

IN RE: DEVELOPMENT PLAN HEARING AND	* BEFORE THE HEARING OFFICER/
PETITION FOR SPECIAL EXCEPTION	
SW/S Falls Road, 350 ft. NW of	* ZONING COMMISSIONER
Brooklandwood Road	
(Westwicke)	* OF BALTIMORE COUNTY *
8th Election District	
3rd Councilmanic District	* Case Nos. VIII-651 & 95-435-X
Scottish Development Co., Inc. LLC	
Applicant/Developer	*
* * * * *	* * * * *

HEARING OFFICER'S OPINION & DEVELOPMENT PLAN AND VARIANCE ORDER

This matter comes before the Zoning Commissioner/Hearing Officer as a combined hearing, for approval of a development plan (Developer's Exhibit No. 1), submitted by Scottish Development Co., Inc. LLC and as a Petition for Special exception, seeking approval of a private school (Maryvale School) operated by the Baltimore Province of Sisters of Notre Dame deNamur, Inc. Both the development plan approval and the special exception case relate to the property located at 11320 Falls Road in Brooklandville. The matter was combined for public hearing pursuant to Section 26-206.1 of the Baltimore County Code.

Appearing at the required Hearing Officer's hearing was Robert Aumiller and Clark F. MacKenzie from Scottish Development Company, Inc., LLC. They were represented by G. Scott Barhight, Esquire. Also present was F. Richard Chadsey and David Martin, from G.W. Stephens and Associates. Mr. Chadsey, a Professional Engineer and Mr. Martin, a Landscape Architect, prepared the development plan. Other consultants retained by the developer, including Jeff Jollis, John Canoles and Wes Guckert also appeared on behalf of the development plan. As to the special exception request, Sister Marie Kelly and Sister Shawn Marie Maguire appeared. Ed Haile, an engineer with Daft-McCune-Walker, Inc. also appeared in support of the Petition for Special Exception.

Also present were several representatives of the various Baltimore County agencies who evaluated the project. These included David Flowers,

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Date 8/17/95
By M. H. H. H.

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BALTIMORE COUNTY
ZONING DEPARTMENT
AUG 18 1995

the Project Manager, and Joseph Merry from the Office of Permits and Development Management (PADM), Leslie Schreiber from the Department of Public Works, Ervin McDaniel from the Office of Planning and Zoning and Bruce Seeley and Lee A. Dregier from the Department of Environmental Protection and Resource Management.

Numerous individuals from the surrounding community also appeared and participated in the hearing. It is of note that most of the residents left the hearing after the Developer's presentation. Apparently, their concerns about the plan were satisfied. Among the citizens who were present were A. Douglas McComas from the Falls Road Community Association, John Bernstein and Kristen Forsyth of the Valleys Planning Council, and Stuart Lyons, Randy Farnum and Carol Mula, all residents of the surrounding locale. Certain correspondence from community members was contained within the file prior to the hearing and was reviewed. Material received after the hearing cannot be properly considered by me.

As to the history of the project, a Concept Plan was submitted on March 13, 1995. Thereafter a Community Input Meeting was held on April 12, 1995 at St. Paul's School. The Development Plan was submitted and a conference was held on June 21, 1995. The Hearing Officer's hearing was scheduled and held on August 3, 1995.

The hearing was bifurcated and consideration was first given to the development plan. As to that plan, Robert Aumiller, Executive Vice-President of the corporate developer appeared and testified. He noted that the total site under consideration is 182 acres in area. Of this acreage, 112 acres is zoned R.C.2 and approximately 70 acres is zoned R.C.5. The corporate developer is under contract to purchase from the Sisters the 70 acres zoned R.C.5. The proposed residential development will be on this acreage. The Maryvale School, which is operated by the Baltimore Province of

the Sisters of Notre Dame deNamur, will retain the balance of the acreage for the school, contingent on the speical exception approval.

The developer proposes construction of 29 individual single family lots. A prestigious community of single family homes will be constructed. Vehicular access to the site will be by way of Saters Lane from Falls Road. Each lot will be served by a private well and septic system. There will be three storm water management ponds constructed on the site. Individual lots will range from 1.25 acres in area to 3.00 acres. Mr. Aumiller also testified extensively about features of the plan, including landscaping, designed to minimize impact on the surrounding locale. Portions of the proposed landscape plan were submitted (Developer's Exhibits 2A, 2B and 2C) which disclose that the Developer proposes not only on site, but offsite, landsdcaping. Mr. Aumiller also confirmed that no improvements to Greenspring Valley Road would be made and that vehicular access to the residential community will be solely from Falls Road/Saters Lane.

Pursuant to Section 26-206, the Hearing Officer is required to determine if any outstanding or unresolved issues exist which would prohibit approval of the plan. In this regard, counsel for the Developer indicated that there were no unresolved issues. This was corroborated by the County Agency representatives who were present. Mr. Schreiber, in particular, noted that his agency's written comments of June 15, 1995 need be incorporated, a condition to which the Developer agrees. Other County representatives and Development Plan comments observed that all regulations, standards and requirements of the County were satisfied.

Several concerns were raised by community representatives. Ms. Mula and Mr. Farnum, both who reside north of the site, were concerned about vehicular access. They fear that the anticipated traffic might overcrowd

Saters Lane and result in increased congestion in the interior of the site.

In this regard, testimony was received on behalf of the Developers from not only Mr. Aumiller but also Wes Guckert, Traffic Engineer, and from other consultants retained by the Developer. These witnesses noted that in order to keep the school and residential community separate and distinct, the Sisters of Notre Dame deNamur, Inc., desired that vehicular roadway leading to Maryvale School from Falls Road be used exclusively for that purpose. That is, that roadway would not be used to serve the proposed houses. In order to accommodate the Sisters, the Developer agreed to access the community only from Saters Lane. Mr. Guckert also testified that sight distance both north and southbound on Falls Road from Saters Lane was excellent. In his view, the proposed access was the safest alternative and the most practical point of ingress/egress to the property. Another concern raised by the community related to landscaping. Again, Ms. Mula and Mrs. Farnum were concerned that a sufficient buffer be implemented to screen the existing houses to the north. In this regard, Mr. Martin submitted portions of a proposed landscape plan. As noted above, this exhibit (Developer's Exhibit 2A through 2C) proposes plantings offsite to further screen the development. Obviously, neither the Developer nor this Hearing Officer has authority to order that offsite property owners acquiesce to landscaping on their property. However, I will condition approval of this Order to provide that if those property owners so agree, the Developer shall install landscaping as shown on the relevant exhibits. In my view, proposed landscaping, both onsite and off, provides a sufficient screen.

Other concerns expressed related to the Dipping Pond Run, a stream which crosses a small portion of the site. In this regard, both Mr.

Farnum and Stuart Lyons expressed concerns about the environmental repercussions of the development on the stream system. Mr. Chadsey responded as to this issue on behalf of the Developer and fully addressed these concerns. He noted that there was a significant buffer distance from the disturbed areas to the stream and that there will be no adverse impact. In this regard, I will rely on the regulatory authority of DEPRM to monitor the development. In my view, the development appears to be located a sufficient distance away from environmentally sensitive areas, so that no adverse impact will result. The development plan comments from DEPRM are particularly persuasive on this issue. The plan meets and/or exceeds all environmental standards and safeguards. All construction monitored by DEPRM and in accordance with prescribed rules and regulations, will ensure that no adverse environmental effects will result.

Other concerns expressed by the citizens present included a question regarding the amount of clearing on each lot. It was indicated that 12,000 sq. ft. of clearing will occur on each lot, an amount which appears appropriate in context with the size of the proposed houses and the scheme of this development.

Based upon the standards to be applied as set forth within Section 26-206 of the Code, I am persuaded to approve the development plan. This is a first class plan which will result in a well thought out development. It is clear that the Developer has been sensitive to the concerns of the surrounding community and has made efforts to exceed County standards. For these reasons, the development plan should be approved. There is no evidence within the record of this case which would warrant a denial or modification of the plan.

The Petition for Special Exception relates solely to the Maryvale School. Testimony was received, in this regard, from both Sister Marie

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Date

By

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JUL 13 1995
COUNTY OF MARYLAND
DEPARTMENT OF THE ENVIRONMENT
1000 EIGHTH STREET, N.W.
WASHINGTON, D.C. 20004

Kelly and Sister Shawn Maguire. Sister Marie is the Provincial Moderator of the school and Sister Shawn, the Head Mistress. The Maryvale School has been located at this location since approximately 1945. It is an all girl school of approximately 240 students. Education for grade 6 through 12 is provided. The Sisters have expressed no desire to increase the level of students; stating that 300 students would be the maximum amount of enrollment. In fact, they agree to a restriction to that number.

A number of photographs were submitted of the campus. The site is improved by a series of buildings including an administrative building known as "The Castle". Also a lower school building exists as does an upper school building and gymnasium. In order to meet the ongoing needs of its students, Maryvale proposes construction of an additional building on site. The building will be, as shown, on the site plan. Clearly, the building will not be visible from the surrounding locale and is entirely consistent with the present campus. As Mr. Hale aptly noted, of the approximately 112 acres to be retained by the school, only 18 acres are developed. There exists a significant buffer from the campus buildings in all directions towards the perimeter of the site.

It is clear that the Petition for Special Exception relating to the school should be granted. Indeed, this use may be a permissible nonconforming use, however, the special exception will legitimize the operation of the school at this location. It is clear that the use of the property to support the Maryvale School is entirely appropriate and will not detrimentally affect the surrounding locale in any manner. I am convinced that the Developer has satisfied the burden set forth within Section 502.1 of the BCZR and the case law. Thus, the Petition for Special Exception shall be granted and the development plan approved.

ORDER RECEIVED FOR FILING

Date

By

Pursuant to the development regulations of Baltimore County, as contained within Subtitle 26 of the Baltimore County Code, the advertising of the property and the public hearing thereon, I will approve the development plan consistent with the comments set forth above and shall so order.

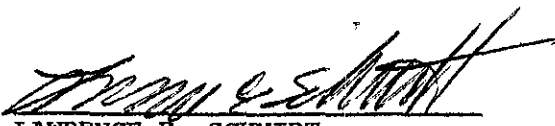
THEREFORE, IT IS ORDERED by the Zoning Commissioner of Baltimore County this 17th day of August, 1995, that the development plan submitted in the within case as Developer/Petitioner's Exhibit No. 1, be and is hereby approved in accordance with the terms and conditions as set forth herein; and,

IT IS FURTHER ORDERED that the Developer shall prepare and submit to Permits and Development Management (PADM), within 10 days from the date of this Order, a development plan which reflects and incorporates the terms, conditions, and restrictions, if any, of this opinion and Order; and,

IT IS FURTHER ORDERED that, pursuant to the Petition for Special Exception, approval for a private school, be and is hereby GRANTED, subject, however, to the following restrictions:

1. The maximum enrollment of the Maryvale School shall not exceed 300 students without amendment of the Petition for Special Exception and site plan attendant therewith, and public hearing held thereon.
2. The Developer, with the consent of adjoining property owners, shall install off site landscaping substantially similar to that shown on Developer's Exhibits 2A through 2C.

Any appeal from this decision must be taken in accordance with Section 26-209 of the Baltimore County Code and the applicable provisions of law.


LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:mmn

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DATE 8/17/95
BY [Signature]

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning



Suite 112 Courthouse
400 Washington Avenue
Towson, MD 21204

(410) 887-4386

August 16, 1995

G. Scott Barhight, Esquire
210 W. Pennsylvania Avenue, 4th floor
Towson, Maryland 21204

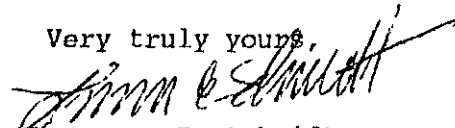
RE: Development Plan Order and Petition for Special Exception
Case No. II-535 and 95-435-X
Project: Westwicke
Developer/Applicant: Scottish Development Co., Inc., LLC

Dear Mr. Barhight:

Enclosed please find the decision rendered in the above captioned case. The Hearing Officer's Opinion and Development Plan Order and Petition for Special Exception have been approved with restrictions.

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 the office of Zoning Administration and Development Management (ZADM), at 887-3353.

