3/10/09

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MAR 11 2009
BALTIMORE COUNTY
BOARD OF APPEALS

CIRCUIT COURT FOR BALTIMORE COUNTY
Suzanne Mensh
Clerk of the Circuit Court
County Courts Building
401 Bosley Avenue
P.O. Box 6754
Towson, MD 21285-6754
(410)-887-2601, TTY for Deaf: (800)-735-2258
Maryland Toll Free Number (800) 938-5802

03/10/09

Case Number: 03-C-07-012594 AA OTH
Date Filed: 11/01/2007
Status: Closed/Inactive
Judge Assigned: To Be Assigned,
Location :
CTS Start : 11/01/07 Target : 04/29/09

In the Matter of Falls Road Community Assn The, et al

C A S E H I S T O R Y

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MAR 10 2009
BALTIMORE COUNTY
BOARD OF APPEALS

OTHER REFERENCE NUMBERS

Description	Number
Case Folder ID	C07012594V01

INVOLVED PARTIES

Type	Num	Name(Last,First,Mid,Title)	Addr Str/End	Pty. Disp. / Addr Update	Entered
PET	001	Falls Road Community Assn The		CT DO 09/26/08	11/01/07
		Party ID: 1194881			
	Attorney:	0001101 McCann, Michael R Michael R McCann P A 118 W Pennsylvania Ave Towson, MD 21204 (410)825-2150	Appear: 11/01/2007		11/06/07
PET	002	Burns, Harold		CT DO 09/26/08	11/01/07
		Party ID: 1194882			
	Attorney:	0001101 McCann, Michael R Michael R McCann P A 118 W Pennsylvania Ave Towson, MD 21204	Appear: 11/01/2007		11/06/07

(410)825-2150

Type	Num	Name(Last,First,Mid,Title)	Addr Str/End	Pty. Disp. Addr Update	Entered
RES	001	Baltimore Province Of The Sisters Of Notre Dame De Namur The Party ID: 1194912		CT DO 09/26/08	11/01/07
	Mail:	11300 Falls Road Brooklandville, MD 21022	01/12/08		01/12/08 NF
RES	002	Maryvale Preparatory School Inc Party ID: 1200509		CT DO 09/26/08	11/28/07
	Mail:	11300 Falls Road Brooklandville, MD 21022	01/12/08		01/12/08 NF
	Attorney:	0015531 Dunbar, James A Venable, LLP 750 East Pratt Street Suite 900 Baltimore, MD 21202 (410)244-7400	Appear: 11/20/2007		11/28/07
		0811558 Mudd, Christopher D Venable, LLP 210 Allegheny Ave PO Box 5517 Towson, MD 21285-5517 (410)494-6200	Appear: 11/20/2007		11/28/07
ADA	001	County Board Of Appeals For Baltimore County The Party ID: 1194908		CT DO 09/26/08	11/01/07
	Mail:	Old CourtHouse Room 49 400 Washington Avenue Baltimore, MD 21204	01/12/08		01/12/08 NF

CALENDAR EVENTS

Date	Time	Fac	Event Description	Text	SA	Jdg	Day	Of Notice	User ID
Result			ResultDt By Result Judge	Rec					
07/29/08	09:30A	CR14	Civil Non-Jury Trial	Y		DML	01 /01		JMO JMO
Cancelled/Vacated			07/29/08 E D.Levitz						
09/17/08	09:30A	CR18	Civil Non-Jury Trial	Y		SS	01 /01	07/29/08	JMO
Held/Concluded			09/17/08 E S.Souder	Y					

Stenographer(s): Court Smart

DISPOSITION HISTORY

Disp Date	Disp Code	Description	Stage Code	Description	User	Activity Date
09/26/08	DO	Decree or Order	CT	AFTER TRIAL/HEARING	EMH	09/26/08

JUDGE HISTORY

JUDGE ASSIGNED	Type	Assign Date	Removal RSN
TBA To Be Assigned.	J	11/06/07	

DOCUMENT TRACKING

Num/Seq	Description	Filed	Entered	Party	Jdg	Ruling	Closed	User ID
0001000	Petition for Judicial Review Filed by PET001-Falls Road Community Assn The, PET002-Burns	11/01/07	11/06/07	PET001	TBA		09/26/08	DFF EMH
0001001	Answer	11/20/07	11/28/07	RES002	TBA		09/26/08	PKE EMH
0002000	Certificate of Notice *	11/21/07	11/29/07	ADA001	TBA		11/29/07	PKE PKE
0003000	Notice of Transcript of Record Sent	01/12/08	01/12/08	ADA001	TBA		01/12/08	NF
0004000	Notice of Transcript of Record Sent	01/12/08	01/12/08	PET001	TBA		01/12/08	NF
0005000	Notice of Transcript of Record Sent	01/12/08	01/12/08	PET002	TBA		01/12/08	NF
0006000	Notice of Transcript of Record Sent	01/12/08	01/12/08	RES001	TBA		01/12/08	NF
0007000	Notice of Transcript of Record Sent	01/12/08	01/12/08	RES002	TBA		01/12/08	NF
0008000	Transcript of Record from Adm Agency	01/10/08	01/12/08	000	TBA		09/26/08	NF EMH
0009000	Memorandum in Support of Petition for Judicial Review with exhibits Filed by PET001-Falls Road Community Assn The, PET002-Burns	02/20/08	03/25/08	PET001	TBA		03/25/08	TRY
0010000	Scheduling Order	04/04/08	04/04/08	000	TBA		04/04/08	JMO
0011000	Memorandum in Opposition to Petition for Judicial Review *	03/21/08	04/12/08	RES002	TBA		04/12/08	CKC
0012000	Hearing Notice	07/29/08	07/29/08	000	TBA		07/29/08	JMO

Num/Seq	Description	Filed	Entered	Party	Jdg	Ruling	Closed	User ID
0013000	Open Court Proceeding September 17, 2008- Hon. Susan Souder. Hearing had Order of the Board is affirmed. Order to be filed.	09/17/08	09/17/08	000	SS		09/26/08	WH EMH
0014000	Memorandum opinion and order affirming decision of Board of Appeals	09/26/08	09/26/08	000	SS	Affirmed	09/26/08	EMH
0015000	Docket entries sent to Baltimore County Board of Appeals	09/29/08	09/29/08	000	TBA			CVM
0016000	Motion to Alter or Amend and/or for reconsideration of order dismissing petition for judical Filed by PET001-Falls Road Community Assn The, PET002-Burns	10/06/08	10/23/08	PET001	SS	Denied	11/17/08	STB EMH
0017000	*Memorandum in Opposition to Motion to Alter or Amend and/or for Reconsideration	10/23/08	11/05/08	RES002	TBA		11/05/08	MRS

TICKLE

Code	Tickle Name	Status	Expires	#Days	AutoExpire	GoAhead	From	Type	Num	Seq
1ANS	1st Answer Tickle	CLOSED	11/20/07	0	no	no	DANS	D	001	001
1YRT	One Year Tickle (Jud	CLOSED	10/31/08	365	no	no	DAAA	D	001	000
EXPU	Exhibit Pickup Notic	OPEN	11/25/08	30	no	no			000	000
SLMR	Set List For Motions	CANCEL	10/28/08	22	no	no	MMOT	D	016	000
SLTR	Set List For Trial	CANCEL	11/20/07	0	yes	no	1ANS	T	001	001

EXHIBITS

Line #	Marked	Code	Description	SpH	Sloc	NoticeDt	Disp Dt	Dis By
Offered By: ADA 001 County Board Of Appeals For B								
000		L	BOX 574/CBA TRANSC		B			

DIFFERENTIATED CASE MANAGEMENT

TRACKS AND MILESTONES

Track : R1 Description: EXPEDITED APPEAL TRACK Custom: Yes
Assign Date: 04/04/08 Order Date : 04/04/08
Start Date : 04/04/08 Remove Date:

Milestone	Scheduled Target	Actual	Status
Motions to Dismiss under MD. Rule 2-322(	04/19/08	09/26/08	CLOSED
All Motions (excluding Motions in Limine	06/19/08	09/26/08	CLOSED
TRIAL DATE is	07/03/08	09/26/08	CLOSED

ACCOUNTING SUMMARY

NON-INVOICED OBLIGATIONS AND PAYMENTS

Date	Rcpt/Initials	Acct	Desc	Debit	Credit	Method	Balance
11/06/07	200700027251/TW	1102	CF-Civil Fil	.00	80.00	CK	-80.00
11/06/07	200700027251/TW	1500	Appearance F	.00	10.00	CK	-90.00
11/06/07	200700027251/TW	1265	MLSC	.00	25.00	CK	-115.00
11/06/07		1102	CF-Civil Fil	80.00	.00		-35.00
11/06/07		1265	MLSC	25.00	.00		-10.00
11/06/07		1500	Appearance F	10.00	.00		.00

09/29/08 INVOICE# 2008005545/TRY TOTAL: $10.00 STATUS: PAID
PARTY: Falls Road Community Assn The

Invoice Mailed on 09/29/08
Invoice Created on 09/29/08
PAID on 10/20/08

Date	Rcpt/Initials	Acct	Desc	Debit	Credit	Method	Balance
09/29/08		1500	Appearance F	10.00	.00		10.00
10/17/08	200800025073/TW	1500	Appearance F	.00	10.00	CK	.00

9/9/08

IN THE MATTER OF: THE FALLS ROAD COMMUNITY ASSOCIATION	*	IN THE
	*	CIRCUIT COURT
	*	FOR
FOR JUDICIAL REVIEW OF THE DECISION OF THE BALTIMORE COUNTY BOARD OF APPEALS	*	BALTIMORE COUNTY
	*	Case No. 03-C-07-12594

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

FILED
SEP 20 2008
BOARD OF APPEALS

MEMORANDUM OPINION AND ORDER

This matter comes before the Court on the Petition for Judicial Review filed by the Falls Road Community Association ("Association") and Harold Burns, Jr., ("Mr. Burns") (together, "Petitioners") on November 1, 2007. Petitioners are seeking review of the October 4, 2007 decision of the Baltimore County Board of Appeals ("The Board") to dismiss Petitioners' appeals of the Zoning Commissioner's decision ("Zoning Order") to grant a Petition for Special Hearing filed by Maryvale Preparatory School, Inc. ("Respondent"). A hearing on this matter was held on September 17, 2008. For the reasons set forth herein, the decision of the Board shall be affirmed.

BACKGROUND

In 2005, Respondent filed a Petition for Special Hearing with the Zoning Commissioner to amend a previous order issued in 1995. This Petition sought to amend the previous order by allowing Respondent to increase enrollment and increase the number of buildings on Respondent's campus. On January 10, 2006, the Zoning Commissioner issued the Zoning Order granting Respondent's Petition for Special Hearing.

FILED SEP 20 2008

Respondent then sought a separate form of relief, the approval from the Baltimore County Development Review Committee for a "limited exemption" from the Baltimore County Development Regulations to allow for the construction of new buildings on Respondent's campus. In a February 1, 2006 letter, the Baltimore County Director of Permits and Development Management approved Respondent's request ("Development Order").

Petitioners and several other parties appealed to the Board regarding both the Zoning Order (Case No. 06-128-SPHA) and the Development Order (Case No. CBA 06-006). The Board consolidated these appeals. On September 6, 2006, the Board held a hearing on all of the appeals. At the hearing, Mr. Burns stated that he was representing himself while Michael R. McCann, Esq. indicated that he was representing "[the Association], the Valleys Planning Council, Doug Carroll and Gary Gensler." T. 4:4; 4:7-9.

At the beginning of the September 6, 2006 hearing, the parties informed the Board that a resolution may have been reached and that the appeals regarding the Zoning Order were to be withdrawn. T. 5-11. Later in the hearing, however, an issue was raised off the record that the parties had not addressed. As a result of this issue, Petitioners requested an indefinite recess to address the issue. T. 17:15-21; 18:1-4. At no time did Petitioners revoke the withdrawal of their appeals.

Following the hearing, the parties did not reach an agreement. Over a year later, on September 27, 2007, Petitioners sent a letter to the Board stating that the parties failed to reach an agreement and requesting that the Board

schedule a hearing on the appeals concerning both the Zoning Order and the Development Order. In an October 2, 2007 letter, the Board advised Petitioners that all parties had withdrawn their appeals concerning the Zoning Order. On October 4, 2007, the Board issued an Order dismissing the appeals of the Zoning Order. (A hearing was later scheduled on the Development Order.)

On November 1, 2007, Petitioners filed a Petition for Judicial Review regarding the Board's decision to dismiss the appeals of the Zoning Order.

ISSUE

Petitioner presents one issue for review:

(1) Did the Board err in dismissing Petitioners' appeals of the Zoning Order?

The Court's answer to this question is "No," and the Board's decision shall be affirmed.

STANDARD OF REVIEW

"A court's role in reviewing an administrative agency adjudicatory decision is narrow." *Board of Physician Quality Assurance v. Banks*, 354 Md. 54, 67 (1999) (citing *United Parcel Service, Inc. v. People's Counsel*, 336 Md. 569, 576 (1994)). The court is "'limited to determining if there is substantial evidence in the record as a whole to support the agency's findings and conclusions, and to determine if the administrative decision is premised upon an erroneous conclusion of law." *United Parcel Service, Inc.*, 336 Md. at 577; *see also* MD. ANN. CODE, STATE GOV'T ART. § 10-222(h).

"In applying the substantial evidence test, a reviewing court decides 'whether a reasoning mind could have reached the factual conclusion the

agency reached.'" *Banks*, 354 Md. at 68 (quoting *Bulluck v. Pelham Wood Apts.*, 283 Md. 505, 512 (1978)). The court "'must review the agency's decision in the light most favorable to it; the agency's decision is *prima facie* correct and presumed valid....'" *CBS, Inc. v. Comptroller*, 319 Md. 687, 698 (1990) (quoting *Ramsey, Scarlett & Co. v. Comptroller*, 302 Md. 825, 834-35 (1985)). The court needs to defer to the fact-finding of the agency and the inferences drawn by the agency, as long as those inferences are supported by the record. *CBS, Inc.*, 319 Md. at 698. A reviewing court must not "substitute its own judgment for the expertise of those persons who constitute the administrative agency." *United Parcel Service, Inc.*, 336 Md. at 576-77 (quoting *Bulluck*, 283 Md. at 513).

DISCUSSION

(1) Did the Board err in dismissing Petitioners' appeals of the Zoning Order?

Petitioners both claim that they did not withdraw their appeals of the Zoning Order during the September 6, 2006 hearing. The record, however, does not support these assertions.

The transcript indicates that Petitioners both withdrew their appeals of the Zoning Order. At the beginning of the hearing, Robert A. Hoffman, Esq., on behalf of Respondents, stated that "Mr. McCann...and Mr. Burns, are ready to withdraw all of the appeals in the special exception case only, which is Case No. 06-128-SPHA...." T. 5:9-11.

At that time, Mr. McCann indicated to the Board that Petitioners were still concerned with an issue that had nothing to do with the Zoning Order. Based on this issue, Mr. McCann stated that, after the issue was considered further,

the Board would be notified and, if necessary, a hearing would be requested. T. 6:14-21 - 7:1-15.

The transcript then reflects that Mr. McCann, on behalf of his clients, requested to withdraw the appeal of Case No. 06-128-SPHA only. T. 8:8-11. Mr. McCann stated that he represented the Association, Valleys Planning Council, Gary Gensler, Lauri Stubb, Jack Shapiro, Carl Schramm, Lance Roth, Ellyn Brown, and Douglas Carroll. T. 8:21 – 9:1-19.

The Board discussed withdrawal and the consequences of withdrawal with Mr. Burns. T. 10-15. After this discussion, Mr. Burns indicated that, with the understanding that the stormwater management issue would be addressed in the appeal of the Development Order, he would withdraw his appeal of the Zoning Order. T. 15:21 – 16:1. Additionally, at the conclusion of the hearing, Mr. Burns stated, "I'm done. I'm out. I've dropped my appeal. That's over." T. 18:8-9.

Based on the testimony and the discussions that took place during the hearing, Mr. Hoffman, on behalf of Respondents, stated the following at the end of the hearing:

> We are not going to pursue construction of any of the buildings or elements of the special exception plan.
>
> I think that's really what we're saying now. You are withdwawing [sic] your appeal. *Now I have a [sic] approved special exception plan.* They want to make sure we are not going to build them until we've decided either we have resolved everything and, of course, we would build them with a building permit, or we are arguing again, and then we would get to do whatever we want to do.

T. 16:13-21 – 17:1 (emphasis added). Petitioners never objected to this characterization of the status of the case. *See* T.

Thus, there was substantial evidence in the record for the Board to determine that Petitioners had withdrawn their appeals of the Zoning Order. Both Mr. McCann, on behalf of the Association, and Mr. Burns explicitly withdrew their appeals on the record during the September 6, 2006 hearing. As a result, a reasoning mind could reach the factual conclusion the Board reached that the record was to remain open as to the appeals concerning the Development Order only. Accordingly, the decision of the Board to dismiss the Petitioners' appeals of the Zoning Order shall be affirmed.

CONCLUSION

For the reasons set forth herein, the decision of the Baltimore County Board of Appeals shall be affirmed. It is so ORDERED.

9/19/08
Date

Susan Souder
Judge Susan Souder

Copies sent to:

Michael McCann, Esq.
Michael R. McCann, P.A.
118 W. Pennsylvania Ave.
Towson, MD 21204

James A. Dunbar, Esq.
Christopher D. Mudd, Esq.
Venable, LLP
210 Allegheny Ave.
P.O. Box 5517
Towson, MD 21285-551

7/29/08

Sisters Notre Dame

CIRCUIT COURT FOR BALTIMORE COUNTY
Suzanne Mensh
Clerk of the Circuit Court
County Courts Building
401 Bosley Avenue
P.O. Box 6754
Towson, MD 21285-6754
(410)-887-2601, TTY for Deaf: (800)-735-2258
Maryland Toll Free Number (800) 938-5802

RECEIVED
JUL 30 2008
BALTIMORE COUNTY
BOARD OF APPEALS

N O T I C E O F H E A R I N G / T R I A L

Case Number: 03-C-07-012594 AA
C I V I L

In the Matter of Falls Road Community Assn The, et al

STATE OF MARYLAND, BALTIMORE COUNTY COUNTY, TO WIT:

TO: County Board Of Appeals For Baltimore County The
Old CourtHouse Room 49
400 Washington Avenue
Baltimore, MD 21204

You are hereby NOTIFIED TO APPEAR before a Judge of the:

CIRCUIT COURT FOR BALTIMORE COUNTY
County Courts Building
401 Bosley Avenue
Towson, MD 21285-6754

Court date:
September 17, 2008
At: 09:30 AM
Civil Non-Jury Trial
1/2 HOUR ADMINISTRATIVE APPEAL AGREED DATE DML
RECUSED DUE TO CONFLICT

PLEASE NOTE: All counsel are expected to confer with each other with regard to the assigned trial date and to advise the court and other parties of any pre-existing conflict promptly.

If you, a party represented by you, or a witness to be called on behalf of that party need an accommodation under the Americans with Disabilities Act, please contact the Civil Assignment Office at (410)-887-2660 or use the Court's TDD line, (410) 887-3081, or or the Voice/TDD M.D. Relay Service, (800) 735-2258.

Application for postponement must be made in writing with copies to all attorneys.

Please refer to Information Desk for Court Room Designation.

Camera Phones Prohibited: Pursuant to Md. Rule 16-109 b.3., **cameras and recording equipment are strictly prohibited** in courtrooms and adjacent hallways. This means that camera cell phones should not be brought with you on the day of your hearing to the Courthouse.

Assignment Clerk: Oldewurtel Joan M
Assignment Office Phone: (410)-887-2660

Date Issued: 07/29/08

3/18/08

IN THE MATTER OF MARYVALE PREPARATORY SCHOOL, INC. 11300 FALLS ROAD 8TH ELECTION DISTRICT 2ND COUNCILMANIC DISTRICT	*	BEFORE THE COUNTY BOARD OF APPEALS OF
RE: DECISION OF DIRECTOR OF PDM - DRC DETERMINATION - MEETS DEFINITION OF REFINEMENT TO DEVELOPMENT PLAN	*	BALTIMORE COUNTY Case No. CBA-06-006

* * * * * * * * *

OPINION

This is an appeal from a decision of the Development Review Committee (DRC) approved by Timothy M. Kotroco, Director of the Department of Permits and Development Management (PDM) approving the requested modifications to the 1995 Development Plan approved through the Development Review and Approval Process under § 32-4-201 *et seq* of the *Baltimore County Code* (BCC). At that time, a portion of the school property was subdivided off to create the Westwick Subdivision. The Plan included the entirety of Maryvale's campus and reflected the existing school use. The Director of PDM approved the limited exemption by way of letter dated February 1, 2006. On February 15, 2006, Douglas Carroll and Harold Burns, individually, noted appeals from the DRC's February 1, 2006 decision. Their counsel, G. Macy Nelson, Esquire, filed a separate appeal on behalf of the following Protestants: The Valleys Planning Council, Gary Gensler, Jack Shapiro, Lance Roth, Laurie Stubb, Carl Schramm, and Ellyn Brown. Later, Michael McCann, Esquire, entered his appearance on behalf of Mr. Nelson's clients.

Robert Hoffman, Esquire, Arnold Jablon, Esquire, and VENABLE LLP, represented Maryvale Preparatory School (hereinafter referred to as "Maryvale"). A hearing was held before the Board on January 10, 2008. A public deliberation was held on February 12, 2008.

Facts

Maryvale Preparatory School, a private Catholic girls' school, is located on 113 +/- acres on the west side of Falls Road, north of Greenspring Valley Road. The school has operated at this location since 1945. In 1995 a Development Plan was approved for the property through Baltimore County's Development Review and Approval Process. At that time, a portion of the school property was subdivided off to create the Westwick subdivision as stated above. The Development Plan included the entire Maryvale campus and reflected the existing school use. At the same time, Maryvale also sought and received approval of a special exception to validate the use of the property as a school, which, over time, had become nonconforming under the Baltimore County regulations.

In 2005, Maryvale sought to modify the 1995 Development Plan to show additional improvements on the school campus. To accomplish this, Maryvale submitted a request to the Development Review Committee (DRC) for a limited exemption under BCC § 32-4-106(b)(2) for amendments to an approved Development Plan that do not materially affect the proposed development. This was done on November 29, 2005. At the initial DRC meeting on December 19, 2005, the DRC postponed or "tabled" Maryvale's request pending a decision by the Zoning Commissioner on Maryvale's separately filed Petition for Special Hearing in which it sought permission to modify the 1995 special exception to reflect the proposed improvements. The Zoning Commissioner's decision approving the Petition for Special Hearing was introduced as a Maryvale exhibit before the Board. In that decision, the Zoning Commissioner noted that the question of the request for development review was before the DRC. He also noted that it was outside of his jurisdiction to rule on whether or not the request for a limited exemption was the correct procedure to be followed. Following the January 10, 2006 decision of the Zoning

Commissioner approving the special exception, Timothy M. Kotroco, Director of PDM, acting on the recommendation of the DRC, found that the requested modifications to the 1995 Development Plan met the criteria of BCC § 32-4-106(b)(2), and a limited exemption was approved in a letter dated February 1, 2006. As previously stated, the appeals set forth above were taken by the various individuals. Neither the Falls Road Community Association nor Marsha Goldberg noted an appeal.

During the hearing before the Board of Appeals on September 6, 2006, all appeals were voluntarily dismissed with the exception of the appeal filed by Mr. Burns. At the hearing before the Board, Mr. Burns testified individually and also as a representative of the Falls Road Community Association (FRCA). Marsha Goldberg also testified although she did not note an appeal. Petitioner Maryvale protested the testimony of Mr. Burns on behalf of the FRCA and the testimony of Mrs. Goldberg since she did not live within 2 miles of the Maryvale campus. The Board notes the protest of Petitioner and finds that the FRCA and Mr. Goldberg are not proper appellants before the Board but that Mr. Burns did file an appropriate appeal as an individual.

ISSUE: Whether or not Maryvale is entitled to a limited exemption under BCC § 32-4-106(b)(2) because the proposed campus improvements did not substantially alter the development of the property as a school.

Evidence and Testimony

Petitioner presented the expert testimony of David Martin, a licensed landscaped architect and land planner. Mr. Martin had significant experience in preparing DRC requests and appearing before the DRC. He indicated that he had probably attended 100 to 200 DRC hearings and was quite familiar with the process. Mr. Martin testified as to the proposed changes in the Development Plan and stated that he did not believe that the proposed changes materially altered the Development Plan.

The proposed changes as stated on the redlined Development Plan were as follows:

(1) Three new buildings: a 15,000 sq. ft. performing arts center, a 15,000 sq. ft. media center, and a 1,600 sq. ft. maintenance building.

It should be noted that, although the proposed performing arts center and media center at the present time are single-story buildings, Mr. Martin stated that it was possible that they could be two-story buildings that would double the size of the square footage of both buildings.

(2) Four new playing fields with a track and permanent stands around the largest field.

(3) 140 new parking spaces (an increase from 197 to 337 spaces).

(4) A new entrance road and a series of interior roads and loop.

(5) Three new stormwater management ponds with two new outfalls.

(6) Two new underground stormwater management facilities under the playing fields.

(7) Two new clearings for drainage utility easements.

(8) New septic reserve areas.

(9) A new 25,000-gallon fire control tank.

(10) Significant new grading on the site.

Mr. Martin stated that he did not believe that the proposed changes materially altered the Development Plan. He based this on the fact that the use of the Maryvale lot as a school has not changed since 1995 and that the proposed changes were within the same area as the original approved Development Plan. It was his position that Maryvale was a school in 1995 and that the proposed changes did not substantially change the school from the way it was presented at the original Development Plan hearing in 1995.

Walter T. Smith, the Development Manager for the County's Department of Permits and Development Management, testified that he presently chairs the DRC that reviews applications for exemptions from the development plan review process. He explained that the Development Management Policy Manual is a compilation of various policies used by PDM in different aspects of the development process. It contains the definitions the DRC applies when determining eligibility for exemptions under § 32-4-106 of the BCC.

Mr. Burns testified that he had concerns regarding the impact of the proposed amended Plan as it pertains to his property and the surrounding area. He was concerned with the impervious surface that would be added and the amount of stormwater runoff that would flow into the stream system and the valleys. He was also concerned with the direction and flow of stormwater from the new development, including the stormwater management ponds and the playing fields, stating that there was a tremendous gully that has been enlarged as the result of the stormwater runoff from the Westwick development. He feared that the additional stormwater from the playing fields and the additional roadways will exacerbate the situation in the valleys near his home.

Mrs. Goldberg stated that she was secretary of the Falls Road Community Association and felt that the plan should not be exempt from the review process but should be open to a full disclosure to the public. Protestants submitted the Development Policy Manual as one of their exhibits in support of their position that the plan should be subject to the full development process.

Decision

The 1995 Development Plan shows the Maryvale school facility of several buildings, consisting of a lower school building, the upper school building, including an envelope for an

addition for the upper school, and the castle building. In addition, there are athletic fields, play courts, driveways, and parking fields with approximately 337 parking spaces. There are also stormwater management facilities and septic reserve areas. Mr. Martin testified that the school was on a 113 acres +/- and that approximately 23 acres was used for the school. He estimated that the additions proposed in the DRC would add approximately 2 acres to the school use.

While the original policies with respect to the development review process applied to amendments to approved County Review Group (CRG) plans, § 26-211 of the BCC sets out the law for amending an approved plan. It states, "After consultation with the Zoning Commissioner, it has been determined that the past process for amending county review (CRG) plans shall be extended to amending approved development plans. The policies as set out in the Comprehensive Manual of Administrative Policies (CMAP) shall continue to be applied by the Development Review Committee (DRC)."

The DRC Manual of Administrative Policies sets forth the criteria for material amendments and nonmaterial amendments to plans. It states that material amendments to an approved plan shall be reviewed and approved in the same manner as the original plan. A material amendment "represents a fundamental departure from or material alteration of the original county review group (CRG) concept or (2) has a significant effect on neighboring property or the neighborhood at large different from the approved plan."

A nonmaterial amendment does not materially alter the proposed development and may be approved by the Baltimore County Planning Board with a waiver of the CRG meeting if the Director of the Office of Planning finds that "(1) the size, scope and nature of a proposed development does not justify strict compliance with these regulations and (2) a waiver would be

within the scope, purpose and intent of these regulations, and (3) all other county laws, ordinances, and regulations have been complied with."

A nonmaterial amendment, which may be approved by the Planning Board with a waiver of CRG meeting, would be any change to an approved Plan which does not (1) materially alter the original plan concept or (2) have an additional and significant impact on neighboring properties or the neighborhood at large. It also states that plan refinements would include, but not be limited to, minor changes in the following:

(1) The number of dwellings;

(2) Unit type and location;

(3) Square footage of buildings;

(4) Location and area of grading;

(5) Area location and function of open space;

(6) Parking and driveways;

(7) Location of trees, fire hydrants and street lights;

(8) Location and area of stormwater management facilities;

(9) Sewer and water lines and easements;

(10) Soil type and location'

(11) Location and area of flood plain.

As is customary in these matters, the letter from the Director of PDM approving the requested modifications to the 1995 Development Plan and stating that it met the criteria of BCC § 32-4-106(b)(2) and approving the limited exemption did not state the basis upon which either the Director or the DRC made their determination.

Mr. Martin testified that, in his opinion, the minor amendment was justified because the nature of Maryvale had not changed since the Development Plan approved in 1995. He felt that the school was still a school, regardless of the fact that there would be a number of changes made to the campus. A review of the proposed plat shows that almost every area of the campus would be changed. The number of buildings would be doubled. It is quite possible that the size of the buildings could be approximately 60,000 sq. ft., although at the present time they are shown to be approximately half of that. The number of athletic fields will be doubled with a large athletic field surrounded by a track and stands along one side of the field. The number of parking spaces will be increased by about 40 percent. The stormwater management ponds will be increased to six and various roadways throughout the campus will be changed. The Board considers that these changes represent a fundamental departure from the original plan set forth in 1995. Therefore, we consider that these would be material amendments and should be subject to the development review process. The fact that the school remains a school is not a controlling factor, in our opinion. In the matter of *Greenspring Homeowners Association, Inc., v. Foxleigh Enterprises, Inc.*, No. 2170, Sept. Term 2003 (filed October 22, 204)(Op by Merideth, J), the Court of Special Appeals found that the reduction of an eight-story building, proposed by Foxleigh Enterprises, to a two-story building was not considered a slight, minor, or insignificant change to an approved plan as cited by the Director of PDM in his letter approving the reduction of the size of the building. The building was still a building in that case. Therefore the fact that Mr. Martin considers the school to still be a school is not a controlling factor. In the opinion of the Board, the proposed modifications to the plan could have an effect on the neighboring properties, and should be subject to the development review process.

ORDER

THEREFORE, IT IS THIS 18th day of March, 2008 by the County Board of Appeals of Baltimore County

ORDERED that the requested limited exemption under *Baltimore County Code* § 32-4-106(b)(2) for amendments to the 1995 approved Development Plan for Maryvale Preparatory School be and the same is hereby **DENIED**; and it is further

ORDERED that the decision of the Director of the Department of Permits and Development Management be and is hereby **REVERSED**.

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

Edward W. Crizer, Jr., Chairman

Lawrence S. Wescott

Wendell H. Grier

3/18/08

County Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
410-887-3180
FAX: 410-887-3182

March 18, 2008

Michael R. McCann Esquire
MICHAEL R. McCANN, P.A.
118 W. Pennsylvania Avenue
Towson, MD 21204

RE: *In the Matter of: Maryvale Preparatory School; SSND*
Case No. CBA-06-006 /DRC No. 09148H, 062402P

Dear Mr. McCann:

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,

Kathleen C. Bianco
Administrator

Enclosure

c: The Valleys Planning Council
Gary Gensler
Laurie Stubb
Jack Shapiro
Carl Schramm
Lance Roth
Ellyn Brown
Falls Road Community Association
Harold H. Burns, Jr.
Douglas Carroll
Robert A. Hoffman, Esquire
Sister Shawn Maguire /Maryvale Preparatory School
Marci Reihart
David Martin & Rick Chadsey /GW Stephens Jr & Assoc, Inc.
Mickey Cornelius /The Traffic Group
Carol and Michael Choti
Pat Keller, Director /Planning
Walt Smith, Development Manager /PDM
Timothy M. Kotroco, Director /PDM

2/4/08

IN THE MATTER OF: MARYVALE PREPARATORY SCHOOL, INC. 11300 Falls Road	*	BEFORE THE
	*	COUNTY BOARD
APPEAL OF DRC APPROVAL OF LIMITED EXEMPTION FOR WESTWICKE/MARYVALE PREPARATORY SCHOOL DEVELOPMENT PLAN (DRC # 121905A)	*	OF APPEALS FOR
	*	BALTIMORE COUNTY
	*	
	*	Case No.: CBA-06-006
2nd Councilmanic District 8th Election District	*	
	*	

RECEIVED
FEB 04 2008
BALTIMORE COUNTY
BOARD OF APPEALS

* * * * * * * * *

APPELLEE MARYVALE PREPARATORY SCHOOL'S
POST-HEARING MEMORANDUM

Appellee Maryvale Preparatory School, Inc., by Robert A. Hoffman and Arnold Jablon with Venable LLP, its attorneys, respectfully submits this Post-Hearing Memorandum in support of the limited exemption granted pursuant to Section 32-4-106(b)(2) of the Baltimore County Code, as follows:

INTRODUCTION

Maryvale Preparatory School, a private Catholic girls' school, is located on 113± acres on the west side of Falls Road, north of Greenspring Valley Road. The school has operated at this location since 1945. In 1995, a development plan was approved for the property through Baltimore County's Development Review and Approval Process, Baltimore County Code ("BCC") Sections 32-4-201, *et seq.*, and, at that time, a portion of the school property was subdivided off to create the Westwicke subdivision. This plan

included the entirety of Maryvale's campus and reflected the existing school use. *See* Appellant's Exhibit No. 1 (hereinafter referred to as "the 1995 Development Plan"). At the same time, Maryvale also sought and received approval of a special exception to validate the use of the property as a school, which, over time, had become non-conforming under the Baltimore County Zoning Regulations. A copy of the Zoning Commissioner's Order granting this relief was submitted to the Board of Appeals as Appellant's Exhibit No. 16.

In 2005, Maryvale sought to modify the 1995 Development Plan to show additional improvements on the school campus. To accomplish this modification, on November 29, 2005, Maryvale submitted a request with the Development Review Committee ("DRC") for a limited exemption under BCC Section 32-4-106(b)(2) for "[a]mendments to an approved Development Plan or plat that do not materially alter the proposed development." Appellee's Exhibit Nos. 2A-2F.

At the initial DRC meeting on December 19, 2005, the DRC postponed or "tabled" Maryvale's request pending a decision by the Zoning Commissioner on Maryvale's separately filed Petition for Special Hearing in which it sought permission to modify the 1995 special exception to reflect the proposed improvements. A copy of the Zoning Commissioner's approval of the Petition for Special Hearing is attached to Appellant's Exhibit No. 9. Following the January 10, 2006, approval of the special hearing by the Zoning Commissioner, Timothy M. Kotroco, Director of the Department of Permits and Development Management ("PDM"), acting on the recommendation of the DRC, found that the requested modifications to the 1995 Development Plan met the

criteria of BCC Section 32-4-107(b)(2), and the limited exemption was approved by way of letter dated February 1, 2006. Appellee's Exhibit No. 2E.

On February 15, 2006, Douglas Carroll and Harold Burns individually noted appeals from the DRC's February 1, 2006, decision, and Macy Nelson, counsel, filed a separate appeal on behalf of the following protestants: The Valleys Planning Council, Gary Gensler, Jack Shapiro, Lance Roth, Laurie Stubb, Carl Schramm, and Ellyn Brown. Michael McCann later entered his appearance on behalf of Mr. Nelson's clients. Neither The Falls Road Community Association, Inc ("FRCA") nor Marsha Goldberg noted an appeal. During the Board of Appeals hearing on September 6, 2006, all appeals were voluntarily dismissed with the exception of the appeal filed by Mr. Burns. Therefore, the only proper Appellant before the Board is Mr. Burns individually.[1]

ARGUMENT

Maryvale was entitled a limited exemption under BCC Section 32-4-106(b)(2) because the proposed campus improvements did not substantially alter the development of the property as a school.

"Development," as that term is defined in the Baltimore County Code, must comply with the procedures outlined in Section 32-4-201, *et seq.*, more commonly known as the "full development process." However, the Baltimore County Council has created

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[1] Aside from the technical deficiencies in the documents Mr. Burns provided in an attempt to comply with Rule 8 of the Rules of Practice and Procedure of the County Board of Appeals, Mr. Burns provided no documentation that FRCA, as contrasted with its Board of Directors, actually took a position to oppose Maryvale. Therefore, he should not have been permitted to speak on behalf of FRCA or to add that organization as a party to this appeal. *See* Appellant's Exhibit 13. Additionally, Ms. Goldberg, who lives two miles away from the property, does not have standing to maintain this appeal as she is not within sight and sound of the property.

statutory exemptions from all or parts of this process for projects that meet the criteria outlined in BCC Section 32-4-107. Projects qualifying for an exemption under Section 32-4-107(a) are exempt from the entire process; projects receiving an exemption under Section 32-4-107(b) are exempt from the community input meeting and the hearing officer's hearing portions of the process. Projects receiving a "b" exemption, therefore, must still submit a development plan to the County agencies for review and approval.

As outlined in the Development Management Policy Manual, adopted on July 1, 1993, the DRC and the Director of PDM act as "gatekeeper," deciding which requests are entitled to an exemption and which are not. The Policy Manual also contains definitions and policies that, assuming they are not inconsistent with the plain language of the statutory exemptions themselves, may provide some guidance to the DRC in making their determinations. *See generally Beth Tfiloh Congregation v. Glyndon Community Assoc.*, 152 Md. App. 97, 117 (2003).[2]

In this case, Maryvale sought and received from the DRC approval of a limited exemption under BCC Section 32-4-107(b)(2) for "amendments to an approved Development Plan or plat that do not materially alter the proposed development." On appeal before the Board of Appeals, in support of its entitlement to this (b)(2) limited

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[2] These policies date back to 1987, when, under a prior version of the Baltimore County Code, the Code was silent as to how an amendment deemed as "non-material" or insignificant was to be treated, but only stated that a "material amendment" was to be approved in the same manner as the original plan. To fill this gap, in 1987, the then Directors of the Department of Public Works and the Office of Planning and Zoning, pursuant to the authority granted in BCC Section 22-49, adopted policies specifically defining "material amendment," "non-material amendment," and "refinement" and articulating how each were to be treated.

exemption, Maryvale presented the expert testimony of David Martin, licensed landscape architect and land planner, who has significant experience in preparing DRC requests and appearing before the DRC. *See* Transcript of Proceedings before Board of Appeals, dated January 10, 2008, pp. 123-124, 144, attached as Memorandum Exhibit A. *See also* Appellee's Exhibit No. 1.

Being the one responsible for preparing the request, Mr. Martin was asked to identify the different components of Maryvale's DRC application, introduced as Appellee's Exhibit Nos. 2A-2D (request letter, checklist, and receipt), and 2F (Plan to Accompany DRC Request). Mr. Martin then described in detail the proposed modifications to be made to the existing school campus. (T. 129) As reflected on the 1995 Development Plan, introduced as Appellant's Exhibit No. 1, Maryvale's school facility consisted of the existing upper and lower school buildings, including an envelope for an addition to the upper school; the "Castle" building; athletic fields and play court; driveways and parking fields; and smaller accessory structures, equipment, and related site improvements, such as storm water management facilities and septic reserve areas. Mr. Martin quantified the school use on the 113± acre property, as shown on the 1995 Development Plan, as being approximately 23 acres of development area. (T. 135)

In contrast, Maryvale's proposal to the DRC was to add two new school buildings, a performing arts building and a media center/library building, and a small maintenance building; define and improve the existing athletic fields; reconfigure the storm water management facilities, making one of the facilities an underground facility; and reconfigure the driveways and parking areas, adding more parking spaces to the

campus. (T. 129-130, 132-141) Mr. Martin described these changes as being internal to the campus, and he estimated these modifications would result in less than a two acre increase in development area as compared with the 1995 Development Plan. (T. 138)

Mr. Martin demonstrated to the Board his familiarity with DRC requests generally and with the application of BCC Section 32-4-107 and the provisions contained in the Development Management Policy Manual, having prepared and processed between 100 and 200 requests to the DRC over the past fifteen years. (T. 143-144) Having established his familiarity with this project and with the County's requirements for processing development plans, Mr. Martin then opined that the proposed changes to Maryvale's campus do not "materially alter the proposed development" and, therefore, meet the requirements for a limited exemption under BCC Section 32-4-107(b)(2). (T. 134-135)

As Mr. Martin explained, the starting point for making this determination must be the 1995 Development Plan, which reflected the principal use of the property and, in fact, the only use of the property, as a school. (T. 136) As shown on the 1995 plan, the school use is generally confined to an approximately 23 acre area within the larger 113± acre site. (T. 135-136) In his opinion, the additional improvements and the resulting two acre increase in development area as proposed by Maryvale do not materially alter the development or use of the property as a school. (T. 135-136, 138)

In providing his opinion on Maryvale's entitlement to a limited exemption, Mr. Martin also considered the definitions of "material amendment" and "refinement" contained in the Development Management Policy Manual. A "material amendment" is

defined as a change that represents a "fundamental departure" from the concept outlined on the original plan or that has a "significant effect" on neighboring properties different from the approved plan. Appellant's Exhibit No. 12, Policy No. I.a, p. 1. A "refinement" is a "minor change," in keeping with the informative, conceptual, and schematic nature of the plan, that has "no significant impact on adjacent properties. Appellant's Exhibit No. 12, Policy No. I.a, p. 2.[3]

Consistent with his testimony concerning the term "materially alter" from Section 32-4-107(b)(2), Mr. Martin likewise rejected the notion that the Maryvale's proposed improvements represent a "material amendment" as that concept is defined in the Policy Manual. (T. 141-142) In his opinion, the proposed school improvements are not a "fundamental departure," but, rather, are consistent with the original concept for the school, and the impacts on the neighborhood would not be "significantly different" if there were three additional buildings, expanded parking, and other improvements within the confines of or in close proximity to the school campus. (T. 139-143) Instead, Mr. Martin clearly stated his opinion that these changes meet the definition of a "refinement" under the Policy Manual and "do not materially alter" the original plan. (T. 138, 143)

Mr. Martin confirmed that, in his experience, refinements are frequently granted by the DRC for expansions of an existing use, such as this one. (T. 158-159) In his experience, when a project has been subjected to the full development process in the past, including a Hearing Officer's Hearing, the agencies sitting on the DRC, in reviewing

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[3] The term "non-material amendment" relates to a process that does not exist any longer under the current Baltimore County Code and, therefore, this term has no application to the processing of development plans. Appellant's Exhibit No. 12, Policy No. I.a, p. 2.

refinement requests, *i.e.*, requests for limited exemptions, are not looking to retry the case, but, rather, are looking for plan amendments that result in new and greater impacts than those that would have been considered by the Hearing Officer. (T. 159-160) From his experience, the expansion of an existing use with similar impacts on the community would commonly be considered to be a refinement. (T. 158-159)

Appellant offered no convincing evidence or testimony to demonstrate that Maryvale was not entitled to a (b)(2) limited exemption. In fact, other than having Walter Smith appear and provide PDM's file on the DRC request, the only testimony provided by Appellant came from Mr. Burns himself, who admitted that he is not an engineer or an expert on any of the topics he discussed. (T. 85, 101-102) Rather, Mr. Burns' testimony centered around "concerns" he has over increased storm water runoff, noise from athletic and other events, and lights that might emanate from one of the new buildings. (T. 80-85, 89-90, 92-93) These "concerns" were presented in a rather generalized manner, and Mr. Burns, himself, had difficulty articulating which problems he was alleging would result from new improvements and which problems were as a result of existing conditions on the property.[4] (T. 80-85, 89-90) The very fact that Mr. Burns cannot separate his "before" concerns from his "after" concerns only proves Mr. Martin's point that Maryvale's proposed improvements will not result in any new or greater impacts to the neighboring properties different from the existing school and, therefore, do not materially alter or materially amend the prior plan.

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[4] On cross-examination, Mr. Burns openly acknowledged that Maryvale's representatives had met with him personally prior to submitting the DRC request and had "significantly modified" the plan "to the better" in order to address his concerns. (T. 106)

CONCLUSION

Having considered the strong and substantial evidence presented by Maryvale, which was unrebutted by Appellant, the Board of Appeals should conclude, as did the DRC, that the proposed changes to the Westwicke/Maryvale Preparatory School Development Plan meet the requirements of a limited exemption under BCC Section 32-4-107(b)(2). Therefore, the Board of Appeals should affirm the decision of the DRC.

Respectfully submitted,

Robert A. Hoffman /PAM

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Venable LLP
210 Allegheny Avenue
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(410) 494-6200
Attorneys for Appellee

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 4th day of February, 2008, a copy of the foregoing APPELLEE'S POST-HEARING MEMORANDUM was mailed, first-class delivery, postage prepaid, to Michael R. McCann, P.A., 118 W. Pennsylvania Avenue, Towson, Maryland 21204, Attorney for Appellant.

Robert A. Hoffman /PAM
ROBERT A. HOFFMAN

TO1DOCS1/ 255046 v2

2/04/08

IN RE: BALTIMORE PROVINCE OF THE SISTERS OF NOTRE DAME de NAMUR, INC./ MARYVALE PREPARATORY SCHOOL, INC. 11300 Falls Road	*	BEFORE THE
	*	BALTIMORE COUNTY
	*	BOARD OF APPEALS
	*	Case No: 06-128-SPHA/ CBA 06-006
	*	(PDM VIII-651)
	*	

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

POST-HEARING MEMORANDUM IN SUPPORT OF APPEAL

Appellants, Falls Road Community Association and Harold Burns, submit this post-hearing memorandum in support of their appeal.

I. PRELIMINARY STATEMENT

Appellants have appealed the decision of the DRC approving Appellee's application for a limited exemption under Section 32-4-106(b)(2) of the County Code. The redlined development plan accompanying Appellee's application shows numerous changes to its approved plan, including (i) three new school buildings (totaling at least 30,000 square feet), (ii) four new playing fields with permanent stands and a track around the largest field, (iii) 140 new parking spaces, (iv) a new entrance road to the Maryvale Preparatory School, (v) a network of new interior roads and a traffic loop, (vi) three new stormwater management ponds with two new outfalls, (vii) two additional stormwater management facilities located beneath two of the playing fields, (viii) new septic reserve areas, and (ix) significant grading throughout the site.

These changes clearly constitute a material amendment to the approved plan and fall far short of meeting the definition of "refinement" and other applicable standards set forth in the County Code and the Policy Manual of the Department of Permits and Development Management. Further, the decision of the Court of Special Appeals in *Meadows of Greenspring Homeowners*

Ass'n v. Foxleigh Enterprises, as well as this Board's recent decision in *In re: Charlestown Retirement Community*, Case No. 05-621-A/CBA-05-143 (April 6, 2007), fully support Appellants' position. Appellee's interpretation and application of the relevant standards, on the other hand, is superficial, at best, and inaccurate. For these reasons, and those below, the Board should reverse the decision of the Director of Permits and Development Management.

II. SUMMARY OF EVIDENCE INTRODUCED AT HEARING

A. The Original Development Plan And Special Exception

In 1995, the Scottish Development Company, Inc. filed a development plan proposing 29 residential lots on the 70-acre northern portion of the subject property, depicted in the plan as Lot 1A. Lot1A (the "Westwicke Lot") is zoned RC5. Also depicted on the plan was a second lot, Lot 2A, which is owned by Appellee and operated as Maryvale Preparatory School. Lot 2A, comprising approximately 113 acres, is zoned RC2. Although the Maryvale Lot was part of the development plan, no improvements were proposed to that lot. (T. 15).[1]

On August 5, 1995, the Baltimore County Hearing Officer held a bifurcated hearing addressing, first, the development plan and then, second, Appellee's special exception request to legitimize the continued operation of the Maryvale Preparatory School. (*See* Opinion & Dev. Plan Order attached hereto as ex. A). The Hearing Officer approved the development plan and the special exception relief requested by Appellee. (*Id.*).

B. Subsequent Requests For Exemptions

On November 29, 1995, Appellee filed an application with the Development Review Committeee ("DRC") for an exemption from the development plan approval process. (**Ex. 2**). The application described the proposed refinement as "a reduction to the width of the self-imposed

[1] The Development Plan did show, next to the existing upper school and gym, a building envelope for "future building *expansion, 15,000 sq. feet.*" (*See* Ex. 1).

buffer from 35 feet to 25 feet." (*Id.*). The DRC denied the application on the ground the request "does not meet the requirements of a refinement." (*Id.*).

On February 28, 1996, Appellee filed another application with the DRC for an exemption. This application sought various "reconfigurations" and "shiftings" to certain lots in the Westwicke subdivision, including adjustments to a septic reserve area, a forest conservation area, and drainage area on the lots. (**Exs. 3**). By letter dated March 14, 1996, the DRC determined that Appellee's request met the requirements of a refinement and was exempt from the development plan approval process. (**Ex. 4**); (T. 18-20).

On May 16, 1996, the plat for the subject property was filed and recorded among the land records in Baltimore County. Notably, the plat shows only the Westwicke Subdivision, not the Maryvale Lot. (**Ex. 5**); (T. 21-22).

On October 1, 1996, Appellee filed a First Amended Development Plan & Special Exception Plat. (**Ex. 6**). The reason identified the plan for the amendment was to replace the future 15,000 square foot building envelope with a two-story addition to the existing gym on the Maryvale Lot. (T. 23).

C. The DRC Request At Issue In This Appeal

On November 25, 2005, Appellee filed an application for an exemption from the development plan approval process under Section 32-4-106(b)(2) of the County Code. The purpose of the refinement, according to the application, is to "reflect additional building area, parking lots, and playing fields...." (**Ex. 9**).

The redlined plan accompanying the application shows, in fact, considerably more changes to the development plan. The plan shows:

- 3 new buildings: a 14,000[2] square foot performing arts center, a 15,000 square foot media center, and a 1,600 square foot maintenance building
- 4 new playing fields with a track and permanent stands around the largest field
- 140 new parking spaces (an increase from 197 to 337 or 40%)
- new entrance road, a series of interiors roads, and loop
- 3 new stormwater management ponds with 2 new outfalls
- 2 new underground stormwater management facilities under the playing fields
- 2 new clearings for drainage/utility easements
- new septic reserve areas
- new 25,000 gallon fire control tank
- significant new grading on-site

(**Ex. 11**).[3] By letter dated February 1, 2006, the DRC approved the request. (**Ex. 10**).

D. The PDM Policy Manual

Walter T. Smith, Jr. ("Mr. Smith") is the Development Manager for the County's Department of Permits and Development Management ("PDM"). He presently chairs the DRC, which reviews applications for exemptions from the development plan review process under Section 32-106 of the County Code.

Mr. Smith explained that the Development Management Policy Manual (the "Policy Manual") is a compilation of various policies used by PDM in different aspects of the development plan approval process. (T. 37). The Policy Manual is approved by the Director of PDM. (*Id.*).

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[2] The size of these buildings assumes they are one story, which is unlikely. Mr. Martin did not know how many stories the three new buildings will be, but suspected that two will be two stories and one will be one story. (T. 148-149).

[3] The plan accompanying the DRC request which is the subject of this appeal also is marked as Appellee's exhibit 2F. That copy of the plan, however, is in black and white, and not redlined.

The section of the Policy Manual entitled "Amendments to Approved County Review Group Plan" (policy no. I.a.) contains the definitions that the DRC applies when determining eligibility for exemptions under Section 32-4-106 of the County Code, specifically when it determines whether a proposed amendment to a development plan is a material amendment or a refinement. (T. 38-39, 41, 53) (**Ex. 12**).[4] There is no other written policy that governs DRC's determination of exemptions under Section 32-4-106. (T. 41-42).

E. The Testimony of Mr. Burns and Ms. Goldberg

Mr. Burns owns property adjacent to the Maryvale Lot and has lived there for more than twenty years. (*See* Ex. 11) (T. 63-64). He is currently the President of the Falls Road Community Association. (T. 64). Mr. Burns expressed his concerns regarding the impact the proposed amended plan would have on his property and the surrounding area, including the impact that the increased impervious surface would have on the amount of stormwater runoff and on the health of the stream system in the valley. Mr. Burns has already has seen impacts from the Westwicke development. He described the flow and direction of stormwater from the development and from the playing fields on the Maryvale Lot, the steepness of the outfalls, and explained how stormwater has cut an enormous ditch. Mr. Burns has witnessed a "tremendous change in the stormwater management [] system" since the Westwicke development was constructed, and he believes the proposed amended plan will also have a tremendous impact. (T. 78-88, 92, 105).

Mr. Burns also expressed concern regarding the level of noise that would travel across the valley and the light generated from the proposed new buildings. (T. 88-90, 93, 99). Mr. Burns stated that "[t]his site cannot take this much use. This is a big impact on me." (T. 100).

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[4] Policy no. I.e. of the Policy Manual makes clear that the Policy Manual applies to development plans under the current review process, not just County Review Group of CRG plans. (T. 39-40; **Ex. 12**).

Ms. Goldberg is Secretary of the Falls Road Community Association. She resides approximately two miles north of the subject property and has lived there 27 years. (T. 110). Ms. Goldberg explained that she believes the proposed changes to this development plan should not be exempt from the review process, but rather should be "open to full disclosure to the public." (T. 111). "The scope of the plan should be open to full review by the public because of the size of the changes.....There's such big changes that the public should have input...." (T. 117). Ms. Goldberg was not allowed to testify regarding traffic or any other impact she believed would result from the changes to the development plan. (T. 116-118).

F. The Testimony Of Mr. Martin

David L. Martin, landscape architect, testified on behalf of Appellee. (T. 123). Mr. Martin acknowledged that the DRC looks to the Policy Manual when determining exemptions under Section 32-4-106, and that he does as well. (T. 131-132, 138-139). Mr. Martin stated that he does not believe the proposed changes materially alter the development plan. When asked why, Mr. Martin offered two reasons: (1) that the use of the Maryvale Lot as a school has not changed since 1995, and (2) the proposed changes are within the same area as the originally approved development plan:

> It was a school in 1995. It was a school in 1998, I think when the second DRC which was introduced was requested for a building addition. It's a school today. It was school when we filed this DRC application. ... [T]he use has a lot to do with the development plan as it was shown to the community. It was represented as a school at the community input meeting. It was represented as a school at the development hearing, the original development hearing in 1995.... [T]he development is still sort of within the same area. There's not some proposed new use way over on the west side in the steam or down in the south. It's all occurring, but it's internal to their property, their use."

(T. 135-136; *see also* 158).

Although Appellants' attempt to introduce evidence regarding the impact of the proposed amended plan was thwarted, Mr. Martin was permitted to testify freely regarding the impact he believed the proposal would have on neighboring properties.

> Q. Now, …[u]nder the policy manual, under material amendments, it says that, "The change to be material would have a significant effect on neighboring properties or the neighborhood at large different from the approved plan."
>
> A. Yes.
>
> Q. Did you – do you consider that in your testimony?
>
> A. Certainly. And I would come back to the statement, the edge of the school on – let's start at the east side. The driveway is still where it is. There are still parking lots. There are driveways that exist, existed in 1995 on the original plan.
>
> Certainly everybody that attended the 1995 CIM and the hearing officer's hearing that were interested parties had an opportunity. They know what's there. And that use has not changed."
>
> * * *
>
> Q. ….Do you believe that any of these changes would have a significant impact….?
>
> A. I would answer that question no, it would not. And I can only reinforce that by the zoning case that was sort of already talked about those issues on the special hearing to modify the special exception.[5]

(T. 137, 143).

III. ARGUMENT

Section 32-4-262 of the County Code, entitled "Amendments to Development Plans," states that any "material amendment" to an approved development plan shall be reviewed and approved in the same manner as the original plan, *i.e.*, the amended plan must proceed through the applicable development plan review process.[6]

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[5] There was no special hearing to modify the special exception, only the original hearing in 1995 to approve the school as a special exception use.

[6] Subsections (a) and (b) of Section 32-4-262 make a distinction between an amendment to a "residential plan" and an amendment to a "non-residential plan."

Section 32-4-106, however, provides for certain "limited exemptions" from the review process. Subsection (b)(2), which is the exemption sought by Appellee in this case, allows a developer to avoid both a community input meeting and a hearing before the Hearing Officer if the proposed amendment "do[es] not materially alter the proposed development."[7]

In determining whether a proposed amendment materially alters the development, the DRC considers the definitions of "material amendment" and "refinement" in the Policy Manual. The Policy Manual provides, in pertinent part, as follows:

> I. Material Amendment
>
> * * * * * *
>
> C. An amendment or combination of amendments ... shall be considered a "material amendment" if it or they:
>
> 1. Represents ***a fundamental departure from or material alteration*** of the original [CRG] concept; ***or***
>
> 2. Has a ***significant effect on neighboring property, or the neighborhood at large, different from*** an approved plan.
>
> * * * * * *
>
> III. Plan Refinements
>
> A. In order to further clarify the "Plan Amendment Process" it is proposed that ***slight, minor or insignificant changes*** to an approved plan, which have ***no significant impact on the site or adjacent properties or the neighborhood at large*** may be considered as "Plan Refinements".... The refinements would include, but not be limited to, ***minor changes in the following***:
>
> 1. Number of dwellings.
> 2. Unit type and location.
> 3. Square footage or buildings.
> 4. Location and area of grading.
> 5. Area, location, and function of open space.
> 6. Parking and driveways.
> 7. Location of streets, fire hydrants and streetlights.

[7] Subsection (a) of Section 32-4-106 exempts certain development from the entire development review and approval process in Subtitle 2 of Section 32.

8. Location and areas of storm water management facilities.
9. Sewer and water lines and easements.
10. Soil type and location.
11. Location and area of flood plain.

(Ex. 11) (emphasis added).

Thus, in broad terms, when considering the DRC's approval of a limited exemption, this Board should consider (1) the nature and extent of the proposed amendment, and (2) the impact of those changes on the site, the adjacent properties, and the neighborhood at large.

A. The Proposed Changes To The Development Are "Significant" And "Material" Amendments, Not "Minor Changes" Or "Refinements"

According to Appellee's application submitted to the DRC, the purpose of its proposed amended development plan is to "reflect additional building area, parking lots, and playing fields...." (Ex. 9). This description is, at best, a gross understatement.

Appellee is not simply adding building area to Maryvale School; it is proposing three new buildings of substantial size (totaling at least 30,000 square feet) in areas that are not presently occupied by any buildings. Appellee is proposing four new, clearly delineated playing fields, permanent stands, and a track around the largest field, none of which exists currently. Appellee is proposing 140 new parking spaces - a 40% increase from 197 to 337 – in areas that are not currently used for parking. And Appellee is proposing a new access road, new interior roads, and a new traffic loop. Appellee's own expert, Mr. Martin, admitted there will be a "substantial amount" of new or redefined access roads and interior roads. (T. 153-154).

To accommodate these significant improvements and the resultant increase in impervious surface, the Appellee proposes the construction of substantial new stormwater management facilities. Three new stormwater management ponds – roughly equal to the size of the new buildings – will have to be constructed. Two additional facilities are proposed beneath two of the

four playing fields. Mr. Martin conceded that all of these changes will require "pretty significant" changes in grading. (T. 155).

Simply put, the changes proposed by Appellee are not "slight, minor, or insignificant changes." They constitute a "fundamental departure from" or, at the very least, a "material alteration" of the plan.[8] The changes are substantial, both quantitatively and qualitatively.

Moreover, the purpose of allowing the limited exemptions in Section 32-4-106 should be kept in mind. The purpose of the exemptions, obviously, is to avoid the need for public review and input when changes are proposed to a development plan that already has proceeded through the development review process - the filing and review of a concept plan, the holding of community input meeting, the filing and review of a development plan, the holding of a public hearing, etc. When changes to an approved plan are insignificant, the public interest is arguably not implicated and there may be no need for public input.

