6/30/09

IN THE MATTER OF THE APPLICATION OF CARROLL COMMUNITY CHURCH – CP; ESTATE OF CATHERINE V. BOND - PETITIONERS FOR SPECIAL EXCEPTION ON PROPERTY LOCATED ON THE SEC MT. GILEAD AND EMORY ROADS (1702 EMORY ROAD) 4TH ELECTION DISTRICT 3RD COUNCILMANIC DISTRICT	*	BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY Case No. 99-503-X
AND	*	AND
RE: REQUEST FOR LIMITED EXEMPTION	*	Case No. CBA-00-105

* * * * * * * * *

OPINION

This matter comes before the Board of Appeals for Baltimore County on appeal from an Order granting Carroll Community Church, Inc., Petitioner, a special exception for a new church building and related facilities to be located at 1701 Emory Road. The request for special exception was granted below by Zoning Commissioner Lawrence E. Schmidt, with certain restrictions, on September 24, 1999.

An appeal was timely filed to the Board by Carroll Community Church as well as by the Hanover Road Association, Inc.; Finksburg Planning Area Council; E.L. Bond, Jr., Melvin J. Fair, Chris L. Bond, and Shirley Green Elseroad, Protestants; and by the People's Counsel for Baltimore County.

In a related matter, a request by Carroll Community Church for a limited exemption from the Baltimore County development review process under Section 26-171 (b)(9) was denied by Arnold Jablon, Director of Permits and Development Management for Baltimore County. A timely appeal from that denial was taken by Carroll Community Church and both appeals were consolidated before the Board for purposes of trial.

Testimony began on June 20, 2000 and was completed on February 15, 2001, after a total of nine (9) days of trial. Carroll Community Church ("the Church") was represented by its attorneys, G. Scott Barhight and Julie A. DiGrigoli; Protestants were represented by J. Carroll Holzer, Esquire; and the Office of People's Counsel was represented by Peter A. Zimmerman and Carol A. Demilio, People's Counsel and Deputy People's Counsel for Baltimore County respectively.

Pastor Joseph A. Duke testified that he had helped form the institution in 1987; that its members came from various areas of Baltimore, Carroll, Frederick, and Howard counties, and parts of Pennsylvania, and numbered some 1,100 total members, of whom he estimated 800 attended regular Sunday services. He described the full- and part-time staff of the institution and stated that the Church had purchased the land in August of 1999 in response to its growth needs in the 1990s and beyond.

He briefly described the proposed project, including a 2,000-seat sanctuary, classrooms, meeting rooms, offices, and athletic facilities. He also described a separate meeting lodge of some 3,000-4,000 square feet with a capacity for 16-20 people. He confirmed that there were no plans for a day school or high school, nor for a commercial daycare facility (although some daycare would be available for members attending church events). He stated that the property and its facilities would not be available for rentals to commercial entities or purposes, but that other non-profit organizations might be allowed to rent and utilize the site. He also noted that the athletic fields would be used in daylight only and would have no lighting capabilities. He concluded his testimony by briefly describing the phases of the proposed construction and assured the Board that the Church would abide by all applicable laws, regulations, and determinations in completing the project.

Mickey Cornelius, a registered professional engineer with twelve (12) years of experience in highway and traffic engineering, and presently President of The Traffic Group, Inc., was called by the Petitioner and, after *voire dire*, was accepted as an expert in traffic planning and engineering. He described the various tests and examinations carried out by him at the subject site, including traffic volume counts, 24-hour directional counts, and portable tube counts on the intersecting road, Md. Route 91. He described his use of trip generation analyses, based upon the generally accepted Institute of Traffic Engineering generation rates (also relied upon by the State Highway Administration), which forecast volumes of traffic and various level of service studies. He included in his testimony the description of the various types of counts at various peak hours and other times, including Sunday mornings, concluding that the volume from Monday through Friday was at only 21 percent of the road capacity and that Saturday and Sunday morning use was at approximately 10 percent of capacity. He stated that Route 91 is a high-volume highway which is operating well below capacity. He testified that he had established access to the site 800 feet south of Mt Gilead Road and recounted the two (2) lane access of the site to Route 91 of some 700 feet, well below the 460 feet required for the 45 mile per hour posted speed limit as well as the corresponding requirements at higher speeds of 55 and 60 miles per hour, all set by the Maryland State Highway Administration.

He testified that the intersection of the access to the site and Route 91 would operate at an "A" level (it should be noted that the intersection of Route 91 and Route 30 operates at a "C" level) and would not negatively impact Route 91. In any event, the witness offered that, since the site's access was onto a state highway, the State Highway Administration must review the plan and issue an access permit. A traffic impact analysis will be provided to the State as part of the application for that permit.

The witness noted that vehicles waiting to egress the property will "stack on site" resulting in minimal delays on the two-lane access to Route 91.

Turning briefly to the question of the various routes to the site, he described the options available to reach the proposed church, including his personally conducted timed runs for each, concluding times of maximum use based upon road size and configurations, and his personal and professional experience that regardless of use, drivers primarily base route judgements upon time and ease of road use, and that Route 91 would be the prime avenue of approach to the proposed site. He acknowledged that there is some 500-foot sight distance from Emory Road to southerly Route 91 and that there was a potential issue of vehicles turning from Mt. Gilead Road south onto Route 91.

Briefly addressing the issue of parking, he noted that the parking plan proposed by the Petitioners exceeded the requirements of the *Baltimore County Code* and could be adjusted to even higher capacities, utilizing "stadium parking" procedures.

In sum, the witness reached various conclusions during the course of his testimony as a result of his extensively described research, testing, and evaluation. These included his opinion that the proposed church did have safe access onto State Highway Route 91 and would not have a detrimental impact upon that road. He concluded that churchgoers will, in all likelihood, utilize State Highway Route 140 and Route 91 to reach the church property as the quickest and best route available, and would not, in any significant numbers, utilize Mt. Gilead Road. He concluded, therefore, that the site could be developed as proposed without adversely impacting surrounding area traffic conditions and would not create traffic congestion on the public road system any greater than the traffic impact ordinarily expected from such an institution.

Robert Bradley, a registered professional engineer and President of Morris and Ritchie Associates, Inc., was called by the Petitioner. After *voire dire* in which he described his 35 years of experience in civil engineering and land planning, the Board accepted him as an expert in planning, zoning, surveying, and civil engineering.

He described the site as 70.66 +/- acres, with 47.56 +/- acres zoned R.C. 2 and 15.46 +/- zoned R.C. 4. He noted that 63.02 acres are located in Baltimore County and 7.64 acres in Carroll County. Further, he stated that 28.86 acres would remain open and/or lawn space, 25.67 acres would be forested, 6.6 acres would remain in meadow grass, and 0.8 acres would be planted in crops. He concluded, therefore, that only 9.19 acres (all of which are in the R.C. 2 zone) would be developed. This would include, in part, the building envelope of 45,000 to 55,000 square feet, which would remain constant whether or not the proposed main sanctuary held the 2,000 seats requested by the Petitioner or the 1,200 seats called for in the Zoning Commissioner's Order below.

Noting that the proposed septic reserve of the project exceeds Baltimore County standards, the witness testified that a Steep Slope-Erodible Soils Analysis and Forest Buffer Delineation Plan was submitted and approved by the Baltimore County Department of Environmental Protection and Resource Management (DEPRM). In addition, he stated that the Petitioner would provide water quality management and other suitable run-off outfall for the project. Moreover, he testified that the Petitioner had obtained a Storm Water Management Quantity Waiver from DEPRM, since peak flow as a result of the Petitioner's project will be reduced by approximately 12 percent.

Based upon his knowledge of the project as related in his testimony to the Board, the witness directed himself to the specific requirement of *Baltimore County Zoning Regulations*

(BCZR) § 502.1 and rendered his opinion individually as to each requirement therein, that the Petitioner's proposal met each requirement and in general would have no greater detrimental effect upon the health, safety, and general welfare of the locality, and was consistent with the purpose of the zoning classification as well as the spirit and intent of the zoning regulations. He also concluded that the project would have no adverse effect greater than or above and beyond what would result from the proposed use anywhere else in the zone.

Timothy Madden, a certified planner and registered landscape architect with experience of over 24 years, was called next to testify on Petitioner's behalf. The witness, who is Director of Land Planning and Landscape Architecture for Morris and Ritchie Associates, Inc., in their Washington Corridor office, was subjected to *voire dire*, presented to and accepted by the Board as an expert in land planning, landscape architecture, and zoning.

The witness described the vicinity of the proposed site in the Route 91 corridor and testified as to the so-called "adverse effects" one would normally expect from the Petitioner's proposed use, including traffic, noise, storm water management, and run-off, parking, and lighting. Noting that the proposed use is permitted on the site by special exception (without limitation as to size), he opined that the proposed use would not have an adverse impact above and beyond that which would ordinarily be expected of a like use elsewhere in the zone. He based his opinion upon his recognition of the site's location and access to Route 91, the surrounding road system, the overall size of the entire site, and the use of only 30 percent of the site for development purposes; as well as the topography, proposed buffering, and building placement on the site. In further support, he noted that the lighting plan for the project meets all applicable Baltimore County regulations and statutes and results in minimal impact on the surrounding area. Echoing Mr. Cornelius' testimony, he reiterated that the proposed traffic plan,

including its lane design, parking, and "stacking" of vehicles on-site, was in fact appropriate for the proposed use.

In comparison, he observed that the already existing Emory Church has more negative impact than the Petitioner's proposal as it is located on a smaller property, lacks water quality management, is closer to the intersection of Route 91 and Mt. Gilead Road, and has an older septic system.

The witness also addressed concerns as to the proposal's possible detrimental effect on local agriculture. He pointed out that the primary agricultural users of the area are Trenton Mill Farms and Lippy Brothers Mill, who are regional commercial grain operators in an area extending through several counties, including Baltimore and Carroll counties, and into Pennsylvania. Mr. Madden observed that these businesses, handling a capacity of 170,000 bushels of grain per year, would not be adversely affected by the loss of this one site as a grain producer. In fact, he expressed the thought that the decision to voluntarily take this site out of agricultural production would have a positive effect, as the proposed use would have less of an impact on the area's water quality than would other more intensive agricultural uses.

No less than twenty-one (21) witnesses appeared in the course of the hearing on behalf of the Protestants. The Board heard from Rhonda Mielke, an employee of Trenton Mill Farms. She testified as to her "global perspective" of the continued loss of agricultural land and its effect upon our food supply. She noted that, although her company had neither farmed nor stored grain on the proposed site, the existence of the church could have an adverse affect upon their ability to move equipment from one location to another, especially on Sunday mornings.

Wallace S. Lippincott, Jr., the Natural Resource Manager of DEPRM, testified in opposition to the proposed project. He presented a map outlining the tax and preservation

activities in rural legacy and agricultural easement programs in the vicinity. He defined the vicinity within the Master Plan designation of "Agricultural and Rural Uses" as the Raver Property to the south, Trenton Mill Farms to the north, west into Carroll County with Lippy Brothers Mill, and east to Black Rock Road in Worthington Valley. He testified that not only were there large grain and crop farms but that there were significant animal production activities in the area, such as horse farms and beef cattle farms, being operated. He opined that the proposed use was detrimental to local welfare, would overcrowd roads and land in the area, and, since it would remove land from agricultural production, would be detrimental to the agricultural use and activity in this part of the zone. He acknowledged, however, that the County could neither force a property owner to farm his land, nor prevent him from taking farmland out of production. He agreed that there were no unique, specialized, or particularly sensitive adjacent agricultural or animal production operations endangered by the proposed use.

The witness then introduced the concept of "Impermanence Syndrome." This theory generally suggests that the granting of a special exception for a large facility (such as the proposed use) will cause development in the area. While conceding that the concept is a theory only and that various experts in the field disagree as to its existence, validity, or actual real effect, the witness presented factors to be considered, including the land subject to pressure from other proposed uses, uncertainty, speculative land owners, elderly farmers, and abilities to practice farming versus the pressures of urban sprawl.

Although he noted that in applying this theory he had not performed what he acknowledged were many of the necessary analyses, including the ages of the local farmers, whether the surrounding farms were owner-occupied or already rented to commercial operators, the financial condition of the surrounding owners, and the existence of other already existing

development in the area, he nevertheless testified that it was his belief that, when applying this theory, the proposed use would drastically impact the neighborhood because of the current age of the farmers, the absentee owners, and the urban-use introduction of this church which would significantly impact the agricultural preservation efforts of the R.C. 2 zone.

Jack Dillon was called to testify. He appeared personally as well as on behalf of The Valley's Planning Council, of which he is Executive Director. He stated that, in his opinion, agriculture is the preferred use in this zone and that the proposed use was not compatible. While not referring to specific supporting data, he voiced concerns about increased road congestion, the overcrowding of agricultural land, and the existence and maintenance of the proposed site's septic system. He stated that he was concerned that the proposed use would generate more residential development and demand for housing in the area. He suggested that other locations in the zone could conceivably experience less impact as a result of the proposed use, as opposed to the site in question, noting however, that he had no specific information as to the appropriateness of any so-called alternatives. He conceded that The Valley's Planning Council would not necessarily support the project even if one of these other supposed sites were actually available and in fact utilized.

William Hughey, Third District Community Planner for the Baltimore County Planning Office, testified that he believed, the "regional" nature of the proposed use was incompatible with the area and could conceivably contribute to the destabilization of surrounding agricultural uses.

William Keeny, a registered architect and local resident, offered his concerns as to the size and the appearance of the project, as well as its effect on local traffic.

George Neubeck, chairman of the Hanover Road Association, testified on that organization's behalf in opposition to the proposed use and presented a video tape of the area which was viewed in open session by the Board.

He related his concerns and that of his Association as to the size of the proposed use and its resultant effect on the local area. In support of his contention that its "regional" nature was incompatible with the community, he presented an exhibit as to the existing "like" uses in the area. Under cross-examination he did concede, however, that he had not prepared the exhibit or gathered the information upon which it was based and was not aware personally of the acreage size relationships of any of the locations shown.

Mary Gay, President of the Piney Run Preservation Association, testified that she was concerned about the scale of the project, its effect on agriculture, traffic, and the environment.

Richard Isaac, a retired registered sanitarian with the Carroll County Health Department, voiced his fears about potential septic and water related problems generated by the proposed use; while agreeing that he had no specific data to present, and that the well and septic systems for the project would have to be approved by the State, pursuant to applicable established guidelines.

Neil Ridgely, the Town Manager of Hampstead, appeared and stated his concerns about the size of the facility, particularly as it is related to traffic issues and the removal of additional land for agricultural uses.

Peggy Goodman, a local resident on Mt. Gilead Road, registered her opposition to the proposed use and offered her opinion as to its effect on traffic, water quality, safety, and "quality of life" in the surrounding area.

Shirley Elseroad, an adjacent property owner whose land is farmed by Lippy Brothers, echoed other witnesses' concerns about traffic and loss of farmland. She stated her concern that

there were already "too many churches in the area," that the proposal was too large, that it could ultimately reduce property values, and would interfere with her and her family's ability to target shoot, hunt, or ride.

Melvin Fair, a Mt. Gilead Road resident employed at the nearby Emory United Methodist Church, testified as to his traffic concerns related to the proposed use and the possible effect on his own lifestyle, including noise and his ability to hear local wildlife.

Glen Elseroad, another Mt. Gilead Road resident, presented testimony before the Board. He stated that he is the developer of twenty-five (25) single-family homes on what was previously land along Glen Farms Road and rents farmland to both Lippy Brothers and Trenton Mill Farms. Although acknowledging that his own development activities sometimes interfere with the movement of farm equipment, he is concerned about the difficulties the proposed use could have on local agriculture and the rural status of the surrounding area. He also alluded to several other locations within the zone as alternative sites (some of which were previously mentioned by Mr. Dillon), although he too had no contact with the owners of those sites or knew if they were in fact even available, and if so, under what conditions.

Chris Bond, an adjacent property owner, testified regarding his concerns as to traffic, parking, and the possible outdoor use of the property.

Paul Hayes, who resides on Mt. Gilead Road, testified as to noise and traffic issues. He related that approximately 4 years previously the State Highway Administration had installed a flashing warning device on Route 91, some 400 feet from its intersection with Mt. Gilead Road.

Edgar Bond, a resident living across from the proposed site, echoed previous concerns regarding traffic, size, loss of agricultural land, and the effect generated by the "aesthetics" of the proposed use.

Charlotte Bond reiterated her husband's previously elicited concerns and provided her own thoughts as to noise, the possible serving of alcohol on the property, and the effect that the resulting light and noise might have on local wildlife.

Karen Silverman, a resident of Sykesville, explained to the Board how, as a child living in the area of the proposed use, she had discovered various Indian artifacts on properties near the proposed site. She did admit, however, that she has no formal archaeological training, had never searched for artifacts on the proposed site, and agreed that, to the best of her knowledge, the Maryland Historical Trust has no record of any artifacts or archaeological sites on the land to be utilized for the proposed use.

Douglas Myers, a resident on Emory Road, described several other churches in the area and their locations, opined that a small "country" church would be better suited at the proposed site, and voiced his concerns about already existing truck traffic on Route 91.

George Harmon, appeared as a member and President of the Hanover Road Association; and additionally was accepted by the Board after appropriate *voire dire* as an expert on the topics of noise, truck safety, and water quality. On behalf of himself and the Association, he communicated their questions and concerns about possible increases in traffic and in air and light pollution brought on by the proposed use, as well as the preservation of agricultural land and the quality of life in the area. Moreover, he related that the proposed use would be disruptive to the area and was more like a regional commercial enterprise than what he described as a "local" church. Additionally, he voiced the community's concerns as to possible outdoor activities and overall stormwater management.

The witness opined that the noise related to electrical amplified church bells, heating and air conditioning systems, outdoor music, and sports activities, would likely increase in the area

and would be felt in an especially acute way in what has always been an otherwise quieter rural area.

The witness then addressed his views regarding water pollution and the storm water control issues. He indicated concern about excessive runoff, the site's conformance with existing and proposed storm water regulations, the effect of the proposed development on local water temperatures in the local stream systems (which is a Class I trout stream), affecting wild life and possible ground water pollution.

Mr. Harmon also expressed his opinion as to what he believes to be potential traffic and truck related difficulties, as well as aesthetic objections to the project. Finally, he introduced as an exhibit a list of conditions suggested by his community to be considered by the Board in its deliberations.

David Martin was presented by People's Counsel as an expert in Agronomy related to soils and crop issues. Employed by the Baltimore County Soil Conservation Bureau and an Extension Educator at the University of Maryland Cooperative Extension Service, he described the soils at the site as productive and above average. He testified that, although he had done no specific studies at the proposed location, moving land out of agriculture in general would have negative effects and the proposed "urban" use would impact local farmers' ability to move equipment from one location to another.

Special Exception

The granting of special exceptions in Baltimore County is governed by §502.1 of the *Baltimore County Zoning Regulations* (BCZR). That section states:

> Before any special exception may be granted, it must appear that the use for which the special exception is requested will not:
>
> A. Be detrimental to the health, safety, or general welfare of the locality

involved;

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

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

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

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

F. Interfere with adequate light and air;

G. Be inconsistent with the purposes of the property's zoning classification nor in any other way inconsistent with the spirit and intent of these Zoning Regulations;

H. Be inconsistent with the impermeable surface and vegetative retention provisions of these Zoning Regulations; nor

I. Be detrimental to the environmental and natural resources of the site and vicinity including forests, streams, wetlands, aquifers and flood plains in an R.C. 2, R.C. 4, R.C. 5, or R.C. 7 Zone.

Additionally, churches or other buildings for religious worship are permitted as special exception uses in R.C. 2 zones pursuant to BCZR § 1AO1.2C.6, providing that such use would not be detrimental to the primary agricultural uses in its vicinity.

Our Appellate Courts have also addressed the granting of special exceptions. It is an accepted premise that all special exception uses have inherent adverse effects. *Mossberg v. Montgomery County* 107 Md. App.1, 666 A.2d 1253 (1995); *Schultz v. Pritts*, 291 Md. 1, 432 A.2d 1319 (1981). The mere existence of adverse effects as a result of the granting of a special exception use is not, in and of itself, relevant to the ultimate granting of such a use. *Hayfields v. Valley's Planning Council, Inc.* 122 Md. App.616, 641-649 (1998). The Petitioner "does not have the burden of establishing affirmatively his proposed use would be a benefit to the community" *Schultz*, at 291 Md.11; and such use, if it otherwise meets the requirements of the

applicable Baltimore county zoning regulations, will be granted "unless there are strong and substantial existing facts or circumstances showing that the particularized proposed use has detrimental effects above and beyond the inherent ones ordinarily associated with such uses." *Id.* at 14. Moreover, the Court has stated that "churches and schools are generally designated as permitted uses. Such uses may be developed, although at the particular location proposed, they may have an adverse effect on a factor such as traffic, because the moral and educational purposes served are deemed to outweigh this particular adverse effect." *Sharp vs. Howard County Board of Appeals*, 98 Md. App. 57, at 74-75 (1993). Finally, the challenge of a special exception request must fail if evidence is simply presented regarding adverse effects which are ordinarily associated with a church such as traffic, noise, and concentration of population. *Schultz* 291 Md. at 22-23; *Anderson v. Sawyer* 23 Md. App. 612;329 A2 716 (1974); *Sharp* 98 Md. App. at 74-76, 86.

The Board in its determination of this matter has reviewed the extensive testimony and applied it not only to the standards set forth in §§ 502.1 and 1A01.2.C of the *Baltimore County Zoning Regulations*, but also in light of the applicable case law. As previously stated, the proposed use as a church is permitted as a special exception use in an R.C. 2 zone at this particular site.

The Board unanimously finds that Petitioner has met its burden regarding the standard of 502.1 of the BCZR. Specifically (utilizing the same order that appears in the statute):

A. The Board has reviewed the plan as proposed. Petitioner's land planning and zoning expert, Mr. Madden, related the possible areas of adverse impact inherent in the project. He testified that, based upon the road system, the siting of the church building on the overall site, the actual development of only a small percentage of the overall acreage, the existing noise level

from vehicles already using Route I-91, the extensive woods and buffering of lighting and noise impact, as well as the overall topography of the site and area, the proposed use would not have a detrimental effect on the health, safety, and general welfare of the surrounding area. Upon review and consideration of his testimony, taken with the additional testimony of Pastor Duke as to the proposed activities of the church and the voluntary restrictions to which they have agreed, as well as the testimony of the remaining witnesses on both sides of the issues, the Board finds that the project would conform with § 502.1.A.

B. The Board was impressed by the testimony of the Petitioner's traffic expert, Mr. Cornelius. His evidence was based on extensive studies as to traffic flow, counts, trip generations, and levels of service as they exist. Neither his opinion based upon this data nor his ultimate specific conclusions of various factors related to the traffic impact of the proposed use on the site were in any way successfully rebutted by Protestants. In addition to the Board's determination of his accuracy and credibility, his testimony as to the direct access of the property onto Route 91 at an "A" level of service, the noting of sight distances and acceleration and deceleration lanes proposed for the project, his review of the presently low traffic volume of the road system and its ability to accommodate the additional volume which will be generated by the proposed use; as well as the fact that the proposed traffic plan meets all the required sight distances at various multiple speeds required by the State, supports the Board's determination that the project would not tend to create congestion in roads, streets, or alleys connected therein. The witness did, in addition, highlight a situation of concern as it relates to the intersection of Mt. Gilead Road and Route 91 and Mt. Gilead Road generally as an access road to the site. Testimony established that a flashing yellow light has been placed near that intersection to create a safer environment than that which existed previously.

The testimony of Petitioner's expert, including his explanation as to the "learning curve" of driver's determining the best route to a specific location, provides an appropriate basis for the Board's conclusion that, with some additional assistance from the church itself, Mt. Gilead Road will not become a primary access route to the proposed use. The Board additionally recognizes that, although it is convinced by the Petitioner's traffic expert's testimony as to the appropriateness of the site's access plans, such access will still require a granting of access permits by the State Highway Administration. Moreover, future traffic control analysis as to the intersection of Mt. Gilead Road and Route 91 could in fact result in a determination by the State that additional traffic control devices are necessary and warranted based upon actual traffic flow.

C. Mr. Bradley testified in great detail as to the safeguards and arrangements proposed regarding the danger of fire. He described the two underground water storage tanks dedicated to use by fire units, noted that the water resources in the tanks would be available to the fire department for use off premises and related that, in any event, all safety and health codes of both Baltimore County and the State of Maryland would be complied with. Based upon his testimony and the availability of access to the property by fire units through the road system, the Board is satisfied that the proposed church will not create a potential hazard from fire, panic, or other dangers.

D. The concentration of population as a result of the project was addressed by Mr. Cornelius from a traffic point of view and Mr. Bradley from that of planning and zoning. Both noted that there would be little concentration of population given the acreage of the site, the proposed use, and the fact that 70 percent of the proposed site would remain essentially undeveloped. In addition, Pastor Duke agreed on behalf of the church that there would be no

ongoing day school at the proposed site. Therefore, we find that the project will not tend to overcrowd land nor cause an undue concentration of population.

E. Mr. Bradley testified that the church's proposed septic reserve system exceeds Baltimore County standards. He noted the satisfactory and approved PERC test and described the storm water management system (including his opinion that it will actually be improved by the project). He testified that there would be a decrease in PERC water flow because of the project and that the management of septic and storm water would be accomplished through two water quality facilities located on the site. Both he and Mr. Cornelius stated that water quality would actually improve, as the property will not be utilized for agricultural purposes. Based upon the testimony of both Mr. Bradley and the previous traffic-related testimony by Mr. Cornelius, as well as the testimony of Pastor Duke as to the property's projected use, the Board finds that the proposed church will not interfere with adequate provisions for schools, parks, water, sewerage, transportation, or other public requirements, conveniences, or improvements.

F. Mr. Madden addressed himself to issues of light and air. He reiterated that only 30 percent of the property would be utilized for development and that based upon the buffering and topography as well as the building placement relative to the site (and distance from "scenic" Mt. Gilead Road), the property would not adversely affect the availability of adequate light and air. Moreover, he noted that, based upon the size and lighting plans, they will tend to keep light on site and, in any event, must and will meet all applicable County standards. Parking lights will be reflected away from residential areas and public streets. The Board finds, based upon the witnesses' testimony and the physical plan for the building in relation to the overall site, that the proposed use will not interfere with adequate light and air.

G. The County Council has determined to allow churches as a special exception use in R.C. 2 zones. By doing so, the Board recognizes that, subject to the requirements of BCZR § 502.1 and applicable case law, such a use may be consistent and compatible with R.C. 2 activities. There was ample evidence from witnesses on both sides that the proposed site is not now being used for agricultural purposes and that the major commercial farming businesses neither farm nor store grain upon the proposed site. The Board recognizes that this is a reasonably productive agricultural area as it presently exists and believes, based upon the testimony of Mr. Madden as well as Rhoda Mielke (a witness for the Protestants) and others, that the permanent removal of this property from agricultural use will not change the *status quo* of agricultural use or productivity in the area. Further, the point was made during the hearing that any owner of property in an R.C. 2 zone may remove land from agricultural production and cannot be required to commercially utilize R.C. 2 land. Finally, there was testimony as to the ability to move farm machinery from site to site being adversely affected by the proposed use, especially on Sunday mornings. Ms. Mielke testified on cross-examination that Trenton Mill Farms (her employer), as a part of its normal business, transports equipment to a number of locations around the area. The Board believes this to be a matter of scheduling and convenience on the part of the commercial and local agricultural operators. For all of the above, we find that the project is consistent with the purposes of the property's zoning as well as with the spirit and intent of these zoning regulations.

H. Mr. Bradley described the Soils Analysis and Forest Buffer Plan which had been approved by DEPRM. He also noted that the same agency has granted the project a stormwater management quality waiver, based upon the fact that the proposed use will actually decrease the peak water flow by some 12 percent. He opined that these factors, combined with the use

of only approximately 30 percent of the overall site with the remainder left to natural growth, is certainly consistent with, and in many ways in excess of, the requirements of the zoning regulations as to impermeable surfaces and vegetative retention. His testimony, unrebutted in any way, provides the Board with ample basis to find that the proposed use satisfies this requirement of BCZR § 502.1.

I. Finally, the Board, based upon the testimony of Mr. Madden and Mr. Bradley as set forth above, including but not limited to the percentage of proposed use of the site and the proposed environmental safeguards and facilities, finds that the project will not be detrimental to the environmental and natural resources of the site and the vicinity including forests, streams, wetlands, aquifers, and flood plains in the R.C. 2 zone.

Turning to the requirement of § 1AO1.2C.6, the Board finds that the proposed use will not be detrimental to the primary agricultural uses in its vicinity and that those agricultural uses will be able to continue to occur unabated. The testimony of both Mr. Madden and Mr. Bradley clearly supports this conclusion and, no expert or other witness presented by the Protestants either rebutted or set forth specific or credible concerns to the contrary.

Further, based upon the well-supported and documented testimony and opinions of the experts presented on behalf of the Petitioners, as set out above, the Board finds as a matter of fact that the proposed use at this location will not have a detrimental effect above and beyond the inherent ones ordinarily associated with the proposed use at this location or any other within the R.C. 2 zone.

The Board takes note that, over the many days of testimony, many Protestants' witnesses communicated their various general concerns to the Board regarding the requested special exception use. However, based on the totality of all testimony received, and the evaluation by

the Board of the specificity and credibility of each, we find unanimously that the appropriate showings and proof were provided by the Petitioner in support of the special exception.

Having so found, the Board will grant the requested special exception use requested by the Petitioner but, based upon the testimony and totality of the circumstances, will require various conditions. They include:

1. Building elevation drawings of the proposed building to be submitted to the Office of Planning for review and approval prior to the issuance of any building permits. The architectural design of the proposed building and the materials used thereon shall be compatible with the surrounding locale.

2 The church building and lodge shall be constructed of brick, stone, or other similar material.

3. Prior to the issuance of any permits, a landscape plan shall be submitted for review and approval by the landscape architect for Baltimore County. The landscaping shall be designed to buffer the proposed parking lot and church building and areas of active use on the property, including those areas of the site in Carroll County.

4. Lighting of the building and parking lot shall be minimal and sufficient to provide permitted use and to ensure security. A lighting plan shall be submitted to the Office of Planning for review and approval.

5. There will be no lighting of the proposed athletic field or activities thereon after sundown.

6. Other than the temporary construction of buildings, there will be no permanent structures on the site other than the proposed church building and lodge, as more particularly shown on the site plan.

7. The use of the buildings and facilities shall be restricted to activities associated with the church or for non-profit organizations and enterprises. There shall be no commercial activities permitted. The leasing of the premises for non-church related banquet or catering activities shall not be permitted.

8. Any daycare provided on the site shall be limited to church members only. No commercial daycare operation will be allowed.

9. There will be no freestanding antennae or broadcast towers on this site.

10. Alcoholic beverages shall not be permitted outside of the church and lodge buildings.

11. No all terrain vehicles, dirt bikes, motorcycles, or other similar vehicles (except those necessary for the continued maintenance of the property) shall be permitted to use the property.

12. There shall be no vehicular access to the site from Mt. Gilead Road. The Church shall communicate with its membership as to the nature of Mt. Gilead Road and its undesirability as an access route to the site. The Church shall request that the appropriate State and/or county agencies carry out an investigation as to the desirability and appropriateness of additional traffic control devices on or about the intersection of Mt. Gilead Road and Route 91.

13. When applying for a building permit, the site plan and landscaping plan filed must reference this case number, as well as enumerate and address the restrictions of the accompanying Order thereto.

14. No elementary, middle, or high school will be permitted on the site absent public water and sewage availability; all subject to applicable County laws and regulations.

15. All mechanical equipment, wherever located, shall be adequately screened from the community.

16. No carnivals will be permitted on the site.

17. All on-site signage must comply with current requirements and regulations.

Limited Exemption

The Petitioners had previously requested a limited exemption from the Baltimore County Development Review Process, pursuant to § 26-171 (b)(9) of the *Baltimore County Code*. The request was submitted to the Development Review Committee and reviewed by them. A recommendation was made to Arnold Jablon, Director of the Department of Permits and Development Management, and he determined to deny the exemption, communicating it to the Petitioner by his letter dated December 23, 1999. The Church filed a timely appeal from that decision and the matter was consolidated with the instant special exception matter. The Board agreed to bifurcate the appeals and ruled that the record in the special exception appeal would be incorporated in the limited exemption case.

The Petitioners presented the testimony of its expert witness Robert Bradley in support of the requested exemption. He testified that the proposed church would neither exceed the use of three lots nor would it require any public improvements or public works agreement. This

testimony was neither addressed nor disputed in any significant way by the Protestants. Petitioners also called Bruce Seeley of the Department of Environmental Protection and Resource Management, who testified that his agency believes that the exemption request is appropriate.

Section 26-171(b)(9) states that "a minor development, as defined in § 26-168, not to exceed a total of three (3) lots" is exempt from the requirements of a Community Input Meeting and Hearing Officer's Hearing pursuant to §§26-202 and 26-206. Section 26-168(cc) of the Code states:

> "Minor development" means :
>
> (1) A development without a public works agreement;
>
> (2) A residential development with a public works agreement involving only road widenings; or
>
> (3) A development in which the improvements are determined by the director of permits and development management as minimal under sections 26-239(b) of this article.

This Board has recently visited the issue of 26-171 limited exemptions in its decision in the matter of the application of *Seven Kids, LLC*, Case No. CBA-99-127 and Case No. CBA-99-128, issued August 31, 2000. In that matter, a (b)(9) limited exemption was requested. In its opinion, the Board noted that:

> [t]he Petitioners having established, through undisputed testimony, that this project does not exceed three lots in scope nor will it require a public works agreement. As such it qualifies as a "minor" development" under S26-168(cc) and therefore the granting of the exemption by Mr. Jablon under S26-171(b)(9) should and will be unanimously confirmed by this Board.
>
> Based upon the Board's evaluation of the state of the law as it relates to the *de novo* nature of an appeal from the denial or granting of an exemption under § 26-171 as set forth in *Seven Kids*, we likewise find in this matter that the undisputed testimony is that the project will

not exceed three lots in scope nor will it require a public works agreement. The Board therefore unanimously finds that Mr. Jablon's denial of the exemption in this matter was unsupported by the facts and evidence, constituted error on his part, and is hereby reversed. Petitioner's requested 26-171(b)(9) limited exemption is therefore granted.

Conclusion

Having found above as to the requested special exemption and request for limited exemption, an Order shall be issued in conformance with this decision.

ORDER

THEREFORE, IT IS THIS 26th day of June, 2001 by the County Board of Appeals of Baltimore County

ORDERED that the requested (b)(9) limited exemption pursuant to § 26-171 of the *Baltimore County Code* (Case No. CBA-00-105) be and the same is **GRANTED**; and it is further

ORDERED that the decision of the Director of the Department of Permits & Development Management, dated December 23, 1999, is therefore **REVERSED**; and it is further

ORDERED that the Petition for Special Exception to use the subject property for a church, pursuant to § 1A01.2C.6 of the *Baltimore County Zoning Regulations* (Case No. 99-503-X) be and the same is hereby **GRANTED**, subject to the following restrictions:

1. Building elevation drawings of the proposed building shall be submitted to the Office of Planning for review and approval prior to the issuance of any building permits. The architectural design of the proposed building and the materials used thereon shall be compatible with the surrounding locale.

2 The church building and lodge shall be constructed of brick, stone, or other similar material.

3. Prior to the issuance of any permits, a landscape plan shall be submitted for review and approval by the landscape architect for Baltimore County. The landscaping shall be designed to buffer the proposed parking lot and

church building and areas of active use on the property, including those areas of the site in Carroll County.

4. Lighting of the building and parking lot shall be minimal and sufficient to provide permitted use and to ensure security. A lighting plan shall be submitted to the Office of Planning for review and approval.

5. There will be no lighting of the proposed athletic field or activities thereon after sundown.

6. Other than the temporary construction of buildings, there will be no permanent structures on the site other than the proposed church building and lodge, as more particularly shown on the site plan.

7. The use of the buildings and facilities shall be restricted to activities associated with the church or for non-profit organizations and enterprises. There shall be no commercial activities permitted. The leasing of the premises for non-church related banquet or catering activities shall not be permitted.

8. Any daycare provided on the site shall be limited to church members only. No commercial daycare operation will be allowed.

9. There will be no freestanding antennae or broadcast towers on this site.

10. Alcoholic beverages shall not be permitted outside of the church and lodge buildings.

11. No all terrain vehicles, dirt bikes, motorcycles, or other similar vehicles (except those necessary for the continued maintenance of the property) shall be permitted to use the property.

12. There shall be no vehicular access to the site from Mt. Gilead Road. The Church shall communicate with its membership as to the nature of Mt. Gilead Road and its undesirability as an access route to the site. The church shall request that the appropriate state and/or county agencies carry out an investigation as to the desirability and appropriateness of additional traffic control devices on or about the intersection of Mt. Gilead Road and Route 91.

13. When applying for a building permit, the site plan and landscaping plan filed must reference this case number, as well as enumerate and address the restrictions of the accompanying Order thereto.

14. No elementary, middle, or high school will be permitted on the site absent public water and sewage availability; all subject to applicable County laws and regulations.

15. All mechanical equipment, wherever located, shall be adequately screened from the community.

16. No carnivals will be permitted on the site.

17. All on-site signage must comply with current requirements and regulations.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Lawrence M. Stahl, Panel Chairman

Charles L. Marks

Donna M. Felling

County Board of Appeals of Baltimore County

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

June 26, 2001

J. Carroll Holzer, Esquire
508 Fairmount Avenue
Towson, MD 21286

RE: *In the Matter of: Carroll Community Church, Inc.*
Case No. 99-503-X and Case No. CBA-00-105

Dear Mr. Holzer:

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

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules of Procedure*, **with a photocopy provided to this office concurrent with filing in Circuit Court. Please note that all Petitions for Judicial Review filed from this decision should be noted under the same civil action number.** If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

Charlotte E Radcliffe for
Kathleen C. Bianco
Administrator

Enclosure

c: E.L. Bond, Jr.
Melvin J. Fair
Chris L. Bond
Shirlee Green Elseroad
Glen Elseroad
G. Scott Barhight, Esquire /Julie DiGrigoli, Esquire
Carroll Community Church
Virginia B. Norwood, PR /Est of Catherine Bond
George H. Harman
Neil Ridgely
Robert Sellers, Esquire
Jack Dillon /Valleys Planning Council
People's Counsel for Baltimore County
Pat Keller, Director /Planning
Lawrence Schmidt, Z.C.
Arnold Jablon, Director /PDM
Robert W. Bowling PE /DPW
Recreation & Parks
Donald Rascoe /PDM

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Baltimore County, Maryland

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PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

April 26, 2001

01 APR 26 PM 4:51

Lawrence M. Stahl, Panel Chairman
County Board of Appeals
of Baltimore County
401 Washington Avenue, Room 49
Towson, MD 21204

Hand-delivered

Re: Petition for Special Exception
1701 Emory Road
SEC Mt. Gilead and Emory Rds,
4th Election District, 3rd Councilmanic
Estate of Catherine V. Bond,
Carroll Community Church, Petitioners
Case Nos.: 99-503-X and CBA-00-105

Dear Chairman Stahl:

We object to the Petitioner's memorandum in reply to that of the County Office of Law because it exceeds the scope of a true reply. Rather, it is in the nature of a new round of argument.

For reasons stated in our main Memorandum, we disagree with Petitioner's arguments and observations with respect to the RLUIPA. In addition, Petitioner's argument with respect to the Board's ability to consider RLUIPA's constitutionality is both misguided and misleading. The quote from Insurance Commissioner v. Equitable Life Assurance Society, 339 Md. 596 (1995) is out of context.

While an agency may not issue a "declaratory judgment" with respect to constitutionality of a statute, the agency does have the authority and responsibility to consider constitutional issues in the context of "statutorily prescribed administrative and judicial review proceedings." 339 Md., at 619. For a full understanding of the Court's opinion, we attach Section III, pages 615-624. See also Holiday Point Marina v. Anne Arundel County, 349 Md. 190, 198-204 (1998), also attached.

Thank you for noting our objections to Petitioner's Reply.

Very truly yours,

Peter Max Zimmerman

Peter Max Zimmerman
People's Counsel for Baltimore County

Carole S. Demilio

Carole S. Demilio
Deputy People's Counsel

PMZ/CSD/caf
Enclosures

cc: G. Scott Barhight, Esq., Attorney for Petitioners

664 A.2d 862

The INSURANCE COMMISSIONER OF the STATE OF MARYLAND et al.

v.

The EQUITABLE LIFE ASSURANCE SOCIETY OF the UNITED STATES.

No. 26, Sept. Term, 1993.

Court of Appeals of Maryland.

Sept. 11, 1995.

Life insurer, Human Relations Commission, and women's organization sought judicial review of Insurance Commissioner's determination that Equal Rights Amendment (ERA) was violated by statutes authorizing differentials in certain insurance rates and underwriting based on gender if actuarially justified. The Circuit Court, Baltimore City, Robert I.H. Hammerman, J., determined that Commissioner lacked authority to rule on constitutionality of statutes. Certiorari was granted. The Court of Appeals, Eldridge, J., held that: (1) Commissioner had authority to decide whether portions of insurance code were unconstitutional; (2) matter of insurer's disability insurance business was moot; and (3) statutes found by Commissioner to be unconstitutional were inapplicable.

Vacated and remanded.

1. Appeal and Error ⇐151(5)

Insurer's cross-appeal of decision that gender-based insurance rates were state action for purposes of Equal Rights Amendment (ERA) was improper since court ultimately determined constitutional issue wholly in insurer's favor, even though it was not on ground that insurer apparently preferred; this was not a declaratory judgment action in which portion of declaratory judgment was adverse to company. Const.Declaration of Rights, Art. 46.

2. Administrative Law and Procedure ⇐705
Civil Rights ⇐447

Constitutional challenge to insurer's gender-based rates and other alleged discriminatory practices related to disability income insurance policies was rendered moot by insurer's sale of disability income insurance portion of business and discontinuation of issuance of new policies, and claim that issue was recurring and involved matter of important public concern did not justify issuing opinion; case involved judicial review of administrative proceeding before Insurance Commissioner, and "rare instances" when Court of Appeals has expressed views on moot issues have involved proceedings which originated in court.

3. Appeal and Error ⇐781(1), 843(1)

Court ordinarily will not express opinion on moot issue; it will decide academic question only in rare instances and only where urgency of establishing rule of future conduct in matters of important public concern is imperative and manifest.

4. Appeal and Error ⇐843(1)

Application of general rule against resolving moot issues is particularly appropriate where moot issues involve constitutional questions.

5. Civil Rights ⇐443

Insurance Commissioner had authority to decide whether portions of insurance code were unconstitutional in proceeding alleging gender discrimination in life insurance; Commissioner was obligated to apply relevant law, including Equal Rights Amendment (ERA), and need to resolve constitutional issue depended on evidence and findings with regard to actuarial justification. Const.Declaration of Rights, Art. 46; Code 1957, Art. 48A, §§ 25(4)(a), 223(b)(2), 226(c)(2), 234A(b); Code, State Government, §§ 10–205(b)(2), 10–220, 10–221(b).

6. Administrative Law and Procedure ⇐316

Administrative agency or official is not empowered to render declaratory judgment with respect to constitutionality

of statute; it thus has no authority to declare statute unconstitutional. Code, Courts and Judicial Proceedings, § 3–403.

7. **Administrative Law and Procedure** ⇐316

Lack of authority to issue declaratory judgment or ruling on constitutionality of statute does not mean that administrative agency official, in course of rendering decision in matter falling within agency's jurisdiction, must ignore applicable law simply because source of that law is State or Federal Constitution.

8. **Administrative Law and Procedure** ⇐229

Constitutional exception to normal rule requiring exhaustion of administrative remedies even as to constitutional issues—where constitutionality of statute on its face is challenged and where there exists recognized declaratory judgment or equitable remedy, challenger ordinarily need not invoke and exhaust administrative remedy—is narrow; attack must be made to constitutionality of statute as a whole and not merely as to how statute has been applied.

9. **Administrative Law and Procedure** ⇐229

Notwithstanding constitutional exception to rule requiring exhaustion of administrative remedies, constitutionality of statute as a whole can be raised and initially decided in statutorily prescribed administrative proceedings; bypassing an initial administrative resolution of constitutional issue is option for challenger.

10. **Administrative Law and Procedure** ⇐229

Where there is no declaratory judgment or equitable remedy and where only avenue for relief is statutorily prescribed administrative and judicial review proceedings, constitutional challenge to statute, whether on its face or as applied, must be initially litigated in administrative proceeding.

11. **Insurance** ⇐11.3

Statute prohibiting unfairness or discrimination in underwriting, but allowing actuarial justification to be considered with respect to sex, relates entirely to underwriting and has no applicability to rate setting. Code 1957, Art. 48A, § 234A(b).

12. **Administrative Law and Procedure** ⇐316
Constitutional Law ⇐46(1)

Neither administrative agency nor court should pass upon constitutionality of statutory provisions which are inapplicable to controversy before agency or court.

Evelyn O. Cannon, Assistant Attorney General (J. Joseph Curran, Attorney General; Dennis W. Carroll, Assistant Attorney General) all on brief, Baltimore, Martha F. Davis (Deborah A. Ellis, NOW Legal Defense and Educ. Fund, all on brief), New York City and Laurence Eisenstein, (Covington & Burling, on brief), Washington, DC, Sally L. Swann, Assistant General Counsel, Maryland Com'n on Human Relations Glendora C. Hughes, General Counsel (both on brief), Baltimore, for appellant.

Barrett W. Freedlander (Weinberg and Green), Baltimore, Joseph G. Williams, Jr., (The Equitable Life Assur. Soc. of the U.S.) both on brief, New York City, for appellee.

Wendy A. Kronmiller, Wright, Constable & Skeen, all on brief, Baltimore, for American Ass'n of Retired Persons, The American Ass'n of University Women–Maryland, The American Jewish Congress, B'Nai B'rith Women, Equal Rights Advocates, Inc., Federation of Maryland Teachers, AFT–AFL–CIO, The League of Women Voters of Maryland, Inc., The National Clearinghouse for Ending Sex Discrimination in Ins., National Displaced Homemaker's Network, The Northwest Women's Law Center, Puerto Rican Legal Defense Educ. Fund, and The Women's Law Center of Maryland, Inc., as amicus curiae.

Stephen L. Kass, Deborah Goldberg, Monica Bose, Berle, Kass & Case, all on brief, New York City; Susan Goering, American Civil Liberties Union Foundation of Maryland, on brief, Baltimore, for American Civil Liberties Union of Maryland, Americans for Democratic Action, Inc., Coalition for

908, 915 (1981)).[9] Nevertheless, a court ordinarily will not express an opinion on a moot issue. It is only in "'rare instances,'" and "'only where the urgency of establishing a rule of future conduct in matters of important public concern is imperative and manifest, will there be justified a departure from the general rule and practice of not deciding academic questions.'" *Mercy Hosp. v. Jackson*, 306 Md. 556, 562–563, 510 A.2d 562, 565 (1986), quoting *Lloyd v. Supervisors of Elections*, 206 Md. 36, 43, 111 A.2d 379, 382 (1954).

[4] Moreover, application of the general rule against resolving moot issues is particularly appropriate where, as in this case, the moot issues involve constitutional questions. This "Court's established policy is to decide constitutional issues only when necessary." *Mercy Hosp. v. Jackson, supra*, 306 Md. at 565, 510 A.2d at 566, and cases there cited. *See State v. Lancaster*, 332 Md. 385, 404 n. 13, 631 A.2d 453, 463 n. 13 (1993) ("this Court has regularly adhered to the principle that we will not reach a constitutional issue when a case can properly be disposed of on a non-constitutional ground").

Finally, those "rare instances" when this Court has expressed its views on moot issues have involved proceedings which originated in a court. The present case involves judicial review of an administrative proceeding before the Insurance Commissioner. Consequently, under the Insurance Code, Art. 48A, § 40, and the Administrative Procedure Act, Code (1984, 1993 Repl.Vol., 1994 Cum.Supp.), § 10–222(h)(3) of the State Government Article, the issue before a reviewing court is whether the Insurance Commissioner's finding of mootness, and his refusal to express an opinion on a moot controversy, involve an error of law, or are unsupported by substantial evidence, or are "arbitrary or capricious." For the reasons previously set forth, the Commissioner's finding of mootness and his refusal to express an opinion on moot issues were not

9. Although the *Kindley* opinion did set forth the principle quoted by the Human Relations Commission, the Court in *Kindley* declined to express an opinion on the moot issue.

legally erroneous, were supported by the evidence, and were not arbitrary or capricious.

We note that the Insurance Commissioner's determination that the issues regarding disability income insurance are moot removed all allegations of discrimination in underwriting from the case. The mootness finding also removed from the case any allegations of racial discrimination. The contentions of discrimination in underwriting and racial discrimination made by the Human Relations Commission and NOW concerned only disability income insurance policies. No issues of discrimination in underwriting or racial discrimination have ever been raised with respect to Equitable's life insurance policies.

III.

[5] In his opinion, the Insurance Commissioner stated that he was not authorized "to declare" a statute unconstitutional. On the other hand, the Commissioner determined that he

> "cannot consider Article 48A in a vacuum and ignore the supreme law of this State, the Constitution of Maryland, particularly Article 46 of the Declaration of Rights. If the statutory provisions of the Insurance Code cannot be harmonized with the ERA, then the Commissioner must so find."

The circuit court, however, took the position that an administrative agency or official was required to apply pertinent statutory provisions even if, in the opinion of the agency or official, application of the statutory provisions would clearly be unconstitutional. The view of the Insurance Commissioner, and not that of the circuit court, is in accordance with present Maryland law.

[6] It is sometimes said, as Judge Kaplan did at an earlier stage of this controversy and as the Insurance Commissioner stated, that an administrative agency or official has no authority "to declare" a statute unconstitutional. This is a correct statement of Maryland law in the sense that an administrative agency or official is not empowered to render a declaratory judgment with respect to the constitutionality of a statute.

The Maryland Declaratory Judgment Act, Code (1974, 1995 Repl.Vol.), § 3–403 of the Courts and Judicial Proceedings Article, vests jurisdiction to render declaratory judgments only in certain courts which are established under Article IV of the Maryland Constitution. Although the Maryland Administrative Procedure Act authorizes some state administrative agencies to issue a "Declaratory Ruling" as to how the agency would apply a regulation, order, or statute under specified circumstances, the authorization does not extend to a "Declaratory Ruling" concerning the application of a constitutional provision. *See* § 10–304 of the State Government Article.

[7] Nevertheless, the lack of authority to issue a declaratory judgment or ruling on the constitutionality of a statute does not mean that an administrative agency or official, in the course of rendering a decision in a matter falling within the agency's jurisdiction, must ignore applicable law simply because the source of that law is the state or federal constitution. The Insurance Code, Art. 48A, § 25(4)(a), in giving the Insurance Commissioner "jurisdiction to enforce by administrative action the laws of the State as they relate to the underwriting or rate setting practices of an insurer," has no exclusion for constitutional law. The Administrative Procedure Act's requirement that state administrative agencies must render conclusions of law in contested cases contains no exception for constitutional issues. *See* §§ 10–205(b)(2), 10–220, and 10–221(b) of the State Government Article. In fact, under both the Insurance Code and the Administrative Procedure Act, a constitutional error in an administrative decision, as well as "other error of law," is included among the grounds for judicial review of administrative decisions. Art. 48A, § 40(4); § 10–222(h) of the State Government Article.[10]

---

10. Section 10–222(h) provides in relevant part as follows:

"(h) *Decision.*—In a proceeding under this section, the court may:

* * * * * *

(3) reverse or modify the decision if any substantial right of the petitioner may have been prejudiced because a finding, conclusion, or decision:

(i) is unconstitutional;

(ii) exceeds the statutory authority or jurisdiction of the final decision maker;

(iii) results from an unlawful procedure;

(iv) is affected by any other error of law;

(v) is unsupported by competent, material, and substantial evidence in light of the entire record as submitted; or

(vi) is arbitrary or capricious."

Art. 48A, § 40(4), contains similar language.

In addition, the Insurance Commissioner, like judges, the Governor, members of the General Assembly, and others elected or appointed to "any office of profit or trust," must take an oath to "support the Constitution" of Maryland and to "execute [his or her] office ... according to the Constitution ... of this State...." Article I, Section 9, of the Constitution of Maryland. *See Marbury v. Madison*, 1 Cranch 137, 180, 2 L.Ed. 60, 74 (1803) (public official's taking a prescribed oath to discharge his duties "agreeably to *the constitution*" requires that the official apply the Constitution, and not a statute, when the two are in conflict). The Insurance Commissioner in the present case was obligated to apply the relevant law, and the relevant law does not exclude Article 46 of the Maryland Declaration of Rights.[11]

Moreover, over the past fifty years, when many statutes have provided for quasi-judicial administrative proceedings to resolve the innumerable controversies and problems associated with our modern age, this Court has consistently taken the position that constitutional issues, including the constitutionality of applying particular statutes, can and often must be raised and initially decided in the statutorily prescribed administrative proceedings.

For example, in *Hoffman v. City of Baltimore*, 197 Md. 294, 305–306, 79 A.2d 367, 372 (1951), a property owner contended that the application of a zoning statute to his property was

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11. As the Chief Justice explained in *Marbury v. Madison*, 1 Cranch 137, 177–180, 2 L.Ed. 60, 73–74 (1803), ruling on the constitutionality of a law is simply an aspect of the duty to apply the applicable law "[i]f two laws conflict with each other...." Furthermore, the Chief Justice stated: "courts, *as well as other departments*, are bound by that instrument [the constitution]," 1 Cranch at 180, 2 L.Ed. at 74 (emphasis both deleted and added).

unconstitutional and that, for this reason, he was entitled to an exception. This Court noted the view expressed in some earlier cases that an administrative agency cannot pass upon the constitutionality of a statute and then held that the zoning board could grant an exception "by holding the ordinance *pro tanto* invalid," and its ruling on the constitutional issue would be fully subject to judicial review.

In *Baltimore v. Seabolt*, 210 Md. 199, 123 A.2d 207 (1956), property owners again contended that the application of a zoning statute to their property would be unconstitutional. Instead of invoking and exhausting the statutorily prescribed administrative and judicial review remedy, the property owners brought a declaratory judgment action. The trial court rendered a declaratory judgment that "the Zoning Ordinance resulted in a taking of the appellees' property without compensation" and that it was not necessary for the property owners to invoke and exhaust the administrative procedure "where a constitutional question was involved." 210 Md. at 203, 123 A.2d at 208. This Court, however, reversed, ordered that the declaratory judgment action be dismissed, and held that the property owners were required to have the constitutional issue resolved in the statutorily prescribed administrative and judicial review proceedings. The Court repeated the statement from the *Hoffman* case that the administrative agency, if it agreed with the property owners' constitutional argument, was authorized to grant " 'exceptions by holding the ordinance *pro tanto* invalid.' " *Baltimore v. Seabolt, supra*, 210 Md. at 207, 123 A.2d at 210.

A similar case was *Poe v. Baltimore City*, 241 Md. 303, 216 A.2d 707 (1966), where the property owners, contending that the application of a zoning statute to their property was unconstitutional, brought a declaratory judgment action without having exhausted their administrative remedy. They argued "that they had no effective remedy before the Board [of Municipal and Zoning Appeals], because the Board is an administrative agency, not a court, and only a court can decide a question of constitutional law." 241 Md. at 307, 216 A.2d at 407. This Court, in affirming the trial court's order sustaining a demurrer to the bill of complaint, flatly rejected the argument that the Board could not initially decide the constitutional issue. In an opinion by Judge Oppenheimer, the Court stated (241 Md. at 307–308, 216 A.2d at 709):

> "It is particularly within the expertise of an administrative body such as the Board to marshal and sift the evidence presented in a hearing ... and to make an administrative finding as to whether, on the evidence, the application of the ordinance to the property involved deprives the owner of any reasonable use of it. Such a finding is subject to court review on the question of constitutionality, as a matter of law."

This Court noted that, in some other jurisdictions, courts have held that administrative agencies cannot rule on the constitutionality of statutes and that, therefore, it is not necessary for a litigant to invoke and exhaust the administrative remedy. The Court then stated (241 Md. at 311, 216 A.2d at 711): "In this state, however, we regard it as settled law on principle and authority that, absent most unusual circumstances, ... the court will not take jurisdiction even though a constitutional issue is raised, until the administrative remedy has been exhausted."

In accord with the *Seabolt* and *Poe* cases, where a party is not challenging the validity of a statute as a whole, but is arguing that the statute as applied in a particular situation is unconstitutional, and where the legislature has provided an administrative remedy, this Court has regularly held that the constitutional issue must be raised and decided in the statutorily prescribed administrative and judicial review proceedings. *See, e.g., Goldstein v. Time–Out Family Amusement*, 301 Md. 583, 591, 483 A.2d 1276, 1281 (1984) (with regard to the argument that "neither the Comptroller nor the Maryland Tax Court can decide constitutional issues," this Court simply stated that "Time–Out's argument is without merit"); *Prince George's Co. v. Blumberg*, 288 Md. 275, 293, 418 A.2d 1155, 1165 (1980), *cert. denied*, 449 U.S. 1083, 101 S.Ct. 869, 66 L.Ed.2d 808 (1981) ("This Court has held on many occasions, when faced with a claim of an ... unconstitutional taking of

property, that such issues must still go through the administrative process"); *State Dep't of A. & Tax. v. Clark*, 281 Md. 385, 404, 380 A.2d 28, 39 (1977) ("a court shall not take jurisdiction unless the administrative remedies have been exhausted. This is so even though a constitutional issue has been raised, when that issue goes to the application of a general statute to a particular situation"); *Arnold v. Prince George's Co.*, 270 Md. 285, 294, 297, 311 A.2d 223, 227–229 (1973) (requiring that a property owner, arguing that a statute was unconstitutional as applied to his property, first exhaust his administrative remedy); *Hartman v. Prince George's Co.*, 264 Md. 320, 323–325, 286 A.2d 88, 89–90 (1972) (reviewing numerous cases holding that constitutional arguments must be made in the statutorily prescribed administrative proceedings); *Gingell v. County Commissioners*, 249 Md. 374, 376, 239 A.2d 903, 904 (1968) (reaffirming the principle of the *Poe* case, and rejecting the plaintiff's argument that she need not exhaust her administrative remedy on the theory that only a court may declare the statute unconstitutional); *Tanner v. McKeldin*, 202 Md. 569, 577, 97 A.2d 449, 455 (1953); *Bogley v. Barber*, 194 Md. 632, 641, 72 A.2d 17, 20–21 (1950).

In addition, there are numerous cases in which the constitutionality of a statute, as applied to particular circumstances, has been resolved in the statutorily prescribed administrative proceedings and judicially reviewed on the merits by this Court. *See, e.g., Sapero v. City of Baltimore*, 235 Md. 1, 3, 200 A.2d 74, 76 (1964) ("we think the Board ... [was] justified in concluding that a denial of the variance would not amount to a taking in the constitutional sense"); *Baltimore v. Sapero*, 230 Md. 291, 297, 186 A.2d 884, 887 (1962); *Frankel v. City of Baltimore*, 223 Md. 97, 101, 103–104, 162 A.2d 447, 449, 451 (1960) (administrative agency erred by not holding ordinance unconstitutional as applied); *Marino v. City of Baltimore*, 215 Md. 206, 221, 137 A.2d 198, 204 (1957); *Serio v. City of Baltimore*, 208 Md. 545, 552–553, 119 A.2d 387, 390 (1956) (agency correctly resolved "the claim of the appellants as to the unconstitutional and invalid impingement of the ordinance"); *City of Baltimore v. Cohn*, 204 Md. 523, 530–533, 105 A.2d 482, 486–487 (1954) (agency erred in not holding ordinance invalid as applied); *Wood v. Tawes*, 181 Md. 155, 28 A.2d 850, *cert. denied*, 318 U.S. 788, 63 S.Ct. 982, 87 L.Ed. 1154 (1943).

[8] It is true that our cases have recognized a "constitutional exception" to the normal rule requiring exhaustion of administrative remedies even as to constitutional issues. Where the constitutionality of a statute on its face is challenged, and where there exists a recognized declaratory judgment or equitable remedy, we have held that the challenger ordinarily need not invoke and exhaust his administrative remedy. Judge J. Dudley Digges for the Court explained this "exception" as follows (*Harbor Island Marina v. Calvert Co.*, 286 Md. 303, 308–309, 407 A.2d 738, 741 (1979)):

> "[T]he 'constitutional exception' to which we have just alluded permits a judicial determination without administrative exhaustion when there is a direct attack upon the power or authority (including whether it was validly enacted) of the legislative body to adopt the legislation from which relief is sought.
>
> "In the present declaratory judgment action, the basic attack being launched by the appellant is upon the power or authority *vel non* of the [legislative body] to adopt the ordinance.... Since this clearly falls within the 'constitutional exception,' the power to enact is an issue that may be litigated in this Declaratory Judgment Act suit. *See Poe v. Baltimore City*, 241 Md. 303, 308, 216 A.2d 707, 709 (1964)."

This "exception" is a narrow one. As we more recently explained in *Goldstein v. Time–Out Family Amusement*, *supra*, 301 Md. at 590, 483 A.2d at 1280,

> "[t]hus it is apparent that to come within the 'constitutional attack' exception to the general rule concerning the exhaustion of administrative remedies, the attack must be made to the constitutionality of the statute as a whole and not merely as to how the statute has been applied. In our view the constitutional attack here was not to the statute as a whole.

"Although Time–Out originally claimed to attack the exemption statute in its entirety, it is clear to us that its real protest focused upon the statutory exemptions granted to recreational businesses, and not upon the exemptions for non-profit and charity institutions which are also contained in § 406. At trial, Time-out conceded it was not attacking the non-profit and charity exemptions. Thus, we believe Time–Out was not attacking the General Assembly's legislative power to enact exemptions to a general taxation scheme. It merely attacked certain exemptions granted to businesses similar to its own. Absent an attack upon the legislative power, Time–Out must exhaust its administrative remedies (pursuant to § 407) before seeking a judicial determination. *Harbor Island Marina, supra,* 286 Md. at 308, 407 A.2d at 741."

See also, e.g., Poe v. Baltimore City, supra, 241 Md. at 308–311, 216 A.2d at 709–711; *Richmark Realty v. Whittlif,* 226 Md. 273, 281, 173 A.2d 196, 200 (1961); *Pressman v. State Tax Commission,* 204 Md. 78, 84, 102 A.2d 821, 825 (1954) ("the constitutionality of a statute may be challenged in a declaratory judgment action on the ground that the title of the statute is not descriptive of the body, as required by the State Constitution"); *Schneider v. Pullen,* 198 Md. 64, 68–69, 81 A.2d 226, 228–229 (1951) (litigant "does not have to" invoke and exhaust his administrative remedy "in order to raise the constitutional question of the validity of the act as a whole").

[9] The "constitutional exception" recognized in these cases does not mean that the constitutionality of a statute as a whole cannot be raised and initially decided in the statutorily prescribed administrative proceedings. Instead, under the language in the above-cited opinions, by-passing an initial administrative resolution of the constitutional issue is an option which the challenger may or may not choose. The modern cases make it clear that the constitutionality of a statute as a whole can be initially decided in the administrative proceedings. *See, e.g., Richmark Realty v. Whittlif, supra,* 226 Md. at 281, 173 A.2d at 200.

[10] Moreover, under circumstances where there exists no declaratory judgment or equitable remedy, and where the only avenue for relief is the statutorily prescribed administrative and judicial review proceedings, a constitutional challenge to a statute, whether on its face or as applied, must be initially litigated in the administrative proceeding. *Potomac Elec. Power v. P.G. County,* 298 Md. 185, 468 A.2d 325 (1983) (constitutional challenge to a tax statute on its face, and this Court held that, because the tax had been paid, the exclusive remedy was the statutorily mandated administrative refund proceeding); *Apostol v. Anne Arundel County,* 288 Md. 667, 674–675, 421 A.2d 582, 586 (1980) ("The plaintiff taxpayers argue that because their suit 'is an attack upon the validity of an enactment as a whole, ... clearly the controversy falls within the "constitutional exception" to exhausting administrative remedies.' ... Principal reliance is placed upon *Harbor Island Marina v. Calvert Co.,* 286 Md. 303, 407 A.2d 738 (1979).... [T]hose cases were not concerned with a situation where the *only* relief available is the special administrative and judicial review remedy provided by statute"); *White v. Prince George's Co.,* 282 Md. 641, 646–654, 387 A.2d 260, 264–268 (1978); *Tanner v. McKeldin, supra,* 202 Md. 569, 97 A.2d 449; *Reiling v. Comptroller,* 201 Md. 384, 94 A.2d 261 (1953); *Tawes, Comptroller v. Williams,* 179 Md. 224, 17 A.2d 137 (1941).

Finally, where a constitutional challenge to a statute, regardless of its nature, is intertwined with the need to consider evidence and render findings of fact, and where the legislature has created an administrative proceeding for such purpose, this Court has regularly taken the position that the matter should be initially resolved in the administrative proceeding. *See, e.g., Gingell v. County Commissioners, supra,* 249 Md. at 376–377, 239 A.2d at 904–905; *Poe v. Baltimore City, supra,* 241 Md. at 307, 311, 216 A.2d at 709, 711; *Pressman v. State Tax Commission, supra,* 204 Md. at 84, 102 A.2d at 824. In the present case, the particular constitutional attack on portions of the Insurance Code required an evidentiary hearing and findings of fact. First, the need to resolve the constitu-

tional issue was dependent upon, *inter alia*, evidence and findings with regard to actuarial justification. Second, we have held that, under the E.R.A., statutory classifications based on gender are generally subject to strict scrutiny, with those defending the classifications having the burden of justifying them. *State v. Burning Tree Club, Inc., supra*, 315 Md. at 295, 554 A.2d at 386. Equitable undertook to justify its gender based insurance rates on the ground that they reflected inherent physical differences between men and women. This issue obviously required an extensive evidentiary exploration which the General Assembly determined should be done by the Insurance Commissioner.

Consequently, the circuit court erred in holding that the Insurance Commissioner lacks authority to decide whether portions of the Insurance Code are unconstitutional.[12]

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12. The Court of Special Appeals, as well as some Maryland administrative agencies, have taken the same position as the circuit court in the present case, namely that an administrative agency, in applying the applicable law in a case properly before the agency, cannot decline to apply a statute on the ground that it conflicts with a constitutional provision. *See Anne Arundel County v. 2020C West St.*, 104 Md.App. 320, 333, 656 A.2d 341, 347 (1995) ("The Board of Appeals had before it questions of fact and questions of law, specifically questions on the constitutionality of the regulatory scheme. Although the Board may decide the question of fact regarding whether the business is an adult bookstore or movie theater, the Board cannot address the issue of constitutionality"); *Landover Books v. P.G. County*, 81 Md.App. 54, 67, 566 A.2d 792, 799 (1989) ("The Board of Zoning Appeals for Prince George's County was without authority to evaluate the constitutional question"); *Comptroller v. Armco, Inc.*, 70 Md.App. 403, 410, 521 A.2d 785, 788 (1987) (agreeing with the position of the Tax Court that it lacked authority to allow an exclusion from taxable income on the ground that the exclusion was required by the Commerce Clause). *See also Relay Improvement Association v. Sycamore Realty Co.*, 105 Md. App. 701, 661 A.2d 182 (1995).

The only Court of Appeals authority cited by the Court of Special Appeals for its position is *Shell Oil Co. v. Supervisor*, 276 Md. 36, 47, 343 A.2d 521, 527 (1975), where this Court pointed out that the Tax Court is an administrative agency and that, under the separation of powers requirement in Article 8 of the Maryland Declaration of Rights, the Legislature cannot vest the Tax Court with a judicial function. The Court of Special Appeals has taken the position that "constitutional decisions represent the epitome of the judicial function," *Comptroller v. Armco, Inc., supra*, 70 Md.App. at 410 n. 8, 521 A.2d at 788 n. 8.

IV.

As discussed in Part I of this opinion, the focus of this case has been upon the constitutionality of Art. 48A, §§ 223(b)(2), 226(c)(2) and 234A(b), as enacted by Ch. 479 of the Acts of 1975. The principal issue dealt with by the Insurance Commissioner, the other parties, and the circuit court has been whether these three statutory provisions violate Article 46 of the Maryland Declaration of Rights. Moreover, throughout this controversy, the Insurance Commissioner, the other parties, and the circuit court have usually referred to all three statutory provisions together, or to Ch. 479 of the Acts of 1975, without explaining or designating which specific provision is applicable to the controversy.

An examination of §§ 223(b)(2), 226(c)(2), 234A(b) and Ch. 479, however, discloses that these provisions have no applicability whatsoever to Equitable's gender based life insurance rates and to the present controversy. Although there are some other statutory provisions which may or may not be pertinent to the controversy, neither the Insurance Commissioner nor the other parties nor the circuit court have addressed such other provisions.

This Court has consistently held, however, that an administrative "agency in the executive branch may ordinarily perform adjudicatory functions in harmony with the principle of separation of powers provided that there is an opportunity for judicial review of the agency's final determination." *Maryland Aggregates v. State*, 337 Md. 658, 678, 655 A.2d 886, 896 (1995), and cases there cited. More specifically, this Court, in holding that an administrative agency is authorized to rule on the validity of a statute as applied in the case before the agency, has indicated that the availability of judicial review removes any Article 8 barrier to the administrative process. *See, e.g., Gingell v. County Commissioners*, 249 Md. 374, 376, 239 A.2d 903, 904 (1968) ("The appellant ... claim[s] that ... a court is the only governmental authority that may declare the reclassification of her property unconstitutional. This overlooks the fact that the decision of the zoning authority is subject to the review of the courts, which can ultimately rule on the constitutionality of the action of the zoning authority"); *Hoffman v. City of Baltimore*, 197 Md. 294, 306, 79 A.2d 367, 372–373 (1951).

The position of the Court of Special Appeals on this question is clearly contrary to this Court's opinions and is disapproved.

Trust Fund and the Clerks of all judicial tribunals in this State in accordance with Maryland Rule 16–713.

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707 A.2d 829

HOLIDAY POINT MARINA PARTNERS

v.

ANNE ARUNDEL COUNTY, Maryland et al.

No. 4, Sept. Term, 1996.

Court of Appeals of Maryland.

April 3, 1998.

Marina filed action seeking declaration that county zoning ordinance prohibiting marina development within specific distance of shellfish beds was preempted by state and federal law. The Circuit Court, Anne Arundel County, Robert H. Heller, Jr., J., granted summary judgment for county. Appeal was taken. The Court of Special Appeals, Wenner, J., 107 Md.App. 160, 666 A.2d 1332, affirmed. Petition for writ of certiorari was granted, and the Court of Appeals, Eldridge, J., held that: (1) marina should have exhausted administrative and judicial review remedies instead of bringing declaratory judgment action; (2) county did not exceed its authority by enacting ordinance; and (3) state legislation did not preempt county ordinance.

Judgment vacated and case remanded with directions.

1. Zoning and Planning ⇐354

County board of appeals should have considered marina's challenge to validity of zoning ordinance imposing minimum distance restrictions between the situs of marina facilities and shellfish beds. Anne Arundel, Md., County Code Art. 28, § 5–108(e).

2. Zoning and Planning ⇐353.1

Question of zoning ordinance's validity, as applied to property involved, is appropriate issue for administrative zoning agency.

3. Zoning and Planning ⇐489

If restriction under zoning ordinance cannot constitutionally or validly be applied, this is proper ground for administrative zoning agency to grant exception or variance.

4. Declaratory Judgment ⇐129

Marina challenging validity of charter county ordinance imposing minimum distance restrictions between the situs of marina facilities and shellfish beds should have exhausted administrative and judicial review procedures, instead of bringing declaratory judgment action, since administrative and judicial review remedy was the exclusive remedy under the Express Powers Act. Code 1957, Art. 25A, § 5(U); Anne Arundel, Md., County Code Art. 28, § 5–108(e).

5. Administrative Law and Procedure ⇐229

Where there exists remedy before charter county's board of appeals, aggrieved party must invoke and exhaust administrative and judicial review remedy. Code 1957, Art. 25A, § 5(U).

6. Administrative Law and Procedure ⇐228.1
Declaratory Judgment ⇐41

Where administrative and judicial review procedures are exclusive, neither declaratory judgment action nor common law or equitable action will lie.

7. Administrative Law and Procedure ⇐229

"Constitutional" or "validity" exception to requirement that primary administrative remedy be first invoked and exhausted ordinarily has no application when administrative and judicial review remedy is exclusive.

8. Zoning and Planning ⇐11.1

County's zoning authority ordinarily encompasses piers and wharves that are attached to the land.

9. Zoning and Planning ⇐76

County had authority, under Express Powers Act, to enact zoning ordinance limiting number of boat slips and situs of marine facilities, even though ordinance took into account the health of shellfish beds which were located in state's tidal waters. Code 1957, Art. 25A, § 5(X)(1)(i); Anne Arundel, Md., County Code Art. 28, § 5–108(e).

10. Zoning and Planning ⇐237

County is not entirely free to zone state property.

11. Municipal Corporations ⇐64

State law may preempt local law in one of three ways: (1) preemption by conflict; (2) express preemption; or (3) implied preemption.

12. Zoning and Planning ⇐14

Although county zoning ordinance required marina facilities to be separated by 2,640 feet from shellfish beds, and state document prohibited the harvesting of shellfish within 200 feet of marinas, county ordinance did not conflict with state law, so as to warrant preemption; county ordinance restricted location of marina facilities to protect shellfish, whereas state document related to restrictions on the taking of shellfish because of possible sources of pollution. Anne Arundel, Md., County Code Art. 28, § 5–108(e).

13. Municipal Corporations ⇐65

Even where General Assembly so comprehensively covers an area that intent to occupy field generally is implied, General Assembly may also intend to leave some specific matters in that field open to local legislation; in this situation, local legislation regarding those specific matters is obviously not preempted.

14. Zoning and Planning ⇐14

County ordinance imposing minimum distance restrictions between the situs of marina facilities and shellfish beds was not invalid under the doctrine of implied preemption; state regulation of the harvesting of shellfish was quite distinct from regulation of the situs of piers, and state Wetlands Act, which applied to all pier extensions into tidal waters of state, clearly provided that county zoning regulations could also apply to piers and specifically authorized more stringent local regulations with respect to the expansion of an existing marina. Md.Regs. Code title 26, § 24.04.03.F; Anne Arundel, Md., County Code Art. 28, § 5–108(e).

Charles R. Schaller (Marian C. Hwang, Thomas E. Lynch, III, Miles & Stockbridge, on brief), Baltimore, for petitioner.

Patricia A. Logan, Senior Asst. County Atty. (Phillip F. Scheibe, County Atty., Anne Arundel County Office of Law; Thomas J. Wohlgemuth, argued, on brief), Annapolis, for respondent.

Argued before MURPHY,* C.J., and ELDRIDGE, RODOWSKY, CHASANOW, KARWACKI *, BELL and RAKER, JJ.

ELDRIDGE, Judge.

The issue in this case concerns Article 28, § 5–108(e), of the Anne Arundel County Code. Section 5–108 is a zoning ordinance applicable to the location of marina facilities along the shoreline of rivers, the Chesapeake Bay, and other waters of Anne Arundel County. Subsection (e) of the ordinance imposes minimum distance restrictions between the situs of marina facilities and shellfish beds. The issue presented by the petitioner is whether an ordinance limiting the number of boat

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* Murphy, C.J., and Karwacki, J., now retired, participated in the hearing of this case while active members of this Court; after being recalled pursuant to the Constitution, Article IV, Section 3A, they also participated in the decision and the adoption of the opinion.

ported concerns for water quality, shellfish and consumers of shellfish?

"II. Whether the general public laws and regulations of Maryland that protect water quality, shellfish and consumers of shellfish, and govern the location and construction of marinas in state wetlands preempt Article 28, § 5–108(e) of the Anne Arundel County Code?"

The Community Association presents the additional question of whether the declaratory judgment action should be dismissed because of Holiday Point's failure to exhaust the administrative and judicial review remedies. We shall first address the issue raised by the Community Association.

II.

Anne Arundel County is a charter county and, therefore, is subject to the Express Powers Act, Code (1957, 1996 Repl. Vol., 1997 Supp.), Art. 25A. That statute, in §§ 5(U) and 5(X), provides the zoning authority for all charter counties except Montgomery and Prince George's Counties.[2] Art. 25A, § 5(U), authorizes a charter county to establish a Board of Appeals and provides that such Board of Appeals have exclusive appellate jurisdiction over, *inter alia*, a variety of adjudicatory zoning matters.[3] *See United Parcel v. People's Counsel*, 336 Md. 569, 587–590, 650 A.2d 226, 235–237 (1994), and cases there discussed. Section 5(U) further provides for judicial review of the Board of Appeals' decisions.

[1–3] Holiday Point did invoke the administrative procedures mandated by Art. 25A, § 5(U). Although the administrative and judicial review proceeding is not directly before us, it is important to point out that the Anne Arundel County Board of Appeals clearly erred in holding that it would not consider Holiday Point's challenge to the validity of § 5–108(e). This Court has consistently held over the past fifty years that the question of a zoning ordinance's validity, as applied to the property involved, is an appropriate issue for an administrative zoning agency. We have held that, if a restriction under a zoning ordinance cannot constitutionally or validly be applied, this is a proper ground for the administrative zoning agency to grant an exception or a variance. *See, e.g., Md. Reclamation Associates, Inc. v. Harford Cty.*, 342 Md. 476, 491–492, 677 A.2d 567, 575 (1996) ("under Maryland law, the Harford County Board of Appeals would be authorized and required to consider any of the constitutional and other

2. The zoning authority for Montgomery and Prince George's Counties is set forth in the Regional District Act, Code (1957, 1997 Repl.Vol., 1997 Supp.), Art. 28, § 7–101 et seq. *See Montgomery County v. Revere Nat. Corp., Inc.*, 341 Md. 366, 383, 671 A.2d 1, 9 (1996); *Mossburg v. Montgomery County*, 329 Md. 494, 502–503, 620 A.2d 886, 890 (1993); *Chevy Chase View v. Rothman*, 323 Md. 674, 685, 594 A.2d 1131, 1136 (1991).

3. Art. 25A, § 5(U) states as follows:

"(U) County Board of Appeals

"To enact local laws providing (1) for the establishment of a county board of appeals whose members shall be appointed by the county council; (2) for the number, qualifications, terms, and compensation of the members; (3) for the adoption by the board of rules of practice governing its proceedings; and (4) for the decision by the board on petition by any interested person and after notice and opportunity for hearing and on the basis of the record before the board, of such of the following matters arising (either originally or on review of the action of an administrative officer or agency) under any law, ordinance, or regulation of, or subject to amendment or repeal by, the county council, as shall be specified from time to time by such local laws enacted under this subsection: An application for a zoning variation or exception or amendment of a zoning ordinance map; the issuance, renewal, denial, revocation, suspension, annulment, or modification of any license, permit, approval, exemption, waiver, certificate, registration, or other form of permission or of any adjudicatory order; and the assessment of any special benefit tax: Provided, that upon any decision by a county board of appeals it shall file an opinion which shall include a statement of the facts found and the grounds for its decision. Any person aggrieved by the decision of the board and a party to the proceeding before it may appeal to the circuit court for the county which shall have power to affirm the decision of the board, or if such decision is not in accordance with law, to modify or reverse such decision, with or without remanding the case for rehearing as justice may require. Any party to the proceeding in the circuit court aggrieved by the decision of the said court may appeal from such decision to the Court of Special Appeals. The review proceedings provided by this subsection shall be exclusive."

issues raised by Maryland Reclamation to the extent that those issues would be pertinent in the particular proceeding before the Board"); *Insurance Commissioner v. Equitable*, 339 Md. 596, 617–624, 664 A.2d 862, 873–876 (1995) ("The modern cases make it clear that the constitutionality of a statute as a whole can be initially decided in the administrative proceedings"); *Arnold v. Prince George's Co.*, 270 Md. 285, 294–299, 311 A.2d 223, 227–231 (1973) (requiring a property owner, asserting that a zoning ordinance was unconstitutional as applied to his property, to exhaust his administrative remedy); *Hartman v. Prince George's Co.*, 264 Md. 320, 323–325, 286 A.2d 88, 89–90 (1972) (reviewing numerous cases holding that constitutional arguments must be made in the statutorily prescribed administrative proceedings); *Gingell v. County Commissioners*, 249 Md. 374, 376, 239 A.2d 903, 904 (1968) (rejecting the plaintiff's argument that she need not exhaust her administrative remedy on the theory that only a court may declare the statute unconstitutional); *Poe v. Baltimore City*, 241 Md. 303, 307–308, 216 A.2d 707, 709 (1966) (finding that "[i]t is particularly within the expertise of an administrative body such as the Board to marshal and sift the evidence presented in a hearing upon an application for a special exception and to make an administrative finding as to whether ... the application of the ordinance to the property involved deprives the owner of any reasonable use of it"); *Baltimore v. Seabolt*, 210 Md. 199, 207, 123 A.2d 207, 210 (1956) (zoning appeals board was authorized to grant "'"exceptions" ... by holding the [zoning] ordinance *pro tanto* invalid' "); *Hoffman v. City of Baltimore*, 197 Md. 294, 305–306, 79 A.2d 367, 372 (1951) ("Application for an 'exception' is an appropriate way to raise" the issue of whether a zoning ordinance is invalid).

Consequently, the Board of Appeals should have ruled on Holiday Point's challenge to the validity of § 5–108(e). Furthermore, since the Board of Appeals erroneously failed to rule on this issue, Holiday Point, in its judicial review action, could have obtained a reversal of the Board of Appeals' decision because of that error.

[4] Holiday Point, however, withdrew its judicial review action and sought a final ruling on the validity of § 5–108(e) in the declaratory judgment action. The Community Association insists that Holiday Point erred by pursuing the wrong action in the circuit court. We agree.

[5] This Court has consistently held that, where there exists a remedy before a charter county's board of appeals under Art. 25A, § 5(U), an aggrieved party must invoke and exhaust the administrative and judicial review remedy provided by § 5(U). *Md. Reclamation v. Harford Cty., supra*, 342 Md. at 494, 677 A.2d at 576; *United Parcel v. People's Counsel, supra*, 336 Md. at 588–589, 650 A.2d at 236; *Hope v. Baltimore County*, 288 Md. 656, 657–658, 421 A.2d 576, 577 (1980); *Klein v. Colonial Pipeline Co.*, 285 Md. 76, 83, 400 A.2d 768, 772 (1979). This requirement is based on the plain language of Art. 25A, § 5(U), which states that "[t]he review proceedings provided by this subsection shall be exclusive."

Holiday Point, however, invokes an asserted exception to the requirement that the administrative and judicial review remedies under § 5(U) must be invoked and exhausted. Relying on this Court's decision in *Harbor Island Marina v. Calvert Co., supra*, 286 Md. 303, 407 A.2d 738, Holiday Point contends that, because it requested the court to declare the County's enactment of 5–108(e) invalid, it was not required to exhaust the administrative and judicial review procedures under Art. 25A, § 5(U).

In cases where an administrative agency has primary jurisdiction, we have recognized a limited "constitutional" or "validity" exception to the normal requirement that administrative and judicial review remedies be invoked and exhausted. See *Insurance Commissioner v. Equitable, supra*, 339 Md. at 620–624, 664 A.2d at 874–876, for a discussion of this narrow exception. The very few cases applying this exception, however, were not ones where the administrative and judicial review remedy was the exclusive remedy.

The principal case relied upon by Holiday Point and by the circuit court is *Harbor Island Marina v. Calvert Co., supra*,

286 Md. 303, 407 A.2d 738. We held in *Harbor Island* that, because the plaintiff had mounted a direct attack on the power of the County Commissioners of Calvert County to enact the disputed zoning ordinance, a judicial determination of the validity issue was permissible even though administrative remedies had not been exhausted. This Court stated that, because the constitutional attack was made upon the "validity of a general enactment as a whole," exhaustion was not required. 286 Md. at 308, 407 A.2d at 741.

Harbor Island, however, is readily distinguishable from the instant case. That case involved Calvert County, a non-charter county which is *not* subject to the Express Powers Act, Code (1957, 1996 Repl.Vol., 1997 Supp.), Art. 25A. Rather, the applicable administrative and judicial review procedures for zoning matters in non-charter counties are set forth in Code (1957, 1995 Repl.Vol., 1997 Supp.), Art. 66B, §§ 4.04—4.08. The relevant sections of Art. 66B do *not* contain any language that makes the administrative and judicial review remedy exclusive.

We are aware of only one other zoning or land-use case where this Court applied the so-called "constitutional" or "validity" exception. In *Richmark Realty v. Whittlif*, 226 Md. 273, 173 A.2d 196 (1961), residents of Baltimore City filed a suit in equity requesting that a Baltimore City zoning ordinance be declared illegal and void and that a building permit issued pursuant to the ordinance be revoked. The defendants raised the issue of exhaustion because the local residents had not availed themselves of the available administrative remedy. Again, Baltimore City is not subject to Art. 25A and the exclusivity language of § 5(U). Instead, the administrative and judicial review zoning procedures applicable to Baltimore City are contained in Code (1957, 1995 Repl.Vol., 1997 Supp.), Art. 66B, §§ 2.06–2.09, which do not contain any language of exclusivity.

[6, 7] The General Assembly in Art. 25A, § 5(U), has expressly stated that the administrative and judicial review remedy applicable to the present case is "exclusive." The

effect of such language is to abrogate any alternative legal or equitable remedies that might otherwise have existed. As explained in numerous cases, where the administrative and judicial review procedures are exclusive, neither a declaratory judgment action nor a common law or equitable action will lie. *See Zappone v. Liberty Life Insurance Co.*, 349 Md. 45, 706 A.2d 1060 (1998); *Bowman v. Goad*, 348 Md. 199, 703 A.2d 144 (1997); *Insurance Commissioner v. Equitable, supra*, 339 Md. at 623, 664 A.2d at 876; *Moats v. City of Hagerstown*, 324 Md. 519, 529, 597 A.2d 972, 977 (1991); *Muhl v. Magan*, 313 Md. 462, 480–481, 545 A.2d 1321, 1330 (1988); *Nordheimer v. Montgomery County*, 307 Md. 85, 96–98, 512 A.2d 379, 384–386 (1986); *Potomac Elec. Power v. P.G. County*, 298 Md. 185, 189–191, 468 A.2d 325, 327 (1983); *Apostol v. Anne Arundel County*, 288 Md. 667, 672–673, 421 A.2d 582, 585–586 (1980); *White v. Prince George's Co.*, 282 Md. 641, 649–653, 387 A.2d 260, 265–267 (1978). This is true even though the validity of a statute on its face is being challenged. The so-called "constitutional" or "validity" exception to the requirement that a primary administrative remedy be first invoked and exhausted ordinarily has no application when the administrative and judicial review remedy is exclusive. *Insurance Commissioner v. Equitable, supra*, 339 Md. at 623, 664 A.2d at 876 ("where the only avenue for relief is the statutorily prescribed administrative and judicial review proceedings, a constitutional challenge to a statute, whether on its face or as applied, must be ... litigated in [that] proceeding"); *Potomac Elec. Power v. P.G. County, supra*, 298 Md. at 189–191, 468 A.2d at 327–328; *Apostol v. Anne Arundel County, supra*, 288 Md. at 674–675, 421 A.2d at 586 ("*Harbor Island Marina v. Calvert Co.*, [*supra*, and similar] cases were not concerned with a situation where the *only* relief available is the special administrative and judicial review remedy provided by statute").[4]

4. Despite some contrary language in a few earlier Maryland cases, this Court has consistently, for the last half-century, taken the position that the Legislature may properly require that an issue of validity or constitutionality be raised through the administrative process, and, as long as judicial review is available, there is no violation of the separation of

Consequently, the Community Association correctly argued, both before the circuit court and on appeal, that no declaratory judgment action could be maintained in this case.

III.

Alternatively, even if we were to assume, *arguendo*, that the Board of Appeals had ruled on the question of § 5–108(e)'s validity and that the circuit court's judgment could be viewed as an affirmance of the administrative decision, Holiday Point would still not be entitled to relief. The circuit court correctly held that the County's zoning power extended to the regulation of the situs of piers and the number of boat slips, and that the local ordinance was not preempted by state law.

A.

[8] There is no dispute that the County has the power, derived from Art. 25A, § 5(X), to enact zoning and planning laws. *See Euclid v. Ambler Realty Co.*, 272 U.S. 365, 47 S.Ct. 114, 71 L.Ed. 303 (1926); *Hope v. Baltimore County, supra*, 288 Md. at 665, 421 A.2d at 581; *Anne Arundel County v. Ward*, 186 Md. 330, 337, 46 A.2d 684, 687 (1946). Furthermore, a county's zoning authority ordinarily encompasses piers and wharves that are attached to the land. *People's Counsel v. Maryland Marine*, 316 Md. 491, 498, 560 A.2d 32, 35 (1989); *Harbor Island Marina v. Calvert County, supra*, 286 Md. at 317–323, 407 A.2d at 746–749.

[9, 10] The question raised by Holiday Point, however, is whether Article 28, § 5–108(e), of the Anne Arundel County Code, which zones improvements attached to riparian land, is invalid because the ordinance takes into account the health of shellfish beds. The concern is that the shellfish beds in question are on land beneath tidal waters and, therefore, are

powers principle set forth in Article 8 of the Maryland Declaration of Rights. *See Insurance Commissioner v. Equitable*, 339 Md. 596, 617–624, 664 A.2d 862, 873–876 (1995). *See also Maryland Aggregates v. State*, 337 Md. 658, 675–679, 655 A.2d 886, 896, *cert. denied*, 514 U.S. 1111, 115 S.Ct. 1965, 131 L.Ed.2d 856 (1995), and cases there cited.

generally owned by the State. *People's Counsel v. Maryland Marine, supra*, 316 Md. at 502, 560 A.2d at 37; *Potomac Sand & Gravel v. Governor*, 266 Md. 358, 364, 293 A.2d 241, 244, *cert. denied*, 409 U.S. 1040, 93 S.Ct. 525, 34 L.Ed.2d 490 (1972); *Hirsch v. Md. Dep't of Nat. Resources*, 288 Md. 95, 98, 416 A.2d 10, 12 (1980); *Dep't of Nat. Resources v. Ocean City*, 274 Md. 1, 5, 332 A.2d 630, 633 (1975); *Causey v. Gray*, 250 Md. 380, 387, 243 A.2d 575, 581 (1968); *Green v. Eldridge*, 230 Md. 441, 447, 187 A.2d 674, 677 (1963); *Clark v. Todd*, 192 Md. 487, 492, 64 A.2d 547, 549 (1949); *Cahill v. Baltimore*, 173 Md. 450, 455, 196 A. 305, 308 (1938); *Adams v. Carey*, 172 Md. 173, 182, 190 A. 815, 820 (1937); *Hodson v. Nelson*, 122 Md. 330, 338, 89 A. 934, 937 (1914). *See also State v. Applegarth*, 81 Md. 293, 299, 31 A. 961, 962 (1895) ("oyster beds are the property of the State"). It is well settled that a county is not entirely free to zone State property. *People's Counsel v. Maryland Marine, supra*, 316 Md. at 499, 560 A.2d at 36; *City of Baltimore v. State*, 281 Md. 217, 222–224, 378 A.2d 1326, 1329–1330 (1977).

Two cases decided by this Court provide guidance regarding the zoning power of local governments when land under tidal waters is affected. In *Harbor Island Marina v. Calvert County, supra*, 286 Md. at 316–323, 407 A.2d at 745–749, a commercial marina filed a declaratory judgment action against Calvert County, challenging the County's power to enact ordinances for the purpose of providing orderly development of waterfront areas within the County. The marina asserted that the ordinances' regulation of tidal waters, the lands beneath the waters, and wetlands, was invalid. Judge J. Dudley Digges, writing for a unanimous Court, held that Calvert County had not exceeded its local zoning power. After reviewing numerous prior cases concerning riparian rights and governmental authority over them, the Court reaffirmed that improvements made and attached to riparian land were additions to the land and subject to a county's zoning power. The Court concluded (286 Md. at 322, 407 A.2d at 748):

4/24/01

IN THE MATTER OF:	*	**BEFORE THE**
ESTATE OF CATHERINE V. BOND	*	**COUNTY BOARD OF APPEALS**
	*	**FOR**
	*	**BALTIMORE COUNTY**
LEGAL OWNER:		
CARROLL COMMUNITY CHURCH, INC.	*	
1701 Emory Road	*	
4th Election District	*	
3rd Councilmanic District	**Case Nos:**	**99-503-X and CBA-00-105**

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

REPLY MEMORANDUM OF LAW

Carroll Community Church, Inc. ("Church"), Appellant, Petitioner and property owner, by and through its attorneys, G. Scott Barhight, Julie A. DiGrigoli and Whiteford, Taylor & Preston, LLP, hereby submits this Reply to the County Attorney's Memorandum of Law and states:

I. RLUIPA AND THE FIRST AMENDMENT APPLIES TO THE PRESENT CASE.

The Church wholly agrees with the County Attorney that the Religious Land Use and Institutionalized Persons Act of 2000 ("RLUIPA") and the First Amendment are applicable to the present case. The Church and the County Attorney further agree that this Board must be cognizant of RLUIPA and the First Amendment when rendering a decision in this matter.

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COUNTY BOARD OF APPEALS

Fortunately, the record in these proceedings clearly demonstrates that the Church meets the criteria for a special exception for a church on the subject property. Therefore, the Board need not base its decision on RLUIPA or the First Amendment. Furthermore, this Board need not even address the substantive issues relating to RLUIPA and the First Amendment in order to grant the Church's special exception.

A. The Board's decision in this case must comply with RLUIPA.

The Board's decision in this case must comply with RLUIPA. The Board unquestionably complies with RLUIPA if the Board finds that the Church meets Baltimore County Zoning Regulations (BCZR) §502 and §1A01, as effected by Maryland law, and grants a special exception for a church.

If the Board, however, decides to deny the Church's special exception, RLUIPA requires that there be facts and circumstances in the record which demonstrate that: (1) the Church fails to meet BCZR §502 and/or BCZR §1A01, as effected by Maryland law, (2) the Church's failure to meet BCZR §502 and/or §1A01 is a compelling government interest and (3) such denial is the least restrictive means of furthering the government's compelling interest. Similarly, if the Church's special exception is granted, but subject to conditions to which the Church has not already stipulated, the record must reflect that the conditions are supported by a compelling government interest and are the least restrictive means of furthering that interest.

B. ***In addition to the restraints imposed by RLUIPA, the Board's decision in this case must comply with the First Amendment.***

In addition to the restraints imposed by RLUIPA, the Board's decision in this case must comply with the First Amendment. As with RLUIPA, the Board unquestionably complies with the First Amendment if the Board finds that the Church meets BCZR §502 and/or BCZR §1A01, as effected by Maryland law, and grants the Church a special exception. If the Board chooses, however, to deny or condition the Church's special exception beyond those conditions which were already stipulated, the Board must make sure that its denial or imposition of conditions does not suppress religion or religious beliefs in violation of the First Amendment.

The Free Exercise Clause of the First Amendment provides that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof . . . ." *Church of the Lukumi Babalu Aye v. Hialeah*, 508 U.S. 520, 531, 113 S.Ct. 2217, 124 L.Ed. 2d 472 (1993). The United States Supreme Court has held, for purposes of the First Amendment, that the "exercise of religion often involves not only belief and profession but the performance of (or abstention from) physical acts: assembling with others for a worship service . . . ." *Employment Div. v. Smith*, 494 U.S. 872, 878, 110 S.Ct. 1595, 108 L.Ed. 2d 876 (1990).

The Free Exercise clause "forbids subtle departures from neutrality and covert suppression of particular religious beliefs". *Lukumi*, at 534. The Supreme Court has made clear that the Free Exercise clause of the First Amendment "compels the State to pursue a course of neutrality towards religion, favoring neither one religion over others

nor religious adherents collectively over non adherents". *Board of Education v. Grumet*, 512 U.S. 687, 114 S.Ct. 2481, 129 L.Ed. 2d 546 (1994). The Supreme Court has acknowledged that "neighbors' negative attitudes or fears, unsubstantiated by factors properly cognizable in a zoning proceeding", are not a permissible basis for "differentiating between familiar and unfamiliar religions". *Islamic Center of Miss v. Starkville*, 840 F.2d 293 (1988) citing *City of Cleburne v. Cleburne Living Center*, 473 U.S. 432, 447-49, 105 S.Ct. 3249, 87 L.Ed. 2d 313 (1985).

Applying the First Amendment to the present case, this Board cannot distinguish between traditional, mainstream religious practices and non-traditional or minority religious practices when evaluating the Church's petition for special exception. The Board should be cognizant that the First Amendment may also prohibit the Board from arbitrarily distinguishing between small churches and large churches or "local" churches versus "regional" churches when evaluating a petition for special exception. The Baltimore County Zoning Regulations do not distinguish between the size and type of church that is permissible in the R.C.2 zone. Therefore, it may be a violation of the First Amendment to favor "local" churches by applying Baltimore County's special exception standards for a "church" differently depending upon if the Church is "local" or "regional".

II. THIS BOARD HAS NO AUTHORITY TO DECLARE RLUIPA UNCONSTITUTIONAL.

Under Maryland law, an administrative agency or official has no authority to declare a statute, including RLUIPA, unconstitutional. *See* *The Insurance Com'r of State*

of Md. v. Equitable Life Assur. Soc. of U.S., 339 Md. 596, 664 A.2d 862 (1995). The Maryland Court of Appeals has held that "an administrative agency or official is not empowered to render a declaratory judgment with respect to the constitutionality of a statute". *Id.* at 616. Maryland case law makes clear that these proceedings are not the proper forum for determining whether RLUIPA is constitutional.

III. THIS BOARD NEED NOT EVEN REACH THE RLUIPA AND FIRST AMENDMENT ISSUES RAISED IN THIS CASE SINCE THE CHURCH UNEQUIVOCALLY MEETS THE CRITERIA FOR A SPECIAL EXCEPTION.

This Board need not even reach the RLUIPA and First Amendment issues raised in this case since the Church unequivocally meets the criteria for a special exception for a church. The Church has established through competent and compelling expert testimony that the Church satisfies the requisite special exception standards for a church under the Baltimore County Zoning Regulations and Maryland law.

As detailed in the Church's Memorandum of Law in Lieu of Closing Argument, there is compelling evidence in the record that the proposed Church will have no greater impact at this location than one would ordinarily expect from any church in the R.C.2 zone. The record reflects that the Church has safe access onto State Highway Route 91 and is proximately located near an excellent surrounding road system. Additionally, the record includes a comment from the State Highway Administration that it has no objection to the approval of the Church. There is further evidence in the record that the Church will not overcrowd the land or impact the surrounding community greater than you would ordinarily expect of any church. There is also

compelling evidence in the record that the Church will actually be less detrimental to the health, safety and general welfare of the locality and have less of an interference on light than you would ordinarily expect of any church.

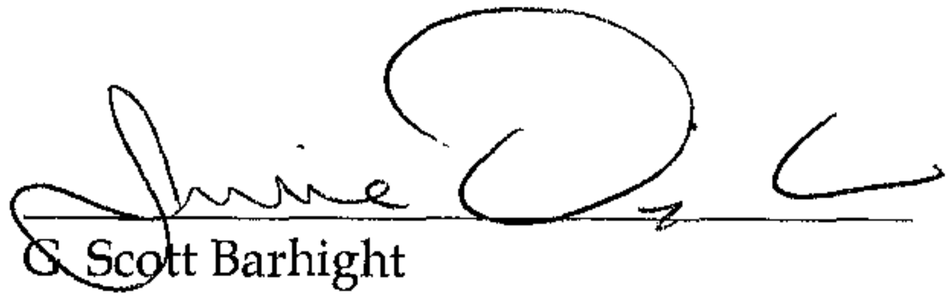
The proposed Church, and its accessory uses, were deliberately located along State Highway Route 91 on only 30% of the Church's 70.66 acre site in order to minimize the impacts one would ordinarily expect of any church. Further, the architecture of the Church was specifically designed to reduce the size and appearance of the building and take advantage of the site's existing topography and woods.

The evidence in the record further confirms that the Church will not be more detrimental to the primary agricultural uses in the vicinity than one would ordinarily expect of any church. There is no credible evidence in this case that the Church's refusal to farm its property will have any adverse effect on the grain producing agricultural activities in the vicinity or in any way contribute to the illusory "impermanence syndrome".

Despite the Protestants and People's Counsel's contentions, they have simply failed to contradict the Church's testimony or present any legally sufficient evidence to justify the denial or conditioning of the Church's special exception. Based on the foregoing, this Board should grant the Church a special exception based on the fact that the Church meets the requisite criteria for a special exception for a church on the subject property.

IV. CONCLUSION

For the foregoing reasons, Petitioner/Appellant Carroll Community Church, Inc. respectfully requests that this Board affirm the decision of the Baltimore County Zoning Commissioner granting the Church's Petition for Special Exception and reverse the portion of that decision which conditioned the Special Exception on a reduction in the seating capacity and parking of the Church.



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 24th day of April, 2001, a copy of Petitioner/Appellant Carroll Community Church, Inc.'s Reply Memorandum of Law was mailed first-class, postage prepaid to the following:

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Julie A. DiGrigoli

224007

3/30/01

IN THE MATTER OF	*	BEFORE THE
CARROLL COMMUNITY CHURCH	*	
1701 Emory Road	*	COUNTY BOARD OF APPEALS
4th Election District	*	
3rd Councilmanic District	*	FOR
	*	
ESTATE OF CATHERINE V. BOND,	*	BALTIMORE COUNTY
Legal Owners	*	
CARROLL COMMUNITY CHURCH,	*	Case Nos. 99-503-X
INC., Contract Purchasers	*	00-105

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

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The Board of Appeals gave notice to the County Attorney's Office that the Petitioners in the above-referenced matter have asserted that the Religious Land Use and Institutionalized Persons Act of 2000 ("RLUIPA") Pub. L. No. 106-274 (2000) prohibits the Zoning Commissioner's (and this Board's) imposition of certain conditions upon the requested special exception for the construction of a house of worship. Specifically, the Petitioners seek a special exception that would permit them, *inter alia*, to construct a 2,000 seat sanctuary for worship. The Zoning Commissioner granted the special exception, but elected to limit the capacity of the sanctuary to 1,200 seats.

Petitioners contend that this limitation substantially burdens their intended religious exercise and that the record in this matter does not demonstrate a compelling governmental interest in favor of the capacity restriction imposed by the Zoning Commissioner. Petitioners further contend that the restriction does not satisfy the "least restrictive means" test set forth in RLUIPA . Petitioners place much emphasis on the fact that the additional 800 seats proposed are to be constructed in a balcony above the floor of the sanctuary and will require no expansion of the building footprint. Petitioners argue that reviewing agencies have raised no objection to the size of the parking lot for the proposed sanctuary or the need for storm water management, and offer testimony which they contend demonstrates that the traffic generated by the proposed use will not burden existing roadways. As a

result, they contend that no compelling governmental interest exists to impose a burden on their "religious exercise". Protestants and People's counsel have responded by questioning the constitutionality of RLUIPA and by attempting to counter the Petitioners' assertions.

The Board has invited this Office to provide advice regarding the Board's obligations under RLUIPA and the 1st Amendment by the filing of an intervener's brief in this matter. We commend the Board for inviting our advice on this new federal statute and for recognizing that the statute and the 1st Amendment impose certain responsibilities upon the Board in land use decisions. We respectfully decline, however, to offer that advice specifically in the context of this proceeding, particularly given what we interpret as a pre-litigation "shot across the bow" by Petitioners.

The Baltimore County Charter provides that the County Attorney acts as counsel to the Board of Appeals and thereby is empowered to advise the Board on legal matters in the context of attorney-client discussions which are most appropriate when questions of liability and risk management arise. Accordingly, this Office declines the opportunity to take a position in this particular case, but encourages the Board to pursue advise, not about this case, but about the Board's general obligations under RLUIPA and the 1st Amendment.

We believe that it would be imprudent and indeed beyond the jurisdiction of this body to address the constitutionality of RLUIPA in this case. While we too question the constitutionality of this statute,[1] we must be cognizant of the monetary liability that the County could be exposed to

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[1] We observe that RLUIPA defines "religious exercise" as the "use, building, or conversion of real property." Pub. L. No. 106-274 §8 This definition is contrary to most Free Exercise Clause cases which find that the use, building, or conversion of property to be used for religious purposes is not generally viewed as the exercise of religion. *See e.g. Christian Gospel Church v. San* Francisco, 869 F.2d 1221 (9th Cir.) *cert. denied*, 498 U.S. 999 (1990); *Messiah Baptist Church v. County of Jefferson*, 859 F.2d. 820 (10th Cir. 1988) *cert. denied*, 490 U.S. 1005 (1989). By creating a definition of religious exercise that sweeps so broadly, RLUIPA may

under RLUIPA if the County is found to have violated the Act. Pub. L. No. 106-274 §4. Because of that potential liability, it is prudent that any discussions with the Board regarding RLUIPA and the 1st Amendment remain within the confines of the attorney client relationship.

Although the focus of the briefs filed by the Petitioner, Protestants, and People's counsel focus on RLUIPA, we would be remiss if we did not remind the Board that the Free Exercise Clause of the First Amendment is still is applicable to land use cases. The Supreme Court in *Employment Division v. Smith*, 494 U.S. 872 (1990) held that a neutral law of general applicability need not be justified by a compelling governmental interest even if it places a substantial burden on religion. Yet, despite the *Smith* decision (which is viewed as reducing the standard in a free exercise clause case to a mere rational basis review), any statute or the application of a statute must still meet the two threshold tests under the 1st Amendment: neutrality and general applicability.

We note that the Supreme Court in *Church of the Lukami Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520 (1993) stated that even though a law may be neutral on its face, a court must evaluate whether its intended effect or application is to discriminate against religion in general or particular religious beliefs explaining that the "Free Exercise Clause protects against governmental hostility [towards religion] which is masked as well as overt." *Id.* at 534. The Court stated that facial neutrality alone was not sufficient to escape rigorous scrutiny. *Id.* In that case, the Supreme Court went on to invalidate a neutral statute because the record revealed a discriminatory purpose – to

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have run afoul of the Establishment Clause of the First Amendment by requiring that all land use regulations applied to places of worship to be supported by a compelling interest. This elevation of places of worship above other non-religious uses by possibly exempting them from land use regulations may ultimately be seen as an endorsement of religion by the government in violation of the Establishment Clause. *See Texas v. Bullock*, 489 U.S. 1, 17 (1989) (tax exemption limited to religious periodicals "effectively endorses religious belief").

suppress an unpopular religious practice of a certain minority church.[2] *Id.* at 540. Thus, the 1st Amendment compels that the Board evaluate whether the law or the application of the law is neutral and does not inappropriately suppress religion or religious belief. We encourage the Board to keep these principals in mind when reviewing cases involving places of worship.

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[2]While it is may be easier to identify government hostility towards a particular church or religious practice, the government must be neutral towards religion in general and not impose special disabilities on the basis of religious status. *McDaniel v. Paty,* 435 U.S. 618 (1978). "A proper respect for both the Free Exercise and the Establishment clauses compels the State to pursue a course of neutrality towards religion, favoring neither one religion over others nor religious adherents collectively over nonadherents." *Board of Education of Kiryas Joel Village School District v. Grument,* 129 L.E.2d 546 (1994)(internal quotations and citations omitted).

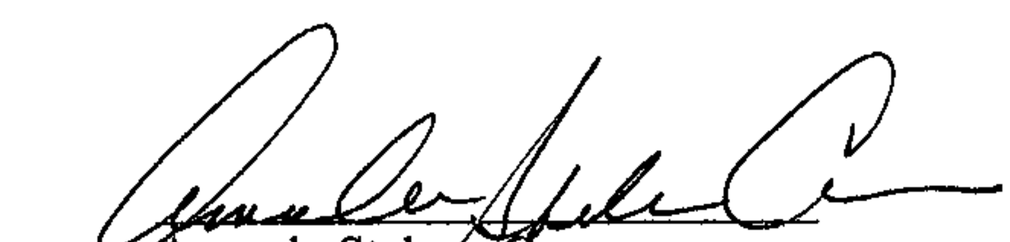
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I HEREBY CERTIFY that a copy of the foregoing paper was served by first class mail on March 30, 2001 upon:

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3/7/01

RE: PETITION FOR SPECIAL EXCEPTION 1701 Emory Road SEC Mt. Gilead and Emory Roads 4th Election District, 3rd Councilmanic	*	BEFORE THE COUNTY BOARD OF APPEALS
	*	FOR
ESTATE OF CATHERINE V. BOND, Legal Owner	*	BALTIMORE COUNTY
CARROLL COMMUNITY CHURCH, INC. Contract Purchaser	*	Case No.: **99-503-X**

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

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COUNTY BOARD OF APPEALS

PEOPLE'S COUNSEL'S MEMORANDUM

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RE: PETITION FOR SPECIAL EXCEPTION 1701 Emory Road SEC Mt. Gilead and Emory Roads 4th Election District, 3rd Councilmanic	*	BEFORE THE COUNTY BOARD OF APPEALS
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CARROLL COMMUNITY CHURCH, INC. Contract Purchaser	*	Case No.: **99-503-X**

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

PEOPLE'S COUNSEL'S MEMORANDUM

Introduction

In order to avoid duplication in the memoranda filed by People's Counsel and Protestants in this case, People's Counsel's Memorandum will focus on the legal issues, including the Constitutional issues Petitioner allegedly raised at the hearing. The standard Maryland law on special exceptions will be addressed as it pertains to the other legal issues covered in this memorandum. People's Counsel has addressed generally the special exception standards and the burden of proof in its memorandum in The Matter of Edgar Lucas, Case No. 98-294-SPHA, and in The Matter of Somerford Corp., Case No. 00-523-SPHX. It is anticipated that Protestants' Memorandum will present an overview of the case, the facts, special exception law, and their argument on the appeal of the Development Review Committee's decision on the development plan.

I. First Amendment Overview

The CBA can be heedful of First Amendment issues when zoning laws are applied to religious institutions. Such awareness does not mean religious institutions are immune

from regulation.

> "We are mindful of the highly favored place a church should have in the community. As an owner of real estate, however, the church stands equally before the law with all those who invoke its protection." Smith v. First United Presbyterian Church, 52 N.W.2d 568 (1952).

First Amendment rights must be balanced against the general welfare of the community. For instance, it is undisputed that religious institutions must observe fire laws, sanitation requirements, and building codes which apply to all and protect the health and safety of the public. Sherman v. Simms, 183 S.W.2d 415 (1944). Other regulations also apply.

> "Structures used for religious purposes may be regulated as to bulk and height, yard sizes, setbacks, open space, parking and so forth." Needham Pastoral Counseling Center, Inc. v. Board of Appeals, 557 N.E.2d 43 (1990).

The need to protect sensitive environmental issues may warrant prohibition of a church and parking lot within a protected wetlands area. Southern New England Conference Assoc. of Seventh Day Adventists v. Burlington, 490 N.E.2d 451 (1986).

Some states have upheld reasonable municipal zoning regulations that exclude churches from restricted residential districts, or treat then differently from a library, museum or school. (See Young, Anderson's American Law of Zoning, 4th Ed., Section 12.22, hereinafter referred to as "Anderson").

In Messiah Baptist Church v. County of Jefferson, 859 F.2d 820 (CA10) cert. den., 109 S.Ct. 1638 (1989), the court upheld the constitutionality of zoning regulations which prohibited a church in area zoned agricultural where exclusion was not arbitrary *per se*,

where the church was not denied right to exercise religious preference, where agricultural zoning regulations affected only property interest and bore substantial relation to general welfare of county residents, and where regulations did not regulate religious beliefs of church. Likewise in the state of Oregon, the court ruled counties may impose restrictive conditions on churches in exclusive farm use zones. Kola Tepee, Inc. v. Marion County, 782 P.2d 955 (1989).

Generally speaking, the test involves a balance of the benefits of religious use and the requirements of effective land use control and the public welfare. Most recently, the United States Supreme Court addressed this issue striking down the Religious Freedom Restoration Act of 1993. Congress then enacted the Religious Land Use and Institutionalized Persons Act of 2000.

II. The Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA)

Background

On September 22, 2000, Congress approved RLUIPA, copy attached. It is the second attempt in recent years to give a preferred position to religious activities with respect to land use and other regulatory matters.

The first attempt came in the Religious Freedom Restoration Act of 1993 (RFRA), which attempted to "restore" the compelling governmental interest test for regulations which "substantially burden" a person's free exercise of religion. The Supreme Court addressed RFRA in a case involving the application of a local zoning ordinance for historic preservation to a church expansion. City of Boerne v. Flores, 521 U.S. 507

(1997). There, in holding RFRA unconstitutional, the Court found that Congress had usurped the judicial power to interpret the constitution and had subverted principles articulated in Employment Division v. Smith, 494 U.S. 872 (1990). Smith held valid the application to religious practices of reasonable and neutral laws of general applicability.

RLUIPA is the response to the Boerne case. It suffers from problems similar to those which caused the RFRA's downfall.

A. Description; Issues

RLUIPA Section 8(7) defines "Religious Exercise" (A) broadly to include any exercise of religion and, (B) by "Rule" to include "the use, building, or conversion of property for the purpose of religious exercise..." Section 2 is the main operative part of the Act which describes primary rights. In subsection 2(a), it forbids:

> "... a land use regulation... that imposes a substantial burden on the religious exercise of a person... unless the government demonstrates that imposition of the burden ...
>
> (A) is in furtherance of a compelling governmental interest; and
>
> (B) is the least restrictive means of furthering that compelling governmental interest."

Subsection 2(a)(2) defines the scope of the law to include (A) programs or activities that receive federal financial assistance, (B) cases where the substantial burden affects commerce, and (C) regulations or systems of land use regulation which involve individual assessments of the property involved.

Subsection 2(b)(1) forbids imposition of:

> "...a land use regulation in a manner that treats a religious assembly or institution on less than equal terms with a nonreligious assembly or institution."

Subsection 2(b)(2) forbids land use regulation which discriminates on the basis of religion or religious denomination. Subsection 2(b)(3) forbids a land use regulation which:

> "totally excludes religious assemblies from a jurisdiction; or unreasonably limits religious assemblies, institutions, or structures within a jurisdiction."

B. Judicial Relief

Section 4(a) of the Act allows assertion of a violation of the Act "as a claim or defense in a judicial proceeding...

It also establishes standing requirements "under the rules of standing of Article III of the Constitution. In turn, Section 4(b) states:

> "If a plaintiff produces *prima facie* evidence to support a claim alleging a violation of the Free Exercise Clause or a violation of section 2, the government shall bear the burden of persuasion on any element of the claim, except that the plaintiff shall bear the burden of persuasion on whether the law (including a regulation) or government practice that is challenged by the claim substantially burdens the plaintiff's exercise of religion."

Section 4(d) allows for an award of attorneys' fees under 42 U.S.C. 1988(b).

C. Is RLUIPA Properly Raised and Presented?

If the Act is valid, then it may apply to a Baltimore County zoning law requiring a special exception in an agricultural zone. The broad scope of Subsection 2(a)(2)(C) encompasses individual assessment of land use for a church, a defined religious exercise. However, there is a preliminary question whether the issue has properly been raised here.

These proceedings were pending on September 22, 2000, when RLUIPA was enacted. The hearings concluded on January 25, 2001. It was not until the end of the January 25 hearing that Petitioner mentioned a RLUIPA issue. See attached excerpt from hearing transcript. Petitioner did not present a case that county zoning law substantially burdens this church's exercise of religion, much less a *prima facie* case. It did not request reopening of the hearing at any time for that purpose. It did not notify the opposing parties of its contention in time for an opportunity to prepare specific rebuttal. Moreover, it did not notify the County Law office, the office which directly represents the government which is responsible for RLUIPA compliance.

RLUIPA does not appear to intend the mere existence of a county zoning special exception requirement to constitute a *prima facie* case. There is no evidence that Baltimore County has prevented this church, or any other church, from having some suitable location for religious exercise. Baltimore County has over 600 square miles, and about half of it is in the agricultural zone. There is no evidence that the Act means any zoning regulation which restricts a church's ability to locate anywhere it desires, regardless of size, scale, and impact on the area, to be *ipso facto* a substantial burden on religious exercise.

Moreover, having applied for a special exception, Petitioner must answer this observation in Creative Country Day School v. Montgomery County Board of Appeals, 242 Md. 552 (1966):

> "...indeed, they applied for the granting of a special exception under the Zoning Ordinance in this case.

> "Under these circumstances, it is most doubtful that the appellants may challenge the constitutionality of the ordinance under which they have sought relief."

In this context, RLUIPA refers to a "judicial proceeding" as the forum for assertion of a violation. It also includes remedies traditionally associated with a court setting. It is fairly debatable, therefore, whether this encompasses a "quasi-judicial" proceeding before a zoning board.

If we assume, nevertheless, that the CBA is the proper forum for raising the constitutional issue, it is our contention that Petitioner has not raised the issue in timely fashion, has not made a *prima facie* case for substantial burden, and has not notified a necessary party, the corporate body and politic of Baltimore County.

If, proceeding sequentially, we assume further that RLUIPA is properly raised, we must discuss its constitutionality. Then, assuming *arguendo* it is constitutional, we discuss its application to the circumstances presented here.

D. Constitutionality

1. First and Fourteenth Amendments: The Free Exercise Clause

The Free Exercise Clause of the Fourteenth Amendment applies to state and local governments via the Fourteenth Amendment's "due process" clause. Here, it is apparent at the outset that RLUIPA suffers from the same infirmities of RFRA. The import and impact of the "compelling governmental interest" test is to reverse and subvert the principle articulated in Smith and repeated in Boerne which sustains neutral regulations

of general applicability which cover religious as well as nonreligious activities. As with RFRA, RLUIPA may be described in the words of Justice Kennedy in Boerne:

> "Sweeping coverage ensures its intrusion at every level of government, displacing laws and prohibiting official actions of almost every description and regardless of subject matter."

In rejecting the further argument that the law was intended as a legitimate enforcement measure to prevent and remedy governmental infringement of free exercise of religion, he also wrote:

> "It is a reality of the modern regulatory state that numerous state laws, such as the zoning regulations at issue here, impose a substantial burden on a large class of individuals. When the exercise of religion has been burdened in an incidental way by law of general application, it does not follow that persons affected have been burdened because of their religious beliefs. In addition, the Act imposes in every case a least restrictive means requirement – a requirement that was not used in pre-*Smith* jurisprudence RFRA purported to codify – which also indicates that the legislation is broader than is appropriate if the goal is to prevent and remedy constitutional violations."

In sum, RLUIPA Section 2(a)(1) is unconstitutional as, in essence, a revival of the RFRA "compelling government interest" test struck down in Boerne. It is a usurpation of the judicial power for the Congress to establish jurisprudential principles for interpretation of the First Amendment.

2. Fourteenth Amendment: The Equal Protection Clause

RLUIPA adds an anti-discrimination provision which forbids treatment of a religious assembly or institution on "less than equal terms" with nonreligious assemblies or institutions. This presents a problem comparable to the "compelling interest" test

problem. If this is intended to impose a test which is stricter than the traditional constitutional test under the Equal Protection Clause, it is another usurpation of judicial power.

In Village of Belle Terre v. Boraas, 416 U.S. 1 (1974), Justice Douglas expressed the established view that land use legislation is a type of social and economic legislation subject to deferential review. As he put it,

> "We deal with economic and social legislation where legislatures have historically drawn lines which we respect against the charge of violation of the Equal Protection Clause if the law be 'reasonable, not arbitrary' (quoting *Royster Guano Co. v. Virginia*, 253 U.S. 412, 415 and bears 'a rational relationship to a [permissible] state objective.'" Reed v. Reed, 404 U.S. 71, 76."

The Maryland Court of Appeals took the same approach in Creative Country Day School v. Montgomery County Board of Appeals, 242 U.S. 552 (1966):

> "It seems clear that if a person seeks to rely upon the denial of the equal protection of the laws, that person has the burden of showing that the situation is the same as the situation complained of, and that the State, or its instrumentalities has treated the two situations in an unreasonable and arbitrary manner." *Lindley v. Natural Carbonic Gas Co.*, 220 U.S. 61 (1911).... Moreover, if any state of facts reasonably can be conceived that would maintain the classification, the existence of that state of facts at the time of the enactment of the statute must be assumed."

There, the Court rejected a challenge by a private school operator that a special exception requirement in a residential zone not imposed on public and parochial schools conflicts with equal protection principles. The Court found a rational basis to differentiate between private and public schools.

While Montgomery County there allowed public and parochial schools by right, it would also be rational to impose a special exception requirement on all private schools.

Indeed, it is generally presumed that county zoning laws do not apply to county public land uses unless explicitly stated otherwise. Glascock v. Baltimore County, 321 Md. 118 (1990). Clearly, public schools are more directly accountable to the public than any private schools, including parochial schools.

If the RLUIPA "less than equal terms" provision intends a different standard, forbidding any sort of differentiation between religious land use and other institutional uses, then, once again, it amounts to an alteration of the standard set by the courts. It would be a usurpation of judicial power. Moreover, consistent with Boerne, there is no evidence of overt discrimination and suppression of religious land uses which would justify congressional use of the enforcement clause of the Fourteenth Amendment to remedy past violations.

As detailed below, the Baltimore County Zoning Regulations allow churches in numerous residential, office, and commercial zones (adjoining residential zones) by right. It allows them in rural-residential zones by right and in other resource conservation zones (including the R.C. 2 agricultural zone) by special exception. Within the R.C. 2 zone, the only institutional use allowed by right is a public school. As noted, there is a reasonable distinction between a public school and a parochial school. Indeed, public schools would ordinarily be exempt from zoning in the absence of provisions to the contrary.

3. First and Fourteenth Amendments: The Establishment Clause

While the Supreme Court in Boerne focused on the legislative usurpation of judicial power by virtue of RFRA's establishment of a more favorable standard of

constitutional protection for religious land uses, there is another ground upon which objection may be made to such favorable treatment. It is that this form of protection amounts to a system of reverse discrimination which is both unreasonable under the Equal Protection Clause and in conflict with the Establishment Clause of the First Amendment.

RLUIPA's pervasive favoritism toward religious land uses puts the federal government in a position of tearing down the separation between church and state envisioned by the founding fathers. It has a religious purpose rather than a secular purpose; advances religion; and will probably entangle state and local governments, and the judiciary, in a web of complex litigation over details of religious exercise and land use. This is inimical to the principles explained in Lemon v. Kurtzman, 403 U.S. 602 (1971) and its progeny.

There is another reasonable possibility. State and local governments may be so afraid of litigation under RLUIPA that they will exempt religious land uses from all government regulation. That would have terrible consequences for the public safety, health, and welfare. It also would amount, in effect, to the establishment of a separate territorial jurisdiction and immunity for religious institutions from the exercise of the police power.

As noted, the Supreme Court did not reach this issue in Boerne. The Fourth Circuit Court of Appeals has, however, addressed a county ordinances which exempted parochial schools from zoning special exception requirements applicable to other schools.

It allowed the exemption 2-1. Ehler-Renzi v. Connelly School of the Holy Child, 224 F.3d 283 (4th Cir. 2000). We have not found if there has been a further appeal. Separately, the California Supreme Court has allowed by 4-3 vote a state law permitting religious organizations to exempt themselves from landmark preservation laws. East Bay Asian Local Development Corp. v. State, No. SO 77396, ___ P.2d ___ (2000).

The United States Supreme Court will likely have to resolve the Establishment Clause problem arising in such cases. While standards for evaluation under this Clause differ from those under the Free Exercise Clause, there is a good chance that such ordinances will be found to amount to an establishment of religion.

4. The Commerce Clause

RLUIPA includes situations where commerce is affected as one of the areas within the scope of the Act. But the existence of such a basis for jurisdiction could not properly be a vehicle to subvert judicial standards of interpretation under the Free Exercise Clause. Moreover, it is doubtful that RLUIPA may be sustained as an exercise of power under the Commerce Clause. Its attempt to regulate all local land use regulations involving individual assessments seems to place it beyond the reach of this constitutional power. United States v. Lopez, 514 U.S. 549 (1995); United States v. Morrison, ___ U.S. ___, 120 S.Ct. 1740 (2000).

5. Summary

For all these reasons, RLUIPA is unconstitutional on its face and as applied to this case. It purports to change and usurp judicial authority to interpret the Free Exercise and

Equal Protection Clauses. It conflicts with the purposes of the Establishment Clause. It goes beyond the proper bounds of the Commerce Clause.

E. Application of the Law

Even if RLUIPA may validly be applied to the present case, there has not been established a violation.

Petitioner has not presented a *prima facie* case that a special exception requirement substantially burdens the exercise of its religion. There is no evidence to show reasonable alternative locations are unavailable. Moreover, there is no evidence that the exercise of religion reasonably requires a megachurch of the size and scale proposed here in a rural area.

If there were a *prima facie* case presented to show a substantial burden, the evidence nevertheless shows that the government has a compelling interest in protecting agricultural zones from uses which because of their size, scale, and operation may reasonably be found to have particular adverse effects under special exception law. The legislative findings which support the establishment of the agricultural zone, the Maryland legislative framework for agricultural protection, and the evidence in this case, detailed below, all point to the compelling interest to assure reasonable limits on institutional uses in such zones.

With respect to the "less than equal terms" provision, first of all, it is to be remembered that the permission by right for churches in residential, office, commercial, and rural-residential zones provides a foundation of equality and proportionality in the

relevant context of the entire county zoning scheme. Even if the focus is narrowed to the agricultural zone alone, the only institutional use allowed by right there is a public school, a use which is more directly in the public interest, for which the government is directly accountable, and which ordinarily is exempt from zoning. Thus, whether viewed under the BCZR generally, which we submit is the relevant inquiry, or under the agricultural zone alone, there is no violation of the anti-discrimination provisions of RLUIPA.

Whether or not the CBA finds the RLUIPA issue to be properly raised and constitutional, it is in the public interest on this record for the CBA to make the additional finding that there is no RLUIPA violation proven.

The Supreme Court has prohibited a more favorable standard of constitutional protection for religious land uses. Those cases supporting regulations giving such favorable status were overturned by Boerne. But many cases throughout the U.S. had it right prior to Bourne. They balanced the First Amendment and the need for land use regulations to promote the public welfare.

While we have found no Maryland appellate cases on churches and land use, the decisions in other jurisdictions support People's Counsel's and Protestants' position in the instant case.

Moreover, even under RLUIPA, ***if*** it is constitutional, and ***if*** it has been property raised in this case, these cases demonstrate "the compelling government interest" in land use regulations, and that the regulations are "the least restrictive means of furthering that compelling government interest."

III. Religious Uses and Special Exceptions

The First Amendment protection does not prohibit a reasonable and neutral requirement that a religious institution obtain a special permit.

> "A requirement of a municipal zoning ordinance that a parochial school obtain a special use permit as a prerequisite to its operation is not an unreasonable restriction upon the church's free exercise of religion." Las Cruces v Huerta, 102 N.M. 182, 692 P.2d 1331 (1984, App.).

See also First Assembly of God of Naples, Florida, Inc. v Collier County, Florida, 20 F.3d 419 (1994, CA11), cert. den. 115 S.Ct 730 (1995); Cornell University v. Barnardi, 510 N.Y.S.2d 861 (1986); Grace Community Church v. Bethel, 622 A.2d 591 (Conn. 1993), cert. den. 114 S.Ct 383 (1993), holding that a special permit requirement to construct a church does not violate its constitutional right to freedom of religion or assembly.

IV. Petitioner's Burden Of Proof In Religious Use Special Exception Cases

Moreover, it is recognized that in special use or permit cases, the burden of proving compliance with the requirements is on the religious institution. See Board of County Comm'rs. v. First Free Will Baptist Church, 374 So.2d 1055 (1979, Fla.App. D3), where persons requesting a special exception to build a church in an agriculturally zoned district have the burden of proof.

Generally, the burden in a special exception case requires proof that the character of the neighborhood will not be adversely affected. The administrative board may find that the use will not be detrimental, or impose conditions to protect the interests of the

surrounding community. Even when recognizing First Amendment rights, courts have denied or restricted religious uses where the religious institution failed to present evidence that public convenience requires the use at the location, and that the public welfare will be protected (South Side Move of God Church v. Zoning Board of Appeals, 365 N.E.2d 118 (1977 1st Dist.)), or where the government had a compelling interest in maintaining the integrity of its zoning scheme (Christian Gospel Church, Inc. v. City and County of San Francisco, 896 F.2d 1221 (1990 CA9), cert. den. 488 U.S. 999 (1990)).

In Baltimore County, churches are permitted by right in all Density Residential (DR) zones, in Resource Conservation zones - RC 3, RC 5, RC 6, RC 7, ROA, RO, OR-1, OR-2, the manufacturing zones (BCZR 407), and commercial zones where DR uses are permitted. Churches are permitted by special exception in the RC 2 and RC 4 zones, the purpose of these zones being to protect the public welfare by preserving and protecting the natural resources. The special exception requirement is reasonable and supports the compelling county interest in maintaining the agricultural industry.

V. The Appropriateness Of Religious Uses In Residential Zones Does Not Apply To The Agricultural Zones

It has been stated that the merits of religious institutions in the community outweigh exclusion from residential single family zones. The reasoning is that centrally located churches in residential zones ensure convenience for members and efficacy of their services.

> "As religious uses contribute to the general welfare of the community, and can contribute most when located in ***residential*** districts, an ordinance which excludes such uses from residential zones does not further the public

health, safety, morals, or general welfare." Anderson's American Law of Zoning, 12.22 page 578 (Emphasis added).

Even so, some states successfully restrict churches from residential neighborhoods depending on the characteristics of the church and its ancillary activities. Courts in Florida and California have ruled these regulations are not an infringement on constitutional rights, particularly where the church knew the area was restricted to single family homes before it purchased the site.

While religious uses may have public welfare interests that other institutional uses in residential zones do not, this rationale does not apply to non-residential zones. In these cases, the compelling interests of the zone stand on an equal footing with the protection of First Amendment rights.

A federal court found no First Amendment violations, and upheld a zoning statute that excludes churches from commercial and industrial non-residential zones where the ordinance neither excluded only churches from the zones nor revealed anti-religious intent. Cornerstone Bible Church v. City of Hastings, Minn., 740 F.Supp. 654 (1990), aff'd. in part, rev'd. in part, 948 F.2d 464 (8th Cir. 1991).

Where uses permitted in the zone were rationally related to the purpose of maintaining the agriculture district, exclusion of churches from the zone was not an infringement on First Amendment rights. (Messiah Baptist Church, *supra*).

It is undisputed the purpose of the RC 2 is to protect agriculture, the largest industry in Baltimore county. It is the only zone with a "specific preferred use" rather than just the "permitted uses." BCZR 1A01.2 A provides:

"Use regulations.

> Preferred use permitted as of right. Agricultural operations, when conducted in accordance with good and reasonable husbandry practices, shall be afforded preferential treatment over and above all other permitted uses in RC 2 Zones."

This includes a preference over residential uses, including single-family detached dwellings. The result in some locations of the zone is very low concentrations of population over vast areas. Testimony from Protestant witnesses describes the instant site and its surroundings as just such an area. The site is surrounded by farms devoted to crops, grain operations dependent on these crops and an inordinate amount of active farmland placed in agricultural preservation programs. The Baltimore County Master Plan supports the preference for agricultural uses. (See Master Plan 2010, pages 233-241, attached). Also, the site and surrounding areas have been zoned for agricultural protection since the inception of the RC 2 zone in 1979. (See 2000 Comprehensive Zoning Maps, People's Counsel/Protestants' Exhibit 74).

The tenet that the needs and convenience of the community will be served by protection of religious uses in centrally located residential areas cannot apply with the same conviction in agricultural zones. Constitutional guaranties of freedom of worship, and the contribution of religious uses to the public welfare may appear to favor churches in residential zones. However, the compelling interest to protect and promote agriculture neutralizes a church's perceived advantage. The CBA has recognized this compelling interest where agricultural land was involved.

The CBA denied a special exception for a church and parsonage on a 51 acre working farm as inconsistent with the spirit and intent of the RC 2 zoning regulations. The CBA found the proposed use would not support agriculture on site and in the vicinity. (See Meadowcliff, A New Covenant Church, Case 85-132-X).

Here, the public welfare is not protection of a residential neighborhood from institutional uses, at the risk of violating First Amendment protection. Rather, it is the very important need to protect and promote agriculture for the common good and general welfare. Again we find support in BCZR. An additional standard required in a special exception case in the RC 2 zone is stated in BCZR 1A01.2C:

> " . . .that in each case the hearing authority empowered to hear the petition finds that the use would not be detrimental to the primary agricultural uses in its vicinity; . . ."

Like the requirements for a special exception in BCZR 502.1, the burden of proof for this requirement is on the Petitioner.

VI. The Traditional Reasons To Locate A Church Near Its Members' Homes Does Not Apply In The Instant Case

> "Although the constitutional guarantees of freedom of religion involve different presumptions, a religious corporation's lack of evidence showing that the special use is necessary for the public convenience at that location, that the use is so designated, located and proposed to be operated that the public health, safety and welfare will be protected, and that the use will not cause substantial injury to the value of other property in the neighborhood in which it is located provides a sufficient basis for the zoning board of appeals denial of a church's application for a special use permit." (Anderson, *supra*, 12.24, page 586, citing South Side Move of God Church v. Zoning Bd. Of Appeals, 365 N.E.2d 118 (1977, 1st Dist) (Illinois).

In the instant case, there was no evidence that this site was chosen for the convenience of its members. There was no evidence that the location of the church at this site is convenient for its members. The church is presently located in Carroll County. Pastor Duke acknowledged the members come from suburban areas of Carroll County and Baltimore County. Most members will travel farther to attend church at the proposed site. The Petitioner failed to produce any evidence to demonstrate that the need to locate the church at this site outweighs the contributions of the agricultural industry in Baltimore County. Moreover, there was no evidence that other sites in the RC 2 zone could both serve the purposes of the church and promote and preserve agriculture.

In summary, the reasons to uphold religious uses in land use cases do not apply to the instant case:

- The site is in an agricultural, not a residential, zone.
- Protection and promotion of agriculture is a compelling state and local interest that serves the public interest.
- Churches are permitted by right in the majority of zones in Baltimore County.
- There is no evidence that conveniences and needs of the church can only be served at this site.
- All institutional uses in the RC 2 zone that are subject to zoning regulations, including churches, are treated the same.

For all these reasons, People's Counsel contends the body of special exception law in the State and County, as hereinafter described in this memorandum, applies to the instant case as it would to any other special exception use in this zone.

VII. Petitioner Failed To Meet Its Burden Of Proof

On the burden of proof, Petitioner has fallen short on two fronts. Petitioner (i) failed to carry its burden with credible evidence on the requirements of BCZR 502.1, and (ii) failed to present a scintilla of evidence for the RC 2 special exception requirement under BCZR 1A.01.2C above.

1. Agriculture

Many lay and expert witnesses in opposition to the Petition described the significance of the site to the agricultural industry and the imposition on surrounding agricultural uses if the proposed church is approved. Their testimony, which Petitioner did not refute, illustrates the criteria for denial in Schultz v. Pritts, 291 Md. 1 (1981) - the use is more detrimental at this site than other locations in the zone and that the proposed use would be detrimental to primary agricultural uses in the vicinity. The witnesses pointed out the following distinctions:

- The large amount of farming of surrounding acres that becomes vulnerable to development under the impermanence syndrome.
- Grain operations in immediate area that depend on crops from nearby sites to remain a viable agricultural business.

- The quality of soils and size of the site make the loss of the site particularly devastating to the agricultural industry in Baltimore County.
- The traffic generated on the local roads by the proposed institutional use makes navigating farm equipment from the surrounding farms difficult and dangerous.
- Rural Legacy designation on surrounding properties in Baltimore County makes the area an agricultural oasis.
- Rural Legacy status applied for by Carroll County on adjoining property and on the Carroll County portion of site, emphasizes the significant and important agricultural uses in the immediate area.

The detailed, fact-based testimony of Protestants' expert witness on these issues, as well as the concerns of numerous citizens who testified, is probative evidence of the detrimental effects of the proposal on the agricultural communities in the area. The Petitioner failed to produce credible evidence to refute this testimony. It is clearly Petitioner's burden under Turner v. Hammond, 270 Md. 41, 55 (1973):

> "In *Montgomery County v. Merlands Club, Inc.*, 202 Md. 279, 287 (1953) we said:
>
> > ' . . . The duties given the Board [in a special exception case] are to judge whether the neighboring properties and the general neighborhood would be adversely affected, and whether the use, in the particular case, is in harmony with the general purpose and intent of the zoning plan.'
>
> While the applicant has the burden of adducing testimony which will show that his use meets the prescribed standards and requirements . . ."

Here, Petitioner failed to satisfy the special exception requirements in Merlands, *supra*, as he must do under Turner, *supra*. The Protestants presented "probative" evidence, that is, evidence that "tested" or "tried" the idea of harm to the agricultural industry and to the rural neighborhood. Schultz v. Pritts, 291 Md. 1 (1980) recognized harm or disturbance to the neighboring uses as material. The Petitioner must here present credible evidence to rebut the Protestants' case in order to meet its burden under special exception law. It has failed to do so.

The failure to address BCZR 1A01.2C is a serious defect in the Petitioner's case and single-handedly prohibits the CBA from granting the Petition. There is simply no evidence to support a finding in favor of the Petitioner on this issue.

The testimony of Mr. Robert Bradley, a civil engineer, responded to BCZR 502.1 standards with conclusory statements or one word answers, failing to give the basis for his opinions as required by People's Counsel for Baltimore County v. Beachwood I Ltd. Partnership, 107 Md.App. 627, 650, cert. den. 342 Md. 472(1995):

> "A self-evident reason for rejecting as an effective catalyst an expert opinion that… is merely conclusory or is, at best, quasi-conclusory."

He never mentioned the word "agriculture."

Likewise, Mr. Timothy Madden, a landscape architect, restricted his testimony to six areas of concern: traffic, noise, the size and bulk of buildings, storm water management and runoff issues, parking and lighting. There was not, to the best of

recollection, a single word of testimony from Mr. Madden about whether there was a detrimental impact on surrounding agricultural uses in the vicinity.

Furthermore, in response to questions regarding special exception standards, he admittedly did not consider the size of a church. It is inconceivable that a "*pro forma*" rejection of any adverse consequences applies without distinction to a 200-seat and a 2000-seat church. He also admitted he did not consider comparisons to other churches in the area in his testimony, yet admitted that the small rural churches presented in Protestants' exhibit "might have less impact than this church."

No other witness for the Petitioner addressed or was qualified to discuss the zoning regulations.