Very truly yours,


Lawrence E. Schmidt
Zoning Commissioner

LES:mmn
att.

cc: Messrs. Robert Aumiller and Clark F. MacKenzie
Messrs. F. Richard Chadsey and David Martin, G.W. Stephens & Assoc.
Mr. John Bernstein and Kristen Forsyth, Valleys Planning Council
Mr. A.D. McComas, Executive Director, Falls Road Community Assoc.
Mrs. Carol Mula
Mr. Randy Farnum
cc: Mr. Dave Flowers, Project Manager, Office of PADM
cc: Other Reviewing County Agencies

RECORDED

433



Petition for Special Exception

95-435-X
to the Zoning Commissioner of Baltimore County

for the property located at 11300 Falls Road, Brooklandville, MD 21022

which is presently zoned R.C.2

This Petition shall be filed with the Office of Zoning Administration & Development Management.

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Exception under the Zoning Regulations of Baltimore County, to use the herein described property for
a private school

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:

(Type or Print Name)

Signature

Address

City

State

Zipcode

Attorney for Petitioner:

G. Scott Barhight

(Type or Print Name)

Signature

210 W. Pennsylvania Ave, 4th Floor

Address Phone No.

Towson, MD 21204 832-2050

City State Zipcode

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

Legal Owner(s): The Baltimore Province of the Sisters of Notre Dame de Namur, Inc.

(Type or Print Name)

Signature

By: Sister Marie Kelly, SND, President

(Type or Print Name)

Signature

Address

Phone No.

City State Zipcode
Name, Address and phone number of representative to be contacted.

G. Scott Barhight 832-2050

Name

210 W. Pennsylvania Ave, Towson, MD 21204

Address Phone No.

~~OFFICE USE ONLY~~ OFFICE USE ONLY

ESTIMATED LENGTH OF FRAGRANCE
unavailable for Hearing

the following date Next Two Months

ALL OTHER

REVIEWED BY: DATE

MICROFILMED

DROP-OFF
No REVIEW
6/1/95
KCR



433

95-435-X

FROM THE OFFICE OF
GEORGE WILLIAM STEPHENS, JR. & ASSOCIATES, INC.
ENGINEERS

658 KENILWORTH DRIVE, SUITE 100, TOWSON, MARYLAND 21204

Description to Accompany Petition for Special Exception
Westwicke

May 30, 1995
Page -1-

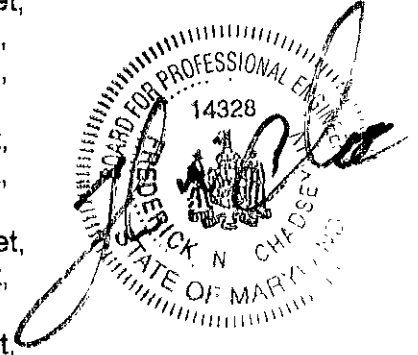
Beginning at a point on the westerly right-of-way of Falls Road (MD Route 25), said point being South 31 degrees 08 minutes 15 seconds East 331.42 feet more or less, from a point formed by the intersection of the centerlines of Falls Road and Saters Lane, running thence leaving said point of beginning, along the following 69 courses.

1. Leaving the westerly right-of-way of Falls Road, South 31 degrees 54 minutes 17 seconds West 184.20 feet,
2. Thence along a curve to the right having a radius of 1250.00 feet with an arc length 130.90 feet being subtended by a chord bearing of South 35 degrees 19 minutes 07 seconds West 127.86 feet,
3. South 37 degrees 54 minutes 17 seconds West 185.25 feet,
4. Thence along a curve to the left having a radius of 400.00 feet with an arc length 83.88 feet being subtended by a chord bearing of South 31 degrees 53 minutes 58 seconds West 83.73 feet,
5. Thence along a curve to the right having a radius of 400.00 feet with an arc length 136.13 feet being subtended by a chord bearing of South 35 degrees 40 minutes 15 seconds West 135.30 feet,
6. South 45 degrees 24 minutes 28 seconds West 155.00 feet,
7. Thence along a curve to the left having a radius of 300.00 feet with an arc length 192.56 feet being subtended by a chord bearing of South 27 degrees 37 minutes 32 seconds West 183.39 feet,
8. South 08 degrees 38 minutes 41 seconds West 368.11 feet,
9. South 87 degrees 37 minutes 00 seconds West 15.91 feet,
10. South 06 degrees 32 minutes 37 seconds West 197.95 feet,
11. South 74 degrees 16 minutes 21 seconds East 11.07 feet,
12. South 01 degrees 12 minutes 30 seconds East 766.00 feet,
13. South 86 degrees 29 minutes 03 seconds West 241.77 feet,
14. South 18 degrees 24 minutes 27 seconds West 1093.15 feet,
15. South 03 degrees 18 minutes 25 seconds West 860.98 feet,
16. North 62 degrees 31 minutes 32 seconds West 806.41 feet,
17. South 84 degrees 24 minutes 51 seconds West 269.03 feet,
18. North 04 degrees 24 minutes 15 seconds West 1229.07 feet,
19. North 05 degrees 58 minutes 07 seconds West 807.15 feet,
20. North 22 degrees 06 minutes 29 seconds West 87.31 feet,
21. North 15 degrees 31 minutes 47 seconds East 100.99 feet,
22. North 41 degrees 45 minutes 07 seconds West 90.02 feet,
23. North 22 degrees 31 minutes 14 seconds West 69.59 feet,
24. North 64 degrees 09 minutes 16 seconds West 103.73 feet,
25. North 01 degrees 49 minutes 38 seconds West 241.09 feet,
26. North 46 degrees 11 minutes 35 seconds East 42.10 feet,
27. North 31 degrees 20 minutes 55 seconds West 49.44 feet,
28. North 67 degrees 17 minutes 40 seconds West 58.45 feet,
29. North 18 degrees 22 minutes 26 seconds West 114.38 feet,
30. North 71 degrees 50 minutes 27 seconds East 43.12 feet,
31. North 00 degrees 11 minutes 51 seconds West 40.90 feet,
32. North 32 degrees 44 minutes 25 seconds West 142.57 feet,
33. North 46 degrees 49 minutes 46 seconds West 87.84 feet,

May 30, 1995

95-435-X

34. North 76 degrees 12 minutes 56 seconds West 59.18 feet,
35. North 27 degrees 34 minutes 50 seconds West 66.80 feet,
36. North 46 degrees 44 minutes 14 seconds West 112.56 feet,
37. North 12 degrees 25 minutes 29 seconds East 57.06 feet,
38. North 11 degrees 17 minutes 28 seconds West 81.27 feet,
39. North 72 degrees 42 minutes 03 seconds West 262.57 feet,
40. North 36 degrees 02 minutes 12 seconds West 69.55 feet,
41. North 06 degrees 12 minutes 14 seconds West 57.04 feet,
42. North 15 degrees 04 minutes 03 seconds East 85.25 feet,
43. North 76 degrees 29 minutes 04 seconds West 41.85 feet,
44. North 33 degrees 29 minutes 27 seconds West 63.48 feet,
45. North 25 degrees 56 minutes 18 seconds East 53.11 feet,
46. North 01 degrees 05 minutes 51 seconds West 158.91 feet,
47. North 29 degrees 49 minutes 47 seconds West 33.12 feet,
48. North 18 degrees 59 minutes 10 seconds East 44.82 feet,
49. North 12 degrees 54 minutes 47 seconds East 181.92 feet,
50. South 10 degrees 03 minutes 37 seconds East 140.70 feet,
51. South 80 degrees 47 minutes 50 seconds East 292.25 feet,
52. South 20 degrees 57 minutes 27 seconds East 731.36 feet,
53. South 22 degrees 18 minutes 38 seconds East 939.46 feet,
54. North 21 degrees 40 minutes 07 seconds East 550.00 feet,
55. North 81 degrees 25 minutes 43 seconds East 379.90 feet,
56. South 72 degrees 20 minutes 27 seconds East 687.13 feet,
57. South 42 degrees 49 minutes 05 seconds West 206.88 feet,
58. South 61 degrees 29 minutes 13 seconds East 516.14 feet,
59. South 69 degrees 21 minutes 35 seconds East 68.86 feet,
60. North 13 degrees 22 minutes 11 seconds East 288.83 feet,
61. North 08 degrees 38 minutes 41 seconds East 286.12 feet,
62. Thence along a curve to the right having a radius of 360.00 feet with an arc length 231.08 feet being subtended by a chord bearing of North 27 degrees 00 minutes 55 seconds East 227.14 feet,
63. North 45 degrees 24 minutes 28 seconds East 155.00 feet,
64. Thence along a curve to the left having a radius of 340.00 feet with an arc length 115.71 feet being subtended by a chord bearing of North 35 degrees 39 minutes 28 seconds East 115.16 feet,
65. Thence along a curve to the right having a radius of 460.00 feet with an arc length 96.46 feet being subtended by a chord bearing of North 31 degrees 53 minutes 58 seconds East 96.28 feet,
66. North 37 degrees 54 minutes 17 seconds East 185.25 feet,
67. Thence along a curve to the left having a radius of 1190.00 feet with an arc length 124.61 feet being subtended by a chord bearing of North 34 degrees 08 minutes 03 seconds East 92.54 feet,
68. North 31 degrees 54 minutes 17 seconds East 209.64 feet to a point on the westerly right-of-way of Falls Road, thence continuing along said right-of-way,
69. South 35 degrees 07 minutes 02 seconds East 73.47 feet, , to the point of beginning.



Containing 101.176 Acres of land more or less.

Note: The above description is for zoning purposes only and is not to be used for contracts, conveyances or agreements.

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

95-435-X

District 8th

Date of Posting 6/8/95

Posted for: Special Exemption

Petitioner: Bolto. Province of Sisters of Notre Dame

Location of property: 11320 Falls Rd.

Location of Signs: Facing roadway on property being zoned

Remarks: _____

Posted by

M. Healey
Signature

Date of return:

6/16/95

Number of Signs:

1



CERTIFICATE OF PUBLICATION

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

Case Number:
95-435-X
11320 Falls Road
(Westwicks)
SW/S Falls Road, 350'
NW of Brooklandwood
Road
8th Election District
3rd Councilmanic
Legal Owner(s):

The Baltimore Province
of the Sisters of Notre
Dame de Namur, Inc.
HEARING: FRIDAY

JULY 14, 1995 at 11:00
a.m. in Rm. 106, County Of-
fice Building.

Special Exception: for a
private school.

LAWRENCE E. SCHMIDT,
Zoning Commissioner for
Baltimore County

NOTES: (1) Hearings are Hand-
icapped accessible; for special
accommodations Please Call
887-3353.

(2) For informa-
tion concerning the File and/or
Hearing, Please Call 887-3391.

6/170 June 15.

TOWSON, MD., 6/16, 1995

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 6/15, 1995.

THE JEFFERSONIAN,

A. Henrichson

LEGAL AD. - TOWSON

~~Publisher~~



E. H. ...
**Zoning Administration &
 Development Management**
 111 West Chesapeake Avenue
 Towson, Maryland 21204

receipt

95-435-X

Account: R-001-6150

Number 433 (WCR)

~~DROP-OFF~~ --- NO REVIEW

Date 6/1/95

#050 - SPECIAL EXCEPTION	-----	\$300.00
#080 - SIGN POSTING (2 @ \$35)	-----	70.00
TOTAL	-----	\$370.00

Legal Owner: The Baltimore Province of the Sisters of Notre Dame de Namur, Inc.
 11320 Falls Road (Westwicke)
 District: 8c3
 Zoning: R.C.-2 & R.C.-5
 Acreage: 70 acres (RC-5) & 112 acres (RC-2)
 Attorney: Scott Barhight

PAID 6/1/95

Check from Whiteford, Taylor & Preston

03A03#0046MICHR

\$370.00

Please Make Checks Payable To: Baltimore County 03#07PM06-01-95

Cashier Validation

TO: PUTUXENT PUBLISHING COMPANY
June 15, 1995 Issue - Jeffersonian

Please forward billing to:

G. Scott Barhight, Esq.
210 W. Pennsylvania Avenue, 4th Floor
Towson, Maryland 21204
832-2050

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: 95-435-X
11320 Falls Road
(Westwicke)
SW/S Falls Road, 350' NW of Brooklandwood Road
8th Election District - 3rd Councilmanic
Legal Owner(s): The Baltimore Province of the Sisters of Notre Dame de Namur, Inc.
HEARING: FRIDAY, JULY 14, 1995 at 11:00 a.m. in Room 106, County Office Building.