That is not the case when the changes are material. And it is particularly not the case when, as here, the development plan did not receive any public review and input at all. When the development plan was approved in 1995, the Maryvale Lot was not subjected to the development plan review process for the simple reason that no buildings, parking lots, playing fields, access or interior roads, or stormwater management facilities were part of the plan. Under these circumstances, it is particularly important for proposed changes to be subject to a full and open review process.

Finally, under the Policy Manual, consideration must be given to the impact of the proposed changes on the subject property, as well as adjoining properties and the neighborhood at large.

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[8] This is true regardless of whether the Board compares the current proposed amendments (reflected in redline in Ex. 11) to the original 1995 development plan (Ex. 1) or compares the current proposed amendments to the most recent iteration of the development plan (Ex. 6). With the sole exception of a "15,000 sq. foot building envelope" depicted in the original development plan (*see* Ex. 1 and 6), there have been no improvements to the Maryvale Lot since 1995.

Although the Board rejected, at least in part, Appellants' efforts to introduce evidence on this issue, sufficient evidence was introduced through the testimony of Mr. Burns, who spoke about the existing and expected stormwater management problems and the impact of noise and light on the areas.

Appellee offered no meaningful evidence on this point. When specifically asked about the impact of the proposed changes, Mr. Martin simply stated that that the impact of the development was addressed in the special exception case in 1995. (T. 137, 143). When asked on cross-examination about the relevance of the special exception case to the issue before the Board, Mr. Martin stated that the hearing officer in the special exception case makes a determination of adverse impacts under Section 502.1 of the Zoning Regulations. (T. 161). Mr. Martin admitted, however, that the standard under Section 502.1 is different than the standard applicable to refinements in the Policy Manual and the County Code. (T. 162).

B. Decisions Of The Court Of Special Appeals And This Board Support Appellants' Position In This Appeal

In *Meadows of Greenspring Homeowners Ass'n, Inc. v. Foxleigh Enterprises*, No. 2170, Sept. Term 2003 (filed Oct. 22, 2004) (Op. by Meredith, J.), the Court of Special Appeals discussed the meaning of "material amendment" and an alleged "refinement" to a CRG plan. (*See* Opinion attached hereto as ex. B). There, the developer, pursuant to a 1983 CRG plan, constructed a multi-story commercial building at Greenspring Station, and paved much of the remaining portion of the property. (*Id.*, p. 3). In 1998, the developer sought an exemption from the DRC for an 8-story building on part of the property being used as a parking lot. (*Id.*, p. 4). The DRC rejected the developer's exemption on the ground the 8-story building was not a refinement. (*Id.*) The developer then sought and obtained CRG approval of the 8-story building as a material refinement. (*Id.*). When a county bill reduced the permissible height of the building to 35 feet, the

developer submitted a new proposal for construction of a 2-story building instead of an 8-story building. The DRC determined that the 2-story building was a refinement, not a material amendment, to an approved plan. (*Id.*, p. 6). The DRC's decision was appealed to this Board, which held that the 2-story proposal did not appear to be a refinement. The Board, however, remanded the matter to the CRG for further proceedings and clarification as a refinement prior to final determination by the Board. (*Id.*, p. 7).

The case eventually was appealed to and decided by the Court of Special Appeals. The Court held that "[w]hile it may be correct that some minor changes to a development plan could be deemed as not material, and hence mere refinements, we do not agree that a change from an 8-story building to a 2-story building could be considered so negligible as to fall outside the definition of a 'material amendment.'" (*Id.*, pp. 13-14). The Court concluded that "the plain meaning of 'any material amendment' would necessarily encompass a change from 8 stories to 2 stories" and that such a change "could not reasonably be considered a 'slight, minor or insignificant [change] to an approved plan." (*Id.*, pp. 14, 15). The Court noted expert testimony that the change in the height of the building made the project not only a quantitatively, but a qualitatively different project than the approved plan. (*Id.*, p. 14-15).

Also instructive is this Board's recent opinion in *In re: Charlestown Retirement Community*, Case. No. 05-621-A/CBA-05-143 (April 6, 2007) (attached as ex. C). In that case, the owner of St. Charles College obtained a special exception to operate a retirement community on approximately 100 acres in Charlestown. A 3.1 acre parcel of the property was improved with a 17,000 square foot stone carriage house that had been converted to office use and a 2 ½ story farmhouse used for storage and housing for a maintenance person. On that 3.1 acre parcel, the developer sought to construct a 40,000 square foot addition to the office building and a detached garage in the place of

farmhouse. The developer submitted an application with DRC to approve the proposed expansion as a refinement to the CRG plan for the Charlestown Retirement Community. (*Id.*, p. 6). The DRC determined that the proposal met the requirements of a refinement, and the Director of PDM affirmed that decision.

This Board reversed the decision of PDM. The Board held that, if the 3.1 acre parcel were considered part of the overall campus of Charlestown Retirement Community, then the proposed additions are "more than a refinement" under 32-4-106(b)(2) of the Code. (*Id.*, p. 12). Although the Board's Opinion does not identify the extent of the development at the existing 100-acre Charlestown Retirement Community (e.g., the number of buildings, their size, etc.), the Board clearly saw the relatively small addition of an office building and associated parking as a material amendment.

C. Mr. Martin's Interpretation And Application Of The Policy Manual Was, At Best, Superficial

Mr. Martin offered two reasons why he believes the proposed changes are a refinement and not a material amendment: (1) that the use of the Maryvale Lot as a school has not changed and (2) the changes are within the same area as the originally approved development plan. Mr. Martin's theories, although interesting, are off the mark.

The fact that the Maryvale Lot was used as a school in 1995 and is presently used as a school begs the question. Under Mr. Martin's theory, any and all changes to a development plan, regardless of their scope or magnitude, would constitute a refinement as long as the use of the property was not being changed. A 700,000 square foot expansion of a 1,000 retail store would be a

refinement. Five hundred new units at a 10 unit duplex community would be a refinement.[9] Mr. Martin's interpretation cannot be correct.

Similarly, the fact that a proposed amendment is directed to an area already encompassed by the approved development plan begs the question. Indeed, unless adjoining property is acquired, it will always be the case that a developer seeks to amend a portion of the area that was the subject of its approved plan. More importantly, however, is that the premise of Mr. Martin's theory is wrong. Even the most cursory review of the redlined plan (Ex. 11) demonstrates that the new areas in which the proposed changes will occur is expansive. Although Mr. Martin estimated this area is a total of two acres, it is clear that this estimate, even in his own words, was "rough." (T. 156-157). For example, Mr. Martin included the entire area encompassed by the proposed four playing fields because they are in the same "general" area as the field currently used; he admitted, however, that he does not know how many fields there are currently or how much of that area is currently being used for playing fields. (T. 150, 151, 158). He also conceded that two of the four new playing fields are proposed in an area that is presently used for stormwater management, i.e., the area is not being used presently for playing fields. (T. 151).

In advancing his rough estimate of two acres, Mr. Martin noted that the entire Maryvale Lot is 113 acres. This is misleading. The vast majority of the Maryvale Lot – perhaps as much as 80-90% -- is comprised of wetland, floodplain, forest buffer, and otherwise undevelopable areas. These areas are depicted in gray in the redlined plan (Ex. 11).

In his direct examination, Mr. Martin addressed the 11 types of minor changes that would constitute a refinement under Section IIIA of the Policy Manual. Mr. Martin's testimony, again,

---

[9] When asked whether that was usually the case – no change in actual use of the property - with all amendments to development plans, Mr. Martin stated he could not answer that question because, remarkable, he has never seen a material amendment. *(T. 159).*

was superficial. With respect to number 3 ("[minor changes in] square footage or buildings"), Mr. Martin stated only the following:

> Square footage or buildings, again, I would come back to the – in the overall context of the school, that the square footage of the buildings are – it's significant as far as when you at the kind of – you know, it's a percentage of the overall use of the site.

(T. 139).[10] It is unclear what Mr. Martin meant by this testimony, but the 30,000 foot increase in square footage is not a minor change.

With respect to number 4 ("[minors change in] location and area of grading"), Mr. Martin stated that "that's all still relatively confined within the area of existing facilities...." (T. 140). As discussed above, this is simply not true. With respect to factor 5 ("[minor changes in] area, location, and function of open space"), Mr. Martin stated he "d[id]n't see any major issue there" because "the fields that exist[ed] in 1995 and exist today are similarly located." (T. 140). As discussed above, Mr. Martin does not know what portion of the area of the proposed fields is presently being used; he, therefore, is unable to make this comparison.

With respect to number 6 ("[minor changes in] parking and driveways"), Mr. Martin testified that "we're articulating parking to accommodate the two new buildings and better serve obviously their uses. Some of the existing parking... is being replaced by a building so the parking has to be rearticulated around those." (T. 140). Mr. Martin's use of the term "rearticulating" suggests that Appellee is merely reconfiguring existing parking without any new parking spaces being created. This, again, is not true. A total of 140 new spaces are proposed, an increase of 40%.

With respect to number 7 ("[minor changes in] location of streets, fire hydrants, and streetlights"), Mr. Martin merely stated that "there are no public streets in this area. There are no

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[10] With respect to number 10 ("[minor changes in] soil type and location"), Mr. Martin stated "I mean, we're not proposing the wholesale, hog-out different soil types off the property and to switch it." (T. 141). With respect to number 11 ("[minor changes in] location and area of flood plain"), Mr. Martin stated "we're not impacting the floodplain with this redline development." (T. 141).

public fire hydrants. Street lights are private on the school." (T. 140). There is no support, and none was offered, for Mr. Martin's confusing assertion that private streets, private fire hydrants, and private streetlights are not subject to the development regulations.

With respect to number 8 ("[minor changes in] location and areas of storm water management facilities"), Mr. Martin stated, remarkably, that "the location of that is not really changing. It's generally in the same area where it was shown on the Maryvale/Westwicke development plan, albeit it's now going to be underground." (T. 140). The redlined plan (Ex. 11) shows clearly the location of the three new stormwater management ponds, the new outfalls, and the two new underground facilities.

With respect to number 9 ("[minor changes in] sewer and water lines and easements"), Mr. Martin stated "there are no public water and sewer lines on the property." (T. 141). Again, there is no support for the premise of Mr. Martin's contention that private water and sewer lines are exempt from the development regulations.

IV. CONCLUSION

For the reasons stated, Appellants respectfully request that the Board of Appeals reverse the decision of the Director of PDM adopting the decision of the DRC granting Appellee's request for an exemption under Section 32-4-106(b)(2) of the County Code.

Michael R. McCann

Michael R. McCann, P.A.
118 W. Pennsylvania Avenue
Towson, Maryland 21204
(410) 825-2150

Dated: February 4, 2008

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 4th day of February 2008 a copy of the foregoing Post-Hearing Memorandum was sent via U. S. Mail, postage prepaid to:

Robert A. Hoffman, Esquire
Thomas M. Lingan, Esquire
Venable, LLP
210 Allegheny Avenue
P.O. Box 5517
Towson, Maryland 21204-5517

Jennifer Busse
Whiteford, Taylor & Preston
210 W. Pennsylvania Avenue
Towson, Maryland 21204

Michael R. McCann

1/11/08

CIRCUIT COURT FOR BALTIMORE COUNTY
Suzanne Mensh
Clerk of the Circuit Court
County Courts Building
401 Bosley Avenue
P.O. Box 6754
Towson, MD 21285-6754
(410)-887-2601, TTY for Deaf: (800)-735-2258
Maryland Toll Free Number (800) 938-5802

The Sisters of Notre Dame

N O T I C E O F R E C O R D

Case Number: 03-C-07-012594 AA
C I V I L

In the Matter of Falls Road Community Assn The, et al

Notice

Pursuant to Maryland Rule 7-206(e), you are advised that the Record of Proceedings was filed on the 11th day of January, 2008.

Suzanne Mensh
Clerk of the Circuit Court, per

Date issued: 01/12/08

TO: COUNTY BOARD OF APPEALS FOR BALTIMORE COUNTY THE
Old CourtHouse Room 49
400 Washington Avenue
Baltimore, MD 21204

RECEIVED
JAN 15 2008
BALTIMORE COUNTY
BOARD OF APPEALS

1/11/08

IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY

PETITION OF:
THE FALLS ROAD COMMUNITY
ASSOCIATION, *et al*

FOR JUDICIAL REVIEW OF THE OPINION OF
THE COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY
OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204

IN THE MATTER OF:
THE BALTIMORE PROVINCE OF THE
SISTERS OF NOTRE DAME DE NAMUR
11300 FALLS ROAD
BROOKLANDVILLE, MD 21022
ZONING RELIEF ON THE PROPERTY
LOCATED ON THE N/S OF GREENSPRING RD

8TH ELECTION DISTRICT
2ND COUNCILMANIC DISTRICT

CASE NO.: 06-128-SPHA

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

CIVIL ACTION
NO. : C-03-07-12594

RECEIVED AND FILED
2008 JAN 11 AM 11:32
CLERK OF THE CIRCUIT COURT
BALTIMORE COUNTY

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

TO THE HONORABLE, THE JUDGE OF SAID COURT:

And now comes the County Board of Appeals of Baltimore County and, in answer to the Petition for Judicial Review directed against it in this case, herewith transmits the record of proceedings had in the above-entitled matter, consisting of the original papers on file in the Department of Permits and Development Management and the Board of Appeals of Baltimore County:

ENTRIES FROM THE DOCKET OF THE BOARD OF APPEALS AND DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT OF BALTIMORE COUNTY

The Baltimore Province of
the Sisters of Notre Dame
Board of Appeals Case No.: 06-128-SPHA
Circuit Court for Baltimore Co.: C-03-07-12594

No. 06-128-SPHA

Aug. 31, 2005	Special Hearing pursuant to Section 500.7 of the BCZR to amend the special exception approved in Case No. 95-435-X. Special Hearing pursuant to Sections 409.6 and 500.7 of the BCZR to confirm that the proposed number of parking spaces is sufficient. Variance from Sections 1A01.3.B.3 and 102.2 of the BCZR to permit a principal building to setback of 34 ft. in lieu of the required 70 ft. (Existing School Building and Proposed Performing Arts Building).
	Zoning description of property.
Sept. 15	Notice of Zoning Hearing.
Sept. 15	Entry of Appearance by People's Counsel
Oct. 2 & Oct. 24	Certificate of Posting.
Oct. 4	Publication in Jeffersonian
Oct. 20,	ZAC Comments.
Nov. 1	Public hearing held.
Dec. 1	Petitioner's and Citizen's Sign-In Sheets.
Dec. 23	Petitioner's Sign-In Sheet.
Jan. 3, 2006	Petitioner's Sign-In Sheet.
Jan. 10	Zoning Commissioner's Order issued and states the following: ORDERED by the Zoning Commissioner for Baltimore County this 10th day of January 2006, that the Petition for Special Hearing to amend the special exception relief granted in prior Case No. 95-435-X and to confirm that the proposed number of parking spaces is sufficient, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions: 1. The Petitioner may apply for building permits and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at its own risk

until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the relief granted herein shall be rescinded.

2. The maximum enrollment of the Maryvale School shall not exceed 435 students without public hearing and approval of a Petition for Special Hearing for an amendment to the Special Exception and Site Plan approved in this case.

3. Any proposal to build new buildings in the areas labeled "No New Buildings Area: or to build new buildings or parking in the area labeled "No New Buildings or Parking Area: on Petitioner's Exhibit #1will require public hearing and approval of a Petition for Special Hearing for an amendment to the Special Exception and site Plan approved in this case.

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

IT IS FURTHER ORDERED that the Petition for Variance seeking relief from Sections 1A01.3.B.3 and 102.2 of the Baltimore County Zoning Regulations (B.C.Z.R.) to allow a principal building to set back 34 feet in lieu of the required 70' between the existing school building and proposed performing arts building, be and is hereby DISMISSED.

Feb 3. 2006	Letter of Appeal filed by G. Macy Nelson, Esq. on behalf of The Valleys Planning Council, Inc., Gary Gensler, Jack J. Shapiro, Lance Ruth, Laurie Stubb, Carl Schramm and Ellyn Brown.
Feb. 3	Letter of Appeal filed by G. Macy Nelson, Esq.
Feb. 3	Letter of Appeal filed by Douglas Carroll/Howard Burns w/o checks.
Feb. 6	Letter from Timothy Kotoroc, Dir./PDM to G. Macy Nelson, Esq. informing him that and appeal/appeals have been filed in this case.
Feb. 6	Filed received in the Board of Appeals.
Apr. 3	Notice of Assignment mailed by Board.
Apr. 6	Appeal sign posting verification received in Board.

Apr. 10	Letter, under date of Nov. 18, 2005, from Jennifer R. Busse, Esq. requesting that her name, and her client's name, be removed from our notification list as he was the former owner.
Apr. 14	Response from Board to Ms. Busse's request for name to be removed.
Apr. 18	E-mail correspondence from Kathleen Bianco, Board Administrator, to Rebecca Wheatly of People's Counsel.
May 15	Second Notice of Assignment.
June 15	Notice of Entry of Appearance and Notice to Strike Appearance. Filed by Michael R. McCann, Esq. and G. Macy Nelson, Esq.
Aug. 24	Letter from Michael G. McCann, Esq. requesting a continuance of the up and coming hearing.
Aug. 25	Letter to Board from Harold H. Burns, Jr. agreeing with the request for continuance.
Aug. 25	Fax from Board to Amy Dontell regarding Mr. McCann's letter of Aug. 24, 2006.
Aug. 28	Subpoena for Donald T. Rascoe, Deputy Dir./PDM
Aug. 29	Proof of Service by private process server.
Sept. 1	Letter to Messrs. Burns and McCann, Attorneys, stating that postponement is subject to all parties agreeing to same.
Sept. 6	Hearing before the Board – Day #1. (Copy of original transcript)
Sept. 27	Letter from Mr. McCann requesting that the Board reconvene the hearing in this matter.
Sept. 28	Letter, under date of Sept. 26, 2007, from Teresa Moore, Executive Director of The Valleys Planning Council, Inc. withdrawing their appeal in case no. 06-128-SPHA.
Oct. 2	Letter from Lawrence S. Wescott, Panel Chairman, to Michael R. McCann, Esq. , regarding the transcript and the fact that it

	indicated that the appeal in the special exception case (Case No. 06-128-SPHA) was withdrawn
Oct. 4	Board issued an Order of Dismissal in case no. 06-128-SPHA.
Oct. 9	Lawrence S. Wescott, Panel Chair's letter in response to Mr. McCann's fascilimie letter of Oct. 9, 2007 and the interpretation of the withdrawing of appeal.
Nov. 12	Letter from Jennifer R. Busse, Esq. requesting that her name, as well as her client's name, be removed from the notification list since the subject property was sold to Maryvale School.
Nov. 14	Board received a copy of the Petition for Judicial Review that was filed in the Circuit Court for Baltimore County on Nov. 1, 2007.
Nov. 14	Board received a copy of a letter from Jennifer R. Busse, Esq. to Messrs. McCann, Hoffman and Lingan, attorneys, requesting that no further correspondence in this matter be sent to her or to her client since the property in question, which belonged to her client, was sold.
Nov. 20	Copy of Response to Petition for Judicial Review, filed by James A. Dunbar, Esq and Christopher D. Mudd, Esq. filed with the Circuit Court on Nov. 20, 2007, received in the Board of Appeals.
Nov. 21	Certificate of Notice filed with the Circuit Court for Baltimore County and a copy was mailed to all pertinent parties.
Jan. 8, 2008	Transcript of testimony filed.
Jan. 11, 2008	Record of Proceedings filed in the Circuit Court for Baltimore County.

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

entered into evidence before the Board.

Linda B. Fliegel

Linda B. Fliegel, Legal Secretary
County Board of Appeals, Room 49
Old Courthouse, 400 Washington Avenue
Towson, MD 21204 (410-887-3180)

c: Michael R. McCann, Esq.
Robert A. Hoffman, Esq.
Christopher D. Mudd, Esq.
James A. Dunbar, Esq.
Thomas M. Lingan, Esq.
Joseph J. Mezzanotte, Esq.

11/21/07

IN THE CIRCUIT COURT *
FOR BALTIMORE COUNTY

*

PETITION OF: *
THE FALLS ROAD COMMUNITY
ASSOCIATION, *et al*

* **CIVIL ACTION**
NO. : C-03-07-12594

FOR JUDICIAL REVIEW OF THE OPINION OF *
THE COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY *
OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE *
TOWSON, MARYLAND 21204

*

IN THE MATTER OF:
THE BALTIMORE PROVINCE OF THE *
SISTERS OF NOTRE DAME DE NAMUR
11300 FALLS ROAD *
BROOKLANDVILLE, MD 21022
ZONING RELIEF ON THE PROPERTY *
LOCATED ON THE N/S OF GREENSPRING RD

*

8TH ELECTION DISTRICT *
2ND COUNCILMANIC DISTRICT

*

CASE NO.: 06-128-SPHA
* * * * * * * * * * * *

CERTIFICATE OF NOTICE

Madam Clerk:

Pursuant to the Provisions of Rule 7-202(d) of the *Maryland Rules*, the County Board of Appeals of Baltimore County has given notice by mail of the filing of the Petition for Judicial Review to the representative of every party to the proceeding before it; namely:

Michael R. McCann, Esquire
Michael R. McCann, P.A.
118 Pennsylvania Avenue
Towson, MD 21204

RECEIVED AND FILED
2007 NOV 21 PM 2:20
CLERK OF THE CIRCUIT COURT
BALTIMORE COUNTY

Baltimore Province of the Sisters of
Notre Dame de Namur, Inc.
Circuit Court Case No. : 03-C-07-12594
Board of Appeals Case No.: 06-128-SPHA

Robert A. Hoffman, Esq
Venable, L.L.P.
210 Allegheny Avenue
Towson, MD 21204

Christopher D. Mudd, Esq.
and
James A. Dunbar, Esq.
P.O. Box 5517
210 Allegheny Avenue
Towson, MD 21204

Thomas M. Lingan, Esq.
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PNC Bank Building
Two Hopkins Plaza – Suite 1800
Baltimore, MD 21201

Joseph J. Mezzanotte, Esq.
Whiteford, Taylor & Preston, L.L.P.l
7 St. Paul Street – Suite 1400
Baltimore, MD 21202-1654

A copy of said Notice is attached hereto and prayed that it may be made a part hereof.

Linda B. Fliegel

Linda B. Fliegel, Legal Secretary
County Board of Appeals, Room 49
Old Courthouse, 400 Washington Avenue
Towson, MD 21204 (410-887-3180)

I HEREBY CERTIFY that on this 1st day of November, 2007, a copy of the foregoing Certificate of Notice has been mailed: Michael R. McCann, Esquire, Michael

Baltimore Province of the Sisters of
Notre Dame de Namur, Inc.
Circuit Court Case No. : 03-C-07-12594
Board of Appeals Case No.: 06-128-SPHA

R. McCann, P.A., 118 Pennsylvania Avenue, Towson, MD 21204, Robert A. Hoffman, Esq., Venable, L.L.P., 210 Allegheny Avenue, Towson, MD 21204, Christopher D. Mudd, Esq. *and* James A. Dunbar, Esq., P.O. Box 5517, 210 Allegheny Avenue, Towson, MD 21204, Thomas M. Lingan, Esq., Venable, L.L.P., PNC Bank Building, Two Hopkins Plaza – Suite 1800, Baltimore, MD 21201and Joseph J. Mezzanotte, Esq., Whiteford, Taylor & Preston, L.L.P., 7 St. Paul Street – Suite 1400, Baltimore, MD 21202-1654.

Linda B. Fliegel

Linda B. Fliegel, Legal Secretary
County Board of Appeals, Room 49
Old Courthouse, 400 Washington Avenue
Towson, MD 21204 (410-887-3180)

County Board of Appeals of Baltimore County

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

November 21, 2007

Michael R. McCann, Esquire
Michael R. McCann, P.A.
118 W. Pennsylvania Avenue
Towson, MD 21204

RE: Circuit Court Civil Action No. 03-C-07-12594
Petition for Judicial Review
Baltimore Province of the Sisters of Notre Dame de Namur, Inc.
Case No.: CBA-06-049

Dear Mr. McCann:

In accordance with the Maryland Rules, the County Board of Appeals is required to submit the record of proceedings of the Petition for Judicial Review, which you have taken to the Circuit Court for Baltimore County, in the above-entitled matter within sixty days. Ordinarily the cost of the transcript would be paid by the Petitioner in time to transmit the record of proceedings within the sixty-day timeframe, as stated in the Maryland Rules.

Please be advised that the Board of Appeals already has a copy of the transcript of the hearing held on September 6, 2006 in its file, and the record of proceedings will be filed with the Circuit Court on or before the required sixty-day time frame.

Enclosed is a copy of the Second Certificate of Notice.

Very truly yours,

Linda B. Fliegel
Legal Secretary

/lbf
Enc.
c: Joseph J. Mezzanotte, Esq.
Robert A. Hoffman, Esq.
Jennifer R. Busse, Esq.
James A. Dunbar, Esq.
Christopher D. Mudd, Esq.
Thomas M. Lingan, Esq.

Printed with Soybean Ink
on Recycled Paper

County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180
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November 21, 2007

James A. Dunbar, Esquire
Venable, LLP
210 Allegheny Avenue
P.O. Box 5517
Towson, MD 21285-5517

Christopher D. Mudd, Esquire
Venable, LLP
210 Allegheny Avenue
P.O. Box 5517
Towson, MD 21285-5517

RE: Circuit Court Civil Action No. 3-C-07-12594
The Baltimore Province of the Sisters of
Notre Dame De Namur
Board of Appeals Case No.: CBA-06-128-SPHA

Dear Counsel:

Notice is hereby given, in accordance with the Maryland Rules, that a Petition for Judicial Review was filed on November 1, 2007 in the Circuit Court for Baltimore County, and *retrieved* by the Board of Appeals on November 14, 2007, from the decision of the County Board of Appeals rendered in the above matter. Any party wishing to oppose the petition must file a response within 30 days after the date of this letter, pursuant to the Maryland Rules.

Please note that any documents filed in this matter, including, but not limited to, any other Petition for Judicial Review, **must be filed under Civil Action No . 3-C-07-12594.**

Enclosed is a copy of the Certificate of Notice.

Very truly yours,

Linda B. Fliegel

Linda B. Fliegel
Legal Secretary

/lbf
Enclosure

c: Michael R. McCann, Esq.
Robert A. Hoffman, Esq
Thomas M. Lingan, Esq.
James A. Dunbar, Esq.
Joseph J. Mezzanotte, Esq.
Gary Gensler/Laurie Stubb/Douglas Carroll
Jack Shapiro/C. Schramm/Lawrence Nikol
Harold H. Burns, Jr./Lance Roth/Ellyn Brown
Carol & Michael Choti/Marci Reihart
GW Stephens Jr. & Assoc./The Traffic Group
William J. Wiseman, III, Zoning Commissioner
Timothy M. Kotroco, Dir./PDM
Pat Keller, Dir. Planning
People's Counsel for Baltimore County
The Valleys Planning Council
Sister Shawn Maguire/Maryvale Prep. School

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11/20/07

IN THE MATTER OF: PETITION OF THE FALLS ROAD COMMUNITY ASSOCIATION, et al.	*	IN THE CIRCUIT COURT
	*	FOR
Petition for Judicial Review of The Decision of the County Board of Appeals for Baltimore County	*	BALTIMORE COUNTY
	*	
In the Case of: The Baltimore Province of the Sisters Of Notre Dame De Namur Case No. 06-128-SPHA	*	Case No. 03-C-07-12594

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

RESPONSE TO PETITION FOR JUDICIAL REVIEW

Respondent Maryvale Preparatory School, Inc., by James A. Dunbar and Christopher D. Mudd with Venable LLP, its attorneys, in accordance with Maryland Rule 7-204, submits this Response to the Petition for Judicial Review filed by The Falls Road Community Association, et al., and states that it intends to participate in this action for judicial review. Respondent was a party to the above-referenced proceedings before the County Board of Appeals of Baltimore County.

Respectfully submitted,

James A. Dunbar
Christopher D. Mudd
Venable LLP
210 Allegheny Avenue
P.O. Box 5517
Towson, Maryland 21285-5517
(410) 494-6200
Attorneys for Maryvale Preparatory School, Inc.

VENABLE LLP

210 Allegheny Avenue
Post Office Box 5517
Towson, Maryland 21285-5517

Telephone 410-494-6200
Facsimile 410-821-0147

www.venable.com

(410) 494-6365 cdmudd@venable.com

November 20, 2007

Linda
Fax over file
K.

VIA HAND DELIVERY

Clerk (Civil)
Circuit Court for Baltimore County
County Courts Building
401 Bosley Avenue
Towson, Maryland 21204-0754

Re: In the Matter of: The Falls Road Community Association, et al.
Case No.: 03-C-07-12594

Dear Clerk:

Enclosed are an original and one copy of Respondent Maryvale Preparatory School, Inc.'s Response to Petition for Judicial Review. Please accept the original for filing in the above-captioned case and date stamp the copy and return it to the waiting messenger.

Thank you for your assistance in this matter.

Very truly yours,

Christopher D. Mudd

Enclosure
cc: Ms. Kathleen Bianco, County Board of Appeals
Michael R. McCann, Esquire
James A. Dunbar, Esquire

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BALTIMORE COUNTY
BOARD OF APPEALS

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WHITEFORD, TAYLOR & PRESTON L.L.P.

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JENNIFER R. BUSSE
DIRECT LINE (410) 832-2077
DIRECT FAX (410) 339-4027
jbusse@wtplaw.com

November 12, 2007

Michael R. McCann, Esq.
Michael R. McCann, P.A.
118 W. Pennsylvania Avenue
Towson, Maryland 21204

Robert A. Hoffman, Esq.
Venable, L.L.P.
210 W. Allegheny Avenue
Towson, MD 21204

Thomas M. Lingan, Esq.
Venable, L.L.P.
PNC Bank Building
Two Hopkins Plaza
Suite 1800
Baltimore, MD 21201

CO7-12594

Re: *In re:* Baltimore Province of the Sisters of Notre Dame de Namur, Inc.
County Board of Appeals Case No.: 06-128-SPHA
Our File No. 60940/193

Dear Gentlemen:

I am in receipt of the Petition for Judicial Review filed by Mr. McCann on behalf of his clients in the above-referenced matter. While I did represent The Baltimore Province of The Sisters of Notre Dame de Namur, Inc. ('The Baltimore Province') when this matter was heard by the Board of Appeals, The Baltimore Province sold the subject property to Maryvale School, Inc. in 2006. Due to the fact that Maryvale School, Inc. is now the owner of the subject property, I respectfully request that you remove me from any further correspondence in this appeal.

Thank you for your attention in this matter.

Sincerely,

Jennifer R. Busse

JRB:tdm
393027
cc: Clerk, Circuit Court for Baltimore County Civil Division
Kathleen C. Bianco, Administrator, Board of Appeals
Mr. Lawrence C. Nickol
Joseph J. Mezzanotte, Esq.

RECEIVED
NOV 14 2007
BALTIMORE COUNTY
BOARD OF APPEALS

11/1/07

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY *

PETITION OF THE FALLS ROAD COMMUNITY ASSOCATION, *et al.* *

FOR JUDICIAL REVIEW OF THE DECISION OF THE COUNTY BOARD OF APPEALS FOR BALTIMORE COUNTY *

IN THE CASE OF: *

THE BALTIMORE PROVINCE OF THE SISTERS OF NOTRE DAME DE NAMUR
Case No. 06-128-SPHA *

* * * * * * * * * * *

C-07-125941
Civil Action No. _____

Retrieved from Ct.

RECEIVED
NOV 14 2007
BALTIMORE COUNTY
BOARD OF APPEALS

PETITION FOR JUDICAL REVIEW

The Falls Road Community Association and Harold Burns, by their attorneys, Michael R. McCann and Michael R. McCann, P.A., pursuant to Maryland Rule 7-202 *et al.*, file this petition for judicial review of (i) the Order of Dismissal of the County Board of Appeals for Baltimore County dated October 4, 2007; (ii) the October 2, 2007 letter of the Board of Appeals for Baltimore County denying petitioners' request for a hearing. Petitioners were parties to the proceedings below, participated and testified in those proceedings, and are aggrieved by the Board's decisions.

Michael R. McCann

Michael R. McCann, P.A.
118 W. Pennsylvania Avenue
Towson, Maryland 21204
(410) 825-2150

RECEIVED AND FILED
2007 NOV -1 PM 2:05
CLERK OF THE CIRCUIT COURT
BALTIMORE COUNTY

Dated: November 1, 2007

cc: Michael R. McCann, Esq.
Robert A. Hoffman, Esq.
Jennifer Busse

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 1st day of November 2007 a copy of the foregoing Petition for Judicial Review was sent via U. S. Mail, postage prepaid to:

Robert A. Hoffman, Esquire
Thomas M. Lingan, Esquire
Venable, LLP
210 Allegheny Avenue
P.O. Box 5517
Towson, Maryland 21204-5517

Jennifer Busse
Whiteford, Taylor & Preston
210 W. Pennsylvania Avenue
Towson, Maryland 21204

Michael R. McCann

Michael R. McCann, P.A.
118 W. Pennsylvania Avenue
Towson, Maryland 21204
Phone: (410) 825-2150
Facsimile: (410) 825-2149
michael@mmccannlaw.net

November 1, 2007

Via Hand Delivery

Clerk, Circuit Court for Baltimore County
Civil Division
County Courts Building
401 Bosley Avenue
Towson, Maryland 21204-0754

Re: *In re*: Baltimore Province of the Sisters of Notre Dame de Namur, Inc.
County Board of Appeals Case No.: 06-128-SPHA

Dear Clerk:

Enclosed for filing please find a Petition for Judicial Review of the decisions of the Board of Appeals in the above-referenced matter, along with the filing fee of $115.00. Thank you for your attention to this matter.

Best regards,

Michael R. McCann

Enclosures
cc: counsel of record

Michael R. McCann, P.A.
118 W. Pennsylvania Avenue
Towson, Maryland 21204
Phone: 410.825.2150
Facsimile: 410.825.2149
michael@mmccannlaw.net

FACSIMILE COVER SHEET

Date: October 9, 2007

Number of pages (including cover):

To: Kathleen Bianco

Direct Dial: Facsimile: 410-887-3182

Sender: Michael R. McCann Phone: 410-825-2150

RE: **Case No: 06-128-SPHA & CBA 06-006**
Baltimore Province of the Sisters of Notre Dame de Namur, Inc., Owners
Maryvale Preparatory School, Inc., Contract Purchasers - Petitioners
11300 Falls Road

Michael R. McCann, P.A.

If any problems occur with this facsimile transmission, please call Sender or Secretary.

NOTICE

The facsimile page and attachments are confidential and intended exclusively for the individual or entity named above. If you are not the intended addressee, you are hereby notified that reading, disseminating, distributing, or copying this communication is unauthorized and prohibited. If you have received this communication in error, please immediately notify us by telephone.

Michael R. McCann, P.A.
118 W. Pennsylvania Avenue
Towson, Maryland 21204
Phone: (410) 825-2150
Facsimile: (410) 825-2149
michael@mmccannlaw.net

October 9, 2007

Via Facsimile & U.S. Mail

Kathleen C. Bianco, Administrator
Baltimore County Board of Appeals
400 Washington Avenue
Old Courthouse - Room 49
Towson, MD 21404

Re: **Case No: 06-128-SPHA & CBA 06-006**
Baltimore Province of the Sisters of Notre Dame de Namur, Inc., Owners
Maryvale Preparatory School, Inc., Contract Purchasers - Petitioners
11300 Falls Road

Dear Ms. Bianco:

I received the Board's Order of Dismissal in Case No. 06-128-SPHA and want to make certain that (i) the two appeals filed by Falls Road Community Association (Case Nos: 06-128-SPHA and CBA 06-006) have not been dismissed and will be scheduled for hearings, and (ii) the appeal filed by Harold Burns in Case No. CBA 06-006 has not been dismissed and will be scheduled for hearing.

The reason for this request for clarification is that the Board's Order of Dismissal incorrectly states that I, "on behalf of [my] clients, withdrew the appeal in this matter as reflected in the transcript of that hearing." My "clients" at the hearing included Falls Road Community Association, which clearly did not withdraw either of its appeals. Indeed, with the exception of Mr. Burns' withdrawal of his appeal in Case No. 06-128-SPHA, there were no appeals withdrawn at the hearing at all. To the contrary, the parties requested a continuance of the hearing in both appeals so that certain issues could be resolved. (*See* transcript of hearing, pp. 17-18).

Thank you for your consideration. Please contact me if you have any questions.

County Board of Appeals of Baltimore County

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

October 2, 2007

Michael R. McCann, Esquire
118 W. Pennsylvania Avenue
Towson, MD 21204

RE: *In the Matter of: Baltimore Province of the Sisters of Notre Dame de Namur, Inc.* – Owners ; *Maryvale Preparatory School, Inc.* – C.P. /Petitioners
Case No. 06-128-SPHA /Case No. CBA-06-006

Dear Mr. McCann:

The Board of Appeals is in receipt of your letter of September 27, 2007, in which you request a hearing in the above matters. You state in your letter that your clients were considering withdrawing their appeal in the special exception case (Case No. 06-128-SPHA). The transcript which you provided indicates that you withdrew the appeal of the special exception case during the hearing on September 6, 2006 (see pages 8 and 9 of said transcript). Mr. Burns, who appeared *pro se* at that hearing also withdrew his appeal of Case No. 06-128-SPHA (see pages 15 and 16 and page 18 of the transcript 9/06/06).

In addition, the Board received a letter from Teresa Moore, Executive Director of The Valleys Planning Council, on September 28, 2007, on behalf of The Valleys Planning Council, Inc., Gary Gensler, Douglas Carroll, Lance Roth, Jack Shapiro, Laurie Stubb, Ellyn Brown, and Carl J. Schramm, withdrawing the appeal in Case No. 06-128-SPHA.

It is the position of this Board that the appeals in Case No. 06-128-SPHA have been withdrawn. The Board will schedule a hearing in Case No. CBA-06-006 at least sixty (60) days from the date of your letter, September 27, 2007.

Very truly yours,

Lawrence S. Wescott
Panel Chairman

Enclosure

c: Robert A. Hoffman, Esquire
Thomas M. Lingan, Esquire
Jennifer Busse, Esquire

FILE

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on Recycled Paper

10/4/07

IN THE MATTER OF THE APPLICATION OF THE BALTIMORE PROVINCE OF THE SISTERS OF NOTRE DAME DE NAMUR INC. – LEGAL OWNER; MARYVALE PREPARATORY SCHOOL, INC. – C.P. / PETITIONERS FOR ZONING RELIEF ON PROPERTY LOCATED ON THE N/S OF GREENSPRING ROAD 8TH ELECTION DISTRICT 2ND COUNCILMANIC DISTRICT	* BEFORE THE * COUNTY BOARD OF APPEALS * OF * BALTIMORE COUNTY * CASE NO. 06-128-SPHA *	FILE

* * * * * * * * *

ORDER OF DISMISSAL

This matter is before the Board on an appeal taken by The Valleys Planning Council, Inc.; Gary Gensler; Jack J. Shapiro; Lance Roth, Laurie Stubb, Carl Schramm, and Ellyn Brown, and appeals of Douglas Carroll and Harold H. Burns, Jr., from a decision of the Zoning Commissioner dated January 10, 2006, in which the requested zoning relief was granted in part with restrictions and denied in part .

FILE

The Board convened on September 6, 2006 as assigned for hearing. At that scheduled hearing, and on the record, Michael R. McCann, Esquire, on behalf of his clients, withdrew the appeal in this matter as reflected in the transcript of that hearing. Harold H. Burns, Jr., who appeared at the September 6, 2006, hearing *pro se,* also withdrew his appeal filed in Case No. 06-128-SPHA, as reflected in the September 6, 2006, transcript.

Further, the Board received a letter from Teresa Moore, Executive Director of The Valleys Planning Council, Inc., filed September 28, 2007, written on behalf of The Valleys Planning Council, Inc.; Gary Gensler; Douglas Carroll; Lance Roth; Jack Shapiro; Laurie Stubb; Ellyn Brown; and Carl J. Schramm, withdrawing the appeal in Case No. 06-128-SPHA.

FILE

THEREFORE, IT IS this 4th day of October, 2007 by the County Board of Appeals of Baltimore County

ORDERED that the appeals filed in Case No. 06-128-SPHA be and the same are hereby **DISMISSED**.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Lawrence S. Wescott

Lawrence S. Wescott, Panel Chair

County Board of Appeals of Baltimore County

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

October 4, 2007

Michael R. McCann Esquire
MICHAEL R. McCANN, P.A.
118 W. Pennsylvania Avenue
Towson, MD 21204

RE: *In the Matter of: Baltimore Province of the Sisters of Notre Dame de Namur, Inc.* – Owners ; *Maryvale Preparatory School, Inc.* – C.P. /Petitioners
Case No. 06-128-SPHA /Order of Dismissal

Dear Mr. McCann:

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

Very truly yours,

Kathleen C. Bianco
Administrator

Enclosure

c: The Valleys Planning Council
Gary Gensler — Jack Shapiro — Lance Roth
Laurie Stubb — Carl Schramm — Ellyn Brown
Douglas Carroll — Harold H. Burns, Jr.
Robert A. Hoffman, Esquire
Sister Shawn Maguire /Maryvale Preparatory School
Marci Reihart
David Martin & Rick Chadsey /GW Stephens Jr & Assoc, Inc.
Mickey Cornelius /The Traffic Group
Carol and Michael Choti
Office of People's Counsel
Pat Keller, Director /Planning
William J. Wiseman III /Zoning Commissioner
Walt Smith, Development Manager /PDM
Timothy M. Kotroco, Director /PDM

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1/10/06

IN RE: **PETITIONS FOR SPECIAL HEARING and VARIANCE** – N/S Greenspring Valley Road, between Greenspring Avenue and Falls Road **(11300 Falls Road)** 8th Election District 2nd Council District	*	BEFORE THE
	*	ZONING COMMISSIONER
	*	FOR
	*	BALTIMORE COUNTY
The Baltimore Province of the Sisters of Notre Dame de Namur, Inc., *Legal Owner;* Maryvale Preparatory School, Inc., *Contract Purchaser*	*	Case No. 06-128-SPHA
	*	

* * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of Petitions for Special Hearing and Variance filed by the owner of the subject property, The Baltimore Province of the Sisters of Notre Dame de Namur, Inc., and the Contract Purchaser, Maryvale Preparatory School, Inc., through their attorney, Robert A. Hoffman, Esquire. The Petitioners request a special hearing to amend the special exception relief granted in prior Case No. 95-435-X, as amended in Case No. VIII-651 and confirmation that the proposed number of parking spaces is sufficient to accommodate proposed improvements. In addition, variance relief is requested from Sections 1A01.3.B.3 and 102.2 of the Baltimore County Zoning Regulations (B.C.Z.R.) to allow a principal building to principal building setback of 34 feet in lieu of the required 70 feet between the existing school building and proposed performing arts building. The subject property and requested relief are more particularly described on the site plan submitted, which was accepted into evidence and marked as Petitioner's Exhibit 1.

Testimony and evidence offered disclosed that Maryvale School is a college preparatory school for girls comprised of middle and upper school programs, which is located between Falls Road and Greenspring Valley Road in Brooklandville. Maryvale Preparatory School, Inc. ("Maryvale") operates the school and is under contract to purchase the approximately 113 acre

ORDER RECEIVED FOR FILING
Date 1/10/06
By

campus owned by the Baltimore Province of the Sisters of Notre Dame de Namur, Inc. The property is also known as Lot 2A of the Westwicke subdivision. The Petitions were filed jointly by the legal owner and the contract purchaser.

In advance of purchasing the property, Maryvale filed the instant Petition for Special Hearing seeking approval to amend the site plan and the relief granted in the two prior cases referenced above to accommodate proposed improvements. Specifically, the Petitioners propose an expansion of the existing facility to accommodate the relocation and improvement of its athletic fields, the construction of new buildings and parking areas, and an increase in the total number of students permitted at the school. Maryvale has also filed a Petition for Variance to allow a reduced principal building setback between the existing school structure and a proposed performing arts center of 34 feet in lieu of the required 70 feet, pursuant to Sections 1A01.3.B.3 and 102.2 of the Baltimore County Zoning Regulations ("BCZR").

Certifications contained within the case file indicate that the property was properly posted with a sign providing public notice of the hearing and that the matter was also advertised in *The Jeffersonian* newspaper. Having met these requirements, I find that proper public notice was provided.

At the requisite public hearing, Robert A. Hoffman and David H. Karceski appeared as attorneys for Maryvale School. Jennifer R. Busse and Joseph J. Mezzanotte appeared as counsel for the legal owner of the property. Sister Shawn Marie Maguire, Maryvale's Headmistress, and Marcia Reihart, Chair of Maryvale's Board of Trustees, attended as representatives for Maryvale School, along with numerous other individuals as noted on the sign-in sheets circulated at the hearing. Also appearing on behalf of Maryvale were David L. Martin, a registered landscape architect, and Rick N. Chadsey, a registered professional engineer, with George William Stephens, Jr. and Associates, Inc., both of who prepared the site plan in this case. Mickey A.

ORDER RECEIVED FOR FILING
Date 11/14
By

Cornelius, a registered traffic engineer with The Traffic Group, Inc., Robert W. Sheesley, an environmental consultant with Eco Sense, Inc., and Thomas R. Mills, a licensed engineer and geologist with Hydro-Terra, Inc., also appeared as expert witnesses.

G. Macy Nelson appeared as counsel for The Valleys Planning Council, Inc. ("VPC"), Falls Road Community Association, Inc. ("FRCA"), and other individual property owners that reside in the general vicinity of the school's campus. Theresa Moore attended in a representative capacity for VPC, and Harold Burns appeared, individually and in his capacity as Director of the FRCA.

This matter was originally scheduled for a public hearing on October 19, 2005, and December 1, 2005, but was continued to provide an opportunity for Maryvale's representatives to meet with community representatives to discuss the requested relief and the community's concerns. As a result of those discussions, the site plan was revised to address a number of the concerns raised. At the hearing, which was reconvened on December 23, 2005, and again on January 3, 2006, a revised site plan was introduced by Maryvale and accepted into evidence as Petitioner's Exhibit 1. The revisions included a reduction in the number of proposed new buildings to three, a relocation of the proposed new athletic fields, the establishment of no building/no parking areas, the addition of landscaping and screening, the adjustment of the proposed stormwater management facilities, and an increase in the total number of students to 425 students. *See* Petitioner's Exhibit 1. As a result of the revisions to the site plan shown on Petitioner's Exhibit 1, the building to building setback variance was no longer required, and, therefore, Maryvale withdrew the Petition for Variance at the hearing.

An examination of the site plan indicates that the Maryvale School campus is approximately 113.34 acres and is zoned RC-2. The property is presently improved with school buildings for girls grades 6 through 12, athletic fields and a "play court," and parking areas that

ORDER RECEIVED FOR FILING
Date 1/11/06
By

serve the school's faculty and student body. All existing school structures are so labeled on Petitioner's Exhibit No. 1. Vehicular access to the school is by way of two driveways, one each to Falls Road and Greenspring Valley Road.

Maryvale School has operated on the subject property for the past sixty years. Over that time period, Maryvale's enrollment has grown to 371 students. The school's need for additional and improved campus facilities has, likewise, increased. As shown on Petitioner's Exhibit 1, Maryvale now seeks to add three new school buildings, labeled "PROP. PERFORMING ARTS & OTHER SCHOOL USES," "PROP. MEDIA CENTER & OTHER SCHOOL USES," and "PROP. MAINTENANCE BUILDING." The maximum building footprints for each structure are shown on the site plan. While Maryvale anticipates that the primary uses of these building will be as described, *i.e.*, "performing arts" and "media center," Maryvale reserves the right to use the structures for other school uses as needed. Maryvale also intends to install ball fields on the northeast portion of its campus in the vicinity of the school's north access to Falls Road. The site plan shows the conceptual layout for the four ball fields. Additional parking areas are also shown and indicated on the site plan throughout the subject property to serve the existing and proposed school facilities.

During the hearing, in support of the requested relief, Maryvale presented, by way of a proffer, the testimony of several witnesses to prove that the requested relief was warranted and that the proposed changes to the approved special exception would not create any adverse impact on the surrounding properties and, thus, meets the requirements of BCZR Section 502.1. As explained at the hearing, the new school buildings and ball fields will allow Maryvale School to significantly upgrade and modernize its campus in order to meet the needs of its students. Many other private institutions in Baltimore County now offer similar facilities as that proposed by Maryvale.

ORDER RECEIVED FOR FILING
Date
By

Sister Shawn Marie Maguire, Maryvale's Headmistress, appeared at the hearing to offer testimony that the new buildings would be an upgrade to the existing facilities and would not be for the purpose of expanding student enrollment in a significant manner. Rather, the upgrades are required to provide adequate facilities even for the current student population. The existing facilities are somewhat outdated and do not provide the optimum environment for a college preparatory school. While Maryvale is requesting approval of an increase in enrollment to a maximum of 425 students, with the current student population at 371, Maryvale does not view this increase as significant and expects that any such growth will occur slowly and naturally. Sister Shawn also would confirm that the proposed parking shown on the plan (337 spaces) is necessary and sufficient to meets the needs of the school.

Maryvale also offered several expert witnesses to provide testimony on the proposed changes to the site plan and to demonstrate compliance with Section 502.1 of the B.C.Z.R. They included Mr. Robert Sheesley, an environmental consultant and licensed sanitary expert, and Mr. Thomas Mills, an expert hydrogeologist. Mr. Mills confirmed the adequacy of water resources and septic disposal on site to handle both the existing and expanded student population and the lack of any anticipated adverse impact on surrounding properties by either the increased number of students or expanded facilities on the campus.

With regard to traffic issue, Maryvale presented Mr. Mickey Cornelius, a licensed professional engineer and traffic consultant, who would testify that the existing access points at Falls Road and Greenspring Valley Road are adequate to handle the proposed expansion of the campus and any increase in the number of students and that the proposal would not result in congestion in the surrounding roadways.

Maryvale also presented Mr. Richard Chadsey, a licensed professional engineer, to provide testimony regarding the location and size of the proposed stormwater management

ORDER RECEIVED FOR FILING
Date
By

facilities. Although not finally designed, Mr. Chadsey confirmed that adequate storm water management would be provided for the new impervious areas on the campus and that no neighboring properties would suffer any adverse impacts in this regard.

Finally, Mr. David Martin, a licensed landscape architect and expert land planner, offered testimony, in part based on the testimony of the other experts in the case, that the proposed new facilities would be consistent with the spirit and intent of the current RC-2 zoning classification and would not intensify the existing use of the property or cause any adverse impact to the health, safety, or general welfare of the surrounding community.

There was no testimony or evidence offered by Mr. Nelson or his clients to rebut the substantial evidence and testimony presented by Maryvale. However, on the last hearing day, two Protestants individually raised three issues that I will address. First, Mr. Harold Burns asserted that Maryvale was estopped from requesting an increase in the number of students because it had already exceeded the number allowed in the prior zoning order. I know of no restriction in the Baltimore County Zoning Regulations that would prevent a property owner from seeking the requested relief to remedy a violation of a particular regulation or restriction in an order. Rather, I believe BCZR Section 500.6 and 500.7 provide me with broad authority to conduct hearings, interpret, and pass orders necessary for the enforcement of the Zoning Regulations and that authority would include the ability to grant the relief requested by Maryvale.

Mr. Burns raised a second issue regarding the appropriate process for amending the Westwicke Development Plan. Maryvale has, apparently, sought confirmation from the Development Review Committee that the proposed changes to the site should be considered to be a "refinement" to the development plan rather than a "material change." This issue is not within my jurisdiction, and I decline to comment.

ORDER RECEIVED FOR FILING
Date 11/20/12
By

Mr. Douglas Carroll, a neighboring property owner, also raised an issue as to whether proper notice had been given regarding the specifics of the relief requested by Maryvale. This case was initially set for hearing in September, and I find that all parties were either aware or had sufficient time to make themselves aware of the particulars of this case. I would also note that Mr. Carroll stated that he was, in fact, aware of the elements of the relief, including the requested change in student population. As indicated earlier in this opinion, I find that the notice requirements have been satisfied.

Based upon the testimony and evidence presented in this case, I am persuaded that the Petition for Special Hearing should be granted. I have reviewed the criteria stated in BCZR 502.1, and I find that Maryvale has satisfied each of the criteria outlined in that section. I am persuaded that the proposed improvements to the school's campus, as shown on Petitioner's Exhibit 1, and the requested enrollment increase from 371 students to 425 students, will not cause any detrimental impacts to the health, safety, or general welfare of the locale and can be accomplished without any of the negative impacts listed in BCZR Section 502.1. In addition, I find that installation of the additional parking areas to serve the school campus and its student body in the general locations shown on Petitioner's Exhibit 1, are appropriate and should be approved.

Pursuant to the advertisement, posting of the property, and the public hearing on these Petitions held, and for the reasons set forth above, the relief requested shall be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 10th day of January 2006, that the Petition for Special Hearing to amend the special exception relief granted in prior Case No. 95-435-X and to confirm that the proposed number of parking spaces is sufficient, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

ORDER RECEIVED FOR FILING
Date 1/10/06
By

1. The Petitioner may apply for building permits and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at its own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the relief granted herein shall be rescinded.

2. The maximum enrollment of the Maryvale School shall not exceed 425 students without public hearing and approval of a Petition for Special Hearing for an amendment to the Special Exception and Site Plan approved in this case.

3. Any proposal to build new buildings in the areas labeled "No New Buildings Area" or to build new buildings or parking in the area labeled "No New Buildings or Parking Area" on Petitioner's Exhibit 1will require public hearing and approval of a Petition for Special Hearing for an amendment to the Special Exception and Site Plan approved in this case.

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

IT IS FURTHER ORDERED that the Petition for Variance seeking relief from Sections 1A01.3.B.3 and 102.2 of the Baltimore County Zoning Regulations (B.C.Z.R.) to allow a principal building to principal building setback of 34 feet in lieu of the required 70 feet between the existing school building and proposed performing arts building, be and is hereby DISMISSED.

Any appeal of this decision must be taken in accordance with Section 32-3-401 of the Baltimore County Code.

WILLIAM J. WISEMAN
Zoning Commissioner
for Baltimore County

ORDER RECEIVED FOR FILING
Date 11/16/16
By

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

January 10, 2006

WILLIAM J. WISEMAN III
Zoning Commissioner

Robert A. Hoffman, Esquire
Venable, LLP
210 Allegheny Avenue
Towson, Maryland 21204

RE: PETITIONS FOR SPECIAL HEARING & VARIANCE
N/S Greenspring Valley Road, between Greenspring Avenue & Falls Road
(11300 Falls Road)
8th Election District – 2nd Council District
The Baltimore Province of the Sisters of Notre Dame de Namur, Inc., Owners;
Maryvale Preparatory School, Inc., Contract Purchasers - Petitioners
Case No. 06-128-SPHA

Dear Mr. Hoffman:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Special Hearing has been granted and the Petition for Variance dismissed, in accordance with the attached Order.

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

Very truly yours,

WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

WJW:bjs

cc: Jennifer Busse, Esquire & Joseph J. Messanotte, Esquire
Whiteford, Taylor & Preston, 210 W. Pennsylvania Avenue, Towson, Md. 21204
Sr. Shawn Maquire, Maryvale Preparatory School, 11300 Falls Rd., Brooklandville, Md. 21022
Ms. Marci Reihart, 16317 Lowe Road, Stewartstown, Md. 17363
Messrs. David Martin & Rick Chadsey, G.W. Stephens, Jr. & Assoc., Inc.
1020 Cromwell Bridge Road, Towson, Md. 21286
Mr. Mickey Cornelius, The Traffic Group, 9900 Franklin Square Dr., #H, Baltimore, Md. 21236
G. Macy Nelson, Esquire, 401 Washington Avenue, Suite 803, Towson, Md. 21204
Ms. Teresa Moore, Valleys Planning Council, P.O. Box 5402, Towson, Md. 21285
Mr. Harold Burns, Jr., 5 Candlestick Drive, Lutherville, Md. 21093
People's Counsel; Case File

IN RE: **PETITIONS FOR SPECIAL HEARING and VARIANCE** – N/S Greenspring Valley Road, between Greenspring Avenue and Falls Road **(11300 Falls Road)**
8th Election District
2nd Council District

The Baltimore Province of the Sisters of Notre Dame de Namur, Inc., *Legal Owner;* Maryvale Preparatory School, Inc., *Contract Purchaser*

* BEFORE THE
* ZONING COMMISSIONER
* FOR
* BALTIMORE COUNTY
* Case No. 06-128-SPHA
*

EXHIBIT A

* * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of Petitions for Special Hearing and Variance filed by the owner of the subject property, The Baltimore Province of the Sisters of Notre Dame de Namur, Inc., and the Contract Purchaser, Maryvale Preparatory School, Inc., through their attorney, Robert A. Hoffman, Esquire. The Petitioners request a special hearing to amend the special exception relief granted in prior Case No. 95-435-X, as amended in Case No. VIII-651 and confirmation that the proposed number of parking spaces is sufficient to accommodate proposed improvements. In addition, variance relief is requested from Sections 1A01.3.B.3 and 102.2 of the Baltimore County Zoning Regulations (B.C.Z.R.) to allow a principal building to principal building setback of 34 feet in lieu of the required 70 feet between the existing school building and proposed performing arts building. The subject property and requested relief are more particularly described on the site plan submitted, which was accepted into evidence and marked as Petitioner's Exhibit 1.

Testimony and evidence offered disclosed that Maryvale School is a college preparatory school for girls comprised of middle and upper school programs, which is located between Falls Road and Greenspring Valley Road in Brooklandville. Maryvale Preparatory School, Inc. ("Maryvale") operates the school and is under contract to purchase the approximately 113 acre

campus owned by the Baltimore Province of the Sisters of Notre Dame de Namur, Inc. The property is also known as Lot 2A of the Westwicke subdivision. The Petitions were filed jointly by the legal owner and the contract purchaser.

In advance of purchasing the property, Maryvale filed the instant Petition for Special Hearing seeking approval to amend the site plan and the relief granted in the two prior cases referenced above to accommodate proposed improvements. Specifically, the Petitioners propose an expansion of the existing facility to accommodate the relocation and improvement of its athletic fields, the construction of new buildings and parking areas, and an increase in the total number of students permitted at the school. Maryvale has also filed a Petition for Variance to allow a reduced principal building setback between the existing school structure and a proposed performing arts center of 34 feet in lieu of the required 70 feet, pursuant to Sections 1A01.3.B.3 and 102.2 of the Baltimore County Zoning Regulations ("BCZR").

Certifications contained within the case file indicate that the property was properly posted with a sign providing public notice of the hearing and that the matter was also advertised in *The Jeffersonian* newspaper. Having met these requirements, I find that proper public notice was provided.

At the requisite public hearing, Robert A. Hoffman and David H. Karceski appeared as attorneys for Maryvale School. Jennifer R. Busse and Joseph J. Mezzanotte appeared as counsel for the legal owner of the property. Sister Shawn Marie Maguire, Maryvale's Headmistress, and Marcia Reihart, Chair of Maryvale's Board of Trustees, attended as representatives for Maryvale School, along with numerous other individuals as noted on the sign-in sheets circulated at the hearing. Also appearing on behalf of Maryvale were David L. Martin, a registered landscape architect, and Rick N. Chadsey, a registered professional engineer, with George William Stephens, Jr. and Associates, Inc., both of who prepared the site plan in this case. Mickey A.

Cornelius, a registered traffic engineer with The Traffic Group, Inc., Robert W. Sheesley, an environmental consultant with Eco Sense, Inc., and Thomas R. Mills, a licensed engineer and geologist with Hydro-Terra, Inc., also appeared as expert witnesses.

G. Macy Nelson appeared as counsel for The Valleys Planning Council, Inc. ("VPC"), Falls Road Community Association, Inc. ("FRCA"), and other individual property owners that reside in the general vicinity of the school's campus. Theresa Moore attended in a representative capacity for VPC, and Harold Burns appeared, individually and in his capacity as Director of the FRCA.