Moreover, Petitioner here failed to prove the proposed use at the particular location would not have an adverse affect above and beyond those inherently associated with such special exception use irrespective of its location in the zone. (See Mossburg v. Montgomery County, 107 Md.App. 1 (1995) and Moseman v. County Council of P.G. County, 99 Md.App. 258 (1994)).

Mr. Madden admitted he did not investigate any other site in the RC 2 zone. He did not compare this site to any other RC 2 zoned site. He was unable to estimate how many RC 2 zoned acres existed in Baltimore County, nor the number of farm properties in the area. He acknowledged he knew of no other church of this size in the RC 2 zone.

In an Illinois case, the court held a religious institution applying for a special permit must demonstrate it has attempted to find locations where it may locate by right

and prove that the public convenience will be met if the institution is established at the site requested. St. James Temple of A.O.H. Church of God, Inc. v. Board of Appeals, 241 N.E.2d 525 (1968 1st Dist.), cert. den. 89 S.Ct 2019.

Pastor Duke did not explain why this site was selected and whether other sites would be suitable. Petitioner offered no rebuttal to the testimony of Protestant's experts, **Jack Dillon**, (former planner for Baltimore County), **David Martin** (University of Maryland Cooperative Extension), and **Wally Lippincott**, (Baltimore County DEPRM), that other RC 2 or RC 4 sites would be less detrimental to the agricultural community.

These Protestants' experts explained:

- The detrimental effects of the impermanence syndrome to the agriculture industry in general, and to other agricultural operations in the area would be less, if the church were located in an RC 2 zone nearer a commercial area, such as the rural villages or towns of Fowblesburg, Westminster where there are less farms in the area and adjoining the site.
- The loss of a farm of this size, soil caliber, and productivity erodes the "critical mass" of farmland. Many farmers rely on leasing farm acreage in the area, in addition to their own farm, in order to justify the purchase of farm equipment and accessories and to sustain their business. The loss of this above average size farm and its productive soils in an area surrounded by working farms and lands dedicated to agriculture, is more detrimental to the area than the loss of a

smaller, less productive farm. The loss of a farm in another area where agriculture is not as predominant would also have less adverse effects.

- The detrimental effects of increased traffic on rural roads for farmers and their equipment would be less if the church were located near highway interchanges such as Interstate 83.
- Inappropriate institutional uses, adjacent to farm operations, would be less tolerant of the noise, dust, and unconventional days and hours of operation that are part of agricultural operations; complaints from their neighbors tend to frustrate and discourage farmers.
- The detrimental effects to the agricultural industry in terms of loss of crop production would be less if the church were located at a site with less tillable acreage and with lesser quality soils. (This site consists of 73% prime and productive Chester soils, ranked in the top 10 percent of soil evaluations. David Martin noted soils on a farm of this size were tested in the field; the accuracy of the quality cannot be doubted. This 70-acre farm also ranks above the medium size farm in the County.)
- The experts referred to the testimony of Rhoda Mielke, an owner of Trenton Mill Farms located about five miles from the site, as an example of the adverse impact of the loss of this farm to the agricultural industry. Mrs. Mielke stated that the grain elevator operation at her farm depends on agricultural production in the immediate area. Also, Mrs. Mielke farms nearly 3500 acres and relies

on leasing farmland accessible to her own property to meet expenses. The farmland she leases near the site has the highest producing yield of her fields and is above the County average.

- The spirit and intent of the zoning regulations would be adhered to if this proposed use did not "overcrowd the land" and remove the entire site from agricultural production.

- The health, safety and welfare of the citizens of the County would be preserved if a farm of this size and caliber were not removed from the ranks of the agricultural industry.

2. Size and Scope

The Petitioner's landscape architect, Timothy Madden, admitted he knew of no other church of this size and scale in the RC 2 zone. The effect of the size and scope of the proposal on the character of the neighborhood is a legitimate concern in a special exception case. In People's Counsel v. Mangione, 85 Md.App. 738, 743,752 (1991) the Court of Special Appeals denied a special exception and adopted the CBA's findings that the size and scope of an assisted living facility would "overwhelm and dominate the surrounding landscape" and would represent the "deepest intrusion into the residential community..."

Concerns with aesthetics are also appropriate in religious use cases:

> "It is wholly appropriate to impose limitations on church property and accessory uses when reasonably related to general welfare of community, including community's interest in preserving appearance..."

Lakeshore Assembly of God v. Village Board of Village of Westfield, 508 N.Y.S.2d 819 (1986).

Religious uses are not treated differently than other institutional uses in the RC 2 zone. No institutional use is permitted by right except elementary and secondary public schools. (Public Schools are permitted by right in all residential zones and some office zones. As heretofore explained, public schools may be exempt from zoning. In any event, public schools carry out the functions of the State required by law. Zoning regulations which are inconsistent with the discharge of these functions conflict with the general law of the State.) Along with churches, a special exception is required in the RC 2 zone for private elementary and secondary schools, colleges, volunteer fire companies and ambulance rescue facilities. No other institutional use is permitted by right or special exception. Non-agricultural commercial uses are prohibited except for public services such as transit facilities. The rationale for these restrictions is the need for a zone devoted to agricultural uses to promote the general welfare.

In the instant case, many neighbors were disturbed to have such a large, tall institutional building visible from their rural homes. Their concerns are appropriate considerations in a special exception case. In Board of County Comm'rs. v. Holbrook, 314 Md. 210 (1987), a special exception for a mobile home on land zoned for agricultural use was denied because its appearance at the site would have an adverse effect on neighboring homes.

Here, the testimony from adjoining neighbors detailed the negative impact of an institutional structure of this size, an athletic field, driveway, and retreat house in a rural

agricultural setting. The negative effects were directly related to the size of the buildings, particularly the church itself. Limiting the number of "seats" requires a concomitant reduction in actual building footprint or actual maximum size of the buildings.

Finally, the exhibits, testimony and pictures of numerous other churches in the rural areas demonstrate that an appropriately-sized and appropriately-located church can serve the community and exist in harmony with the character of the surrounding neighborhood. Clearly, as Mr. Dillon pointed out, those rural churches depicted in Protestants' picture exhibit, were the size and style contemplated by the Planning Office as appropriate special exception uses in the RC 2 zone. Moreover, they prove religious activities can be carried out in a smaller church that complements and does not conflict with the character of the neighborhood.

3. Traffic

> "The courts have not held invalid all regulation of religious uses which tends to reduce the potential of traffic congestion." Anderson, *supra*, 12.25, page 588. Regulations that require a use to be surrounded by streets, or that require places of assembly, including churches, to be one-fourth mile apart to reduce traffic hazards were legal. (Anderson, *supra*, at 589).

The test appears to be the degree of danger caused by the proposed use so as to disturb the neighborhood and substantially injure it. (See Milwaukie Co. of Jehovah's Witnesses v. Mullen, 330 P.2d 5, 74 A.L.R.2d 347 (Oregon 1958), cert. den. and app. dism'd. 79 S.Ct 940).

This site has unique traffic concerns that were described at the hearing:

- Petitioner's traffic expert admitted the intersection of Mt. Gilead and Emory Roads fails to meet site distance requirements. He could not offer evidence or expertise that Mt. Gilead Road would not be used by attendees of church activities. The residents on Mt. Gilead, who are more credible witnesses on the realities of traffic patterns than an expert who visited the site on a few limited occasions, testified that many commuters as well as the residents use Mt. Gilead daily. As the videos depict, Mt. Gilead is narrow and winding.
- All residents described the extraordinarily high number of severe traffic accidents at this location because of the deficient site lines. Mr. Chris Bond reported nine fatalities in 40 years as well as numerous other serious accidents.
- The rise approaching the site from the south on Emory Road prevents northbound traffic from seeing the predictable backup of a 2000-seat congregation entering the church from the south. Another site without this particular geographic setting would not present this problems.
- Church attendees exiting the site and proceeding north or south on Emory Road will face the prospect of southbound traffic in the northbound lane (depicted in the videos) as drivers avoid the deficient site lines at the Mt. Gilead intersection. A rural site without this substandard site distance would not present the problems described.
- Mr. Harmon and Mr. Myers, the surveyor living in the area, described the inordinate amount of truck and construction vehicle traffic on Emory Road,

due to the large number of such commercial facilities in the area and the use of Emory Road as a common truck route.

- Mr. Peck Bond estimated that about 500 cars entering the church would stretch for two miles. The residents whose driveways exit along Emory Road well within two miles of the proposed church, are concerned that traffic backups entering and exiting services would block their driveways. This problem would not occur at other sites closer to highway interchanges, not fronting on a heavily traveled rural road.

These factors -- volume, terrain, and type of vehicle -- raise the level of traffic dangers here to a point where public welfare and safety justify the denial of the special exception.

4. Other Concerns

Mr. Peck Bond and Mr. George Harmon pointed out concerns about the effect of the project on the water table, since several wells in the area have gone dry.

Ms. Karen Silverman provided evidence of Native American artifacts, camps, and burial grounds on the site. Further research opportunities would be lost if the site were developed, or developed without conditions for further diggings.

Mr. George Harmon's testimony provided supplemental details and expertise to other witnesses' objections and concerns. The concerns are magnified in proportion to the size of the facility accommodating a large membership. This proposal exemplifies the need for special exception status, rather than a permitted use, for a church in the RC 2

zone. If this church is approved as proposed, under what circumstances could a special exception be denied?

VIII. At The Very Least, Conditions Or Restrictions Are Warranted

Under BCZR 502.2, the CBA is empowered to impose restrictions or conditions on a special exception use.

The CBA has embraced its authority under 502.2 in a prior decision to approve a church. (See Cignal Development Corp., Case No 91-466-X, where the CBA limited church to maximum seating capacity of 500, prohibited commercial day care and nursery schools, prohibited a fellowship center, limited the Sunday school classes to church members only; the CBA decision was affirmed by the Court Special Appeals).

In both its case in chief and in rebuttal, Petitioner failed to refute the conditions suggested by Protestants. Additionally, expert witnesses David Martin and Wally Lippincott agreed that a smaller church on the site, and retaining farmland, would preserve some productivity and retain the farm's value to the grain storage business in the vicinity and the agriculture industry in the County. A smaller church, without the ball field and retreat house, would reduce the amount of traffic impeding agricultural equipment from local farms using the roads. Similar conditions have been upheld in other jurisdictions. Anderson on Zoning, Section 12.24 cites a New York case (Application of Garden City Jewish Center, 157 N.Y.S.2d 435 (1956)) imposing restrictions which, *inter alia*, limit maximum occupancy to 214, and prohibit recreational,

property just because the activities there bear some relation to a church purpose." (See Anderson 12.23, page 582, citing Corporation of Presiding Bishop, etc. v. Ashton, 448 P.2d 185).

Anderson, *supra*, noted on page 596 that while one court recognized "A church is more than merely an edifice affording people the opportunity to worship God, . . . and all churches recognize that the area of their responsibility is broader than leading the congregation in prayer. . . ," it went on to state, "It is true that the religious aim of strengthening the congregation through fellowship may not be permitted to be perverted into a justification for establishing. . . a country club. . . and each case ultimately rests upon its own facts."

In First Assembly of God of Naples, Florida, Inc. v. Collier County, Florida, 20 F.3d 419 (1994, CA11), cert. den. 115 S.Ct 730 (1995), the court held a church-operated homeless shelter operated on church property in a separate structure that exceeded the number of residents permitted in multi-family dwellings, was not a "customary accessory use" protected by the First Amendment.

Likewise, tents to house attendees at religious gatherings were prohibited in a residential zone which otherwise permitted churches. The court rejected the church's argument that such a meeting place was tantamount to a church: "However, the conclusion does not follow that every place in which religious services are conducted is a church." Portage Township v. Full Salvation Union, 29 N.W.2d 297 (1947), app. dism'd. 68 S.Ct. 735, reh. den. 68 S.Ct. 1336.

Where overnight sleeping accommodations may be accessory to a religious society so members of the religion can worship, pray, study, celebrate religious festivals and prepare meals together (Havurah v. Zoning Bd. of Appeals, 418 A.2d 82 (Conn. 1979)), such a dwelling for the **non-ministry religious** was not a permitted rectory in Association for Educational Development v. Hayward, 533 S.W.2d 579 (Mo. 1976). (Emphasis added).

Moreover, it should be noted that a ball field is not a permitted "stand alone" use in the RC2 zone. (It is not "open space common" which is defined in BCZR as open to the public.) Recreational facilities such as ball fields are permitted by special exception in the DR zones only.

As to the retreat house, motels, hotels, multifamily dwellings and boarding houses are not permitted in the RC 2 zone. Overnight camps are permitted in the RC 2 by special exception only. Residences permitted by right are limited to single-family dwellings and conventional tenant houses.

The practical problem here is that an order from the CBA approving the use with appropriate and necessary restrictions and conditions may not be feasible. In the alternative, it is suggested the CBA consider an Order denying without prejudice the special exception as proposed, while stating guidelines for a future special exception request on the buildings and uses permitted, and the appropriate size and scale for a future special exception case.

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

CAROLE S. DEMILIO
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400 Washington Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 7th day of March, 2001, a copy of the foregoing People's Counsel's Memorandum was mailed to G. Scott Barhight, Esq., Whiteford, Taylor & Preston, 210 W. Pennsylvania Avenue, Towson, MD 21204, attorney for Petitioners, and to J. Carroll Holzer, Esq., Holzer and Lee, 508 Fairmount Avenue, Towson, MD 21286, attorney for Protestants.

CAROLE S. DEMILIO

Public Law 106–274
106th Congress

An Act

To protect religious liberty, and for other purposes.

Sept. 22, 2000
[S. 2869]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

Religious Land Use and Institutionalized Persons Act of 2000.
42 USC 2000cc note.

This Act may be cited as the "Religious Land Use and Institutionalized Persons Act of 2000".

SEC. 2. PROTECTION OF LAND USE AS RELIGIOUS EXERCISE.

42 USC 2000cc.

(a) SUBSTANTIAL BURDENS.—

(1) GENERAL RULE.—No government shall impose or implement a land use regulation in a manner that imposes a substantial burden on the religious exercise of a person, including a religious assembly or institution, unless the government demonstrates that imposition of the burden on that person, assembly, or institution—

(A) is in furtherance of a compelling governmental interest; and

(B) is the least restrictive means of furthering that compelling governmental interest.

(2) SCOPE OF APPLICATION.—This subsection applies in any case in which—

(A) the substantial burden is imposed in a program or activity that receives Federal financial assistance, even if the burden results from a rule of general applicability;

(B) the substantial burden affects, or removal of that substantial burden would affect, commerce with foreign nations, among the several States, or with Indian tribes, even if the burden results from a rule of general applicability; or

(C) the substantial burden is imposed in the implementation of a land use regulation or system of land use regulations, under which a government makes, or has in place formal or informal procedures or practices that permit the government to make, individualized assessments of the proposed uses for the property involved.

(b) DISCRIMINATION AND EXCLUSION.—

(1) EQUAL TERMS.—No government shall impose or implement a land use regulation in a manner that treats a religious assembly or institution on less than equal terms with a nonreligious assembly or institution.

(2) NONDISCRIMINATION.—No government shall impose or implement a land use regulation that discriminates against

any assembly or institution on the basis of religion or religious denomination.

(3) EXCLUSIONS AND LIMITS.—No government shall impose or implement a land use regulation that—

(A) totally excludes religious assemblies from a jurisdiction; or

(B) unreasonably limits religious assemblies, institutions, or structures within a jurisdiction.

42 USC 2000cc–1.

SEC. 3. PROTECTION OF RELIGIOUS EXERCISE OF INSTITUTIONALIZED PERSONS.

(a) GENERAL RULE.—No government shall impose a substantial burden on the religious exercise of a person residing in or confined to an institution, as defined in section 2 of the Civil Rights of Institutionalized Persons Act (42 U.S.C. 1997), even if the burden results from a rule of general applicability, unless the government demonstrates that imposition of the burden on that person—

(1) is in furtherance of a compelling governmental interest; and

(2) is the least restrictive means of furthering that compelling governmental interest.

(b) SCOPE OF APPLICATION.—This section applies in any case in which—

(1) the substantial burden is imposed in a program or activity that receives Federal financial assistance; or

(2) the substantial burden affects, or removal of that substantial burden would affect, commerce with foreign nations, among the several States, or with Indian tribes.

42 USC 2000cc–2.

SEC. 4. JUDICIAL RELIEF.

(a) CAUSE OF ACTION.—A person may assert a violation of this Act as a claim or defense in a judicial proceeding and obtain appropriate relief against a government. Standing to assert a claim or defense under this section shall be governed by the general rules of standing under article III of the Constitution.

(b) BURDEN OF PERSUASION.—If a plaintiff produces prima facie evidence to support a claim alleging a violation of the Free Exercise Clause or a violation of section 2, the government shall bear the burden of persuasion on any element of the claim, except that the plaintiff shall bear the burden of persuasion on whether the law (including a regulation) or government practice that is challenged by the claim substantially burdens the plaintiff's exercise of religion.

(c) FULL FAITH AND CREDIT.—Adjudication of a claim of a violation of section 2 in a non-Federal forum shall not be entitled to full faith and credit in a Federal court unless the claimant had a full and fair adjudication of that claim in the non-Federal forum.

(d) ATTORNEYS' FEES.—Section 722(b) of the Revised Statutes (42 U.S.C. 1988(b)) is amended—

(1) by inserting "the Religious Land Use and Institutionalized Persons Act of 2000," after "Religious Freedom Restoration Act of 1993,"; and

(2) by striking the comma that follows a comma.

(e) PRISONERS.—Nothing in this Act shall be construed to amend or repeal the Prison Litigation Reform Act of 1995 (including provisions of law amended by that Act).

(f) AUTHORITY OF UNITED STATES TO ENFORCE THIS ACT.—The United States may bring an action for injunctive or declaratory relief to enforce compliance with this Act. Nothing in this subsection shall be construed to deny, impair, or otherwise affect any right or authority of the Attorney General, the United States, or any agency, officer, or employee of the United States, acting under any law other than this subsection, to institute or intervene in any proceeding.

(g) LIMITATION.—If the only jurisdictional basis for applying a provision of this Act is a claim that a substantial burden by a government on religious exercise affects, or that removal of that substantial burden would affect, commerce with foreign nations, among the several States, or with Indian tribes, the provision shall not apply if the government demonstrates that all substantial burdens on, or the removal of all substantial burdens from, similar religious exercise throughout the Nation would not lead in the aggregate to a substantial effect on commerce with foreign nations, among the several States, or with Indian tribes.

SEC. 5. RULES OF CONSTRUCTION.

42 USC 2000cc–3.

(a) RELIGIOUS BELIEF UNAFFECTED.—Nothing in this Act shall be construed to authorize any government to burden any religious belief.

(b) RELIGIOUS EXERCISE NOT REGULATED.—Nothing in this Act shall create any basis for restricting or burdening religious exercise or for claims against a religious organization including any religiously affiliated school or university, not acting under color of law.

(c) CLAIMS TO FUNDING UNAFFECTED.—Nothing in this Act shall create or preclude a right of any religious organization to receive funding or other assistance from a government, or of any person to receive government funding for a religious activity, but this Act may require a government to incur expenses in its own operations to avoid imposing a substantial burden on religious exercise.

(d) OTHER AUTHORITY TO IMPOSE CONDITIONS ON FUNDING UNAFFECTED.—Nothing in this Act shall—

(1) authorize a government to regulate or affect, directly or indirectly, the activities or policies of a person other than a government as a condition of receiving funding or other assistance; or

(2) restrict any authority that may exist under other law to so regulate or affect, except as provided in this Act.

(e) GOVERNMENTAL DISCRETION IN ALLEVIATING BURDENS ON RELIGIOUS EXERCISE.—A government may avoid the preemptive force of any provision of this Act by changing the policy or practice that results in a substantial burden on religious exercise, by retaining the policy or practice and exempting the substantially burdened religious exercise, by providing exemptions from the policy or practice for applications that substantially burden religious exercise, or by any other means that eliminates the substantial burden.

(f) EFFECT ON OTHER LAW.—With respect to a claim brought under this Act, proof that a substantial burden on a person's religious exercise affects, or removal of that burden would affect, commerce with foreign nations, among the several States, or with Indian tribes, shall not establish any inference or presumption

that Congress intends that any religious exercise is, or is not, subject to any law other than this Act.

(g) BROAD CONSTRUCTION.—This Act shall be construed in favor of a broad protection of religious exercise, to the maximum extent permitted by the terms of this Act and the Constitution.

(h) NO PREEMPTION OR REPEAL.—Nothing in this Act shall be construed to preempt State law, or repeal Federal law, that is equally as protective of religious exercise as, or more protective of religious exercise than, this Act.

(i) SEVERABILITY.—If any provision of this Act or of an amendment made by this Act, or any application of such provision to any person or circumstance, is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provision to any other person or circumstance shall not be affected.

42 USC 2000cc–4.

SEC. 6. ESTABLISHMENT CLAUSE UNAFFECTED.

Nothing in this Act shall be construed to affect, interpret, or in any way address that portion of the first amendment to the Constitution prohibiting laws respecting an establishment of religion (referred to in this section as the "Establishment Clause"). Granting government funding, benefits, or exemptions, to the extent permissible under the Establishment Clause, shall not constitute a violation of this Act. In this section, the term "granting", used with respect to government funding, benefits, or exemptions, does not include the denial of government funding, benefits, or exemptions.

SEC. 7. AMENDMENTS TO RELIGIOUS FREEDOM RESTORATION ACT.

(a) DEFINITIONS.—Section 5 of the Religious Freedom Restoration Act of 1993 (42 U.S.C. 2000bb–2) is amended—

(1) in paragraph (1), by striking "a State, or a subdivision of a State" and inserting "or of a covered entity";

(2) in paragraph (2), by striking "term" and all that follows through "includes" and inserting "term 'covered entity' means"; and

(3) in paragraph (4), by striking all after "means" and inserting "religious exercise, as defined in section 8 of the Religious Land Use and Institutionalized Persons Act of 2000.".

(b) CONFORMING AMENDMENT.—Section 6(a) of the Religious Freedom Restoration Act of 1993 (42 U.S.C. 2000bb–3(a)) is amended by striking "and State".

42 USC 2000cc–5.

SEC. 8. DEFINITIONS.

In this Act:

(1) CLAIMANT.—The term "claimant" means a person raising a claim or defense under this Act.

(2) DEMONSTRATES.—The term "demonstrates" means meets the burdens of going forward with the evidence and of persuasion.

(3) FREE EXERCISE CLAUSE.—The term "Free Exercise Clause" means that portion of the first amendment to the Constitution that proscribes laws prohibiting the free exercise of religion.

(4) GOVERNMENT.—The term "government"—

(A) means—

(i) a State, county, municipality, or other governmental entity created under the authority of a State;

(ii) any branch, department, agency, instrumentality, or official of an entity listed in clause (i); and

(iii) any other person acting under color of State law; and

(B) for the purposes of sections 4(b) and 5, includes the United States, a branch, department, agency, instrumentality, or official of the United States, and any other person acting under color of Federal law.

(5) LAND USE REGULATION.—The term "land use regulation" means a zoning or landmarking law, or the application of such a law, that limits or restricts a claimant's use or development of land (including a structure affixed to land), if the claimant has an ownership, leasehold, easement, servitude, or other property interest in the regulated land or a contract or option to acquire such an interest.

(6) PROGRAM OR ACTIVITY.—The term "program or activity" means all of the operations of any entity as described in paragraph (1) or (2) of section 606 of the Civil Rights Act of 1964 (42 U.S.C. 2000d–4a).

(7) RELIGIOUS EXERCISE.—

(A) IN GENERAL.—The term "religious exercise" includes any exercise of religion, whether or not compelled by, or central to, a system of religious belief.

(B) RULE.—The use, building, or conversion of real property for the purpose of religious exercise shall be considered to be religious exercise of the person or entity that uses or intends to use the property for that purpose.

Approved September 22, 2000.

LEGISLATIVE HISTORY—S. 2869:

CONGRESSIONAL RECORD, Vol. 146 (2000):
July 27, considered and passed Senate and House.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 36 (2000):
Sept. 22, Presidential statement.

○

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY
(EXCERPT)

IN THE MATTER OF: ESTATE OF CATHERINE V. BOND,
LEGAL OWNER; CARROLL COMMUNITY CHURCH-C.P.

CASE NUMBER: 99-503-X

IN THE MATTER OF: CARROLL COMMUNITY CHURCH, INC.

CASE NUMBER: CBA-00-105

_____/

The following is an excerpt from the above-entitled matter that came on for hearing before Lawrence M. Stahl on Thursday, January 25th, 2001, commencing at 9:50 A.M. at the County Board of Appeals of Baltimore County, Old Courthouse, Room 49, Towson, Maryland, 21204.

APPEARANCES:
LAWRENCE M. STAHL, Chairman
CHARLES L. MARKS
DONNA M. FELLING

G. SCOTT BARHIGHT, ESQUIRE
On behalf of the Carroll Community Church

J. CARROLL HOLZER, ESQUIRE
On behalf of the Appellants/Protestants

REPORTED BY: R. Dwayne Harrison

GORE BROTHERS
Reporting & Video Co., Inc.
410-837-3027

P-R-O-C-E-E-D-I-N-G-S

MR. BARHIGHT: The last matter is, relative to the briefs, I understand that the opening comments that the Chair made on the very first day and my notes indicate almost the second thing out of your mouth was we're going to need briefs in this case.

MR. STAHL: It still stands.

MR. BARHIGHT: I don't know whether or not those discussions need to appear on the record or not. But the one thing I wanted to put on the record, out of fairness to the other side which will shock them that I'm doing this, but without a little bit of warning, they wouldn't know that I thought this was a legal issue that didn't require any testimony.

There is a law that was passed on September the 22nd, 2000, called the Religious Land Use and Institutionalized Persons Act of 2000 and the citation that I have at the moment is 106, Public Law 274. That's the only citation I have because I've gotten that from Lexus. I just want to make sure that if I was going to argue that law, which I intend to,

that it wasn't a surprise to my opposition so that they'd have an opportunity to review that act. It's about a four or five-page act. They know that I intend to make argument with regard to the special exception and the DRC as it relates to that act. I didn't want you to have to read a brief that only had one argument on that and I thought, out of fairness, I should point that out to the other side.

MR. STAHL: And we appreciate that.

State of Maryland

City of Baltimore, to wit:

I, R. DWAYNE HARRISON, a Notary Public of the State of Maryland, City of Baltimore, do hereby certify that the within-named proceedings took place before me at the time and place herein set out.

I further certify that the proceedings were recorded stenographically by me and this transcript is a true record of the proceedings.

I further certify that I am not of counsel to any of the parties, nor an employee of counsel, nor related to any of the parties, nor in any way interested in the outcome of this action.

As witness my hand and notarial seal this 5th day of March, 2001.

_____

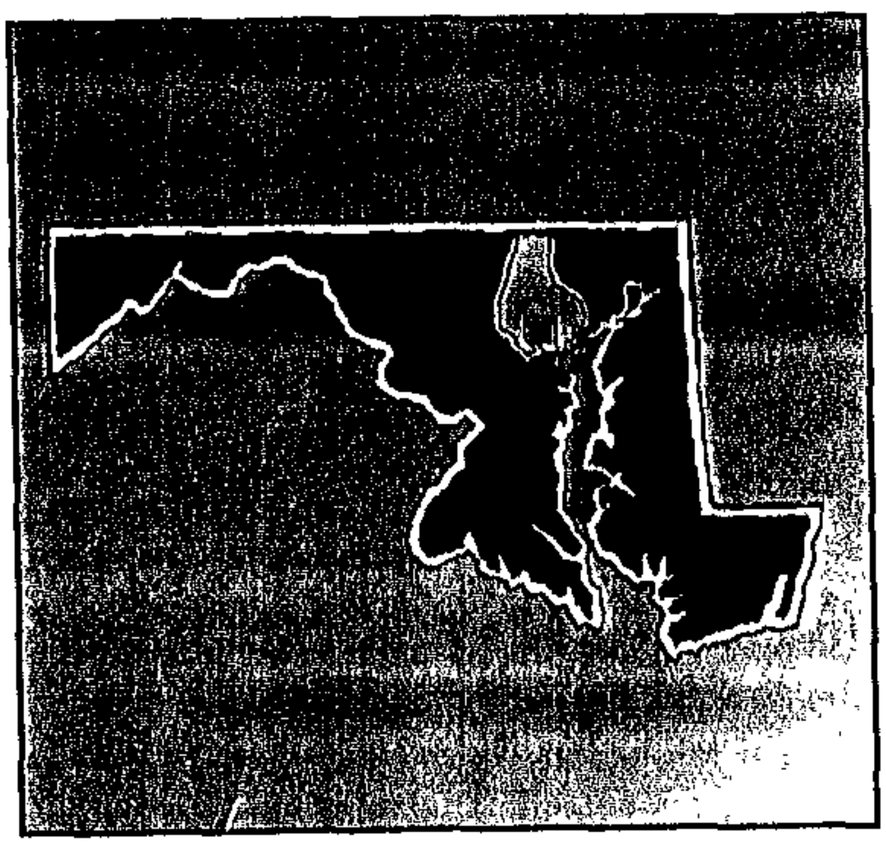
R. DWAYNE HARRISON
Notary Public

My commission expires:

February 1, 2005

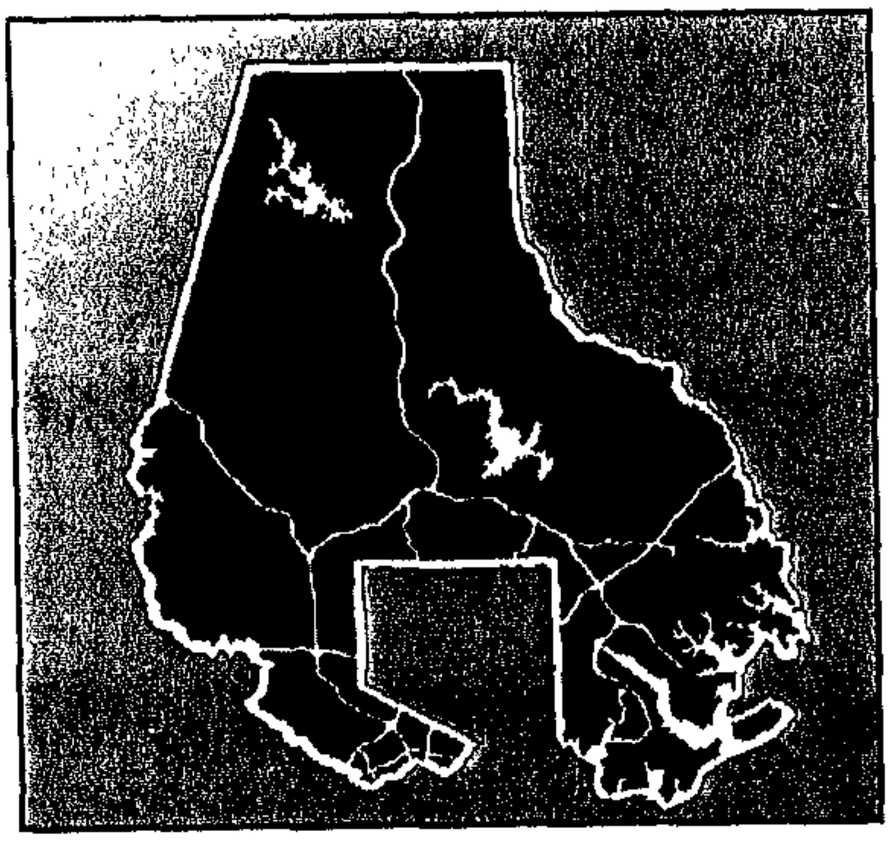
MASTERPLAN 2010

BALTIMORE COUNTY, MARYLAND









As Adopted by Baltimore County Council

February 22, 2000

A MESSAGE ...

FROM THE BALTIMORE COUNTY EXECUTIVE

AND

THE BALTIMORE COUNTY COUNCIL

Master Plan 2010 is Baltimore County's overall plan for development for the next decade. It is a guide for the protection of our rural areas and the revitalization of our established neighborhoods. It sets forth our collective vision of the goals we must reach to keep our communities safe, attractive and vibrant.

The citizens of Baltimore County played a major role in the development of this document, through advisory groups, town meetings, and public hearings. Their collective voice is expressed throughout the plan. *Master Plan 2010* also includes nearly thirty local community plans that have been developed by local communities and adopted by the County Council during the last ten years.

Master Plan 2010 is a comprehensive vision of our desired future in Baltimore County. With its adoption, Baltimore County has reaffirmed its belief that growth must be balanced and orderly. This Plan continues to express the philosophy that we should preserve rural farmland, landscapes, and open spaces, while reinvesting in urban areas and focusing growth on designated growth areas with planned infrastructure.

We appreciate the tremendous effort by citizens, volunteers, and staff that has been put into creating *Master Plan 2010*. By continuing to work together toward the goals outlined in this Master Plan, we will ensure a bright and prosperous future for Baltimore County and all those who live and work here.

C.A. Dutch Ruppersberger
County Executive

Joseph Bartenfelder
Chairman, County Council
Councilman, 6th District

S.G. Samuel Moxley
Councilman, 1st District

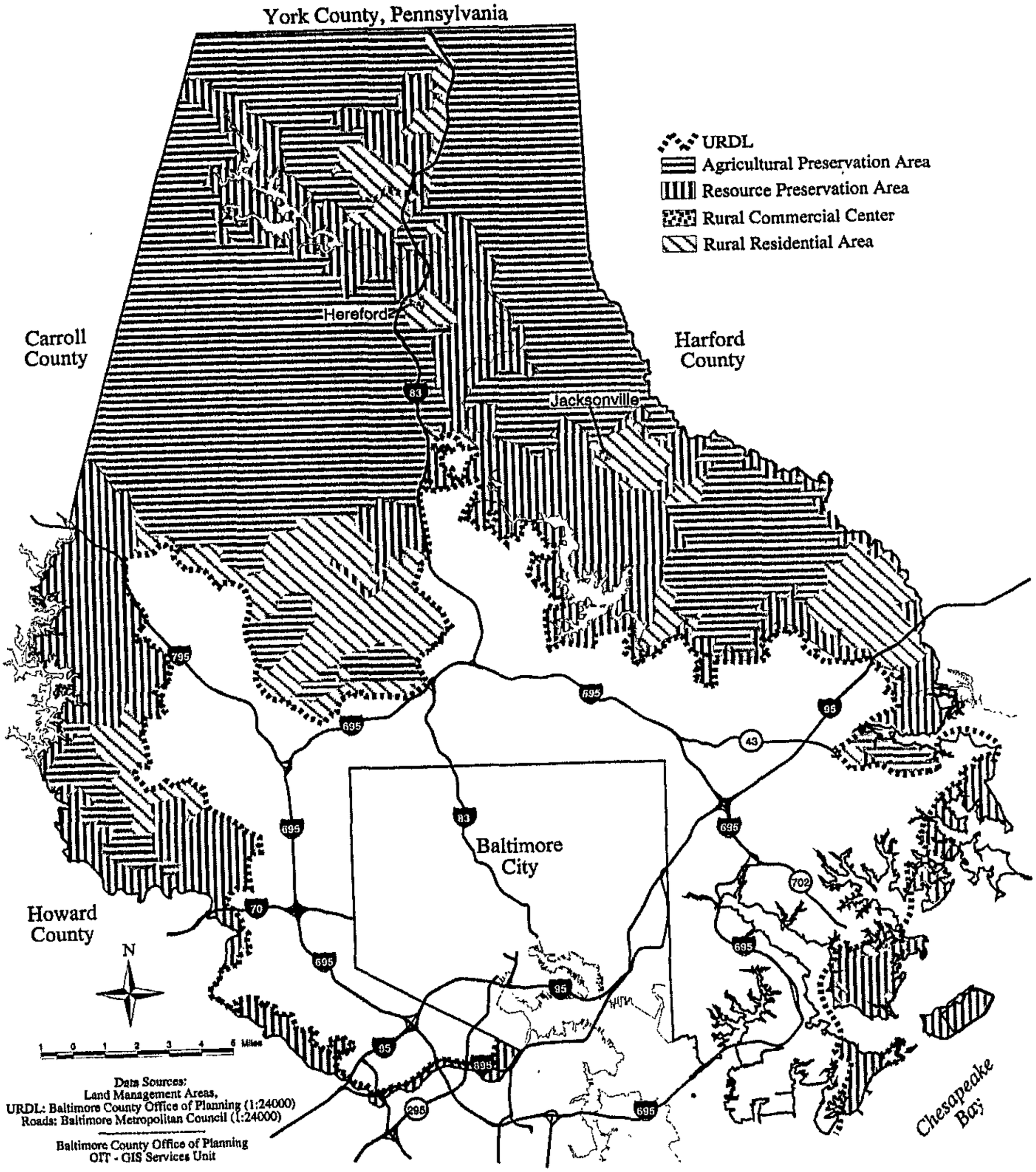
Kevin Kamenetz
Councilman, 2nd District

T. Bryan McIntire
Councilman, 3rd District

Wayne M. Skinner
Councilman, 4th District

Vincent J. Gardina
Councilman, 5th District

John Olszewski, Sr.
Councilman, 7th District



MAP 35
RURAL LAND MANAGEMENT AREAS



Rural Land Management Areas use zoning as the primary tool to direct and control development. Over the duration of the master plan, parcels of land in rural areas may be subject to rezoning requests. All rezonings should be consistent with land use concepts contained in the master plan. Additional tools for directing development, discussed in the following sections, include:

Agricultural Preservation District: By voluntary agreement with the state and county, the owner of eligible productive farm or forest land can establish binding restrictions for a minimum of five years (open-ended term) to prevent, absolutely, the subdivision or development of the land for nonfarm purposes. A district agreement is a prerequisite to an easement through the Maryland Agricultural Land Preservation Program.

Land Preservation Easement: By voluntary agreement with the state, county, or private land trust, the owner of eligible productive farm, forest, historic, or natural areas can establish a permanent easement to prevent the subdivision or development of the land except as provided for by the easement agreement. Existing easement programs include the Maryland Agricultural Land Preservation Program, the Baltimore County Agricultural Land Preservation Program, the Rural Legacy Program, and various land trusts such as the Maryland Environmental Trust.

Land Trusts: Qualified conservation organizations are eligible to accept easements on land for the protection of farm, forest, historic, or natural features. A land trust must be qualified under ¶170(H)(3) of the Internal Revenue Code for a landowner to be eligible for a tax deduction. In order to apply to the Rural Legacy Program as a sponsor, a land trust must also have a cooperative agreement with the Maryland Environmental Trust.

Purchase of Development Rights (PDR): The voluntary sale of the rights to develop a property by the landowner to a governmental agency or land trust. The sale price may be determined by an appraisal, formula, or mutually agreed upon method. The land is then restricted from development and subject to the easement conditions that typically include, at a minimum, requirements for best management practices that will protect soil, water, and natural resources.

Transfer of Development Rights (TDR): The possible creation of TDRs has been discussed for some time in Baltimore County as having potential for preserving rural areas. It is a process in which the unused density permitted to be developed on a piece of land is transferred to a different parcel. The development of a TDR program involves a detailed investigation of all possible alternatives and includes participation by affected properties. The designation of "user receiving area" in either the urban or rural portion of the county is the most difficult problem to resolve.

Rural Legacy Program: The state Smart Growth legislation established the Rural Legacy Program for fiscal years 1998 through 2002. The mission of the Rural Legacy Program is to protect and preserve areas rich in agricultural, forestry, natural and cultural resources. The state has structured the program to encourage local land trusts and local governments to prepare rural legacy plans that seek to protect significant and threatened resources. Through an annual competitive selection process, a limited number of plans are selected for funding.

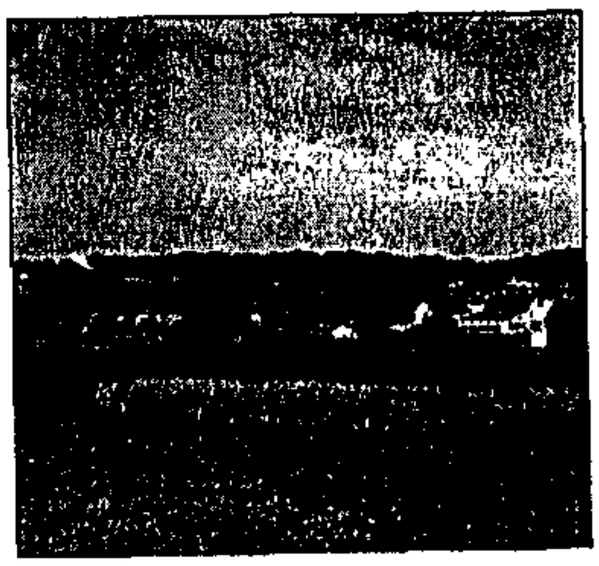
AGRICULTURAL PRESERVATION AREAS

Agricultural preservation areas were created to protect the county's agricultural industry, as well as its natural resources, and areas of scenic and historical significance. Designated areas include:

- Caves
- Upperco/Worthington/Sparks
- Parkton
- Monkton/Whitehall
- Bird River
- Greenspring
- Patapsco/Granite
- Freeland/Maryland Line
- Long Green

The 1997 U.S. Census of Agriculture recorded 75,795 acres of farmland in the county, which represents a 9% decrease from the 1992 figure of 83,232 acres. Protecting rural resources has involved numerous efforts by the county and citizen groups. The most significant milestones are listed below.

- *Plan for the Valleys* written in 1963 by Wallace-McHarg Associates for citizens of Greenspring and Worthington valleys concerned about the impact of development in the 1950s.
- Donation in 1974 of first easement to Maryland Environmental Trust.



Agricultural preservation areas protect the county's agricultural industry, as well as its natural, historic and scenic resources.



- Adoption in 1975 of resource conservation zones that included an agricultural zone.
- Adoption of the 1979 master plan that described the importance of protecting natural resources including agriculture, watersheds and the rural landscape.
- Use of the URDL as a planning line for water and sewer master plan, and the creation of rural zoning classifications.
- Significant reduction of permitted density in the agricultural zone in 1980.
- Adoption and funding by the Maryland Agricultural Land Preservation Foundation of a PDR program, which provides an equitable tool for landowners permanently to protect rural lands.
- Adoption of the 1989-2000 master plan that reinforced the earlier planning and regulatory goals to protect agricultural land and rural landscapes.
- Adoption in 1989 of a development regulation to protect prime and productive soils.
- Adoption in 1994 of a local PDR program to supplement the state program.
- 1996 downzoning of 9,000 acres from RC 4 to RC 2.

POLICY

- Permanently preserve lands for agriculture and avoid conflicts with incompatible uses.

PROTECTING AGRICULTURAL LANDS MUST HAVE TWO STRATEGIC ELEMENTS: 1) DEVELOPMENT CONTROLS; AND 2) PERMANENT EASEMENT PROGRAMS.

ISSUES AND ACTIONS

A successful effort to protect agricultural lands must have two strategic elements: 1) the county must have development controls to assure that agricultural resources are not developed; and 2) there must be effective permanent easement programs that meet the needs of landowners by assuring equity and preserving sufficient acreage to maintain a viable agricultural operation.

Issue: Revising Development Controls to Support Agriculture

Major subdivisions, defined as being greater than three lots, continue to occur in prime agricultural areas, threatening the viability of preserved



agricultural operations and the ability to preserve adjacent lands. The development of large institutional uses is beginning to change the landscape from one of rural character to suburban character.

Actions

1. Refine the boundaries of the agricultural preservation areas to include both adjacent farmland that should remain in agricultural use and natural buffers to reduce potential conflicts.
2. Consider designating the vegetable production areas on the eastern side of the county as agricultural preservation areas.
3. Reevaluate the zoning and development regulations applicable to these areas to determine the appropriate location and suitability of permitted uses, to minimize the impact of even limited development on agricultural resources and farming operations.
   - Limit zoning uses to agriculture or agriculture support; other non-agriculture uses (institutions, golf courses) should be considered as special exception uses (subject to additional conditions) or as PUDs, with specific locational and functional criteria that first and foremost preserve prime and productive soils. Incorporate locational and functional criteria for house sites and lot size.
   - Include prime and productive/productivity soil standards and a maximum lot size.
   - Density should not exceed one dwelling per 50 acres. Explore ways to compensate landowners for additional density (if the underlying zoning generates higher density) through various easement or TDR programs.
   - Develop a PUD-RP (Planned Unit Development-Rural Protection) process that will allow large institutional, educational, religious, and recreational uses only through a planned unit development process. Designate areas suitable for the PUD, and create locational criteria and development standards.
4. In general, zoning changes made in the agricultural preservation area should protect the county's agricultural industry so that the area maintains its importance as an industrial base for the farming industry.
5. Consider the addition to Section 307 of the Baltimore County Zoning Regulations (special exceptions) of criteria requiring the evaluation of proposed development impacts on agricultural uses located on prime and productive soils.

THE COUNTY WILL REEVALUATE THE ZONING AND DEVELOPMENT REGULATIONS TO MINIMIZE THE IMPACT OF DEVELOPMENT ON AGRICULTURE.



Issue: Preserving Agricultural Land through Preservation Programs

While zoning can be used to accomplish the objectives of rural area preservation, rezoning can occur every four years, and is therefore not permanent. Ultimately, the only way in which continued agricultural use can be guaranteed is through the use of mechanisms that guarantee, regardless of zoning, that specific lands will only function as agriculture-related uses. Permanent easements provide fair compensation to landowners. Additionally, agricultural lands in private easement stay on the tax roll. Map 36 depicts Baltimore County's rural preservation program areas.

The purchase of easements, however, has not kept up with the demand of landowners willing to sell easements. This has in part been due to the economic declines the county experienced in the early 1990s but more significantly to its continued dependence on the PDRs through the Maryland Agricultural Land Preservation Foundation. The easement programs are only just keeping pace with land development.

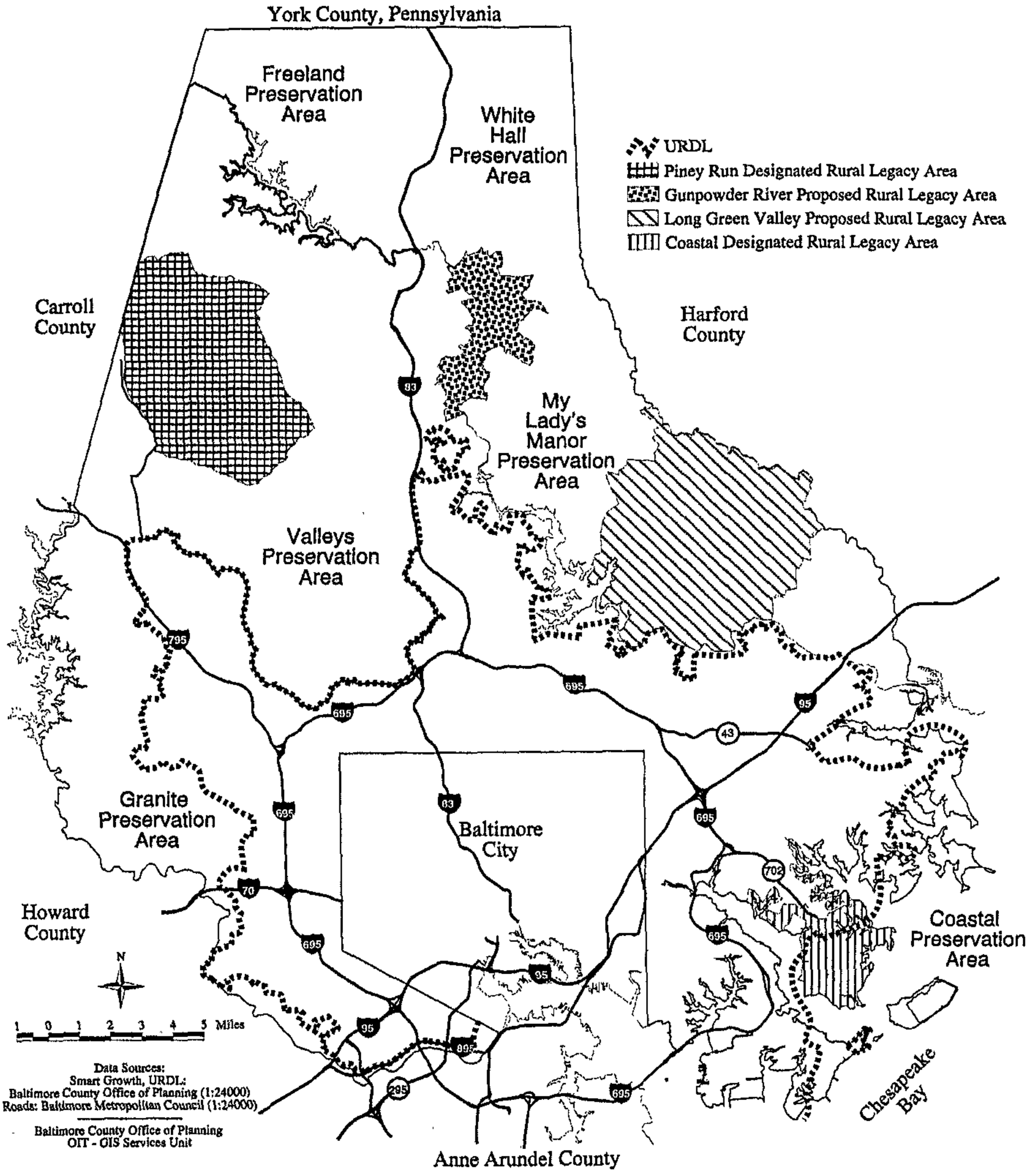
As of January 19, 1999, 27,438 acres of farmland and rural landscape have been placed in permanent easement (Table 1). The county and state have purchased easements on approximately 500 acres per year out of the 2,000 acres that apply. Fortunately, an additional 500 acres per year has been preserved through the actions of the private sector. Landowners who make conservation donations of development rights do so through the Maryland Environmental Trust or a local land trust.

THE ONLY WAY IN WHICH AGRICULTURAL USE CAN BE GUARANTEED IS THROUGH THE USE OF PERMANENT MECHANISMS SUCH AS PRESERVATION EASEMENTS.

Table 1.

Accomplishments of Easement Programs through January 19, 1999

PRESERVATION PROGRAM	DISTRICT		EASEMENTS	
	number	acres	number	acres
Maryland Agricultural Land Preservation Foundation	298	27,438	118	13,000
Baltimore County Agricultural Program	N/A	N/A	6	905
Maryland Environmental Trust	N/A	N/A	151	9,728
TOTALS	298	27,438	275	23,633



Map 36
Land Preservation Program



As indicated in Table 1, donated easements to the Maryland Environmental Trust play a key role in the permanent easement activity of the county. Baltimore County leads all other counties in the state in the number of privately donated easements. These easements represent the equivalent of millions of dollars donated to the county's easement program each year. Lands under donated easements contain more forests and streams than lands under purchased easements, but they still have, on average, 40% pasture and cropland. Private sector donors also play a role in recruiting other landowners to participate in easement programs. Five local land trusts encourage landowners to place their land in permanent preservation programs. They also hold easements in cooperation with the Maryland Environmental Trust, or outright.

Since 1982, there have been approximately 1,000 acres of agricultural land per year protected through permanent easements, and approximately 1,000 acres per year converted to nonagricultural use. If working farms continue to disappear at the current rate, there eventually will be insufficient agricultural resources available to continue to support the agricultural industry, and the rural landscape will be dramatically altered.

IF WORKING FARMS CONTINUE TO DISAPPEAR AT THE CURRENT RATE, THERE EVENTUALLY WILL BE INSUFFICIENT RESOURCES AVAILABLE TO SUPPORT THE AGRICULTURAL INDUSTRY.

Actions

1. Delineate all areas to be targeted for long term preservation.
2. Actively pursue and promote easement and other programs designed to preserve agriculture.
3. Preserve 80,000 acres of agricultural land through permanent easements, either purchased or donated, and TDR programs.
4. Develop new revenue sources to support the increased funds required for farmland preservation.
5. Implement creative financing programs to increase the rate of easement purchase.
6. Provide technical support and seek input from local land trusts on preservation issues.
7. Investigate the use of a TDR program.
8. Implement rural legacy area plans.
   - Work with local land trusts to establish rural legacy boundaries, and with citizens to determine the potential level of commitment by landowners.
   - Develop partnerships with local land trusts to integrate into proposals all aspects of the county's resource protection elements such as forest buffer, Chesapeake Bay shoreline, forest habitat, endangered



species, and the aspects of the county's planning, growth management and zoning elements that reduce sprawl.

- Provide a financial partnership with the state for rural legacy area plans.
- Investigate using a TDR program that enables the county to hold development rights purchased through the Rural Legacy Program until such time as they can be sold.
- Adopt legislation that will allow the county to use an installment payment program to purchase easements, in the same manner as authorized in the county's Agricultural Land Preservation Program. By paying in installments, more county money will be available to purchase additional easements, and obtain matching state and rural legacy funds.

RESOURCE PRESERVATION AREAS

These areas are intended to preserve and protect the historic, cultural, recreational and environmental resources, while providing for a limited amount of residential development. Designated resource preservation areas include:

- Patapsco/Granite
- Gunpowder
- Chesapeake Bay
- Soldiers Delight
- Pretty Boy Reservoir
- Liberty Reservoir
- Loch Raven Reservoir

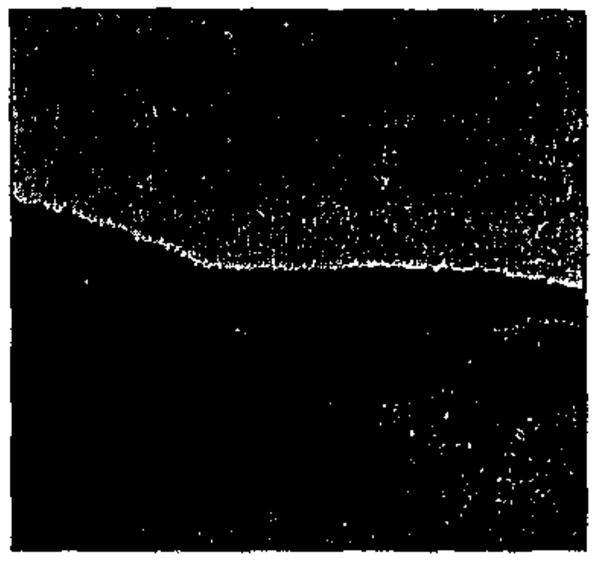
POLICY

- Preserve the county's valuable cultural, historic, recreational, and environmental resources by limiting residential development and acquiring available land for public benefit.

ISSUES AND ACTIONS

Issue: Preserving Land Designated for Resource Preservation

Resource preservation areas have historic, cultural, recreational, and environmental value to the region in general and Baltimore County in particular. These natural, environmentally-sensitive open spaces balance the intensely developed urban portion of the county. Large portions of these areas are publicly owned, such as Soldiers Delight Natural Environment Area, Gunpowder Falls State Park, Patapsco Valley State Park, North Point



Land designated as resource preservation areas contain natural, environmentally sensitive open spaces.

2/7/01

IN THE MATTER OF:	*	**BEFORE THE**
ESTATE OF CATHERINE V. BOND	*	**COUNTY BOARD OF APPEALS**
	*	**FOR**
	*	**BALTIMORE COUNTY**
LEGAL OWNER:		
CARROLL COMMUNITY CHURCH, INC.	*	
1701 Emory Road	*	
4th Election District	*	
3rd Councilmanic District	**Case Nos: 99-503-X and CBA-00-105**	

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

MEMORANDUM OF LAW
IN LIEU OF CLOSING ARGUMENT
APPEAL OF DENIAL OF EXEMPTION

Carroll Community Church, Inc. ("the Church"), Petitioner, Appellant and property owner, by and through its attorneys, G. Scott Barhight, Julie A. DiGrigoli and Whiteford, Taylor & Preston, LLP, hereby submits this Memorandum of Law In Lieu of Closing Argument for the Appeal of the Denial of the Exemption and states:

I. INTRODUCTION

This matter comes before the County Board of Appeals for Baltimore County on timely appeal from Arnold Jablon's December 23, 1999 Decision denying the Church's request for a §26-171(b)(9) Limited Exemption from the Baltimore County Development Review Process. The Church requested an exemption in order to develop and operate a 2000 seat church and accessory structures on its property located at 1701 Emory Road ("Subject Property").

A. Factual Background

Carroll Community Church filed a request for a §26-171(b)(9) Limited Exemption with the Development Review Committee (DRC) on December 1, 1999. In support of its exemption request, the Church submitted to the DRC a letter of justification, a site plan, a standard request form, and a filing fee. See *Petitioner's/Protestants Exhibit 1.* Additionally, the Church submitted a copy of the September 24, 1999 Order granting it a Special Exception for a church on the subject property. The Church's letter of justification stated that "[w]e believe that a b(9) Limited Exemption is warranted for this development since no subdivision of land, public improvements nor public works agreement is required to develop the subject property".

The record in this matter reflects that the DRC reviewed the Church's request and recommended to Arnold Jablon, the Director of Permits and Development Management, that the Church's exemption request be denied. Ultimately, Arnold Jablon adopted the DRC's recommendation and issued a letter, dated December 23, 1999, formally denying the Church's request for a §26-171(b)(9) exemption. The Church, thereafter, filed a timely appeal from Arnold Jablon's December 23, 1999 Decision. The Church's appeal in this matter was later consolidated with the appeals pending before this Board under Special Exception Case No. 99-503-X ("Special Exception Appeal"). At the beginning of the proceedings, the Church motioned this Board to bifurcate the pending Special Exception and DRC appeals, with the condition that the record in the

Special Exception Appeal should be incorporated herein. This Board duly granted the motion.

Testimony was heard in this matter on October 19, 2000 and January 25, 2001. The Church offered the testimony of Robert Bradley, P.E., as an expert in planning, zoning, surveying and engineering to support establish it meets the statutory criteria for an (B)(9) Limited Exemption.

B. Argument

1. ***Through expert testimony, the Church has established that it meets the statutory criteria for a limited exemption from the Development Review Process as a "minor development".***

Through expert testimony, the Church has established that it meets the statutory criteria for an exemption from the Baltimore County Development Review Process, pursuant to §26-171(b)(9) of the Baltimore County Code. Mr. Bradley testified that in his expert opinion, the Church was entitled to a §26-171(b)(9) exemption as a minor development.

Pursuant to §26-171(b)(9) "a minor development, as defined in §26-168, not to exceed a total of three (3) lots" is exempt from the community input meeting and hearing officer's hearing pursuant to §§26-202 and 26-206. Section 26-168(cc) of the Baltimore County Code states:

> "Minor development" means:
>
> (1) a development without a public works agreement;
> (2) a residential development with a public works agreement involving only road widenings; or

(3) a development in which the improvements are determined by the director of permits and development management as minimal under section 26-239(b) of this article.

BCC 26-168(cc).

Mr. Bradley provided undisputed testimony that the proposed Church will not exceed three lots and will not require public improvements or a public works agreement. Based upon the plain language of the Baltimore County Code, it is clear that the Church is entitled to a §26-171(b)(9) exemption.

Significantly, Bruce Seeley of the Department of Environmental Protection and Resource Management (DEPRM) testified before this Board on January 25, 2001 that DEPRM supports the Church's exemption request.

2. ***The Baltimore County Zoning Policy Manual mandates that the Church be granted a (b)(9) Limited Exemption.***

The Baltimore County Zoning Policy Manual mandates that the Church be granted a (b)(9) Limited Exemption. The Baltimore County Zoning Policy Manual unequivocally provides that if a project qualifies as a "minor development" and has been subject to a prior zoning hearing, the DRC must grant a §26-171(b)(9) Limited Exemption. The Baltimore County Zoning Policy Manual specifically provides that "[i]f a minor development otherwise requires a zoning hearing, i.e. Special Exception or variance, then it would be exempted from the community input meeting and development plan hearing". *Baltimore County Zoning Policy Manual No. I.b.*

This policy was further confirmed in a March 4, 1994 letter from Director Arnold Jablon to Donald T. Rascoe, Chairman of the DRC, discussing (b)(9)

Limited Exemptions. Mr. Jablon states in the letter that "[i]f a (b)(9) request is presented to the DRC, and it involves a minor development as defined in §26-168, and a zoning hearing is required, no matter how much community interest there may be, or the subject matter of the hearing, the ***exemption cannot be refused***". *Appellant's Exhibit 1, a copy of which is attached.* (emphasis added).

The record in this matter reflects that the Church was subject to a prior zoning hearing under Case No. 99-503-X. Therefore, under the Baltimore County Zoning Policy Manual, it was clearly an error for the DRC to deny the Church's request for a (b)(9) Limited Exemption.

3. ***The Board of Appeals' decision In the Matter of the Application of Seven Kids, LLC supports the Church's request for a (b)(9) Limited Exemption.***

The Board of Appeals' August 31, 2000 decision *In the Matter of the Application of Seven Kids, LLC* supports the Church's request for a (b)(9) Limited Exemption[3]. *See Case No. CBA 99-127 and 99-128.* This Board performed an exhaustive and thoughtful analysis of Limited Exemptions and "minor development" in the *Seven Kids* case. The Board stated in its opinion that:

> [t]he Petitioners having established, through undisputed testimony, that this project does not exceed three lots in scope nor will it require a public works agreement. As such it qualifies as a "minor development" under §26-168(cc) and therefore the granting of the exemption by Mr. Jablon under §26-171(b)(9) should and will be unanimously confirmed by this Board.

Id. at 20.

The Church, like the petitioners in *Seven Kids*, have established that this project does not exceed three lots in scope nor will it require a public works agreement. Therefore, this Board should grant the Church's request for a §26-171(b)(9) Limited Exemption.

C. Conclusion

For the foregoing reasons, Petitioner/Appellant Carroll Community Church, Inc. respectfully requests that this Board reverse the December 23, 1999 Decision of Arnold Jablon denying the Church a §26-171(b)(9) Limited Exemption.

Respectfully submitted,

G. Scott Barhight
Julie A. DiGrigoli
Whiteford, Taylor & Preston, LLP
Suite 400
210 W. Pennsylvania Avenue
Towson, MD 21204
410-832-2000
Attorneys for Petitioner/Appellant, Carroll Community Church, Inc.

220220

[3] An appeal is currently pending in the Circuit Court of Baltimore County from the Board of Appeals' August 31, 2000 Order. *See Case no. 3-C-00-9923.*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 7TH day of March, 2001, a copy of Petitioner/Appellant Carroll Community Church's Memorandum of Law was mailed first-class, postage prepaid to the following:

J. Carroll Holzer, Esquire
Holzer & Lee
The 508 Building
508 Fairmount Avenue
Towson, MD 21286

Carole S. DeMilio, Esquire
People's County for Baltimore County
Old Courthouse - Basement
Towson, MD 21204

G. Scott Barhight

220220

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Donald T. Rascoe DATE: March 4, 1994

FROM: Arnold Jablon

RE: DRC

Recently, the Executive Office has brought to my attention complaints by applicants that the DRC was denying "requests" for limited exemptions based on perceptions of community interest or that the proposal was for a change in use on the property at issue.

Section 26-171 (a) and (b), Baltimore County Code, are the relevant laws.

There are no references in this section which permit the county to refuse a limited exemption for these reasons. There are, however, some examples cited therein that are open for interpretation, e.g., a minor commercial structure, which require a subjective review for a determination.

The issues of community notice and of community interest, while not required or noted in Section 26-171, are legitimate. As a result, after consultation, review and approval by OPZ, DEPRM and ZADM, I circulated a policy (a copy of which is attached) to those departments for acceptance.

After comments were received, the policy was revised and reissued, as noted on the attached. Subsequently, this policy was incorporated into the ZADM Policy Manual, adopted after a public hearing and pursuant to Sections 2-416, et seq., and 26-218(b), on July 1, 1993.

I refer you to that section of the policy which deals with a request for a (b)(9) exemption. While a "measurable degree of community interest" may well be subjective, and certainly not found in the law, we recognize the inherent interest a community has in any proposed development. I agree, until challenged and overruled, that an exemption may be refused if this criterion exists. However,

the policy further states that if a zoning hearing is required, then the former issue is protected and the exemption must be allowed.

There is nothing in the policy that draws distinctions as to the subject matter of the zoning hearing, or whether the proposal is for a change in use.

We have in fact by policy added to the law; the DRC may not go beyond this policy. To do so would negate the purpose and intent of the Code of Baltimore County Regulations. Applicants have a right to know the rules of the game. Policy manuals provide the blueprint which bind us.

If a (b)(9) request is presented to the DRC, and it involves a minor development as defined in Section 26-168, and a zoning hearing is required, no matter how much community interest there may be, or the subject matter of the hearing, the exemption cannot be refused.

I also underscore the importance of complying with this policy generally. There is enough subjectivity existing in Section 26-171 without adding to it beyond what this policy provides.

AJ:eoh

Attachment

c: J. James Dieter
P. David Fields
Thomas H. Hamer
Wayne R. Harman

3/1/01

IN THE MATTER OF:	*	**BEFORE THE**
ESTATE OF CATHERINE V. BOND	*	**COUNTY BOARD OF APPEALS**
	*	**FOR**
	*	**BALTIMORE COUNTY**
LEGAL OWNER:		
CARROLL COMMUNITY CHURCH, INC.	*	
1701 Emory Road	*	
4th Election District	*	
3rd Councilmanic District		**Case Nos: 99-503-X and CBA-00-105**

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

MEMORANDUM OF LAW
IN LIEU OF CLOSING ARGUMENT
PETITION FOR SPECIAL EXCEPTION

Carroll Community Church, Inc. ("the Church"), Petitioner, Appellant and property owner, by and through its attorneys, G. Scott Barhight, Julie A. DiGrigoli and Whiteford, Taylor & Preston, LLP, hereby submits this Memorandum of Law In Lieu of Closing Argument for the Petition for Special Exception and states:

I. INTRODUCTION

This matter comes before the County Board of Appeals for Baltimore County (the "Board") on appeal from an Order granting the Church a Special Exception for a church at 1701 Emory Road. The Church is proposing to develop and operate a 2000 seat church and accessory structures on the property. *See Petitioner's Exhibit 1, Carroll Community Church's SE Plan.*

II. PROCEDURAL HISTORY

A. Proceedings before the Baltimore County Zoning Commissioner

Carroll Community Church filed a Petition for Special Exception requesting permission to develop and operate a 2000 seat church and accessory structures on the subject property. The Church's Petition was the subject of a two-day hearing before Zoning Commissioner Lawrence E. Schmidt in August of 1999. After review and consideration, the Zoning Commissioner granted the Church's Special Exception, on September 24, 1999, subject to certain restrictions. *Exhibit A hereto is the Zoning Commissioner's September 24, 1999 Order.* Among the restrictions was a requirement that the Church reduce the size of its sanctuary to 1200 seats and reduce the Church's parking field accordingly.

B. Appeal before the Board of Appeals

The Church filed a timely appeal to this Board seeking relief from the condition in the September 24, 1999 Special Exception Order that the Church must reduce its sanctuary and parking field. The Hanover Road Association, Inc., Finksburg Planning Area Council, E.L. Bond, Jr. , Melvin J. Fair, Chris L. Bond and Shirley Green Elseroad (collectively the "Community") as well as People's Counsel of Baltimore County ("People's Counsel") also noted appeals from the September 24, 1999 Order granting the Church a Special Exception.

Testimony in this case was heard by the Board of Appeals on June 20th, June 21st, August 22nd, August 23rd, August 30th, October 18th, October 19th, 2000 as well as on January 25th and February 15th, 2001. In support of its appeal

and Petition for Special Exception, the Church presented the testimony of Pastor Joseph Duke and the expert testimony of Mickey Cornelius, a traffic engineer from the Traffic Group, Robert Bradley, a professional civil engineer from Morris & Ritchie Associates and Timothy Madden, a registered land planner from Morris & Ritchie Associates.

For the reasons set forth herein, the Community's appeal must be denied and the Church's request for a Special Exception for a 2000 seat church and accessory uses should be unconditionally granted. There is substantial evidence within the record establishing that the proposed Church satisfies the requisite Special Exception standards under the Baltimore County Zoning Regulations and Maryland law.

III. STATEMENT OF THE FACTS

A. Location and Geography of the Proposed Carroll Community Church.

Petitioner, Carroll Community Church, Inc. is the owner of a 70.66 acre parcel of property located at 1701 Emory Road ("Church's property"). The Church's property straddles the Baltimore and Carroll County lines, with 63.02 gross acres ± of the property located in Baltimore County and 7.64 gross acres ± located in Carroll County. Of the land situated in Baltimore County, approximately 15.46 acres ± is zoned R.C.4 and 47.56 acres ± is zoned R.C. 2. Additionally, 7.64 acres ± is located in Carroll County District Zone "A".

The topography of the Church's extensive property is best described as gently rolling. There is existing forest along much of the South and East property line as well as through middle of the Church's property.

B. Vicinity Surrounding the Church's Property

The Church is ideally located along the Rt. 91 corridor. Route 91 is a State Highway with a capacity to handle high volumes of traffic. Studies have recently determined that State Highway Rt. 91 is even operating substantially below its level of capacity. Additionally, SHA has recently studied Rt. 91 and concluded that the highway is safe. To the South of the Church are residential properties, River Downs Golf Course and residential community, the Maryland National Guard's Camp Fretterd and Finksburg. To the North of the Church's property is Emory United Methodist Church, the Village of Fowblesburg as well as residential and agricultural properties. To the East of the Church's property are residential and agricultural properties as well as Camp Mildale, a camp and multiple building retreat center, operated by the Associated Jewish Charities of Baltimore. Camp Mildale, located off of Mt. Gilead Road, rents its facilities to the general public. To the West, residential and agricultural properties .

C. **Carroll Community Church**

Carroll Community Church ("Church") is a contemporary church that

uses contemporary music, preaching, and even drama to help its members understand the role of God in their lives. The Church provides ministry through various adult and youth groups and activities.

The Church was founded in 1987 by a group of twenty-five people, with the assistance of current Pastor Joseph Duke. The Church is affiliated with Grace Fellowship Church and is an associate member of the Willow Creek Association, a consortium of over 5,000 churches. The Church has grown to a current membership of 1100 members. Approximately 800 members attend weekly Sunday services and 1000 members attend special or holiday services. The Church currently meets and worships at Liberty High School. Additionally, the Church has administrative offices located at 5220 Klees Mill Road, Suite E, Sykesville, MD.

D. An Overview of the Church's Special Exception Proposal for the Subject Property.

In furtherance of its ministries, the Church is proposing a 2000 seat sanctuary, classrooms, meeting rooms, administrative offices, kitchen, athletic field and a meeting lodge on the subject property. The subject property will be used for worship and religious activities, including, senior impact groups, middle school focus groups and various other worship related activities and events.

With the assistance of numerous architectural, engineering and environmental consultants, the Church seeks approval for the development shown on the Church's Plat to Accompany Petition for Special Exception. *See Petitioner's*

Exhibit 1. The Church believes that its proposal accurately reflects the Church's current and future programmatic and ministry needs.

Since the filing of its Petition for Special Exception, the Church has completed the architectural design of its proposed sanctuary and determined that the building envelope reflected on the Special Exception plan has actually decreased from approximately 80,000 square feet to approximately 55,000 square feet. Significantly, the footprint of the proposed building remains the same whether 1200 or 2000 seats are provided in the sanctuary. The additional 800 seats will be located in a balcony phase of the sanctuary. Very little exterior visible difference will result from the construction of the sanctuary balcony. The balcony will not increase the footprint of the sanctuary.

The Church has concentrated the vast of majority of its proposed development along State Highway Route 91. Notably, only a small fraction of the overall 68.9 acre ± parcel will actually be developed by the Church. The Church is proposing to develop only 9.19 acres ± of its R.C.2 zoned property. As a result, 28.86 acres ± of the property are to remain as open space and lawn area, 25.67 acres ± are to remain forested, 6.6 acres ± are to be planted in meadow grasses and 0.8 acres ± are to be planted in a cover crop.

IV. SUMMARY OF TESTIMONY

Attached in Appendix C is a complete summary of the testimony of all witnesses. Please refer to this summary as you review the substantive portions of the brief.

V. THE SPECIAL EXCEPTION STANDARD IS AN "OVERLAY" OF THE STATUTORY CONDITIONS WITH THE RESTRICTIONS PROVIDED THROUGH CASE LAW.

The Special Exception standard is an "overlay" of the statutory conditions with the restrictions provided through Maryland case law. Therefore, in reviewing the Church's Petition for Special Exception, this Board must analyze the proposed Church in light of the statutory conditions and standards imposed by the Baltimore County Zoning Regulations, as limited by Maryland case law.

The Baltimore County Council has legislated that a church, such as the one proposed here, is a use which is expressly permitted by Special Exception in the R.C.2 zone. The Baltimore County Zoning Regulations require that a church in the R.C.2 zone satisfy the Special Exception conditions of BCZR §502 and BCZR§1A01.2.C. Maryland case law provides that the statutory conditions of a county's Special Exception law must be applied to the Special Exception standard identified in the seminal cases, *Schultz v. Pritts* and *Mossburg v. Montgomery County*, and defined in numerous cases later decided by the Maryland Courts. *See Schultz v. Pritts*, 291 Md. 1; 432 A.2d 1319 (1981) and *Mossburg v. Montgomery County*, 107 Md. App.1; 666 A.2d 1253 (1995); *Hayfields v. Valleys Planning Council, Inc*. 122 Md. App 616, 716 A.2d 311 (1998). Therefore, "[b]y reason of the holdings in *Schultz*, supra, and its progeny, such conditions as

are applied to Special Exceptions are themselves subject to the limitation that the adverse effects must be greater than or above and beyond the effects normally inherent with such a use anywhere within the relevant zones in the regional district." *Hayfields*, 122 Md. App. at 640-641 quoting *Mossburg*, supra, 107 Md. App. at 21.

There is substantial and convincing evidence and expert testimony in the record establishing that the proposed Church meets BCZR §502 and BCZR §1A01.2.C, as applied to the Special Exception standard under Maryland case law. Based on the foregoing, this Board should grant the Church an unconditional Special Exception for a church on the subject property and deny the Protestants' appeal.

A. Special Exception Uses Are Presumed To Be Permissible And In the Interest of the General Welfare.

Special exception uses are "expressly permissible." *Mossburg v. Montgomery County*, 107 Md. App. 1, 666 A.2d 1253 (1995). In fact, "the legislature has determined [Special Exception uses] to be permissible absent any factor or circumstance negating the presumption." *Schultz v. Pritts*, 291 Md. 1, 11; 432 A.2d 1319 (1981). Furthermore, as explained and reiterated by the Maryland Courts:

> [A] Special Exception is part of the comprehensive zoning plan sharing the presumption that, as such, it is in the interest of the general welfare, and therefore, valid. . . . The duties given the Board are to judge . . . whether the use in the particular case is in harmony with the general purpose and intent of the plan.

See *Anderson v. Sawyer*, 23 Md. App. 612, 617; 329 A.2d 716 (1974) (affirming the approval of a funeral home as a Special Exception use in Baltimore county); *Schultz*, 291 Md. at 11 (establishing the standard for review of a Petition for Special Exception).

In the *Schultz* case, the Court of Appeals was faced with a Petition for Special Exception for the development of a funeral home in a residential district. *Schultz, 291 Md. 1.* In addressing the Baltimore County legislature's intent regarding uses permitted by Special Exception, the Court stated:

> By defining a funeral home as an appropriate use by way of Special Exception, the legislature of Baltimore County has, in essence, declared that such uses, if they satisfy the other specific requirements of the ordinance, do promote the health, safety and general welfare of the community.

Id. at 14.

The Court in *Schultz* acknowledged that there were obvious "inherent deleterious effects" involved with funeral homes. *Id.* at 13-14. However, the Court explained that those effects do not overcome the presumption that the general welfare is benefited by allowing funeral homes in a residential district "unless there are *strong and substantial existing facts or circumstances* showing that the particularized proposed use has detrimental effects above and beyond the inherent ones ordinarily associated with such uses." *Id.* at 14. (emphasis added).

Therefore, the fact that a Special Exception use, such as a church, may have adverse effects at this particular location in and of itself has no bearing on whether the Special Exception use should be approved. All Special Exception uses have inherent adverse effects. *See* *Mossburg*, 107 Md. App. at 8-9. The

conditions imposed on Special Exception uses and the proper standard on which to evaluate their approval was explained in *Mossburg*. The Court, recognizing the inherent adverse effects of the Special Exception use stated:

> [I]t is not whether a use permitted by way of a Special Exception will have adverse effects (***adverse effects are implied in the first instance by making such uses conditional uses or Special Exceptions rather than permitted uses***), it is whether the adverse effects in a particular location would be greater than the adverse effects ordinarily associated with a particular use that is to be considered by the agency. As Judge Davidson opined in *Schultz*:
>
> > [T]he appropriate standard to be used in determining whether a requested Special Exception use would have an adverse effect and, therefore, should be denied is whether there are facts and circumstances that show that the particular use proposed at the particular location proposed would have any adverse effects ***above and beyond those inherently associated with such a Special Exception use irrespective of its location within the zone.***

Id. at 8 – 9 quoting *Schultz*, 291 Md. at 22-23. (emphasis added).

In *Mossburg*, the petitioners sought a Special Exception for a solid waste transfer station. In evaluating the request, the Court in *Mossburg* stated that:

> The question in the case *sub judice*, therefore, is not whether a solid waste transfer station has adverse effects. It inherently has them. The question is also not whether the solid waste transfer station at issue here will have adverse effects at this proposed location. Certainly, it will and those adverse effects are contemplated by the statute. ***The proper question is whether those adverse effects are above and beyond, i.e. greater here than they would generally be elsewhere within the areas of the County where they may be established, i.e. the other few I-2 Industrial zones.***

Id. at 9. (emphasis added).

In sum, Special Exception uses, by their inherent nature, have detrimental or adverse effects. However, Special Exception uses are nonetheless "valid." *Schultz*, 291 Md. at 11. The Baltimore County Council has legislated that Special Exceptions, such as a church in a R.C.2 zone, are "desirable and necessary . . . provided certain standards are met." *Mossburg*, 107 Md. App. at 8.

B. The Proposed Church is Expressly Permitted in the R.C.2 Zone By Special Exception.

The Baltimore County Council has legislated that "churches, or other buildings for religious worship", are permitted by Special Exception in the R.C.2 zone. *See* BCZR §1A01.2.C.6. The Baltimore County Zoning Regulations do not distinguish between the size and type of church that is permissible, but rather, simply provide that all *churches* are permitted by Special Exception in the R.C.2 zone.

The County Council was clearly free to limit or qualify the definition of a church, but they chose not to do so. This is significant since there are innumerable places within the Baltimore County Zoning Regulations where the Baltimore County Council chose to limit the definition of a particular use. A perfect example is in the R.C.2 and R.C.4 zones where the County Council deliberately defines schools as either private or public. The County Council specifically permits public schools in the R.C.2 and R.C.4 zones, while entirely excludes private schools from the zones. Since the Baltimore County Council does not distinguish between types and sizes of churches, the only rational interpretation

of the R.C.2 Regulations is that the County Council intended for all churches to be permitted in the R.C.2 zone by Special Exception.

C. To Obtain A Special Exception, A Use Must Meet the Statutory Conditions for a Special Exception As Set Forth in the Baltimore County Zoning Regulations and as modified by Maryland Case Law.

To obtain a Special Exception, a use must meet the statutory conditions for a Special Exception as set forth in the Baltimore County Zoning Regulations and as modified by Maryland case law. Special Exceptions are governed by §502 of the Baltimore County Zoning Regulations. Maryland case law makes clear that in order to obtain a Special Exception, the petitioner must demonstrate that the proposed use satisfies the statutory conditions of a Special Exception as affected by Maryland case law.

1. ***To Obtain a Special Exception, the Proposed Use Must Meet the Statutory Conditions Set Forth in the Baltimore County Zoning Regulations §502 and §1A01.2.C.***

In order to obtain a Special Exception, the proposed Church must meet the statutory conditions set forth in the Baltimore County Zoning Regulations §502 and §1A01.2.C.

In addition to the requirements of §502.1, the Baltimore County Zoning Regulations place an additional condition on Special Exceptions in the R.C.2 zone. Specifically, BCZR §1A01.2.C. requires an affirmative finding by the hearing authority that "the use would not be detrimental to the primary agricultural uses in its vicinity."

2. ***The statutory conditions must be modified in accordance with Maryland case law.***

The Maryland Appellate Courts have held that in order to obtain a Special Exception, the proposed use must satisfy the statutory conditions of a Special Exception as effected by Maryland case law. The Courts have explained that the Special Exception standard is an "overlay" of the statutory conditions with the restrictions provided through case law.

In *Mossburg* and *Hayfields*, the Court of Special Appeals demonstrated how the conditions set forth in BCZR §§ 502.1 and 1A01.2.C are to be analyzed in conjunction with the Special Exception standards provided in Maryland case law. *Mossburg*, 107 Md. App. at 21-22; *Hayfields*, 122 Md. App. 616, 640-641; 716 A.2d 311 (1998). Maryland case law provides that in evaluating the instant Petition for Special Exception, this Board must determine whether the proposed Church will:

> A. be [more] detrimental to the health, safety or general welfare of the *locality* involved [than the effects normally inherent with a church would be generally elsewhere in the zone];
>
> B. tend to create [more] congestion in roads, streets or alleys therein [than the congestion normally inherent with a church generally elsewhere in the zone];
>
> C. create a [more] potential hazard from fire, panic or other dangers [than the potential hazard normally inherent with a church generally elsewhere in the zone];
>
> D. tend to overcrowd land and cause undue concentration of population [more than would be expected

with a church generally elsewhere in the zone]; interfere [more] with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences or improvements [than the interference normally inherent with a church generally elsewhere in the zone];

E. interfere [more] with adequate light and air [than the interference normally inherent with a church generally elsewhere in the zone];

F. be [more] inconsistent with the purposes of the property's zoning classification [or] in any other way inconsistent with the spirit and intent of these zoning regulations [than any inconsistencies normally inherent with a church generally elsewhere in the zone];

G. be [more] inconsistent with the impermeable surface and vegetative retention provisions of the zoning regulations [than any inconsistencies normally inherent with a church generally elsewhere in the zone]. [or]

H. be [more] detrimental to the environmental and natural resources of the site and vicinity including forests, streams, wetlands, aquifers and floodplains in an R.C.2, R.C.4, R.C.5 or R.C.7 Zone [more than would be expected with a church generally elsewhere in the zone].

I. be [more] detrimental to the primary agricultural uses in its vicinity [more than would be expected with a church generally elsewhere in the zone].

BCZR §502.1.; BCZR §1A01.2.C; *Mossburg,* 107 Md. App. at 21-22; *Hayfields,* 122 Md. App. at 641.

D. Maryland Case Law Makes Clear that a Special Exception Should Only Be Denied When the Adverse Impacts of the Proposed Use are "Greater than or above and Beyond the Effects Normally Inherent with such a Use Anywhere within the Relevant Zone".

The Special Exception standard as defined through case law requires that a Special Exception use may only be denied when the inherent adverse impacts of the use are "greater than or above and beyond the effects normally inherent with such a use anywhere within the relevant zone in the regional district". *Hayfields*, 122 Md. App. at 640-641; *Mossburg*, 107 Md. App. at 21. Maryland case law makes clear that only arduous effects upon adjoining and surrounding properties are relevant. It is also well established that the petitioner "does not have the burden of establishing affirmatively that his proposed use would be a benefit to the community." *Schultz* at 291 Md. at 11. Additionally, a petitioner does not have to demonstrate that it will be compatible with the surrounding area. *Mossburg*, 107 Md. App. at 8. Maryland Courts have also held that it is irrelevant whether a Special Exception use will have an adverse impact on the subject property. *Hayfields*, 122 Md. App. at 641-649.

The Maryland Court of Appeals has provided guidance in identifying and recognizing those impacts which are inherent with a Special Exception use. Specifically, a reviewing body must evaluate the inherent adverse impacts of a proposed Special Exception use on a "case-by-case analysis, the zoning body may, in the application of its expertise, recognize effects of a proposed use that it considers common to that use regardless of where it may be located in the applicable zone(s)". *Sharp v. Howard County Board of Appeals*, 98 Md. App. 57, 632 A.2d 248 (1993). The Board must "look for evidence . . . of the adverse effects and impact that could generally be expected as an inherent adverse impact anywhere

in the [R.C.2] Zones in order to determine whether the . . . impact at the subject site is greater . . .". *Mossburg* 107 Md. App. at 13. The Court of Special Appeals has provided some guidance with respect to the inherent adverse impacts of churches. The Court stated that "churches and schools are generally designated as permitted uses. Such uses may be developed, although at the particular location proposed they may have an adverse effect on a factor such as traffic, because the moral and educational purposes served are deemed to outweigh this particular adverse effect." *Sharp*, 98 Md. App. at 74-75 quoting *Schultz*, 291 Md. at 19-22.

As indicated in the *Schultz* case, and noted in both *Anderson* and *Sharp* cases, the Protestants' challenge of a Special Exception must fail if they simply present evidence regarding adverse effects which are ordinarily associated with a church such as traffic, noise, and concentration of population. *Schultz*, 291 Md. at 22-23; *Anderson v. Sawyer*, 23 Md. App. 612; 329 A.2d 716 (1974); *Sharp*, 98 Md. App. at 74-76, 86. In *Schultz*, the Court granted a Special Exception for a funeral home:

> Because there were neither facts nor valid reasons to support the conclusion that the grant of the requested Special Exception would adversely affect adjoining and surrounding properties in any way other than would result from the location of any funeral home in any residential zone, the evidence presented by the protestants was, in effect, no evidence at all.

Schultz, 291 Md. at 14 quoting *Anderson*, 23 Md. App. at 624-625..

VI. CARROLL COMMUNITY CHURCH HAS ESTABLISHED THROUGH CLEAR AND CONVINCING EXPERT TESTIMONY THAT IT IS ENTITLED TO A SPECIAL EXCEPTION FOR A CHURCH.

A. This Church Meets the Statutory Conditions for a Special Exception Set Forth in BCZR §502.1 and §1A01.2., as modified by Maryland Case Law.

Through clear and convincing expert testimony, the Church has established that it meets all of the statutory conditions of BCZR §502.1 and BCZR §1A01.2., as effected by Maryland case law. In support of its Special Exception, the Church offered Mickey Cornelius as an expert in traffic planning and engineering, Timothy Madden as an expert in the fields of landscape architecture, land planning and zoning, and Robert Bradley as an expert in planning, zoning, surveying and civil engineering. Additionally, the Church offered the testimony of Pastor Joseph Duke of Carroll Community Church.

In order to evaluate whether a use meets the statutory conditions of BCZR §502.1 and BCZR §1A01.2., as modified by Maryland case law, one must first identify the impacts ordinarily associated with such a use. Mr. Madden identified for this Board the adverse impacts that are ordinarily associated with a church. Those impacts, include traffic, noise, larger buildings, lighting, parking fields, concentration of population and stormwater runoff. As set forth herein, it is the expert opinion of Mr. Madden, Mr. Bradley and Mr. Cornelius that the proposed Church will have no greater impact at this location than one would ordinarily expect from a church in the R.C.2 zone.

The following establishes that the Church unequivocally meets the statutory conditions of BCZR §502.1 and BCZR §1A01.2., as effected by Maryland case law:

1. ***This Church will not create congestion in roads, streets or alleys greater than or above and beyond what you would ordinarily expect from a church.***

Mr. Cornelius testified that in his expert opinion the Church will not create congestion in roads, streets or alleys greater than or above and beyond what you would ordinarily expect from a church. Mr. Cornelius' opinion was based upon findings that: (i) the Church has direct access onto State Highway Rt. 91, (ii) the Church has excellent site distance from its access driveway on to State Highway Rt. 91, (iii) State Highway Rt. 91 has relatively low traffic volumes and is operating below capacity and can easily accommodate the increased traffic brought on by the Church use, and (iv) the Church is proximate to an excellent surrounding road system.

Prior to rendering an expert opinion in this matter, Mr. Cornelius performed a multitude of traffic studies/analyses relating to the Church's proposal. The following is an overview of Mr. Cornelius' findings and conclusions:

(a) *The Church will not have a detrimental impact on State Highway Rt. 91.*

Mr. Cornelius testified that in his expert opinion, the Church will not have a detrimental impact on State Highway Rt. 91. His opinion was based upon

traffic volume counts conducted along State Highway Rt. 91 in the vicinity of the Church's proposed access. Mr. Cornelius testified that the traffic volumes on State Highway Rt. 91 are less than you would typically expect of an arterial road. Mr. Cornelius explained that the traffic studies revealed that State Highway Rt. 91 is operating at 21% capacity during weekday peak hours and 10% capacity on Saturdays. Further, State Highway Rt. 91 is operating below 10% capacity on Sundays.

Additionally, Mr. Cornelius concluded that there are low volumes of traffic entering onto State Highway Rt. 91 from Emory Road and Mt. Gilead Road. Mr. Cornelius studied a number of intersections entering into State Highway Rt. 91 on Sunday during peak hours. Notably, Mr. Cornelius calculated only one vehicle per hour at the intersection of Mt. Gilead Road and State Highway Rt. 91. Additionally, he calculated only 10 vehicles per hour at the intersection of Emory Church Road and State Highway Rt. 91. Mr. Cornelius testified that his counts and findings relating to traffic volumes along State Highway Rt. 91 were consistent with the data collected by the State Highway Administration.

Based on the foregoing, Mr. Cornelius testified that the traffic from the proposed Church will not have a detrimental impact on State Highway Rt. 91 since the highway is designed to handle high volumes of traffic and the highway is currently operating below capacity.

Mr. Cornelius also testified that individuals entering the Church from State Highway Rt. 91 will not impact traffic on the highway since an acceleration and deceleration lane is being proposed by the Church. Based on the above, Mr. Cornelius concluded that vehicles entering the Church from State Highway Rt. 91 will have a minimal impact on the highway.

Mr. Cornelius also concluded the vehicles exiting the Church will have a minimal impact, if any, on State Highway Rt. 91. Mr. Cornelius explained that the site was designed so that vehicles could be orderly stacked and lined up entirely within the site. The vehicles will proceed to the two lane access drive-way and be required to stop before exiting the Church property onto State Highway Rt. 91. Therefore, the Church's traffic will be dispersed in a controlled manner onto the highway. Mr. Cornelius testified that the traffic traveling on State Highway Rt. 91 will be able to continue without delay or interruption.

In Mr. Cornelius' expert opinion, the Church will not have a detrimental impact on State Highway Rt. 91.

(b) *The Road System Surrounding the Church is Excellent.*

In Mr. Cornelius' expert opinion, the road system surrounding the Church is excellent. He explained that the Church is in close proximity to three arterial roadways, State Highway Rt. 91, State Highway 140 and State Highway Rt. 30. Mr. Cornelius testified that there are adequate levels of service at all the key inter-sections surrounding the Church property. Furthermore, the traffic volumes on

State Highway Rt. 140 and Rt. 30 are substantially below peak volumes on Sundays.

(c) *The Church's Access is Safe.*

Mr. Cornelius testified that in his expert opinion the Church's access onto State Highway Rt. 91 is safe. Mr. Cornelius testified that Intersection Capacity Analyses and Level of Service Evaluations were performed on State Highway Rt. 91 and the Church's access driveway. His studies revealed that the Church has full movement access along State Highway Rt. 91, approximately 800 ft South of Mt. Gilead Road. Additionally, the Church has excellent site distance onto State Highway Rt. 91. In fact, Mr. Cornelius concluded that the Church's access will operate at a Level of Service "A".

Mr. Cornelius explained that the State Highway Administration only requires a site distance of 460 feet for a posted speed limit of 45 m.p.h., 570 feet at a speed of 55 m.p.h. and 620 feet and 60 m.p.h. Therefore, Mr. Cornelius concluded that the Church's access would have adequate site distance even if vehicles on State Highway Rt. 91 exceeded the posted speed limit of 45 m.p.h.

Mr. Cornelius testified that since Rt. 91 is a state highway that the Church's access would not be approved until the State Highway Administration (SHA) completes a thorough review and conclude that the Church's access meets state standards. He further testified that the Church will submit a Traffic Impact Analysis to SHA prior to seeking an access permit.

Based on the above, Mr. Cornelius testified that in his expert opinion, the Church's proposed excellent is safe.

(d) *Churchgoers will use State Highway Rt. 140 and Rt. 91 to access the Church property since it is the quickest way of travelling to the Church's property is via State Highway Rt. 140 and Rt. 91.*

In his expert opinion, Mr. Cornelius testified that Churchgoers will most likely use State Highway Rt. 140 and State Highway Rt. 91 to access the Church property since it is the quickest route available. Mr. Cornelius testified that he personally conducted several "travel runs" to identify the quickest routes for accessing the site. He conducted several travel runs on Sundays since the majority of the Church's traffic will be generated on that day. Mr. Cornelius considered the amount of time it would take for a vehicle to reach the site travelling from: (i) North on State Highway Rt. 30 to State Highway Rt. 91; (ii) North on State Highway Rt. 140 to State Highway Route 91. and (iii) North on State Highway Rt. 30 to Mt. Gilead Road.

Notably, the studies revealed that it is quicker for a vehicle to travel North on Rt. 140 and make a right onto Rt. 91 than to travel from Rt. 30 to Mt. Gilead Road and make a left on Rt. 91. Additionally, his studies demonstrated that it is quicker for a vehicle to travel North on Rt. 30 to Rt. 91 than to travel North on Rt. 30 to Mt. Gilead Road and then to Rt. 91. Mr. Cornelius testified that there several very rational explanations for his findings.

First, Mr. Cornelius explained that a driver bases his/her route decision on time considerations. He indicated that there are no studies available which would indicate that a driver's route decision differs depending upon his or her destination. For example, from a traffic engineering perspective, there is no difference between drivers going to church versus drivers going to work.

Second, Mr. Cornelius explained the relative conditions of the roadways. He explained that State Highway Rt. 91 is a two-lane highway, approximately 24 feet wide, with a posted speed limit of 45 m.p.h. Additionally, Rt. 30 and Rt. 140 are both State Highways. In contrast, Mt. Gilead Road is a 14 foot one-lane windy road with a speed limit of only 25 m.p.h. In Mr. Cornelius' opinion, Mt. Gilead is a challenging road to maneuver and thus, with comparable routes available, drivers will avoid using the road.

Third, vehicles will naturally seek to avoid the intersection of Mt. Gilead Road and State Highway Rt. 91 since the intersection has an existing site distance problem. Mr. Cornelius determined that there is an existing site distance problem turning left from Mt. Gilead Road onto Rt. 91 South. Notably, there is no site distance problem for vehicles turning right onto Rt. 91 North. In Mr. Cornelius' expert opinion, since comparable routes are available, drivers will avoid the intersection. Notably, even Protestant Shirley Elseroad admits that she avoids using Mt. Gilead Road and avoids turning left from Mt. Gilead Road onto Southbound Rt. 91.

Based on the foregoing, it is Mr. Cornelius' expert opinion the Church will not create congestion in roads, streets or alleys greater than or above and beyond what you would ordinarily expect from a church. Furthermore, Mr. Cornelius concluded that the Church's property can be developed as proposed without adversely impacting surrounding area traffic conditions.

2. ***The proposed Church will not be detrimental to the health, safety or general welfare of the locality involved greater than or above and beyond what you would ordinarily expect from a church.***

The Church presented substantial evidence establishing that the proposed Church will not be detrimental to the health, safety and general welfare of the locality greater than or above and beyond what you would ordinarily expect from a church. In fact, there was testimony from Mr. Madden that the Church will actually be less detrimental than you would ordinarily expect. First, Mr. Madden explained that the Church is ideally situated along the Rt. 91 corridor with direct access to State Highway Rt. 91 and an excellent surrounding road system. Mr. Madden testified that the Church's dual entrance will safely control and disperse traffic onto the highway. Second, Mr. Madden testified that the impacts of the Church will be less since the Church will be located on a very large site. Third, Mr. Madden testified that the Church's building was deliberately located so as to take advantage of all site conditions. He explained that the Church's noise impacts will be reduced by its location along State Highway Rt. 91. Mr. Madden reasoned that vehicle and truck traffic travelling 45 m.p.h. on State Highway Rt. 91 already generates a great deal of noise. Fourth, Mr. Madden testified that the

extensive woods that will be retained on the property will create a "land bay" or buffer between the Church and neighboring properties. This will lessen noise, lighting and visual impacts. Fifth, the rolling topography of the property will reduce the Church 's impacts.

The Church also presented the testimony of Pastor Duke who testified unequivocally that he expects that this Church will make a positive, rather than negative, contribution to the surrounding community. Since the Church has voluntarily placed certain restrictions on its use of the property, this Church's impact will be less than one would ordinarily expect from a church (see Appendix B for the agreed upon restrictions). Pastor Duke testified that the Church is not proposing a day school, high school or commercial day care on the property. Further, Pastor Duke testified that the Church is not proposing to rent the property or any of its facilities for commercial purposes.

Based upon the foregoing, Mr. Madden, Mr. Bradley and Mr. Cornelius testified that this Church will not be detrimental to the health, safety or general welfare greater than or above and beyond what you would ordinarily expect from a church.

3. ***The Church will not tend to overcrowd the land and cause undue concentration of the population greater than or above and beyond the adverse effects ordinarily associated with a church.***

Mr. Bradley and Mr. Madden testified that the Church will not tend to overcrowd the land and cause undue concentration of the population greater than or above and beyond the adverse effects ordinarily associated with a

church. In fact, both testified that there will be less of a concentration of population here given the large size of the Church's property. Notably, the Church and its accessory lodge, athletic fields, roadways, septic system and SWM system comprise only 30% of the overall site. The vast majority of the site will remain in a natural condition. The proposed Church will not be crowded on to a small site as is typical of many churches found in rural areas. The proposed Church will fit well on a site of 70.66 acres, which is far more acreage than is necessary to accommodate the improvements for the Church use.

Furthermore, the limitations the Church has voluntarily placed on its use of the property support the finding that it will not cause a undue concentration of the population . Pastor Duke testified that the Church is not proposing a day school or high school or commercial day care on the property. Further, Pastor Duke testified that the Church is not proposing to rent the property or any of its facilities for commercial purposes.

Based on the foregoing, Mr. Madden and Mr. Bradley testified that the Church will not overcrowd land and cause undue concentration of population greater than or above and beyond what you would ordinarily expect from a church.

4. ***The Church will not interfere with adequate provisions for schools, parks, water and sewerage and transportation or other public requirements, conveniences or improvements greater than or above and beyond the adverse effects ordinarily associated with a church.***

The Church presented substantial evidence that it will not interfere with

adequate provisions for schools, parks, water and sewerage and transportation or other public requirements, conveniences or improvements greater than or above and beyond the adverse impact ordinarily associated with a church.[1] As to sewerage. Mr. Bradley testified that the Church's septic reserve exceeds Baltimore County standards. The Church is proposing a septic reserve area of 45,000 square feet to serve the Church and 20,000 square feet to serve the lodge. Mr. Bradley confirmed that all septic percolation tests have been approved.

Mr. Bradley also testified that the proposed use of the property will actually improve the stormwater management of the property. Mr. Bradley testified that the Church received a Storm Water Management Quantity waiver from DEPRM since the proposed church will actually decrease the peak water flow on the property by 12%. *See Exhibit Protestant's 10.* Mr. Bradley testified that the Church will provide water quality management and all runoff from the property will be conveyed to a suitable outfall. Notably, the Church is proposing two water quality facilities on the property. Mr. Madden also testified that water quality will actually be improved on the site since the property has been taken out of agricultural production. Mr. Madden further testified that there will be no water quality problems on this property and that the Church's proposed stormwater management system will adequately handle stormwater.

Based on the foregoing, Mr. Bradley and Mr. Madden concluded that the Church will not interfere with provisions for schools, parks, water and sewerage

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[1] Provisions for schools and parks are not applicable in this case since this is not a residential development.

and transportation or other public requirements, conveniences to an extent greater than or above and beyond what you would ordinarily expect from a church.

5. ***The Church will not interfere with adequate light and air normally above and beyond the effects greater than or above and beyond the adverse effects ordinarily associated with a church.***

The Church established that it will not interfere with adequate light and air greater than or above and beyond the effects ordinarily associated with a church. Mr. Madden testified that Church's proposal actually reduces some of the impacts on light and air. First, Mr. Madden testified that the Church's proposed lighting meets all of Baltimore County's lighting standards. Additionally, the Church has agreed that the lighting in the parking areas will be installed so that it reflects away from adjacent residential sites and public streets. Furthermore, the Church's willingness not to light the athletic field will also reduce the lighting impacts. Second, Mr. Madden explained that the impacts will be reduced as result of the considerable size of the Church's property. The relationship of the building to the site keeps the typical impacts of the Church on-site. Third, Mr. Madden testified that the impacts will be lessened by "land bay" or buffer created by the woods on the property. Fourth, he explained that the existing topography and the deliberate placement of the building on the property will reduce the Church's impacts. Mr. Madden testified that the site was designed so that the structures would be a distance from Mt. Gilead's scenic route.

Based on the foregoing, Mr. Madden testified that in his expert opinion the impacts of this Church on light and air will be minimal and certainly less than one would ordinarily expect from a church.

The "light and air" standard was historically introduced to address more urban environments where tall buildings cast significant shadows and blocked out neighbors' light. Additionally, this statutory provision also is concerned with large contiguous buildings, as found in urban settings, where the density of structures does not permit the free flow of air. Clearly, situating this structure as proposed on such an unusually large site for a church, will not result in any interference with the adequacy of the neighbors' light and air.

6. ***The proposed use of the Church is more consistent with the impermeable surface and vegetation retention provisions of the Zoning Regulations than any inconsistencies ordinarily associated with a church.***

The Church presented compelling testimony that the proposed Church is more consistent with the impermeable surface and vegetation retention provisions of the zoning regulations than any inconsistencies ordinarily associated with a church. Mr. Bradley testified that a Steep Slope/Erodible Soils Analysis and Forest Buffer Delineation Plan was submitted and approved by DEPRM. *See Exhibit Protestant's 9 a-c.* Additionally, he testified that the Church has received a Storm Water Management Quantity waiver from DEPRM since the church was decreasing peak water flow by 12%. *See Exhibit Protestant's 10.*

Mr. Bradley testified that the proposed Church is consistent with the regulations since the Church is proposing to develop only a portion of the large site. Rather, the Church is proposing to leave 28.86 acres as open space and lawn area, 25.67 acres as forest, 6.6 acres as meadow grasses and 0.8 acres as cover crop. Mr. Madden concurred that the Church is consistent with the Regulations since the Church and its accessory lodge, athletic fields, roadways, septic system and SWM system will comprise only 30% of the overall site.

Based on the foregoing, Mr. Bradley and Mr. Madden concluded that the Church is more consistent with the impermeable surface and vegetation retention provisions of the Zoning Regulations than any inconsistencies ordinarily associated with a church.

7. ***The proposed Church will not create a potential hazard from fire, panic, or other danger greater than or above and beyond what you would ordinarily expect from a church.***

The Church will not create a potential hazard from fire, panic or other danger greater than or above and beyond what you would ordinarily expect from a church. Mr. Bradley testified that the Church is proposing adequate safeguards for potential hazards. The Church is proposing two underground water storage tanks on the property. The first tank is 32 x 8 feet in size with 12,000 gallons of water dedicated for use by the Fire Department. The tank will serve any emergency needs of the Church. The second tank is 27 x 8 feet in size with 10,000 gallons of water dedicated for use by the Fire Department. This tank will serve the meeting lodge and athletic field. Although these tanks are essentially

dedicated to the Church, Mr. Bradley testified that the tanks could be tapped by the Fire Department in order to fight a fire elsewhere. By providing such a resource, the Church is bestowing a significant benefit upon the surrounding community. Furthermore, the proposed Church will be built in accordance with all applicable safety and health codes of Baltimore County and Maryland.

Based on the foregoing, Mr. Bradley concluded that the Church will not create a potential hazard from fire, panic or other danger greater than or above and beyond what you would ordinarily expect from a church.

8. ***The proposed use of the Church is more consistent with the purpose of the zoning classification and the spirit and intent of the Zoning Regulations than any inconsistencies ordinarily associated with a church.***

Section 100.1 of the Baltimore County Zoning Regulations identifies that the purpose of the Zoning Regulations was to promote the "health, security, comfort, convenience, prosperity, orderly development and other aspects of the general welfare of the community . . ."

Section 1A01.1.B states the following with regarding to the purposes of the R.C. 2 zone:

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

With these purposes in mind, the Baltimore County Council, in its wisdom, determined that churches should be permitted by Special Exception in the R.C. 2 zone. The general purposes of the Zoning Regulations clearly include providing for places of worship for all varieties of people and manner of worship. Further, the R.C. 2 purpose is to foster conditions favorable to agricultural use of productive agricultural areas by preventing incompatible forms and degrees of urban uses. By making churches permissible by Special Exception, as stated in *Schultz* and *Mossberg*, the County Council has determined de facto that churches are compatible forms of uses and consistent with the comprehensive plan (or Master Plan).

As the testimony clearly shows, this proposed church will have not have an adverse impact on the agricultural uses in the area any greater than you would ordinarily expect. Simply stated, there is no evidence whatsoever that the placement of these proposed structures at this location is going to have any adverse impact on any agricultural activities anywhere in the area. The only potential impact is from traffic that might be added to the roads during clearly off peak hours in the evenings and on Sundays. At most, a minor inconvenience may irregularly occur in the event that farm equipment is traveling on the roadways while Church is being dismissed from worship. Fortunately, Route 91 is more than adequate to handle any traffic that might result from the church use.

B. The Proposed Church will Not be More Detrimental to the Primary Agricultural Uses in its Vicinity nor will it be More Detrimental to the

Environmental and Natural Resources of the Site and Vicinity than you would Ordinarily Expect from a Church Generally Elsewhere in the Zone.

The Church established through expert testimony that the proposed Church will not be detrimental to the primary agricultural uses in its vicinity nor will it be detrimental to the environmental and natural resources in the site and vicinity. Section 1A01.2.C. of the Baltimore County Zoning Regulations requires only that the Special Exception use will not be "detrimental to the primary agricultural uses in its vicinity" [than would be expected with a church generally elsewhere in the zone]. Additionally, §502.1.I. of the Regulations requires that a special use not be [more] detrimental to the environmental and natural resources of the site and vicinity including forests, streams, wetlands, aquifers and floodplains in an R.C.2, R.C.4, R.C.5 or R.C.7 Zone [than would be expected with a church generally elsewhere in the zone]".

Notably, the Regulations do not require a petitioner to prove that a use promotes agriculture or agricultural preservation.

Mr. Madden testified that the Church will not have a detrimental impact on agricultural uses, environmental and natural resources in the vicinity. Mr. Madden identified the primary agricultural uses in the vicinity as Trenton Mills and Lippy Brothers. Mr. Madden explained that Trenton Mill contracts to store, mill and market grain. Mr. Madden testified that Trenton Mill has a grain bushel capacity of approximately 870,000. Further he testified that Trenton Mills market area extends not only to Baltimore County and Carroll County, but also to other

counties and Pennsylvania. Mr. Madden testified that Lippy Bros. Farms properties in the area. In Mr. Madden's expert opinion, the loss of this site as a grain producer will not jeopardize the continuation of either Trenton Mill, Lippy Brothers or any other agricultural business. As detailed herein, Mr. Madden and Mr. Bradley presented expert testimony that the Church will not be more detrimental to the environmental and natural resources of the site and vicinity than you would ordinarily expect from a church.

The primary focus of the community's argument with regard to the impact on agriculture relates to the withdrawal of the subject site from agricultural use. Simply stated, no zoning regulation or government can force the Church to farm any portion of the property. As the evidence clearly shows, the subject site has already been removed from agricultural production. There is no credible evidence to support any assertion that the Church's refusal to farm the property will have any adverse affect on the grain producing agricultural activities in the vicinity. As stated above, the only evidence after 9 days of testimony on the issue of agricultural impact, is the speculative minor inconvenience that might occur in the event that an agricultural piece of equipment is traversing Route 91 coincident with the dismissal of Church on Sunday. This is not enough evidence to support denial of any Special Exception.

VII. THE PROTESTANTS HAVE FAILED TO APPLY THE CORRECT STANDARD IN EVALUATING THE CHURCH'S SPECIAL EXCEPTION.

A. The Protestants' reliance on the Baltimore County Master Plan

and the Hanover Road Corridor Study to justify the denial of the Church's Special Exception is wholly misplaced.

The Protestants' reliance on the Baltimore County Master Plan to justify the denial of the Church's Special Exception is wholly misplaced. The Protestants would like this Board to believe that the Church's Special Exception should be denied merely because the 1998-2000 and 2010 Baltimore County Master Plans recommend the preservation of agricultural land. Significantly, neither the Baltimore County Zoning Regulations nor Maryland case law mandate that a church be consistent with Baltimore County's master plan or a local community plan in order to obtain Special Exception approval. In fact, Maryland case law **(find citation)** clearly states that Special Exception are presumed to be consistent with the Comprehensive Plan.

1. ***Maryland Courts have held that a master plan is not a dispositive factor in evaluating the Church's Special Exception.***

Maryland Courts have held that a Master Plan is generally a guide and was not intended to be a dispositive factor in evaluating a Special Exception request. See, Eastern Outdoor Advertising Co. v. Mayor and City Council of Baltimore, 128 Md. App. 494, 523-524; 739 A.2d 854 (1999). The Court has made clear that "master plan guidelines are mandatory only if an ordinance so provides." Richmarr Holly Hills, Inc. v. American PCS, L.P., 117 Md. App. 607, 636-641; 701 A.2d 879 (1997). Notably, the Baltimore County Zoning Regulations do not provide that master plan guidelines are mandatory.

2. ***Little weight, if any, should be accorded to William Hughey's testimony and the Office of Planning's comment since they blatantly applied the wrong standard in evaluating the Church's special exception.***

This Board should also place little, if any, weight on William Hughey's testimony and the Office of Planning's 1999 comment since they both applied the wrong standard in evaluating the Church's Special Exception. See *Protestants Exhibit 34.* The Office of Planning's comment incorrectly characterizes the Special Exception standard as requiring all non-agricultural uses in R.C.2 zone to prove they will not have an "immediate or cumulative adverse effects on the primary resource preservation purposes of the area." Id. Applying this incorrect standard, the Office of Planning and Mr. Hughey recommended that the Church's Special Exception be denied since "this proposal is regional in scope and does not appear to meet the criteria for granting of a Special Exception". Id.

Mr. Hughey conceded before this Board that the Office of Planning evaluated the Church's Special Exception based upon the Baltimore County Master Plan. He explained that the Office of Planning opposed the Special Exception because it believes the proposed Church is incompatible with agriculture and agricultural preservation. There is no question that Mr. Hughey and the Office of Planning applied the wrong standard in evaluating the Church's Special Exception and therefore, their respective opinions should be accorded little weight.

B. Protestants' Contention that this Church would have Less Impacts at a Different Location is Wholly Irrelevant.

The Protestants' contention that this Church would have less impacts at a different location is wholly irrelevant. Through several witnesses, the Protestants argued that if the Church simply located along a major highway, near a junk yard or near business zoned property then the proposed Church will have less impact than it does at the current site. The Protestants argument demonstrates a misunderstanding of the requisite standard to be applied in evaluating a Special Exception.

Based upon Maryland's Special Exception standard, one does not compare the impact of the proposed Church at this location with those that may exist if it were proposed at specifically alternative locations. It is relevant whether there are sites better situated or better suited for this use. It is incumbent upon the Protestants to indicate how this particular use at this particular site will have a greater adverse impact than you would ordinarily expect, regardless of a specific alternative location. Maryland Courts have made it clear that "the appropriate standard to be used in determining whether a requested Special Exception use would have an adverse effect and, therefore, should be denied is whether there are facts and circumstances that show that the particular use proposed at the particular location proposed would have any adverse effects above and beyond those inherently associated **with such a Special Exception use irrespective of its location within the zone.**" *Schultz,* 291 Md. at 22-23. (emphasis added).

To apply the standard asserted by the Protestants would render absurd results. In fact, if Protestants' standard was applied there would be little need for

a reviewing body to even balance the impacts of a proposed use. The use would invariably be denied since there would always be at least one location "elsewhere in the zone" where the use would have less impact.

The Church has submitted substantial expert testimony that the adverse effects ordinarily associated with a church far exceed the effects of the proposed Church at this particular location.

C. Protestants' Testimony that the Proposed Church is Unlike Other Churches in the "Area" is Simply Irrelevant to these Special Exception Proceedings.

Whether the proposed Church is like other churches in the "area" is simply irrelevant to these Special Exception proceedings. Neither the Baltimore County Zoning Regulations nor Maryland case law mandate that a use must be similar to other like uses in the zone to obtain a Special Exception. Protestants offered several witnesses and a "Church Survey" in a misguided attempt to show this Church is different than other area churches. The definition of church is not limited. Churches therefore include all types, sizes, denominations and manner of worship. *See Protestants Exhibits 17 and 18.*

This evidence did not establish that this Church will have greater impacts than you would ordinarily expect from a church. Mr. Neubeck testified on behalf of the Protestants that in preparing the Church Survey, the Hanover Road Association had not identified the acreage of each church or the square footage of each church. Furthermore, he admitted that they had not compared the ratio of each church's square footage with the overall acreage of each church's property.

In fact, Mr. Neubeck testified that he did not even think it was important to consider the sites in which the churches were located.

Needless to say, had the Protestants applied the correct standard in reviewing area churches, they may have found to their surprise that this Church may actually have less impacts than the churches in their survey. Mr. Madden testified, for example, that Emory United Methodist Church may have greater impacts on the surrounding properties than this Church since it is located on a smaller parcel of land, has no apparent water quality management, and likely has an older primary treatment septic system. Mr. Madden testified that Emory Church may also have a greater traffic impact upon Rt. 91 since there is minimal ability for vehicles to be stacked on-site and dispersed onto the roadway in a controlled manner. Furthermore, the traffic impacts may be greater since Emory Church has access onto Rt. 91 extremely close the intersection of Mt. Gilead and Rt. 91. Mr. Madden testified that given the location of Emory Church's access, it may actually be exacerbating the existing site distance problem at the intersection of Rt. 91 and Mt. Gilead Road.

D. The Regulations do not differentiate between "regional churches" or "local churches".

The Baltimore County Zoning Regulations do not differentiate between "regional churches" or "local churches". Further, the Special Exception standard is not whether a regional church will have a greater impact than a local church. Rather, the Regulations simply provide that a petitioner must prove that it will

not have adverse impacts greater than or above beyond what you would ordinarily expect from a church.

Therefore, it is again evident that the Protestants misunderstand the Special Exception standard in presenting numerous testimony regarding the Church's "regional draw". Mr. Neubeck complained that the Church will have a regional draw, rather than a local draw and that it will be incompatible with the local community. Likewise, Mr. Harmon testified that the Hanover Road Association does not like that the Church has a regional draw. Simply because this Church may attract membership from a large geographic area does prove that the Church will have impacts greater than you would ordinarily expect from a church.

VIII. THE PROTESTANTS HAVE FAILED TO PRESENT ANY COMPETENT EVIDENCE TO JUSTIFY THE DENIAL OF THIS CHURCH'S SPECIAL EXCEPTION.

A. The Protestants have failed to present any competent evidence that the impacts of the proposed church will be greater than or above and beyond what you would ordinarily expect.

The Protestants have failed to present any competent evidence that the impacts of the proposed Church at this location would be greater than you would ordinarily expect from a church. Maryland case law requires that the reviewing agency examine the adverse effects of the proposed Special Exception use "at the particular location proposed" and then compare those to the adverse effects "ordinarily associated" with that type of Special Exception use.". *AT&T Wireless*

Services v. Mayor and City Council of Baltimore, 123 Md. App. 681, 692; 720 A.2d 925 (1998).

Maryland Courts have made clear that in opposing a Special Exception, Protestants must do more then present evidence that the Church will have adverse impacts. A Special Exception by its vary nature assumes the use has adverse impact. Protestants must demonstrate that the use has greater adverse impacts at this location than you would ordinarily expect from that use in the zone.

As set forth below, the Protestants have failed to present any competent evidence that the impacts of the proposed Church, at this location, will be greater than you would ordinarily expect from a church. In fact, a close examination of the 7 to 8 days worth of Protestants' testimony in this case reveals nothing more than generic, speculative and unsubstantiated concerns regarding traffic, noise, aesthetics, the size of the Church's building and stormwater management.

1. ***There is no legally sufficient evidence that the proposed Church will generate traffic above and beyond the traffic you would ordinarily expect from a church.***

There is no legally sufficient evidence that the proposed Church will generate traffic above and beyond what you would ordinarily expect from a church. It goes without saying that the operation of a church inherently produces some degree of traffic. Mr. Cornelius provided substantial testimony in this case that this Church will not generate adverse traffic impacts greater than you would expect from a church. The Protestants, on the other hand, failed to

present any expert testimony to rebut Mr. Cornelius' opinions regarding the excellent condition of the existing road system and the minimal impact that this Church will have on the road system. Instead, the Protestants offered numerous testimony from lay witnesses regarding their perceptions of traffic in the area.

2. ***There is no legally sufficient evidence that the proposed Church will generate a safety hazard along the roadways above and beyond what you would ordinarily expect from a church.***

There is also no legally sufficient evidence that the proposed Church will generate a safety hazard along the roadway above and beyond what you would ordinarily expect from a church. In an attempt to demonstrate the existence of a safety hazard, the Protestants presented lay testimony regarding accidents occurring on State Highway Rt. 91 and the condition of the intersection at Mt. Gilead Road and Rt. 91. Further, they presented the expert testimony of George Harmon regarding truck safety regulations.

The Protestants presented numerous testimony that traffic accidents have occurred on State Highway Rt. 91. The Protestants failed, however, to present any evidence that the proposed Church will have a greater impact at this location than you would ordinarily expect from a church. In fact, Mr. Harmon simply surmised that the potential for accidents would be reduced if the Church located near where its population or members live.

Certainly it goes without saying that nearly every roadway in the state has its share of traffic accidents. The pertinent inquiry is whether a roadway has had so many accidents thereon that it becomes hazardous. Mr. Cornelius testified

that in comparison to other roads and highways, Rt. 91 has a relatively low number of accidents. Furthermore, he testified that this Church's impact on the surrounding road system will not be greater than you would expect from a church.

Protestants allege that the surrounding road system is not safe because of the existing site distance problem at the intersection of Mt. Gilead and State Highway Rt. 91. Mr. Cornelius, however, provided expert testimony that the surrounding road system is safe and that this Church will not exacerbate the existing site distance problem at the intersection. SHA's actions with respect to the proposed Church support Mr. Cornelius' opinion. Despite its awareness of the problem with the Mt. Gilead Road/Rt. 91 intersection, SHA had no objection to approval of the Church's Special Exception. Further, SHA did not condition its approval of the Special Exception on the Church correcting the site distance problem or providing a traffic signal at the intersection.

Notably, the Protestants themselves introduced a letter from SHA indicating that SHA had reviewed the intersection and related road system and determined that no safety measures other than a warning device were required. *See Protestants Exhibit 46.* Significantly, SHA confirmed in the letter that additional traffic control measures were reviewed with respect to this intersection, including a reduction in the speed limit, and SHA determined that no other safety measures were necessary. As indicated throughout the testimony, SHA in

fact installed a flashing warning sign approximately 400 feet from the intersection for Mt. Gilead Road and Rt. 91.

The Protestants also alluded in their case-in-chief that there is a truck safety issue on State Highway Rt. 91. Mr. Harmon surmised that the mixing of commercial vehicles, agricultural vehicles and automobiles will increase the risk of *potential* accidents and unsafe driving actions. In support of his concerns, Mr. Harmon introduced evidence dealing with the truck inspection and safety reports of local companies who he alleged are utilizing State Highway Rt. 91. Interestingly enough, inspection records Mr. Harmon introduced demonstrated that Bill Rohrbaugh's Charter Service had a perfect inspection record, that is zero vehicles or drivers were taken out of service. The inspection record for Cowan Systems' was better than the national average. *See Protestant's Exhibits 67 and 68.* The Protestants failed to present any evidence that would demonstrate that this Church will result in an increase in accidents and unsafe driving actions on Rt. 91. Furthermore, the Protestants simply failed to produce any evidence that would demonstrate that this Church will have greater impact than you would ordinarily expect from a church on Rt. 91.

3. ***There is no legally sufficient evidence that the proposed Church will generate noise above and beyond the noise you would ordinarily expect from a church.***

There is no legally sufficient evidence that the proposed Church will generate noise above and beyond the noise you would ordinarily expect from a Church. Like traffic, it is obvious that the operation of a Church will inherently

produce some degree of noise. Mr. Madden testified that in his expert opinion the noise impacts at this location would be less than you would expect as result of the size of the property, the design of the property and the location of the Church along State Highway Rt. 91.

Protestants failed to show that this Church will generate noise greater than or above and beyond what you would ordinarily expect from a church. Instead, Mr. Harmon merely explained that the State has received noise complaints based on other institution's use of electronic amplified church bells, heating and HVAC systems of large institutions, outdoor music activities, sporting events and outdoor worship services. Mr. Harmon simply surmised that the Church will be bothersome to residents who are not currently exposed to any noise. The Protestants also offered lay witnesses who speculated as to how much noise the Church would generate.

Protestants' testimony does not prove that the proposed Church will generate noise above and beyond the noise you would ordinarily expect from a church.

4. ***The Protestants' have failed to proved that this Church will interfere with adequate provisions for schools, parks, water and sewerage and transportation or other public requirements, conveniences or improvements greater than or above and beyond what you would expect from a church.***

The Protestants' have failed to prove that this Church will interfere with adequate provisions for schools, parks, water and sewerage and transportation or other public requirements, conveniences or improvements greater than or

above and beyond what you would expect from a church. The Protestants presented the lay testimony of Mr. Isaac and Mr. Harmon regarding the Church's alleged impacts.

Mr. Isaac presented no evidence that *this Church* will interfere with the area's water supply or that this Church's septic and well system is a danger to the area. Rather, Mr. Isaac testified about the "potential" impacts of the Church's septic system if it failed. Additionally, he testified as to the "potential" impacts of the Church on Emory Church's well.

Notably, Mr. Isaac testified that the State's guidelines would have to be met in order to obtain State approval for a well or septic system. Mr. Isaac admitted that he was not aware that the Church had already received State approval for its proposed septic system.

Mr. Harmon testified that the proposed Church *may or may not* comply with new SWM regulations. He also testified that he was concerned that the County erred in granting the Church a stormwater waiver. Mr. Harmon admits that he raised his concerns about stormwater and site runoff issues in a letter to the Director of the Department of Environmental Protection and Resource Management, Mr. George Perdikakis, and the County took no action. *See Protestant's Exhibit 60.* Notably, the County took no action on his letter and merely replied that DEPRM "thoroughly reviews every development proposal to ensure compliance with all current environmental rules, and regulations and policies." *See Protestant's Exhibit 61.*

The Protestants failed to present any evidence that the proposed Church will have a greater impact at this location than you would ordinarily expect from a Church.

5. ***The proposed use of the Church is consistent with the impermeable surface and vegetation retention provisions of the Zoning Regulations.***

The Protestants failed to produce sufficient evidence that the proposed use of the Church is inconsistent with the impermeable surface and vegetation retention provisions of the Zoning Regulations. Mr. Harmon surmised that the Church's impervious surfaces *could* violate the State's regulations regarding temperature and impact wildlife in local streams. Mr. Harmon further testified that the Church *may* impact a residents drawing of ground water down stream. He reasoned that the Church's large scale development will require a lot of nitrogen to be treated and that some of that nitrogen may get into the ground water.

The evidence submitted by the Protestants' does not demonstrate that the proposed Church is inconsistent with the impermeable surface and vegetation retention provisions of the Zoning Regulations. Further, the evidence does not demonstrate that the Church will be detrimental to environmental and natural resources in the vicinity.

B. Protestants' Voluminous Testimony does Nothing More than Merely Speculate as to the Impact the Proposed Church will have on the Area. Statements of Concern and identification of Anxieties amount to no evidence at all.

Protestants' voluminous testimony does nothing more than merely speculate as to the impact the proposed Church will have on the surrounding area. The Maryland Court of Special Appeals has made clear that mere speculation as to the impact a use will have on the area is not sufficient to justify the denial of a Special Exception. The Court stated that evidence of "what may be . . . is mere speculation, and not a finding of present or future adverse impact that would be different . . . in other [R.C.2] Zone areas [of Baltimore County]. Mossburg, 107 Md. App. at 18. (holding that the Board's statement regarding a possible traffic hazard " . . . is not a finding of what is, but what may be. It is mere speculation, and not a finding of present of future adverse impact that would be different here than elsewhere . . . ." Id.).

The Protestants' evidence in this case is not sufficient to justify the denial of the Church's Special Exception.

C. There is Absolutely No Tangible Evidence that the Proposed Church will be Detrimental to the Primary Agricultural Uses, Environmental or Natural Resources in the Vicinity.

The Protestants have failed to produce any tangible evidence that the proposed Church will be detrimental to the primary agricultural uses, Environmental or Natural Resources in the vicinity. The Protestants offered the testimony of Rhoda Mielke, David Martin, Jack Dillon and Wallace Lippincott in unsuccessful attempt to show that this Church has some impact on agricultural operations in the vicinity. The Protestants' testimony failed to establish that the

proposed Church will have a greater impact at this location than you would ordinarily expect from a Church.

1. **Rhoda Mielke failed to demonstrate that the Church will have a detrimental to the primary agricultural uses in the vicinity.**

Rhoda Mielke, an employee of Trenton Mill, failed to present any evidence that *this Church* would be detrimental to the agricultural uses in the vicinity. Rather, Ms. Mielke spoke about the global effects of the Church choosing to take its property out of agricultural production. She testified that " . . . when agricultural land is taken, you're threatening my livelihood. . . . *It's also threatening everyone that survives on this earth.* The main goal is survival. You can't survive without food." (emphasis added). Notably, Ms. Mielke admitted that Trenton Mill has never farmed nor stored grain from the Church's property, therefore, the loss of the Church's farm land would not impact Trenton Mill's operations.

Although Ms. Mielke testified that the proposed Church would effect her ability to move farm equipment, she later conceded that Trenton Mill success-fully transports its equipment to a 110 acre farm inside the beltway. Ms. Mielke explained that Trenton Mill transports its farm equipment from Trenton Mill Road, down Park Heights Avenue and onto Old Court Road.

Ms. Mielke failed to show that this Church's will have a detrimental impact on agriculture.

2. ***David Martin failed to demonstrate that the Church will have a detrimental to the primary agricultural uses in the vicinity.***

People's Counsel offered the expert testimony of Mr. Martin, an extension educator at the University of Maryland Cooperative Extension. Mr. Martin testified from a *county-wide* perspective on what he perceived to be a impact on agricultural. The basis of Mr. Martin's testimony was that if the Church property is developed then the total amount of agricultural land available in Baltimore County will decrease. Significantly, despite his alleged concern regarding the impact of losing farm land, Mr. Martin presented evidence that the market value of agricultural crops in the area actually increased, despite a decrease in the number of crops. *See Protestants Exhibit 50.*

Mr. Martin went on to testify that there are productive soils on the Church's property based on generalized information from the Baltimore County Maryland Soil Survey. *See Petitioner's Exhibit 5.* Notably, the Soil Survey in which Mr. Martin solely relied, specifically states that it is based upon 1970 conditions in Baltimore County and is intended only to give a "general idea of the soils in the County". *See Petitioner's Exhibit 5, p. 2.* Mr. Martin conceded he had not done any specific studies relating to the Church's property and had not conducted any soil tests on the property prior to rendering his opinion. This argument is further irrelevant in that the *Hayfields* case makes it clear that on site impacts are irrelevant in a Special Exception case. Here, whether the soils on the subject site are the best in the world is wholly irrelevant.

Lastly, Mr. Martin alleged that "urban uses" in agricultural areas impact a farmer's ability to move his farm equipment. He conceded, however, that urban

uses merely made the movement of equipment an inconvenience. At the end of the day, the equipment is always able to get to the agricultural fields. Mr. Martin failed to show that this Church's will have a detrimental impact on agriculture.

3. ***Jack Dillon failed to demonstrate that the Church will have a detrimental to the primary agricultural uses in the vicinity.***

Mr. Dillon testified that the Church is proposing to take agricultural property out of production and each time farm land is lost, the rest of the farm community is placed in jeopardy. Mr. Dillon claimed that a regional church may "erode" agricultural land by encouraging the rezoning of agricultural land and residential development in the surrounding area. Notably, until he was prompted on re-direct examination, Mr. Dillon was unable to provide an example of where the development of a church resulted in the alleged erosion of agricultural land in the area.

Mr. Dillon failed to show that this Church's will have a detrimental impact on agriculture.

4. ***Wallace Lippincott failed to demonstrate that the Church will have a detrimental to the primary agricultural uses in the vicinity.***

Wallace Lippincott testified on behalf of the Protestants in his capacity as the Natural Resource Manager of DEPRM. Mr. Lippincott testified that "the ***result of this proposal would be the entire property would be taken out of agricultural production*** and put into a more suburban/residential use, rather than perhaps a church on a portion of the property with the remainder staying in agricultural use, which would be more compatible and more typical in that area".

Mr. Lippincott also attempted to argue that the proposed church will present a more suburban or urban use in the area and tend to contribute to the impermanence syndrome, tend to overcrowd the roads, additional amounts of traffic on the roads to cause potential conflicts with the farmers as they go back and forth working the land.

Despite his reliance on impermanence syndrome, Mr. Lippincott admits that the impermanence is a theory, rather than accepted scientific fact. He further concedes that there is disagreement amongst even the experts in the field as to whether the impermanent syndrome exists and if so, the effects of the syndrome. Even if this Board were to accept that the impermanence syndrome even exists, its effect in this area is questionable since Mr. Lippincott himself admits that a large number of the farms in the vicinity are already in permanent agricultural preservation programs.

Mr. Lippincott simply failed to establish that this Church will contribute to the impermanence syndrome. Mr. Lippincott acknowledged that Thomas Daniels, the preeminent expert on the impermanence syndrome, has identified certain factors that must be considered in determining whether the impermanent syndrome will occur. These factors include: (1) the age of farmers in the vicinity; (2) whether the farms in the vicinity are owner-occupied or owner-operated as opposed to rented; and (3) the financial condition of the landowners or the farmers who are operating in the vicinity. Mr. Lippincott also claimed that land

prices, housing developments in the vicinity, distance between church and potential impacted farm property is an indication of impermanence syndrome.

Despite his awareness of the above factors, Mr. Lippincott admitted that he not considered any of the factors prior to rendering an opinion on the impermanence syndrome. Mr. Lippincott testified that he had not performed a detailed analysis of all the ages of the farmers in the vicinity of the Church. Additionally, he admitted that he had not performed a detailed analysis of the whether farms in the vicinity of the Church were owner-occupied/operated versus rented. Further, Mr. Lippincott conceded that the only information he had regarding the financial condition of the landowners in the vicinity were from a couple of landowners who were applying through the Maryland Agricultural Land Preservation Program.

Mr. Lippincott also testified that he was not even familiar with the River Downs, a residential subdivision and 18-hole golf course just one mile South of the proposed Church. Furthermore, Mr. Lippincott conceded during cross-examination that the Church's property is adjacent to one of Carroll County's community planning areas. Mr. Lippincott went on to explain that these community planning areas are where Carroll County is directing their residential growth. Mr. Lippincott's incomplete analysis of the impermanence syndrome raises serious questions as the credibility of his opinion.

Mr. Lippincott also generally alleged that the loss of farmland from the Church's property will impact the agricultural economy of Baltimore County.

Despite his allegations, he admits that he did not calculate the alleged economic impact from the loss of farm land. In fact, Mr. Lippincott conceded that he was not even familiar with how many acres of the Church's property were dedicated to grain as well as the average yield of grain at the site, average gross return of the site, rental value of the site, and the average per acre for rentals in the vicinity of the Church's property.

Mr. Lippincott also failed to identify any agricultural operations adjacent to the property upon which the Church could even impact. He testified that there are no special or unique agricultural operations adjacent to the Church's property. Additionally, he testified that there are no special properties, structures or intense agricultural operations adjacent to the Church's property. He testified that there are no intensive or sensitive animal production operations which represent a substantial capital investment by the farm operator adjacent to the Church's property. Mr. Lippincott further testified that there are no farms with their central base of operations adjacent to the Church's property.

Lastly, Mr. Lippincott alluded that Carroll County's application for inclusion in a voluntary preservation program called the "Upper Patapsco Watershed Rural Legacy Area" some how should support a denial of this Church's Special Exception. *See Protestant's Exhibit 73a.* Mr. Lippincott admits himself, however, that the granting of the Church's Special Exception will have no direct impact on Carroll County's application. He testified that the Church is not a party to Carroll County's application. Therefore, the Church's property

would not be part of the rural legacy area unless the Church volunteered for the program.

Based on the foregoing, the Protestants failed to present any convincing evidence that the proposed Church will have a greater impact at this location than you would ordinarily expect from a Church.

D. Despite the Protestants' Assertions, the Mangione and Holbrook Decisions Do Not Support the Denial of the Church's Special Exception.

Despite the Protestants' assertions, the *Baltimore County v. Mangione* and *Cecil County v. Holbrook* decisions do not support the denial of the Church's Special Exception. This follows from the fact that there is compelling evidence within the record that this Church will not have significantly greater adverse effects at this particular location then you would ordinarily expect from a church.

1. ***People's Counsel for Baltimore County v. Mangione***

The Court of Special Appeals' decision in *Mangione* does not support a denial of the Church's Special Exception. 85 Md. App. 738; 584 A.2d 1318 (1991). In *Mangione*, the developer was proposing to build an approximately 260 bed convalescent home and 100 space parking area on a four (4) acre parcel, inside a single-family detached home area. *Id.* at 742-743. Notably, the developer needed a setback variance to even accommodate the parking lot on the property. *Id.* at 741.

The Zoning Commissioner denied the Special Exception based upon the use's "interior residential location, the comparatively narrow feeder roads, and the limited access to York Road". Id. at 742. The Board of Appeals affirmed the Zoning Commissioner's decision upon finding "uncommon problems associated with this proposed development at this specific locale". Id. at 743. The Board found that convalescent home would "overtax an ***interior community road system*** designed to accommodate residential traffic". Id. (emphasis added). There was testimony before the Board that the convalescent home's only access to the main roadway was through a "narrow, winding nature of these streets, with the increased traffic would jeopardize the safety of the children playing in the streets." Id. at 751-752. In addition to the traffic issues, there was testimony that the development would "clearly exacerbate an already worsening storm water runoff situation within [the] community". Id. at 752. The Board was further concerned about the "overflow of contaminated medical waste and storm water management". Id. at 752. The Board concluded that "the Petitioner had not met his burden [of proving] that the proposed use is not detrimental to the health, safety or general welfare of the locality as provided by BCZR §502.1". Id. at 743. The Court of Special Appeals later affirmed the Board's decision. Id. at 753.

The facts presented in this case are inapposite to those presented in Mangione. The Church has unequivocally established that it will not be detrimental to the health, safety or general welfare of the locality greater than or above beyond what you would ordinarily expect from a church. The record clearly

demonstrates that the Church does not have the traffic and storm water problems that existed in the *Mangione*. Additionally, unlike in *Mangione*, the proposed Church has direct access onto a State Highway and is in close proximity to a number of other state highways. Mr. Cornelius provided testimony, based upon traffic studies and analyses, that the Church's traffic will not overtax the area's road system. Perhaps most importantly, the SHA recommends approval of the subject project. Further, unlike in *Mangione*, there was no evidence in this case that the Church would exacerbate existing environmental or health problems. In short, in *Mangione*, there were actually statutorial facts to support that the impacts in *Mangione* were greater than you would ordinarily expect.

2. ***Board of County Commissioners for Cecil County v. Holbrook***

Additionally, the Court of Appeals' decision in *Holbrook* does not dictate the denial of the Church's Special Exception in this case. 314 Md. 210; 550 A.2d 664 (1988). In *Holbrook*, a petitioner filed a Special Exception for a mobile home on a parcel of land located in a sparsely developed rural area of Cecil County. *Id.* at 212. Relying upon its decision in *Schultz v. Pritts*, the Court reiterated the standard for evaluating a Special Exception. *Id.* at 214-218. "The adverse effect upon adjoining and surrounding properties must be unique and different". *Id.* at 217. In *Holbrook*, there was compelling testimony that the mobile home would have a significant adverse effect on property values on neighboring homes significantly more expensive than the mobile home. *Id.* at 212, 219

The Court of Appeals denied the Special Exception upon finding that "the mobile home would create ***significantly greater*** adverse effects in this location than were it located elsewhere in the zone". *Id.* at 220. (emphasis added). Unlike in *Holbrook*, the Protestants in this case simply failed to produce any compelling evidence that the Church would have significantly greater adverse effects at this particular location then you would ordinarily expect of a church.

XI. IT IS EVIDENT FROM THE RECORD THAT ALL THAT THE PROTESTANTS' SEEK TO ACCOMPLISH IN THIS MATTER IS TO PLACE ONEROUS AND UNJUSTIFIED CONDITIONS AND RESTRICTIONS ON THE CHURCH'S USE OF THE PROPERTY.

It is evident from the record that all that the Protestants seek to accomplish in this matter is the placement of onerous and unjustified restrictions on the Church's use of the property. In the final days of testimony in this matter, the Protestants began requesting that if granted, the Church's Special Exception should be severely restricted by conditions. In addition to testimony offered by several witnesses, the Protestants went so far as to submit a two page, single spaced list of 39 conditions in which they would like this Board to impose upon the Church.

The following are just a selection of the conditions requested by the Protestant: (1) a maximum seating capacity of 500 in the sanctuary; (2) the extent of impervious surfaces for parking should be no greater than necessary for 150 personal vehicles; (3) all land to the rear of the stream and wetland area shall be held in agricultural preservation; (4) there shall be no social or fund raising

activities of non-profit organizations that might lease or otherwise meet on the site; and (5) there shall be no gambling, bingo other games of change conducted on the site, except to the extent and frequency that other churches within a 5-mile radius so conduct; (6) yard sales are currently limited to one event lasting no more than two consecutive weekends; and (7) Monday through Friday daycare for no more than one hundred children under six years of age shall be allowed, provided that all County Codes are met.

The Protestants' requests go beyond constructive suggestions that would serve to improve the design of the site and/or better protect the health and safety of the surrounding community. Rather, the Protestants' suggested conditions unequivocally effect how the Church may use and worship on its own property. In some cases the conditions are so outrageous that they serve to compromise the very integrity of the Church's proposal.

Significantly, the Protestants failed to present any competent evidence as to how or why these particular conditions may be necessary or advisable for the protection of the surrounding properties. In fact, Protestants did not even make an attempt to justify the conditions. Section 503.2 of the Baltimore County Zoning Regulations provides the Board of Appeals with the discretion to impose " such conditions, restrictions or regulations as may be deemed necessary or advisable for the protection of surrounding and neighboring properties". In this case, however, there is insufficient evidence that such restrictions are warranted.