Special Exception for a private school.

LAWRENCE E. SCHMIDT
ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, PLEASE CALL 887-3391.

Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

 (410) 887-3353

June 8, 1995

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:

DEVELOPMENT PLAN HEARING

Project Number: VIII-651

Project Name: Westwicke

Location: W/S Falls Road, N of Seminary Avenue

Acres: 181.99

Developer: Scottish Development Company, LL

Proposal: 30 Single family dwellings.

AND

CASE NUMBER: 95-435-X

11320 Falls Road

(Westwicke)

SW/S Falls Road, 350' NW of Brooklandwood Road

8th Election District - 3rd Councilmanic

Legal Owner(s): The Baltimore Province of the Sisters of Notre Dame de Namur, Inc.

Special Exception for a private school.

HEARING: FRIDAY, JULY 14, 1995 at 11:00 a.m. in Room 106, County Office Building.

A handwritten signature in dark ink, appearing to read "Arnold Jablon", is written over a horizontal line.

Arnold Jablon
Director

cc: G. Scott Barhight, Esq.
George W. Stephens, Jr. & Associates

NOTES: (1) ZONING SIGN & POST MUST BE RETURNED TO RM. 104, 111 W. CHESAPEAKE AVENUE ON THE HEARING DATE.
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3391.

Handwritten note: W/ 6/14/95



Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

JUNE 28, 1995

NOTICE OF REASSIGNMENT

Rescheduled from 7/14/95
DEVELOPMENT PLAN HEARING
Project Number: VIII-651
Project Name: Westwicke
Location: W/S Falls Road, N of Seminary Avenue
Acres: 181.99
Developer: Scottish Development Company, LL
Proposal: 30 Single family dwellings.

AND

CASE NUMBER: 95-435-X
11320 Falls Road
(Westwicke)
SW/S Falls Road, 350' NW of Brooklandwood Road
8th Election District - 3rd Councilmanic
Legal Owner(s): The Baltimore Province of the Sisters of Notre Dame de
Namur, Inc.

Special Exception for a private school.

HEARING: THURSDAY, AUGUST 3, 1995 at 9:00 a.m. in Room 118, Old
Courthouse.

A handwritten signature in black ink, appearing to read "Arnold Jablon". The signature is fluid and cursive, with a large initial "A" and a long, sweeping underline.

ARNOLD JABLON
DIRECTOR
DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT

cc: G. Scott Barhight, Esq.

AJ:ggs



Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

July 5, 1995

G. Scott Barhight, Esquire
210 W Pennsylvania Ave., 4th Floor
Towson, Maryland 21204

RE: Item No.: 433
Case No.: 95-435-X
Petitioner: The Baltimore Province
of the Sisters of Notre Dame
de Namur, Inc.

Dear Mr. Barhight:

The Zoning Advisory Committee (ZAC), which consists of representatives from Baltimore County approval agencies, has reviewed the plans submitted with the above referenced petition, which was accepted for processing by Permits and Development Management (PDM), Zoning Review, on June 1, 1995.

Any comments submitted thus far from the members of ZAC that offer or request information on your petition are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. Only those comments that are informative will be forwarded to you; those that are not informative will be placed in the permanent case file.

If you need further information or have any questions regarding these comments, please do not hesitate to contact the commenting agency or Joyce Watson in the zoning office (887-3391).

Sincerely,

A handwritten signature in dark ink, appearing to read "W. Carl Richards, Jr.", written over a faint, larger version of the same signature.

W. Carl Richards, Jr.
Zoning Supervisor

WCR/jw
Attachment(s)

MICROFILMED



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

TO: Mr. Arnold Jablon, Director July 12, 1995
Zoning Administration and
Development Management

FROM: J. Lawrence Pilson 
Development Coordinator, DEPRM

SUBJECT: Zoning Item #433 - Maryvale
11320 Falls Road
Zoning Advisory Committee Meeting of June 12, 1995

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

Environmental Impact Review

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

Development of the property must comply with Regulations for Forest Conservation.

Ground Water Management

The School is served by wells and septic systems.

Prior to the approval of the record plat for the Westwicke Subdivision, repairs to the on-site sewage disposal system serving the Maryvale School must be completed.

Agricultural Preservation Program

The proposed project will impact the prime and productive soils on the site. The building expansion is on MCB2 soils.

An exemption can be granted, however, because the loss of those soil resources it will have no significant impact on agricultural resources of the area. Furthermore, the property is currently in nonagricultural use, and the proposed expansion will be part of an existing building.

✓
JLP:TE:WL:sp

MARYVALE/DEPRM/TXTSBP

BALTIMORE COUNTY, MARYLAND
I N T E R O F F I C E C O R R E S P O N D E N C E

TO: Arnold Jablon, Director DATE: June 19, 1995
Zoning Administration and Development Management

FROM: Robert W. Bowling, P.E., Chief
Developers Engineering Section

RE: Zoning Advisory Committee Meeting
for June 19, 1995
Items 428, 429, 431, 432, 433 and 434 ✓

The Developers Engineering Section has reviewed
the subject zoning item and we have no comments.

RWB:sw

B A L T I M O R E C O U N T Y , M A R Y L A N D

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
 Zoning Administration and
 Development Management

DATE: June 15, 1995

FROM: Pat Keller, Director
 Office of Planning and Zoning

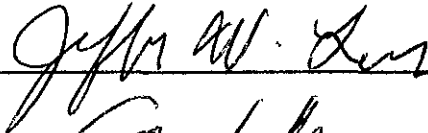
SUBJECT: Petitions from Zoning Advisory Committee

The Office of Planning and Zoning has no comments on the following petition(s):

Item Nos. (433), 439, 441 and 445.

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3480.

Prepared by:



Division Chief:



PK/JL



Maryland Department of Transportation
State Highway Administration

O. James Lighthizer

Secretary

Hal Kassoff

Administrator

6-7-95

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

Re: Baltimore County
Item No.: 433 (WCR)

Dear Ms. Watson:

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 project.

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,

Bob Small

for

Ronald Burns, Chief
Engineering Access Permits
Division

BS/

MICROFILMED

Baltimore County Government
Fire Department



700 East Joppa Road Suite 901
Towson, MD 21286-5500

(410) 887-4500

DATE: 06/08/95

Arnold Jablon
Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21204
MAIL STOP-1105

RE: Property Owner: THE BALTIMORE PROVINCE OF THE SISTERS OF NOTRE
DAME DE NAMUR, INC.

LOCATION: SW/S FALLS RD., 350' NW BROOKLANDWOOD RD.
(11320 FALLS RD.-WESTWICKE)

Item No.: 433

Zoning Agenda: SPECIAL EXCEPTION

Gentlemen:

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

4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.

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", 1991 edition prior to occupancy.

*. A RURAL WATER SUPPLY TANK FOR FIRE FIGHTING USE, OR THE INSTALLATION OF 13D SPRINKLER SYSTEMS, WILL BE REQUIRED.

REVIEWER: LT. ROBERT P. SAUERWALD
Fire Marshal Office, PHONE 887-4881, MS-1102F

cc: File

RECEIVED

JUN 9 1995

ZADM



Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

June 8, 1995

G. Scott Barhight, Esquire
210 West Pennsylvania Avenue
4th Floor
Towson, MD 21204

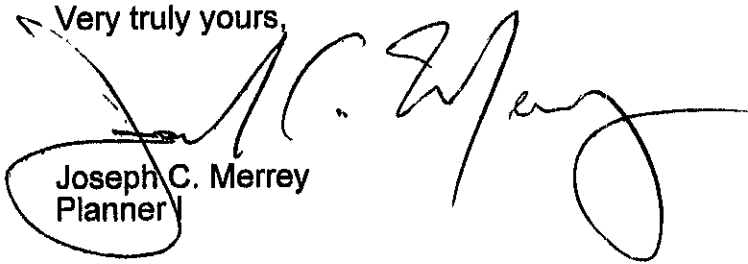
RE: Preliminary Petition Review (Item #433)
Legal Owner: The Baltimore Province of the
Sisters of Notre Dame de Namur, Inc.
11320 Falls Road
8th Election District

Dear Mr. Barhight:

At the request of the attorney/petitioner, the above referenced petition was accepted for filing without a final filing review by the staff. The plan was accepted with the understanding that all zoning issues/filing requirements would be addressed. A subsequent review by the staff has revealed no unaddressed zoning issues and/or incomplete information. All revisions (including those required by the hearing officer) must be accompanied by a check made out to Baltimore County, Maryland for the \$100.00 revision fee.

If you need further information or have any questions, please do not hesitate to contact me at 887-3391.

Very truly yours,


Joseph C. Merrey
Planner

JCM:scj

Enclosure (receipt)

c: Zoning Commissioner



RE: PETITION FOR SPECIAL EXCEPTION
11320 Falls Road (Westwicke), SW/S Falls
Road, 350' NW of Brooklandwood Road
8th Election District, 3rd Councilmanic

The Baltimore Province of the Sisters of
Notre Dame de Namur, Inc.
Petitioners

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* CASE NO. 95-435-X
*

* * * * *

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio

CAROLE S. DEMILIO
Deputy People's Counsel
Room 47, Courthouse
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 31st day of July, 1995, a copy of the foregoing Entry of Appearance was mailed to G. Scott Barhight, Esquire, Whiteford, Taylor & Preson, 210 W. Pennsylvania Avenue, Towson, MD 21204, attorney for Petitioners.

Peter Max Zimmerman

PETER MAX ZIMMERMAN

MICROFILMED

WHITEFORD, TAYLOR & PRESTON
L.L.P.

SEVEN SAINT PAUL STREET
BALTIMORE, MARYLAND 21202-1626
TELEPHONE 410 347-8700
FAX 410 752-7092

210 WEST PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204-4515

410 832-2000
FAX 410 832-2015

1025 CONNECTICUT AVENUE, NW
WASHINGTON, D.C. 20036-5405
TELEPHONE 202 659-6800
FAX 202 331-0573

DAVID K. GILDEA
DIRECT NUMBER
410 832-2066

1317 KING STREET
ALEXANDRIA, VIRGINIA 22314-2928
TELEPHONE 703 836-5742
FAX 703 836-0265

May 31, 1995

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

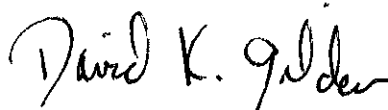
Re: 11320 Falls Road, Brooklandville, MD 21022

Dear Mr. Jablon:

Enclosed please find a Development Plan and a Petition for Special Exception for Filing in the above-referenced matter. The filing of the Petition for Special Exception is in conjunction with the Development Plan, and as such, we request a combined hearing on the two.

To the best of our knowledge, no Zoning Technician has reviewed the Zoning Plat, and there are no violations of the Zoning Regulations.

Very truly yours,



David K. Gildea

DKG:dmk

cc: G. Scott Barhight, Esquire
49336

COPY

WHITEFORD, TAYLOR & PRESTON
L.L.P.

SEVEN SAINT PAUL STREET
BALTIMORE, MARYLAND 21202-1626
TELEPHONE 410 347-8700
FAX 410 752-7092

210 WEST PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204-4515
410 832-2000
FAX 410 832-2015

1025 CONNECTICUT AVENUE, NW
WASHINGTON, D.C. 20036-5405
TELEPHONE 202 659-6800
FAX 202 331-0573

G. SCOTT BARIHIGHT
DIRECT NUMBER
410 832-2050

1317 KING STREET
ALEXANDRIA, VIRGINIA 22314-2928
TELEPHONE 703 836-5742
FAX 703 836-0265

June 14, 1995

Via Hand Delivery

The Honorable Lawrence E. Schmidt
Office of Planning and Zoning
400 Washington Avenue
Towson, Maryland 21204

Re: Westwicke - ZADM No. VIII651
Case No. 95-435-X
Special Exception for Private School

RECEIVED
JUN 14 1995
ZADM

Dear Mr. Schmidt:

This letter is to confirm our telephone conversation of June 12, 1995 regarding the above-referenced matter. As we discussed, a tenant house situated on the property which is the subject of the Westwicke Development Plan hearing was placed on the Preliminary Baltimore County Landmarks Preservation List on June 8, 1995. Pursuant to Baltimore County Code Section 26-207(a)(3), the Hearing Officer shall refer the Development Plan to the Planning Board when the plan involves a building included on the Preliminary Landmarks Preservation list. As a result of this designation, therefore, the Westwicke Development Plan must be referred to the Planning Board for comment to the Hearing Officer pursuant to Baltimore County Code Section 26-208.