This matter was originally scheduled for a public hearing on October 19, 2005, and December 1, 2005, but was continued to provide an opportunity for Maryvale's representatives to meet with community representatives to discuss the requested relief and the community's concerns. As a result of those discussions, the site plan was revised to address a number of the concerns raised. At the hearing, which was reconvened on December 23, 2005, and again on January 3, 2006, a revised site plan was introduced by Maryvale and accepted into evidence as Petitioner's Exhibit 1. The revisions included a reduction in the number of proposed new buildings to three, a relocation of the proposed new athletic fields, the establishment of no building/no parking areas, the addition of landscaping and screening, the adjustment of the proposed stormwater management facilities, and an increase in the total number of students to 425 students. *See* Petitioner's Exhibit 1. As a result of the revisions to the site plan shown on Petitioner's Exhibit 1, the building to building setback variance was no longer required, and, therefore, Maryvale withdrew the Petition for Variance at the hearing.

An examination of the site plan indicates that the Maryvale School campus is approximately 113.34 acres and is zoned RC-2. The property is presently improved with school buildings for girls grades 6 through 12, athletic fields and a "play court," and parking areas that

serve the school's faculty and student body. All existing school structures are so labeled on Petitioner's Exhibit No. 1. Vehicular access to the school is by way of two driveways, one each to Falls Road and Greenspring Valley Road.

Maryvale School has operated on the subject property for the past sixty years. Over that time period, Maryvale's enrollment has grown to 371 students. The school's need for additional and improved campus facilities has, likewise, increased. As shown on Petitioner's Exhibit 1, Maryvale now seeks to add three new school buildings, labeled "PROP. PERFORMING ARTS & OTHER SCHOOL USES," "PROP. MEDIA CENTER & OTHER SCHOOL USES," and "PROP. MAINTENANCE BUILDING." The maximum building footprints for each structure are shown on the site plan. While Maryvale anticipates that the primary uses of these building will be as described, *i.e.*, "performing arts" and "media center," Maryvale reserves the right to use the structures for other school uses as needed. Maryvale also intends to install ball fields on the northeast portion of its campus in the vicinity of the school's north access to Falls Road. The site plan shows the conceptual layout for the four ball fields. Additional parking areas are also shown and indicated on the site plan throughout the subject property to serve the existing and proposed school facilities.

During the hearing, in support of the requested relief, Maryvale presented, by way of a proffer, the testimony of several witnesses to prove that the requested relief was warranted and that the proposed changes to the approved special exception would not create any adverse impact on the surrounding properties and, thus, meets the requirements of BCZR Section 502.1. As explained at the hearing, the new school buildings and ball fields will allow Maryvale School to significantly upgrade and modernize its campus in order to meet the needs of its students. Many other private institutions in Baltimore County now offer similar facilities as that proposed by Maryvale.

Sister Shawn Marie Maguire, Maryvale's Headmistress, appeared at the hearing to offer testimony that the new buildings would be an upgrade to the existing facilities and would not be for the purpose of expanding student enrollment in a significant manner. Rather, the upgrades are required to provide adequate facilities even for the current student population. The existing facilities are somewhat outdated and do not provide the optimum environment for a college preparatory school. While Maryvale is requesting approval of an increase in enrollment to a maximum of 425 students, with the current student population at 371, Maryvale does not view this increase as significant and expects that any such growth will occur slowly and naturally. Sister Shawn also would confirm that the proposed parking shown on the plan (337 spaces) is necessary and sufficient to meets the needs of the school.

Maryvale also offered several expert witnesses to provide testimony on the proposed changes to the site plan and to demonstrate compliance with Section 502.1 of the B.C.Z.R. They included Mr. Robert Sheesley, an environmental consultant and licensed sanitary expert, and Mr. Thomas Mills, an expert hydrogeologist. Mr. Mills confirmed the adequacy of water resources and septic disposal on site to handle both the existing and expanded student population and the lack of any anticipated adverse impact on surrounding properties by either the increased number of students or expanded facilities on the campus.

With regard to traffic issue, Maryvale presented Mr. Mickey Cornelius, a licensed professional engineer and traffic consultant, who would testify that the existing access points at Falls Road and Greenspring Valley Road are adequate to handle the proposed expansion of the campus and any increase in the number of students and that the proposal would not result in congestion in the surrounding roadways.

Maryvale also presented Mr. Richard Chadsey, a licensed professional engineer, to provide testimony regarding the location and size of the proposed stormwater management

facilities. Although not finally designed, Mr. Chadsey confirmed that adequate storm water management would be provided for the new impervious areas on the campus and that no neighboring properties would suffer any adverse impacts in this regard.

Finally, Mr. David Martin, a licensed landscape architect and expert land planner, offered testimony, in part based on the testimony of the other experts in the case, that the proposed new facilities would be consistent with the spirit and intent of the current RC-2 zoning classification and would not intensify the existing use of the property or cause any adverse impact to the health, safety, or general welfare of the surrounding community.

There was no testimony or evidence offered by Mr. Nelson or his clients to rebut the substantial evidence and testimony presented by Maryvale. However, on the last hearing day, two Protestants individually raised three issues that I will address. First, Mr. Harold Burns asserted that Maryvale was estopped from requesting an increase in the number of students because it had already exceeded the number allowed in the prior zoning order. I know of no restriction in the Baltimore County Zoning Regulations that would prevent a property owner from seeking the requested relief to remedy a violation of a particular regulation or restriction in an order. Rather, I believe BCZR Section 500.6 and 500.7 provide me with broad authority to conduct hearings, interpret, and pass orders necessary for the enforcement of the Zoning Regulations and that authority would include the ability to grant the relief requested by Maryvale.

Mr. Burns raised a second issue regarding the appropriate process for amending the Westwicke Development Plan. Maryvale has, apparently, sought confirmation from the Development Review Committee that the proposed changes to the site should be considered to be a "refinement" to the development plan rather than a "material change." This issue is not within my jurisdiction, and I decline to comment.

Mr. Douglas Carroll, a neighboring property owner, also raised an issue as to whether proper notice had been given regarding the specifics of the relief requested by Maryvale. This case was initially set for hearing in September, and I find that all parties were either aware or had sufficient time to make themselves aware of the particulars of this case. I would also note that Mr. Carroll stated that he was, in fact, aware of the elements of the relief, including the requested change in student population. As indicated earlier in this opinion, I find that the notice requirements have been satisfied.

Based upon the testimony and evidence presented in this case, I am persuaded that the Petition for Special Hearing should be granted. I have reviewed the criteria stated in BCZR 502.1, and I find that Maryvale has satisfied each of the criteria outlined in that section. I am persuaded that the proposed improvements to the school's campus, as shown on Petitioner's Exhibit 1, and the requested enrollment increase from 371 students to 425 students, will not cause any detrimental impacts to the health, safety, or general welfare of the locale and can be accomplished without any of the negative impacts listed in BCZR Section 502.1. In addition, I find that installation of the additional parking areas to serve the school campus and its student body in the general locations shown on Petitioner's Exhibit 1, are appropriate and should be approved.

Pursuant to the advertisement, posting of the property, and the public hearing on these Petitions held, and for the reasons set forth above, the relief requested shall be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 10th day of January 2006, that the Petition for Special Hearing to amend the special exception relief granted in prior Case No. 95-435-X and to confirm that the proposed number of parking spaces is sufficient, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

1. The Petitioner may apply for building permits and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at its own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the relief granted herein shall be rescinded.

2. The maximum enrollment of the Maryvale School shall not exceed 425 students without public hearing and approval of a Petition for Special Hearing for an amendment to the Special Exception and Site Plan approved in this case.

3. Any proposal to build new buildings in the areas labeled "No New Buildings Area" or to build new buildings or parking in the area labeled "No New Buildings or Parking Area" on Petitioner's Exhibit 1will require public hearing and approval of a Petition for Special Hearing for an amendment to the Special Exception and Site Plan approved in this case.

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

IT IS FURTHER ORDERED that the Petition for Variance seeking relief from Sections 1A01.3.B.3 and 102.2 of the Baltimore County Zoning Regulations (B.C.Z.R.) to allow a principal building to principal building setback of 34 feet in lieu of the required 70 feet between the existing school building and proposed performing arts building, be and is hereby DISMISSED.

Any appeal of this decision must be taken in accordance with Section 32-3-401 of the Baltimore County Code.

WILLIAM J. WISEMAN
Zoning Commissioner
for Baltimore County

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

* * * * * * * * * * *

HEARING OFFICER'S OPINION & DEVELOPMENT PLAN AND VARIANCE ORDER

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. The maximum enrollment of the Maryvale School shall not exceed 300 students without amendment of the Petition for Special Exception and site plan attendant therewith, and public hearing held thereon.

2. The Developer, with the consent of adjoining property owners, shall install off site landscaping substantially similar to that shown on Developer's Exhibits 2A through 2C.

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

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:mmn

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 2170

September Term, 2003

MEADOWS OF GREENSPRING HOMEOWNERS ASSOCIATION, INC., et al.

v.

FOXLEIGH ENTERPRISES, INC.

Murphy, C.J.,
Barbera,
Meredith,
JJ.

Opinion by Meredith, J.

Filed: October 22, 2004

4-1022-10 (19)

3C00011312

B

This case involving a proposal to develop an additional commercial building at Green Spring Station has been before this Court on two prior occasions. When we first reviewed the case, in *Meadows of Greenspring Homeowners Association, Inc. v. Foxleigh Enterprises, Inc.*, 133 Md. App. 510, 758 A.2d 611 (2000), we remanded the case because it was not yet ripe for appeal. After further proceedings upon remand, the case again made its way to this Court, and in an unreported opinion, the Court again found the appeal premature and remanded the case for further proceedings. *See Foxleigh Enterprises, Inc. v. Johns Hopkins Suburban Health Center, Limited Partnership, et al.*, No. 844, September Term, 2001. When the case made its way back to the Board of Appeals upon the second remand, the Board of Appeals rejected the neighboring property owners' objections to administrative approval of the proposed development. The Board of Appeals, by order dated March 11, 2003, stated that it was affirming "the decision of the County Review Group in Case No. CRA-99-151, in which the CRG approved the 1st Refinement CRG Plan." (E. 127) The neighboring property owners then petitioned the Circuit Court for Baltimore County for judicial review, and that court affirmed the Board's decision. (E. 132)This appeal by the neighboring property owners followed.

Appellants raise the following four questions on this appeal:

1. Whether the circuit court erred when it affirmed the Board's finding that failed to consider the plan's

expiration and the failure of the plan to comply with current zoning regulations?

2. Whether the circuit court erred when it affirmed the Board's conclusion that the amendment to the Development Plan, changing the proposed eight-story building to a two-story building, was a "refinement"?

3. Whether the circuit court erred when it affirmed the Board after the Board had failed to remand the case to the CRG as it had been ordered to do by this Court and by the circuit court?

4. Whether the Board's action in approving the change as a "refinement" was an illegal action because only two of the required three members of the Board participated in that action in violation of Rule 1 of the Rules of Practice and Procedure of the Baltimore County Board of Appeals?

The developer, as appellee, contends that there is only one question this Court needs to decide, namely, "Did the County Board of Appeals err when it affirmed the County's approval of the 2-story alternative as a 'refinement' to a previously approved Amended CRG Plan for Green Spring Station?" This is essentially a rewording of the appellants' second question. Upon reviewing the entire history of this case, we conclude that the Board of Appeals was in error in its application of Baltimore County Code § 22-63,

and we will accordingly reverse the judgment of the Circuit Court for Baltimore County, and will remand the case for review by the CRG of the material amendment proposed by the developer.

Background

The case traces its roots back to 1983, when the Baltimore County "County Review Group," commonly referred to as the "CRG," approved a development plan for Green Spring Station. That development plan was reviewed and approved pursuant to the procedure mandated by Bill 56-82, codified as Baltimore County Code §§ 22-52, *et seq.*, that was the generally applicable review procedure in place from 1982 until 1992. (Although Baltimore County adopted a new revision of its County Code which became effective on July 1, 2004, all citations in the briefs of the parties and in this opinion refer to the Baltimore County Code as it existed prior to July 1, 2004.)

As approved by the CRG in 1983, the development plan for Green Spring Station included proposed improvements upon certain parcels of the Green Spring Station property that were eventually conveyed by the developer to two of the protestants who are now among the neighboring property owners. Pursuant to the 1983 plan, the developer constructed a multi-story building on the property, and also paved much of the property for parking.

In 1992, Baltimore County enacted Bill 1-92, codified as Baltimore County Code, §§ 26-166, *et seq.*, altering the procedure for review of proposed developments such as Green Spring Station. As a consequence of Bill 1-92, developments subsequently proposed would no longer be referred to the CRG, but would instead be reviewed by the "Development Review Committee" ("the DRC"), with one relevant exception. The Bill provided that proposed amendments to development plans which had previously been approved by the CRG would still be reviewed by the CRG under the CRG process that was in effect at the time of the earlier approval. See Baltimore County Code, § 26-169(ii) and § 26-211.

In early 1998, the developer began seeking County approvals to construct an eight-story building on a portion of the property that was previously utilized as a parking lot. The neighboring property owners have consistently opposed the new construction.

When the developer first approached the County in April 1998, the developer asked the DRC to rule that its review was not necessary because the proposed development was merely a refinement to a plan previously approved by the CRG. In May 1998, the DRC agreed that the CRG was the proper body to review the proposed project, but did not agree the proposed 8-story building was merely a refinement of the previously approved development plan. By letter dated May 12, 1998, the Director of the Baltimore County Department of Permits and Development Management wrote to the developer and

material change to the CRG. Please submit new plans, so a new CRG can be scheduled."

All parties were unhappy with the DRC's decision and appealed to the Board of Appeals, then to the Circuit Court, and then to this Court. In *Meadows, supra*, 133 Md. App. 510 (2001), we held that these appeals were premature.

In the meantime, while the first round of appeals were underway, the developer proceeded to seek CRG approval of the proposed 8-story building as a material amendment to the 1983 CRG approved development plan. An open CRG meeting was properly held on August 13, 1998, at the conclusion of which the CRG approved the proposal to add an 8-story building. The neighboring property owners promptly filed an appeal to the Baltimore County Board of Appeals (Case No. CBA 98-145).

The Board of Appeals did not begin holding its hearings on Case No. CBA 98-145 until early March of 2000. By the time the Board of Appeals hearings began, there had been additional changes to the developer's plans. Bill 111-98 imposed a building height limit of 35 feet. Consequently, the proposed 8-story building would require a variance to exceed the new height limit. In response to the new height limit, on October 13, 1999, the developer submitted a new proposal for construction of a 2-story building instead of an 8-story building. Based upon its internal review of the new

proposal, the DRC concluded that the 2-story proposal was not a "material amendment" to the 8-story plan the CRG had approved on August 13, 1998, and that consequently, further CRG review was not required. Without conducting any sort of public hearing, the Director of the Department of Permits and Development Management approved the 2-story proposal as a "refinement" to an approved CRG plan. The proposed refinement was then stamped "Plan Approved" under a caption that referenced the "BALTIMORE COUNTY MD. COUNTY REVIEW GROUP," and the approval stamp was signed by representatives of the Department of Public Works and the Office of Planning and Zoning on November 2, 1999. (E. 17) The neighboring property owners appealed this approval to the Board of Appeals. The Board of Appeals then consolidated the appeal from the CRG approval of the 8-story proposal (Case No. CBA 98-145) with the appeal from the approval of the 2-story proposal (Case No. CBA 99-151).

An additional wrinkle in this already complicated history is that Baltimore County changed the zoning applicable to Green Spring Station from B-M to O-3 by a bill adopted October 10, 2000, effective December, 2000. The neighboring property owners assert that the Board of Appeals has never considered the impact of that change in zoning.

On October 12, 2000, the Board of Appeals issued its ruling in both appeals. It affirmed the CRG approval of the 8-story proposal (Case No. CBA 98-145). In Case No. CBA 99-151, the Board of Appeals

found that the 2-story proposal did not appear to be a refinement. But rather than reverse the administrative approval outright, the Board of Appeals issued an order remanding Case No. CBA 99-151 "to the CRG for further proceedings and clarification of the approval as a 'refinement' prior to a final determination by the Board." (E. 84)

The neighboring property owners promptly filed for judicial review of the October 12, 2000, ruling in the Circuit Court for Baltimore County, and the case eventually came to this Court. We ruled, in an unreported opinion issued August 21, 2002, that the Board of Appeals ruling was not a final, appealable ruling. *Foxleigh Enterprises, Inc. v. Johns Hopkins Suburban Health Center, Limited Partnership, et al.*, September Term, 2001, No.844 (August 21, 2002). The case was remanded to the Circuit Court for Baltimore County "with instructions to remand the case to the County Board of Appeals for further proceedings consistent with this opinion." The Circuit Court for Baltimore County, in turn, issued an order dated December 17, 2002, that affirmed the Board of Appeals' approval of the 8-story proposal, but remanded the appeal involving the 2-story proposal "for further proceedings in accordance [with] its Order of October 12, 2000, remanding the 1st Refinement to Amended CRG Plan for Green Spring Station/Valley Concourse to the County Review Group for clarification of its approval as a 'refinement.'"

When the case was next considered by the Board of Appeals, two members – rather than the normal panel of three – held a public deliberation on March 5, 2003. At that time, the two members of the Board of Appeals reviewed a letter that had been written by the Director of the Department of Permits and Development Management soon after the Board of Appeals had issued its ruling dated October 12, 2000. In that letter dated October 25, 2000, the Director indicated that he was responding to the language in the Board of Appeals order that "remanded [the case approving the 2-story proposal] to the CRG for further proceedings and clarification of this approval as a 'refinement' prior to a final determination by this Board." The Director pointed out that there had never been a CRG meeting to review this proposal, stating: "In the instant case, the CRG did not determine that the proposed amendment was a refinement. The Development Review Committee (DRC) did." The Director continued, "I therefore have considered the Board's order as a remand to the DRC, the entity which did in fact review [the 2-story proposal] for compliance with county policy."

According to the Director, the DRC had analyzed the 2-story proposal pursuant to the Policy Manual of the Department of Permits and Development Management, which provides in Policy Number 1, Paragraph C: "In order to further clarify the 'Plan Amendment Process', it is proposed that slight, minor or insignificant changes to an approved plan, which have no significant impact on

the site or on adjacent properties or the neighborhood at large may be considered as 'Plan Refinements' fully in keeping with the informative, conceptual and schematic nature of the CRG plan...." The Director concluded his letter to the Board of Appeals by stating: "If this is not the information the Board seeks, or if it is the Board's [intention] that a CRG be convened, please let me know. I would emphasize that should a CRG be convened, not reconvened, the issue would be for the review of a proposed material change."

On March 11, 2003, the two members of the Board of Appeals who had held the public deliberation issued an order stating "that the decision of the County Review Group in Case No. CBA-99-151 [involving the 2-story proposal], in which the CRG approved the 1st Refinement CRG Plan, be and the same is hereby AFFIRMED." The Board of Appeals indicated that its "decision to affirm the decision of the CRG in [the case involving the 2-story proposal] relative to the refinement issue, with no necessity for further remand," was based upon its review of the Director's "detailed letter of October 25, 2000 ..., written in response to the Board's remand Order of October 12, 2000."

The neighboring property owners again sought judicial review by the Circuit Court for Baltimore County. By order dated November 16, 2003, the Circuit Court for Baltimore County affirmed the

ruling of the Board of Appeals. The neighboring property owners then filed the present appeal to this Court.

Standard of Review

The applicable standard of review is the same in this appeal as it was the last time this case came before this Court. As we said there:

> In our review of the action of an administrative agency we do not review the action of the circuit court, but essentially look through that court to the action of the agency, because our function is the same as was that of the circuit court - to determine whether, on the record, the agency may have committed error. *See Meadows of Greenspring Homeowners Ass'n, et al. v. Foxleigh Enterprises, Inc., supra*, 133 Md. App. at 514 (stating that "[a]n appellate court must essentially repeat the circuit court's review of an agency decision"); *Gigeous v. E.C.I.*, 363 Md. 481, 495-96 (2001) (noting that an appellate court "re-evaluate[s] the decision of the agency, not the decision of the lower court.").

Foxleigh Enterprises, supra, No. 844, September Term, 2001, Opinion at 5.

Accordingly, we review the final order of the administrative agency – i.e., the Board of Appeals – not the judgment of the Circuit Court for Baltimore County. In conducting our review of the action of the Board of Appeals, we determine "whether the agency's decision is premised on an erroneous conclusion of law." *United Parcel v. People's Counsel*, 336 Md. 569, 577 (1994).

Discussion

Here, the final order of the Board of Appeals approved the action of the Director of the Department of Permits and Development Management as outlined in the Director's letter dated October 25, 2000. (E. 97) In that letter, the Director acknowledged that: "No CRG meeting was ever convened to review this refinement." Instead, the proposal for a 2-story project had been submitted to the DRC, which had concluded that the proposal "constituted a refinement." In affirming this internal agency approval process – that bypassed the CRG review process required by Baltimore County Code, § 22-63 – the Board of Appeals based its decision on an erroneous conclusion of law. Even though members of the CRG signed off on the proposed 2-story plan, the plan has not been reviewed in accordance with the applicable CRG process as required by the Baltimore County Code.

In *Beth Tfiloh Congregation of Baltimore City, Inc. v. Glyndon Community Association, Inc.*, 152 Md. App. 97, 831 A.2d 93 (2003), we incorporated the following summary of the Baltimore County procedures for processing requests for changes to a development plan previously approved by the CRG:

> If a request for amendment to a previously approved plan is received, the DRC [Development Review Committee] first evaluates which development law applies. Baltimore County Code § 26-169 and § 26-211, "grandfather," for the benefit of the developer, certain projects which have been approved pursuant to an earlier development process than the one which is currently in effect. Under the regulations presently in effect, which went into effect

in 1992, development approval requires a community input meeting and a hearing officer's hearing. Baltimore County Code, 1988 ed., §§ 26-201, *et seq.* This is referred to as the "Development Process." Between 1982 and 1992 there was a process in effect known as the "CRG Process." The CRG Process involved a public meeting by county agencies and ultimate approval or disapproval of the plan by the Directors of the Department of Public Works and the Office of Planning. Baltimore County Code, 1978 ed., 1988 supp., §§ 22-52 *et seq.* Prior to 1982, there was only a subdivision review process. The subdivision process, often referred to as the "JSPC Process," ("Joint Subdivision Planning Committee"] involved a planning board approval of a subdivision plat. Baltimore County Code, 1978 ed., §§ 22-40, *et seq.*

Subdivision approval is required for plat recordation, which, in turn, is required to legally transfer title of real property.... Development approval, by CRG Process or Development Process, as the case may be, is required for "development," which is currently defined generally as building or the preparation of land for building. ...

Pursuant to the grandfathering provisions of Baltimore County Code § 26-169 and § 26-211, with regard to development approval, a property acquired a right to further development approval in accordance with those procedures which governed the first development (or subdivision) approval thereon. This is beneficial to an owner of property with a previously approved subdivision or development because it is generally accepted that the current Development Process is more onerous than the earlier CRG Process or the JSPC Process.

Accordingly, if a developer seeks development approval for a tract or parcel in the first instance, *i.e.*, before there has been any previous subdivision or development on the property, then clearly, neither § 26-169 nor § 26-211 grandfathers the property into any prior development approval process and the current Development Process governs. In such cases the developer is bound to proceed in accordance with the development approval procedures presently provided for in §§ 26-201, *et seq.*, unless the developer is otherwise exempt from these requirements under § 26-171.... Equally clear is that if a developer approaches the DRC with a change or amendment to a plan which was first approved by the CRG Process or by the JSPC Process, then the DRC must find that the appropriate earlier process applies....

If the DRC determines that the proposed project is an amendment to a plan previously approved pursuant to an

> earlier process, i.e., the CRG Process or the JSPC Process, then the amendment is characterized as either a "refinement" or a "material amendment."
>
> Refinements to CRG plans are processed administratively.... These plans are circulated to the Department of Public Works and the Office of Planning, each of which must approve the refinement.... Ultimately, the Director of Public Works and the Director of Planning will approve the refined plan. Refinements to JSPC plans are processed administratively by the Director of Planning, pursuant to Baltimore County Code, 1968 ed., §§ 22-33.
>
> Material amendments to CRG Plans require approval by the Director of Public Works and the Director of Planning, after a public meeting of the county agencies known as the CRG Meeting. Material amendments to a JSPC Plan would require approval by the Baltimore County Planning Board, after a public hearing.
>
> When an applicant submits a request for amendment to a previously approved plan, the first issue the DRC must decide is what development law applies. If the DRC determines that the plan had been approved under one of the earlier processes, it then determines which process it was approved under; it next determines whether the proposed amendment is a material change to, or a refinement of, the existing approved plan.

Id. at 110-11.

According to the letter dated October 25, 2000, from the Director, this procedure was generally followed with respect to the request for approval of the developer's 2-story proposal. We take issue, however, with the characterization, first by the DRC, and ultimately by the Director and the Board of Appeals, that the 2-story proposal constituted a mere "refinement" that could be exempt from the CRG review process. While it may be correct that some proposed minor changes to a development plan could be deemed as not material, and hence mere refinements, we do not agree that a change from an 8-story building to a 2-story building could be considered

so negligible as to fall outside the definition of a "material amendment." The governing statute provides that any proposal for a "material amendment" to a development plan previously approved by the CRG must be approved in the same manner as the original CRG approved plan. (E. 79). Specifically, Baltimore County Code, § 22-63, provides: "Any material amendment to an approved plan shall be reviewed and approved in the same manner as the original plan."

As this Court stated in its opinion in the first appeal of this case, *Meadows, supra*, 133 Md. App. at 515, and the Board of Appeals similarly stated in its opinion dated October 12, 2000: (E. 79)

> Sections 26-169 and 26-211 unambiguously state that there is no discretion involved in deciding which review process is applicable. A previously approved plan by the CRG must be reviewed by the CRG process for any material amendments.

Assuming that the 8-story proposal was properly approved by the CRG – a conclusion of the Board of Appeals that was affirmed in prior appeals – a request for a material amendment to the 8-story plan should have been subjected to the full CRG review process.

Our conclusion that the plain meaning of "any material amendment" would necessarily encompass a change from 8 stories to 2 stories is buttressed by the findings of fact made by the Board of Appeals in its ruling issued October 12, 2000. In that order the Board of Appeals pointed to expert testimony that the change in the height of the building made the proposed project "not only a

quantitatively but qualitatively different project than the approved plan." (E. 82) The Board pointed to expert testimony from another expert who opined: "that Foxleigh's proposed building was 'obviously out of scale' with the rest of the Greenspring Station development. ..." (E.82) The majority of the Board also "felt that the proposed 'refinement' had a significant affect on neighborhood property, or the neighborhood at large, different from the approved plan. ...There was much unchallenged testimony from traffic experts, tenants, and neighbors to give credibility to a 'significant' affect on the surrounding community." (E. 83)

When the Board of Appeals issued its order dated March 11, 2003, the only additional information before it (E.125) was the letter dated October 25, 2000, from the Director of the Department of Permits and Development Management. In that letter, the Director explained that the Development Policy Management Manual provides that "slight, minor or insignificant changes to an approved plan, which have no significant impact on the site or on adjacent properties or the neighborhood at large may be considered as '<u>Plan Refinements</u>' fully in keeping with the informative, conceptual and schematic nature of the CRG plan...." Since the proposed change from an 8-story building to a 2-story building could not reasonably be considered a "slight, minor or insignificant [change] to an approved plan," this information in the Director's letter provided

no rational basis for a conclusion that the proposed change was not a "material amendment."

The only other information provided in the Director's letter was the comment that: "Historically, the reduction in size or scope of an approved project is considered a refinement that ... may be processed by revising or red-lining the approved CRG plan and obtaining interagency review for approval of the correction(s)." While it may well be that many reductions in size do not constitute "material amendments," it does not logically follow that all reductions in size, regardless of magnitude, are beyond the definition of material amendments within the meaning of § 22-63. By any reasonable interpretation of the term "material amendment," a reduction from 8 stories to 2 would be covered. *See Baltimore City v. Johnson*, 156 Md. App. 569, 592 (2004) (generally, we give the words of the statute their "ordinary and common meaning within the context in which they are used") (quoting *Polomski v. Mayor and City Council of Baltimore*, 344 Md. 70, 75 (1996)). Accordingly, the Board of Appeals should have found that the DRC and Director of the Department of Permits and Development Management had failed to properly refer the 2-story proposal for CRG review.

In *Beth Tfiloh, supra*, 152 Md. App. 97, 117 (2003), we held that an internal agency manual (the same Development Management Policy Manual relied upon by the appellee in the present case) could not override the plain meaning of the relevant Baltimore

County Code section. The same holds true in this case, notwithstanding the authority of the various County agencies to adopt a procedural manual which is consistent with the County Code pursuant to § 26-178 and § 22-49.

Because the Board of Appeals erred in its conclusion that the proposed 2-story plan which was the subject of Case No. CBA-99-151 was not a material amendment to an approved plan within the purview of § 22-63, its ruling affirming the decision of the DRC and the Director of the Department of Permits and Development Management and affirming the approval of the proposed "1st Refinement" must be reversed. On remand, the proposed revision to the CRG plan for Green Spring Station should be referred for CRG review as a proposed material amendment.

Because the ruling of the two members of the Board of Appeals must be reversed for the reasons explained above, we need not reach the question of whether a third member should have been added to the Board of Appeals panel following the resignation of one panel member. Nor do we need to decide at this stage whether the CRG approval of the 8-story plan expired or was abandoned, because the 2-story proposal would constitute a material amendment of an approved CRG plan in any event. Finally, because the effect of the property's zoning change will be subject to review by the CRG upon remand, we need not pre-empt their consideration of that issue. Appellants themselves stated in their Reply Brief at 11 n. 4:

"Appellants concede that the appellate forum is not the proper forum for introduction of evidence of the plan's failure to meet current zoning." Accordingly, we do not reach the issue appellants raised regarding the change in zoning from B-M to O-3.

JUDGMENT OF THE CIRCUIT COURT FOR BALTIMORE COUNTY IS VACATED; CASE REMANDED TO THAT COURT WITH INSTRUCTIONS TO REMAND THE CASE TO THE BALTIMORE COUNTY BOARD OF APPEALS WITH INSTRUCTIONS THAT ITS ORDER DATED MARCH 11, 2003, IS REVERSED AND DIRECTING THAT THE CASE BE REMANDED TO THE BALTIMORE COUNTY DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT AND THE BALTIMORE COUNTY CRG FOR FURTHER PROCEEDINGS CONSISTENT WITH THIS OPINION.
COSTS TO BE PAID BY APPELLEE

Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 11300 Falls Road

which is presently zoned RC-2

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 Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve

See attached

Property is to be posted and advertised as prescribed by the zoning regulations.
I, or we, agree to pay expenses of above Special Hearing, advertising, posting, etc. and further agree to and are to be bounded by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.

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

Contract Purchaser/Lessee:

See Attached
Name - Type or Print

Signature

Address Telephone No.

City State Zip Code

Attorney For Petitioner:

Robert A. Hoffman
Name - Type or Print

Robert A. Hoffman/ dke
Signature

Venable LLP
Company

210 Allegheny Avenue 410-494-6262
Address Telephone No.

Towson, MD 21204
City State Zip Code

Legal Owner(s):

See Attached
Name - Type or Print

Signature

Name - Type or Print

Signature

Address Telephone No.

City State Zip Code

Representative to be Contacted:

Robert A. Hoffman
Name

210 Allegheny Avenue 410-494-6262
Address Telephone No.

Towson, MD 21204
City State Zip Code

ORDER RECEIVED FOR FILING
Date 11/02
By RZ/ 9/15/98

Case No. 06-128-SPHA

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

UNAVAILABLE FOR HEARING _____

Reviewed By D.T. Date 8/31/05

Petition for Special Hearing

11300 Falls Road

Special Hearing pursuant to Section 500.7 of the Baltimore County Zoning Regulations to amend the special exception approved in Case No. 95-435-X.

Special Hearing pursuant to Sections 409.6 and 500.7 of the Baltimore County Zoning Regulations to confirm that the proposed number of parking spaces is sufficient.

ORDER RECEIVED FOR FILING
Date 11/16/06
By [signature]

TO1DOCS1/PAM01/#209605 v1

06-128-SPHA

Petition for Special Hearing

11300 Falls Road

Legal Owner:

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

Sister Florence Maier, SND

By: Sister Florence Maier, SND
First Vice President

1531 Greenspring Valley Road
Stevenson, Maryland 21153

06-128-SPHA

Petition for Special Hearing

11300 Falls Road

Contract Purchaser:

Maryvale Preparatory School, Inc.

Sister Shawn Marie Maguire SND de N Headmistress
By: Sister Shawn Marie Maguire, SND de N, Head Mistress

11300 Falls Road
Brooklandville, Maryland 21022
(410) 252-3366

TO1DOCS1/PAM01/#209605 v1

06-128-SPHA

Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 11300 Falls Road

which is presently zoned RC-2

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 Variance from Section(s)

See Attached

of the Zoning Regulations of Baltimore County, to the zoning law of Baltimore County, for the following reasons: (indicate hardship or practical difficulty)

To be determined at the hearing

Property is to be posted and advertised as prescribed by the zoning regulations.
I, or we, agree to pay expenses of above Variance, advertising, posting, etc. and further agree to and are to be bounded by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.

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

Contract Purchaser/Lessee:

See Attached
Name - Type or Print

Signature

Address Telephone No.

City State Zip Code

Attorney For Petitioner:

Robert A. Hoffman
Name - Type or Print

Signature

Venable LLP
Company

210 Allegheny Avenue 410-494-6262
Address Telephone No.

Towson, MD 21204
City State Zip Code

Legal Owner(s):

See Attached
Name - Type or Print

Signature

Name - Type or Print

Signature

Address Telephone No.

City State Zip Code

Representative to be Contacted:

Robert A. Hoffman
Name

210 Allegheny Avenue 410-494-6262
Address Telephone No.

Towson, MD 21204
City State Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

UNAVAILABLE FOR HEARING
Reviewed By D.T. Date 8/31/05

ORDER RECEIVED FOR FILING
Date 11/16/05
By REV 9/15/98

Case No. 06-128-SPHA

Petition for Variance

11300 Falls Road

Variance from Sections 1A01.3.B.3 and 102.2 of the Baltimore County Zoning Regulations to permit a principal building to principal building setback of 34 feet in lieu of the required 70 feet (Existing School Building and Proposed Performing Arts Building).

ORDER RECEIVED FOR FILING
Date 11/9/06
By

TO1DOCS1/DHK01/#212319 v1

06-128-SPHA

Petition for Variance

11300 Falls Road

Legal Owner:

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

Sister Florence Maier, SND

By: Sister Florence Maier, SND
First Vice President

1531 Greenspring Valley Road
Stevenson, Maryland 21153

06-128-SPHA

Petition for Variance

11300 Falls Road

Contract Purchaser:

Maryvale Preparatory School, Inc.

Sister Shawn Marie Maguire, SND de N. Headmistress

By: Sister Shawn Marie Maguire, SND de N, Head Mistress

11300 Falls Road
Brooklandville, Maryland 21022
(410) 252-3366

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06-128-SPHA

FROM THE OFFICE OF

GEORGE WILLIAM STEPHENS, JR. AND ASSOCIATES, INC.
CONSULTING ENGINEERS • LAND PLANNERS • LAND SURVEYORS
1020 CROMWELL BRIDGE ROAD • TOWSON, MARYLAND 21286-3396

ZONING DESCRIPTION
MARYVALE PROPERTY
107.7667 ACRES +/_

June 23, 2005

Beginning for the description of a 107.7667 Acre more or less Parcel near a fallen Granite Stone found and being measured, as now surveyed, South 70 degrees 09 minutes East 360 feet more or less from the centerline intersection of Greenspring Valley Road and Greenspring Avenue, said point of beginning being at the beginning of the 4th or North 02 degree 48 minute East 134 feet 4 inch line of that parcel of land described in the Deed dated May 14, 1970, between Trinity College Preparatory School, Incorporated and The Baltimore Province of the Sisters of Notre Dame De Namur, Inc., recorded among the Land Records of Baltimore County, Maryland in Liber O.T.G. 5098 folio 248, running thence leaving said point of beginning, for part of the distance binding on all of said 4th line and for part of the distance binding on all of the 5th line of said Deed, in all, as now surveyed,

1) North 03 degrees 29 minutes 44 seconds West 1317.79 feet to a Stone found, running thence binding on all of the 6th through the 42nd lines and part of the 43rd line of said Deed, the thirty eight following courses, as now surveyed,
2) North 06 degrees 13 minutes 11 seconds West 133.75 feet to a Stone found,
3) North 07 degrees 08 minutes 37 seconds West 608.81 feet to a Granite Stone found,
4) North 18 degrees 05 minutes 27 seconds West 73.98 feet,
5) North 10 degrees 29 minutes 33 seconds East 99.97 feet,
6) North 36 degrees 01 minutes 27 seconds West 94.97 feet,
7) North 24 degrees 41 minutes 27 seconds West 60.98 feet,
8) North 24 degrees 44 minutes 41 seconds West 8.99 feet,
9) North 61 degrees 40 minutes 41 seconds West 99.94 feet,
10) North 01 degrees 11 minutes 41 seconds West 239.86 feet,
11) North 48 degrees 28 minutes 19 seconds East 39.98 feet,
12) North 39 degrees 58 minutes 41 seconds West 47.97 feet,
13) North 59 degrees 25 minutes 41 seconds West 59.97 feet,
14) North 19 degrees 49 minutes 41 seconds West 99.94 feet,
15) North 19 degrees 47 minutes 43 seconds West 9.99 feet,
16) North 63 degrees 36 minutes 17 seconds East 51.30 feet,
17) North 06 degrees 23 minutes 43 seconds West 24.97 feet,
18) North 34 degrees 53 minutes 43 seconds West 149.84 feet,
19) North 43 degrees 23 minutes 43 seconds West 84.91 feet,
20) North 69 degrees 53 minutes 43 seconds West 59.94 feet,
21) North 28 degrees 53 minutes 43 seconds West 64.93 feet,
22) North 44 degrees 23 minutes 43 seconds West 119.87 feet,
23) North 15 degrees 06 minutes 17 seconds East 44.95 feet,
24) North 12 degrees 23 minutes 43 seconds West 89.90 feet,
25) North 70 degrees 53 minutes 43 seconds West 274.71 feet,
26) North 34 degrees 23 minutes 43 seconds West 49.95 feet,
27) North 06 degrees 23 minutes 43 seconds West 59.94 feet,

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06-128-SPHA

28) North 13 degrees 36 minutes 17 seconds East 74.92 feet,
29) North 51 degrees 23 minutes 43 seconds West 54.94 feet,
30) North 31 degrees 23 minutes 43 seconds West 49.95 feet,
31) North 31 degrees 36 minutes 17 seconds East 34.96 feet,
32) North 00 degrees 06 minutes 17 seconds East 159.83 feet,
33) North 22 degrees 23 minutes 43 seconds West 49.95 feet,
34) North 17 degrees 36 minutes 17 seconds East 49.95 feet,
35) North 06 degrees 23 minutes 43 seconds West 49.95 feet,
36) North 51 degrees 23 minutes 43 seconds West 54.94 feet,
37) North 06 degrees 23 minutes 43 seconds West 74.92 feet,
38) South 78 degrees 48 minutes 18 seconds East, passing over a Granite Stone found at distance of 20.00 feet, in all, as now surveyed, 140.07 feet to a stone found and
39) South 72 degrees 27 minutes 13 seconds East 4.36 feet to a point at the most northwestern corner of the outline of that parcel of land shown on the Plat entitled "Plat of WESTWICKE", dated March 29, 1996, recorded among the Land Records of Baltimore County, Maryland in Plat Book S.M. 68 folio 88, running thence binding on the western and southern outline of said "Plat of WESTWICKE", the seven following courses, as now surveyed,
40) South 11 degrees 46 minutes 50 seconds East 91.30 feet,
41) South 79 degrees 08 minutes 15 seconds East 285.35 feet,
42) South 19 degrees 55 minutes 51 seconds East 1012.50 feet,
43) South 23 degrees 02 minutes 18 seconds East 655.84 feet,
44) North 21 degrees 43 minutes 00 seconds East 546.34 feet,
45) North 47 degrees 05 minutes 31 seconds East 200.00 feet and
46) South 72 degrees 02 minutes 14 seconds East 1393.93 feet to the northwestern side of Parcel A, shown on said "Plat of WESTWICKE", running thence binding on said northwestern side of said Parcel A, the eight following courses, as now surveyed,
47) North 08 degrees 22 minutes 41 seconds East 294.63 feet,
48) Northeasterly by a tangent curve to the right, having a radius of 359.92 feet for a distance of 231.06 feet, said curve being subtended by a chord bearing North 26 degrees 46 minutes 11 seconds East 227.12 feet,
49) by a line tangent to said curve North 45 degrees 09 minutes 41 seconds East 154.96 feet,
50) Northeasterly by a tangent curve to the left, having a radius of 339.89 feet for a distance of 115.68 feet, said curve being subtended by a chord bearing North 35 degrees 24 minutes 41 seconds East 115.12 feet,
51) Northeasterly by a tangent reversing curve to the right, having a radius of 460.39 feet for a distance of 96.42 feet, said curve being subtended by a chord bearing North 31 degrees 39 minutes 41 seconds East 96.25 feet,
52) by a line tangent to said curve North 37 degrees 39 minutes 41 seconds East 185.20 feet,
53) Northeasterly by a tangent curve to the left, having a radius of 1189.66 feet for a distance of 124.58 feet, said curve being subtended by a chord bearing North 34 degrees 39 minutes 41 seconds East 124.52 feet and
54) by a line tangent to said curve North 31 degrees 39 minutes 41 seconds East 204.86 feet to a point on the southwestern side of the Highway Widening of Falls Road, shown on said Plat, running thence binding on said southwestern side of said Highway Widening and binding on the northeastern side of said Parcel A, as now surveyed,

55) South 39 degrees 17 minutes 29 seconds East 63.48 feet to a 1" Pinched Pipe found, running thence leaving said southwestern side of said Highway Widening, binding on the southeastern side of said Parcel A and binding on part of the most southeastern outline of said "Plat of WESTWICKE , the nine following courses, as now surveyed,

56) South 31 degrees 39 minutes 41 seconds West 184.14 feet,

57) Southwesterly by a tangent curve to the right, having a radius of 1249.66 feet for a distance of 130.86 feet, said curve being subtended by a chord bearing South 34 degrees 39 minutes 41 seconds West 130.80 feet,

58) by a line tangent to said curve South 37 degrees 39 minutes 41 seconds West 185.20 feet,

59) Southwesterly by a tangent curve to the left, having a radius of 400.39 feet for a distance of 83.86 feet, said curve being subtended by a chord bearing South 31 degrees 39 minutes 41 seconds West 83.70 feet,

60) Southwesterly by a tangent reversing curve to the right, having a radius of 399.89 feet for a distance of 136.10 feet, said curve being subtended by a chord bearing South 35 degrees 24 minutes 41 seconds West 135.44 feet,

61) by a line tangent to said curve South 45 degrees 09 minutes 41 seconds West 154.96 feet,

62) Southwesterly by a tangent curve to the left, having a radius of 299.92 feet for a distance of 192.55 feet, said curve being subtended by a chord bearing South 26 degrees 46 minutes 11 seconds West 189.26 feet,

63) by a line tangent to said curve South 08 degrees 22 minutes 41 seconds West 368.06 feet and

64) South 06 degrees 06 minutes 41 seconds West 225.72 feet and to the beginning of the 68th line of said Deed (O.T.G. 5098 folio 248), running thence binding on all of said 68th line, binding on part of the southwestern side of said Parcel A and binding on part of the southern outline of said "Plat of WESTWICKE",

65) North 83 degrees 53 minutes 19 seconds West 10.00 feet, running thence leaving the outline of said "Plat of WESTWICKE", binding on all of the 69th through 74th lines and all of the 1st, 2nd and 3rd lines of said Deed (O.T.G. 5098 folio 248), the nine following courses, as now surveyed,

66) South 08 degrees 58 minutes 25 seconds West 200.25 feet,

67) South 83 degrees 53 minutes 19 seconds East 20.00 feet to a Granite Stone found,

68) South 06 degrees 06 minutes 45 seconds West 558.58 feet to a Granite Stone found,

69) South 86 degrees 07 minutes 45 seconds West 250.00 feet,

70) South 18 degrees 10 minutes 34 seconds West 1118.99 feet to a Granite Stone found,

71) South 01 degrees 56 minutes 19 seconds East 860.73 feet to a Granite Stone found,

72) North 60 degrees 32 minutes 53 seconds West 70.38 feet to a Stone found,

73) North 61 degrees 45 minutes 20 seconds West 740.74 feet and

74) South 84 degrees 24 minutes 40 seconds West 267.67 feet to the point of beginning.

STATE OF MARYLAND
WILLIAM ERNEST HENNING III
No. 21244
REGISTERED
PROFESSIONAL LAND SURVEYOR

6/27/05

The above courses are based on Maryland Coordinate System NAD83/91.

The above Description is for Zoning Purposes Only and is not intended to be used for Conveyances or Agreements.

Containing 107.7667 Acres of land more or less

Being Part of that parcel of land described in the Deed dated May 14, 1970, between Trinity College Preparatory School, Incorporated and The Baltimore Province of the Sisters of Notre Dame De Namur, Inc., recorded among the Land Records of Baltimore County, Maryland in Liber O.T.G. 5098 folio 248.

06-128-SPHA

Tay
11/1

RECEIVED CERTIFICATE OF POSTING

NOV - 2 2005

ZONING COMMISSIONER

RE: Case No.: 06-128-SPHA

Petitioner/Developer: MARYVALE PREPATORY SCHOOL

Date of Hearing/Closing: NOV 1, 2005

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

ATTN: Kristen Matthews {(410) 887-3394}

Ladies and Gentlemen:

This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at: 11300 FALLS RD/ DATE, TIME AND PLACE OF HEARING CHANGE

The sign(s) were posted on 10-24-05
(Month, Day, Year)

Sincerely,

Robert Black 10-26-05
(Signature of Sign Poster) **(Date)**

SSG Robert Black

(Print Name)

1508 Leslie Road

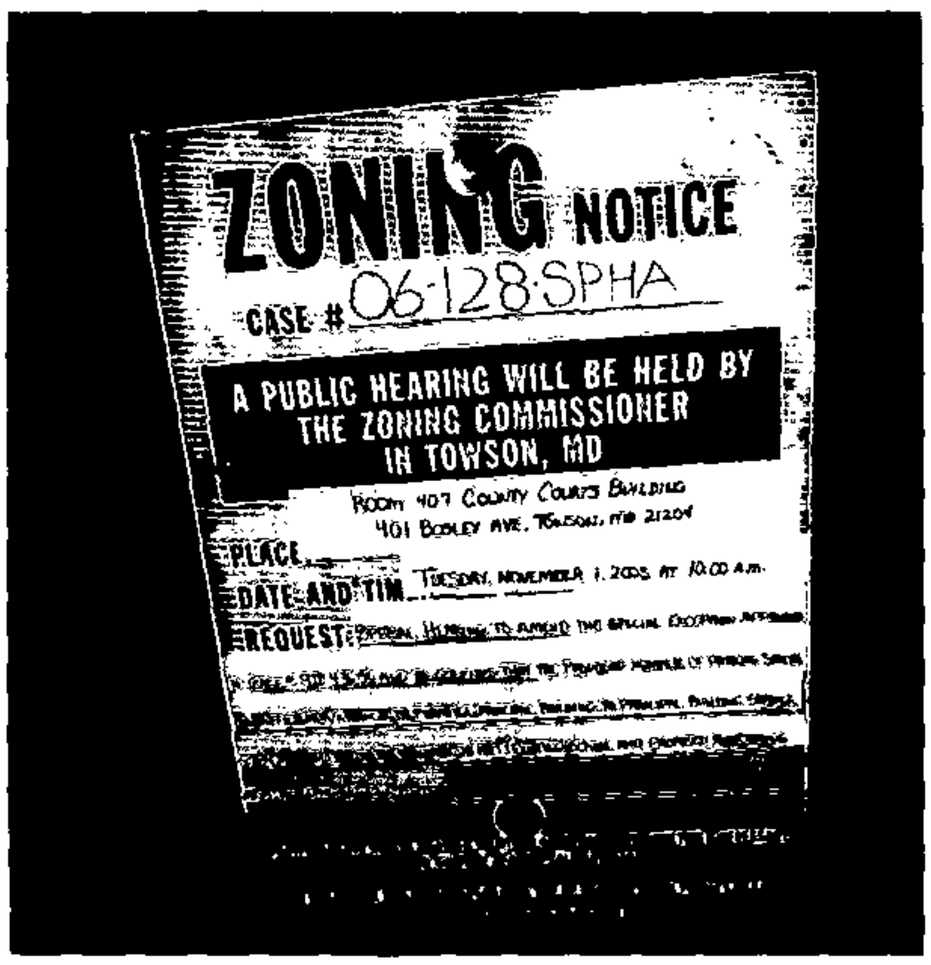
(Address)

Dundalk, Maryland 21222

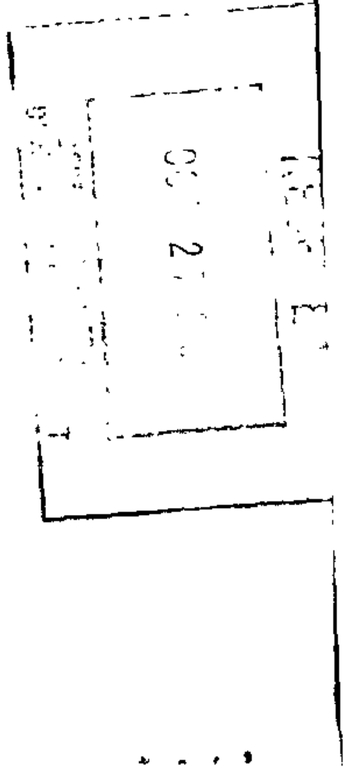
(City, State, Zip Code)

(410) 282-7940

(Telephone Number)



11300 FALLS RD



NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing in Towson, Maryland on the property identified herein as follows:

Case: #06-128-SPHA
11300 Falls Road
N/side of Greenspring Valley Road, 360 feet east of centerline of Greenspring Avenue
8th Election District - 2nd Councilmanic District
Legal Owner(s): The Baltimore Province of Sisters of Notre Dame de Namur, Inc., Sister Florence Maier, SND, Vice President
Contract Purchaser: Maryvale Preparatory School, Inc., sister Shawn Marie Maquire, SND, Head Mistress

Special Hearing: to amend the special exception approved in Case No. 95-435-X and to confirm that the proposed number of parking spaces is sufficient. Variance: to permit a principal building to principal building setback of 34 feet in lieu of the required 70 feet (Existing School and Proposed Performing Arts Building).

Hearing: Wednesday, October 19, 2005 at 2:00 p.m. in Room 106, County Office Building, 111 West Chesapeake Avenue, Towson 21204.

WILLIAM J. WISEMAN, III
Zoning Commissioner for Baltimore County
NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Contact the Zoning Commissioner's Office at (410) 887-4386.
(2) For information concerning the File and/or Hearing, Contact the Zoning Review Office at (410) 887-3391.
JT/10/616 Oct. 4 69713

CERTIFICATE OF PUBLICATION

10/6, 2005

THIS IS TO CERTIFY, that the annexed advertisement was published in the following weekly newspaper published in Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 10/4, 2005.

- [X] The Jeffersonian
- [ ] Arbutus Times
- [ ] Catonsville Times
- [ ] Towson Times
- [ ] Owings Mills Times
- [ ] NE Booster/Reporter
- [ ] North County News

S. Wilkinson

LEGAL ADVERTISING

CERTIFICATE OF POSTING

RE: Case No.: 06-128-SPHA

Petitioner/Developer: MARYVALE PREPARATORY SCHOOL, SISTER SHAWN MARIE MAQUIRE, SND

Date of Hearing/Closing: OCT 19, 2005

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

ATTN: Kristen Matthews {(410) 887-3394}

Ladies and Gentlemen:

This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at:

11300 FALLS RD

The sign(s) were posted on 10-2-05
(Month, Day, Year)

Sincerely,

Robert Black 10-3-05
(Signature of Sign Poster) (Date)

SSG Robert Black

(Print Name)

1508 Leslie Road

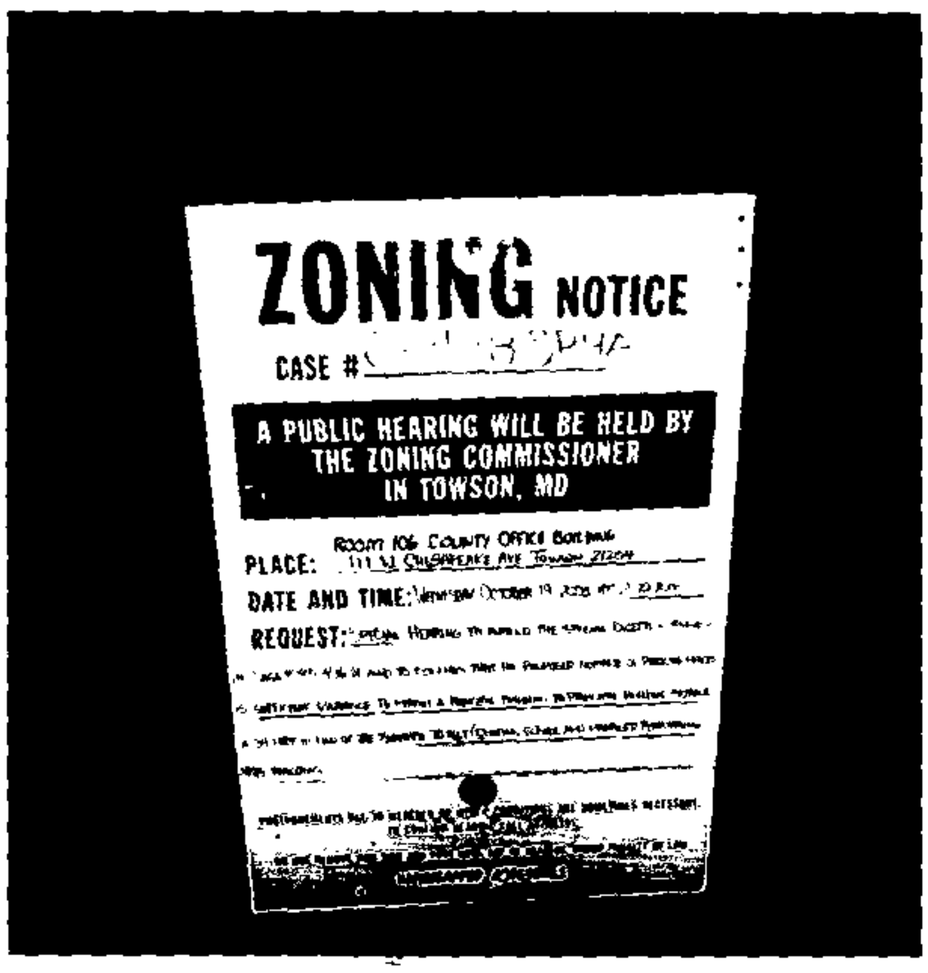
(Address)

Dundalk, Maryland 21222

(City, State, Zip Code)

(410) 282-7940

(Telephone Number)



11300 FALLS RD

RECEIVED
OCT 5 2005

DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT
ZONING REVIEW

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The Baltimore County Zoning Regulations (BCZR) require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property (responsibility of the petitioner) and placement of a notice in a newspaper of general circulation in the County, both at least fifteen (15) days before the hearing.

Zoning Review will ensure that the legal requirements for advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements. The newspaper will bill the person listed below for the advertising. This advertising is due upon receipt and should be remitted directly to the newspaper.

OPINIONS MAY NOT BE ISSUED UNTIL ALL ADVERTISING COSTS ARE PAID.

For Newspaper Advertising:

Item Number or Case Number: 06-128-SPHA

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

Address or Location: 11300 Falls Road

PLEASE FORWARD ADVERTISING BILL TO:

Name: Amy Dontell, Venable LLP

Address: 210 Allegheny Avenue
Towson, Maryland 21204

Telephone Number: 410 494-6285

Revised 2/20/98 - SCJ

HNS

TO: PATUXENT PUBLISHING COMPANY
Tuesday, October 4, 2005 Issue - Jeffersonian

Please forward billing to:
Amy Dontell
Venable, LLP
210 Allegheny Avenue
Towson, MD 21204

410-494-6285

NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 06-128-SPHA
11300 Falls Road
N/side of Greenspring Valley Road, 360 feet east of centerline of Greenspring Avenue
8th Election District – 2nd Councilmanic District
Legal Owners: The Baltimore Province of Sisters of Notre Dame de Namur, Inc., Sister Florence Maier, SND, Vice President
Contract Purchaser: Maryvale Preparatory School, Inc., Sister Shawn Marie Maquire, SND, Head Mistress

Special Hearing to amend the special exception approved in Case No. 95-435-X and to confirm that the proposed number of parking spaces is sufficient. Variance to permit a principal building to principal building setback of 34 feet in lieu of the required 70 feet (Existing School and Proposed Performing Arts Building).

Hearing: Wednesday, October 19, 2005 at 2:00 p.m. in Room 106, County Office Building, 111 West Chesapeake Avenue, Towson 21204

WILLIAM J WISEMAN III
ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMODATIONS, PLEASE CONTACT THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

**Department of Permits
Development Management**

Director's Office
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204
Tel: 410-887-3353 • Fax: 410-887-5708

Baltimore County

James T. Smith, Jr., County Executive
Timothy M. Kotroco, Director

September 15, 2005

NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 06-128-SPHA
11300 Falls Road
N/side of Greenspring Valley Road, 360 feet east of centerline of Greenspring Avenue
8th Election District – 2nd Councilmanic District
Legal Owners: The Baltimore Province of Sisters of Notre Dame de Namur, Inc., Sister Florence Maier, SND, Vice President
Contract Purchaser: Maryvale Preparatory School, Inc., Sister Shawn Marie Maquire, SND, Head Mistress

Special Hearing to amend the special exception approved in Case No. 95-435-X and to confirm that the proposed number of parking spaces is sufficient. Variance to permit a principal building to principal building setback of 34 feet in lieu of the required 70 feet (Existing School and Proposed Performing Arts Building).

Hearing: Wednesday, October 19, 2005 at 2:00 p.m. in Room 106, County Office Building, 111 West Chesapeake Avenue, Towson 21204

Timothy Kotroco
Director

TK:klm

C: Robert Hoffman, 210 Allegheny Ave., Towson 21204
Sister Florence Maier, 1531 Greenspring Valley Road, Stevenson 21153
Sister Shawn Marie Maguire 11300 Falls Road, Brooklandville 21022

NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY TUESDAY, OCTOBER 4, 2005.**
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

County Board of Appeals of Baltimore County

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

COMPLETED

APR 7 2006

WHITEFORD, TAYLOR, & PRESTON

Hearing Room - Room 48
Old Courthouse, 400 Washington Avenue

April 3, 2006

NOTICE OF ASSIGNMENT

CASE #: 06-128-SPHA

IN THE MATTER OF: BALTIMORE PROVINCE OF SSND de NAMUR, INC. – LEGAL OWNER; MARYVALE PREPARATORY SCHOOL, INC. – CP 11300 Falls Road 8th E; 2nd C
SPH – To amend prior SE in 95-435-X as amended in VIII-651 and confirmation as to parking sufficiency; VAR – existing and proposed building setbacks.
1/10/2006 – Z.C.'s Order in which requested zoning relief was GRANTED subject to restrictions.

and

CASE #: CBA-06-006

RE: Decision of Director of PDM / DRC determination that project meets definition of refinement to Development Plan.
2/01/06 – Letter from Timothy Kotroco, Director, Department of Permits and Development Management in which the recommendations of the DRC were adopted subject to conditions.