Through expert testimony, the Church has demonstrated that the proposed Church meets the statutory conditions of a Special Exception and that the Church will have no greater impact at this location than one would ordinarily expect from a church. Based on the foregoing, this Board should grant the Church a Special Exception for a church on this property without the conditions requested by the Community.

X. THE RELIGIOUS LAND USE & INSTITUTIONALIZED PERSONS ACT OF 2000 SUPPORTS THE GRANTING OF CARROLL COMMUNITY CHURCH'S SPECIAL EXCEPTION.

The Religious Land Use & Institutionalized Persons Act of 2000 ("RLUIPA") supports the granting of Carroll Community Church's Special Exception. By way of background, RLUIPA is a federal statute which was enacted into law on September 22, 2000 to counteract, among other things, historical and pervasive discrimination against religious institutions. Religious Land Use and Institutionalized Person Act of 2000, 106 Pub. L. No. 274; 114 Stat. 803, *a copy of which is attached hereto as Exhibit A*.[2] There was compelling evidence presented during the extensive Congressional Hearings on RLUIPA that land use regulations, either by design or by application, often prevent religious assemblies and institutions from obtaining access to a place of worship. Religious Land Use and Institutionalized Person Act of 2000: Hearings on 106 Pub. L. No. 274 before

[2] The Act was passed by the unanimous vote of the Senate and a voice vote in the House of Representatives. Additionally, the bill had the support of the American Civil Liberties Union, Free Exercise Coalition, which represents over 50 diverse and respected groups, including the Family Research Council, Christian Legal Society and People for the American Way. The bill was also endorsed by the Leadership conference for Civil Rights. 146 Cong. Rec. S. at 6689.

the Senate, 106th Congress, 2nd Sess. (2000) (Statement by Senator Hatch on behalf of himself, Senator Kennedy, Senator Hutchinson, Senator Daschle, Senator Bennett, Senator Lieberman, and Senator Schumer); 146 Cong. Rec. S. 6678 (2000). The testimony indicated that RLUIPA was needed because "churches and synagogues cannot function without a physical space adequate to their needs and consistent with their theological requirements. The right to build, buy, or rent such a space is an indispensable adjunct of the core First Amendment right to assembly for religious purposes." Religious Land Use and Institutionalized Person Act of 2000: Hearings on 106 Pub. L. No. 274 before the Senate, 106th Congress, 2nd Sess. (2000) (Joint Statement of Senator Hatch and Senator Kennedy); 146 Cong. Rec. S. 7774 (2000).

A. RLUIPA Limits this Board's Ability to Implement a Land Use Regulation which will Burden the Church's Use of its Property for Religious Exercise.

RLUIPA limits the ability of local governments, including this Board, to implement a land use regulation which will burden the Church's use of its property for religious exercise. RLUIPA forbids a government and its agents from imposing or implementing any land use regulation which would impose a ***substantial burden on the religious exercise*** of a person, including a religious assembly or institution unless the government has a substantial legal justification for its actions. 106 P.L. 274 at §3. RLUIPA specifically defines religious exercise to include the "use, building, and conversion of real property." Id. at §8(7).

Therefore, RLUIPA is directly applicable to Carroll Community Church's request for a Special Exception to construct and operate a church on its property.

Under the Act, a local government is permitted to burden one's religious exercise only if it can establish that burdening religious exercise is in furtherance of a ***compelling government interest*** and is the ***least restrictive means*** of furthering that compelling governmental interest. Id. at §3. Notably, the government's burden under RLUIPA is considered to be the highest and strictest legal hurdle a government can be forced to overcome. See 146 Cong. Rec S. at 7778.

B. The Congressional Record on RLUIPA Provides Compelling Examples of Local Land Use Laws can Infringe on Religious Exercise.

The Congressional Record on RLUIPA provides compelling examples of how local land use law can infringe upon religious exercise. The Congressional Record included striking examples of how "new, smaller or unfamiliar churches, in particular, are frequently discriminated against and subjected to highly individualized, discretionary processes of land use regulations". 146 Cong. Rec. S. at 7775. There was further evidence that discrimination against churches often "lurks behind such vague and universally applicable reasons as traffic aesthetics or "not consistent with the city's land use plan." Id. The Congressional Record also contains numerous accounts of how church's religious liberties have been infringed through the imposition of size, location and aesthetics limitations. See 146 Cong. Rec. S. at 7775 acknowledging the Report of the House Committee on

the Judiciary, House Rep. 106-219 at 18-24 (Sept. 9, 1999), in the testimony of Professor Douglas Laycock to the Committee on the Judiciary.

Relevant to this case is the account of how "[o]fficials in Arapahoe County, Colorado, imposed numerical limits on the number of students who could enroll in religious schools and limited the size of congregations of various churches as a way of limiting their growth". 146 Cong. Rec. at 6689. Senator Hatch testified during the Congressional Hearings that "these limits directly conflicted with the mission of evangelical churches, whose fundamental goal is to attract new believers." Id.

Additionally, the Congressional Record describes a small orthodox Jewish congregation that was denied a special use permit to meet in a residential home in Los Angeles when neighbors complained about the effect on property values. Id. Notably, the same Council that denied the congregation's permit allowed other places of assembly in the area, including schools and book clubs. Id. Further, the Congressional Record describes a city government which "refused to allow the LDS church to construct a temple simply because it was not in the aesthetic interests of the community as set forth in the generally applicable statute". 146 Cong. Rec. S. at 6688.

Even a cursory review of the Protestants' testimony in this case draws a striking resemblance to the very conduct RLUIPA sought to eradicate. In this case, the Protestants had numerous witnesses testify that the size, scope and activities of the Church should be restricted because the Church was not in the

aesthetic interests of the community and because of their perceptions about traffic. Further, they seek to restrict the church because they mistakenly believe the Church is "different".

Many Protestants complained that the Church was not a "local church" and thus, should not be permitted. For example, George Harmon, President of the Hanover Road Association, went so far as to testify that the Association does not like that the Church has a regional draw. Mr. Harmon explained to this Board that all Hanover Road members attend "local" churches. Similarly, Mr. Neubeck testified that the Church will have a regional draw, rather than a local draw, and will be incompatible with the local community. Additionally, neighbor Shirley Elseroad testified that a 2000 seat Church is a "modern church" which is out of character with the area. It is hard to believe that the above are not examples of the very discrimination RLUIPA was designed to protect against.

C. This Board cannot deny Carroll Community Church's Special Exception unless it can overcome the strict legal burden imposed by RLUIPA.

This Board cannot deny Carroll Community Church's Special Exception unless it can overcome the strict legal burden imposed by RLUIPA. In accordance with plain language of RLUIPA, in order for this Board to deny Carroll Community Church's Special Exception request, this Board must establish within its Order that:

(1) The denial of Carroll Community Church's Special Exception is in furtherance of a specific, compelling government interest **AND**

(2) The denial of Carroll Community Church's Special Exception is the least restrictive means of furthering that compelling government interest.

Likewise, in order for this Board to condition the granting of Carroll Community Church's Special Exception, the Board must establish in its Order that:

(1) each condition placed on Carroll Community Church's special exception is in furtherance of a specific, compelling government interest **AND**

(2) each condition placed on Carroll Community Church's special exception is the least restrictive means of furthering that compelling government interest.

In light of the fact that there is compelling evidence in the record that the Church meets the Special Exception standards for a church and will not impose a health or safety risk, is impossible for the Board to justify denying or conditioning the Church's Special Exception in this case.

XI. CONCLUSION

For the foregoing reasons, Petitioner/Appellant Carroll Community Church, Inc. respectfully requests that this Board affirm the decision of the Baltimore County Zoning Commissioner which granted the Church's Petition for Special Exception and reverse the portion of that decision which conditioned the Special Exception on a reduction in the seating capacity of the Church.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 7th day of March, 2001, a copy of Petitioner/Appellant Carroll Community Church's Memorandum of Law was mailed first-class, postage prepaid to the following:

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G. Scott Barhight

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APPENDIX B

Carroll Community Church, Inc. Agreed Conditions

- No athletic field lighting
- Parking and building lights to be directed downward and away from the neighbors
- Use of the building is restricted to non-profit and non-commercial organizations
- No elementary, middle or high school permitted until public water and public sewer is available
- Day care for church members only; no commercial day care enterprises
- Building exterior to be brick, stone, or dryvit
- Mechanical equipment to be screened from community
- No temporary buildings, except during construction
- Baltimore County landscaping requirements will be applied to the Carroll County portions of the site.
- No alcohol will be permitted outside the buildings
- No carnivals will be permitted
- No dirt bikes will be permitted
- All terrain vehicles will be permitted for maintenance purposes only

APPENDIX C

A. Petitioner/Appellant Carroll Community Church

1. Pastor Joseph Duke

- Pastor Joseph Duke testified before this Board on June 20, 2000 on behalf of Carroll Community Church.

- Pastor Duke and the Church's administrative offices are currently located at 5220 Klees Mill Road, Suite E, Sykesville, MD.

- Pastor Duke testified that in he formed Carroll Community Church ("Church") in 1987 with the intent of forming a contemporary ministry.

- He explained that the Church is affiliated with Grace Fellowship Church and is an associate member of the Willow Creek Association, a consortium of over 5,000 churches.

- Pastor Duke testified that the Church currently has 1100 members. He explained that approximately 800 members attend weekly Sunday services and 1000 members attend special or holiday services.

- The Church has full-time employees including himself, a Pastor of Ministry, director of student ministries, and administrative staff.

- Additionally, the Church has part-time staff including, office manager, administrative assistant, administrative staff, worship or music director and assistant director and a director of children's ministries.

- Pastor Duke testified that the Church had been planning for its future growth and searching for a site beginning in the early 1990's.

- The Church purchased the subject property in August of 1999.

- Pastor Duke testified that the property has been completely taken out of agricultural production.

- Pastor Duke testified that the property is centrally located for its current members. The Church currently attracts members from Baltimore County, Carroll County, Frederick County, Howard County as well as Pennsylvania.

- The Church has been working with a team of engineers, planners and architects to design and develop the property in accordance with the

needs of its ministry.

- Pastor Duke testified regarding the Church's worship activities and the Church's plans for the property.

- Pastor Duke explained that the Church's goal is reach as many people as possible and to become a part of people's lives.

- Therefore, like any church, the Church will not discourage people from joining. Likewise, the Church is not willing to limit the its future growth potential.

- Pastor Duke explained that like any church, the Church needs to grow in order to survive.

- In furtherance of its ministry, the Church is proposing a 2000 seat sanctuary, classrooms, meeting rooms, administrative offices, kitchen, athletic field and a meeting lodge.

- Pastor Duke explained that the Church property will be used for Sunday worship, senior impact groups, middle school focus groups and various other worship related activities.

- Pastor Duke testified that the Church will also hold fellowship meetings, group meetings, seminars and church related evening events on the property.

- Pastor Duke explained that music is a large part of the Church's worship.

- The Church is proposing a 3,000-4,000 square foot meeting lodge which will hold 16 to 20 people.

- Pastor Duke testified that the Church is considering using the lodge for overnight retreats.

- Pastor Duke testified that the Church is not proposing a day school or high school on the property.

- He also testified that the Church is not proposing commercial day care. Rather, the Church will offer day care services to those attending worship services and events.

- Pastor Duke testified that the Church would open its facilities to non-profit uses such as its sister churches.

- Pastor Duke confirmed that the Church is not proposing to rent the

property or its facilities for commercial purposes.

- Pastor Duke testified that the athletic field will not be lighted.

- Pastor Duke confirmed that all uses of the Church will abide by Baltimore County law.

- As to the development of the property, Pastor Duke explained that the Church will be constructed in phases, the first phase will include a multi-purpose facility which the Church will use for worship services and prayer groups , classrooms, administrative office and a kitchen.

- The second phase will include a 2000 seat sanctuary, additional offices, and classrooms.

- The third phase will include the meeting lodge.

- Pastor Duke testified that parking will be provided in relation to the various phases.

- Pastor Duke testified that he expects the Church to make a positive contribution to the surrounding community.

2. **Mickey Cornelius, P.E.**

- Mickey Cornelius testified before this Board on June 20, 2000 and June 21, 2000 as an expert in traffic planning and engineering.

- Mr. Cornelius is a registered Professional Engineer and Vice President of the Traffic Group, Inc.

- Mr. Cornelius has over 12 years of experience in the highway transportation and traffic engineering profession.

- In Mr. Cornelius' expert opinion, the proposed Church will not create traffic congestion along the public road system greater than or above and beyond the traffic congestion ordinarily associated with a church.

- In preparation for rendering an opinion on the Church's proposal, Mr. Cornelius conducted the following studies and analyses:

  - Traffic volume counts along State Highway Rt. 91 in the vicinity of the proposed Church driveway. Additionally, directional 24-hour, portable tube counts were conducted.

  - Trip Generation and Trip Distribution Analyses for the proposed

Church.

- Total future traffic volume forecasts for the intersections in the study area.

- Intersection Capacity Analyses and Level of Service Evaluations for State Highway Rt. 91 and the proposed Church driveway.

- Overall evaluation of the impact of the proposed site.

(a) The Church's Access is Safe.

- Mr. Cornelius explained that the Church has safe access onto State Highway Rt. 91.

- Mr. Cornelius testified that the Church has full movement access along State Highway Rt. 91, approximately 800 ft. south of Mt. Gilead Road.

- He explained that State Highway Rt. 91 was designed for a high volume of traffic.

- Additionally, Mr. Cornelius determined that State Highway Rt. 91 is currently operating well below capacity.

- Mr. Cornelius testified that State Highway Rt. 91 has a posted speed limit of 45 m.p.h..

- In Mr. Cornelius' expert opinion there is excellent site distance from the Church's two-lane access driveway onto State Highway Rt. 91.

- Mr. Cornelius' studies revealed that the Church's access has a site distance of 700 feet.

- Notably, the State Highway Administration (SHA) only requires a site distance of 460 feet for a posted speed limit of 45 m.p.h. Additionally, SHA requires 570 feet at a designated speed of 55 m.p.h. and 620 feet for a designated speed of 60 m.p.h.

- Mr. Cornelius concluded that the Church's access driveway has sufficient site distance for up to speeds of 65 m.p.h.

- Mickey Cornelius testified that the intersection of State Highway Rt. 91 and the Church's access will operate at a Level of Service

"A".

- Based upon this information, Mr. Cornelius testified that the Church's access on to State Highway Rt. 91 is safe.

- Mr. Cornelius further testified that in his expert opinion, the Church's access will not have a detrimental impact on State Highway Rt. 91.

(b) ***State Highway Rt. 91 has Low Traffic Volumes.***

- Mr. Cornelius studies revealed that State Highway Rt. 91 has low traffic volumes.

- In fact, Mr. Cornelius testified that volumes are less than you would typically expect of an arterial road like State Highway Rt. 91.

- Mr. Cornelius testified that his counts and findings relating to State Highway Rt. 91 were consistent with the data collected by the State Highway Administration.

- Mr. Cornelius analyzed the traffic impact of the Church for a one-week period during peak and off-peak times.

- Mr. Cornelius explained that "morning peak hours" are defined as 7:00 a.m. – 9:00 a.m. and "evening peak hours" are defined as 4:00 p.m. – 6:00 p.m.

- Mr. Cornelius' study identified 92 vehicles traveling Southbound on State Highway Rt. 91 and 84 vehicles traveling Northbound on State Highway Rt. 91.

- On Sunday during the peak morning hours, Mr. Cornelius identified 4 vehicles turning off of Mt. Gilead Road onto State Highway Rt. 91. One vehicle made a right-hand turn and 3 vehicles made a left-hand turn.

- This calculates to only 1 vehicle per hour entering State Highway Rt. 91 from Mt. Gilead Road.

- He identified 38 vehicles coming from Emory Church Road during the morning peak hours to the intersection of State Highway Rt. 91. 32 vehicles made a right-hand turn and 6 of the vehicles made a left-hand turn.

- This calculates to only 10 vehicles per hour at the intersection of

Emory Church Road and State Highway Rt. 91.

- His studies concluded that peak morning traffic Monday through Friday generated only 350 vehicles per hour on State Highway Rt. 91.

- Therefore, Rt. 91 is currently operating at only 21% capacity.

- His studies on Saturday from morning until noon identified only 85 vehicles per hour on Rt. 91.

- Therefore on Saturday, State Highway Rt. 91 is operating at only 10% capacity.

- Additionally, his studies concluded that State Highway Rt. 91 was operating on Sundays at less than 10% capacity.

- Mr. Cornelius also found that the peak volume of traffic on State Highway Rt. 91 and State Highway Rt. 140 on Sundays is well below the peak volume of traffic experienced during the weekday

(c) ***Church will <u>Not</u> have a Detrimental Impact on State Highway Rt. 91.***

- Mickey Cornelius testified that the Church will not have a detrimental impact on State Highway Rt. 91.

- In Mr. Cornelius' expert opinion, the traffic from the proposed Church will not have a detrimental impact since Rt. 91 is designed to handle high volume and is currently operating below capacity.

- Mr. Cornelius reasoned that even if you add 500 cars to State Highway Rt. 91, the highway would still be operating well below capacity.

- Mr. Cornelius testified that individuals entering the Church from Northbound Rt. 91 will not impact traffic on State Highway Rt. 91 since a decel lane is proposed.

- He also concluded that vehicles entering the Church from Southbound Rt. 91 will have a minimal impact on the highway.

- Mr. Cornelius' analysis showed that a left turn into the site from State Highway Rt. 91 will operate a Level of Service "A" with minimal delays during weekday morning and evening as well as Sunday time periods.

- Mr. Cornelius also testified that the vehicles exiting the Church property will result in a minimal impact on State Highway Rt. 91.

- He explained that vehicles will be orderly stacked and lined up entirely within the site.

- The vehicles will proceed to the two lane access driveway and be required to stop before entering State Highway Rt. 91.

- Therefore, vehicles traveling on State Highway Rt. 91 will be able to continue without delay or interruption from the Church's traffic.

(d) ***The Quickest Way of Travelling to the Church's Property is via State Highway Rt. 140 to Rt. 91.***

- Mr. Cornelius testified that in his expert opinion, Churchgoers will use State Highway Rt. 140 and State Highway Rt. 91 to reach the Church property since it is the quickest route available.

- Mr. Cornelius testified that Churchgoers will travel to the Church via one of the following routes:

  - Traveling North on State Highway Rt. 30 to State Highway Rt. 91.
  - Traveling North on State Highway Rt. 140 to State Highway Route 91.
  - Traveling North on State Highway Rt. 30 to Mt. Gilead Road.

- Mr. Cornelius testified that he personally conducted several traffic runs to determine the quickest routes for accessing the site.

- Specifically, he studied: (i) Rt. 795 to Rt. 30 and left onto Rt. 91; (ii) Rt. 140 and right on Rt. 91; (iii) Rt. 30 to Mt. Gilead Road and left on Rt. 91.

- As the majority of the Church's traffic will be generated on Sundays, Mr. Cornelius conducted times runs on a Sunday.

- In Mr. Cornelius' expert opinion, it is quicker for a vehicle to travel North on Rt. 140 and Rt. 91 than to travel from Rt. 30 to Mt. Gilead Road and then make a left on Rt. 91.

- Additionally, his studies demonstrated that it is quicker for a vehicle to travel North on Rt. 30 to Rt. 91 than to travel North on Rt.

30 to Mt. Gilead Road and then to Rt. 91.

- Mr. Cornelius explained that this due to the condition of the roadways.

- State Highway Rt. 91 is a two-lane highway, approximately 24 feet wide, with a posted speed limit of 45 m.p.h.

- In contrast, Mt. Gilead Road is a one-lane road, approximately 14 feet wide.

- The speed limit along Mt. Gilead Road is 25 m.p.h.

- Mr. Cornelius also testified that drivers will naturally seek to avoid this intersection since there is an existing site distance problem turning left from Mt. Gilead onto South Rt. 91.

- Mr. Cornelius testified that a driver bases his/her route decision on time considerations.

- Mr. Cornelius stated that there are no studies available which show that a driver's route decision differs depending upon their destination. For example, there is no difference between people going to church versus people going to work.

- Further, from a traffic engineering perspective, the fact that Mt. Gilead is a scenic route has no significance.

- Based on the foregoing, it is Mr. Cornelius' expert opinion that churchgoers will take State Highway Rt. 140 to State Highway Route 91 to reach the Church since it is the quickest route available.

(e) ***Intersection of State Highway Route 91 and Mt. Gilead Road/ Emory Road.***

- Mr. Cornelius testified that there is adequate site distance turning Northbound onto State Highway Rt. 91 from Mt. Gilead Road.

- Additionally, he testified that there is 500 feet of sight distance from Emory Road onto Southbound State Highway Rt. 91.

- He explained that that there is an existing site distance problem for vehicles turning left from Mt. Gilead Road onto Southbound State Highway Rt. 91.

- He testified that the site distance turning North onto Rt. 91 from

Mt. Gilead Road is 200 feet.

(f) Trip Generation Analysis.

- Mr. Cornelius testified that from a trip generation perspective, the proposed Church is a typical church.
- Mr. Cornelius testified that he prepared a Trip Generation Analysis on the church based ITE Trip Generation rates.
- Notably, SHA relies upon ITE trip generation rates.
- In addition to ITE trip generation information, Mr. Cornelius based his analysis on his studies on State Highway Rt. 91. Additionally, he factored in several "worst-case scenarios".
- A trip generation analysis assists Mr. Cornelius in projecting the amount of traffic the Church will likely generate.
- In calculating traffic analyses, Mr. Cornelius assumed 50% of the traffic will be coming from a Northerly direction and 50% will be coming from a Southerly direction.
- Additionally, he based his analysis on the size of the Church.
- He explained that it is regularly accepted within the field of traffic engineering that you evaluate trip generation based on average conditions, rather than seasonal events such as Christmas.
- Based upon the foregoing, Mr. Cornelius' analysis concluded that the Church will generate 623 trips during Sunday peak hours.

(g) ***There is Adequate Level of Service at All Key Intersections Surrounding the Church.***

- There is adequate Level of Service at all the key intersections surrounding the Church property .
- Mr. Cornelius testified that the intersection of State Highway Rt. 91 and the Church's access driveway will operate at Level of Service "A".
- He testified that the intersection of State Highway Rt. 91 and State Highway Rt. 30 is rated at Level of Service "C".
- Lastly, Mr. Cornelius testified that he did not study the intersection

of State Highway Rt. 140 and State Highway Rt. 91 since Sunday usage of both roads was substantially below peak volumes.

- He testified, however, that even during peak weekday hours the intersection of State Highway Rt. 91 and State Highway Rt. 140 is rated at Level of Service "D"/"E".

(h) ***There is More than Adequate Parking to Support the Church.***

- In Mr. Cornelius' expert opinion, there is adequate on-site parking to support the Church.

- The Church's parking in fact exceeds the requirements of the Baltimore County Code.

- Mr. Cornelius testified that the property has additional space for overflow, stadium parking if needed.

(i) ***Review by State Highway Administration***

- Since the Church's access is on a state highway, the Church's access driveway is reviewed by the State Highway Administration (SHA).

- The Church will need an access permit from SHA.

- The Traffic Group will submit a Traffic Impact Analysis to SHA when it applies for an access permit.

(j) ***Conclusion - In Mr. Cornelius' Expert Opinion, this Church will not have an Impact Greater than or Above and Beyond what you would Ordinarily Expect from a Church.***

- Mr. Cornelius testified that in his expert opinion, this Church will not have an impact greater than or above and beyond what you would ordinarily expect from a church.

- Based upon the data and analyses, Mr. Cornelius concluded that the Church property can be developed as proposed without adversely impacting surrounding area traffic conditions. *See Protestants Exhibit 3.*

- Mr. Cornelius testified that the Church will not create road congestion of the roads, streets or alleys greater than or above and beyond the congestion you would ordinarily expect from a church.

3. Robert Bradley, P.E.

- Robert Bradley testified before this Board on June 21, 2000 and August 22, 2000 as an expert in planning, zoning, surveying and civil engineering.

- Mr. Bradley is a registered Professional Engineer, Surveyor and Planner and is the President of Morris & Ritchie Associates, Inc.

- Mr. Bradley has over 35 years of experience in all phases of civil engineering and land planning.

(a) ***Site Data***

- Mr. Bradley testified that the Church's property is 70.66 acres ± in size with 47.56 acres ± zoned R.C. 2 and 15.46 acres ± zoned R.C.4.

- He testified that a recent survey indicated that 63.02 acres of the Church property are located in Baltimore County and7.64 acres are located in Carroll County.

- Mr. Bradley testified that 28.86 acres of the property will remain as open space and lawn area, 25.67 acres of the property will remain forested, 6.6 acres of the property will be planted in meadow grasses and 0.8 acres will planted in a crop.

- Thus, only a small fraction of the site, 9.19 acres ± will be developed.

- Notably, the majority of development will be concentrated along state highway Route 91 and all development will be confined to the R.C.2 zone.

- Mr. Bradley described how the design plans for the proposed Church have evolved since the zoning proceedings occurred in this matter.

- Following completion of the architecturals, it was determined that the building envelope for the Church is actually 45,000 - 55,000 square feet in size. Notably, the building envelope shown on the Special Exception Plan was 75,000 to 80,000 square feet.

- The footprint of the sanctuary is the same whether 1200 or 2000 seats are provided.

- Mr. Bradley testified that the Church's septic reserve exceeds

Baltimore County standards.

- Mr. Bradley testified that the Church received a Storm Water Management Quantity waiver from DEPRM.

- The waiver was granted since it was shown that the proposed Church will actually decrease the peak flow by 12%. *See Exhibit Protestant's 10.*

- He testified that the Church will provide water quality management and all runoff from the property will be conveyed to a suitable outfall.

- He testified that a Steep Slope/Erodible Soils Analysis and Forest Buffer Delineation Plan was submitted and approved by DEPRM. *See Exhibit Protestant's 9 a-c.*

(b) ***The Proposed Church meets all of the Requirements for a Special Exception.***

- Mr. Bradley provided undisputed testimony that the proposed Church meets the bulk and design requirements of BCZR §1A01.

- Mr. Bradley further testified that in his expert opinion, the proposed Church meets the Special Exception requirements of BCZR §502:

  - The Church will not tend to create congestion on the roads, streets, or alleys, greater than or above and beyond the congestion inherent with a church.
  - The Church will not tend to create potential hazards from fire, panic or other dangers greater than or above and beyond the potential hazards inherent with a church.
  - The Church will not tend to overcrowd the land and cause undue concentration of the population greater than or above and beyond the adverse effects normally inherent with a church.
  - The Church will not interfere with adequate provisions for schools, parks, water and sewerage and transportation greater than or above and beyond the adverse effects normally inherent with a church.
  - The Church will not interfere with adequate light and air normally above and beyond the effects normally inherent with a church.
  - The proposed use of the Church is consistent with the impermeable surface and vegetation retention provisions of

the zoning regulations.

- The proposed Church will not have a greater detrimental effect upon the health, safety and general welfare of the locality involved in those normally inherent with a church.
- The proposed use of the Church is consistent with the purpose of the zoning classification and the spirit and intent of the zoning regulations.

- In Mr. Bradley's expert opinion, this Church will not have adverse effects greater than or above and beyond what you would ordinarily expect from a church.

4. **Timothy Madden, ASLA, AICP**

- Timothy Madden testified before this Board on August 22, 2000 as an expert in land planning, landscape architecture and zoning.

- Mr. Madden is a certified planner and registered landscape architect with over 24 years of experience.

- Mr. Madden is the Principal-in-Charge of Morris & Ritchie Associates, Inc.'s Washington corridor office and is the Director of Land Planning and Landscape Architecture for the firm.

- Mr. Madden testified that the Baltimore County Zoning Regulations do not distinguish between the size of churches.

- Rather, all churches are permitted by Special Exception.

- Mr. Madden testified that the vicinity of the Church's property includes the Rt. 91 corridor, the residential properties and military base to the south of the site, and the residential and agricultural communities to the north of the site.

(a) ***This Church will not have adverse impacts greater than or above and beyond those you would ordinarily expect from a Church.***

- Mr. Madden testified the adverse effects you would ordinarily expect from a Church include traffic, noise, larger structures, SWM runoff, parking fields and lighting.

- Mr. Madden testified that in his expert opinion this Church will not have adverse impact above and beyond what you would ordinarily expect from a church.

- Impacts will be lessened at this site because of :

  - (i) its location within the vicinity;
  - (ii) its location on the Mt. Rt. 91 corridor and has direct access to State Highway Rt. 91;

    Mr. Madden explained that the location of the Church near the highway is preferential since State Highway Rt. 91 already generates noise.

  - (iii) the excellent road system surrounding the Church's property;
  - (iv) the overall size of the property;

    The Church and its accessory lodge, athletic fields, roadways, septic system and SWM system comprise only 30% of the overall site.

    The mass of the church building is minimized by the overall acreage of the site and its location thereon.

  - (v) The property's extensive woods will create a "land bay" or buffer between the Church and neighboring properties;
  - (vi) The existing topography and the deliberate placement of the building on the property reduces the impacts.

- Mr. Madden testified that the Church's proposed lighting meets all of Baltimore County's lighting standards.

- Mr. Madden testified that the lighting impacts will be minimal.

- This Church will have less impact than Emory Church. Mr. Madden testified that Emory Church would have more impact because it is located on a smaller parcel of land, has no apparent water quality management, access Rt. 91 near the intersection of Mt. Gilead and Rt. 91, and is likely to have an older primary treatment septic system.

(b) ***Mr. Madden testified that the Church will not have a Detrimental impact on Agriculture.***

- Mr. Madden testified that the Church will not have a detrimental impact on agricultural uses in the vicinity.

- In fact, the proposed Church is a better use of this site than agricultural for water quality reasons.

- Mr. Madden testified that the primary agricultural uses in the vicinity are Trenton Mills and Lippy Brothers.

- Trenton Mill contracts to store, mill and market grain. They have a grain bushel capacity of approximately 170,000. Trenton Mills market area extends not only to Baltimore County and Carroll County but also to other counties and Pennsylvania.

- Mr. Madden testified that the Church has voluntarily taken its property out of agricultural production.

- In Mr. Madden's expert opinion, the loss of this site as a grain producer will not jeopardize the continuation of either Trenton Mill, Lippy Brothers or any other business.

(c) ***In Mr. Madden's Expert Opinion, the Special Exception Plan Reflects the Best Design of the Site.***

- In Mr. Madden's expert opinion, the Special Exception Plan, Petitioner's Exhibit 1, is the best Site Plan for this Church.

- The site was designed to enable the stacking of vehicles on the site.

- The parking as proposed is not only functional to parishioners but provides for adequate and safe circulation.

- Additionally, the entrance to the Church was designed with two lanes, each 200 feet long.

(d) ***Conclusion***

- In Mr. Madden's expert opinion, this Church will not have a greater impact at this location than one would ordinarily expect of a Church.

B. Appellants/Protestants

1. Rhoda Mielke

- Rhoda Mielke testified before this Board, on August 30, 2000, in her capacity as an employee of Trenton Mill Farms.

- Ms. Mielke explained that Trenton Mill farms properties in Baltimore and Carroll County, as well as operates a grain elevator

and storage operation on Trenton Mill Road.

- Trenton Mill is located approximately five (5) miles northeast of the property.

- Ms. Mielke complained that the church would take agricultural land out of production. She explained that from a "global" perspective, she worried that " . . . when agricultural land is taken, you're threatening my livelihood. . . . *It's also threatening everyone that survives on this earth.* The main goal is survival. You can't survive without food."

- Ms. Mielke admitted that Trenton Mill has never farmed nor stored grain from the Church's property.

- Ms. Mielke also complained that the proposed church would effect her ability to move farm equipment.

- Despite Ms. Mielke's concern regarding moving farm equipment, Ms. Mielke admitted that Trenton Mill farms a 110 acre parcel inside the beltway.

- Ms. Mielke testified that Trenton Mill successfully transports its farm equipment from Trenton Mill Road, down Park Heights Avenue and onto Old Court Road.

- Ms. Mielke failed to present any evidence that the proposed Church will have a greater impact at this location than you would ordinarily expect from a Church.

2. **Wallace S. Lippincott, Jr.**

- Wallace Lippincott testified before this Board, on August 23, 2000, September 26, 2000, and January 25, 2001, in his capacity as the Natural Resource Manager of the Baltimore County Department of Environmental Protection and Resource Management (DEPRM).

- Mr. Lippincott's defined the vicinity of the proposed Church South of the Raver property on Emory Road, North to the Hampstead area, West into Carroll County and East toward Worthington Valley and Northeast to Black Rock Road.

- Mr. Lippincott discussed his August 2, 1999 Zoning Administration Committee (ZAC) Comments.

- Mr. Lippincott testified that 1200 or 1300 acres of property in the surrounding area are under permanent preservation, which means they cannot be developed in the future.

- He explained that an additional 400 or 500 acres in the surrounding area are in an agricultural district. An agricultural district is the first phase of someone who's interested in participating in a permanent land preservation phase.

- Mr. Lippincott contends that the proposed church fails to meet the requirements of (1) BCZR 502.1A because it is detrimental to the general welfare of the locality; (2) BCZR 502.1B. in that the church will tend to overcrowd the roads; and (3) BCZR 502.1D because it overcrowds the land.

- Mr. Lippincott testified that "the result of this proposal would be the entire property would be taken out of agricultural production and put into a more suburban/residential use, rather than perhaps a church on a portion of the property with the remainder staying in agricultural use, which would be more compatible and more typical in that area.

- Mr. Lippincott also claimed that the Church did not meet BCZR 502.1.G since it does not foster agricultural use and agricultural activity in the county

- Mr. Lippincott argues that the proposed church will present a more suburban or urban use in the area and tend to contribute to the impermanence syndrome, tend to overcrowd the roads, additional amounts of traffic on the roads to cause potential conflicts with the farmers as they go back and forth working the land.

- On cross-examination, Mr. Lippincott admitted that Baltimore County cannot stop a property owner from taking farmland out of production indefinitely

- In addition, Mr. Lippincott conceded that Baltimore County cannot require a property owner to farm his own land.

- On cross-examination, Mr. Lippincott testified that to his knowledge there are no special or unique agricultural operations adjacent to the site.

- Additionally, there are no special properties, structures or intense agricultural operations adjacent to the site. There are no intensive

or sensitive animal production operations which represent a substantial capital investment by the farm operator adjacent to the site.

- Mr. Lippincott further testified that there are no farms with their central base of operations for widespread operations adjacent to the site.

- Mr. Lippincott admits that Thomas Daniels, a professor at SUNY, is the preeminent expert on the impermanence syndrome.

- He admits that the impermanence is a theory, rather than accepted scientific fact.

- Mr. Lippincott concedes that there is disagreement amongst experts in the field regarding even the existence of the impermanent syndrome and/or the effects of the syndrome.

- Mr. Lippincott testified that a number of factors identified by Thomas Daniels must be considered in determining whether the impermanent syndrome is or will occur.

- Mr. Lippincott conceded that the following factors must be considered:
  - (1) the age of farmers in the vicinity;
  - (2) whether the farms in the vicinity are owner-occupied or owner-operated as opposed to rented;
  - (3) the financial condition of the landowners or the farmers who are operating in the vicinity.

- Mr. Lippincott also suggested that land prices, housing developments in the vicinity, distance between church and potentially impacted farm properties should be considered.

- Mr. Lippincott conceded that he had not performed a detailed analysis of all the ages of the farmers *in the vicinity of the Church.*

- He testified that he had not performed a detailed analysis of the whether farms in the vicinity of the Church were owner-occupied/operated versus rented.

- Mr. Lippincott admitted that the only information he had regarding the financial condition of the landowners in the vicinity were a couple of landowners that were applying through the Maryland Agricultural Land Preservation Program.

- Despite his alleged analysis of the vicinity, Lippincott was not even familiar with the River Downs, a residential subdivision and 18-hole golf course just one (1) mile South of the proposed Church.

- Mr. Lippincott conceded during cross-examination that the Church's property is adjacent to one of Carroll County's community planning areas.

- Mr. Lippincott went on to admit that these community planning areas are where Carroll County is directing their residential growth.

- Mr. Lippincott complained that claimed that the loss of the Church's farm will impact the agricultural economy of Baltimore County.

- Despite alleging that the loss of agricultural property will negatively impact the AG economy, Mr. Lippincott conceded that he was not familiar with how many acres of the Church's property were dedicated to grain as well as the average yield of grain at the site, average gross return of the site, rental value of the site to a farmer, average per acre for rentals in the vicinity of the Church's property.

- Further, he admits that he did not calculate the alleged economic impact the loss of agriculture.

- Mr. Lippincott testified that Carroll County applied for inclusion in a voluntary preservation program called the "Upper Patapsco Watershed Rural Legacy Area". *See Protestant's Exhibit 73a.*

- Mr. Lippincott testified that the granting of the Church's Special Exception will have no direct impact on Carroll County's application.

- He explained that the Church is not a party to Carroll County's application.

- Therefore, the Church's property would not be part of the rural legacy area unless the Church volunteered for the program.

- Mr. Lippincott failed to present any evidence that the proposed Church will have a greater impact at this location than you would ordinarily expect from a Church.

3. **Jack Dillon**

- Jack Dillon testified as a lay witness before this Board on August 30, 2000.

- An objection was raised to Mr. Dillon testifying on behalf of Valley's Planning Council ("VPC"). The objection was based on the fact that VPC's boundaries do not include the subject property. This Board overruled the objection, but stated, however, that Mr. Dillon's testimony would be weighed accordingly.

- Mr. Dillon testified that VPC was opposed to the Church because of its size, location and design in the R.C.2 zone.

- Mr. Dillon complained that the Church takes agricultural property out of production and each time farm land is lost, the rest of the farm community is placed in jeopardy.

- Mr. Dillon claimed that a regional church may "erode" agricultural land by encouraging the rezoning of AG land and additional residential development in the surrounding area.

- Notably, until he was prompted with specific examples on re-direct examination, Mr. Dillon was unable to provide an example of where the development of a church resulted in the alleged erosion of agricultural land in the area.

- He also admitted that "erosion" can even be caused by a non-mega church.

- Mr. Dillon surmised that a regional church is more appropriately located near a rural village, better road system, residential areas, and public utilities.

- Notably, Mr. Dillon conceded that the Church's property was only 1.5–2 miles from the town center of Fowblesburg.

- Further, the Church's property is within 1000 feet of at least 18 residential properties.

- Mr. Dillon testified that the Church could be built at a location where it would be less likely for AG.

- He suggested six "alternative" sites all of which were on State Highway Rt. 30 in which Mr. Dillon conceded was a busier roadway than State Highway Rt. 91.

- Significantly, Mr. Dillon admitted that the VPC would not necessarily support the Church even if they located on one of the six alternative sites.

- Notably, when further questioned, Mr. Dillon conceded that he had not analyzed whether the six alternative sites would be able to handle the proposed Church.

- Mr. Dillon conceded he had not conducted a traffic, environmental, soil or planning studies relating to the alternative sites.

- Further, Mr. Dillon conceded that whether he did not know whether the alternative sites were even for sale.

- Mr. Dillon attempted to argue that the lodge and athletic fields were not an extension of the Church's activities and thus, were not permitted under the Regulations.

- In Mr. Dillon's opinion, if worship services do not occur in the lodge then it is not a church use.

- Mr. Dillon failed to present any evidence that the proposed Church will have a greater impact at this location than you would *ordinarily expect from a* Church.

4. **William Hughey**

- William Hughey testified before this Board, on October 18, 2000, on behalf of the Baltimore County Office of Planning.

- Mr. Hughey testified that the Office of Planning's position on the Church's Special Exception is set forth in their July 26, 1999 comment. *See Protestant's Exhibit 34.*

- Mr. Hughey explained that the Office of Planning opposes the project because the Church's "proposal is regional in scope and does not appear to meet the criteria for the granting of a Special Exception".

- Mr. Hughey explained that the Office of Planning believes the Church is incompatible with agriculture.

- Mr. Hughey explained that taking significant agricultural land out of production could have the cumulative effective of destabilizing agricultural.

- Mr. Hughey testified that he believed that a smaller church, utilizing only 5-6 acres of the property, with balance of the land left in agricultural, would be more compatible on the subject property.

- Further, he indicated that the proposed church would be more appropriately located near an interstate or rural village.

- On cross-examination, Mr. Hughey conceded that there is rural village just 1- 2 miles away from the Church's property.

- Mr. Hughey's testified that the Baltimore County Master Plan was the tool used by the Office of Plan in evaluating the Church's Special Exception request.

- Mr. Hughey failed to present any evidence that the proposed Church will have a greater impact at this location than you would ordinarily expect from a Church.

5. **Mary B. Gaines**

- Mary B. Gaines testified before this Board on August 23, 2000 in her capacity as the president of the Piney Run Preservation Association.

- Ms. Gaines resides at 3423 Blackrock Road in Reisterstown.

- Ms. Gaines was concerned that the scale of the proposed Church and the loss agricultural land was inconsistent with the use and intent of the R.C. 2 zone.

- She surmised that the R.C.2 Zoning Regulations never envisioned large churches.

- In support of her position, she testified that the 2010 Master Plan encouraged the preservation of AG land and avoidance of conflicts with incompatible uses.

- Ms. Gaines also testified that the 1993 Hanover Pike Corridor Study recognized Mt. Gilead Road as a scenic route.

- Notably, Ms. Gaines conceded on cross-examination that the R.C.2 zoning classification has not been amended, despite the passage of the Baltimore County 2010 Master Plan and Hanover Pike Corridor Study.

- Despite stating she believed that there was a better area for the

Church to locate, Ms. Gaines failed to offer any alternative locations in which she found acceptable for the Church.

- Ms. Gaines failed to present any evidence that the proposed Church will have a greater impact at this location than you would ordinarily expect from a Church.

6. **<u>George Harmon</u>**

- George Harmon testified before this Board on October 19, 2000 and January 25, 2001.

- Mr. Harmon resides at 5429 Waywood Drive, Reisterstown, MD.

- Mr. Harmon testified as an individual and in his capacity as the president of the Hanover Road Association, Inc.

- Mr. Harmon was accepted as an expert solely on the regulatory requirements relating to water quality, noise and truck safety.

- He testified that Hanover Road Association opposes the Church because it wants to protect the community, protect property values and quality of life, preservation of agricultural, traffic and road safety.

- Hanover Road doesn't like that the Church has a regional draw.

- He testified that all Hanover Road members attend "local" churches.

- Carroll Community Church is not a church, but more like a Wal-Mart.

- Hanover Road believes that the Church will be disruptive.

- Mr. Harmon testified that the community was concerned that the Church would increase traffic, thereby increasing air pollution.

- Hanover Road Association was also concerned about light pollution. Mr. Harmon explained that the community enjoyed the starlight and dark nights.

- Finally, Mr. Harmon suggested that any Special Exception approval be conditioned on approximately 22 restrictions, relating to the development and use of the property as well as the Church's worship activities.

- As an expert, Mr. Harmon raised several issues related to noise, including noise associated with electronic amplified church bells, heating and HVAC systems of large institutions, outdoor music activities, sporting events and outdoor worship services.

- Mr. Harmon explained that residents are currently not exposed to any noise so that any noise will be bothersome.

- As to water quality issues, Mr. Harmon explained he was concerned that there would be excessive runoff from the Church.

- Mr. Harmon testified that the proposed Church *may or may not* comply with new SWM regulations.

- Mr. Harmon explained that he raised his concerns about storm water and site runoff issues in a letter to the Director of the Department of Environmental Protection and Resource Management, Mr. George Perdikakis. *See Protestant's Exhibit 60.*

- Notably, Mr. Perdikakis' reply stated that DEPRM "thoroughly reviews every development proposal to ensure compliance with all current environmental rules, and regulations and policies." *Protestant's Exhibit 61.*

- Mr. Harmon also raised a concern regarding local water temperatures and the protection of wildlife in the local streams.

- He surmised that the Church's impervious surfaces *could* violate the State's regulations regarding temperature.

- As to ground water pollution, Mr. Harmon was concerned that the Church's large scale development will attract a large number of people and require a lot of nitrogen to be treated.

- He stated that this may impact a residents drawing of ground water down stream.

- Mr. Harmon explained that he was worried about what toxic materials will be used to clean the Church.

- As to truck safety, Mr. Harmon testified that the mixing of commercial vehicles, agricultural vehicles and automobiles will increase potential risk of accidents and potential for unsafe driving actions.

- In support of his concerns, Mr. Harmon introduced evidence

dealing with the truck inspection and safety reports of local companies.

- Interestingly enough, the inspection record for Rohrbaugh's Charter Service was perfect and Cowan Systems' inspection record was above the national average. *See Protestant's Exhibits 67 and 68.*

- Mr. Harmon surmised that the Church members will likely utilize State Highway Rt. 91 and State Highway Rt. 30.

- Mr. Harmon surmised that the potential for accidents would be reduced if the Church located near where its population or members live.

- Mr. Harmon failed to present any evidence that the proposed Church will have a greater impact at this location than you would ordinarily expect from a Church.

7. **Neil Ridgely**

- Neil Ridgely testified before this Board on August 23, 2000 in his capacity as an individual and a member of the Finksburg Planning Area Council, a Carroll County community group.

- On a personal level, Mr. Ridgely was concerned about the diminishing amount of farm land in the area.

- Mr. Ridgely also was worried that State Highway Rt. 91 and the intersection of Rt. 91 and Mt. Gilead Road will become hazardous if the Church is built.

- He indicated that there was already increased traffic on State Highway Rt. 91 from the development of Finksburg and the Riverdowns Golf Club.

- On behalf of the Finksburg Area Planning Council, Mr. Ridgely testified that if the Church proposed only 500 seats, the Council would not have complained.

- Notably, when asked whether his association position would change its position if it learned that the Church worships with 2000 people, he indicated that the Board of the Finksburg Area Planning Council never considered the question.

- Mr. Ridgely alleged that the Church's proposed lodge and athletic

fields have nothing to do with worship.

- Despite the clear testimony of Pastor Duke regarding the use of the proposed Church, Mr. Ridgely also complained that the "school facility" proposed by the Church is actually a secular school and commercial day care business which is a non-religious, ancillary use of the property.

- Mr. Ridgely conceded that a Sunday school would be a Church related use of the property.

- Mr. Ridgely failed to present any evidence that the proposed Church will have a greater impact at this location than you would ordinarily expect from a Church.

8. <u>George Neubeck</u>

- Mr. Neubeck testified before this Board on August 23, 2000 as an individual and in his capacity as the Zoning Chairman for the Hanover Road Association.

- Mr. Neubeck resides at 1431 Hanover Pike.

- As an individual, Mr. Neubeck complained that the proposed Church will effect his enjoyment of the area's rural character and the quality of life in the area. He believes that the size and scope of the proposed Church is incompatible with the area.

- Notably, Mr. Neubeck testified that a 1200 seat church is appropriate for the subject property.

- Mr. Neubeck stated that he believed that the Church would overburden State Highway Rt. 30 and result in excessive traffic along Mt. Gilead Road.

- Mr. Neubeck presented a video shot approximately 4-5 months before the SE hearing in this matter. He attempted to use the video to show the alleged site distance problem at the intersection of Rt. 91 and Mt. Gilead road.

- Mr. Neubeck discussed a spreadsheet and photograph exhibit prepared by the Hanover Road Association, which showed and described the location and size of various churches in the area.

- Mr. Neubeck conceded on cross-examination that he was not

personally involved in gathering the information for the spreadsheet.

- He also testified that he didn't know what methodology was used in gathering the information.

- Mr. Neubeck admits that he doesn't know the acreage or the square footage of the churches and the Association has not compared the ratio of each church's square footage vs. the acreage of site.

- Mr. Neubeck complained that the Church will have a regional draw, rather than a local draw and that will be incompatible with the local community. He indicated that the neighbors would welcome a small church to the area.

- Mr. Neubeck failed to present any evidence that the proposed Church will have a greater impact at this location than you would ordinarily expect from a Church.

9. **Richard B. Isaac**

- Richard B. Isaac provided lay witness testimony to this Board on August 23, 2000 regarding his concerns surrounding the Church's proposed well and septic systems.

- Mr. Isaac lives at 15003 Hanover Road, Upperco.

- Mr. Isaac was worried about what would happen if the Church's septic system failed.

- He was also concerned about the "potential" impact the Church would have on Emory Church's well.

- On cross-examination, Mr. Isaac testified that well and septic systems are governed by Maryland State guidelines.

- Mr. Isaac testified that the State's guidelines would have to be met in order to obtain State approval for well or septic system.

- Notably, Mr. Isaac admitted that he was not aware that the Church had already received State approval for its proposed septic system.

- Mr. Isaac failed to present any evidence that the proposed Church will have a greater impact at this location than you would ordinarily expect from a Church.

10. **Peggy Goodman**

- Ms. Goodman testified before this Board on August 23, 2000 regarding everything from aesthetic, environmental , agricultural and traffic concerns.

- Ms. Goodman lives at 5646 Mt. Gilead.

- Ms. Goodman was concerned how the church would effect her quality of life in this rural area, such as her ability to view the stars.

- She complained that the property could be farmed and the Church would be taking farm land out of production.

- Ms. Goodman was concerned about the use of Mt. Gilead Road since it is narrow and curvy in certain sections.

- Despite her alleged concern that Mt. Gilead was dangerous, Ms. Goodman testified that she jogs along Mt. Gilead Road.

- She testified that there has been an increase in traffic along Mt. Gilead in recent years.

- Ms. Goodman described Camp Mildale as a "huge" conference center and camp facility located at the South end of Mt. Gilead Road.

- She testified that Camp Mildale rents out its facilities to the general public.

- Ms. Goodman testified that Camp Mildale has a conference center under construction, bunk houses, barns, a house, pools and a pond on the property.

- Ms. Goodman failed to present any evidence that the proposed Church will have a greater impact at this location than you would ordinarily expect from a Church.

11. **Shirley Elseroad**

- Shirley Elseroad testified before this Board on August 23, 2000 and August 30, 2000.

- Ms. Elseroad resides at 1717 Emory Road, adjacent to the Church's property.

- Ms. Elseroad raised a concern regarding the amount of traffic that the Church will generate and concerned that the Church will back up traffic on State Highway Rt. 91.

- She was also concerned about the limited visibility Southbound on Rt. 91 from her driveway.

- Interestingly enough, Ms. Elseroad admits that it is currently dangerous to make a left out of her driveway onto Route 91 South.

- Ms. Elseroad also conceded on cross-examination that she has a clear line of site from her driveway to the Church's proposed access.

- Ms. Elseroad believes she will be inconvenienced in exiting her driveway onto Rt. 91 by the Church's traffic.

- Significantly, in support of Mr. Cornelius' early testimony, Ms. Elseroad testified that she always avoided turning South off of Mt. Gilead Road.

- Ms. Elseroad testified that there are "too many churches in the area" and that the area couldn't support another church.

- Ms. Elseroad believes that the Church will have a negative impact Emory Church's membership.

- She complained that a 2000 seat Church is a "modern church" which is out of character with the area. She explained that a 200 seat Church is an average, wonderful sized Church which can function just fine.

- Ms. Elseroad complained that the Church will cause her to change her lifestyle. She likes to live away from people.

- She explained with a Church on the property she and her family may not be able to target shoot, hunt or ride dirt bikes on the property.

- She was worried that the increased development in the area would decrease air quality.

- Ms. Elseroad also worried that property values will decrease in the area if the face of the area changes.

- She believes that the value is the farm land and beautiful country.

- Ms. Elseroad believes that the Church's property should be farmed.

- Ms. Elseroad failed to present any evidence that the proposed Church will have a greater impact at this location than you would ordinarily expect from a Church.

12. **<u>William Wilson Keeney</u>**

- William Wilson Keeney testified before this Board on October 18, 2000.

- Mr. Keeney resides at 1908 Emory Road in Carroll County.

- Mr. Keeney offered lay testimony regarding the size and design of the proposed Church.

- The thrust of his complaints were that the proposed Church was a "mega church" that was too large for the property and neighborhood.

- Mr. Keeney has no problem with the athletic field and meeting lodge.

- Mr. Keeney would like to see the church building and the parking relocated to reduce the visual impact. He suggested moving the parking and/or creating a berm.

- Mr. Keeney raised a concern that the Church's traffic would "overload" Route 91.

- Although he conceded he was not a traffic engineer, Mr. Keeney

also surmised that it would take 40-45 minutes for all the traffic to exit the Church property.

- Mr. Keeney failed to present any evidence that the proposed Church will have a greater impact at this location than you would ordinarily expect from a Church.

13. **Melvin Fair**

- Melvin Fair testified before this Board on October 18, 2000.
- Mr. Fair resides at 5907 Mt. Gilead Road..
- From a lay person's perspective, Mr. Fair complained that the Church will cause traffic problems along Rt. 91.
- Mr. Fair surmised that the Church would cause traffic to back up onto Rt. 91
- He was also concerned about the increased number of accidents on Rt. 91.
- Mr. Fair complained that the Church would negatively impact the area's well water.
- Notably, Mr. Fair testified that despite only having an 86 foot well built in the 1940's, he has had no problems with his well.
- Mr. Fair was worried about the noise the church would generate and whether he would still be able to hear the deer.
- Mr. Fair was worried that if a Church was developed on the property that he would have to change his "lifestyle".
- Mr. Fair testified that he worked for Emory Church for the last 30 years.
- Mr. Fair testified that Emory Church has athletic fields and operates a daycare on their property.
- Mr. Fair failed to present any evidence that the proposed Church will have a greater impact at this location than you would ordinarily expect from a Church.

14. **Glen Elseroad**

- Glen Elseroad testified before this Board on October 18, 2000.
- Mr. Elseroad resides at 5423 Mt. Gilead Road.
- He testified that he was a developer and a local farmer.
- Mr. Elseroad testified that he developed 25 single family homes (Mid Summer Hill) on a farm along Glen Farms Road.
- Despite complaining that the Church would make it difficult for him to move farm equipment, Mr. Elseroad conceded that his own subdivision interferes with the movement of farm equipment.
- Mr. Elseroad surmised that the proposed church would be responsible for the change in the rural character of the area.
- This was significant since he also testified regarding the areas farms which were currently in or in the process of entering agricultural preservation programs.
- Mr. Elseroad identified several alternative sites which were closer to 795 and had better roads and thus, he believed were "better" locations for the Church.
- Mr. Elseroad indicated that the community has supported the development of "local" churches in the past.
- Significantly, Mr. Elseroad conceded on cross-examination that he did not contact the property owners to see if the alternative sites were available.
- He testified that in his opinion, the Church was being too "aggressive" with their proposal.
- Mr. Elseroad testified that Camp Mildale operates a daycare on the property and rents its facilities on the weekend.
- He testified that there is no noise from Camp Mildale.
- Mr. Elseroad failed to present any evidence that the proposed Church will have a greater impact at this location than you would ordinarily expect from a Church.

15. **Chris Bond**

- Chris Bond testified before this Board on October 18, 2000.
- Mr. Bond resides at 1566 Emory Road.
- Mr. Bond is the nephew of Mrs. Catherine Bond, the grantor of the subject property.
- Although he testified that he is not a traffic engineer, Mr. Bond alleged that with 5000 people on the Church property, there would be traffic problems.
- It was not surprising that as with any roadway in Baltimore County, Mr. Bond was able to identify that accidents have occurred on Rt. 91 in the last fifty (50) years.
- Mr. Bond raised a concern about the Church having outside activities on the property and the Church renting its facilities.
- Without any supporting evidence, Mr. Bond indicated he was worried that the Church would impact the view shed from his farm house across the street which will decrease his property values.
- Mr. Bond was concerned about the impact the Church will have on his farm since the entrance to his farm is near the Church.
- Mr. Bond failed to present any evidence that the proposed Church will have a greater impact at this location than you would *ordinarily expect from a Church.*

16. **Paul Hayes**

- Paul Hayes provided lay testimony before this Board on October 18, 2000.
- Mr. Hayes resides at 5847 Mt. Gilead Road.
- Mr. Hayes complained that the area was quiet and that the Church would generate noise.
- Mr. Hayes, however, latter admitted that Camp Mildale generates noise.

- He was concerned about traffic on Mount Gilead Road.

- Mr. Hayes was also concerned that accidents have occurred on State Highway Rt. 91.

- Mr. Hayes testified that after complaining to State Highway Administration (SHA), SHA installed a flashing warning device 3 – 4 years ago along Rt. 91., approximately 400 feet prior to the intersection of Rt. 91 and Mt. Gilead Road.

- Mr. Hayes introduced a letter from SHA to him, Protestant's Exhibit 46, which stated that SHA had reviewed the intersection and related road system and determined that only a warning device was required.

- The letter from SHA indicated that additional traffic control measures were reviewed with respect to the intersection, including Mr. Haye's request for a reduction in the speed limit, and SHA determined that no other safety measures were necessary.

- Mr. Hayes failed to present any evidence that the proposed Church will have a greater impact at this location than you would ordinarily expect from a Church.

17. **Edgar Bond**

- Edgar Bond provided lay testimony to this Board on October 18, 2000.

- Mr. Bond resides at 1710 Emory Road in Carroll County.

- Mr. Bond explained that he was related to Catherine V. Bond, the grantor of the Church's property.

- Although he has no background in traffic engineering, Mr. Bond surmised that the Church would cause traffic to back up on Rt. 91 for approximately two miles.

- Additionally, Mr. Bond stated that he believed that it would take him 17-20 minutes just to get out of his driveway when the Church was in operation.

- Mr. Bond stated that he has two driveways on his property so that he has adequate site distance exiting his driveway onto State

Highway Rt. 91.

- Mr. Bond testified that he was concerned about how the new church and new people would effect the area.

- Mr. Bond also raised a concern taking the Church's property out of agricultural production.

- Mr. Bond was concerned about what impact the Church would have on his well.

- Notably, Mr. Bond testified that he had problems with the property's 58 foot well and so he constructed a new 160 ft well to serve the property. He indicated that his new well had been operating fine.

- Mr. Bond failed to present any evidence that the proposed Church will have a greater impact at this location than you would ordinarily expect from a Church.

18. **Charlotte Bond**

- Charlotte Bond testified before this Board on October 19, 2001.

- Mrs. Bond is the wife of Edgar Bond. The couple resides at 1710 Emory Road in Carroll County.

- Mrs. Bond complained that kids and adults would generate noise on the Church's athletic fields.

- She also complained that the Church's lights would keep the wildlife away from the area.

- Mrs. Bond indicated that she was worried about alcohol being served on the Church property.

- Mrs. Bond failed to present any evidence that the proposed Church will have a greater impact at this location than you would ordinarily expect from a Church.

19. **Karen Silverman**

- Karen Silverman testified as a lay witness before this Board on October 19, 2000.
- Ms. Silverman resides at 290 Klees Mill Road in Sykesville.
- She indicated that she used to live on the property adjacent to the Church Property, now known as the Hayes property.
- Ms. Silverman stated that she found what she believes are "artifacts" and removed them from the area for her personal collection.
- Ms. Silverman testified that she does not have any formal archeological training in identifying or digging for artifacts.
- Most of her most significant artifacts were found in the garden area of the Hayes' property.
- Notably, Mr. Silverman testified that she had not searched for artifacts in the area where the Church and the parking lot is being proposed.
- Ms. Silverman conceded that MHT has no record of any artifacts or archeological sites in this area.
- Ms. Silverman failed to present any evidence that the proposed Church will have a greater impact at this location than you would ordinarily expect from a Church.

20. **David Martin**

- David Martin testified before this Board on October 19, 2000.
- Mr. Martin's address is 5811 Van Buren Lane, Cockeysville, MD.
- Mr. Martin is an "extension educator" at the University of Maryland Cooperative Extension ".
- Mr. Martin stated that the University of Maryland Cooperative Extension is an educational organization which provides advisory information to local AG groups.

- He has no experience or background in wetlands and floodplains.

- Additionally, except for a class, Mr. Martin has no background in agricultural economics.

- Mr. Martin provided testimony from a County-wide perspective, based on generalized information from the Baltimore County Maryland Soil Survey, Petitioner's Exhibit 5, that there are productive soils on the Church's property.

- Notably, the Soil Survey relied upon by Mr. Martin states that it is based upon conditions in Baltimore County in 1970 and may be "useful to people who want a general idea of the soils in the County". *See Petitioner's Exhibit 5, p. 2.*

- Mr. Martin testified that if the Church property is developed then the total amount of agricultural land available in Baltimore County will decrease.

- Mr. Martin testified that Church's proposal would be acceptable if the Church occupied less than 10 acres of the property and continued to farm the rest of property.

- On cross-examination, he admitted that he had not done any specific studies relating to the subject site.

- Further, despite his claim that the subject site has highly productive soils, Mr. Martin conceded he had not conducted any soil tests on the property.

- Mr. Martin conceded that he did not even know the percentage of prime and productive soils in the R.C.2 zone.

- Mr. Martin admitted that he doesn't have any information regarding the availability of land in the area.

- Despite testifying regarding the alleged impacts of losing farm land, Mr. Martin testified that the market value of AG crops in the area increased, despite a decrease in the number of crops.

- Although he testified that "urban uses" in AG areas impact a farmer's ability to move his farm equipment, he conceded on cross-examination that the movement of equipment during off-peaks hours was merely an inconvenience.

- Mr. Martin failed to present any evidence that the proposed

Church will have a greater impact at this location than you would ordinarily expect from a Church.

21. **Douglas Charles Myers**

- Douglas Charles Myers provided lay testimony to this Board on January 25, 2001.

- Mr. Myers resides at 5724 Emory Road in Upperco, Baltimore County.

- Mr. Myers compared the scope and size of development proposed by the Church and Riverdowns.

- He testified that there are better locations for the Church. For example, he testified that Reisterstown Baptist located on highway route 30 near a junk yard and business zoning. Likewise, the Indian temple in Finksburg chose to build near business and commercial zones.

- Mr. Myers explained that a small country church would be more appropriate at this particular location.

- Mr. Myers was concerned about the inordinate amount of truck traffic on state highway Route 91 and other traffic on state highway Route 30.

- Mr. Myers failed to present any evidence that the proposed Church will have a greater impact at this location than you would ordinarily expect from a Church.

3/7/01

IN THE MATTER OF CARROLL COMMUNITY CHURCH 1701 Emory Road 4th Election District 3rd Councilmanic District	*	BEFORE THE COUNTY BOARD OF APPEALS FOR
ESTATE OF CATHERINE V. BOND, Legal Owners CARROLL COMMUNITY CHURCH, INC., Contract Purchasers	*	BALTIMORE COUNTY Case Nos. 99-503-X /
Petitioners	*	CBA-00-105

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PROTESTANTS' MEMORANDUM FOR DRC APPEAL

Protestants HANOVER ROAD ASSOCIATION, FINKSBURG COMMUNITY ASSOCIATION, and MELVIN FAIR, CHRIS BOND, SHIRLEE ELSROAD, et al., Individuals, by their attorney J. Carroll Holzer, Holzer and Lee, hereby submit this Memorandum to the Board of Appeals as requested in lieu of final argument on the DRC appeal and say:

Statement of Facts

The Carroll Community Church, separate and apart from the Petition for Special Exception, filed a request under the Development Regulations of Baltimore County, Section 26-171, for a Limited Exemption before the DRC to avoid the necessity of proceeding through a Community Input Meeting and presenting a Development Plan to the Hearing Officer. That request was recommended to be denied by the DRC, and the Department Head, Arnold Jablon, thereafter denied the Limited Exemption. The facts related to both cases were presented to the Board during the three days of hearing.

The parties entered the DRC file as Joint Exhibit No. 1. Robert Bradley, Engineer, testified on behalf of Carroll Community Church that he applied on December 1, 1999 for a Limited Exemption under Section 26-171.B(9). The matter was placed on the DRC Agenda and representatives from the Planning Office, DEPRM, Zoning Office, Public Works Department, Recreation & Parks, all attended. The recommendation of the DRC to Arnold Jablon was to deny the B(9) exemption and require the developer to go through the full process. Jablon issued his decision in a letter dated December 23, 1999, denying the Limited Exemption. No reasoning was provided by Jablon, however, reasoning was provided at the DRC by representatives of the Department of the Environment (Bruce Seeley), the Office of Planning (Jeff Long), and the Office of Public Works (Bob Bowling). Carroll Community Church submitted Appellants' Exhibit No. 1, a DRC Memorandum from Arnold Jablon to Don Roscoe dated March 4, 1994, and on this basis suggests that an exemption must be issued to Carroll Community Church.

The Protestants presented the testimony of the participants who recommended against approval. They were Bruce Seeley, representing Department of the Environment (DEPRM), who testified that the department was opposed to the granting of the Limited Exemption. During the course of the hearing before this Board, he changed his personal opinion subsequently to 199[illegible] and said today that he would grant the Limited Exemption. It should be noted that Seeley did not say that DEPRM had changed its position as a department relative to the exemption. DEPRM's initial objection to the Limited Exemption centered on the size and scope of the project. Jeff Long of the Office of Planning testified that the Office of Planning opposed the Limited Exemption

in 1999 and still does. Robert Bowling, representing the Department of Public Works, testified that Public Works Department objected to the granting of a Limited Exemption in 1999 and still does today. He testified that the requirement for going through the full process was consistent with his department's handling of other churches such as the Grace Community Church in Kingsville, the Bethel A.M.E., and approximately 15 to 20 other churches over the last eight to ten years.

Legal Argument

Protestants submit that the Appellant Carroll Community Church has not met its burden of establishing that the DRC action, subsequently accepted by Arnold Jablon, was arbitrary and capricious and in violation of the law. Obviously, discretion is applied in the DRC review of a Limited Exemption. Section 26-171 of the BCC does not mandate a Limited Exemption be granted. Particularly a Limited Exemption under 26-171.B(9) only exempts the development from the Community Input Meeting and the Hearing Officer's Hearing. This is an administrative procedural process that's either required or not required. It does not substantively affect Carroll Community Church's rights to development. It means that the Carroll Community Church will still have to meet all of the County Development Regulations and zoning requirements before approval of a Development Plan. Obviously, in the judgment of the DRC, some cases because of their size, scope or nature of development and impact may not require a public hearing while others do. In this instance it is clearly the opinion of the DRC as well as Arnold Jablon that this particular Development Plan in its size and scope is so significant that the community is entitled to a Community Input Meeting and the

opportunity for a hearing before the Hearing Officer, to permit any issues in regard to the approval of that Development Plan to be placed on the record and litigated by the community in order to have their day in court. These issues may not be issues that are relevant or related to the issues determining whether or not a Special Exception should or should not be granted. Likewise, at the Special Exception hearing, many issues are presented generally and not specifically; however in the Development Plan approval, there are specific rules and applications related to stormwater management, the well situation, etc. In other words, the citizens by not having a Hearing Officer's Hearing could be denied legitimate opportunities to address specific questions in regard to the proposed development. For that reason, a public hearing on the Special Exception issues should not prejudice or deny the ability of the community to have a hearing on the specific Development Plan when it is presented.

In response to the March 4, 1994 letter from Jablon, Protestants submit that clearly there is no legal basis for the position taken by Jablon that the exemption cannot be refused just because a zoning hearing may be required in addition to the Development Plan approval. There is no basis in law or in fact for that statement. There is nothing in the Development Regulations that say that if a community has a zoning hearing related to a Special Exception, that it is precluded from having a hearing on the Development Plan. The position defies logic.

As the Board can see from this case, many specific questions in regard to environmental and site-specific decisions on the Development Plan were left unresolved before the County Board of Appeals during the nine days of hearing. To suggest that

because of the Special Exception hearing, the citizens are denied the opportunity to inquire into the Development Plan is not supported by a reading of the Development Regulations.

In addition, the testimony of Mr. Bowling is clear that they have required public hearings in other church cases of this magnitude.

For the aforegoing reasons, the Protestants respectfully request the County Board of Appeals to AFFIRM the decision of the DRC to require the full process in the instant case since the Board itself is in position to determine the lack of specificity in regard to the details of the proposed development by the Carroll Community Church. The Board can see that many technical questions in regard to stormwater management, sediment control, the well and availability of water, the technical aspect of whether or not a parking lot can be in Carroll County while the plan is being approved by Baltimore County, are all issues from which the citizens and Protestants should not be excluded from raising before the Hearing Officer.

Therefore, the Protestants respectfully request this Board to AFFIRM the DRC.

Respectfully submitted,

J. CARROLL HOLZER
Holzer and Lee
508 Fairmount Avenue
Towson, MD 21286
(410) 825-6961

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 7th day of March, 2001, a copy of the foregoing Protestants' Memorandum for DRC Appeal was mailed to G. Scott Barhight, Esq., Whiteford, Taylor & Preston, 210 W. Pennsylvania Avenue, Towson, MD 21204, attorney for Petitioners, and to Peter Max Zimmerman, Esq., People's Counsel, and Carole S. Demilio, Esq., Deputy People's Counsel, Office of the People's Counsel for Baltimore County, Old Courthouse, Room 47, 400 Washington Avenue, Towson, MD 21204.

J. CARROLL HOLZER

3/1/01

IN THE MATTER OF CARROLL COMMUNITY CHURCH 1701 Emory Road 4th Election District 3rd Councilmanic District	*	BEFORE THE COUNTY BOARD OF APPEALS FOR
ESTATE OF CATHERINE V. BOND, Legal Owners CARROLL COMMUNITY CHURCH, INC., Contract Purchasers	*	BALTIMORE COUNTY Case Nos. 99-503-X / CBA-00-105
Petitioners	*	

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

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COUNTY BOARD OF APPEALS
BALTIMORE COUNTY

PROTESTANTS' MEMORANDUM FOR SPECIAL EXCEPTION

Protestants HANOVER ROAD ASSOCIATION, FINKSBURG COMMUNITY ASSOCIATION, and MELVIN FAIR, CHRIS BOND, SHIRLEE ELSROAD, et al., Individuals, by their attorney J. Carroll Holzer, Holzer and Lee, hereby submit this Memorandum to the Board of Appeals as requested in lieu of final argument on the Special Exception and say:

Statement of the Case

Case No. 99-503-X consists of a Petition for Special Exception filed by the owner of the subject property, the Estate of Catherine V. Bond, and by the Contract Purchasers, Carroll Community Church, Inc. The Petitioners request a Special Exception to use the subject property for a church pursuant to the Baltimore County Zoning Regulations. The site plan shows that the subject property is a large, irregularly shaped tract of land located immediately adjacent to the intersection of Emory Road (MD. Route 91) and Mt. Gilead Road in northwestern Baltimore County, at the Baltimore County/Carroll County

line. The property consists of a gross area of 68.89 acres, more or less, split zoned RC 2 (48.98 acres) and RC 4 (15.76 acres). The Baltimore County/ Carroll County line transects the property, leaving 4.23 acres in the front portion of the site immediately adjacent to Emory Road in Carroll County. The site plan reflects the majority of the parking, the entrance driveway in the Carroll County portion of the property. (The Protestants have raised an objection to the CBA approving a Special Exception plan when a portion of the Special Exception is outside of its jurisdiction and ability to enforce.) The balance of the site, located in Baltimore County comprises 64.66 acres. The Baltimore County portion of the property is split zoned RC 2/RC 4. These are both "resource conservation zones." The RC 2 zone is the most restrictive land use zone in Baltimore County. That section of the BCZR which describes the Resource Conservation zones provides that the general purpose of the RC 2 zone is to preserve and protect agricultural lands; whereas the purpose and intent of the RC 4 zone is to protect watershed area of Baltimore County. A church is a permitted use by special exception in both zones. The proposed building and area of the site to be used for purposed related to the church are within the RC 2 zone, except for the portion located in Carroll County.

On September 24, 1999, the Zoning Commissioner granted the Special Exception, while limiting the sanctuary to 1200 individuals from the 2000 requested by Carroll Community Church. He also reduced the size of the parking area commensurate with the reduction of the seating facilities. He further imposed 17 conditions on the grant of the Special Exception.

An appeal was taken by the Protestants from the Zoning Commissioner's

decision which was heard before the CBA in 9 days of hearing (6/20, 6/21, 8/22, 8/23, 8/30, 9/26, 10/18, 10/19/00, and 1/25/01).

The Carroll Community Church in a separate matter, filed a request under the Development Regulations of Baltimore County for a limited exemption before the DRC, to avoid the necessity of proceeding through a Community Input Meeting and presenting a Development Plan to the Hearing Officer. That request was denied by the DRC and the department head, Arnold Jablon, from which Carroll Community Church took an appeal to the CBA. The facts related to both cases were presented to the Board during the nine days of hearing.

Statement of Facts

Counsel for the Protestants and People's Counsel gave opening statements citing the Holbrook case in Cecil County, and the Mangione and Meadowcliff cases in Baltimore County in which requested special exceptions were denied. People's Counsel in opening statement, suggested that "if a church was always appropriate for the RC 2 zone, then it would be permitted as a matter of right, therefore there must be several places where it is not permitted in an RC 2 zone." Protestants and People's Counsel both concluded opening statements by suggesting this was not the proper location for a church of this proposed size and scope of activity.

A. Developer's Case

(Key Aspects of Testimony Summarized)

1. Pastor Joseph Duke. Paster Duke testified on behalf of Carroll Community Church as to the use of the site and the proposed facility. The Carroll Community

Church is affiliated with the Grace Fellowship Church in Timonium, which has 3000 to 4000 members, and well as the Willow Creek Association in Illinois, which emphasizes "the growing of the flock." The church would be a regional one, serving members from Pennsylvania, Carroll County, Baltimore County and Frederick County. In addition to a 2000-seat facility, it will contain an assembly hall, administrative offices, classrooms, possibly a senior high school and middle school, as well as kitchen facilities and day care. In addition to the proposed church facility there is also a proposed meeting lodge or hotel in the rear of the property that is to serve approximately 20 people for overnight stays and conferences. There are proposed multi-purpose athletic fields and open areas with accommodating parking which could serve outdoor events. The plan shows a large paved parking area in the front of the facility, primarily in Carroll County along Emory Road. (The Protestants later testified of their concern that not only regional activities for Carroll Community Church would take place but that because of the affiliation with other organizations that large groups would be utilizing the subject site for both indoor and outdoor activities which could cause as many as 3000 or 4000 people being on the site at any one time for a special event or religious service.) Pastor Duke indicated that special functions for other alliances under the non-profit umbrella could possibly take place.

Pastor Duke further testified insofar as multiple services being held on Saturday evening as well as Sunday morning. He testified to the number of organizations that would be meeting in the facility during the entire week, which would include elders' meetings, worshipers' rehearsals, school activities, bible studies activities, community

meetings, mission team meetings, men's and women's meetings, youth meetings, in addition to the normal religious functions such as weddings, funerals, etc.

2. Mickey Cornelius - Traffic Group. Cornelius, in testifying for the developer, admitted and acknowledged that the intersection of Emory Road and Mt. Gilead Road was an unsafe and bad intersection, particularly the sight distance to the north from Mt. Gilead turning onto Emory Road was deficient. He attempted to minimize this aspect suggesting that no one would be using Mt. Gilead Road, that all the traffic to the church would come from Emory Road. (Subsequent testimony from neighbors and others indicated that that would not be the case -- that Mt. Gilead Road would be utilized for much of the traffic going to the church.) The State Highway Administration had also placed flashing red lights north of the Emory Road/Mt. Gilead intersection because of its dangerous nature. When cross-examined, Cornelius acknowledged that he did not analyze traffic related to special events or evening meetings but analyzed only Sunday morning activities for purposes of impact on the road system. Cornelius, while opining that the detrimental impact of the traffic was no different here than in other places, admitted that he did not consider or analyze any other locations. (Protestants have submitted that the impact of the traffic going to Carroll Community Church as this location would be more severe than if it were located in another area of the RC 2/RC 4 zone, such as along an interstate such as I-83.)

3. Robert Bradley - Engineer. Bradley introduced the plat to accompany the special exception which showed a general building envelope of the proposed facility; he then introduced a concept plan plat prepared under the Development Regulations

which showed a more defined proposed building envelope and architectural renderings. He had no explanation for whether or not the CBA could enforce its special exception and any conditions it may attach to the parking area located in Carroll County. He testified that the building envelope on the special exception plat was approximately 80,000 square feet, whereas the building area shown on the schematic plan was approximately 67,000+ square feet for the church facility. Bradley further testified that the proposed church facility and parking lot encompassed 16.3 acres of the subject site; that the septic reserve areas for the lodge, the athletic field and the church comprise 3.9 acres; that the athletic field consisted of approximately 2 acres, and that the storm water management facilities consisted of 1.03 acres of the total site.

4. Tim Madden - Landscape Architect. Madden testified as landscape architect and confirmed that 40% or 28 acres of the subject site had been in corn and soybeans. He further confirmed that north of the subject site is an agricultural community and acknowledged the location of the Trenton Mill and Lippy Brothers farming activities. While testifying that there would be no greater impact on adjacent properties than you would "normally find," he acknowledged that normally you find smaller churches in a rural area -- smaller churches than the proposed Carroll Community Church. In order to come to his conclusion that there would be no greater impact at this site, he failed to compare it with any other RC 2 site in order to form that conclusion. He further acknowledged that to his understanding there was no church this size in an RC 2 zone in Baltimore County.

B. Protestants' Case

1. George Newbeck. Newbeck testified after qualifying under Rule 8 as Chairman of the Hanover Road Association, Zoning Committee, in opposing the request. Newbeck presented Protestants' Exhibit #12 - Videotape of the area. He also presented Protestants' Exhibits 14-18, which consisted of an extensive study and summary of churches in the Reisterstown, Hampstead, Upperco, Glyndon, Finksburg areas. The summary of the results can be found on Protestants' Exhibit 18, which indicates that the Carroll Community Church far exceeds all of the existing church facilities in the area.

2. Rhoda Mielke. Ms. Mielke testified as a representative of Trenton Mill Farms. She testified that this farm is extremely productive and that active farming takes place in the immediate area, including the subject site. Mielke testified that Trenton Mill Farms contains a 950,000 grain storage facility which accepts grain from farmers in the immediate area. She testified that the loss of the subject site from farming directly affects Trenton Mill Farms as to the grain storage operation, the custom work that they perform for farmers by harvesting the crops, and the direct farming impact on Trenton Mill Farms from being able to farm the subject site. She testified Trenton Mill Farms buys "their products and also sells to the farmers." She stated "we need them and they need us." She testified that the subject site produced appx. 160 bushels per acre as an average in corn, soybeans and small grains. Mielke also testified that mixing the proposed church traffic with farming equipment is asking for trouble during the week and on Sundays. It will negatively affect farming in the area. She testified that much farm equipment utilizes Emory Road and that large equipment on Sunday mornings would be interfered with by

the church traffic.

3. Mary B. Gaines. Ms. Gaines testified for the Piney Run Preservation Association indicating opposition to the requested special exception due to its incompatibility with the rural area, its loss of agricultural land, and traffic and environmental concerns.

4. Richard Isaac. Isaac was a registered environmental sanitarian who retired as Director of the Environmental Health Section of the Carroll County Health Department. He testified in opposition, stating that he believed the proposed facility was too large to be supported by an underground sewage disposal system. He testified that septic systems of the size proposed by Carroll Community Church are unreliable and that they will ultimately fail.

5. Neil Ridgely. Ridgely testified in regard to his opposition as the Town Manager for the Town of Hampstead. Ridgely was concerned about the size of the facility, particularly as it related to traffic issues. He further was opposed to a reduction of the site from agriculture.

6. Peggy H. Goodman. Goodman is a resident on Mt. Gilead Road adjacent to the subject site who is concerned about traffic, water quality and quantity, safety issues related to Mt. Gilead Road and the potential traffic increase, and aspects related to the impact on the neighborhood of a church of this size.

7. Shirlee Elseroad. Ms. Elseroad lives adjacent to the subject site. She would be the most directly impacted visually by the proposed church and related facilities. Her driveway is immediately south of the access to the church. She showed photographs

and video illustrating the difficulty of accessing Emory Road. She testified that her farm, like the subject site, is an extremely high-yield farmland. Her property is farmed by Lippy Brothers. She has a problem with Emory Road in that site access from her driveway to the south is not good and cars appear without notice as she's attempted to pull out. She expressed concern in regard to the access of the church. She testified that she believes the traffic coming into the church and leaving it at specific hours will cause a greater impact on Emory Road than if the church were located at some other site which would have access to a larger highway such as Westminster Pike.

8. Jack Dillon. Dillon testified as Executive Director of Valleys Planning Council in opposition to the proposed facility. Dillon also qualified as an expert "land planner and zoning expert." He testified about the RC 2 legislation and its purposes. He testified that agriculture is the preferred use in the zone and the Carroll Community Church is not compatible -- it does nothing to enhance the agricultural use of the subject property. He reviewed BCZR Section 502.1 and found that the proposed use increased congestion on the roads, it overcrowded the land as to the agricultural aspect, that the large septic system and maintenance would result in potential failure, and that the use was inconsistent with the zoning purposes of agriculture.

He affirmatively testified as to other locations where there would be less impact on the RC 2 zone than this site (see Protestants' Exhibits 28 and 29). In these exhibits, he explored six other locations that would have less impact on the zone than the subject site. He further testified that institutional development of this nature generates other uses -- residential development, etc., and in this case with Carroll Community Church

being a regional church, it would generate additional development in the neighborhood and demand for more residential housing, all to the determent of agriculture. He further opined that the RC 2 zone does not permit a lodge nor ballfields.

9. Wallace Lippincott, Jr. - Representative of DEPRM. Lippincott testified as to his Department's opposition to the proposed special exception (see Protestants' Exhibit 30). He is a natural resources manager with prime responsibility in the area of agricultural preservation program and Maryland agricultural preservation program. He presented Protestants' Exhibit 32 which was a tax map and preservation activities in rural legacy and agricultural easement programs in the vicinity. He defined the vicinity within the Master Plan designation of "agricultural and rural uses" as the Raver property to the south, Trenton Mill Farms to the north, west into Carroll County with Lippy Brother Mill, and east to Black Rock Road and Worthington Valley. He testified that not only were there large grain and crop farms but that there were significant animal production activities in the area such as horse farms and beef cattle farms being operated with the defined area. Lippincott entered Protestants' Exhibit 33 showing in Carroll County that the subject site was adjacent to an agricultural preservation area.

Lippincott was subsequently recalled on the last day of the hearing to introduce a Carroll County document establishing a rural legacy for Carroll County in the immediate area west of the subject site (Protestants' Exhibit 33). He also introduced as Protestants' Exhibit 74 the 2000 zoning maps.

Lippincott introduced the concept of "impermanent syndrome." This theory generally suggests that the granting of a special exception for a large facility such as the

Carroll Community Church will cause development in the area. The factors include: the land subject to pressure from other proposed uses, uncertainty, speculative land owners, elderly farmers, ability to practice farming versus pressures of urban sprawl. He believes when applying this theory that the subject site would drastically impact the neighborhood because the current age of the farmers, the absentee owners and the urban use introduction of this church to significantly impact the agricultural preservation efforts of the RC 2 zone.

In comments about the subject site, he testified that the average yield from the subject site and the neighborhood is very high -- 135 to 200 bushels per acre, and that it contains Chester soil, which is an extremely good soil. Further, that the grain industry in Baltimore County could equate to $150 million worth of economic activity along with horse farm operations of $300-$400 million in the County.

10. Bill Hughey. Hughey, a representative of the Baltimore County Planning Office, testified as the Third District Community Planner. His Office opposed the proposed facility (Protestants' Exhibit 34).

11. Bill Keeney. Keeney testified as a resident and as a registered architect in the State of Maryland. Keeney opposed the size of the church as well as the large parking lot contained in the front of the building. He testified with six acres of parking the visual impact of this facility made it look like a shopping center. He testified that the scale of the structure with vehicle parking in the front was not compatible with the neighborhood but presented a K-Mart or WalMart commercial appearance in a rural community.

12. Melvin Fair. Fair lives on the corner of Mt. Gilead and Emory Road and works at the Emory United Methodist Church. He testified to the number of traffic accidents and fatalities that have occurred on Route 91 and Mt. Gilead. He testified to the heavy traffic on Route 91 including tractor trailers in addition to farm implements. He opposes the church on size and safety matters.

13. Glen Elseroad. Elseroad lives on Mt. Gilead Road and is a farmer/real estate investor. He owns a farm immediately southeast of the subject site. He testified that he rents farmland to both Trenton Mill Farms and Lippy Brothers for growing corn, soybeans, etc., and that the subject site is very productive. He testified that other churches in the area, even new ones, have limited the size of their facilities to be compatible with the rural nature of the community. (Protestants' Exhibits 39 and 40.) He testified as to other locations that would have less of an impact of the church upon their neighborhood, such as 100 acres on Route 30 half a mile north of I-795 or 60 acres north of I-795 and Route 30 - the locations also suggested by Jack Dillon. Also, other land is available in the Eldersburg area where the church is currently holding services. He testified as to agricultural preservation efforts in the area including the Durham, Patterson, and Slade Farms, as well as the Raver Farm to the south.

He testified about development in the area that had occurred has been respective of the rural nature of the area: such as Camp Frettered, where the National Guard Armory has been located away from Route 30, and Camp Milldale, which has existed on Mt. Gilead Road, and is located away from the road to blend in with the rural surroundings.

14. Chris Bond. Bond is an adjacent property owner across Emory Road from the subject site. His testimony related to traffic and safety problems in regard to the intersection, the access to the church, and Route 91. He was also concerned about the parking which will be directly on Emory Road and its impact on his view as well as his property value.

15. Paul Hayes. Paul Hayes is an adjacent property owner on Mt. Gilead Road who is concerned about the view from his property of the subject site, the noise and sounds and activities that will take place on the open fields and their impact on his property. Hayes works for the Baltimore County vehicle maintenance shop.

16. Peck Bond. Peck Bond resides on Emory Road across from the proposed church. Bond expressed concern in regard to the number of vehicles utilizing the entrance to the church and the potential blockage from the church members arriving for a specific service which will cause interval problems for the residents to gain access onto Emory Road. He further expressed concern in regard to the aesthetics of the church directly across from his property and his viewing of not only such a large facility which is out of character with the neighborhood but also the parking lot directly across Emory Road would appear to have almost a commercial type of appearance. He believed his property value would be diminished.

17. David Martin. David Martin was presented as an expert by People's Counsel in the area of agronomy related to soils and crop issues. Martin works for and with the Baltimore County Soil Conservation Bureau, the Farm Bureau, and agricultural preservation groups. He testified that the soils on the subject site and in the

neighborhood are above average and extremely productive. He testified to the negative effects on the neighboring farms due to their inability to move farming equipment easily as a result of the church, and that the effect on farming could reach as far as 3 to 10 miles away. He testified that churches could be compatible with farming if they were reduced in size and scope, and on this particular site, if a smaller church was constructed there would be remaining acreage to continue farming activities. He testified that the median size farm in Baltimore County is approximately 35 acres.

18. Charlotte Bond. Charlotte Bond, who is the wife of Peck Bond, living across Emory Road from the Church, testified as to her objections based on the parking lots, the lights for the parking lots and for the building, the view of a large structure totally out of character with the neighborhood, and her concerns for the aesthetic devaluation of her property.

19. Karen Silverman. Karen Silverman testified in regard to arrowheads and other historical items that she found on the subject site as a young child and her research which indicated that the site was a former camp of Indians dating back, according to officials of the Maryland Historical Trust, to 2000 B.C. to 1000 A.D. Her request was for a denial of the proposed facility and an archaeological dig.

20. George Harmon. George Harmon testified wearing three hats: first, as president of the Hanover Road Association, second, as an individual, and third, as an expert on certain environmental issues. Those areas of experience related to his work for the Maryland Department of the Environment as it related to noise pollution, truck safety, and water quality assessment. The Board certified him as an expert in all 3 areas

as related to the regulations of the State of Maryland and their impact on the proposed site. (Harmon's resume is marked as Protestants' Exhibit 56.)

First, Harmon presented Protestants' Exhibit 57, which showed how the Hanover Road Association church survey was conducted and by whom. Second, he addressed the noise issue of the proposed church and concluded that because of the differential of noise versus the background, that noise is especially acute in the rural areas, here there was concern for noise from outdoor activities on the church site - concerts or sporting events which might be conducted outside. Third he addressed water pollution and storm water issues. He raised the interesting point that the Carroll Community Church had been granted a waiver of storm water management and that new standards would be applicable which may well affect the impact on this property of the new standards designed to take effect this year. He requested that if a special exception were granted by the Board, that they at least require the church to comply with the new regulations in regard to the storm water issue. He raised additional issues in regard to water pollution by temperature and the potential for damage to the stream system which is a Class I trout stream. Fourth, he addressed issues of road safety related to the sight lines at the intersection of Emory and Mt. Gilead Roads, the blind hill crest at Peck Bond and Shirlee Elseroad's driveway (showing a video related to these issues), and further testified in regard to increased truck traffic on Emory Road and the statistics which establish problems with truck safety and truck drivers. Next, he addressed the issue that by locating the church at this site as opposed to some other location closer to a larger road system, it created over one million extra vehicle miles traveled for the attendees at

church functions. He expressed aesthetic concerns for the church and its siting on the property. He testified about air pollution which would be worse here as a result of the increased traffic than it would be in another location such as Eldersburg. He expressed concern about trout stream and lake pollution. And finally, he introduced Protestants' Exhibit 72, which is a two-page list of conditions requested by the community in the event the special exception were to be granted by the Board.

21. Douglas Myers. Douglas Myers of Emory Road testified that he was professional surveyor. He testified that the clubhouse at the River Downs Golf Course which had been referred to earlier, was not even as big as the proposed church and that it was 1000 feet off of the road. Again other witnesses had testified that the National Guard Armory and the Jewish Camp facility were also located far off the road so as to avoid the visual impact of their facilities. Myers testified that because of his knowledge of local business such as Gray & Sons, C.J. Miller, and Maryland Paving, there is an inordinate amount of trucks on Emory Road compared to other areas of Baltimore County's rural road system. He also testified as to other parcels for sale which would be available for the church which would have less of an impact at those locations versus the subject site.

Legal Argument

A. General

Judge Hall Hammond, later Chief Judge of the Court of Appeals for many years, explained the law of special exceptions in Montgomery County v. Merlands Club, Inc., 202 Md. 279 (1953). It is the seminal case. The more recent decisions are actually

restatements or reformations of Judge Hammond's analysis and language. So, in Turner v. Hammond, 270 Md. 41 (1973), Judge McWilliams said:

> "Occasionally the bar and less often the bench lose sight of the concept that the conditional use or special exception, as it is generally called, is part of the comprehensive zoning plan sharing the presumption that as such it is in the best interest of the general welfare and, therefore, valid. *Rockville Fuel and Feed Co. v. Board of Appeals of the City of Gaithersburg*, 257 Md. 183, 187 (1970). The special exception is a valid zoning mechanism that delegates to an administrative board a limited authority to permit enumerated uses the legislature has determined can be allowed, properly albeit *prima facie*, absent any fact or circumstance negating the presumption. *Rockville, supra.* In *Montgomery County v. Merlands Club, Inc.*, 202 Md. 279, 287 (1953), we said:
>
> '... The duties given the Board are to judge whether the neighboring properties and the general neighborhood would be adversely affected, and whether the use, in the particular case, is in harmony with the general purpose and intent of the zoning plan.'
>
> While the applicant has the burden of adducing testimony which will show that his use meets the prescribed standard and requirements he does not have the burden of showing affirmatively that his proposed use accords with the general welfare. If he shows to the satisfaction of the Board that the proposed use would be conducted without real detriment to the neighborhood and would not actually adversely affect the public interest, he has met his burden. The extent of any harm or disturbance to the neighboring area and uses, is, of course, material but if there is no probative evidence of harm or disturbance in light of the nature of the zone involved or of factors causing disharmony to the functioning of the comprehensive plan, a denial of an application for a special exception is arbitrary, capricious and illegal. *Rockville, supra.*" 270 Md. 41.

Court of Appeals special exception decisions between 1953 and 1973 all followed the path between Merlands Club and Turner v. Hammond.

Chief Judge Hammond's 1970 opinion, Rockville Fuel and Feed Co. v. City of Gaithersburg, 257 Md. 183 (1970), is also quoted often. Another case, Redden v. Montgomery County, 270 Md. 668 (1974), analyzed particular problems of a proposal for a facility to house the elderly and handicapped. Special exceptions never were

routine nor automatic.

More recently, in Board of County Comm'rs. v. Holbrook, 314 Md. 210 (1988), Judge Harry Cole quoted Judge Rita Davidson's landmark opinion in Schultz v. Pritts, 291 Md. 1 (1981):

> "In *Schultz v. Pritts, supra*, this Court determined the applicable standard for judicial review of the grant or denial of a special exception use. We observed:
>
> 'The special exception use is a part of the comprehensive zoning plan sharing the presumption that, as such, it is in the interest of the general welfare, and therefore, valid. The special exception use is a valid zoning mechanism that delegates to an administrative board a limited authority to allow enumerated uses which the legislature has determined to be permissible **absent any fact or circumstance negating the presumption.** The duties given the Board are to judge whether the **neighboring properties in the general neighborhood would be adversely affected** and whether the use in the particular case is in harmony with the general purpose and intent of the plan.'
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> * * *
>
> 'The extent of any harm or disturbance to the neighboring area and uses, is, of course, material. If the evidence makes the question of harm or disturbance or the question of the disruption of the harmony of the comprehensive plan of zoning fairly debatable, the matter is one for the Board to decide. But if there is no probative evidence of harm or disturbance in light of the nature of the zone involved or of factors causing disharmony to the operation of the comprehensive plan, a denial of an application for a special exception use is arbitrary, capricious, and illegal. *Turner v. Hammond*, 270 Md. 41, 54-55 (1973); *Rockville Fuel and Feed Co. v. Board of Appeals of Gaithersburg*, 257 Md. 183, 187-88 (1970); *Montgomery County v. Merlands Club, Inc.*, 202 Md. 279, 287 (1953); *Anderson v. Sawyer*, 23 Md.App. 612, 617 (1974).
>
> These standards dictate that if requested special exception use is properly determined to have an adverse effect upon neighboring properties in the general area, it must be denied.' 291 Md. At 11-13, 432 A.2d 1319. [Emphasis in original.]

We then defined the specific nature of the requisite adverse impact required to warrant denial of a special exception application:

> '[A] special exception use has an adverse effect and must be denied when it is determined from the fact and circumstances that the grant of the requested special exception use would result in an adverse effect upon adjoining and surrounding properties unique and different from the adverse effect that would otherwise result from the development of such a special exception use located anywhere within the zone. Thus, these cases establish that the appropriate standard to be used in determining whether a requested special exception use would have an adverse effect and, therefore, should be denied is **whether there are facts and circumstances that show that the particular use proposed at the particular location would have any adverse effects above and beyond those inherently associated with such a special exception use irrespective of its location within the zone.**' 291 Md. at 15 [Emphasis supplied] 314 Md. at 216, 217.

The facts in Holbrook reflect an affirmance by the Court of a denial where the permanent placement of a mobile home 150 feet from a $147,000 home in an undeveloped wooded residential area would have been a negative visual intrusion and detriment to the character of the neighborhood.

It is important to recall what led Judge Davidson to write the Schultz opinion. She wrote to reject the Court of Special Appeals view that a special exception use must be approved if it can be shown that its adverse effects are no worse than some use permitted by right in the zone. Her simple point was that a special exception use could be denied based on particular problems because the legislature intended stricter scrutiny than that provided for permitted uses.

Schultz did not envision routine or semi-automatic approval of special exceptions. The decision remanded the matter for a review of particular access

problems. Similarly, Holbrook respected the Zoning Board's administrative denial of a special exception, based just on a particular visual intrusion and detriment to the character of the neighborhood.

Since Holbrook, there have been a number of special exception decisions issued by the Court of Special Appeals which apply the above standards and are helpful here.

People's Counsel v. Mangione, 85 Md.App. 738 (1991) sustained the Baltimore County Board's denial of a convalescent home in a residential zone based on particular site problems above the norm for residentially zoned properties. It was off the main road and had poor access on narrow winding street where children played. It would block out light from the west and exacerbate both drainage and erosion problems.

Mangione, fn. 6, also confirms that under BCZR 502.1:

> "The size and scope of the project are thus relevant considerations. To contend otherwise... is to engage in specious and sophistic reasoning."

The Court likewise sustained a denial of a special exception for a rubble fill. Moseman v. Prince George's County, 99 Md.App. 258 (1994). The factors particular to the site included the presence of an existing rubble fill across the street, a narrow and winding access road, the proximity of single family homes, highly erodible soils, risks to well water, and depreciation of property values.

The Court recognized the unique problem the cumulative impact of two (active) adjacent rubble fills would have on a single community by concluding that "given the existence of the adjoining rubble fill currently in operation, granting the proposed rubble fill would adversely impact the surrounding properties in a manner unique and different from the adverse impact which would otherwise result if a rubble fill were located

elsewhere within the O-S zone." The Court cited the residents testimony as to the existence of odor, noise, spillage of debris, and traffic backups, finding that the residents would have to endure two rubble landfills.

There was no indication that the Moseman site was the worst site in Prince George's County. There may have been other sites as bad or worse. There could have been proposed a larger or more hazardous landfill. But the potential for worse case or worst case scenarios did not require approval at this location.

Moreover, the cumulative impact of two rubble fills in the same area was a legitimate factor probative of particular adverse effects above the norm.

In Leo J. Umerley v. People's Counsel of Baltimore County, 108 Md.App. 497 (1996), the Court reaffirmed that the Board of Appeals must specifically examine the impact at the particular location. The Court quoted Holbrook.

In Board of County Commissioners v. Holbrook, 314 Md. 210, 217-18 (1998), Judge Harry Cole summarized the Schultz test, in part, with this key point:

> "... where the facts and circumstances indicate that the particular special exception use and location proposed would cause an adverse effect upon adjoining and surrounding properties unique and different, in kind or degree, than that inherently associated with such a use regardless of its location within the zone, the application should be denied."

In Holbrook, a mobile home was visible to a residence 80 to 150 feet away, and there were no trees or topography to interrupt the line of sight. This contrasted with "countless locations... within the zone" which would not present such a problem of proximity and visibility. 314 Md. at 220. For this reason alone, the special exception was properly denied. **The court did not try to justify or require approval on the**

theory that many other locations would produce similar visibility problems. Otherwise stated, it is not necessary to have a worst case scenario and one of a kind in order to deny a special exception. (Emphasis supplied.)

As Judge Glenn Harrell reminded in Sharp v. Howard County Board of Appeals, 98 Md.App. 57, 85 (1993),

> "The duties given the Board are to judge whether the **neighboring properties in the general neighborhood would be adversely affected** and whether the use in the particular case is in harmony with the general purpose and intent of the plan." Citing *Schultz*. (Emphasis in original).

The County Board of Appeals, in determining whether to grant or deny a requested special exception for a church in an RC 2 zone, has previously analyzed the impact of a proposed church facility and found that it did not foster or support agricultural purposes and should be denied. The Board found that the church had impacts beyond on-site; that would disrupt the adjoining agricultural uses within the vicinity. See In the Matter of the Application of Meadowcliff, A New Covenant Church, Case No. 85-132-X (attached).

B. Specific Application of Carroll Community Church

Judge McWilliams in Turner stated... "The duties given the Board are to judge whether the neighboring properties and the general neighborhood would be adversely affected, and whether the use, in the particular case, is in harmony with the general purpose and intent of the zoning plan." Judge Cole in Holbrook stated, "The extent of any harm or disturbance to the neighboring area and uses is, of course, material." Judge Rita Davidson in Schultz stated that the test is "whether there are facts and circumstances that show that the particular use proposed at the particular location

would have any adverse effects above and beyond those inherently associated with such a special exception use irrespective of its location within the zone."

Utilizing those standards, the Protestants submit that in this particular case, the total facts presented to the Board establish clearly that the general neighborhood and neighboring properties will be adversely affected by the proposed facility. Examples of this adverse impact relate to the increased traffic, the size and bulk of the church and parking lots imposing on the aesthetics of the community, the impact on the environment, site distance and access concerns for traffic along Emory Road. Secondly, it is clear that the proposed facility is not in harmony with the general purpose and intent of the zoning plan for the RC 2 zone. It is clear that the proposed facility (forgetting for the moment the elimination of the site itself from agricultural use) significantly affects the surrounding agricultural uses from farming, to horse breeding and cattle raising. It negatively impacts the ability of farmers to farm the area because of interference of vehicular traffic with farming implements on Emory and Mt. Gilead Roads, and it further impacts the agricultural community insofar as Trenton Mill Farms and the Lippy Brothers Mill to continue to exist in a viable status. It runs counter to both Carroll County's and Baltimore County's Master Plans and agricultural preservation easement efforts in the area. As such, it is in the words of the Board of Appeals in Meadowcliff, "not supportive of agriculture both on site and in the vicinity," and furthermore, possibly "disrupt the adjoining agricultural uses within the vicinity."

Finally, the proposed facility will have a greater impact in this particular location than elsewhere in the RC 2 zone as suggested below in a discussion of the traditional

impacts related to a large facility of this nature.

Traditional Impacts

1. Traffic - The traffic impact of the facility on the subject site is far greater here than elsewhere in the RC 2 zone. While not obligated to present such comparison testimony, the Protestants provided evidence through Jack Dillon, Wallace Lippincott, Bill Hughey, Glen Elseroad that there are other areas in the RC 2 zone of sufficient size, comparable to the proposed site for the Carroll Community Church to construct such a facility where it would have less impact upon the road system. The witnesses suggested other properties located on Reisterstown Road, Hanover Pike, and Westminster Pike and Interstate 83 which are recognized major thoroughfares which could support the increased traffic better than the subject site. Other locations in the RC 2 zone as identified by the Protestants would provide less interference with the movement of agricultural vehicles (tractors, combines, etc.) than the present proposed location.

Secondly, the Protestants, as well as the expert testimony of Mickey Cornelius, recognized the dangerous intersection of Emory Road and Mt. Gilead Road. They also identified a site distance problem from the entrance of the church and Shirlee Elseroad's driveway in a southerly direction on Emory Road. It is not contested that the site distance in both of these locations is not good. In fact, the site distance to the intersection of Emory Road and Mt. Gilead is so bad that the State Highway Administration placed flashing lights to warn travelers in a southerly direction of the situation. It is also undisputed that some traffic to the proposed church facility will utilize Mt. Gilead Road. The testimony of numerous protestants established that it was

almost impossible to see to make a left turn from Mt. Gilead onto Emory to go in a southerly direction to the church entrance and that numerous accidents have occurred. All these factors distinguish the subject site from other areas in the RC 2 zone.

Thirdly, the testimony was that Mt. Gilead Road is not suitable for the amount of traffic for this size a facility. The Board will recall videos showing the narrow twists and turns of Mt. Gilead Road. The Board will also recall videos of Emory Road and the site distance problem at the intersection as well as Shirlee Elseroad's entrance.

2. Aesthetic Concerns - The size of the proposed facility and the location of the parking lot in front of the facility provide the appearance of a commercial operation located in a completely rural area of Baltimore County. The Protestants testified as to the visual impact of this large a facility and its extremely large parking lot on not only the nature and use of their own property but also on the value of their property being diminished by the proposed facility.

When one considers that the Court of Appeals sustained the denial of a Special Exception in Holbrook where the permanent placement of a mobile home 150 feet from a $147,000 home in an undeveloped wooded residential area was found to have a negative visual intrusion and a detriment to the character of the neighborhood -- if a Special Exception could be denied in Holbrook, it clearly is warranted in the instant case. Who can deny that a parking lot adjacent to Emory Road, the size of the proposed lot, and a building complex the size as proposed by Carroll Community Church here would have a detrimental impact on the rural farm neighborhood surrounding the subject site. If Holbrook could be sustained by the Court of Appeals, a decision to deny

Carroll Community Church its Special Exception is clearly defensible. Consider also People's Counsel v. Mangione, where poor access to a convalescent home in a residential zoned area was also denied and sustained by the Maryland Court of Special Appeals.

3. Environmental - The environmental impacts, as testified to by George Harmon, clearly impact this neighborhood based upon the size of the storm water management necessary for this facility, the well necessary to support 2,000 people in attendance at one service, and the potential drainage into the reservoir system of Baltimore City from this facility -- all are impacts which apply only to this site and to not apply to other sites located in the RC 2 zone.

Agricultural Impacts

In addition to the traditional impacts on the adjacent community, the Carroll Community Church has even more significant impact on the RC 2 zone in this location than in other RC 2 areas. The soils in the surrounding properties are clearly above average productive soils for farming in the RC 2 zone, as testified to by Rhode Mielke, Mary B. Gaines, Shirlee Elseroad, Jack Dillon, Wallace Lippincott, and Glen Elseroad. Lippincott also testified that the subject site is right in the middle of the Baltimore County area of Agricultural Preservation Program, the Maryland Agricultural Preservation Program, and the Carroll County Agricultural Preservation Program. Both counties seem determined to preserve the viability of agriculture in the area immediately surrounding the subject site. This differs from other RC 2 property. Furthermore, Lippincott described the "impermanence syndrome" theory which was undisputed by

the developer. The theory is that such a facility in this particular location will cause or produce additional development in the area, counter to the spirit and intent of the RC 2 zone. Lippincott likewise testified as to the surrounding farming activities such as horse breeding, cattle raising which will be impacted by the development of the subject site for this church. Lippincott testified as to the surrounding area containing Chester soil, which provides a yield of 135 to 200 bushels per acre. Lippincott testified that the Department of the Environment is strongly opposed to the proposed Special Exception being granted, as did Bill Hughey that the Planning Office likewise opposed the proposed facility. Their reasoning was strong and forceful. Lippincott, Hughey and Jack Dillon, representing the Valleys Planning Council, but himself a former land planner and zoning expert familiar with the RC zone agreed that there would be other locations in the RC 2 zone which would be less impacted by the proposed facility than this particular neighborhood.

C. Conclusion

In conclusion, Protestants submit that under the law of zoning applied to Special Exceptions by the appellate courts, that the Board of Appeals would be justified in denying the requested Special Exception. The Protestants themselves have established testimony in all three areas to support the denial. First, it is undeniable that this neighborhood would be adversely affected by the proposed large facility. Second, it is undeniable that the Carroll Community Church is not in harmony with the general purpose and intent of the zoning plan - specifically the RC 2 zone. Finally, it is clear that the impact of this large church would be greater at the subject site as opposed to

other locations in the RC 2 zone. Thus, having met the standards imposed on the granting of a special exception, the Protestants request that the Board of Appeals deny the special exception for the Carroll Community Church.

However, if the Board does determine to grant the special exception, George Harmon presented as an exhibit (Protestants' No. 72) a list of reasonable conditions requested by the community to be attached to the approval of the special exception.

Constitutionality

The Petitioner, CARROLL COMMUNITY CHURCH, has suggested that it intended to address Public Law 106-274, 106th Congress, as it applies to the subject site.

First, Protestants submit that it is beyond the jurisdiction of this Board to consider striking down the Baltimore County Zoning Regulations (BCZR) as it applies to special exceptions and to delineate churches as not being subject to the BCZR. Secondly, Protestants understand the PEOPLE'S COUNSEL has addressed this issue, and would adopt PEOPLE'S COUNSEL'S Memorandum.

Respectfully submitted,

J. CARROLL HOLZER
Holzer and Lee
508 Fairmount Avenue
Towson, MD 21286
(410) 825-6961

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 7th day of March, 2001, a copy of the foregoing Protestants' Memorandum for Special Exception was mailed to G. Scott Barhight, Esq., Whiteford, Taylor & Preston, 210 W. Pennsylvania Avenue, Towson, MD 21204, attorney for Petitioners, and to Peter Max Zimmerman, Esq., People's Counsel, and Carole S. Demilio, Esq., Deputy People's Counsel, Office of the People's Counsel for Baltimore County, Old Courthouse, Room 47, 400 Washington Avenue, Towson, MD 21204.

J. CARROLL HOLZER

IN THE MATTER OF	:	BEFORE
THE APPLICATION OF		
MEADOWCLIFF, A NEW COVENANT CHURCH	:	COUNTY BOARD OF APPEALS
FOR A SPECIAL EXCEPTION TO PERMIT		
A CHURCH AND ACCESSORY PARSONAGE	:	OF
N/s OF BELFAST ROAD, 340' EAST OF		
OLD BELFAST ROAD	:	BALTIMORE COUNTY
8th ELECTION DISTRICT		
3rd COUNCILMANIC DISTRICT	:	CASE NO. 85-132-X

: : : :

Baltimore County Zoning Regulations (B.C.Z.R.) 1A01.2.A states:

> "...Agricultural operations, when conducted in accordance with good and reasonable husbandry practices, shall be afforded preferential treatment over and above all other permitted uses in R.C. 2 zones."

B.C.Z.R. 1A01.2.C states:

> "The following uses, only, may be permitted by special exception in any R.C. 2 zone, provided that in each case the hearing authority empowered to hear the petition finds that the use would not be detrimental to the primary agricultural uses in its vicinity; and, in the case of any use permitted under Item 24, further provided that the hearing authority finds that the use would support the primary agricultural use in its vicinity and would not itself be situated on land more appropriately used for primary agricultural uses...." (emphasis added)

There was significant testimony that this parcel of R.C. 2 land is in fact prime agricultural land and, as such, the Board believes that it should be protected from the inroads of development and therefore maintained in an agricultural manner consistent with the spirit and intent of R.C. 2 zoning. A legislative history of B.C.Z.R. 1A01.2.C, as reflected in Bill No. 178-79, mandates that uses proposed within an R.C. 2 zone should support agricultural purposes. From the testimony and evidence received, we find as a fact that, if the proposed special exception were granted, the proposed use would not support agriculture both on-site and in the vicinity, but rather would dissect a working farm into several small parcels that may not lend themselves to profitable agricultural use and furthermore possibly disrupt the adjoining agricultural uses within the vicinity.

Section 502, B.C.Z.R., which designates the conditions for the granting of a special exception, states in 502.1.g that "the use for which the special exception is requested will not be inconsistent with the purposes of the property's zoning classification nor in any other way inconsistent with the spirit and intent of these zoning regulations."

Based upon the evidence received, it is the opinion of this Board that the proposed use as set forth in the Petition for Special Exception is not consistent with the spirit and intent of the B.C.Z.R. as stated in the above sections. Rather, we find that the use as proposed would be detrimental to the agricultural pursuits currently existing on-site and within the vicinity. Therefore, this Board must deny the Petition for Special Exception and will so order.

O R D E R

It is therefore this 14th day of July, 1987 by the County Board of Appeals of Baltimore County ORDERED that the special exception for a church and accessory parsonage be and the same is DENIED.

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

COUNTY BOARD OF APPEALS OF
BALTIMORE COUNTY

William T. Hackett
William T. Hackett, Chairman

Lawrence E. Schmidt
Lawrence E. Schmidt

Patricia Phipps
Patricia Phipps

2/7/00

In the matter of: Carroll Community Church, Inc., property located at 1701 Emory Road SEC Mt. Gilead and Emory Roads	* IN THE COUNTY BOARD OF APPEALS FOR BALTIMORE COUNTY
4th Election District 3rd Councilmanic District	*
Property Owner/ Developer / Petitioner: Carroll Community Church, Inc. 5220 Klees Mill Road Suite E Sykesville, MD 21784	* Case No:_____ DRC Case Nos. 12139D Related Case No. 99-503-X

* * * * *

PETITION ON APPEAL

Petitioner, Carroll Community Church, Inc., ("Petitioner") by and through its attorneys, G. Scott Barhight, Julie A. DiGrigoli and Whiteford, Taylor & Preston L.L.P., files this Petition on Appeal regarding the December 23, 1999 decision of Arnold Jablon, the Director of Baltimore County Permits and Development Management, to adopt the Development Review Committee's recommendation to deny Petitioner's request for a 26-171 exemption from the Baltimore County Development Regulations. In support of the instant appeal, Petitioner states:

1. Petitioner was a party to the proceedings before the Development Review Committee in this matter.

2. Petitioner requests the reversal of Arnold Jablon's December 23, 1999 Decision to deny its exemption request, on the basis that Mr. Jablon's

Decision is contrary to law and agency policy. The Development Review Committee should have found that the Petitioner was entitled to a 26-171 exemption from the Baltimore County Development Process. A Zoning Hearing was held in this matter on August 4, 1999 and August 26, 1999 to determine whether the Petitioner was entitled to a special exception to use the subject property for a church. By Order dated September 24, 1999, the Petitioner was granted a special exception, with conditions, to use the subject property for a church.

Respectfully submitted,

G. Scott Barhight
Julie A. DiGrigoli
Whiteford, Taylor & Preston L.L.P.
210 West Pennsylvania Avenue
Towson, Maryland 21204-4515
(410) 832-2000
Attorney for Petitioner,
Carroll Community Church, Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 7th day of February, 2000, a copy of the foregoing Petition On Appeal was mailed first class, postage prepaid to:

Virginia B. Norwood
c/o Ronald Comfort, Esquire
24 North Court Street
Westminster, MD 21157

Mr. George Harmon
5429 Weywood Drive
Reisterstown, MD 21136

Mr. Neil Ridgely
2108 Brookmead Court
Reisterstown, MD 21136

Mr. Glenn Elseroad
5423 Mt. Gilead Road
Reisterstown, MD 21136

Robert Sellers, Esquire
401 Washington Avenue
Suite 303
Towson, MD 21204

Mr. Jack Dillon
Valleys Planning Council
P. O. Box 5402
Towson, MD 21285-5402

G. Scott Barhight

187826

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

30 COLUMBIA CORPORATE CENTER
10440 LITTLE PATUXENT PARKWAY
COLUMBIA, MARYLAND 21044
TELEPHONE 410 884-0700
FAX 410 884-0719

G. SCOTT BARHIGHT
DIRECT NUMBER
410 832-2050
gbarhight@wtplaw com

WHITEFORD, TAYLOR & PRESTON
L.L.P.

210 WEST PENNSYLVANIA AVENUE
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TELEPHONE 202 659-6800
FAX 202 331-0573

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

February 7, 2000

Baltimore County Board of Appeals
Room 49, Old Courthouse
400 Washington Avenue
Towson, Maryland 21204

Re: Carroll Community Church, Inc.
1701 Emory Road
DRC Case No. 12139D
Related Case No. PDM-99-503-X

Dear Sir/Madam:

Enclosed please find Appellant/Petitioner, Carroll Community Church's Petition on Appeal for filing in the above-referenced matter.

Sincerely,

G. Scott Barhight

GSB:lgs
Enclosure
ccs: Virginia B. Norwood, Esquire
Mr. George Harmon
Mr. Neil Ridgely
Mr. Glenn Elseroad
Robert Sellers, Esquire
Mr. Jack Dillon

187859

RECEIVED
FEB - 7 PM 3:37
BALTIMORE COUNTY
BOARD OF APPEALS

APPEAL

Development Review Committee (DRC) Decision
Southeast corner of Emory Road and Mt Gilead Road
Carroll Community Church
Carroll Community Church, Inc. - Developer
4th Election District – 3rd Councilmanic District
DRC No. 12139D

CBA-00-105

Development Review Committee Request Form No 12139D

Letter to accompany request dated December 1, 1999 by Robert D. Capalongo

Site Plan to accompany request

DRC decision letter dated December 23, 1999

Notice of Appeal received January 24, 2000 from G. Scott Barhight, Esq., on behalf of Carroll Community Church, Inc.

PETITION ON APPEAL recd from G. Scott Barhight, ESQ. (rec'd 2-7-00)

NOTIFICATION LIST

G. SCOTT BARHIGHT, ESQUIRE
WHITEFORD TAYLOR & PRESTON LLC
210 WEST CHESAPEAKE AVENUE
TOWSON MD 21204-4515

CARROLL COMMUNITY CHURCH, INC.
5220 KLEES MILL RD SUITE E
SYKESVILLE MD 21784

THE ESTATE OF CATHERINE V BOND
VIRGINIA B NORWOOD PERS. REP.
c/o RONALD COMFORT ESQUIRE
24 NORTH COURT STREET
WESTMINSTER MD 21157

JACK DILLON
THE VALLEYS PLANNING COUNCIL
PO BOX 5402
TOWSON MD 21204

J CARROLL HOLZER, ESQUIRE - 3/6/00 - ENTERED APPEARANCE AS COUNCIL FOR "PROT."
HOLZER & LEE
508 FAIRMOUNT AVENUE
TOWSON MD 21286

HANOVER ROAD ASSOCIATION, INC., "PROT."
c/o GEORGE H HARMAN PRES
5429 WEYWOOD DRIVE
REISTERSTOWN MD 21136

E L BOND JR, "PROT."
1710 EMORY ROAD
REISTERSTOWN MD 21136

CHRIS L BOND, "PROT."
1566 EMORY CHURCH ROAD
UPPERCO MD 21155

MELVIN J FAIR, "PROT."
5907 MT GILEAD ROAD
REISTERSTOWN MD 21136

SHIRLEE GREEN ELSEROAD, "PROT."
1717 EMORY ROAD
REISTERSTOWN MD 21136

ROBERT SELLERS ESQUIRE
401 WASHINGTON AVENUE SUITE 303
TOWSON MD 21204

NEIL RIDGELY
2108 BROOKMEAD COURT
REISTERSTOWN MD 21136

MORRIS & RITCHIE ASSOCIATES INC
1522 DENTON ROAD
BALTIMORE MD 21221-6307

People's Counsel for Baltimore Co.
M.S. #2010

RECREATION & PARKS
M.S. #52

Robert W. Bowling PE /DPW
M.S. #1315

Donald Rascoe/PDM
M.S. #1105

Arnold Jablon, Director /PDM
M.S. 1105

VIRGINIA W BARNHART, CO. ATTY
M.S. 2209

Case No. 99-503-X — Carroll Community Church /SE –To use subject property as church per 1A01.2C.6 of BZR /9/24/99 –ZC GRANTED with restrictions and

Case No. CBA-00-105 — DRC Decision Letter from Arnold Jablon – b(9) limited exemption request is DENIED.

4/06/00 –Notice of Assignment for hearing scheduled for Tuesday, June 20, 2000 at 10:00 a.m. /Day #1; Wednesday, June 21, 2000 at 10:00 a.m. /Day #2; and Thursday, July 6, 2000 at 10:00 a.m. /Day #3 sent to the following:

J. Carroll Holzer, Esquire
E.L. Bond, Jr. Melvin J. Fair
Chris L. Bond Shirlee Green Elseroad
Glen Elseroad
G. Scott Barhight, Esquire
Carroll Community Church
Virginia B. Norwood, PR /Est of Catherine Bond
George H. Harman
Neil Ridgely
Robert Sellers, Esquire
Jack Dillon /Valleys Planning Council
People's Counsel for Baltimore County
Pat Keller, Director /Planning
Lawrence Schmidt, Z.C.
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney
Robert W. Bowling PE /DPW
Recreation & Parks
Donald Rascoe /PDM

4/14/00 –Letter from J. Carroll Holzer, Esquire; 6/20 and 6/21/00 are clear on his calendar; however, he has a conflict with the 7/06/00 hearing date. In response to Mr. Holzer's question: T/C to S. Leese – DRC appeal is also in for hearing as scheduled above and is noted on the Notice of Assignment sent out on 4/06/00.

4/21/00 –Notice of PP and Reassignment sent to parties; days 1 and 2 remain unchanged; day #3 postponed to Wednesday, August 2, 2000 at 10:00 a.m. FYI copy to panel members.

4/26/00 –Letter from G. Scott Barhight, Esquire, requesting reschedule of 8/02/00 date; he will be out of the country during that week.

4/27/00 –Second Notice of PP and Reassignment sent to parties; day #3 changed from 8/02/00 to 8/23/00; day #3 is now scheduled for Wednesday, August 23, 2000 at 10:00 a.m. (days 1 and 2 remain as Tuesday 6/20 and Wednesday, 6/21/00).

6/20/00 –Concluded Day #1 (Stahl, Marks, Felling); to 6/21 for day #2.

6/21/00 –Concluded Day #2. Scheduling conference with counsel for additional dates; to be assigned for 8/22, 8/23, 10/18 and 10/19 for days 3 through6. Notice to be sent.

6/23/00 –Notice of Assignment sent to parties; assigned for Tuesday, August 22, 2000 for Day #3; Wednesday, August 23, 2000 (as previously scheduled) now for Day #4; Wednesday, October 18, 2000 for Day #5; and Thursday, October 19, 2000 for Day #6, all beginning at 10:00 a.m. Dates confirmed with counsel. FYI copy to LCF.

8/09/00 – Authorization of the Board of Directors of the Finksburg Planning Council, Inc., submitted by Cornelius M. Ridgely, Communications Director /Finksburg Planning Area Coucil, Inc.

8/22/00 – Concluded Day #3; to reconvene on 8/23/00 for day #4. (L.C.F.)

Continued to page 2

8/23/00 – Concluded Day #4; additional date of 8/30 added (case previously scheduled for that date was PP'd); all parties agreed to this additional date (unavailability of two witnesses per C. Demilio); Amended Notice of Assignment sent to parties this date; additional day added; Day #5 = Wednesday, August 30, 2000 at 10:00 a.m.; the last two days (now 6 and 7) will remain on 10/18/00 and 10/19/00 both at 10 a.m.

8/30/00 –Concluded Day #5; assigned one hour on 9/26/00 for one witness only (day #6); retained 10/18 and 10/19/00 as days 7 and 8. Second Amended Notice sent to parties this date for Tuesday, September 26, 2000 at 9:30 a.m. for one hour only (#6); and already scheduled dates of October 18 and October 19, 2000 at 10 a.m.

9/26/00 –Convened for testimony of one witness as scheduled; day #6 concluded. To reconvene on 10/18/00 for Day #7.

10/16/00 –T/C from J. Long; attempted service of subpoena for Carol McEvoy by Sterling Leese (J. Carroll Holzer, Esquire); Planning did not accept service; C. McEvoy no longer employed there; did not accept service because it is unknown who would be available and able to testify and accept the subpoena in lieu of Ms. McEvoy.

10/18/00 –Concluded day #7; to convene on Thursday, 10/19/00 for day #8. (L.C.F.)

10/19/00 –Official file from Bob Bowling provided to Board via subpoena by Carroll Holzer.
-- Concluded day 8; to be assigned two additional days upon confirmation of availability (awaiting T/C from Sterling or C. Holzer – re: 1/04/01. If 1/04/01 is okay with JCH, 1/04/01 will be day #9; 1/25/01 will be #10. If 1/04/01 is not okay for JCH, then 1/25/01 will be day #9 and 2/15/01 will be day #10. To send new notice out on 10/20/00 upon receipt of call from C. Holzer or S. Leese.

10/20/00 –Notice of Assignment for days 9 and 10 sent to parties (scheduled dates agreed to by counsel and confirmed); assigned for Thursday, January 25, 2001 at 9:30 a.m. (day #9) and Thursday, February 15, 2001 at 9:30 a.m. (day #10). FYI copy to Stahl, Marks, and Felling.

11/09/00 –Letter from Carole Demilio, Deputy PC – Petitioner's Exhibit #5 /Excerpt from US Dept of Ag's Balto Co Soil Survey (specific 13 pages including cover). Marked and placed in file.

1/25/01 – Concluded hearing in this matter (total of 9 days); February date no longer needed. Memos due from counsel 3/07/01; deliberation to be scheduled and notice sent. (L.C.F.)

1/29/01 – Notice of Deliberation sent to parties; scheduled for Tuesday, March 27, 2001 at 11:30 a.m.; copy to Stahl, Felling and Marks.

2/09/01 – 2000 Official Zoning Maps (200' scale) /next two exhibits for People's Counsel's /Protestants' case. To be added to exhibits upon consultation with LFC.

3/07/01 – Memos filed by: People's Counsel for Baltimore County;
--Protestants' Memorandum for DRC Appeal and Memorandum for Special Exception filed by J. Carroll Holzer, Esquire;
-- Memorandum of Law in Lieu of Closing Argument filed by G. Scott Barhight, Esquire.
Copies to be forwarded to L.F.C.; deliberation scheduled for 3/27/01.

3/13/01 – Letter to counsel; in light of the fact that Counsel for Petitioner is challenging Baltimore County law under a Federal statute, the County Attorney's office will have until 4/03/01 to file a memo on limited issue of RLUIPA; with response to same from any counsel wishing to do so being due no later than 4/24/01; deliberation pulled on Board's own motion from 3/27/01 date; to be reassigned in consultation with counsel.

3/21/01 – Letter from Scott Barhight regarding above letter and his position to same; also requesting that the Board reschedule the deliberation in this matter to March 27th as originally assigned. kcb conferred with Board; to send letter on 3/22/01.

3/22/01 – Letter to S. Barhight – Understand his point of view; nevertheless the Board has determined to allow the County Attorney to file a Memorandum; to allow anyone who wishes to respond to same to do so; and has rescheduled the deliberation to Tuesday, May 1, 2001 at 1:00 pm. (Notice included with letter.) Copies to all counsel (letter); notice to all parties. (Copies to counsel via FAX this date; originals via first class mail.)

3/30/01 – Memorandum filed by Amanda Conn, Assistant County Attorney, on behalf of the County Attorney's Office regarding this matter. (County Attorney's Office declined to offer advice specifically in context of CCC proceeding; instead, will advise the Board as empowered to do so by the County Charter.) Copies were sent by Ms. Conn to all counsel. Copies to be given to C.L.F. during the week of 4/02/01.

4/24/01 – Appellant's Reply Memorandum of Law filed by G. Scott Barhight, Esquire. Copies to L.C.F. on 4/25/01.

4/26/01 – Letter filed by Pete Zimmerman – objecting to above filing ("new argument" rather than "reply"). Copy to L.F.C. this date by first class mail.

5/01/01 – Letter from G. Scott Barhight – in response to People's Counsel's 4/26/01 correspondence to the Board. -- Deliberation concluded; G –special exception with conditions as discussed and agreed at deliberation; b(9) limited exemption APPROVED (PDM /DRC decision reversed). Written Opinion and Order to be issued; appellate period to run from date of written Order.

NOTE: Memos in CBA-00-105

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 7th day of March, 2001, a copy of Petitioner/Appellant Carroll Community Church's Memorandum of Law was mailed first-class, postage prepaid to the following:

J. Carroll Holzer, Esquire
Holzer & Lee
The 508 Building
508 Fairmount Avenue
Towson, MD 21286

Carole S. DeMilio, Esquire
People's County for Baltimore County
Old Courthouse - Basement
Towson, MD 21204

G. Scott Barhight

9/27/99

IN RE: PETITION FOR SPECIAL EXCEPTION SE/Corner Mt. Gilead and Emory Roads (1701 Emory Road) 4th Election District 3rd Councilmanic District	*	BEFORE THE ZONING COMMISSIONER OF BALTIMORE COUNTY
The Estate of Catherine V. Bond, Owners; Carroll Community Church, Inc., Contract Purchasers - Petitioners	*	Case No. 99-503-X

* * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Special Exception filed by the owner of the subject property, The Estate of Catherine V. Bond, through Virginia B. Norwood, Personal Representative, and by the Contract Purchasers, Carroll Community Church, Inc. The Petitioners request a special exception to use the subject property for a church, pursuant to Section 1A01.2C.6 of the Baltimore County Zoning Regulations (B.C.Z.R.). The subject property and requested relief are more particularly shown on the site plan to accompany the Petition for Special Exception, which was accepted into evidence and marked as Petitioner's Exhibit 1.

Appearing at the requisite public hearing in support of the request was Pastor Joseph Duke, senior Pastor of Carroll Community Church, co-Petitioner/Contract Purchaser, and several members of the congregation. Appearing and testifying on behalf of the Petitioners were Mickey Cornelius, Traffic Engineer/Transportation Planner; Robert Bradley, a registered Civil Engineer and Timothy Madden, a registered Landscape Architect, both from Morris Ritchie & Associates, Inc., the land use consulting firm which prepared the site plan for this project. The Petitioners were represented by G. Scott Barhight, Esquire.

A large number of individuals appeared in opposition to the request on the two days of hearing (August 4, 1999 and August 26, 1999). The Protestants were not represented by Counsel; however three individuals, namely, George Harmon, Neil Ridgely and Glenn Elseroad served as

spokesmen for the group. A large number of other individuals either appeared and/or testified at the hearing in opposition to the request, and their attendance is reflected on the sign-in sheets that were circulated at the hearing. Also appearing and testifying in opposition to the request was William Hughey from the Baltimore County Office of Planning.

An examination of the site plan shows that the subject property is a large, irregularly shaped tract of land located immediately adjacent to the intersection of Emory Road (Maryland Route 91) and Mt. Gilead Road in northwestern Baltimore County, at the Baltimore County/Carroll County line. The property consists of a gross area of 68.89 acres, more or less, split zoned R.C.2 (48.90 acres) and R.C.4 (15.76 acres). The Baltimore County/Carroll County line transects the property, leaving a small sliver of land (4.23 acres) in the front portion of the site immediately adjacent to Emory Road in Carroll County. The balance of the site is located in Baltimore County and comprises 64.66 acres.

As noted above, the property is split zoned R.C.2/R.C.4. These are both "resource conservation" zones. The R.C.2 zone is the most restrictive land use zone in Baltimore County. That Section of the B.C.Z.R. which describes the Resource Conservation zones provides that the general purpose of the R.C.2 zone is to preserve and protect agricultural lands; whereas, the purpose and intent of the R.C.4 zone is to protect watershed areas of Baltimore County. (See Section 1A00, et sec, of the B.C.Z.R.). Nonetheless, a church is a permitted use, by special exception, in both the R.C.2 and R.C.4 zones. The proposed buildings and area of the site to be used for purposes related to the church are entirely within the R.C.2 zone.

Testimony was received from the aforementioned Pastor Duke. Pastor Duke described his role as a "teaching and preaching" minister and described the character of the Carroll Community Church congregation. Apparently, the Church directory now lists approximately 1,000 individual members; however, typically approximately 600-700 members attend church on any given Sunday. Pastor Duke has been a minister for approximately 20 years and has been affiliated with the Carroll Community Church for approximately 12 years. At this time, the Church does not have a permanent physical home. Its Sunday services are now conducted at the

Liberty High School. Apparently, the Church has been looking for a site to develop with a church building for a number of years. After a lengthy search, the Church Trustees and Elders decided that the subject site would be appropriate.

As more particularly shown on the site plan, the Church proposes to develop the site with a substantially sized main church building. The building will be 50 feet in height and accommodate a 2,000-seat sanctuary. Additionally, other areas of the building will be used for incidental purposes, including office space, meeting rooms, etc. Additionally, a small, 50' x 60' building is proposed for the rear of the site to be known as the "Lodge". The Lodge will be used for meetings and retreats. In addition to these two buildings, a portion of the site is also proposed for use as a multi-purpose athletic field. This field will not be lighted, but used by members of the Church (adults and children) for physical activities.

A fair review of Pastor Duke's testimony about the Church's intentions led this Commissioner to find that he was long on generalities and short on specifics. Although he repeatedly indicated that the Church wanted to be a good neighbor and did not wish to adopt an adversarial role with residents of the area, he was unable to answer many of the specific questions directed to him during cross-examination. Nonetheless, he did agree to a number of stipulations (to be discussed hereinafter) which will restrict the nature of the activities on site.

Also testifying on behalf of the Petition was Mickey Cornelius, an expert in traffic engineering. Mr. Cornelius testified extensively about the studies that he had undertaken to determine whether the immediate road system could support the proposed use. Mr. Cornelius particularly observed that, unlike other R.C.2 zoned properties in Baltimore County, the subject site enjoys the benefit of being located next to a State road (Maryland Route 91). Thus, access to the site is relatively easy from either Maryland Route 30 (Hanover Pike) to the north, or Maryland Route 140 (Westminster Pike) to the south. Although none of these Maryland routes are to be confused with the interstate system (i.e., I-795, I-83, etc.) these routes, although rural in character, are not the typical winding country lanes which dominate much of the R.C.-zoned lands in Baltimore County. That is, there are major traffic arteries in the County's rural areas.

Mr. Cornelius presented a summary of his findings, including traffic counts and his opinion as to anticipated traffic volumes. He opined that Maryland Route 91 can accommodate existing and proposed traffic volumes which will be increased as a result of this Church. He also noted that the sight distance from the proposed entrance is excellent and that road improvements would be made to add an acceleration/deceleration lane. In sum, Mr. Cornelius opined that the proposed use would not cause a detrimental impact on the traffic system and nearby roads and could easily accommodate this use.

Also testifying on behalf of the Petitioner was Robert Bradley, a registered Civil Engineer from Morris Ritchie & Associates, Inc. Mr. Bradley described in great detail the plan and the proposal. He also addressed, point by point, the prongs of Section 502.1 of the B.C.Z.R. This Section contains the standards that must be applied for the consideration of any special exception. Mr. Bradley opined in conclusion that the proposed use would not be detrimental to the health, safety or general welfare of the locale and met the special exception test. In his judgment, the Petition for Special Exception should be approved.

Lastly, testimony was offered from Mr. Madden, a Landscape Architect. Mr. Madden indicated that he had reviewed the records of the United States Soil Conservation Service regarding the soils on this site. This review and his investigation led him to the conclusion that although the soils are prime and productive, as defined, they are not at the same level of high quality for agriculture as other soils located in Baltimore County. That is, Mr. Madden disputed the contention of the Protestants that this is valuable farm land and that its present agricultural use should not be lost.

As noted above, there was significant testimony offered by the numerous Protestants who appeared. The testimony from each individual cannot be recounted here in view of its length. Nonetheless, suffice it to say that many of the residents expressed concerning over traffic, loss of open space, loss of agriculture, and their belief that the proposed use was incompatible with the rural character of the immediate vicinity. Testimony was also received from Mr. Hughey from the Office of Planning. He expressed concerns about the proposed special exception. Indeed, his

written Zoning Advisory Committee comment on behalf of the Office of Planning is in the file and a part of the record. (A similar comment was received from Wallace Lippincott on behalf of the Department of Environmental Protection and Resource Management.) His concerns particularly related to the ongoing stress of the conversion of agricultural properties to more urban-type uses. That is, he is concerned that the loss of this agricultural site will cause undue stress on the agriculture industry in the County.

During my tenure as Zoning Commissioner, I have frequently been called upon to consider Petitions for Special Exceptions. In my written opinions in those cases, I have often discussed the "law of special exceptions" and the confusion often engendered on the public by this term. It bears repeating that the B.C.Z.R. classifies the permissibility of land uses in a given zone in one of three categories. For each zone, uses are either permitted by right; prohibited; or, permitted by special exception. Those uses permitted by right are automatically allowed without the necessity of the Petitioner undergoing zoning review through a public hearing. Prohibited uses are not allowed, no matter what the circumstance. The middle-ground uses are characterized in Baltimore County as "special exception uses". In other jurisdictions, they are known as "conditional uses". Special exception uses are permitted only after a public hearing during which the property owner must demonstrate that the proposed use satisfies the standards for special exceptions set forth in section 502.1 of the B.C.Z.R.

A special exception is actually neither "special" nor "exceptional". Special exception uses are not to be confused with zoning variances (See Cromwell v. Ward, 102 Md. App. 691 (1995)). As stated in that case, "Thus, a special exception is not truly an exception to the zoning regulations at all." (Cromwell, Pg. 702). As noted above, the phrase "conditional use" is far more accurate in terms of defining special exceptions.

The seminal case in Maryland for special exceptions is Schultz v. Pritts, 291 Md. 1 (1981). In Schultz, the Court repeated the often stated principle that "(a) special exception use is a part of the comprehensive zoning plan sharing the presumption that, as such, it is in the interest of the general welfare and therefore valid." Page 11.

In an another case, the Court of Special Appeals stated that a special exception use, "...is a use which has been legislatively predetermined to be conditionally compatible with the uses permitted as of right in a particular zone, the condition being that a zoning body must, in each (case), decide under specified statutory standards whether the presumptive compatibility exists." People's Counsel v. Mangione, 85 Md. App. 738 (1991) at 747-948.

The law of special exceptions was also recently delineated in a reported decision before the Court of Special Appeals in Mossberg v. Montgomery Co., Md., 107 Md. App. 1 (1995). In that case, a property owner in Montgomery County sought special exception (conditional use) approval for a solid waste transfer station. In discussing the permissibility of such a use under the condition use/special exception statute, the Court of Special Appeals noted that the mere existence of impacts from the proposed use cannot serve as a basis for denial of a Petition. Stated the Court, "Moreover, it is not whether a use permitted by way of a special exception will have adverse effects (adverse effects are implied in the first instance by making such uses conditional uses or special exceptions rather than permitted uses), it is whether the adverse effects in a particular location would be greater than the adverse effects ordinarily associated with a particular use that is to be considered by the agency." Pages 8-9. Further on, the Court noted that the question was "...not whether a solid waste transfer station has adverse effects. It inherently has them. The question is also not whether the solid waste transfer station issue here will have adverse effects at this proposed location. Certainly it will, and those adverse effects are contemplated by the statute. The proper question is whether those adverse affects are above and beyond, i.e., greater here, than they would generally be elsewhere within the areas of the County where they may be established..." Page 9, (emphasis in original).

Applying the holdings of these cases to the case before me, the question is therefore not whether the proposed church will have adverse impacts on the surrounding locale. By virtue of the fact that a church is permitted in an R.C.2 zone only by special exception, it is clear that the County Council envisioned that churches would have such impacts. The question rather, is whether those impacts are particularly egregious here. Simply stated, the Zoning Commissioner

must apply the standards and criteria set out in Section 502.1 to the proposed use and surrounding locale, all in accordance with the holdings in Schultz and Mossberg, infra.

Before adjudging those impacts, consideration must be given first to an issue raised by many of the Protestants and emphasized by Mr. Hughey of the Office of Planning. That issue relates to the loss of the subject property as a farm. As noted above, and visible during the two site inspections which I conducted of the property's environs, much of the property is presently in crop. There can be no doubt that agriculture is a major and valued industry in Baltimore County. The agricultural tradition and industry in Baltimore County is rich indeed. This Zoning Commissioner recognizes the obvious; that agriculture in Baltimore County is vital, not only economically, but as a part of the very fabric of this County.

Moreover, the loss of agricultural land is a serious problem which is confronting Baltimore County. This is not just a County issue, but is a regional, State and national concern. Recent discussions of "smart growth" and "urban sprawl" emphasize the importance of this issue. With all that being said, one must recognize the role of the Zoning Commissioner. I am neither a policy-maker nor legislator. I do not set policy, nor draft the B.C.Z.R. Rather, I interpret, administer and apply the regulations promulgated by the legislature/executive branches of County government. If Baltimore County or the State of Maryland desires to implement a prohibition or a policy regulating the loss of farmland and agricultural interests, it must be done legislatively.