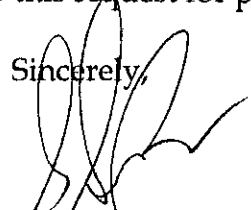
During our telephone conversation you agreed that the Development Plan must be referred to the Planning Board and requested that I provide the project manager, Mr. David Flowers with a copy of this letter to confirm that the referral must occur. A copy of this letter is also being provided to Mr. Tim Dugan of the Office of Planning and Zoning who I understand establishes the scheduling and agenda for the Planning Board. It is my understanding, based upon recent conversations with Mr. Dugan, that the matter has been scheduled before the Planning Board for July 6, 1995. However, there is the possibility that the Planning Board would not complete its review of the matter until its next meeting on July 20, 1995.

The Honorable Lawrence E. Schmidt
June 14, 1995
Page 2

The Hearing Officer's hearing is currently scheduled for July 14, 1995. Given the schedule of the Planning Board, and to ensure that the Planning Board recommendation has been made prior to your hearing, I respectfully request that you reschedule the Hearing Officer's hearing in this combined development/zoning case until after July 26, 1995.

Thank you for your kind attention to this request for postponement.

Sincerely,



G. Scott Barhight

GSB:slr

cc: Mr. David C. Flowers
Mr. Timothy C. Dugan
Mr. Clark MacKenzie
Mr. Robert J. Aumiller
Sr. Marie Kelly, SND
Ms. Gwen Stephens

50582

COPY

WHITEFORD, TAYLOR & PRESTON
L.L.P.

SEVEN SAINT PAUL STREET
BALTIMORE, MARYLAND 21202-1626
TELEPHONE 410 347-8700
FAX 410 752-7092

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WASHINGTON, D.C. 20036-5405
TELEPHONE 202 659-6800
FAX 202 331-0573

G. SCOTT BARHIGHT
DIRECT NUMBER
410 832-2050

1317 KING STREET
ALEXANDRIA, VIRGINIA 22314-2928
TELEPHONE 703 836-5742
FAX 703 836-0265

August 14, 1995

Via Hand Delivery

The Honorable Lawrence E. Schmidt
Hearing Officer/Zoning Commissioner
Old Courthouse, Room 112
400 Washington Avenue
Towson, Maryland 21204

Re: Westwicke - Case No. VIII-651

Dear Commissioner Schmidt:

This office recently received a copy of Mr. Burns' letter to you dated August 9, 1995. Since this letter was provided to you after the close of the record in the Development Plan case referenced above, I respectfully request that you strike it from the record and not consider its contents. The record in this matter has been properly closed and Mr. Burns has had every opportunity to voice his concerns regarding this Development Plan approval.

Mr. Burns complains that the Westwicke Development will violate his riparian rights. As legal counsel for both the Sisters of Notre Dame de Namur and Scottish Development Company, LLC, please accept this letter as our complete and unequivocal denial that the Development Plan violates any rights enjoyed by Mr. Burns.

Further, Mr. Burns misrepresents to you certain statements allegedly made by Mr. Aumiller. Specifically, Mr. Burns improperly represents that Mr. Aumiller promised that the Westwicke Development would permit no more than 7,000 to 10,000 square feet to be cleared on each lot. Mr. Aumiller stands by his testimony that no more than 12,000 square feet of each lot will be permitted to be cleared. As is evident from the record, this area of clearing is well within the requirements of Baltimore County and very reasonable.

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SEP 1 1995
SFD

ZADM

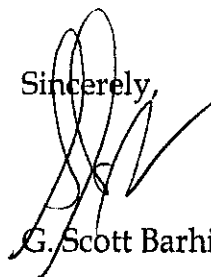
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1995 AUG 15 P 1:14

4139-95TAS
9/14/95
to OS
to file
MICROFILMED

Obviously, we have no objection to you notifying Mr. Burns of your decision as you would for any other interested person. It is unfortunate that Mr. Burns continues to behave so unreasonably after the Sisters of Notre Dame de Namur and Scottish Development Company, LLC have bent over backwards to accommodate every reasonable demand that Mr. Burns has placed upon the project. By example, Scottish Development Company, at considerable expense to the development, completely redesigned and relocated the proposed stormwater management facilities at Mr. Burns' request. This accommodation was agreed to even though the original placement of the stormwater facilities was completely in accordance with Baltimore County standards and environmentally sound.

Should you have any questions or comments regarding this response to Mr. Burns' letter, please feel free to contact me. Thank you for your kind attention to this matter.

Sincerely,



G. Scott Barhight

GSB:sll

cc: Harold H. Burns, Jr., Esquire
Mr. David C. Flowers, Project Manager
Mr. Douglas McComas, Falls Road Community Assoc.
Mr. John C. Bernstein, Valleys Planning Council
The Honorable C.A. Dutch Ruppertsberger, County Executive
Mr. T. Bryan McIntire, County Councilman
Sr. Marie Kelly, SND
Mr. Clark F. MacKenzie
Robert J. Aumiller, Esquire

55622

RECEIVED

SEP 1 1995

ZADM

MICROFILMED

3805-25-

HAROLD H. BURNS, JR.
ATTORNEY AT LAW
Suite 201
210 East Lexington Street
Baltimore, Maryland 21202-3514
(410) 528-0044
Fax: (410) 576-7610

8/11/95
S

August 9, 1995

Lawrence Schmidt
Zoning Commissioner for Baltimore County
Old Court House
400 Washington Avenue
Room 112
Towson, Maryland 21204

95-434

Re: Westwicke - Case # VIII-651

Dear Commissioner Schmidt:

I have heard from David C. Flowers, the Project Manager, that you reviewed my July 28, 1995 letter to Robert Aumiller, counsel to the developer of the above-referenced project before the hearing last week. My letter to Mr. Aumiller was written in haste, but I hope that you were able to glean from it the gist of my complaints, to wit:

The Circuit Court for Baltimore County has found that Dipping Pond Run, the trout stream that flows along the western boundary of the Project Property and between it and my property, has been severely damaged by the repeated infusion of sediment from the Chestnut Ridge Country Club since 1989. A copy of the Court's Order of June 15, 1995 is enclosed.

Two unnamed tributaries flow from the Project Property into the Run. It is impossible for the developers of Westwicke to clear trees from any significant portion of the Project Property without causing the infusion of additional sediment into the Run. Mr. Aumiller repeatedly assured me and other adjacent landowners and Community Associations that the developers were aware of the Run's condition and the sensitive position of the Project Property vis-a-vis the Run, that the developers would permit no more than 7,000 to 10,000 sq. feet to be cleared on each lot -- which seemed generous to him and me -- and that they would take all other feasible precautions during development to minimize damage to the Run.

On Thursday, July 27, 1995 Mr. Aumiller told me for the first time that the developers intended to permit the clearing of as much as 12,000 sq. feet from each lot and that they would not require any special precautions to be taken by the individual builders.

Because of the sediment introduced into the Run by the Chestnut Ridge Country Club, the banks of the Run -- i.e., my and my neighbors' property -- are eroding at a vastly accelerated and

BILLY L. BURNS

Lawrence Schmidt
Zoning Commissioner for Baltimore County
August 9, 1995
Page Two

unnatural pace. The introduction of more sediment into the Run during the development of Westwicke and construction of its homes will further accelerate that erosion. Accordingly, the development as presented to you constitutes an unreasonable use of the land and a violation of my riparian rights.

For these reasons, I ask that you limit the Project in any manner calculated to limit the infusion of sediment into Dipping Pond Run from this Project.

Moreover, I ask that you notify me immediately of your decision in this matter, so that I may appeal it to the Board of Appeals in a timely fashion should I conclude that your decision would permit the developers to use the Project Property in an unreasonable manner in violation of my riparian rights.

Thank you for your attention in this matter.

Very truly yours,


Harold H. Burns, Jr.

Enclosure

cc: Margaret V. Burns (hand-delivered)
Scott and Susan Fine
David C. Flowers, Project Manager, Baltimore County
H. George Meredith, Jr., Pres.
and Mr. Doug McComas, Exec. Director
Falls Road Community Association, Inc.
John C. Bernstein, M.D., Exec. Director
Valleys Planning Council, Inc.
G. Scott Barhight, Esquire
Counsel for
Sister Marie Kelly, SND, Pres., Board of Trustees
Sisters of Notre Dame De Namur
David L. Warnock, President
Trout Unlimited of Maryland
T. Bryan McIntire, County Councilman
The Honorable C.A. Dutch Ruppertsberger, County Executive
Dr. Douglas Carroll

LUDWIG A. STERNBERGER, et al,
Plaintiffs

VS.

CHESTNUT RIDGE COUNTRY
CLUB, INC., ET AL,
Defendants

IN THE

CIRCUIT COURT

FOR

BALTIMORE COUNTY

CASE NO. 93 CV 6726

RECEIVED JUN 22 1995

ORDER AND AMENDED JUDGMENT

Upon consideration of Defendant's Motion to Alter Judgment or, In The Alternative, To Stay Enforcement of Judgment (Paper No. 27); Opposition to Defendant's Motion to Alter Judgment or, In The Alternative, To Stay Enforcement of Judgment (Paper No. 28); and the argument of counsel presented on June 12, 1995, it is, this 15TH day of June, 1995,

ORDERED, that the following Findings of Fact, Conclusion of Law, Amended Judgment and Injunction be entered in this case:

FINDINGS OF FACT

1. The Plaintiffs' property is bounded by Dipping Pond Run.
2. Sediment flowed from Defendant's property into Dipping Pond Run in 1989, 1992, and 1993.
3. A large quantity of sediment which flowed from Defendant's property into Dipping Pond Run came from its irrigation system on the middle tributary which flows from Defendant's property into Dipping Pond Run.
4. A large quantity of sediment that flowed from Defendant's property into the middle tributary of Dipping Pond Run in 1993 was produced by Defendants' work on its upper pond on that tributary, which work was performed without the proper permit from the appropriate Baltimore County authority.

MICROFILMED

FILED

JUN 20 1995

5. A quantity of the sediment that flowed from Defendant's property into Dipping Pond Run in 1989 was produced by Defendant's construction of a "haul road" which included two culvert crossings of the middle tributary, which work was done without the required permit from the appropriate Baltimore County authority.
6. As a result of the deposit of sediment from Defendant's property into that of the Plaintiffs during the years 1989, 1992 and 1993, the banks of the Dipping Pond Run, as it courses through the Plaintiffs' property, have eroded at a rate greater than that which would have occurred had sediment not flowed from Defendant's property into the middle tributary of Dipping Pond Run during the years 1989, 1992, and 1993.

CONCLUSION OF LAW

1. Plaintiffs were damaged by the Defendant's actions in permitting silt to be injected into Dipping Pond Run during the years 1989, 1992 and 1993.

INJUNCTION

1. Defendant, its Agents, Servants, and Employees, are hereby permanently enjoined from permitting any action on its property that would result in the infusion of silt-laden water into Dipping Pond Run to the extent that Dipping Pond Run would become so clouded as to completely obscure the bottom of the Run.

2. Defendant shall be subject to a fine of up to \$1,000 per day for any violation of this Injunction.

The Court declines to stay the imposition of the Judgment during the course of any appeal by either party.