ASSIGNED FOR:

TUESDAY, JULY 25, 2006 at 10:00 a.m. /Day #1
WEDNESDAY, JULY 26, 2006 at 10:00 a.m. /Day #2
THURSDAY, AUGUST 3, 2006 at 10:00 a.m. /Day #3
TUESDAY, AUGUST 8, 2006 at 10:00 a.m. /Day #4 and
WEDNESDAY, AUGUST 9, 2006 at 10:00 a.m. /Day #5

NOTICE: This is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney.

NOTE: The Board's Rules of Practice & Procedure are found in *Baltimore County Code, Appendix 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 : G. Macy Nelson, Esquire
Appellants /Protestants : The Valleys Planning Council
Gary Gensler Jack Schpiro Lance Roth
Laurie Stubb Carl Schramm Ellyn Brown
Additional Appellants /Protestants : Douglas Carroll Harold H. Burns, Jr.

Counsel for Petitioners : Robert A. Hoffman, Esquire Jennifer Busse, Esquire
Petitioners : Sister Shawn Maguire /Maryvale Preparatory School
Marci Reihart

David Martin & Rick Chadsey /GW Stephens Jr & Assoc, Inc.
Mickey Cornelius /The Traffic Group

Office of People's Counsel
Pat Keller, Director /Planning
William J. Wiseman III /Zoning Commissioner
Walt Smith, Development Manager /PDM
Timothy M. Kotroco, Director /PDM

Printed with Soybean Ink on Recycled Paper

G. MACY NELSON
ATTORNEY AT LAW

SUITE 803
401 WASHINGTON AVENUE
TOWSON, MARYLAND 21204

TELEPHONE
(410) 296-8166

FACSIMILE
(410) 825-0670

April 12, 2006

Ms. Kathleen C. Bianco, Administrator
County Board of Appeals of Baltimore County
Room 419, Old Courthouse
400 Washington Avenue
Towson, Maryland 21204

Re: *Case No. 06-128-SPHA*
Case No. CGA-06-006
In the Matter of: Baltimore Province of SSND de Namur, Inc. –
Legal Owners: Maryvale Preparatory School, Inc.

Dear Ms. Bianco:

Thank you for forwarding the Notice of Assignment in the Maryvale case. I will be out of the country on July 25th , July 26th and August 3rd , 2006. Therefore, I am requesting that those dates be changed. Perhaps Mr. Hoffman and I could come to your office to pick five dates that are acceptable to the Board and the parties.

Very truly yours,

G. Macy Nelson

G. Macy Nelson

GMN:ro
cc: Robert Hoffman

RECEIVED
APR 13 2006
BALTIMORE COUNTY
BOARD OF APPEALS

Kathleen Bianco - Merryvale

From: Linda Fliegel
To: Kathleen Bianco
Date: 4/18/2006 8:46 AM
Subject: Merryvale

Dear Kathi,

Mr. Karceski called this morning, he wanted to talk to you about Merryvale. Please call him at (410)494-6200.

Thanks.

3-1-5

8/21 and 8/28 - OK for Dorothy

David and Mary to check w/ clients one day week of 8/21 (~~8/23~~ DK MN ~~MB~~) ~~8/24~~ DK MN ~~MB~~ and week of 2 days

8/08 8/29
8/09 8/30
holding 8/31

DK MN MB 8/30
DK MN MB 8/29
DK MN MB 8/31

G. MACY NELSON
ATTORNEY AT LAW

SUITE 803
401 WASHINGTON AVENUE
TOWSON, MARYLAND 21204

TELEPHONE
(410) 296-8166

FACSIMILE
(410) 825-0670

April 12, 2006

Ms. Kathleen C. Bianco, Administrator
County Board of Appeals of Baltimore County
Room 419, Old Courthouse
400 Washington Avenue
Towson, Maryland 21204

Re: *Case No. 06-128-SPHA*
Case No. CGA-06-006
In the Matter of: Baltimore Province of SSND de Namur, Inc. –
Legal Owners: Maryvale Preparatory School, Inc.

Dear Ms. Bianco:

Thank you for forwarding the Notice of Assignment in the Maryvale case. I will be out of the country on July 25th , July 26th and August 3rd , 2006. Therefore, I am requesting that those dates be changed. Perhaps Mr. Hoffman and I could come to your office to pick five dates that are acceptable to the Board and the parties.

Very truly yours,

G. Macy Nelson

G. Macy Nelson

GMN:ro
cc: Robert Hoffman

Withdrawn 8/21 (1) day
" " 8/28 (2) days
3-1-5

RECEIVED
APR 13 2006
BALTIMORE COUNTY
BOARD OF APPEALS

G. MACY NELSON
ATTORNEY AT LAW

SUITE 803
401 WASHINGTON AVENUE
TOWSON, MARYLAND 21204

TELEPHONE
(410) 296-8166

FACSIMILE
(410) 825-0670

April 12, 2006

Ms. Kathleen C. Bianco, Administrator
County Board of Appeals of Baltimore County
Room 419, Old Courthouse
400 Washington Avenue
Towson, Maryland 21204

Re: *Case No. 06-128-SPHA*
Case No. CGA-06-006
In the Matter of: Baltimore Province of SSND de Namur, Inc. –
Legal Owners: Maryvale Preparatory School, Inc.

Dear Ms. Bianco:

Thank you for forwarding the Notice of Assignment in the Maryvale case. I will be out of the country on July 25th , July 26th and August 3rd , 2006. Therefore, I am requesting that those dates be changed. Perhaps Mr. Hoffman and I could come to your office to pick five dates that are acceptable to the Board and the parties.

Very truly yours,

G. Macy Nelson

G. Macy Nelson

GMN:ro
cc: Robert Hoffman

RECEIVED
APR 13 2006
BALTIMORE COUNTY
BOARD OF APPEALS

VENABLE® LLP

210 Allegheny Avenue
Post Office Box 5517
Towson, Maryland 21285-5517

Telephone 410-494-6200
Facsimile 410-821-0147

www.venable.com

Robert A. Hoffman | 410-494-6262 | rahoffman@venable.com

May 11, 2006

Via Hand-Delivery

Kathleen C. Bianco, Administrator
County Board of Appeals
for Baltimore County
Old Courthouse, Room 49
400 Washington Avenue
Towson, Maryland 21204

Re: Maryvale Preparatory School
Case No. 06-128-SPH & CBA-06-006
11300 Falls Road

Dear Ms. Bianco:

I am writing regarding the Board of Appeals hearing in the above-referenced matter. The hearing is now scheduled for August 8, 9, 29, 30 and 31, 2006. Unfortunately, there has been a miscommunication concerning our availability to attend the hearing on these dates, and counsel is not available on one of those dates. For this reason, I am requesting by way of this letter that new dates be scheduled.

I understand that September 6, 7, 14, 19, and 20, 2006, are available hearing dates, and I have confirmed that these dates are acceptable to Mr. Nelson.

If you have any questions, please do not hesitate to contact me. Thank you for your assistance with this matter.

Very truly yours,

Robert A. Hoffman

RAH/ad
cc: G. Macy Nelson, Esquire

TO1DOCS1/#226037v1

RECEIVED
MAY 15 2006
BALTIMORE COUNTY
BOARD OF APPEALS

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 May 15, 2006

SECOND NOTICE OF POSTPONEMENT & REASSIGNMENT

CASE #: 06-128- SPHA

IN THE MATTER OF: BALTIMORE PROVINCE OF SSND de NAMUR, INC.; MARYVALE PREPARATORY SCHOOL, INC. – LO 11300 Falls Road 8th E; 2nd C
SPH – To amend prior SE in 95-435-X as amended in VIII-651 and confirmation as to parking sufficiency; VAR – existing and proposed building setbacks.

and

CASE #: CBA-06-006

RE: Decision of Director of PDM / DRC determination that project meets definition of refinement to Development Plan.

which had been reassigned to 5 days in August **has been POSTPONED and reassigned** as follows at the request of Counsel for Petitioner; and, **all dates having been confirmed with counsel,** has been

REASSIGNED FOR:

WEDNESDAY, SEPTEMBER 6, 2006 at 10:00 a.m. /Day #1
THURSDAY, SEPTEMBER 7, 2006 at 10:00 a.m. /Day #2
THURSDAY, SEPTEMBER 14, 2006 at 10:00 a.m. /Day #3
TUESDAY, SEPTEMBER 19, 2006 at 10:00 a.m. /Day #4 and
WEDNESDAY, SEPTEMBER 20, 2006 at 10:00 a.m. /Day #5

NOTICE: This is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney.

NOTE: The Board's Rules of Practice & Procedure are found in *Baltimore County Code, Appendix 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 : ~~G. Macy Nelson~~, Esquire Michael McCann
Appellants /Protestants : The Valleys Planning Council
Gary Gensler Jack Shapiro Lance Roth
Laurie Stubb Carl Schramm Ellyn Brown
Additional Appellants /Protestants : Douglas Carroll Harold H. Burns, Jr.

Counsel for Petitioners : Robert A. Hoffman, Esquire
Petitioners : Sister Shawn Maguire /Maryvale Preparatory School
Marci Reihart

David Martin & Rick Chadsey /GW Stephens Jr & Assoc, Inc.
Mickey Cornelius /The Traffic Group

Carol and Michael Choti

Office of People's Counsel
Pat Keller, Director /Planning
William J. Wiseman III /Zoning Commissioner
Walt Smith, Development Manager /PDM
Timothy M. Kotroco, Director /PDM

Printed with Soybean Ink on Recycled Paper

From: Kathleen Bianco
To: Rebecca Wheatley
Date: 4/18/2006 10:56:48 AM
Subject: Maryvale dates

Rebecca:

I'm still waiting for confirmation calls from Macy Nelson and David Karceski regarding the three new dates needed for Maryvale (Macy unavailable on first three dates) - checking with clients and witnesses.

The dates I am are working with are: one day the week of August 21 (either 8/23 or 8/24) and
two days the week of August 28 (utilizing 8/29, 8/30 and/or 8/31)

that would give me a total of three additional days to replace the three days that Macy is out of town.

I also have to keep the same three members sitting for the first two dates (now 8/08 and 8/09).

I should have more information on this by tomorrow - Macy asked for 24 hours to contact his clients, etc.

Just an FYI and update.

kathi

Rec Rebecca -
Received not
yet on this -
no need to worry
dates.

County Board of Appeals of Baltimore County

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

Sept. 1, 2006

Via Facsimile and and U.S. Mail

Harold H. Burns, Jr., Esquire
210 E. Lexington Street – Suite 201
Baltimore, MD 21202-3514

Michael R. McCann, Esquire
36 South Charles Street – 12th Floor
Baltimore, MD 21201-3111

Re: The Baltimore Province of Sisters of Notre Dame de Namur, Inc. – Owners and Maryvale Preparatory School, Inc., C/ P – Petitioners
11300 Falls Road
Case Nos.: 06-128-SPHA and CBA-06-006

Dear Counsels:

The Board is in receipt of your respective letters regarding a postponement of the subject hearing which is schedule to begin on Wednesday, September 6, 2006 at 10:00 a.m.

Unless all parties agree to this postponement request you must anticipate going forward with the hearing.

Please contact the Board if you should have any questions.

Very truly yours,

Kathleen C. Bianco

Kathleen C. Bianco
Administrator

cc: Robert Hoffman, Esq.

Printed with Soybean Ink
on Recycled Paper

FAX COVER SHEET

For You, For Baltimore County

Census 2000

Count Yourself in Maryland's Future!

Date: Sept 1, 2006

Number of Pages including cover sheet: 2

To:
Harold H. Burns, Jr Esq
(410) 576-7610
Michael R. McCann, Esq
(410) 659-7773
Robert A. Hoffman, ESQ
(410) 821-0147
Hearing
Re: Maryvale - 9/6/06

From: Linda Fliegel, Secret.
County Board of Appeals
400 Washington Ave., Rm. 49
Towson, MD 21204

Phone: (410) 887-3180
Fax # (410) 887-3182

REMARKS: ☐ Urgent ☐ For your review ☐ Reply ASAP ☐ Please comment

Re: Response to requests to postponement

WHITEFORD, TAYLOR & PRESTON
L.L.P.

210 WEST PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204-4515
410 832-2000
FAX 410 832-2015
www.wtplaw.com

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

20 COLUMBIA CORPORATE CENTER
10420 LITTLE PATUXENT PARKWAY
COLUMBIA, MARYLAND 21044-3528
TELEPHONE 410 884-0700
FAX 410 884-0719

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

JENNIFER R. BUSSE
DIRECT NUMBER
410 832-2077
jbusse@wtplaw.com

November 18, 2005

Ms. Kathleen C. Bianco
Administrator
County Board of Appeals of Baltimore County
Room 49, Old Courthouse
400 Washington Avenue
Towson, Maryland 21204

Re: Case No. 06-128-SPHA
Case No. CBA-06-006
In the Matter of: Baltimore Province of SSND de Namur, Inc. – Legal Owner; Maryvale Preparatory School, Inc.

Dear Ms. Bianco:

I am in receipt of your Notice of Assignment in the above-referenced matter. Please remove me from any further notifications with regard to this case. My client was the former owner of the property. The Maryvale Preparatory School, Inc. is now the owner of the property. Thank you for your attention to this matter.

Sincerely,

Jennifer R. Busse

JRB:tdm
Enclosure
cc: Joseph J. Mezzanotte, Esquire
Robert A. Hoffman, Esquire
G. Macy Nelson, Esquire
358791

RECEIVED
APR 10 2006
BALTIMORE COUNTY
BOARD OF APPEALS

APPEAL SIGN POSTING REQUEST

CASE NO. 06-128-SPHA

11300FALLS ROAD – MARYVALE PREP. SCHOOL

8 TH ELECTION DISTRICT APPEALED: 2/3/06

ATTACHMENT – (Plan to accompany Petition – Petitioner's Exhibit No. 1)

*****COMPLETE AND RETURN BELOW INFORMATION******

CERTIFICATE OF POSTING

TO: Baltimore County Board of Appeals
400 Washington Avenue, Room 49
Towson, MD 21204

Attention: Kathleen Bianco
Administrator

CASE NO.: 06-128-SPHA

RECEIVED
APR - 6 2006
BALTIMORE COUNTY
BOARD OF APPEALS

LEGAL OWNER: THE BALTIMOREPROVINCE OF THE SISTERS OF NOTRE DAME de NAMUR, INC.

This is to certify that the necessary appeal sign was posted conspicuously on the property located at:

11300 FALLS ROAD –
NORTH SIDE OF GREENSPRING ROAD

The sign was posted on April 5, 2006.

By: _____
(Signature of Sign Poster)

Jeff Ruhlfs
(Print Name)

map 18 B13

County Board of Appeals of Baltimore County

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

January 14, 2008

NOTICE OF DELIBERATION

IN THE MATTER OF:

IN THE MATTER OF: MARYVALE PREPARATORY SCHOOL;
SCHOOL SISTERS OF NOTRE DAME / PDM IX-703
Case No. CBA-06-006

Having heard this matter on 1/10/08, public deliberation has been scheduled as follows:

DATE AND TIME : **TUESDAY, FEBRUARY 12, 2008 at 9:00 a.m.**

LOCATION : **Hearing Room 48, Basement, Old Courthouse**

NOTE: Closing briefs are due on **Monday, February 4, 2008**
(Original and three [3] copies)

NOTE: ALL PUBLIC DELIBERATIONS ARE OPEN SESSIONS; HOWEVER, ATTENDANCE IS NOT REQUIRED. A WRITTEN OPINION /ORDER WILL BE ISSUED BY THE BOARD AND A COPY SENT TO ALL PARTIES.

Kathleen C. Bianco
Administrator

---

c: Counsel for Appellants /Protestants : Michael R. McCann, Esquire
Appellants /Protestants : The Valleys Planning Council
Gary Gensler Jack Shapiro Lance Roth
Laurie Stubb Carl Schramm Ellyn Brown
Falls Road Community Association
Harold H. Burns, Jr.
Douglas Carroll

Counsel for Petitioners : Robert A. Hoffman, Esquire
Petitioners : Sister Shawn Maguire /Maryvale Preparatory School

Marci Reihart
David Martin & Rick Chadsey /GW Stephens Jr & Assoc, Inc.
Mickey Cornelius /The Traffic Group

Carol and Michael Choti

Pat Keller, Director /Planning
Walt Smith, Development Manager /PDM
Timothy M. Kotroco, Director /PDM

fyi copy: 7-3-4

Printed with Soybean Ink
on Recycled Paper

Baltimore County Government
Department of Permits and
Development Management

111 West Chesapeake Avenue
Towson, MD 21204

410-887-3335
410-887-2877(fax)

February 1, 2006

Venable LLP
210 Allegheny Avenue
Post Office Box 5517
Towson, MD 21285-5517

RE: Westwicke/Maryvale School
PDM Number VIII-651
DRC Number 121905A; Dist. 8C2

Dear Sir or Madam:

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 Sections 32-1-101, 32-3-401, and 32-3-517 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 32-4-106 and Section 32-4-262 of the Baltimore County Code and to make recommendations to the Director, Department of Permits and Development Management (PDM).

The DRC has, in fact, met in an open meeting on January 17, 2006, and made the following recommendations:

The DRC has determined that your project meets the requirements of refinement to the development plan; under Section 32-4-106(b)(2). It is necessary to submit a plan to the Department of Environmental Protection and Resource Management, the Office of Planning, PDM's Office of Zoning, Development Plans Review, and Recreation and Parks for further review. Please forward the plans, along with five copies of this DRC letter, to Room 123, County Office Building; 111 West Chesapeake Avenue; Towson, MD 21204.

App. Hats Exh. 6.7 #10

(over)

After resolution of any outstanding issues, please submit a copy of this letter, and ten copies of the plan to this office, Room 123, for signature.

I have reviewed the recommendations carefully, and I have determined to adopt the recommendations set forth above. It is this 1st day of February, 2006, ordered and decided that the recommendations of the DRC are hereby adopted.

Should you submit an application for any permits that may be required for this project, your application will be processed subject to the conditions set forth above and any plans, securities, or non-county permits that may be required in accordance with County, State, or Federal regulations.

Additionally, this project is located on a state road; therefore, the State Highway Administration requires the plan to be reviewed prior to the permit approval. For further information, contact Larry Gredlein at 410-545-5600.

Sincerely,

Timothy Kotroco

Timothy Kotroco
Director

TK:DTR:sem

c: Kristin Weis
File
Larry Gredlein

BALTIMORE COUNTY
DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT

DEVELOPMENT REVIEW COMMITTEE (DRC) APPLICATION

DRC# 121905A
County Use Only

Filing Date: _____
Stamp in w/PDM date stamp here

This application must be accompanied by the following:

1. **One copy of the completed DRC application form checklist.**
2. **Three copies of this DRC application, completed in full.**
3. **Three copies of a letter of request (attach one to each DRC application).**
4. **Nine copies of the plan folded to 8 ½ x 11 inches.**
5. **$50 fee (check made payable to Baltimore County and non-refundable; do *not* staple check to request form)**

Project Name: WESTWICKE/MARYVALE SCHOOL PDM File #: VIII-651

Project Address: 11300 FALLS RD Zip Code: 21093 ADC Map #: 18-B-13

Councilmanic District: 2 Election District: 8 Project Acreage: 113.3 +/-

Tax Account No(s): 08-20-060828 Zoning: RC-2

Engineer: O.W. STEPHENS & ASSOC., INC. Engineer's Phone No.: 410-825-8120

Applicant: MARYVALE SCHOOL Applicant's Phone No.: 410-494-6202 %
ROB HOFFMAN

Address: 11300 FALLS RD
BROOKLANDVILLE, MD Zip 21022 Email: dmartin@owstephens.com

Is this an antenna? ___Yes ✓No If "Yes" check one of the following: Cellular ____ Water Tower ____ MonoPole _____
(CAC) (WTC) (CFC)

REQUESTED ACTION (TO BE COMPLETED BY THE APPLICANT)

(✓) Limited Exemption under Section ~~26-171~~ 32-4-106.b.2 (____) (____)
( ) Material Amendment to the plan
(✓) Plan Refinement
( ) Waiver of public works standards
( ) Requires a Zoning ( ) Special Hearing; ( ) Special Exception; ( ) Variance
( ) Other _____

Table 2
DAVID KOROSKI

This application must be accompanied by a written request. That request must be in the form of a letter, legibly printed or typed, and signed by the applicant. The letter must contain the name, address and telephone number of the applicant and must provide details of the request.

Please note that a DRC application form checklist is available in room 123 of the Baltimore County Office Building and on the Baltimore County web site at www.co.ba.md.us. A copy of that checklist must be completed and included along with this DRC application.

Re All Agency
W/SHA

Please see the DRC application form checklist for complete submittal requirements.

c: Council, Planning, DEPRM

1-23-06

2/11/2002

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 057

DATE 11-30-05 ACCOUNT R-006-6150

AMOUNT $ 50.00

RECEIVED FROM: Woodlawn Baptist Church

FOR: Woodlawn Middle School

ORIGINAL YEARBOOK

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

CASHIER'S VALIDATION

BALTIMORE COUNTY
DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT

Development Review Committee (DRC) Application Form Checklist

All applications to the DRC must include the following:

✓ 1. Three copies of the DRC Application.
✓ 2. Three copies (one attached to each DRC Application) of a letter of request to the DRC containing the following:
  ✓ a. Name, address and phone number of the applicant
  ✓ b. Explanation of the request to the DRC.
  ✓ c. Signature of the applicant.
✓ 3. Nine copies of a plan*** showing the following:
  ✓ a. A plan title box noting "Plan to accompany DRC request."
  ✓ b. North arrow.
  ✓ c. Vicinity map.
  ✓ d. Election district.
  ✓ e. Councilmanic district.
  ✓ f. Property tax account numbers.
  ✓ g. Site property owner's name and address.
  ✓ h. Scale of the drawing.
  ✓ i. Boundaries of the property lines shown in heavy bold lines.
  ✓ j. Lengths of property lines
  ✓ k. Area of project site in square feet and acreage.
  ✓ l. Proposed structures, heights and dimensions.
  ✓ m. Setbacks.
  ✓ n. Location of existing wells and septic systems.
  ✓ o. Zoning information:
    ✓ 1. Current zoning on the property.
    ✓ 2. Case numbers of any zoning hearings.
    ✓ 3. Dates of zoning orders.
    ✓ 4. Indication of what was granted or denied by the zoning commissioner.
    ✓ 5. Copies of zoning orders attached to the DRC Application.

***Note: For refinements and material changes to previously approved plans you must use copies of the last approved plan to show items 3a-o listed above. Please show all changes in red.

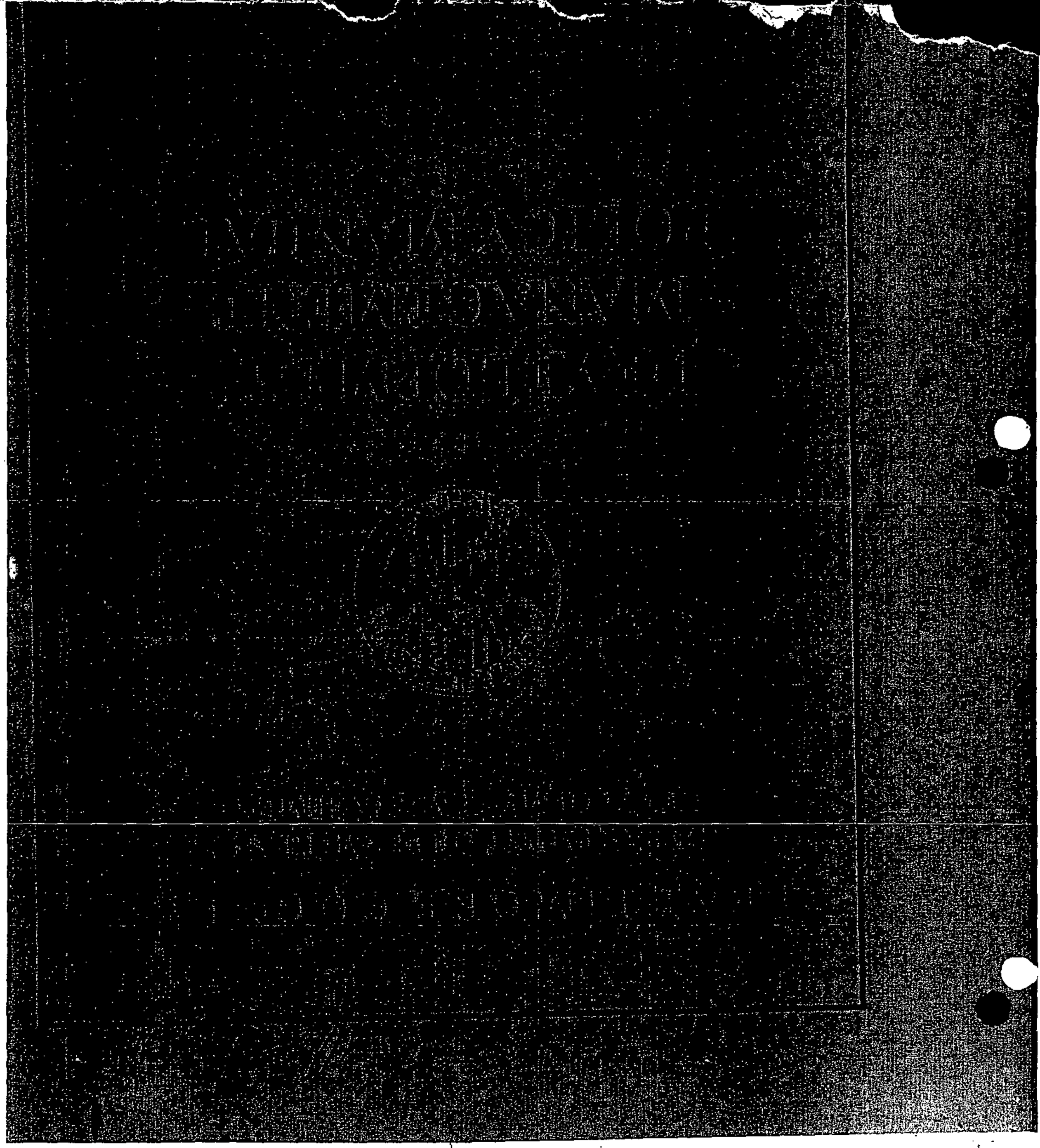
✓ 4. One copy of this checklist completed and signed by the applicant or the consultant.
✓ 5. Check for $50 payable to Baltimore County, MD (do not staple to forms).

I have reviewed the DRC application and plan using this checklist to insure that the application and plan are complete. I understand that an incomplete application or plan may cause the DRC to delay its action on this request.

Signed David L Martin 11/29/05
Date

Print Name DAVID L. MARTIN

2/12/2002



Baltimore County

Department of Permits and Development Management

Development Management Policy Manual

2002 Edition
Originally Printed as Amended Through April 2002

Arnold Jablon, Director
Department of Permits and
Development Management

Adopted July 1, 1993
Revised 11/95, 07/98, 09/99, 05/00, 02/02, 03/02, 04/02

Appellants Exhibit 12

TABLE OF CONTENTS

I. DEVELOPMENT REVIEW COMMITTEE (DRC)	I	
a. Amendments to Approved County Review Group Plan	I.a	1
b. Development Review Committee Format	I.b	4
c. Exemptions from Development Process	I.c	5
d. Development Plans Receiving Waivers to Hearing Officer's Hearing	I.d	7
e. Changes to Approved Development Plans	I.e	8
f. Seal on Limited Exemption Plan	I.f	10
II. MINOR SUBDIVISION PROCESS	II	
a. Procedure for Minor Subdivision	II.a	11
b. Recording of Minor Subdivision Procedures	II.b	13
c. Minor Subdivision Filing Procedures	II.c	14
d. Minor Subdivision - Basic Filing Certification	II.d	16
e. Minor Subdivision - Panhandle Lots	II.e	18
f. Minor Subdivision Filing Information and Checklists	II.f	20
g. Posting of Minor Subdivisions	II.g	31
III. COMMUNITY INPUT MEETING	III	32
a. CIM Office Policies		
IV. CERTIFICATION OF DEVELOPMENT PLAN AND PHASE II PLANS (Seals)	IV	34
V. CRG/DEVELOPMENT PLAN NOTICE	V	35
VI. RED-LINED DEVELOPMENT PLANS	VI	36
VII. COLLECTION OF SYSTEMS CONNECTION CHARGES	VII	38

TABLE OF CONTENTS

	Policy No.	Page
VIII. PRE-APPROVED BUILDING PERMIT PROCESS	VIII	39
IX. POLICY FOR THE CONSTRUCTION OF IMPROVEMENTS UNDER PRIVATE CONTRACTS	IX	40
X. NOISE MITIGATION	X	49
XI. ADEQUATE PUBLIC FACILITIES – CONDITIONAL DEVELOPMENT APPROVAL	XI	52
XII. STREET NAMES AND ADDRESSES	XII	56

APPENDIX

Appendix A	Approval of Original PDM Policy Manual by Office of Law	59
Appendix B	Notice of Hearing for Adoption of Original PDM Policy Manual	60
Appendix C	Notice of Hearing for Adoption of Policy Number IX, Construction of Improvements Under Private Contract	61
Appendix D	Notice of Hearing for Adoption of Policy Number X, Noise Mitigation	62
Appendix E	Notice of Hearing for Adoption of Policy Number XI, Adequate Public Facilities – Conditional Development Approval	63
Appendix F	Notice of Hearing for Adoption of Policy Number XII, Posting of Minor Subdivisions	64
Appendix G	Notice of Hearing for Adoption of Policy Number XIII, Street Names And Addresses	65

PDM - POLICY NO. I.a

DEVELOPMENT REGULATIONS
COMPREHENSIVE MANUAL OF ADMINISTRATIVE POLICIES
(CMAP)

AMENDMENTS TO APPROVED COUNTY REVIEW GROUP PLAN

I. Material Amendment

A. Under Sections 22-55, Baltimore County Code (BCC), a plan is defined as follows:

"The plan shall set forth an informative, conceptual and schematic representation of the proposed development by means of maps, graphs, charts or other written or drawn documents so as to enable the county and all reviewing agencies an opportunity to make reasonably informed decisions regarding the development."

B. Under Sections 22-63, BCC, "any material amendment to an approved plan shall be reviewed and approved in the same manner as the original plan."

C. An amendment or combination of amendments to any of the plan items set out in Sections 22-55(b), BCC, shall be considered a "material amendment" if it or they:
   1. Represents a fundamental departure from or material alteration of the original county review group (CRG) concept; or
   2. Has a significant effect on neighboring property, or the neighborhood at large, different from the approved plan.

II. Non-Material Amendment

A. Under Sections 22-43, BCC, amendments to an approved plan which do not materially alter the proposed development may be approved by the Baltimore County Planning Board, with a waiver of CRG meeting, if the director of the Office of Planning finds that:
   1. The size, scope, and nature of a proposed development does not justify strict compliance with these regulations; and
   2. A waiver would be within the scope, purpose and intent of these regulations; and
   3. All other county laws, ordinances, and regulations have been complied with.

B. Thus, a "non-material amendment," which may be approved by the Planning Board with a waiver of CRG meeting, would be any change to an approved plan which does NOT:
   1. Materially alter the original plan concept; or
   2. Have any additional and significant impact on neighboring property or the neighborhood at large.

V. Approved Plans

A. All changes to an approved plan, whether amendments, refinements, or corrections, will necessitate an updated, approved (by signature) CRG plan.
B. In the case of refinements and corrections, "red lining" of approved plans will probably be acceptable.

Pursuant to Baltimore County Code, Section 22-49, Rules of Procedure, this policy is adopted as part of the CRG Comprehensive Manual of Administrative Procedures (CMAP).

(Original Signed by Gene Neff) — 5/25/87
Gene Neff, Acting Director — Date
Department of Public Works

(Original Signed by Norman E. Gerber) — 5/25/87
Norman E. Gerber, AICP, Director — Date
Office of Planning and Zoning

PDM - POLICY NO. I.e

CHANGES TO APPROVED DEVELOPMENT PLANS

Pursuant to Section 26-206, Baltimore County Code (BCC), all proposed development, as that term is defined in Section 26-168, BCC, must be approved by the zoning commissioner after a public hearing, subject to certain limitations contained therein, and excepting for certain types of development as more particularly delineated in Section 26-171, BCC.

Section 26-211, BCC, sets out the law for amending an approved plan.

After consultation with the zoning commissioner, it has been determined that the past process for amending county review group (CRG) plans shall be extended to amending approved development plans. The policies as set out in the Comprehensive Manual of Administrative Policies (CMAP) shall continue to be applied by the development review committee (DRC).

Section 26-206(1), BCC, requires that all plans reviewed for approval after the development plan is approved shall be sealed and certified by the developer's consultant that they are in accord with the development plan. It is the responsibility of the consultant and developer to ensure that all subsequent plans conform to the plan as approved by the zoning commissioner.

If a change to the development plan is made necessary because of the grading plan, for example, then it is the responsibility of the developer to request of the DRC a determination whether the change is a refinement or material change. The DRC will review the request; if the change is a refinement, then the DRC will approve it by stamping the changed plan. If the change is determined to be material, then the matter shall be referred to the Department of Permits and Development Management (PDM) for the scheduling of a public hearing before the zoning commissioner to amend the plan. If it is a change to a vested CRG plan, it will be referred to a reconvened CRG meeting.

If the plan is to be referred to the zoning commissioner, the developer shall file a petition for special hearing to amend the development plan, subject to all requirements of PDM. The project manager will assure that all who were identified to be notified for the development hearing shall be notified as to the new hearing, and the property shall be posted for 15 days, pursuant to Section 26-206(d), BCC.

Fees shall be charged, pursuant to the schedule already in place.

Diligence must be exercised to ensure that there is compliance with Section 26-206(1), BCC. While the county should accept certification of compliance, it must be emphasized that the consultant will be held accountable if conformity is ignored.

The consultant and developer must ensure that subsequent plans, more detailed than the development plan, and the development plan conform. For example, if trees are marked on the development plan as being preserved, but the grading plan approves their removal, the consultant and developer are thereupon charged with the responsibility to bring the development plan in line with the grading plan or vice versa, before the trees are removed. Failure to do so may result in referral to the PDM Code Inspections and Enforcement Division for potential civil penalties and injunctive relief to restore the property to its original condition.

It must be emphasized that all plans must comply with Section 26-206(1), BCC.

THE FALLS ROAD COMMUNITY ASSOCIATION, INC.

The undersigned hereby acknowledge and attest that the Board of Directors of The Falls Road Community Association, Inc., a Maryland corporation (the "Corporation"), in accordance with Section 2-408 of the Maryland Corporations and Associations Code, do hereby take the actions below set forth, and to evidence their waiver of any right to dissent from such actions, do hereby consent as follows:

RESOLVED: The Falls Road Community Association, Inc. opposes the relief requested by Maryvale in its Petition for a Special Hearing, Case #06-128-SPHA, especially any amendment of its special exception approved in Case #95-436-X.

RESOLVED: Harold H. Burns, Jr. who is the duly elected President of the Board of Directors of the Falls Road Community Association, Inc., and Marcia Goldberg who is the duly elected Secretary thereof, are — each and either of them — authorized to appear and testify at the hearing on January 10, 2008 — and on any other day at any other hearing in this matter — before the Board of Appeals of Baltimore County in Case # 06-006 and testify in opposition to said Petitions and in support of the appeal of the Falls Road Community Association, Inc., to said Board.

AS WITNESS OUR HANDS THIS 8th day of January, 2008.

ATTEST:

By: Marcia Goldberg
Marcia Goldberg, Secretary

The Falls Road Community Association, Inc.

By: Marvin Tenberg
Marvin Tenberg, Vice-President

AFFIDAVIT

I hereby swear upon penalty of perjury that Harold H. Burns, Jr. and Marcia Goldberg are each a currently elected officer of the Board of Directors of the Falls Road Community Association, Inc.

ATTEST:

By: Marcia Goldberg
Marcia Goldberg, Secretary

The Falls Road Community Association, Inc.

By: Marvin Tenberg
Marvin Tenberg, Vice-President

Applicants' Exhibit #13

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

* * * * * * * * * * *

HEARING OFFICER'S OPINION & DEVELOPMENT PLAN AND VARIANCE ORDER

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

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

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

IDENTIFICATION Appellants' Exh. 6 & 16

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. The maximum enrollment of the Maryvale School shall not exceed 300 students without amendment of the Petition for Special Exception and site plan attendant therewith, and public hearing held thereon.

2. The Developer, with the consent of adjoining property owners, shall install off site landscaping substantially similar to that shown on Developer's Exhibits 2A through 2C.

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

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:mmn

MARTIN & PHILLIPS

DESIGN ASSOCIATES, INC.
LAND PLANNING, CIVIL ENGINEERING, LANDSCAPE ARCHITECTURE, DEVELOPMENT CONSULTING, ZONING
222 BOSLEY AVENUE, SUITE B1, TOWSON, MARYLAND 21204

CURRICULA VITAE

DAVID L. MARTIN, L.A.

Martin & Phillips Design Associates, Inc., Principal
Director of Land Planning / Landscape Architecture
Professional Registration: Landscape Architect
Maryland - No. 776
Pennsylvania - No. 573-E

Education:
The Pennsylvania State University
Bachelor of Science Landscape Architecture - 1971

Professional Affiliations:
American Society of Landscape Architects, Member
Urban Land Institute, Member

Professional practice includes 36 years of land planning, landscape architecture, comprehensive zoning, PUD master planning, site planning, and expert witness testimony regarding land use and zoning issues. Mr. Martin has been practicing in the Greater Baltimore Metropolitan region since 1987 and has been qualified as an expert in land planning, site planning, and zoning cases in Anne Arundel County, Baltimore County, Howard County, Harford County, Cecil County, Bel Air, Aberdeen, Havre de Grace, Perryville, Port Deposit and Federal District Court of Baltimore.

Prior to his relocation to Maryland, Mr. Martin practiced landscape architecture and land planning in Pennsylvania, Florida, Massachusetts, Alabama, The Commonwealth of the Bahamas and Jamaica.

As President of Martin & Phillips Design Associates, Inc. Mr. Martin supervises community planning, site development, subdivision development plans, and master planning efforts, He also offers zoning, testimony and interpretation on land planning issues before zoning commissioners, boards of appeals, planning commissions, and elected bodies. Mr. Martin facilitates community input meetings, and presents Development Plans in Baltimore County and oversees the preparation of special exception and variance plan requests. He also directs the design of parks, amenity features and landscape plans associated with residential, commercial and institutional projects.

Significant projects include Developments of Regional Impact (DRI) in the State of Florida including; Palm Coast, Florida - 10,000 acre master plan, Beverly Hills, Florida - 6,500 acre master plan, and Doral Park, Florida - 2000 acre master plan. Significant local projects include: Hollywoods, Monmouth Meadows, Greenbriar, Bainbridge Development, Forge Landing, Owings Mills Commerce Center, The Avenue at Whitemarsh, New England Motor Freight Trucking Facility, Cedar Land Farms P.U.D., Westwicke, Beaverbrook, Biddison Property, Bridle Ridge, Green Spring Station, Home Depot of Owings Mills, Bel Air and Timonium, Ashland Market Place, Powell Property, and Baker Property.

Mr. Martin has prepared numerous comprehensive-zoning petitions in Baltimore County during the 1992, 1996, 2000 & 2004 CZMP processes and has a thorough understanding of the principles of Euclidean zoning and their application throughout the Baltimore Metro region. He also served on an ad-hoc committee that authored the Service Employment (SE) Zone of Baltimore County and the Public Affairs Committee for NAIOP. He has extensive experience dealing with all of the Baltimore Regional Area County's development regulations.

TELEPHONE: 410.321.8444, TOLL FREE: 866.395.8595
FAX: 410.321.1175

Appellee's #1

VENABLE LLP

210 Allegheny Avenue
Post Office Box 5517
Towson, Maryland 21285-5517

Telephone 410-494-6200
Facsimile 410-821-0147

www.venable.com

Patricia A. Malone
Of Counsel

(410) 494-6206

pamalone@venable.com

November 29, 2005

HAND-DELIVERED

Mr. Donald T. Rascoe, Deputy Director
Baltimore County Department of Permits
and Development Management
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

Re: DRC Application - Request for Limited Exemption
Refinement of Westwicke Development Plan
PDM No. VIII-651

Dear Mr. Rascoe:

On behalf of Maryvale Preparatory School, Inc., contract purchaser, we are respectfully requesting a limited exemption in accordance with Section 32-4-106(b)(2) of the Baltimore County Code for a refinement of the Westwicke Development Plan. The purpose of the refinement is to amend the plan to reflect additional building area, parking lots, and playing fields as shown on the enclosed plan.

Thank you for your consideration.

Very truly yours,

Patricia A. Malone

PAM/dk

TO1DOCS1/PAM01/#217633 v1

Applicant's 2A

BALTIMORE COUNTY
DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT

DEVELOPMENT REVIEW COMMITTEE (DRC) APPLICATION

DRC# 121905A
County Use Only

Filing Date: _____
Stamp in w/PDM date stamp here

This application must be accompanied by the following:

1. **One copy of the completed DRC application form checklist.**
2. **Three copies of this DRC application, completed in full.**
3. **Three copies of a letter of request (attach one to each DRC application).**
4. **Nine copies of the plan folded to 8 ½ x 11 inches.**
5. **$50 fee (check made payable to Baltimore County and non-refundable; do not staple check to request form)**

Project Name: WESTWICKE/MARYVALE SCHOOL PDM File #: VIII-651

Project Address: 11300 FALLS RD Zip Code: 21093 ADC Map #: 18-B-13

Councilmanic District: 2 Election District: 8 Project Acreage: 113.3 +/-

Tax Account No(s): 08-20-060828 Zoning: RC-2

Engineer: O.W. STEPHENS & ASSOC., INC. Engineer's Phone No.: 410-825-8120

Applicant: MARYVALE SCHOOL Applicant's Phone No.: 410-494-6202 %
ROB HOFFMAN

Address: 11300 FALLS RD
BROOKLANDVILLE, MD Zip 21022 Email: dmartin@owstephens.com

Is this an antenna? ___Yes ✓No If "Yes" check one of the following: Cellular ____ Water Tower ____ MonoPole____
(CAC) (WTC) (CFC)

REQUESTED ACTION (TO BE COMPLETED BY THE APPLICANT)

32-4-106.b.2

(✓) Limited Exemption under Section ~~26-171~~ (_____) (_____)
( ) Material Amendment to the plan
(✓) Plan Refinement
( ) Waiver of public works standards
( ) Requires a Zoning ( ) Special Hearing; ( ) Special Exception; ( ) Variance
( ) Other _____

Table 6
David Karceski

This application must be accompanied by a written request. That request must be in the form of a letter, legibly printed or typed, and signed by the applicant. The letter must contain the name, address and telephone number of the applicant and must provide details of the request.

Please note that a DRC application form checklist is available in room 123 of the Baltimore County Office Building and on the Baltimore County web site at www.co.ba.md.us. A copy of that checklist must be completed and included along with this DRC application.

Re All Agency
W/ SHA

Please see the DRC application form checklist for complete submittal requirements.

c: Council, Planning, DEPRM

1-23-06

2/11/2002

Applicos 2B

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 0637

DATE 11-30-05 ACCOUNT R-006-6150

AMOUNT $ 50.00

RECEIVED FROM: Venable, Baetjer & Howard

FOR: Westminster / Maryvale School

DRU # 12905A VIII-651 OK

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

PAID RECEIPT

BUSINESS ACTUAL TIME TRAN

11/30/2005 11/30/2005 11:12:45

REG MSG2 MAIL NEW OFF

>RECEIPT # 403150 11/30/2005 OFLN

Dept 5 520 PUBLIC IMPROVEMENTS

CR NO. 000637

Receipt Total Acct ID

$50.00 CK $.00 CA

Baltimore County, Maryland

CASHIER'S VALIDATION

App-like's 2C

BALTIMORE COUNTY
DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT

Development Review Committee (DRC) Application Form Checklist

All applications to the DRC must include the following:

✓ 1. Three copies of the DRC Application.
✓ 2. Three copies (one attached to each DRC Application) of a letter of request to the DRC containing the following:
- ✓ a. Name, address and phone number of the applicant
- ✓ b. Explanation of the request to the DRC.
- ✓ c. Signature of the applicant.

✓ 3. Nine copies of a plan*** showing the following:
- ✓ a. A plan title box noting "Plan to accompany DRC request."
- ✓ b. North arrow.
- ✓ c. Vicinity map.
- ✓ d. Election district.
- ✓ e. Councilmanic district.
- ✓ f. Property tax account numbers.
- ✓ g. Site property owner's name and address.
- ✓ h. Scale of the drawing.
- ✓ i. Boundaries of the property lines shown in heavy bold lines.
- ✓ j. Lengths of property lines
- ✓ k. Area of project site in square feet and acreage.
- ✓ l. Proposed structures, heights and dimensions.
- ✓ m. Setbacks.
- ✓ n. Location of existing wells and septic systems.
- ✓ o. Zoning information:
  - ✓ 1. Current zoning on the property.
  - ✓ 2. Case numbers of any zoning hearings.
  - ✓ 3. Dates of zoning orders.
  - ✓ 4. Indication of what was granted or denied by the zoning commissioner.
  - ✓ 5. Copies of zoning orders attached to the DRC Application.

***Note: For refinements and material changes to previously approved plans you must use copies of the last approved plan to show items 3a-o listed above. Please show all changes in red.

✓ 4. One copy of this checklist completed and signed by the applicant or the consultant.
✓ 5. Check for $50 payable to Baltimore County, MD (do not staple to forms).

I have reviewed the DRC application and plan using this checklist to insure that the application and plan are complete. I understand that an incomplete application or plan may cause the DRC to delay its action on this request.

Signed David L Martin 11/29/05
Print Name DAVID L. MARTIN Date

2/12/2002

Applicant 20

Maryvale

Baltimore County Government
Department of Permits and
Development Management

111 West Chesapeake Avenue
Towson, MD 21204

410-887-3335
410-887-2877(fax)

February 1, 2006

Venable LLP
210 Allegheny Avenue
Post Office Box 5517
Towson, MD 21285-5517

RE: Westwicke/Maryvale School
PDM Number VIII-651
DRC Number 121905A; Dist. 8C2

Dear Sir or Madam:

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 Sections 32-1-101, 32-3-401, and 32-3-517 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 32-4-106 and Section 32-4-262 of the Baltimore County Code and to make recommendations to the Director, Department of Permits and Development Management (PDM).

The DRC has, in fact, met in an open meeting on January 17, 2006, and made the following recommendations:

The DRC has determined that your project meets the requirements of refinement to the development plan, under Section 32-4-106(b)(2). It is necessary to submit a plan to the Department of Environmental Protection and Resource Management, the Office of Planning, PDM's Office of Zoning, Development Plans Review, and Recreation and Parks for further review. Please forward the plans, along with five copies of this DRC letter, to Room 123, County Office Building; 111 West Chesapeake Avenue; Towson, MD 21204.

Agencies 2C

After resolution of any outstanding issues, please submit a copy of this letter, and ten copies of the plan to this office, Room 123, for signature.

I have reviewed the recommendations carefully, and I have determined to adopt the recommendations set forth above. It is this 1st day of February, 2006, ordered and decided that the recommendations of the DRC are hereby adopted.

Should you submit an application for any permits that may be required for this project, your application will be processed subject to the conditions set forth above and any plans, securities, or non-county permits that may be required in accordance with County, State, or Federal regulations.

Additionally, this project is located on a state road; therefore, the State Highway Administration requires the plan to be reviewed prior to the permit approval. For further information, contact Larry Gredlein at 410-545-5600.

Sincerely,

Timothy Kotroco
Director

TK:DTR:sem

c: Kristin Weis
File
Larry Gredlein

Department of Permits and Development Management

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

Baltimore County

James T. Smith, Jr., County Executive
Timothy M. Kotroco, Director

October 17, 2005

Robert A. Hoffman
Venable, LLP.
210 Allegheny Avenue
Towson, Maryland 21204

Dear Mr. Hoffman:

RE: Case Number: 06-128-SPHA, 11300 Falls Road

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on August 31, 2005.

The Zoning Advisory Committee (ZAC), which consists of representatives from several approval agencies, has reviewed the plans that were submitted with your petition. All comments submitted thus far from the members of the ZAC are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to ensure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. All comments will be placed in the permanent case file.

If you need further information or have any questions, please do not hesitate to contact the commenting agency.

Very truly yours,

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR: clb

Enclosures

c: People's Counsel
Sister Florence Maier 1531 Greenspring Valley Road Stevenson 21153

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Timothy M. Kotroco, Director
Department of Permits & Development Management

DATE: September 19, 2005

FROM: Dennis A. Kennedy, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
For September 26, 2005
Item Nos. 126, 128, 129, 130,132, 133, 134 and 135

The Bureau of Development Plans Review has reviewed the subject zoning items, and we have no comments.

DAK:CEN:clw
cc: File
ZAC-NO COMMENTS-09192005.doc

Robert L. Ehrlich, Jr., *Governor*
Michael S. Steele, *Lt. Governor*

State Highway Administration
Driven to Excel

Robert L. Flanagan, *Secretary*
Neil J. Pedersen, *Administrator*

Maryland Department of Transportation

Date: 5.13.05

Ms. Kristen Matthews
Baltimore County Office of
Permits and Development Management
County Office Building, Room 109
Towson, Maryland 21204

RE: Baltimore County
Item No. 128 DT

Dear Ms. Matthews:

We have reviewed the referenced item and have no objection to approval. Our review has determined that no construction is required within the State Highway Administration's right-of-way.

Should you have any questions regarding this matter, please contact Larry Gredlein at 410-545-5606 or by E-mail at (lgredlein@sha.state.md.us).

Very truly yours,

S. D. Foster

Steven D. Foster, Chief
Engineering Access Permits Division

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

TO: Timothy M. Kotroco

FROM: R. Bruce Seeley RBS

DATE: October 20, 2005

SUBJECT: Zoning Item # 06-128
Address 11300 Falls Road
Maryvale Preparatory School

Zoning Advisory Committee Meeting of September 19, 2005

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

__X__ Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (Sections 33-3-101 through 33-3-120 of the Baltimore County Code).

__X__ Development of this property must comply with the Forest Conservation Regulations (Sections 33-6-101 through 33-6-122 of the Baltimore County Code).

Additional Comments:

Prior to approval of any building permits, the following issues must be addressed:

1. The proposed impacts to the Forest Buffer and Forest Conservation Easements must be requested and be approved. Mitigation may be required to offset these impacts.
2. A water usage letter must be submitted.
3. Soil evaluation tests to determine suitability of soils for the septic reserve area must be completed.
4. An inspection of the existing wells and septic systems may be required.

Reviewer: Mike Kulis, Sue Farinetti Date: October 20, 2005

S:\Devcoord\ZAC06-128.doc

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Timothy M. Kotroco, Director
Department of Permits and
Development Management

DATE: October 13, 2005

FROM: Arnold F. 'Pat' Keller, III
Director, Office of Planning

SUBJECT: 11300 Falls Road

INFORMATION:

Item Number: 6-128

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

Zoning: RC 2

Requested Action: Special Hearing and Variance

EXISTING CONDITIONS:
The property in questions enjoys a special exception granted in Case No. 95-435x. A special hearing is requested to amend the aforementioned special exception.

A variance is also requested for a setback of 34 feet in lieu of 70 feet between the "Castle" building (MHT BA 1602) and the performing arts center. The "Castle" is undergoing significant interior renovations, which represents a major investment in the property and a commitment to preserve this historic building.

A campus plan has been prepared which shows future building expansion plans, which include a new performing arts center and amphitheater, a media center, a gymnasium, a middle school and a maintenance building. Existing playing fields will be reconfigured and a new playing field will be added.

SUMMARY OF RECOMMENDATIONS:
The Office of Planning reviewed the petitioner's request and recommends that the following conditions should be placed in the Zoning Commissioner's order:

1. Add a note to the plan indicating the Castle is designated as MHT BA 1602.
2. Prior to issuance of building permits, the Office of Planning will review and approve architectural elevation drawings for new construction in proximity to the Castle, i.e., the performing arts center, the middle school and the addition on the south side of the upper school.

W:\DEVREV\ZAC\6-128.doc

3. Provide the Office of Planning with a landscape master plan, lighting and sign package to review and approve.

For further information concerning the matters stated here in, please contact Diana Itter at 410-887-3480.

Prepared by: _____

Division Chief: _____

AFK/LL: CM

W:\DEVREV\ZAC\6-128.doc

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Timothy M. Kotroco, Director
Department of Permits and
Development Management

DATE: November 30, 2005

RECEIVED

NOV 30 2005

ZONING COMMISSIONER

FROM: Arnold F. 'Pat' Keller, III
Director, Office of Planning

SUBJECT: 11300 Falls Road

INFORMATION:

Item Number: 6-128 ***(addendum)***

Petitioner: The Province of the Sisters of Notre Dame de Namur, Inc.

Zoning: RC 2

Requested Action: Special Hearing and Variance

As an addendum to the comments dated October 13, 2005 for the above referenced case. The Castle at Maryvale, known as "Wickliffe", the original stone garage (carriage house), stonewalls, driveway and bridges have been nominated to the Baltimore County Landmarks list. A public hearing will be held on January 12,2005 by the Baltimore County Landmarks Commission.

For further information concerning the matters stated here in, please contact Tim Dugan at 410-887-3495.

Prepared by: Curtis Murray

Division Chief: Lynn Lanham

AFK/LL: CM

W:\DEVREV\ZAC\6-128addendum.doc

County Office Building, Room 111
Mail Stop #1105
111 West Chesapeake Avenue
Towson, Maryland 21204

September 13, 2005

ATTENTION: Zoning Review Planners

Distribution Meeting of September 19, 2005

Item No. 12[illegible],128,129,130,132,133,136, and 137.

Pursuant to your request, the above referenced plan(s) have been reviewed by this Office and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

The Fire Department has no comments at this time.
If you have any questions contact my office.

Acting Lt. Warren T. Moffitt
Fire Marshal's Office
410-887-4880
MS-1102F

Cc:file

RE:	PETITION FOR SPECIAL HEARING AND VARIANCE	*	BEFORE THE
	11300 Falls Road; N/side Greenspring Valley Road, 360' E c/line Greenspring Avenue	*	ZONING COMMISSIONER
	8th Election & 2nd Councilmanic Districts	*	FOR
	Legal Owner(s): Baltimore Province of the Sisters of Notre Dame de Namur, Inc, Sister Florence Maier, SND VP	*	BALTIMORE COUNTY
	Contract Purchaser(s): Maryvale Preparatory School, Sister Shawn Marie Mahuire SND, Head Mistress	*	06-128-SPHA
	Petitioner(s)	*	

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

ENTRY OF APPEARANCE

Please enter the appearance of People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and the passage of any preliminary or final Order. All parties should copy People's Counsel on all correspondence sent/ documentation filed in the case.

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

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 15th day of September, 2005, a copy of the foregoing Entry of Appearance was mailed to Robert A Hoffman, Esquire, Venable, LLP, 210 Allegheny Avenue, Towson, MD 21204 , Attorney for Petitioner(s).

RECEIVED
SEP 15 2005
Per.....

RECEIVED
SEP 14 2005
Per.....

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

APPEAL

Petitions for SPECIAL HEARING & Variance
11300 Falls Road
North side of Greenspring Road, 2Councilmanic District
Legal Owner: The Baltimore Province of the Sisters of Notre Dame de Namur, Inc.
Contract Purchaser: Maryvale Preparatory School, Inc.
Case No.: 06-128-A

Petitions for Special Hearing & Variance (August 31, 2005)

Zoning Description of Property

Notice of Zoning Hearing (September 15, 2005)

Certification of Publication (October 4, 2005 – The Jeffersonian)

Certificates of Posting (October 2 & October 24, 2005) by Robert Black

Entry of Appearance by People's Counsel (September 15, 2005)

Petitioner(s) Sign-In Sheets – Three Sheets

Protestant(s) Sign-In Sheet - None

Citizen(s) Sign-In Sheet – One Sheet

Zoning Advisory Committee Comments

Petitioners' Exhibits
1. Revised Site Plan for 11300 Falls Road
2. Resume – David L. Martin, L.A.
3. Resume – Frederick N. Chadsey, IV, P.E.
4. Resume - Mickey A. Cornelius, P.E., P.T.O.E.
5. Resume – Thomas R. Mills, P.E., P.G.
6. Resume – Robert T. Sheesley

Protestants' Exhibits:
None

Miscellaneous (Not Marked as Exhibits)
1. Code Inspections & Enforcement Violation Case Documents for 11300 Falls Road
2. Order for Case Nos. VIII-651 & 95-435-X
3. Order for Case No. 98-305-SPH
4. October 26, 2005 letter from G. Macy Nelson, Esq. to William Wiseman, III
5. November 10, 2005 letter from David Karceski, Esq. To William Wiseman, III

Zoning Commissioner's Order (Petitions for Special Hearing & Variance) – GRANTED 1/10/06
Notice of Appeal received on 2/3/06 from G. Macy Nelson, Esq. w/ check
Letters received on 2/3/06 from Harold H. Burns, Jr. & Douglas Carroll appealing decision w/o checks

c: People's Counsel of Baltimore County
Zoning Commissioner
Timothy Kotroco, Director of PDM
Robert A. Hoffman, Esq., Venable, LLP, 210 Allegheny Ave., Towson, MD 21204
Jennifer Busse, Esq. & Joseph J. Messanotte, Esq., Whiteford, Taylor & Preston, 210 W. Pennsylvania Ave., Towson, MD 21204
Sr. Shawn Maguire, Maryvale Preparatory School, 11300 Falls Rd., Brooklandville, MD 21022
Ms. Marci Reihart, 16317 Lowe Rd., Stewartstown, PA 17363
Messrs. David Martin & Rick Chadsey, G. W. Stephens, Jr. & Assoc., Inc., 1020 Cromwell Bridge Rd., Towson, MD 21286
Mr. Mickey Cornelius, The Traffic Group, 9900 Franklin Square Dr., #H, Baltimore, MD 21236
G. Macy Nelson, Esquire, 401 Washington Ave., Suite 803, Towson, MD 21204
Ms. Teresa Moore, Valleys Planning Council, P. O. Box 5402, Towson, MD 21285
Mr. Harold Burns, Jr., 5 Candlestick Dr., Lutherville, MD 21093
Mr. Douglas Carroll, 1117 Greenspring Valley Rd., Lutherville, MD 21093
Mr. Gary Gensler, 1116 Greenspring Valley Rd., Lutherville, MD 21093

date sent February 6, 2006, raj

APPEAL

Petitions for SPECIAL HEARING & Variance
11300 Falls Road
North side of Greenspring Road, 2Councilmanic District
Legal Owner: The Baltimore Province of the Sisters of Notre Dame de Namur, Inc.
Contract Purchaser: Maryvale Preparatory School, Inc.
Case No.: 06-128-A S PHA

✓ Petitions for Special Hearing & Variance (August 31, 2005)

✓ Zoning Description of Property

✓ Notice of Zoning Hearing (September 15, 2005)

✓ Certification of Publication (October 4, 2005 – The Jeffersonian)

✓ Certificates of Posting (October 2 & October 24, 2005) by Robert Black

✓ Entry of Appearance by People's Counsel (September 15, 2005)

✓ Petitioner(s) Sign-In Sheets – Three Sheets

• Protestant(s) Sign-In Sheet - None

✓ Citizen(s) Sign-In Sheet – One Sheet

✓ Zoning Advisory Committee Comments

Petitioners' Exhibits
- ✓ 1. Revised Site Plan for 11300 Falls Road
- ✓ 2. Resume – David L. Martin, L.A.
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- ✓ 4. Resume - Mickey A. Cornelius, P.E., P.T.O.E.
- ✓ 5. Resume – Thomas R. Mills, P.E., P.G.
- ✓ 6. Resume – Robert T. Sheesley

Please Send Correspondence to:
Rosanne Veiga
1719 Bridwell Rd
Tem. 21093
(410) 252-6566

• Protestants' Exhibits:
None

Miscellaneous (Not Marked as Exhibits)
- ✓ 1. Code Inspections & Enforcement Violation Case Documents for 11300 Falls Road
- ✓ 2. Order for Case Nos. VIII-651 & 95-435-X
- ✓ 3. Order for Case No. 98-305-SPH
- ✓ 4. October 26, 2005 letter from G. Macy Nelson, Esq. to William Wiseman, III
- ✓ 5. November 10, 2005 letter from David Karceski, Esq. To William Wiseman, III

✓ Zoning Commissioner's Order (Petitions for Special Hearing & Variance) – GRANTED 1/10/06
✓ Notice of Appeal received on 2/3/06 from G. Macy Nelson, Esq. w/ check
✓ Letters received on 2/3/06 from Harold H. Burns, Jr. & Douglas Carroll appealing decision w/o checks

c: People's Counsel of Baltimore County
Zoning Commissioner
Timothy Kotroco, Director of PDM
Robert A. Hoffman, Esq., Venable, LLP, 210 Allegheny Ave., Towson, MD 21204
Jennifer Busse, Esq. & Joseph J. Messanotte, Esq., Whiteford, Taylor & Preston, 210 W. Pennsylvania Ave., Towson, MD 21204
Sr. Shawn Maguire, Maryvale Preparatory School, 11300 Falls Rd., Brooklandville, MD 21022
Ms. Marci Reihart, 16317 Lowe Rd., Stewartstown, PA 17363
Messrs. David Martin & Rick Chadsey, G. W. Stephens, Jr. & Assoc., Inc., 1020 Cromwell Bridge Rd., Towson, MD 21286
Mr. Mickey Cornelius, The Traffic Group, 9900 Franklin Square Dr., #H, Baltimore, MD 21236
* ~~G. Macy Nelson, Esquire, 401 Washington Ave., Suite 803, Towson, MD 21204~~ McCann
Ms. Teresa Moore, Valleys Planning Council, P. O. Box 5402, Towson, MD 21285
* Mr. Harold Burns, Jr., 5 Candlestick Dr., Lutherville, MD 21093
* Mr. Douglas Carroll, 1117 Greenspring Valley Rd., Lutherville, MD 21093
Mr. Gary Gensler, 1116 Greenspring Valley Rd., Lutherville, MD 21093

date sent February 6, 2006, raj

RECEIVED
FEB 06 2006
BALTIMORE COUNTY
BD OF APPEALS

CAROL AND MICHAEL CHOTI
1002 WESTWICKE LANE
LUTHERVILLE MD 21093

ENTERED APPEARANCE
ON BEHALF OF PROTESTANTS
Michael R. McCann Esquire
FUNK & BOLTON, P.A.
36 S Charles Street
Baltimore, MD 21201-3111

(410) 659-7700
FAX 410-659-7773

Baltimore County Government
Department of Permits and Development Management

111 West Chesapeake Avenue
Towson MD 21204

(410) 887-3321
(410) 887-2877 (fax)

February 15, 2006

Robert A. Hoffman, Esq.
Venable LLP
210 Allegheny Avenue
Post Office Box 5517
Towson, MD 21285

RE: DRC Appeal
11300 Falls Road
Westwicke/Maryvale School
District: 8 c 2
Maryvale School – Developer
PDM No. VIII-631, DRC No.: 121905A

Dear Mr. Hoffman:

Please be advised that an appeal of the above-referenced case was filed in this office on February 15, 2006 by G. Macy Nelson on behalf of The Valleys Planning Council, Inc., Gary Gensler, Jack J. Shapiro, Lance Roth, Laurie Stubb, Carl Schramm, Ellyn Brown, Douglas Carroll and Harold H. Burns, Jr. 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,

Timothy Kotroco
Director

TK:kw

c: G. Macy Nelson, Esq.
David Martin, GWS
Maryvale School
People's Counsel
Baltimore County Board of Appeals
File

RECEIVED
FEB 16 2006
BALTIMORE COUNTY
BOARD OF APPEALS

Department of Permits and Development Management

Director's Office
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204
Tel: 410-887-3353 • Fax: 410-887-5708

Baltimore County

James T. Smith, Jr., County Executive
Timothy M. Kotroco, Director

February 6, 2006

G. Macy Nelson, Esquire
401 Washington Avenue
Towson, MD 21204

Dear Mr. Nelson:

RE: Case: 06-128-SPHA, 11300 Falls Road, Maryvale Preparatory School

Please be advised that we received your appeal of the above-referenced case on February 3, 2006. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals (Board).