Much of the testimony offered in the present case brought to mind that testimony offered when this Zoning Commissioner considered the application for a special exception on the Hayfields farm case. In that case, members of the Mangione family petitioned for special exception approval for a country club/golf course. Special exception and development plan approval was ultimately received and the project has been built. The Protestants who appeared at that case bemoaned the loss of farmland. In the decision which I rendered in that case, I observed those Protestants' concerns and noted that they were not relevant to the issue to be decided by me. I concluded that it was not the impact on the subject property itself by the special exception which was at issue; rather, the impact of the proposed use on the surrounding locale. At the hearing in

that case, I stated that the loss of the Hayfields property as a working farm was not relevant in the context of the matter before me.

My decision was appealed and ultimately considered by the Court of Special Appeals. In a reported opinion, the Court discussed the identical issue and held and produced a similar finding. The Court undertook careful analysis of a number of prior special exception cases which had found their way to the Appellate Courts of the State of Maryland. In discussing Board of Appeals' analysis of this issue, which reached the same result as this Zoning Commissioner, the Court stated "The Board, therefore, correctly limited its adverse impacts analysis under B.C.Z.R., Section 502.1, as modified by the language in Schultz, to offsite effects."

Based upon this ruling, I cannot consider the testimony offered regarding the loss of the use of the subject property as a farm. To many it may be regrettable that this acreage will no longer produce crops. Although there is much merit to that approach from a land-planning standpoint, it is not the basis upon which relief can be denied under application for a special exception.[1]

Although the loss of the use of this property as a farm cannot properly be considered, the impacts on the surrounding locale are indeed germane. As identified by the Protestants, there are many such impacts which must be considered, including transportation/traffic effects, loss of open space/overcrowding, impact on the agricultural operations within the vicinity, etc.

Turning first to the traffic/transportation issue, testimony was received regarding this factor from both Mr. Cornelius, on behalf of the Petitioner, and from residents of the area. As noted above, Mr. Cornelius is a traffic engineer by occupation and he undertook a study of the road system in the vicinity. As noted above, the subject property is located immediately adjacent to Maryland Route 91 (Emory Road). The property also borders Mt. Gilead Road, a small country lane. Mr. Cornelius opined that the property's location adjacent to Emory Road was a favorable

[1] It is to be noted that the Protestants argue that given the R.C.2 zoning classification's purpose of fostering/protecting agriculture, an urban use (i.e., a church) should not be permitted. Such an argument is at odds with the fact that certain non-agricultural uses (i.e., a church) are permitted by special exception in the R.C.2 zone. That is, although the B.C.Z.R. envisions agricultural preservation as part of the R.C.2 zone scheme, the regulations do not restrict appropriate land uses in that zone to agricultural pursuits, only.

factor, insofar as anticipated traffic generation. Although Emory Road (Maryland Route 91) is a single land roadway in each direction, it is a major route through this rural area of Baltimore County/Carroll County. It is anticipated that access to the site will be entirely from Emory Road and there will be no means of ingress/egress from Mr. Gilead Road. In that the Church is a regional facility, and attracts congregates from throughout Baltimore County and Carroll County, most individuals will come to the site from Maryland Route 30 (Hanover Pike) to Maryland Route 91 from the north or Maryland Route 140 (Westminster Pike) from the south.

Mr. Cornelius did traffic studies, including road counts, during a seven-day period in July, 1999. Based on these studies, he opined that Maryland Route 91 has sufficient capacity to accommodate the proposed volumes of traffic. This is particularly so in that the peak hours of traffic generated to the property (Sunday mornings) is the period of time when the lowest volume of traffic is generally on that road. Mr. Cornelius also opined that the sight distance from the proposed entrance/exit to the site is excellent in both directions and that a church, as compared to other potential uses of the property, would generate less traffic.

Despite Mr. Cornelius' excellent presentation, the Protestants from the community are rightfully concerned over traffic issues. They correctly note that Maryland Route 91 is but a single lane road in both directions and that the intersection of Mt. Gilead Road and Maryland Route 91 is difficult, particularly for traffic turning from Mt. Gilead Road to the east and Emory Church Road to the west.[2] Indeed, I visited the site on two occasions and drove the roads from all directions. From Maryland Route 30 (Hanover Pike), one can access the site from either Mt. Gilead Road or Emory Road (Maryland Route 91). Mt. Gilead Road is indeed a small, winding country road which cannot accommodate substantial volumes of traffic.

In sum, in addressing the traffic/transportation issue, it appears that the site can accommodate some use as a church. I accept much of the testimony offered by Mr. Cornelius. Indeed, Maryland Route 91 provides reasonable access. Admittedly, it is not an interstate and the

[2] The roadway designated Mt. Gilead Road changes names at the Maryland Route 91 intersection. The other side of Maryland Route 91 from this property (west), the road becomes Emory Church Road.

access to this R.C.2 zoned portion of the site is not as favorable as other similarly zoned properties in the County (i.e., those immediately adjacent to I-83, for example). Nonetheless, the sight distance is acceptable. The road, with the proposed improvements of an acceleration/deceleration lane, and anticipated traffic volumes, are persuasive to my finding that the use of the property for a church meets the special exception criteria regarding transportation/traffic, as set out in Section 502.1, and construed by the Court in Schultz and Mossberg, infra.

A second issue raised relates to the scope of the project; specifically, the size of the building and the nature of the project. Indeed, Section 502.1D of the B.C.Z.R. requires the Zoning Commissioner to evaluate whether the project would overcrowd land or cause undue concentration of population. Testimony and evidence presented was that the proposal constitutes a regional church. That is, unlike what might be normally considered a country church with a local congregation, the proposed facility will attract individuals from a somewhat wide geographic area. This impacts obviously not only traffic, but the proposed size of the building. As noted above, there are a thousand members of the congregation now and the Church apparently intends to grow.

Many of the Protestants inferred that the drafters of the B.C.Z.R., in permitting a church by special exception, intended to limit that use to a small facility envisioned as a traditional country church. That is, these Protestants believe that any church on the property should be local in character and not a regional facility.

A review of the B.C.Z.R. discloses no such limitation. Had the drafters of the B.C.Z.R. intended to differentiate types of churches, they could have done so. They did not and thus, I can confer no such distinction. For the purposes of the B.C.Z.R., a church is a church, no matter what its size, denomination, or regional versus local character. Obviously, the proposal itself must be evaluated in terms of the criteria set out in Section 502.1 (traffic generated, impact on the environment, etc.), but the mere fact that this church draws from a large area is not the basis upon which the Petition for Special Exception can be denied. It is a factor, however, in determining what, if any, restrictions, would be appropriate.

The third issue relates to the impact of the property on the environment. In this regard, the plan shows an area of wetlands, floodplain, stream and forest. The project has been designed to preserve and protect these natural resources. The church will be required to comply with all applicable standards and regulations relating to well and septic issues. Additionally, the forest easement and forest buffer provisions will be met. In sum, I find no environmental constraints unique to this property which would justify a denial of the special exception. The area of construction and disturbance is reasonable in context with the area of the entire site. As noted above, the Petitioner will be required to comply with all environmental standards and regulations of Baltimore County and of the State of Maryland. For so long as these requirements are met, the special exception can be approved. There was no competent testimony or evidence in the record of this case that compliance cannot be attained.

Another issue raised during the course of the testimony relates to the standards set out in Section 502.1C of the B.C.Z.R. Therein, a special exception cannot be granted if the proposed use would create a potential hazard from fire, panic, or other danger. Given the location of the site, this is a relevant issue here. Testimony was offered regarding the nearest fire station and access to emergency services. Unlike more suburban areas, this site is not near a fire house or other public safety headquarters. Testimony and evidence offered was that the closest fire department was the Reese Fire Station located in Carroll County on Maryland Route 140 (Westminster Pike). Although the proposal is required to meet the rural fire suppression requirements recently enacted by Baltimore County, the size of the proposed structure causes concern when considering public safety issues.

Although the loss of the property as a farm is not the proper criteria upon which the special exception may be adjudged, as set out herein, the impacts on the agricultural vicinity should be considered. The primary impact in this regard ties into considerations over traffic volumes. As was indicated during testimony at the hearing, increased volumes of traffic along the rural routes in Maryland frequently is at odds with efforts by farmers to move their crop and utilize the country road system for moving farm equipment and machinery. This is an issue common to

all the rural/agricultural areas in Baltimore County and would not justify a denial of the special exception. However, it is a factor upon which limitation of the facility must be considered.

After taking into account all of these factors as discussed above and identified at the hearing, I am persuaded that the Petition for Special Exception should be granted. In my judgment, the applicant meets the standards set out in Section 502.1 of the B.C.Z.R., as construed by Schultz v. Pritts and Mossberg v. Montgomery Co., infra. Although I recognize that there will be impacts associated with this proposal upon the surrounding locale, I do not find that those impacts are particularly unique here and would justify a denial of the Petition. However, I am concerned about the massive size of the proposed use and physical facility. A building of the size proposed is inappropriate. For this reason, I will enter a series of modifications and restrictions, pursuant to the authority conferred on me in Section 502.2 of the B.C.Z.R. These restrictions shall be entered to afford protection of the surrounding and neighboring properties. In my judgment, although a church use on the site is appropriate, the proposal as presented is simply too large in its size and scope and must be limited in order to preserve and not disrupt the rural/agricultural nature of this locale. Some of the restrictions that follow were agreed to by the Petitioner, others are based upon the recommendations of the community, and all are pursuant to this Zoning Commissioner's discretion.

1) The Church shall be modified to provide a maximum seating capacity of 1200 seats. Unfortunately, the interior floor plans of the proposed building were not made available and it is unclear as to the precise square footage of the proposed sanctuary area; only the total square footage of the building is shown. The Petitioner shall submit for review by this zoning Commissioner floor plans for the building showing a maximum seating area in the sanctuary of 1200 seats and a reasonably corresponding reduction in building size.

2) Having reduced the size of the sanctuary, corresponding reduction in the size of the parking lot is required. Section 409 of the B.C.Z.R. requires 1 parking space for every 4 persons. The parking lot shall therefore be reduced accordingly and the plan amended to show an appropriate reduction in the paved area.

3) There will be no lighting of the proposed athletic field or activity thereon after dusk.

4) Other than the temporary construction of buildings, there will be no permanent structures on the site other than the proposed church building and lodge, as more particularly shown on the site plan. The addition of any such structures in the future shall require a public hearing through a Petition for Special Hearing to amend the plan.

5) There will be no freestanding antenna or broadcast towers on this site.

6) Any day care provided on the site shall be limited to church members only. No commercial day care operation will be allowed.

7) The church building and lodge shall be constructed of brick, stone or similar materials and building elevation drawings of the modified building shall be submitted to the Office of Planning for review and approval prior to the issuance of any building permits. This will insure that the architectural design of the proposed building and the materials used for the construction thereof are compatible with the surrounding locale. Approval of such plans by the Office of Planning shall not be unreasonably withheld.

8) A landscape plan shall be submitted for review and approval by Avery Harden, the Landscape Architect for Baltimore County. The landscaping shall be designed to buffer the proposed parking lot and church building and areas of active use on the property, and shall include those areas of the site in Carroll County. Landscaping shall be provided in accordance with the Landscape Architect's recommendation.

9) Alcoholic beverages shall not be permitted outside the church and lodge building.

10) The Petitioner shall not allow all terrain vehicles, dirt bikes, motorcycles, or other similar vehicles to use the property.

11) The use of the buildings and facilities shall be restricted to activities with the church or non-profit enterprises. There shall be no commercial activities permitted, including leasing of the premises for non-church related banquet/catering activities.

12) Lighting of the building and parking lot shall be minimal and sufficient only to insure security. A lighting plan shall be submitted to the Office of Planning for review and approval.

13) There shall be no vehicular access to the site from Mt. Gilead Road.

With the implementation of these restrictions, I believe that the proposed special exception can be granted. The Petitioner shall also submit the project for review through the Baltimore County's development review process, as codified in Title 26 of the Baltimore County Code.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons set forth above, the Petition for Special Exception shall be granted, subject to certain restrictions as set forth herein.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 24th day of September, 1999 that the Petition for Special Exception to use the subject property for a church, pursuant to Section 1A01.2C.6 of the Baltimore County Zoning Regulations (B.C.Z.R.), be and is hereby GRANTED, subject to the restrictions set forth below and more fully described herein:

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

2) Prior to the issuance of any permits, the Petitioner shall submit for review by this Zoning Commissioner and the Office of Planning, floor plans of the modified building showing a maximum seating area in the sanctuary for 1200 individuals.

3) Having reduced the size of the sanctuary, the size of the parking area shall be reduced accordingly.

4) Prior to the issuance of any building permits, a revised site plan incorporating the modified relief granted herein shall be submitted for incorporation into the case file.

5) Building elevation drawings of the proposed building (as modified) shall be submitted to the Office of Planning for review and approval prior to the issuance of any building permits. The architectural design of the proposed building and the materials used thereon shall be compatible with the surrounding locale.

6) The church building and lodge shall be constructed of brick, stone or similar material.

7) Prior to the issuance of any permits, a landscape plan shall be submitted for review and approval by Mr. Avery Harden, Landscape Architect for Baltimore County. The landscaping shall be designed to buffer the proposed parking lot and church building and areas of active use on the property, including those areas of the site in Carroll County.

8) Lighting of the building and parking lot shall be minimal and sufficient only to insure security. A lighting plan shall be submitted to the Office of Planning for review and approval.

9) There will be no lighting of the proposed athletic field or activities thereon after dusk.

10) Other than the temporary construction of buildings, there will be no permanent structures on the site other than the proposed church building and lodge, as more particularly shown on the site plan.

11) The use of the buildings and facilities shall be restricted to activities associated with the church or for non-profit enterprises. There shall be no commercial activities permitted. Moreover, the leasing of the premises for non-church related banquet or catering activities shall not be permitted.

12) Any day care provided on the site shall be limited to church members only. No commercial day care operation will be allowed.

13) There will be no freestanding antenna or broadcast towers on this site.

14) Alcoholic beverages shall not be permitted outside the church and lodge buildings.

15) The Petitioner shall not allow all terrain vehicles, dirt bikes, motorcycles, or other similar vehicles to use the property.

16) There shall be no vehicular access to the site from Mt. Gilead Road.

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

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

RECEIVED
SEP 27 1999
DEPT. OF PERMITS AND
DEVELOPMENT MANAGEMENT

County Board of Appeals of Baltimore County

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

March 22, 2001

G. Scott Barhight, Esquire
WHITEFORD, TAYLOR & PRESTON
500 Court Towers
210 W. Pennsylvania Avenue
Towson, MD 21204-4515

RE: *In the Matter of: Carroll Community Church*
Case No. 99-503-X and Case No. CBA-00-105

Dear Mr. Barhight:

This letter will acknowledge receipt of your correspondence dated March 21, 2001 in the subject matter.

While I understand and appreciate your point of view, nevertheless the Board has determined to allow the County Attorney to file a Memorandum no later than April 3rd, as indicated in my letter of March 13th; to allow anyone who wishes to respond to same to do so by April 24th; and to postpone the previously assigned deliberation.

Accordingly, I have reassigned the deliberation in this matter for Tuesday, May 1, 2001 at 1:00 p.m. A copy of that Notice of Reassignment of Deliberation is enclosed.

Very truly yours,

Kathleen C. Bianco
Administrator

Enclosure

c: Julie A. DiGrigoli, Esquire
Peter M. Zimmerman /People's Counsel for Baltimore County
Carole S. Demilio, Deputy People's Counsel
J. Carroll Holzer, Esquire
Virginia W. Barnhart, County Attorney

FILE

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on Recycled Paper

County Board of Appeals of Baltimore County

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

March 22, 2001

NOTICE OF REASSIGNMENT OF DELIBERATION

IN THE MATTER OF:

CARROLL COMMUNITY CHURCH (Est of Catherine Bond)
Case No. CBA-00-105 and 99-503-X

Having concluded this matter in nine days of hearing (6/20; 6/21; 8/22; 8/23; 8/30; 9/26; 10/18; 10/19/00 and 1/25/01), deliberation has been rescheduled for the following date and time (originally assigned for a March date):

DATE AND TIME : **TUESDAY, MAY 1, 2001 at 1:00 p.m.**

LOCATION : **Hearing Room 48, Basement, Old Courthouse**

Kathleen C. Bianco
Administrator

c: Counsel for Appellants /Protestants : J. Carroll Holzer, Esquire
Appellants /Protestants : E.L. Bond, Jr. Melvin J. Fair
Chris L. Bond Shirlee Green Elseroad
Glen Elseroad

Counsel for Appellant /Petitioner : G. Scott Barhight, Esquire
Appellant /Petitioner : Carroll Community Church
Legal Owner /Petitioner : Virginia B. Norwood, PR /Est of Catherine Bond

George H. Harman
Neil Ridgely
Robert Sellers, Esquire
Jack Dillon /Valleys Planning Council
People's Counsel for Baltimore County
Pat Keller, Director /Planning
Lawrence Schmidt, Z.C.
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

Robert W. Bowling PE /DPW
Recreation & Parks
Donald Rascoe /PDM

(FYI to L.C.F.)

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BALTIMORE COUNTY, MARYLAND
Board of Appeals of Baltimore County
Interoffice Correspondence

DATE: April 26, 2001

TO: L. Stahl
C. Marks
D. Felling

FROM: Kathi

SUBJECT: **ADDITIONAL MATERIAL – Deliberation on 5/01/01**
Case No. 99-503-X and CBA-00-105 /Carroll Community Church
Letter from People's Counsel – Objection to Petitioner's Memorandum

On April 25th, Charlotte forwarded to you a Memo filed by Scott Barhight on 4/24/01. Inasmuch as the County Attorney had elected not to intervene and therefore did not file a Memorandum on the limited issue as originally thought, there were no other responses to the document which she did file (Memo of declination to intervene).

Attached is a letter from Pete Zimmerman, which was received today, objecting to Scott's filing – which Peter sees more as a "new round of argument," rather than simply a "reply."

With the deliberation scheduled for Tuesday (5/01/01), I would anticipate that there will be no additional filings. If I'm wrong, then there probably will not be time to get them to you prior to Tuesday. I will keep you advised should anything else come in.

Call me if you have any questions, either regarding the attached or regarding my note above.

Kathi

Attachment

FILE

County Board of Appeals of Baltimore County

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

Hearing Room – Room 48
Old Courthouse, 400 Washington Avenue

October 20, 2000

NOTICE OF ASSIGNMENT /Days 9 ~~and 10~~) Rescheduled 1/25/01

CASE #: 99-503-X

and

CASE #: CBA-00-105

IN THE MATTER OF: ESTATE OF CATHERINE V BOND –LEGAL OWNER; CARROLL COMMUNITY CHURCH – C.P.
1701 Emory Road 4th Election District; 3rd Councilmanic
9/24/99 –Z.C. GRANTED with restrictions.

IN THE MATTER OF: CARROLL COMMUNITY CHURCH, INC.
12/23/99 –DRC Decision – b(9) limited exemption - DENIED.

Upon verification by counsel, two additional days added for hearing days 9 and 10 as follows:

ASSIGNED FOR: **THURSDAY, JANUARY 25, 2001 at 9:30 a.m. /Day #9; ~~and~~**
THURSDAY, FEBRUARY 15, 2001 at 9:30 a.m. /Day #10 ~~Rescheduled~~ 1/25/01

NOTICE: **This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney.**

Please refer to the Board's Rules of Practice & Procedure, Appendix C, Baltimore County Code.

IMPORTANT: No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).

If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.

Kathleen C. Bianco
Administrator

c: Counsel for Appellants /Protestants : J. Carroll Holzer, Esquire
Appellants /Protestants : E.L. Bond, Jr. Melvin J. Fair
Chris L. Bond Shirlee Green Elseroad
Glen Elseroad

Counsel for Appellant /Petitioner : G. Scott Barhight, Esquire
Appellant /Petitioner : Carroll Community Church
Legal Owner /Petitioner : Virginia B. Norwood, PR /Est of Catherine Bond

George H. Harman
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People's Counsel for Baltimore County
Pat Keller, Director /Planning
Lawrence Schmidt, Z.C.
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

Robert W. Bowling PE /DPW
Recreation & Parks
Donald Rascoe /PDM

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IN THE MATTER OF	*	BEFORE THE
Carroll Community Church	*	COUNTY BOARD OF APPEALS
1701 Emory Road	*	BALTIMORE COUNTY
Estate of Catherine Bond	*	CASE NO. 99-503-X & CBA-00-105

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

SUBPOENA

Please issue a Subpoena to the following named witness to appear before the County Board of Appeals of Baltimore County at the hearing for the matter captioned above on Thursday, Jan. 25, 2001 & Thursday, Feb. 15, 2001 at 9:30 a.m. at Room 48, located at Basement, Old Courthouse, 400 Washington Ave., Towson and continuing thereafter as necessary for such witness' testimony and as scheduled by the Board.

Witness: Bruce Seeley
DEPRM

Address: County Courts Bldg.
DEPRM, 4th Floor
Towson, MD

01 JAN -4 PM 3:36

Name: J. Carroll Holzer
Firm: Holzer & Lee
Address: 508 Washington Ave. Towson, 21286
410-825-6961

The witness named above is hereby ordered to so appear before the County Board of Appeals. The Board requests the Sheriff to issue the summons set forth herein.

County Board of Appeals of
Baltimore County

Cost: $

Summoned: _____, 19

Not Served: _____, 19

Sheriff of Baltimore County
C:\Subpoenas\cba.sub

County Board of Appeals of Baltimore County

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

Hearing Room – Room 48
Old Courthouse, 400 Washington Avenue

October 20, 2000

NOTICE OF ASSIGNMENT /Days 9 and 10)

CASE #: 99-503-X

and

CASE #: CBA-00-105

IN THE MATTER OF: ESTATE OF CATHERINE V BOND –LEGAL OWNER; CARROLL COMMUNITY CHURCH – C.P.
1701 Emory Road 4th Election District; 3rd Councilmanic
9/24/99 –Z.C. GRANTED with restrictions.

IN THE MATTER OF: CARROLL COMMUNITY CHURCH, INC.
12/23/99 –DRC Decision – b(9) limited exemption - DENIED.

Upon verification by counsel, two additional days added for hearing days 9 and 10 as follows:

ASSIGNED FOR: **THURSDAY, JANUARY 25, 2001 at 9:30 a.m. /Day #9; and**
THURSDAY, FEBRUARY 15, 2001 at 9:30 a.m. /Day #10

NOTICE: This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney.

Please refer to the Board's Rules of Practice & Procedure, Appendix C, Baltimore County Code.

IMPORTANT: No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).

If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.

Kathleen C. Bianco
Administrator

c: Counsel for Appellants /Protestants : J. Carroll Holzer, Esquire
Appellants /Protestants : E.L. Bond, Jr. Melvin J. Fair
Chris L. Bond Shirlee Green Elseroad
Glen Elseroad

Counsel for Appellant /Petitioner : G. Scott Barhight, Esquire
Appellant /Petitioner : Carroll Community Church
Legal Owner /Petitioner : Virginia B. Norwood, PR /Est of Catherine Bond

George H. Harman
Neil Ridgely
Robert Sellers, Esquire
Jack Dillon /Valleys Planning Council
People's Counsel for Baltimore County
Pat Keller, Director /Planning
Lawrence Schmidt, Z.C.
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

Robert W. Bowling PE /DPW
Recreation & Parks
Donald Rascoe /PDM

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IN THE MATTER OF	*	BEFORE THE
Carroll Community Church	*	COUNTY BOARD OF APPEALS
1701 Emory Road	*	BALTIMORE COUNTY
Estate of Catherine Bond	*	CASE NO. 99-503-X & CBA-00-105

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

SUBPOENA

Please issue a Subpoena to the following named witness to appear before the County Board of Appeals of Baltimore County at the hearing for the matter captioned above on Thursday, Jan. 25, 2001 & Thursday, Feb. 15, 2001 at 9:30 a.m. at Room 48, located at Basement, Old Courthouse, 400 Washington Ave., Towson and continuing thereafter as necessary for such witness' testimony and as scheduled by the Board.

Witness: Jeff Long
Planning

Address: County Courts Bldg.
Planning, 4th Floor
Towson, MD

01 JAN -4 PM 3:37

Name: J. Carroll Holzer
Firm: Holzer & Lee
Address: 508 Washington Ave. Towson, 21286
410-825-6961

The witness named above is hereby ordered to so appear before the County Board of Appeals. The Board requests the Sheriff to issue the summons set forth herein.

County Board of Appeals of
Baltimore County

Cost: $

Summoned: _____, 19

Not Served: _____, 19

Sheriff of Baltimore County
C:\Subpoenas\cba.sub

County Board of Appeals of Baltimore County

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

Hearing Room – Room 48
Old Courthouse, 400 Washington Avenue

October 20, 2000

NOTICE OF ASSIGNMENT /Days 9 and 10)

CASE #: 99-503-X

and

CASE #: CBA-00-105

IN THE MATTER OF: ESTATE OF CATHERINE V BOND –LEGAL OWNER; CARROLL COMMUNITY CHURCH – C.P.
1701 Emory Road 4th Election District; 3rd Councilmanic
9/24/99 –Z.C. GRANTED with restrictions.

IN THE MATTER OF: CARROLL COMMUNITY CHURCH, INC.
12/23/99 –DRC Decision – b(9) limited exemption - DENIED.

Upon verification by counsel, two additional days added for hearing days 9 and 10 as follows:

ASSIGNED FOR: **THURSDAY, JANUARY 25, 2001 at 9:30 a.m. /Day #9; and**
THURSDAY, FEBRUARY 15, 2001 at 9:30 a.m. /Day #10

NOTICE: **This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney.**

Please refer to the Board's Rules of Practice & Procedure. Appendix C, Baltimore County Code.

IMPORTANT: No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).

If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.

Kathleen C. Bianco
Administrator

c: Counsel for Appellants /Protestants : J. Carroll Holzer, Esquire
Appellants /Protestants : E.L. Bond, Jr. Melvin J. Fair
Chris L. Bond Shirlee Green Elseroad
Glen Elseroad

Counsel for Appellant /Petitioner : G. Scott Barhight, Esquire
Appellant /Petitioner : Carroll Community Church
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George H. Harman
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People's Counsel for Baltimore County
Pat Keller, Director /Planning
Lawrence Schmidt, Z.C.
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

Robert W. Bowling PE /DPW
Recreation & Parks
Donald Rascoe /PDM

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IN THE MATTER OF	*	BEFORE THE
Carroll Community Church	*	COUNTY BOARD OF APPEALS
1701 Emory Road	*	BALTIMORE COUNTY
Estate of Catherine Bond	*	CASE NO. 99-503-X & CBA-00-105

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

SUBPOENA

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Witness: Robert Bowling
PDM

Address: County Office Bldg.
111 West Chesapeake Ave.
Towson, MD

Name: J. Carroll Holzer
Firm: Holzer & Lee
Address: 508 Washington Ave. Towson, 21286
410-825-6961

The witness named above is hereby ordered to so appear before the County Board of Appeals. The Board requests the Sheriff to issue the summons set forth herein.

01 JAN -4 PM 3:37

County Board of Appeals of
Baltimore County

Cost: $

Summoned: _____, 19

Not Served: _____, 19

Sheriff of Baltimore County
C:\Subpoenas\cba.sub

County Board of Appeals of Baltimore County

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

Hearing Room – Room 48
Old Courthouse, 400 Washington Avenue

October 20, 2000

NOTICE OF ASSIGNMENT */Days 9 and 10)*

CASE #: 99-503-X

and

CASE #: CBA-00-105

IN THE MATTER OF: ESTATE OF CATHERINE V BOND –LEGAL OWNER; CARROLL COMMUNITY CHURCH – C.P.
1701 Emory Road 4th Election District; 3rd Councilmanic
9/24/99 –Z.C. GRANTED with restrictions.

IN THE MATTER OF: CARROLL COMMUNITY CHURCH, INC.
12/23/99 –DRC Decision – b(9) limited exemption - DENIED.

Upon verification by counsel, two additional days added for hearing days 9 and 10 as follows:

ASSIGNED FOR: **THURSDAY, JANUARY 25, 2001 at 9:30 a.m. /Day #9; and**
THURSDAY, FEBRUARY 15, 2001 at 9:30 a.m. /Day #10

NOTICE: **This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney.**

Please refer to the Board's Rules of Practice & Procedure, Appendix C, *Baltimore County Code*.

IMPORTANT: No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).

If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.

Kathleen C. Bianco
Administrator

c: Counsel for Appellants /Protestants : J. Carroll Holzer, Esquire
Appellants /Protestants : E.L. Bond, Jr. Melvin J. Fair
Chris L. Bond Shirlee Green Elseroad
Glen Elseroad

Counsel for Appellant /Petitioner : G. Scott Barhight, Esquire
Appellant /Petitioner : Carroll Community Church
Legal Owner /Petitioner : Virginia B. Norwood, PR /*Est of Catherine Bond*

George H. Harman
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Lawrence Schmidt, Z.C.
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

Robert W. Bowling PE /DPW
Recreation & Parks
Donald Rascoe /PDM

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County Board of Appeals of Baltimore County

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400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180
FAX: 410-887-3182

Hearing Room – Room 48
Old Courthouse, 400 Washington Avenue

August 30, 2000

SECOND AMENDED NOTICE OF ASSIGNMENT /Days 6, 7 and 8)

CASE #: 99-503-X

and

CASE #: CBA-00-105

IN THE MATTER OF: ESTATE OF CATHERINE V BOND –LEGAL OWNER; CARROLL COMMUNITY CHURCH – C.P.
1701 Emory Road 4th Election District; 3rd Councilmanic
9/24/99 –Z.C. GRANTED with restrictions.

IN THE MATTER OF: CARROLL COMMUNITY CHURCH, INC.
12/23/99 –DRC Decision – b(9) limited exemption - DENIED.

To add additional hour on 9/26/00 for one witness only (day #6); assignment for days 7 and 8 remain as agreed and as follows::

ASSIGNED FOR: **TUESDAY, SEPTEMBER 26, 2000 at 9:30 a.m. /Day #6 (one hour);**
WEDNESDAY, OCTOBER 18, 2000 at 10:00 a.m. /Day #7; and
THURSDAY, OCTOBER 19, 2000 at 10:00 a.m. /Day #8

NOTICE: This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney.

Please refer to the Board's Rules of Practice & Procedure, Appendix C, Baltimore County Code.

IMPORTANT: No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).

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Kathleen C. Bianco
Administrator

c: Counsel for Appellants /Protestants : J. Carroll Holzer, Esquire
Appellants /Protestants : E.L. Bond, Jr. Melvin J. Fair
Chris L. Bond Shirlee Green Elseroad
Glen Elseroad

Counsel for Appellant /Petitioner : G. Scott Barhight, Esquire
Appellant /Petitioner : Carroll Community Church
Legal Owner /Petitioner : Virginia B. Norwood, PR /Est of Catherine Bond

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PAGER	(410) 748-6246

10-20-00 8:30
Kathi

Message from Carroll Holzer

Re: CARROLL COMM. CHURCH

1-4-00 - "NOT GOOD"
(MEDIATION HEARING - KENT CO.)

1-25 @ 9:30 "fine"

2-15 @ 9:30 fine

- STELLING IS OUT TODAY
- Carroll IN Hearing / TOWSON and He's out all next week

COLDWELL BANKER
GREMPLER REALTY, INC.
NORTHEAST OFFICE
9659 BELAIR ROAD • BALTIMORE, MD 21236

County Board of Appeals of Baltimore County

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

Hearing Room – Room 48
Old Courthouse, 400 Washington Avenue

August 23, 2000

AMENDED NOTICE OF ASSIGNMENT /Days 5, 6 and 7)

CASE #: 99-503-X

and

IN THE MATTER OF: ESTATE OF CATHERINE V BOND –LEGAL OWNER; CARROLL COMMUNITY CHURCH – C.P.
1701 Emory Road 4th Election District; 3rd Councilmanic
9/24/99 –Z.C. GRANTED with restrictions.

CASE #: CBA-00-105

IN THE MATTER OF: CARROLL COMMUNITY CHURCH, INC.
12/23/99 –DRC Decision – b(9) limited exemption - DENIED.

To add additional date of 8/30/00, retaining two October dates; assignment for days 5, 6 and 7 as follows and as agreed by counsel on 8/23/00:

ASSIGNED FOR:

WEDNESDAY, AUGUST 30, 2000 at 10:00 a.m. /Day #5;
WEDNESDAY, OCTOBER 18, 2000 at 10:00 a.m. /Day #6; and
THURSDAY, OCTOBER 19, 2000 at 10:00 a.m. /Day #7

NOTICE: **This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney.**

Please refer to the Board's Rules of Practice & Procedure, Appendix C, Baltimore County Code.

IMPORTANT: No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).

If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.

Kathleen C. Bianco
Administrator

c: Counsel for Appellants /Protestants : J. Carroll Holzer, Esquire
Appellants /Protestants : E.L. Bond, Jr. Melvin J. Fair
Chris L. Bond Shirlee Green Elseroad
Glen Elseroad

Counsel for Appellant /Petitioner : G. Scott Barhight, Esquire
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County Board of Appeals of Baltimore County

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

Hearing Room – Room 48
Old Courthouse, 400 Washington Avenue

June 23, 2000

NOTICE OF ASSIGNMENT

CASE #: 99-503-X

and

IN THE MATTER OF: ESTATE OF CATHERINE V BOND –LEGAL OWNER; CARROLL COMMUNITY CHURCH – C.P.
1701 Emory Road 4th Election District; 3rd Councilmanic
9/24/99 –Z.C. GRANTED with restrictions.

CASE #: CBA-00-105

IN THE MATTER OF: CARROLL COMMUNITY CHURCH, INC.
12/23/99 –DRC Decision – b(9) limited exemption - DENIED.

Continued from days 1 and 2 (6/20 and 6/21/00) to days #3, #4, #5 and #6, as agreed by counsel and

ASSIGNED FOR:

TUESDAY, AUGUST 22, 2000 at 10:00 a.m. /Day #3;
WEDNESDAY, AUGUST 23, 2000 at 10:00 a.m. /Day #4;
WEDNESDAY, OCTOBER 18, 2000 at 10:00 a.m. /Day #5; and
THURSDAY, OCTOBER 19, 2000 at 10:00 a.m. /Day #6

Per amended notice 8/23
8/30 = #5
10/18 = #6
10/19 = #7

NOTICE: This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney.

Please refer to the Board's Rules of Practice & Procedure, Appendix C, Baltimore County Code.

IMPORTANT: No postponements will be granted *without* sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).

If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.

Kathleen C. Bianco
Administrator

c: Counsel for Appellants /Protestants : J. Carroll Holzer, Esquire
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County Board of Appeals of Baltimore County

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

Hearing Room – Room 48
Old Courthouse, 400 Washington Avenue

April 27, 2000

SECOND NOTICE OF POSTPONEMENT & REASSIGNMENT*

CASE #: 99-503-X

and

IN THE MATTER OF: ESTATE OF CATHERINE V BOND –LEGAL OWNER; CARROLL COMMUNITY CHURCH – C.P.
1701 Emory Road 4th Election District; 3rd Councilmanic
9/24/99 –Z.C. GRANTED with restrictions.

CASE #: CBA-00-105

IN THE MATTER OF: CARROLL COMMUNITY CHURCH, INC.
12/23/99 –DRC Decision – b(9) limited exemption - DENIED.

***Second change in Day #3 ONLY**. The first two hearing dates remain as scheduled; #3 has been postponed to 8/23/00.

per Notice dated 6/23/00 for Day 3 - 6

ASSIGNED FOR:

TUESDAY, JUNE 20, 2000 at 10:00 a.m. /Day #1;
WEDNESDAY, JUNE 21, 2000 at 10:00 a.m. /Day #2; and
WEDNESDAY, AUGUST 23, 2000 at 10:00 a.m. /Day ~~#3~~ #4

NOTICE: **This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney.**

Please refer to the Board's Rules of Practice & Procedure, Appendix C, Baltimore County Code.

IMPORTANT: No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).

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Kathleen C. Bianco
Administrator

c: Counsel for Appellants /Protestants : J. Carroll Holzer, Esquire
Appellants /Protestants : E.L. Bond, Jr. Melvin J. Fair
Chris L. Bond Shirlee Green Elscroad
Glen Elscroad

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County Board of Appeals of Baltimore County

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

Reassigned Day 3 to 8/23/00

Hearing Room – Room 48
Old Courthouse, 400 Washington Avenue

April 21, 2000

NOTICE OF POSTPONEMENT & REASSIGNMENT*

CASE #: 99-503-X — **IN THE MATTER OF: ESTATE OF CATHERINE V BOND –LEGAL OWNER; CARROLL COMMUNITY CHURCH – C.P.**

and

1701 Emory Road 4th Election District; 3rd Councilmanic

9/24/99 –Z.C. GRANTED with restrictions.

CASE #: CBA-00-105 — **IN THE MATTER OF: CARROLL COMMUNITY CHURCH, INC.**

12/23/99 –DRC Decision – b(9) limited exemption - DENIED.

***Change in Day #3 ONLY**. The first two hearing dates remain as scheduled; #3 has been postponed to 8/02/00.

ASSIGNED FOR:

TUESDAY, JUNE 20, 2000 at 10:00 a.m. /Day #1;
WEDNESDAY, JUNE 21, 2000 at 10:00 a.m. /Day #2; and
WEDNESDAY, AUGUST 2, 2000 at 10:00 a.m. /Day #3

NOTICE: **This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney.**

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Kathleen C. Bianco
Administrator

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Recreation & Parks
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County Board of Appeals of Baltimore County

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TOWSON, MARYLAND 21204
410-887-3180
FAX: 410-887-3182

Pl cont resched
Day 3 only

Hearing Room – Room 48
Old Courthouse, 400 Washington Avenue

April 6, 2000

NOTICE OF ASSIGNMENT

CASE #: 99-503-X

and

IN THE MATTER OF: ESTATE OF CATHERINE V BOND –LEGAL OWNER; CARROLL COMMUNITY CHURCH – C.P.
1701 Emory Road 4th Election District; 3rd Councilmanic

9/24/99 –Z.C. GRANTED with restrictions.

CASE #: CBA-00-105

IN THE MATTER OF: CARROLL COMMUNITY CHURCH, INC.

12/23/99 –DRC Decision letter from Arnold Jablon – b(9) limited exemption DENIED.

ASSIGNED FOR:

TUESDAY, JUNE 20, 2000 at 10:00 a.m. /Day #1;
WEDNESDAY, JUNE 21, 2000 at 10:00 a.m. /Day #2; and
~~THURSDAY, JULY 6, 2000 at 10:00 a.m.~~ /Day #3

Pl to 8/02/00 Day 3

NOTICE: **This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney.**

Please refer to the Board's Rules of Practice & Procedure, Appendix C, Baltimore County Code.

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Kathleen C. Bianco
Administrator

c: Counsel for Appellants /Protestants : J. Carroll Holzer, Esquire
Appellants /Protestants : E.L. Bond, Jr. Melvin J. Fair
Chris L. Bond Shirlee Green Elseroad
Glen Elseroad

Counsel for Appellant /Petitioner : G. Scott Barhight, Esquire
Appellant /Petitioner : Carroll Community Church
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George H. Harman
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Virginia W. Barnhart, County Attorney
Robert W. Bowling PE /DPW
Recreation & Parks
Donald Rascoe /PDM

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Baltimore County Government
Department of Permits and Development Management

111 West Chesapeake Avenue
Towson MD 21204

(410) 887-3321
(410) 887-2824 (fax)

February 1, 2000

Mr Donald T. Rascoe
Baltimore County Dept of Permits & Development Management
111 W. Chesapeake Avenue
Towson MD 21204

RE: Appeal of DRC Decision
SE/ corner of Emory Rd & Mt Gilead Rd.
Carroll Community Church
District: 4 c 3
Carroll Community Church, Inc. - Applicant
File No.: DRC No. 12139D

Dear Mr Rascoe:

Please be advised that an appeal of the above-referenced case was filed in this office on January 24, 2000 by G. Scott Barhight, Esq. on behalf of Carroll Community Church, Inc.. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals (Board).

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: G. Scott Barhight, Esq.
Morris & Ritchie Associates, Inc.
People's Counsel

RECEIVED
COUNTY BOARD OF APPEALS
00 FEB 15 PM 3:44

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30 COLUMBIA CORPORATE CENTER
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COLUMBIA, MARYLAND 21044
TELEPHONE 410 884-0700
FAX 410 884-0719

G. SCOTT BARHIGHT
DIRECT NUMBER
410 832-2050
gbarhight@wtplaw.com

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L.L.P.

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FAX 202 331-0573

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

January 24, 2000

Via Hand Delivery

Mr. Arnold Jablon, Director
Baltimore County Department of Permits
and Development Management
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: DRC Case No. 12139D
Carroll Community Church
1701 Emory Road

Dear Arnold:

Appellant/Petitioner, Carroll Community Church, Inc., by and through its attorneys, G. Scott Barhight, Julie A. DiGrigoli and Whiteford, Taylor & Preston LLP, hereby notes this appeal from the Development Review Committee's (DRC) recommendation, and your December 23, 1999 adoption of the DRC's recommendation to deny Carroll Community Church's 26-171 Exemption Request.

Enclosed please find a check in the amount of $75 to cover the fees for processing this appeal.

Please contact me if you have any questions regarding this matter.

Sincerely yours,

G. Scott Barhight

GSB:lgs

ccs: County Board of Appeals of Baltimore County

Baltimore County Government
Department of Permits and
Development Management

111 West Chesapeake Avenue
Towson, Md. 21204

410-887-3335

December 23, 1999

Morris & Ritchie Associates, Inc.
110 West Road, Suite 245
Towson, MD 21204

RE: Carroll Community Church
1701 Emory Road
DRC Number 12139D, Dist. 4C3

Dear Sir:

Pursuant to Article 25A, Section 5 (U) of the Annotated Code of Maryland, and as provided in Section 602 (d) of the Baltimore County Charter, and Section 26-132 of the Baltimore County Code, this letter constitutes an administrative order and decision on the request for issuance, renewal, or modification of a license, permit, approval, exemption, waiver, or other form of permission you filed with this department.

Your request has been submitted for careful review and consideration to the Development Review Committee (DRC), which is composed of representatives from each of those departments involved in land-use decisions. These representatives are designees of the directors of these departments. The purpose of the DRC is to ensure compliance with Section 26-171 and Section 26-211 of the Baltimore County Code and to make recommendations to the Director, Department of Permits and Development Management.

The DRC has, in fact, met in an open meeting on December 13, 1999, and has denied your project. It is necessary to go through the full development process.

Sincerely,

Arnold Jablon

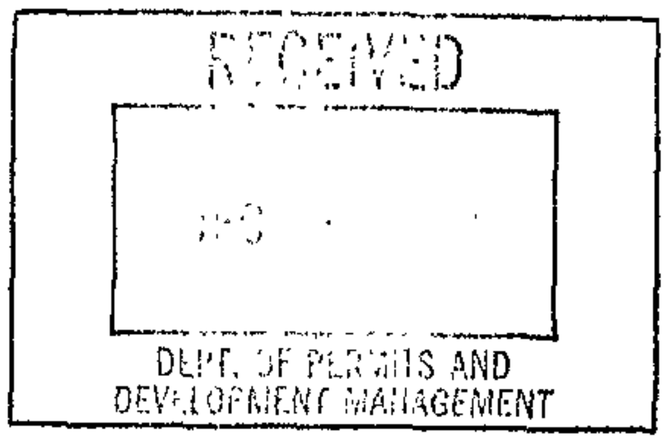
Arnold Jablon
Director

AJ:DTR:dak
c: file

MORRIS & RITCHIE ASSOCIATES, INC.
ENGINEERS, PLANNERS, SURVEYORS,
AND LANDSCAPE ARCHITECTS



December 1, 1999



Mr. Arnold Jablon
Department of Permits and
Development Management
111 Chesapeake Avenue, Room 123
Towson, MD 21204

Subject: Carroll Community Church

Dear Mr. Jablon:

Morris & Ritchie Associates, Inc. (MRA) hereby requests a b(9) Limited Exemption pursuant to Sections 26-171, 26-202 and 26-206 of the Baltimore County Development Regulations for the construction of a church and associated site improvements as shown on the attached plan.

A Special Exception to allow a church use on the subject property was granted by the Zoning Commissioner on September 24, 1999 under case Number 99-503-X. A copy of the order is shown on the attached plan.

We believe that a b(9) Limited Exemption is warranted for this development since no subdivision of land, public improvements nor public works agreement is required to develop the subject property. Please note the location of the Baltimore County/Carroll County line as shown on the attached plan. Minor road improvements to Emory Road (State Route 91) and parking are proposed on the Carroll County portion of the subject property.

Stephen Ford, Development Review Supervisor for Carroll County has indicated in a letter dated July 29, 1999 that the standard Site Development Review Process will not be required for development of this property. Carroll County will only require approval of construction plans prior to development.

☐ 139 N. MAIN STREET, SUITE 200
BEL AIR, MARYLAND 21014
(410) 879-1690 (410) 836-7560
FAX (410) 879-1820

☒ 110 WEST ROAD, SUITE 245
TOWSON, MARYLAND 21204
(410) 821-1690
FAX (410) 821-1748

☐ 9090 JUNCTION DRIVE, SUITE 9
ANNAPOLIS JUNCTION, MARYLAND 20701
(410) 792-9792 (301) 776-1690
FAX (410) 792-7395

We await your decision on this matter.

Very Truly Yours,

MORRIS & RITCHIE ASSOCIATES, INC.

Robert D. Capalongo
Project Manager

#11236

enclosure

cc: Joe Duke
John Martindale
Scott Barhight
Bob Bradley
Scott Rouk

RDC:mak\s\11236\drcltr\120199

DEVELOPMENT REVIEW COMMITTEE

REQUEST FORM

121390

3 Copies of the Plan as Required/ Folded 8½ x 11 **FEE:** $40.00 (payable to Baltimore County and is non-refundable)

Tax No(s): 04-02-057850

Applicant & Engineer Name: Robert D. Capalongo
Morris & Ritchie Associates, Inc. **Filing Date:** 12/01/99

Address: 110 West Road, Suite 245 **Phone #:** (410) 821-1690

Towson, MD 21204 **Acreage:** 68.89 AC

Project Name: Carroll Community Church **PDM File #:**

Project Address: 1701 Emory Road **Zip Code** **ADC Map #:** 9, Grid F-9

Councilmanic District: 3rd **Election District:** 4th **Building Permit #:** N/A

Is this an Antenna? [ ] Yes [X] No **If "Yes" check one of the following:** [ ] Cellular (CAC) [ ] Water Tower (WTC) [ ] MonoPole (CFC)

Request: [ ] Refinement [X] Limited Exemption [ ] Waiver

(Attach letter if necessary)

Zoning: RC2 and RC4

RECEIVED
DEC - ' 999
DEPT. OF PERMITS AND DEVELOPMENT MANAGEMENT

DO NOT WRITE BELOW THIS LINE! TO BE FILLED OUT BY COUNTY

COMMITTEE ACTION:

DRC #:

( ) Denied
( ) Limited Exemption under Section 26-171 ( )( )
( ) Material Amendment to the plan (new CRG or HOH must be scheduled)
( ) Plan Refinement (submit enough plans for the agencies checked off below)
( ) Waiver recommendation forwarded to Planning Board for determination
( ) Waiver of Standards referred to _____ (Department)
( ) Requires a zoning ( ) Special Hearing; ( ) Special Exception; ( ) Variance
( ) Other _____

Table To DAM

Full Process 12-20-99

COMMITTEE COMMENTS:

Agencies to Review and Return Comments to Committee:

( ) DPR ( ) PO ( ) Zoning ( ) DEPRM ( ) EIR ( ) SWM ( ) Rec & Parks ( ) Fire ( ) SHA

Signature of Coordinator _____ Meeting Date: _____

Baltimore County
Office of Law

400 Washington Avenue
Towson, Maryland 21204
410-887-4420
Fax: 410-296-0931

March 30, 2001

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

Re: In the Matter of Carroll Community Church
Case Nos. 99-503-X and 00-105

Dear Board Members:

Enclosed are four copies of a memorandum concerning the Carroll Community Church. We appreciate the opportunity the Board has given us to file this memorandum.

If the Board has any additional questions, please do not hesitate to contact the Office of Law.

Sincerely,

Amanda Stakem Conn
Assistant County Attorney

cc. G. Scott Barhight, Esq.
J. Carroll Holzer, Esq.
Carole S. Demilio, Esq.

01 MAR 30 PM 3:04

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

BOARD OF APPEALS OF BALTIMORE COUNTY
MINUTES OF DELIBERATION

IN THE MATTER OF: Carroll Community Church (Estate of Catherine Bond)
Case No. CBA-00-105 and Case No. 99-503-X

DATE : Tuesday, May 1, 2001

BOARD /PANEL :
Lawrence M. Stahl (LMS)
Charles L. Marks (CLM)
Donna M. Felling (DMF)

RECORDED BY : Kathleen C Bianco /Administrator

PURPOSE: To deliberate Case No. 99-503-X /Petition for Special Exception and Case No. CBA-00-105 /b(9) Limited Exemption. Appeals filed by J. Carroll Holzer, Esquire, on behalf of Protestants, and G. Scott Barhight, Esquire, on behalf of Petitioner /Developer.

Panel members discussed:

- ♦ Issues: Special exception request /church on R.C. 2 zoned land and PDM denial of limited exemption /DRC recommendation

- ❑ First issue: Limited Exemption /DRC appeal

  - Testimony – why it should be granted
  - Standard – minor development – less than 3 lots; does not require Public Works agreement
  - Same facts established as in *Seven Kids*, which was granted a limited exemption; this one was denied – question: why
  - Qualifies for limited exemption; while issue robs community of participation, it does meet requirements to be granted a limited exemption –b(9)
  - Issue for County Council – while not really a "minor" development, the law is the law and, under the regulations, this is a minor development and the b(9) exemption must be granted.
  - Special exception did allow the community to express concerns and thoughts on the matter

- ✓ PDM is reversed as to DRC /limited exemption; b(9) limited exemption is GRANTED (unanimous decision)

- ❑ Second issue: special exception

  - Personal view by CLM expressed at start – church is too large; but must equate facts to the law and make a decision based on the law and the facts as applied and not on personal feelings
  - Per zoning regulations, church is permitted in R.C. 2 zone by special exception
  - All special exception uses carry certain adverse conditions
  - Are those adverse conditions greater at this location than at any other R.C. 2 location
  - Reviewed 502.1 requirements; reviewed notes; reviewed memos submitted; commented on condensation of witnesses who testified provided by GSB. To be determined per Maryland case law:

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

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

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

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

E. Interfere with adequate light and air;

F. Be inconsistent with the purposes of the property's zoning classification nor in any other way inconsistent with the spirit and intent of these Zoning Regulations;

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

H. Be detrimental to the environmental and natural resources of the site and vicinity including forests, streams, wetlands, aquifers and floodplains in an R.C. 2, R.C. 4, R.C. 5 or R.C. 7 Zone;

I. Be detrimental to the primary agricultural uses in its vicinity.

- A. – Health, safety and welfare -- those issues that would seem to relate to "safety" are concerns to be reviewed under B – traffic concerns. (Health and safety are legal concerns under land use act). **MET**

- B. – Roads and traffic – major concerns of CBA. **WILL RETURN TO THIS**

- C. – Potential hazard from fire, etc. – Fully addressed and met. **MET**

- D. – Overcrowding land, etc. – Will not overcrowd land; undue concentration of population – no **MET**

- E. – Adequate light and air – using only 9 of 70 acres; no smokestacks; no continuous population. Addressed as to air. Reviewed as to lights, etc.; directed down and away from neighbors. Church is entitled to lighting on parking lot, etc.; light permeates more in R.C. zone than in City area. **WILL RETURN TO THIS**

- F. – Inconsistent with zoning or spirit and intent of regulation –If special exception is in the regulations, how can it be inconsistent with the regulations if the regulations allow it by special exception; a use that is allowed in a particular zone by special exception cannot be inconsistent – it's permitted under special exception requirements. **MET**

- G. – Inconsistent with impermeable surface /vegetative regulations –. only 9 of 70 acres will be developed; runoff less than capacity. Addressed and complies. **MET**

- H. – Environmental and natural resources of site – No problem; enough land for septic, etc.; SWM still to be addressed through County. Questions raised by CLM. **WILL RETURN TO THIS**

- I. – Detrimental to agricultural uses in the vicinity. **WILL RETURN TO THIS**

Returning to those issues marked "WILL RETURN TO THIS" above:

- B. – Traffic concerns; reviewed testimony of Mickey Cornelius.
  - Traffic flow
  - Intersection
  - Discussed at length studies conducted by expert – time of year /time of day
  - Acceleration /deceleration lanes provided /okay on this
  - Petitioner's expert had no trouble with traffic; traffic counts; trip generation; level of service – as it exists now
  - Sight distance - another major concern
  - Opinion of expert – however, there was no evidence submitted to rebut the data used to reach his conclusions; no testimony that the data used was incorrect, or wrong, or false.
  - Numbers were consistent; applied expert opinion to numbers; testimony was uncontradicted as to the numbers used in reaching conclusions as to traffic
  - Discussed Route 91 – currently running below capacity; 500 cars on 91 will still be below capacity – CLM pointed out that these are only his assumptions based upon existing figures
  - Again, reminded that there was no rebuttal as to the accuracy or correctness of his figures; nor any testimony to contradict the figures used
  - Of major concern – Mt Gilead and Route 91 intersection; reviewed testimony of traffic expert as to sight distance; flashing yellow light near intersection.
  - Condition to be considered if special exception is granted – traffic light at intersection
  - As to Mt Gilead Road safety issues – heavy traffic on small country road – would condition approval with suggestion that the Church not use Gilead Road in directions given to Church; also that there be no access off Gilead Road.
  - Issues of traffic light and no ingress or egress on Gilead are both compelling safety issues
  - Would strongly suggest that the Church encourage parishioners to use 91 and not Mt. Gilead Road
  - Additional suggestion – someone to direct traffic as it comes out of the church property (compelling interest)
  - Discussed access permits - when SHA conducts access analysis – review for traffic control device based upon projected usage; also condition that Baltimore County do a traffic study and take this up with the State

✓ With conditions as added and discussed above, CLM – no problem with this section
- ✓ DMF – okay if light and traffic is addressed property
- ✓ LMS -- okay

- E. – Lighting
  - Ball fields would not be illuminated
  - Type of lighting allowed by Baltimore County (in agricultural setting – lighting should be minimal)
  - Reviewed ZC condition – lighting to be approved by Baltimore County, but also should be minimal
  - None on the athletic fields (daylight field events)
  - None on accessory fields
  - No flood lights on main building
  - Held to minimum after 10 p.m. – law
  - ZC – minimal and sufficient to insure security
  - Reviewed Exhibit #72 – Protestants' conditions re lighting
    - Minimal
    - Downwardly directed
    - No later than one hour after completion of event – lot empty/lights out
    - These three above are least intrusive to Church rights

- H. – Environmental and natural resources – to build large facility, such as stadium – would require permit process
  - Protects public interests
  - Any deviation or future change would have to go through permit /development process
  - CLM's concerns were discussed and satisfied. This is also okay.

- I. – Detrimental to primary agricultural soils – would have to be more than expected and worse here than at any other R.C. 2 parcel
  - Permitted by special exception with certain adverse effects associated with it
  - Must be found to be more detrimental to agricultural interests at this particular R.C. 2 site than at any other R.C. 2 site
  - DMF - Concerned about loss of soil but does not prevent anyone else from farming or turning over to Agricultural Trust
  - Is it any more detrimental here than at any other R.C. zone?
  - DMF also concerned about agricultural aspect – farmers moving tractors on Sunday
    - Could be moved in between services and at other times of the day
  - If Baltimore County is to preserve agricultural land, zoning laws must be amended
  - Reviewed testimony of David Martin – no specific studies at the site; no soil tests; no prime /productive soil tests – all testimony and comments were broad and general; only mention to this issue other than Lippincott's testimony.

✓ As to special exception – law must be applied as it exists and testimony as it was given
✓ Special exception granted:

- LMS – would grant special exception with conditions
- DMF – would also grant, but only on condition that the restrictions discussed above, as well as some expressed by Zoning Commissioner, and those agreed to by Petitioner be included
- CLM – Would grant but with conditions as discussed

Discussed restrictions /conditions as indicated in ZC's Order – as to 1,200 limit –

- with the balcony, 2,000 would be possible in the same footprint. If this is the building CCC needs to conduct its worship services, and they have enough land, Board concluded it could not condition as to size, as long as regulations were met as indicated. If same footprint, and that footprint is approved, how do you limit the number?
- Is size too big for site? No.
- As to aesthetics, cannot limit that. As to compatibility – religious institutions are permitted by special exception under 502.1 and county regulations

As to Protestants' proposed conditions (in brief summary):

- parking side and rear; maximum footprint; maximum height – 35' –no /out
- Lodge – could add condition that would require materials used on lodge to blend in exterior façade with surroundings
- On-site signs – must comply with current regulations; must meet zoning regs, etc.
- Vegetative buffers -- will include ZCs #7
- Bingo, etc. – need permits; out
- Alcohol – out
- Land to rear in agricultural easement – out
- Amplifications devices not allowed – cannot be done; decibel levels are prescribed. Any other restriction as far as CBA condition disallowing use of microphones, etc. is out.

- Broadcast towers – not part of this – out
- No access to Mt Gilead Road – none shown
- No leasing – CCC agreed in conditions
- Fundraising activities – out
- Abide by ZC re yard sales, etc. – cannot do; they will abide by County regulations --out
- No church or commercial primary, middle or high school until public water /sewer – will add "subject to all applicable County laws" and include
- No all-terrain vehicles – added by CCC
- No accessory structures – added by CCC
- Exterior – agreed by CCC
- Rooftop utilities – CCC agreed to screen mechanical
- Exterior of building – out
- Monday – Friday daycare for specific number – no; no commercial and church members only; add – in compliance with State regulations (DMF insisted that this language be included)
- Materials recommended by fire companies – subject to all Codes, etc.
- Deed land for SHA to permit turning lanes – SHA will take what they need
- No carnivals – agreed by CCC
- No overnight camping – out
- No exterior activities after dark – with no lights, the activities will be restricted to daylight hours - out
- Full service kitchen – DEPRM covers this.

Final Decision:

This use is allowed by law as long as no greater here than elsewhere in the zone. Conditions to be added include those agreed to by CCC as well as the above conditions CBA has added, and those specified by CBA to be taken from ZC's Order. Special Exception request is GRANTED with conditions to be included in CBA Order; Limited Exemption request [b(9)] is APPROVED (decision of PDM reversed). Written Opinion and Order to be issued by the Board; appellate period to run from date of written Order.

NOTE: These minutes, which will become part of the case file, are intended only to indicate for the record that a public deliberation took place this date regarding the subject matter. The Board's final decision and the facts and findings thereto will be set out in the written Opinion and Order to be issued by this Board.

Respectfully submitted

Kathleen C. Bianco, Administrator
County Board of Appeals

BALTIMORE COUNTY, MARYLAND
Board of Appeals of Baltimore County
Interoffice Correspondence

DATE: April 25, 2001

TO: C. Marks
L. Stahl
D. Felling

FROM: Charlotte E. Radcliffe
Board of Appeals

SUBJECT: Case Nos. 99-503-X and CBA-00-105
Carroll Community Church
/Scheduled for Deliberation 1:00 p.m. May 1, 2001

The subject case is scheduled for public deliberation on Tuesday, May 1, 2001 at 1:00 p.m. (Larry and Chuck scheduled on 10 a.m. Map Correction case). The following document has been filed in reply to Memorandum filed 3/30/01 by Amanda Conn, Assistant County Attorney, on behalf of the County Attorney's Office.

1. Reply Memorandum of Law filed on behalf of Carroll Community Church, Inc. by G. Scott Barhight, Esquire and Julie A. DiGrigoli, Esquire

A copy of the Deliberation notice was sent to you on 3/22/01. Should you have any questions, please call Kathi.

Charlotte

Attachment (1)

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

30 COLUMBIA CORPORATE CENTER
10440 LITTLE PATUXENT PARKWAY
COLUMBIA, MARYLAND 21044
TELEPHONE 410 884-0700
FAX 410 884-0719

G. SCOTT BARHIGHT
DIRECT NUMBER
410 832-2050
gbarhight@wtplaw.com

WHITEFORD, TAYLOR & PRESTON
L.L.P.

210 WEST PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204-4515
410 832-2000
FAX 410 832-2015
www.wtplaw.com

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

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

April 24, 2001

01 AP 24 PM 3:08
RECEIVED

Via Hand Delivery
Ms. Kathleen C. Bianco
County Board of Appeals of Baltimore County
Room 49, Old Courthouse
400 Washington Avenue
Towson, Maryland 21204

Re: Carroll Community Church
Case Nos. 99-503-X and CBA-00-105

Dear Ms. Bianco:

Enclosed please find Appellant's Reply Memorandum of Law for filing in the above-referenced cases.

Sincerely,

G. Scott Barhight

GSB:lgs
cc: J. Carroll Holzer, Esquire
Carol S. DeMilio, Esquire

County Board of Appeals of Baltimore County

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

March 13, 2001

NOTICE OF POSTPONEMENT OF DELIBERATION

IN THE MATTER OF:
CARROLL COMMUNITY CHURCH (Est of Catherine Bond)
Case No. CBA-00-105 and 99-503-X

which was assigned for deliberation on 3/27/01 has been **POSTPONED** by the Board; to be reassigned for deliberation in consultation with counsel. **NOTICE OF DELIBERATION TO BE SENT UPON REASSIGNMENT.**

Reassigned to 5/01/01 @ 1:00 pm - notice 3/22/01

Kathleen C. Bianco
Administrator

c: Counsel for Appellants /Protestants : J. Carroll Holzer, Esquire
Appellants /Protestants : E.L. Bond, Jr. Melvin J. Fair
Chris L. Bond Shirlee Green Elseroad
Glen Elseroad

Counsel for Appellant /Petitioner : G. Scott Barhight, Esquire
Appellant /Petitioner : Carroll Community Church
Legal Owner /Petitioner : Virginia B. Norwood, PR /Est of Catherine Bond

George H. Harman
Neil Ridgely
Robert Sellers, Esquire
Jack Dillon /Valleys Planning Council
People's Counsel for Baltimore County
Pat Keller, Director /Planning
Lawrence Schmidt, Z.C.
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

Robert W. Bowling PE /DPW
Recreation & Parks
Donald Rascoe /PDM

(FYI to L.C.F.)

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SEVEN SAINT PAUL STREET
BALTIMORE, MARYLAND 21202-1626
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10440 LITTLE PATUXENT PARKWAY
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G. SCOTT BARHIGHT
DIRECT NUMBER
410 832-2050
gbarhight@wtplaw.com

WHITEFORD, TAYLOR & PRESTON
L.L.P.

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1025 CONNECTICUT AVENUE, NW
WASHINGTON, D C 20036-5405
TELEPHONE 202 659-6800
FAX 202 331-0575

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

March 21, 2001

01 MAR 21 PM 12:14
BALTIMORE COUNTY
BOARD OF APPEALS

Via Hand Delivery

Ms. Kathleen C. Bianco
County Board of Appeals of Baltimore County
Room 49, Old Courthouse
400 Washington Avenue
Towson, Maryland 21204

Re: In the Matter of Carroll Community Church
Case Nos. 99-503-X and CBA-00-105

Dear Ms. Bianco:

Thank you for your letter dated March 13, 2001. On behalf of Carroll Community Church, we respectfully object to the cancellation of the March 27, 2001 deliberation and the additional briefing suggested.

First, your March 13, 2001 inaccurately indicates that "the Petitioner now wishes to challenge a Baltimore County law under a Federal statute." Carroll Community Church is not challenging the constitutionality of any Baltimore County law under any federal statute. Further, as indicated in open hearing before the Board of Appeals during the last day of hearings, February 15, 2001, Carroll Community Church informed the Board and all litigants of its intention to argue the application of the Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA) to the instant case. In short, Carroll Community Church has never challenged a Baltimore County Law.

Second, it is not appropriate for the Office of Law to intervene in this case. It is our understanding that under the Baltimore County Charter, the Office of Law acts as counsel to the Board of Appeals. It is our further understanding that the Board is permitted to seek legal advice from the County Attorney. Therefore, the County Attorney may properly provide legal advice to the Board without intervening in this

case. The County attorney's intervention is further improper since the Board's own Rules of Practice and Procedure permit only parties to appear before the Board in a representative capacity. Baltimore County is not a party to these proceedings. Furthermore, intervention is unnecessary since People's Counsel represents the interest of the people of Baltimore County, Mr. Holzer represents the interests of the community members as noted, and we represent the interests of the Petitioner. All interests are fully represented by existing counsel.

Without waiving any objections, please reschedule this matter for deliberation on March 27, 2001 as previously indicated. As you know, this matter arises from a timely appeal taken from the Zoning Commissioner's September 24, 1999 Order granting Carroll Community Church a special exception. The appeal has been pending before this Board, without a decision, since that time. The delay in this matter continues to harm and prejudice Carroll Community Church.

Thank you for your kind attention to this matter. Should you have any questions or comments, please feel free to contact me.

Sincerely,

G. Scott Barhight

GSB:sll
cc: Peter M. Zimmerman, Esquire (via hand delivery)
Carole S. DeMilio, Esquire (via hand delivery)
J. Carroll Holzer, Esquire (via hand delivery)
Virginia Barnhart, Esquire (via hand delivery)
Carroll Community Church
Julie A. DiGrigoli, Esquire

222492

County Board of Appeals of Baltimore County

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

pp'd; to be reset

January 29, 2001

NOTICE OF DELIBERATION

IN THE MATTER OF:

CARROLL COMMUNITY CHURCH (Est of Catherine Bond)
Case No. CBA-00-105 and 99-503-X

Having concluded this matter in nine days of hearing (6/20; 6/21; 8/22; 8/23; 8/30; 9/26; 10/18; 10/19/00 and 1/25/01), deliberation has been scheduled for the following date and time:

DATE AND TIME : TUESDAY, MARCH 27, 2001 at 11:30 a.m.

LOCATION : Hearing Room 48, Basement, Old Courthouse

(NOTE: Closing Memos are due from counsel on Wednesday, March 7, 2001 (ORIGINAL AND THREE [3] COPIES.)

Kathleen C. Bianco
Administrator

c: Counsel for Appellants /Protestants : J. Carroll Holzer, Esquire
Appellants /Protestants : E.L. Bond, Jr. Melvin J. Fair
Chris L. Bond Shirlee Green Elseroad
Glen Elseroad

Counsel for Appellant /Petitioner : G. Scott Barhight, Esquire
Appellant /Petitioner : Carroll Community Church
Legal Owner /Petitioner : Virginia B. Norwood, PR /Est of Catherine Bond

George H. Harman
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People's Counsel for Baltimore County
Pat Keller, Director /Planning
Lawrence Schmidt, Z.C.
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

Robert W. Bowling PE /DPW
Recreation & Parks
Donald Rascoe /PDM

(FYI to L.C.F.)

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County Board of Appeals of Baltimore County

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

March 13, 2001

G. Scott Barhight, Esquire
WHITEFORD, TAYLOR & PRESTON
500 Court Towers
210 W. Pennsylvania Avenue
Towson, MD 21204-4515

J. Carroll Holzer, Esquire
508 Fairmount Avenue
Towson, MD 21286

Peter Max Zimmerman
People's Counsel
for Baltimore County
Room 47, Old Courthouse
400 Washington Avenue
Towson, MD 21204

RE: *In the Matter of: Carroll Community Church*
Case No. 99-503-X and Case No. CBA-00-105

Dear Counsel:

In light of the fact that the Petitioner now wishes to challenge a Baltimore County law under a Federal statute, notice has been given to the County Attorney's Office to give that office an opportunity to file a memorandum on this issue which will be due in this office no later than Tuesday, April 3, 2001.

Under normal circumstances, briefs are filed with the Board in lieu of closing argument and no reply memorandums are permitted. However, in light of the opportunity given to the Office of Law to file its memorandum no later than April 3rd, the Board will therefore allow reply memorandums, on the limited issue of the Religious Land Use & Institutionalized Persons Act of 2000 ("RLUIPA"), to be filed by any counsel so desiring no later than Tuesday, April 24, 2001.

Accordingly, the Board, upon its own motion, shall continue the date of the deliberation to a date to be determined in consultation with counsel.

Very truly yours,

Kathleen C. Bianco
Administrator

c: Virginia W. Barnhart, County Attorney

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SEVEN SAINT PAUL STREET
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March 7, 2001

01 MAR -7 AM 11:47
COUNTY BOARD OF APPEALS
RECEIVED

County Board of Appeals of Baltimore County
Room 49, Old Courthouse
400 Washington Avenue
Towson, Maryland 21204

Re: Carroll Community Church
Petition for Special Exception
Request for Exemption
Memorandum of Law in Lieu of Closing Argument
Case Nos. 99-503-X and CBA-00-105

Dear Board Members:

Enclosed are four (4) copies of Appellant's Memorandum of Law in Lieu of Closing Argument. Carroll Community Church respectfully submits these Memorandum in support of its Petition for Special Exception and its appeal of the denial of a Development Exemption. The two Memorandum have been separated for ease of presentation.

The Memorandum for the Special Exception includes three Appendices. Appendix A is an outline of the Memorandum to assist you in your review. Appendix B is a list of those conditions to which Carroll Community Church is willing to agree. Appendix C is a summary of all of the witnesses' testimony.

Although this Brief is lengthy, we think it merits your full consideration given the dramatic importance of the outcome of this case to the future of this Church. As you are aware, the Church has purchased the property and is currently involved in the development process. The outline in Appendix A will hopefully facilitate your review of the brief so that you can easily locate the arguments of interest.

On behalf of Carroll Community Church, I wish to express our sincere appreciation for the hard work of the Board in dealing with this lengthy case.

Sincerely,

G. Scott Barhight

GSB:sll
Enclosure
cc: Peter M. Zimmerman, Esquire
J. Carroll Holzer, Esquire

221403

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April 30, 2001

RECEIVED
01 APR 30 PM 4:10
BALTIMORE COUNTY
BOARD OF APPEALS

Via Hand Delivery
Lawrence M. Stahl, Panel Chairman
County Board of Appeals of
Baltimore County
401 Washington Avenue, Room 49
Towson, MD 21204

Re: Carroll Community Church
Case Nos. 99-503-X and CBA-00-105

Dear Chairman Stahl,

I am in receipt of People's Counsel's April 26, 2001 letter in the above-referenced matter. The Petitioner respectfully disagrees with People's Counsel's contention that its Memorandum has exceeded the scope of a reply and introduces new legal arguments into these proceedings. To the contrary, Petitioner's Reply Memorandum properly responded to the RLUIPA and First Amendment issues raised and discussed by the County Attorney. Additionally, the Petitioner's Reply Memorandum properly addressed the application of the constitutional issues raised by the County Attorney.

Furthermore, Petitioner respectfully disagrees with People's Counsel's contention that it has sought to mislead this Board. The Petitioner has never asserted that this Board does not have the "authority and responsibility to consider constitutional issues". To the contrary, in its Reply Memorandum, Petitioner agreed with the County Attorney that both the Religious Land Use and Institutionalized Persons Act of 2001 (RLUIPA) and the First Amendment are applicable to this case. Petitioner further agreed with the County Attorney that this Board should consider these constitutional issues in the context of this case.

Petitioner merely offered *The Insurance Com'r of State of Md. v. Equitable Life Assur. Soc. of U.S.* to stand for the proposition that this Board may not actually declare RLUIPA

unconstitutional. Notably, the County Attorney took a similar position in her Memorandum. Specifically, she stated that "we believe that it would be imprudent and indeed beyond the jurisdiction of this body to address the constitutionality of RLUIPA in this case."

Thank you for considering our response to People's Counsel's April 26, 2001 correspondence. With kind regards, I am.

Sincerely,

G. Scott Barhight

ccs: Carroll J. Holzer, Esquire (via hand delivery)
Peter Max Zimmerman, People's Counsel (via hand delivery)
Carole S. Demilio, Deputy People's Counsel (via hand delivery)
Carroll Community Church, Inc. (via facsimile)
Julie A. DiGrigoli, Esquire

GSB:wtp

BALTIMORE COUNTY, MARYLAND

SUBJECT: CONCEPT PLAN COMMENTS

CPC DATE: 4/17/00
9:00 a.m., Room 123

FROM: PDM - ZONING REVIEW

PROJECT NAME: **Carroll Community Church**

PLAN DATE:

LOCATION:

DISTRICT: 4c3

PROPOSAL: 2,000-Seat Church & Multi-Purpose Field

ZONING: R.C.2 & R.C.

Final zoning approval is contingent first upon all plan comments being addressed on the concept plan conference plan; secondly upon the final resolution of all comments, the outcome of any requested zoning hearings; and finally the inclusion of the Final Development Plan (FDP) checklist information being included on the FDP.

1. Parking must be provided in Baltimore County for structures and uses developed in Baltimore County. Therefore, the church must do so inside the county line or petition for a variance that explains the current proposal.

2 A special hearing is also required to amend the proposed plan to comport with the site plan approved as part of case number 99-503-X and to further amend the plan to permit the 2,000-seat church permitted by the variance order.

3. I understand that Carroll Community Church is appealing the case number 99-503-X on the issue of seating capacity. They would still be required to apply for a variance for parking and a special hearing to amend to original plan.

4. Show setbacks of parking lot from Gilead Road (the minimum is 10 feet).

JOHN R. ALEXANDER
Planner II
Zoning Review

JRA:scj

Rec'd 4 for Id.

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Donald T. Rascoe DATE: March 4, 1994

FROM: Arnold Jablon

RE: DRC

Recently, the Executive Office has brought to my attention complaints by applicants that the DRC was denying "requests" for limited exemptions based on perceptions of community interest or that the proposal was for a change in use on the property at issue.

Section 26-171 (a) and (b), Baltimore County Code, are the relevant laws.

There are no references in this section which permit the county to refuse a limited exemption for these reasons. There are, however, some examples cited therein that are open for interpretation, e.g., a minor commercial structure, which require a subjective review for a determination.

The issues of community notice and of community interest, while not required or noted in Section 26-171, are legitimate. As a result, after consultation, review and approval by OPZ, DEPRM and ZADM, I circulated a policy (a copy of which is attached) to those departments for acceptance.

After comments were received, the policy was revised and reissued, as noted on the attached. Subsequently, this policy was incorporated into the ZADM Policy Manual, adopted after a public hearing and pursuant to Sections 2-416, et seq., and 26-218(b), on July 1, 1993.

I refer you to that section of the policy which deals with a request for a (b)(9) exemption. While a "measurable degree of community interest" may well be subjective, and certainly not found in the law, we recognize the inherent interest a community has in any proposed development. I agree, until challenged and overruled, that an exemption may be refused if this criterion exists. However,

Appellant Exhibit #1

the policy further states that if a zoning hearing is required, then the former issue is protected and the exemption must be allowed.

There is nothing in the policy that draws distinctions as to the subject matter of the zoning hearing, or whether the proposal is for a change in use.

We have in fact by policy added to the law; the DRC may not go beyond this policy. To do so would negate the purpose and intent of the Code of Baltimore County Regulations. Applicants have a right to know the rules of the game. Policy manuals provide the blueprint which bind us.

If a (b)(9) request is presented to the DRC, and it involves a minor development as defined in Section 26-168, and a zoning hearing is required, no matter how much community interest there may be, or the subject matter of the hearing, the exemption cannot be refused.

I also underscore the importance of complying with this policy generally. There is enough subjectivity existing in Section 26-171 without adding to it beyond what this policy provides.

AJ:eoh

Attachment

c: J. James Dieter
P. David Fields
Thomas H. Hamer
Wayne R. Harman

Appellant Exhibit #1

CBA - 00 - 105
99 - 503 - X
Carroll Community Church

Petitioner's Sign - In Sheet

June 20, 2000

JOE DUKE	CARROLL COMMUNITY CH. 5220 KLEES MILL RD SUITE E SYKESVILLE MD 21784
Robert Leutterwood	5603 Emory Road Upperco MD 21155
ROBERT F. BRADLEY	MORRIS & RITCHIE ASSOC. 110 WEST RD. SUITE 245 TOWSON, MD 21204
Tim Madden	MORRIS & RITCHIE ASSOC, INC.
MICKEY CORNELIUS	THE TRAFFIC GROUP, INC 9900 FRANKLIN SQ DR SUITE H BALTIMORE, MD 21236
John McGinn	Eldersburg, MD.
John T. Martindale	5012 Kemp Road Reisterstown, MD. 21136

Petitioner's ~~Exhibits~~ Exhibit #2

Traffic Impact Analysis

for

CARROLL COMMUNITY CHURCH

MD 91 (Emory Rd)

Baltimore County, Maryland

Prepared for

Carroll Community Church

June 15, 2000

Protestant's Exhibit No. 3

Traffic Impact Analysis

For

Carroll Community Church

Baltimore County Maryland

Prepared for Carroll Community Church

The Traffic Group, Inc.

June 15, 2000

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Page(s)

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- ***BASE CONDITIONS 3***

1 Site Location Map 4
2 Existing Lane Use 5
3 Existing Peak Hour Traffic Volumes 6

- ***BACKGROUND TRAFFIC ANALYSIS 7***

4 Background (2002) Peak Hour Traffic Volumes 8

- ***TRAFFIC ANALYSIS FOR CARROLL COMMUNITY CHURCH 9***

5 Trip Generation Rates and Totals for Site 10
6 Site Generated Peak Hour Traffic 11
7 Total (2002) Peak Hour Traffic Volume 12

- ***RESULTS, RECOMMENDATIONS and CONCLUSIONS 13***

8 *Proposed Lane Use 15*

APPENDICES

APPENDIX A - Traffic Volume Counts

APPENDIX B - Intersection Capacity Analysis Worksheets

INTRODUCTION and SUMMARY OF FINDINGS

The Traffic Group, Inc. has conducted a Traffic Impact Analysis to determine the impact of the development of Carroll Community Church. The proposed site for the development is located along the east side of MD 91 (Emory Road) to the south of Mt. Gilead Road. At this time, the subject property is proposed to be developed only with a 2000 seat church that totals approximately 43,500 square feet in building area. There is a "future" sanctuary that would result in a total of approximately 65,700 square feet including the church and "future" sanctuary. In order to provide a conservative analysis, this analysis assumes the site to be built out with a 65,700 square foot church and sanctuary. The site is proposed to be developed with full movement access along MD 91 (Emory Road) approximately 800 feet south of Mt. Gilead Road.

This study was conducted in accordance with the requirements established by the Maryland State Highway Administration (SHA).

The principal scope of services undertaken as part of this study was as follows:

- *Conduct a field inspection to collect physical information concerning the nearby road system.*

- *Conduct Traffic Volume Counts along MD 91 in the vicinity of the proposed church driveway. Directional 24 hour portable tube counts were conducted from Monday July 19 through Monday July 26, 1999.*

- *Provide an allowance for regional traffic growth on the study area roadways.*

- *Conduct Trip Generation and Trip Distribution Analyses for the proposed church.*

- *Develop Total Future Traffic Volume Forecasts for the key intersections in the study area.*

- *Conduct Intersection Capacity Analyses and Level of Service Evaluations for MD 91 and the proposed church driveway. Since a driveway does not currently exist, the analysis was performed only for the total traffic conditions.*

- *Provide an overall evaluation of the impact of the proposed site.*

Based upon the data and analyses presented in this study, it has been shown that the site can be developed as proposed without adversely impacting surrounding area traffic conditions. The results of the capacity analysis show that this intersection will operate at very good Level of Service "A" upon full build-out of the site.

Furthermore, a review of Exhibit 7 reveals that the church traffic will be extremely light during normal weekday morning and evening peak hours. Also, traffic along MD 91 is very light on Sunday mornings when the church traffic is peaking.

The methodology used to undertake this study is detailed in the sections that follow.

BASE CONDITIONS

The proposed site for the development is located along the east side of MD 91 (Emory Road) to the south of Mt. Gilead Road as shown on Exhibit 1. The site is proposed to be developed with full movement access along MD 91 (Emory Road) approximately 800 feet south of Mt. Gilead Road.

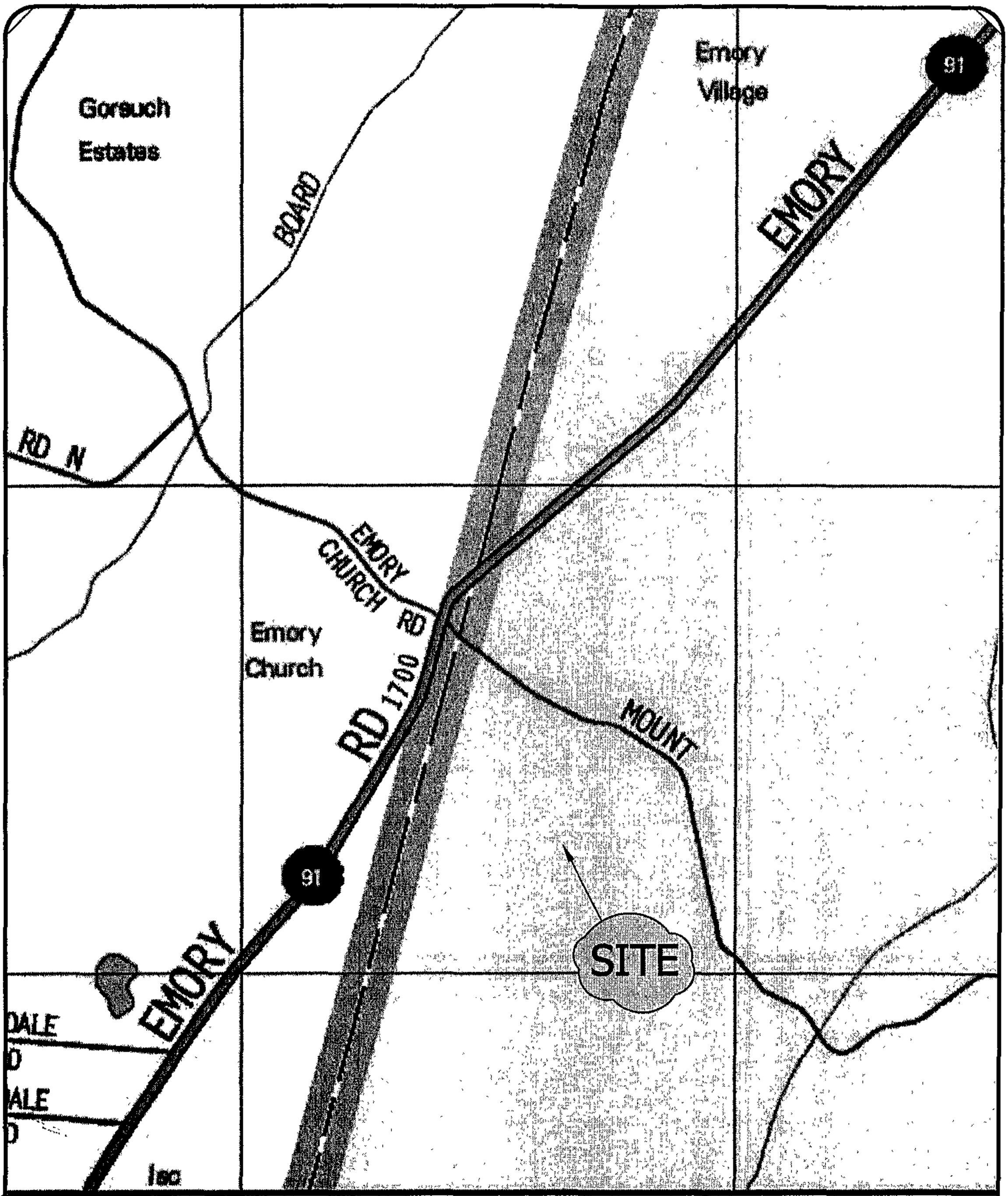
MD 91 is a two-lane roadway, which traverses a north/south direction.

A schematic drawing illustrating the existing lane use at the site access is contained on Exhibit 2.

The Traffic Group, Inc. conducted directional portable tube counts along MD 91 in the vicinity of the proposed church. The counts were conducted from Monday July 19 through Monday July 25, 1999. Copies of the traffic volume count summary sheets are contained in Appendix A of this report.

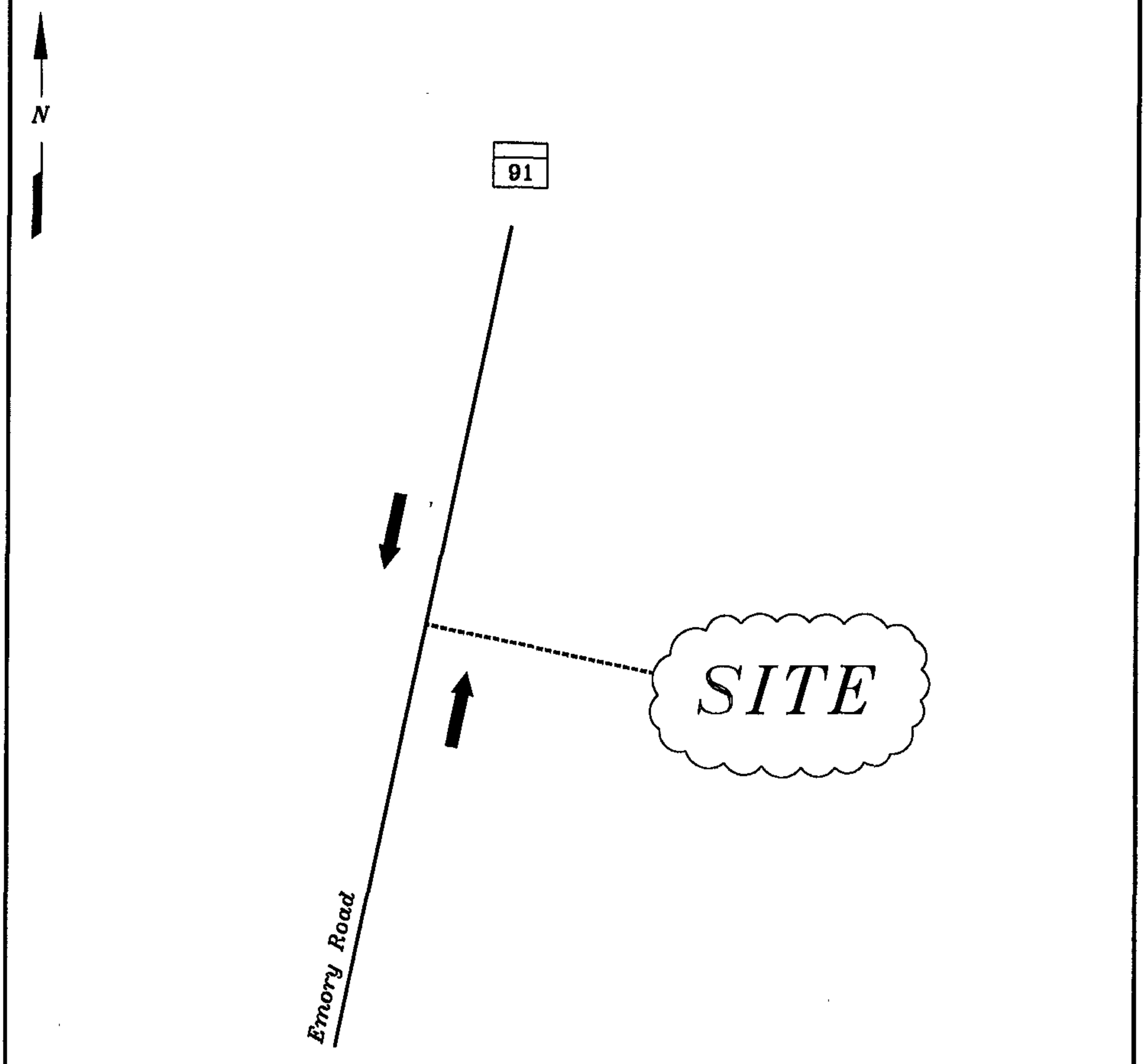
The resulting existing peak hour traffic volumes along MD 91 adjacent to the site are displayed on Exhibit 3.

An Intersection Capacity Analysis was not conducted for existing conditions since there is not currently a driveway or traffic in or out of the site.



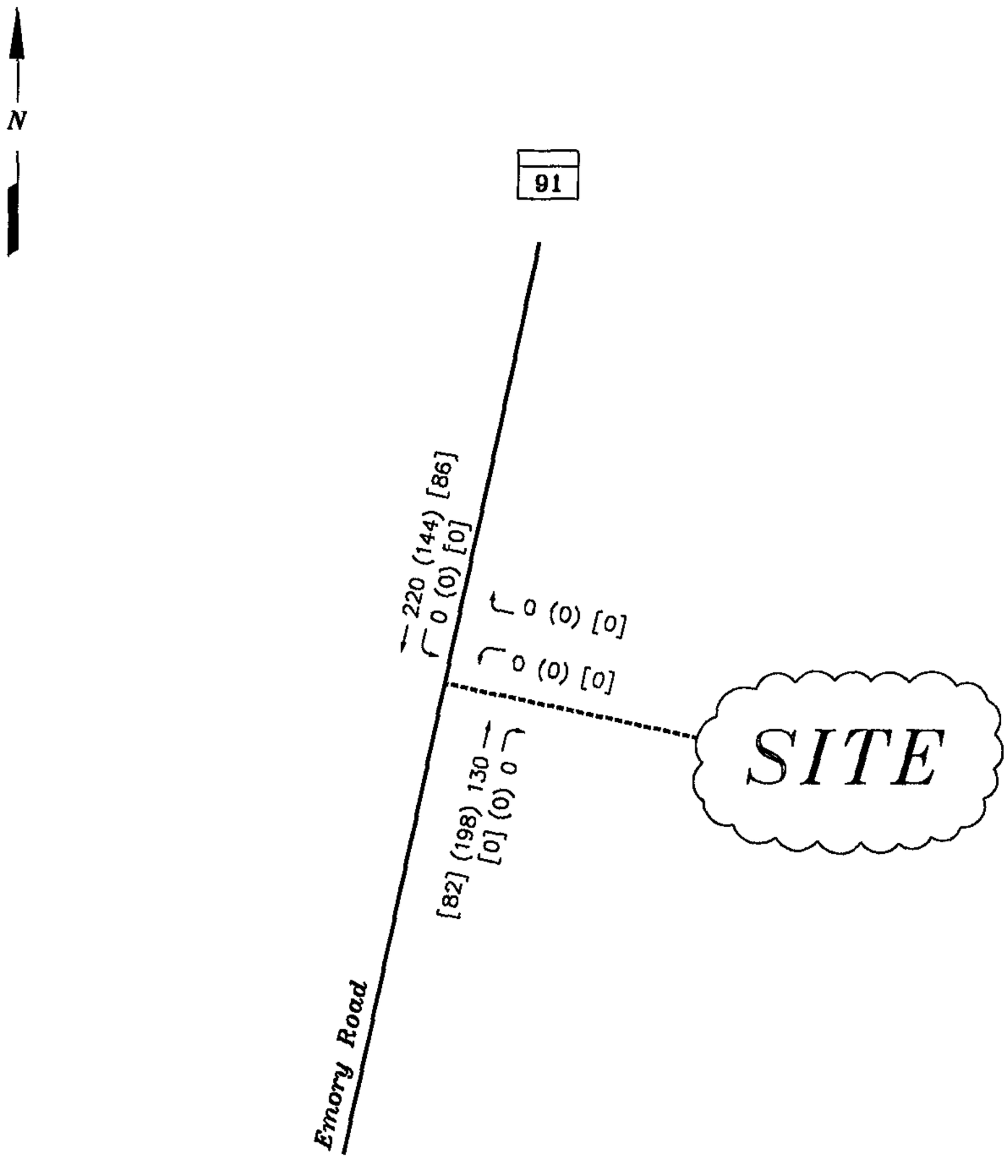
NOT TO SCALE

EXHIBIT 1
SITE LOCATION MAP



NOT TO SCALE

EXHIBIT 2
EXISTING LANE USE



NOT TO SCALE

00 – MORNING PEAK HOUR
(00) – EVENING PEAK HOUR
[00] – SUNDAY 11:00 AM TO NOON

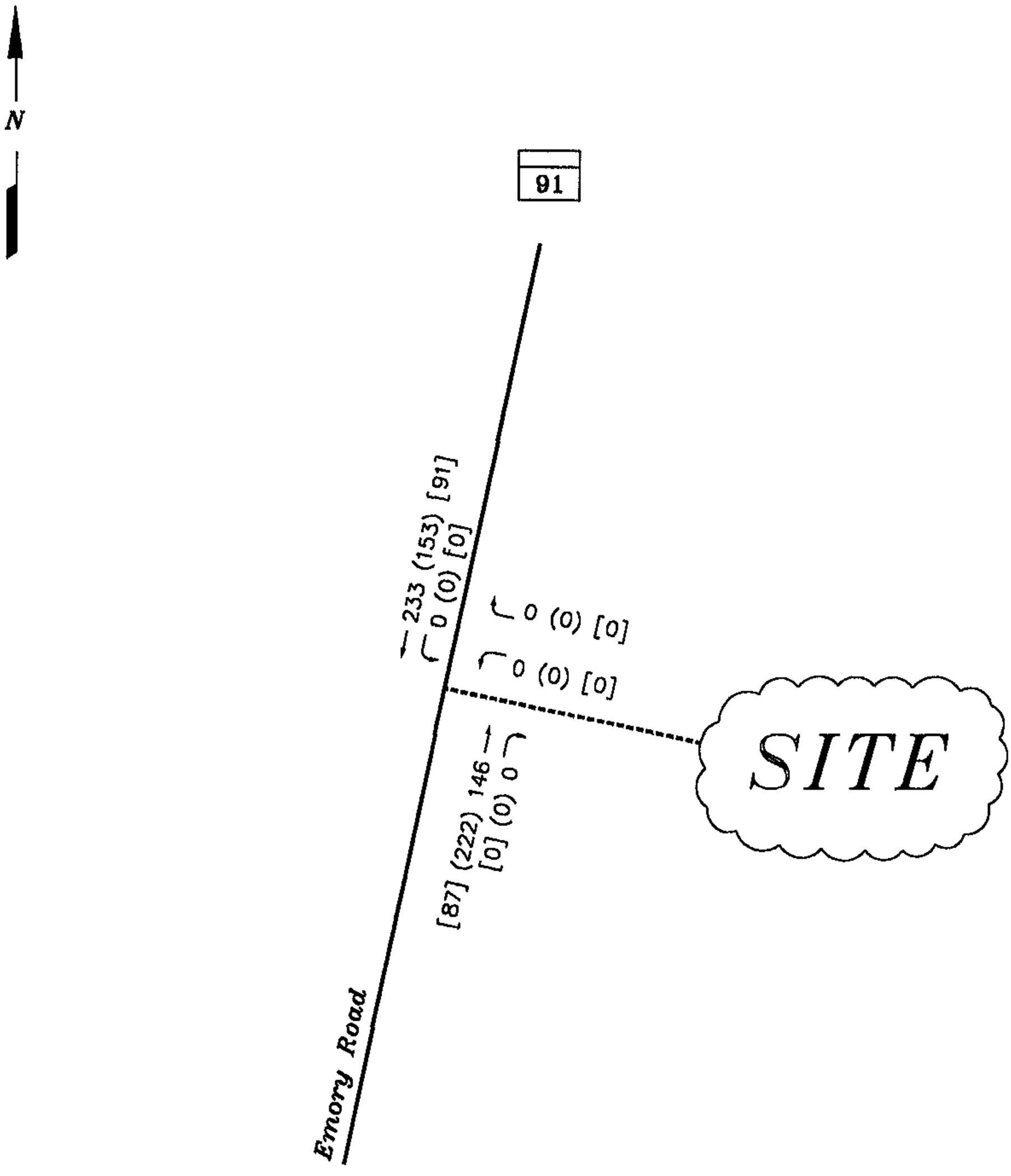
EXHIBIT 3
EXISTING PEAK HOUR
TRAFFIC VOLUMES

BACKGROUND TRAFFIC ANALYSIS

For purposes of this study an increase in traffic was considered due to regional traffic growth along MD 91. A 3% growth rate was assumed based on historical growth and general knowledge of the region. For purposes of this study, a 2002 Design Year was assumed for build-out of the site as proposed.

Based upon a 2002 Design Year and a 3% annual growth in regional traffic along MD 91, Exhibit 4 was prepared to show the projected year 2002 Background Peak Hour Traffic Volumes.

An Intersection Capacity Analysis was not conducted for background conditions since there would not be a driveway or traffic in or out of the site.



NOTE:
Background (2002) Peak Hour Traffic Volumes obtained by multiplying Existing Peak Hour Traffic Volumes by 3% per year for two years.

The Traffic Group

NOT TO SCALE

00 – MORNING PEAK HOUR
(00) – EVENING PEAK HOUR
[00] – SUNDAY 11:00 AM TO NOON

EXHIBIT 4
BACKGROUND (2002) PEAK HOUR
TRAFFIC VOLUMES

TRAFFIC ANALYSIS FOR CARROLL COMMUNITY CHURCH

At this time, the subject property is proposed to be developed only with a 2000 seat church that totals approximately 43,500 square feet in building area. There is a "future" sanctuary that would result in a total of approximately 65,700 square feet including the church and "future" sanctuary. In order to provide a conservative analysis, this study assumes the site to be built out with a 65,700 square foot church and sanctuary. The site is proposed to be developed with full movement access along MD 91 (Emory Road) approximately 800 feet south of Mt. Gilead Road.

Trip generation rates were obtained from the ITE Trip Generation Report (6th Edition) in order to project traffic to be generated by the proposed development. Exhibit 5 reflects the ITE trip generation rates and totals used for this report.

The trips projected to be generated by the site were assigned to MD 91 at the church driveway as shown on Exhibit 6. The distributions are estimated based upon dispersal of the congregation, in consideration of the travel times and distances to reach their destination. The year 2002 background traffic volumes were combined with the site generated trips to obtain the year 2002 Total Peak Hour Volumes shown on Exhibit 7.

A Critical Lane Volume capacity analysis was conducted for MD 91 at the church driveway using the 2002 Total Traffic Volumes. The results of the analysis reveal that the intersection will operate at a very good Level of Service "A" under all study periods. Copies of the capacity worksheets for these analyses are contained in Appendix B of this report.

Summary of Trip Generation Calculation
For 65.7 Th.Gr.Sq.Ft. of Church
June 10, 2000

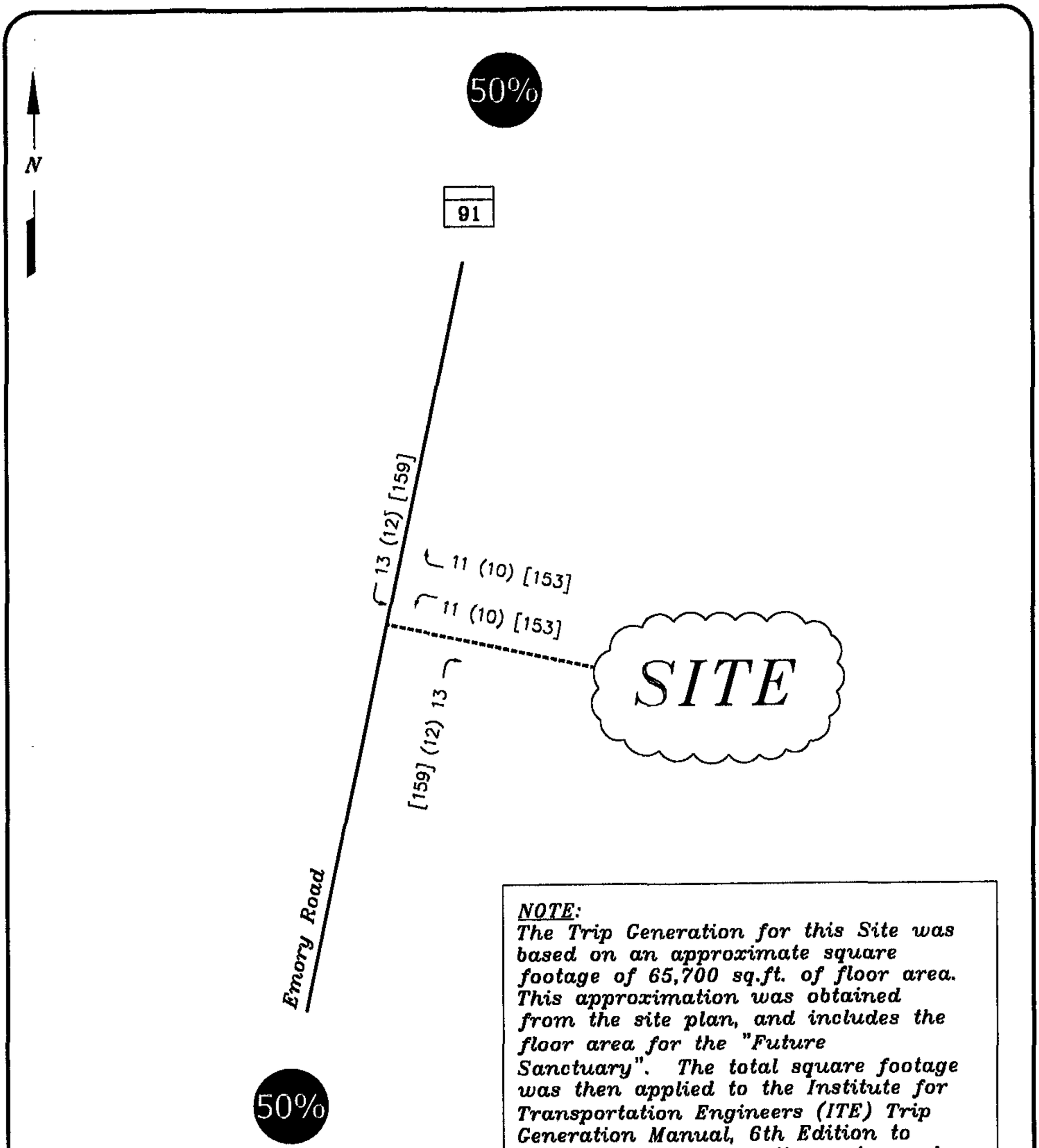
	Average Rate	Standard Deviation	Adjustment Factor	Driveway Volume
Avg. Weekday 2-Way Volume	9.11	7.20	1.00	599
7-9 AM Peak Hour Enter	0.39	0.00	1.00	26
7-9 AM Peak Hour Exit	0.33	0.00	1.00	22
7-9 AM Peak Hour Total	0.72	1.88	1.00	47
4-6 PM Peak Hour Enter	0.36	0.00	1.00	24
4-6 PM Peak Hour Exit	0.30	0.00	1.00	20
4-6 PM Peak Hour Total	0.66	1.01	1.00	43
AM Pk Hr, Generator, Enter	0.64	0.00	1.00	42
AM Pk Hr, Generator, Exit	0.64	0.00	1.00	42
AM Pk Hr, Generator, Total	1.28	1.98	1.00	84
PM Pk Hr, Generator, Enter	0.83	0.00	1.00	55
PM Pk Hr, Generator, Exit	0.58	0.00	1.00	38
PM Pk Hr, Generator, Total	1.41	1.46	1.00	93
Saturday 2-Way Volume	9.70	15.56	1.00	637
Saturday Peak Hour Enter	2.40	0.00	1.00	158
Saturday Peak Hour Exit	0.85	0.00	1.00	56
Saturday Peak Hour Total	3.25	6.39	1.00	214
Sunday 2-Way Volume	36.63	29.13	1.00	2407
Sunday Peak Hour Enter	4.84	0.00	1.00	318
Sunday Peak Hour Exit	4.65	0.00	1.00	306
Sunday Peak Hour Total	9.49	6.84	1.00	623

Note: A zero indicates no data available.
Source: Institute of Transportation Engineers
Trip Generation, 6th Edition, 1997.

TRIP GENERATION BY MICROTRANS

NOT TO SCALE

EXHIBIT 5
TRIP GENERATION RATES AND TOTALS
FOR SITE



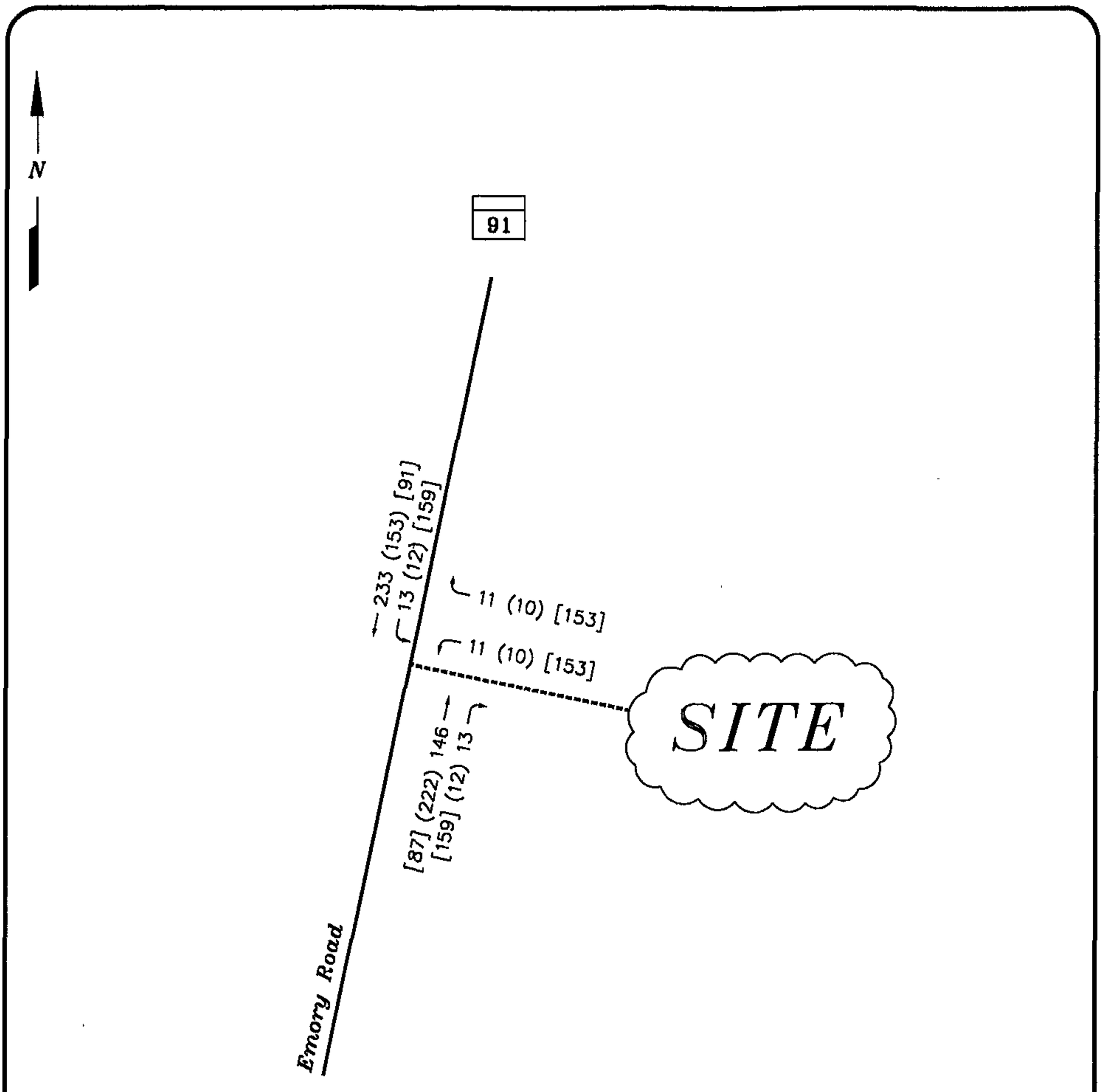
NOTE:
The Trip Generation for this Site was based on an approximate square footage of 65,700 sq.ft. of floor area. This approximation was obtained from the site plan, and includes the floor area for the "Future Sanctuary". The total square footage was then applied to the Institute for Transportation Engineers (ITE) Trip Generation Manual, 6th Edition to obtain the trip generation rates and totals for the site.

The Traffic Group

NOT TO SCALE

00 – MORNING PEAK HOUR
(00) – EVENING PEAK HOUR
[00] – SUNDAY 11:00 AM TO NOON

EXHIBIT 6
SITE GENERATED
PEAK HOUR TRAFFIC



NOT TO SCALE

00 – MORNING PEAK HOUR
(00) – EVENING PEAK HOUR
[00] – SUNDAY 11:00 AM TO NOON

EXHIBIT 7
TOTAL (2002) PEAK HOUR
TRAFFIC VOLUME

RESULTS, RECOMMENDATIONS and CONCLUSIONS

This Traffic Impact Analysis was conducted to address the operations at the intersection of MD 91 (Emory Road) at the entrance to the proposed Carroll Community Church.

Based upon the data and analyses presented in this study, it has been shown that the site can be developed as proposed without adversely impacting surrounding area traffic conditions. The results of the capacity analysis show that the proposed church entrance will operate at very good Level of Service "A" conditions upon full build-out of the site.

A review of Exhibit 7 reveals that the church traffic will be extremely light during normal weekday morning and evening peak hours. Also, traffic along MD 91 will be very light on Sunday mornings when the church traffic is peaking.

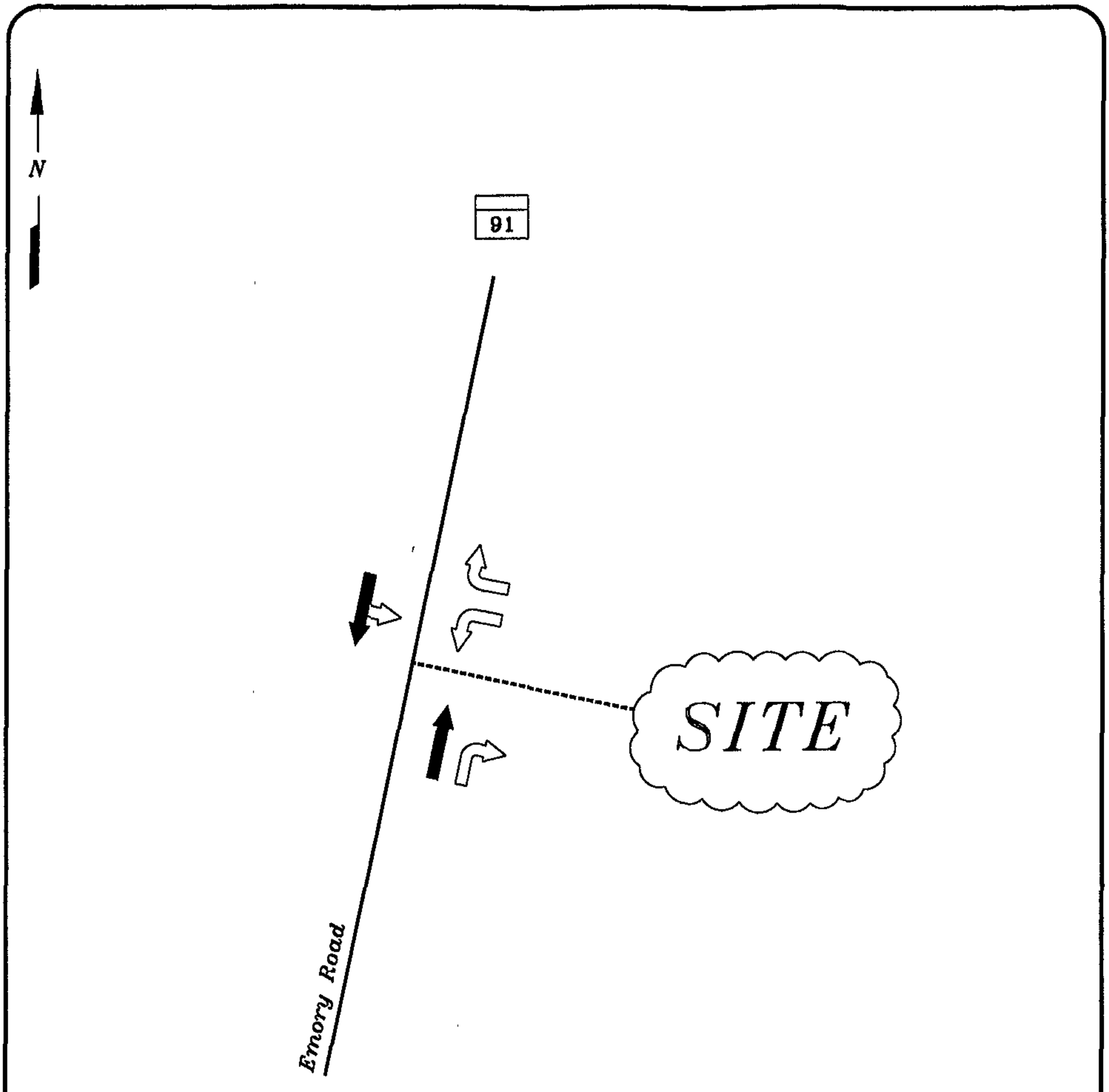
This study included the construction of acceleration/deceleration lanes along MD 91 at the site access. A left turn bypass lane was not considered. Additional capacity analyses were conducted using the Highway Capacity Manual (HCM) unsignalized capacity procedure to evaluate the need for a bypass lane. Copies of these analyses are contained in Appendix B. The results show the left turn into the site will operate at Level of Service "A" conditions with minimal delays during weekday morning and evening as well as the Sunday time periods. Therefore, a left turn bypass is not needed. Exhibit 8 shows the recommended lane use at the site access.

In summary, the development of the Carroll Community Church will not have an adverse affect on traffic conditions. Also, the entrance to the proposed church will operate at a very good Level of Service "A" under all study periods at full build-out of the site.

Report Prepared By:

Mickey Cornelius, P.E., P.T.O.E.
Michael Lenhart, P.E., P.T.O.E.
Wes Guckert

MML/rmh
(2000-0407/wp/report)



NOT TO SCALE

EXHIBIT 8
PROPOSED LANE USE

APPENDIX A

Traffic Volume Counts

This is Report Line Number One
This is Report Line Number Two

07-28-1999 Volume by Lane Report - D0719016.PRN 09:26 Pg 1

Sta: 269000000091 Id: 269000000091 CId: 01 Fmt: 200 - Imperial Int: 60 Min.
Start: Mon - Jul 19, 1999 at 16:00 End: Mon - Jul 26, 1999 at 24:00
City/Town: County: Baltimore
Location: Md. 91 South of Mt. Gilead Rd. File: D0719016.PRN
Ln1-North Ln2-South

Mon - Jul 19, 1999

Lane	1	2	Total
17:00	198	100	298
18:00	192	132	324
19:00	135	103	238
20:00	92	64	156
21:00	88	60	148
22:00	68	47	115
23:00	44	46	90
24:00	23	17	40
Daily Totals	840	569	1409
Percentages	59.62	40.38	

Tue - Jul 20, 1999

01:00	10	12	22
02:00	6	5	11
03:00	4	8	12
04:00	4	4	8
05:00	6	18	24
06:00	23	73	96
07:00	60	168	228
08:00	130	220	350
09:00	126	149	275
10:00	118	108	226
11:00	101	123	224
12:00	108	110	218
13:00	128	98	226
14:00	137	107	244
15:00	150	119	269
16:00	174	119	293
17:00	204	114	318
18:00	198	144	342
19:00	158	88	246
20:00	90	90	180
21:00	93	83	176
22:00	65	52	117
23:00	53	44	97
24:00	27	17	44
Daily Totals	2173	2073	4246
Percentages	51.18	48.82	

Wed - Jul 21, 1999

Wed - Jul 21, 1999

Lane	1	2	Total
01:00	10	12	22
02:00	7	6	13
03:00	6	6	12
04:00	6	3	9
05:00	10	12	22
06:00	30	78	108
07:00	70	184	254
08:00	117	189	306
09:00	96	128	224
10:00	116	94	210
11:00	101	85	186
12:00	121	105	226
13:00	117	101	218
14:00	96	90	186
15:00	118	104	222
16:00	175	119	294
17:00	216	134	350
18:00	232	126	358
19:00	154	96	250
20:00	100	80	180
21:00	69	70	139
22:00	65	52	117
23:00	29	38	67
24:00	28	14	42
Daily Totals	2089	1926	4015
Percentages	52.03	47.97	

Thu - Jul 22, 1999

01:00	10	13	23
02:00	4	4	8
03:00	6	8	14
04:00	4	10	14
05:00	8	16	24
06:00	19	61	80
07:00	58	172	230
08:00	95	217	312
09:00	115	155	270
10:00	104	112	216
11:00	92	86	178
12:00	95	83	178
13:00	98	98	196
14:00	118	108	226
15:00	114	86	200
16:00	135	90	225
17:00	198	121	319
18:00	178	134	312
19:00	168	108	276
20:00	104	75	179
21:00	76	72	148
22:00	68	66	134

Thu - Jul 22, 1999

Lane	1	2	Total
23:00	39	58	97
24:00	19	13	32
Daily Totals	1925	1966	3891
Percentages	49.47	50.53	

Fri - Jul 23, 1999

01:00	10	11	21
02:00	8	7	15
03:00	1	7	8
04:00	11	7	18
05:00	6	16	22
06:00	31	61	92
07:00	74	162	236
08:00	113	177	290
09:00	131	140	271
10:00	84	88	172
11:00	124	106	230
12:00	112	94	206
13:00	114	94	208
14:00	112	100	212
15:00	128	112	240
16:00	160	124	284
17:00	201	127	328
18:00	228	168	396
19:00	166	94	260
20:00	112	89	201
21:00	73	63	136
22:00	94	72	166
23:00	60	70	130
24:00	35	22	57
Daily Totals	2188	2011	4199
Percentages	52.11	47.89	

Sat - Jul 24, 1999

01:00	20	22	42
02:00	16	8	24
03:00	9	7	16
04:00	6	8	14
05:00	10	6	16
06:00	14	26	40
07:00	28	66	94
08:00	50	58	108
09:00	81	99	180
10:00	102	96	198
11:00	138	86	224
12:00	130	125	255

Sat - Jul 24, 1999

Lane	1	2	Total
13:00	116	123	239
14:00	149	98	247
15:00	107	115	222
16:00	122	116	238
17:00	120	114	234
18:00	90	96	186
19:00	127	97	224
20:00	82	98	180
21:00	94	66	160
22:00	83	65	148
23:00	57	65	122
24:00	46	24	70
Daily Totals	1797	1684	3481
Percentages	51.62	48.38	

Sun - Jul 25, 1999

01:00	31	19	50
02:00	14	10	24
03:00	11	7	18
04:00	8	4	12
05:00	8	6	14
06:00	10	6	16
07:00	24	26	50
08:00	24	23	47
09:00	48	32	80
10:00	60	51	111
11:00	93	68	161
12:00	82	86	168
13:00	142	100	242
14:00	152	124	276
15:00	104	100	204
16:00	103	95	198
17:00	94	108	202
18:00	97	104	201
19:00	101	94	195
20:00	92	78	170
21:00	85	74	159
22:00	56	52	108
23:00	26	30	56
24:00	20	18	38
Daily Totals	1485	1315	2800
Percentages	53.04	46.96	

Mon - Jul 26, 1999

01:00	20	10	30
02:00	5	3	8

This is Report Line Number One
This is Report Line Number Two

Mon - Jul 26, 1999

Lane	1	2	Total
03:00	10	1	11
04:00	1	7	8
05:00	6	16	22
06:00	24	60	84
07:00	54	177	231
08:00	105	199	304
09:00	104	127	231
10:00	101	107	208
11:00	82	77	159
12:00	102	85	187
13:00	120	79	199
14:00	90	76	166
15:00	132	104	236
16:00	145	105	250
17:00	200	116	316
18:00	202	119	321
19:00	167	101	268
20:00	78	88	166
21:00	74	77	151
22:00	67	45	112
23:00	48	34	82
24:00	30	20	50
Daily Totals	1967	1833	3800
Percentages	51.76	48.24	

This is Report Line Number One
This is Report Line Number Two

Sta: 269000000091 Id: 269000000091 CId: 01 Fmt: 200 - Imperial Int: 60 Min.
Start: Mon - Jul 19, 1999 at 16:00 End: Mon - Jul 26, 1999 at 24:00
City/Town: County: Baltimore
Location: Md. 91 South of Mt. Gilead Rd. File: D0719016.PRN
Ln1-North Ln2-South

Station Data Summary

Lane	1	2	Total
Grand Totals	14464	13377	27841
Percentages	51.95	48.05	

Am/Pm Peak Hour Totals

Lane	1	2	Total
Am Hour 7-8	130	220	350
Percentages	0.90	1.64	1.26
Pm Hour 17-18	228	168	396
Percentages	1.58	1.26	1.42

APPENDIX B

Intersection Capacity Analysis Worksheets

June 10, 2000

CRITICAL LANE VOLUME (CLV) METHODOLOGY

for MSHA

Intersection of: MD 91 (Emory Rd)
and: Church Driveway
Conditions: TOTAL TRAFFIC

Date of Count: July 20, 1999
Day of Week: Tuesday
Analyst: Mike Lenhart

The Traffic Group

Lane Use + Traffic Volumes



MD 91 (Emory Rd)

	AM	PM
T	233	153
L	13	12
	14	24

adjusted lefts

TL

	AM	PM
R	11	10
L	11	10

--- R
--- L

Church Driveway

T R

	AM	PM
T	146	222
R	13	12

MD 91 (Emory Rd)

Capacity Analysis

Morning Peak Hour

DIR	Thru Volumes VOL	x LUF	+ Opposing Lefts VOL	x LUF	= Total	CLV
WB	11	1				11
NB	146	1	13	1	159	247
SB	247	1	0	0	247	

CLV TOTAL= **258**

AM Level of Service (LOS)= **A**

Evening Peak Hour

DIR	Thru Volumes VOL	x LUF	+ Opposing Lefts VOL	x LUF	= Total	CLV
WB	10	1				10
NB	222	1	12	1	234	234
SB	177	1	0	0	177	

CLV TOTAL= **244**

PM Level of Service (LOS)= **A**

June 10, 2000

CRITICAL LANE VOLUME (CLV) METHODOLOGY

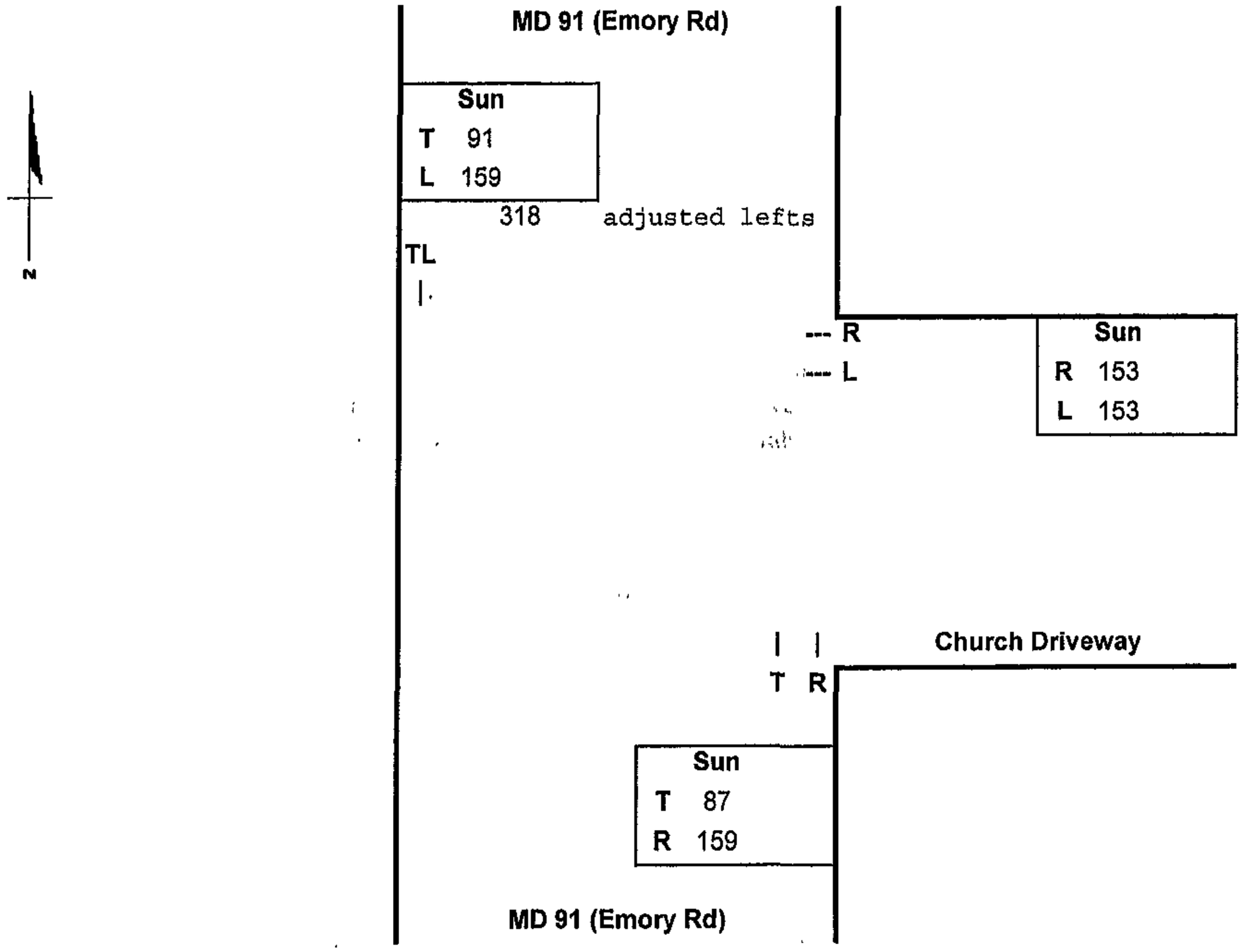
for MSHA

Intersection of: MD 91 (Emory Rd)
and: Church Driveway
Conditions: TOTAL TRAFFIC
(11 am - Noon)

Date of Count: July 25, 1999
Day of Week: Sunday
Analyst: Mike Lenhart

The Traffic Group

Lane Use + Traffic Volumes



Capacity Analysis

Sunday (11:00 AM - Noon)						
	Thru Volumes		+ Opposing Lefts			
DIR	VOL	x LUF	VOL	x LUF	= Total	CLV
WB	153	1				153
NB	87	1	159	1	246	247
SB	409	1	0	0	247	
					CLV TOTAL=	**400**
					Level of Service (LOS)=	**A**

HCS: Unsignalized Intersections Release 3.1c

TWO-WAY STOP CONTROL(TWSC) ANALYSIS

Analyst: M. Cornelius
Intersection: MD 91 & Carroll Community Church
Count Date:
Time Period: A.M. Peak

Intersection Orientation: North-South Major St.

Vehicle Volume Data:

Movements:	2	3	4	5	7	9
Volume:	146	13	13	233	11	11
HFR:	162	14	14	259	12	12
PHF:	0.90	0.90	0.90	0.90	0.90	0.90
PHV:	0.05	0.00	0.00	0.05	0.00	0.00

Pedestrian Volume Data:

Movements:

Flow:
Lane width:
Walk speed:
% Blockage:

Median Type: None
# of vehicles: 0

Flared approach Movements:

# of vehicles: Eastbound 0
# of vehicles: Westbound 0

Lane usage for movements 1,2&3 approach:

	Lane 1			Lane 2			Lane 3	
L	T	R	L	T	R	L	T	R
N	Y	N	N	N	Y	N	N	N

Channelized: N
Grade: 0.00

Lane usage for movements 4,5&6 approach:

	Lane 1			Lane 2			Lane 3	
L	T	R	L	T	R	L	T	R
Y	Y	N	N	N	N	N	N	N

Channelized: N
Grade: 0.00

Lane usage for movements 7,8&9 approach:

	Lane 1			Lane 2			Lane 3	
L	T	R	L	T	R	L	T	R

Y	N	N	N	N	Y	N	N	N

Channelized: N
Grade: 0.00

Lane usage for movements 10,11&12 approach:

	Lane 1			Lane 2			Lane 3	
L	T	R	L	T	R	L	T	R
N	N	N	N	N	N	N	N	N

Channelized: N
Grade: 0.00

Data for Computing Effect of Delay to Major Street Vehicles:

	Northbound	Southbound
Shared ln volume, major th vehicles:	0	233
Shared ln volume, major rt vehicles:	0	0
Sat flow rate, major th vehicles:	1700	1700
Sat flow rate, major rt vehicles:	1700	1700
Number of major street through lanes:	1	1

Length of study period, hrs: 0.25

Worksheet 4 Critical Gap and Follow-up time calculation.

Critical Gap Calculations:

Movement	4	7	9
t c,base	4.1	7.1	6.2
t c,hv	1.0	1.0	1.0
P hv	0.00	0.00	0.00
t c,g		0.2	0.1
G	0.00	0.00	0.00
t 3,lt	0.0	0.7	0.0
t c,T:			
1 stage	0.00	0.00	0.00

t c

1 stage	4.1	6.4	6.2

Follow Up Time Calculations:

Movement	4	7	9
t f,base	2.2	3.5	3.3
t f,HV	0.9	0.9	0.9
P hv	0.00	0.00	0.00
t f	2.2	3.5	3.3

Worksheet 6 Impedance and capacity equations

Step 1: RT from Minor St.	9	12
Conflicting Flows	162	
Potential Capacity	888	
Pedestrian Impedance Factor	1.00	

Movement Capacity	888	
Probability of Queue free St.	0.99	

Step 2: LT from Major St.	4	1
Conflicting Flows	177	
Potential Capacity	1412	
Pedestrian Impedance Factor	1.00	
Movement Capacity	1412	
Probability of Queue free St.	0.99	
Maj. L Shared In. Prob. Queue Free St.	0.99	

Step 4: LT from Minor St.	7	10
Conflicting Flows	450	
Potential Capacity	571	
Pedestrian Impedance Factor	1.00	
Maj. L, Min T Impedance factor	0.99	
Maj. L, Min T Adj. Imp Factor.	0.99	
Cap. Adj. factor due to Impeding mvmnt	0.99	
Movement Capacity	565	

Worksheet 10 delay,queue length, and LOS

Movement	1	4	7	8	9	10	11	12
v(vph)	14	12		12				
C m(vph)	1412		565		888			
v/c	0.01	0.02		0.01				
95% queue length								
Control Delay	7.6		11.5		9.1			
LOS	A	B		A				
Approach Delay				10.3				
Approach LOS				B				

Worksheet 11 Shared Major LT Impedance and Delay

Rank 1 Delay Calculations Movement	2	5
P oj	1.00	0.99
V i1	0	233
V i2	0	0
S i1	1700	1700
S i2	1700	1700
P* 0j	1.00	0.99
D maj left	0.0	7.6
N number major st lanes	1	1
Delay, rank 1 mvmts	0.0	0.1

HCS: Unsignalized Intersections Release 3.1c

TWO-WAY STOP CONTROL(TWSC) ANALYSIS

Analyst: M. Cornelius
Intersection: MD 91 & Carroll Community Church
Count Date:
Time Period: P.M. Peak

Intersection Orientation: North-South Major St.

Vehicle Volume Data:

Movements:	2	3	4	5	7	9
Volume:	222	12	12	153	10	10
HFR:	247	13	13	170	11	11
PHF:	0.90	0.90	0.90	0.90	0.90	0.90
PHV:	0.05	0.00	0.00	0.05	0.00	0.00

Pedestrian Volume Data:

Movements:

Flow:
Lane width:
Walk speed:
% Blockage:

Median Type: None
# of vehicles: 0

Flared approach Movements:

# of vehicles: Eastbound 0
# of vehicles: Westbound 0

Lane usage for movements 1,2&3 approach:

	Lane 1			Lane 2			Lane 3	
L	T	R	L	T	R	L	T	R
N	Y	N	N	N	Y	N	N	N

Channelized: N
Grade: 0.00

Lane usage for movements 4,5&6 approach:

	Lane 1			Lane 2			Lane 3	
L	T	R	L	T	R	L	T	R
Y	Y	N	N	N	N	N	N	N

Channelized: N
Grade: 0.00

Lane usage for movements 7,8&9 approach:

	Lane 1			Lane 2			Lane 3	
L	T	R	L	T	R	L	T	R

Y	N	N	N	N	Y	N	N	N

Channelized: N
Grade: 0.00

Lane usage for movements 10,11&12 approach:

	Lane 1			Lane 2			Lane 3	
L	T	R	L	T	R	L	T	R
N	N	N	N	N	N	N	N	N

Channelized: N
Grade: 0.00

Data for Computing Effect of Delay to Major Street Vehicles:

	Northbound	Southbound
Shared In volume, major th vehicles:	0	153
Shared In volume, major rt vehicles:	0	0
Sat flow rate, major th vehicles:	1700	1700
Sat flow rate, major rt vehicles:	1700	1700
Number of major street through lanes:	1	1

Length of study period, hrs: 0.25

Worksheet 4 Critical Gap and Follow-up time calculation.

Critical Gap Calculations:

Movement	4	7	9
t c,base	4.1	7.1	6.2
t c,hv	1.0	1.0	1.0
P hv	0.00	0.00	0.00
t c,g		0.2	0.1
G	0.00	0.00	0.00
t 3,lt	0.0	0.7	0.0
t c,T:			
1 stage	0.00	0.00	0.00

t c

1 stage	4.1	6.4	6.2

Follow Up Time Calculations:

Movement	4	7	9
t f,base	2.2	3.5	3.3
t f,HV	0.9	0.9	0.9
P hv	0.00	0.00	0.00
t f	2.2	3.5	3.3

Worksheet 6 Impedance and capacity equations

Step 1: RT from Minor St.	9	12
Conflicting Flows	247	
Potential Capacity	797	
Pedestrian Impedance Factor	1.00	

Movement Capacity	797	
Probability of Queue free St.	0.99	

Step 2: LT from Major St.	4	1
Conflicting Flows	260	
Potential Capacity	1316	
Pedestrian Impedance Factor	1.00	
Movement Capacity	1316	
Probability of Queue free St.	0.99	
Maj. L Shared In. Prob. Queue Free St.	0.99	

Step 4: LT from Minor St.	7	10
Conflicting Flows	443	
Potential Capacity	576	
Pedestrian Impedance Factor	1.00	
Maj. L, Min T Impedance factor	0.99	
Maj. L, Min T Adj. Imp Factor.	0.99	
Cap. Adj. factor due to Impeding mvmnt	0.99	
Movement Capacity	571	

Worksheet 10 delay,queue length, and LOS

Movement	1	4	7	8	9	10	11	12
v(vph)	13	11		11				
C m(vph)	1316		571		797			
v/c	0.01	0.02		0.01				
95% queue length								
Control Delay	7.8		11.4		9.6			
LOS	A	B		A				
Approach Delay				10.5				
Approach LOS				B				

Worksheet 11 Shared Major LT Impedance and Delay

Rank 1 Delay Calculations Movement	2	5
P oj	1.00	0.99
V i1	0	153
V i2	0	0
S i1	1700	1700
S i2	1700	1700
P* 0j	1.00	0.99
D maj left	0.0	7.8
N number major st lanes	1	1
Delay, rank 1 mvmts	0.0	0.1

HCS: Unsignalized Intersections Release 3.1c

TWO-WAY STOP CONTROL(TWSC) ANALYSIS

Analyst: M. Cornelius
Intersection: MD 91 & Carroll Community Church
Count Date:
Time Period: Sunday

Intersection Orientation: North-South Major St.

Vehicle Volume Data:

Movements:	2	3	4	5	7	9
Volume:	87	159	159	91	153	153
HFR:	97	177	177	101	170	170
PHF:	0.90	0.90	0.90	0.90	0.90	0.90
PHV:	0.02	0.00	0.00	0.02	0.00	0.00

Pedestrian Volume Data:

Movements:

Flow:
Lane width:
Walk speed:
% Blockage:

Median Type: None
# of vehicles: 0

Flared approach Movements:

# of vehicles: Eastbound 0
# of vehicles: Westbound 0

Lane usage for movements 1,2&3 approach:

	Lane 1			Lane 2			Lane 3	
L	T	R	L	T	R	L	T	R
N	Y	N	N	N	Y	N	N	N

Channelized: N
Grade: 0.00

Lane usage for movements 4,5&6 approach:

	Lane 1			Lane 2			Lane 3	
L	T	R	L	T	R	L	T	R
Y	Y	N	N	N	N	N	N	N

Channelized: N
Grade: 0.00

Lane usage for movements 7,8&9 approach:

	Lane 1			Lane 2			Lane 3	
L	T	R	L	T	R	L	T	R

Y	N	N	N	N	Y	N	N	N

Channelized: N
Grade: 0.00

Lane usage for movements 10,11&12 approach:

	Lane 1			Lane 2			Lane 3	
L	T	R	L	T	R	L	T	R
N	N	N	N	N	N	N	N	N

Channelized: N
Grade: 0.00

Data for Computing Effect of Delay to Major Street Vehicles:

	Northbound	Southbound
Shared In volume, major th vehicles:	0	91
Shared In volume, major rt vehicles:	0	0
Sat flow rate, major th vehicles:	1700	1700
Sat flow rate, major rt vehicles:	1700	1700
Number of major street through lanes:	1	1

Length of study period, hrs: 0.25

Worksheet 4 Critical Gap and Follow-up time calculation.

Critical Gap Calculations:

Movement	4	7	9
t c,base	4.1	7.1	6.2
t c,hv	1.0	1.0	1.0
P hv	0.00	0.00	0.00
t c,g		0.2	0.1
G	0.00	0.00	0.00
t 3,lt	0.0	0.7	0.0
t c,T:			
1 stage	0.00	0.00	0.00

t c

1 stage	4.1	6.4	6.2

Follow Up Time Calculations:

Movement	4	7	9
t f,base	2.2	3.5	3.3
t f,HV	0.9	0.9	0.9
P hv	0.00	0.00	0.00
t f	2.2	3.5	3.3

Worksheet 6 Impedance and capacity equations

Step 1: RT from Minor St.	9	12
Conflicting Flows	97	
Potential Capacity	965	
Pedestrian Impedance Factor	1.00	

Movement Capacity	965	
Probability of Queue free St.	0.82	

Step 2: LT from Major St.	4	1
Conflicting Flows	273	
Potential Capacity	1302	
Pedestrian Impedance Factor	1.00	
Movement Capacity	1302	
Probability of Queue free St.	0.86	
Maj. L Shared In. Prob. Queue Free St.	0.86	

Step 4: LT from Minor St.	7	10
Conflicting Flows	551	
Potential Capacity	499	
Pedestrian Impedance Factor	1.00	
Maj. L, Min T Impedance factor	0.86	
Maj. L, Min T Adj. Imp Factor.	0.89	
Cap. Adj. factor due to Impeding mvmnt	0.89	
Movement Capacity	444	

Worksheet 10 delay,queue length, and LOS

Movement	1	4	7	8	9	10	11	12
	|------			||			|
	|		------	||			|
	|			||			|
v(vph)	177	170			170			
C m(vph)	1302	444			965			
v/c	0.14	0.38			0.18			
95% queue length								
Control Delay	8.2	18.1			9.5			
LOS	A	C			A			
Approach Delay				13.8				
Approach LOS				B				

Worksheet 11 Shared Major LT Impedance and Delay

Rank 1 Delay Calculations Movement	2	5
P oj	1.00	0.86
V i1	0	91
V i2	0	0
S i1	1700	1700
S i2	1700	1700
P* 0j	1.00	0.86
D maj left	0.0	8.2
N number major st lanes	1	1
Delay, rank 1 mvmts	0.0	1.2

Baltimore County, Maryland

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PETER MAX ZIMMERMAN
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Deputy People's Counsel

November 9, 2000

Lawrence M. Stahl, Chairman
County Board of Appeals
of Baltimore County
401 Washington Avenue, Room 49
Towson, MD 21204

Hand-delivered

RECEIVED
BOARD OF APPEALS
2000 NOV -9 PM 4:28
BALTIMORE COUNTY

Re: Petition for Special Exception
1701 Emory Road,
SEC Mt. Gilead and Emory Rds,
4th Election District, 3rd Councilmanic
ESTATE OF CATHERINE V. BOND /
CARROLL COMMUNITY CHURCH
Case No.: 99-503-X

Dear Chairman Stahl:

Enclosed for the Board's file, marked at the hearing as Petitioner's Exhibit Number 5, is Excerpt from the U.S. Department of Agriculture's Baltimore County Soil Survey, consisting of the following thirteen (13) pages: Cover, "How to Use This Soil Survey," Contents, 1-4, 8-10, 88, 90, 147.