Lawrence R. Daniels

LAWRENCE R. DANIELS
JUDGE

DATE: 6-15-95

cc: Harold H. Burns, Esquire
Gertrude C. Bartel, Esquire

True Copy Test

SUZANNE MENSCH, Clerk

Per *Suzanne E. Hall*

Assistant Clerk

MICROFILMED

HAROLD H. BURNS, JR.
ATTORNEY AT LAW
Suite 201
210 East Lexington Street
Baltimore, Maryland 21202-3514
(410) 528-0044
Fax: (410) 576-7610

August 15, 1995

Lawrence Schmidt
Zoning Commissioner for Baltimore County
Old Court House
400 Washington Avenue
Room 112
Towson, Maryland 21204

RECEIVED
EXECUTIVE OFFICE
1995 AUG 16 P 4:00

Re: Westwicke - Case # VIII-651

Dear Commissioner Schmidt:

I am receipt of Mr Barhight's August 14, 1995 letter to you and reply herein. I certainly have not had "every opportunity to voice [my] concerns," as Mr Barhight states. Rather, I was misled by Mr Aumiller's assurances that the developers would respect the land by using it in a reasonable fashion and that they would endeavor at all times to protect Dipping Pond Run. Thus, I did not even realize the magnitude of the threat this development posed to my and my neighbor's riparian rights until just before the hearing.

Moreover, I wrote Mr Flowers on July 14, 1995 requesting that the August 3 hearing be postponed because I would be out of town. Although that hearing had already been postponed once and had been rescheduled with only a few weeks notice, my request was denied.

Nevertheless, it hardly matters that I was misled and then denied an opportunity to address you, or even if you strike my August 9 letter to you. This matter will certainly be heard by the County Board of Appeals. And if the Board does not protect Dipping Pond Run, I will initiate an action in the Circuit Court to protect my and my neighbor's riparian rights. But I must state for the record that Mr Barhight's letter affirmatively misrepresents the truth to you in numerous other aspects as well.

Mr Aumiller told me several times that the developers would permit only 7000-10000 sq. feet to be cleared on each lot. He also told me that he would allow me to review the restrictive covenants which the developers intended to place on the property, that he would permit me to comment on those covenants, and most importantly that he would work with me to ensure that those covenants protected the land from unreasonable use. Mr Aumiller was not able, however, to provide me with a copy of those covenants until July 26, 1995. And I did not review them even cursorily until the next evening when I met with him and learned that I had been misled.

I am not surprised that Mr Barhight misrepresents the truth. If you read his letter carefully, however, you will discern that he

RECEIVED

SEP 1 1995

ZADM



Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

September 20, 1995

G. Scott Barhight, Esq.
Whiteford, Taylor, Preston
210 W. Pennsylvania Avenue, Suite 400
Towson, MD 21204-4515

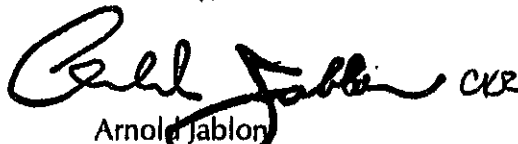
RE: Development Plan Hearing
SW/S of Falls Rd. 350' NW of
Brooklandwood Rd.
(Westwicke)
District: 8 c 3
Scottish Development Co., Inc. - Applicant
File No.: VIII-651

Dear Mr. Barhight:

Please be advised that an appeal of the above-referenced case was filed in this office on August 31, 1995 by Harold H. Burns, Jr., Esq. on behalf of himself and all other owners of riparian rights in Dipping Pond Run, including specifically Margaret V. Burns, Scott and Susan Fine and the estate of W. James Howard. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals (Board). Please note that the appeal is for the development plan only; the special exception request has not been appealed.

If you have any questions concerning this matter, please do not hesitate to contact the Board at (410) 887-3180.

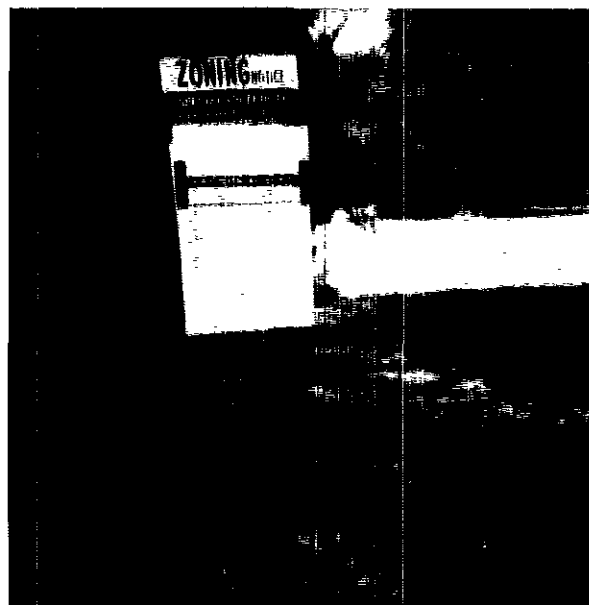
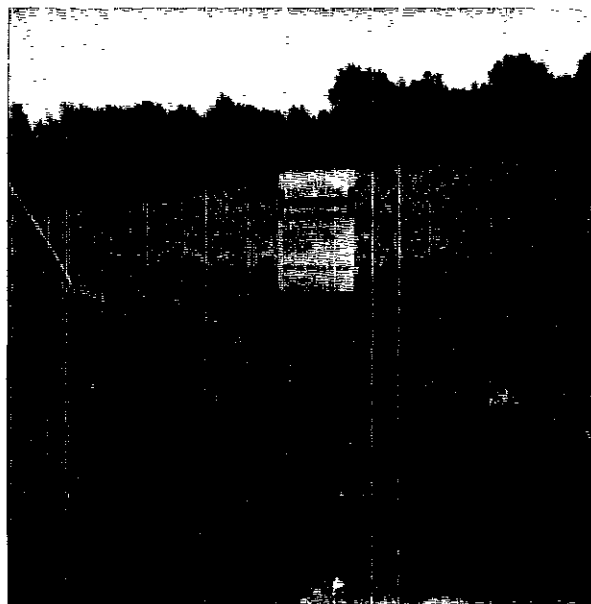
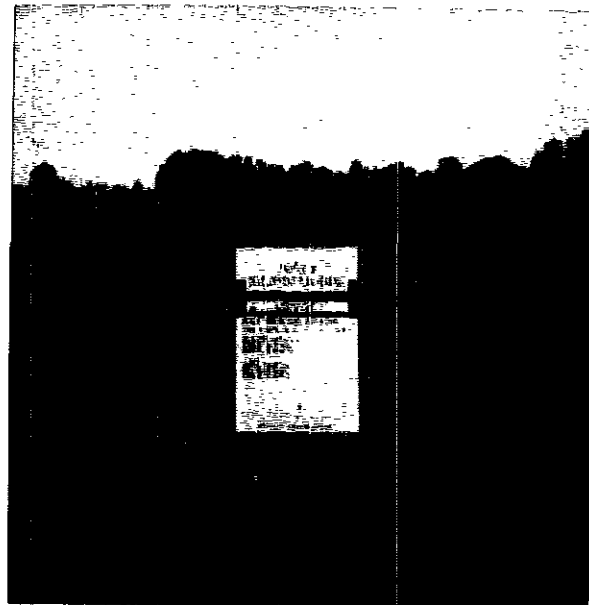
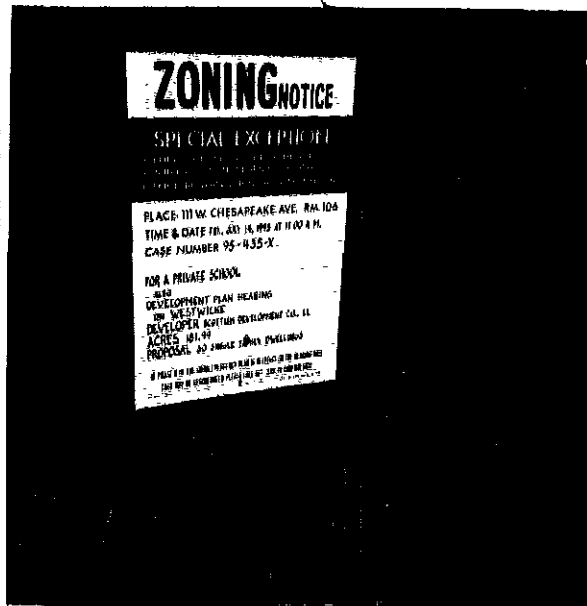
Sincerely,


Arnold Jablon
Director

AJ:ckr

c: Mr. Robert Aumiller and Mr. Clark F. Mackenzie
Mr. Rick Chadsey and Mr. David Martin, G. W. Stephens and Associates
Mr. John Bernstein and Ms. Kristen Forsyth, Valleys Planning Council
Mr. A. D. McComas, Executive Director, Falls Road Community Association
Mrs. Carol Mula
Mr. Randy Farnum
People's Counsel

MICROFILMED



Lawrence Schmidt
Zoning Commissioner for Baltimore County
August 15, 1995
Page Two

does not in fact deny anything that I have stated herein or in my August 9 letter to you. Further, when Mr Aumiller testifies before the Board of Appeals, I will be astonished if he does not confirm the truth of what I have just written and to the truth of which I will then swear.

Finally, Mr Barhight's last paragraph, though irrelevant, is the most absurd fabrication. The developer's original plan proposed the construction of a very large storm water management pond on the northwestern edge of the property perched about 25 feet from the edge of the **steepest** slope in the entire valley of the Dipping Pond Run and directly above the Run. The developer thus redesigned its storm water management plan because that plan promised an environmental disaster, not as any accommodation to me.

The developer has "bent over backwards" only to mislead you and me and the community so as to push through the County regulatory authorities a development of mansions on one of the most sensitive pieces of RC land in the County. As such, the development plan presented to you proposes a grossly unreasonable use of the land and concomitantly promises a gross violation of my and my neighbor's riparian rights. In sum, if this development were to proceed as proposed, Dipping Pond Run would be destroyed as the last natural trout stream in the entire Jones Falls watershed.

Thank you for your attention in this matter.

Very truly yours,

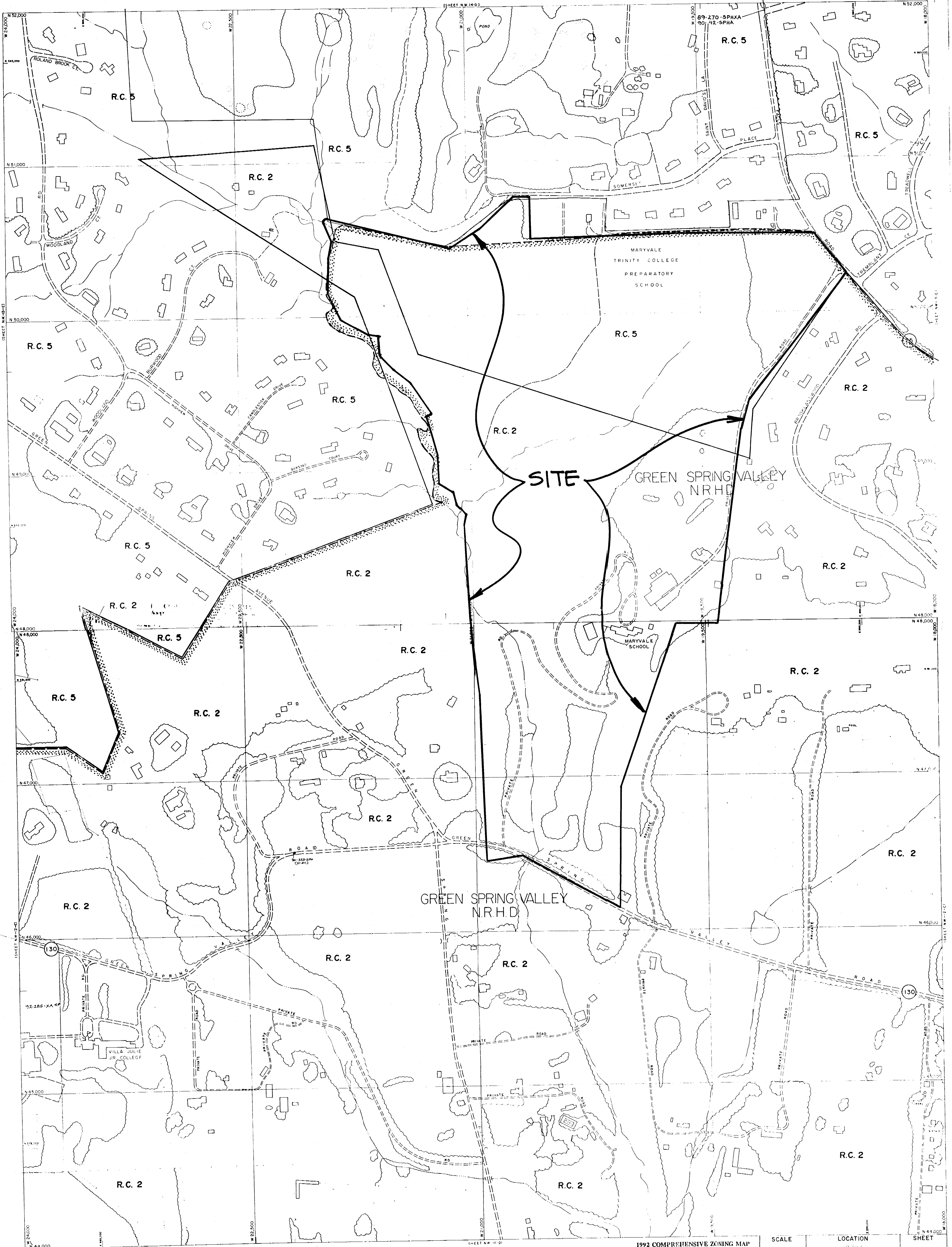

Harold H. Burns, Jr.