If you are the person or party taking the appeal, you should notify other similarly interested parties or persons known to you of the appeal. If you are an attorney of record, it is your responsibility to notify your client.

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

Very truly yours,

Timothy Kotroco
Director

TK:raj:

C: People's Counsel of Baltimore County
Zoning Commissioner
Timothy Kotroco, Director of PDM
Robert A. Hoffman, Esq., Venable, LLP, 210 Allegheny Ave., Towson, MD 21204
Jennifer Busse, Esq. & Joseph J. Messanotte, Esq., Whiteford, Taylor & Preston, 210 W. Pennsylvania Ave., Towson, MD 21204
Sr. Shawn Maguire, Maryvale Preparatory School, 11300 Falls Rd., Brooklandville, MD 21022
Ms. Marci Reihart, 16317 Lowe Rd., Stewartstown, PA 17363
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Mr. Mickey Cornelius, The Traffic Group, 9900 Franklin Square Dr., #H, Baltimore, MD 21236
G. Macy Nelson, Esquire, 401 Washington Ave., Suite 803, Towson, MD 21204
Ms. Teresa Moore, Valleys Planning Council, P. O. Box 5402, Towson, MD 21285
Mr. Harold Burns, Jr., 5 Candlestick Dr., Lutherville, MD 21093
Mr. Douglas Carroll, 1117 Greenspring Valley Rd., Lutherville, MD 21093
Mr. Gary Gensler, 1116 Greenspring Valley Rd., Lutherville, MD 21093

Printed on Recycled Paper

CASE #: 06-128-SPHA

IN THE MATTER OF: BALTIMORE PROVINCE OF SSND de NAMUR, INC. – LEGAL OWNER; MARYVALE PREPARATORY SCHOOL, INC. – CP 11300 Falls Road 8th E; 2nd C
SPH – To amend prior SE in 95-435-X as amended in VIII-651 and confirmation as to parking sufficiency; VAR – existing and proposed building setbacks.
1/10/2006 – Z.C.'s Order in which requested zoning relief was GRANTED subject to restrictions.

and

CASE #: CBA-06-006

RE: Decision of Director of PDM / DRC determination that project meets definition of refinement to Development Plan.
2/01/06 – Letter from Timothy Kotroco, Director, Department of Permits and Development Management in which the recommendations of the DRC were adopted subject to conditions.

4/03/06 – Scheduled to be heard together and assigned for five days of hearing beginning July 25, 2006
-- Notice of Assignment sent to following; assigned for Tuesday, July 25, 2006 at 10:00 a.m. /Day #1; Wednesday, July 26, 2006 at 10:00 a.m. /Day #2; Thursday, August 3, 2006 at 10:00 a.m. /Day #3; Tuesday, August 8, 2006 at 10:00 a.m. /Day #4 and Wednesday, August 9, 2006 at 10:00 a.m. /Day #5:

G. Macy Nelson, Esquire
The Valleys Planning Council
Gary Gensler Jack Shapiro Lance Roth
Laurie Stubb Carl Schramm Ellyn Brown
Douglas Carroll Harold H. Burns, Jr.
Robert A. Hoffman, Esquire
Jennifer Busse, Esquire
Sister Shawn Maguire /Maryvale Preparatory School
Marci Reihart
David Martin & Rick Chadsey /GW Stephens Jr & Assoc, Inc.
Mickey Cornelius /The Traffic Group
Office of People's Counsel
Pat Keller, Director /Planning
William J. Wiseman III /Zoning Commissioner
Walt Smith, Development Manager /PDM
Timothy M. Kotroco, Director /PDM

4/10/06 – Letter from Jennifer R. Busse, Esquire – Request to be removed from further notifications; her client, SSND, was former owner of subject property; now owned by Maryvale Preparatory School, Inc.

4/13/06 – Letter from G. Macy Nelson – requesting postponement for three scheduled days; he will be out of the country on July 25 and 26, and August 3.
-- T/C to Mr. Karceski – left message; attempting to reschedule the three problem days in late July or early August.
(Dates awaiting confirmation from Macy – Monday or Tuesday of next week – either 8/23 or 8/24; and two of three dates the week of 8/28 – either 8/29, 8/30 and/or 8/31/06 (same panel usually unavailable for three days due to personal schedules /employments) for additional three days of hearing.

4/14/06 - Letter to Ms. Busse acknowledging receipt of her letter; file has been noted and her name removed.

4/18/06 – E-mail to Rebecca – still awaiting calls from Macy Nelson and David Karceski regarding three new dates – checking with clients and witnesses. Macy had asked for additional 24 hours to confirm dates.
- Per Rebecca – People's Counsel will not participate in this hearing – no need to confirm dates with that office.

4/21/06 – T/C with Messrs. Hoffman and Nelson this date; confirmed availability of all parties for 8/29, 8/30, and 8/31/06 (Mr. Nelson is not available 8/23 or 8/24).
-- Notice of PP and Reassignment sent to parties; retaining 8/08 and 8/09 as new days 1 and 2, the following dates are now assigned for hearing in this matter: Tuesday, August 8, 2006; Wednesday, August 9, 2006; Tuesday, August 29, 2006; and Wednesday, August 30, 2006, all starting at 10 a.m. In addition, Thursday, 8/31/06, will be held open in the event that it is needed to conclude this case, on condition that the sitting panel can be available on that additional day.

4/25/06 – T/C from David Karceski – possible problem with first two days of hearing (8/08 and 8/09/06) for Maryvale attorney (not included in file – to obtain name, address, etc., from Mr. Karceski prior to further notice). Will verify this and get back to me as soon as possible; next available dates will be after Labor Day weekend; will need to confirm additional dates with 3-1-5.

4/26/07 – Keeping 8/08 and 8/09, Amy questioned dates other than 8/29, 8/30 and 8/31, which are not good dates for Mr. Hoffman. Could do 9/06 and 9/07, and possibly one day the following week; to confirm with Board and then back to Amy.

- Requested that, once she has confirmed with Mr. Hoffman that the last week of August is out, we will need his request for postponement of these dates in writing prior to postponement.

4/27/06 – T/C from Amy Dontell, Venable – advised her that all three panel members on this case will be available on 9/06, 9/07 and 9/14/06. She indicated that Mr. Hoffman would prefer that all dates be closer together rather than spread across August into September; and he would ask that the August dates of 8/08 and 8/09 be changed so that the hearing is held in September. She will check with him and also call Mr. Nelson regarding 9/19 and 9/20 of the following week.

5/05/06 – T/C from Amy. Has confirmed that September dates are good; also confirmed with M. Nelson. Expects to have letter requesting that August dates be postponed to agreed September dates of 9/06, 9/07, 9/14, 9/19 and 9/20/06 to the CBA on Monday 5/08/06.

5/15/06 - Letter dated 5/11/06 filed by Robert A. Hoffman, Esquire, requesting postponement of August dates as outlined above. Also indicating that the confirmed dates of 9/06, 9/07, 9/14, 9/19 and 9/20/06 are acceptable to Mr. Nelson. Also confirmed with panel members that this matter would be moved from August dates to September dates; notice to be sent.

- T/C from Mrs. Carol Choti indicating that she was unaware of the hearings in this matter until seeing the CBA sign and requesting a copy of the notice. She will be added to the list (Carol and Michael Choti; 1002 Westwicke Lane; Lutherville 21093).

- Second Notice of PP and Reassignment sent to parties; case reassigned to start on Wednesday, September 6, 2006 at 10:00 a.m. (day #1); then to Thursday, September 7, 2006 at 10 a.m. (day #2); Thursday, September 14, 2006 at 10:00 a.m. (day #3); Tuesday, September 19, 2006 at 10:00 a.m. (day #4); and Wednesday, September 20, 2006 at 10:00 a.m. (day #5). FYI copy sent to panel members for these new dates.

6/14/06 – Letter from G. Macy Nelson, Esquire – striking appearance on behalf of Citizens /Protestants in this matter (The Valleys Planning Council, Gary Gensler, Jack Shapiro, Lance Roth, Laurie Stubb, Carl Schrumm, and Ellyn Brown).

6/15/06 – Notice of Entry of Appearance and Notice to Strike Appearance filed by Michael R. McCann, Esquire, and G. Macy Nelson, Esquire, adding the appearance of Michael R. McCann as Counsel for the Citizens /Protestants and striking the appearance of Mr. Nelson on behalf of The Valleys Planning Council, Gary Gensler, Jack Shapiro, Lance Roth, Laurie Stubb, Carl Schrumm, and Ellyn Brown.

- Letter to Mr. Nelson, copies to Messrs. McCann and Hoffman, acknowledging receipt of his letter and the above-referenced Notice. Files have been noted accordingly.

1/25/07 – UPDATE TO FILE:

- 8/24/06 – Letter from M. McCann requesting brief continuance to allow sufficient time for resolution of issues received via FAX and USPS.
- 8/25/06 – Letter via FAX from Harold Burns, Jr. – joining Mr. McCann's request for continuance of this matter.
- 9/01/06 – Letter to Messrs Burns and McCann from kcb – In receipt of letters; unless all parties agree to the continuance, the case will go forward as scheduled on 9/06/06.
- 9/06/06 – Board convened for hearing (Wescott, Mohler, Brassil). Petitioner Maryvale representsed by Messrs. Hoffman, Karceski, and Lingham; Appearing on behalf of Appellants – Messrs. McCann, Carroll, and Burns. As a preliminary issue, Messrs. Burns and McCann to withdraw all appeals in Case No. 06-128-SPHA; will hold CBA-06-006 until notified by Counsel; will hold CBA-06-006 open until notice from Counsel is received. Order of Dismissal to be issued in zoning matter only - Case No. 06-128-SPHA.

Order of Dismissal for this case?

All appeals ~~withdrawn~~ withdrawn in Case No. 06-128-SPHA as of 9/6/06.

not yet for this case

All appeals withdrawn in Case No. CBA-06-006 except for Burns as of 9/14/06.

1/25/07 – UPDATE TO FILE:

- 8/24/06 – Letter from M. McCann requesting brief continuance to allow sufficient time for resolution of issues received via FAX and USPS.
- 8/25/06 – Letter via FAX from Harold Burns, Jr. – joining Mr. McCann's request for continuance of this matter.
- 9/01/06 – Letter to Messrs Burns and McCann from kcb – In receipt of letters; unless all parties agree to the continuance, the case will go forward as scheduled on 9/06/06.
- 9/06/06 – Board convened for hearing (Wescott, Mohler, Brassil). Petitioner Maryvale representsed by Messrs. Hoffman, Karceski, and Lingham; Appearing on behalf of Appellants – Messrs. McCann, Carroll, and Burns. As a preliminary issue, Messrs. Burns and McCann to withdraw all appeals in Case No. 06-128-SPHA; will hold CBA-06-006 until notified by Counsel; will hold CBA-06-006 open until notice from Counsel is received. Order of Dismissal to be issued in zoning matter only - Case No. 06-128-SPHA.

9/28/07 – Letter from Teresa Moore, Director, VPC withdrawing appeal in 06-128-SPHA for all listed.

-- Letter from Michael McCann requesting hearing on behalf of Falls Rd CA and Harold Burns – both cases.

NOTE: To discuss above with L. Wescott, Panel Chair for 9/06/06 hearing– per file notes and Mr. Wescott's notes –clarification needed.

CASE #: CBA-06-006
NAMUR, INC. /

***IN THE MATTER OF:* BALTIMORE PROVINCE OF SSND de**

MARYVALE PREPARATORY SCHOOL, INC. – 11300 Falls Road 8th E; 2nd C

RE: Decision of Director of PDM / DRC determination that project meets definition of refinement to Development Plan.

2/01/06 – Letter from Timothy Kotroco, Director, Department of Permits and Development Management in which the recommendations of the DRC were adopted subject to conditions.

NOTE: See previous pages 1 and 2 for complete history of this case.

10/02/07 – Response to Mr. McCann's 9/27/07 correspondence – appeals dismissed in 06-128-SPHA /Order of Dismissal to be issued; only case remaining to be heard by the Board in this matter is Case No. CBA-06-006; notice to be sent for hearing.

10/09/07 – Letter from Michael McCann – clarification of above letter requested regarding appeals outstanding in zoning matter.

- Response to Mr. McCann from L. Wescott – after review of transcript, appeals in 06-128-SPHA were dismissed by all parties; only hearing to be scheduled will be in Case No. CBA-06-006.

10/09/2007 - Notice of Assignment sent to following; assigned for Thursday, January 10, 2008 at 10:00 a.m.:

Michael R. McCann, Esquire
The Valleys Planning Council
Gary Gensler — Jack Shapiro — Lance Roth
Laurie Stubb — Carl Schramm — Ellyn Brown
Falls Road Community Association
Harold H. Burns, Jr.
Douglas Carroll
Robert A. Hoffman, Esquire
Sister Shawn Maguire /Maryvale Preparatory School
Marci Reihart
David Martin & Rick Chadsey /GW Stephens Jr & Assoc, Inc.
Mickey Cornelius /The Traffic Group
Carol and Michael Choti
Pat Keller, Director /Planning
Walt Smith, Development Manager /PDM
Timothy M. Kotroco, Director /PDM

NOTE: See previous pages 1 through 3 for complete history of this case.

10/02/07 – Response to Mr. McCann's 9/27/07 correspondence – appeals dismissed in 06-128-SPHA /Order of Dismissal to be issued; only case remaining to be heard by the Board in this matter is Case No. CBA-06-006; notice to be sent for hearing.

10/09/07 – Letter from Michael McCann – clarification of above letter requested *regarding appeals outstanding in zoning* matter.

- Response to Mr. McCann from L. Wescott – after review of transcript, appeals in 06-128-SPHA were dismissed by all parties; only hearing to be scheduled will be in Case No. CBA-06-006.

10/09/2007 - Notice of Assignment sent to following; assigned for Thursday, January 10, 2008 at 10:00 a.m.:

Michael R. McCann, Esquire
The Valleys Planning Council
Gary Gensler Jack Shapiro Lance Roth
Laurie Stubb Carl Schramm Ellyn Brown
Falls Road Community Association
Harold H. Burns, Jr.
Douglas Carroll
Robert A. Hoffman, Esquire
Sister Shawn Maguire /Maryvale Preparatory School
Marci Reihart
David Martin & Rick Chadsey /GW Stephens Jr & Assoc, Inc.
Mickey Cornelius /The Traffic Group
Carol and Michael Choti
Pat Keller, Director /Planning
Walt Smith, Development Manager /PDM
Timothy M. Kotroco, Director /PDM

1/03/08 – T/C from C. Peatt, Court Reporter – Out on 1/10/08; unable to take hearing due to S day. Contacted Hunt Reporting at 3:49 p.m. this date and arranged for replacement reporter on Thursday, January 10, 2008 at 10:00 a.m. Letter to Louise at Hunt this date confirming same (sent via FAX and via USPS). FYI copy left for C. Peatt.

1/10/08 – Board convened for hearing (Crizer, Wescott, Grier); Court reporter from Hunt Reporting was in attendance in lieu of Ms. Peatt; completed hearing this date; memos due 2/04/08; deliberation assigned for 2/12/08 upon confirmation with Board; notice to be sent.

1/14/08 – Notice of Deliberation sent to parties; deliberation assigned for Tuesday, February 12, 2008 at 9:00 a.m.; fyi copy to 7-3-4

1/18/08 – Letter via FAX from Michael McCann, Esquire – copies of Rule 8 papers – Falls Road Community Association.

2/04/08 – Appellee Maryvale Preparatory School's Post-Hearing Memorandum filed by Robert A. Hoffman, Esquire, and Arnold Jablon, Esquire, VENABLE.

-- Post-Hearing Memorandum in Support of Appeal filed by Michael McCann, Esquire, on behalf of Appellants.

-- Copy of each memo forwarded to 7-3-4; deliberation on 2/12/08

IN RE: BALTIMORE PROVINCE OF THE SISTERS OF NOTRE DAME de NAMUR, INC./ MARYVALE PREPARATORY SCHOOL, INC. 11300 Falls Road	*	BEFORE THE
	*	BALTIMORE COUNTY
	*	BOARD OF APPEALS
	*	Case No: 06-128-SPHA/ CBA 06-006
	*	(PDM VIII-651)
	*	

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

SUBPOENA *DUCES TECUM*

To: **Walter Smith**
Department of Permits and Development Management
111 W. Chesapeake Avenue
Towson, Maryland 21204

You are hereby summoned and commanded to be and appear personally before the Baltimore County Board of Appeals, 400 Washington Avenue, Room 49, Towson, Maryland, 21204 on the 10th day of January 2008 at 10:00 a.m., for the purpose of testifying at the hearing in the above-captioned case, at the request of the Falls Road Community Association, and bring the documents described in the below Schedule of Documents.

Kathleen C. Bianco
Baltimore County Board of Appeals

CBA-06-006 file.

By Michael McCann.

RECEIVED
DEC 28 2007
BALTIMORE COUNTY
BOARD OF APPEALS

IN THE MATTER OF MARYVALE PREPARATORY SCHOOL 11300 Falls Road Brooklandville, Maryland 21022	*	BEFORE THE COUNTY BOARD OF APPEALS FOR BALTIMORE COUNTY
2nd Councilmanic District 8th Election District	*	Case # : CBA-06-006

RECEIVED
DEC 19 2007
BALTIMORE COUNTY
BOARD OF APPEALS

* * * * * * * * *

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, January 10, 2008 at 10:00 am., in Room 48, Basement, Old Courthouse, located at 400 Washington Avenue, Towson, Maryland 21204, and continuing thereafter as necessary for such witness' testimony and as scheduled by the Board.

Witness:	**Donald T. Rascoe** **Department of Permits and Development Management**
Address:	**County Office Building** **111 W. Chesapeake Avenue** **Towson, Maryland 21204**
General Purpose:	for the witness to testify and to bring all files and information regarding DRC No. 121905A or Westwicke/Maryvale School (11300 Falls Road).
Requested By:	Robert A. Hoffman, Esquire Venable, LLP 210 Allegheny Avenue Towson, Maryland 21204 (410) 494-6000

The witness named above is hereby ordered to so appear before the County Board of Appeals.

Kathleen A. Bianco
County Board of Appeals of Baltimore County

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IN THE MATTER OF: THE BALTIMORE PROVINCE OF SISTERS OF NOTRE DAME De NAMUR, INC.	*	BEFORE
	*	BOARD OF APPEALS
	*	OF
11300 FALLS ROAD	*	BALTIMORE COUNTY
MARYVALE PREPARATORY SCHOOL, INC., LEGAL OWNER	*	CASE NOS. 06-128-SPH and 06-006 (PDM NO. VIII-651)
8th Election District 2nd Councilmanic District	*	

* * * * * * * * *

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 Wednesday, September 6, 2006, Thursday, September 7, 2006, Thursday, September 14, 2006, Tuesday, September 19, 2006, and Wednesday, September 20, 2006, in Room 48, Basement, Old Courthouse, located at 400 Washington Avenue, Towson, Maryland 21204, and continuing thereafter as necessary for such witness' testimony and as scheduled by the Board.

Witness: **Donald T. Rascoe, Deputy Director**
Baltimore County Department of Permits and
Development Management

Address: **County Office Building**
111 W. Chesapeake Avenue
Towson, Maryland 21204

General Purpose: for the witness to testify and bring all files and information regarding the property known as the "Westwicke" (PDM No. VIII-651).

Requested By: Robert A. Hoffman, Esquire
Venable LLP
210 Allegheny Avenue
Towson, Maryland 21204
(410) 494-6200

RECEIVED
AUG 2 8 2006
BALTIMORE COUNTY
BOARD OF APPEALS

The witness named above is hereby ordered to so appear before the County Board of Appeals.

Linda B. Fliegel
County Board of Appeals of Baltimore County

::ODMA\PCDOCS\TO1DOCS1\234048\1

RECEIVED
AUG 2 8 2006
BALTIMORE COUNTY
BOARD OF APPEALS

FAX TRANSMISSION

TO: AMY DONTELL

FAX #: 410-821-0147

DATE: AUGUST 25, 2006

FROM: LINDA B. FLIEGEL
BOARD OF APPEAL

PAGES: 3 (INCLUDING COVER SHEET)

SUBJECT: MARYVALE MATTER
MICHAEL R. MCCANN'S LETTER
DATED AUG. 24, 2006
REQ. FOR CONTINUANCE

CONFIDENTIALITY NOTICE

WARNING: UNAUTHORIZED INTERCEPTION OF THIS TELEPHONIC COMMUNICATION COULD BE A VIOLATION OF FEDERAL AND STATE LAW

The documents accompanying this telefax transmission contain confidential information belonging to the sender which is legally privileged. The information is intended only for the use of the individual or entity named above. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or the taking of any action in reliance on the contacts of this telescoped information is strictly prohibited. If you have received this telefax in error, please immediately notify us by telephone to arrange for return of the original documents to us.

COMMENTS:

DEAR AMY,

AS PER YOUR REQUEST, I AM FAXING YOU A COPY OF MR. MCCANN'S LETTER UNDER DATE OF AUG. 24, 2006.

SENDING REPORT

Aug. 25 2006 10:04AM

YOUR LOGO : BOARDOFAPPEALS
YOUR FAX NO. : 4108873182

NO.	OTHER FACSIMILE	START TIME	USAGE TIME	MODE	PAGES	RESULT
01	94108210147	Aug. 25 10:02AM	01'38	SND	03	OK

TO TURN OFF REPORT, PRESS 'MENU' #04.
THEN SELECT OFF BY USING '+' OR '-'.

FOR FAX ADVANTAGE ASSISTANCE, PLEASE CALL 1-800-HELP-FAX (435-7329).

IN THE MATTER OF THE BALTIMORE PROVINCE OF SISTERS OF NOTRE DAME De NAMUR	*	BEFORE THE BOARD
11300 FALLS ROAD	*	OF APPEALS FOR
2nd Councilmanic District 8th Election District	*	BALTIMORE COUNTY CASE NOS. 06-128-SPH and 06-006 (PDM NO. VIII-651)

* * * * * * * * *

RETURN OF PRIVATE PROCESS SERVER

Pursuant to Maryland Rule 2-126(a), I, the undersigned, hereby certify that service of process was executed on Donald T. Rascoe on the 29th day of August, 2006, by serving a copy of the Summons to Donald T. Rascoe.

I further certify that I am over eighteen years of age and am not a party to this action. I do solemnly declare and affirm under the penalties of perjury that the matters and facts set forth herein are true to the best of my knowledge, information and belief.

Amy L. Dontell

Amy L. Dontell

TO1DOCS1/#234211v1

IN THE MATTER OF:	*	**BEFORE THE**
BALTIMORE PROVINCE OF SSND de NAMUR, INC.; MARYVALE PREPARTORY SCHOOL, INC. – LO 11300 Falls Road 8th E, 2nd C SPH – To amend prior SE in 95-435-X as amended in VIII-651 and confirmation as to parking sufficiency; VAR – existing and proposed building setbacks	*	**COUNTY BOARD OF**
	*	**APPEALS OF**
	*	**BALTIMORE COUNTY**
Case No. 06-128-SPHA	*	
and	*	
IN RE:	*	
Decision of Director of PDM/DRC determination that project meets definition of refinement to Development Plan	*	
	*	
Case No. CBA-06-006		

* * * * * * *

NOTICE OF ENTRY OF APPEARANCE AND NOTICE TO STRIKE APPEARANCE

Dear M. Clerk:

Please add the appearance of Michael R. McCann as Counsel for the Citizens/Protestants in the above-captioned case. Please also strike the appearance of G. Macy Nelson on behalf of The Valleys Planning Council, Inc., Gary Gensler, Jack Shapiro, Lance Roth, Laurie Stubb, Carl Schramm, and Ellyn Brown.

Michael R. McCann, Esquire
36 South Charles Street, 12th Floor
Baltimore, Maryland 21201
(410) 659-7764

G. Macy Nelson, Esquire
401 Washington Avenue, Suite 803
Towson, Maryland 21204
(410) 296-8166
Attorney for The Valleys Planning Council, Inc.

RECEIVED
JUN 15 2006
BALTIMORE COUNTY
BOARD OF APPEALS

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 13th day of June, 2006, a copy of the foregoing was mailed, postage prepaid, to Michael R. McCann, Esquire, 36 South Charles Street, 12th Floor, Baltimore, Maryland 21201.

G. Macy Nelson/10

G. Macy Nelson

COUNTY BOARD OF APPEALS

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

FACSIMILE TRANSMITTAL SHEET

TO AND FAX NUMBER:

AMY DONTELL

FAX : 410-821-0147

FROM:

KATHLEEN BIANCO
FAX : 410-887-3182

TELEPHONE : 410-887-3180

DATE:
NOVEMBER 7, 2007

TOTAL NO. OF PAGES INCLUDING COVER:
TWO (2)

Re: Petition – Hunt Valley
06-128-SPHA / CBA-06-006

URGENT FOR REVIEW FOR YOUR RECORDS PLEASE REPLY PLEASE RECYCLE

PERSONAL AND CONFIDENTIAL

AMY:

ATTACHED IS THE COPY YOU REQUESTED.

kathi

BALTIMORE COUNTY
DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT

DEVELOPMENT REVIEW COMMITTEE (DRC) APPLICATION

DRC# 121905A
County Use Only

Filing Date: _____
Stamp in w/PDM date stamp here

This application must be accompanied by the following:

1. **One copy of the completed DRC application form checklist.**
2. **Three copies of this DRC application, completed in full.**
3. **Three copies of a letter of request (attach one to each DRC application).**
4. **Nine copies of the plan folded to 8 ½ x 11 inches.**
5. **$50 fee (check made payable to Baltimore County and non-refundable; do not staple check to request form)**

Project Name: WESTWICKE/MARYVALE SCHOOL PDM File #: VIII-651

Project Address: 11300 FALLS RD Zip Code: 21093 ADC Map #: 18-B-13

Councilmanic District: 2 Election District: 8 Project Acreage: 113.3 +/-

Tax Account No(s): 08-20-066828 Zoning: RC-2

Engineer: O.W. STEPHENS & ASSOC., INC. Engineer's Phone No.: 410-825-8120

Applicant: MARYVALE SCHOOL Applicant's Phone No.: 410-494-6202 %
ROB HOFFMAN

Address: 11300 FALLS RD
BROOKLANDVILLE, MD Zip 21022 Email: dmartin@owstephens.com

Is this an antenna? ___Yes ✓No If "Yes" check one of the following: Cellular ____ (CAC) Water Tower ____ (WTC) MonoPole____ (CFC)

REQUESTED ACTION (TO BE COMPLETED BY THE APPLICANT)

32-4-106.b.2

(✓) Limited Exemption under Section ~~26-171~~ (_____) (_____)
( ) Material Amendment to the plan
(✓) Plan Refinement
( ) Waiver of public works standards
( ) Requires a Zoning ( ) Special Hearing; ( ) Special Exception; ( ) Variance
( ) Other _____

Table To
David Karceski

This application must be accompanied by a written request. That request must be in the form of a letter, legibly printed or typed, and signed by the applicant. The letter must contain the name, address and telephone number of the applicant and must provide details of the request.

Please note that a DRC application form checklist is available in room 123 of the Baltimore County Office Building and on the Baltimore County web site at www.co.ba.md.us. A copy of that checklist must be completed and included along with this DRC application.

Re All Agency
W/ SHA

Please see the DRC application form checklist for complete submittal requirements.

c: Council, Planning, DEPRM

1-23-06

2/11/2002

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 0637

DATE 11-30-05 ACCOUNT R-006-6150

AMOUNT $ 50.00

RECEIVED FROM: Venable, Baetjer & Howard

FOR: Westwicke / Maryvale School

DRC # 121905A VIII-651 OK

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

PAID RECEIPT

BUSINESS	ACTUAL	TIME	DRW
11/30/2005	11/30/2005	11:12:43	2

REG MSC2 MAIL JEVA JHE
>>RECEIPT # 442457 11/30/2005 OFLN
Dept 5 528 ZONING VERIFICATION
CR NO. 000637
Rcpt Tot $50.00
$50.00 CK $.00 CA
Baltimore County, Maryland

CASHIER'S VALIDATION

BALTIMORE COUNTY
DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT

Development Review Committee (DRC) Application Form Checklist

All applications to the DRC must include the following:

✓ 1. Three copies of the DRC Application.
✓ 2. Three copies (one attached to each DRC Application) of a letter of request to the DRC containing the following:
- ✓ a. Name, address and phone number of the applicant
- ✓ b. Explanation of the request to the DRC.
- ✓ c. Signature of the applicant.

✓ 3. Nine copies of a plan*** showing the following:
- ✓ a. A plan title box noting "Plan to accompany DRC request."
- ✓ b. North arrow.
- ✓ c. Vicinity map.
- ✓ d. Election district.
- ✓ e. Councilmanic district.
- ✓ f. Property tax account numbers.
- ✓ g. Site property owner's name and address.
- ✓ h. Scale of the drawing.
- ✓ i. Boundaries of the property lines shown in heavy bold lines.
- ✓ j. Lengths of property lines
- ✓ k. Area of project site in square feet and acreage.
- ✓ l. Proposed structures, heights and dimensions.
- ✓ m. Setbacks.
- ✓ n. Location of existing wells and septic systems.
- ✓ o. Zoning information:
  - ✓ 1. Current zoning on the property.
  - ✓ 2. Case numbers of any zoning hearings.
  - ✓ 3. Dates of zoning orders.
  - ✓ 4. Indication of what was granted or denied by the zoning commissioner.
  - ✓ 5. Copies of zoning orders attached to the DRC Application.

***Note: For refinements and material changes to previously approved plans you must use copies of the last approved plan to show items 3a-o listed above. Please show all changes in red.

✓ 4. One copy of this checklist completed and signed by the applicant or the consultant.
✓ 5. Check for $50 payable to Baltimore County, MD (do not staple to forms).

I have reviewed the DRC application and plan using this checklist to insure that the application and plan are complete. I understand that an incomplete application or plan may cause the DRC to delay its action on this request.

Signed David L Martin 11/29/05
Date

Print Name DAVID L. MARTIN

2/12/2002

County Board of Appeals of Baltimore County

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

January 3, 2008

SENT VIA FACSIMILE 410-760-0630

Hunt Reporting Company
12 Crain Highway NW
Glen Burnie, MD 21061

ATTN: Louise

RE: *In the Matter of: Notre Dame Preparatory School*
Case No. CBA-06-006
Court Reporter Services /Contract # 43148
Thursday, January 10, 2008 at 10 a.m.

Dear Louise:

Per our conversation this afternoon, this will confirm that your agency will provide court reporter services for the subject hearing scheduled before the Board of Appeals on Thursday, January 10, 2008 beginning at 10:00 a.m., at the rate of $50.00 per hour. As indicated to you previously, our hearings usually end no later than 4:00 p.m.

I've also enclosed a copy of the Notice of Assignment for the subject hearing. **The Board's hearing room is located in Room 48, Old Courthouse (basement level), 400 Washington Avenue, Towson, MD 21204.**

Services are to be billed to Baltimore County's Office of Budget and Finance – Disbursements, 400 Washington Avenue, Room 148, Towson, MD 21204, in accordance with Contract # 43148.

Should you have any questions, I can be reached at **410-887-3180**. In addition, it is my understanding that you will contact our legal secretary, Linda Fliegel, at the above number to confirm that a court reporter will be in attendance on the date of January 10, 2008, as indicated above, and that your court reporter will check in with Linda in Room 49 (next door to hearing room) prior to the scheduled hearing on that day.

Very truly yours,

Kathleen C. Bianco
Administrator

FILE

Enclosure

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on Recycled Paper

COUNTY BOARD OF APPEALS

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

FACSIMILE TRANSMITTAL SHEET

TO AND FAX NUMBER:

HUNT REPORTING CO.
ATTN: LOUISE

FAX : 410-760-0630

FROM:

KATHLEEN BIANCO
FAX : 410-887-3182

TELEPHONE : 410-887-3180

DATE:
JANUARY 3, 2008

TOTAL NO. OF PAGES INCLUDING COVER:
THREE (3)

Re: Court Reporter Services – Thursday, January 10, 2008 at 10:00 a.m.

URGENT FOR REVIEW FOR YOUR RECORDS PLEASE REPLY PLEASE RECYCLE

PERSONAL AND CONFIDENTIAL

LOUISE:

ATTACHED IS A CONFIRMATION LETTER FOR THE SERVICES TO BE PROVIDED ON THURSDAY, 1/10/2008, AS WELL AS A COPY OF THE ASSIGNMENT NOTICE FOR THE HEARING SCHEDULED ON THAT DATE.

kathi

FILE

SENDING REPORT

Jan. 03 2008 04:27PM

YOUR LOGO : BOARDOFAPPEALS
YOUR FAX NO. : 4108673182

NO.	OTHER FACSIMILE	START TIME	USAGE TIME	MODE	PAGES	RESULT
01	94107600630	Jan. 03 04:25PM	01'33	SND	03	OK

TO TURN OFF REPORT, PRESS 'MENU' #04.
THEN SELECT OFF BY USING '+' OR '-'.

FOR FAX ADVANTAGE ASSISTANCE, PLEASE CALL 1-800-HELP-FAX (435-7329).

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 9, 2007

NOTICE OF ASSIGNMENT

CASE #: CBA-06-006

IN THE MATTER OF: BALTIMORE PROVINCE OF SSND de NAMUR, INC. / MARYVALE PREPARATORY SCHOOL, INC. – 11300 Falls Road 8th E; 2nd C

RE: Decision of Director of PDM / DRC determination that project meets definition of refinement to Development Plan.

ASSIGNED FOR: **THURSDAY, JANUARY 10, 2008 at 10:00 a.m**

NOTICE: This is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney.

NOTE: The Board's Rules of Practice & Procedure are found in *Baltimore County Code, Appendix 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 : Michael R. McCann, Esquire
Appellants /Protestants : The Valleys Planning Council
Gary Gensler Jack Shapiro Lance Roth
Laurie Stubb Carl Schramm Ellyn Brown
Falls Road Community Association
Harold H. Burns, Jr.
Douglas Carroll

Counsel for Petitioners : Robert A. Hoffman, Esquire
Petitioners : Sister Shawn Maguire /Maryvale Preparatory School
Marci Reihart
David Martin & Rick Chadsey /GW Stephens Jr & Assoc, Inc.
Mickey Cornelius /The Traffic Group

Carol and Michael Choti

Pat Keller, Director /Planning
Walt Smith, Development Manager /PDM
Timothy M. Kotroco, Director /PDM

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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

October 9, 2007

Michael R. McCann, Esquire
118 W. Pennsylvania Avenue
Towson, MD 21204

RE: *In the Matter of: Baltimore Province of the Sisters of Notre Dame de Namur, Inc.* – Owners ; *Maryvale Preparatory School, Inc.* – C.P. /Petitioners
Case No. 06-128-SPHA /Case No. CBA-06-006

Dear Mr. McCann:

In response to your letter received via facsimile this date, we have reviewed the transcript of the above matter dated September 6, 2006.

It is our interpretation that the appeals filed in Case No. 06-128-SPHA were withdrawn by all parties, including the Falls Road Community Association and Mr. Harold Burns.

The only hearing that will be scheduled will be that in Case No. CBA-06-006.

Very truly yours,

Lawrence S. Wescott
Panel Chairman

FILE

Enclosure

c: Robert A. Hoffman, Esquire
Thomas M. Lingan, Esquire
Jennifer Busse, 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

October 2, 2007

Michael R. McCann, Esquire
118 W. Pennsylvania Avenue
Towson, MD 21204

RE: *In the Matter of: Baltimore Province of the Sisters of Notre Dame de Namur, Inc.* – Owners ; *Maryvale Preparatory School, Inc.* – C.P. /Petitioners
Case No. 06-128-SPHA /Case No. CBA-06-006

Dear Mr. McCann:

The Board of Appeals is in receipt of your letter of September 27, 2007, in which you request a hearing in the above matters. You state in your letter that your clients were considering withdrawing their appeal in the special exception case (Case No. 06-128-SPHA). The transcript which you provided indicates that you withdrew the appeal of the special exception case during the hearing on September 6, 2006 (see pages 8 and 9 of said transcript). Mr. Burns, who appeared *pro se* at that hearing also withdrew his appeal of Case No. 06-128-SPHA (see pages 15 and 16 and page 18 of the transcript 9/06/06).

In addition, the Board received a letter from Teresa Moore, Executive Director of The Valleys Planning Council, on September 28, 2007, on behalf of The Valleys Planning Council, Inc., Gary Gensler, Douglas Carroll, Lance Roth, Jack Shapiro, Laurie Stubb, Ellyn Brown, and Carl J. Schramm, withdrawing the appeal in Case No. 06-128-SPHA.

It is the position of this Board that the appeals in Case No. 06-128-SPHA have been withdrawn. The Board will schedule a hearing in Case No. CBA-06-006 at least sixty (60) days from the date of your letter, September 27, 2007.

Very truly yours,

Lawrence S. Wescott
Panel Chairman

Enclosure

c: Robert A. Hoffman, Esquire
Thomas M. Lingan, Esquire
Jennifer Busse, Esquire

FILE

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County Board of Appeals of Baltimore County

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

Sept. 1, 2006

Via Facsimile and and U.S. Mail

Harold H. Burns, Jr., Esquire
210 E. Lexington Street – Suite 201
Baltimore, MD 21202-3514

Michael R. McCann, Esquire
36 South Charles Street – 12th Floor
Baltimore, MD 21201-3111

Re: The Baltimore Province of Sisters of Notre Dame de Namur, Inc. – Owners and Maryvale Preparatory School, Inc., C/ P – Petitioners
11300 Falls Road
Case Nos.: 06-128-SPHA and CBA-06-006

Dear Counsels:

The Board is in receipt of your respective letters regarding a postponement of the subject hearing which is schedule to begin on Wednesday, September 6, 2006 at 10:00 a.m.

Unless all parties agree to this postponement request you must anticipate going forward with the hearing.

Please contact the Board if you should have any questions.

Very truly yours,

Kathleen C. Bianco

Kathleen C. Bianco
Administrator

cc: Robert Hoffman, Esq.

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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

FILE

June 15, 2006

G. Macy Nelson, Esquire
401 Washington Avenue
Suite 803
Towson, MD 21204

RE: *In the Matter of: Baltimore Province of SSND de Namur – Legal Owners; Maryvale Preparatory School, Inc.*
Case No. 06-128-SPHA and Case No. CBA-06-006

Dear Mr. Nelson:

This will acknowledge receipt of your letter dated June 13, 2006 in which you indicate that you are striking your appearance on behalf of The Valleys Planning Council, Gary Gensler, Jack Shapiro, Lance Roth, Laurie Stubb, Carl Schramm, and Ellyn Brown in the subject matter. I am also in receipt of the Notice of Entry of Appearance and Notice to Strike Appearance filed this date.

The subject files have been noted so that you will no longer receive future correspondence and/or notices regarding this matter. In addition, Michael R. McCann, Esquire, has been added as Counsel for the above-named Citizens /Protestants.

Please call me if I can be of any further assistance.

Very truly yours,

Kathleen C. Bianco
Administrator

c: Robert A. Hoffman, Esquire
Michael R. McCann, Esquire

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on Recycled Paper

IN THE MATTER OF:	*	**BEFORE THE**
BALTIMORE PROVINCE OF SSND de NAMUR, INC.; MARYVALE PREPARTORY SCHOOL, INC. – LO 11300 Falls Road 8th E, 2nd C SPH – To amend prior SE in 95-435-X as amended in VIII-651 and confirmation as to parking sufficiency; VAR – existing and proposed building setbacks	*	**COUNTY BOARD OF**
	*	**APPEALS OF**
	*	**BALTIMORE COUNTY**
Case No. 06-128-SPHA	*	
and	*	
IN RE:	*	
Decision of Director of PDM/DRC determination that project meets definition of refinement to Development Plan	*	
Case No. CBA-06-006	*	

* * * * * * *

NOTICE OF ENTRY OF APPEARANCE AND NOTICE TO STRIKE APPEARANCE

Dear M. Clerk:

Please add the appearance of Michael R. McCann as Counsel for the Citizens/Protestants in the above-captioned case. Please also strike the appearance of G. Macy Nelson on behalf of The Valleys Planning Council, Inc., Gary Gensler, Jack Shapiro, Lance Roth, Laurie Stubb, Carl Schramm, and Ellyn Brown.

Michael R. McCann, Esquire
36 South Charles Street, 12th Floor
Baltimore, Maryland 21201
(410) 659-7764

G. Macy Nelson, Esquire
401 Washington Avenue, Suite 803
Towson, Maryland 21204
(410) 296-8166
Attorney for The Valleys Planning Council, Inc.

RECEIVED
JUN 15 2006
BALTIMORE COUNTY
BOARD OF APPEALS

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 13th day of June, 2006, a copy of the foregoing was mailed, postage prepaid, to Michael R. McCann, Esquire, 36 South Charles Street, 12th Floor, Baltimore, Maryland 21201.

G. Macy Nelson

County Board of Appeals of Baltimore County

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

April 14, 2006

Jennifer R. Busse, Esquire
WHITEFORD, TAYLOR & PRESTON
500 Court Towers
210 W. Pennsylvania Avenue
Towson, MD 21204-4515

RE: *In the Matter of: Baltimore Province of SSND de Namur, Inc; Maryvale Preparatory School, Inc. – Legal Owner*
Case No. 06-128-SPHA and Case No. CBA-06-006

Dear Ms. Busse:

This will acknowledge receipt of your recent correspondence in the subject matter. In response to your request, your name has been removed from the file, and no further notices or correspondence will be forwarded to you in this matter.

The file has also been noted to reflect that Maryvale Preparatory School, Inc., is now the owner of the subject property.

Please call me if I can be of any further assistance.

Very truly yours,

Kathleen C. Bianco
Administrator

c: Joseph J. Mezzanotte, Esquire
Robert A. Hoffman, Esquire
G. Macy Nelson, Esquire

FILE

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County Board of Appeals of Baltimore County

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

June 15, 2006

G. Macy Nelson, Esquire
401 Washington Avenue
Suite 803
Towson, MD 21204

FILE

RE: *In the Matter of: Baltimore Province of SSND de Namur – Legal Owners; Maryvale Preparatory School, Inc.*
Case No. 06-128-SPHA and Case No. CBA-06-006

Dear Mr. Nelson:

This will acknowledge receipt of your letter dated June 13, 2006 in which you indicate that you are striking your appearance on behalf of The Valleys Planning Council, Gary Gensler, Jack Shapiro, Lance Roth, Laurie Stubb, Carl Schramm, and Ellyn Brown in the subject matter. I am also in receipt of the Notice of Entry of Appearance and Notice to Strike Appearance filed this date.

The subject files have been noted so that you will no longer receive future correspondence and/or notices regarding this matter. In addition, Michael R. McCann, Esquire, has been added as Counsel for the above-named Citizens /Protestants.

Please call me if I can be of any further assistance.

Very truly yours,

Kathleen C. Bianco
Administrator

c: Robert A. Hoffman, Esquire
Michael R. McCann, Esquire

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DIVISION OF CODE INSPECTIONS AND ENFORCEMENT

VIOLATION CASE DOCUMENTS

VIOLATION CASE: 05-5947

11300 Falls Road

Relevants to Hearing (?)
Catered Events ; Parties

ZONING CASE: 06-128-SPHA
11300 FALLS ROAD

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

DATE: September 27, 2005

TO: W. Carl Richards, Jr.
Zoning Review Supervisor

FROM: Rick Wisnom, Chief
Division of Code Inspections & Enforcement

SUBJECT: Item No.: 128
Legal Owner/Petitioner: The Baltimore Province of the Sisters of Notre Dame de Namur, Inc., Sister Florence Maier, SND Vice-President
Contract Purchaser: Maryvale Preparatory School, Inc., Sister Shawn Marie Maguire, SND, Head Mistress
Property Address: 11300 Falls Road
Location Description: North side of Greenspring Valley Road, 360 feet east of centerline Greenspring Avenue

VIOLATION INFORMATION: **Case No.: 05-5947**
Defendants: Henry J. and Rae W. Jung

Please be advised that the aforementioned petition is the subject of an active violation case.

In addition, please find attached a duplicate copy of the following pertinent documents relative to the violation case, for review by the Zoning Commissioner's Office:

Other: Data entry printout

After the public hearing is held, please send a copy of the Zoning Commissioner's order to Lisa Henson in Room 213 in order that the appropriate action may be taken relative to the violation case.

RSW/
c: Jerry Chen

PDLV0103F Permits & Development - Livability System

View Cases

Case No: 05-5947

Notes: ***6/30/05, LEFT VOICE MESSAGE TO CALL W/MORE INFO, JC/CP***
7/18/05, NOTICE ISSUED TO CEASE ILLEGAL/COMM & COMMUNITY EVENTS ON PREMISE, ZONED RC5, P/U 8/2/05, NOTICE MAILED, COMPL UPDATED BY VOICE MESSAGE, LRS/CP
7/29/05, NOTICE RETURNED, FORWARDED ADDRESS: RAE JUNG, 2525 POT SPRING ROAD, UNIT L513, LUTHERVILLE TIMONIUM, MD 21093-2872, GAVE TO LRS, /WRKD
***08/08/05 REC'D CALL FROM MRS JUNG STATING 11300 FALLS RD IS NOT THE ADDRESS FOR THE SCHOOL ADDITIONALLY SHE IS NO LONGER THE OWNER OF 11300 FALLS RD.
***08/22/05 REC'D NOTICE THAT MARYVALE IS APPLYING FOR SPEC EXEP. CASE WILL RE MAIN OPEN AT THIS TIME P/U 09/21/05 FOR HEARING RESULTS. LRS**

Enter=Continue F12=Cancel

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

20 COLUMBIA CORPORATE CENTER
10420 LITTLE PATUXENT PARKWAY
COLUMBIA, MARYLAND 21044-3528
TELEPHONE 410 884-0700
FAX 410 884-0719

JENNIFER R. BUSSE
DIRECT NUMBER
410 832-2077
jbusse@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

November 18, 2005

Ms. Kathleen C. Bianco
Administrator
County Board of Appeals of Baltimore County
Room 49, Old Courthouse
400 Washington Avenue
Towson, Maryland 21204

Re: Case No. 06-128-SPHA
Case No. CBA-06-006
In the Matter of: Baltimore Province of SSND de Namur, Inc. – Legal Owner; Maryvale Preparatory School, Inc.

Dear Ms. Bianco:

I am in receipt of your Notice of Assignment in the above-referenced matter. Please remove me from any further notifications with regard to this case. My client was the former owner of the property. The Maryvale Preparatory School, Inc. is now the owner of the property. Thank you for your attention to this matter.

Sincerely,

Jennifer R. Busse

JRB:tdm
Enclosure
cc: Joseph J. Mezzanotte, Esquire
Robert A. Hoffman, Esquire
G. Macy Nelson, Esquire
358791

RECEIVED
APR 10 2006
BALTIMORE COUNTY
BOARD OF APPEALS

VENABLE LLP

210 Allegheny Avenue
Post Office Box 5517
Towson, Maryland 21285-5517

Telephone 410-494-6200
Facsimile 410-821-0147

www.venable.com

(410) 494-6285 **dhkarceski@venable.com**

November 10, 2005

Timothy M. Kotroco, Director
Baltimore County Department of Permits
and Development Management
County Office Building
111 West Chesapeake Avenue, Suite 105
Towson, Maryland 21204

Re: Maryvale Preparatory School, Inc.
11300 Falls Road
Zoning Case No. 06-128-SPHA

Dear Mr. Kotroco:

The Maryvale Preparatory School, a private school for grades six through twelve, has operated on the above-referenced property for the past sixty years. In order to continue to serve the needs of Baltimore County's student population, the school's enrollment has grown to 371 students over that time period. The purpose of this letter is to confirm that the school's current student enrollment is in compliance with the zoning relief granted for the school in 1995.

By way of brief history, Maryvale School applied for a special exception in Case No. VIII-651 / 95-435-X (the "1995 Case") for the continued operation of a "private school" on the property. The Hearing Officer approved the special exception in an Order, dated August 17, 1995, a copy of which is attached. In his Order, the Hearing Officer identified a maximum student enrollment number of 300 and, in doing so, contemplated and expected the possibility that enrollment might increase over time. Restriction No. 1 of the Order addressed student enrollment at the school and provides as follows:

> The maximum enrollment of the Maryvale School shall not exceed 300 students without amendment of the Petition for Special Exception and site plan attendant therewith, and public hearing held thereon.

See Order, p. 7. According to Restriction No. 1, any increase in enrollment over and above 300 students would require another public hearing before the Hearing Officer and approval of an amended special exception and site plan by the Hearing Officer to reflect the desired enrollment increase.

Consistent with Restriction No. 1 of the 1995 Case Order, the school has filed a Petition for Special Hearing in Case No. 06-128-SPHA to accommodate its current student enrollment and a possible, further increase in the future. As required by the restriction, the Petition for Special Hearing requests an amendment to the special exception approved in the 1995 Case. With the filing of this zoning request, the school is, therefore, in compliance with the intent of the 1995 Case Order.

If you are in agreement that Maryvale School is in compliance with the 1995 Case Order by requesting additional zoning relief to accommodate a student enrollment increase over the 300 students specified in Restriction No. 1 to the Order, please countersign this letter below.

With this letter, I have enclosed a check in the amount of $50.00, made payable to "Baltimore County, Maryland," to cover the costs associated with your review. If you need any additional information in order to complete your review, please do not hesitate to give me a call.

Very truly yours,

David H. Karceski

DHK
Enclosure
cc: Robert A. Hoffman, Esquire
Timothy D.A. Chriss, Esquire (w/o enclosure)

AGREED AND ACCEPTED:

Timothy M. Kotroco, Director
Department of Permits and
Development Management

TO1DOCS1/DHK01/#216712 v1

Maryvale
PREPARATORY SCHOOL

October 25, 2005

Timothy M. Kotroco, Director
Baltimore County Department of Permits
and Development Management
County Office Building
111 West Chesapeake Avenue, Suite 105
Towson, Maryland 21204

Re: Maryvale Preparatory School, Inc.
11300 Falls Road

Dear Mr. Kotroco:

The Maryvale Preparatory School has operated on the subject property since 1945. From that date to the present, Maryvale has made its "Castle" building available for private receptions and other similar events, as described below. This use of the Castle building is clearly part of the school.

In 1995, the school applied for a special exception in Case No. VIII-651 / 95-435-X (the "1995 Case") for the continued operation of a "private school" on the property. Numerous individuals from the surrounding community, as well as interested community associations attended the public hearing on the matter. No one objected to or raised the continued use of the Castle building for private events as an issue for the Hearing Officer's consideration. The Hearing Officer approved the special exception in his Order, dated August 17, 1995, with no restrictions on use of the Castle.

Obviously, there were no concerns with this accessory use of the Castle building at the time of the 1995 Case or prior to it. That being said, use of the Castle is and will be controlled in the following ways:

1. Maryvale permits the Castle at 11300 Falls Road to be used for private receptions and other similar events. Attendance at each such event is limited to no more than 125 persons and the location of each event is limited to the Castle and its adjoining terrace area. The scheduling of each such event is subject to the Castle

11300 Falls Road, Brooklandville, Maryland 21022
410-252-3366

not being required for school events or functions and not occurring during certain observed religious periods such as Holy Week and other significant religious occasions.

2. Each contracting party for the event will be required to disclose to Maryvale his relationship with a person affiliated with Maryvale such as a trustee, faculty member, alumna, or parent or such party must otherwise be sponsored for such an event by an affiliated individual.

3. All events are required to be conducted in a manner which is appropriate and keeping Maryvale's Roman Catholic affiliation.

4. The proceeds from each event are used by Maryvale to fund its capital and operating expenses in operating a girls college preparatory school at 11300 Falls Road.

In summary, the private receptions and other similar events held at 11300 Falls Road are in all respects merely in support of Maryvale, the school.

If you have any questions regarding the foregoing, or you require any further information, please call me.

Thank you for your cooperation.

Marcia P. Reihart, ~~Chair~~
Board of Trustees

215754 v1

202966.1
10/25/2005

05-3081
OCT 27 2005

VENABLE LLP

210 Allegheny Avenue
Post Office Box 5517
Towson, Maryland 21285-5517

Telephone 410-494-6200
Facsimile 410-821-0147

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Patricia A. Malone
Of Counsel

(410) 494-6206

pamalone@venable.com

November 29, 2005

HAND-DELIVERED

Mr. Donald T. Rascoe, Deputy Director
Baltimore County Department of Permits
and Development Management
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

Re: DRC Application - Request for Limited Exemption
Refinement of Westwicke Development Plan
PDM No. VIII-651

Dear Mr. Rascoe:

On behalf of Maryvale Preparatory School, Inc., contract purchaser, we are respectfully requesting a limited exemption in accordance with Section 32-4-106(b)(2) of the Baltimore County Code for a refinement of the Westwicke Development Plan. The purpose of the refinement is to amend the plan to reflect additional building area, parking lots, and playing fields as shown on the enclosed plan.

Thank you for your consideration.

Very truly yours,

Patricia A. Malone

PAM/dk

TO1DOCS1/PAM01/#217633 v1

FUNK & BOLTON
ATTORNEYS AT LAW

A PROFESSIONAL ASSOCIATION
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LINDSEY A. RADER
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ADMITTED IN MARYLAND EXCEPT AS OTHERWISE NOTED
* ALSO ADMITTED IN DISTRICT OF COLUMBIA
♦ ALSO ADMITTED IN VIRGINIA
■ ALSO ADMITTED IN PENNSYLVANIA AND NEW JERSEY
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● ADMITTED IN PENNSYLVANIA AND KENTUCKY ONLY
▼ ADMITTED IN DELAWARE ONLY

Writer's Direct Dial: 410-659-7760
kgibbons@fblaw.com

June 14, 2006

County Board of Appeals of
Baltimore County
400 Washington Avenue
Old Courthouse - Room 49
Towson, MD 21404

Re: IN THE MATTER OF:
BALTIMORE PROVINCE OF SSND DE NAMUR, INC.; MARYVALE PREPARATORY SCHOOL, INC. – LO
Case No. 06-128-SPHA
And
Decision of Director of PDM/DRC determination that project meets definition of Refinement to Development Plan
Case No. CBA 06-006

Dear Clerk:

Enclosed please find a Notice of Entry of Appearance and Notice to Strike Appearance to be filed in the above-referenced matter. Please date-stamp the copy provided and return it to me in the enclosed self-addressed, stamped envelope.

Please contact me if you have any questions. Thank you for your assistance.

Very truly yours,

Kathleen J. Gibbons
Paralegal

RECEIVED
JUN 15 2006
BALTIMORE COUNTY
BOARD OF APPEALS

85000.009:95329
Enclosures

FUNK & BOLTON
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● ADMITTED IN PENNSYLVANIA AND KENTUCKY ONLY
▼ ADMITTED IN DELAWARE ONLY

Writer's Direct Dial: (410) 659-7764
mmccann@fblaw.com

Kathleen C. Bianco, Administrator
Baltimore County Board of Appeals
400 Washington Avenue
Old Courthouse - Room 49
Towson, MD 21404

August 24, 2006

Via Facsimile
and U. S. Mail

Re: Case No: 06-128-SPHA/CBA 06-006
The Baltimore Province of the Sisters of Notre Dame de Namur, Inc., Owners
Maryvale Preparatory School, Inc., Contract Purchasers - Petitioners
11300 Falls Road

Dear Ms. Bianco:

I represent the Valleys Planning Council in the above-referenced matter and write to request a continuance of the hearing scheduled to begin on September 6, 2006. For the past several months, the parties have spent a considerable amount of time attempting to resolve the issues in this case. Some, but not all, of the parties have reached agreement on the material terms of a resolution. We believe that a brief continuance of a few weeks will allow sufficient time to further discuss the issues, obtain the consent of all parties, and consummate a written settlement agreement.

Thank you for your consideration.