Very truly yours,

Carole S. Demilio/caf

Carole S. Demilio
Deputy People's Counsel

PMZ/CSD/caf
Enclosure

cc: G. Scott Barhight, Esq.

J. Carroll Holzer, Esq.

SOIL SURVEY

Baltimore County Maryland

The United States Department of Agriculture (USDA) *prohibits discrimination in its programs on the basis of race,* color, national origin, sex, religion, age, disability, political beliefs and marital or familial status. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact the USDA Office of Communications at (202) 720-2791. To file a complaint, write the Secretary of Agriculture, U.S. Department of Agriculture, Washington, D.C., 20250, or call (202) 720-7327 (Voice) or (202) 720-1127 (TDD). USDA is an equal employment opportunity employer.



UNITED STATES DEPARTMENT OF AGRICULTURE
Soil Conservation Service
In cooperation with
MARYLAND AGRICULTURAL EXPERIMENT STATION

Petitioner's Exhibit #5

Major fieldwork for this soil survey was done in the period 1940-69. Soil names and descriptions were approved in 1970. Unless otherwise indicated, statements in the publication refer to conditions in the county in 1970. This survey was made cooperatively by the Soil Conservation Service and the Maryland Agricultural Experiment Station. It is part of the technical assistance furnished to the Baltimore Soil Conservation District. Fieldwork was partly financed by Baltimore County Health Department and Baltimore County Office of Planning and Zoning.

Either enlarged or reduced copies of the soil map in this publication can be made by commercial photographers, or they can be purchased on individual order from the Cartographic Division, Soil Conservation Service, United States Department of Agriculture, Washington, D.C. 20250.

HOW TO USE THIS SOIL SURVEY

THIS SOIL SURVEY contains information that can be applied in managing farms, ranches, and woodlands; in selecting sites for roads, ponds, buildings, and other structures; and in judging the suitability of tracts of land for agriculture, industry, and recreation.

Locating Soils

All the soils of Baltimore County are shown on the detailed map at the back of this publication. This map consists of many sheets made from aerial photographs. Each sheet is numbered to correspond with a number on the Index to Map Sheets.

On each sheet of the detailed map, soil areas are outlined and are identified by symbols. All areas marked with the same symbol are the same kind of soil. The soil symbol is inside the area if there is enough room; otherwise, it is outside and a pointer shows where the symbol belongs.

Finding and Using Information

The "Guide to Mapping Units" can be used to find information. This guide lists all the soils of the county in alphabetic order by map symbol and gives the capability classification of each. It also shows the page where each soil is described and the page for the woodland subclass in which the soil has been placed.

Individual colored maps showing the relative suitability or degree of limitation of soils for many specific purposes can be developed by using the soil map and the information in the text. Translucent material can be used as an overlay over the soil map and colored to show soils that have the same limitation or suitability. For example, soils that have a slight limitation for a given use can be colored green, those with a moderate limitation can be colored yellow, and those with a severe limitation can be colored red.

Farmers and those who work with farmers can learn about use and management of the soils from the soil descriptions and from the discussions of the woodland subclasses.

Foresters and others can refer to the section "Use of the Soils as Woodland" where the soils of the county are grouped according to their suitability for trees.

Game managers, sportsmen, and others can find information about soils and wildlife in the section "Use of the Soils for Wildlife."

Community planners and others can read about soil properties that affect the choice of sites for nonindustrial buildings and for recreation areas in the section "Town and Country Planning."

Engineers and builders can find, under "Engineering Uses of the Soils," tables that contain estimates of soil properties and information about soil features that affect engineering practices.

Scientists and others can read about how the soils formed and how they are classified in the section "Genesis, Morphology, and Classification of Soils." They may also be interested in the information about the county given in the section "General Nature of the County."

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SOIL SURVEY OF BALTIMORE COUNTY, MARYLAND

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UNITED STATES DEPARTMENT OF AGRICULTURE, SOIL CONSERVATION SERVICE, IN COOPERATION WITH THE MARYLAND AGRICULTURAL EXPERIMENT STATION

BALTIMORE COUNTY is in the heart of Maryland, virtually surrounding Baltimore City but not including it (fig. 1). The county is bounded on the north by Pennsylvania's York County, on the east by Harford County, on the south by Anne Arundel County and on the southwest by Howard County, and on the west by Carroll County. One hundred and seventy-three miles of its southern extremity fronts on, and is enhanced by, the tidal waters of the Chesapeake Bay.

The county extends approximately 36 miles from north to south and 27 miles from east to west. It has a total area of 390,400 acres, or 610 square miles. Towson, the county seat, is about 8 miles north of downtown Baltimore City, 30 miles north of Annapolis, the State Capital, and 42 miles northeast of Washington, D.C. Baltimore County contains no incorporated cities or towns, all governmental functions being performed by the county.

About one-third of the county is in farms. No single type of farming is dominant. Dairy and other livestock operations are important. The main field crops grown are those used to feed livestock. They include corn grown for silage and grain, wheat, barley, some oats and rye, and a large acreage of grass-legume hay. Many small vegetable farms are located south of U.S. Route 1 where products are grown that are sold on the Baltimore fresh produce market. Vegetable crops grown north of U.S. Route 1 generally are used by the canning industry. Nursery and greenhouse products add greatly to the total dollar value of farm products grown and sold in Baltimore County. There are many poultry operations and a few fruit growers and other specialty farms.

Approximately 36 percent of the county is wooded. Much of the woodland is scattered through the farming area and is used to supplement farm income. Baltimore City maintains large woodland tracts in Baltimore County that protect the watersheds of three large municipal reservoirs. Baltimore County has small woodland holdings that are in the county parks system. Some woodland is owned by the State. Most of it has been, or is being, developed as State parks, including Patapsco and Gunpowder State Parks.

Baltimore County is rapidly urbanizing. In 1961 the population passed the one-half million mark and has steadily increased. More than 5,600 commercial business firms, including heavy industry, are located in the county. Competition for varying land uses in the southern half of the county is intense.

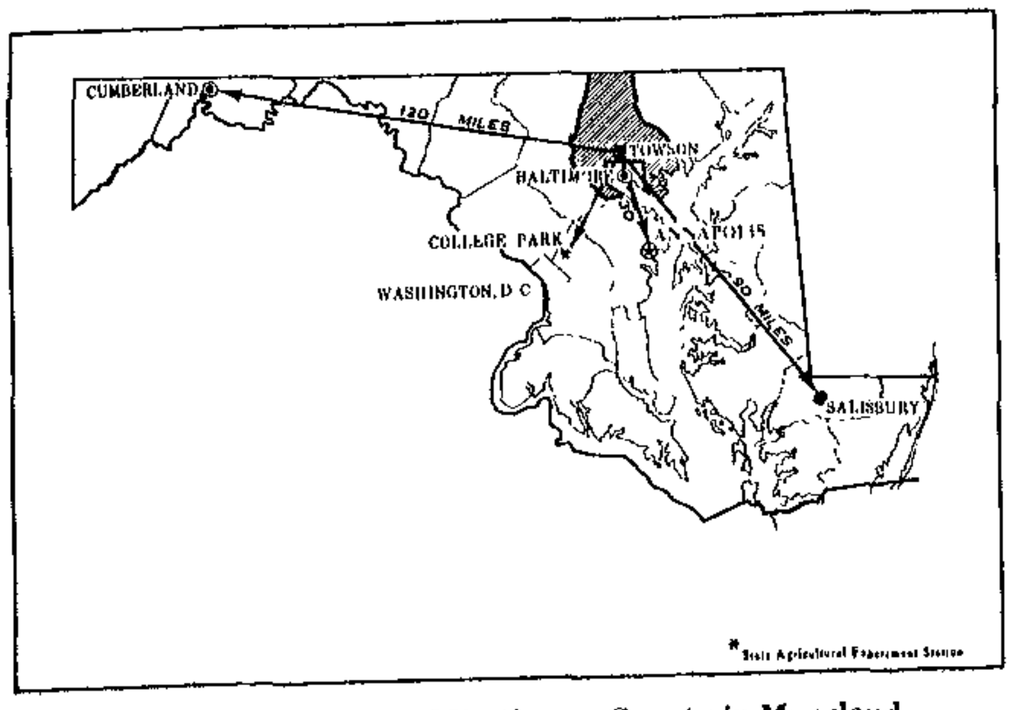


Figure 1.—Location of Baltimore County in Maryland.

How This Survey Was Made

Soil scientists made this survey to learn what kinds of soil are in Baltimore County, where they are located, and how they can be used. The soil scientists went into the county knowing they likely would find many soils they had already seen and perhaps some they had not. They observed the steepness, length, and shape of slopes, the size and speed of streams, the kinds of native plants or crops, the kinds of rocks, and many facts about the soils. They dug many holes to expose soil profiles. A profile is the sequence of natural layers, or horizons, in a soil; it extends from the surface down into the parent material that has not been changed much by leaching or by the action of plant roots.

The soil scientists made comparisons among the profiles they studied, and they compared these profiles with those in counties nearby and in places more distant. They classified and named the soils according to nationwide, uni-

form procedures. The *soil series* and the *soil phase* are the categories of soil classification most used in a local survey (*12*).[1]

Soils that have profiles almost alike make up a soil series. Except for different texture in the surface layer, all the soils of one series have major horizons that are similar in thickness, arrangement, and other important characteristics. Each soil series is named for a town or other geographic feature near the place where a soil of that series was first observed and mapped. Codorus and Baltimore, for example, are the names of two soil series. All the soils in the United States having the same series name are essentially alike in those characteristics that *affect their behavior in the undisturbed landscape.*

Soils of one series can differ in texture of the surface soil and in slope, stoniness, or some other characteristic that affects use of the soils by man. On the basis of such differences, a soil series is divided into phases. The name of a soil phase indicates a feature that affects management. For example, Lenoir silt loam, 0 to 5 percent slopes, is one of several phases within the Lenoir series.

After a guide for classifying and naming the soils had been worked out, the soil scientists drew the boundaries *of the individual soils on aerial photographs.* These photographs show woodlands, buildings, field borders, trees, and other details that help in drawing boundaries accurately. The soil map in the back of this publication was prepared from the aerial photographs.

The areas shown on a soil map are called mapping units. On most maps detailed enough to be useful in planning the management of farms and fields, a mapping unit is nearly equivalent to a soil phase. It is not exactly equivalent, because it is not practical to show on such a *map all the small, scattered bits of soil of some other* kind that have been seen within an area that is dominantly of a recognized soil phase.

Some mapping units are made up of soils of different series, or of different phases within one series. Two such kinds of mapping units are shown on the soil map of Baltimore County—soil complexes and undifferentiated groups.

A soil complex consists of areas of two or more soils, so intermingled or so small in size that they cannot be shown separately on the soil map. Each area of a complex contains some of each of the two or more dominant soils, and the pattern and relative proportions are about the same in all areas. The name of a soil complex consists of the names of the dominant soils, joined by a hyphen.

An undifferentiated group is made up of two or more soils that could be delineated individually but are shown as one unit because, for the purpose of the soil survey, there is little value in separating them. The pattern and proportion of soils are not uniform. An area shown on the map may be made up of only one of the dominant soils, or of two or more. The name of an undifferentiated group consists of the names of the dominant soils, joined by "and." Manor and Glenelg very stony loams, 3 to 15 percent slopes, is an example.

In most areas surveyed there are places where the soil material is so rocky, so shallow, or so severely eroded that it cannot be classified by soil series. These places are shown on the soil map and are described in the survey, but they are called land types and are given descriptive names. Made land is a land type in Baltimore County.

While a soil survey is in progress, samples of soils are *taken, as needed, for laboratory measurements and for* engineering tests. Laboratory data from the same kinds of soil in other places are assembled. Data on yields of crops under defined practices are assembled from farm records and from field or plot experiments on the same kinds of soil. Yields under defined management are estimated for all the soils.

But only part of a soil survey is done when the soils have been named, described, and delineated on the map, and the laboratory data and yield data have been assembled. *The mass of detailed information then needs to* be organized in such a way as to be readily useful to different groups of users, among them farmers, managers of woodland and rangeland, and engineers.

On the basis of yield and practice tables and other data, the soil scientists set up trial groups. They test these groups by further study and by consultation with farmers, agronomists, engineers, and others, then adjust the groups according to the results of their studies and consultation. Thus, the groups that are finally evolved reflect up-to-date knowledge of the soils and their behavior under present methods of use and management.

General Soil Map[2]

The general soil map at the back of this survey shows, in color, the soil associations in Baltimore County. A soil association is a landscape that has a distinctive proportional pattern of soils. It normally consists of one or more major soils and at least one minor soil, and it is named for the major soils. The soils in one association may occur in another, but in a different pattern.

A map showing soil associations is useful to people who want a general idea of the soils in a county, who want to compare different parts of a county, or who want to know the location of large tracts that are suitable for a certain kind of land use. Such a map is a useful general guide in managing a watershed, a wooded tract, or a wildlife area, or in planning engineering works, recreational facilities, and community developments. It is not a suitable map for planning the management of a farm or field, or for selecting the exact location of a road, building, or similar structure, because the soils in any one association ordinarily differ in slope, depth, stoniness, drainage, and other characteristics that affect their management.

The nine soil associations in Baltimore County are discussed in the following pages.

1. Chester-Glenelg Association

Dominantly gently sloping to moderately steep, deep, well-drained soils that have a subsoil of silt loam to light silty clay loam; underlain by acid crystalline rock; on uplands

This association (fig. 2) is mostly in the northwestern part of the county, but smaller areas are in the central

[1] Italic numbers in parentheses refer to Literature Cited, p. 147.

[2] The general soil map and the soil association descriptions were prepared by RICHARD H. ANDERSEN, soil scientist, Soil Conservation Service.

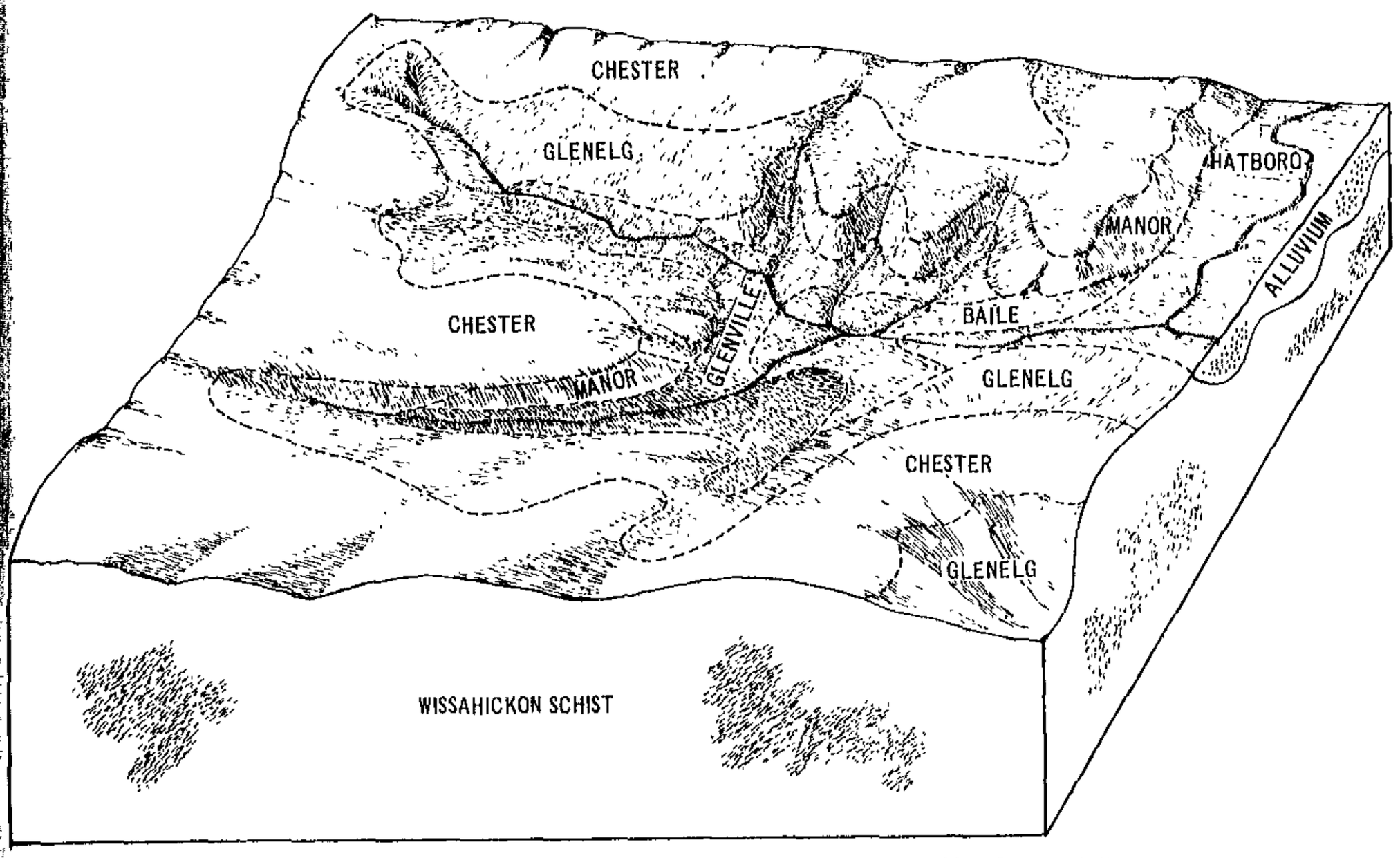


Figure 2.—**Cross section showing typical soil pattern in the Chester-Glenelg association.**

and western parts. The soils dominantly are gently sloping to moderately steep, and relatively few soils slope more than about 20 percent. Most soils are moderately eroded, but in a few areas they are severely eroded. Most of the acreage is cultivated and the rest is wooded.

This association occupies about 11 percent of the county. Chester soils make up about 60 percent of this association, Glenelg soils about 10 percent, and minor soils about 30 percent.

Chester soils are deep and well drained. They have a surface layer of brown or dark-brown silt loam and a subsoil of dark yellowish-brown and strong-brown silt loam. These soils are underlain by soft, decomposed mica schist, which grades to hard rock at a depth of between 5 and 10 feet.

Glenelg soils are deep and well drained. They have a surface layer of dark yellowish-brown loam and a subsoil that is commonly strong-brown and yellowish-red silty clay loam and clay loam. Their subsoil is not so thick as that of Chester soils. The Glenelg soils are underlain by soft, decomposed mica schist, which grades to hard rock at a depth of between 5 and 10 feet. The content of fine mica is greater in Glenelg soils than in Chester soils, and Glenelg soils generally are less gently sloping.

Minor soils in this association are in the Baile, Codorus, Glenville, Hatboro, and Manor series. These soils are mostly in small areas within areas of major soils, and they do not appreciably affect the general use of the association. Baile and Glenville soils are in draws and around heads of drainageways. Codorus and Hatboro soils are on flood plains. Manor soils are on uplands and are gently sloping to steep.

Dairy farming is the major enterprise on soils in the northern part of this association. Breeding and producing horses and beef cattle are of major importance in other areas. The chief crops are hay, pasture plants, and feed grain. Residential areas are prominent near the city of Baltimore. Soils in this association have few limitations except those caused by the hazard of erosion on some of the steeper soils.

2. Manor-Glenelg Association

Gently sloping to very steep, deep, well-drained and somewhat excessively drained soils that have a subsoil of loam to light silty clay loam; underlain by acid crystalline rock; on uplands

This association is mostly in parts of the county that are north or west of the city of Baltimore. The soils range from gently sloping on some ridgetops to very steep in areas bordering some deep ravines. Most areas are moderately eroded, but nearly 25 percent of the association is severely eroded. About 6 percent of the association is very stony. Large areas are in farms that are fairly well managed to well managed. A large part of the association is wooded, especially in steep and in stony areas.

Areas suburban to Baltimore City are largely used for residential and other nonfarm purposes.

This association occupies about 53 percent of the county. It is about 40 percent Manor soils, about 25 percent Glenelg soils, and about 35 percent minor soils.

Manor soils are well drained to somewhat excessively drained. These soils have a surface layer of reddish-brown loam and a subsoil of yellowish-red loam underlain by loose micaceous loam that grades to hard micaceous rock at depths of 5 to more than 10 feet. Manor soils are limited in use mostly by slope and erosion conditions, moderate available moisture capacity, and locally by stoniness.

Glenelg soils are well drained. These soils have a surface layer of dark yellowish-brown loam and a subsoil of strong-brown and yellowish-red silty clay loam or clay loam underlain by loose micaceous loam that grades to hard micaceous rock at a depth generally between 5 and 10 feet. Glenelg soils have fewer limitations than Manor soils because they generally are less steep and less eroded, hold more moisture for plants, and commonly are less stony.

Minor soils in this association are mostly in the Chester, Elioak, Mt. Airy, Glenville, Baile, Codorus, and Hatboro series. Chester, Elioak, and Mt. Airy soils are mainly on ridgetops and upper slopes. Glenville soils and Baile soils are in draws and around the heads of drainageways. Codorus and Hatboro soils occupy flood plains. These minor soils are mostly in small areas within the major soils, and they do not strongly affect overall use of the soil association.

The breeding and production of horses and beef cattle and the production of crops suitable for canning are the major agricultural enterprises. The most important crops, therefore, are hay, pasture plants, feed grains, and vegetables.

3. Baltimore-Conestoga-Hagerstown Association

Dominantly level to moderately sloping, deep, well-drained soils that have a subsoil of clay loam to clay; underlain by limestone, marble, or califerous schist; in valleys

This association is in the generally narrow limestone valleys that extend irregularly over a large part of the central part of the county. The soils are mostly gently sloping, but some are nearly level and others are moderately sloping. Nearly all of this area is moderately eroded. Most of the acreage is made up of farms (fig. 3).

This association occupies about 8 percent of the county. It is about 28 percent Baltimore soils, 22 percent Conestoga soils, and 5 percent Hagerstown soils. The remaining 45 percent is minor soils.

Baltimore soils have a surface layer of dark reddish-brown silt loam and a subsoil of yellowish-red to red clay loam.

Conestoga soils have a surface layer of dark yellowish-brown loam and a subsoil of strong-brown clay loam or silty clay loam.

Hagerstown soils have a surface layer of reddish-brown silt loam and a subsoil of red clay.

Minor soils in this association are in the Captina, Codorus, Dunning, Hollinger, Lindside, and Melvin series. Codorus, Dunning, Lindside, and Melvin soils are on flood plains. Minor soils on flood plains have a significant effect on the overall use of the association, as they are well suited to hay crops and pasture. Hollinger soils are similar to Conestoga soils but have a thinner subsoil and stronger slopes. Some of the Hollinger and Conestoga soils are rocky. Captina soils are on stream terraces.

Dairy farming and breeding and producing horses and beef cattle are the major enterprises on this association. Cash grain crops and truck crops for canning are also



Figure 3.—Bluegrass pasture in a valley of the Baltimore-Conestoga-Hagerstown association. Ridge in background is part of Manor-Glenelg association.

Descriptions of the Soils

In this section the soils of Baltimore County are described in detail and their use and management are discussed. Each soil series is described in detail, and then, briefly, the mapping units in that series. Unless it is specifically mentioned otherwise, it is to be assumed that what is stated about the soil series holds true for the mapping units in that series. Thus, to get full information about any one mapping unit, it is necessary to read both the description of the mapping unit and the description of the soil series to which it belongs.

An important part of the description of each soil series is the soil profile, that is, the sequence of layers from the surface downward to rock or other underlying material. Each series contains two descriptions of this profile. The first is brief and in terms familiar to the layman. The second is much more detailed and is for those who need to make thorough and precise studies of the soils. The profile described in the soil series is representative of mapping units in that series. If a given mapping unit has a profile in some ways different from the one described in the series, these differences are stated in the description of the mapping unit, or they are apparent in the name of the mapping unit. The description of each mapping unit contains suggestions on how soil can be managed.

As mentioned in the section "How This Survey Was Made," not all mapping units are members of a soil series. The land types, Coastal beaches and Made land, for example, do not belong to a soil series, but nevertheless are listed in alphabetic order along with the soil series. The approximate acreage and proportionate extent of the soils are given in table 1.

TABLE 1.—*Approximate acreage and proportionate extent of the soils*

Soil	Acres	Percent
Aldino silt loam, 0 to 3 percent slopes	380	0.1
Aldino silt loam, 3 to 8 percent slopes, moderately eroded	2,170	.6
Aldino silt loam, 8 to 15 percent slopes, moderately eroded	370	.1
Aldino very stony silt loam, 0 to 15 percent slopes	190	(1)
Aldino-Urban land complex, 0 to 8 percent slopes	1,020	.3
Alluvial land	5,170	1.3
Baile silt loam, 0 to 3 percent slopes	2,030	.5
Baile silt loam, 3 to 8 percent slopes	1,820	.5
Baltimore silt loam, 0 to 3 percent slopes	560	.1
Baltimore silt loam, 3 to 8 percent slopes, moderately eroded	6,590	1.7
Baltimore silt loam, 8 to 15 percent slopes, moderately eroded	1,480	.4
Baltimore-Urban land complex, 0 to 8 percent slopes	330	.1
Barclay silt loam	1,680	.4
Beltsville silt loam, 0 to 2 percent slopes	390	.1
Beltsville silt loam, 2 to 5 percent slopes	3,350	.9
Beltsville silt loam, 5 to 10 percent slopes, moderately eroded	1,150	.3
Beltsville-Urban land complex, 0 to 5 percent slopes	1,670	.4
Beltsville-Urban land complex, 5 to 10 percent slopes	450	.1
Brandywine loam, 3 to 8 percent slopes, moderately eroded	790	.2
Brandywine loam, 8 to 15 percent slopes, moderately eroded	1,700	.4
Brandywine gravelly loam, 15 to 25 percent slopes, moderately eroded	1,000	.3
Brandywine gravelly loam, 15 to 25 percent slopes, severely eroded	690	.2
Brandywine gravelly loam, 25 to 45 percent slopes	890	.2
Captina silt loam, 0 to 3 percent slopes	420	.1
Captina silt loam, 3 to 8 percent slopes, moderately eroded	620	.2
Chester silt loam, 0 to 3 percent slopes	330	.1
Chester silt loam, 3 to 8 percent slopes, moderately eroded	18,020	4.6
Chester silt loam, 8 to 15 percent slopes, moderately eroded	3,490	.9
Chester gravelly silt loam, 3 to 8 percent slopes, moderately eroded	3,160	.8
Chester gravelly silt loam, 8 to 15 percent slopes, moderately eroded	2,720	.7
Chillum silt loam, 2 to 5 percent slopes, moderately eroded	1,340	.3
Chillum silt loam, 5 to 10 percent slopes, moderately eroded	610	0.2
Chillum silt loam, 5 to 10 percent slopes, severely eroded	190	(1)
Chillum-Neshaminy silt loams, 2 to 5 percent slopes, moderately eroded	690	.2
Chillum-Neshaminy silt loams, 5 to 10 percent slopes, moderately eroded	570	.1
Chillum-Neshaminy gravelly silt loams, 10 to 15 percent slopes, moderately eroded	250	.1
Chillum-Urban land complex, 0 to 5 percent slopes	1,450	.4
Chillum-Urban land complex, 5 to 15 percent slopes	1,030	.3
Christiana loam, 2 to 5 percent slopes	740	.2
Christiana loam, 5 to 10 percent slopes, moderately eroded	480	.1
Chrome silt loam, 3 to 8 percent slopes, moderately eroded	280	.1
Chrome channery silty clay loam, 3 to 15 percent slopes, severely eroded	1,010	.3
Chrome channery silty clay loam, 15 to 45 percent slopes, severely eroded	610	.2
Clay pits	110	(1)
Coastal beaches	60	(1)
Codorus silt loam	9,200	2.4
Comus silt loam	810	.2
Conestoga loam, 3 to 8 percent slopes, moderately eroded	4,700	1.2
Conestoga loam, 8 to 15 percent slopes, moderately eroded	2,140	.5
Delanco silt loam, 3 to 8 percent slopes	940	.2
Dunning silt loam	630	.2
Edgemont gravelly loam, 3 to 8 percent slopes, moderately eroded	200	.1
Edgemont gravelly loam, 8 to 15 percent slopes, moderately eroded	280	.1
Edgemont very stony loam, 8 to 25 percent slopes	360	.1
Edgemont very stony loam, 25 to 45 percent slopes	440	.1
Elioak silt loam, 3 to 8 percent slopes, moderately eroded	4,180	1.1
Elioak silt loam, 8 to 15 percent slopes, moderately eroded	510	.1
Elioak gravelly silt loam, 3 to 8 percent slopes, moderately eroded	450	.1
Elioak gravelly silt loam, 8 to 15 percent slopes, moderately eroded	250	.1
Elioak silty clay loam, 8 to 15 percent slopes, severely eroded	190	(1)
Elkton loam	290	.1
Elkton silt loam	640	.2

TABLE 1.—*Approximate acreage and proportionate extent of the soils*—Continued

Soil	Acres	Percent
Elkton-Urban land complex	220	0.1
Elsinboro loam, 3 to 8 percent slopes	1,270	.3
Elsinboro loam, 8 to 15 percent slopes, moderately eroded	450	.1
Fallsington sandy loam	600	.2
Fallsington loam	920	.2
Fort Mott loamy sand, 0 to 5 percent slopes	570	.1
Galestown loamy sand, 0 to 5 percent slopes	230	.1
Galestown loamy sand, 5 to 10 percent slopes	160	(1)
Glenelg loam, 3 to 8 percent slopes, moderately eroded	24,400	6.1
Glenelg loam, 8 to 15 percent slopes, moderately eroded	17,850	4.6
Glenelg loam, 8 to 15 percent slopes, severely eroded	2,030	.5
Glenelg loam, 15 to 25 percent slopes, moderately eroded	1,440	.4
Glenelg loam, 15 to 25 percent slopes, severely eroded	740	.2
Glenelg channery loam, 3 to 8 percent slopes, moderately eroded	2,070	.5
Glenelg channery loam, 8 to 15 percent slopes, moderately eroded	5,180	1.3
Glenelg channery loam, 15 to 25 percent slopes, moderately eroded	1,740	.4
Glenelg channery loam, 15 to 25 percent slopes, severely eroded	1,120	.3
Glenelg-Urban land complex, 0 to 8 percent slopes	3,210	.8
Glenelg-Urban land complex, 8 to 15 percent slopes	1,370	.3
Glenville silt loam, 0 to 3 percent slopes	1,900	.5
Glenville silt loam, 3 to 8 percent slopes	12,030	3.1
Glenville-Urban land complex, 0 to 8 percent slopes	390	.1
Hagerstown silt loam, 0 to 3 percent slopes	280	.1
Hagerstown silt loam, 3 to 8 percent slopes, moderately eroded	1,410	.4
Hagerstown silt loam, 8 to 15 percent slopes, moderately eroded	430	.1
Hatboro silt loam	4,160	1.1
Hollinger loam, 3 to 8 percent slopes, moderately eroded	360	.1
Hollinger loam, 8 to 15 percent slopes, moderately eroded	500	.1
Hollinger and Conestoga loams, 15 to 25 percent slopes, severely eroded	360	.1
Hollinger and Conestoga very rocky loams, 3 to 15 percent slopes	550	.1
Iuka silt loam	530	.1
Joppa gravelly sandy loam, 2 to 5 percent slopes	960	.2
Joppa gravelly sandy loam, 5 to 10 percent slopes, moderately eroded	1,370	.3
Joppa gravelly sandy loam, 10 to 15 percent slopes, moderately eroded	490	.1
Joppa-Urban land complex, 5 to 15 percent slopes	1,510	.4
Kelly silt loam, 3 to 8 percent slopes, moderately eroded	890	.2
Kelly silt loam, 8 to 15 percent slopes, moderately eroded	240	.1
Kelly very stony silt loam, 0 to 15 percent slopes	240	.1
Kelly-Urban land complex, 0 to 8 percent slopes	300	.1
Legore silt loam, 3 to 8 percent slopes, moderately eroded	1,170	.3
Legore silt loam, 8 to 15 percent slopes, moderately eroded	1,310	.3
Legore silt loam, 15 to 25 percent slopes, moderately eroded	770	.2
Legore silt loam, 25 to 45 percent slopes	430	.1
Legore very stony silt loam, 3 to 15 percent slopes	1,650	.4
Legore very stony silt loam, 15 to 25 percent slopes	1,140	0.3
Legore very stony silt loam, 25 to 45 percent slopes	1,200	.3
Legore silty clay loam, 8 to 15 percent slopes, severely eroded	750	.2
Legore silty clay loam, 15 to 25 percent slopes, severely eroded	690	.2
Legore-Urban land complex, 0 to 8 percent slopes	3,260	.8
Legore-Urban land complex, 8 to 15 percent slopes	1,800	.5
Lenoir loam, 0 to 5 percent slopes	940	.2
Lenoir silt loam, 0 to 5 percent slopes	2,140	.5
Lenoir silt loam, 5 to 12 percent slopes, moderately eroded	270	.1
Lenoir silty clay loam, 5 to 12 percent slopes, severely eroded	230	.1
Lenoir-Urban land complex, 0 to 5 percent slopes	740	.2
Leonardtown silt loam	560	.1
Lindside silt loam	510	.1
Loamy and clayey land, 0 to 5 percent slopes	3,460	.9
Loamy and clayey land, 5 to 15 percent slopes	6,570	1.7
Loamy and clayey land, 15 to 40 percent slopes	590	.1
Made land	3,600	.9
Manor loam, 3 to 8 percent slopes, moderately eroded	8,810	2.3
Manor loam, 8 to 15 percent slopes, moderately eroded	20,090	5.2
Manor loam, 8 to 15 percent slopes, severely eroded	3,360	.9
Manor loam, 15 to 25 percent slopes, moderately eroded	8,380	2.1
Manor loam, 15 to 25 percent slopes, severely eroded	6,830	1.7
Manor channery loam, 3 to 8 percent slopes, moderately eroded	3,140	.8
Manor channery loam, 8 to 15 percent slopes, moderately eroded	12,270	3.1
Manor channery loam, 8 to 15 percent slopes, severely eroded	2,010	.5
Manor channery loam, 15 to 25 percent slopes, *moderately eroded*	11,700	3.0
Manor channery loam, 15 to 25 percent slopes, severely eroded	8,300	2.1
Manor soils, 25 to 50 percent slopes	16,310	4.2
Manor-Urban land complex, 15 to 25 percent slopes	350	.1
Manor and Glenelg very stony loams, 3 to 15 percent slopes	570	.1
Manor and Brandywine very stony loams, 15 to 25 percent slopes	1,000	.3
Manor and Brandywine very stony loams, 25 to 65 percent slopes	8,000	2.1
Matapeake silt loam, 0 to 2 percent slopes	240	.1
Matapeake silt loam, 2 to 5 percent slopes	670	.2
Matapeake silt loam, 5 to 12 percent slopes, moderately eroded	260	.2
Mattapex silt loam, 0 to 2 percent slopes	1,940	.5
Mattapex *silt loam, 2 to 5 percent* slopes	3,170	.8
Mattapex-Urban land complex, 0 to 5 percent slopes	3,740	1.0
Melvin silt loam	330	.1
Melvin silt loam, local alluvium	1,210	.3
Mine dumps and quarries	120	(1)
Montalto silt loam, 3 to 8 percent slopes, moderately eroded	1,690	.4
Montalto silt loam, 8 to 15 percent slopes, moderately eroded	390	.1
Mt. Airy channery loam, 3 to 8 percent slopes, moderately eroded	380	.1
Mt. Airy channery loam, 8 to 15 percent slopes, moderately eroded	1,690	.4

TABLE 1.—*Approximate acreage and proportionate extent of the soils*—Continued

Soil	Acres	Percent
Mt. Airy channery loam, 15 to 25 percent slopes, moderately eroded	1,440	0.4
Mt. Airy channery loam, 15 to 25 percent slopes, severely eroded	1,250	.3
Neshaminy silt loam, 3 to 8 percent slopes, moderately eroded	2,730	.7
Neshaminy silt loam, 8 to 15 percent slopes, moderately eroded	950	.2
Othello silt loam	820	.2
Pocomoke sandy loam	110	(1)
Relay silt loam, 8 to 15 percent slopes, moderately eroded	330	.1
Relay silt loam, 15 to 25 percent slopes, moderately eroded	150	(1)
Relay very stony silt loam, 3 to 25 percent slopes	230	.1
Relay very stony silt loam, 25 to 65 percent slopes	640	.2
Relay clay loam, 15 to 25 percent slopes, severely eroded	310	.1
Sand and gravel pits	1,240	.3
Sassafras sandy loam, 0 to 2 percent slopes	1,060	.3
Sassafras sandy loam, 2 to 5 percent slopes	2,970	.8
Sassafras sandy loam, 5 to 10 percent slopes, moderately eroded	610	.2
Sassafras sandy loam, 5 to 10 percent slopes, severely eroded	210	.1
Sassafras sandy loam, 10 to 15 percent slopes, moderately eroded	310	
Sassafras loam, 0 to 2 percent slopes	490	
Sassafras loam, 2 to 5 percent slopes	1,020	
Sassafras loam, 5 to 10 percent slopes, moderately eroded	350	
Sassafras-Urban land complex, 0 to 5 percent slopes	5,170	
Sassafras and Joppa soils, 5 to 15 percent slopes, severely eroded	640	
Sassafras and Joppa soils, 15 to 30 percent slopes	420	
Stony land, steep	1,070	
Sunnyside fine sandy loam, 0 to 5 percent slopes, moderately eroded	250	
Swamp	180	(1)
Tidal marsh	2,320	
Watchung silt loam, 0 to 3 percent slopes	750	
Watchung silt loam, 3 to 8 percent slopes	700	
Watchung very stony silt loam, 0 to 8 percent slopes	530	
Woodstown sandy loam, 0 to 2 percent slopes	1,810	
Woodstown sandy loam, 2 to 5 percent slopes	1,090	
Woodstown loam, 0 to 2 percent slopes	910	
Woodstown loam, 2 to 5 percent slopes	650	
Paved areas	540	
Total	390,400	10

[1] Less than 0.05 percent.

Aldino Series

The Aldino series consists of moderately well drained, nearly level to moderately sloping, very silty soils that are moderately deep to a fragipan. These soils are on uplands of the Piedmont Province. They formed in material weathered from serpentine rock. The native vegetation is mixed upland hardwoods, mainly oaks, and some Virginia pine.

In a representative profile the surface layer is silt loam about 6 inches thick. This layer is very dark grayish-brown in the thinner upper part and brown in the lower part. The upper part of the subsoil, about 11 inches thick, is yellowish-brown silty clay loam that is sticky and plastic. The lower part, about 20 inches thick, is a brownish-gray to greenish-gray, silty clay loam fragipan that has brown mottles. It is very fine, dense, brittle, and platy. Underlying the fragipan is loam that formed in material derived from serpentine rock. This material has streaked or banded colors. It extends to the depth of bedrock.

Aldino soils are fairly easy to work where moisture content is favorable and the soil is not too stony. Planting dates may be delayed, however, because these soils sometimes are wet and slow to warm in spring. In places artificial drainage is required for cultivation of crops. Permeability is slow in these soils, and available moisture capacity is moderate. In dry seasons these soils tend to dry out quickly. They have moderate to severe limitations for many nonfarm uses.

Representative profile of Aldino silt loam, 0 to 3 percent slopes, in a wooded area south of the intersection of Security Boulevard and Belmont Road:

A1—0 to 2 inches, very dark grayish-brown (10YR 3/2) s loam; moderate, fine, granular structure; very f able, slightly sticky; many roots; very strongly aci clear, wavy boundary.

A2—2 to 6 inches, brown (10YR 5/3) silt loam; weak, v fine, subangular blocky structure; friable, sligh sticky; many roots; very strongly acid; clear, wa boundary.

B2t—6 to 17 inches, yellowish-brown (10YR 5/4) silty cl loam, variegated with strong brown (7.5YR 5/8 moderate, fine, subangular blocky structure; fi sticky and plastic; common roots; faint, gray light-gray (10YR 6/1) clay films; very stron acid; gradual, wavy boundary.

Bx1—17 to 33 inches, light brownish-gray (10YR 6/2) sil clay loam; many, coarse, distinct mottles of stro brown (7.5YR 5/8); weak, coarse, subangular bloc and moderate, thin, platy structure; very fir brittle, plastic and very sticky; few roots; prominc gray or light-gray (10YR 6/1) clay films; stron acid, wavy boundary.

Bx2—33 to 37 inches, dark greenish-gray (5GY 4/1) si clay loam; common, medium, prominent mottles yellowish brown (10YR 5/8); weak, thin, pl structure; very firm, brittle, sticky and plast very few roots; faint, gray or light-gray (10 6/1) clay films; medium acid; gradual, wavy bou ary.

C—37 to 60 inches, banded dark greenish-gray (5GY 4/ olive-brown (2.5Y 4/4), and light yellowish-bro (2.5Y 6/4) loam; massive with inherent rock str ture; friable; slightly sticky; slightly acid.

In the A horizon hue is 10YR or 2.5Y, value ranges fr 3 to 5, and chroma from 1 to 3. The lowest values a chromas are limited to undisturbed A1 horizons less thar inches thick.

The Bt horizon is silty clay loam or heavy silt loam th is 25 to 30 percent clay. Hue in this horizon is 10YR 2.5Y, value is 5 or 6, and chroma is 3 or 4.

TABLE 4.—*Suitability of the soils for elements*

[An asterisk in the first column indicates that at least one mapping unit in this series is made up of two or more kinds of soil. The soils structions for referring to other series that appear in the first column of this table. Not included in this table, because they are too Urban land mapped in complex with several soil series is too variable to rate, and the complexes that include this land type are not

Soil series and map symbols	Elements of wildlife habitat				
	Grain and seed crops	Grasses and legumes	Wild herbaceous upland plants	Hardwood woody plants	Coniferous woody plants
Aldino:					
AdA	Fair	Good	Good	Good	Poor
AdB2, AdC2	Fair	Good	Good	Good	Poor
AsC	Not suited	Poor	Good	Good	Poor
Alluvial land:					
Av	Not suited	Poor	Poor	Good	Good
Baile:					
BaA	Poor	Fair	Fair	Good	Fair
BaB	Poor	Fair	Fair	Good	Fair
Baltimore:					
BmA	Good	Good	Good	Good	Poor
BmB2, BmC2	Fair	Good	Good	Good	Poor
Barclay:					
Br	Fair	Fair	Good	Good	Poor
Beltsville:					
BtA	Fair	Good	Good	Good	Poor
BtB, BtC2	Fair	Good	Good	Good	Poor
Brandywine:					
BwB2, BwC2, ByD2	Poor	Fair	Fair	Fair	Fair
ByD3, ByE	Not suited	Poor	Fair	Fair	Fair
Captina:					
CaA	Fair	Good	Good	Good	Poor
CaB2	Fair	Good	Good	Good	Poor
Chester:					
CcA	Good	Good	Good	Good	Poor
CcB2, CcC2, CgB2, CgC2	Fair	Good	Good	Good	Poor
*Chillum:					
ChB2, ChC2, CkB2, CkC2	Fair	Good	Good	Good	Poor
ChC3, CkD2	Poor	Fair	Good	Good	Poor
For properties of Neshaminy soils in units CkB2, CkC2, and CkD2, see the Neshaminy series.					
Christiana:					
CmB, CmC2	Fair	Good	Good	Good	Poor
Chromo:					
CnB2	Poor	Poor	Fair	Fair	Fair
CoC3, CoE3	Not suited	Not suited	Poor	Poor	Poor
Coastal beaches:					
Ct	Not suited	Poor	Poor	Not suited	Not suited
Codorus:					
Cu	Fair	Good	Good	Good	Poor
Comus:					
Cv	Good	Good	Good	Good	Poor
Conestoga:					
CwB2, CwC2	Fair	Good	Good	Good	Poor
Delanco:					
DcB	Fair	Good	Good	Good	Poor
Dunning:					
Du	Not suited	Poor	Poor	Good	Good
Edgemont:					
EdB2, EdC2	Fair	Good	Good	Good	Poor
EgD, EgE	Not suited	Fair	Good	Good	Poor
Elioak:					
EhB2, EhC2, EkB2, EkC2	Fair	Good	Good	Good	Poor
ElC3	Poor	Fair	Good	Good	Poor
Elkton:					
Em, En	Poor	Fair	Fair	Good	Fair
Elsinboro:					
EsB, EsC2	Fair	Good	Good	Good	Poor
Fallsington:					
Fa, Fs	Poor	Fair	Fair	Good	Fair
Fort Mott:					
FtB	Fair	Fair	Fair	Fair	Good
Galestown:					
GaB, GaC	Poor	Poor	Poor	Poor	Good

TABLE 4.—*Suitability of the soils for elements of*

Soil series and map symbols	Elments of wildlife habitat				
	Grain and seed crops	Grasses and legumes	Wild herbaceous upland plants	Hardwood woody plants	Coniferous woody plants
Glenelg:					
GcB2, GcC2, GgB2, GgC2	Fair	Good	Good	Good	Poor
GcC3, GcD2, GgD2	Poor	Fair	Good	Good	Poor
GcD3, GgD3	Not suited	Poor	Good	Good	Poor
Glenville:					
GnA	Fair	Good	Good	Good	Poor
GnB	Fair	Good	Good	Good	Poor
Hagerstown:					
HaA	Good	Good	Good	Good	Poor
HaB2, HaC2	Fair	Good	Good	Good	Poor
Hatboro:					
Hb	Poor	Fair	Fair	Good	Fair
*Hollinger:					
HoB2, HoC2	Fair	Good	Good	Good	Poor
HrD3, HsC	Not suited	Poor	Good	Good	Poor
For properties of Conestoga soils in units HrD3 and HsC, see the Conestoga series.					
Iuka:					
Iu	Fair	Good	Good	Good	Poor
Joppa:					
JpB, JpC2	Fair	Fair	Fair	Fair	Poor
JpD2	Poor	Poor	Fair	Fair	Poor
Kelly:					
KeB2, KeC2	Fair	Fair	Fair	Fair	Fair
KsC	Not suited	Poor	Fair	Fair	Fair
Legore:					
LeB2, LeC2	Fair	Good	Good	Good	Poor
LeD2, LgC3	Poor	Fair	Good	Good	Poor
LeE, LfC, LfD, LgD3	Not suited	Poor	Good	Good	Fair
LfE	Not suited	Not suited	Good	Good	Fair
Lenoir:					
LfB, LmB, LmC2	Fair	Fair	Good	Good	Poor
LnC3	Poor	Fair	Good	Good	Poor
Leonardtown:					
Lr	Poor	Fair	Fair	Fair	Fair
Lindside:					
Ls	Fair	Good	Good	Good	Poor
Loamy and clayey land:					
LyB	Poor	Fair	Fair	Fair	Poor
LyD, LyE	Not suited	Poor	Fair	Fair	Poor
*Manor:					
MbB2, MbC2, McB2, McC2	Fair	Fair	Fair	Fair	Fair
MbC3, MbD2, McC3, McD2	Poor	Fair	Fair	Fair	Fair
MbD3, McD3, MdE, MgC, MhD	Not suited	Poor	Fair	Fair	Fair
MhE	Not suited	Not suited	Fair	Fair	Fair
For properties of Glenelg soils in unit MgC and of Brandywine soils in units MhD and MhE, see Glenelg and Brandywine series, respectively.					
Matapeake:					
MkA	Good	Good	Good	Good	Poor
MkB, MkC2	Fair	Good	Good	Good	Poor
Mattapex:					
MlA	Fair	Good	Good	Good	Poor
MlB	Fair	Good	Good	Good	Poor
Melvin:					
Mn, Mo	Poor	Fair	Fair	Good	Fair
Montalto:					
MsB2, MsC2	Fair	Good	Good	Good	Poor
Mt. Airy:					
MtB2, MtC2	Fair	Fair	Fair	Fair	Good
MtD2	Poor	Fair	Fair	Fair	Good
MtD3	Not suited	Poor	Fair	Fair	Good
Neshaminy:					
NeB2, NeC2	Fair	Good	Good	Good	Poor
Othello:					
Ot	Poor	Fair	Fair	Good	Fair
Pocomoke:					
Po	Not suited	Poor	Poor	Good	Good

TABLE 12.—*Probabilities of last freezing temperatures in spring and first in fall*

[Data for period of spring 1953 through fall 1959 from Parkton, Md.; data for fall 1948, fall 1965, and spring 1970 from Towson, Md.]

Probability	Dates for given probability and temperature					
	32° F. or lower		24° F. or lower		16° F. or lower	
	Parkton	Towson	Parkton	Towson	Parkton	Towson
Spring:						
9 years in 10 later than	April 9	April 1	March 19	March 11	February 28	February 4
3 years in 4 later than	April 16	April 8	March 25	March 17	March 6	February 12
2 years in 3 later than	April 19	April 11	March 28	March 19	March 8	February 15
1 year in 2 later than	April 25	April 17	April 1	March 23	March 13	February 21
1 year in 3 later than	May 1	April 23	April 5	March 27	March 18	February 27
1 year in 4 later than	May 4	April 26	April 8	March 29	March 20	March 2
1 year in 10 later than	May 11	May 3	April 14	April 4	March 26	March 10
Fall:						
1 year in 10 earlier than	September 29	October 3	October 31	October 31	November 26	November 26
1 year in 4 earlier than	October 5	October 10	November 5	November 7	November 28	December 2
1 year in 3 earlier than	October 7	October 13	November 7	November 9	December 1	December 5
1 year in 2 earlier than	October 12	October 18	November 11	November 14	December 3	December 9
2 years in 3 earlier than	October 17	October 23	November 15	November 19	December 5	December 13
3 years in 4 earlier than	October 19	October 26	November 17	November 21	December 7	December 16
9 years in 10 earlier than	October 25	November 2	November 22	November 28	December 10	December 22

Water Supply

The public water system in Baltimore County is part of a regional system operated by the City of Baltimore. Three large reservoirs are the primary water sources for the system: Liberty Reservoir, Loch Raven Reservoir, and Pretty Boy Reservoir. Montebello Reservoir in Baltimore City is supplied by a pipeline from the Susquehanna River, outside of Baltimore County. There are many smaller reservoirs for small industries and institutions, and for private water supplies.

Rural areas depend largely on deep wells, but to some degree on streams, springs, and artificial ponds. Water supplies in the county are usually adequate, except locally during prolonged dry periods.

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Glossary

Available water capacity (also termed available moisture capacity). The capacity of soils to hold water available for use by most plants. It is commonly defined as the difference between the amount of soil water at field capacity and the amount at wilting point. It is commonly expressed as inches of water per inch of soil.

DATE: 6/20/2000

Protestants
~~PEOPLE'S COUNSEL~~'S SIGN IN SHEET

CASE: 99-503-X
CBA-00-105

The Office of People's Counsel was created by County Charter to participate in zoning matters on behalf of the public interest. While it does not actually represent community groups or protestants, it will assist in the presentation of their concerns if they do not have their own attorney. If you wish to be assisted by People's Counsel, please sign below.

Check if you wish to testify.	Name/Address Phone No.	(Community Group You Represent?) Basis of Your Concerns
✓	GEORGE HARMAN 5429 Weywood Dr. 21136	HANOVER ROAD ASSOC.
✓	George Neubeck 410-833-0893 14301 Hanover Pike 21136	HRA
✓	E. L. BOND, JR 1710 EMORY ROAD 21136-4013	HRA
	Charlotte Bond 21136-4013 1710 Emory Rd.	HRA
	DOROTHY S. MILLER 21155 15619 HANOVE PIKE	HRA
	Mary J. Stull 15619 Hanover PIKE 21136	HRA
	Norma M. Allman 5407 Mt. Gilead Rd. 21136	HRA
	Robert N Allman 5407 Mt. Gilead Rd 21136	HRA
✓	Chris Bond 1566 Emory Church Rd Upperco MD 21155	HRA
	Shirlee Elseroad + Walt Bowers 1717 Emory Rd. Reisd. Md. 21156	HRA
	BB Beauchamp 21155 1554 Emory church Rd Upperco	HRA
	E Carina Myers 5732 Emory Rd Upperco Md 21155	HRA
	Melvin J Jr + Ruby Fair 5907 Mt. Gilead Rd. Reisterstown, Md. 21136	HRA
	Charles R. Davis	HRA

Protestant's Exhibit #1

See ADC's " CARROLL COUNTY, MD STREET MAP" For Continuation

76°52'30"

840,000 F T

Joins Inset-Left

76°50'00"

MAP 9

630,000 FT

39°35'00"

640,000 FT

39°32 30"

610,000 FT

Joins Map 5

Joins Map 10

Joins Map - Above

HAMPSTEAD

TRENTON BUS CTR (SITE)

Piney Branch G & CC

Piney Branch G & CC

Wesley Meth

Emory Uld Meth

Christian Revival Ctr

River Downs GC

Baltimore Co Bapt

St Pauls Luth

Upperco

Arendia to 430

UPPERCO

Run

Deep

Aspen

North Branch

Patapsco River

Broad

Little Gunpowder F

Thorton Branch

COUNTY

CARROLL BALTIMORE

HANOVER

LECKLEYSVILLE ROAD

ROCK ROAD

OLD HANOVER ROAD

EMORY ROAD

PIKE

88

30

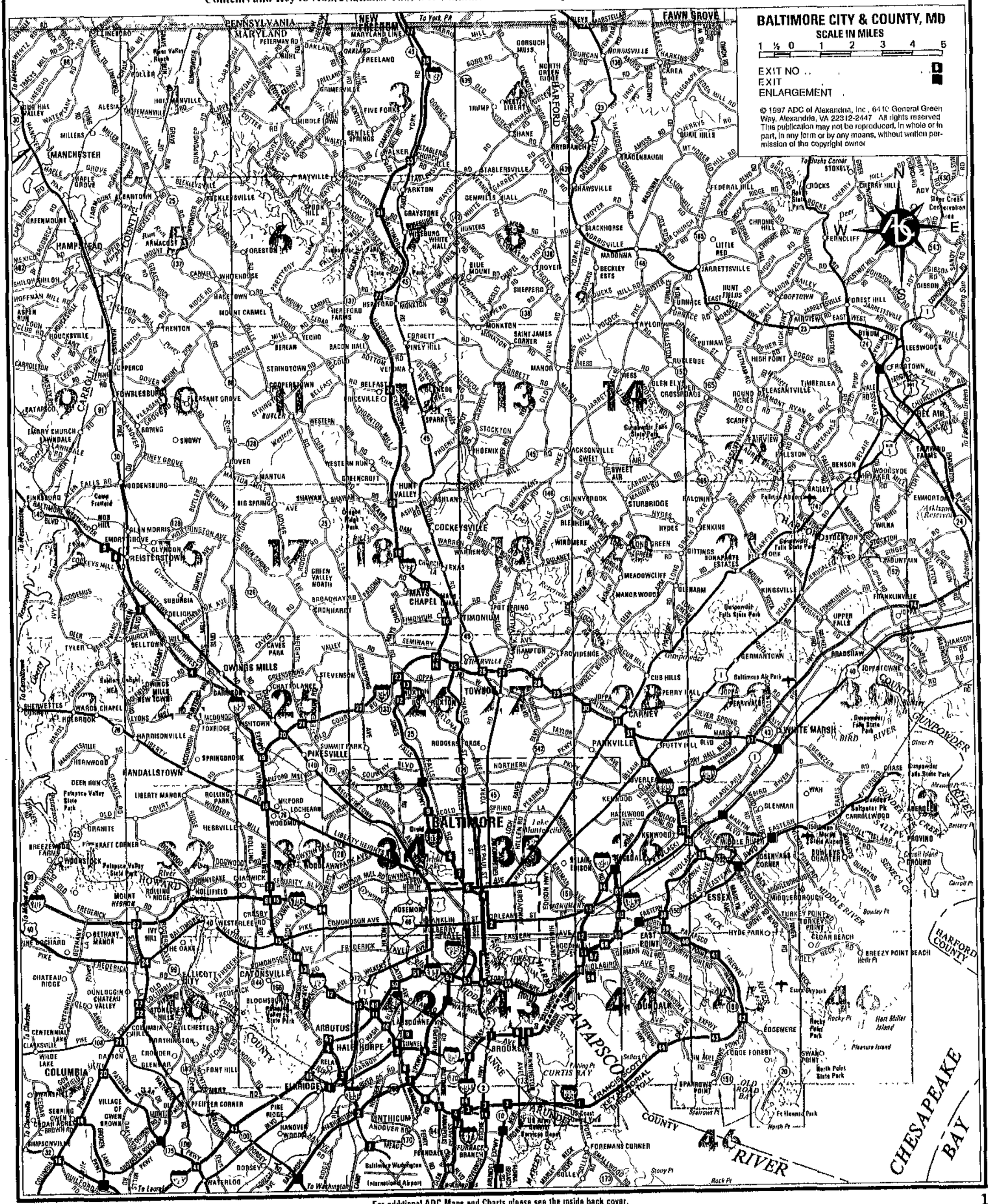
91

Brute Plant's Hillcrest #2

BALTIMORE CITY & COUNTY, MD

INDEX TO MAPS

Pages 2, 3 and 4 provide you a complete Step-by-Step guide to using your Street Map Book, Map Legend, Table of Contents and Key to Abbreviations. Take a few minutes to familiarize yourself with this time saving information.



BALTIMORE COUNTY

AGRICULTURAL LAND PRESERVATION

PROGRAM

CERTIFICATION REPORT

FISCAL YEARS 1993 - 1994

Submitted to Maryland Office of Planning and
Maryland Agricultural Land Preservation Foundation

January 1995

Petitioner Exhibit
#4

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INTRODUCTION

This is Baltimore County's Certification Report for FY 93-94 to be submitted to the Maryland Office of Planning and the Maryland Department of Agriculture to meet the requirements for recertification of Baltimore County's Agricultural Program. The certification requirements are specified in COMAR 14.24.08 Guidelines for the Certification of County Agricultural Land Preservation Programs.

Baltimore County obtained certification of its Local Program in 1990. Certification allows the County to retain a greater proportion of the Agricultural Transfer Tax Revenues. These revenues can be used for local permanent preservation activities.

The requirements for certification include both specific financial requirements and broad programmatic requirements. This report addresses those requirements through a description of the permanent land preservation activities, the local regulations and growth management, and the agricultural industry. In each of these areas the present accomplishments, status of the issue and recommendations are presented.

EXECUTIVE SUMMARY

For the FY 93-94 Certification Period, there were 16 new agricultural districts on 1,071 acres and 11 new agricultural easements on 1,250 acres. There were also 1,549 acres preserved throught the Maryland Environmental Trust.

The average price of the development rights in the three purchases was $3,908 in FY 93, $2,622 in the first purchase in FY 94, and $3,454 in the second purchase in FY 94. In all three purchases, the discount ratio ranged from 0.20 to 0.56. These discount ratios indicate that landowners accepted development right purchase prices at less than 56 percent of the appraised value of these rights.

The revenues from the Agricultural Transfer Tax, the primary funding mechanism, were basically flat for FY 93-94. The levels of easement purchase were dependent upon the use of County Bond funds. The remaining balance as of June 30, 1994 in the ATT fund is $765,432.07.

The County met the fiscal requirements for the use of the ATT funds and for recertification. There was no three year money returned, administrative costs were below the limits, and the County matching funds exceeded the amount received from certification.

The 1989 Master Plan designated over 130,000 acres as Agricultural Protection Areas. According to the Office of Planning and Zoning, there were 2,600 acres of agricultural and forest land converted to mostly residential uses in the Agricultural Protection Areas from 1990 to 1993.

The primary local land use regulation that affords protection to agricultural land is the Resource Conservation Agricultural Zone. Although the density of this zone is essentially one unit per 50 acres, properties with more than one parcel are permitted additional development potential. In order to ascertain exactly how much development potential there is in this zone, it is necessary to do a deed search on all the zoned properties. A preliminary analysis of a sample of these properties was conducted. The results of this preliminary study indicated that there are many properties with multiple parcels, but that this appears to occur more frequently on properties of less than 50 acres.

Some agricultural properties are zoned Resource Conservation Watershed which is intended to protect the reservoirs of the County. The density is higher than that of the Resource Conservation Agricultural. This has presented a conflict in trying to achieve the primary purpose of protecting water quality and to also protect the agricultural soils. The

zone was amended in 1992 to require clustering in order to direct development off the agricultural soils. Although clustering has been shown to be effective in protecting more of the resources on site, it has not as of yet been shown to protect the agricultural resources.It

The 1992 Census indicated the trends in Baltimore County agricultural production is an increase in grain production, while livestock and dairying is decreasing. The 1992 Census reported a continued decrease in cropland and pasture to 90,356 acres of cropland and pasture and a slight increase in woodland to 13,206 acres.

The largest economic generator is the equine industry with an estimated annual input of over $355 million. Other large contributors include nurseries and greenhouses at $15.5 million, grain at $9.3 million, dairy at $7.7 million, livestock at $7.3 million and fresh vegetables at $3.7 million. The estimated annual input of the entire agricultural industry is over $446 million.

RECOMMENDATIONS

The following actions are recommended in order to advance the preservation of agricultural lands and the promotion of the agricultural industry in the County:

1. Appoint an agricultural commission composed of representatives of various agricultural sectors such as grain, livestock, vegetables, nursery; farm organizations; agricultural service industries; financial institutions; and citizens of land trusts and community associations to respond to the issues identified in this report.

2. Investigate setting a target number of easement acres to be protected and to use alternative purchase techniques and other innovative methods to acheive the goal.

3. Evaluate amending the RC 2 zone to incorporate the prime and productive soil policies into the zone and to provide for either a transfer or purchase of densities which are greater than that on adjacent lands. Continue work on the RC 4 zone to address the issues of protecting agricultural soils within Agricultural Protection Areas. Consider adding standards in both the RC 2 and RC 4 zones governing the criteria for granting of Special Exceptions for nonagricultural uses.

4. Investigate and develop strategies to maintain the fresh vegetable and nursery sectors of the agricultural economy which have a high profile and value to citizens of the metropolitan area. The proposed commission should also develop strategies to enhance the viability of traditional agricultural production and to maintain conditions necessary for the equine industry.

PERMANENT AGRICULTURAL LAND PRESERVATION PROGRAMS

Long term preservation can only be guaranteed through permanent easement programs in the County. Citizens in Baltimore County have been actively participating in the two easement programs. The Maryland Agricultural Land Preservation Program was adopted by the County in 1979. The Maryland Environmental Trust (MET) has been active in preserving easements in the County since 1967.

MARYLAND AGRICULTURAL LAND PRESERVATION PROGRAM

The Maryland Agricultural Land Preservation Program (Agricultural Preservation Program) is a cooperative State - County effort to assist landowners in voluntarily protecting their farmland through conservation easements. As of the end of this certification period, June 30, 1993, there were 21,446 acres in agricultural districts, of which 10,611 acres were in preservation easements.

The program is administered at the State level by a Foundation Staff and a Foundation Board, under the auspices of the Maryland Department of Agriculture. The Foundation Board is made up of appointed citizens from around the State and representatives of several State Departments. An executive director and staff administer the coordination with all the participating Counties and provide for the processing of all easements.

On the local level, the County also has a citizen board and an administrator. The local board reviews and approves formation of districts, ranking of easement applications, and amendments to districts and easements. The local program is administered by the Department of Environmental Protection and Resource Management. All approvals of districts and easements are made by resolution of the County Council.

DISTRICT ACTIVITY FOR FISCAL YEARS 1993 - 94

District formation is the first step a landowner takes in order to place an agricultural easement on the property. To qualify the farm must be at least 100 acres in size or contiguous to an existing district and have a minimum percentage of productive soils.

Once in an agricultural district, the landowner agrees not to subdivide the property for commercial or residential purposes for a minimum of five years. During that time the

landowner has some additional protection from nuisance complaints, retains an agricultural preferential assessment, and can apply to sell the development rights to the State.

As of June 30, 1992, there were 225 agricultural districts on 20,442 acres. During the reporting period, sixteen new districts were created on 1,071 acres of land. One district of 77 acres was withdrawn in FY 93. As of June 30, 1994 there were 240 agricultural districts on 21,436 acres (Table 1). Please note there is a correction to the FY 93 Certification Report which incorrectly indicated a total of 20,528 acres at the end of that period. The correct number of acres for that period was 20,518.

Table 1. Creation, Termination and Acquisitions in FY93 and FY94.

FISCAL YEAR	Total as of June 30, 1992	1993		1994		Total as of June 30, 1994
DISTRICT CREATION (District Termination)						
Districts	225	3	(-1)	13	(0)	240
Acres	20,442	154	(-77)	917	(0)	21,436
EASEMENT ACQUIRED						
Offers Accepted	83	4		7		94
Acreage Settled	9,359	361		889		10,610

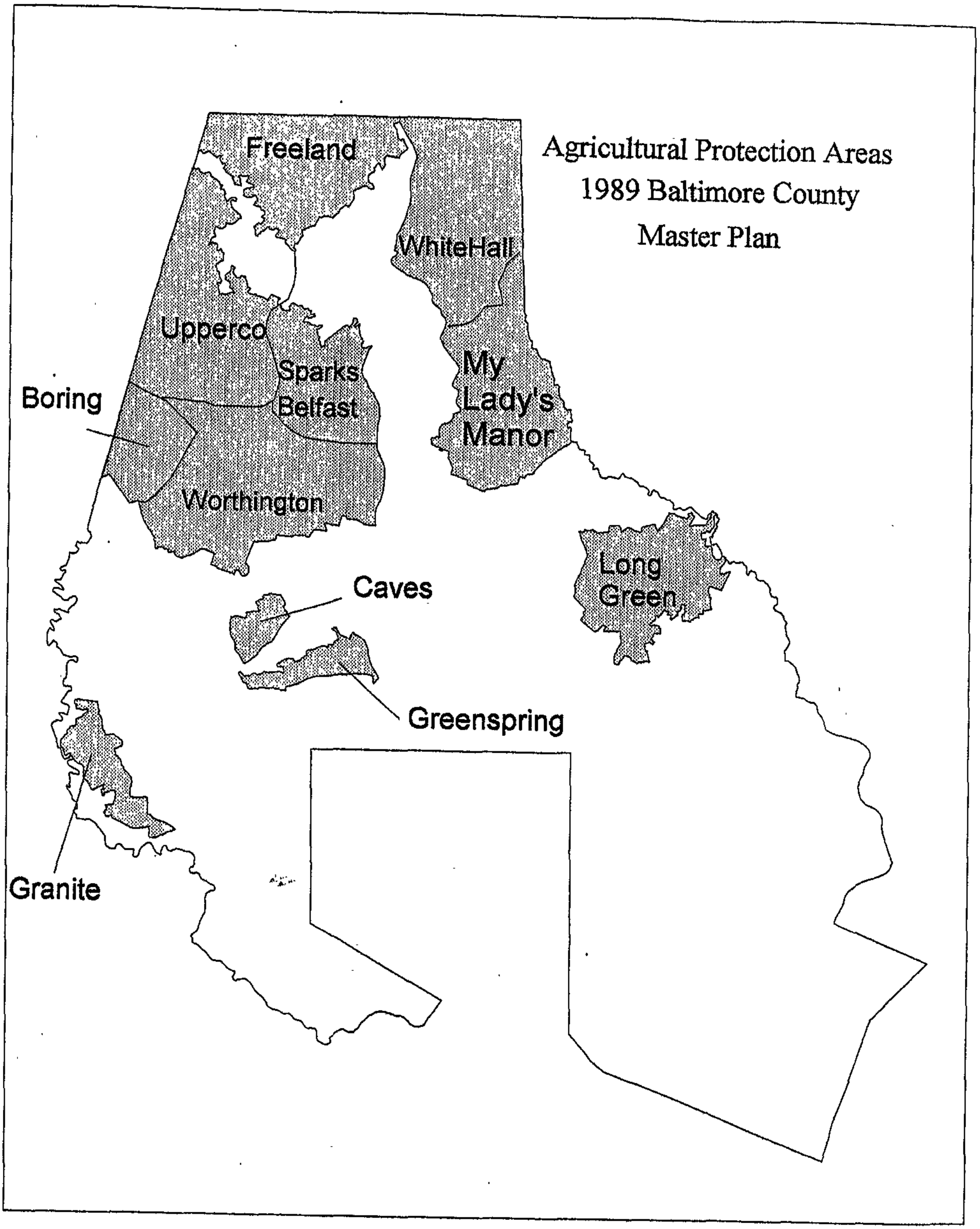
TOTAL ACRES IN DISTRICTS - 21, 436. DISTRICT ACRES IN EASEMENTS - 10,610

The enrollment of new Districts and the characteristics of these districts are important indicators of the progress that is being made towards getting the actively producing farmland into the preservation program. The locational information is also useful in providing feedback to land preservation groups who are actively seeking additional participants in their area.

The type of farm operations in the new districts is indicated in Table 2. Ten new districts were grain farms. Three farms entering districts were classified as horse operations. The other districts included a beef operation, woodland and vegetable farm.

The new districts created in FY 93 & 94 were located within the Agricultural Protection Area (Figure 1.) designated in the County's Master Plan. The Agricultural Protection Areas are broken down into subareas. These subareas are based on the divisions of areas into geographic and farming communities. These subareas will be useful in providing milestones in the success of different parts of the county in participating in easement programs.

Figure 1



Agricultural Protection Areas
1989 Baltimore County
Master Plan

The most active location for new districts was My Lady's Manor with five farms. The next most active locations were Sparks -Belfast with four new districts and White Hall with three new districts. The remainder of the new districts were located in Freeland, Worthington and Boring.

Table 2. Location and Type of Farm Operation of Districts Created in FY 93 & 94

LOCATION	FARM OPERATION								TOTALS	
	Grain		Beef		Horse		Other			
	#	acres	#	acres	#	acres	#	acres	#	acres
Sparks/Belfast	3	261			1	109			4	370
My Lady's Manor	3	94			2	125			5	218
White Hall	1	93	1	76			1	103	3	272
Worthington	1	65							1	65
Freeland	1	81					1	30	2	111
Boring	1	35							1	35
TOTALS	10	629	1	76	3	234	2	133	16	1071

During the same period one agricultural district was terminated and one district applicant withdrew before recording. The actions of these two landowners were in response to continued concern about the State funding of the program arising out of the State suspension of the funding during FY 90 - 91 (see FY 91 to FY 92 Certification Report).

Although the State has resumed funding of the purchase of easements, the levels are greatly reduced from previous years (see Program Revenue and Expenditures). It is therefore important to monitor the number of districts carefully to determine if the number of new applicants and the number of those withdrawing are in response to concerns on the part of landowners regarding ability to sell an easement.

EASEMENT ACTIVITY FOR FY 93-94

Once a landowner's farm has been accepted as a district, the landowner may apply to sell a development rights easement to the State. The State accepts applications twice a year in July and January. The landowner indicates an offer price for which he/she will sell the development rights. If selected, an easement is then placed on the property, prohibiting further development for a minimum of 25 years.

Baltimore County's Agricultural Land Preservation Advisory Board reviews the list of farms submitted by the State and ranks the farms according to an evaluation form (copy included in the Appendix). The evaluation includes soil productivity, size, management, location, and other factors. Starting with the FY 94 easement review, the Board added points for farms owned and operated by agricultural producers.

As of June 30, 1992 there were 83 easements on 9,359 acres of agricultural land. During the reporting period, eleven new easements were placed on 1,250 acres. These new easements included four grain operations and four horse farms. The other three easements were placed on farms operated for beef, woodland and nursery (Table 3.).

The easements were purchased within the Agricultural Protection Areas (Figure 1). Three development rights easements were purchased in My Lady's Manor, three in Worthington Valley , two in Upperco and one each in Sparks/Belfast, White Hall, and Boring.

Table 3. Agricultural Easements purchased in FY 93 and FY 94.

AG AREA	NEW EASEMENTS		FARM OPERATION ACRES (NUMBER)			
	NUMBER	ACRES	GRAIN	BEEF	HORSE	OTHER
Sparks - Belfast	1	95	95 (1)			
My Lady's Manor	3	206	71 (1)			135 (2)
White Hall	1	152	152 (1)			
Worthington	3	375			375 (3)	
Boring	1	249		249 (1)		
Upperco	2	173	97 (1)		76 (1)	
TOTALS	11	1,250	415 (4)	249 (1)	451 (4)	135 (2)

The above easements were purchased over the County Fiscal Years of 1993 and 1994 in three separate purchases. The first easement acquisition was in FY 93 with the purchase of four easements. In FY 94 seven easements were purchased in two separate cycles; in the first cycle five easements were purchased and two in the second cycle. It is also noteworthy that for each of these cycles 25 to 30 farms applied to sell an easement.

Easement ratios, like the number of farms applying to sell an easement, are an indicator the competitiveness for selling an easement. As the above prices and ratios indicate, landowners are reducing their appraised easement values to below 50% to 60% of the appraised value. The appraised value is determined by two independent appraisers who look at the comparative value of those development rights for development purposes.

The average price paid for development rights in FY 93 was $3,908.00 an acre with a cutoff ratio of asking price divided by appraised price of 0.56. In FY 94 the average price in the first easement cycle was $2,622.00 an acre with a cutoff ratio of 0.54. The average price paid in the second cycle in FY 94 was $3454.00 an acre with a cutoff ratio of 0.56.

The easement prices present an opportunity for the State and County to purchase the development rights at a bargain price. However, some landowners are not financially able to discount their development rights to this degree and they are not able to compete successfully to sell an easement.

PROGRAM REVENUE AND EXPENDITURES

The Maryland Agricultural Land Preservation Program is funded by State funds with matching County funds. The sources of the County's matching funds include the County's share of the agricultural transfer tax receipts and County General Obligation Bond funds. The State share comes from the Agricultural Transfer Tax revenues not retained by counties and a portion of the Maryland Open Space funds.

An agricultural preferential assessment was developed as part of an effort to provide for the preservation of agricultural land. The Maryland General Assembly declared that it was in the public interest to protect agricultural land and encourage farming activity to maintain a readily available source of food. The preferential assessment provides for reduced taxes on agricultural land.

If, however, the landowner decides to transfer the land out of agricultural use into some other use such as residential or commercial development, the landowner must pay an Agricultural Transfer Tax (ATT). These moneys are used for the purchase of development rights through Agricultural Easement Program. There were 369 acres of land converted out of agriculture in FY 93 and 486 acres converted out in FY 94.

The revenues of Fiscal Years 1993 and 1994 were very similar (Tables 4 & 5). In FY 93 the County received $329,865.75 in revenue from the Agricultural Transfer Tax. In FY 94 the County received $335,122.41 in revenue. It was of some surprise to see essentially flat revenues in these two years. It had been projected that the revenues would increase in FY 94 but this did not materialize.

One requirement for the County to retain the ATT funds is that all moneys must be spent or commited within three years of their receipt. The amount of three year money which must be spent each year is shown at the bottom of Tables 4 & 5 for Fiscal Years

1993 and 1994, respectively. The 329,867.75 in ATT funds spent in FY 93 exceeded the $230,271.33 in funds remaining from fiscal year ending June 30, 1991. Similiarly, the $384,781.27 in ATT funds spent in FY 94 exceeded the $100, 443.56 in funds remaining from fiscal year ending June 30, 1992.

The total County expenditure for FY 93 was $448,452.45 which included $329,867.75 from the Agricultural Transfer Tax (ATT) and $100, 000 from General Obligation Bonds.

The expenditure for FY 94 was $597,345.97, which included $384,781.27 from the ATT funds and $218,056.35 from General Obligation Bonds. Expenditures of ATT funds exceeded revenues in FY 93 by $18,586.70 and in FY 94 by $49,658.87.

Administrative costs can be taken from ATT funds as long as the amount does not exceed 10% of the ATT balance of the previous year. The expenditures for FY 93 on administration were $44,452.45 and in FY 94 the expenditures were $48,181.27. Most of the increase in FY 94 was due to the acquisition of a computer.

The remaining ATT balance for the next certification period is $765,432.07. There has been a slight increase in development activity, but it is likely that revenues will continue to increase only slightly again in FY 95 and FY 96. In order to sustain the level of easement purchases at even the FY 94 and FY 93 levels, it will be necessary for the County to continue to supplement the ATT revenues with County funds.

FISCAL CERTIFICATION REQUIREMENTS

The requirements for certification are specified in State regulations but basically can be generalized into two components. The first is a fiscal component and the second is programmatic. This section of the report responds to the fiscal components. The programmatic requirements are addressed by the other sections in this report.

The fiscal requirement for certification is that the participating county must match the additional funds received by certification. Baltimore County exceeded this requirement as indicated in the tables that provide for the accounting of certification funds, which are included in the Appendix.

In FY 93 the County spent $448,452.45 in ATT moneys and General Obligation Bond funds, which exceeded the $184, 724.81 in funds the County received as a result of being certified. Similarly in FY 94 the County spent $597,345.97 in ATT moneys and General Obligation Bond funds, which exceeded the additional $187,770.73 the County retained as a result of being certified.

Table 4

BALTIMORE COUNTY AGRICULTURE LAND PRESERVATION PROGRAM
SUMMARY OF TRANSFER TAX ACCOUNT BALANCE FISCAL YEAR 1993

ACTIVITY	AGRICULT TRANSFER TAX FUNDS	OTHER COUNTY FUNDS	PROGRAM TOTAL
REVENUE:			
Total Transfer Tax Collected	438,218.60		438,218.60
Total Interest Collected	1,602.42		1,602.42
Less Refunds	0.00		0.00
Net Transfer Tax Collected	439,821.02		439,821.02
Less Tax Remitted to Comptroller	109,955.27		109,955.27
Baltimore County Bond Appropriation		100,000.00	100,000.00
TOTAL REVENUES	329,865.75	100,000.00	429,865.75
EXPENDITURES:			
Administrative Expenses-Gen	44,452.45	0.00	44,452.45
Matching MALPF Aquisitions	304,000.00	100,000.00	404,000.00
FCMA Refunds	0.00	0.00	0.00
Three Year Monies Returned	0.00	0.00	0.00
TOTAL EXPENDITURES	348,452.45	100,000.00	448,452.45

AGRICULTURAL TRANSFER TAX ACCOUNT SUMMARY

Beginning Fund Balance July 1, 1992	833,677.28
Excess Revenues Over Expenditures	(18,586.70)
Less Interest Retained	(1,201.81)
ENDING FUND BALANCE JUNE 30, 1993	813,888.77

The unexpended fund balance of $813,888.77 must be spent within three years of receipt. The amount is now comprised of the County's portion of the transfer tax from the following years:

June 30, 1991	230,271.33
June 30, 1992	254,953.50
June 30, 1993	328,663.94
	813,888.77

PREPARED BY: James Morrow
ENVIRONMENTAL PROTECTION AND
RESOURCE MANAGEMENT

APPROVED BY: James R. Gibson
JAMES R. GIBSON, DIRECTOR
OFFICE OF FINANCE

TABLE 5

RECORD OF REVENUES AND EXPENDITURES
FISCAL YEAR 1994

ACTIVITY	AGRICULTURAL TRANSFER TAX FUNDS	OTHER COUNTY FUNDS	PROGRAM TOTAL
REVENUE			
Total Transfer Tax Collected	447,800.17		447,800.17
Less Refunds	2,182.00		2,182.00
Net Transfer Tax Collected	445,618.17		445,618.17
Less Tax Remitted to Comptroller	110,495.41		110,495.41
Baltimore County Bond Appropriation		218,056.35	218,056.35
TOTAL REVENUES	335,122.76	218,056.35	553,179.11
EXPENDITURES			
Administrative Expenses	48,181.27	0.00	48,181.27
Aquisition Committments	336,600.00	218,056.35	554,656.35
Three Year Monies Returned	0.00	0.00	0.00
TOTAL EXPENDITURES	384,781.27	218,056.35	602,837.62

BEGINNING FUND BALANCE JULY 1, 1993	813,888.77
PRIOR YEAR INTEREST COLLECTED	1,201.81
EXCESS REVENUE OVER EXPENDITURES	(49,658.51)
ENDING FUND BALANCE JUNE 30, 1994	765,432.07

AGRICULTURAL TRANSFER TAX FUND BALANCE

The unexpended fund balance of $765,432.07 must be spent within three years of receipt. The amount is now comprised of the County's portion of the transfer tax from the following years:

June 30, 1992:	$100,443.56	
June 30, 1993:	$329,865.75*	Interest of $1201.81 added to this year
June 30, 1994:	$335,122.76	

PREPARED BY: _____
ENVIRONMENTAL PROTECTION AND
RESOURCE MANAGEMENT

APPROVED BY: _____
JAMES R. GIBSON, DIRECTOR
OFFICE OF FINANCE

BALTIMORE COUNTY LOCAL PROGRAM

In FY 93 the County adopted a local agricultural preservation program. This program was the result of the work of the Baltimore County Agricultural Land Preservation Advisory Board, the Department of Environmental Protection and Resource Management and the input of numerous farm groups and citizens.

The program as adopted by the County Council has some similiarities to the Agricultural Easement Program. The most significant differences, however, include that farms do not have to be in a district to sell an easement, that the price is based on a formula rather than appraisals, and that the size criteria is 50 acres.

The County has not purchased any farms through its own program. As discussed under the above section "Fiscal Certification Requirements," additional County funds were used in this reporting period to purchase as many easements as possible through the Agricultural Easement Program. This enables the County to use its funds to leverage additional State funds so as to purchase more easements in Baltimore County.

MARYLAND ENVIRONMENTAL TRUST

The Maryland Environmental Trust (MET) was established by the General Assembly in 1967 to preserve resources such as farmland, forest land, open space and historic properties. The majority of the land protected by MET in Baltimore County is farmland and, therefore, this program plays a significant role in meeting the objectives of protecting agricultural land in Baltimore County.

MET staff works with prospective landowners to ascertain what resources will be protected by the donation of development rights. The landowner must document, usually through an appraisal, the value of the donation which ultimately must be accepted by the Internal Revenue Service. MET holds a conservation easement in perpetuity on the property.

Recently several local land trusts have become active with the assistance of the MET. These include the Caves Valley Land Trust, Gunpowder Valley Conservancy and the My Lady's Manor Conservancy. These local trusts are particularly effective in outreach with members and neighbors within their area of concern.

The activity in MET for calendar years 1993 and 1994 is shown in Table 6. MET accepted 690 acres in 1993 and 859 acres in 1994 for a total of 1,549 acres. The greatest activity was in My Lady's Manor Conservancy area. The breakdown of type of land

preserved through MET was not available for this report. The total amount of land preservation as of December 31, 1994 is 6,863 acres.

Table 6. Maryland Evironmental Trust Activity in 1993 & 1994.

ACTIVITY	NUMBER	ACRES
TOTAL RECORDED EASEMENTS AS OF DECEMBER 31, 1992	56	5314
RECORDED EASEMENTS IN 1993	23	690
RECORDED EASEMENTS IN 1994	14	859
TOTAL RECORDED EASEMENTS AS OF DECEMBER 31, 1994	93	6863

SUMMARY OF LAND PRESERVATION ACCOMPLISHMENTS

The accomplishments in the Agricultural Preservation Program for districts and easements since 1979 are shown in Table 7. The trends in new districts and easements are shown in Figures 2 and 3.

Figure 2 indicates that there are ups and downs associated with district participation. More analysis needs to be done to pinpoint the causes of the trends in landowners creating new districts. It has been assumed that participation is a result of several factors such as availability of easement funds, development pressure, price of easements and individual landowner needs. One way to monitor the impact of repeated rejections on landowners is if there is an increase in the number of districts which withdraw at the end of the five year agreement period. For FY 93 and 94 one farm did withdraw before the end of the five year period due to severe financial hardship.

The trend in the recordation of new easements is illustrated in Figure 3. The trend indicates that typically between 500 and 1000 acres are preserved annually through Agricultural Program. The trends in the acreage of new easements is directly related to the amount of funding available and the price at which the landowners are willing to sell their easement.

Because of the reduced amount of land development activity, the amount of acreage protected by the Agricultural Easement Program equalled the loss in FY 93 and exceeded the loss in FY 94 (Figure 4). Since 1985, however, the overall trend as shown in

Figure 5 is that almost twice as much acreage is lost to conversion than protected through the Agricultural Easement Program.

The preservation activity achieved through the MET adds significantly to the acreage protected through the Agricultural Easement Program. Although not strictly comparable in time frames, the 1,549 acres preserved through MET exceeded the 1,250 acres preserved through Agricultural Preservation Program. Whether or not this trend will continue remains to be seen.

Given the expectations for continued flat revenues from ATT, other ways to increase the number of acres preserved needs to be considered. It would be useful for this to be the subject of consideration by an appointed Agricultural Commission.

The Baltimore County Agricultural Land Preservation Board has discussed some options for increasing the amount of acreage protected by easement programs. The options discussed included: develop another easement donation program, investigate alternative ways of funding the purchase of development rights, such as the use of long term bonds, and to a lesser extent to consider revising the existing tax credit option.

Another option that should be considered is to getting more mileage out of the funds that are available. Currently, the State and County extinquish the development rights which are purchased from landowners. As an alternative, these development rights could be banked for future sale as transferable development rights in locations which are appropriate for growth. Montgomery County has utilized such a system for its local easement program.

And finally the success of preservation programs and particularly ones such as MET are dependent upon the interest of landowners in conserving their land and the land around them. The success therefore is ultimately based upon voluntary participation of landowners. The role of neighbors and land trusts in encouraging farmland owners to participate cannot be overstated.

The role of community groups such as the My Lady's Manor Conservancy cannot be overstated. As indicated earlier in the report, there was a significant amount of participation in the Agricultural Preservation Program due in large part to the activities of this group. There was also a large amount of participation by landowners in this area in the MET, which was due in part to the activities of the Conservancy.

Efforts to continue to support the activities of Land Trusts such as the My Lady's Manor or of individuals should be taken. Representatives of these groups should also have the opportunity to participate on an Agricultural Commission.

TABLE 7

MARYLAND AGRICULTURAL LAND PRESERVATION PROGRAM
BALTIMORE COUNTY

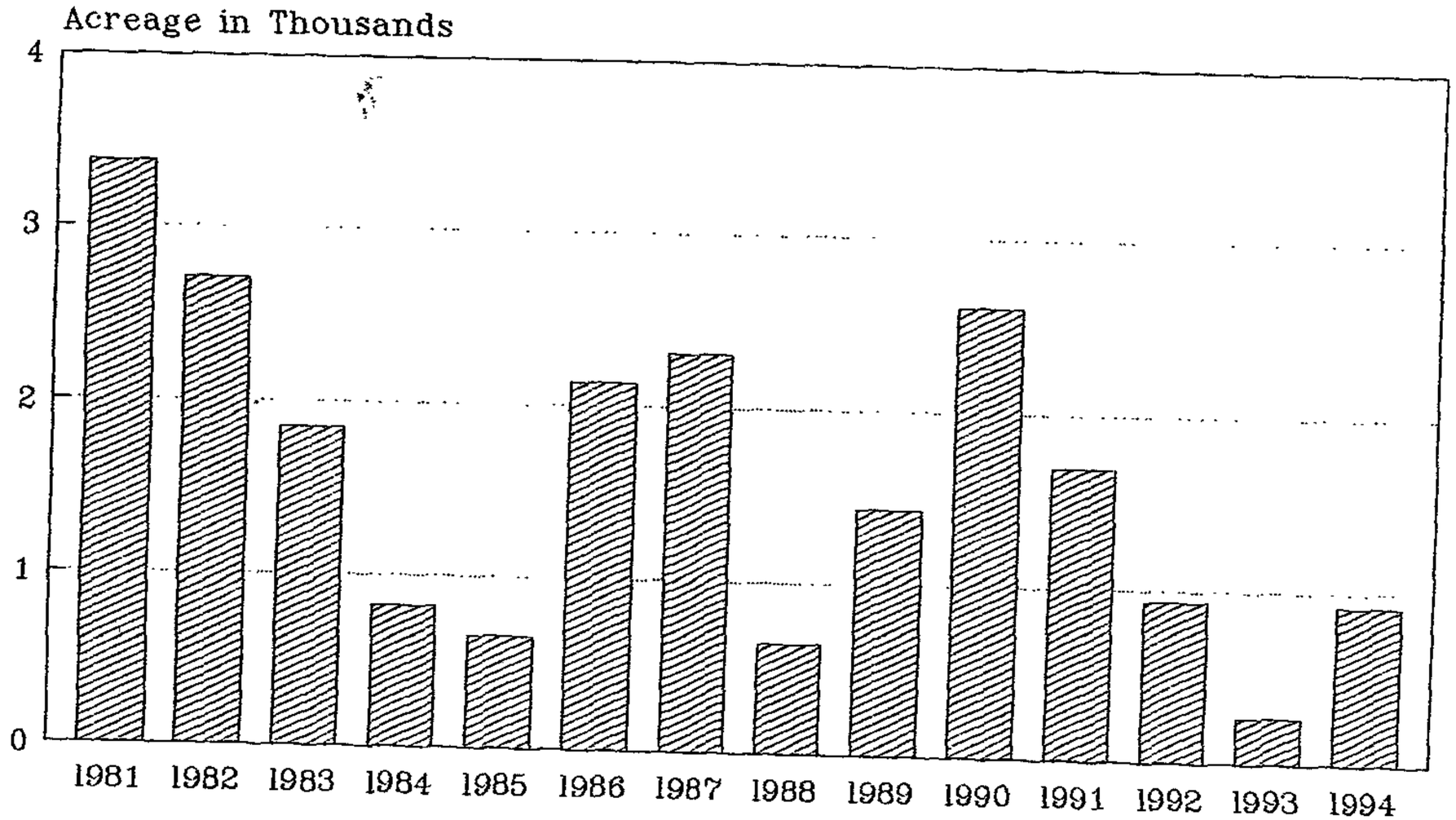
HISTORY OF THE PROGRAM

Fiscal Year	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994
DISTRICT CREATION														
Districts	23	20	19	9	10	18	29	10	16	40	28	7	3	13
Acres	3378	2709	1852	826	647	2139	2313	640	1433	2605	1695	938	154	917
EASEMENTS ACQUIRED														
Number	3	5	6	2	9	11	9	12	11	9	7	0	4	7
Acres	331	906	919	483	1338	1313	776	1155	922	843	647	0	362	889

Figure 2

Agricultural Districts

Yearly Activity FY81–94



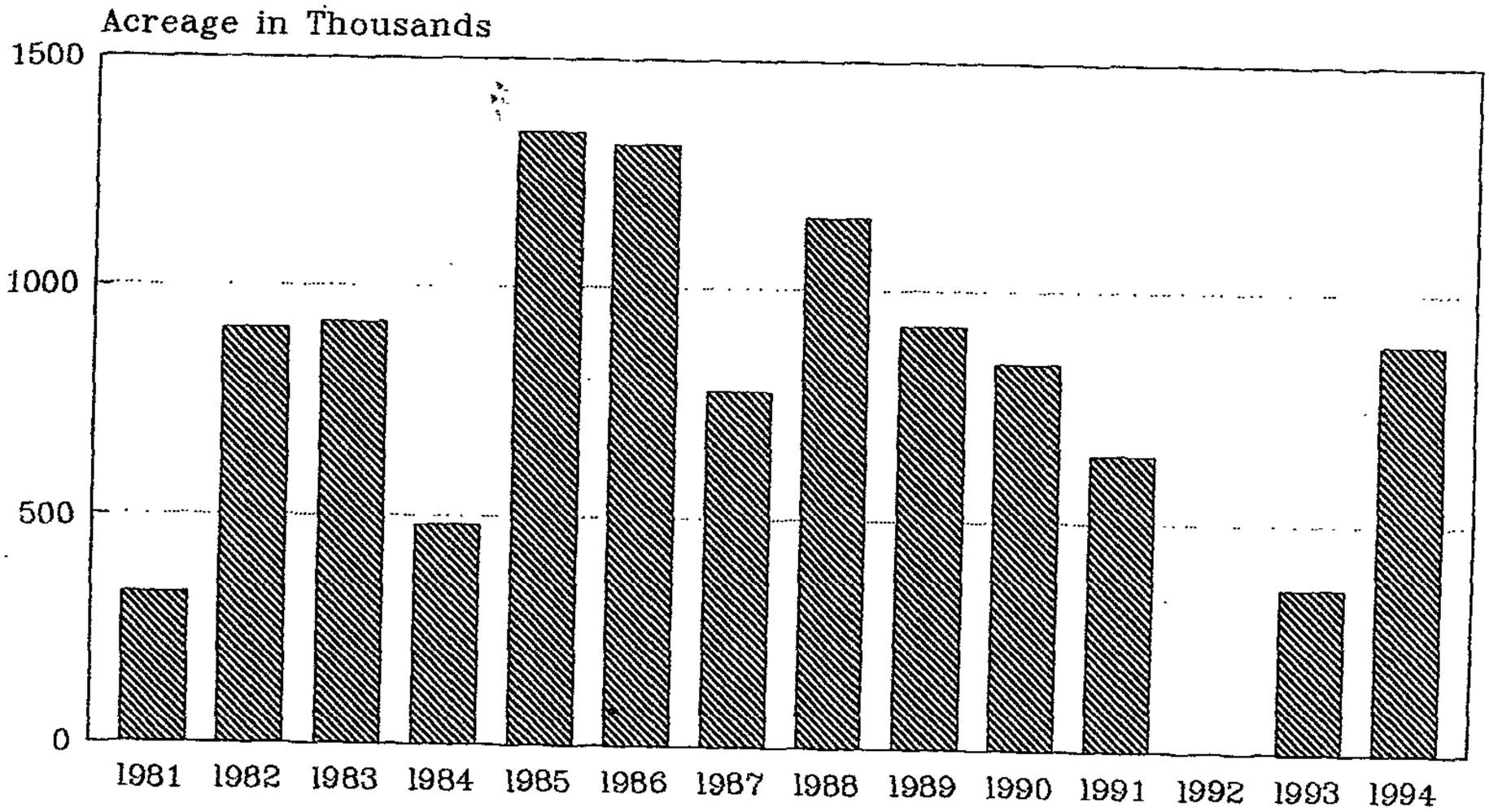
As of June 30, 1994

New District Acreage

Figure 3

Agricultural Easements

Yearly Activity FY81–94



As of June 30, 1994

New Easement Acreage

Figure 4

Farmland Loss vs AG Easement

Annual Data FY 85 – FY 94

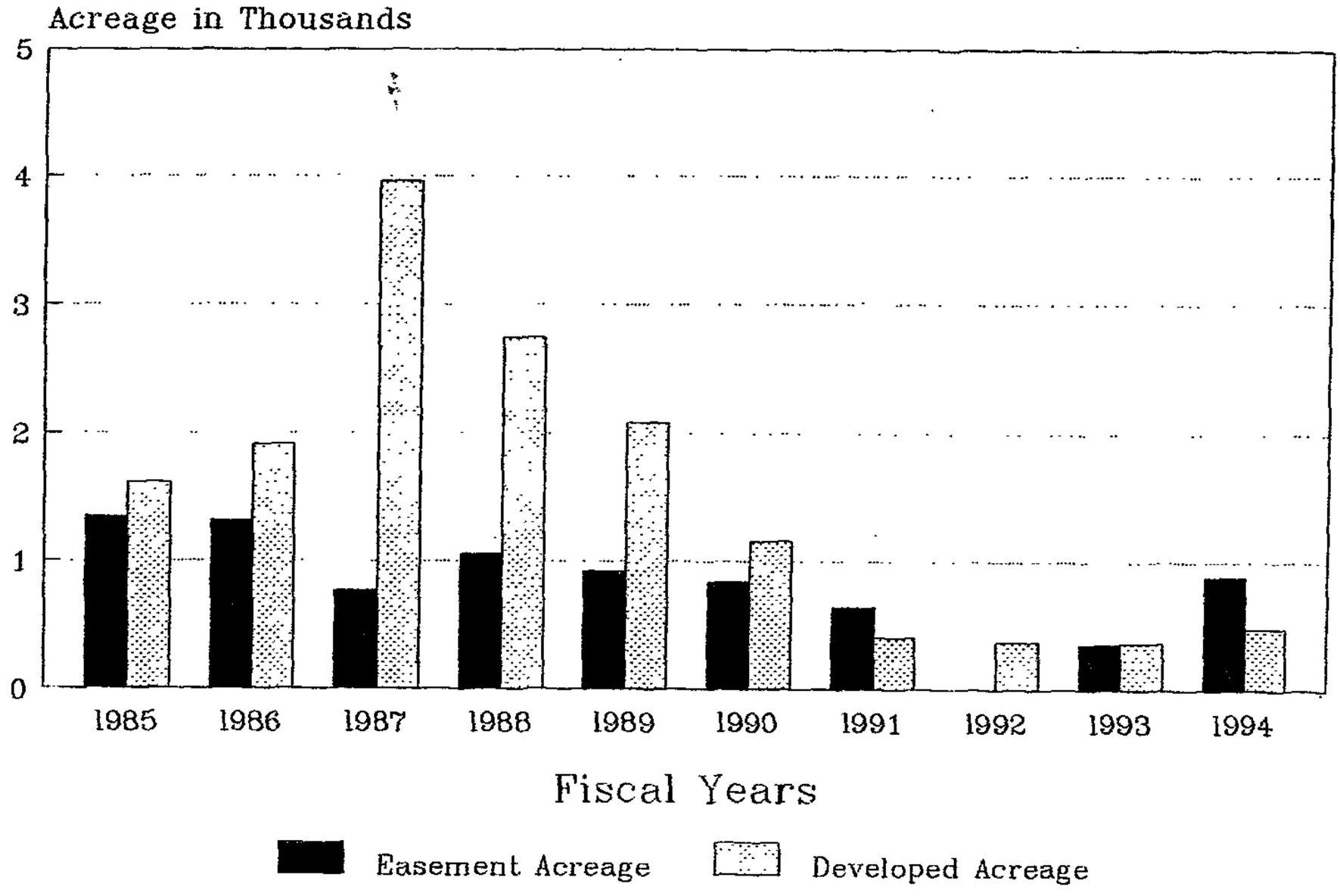
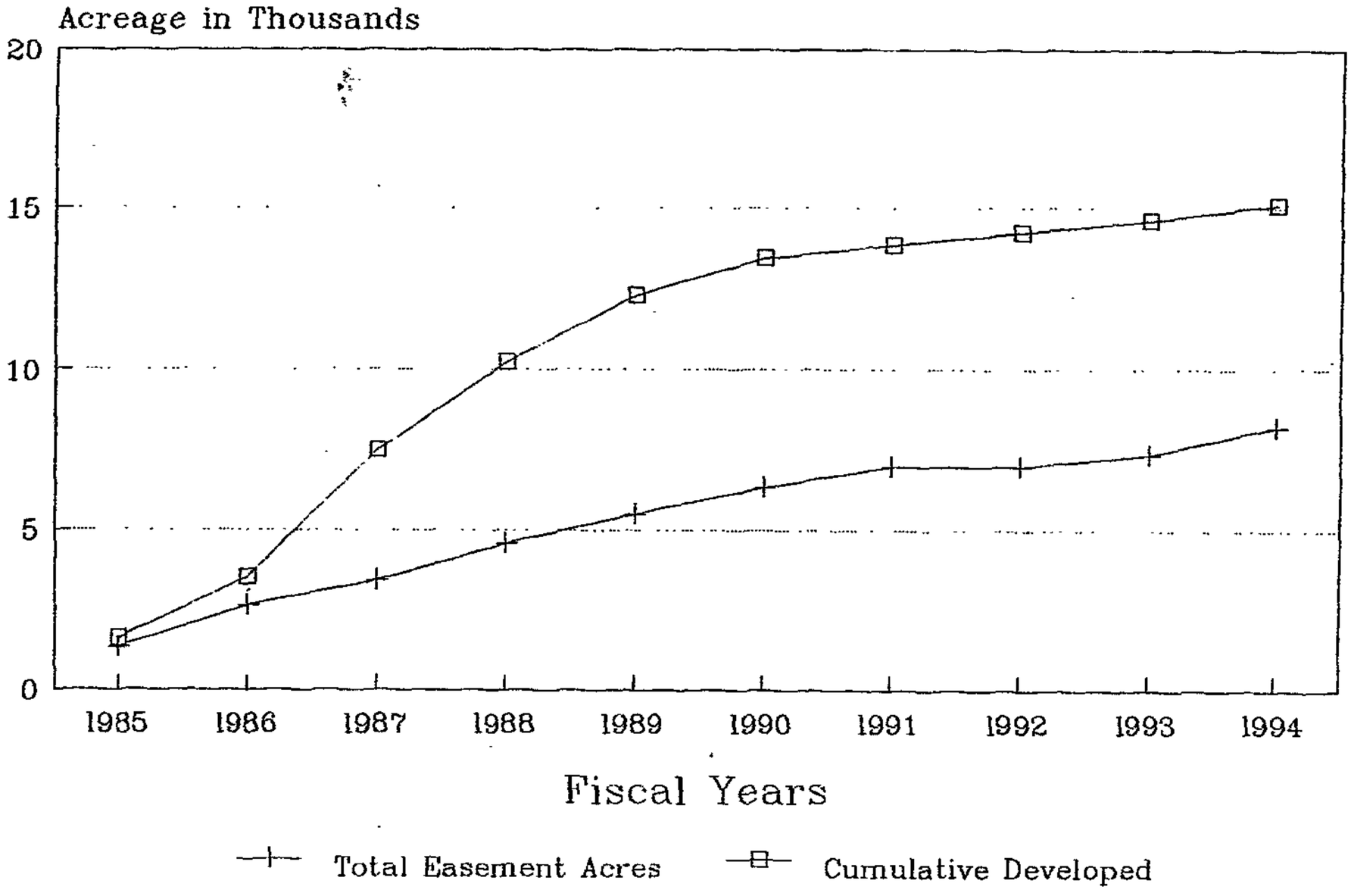


Figure 5

Farmland Loss vs AG Easement

Cumulative Data FY 85 – FY 94



LOCAL REGULATIONS & GROWTH MANAGEMENT

Baltimore County has created an environment for a successful easement program through its local land use planning and zoning. The combination of restrictive zoning and growth management initiated in the mid 1970's has been integral to the protection of the agricultural resources in the County.

In 1989 Baltimore County adopted a Master Plan that called for a comprehensive strategy to protect the agricultural resources of the County. The Master Plan called for the designation of Agricultural Protection Growth Management Areas, implementation of the County's Resource Conservation Zoning, heightened support of easement programs and promotion of the agricultural industry. Currently, the County is reviewing the progress of the implementation of the Master Plan and preparing a Master Plan Update to be completed in 1995.

AGRICULTURAL PROTECTION AREAS

The Master Plan calls for several actions to maintain the agricultural viability and reduce the conflicts. These include the creation of Agricultural Protection Areas and the application of standards to those areas which protect the resources and minimize conflicts.

The Agricultural Protection Areas (APA) include approximately 132,000 acres out of the total 385,096 acres in Baltimore County (Figure 1). The criteria for these areas include areas of prime and productive soils and woodland group 1 and 2, areas outside public water and sewer services, areas without a degree of development that would interfere with agricultural activity, areas of sufficient size to insulate agricultural uses, farms of historical agricultural significance and areas containing agricultural districts and easements.

The Office of Planning and Zoning updated its 1990 land use analysis of the County in 1993. The analysis was derived from an interpretation of maps and aerial photographs supplemented by building permit information. The 1990 data was referenced in the 1991 - 1992 Certification Report.

The 1993 analysis indicated that the Agricultural Protection Areas contain 114,753 acres of forest and agriculture (crop, pasture and hay lands). This is 85% of the land use within the APAs (Table 8.). When compared to the 1990 data, the 1993 indicate a loss of approximately 2,600 acres of forest and agricultural land. This is a loss of 2% of the agricultural base and 4% of the forest land use.

Table 8. Land Use in Agricultural Protection Areas in 1993 & 1990.

LAND USE	ACREAGE 1990	1993	CHANGE Acres	Percentage
Agriculture	82,236	80,905	(1,331)	- 1.6
Forest	35,202	33,848	(1,354)	- 3.8
Residential	11,673	14,331	2,658	+2.3
Commercial & Industrial	169	156	(13)	-7.6
Parks	1,354	1,354	0	0
Vacant Urban	18	18	0	0
Institutional	1,028	1,051	23	2.2
TOTALS	131,680	131,663*		

Source: Office of Planning & Zoning, Baltimore County *Acreage differences not accounted for.

RESOURCE CONSERVATION ZONES

The Agricultural Protection Areas are zoned Resource Conservation Agriculture (RC 2) and Resource Conservation Watershed (RC 4). There are approximately 109,500 acres of the land within the Agricultural Protection Areas zoned Resource Conservation Agriculture (RC 2). There are approximately 23,500 acres zoned Resource Conservation Watershed (RC 4) within the Agricultural Protection Area.

The RC 2 zone was mapped to acheive, among other growth management goals, the protection of existing agricultural resources and agricultural operations. The zone restricts the development of properties to one subdivision per lot of record which has between 2 and 100 acres and one additional subdivision for each 50 acres thereafter.

This zoning density limits the subdivision of larger parcels while allowing limited development of smaller parcels. However, because the density is based upon the number of parcels described in the property deed, some large properties have more subdivision potential.

In order to begin to get information on this, a preliminary study was conducted in the spring of 1993 to estimate how much development potential exists. The work was conducted by a student of Towson State University as an intern project. He selected a sample of the properties zoned RC 2 and researched the land records, 1976 tax maps and 1993 tax maps to determine the amount of development potential that exists in the sample

properties. Because of the small number of properties examined, the results are not statistically significant.

Nevertheless, the results are interesting and provide a preliminary insight into the subdivision potential that exists with the RC 2 zoning. Of the sample of 30 properties, it was found that in 1979 there were 18 properties of greater than 50 acres. Of these only two were described in the land records with more than one lot of record. For the 12 properties of less than 50 acres, there were four with greater than one lot of record (Roach 1994).

The above information indicated that in the sample there was a greater proportion of properties of less than 50 acres with additional lots of records and thus greater subdivision potential than there was for properties greater than 50 acres. Another interesting result of this study was that the six properties with more than one lot of record had 24 separately described lots of record.

Although the data above is preliminary, it does appear that for the most part the RC 2 zoning does provide for limited subdivision potential of larger tracts of land. The study also indicates that several properties have a substantial amount of subdivision potential which contrasts sharply with the that of adjacent properties.

To some extent the impact of this additional subdivision potential of large properties is mitigated by the prime and productive soils regulations. These regulations require that the subdivision of RC 2 land be done in a way to create lots which are either one to two acres in size or over 50 acres and that the dwellings not be located on the prime and productive soils.

The results from the RC 2 study and the effectiveness of the prime and productive soil policies should be further studied. Further consideration of this information would provide guidance as to the need to amend the RC 2 zoning regulations to incorporate the prime and productive policies within the regulations. Such consideration should also examine whether or not the properties with density greater than adjacent properties should be targeted for preservation programs such as purchase of development rights.

The land not zoned RC 2 in the Agricultural Protection Areas is zoned Resource Conservation Watershed (RC 4). This approximately 23,000 acres of land has a density of one unit per five acres which is much greater than the adjacent RC 2 properties. In addition a significant amount of land with this zoning has prime and productive soils.

It was described in the Fiscal Year 91 - 92 Certification Report that, in response to the conflicts with agricultural protection, the County Council amended the RC 4 zoning to require clustering of the development. The clustering requires that the houses be located

on 30 % of the site and the remaining 70% is to be protected in perpetuity for farming, forestry or open space.

As of this date only a few cluster development plans have been approved in the County, however, some problems have become apparent. Although clustering clearly provides for the protection of more of the watershed resources on site, produces better site design and reduces the amount of infrastructure; its effectiveness in protecting the agricultural resources on site is still in question. Concern also has been expressed that the clustered houses are incompatible with the adjacent development and encourage residents who are not sensitive to the nuisances from active agriculture.

The County Council passed Bill No. 107-94 which amended the RC 4 regulations to provide the landowner the option of developing at a lower density but having the ability to divide the 70% Conservancy Area among the newly created lots. The amendment provides for additional review when the property contains prime and productive soils. In those situations the development should not fragment the contiguous farm fields, but the bill allows that fields to be in separate ownership.

The original legislative effort to develop the cluster recognized that it alone was not a final solution to protecting the agricultural resources on the land with the RC 4 designation. Other efforts considered included use of additional easement programs, transfer of development rights and rezoning of all the RC 4 land to a lower density. However, unable to solve the problems with the above techniques without creating new problems, the Planning Board legislation called for a commission to find a permanent solution to this issue. No progress has been made on creating such a commission or in defining its scope.

An issue relating to both the RC 2 and RC 4 zoning is the conflict of nonresidential uses with agricultural preservation. Some of these uses are existing institutional uses and others are proposed uses. Although such uses must typically go through a Special Exception for approval or for expansion, there is a lack of legislative guidance on what conditions should be used to make these decisions.

PROMOTION OF THE AGRICULTURAL INDUSTRY

In addition to protecting the prime and productive lands through easements and local land use controls, it is equally important to retain the viability of the agricultural industry in the County. The 1989 - 2000 Master Plan stated as an issue that agriculture and the agricultural industry needs to be promoted as an essential component of the County's heritage and economic health.

The promotion of the agricultural industry includes the marketing of products and efforts to support and enhance the conditions for agricultural industries to prosper in the County. In either case, the first step is to know the trends and conditions of the existing agricultural economy in the County.

The 1992 Census indicates that throughout the entire County there are 90,356 acres of cropland and pasture land and 13,206 acres of associated woodland. These numbers include the agricultural areas outside the Master Plan Agricultural Protection Areas. The additional acreage is mostly that of the vegetable, nursery and greenhouse farms on the eastern side of the County.

A comparison with the 1987 census information is shown in Table 9. These numbers indicate a loss of approximately 10,000 acres and 161 farms over a period of five years. During the same time the Census also indicates an increase in acreage of woodland from 11,235 acres in 1987 to 13,206 acres in 1992.

Table 9. Agricultural Production in Baltimore County (1992 Census)

Year	1992	1987	1992	1987
	(acres)		(farms)	
Total cropland	58,567	70,063	731	778
planted	43,796	50,714	580	644
pasture	11,367	13,831	374	395
other	3,404	5,518	177	198
Total woodland	13,206	11,235	452	460
Pastureland	20,330	22,521	562	607
Other	11,459	11,508	637	706
TOTALS	103,562	115,327	2,382	2,551

The largest agricultural industry in the County by acreage is grain farming. As indicated in Table 10, despite the overall loss of land in agricultural production, there was minimal loss in the acreage of grain production. The 1992 census indicated that there is approximately 56,000 acres of grain production in the County.

A recent study on the agricultural activity in the northwest part of the County provided insights into the nature of the grain industry. It was found that grain yields in Baltimore County were similiar to those produced Statewide. Grain is typically sold wholesale to commercial storage, drying and marketing farms (Daniels 1993).

Grain farmers in the northwestern part of the County typically own at least 100 acres and rent a few hundred acres. The land is too expensive to purchase and there is competition for leasing land to farm. Owners of leased land are typically only providing a year to year option to farmers. Another attribute of grain farming indicated in this study was that many farmers conduct farming on dispersed farmland (Daniels 1993).

Table 10 .Agricultural Production by Crop (MDA 1992)

Crop	1992 (acres)	1987 (acres)	1992 (bushels)	1987 (bushels)
corn, grain	25,500	26,000	3,247,200	2,450,000
corn, silage	2,200	1,300	16,900 (tons)	20,000 (tons)
wheat	3,800	3,900	286,000	185,000
soybeans	10,500	5,000	360,000	162,000
oats	800	1,200	----	51,000
barley	2,700	5,600	115,000	320,000
hay and alfalfa	10,500	14,100	25,920 (tons)	38,100 (tons)
veggies (fresh)	4,355	4,140	---	---
TOTAL	60,355	61,240	---	---

In contrast to the grain sector which appears to be relatively stable, the 1992 Census and Extension Service data indicate there are changes in the livestock sector of the agricultural industry. The information illustrated in Table 11 indicates a reduction of almost 1000 cattle and calves in 1992 from 1987. There was also a decrease in the number of poultry. The data does indicate a modest increase in hog production and a substantial increase in the production of sheep and lambs.

There has been a dramatic decrease in the number of dairy operations in the County. This shows up to some extent in Table 13, which indicates the decrease in annual production value from milk production.

Although prices, federal programs and regulations probably play the largest role in the changes in the livestock sector, there may be some local trends. As indicated by Daniels in his 1993, it is not pratical for farmers to keep livestock on leased lands which are not fairly close to the farm operation. Additionally, some of the newer farm operators may be choosing to produce other types of livestock such as sheep, due to difference in handling, versus cattle and to respond to local markets.

Table 11. Production of Livestock (Census 1992, Coop. Ext Sheet 666)

Livestock	1992 (number)	1987 (number)
cattle & calves	9,498	10,314
hogs & pigs	4,625	3,935
poultry	9,827	13,493
sheep & lambs	4,272	2,504
horses	24,477	n/a
milk cows	2,903	n/a

The economic activity of agricultural is much greater than the value of the crops produced. It includes the various service industries associated with the industry, payroll, and taxes. Often a multiplier is used to calculate the value of these additonal inputs; however, most of these inputs were surveyed in the 1992 Census as shown in Table 12 . The total value of this contribution for the agricultural industry was $45,759,000.

Table 12 . Economic Activity Associated with Agriculture (Census 1992)

ACTIVITY	YEAR 1992	1987
Farm labor payroll	8,659,000	not available
Total farm expenses	35,511,000	31,393,000
Property taxes paid	1,589,000	1,540,000
TOTAL	45,759,000	

In addition to the various components of the agricultural industry discussed above there is also the role of the equine industry. Although the Census may include some values from this industry, it is generally assumed here that most were not reported. The information included here is from recent work done by the University of Maryland Agricultural Extension Service. This is the largest economic generator in the agricultural industry in the County. This information is also based upon survey work done in Baltimore County in 1992 (Commer 1994).

The survey identified the many types of equine activity taking place in Baltimore County, which includes dressage, showing, trail riding, racing and other activities. The survey ranked trail riding as the most popular event, followed by racing and then lessons (Commer 1994).

From the survey done in Baltimore County, it is estimated the total annual economic impact to Baltimore County is a conservative $355.4 million. This is a best guess estimate and is based on an estimated value of approximately $123.7 million annually from the breeding component of the racing industry and 231.7 million annually from the other components of the equine sector. These figures do not include the portion of Baltimore County's proceeds from the sport of racing which would take the total figure to over $500 million (Commer 1993; Commer personal communication).

The total economic input from agricultural as compiled from the various sources indicated is approximately $450 million (Table 13). This is a significant part of the County's economy.

The fresh vegetable and nursery product industries are essential parts of Baltimore County's agricultural industry. These two industries probably have the highest profile due to the exposure to the most people. The local farm markets have been highly successful throughout the region and provide both a source of fresh produce to people of the region as well as a direct market for small growers.

One effort the County has taken to promote the agricultural industry was to revise the Baltimore County Zoning Regulations to resolve zoning conflicts with the changing technologies of the agricultural industry. The final part of this effort was completed when Bill No. 41-92 was passed by County Council in March 1992. These changes provide for activities such as marketing, storing, and processing to be permitted within the zoning.

In summary the agricultural industry in Baltimore County is composed of several different sectors which each are responding to various market pressures. As indicated in other sections, the formation of an agricultural commission composed of representatives of each of the agricultural sectors would be valuable in providingd vital information to the County so that the County can best promote the agricultural industry.

Table 13 . Market Value of Agricultural Production in Years 1992 and 1987(1)

PRODUCT/ACTIVITY	1992 (dollars)	1987 (dollars)
corn, grain	7,143,840	5,267,500
wheat	53,235	471,750
soybeans	1,962,000	955,800
oats	------	71,400
barley	212,750	396,800
hay and silage(2)	880,000	725,000
vegetables, fresh(2)	3,758,000	2,650,000
vegetables, processed	----	----
fruits, nuts & berries(2)	530,000	415,000
nursery & greenhouse (2)	15,492,000	10,782,000
cattle & calves(3)	7,028,520	5,930,550
hogs(3)	305,250	299,060
poultry (3)	14,151	18,107
milk	7,700,000	8,174,400
Subtotal (excluding equine)	45,079,000	36,157,367
Additional agricultural inputs (nonequine)	45,759,000	----
Horse industry including all agricultural inputs	355,400,000	----
TOTAL (including equine)	446,238,746	----

Notes: (1) The value of products unless otherwise noted in this Table was determined by multiplying the production for each item times the average price. These base figures were taken from MDA 1992. (2) These production values were taken from the US Census 1992. (3) The amount of production was taken form the US Census 1992 and the average price from MDA 1992.

CITATIONS:

Commer, Malcolm Jr. 1994. Characteristics of and economic variables associated with the equine industry in selected Maryland counties. Fact Sheet 666. Cooperative Extension Service, University of Maryland, College Park.

Daniels, Thomas L. 1994. Trenton Mill Farms and the agricultural industry of Northwestern Baltimore County, Maryland. A report prepared for the Baltimore County Farm Bureau, Valleys Planning Council, and Trenton Mill Farms. Unpublished.

Roach, Christopher. 1994. Examination of the development potential in a sample of Resource Conservation Zone properties in 1979 and 1993. A report prepared for Towson State University. Unpublished.

APPENDICES

BALTIMORE COUNTY EASEMENT EVALUATION SCORING SHEET

1)	Soil Productivity	200 points
2)	Size	60 points
3)	Management	120 points
	a. Owner operated	50 points
	b. Capital Improvements	20 points
	c. Type/Production of Farm	25 points
	d. Soil Conservation Plan	25 points
4)	Location and Development Pressure	100 points
	a. Contiguous Protected Area	25 points
	b. Location/ Master Plan Area	25 points
	c. Number of Development Rights	50 points
5)	Historical Significance	20 points
6)	Other Outstanding Qualities	50 points
TOTAL		550 points

1) Soil Productivity (percentage of Class I and II)

90 - 100	200 pts	40 - 49	75 pts
80 - 89	175 pts	30 - 39	50 pts
70 - 79	150 pts	20 - 29	25 pts
60 - 69	125 pts	10 - 19	15 pts
50 - 59	100 pts	5 - 9	10 pts

Soil Productivity (percentage of Class III, Wdlnd 1 and 2)

80 +	80 pts	40 - 49	40 pts
70 - 79	70 pts	30 - 39	30 pts
60 - 69	60 pts	20 - 29	20 pts
50 - 59	50 pts	5 - 20	10 pts

2) Size
.3 points per acre up to maximum of 60 points
(Rounded to the next highest number)

3) Owner Operated

As part of a larger operation	50 pts
Single farm operation	25 pts
Primarily leased	10 pts

4) Capital Improvements (Relate to operation)

High	20 pts
Moderate	10 pts
Low	5 pts

5) Specialty Farm/ Exceptional Production

Unique	25 pts
Special	20 pts
Above average	15 pts

6) SCWQ Plan implemented/ conservation effective

Excellent	25 pts
Satisfactory	15 pts
Less than satisfactory	0 pts

7) Extent of Agricultural Land Protected

Over 500 ac farmland which is protected by easements (MET, MALPF)	25 pts
Between 500 and 100 ac farmland protected by easements (MET, MALPF)	15 pts
Within a Master Plan Agricultural Protection Area	10 pts

8) Threat of Conversion

High	25 pts
Moderate	15 pts
Low	10 pts

9) Estimated Number of Development Rights (not used)

High	50 pts
Moderate	30 pts
Low	20 pts

10) Historical Significance

National or Baltimore County Landmark	20 pts
National Historic Reg. District	10 pts
Other	5 pts

11) Other Factors 50 pts

BALTIMORE COUNTY

REPORTING PERIOD: FROM 7/1/92 TO 6/30/93

Agricultural Transfer Tax REVENUES

	AMOUNT	ACCOUNT BALANCE
Agricultural Transfer Tax:		
Previous Balance		833,677.28
Retained	329,865.75	329,865.75
Refunded by State	-0-	-0-
E-O-Y funds from MALP	-0-	-0-
TOTAL REVENUES	329,865.75	1,163.543.00

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BALTIMORE COUNTY

REPORTING PERIOD: FROM 7/1/92 TO 6/30/93

AGRICULTURAL TRANSFER TAX EXPENDITURES

	AMOUNT QUALIFYING EXPENDITURES
40% MD. Agricultural Land Preservation Match	119,275.19
Appraisals	-0-
District Incentive Payments	-0-
Easement Incentive Payments	-0-
County Easement Purchase	-0-
Administrative Expense	45,654.26
Acquisitions Commitments	-0-
FCMA Refunds	-0-
TOTAL EXPENDITURES	164,929.45

****

BALTIMORE COUNTY

REPORTING PERIOD: FROM 7/1/92 TO 6/30/93

EXPENDITURES Of Other County Funds

	AMOUNT QUALIFYING EXPENDITURES
40% MD. Agricultural Land Preservation Match	100,000.00
Appraisals	-0-
District Incentive Payments	-0-
Easement Incentive Payments	-0-
County Easement Purchase	-0-
Administrative Expense	-0-
Other (explain)	-0-
TOTAL EXPENDITURES	100,000.00

****

BALTIMORE COUNTY

REPORTING PERIOD: FROM 7/1/92 TO 6/30/93

REVENUES from Other County Funds

	AMOUNT
Other County Funds:	
Previous Balance Source	
General Obligation Bonds	100,000.00
TOTAL REVENUES	100,000.00

****

BALTIMORE COUNTY

REPORTING PERIOD: FROM 7/1/93 TO 6/30/94

AGRICULTURAL TRANSFER TAX REVENUES

	AMOUNT	ACCOUNT BALANCE
Agricultural Transfer Tax		
Previous Balance		813,887.77
Retained	335,122.41	335,122.41
Refunded by State	0	0
E-O-Y Funds (MALPF)	0	0
TOTAL REVENUES	335,122.41	1,149,010.20

****

BALTIMORE COUNTY

REPORTING PERIOD: FROM 7/1/93 TO 6/30/94

EXPENDITURES Of Other County Funds

	AMOUNT QUALIFYING EXPENDITURES
40% MD. Agricultural Land Preservation Match	218,056.35
Appraisals	-0-
District Incentive Payments	-0-
Easement Incentive Payments	-0-
County Easement Purchase	-0-
Administrative Expense	-0-
Other (explain)	-0-
TOTAL EXPENDITURES	218,056.35

****

BALTIMORE COUNTY

REPORTING PERIOD: FROM 7/1/93 TO 6/30/94

AGRICULTURAL TRANSFER TAX EXPENDITURES

	AMOUNT QUALIFYING EXPENDITURES	AMOUNT NON-QUALIFYING EXPENDITURES
40% MD. Agricultural Land Preservation Match	336,600.00	0
Appraisals	0	0
District Incentive Payments	0	0
Easement Incentive Payments	0	0
County Easement Purchase	48,181.27	0
Administrative Expense	0	0
Acquisitions Commitments(1)	0	0
FCMA Refunds (2)	0	0
TOTAL EXPENDITURES	384,781.27	0

****

EXPLANATORY NOTES

$ 447,073.17 = Total ATT FY 94
335,304.88 = 75% ATT
147,534.15 = 33% ATT

$ 187,770.73 = Amount retained due Certification

BALTIMORE COUNTY

REPORTING PERIOD: FROM 7/1/93 TO 6/30/94

REVENUES from Other County Funds

	AMOUNT
Other County Funds:	
Previous Balance Source	---
General Obligation Bonds	218,056.35
TOTAL REVENUES	218,056.35

****

ATTACHMENT 5
Reporting Requirements

FY 93 AGRICULTURAL DISTRICTS

INDIVIDUAL PROPERTY DATA

DATA INFO *	ONE PROPERTY PER COLUMN									
	Hoffman, Alice	Gibbons, Patrick	Raver, K.	Campbell	Norton					
1. LABELID#	05-93-01	10-93-02A	04-93-03A	04-92-04						
2. COUNTYEASE	--	--								
3. TAXMAP	27	29	39 & 31	31	64					
4. GRIDCELL	16	23	19	16, 17, 22	13					
5. PARCELID	44 & 223	65	53	170	365					
6. ACREAGE	95.251	22.48	35	76.7	113					
7. DISTRICTDATE	n/k	n/k	n/k	12/17/91	--					
*8. DISTERMINATED	n/a	n/a	n/a	2/17/93	Withdrawn					
9. PURCHDATE	n/a	n/a	n/a	n/a	n/a					
10. EASEPRICE	n/a	n/a	n/a	n/a	n/a					
11. LOCALSHARE	n/a	n/a	n/a	n/a	n/a					
12. COSTLOCIN	n/k	n/k	n/k	n/a	n/a					
13. TAXCREDIT	n/k	n/k	n/k	n/a	n/a					
14. CROPLAND	65	21	23	46	0					
15. ACPASTURE	0	0	0	6	10					
16. ACFACILITY	1	0	0	1	0					
17. ACNONCOMWOODS	0	0	0	0	0					
18. FORCONPLAN	Yes	0	Yes	No	Yes					
19. ACCOMMFOR	17	0	3	23.7	73					
[illegible]										
21. ACWETLANDS		0	9	0	30					
22. ACNONAG/WILDLIFE	12	1.48	0	0						
23. SCWQPLAN	Yes	Yes	Yes	Yes	Yes					
24. APPROVALDATE	n/k	n/k	n/k	n/k	n/k					
25. REVISIONDATE	n/k	n/k	n/k	n/k	n/k					
26. IMPLEMENTATION	n/k	n/k	n/k	n/k	n/k					

See attached Explaination Tables for definations.

n/k = not known n/a = not applicable

ATTACHMENT 5
Reporting Requirements

FY94 AGRICULTURAL DISTRICTS

INDIVIDUAL PROPERTY DATA

DATA INFO *	ONE PROPERTY PER COLUMN									
	NASH	MERRYMAN	MERRYMAN	CIAMPAGLIO	GRAUL	DILL	CONSTABLE	ENSOR	MCGINNIS	ENSOR
1. LABELID#	05-94-01A	08-94-02	08-94-03A	10-94-04A	10-94-05A	07-94-06	10-94-12A	07-94-09A	07-94-10A	10-94-11A
2. COUNTYEASE	--	--	--	--	--	--	--	--	--	--
3. TAXMAP	27	27	27	36	36	17	29	8	13	23
4. GRIDCELL	4	17	17	2	2	4	17	15	14	21
5. PARCELID	123	131	131	95	106	286	181	40	96	112
6. ACREAGE	85.633	109.0	80.0	55.0	68.78	103.0	34.3	92.68	76.52	37.61
7. DISTRICTDATE	3/30/94	3/30/94	3/30/94	3/30/94	3/30/94	3/30/94	3/30/94	8/11/94	8/11/94	8/11/94
*8.DISTERMINATED	--	--	--	--	--	--	--	--	--	--
9. PURCHDATE	--	--	--	--	--	--	--	--	--	--
10. EASEPRICE	--	--	--	--	--	--	--	--	--	--
11.LOCALSHARE	--	--	--	--	--	--	--	--	--	--
12.COSTLOCIN	--	--	--	--	--	--	--	--	--	--
13.TAXCREDIT	--	--	--	--	--	--	--	--	--	--
14.CROPLAND	52	0	76	0	0	12	33	55.7	44	12
15.ACPASTURE	17 (cattle)	71 (horses)	0	43 (horses)	41.38 (horses)	10 (cattle)	0	0	23	0
16.ACFACILITY	2.6	3.0	0	2	6.8	2	0	1.9	0	0
17.ACNONCOMWOODS	0	0	0	0	0	0	0	0	0	0
18.FORCONPLAN	Yes	No	No	No	No	No	No	No	No	No
19.ACCOMMFOR	14	35	0	10	20.6	66	0	30.9	8	22
20.FORCONPLAN	--	--	--	--	--	--	--	--	--	--
21.ACWETLANDS	--	--	4	--	--	--	1	4.0	--	3
22.ACNONAG	--	--	--	--	--	--	--	--	1	--
23.SCWQPLAN	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
24.APPROVALDATE	--	--	--	--	--	--	--	--	--	--
25.REVISIONDATE	--	--	--	--	--	--	--	--	--	--
26.IMPLEMENTATION	--	--	--	--	--	--	--	--	--	--

* See attached Explaination Tables for defination.

ATTACHMENT 5
Reporting Requirements

FY94 AGRICULTURAL DISTRICTS

INDIVIDUAL PROPERTY DATA

DATA INFO *	ONE PROPERTY PER COLUMN									
	PALUMBO	WILLIAMS	MILLER							
1. LABELID#	06-94-08A	05-94-13A	06-94-07A							
2. COUNTYEASE	--	--	--							
3. TAXMAP	2 & 6	32	5 & 6							
4. GRIDCELL	22	17	6							
5. PARCELID	13	194	12							
6. ACREAGE	30.0	65	81.13							
7. DISTRICTDATE	8/11/94	8/11/94	8/11/94							
*8.DISTERMINATED	--	--	--							
9. PURCHDATE	--	--	--							
10. EASEPRICE	--	--	--							
11.LOCALSHARE	--	--	--							
12.COSTLOCIN	--	--	--							
13.TAXCREDIT	--	--	--							
14.CROPLAND	16	59.3	72							
15.ACPASTURE	3.5	0	--							
16.ACFACILITY	1	4.1	--							
17.ACNONCOMWOODS	--	--	--							
18.FORCONPLAN	--	--	--							
19.ACCOMMFOR	6	2	7							
20.FORCONPLAN	--	--	--							
21.ACWETLANDS	3	--	2							
22.ACNONAG	--	--	--							
23.SCWQPLAN	Yes	Yes	Yes							
24.APPROVALDATE	1/27/94	--	3/15/94							
25.REVISIONDATE	--	--	--							
26.IMPLEMENTATION	--	--	--							

* See attached Explaination Tables for defination.

ATTACHMENT 5
Reporting Requirements

FY 93 AGRICULTURAL EASEMENTS

INDIVIDUAL PROPERTY DATA

DATA INFO *	ONE PROPERTY PER COLUMN									
	Cochran, Peytor	Stump, A.	Manor View Farms	Moore, Richard						
1. LABELID#	04-90-25Ae	04-89-13c	10-81-05	10-90-10A						
2. COUNTYEASE	--	--	--	--						
3. TAXMAP	32	40	29	23						
4. GRIDCELL	22	12	24	21						
5. PARCELID	66, 65, 171	14	105	153						
6. ACREAGE	64.267	162.26	103	31.66						
7. DISTRICTDATE	n/k	n/k	n/k	n/k						
*8. DISTERMINATED	n/a	n/a	n/k	n/k						
9. PURCHDATE	n/k	n/k	n/k	n/k						
10. EASEPRICE	331,335	681,494	321,000	120,000						
11. LOCALSHARE	89,055	29,138	233,806	48,000						
12. COSTLOCIN	n/k	n/k	n/k	n/k						
13. TAXCREDIT	n/k	n/k	n/k	n/k						
14. CROPLAND	0	72.5	98	--						
15. ACPASTURE	50	21.4	--	--						
16. ACFACILITY	5.6	14	--	--						
17. ACNONCOMWOODS	--	--	--	--						
18. FORCONPLAN	No	n/k	n/k	Yes						
19. ACCOMMFOR	5	59	5	31.6						
[redacted]			--	--						
21. ACWETLANDS	9	--	--	--						
22. ACNONAG	--	1	--	--						
23. SCWQPLAN	n/k	n/k	Yes	No						
24. APPROVALDATE	n/k	n/k	n/k	n/k						
25. REVISIONDATE	n/k	n/k	n/k	n/k						
26. IMPLEMENTATION										

See attached Explaination Tables for defination[illegible]

ATTACHMENT 5
Reporting Requirements

FY94 AGRICULTURAL EASEMENTS

INDIVIDUAL PROPERTY DATA

DATA INFO *	ONE PROPERTY PER COLUMN									
	SIMONS	HALLE	KNOTT	KANODE	WILMER	MUELLER	HUFFMAN			
1. LABELID#	10-91-25A	05-89-04A	08-90-26	04-90-23	07-83-05	05-90-11A	05-93-01A			
2. COUNTYEASE	--	--	--	--	--	--	--			
3. TAXMAP	29	26	41	39	18	20	27			
4. GRIDCELL	12	8	8	6	9	7	223			
5. PARCELID	232	182	25	30	16	94				
6. ACREAGE	71.23	75.509	148	249	152	97.87	95			
7. DISTRICTDATE	11/4/91	--	11/26/90	11/26/90	--	--	--			
*8.DISTERMINATED	--	--	--	--	--	--	--			
9. PURCHDATE	--	--	--	--	--	--	--			
10. EASEPRICE	105,345.00	310,036.00	519,790.63	961,000.00	525,000.00	175,670.45	307,728.00			
11.LOCALSHARE	12,933.71	124,014.40	219,165.00	69,960.27	0	0	123,091.00			
12.COSTLOCIN	--	--	--	--	--	--	--			
13.TAXCREDIT	--	--	--	--	--	--	--			
14.CROPLAND	50	14	--	62	59	63	65			
15.ACPASTURE	--	45 (horses)	130 (horses)	143 (cattle)	42	22	--			
16.ACFACILITY	--	12	9	3	1.5	5	1			
17.ACNONCOMWOODS	--	--	--	--	--	--	--			
18.FORCONPLAN	--	--	--	--	--	--	--			
19.ACCOMMFOR	20	--	8	41	49.5	5	17			
20.FORCONPLAN	--	--	--	--	--	--	--			
21.ACWETLANDS	2	1	1	--	--	3	--			
22.ACNONAG	--	--	--	--	--	--	12			
23.SCWQPLAN	Yes	Yes	Yes	Yes	Yes	Yes	Yes			
24.APPROVALDATE	--	--	--	--	--	--	--			
25.REVISIONDATE	--	--	--	--	--	--	--			
26.IMPLEMENTATION	--	--	--	--	--	--	--			

* See attached Explaination Tables for definations.

8/26/80
by J. HARMAN
Route 91
Looking south from
Shinlee Pkwy overpass

Crest of ridge less than
200 feet

Protestant's
Exhibit
24 A



5/26/00
by G. Harmon

Route 91
Looking south from point opposite
Peek Road's southern driveway.

Protestants' Exhibit
84 B

6/26/06

by S. HARWAL

Route 91 Looking ~~South~~ East Towards North

ridge east - Shirlee Elsenrod + 8 Rock Road's Driveways

Ridge is most distant point of road

Protestant's Exhibit 24C



8/26/00
by J. HARRIS
Route 91
Looking South From
Peek Bowles yard

Protestant's
Exhibit
24 D

Sons house

my house



Beg at
the E. HARMAN
going south Rev. Nat. Gilbert Rd.
to White Elephant House
on right
Her son's house to left,
Existing house on shared property
to Chrome right

Protestant's
Exhibit
24 E

8/26/00
by G. Hetmer
Looking east from Peek Bozich's yard
to Shirlee Ebersole's house
her driveway to left
her son's to right -

Protestant
Exhibit
24 F



2/26/02

Looking SE from point of driveway to new lots being developed on west side of Route 91

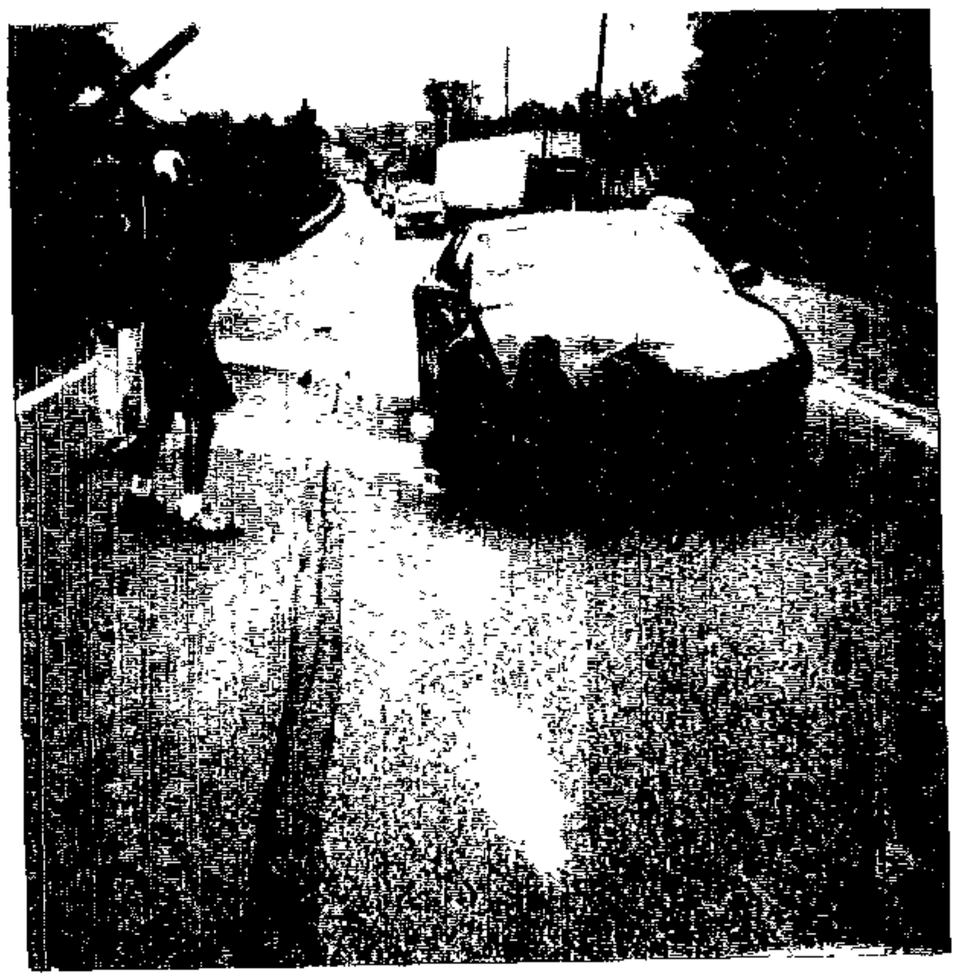
Shirlee Elsebrock's home to right - her son's home to left -

Protestant Exhibit 24G



7A Mt. Gilead + Glen Falls Rd.