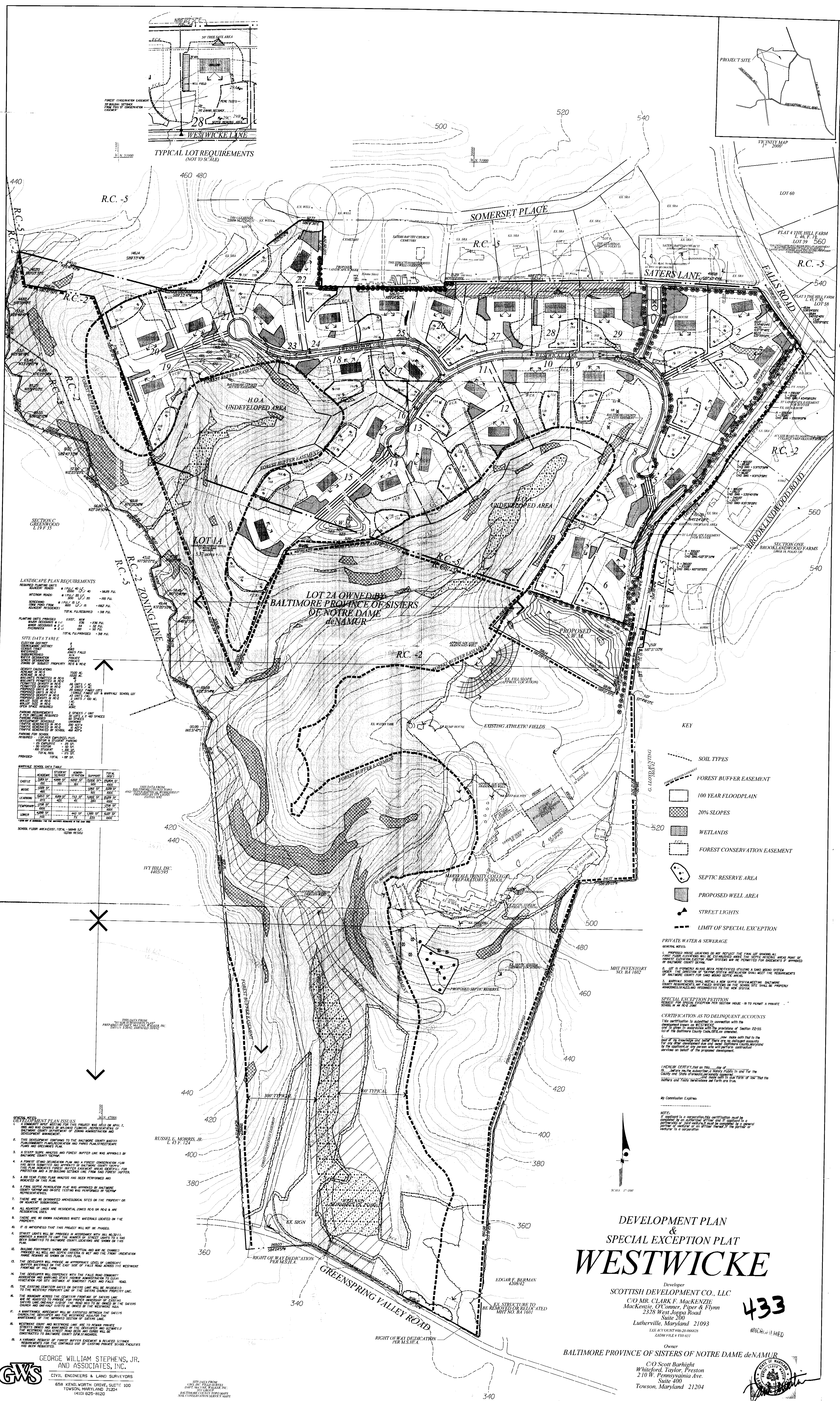
cc: Margaret V. Burns (hand-delivered)
Scott and Susan Fine
David C. Flowers, Project Manager, Baltimore County
Robert J. Aumiller, Esquire
H. George Meredith, Jr., President
and Mr. Doug McComas, Executive Director
Falls Road Community Association, Inc.
John C. Bernstein, M.D., Executive Director
Valleys Planning Council, Inc.
G. Scott Barhight, Esquire
Counsel for the Sisters of Notre Dame De Namur
David L. Warnock, President
Trout Unlimited of Maryland
T. Bryan McIntire, County Councilman
The Honorable C.A. Dutch Ruppertsberger, County Executive
Dr. Douglas Carroll

RECEIVED

SEP 1 1995

ZADM





95-435-X ^{May}

May 22, 1992

IN RE: DEVELOPMENT PLAN HEARING AND PETITION FOR SPECIAL EXCEPTION
SW/S Falls Road, 350 ft. NW of Brooklandwood Road (Westwicke)
8th Election District
3rd Councilmanic District
Scottish Development Co., Inc. LLC
Applicant/Developer

* BEFORE THE HEARING OFFICER/
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY.
* Case Nos. VIII-651 & 95-435-X

HEARING OFFICER'S OPINION & DEVELOPMENT PLAN AND VARIANCE ORDER

This matter comes before the Zoning Commissioner/Hearing Officer as a combined hearing, for approval of a development plan (Developer's Exhibit No. 1), submitted by Scottish Development Co., Inc. LLC and as a Petition for Special exception, seeking approval of a private school (Maryvale School) operated by the Baltimore Province of Sisters of Notre Dame deNamur, Inc. Both the development plan approval and the special exception case relate to the property located at 11320 Falls Road in Brooklandville. The matter was combined for public hearing pursuant to Section 26-206.1 of the Baltimore County Code.

Appearing at the required Hearing Officer's hearing was Robert Aumiller and Clark F. MacKenzie from Scottish Development Company, Inc., LLC. They were represented by G. Scott Barhight, Esquire. Also present was F. Richard Chadsey and David Martin, from G.W. Stephens and Associates. Mr. Chadsey, a Professional Engineer and Mr. Martin, a Landscape Architect, prepared the development plan. Other consultants retained by the developer, including Jeff Jollis, John Canoles and Wes Guckert also appeared on behalf of the development plan. As to the special exception request, Sister Marie Kelly and Sister Shawn Marie Maguire appeared. Ed Halle, an engineer with Daft-McCune-Walker, Inc. also appeared in support of the Petition for Special Exception.

Also present were several representatives of the various Baltimore County agencies who evaluated the project. These included David Flowers,

the Project Manager, and Joseph Merry from the Office of Permits and Development Management (PADM), Leslie Schreiber from the Department of Public Works, Ervin McDaniel from the Office of Planning and Zoning and Bruce Seeley and Lee A. Dregier from the Department of Environmental Protection and Resource Management.

Numerous individuals from the surrounding community also appeared and participated in the hearing. It is of note that most of the residents left the hearing after the Developer's presentation. Apparently, their concerns about the plan were satisfied. Among the citizens who were present were A. Douglas McComas from the Falls Road Community Association, John Bernstein and Kristen Forsyth of the Valleys Planning Council, and Stuart Lyons, Randy Farnum and Carol Mula, all residents of the surrounding locale. Certain correspondence from community members was contained within the file prior to the hearing and was reviewed. Material received after the hearing cannot be properly considered by me.

As to the history of the project, a Concept Plan was submitted on March 13, 1995. Thereafter a Community Input Meeting was held on April 12, 1995 at St. Paul's School. The Development Plan was submitted and a conference was held on June 21, 1995. The Hearing Officer's hearing was scheduled and held on August 3, 1995.

The hearing was bifurcated and consideration was first given to the development plan. As to that plan, Robert Aumiller, Executive Vice-President of the corporate developer appeared and testified. He noted that the total site under consideration is 182 acres in area. Of this acreage, 112 acres is zoned R.C.2 and approximately 70 acres is zoned R.C.5. The corporate developer is under contract to purchase from the Sisters the 70 acres zoned R.C.5. The proposed residential development will be on this acreage. The Maryvale School, which is operated by the Baltimore Province of

- 2 -

the Sisters of Notre Dame deNamur, will retain the balance of the acreage for the school, contingent on the special exception approval.

The developer proposes construction of 29 individual single family lots. A prestigious community of single family homes will be constructed. Vehicular access to the site will be by way of Saters Lane from Falls Road. Each lot will be served by a private well and septic system. There will be three storm water management ponds constructed on the site. Individual lots will range from 1.25 acres in area to 3.00 acres. Mr. Aumiller also testified extensively about features of the plan, including landscaping, designed to minimize impact on the surrounding locale. Portions of the proposed landscape plan were submitted (Developer's Exhibits 2A, 2B and 2C) which disclose that the Developer proposes not only on site, but offsite, landscaping. Mr. Aumiller also confirmed that no improvements to Greenspring Valley Road would be made and that vehicular access to the residential community will be solely from Falls Road/Saters Lane.

Pursuant to Section 26-206, the Hearing Officer is required to determine if any outstanding or unresolved issues exist which would prohibit approval of the plan. In this regard, counsel for the Developer indicated that there were no unresolved issues. This was corroborated by the County Agency representatives who were present. Mr. Schreiber, in particular, noted that his agency's written comments of June 15, 1995 need be incorporated, a condition to which the Developer agrees. Other County representatives and Development Plan comments observed that all regulations, standards and requirements of the County were satisfied.

Several concerns were raised by community representatives. Ms. Mula and Mr. Farnum, both who reside north of the site, were concerned about vehicular access. They fear that the anticipated traffic might overcrowd

- 3 -

Saters Lane and result in increased congestion in the interior of the site.

In this regard, testimony was received on behalf of the Developers from not only Mr. Aumiller but also Wes Guckert, Traffic Engineer, and from other consultants retained by the Developer. These witnesses noted that in order to keep the school and residential community separate and distinct, the Sisters of Notre Dame deNamur, Inc., desired that vehicular roadway leading to Maryvale School from Falls Road be used exclusively for that purpose. That is, that roadway would not be used to serve the proposed houses. In order to accommodate the Sisters, the Developer agreed to access the community only from Saters Lane. Mr. Guckert also testified that sight distance both north and southbound on Falls Road from Saters Lane was excellent. In his view, the proposed access was the safest alternative and the most practical point of ingress/egress to the property. Another concern raised by the community related to landscaping. Again, Ms. Mula and Mrs. Farnum were concerned that a sufficient buffer be implemented to screen the existing houses to the north. In this regard, Mr. Martin submitted portions of a proposed landscape plan. As noted above, this exhibit (Developer's Exhibit 2A through 2C) proposes plantings offsite to further screen the development. Obviously, neither the Developer nor this Hearing Officer has authority to order that offsite property owners acquiesce to landscaping on their property. However, I will condition approval of this Order to provide that if those property owners so agree, the Developer shall install landscaping as shown on the relevant exhibits. In my view, proposed landscaping, both onsite and off, provides a sufficient screen.

Other concerns expressed related to the Dipping Pond Run, a stream which crosses a small portion of the site. In this regard, both Mr.