RECEIVED
AUG 25 2006
BALTIMORE COUNTY
BOARD OF APPEALS

Best regards,

Michael R. McCann

MRM:kjg
85000.009:97541

cc: Gary Gensler, P. O. Box 1328, Brooklandville, Md. 21022
Harold H. Burns, Jr., 5 Candlestick Drive, Lutherville, Md. 21093
Robert A. Hoffman, Esquire, Venable, LLP, 210 Allegheny Avenue, Towson, Md. 21204
Jennifer Busse, Esquire & Joseph J. Messanotte, Esquire, Whiteford, Taylor & Preston
210 W. Pennsylvania Avenue, Towson, Md. 21204

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JOHN R. STERNOFF
GERALD I. H. STREET*
JOSEPH B. TETRAULT
STEPHEN WEAVER*
PAULINE K. WHITE

FACSIMILE COVER SHEET

August 24, 2006

Number of pages (including cover): 3

To: Kathleen C. Bianco, Administrator
Baltimore County Board of Appeals

Phone: 410.887-3180 Facsimile: 410.887-3182

Sender: Michael R. McCann Phone: 410-659-7764
Assistant: Kathy Gibbons Phone: 410.659.7760

RE: Case No.: 06-128-SPHA/CBA 06-006
The Baltimore Province of the Sisters of Notre Dame de Namur, Inc., Onwers
Maryvale Preparatory School, Inc., Contract Purchasers – Petitioners
11300 Falls Road

Funk & Bolton, P.A.

If any problems occur with this facsimile transmission, please call Sender or Secretary.

NOTICE

The facsimile page and attachments are confidential and intended exclusively for the individual or entity named above. If you are not the intended addressee, you are hereby notified that reading, disseminating, distributing, or copying this communication is unauthorized and prohibited. If you have received this communication in error, please immediately notify us by telephone.

821-0147

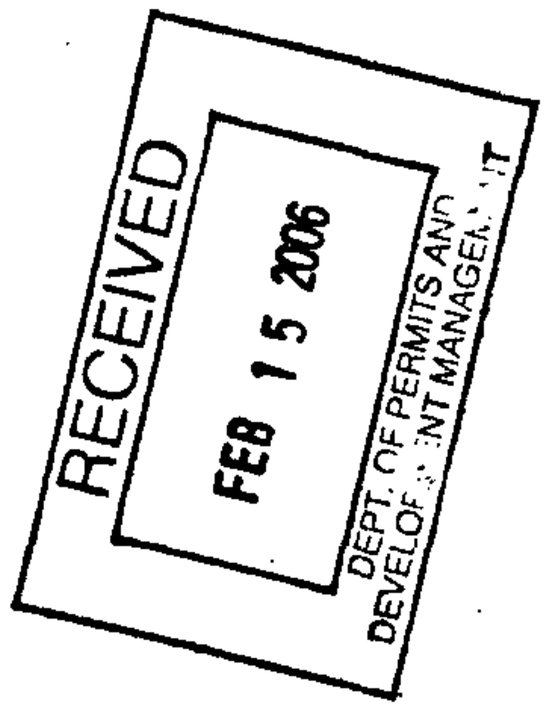
494-6244

DOUGLAS CARROLL
1117 Greenspring Valley Road
Lutherville, Maryland 21093

February 15, 2006

HAND DELIVERY

Timothy R. Kotroco
Baltimore County Government
Department of Permits and Development
Management
111 W. Chesapeake Avenue, Room 123
Towson, Maryland 21204



Re: *Westwicke/Maryvale School*
PDM Number VIII-631
DRC Number 121905A; Dist. 8C2

Dear Mr. Kotroco:

I am appealing your decision dated February 1, 2006. I have attached a copy of the opinion as Exhibit A. I have also enclosed an extra copy of this letter and attached opinion.

I understand that I need not pay a filing fee because Mr. Nelson has paid that fee on behalf of other Appellants. If I am mistaken in this regard, please let me know and I will promptly pay the fee.

Very truly yours,

Douglas Carroll

Enclosures
cc: Robert A. Hoffman, Esq. (w/enc.)

DOUGLAS CARROLL
1117 Greenspring Valley Road
Lutherville, Maryland 21093

February 3, 2006

HAND DELIVERY

Timothy R. Kotroco
Baltimore County Government
Department of Permits and Development
Management
111 W. Chesapeake Avenue, Room 123
Towson, Maryland 21204

Re: *Petitions for Special Hearing and Variance – N/S Greenspring Valley Road, between Greenspring Avenue and Falls Road (11300 Falls Road), 8th Election District, 2nd Council District*
The Baltimore Province of the Sisters of Notre Deame de Namur, Inc., Legal Owner; Maryvale Preparatory School, Inc., Contract Purchaser
Before the Zoning Commissioner for Baltimore County
Case No. 06-128-SPHA

Dear Mr. Kotroco:

I am appealing the decision of Commissioner Wiseman dated January 10, 2006. I have attached a copy of the opinion as Exhibit A. Also enclosed is an extra copy of this letter and attached opinion.

I understand that I need not pay a filing fee because Mr. Nelson has paid that fee on behalf of other Appellants. If I am mistaken in this regard, please let me know and I will promptly pay the fee.

Very truly yours,

Douglas Carroll

Enclosures
cc: Robert A. Hoffman, Esq.
The Honorable William J. Wiseman

RECEIVED
FEB 03 2006
Per CLB

HAROLD H. BURNS, JR.
5 Candlestick Drive
Lutherville, Maryland 21093

February 3, 2006

HAND DELIVERY

Timothy R. Kotroco
Baltimore County Government
Department of Permits and Development
Management
111 W. Chesapeake Avenue, Room 123
Towson, Maryland 21204

Re: *Petitions for Special Hearing and Variance – N/S Greenspring Valley Road, between Greenspring Avenue and Falls Road (11300 Falls Road), 8th Election District, 2nd Council District*
The Baltimore Province of the Sisters of Notre Deame de Namur, Inc., Legal Owner; Maryvale Preparatory School, Inc., Contract Purchaser
Before the Zoning Commissioner for Baltimore County
Case No. 06-128-SPHA

Dear Mr. Kotroco:

The Falls Road Community Association, Inc. and I hereby appeal the decision of Commissioner Wiseman dated January 10, 2006. I have attached a copy of the opinion as Exhibit A. Also enclosed is an extra copy of this letter and attached opinion.

I understand that I need not pay a filing fee because Mr. Nelson has paid that fee on behalf of other Appellants. If I am mistaken in this regard, please let me know and I will promptly pay the fee.

Very truly yours,

Harold H. Burns, Jr.

Enclosures
cc: Robert A. Hoffman, Esq.
The Honorable William J. Wiseman

RECEIVED
FEB 03 2006
Per

EXHIBIT A

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

January 10, 2006

WILLIAM J. WISEMAN III
Zoning Commissioner

Robert A. Hoffman, Esquire
Venable, LLP
210 Allegheny Avenue
Towson, Maryland 21204

RE: PETITIONS FOR SPECIAL HEARING & VARIANCE
N/S Greenspring Valley Road, between Greenspring Avenue & Falls Road
(11300 Falls Road)
8th Election District – 2nd Council District
The Baltimore Province of the Sisters of Notre Dame de Namur, Inc., Owners;
Maryvale Preparatory School, Inc., Contract Purchasers - Petitioners
Case No. 06-128-SPHA

Dear Mr. Hoffman:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Special Hearing has been granted and the Petition for Variance dismissed, in accordance with the attached Order.

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

Very truly yours,

WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

WJW:bjs

cc: Jennifer Busse, Esquire & Joseph J. Messanotte, Esquire
Whiteford, Taylor & Preston, 210 W. Pennsylvania Avenue, Towson, Md. 21204
Sr. Shawn Maquire, Maryvale Preparatory School, 11300 Falls Rd., Brooklandville, Md. 21022
Ms. Marci Reihart, 16317 Lowe Road, Stewartstown, Md. 17363
Messrs. David Martin & Rick Chadsey, G.W. Stephens, Jr. & Assoc., Inc.
1020 Cromwell Bridge Road, Towson, Md. 21286
Mr. Mickey Cornelius, The Traffic Group, 9900 Franklin Square Dr., #H, Baltimore, Md. 21236
G. Macy Nelson, Esquire, 401 Washington Avenue, Suite 803, Towson, Md. 21204
Ms. Teresa Moore, Valleys Planning Council, P.O. Box 5402, Towson, Md. 21285
Mr. Harold Burns, Jr., 5 Candlestick Drive, Lutherville, Md. 21093
People's Counsel; Case File

RECEIVED JAN 12 2006

G. MACY NELSON
ATTORNEY AT LAW

SUITE 803
401 WASHINGTON AVENUE
TOWSON, MARYLAND 21204

TELEPHONE
(410) 296-8166

FACSIMILE
(410) 825-0670

February 3, 2006

HAND DELIVERY

Timothy R. Kotroco
Baltimore County Government
Department of Permits and Development
Management
111 W. Chesapeake Avenue, Room 123
Towson, Maryland 21204

Re: *Petitions for Special Hearing and Variance – N/S Greenspring Valley Road, between Greenspring Avenue and Falls Road (11300 Falls Road), 8th Election District, 2nd Council District*
The Baltimore Province of the Sisters of Notre Deame de Namur, Inc., Legal Owner; Maryvale Preparatory School, Inc., Contract Purchaser
Before the Zoning Commissioner for Baltimore County
Case No. 06-128-SPHA

Dear Mr. Kotroco:

I represent certain Protestants in the above-captioned case and identify them below:

The Valleys Planning Council, Inc.
P.O. Box 5402
207 Courtland Avenue
Towson, Maryland 21285-5402

Gary Gensler
P.O. Box 1328
Brooklandville, Maryland 21022

Jack J. Shapiro
7 Barstad Court
Lutherville, Maryland 21093

RECEIVED
FEB 03 2006
Per.....

Lance Roth
1008 Brooklandville Road
Lutherville, Maryland 21093

Laurie Stubb
6 Barstad Court
Lutherville, Maryland 21093

Carl Schramm
11055 Greenspring Avenue
Lutherville, Maryland 21093

Ellyn Brown
11055 Greenspring Avenue
Lutherville, Maryland 21093

My clients appeal the decision of Commissioner Wiseman dated January 10, 2006. I have attached a copy of the opinion as Exhibit A. Also enclosed is an extra copy of this letter and attached opinion.

I have enclosed a check made payable to Baltimore County, Maryland, in the amount of $400.00 for the filing of this appeal. $400.00 represents the sum of $325.00 for a Special Exception order, and $75.00 for posting.

Very truly yours,

G. Macy Nelson

GMN:pwc
Enclosures
cc: Robert A. Hoffman, Esq.
The Honorable William J. Wiseman

G MACY NELSON
401 WASHINGTON AVE STE 803
TOWSON, MD 21204-4806

BRANCH BANKING AND TRUST COMPANY
TOWSON, MD
65-330/550

3463

2/2/2006

PAY TO THE ORDER OF Baltimore County $ **400.00

Four Hundred and 00/100********** DOLLARS

Baltimore County

MEMO Appeal: Maryvale Preparatory School

AUTHORIZED SIGNATURE

"003463" "055003308" 5150710903"

Security Features Included

G MACY NELSON 3463

Baltimore County	Filing fee for appeal	2/2/2006	400.00

CASH-OPERATING	Appeal: Maryvale Preparatory School	400.00

G MACY NELSON 3463

Baltimore County	Filing fee for appeal	2/2/2006	400.00

CASH-OPERATING	Appeal: Maryvale Preparatory School	400.00

LMP12 M/P CHECK

51N311 (2/05) 548668

G MACY NELSON **3463**

Baltimore County		2/2/2006	
	Filing fee for appeal		400.00

CASH-OPERATING Appeal: Maryvale Preparatory School 400.00

BALTIMORE COUNTY, MARYLA
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 3463

DATE 2/3/06 ACCOUNT [illegible]

AMOUNT $ 400.00

RECEIVED FROM: G. Macy Nelson

FOR: Appeal [illegible] 11-128 Split

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

CASHIER'S VALIDATION

3/18

IN RE: PETITION FOR SPECIAL HEARING * BEFORE THE
NE/S Greenspring Valley Rd., 1100'
SE of c/l Greenspring Avenue * ZONING COMMISSIONER

8th Election District * OF BALTIMORE COUNTY
3rd Councilmanic District
The Baltimore Province of the * Case No. 98-305-SPH
Sisters of Notre Dame deNamur,Inc.,
Legal Owner

* * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition for Special Hearing for the site known as the Maryvale Tenant House, located on the northeast side of Greenspring Valley Road, east of Greenspring Avenue in the Greenspring Valley section of Baltimore County. The Petition was filed by The Baltimore Province of the Sisters of Notre Dame deNamur,Inc., property owners. The Petitioner seeks approval of a waiver pursuant to Baltimore County Code, Section 26-172(a) or (b) of Sections 26-103(c)(8) and 26-278. Assuming that the waiver is granted, the Petitioner seeks a determination that the development plan in case No. VIII-651 need not be amended. The subject property and requested relief is more particularly shown on Petitioner's Exhibit No. 1, the plat to accompany the Petition for Special Hearing and the First Amended Development Plan and Special Exception plat for residential community known as Westwicke (Petitioner's Exhibit No. 8).

Appearing at the requisite public hearing held for this case were Sr. Jeanne McGlone, Sr. Patricia Loome and Sr. Bernadette Glodek, all on behalf of The Baltimore Province of the Sisters of Notre Dame deNamur, Inc. Also present was Michael Maguire, a planning/zoning consultant, and Charles Gilmore, a structural engineer, both from Daft, McCune, Walker, Inc. The Petitioner was represented by David K. Gildea, Esquire and G. Scott Barhight, Esquire. There were no Protestants or other interested persons present.

The subject property/structure at issue is well known to this Zoning Commissioner and has been the subject of recent public interest. The Baltimore Province of the Sisters of Notre Dame deNamur, Inc., own a large tract of land, split zoned R.C.2 and R.C.5, located in the Greenspring Valley of Baltimore County. Among the uses which take place on that property is the Maryvale School, a private school for girls operated by the Sisters.

In the mid 1990s, the Sisters entered in a contract for the sale of a portion of their holdings to the Scottish Development Company, LLC for the development of the property with 29 single family dwellings. The sale of that property was consummated and, in fact, a development plan for the project was submitted for review by Baltimore County. Ultimately, after the project made its way through the development review process, the residential subdivision was approved.

Although the Sisters sold a portion of the tract for the residential subdivision, they did retain a significant part of the property. Presently, they own approximately 106 acres, split zoned R.C.2 and R.C.5. The property is located with frontage on Greenspring Valley Road and can also be accessed by Falls Road.

Formerly, the Sisters' property contained a small house known as the Maryvale Tenant House. This small structure was located on the southern edge of the property, immediately abutting Greenspring Valley Road. The structure was apparently quite old and was originally used as a tenant house when the property and surrounding lands were held in single ownership as an estate farm.

In 1995, when the development plan was considered for approval, the Maryvale Tenant House was on the Landmarks Preservation Committee's preliminary landmarks list. Under the County's historic preservation statute,

the Landmark Preservation Committee initially identifies sites which may have historic value and designates same on its preliminary landmarks list. Under such a designation, the structures must be preserved. Moreover, after such a designation, the property and/or structure is inspected and studied for a determination as to whether same should be placed on the final historic landmarks list. Ultimately, this designation is conferred or denied by action of the Baltimore County Council.

In this case, pursuant to Bill 105-96, enacted August 5, 1996, the Council declined to incorporate the site on its historical landmarks list. At the hearing before me, the Petitioner submitted a series of documents (Petitioner's Exhibits 2 thru 7) outlining the sequence of events beginning with the initial placement of the structure on the County's preliminary landmarks list and its ultimate decision not to include the building on the County's final historical landmarks list. Those documents are self explanatory and the impact of same need not be repeated here.

In addition to the County's historic preservation statute, the State of Maryland also maintains a list of historic properties. Under the State's statute, a building can be designated on the Maryland Historic Trust inventory of historic properties. In fact, the Maryvale Tenant House was so included on said inventory.

In recognition of the structures' inclusion on the County's preliminary landmarks list and the State's inventory, a note was added to the development plan in 1995 regarding the structure. That note states, "This structure (MHT No. BA1601) is currently listed on the preliminary Baltimore County and Preservation list and is subject to Section 26-278 of the Baltimore County Code." As noted above, subsequent to the approval of

that plan, the County Council voted to not include the site on the County's final landmarks list.

As noted in many of the documents submitted at the hearing and corroborated by the proffered testimony offered, the building was apparently in quite a state of disrepair. Indications are that in 1995, the septic and well systems serving the structure were failing and the premises had been unoccupied since 1993. Apparently, certain members of the Baltimore Province of the Sisters of Notre Dame deNamur had resided in the structure until 1983 and vacated the premises at that time due to the deteriorating condition of the structure and the failing well and septic system. In the years since 1983, the property had become a magnate to vagrants and was also considered an attractive nuisance to the children who live and go to school in the vicinity.

Due to the deteriorating condition of the building, the failing well and septic system, concerns over potential liability for injury to those who might be at the structure, and the financial hardship associated with retaining or repairing the building, the Sisters obtained a razing permit from Baltimore County and the structure was razed in January of 1998. It need be emphasized that, by that time, the structure was no longer entitled to protection under Baltimore County's statute, however, remained on the Maryland Historical Trust inventory of historic properties. Pursuant to Section 26-278 of the Baltimore County Code, the structure should have been preserved or a waiver of that provision obtained before razing.

The Petitioner comes before me now seeking a waiver of the requirements of Section 26-278 of the Code, pursuant to Section 26-172. Section 26-172 empowers the Hearing Officer (Zoning Commissioner) to grant a waiver of certain of the requirements of Division 3, 4, and 5 of the development regulations (including Section 26-278) upon the recommendation

of the Department Director. In this case, such a recommendation was given by the Office of Planning, albeit grudgingly.

In addressing this waiver, it is first to be noted that the Petitioner now comes before me seeking "forgiveness", as opposed to "permission". It is apparent that the development regulations envision that a Petitioner will seek a waiver beforehand in order to obtain approval to undertake a certain action. In this case, the action has been undertaken already (i.e., demolition of the building). Although the case is, therefore, procedurally distinct, an examination of the County Code indicates no prohibition on a property owner/Petitioner seeking a waiver after the fact. Thus, the Petition for Special Hearing may be properly considered at this time. More importantly, the standard for obtaining a waiver, whether before or after the fact, is the same. In order for any waiver to be granted, the Petitioner must demonstrate that same has been recommended by the Department Director and that a waiver request complies with the provisions of Section 26-172(a) and/or (b).

In applying to those standards to the matter at issue, I am easily persuaded that the waiver should be granted. In my judgement, the size, scope and nature of the proposed development does not justify strict compliance with the regulation and a grant of the waiver would be within the scope, purpose and intent of the regulations. The County Council's action in declining to include the property on the final Landmark's list is persuasive that the structure has no historic value. Moreover, the deteriorating condition of the building, the failing septic/well systems, the potential injury to children or trespassers and the expense necessary to rehabilitate the building are all significant considerations which support a grant of the waiver. Thus, despite the backwards approach of

the Petitioner's request for relief, the merits of the issue under consideration supports a grant of the waiver.

Having determined that a waiver should be granted, the next issue for consideration is whether the development plan need be amended. In my judgment, it need not. As noted above, the plan references the structure with a single note which is fully set forth hereinabove. In effect, that note discloses two facts; that the structure was "currently" listed on the preliminary Baltimore County landmarks list, and that as such, the property was subject to Section 26-278 of the Code. There is no amendment needed to this note. Those statements were accurate at the time the plan was approved and remain accurate today. Indeed, the property was on the County's preliminary list in 1995 when the plan was submitted and approved. The subsequent act of the County Council in excluding the property from the final list does not change the fact that the property was, at one time, on the preliminary list. Secondly, indeed the structure is subject to the provisions of Baltimore County law, including Section 26-278. More importantly, the County law permits, by Section 26-172, a waiver of the requirements of Section 26-278. That is, the property is subject to County law and, thus, <u>either</u> a waiver must be obtained, or the property preserved. By the grant of the waiver, preservation is not required.

For all of these reasons, I am persuaded to grant the Petition for Special Hearing. It is not my intent to reward the Petitioner for its demolition of the structure prior to the obtaining of the required waiver. However, that procedural issue is a matter for the Zoning Enforcement Division and not an issue for my consideration. To the contrary, as to the matter which I must consider (i.e., whether a granting of a waiver is

appropriate pursuant to Section 26-172), I easily find that the merits of this case support such a grant.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner of Baltimore County this 24th day of March 1998 that, pursuant to the Petition for Special Hearing, approval of a waiver pursuant to Baltimore County Code, Section 26-172(a) or (b) or Sections 26-103(c)(8) and 26-278, be and is hereby GRANTED.

Any appeal from this decision must be made in accordance with the applicable provisions of law.

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:mmn

8/3

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

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

* * * * * * * * * * *

HEARING OFFICER'S OPINION & DEVELOPMENT PLAN AND VARIANCE ORDER

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

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

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

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

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

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

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

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

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

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

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

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

In this regard, testimony was received on behalf of the Developers from not only Mr. Aumiller but also Wes Guckert, Traffic Engineer, and from other consultants retained by the Developer. These witnesses noted that in order to keep the school and residential community separate and distinct, the Sisters of Notre Dame deNamur, Inc., desired that vehicular roadway leading to Maryvale School from Falls Road be used exclusively for that purpose. That is, that roadway would not be used to serve the proposed houses. In order to accommodate the Sisters, the Developer agreed to access the community only from Saters Lane. Mr. Guckert also testified that sight distance both north and southbound on Falls Road from Saters Lane was excellent. In his view, the proposed access was the safest alternative and the most practical point of ingress/egress to the property.

Another concern raised by the community related to landscaping. Again, Ms. Mula and Mrs. Farnum were concerned that a sufficient buffer be implemented to screen the existing houses to the north. In this regard, Mr. Martin submitted portions of a proposed landscape plan. As noted above, this exhibit (Developer's Exhibit 2A through 2C) proposes plantings offsite to further screen the development. Obviously, neither the Developer nor this Hearing Officer has authority to order that offsite property owners acquiesce to landscaping on their property. However, I will condition approval of this Order to provide that if those property owners so agree, the Developer shall install landscaping as shown on the relevant exhibits. In my view, proposed landscaping, both onsite and off, provides a sufficient screen.

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

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

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

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

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

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

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

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

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

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

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

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

1. The maximum enrollment of the Maryvale School shall not exceed 300 students without amendment of the Petition for Special Exception and site plan attendant therewith, and public hearing held thereon.

2. The Developer, with the consent of adjoining property owners, shall install off site landscaping substantially similar to that shown on Developer's Exhibits 2A through 2C.

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

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:mmn

CURRICULA VITAE

DAVID L. MARTIN, L.A.

Director of Land Planning / Landscape Architecture
George William Stephens, Jr. & Associates

Professional Registration: Landscape Architect
Maryland - No. 776
Pennsylvania - No. 573-E

Education:
The Pennsylvania State University
Bachelor of Science Landscape Architecture - 1971

Professional Affiliations:
American Society of Landscape Architects, Member
Urban Land Institute, Member

Professional practice includes 34 years of land planning, landscape architecture, comprehensive zoning, PUD master planning, site planning, and expert witness testimony regarding land use and zoning issues. Mr. Martin has been practicing in the Greater Baltimore Metropolitan region since 1987 and has been qualified as an expert in land planning, site planning, and zoning cases in Anne Arundel County, Baltimore County, Howard County, Harford County, Bel Air, Aberdeen, Havre de Grace, Perryville and Federal District Court of Baltimore.

Prior to his relocation to Maryland, Mr. Martin practiced landscape architecture and land planning in Pennsylvania, Florida, Massachusetts, Alabama, The Commonwealth of the Bahamas and Jamaica.

Principal duties for G. W. Stephens, Jr. & Assoc. include supervision of site development and land planning, zoning interpretation, community input meetings, development plans and Hearing Officer's Hearings, special exception petitions, variance request petitions and landscape plan preparation.

Significant projects include Developments of Regional Impact (DRI) in the State of Florida including; Palm Coast, Florida - 10,000 acre master plan, Beverly Hills, Florida - 6,500 acre master plan, and Doral Park, Florida - 2000 acre master plan. Significant local projects include: Hollywoods, Monmouth Meadows, Greenbriar, Guzzo Property, Forge Landing, Owings Mills Commerce Center, The Avenue at Whitemarsh, New England Motor Freight Trucking Facility, Cedar Land Farms P.U.D., Westwicke, Beaverbrook, Biddison Property, Bridle Ridge, Green Spring Station, Home Depot of Owings Mills, Bel Air and Timonium, and Ashland Market Place.

Mr. Martin has prepared numerous comprehensive-zoning petitions in Baltimore County during the 1992, 1996, 2000 & 2004 CZMP processes and has a thorough understanding of the principles of Euclidean zoning and their application throughout the Baltimore Metro region. He also served on an ad-hoc committee that authored the Service Employment (SE) Zone of Baltimore County and the Public Affairs Committee for NAIOP. He has extensive experience dealing with all of the Baltimore Regional Area County's development regulations.

PETITIONER'S

EXHIBIT NO. 2

Frederick N. Chadsey, IV, P.E.

Principal

Vice-President

Mr. Chadsey has been with the firm since March 1990. His fields of expertise include:

Project Management

Residential, Commercial, Institutional, Industrial Project
Planning & Design

Computer Aided Design & Drafting (CADD)

Storm Water Management

Flood Plain Studies & Hydraulics

Construction Specifications

Cost Estimating

Expert Witness – Zoning/Land Development

Prior to joining Stephens & Associates, Mr. Chadsey was an Associate, Project Manager and CADD Production Coordinator for a local landscape architecture, land planning, engineering and surveying firm. Earlier, he was a Project Manager and Project Engineer for an engineering firm in Oklahoma. In Oklahoma he was involved in the design of several residential, commercial and industrial projects as well as serving as a consulting engineer for several municipalities.

Registration

Professional Engineer, Maryland
Professional Engineer, Oklahoma
Professional Engineer, West Virginia

Education

M.S. Water Resource Engineering - Oklahoma State University
B.S. Civil Engineering - Oklahoma State University

Professional Memberships

Member - American Society of Civil Engineers
Member - National Society of Professional Engineers (P.E.P.P.)
Member - Engineer's Society of Baltimore

PETITIONER'S EXHIBIT NO. 3

MICKEY A. CORNELIUS, P.E., P.T.O.E.
Senior Vice President

Mickey Cornelius, proudly one of the first certified Professional Traffic Operations Engineers (P.T.O.E.) in the nation, is Senior Vice President of the firm, responsible for managing various aspects of the firm's traffic engineering and transportation planning studies. He is experienced in many aspects of traffic engineering and transportation planning, including traffic analysis, traffic forecasting and associated modeling, geometric design, traffic signals and signal systems evaluation/design, parking and circulation, traffic calming, and transportation systems management.

As a registered Professional Engineer, Mr. Cornelius has over 15 years experience in the highway transportation and traffic engineering profession. His experience in both the public and private sectors has provided him with a broad range of expertise in his field. Mr. Cornelius has conducted over 1,500 traffic engineering studies and has served as a transportation planner for the development of Master Plans for both private firms and public agencies. His educational and professional background has qualified him as an expert in the field of traffic engineering and transportation planning before numerous County and Municipal Planning and Zoning Boards in Maryland, as well as in Pennsylvania, New Jersey and New York.

Job History
1987 - Present
Traffic Engineering Consultant, The Traffic Group, Inc.

1984 - 1987
Traffic Engineering Consultant

1982 – 1984
Civil Engineer, Highway Construction

Educational Background
- *B.S. In Civil Engineering* with emphasis in Transportation
  Pennsylvania State University
- *Traffic Engineering Courses*
  Northwestern University Traffic Institute
  Polytechnic Institute of New York

Affiliations
- Certified Professional Traffic Operations Engineer (P.T.O.E.)
- Registered Professional Engineer (P.E.)–DE, MD, NJ, PA, VA
- Institute of Transportation Engineers (I.T.E.)
- National Society of Professional Engineers (N.S.P.E.)
- Urban Land Institute (U.L.I.)
- Maryland Association of Engineers (M.A.E.)
- Consulting Engineers Council of Pennsylvania (CEC/PA)
- American Society of Civil Engineers (A.S.C.E.)

Examples of places where Mr. Cornelius has testified as an expert witness

MARYLAND
City of Annapolis - City Council
Anne Arundel County - Board of Appeals;
Zoning Hearing Examiner
City of Baltimore - City Council; Planning Commission
Baltimore County - County Review Group, Zoning Commissioner,
Board of Appeals; Circuit Court; District Court
Town of Bel Air - Planning Board; Town Commissioners;
Zoning Hearing Examiner
Carroll County – Board of Appeals; County Commissioners;
Planning Board
City of Bowie - Planning Advisory Board; Mayor and City Council
Cecil County - Technical Advisory Committee
Charles County - Board of Appeals
Dorchester County - Board of Appeals
Frederick County - Planning Board; County Commissioners;
Board of Appeals
Harford County – Zoning Hearing Examiner
Howard County - Planning Board; Zoning Board; Board of Appeals
Town of Indian Head - Planning Commission
Montgomery County - Planning Board; Zoning Hearing Examiner;
Board of Appeals
Town of North East - Planning Commission
Prince George's County - Planning Board; County Council
Washington County - Board of Appeals
City of Westminster - Mayor and Common Council
Wicomico County - Board of Zoning Appeals

NEW JERSEY
State Court of Administrative Law
Cumberland County - Manchester Township
Zoning Hearing Board
City of Millville - Planning Commission

PENNSYLVANIA
York County - Manchester Township Zoning Hearing Board
Shrewsbury Borough – Planning Commission

NEW YORK
Town of East Hampton - Planning Commission

The Traffic Group, Inc. ∪ *9900 Franklin Square Drive* ∪ *Suite H* ∪ *Baltimore, Maryland 21236*
410-931-6600 ∪ *Fax: 410-931-6601* ∪ *www.trafficgroup.com*

(1/14/02)

PETITIONER'S
EXHIBIT NO. 4

THOMAS R. MILLS, P.E., P.G.

EDUCATION

B.S., Geological Engineering, 1965, Michigan Technological University

Study in soils engineering, foundation engineering, and geohydrology at Johns Hopkins and Howard Universities

WORK HISTORY

5/82 – Present : President and Principal Engineer/Geologist; Hydro-Terra, Inc.; Columbia, MD

2/72 - 5/82: Project Environmental Engineer to Vice President; Hittman Associates, Inc.; Columbia, MD

3/68 - 2/72: Geotechnical Engineer; Rummel, Klepper & Kahl; Baltimore, MD

2/66 - 1/68: Commissioned Officer; U.S. Army Corps of Engineers; Stateside and Vietnam

7/65 - 1/66: Geophysical Engineer; Continental Oil Company; Western U.S.

PROFESSIONAL REGISTRATION

Professional Engineer - Maryland, Pennsylvania, and Virginia
Professional Geologist - Pennsylvania

SUMMARY OF EXPERIENCE

Mr. Mills has 37 years of professional experience in the geotechnology and environmental fields. During his career, he managed interdisciplinary teams of consultants in several parts of the U.S. working on private- and government-sector projects dealing mainly with soil and ground-water contamination, water-resource development, earth engineering, land reclamation, and water-pollution control. He has performed environmental investigations to characterize environmental conditions and assess risks, and has designed and implemented remedial measures addressing soil and ground-water contamination problems. Mr. Mills also has conducted hydrogeologic investigations for the purpose of siting water-supply wells, defining the hydraulic properties of aquifers, and determining the effects on the environment and other water users due to the pumping of ground water. Furthermore, he has completed geotechnical investigations required in the construction of earthworks, the assessment of geologic hazards, the reclamation of mined land, and the landfilling of solid wastes. Following is a more detailed description of Mr. Mills' professional experience.

PETITIONER'S

EXHIBIT NO. 5

GROUND-WATER HYDROLOGY

Mr. Mills has sited high-yield irrigation and community wells in rock aquifers, tested wells to determine safe yields and the ability of aquifers to store and transmit water, assessed the effects on adjoining properties due to the pumping of ground water, determined ground-water budgets, conducted ground-water mounding analysis for septic drain fields, investigated the effects of mining on ground-water resources, and developed plans for the management of ground-water resources. He also has testified as an expert in hydrogeology before county hearing boards in several Maryland counties. Examples of the projects he has completed are described below and at informational hearings conducted by the Maryland Department of the Environment.

- Investigated the effect on ground-water supplies due to the withdrawal of ground water at an existing and a proposed stone quarry in Maryland and provided expert testimony at hearings.

- Investigated the availability of ground water at several subdivisions in Maryland, assessed the effects due to ground-water withdrawal, provided expert testimony at public hearings, and acquired water-appropriation permits.

- Performed water-supply investigations at existing and proposed golf courses in Maryland. Sited and tested wells, determined the availability of supplemental surface water, developed water-management plans, assessed impacts due to water withdrawal, provided expert testimony at public hearings, and acquired water-appropriation permits.

- Sited high-yield irrigation and community wells in Maryland using traditional lineament analysis as well as geophysical prospecting.

- Investigated the source, quantity, and quality of spring water at a water-bottling facility in Maryland. Also sited artesian wells and acquired a water-appropriation permit from the state.

- Determined water-table mounding potential beneath large septic drain fields at a commercial subdivision and school in Maryland.

CONTAMINATION ASSESSMENT AND REMEDIAL DESIGN

Mr. Mills has investigated several sites on which hazardous substances and petroleum products were released, resulting in soil, ground-water, and surface-water contamination. He has designed and implemented multi-media sampling programs in conformance with USEPA protocol, directed studies to assess the risks associated with contaminant releases, and designed and implemented risk-driven remedial practices. Examples of projects he has managed are described below.

- Completed a remedial investigation and feasibility study of a site near the Anacostia River in Washington, D.C. formerly used for the manufacturing of gas. Work included multi-medial sampling to characterize 11 acres of impacted property and the river; ecological and human-health risk assessment; evaluation of alternative land uses and remedial actions; preparation of decision document; remedial design; and installation of a ground-water treatment facility and ground-water and tar-recovery wells.

- Performed a remedial investigation of a Maryland-CERCLIS site in Frederick, Maryland used for the manufacturing of gas. Performed subsurface investigations to map the geology and contaminant plume, and developed and implemented a ground-water monitoring plan and a plan for extracting coal tar from the ground.

- Investigated a fuel-oil spill from an underground storage tank in Baltimore County. Mapped the free-product plume in the water-bearing unit, installed and sampled monitoring wells and production wells, designed a ground-water treatment facility, and monitored the performance of the fuel-recovery effort.

- Investigated a leachate problem at a landfill in southern Maryland. Performed a subsurface investigation and sampled leachate to determine the likely source of the contamination. Designed a leachate collection system and formulated and implemented a water-quality monitoring program.

- Conducted a Phase II investigation of a property in Maryland formerly contaminated with PCBs. Searched records of remedial actions taken by the USEPA, interviewed the property owner and regulatory personnel, and sampled and tested soils and wastes for the presence of PCBs, heavy metals, and petroleum products.

- Directed a multi-year remedial investigation and feasibility study of a manufacturing facility and associated landfill on a property in Maryland. Work on this CERCLUS site included geophysical prospecting to locate sources of contamination, a benthic invertebrate survey to assess ecological impacts, and extensive soil-gas, ground-water, stream-water, soil, and sediment sampling.

GEOTECHNICAL ENGINEERING

Mr. Mills has experience in the performance of geotechnical investigations required in the design and construction of earthen structures, the engineering of methods to solve land-stability problems, and the design of solid-waste disposal facilities. He also has testified in court as an expert in geological engineering. Examples of his work are described below.

- Performed geotechnical investigations required in designing segments of interstate highway in Pennsylvania. Work included drilling, material testing, design of cut slopes and soil fills, pavement design, and determination of the bearing capacity of soils.

- Investigated the stability of proposed fills constructed of mine spoil at a surface mine in Kentucky and provided expert testimony at public hearing.

- Designed measures to reclaim several abandoned mining sites in eastern Pennsylvania.

- Mapped the geology along a segment of interstate highway in Pennsylvania and assessed the potential for the generation of landslides as a result of the construction of highway cuts.

- Investigated the potential for encountering rock in a proposed roadway excavation and provided expert testimony in bankruptcy court.

- Investigated the causes of a landslide along a railroad in western Maryland that resulted in the derailment of two locomotives and the death of a brakeman. Also, assessed the stability of fill slopes at a coal mine in Kentucky and assessed the potential for landslides along the alignment for a section of Interstate highway near Pittsburgh.

- Designed a flyash landfill for a power plant in Archibald, Pennsylania and obtained the necessary waste-disposal permit from the state.

- Designed and monitored the installation of shoreline-stabilization practices at two sites in Maryland.

- Conducted a geotechnical investigation along a proposed highway in Pennsylvania underlain by carbonate bedrock and showing evidence of existing and potential sinkhole development.

- Investigated the cause of a sinkhole on a roadway in Carroll County, Maryland that resulted in the death of a person.

- Assessed the effect on ground-water resources due to proposed quarrying at two sites in Maryland, one in carbonate rock (limestone) in Frederick County and the other in non-carbonate rock in Howard County.

WATER-POLLUTION CONTROL & LAND RECLAMATION

Mr. Mills has performed research work on sediment-control and land reclamation practices for federal and state agencies and has written national publications and developed training programs on these topics. He also has designed practices for reclaiming mined land and investigated measures for disposing of sediment from dredging operations. Examples of his work are described below.

- Researched practices for controlling soil erosion and sedimentation under a research grant from the USEPA to the Maryland Department of Natural Resources and co-wrote the USEPA's manual-of-practice on sedimentation-control practices at construction sites, titled: Guidelines for Erosion and Sediment Control Planning and Implementation.

- Researched and co-wrote a two-volume USEPA technical manual titled: Erosion and Sediment Control/Surface Mining in the Eastern U.S., Vol. I: Planning & Vol. II: Design.

- Directed the development of a 40-hour audio-visual training program on mined-land reclamation and pollution control for the Interstate Mining Compact Commission under a grant from the USEPA.

- Designed measures to reclaim several abandoned mining sites in eastern Pennsylvania.

ROBERT W. SHEESLEY
ECO SENSE, INC.
8354 Chestnut Farm Lane
Ellicott City, Maryland 21043

BACKGROUND

Mr. Sheesley has over twenty nine years of experience in government, regulatory ,and permitting processes with a specialty in environmental matters. During the past eight years Mr. Sheesley has acted as a private consultant to real estate developers, banking institutions, and local and state governments providing assistance on land use issues, government regulation, permitting requirements and negotiation, environmental sanitation, and natural resource identification and characterization.

In most of the positions that Mr Sheesley has held, he was responsible for, or participated in, public forums, community involvement, consensus building, and working with many competing interests. Such involvement includes building a Department, establishing a regional solid waste recycling program, siting solid and hazardous waste facilities, establishing watershed management policy, alternative road and highway alignments, waterway dredging projects, and regional environmental management strategies.

QUALIFICATIONS

- Eight years as a private consultant.
- Over twenty nine years of experience in environmental protection and resource management.
- Proven skills in program planning, personnel supervision, and budget management.
- Demonstrated political interaction skills and consensus building.
- Skilled in legislative and regulatory processes.
- Skilled in effecting public participation, consensus building, addressing competing interests, conflict resolution, problem solving

GOVERNMENT AND REGULATORY EXPERIENCE

- Planned, developed, and administered the Baltimore County, Maryland Department of Environmental Protection and Resource Management.
- Coordinated the development of Baltimore County Programs in the following disciplines:

  Watershed Management
  Wetland Protection
  Coastal Waterway Improvement
  Groundwater Protection
  Forest Management Strategy
  Solid Waste Recycling
  Agricultural Protection
- In Howard County, Maryland, reorganized, staffed, and administered the Bureau of Environmental Health, Maryland Department of Health.
- President of the Maryland Conference of Environmental Health Directors Association (1984 - 1987).
- Coordinated statewide effort to provide consistency and standardization of local environmental health programs in the State of Maryland.
- Member, Governors Task Force:

  Maryland Non Tidal Wetlands Act;
  Forestry Management Regulation;
  Greenways Program.
- Member of the Board of Directors Chesapeake Bay Trust
- Member, Maryland Association of County's Subcommittees:

  Managing Municipal Sewage Sludge
  Maryland Solid Waste Regulation
- Member , Governor's Council on Toxic Substances (assisted the Deputy State Health Officer for Baltimore County.

PETITIONER'S
EXHIBIT NO. 6

EDUCATION

B.S. Health and Biology, Towson State University, Towson, Md.

Master of Health Science, Environmental Sciences, Johns Hopkins University, School of Hygiene and Public Health, Baltimore, Md.

Master of Administrative Science, Johns Hopkins University, Homewood Campus, Baltimore, Md.

EMPLOYMENT HISTORY

Present: **Private Consultant,**
Performs consulting services related to government process; land use and construction issues; natural resource identification, value and function; environmental site assessments; stream restoration, watershed evaluation, storm water management and sediment control; addressing regulatory issues, alternative analysis, negotiation of permit conditions; site design; private sewage and water systems; waste management issues; groundwater contamination problems; project management, and dispute resolution

1987 - 1990: **Director,** Baltimore County Department of Environmental protection and Resource Management, Baltimore County, Maryland.

1984 - 1987: **Director,** Bureau of Environmental Health, Howard County, Md.
Maryland State Department of Health.

1981 - 1984: **Chief,** Water Quality and Waste Management, Baltimore County Bureau of Environmental Service, Department of Health.

1979 - 1981: **Supervisor,** Land Development Review Section, Baltimore County Bureau of Environmental Services, Department of Health.

1970 - 1979: **Sanitarian,** Baltimore County Bureau of Environmental Services, Department of Health. Resolved community environmental health concerns, conducted assessments of private water and sewage systems, landfills, groundwater contamination problems, air pollution, food establishments, and land use issues; initiated regulatory action as required.

PROFESSIONAL REGISTRATION

Registered Sanitarian - State of Maryland
#197

Michael R. McCann, P.A.
118 W. Pennsylvania Avenue
Towson, Maryland 21204
Phone: (410) 825-2150
Facsimile: (410) 825-2149
michael@mmccannlaw.net

September 27, 2007

Via Hand Delivery

Kathleen C. Bianco, Administrator
Baltimore County Board of Appeals
400 Washington Avenue
Old Courthouse - Room 49
Towson, MD 21404

Re: Case No: 06-128-SPHA/CBA 06-006
Baltimore Province of the Sisters of Notre Dame de Namur, Inc., Owners
Maryvale Preparatory School, Inc., Contract Purchasers - Petitioners
11300 Falls Road

Dear Ms. Bianco:

I represent the Falls Road Community Association and Harold Burns in connection with the above-referenced matters.

These matters were before the Board on September 6, 2006. During that hearing, the parties informed the Board that they may have reached a resolution of the issues in the cases and that my clients were considering (i) withdrawing the appeal in the special exception case (no. 06-128-SPHA), and (ii) agreeing to a continuance of the plan refinement case (no. 06-006). At the close of the hearing, however, the parties requested that the Board keep the record open until all issues were resolved and informed the Board they would either submit something in writing evidencing their agreement or would appear again before the Board. A copy of the transcript from the hearing is attached for your reference.

Following the hearing, my clients did not ultimately reach an agreement with the Petitioners. Accordingly, I write to request, on their behalf, that the Board reconvene the hearing in these matters on a date mutually agreeable to the parties.

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SEP 28 2007
BALTIMORE COUNTY
BOARD OF APPEALS

Thank you for your consideration.

Best regards,

Michael R. McCann

cc: Robert A. Hoffman, Esquire
Thomas M. Lingan, Esquire
Jennifer Busse, Esquire

Michael R. McCann, P.A.
118 W. Pennsylvania Avenue
Towson, Maryland 21204
Phone: (410) 825-2150
Facsimile: (410) 825-2149
michael@mmccannlaw.net

October 9, 2007

Via Facsimile & U.S. Mail

Kathleen C. Bianco, Administrator
Baltimore County Board of Appeals
400 Washington Avenue
Old Courthouse - Room 49
Towson, MD 21404

Re: **Case No: 06-128-SPHA & CBA 06-006**
Baltimore Province of the Sisters of Nôtre Dame de Namur, Inc., Owners
Maryvale Preparatory School, Inc., Contract Purchasers - Petitioners
11300 Falls Road

Dear Ms. Bianco:

I received the Board's Order of Dismissal in Case No. 06-128-SPHA and want to make certain that (i) the two appeals filed by Falls Road Community Association (Case Nos: 06-128-SPHA and CBA 06-006) have not been dismissed and will be scheduled for hearings, and (ii) the appeal filed by Harold Burns in Case No. CBA 06-006 has not been dismissed and will be scheduled for hearing.

The reason for this request for clarification is that the Board's Order of Dismissal incorrectly states that I, "on behalf of [my] clients, withdrew the appeal in this matter as reflected in the transcript of that hearing." My "clients" at the hearing included Falls Road Community Association, which clearly did not withdraw either of its appeals. Indeed, with the exception of Mr. Burns' withdrawal of his appeal in Case No. 06-128-SPHA, there were no appeals withdrawn at the hearing at all. To the contrary, the parties requested a continuance of the hearing in both appeals so that certain issues could be resolved. (*See* transcript of hearing, pp. 17-18).

Thank you for your consideration. Please contact me if you have any questions.

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Best regards,

Michael R. McCann

cc: Robert A. Hoffman, Esquire
Thomas M. Lingan, Esquire
Jennifer Busse, Esquire

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OCT 11 2007
BALTIMORE COUNTY
BOARD OF APPEALS

Michael R. McCann, P.A.
118 W. Pennsylvania Avenue
Towson, Maryland 21204
Phone: 410.825.2150
Facsimile: 410.825.2149
michael@mmccannlaw.net

FACSIMILE COVER SHEET

Date: January 18, 2008

Number of pages (including cover):

To: Kathleen Bianco

Direct Dial: Facsimile: (410) 887-3182

Sender: Michael R. McCann Phone: 410-825-2150

RE: 06-128-SPHA/CBA 06-006 – Maryvale School

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BOARD OF APPEALS

Michael R. McCann, P.A.
If any problems occur with this facsimile transmission, please call Sender or Secretary.

NOTICE

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118 W. Pennsylvania Avenue
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Facsimile: (410) 825-2149
michael@mmccannlaw.net

January 18, 2008

Via Hand Delivery

Kathleen C. Bianco, Administrator
Baltimore County Board of Appeals
400 Washington Avenue
Old Courthouse - Room 49
Towson, MD 21404

Re: Case No: 06-128-SPHA/CBA 06-006
Baltimore Province of the Sisters of Notre Dame de Namur, Inc., Owners
Maryvale Preparatory School, Inc., Contract Purchasers - Petitioners
11300 Falls Road

Dear Ms. Bianco:

Per the Board's request at the recent hearing in this matter, enclosed are copies of a resolution, minutes, and motion of the Falls Road Community Association.

Thank you.

Best regards,

Michael R. McCann

cc: Robert A. Hoffman, Esquire (via email)

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JAN 18 2008
BALTIMORE COUNTY
BOARD OF APPEALS

FALLS ROAD COMMUNITY ASSOCIATION
Minutes of the Annual Meeting
October 23, 2007

Martha Lessner called the meeting to order, and introduced the proposed slate of officers and directors for the coming year:

President – Harold Burns
Vice-President – Marvin Tenberg
Secretary – Marcia Goldberg
Treasurer – Carol Kakel
Directors – Carol Danz, Martha Lessner, Dan Meenan, Paul Miller, Dennis Sutton, Eric Trela

All were elected.

Marcia Goldberg gave a brief overview of FRCA's successful efforts to modify and limit the Becker development.

Harold Burns spoke briefly about the coming CZMP process, pointing out that anyone can request a zoning change on any property. He advised members to be mindful about proposed changes to land around them.

Paul Miller was thanked for his 10 years of service on the Board, 5 as the membership chair.

Al Dyer reported on our continuing efforts to change state law on legal standing for community associations.

A motion was passed granting members of the Board permission to represent the members of the FRCA in conducting the business of the association.

Elected Officials:

Kevin Kamenetz – spoke briefly about the CZMP process and his efforts to downzone 13,000 acres during the last CZMP cycle. There are 41 zoning issues on file in his district. He thanked Paul Miller for his efforts on the County Planning Board.

Brian McIntire – also spoke about the CZMP, indicating there are 71 issues on file in his area, and that Planning Board members can still raise issues. He is concerned about controlling density.

Bobby Zirkin – Monday is the beginning of a special session in the state legislature to try to deal with a $2 billion structural deficit. He is on the tax committee, and finds this to be a most troubling time in his 18 years in the legislature.

Susan Brennan, a FRCA member, spoke about a recent community meeting to discuss a Board of Eduation proposal to build a special education school in the park near Graul's market off Padonia Rd. Board of Ed. reps at the meeting could not answer many of the questions asked by citizens. Apparently feasibility studies are being conducted. Neither Kamenetz nor McIntire had any prior knowledge about the proposal – citizens had alerted them. This proposal will have to go through many levels of approval.

THE FALLS ROAD COMMUNITY ASSOCIATION, INC.

The undersigned hereby acknowledge and attest that the Falls Road Community Association, Inc., a Maryland corporation (the "Corporation"), upon a Motion, duly made and seconded at its annual meeting on October 23, 2007, unanimously decided as follows:

RESOLVED: Responsibility for review and action on all zoning and development matters shall be placed in the board of directors.

AS WITNESS OUR HANDS THIS 8th day of November, 2007.

ATTEST:

By: Marcia Goldberg
Marcia Goldberg, Secretary

The Falls Road Community Association, Inc.

By: Harold A Burns
Harold Burns, President

FALLS ROAD COMMUNITY ASSOCIATION, INC.
MOTION

I, Dennis Sutton, a duly elected member of the Board of Directors of the Falls Road Community Association, Inc., hereby move the membership of the Association to take the following action:

RESOLVED: Responsibility for review and action on all zoning matters shall be placed in the Board of Directors who may designate a representative to appear at any meeting, hearing, trial, conference, or similar event and to speak on behalf of the Association as directed by the Board.

AS WITNESS OUR HANDS THIS 23rd day of October, 2007.

Dennis Sutton
NAME - SIGNATURE

Dennis Sutton
NAME - PRINTED

SECONDED BY: _____
NAME - SIGNATURE

Robert Hennessey
NAME - PRINTED

APPROVED: (YES) NO

G. MACY NELSON
ATTORNEY AT LAW

SUITE 803
401 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
www.gmacynelson.com
gmacynelson@gmacynelson.com

TELEPHONE
(410) 296-8166, EXT. 290

FACSIMILE
(410) 825-0670

June 13, 2006

Ms. Kathleen C. Bianco, Administrator
County Board of Appeals of Baltimore County
Room 419, Old Courthouse
400 Washington Avenue
Towson, Maryland 21204

Re: *Case No. 06-128-SPHA*
Case No. CGA-06-006
In the Matter of: Baltimore Province of SSND de Namur, Inc. –
Legal Owners: Maryvale Preparatory School, Inc.

Dear Ms. Bianco:

It was a pleasure speaking with you on June 8, 2006. I am writing now to confirm that Michael R. McCann, Esquire, 36 South Charles Street, 12th Floor, Baltimore, Maryland 21201, is entering his appearance on behalf of the Citizens/Protestants in the above-captioned case. I am striking my appearance on behalf of The Valleys Planning Council, Gary Gensler, Jack Shapiro, Lance Roth, Laurie Stubb, Carl Schramm, and Ellyn Brown.

Very truly yours,

G. Macy Nelson

GMN:ro
cc: Robert Hoffman
Michael McCann, Esquire

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BALTIMORE COUNTY
BOARD OF APPEALS

G. MACY NELSON
ATTORNEY AT LAW

SUITE 803
401 WASHINGTON AVENUE
TOWSON, MARYLAND 21204

TELEPHONE
(410) 296-8166

FACSIMILE
(410) 825-0670

April 12, 2006

Ms. Kathleen C. Bianco, Administrator
County Board of Appeals of Baltimore County
Room 419, Old Courthouse
400 Washington Avenue
Towson, Maryland 21204

Re: *Case No. 06-128-SPHA*
Case No. CGA-06-006
In the Matter of: Baltimore Province of SSND de Namur, Inc. –
Legal Owners: Maryvale Preparatory School, Inc.

Dear Ms. Bianco:

Thank you for forwarding the Notice of Assignment in the Maryvale case. I will be out of the country on July 25th , July 26th and August 3rd , 2006. Therefore, I am requesting that those dates be changed. Perhaps Mr. Hoffman and I could come to your office to pick five dates that are acceptable to the Board and the parties.

Very truly yours,

G. Macy Nelson

G. Macy Nelson

GMN:ro
cc: Robert Hoffman

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BOARD OF APPEALS

G. MACY NELSON
ATTORNEY AT LAW

SUITE 803
401 WASHINGTON AVENUE
TOWSON, MARYLAND 21204

TELEPHONE
(410) 296-8166

FACSIMILE
(410) 825-0670

February 3, 2006

HAND DELIVERY

Timothy R. Kotroco
Baltimore County Government
Department of Permits and Development
Management
111 W. Chesapeake Avenue, Room 123
Towson, Maryland 21204

Re: *Petitions for Special Hearing and Variance – N/S Greenspring Valley Road, between Greenspring Avenue and Falls Road (11300 Falls Road), 8th Election District, 2nd Council District*
The Baltimore Province of the Sisters of Notre Deame de Namur, Inc., Legal Owner; Maryvale Preparatory School, Inc., Contract Purchaser
Before the Zoning Commissioner for Baltimore County
Case No. 06-128-SPHA

Dear Mr. Kotroco:

I represent certain Protestants in the above-captioned case and identify them below:

The Valleys Planning Council, Inc.
P.O. Box 5402
207 Courtland Avenue
Towson, Maryland 21285-5402

Gary Gensler
P.O. Box 1328
Brooklandville, Maryland 21022

Jack J. Shapiro
7 Barstad Court
Lutherville, Maryland 21093

RECEIVED
FEB 03 2006
Per CLK

Lance Roth
1008 Brooklandville Road
Lutherville, Maryland 21093

Laurie Stubb
6 Barstad Court
Lutherville, Maryland 21093

Carl Schramm
11055 Greenspring Avenue
Lutherville, Maryland 21093

Ellyn Brown
11055 Greenspring Avenue
Lutherville, Maryland 21093

My clients appeal your decision dated February 1, 2006. I have attached a copy of the opinion as Exhibit A. I have also enclosed an extra copy of this letter and attached opinion.

I have enclosed a check made payable to Baltimore County, Maryland, in the amount of $100.00 for the filing of this appeal.

Very truly yours,

G. Macy Nelson

GMN:pwc
Enclosures
cc: Robert A. Hoffman, Esq. (w/enc.)

Lance Roth
1008 Brooklandville Road
Lutherville, Maryland 21093

Laurie Stubb
6 Barstad Court
Lutherville, Maryland 21093

Carl Schramm
11055 Greenspring Avenue
Lutherville, Maryland 21093

Ellyn Brown
11055 Greenspring Avenue
Lutherville, Maryland 21093

→ Brookland wood Road
1st notice returned by P.O.

My clients appeal the decision of Commissioner Wiseman dated January 10, 2006. I have attached a copy of the opinion as Exhibit A. Also enclosed is an extra copy of this letter and attached opinion.

I have enclosed a check made payable to Baltimore County, Maryland, in the amount of $400.00 for the filing of this appeal. $400.00 represents the sum of $325.00 for a Special Exception order, and $75.00 for posting.

Very truly yours,

G. Macy Nelson

GMN:pwc
Enclosures
cc: Robert A. Hoffman, Esq.
The Honorable William J. Wiseman

G. MACY NELSON
ATTORNEY AT LAW

SUITE 803
401 WASHINGTON AVENUE
TOWSON, MARYLAND 21204

TELEPHONE
(410) 296-8166

FACSIMILE
(410) 825-0670

Don
See me on this
1-

January 18, 2006

HAND DELIVERY

Timothy R. Kotroco
Baltimore County Government
Department of Permits and Development
Management
111 W. Chesapeake Avenue, Room 123
Towson, Maryland 21204

Re: *Maryvale Preparatory School*

Dear Mr. Kotroco:

I represent certain individuals and organizations who are opposed to the expansion of the Maryvale School. My clients include:

Gary Gensler
1116 Greenspring Valley Road
Brooklandville, Maryland 21022

Harold Burns, Jr.
5 Candlestick Drive
Lutherville, Maryland 21093

Falls Road Community Association, Inc.
c/o Harold Burns, Jr.
5 Candlestick Drive
Lutherville, Maryland 21093

These clients and others have been negotiating a settlement agreement in the Special Exception case. Although the parties have made significant progress, they have not reached an agreement.

→ I understand that on Monday, January 23, 2006, the DRC will consider whether Maryvale's proposal constitutes a "refinement" of its prior plan or whether the proposal is "materially different." My clients believe that the new plan is "materially different"

for several reasons. First, Maryvale is proposing to increase the parking spaces from 197 to 337. Second, Maryvale proposes to substantially increase the size of the footprint of its existing buildings. Third, it proposes to construct substantial play fields. Each of these changes is "material." Furthermore, each of these changes contributes to the amount of stormwater runoff. The stormwater issue is important to my clients because Maryvale has not yet designed its stormwater plan. Therefore, there is no opportunity now to responsibly critique the stormwater plan because it does not exist.

My clients urge you to determine that the proposed changes are "materially different" so that Maryvale will have a full Hearing Officer's Hearing on the development plan. That hearing will provide the only opportunity for my clients to address the question of whether the stormwater outfall is, or is not, suitable. My clients are not comfortable on relying on Staff to determine the suitability of the outfall. For example, in the *Becker* case, Staff approved the stormwater outfall and the citizens in that case persuaded the Hearing Officer that the stormwater outfall was not suitable.

For all these reasons, my clients respectfully request that you determine that Maryvale's proposed changes are "materially different."

Please add me to the mailing list of people who will get a copy of the DRC's decision with respect to the Maryvale proposal.

Thank you for your assistance.

Respectfully submitted,

G. Macy Nelson

GMN:pwc
cc: Robert A. Hoffman, Esq.

G. MACY NELSON
ATTORNEY AT LAW

SUITE 803
401 WASHINGTON AVENUE
TOWSON, MARYLAND 21204

TELEPHONE
(410) 296-8166

FACSIMILE
(410) 825-0670

12/1/05
9:00 AM
Rm 106

12/2
407 9:00

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OCT 26 2005

ZONING COMMISSIONER

October 26, 2005

William J. Wiseman, III
Zoning Commissioner of Baltimore County
401 Bosley Avenue, Suite 405
County Courts Building
Towson, Maryland 21204

Re: Case No. 06-128-SPHA, 11300 Falls Road, Maryvale Preparatory School

Dear Mr. Wiseman:

I am writing to enter my appearance on behalf of Douglas Carroll, M.D. and Gary Gensler as well as other individuals residing in close proximity to the Maryvale school. We intend to be present at the hearing. Originally, your office scheduled the hearing for October 19, 2005 and November 1, 2005. The October 19th hearing date was postponed to allow the parties to begin settlement discussions. Those discussions are ongoing. I write now to request a postponement of the November 1 hearing date because I am scheduled to argue a case in the Maryland Court of Special Appeals on November 1st. *Charles Colao v. The Maryland-National Capital Park and Planning Commission, et al.*, No. 02596, September Term, 2004. Although the parties have been discussing a potential settlement, it is unlikely that they will reach a final agreement prior to November 1st. Therefore, I respectfully request a postponement of that hearing date. I am available on November 9, 10, 21, 23, and November 28 through December 1st.

I understand that the Applicant has already posted the notice for the November 1 hearing. If you grant my request for a short postponement, I request that you convene the hearing for a few minutes on November 1 simply to state on the record you are postponing the case until the new date.