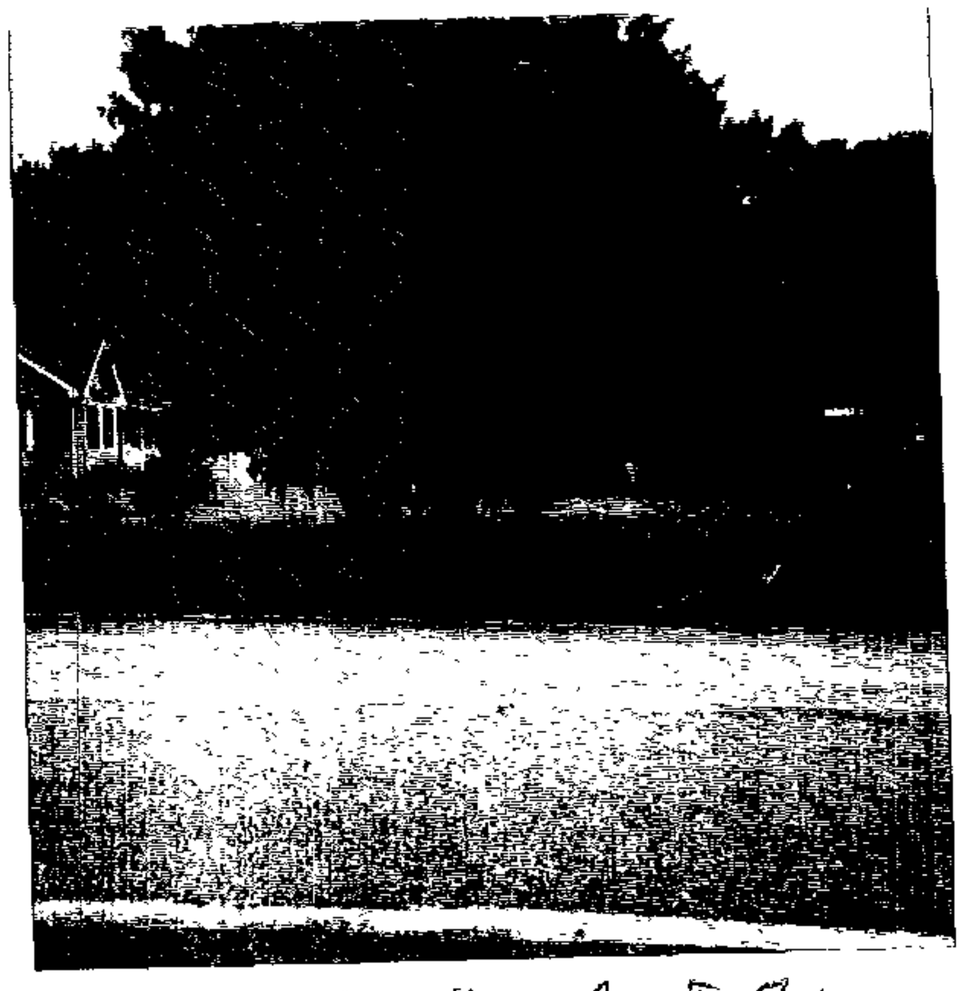
#7B - Rt. 30 and Glen Falls Rd.



8-18-00 RT 30 & MT Gilead
Protestants
Exhibit 13C



8-18-00 RT 30 & MT Gilead
Protestants
Exhibit 13C



8-18-00 RT 30 & MT Gilead Rd
Protestants
Exhibit 13A

8/23/00 – Concluded Day #4; additional date of 8/30 added (case previously scheduled for that date was PP'd); all parties agreed to this additional date (unavailability of two witnesses per C. Demilio); Amended Notice of Assignment sent to parties this date; additional day added; Day #5 = Wednesday, August 30, 2000 at 10:00 a.m.; the last two days (now 6 and 7) will remain on 10/18/00 and 10/19/00 both at 10 a.m.

8/30/00 –Concluded Day #5; assigned one hour on 9/26/00 for one witness only (day #6); retained 10/18 and 10/19/00 as days 7 and 8. Second Amended Notice sent to parties this date for Tuesday, September 26, 2000 at 9:30 a.m. for one hour only (#6); and already scheduled dates of October 18 and October 19, 2000 at 10 a.m.

9/26/00 –Convened for testimony of one witness as scheduled; day #6 concluded. To reconvene on 10/18/00 for Day #7.

10/16/00 –T/C from J. Long; attempted service of subpoena for Carol McEvoy by Sterling Leese (J. Carroll Holzer, Esquire); Planning did not accept service; C. McEvoy no longer employed there; did not accept service because it is unknown who would be available and able to testify and accept the subpoena in lieu of Ms. McEvoy.

10/18/00 –Concluded day #7; to convene on Thursday, 10/19/00 for day #8. (L.C.F.)

10/19/00 –Official file from Bob Bowling provided to Board via subpoena by Carroll Holzer.

Joint Exhibit #1

File

Baltimore County Government
Department of Permits and Development Management

111 West Chesapeake Avenue
Towson MD 21204

(410) 887-3321
(410) 887-2824 (fax)

February 1, 2000

Mr Donald T. Rascoe
Baltimore County Dept of Permits & Development Management
111 W. Chesapeake Avenue
Towson MD 21204

RE: Appeal of DRC Decision
SE/ corner of Emory Rd & Mt Gilead Rd.
Carroll Community Church
District: 4 c 3
Carroll Community Church, Inc. - Applicant
File No.: DRC No. 12139D

Dear Mr Rascoe:

Please be advised that an appeal of the above-referenced case was filed in this office on January 24, 2000 by G. Scott Barhight, Esq. on behalf of Carroll Community Church, Inc.. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals (Board).

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: G. Scott Barhight, Esq.
Morris & Ritchie Associates, Inc.
People's Counsel

00 OCT 19 AM 10: 14

Baltimore County Government
Department of Permits and
Development Management

111 West Chesapeake Avenue
Towson, Md. 21204

410-887-3335

December 23, 1999

Morris & Ritchie Associates, Inc.
110 West Road, Suite 245
Towson, MD 21204

RE: Carroll Community Church
1701 Emory Road
DRC Number 12139D, Dist. 4C3

Dear Sir:

Pursuant to Article 25A, Section 5 (U) of the Annotated Code of Maryland, and as provided in Section 602 (d) of the Baltimore County Charter, and Section 26-132 of the Baltimore County Code, this letter constitutes an administrative order and decision on the request for issuance, renewal, or modification of a license, permit, approval, exemption, waiver, or other form of permission you filed with this department.

Your request has been submitted for careful review and consideration to the Development Review Committee (DRC), which is composed of representatives from each of those departments involved in land-use decisions. These representatives are designees of the directors of these departments. The purpose of the DRC is to ensure compliance with Section 26-171 and Section 26-211 of the Baltimore County Code and to make recommendations to the Director, Department of Permits and Development Management.

The DRC has, in fact, met in an open meeting on December 13, 1999, and has denied your project. It is necessary to go through the full development process.

Sincerely,

Arnold Jablon

Arnold Jablon
Director

AJ:DTR:dak
c: file

Joint Exhibit #1

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 072794

DATE 12-1-99 ACCOUNT R-006-6150

AMOUNT $ 40.00

RECEIVED FROM: Manis & Ritchie Assoc.

FOR: Carroll Community Church

DRC# 12139D DK

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

CASHIER'S VALIDATION

PAID RECEIPT
12/02/1999 12/02/1999
REG 0002 CASHIER DOOR ONE DRAWER
DRAW 1 R 028 ZONING VERIFICATION
Receipt # 117618
CR NO. 072794
Recpt for 40.00
40.00 CK
Baltimore County, Maryland

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 078400

DATE 2/1/00 ACCOUNT 001-006-6150

AMOUNT $ 75.00

RECEIVED FROM: WHITEFORD TAYLOR & PRESTON LLP

FOR: APPEAL FEE - CARROLL COMM. CHURCH
DRC 12139D

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

CASHIER'S VALIDATION

DEVELOPMENT REVIEW COMMITTEE REQUEST FORM

12139D

3 Copies of the Plan as Required/ Folded 8½ x 11 FEE: $40.00 (payable to Baltimore County and is non-refundable)

Tax No(s): 04-02-057850

Applicant & Engineer Name: Robert D. Capalongo
Morris & Ritchie Associates, Inc. Filing Date: 12/01/99

Address: 110 West Road, Suite 245 Phone #: (410) 821-1690

Towson, MD 21204 Acreage: 68.89 AC

Project Name: Carroll Community Church PDM File #:

Project Address: 1701 Emory Road Zip Code 9 ADC Map #: 9, Grid F-9

Councilmanic District: 3rd Election District: 4th Building Permit #: N/A

Is this an Antenna? ☐ Yes ☒ No If "Yes" check one of the following: ☐ Cellular (CAC) ☐ Water Tower (WTC) ☐ MonoPole (CFC)

Request: ☐ Refinement ☒ Limited Exemption ☐ Waiver

(Attach letter if necessary)

Zoning: RC2 and RC4

RECEIVED
DEC - 1 1999
DEPT. OF PERMITS AND DEVELOPMENT MANAGEMENT

DO NOT WRITE BELOW THIS LINE! TO BE FILLED OUT BY COUNTY

COMMITTEE ACTION:

DRC #:

( ) Denied
( ) Limited Exemption under Section 26-171 ( ) ( )
( ) Material Amendment to the plan (new CRG or HOH must be scheduled)
( ) Plan Refinement (submit enough plans for the agencies checked off below)
( ) Waiver recommendation forwarded to Planning Board for determination
( ) Waiver of Standards referred to _____ (Department)
( ) Requires a zoning ( ) Special Hearing; ( ) Special Exception; ( ) Variance
( ) Other _____

Table To DoN

Full Process 12-20-99

COMMITTEE COMMENTS:

Agencies to Review and Return Comments to Committee:

( ) DPR ( ) PO ( ) Zoning ( ) DEPRM ( ) EIR ( ) SWM ( ) Rec & Parks ( ) Fire ( ) SHA

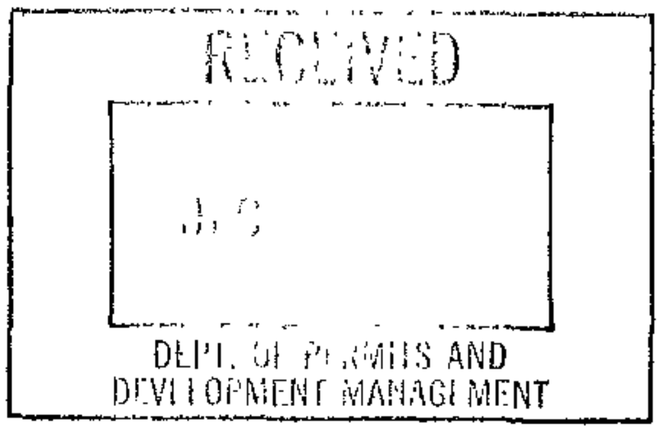
Signature of Coordinator _____ Meeting Date: _____

Joint Ord #1

MORRIS & RITCHIE ASSOCIATES, INC.
ENGINEERS, PLANNERS, SURVEYORS,
AND LANDSCAPE ARCHITECTS



December 1, 1999



Mr. Arnold Jablon
Department of Permits and
Development Management
111 Chesapeake Avenue, Room 123
Towson, MD 21204

Subject: Carroll Community Church

Dear Mr. Jablon:

Morris & Ritchie Associates, Inc. (MRA) hereby requests a b(9) Limited Exemption pursuant to Sections 26-171, 26-202 and 26-206 of the Baltimore County Development Regulations for the construction of a church and associated site improvements as shown on the attached plan.

A Special Exception to allow a church use on the subject property was granted by the Zoning Commissioner on September 24, 1999 under case Number 99-503-X. A copy of the order is shown on the attached plan.

We believe that a b(9) Limited Exemption is warranted for this development since no subdivision of land, public improvements nor public works agreement is required to develop the subject property. Please note the location of the Baltimore County/Carroll County line as shown on the attached plan. Minor road improvements to Emory Road (State Route 91) and parking are proposed on the Carroll County portion of the subject property.

Stephen Ford, Development Review Supervisor for Carroll County has indicated in a letter dated July 29, 1999 that the standard Site Development Review Process will not be required for development of this property. Carroll County will only require approval of construction plans prior to development.

Joint Ltr #1

☐ 139 N. MAIN STREET, SUITE 200
BEL AIR, MARYLAND 21014
(410) 879-1690 (410) 836-7560
FAX (410) 879-1820

☒ 110 WEST ROAD, SUITE 245
TOWSON, MARYLAND 21204
(410) 821-1690
FAX (410) 821-1748

☐ 9090 JUNCTION DRIVE, SUITE 9
ANNAPOLIS JUNCTION, MARYLAND 20701
(410) 792-9792 (301) 776-1690
FAX (410) 792-7395

We await your decision on this matter.

Very Truly Yours,

MORRIS & RITCHIE ASSOCIATES, INC.

Robert D. Capalongo
Project Manager

#11236

enclosure

cc: Joe Duke
John Martindale
Scott Barhight
Bob Bradley
Scott Rouk

RDC:mak\s\11236\drcltr\120199

Joint Eph #1

Baltimore County Government
Department of Permits and Development Management

111 West Chesapeake Avenue
Towson MD 21204

(410) 887-3321
(410) 887-2824 (fax)

February 1, 2000

Mr Donald T. Rascoe
Baltimore County Dept of Permits & Development Management
111 W. Chesapeake Avenue
Towson MD 21204

RE: Appeal of DRC Decision
SE/ corner of Emory Rd & Mt Gilead Rd.
Carroll Community Church
District: 4 c 3
Carroll Community Church, Inc. - Applicant
File No.: DRC No. 12139D

Dear Mr Rascoe:

Please be advised that an appeal of the above-referenced case was filed in this office on January 24, 2000 by G. Scott Barhight, Esq. on behalf of Carroll Community Church, Inc.. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals (Board).

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: G. Scott Barhight, Esq.
Morris & Ritchie Associates, Inc.
People's Counsel

Joint Exh #1

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

30 COLUMBIA CORPORATE CENTER
10440 LITTLE PATUXENT PARKWAY
COLUMBIA, MARYLAND 21044
TELEPHONE 410 884-0700
FAX 410 884-0719

G. SCOTT BARHIGHT
DIRECT NUMBER
410 832-2050
gbarhight@wtplaw.com

WHITEFORD, TAYLOR & PRESTON
L.L.P.

210 WEST PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204-4515
410 832-2000
FAX 410 832-2015
www.wtplaw.com

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

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

January 24, 2000

Via Hand Delivery

Mr. Arnold Jablon, Director
Baltimore County Department of Permits
and Development Management
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: DRC Case No. 12139D
Carroll Community Church
1701 Emory Road

Dear Arnold:

Appellant/Petitioner, Carroll Community Church, Inc., by and through its attorneys, G. Scott Barhight, Julie A. DiGrigoli and Whiteford, Taylor & Preston LLP, hereby notes this appeal from the Development Review Committee's (DRC) recommendation, and your December 23, 1999 adoption of the DRC's recommendation to deny Carroll Community Church's 26-171 Exemption Request.

Enclosed please find a check in the amount of $75 to cover the fees for processing this appeal.

Please contact me if you have any questions regarding this matter.

Sincerely yours,

G. Scott Barhight

GSB:lgs

ccs: County Board of Appeals of Baltimore County

APPEAL

Development Review Committee (DRC) Decision
Southeast corner of Emory Road and Mt Gilead Road
Carroll Community Church
Carroll Community Church, Inc. - Developer
4th Election District – 3rd Councilmanic District
DRC No. 12139D

Development Review Committee Request Form No 12139D

Letter to accompany request dated December 1, 1999 by Robert D. Capalongo

Site Plan to accompany request

DRC decision letter dated December 23, 1999

Notice of Appeal received January 24, 2000 from G. Scott Barhight, Esq., on behalf of Carroll Community Church, Inc.

NOTIFICATION LIST

G. Scott Barhight, Esq., Whiteford Taylor & Preston LLP, 210 W. Pennsylvania Avenue, Towson MD 21204
Morris & Ritchie Associates, Inc., 110 West Road Suite 245, Towson MD 21204

Arnold F. Keller, III, Director, Office of Planning
Lawrence E. Schmidt, Zoning Commissioner
Arnold Jablon, Director, Department of Permits and Development Management
Donald T. Rascoe, Project Manager

11236

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

30 COLUMBIA CORPORATE CENTER
10440 LITTLE PATUXENT PARKWAY
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TELEPHONE 410 884-0700
FAX 410 884-0719

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gbarhight@wtplaw.com

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1025 CONNECTICUT AVENUE, NW
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TELEPHONE 202 659-6800
FAX 202 331-0573

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

May 3, 2000

Via Hand Delivery & First Class Mail

George G. Perdikakis, Director
Department of Environmental Protection
401 Bosley Avenue
Suite 416
Towson, MD 21204

Re: Carroll Community Church
Forest Buffer Variance Addendum

Dear George,

Enclosed please find an executed Forest Buffer Variance Addendum in the above-referenced matter. Please be advised that condition four (4) of the executed addendum (Environmental Agreement and Bond) has been amended in accordance with Patricia Farr's letter dated April 13, 2000. Specifically, the security required for the environmental agreement has been reduced to equal 110% of the cost of the planting. Based on the Church's cost for planting, DEPRM is requiring a bond of $6,407.00. Enclosed please find Ms. Farr's April 13, 2000 letter regarding the bond reduction.

On April 25, 2000, DEPRM approved the Church's Forest Buffer Protection Plan. Therefore, the Church will post the required bond and proceed with the seeding of the Property immediately.

In addition to the Forest Buffer Variance Addendum, enclosed please find a notarized and executed Single Lot Declaration of Intent. This Declaration exempts the Church from the Baltimore County Forest Conservation Program. Please be advised that at the present time, the Church has no plans to clear forest on the Property.

Thank you for your kind attention to this matter. Please contact me if you have

Protestant's Exhibit #9B

any questions regarding this matter.

Sincerely,

G. Scott Barhight

Cc: Patricia M. Farr, DEPRM
Joseph Duke
John T. Martindale
Jeffrey A. Wolinski
Robert F. Bradley
Julie A. DiGrigoli, Esquire

GSB:wtp

Enclosures

195294

Baltimore County
Department of Environmental Protection
and Resource Management

Office of the Director
401 Bosley Avenue, Suite 416
Towson, Maryland 21204

February 18, 2000

Mr. Jeffrey A. Wolinski
18941 Middletown Road
Parkton, Maryland 21120

Re: Carroll Community Church
Forest Buffer Variance Addendum

Dear Mr. Wolinski:

An addendum to the approved variance from current Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains was received by this Department on January 24, 2000. The addendum was generated in response to concerns that the property owners had regarding the loss of active use areas and the resulting confinement of the developable area. The addendum states that the applicants wished to resolve any outstanding issues prior to proceeding through the development process. Additionally, the submittal proposes a conceptual plan for stabilization of several stream rejuvenations (headcuts). Furthermore, the addendum states that the site has been seeded with a cover crop and that when conditions are favorable, the Forest Buffer (FB) will be re-seeded with a diverse mix of native, warm season grasses. Approval of the addendum would result in a ten (10) acre reduction of the FB. The remaining FB will encompass approximately 26 acres of the 69 acre gross site area.

This Department has reviewed your request, and has determined that a practical difficulty/unreasonable hardship does exist, and that the potential for impacts to water quality and aquatic resources as a result of this proposal can be minimized by performing the mitigative measures offered. Therefore, we will grant this request in accordance with Section 14-334 of the Baltimore County Code, with the following conditions:

1. The following note must appear on all plans submitted for this project:
"A variance was granted by the Baltimore County Department of Environmental Protection and Resource Management from Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains. The Forest Buffer Easement and building setback shown hereon are reflective of the fact that this variance was granted. Conditions were placed on this variance to reduce water quality impacts."

2. The Forest Buffer Easement shall be permanently posted at 200 foot intervals and at significant turning point with "Forest Buffer - Do Not Disturb" signs that are available from this Department, by July 1, 2000.

Printed with Soybean Ink
on Recycled Paper

3. The Forest Buffer Easement shall be planted with native and naturalized grasses and wildflowers in accordance with an approved Forest Buffer Protection Plan (FBPP). Specifics of the seed mix, application rate, application method, and planting areas shall be detailed on the FBPP.

4. Once the FBPP has been approved, and prior to planting approval, the applicant shall sign an Environmental Agreement (EA). The security posted with the EA shall be equal to ~~the cost estimate~~ for the planting, ~~or $0.25 per square foot of the required planting area, whichever is greater~~. The security shall be held by DEPRM until grading closeout and will be returned in accordance with The Forest Buffer Protection Security Policy.

5. The Sediment Control/Grading Plan will not be approved until there is 80% ground coverage, at least (2) inches tall, that has had one growing season to become established. A note to this effect shall be included on all subsequent plans. Given that failure to satisfy this condition will delay grading permit approval, it is imperative that complete vegetative stabilization occur in March or April, to be eligible for fall 2000 construction approvals.

6. Agricultural activities within the Forest Buffer Easement shall cease immediately.

7. All State and Federal permits to impact waterways, wetlands and associated buffers shall be obtained prior to implementing stream stabilization.

8. Adequate sediment control measures shall be utilized during construction to prevent disturbance of the planted areas.

It is the intent of this Department to approve this variance subject to the above conditions. Any changes to site layout may require submittal of revised plans and an amended variance request.

Please have the property owner sign the statement on the following page and return a signed copy of this letter to this Department within 21 calendar days. Failure to return a signed copy may render this approval null and void, or may result in delays in the processing of plans for this project.

If you have any questions regarding this correspondence, please contact Mr. Michael S. Kulis at (410) 887-3980.

Sincerely yours,

George G. Perdikakis
Director

GGP:msk

I/we agree to the above conditions to bring my/our property into compliance with Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains.

Carroll Community Church
Joseph B. Duke III 4-27-00

Property Owner Date

Property Owner Date

Contract Purchaser Date

Contract Purchaser Date

MSK4/CCCvaraddendum.doc

Baltimore County
Department of Environmental Protection
and Resource Management

401 Bosley Avenue, Suite 416
Towson, Maryland 21204

April 13, 2000

Mr. Jeffrey A. Wolinski
Consulting Ecologist
18941 Middletown Road
Parkton, Maryland 21120

Re: Carroll Community Church
Forest Buffer Variance Addendum

Dear Mr. Wolinski:

Environmental Impact Review staff of this Department have reviewed your March 22, 2000 correspondence and the forwarded estimate of $5,759.60 from Mr. Gus Day, received April 6, 2000. Given the detailed information submitted, we have reconsidered a portion of variance approval condition # 4 and find that a surety of $ 6,407.00 will be adequate.

Please note that Development and construction plans cannot be processed until the variance is finalized, including stabilization of the previously farmed areas.

If you have any questions regarding this correspondence, please contact Mr. Michael S. Kulis at 410-887-3980.

Very truly yours,

Patricia M. Farr, Supervisor
Environmental Impact Review

C. Thomas L. Vidmar

MSK

MSK6/CCCvarissues3.doc

Printed with Soybean Ink on Recycled Paper

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

Single Lot Declaration of Intent

Tax Account #0402057850 Election District 4 Map 31 Grid 14 Parcel 76

Name(s) Carroll Community Church, Inc.

Location 1701 Emory Road (Md. Rt. 91)
Reisterstown, MD 21136

I (we), _____ the Owner of the real property located at 1701 Emory Road (Md. Rte. 91)
Reisterstown, MD 21136

as described as at SE/corner of Mt. Gilead Road hereby declare my (our) intention to invoke the single lot exemption for the above property, in accordance with the provisions of the Baltimore County Forest Conservation Program Sections 14-401 and 14-402, for a period of at least five (5) consecutive full taxable years following this date.

This declaration grants an exemption for any activity conducted on a single lot based on the Baltimore County Forest Conservation Program. If the Owner makes application for an activity regulated under the Forest Conservation Program, clears more than 40,000 square feet of forest, or violates the requirements of a previous Forest Conservation Plan on all or part of the lot within the five (5) year period, Baltimore County may require the Owner to meet the forest conservation threshold established in the Forest Conservation Program, and may also assess a noncompliance fee for forested areas cut in violation of this exemption.

I (we) declare, under the penalties of law, that this declaration, including any accompanying forms and statements, has been examined by me (us) and the information contained herein, to the best of my (our) knowledge, information, and belief, is true, correct and complete.

Signature(s) Joseph B. Duke, III Date 4/27/00

_____ Date _____

Notary Terri A. Bosley Date 4/27/00
Exp 9-1-00

tmm

DOI5/DEPRM/EIR/rev. 2-7-94

Baltimore County
Department of Environmental Protection
and Resource Management

401 Bosley Avenue, Suite 416
Towson, Maryland 21204

September 1, 1999

Mr. Jeffrey A. Wolinski
18941 Middletown Road
Parkton, Maryland 21120

Re: Carroll Community Church
Steep Slopes and Erodible Soils Analysis

Dear Mr. Wolinski

Environmental Impact Review staff of this Department have reviewed and approved the above-referenced submission. Please note that the wider of the two Forest Buffers shown is the approved riparian non-disturbance zone. However, this Department is currently processing a variance, in accordance with Section 14-334 of the Baltimore County Code, for the reduction of the FB in conjunction with vegetative stabilization.

If you have any questions regarding this correspondence, please contact me at (410) 887-3980.

Very truly yours,

Michael S. Kulis, NRS
Environmental Impact Review

MSK5/DOC2/CCCSSESA.dot

Printed with Soybean Ink
on Recycled Paper

Protestant's Exhibit #9C

11236

Baltimore County
Department of Environmental Protection
and Resource Management

Storm Water Engineering

401 Bosley Avenue, Suite 416
Towson, Maryland 21204

410 887-3768
FAX 410 887-4804

February 8, 2000

Mr. David W. Black
Morris & Ritchie Associates, Inc.
110 West Road, Ste 245
Towson, Maryland 21204

RE: CARROLL COMMUNITY CHURCH
Waiver Request, Liberty Watershed

Dear Mr. Black:

This is in response to your letter of January 6, 2000 requesting a waiver of storm water management for the above referenced project.

We have reviewed the material submitted with your letter and hereby grant your request. quantity management is waived under the provisions of Section 14-155 (c) (1) of the Baltimore County Code (i.e. less than a 10% increase in the 2-year pre-development peak discharge rate with no adverse impact on the receiving watercourse). Water quality management must be provided for the first one-half inch of runoff from the new impervious area, and all runoff must be conveyed to suitable outfalls. Building and grading permits will not be released until a water quality plan is approved.

It is the intent of this Department to grant this waiver subject to the requirements that all subsequent site plans conform to the hydrologic conditions represented in your request dated January 6, 2000. Changes in site layout may require submittal of revised plans and computations for approval.

If there are any questions, please contact Ed Schmaus at 410 887-3768.

Very truly yours,

Thomas L. Vidmar

Thomas L. Vidmar, PE, Deputy Director
Department of Environmental Protection and Resource Management

CC: JOHN MARTINDALE
JOE DUKE, SCOTT BARHIGHT
JEFF WOLINSKI
BOB BRADLEY
BOB C., FILE

TLV:pms
c: Sheldon Epstein, Storm Drain Design
Environmental Impact Review
Carroll comm

Protestant's Exhibit 10

MORRIS & RITCHIE SOCIATES, INC.
ENGINEERS, PLANNERS, SURVEYORS, AND LANDSCAPE ARCHITECTS

110 West Road, Suite 245
Towson, Maryland 21204
(410) 821-1690 Fax (410) 821-1748

LETTER OF TRANSMITTAL

DATE: January 6, 2000

PROJECT: Carroll Community Church

MRA Job No: 11236

RE: SWM Quantity Management
Waiver Request

To: Baltimore County
401 Bosley Ave.
Towson, MD 21204

ATTN: Wirth Al

We are Sending You:	✓ *Herewith*	*Under Separate Cover*
____ Plans	____ Reports	____ Specifications
____ Prints	____ Copy of Letter	____ Shop Drawings
____ Plats	____	____

COPIES	DATE	NO.	DESCRIPTION
1	1/6/00		Request Letter for SWM Quantity Waiver
1	1/6/00		Hydrologic Computations
1	12/28/99		Existing & Proposed Conditions Hydrology Exhibits

THESE ARE TRANSMITTED as indicated below:

✓ For Approval	____ Per Contract	____ Resubmit ____ Copies
____ For Your Use	____ Approved as Submitted	____
____ As Requested	____ Approved as Noted	____
____ For Review and Comment	____ Returned for Corrections	

REMARKS:

Copy To: Pastor Joseph Duke, Bob Bradley, Ted Scott, Bob Capalongo

File

Read

From: David Black

David Black

MORRIS & RITCHIE ASSOCIATES, INC.
ENGINEERS, PLANNERS, SURVEYORS,
AND LANDSCAPE ARCHITECTS

January 6, 2000

Mr. Al Wirth, P.E.
Baltimore County
Department of Environmental Protection
and Resource Management
401 Bosley Avenue, Suite 416
Towson, MD 21204

Subject: Carroll Community Church
SWM Waiver
SWM Hydrology Computations

Dear Mr. Wirth:

On behalf of our client, Carroll Community Church, we hereby request a waiver of stormwater management requirements for the above referenced subdivision as set forth in Section 14-155(c)(1) of Article V of the Baltimore County Code (ie.: less than a ten percent increase in the two-year pre-development peak discharge rate with no adverse impact on the receiving water course).

Under existing conditions, the site is cultivated with contoured row crops with a significant forested area along the on-site stream channel. Under proposed conditions, the site would be developed as a church with associated parking area, an athletic field, and an access road. The majority of the previously cultivated area would be converted to open space and lawn areas. No development is proposed in the forested portion of the site.

The hydrologic analysis contained in the attached report entitled Stormwater Management Hydrology Computations, Carroll Community Church, indicates that a reduction in the two-year frequency storm peak flow can be expected subsequent to development, since the majority of the property will remain as open space. Complete hydrologic calculations are contained in the attached report for your review.

Based on these calculations, it is MRA's opinion that the proposed development will not cause increased peak flows and will not negatively impact the on-site stream channel. Therefore, we believe a waiver from the stormwater management requirements of Section 14-155(c)(1) of Article V is justified in this instance.

☐ 139 N. MAIN STREET, SUITE 200
BEL AIR, MARYLAND 21014
(410) 879-1690 (410) 836-7560
FAX (410) 879-1820

☒ 110 WEST ROAD, SUITE 245
TOWSON, MARYLAND 21204
(410) 821-1690
FAX (410) 821-1748

☐ 9090 JUNCTION DRIVE, SUITE 9
ANNAPOLIS JUNCTION, MARYLAND 20701
(410) 792-9792 (301) 776-1690
FAX (410) 792-7395

Below is a hydrology summary of the attached computations;

Area	*Runoff Curve Number*	*Time of Concentration*	*2-Year Frequency Storm Runoff*	*Change*
Existing Conditions				
-	68	0.28 hours	52.3 cfs	-
Proposed Conditions				
"A"	82	0.11 hours	33.8 cfs	-
"B"	68	0.10 hours	13.6 cfs	-
"C"	57	0.17 hours	10.1 cfs	-
Total Hydrograph Addition			45.9 cfs	-12.24 %

If you have any questions or need further information, please contact us at our Towson office. We thank you for your attention to this matter and look forward to a favorable response.

Very Truly Yours,

MORRIS & RITCHIE ASSOCIATES, INC.

David W. Black

David W. Black
Project Engineer

#11236

Enclosure

cc: Pastor Joseph Duke (Carroll Community Church)
Mr. Robert F. Bradley, (MRA)
Mr. Theodore Scott, (MRA)
Mr. Robert Capalongo (MRA)

S:\11201_11300\11236\wirth.wpd

Stormwater Management Hydrology Computations

Carroll Community Church

prepared for:

Carroll Community Church
5220 Klees Mills Road
Suite E
Sykesville, Maryland 21784
Attn: Pastor Joseph Duke

PREPARED BY:

MORRIS & RITCHIE ASSOCIATES, INC.

ENGINEERS, PLANNERS, SURVEYORS, AND LANDSCAPE ARCHITECTS

110 West Road, Suite 245
Towson, Maryland 21204
(410) 821-1690
FAX(410) 821-1748
Contact: David W. Black

January 6, 2000

EXISTING CONDITIONS
HYDROLOGY

RUNOFF CURVE NUMBER COMPUTATION Version 2.10

Project : Carroll Community Church User: DWB Date: 12-28-1999

County : Baltimore State: MD Checked: ____ Date: _____
Subtitle: Existing Conditions
Subarea : onsite

COVER DESCRIPTION			Hydrologic Soil Group A	B Acres (CN)	C	D
FULLY DEVELOPED URBAN AREAS (Veg Estab.)						
Impervious Areas						
Paved parking lots, roofs, driveways			-	0.37(98)	-	-
CULTIVATED AGRICULTURAL LANDS						
Row crops	Contoured (C)	good	-	44.6(75)	-	-
OTHER AGRICULTURAL LANDS						
Woods		good	-	26.0(55)	-	-
Total Area (by Hydrologic Soil Group)				70.9		

SUBAREA: onsite TOTAL DRAINAGE AREA: 70.97 Acres WEIGHTED CURVE NUMBER: 68*

* - Generated for use by GRAPHIC method

TIME OF CONCENTRATION AND TRAVEL TIME Version 2.10

Project : Carroll Community Church User: DWB Date: 12-28-1999

County : Baltimore State: MD Checked: ____ Date: _____
Subtitle: Existing Conditions

Flow Type	2 year rain	Length (ft)	Slope (ft/ft)	Surface code	n	Area (sq/ft)	Wp (ft)	Velocity (ft/sec)	Time (hr)
Sheet	3.2	100	0.05	D					0.125
Shallow Concent'd		860	.0663	U					0.058
Open Channel		2350						7.0	0.093
								Time of Concentration =	0.28*
									=====

--- Sheet Flow Surface Codes ---

A Smooth Surface
B Fallow (No Res.)
C Cultivated < 20 % Res.
D Cultivated > 20 % Res.
E Grass-Range, Short
F Grass, Dense
G Grass, Burmuda
H Woods, Light
I Woods, Dense
J Range, Natural

--- Shallow Concentrated ---
--- Surface Codes ---
P Paved
U Unpaved

* - Generated for use by GRAPHIC method

```
********************80-80 LIST OF INPUT DATA FOR TR-20 HYDROLOGY*********************

JOB TR-20                              FULLPRINT
TITLE     Carroll Church hydrology  A:\CARROLL.txt
TITLE     Existing Conditions     12/28/99
 6 RUNOFF 1 001         1 0.1109       68.          0.28          1     1     existing
   ENDATA
 7 INCREM 6               0.05
 7 COMPUT 7 001  001      0.           3.2           1.           2 2   0   02
   ENDCMP 1
   ENDJOB 2

*****************************END OF 80-80 LIST*******************************
```

EXECUTIVE CONTROL INCREM MAIN TIME INCREMENT = .050 HOURS

EXECUTIVE CONTROL COMPUT FROM XSECTION 1 TO XSECTION 1
STARTING TIME = .00 RAIN DEPTH = 3.20 RAIN DURATION = 1.00
ANT. RUNOFF COND. = 2 MAIN TIME INCREMENT = .050 HOURS
ALTERNATE NO. = 0 STORM NO. = 2 RAIN TABLE NO. = 2

OPERATION RUNOFF XSECTION 1
OUTPUT HYDROGRAPH = 1 AREA = .11 SQ MI
INPUT RUNOFF CURVE = 68. TIME OF CONCENTRATION = .28 HOURS
COMPUTED INTERNAL TIME INCREMENT = .0373 HOURS

PEAK TIME(HRS)	PEAK DISCHARGE(CFS)	PEAK ELEVATION(FEET) (RUNOFF)
12.09	52.3	

RUNOFF ABOVE BASEFLOW (BASEFLOW = .00 CFS)
.73 WATERSHED INCHES; 52 CFS-HRS; 4.3 ACRE-FEET.

DURATION(HRS)	2	4	6	8	10	12	13
FLOW(CFS)	5	3	2	2	1	1	0

EXECUTIVE CONTROL ENDCMP COMPUTATIONS COMPLETED FOR PASS 1

END OF 1 JOBS IN THIS RUN

SCS TR-20, VERSION 2.04TEST
FILES

INPUT = a:\carroll.txt , GIVEN DATA FILE
OUTPUT = prn , DATED 12/28/99,14:47:16

FILES GENERATED - DATED 12/28/99,14:47:16

NONE!

TOTAL NUMBER OF WARNINGS = 0, MESSAGES = 0

*** TR-20 RUN COMPLETED ***

PROPOSED CONDITIONS
HYDROLOGY

RUNOFF CURVE NUMBER COMPUTATION Version 2.10

Project : Carroll Community Church User: DWB Date: 12-28-1999

County : Baltimore State: MD Checked: ____ Date: _____
Subtitle: Proposed Conditions
Subarea : Area A

COVER DESCRIPTION		Hydrologic Soil Group A	B	C	D
			Acres (CN)		
FULLY DEVELOPED URBAN AREAS (Veg Estab.)					
Open space (Lawns,parks etc.)					
Good condition; grass cover > 75%		-	3.36(61)	2.57(74)	-
Impervious Areas					
Paved parking lots, roofs, driveways		-	0.38(98)	7.43(98)	-
OTHER AGRICULTURAL LANDS					
Woods	good	-	1.26(55)	-	-
Total Area (by Hydrologic Soil Group)			5	10	

SUBAREA: Area A TOTAL DRAINAGE AREA: 15 Acres WEIGHTED CURVE NUMBER: 82

RUNOFF CURVE NUMBER COMPUTATION Version 2.10

Project : Carroll Community Church User: DWB Date: 12-28-1999

County : Baltimore State: MD Checked: ____ Date: _____
Subtitle: Proposed Conditions
Subarea : Area B

COVER DESCRIPTION		Hydrologic Soil Group A	B	C	D
			Acres (CN)		
FULLY DEVELOPED URBAN AREAS (Veg Estab.)					
Open space (Lawns,parks etc.)					
Good condition; grass cover > 75%		-	9.04(61)	3.11(74)	-
Impervious Areas					
Paved parking lots, roofs, driveways		-	-	1.35(98)	-
OTHER AGRICULTURAL LANDS					
Woods	good	-	0.11(55)	-	-
Total Area (by Hydrologic Soil Group)			9.15	4.46	
			====	====	

SUBAREA: Area B TOTAL DRAINAGE AREA: 13.61 Acres WEIGHTED CURVE NUMBER: 68

RUNOFF CURVE NUMBER COMPUTATION Version 2.10

Project : Carroll Community Church User: DWB Date: 12-28-1999

County : Baltimore State: MD Checked: ____ Date: _____
Subtitle: Proposed Conditions
Subarea : Area C

COVER DESCRIPTION			Hydrologic Soil Group A	B	C	D
			Acres (CN)			
FULLY DEVELOPED URBAN AREAS (Veg Estab.)						
Open space (Lawns,parks etc.)						
Good condition; grass cover > 75%			-	10.6(61)	-	-
Impervious Areas						
Paved parking lots, roofs, driveways			-	-	0.03(98)	-
CULTIVATED AGRICULTURAL LANDS						
Row crops	Contoured (C)	good	-	0.80(75)	-	-
OTHER AGRICULTURAL LANDS						
Meadow -cont. grass (non grazed)		----	-	6.60(58)	-	-
Woods		good	-	24.3(55)	-	-
Total Area (by Hydrologic Soil Group)				42.3	.03	
				====	====	

SUBAREA: Area C TOTAL DRAINAGE AREA: 42.33 Acres WEIGHTED CURVE NUMBER: 57

TIME OF CONCENTRATION AND TRAVEL TIME Version 2.10

Project : Carroll Community Church User: DWB Date: 12-28-1999

County : Baltimore State: MD Checked: ____ Date: _____
Subtitle: Proposed Conditions

Subarea #1 - Area A

Flow Type	2 year rain	Length (ft)	Slope (ft/ft)	Surface code	n	Area (sq/ft)	Wp (ft)	Velocity (ft/sec)	Time (hr)
Sheet	3.2	40	0.125	F					0.055
Shallow Concent'd		140	.0174	P					0.015
Open Channel		1100						7.0	0.044
								Time of Concentration =	0.11*
									=====

Subarea #2 - Area B

Flow Type	2 year rain	Length (ft)	Slope (ft/ft)	Surface code	n	Area (sq/ft)	Wp (ft)	Velocity (ft/sec)	Time (hr)
Sheet	3.2	40	0.125	F					0.055
Shallow Concent'd		700	0.063	U					0.048
								Time of Concentration =	0.10*
									=====

Subarea #3 - Area C

Flow Type	2 year rain	Length (ft)	Slope (ft/ft)	Surface code	n	Area (sq/ft)	Wp (ft)	Velocity (ft/sec)	Time (hr)
Sheet	3.2	40	0.15	F					0.051
Shallow Concent'd		450	0.06	U					0.032
Open Channel		2280						7.0	0.090
								Time of Concentration =	0.17*
									=====

--- Sheet Flow Surface Codes ---

A Smooth Surface
B Fallow (No Res.)
C Cultivated < 20 % Res.
D Cultivated > 20 % Res.
E Grass-Range, Short
F Grass, Dense
G Grass, Burmuda
H Woods, Light
I Woods, Dense
J Range, Natural

--- Shallow Concentrated Surface Codes ---

P Paved
U Unpaved

```
********************80-80 LIST OF INPUT DATA FOR TR-20 HYDROLOGY*********************

JOB TR-20                              FULLPRINT
TITLE      Carroll Church hydrology  A:\CARROLP2.txt
TITLE      Proposed Conditions  12/28/99
 2 XSECTN   001            1.            510.
 8                         509.          0.              0.
 8                         509.25        8.06            3.13
 8                         509.5         28.62           7.5
 8                         509.75        62.64           13.13
 8                         510.          111.9           20.
 8                         510.25        166.67          28.13
 8                         510.5         227.88          37.5
 8                         510.75        296.16          48.13
 8                         511.          372.1           60.
 8                         512.          1230.48         120.
 9 ENDTBL
 6 RUNOFF 1 001          1 0.0234        82.             0.11          1     1     AREA A
 6 RUNOFF 1 001          2 0.0213        68.             0.10          1     1     AREA B
 6 RUNOFF 1 001          3 0.0661        57.             0.17          1     1     AREA C
 6 REACH  3 001    1     4 2700.                                       1     1
 6 REACH  3 001    2     5 1700.                                       1     1
 6 ADDHYD 4 001    4 5 6                                               1     1
 6 ADDHYD 4 001    3 6 1                                               1     1
   ENDATA
 7 INCREM 6                0.05
 7 COMPUT 7 001  001       0.            3.2             1.            2 2   0   02
   ENDCMP 1
   ENDJOB 2

**************************************END OF 80-80 LIST**************************************
```

EXECUTIVE CONTROL INCREM MAIN TIME INCREMENT = .050 HOURS

EXECUTIVE CONTROL COMPUT FROM XSECTION 1 TO XSECTION 1
STARTING TIME = .00 RAIN DEPTH = 3.20 RAIN DURATION = 1.00
ANT. RUNOFF COND. = 2 MAIN TIME INCREMENT = .050 HOURS
ALTERNATE NO. = 0 STORM NO. = 2 RAIN TABLE NO. = 2

OPERATION RUNOFF XSECTION 1
OUTPUT HYDROGRAPH = 1 AREA = .02 SQ MI
INPUT RUNOFF CURVE = 82. TIME OF CONCENTRATION = .11 HOURS
COMPUTED INTERNAL TIME INCREMENT = .0147 HOURS

PEAK TIME(HRS)	PEAK DISCHARGE(CFS)	PEAK ELEVATION(FEET) (RUNOFF)
11.95	33.8	

RUNOFF ABOVE BASEFLOW (BASEFLOW = .00 CFS)
1.54 WATERSHED INCHES; 23 CFS-HRS; 1.9 ACRE-FEET.

DURATION(HRS)	2	4	6	8	9
FLOW(CFS)	2	1	1	1	0

OPERATION RUNOFF XSECTION 1
OUTPUT HYDROGRAPH = 2 AREA = .02 SQ MI
INPUT RUNOFF CURVE = 68. TIME OF CONCENTRATION = .10 HOURS
COMPUTED INTERNAL TIME INCREMENT = .0133 HOURS

PEAK TIME(HRS)	PEAK DISCHARGE(CFS)	PEAK ELEVATION(FEET) (RUNOFF)
11.98	13.6	

RUNOFF ABOVE BASEFLOW (BASEFLOW = .00 CFS)
.73 WATERSHED INCHES; 10 CFS-HRS; .8 ACRE-FEET.

DURATION(HRS)	2	4	4
FLOW(CFS)	1	1	0

OPERATION RUNOFF XSECTION 1
OUTPUT HYDROGRAPH = 3 AREA = .07 SQ MI
INPUT RUNOFF CURVE = 57. TIME OF CONCENTRATION = .17 HOURS
COMPUTED INTERNAL TIME INCREMENT = .0227 HOURS

PEAK TIME(HRS)	PEAK DISCHARGE(CFS)	PEAK ELEVATION(FEET) (RUNOFF)
12.06	10.1	

RUNOFF ABOVE BASEFLOW (BASEFLOW = .00 CFS)
.31 WATERSHED INCHES; 13 CFS-HRS; 1.1 ACRE-FEET.

DURATION(HRS)	2	4	6	8	10	12	12
FLOW(CFS)	1	1	1	1	1	1	0

OPERATION REACH XSECTION 1
INPUT HYDROGRAPH 1 OUTPUT HYDROGRAPH 4
CHANNEL LENGTH = 2700.00 FT
INPUT = RATING CURVE REPRESENTATIVE OF REACH

COMPUTED COEFFICIENTS RELATED TO CROSS SECTION AREA, X = 1.551, M = 1.44
MODIFIED ATT-KIN ROUTING COEFFICIENT = .32, PEAK TRAVEL TIME = .13 HOURS

PEAK TIME(HRS)	PEAK DISCHARGE(CFS)	PEAK ELEVATION(FEET)
12.12	26.4	509.47

RUNOFF ABOVE BASEFLOW (BASEFLOW = .00 CFS)
1.54 WATERSHED INCHES; 23 CFS-HRS; 1.9 ACRE-FEET.

DURATION(HRS)	2	4	6	8	9
FLOW(CFS)	2	1	1	1	0

OPERATION REACH XSECTION 1
INPUT HYDROGRAPH 2 OUTPUT HYDROGRAPH 5
CHANNEL LENGTH = 1700.00 FT
INPUT = RATING CURVE REPRESENTATIVE OF REACH

COMPUTED COEFFICIENTS RELATED TO CROSS SECTION AREA, X = 1.541, M = 1.45
MODIFIED ATT-KIN ROUTING COEFFICIENT = .38, PEAK TRAVEL TIME = .11 HOURS

PEAK TIME(HRS)	PEAK DISCHARGE(CFS)	PEAK ELEVATION(FEET)
12.08	10.9	509.28

RUNOFF ABOVE BASEFLOW (BASEFLOW = .00 CFS)
.73 WATERSHED INCHES; .10 CFS-HRS; .8 ACRE-FEET.

DURATION(HRS)	2	4	4
FLOW(CFS)	1	1	0

OPERATION ADDHYD XSECTION 1
INPUT HYDROGRAPHS 4,5 OUTPUT HYDROGRAPH 6

PEAK TIME(HRS)	PEAK DISCHARGE(CFS)	PEAK ELEVATION(FEET)
12.10	36.9	509.56

RUNOFF ABOVE BASEFLOW (BASEFLOW = .00 CFS)
1.15 WATERSHED INCHES; 33 CFS-HRS; 2.7 ACRE-FEET.

DURATION(HRS)	2	4	6	8	10	12	13
FLOW(CFS)	3	2	1	1	1	1	0

OPERATION ADDHYD XSECTION 1
INPUT HYDROGRAPHS 3,6 OUTPUT HYDROGRAPH 1

PEAK TIME(HRS)	PEAK DISCHARGE(CFS)	PEAK ELEVATION(FEET)
12.09	45.9	509.63

RUNOFF ABOVE BASEFLOW (BASEFLOW = .00 CFS)
.65 WATERSHED INCHES; 46 CFS-HRS; 3.8 ACRE-FEET.

DURATION(HRS)	2	4	6	8	10	12	13
FLOW(CFS)	4	2	2	1	1	1	0

EXECUTIVE CONTROL ENDCMP COMPUTATIONS COMPLETED FOR PASS 1

END OF 1 JOBS IN THIS RUN

SCS TR-20, VERSION 2.04TEST
FILES

INPUT = a:\carrolp2.txt , GIVEN DATA FILE
OUTPUT = prn , DATED 12/28/99,14:47:38

FILES GENERATED - DATED 12/28/99,14:47:38

NONE!

TOTAL NUMBER OF WARNINGS = 0, MESSAGES = 0

*** TR-20 RUN COMPLETED ***

HANOVER ROAD ASSOCIATION, INC.
P.O. Box 70
Boring, Maryland 21020

The undersigned hereby acknowledge and attest that on July 28, 1999 the Board of the Hanover Road Association, Inc. (HRA), a Maryland corporation, in accordance with Section 2-408 of the Maryland Corporations and Associations Code and its Charter and By-Laws, approved the Resolution set forth herein:

RESOLVED: That HRA opposes the zoning special exemption requested by the Carroll Community Church for property that it is planning to purchase at the corner of Maryland Rout 91 and Mt. Gilead Road.

AND FURTHER RESOLVED: That the Board empowers and instructs George H. Harman, S. Glen Elseroad, and George Neubeck, President, Vice President, and Zoning Committee Chair, respectively, to individually or jointly represent HRA at any hearings before the Zoning Commissioner of Baltimore County and any body of appropriate jurisdiction for any subsequent appeals. Mr. Harman, Mr. Elseroad, or Mr. Neubeck to appear at those hearings for HRA and make known the position of HRA in this matter, to wit, that:

HRA opposes the proposed special exemption that would allow the property to be used for a house of worship of the scope outlined to the HRA at a meeting in 1998 by Church representatives, and suggested in drawings presented to nearby property owners. Furthermore, George H. Harman, S. Glen Elseroad, or George Neubeck are authorized to explain or amplify as they see fit, this stated position.

AS WITNESS OUR HANDS THIS 18th day of July, 1999.

ATTEST:

The Hanover Road Association, Inc.

James Spies, Secretary

George Harman, President

RESOLVED, that at this first meeting of HRA of 1999, that the responsibility for review and recommend action on all zoning and development matters is hereby placed on the President, Vice President, and Zoning Committee Chair as elected, or duly appointed.

WITNESS OUR HANDS AND SEALS THIS 18th day of July, 1999.

ATTEST: Hanover Road Association, Inc

James Spies, Secretary

George Harman, President

Protestants Exhibit #11

	name	denomination	street	town	zip	phone	members	average attendance	no. of seats in sanctuary	number of services	number of parking spaces	sq. ft. of all bldgs (footprint)	size of lot (acres)	public water & sewage?	zoning
	Boring	United Methodist	9 Old Hanover	Upperco	21155	429-5424	60	30	80	1	60	1,600	1.75	no	rural
	Christ	Lutheran	Trenton Church Rd	Upperco	21155	-				1	30	4,700	3	no	rural
	Emory	United Methodist	1600 Emory Rd	Upperco	21155	833-6596	260	-	125	2	74	8,700	7.5	no	rural
	Grace	United Methodist	4618 Black Rock Rd	Upperco	21155	239-8026	250	100	175	1	60	11,500	4.89	no	rural
	Mt. Zion	United Methodist	3800 Black Rock Rd	Upperco	21155	374-4231	100	36	150	1	65	4,320	1.5	no	rural
	St. Paul's	Lutheran	15801 Trenton Rd	Upperco	21155	239-3456	230	65	200	1	65	3,600	4.25	no	rural
6	Adat Chaim	Jewish/Conservative	115 Cockey's Mill Rd	Reisterstown	21136	833-7455	210	300	500	2	35	11,600	9.5	yes	non-rural
	All Saints'	Episcopal	203 Chatsworth Ave	Reisterstown	21136	833-0700	400	200	160	3	70	9,357	3.6	yes	non-rural
5	Baltimore County	Baptist	11450 Hanover Rd	Reisterstown	21136	833-7764	200	200	225	4	88	15,000	6	no	rural
	Covenant of Grace	Presbyterian CA	820 Nicodemus Rd	Reisterstown	21136	833-2160	317	325	425	1	140	16,000	7	no	rural
	Mt. Gilead	United Methodist	Hanover Rd & Glens Falls	Reisterstown	21136	none	114	36	100	1	56	1,364	2	no	rural
8	Northminster	United Presbyterian	705 Main St	Reisterstown	21136	833-3815	200	150	200	2	85	5,000	10	yes	non-rural
2	Northwest	Baptist	300 Westminster Pike	Reisterstown	21136	833-7220	900	550	600	4	275	40,000	4.2	no	non-rural
	Piney Grove	United Methodist	4929 Piney Grove Rd	Reisterstown	21136	-	25	15	125	1	25	3,593	2.1	no	rural
7	Pleasant Grove	United Methodist	530 Dover Rd	Reisterstown	21136	429-5080	148	60	125	1	47	9,575	9.25	no	rural
3	Reisterstown	United Methodist	246 Main St	Reisterstown	21136	833-5440	1,000	475	600	4	275	29,925	6	yes	non-rural
	Reisterstown	Church of the Brethren	Berryman's Lane	Reisterstown	21136	833-7404	60	40	125	1	50	3,160	0.75	no	non-rural
	Reisterstown	Baptist	25 E. Chestnut Hill Lane	Reisterstown	21136	833-0149	250	120	125	3	87	10,335	5.7	yes	non-rural
	Reisterstown	7th Day Adventist	Berrymans Lane	Reisterstown	21136	833-4634	125	80	170	1	35	4,800	1	yes	non-rural
	Reisterstown Bible	Non-Denominational	603 Westminster Pike	Reisterstown	21136	833-6297	200	200	350	3	60	11,250	10	no	rural
	St. Luke's	United Methodist	58 Bond Ave	Reisterstown	21136	833-5246	200	75	105	1	50	1,624	0.45	partial	non-rural
4	Temple Emanuel	Jewish/Reform	909 Berryman's Lane	Reisterstown	21136	526-3676	1,000	75	600	2	125	12,500	4	no	rural
	Trinity	Lutheran	109 Main Street	Reisterstown	21136	833-1604	250	125	125	3	60	15,940	1.3	yes	non-rural
	Faith	Baptist	1340 N. Main St.	Hampstead	21074	374-5933	126	70	195	1	0	4,680	0.1	yes	non-rural
	Hampstead	Baptist	328 Hanover Pike	Hampstead	21074	374-9908									non-rural
	Hampstead	Church of Jesus Christ of LDS	4117 Lower Beckleysville	Hampstead	21074	239-2461	400	150	200	1	100	12,000	5.0	yes	non-rural
	Hampstead Pentecostal	Non-Denominational	817 Main St	Hampstead	21074	239-4456						2,244	0.02	yes	non-rural
	Shiloh	United Methodist	3100 Shiloh Rd	Hampstead	21074	374-4231	249	79	200	1	25	4,500	1.33	no	rural
	St. George's	Episcopal	Cape Horn Rd	Hampstead	21074	374-9748					50	900			rural
	St. John's	United Methodist	1205 W. Main St	Hampstead	21074	239-8088	600	200	208	2	50	6,800	0.3	yes	non-rural
	St. Mark's	Lutheran	1375 Main St	Hampstead	21074	239-4541	597	158	220	2	38	10,720	0.61	yes	non-rural
	St. Mark's Union	United Church of Christ	1616 Cape Horn Rd	Hampstead	21074	374-9428									rural
	Wesley	United Methodist	3239 Carrollton Rd	Hampstead	21074	374-4027	475	175	225	2	100			no	rural
	Glyndon	United Methodist	166 Butler Road	Glyndon	21071	833-2033	400	160	180	2	70	12,000	4	yes	non-rural
1	Sacred Heart	Roman Catholic	65 Sacred Heart Lane	Glyndon	21071	833-1696	3,500	2,100	800	18	300	35,000*	10	yes	non-rural
	St. John's	Episcopal	3738 Butler Rd	Glyndon	21071	833-5300	700	200	120	4	50	11,070	5	no	rural
	Carrollton	Church of God	Bethel Road	Finksburg	21048					1	30	4,800	1.5	no	rural
	Cedarhurst	Unitarian/Universalist	2912 Clubhouse Rd	Finksburg	21048	861-8820	225			1	60	1,300	4.87	no	rural
	Christian Revival Center	Non-Denominational	3553 E. Lawndale Rd	Finksburg	21048	239-4660					40	11,340	2.13	no	rural
	Deer Park Bible	Non-Denominational	1950 Deer Park Rd	Finksburg	21048	861-8225				3	40	8,660	3	no	rural
	Greater Baltimore Temple	Hindu	Bloom Road	Finksburg	21048						40	9,050	5.06	no	non-rural
	Mt. Zion	United Methodist	3006 Old Westminster Rd	Finksburg	21048	517-2300									non-rural
	Sandy Mount	United Methodist	2101 Old Westminster	Finksburg	21048	876-2749									rural
						average of all=	445	228	242		75	8,976	4.1		
						subtract largest	3500	2100	800		300	40,000	9.5		
						and smallest	25	15	80		0	900	0.02		
						to find average of others=	351	164	228		71	8,301	3.9		

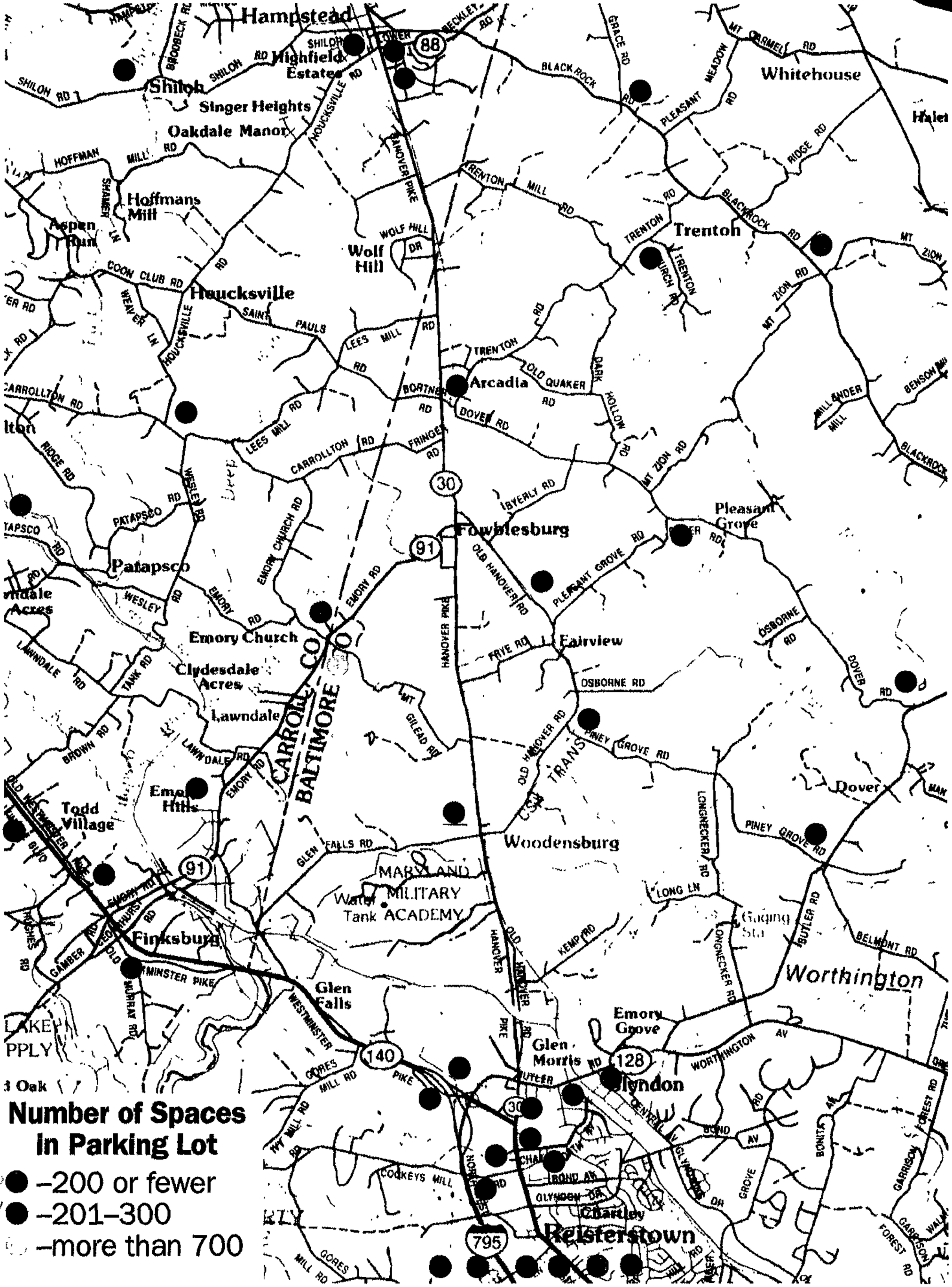
*not including school

Zoning

Protestants
Athelet
#17

Number of Seats in Sanctuary

- ●–200 or fewer
- ●–201–400
- ●–401-600
- ●–601-800
- ●–more than 800


Hampstead
Highfield Estates
Shiloh
Singer Heights
Oakdale Manor
Hoffmans Mill
Aspen Run
Wolf Hill
Houcksville
Arcadia
Trenton
Whitehouse
Patapsco
Emory Church
Clydesdale Acres
Lawndale
Emory Hills
Todd Village
Finksburg
Glen Falls
Fowblesburg
Pleasant Grove
Fairview
Dover
Woodensburg
Worthington
Glen Morris
Emory Grove
Glyndon
Chartley
Reisterstown
MARYLAND MILITARY ACADEMY
Water Tank
CARROLL CO.
BALTIMORE CO.
TRANS
Gaging Sta
88
30
91
140
128
795
HAMPSTEAD
BROOBECK RD
SHILOH RD
BECKLEY RD
GRACE RD
BLACK ROCK RD
MT CARMEL RD
MEADOW RD
PLEASANT RD
RIDGE RD
HOUCKSVILLE RD
HANOVER PIKE
TRENTON MILL RD
WOLF HILL DR
HOFFMAN MILL RD
SHAMER LN
COON CLUB RD
WEAVER LN
SAINT PAULS
LEES MILL RD
BORTNER RD
DOVER RD
OLD QUAKER RD
DARK HOLLOW RD
MT ZION RD
BLACKROCK
RIDGE RD
PATAPSCO RD
WESLEY RD
EMORY CHURCH RD
EMORY RD
IBYERLY RD
OLD HANOVER RD
PLEASANT GROVE RD
FRYE RD
OSBORNE RD
LAWNDALE RD
TANK RD
BROWN RD
LAWN DALE RD
MT GILEAD RD
PINEY GROVE RD
LONGNECKER RD
BUTLER RD
BELMONT RD
KEMP RD
WESTMINSTER PIKE
GORES MILL RD
FALLS RD
GLEN
OLD WESTMINSTER PIKE
GAMBER RD
GEORGETOWN RD
MURRAY RD
LONG LN
WORTHINGTON AV
BOND AV
GLYNDON DR
CENTRAL AV
GROVE RD
BONITA AV
FOREST RD
GARRISON
Number of Spaces in Parking Lot
● –200 or fewer
● –201–300
● –more than 700

Summary of Church Survey

Reisterstown, Hampstead, Upperco, Glyndon, Finksburg Area

Conducted by members of the Hanover Road Association

43 house of worship

	largest	2nd largest	3rd largest	Carroll Community Church
No. of members	3,500 [1]	1,000 [3]	1,000 [4]	??
Attendance	2,100 [1]	550 [2]	475 [3]	??
Seats	800 [1]	600 [4]	600 [3]	2,000
Services	18 [1]	4 [2]	4 [5]	??
Parking	300 [1]	275 [2]	275 [3]	~~533~~ 750
Footprint (sq.ft.)	40,000 [2]	35,000 [1]	29,925 [3]	70,000
Lot (acres)	10.0 [1]	10.0 [8]	9.25 [6]	70.0

[1]Sacred Heart
[2]Northwest Baptist
[3]Reisterstown United Methodist
[4]Temple Emanuel
[5]Baltimore County Baptist
[6]Adat Chaim
[7]Pleasant Grove United Methodist
[8]Northminster Presbyterian

Protestant's Exhibit #18

Neil Ridsley
Norma Allman
Jim Spies
Bubba Walker
Carol Isaac

Better Suited
60 Acres behind Rest. Ret. $350K
100 Klein Property $900K

CCC
Pd. $399K

08/23/00

Dear Sir,
Please note that Mary B Gaines is authorized to speak on behalf of the Piney Run Preservation Association concerning the following matter.
Case # 99-503-X and CBA-00-105

Our association was founded in 1967, incorporated in 1990 and we received our 501c tax-exempt status in 1998. We have approximately 175 families in our membership. Our geographic boundaries are Mt. Carmel Road to the north, I83 to the east, Shawan Road to the south and the Hanover Road corridor to the west. The primary goals of our association are the preservation of the agriculture industry and our rural quality of life, and the protection of our natural resources.

Thank you,

Mary B Gaines (president)

Protestant Exhibit #19

- Permanently preserve lands for agriculture and avoid conflicts with incompatible uses.

ISSUES AND ACTIONS

A successful effort to protect agricultural lands must have two strategic elements: 1) the county must have development controls to assure that agricultural resources are not developed; and 2) there must be effective permanent easement programs that meet the needs of landowners by assuring equity, and preserving sufficient acreage to maintain a viable agricultural operation.

Issue: Revising Development Controls to Support Agriculture

Major subdivisions, defined as being greater than three lots, continue to occur in prime agricultural areas, threatening the viability of preserved agricultural operations and the ability to preserve adjacent lands. The development of large institutional uses is beginning to change the landscape from one of rural character to suburban character.

Actions

1. Refine the boundaries of the agricultural preservation areas to include both adjacent farmland that should remain in agricultural use and natural buffers to reduce potential conflicts.
2. Consider designating the vegetable production areas on the eastern side of the county as agricultural preservation areas.
3. Reevaluate the zoning and development regulations applicable to these areas to determine the appropriate location and suitability of permitted uses, to minimize the impact of even limited development on agricultural resources and farming operations.
   - Limit zoning uses to agriculture or agriculture support; other non-agriculture uses (institutions, golf courses) should be considered as special exception uses or as PUDs, with specific locational and functional criteria. Incorporate locational and functional criteria for house sites and lot size.
   - Include prime and productive/productivity soil standards and a maximum lot size.
   - Density should not exceed one dwelling per 50 acres. Explore ways to compensate landowners for additional density (if the underlying zoning generates higher density) through various easement or TDR programs.
   - Develop a PUD-RP (Planned Unit Development-Rural Protection) process that will allow large institutional, educational, religious, and recreational uses only through a planned unit development process. Designate areas suitable for the PUD, and create locational criteria and development standards.
4. Use the following guidelines in evaluating rezoning requests. In general, zoning changes made in the agricultural preservation area should protect the county's agricultural industry, and natural, scenic, and historical resources, so that the area maintains its importance as an industrial base for the farming industry, tourism, and appropriately located recreational uses.
   - The RC 2 zone is the most effective zone to preserve prime and productive soils. Zoning requests for higher density should not be supported.
   - Zoning requests for lower density should be supported in areas suitable for continued farming activities.
5. Use appropriate methods to advise people of the presence of agricultural operations in agricultural areas.

Issue: Preserving Agricultural Land through Preservation Programs

While zoning can be used to accomplish the objectives of rural area preservation, rezoning can occur every four years, and is therefore not permanent. Ultimately, the only way in which continued agricul-

Protestants Exhibit #20

Hanover Pike Corridor Study 1993
(p 6)

chist, Piney Run Formation, and Sykesville ormation are all members of the Wissa- ickon Group, which underlie the study area. s expected, Alluvium soils of variable omposition are found in the various stream alleys.

he soils within the study area are pre- ominantly loams and silt loams. While the haracteristics will vary, they are for the most rt considered to be prime and productive ils for most agricultural purposes. A com- ete overview of the soils for this portion of altimore County may be found on Plates 11, and 20 of the Soil Survey of Baltimore ounty.

rge scale development options are strictly nited along the ridge lines, as ridge areas most vulnerable to impacts on ground ter recharge from increases in impervious rfaces.

ntidal wetlands are located throughout the dy area and are most commonly found ociated with tributaries to either the apsco River or Western Run. Because of ir water quality values and functions, any turbance of nontidal wetlands which would ult from such large scale impacts as major d construction, is discouraged by Federal, te, or County regulations.

The Rural Landscape

nover Pike - Historical Perspective, high- ting the history of Hanover Pike and rounding areas, lists 26 sites with some oric significance. Of particular interest merit is the Hanover Pike Toll House (ca 9) which was the dwelling of the tollgate per. The house was moved from Fowblesburg to Woodensburg in 1903 and continued to operate until 1915. Although in poor condition, this building represents a historic in the Pike's development and is certainly worthy of preservation. This could be a community project with technical assistance provided through the Baltimore County Historic Trust.

There are many scenic views and special corridors in the study area. The most obvious scenic routes lie along the major transportation routes -- Westminster and Hanover pikes and Mount Gilead,Dover, and Trenton roads. Westminster Pike, a state highway, is a five-lane, high-intensity commuter road, and this high-capacity design contrasts sharply with the rural, low-density character of the surrounding land. Additional landscaping along this road would soften the highway's harsh appearance and enhance the special character of the area.

Hanover Pike, another state highway, accommodates some commercial and residential development but is primarily a rural road that rises and falls with the topography. It provides a pleasant appearance for most of its length, especially during the spring, summer, and fall. At various locations, such as Mount Gilead Road, there are panoramic views northwest toward Carroll County. At other points, there are long views across farm fields, clusters of farm buildings, historic homes, and churches.

Mount Gilead Road, a narrow rural road which winds through cultivated fields and woodlots, connects Hanover Pike and Emory Road. Because of its narrowness and intimate blending with the landscape, this road represents an important element in the rural landscape. Dover Road, intersecting Hanover

M

Protestant's Exhibit #21

FINKSBURG PLANNING AREA COUNCIL, INC.
P.O. BOX 70
Finksburg, Maryland 21048

[illegible] hereby [illegible] and attest that on August 1, 2000 the Board of Directors of the Finksburg Planning Area Council, Inc, a Maryland corporation, in accordance with Section 1-403, of the Maryland Corporations and Associations Article, and its Charter and By-Laws, approved the resolution set forth herein:

[illegible] the Finksburg Planning Area Council, Inc. opposes the special exception requested by the Carroll Community Church for property that it is purchasing to be located at the intersection of MD. Route 91 and Mt. Gilead Road.

[illegible] Be It Further Resolved That the Board of Directors of the Finksburg Planning Area Council, Inc. empowers and instructs Donald Hoffman, Dennis Broderick, and [illegible] Ridgely, President, Vice President and Communications Director, respectively, to individually or jointly, represent the Finksburg Planning Area Council, Inc. before the Board of Zoning Appeals of Baltimore County at a hearing scheduled for for August 22 and 23, 2000, as well as any subsequently set dates. Mr. Hoffman and / or Mr. Broderick and / or Mr. Ridgely are to appear at that hearing and present to the members of the Board of Appeals the position of the Finksburg Planning Area Council, Inc. on this matter, to wit, that:

[illegible] Finksburg Planning Area Council, Inc. opposes the proposed special exception [illegible] the property to be used for a house of worship and affiliated [illegible] as stated at the people outlined at a Community Input Meeting on May 22, [illegible] and as presented at said meeting by means of plans, engineer's drawings and [illegible] Furthermore, Donald Hoffman and Councilman Ridgely [illegible] to explain in detail, as they see fit, this stated position.

[illegible] this 2nd day of August, 2000

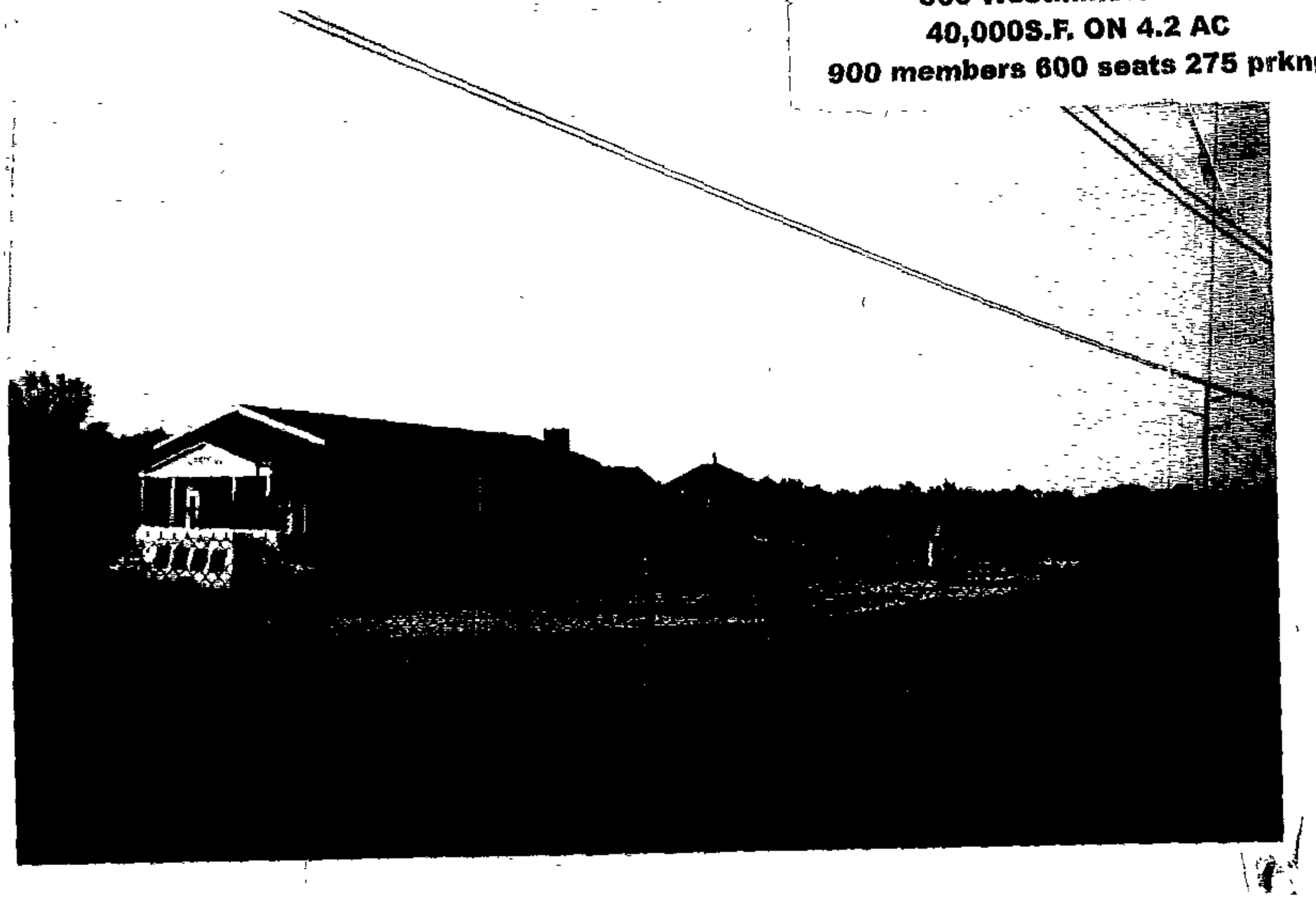
[illegible] Finksburg Planning Area Council, Inc

[illegible]
Donald Hoffman, President

[illegible] of the Finksburg Planning [illegible] and accurate copy of a resolution duly passed at the Finksburg Planning Area Council, Inc. meeting held on the [illegible] day of August, 2000 and that said resolution has not been rescinded or amended.

Protestant's Exhibit #22

Northwest Baptist
300 Westminster Pike
40,000S.F. ON 4.2 AC
900 members 600 seats 275 prkng



The Valleys Planning Council, Inc.

Resolved: **That the Executive Committee of The Board of Directors of the Valleys Planning Council, Inc. meeting held on April 18,2000, it was decided that responsibility for the review and action on all zoning matters for the period of one year April 18, 2000 to April 18, 2001 be placed with the Executive Director, Mr. Jack Dillon.**

AS WITNESS OUR HANDS AND SEAL THIS 18 **day of** April **, 20** 00

ATTEST: **The Valleys Planning Council, Inc**

Secretary

President

Protestent's Exhibit #26

The Valleys Planning Council, Inc.

RESOLVED: That the Executive Committee of the Board of Directors of the Valleys Planning Council, Inc. has adopted the following position with regard to case # CBA- 00-105, Carroll Community Church, Inc. now before the Baltimore County Board of Appeals and furthermore authorizes Mr. Jack Dillon the Executive Director to present testimony in opposition to this project.

By Resolution of the Executive Committee of the Board of Directors of The Valleys Planning Council, Inc. we hereby express our opposition to the proposed special exception for a church in the RC2 (Agricultural) zone.

AS WITNESS OUR HANDS AND SEAL THIS 16th **day of** May, **20**00.

ATTEST: **The Valleys Planning Council, Inc.**

Secretary **President**

Protestants Exhibit #26

AFFIDAVIT

STATE OF MARYLAND
BALTIMORE COUNTY, SS:

TO WIT:

I hereby swear upon penalty of perjury that I Jack Dillon am currently the Executive Director of the Valleys Planning Council, Inc.

Jack Dillon

ATTEST:

The Valleys Planning Council, Inc.

Secretary

President

Date: 5/16/08

Protestants Exhibit #24

JACK DILLON

543 Park Avenue Towson, Maryland 21204 (410) 321-0021

EMPLOYMENT

THE VALLEYS PLANNING COUNCIL
EXECUTIVE DIRECTOR
MAY 1997 - PRESENT

PRIVATE CONSULTANT
MARCH 1996 - MAY 1997

BALTIMORE COUNTY, MARYLAND
OFFICE OF PLANNING, COMMUNITY PLANNING DIVISION,
SENIOR PLANNER AND DEPUTY DIVISION CHIEF
AUGUST 1987 - FEBRUARY 1996

OFFICE OF PLANNING, COMMUNITY PLANNING DIVISION,
PLANNER II
JUNE 1981 - AUGUST 1987

OFFICE OF PLANNING, COMPREHENSIVE PLANNING DIVISION, ENVIRONMENTAL STUDIES SECTION
PLANNER II
OCTOBER 1974 - JUNE 1981

PRIOR TO OCTOBER 1974 I WAS WITH THE BALTIMORE COUNTY ZONING OFFICE FROM JUNE 1967 - SEPTEMBER 1974 AND FROM FEBRUARY 1962 - MAY 1967 I WAS WITH THE DEPARTMENT OF PUBLIC WORKS ASSIGNED TO SPECIAL PROJECTS AT THE JOHNS HOPKINS UNIVERSITY AND THE BALTIMORE CITY ANALYZER OFFICE.

EDUCATION

MORGAN STATE UNIVERSITY
GRADUATE PROGRAM IN LANDSCAPE ARCHITECTURE
1992 -1994 (not complete)

UNIVERSITY OF MARYLAND
GRADUATED PARA LEGAL
1978

UNIVERSITY OF BALTIMORE
GRADUATED B.S. . DEGREE IN BUSINESS MANAGEMENT,
PLANNING COURSES AT JOHNS HOPKINS UNIVERSITY
1969

Protestants Exhibit #27

ADDITIONAL EDUCATION

DUNDALK COMMUNITY COLLEGE,
MEDIA / TV PRODUCTION,
1984 - 1986

UNIVERSITY OF BALTIMORE SCHOOL OF LAW,
1969 - 1970

GEORGIA INSTITUTE OF TECHNOLOGY,
INSTITUTE IN URBAN PLANNING,
1969

JOHNS HOPKINS UNIVERSITY,
APPRAISAL OF REAL ESTATE,
1975

OTHER PROFESSIONAL EXPERIENCE

CATIONSVILLE COMMUNITY COLLEGE
VISITING LECTURER - ZONING AND SUBDIVISION DESIGN
SPRING 1991

UNIVERSITY OF MARYLAND , SCHOOL OF SOCIAL WORK AND URBAN PLANNING
VISITING LECTURER - USE OF VIDEO IN THE ART OF PLANNING
FEBRUARY, 1987

TOWSON STATE UNIVERSITY
DEPARTMENT OF GEOGRAPHY AND ENVIRONMENTAL PLANNING
INSTRUCTOR OF TWO THREE CREDIT COURSES ENTITLED PRINCIPALS OF ZONING AND PLANNING IMPLEMENTATION
FEBRUARY, 1972 - DECEMBER , 1981

MEMBER OF THE AMERICAN PLANNING ASSOCIATION

SIGNIFICANT PROFESSIONAL ACCOMPLISHMENTS

Protestant's Exhibit #27

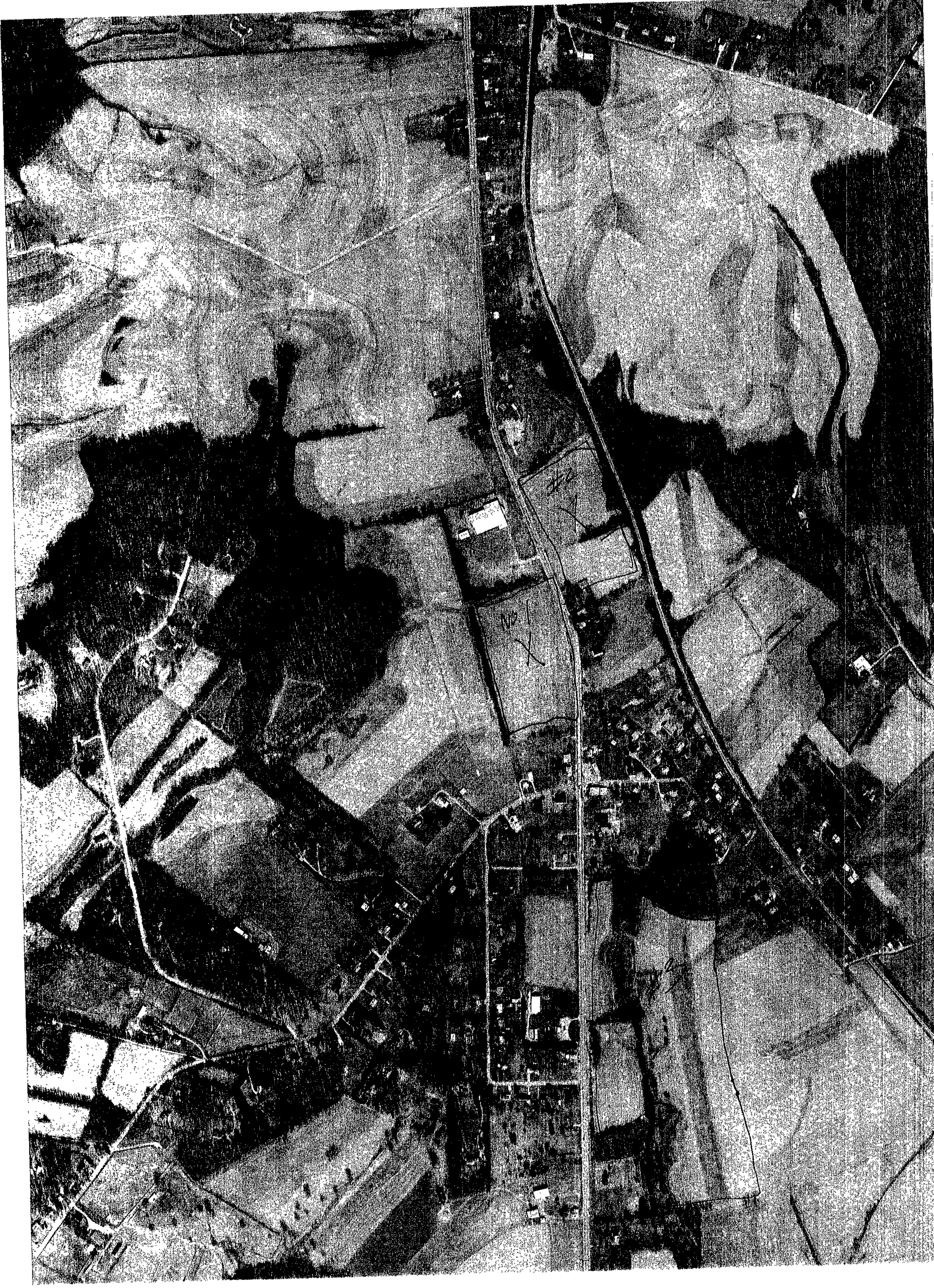
PLANNER AND AUTHOR / CO-AUTHOR OF A VARIETY OF REPORTS AND PLANNING STUDIES, INCLUDING:
THE ESSEX / MIDDLE RIVER COMMUNITY ASSESSMENT, 1995;
THE OWINGS MILLS OPEN SPACE CONCEPT PLAN, 1995;
HANOVER PIKE CORRIDOR PLAN, 1993;
HERFORD - A PRELIMINARY ANALYSIS, 1987;
THE REISTERSTOWN ROAD CORRIDOR STUDY, 1987;
PLAN FOR OWINGS MILLS, MARYLAND, 1984;
THE OLD COURT ROAD CORRIDOR STUDY, 1984;
SITE SELECTION FOR THE NORTHWEST AREA MULTIPURPOSE CENTER, 1982;

PROPOSED AMENDMENTTO BALTIMORE COUNTY ZONING REGULATIONS - SLUDGE DISPOSAL IN BALTIMORE COUNTY, 1982;
AREAS OF CRITICAL OF STATE CONCERN IN BALTIMORE COUNTY, 1979.
PLANNER RESPONSIBLE FOR THE ORGANIZATION AND ADMINISTERING THE AGRICULTURAL LAND PRESERVATION PROGRAM FOR BALTIMORE COUNTY, 1979.
PRIMARY DRAFTSMAN OF THE FOUR RESOURCE CONSERVATION ZONES FOR BALTIMORE COUNTY, WHICH HAVE BECOME THE BASIS FOR CONTROLLING GROWTH IN RURAL BALTIMORE COUNTY 1975.
DEVELOPMENT AND ADMINISTRATION OF THE VIDEO PRODUCTION UNIT WITHIN THE OFFICE OF PLANNING. PRODUCER OF VIDEO " THE GROVE" WHICH WON A NATIONAL ASSOCIATION OF COUNTIES AWARD IN 1993.

COURT AND AGENCY PROCEEDINGS.

SINCE 1965 I HAVE PROVIDED TESTIMONY AS AN EXPERT WITNESS BEFORE THE BALTIMORE COUNTY PLANNING BOARD, VARIOUS LEGISLATIVE SUB-COMMITTEES IN ANNAPOLIS, THE BALTIMORE COUNTY COUNCIL, THE BALTIMORE COUNTY ZONING COMMISSIONER, THE BALTIMORE COUNTY BOARD OF APPEALS, THE PLANNING COMMISION FOR THE TOWN OF OCEAN CITY MARYLAND, THE DISTRICT COURT OF MARYLAND AND THE CIRCUIT COURT OF MARYLAND.

Protestants Exhibit #27



Set #3
Anatomy Quiz

Pet. Exhibit #28

WILLIAM R. KLEIN
1395/194
102.34 A.

P.55

ROBERT E. PATTERSON ET AL
5151/254

MAP 48-P319

MAP 48-P1118

MAP 48-P941

MAP 48-P241

HILLSIDE AVE.

MAPLE GROVE AVE.

RAILWAY

INC. P/O R279

GLYNDON MEADOWS

GORDEN AVE.

HANOVER PIKE

BUTLER

HAMMOND

KANDYHILL CT.

Protestant's Exhibit #29

TAX MAP 48

BALTIMORE COUNTY, MARYLAND

ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

Inter-Office Correspondence

TO: Zoning Commissioner's Office DATE: August 2, 1999

FROM: Wallace S. Lippincott, Jr.
Agricultural Land Preservation Program

SUBJECT: Case No. 99-503 x. 1701 Emory Road, Request for Special Exception for 2000 seat church in a RC 2 zone located within an Agricultural Preservation Area - Supporting information to Department of Environmental Protection & Resource Management negative comments on request.

Overview: The Baltimore County Zoning Regulations provides that if a request for Special Exception is inconsistent with the purposes of the property's zoning, it may be turned down (BCZR 502.1). The subject property is zoned RC 2 and is in an area of RC 2 zoning. The Baltimore County Zoning states the purpose of the RC 2 zone is: " to foster conditions favorable to a continued agricultural use of the productive agricultural areas of Baltimore County by preventing incompatible forms and degrees of urban uses (BCZR 1A001.B)."

The Department of Environmental Protection and Resource Management opposes the request for the 2000 seat church, associated uses, meeting lodge, and athletic facilities as being an urban form of use that presents conflicts with efforts to maintain this particular area as an agricultural area with extensive agricultural uses. Locating urban uses in agricultural areas has been found to create conflict with the existing agricultural uses and to create conditions that are not conducive to continuing agricultural activities. Uses such as is proposed for this site take the land out of production, attract other suburban uses to the area, put more pressure on roads, and decrease the attractiveness of the area to other potential purchasers who would wish to continue farming.

This request also threatens the existing agricultural economy of this area which is part of one of the most viable agricultural areas of the County. This site and immediate area is predominantly farmed for grain. This site is located within 3.5 miles of two major grain operations, Trenton Mill and Lippy Bros. Trenton Mill, a $2 million operation, relies upon the purchase of grain from adjacent farmers for its 800,000 bushel facility. The loss of this area as grain producing area because of the impacts of urbanization jeopardizes the continuation of Trenton Mill. The loss of Trenton Mill jeopardizes the existence of the grain industry in this area because the small and medium size farmers depend upon Trenton Mill to store and ship their grain.

Protestant's Exhibit #30

Below is supporting information for the opposition to this request for an urban scale facility to be located on RC 2 zoned property in a Master Plan designated Agricultural Preservation Area.

Supporting Information:

1. Site is located within a productive agricultural area and has productive agricultural soils. This property is located within an area of productive agricultural soils. The area has a significant amount of prime and productive soils as indicated on the USDA Soil Survey Map for the area (Attachment A). The property itself is located within an immediate area of soils that are among the most highly productive in the County and thus are somewhat unusual (Attachment B).

2. The site is located in an area in which the dominant land use as indicated by site visits to the area by the 1986 aerial (Attachment C) is agricultural in nature. The aerial indicates the large amount of agricultural activity in the area. The tax map (Attachment D) indicates the fact that there are still significant numbers of large parcels in the area and that the area has not been subdivided up into small lots.

3. The tax map also indicates that there is land conservation activity in the area with 1017 acres in Agricultural Districts and 285 acres under preservation. This is an indication of the County, State and Federal funds spent to protect and foster the agricultural industry in this area.

4. This property is located within 3.5 miles of two major grain operations. The Trenton Mill, a $2 million - 800,000 bushels facility- is dependent upon the sale of grain from local farmers to exist (Daniels, T. Analysis of Trenton Mill Farms). In turn, farmers are dependent upon Trenton Mill to store and sell their grain. Grain farming is the largest, by area, agricultural activity in the County.

January 2000

STANDARD FORM (SF) revised

254

Architect- Engineer and Related Services Questionnaire

1. Firm Name/ Business Address:

Keeney Architects

William W. Keeney Architect, Inc.
1908 Emory Road
Reisterstown, Maryland 21136

2. Year present Firm Established: **1982**

3. Date Prepared: **January 2000**

4. Type of Ownership: **Corporation**

5. Names of not more than Two Principals to Contact: title/ telephone

William W. Keeney, President Phone 410-239-1981 Fax 410-374-5867

6. Present offices : City/ State

Keeney Architects
1908 Emory Road
Reisterstown, Maryland 21136

7. Personnel by Discipline:

1 Architect
1 Administrator

8. Brief resume of Key Person, Specialists, and Individual consultants anticipated for this Project

a. Name and title: **William Wilson Keeney, Registered Architect**

b. Project assignment: **Principal Designer**

c. Years experience: With this firm 18 With Other firms 22

e. Education: Degree(s)/Year/Specialization

South Dakota School of Mines and Technology, 1958 Engineering

Protestants Exhibit #37

9. f. Active Registration: Year first Registered/ Discipline

State of **Maryland,**	1982	#5903	Architect
State of **Pennsylvania,**	1982	#9103	Architect
State of **West Virginia,**	1983	#1954	Architect
State of **Delaware,**	1990	#5536	Architect
State of **Virginia,**	1993	#8670	Architect

g. Other experience and Qualifications relevant to the proposed project:

Mr. Keeney has 38 years of extensive "hands on" experience in all phases of the building fields. In addition, he has practiced as a registered Architect for the past 18 years. For 3 years, he was the Vice-President of a Construction Company as project coordinator and field supervisor. Prior to that he spent 14 years as a Project Coordinator and Chief Designer for a top Baltimore Architectural firm.

As principal, designer and administrator, his experience also includes 4 years as an Associate Partner in an Architectural firm before starting his own practice in 1982. His office has included a staff of up to eight people, two administrative persons, and the technology of two drafting computers. He has voluntarily elected to practice Architecture as a one man office and believes that the Principles of Architecture can be practiced without creating a hardship on the Cost of Construction.

Mr. Keeney has served two years on the Board of Directors of the Home Builders Association in Baltimore County including many other County and local Committees. He was also a past (94) member of the Chamber of Commerce Board of Directors and now serves on the Reisterstown Main Street Historical Committee, the Zoning Committee and the Economic Development Council.

Building Committees are the back bone of most large design projects. Mr. Keeney has successfully worked on a number of projects like the Reisterstown Volunteer Fire Dept, two additions for two separate United Methodist Churches, a VFW, four Bank Boards and Maryvale School Board. He completed the Baltimore County Public Library historic renovation/addition Reisterstown Branch. He worked with the Town Council of Sykesville on the Master Planing for the Historic Town Hall, Train Depot and the renovations of the new Police Department for the city. He is also working with the Town of Hampstead in the restoration of a Train Station, developing a landscaping plan and lending his technical knowledge to the construction team.

His technical and first hand knowledge in the mechanics of a structure has allowed him to become innovative in his problem solving and design techniques. The experience gained in 40 years with the plumbing and electrical trades along with his field expertise has lead him to be recommended for repeat work. Projects completed in the 70s for the father have lead to projects in the 90s for their sons and daughters.

In 1988 he was honored with an Award of Excellence in the "1988 Showcase of Winners", sponsored by the Sales and Marketing Council of the Home Builder's Association of America, for a custom designed residence exceeding $600,000.00. He also has been published in the prestigious volume "American Architecture, State of the Art in the 80's". The award winning house was one of only 98 projects singled out by a National Competition.

Project Examples finished for residential and commercial buildings:

Project Name and Location	Owner /name /Address	Remarks
Addition to old farm house	Mr. & Mrs. Alster, 410-239-8631	Addition to rear of small old farm house moved in house 1998. $140,000.00
New house on 55 acre lot/farm	Mr. and Mrs. Ryan 410-429-5510	Med. size house on a hill side with great views Owner just moved in in 1999
Addition to old farm house	Mr. & Mrs. Urqhart, 410-374-1334	Med. size addition to rear of old-old farm house moved in house 1998. $160,000.00
New house addition, $350.000.00 in progress	Dr. Paul Turer	Large addition to residence I did in 1982.
Master plan for Aberdeen City Hall Police Department, 1995	Aberdeen, Maryland	Rehab large Food store with a 100% increase in floor area for new City Hall and Police Dept.
Housing Development for Glyndon Mews 1995	Ashley Group, Ltd.	6 house designs to be built in the historic area of Glyndon, Maryland
Key Bank addition, Main Street Bel Air, Md, 1996	Key Savings Bank	Renovation an old existing bank into a new bank for new owners.
Harryman House Restaurant	Henry Lewis	Renovation and addition to an Old Restaurant in the Historic District of Reisterstown
Reisterstown Branch Library 1994/1996	Baltimore County	Addition to Historic Old Franklin Academy This is the second addition to this structure Added ADA requirements to existing Academy.
Boys and Girls Club 1997 Harford county, Maryland	Mr. Terry Sexton 410-879-4647	19,000 sq ft with class rooms, full size gym, offices and recreation area. 1.8 M

Key Bank and Trust, Seven additional projects in 1987,1989,1990,1991,1992, 1995,1998

Maryland Permanent Bank Owings Mills, Maryland	Mr. Joseph Martin 410-356-4411	New bank of 5000 sq ft with basement.
Westminster Rescue Mission Westminster, Maryland	Mr. Vernon Wolf 410-848-8447	Renovate an existing 34 bed facility and add an 64 bed, 9600 sq ft, multipurpose and chapel.
Grace United Methodist Church, Hampstead, Md,1996	Mr. Chris Cavey 410-239-7200	Renovation of 100 year old church with a new addition to house class rooms and a social hall. 625 k
Reisterstown Branch Library 1994/1996 Addition to Historic Old Franklin Academy	Baltimore County	4000 sq ft addition to oldest school in the county that is now a library, addition #3 Added ADA requirements to existing Academy.
Reisterstown Fire Department	Reisterstown, Md.	New two bay truck addition to old fire dept.
Antrim 1844 Inn Taneytown, Md	Mr. Richard Mollett 410-756-6812	Historical additions to Dining, Bathrooms, Carriage house and new kitchen

The following are references for residential and commercial projects. Please call any of the names for a personal reference.

Housing Mr. John Schuster, 410-833-5484
Owner/developer, Housing for the Elderly, Section 2, State of Delaware. 24 new units.

Church Mr. Vernon Wolfe
410-848-8447 Westminster Rescue Mission, Large addition to existing controlled housing. The addition has new dormitory rooms, kitchen, lounge, general purpose for 300 and chapel for 200 people.

Church and Residence Mr. and Mrs. Rene Herbst (1993, 1994)
410-526-7200 Northminster United Presbyterian Church, new Social Hall for the church.
Large addition to his house on Butler Road, Glyndon, Maryland

Boys and Girls School (two) and residence
Mr. Terry Sexton (1998)
410-897-4647 New Colonial residence

Residence Mr. and Mrs. William Ryan, 4143 Osborn Road, Reisterstown, Md. (January 1998-1999) 410-429-5510 Addition to existing tenant house and new residence on large farm. This house will be under construction in June 1998.

Residence Mr. and Mrs. Jim Gordon, 127 Sunny Meadow Lane, Reisterstown, Md. 410-833-2269 Addition to residence and new residence in 1999. House is under construction in 2000.

Bank Mr. Geoffrey Kroll, Kroll Construction Company, 10300 South Dolfield Road, Owings Mills, Maryland, Constructed a new bank for Maryland Paramount Bank in Owings Mills, Md.

Personal References

Mr. Charles Forbes (1972, 1992, 1994, 1995, 1997, 1999)
410-833-1300 Owner of the Reisterstown Lumber Company, I did 7 additions and 4 new storage warehouses over 35 years. Mr. Forbes was my employer in 1960 when I was an estimator.

Mr. Henry Lewis (1995, 1996)
410-356-4200 Owner of the Harryman House Restaurant, new addition to historical business in Reisterstown Historical District. I also did two additions to his house.

Mr. Murray Weiner, P.E. Structural Engineer
410-366-7800 Mr. Weiner is a partner of the structural engineering company of LPJ in Baltimore. Consulting Engineers, I have worked with for 25 years or more. Semi-retired.

Mr. Rene Herbst
410-526-7200 Soils engineer who I have worked with for 15 years.
I was the architect for his house and church additions.

WILLIAM W. KEENEY, ARCHITECT

1960 to 1963	Employed by the Reisterstown Lumber Co. as a cost estimator. Prepared truss drawings and plan details for the mill work department to build.
1963 to 1968	Employed by Donald Ratcliffe, Architect, Baltimore, Maryland. I was a draftsman for colonial housing and prepared building plans for large housing projects, hospitals and light retail stores.
1968 to 1970	Employed by Robert Fryer, Architect, Baltimore, Maryland. I was a draftsman and promoted to team leader. We did banks, schools, large houses and Government projects. The office did modern architecture.
1970 to 1974	Employed by Donald Ratcliffe, Architect, Baltimore, Maryland. I was project designer and team leader for five Automobile dealer ships. Designed and completed many large houses exceeding $750,000 in cost. I also became the specification writer and materials specifier for many projects.
1974 to 1975	Employed by Robert Bayer and Associates, Phoenix, Maryland. I was an Associate member and a 50% partner of the office. We had 5 employees and did shopping centers, banks, housing, light retail.
1975 to 1982	Employed by Larry E. Knight, Inc. trading as Knight Homes. I was a field supervisor for 14 months and then promoted to Vice President of the Corporation. We did five housing projects and had settlements on over 270 houses each year. We were the largest builder of Ryland Homes in the area for 3 years. I performed all field inspections from ground breaking to Owner occupancy. This included all punch-out list items and complaints from the Owners. I worked with the Site Engineers on the street and curb positioning and did all grading studies around all the houses we constructed.
1982 to Date	Licensed Architect in the State or Maryland. Opened my office and in two years had enough work to support 7 employees, two Auto Cad drafting programmers, and one full time and one part time secretary. I am now licensed in 5 states and complete about 10 million dollars of work per year.
1998	I now practice architecture by my self from our farm house. If I become ill of unable to complete a project, I have made arrangements with another office to complete projects. Also my daughter has a Master Degree in Architecture and is helping in the office.

End

The following is a list of additions and new residences.
The "x" equals each time a new project was started.

1999	addition	new residence
Katz, Reisterstown		x 10,000 sq ft.
Dr. Gordon, Upperco		x 5,000 sq ft.
Dr. Immink, Finksburg		x 6,000 sq ft.
1998		
Rosenberg/Schimberg	x	
Dr. Paul Turer		x
Cook/Thayer	x	
Mr. Peter Centenari	x	
Mr. Buck Droppa	xx	
Mr. Hart	x	
Mr. William Ryan		x large house
1997		
Mr. Mike Alster	x	
Mr. Dave Bunnell		x
Mr. Jim Urquhart	x	
1996		
Mrs. Chaney	x	
Mr. Murray Slattery	x	
Mr. Koch	x	
Dr. Seidman	x	
Mr. Ken Volk	x	
Mr. Edgar	x	
Glyndon Mews housing		x Track housing
1993 to 1995		
Mr. Spearman		
Mr. Dowell		x 3 rd addition
Mr. Bob Scott		x
Mr. Jim Davidson		x Historic renovation
Mr. Vandenberg		x
Mr. Mark Williamson ball player		x
Dr. Immink		x Renovation
Mr. Holdridge		x
Mr. Dennis King		x 12000 sf addition
Dr. Ferra		x x
Dr. Halpert		x
Mr. Toni Albertini	x	
Mr. Statkiewicz		x
Mr. Spearman		x

The following is a list of completed commercial projects.

	addition	new
1999		
Frazier Place II in Dover, Del @ cost of 1.8M		x
Country Care, Senior Assisted Living, Finksburg	x	
Chartley Park Shopping Center rehab	x	
Macks and Macks, Marlboro Shopping Square rehab #2	x	
North West Imports, Finksburg	x	
Camp Frittered, USA Army post in Reisterstown	xxxx	
Mudgett's Auto Body, Finksburg		x
Play Garden, Parent and child play center, Owings Mills		x
1998		
Reisterstown shopping center, 3 stores including Block Busters	x	
Macks & Macks, Marlboro Square	x	
Precision Tune		x
Key Bank, Bel Air		x
Reisterstown Lumber office	xxx	
Reisterstown shopping center, old Woolworth store	x	
Maryland Permanent Bank, Bel Air	x	
Sue Haven Yacht club		x
Key Bank, Cockeysville	x	
Bowmans Garden center in Westminster		x
!997		
Play Time on York road	x	
State Farm in Balto, in state architect	x	
Key Bank, Jumpers Hole road	x	
Susquehanna Bank, Towson	x	
Antrim Inn in Tanney town	xxxxxx(6)	
Roll-off Express in Finksburg	x	
Doctors office in New Windsor	x	
Doctors office in Manchester	x	
Precision Tune in Bel Air	x	
Forrest Inn	x	
D&S Body shop		x
Warner Garden center		x
Boys and Girls Club in Bel Air, 1.9m		x
1993 to 1996		
State Farm, Lanham, Md.	x	
L. Lee Dopkin, Standard Plumbing, Baltimore		xx
Westminster Rescue Mission 1.9m		x
Key Federal Bank, Eldersberg	x	
Key Federal Bank, Bel Air	x	
Baltimore County Soil Conservation Dist., Towson, Md.		x
Grace United Meth Church in Hampstead		x
Harryman House	xx	

Sykesville Police dept.		x
Smoots Body Shop	x	
State Farm Ins. Co. in Owings Mills, in state architect		x
Baltimore County Public Library in Reisterstown	x	
Fire Dept in Reisterstown	x	
Frazier Place I in Dover, Del, John Schuster		x

End

Billick denies Banks' job will be at stake Sunday. [*Page 1E*]

Mourning to miss season with kidney disorder. [*Page 1E*]

Roy could eclipse wing record tonight vs. Caps. [*Page 1E*]

Today

Politics: David Gergen, the ultimate insider. [*Page 1F*]

Music: Swearing by Limp Bizkit's new CD. [*Page 1F*]

Weather

Rain possible. High, 65; low, 55. Yesterday's city high, 75; low, 60. [*Page 12B*]

Bridge	11B	Editorials	14A
Classified	6B	Horoscope	4F
Comics	6F	Lottery	2B
Kword	11B, 7F	Movies	5F
Deaths	6B	Television	4F

SunSpot

The Sun on the Internet: http://www.sunspot.net

The Sun's 164th Year: Number 291

0 08345 00002 0

A harvest of road rage in Carroll

Farm equipment slows commuters

By Maria Blackburn
SUN STAFF

At its fastest, a grain combine does the work of 20 men, sucking up a half-dozen brittle, brown cornstalks at a time, popping the kernels from the cobs and spraying the corn into a 250-bushel bin in a matter of seconds.

At its slowest — say, on a two-lane highway going uphill — the 30,000-pound piece of farming equipment lumbers along at 20 mph.

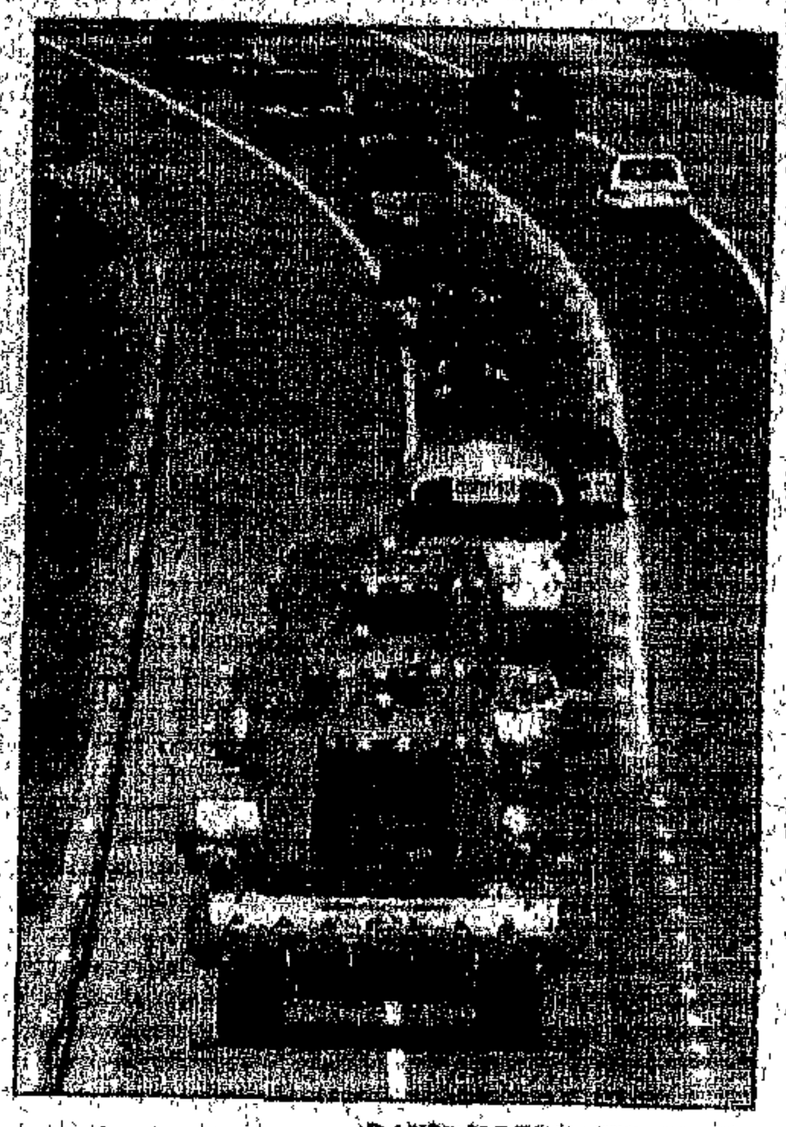
So does any vehicle that happens to be behind it.

A driver can lean on the horn or fume silently. But forget about passing, even if there's a dotted yellow line. A combine with a 15-foot-wide head can nearly take up both lanes.

Other pieces of farm equipment are narrower, but it doesn't matter. On many skinny, twisting country roads, there's little or no shoulder to pull onto. Instead, the drivers of cars and trucks, minivans and sport utility vehicles are forced to creep and crawl and inch their way along until the combine or tractor turns off onto a side road or field or pulls over onto the grass to allow others to pass.

Sometimes that wait feels like

[See Tractors, 8A]



DAVID HOBBY : SUN STAFF

Slow lane: *Traffic collects behind three combines as they drive south on Route 97, a common occurrence at harvest time in Carroll County. As the county has grown, tolerance of sharing the road with such equipment has diminished.*

Protestants # 7A & 7B (2)
13A-C (3)
24A-G (7)

CBA-00-105

99-503-X

Carroll Community Church



BALTIMORE COUNTY BAPTIST CHURCH

ALONG RT 30.

TAKEN

BORDERING ELSEWORTH FARM.

Protestants
Exhibit
#39



RIDGE VIEW FARM

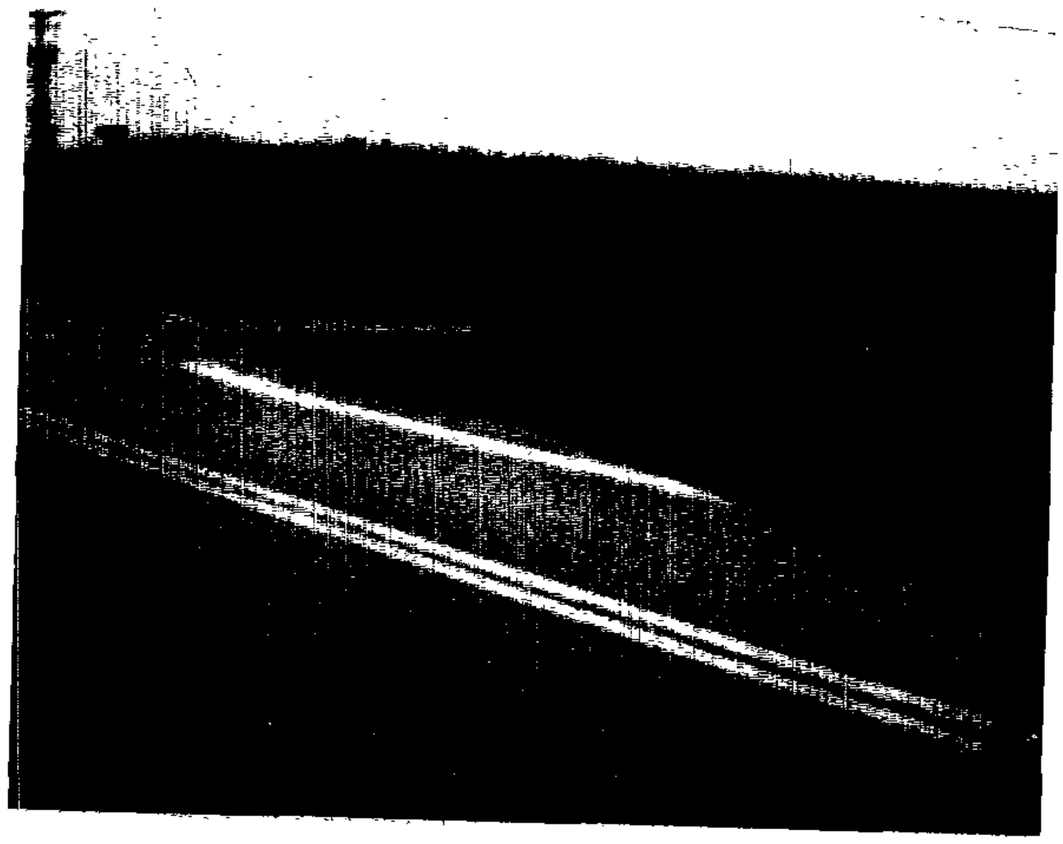
Protestant's Exhibit
#4/B
Ridgeview Farm

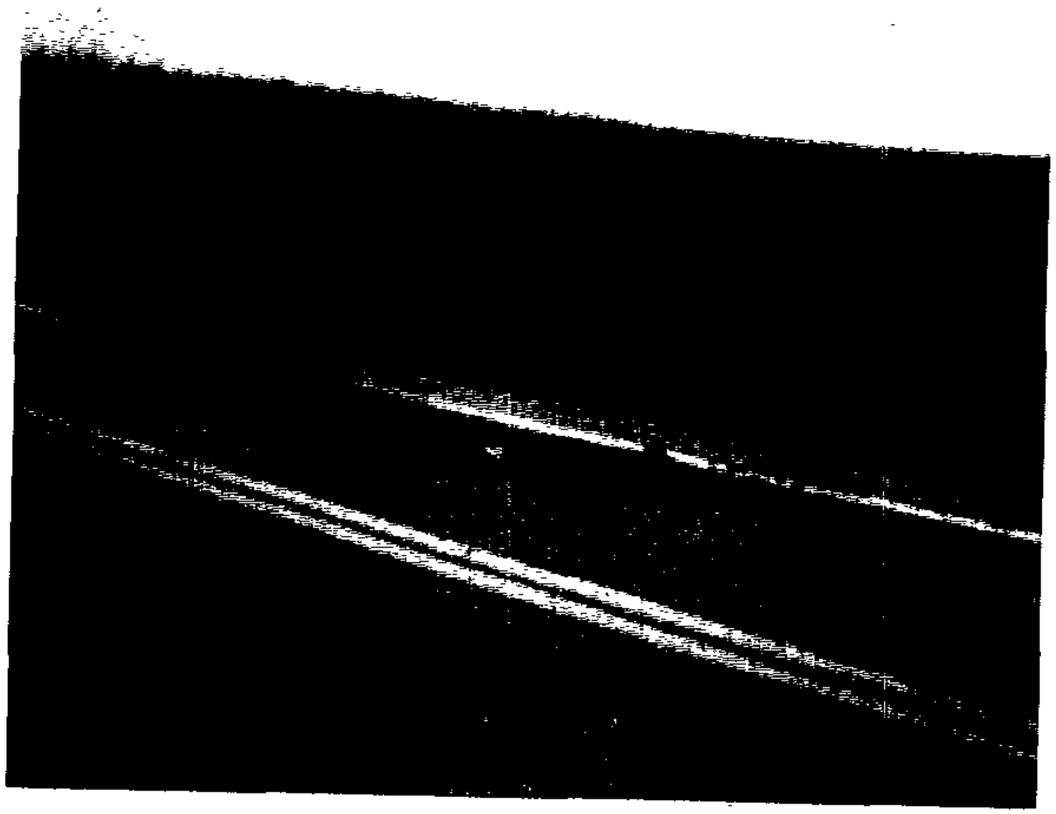


DRIVEWAY ALONG WOODENS LANE — TO MIDSUMMER HILL

Protestant Episcopal
410
Midsummer
Hill
Farm

(1)

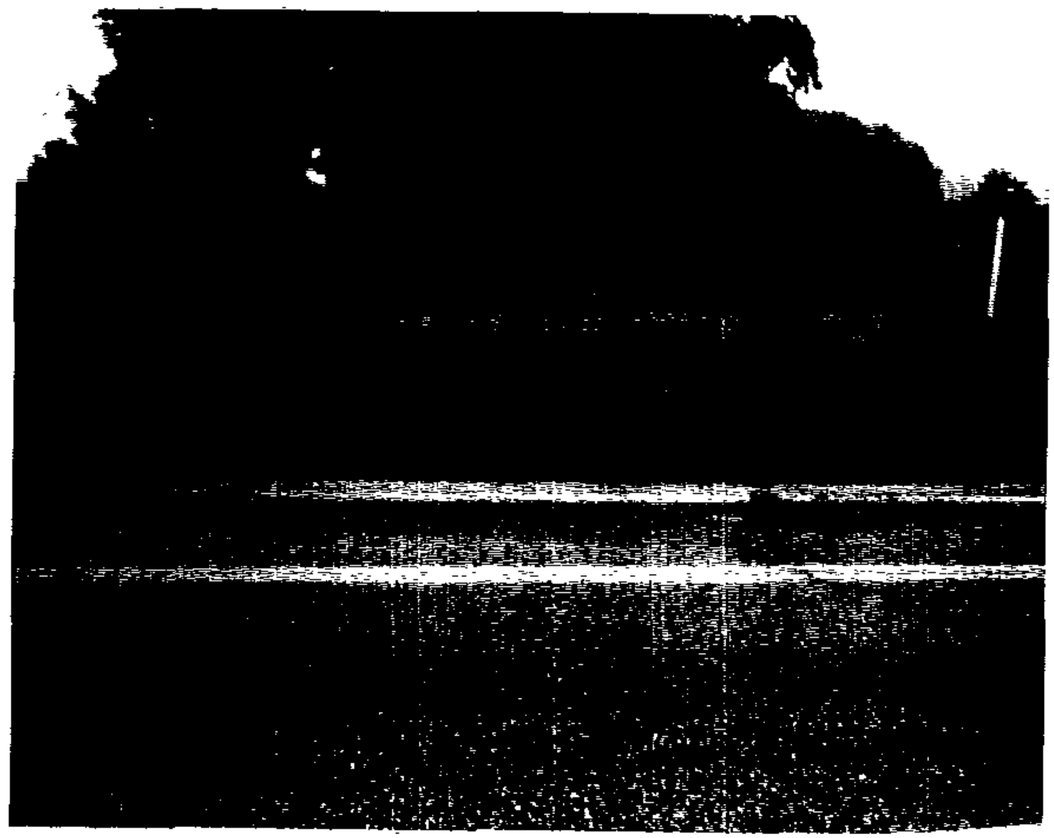




Corner of Mt Gilead Rd
MD Route 91

Vehicle Hit the bank

Flew in air &
Landed



This folds out

Accident at

MD Route 91

&

MT. Gilead Rd.

August 18, 2000

3 - 4 pm

As Taken by Chris. L. Bond.

Protestants Exhibit #42

(2)

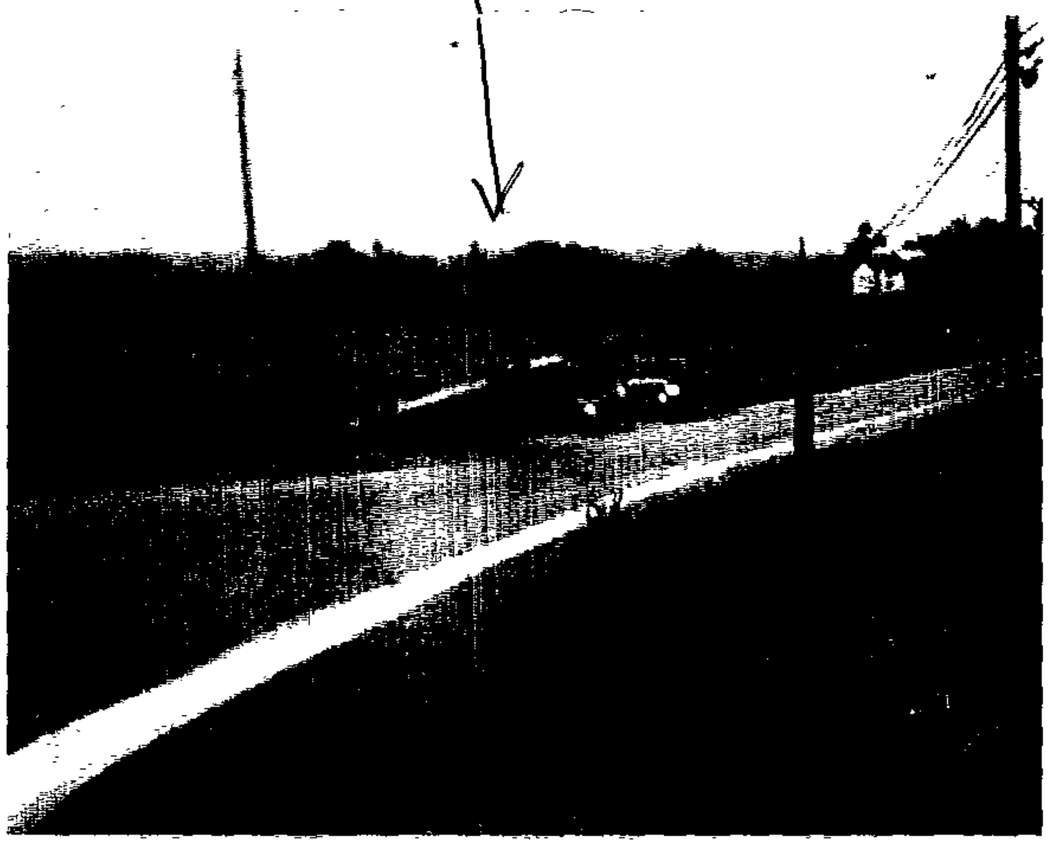


Landed Here



One yells - Truck v Trailer Pass in Distance

Proposed 2000 Seat church



People already stopped to help

(3)

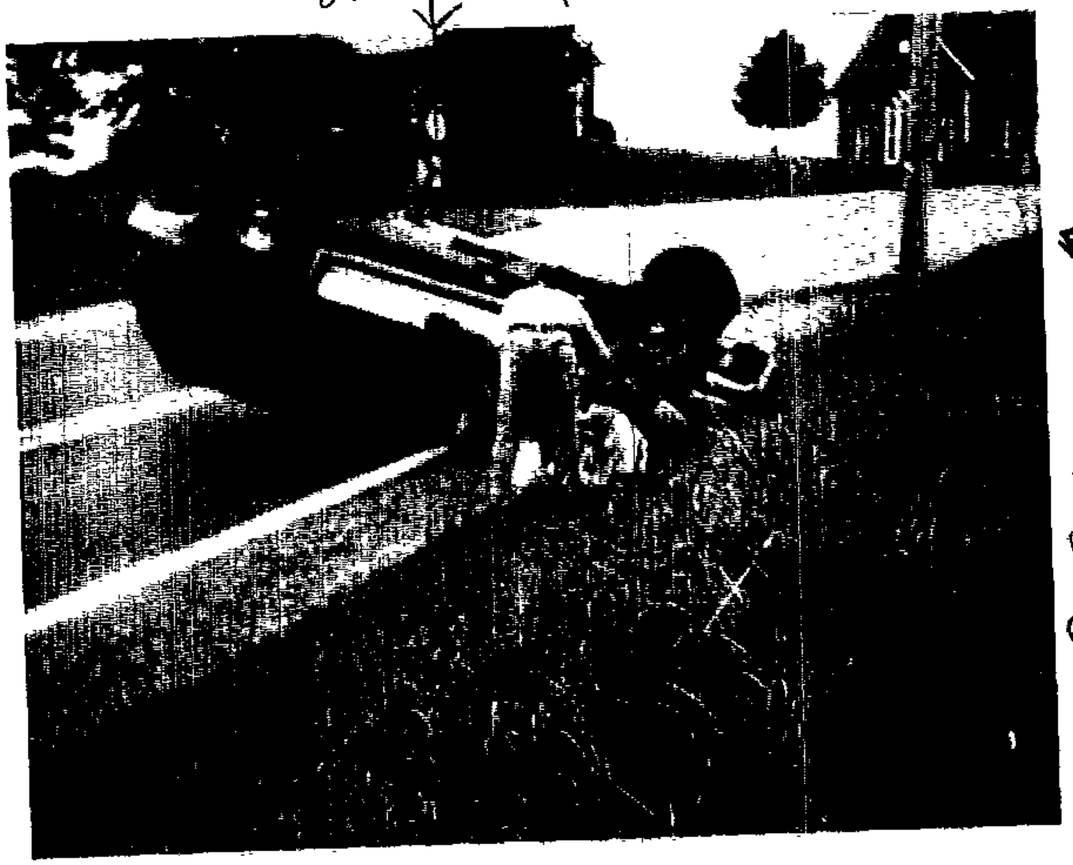
Truck Trailer showing O



My House



stop sign often hit v replaced



Driveway Out w/ Dressing applied

View from Proposed Parking Lot



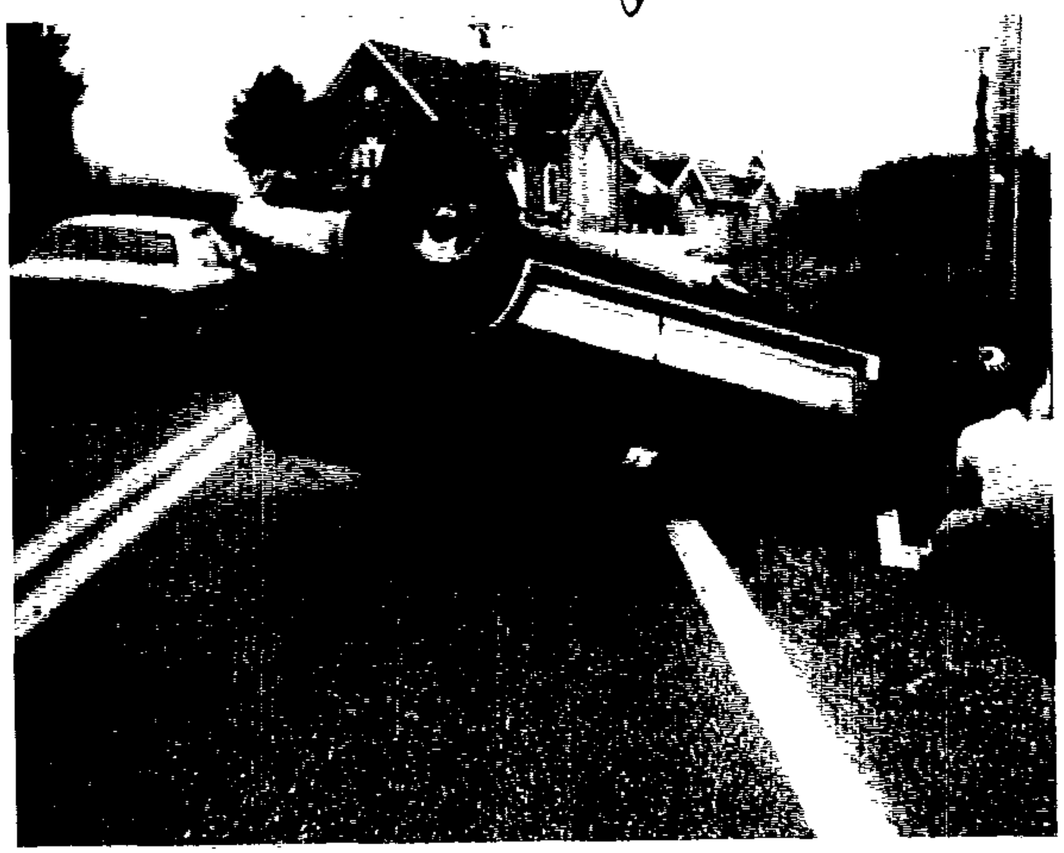
(4)

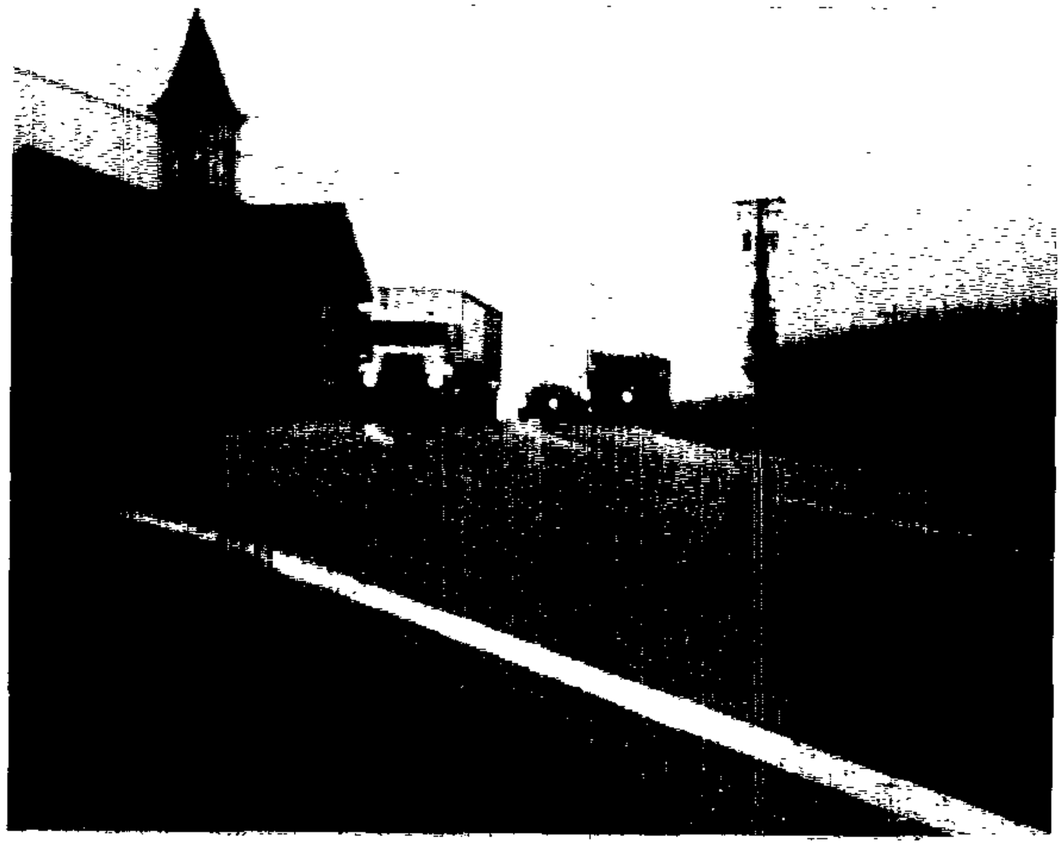
Another Truck Passes.



