Ryan Carroll (SEAL)

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY, that on this day of 1993, before me, a Notary Public in and for the State and County aforesaid, personally appeared [Signature], on behalf of M.E.T., LTD., known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and, being authorized to do so, acknowledged that he/she executed the same for the purposes therein contained.

AS WITNESS my hand and notarial seal.

Notary Public

My commission expires: _____

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY, that on this day of 1993, before me, a Notary Public in and for the State and County aforesaid, personally appeared MICHAEL E. TURLEY, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and, being authorized to do so, acknowledged that he executed the same for the purposes therein contained.

AS WITNESS my hand and notarial seal.

Notary Public

My commission expires: _____

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STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY, that on this day of 1993, before me, a Notary Public in and for the State and County aforesaid, personally appeared CHARLES RYAN CARROLL, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and, being authorized to do so, acknowledged that he executed the same for the purposes therein contained.

AS WITNESS my hand and notarial seal.

Notary Public

My commission expires: _____

ddcd\carroll\4covagmt

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