Very truly yours,

G. Macy Nelson

GMN:pwc
cc: Robert Hoffman

HAROLD H. BURNS, JR.
ATTORNEY AT LAW
Suite 201
210 East Lexington Street
Baltimore, Maryland 21202-3514
410-528-0044
Fax: 410-576-7610
email: burnsesq@earthlink.net

Telecommunications Transmittal

PERSONAL AND CONFIDENTIAL

DATE: AUGUST 25, 2005

PLEASE DELIVER THE FOLLOWING DOCUMENT TO:
NAME: BOARD OF APPEALS
FAX : 410-887-3182
FROM: **HAROLD H. BURNS, JR.**

NUMBER OF PAGES (INCLUDING THIS SHEET): 1

MESSAGE:

Re: Case No: 06-128-SPHA/CBA 06-006
The Baltimore Province of the Sisters of Notre Dame de Namur, Inc., Owners
Maryvale Preparatory School, Inc., Contract Purchasers - Petitioners
11300 Falls Road

PLEASE CALL **410-528-0044** IF THIS TRANSMISSION IS INCOMPLETE OR NOT LEGIBLE.

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HAROLD H. BURNS, JR.
ATTORNEY AT LAW
Suite 201
210 East Lexington Street
Baltimore, Maryland 21202-3536
410-528-0044
Fax: 410-576-7610
E-Mail: burnsesq@earthlink.net

August 25, 2006

VIA FACSIMILE AND U. S. MAIL
Kathleen C. Bianco, Administrator
Baltimore County Board of Appeals
400 Washington Avenue
Old Courthouse - Room 49
Towson, Maryland 21404

Re: Case No: 06-128-SPHA/CBA 06-006
The Baltimore Province of the Sisters of Notre Dame de Namur, Inc., Owners
Maryvale Preparatory School, Inc., Contract Purchasers - Petitioners
11300 Falls Road

Dear Ms. Bianco:

I write on my own behalf as an appellant to join Mr. McCann's request on behalf of the Valleys Planning Council that the hearing in the above-referenced matter be continued so as to allow some or all of the parties an opportunity to settle some or all of the issues.

Although I do not represent the Falls Road Community Association in this matter, I am also authorized to state that it too joins in the request that the hearing be continued.

Thank you for your attention in this matter.

Very truly yours,

Harold H. Burns, Jr.

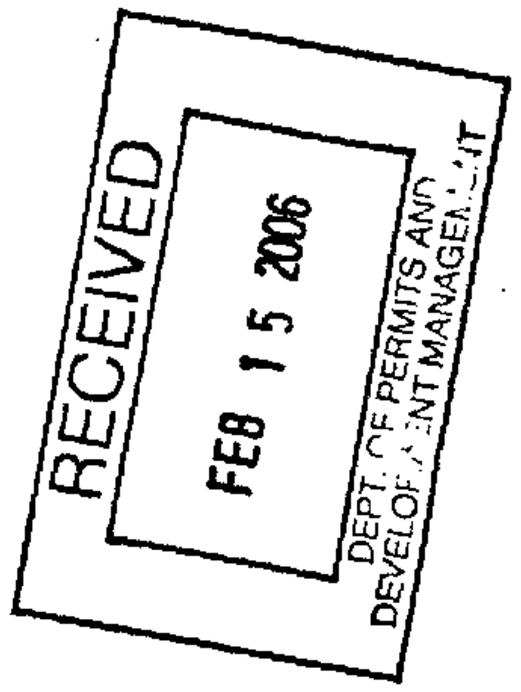
cc: Falls Road Community Association
Michael R. McCann, Esquire
Robert A. Hoffman, Esquire
Other Appellants and Interested Parties

HAROLD H. BURNS, JR.
5 Candlestick Drive
Lutherville, Maryland 21093

February 15, 2006

HAND DELIVERY

Timothy R. Kotroco
Baltimore County Government
Department of Permits and Development Management
111 W. Chesapeake Avenue, Room 123
Towson, Maryland 21204



Re: *Westwicke/Maryvale School*
PDM Number VIII-631
DRC Number 121905A; Dist. 8C2

Dear Mr. Kotroco:

I am appealing your decision dated February 1, 2006. I have attached a copy of the opinion as Exhibit A. I have also enclosed an extra copy of this letter and attached opinion.

I understand that I need not pay a filing fee because Mr. Nelson has paid that fee on behalf of other Appellants. If I am mistaken in this regard, please let me know and I will promptly pay the fee.

Very truly yours,

Harold H. Burns, Jr.

Harold H. Burns, Jr.

Enclosures
cc: Robert A. Hoffman, Esq. (w/enc.)

Baltimore County Government
Department of Permits and
Development Management

111 West Chesapeake Avenue
Towson, MD 21204

410-887-3335
410-887-2877(fax)

February 1, 2006

Venable LLP
210 Allegheny Avenue
Post Office Box 5517
Towson, MD 21285-5517

RE: Westwicke/Maryvale School
PDM Number VIII-651
DRC Number 121905A; Dist. 8C2

Dear Sir or Madam:

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 Sections 32-1-101, 32-3-401, and 32-3-517 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 32-4-106 and Section 32-4-262 of the Baltimore County Code and to make recommendations to the Director, Department of Permits and Development Management (PDM).

The DRC has, in fact, met in an open meeting on January 17, 2006, and made the following recommendations:

The DRC has determined that your project meets the requirements of refinement to the development plan, under Section 32-4-106(b)(2). It is necessary to submit a plan to the Department of Environmental Protection and Resource Management, the Office of Planning, PDM's Office of Zoning, Development Plans Review, and Recreation and Parks for further review. Please forward the plans, along with five copies of this DRC letter, to Room 123, County Office Building; 111 West Chesapeake Avenue; Towson, MD 21204.

After resolution of any outstanding issues, please submit a copy of this letter, and ten copies of the plan to this office, Room 123, for signature.

I have reviewed the recommendations carefully, and I have determined to adopt the recommendations set forth above. It is this 1st day of February, 2006, ordered and decided that the recommendations of the DRC are hereby adopted.

Should you submit an application for any permits that may be required for this project, your application will be processed subject to the conditions set forth above and any plans, securities, or non-county permits that may be required in accordance with County, State, or Federal regulations.

Additionally, this project is located on a state road; therefore, the State Highway Administration requires the plan to be reviewed prior to the permit approval. For further information, contact Larry Gredlein at 410-545-5600.

Sincerely,

Timothy Kotroco
Director

TK:DTR:sem

c: Kristin Weis
File
Larry Gredlein

PLEASE PRINT CLEARLY

CASE NAME Maryvale School
CASE NUMBER 6-128-SPHA
DATE 12/23/05

PETITIONER'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E-MAIL
DAVID KARCESKI	210 ALLEGHENY AVE.	TOWSON MD	dkkarceski@venable.com
ROBERT HOFFMAN			rahoffman@venable.com
DAVID MARTIN	10220 CROMWELL BRIDGE RD	TOWSON MD	dmartin@gwstephens.com
RICK CHADSEY	" "	"	
TOM MILLS	9192 Red Branch Rd, Suite 290	Columbia, MD 21045	tmills@hydro-terra.com
MICKEY CORNELIUS	9900 FRANKLIN SQ DR STE H	BALTIMORE MD 21236	mcornelius@traffigroup.com
BOB SHEESLEY	8354 Clustnut Farm Court	~~Baltimore~~ Ellicott City MD	
MARCI REIHART	16317 LOWE RD.	STEWARTSTOWN, MD. 17363	reihart@verizon.net
TIMOTHY CHRISS	233 E. REDWOOD ST.	BALTO. MD	tchriss@gfrlaw.com
Bob Cawley	13 Lochmoor Ct	Lutherville, MD 21093	rcawley@vcmd.com
Dolly Dyer	40 Battersea Bridge Court	Lutherville, MD 21093	dyerd@maryvale.com
JIM CARROLL	75 DUNKIRK RD.	BALT. MD 21212	JCARROLLDESIGNCOLLECTIVE.com
MONICA GRAHAM	607 ORKNEY RD.	BALT MD 21212	grahamm@maryvale.com
Cathy Kellermann	114 Tregrane Road	Lutherville, MD 21093	kellermannc@maryvale.com
Tracey Sgulcciarini	237 Tidyman Rd	Relay MD 21156	Tsgulcciarini@comcast.net
Meredith Bower	317 East Melrose Ave	Balto. MD 21212	bowerm@maryvale.com
Jennifer Busse	210 W. Pennsylvania Ave.	Towson MD 21204	jbusse@wtplaw.com
Joe Mezzanotte	7 St. Paul Street Suit 1400	Balto. MD 21202	
MaryEllen Fise	1203 Captains Ct.	Towson, MD 21286	merf@comcast.net
S. Shaun Maguire	Maryvale	Brooklandville 21022	smaguire@maryvale.com

PLEASE PRINT CLEARLY

CASE NAME Maryvale
CASE NUMBER 06-128-SPHA
DATE 12/1/05

PETITIONER'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
MICKEY A. CORNELIUS	9900 FRANKLIN SQ DR. STE H	BALTIMORE, MD 21236	mcornelius@trafficgroup.com
DAVID KARCESKI	210 ALLEGHENY AVENUE	TOWSON, MD 21204	dkarceski@venable.com
ROBERT HOFFMAN			rahoffman@venable.com
Henry Leskinen	1527 York Road	Lutherville, MD 21093	espiemail@aol.com
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PLEASE PRINT CLEARLY

CASE NAME _____
CASE NUMBER _____
DATE 12/1/05

CITIZEN'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
Teresa Moore	Valleys Planning Council	Towson MD	moorevpc@comcast.net
Jory Carroll	1117 Greenspring Valley Rd.	Lutherville, Md.	DGC in Md@Aol.com
Gary GENSLER	1116 Greenspring Valley Rd	Brooklandville, MD	

PLEASE PRINT CLEARLY

CASE NAME Marvale School
CASE NUMBER
DATE 1/3/06

PETITIONER'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
Glenn Cook	9900 Franklin Sq Dr Ste H	Baltimore, MD 21236	gcook@trafficgroup.com
Dr. Karen O'Neil	5797 Clearspring Rd.	Baltimore MD 21212	oneilk@maryvale.com

IN THE MATTER OF:	* BEFORE THE
BALTIMORE PROVINCE OF SSND	* COUNTY BOARD OF APPEALS
de NAMUR, INC.: MARYVALE	* OF
PREPARATORY SCHOOL, INC. -	* BALTIMORE COUNTY
	* CASE # 06-128-SPHA
	* and
	* CASE #: CBA-06-006
	* SEPTEMBER 14, 2006

* * * * *

The above-entitled matter came on for hearing before the County Board of Appeals of Baltimore County, at the Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204, at 10:30 a.m., September 14, 2006.

* * * * *

Reported by:

C.E. Peatt

BOARD MEMBERS:

LAWRENCE S. WESCOTT, Chairman
MARGARET BRASSIL
MIKE MOHLER

APPEARANCES:

ROBERT A. HOFFMAN, Esquire
THOMAS M. LINGAN, Esquire
On behalf of Petitioners
MICHAEL R. McCANN, Esquire
On behalf of Appellants/Protestants

PROCEEDINGS

* * * * *

THE CHAIRMAN: Good morning, ladies and gentlemen. This is a regular meeting of the County Board of Appeals of Baltimore County in cases numbers 06-128-SPHA and Case No. CBA-06-006, in the matter of the Baltimore Province of the School Sisters of Notre Dame de Namur, Inc., Maryvale Preparatory School, Inc, LO, 11300 Falls Road, 8th Election District, 2nd Councilmanic District.

The SPH case is to amend the prior special exception in 95-435-X as amended in Case No. VIII-651 in confirmation as to parking sufficiency; the variance for the existing and proposed building setbacks.

The second case is an appeal from the decision of the director of PDM/DRC determination that the project meets the definition of refinement to the development plan.

Would counsel please state their appearances, for the record.

MR. HOFFMAN: Rob Hoffman and Tom Lingan, for the applicant and petitioner.

MR. McCANN: Good morning. Michael McCann, of Funk & Bolton, on behalf of all appellants, other than Robert Burns.

THE CHAIRMAN: What happened to Harold?

MR. McCANN: Harold is pro se. My understanding, he withdrew his special exception 06-128-SPHA, and is going to maintain the right to bring back the appeal on CBA-06-006, which is the appeal of the DRC decision, subject to him working with --

THE CHAIRMAN: The sixty days?

Mr. McCANN: Correct, which I'll state it on the record. So that hasn't changed with respect to Mr. Burns.

On behalf of my clients, all other appellants, other than Mr. Burns, we are withdrawing both appeals.

THE CHAIRMAN: What about this arrangement on the sixty days?

MR. HOFFMAN: Well, I think I'll do it, because it was between me and Mr. Burns pro se, so I'll restate it.

THE CHAIRMAN: Okay.

MR. HOFFMAN: My commitment at the last hearing was that we would be submitting stormwater management computations to Baltimore County for review, Environmental Protection & Resource Management, and that we would not ask for a hearing to be scheduled in until we received a set of comments from Baltimore County on that submittal.

Once we get the submittal and we request -- if we request at that point that the case be set back in, that it not be set in sooner than sixty days from that date.

THE CHAIRMAN: That's as I recall. Anything else?

MR. HOFFMAN: No. Thank you for your patience.

THE CHAIRMAN: Thank you very much for getting together and working this matter out. I think it's best for all concerned.

MR. McCANN: Thank you.

THE CHAIRMAN: Thank you very much.

(Hearing concluded.)

* * * * *

IN THE MATTER OF: * BEFORE THE

BALTIMORE PROVINCE OF SSND * COUNTY BOARD OF APPEALS

de NAMUR, INC.: MARYVALE * OF

PREPARATORY SCHOOL, INC. - * BALTIMORE COUNTY

* CASE # 06-128-SPHA

* and

* CASE #: CBA-06-006

* SEPTEMBER 6, 2006

* * * * *

The above-entitled matter came on for hearing before the County Board of Appeals of Baltimore County, at the Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204, at 10:45 a.m., September 6, 2006.

* * * * *

Reported by:

C.E. Peatt

BOARD MEMBERS:

LAWRENCE S. WESCOTT, Chairman
MARGARET BRASSIL
MIKE MOHLER

APPEARANCES:

ROBERT A. HOFFMAN, Esquire
THOMAS M. LINGAN, Esquire
On behalf of Petitioners
MICHAEL R. McCANN, Esquire
On behalf of Appellants/Protestants

PROCEEDINGS

* * * * *

THE CHAIRMAN: Good morning, everyone. This is a regular meeting of the County Board of Appeals of Baltimore County in cases No. 06-128-SPHA and Case No. CBA-06-006, in the matter of the Baltimore Province of the School Sisters of Notre Dame de Namur, Inc., Maryvale Preparatory School, Inc, LO, 11300 Falls Road, 8th Election District, 2nd Councilmanic District.

The special hearing is to amend the prior special exception in 95-435-X as amended in Case No. VIII-651 in confirmation as to parking sufficiency; the variance for the existing and proposed building setbacks.

CBA-06-006 is an appeal from the decision of the director of PDM/DRC determination that the project meets the definition of requirement to the development plan.

Would counsel please state their appearances, for the record.

MR. HOFFMAN: Robert Hoffman and Tom Lingan, on behalf of Maryvale.

MR. McCANN: Good morning. Michael McCann of Funk & Bolton, on behalf of all appellants.

THE CHAIRMAN: Thank you. Are there two other appellants that you don't represent, Mr. McCann?

MR. BURNS: I'm Harold Burns. I'm here pro say.

THE CHAIRMAN: Mr. Burns, do you want to stay back there, or do you want to come up here?

MR. McCANN: For the record, Mr. Wescott, I represent the Falls Road Community Association, the Valleys Planning Council, Doug Carroll and Gary Gensler.

THE CHAIRMAN: So Mr. Burns then is the only one that is appearing pro day, is that correct?

MR. McCANN: That's correct.

THE CHAIRMAN: Mr. Carroll, I think, was below. I'm not sure about that.

MR. McCANN: I think he was pro say below.

THE CHAIRMAN: In other words, you didn't have an attorney below, Mr. Carrol?

MR. CARROLL: Right. But now I'm represented by Mr. McCann.

THE CHAIRMAN: I just wanted to make sure I understand the cast of players.

MR. HOFFMAN: Mr. Wescott, if I could, just to be more specific, we represent Maryvale Preparatory School, Inc., which is the current owner of the property.

THE CHAIRMAN: Right. Do you want to make any opening statements?

MR. HOFFMAN: Well, I think we have some preliminary issues, and I don't know who should go first, so I will just go ahead.

withdraw all appeals

Mr. McCann, I believe, and Mr. Burns, are ready to withdraw all of the appeals in the special exception case only, which is Case No. 06-128-SPHA, and Maryvale is agreeable to continue the case involving the refinement of the development plan for Westwick in Case No. CBA-06-006.

withdraw all except Burns

We would ask that the Board continue CBA-06-006 and not reschedule it at this time for further hearing, and we would like the Board to schedule it back in at a time when you would be notified by counsel that it needs to be set back in.

I have agreed with counsel that the hearing would not be scheduled -- it may get confusing -- but would not be scheduled less than sixty days from the date that one

Page 6

would notify the Board that we would like it scheduled back in. Does that make sense? I can do it again.

THE CHAIRMAN: You're giving us --

MR. HOFFMAN: Mr. McCann or I would like to make sure we have sixty days to prepare for the case before coming back, so we have had agreed that it wouldn't be scheduled, once you're notified that it should be scheduled, we would ask the secretary not to schedule it in for a time less than sixty days from that date, that's correct.

MR. McCANN: Maybe we should be a little more specific, so it's clear on the record.

MR. HOFFMAN sure.

MR. McCANN: What the parties intend to do, and have agreed in principal to do, is for the developer to submit a stormwater management plan and other DEPRM submittals in the near future, I understand within the next couple weeks.

The community wants the opportunity to review those plans. Mr. Hoffman has agreed to provide us with copies of those plans when they are submitted to DEPRM.

Page 7

We want the opportunity to review them, comment on them, provide our input to DEPRM.

And at a point in time when DEPRM makes the decision to either approve the plans as submitted or request the developer to revise those plans in some fashion, that's the point in time when we'd like that sixty-day period to start.

So at some point in time when those plans have been reviewed and commented on, and revised or not revised, at that point in time, either Mr. Hoffman or I will notify you, and ask for a hearing not less than sixty days after that.

MR. HOFFMAN: We're talking about the stormwater management plan.

MR. McCANN: Correct.

THE CHAIRMAN: We have nothing to do with approval of the plan, so when either one of you notifies us that you want the hearing scheduled, we will then schedule it no less than sixty days from the date you notify us that you want to get the hearing scheduled.

MR. HOFFMAN: Fine. I'm sure Mr. McCann and I

Page 8

can figure the rest out.

THE CHAIRMAN: Does that take care of everything that we have here today?

MR. HOFFMAN: I think Mr. McCann would have to, on the record, withdraw the appeal. I said i. If that's good enough?

THE CHAIRMAN: I think that's correct.

MR. McCANN: Yes. We, on behalf of my clients, we do withdraw the appeal of the special exception case only, which is Case 06-128-SPHA, and Mr. Burns can certainly speak for himself.

MR. HOFFMAN: If you wouldn't mind, could you -- because I had some confusion about who all the parties were -- could you say who you are withdrawing, and make sure that it's everybody that took the appeal.

MR. McCANN: I don't have a list of all the appellants.

THE CHAIRMAN: I've got a list of names here. The Valleys Planning Council. Do you represent the Falls Road? That one, I don't have.

MR. McCANN: We do represent the Falls Road

Page 9

Community Association.

THE CHAIRMAN: All right. I have the Valleys Planning Council.

MR. McCANN: I'm speaking on behalf of the Valleys Planning Council.

THE CHAIRMAN: Gary Gensler?

MR. McCANN: Correct.

THE CHAIRMAN: Lauri Stubb?

MR. McCANN: Yes.

THE CHAIRMAN: Jack Shapiro?

MR. McCANN: Yes.

THE CHAIRMAN: Carl Schramm?

MR. McCANN: Yes.

THE CHAIRMAN: Lance Roth?

MR. McCANN: Yes.

THE CHAIRMAN: Ellyn Brown?

MR. McCANN: Yes.

THE CHAIRMAN: Douglas Carroll?

MR. McCANN: Yes.

THE CHAIRMAN: Then Mr. Burns, you don't represent Mr. Burns?

Page 10

MR. McCANN: I do not.
THE CHAIRMAN: That's all I have, so that's your list?
MR. McCANN: Correct.
THE CHAIRMAN: Mr. Burns?
MR. BURNS: I just want to be clear, your Honor, I am in agreement with what has been said by counsel, but to me, when the request is made to reschedule, start the sixty-day period, if that request is not in keeping with our agreement, I'm going to file a motion to stop it, because it's primary to this whole process that it -- it's the understanding that neither party will request, make that request to reschedule, until DEPRM has issued its comment and Maryvale have given us notice that they are either going to revise the plan and give us a new plan or they are not going to revise the plan.
So at that point, when they gave us that notice, Here's the new plan revised after DEPRM's comment, or, Here's DEPRM's comment and we're not revising, that's when they can reschedule.
And short of that, they don't have a right to

Page 11

come in here and ask you to reschedule.
I want to make sure that's really understood by the Board that that is definitional, the right to come in and reschedule.
THE CHAIRMAN: Well, we are not party to your agreement. If someone requests a rescheduling of the hearing, and requests sixty days, we will probably reschedule it.
Now, if you are objecting to the rescheduling, is that what you are saying?
MR. BURNS: Your Honor, I would say if the conditions have not been fulfilled, I would say they have waived their right to request a rescheduling.
They don't have the right to come in and request it until those conditions are fulfilled. They are waiving their right to ask for it to be rescheduled until such time as they give us notice after DEPRM's comment that, Here's the comment, Here's the new plan, or Here's the comment, we are not going to have a new plan. So we have the final, more or less, the final plans we are looking at.

Page 12

THE CHAIRMAN: Well, I'll be very honest with you. I don't think we can make any agreement that -- you know, you can come in and protest it, and we'll consider it at that time, but this Board is not party to your agreement.
If you withdraw right now, that's fine, and we'll take that with the understanding that it's a possibility that the matter will be rescheduled at a later date.
And if you protest it at that time, then we'll take that into consideration,
MR. BURNS: Fair enough. Do you agree with that, Rob, you and Maryvale are waiving the right to reschedule this hearing until after giving us notice, Here's the final plan after DEPRM, or not?
MR. HOFFMAN: I guess I sort of agree with the Board. I'm not sure what we are agreeing to on the record. I'd be happy to have it taken down.
What I envision is we are going to do -- do you mind if I have a sidebar discussion?
THE CHAIRMAN: Go ahead.
MR. HOFFMAN -- we are going to be filing

Page 13

stormwater management plans with the county.
When we file them when the county, we are going to send them to you and Michael, OR whoever you guys tell us wants a copy of those plans.
MR. BURNS: I want them.
MR. HOFFMAN: Then the county is going to review them, and they are going to issue comments.
MR. BURNS: Right.
MR. HOFFMAN: At that point, when we have submitted and the county has done a review, then we all get to look at what their comments are.
And then if either of us decide that they don't like what's going on, you might ask for going back with sixty days' notice or I might ask for going back with sixty days' notice.
MR. BURNS: But you might revise the plan again. I mean, if you're not going to revise the plan at that point, that's fine, I agree with that.
But if you're going to revise the plan, then I want sixty days from the time that you revise the plan.
I have seen it happen so often, plans in response

Page 14

to county comments, it gets changed, it gets revised. If it's not going to get revised --

MR. McCANN: I'm going to suggest, why don't we make it sixty days from the date DEPRM approves the plans, whether it's a revision or not, the date DEPRM issues a letter, as it does when it approves the stormwater management plan, sixty days from then?

MR. BURNS: I don't know when --

MR. McCANN: It does not approve it until the comments are met. Is that right, Rob?

MR. HOFFMAN: Yes.

MR. BURNS: So it issues comments, and you then have to somehow deal with the comments before it's approved? If that's true, then I'll go with that.

THE CHAIRMAN: If DEPRM does not approve the plan, DEPRM will say, Here, do A, B, C and D. Otherwise, we won't approve the plan.

Then they may have to do A, B, C, D in order to get it approved, or they can say -- well, I mean, I don't know how you get it -- if DEPRM doesn't approve it, it's a long road to hoe before we'll approve it.

Page 15

MR. BURNS: So If you get us the DEPRM approved plan, that's fine.

MR. HOFFMAN: I'm okay with that. Can I just think about it for a second? It got a little confusing.

Okay. My co-counsel is saying, what we are talking about is I'm not going to ask the Board to reschedule the hearing that's currently pending before the Board until DEPRM makes a decision of some sort on our stormwater management submittal.

And I'm going to say it's unlikely that I'm going to want to come here if they haven't approved it.

But on the date that DEPRM says your stormwater management hydrology, whatever was submitted, and whatever goes into the development, I can't remember the other, the outfalls are approved, then I would have the opportunity, if we still disagree, to ask to reschedule this hearing back in, and then we go from there and see what happens, on no less than sixty days.

MR. BURNS: Right.

MR. HOFFMAN: That makes sense.

MR. BURNS: With that understanding, I would

Page 16

withdraw my appeal of the special exception.

MR. McCANN: Another point. With the understanding, Mr. Wescott, that you're not a party to the private agreement, there is another part of the arrangement that I want to put on the record.

That is that Mr. Hoffman, on behalf of his clients, has agreed not to undertake any construction that's related to the new plans, the new construction, no construction until a building permit is issued, or, no building permits issued, or the parties decide, one or both of the parties decide to pursue the DRC appeal, either of those two events. Is that accurate?

MR. HOFFMAN: We are not going to pursue construction of any of the buildings or elements of the special exception plan.

I think that's really what we're saying now. You are withdwawing your appeal. Now I have a approved special exception plan. They want to make sure we are not going to build them until we've decided either we have resolved everything and, of course, we would build them with a building permit, or we are arguing again, and then

Page 17

we would get to do whatever we want to do.

From our side, we want to make it clear we are limiting what we are saying we won't do to what's proposed on these new plans.

However, there could be activities going on at the school that are unrelated to these new buildings and parking areas.

MR. McCANN: We do have one more thing. If we could have thirty seconds outside with Mr. Hoffman, this is something we did not address, and Mr. Carroll just brought up something, so if we could step out briefly?

THE CHAIRMAN: Okay.

(A recess was taken.)

THE CHAIRMAN: Mr. McCann?

MR. McCANN: I think what we're going to do, Mr. Wescott, if we could ask the Board to keep the record open while we resolve this issue, this final issue, which is not resolved today, and given the fact that the Falls Road representative can't speak on behalf of the entire board on this new issue, and they are having a meeting tomorrow night, so if the Board would allow the record to be open,

we either come back, we have a date next week, or come back tomorrow or come back next week or submit something in writing that all the parties have agreed, if that's okay with the Board.

THE CHAIRMAN: Okay. We'll adjourn at this point. Do you have something to say, Mr. Hoffman?

MR. HOFFMAN No.

MR. BURNS: I've said everything I've got to say. I'm done. I'm out. I've dropped my appeal. That's over. I will not be back tomorrow.

THE CHAIRMAN: I don't think any of us are going to be back tomorrow.

MR. BURNS: Or whatever the next day is.

THE CHAIRMAN: Thank you very much.

MR. HOFFMAN: Thank you.

THE CHAIRMAN: We will adjourn, and we will await for you to let us know --

MR. McCANN: We'll let you know as soon as possible.

THE CHAIRMAN: -- letters, or whatever it is.

MR. HOFFMAN: We're due back the 14th.

THE CHAIRMAN: Let us know as soon as possible. We've got this scheduled for five days, and if we can, we'd certainly like to use them.

MR. McCANN: We would ask those days stay in because there is a possibility this case is going forward.

THE CHAIRMAN: Well, what I'm saying, if you know --

MR. McCANN: We'll let you know as soon as possible.

THE CHAIRMAN: -- if you resolve it, please let us know as soon as possible. We are adjourned.

(Hearing adjourned.)

* * * * *

The Valleys Planning Council, Inc.

207 Courtland Avenue, Towson, Maryland 21204
Mailing Address: P.O. Box 5402, Towson, Maryland 21285-5402
Phone: 410 337-6877, *Fax:* 410 296-5409

September 26, 2007

Via Hand Delivery

Kathleen C. Bianco, Administrator
Baltimore County Board of Appeals
400 Washington Avenue
Old Courthouse - Room 49
Towson, MD 21404

Re: Case No: 06-128-SPHA/CBA 06-006
Baltimore Province of the Sisters of Notre Dame de Namur, Inc., Owners
Maryvale Preparatory School, Inc., Contract Purchasers - Petitioners
11300 Falls Road

Dear Ms. Bianco:

I write on behalf of the Valleys Planning Council, Inc., Gary Gensler, Douglas Carroll, Lance Roth, Jack Shapiro, Laurie Stubb, Ellyn Brown, and Carl J. Schramm to withdraw their appeal in Case No. 06-128-SPHA.

Please contact me if you have any questions.

Sincerely,

Teresa Moore

Teresa Moore
Executive Director

cc: Robert A. Hoffman, Esquire
Thomas M. Lingan, Esquire
Jennifer Busse, Esquire

RECEIVED
SEP 28 2007
BALTIMORE COUNTY
BOARD OF APPEALS

BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

IN THE MATTER OF:	:	
BALTIMORE PROVINCE OF SSND de NAMUR, INC./MARYVALE PREPARATORY SCHOOL, INC.	:	Case No. CBA-06-006

Thursday, January 10, 2008

Pursuant to Notice, the above-entitled hearing was held before Chairman Crizer, at Old Courthouse, 400 Washington Avenue, Room 49, Towson, Maryland 21204, commencing at 10:00 a.m., there being present on behalf of the respective parties:

ON BEHALF OF THE APPELLEES/PETITIONERS:

ARNOLD JABLON, ESQUIRE
ROBERT A. HOFFMAN, ESQUIRE

ON BEHALF OF THE APPELLANTS/PROTESTANTS:

MICHAEL R. MCCANN, ESQUIRE

ALSO PRESENT: LAWRENCE S. WESCOTT
WENDELL H. GRIER

REPORTED BY: CHRIS HOFER, CVR, NOTARY PUBLIC

- - -

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P R O C E E D I N G S

CHAIRMAN CRIZER: Good morning, everybody.

VOICES: Good morning.

CHAIRMAN CRIZER: This is the regularly scheduled meeting of the Baltimore County Board of Appeals in CBA-06-006 in the matter of Baltimore Province of SSND de Namur, Incorporated/Maryvale Preparatory School, Incorporated, 11300 Falls Road, 8th Election, 2nd Council, the decision of the Director of the PDM/DRC determination that project meets definition of refinement to Development Plan.

May I have your appearances for the record.

MR. MCCANN: Good morning. Michael McCann on behalf of the appellants, Falls Road Community Association, Harry Burns, and Marshal Palmer.

MR. HOFFMAN: Rob Hoffman on behalf of Maryvale School, the appellees in the case. I don't believe that Falls Road Association is an appellant in this case. I believe there's only one appeal filed.

MR. MCCANN: They are. An appeal was filed on behalf of Falls Road Community Association. And Mr.

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Burns filed the case.

CHAIRMAN CRIZER: Okay. Any preliminary stuff?

MR. HOFFMAN: I just wanted to let you know that Mr. Jablon may be here later today. He was going to sit through the case, but he has to be in Circuit Court this morning on an appeal from a Board of Appeals' decision, East Avenue.

CHAIRMAN CRIZER: Do you have anything?

MR. MCCANN: Nothing preliminarily, no.

CHAIRMAN CRIZER: Okay.

MR. MCCANN: Go ahead and proceed?

CHAIRMAN CRIZER: Yes.

MR. MCCANN: Unless the Board would like to hear opening remarks, I'd just as soon get into the testimony, which will be self-explanatory. And I would call as our first witness Walter Smith from Permits and Development Management who is under subpoena to be here today.

(Whereupon, there was a discussion off the record.)

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can ask my questions then. Is that okay?

CHAIRMAN CRIZER: Okay. You can reserve on that.

MR. HOFFMAN: Thank you.

CHAIRMAN CRIZER: Go ahead. I'm sorry, Mr. McCann.

MR. MCCANN: Has the witness been sworn in?

CHAIRMAN CRIZER: He's already been sworn in.

MR. MCCANN: Oh, he already is? I missed that.

MR. HOFFMAN: I interrupted. Sorry about that.

DIRECT EXAMINATION

BY MR. MCCANN:

Q Could you just state your full name and occupation for the record.

A Yes. My name is Walter T. Smith, Jr. I work for the Department of Permits and Development Management, Baltimore County. I am a development manager.

Q Would you tell the Board what you do as

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development manager for the Department of Permits and Development Management?

A Yes. I oversee a staff of 14 that process plans through the development process and through the construction process for the retention and return of security for completion of public improvements.

Q And how long have you held that position, Mr. Smith?

A Approximately two and a half years.

Q What positions, if any, did you hold with Baltimore County prior to that?

A Prior to that, within the same department and bureau, I was a project manager. And I'm sorry. I'm going to just say probably five years before that. I've worked with the bureau and the department since about 1995, I guess, 1994, '95.

Q When say department, you mean PDM --

A Yes.

Q -- Permits and Development Management?

A Yes.

Q Okay. And briefly, what did you do as

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project manager for that number of years?

A I was assigned various subdivision projects, conducted and chaired various meetings, community input meetings, and was kind of like the -- the contact person for communities and whatever needed to be done with the projects.

Q Could you tell the Board, I'm sure they know, but could you for the record at least explain what the Development Review Committee is, the DRC?

A The Development Review Committee is a committee with representatives from various county agencies, Recreation and Parks, the Zoning Office, the Planning Office, Department of Public Works and Department of Environmental Protection.

And at this time, I chair it, and we meet weekly to review applications that we receive for limited exemptions from the development process as described in the County Code.

Q That would be Article 32 of the County Code?

A Yes, sir.

Q And you say you chair that committee?

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A I do, yes.

Q How long have you chaired that committee?

A Approximately about a year and a half.

Q Were you chair of the Development Review Committee or DRC when the decision was made in this case which we're here for today?

A No, I was not.

Q You came on afterwards?

A Yes.

Q And who was it that made -- who was the chair at the time the decision was made?

A I believe it was Donald Rascoe.

Q Am I correct, Mr. Smith, that you brought today with you what you believe to be the file of Permits and Development Management for this case?

A Yes, sir.

Q Okay. Do you believe that to be the entire file?

A I do.

Q What I'd like to do, and I think I've made it easier by pulling out some of the documents in there

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that I'd like to go through quickly, and do that.

Have you had an opportunity to review this file at all?

A Yes, I have.

Q Okay. Let me show you this first document and I'll identify it for the record if I could.

CHAIRMAN CRIZER: Sure.

MR. MCCANN: And counsel will be sure that I've identified it correctly.

This is the concept plan and site constraints map for Westwicke. It is dated in the bottom right-hand corner February 15th, 1995, and is dated as having been received by Baltimore County on February 23rd, 1995.

MR. HOFFMAN: I'm sure it's accurate. But if you're asking me whether I -- at this point whether I would object to its introduction --

MR. MCCANN: No. I'm just making clear that I'm identifying it correctly for the record. That's all.

MR. HOFFMAN: Okay. Well, then for the

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record, I would -- I would object. I don't know what the -- see the relevance of a concept plan from 1995 to the subject case.

CHAIRMAN CRIZER: Are you entering it or are you just --

MR. MCCANN: I'm going to have Mr. Smith talk about it briefly. There will be a couple things that I'll be entering into evidence, but not this particular one. I'm just identifying it. It's part of the record of Baltimore County in the Office of PDM.

MR. HOFFMAN: Again, I -- then I object to the questions about it because it's not relevant to the -- to the appeal that was taken.

MR. MCCANN: It's relevant, Mr. Chairman, because this is the first plan among several that's led to the refinement for which we're here today. If we're going to compare what's being refined, we need to look at what was done along the way and whether, in fact, this is a refinement. That's the heart of this case. This is the first -- this is just the first step in several steps to -- that bring us here today.

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MR. HOFFMAN: Mr. Chairman, we're here on a request to revise or amend a development plan. We're not here on a request to do anything with any other documents that are associated with the case. So going back to what a concept plan may or may not have looked like in 1995 doesn't have anything to do with the exemption that we sought under the Baltimore County Code, which is the exemption that permits revisions to approved development plans. It doesn't say anything about an amendment to an approved concept plan. Concept plans, in fact, aren't approved at all.

MR. MCCANN: This is the most immediate plan prior to the development plan. Both documents are from 1995. This just happens to be the concept plan that led to the development plan that the appellees seek to amend and --

MR. HOFFMAN: I mean, it's just --

MR. WESCOTT: The development plan is what we're --

MR. MCCANN: That's fine. It would help the Board by way of background, but that's fine. That was

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my purpose. I can move to the next document which is, in fact, the development plan. Thank you.

Let me identify this document for the record, if I could, and that is the development plan and special exception plat for Westwicke. It's dated at the bottom September 28th, 1995, and signed by David Flowers, project manager.

What may be the best way, Mr. Smith, to do this is I'm going to put this up on the board.

CHAIRMAN CRIZER: Are you introducing this?

MR. MCCANN: I am introducing this document, yes.

CHAIRMAN CRIZER: Have you seen this, Mr. Hoffman?

MR. HOFFMAN: I'll watch him as he puts it up. That's okay.

MR. WESCOTT: Mr. McCann, I don't know. Would you switch the lights. I don't think --

CHAIRMAN CRIZER: You got to plug it in.

MR. WESCOTT: There you go. Thank you. Much better.

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BY MR. MCCANN:

Q Mr. Smith, would you mind stepping up and approaching the board.

(Whereupon, the witness complied with request.)

BY MR. MCCANN:

Q And I don't want to take too much time with this, but I want to, just if you could, you've -- and you've seen this plan before?

A Yes.

Q Okay. Could you just describe briefly what the plan shows so the Board understands what was proposed as a development plan and special exception plat back in 1995.

A Basically there is a tract of land. Whether or not it's more than one parcel, I can't determine. But it is an overall tract of land that is being subdivided. It was obviously approved by a hearing officer to create a certain number of residential lots in this portion. It identifies a Lot 1A here and a Lot 2A owned by Baltimore Province of Sisters of Notre

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Dame. And that would be this portion (indicating).

Q And is this Lot 1 up here north of this zoning boundary between RC5 and RC2?

A Well, there are many lots. I'm seeing up to 20, 21, 23, 25, 29.

Q Okay, sir. Many residential building lots. Let me ask it this way. Is there a zoning boundary between RC5 and RC2 shown on this plan?

A It is delineated by the heavy line coming across.

Q Is the residential -- both residential subdivision on the RC5 portion of the property?

A Yes, it is with the exception of a lot that is located down here (indicating).

Q And what is -- describe what's on the RC2 portion of the property as depicted in this plan.

A It appears to be the existing school facility and whatever buildings and whatever existed at the time. It's labeled as existing athletic fields, upper classroom gym. Several different buildings are shown.

Q So just to be clear, is any part of the

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Maryvale property as well, I'll call it the RC2 portion, is any part of that Maryvale property back in 1995, was that -- was it proposed at that point in time any improvements, buildings or otherwise, to the RC2 portion?

A I don't believe so. It looks like the lot tract up into here, this small portion of RC5. This small area down here said future -- future building expansion envelope and a little bit of fill slope in here was proposed (indicating).

Q That's where I was headed next. There's a -- next to the existing upper school and gym, there's a checked building envelope for future building expansion of 15,000 square feet. Did I read that correctly?

A Future 15,000 square foot building expansion envelope, yes.

Q And, Mr. Smith, to your knowledge anyway, was this plan approved by Baltimore County?

A Yes, sir.

Q I'll ask you to hold that while I get to the next one. You're better at that than I am.

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MR. MCCANN: I know these are originals in PDM's file. I would ask that they be marked as exhibits, at least a couple of these anyhow. But this one, I'd ask be marked as Appellants' Exhibit 1.

CHAIRMAN CRIZER: Any objection?

MR. HOFFMAN: No, sir.

CHAIRMAN CRIZER: Accepted.

MR. MCCANN: Thank you.

(Whereupon, the document was marked for identification Appellant Exhibit No. 1 and received in evidence.)

BY MR. MCCANN:

Q Mr. Smith, let me show you a document on the letterhead of Baltimore County, Department of Permits and Development Management dated December 19th, 1995. It's a letter from Arnold Jablon, Director, to Scottish Development Company, LLC. And attached to it is a Development Review Committee request form.

Could you explain to the Board what those two documents are.

A The applicant made a request to the

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Development Review Committee, and this is back November 29th, 1995, and the request simply states, "Due to a misinterpretation of the self-imposed landscape buffer along Maryvale School entry, we are requesting a reduction to the width of the self-imposed buffer from 35 feet to 25 feet. Covenants will be recorded to limit the use of the buffer for only landscape planting. Therefore, we request that you support this refinement, and there are two redline plans attached."

The Development Review Committee met and issued a admit (phonetic) on December the 18th, 1995, and issued a letter stating that in part, "The Development Review Committee determined your request does not meet the requirements of a refinement. Please note that this is a material change which must be reviewed by the zoning commissioner."

Q Do you know, Mr. Smith, whether that decision was appealed? Do you see anything in the file indicating that it was?

A I did not see anything indicating that that was appealed.

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MR. MCCANN: I actually have an extra copy of that, so I'll mark that, if I could, as Exhibit 2.

Could you just confirm for the Board, Mr. Smith, that that document is a copy of what you have in front of you?

THE WITNESS: Yes. Yes, it is.

MR. MCCANN: That's an extra copy.

CHAIRMAN CRIZER: No objection? Any objection?

MR. HOFFMAN: No.

CHAIRMAN CRIZER: All right. Accepted.

MR. MCCANN: Thank you.

(Whereupon, the document was marked for identification Appellant Exhibit No. 2 and received in evidence.)

BY MR. MCCANN:

Q Okay. Continuing on, Mr. Smith, the next document I'll show you is -- also includes a development review request form and a letter attached to it dated February 28th, 1996, from Dean Hoover of George William Stephens & Associates, consulting

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engineers, to Don Rascoe of PDM. And I'll show you at the same time, if I could, a letter from PDM dated March 14th, 1996, from Arnold Jablon to G.W. Stephens & Associates.

And could you describe for the Board, if you would, just as you did with the prior exhibit what those documents are.

A The letter dated February 18th, 1996, is essentially a request letter to the Development Review Committee requesting a redline revision to the following lots on Westwicke: Lot 5, reconfiguration of the septic area, to move the house forward to increase the back yard; Lot 5 may need an injector pump; Lot 14, reconfiguration of its forest conservation area to fit the proposed house; Lot 15, moving a septic area to eliminate sand mound system; Lot 16, shifting the lot line, reconfiguration of the septic area, and forest conservation easement; Lot 25, reconfiguration of septic area for forest conservation area.

I'm not reading everything but just kind of identifying. Lots 3, 9, 13, and 14, adding a drainage

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and utility easement on the back of each lot to provide drainage for a storm water management facility.

So that was a DRC request. The DRC met on March 11th, '96, and determined that your request meets the requirement of a refinement to the development plan under the appropriate section of the County Code.

Q So in this instance back in 1996, DRC approved this refinement?

A Yes.

Q And would it be fair to characterize it -- if I could get the letter from you -- these are reconfigurations and other adjustments to lots on the residential subdivision portion of the subject property, is that --

A Yes.

MR. MCCANN: Okay. I'll mark those as 3 and 4.

CHAIRMAN CRIZER: Any objection? May they come in?

MR. HOFFMAN: Yes.

CHAIRMAN CRIZER: They're both coming in

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as --

MR. MCCANN: Well, the letter, the February 28th, 1996, letter would be 3.

(Whereupon, the documents were marked for identification Appellant Exhibit Nos. 3 and 4 and received in evidence.)

BY MR. MCCANN:

Q Okay. Mr. Smith, the next document in the pile, could you identify that document for the record, please.

A This is a copy of the plat of Westwicke. It's titled. It's recorded in the land records of Baltimore County under SM6888 and it's a copy of the lots as they were recorded at the time. It's dated May 16th, 1996.

Q Could you confirm -- I'm going to introduce this copy as Exhibit No. 5. Could you confirm that this is a copy of that document.

A Yes. Yes, it is.

Q And, Mr. Smith, would you agree with me that this plat of Westwicke as recorded is limited to what

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I'll call the northern portion of the subject property where the residential subdivision is?

A Yes.

Q There's no -- there are no buildings or anything else depicted on this final plat depicting the Maryvale School and its property?

A No, there are not.

CHAIRMAN CRIZER: Any objection? Any objection?

MR. HOFFMAN: No objection.

CHAIRMAN CRIZER: It's in.

MR. MCCANN: Thank you.

(Whereupon, the document was marked for identification Appellant Exhibit No. 5 and received in evidence.)

BY MR. MCCANN:

Q Okay. Mr. Smith, let me show you the next document which is a plan. Would you identify for the Board what that document is.

A This is the first amended development plan and special exception plat of Westwicke. It is signed

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on October 1st, 1996.

Q Okay. And does that plan itself depict what the first amendment to the development plan was?

A It was has a note that says, "Reason and notes for first amendment." Reason for first amendment, to replace the future 15,000 square foot building expansion envelope at the northeast side of the existing upper school and gym with a final footprint of the proposed addition and to relabel it, I guess, to relabel proposed two-story addition. That was number one.

Number two, to revise the Maryvale School data table to include the proposed expansion.

Q So just if we could look at the plan itself, Mr. Smith. I'll open it up for you. This amendment, does that refer to what we marked as Exhibit 1 where it says, "Future expansion, 15,000 square foot"? Is that what is being amended, that same area?

A Yes.

Q Would you confirm for the Board that's --

A I believe that is.

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Q And that is next to the -- where it says, "Upper school and existing gym" on this exhibit?

A That's correct.

Q And what does this exhibit show in an area where the Exhibit 1 showed future expansion? What does it say?

A This says, "Proposed two-story addition." There are some numbers underneath, but I don't know what they are.

Q And the reference -- the other reason for the amendment was with reference to the school data table. What is the school data table?

A I believe that's information on the -- what -- I'm assuming it's zoning information that is identified as castle, temporary, lower. It must be different buildings and maybe it's -- what's that say? Student service. I don't know what that information means. Again, I assume it's zoning information.

Q But you understand that reason for the amendment is just to add a data table to its plan rather than anything to the property itself?

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MR. HOFFMAN: Objection. The witness just stated he didn't know what it was.

CHAIRMAN CRIZER: Sustained.

MR. MCCANN: I'd like to move that exhibit in, if I could, as Exhibit 6.

CHAIRMAN CRIZER: Any objection?

MR. HOFFMAN: No, sir.

CHAIRMAN CRIZER: Do you want to see it?

MR. HOFFMAN: Yes, please. I guess I should see it before I say no objection. Okay. I've seen it. No objection.

MR. MCCANN: Thank you.

(Whereupon, the document was marked for identification Appellant Exhibit No. 6 and received in evidence.)

BY MR. MCCANN:

Q Could you identify this next plan, Mr. Smith.

A This is an approved copy first amended final development plan signed on March 5th, 2002.

Q Okay. Can you tell us by looking at the plan what, if any, amendments or refinements are depicted in

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that plan in relation to the ones we've already looked at.

A Well, it says this first amended -- amendment is per the approved refinement signed by development management for approval on November 23rd, 2001, in accordance with DRC, and it references a DRC number. Reason for the first amendment is forest conservation line and septic reserve area revised. And it notes that the owners of the lot have approved this amendment.

Q So the reason for this first amendment is forest conservation line and septic reserve area revised on Lot 19?

A That's what this says.

Q Lot 19 refers to the residential subdivision portion?

A I believe so.

Q I want to point one thing out. In the area of the proposed expansion of the gym that we just talked about --

MR. HOFFMAN: If he's going to -- I mean, are

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you going to ask him some more questions about this, because I do object to this particular document?

MR. MCCANN: To this document?

MR. HOFFMAN: Yes.

MR. MCCANN: I am going to ask him one more question.

CHAIRMAN CRIZER: Can I hear your objection?

MR. HOFFMAN: Yeah. Sure. This is a -- an FDP, final development plan. It's not a development plan under the development regulations. I think Mr. Smith indicated that it's the first amended FDP, different document.

MR. MCCANN: That's what it's titled.

MR. HOFFMAN: It's not a development plan under the development regulations. It's not relevant to this case.

CHAIRMAN CRIZER: Mr. McCann?

MR. MCCANN: Well, it's -- the purpose of showing it to the Board is it identifies an amendment and identifies the reason for that amendment as a revision to a conservation line and a septic reserve

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area in a residential -- it's as relevant as any of the other documents we've seen this far.

Even though it is not a final development plan, it shows -- my point here obviously is to show the Board what occurred over the years to the plan and this is -- this shows one amendment in that line of changes.

MR. HOFFMAN: I understand where Mr. McCann wants to go with this, but that plan is a document that's prepared under the Baltimore County zoning regulations. You'll note on that plan it's signed by Mr. John Lewis of the Zoning Office. It's not signed by Mr. Smith or anyone in the Department of Permits and Development Management. Separate document required under the Baltimore County zoning regulations. It's just not relevant to a development plan case. It's not required under the development regulations.

MR. MCCANN: Can I see the prior exhibit? I may just withdraw it actually.

MR. WESCOTT: Aren't we talking about the final development plan? Isn't that what we're here

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about, or what are we here about?

MR. MCCANN: We're here to determine whether or not revisions or proposed revisions to an approved development plan --

MR. WESCOTT: So I mean, what difference --

MR. MCCANN: What difference does the final development plan --

MR. WESCOTT: No. What difference does -- do all these prior things make other than to tell us that it's been, you know, changed a number of times?

MR. MCCANN: It's the degree of change that's relevant, Mr. Wescott.

MR. WESCOTT: What's the -- what difference does that make?

MR. MCCANN: I believe it's relevant to the determination of whether this most recent proposed revision is a refinement or amendment. You've got to compare what was started, what was originally approved as the development plan.

I understand the most immediately approved plan is the most relevant, but certainly where the

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development plan started -- if this plan had 700 revisions to it all characterized as refinements --

MR. WESCOTT: And you appealed them.

MR. MCCANN: Correct. Some were denied as well. Those are certainly relevant. You could have 700 refinements and end up with a 400,000 square foot building on the property. I'm showing the Board the history of the changes.

MR. WESCOTT: But suppose you did. Suppose it ended up with a 400,000 -- now you're -- and now they want to amend that 400,000. What -- either they can or they can't under the -- you know, if it's a refinement, fine. If it's not, it's not, because it seems to me that what they've done in the past, which has not been challenged, I don't know how that's relevant to what we're going to look at today.

MR. MCCANN: I believe it is relevant, Mr. Wescott. It's not as directly relevant as I acknowledged to the most immediate plan that's being revised. But I think if you take a look at these plans, you'll see that nothing's happened until now for

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ten years.

So, I mean, I can -- that's the best I can describe it. I believe it's relevant. I think you need to consider changes in the past to determine how significant -- and we'll look at a policy manual in a little while that defines what refinement means and what material amendment means. And I think you'll understand that while that --

MR. WESCOTT: Well, you know, in the past, maybe they didn't -- nobody's challenged it. And if nobody challenges it, it's going to go through. Now, whether it's right or wrong in the past, we're not going to go back and review all of the --

MR. MCCANN: I understand that. I'm not asking the Board to determine whether each of these changes is a refinement or not. I'm not challenging the decision of the DRC approving or denying the refinement.

I'm asking the Board to take a look at this plan as a whole in the last ten years since 1995 when it was first approved and determine that this most

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recent change is not a refinement.

CHAIRMAN CRIZER: Sustained. Are you still entering it?

MR. MCCANN: Yeah. I'd like to have it marked, if I could, for identification purposes. This would be --

CHAIRMAN CRIZER: ID only?

MR. MCCANN: Correct.

CHAIRMAN CRIZER: Okay.

MR. MCCANN: So this would be Exhibit 7; is that right?

MR. GRIER: Seven.

MR. MCCANN: Thank you.

(Whereupon, the document was marked for identification Appellant Exhibit No. 7.)

MR. HOFFMAN: I take it the -- and I'm not -- I don't want to revisit it, but I did want, if I might, just a quick second. It does get confusing because the Baltimore County zoning regulations do have a category called development plans. They are commonly referred to as final development plans. They're a separate

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document prepared under the zoning regulations and even though we think of -- as Mr. Wescott said, aren't we here on the final development plan? It's a -- it's an unfortunate mixing of the two types of plans.

So an FDP is a zoning plan signed by Mr. Lewis, which was just marked for identification. A development plan being the one that was signed by Permits and Development Management would be the document that I was arguing we're here on today, at least in that venue, the development plan as opposed to -- I know it's confusing.

MR. MCCANN: And the final development plan is the result of Phase II of the development plan and review process; is that correct, Mr. Smith?

THE WITNESS: It occurs within and at the end of the Phase II process, it's a -- there are many plans in the final development. One, they get approved by an agency.

MR. HOFFMAN: Okay. I don't want to confuse anyone.

CHAIRMAN CRIZER: You weren't objecting. You

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were just --

MR. HOFFMAN: It was sustained. I'm going to sit. I'm going to be quiet for a minute or maybe more.

MR. MCCANN: I take it the Board's ruling would be the same with respect to any subsequent -- I'd like to at least -- there's only two more, so just identify those for the record and mark them as exhibits for identification purposes only.

They are a November 23rd, 2001, letter from Arnold Jablon to G.W. Stephens & Associates, and that would be for ID purposes Exhibit 8.

CHAIRMAN CRIZER: What's the date again?

MR. MCCANN: November 23rd, 2001.

(Whereupon, the document was marked for identification Appellant Exhibit No. 8.)

MR. MCCANN: Exhibit 9 for identification purposes only would be a November 29th, 2005, letter from Patricia Malone at Venable with an attached DRC application.

MR. HOFFMAN: That may be the one we're here on.

FORM CSR - LASER REPORTERS PAPER & MFG. CO 800-626-6313

MR. MCCANN: Oh, it is. I'm sorry.

MR. HOFFMAN: I'm fine to sustain the objection --

MR. MCCANN: No, no, no.

MR. HOFFMAN: -- on that one. That's the one we filed.

MR. MCCANN: That's the one exhibit, 7 and 8 for ID only. I'd like to have marked this as Exhibit 9, if I could, Mr. Grier, which is the document I just described.

CHAIRMAN CRIZER: I take it you have that letter, right?

MR. HOFFMAN: Yes, sir, I do. Thank you.

CHAIRMAN CRIZER: Accepted.

MR. MCCANN: Thank you.

(Whereupon, the document was marked for identification Appellant Exhibit No. 9 and received in evidence.)

MR. MCCANN: And then Exhibit 10 would be the February 1st, 2006, letter of Mr. Kotroco to Venable approving this revision as a refinement.

FORM CSR - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

definitions of material amendment and refinement in determining whether or not an exemption under Article 32 of the Baltimore County Code applies, correct?

A Yes.

Q And, in fact, two more pages back, it says, "Changes to approved development plans," the paragraph beginning -- the third paragraph down beginning, "After consultation." Do you see that? In fact, I have it. Hopefully you can see it.

A Oh, I can. Okay.

Q Does that paragraph, in fact, say that, "This policy manual is to apply to current development plans, not necessarily just CRG plans"?

A Yes, it does.

CHAIRMAN CRIZER: I'm sorry. Where are you reading?

BY MR. MCCANN:

Q Would you just read that sentence out loud for the record, if you would, Mr. Smith.

A "After consultation with the zoning commissioners, it has been determined that the past

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process for amending County Review Group, CRG, plans shall be extended to amending approved development plans. The policies as set out in the comprehensive manual administrative policies, CMAP, shall continue to be applied by the Development Review Committee, DRC."

Q Okay. What is the CMAP?

A That is a, I guess, administrative policies. They're contained by reference, I believe, within this document.

Q Does the CMAP provide any guidance to the DRC when it's determining whether something is a revision or a material amendment?

A Yes. It is actually -- the CMAP has the definitions for material amendment, nonmaterial.

Q So in other words, this development management policy manual which we have in front of us is part of the CMAP?

A Yes, or the CMAP is part of the development manual, policy manual.

MR. HOFFMAN: I think it was correct the way Mr. McCann stated it. Sorry. There is a comprehensive

FORM CSR-LASER REPORTERS PAPER & MFG. CO. 800-626-5313

manual of policies that's supposed to be an accumulation of all adopted agency policies. And I think Mr. McCann stated it correctly that this would be one part of that comprehensive manual.

BY MR. MCCANN:

Q Is that your understanding as well, Mr. Smith?

A Yes. I'm sorry. Yes.

Q That's okay.

MR. HOFFMAN: I hated to agree with Mr. McCann, too, so don't do that to me.

BY MR. MCCANN:

Q And have you, Mr. Smith, in your years as chair of the DRC, I think you said a year and a half or so, have you had the opportunity to apply this policy on refinement to material amendments?

A Yes, I have.

Q Other than this policy, is there anything else in writing that PDM and specifically DRC uses for guidance when determining whether a proposed amendment to a development plan is a refinement or a material

FORM CSR - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

amendment?

A No, I do not believe there is.

Q Bear with me. That may be all I have.

And, lastly, Mr. Smith, can you tell us, if you know, what is your understanding of the purpose for allowing refinements of development plans and allowing an exemption from the development review process?

MR. HOFFMAN: I'm going to object to that question. I don't understand it. I know Mr. Smith has been there for a long time doing other things, but he's only chaired the Development Review Committee for a year and a half.

So besides not understanding the question, I don't believe he's qualified as yet to talk about what historically the Development Review Committee has looked at or done. He wasn't the chair for the decision that was made in this particular case.

MR. MCCANN: I'm not asking what was done in the past. All I'm asking is Mr. Smith in addition to chairing the committee, I can ask this question, has been involved with the DRC for a long time. I think in

FORM CSR-LASER REPORTERS PAPER 3 MFG. CO. 800-626-6313

order for the Board to apply this policy manual --

CHAIRMAN CRIZER: Ask him that question.

BY MR. MCCANN:

Q In addition to your position as chair of the DRC, have you been involved in any other capacity with the DRC prior to becoming chair?

A Just with follow-up to the DRC after a decision is made, people need to bring plans to our office, things like that, but not directly in any decisions of the DRC before I assumed chair.

Q The decisions of the DRC are made by whom?

A Well, it is a committee and with a chairman, so it is made by the committee and the chairman, a decision is.

Q You're not a member -- you were not a member of the DRC prior to becoming its chair?

A No, no. I was not.

Q And, again, my question is, you've been in that position for a year and a half, correct, as chair?

A Yes.

Q Okay. And how many requests for exemptions

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do you think you've come across in that year and a half?

A I mean, I wouldn't have a count, but it would be many.

Q And based on that experience, do you have an understanding as to why the -- there are limited exemptions for refinements to development plans? Do you have an understanding why that is?

A I think it's --

MR. HOFFMAN: I'm going to object. We have the County Code. We haven't really talked about it. There is the County Code that says we have exemptions. I don't know the relevance of exploring why we have a County Code provision that allows for exemptions.

MR. MCCANN: I'm just asking what's his understanding of the purpose. I think in order for the Board to apply this policy manual as we're obviously going to ask the Board to do, you're going to need to know what purpose it serves. I think just like any law, if you know its purpose, it will better -- help you better understand why -- how to interpret and apply

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it.

MR. WESCOTT: Well, it says -- the County Code says what it is. It's to --

MR. MCCANN: The code doesn't say its purpose and there's a reason why refinements --

MR. WESCOTT: The meeting -- the -- to avoid --

MR. MCCANN: I think what you're saying, Mr. Wescott, is if a limited exemption applies, they're exempt from community input meeting and the hearing officer --

MR. WESCOTT: The community input meeting.

MR. MCCANN: That's not the purpose. The purpose of refinement is something that I don't --

MR. WESCOTT: Well, isn't the person that passed these regulations or passed the code, are they the ones that should be testifying as to the purpose of the --

MR. MCCANN: That might be relevant. But what is certainly relevant is an administrative officer applies those on a daily basis. In other words, if I

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think -- if a particular revision is contrary to the purpose of the policy manual and the Code, then that's something the Board should hear about.

I'm not going to ask him that ultimate question, but I think the Board should have an understanding of what the purpose of refinements are. There obviously is a purpose from exempting a whole set of development plans on the process. Why does the county do that?