Emory Church Hall

Emory Church





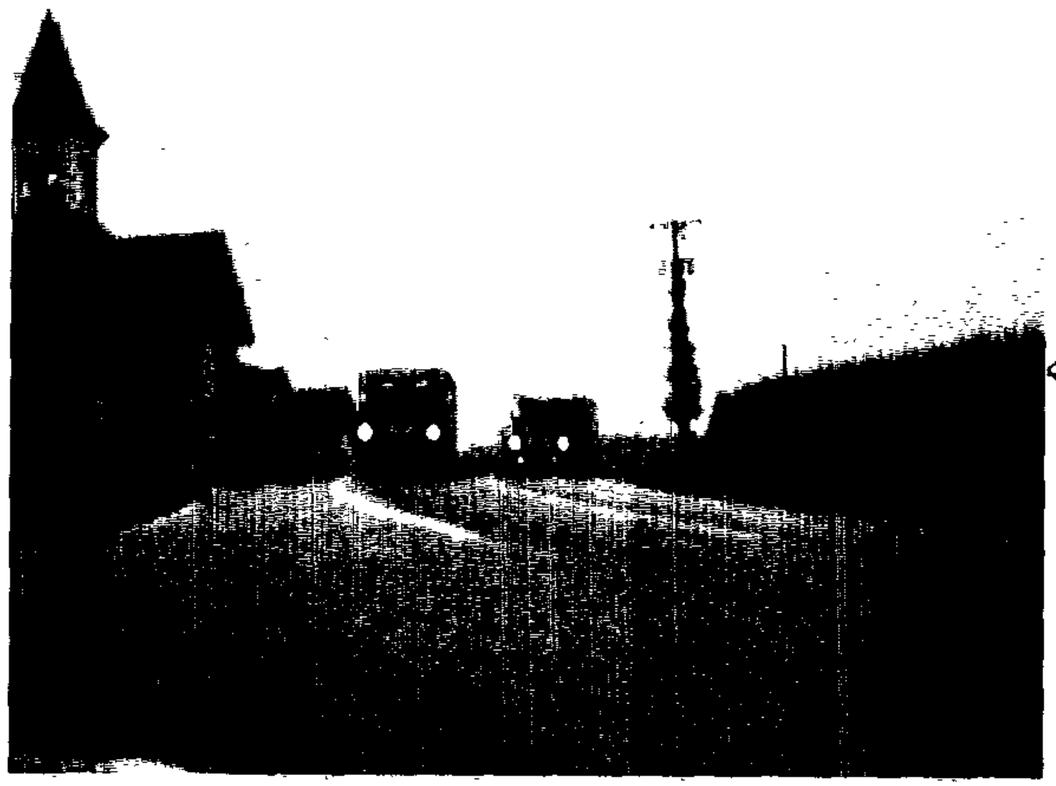
Dump truck blocks Road & turns on flashers to slow down traffic - white Tractor Trailer arrives

Proposed 2000 seat Church

Dump Truck Backs up in Opposite Lane to Alert Drivers

White Tractor Trailer arrives

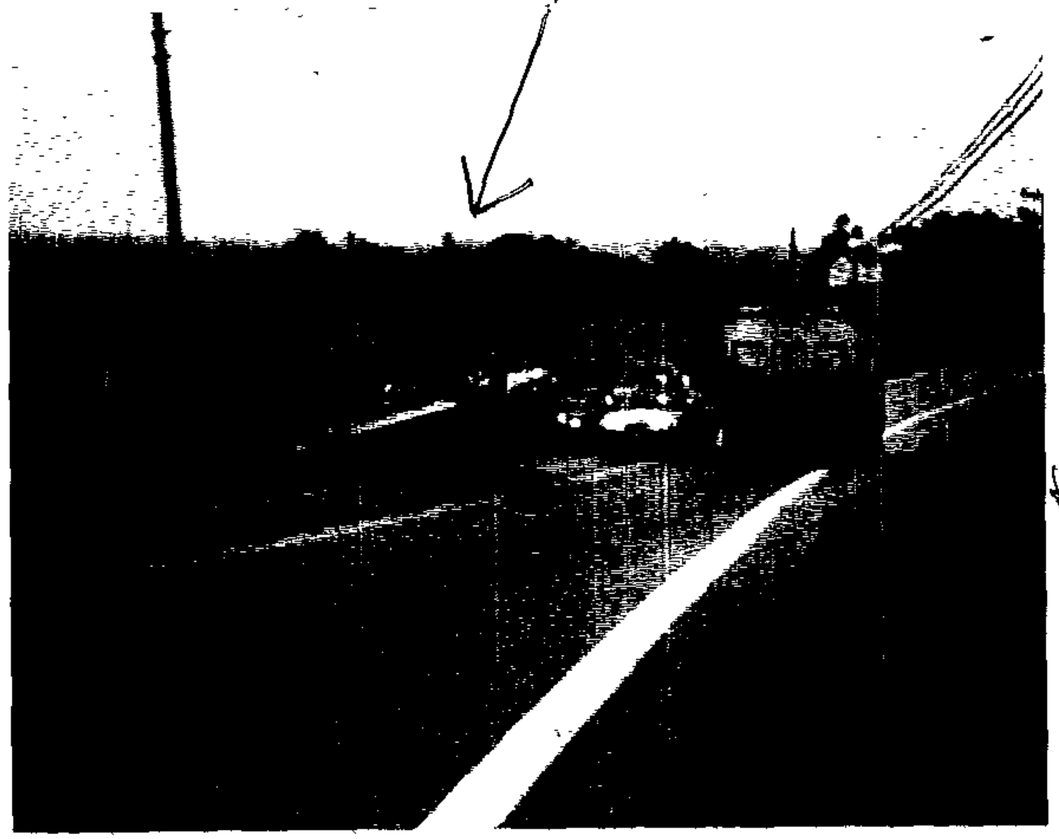




Yet another Dump Truck arrives

Proposed 2000 Seat Church

MD State Police arrive



Dump Truck Passes

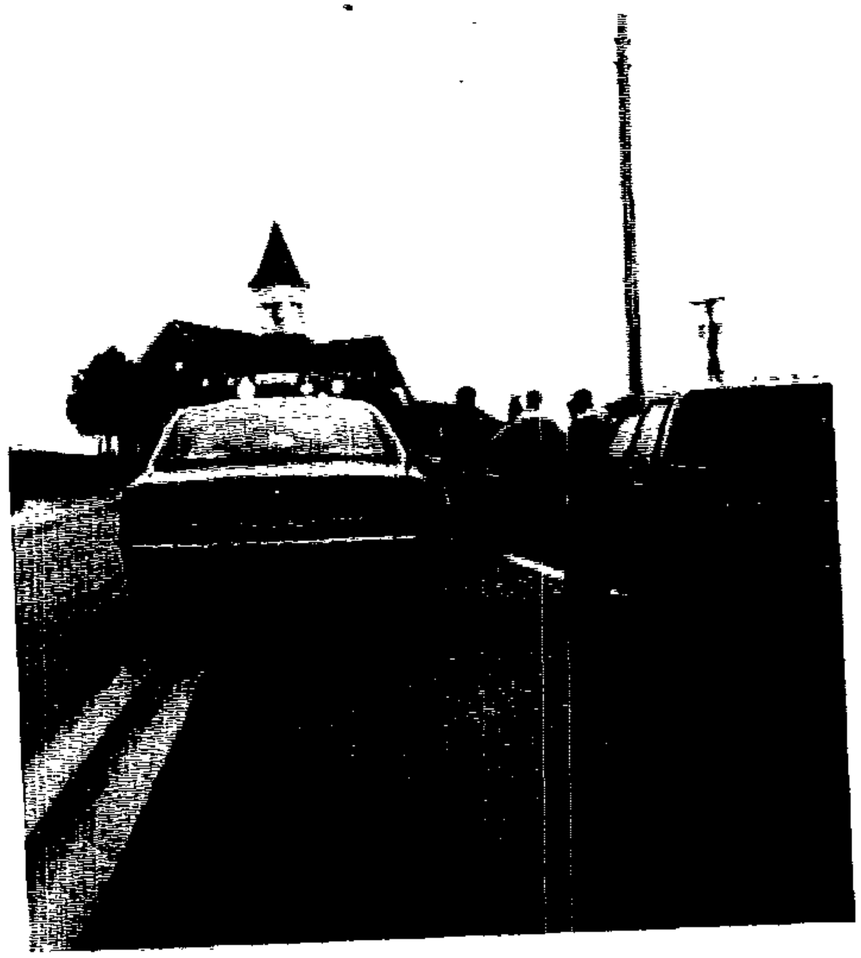
(5)



Proposed 2,000 Seat Church

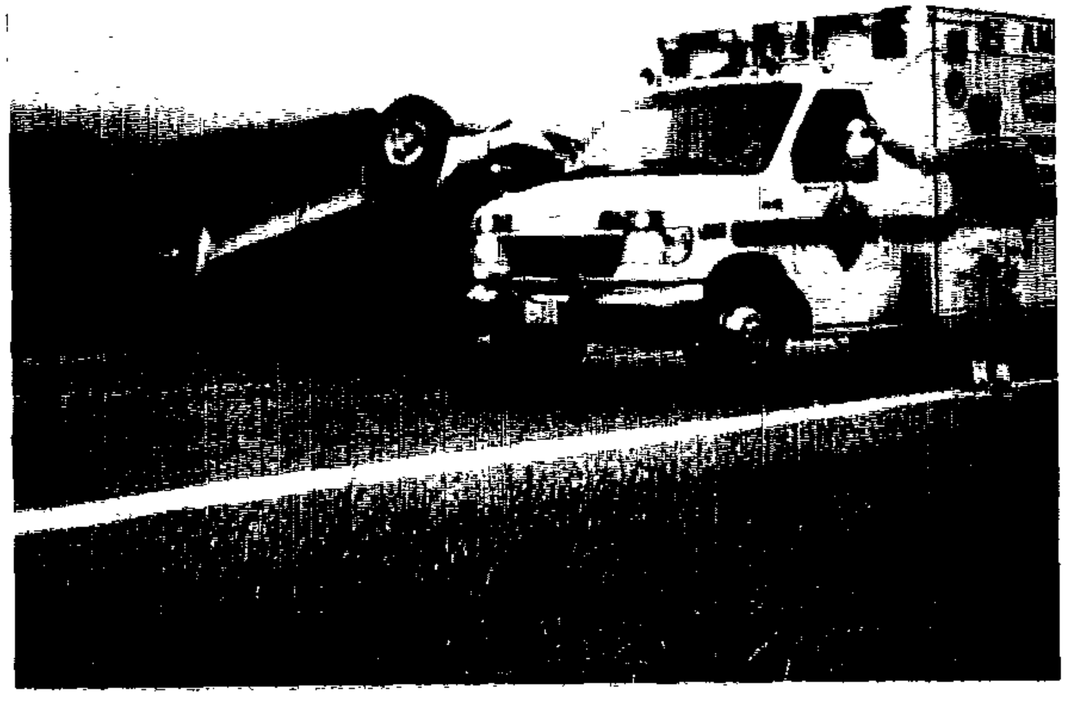


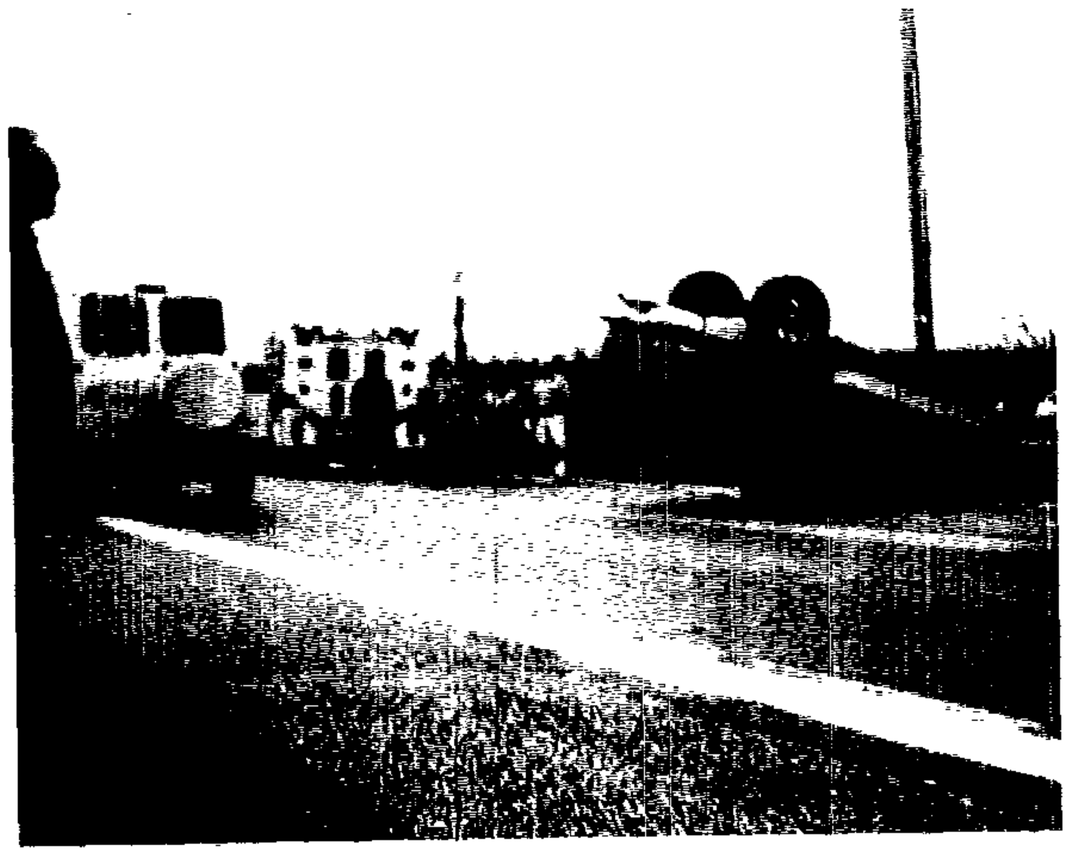
Existing Emory church



Looking North

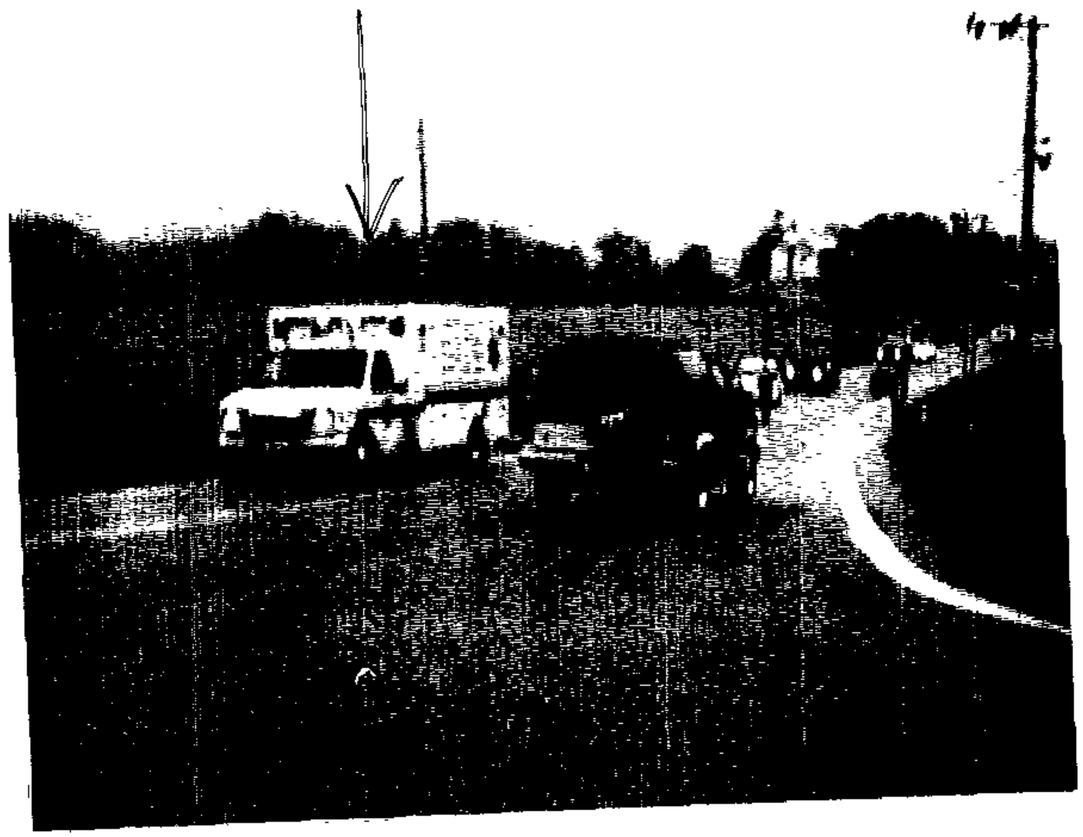
State Route 9 Venture





Proposed 2000 Seat Church

Rescue Vehicle Arrives





Baltimore Co. Police Arrive

Proposed 2000 Seat Church



Baltimore Co. Police

9

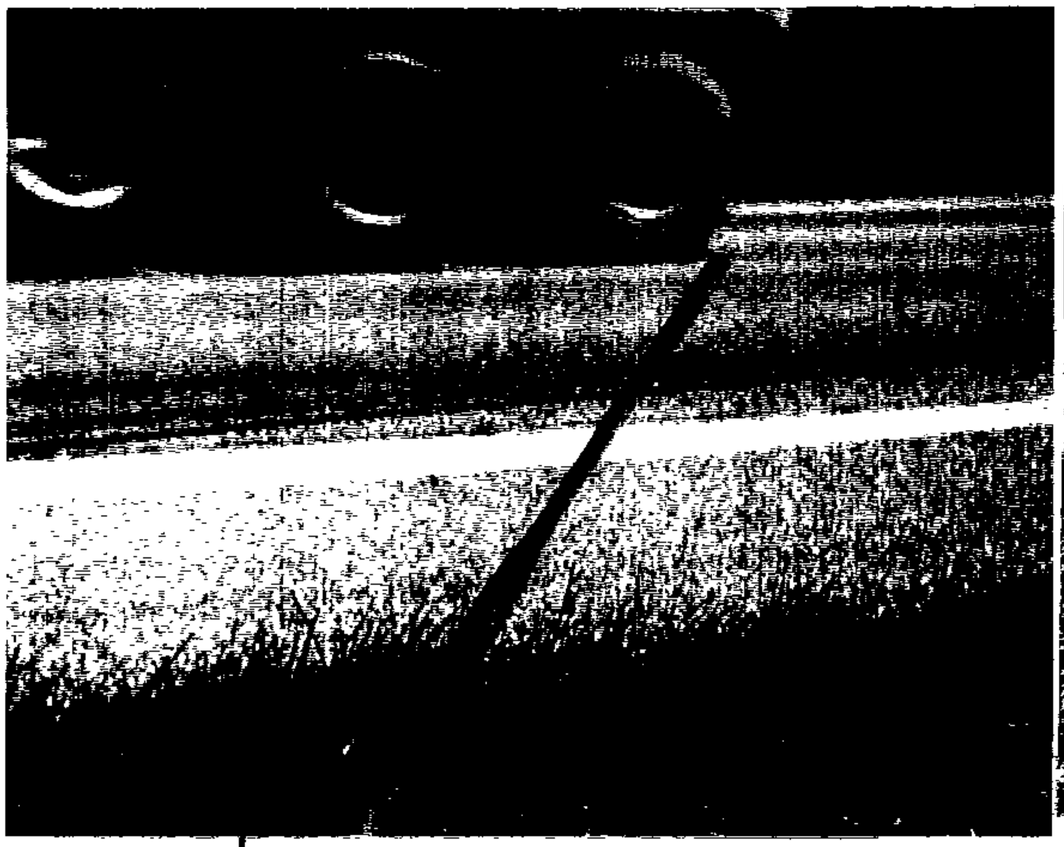
Fire Truck
Arrives
but I was out of
Film.
CZ Bad

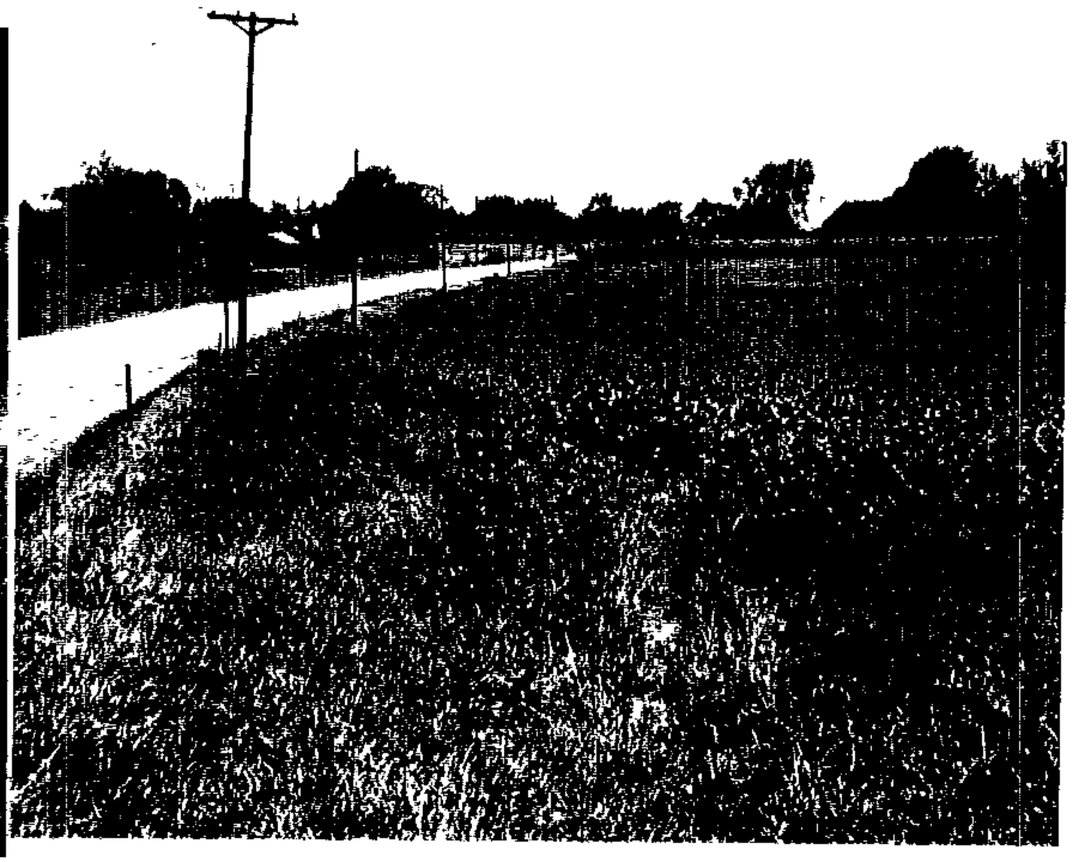
Roll Back Arrives
still
No
Film

Photo's of Accident Area after accident in early September 2000. also other Car Parts, Newly replaced stop sign.

Taken by Chris Burd 1st Week of September 2000

Protestants Exhibit #43







Accident area looking south for Corner of Emory Church Rd + 9/ Accident was in the 1st week of September between a car + flipped over truck

(3)







Accident Area looking North

Glass window where Truck flipped over.

(4)



Truck window laying on ground

Truck window, Rubber Hose, Internal Fluid Tank, Mirror, Internal Fluid Cap + Red Plastic glass found after Accident was cleaned up.





(1)

Photos showing grade along MD Route 91, along Bond Farm + Single access + Egress lane/Road for Farm agricultural work vehicles, Equipment + trucks

Protestants Exhibit #44

Pictures Taken by Chris Bond in Late Fall of 1999

(2)



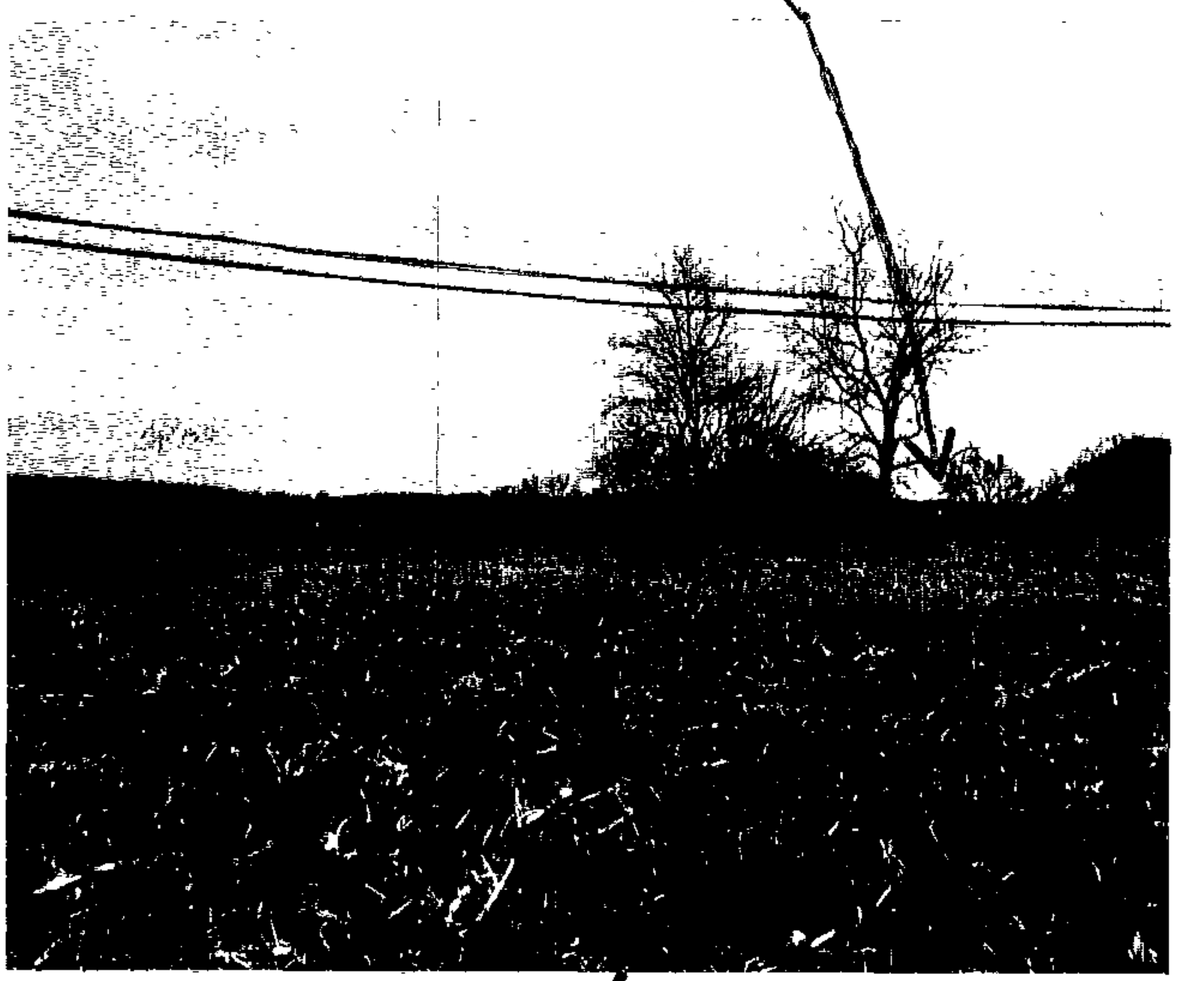
Bond Farm Property line along hay + corn field, steep bank in both directions along 91



slow grade down to level, at point of Entry

(4)





Property Corner Post at other End

House to be raised

40' wide level to grade

(5)

Corner Point of Property



Car approaching level grade



Car leaving + grade rising to another 4+ Foot Bank

Home of Chris Bond 1566 Emory Church Rd
Gpperco MD 21155

South West Corner of Emory Church Rd
← Route 91

Protestants
Exhibit
#45

Pictures Taken 1st Week of September 2000

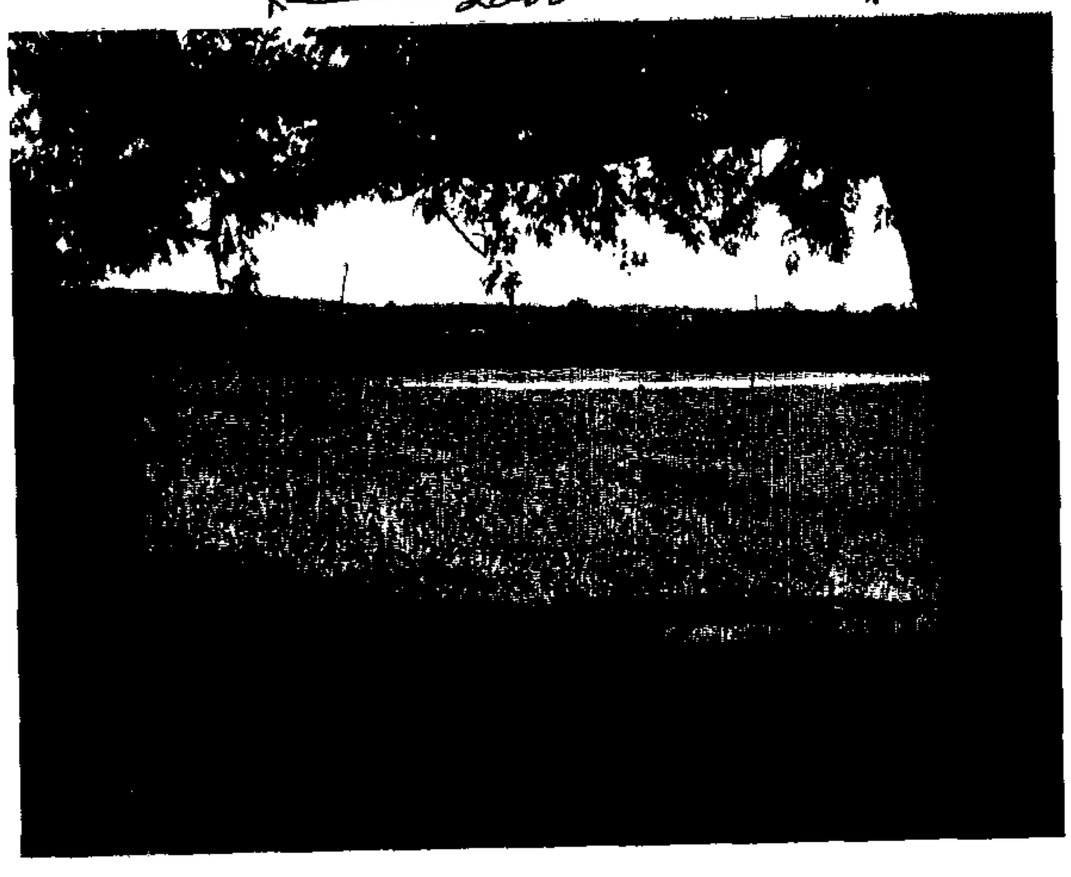
(8)



My House on the South West Corner of Emory Church + MT Gilead Rd



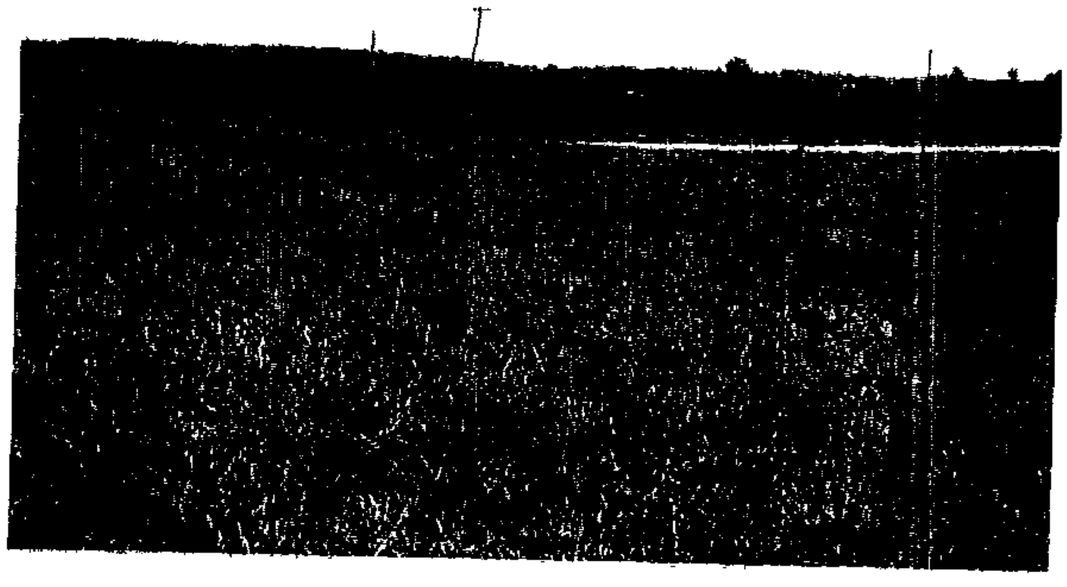
View from my Porch of Proposed Church Site





3

My view from outside with my front yard.





Maryland Department of Transportation
State Highway Administration

O. James Lighthizer
Secretary

Hal Kassoff
Administrator

PLEASE REPLY TO :
OFFICE OF DISTRICT ENGINEER
5111 BUCKEYSTOWN PIKE
FREDERICK , MARYLAND 21701-8305

March 17, 1994

Mr. Paul Hayes
5847 Mt. Gilead Road
Reisterstown, Maryland 21136

Dear Mr. Hayes:

Thank you for your telephone call to this office expressing your concerns regarding MD 91 at Mt. Gilead Road in Carroll County. You had specifically requested that the speed limit be reduced at this location because of the poor sight distance from Mt. Gilead Road.

In the past, the State Highway Administration has made improvements to the intersection by cutting back the embankment on the northeast quadrant. These improvements helped; however, minimum sight distance could not be obtained due to the existing roadway geometrics.

We certainly understand your concerns and are aware that sight distance to the north is limited when entering MD 91 from Mt. Gilead Road; however, reducing the speed limit for a sight distance problem, such as this, would be unrealistic and difficult to enforce. We believe the posted speed limit of 45 MPH is reasonable and realistic and should remain. Enclosed is a copy of "The How's and Why's of Speed Zoning" which we hope you will take the time to read. It is a very informative article which explains how speed zones are set along State highways and how reducing the speed limit is not always the answer to a specific problem. Additional traffic control measures were reviewed to help traffic navigate through this intersection.

Our review revealed that a Hazard Identification Beacon (HIB), placed along southbound MD 91 in advance of the intersection, would be desirable. This warning device would have flashing yellow lights above the curve sign, with a 35 MPH advisory speed sign beneath. Placement of this warning device should help to provide an extra awareness to approaching motorists and alert them to use caution through this area. This HIB would supplement existing chevrons and large arrow signs already in place along the curve section. Signing already in place along northbound MD 91 would remain as is.

My telephone number is _____

Maryland Relay Service for Impaired Hearing or Speech
1-800-735-2258 Statewide Toll Free

Mailing Address: P.O. Box 717 • Baltimore, MD 21203-0717
Street Address: 707 North Calvert Street • Baltimore, Maryland 21202

Protestant Exhibit #46

410 - 833 - 1598

894 - 0953 paper } Tue (45 minutes warning)

887 - 3912 work Wed

8/26/02
by S. HARMAN
Looking east from Rock Board's front yard.
View of site for proposed church

Shirlee Stevenson's house to right.

Existing house on church property to left.

26/02
S. HARMAN

Protestant Cathedral #47



MEGA CHURCH
28 Aug 00
Page 5

EMORY CHURCH ROAD — 1400' — MT GILEAD ROAD

HELEN BOND ESTATE

CURVE

816' —— 0800'

E M O R Y

1700
RONALD MARTIN

NEAR PROPOSED CHURCH ENTRANCE

1701
662' O'MALLEY

625' —— 606

R O A D

ROBERT BOND

BOND FRM 415' —— 430' 400'

CULVERT 382'

361' ——

1710
E.L. BOND, JR.

E M O R Y

20'

175' ——

1722
E.L. BOND, JR.

R O A D

120' ELSEROAD

76' ELSEROAD

0' —— 10' —— 0' BASE LINE 0'

-18 ——

MARANTO

-80' → ← HIGH POINT IN ROAD

CARROLL COMMUNITY CHURCH

POINT

DRIVEWAY LOCATIONS
EMORY ROAD FROM
MARANTO PROPERTY TO
EMORY CHURCH ROAD
= PROPERTY CORNER WITH SURVEYOR'S
= DRIVEWAY
SCALE: 1" = 100'

Protestant's Exhibit #48

Prot
49

David A. Martin, CPAg
9811 Van Buren Lane
Cockeysville, Maryland 21030
410-666-1022

EDUCATION

Virginia Polytechnic Institute and State University. Master of Science in Agronomy, 1975.

Virginia Polytechnic Institute and State University. Bachelor of Science in Agronomy, 1972.

PROFESSIONAL EXPERIENCE

1998 to Present, University of Maryland Cooperative Extension, Baltimore County Office. County Extension Director and Extension Educator.

1993 to 1999, University of Maryland Cooperative Extension, Baltimore County Office. Extension Educator.

1988 to 1993, University of Maryland Cooperative Extension, Anne Arundel County Office. Extension Agent.

1976 to 1988, Baltimore Farm Credit District Banks. Various human resource and credit related positions.

1973 to 1976, Virginia Polytechnic Institute and State University Cooperative Extension Service. Supervisor of the Extension Soil Testing Laboratory.

CERTIFICATIONS

Certified Professional Agronomist (CPAg), American Society of Agronomy.

Maryland Nutrient Management Advisor, Maryland Department of Agriculture.

Commercial Pesticide Applicator Certification (category X),
Maryland Department of Agriculture.

Protestant's
Exhibit
#49

Protestant's Exh #50

BALTIMORE COUNTY, MD
COUNTY TABLE 1. COUNTY SUMMARY HIGHLIGHTS

	1997	1992	1987
Farms (number)	781	840	917
Land in farms (acres)	75,795	83,232	92,806
Land in farms - average size of farm (acres)	97	99	101
Land in farms - median size of farm (acres)	35	N	N
Est mkt val, land & buildings@1: avg per farm (dollars)	456,780	522,026	357,755
Est mkt val, land & buildings@1: avg per acre (dollars)	4,742	5,327	3,290
Est mkt val, machinery & equipment@1: avg per farm (dollars)	48,562	35,537	37,773
Farms by size: 1 to 9 acres	124	122	147
Farms by size: 10 to 49 acres	346	340	368
Farms by size: 50 to 179 acres	225	276	293
Farms by size: 180 to 499 acres	63	78	78
Farms by size: 500 to 999 acres	13	14	20
Farms by size: 1,000 acres or more	10	10	11
Total cropland (farms)	665	731	778
Total cropland (acres)	54,361	58,567	70,063
Total cropland, harvested cropland (farms)	538	580	644
Total cropland, harvested cropland (acres)	42,430	43,796	50,714
Irrigated land (farms)	102	115	76
Irrigated land (acres)	1,188	1,083	706
Market value of agricultural products sold ($1,000)	51,179	40,611	39,750
Mkt val of agr prods sold, average per farm (dollars)	65,530	48,347	43,348
Mkt val of crops, incl nurs&grnhse crops ($1,000)	34,963	26,311	19,725
Mkt val of livestock, poultry, and their prods ($1,000)	16,216	14,300	20,025
Farms by value of sales: Less than $2,500	302	307	367
Farms by value of sales: $2,500 to $4,999	92	116	121
Farms by value of sales: $5,000 to $9,999	93	84	101
Farms by value of sales: $10,000 to $24,999	112	117	125
Farms by value of sales: $25,000 to $49,999	47	84	66
Farms by value of sales: $50,000 to $99,999	47	45	50
Farms by value of sales: $100,000 or more	88	87	87
Total farm production expenses@1 ($1,000)	38,501	35,511	31,393
Total farm prod expenses@1, avg per farm (dollars)	49,234	42,275	34,197
Net cash return, agr sales for farm unit @1 (farms)	782	840	918
Net cash return, agr sales for farm unit @1 ($1,000)	13,436	5,555	9,133
Net cash return, agr sales .. @1, avg per farm (dollars)	17,182	6,614	9,948
Operators by principal occupation: Farming	351	390	403
Operators by principal occupation: Other	430	450	514
Operators by days worked off farm: Any	434	488	540
Operators by days worked off farm: 200 days or more	303	319	378
Livestock and Poultry			
Cattle and calves inventory (farms)	231	263	324
Cattle and calves inventory (number)	9,642	12,401	14,631
Beef cows (farms)	149	158	174
Beef cows (number)	2,210	2,551	2,339
Milk cows (farms)	31	37	60
Milk cows (number)	2,865	2,903	4,317
Cattle and calves sold (farms)	216	235	308
Cattle and calves sold (number)	4,558	5,823	6,534
Hogs and pigs inventory (farms)	21	43	51
Hogs and pigs inventory (number)	2,480	4,645	3,935

BALTIMORE COUNTY, MD
COUNTY TABLE 1. COUNTY SUMMARY HIGHLIGHTS

(continued)

	1997	1992	1987
Hogs and pigs sold (farms)	13	40	51
Hogs and pigs sold (number)	2,907	10,889	6,631
Sheep and lambs inventory (farms)	45	64	54
Sheep and lambs inventory (number)	3,004	4,272	2,504
Layers >= 13 weeks old invent (farms)	44	52	90
Layers >= 13 weeks old invent (number)	D	9,827	13,493
Broilers, oth meat-type chickens sold (farms)	2	1	4
Broilers, oth meat-type chickens sold (number)	D	D	D
Selected Crops Harvested			
Corn for grain or seed (farms)	141	178	244
Corn for grain or seed (acres)	16,088	16,437	19,322
Corn for grain or seed (bushels)	1,127,175	1,906,596	1,920,672
Corn for silage or green chop (farms)	N	N	N
Corn for silage or green chop (acres)	N	N	N
Corn, silage or green chop (tons, green)	N	N	N
Sorghum for grain or seed (farms)	N	N	N
Sorghum for grain or seed (acres)	N	N	N
Sorghum for grain or seed (bushels)	N	N	N
Wheat for grain (farms)	60	55	98
Wheat for grain (acres)	2,491	1,903	3,390
Wheat for grain (bushels)	141,170	92,104	150,951
Barley for grain (farms)	32	45	75
Barley for grain (acres)	1,524	1,894	3,861
Barley for grain (bushels)	114,301	127,153	253,451
Oats for grain (farms)	N	N	N
Oats for grain (acres)	N	N	N
Oats for grain (bushels)	N	N	N
Rice (farms)	N	N	N
Rice (acres)	N	N	N
Rice (hundredweight)	N	N	N
Sunflower seed (farms)	N	N	N
Sunflower seed (acres)	N	N	N
Sunflower seed (pounds)	N	N	N
Cotton (farms)	N	N	N
Cotton (acres)	N	N	N
Cotton (bales)	N	N	N
Tobacco (farms)	-	1	-
Tobacco (acres)	-	D	-
Tobacco (pounds)	-	D	-
Soybeans for beans (farms)	70	84	81
Soybeans for beans (acres)	9,072	9,028	6,691
Soybeans for beans (bushels)	283,619	298,905	245,683
Dry edible beans, excl dry limas (farms)	N	N	N
Dry edible beans, excl dry limas (acres)	N	N	N
Dry edible beans, excl dry limas (cwt)	N	N	N
Potatoes, excl sweetpotatoes (farms)	N	N	N
Potatoes, excl sweetpotatoes (acres)	N	N	N
Potatoes, excl sweetpotatoes (cwt)	N	N	N
Sugar beets for sugar (farms)	N	N	N
Sugar beets for sugar (acres)	N	N	N
Sugar beets for sugar (tons)	N	N	N
Sugarcane for sugar (farms)	N	N	N
Sugarcane for sugar (acres)	N	N	N
Sugarcane for sugar (tons)	N	N	N

BALTIMORE COUNTY, MD

COUNTY TABLE 1. COUNTY SUMMARY HIGHLIGHTS

(continued)

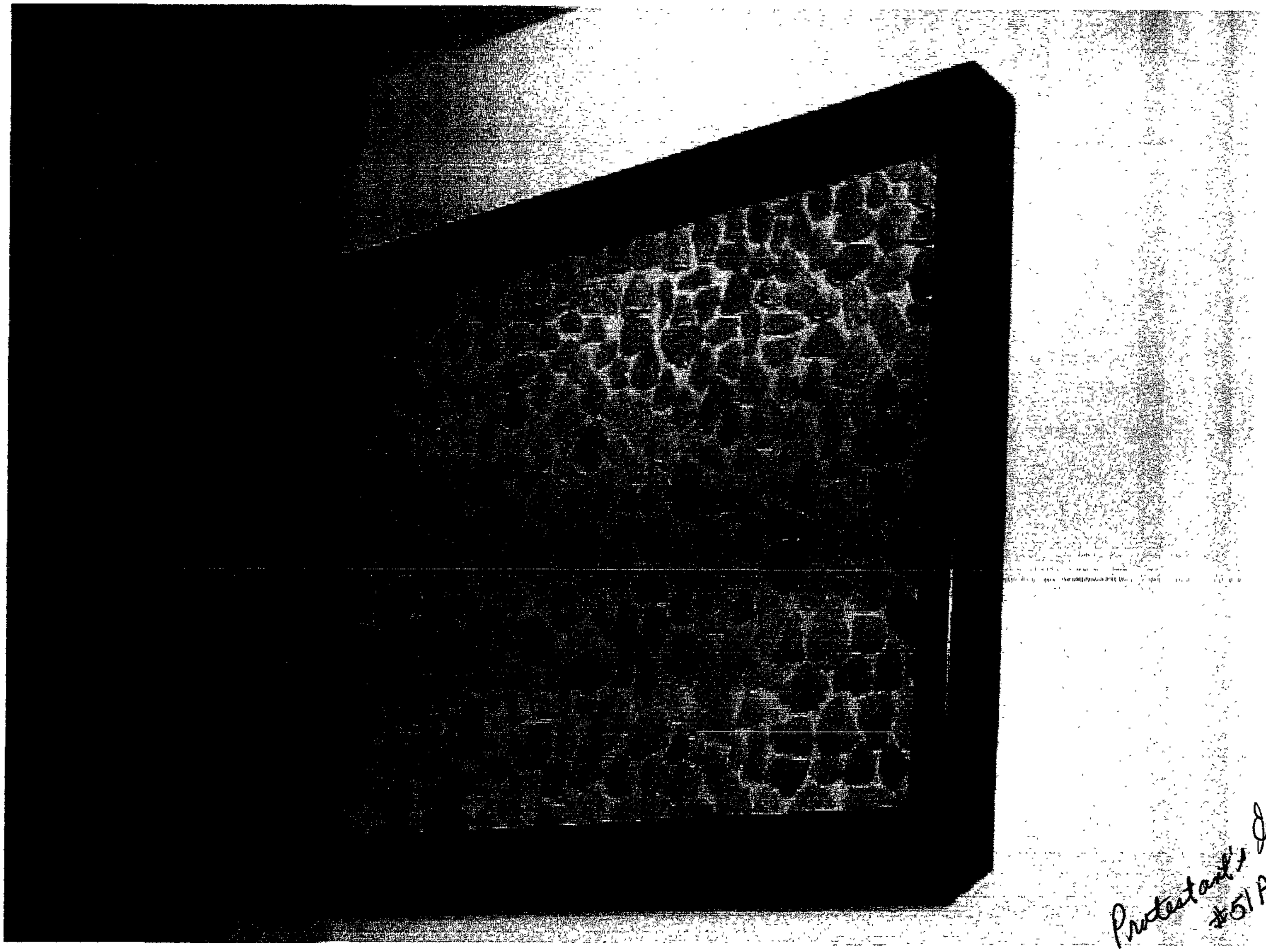
	1997	1992	1987
Pineapples harvested (farms)	N	N	N
Pineapples harvested (acres)	N	N	N
Pineapples harvested (tons)	N	N	N
Peanuts for nuts (farms)	N	N	N
Peanuts for nuts (acres)	N	N	N
Peanuts for nuts (pounds)	N	N	N
Hay-all (see text) farms)	300	309	396
Hay-all (see text) acres)	8,603	9,637	12,077
Hay-all(see text) (tons, dry)	18,053	24,127	28,854
Vegetables hvst for sale (farms)	82	126	116
Vegetables hvst for sale (acres)	2,455	3,136	3,798
Land in orchards (farms)	N	N	N
Land in orchards (acres)	N	N	N

@1Data are based on a sample of far

(-) = Represents Zero
(D) = Withheld to avoid disclosing data for individual farms
(NA) = Data not available or not published
cwt = Hundredweight

All Rhyolite artifacts.

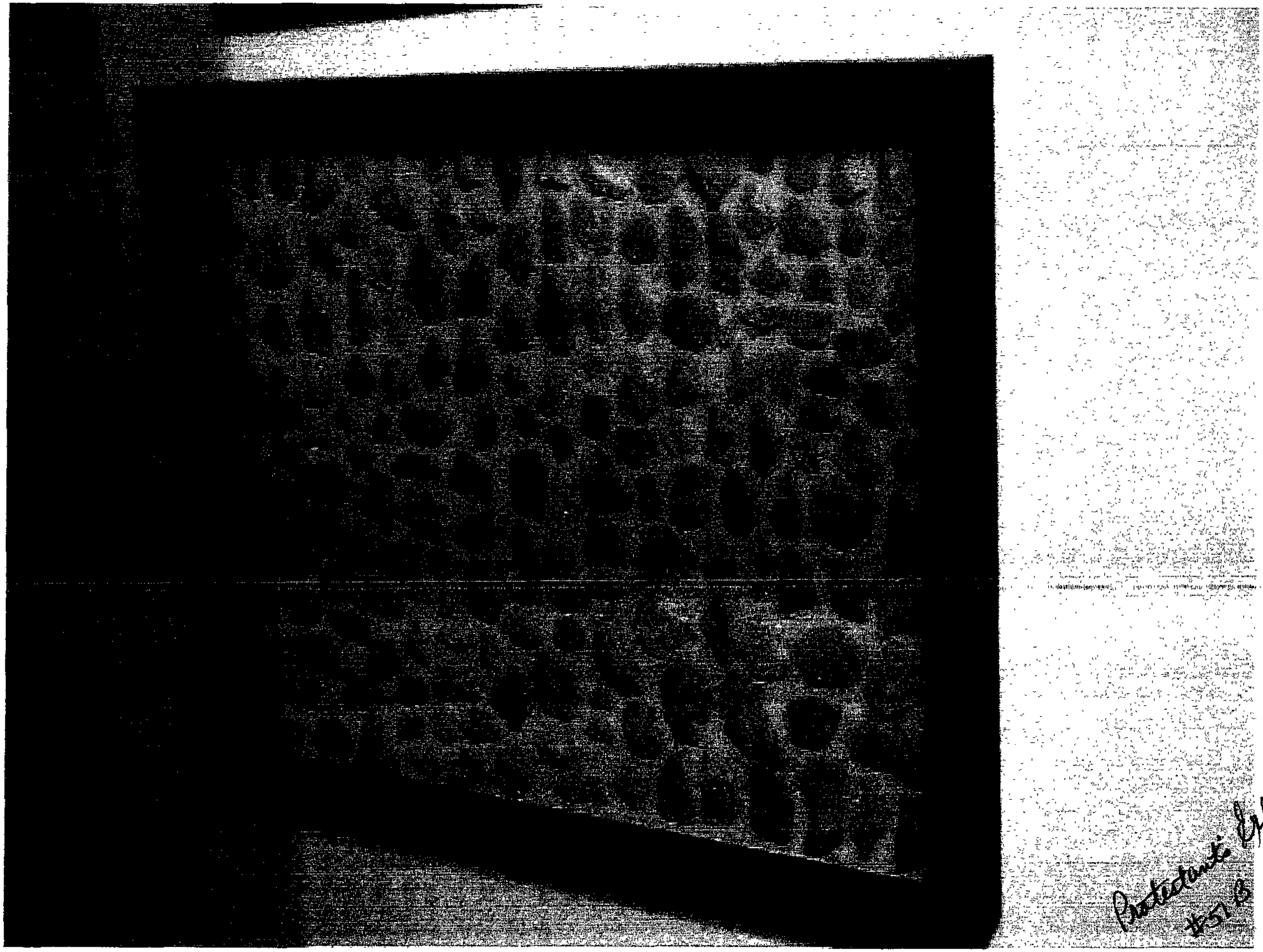
#1



Protestant Site
#61B

Mostly Rhyolite

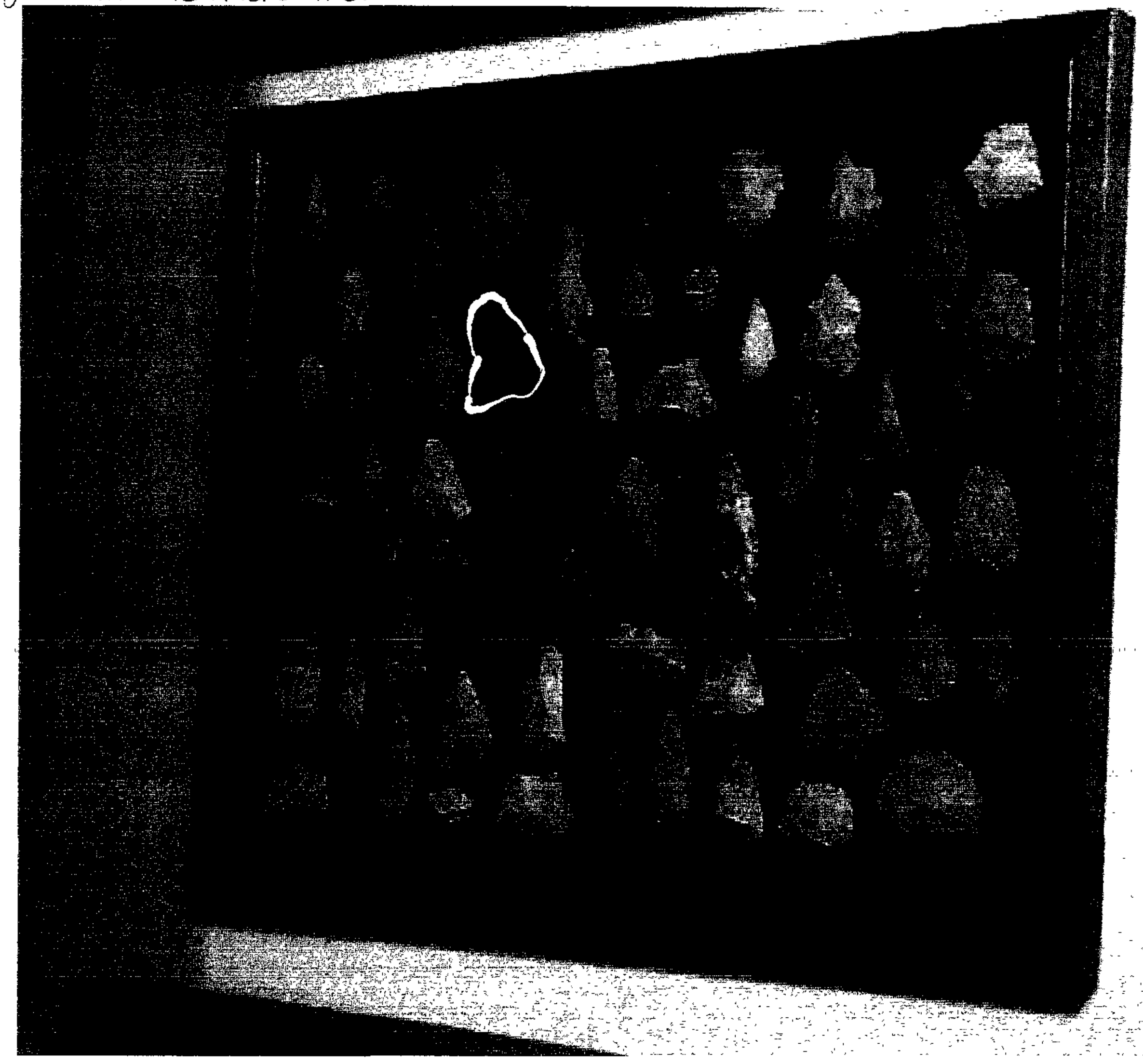
#2



Protolaurite Epiclast
#5B

#3

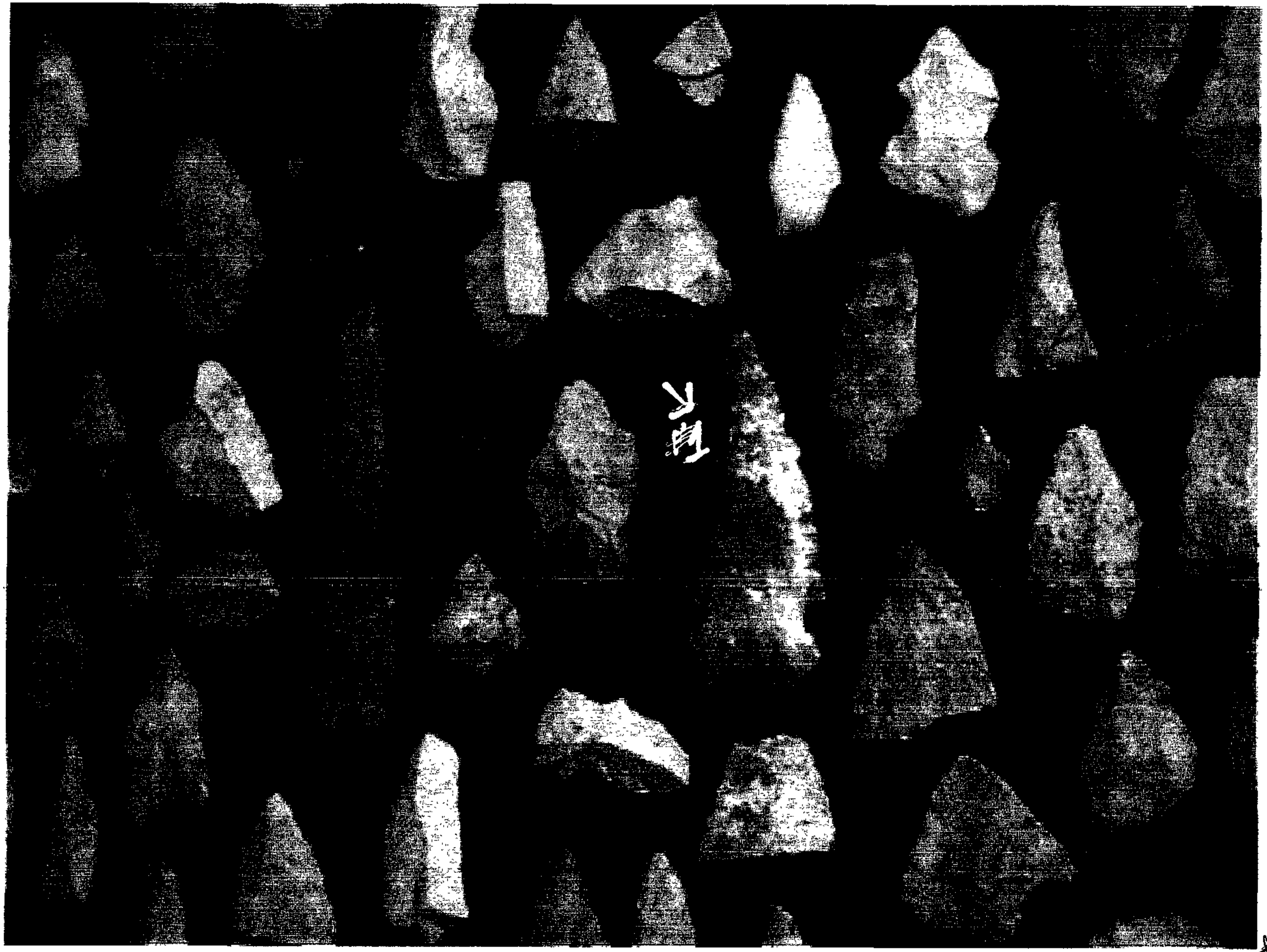
Area circled in white: These 4 arrow tips are the only ones not found in this area. The tiny size of these 4 show just how large and significant the others are.



Protestante Ephrata
#51C

#4

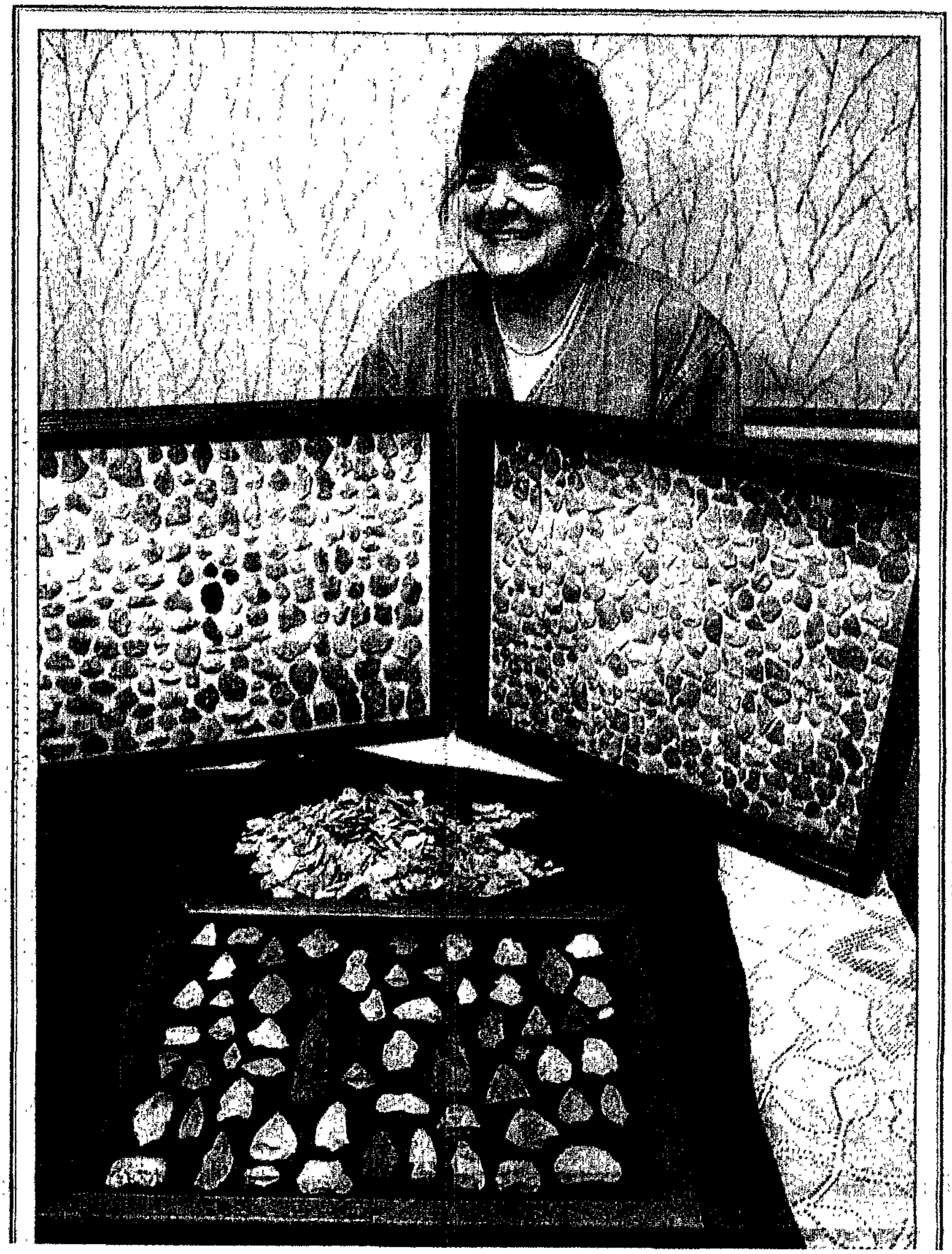
Close-up of some of the best artifacts.
#1 is possibly the oldest, dating to about 2,000 B.C./approx. 41,000 years old



Protestants
Architect
#51D

Carroll Co

Wednesday, Septembe 22 999 Westminste



Protestants Exhibit #52

HANOVER ROAD ASSOCIATION, INC.
P.O. Box 70
Boring, Maryland 21020

The undersigned hereby acknowledge and attest that on July 28, 1999 the Board of the Hanover Road Association, Inc. (HRA), a Maryland corporation, in accordance with Section 2-408 of the Maryland Corporations and Associations Code and its Charter and By-Laws, approved the Resolution set forth herein:

RESOLVED: That HRA opposes the zoning special exemption requested by the Carroll Community Church for property that it is planning to purchase at the corner of Maryland Rout 91 and Mt. Gilead Road.

AND FURTHER RESOLVED: That the Board empowers and instructs George H. Harman, S. Glen Elseroad, and George Neubeck, President, Vice President, and Zoning Committee Chair, respectively, to individually or jointly represent HRA at any hearings before the Zoning Commissioner of Baltimore County and any body of appropriate jurisdiction for any subsequent appeals. Mr. Harman, Mr. Elseroad, or Mr. Neubeck to appear at those hearings for HRA and make known the position of HRA in this matter, to wit, that:

HRA opposes the proposed special exemption that would allow the property to be used for a house of worship of the scope outlined to the HRA at a meeting in 1998 by Church representatives, and suggested in drawings presented to nearby property owners. Furthermore, George H. Harman, S. Glen Elseroad, or George Neubeck are authorized to explain or amplify as they see fit, this stated position.

AS WITNESS OUR HANDS THIS 28th day of July, 1999.

ATTEST:

The Hanover Road Association, Inc.

James Spies, Secretary

George Harman, President

RESOLVED, that at this first meeting of HRA of 1999, that the responsibility for review and recommend action on all zoning and development matters is hereby placed on the President, Vice President, and Zoning Committee Chair as elected, or duly appointed.

WITNESS OUR HANDS AND SEALS THIS 15th day of July, 1999.

ATTEST: Hanover Road Association, Inc.

James Spies, Secretary

George Harman, President

Protestants
Exhibit
#54

REISTERSTOWN-OWINGS MILLS-GLYNDON COORDINATING COUNCIL, INC.
P.O. Box 117
Reisterstown, Maryland 21136

The undersigned hereby acknowledge and attest that on August 2, 1999 and June 5, 2000 the members of the Reisterstown-Owings Mills-Glyndon Coordinating Council, Inc. (ROG), a Maryland corporation, in accordance with Section 2-408 of the Maryland Corporations and Associations Code and its Charter and By-Laws, approved the Resolution set forth herein:

RESOLVED: That ROG agrees to support the Hanover Road Association, Inc. in opposing the zoning special exemption requested by the Carroll Community Church for property that it is planning to purchase at the corner of Maryland Rout 91 and Mt. Gilead Road.

AND FURTHER RESOLVED: That the members empower and instruct Calvin Reter, Phyllis Bloom, or Robert Sellers, President, 1st Vice President, and Zoning Committee Chair, respectively, to individually or jointly represent ROG at a hearing before the County Board of Appeals of Baltimore County scheduled for June 20 and 21, 2000; August 22 and 23, 2000; and October 18 and 19, 2000. Mr. Reter, Ms. Bloom, or Mr. Sellers to appear at that hearing for ROG, or to provide written testimony, to make known to the County Board of Appeals the position of ROG in this matter, to wit, that:

ROG supports the Hanover Road Association, Inc. in opposing the proposed special exemption that would allow the property to be used for a house of worship of the scope outlined by church representatives at the May 22, 2000 Community Input Meeting. Furthermore, Calvin Reter, Phyllis Bloom, or Robert Sellers are authorized to explain or amplify as they see fit, this stated position.

AS WITNESS OUR HANDS THIS 10 day of July 10, 2000.

ATTEST:

Reisterstown-Owings Mills-Glyndon Coordinating Council, Inc.

Sue Kessler, Secretary

Calvin Reter, President

RESOLVED, that at the first meeting of ROG of 2000, that the responsibility for review and recommend action on all zoning and development matters is hereby placed on the President, Vice President, and Zoning Committee Chair as elected, or duly appointed.

WITNESS OUR HANDS AND SEALS THIS_____day of July, 2000.

ATTEST:

Reisterstown-Owings Mills-Glyndon Coordinating Council, Inc.

Sue Kessler, Secretary

Calvin Reter, President

Protestant's Exhibit #55

Résumé

George H. Harman

5429 Weywood Drive
Reisterstown, Maryland 21136
410-526-2494 (home)
410-631-3856 (work)
harmangeorge@hotmail.com
gharman@mde.state.md.us

Employment:

1996 to Present
Program Manager
(1) Emergency Operations
(2) Environmental Planning and Analysis

State of Maryland
Dept. of the Environment
2500 Broening Highway
Baltimore, MD 21224

This position initially managed the Department's emergency planning and response programs and in 1999 was asked to oversee the Environmental Planning and Analysis unit. This position has managed between 15 and 25 professionals and an operating budget of over $1.5 million, with an additional $1 million in annual capital expenditures. Specific programs managed include: flood management, chemical right-to-know, oil and chemical spill response, noise control, fish kill investigation, nuclear emergency planning, dredging assessment, Public Information Act (state FOIA), and Chesapeake Bay Program coordination.

1995 to 1996
Program Manager

State of Maryland
Department of Natural Resources
Tawes State Office Bldg.
Annapolis, MD 21401

This position was responsible for the creation and management (Executive Secretary) of the Maryland Water Monitoring Council, an organization dedicated to the establishment of enhanced coordination and cooperation in the monitoring of the State's varied water resources. Responsibilities also included the establishment of an incentive program to promote environmental stewardship at marinas, and it also served as the coordinator for Project Wet, an educational outreach program that provided teachers with lesson plan concepts in water resource protection.

1980 - 1995
Program Administrator

State of Maryland
Department of the Environment
2500 Broening Highway
Baltimore, Maryland 21224

Functions of this position involved the management of a staff of 25 to 35 professionals with an annual operating budget exceeding $2 million. Programs managed included: aquatic toxicity testing laboratory, PCB and asbestos inspection and enforcement, Maryland and federal chemical right-to-know programs, Maryland Cancer Registry, State Toxic Chemical Registry, radioactive materials transportation, hazardous materials transportation enforcement & training, library services, Coastal Zone Management program coordination. Functions included the drafting of laws and regulations. Assignments in this position included: Member, Chesapeake Bay Program Toxics Committee; Chair, USDOT's NE Hazardous Materials Enforcement Council; Member, Commercial Vehicle Safety Alliance; Committee Chair, Governor's Task Force on Motor Carriers; State Emergency Response Commission's Training Committee; Department Representative, Governor's Pesticide Council; Chair, Department's Institutional Review Board; department representative on the Coastal and Watershed Resources Advisory Committee.

Protestant Exhibit #56

1973 - 1980
Natural Resources Biologist

State of Maryland
Dept. of Natural Resources
Water Resources Administration

Designed and implemented water quality studies to assess ambient water trends and point source discharge effects. Biological monitoring programs included plankton, macroinvertebrate, and fish community structure evaluations. Fish tissue contaminant monitoring was also conducted. Environmental assessments included studies of dredged spoil disposal options, effects landfill leachate, and thermal discharges.

Other Positions:

1971 - 1973 Biology/Science Teacher, Baltimore City
1965 - 1968 Computer Operator, National Security Agency
1964 - 1965 Trust Clerk, Mercantile-Safe Deposit & Trust
1962 - 1964 Signal Analyst, U.S. Army Security Agency

Selected Publications and Reports:

Sewage Sludge Utilization
Maryland's Surface Water Sensitivity to Acid Deposition
PCB Contamination of Maryland Finfish
Patuxent River Benthic Macroinvertebrate Fauna
Transportation of Radioactive Materials in Maryland
Impact of Dredged Spoil Disposal
Water Quality Conditions of Severn Run
Benthic Macroinvertebrates of the Freshwater Potomac
Greenbriar Lake - Impact of Drawdown

Education:

1972 - 1977 Towson State University, Graduate Work (all but thesis for MS degree)
1969 - 1971 Towson State University, BS General Biology
1966 - 1969 Catonsville Community College. AA Degree

Additional training and college courses since 1977 include: education psychology, special education, statistics, sludge management, nuclear release modeling, flood management, and hazardous materials technician.

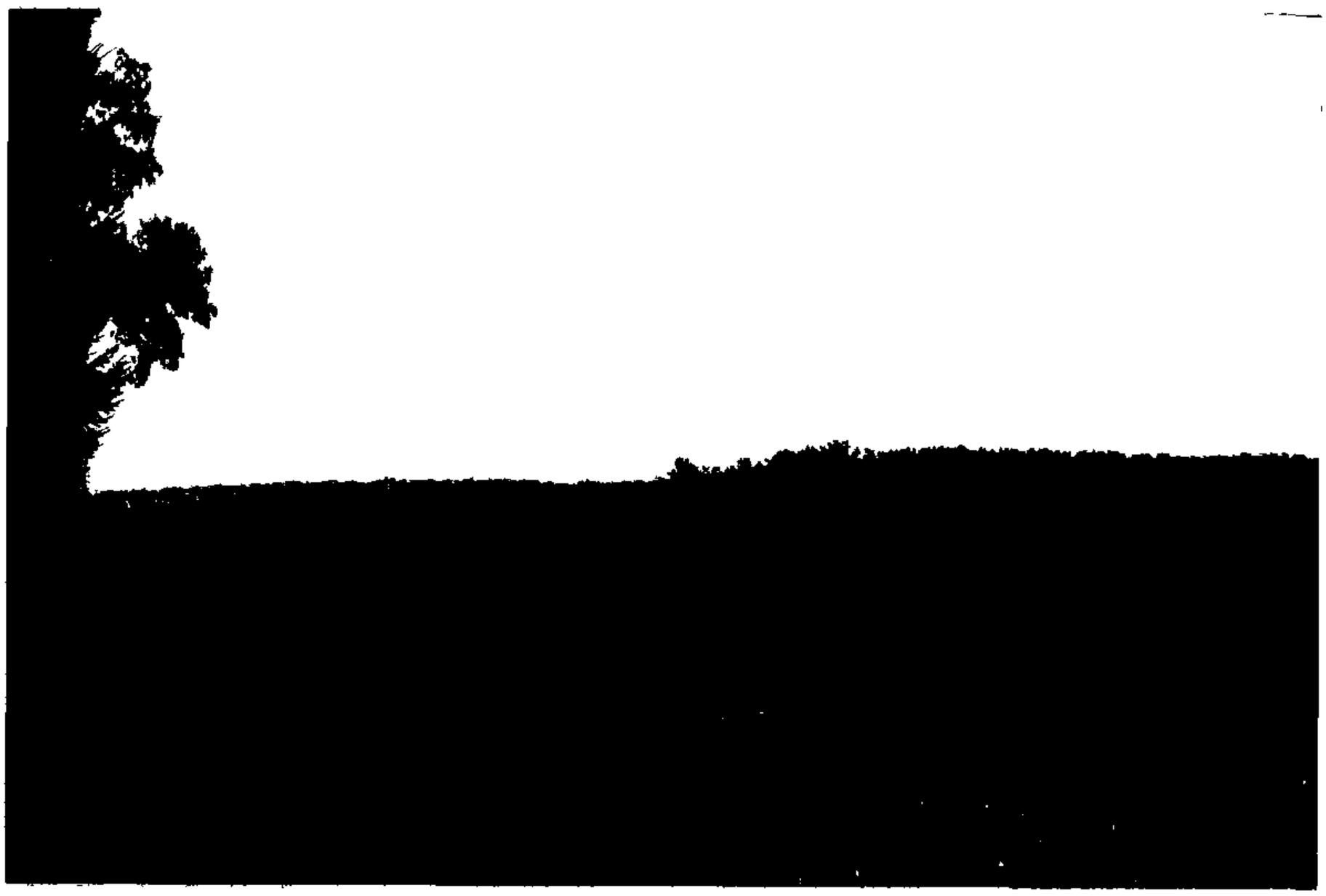
Computer skills:

Microsoft Office 97 (Word, Excel, Access, Power Point), Word Perfect, Lotus, Dbase, Quatro Pro

Protestant
Exhibit
#56

8/26/00
by G. HARMAN
looking SE over rear field of church
from Mel Fair's home

Protestant
Methodist
#53



Hanover Road Association

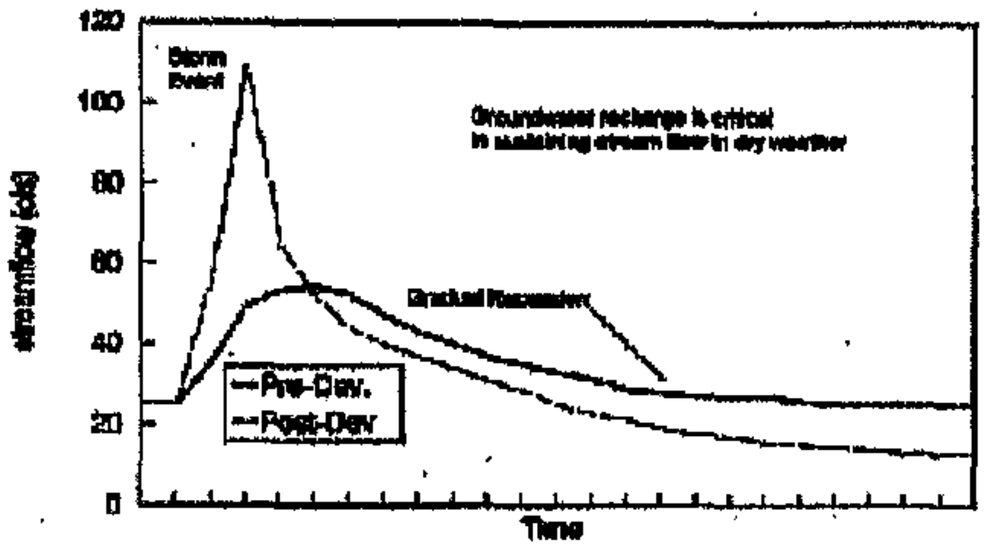
Church Survey Contact Information

Church	Hanover Road Surveyor	Church Contact	Authority for Measurement
Boring United Methodist	Norma Allman	Ivan & Nellie Cole - trustee	Ivan Cole
Christ Luthern	Robert Walker	no contact	Robert Walker
Emory United Methodist	Robert Walker	Donna Lyon, Secretary	Robert Walker
Grace United Methodist	Norma Allman	Mary Ruth Cavey	Robert Walker & Mary Ruth Cavey
Mt. Zion United Methodist (Upperco)	Norma Allman	Pastor Brown/Whale	Norma Allman
St. Paul Lutheran	Norma Allman	Pastor Melstrick	Jim Spies & Pastor Melstrick
Adat Chaim	Robert Walker	Rabbi Aaron Gaber	Robert Walker
All Saints Episcopal	Jeanne Morrill	Mrs. Selma Mack	Mrs. Mack & Norma Allman
Baltimore County Baptist	Carol Isaac	The Secretary	Carol Isaac
Covenant of Grace	Carol Isaac	Bob Robertson, trustee	Carol Isaac
Mt. Gilead Methodist	Bert Wilhelm	Bert Wilhelm	Bert Wilhelm
Northminster Presbyterian	Carol Isaac	Secretary	Carol Isaac
Northwest Baptist	Carol Isaac	Pastor Grant	Carol Isaac
Piney Grove United Methodist	Norma Allman & R. Walker	Rosita Johnson	Robert Walker
Pleasant Grove United Methodist	Norma Allman & R. Walker	Peggy Ayres, Secretary	Robert Walker
Reisterstown United Methodist	Carol Isaac	Robert Seiline, trustee	Robert Seiline & Carol Isaac
Reisterstown Church of the Brethern	Norma Allman & R. Walker	Shirley Barley, pastor	Robert Walker
Reisterstown Baptist	Carol Isaac	Secretary	Carol Isaac
Reisterstown 7th Day Adventist	Jim Spies	Bob Shaffer	Jim Spies
Reisterstown Bible Church	Carol Isaac	secretary	Carol Isaac
St. Luke's United Methodist	Norma Allman	Otho Dutton	Norma Allman
Tempel Emanuel	Norma Allman	Andy Garoud, Exec. Dir.	
Trinity Lutheran	Norma Allman & R. Walker	Betty Hollenbaugh, past Sec.	Robert Walker
Faith Baptist	Norma Allman	pastor	Jim Spies
Hampstead Baptist		no contact	
Hampstead Church of Jesus Christ LDS	George Harman	George Harman	George Harman
Hampstead Pentecostal	Norma Allman & J. Spies	no contact	Jim Spies
Shiloh United Methodist	Norma Allman	Mrs. Richard Brown-Whale, pastor	Jim Spies
St. George's Epiccopal		no contact	
St. John's United Methodist	Norma Allman	Elaine Brightenbok, Sec. & J. Haine	Norma Allman & Jim Spies
St. Mark's Lutheran	Norma Allman	Secretary	Norma Allman & Jim Spies
St. Mark's Union		no contact	
Wesley United Methodist	Norma Allman	Jeff Odom, pastor	parking by pastor
Glyndon United Mehodist	Norma Allman	Pat McKinley, Sec. Charles Bradley	Charles Bradley, trustee
Sacred Heart Catholic	Noel Cervino	Father Aiken	Father Aiken & Noel Cervino
St. John's Episcopal	Carol Isaac	secretary	Carol Isaac
Carrollton Church of God	Robert Walker	no contact	Robert Walker
Cedarhurst Unitarian	Robert Walker	no contact	Robert Walker
Christian Revival Church	Robert Walker	no contact	Robert Walker
Deer Park Bible	Robert Walker	Rev Cartwright	Robert Walker
Mt. Zion United Methodist		no contact	
Sandymount United Methodist		no contact	

Survey commissioned by George Harman, President Hanover Road Association, Data assembled by Norma Allman, Table prepared by George Harman, October 2000

Protestant's Exhibit #57

Decline in Streamflow Due to Diminished Groundwater Recharge



An increase in impervious surface coverage often decreases the amount of rainfall available for infiltration. Without infiltration, the groundwater will not be recharged and the stream will lose this potential source of water, thus low flows tend to be even lower in urbanized watersheds.

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Slide 14 of 75

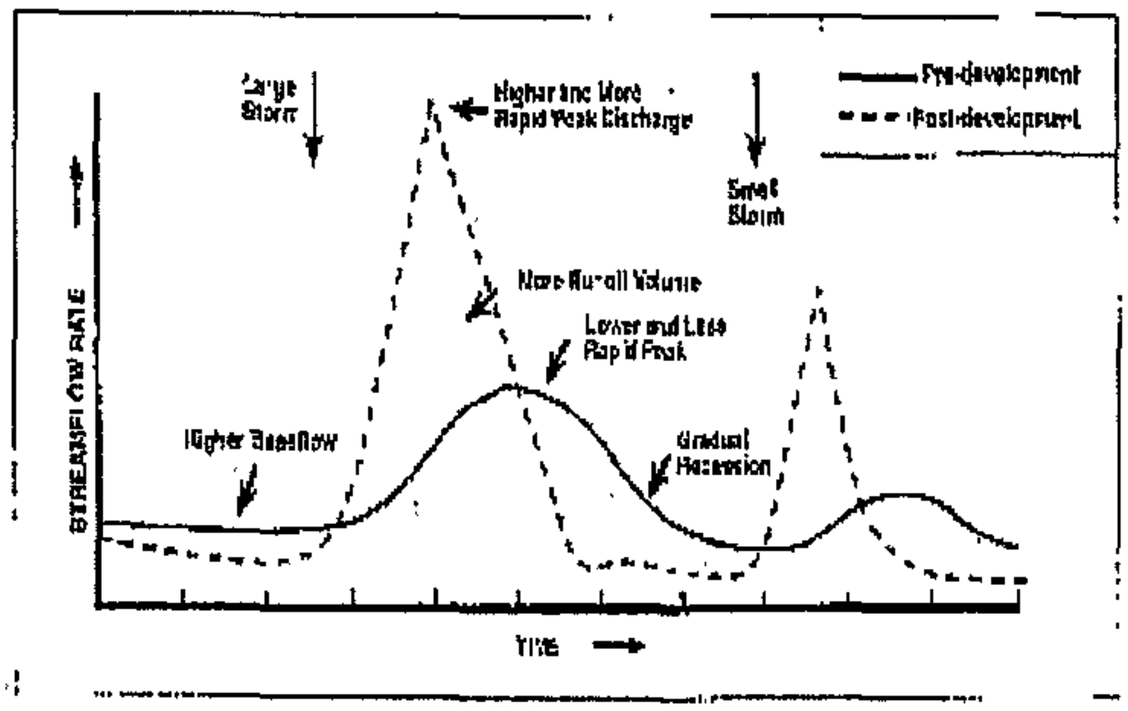
Notes:

The hydrologic impact of urbanization is not limited to storm events. During dry weather periods, urban streams tend to have less flow because groundwater recharge and stormwater infiltration has been diminished. While streams that have never been developed retain their flow during dry weather conditions, many urban streams lack the baseflow necessary to sustain healthy habitat conditions during extended periods of dry weather.

An increase in impervious surface often decreases the amount of rainfall available for infiltration. Without infiltration, the groundwater will not be recharged and the stream will lose this potential source of water, thus low flows tend to be lower in urbanized watersheds.

ID only
Protestant's Exhibit #58

This graph illustrates the effects of urbanization on hydrograph peak discharge. In pre-developed conditions, flow gradually increases to a relatively flat peak and gradually descends to a low flow condition. In the urbanized condition, flow rapidly increases to a peak and just as sharply descends, often to a lower flow condition than pre-development.



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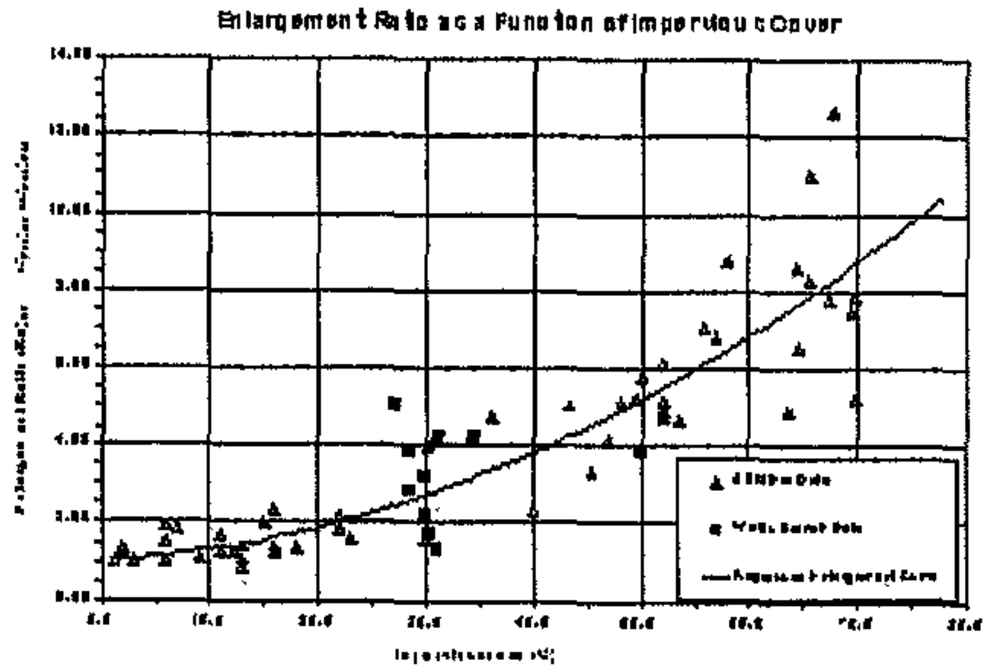
Slide 11 of 75

Notes:

Consequently, the peak discharge of urban streams is higher and occurs sooner than in streams with pre-development conditions.

This slide illustrates the effect of urbanization on hydrograph peak discharge. Under pre-developed conditions, flow gradually increases to a relatively flat peak and gradually descends to a low flow condition. In the urbanized condition, flow rapidly increases to a peak and just as sharply descends, often to a low flow condition less than the pre-development condition.

Channel Enlargement as a Function of Impervious Cover



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Notes:

This graph shows the positively correlated relationship between impervious cover and channel the enlargement ratio.

In watersheds with less than 5% impervious cover, streams are typically stable and pristine, maintaining good pool and riffle structure, a large, wetted perimeter during low flow, and a good riparian canopy coverage.



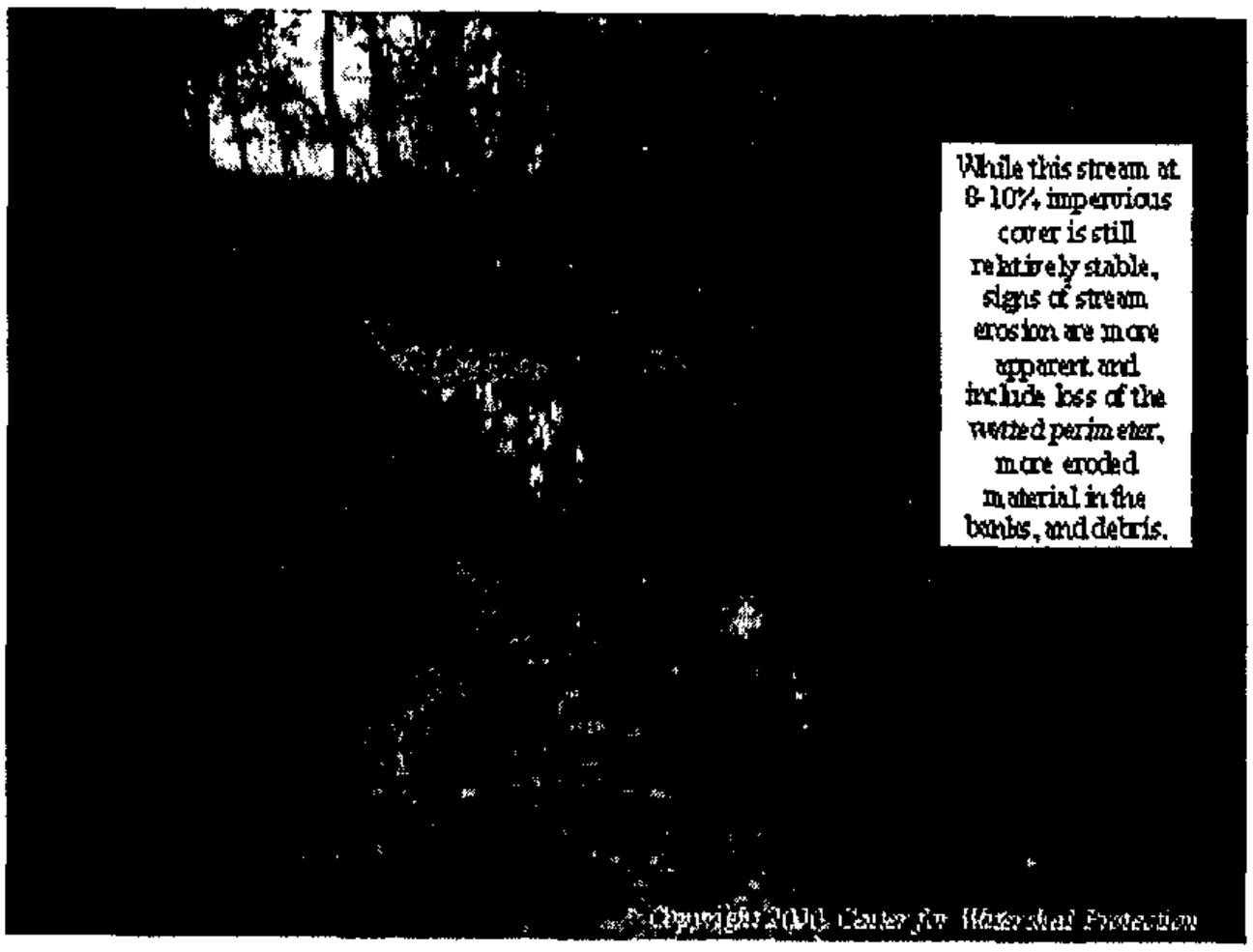


Slide 17 of 75

Notes:

Generally, most urban streams begin to enlarge as impervious cover exceeds 10% in the watershed. This finding has been discovered in various places like Puget Sound, Washington; Austin, Texas; and Vermont. The enlargement process may take up to 50 years to fully occur, but urban streams with more than 10% impervious cover are characterized by various degrees of stream enlargement and widening, erosion, downcutting, decreased channel stability, and embeddedness.

The Maryland Piedmont presents numerous examples of the different ranges of the enlargement process. An undeveloped watershed with less than 5% impervious cover is characterized by excellent stream conditions— good riparian cover, high quality substrate, and wetted perimeter during low flow conditions.

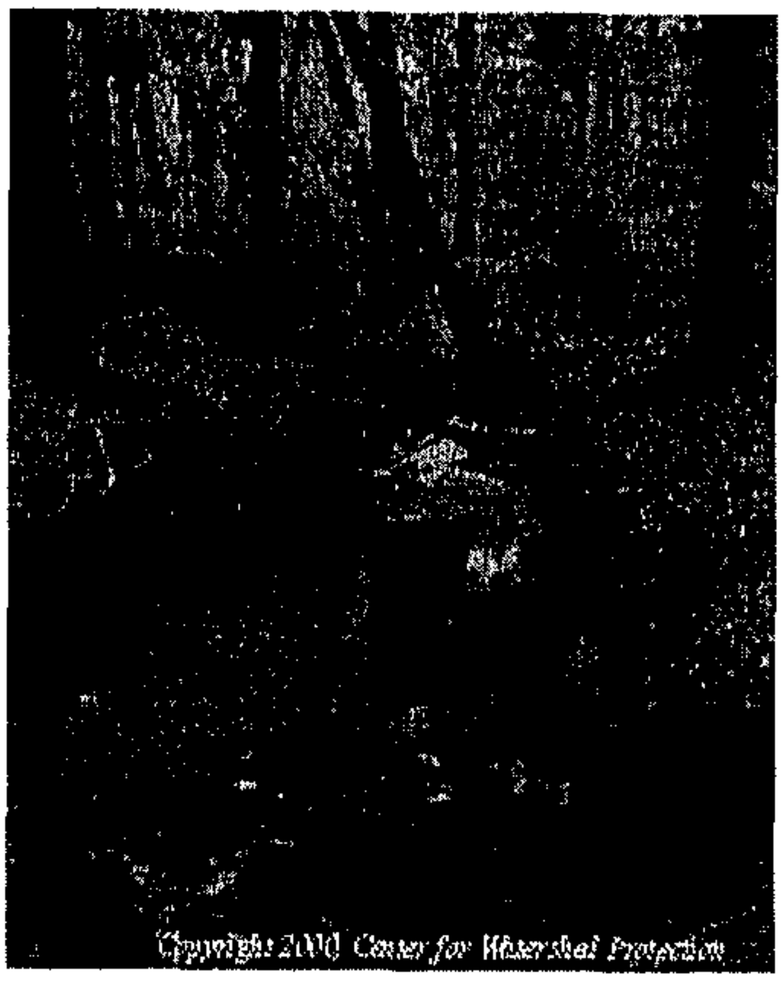


Slide 18 of 75

Notes:

At 8%-10% impervious cover, while the stream is still relatively stable, changes in the stream shape become more visible. Signs of stream erosion, loss of the wetted perimeter, more eroded material in the banks, and debris become more evident.

At 10% impervious cover, the stream is slightly more visibly impacted. The stream shown here has approximately doubled its original size, tree roots are exposed, and the pool and riffle structure seen in sensitive streams is lost.

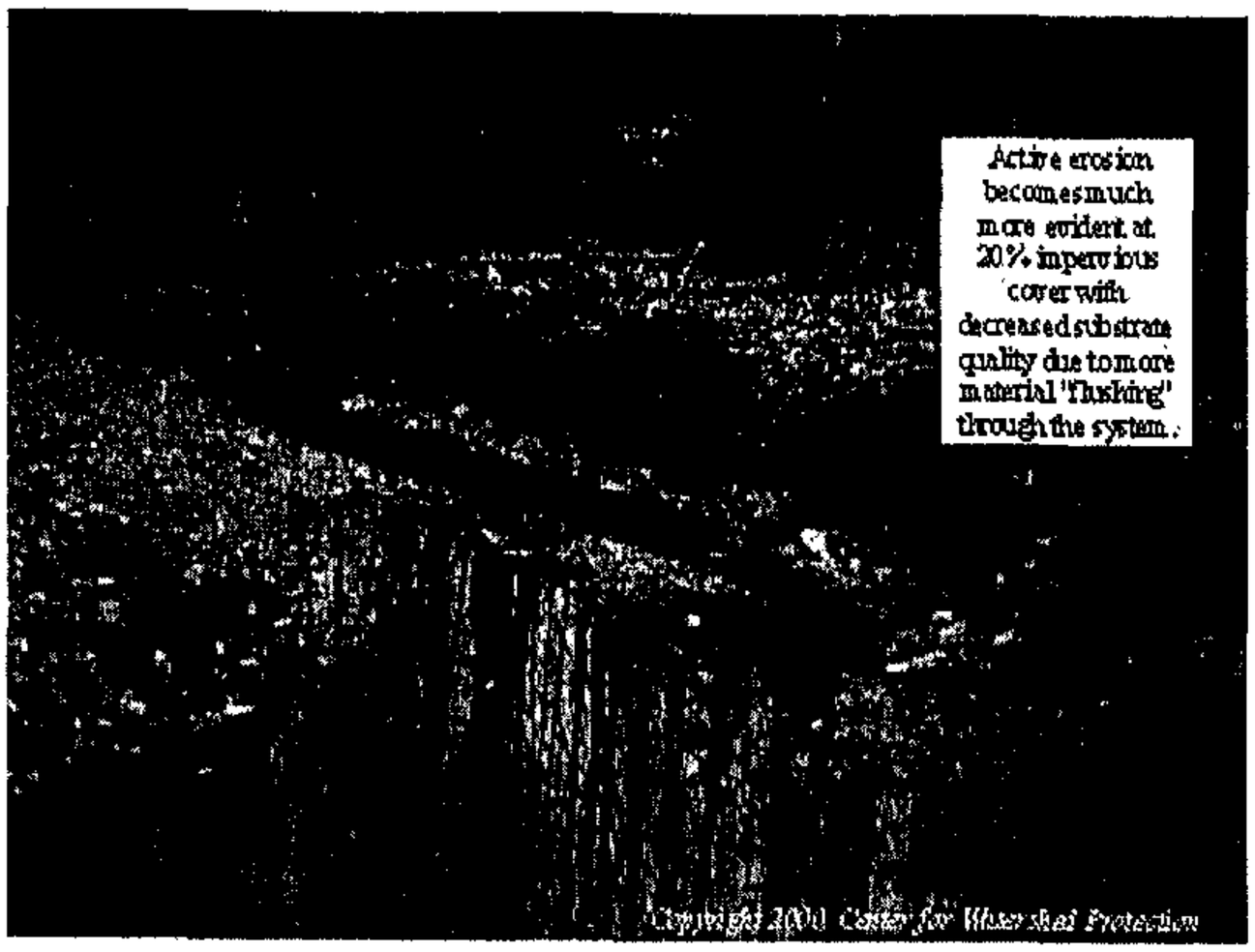




Slide 19 of 75

Notes:

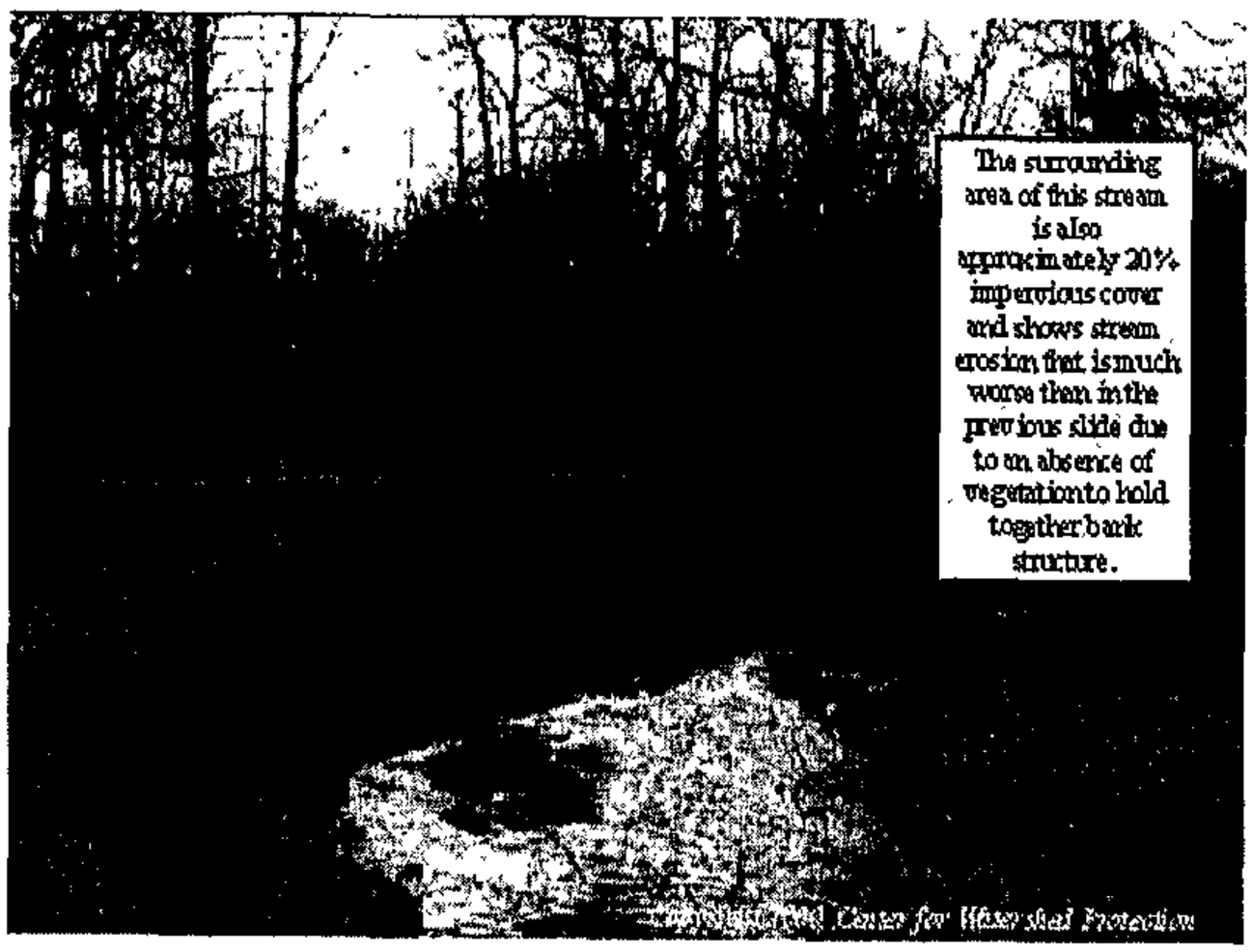
At approximately 10% impervious cover, the stream is slightly more visibly impacted. The stream shown here has approximately doubled from its original predevelopment size and evidence of changes includes downcutting, exposed tree roots, and loss of the pool and riffle structure.



Slide 20 of 75

Notes:

Active erosion becomes much more evident at 20% impervious cover with decreased substrate quality due to more material "flushing" through the system.



Slide 21 of 75

Notes:

The surrounding area of this stream is also approximately 20% impervious cover, but shows further signs of stream erosion, much worse than the previous slide due to an absence of vegetation to hold the bank structure together.



Slide 22 of 75

Notes:

At 30% impervious cover, the stream structure becomes effectively blown out. The large amount of impervious cover has increased the size of the stream five- to ten-fold. The manhole in the middle of the diagram was originally in the floodplain and is an indicator of the degree to which channel erosion has occurred.

Baltimore County
Department of Environmental Protection
and Resource Management

Storm Water Engineering

401 Bosley Avenue, Suite 416
Towson, Maryland 21204

410 887-3768
FAX 410 887-4804

February 8, 2000

Mr. David W. Black
Morris & Ritchie Associates, Inc.
110 West Road, Ste 245
Towson, Maryland 21204

RE: CARROLL COMMUNITY CHURCH
Waiver Request, Liberty Watershed

Dear Mr. Black:

This is in response to your letter of January 6, 2000 requesting a waiver of storm water management for the above referenced project.

We have reviewed the material submitted with your letter and hereby grant your request. quantity management is waived under the provisions of Section 14-155 (c) (1) of the Baltimore County Code (i.e. less than a 10% increase in the 2-year pre-development peak discharge rate with no adverse impact on the receiving watercourse). Water quality management must be provided for the first one-half inch of runoff from the new impervious area, and all runoff must be conveyed to suitable outfalls. Building and grading permits will not be released until a water quality plan is approved.

It is the intent of this Department to grant this waiver subject to the requirer subsequent site plans conform to the hydrologic conditions represented in your requ January 6, 2000. Changes in site layout may require submittal of revised plans and for approval.

If there are any questions, please contact Ed Schmaus at 410 887-3768.

Very truly yours,

Thomas L. Vidmar

Thomas L. Vidmar, PE, Deputy Director
Department of Environmental Protection and Resource Management

C: JOHN MARTINDALE
JOE DUKE, SCOTT BARLIGHT
JEFF WOLINSKI
BOB BRADLEY
BOB C., FILE

TLV:pms
c: Sheldon Epstein, Storm Drain Design
Environmental Impact Review
Carroll comm

Prot 10
Protestant's Exhibit #59

Printed with Soybean Ink

RUNOFF CURVE NUMBER COMPUTATION Version 2.10

ject : Carroll Community Church User: DWB Date: 12-28-1999

hty : Baltimore State: MD Checked: ____ Date: _____
citle: Existing Conditions
area : onsite

COVER DESCRIPTION		Hydrologic Soil Group A	B	C	D
		Acres (CN)			
LY DEVELOPED URBAN AREAS (Veg Estab.)					
ervious Areas					
aved parking lots, roofs, driveways		-	0.37(98)	-	-
TIVATED AGRICULTURAL LANDS					
crops	Contoured (C) good	-	44.6(75)	-	
ER AGRICULTURAL LANDS					
ds	good	-	26.0(55)	-	
al Area (by Hydrologic Soil Group)			70.9 ====		

AREA: onsite TOTAL DRAINAGE AREA: 70.97 Acres WEIGHTED CURVE NUMBER: 68*

Generated for use by GRAPHIC method

Protestants Exhibit #59

---------- SCS -
Carroll Church hydrology A:\CARROLL.txt VERSION
Existing Conditions 12/28/99 2.04TEST
PASS 1 JOB NO. 1 PAGE 1

CUTIVE CONTROL INCREM MAIN TIME INCREMENT = .050 HOURS

CUTIVE CONTROL COMPUT FROM XSECTION 1 TO XSECTION 1
STARTING TIME = .00 RAIN DEPTH = 3.20 RAIN DURATION = 1.00
ANT. RUNOFF COND. = 2 MAIN TIME INCREMENT = .050 HOURS
ALTERNATE NO. = 0 STORM NO. = 2 RAIN TABLE NO. = 2

RATION RUNOFF XSECTION 1
OUTPUT HYDROGRAPH = 1
INPUT RUNOFF CURVE = 68.
AREA = .11 SQ MI
TIME OF CONCENTRATION = .28 HOURS
COMPUTED INTERNAL TIME INCREMENT = .0373 HOURS

fill 78 acres

PEAK TIME(HRS)	PEAK DISCHARGE(CFS)	PEAK ELEVATION(FEET) (RUNOFF)
12.09	52.3	

RUNOFF ABOVE BASEFLOW (BASEFLOW = .00 CFS)
.73 WATERSHED INCHES; 52 CFS-HRS; 4.3 ACRE-FEET.

DURATION(HRS)	2	4	6	8	10	12	13
FLOW(CFS)	5	3	2	2	1	1	0

CUTIVE CONTROL ENDCMP COMPUTATIONS COMPLETED FOR PASS 1

64C
all
64C
64C
70C Acres

Protestant's Exhibit #59

RUNOFF CURVE NUMBER COMPUTATION Version 2.10

t : Carroll Community Church User: DWB Date: 12-28-1999

nty : Baltimore State: MD Checked: ____ Date: _____
title: Proposed Conditions
area : Area A

COVER DESCRIPTION		Hydrologic Soil Group A	B	C	D
		Acres (CN)			
LY DEVELOPED URBAN AREAS (Veg Estab.)					
n space (Lawns,parks etc.)					
ood condition; grass cover > 75%		-	3.36(61)	2.57(74)	-
ervious Areas					
aved parking lots, roofs, driveways		-	0.38(98)	7.43(98)	-
ER AGRICULTURAL LANDS					
ds	good	-	1.26(55)	-	-
al Area (by Hydrologic Soil Group)			5	10	
			====	====	

AREA: Area A TOTAL DRAINAGE AREA: 15 Acres WEIGHTED CURVE NUMBER: 82

Printed out & Submitted #59

HANOVER ROAD ASSOCIATION, Inc.

P.O. Box 70
Boring, MD 21020

August 13, 2000

Mr. George Perdikakis, Director
Dept. of Environmental Protection and Resource Management
401 Bosley Avenue
Towson, Maryland 21204-4420

Dear Mr. Perdikakas:

I am confused and concerned. Your office, and the Office of Planning, have provided statements of opposition to a large-scale development project known as the Carroll Community Church, located at Route 91 and the Baltimore/Carroll County line in a hearing before the Zoning Commissioner in August last year. That opposition was based on a concern for the loss of agricultural land to institutional-scale development and was offered by Mr. Lippincot of your office and Mr. Hughey of the Office of Planning. The proposed project would involve a building with a footprint of at least 70,000 square feet, parking for 750 vehicles, an overnight lodge (hotel) for 20 to 30, seating for 2,000 persons in a single meeting room, and 25 full time staff. All of this development is proposed in a rural conservation (RC-2 and RC-4) area of the County.

More recently, your office has granted a stormwater quantity waiver for the proposed development. The granting of a waiver, based on site analysis procedures that are soon to be replaced by new state guidelines, appears to be in conflict with the previous statement of your office in opposition to the project. It would have been more appropriate to utilize the more stringent stormwater program guidelines that are being finalized by the Maryland Department of the Environment, especially since actual development at this site will not commence until the new standards are in place. Specifically, the evaluation utilized row crop runoff figures in determining pre- and post-runoff values (phone conversation with DEPRM staff). The State has recommended that since no till farming is frequently utilized, and the crop residue is present on the land for much of the year, it is more appropriate to use a less severe runoff coefficient in the calculations. The use of the soon-to-be-approved guidelines would increase the differential between pre- and post-construction runoff and likely result in a requirement for stormwater quantity control for the project.

Even more troubling was the apparent usage of the overall site area in evaluating site runoff characteristics. While the nearly 70 acres of the site need to be considered, it should be stressed that almost all of the development will occur in the upper reaches of the site. This will result in the extreme headwater area being approximately 50% impervious, versus the overall site imperviousness being about 10%. Thus, while the

Protestant Exhibit #20

runoff volume at the most downstream site location will reflect only 10% imperviousness, the entry of minimally controlled stormwater into a headwaters location can be expected to result in severe stream channel erosion at the point of entry. The use of the overall site area in developing stormwater management requirements would appear to grossly understate the likely stream channel erosion problems and associated destruction of aquatic life that will be encountered at the headwaters location. Six or more acres of project imperviousness in the headwaters location, in addition to the highway imperviousness already in that part of the watershed, will, without stormwater quantity controls, create a high potential for erosion problems for the stream. This erosion will result in added nutrient and sediment loads to the receiving streams and Liberty Reservoir.

I would request that your agency take a consistent approach to the proposed development by coordinating responses from your agricultural preservation staff, your well and septic program, and your sediment and stormwater unit. If one unit recommends that the project be opposed, the other units should be directed to carefully evaluate their requirements and apply measures that will fully protect the environment.

Therefore, I would request that your stormwater control unit utilize the new State stormwater guidelines and reevaluate the specific locations of the imperviousness relative to the discharge point, rather than base the calculations on the entire site. If the reevaluation reflects potential erosion problems, I would request that the existing waiver be rescinded and appropriate stormwater quantity controls be required. We can ill afford to allow the massive development that is being proposed in this agricultural and water supply watershed to go forth without full consideration of the environmental consequences.

In regard to the well and septic issues, and the requested amendment to the County's Water and Sewer Plan, I would request that careful consideration be given to the implications of the development. First, the recharge area for the main well will have a significant potential to negatively influence the well of the existing church across the street in Carroll County. During drought conditions and high demands by the large population to be served by the proposed development, it could be argued that the cone of groundwater depression could intercept the well fields of existing supplies. This problem will be exacerbated if a portion of the recharge area is covered by the proposed parking lot, as has been shown in various development plans. Secondly, the large septic discharges will result in significant additions to groundwater nutrient loadings. Since this site drains into Liberty Reservoir, this large-scale development will add to the ever-increasing eutrophication problems of the region's drinking water supply. At the very least, the proposed development, if approved, should be required to install the latest nutrient reduction technologies (biological nutrient removal -BNR) in their waste treatment system. If appropriate, a statement of opposition to the proposed development

Protestant Exhibit #60

from your office based on water and septic considerations to the Planning Board prior to their September 7th vote on the amendments to the Water and Sewer Plan would be appreciated.

We would also request that you or your staff provide testimonial support against the development at a County Board of Appeals hearing that is scheduled for continuation on August 22 and 23, and October 18 and 19. We will coordinate the time of the testimony to minimize the demands on staff schedules.

Your consideration of this matter is indeed appreciated. Please have your staff contact me if there are any questions and to provide the names and approvals for those that could provide testimony at the Board of Appeals hearing. I can be reached at 410-631-3856 during the day or at 410-526-2494 in the evenings.

Sincerely,

George Harman, President

cc: The Honorable T. Bryan McIntire
J. Carroll Holzer, Esquire

Pursuant
Applicant
#60

Baltimore County
Department of Environmental Protection
and Resource Management

Office of the Director
401 Bosley Avenue, Suite 416
Towson, Maryland 21204

August 25, 2000

Mr. George Harman, President
Hanover Road Association, Inc.
PO Box 70
Boring, Maryland 21020

RE: Carroll Community Church

Dear Mr. Harman:

Thank you for your recent letter regarding your concerns with the Carroll Community Church project. Since this project is currently in the County Board of Appeals process, it is inappropriate for me to address the specific issues that you raise. However, let me assure you that this Department shares your concerns for protecting the environment. We thoroughly review every development proposal to ensure compliance with all current environmental rules, and regulations and policies. We have experienced, professional staff who are dedicated to protecting our environment and managing our natural resources.

With respect to staff testimony at the Board of Appeals, your attorney should subpoena the staff that you would like to testify.

Sincerely yours,

George G. Perdikakis
Director

GGP/tlv
c: The Honorable T. Bryan McIntire

Protestant Exhibit #61

Printed with Soybean Ink on Recycled Paper



2000 MARYLAND STORMWATER DESIGN MANUAL VOLUMES I & II

PREPARED BY:

CENTER FOR WATERSHED PROTECTION

ELLICOTT CITY, MARYLAND

AND THE

MDE

MARYLAND DEPARTMENT OF THE ENVIRONMENT
WATER MANAGEMENT ADMINISTRATION
2500 BROENING HIGHWAY • BALTIMORE MARYLAND 21224
(410) 631-3543 1-800-633-6101 http://www.mde.state.md.us

Protestant's Exhibit #60

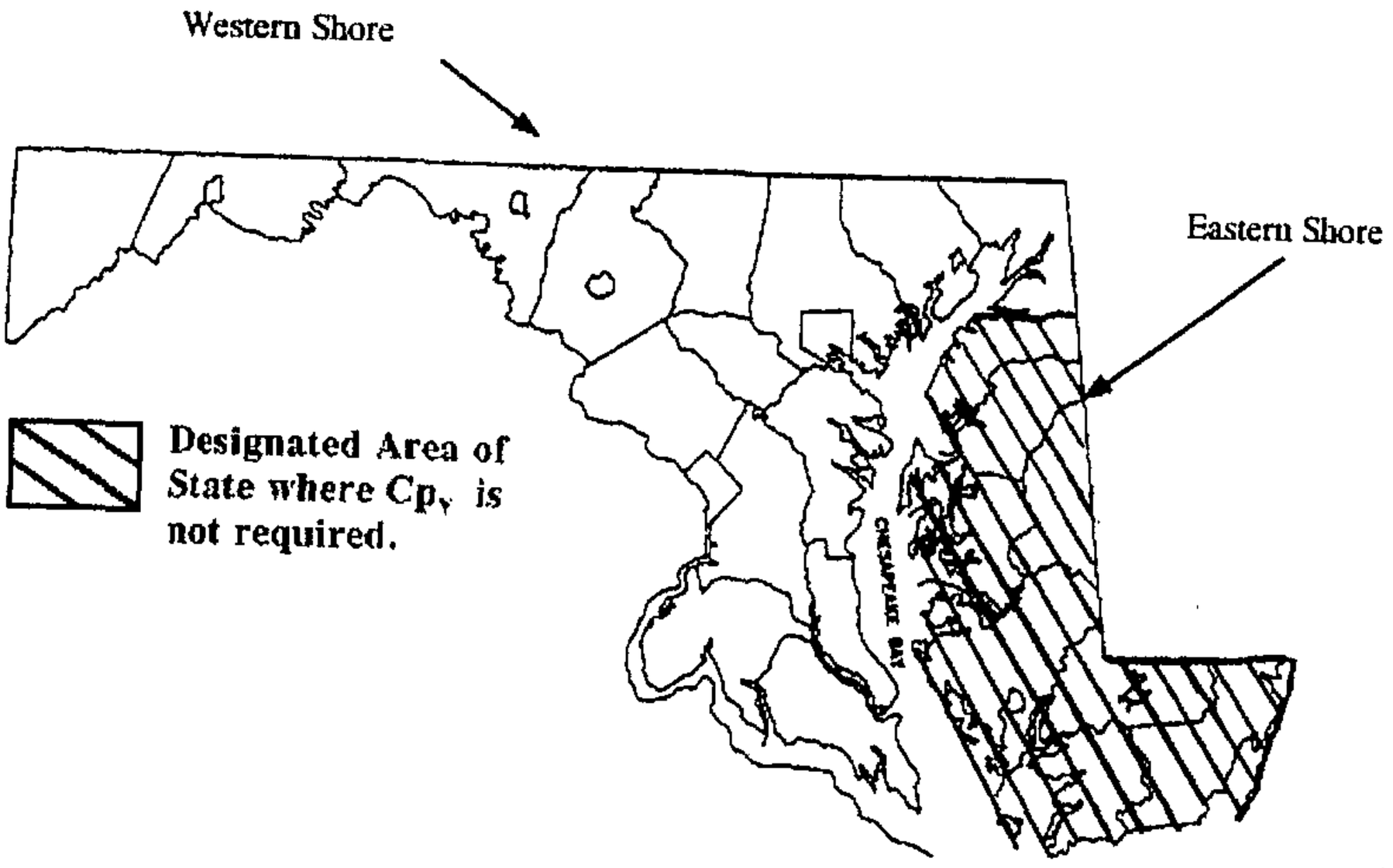
Section 2.3 Channel Protection Storage Volume Requirements (Cp_v)

To protect channels from erosion, **24 hour extended detention of the one-year, 24 hour storm event** (MDE, 1987) shall be provided. In Use III and IV watersheds, only 12 hours of extended detention shall be provided. The rationale for this criterion is that runoff will be stored and released in such a gradual manner that critical erosive velocities during bankfull and near-bankfull events will seldom be exceeded in downstream channels.

The Cp_v requirement does not apply to direct discharges to tidal water or Maryland's Eastern Shore (as defined in Figure 2.4) unless specified by an appropriate review authority on a case by case basis. Local governments may wish to use alternative methods to provide equivalent stream channel protection such as the Distributed Runoff Control method or bankfull capacity/duration criteria (MacRae, 1993).

The method for determining the Cp_v requirement is detailed in Appendix D.11. A detention pond or underground vault is normally needed to meet the Cp_v requirement (and subsequent Q_{p10} and Q_f criteria). Schematics of a typical design are shown in Figures 2.5.

Figure 2.4 Regions of Maryland Not Subject to the Channel Protection Requirement (Cp_v)



Protestant's Exhibit # 62

Section 2.4 Overbank Flood Protection Volume Requirements (Q_p)

The primary purpose of the overbank flood protection volume sizing criteria is to prevent an increase in the frequency and magnitude of out-of-bank flooding generated by development (e.g., flow events that exceed the bankfull capacity of the channel and therefore must spill over into the floodplain). Overbank flood protection for the ten-year storm shall only be required if local approval authorities have no control of floodplain development, no control over infrastructure and conveyance system capacity design, or determine that downstream flooding will occur as a result of the proposed development.

For most regions of the State, the overbank flood control criteria translates to preventing the post development ten-year, 24 hour storm peak discharge rate (Q_{p10}) from exceeding the pre development peak discharge rate.

On the Eastern Shore of Maryland, the overbank flood control criteria is defined as preventing the post development two-year, 24 hour storm peak discharge rate (Q_{p2}) from exceeding the pre development peak discharge rate. The rainfall depths associated with the two and ten-year, 24 hour storm events are shown in Table 2.2.

Basis for Determining Overbank Flood Protection Volume

When addressing the overbank flooding design criteria, the following represent the minimum basis for design:

- The models TR-55 and TR-20 (or an equivalent approved by the appropriate local authority) will be used for determining peak discharge rates. The Eastern Shore Dimensionless Hydrograph may be used for sites where appropriate (see Appendix D.14). Any adjustments for unique land features such as Karst topography shall be determined by the local approving authority.

- The standard for characterizing pre development hydrologic land use for non-forested vegetated areas (including agriculture) shall be meadow in good hydrologic condition.

- Off-site areas should be modeled as "present land use condition" in good hydrologic condition for both the 2 and 10-year storm events.

- The length of overland flow used in t_c calculations is limited to no more than 150 feet for pre development conditions and 100 feet for post development conditions. On the Eastern Shore (see Figure 2.4) this maximum distance is extended to 250 feet for pre development conditions and 150 feet for post development conditions.

- Overbank flood protection does not apply to direct discharges to tidal water.

Protestants Exhibit #62

THE MARYLAND STORMWATER PROGRAM

MDE

Maryland's Stormwater Management Program History:

- 1982 Stormwater Management Act passed by Maryland General Assembly
- 1983 Stormwater Management Regulations (COMAR) were adopted
- 1984 Local Ordinances were implemented.
- 1986 Water Quality of ½ inch of runoff over the impervious area, the "first flush" rule generally applied across Maryland.
- 1993 Goals for Modifying the Maryland Stormwater Program (Stormwater Regulations Committee)
  - Specific guidance for water quality management
  - Manage more frequent storm events for channel erosion control
  - Limit number of stormwater management waivers
  - Provide incentives for more environmentally friendly design
- 1996 Section 309 and 306 CZM Grant for Development of New Stormwater Design Manual.
- October 1997 Initial Release of new Stormwater Design Manual, September 1998 and December 1999 subsequent drafts were released.
- June 16, 2000 Published in Maryland Register, Proposed Stormwater Regulation Changes
- October 2, 2000 Regulations became effective.



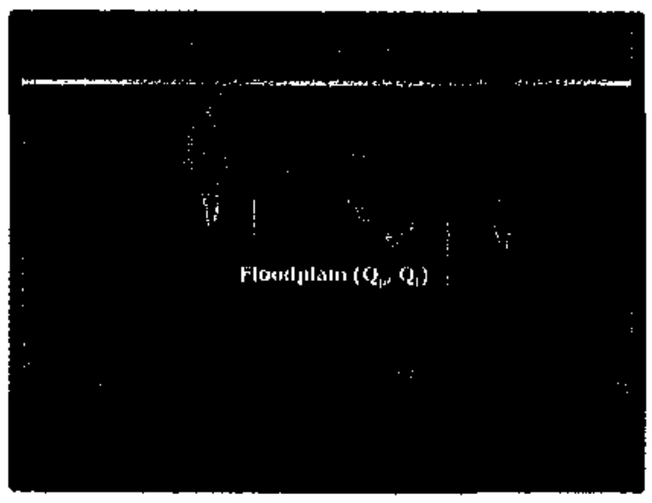
Stormwater Design Manual

- Developed with three distinct goals:
  - Protect waters of the State from adverse impacts of urban stormwater runoff,
  - Provide design guidance on the most effective structural and non structural best management practices (BMPs) for development sites, and
  - Improve the quality of BMPs constructed, specifically with respect to performance, longevity, safety, maintenance, community acceptance, and environmental benefit.
- Divided into two volumes:
  - Volume I contains basic technical information for stormwater design in Maryland.
  - Volume II contains appendices with supporting information such as landscaping, construction specifications, design examples and miscellaneous tools for BMP design.
- Unified Sizing Criteria (Chapter 2): Five criteria that are designed to meet specific pollutant removal goals, maintain groundwater recharge, reduce channel erosion, prevent overbank flooding, and pass extreme flood events.
- Design Criteria for BMP's (Chapter 3): Performance criteria for five groups of structural BMPs addressing general feasibility, conveyance, pretreatment needs, geometry, environmental and landscaping requirements, and maintenance concerns.
- BMP Selection and Location (Chapter 4): Guidance for selecting BMPs based on watershed, terrain, physical feasibility, community, environmental, location, and permitting factors as well as stormwater treatment suitability.
- Innovative Site Planning (Chapter 5): A series of nonstructural site design techniques that reduce the generation of runoff from a site thereby reducing the size and cost of structural BMPs.

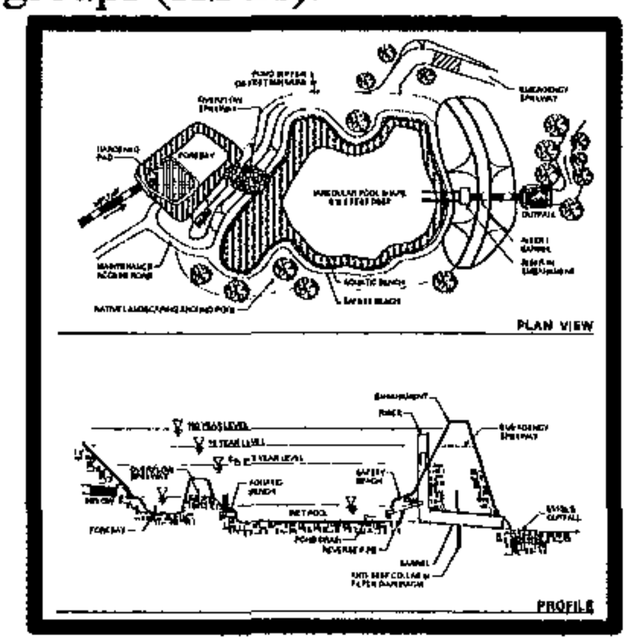
Protestant's Exhibit #63

Unified Sizing Criteria

- Water Quality Volume (WQv)
  - Storage needed to capture and treat 90% of the average annual rainfall.
  - Equivalent to 1" (0.9" Frederick County and west) of rainfall multiplied by a volumetric runoff coefficient and site area.
  - A minimum of 0.2 inches per acre shall be used for sites with imperviousness of 15% or less.
  - 1" is derived from point of inflection on the rainfall frequency curve.
  - WQ_v is directly related to site imperviousness.
  - WQ_v is treated using BMPs capable of meeting a pollutant removal rate of 80% for total suspended solids (TSS) and 40% for total phosphorus (TP).
  - WQ_v may be reduced using environmentally sensitive site design techniques (Chapter 5).



- **Groundwater Recharge Volume (Re_v)**
  - Goal is to mimic existing groundwater recharge rates thereby maintaining hydrology of streams and wetlands during dry weather.
  - Based on the average annual recharge rates for USDA hydrologic soils groups (HSGs).
  - Re_v is directly related to site imperviousness.
  - Re_v is inclusive with the water quality volume, WQ_v.
  - Local review authority may alter Re_v requirements for unsuitable soils (e.g., marine clays), karst topography, or urban redevelopment areas.



- **Channel Protection Volume (Cp_v)**
  - Goal is to protect channels from excessive erosion caused by increased flow at or near the bankfull level.
  - Provided by 24 (12 in Use III/IV)) hour extended detention of the post developed one year design storm.
  - Providing Cp_v does not meet WQ_v requirements.

- **Overbank Flood Protection Volume (Qp_x)**
  - Goal is to protect infrastructure from flooding caused by increases in peak discharges due to development.
  - Local jurisdictions may eliminate ten year peak management (Q_{p10} by if development in the floodplain is restricted and infrastructure design is based on Ultimate Conditions.
  - Two year peak management (Q_{p2}) is required on the Eastern Shore.

- **Extreme Flood Protection (Q_f)**
  - Goal is to protect infrastructure from extreme flood events caused by increases in peak discharges due to development.
  - Floodplains provide natural flood storage and attenuation of flows.
  - All new development in the State is highly restricted in floodplains
  - Past development has occurred in floodplains and may warrant protection.

Protestant's Exhibit #13

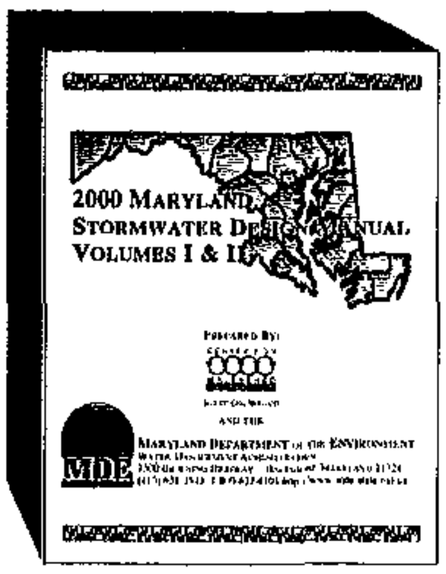
- **Environmental Incentives and Credits - A series of credits and incentives are provided for using the following non-structural practices:**
  - ***Natural Area Conservation***
  - ***Disconnection of Rooftop Runoff***
  - ***Disconnection of Non-Rooftop Runoff***
  - ***Sheet Flow to Buffers***
  - ***Grass Channels***
  - ***Environmentally Sensitive Development***
  - ***Impervious Cover Reduction***



- **Regulation Changes**
  - ***Incorporating Design Manual by Reference***
  - ***Addressing Redevelopment***
    - **Reduce existing site impervious area by at least 20%, or**
    - **Manage the water quality volume for the 20%, or**
    - **Select a practical alternative where conditions on site prevent stormwater management:**
      - ***Fees Paid***
      - ***Off Site BMP Implementation***
      - ***Watershed or Stream Restoration***
      - ***Retrofitting and existing stormwater BMP***
    - **Watershed Management Plan Implementation**

- **Schedule:**
  - Modified Ordinances due by December 31, 2000; and
  - A New Approach to Stormwater Management by July 31, 2001.

The 2000 Maryland Stormwater Design Manual, Volume I and II, Regulation Changes, and Model Ordinance are available on MDE's WEB Page. (http://www.mde.state.md.us)



Protestant's Exhibit #63

808
840
630
825
850
630
860
630
Trenton
Little Piney Run
DARK HOLLOW ROAD
TRENTON
OLD QUAKER RD
Arendia
Upperco P.O.
BROWN RD
BORTNER RD
MILL RD
St Pauls Church
LEES MILL RD
FRINGER RD
WESTERN RD
BYERLY RD
MT ZION ROAD
DOVER RD
1.5" = 1 mile
Pleasant Grove
Pleasant Grove Church
PLEASANT VALLEY COUNTRY CLUB
840
620
850
620
860
620
Fowblesburg
91
EMORY RD
HANOVER ROAD
MARYLAND
Boring P. O.
Fairview
Emory Church
CHAPEL RD
MT GILEAD ROAD
FRYE RD
OSBORNE RD
Lawndale
CARROLL CO
Piney Grove Church
PINEY GROVE ROAD
LONGNECKER
840
610
850
610
860
610
767
Woodensburg
FALLS ROAD
MONTROSE SCHOOL FOR GIRLS
WATER TANKS
Slade Run
BM 399
WORTHING
Glen Falls
WESTMINSTER
840
600
Nob Hill
Glen Morris
850
600
BM 490
Emory Grove
Delaware
09-07

Parris N. Glendening
Governor

Maryland Department of Natural Resources
Fisheries Service

Sarah J. Taylor-Rogers, Ph.D.
Secretary

FAX COVER PAGE

FISHERIES SERVICE
RESTORATION AND ENHANCEMENT DIVISION

DATE: Aug. 28, 2000 PHONE: _____

TO: _____ FAX #: _____

George Harman

FROM: Mark Staley PHONE: (410) 442-2080

Freshwater Fisheries Division
Central Region Office
17400 Annapolis Rock Road
Woodbine, Maryland 21797

FAX #: (410) 442-2126

REFERENCE: Fish Species ranks are R = Rare (one)
S = Scarse
C = Common
A = Abundant

Number of pages you should receive including cover page: 7
If you did not receive all the pages indicated, please contact:
PHONE: (410) 442-2080 OR;
(301) 854-6060

Protestant Exhibit #65

STREAM -unnamed tributary to Liberty Reservoir DATE -August 19,1999

LOCATION - upstream of Hollingsworth Road

TYPE OF STUDY - ZIPPIN 2 PASS REMOVAL METHOD, (95% C.I.)

POPULATION DATA

	TOTAL	BROOK	BROWN	RAINBOW
ADULT, 1+ AND OLDER - - -

STREAM Unnamed trib. to Liberty Reservoir RUN DATE Aug. 19, 1999 TIME 1215

STATION Hollingsworth Rd TEMPERATURES: WATER 67°F AIR 80°F

TYPE OF STUDY 2-Pass Regression

COMMENTS Good flow considering 100+ year drought.

P = Predator Mark

Species of trout			Run 1 Length (mm)	Weight (g)	FIN CLIPS Return	FIN CLIPS New
Rb	Bn	Bk				
	404		75, 92			
	✓		272	174	anchor P	worm
	✓		283	192	P	
	✓		320	281	anchor	worm
	✓		253	149		

Species of trout			Run 2 Length (mm)	Weight (g)	FIN CLIPS Return	FIN CLIPS New
Rb	Bn	Bk				
	✓		325	303		

TOTALS – Run 1 2 3

	Adults	Young-of-Year
BROOK		
BROWN	4-1	2-0
RAINBOW		

Partial Epithelial #65

Check here ___ if additional pages exist for this Run.

STREAM SURVEY FIELD SHEET #2

STREAM:

	Station #1 Date 8-19-99 Loc. ____ Length ____ #	Size	Station #2 Date ____ Loc. ____ Length ____ #	Size	Station #3 Date ____ Loc. ____ Length ____ #	Size	Station #4 Date ____ Loc. ____ Length ____ #	Size	Station #5 Date ____ Loc. ____ Length ____ #	Size
Brook Trout	—									
Brown Trout	✓	Sm-Fry								
Rainbow Trout	—									
Stoneroller	1									
Blacknose Dace	5									
Longnose Dace	5									
Cutlips Minnow	5									
Creek Chub	5									
River Chub	1									
Fallfish	1									
Rosyside Dace	5									
Common Shiner	5									
Northern Hogsucker	5									
White Sucker	C									
Margined Madtom	1									
Mottled Sculpin	C									
Tessellated Darter	5									
Bluegill Sunfish	1									
Satinose Minnow	R									
American Eel	1									

STATION DATA

pH_____

DO_____

Hardness_____

Alkalinity_____

CO_2_____

Conductivity_____

Length	Width	Length	Width
0		550	
50		600	
100		650	
150		700	
200		750	
250		800	
300		850	
350		900	
400		950	
450		1000	
500		1050	

Total Length---

Avg. Width---

Protestants Exhibit #15

STREAM -Unnamed trib. to Liberty Res. DATE -Aug. 20, 1998

LOCATION - upstream of Hollingsworth Rd.

TYPE OF STUDY - ZIPPIN 2 PASS REMOVAL METHOD, (95% C.I.)

POPULATION DATA

	TOTAL	BROOK	BROWN	RAINBOW
ADULT, 1+ AND OLDER				
STANDING CROP (LBS/ACRE)			30	
DENSITY				
TROUT/ACRE			138	
TROUT/MILE			244	
% VARIATION (95% C.I.)			5.9	
% SPECIES COMPOSITION			100	
TOTAL WT. (LBS.)			5.37	
AVERAGE WT. (LBS.)			0.22	
UNDER 9", #/%			15/63%	
9" TO 12", #/%			9 /37%	
OVER 12", #/%			0/0	
YOUNG-OF-YEAR				
DENSITY				
YOY/ACRE			23	
YOY/MILE			41	
% VARIATION (95% C.I)			100	
% SPECIES COMPOSITION			100	
TROUT FIRST PASS, A/YOY			21/4	
TROUT SECOND PASS, A/YOY			3/0	
TROUT THIRD PASS, A/YOY				
TOTAL, A/YOY			24/4	
POPULATION ESTIMATE, A/YOY			24/4	

STATION DATA

LENGTH	520 ft
AVERAGE WIDTH	14.6 ft
SURFACE AREA	0.174 acre

Protestants Exhibit #25

STREAM Unnamed trib. to Liberty Res. RUN 1, 2 DATE 8/20/98 TIME 1410

STATION Hollingsworth Road - upstream TEMPERATURES: WATER 62.5 °F AIR 73 °F

TYPE OF STUDY 2-Pass Regression Heard Staley

COMMENTS P = Predator Mark

Run 1

Species of trout					FIN CLIPS	
Rb	Bn	Bk	Length	Weight	Return	New
	y04		100,64	104,76		
	✓		280	8.2		
	✓		264	5.8		
	✓		258	6.1		
	✓		210	3.1		
	✓		226	4.0		
	✓		240	4.6	P	
	✓		211	3.2		
	✓		199	2.6		
	✓		234	4.6		
	✓		233	4.4		
	✓		204	2.7		
	✓		250	5.1		
	✓		180	1.9		
	✓		180	2.0		
	✓		186	2.0		
	✓		176	1.8		
	✓		167	1.4		
	✓		181	1.9		
	✓		180	1.8		
	✓		206	2.8		
	✓		237	4.7		

Run 2

Species of trout					FIN CLIPS	
Rb	Bn	Bk	Length	Weight	Return	New
	✓		198	2.6		
	✓		214	3.1		
	✓		251	5.5		

TOTALS - Run 1 2 3

	Adults	Young-of-Year
BROOK		
BROWN	21-3	4-0
RAINBOW		

Check here ___ if additional pages exist for this Run.

Partial tants Sheet #16

STREAM SURVEY FIELD SHEET #2

STREAM:

	Station #1 Date ____ Loc. ____ Length ____		Station #2 Date ____ Loc. ____ Length ____		Station #3 Date ____ Loc. ____ Length ____		Station #4 Date ____ Loc. ____ Length ____		Station #5 Date ____ Loc. ____ Length ____	
	#	Size	#	Size	#	Size	#	Size	#	Size
Brook Trout	—									
Brown Trout	✓	See Form								
Rainbow Trout	—									
Stoneroller	—									
Blacknose Dace	S									
Longnose Dace	S									
Cutlips Minnow	S									
Creek Chub	S									
River Chub	one									
Fallfish	—									
Rosyside Dace	S									
Common Shiner	S									
Northern Hogsucker	S									
White Sucker	S-C									
Margined Madtom	—									
Mottled Sculpin	C									
Tessellated Darter	—									
Bluegill Sunfish	S									
Bluntnose Minnow	—									
American Eel	—									
Largemouth Bass	S									
Smallmouth Bass	S									
Redbreast Sunfish	S									
Brown bullhead	S									
Yellow bullhead	S									

STATION DATA

pH_____ bridge

DO_____

Hardness_____

Alkalinity_____

CO_2_____

Conductivity_____

Length	Width	Length	Width
0	13.5	550	
50	14.3	600	
100	14.0	650	
150		700	
200	15.7	750	
250		800	
300	21.8	850	
350		900	
400	12.2	950	
450		1000	
500	12.4	1050	
+20	12.7		

Total Length--- 520'

Avg. Width---

Protestants' Exhibit #65

Carrier Snapshot

BILL ROHRBAUGH'S CHARTER SERVICE INC
USDOT#: 10687

ID/Operations | Inspections/Crashes | Safety Rating | Insurance

Other Information for this Carrier

- SafeStat Results
- Licensing & Insurance

Carriers: If you would like to update the following ID/Operations information, please complete and submit form MCS-150 which can be obtained online or from your State FMCSA office.

Carriers and other users: If you would like to request more detailed information in the form of a MCMIS Carrier Profile please call (800)832-5660 or (703)280-4001 (Fee Required).

For help on the explanation of individual data fields, click on any field name or for help of a general nature click here.

The information below reflects the content of the FMCSA management information systems as of 12/16/2000.

Entity Type:	Carrier	**Status:**	Active
Legal Name:	BILL ROHRBAUGH'S CHARTER SERVICE INC		
DBA Name:			
Physical Address:	3395 MAIN STREET MANCHESTER, MD 21101-0690		
Phone:	(410) 239-8000		
Mailing Address:	121 NORTH RUTH AVENUE SPRING GROVE, PA 17362-3551		
USDOT#:	10687	**State Carrier ID#:**	
MC or MX #:	119098	**DUNS #:**	05-916-8906
Power Units:	21	**Drivers:**	45

Operation Classification:

Auth. For Hire	Priv. Pass.(Non-business)	State Gov't
Exempt For Hire	Migrant	Local Gov't
Private(Property)	U.S. Mail	Indian Nation
X Priv. Pass. (Business)	Fed. Gov't	

Carrier Operations:

X Interstate	Intrastate (Non-HM)	Intrastate (HM)

Shipper Operations:

Interstate	Interstate (HM)

Cargo Carried:

General Freight	Liquids/Gases	Chemicals
Household Goods	Intermodal Cont.	Commodities Dry Bulk

Protestant Exhibit #67

Metal: sheets, coils, rolls	X Passengers	Refrigerated Food
Motor Vehicles	Oilfield Equipment	Beverages
Drive/Tow away	Livestock	Paper Products
Logs, Poles, Beams, Lumber	Grain, Feed, Hay	Utilities
Building Materials	Coal/Coke	Agricultural/Farm Supplies
Mobile Homes	Meat	Construction
Machinery, Large Objects	Garbage/Refuse	Water Well
Fresh Produce	US Mail	

HazMat Status: (*C=Carry S=Ship*)

C	S	Division/Class	C	S	Division/Class	C	S	Division/Class
		Div 1.1			Div 2.3c			Div 6.1b
		Div 1.2			Div 2.3d			Div 6.2
		Div 1.3			Class 3			Class 7
		Div 1.4			Class 3a			HRCQ
		Div 1.5			Class 3b			Class 8
		Div 1.6			Combustible Liquid			Class 8a
		Div 2.1			Div 4.1			Class 8b
		Div 2.1 (LPG)			Div 4.2 (LPG)			Class 9
		Div 2.1 (Methane)			Div 4.3 (Methane)			Elev. Temp. Mat.
		Div 2.2			Div 5.1			Infectious Waste
		Div 2.2a (Ammonia)			Div 5.2			Marine Pollutants
		Div 2.3			Div 6.1 Solid			Hazardous Sub(RQ)
		Div 2.3a			Div 6.1 Poison			Hazardous Waste
		Div 2.3b			Div 6.1a			ORM

ID/Operations | Inspections/Crashes | Safety Rating | Insurance

Inspection results for 24 months prior to: 12/16/2000

Total inspections: 111
Note: Total inspections may be less than the sum of vehicle, driver, and hazmat inspections. Click here for further information.

Inspections:

Inspection Type	Vehicle	Driver	Hazmat
Inspections	109	11	0
Out of Service	0	0	0
Out of Service %	0%	0%	0%
Nat'l Average %(1998)	25.4%	8.2%	7.0%

Protestant's Exhibit #67

Crashes reported to FMCSA by states for 24 months prior to: 12/16/2000

Crashes:

Type	Fatal	Injury	Tow	Total
Crashes	0	1	0	1

ID/Operations | Inspections/Crashes | Safety Rating | Insurance

Carrier Safety Rating:

The rating below is current as of: 12/16/2000

Review Information:

Rating date:	05/03/1996	Date:	04/17/1996
Rating:	Satisfactory	Type:	Compliance Review

ID/Operations | Inspections/Crashes | Safety Rating | Insurance

Operating Authority and Insurance Information is updated nightly.
For the most current information, go to **FMCSA Licensing & Insurance site.**

Insurance Information last updated: 12/21/2000

Docket Number(s): MC119098

Name on Operating Authority Documents: BILL ROHRBAUGH'S CHARTER SERVICE,INC.
Docket #: MC119098

Operating Authority Status:

Common Authority	Contract Authority	Broker Authority
Active	None	None

Insurance Requirements and Status:

Liability Insurance	Cargo Insurance	Bonds or Trust Fund
Required: $5,000,000 OK	Not Required	Not Required

Insurance Profile (For-hire carriers only):

Insurance Type	Insurance Carrier	Policy Number	Effective Date	Coverage Amount
LIABILITY	LANCER INSURANCE COMPANY	BA 1239 79A	06/17/1990	$0 - $5,000,000

Protestant Exhibit #67

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Others may use by reference.

Protestant Exhibit #67

Carrier Snapshot

COWAN SYSTEMS L L C
USDOT#: 548880

ID/Operations | Inspections/Crashes | Safety Rating | Insurance

Other Information for this Carrier

- SafeStat Results
- Licensing & Insurance

Carriers: If you would like to update the following ID/Operations information, please complete and submit form MCS-150 which can be obtained online or from your State FMCSA office.

Carriers and other users: If you would like to request more detailed information in the form of a MCMIS Carrier Profile please call (800)832-5660 or (703)280-4001 (Fee Required).

For help on the explanation of individual data fields, click on any field name or for help of a general nature click here.

The information below reflects the content of the FMCSA management information systems as of 12/23/2000.