- 4 -

Farnum and Stuart Lyons expressed concerns about the environmental repercussions of the development on the stream system. Mr. Chadsey responded as to this issue on behalf of the Developer and fully addressed these concerns. He noted that there was a significant buffer distance from the disturbed areas to the stream and that there will be no adverse impact. In this regard, I will rely on the regulatory authority of DEPRM to monitor the development. In my view, the development appears to be located a sufficient distance away from environmentally sensitive areas, so that no adverse impact will result. The development plan comments from DEPRM are particularly persuasive on this issue. The plan meets and/or exceeds all environmental standards and safeguards. All construction monitored by DEPRM and in accordance with prescribed rules and regulations, will ensure that no adverse environmental effects will result.

Other concerns expressed by the citizens present included a question regarding the amount of clearing on each lot. It was indicated that 12,000 sq. ft. of clearing will occur on each lot, an amount which appears appropriate in context with the size of the proposed houses and the scheme of this development.

Based upon the standards to be applied as set forth within Section 26-206 of the Code, I am persuaded to approve the development plan. This is a first class plan which will result in a well thought out development. It is clear that the Developer has been sensitive to the concerns of the surrounding community and has made efforts to exceed county standards. For these reasons, the development plan should be approved. There is no evidence within the record of this case which would warrant a denial or modification of the plan.

The Petition for Special Exception relates solely to the Maryvale School. Testimony was received, in this regard, from both Sister Marie

- 5 -

Kelly and Sister Shawn Maguire. Sister Marie is the Provincial Moderator of the school and Sister Shawn, the Head Mistress. The Maryvale School has been located at this location since approximately 1945. It is an all girl school of approximately 240 students. Education for grade 6 through 12 is provided. The Sisters have expressed no desire to increase the level of students; stating that 300 students would be the maximum amount of enrollment. In fact, they agree to a restriction to that number.

A number of photographs were submitted of the campus. The site is improved by a series of buildings including an administrative building known as "The Castle". Also a lower school building exists as does an upper school building and gymnasium. In order to meet the ongoing needs of its students, Maryvale proposes construction of an additional building on site. The building will be, as shown, on the site plan. Clearly, the building will not be visible from the surrounding locale and is entirely consistent with the present campus. As Mr. Hale aptly noted, of the approximately 112 acres to be retained by the school, only 18 acres are developed. There exists a significant buffer from the campus buildings in all directions towards the perimeter of the site.

It is clear that the Petition for Special Exception relating to the school should be granted. Indeed, this use may be a permissible nonconforming use, however, the special exception will legitimize the operation of the school at this location. It is clear that the use of the property to support the Maryvale School is entirely appropriate and will not detrimentally affect the surrounding locale in any manner. I am convinced that the Developer has satisfied the burden set forth within Section 502.1 of the BCZR and the case law. Thus, the Petition for Special Exception shall be granted and the development plan approved.

- 6 -

Pursuant to the development regulations of Baltimore County, as contained within Subtitle 26 of the Baltimore County Code, the advertising of the property and the public hearing thereon, I will approve the development plan consistent with the comments set forth above and shall so order.

THEREFORE, IT IS ORDERED by the Zoning Commissioner of Baltimore County this 17th day of August, 1995, that the development plan submitted in the within case as Developer/Petitioner's Exhibit No. 1, be and is hereby approved in accordance with the terms and conditions as set forth herein; and,

IT IS FURTHER ORDERED that the Developer shall prepare and submit to Permits and Development Management (PADM), within 10 days from the date of this Order, a development plan which reflects and incorporates the terms, conditions, and restrictions, if any, of this opinion and Order; and,

IT IS FURTHER ORDERED that, pursuant to the Petition for Special Exception, approval for a private school, be and is hereby GRANTED, subject, however, to the following restrictions:

1. The maximum enrollment of the Maryvale School shall not exceed 300 students without amendment of the Petition for Special Exception and site plan attendant therewith, and public hearing held thereon.
2. The Developer, with the consent of adjoining property owners, shall install off site landscaping substantially similar to that shown on Developer's Exhibits 2A through 2C.

Any appeal from this decision must be taken in accordance with Section 26-209 of the Baltimore County Code and the applicable provisions of law.

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:mmm

- 7 -

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning



Suite 112 Courthouse
400 Washington Avenue
Towson, MD 21204

(410) 887-4386

August 16, 1995

G. Scott Barhight, Esquire
210 W. Pennsylvania Avenue, 4th floor
Towson, Maryland 21204

RE: Development Plan Order and Petition for Special Exception
Case No. II-535 and 95-435-X
Project: Westwicke
Developer/Applicant: Scottish Development Co., Inc., LLC

Dear Mr. Barhight:

Enclosed please find the decision rendered in the above captioned case. The Hearing Officer's Opinion and Development Plan Order and Petition for Special Exception have been approved with restrictions.

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 the office of Zoning Administration and Development Management (ZADM), at 887-3353.

Very truly yours,

LAWRENCE E. SCHMIDT
Zoning Commissioner

LES:mmm

att.

cc: Messrs. Robert Aumiller and Clark F. MacKenzie
Messrs. F. Richard Chadsey and David Martin, G.W. Stephens & Assoc.
Mr. John Bernstein and Kristen Forsyth, Valleys Planning Council
Mr. A.D. McComas, Executive Director, Falls Road Community Assoc.
Mrs. Carol Mula
Mr. Randy Farnum
cc: Mr. Dave Flowers, Project Manager, Office of PADM
cc: Other Reviewing County Agencies



Petition for Special Exception

to the Zoning Commissioner of Baltimore County

for the property located at 11300 Falls Road, Brooklandville, MD 21022

which is presently zoned R.C.2

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 private school.

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

(Type or Print Name)

Signature

Address

City

State

Zipcode

Attorney for Petitioner

G. Scott Barhight

(Type or Print Name)

Signature

210 W. Pennsylvania Ave., 4th Floor

Towson, MD 21204

Phone No. 832-2050

Fax No. 832-2050

City

State

Zipcode

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Legal Owner: The Baltimore Province of the Sisters of Notre Dame de Namur, Inc.

11320 Falls Road (Westwicke)

District: 8c3

Zoning: R.C.-2 & R.C.-5

Acres: 70 acres (RC-5) & 112 acres (RC-2)

Attorney: Scott Barhight

Check from Whiteford, Taylor & Preston

Please Make Checks Payable To: Baltimore#66633:07PM04-01-95

Cashier Validation

03A03#0044MCHRC

\$370.00

Number 433 (WCR)

DROP-OFF — NO REVIEW

6/1/95

#050 - SPECIAL EXCEPTION \$300.00

#080 - SIGN POSTING (2 @ \$35) 70.00

TOTAL \$370.00

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TOTAL \$370.00

Legal Owner: The Baltimore Province of the



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

July 5, 1995

G. Scott Barhight, Esquire
210 W Pennsylvania Ave., 4th Floor
Towson, Maryland 21204

RE: Item No.: 433
Case No.: 95-435-X
Petitioner: The Baltimore Province
of the Sisters of Notre Dame
de Namur, Inc.

Dear Mr. Barhight:

The Zoning Advisory Committee (ZAC), which consists of representatives from Baltimore County approval agencies, has reviewed the plans submitted with the above referenced petition, which was accepted for processing by Permits and Development Management (PDM), Zoning Review, on June 1, 1995.

Any comments submitted thus far from the members of ZAC that offer or request information on your petition are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. Only those comments that are informative will be forwarded to you; those that are not informative will be placed in the permanent case file.

If you need further information or have any questions regarding these comments, please do not hesitate to contact the commenting agency or Joyce Watson in the zoning office (887-3391).

Sincerely,
W. Carl Richards, Jr.

W. Carl Richards, Jr.
Zoning Supervisor

WCR/jw
Attachment(s)



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

TO: Mr. Arnold Jablon, Director
Zoning Administration and
Development Management
July 12, 1995

FROM: J. Lawrence Pilson
Development Coordinator, DEPRM

SUBJECT: Zoning Item #433 - Maryvale
11320 Falls Road
Zoning Advisory Committee Meeting of June 12, 1995

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

Environmental Impact Review

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

Development of the property must comply with Regulations for Forest Conservation.

Ground Water Management

The School is served by wells and septic systems.

Prior to the approval of the record plat for the Westwicke Subdivision, repairs to the on-site sewage disposal system serving the Maryvale School must be completed.

Agricultural Preservation Program

The proposed project will impact the prime and productive soils on the site. The building expansion is on MCB2 soils.

An exemption can be granted, however, because the loss of those soil resources it will have no significant impact on agricultural resources of the area. Furthermore, the property is currently in nonagricultural use, and the proposed expansion will be part of an existing building.

JLP:TE:WL:sp

MARYVALE/DEPRM/TXTSBB

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration and Development Management
DATE: June 19, 1995

FROM: Robert W. Bowling, P.E., Chief
Developers Engineering Section

RE: Zoning Advisory Committee Meeting
for June 19, 1995
Items 428, 429, 431, 432, 433 and 434

The Developers Engineering Section has reviewed the subject zoning item and we have no comments.

RWB:sw

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration and
Development Management
DATE: June 15, 1995

FROM: Pat Keller, Director
Office of Planning and Zoning

SUBJECT: Petitions from Zoning Advisory Committee

The Office of Planning and Zoning has no comments on the following petition(s):
Item Nos. 433, 439, 441 and 445.

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3480.

Prepared by: *Jeffrey W. Long*

Division Chief: *Carol S. Demilio*

PK/JL

ZAC 433/PZONE/ZAC1



Maryland Department of Transportation
State Highway Administration

O. James Lighthizer
Secretary
Hal Kassoff
Administrator

6-7-95

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

Re: Baltimore County
Item No.: 433 (WCR)

Dear Ms. Watson:

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 project.

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,

Bob Small
for Ronald Burns, Chief
Engineering Access Permits
Division

BS/

Baltimore County Government
Fire Department



700 East Joppa Road, Suite 901
Towson, MD 21286-5500

(410) 887-4500

DATE: 06/08/95

Arnold Jablon
Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21204
MAIL STOP-1105

RE: Property Owner: THE BALTIMORE PROVINCE OF THE SISTERS OF NOTRE
DAME DE NAMUR, INC.
LOCATION: SW/S FALLS RD., 350' NW BROOKLANDWOOD RD.
(11320 FALLS RD.-WESTWICKE)

Item No.: 433 Zoning Agenda: SPECIAL EXCEPTION

Gentlemen:

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

4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.

5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standards No. 101 "Life Safety Code", 1991 edition prior to occupancy.

*. A RURAL WATER SUPPLY TANK FOR FIRE FIGHTING USE, OR THE INSTALLATION OF 13D SPRINKLER SYSTEMS, WILL BE REQUIRED.

REVIEWER: LT. ROBERT P. SAUERWALD
Fire Marshal Office, PHONE 887-4881, MS-1102F

cc: File



Printed on Recycled Paper

RECEIVED
JUN 9 1995

ZADM

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

June 8, 1995

G. Scott Barhight, Esquire
210 West Pennsylvania Avenue
4th Floor
Towson, MD 21204

RE: Preliminary Petition Review (Item #433)
Legal Owner: The Baltimore Province of the
Sisters of Notre Dame de Namur, Inc.
11320 Falls Road
8th Election District

Dear Mr. Barhight:

At the request of the attorney/petitioner, the above referenced petition was accepted for filing without a final filing review by the staff. The plan was accepted with the understanding that all zoning issues/filing requirements would be addressed. A subsequent review by the staff has revealed no unaddressed zoning issues and/or incomplete information. All revisions (including those required by the hearing officer) must be accompanied by a check made out to Baltimore County, Maryland for the \$100.00 revision fee.

If you need further information or have any questions, please do not hesitate to contact me at 887-3391.

Very truly yours,

Joseph C. Meier
Joseph C. Meier
Planner

JCM:scj

Enclosure (receipt)

c: Zoning Commissioner



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RE: PETITION FOR SPECIAL EXCEPTION
11320 Falls Road (Westwicke), SW/S Falls
Road, 350' NW of Brooklandwood Road
8th Election District, 3rd Councilmanic
The Baltimore Province of the Sisters of
Notre Dame de Namur, Inc.
Petitioners

BEFORE THE
ZONING COMMISSIONER
OF BALTIMORE COUNTY
CASE NO. 95-435-X

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

Peter Max Zimmerman
PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carol S. Demilio
CAROLE S. DEMILIO
Deputy People's Counsel
Room 47, Courthouse
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 3rd day of July, 1995, a copy of the foregoing Entry of Appearance was mailed to G. Scott Barhight, Esquire, Whiteford, Taylor & Preson, 210 W. Pennsylvania Avenue, Towson, MD 21204, attorney for Petitioners.

Peter Max Zimmerman
PETER MAX ZIMMERMAN



Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

September 20, 1995

G. Scott Barhight, Esq.
Whiteford, Taylor, Preston
210 W. Pennsylvania Avenue, Suite 400
Towson, MD 21204-4515

RE: Development Plan Hearing
SWS of Falls Rd. 350' NW of
Brooklandwood Rd.
(Westwicke)
District: 8 c3
Scottish Development Co., Inc. - Applicant
File No.: VIII-651

Dear Mr. Barhight:

Please be advised that an appeal of the above-referenced case was filed in this office on August 31, 1995 by Harold H. Burns, Jr., Esq. on behalf of himself and all other owners of riparian rights in Dipping Pond Run, including specifically Margaret V. Burns, Scott and Susan Fine and the estate of W. James Howard. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals (Board). Please note that the appeal is for the development plan only; the special exception request has not been appealed.

If you have any questions concerning this matter, please do not hesitate to contact the Board at (410) 887-3180.

Sincerely,

Arnold Jablon
Arnold Jablon
Director

AJ:ckr

cc: Mr. Robert Aumiller and Mr. Clark F. Mackenzie
Mr. Rick Chadsey and Mr. David Martin, G. W. Stephens and Associates
Mr. John Bernstein and Ms. Kristen Forsyth, Valleys Planning Council
Mr. A. D. McComas, Executive Director, Falls Road Community Association
Mrs. Carol Mula
Mr. Randy Farnum
People's Counsel

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WHITEFORD, TAYLOR & PRESTON
L.L.P.

210 WEST PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204-4515
410 832-2000
Fax 410 832-2015

1025 CONNECTICUT AVENUE, NW
WASHINGTON, D.C. 20036-5405
TELEPHONE 202 495-6600
FAX 202 511-0573

SEVEN SAINT PAUL STREET
BALTIMORE, MARYLAND 21201-1626
TELEPHONE 410 547-6700
FAX 410 752-7092

DAVID K. GILDEA
DIRECT V. NUMBER
410 832-2000

1417 KING STREET
ALEXANDRIA, VIRGINIA 22314-2928
TELEPHONE 703 836-5742
FAX 703 836-0265

May 31, 1995

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

Re: 11320 Falls Road, Brooklandville, MD 21022

Dear Mr. Jablon:

Enclosed please find a Development Plan and a Petition for Special Exception for Filing in the above-referenced matter. The filing of the Petition for Special Exception is in conjunction with the Development Plan, and as such, we request a combined hearing on the two.

To the best of our knowledge, no Zoning Technician has reviewed the Zoning Plat, and there are no violations of the Zoning Regulations.

Very truly yours,

David K. Gildea
David K. Gildea

DKG:dmk

cc: G. Scott Barhight, Esquire
49336

COPY

WHITEFORD, TAYLOR & PRESTON
L.L.P.

210 WEST PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204-4515
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TELEPHONE 410 547-6700
FAX 410 752-7092

G. SCOTT BARHIGHT
DIRECT V. NUMBER
410 832-2000

June 14, 1995

Via Hand Delivery

The Honorable Lawrence E. Schmidt
Office of Planning and Zoning
400 Washington Avenue
Towson, Maryland 21204

Re: Westwicke - ZADM No. VIII651
Case No. 95-435-X
Special Exception for Private School

Dear Mr. Schmidt:

This letter is to confirm our telephone conversation of June 12, 1995 regarding the above-referenced matter. As we discussed, a tenant house situated on the property which is the subject of the Westwicke Development Plan hearing was placed on the Preliminary Baltimore County Landmarks Preservation List on June 8, 1995. Pursuant to Baltimore County Code Section 26-207(a)(3), the Hearing Officer shall refer the Development Plan to the Planning Board when the plan involves a building included on the Preliminary Landmarks Preservation List. As a result of this designation, therefore, the Westwicke Development Plan must be referred to the Planning Board for comment to the Hearing Officer pursuant to Baltimore County Code Section 26-208.

During our telephone conversation you agreed that the Development Plan must be referred to the Planning Board and requested that I provide the project manager, Mr. David Flowers with a copy of this letter to confirm that the referral must occur. A copy of this letter is also being provided to Mr. Tim Dugan of the Office of Planning and Zoning who I understand establishes the scheduling and agenda for the Planning Board. It is my understanding, based upon recent conversations with Mr. Dugan, that the matter has been scheduled before the Planning Board for July 6, 1995. However, there is the possibility that the Planning Board would not complete its review of the matter until its next meeting on July 20, 1995.

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The Honorable Lawrence E. Schmidt
June 14, 1995
Page 2

The Hearing Officer's hearing is currently scheduled for July 14, 1995. Given the schedule of the Planning Board, and to ensure that the Planning Board recommendation has been made prior to your hearing, I respectfully request that you reschedule the Hearing Officer's hearing in this combined development/zoning case until after July 26, 1995.

Thank you for your kind attention to this request for postponement.

Sincerely,

G. Scott Barhight
G. Scott Barhight

GSB:slr
cc: Mr. David C. Flowers
Mr. Timothy C. Dugan
Mr. Clark MacKenzie
Mr. Robert J. Aumiller
Sr. Marie Kelly, SND
Ms. Gwen Stephens

50582

COPY

WHITEFORD, TAYLOR & PRESTON
L.L.P.

210 WEST PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204-4515
410 832-2000
Fax 410 832-2015

1025 CONNECTICUT AVENUE, NW
WASHINGTON, D.C. 20036-5405
TELEPHONE 202 495-6600
FAX 202 511-0573

G. SCOTT BARHIGHT
DIRECT V. NUMBER
410 832-2000

August 14, 1995

Via Hand Delivery

The Honorable Lawrence E. Schmidt
Hearing Officer/Zoning Commissioner
Old Courthouse, Room 112
400 Washington Avenue
Towson, Maryland 21204

Re: Westwicke - Case No. VIII-651

Dear Commissioner Schmidt:

This office recently received a copy of Mr. Burns' letter to you dated August 9, 1995. Since this letter was provided to you after the close of the record in the Development Plan case referenced above, I respectfully request that you strike it from the record and not consider its contents. The record in this matter has been properly closed and Mr. Burns has had every opportunity to voice his concerns regarding this Development Plan appeal.

Mr. Burns complains that the Westwicke Development will violate his riparian rights. As legal counsel for both the Sisters of Notre Dame de Namur and Scottish Development Company, LLC, please accept this letter as our complete and unequivocal denial that the Development Plan violates any rights enjoyed by Mr. Burns.

Further, Mr. Burns misrepresents to you certain statements allegedly made by Mr. Aumiller. Specifically, Mr. Burns improperly represents that Mr. Aumiller promised that the Westwicke Development would permit no more than 7,000 to 10,000 square feet to be cleared on each lot. Mr. Aumiller stands by his testimony that no more than 12,000 square feet of each lot will be permitted to be cleared. As is evident from the record, this area of clearing is well within the requirements of Baltimore County and very reasonable.

The Honorable Lawrence E. Schmidt
August 14, 1995
Page 2

Obviously, we have no objection to you notifying Mr. Burns of your decision as you would for any other interested person. It is unfortunate that Mr. Burns continues to behave so unreasonably after the Sisters of Notre Dame de Namur and Scottish Development Company, LLC have bent over backwards to accommodate every reasonable demand that Mr. Burns has placed upon the project. By example, Scottish Development Company, at considerable expense to the development, completely redesigned and relocated the proposed stormwater management facilities at Mr. Burns' request. This accommodation was agreed to even though the original placement of the stormwater facilities was completely in accordance with Baltimore County standards and environmentally sound.

Should you have any questions or comments regarding this response to Mr. Burns' letter, please feel free to contact me. Thank you for your kind attention to this matter.

Sincerely,
G. Scott Barhight
G. Scott Barhight

GSB:slr

cc: Harold H. Burns, Jr., Esquire
Mr. David C. Flowers, Project Manager
Mr. Douglas McComas, Falls Road Community Assoc.
Mr. John C. Bernstein, Valleys Planning Council
The Honorable C.A. Dutch Ruppersberger, County Executive
Mr. T. Bryan McIntire, County Councilman
Sr. Marie Kelly, SND
Mr. Clark F. MacKenzie
Robert J. Aumiller, Esquire

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RECEIVED
SEP 1 1995
ZADM

HAROLD H. BURNS, JR.
ATTORNEY AT LAW
Suite 201
210 East Lexington Street
Baltimore, Maryland 21202-3514
(410) 528-0044
Fax: (410) 576-7610

August 9, 1995

Lawrence Schmidt
Zoning Commissioner for Baltimore County

Old Court House
400 Washington Avenue
Room 112
Towson, Maryland 21204

Re: Westwicke - Case # VIII-651

Dear Commissioner Schmidt:

I have heard from David C. Flowers, the Project Manager, that you reviewed my July 28, 1995 letter to Robert Aumiller, counsel to the developer of the above-referenced project before the hearing last week. My letter to Mr. Aumiller was written in haste, but I hope that you were able to glean from it the gist of my complaints, to wit:

The Circuit Court for Baltimore County has found that Dipping Pond Run, the trout stream that flows along the western boundary of the Project Property and between it and my property, has been severely damaged by the repeated infusion of sediment from the Chestnut Ridge Country Club since 1989. A copy of the Court's Order of June 15, 1995 is enclosed.

Two unnamed tributaries flow from the Project Property into the Run. It is impossible for the developers of Westwicke to clear trees from any significant portion of the Project Property without causing the infusion of additional sediment into the Run. Mr. Aumiller repeatedly assured me and other adjacent landowners and Community Associations that the developers were aware of the Run's condition and the sensitive position of the Project Property vis-a-vis the Run, that the developers would permit no more than 7,000 to 10,000 sq. feet to be cleared on each lot -- which seemed generous to him and me -- and that they would take all other feasible precautions during development to minimize damage to the Run.

On Thursday, July 27, 1995 Mr. Aumiller told me for the first time that the developers intended to permit the clearing of as much as 12,000 sq. feet from each lot and that they would not require any special precautions to be taken by the individual builders.

Because of the sediment introduced into the Run by the Chestnut Ridge Country Club, the banks of the Run -- i.e., my and my neighbors' property -- are eroding at a vastly accelerated and

Lawrence Schmidt
Zoning Commissioner for Baltimore County
August 9, 1995
Page Two

unnatural pace. The introduction of more sediment into the Run during the development of Westwicke and construction of its homes will further accelerate that erosion. Accordingly, the development as presented to you constitutes an unreasonable use of the land and a violation of my riparian rights.

For these reasons, I ask that you limit the Project in any manner calculated to limit the infusion of sediment into Dipping Pond Run from this Project.

Moreover, I ask that you notify me immediately of your decision in this matter, so that I may appeal it to the Board of Appeals in a timely fashion should I conclude that your decision would permit the developers to use the Project Property in an unreasonable manner in violation of my riparian rights.

Thank you for your attention in this matter.

Very truly yours,

Harold H. Burns, Jr.
Harold H. Burns, Jr.

Enclosure

cc: Margaret V. Burns (hand-delivered)
Scott and Susan Fine
David C. Flowers, Project Manager, Baltimore County
H. George Meredith, Jr., Pres.
and Mr. Doug McComas, Exec. Director
Falls Road Community Association, Inc.
John C. Bernstein, M.D., Exec. Director
Valleys Planning Council, Inc.
G. Scott Barhight, Esquire
Counsel for
Sister Marie Kelly, SND, Pres., Board of Trustees
Sisters of Notre Dame de Namur
David L. Warrack, President
Trout Unlimited of Maryland
T. Bryan McIntire, County Councilman
The Honorable C.A. Dutch Ruppersberger, County Executive
Dr. Douglas Carroll