Entity Type:	**Carrier**	**Status:**	**Active**
Legal Name:	**COWAN SYSTEMS L L C**		
DBA Name:			
Physical Address:	**1910 HALETHORPE FARMS ROAD BALTIMORE, MD 21227**		
Phone:	**(410) 247-0800**		
Mailing Address:	**1910 HALETHORPE FARMS ROAD BALTIMORE, MD 21227**		
USDOT#:	**548880**	**State Carrier ID#:**	
MC or MX #:	**271882**	**DUNS #:**	**--**
Power Units:	**541**	**Drivers:**	**600**

Operation Classification:		
X Auth. For Hire	Priv. Pass.(Non-business)	State Gov't
Exempt For Hire	Migrant	Local Gov't
Private(Property)	U.S. Mail	Indian Nation
Priv. Pass. (Business)	Fed. Gov't	
Carrier Operations:		
X Interstate	Intrastate (Non-HM)	Intrastate (HM)
Shipper Operations:		
Interstate	Interstate (HM)	
Cargo Carried:		
X General Freight	Liquids/Gases	Chemicals
Household Goods	X Intermodal Cont.	Commodities Dry Bulk

Plaintiff's Exhibit # 18

Metal: sheets, coils, rolls	Passengers	X Refrigerated Food
Motor Vehicles	Oilfield Equipment	X Beverages
Drive/Tow away	Livestock	X Paper Products
Logs, Poles, Beams, Lumber	Grain, Feed, Hay	Utilities
Building Materials	Coal/Coke	Agricultural/Farm Supplies
Mobile Homes	Meat	Construction
Machinery, Large Objects	Garbage/Refuse	Water Well
Fresh Produce	US Mail	

HazMat Status: (*C=Carry S=Ship*)

C	S	Division/Class	C	S	Division/Class	C	S	Division/Class
		Div 1.1			Div 2.3c			Div 6.1b
		Div 1.2			Div 2.3d			Div 6.2
		Div 1.3			Class 3			Class 7
		Div 1.4			Class 3a			HRCQ
		Div 1.5			Class 3b			Class 8
		Div 1.6			Combustible Liquid			Class 8a
		Div 2.1			Div 4.1			Class 8b
		Div 2.1 (LPG)	N		Div 4.2 (LPG)			Class 9
		Div 2.1 (Methane)	N		Div 4.3 (Methane)			Elev. Temp. Mat.
N		Div 2.2			Div 5.1			Infectious Waste
		Div 2.2a (Ammonia)			Div 5.2			Marine Pollutants
		Div 2.3			Div 6.1 Solid			Hazardous Sub(RQ)
		Div 2.3a			Div 6.1 Poison			Hazardous Waste
		Div 2.3b	N		Div 6.1a			ORM

ID/Operations | Inspections/Crashes | Safety Rating | Insurance

Inspection results for 24 months prior to: 12/23/2000

Total inspections: 937
Note: Total inspections may be less than the sum of vehicle, driver, and hazmat inspections. Click here for further information.

Inspections:

Inspection Type	Vehicle	Driver	Hazmat
Inspections	696	917	77
Out of Service	135	36	2
Out of Service %	19.4%	3.9%	2.6%
Nat'l Average %(1998)	25.4%	8.2%	7.0%

Protestant's Exhibit # 18

Crashes reported to FMCSA by states for 24 months prior to: 12/23/2000

Crashes:

Type	Fatal	Injury	Tow	Total
Crashes	1	16	13	30

ID/Operations | Inspections/Crashes | **Safety Rating** | Insurance

Carrier Safety Rating:

The rating below is current as of: 12/23/2000

Review Information:

Rating date:	None	**Date:**	None
Rating:	None	**Type:**	None

ID/Operations | Inspections/Crashes | Safety Rating | **Insurance**

Operating Authority and Insurance Information is updated nightly.
For the most current information, go to **FMCSA Licensing & Insurance site.**

Insurance Information last updated: 12/30/2000

Docket Number(s): MC271882

Name on Operating Authority Documents: COWAN SYSTEMS, L.L.C.
Docket #: MC271882

Operating Authority Status:

Common Authority	Contract Authority	Broker Authority
Active	Active	Active

Insurance Requirements and Status:

Liability Insurance	Cargo Insurance	Bonds or Trust Fund
Required: $1,000,000 OK	Required OK	Required OK

Insurance Profile (For-hire carriers only):

Insurance Type	Insurance Carrier	Policy Number	Effective Date	Coverage Amount
BOND OR TRUST FUND	FIDELITY & DEPOSIT CO. OF MARYLAND	3062 00 68	01/10/2000	$0 - $10,000*
	FIREMAN'S			

Protestant's Exhibit #68

CARGO	**FUND INSURANCE CO.**	**MXI97301153**	**05/01/2000**	**$0 - $5,000***
LIABILITY	**GULF INSURANCE CO.**	**GA0476003**	**05/30/2000**	**$0 - $1,000,000**

** If a carrier is in compliance, the amount of coverage will always be shown as the required Federal minimum ($5,000 for cargo insurance and $10,000 for bond/trust fund). The carrier may actually have higher levels of coverage.*

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Others may use by reference.

Protestant's Exhibit #65

Baltimore County Police Department
Support Operations Division
700 East Joppa Road
Towson, Maryland 21286-5501
410 887-5874 Fax 410 887-5955

Fax Cover Page

Page 1 of 2

FROM: OFC. STEVE LANGHAM

DATE: 12-18-00

TO: GEORGE HARMAN

FAX: 410 6313873

CONFIDENTIALITY NOTICE: This facsimile contains information which is confidential and which is intended only for the addressee(s) named above. If you are not the intended recipient you are hereby notified that any dissemination, disclosure or copying of information is prohibited. If you have received this facsimile in error, please notify us immediately by telephone and return the entire facsimile to us at the above location via the U.S. Postal Service. Thank

Protestant Exhibit #69

BALTIMORE COUNTY POLICE DEPARTMENT
INTRA-DEPARTMENT CORRESPONDENCE

"Integrity...Fairness...Service"

TO: George Harman
Maryland Department of the Environment

DATE: 12/18/00

FROM: Ofc. Steve C. Langhirt
Commercial Vehicle Safety Unit

SUBJECT: **COMMERCIAL VEHICLE INSPECTIONS MD ROUTE 30**

Sir,

Per your request the following information was obtained from commercial vehicle inspections completed on Maryland Route 30 during the year 2000:

Total vehicles inspected:	44
Total vehicles out of service:	10
Percentage of out of service:	22%
Drivers out of service:	1
Percentage of drivers out of service:	2%
Total of violations found:	89
Total out of service violations found:	14

Ofc. S C Langhirt

Ofc. Steve C. Langhirt
ID#2453
CVSU/SOD

Protestant Exhibit #19



View - westward from Mt. Gilead Rd.
at highest elevation about
100 yards from intersection
of Mt. Gilead Rd. and
Md. Route 30

Picture Taken during last week of
the year 2000.

By George Harmon, President
Hanover Road Association

Attached paper shows approximate
location of the proposed church.

Protestant
Exhibit
#70

#71 (A)

I



Looking west wer the propose Church is to be built, appropriate date of Aug. 4, 2000

Nelson Jan

(B)

II



Looking south east of the property were the oats is being harvested, appropriate date of Aug. 4, 2000

Protestant Exhibit #71A #71B

III



Looking north of adjoin property were the propose Church is to be built, appropriate date of Aug. 4, 2000

(C)

(D)

Melvin Faer

IV



Looking south east of the property after the oats has been harvested were the propose church is to be built. appropriate date of Aug. 4, 2000

Protestant District #1C #1D

Stipulations Requested

- The majority, if not all of the parking for the facility should be located to the side or rear of the proposed main structure.
- A maximum seating capacity of 500 in the primary auditorium, or sanctuary, area should be imposed.
- The extent of impervious surfaces for parking should be no greater than necessary for 150 personal vehicles.
- A maximum footprint of the proposed structure(s), exclusive of the "lodge", should be no greater than 30,000 to 40,000 square feet.
- Maximum building height should be held at 35 feet to conform to the community character.
- The lodge facility, should it be approved, should be held to a maximum footprint size of 2,500 square feet, and be constructed of rustic materials, or materials that would match the existing buildings and homes in the area.
- Lighting:
  - The exterior facility lighting should be held to a minimum after 10 PM.
  - The majority of the parking lot lighting should be controlled by motion sensors that would activate only when pedestrians or vehicles are detected.
  - Building lights should also be controlled by motion sensors, except for a minimum number that might be required for entrance security.
  - Low wattage direct current lighting should be used for walkways.
  - Sign lighting should also be reduced to a minimal level after 10 PM.
  - All exterior lighting should be shielded and directed downward and inward to minimize offsite reflection and glare.
  - There shall be no lighting of the sports or athletic field, should it be established.
  - Exterior lighting of the lodge should be no more than two downward and shielded fixtures.
- On site signs identifying the facility should be no larger than allowed by Baltimore County regulations, and in no case larger than signs for other Baltimore County churches, even if the sign was placed in Carroll County.
- The highest elevation of any freestanding sign should be less than six feet.
- Vegetated buffers should be planted around the parking areas to minimize offsite visibility.
- There shall be no gambling, bingo, or other games of chance conducted on the site, except to the extent and frequency that other churches within a 5- mile radius so conduct.
- There shall be no alcohol used on site, except for religious services within the confines of the primary structure.
- All land to the rear of the stream and wetland area shall be held in agricultural preservation.
- There shall be no use of electronic amplification devices exterior of the primary structure.
- There shall be no exterior, or free standing, broadcast towers.

Protestant Exhibit #72

- There shall be no allowed access to Mt. Gilead Road, except for agricultural vehicles. All boundary areas along Mt. Gilead Road shall be blocked with trees, fences, or gates to prevent direct access to the site.
- There shall be no leasing of the facility to commercial or for-profit organizations.
- There shall be no social or fund raising activities of non-profit organizations that might lease, or otherwise meet on the site.
- The church must abide by the County and Zoning Commissioner's guidance concerning yard sales – currently limited to one event lasting no more that two consecutive weekends.
- There shall be no church or commercial primary, middle, or high school on the site until public water and sewer service is provided to the site.
- No All Terrain Vehicles, dirt bikes, or other similar vehicles shall be operated on the site.
- There shall be no accessory, or temporary, structures other than indicated on the preliminary site plan, except that administrative trailers of construction companies may be used during active construction periods.
- The exterior of the building shall be aesthetically appropriate for the region. Materials for the exterior shall be of brick, stone, or dryvit (stucco appearance).
- Any roof top utilities shall be located to the rear of the building and shielded from view from the roads by pitched roofs.
- A complete and final building plan, including specifications for all exterior materials, shall be submitted at the time the initial development plan is filed with the County. The plan shall include a sequence of construction.
- Monday through Friday daycare for no more than one hundred (100) children under six years of age shall be allowed, provided that all County codes are met.
- The facility must be constructed with materials, equipment, or fire suppressing service as may be requested by the local volunteer or County fire companies.
- The church shall deed over sufficient land to allow for the State Highway Administration to provide for acceleration lanes and to permit the elimination of the current curve in Route 91 just to the north of the Mt. Gilead Road intersection.
- No carnivals shall be allowed on the site.
- There shall be no overnight camping, except for sanctioned scouting events,that do not utilize vehicle or trailer camping equipment.
- There shall be no exterior activities after dark or 10 PM, whichever is earlier.
- If a full service kitchen is planned, an advanced septic pretreatment system shall be required as has been proposed in State regulations for large (institutional) facilities with septic systems.
- The petitioners shall enter into a covenant with the Hanover Road Association, and any other local community group that so wishes that contains these stipulations. Such covenant shall run for a minimum of twenty years.

Protestant Ethic 71 E

8/20/70
by J. HARRIN

Looking north from the FAIR
front yard--
Mr. Uhlerig field--
oats-- clover or alphalfa
soybeans
corn
Rt-91 on ridge--Telephone poles



Upper Patapsco Watershed Rural Legacy Area

CARROLL COUNTY

NEW APPLICATION FY2002

Co-Sponsored by
Carroll County Commissioners
Carroll County Land Trust
Carroll Soil Conservation District

Submitted
January 22, 2001

Protestant Exhibit #13 A

CARROLL COUNTY AGRICULTURAL LAND PRESERVATION PROGRAM

225 North Center Street, Room 204
Westminster, MD 21157-5194
Telephone: (410) 386-2145 Fax: (410) 386-2120

FACSIMILE

TO: Wally Lippincott

OF:

FAX NUMBER: 410-887-4804

FROM: *Brenda M. Black, Office Associate*
Carroll County Agricultural Land Preservation Program

DATE: 1-25-01

NUMBER OF PAGES (including cover sheet): 5

MESSAGE

_____ **For Your Information**

_____ **Please Note & File**

_____ **Please Handle**

_____ **Please Distribute**

_____ **To Be Signed**

__/__ **Information You Requested**

Note(s):

Please let me know if you need anything additional.

BMB

Protestant Exhibit #73A

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Upper Patapsco Watershed Rural Legacy Area - Carroll County

Executive Summary – Narrative

The designation of this Rural Legacy Area represents a direction of energies by all sponsors into a portion of the county's agriculture and conservation areas that presents a multitude of reasons to be protected in the face of mounting development pressure. From the stream valley containing the still active historic rail line and the rural hamlets it engendered, across highly productive farming soils, wooded stream valleys, and wetlands that are home to the endangered bog turtle, this Area concentrates a range of landscape types unusual for Carroll County. Poised at the upper reaches of the Liberty Reservoir and nearly adjacent to Baltimore County's Piney Run Rural Legacy Area, its protection holds benefits well beyond its inhabitants or the collective citizenry of Carroll County.

BOUNDARIES

The Upper Patapsco Watershed Rural Legacy Area is bounded on the east by Baltimore County and to the north, west and south by the Hampstead, Westminster and Finksburg community planning areas. The 14,145-acre proposed Rural Legacy Area includes most of the drainage basin of the East Branch Patapsco River, part of the West Branch and makes up 16% of the entire Liberty Reservoir watershed in Carroll County.

RESOURCES TO BE PROTECTED

Natural Resources

The sixty-three miles of streams in this Area drain into the North Branch Patapsco River just above Liberty Reservoir, a major drinking water supply for the City of Baltimore and other jurisdictions. The major stream systems within the Area, the East Branch and Aspen Run are designated as Use III – P, meaning Natural Trout and Public Water quality. Relative to typical forest cover in Carroll County, this Area contains a high percentage of forested land. More than a quarter (3,774 acres) of the Area is wooded in stands greater than five acres. This portion of the County has also been identified as containing bog turtle habitat. On the northern edge of the Area bog turtles were discovered in the planning process for the Hampstead Bypass causing the road plans to be adjusted. At the upper reaches of the East Branch a finger of Cockeysville Marble has been identified making it and the surrounding area critical for groundwater acquifer protection measures. *(See Attachment 3, Stream Use Classification and Attachment 4 , Environmental Features Map)*

Agriculture

Within 20 miles of the Baltimore Beltway, this Area contains some of the county's most productive farmland. A total of 3,790 acres of farmland there are already protected with MALPF easements and districts. This represents the largest concentration of districts and easements in the eastern third of the county. It is also home to one of the region's most successful farming operation, growing grain and vegetables on 9,100 acres of owned and rented land in both Carroll and Baltimore County. *(See Rural Legacy Area Map)*

Cultural Features

Thirty-three historic sites have been identified by the Maryland Historic Trust in this Area. These tend to be churches, cemeteries, mills, schoolhouses, and farmhouses typical evidence of several centuries of agricultural tradition. Also nearby, at the northern and southern edges, respectively, are two Rural Villages - Snydersburg and Patapsco – designated during recent Smart Growth planning. Patapsco is a hamlet spawned by the one of oldest rail lines in the County, which is still in use by Maryland Midland. *(See Rural Legacy Area Map)*

Growth Management - Connectivity

The Upper Patapsco Watershed Rural Legacy Area forms the 'green edges' of three community planning areas into which the county strives to direct its residential and commercial growth. The Area as a whole has the potential to add to and support the accomplishments of Baltimore County's very successful Piney Run Rural Legacy Area as well to become a link in the new *Greenprint* initiative. The Greenways Atlas published by DNR cites the two major stream valleys in the Area as part of the states 'green infrastructure'. *(See Attachment 1, Regional Context Map)*

LONG-TERM GOALS

The ultimate land protection goal for this Rural Legacy area is 10,000 acres over the next five years. This would be 70% of the total Area. Currently 1,835 acres are protected with MALPF easements and fifty-eight acres of donated easements with the MET/Carroll County Land Trust Another 450 acres are protected by plat restriction as zoning remainders from clustered 1:20 residential development. The combined protected acreage of 2,343 makes up almost a quarter of the undeveloped land in the area. Another 300 acres will be protected with MALPF easements this year. The achievement of the 10,000 acres goal is based upon the expectation of the acquisition of 6,000 acres (1,200/yr) with Rural Legacy funds, substantial increase in donated easements (330 acres/yr), and MALPF easement activity in the area.

Protestant Exhibit #73A

SUPPORTING LOCAL LAND USE POLICIES

Existing Programs

Master Plan: The foundation for protection of the Upper Patapsco Watershed Rural Legacy Area lies in the Carroll County Master Plan which since the 1960's expressed the county's intention to keep this part of the county in agricultural and conservation uses. *(See Attachment 2, Master Plan Map)*

Zoning: A major step toward implementation of the Master Plan came with the 1978 Comprehensive Zoning that designated most of this Area as part of the agriculture zone with a residential density of 1dwelling unit per 20 acres. While agriculture and conservation are the preferred uses, residential development is allowed by requiring the 1:20 density to be clustered on approximately one-acre lots and the remaining land to be protected by restrictions on the recorded plat. No land has been rezoned in the Area since 1978. The higher density development visible on the Rural Legacy Area Map predates the adoption of agricultural zoning.

Purchase of Development Rights: Over twenty years ago, Carroll County set an ambitious goal of permanently protecting 100,000 acres of prime farmland through PDR. They followed that commitment with consistent and steadily increasing funding to maximize state preservation dollars through the MALPF program. Using MALPF and a number of enhancements, most notably their Critical Farms Program, they have protected 33,300 acres to date, of which 2,343 acres are in this Area. The County presently commits $4.5 million annually to this effort countywide.

Environmental Protection Measures: A Forest Conservation Plan has been implemented through the subdivision process as well as a requirement for 100 foot (each side) stream buffers.

Rural Economic Support: In addition to the county's financial contribution to traditional rural technical education and financial assistance agencies such as the Cooperative Extension Service and the Soil Conservation District, the County's Office of Economic Development recently created a position and hired an Agricultural Economic Development Specialist to explore new and non-traditional opportunities for Carroll's agricultural operators.

Under Study

Conservation Zone: The recently adopted Master Plan called for a study of the County's Conservation Zone (currently 3-acre minimum lot size) to determine its effectiveness, possibly opening the door to a reconsideration of its provisions.

Innovative PDR Funding: The County Agricultural Land Preservation Program is currently exploring the use of installment purchase agreements (IPA's) as a means of further leveraging preservation dollars and attracting more participation by landowners.

Tax Credits: The County Commissioners are currently drafting an ordinance to implement a proposal by the Carroll County Land Trust to allow a local tax credit on land under a homestead on a donated easement. Currently that land is ineligible for any tax credits. It is hoped that this enhancement of comparable state tax credits will encourage landowners to donate easements.

THREAT TO RESOURCES

Although somewhat stabilized by restrictive agricultural zoning, this Area is located only minutes from I-795. By virtue of its proximity to commuter routes, its resources are under threat from growth pressure on most sides. The County has put in place restrictive zoning, directed growth areas, and has refused to rezone any of this area. However, the only permanent protection is in the acquisition of easements by purchase or donation. This application for designation and funding as a Rural Legacy Area is an effort to accelerate the efforts to date. The sponsors plan to 1) provide $500,000 to match a request for $2.7 million for Rural Legacy easements, 2) increase efforts to acquire donated easements, 3) coordinate with Baltimore County to connect with the Piney Run Area, 4)focus CREP enrollment efforts in this Area and 5)continue MALPF easement activity in this area. *(See Attachments 5-7 for Plan component documents)*

EXPECTATION FOR SUCCESS

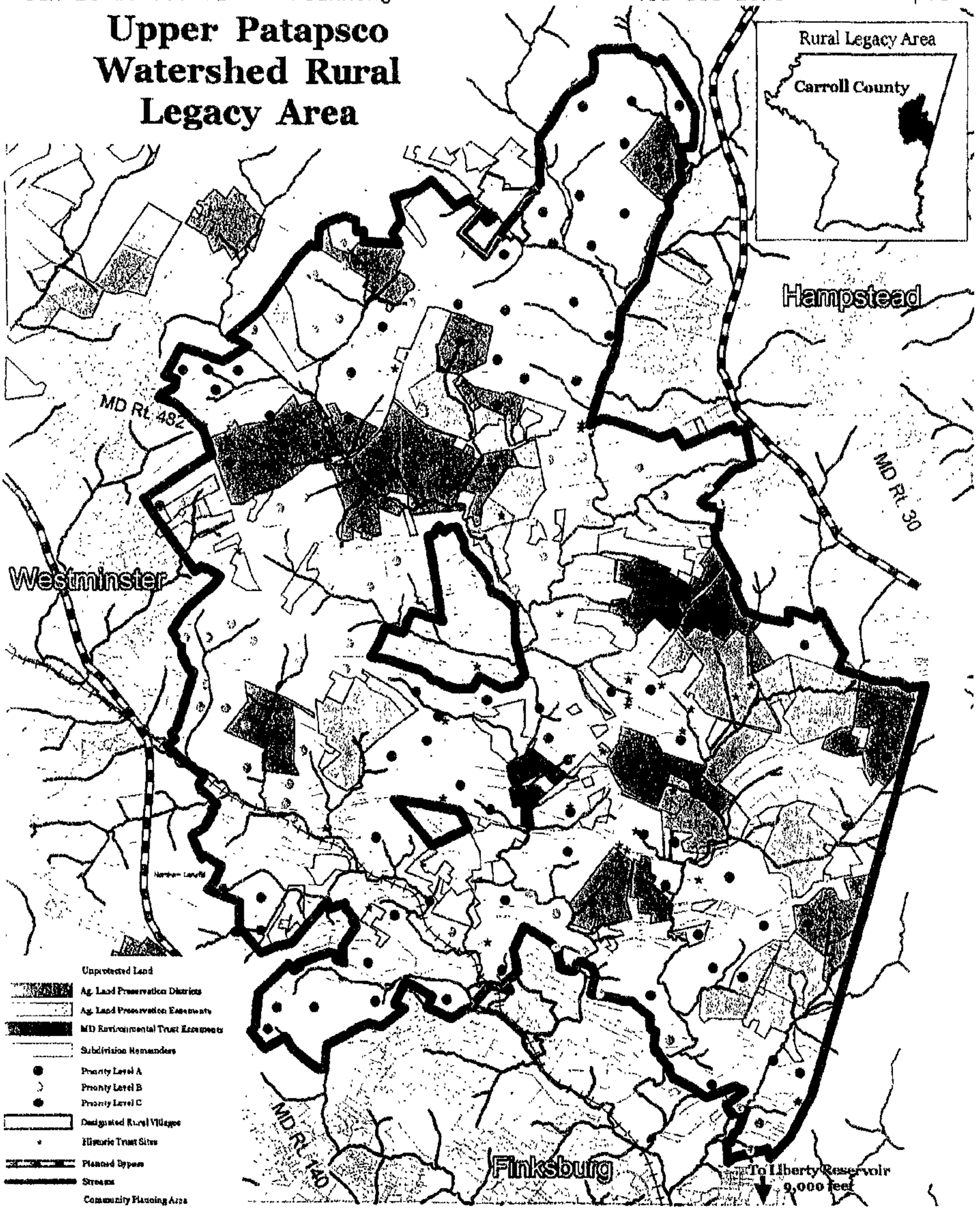
Given sufficient funding in a relatively short period of time, two factors give rise to high expectations of success by the sponsors in achieving substantial permanent protection of the Upper Patapsco Watershed Rural Legacy Area. First is the overwhelming response of landowners in the Area to protection of their individual properties. As a voluntary program, that is the crucial starting point. Second is the proven ability of the sponsors to provide experienced, efficient staffing and administration of both Rural Legacy and MALPF easement acquisition so that opportunities with landowners are not lost.

The extent of the resources to be protected is extensive and, obviously, the prevention of development of the land is the first and most important obstacle to protection of both natural and agricultural resources. At the site specific scale Rural Legacy-protected farms in Carroll County are required to implement a Soil Conservation and Water Quality Plan in half the time allowed by other easements. In addition, the coordination of the Conservation Reserve Enhancement Program (CREP), which takes highly-erodible soils out of agricultural production, is an integral part of the Rural Legacy easement acquisition process.

In summary, the sponsors of the Upper Patapsco Watershed Rural Legacy Area believe that this Area contains all of the ingredients of a successful land preservation effort: valuable resources, threat from development, and proven administrative ability. The Carroll County Commissioners consider this Rural Legacy Area to be their first priority among other efforts in the County.

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Upper Patapsco Watershed Rural Legacy Area



Preservation Districts and Easements shown on this map are privately owned. These properties are subject to recorded deed restrictions against development, but do not provide for public access.

Prepared by the Carroll County Department of Planning, January 2001

MD PropertyView was the source layer that the parcel lines were derived from. The vector parcel layer is still being prepared under the Carroll County Government/ E-911 Project and is still subject to change. The parcel layer does not meet National Map Accuracy Standards. The following layers were created by the Carroll County Dept. of Planning: Ag. Preservation, Streams, Subdivision Remainders, Rural Villages, Bypasses, Community Planning Areas, Historic Trust Sites, and Unprotected Lands. Please see staff for official representations of these layers.

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Ag District

Ag Easement

Bond Property

MET easement

Carroll Co.
Dept Planning
MAY 1999

73
B

Protestant
Exhibit
#73B.

Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL
Room 47, Old CourtHouse
400 Washington Ave.
Towson, MD 21204

(410) 887-2188

PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

February 9, 2001

Lawrence M. Stahl, Panel Chairman
County Board of Appeals
of Baltimore County
401 Washington Avenue, Room 49
Towson, MD 21204

01 FEB -9 PM 3:01

Hand-delivered

Re: Petition for Special Exception
1701 Emory Road
SEC Mt. Gilead and Emory Rds
4th Election District, 3rd Councilmanic
Legal Owner: Estate of Catherine V. Bond
Contract Purchaser: Carroll Community Church
Case No.: 99-503-X

Dear Chairman Stahl:

Please find enclosed the 2000 Official Zoning Maps (200' scale) sheets N.W. 21-L and N.W. 22-L. Please mark these as the next two exhibits for People's Counsel's/Protestants' case.

You will recall that Scott Barhight, attorney for Petitioner, graciously agreed to keep the record open for admission of the current maps in lieu of the 1996 maps, as evidence in People's Counsel's/ Protestants' case.

Very truly yours,

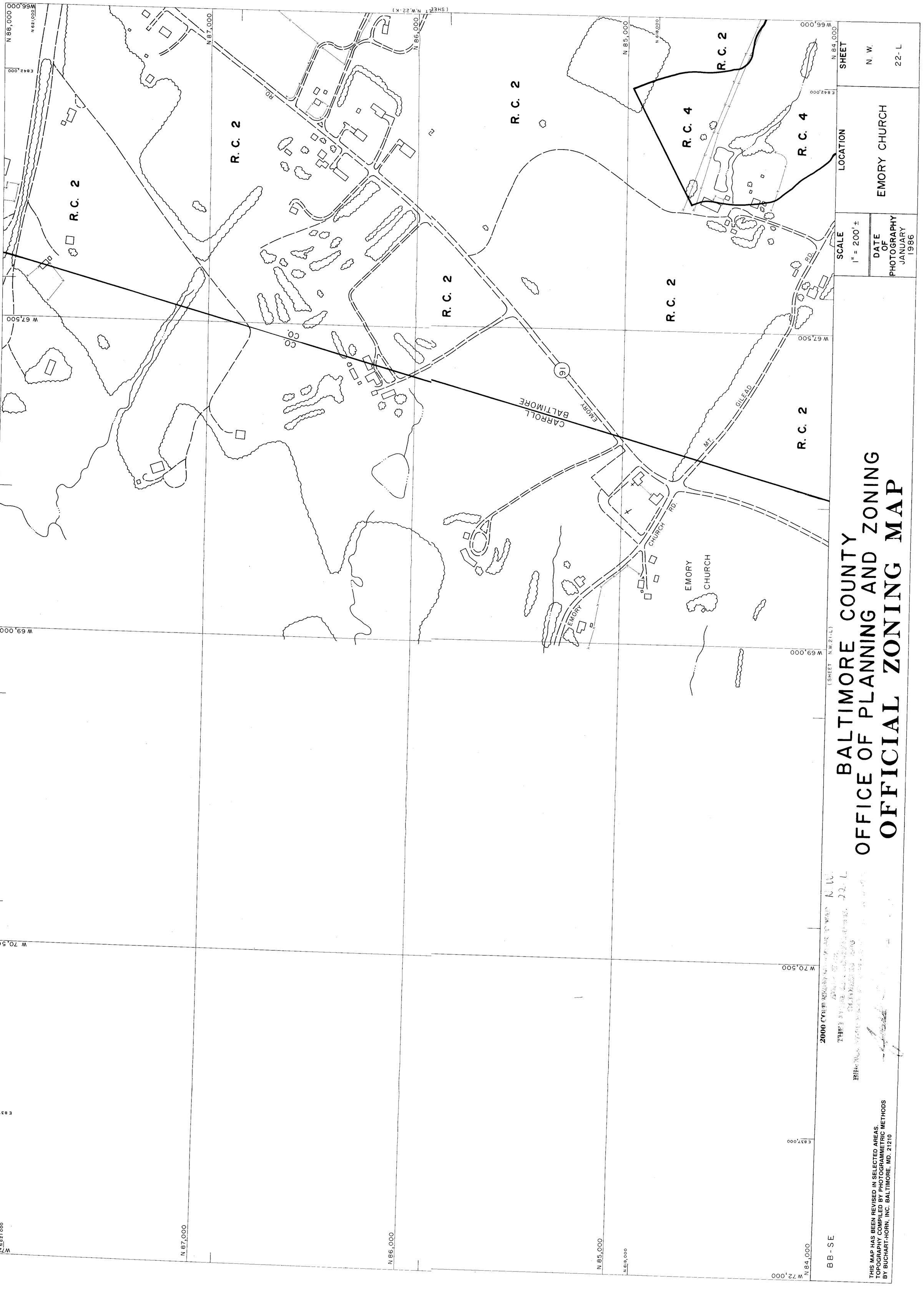
Carole S. Demilio

Carole S. Demilio
Deputy People's Counsel

CSD/caf
Enclosure

cc: G. Scott Barhight, Esq., Attorney for Petitioners

NW 22 L



BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
OFFICIAL ZONING MAP

SHEET	LOCATION	SCALE	DATE OF PHOTOGRAPHY
N. W. 22-L	EMORY CHURCH	1" = 200' ±	JANUARY 1986

2000 (Typ.)

THIS MAP HAS BEEN REVISED IN SELECTED AREAS.
TOPOGRAPHY COMPILED BY PHOTOGRAMMETRIC METHODS
BY BUCHART-HORN, INC. BALTIMORE, MD. 21210

BB - SE

(SHEET N.W.22-L)

N 84,000 N 617,000 W 72,000 E 837,000 W 70,500 W 69,000 W 67,500 E 842,000 N 84,000 N 617,000 W 66,000

N 83,000 N 83,000

N 82,000 N 82,000

N 81,000 N 81,000

N 614,000 N 614,000

N 80,000 W 72,000 E 837,000 W 70,500 W 69,000 W 67,500 E 842,000 N 80,000 W 66,000

(SHEET N.W.21-K)

(SHEET N.W.20-L)

CLYDESDALE ACRES

CLYDESDALE RD.

ALTONDALE RD.

EMORY

CARROLL BALTIMORE CO.

MT. GILEAD RD.

PRIVATE RD.

TENNIS CTS.

FOUND.

R. C. 2

R. C. 4

BB - SE

X - NE

THIS MAP HAS BEEN REVISED IN SELECTED AREAS.
TOPOGRAPHY COMPILED BY PHOTOGRAMMETRIC METHODS
BY BUCHART-HORN, INC. BALTIMORE, MD. 21210

2000 COMPREHENSIVE ZONING MAP N.W.
BALTIMORE COUNTY COUNCIL 21-L
BILL NOS. 2-1992 AND 2000

BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
OFFICIAL ZONING MAP

SCALE	LOCATION	SHEET
1" = 200' ±	SOUTH OF EMORY CHURCH	N. W. 21-L
DATE OF PHOTOGRAPHY JANUARY 1986		

NW 21 L



Baltimore County GIS Services Unit Date of Photography: March 1997 Scale: 1 inch = 200 feet

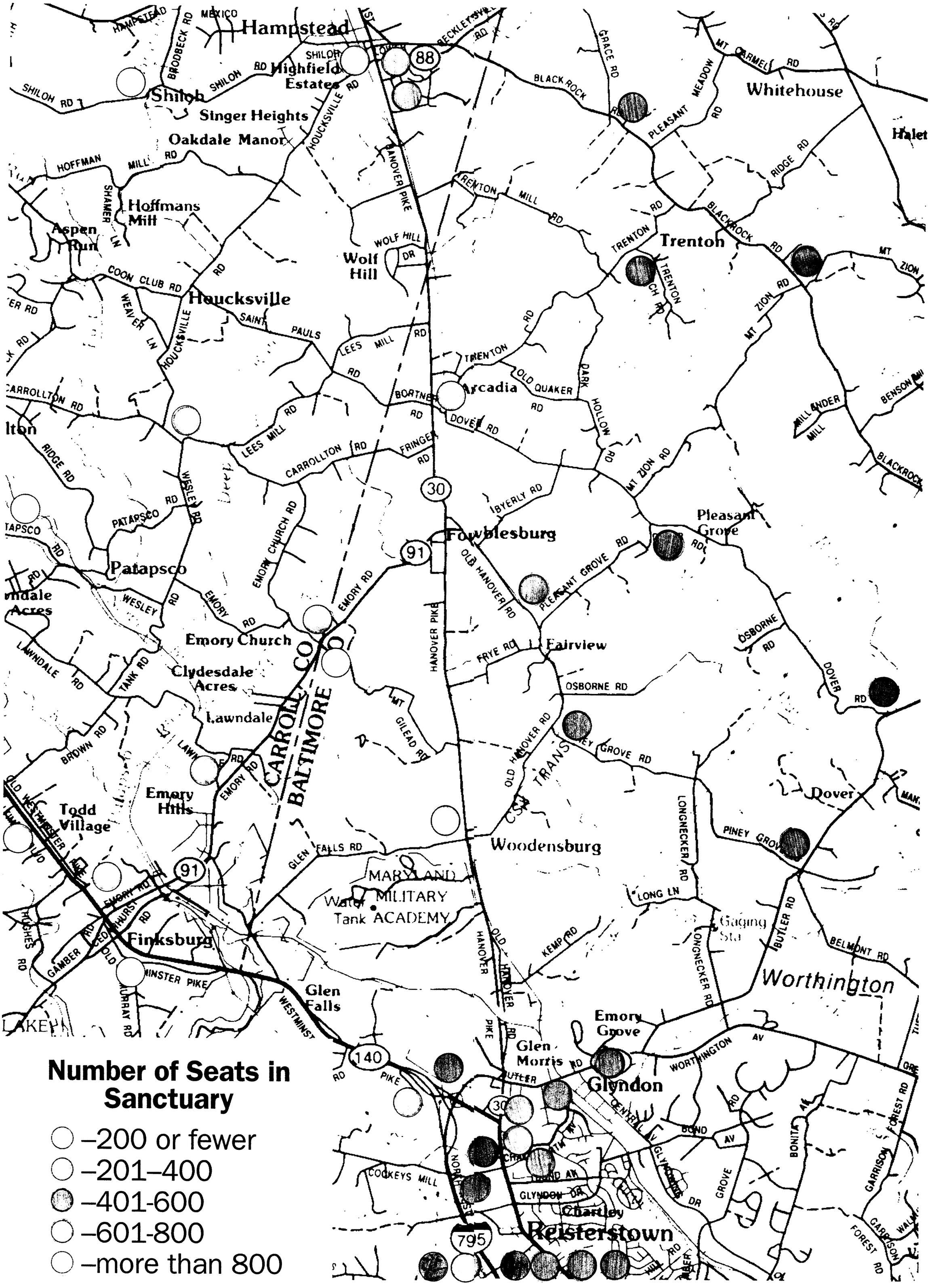
Baltimore County Tile: 31a3

Baltimore County GIS Services Unit Date of Photography: March 1997 Scale: 1 inch = 200 feet

Baltimore County Tile: 031b3


FOWBLESBURG
OLD HANOVER ROAD
EMORY ROAD
HANOVER PIKE
ROUTE 30
EMORY CHURCH ROAD
ROUTE 91

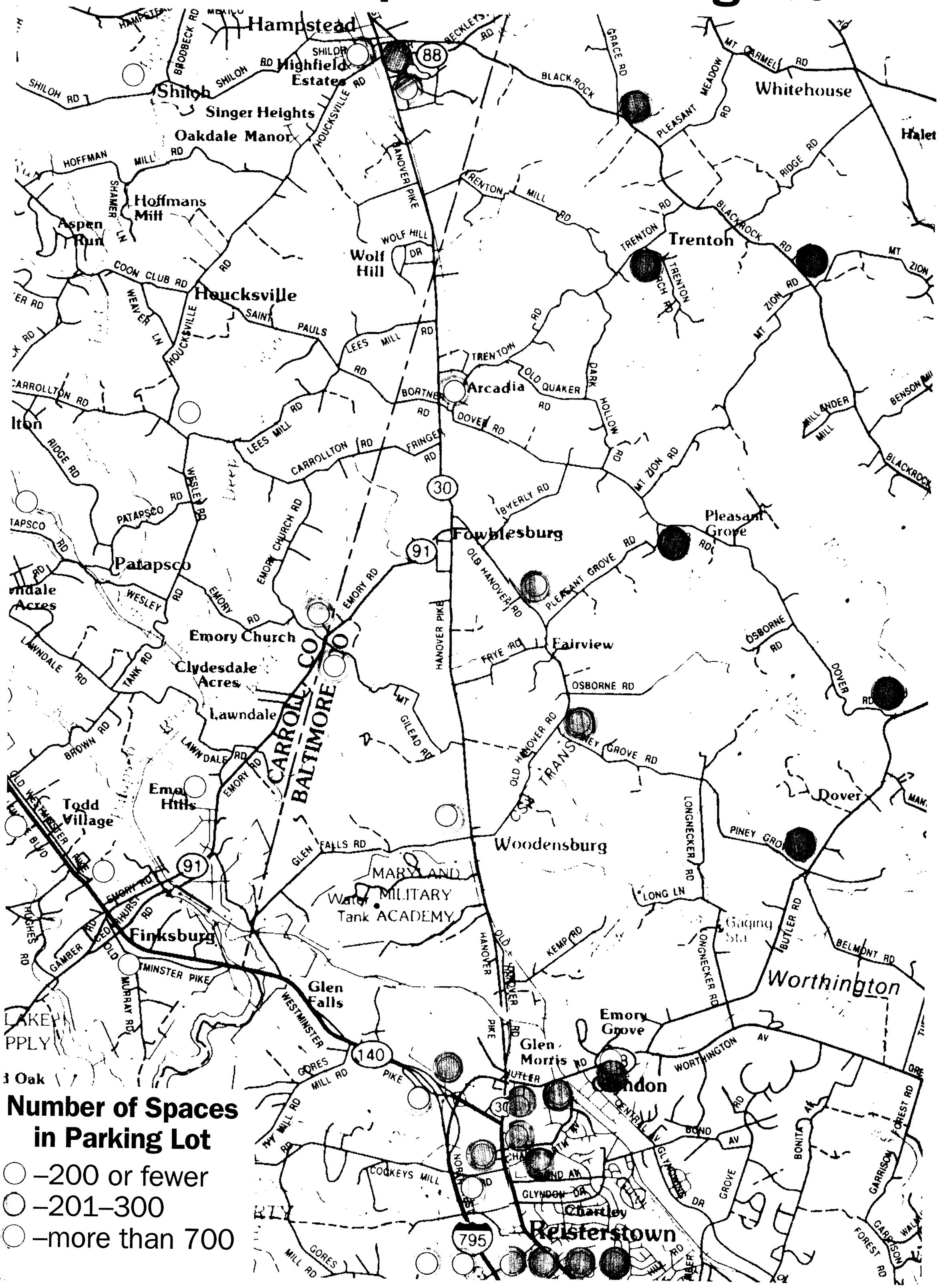
Number of Seats in Sanctuary



Number of Seats in Sanctuary

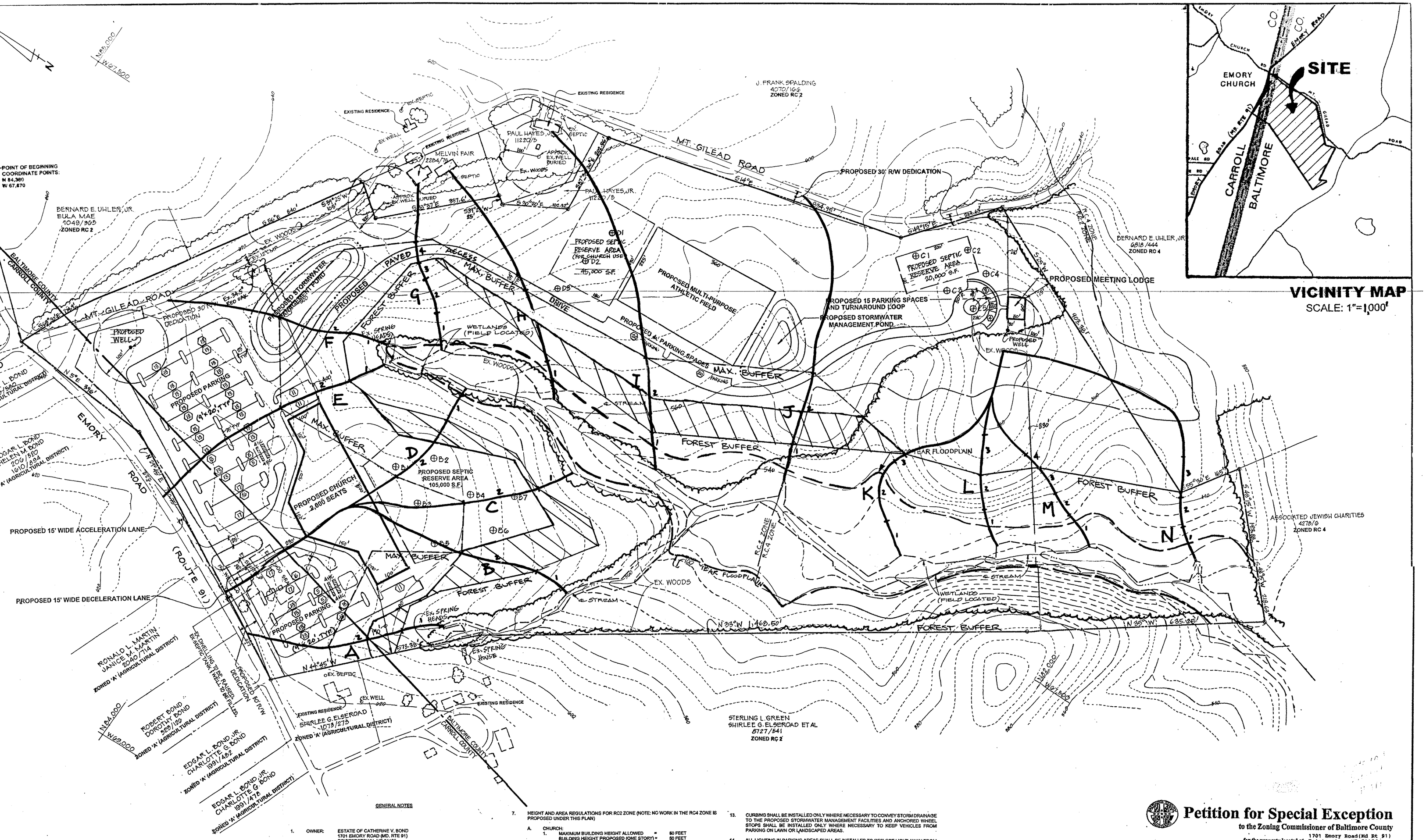
- ○ –200 or fewer
- ○ –201–400
- ● –401-600
- ○ –601-800
- ○ –more than 800

Number of Spaces in Parking Lot



Number of Spaces in Parking Lot

- ○ –200 or fewer
- ○ –201–300
- ○ –more than 700



STEEP SLOPES / ERODIBLE SOILS ANALYSIS AND FOREST BUFFER DELINEATION PLAN

July 26, 1999

Jeffrey A. Wolinski
Consulting Ecologist
18941 Middletown Road
Parkton, MD 21120
(410) 329-2277

GENERAL NOTES

1. OWNER: ESTATE OF CATHERINE V. BOND
1701 EMORY ROAD (MD. RTE 91)
REISTERSTOWN, MD 21136
ATTN: VIRGINIA B. NORWOOD, PERSONAL REPRESENTATIVE

2. CONTRACT PURCHASER/DEVELOPER:
CARROLL COMMUNITY CHURCH, INC
9220 KLEES MILL ROAD, SUITE E
SYKESVILLE, MD 21784
ATTN: JOHN MARTINDALE, TRUSTEE CHAIRMAN

3. ENGINEER: MORRIS & RITCHIE ASSOCIATES, INC.
110 WEST ROAD, SUITE 245
TOWSON, MD 21204
ATTN: BOB BRADLEY, P.E.
PHONE: 410-821-1690

4. PROPERTY INFORMATION:
A. GROSS AREA OF SITE = 68.89 AC. OR 3,000,848 S.F.
(64.66 AC ± IN BALTIMORE COUNTY AND 4.23 AC ± IN CARROLL COUNTY)
B. GROSS AREA OF SITE IN RC2 ZONE = 49.90 AC ±
GROSS AREA OF SITE IN RC4 ZONE = 15.76 AC ±
GROSS AREA OF SITE IN AGRICULTURAL DISTRICT (ZONE "A") CARROLL CO. = 4.23 AC ±
C. NET AREA OF SITE = 66.04 AC ± OR 2,876,702 S.F.
D PROPERTY ADDRESS: 1701 EMORY ROAD (MD. RTE 91)
REISTERSTOWN, MD 21136
E. ELECTION DISTRICT: 4
F. COUNCILMANIC DISTRICT: 3
G. BALTIMORE COUNTY ADC MAP 9, GRID F-8
H. CENSUS TRACT: 4046
I. BALTIMORE REFERENCE TAX MAP 31, GRID 14, PARCEL 76
J. DEED REFERENCE: 3256/171 AND 284/317
K. TAX ACCOUNT NO. 0402057650
L. ZONING MAP REFERENCE: N.W. 21-L AND N.W. 22-L

5. EXISTING LAND USE IN BALTIMORE COUNTY: AGRICULTURAL

6. PROPOSED USE: CHURCH
A. ACCESSORY USES INCLUDE THE FOLLOWING: CHURCH OFFICES, SUNDAY SCHOOL CLASSROOMS AND SUPPORT SERVICES, MULTI-PURPOSE FACILITY TO INCLUDE AN ASSEMBLY HALL WITH KITCHEN, YOUTH CENTER, MULTI-PURPOSE ATHLETIC FIELD AND MEETING LODGE.

7. HEIGHT AND AREA REGULATIONS FOR RC2 ZONE (NOTE: NO WORK IN THE RC4 ZONE IS PROPOSED UNDER THIS PLAN)
A. CHURCH:
1. MAXIMUM BUILDING HEIGHT ALLOWED = 60 FEET
BUILDING HEIGHT PROPOSED (ONE STORY) = 50 FEET
2. REQUIRED BUILDING SETBACKS
75 FEET MINIMUM TO A STREET CENTERLINE OR 35 FEET FROM ANY OTHER PROPERTY LINE
PROPOSED BUILDING SETBACKS
FRONT: 230 FEET
SOUTH SIDE: 190 FEET
NORTH SIDE: 450 FEET
REAR: MORE THAN 35 FEET
B. ACCESSORY MEETING LODGE:
1. MAXIMUM BUILDING HEIGHT ALLOWED = 35 FEET
BUILDING HEIGHT PROPOSED = 35 FEET
(ONE STORY)
2. PROPOSED BUILDING SETBACKS
FRONT: MORE THAN 75 FEET TO STREET CENTERLINE
SOUTH SIDE: 830 FEET
NORTH SIDE: 210 FEET
REAR: 75 FEET

8. PARKING CALCULATIONS:
A. CHURCH: 2,000 SEATS AT 1 PER 4 SEATS =500 PARKING SPACES REQUIRED
• 633 PARKING SPACES PROPOSED
• 9 HANDICAPPED SPACES REQUIRED
• 16 HANDICAPPED SPACES PROPOSED
B. MULTIPURPOSE ATHLETIC FIELD:
• PARKING REQUIRED = NONE
• 40 PARKING PROPOSED
C. MEETING LODGE:
• PARKING REQUIRED = NONE
• 15 PARKING PROPOSED

9. ALL PROPOSED PAVED SURFACES SHALL BE DUSTLESS MACADAM.

10. LANDSCAPING SHALL BE PROVIDED FOR ALL PROPOSED USES AS REQUIRED PER THE BALTIMORE COUNTY LANDSCAPE MANUAL.

11. PRIVATE WELL AND SEPTIC IS PROPOSED FOR THE CHURCH AND MEETING LODGE.

12. ALL SIGNAGE SHALL BE IN ACCORDANCE WITH SECTION 450.4 OF THE BALTIMORE COUNTY ZONING REGULATIONS.

13. CURBING SHALL BE INSTALLED ONLY WHERE NECESSARY TO CONVEY STORM DRAINAGE TO THE PROPOSED STORMWATER MANAGEMENT FACILITIES AND ANCHORED WHEEL STOPS SHALL BE INSTALLED ONLY WHERE NECESSARY TO KEEP VEHICLES FROM PARKING ON LAWN OR LANDSCAPED AREAS.

14. ALL LIGHTING IN PARKING AREAS SHALL BE INSTALLED TO REFLECT LIGHT AWAY FROM ADJACENT RESIDENTIAL SITES AND PUBLIC STREETS.

15. ALL SEPTIC PERCOLATION TESTS SHOWN ON THIS PLAN HAVE BEEN APPROVED BY BALTIMORE COUNTY DEPRM.

16. CARROLL COUNTY HAS APPROVED PARKING OR ANY OTHER ACCESSORY USES RELATED TO THE PROPOSED CHURCH ON THE CARROLL COUNTY PORTION OF THE SUBJECT PROPERTY. APPROVED ON JULY 15, 1998.

17. THE EXISTING SINGLE FAMILY DWELLING WILL BE RAZED, EXISTING WELL AND SEPTIC AREA WILL BE ABANDONED AND FILLED BY A LICENSED CONTRACTOR.

18. THERE ARE NO EXISTING OR PROPOSED WELLS WITHIN 100 FEET OF EXISTING OR PROPOSED PRIVATE SEWAGE DISPOSAL AREAS.

19. THERE ARE NO PROPOSED SEWAGE DISPOSAL AREAS WITHIN 25 FEET OF GRADES EXCEEDING 25% SLOPE NOR WITHIN 200 FEET OF ANY STREAM.

20. EXISTING TOPOGRAPHY, ROADS AND WOODS AS SHOWN ON THIS PLAN ARE FROM COUNTY TOPOGRAPHIC MAPS.

21. PROPERTY LINE INFORMATION IS FROM DEED.

ADD TO FOREST BUFFER

LEGEND:
(13) = NUMBER OF PROPOSED PARKING SPACES
⊕B6 = SEPTIC PERCOLATION TEST LOCATIONS
100-YEAR FLOODPLAIN

Petition for Special Exception

to the Zoning Commissioner of Baltimore County

for the property located at 1701 Emory Road (MD Rt 91) Reisterstown MD 21136

which is presently zoned RC2 (Church)

This Petition shall be filed with the Department of Permits and 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

▲ Church pursuant to §1A01.2(C)6

MORRIS & RITCHIE ASSOCIATES, INC.
ENGINEERS, PLANNERS, SURVEYORS AND LANDSCAPE ARCHITECTS
110 WEST ROAD SUITE 245
TOWSON, MARYLAND 21204
(410) 821-1690
FAX (410) 821-1748

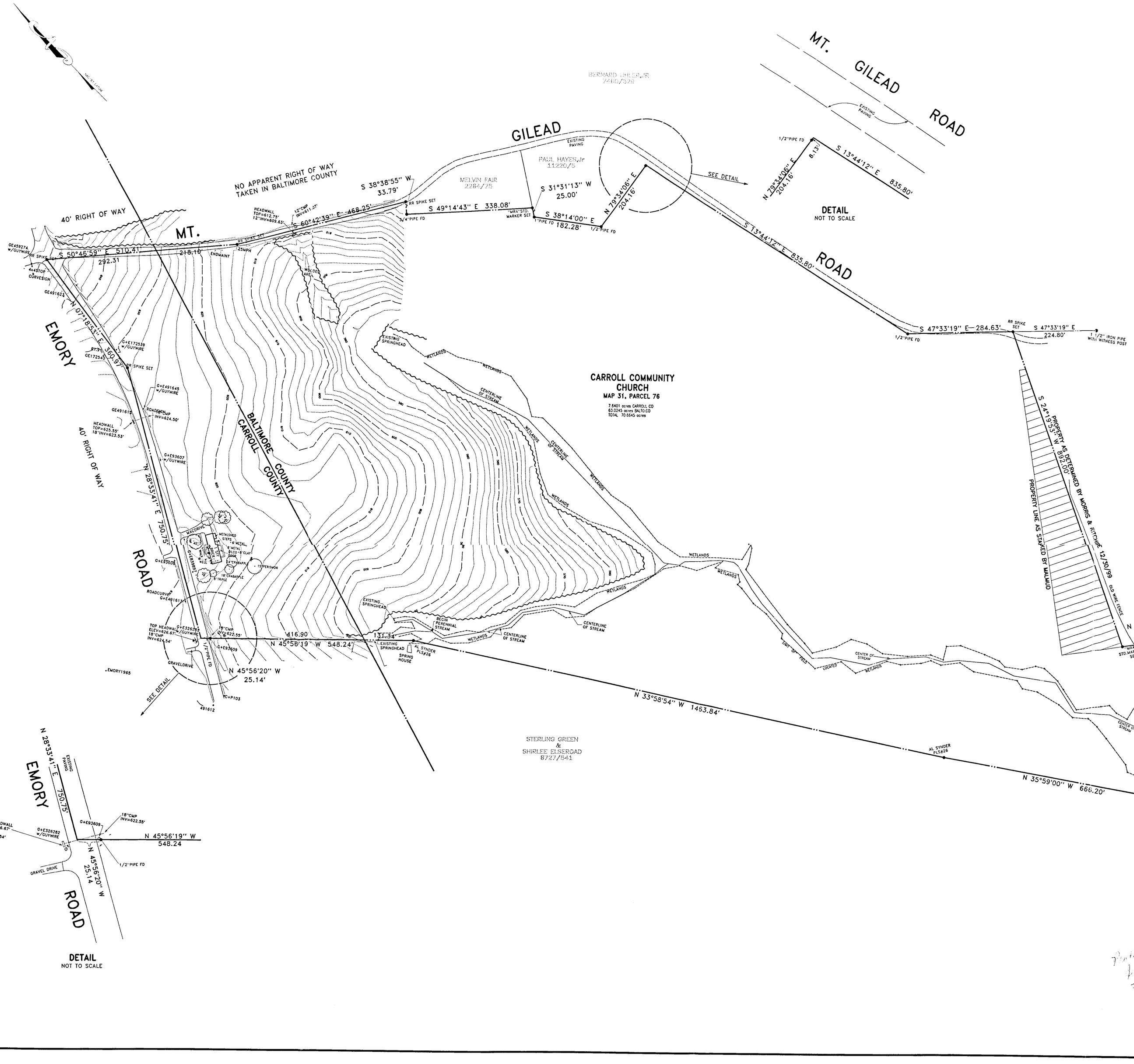
PLAN TO ACCOMPANY A PETITION FOR SPECIAL EXCEPTION

CARROLL COMMUNITY CHURCH

4TH ELECTION DISTRICT BALTIMORE COUNTY, MD

DATE	REVISIONS	
		JOB NO.: 11236
		SCALE: 1"=100'
		DATE: 6/14/99
		DRAWN BY: J.A.G.
		DESIGN BY: BC
		REVIEW BY: RFB
		SHEET: 1 OF 1

J:\11236\11236EXCEPT.DWG



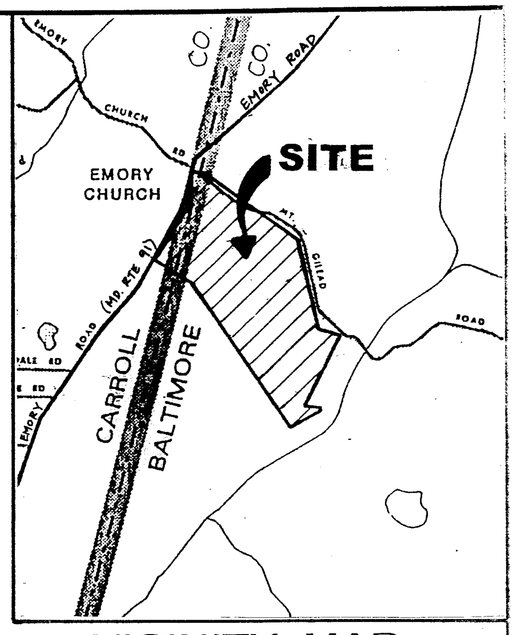
MORRIS & RITCHIE ASSOCIATES, INC.
ENGINEERS, ARCHITECTS, PLANNERS, SURVEYORS & LANDSCAPE ARCHITECTS
139 N. Main Street, Suite 200
Bel Air, Maryland 21014
(410) 879-1690 – (410) 836-7560
Fax: (410) 879-1820

BOUNDARY & TOPOGRAPHIC SURVEY

CARROLL COMMUNITY CHURCH

DATE	REVISIONS	
		JOB NO: 11236
		SCALE: 1"=100'
		DATE: 1/17/00
		DRAWN BY: hasp/dc
		DESIGN BY:
		REVIEW BY:
		SHEET 1 of 1

/11236/field/11236BT<PLAT>



VICINITY MAP
SCALE: 1" = 1,000'

EMORY UNITED METHODIST CHURCH
1175/476
ZONED 'A'
EX. USE: CHURCH

EX. CHURCH

BALTIMORE COUNTY
CARROLL COUNTY

EMORY CHURCH RD.

BERNARD UHLER, JR
7460/529
R.C.2 ZONE
USE: RESIDENTIAL & AGRICULTURE

MELVIN FAIR
2284/75
R.C.2 ZONE
USE: RESIDENTIAL

PAUL HAYES
11220/5
R.C.2 ZONE
USE: RESIDENTIAL

GILEAD

EX. SEPTIC

EX. WELL

EX. RESIDENCE

EX. TREES

S 38°38'55" W 332.24'

S 49°14'43" E 338.08

S 35°14'00" E 182.28'

S 31°31'13" W 25.00'

N 54°43'20" W 165.00'

S 13°14'32" E 935.80'

S 50°46'59" E 510.41'

292.31'

218.16'

S 47°33'19" E 284.63'

S 47°33'19" E 254.80'

1 1/2" IRON PIPE WITH WITNESS POST

1/2" PIPE FD

1/2" PIPE FD

1" PIPE FD

1/2" PIPE SET

NAIL & STD. MARKER SET

HEADWALL TOP=612.75' 12"INV=609.63'

HEADWALL TOP=629.55' 18"INV=623.33'

HEADWALL TOP=626.67' 18"CMP INV=624.54'

TOP HEADWALL ELEV=626.67' GUYWIRES

ROADCULVERT

CHRISTOPHER L. BOND
1900/580
ZONED 'A'

EMORY ST. RTE 91

N 07°18'53" E 360.93'

N 28°33'41" E 750.75'

30' EXISTING PAVING WIDTH

EDGER L. BOND
HELEN M. BOND
206/520
160/894
ZONED 'A'

RONALD C. MARTIN
JANICE M. MARTIN
2040/714
ZONED 'A'

ROBERT BOND
DORTHY BOND
329/126
ZONED 'A'

EDGER L. BOND JR.
CHARLOTTE G. BOND
1991/482
ZONED 'A'

SHIRLEE G. ELSEROAD
1073/273
ZONED 'A'

PROPOSED WELL

PROPOSED PARKING 428 SPACES

PROPOSED PARKING 125 SPACES

PROPOSED PARKING 205 SPACES

PROPOSED CHURCH
2200 SEAT

PROPOSED SEPTIC RESERVE AREA
105,000 S.F.

PROPOSED SEPTIC RESERVE AREA
15,000 S.F.

PROPOSED SEPTIC RESERVE AREA
50,000 S.F.

PROPOSED MULTI-PURPOSE ATHLETIC FIELD

PROPOSE 40 PARKING SPACES (OPEN SECTION)

15 PROPOSED PARKING SPACES AND TURNAROUND LOOP

PROPOSED MEETING LODGE

DAVID STAMBAUGH
14019/737
R.C.4 ZONE
USE: RESIDENTIAL & AGRICULTURE

FUTURE SANCTUARY

PROPOSED FREE STANDING SIGN

EXISTING HOUSE
EX. SEPTIC

WATER QUALITY FACILITY #1

WATER QUALITY FACILITY #2

PROPOSED ROAD

PROPOSED DRIVE

PROPOSED FOREST BUFFER

EX. WOODS

100 YEAR FLOOD PLAIN

WETLANDS

CENTERLINE OF STREAM

EX. RESIDENCE

EX. SPRINGHOUSE

EXISTING SPRINGHEAD

GRAVEL DRIVE

N 45°56'19" W 548.24'

N 45°56'20" W 25.14'

416.90'

131.38'

N 33°58'54" W 1463.84'

N 35°53'00" W 666.20'

S 41°25'00" W 253.19'

192.22'

R.C.2 ZONE
R.C.4 ZONE

R.C.4 ZONE
R.C.2 ZONE

42" WHITE OAK W/IN 3 BLAZES FOUND

42"X4" STONE MARKED "I" FOUND

ASSOCIATED JEWISH CHARITIES OF BALTIMORE
4278/06

STERLING GREEN
&
SHIRLEE ELSEROAD
8727/541
R.C.2 ZONE
USE: RESIDENTIAL & AGRICULTURE

A. SNYDER PLS#526

GENERAL NOTES

OWNER/DEVELOPER:
CARROLL COMMUNITY CHURCH, INC
5220 KLEES MILL ROAD SUITE E
SYKESVILLE, MD 21784
ATTN: JOHN MARTINDALE, TRUSTEE CHAIRMAN

ENGINEER: MORRIS & RITCHIE ASSOCIATES, INC
110 WEST ROAD, SUITE 245
TOWSON, MD 21204
ATTN: EDE BRADLEY, P.E.
PHONE: 410-821-1690

PROPERTY INFORMATION:

A. GROSS AREA OF SITE = 70.69 AC ±
(63.00 AC ± IN BALTIMORE COUNTY & 7.64 AC ± IN CARROLL COUNTY)

B. GROSS AREA OF SITE IN R.C.2 ZONE = 47.56 AC ±
GROSS AREA OF SITE IN R.C.4 ZONE = 15.46 AC ±
DISTRICT (ZONE "A"): CARROLL CO. = 7.64 AC ±

C. PROPERTY ADDRESS: 1031 EMORY ROAD (MD. RTE 91)
REISTERSTOWN, MD 21136

D. ELECTION DISTRICT: 4
E. COUNCILMANIC DISTRICT: 3
F. BALTIMORE COUNTY ADC: MAP 6, GRID F-9
G. CENSUS TRACT: 4046
H. BALTIMORE REFERENCE: TAX MAP 31, GRID 14, PARCEL 74
I. DEED REFERENCE: LIBER/FOLIO 2284/75
J. TAX ACCOUNT NO.: 04002575EC
K. ZONING MAP REFERENCE: N.W. 21 & N.W. 22
L. EXISTING LAND USE IN BALTIMORE COUNTY: AGRICULTURAL

PROPOSED USE:
A. 2,200 SEAT CHURCH
B. ACCESSORY USES TO INCLUDE: RELIGIOUS CHURCH OFFICES, SUNDAY SCHOOL CLASSROOMS AND NURSERY SERVICES, YOUTH, ADULT AND SENIOR ACTIVITIES, OUTREACH, YOUTH CENTER, MULTI-PURPOSE ATHLETIC FIELD AND MEETING LODGE.

NOTE: THE EQUIPMENT AND STORAGE USES SHALL OCCUR WITHIN THE CHURCH SERVICES AND SEATS ARE 2

2. REQUIRED BUILDING SETBACKS
75 FEET MINIMUM TO A STREET CENTERLINE OR 25 FEET FROM ANY OTHER PROPERTY LINE

PROPOSED BUILDING SETBACKS
FRONT: 340 FEET
SOUTH SIDE: 200 FEET
NORTH SIDE: 410 FEET
REAR: MORE THAN 25 FEET

B. ACCESSORY MEETING LODGE
1. MAXIMUM BUILDING HEIGHT ALLOWED = 35 FEET
BUILDING HEIGHT PROPOSED = 35 FEET
(ONE STORY)

2. PROPOSED BUILDING SETBACKS
FRONT: MORE THAN 75 FEET TO STREET CENTERLINE
SOUTH SIDE: 662 FEET
NORTH SIDE: 225 FEET
REAR: 45 FEET

3. PARKING CALCULATIONS:

A. CHURCH: 2,000 SEATS AT 1 PER 4.0 SEATS = 500 PARKING SPACES REQUIRED
- 760 PARKING SPACES PROPOSED
- 16 HANDICAPPED SPACES REQUIRED (760 PARKING SPACES x 2%)
- 16 HANDICAPPED SPACES PROPOSED

B. MULTI-PURPOSE athletic FIELD
- PARKING REQUIRED = NONE
- 40 PARKING PROPOSED

C. MEETING LODGE
- PARKING REQUIRED = NONE
- 15 PARKING PROPOSED

5. ALL PROPOSED PAVED SURFACES SHALL BE DUSTLESS MACADAM

10. LANDSCAPING SHALL BE PROVIDED FOR ALL PROPOSED USES AS REQUIRED PER THE BALTIMORE COUNTY LANDSCAPE MANUAL

11. PRIVATE WELL AND SEPTIC IS PROPOSED FOR THE CHURCH AND MEETING LODGE

12. ALL SEWAGE SHALL BE IN ACCORDANCE WITH SECTION 35-3-305 OF THE BALTIMORE COUNTY PLUMBING CODE

16. THE EXISTING SINGLE FAMILY DWELLING WILL BE RAZED. EXISTING WELL AND SEPTIC AREA WILL BE ABANDONED AND FILLED BY A LICENSED CONTRACTOR

17. THERE ARE NO EXISTING OR PROPOSED WELLS WITHIN 100 FEET OF EXISTING OR PROPOSED PRIVATE SEWAGE DISPOSAL AREAS

18. THERE ARE NO PROPOSED SEWAGE DISPOSAL AREAS WITHIN 25 FEET OF GRADES EXCEEDING 25% SLOPE NOR WITHIN 200 FEET OF ANY STREAM

19. EXISTING PROPERTY LINE, ROADS AND WETLANDS AS SHOWN ON THIS PLAN ARE FROM FIELD SURVEY COMPLETED BY MORRIS & RITCHIE ASSOC. ON 12/30/99

20. EXISTING TOPOGRAPHY AS SHOWN IN TWO FOOT INTERVALS ON THE SOUTH WEST SIDE OF THE PROPERTY ARE FROM A FIELD SURVEY COMPLETED BY MORRIS & RITCHIE ASSOC. ON 12/30/99. REMAINING TOPOGRAPHIC INFORMATION AND WOODS AS SHOWN ARE FROM COUNTY TOPOGRAPHIC MAPS

21. A STORMWATER MANAGEMENT WAIVER WAS GRANTED IN A LETTER DATED FEBRUARY 8, 2000. WATER QUALITY MANAGEMENT WILL BE PROVIDED FOR AS REQUESTED IN THAT LETTER.

22. A SPECIAL EXCEPTION HAS BEEN GRANTED BY BALTIMORE COUNTY TO ALLOW A CHURCH USE IN A RESIDENTIAL ZONE. AN APPEAL OF THE CONDITIONS OF THE SPECIAL EXCEPTIONS HAS BEEN FILED AND A DECISION IS PENDING. CASE NUMBER 99-503-X

23. THIS PLAN IS EXEMPT FROM THE FOREST CONSERVATION REGULATIONS AS A SINGLE LOT DEVELOPMENT CLEARING LESS THAN 40,000 SQUARE FEET. THIS IS IN ACCORDANCE WITH SECTION 14-334 OF THE BALTIMORE COUNTY CODE.

NOTE: A VARIANCE WAS GRANTED BY THE BALTIMORE COUNTY DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT FROM THE REGULATIONS FOR THE PROTECTION OF WATER QUALITY, STREAMS, WETLANDS, AND FLOOD PLAINS, THE FOREST BUFFER EASEMENT AND BUILDING SETBACK SHOWN HEREON ARE REPRESENTATIVE OF THE FACT THAT THIS VARIANCE WAS GRANTED. CONSTRUCTION PLACED ON THE VARIANCE TO REDUCE WATER QUALITY IMPACTS

THE FOREST BUFFER EASEMENT SHALL BE PERMANENTLY POSTED AT 200 FOOT INTERVALS AND AT SIGNIFICANT TURNING POINTS WITH SIGN STATING "FOREST BUFFER - DO NOT DISTURB"

LEGEND

- EX. VEGETATION
- EX. BUILDING
- EX. CONTOURS
- PROPOSED BUILDING
- FUTURE PROPOSED BUILDING
- PROPOSED PARKING
- PROPOSED SEPTIC RESERVE AREA
- PERC. TEST

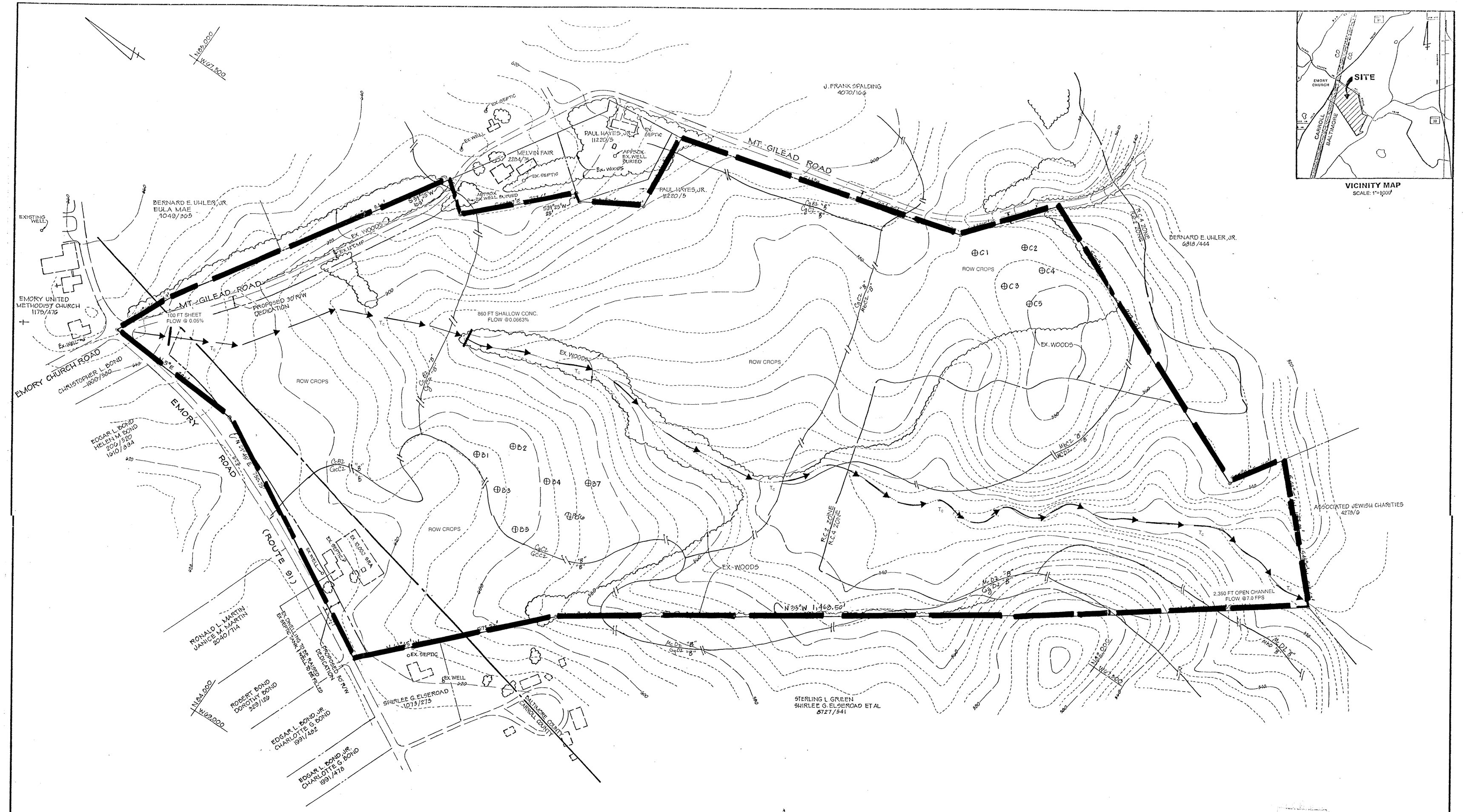
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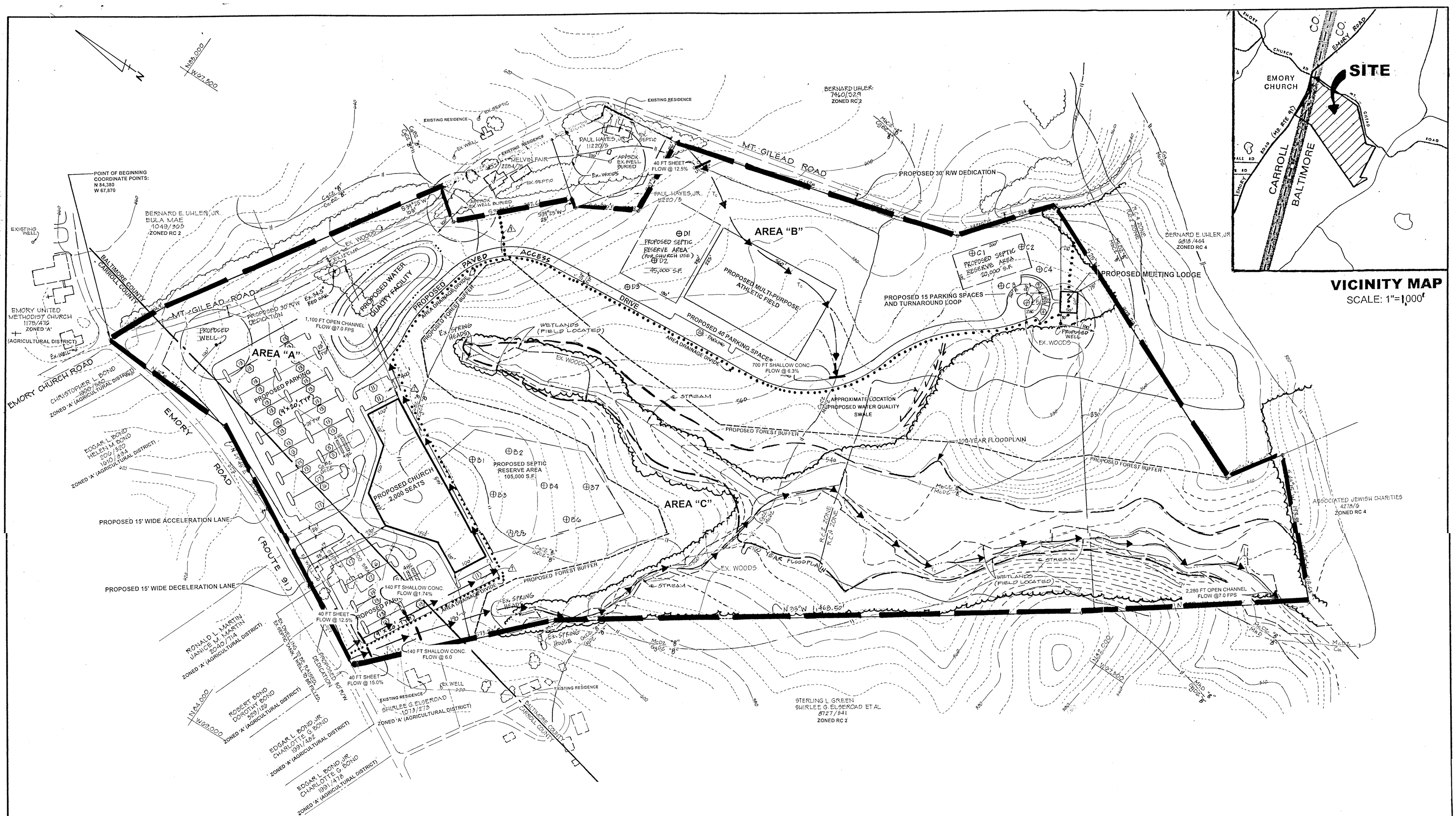
MORRIS & RITCHIE ASSOCIATES, INC.
ENGINEERS, ARCHITECTS, PLANNERS, SURVEYORS & LANDSCAPE ARCHITECTS
110 WEST ROAD SUITE 245
TOWSON, MARYLAND 21204
(410) 821-1690
FAX (410) 821-1748

SITE PROPOSAL MAP
CARROLL COMMUNITY CHURCH

DATE	REVISIONS	
		JOB NO: 11236
		SCALE: 1"=100'
		DATE: 2/17/00
		DRAWN BY: JCL
		DESIGN BY: BC/JCL
		REVIEW BY: BC
		SHEET 2 of 3

VICINITY MAP
SCALE: 1"=1000'


MT. GILEAD ROAD
EMORY CHURCH ROAD
EMORY ROAD (ROUTE 91)
EMORY UNITED METHODIST CHURCH 1175/476
BERNARD E. UHLER, JR. EULA MAE 1049/305
BERNARD E. UHLER, JR. 6818/444
J. FRANK SPALDING 4070/166
PAUL HAYES, JR. 11220/5
WELVIN FAIR 2224/75
CHRISTOPHER L. BOND 1809/580
EDGAR L. BOND HELEN M. BOND 205/320 1910/894
EDGAR L. BOND JR CHARLOTTE G. BOND 1991/478
RONALD L. MARTIN JANICE M. MARTIN 2240/714
ROBERT BOND DOROTHY BOND 329/120
SHIRLEE G. ELSEROAD 1013/275
STERLING L. GREEN SHIRLEE G. ELSEROAD ET AL 8727/341
ASSOCIATED JEWISH CHARITIES 4278/6
PROPOSED 30' R/W DEDICATION
EX. DWELLING TO BE RAZED EX. SEPTIC TANK & WELL TO BE FILLED
PROPOSED 50' R/W DEDICATION
EX. WOODS
ROW CROPS
100 FT SHEET FLOW @ 0.05%
860 FT SHALLOW CONC. FLOW @0.0663%
2,350 FT OPEN CHANNEL FLOW @7.0 FPS
R-C-4 ZONE
R-C-2 ZONE
EX. 1000 SRA
EX. SEPTIC
EX. WELL
EX. CMP
EX. WELL TO BE FILLED
BALTIMORE COUNTY
CARROLL COUNTY
N 39°W 1,460.50'
S 31°25' W 1039'
S 31°25' W 25'
N 15° E 1,275'
N 17°45' E 1,275'
N 89°30' E 1,275'
N 89°30' E 1,275'
N 89°30



VICINITY MAP
SCALE: 1"=1,000'

MORRIS & RITCHIE ASSOCIATES, INC.
ENGINEERS, PLANNERS, SURVEYORS AND LANDSCAPE ARCHITECTS
110 WEST ROAD, SUITE 245
TOWSON, MARYLAND 21204
(410) 821-1690
FAX (410) 821-1748

EXHIBIT TO ACCOMPANY
STORM WATER MANAGEMENT WAIVER

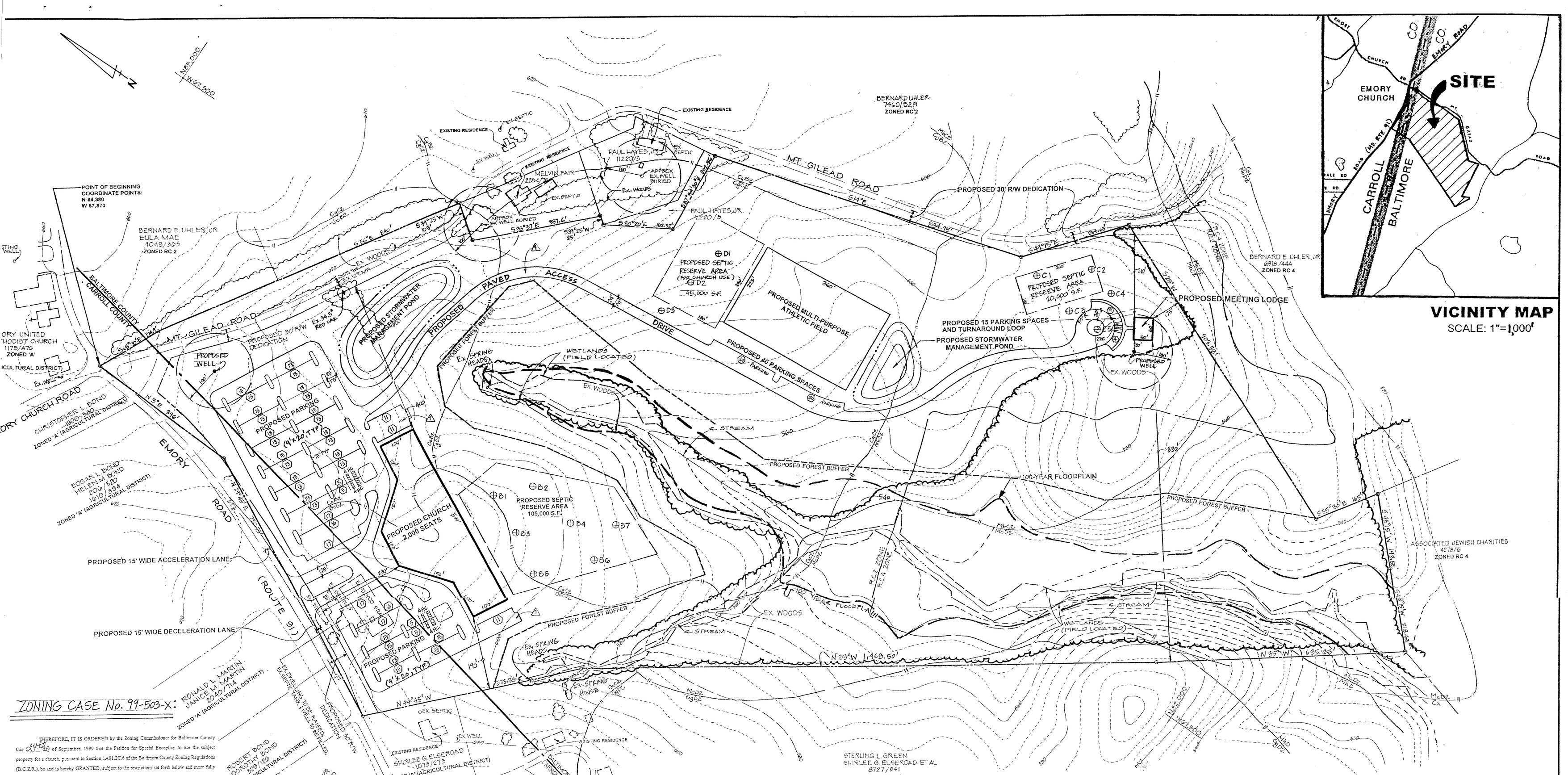
CARROLL COMMUNITY CHURCH

PROPOSED CONDITIONS HYDROLOGY

4TH ELECTION DISTRICT — BALTIMORE COUNTY, MARYLAND

DATE	REVISIONS

JOB NO.: 11236
SCALE: 1" = 100'
DATE: 12/28/99
DRAWN BY: AS
DESIGN BY:
FILE #:


N
N35,000
W67,500
POINT OF BEGINNING COORDINATE POINTS: N 84,380 W 67,870
BERNARD E. UHLER, JR EULA MAE 1049/205 ZONED RC 2
BALTIMORE COUNTY CARROLL COUNTY
MT. GILEAD ROAD
PROPOSED 30' R/W DEDICATION
PROPOSED WELL
PROPOSED STORMWATER MANAGEMENT POND
PROPOSED PAVED ACCESS DRIVE
PROPOSED FOREST BUFFER
EX. SPRING HEADS
WETLANDS (FIELD LOCATED)
EX. WOODS
PROPOSED 40 PARKING SPACES
PROPOSED MULTI-PURPOSE ATHLETIC FIELD
D1 PROPOSED SEPTIC RESERVE AREA (FOR CHURCH USE) D2 45,000 S.F.
D5
EXISTING RESIDENCE
EX. SEPTIC
EX. WELL
APPROX. EX. WELL BURIED
PAUL HAYES, JR 1122/5
MELVIN FAIR 2284/79
BERNARD UHLER 7460/529 ZONED RC 2
PROPOSED 15 PARKING SPACES AND TURNAROUND LOOP
PROPOSED STORMWATER MANAGEMENT POND
C1 PROPOSED SEPTIC RESERVE AREA 20,000 S.F.
C2
C3
C4
PROPOSED MEETING LODGE
BERNARD E. UHLER, JR 6818/444 ZONED RC 4
RC 2 ZONE
RC 4 ZONE
ORY UNITED HODIST CHURCH 1175/476 ZONED 'A' ICULTURAL DISTRICT)
ORY CHURCH ROAD
CHRISTOPHER L. BOND 1800/580 ZONED 'A' (AGRICULTURAL DISTRICT)
EMORY ROAD (ROUTE 91)
EDGAR L. BOND HELEN M. BOND 206/394 1610/894 ZONED 'A' (AGRICULTURAL DISTRICT)
PROPOSED PARKING (9'x20' TYP.)
PROPOSED CHURCH 2,000 SEATS
B1 PROPOSED SEPTIC RESERVE AREA 105,000 S.F.
B2
B3
B4
B5
B6
B7
PROPOSED 15' WIDE ACCELERATION LANE
PROPOSED 15' WIDE DECELERATION LANE
100-YEAR FLOODPLAIN
℄ STREAM
WETLANDS (FIELD LOCATED)
EX. WOODS
ASSOCIATED JEWISH CHARITIES 4278/6 ZONED RC 4
RONALD L. MARTIN JANICE M. MARTIN 2040/718 ZONED 'A' (AGRICULTURAL DISTRICT)
EX. DWELLING TO BE RAZED, EX. SEPTIC, DRILL WELL TO BE CAPPED
PROPOSED 50' R/W DEDICATION
ROBERT BOND DOROTHY BOND 229/128 ZONED 'A' (AGRICULTURAL DISTRICT)
EDGAR L. BOND JR. CHARLOTTE G. BOND 1091/422 ZONED 'A' (AGRICULTURAL DISTRICT)
EDGAR L. BOND JR CHARLOTTE G. BOND 1091/478 ZONED 'A' (AGRICULTURAL DISTRICT)
EX. SPRING HOUSE
EXISTING RESIDENCE
SHIRLEE G. ELSEROAD 1073/275 ZONED 'A' (AGRICULTURAL DISTRICT)
STERLING L. GREEN SHIRLEE G. ELSEROAD ET AL 8727/541 ZONED RC 2
N 44°45' W
N 35°W 1460.60'
N 35°W 635.28'
S 58°25' W 1123.88'
S 58°25' W 1143.88'
N 21,800
N 22,000

VICINITY MAP
SCALE: 1"=1,000'

ZONING CASE No. 99-503-X:

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 6th day of September, 1999 that the Petition for Special Exception to use the subject property for a church, pursuant to Section 1A01.2C.6 of the Baltimore County Zoning Regulations (B.C.Z.R.), be and is hereby GRANTED, subject to the restrictions set forth below and more fully described herein:

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

2) Prior to the issuance of any permits, the Petitioner shall submit for review by this Zoning Commissioner and the Office of Planning, floor plans of the modified building showing a maximum seating area in the sanctuary for 1200 individuals.

3) Having reduced the size of the sanctuary, the size of the parking area shall be reduced accordingly.

4) Prior to the issuance of any building permits, a revised site plan incorporating the modified relief granted herein shall be submitted for incorporation into the case file.

5) Building elevation drawings of the proposed building (as modified) shall be submitted to the Office of Planning for review and approval prior to the issuance of any building permits. The architectural design of the proposed building and the materials used thereon shall be compatible with the surrounding locale.

6) The church building and lodge shall be constructed of brick, stone or similar material.

7) Prior to the issuance of any permits, a landscape plan shall be submitted for review and approval by Mr. Avery Harden, Landscape Architect for Baltimore County. The landscaping shall be designed to buffer the proposed parking lot and church building and areas of active use on the property, including those areas of the site in Carroll County.

8) Lighting of the building and parking lot shall be minimal and sufficient only to insure security. A lighting plan shall be submitted to the Office of Planning for review and approval.

9) There will be no lighting of the proposed athletic field or activities thereon after dusk.

10) Other than the temporary construction of buildings, there will be no permanent structures on the site other than the proposed church building and lodge, as more particularly shown on the site plan.

11) The use of the buildings and facilities shall be restricted to activities associated with the church or for non-profit enterprises. There shall be no commercial activities permitted. Moreover, the leasing of the premises for non-church related banquet or catering activities shall not be permitted.

12) Any day care provided on the site shall be limited to church members only. No commercial day care operation will be allowed.

13) There will be no freestanding antenna or broadcast towers on this site.

14) Alcoholic beverages shall not be permitted outside the church and lodge buildings.

15) The Petitioner shall not allow all-terrain vehicles, dirt bikes, motorcycles, or other similar vehicles to use the property.

16) There shall be no vehicular access to the site from Mt. Gilead Road.

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

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

GENERAL NOTES

1. OWNER: ESTATE OF CATHERINE V. BOND
1701 EMORY ROAD (MD. RTE 91)
REISTERSTOWN, MD 21136
ATTN: VIRGINIA B. NORWOOD, PERSONAL REPRESENTATIVE

2. CONTRACT PURCHASER/DEVELOPER:
CARROLL COMMUNITY CHURCH, INC
5220 KLEES MILL ROAD, SUITE E
SYKESVILLE, MD 21784
ATTN: JOHN MARTINDALE, TRUSTEE CHAIRMAN

3. ENGINEER: MORRIS & RITCHIE ASSOCIATES, INC.
110 WEST ROAD, SUITE 245
TOWSON, MD 21204
ATTN: BOB BRADLEY, P.E.
PHONE: 410-821-1690

4. PROPERTY INFORMATION:
A. GROSS AREA OF SITE = 68.89 AC. OR 3,000,848 S.F.
(64.66 AC ± IN BALTIMORE COUNTY AND 4.23 AC ± IN CARROLL COUNTY)
B. GROSS AREA OF SITE IN RC2 ZONE = 48.90 AC ±
GROSS AREA OF SITE IN RC4 ZONE = 15.76 AC ±
GROSS AREA OF SITE IN AGRICULTURAL DISTRICT (ZONE "A") CARROLL CO. = 4.23 AC ±
C. NET AREA OF SITE = 66.04 AC ± OR 2,876,702 S.F.
D. PROPERTY ADDRESS: 1701 EMORY ROAD (MD. RTE 91)
REISTERSTOWN, MD 21136
E. ELECTION DISTRICT: 4
F. COUNCILMANIC DISTRICT: 3
G. BALTIMORE COUNTY ADC MAP 9, GRID F-9
H. CENSUS TRACT: 4046
I. BALTIMORE REFERENCE TAX MAP 31, GRID 14, PARCEL 76
J. DEED REFERENCE: 3295/171 AND 284/317
K. TAX ACCOUNT NO: 04022527850
L. ZONING MAP REFERENCE: N.W. 21-L AND N.W. 22-L

5. EXISTING LAND USE IN BALTIMORE COUNTY: AGRICULTURAL

6. PROPOSED USE: CHURCH
A. ACCESSORY USES INCLUDE THE FOLLOWING: CHURCH OFFICES, SUNDAY SCHOOL CLASSROOMS AND SUPPORT SERVICES, MULTI-PURPOSE FACILITY TO INCLUDE AN ASSEMBLY HALL WITH KITCHEN, YOUTH CENTER, MULTI-PURPOSE ATHLETIC FIELD AND MEETING LODGE.

7. HEIGHT AND AREA REGULATIONS FOR RC2 ZONE (NOTE: NO WORK IN THE RC4 ZONE IS PROPOSED UNDER THIS PLAN)
A. CHURCH:
1. MAXIMUM BUILDING HEIGHT ALLOWED = 60 FEET
BUILDING HEIGHT PROPOSED (ONE STORY) = 50 FEET
2. REQUIRED BUILDING SETBACKS
75 FEET MINIMUM TO A STREET CENTERLINE OR 35 FEET FROM ANY OTHER PROPERTY LINE
PROPOSED BUILDING SETBACKS
FRONT: 230 FEET
SOUTH SIDE: 190 FEET
NORTH SIDE: 400 FEET
REAR: MORE THAN 35 FEET
B. ACCESSORY MEETING LODGE:
1. MAXIMUM BUILDING HEIGHT ALLOWED = 35 FEET
BUILDING HEIGHT PROPOSED = 35 FEET
(ONE STORY)
2. PROPOSED BUILDING SETBACKS
FRONT: MORE THAN 75 FEET TO STREET CENTERLINE
SOUTH SIDE: 830 FEET
NORTH SIDE: 210 FEET
REAR: 75 FEET

8. PARKING CALCULATIONS:
A. CHURCH: 2,000 SEATS AT 1 PER 4 SEATS =500 PARKING SPACES REQUIRED
• 533 PARKING SPACES PROPOSED
• 9 HANDICAPPED SPACES REQUIRED
• 16 HANDICAPPED SPACES PROPOSED
B. MULTI-PURPOSE ATHLETIC FIELD:
• PARKING REQUIRED = NONE
• 40 PARKING PROPOSED
C. MEETING LODGE:
• PARKING REQUIRED = NONE
• 15 PARKING PROPOSED

9. ALL PROPOSED PAVED SURFACES SHALL BE DUSTLESS MACADAM.

10. LANDSCAPING SHALL BE PROVIDED FOR ALL PROPOSED USES AS REQUIRED PER THE BALTIMORE COUNTY LANDSCAPE MANUAL.

11. PRIVATE WELL AND SEPTIC IS PROPOSED FOR THE CHURCH AND MEETING LODGE.

12. ALL SIGNAGE SHALL BE IN ACCORDANCE WITH SECTION 450.4 OF THE BALTIMORE COUNTY ZONING REGULATIONS.

13. CURBING SHALL BE INSTALLED ONLY WHERE NECESSARY TO CONVEY STORM DRAINAGE TO THE PROPOSED STORMWATER MANAGEMENT FACILITIES AND ANCHORED WHEEL STOPS SHALL BE INSTALLED ONLY WHERE NECESSARY TO KEEP VEHICLES FROM PARKING ON LAWN OR LANDSCAPED AREAS.

14. ALL LIGHTING IN PARKING AREAS SHALL BE INSTALLED TO REFLECT LIGHT AWAY FROM ADJACENT RESIDENTIAL SITES AND PUBLIC STREETS.

15. ALL SEPTIC PERCOLATION TESTS SHOWN ON THIS PLAN HAVE BEEN APPROVED BY BALTIMORE COUNTY DEPRM.

16. CARROLL COUNTY HAS APPROVED PARKING OR ANY OTHER ACCESSORY USES RELATED TO THE PROPOSED CHURCH ON THE CARROLL COUNTY PORTION OF THE SUBJECT PROPERTY, APPROVED ON JULY 15, 1998.

17. THE EXISTING SINGLE FAMILY DWELLING WILL BE RAZED, EXISTING WELL AND SEPTIC AREA WILL BE ABANDONED AND FILLED BY A LICENSED CONTRACTOR.

18. THERE ARE NO EXISTING OR PROPOSED WELLS WITHIN 100 FEET OF EXISTING OR PROPOSED PRIVATE SEWAGE DISPOSAL AREAS.

19. THERE ARE NO PROPOSED SEWAGE DISPOSAL AREAS WITHIN 25 FEET OF GRADES EXCEEDING 25% SLOPE NOR WITHIN 200 FEET OF ANY STREAM.

20. EXISTING TOPOGRAPHY, ROADS AND WOODS AS SHOWN ON THIS PLAN ARE FROM COUNTY TOPOGRAPHIC MAPS.

21. PROPERTY LINE INFORMATION IS FROM DEED.

LEGEND:
(15) = NUMBER OF PROPOSED PARKING SPACES
⊖B6 = SEPTIC PERCOLATION TEST LOCATIONS
100-YEAR FLOODPLAIN

Petition for Special Exception

to the Zoning Commissioner of Baltimore County

for the property located at 1701 Emory Road (Md Rt 91) Reisterstown MD 21136 which is presently zoned RC2 (Church)

This Petition shall be filed with the Department of Permits and 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

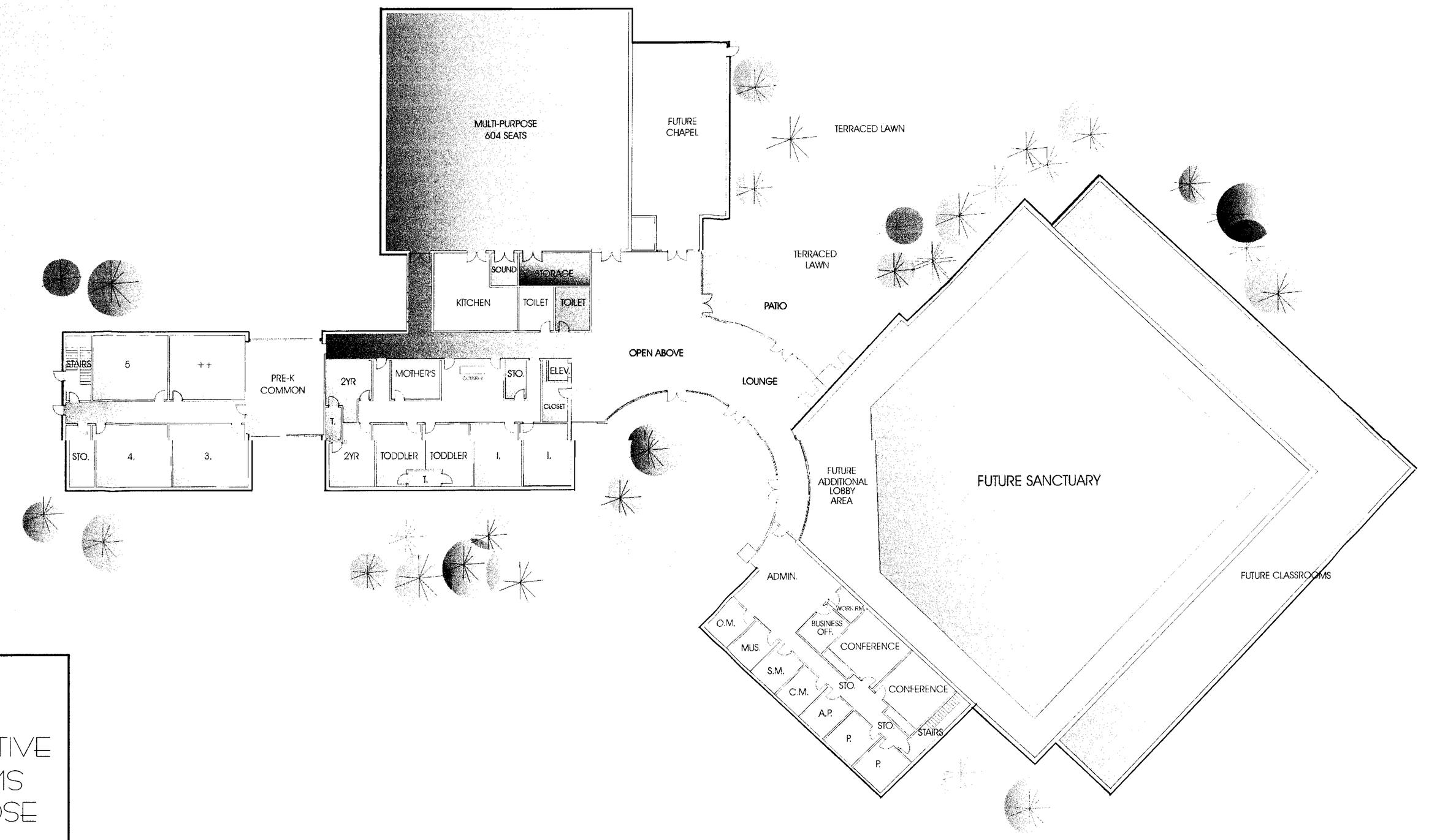
a Church pursuant to §1A01.2(C)6

MORRIS & RITCHIE ASSOCIATES, INC.
ENGINEERS, PLANNERS, SURVEYORS AND LANDSCAPE ARCHITECTS
110 WEST ROAD SUITE 245
TOWSON, MARYLAND 21204
(410) 821-1690
FAX (410) 821-1748

PLAN TO ACCOMPANY A PETITION FOR SPECIAL EXCEPTION
ZONING CASE No. 99-503-X
CARROLL COMMUNITY CHURCH
4TH ELECTION DISTRICT BALTIMORE COUNTY, MD

DATE	REVISIONS	JOB NO.: 11.236
8/3/99	REVISED ACCESS DRIVE ALIGNMENT TO ATHLETIC FIELD	SCALE: 1"=100'
	AND ADDED 33 PARKING SPACES ON THE SIDES OF CHURCH.	DATE: 6/14/99
		DRAWN BY: J.A.S.
		DESIGN BY: BC
		REVIEW BY: REB
		SHEET: 1 OF 1


P 334
P 272
P 58
P 317
ARONOMY
ROAD PROF
EMORY UNIVERSITY



KEY

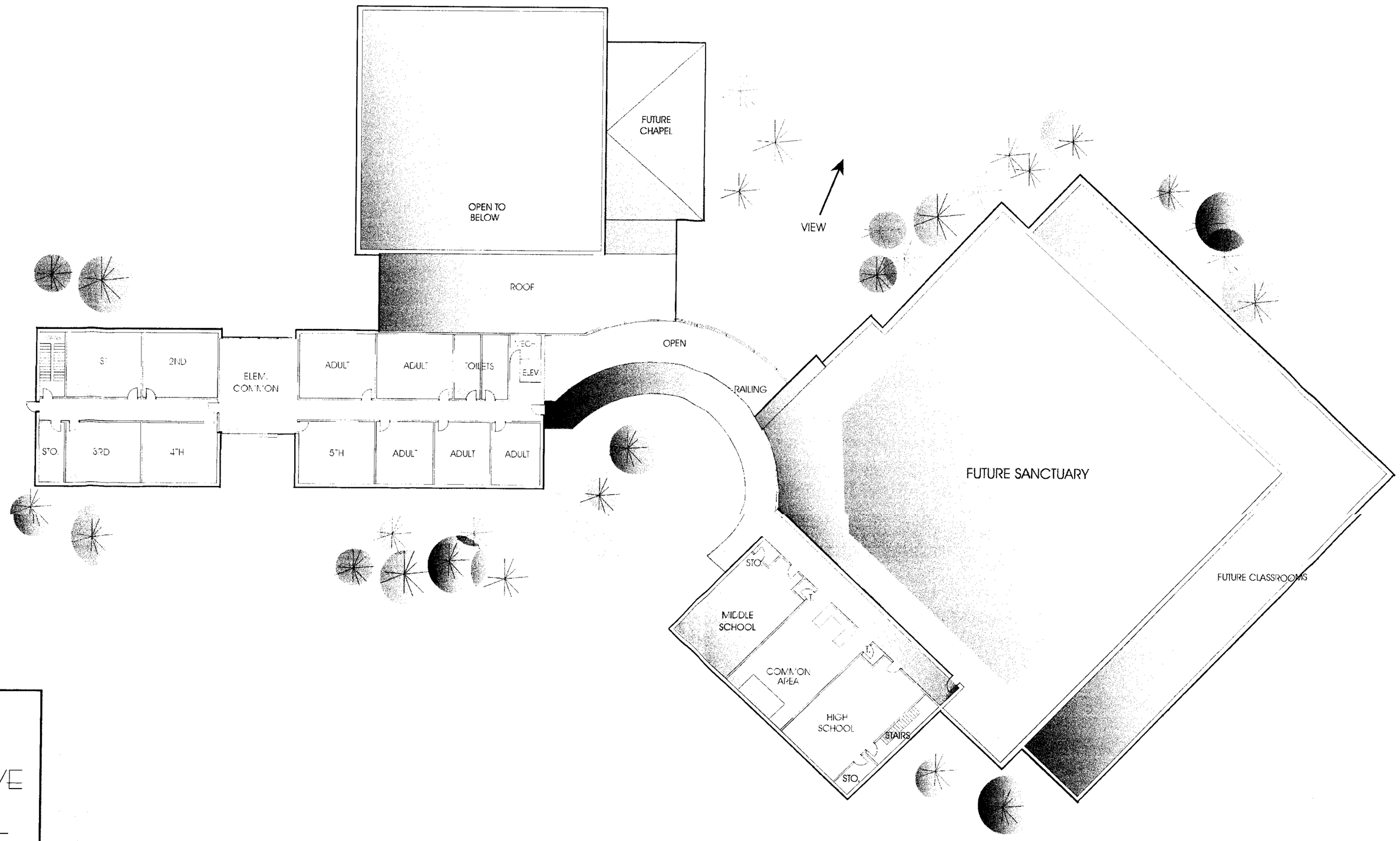
- PHASE II
- ADMINISTRATIVE
- CLASSROOMS
- MULTIPURPOSE
- LOBBY

SCHEME C
LOWER LEVEL
SCALE: 1/16" = 1'-0"

PE-3A

CARROLL COMMUNITY CHURCH

Bignell Watkins Hasser
ARCHITECTS P.A.



KEY

- PHASE II
- ADMINISTRATIVE
- CLASSROOMS
- MULTIPURPOSE
- LOBBY

SCHEME C

UPPER LEVEL

SCALE: 1/16" = 1'-0"

CARROLL COMMUNITY CHURCH

Bignell Watkins Hasser
ARCHITECTS P.A.

Peterson Project 36



Elevation: Phase 1

CARROLL COMMUNITY CHURCH

Bignell Watkins Hasser
ARCHITECTS P.A.

Patterns - Exhibit 3C

A-3.0



Elevation: Phase 2

CARROLL COMMUNITY CHURCH

Bignell Watkins Hasser
ARCHITECTS P.A.

This map is one of a set compiled in 1973 as part of a soil survey by the United States Department of Agriculture, Soil Conservation Service, and the Maryland Agricultural Experiment Station.
Photobase from 1971 aerial photography. Positions of 5,000-foot grid ticks are approximate and based on the Maryland coordinate system.

BALTIMORE COUNTY, MARYLAND — SHEET NUMBER 15

570 000 FEET
830 000 FEET
560 000 FEET
(Joins sheet 32)
3 000 AND 5 000-FOOT GRID TICKS
620 000 FEET
840 000 FEET
610 000 FEET
(Joins sheet 16)
(Joins sheet 20)
(Joins sheet 11)
856 000 FEET

LIBERTY RESERVOIR
LIBERTY DAM
NORTH BRANCH PATAPSCO RIVER
CARROLL COUNTY
LIBERTY RESERVATION
LIBERTY RESERVATION
WESTERN RUN
Fowblesburg
Woodensburg
Boring
Pleasant Grove
Pinney Grove Church
Montrose Chapel
MARYLAND

Scale 1: 5 000 4 000 3 000 2 000 1 000 0 — 1 Mile — 5 000 Feet

N

15

Plat Exh # 31

2370.1mN
0998.3mE

CARROLL CO. MAP NO. 48

CARROLL CO.
MAP NO. 54

205054.6mN
410998.0mE

CARROLL COUNTY
BALTIMORE COUNTY

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MD. DEPT. OF ASSESS & TAX.

THESE MAPS ARE PROTECTED BY COPYRIGHT. THEY MAY NOT BE COPIED OR REPRODUCED IN ANY FORM (INCLUDING ELECTRONIC MEANS SUCH AS DIGITIZING, SCANNING, AND IMAGE PROCESSING) OR BY ANY SYSTEM NOW KNOWN OR TO BE INVENTED WITHOUT PERMISSION IN WRITING FROM THE PROPERTY M.P. DIVISION.

Revised July 21, 1999
Updated May 24, 1990

836 839 842

RURAL LEGACY EASEMENT

AGRICULTURAL DISTRICT

MET EASEMENT

AGRICULTURAL EASEMENT

CONSERVANCY EASEMENT

CARROLL CO.
MAP NO. 54

CARROLL CO. MAP NO 48

212370.1mN
416484.7mE

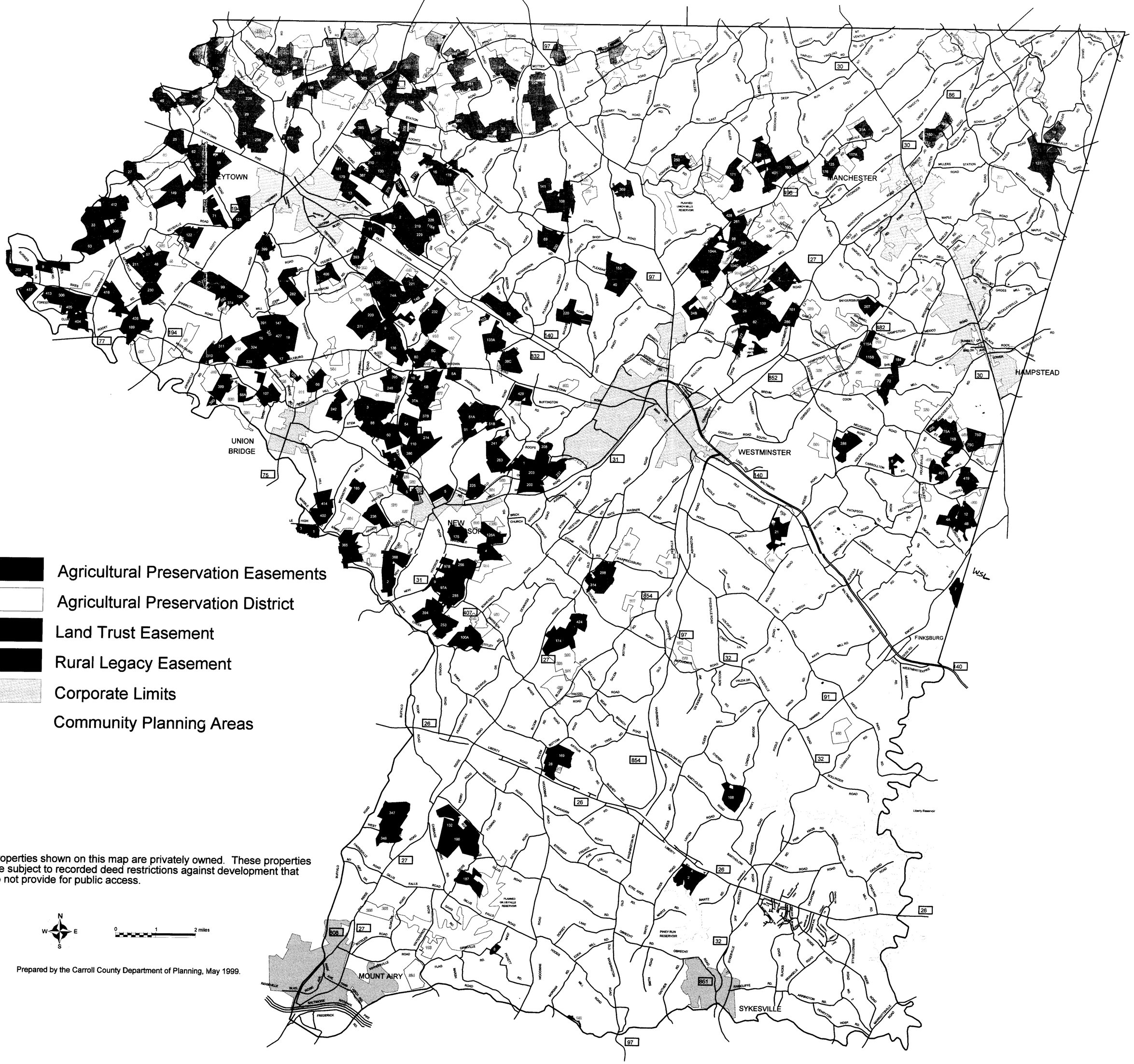
205054.6mN
412998.0mE

COPYRIGHT MAP DIVISION 1997
MD DEPT OF ASSESS & TAX

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Approved July 21, 1998
Updated Aug 24, 2006

Agricultural Land Preservation & Land Trust Easements
Carroll County, Maryland



Agricultural Preservation Easements

Agricultural Preservation District

Land Trust Easement

Rural Legacy Easement

Corporate Limits

Community Planning Areas

Properties shown on this map are privately owned. These properties are subject to recorded deed restrictions against development that do not provide for public access.

N W E S

0 1 2 miles

Prepared by the Carroll County Department of Planning, May 1999.

L K J

CARROLL COUNTY

(SHEET 2F)

(SHEET 1D)

RC 2 RC 4 RC 3 RC 5 RC 6 RC 7 RC 8 RC 9 RC 10 RC 11 RC 12 RC 13 RC 14 RC 15 RC 16 RC 17 RC 18 RC 19 RC 20 RC 21 RC 22 RC 23 RC 24 RC 25 RC 26 RC 27 RC 28 RC 29 RC 30 RC 31 RC 32 RC 33 RC 34 RC 35 RC 36 RC 37 RC 38 RC 39 RC 40 RC 41 RC 42 RC 43 RC 44 RC 45 RC 46 RC 47 RC 48 RC 49 RC 50 RC 51 RC 52 RC 53 RC 54 RC 55 RC 56 RC 57 RC 58 RC 59 RC 60 RC 61 RC 62 RC 63 RC 64 RC 65 RC 66 RC 67 RC 68 RC 69 RC 70 RC 71 RC 72 RC 73 RC 74 RC 75 RC 76 RC 77 RC 78 RC 79 RC 80 RC 81 RC 82 RC 83 RC 84 RC 85 RC 86 RC 87 RC 88 RC 89 RC 90 RC 91 RC 92 RC 93 RC 94 RC 95 RC 96 RC 97 RC 98 RC 99 RC 100

28 27 26 25 24 23 22 21

N 108,000 N 104,000 N 100,000 N 96,000 N 92,000 N 88,000 N 84,000

W 66,000 W 69,000

PINEY RUN

TRENTON MILL RD

PINEY BRANCH GC

LITTLE PINEY RUN

TRENTON RD

DARK HOLLOW RD

BR-CR

BL-CR

BM-CR

RCC

RO-CR

HANOVER PIKE

CSX TRANSPORTATION

LEES MILL RD

BROWN RD

CARNIVAL AVE

ARCADIA

UPPERCO

ASPEN RUN

BORTNER RD

FRINGER RD

DOVER RD

5th. District

4th. District

OLD DOVER RD

PARRISH ROAD

FOWBLESBURG RD

FIRST AVE

EASTVIEW DR

FIFTH AVE

EMORY ROAD

BYERLY

MC GILL

MANOPA CT

PLEASANT RUN DRIVE

MT GILEAD RD

DUSMAN AVE

BORING

FRYE RD

ISHAM RD

OSBORNE RD

0 1/4 1/2 3/4 1 MILES

0 1000 3000 5000 FEET

MAP INDEX

2G 3G
1F 2F 3F
2E 3E 4E
1D 2D 3D 4D 5C
1C 2C 3C 4C
1B 2B 4B 5B
2A 4A

BALTIMORE COUNTY OFFICE OF PLANNING

UPPERCO

BALTIMORE COUNTY BASE MAP SERIES

REVISED DATE SEP. '94

1E

Protestant's Exhibit #35

I H G F E D C

28 27 26 25 24 23 22 21

(SHEET 2F) (SHEET 3E)

RC 2 RC 4 RC 5

TRENTON
CARRS STORE
PLEASANT GROVE
PLEASANT RUN
MAMOPA CT.
MOUNT CARMEL
MOUNT CARMEL FARMS
GREENSIDE VISTA
RUSH CABIN CT.
MOOR CABIN CT.
GUNPOWDER FALLS STATE PARK
BRANDY SPRINGS
EVNA
FLICKERWOOD
ARDEN VALLEY
YEOHO
BACON HALL
STRINGTOWN
WESTERN RUN - BELFAST ROAD N.R.H.D.
COOPERSTOWN
PRICEVILLE
WORTHINGTON VALLEY N.R.H.D.
BUTLER
BL-CR
RO-CR
RCC
BM-CR

BLACKROCK RUN
INDIAN RUN
PINEY RUN
LITTLE PINEY RUN
FIREY RUN
WESTERN RUN
BUFFALO CREEK
GUNPOWDER FALLS

BALTIMORE — HARRISBURG EXPRESSWAY

7th. District
5th. District
8th. District
4th. District

SCALE 1"=1000'
0 1/4 1/2 3/4 1 MILES
0 1000 3000 5000 FEET

MAP INDEX

(SHEET 2D)

BALTIMORE COUNTY OFFICE OF PLANNING

BUTLER

BALTIMORE COUNTY BASE MAP SERIES

REVISED DATE SEP. '94

2E

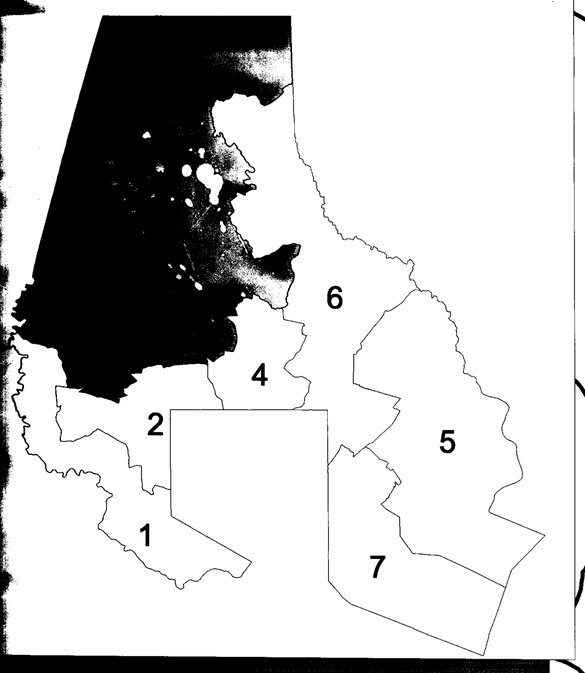
2000 CZMP Map Issues: District 3

3-122 3-121 3-038 3-132 3-110 3-091 3-020 3-037 3-127 3-056 3-131 3-055 3-123 3-130 3-054 3-007 3-053 3-162 3-006 3-048 3-033 3-041 3-060 3-034 3-035 3-164 3-014 3-107 3-129 3-128 3-009 3-161 3-163 3-142 3-092 3-008 3-047 3-032 3-031 3-146 3-044 3-018 3-147 3-072 3-108 3-160 3-039 3-023 3-040 3-159 3-004 3-068 3-045 3-049 3-080 3-101 3-102 3-103 3-104 3-141 3-065 3-081 3-001 3-002 3-140 3-082 3-012 3-076 3-154 3-070 3-077 3-084 3-156 3-126 3-003 3-027 3-069 3-061 3-153 3-019 3-120 3-036 3-094 3-096 3-097 3-098 3-099 3-100 3-151 3-111 3-133 3-152 3-022 3-083 3-119 3-149 3-125 3-093 3-155 3-158 3-010 3-017 3-112 3-113 3-114 3-115 3-116 3-139 3-150 3-050 3-064 3-030 3-071 3-016 3-059 3-135 3-134 3-145 3-118 3-124 3-028 3-086 3-087 3-088 3-089 3-090 3-043 3-073 3-052 3-078 3-058 3-051 3-145 3-063 3-117 3-066 3-067 3-029 3-062 3-085 3-021 3-015 3-138 3-075 3-042 3-157 3-011 3-144 3-024 3-026 3-079 3-057 3-136 3-005 3-025 3-105 3-106 3-095 3-137 3-143 3-046 3-013 3-074 3-109

3 6 4 2

BALTIMORE CITY

Councilmanic Districts



Councilmanic District Boundary
Major Roads
Secondary Roads
Local Roads
CZMP Issue

1 : 48000

4000 0 4000 8000 12000 16000 20000 Feet

1 inch = 4000 feet

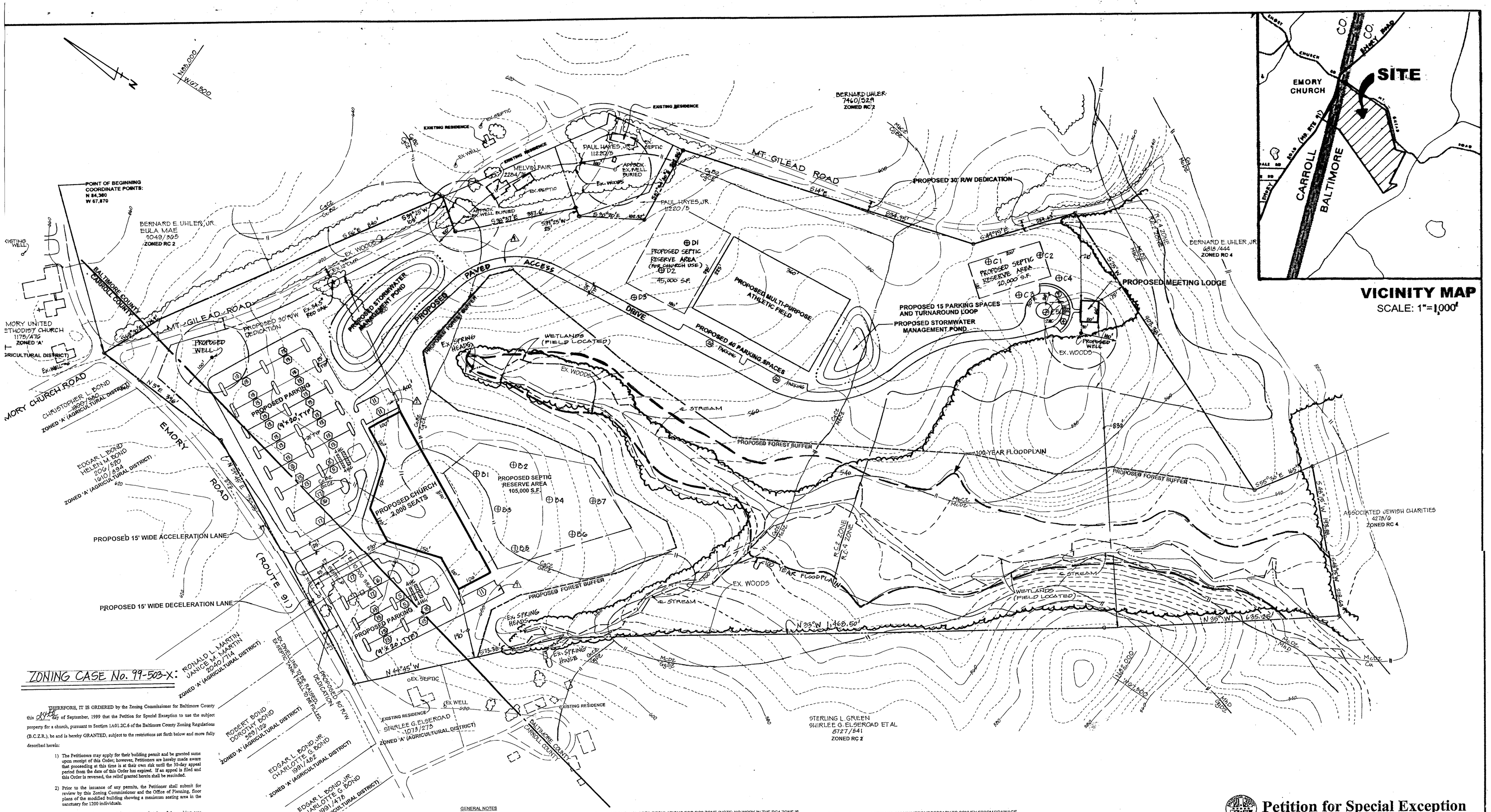
N
W E
S

Prepared by: Baltimore County Office of Planning,
OIT/GIS Services Unit, January 2000

Sources: Roads and Councilmanic Districts-Baltimore Metropolitan Council 1999 1:24000
CZMP Issues-Baltimore County Office of Planning, Digitized from 1996 Tax Maps 1:7200

Issues as of January 18, 2000

This map is for display purposes only.
Land use decisions involving zoning designations
should be verified with the zoning office.



VICINITY MAP
SCALE: 1"=1,000'

ZONING CASE No. 99-503-X:

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 24th day of September, 1999 that the Petition for Special Exception to use the subject property for a church, pursuant to Section 1A01.2C.6 of the Baltimore County Zoning Regulations (B.C.Z.R.), be and is hereby GRANTED, subject to the restrictions set forth below and more fully described herein:

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

2) Prior to the issuance of any permits, the Petitioner shall submit for review by this Zoning Commissioner and the Office of Planning, floor plans of the modified building showing a maximum seating area in the sanctuary for 1200 individuals.

3) Having reduced the size of the sanctuary, the size of the parking area shall be reduced accordingly.

4) Prior to the issuance of any building permits, a revised site plan incorporating the modified relief granted herein shall be submitted for incorporation into the case file.

5) Building elevation drawings of the proposed building (as modified) shall be submitted to the Office of Planning for review and approval prior to the issuance of any building permits. The architectural design of the proposed building and the materials used thereon shall be compatible with the surrounding locale.

6) The church building and lodge shall be constructed of brick, stone or similar material.

7) Prior to the issuance of any permits, a landscape plan shall be submitted for review and approval by Mr. Avery Harden, Landscape Architect for Baltimore County. The landscaping shall be designed to buffer the proposed parking lot and church building and areas of active use on the property, including those areas of the site in Carroll County.

8) Lighting of the building and parking lot shall be minimal and sufficient only to insure security. A lighting plan shall be submitted to the Office of Planning for review and approval.

9) There will be no lighting of the proposed athletic field or activities thereon after dusk.

10) Other than the temporary construction of buildings, there will be no permanent structures on the site other than the proposed church building and lodge, as more particularly shown on the site plan.

11) The use of the buildings and facilities shall be restricted to activities associated with the church or for non-profit enterprises. There shall be no commercial activities permitted. Moreover, the leasing of the premises for non-church related banquet or catering activities shall not be permitted.

12) Any day care provided on the site shall be limited to church members only. No commercial day care operation will be allowed.

13) There will be no freestanding antenna or broadcast towers on this site.

14) Alcoholic beverages shall not be permitted outside the church and lodge buildings.

15) The Petitioner shall not allow all terrain vehicles, dirt bikes, motorcycles, or other similar vehicles to use the property.

16) There shall be no vehicular access to the site from Mt. Gilead Road.

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

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

GENERAL NOTES

1. OWNER: ESTATE OF CATHERINE V. BOND
1701 EMORY ROAD (MD. RTE 91)
REISTERSTOWN, MD 21136
ATTN: VIRGINIA B. NORWOOD, PERSONAL REPRESENTATIVE

2. CONTRACT PURCHASER/DEVELOPER:
CARROLL COMMUNITY CHURCH, INC
5220 KLEES MILL ROAD, SUITE E
SYKESVILLE, MD 21784
ATTN: JOHN MARTINDALE, TRUSTEE CHAIRMAN

3. ENGINEER: MORRIS & RITCHIE ASSOCIATES, INC.
110 WEST ROAD, SUITE 245
TOWSON, MD 21204
ATTN: BOB BRADLEY, P.E.
PHONE: 410-821-1690

4. PROPERTY INFORMATION:
A. GROSS AREA OF SITE = 68.89 AC. OR 3,000,848 S.F. (64.66 AC ± IN BALTIMORE COUNTY AND 4.23 AC ± IN CARROLL COUNTY)
B. GROSS AREA OF SITE IN RC2 ZONE = 46.90 AC ±
GROSS AREA OF SITE IN RC4 ZONE = 15.76 AC ±
GROSS AREA OF SITE IN AGRICULTURAL DISTRICT (ZONE "A") CARROLL CO. = 4.23 AC ±
C. NET AREA OF SITE = 66.04 AC ± OR 2,876,702 S.F.
D PROPERTY ADDRESS: 1701 EMORY ROAD (MD. RTE 91) REISTERSTOWN, MD 21136
E. ELECTION DISTRICT: 4
F. COUNCILMANIC DISTRICT: 3
G. BALTIMORE COUNTY ADC MAP 9, GRID F-9
H. CENSUS TRACT: 4046
I. BALTIMORE REFERENCE TAX MAP 31, GRID 14, PARCEL 76
J. DEED REFERENCE: 3296/171 AND 284/317
K. TAX ACCOUNT NO: 0402057850
L. ZONING MAP REFERENCE: N.W. 21-L AND N.W. 22-L

5. EXISTING LAND USE IN BALTIMORE COUNTY: AGRICULTURAL

6. PROPOSED USE: CHURCH
A. ACCESSORY USES INCLUDE THE FOLLOWING: CHURCH OFFICES, SUNDAY SCHOOL CLASSROOMS AND SUPPORT SERVICES, MULTI-PURPOSE FACILITY TO INCLUDE AN ASSEMBLY HALL WITH KITCHEN, YOUTH CENTER, MULTI-PURPOSE ATHLETIC FIELD AND MEETING LODGE.

7. HEIGHT AND AREA REGULATIONS FOR RC2 ZONE (NOTE: NO WORK IN THE RC4 ZONE IS PROPOSED UNDER THIS PLAN)
A. CHURCH:
1. MAXIMUM BUILDING HEIGHT ALLOWED = 50 FEET
BUILDING HEIGHT PROPOSED (ONE STORY) = 50 FEET
2. REQUIRED BUILDING SETBACKS
75 FEET MINIMUM TO A STREET CENTERLINE OR 35 FEET FROM ANY OTHER PROPERTY LINE
PROPOSED BUILDING SETBACKS
FRONT: 230 FEET
SOUTH SIDE: 190 FEET
NORTH SIDE: 400 FEET
REAR: MORE THAN 35 FEET
B. ACCESSORY MEETING LODGE:
1. MAXIMUM BUILDING HEIGHT ALLOWED = 35 FEET
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(ONE STORY)
2. PROPOSED BUILDING SETBACKS
FRONT: MORE THAN 75 FEET TO STREET CENTERLINE
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NORTH SIDE: 210 FEET
REAR: 75 FEET

8. PARKING CALCULATIONS:
A. CHURCH: 2,000 SEATS AT 1 PER 4 SEATS =500 PARKING SPACES REQUIRED
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- 9 HANDICAPPED SPACES REQUIRED
- 16 HANDICAPPED SPACES PROPOSED

B. MULTIPURPOSE ATHLETIC FIELD:
- PARKING REQUIRED = NONE
- 40 PARKING PROPOSED

C. MEETING LODGE:
- PARKING REQUIRED = NONE
- 15 PARKING PROPOSED

9. ALL PROPOSED PAVED SURFACES SHALL BE DUSTLESS MACADAM.

10. LANDSCAPING SHALL BE PROVIDED FOR ALL PROPOSED USES AS REQUIRED PER THE BALTIMORE COUNTY LANDSCAPE MANUAL.

11. PRIVATE WELL AND SEPTIC IS PROPOSED FOR THE CHURCH AND MEETING LODGE.

12. ALL SIGNAGE SHALL BE IN ACCORDANCE WITH SECTION 450.4 OF THE BALTIMORE COUNTY ZONING REGULATIONS.

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14. ALL LIGHTING IN PARKING AREAS SHALL BE INSTALLED TO REFLECT LIGHT AWAY FROM ADJACENT RESIDENTIAL SITES AND PUBLIC STREETS.

15. ALL SEPTIC PERCOLATION TESTS SHOWN ON THIS PLAN HAVE BEEN APPROVED BY BALTIMORE COUNTY DEPRM.

16. CARROLL COUNTY HAS APPROVED PARKING OR ANY OTHER ACCESSORY USES RELATED TO THE PROPOSED CHURCH ON THE CARROLL COUNTY PORTION OF THE SUBJECT PROPERTY. APPROVED ON JULY 15, 1998.

17. THE EXISTING SINGLE FAMILY DWELLING WILL BE RAZED, EXISTING WELL AND SEPTIC AREA WILL BE ABANDONED AND FILLED BY A LICENSED CONTRACTOR.

18. THERE ARE NO EXISTING OR PROPOSED WELLS WITHIN 100 FEET OF EXISTING OR PROPOSED PRIVATE SEWAGE DISPOSAL AREAS.

19. THERE ARE NO PROPOSED SEWAGE DISPOSAL AREAS WITHIN 25 FEET OF GRADES EXCEEDING 25% SLOPE NOR WITHIN 200 FEET OF ANY STREAM.

20. EXISTING TOPOGRAPHY, ROADS AND WOODS AS SHOWN ON THIS PLAN ARE FROM COUNTY TOPOGRAPHIC MAPS.

21. PROPERTY LINE INFORMATION IS FROM DEED.

LEGEND:
(13) = NUMBER OF PROPOSED PARKING SPACES
⊕B6 = SEPTIC PERCOLATION TEST LOCATIONS
100-YEAR FLOODPLAIN

Petition for Special Exception

to the Zoning Commissioner of Baltimore County

for the property located at 1701 Emory Road (Md Rt 91) Reisterstown MD 21136

which is presently zoned RC2 (Church)

This Petition shall be filed with the Department of Permits and 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 Church pursuant to §1A01.2(C)6

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ENGINEERS, PLANNERS, SURVEYORS AND LANDSCAPE ARCHITECTS
110 WEST ROAD SUITE 245
TOWSON, MARYLAND 21204
(410) 821-1690
FAX (410) 821-1748

PLAN TO ACCOMPANY A PETITION FOR SPECIAL EXCEPTION
ZONING CASE No. 99-503-X
CARROLL COMMUNITY CHURCH
4TH ELECTION DISTRICT BALTIMORE COUNTY, MD

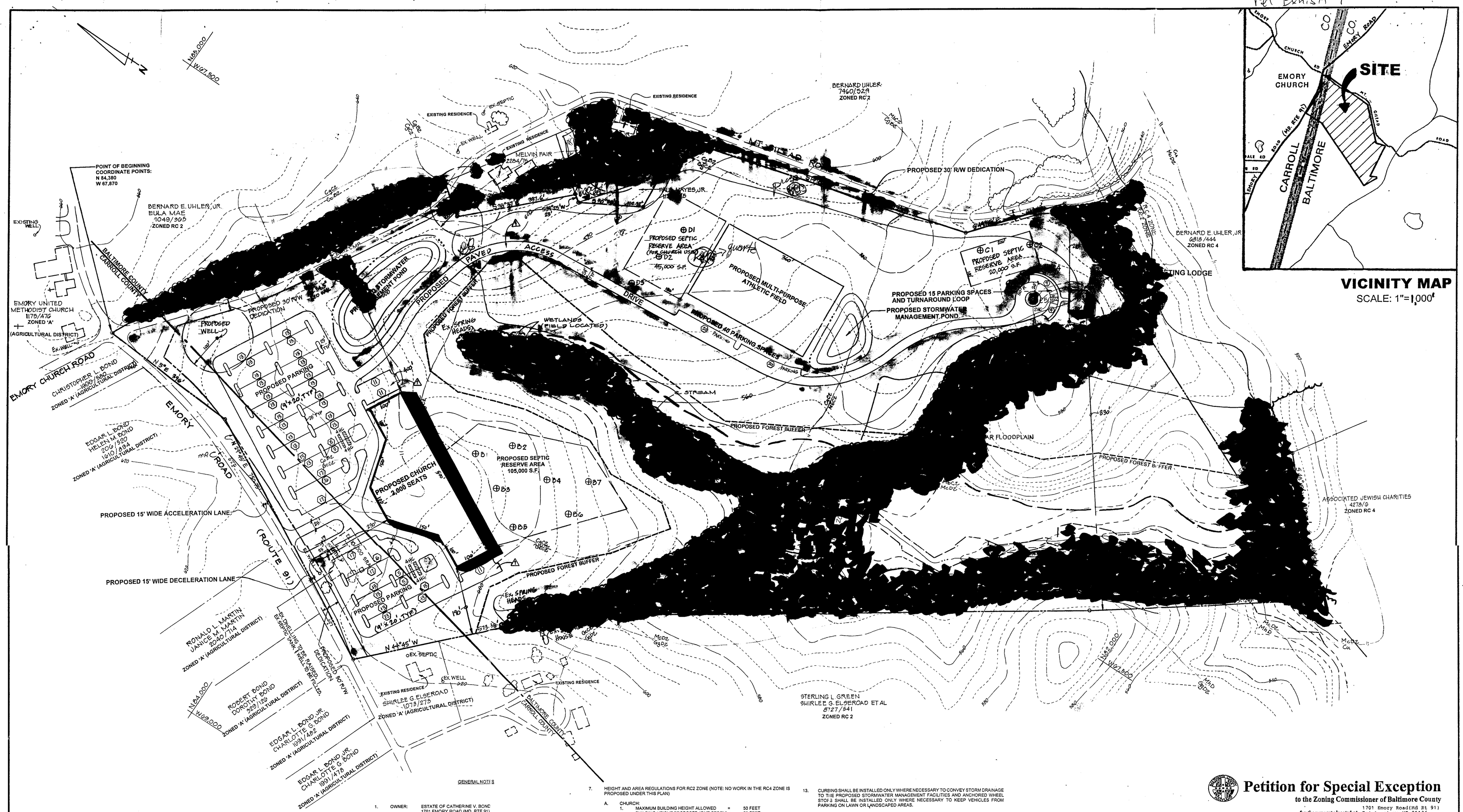
DATE	REVISIONS
8/3/99	REVISED ACCESS DRIVE ALIGNMENT TO ATHLETIC FIELD AND ADDED 33 PARKING SPACES ON THE SIDES OF CHURCH.

JOB NO.: 11236
SCALE: 1"=100'
DATE: 6/14/99
DRAWN BY: J.A.G.
DESIGN BY: BC
REVIEW BY: RFB
SHEET: 1 OF 1

S:\11236\ZONDEP\ZOT.DWG

Joint Exhibit #1

Plat Exhibit 1



VICINITY MAP
SCALE: 1"=1,000'

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PLAN TO ACCOMPANY A PETITION FOR SPECIAL EXCEPTION

CARROLL COMMUNITY CHURCH

4TH ELECTION DISTRICT BALTIMORE COUNTY, MD

DATE	REVISIONS
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DESIGN BY: BG
REVIEW BY: RFB
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