MR. HOFFMAN: And I object. It's not -- the County Code says you can apply for them.

MR. MCCANN: It doesn't say why you do it.

MR. HOFFMAN: You do it in order to make changes to a plan.

MR. MCCANN: Why do refinements? Why does the county apply this exemption to refinements? Why doesn't it do it the other way around? Why doesn't it allow material amendments to changes be exempt from the process? Why don't we do that? There's a reason why it's done. And I'd like to ask Mr. Smith that question.

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MR. HOFFMAN: He's not on the County Council. They adopted the regulations. They are what they are. Certain things are entitled to exemptions. Certain things aren't.

CHAIRMAN CRIZER: So this would be his opinion, not his counsel.

MR. HOFFMAN: Okay.

MR. MCCANN: I take it the objection is sustained.

CHAIRMAN CRIZER: Sustained.

MR. MCCANN: Okay. Thank you.

I would like to mark the manual itself as an exhibit which will be 12. And that's it, Mr. Chairman.

CHAIRMAN CRIZER: Accepted.

MR. MCCANN: Thank you very much.

(Whereupon, the document was marked for identification Appellant Exhibit No. 12 and received in evidence.)

CHAIRMAN CRIZER: Did you need five minutes, Mr. Hoffman, or --

MR. HOFFMAN: Yes, if I could, just to get a

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drink of water. That would be great.

CHAIRMAN CRIZER: Will you check --

MR. HOFFMAN: Yeah. I'll check that plan.

(Whereupon, there was a brief recess.)

CHAIRMAN CRIZER: Back on the record. Did you get a chance to look at that, Mr. Hoffman?

MR. HOFFMAN: I did. It was the same as the one in the file.

CHAIRMAN CRIZER: Okay.

MR. HOFFMAN: Thank you.

CHAIRMAN CRIZER: Any time you're ready, Mr. Hoffman.

MR. HOFFMAN: Thank you.

CROSS-EXAMINATION

BY MR. HOFFMAN:

Q Mr. Smith, I want to refer back. One of these DRC letters did get introduced as evidence. I know what the Board's later ruling was, but I have one question on the December 19th, 1995, letter from Arnold Jablon to Scottish Development, Exhibit 2.

Mr. Smith, it says that, "The DRC has

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determined your request does not meet the requirements of a refinement. Please note that this is a material change which must be reviewed by the zoning commissioner."

Mr. Smith, there is a special exception that was granted for the school as part of this case; is that correct?

A Yes.

Q And Mr. Jablon -- excuse me. In the application and granting of the B2 exemption that's the subject of the hearing today, the Development Review Committee waited for the special hearing and zoning relief to be granted prior to the director granting the B2 exemption. Is that --

A I believe --

Q Is that evident from the file?

A I believe so. I believe there's a zoning commissioner's order is attached to the DRC request. I'd have to go back and look at that.

Q Okay. And is that in your -- in the last year and a half, have you had opportunity to consider

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exemptions or zoning relief is required?

A Yes, I have.

Q And does -- in your experience over the last year and a half, does the Development Review Committee table such requests until the zoning commissioner has had an opportunity to rule on that zoning relief?

A Yes, we do.

Q Okay. And so a change to a case that was the subject of a special exception, Mr. Jablon in December of 1995 used the language that this material change must be reviewed by the zoning commissioner. He didn't say the hearing officer, did he?

MR. MCCANN: Objection. How does Mr. Smith know why Mr. Jablon said what he did? And that's essentially what Mr. Hoffman is asking him, asking the purpose for which he used that language, whether he's referring to an ongoing special exception case or not. The language says what it says. I don't know how Mr. Smith looking back ten years can tell us what Mr. Jablon meant by that.

MR. HOFFMAN: I'm not going to ask him why

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Mr. Jablon -- you said language. He used it.

CHAIRMAN CRIZER: It's what he said.

MR. HOFFMAN: It is what it says. He said it has to go to the zoning commissioner, correct? That's what the letter says. And if I applied for a limited exemption and hadn't gotten my zoning relief yet, wouldn't you tell me that it would be tabled and I have to go to the zoning commissioner first?

THE WITNESS: I would tell you that at the Development Review Committee, there would not be a letter to that effect.

MR. HOFFMAN: That we would table --

THE WITNESS: I would tell you we're tabling the matter.

BY MR. HOFFMAN:

Q Okay. I don't think I brought a copy of it, but, Mr. Smith, I don't think anyone has asked you, do you look at the County Code when you consider requests for exemption.

A Not with each request.

Q Are you familiar with the County Code?

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A Yes, sir.

Q And in this case, the request was for what you refer to as a B2 exemption; is that correct?

A Yes.

Q And could you read that, please.

A The B2 says that -- says, "Amendments to approved development plan or plat that do not materially alter the proposed development."

Q And so that's the standard that you look at when you determine whether or not an exemption is permitted, correct?

A Yes, it is.

Q This is the -- your primary source?

MR. MCCANN: Objection. Primary source, if anything, that's a legal question, what's primary. He's already testified that the policy manual is the standard. To ask Mr. Smith if it was the primary source, I think --

MR. HOFFMAN: Okay. I'll ask it this way.

CHAIRMAN CRIZER: Overruled. He can -- in his opinion as the chairman.

FORM CSR-LASER REPORTERS PAPER & MFG. CO. 800-626-6313

MR. HOFFMAN: Right.

THE WITNESS: In my opinion, the County Code says that -- exactly what I just read and then we use the policy manual to determine, you know, the criteria for material versus refinement.

MR. HOFFMAN: That's a good answer. That was it.

MR. MCCANN: I just have a follow-up. You done?

MR. HOFFMAN: Yeah.

MR. MCCANN: A follow-up to Exhibit 2. If I can see Exhibit 2 again.

REDIRECT EXAMINATION

BY MR. MCCANN:

Q I think you said -- Exhibit 2 again is the denial of the request for refinement; is that correct?

A Yes.

Q In fact, the specific sentence that Mr. Hoffman referred to says, quote, "The DRC has determined your request does not meet the requirements of a refinement under Section 26-211, period." Next

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sentence, "Please note that this is a material change which must be reviewed by the zoning commissioner," end quote. Did I read that correctly?

A Yes.

Q Does that paragraph or anywhere else in this letter say anything about tabling a request for refinement because there's an ongoing special exception case?

A May I see it to make sure? No, I don't see that it does.

Q Do you have any reason to doubt that Mr. Jablon would deny a request for any reason other than it didn't constitute a refinement?

MR. HOFFMAN: I'm going to object. I purposely did not ask this witness about what was done at the DRC in 1995. He has no knowledge of it. I would submit that this idea of tabling these requests is a more recent occurrence than 1995.

MR. MCCANN: I'll withdraw the question, Mr. Chairman.

Are you aware having reviewed the file, Mr.

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CHAIRMAN CRIZER: Sustained.

BY MR. MCCANN:

Q When the determination was made that a refinement -- that a request to a revision is not a refinement but rather a material change, doesn't that change have to be reviewed by the zoning commissioner during the development review process? Isn't that what happens?

A Yes.

MR. MCCANN: Thank you.

MR. HOFFMAN: I have one follow-up question.

RECROSS-EXAMINATION

BY MR. HOFFMAN:

Q Mr. Smith, you're aware that there was a difference in the County Code between the zoning commissioner who hears zoning cases and the hearing officer who's an independent hearing examiner?

A Yes, I am.

Q So a material change that has no zoning relief associated with it, who would review that material change?

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A It would be the hearing officer and the zoning commissioner sits as the hearing officer.

MR. HOFFMAN: Thank you.

MR. MCCANN: Thank you, Mr. Smith.

CHAIRMAN CRIZER: Thank you. You're excused.

MR. MCCANN: I would call Harold Burns as the next witness.

MR. HOFFMAN: This is a good time to renew it. I checked my file and I'm sorry. I can't find where Falls Road Community Association is noted as an appellant in the case.

I mean, I -- and, Michael, I don't think you were counsel at the time. As a matter of fact, I'm sure you weren't. This was at a time when Mr. Nelson was representing the group. So --

MR. MCCANN: I was here at the Board -- before the Board last fall. Number one, I'm absolutely certain that Mr. Mason Nelson filed an appeal on behalf of Falls Road, but I was here last fall in front of the Board and represented Falls Road. In fact, I have a transcript of that hearing. I was here on behalf of

FORM CSR-LASER REPORTERS PAPER & MFG. CO. 800-626-6313

the Board -- on behalf of Falls Road as well as a number of individuals at the last hearing. So --

MR. HOFFMAN: Well, I don't dispute you were here and you said you represented Falls Road. It doesn't make them an appellant in the case. I don't have any documentation that they're an appellant in this case.

MR. MCCANN: Well, I don't have my entire file with me including Mr. Nelson's file. I can look for it at the break. But just because Mr. Hoffman -- with all due respect to Mr. Hoffman, just because he doesn't have something in the file doesn't mean --

MR. WESCOTT: We have a letter dated January the 18th of 2006, to Timothy Kotroco from Mason Nelson. It starts out, "I represent certain individuals and organizations who are opposed to the expansion of the Maryvale School. My clients include Gary Gensler, Harold Burns, Falls Road Community Association, Inc. These clients and others have been negotiating a settlement agreement. I understand that on Monday, January 23 that the DRC will consider whether

FORM CSR-LASER REPORTERS PAPER & MFG. CO 800-626-6313

Maryvale's proposal constitutes a refinement."

Do you have a copy of that?

MR. HOFFMAN: I do have a copy of that letter. That predates the approval, I believe. The approval was on February 1st, 2006, I want to say. It's one of the appellants' exhibits. February 1st, 2006. What's the date of that letter you were reading?

MR. WESCOTT: January the --

MR. HOFFMAN: Yeah. Yes. I do have a copy of that.

MR. WESCOTT: -- 15th.

MR. HOFFMAN: Yeah. That predates the approval.

MR. WESCOTT: So? What's the point?

MR. HOFFMAN: Falls Road Community Association is not an appellant. I'm saying they're not an appellant. If we can find something that says they are, that's fine. I have copies of the appeals that were noticed.

MR. MCCANN: Mr. Wescott, I -- my office is right across the street. Actually, now would probably

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be a good time -- I could take a break, go across the street, and get it. I actually have to get a photograph over there that I left anyway that I need to use for Mr. Burns.

MR. HOFFMAN: If there was an appeal -- I mean, I'm happy if you want to take a break and go get something. But if there was an appeal, there should be an appeal letter in the Board's file.

MR. WESCOTT: There's -- February the 15th, there's a letter from Nelson listing Valleys Planning Council, Gensler, Shapiro, Roth, Stubb, Schramm, and Ellyn Brown.

MR. HOFFMAN: And Doug Carroll and Harold Burns, Jr. took appeals separately.

MR. WESCOTT: Burns and -- I don't have anybody but Burns. All right. Go ahead. Take -- why don't we --

CHAIRMAN CRIZER: Yeah. Ten minutes.

(Whereupon, there was a brief recess.)

CHAIRMAN CRIZER: Back on the record.

MR. MCCANN: For the record, the Board asked

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that I check our files. I do have portions of Mason Nelson's file and I could not locate an appeal, evidence of an appeal filed by Falls Road Community Association in this refinement case. I could not locate it. So I'll call Mason and find out if he has some evidence. But it does not look like from this file on behalf of Falls Road.

MR. WESCOTT: Well, you did write a letter to Mr. Beyonko (phonetic) in which he -- you indicated that you were representing the Falls Road Association and that you wanted to ensure that the appeal in both of the cases was docketed that Falls Road was part of that -- I mean, you specifically asked that.

MR. MCCANN: And I participated on behalf of last --

MR. WESCOTT: Right.

MR. MCCANN: -- on behalf of Falls Road last fall.

MR. WESCOTT: And we served Falls Road.

MR. HOFFMAN: I don't want to belabor it, but the statement was made that they're an appellant and

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they're not. I'm not disputing that Mr. McCann represents Falls Road Association.

MR. WESCOTT: I think it may be a question of -- I'm going back through the file and the name comes up and then it's dropped. I think it's overlooked to be very honest with you. And as far as I'm concerned, I would allow them to participate.

MR. HOFFMAN: I'd still like the opportunity -- as I said before, I just wanted to make the record clear that just didn't take the appeal. I would have some questions about Falls Road when they testify.

MR. WESCOTT: Okay.

MR. HOFFMAN: Thank you.

MR. MCCANN: With that said, we'll put Mr. Burns on the stand.

Whereupon,

HAROLD H. BURNS, JR.,

an Appellant, called for examination by counsel for the Appellant, was duly sworn, and was examined and testified as follows:

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DIRECT EXAMINATION

BY MR. MCCANN:

Q Could you, Mr. Burns, please state your full name and address for the record.

A Harold H. Burns, Jr., 5 Candlestick Drive, Lutherville, Maryland 212 -- 21093.

Q Exhibit 11, which is on the board, Mr. Burns, is the plat that accompanied the DRC request. Have you seen this plan before?

A I probably have.

Q I'm asking you right now anyway to identify, if you could, for the Board where you live in relationship to Maryvale School.

A Sure. I have to follow the streams. There we go. Right there. That would be on the left-hand side of this particular exhibit, that would be my house (indicating).

Q Your name is indicated on this, on the plan; is it not?

A Yes.

Q How long have you lived in that house?

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A Since 1986.

Q Did you live in the area at any time prior to 1986?

A I never lived in the area, but I attended Maryvale School from 1954 or '5 until 1962, eight and a half years.

Q Were you also --

A It was a co-ed grade school then. No smirking.

Q Are you also affiliated with the Falls Road Community Association?

A Yes. I am the way-too-long-time president of the Falls Road Community Association. I am now currently again the president of the Falls Road Community Association.

Q Are you here testifying then on behalf of yourself individually as well as the association?

A I am.

Q And referring to -- again to Exhibit 11, Mr. Burns, are you familiar with what --

MR. HOFFMAN: Mr. Chairman, the documents for

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testifying on behalf of the association --

CHAIRMAN CRIZER: Yes.

MR. HOFFMAN: -- I'm sure this would probably be a good time to put those in.

CHAIRMAN CRIZER: Thank you for reminding me.

MR. MCCANN: Mr. Grier, could I have this marked as Exhibit --

MR. GRIER: Thirteen.

MR. MCCANN: -- 13?

MR. GRIER: Yes.

CHAIRMAN CRIZER: Any objection, Mr. Hoffman?

MR. HOFFMAN: Could I just get a minute --

CHAIRMAN CRIZER: Yes.

MR. HOFFMAN: -- to read it?

MR. MCCANN: Could you go ahead and mark it at least for --

MR. GRIER: Yeah. I didn't know if he had a copy of it.

(Whereupon, the document was marked for identification Appellant Exhibit No. 13.)

MR. MCCANN: Yeah, he does. He has a copy.

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MR. HOFFMAN: Well, I mean, I don't object to this document. I know Goldberg is here. But I don't think it complies with the rule. I guess that's -- I guess I do object to the document then. I think we need to go through the rule, Rule 8, and produce the documents that are required.

CHAIRMAN CRIZER: Okay.

MR. HOFFMAN: Is that an extra -- is that -- can I hold on to that?

MR. MCCANN: Actually, I don't have a copy to look at. Do you have an extra one?

CHAIRMAN CRIZER: Hold on one second. Off the record.

(Whereupon, there was a brief recess.)

MR. HOFFMAN: No. I would like to see the -- it's up to the appellants to show compliance with the rule. My objection is this doesn't comply with the rule.

CHAIRMAN CRIZER: How?

MR. HOFFMAN: Well, I'll go through each requirement. It says, "Before any person shall testify

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on behalf of any civic or improvement association, it shall be shown that the person has accurate knowledge of the number of members in the association and the geographical limits of the association."

CHAIRMAN CRIZER: Okay. Well, he can ask him that.

MR. HOFFMAN: Okay. You want to do them one at a time?

CHAIRMAN CRIZER: Yeah.

MR. HOFFMAN: You want me to do it? I'll -- I mean, I'm happy to do it.

MR. MCCANN: No. I can do it.

CHAIRMAN CRIZER: Whichever.

MR. MCCANN: I'll do it. Thank you though.

Mr. Burns, you indicated you are presently president of Falls Road Community Association; is that correct?

THE WITNESS: That is correct.

BY MR. MCCANN:

Q Do you have any knowledge regarding the number of members in that association?

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A I do.

Q And what is that knowledge?

A I believe we're right about 480 now. Well, we started a new year, so, I mean, at this moment, I'm not entirely sure, but we finished the last year, which wasn't very long ago, at about 480, 83.

Q And what do you base that knowledge on?

A My attendance at the board meetings and the reports from the membership committees.

Q Okay. What about knowledge regarding geographical limits of Falls Road Association, Falls Road Community Association? Can you tell us about any knowledge you have in that regard?

A Yes. They're actually laid out in the Articles of Incorporation and I check them frequently.

Q Okay. And what are the geographical limits of the association?

A It runs along Greenspring Valley Road, from Falls Road to Greenspring Valley Road, up Greenspring Avenue, excuse me, across Tufton Road to Shawan, and I'm not exactly sure, but it works its way from Shawan

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down along Interstate 83 to --

MR. HOFFMAN: Mr. Chairman, I -- I only read the first one. I know Mr. Burns knows where the association is.

Should I just get to my real answer?

CHAIRMAN CRIZER: Yeah.

MR. HOFFMAN: Okay. Sorry. I didn't mean to cut you off, but except for the part about the streams, I was pretty sure he would know where the association was.

"Authorization to speak and present views of the civic improvement association shall consist of a resolution in duplicate duly adopted by the association at its annual meeting, first meeting of each year, or a special meeting of the association, signed by the president and attested by the secretary, providing that the responsibility for review and action on all zoning matters be placed in the Board of Directors or a duly-elected zoning committee."

I don't see that -- that document isn't here.

THE WITNESS: Yeah. It's -- I didn't bring

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it. We have it, but --

BY MR. MCCANN:

Q Mr. Burns, is there a resolution that has been adopted by the association that is signed by the president and attested to by the secretary that provides that the responsibility for review and action on all zoning matters is placed in its Board of Directors?

A Yes.

MR. HOFFMAN: Which -- I mean, I have a follow-up question. What meeting did that take place? It's supposed to be at the --

THE WITNESS: At our annual meeting at the Oregon Ridge. Dennis Sutton got up, made the motion. I don't remember who seconded it, and it was accepted by claim. We do it very carefully every year in public, and the resolution was signed, I'm sure, within a few days. But I didn't bring one.

MR. HOFFMAN: Can you -- I know you don't -- do you have it with you or could you produce a copy of it?

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THE WITNESS: No, I don't. No, didn't. Don't have it with me.

MR. HOFFMAN: Could you produce a copy of it?

THE WITNESS: Oh, yeah. Absolutely.

BY MR. MCCANN:

Q And are you currently also a duly-elected member of the board of that association?

A Oh, yes. I was an elected member of the board and president of the board at that same meeting.

MR. HOFFMAN: Okay. The last -- actually, Michael, you were -- you got to the -- you got to D, is that --

MR. MCCANN: I did.

MR. HOFFMAN: Okay. "The position of the association as adopted by the Board of Directors or the Zoning Committee signed by the president and attested to by the secretary." Is that what this document is supposed to be, the one that was originally submitted?

THE WITNESS: Yes. That's what it's supposed to be.

MR. HOFFMAN: Okay. And when was the meeting

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of the Board of Directors where this was signed on January the 8th? What was the date of the meeting of the Board of Directors to authorize this position on behalf of the association?

MR. MCCANN: What it says, in fact -- I'll allow you to answer. I'm sorry.

THE WITNESS: Well, the decision has been made several times. I think it may have -- this particular decision to file this appeal would have been made at or about the time we filed the appeal when those letters went out a year ago.

And then when Mr. McCann wrote the Board and asked the Board to revitalize the case and move it, we had decided that it was time to -- the FRCA decided to pursue its appeal. That decision was -- we meet the second Thursday of every month. I don't think we've missed a meeting in quite a while. And that decision has been reiterated several times and, again, January, I believe, right around the time that that resolution was signed.

MR. HOFFMAN: That there was a meeting of the

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board in January?

THE WITNESS: No, no. Our meeting is tonight. That's right. So we haven't -- we haven't --

MR. HOFFMAN: It's tonight?

THE WITNESS: Yeah. But --

MR. HOFFMAN: You know, I'm --

MR. MCCANN: Section E doesn't require that this resolution be adopted at a board meeting. It doesn't say that anywhere. It just says resolution stating the position of the association as adopted. In other words, the position can be adopted by the Board of Directors other than at a meeting. That doesn't require a meeting.

MR. HOFFMAN: Well, this is not --

MR. MCCANN: The resolution requires --

MR. HOFFMAN: This is not a resolution of the Board of Directors then.

When was this -- when was this resolution presented to the board, Mr. Burns, either by in person or by phone? The one that's signed being submitted.

THE WITNESS: That piece of paper?

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MR. HOFFMAN: Yes.

THE WITNESS: I don't know that it was.

MR. MCCANN: My point is that the resolution doesn't have to be adopted by the board. It's the position that has to be adopted by the board. That's the language. A resolution stating the position as adopted by the board.

The board has clearly adopted a position. The position is set forth in this document. The resolution itself complies with the rule because it's signed, but the position has been adopted by the board as Mr. Burns has already talked about or testified about.

MR. HOFFMAN: It's not -- it's not signed properly. It's not -- first of all, it's not signed properly by the president and the secretary. It's just not. And it says, "A resolution stating the position of the association as adopted by the Board of Directors." I haven't heard when this position was adopted except that it's on this piece of paper dated January the 8th.

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THE WITNESS: Well, I believe I testified that it was adopted at a multitude of meetings.

MR. MCCANN: The resolution -- a position of the board has been adopted.

MR. HOFFMAN: And the basis for that statement is that it was when the Falls Road Community Association because they took an appeal. Well, they never did take an appeal.

How is it that this document, this resolution or this position was discussed by the Falls Road Community Association in the context of their appeal? I know Mr. Burns filed an appeal. I was here when he said I'm doing this on my own.

MR. MCCANN: That's not what Mr. Burns said. Mr. Burns indicated it was a conversation where the position of the board was adopted or was formulated. Nothing to do with the appeal itself.

MR. HOFFMAN: He -- I'm --

THE WITNESS: I referenced --

MR. MCCANN: A reference to the appeal. He didn't --

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THE WITNESS: -- for a time, to set the time. I don't remember exactly what meeting. I don't have the minutes of our meetings. But I am absolutely certain that it would be reflected in the minutes of our meeting that we adopted a position to oppose these applications, petitions by Maryvale. And not very long ago, we took a position to push the matter to resolution.

MR. MCCANN: I don't know if Ms. Goldberg testifies to the date of the meeting. She was there as well.

CHAIRMAN CRIZER: We're going to allow him to testify as long as he brings in the resolution.

MR. MCCANN: Resolution other than this one.

CHAIRMAN CRIZER: I know what you mean.

MR. MCCANN: This will be introduced into evidence as well.

MR. HOFFMAN: Mr. Chairman, can some dates be provided? This witness can't tell me what the dates were. I'd like to know what date the position was taken and see the minutes of the meeting as well in

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addition to producing a resolution.

CHAIRMAN CRIZER: The rule --

MR. HOFFMAN: Well, I'm not going to have an opportunity to cross-examine anybody after I get this document. I'd like to have some supporting information so that I can be convinced that I -- that it's accurate.

MR. WESCOTT: Why don't we just continue on and if you have a problem cross-examining, we'll just have to recess and get the whatever it is. It doesn't look to me like we're going to -- I'm not sure we're going to finish today to be very honest with you.

We have the -- you have the minutes from the meetings and the resolution. You can bring those in and then if that assists you on cross-examination. I think you've really beaten a dead horse here to tell you the truth.

MR. HOFFMAN: I understand. Thank you.

MR. MCCANN: Thank you.

Mr. Burns, turning back to Exhibit 11, are you -- whether I reference this exhibit or otherwise,

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are you familiar with what is proposed as an amendment to the approved development plan?

THE WITNESS: I am.

BY MR. MCCANN:

Q And do you have any feelings regarding what impact, if any, you believe the proposal will have on the neighborhood at large as well as your property which adjoins the Maryvale property?

A Yes.

Q And what are those feelings?

A May I approach the --

Q Yes.

A Thank you.

CHAIRMAN CRIZER: Just stay to one side or the other, sir.

THE WITNESS: This is Maryvale's driveway and it comes up to Falls Road. So that's more or less north. And Maryvale is most -- best known for its castle which faces pretty much due south, so that's south. I'm up here. There's nothing between us but woods and valleys and one valley is right here, the

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very north edge of Maryvale's property (indicating).

Maryvale kind of sits on a -- well, not kind of. It's on a finger ridge. There's a stream valley here and, of course, there's the Greenspring Valley there (indicating). So looking off of the back porch of the castle, it's very, very steep, very exciting to sled.

So this is a big stream valley here. Here it is. And then there's another major -- the main stream valley is Dipping Pond Run (phonetic) and that's up like this (indicating).

BY MR. MCCANN:

Q Mr. Burns, the best you can, could you describe where you're pointing to so the record will reflect?

A Well, I'm -- here's my property and immediately behind my property is this Dipping Pond Run and it goes from the top left portion of the exhibit, the plan, all the way down into Maryvale's property and across Fall -- across Greenspring Valley Road at the bottom and another mile over, it empties into Jones

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Falls River (indicating).

MR. WESCOTT: What is that called?

THE WITNESS: Dipping Pond Run. I spent a good part of my life in courts trying to keep it alive. This little stream here --

BY MR. MCCANN:

Q Where is that, Mr. Burns?

A That's immediately north of the Maryvale School. Has no name. It's an unnamed tributary. It's very small. This valley has been terribly impacted. This stream channel has been terribly impacted by the existing development --

MR. HOFFMAN: Objection. I'm going to object.

CHAIRMAN CRIZER: To his description?

MR. HOFFMAN: What does -- whatever his allegations are with regard to that tributary and past practices, what does that have to do with our request for a limited exemption?

MR. MCCANN: That's a good question. And the answer is in the policy manual which -- and I'll read

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it to you. This is the portion defining what plan refinement is.

"In order to further clarify the plan amendment process, it is proposed that slight, minor, or insignificant changes to an approved plan which have no significant impact on a site or on adjacent properties or the neighborhood at large may be considered as plan refinements fully in keeping with," et cetera, et cetera.

There's also a mention -- other reference to the impact on neighboring property or the neighborhood at large under the definition of nonmaterial amendment.

There's also reference to significant effects on neighboring property or the neighborhood at large under the definition of material amendment.

Mr. Burns' testimony is directed towards that portion of the policy.

MR. HOFFMAN: When I read the County Code, it says under B2, limited exemption, it says, "Amendments to an approved development plan --"

CHAIRMAN CRIZER: Say where you're reading

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from.

MR. HOFFMAN: I'm sorry. It's Section 324106B2. "Amendments to an approved development plan or plat which -- that do not materially alter the proposed development." That seems to me to be the exemption that was granted, B2.

MR. MCCANN: We've already had testimony from a gentleman who works for PDM that in applying that language, the policy manual, which we've marked as an exhibit and introduced, is what that office, the DRC in particular, looks for in determining what constitutes a material amendment under B2.

And that policy manual is what I just read from. It elucidates and provides guidance to DRC when it's determining what a material amendment is. Material amendment could be -- it's pretty vague. Obviously the county sought to adopt the policy that explains what that means.

MR. HOFFMAN: Yeah. I -- look, I don't want to quibble with the county. I understand what Mr. Smith said and I understand using terms like refinement

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have some definition.

When I look at the County Code, which is what I know this Board does, it tells me that the standard is that the changes, amendments do not materially alter the proposed development. It doesn't say anything about looking at definitions of other words other than materially altering the proposed development.

So if this witness is going to present some testimony in this case about why it doesn't meet this standard, then he should do it. He hasn't done that yet. He wants to talk about what's happened with the stream. So far, he hasn't even talked about the proposed amendments. He's only talked about things that are already in existence. That was the basis for my objection.

CHAIRMAN CRIZER: Did you have something else, Mr. McCann?

MR. MCCANN: I was going to say he was providing background.

CHAIRMAN CRIZER: And I understand that Mr. Smith -- I'm sorry -- Mr. Burns was probably getting

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off base but was giving a lot of background. Mr. Smith testified that he did use the policy manual, that it was all kind of lumped in there. I'm going to overrule you and I'm going to allow --

MR. HOFFMAN: Okay.

CHAIRMAN CRIZER: -- him to testify. But I do think we need to come back onto base here, Mr. McCann.

MR. MCCANN: Mr. Burns.

THE WITNESS: Well, the reason I talked about the stream is because it is proposed to increase the number of parking places on this ridge 70 percent and add significant buildings. It's going to be a tremendous increase in the impervious surface. There's already enormous damage in this stream valley. More storm water coming off of this property into this valley would be catastrophic. That's the impact on the site that I understand.

BY MR. MCCANN:

Q Excuse me.

A Yes.

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impervious surface, and that water, that storm water runoff has got to go somewhere. And it's going to be directed down into this valley and I don't think this valley can take it. That's enough said.

The other -- and, of course, there's going to be extra building. Same thing. The other problem to me personally is that I live this distance, maybe -- well, it couldn't be a half mile, less than half mile, and as I said, it's mostly valley and woods and the music travels very clearly to me. Last fall -- right, it's January -- September when Maryvale had its homecoming, sitting on my deck, I was able to dance to the music --

MR. HOFFMAN: Dr. Crizer --

THE WITNESS: -- standing on my deck.

MR. HOFFMAN: -- objection.

THE WITNESS: So noise --

CHAIRMAN CRIZER: Hold on.

Note your objection.

MR. HOFFMAN: Relevance.

CHAIRMAN CRIZER: On the dancing or --

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MR. HOFFMAN: Yes, relevance to the dancing. I know Mr. Burns has great rhythm, but I still don't think it's relevant to the case.

CHAIRMAN CRIZER: Mr. Burns, if we could --

THE WITNESS: It's the noise, Your Honor.

CHAIRMAN CRIZER: I understand. Is it the noise for Mr. Burns or is the noise for the community association that you're testifying on behalf of?

THE WITNESS: Both. I mean, I, you know --

CHAIRMAN CRIZER: Maybe distinguish a little bit the problems between Mr. Burns and then maybe the association.

BY MR. MCCANN:

Q Well, with respect to noise, Mr. Burns --

A It's not --

Q With respect to noise, that's the current impact for the proposed --

A Yeah. The current impact is not a problem to me. I mean, there are other neighbors for whom it is a problem, but not for me.

MR. HOFFMAN: Objection.

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BY MR. MCCANN:

Q What, if any, impact in terms of noise do you think the proposal will have?

A The other noise I get is from the games. When there's a game going on, we hear the cheering. When they have their field day, I hear the hollering and yelling. And that's fine. But they're going to go from 300 to 425 students.

MR. HOFFMAN: Objection. Mr. Chairman, isn't this about the use of the property? We have a special exception in place. We had an amendment to the special exception. We're not here on that case. All those issues including many of these impacts that we're talking about would have been -- were part of that particular case.

MR. MCCANN: You can't divorce what's going to be put on -- you can't divorce the fact that there's going to be three new buildings, two -- four new ball fields on it. You can't divorce those structures from the fact that they're going to have -- their use is going to have some impact. And the policy manual

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doesn't distinguish between use and the structures.

There's going to be a lot more structures on this and Mr. Burns is talking about the impact of the new structures, the fields, the parking, the new buildings it's going to have on the site and on the adjacent --

THE WITNESS: And the number of students was on the original plan.

MR. HOFFMAN: We're really here because the Maryvale School is going to have ball games? I mean, I strenuously object to this.

MR. MCCANN: That's one thing he mentioned how it impacts. Mr. Chairman, he can -- he's testifying. He's already talked about storm water management. He's talking about noise. There may be others.

MR. HOFFMAN: The school was here before 1986.

CHAIRMAN CRIZER: I'm going to sustain the objection. I'm not sure what -- I don't know what the objection is or what --

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MR. WESCOTT: Speak to the buildings and the parking lots and the -- those things. Let's not go into, you know, whether there's noise or anything like that. Does this substantially, you know, expand the development plan or what?

BY MR. MCCANN:

Q Mr. Burns, you talked about storm water management, its impact. Do you believe that the impacts you talked about will be both on the site itself as well as adjacent properties? Is that what you were referring to?

A Of course. Look at it. They have a huge storm water management pond now and they're going to have to completely change it. They're going to go into here and they're going to cut down all those woods. I'm going to get that much more light.

Can I talk about lights, light pollution? I can see the stars now. I don't think I'm going to be able to see them when they put a building in there with a solid glass wall facing into the woods lit up like a Roman candle.

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MR. HOFFMAN: Objection.

THE WITNESS: That's impact on the community. That's impact on the site. And that's impact on me.

BY MR. MCCANN:

Q Other than light, noise, and storm water management, any other concerns about the impact of the proposal, Mr. Burns?

A Well, cutting down the trees is going to exacerbate the situation.

MR. MCCANN: Can I have this marked as an Exhibit, Mr. Grier.

(Whereupon, the document was marked for identification Appellant Exhibit No. 14.)

MR. MCCANN: And this one as 15, Mr. Grier. Thank you.

(Whereupon, the document was marked for identification Appellant Exhibit No. 15.)

BY MR. MCCANN:

Q Mr. Burns, could you identify what's been marked as Appellants' Exhibit 14, please?

A Yes. This is an aerial photograph of

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Maryvale oriented -- this would be south.

MR. MCCANN: Would you mind if he stood up right in front of the panel?

CHAIRMAN CRIZER: That's fine.

THE WITNESS: So this top left -- right corner is south. The -- this white spot there is the top of the castle. So that's south. And this field here in the top corner would be a field on Valley Road, on Greenspring Valley Road. It looks to me like it would be a field on Maryvale's property.

BY MR. MCCANN:

Q If you turn the photograph upside down, it would be in the same orientation as the exhibit? Is that accurate approximately?

A Oh, yeah. Kind of like that.

Q And when was this photograph taken, Mr. Burns?

A In 1995.

Q Do you know whether it was taken before or after the special exception and development plan approval case?

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A Well, the CIM was April of '95. The initial hearings were that summer and we had -- we cut the deal in this room on Halloween of '95.

MR. HOFFMAN: Objection. A 1995 photograph?

THE WITNESS: Yes.

MR. HOFFMAN: I object. I don't see any relevance based on the Board's last rulings. He's back into what it looked like in 1995? I mean, we're here on a case involving a question of what process this plan needs to go through.

Does it have to go -- not does it have to be reviewed and approved for all sorts of things by the county, but does it have to go through the full development approval process based on changes and additions that are being made from what's out there today, not going back to 1995.

CHAIRMAN CRIZER: Mr. McCann?

MR. MCCANN: Well, the only thing I would add is what I stated before. Other than that, I think the documents I've introduced will show that aside from the comparatively minor expansion of the gym, there have

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been no other significant -- certainly not to the scale that they're proposed now -- changes to the school since 1995 when the development plan was first approved.

So I would submit that when you look at whether it is or is not a material amendment and its impact, you need to look at what did this site look like back in 1995 when the plan was approved.

CHAIRMAN CRIZER: Mr. McCann, I assure you that this Board will review all the history of this case when we make our decision. But I'm inclined to agree with Mr. Hoffman relating to this is a very narrow appeal.

MR. MCCANN: Okay. So Exhibits 14 and 15 are not introduced?

MR. HOFFMAN: I'm still objecting. I would like to point out to the Board that the plan that Mr. McCann put into evidence is the plan that went to the DRC. And it shows in red the changes that are being proposed.

MR. MCCANN: And what's not in red is

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substantially similar with a few minor refinements that we've talked about.

CHAIRMAN CRIZER: Do you have an objection to the pictures?

MR. HOFFMAN: Yes.

MR. JABLON: Yes, we are objecting.

CHAIRMAN CRIZER: You are objecting to the pictures?

MR. JABLON: Yes. Arnold Jablon for the record, co-counsel with Mr. Hoffman.

MR. HOFFMAN: So much for even the chance of finishing.

MR. MCCANN: I'm almost done.

CHAIRMAN CRIZER: Is that the way it looks now?

MR. MCCANN: Mr. Burns could tell you what it looks like now in comparison to this.

CHAIRMAN CRIZER: Is that the way it looks now?

THE WITNESS: The site, this site, Maryvale, basically it does except it's neater and there's a big

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-- there's a new building here and that -- see that? There's that little notch. That little green notch is now filled with a building. So other than that, here, there's the big green notch. That notch is filled with a building now. But other than that, it's substantially like that (indicating).

MR. HOFFMAN: I don't dispute that.

MR. MCCANN: Oh, I'm sorry.

MR. JABLON: And that's why we're objecting. He just used the word significantly. There were changes. But whatever they are, they're -- they have been made. The photograph was taken 13 years ago.

MR. MCCANN: Probably 12 and a half.

CHAIRMAN CRIZER: I'm going to sustain -- this is not the photos that were added with the -- that were submitted with the DRC.

MR. MCCANN: Very well.

CHAIRMAN CRIZER: Are you just using them for ID?

MR. MCCANN: Correct. Fourteen and 15.

Mr. Burns, I believe one of my most recent

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questions to you was whether there are any other impacts that you'd like to express to the Board on behalf of yourself and/or the association on the site itself of the adjacent properties other than those you've already talked about?

THE WITNESS: I can't -- the point of the institution and the point of the changes is people, humans. The building they want to build first is an arts center. It's going to attract a lot of people. I -- you know, that's going to be a lot of people coming on the site, a lot of people leaving the site, and a lot of people to be accommodated on site.

And I don't know what percentage increase in square footage the new buildings will have over the existing square footage, but I think very significant.

My daughter was a student there when the new building was build post '95, '96, '97. That was the building that was permitted in the last go-round. And that building made a huge impact on her. It added an -- a very significant percentage of classroom space and this is going to make much, much more.

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Other than that, I can't divorce it. To me, it's all the same. It's physical and it's light, noise, use. This site cannot take this much use. This is a big impact to me. That's it.

MR. MCCANN: Thank you, Mr. Burns.

MR. HOFFMAN: Oh, yeah, me. Actually, I think I only have a couple questions.

CROSS-EXAMINATION

BY MR. HOFFMAN:

Q Mr. Burns, you -- with regard to the proposed additions to the school and the proposed storm water management, isn't it true that you indicated where the outfalls should be placed, that you specifically told me to meet with Mr. Smith, determine where the outfall should be located on this plan, and I did that and you were satisfied with the location of that outfall for the proposed facility? Isn't that true?

A Well, you got three questions there and the middle one is absolutely true, that you -- I asked you to meet with Smith and you did.

As to what -- me telling you where the

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outfall should be, no, I didn't tell you where the outfall should be. I told you where the problems were. And me being satisfied, I would say no, I don't know. It's up to the engineer.

Q But -- okay. I shouldn't have done three questions. I'm sorry. I liked two of the answers, but I want to go back to one.

We had a discussion where you indicated to me that the outfall instead of being at the top of the ridge should be placed down the hill to a more -- a flatter area to try and avoid the problems that you just identified.

A I think probably so.

Q Okay.

A But I again say I'm not an engineer. I mean --

Q I understand that. I understand that. Having heard you -- having heard that testimony, doesn't this plan reflect what you had instructed me to do in order to try and address that storm water management runoff concern? Didn't I do what you asked

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me to do on this plan?

A I'm not an engineer --

Q I'm not an engineer either.

A -- you know --

Q I'm asking you --

A -- and --

Q You told me -- I'm saying --

CHAIRMAN CRIZER: One at a time.

MR. HOFFMAN: I'm sorry.

This is -- I'm asking you -- I'm sorry. I'll let you answer the question the way you want to.

THE WITNESS: I'm -- the way you're phrasing it that I told you to put the outfall in a particular place, I'm sure I didn't. I am equally sure that I told you that this is where I think it ought to be, way down there, way down in the valley, because of the erosion.

If it has -- if the water has to run across the ground to get to where it's got to go, it's going to take a lot of dirt with it. How to do that, don't know. Where to drop it, I don't know where to put it.

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But I know it's got to be a lot lower so it doesn't have to erode the hillside on its way down.

But where you put the outfall still doesn't answer how much comes out of the outfall and I have no -- you know, that's when we hired the engineer because it's just --

MR. WESCOTT: Does this make any difference?

THE WITNESS: I don't have a clue.

MR. WESCOTT: We're talking about -- you know, now we're getting into --

MR. HOFFMAN: Well, I -- I'm only -- I know it's --

MR. WESCOTT: It's the outfall. Is the outfall or is the storm water management pond of such size and everything that it's instead of being just a --

MR. HOFFMAN: I didn't really want to go down this road, but let me tell you what the -- why I asked the question and then you can decide whether you want to cut me off.

What I heard Mr. Burns testify to was that

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there is -- and you allowed him to talk about the erosion problem and there's a storm water management issue and he's worried about storm water management.

I asked him those questions to indicate that the plan that's being -- instead of the storm water management being an issue to prove that it's not -- that the exemption should not have been granted, this plan proves that the exemption should have been granted. It's an improvement over what's in the field, at least according to Mr. Burns' testimony. That's my point.

MR. MCCANN: Are we -- what are we -- is Mr. Hoffman testifying or what are we doing here? Is he responding to -- I'm not sure what he's doing. But I don't think he can say -- stand before the Board and say that as a witness, and I think that's what he's trying to do.

MR. HOFFMAN: Well, I was trying to do it through cross-examination, but I was stopped and asked why I'm asking the question, so I answered. I answered that. I wasn't trying to start testifying. I was

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trying to respond to the chairman's questions.

MR. MCCANN: Mr. Burns is the one on the stand.

THE WITNESS: I mean, you know, we cooperated. I think it's better than it was, but I -- I've also heard there's a new plan that I haven't seen yet, so I don't know. I don't know.

MR. WESCOTT: Well, we're not here on new plans.

THE WITNESS: Right. The point is is that there's going to be -- you're proposing a tremendous change in the storm water management pond system. It may be better -- it's hard to imagine how it could be worse.

But when you put on another 70 percent park -- you know, increase the places by 70 percent and two more buildings that, you know, are kind of loosy goosy, I don't understand how a plan can be approved with -- well, anyway, it doesn't matter.

So I don't see -- I just don't see how that much storm water management -- storm water runoff can

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be accommodated. It's a tremendous impact. That's all I'm saying.

BY MR. HOFFMAN:

Q All right. Let me ask you this. When -- we have had other discussions --

A Many.

Q -- about this plan. Wasn't this plan modified in response to your other concern about taking down trees?

A Very significantly.

Q Significantly modified?

A Yes.

Q To the better?

A To the better.

Q Okay. And the area was -- if you could look at the plan. I'm sorry. The area to the left side of the proposed storm water management facility was supposed to -- was --

A Right.

Q -- originally proposed to be ball fields in this area here (indicating), right?

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A Right. You have that little salient come out to the southwest and it was supposed to be maybe two or three times as big.

Q And as this case has unfolded, wasn't your position at the prior hearing and in meetings that you had that if these issues were addressed, removing the ball fields from that area, considering changing the outfall and making it better, that, in fact, your position then was that you did not object to the -- any of the relief that Maryvale was requesting?

A I've been working with you. If you could -- you haven't -- I have yet to see the new plan and it's been months. So I'm kind of wondering how come I haven't been sent the new plan. But it's possible that we could right -- we could reach --

MR. WESCOTT: Hold on. What is this?

MR. HOFFMAN: This is the plan that was approved by the CRG.

MR. MCCANN: He's referring to the storm water management proposal.

THE WITNESS: Right.

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MR. HOFFMAN: We've been working -- well, I can't testify.

So, I mean, we have not sent you anything additional, haven't had any recent meetings on anything. You are aware that within the last few months, the response we got was this -- asking that this appeal be noted? I'm sorry. The hearing be scheduled?

THE WITNESS: Well, no matter what happens on the other side, we have this decision that this was a -- that this is a minor amendment and that is a technical, legal decision that the FRCA can't live with.

BY MR. HOFFMAN:

Q But your position prior to this was that if we made those changes, you could live with it? You've changed -- you've changed your mind?

A My position was that I could -- I would work with you and continue to work with you and I will continue to work with you --

Q I understand. And I appreciate that. I know

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you will.

A -- because however long this appeal goes on this minor versus major amendment, in the meantime, you've got your authority and I'm sure you're going to go forward. So I'm a realist.

MR. HOFFMAN: All right. Thank you.

MR. MCCANN: Let me see if I have any other questions. I think that was it. Thank you.

CHAIRMAN CRIZER: Thank you, Mr. Burns.

MR. WESCOTT: Thank you, Mr. Burns.

THE WITNESS: Thank you.

MR. MCCANN: I have one more witness.

Whereupon,

MARCIA WATSON GOLDBERG,

an Appellant, called for examination by counsel for the Appellants, was duly sworn, and was examined and testified as follows:

DIRECT EXAMINATION

BY MR. MCCANN:

Q Ms. Goldberg, could you state your full name and home address for the record, please.

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A Marcia Watson Goldberg, 12165 Falls Road, Cockeysville, Maryland 21030.

Q Like Mr. Burns, are you here testifying both individually and on behalf of Falls Road Community Association?

A Yes, I am.

Q What, if any, position do you hold with that association?

A I'm the secretary of Falls Road.

Q How long have you been affiliated with the association?

A Probably about four years, maybe five.

Q Do you live in the area of Maryvale School?

A I live two miles north of Maryvale.

Q Two miles north?

A Uh-huh.

Q Yes?

A On Falls Road north of Maryvale.

Q And how long have you lived there or in the general area?

A Twenty-seven years.

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Q And are you familiar with what has been proposed by Maryvale in terms of an amendment to its development plan?

A Yes.

Q And what, if any, feelings do you have, Ms. Goldberg, regarding the impact that you believe the proposal will have on the site or the adjacent properties or the neighborhood at large?

MR. HOFFMAN: Is she testifying as an individual or as a --

MR. MCCANN: I asked her and she said both.

THE WITNESS: Yes.

MR. HOFFMAN: Both?

THE WITNESS: Yes. The major impact that I feel that it will have is, and the reason that it should have been open to full disclosure to the public is because the traffic, any traffic increase on Falls Road is of significant importance to anybody who has to travel that corridor every day.

BY MR. MCCANN:

Q Why is that?

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MR. HOFFMAN: Mr. Crizer, I'm going to object. I don't -- traffic's not the issue in this case.

MR. MCCANN: I don't know how it can not be. I really don't.

THE WITNESS: It's the scope of the changes that --

CHAIRMAN CRIZER: Hold on. Hold on, Ms. Goldberg.

MR. MCCANN: You have three buildings, 15, 16 -- one 15, the other one 16,000 square feet. A third one a couple thousand square feet. And you have all these ball playing fields. I can not -- I don't understand how traffic can not be impacted. She lives there. She drives it every day.

The impact of the new structures, the new -- the use -- the new uses to which the structures are put is directly relevant to the policy manual. The policy manual says it is. Traffic is just one impact like storm water management, like noise, like light, just like Mr. Burns talked about. So I don't see how it's

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not relevant.

MR. HOFFMAN: In this case, we had a separate use case, a special hearing to amend the special exception. All of those issues of impacts were all dealt with in that case.

MR. MCCANN: That's a good point. You can't -- again, I said we can't divorce the use. Planning is a refinement. The reason it doesn't go through the development plan approval process because it's a small change.

If that -- if there is a larger change that has a significant impact, its use, anything, it should go through the development plan approval process. The development plan approval process considers traffic and other impacts from the use of the property. So I don't -- I can't see how --

MR. HOFFMAN: I disagree with that. I don't know how it does. This property accesses two state roads. I haven't been to a development plan hearing yet where the hearing officer has authority over two state roads. But be that as it may, that's what the

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special exception is about. It's about whether there will be any adverse impact.

MR. MCCANN: That's a good point. The question is whether there's an adverse impact. All the policy manual speaks to is whether there is an impact or not. And the policy requires consideration of it. So is there a significant impact?

MR. HOFFMAN: It doesn't say that. It says does it materially alter the proposed development.

MR. MCCANN: The policy manual says --

MR. HOFFMAN: It was a school before. It's a school now. Will there be buildings for school uses, sure. There will be new buildings for school uses. How does that materially alter --

MR. MCCANN: The policy manual --

MR. HOFFMAN: -- the proposed development?

MR. MCCANN: -- says what it says for a reason. The policy manual says that DRC should consider impact. It should. And it should be considered by this Board in determining whether or not that determination was right or not.

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Essentially what the DRC said was there will not be significant impacts on neighboring properties. And we disagree with that and we appealed that determination regardless of whether this claim went to a special exception many years ago.

In fact, the plan refinement section -- can I say one more thing on that point? The plan refinement definition includes a number of things that --

MR. WESCOTT: Where are you reading?

MR. MCCANN: Page two of the policy itself. It's entitled, Roman numeral III, "Plan refinements." If you'll notice at the bottom of that first paragraph, refinements -- it identifies a number of things that refinements can include, minor changes and those things.

In closing, I'll certainly address each of these. But certainly included among them are -- I'm sorry -- parking and driveways, locations of streets. Minor changes in those things would be considered refinements.

MR. WESCOTT: Where's traffic?

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MR. MCCANN: It doesn't say traffic. The beginning of that paragraph -- the end of that paragraph rather says, "Refinements would include but not be limited to minor changes in the following." Area, location, and function of open space is one of them. Function is a use, how the open space is to be used. It's a good example. This open space is now going to be used for ball playing fields. That's a use. The manual says you should consider the function or use and any changes in them.

CHAIRMAN CRIZER: I'm going to sustain the objection. Mr. McCann, I think we've given a lot of leeway on the witnesses. If you could kind of keep some more boundaries.

MR. MCCANN: I'm not aware that Ms. Goldberg -- aware that she's going to talk about anything other than traffic. She can correct me. But if the ruling is that she can't talk about traffic impacts, that is the ruling. And I take it it is, correct?

CHAIRMAN CRIZER: Correct.

MR. MCCANN: I mean, then I would ask Ms.

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Goldberg whether she has any other thing to say about the impacts that she believes the plan will have on the site or the adjacent properties or the neighborhood at large other than what Mr. Burns has already talked about.

THE WITNESS: Yeah. Other than what Mr. Burns has said in terms of the scope of the storm water should be open to review. The scope of the plan should be open to full review by the public because of the size of the changes.

I mean, I think the whole thing goes to the heart of the issue as to whether it's a refinement or an amendment. And it's -- there's such big changes that the public should have input on the storm water. It should just be reviewed.

Maybe it will all be fine the way it is, but nobody got a chance to look at it and consider it and have experts look at it. And the traffic is certainly, you know -- in fact, there was -- if that's not an impact, then --

MR. HOFFMAN: Objection.

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THE WITNESS: Okay.

CHAIRMAN CRIZER: I'm not saying that -- we're not here to say -- this Board is not here to say whether there's not an impact or anything like that, Ms. Goldberg. The appeal is just what you noted. I mean --

THE WITNESS: It's the scope of the issue.

CHAIRMAN CRIZER: Exactly.

THE WITNESS: And it's big in my estimation.

MR. MCCANN: Thank you, Ms. Goldberg.

MR. JABLON: No questions. I'll make the decision.

THE WITNESS: Are you sure?

MR. JABLON: I know when to fold 'em and hold 'em.

CHAIRMAN CRIZER: Thank you, Ms. Goldberg.

MR. MCCANN: Thank you.

THE WITNESS: Thank you.

MR. MCCANN: I was going to introduce an exhibit, but I don't think it's necessary, the decisions of the zoning commissioner or you don't need

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to introduce this. Do we agree on that? That's a matter of public record. They don't need to be introduced as exhibits in this case?

CHAIRMAN CRIZER: What were they?

MR. MCCANN: There was a decision, for instance, back in 1995, the hearing officer's opinion that I could introduce, but it's part of the record anyway.

CHAIRMAN CRIZER: If you want to introduce that, I mean, we've taken stuff.

MR. HOFFMAN: From 1995?

MR. MCCANN: This is the original --

MR. HOFFMAN: It's not the most recent zoning case.

MR. MCCANN: This is the original development plan that I'm going to mark as Exhibit 16, Mr. Grier?

MR. GRIER: It would be No. 16, yeah.

CHAIRMAN CRIZER: Do you have an objection?

MR. HOFFMAN: I do. It's not --

MR. MCCANN: Okay. Well, let me mark if for identification then.

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MR. JABLON: My only concern would be when you issue -- when you introduce cases like this, especially involving the same issue, you have to put everything into context.

The original development plan hearing obviously speaks for itself. It's public record. The fact is, if you're going to introduce it into, then you should introduce all hearings that were involved in this case, public hearings, special exceptions, special hearings. So --

MR. HOFFMAN: I disagree with co-counsel. I already had my objection sustained. It's ID only.

MR. WESCOTT: Is this the way it's sitting now? Is that -- is that?

MR. HOFFMAN: No.

MR. WESCOTT: It's no, it's not?

MR. HOFFMAN: You have a special hearing to amend the special exception.

MR. JABLON: That's my point though.

MR. MCCANN: But Mr. Wescott or I don't know who asked the question. The decision of the DRC was

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not whether or not there was a refinement to this plan or whether a refinement to the plan as approved by amendment of the special exception. It's a -- whether it was a refinement to the development plan as approved, its most recent iteration, not with all this red on it.

MR. WESCOTT: I know.

MR. HOFFMAN: The -- that's not the order.

MR. WESCOTT: That's not the development plan that they're --

MR. MCCANN: No.

MR. WESCOTT: -- amending?

MR. MCCANN: In fact, this is the exhibit that they introduced to the DRC to show the changes.

MR. WESCOTT: Right.

MR. MCCANN: The red changes are what we're here for today.

MR. WESCOTT: Right.

MR. HOFFMAN: Maybe it's semantics, but they're -- the development plan that we send in, the application is a plan. It's signed by the county. The

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amendment that we applied for is an amendment to the plan. It doesn't talk anything about the hearing officer's order or anything else or any zoning cases or anything else. It's the plan.

And so that's the basis for my objection. Don't want to go back to looking into the 1995 case and having to read it, find out. The plan is the plan.

CHAIRMAN CRIZER: Okay. We'll take it in for ID.

MR. HOFFMAN: Okay.

MR. MCCANN: Thank you.

(Whereupon, the document was marked for identification Appellant Exhibit No. 16.)

MR. MCCANN: Mr. Chairman, I have no other witnesses.

CHAIRMAN CRIZER: Let's take five minutes.

(Whereupon, there was a brief recess.)

CHAIRMAN CRIZER: Back on the record. Go ahead, Mr. Hoffman.

MR. HOFFMAN: I'd like to put that last statement on the record.

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Whereupon,

DAVID L. MARTIN,

a witness, called for examination by counsel for the Petitioners, was duly sworn, and was examined and testified as follows:

DIRECT EXAMINATION

BY MR. HOFFMAN:

Q Mr. Martin, could you please state your name, your address, and your occupation for the record?

A Yes. It's David L. Martin. Business address, 222 Bosley Avenue here in Towson.

Q And your occupation is?

A I am a principal of Martin & Phillips Design Associates which is a land development consulting engineering company.

Q And are you a registered landscape architect?

A I am.

Q Is that a copy of your --

A Yes.

Q -- CV?

CHAIRMAN CRIZER: Is this to be made an

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exhibit?

MR. HOFFMAN: Yes, please. It's Appellees' No. 1.

MR. MCCANN: No objection.

(Whereupon, the document was marked for identification Appellee Exhibit No. 1 and received in evidence.)

MR. HOFFMAN: I'm going to be offering Mr. McCann (sic) as an expert --

CHAIRMAN CRIZER: Mr. Martin.

MR. HOFFMAN: I mean, Mr. Martin. I might offer him, too, if he'll testify for us. Mr. Martin as an expert landscape architect and land planner with significant experience in processing these types of development approvals.

CHAIRMAN CRIZER: Landscape and planning?

MR. HOFFMAN: Land planner and he -- with significant experience. And I will -- I can go through his --

MR. MCCANN: I accept him in those areas.

MR. HOFFMAN: Okay.

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CHAIRMAN CRIZER: Yes. Mr. Martin has appeared here many times.

MR. HOFFMAN: Okay. Great. Thank you, Mr. McCann. Appreciate that.

Mr. Martin, you were previously with G.W. Stephens?

THE WITNESS: That is correct.

BY MR. HOFFMAN:

Q And the plan that's on the board as a -- as Appellants' Exhibit No. -- is it on there?

MR. MCCANN: Eleven.

MR. HOFFMAN: Eleven. Is that the plat to accompany the Development Review Committee request for the limited exemption?

THE WITNESS: Yes.

BY MR. HOFFMAN:

Q Did you prepare or was this prepared under your supervision when you were at G.W. Stephens?

A Yes, it was.

Q How long ago did you leave G.W. Stephens to form your own company?

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A It was September 1st of 2006, last year. I'm sorry, 2006, right. It was 2006.

Q And if I could ask you to take a look -- I think actually -- I don't think I have the --

MR. WESCOTT: Is this plan in evidence?

MR. MCCANN: It is.

MR. HOFFMAN: It's Appellants' Exhibit 11.

MR. WESCOTT: Eleven?

BY MR. HOFFMAN:

Q Mr. Martin, I'm going to ask you to take a look at a package of documents and I'm going to just state what they are. It starts with another document that's also in evidence, the letter from Mr. Timothy Kotroco dated February 1st, 2006, approving the limited exemption request.

But there are some other documents which were submitted by you to the Development Review Committee. Can you take a look at those, the rest of those items and just describe what they are?

A Yes. The first at the top of the pile is a letter from Venable relative to the DRC application

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request that explains what the request is. It cites Section 324106B2 of the Baltimore County Code, seeking a refinement to the Westwicke development plan and there's a brief description, the purpose of the refinement, to amend the plan to reflect additional building, parking lots.

MR. HOFFMAN: I think that one is in as well.

MR. MCCANN: All three of these are in. They're 9, 10, and 11.

MR. HOFFMAN: Okay. Could I ask you, Mr. Martin, and I'll ask Mr. McCann, is the application form itself, which is the next page -- I'm not going to duplicate exhibits if it's already in.

Well, if I might, could you just take a look at those. If we could stipulate -- if I could just put in my package and I'll just --

CHAIRMAN CRIZER: That's fine.

MR. HOFFMAN: It includes a copy of the plan, but it's not red. So I'm going to continue to use Mr. McCann's exhibit.

So this package could be introduced, please,

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as Appellees' Exhibit No. 2 and consists of -- 2A would be the letter from Ms. Malone. 2B would be the application form. 2C would be the receipt. 2D would be Mr. Martin's check list that he filled out. 2E would be the February 1, 2006, letter, and 2F would be another copy of the plan that's Appellants' Exhibit No. 11.

THE REPORTER: I can use 2F again.

MR. HOFFMAN: 2F is a copy of the plat to accompany DRC request which is also -- it's just a duplicate of the plan on the board which is Appellants' Exhibit No. 11.

CHAIRMAN CRIZER: Any objection?

MR. MCCANN: No objection.

(Whereupon, the documents were marked for identification Appellee Exhibit Nos. 2A through 2F and received in evidence.)

BY MR. HOFFMAN:

Q Mr. Martin, if you could go up to Appellants' 11 and just describe -- and I know some of this has already been done, but if you could just point out the

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additions to the school that are being proposed on the site plan.

A Yes. Basically in the overall picture, it is what's been described and shown on this plan as redline additions. Anything in red would be something new that was proposed on the DRC plat. And it would include a small building addition to the area that -- of what's known as the castle.

There's some new proposed performing arts buildings sort of in the building of the development area of the school proper. There is a proposed media center that's shown that would be to the east side of the property and a articulation or definition in the play field area, an illumination of the storm water management facility that currently is a surface pond and proposed play fields over top of that.

Q It will become an underground facility?

A It would become an underground facility. That's correct.

Q Okay. Is the -- media center is a updated name for a library?

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Q And did you in preparation for your testimony today take another look at the policy manual and the definitions of or the statements with regard to material amendments and plan refinements?

A Yes, I did.

Q Do you have a copy of it with you?

A Not up here, I don't.

Q Do you want to get a copy of it in front of you?

MR. MCCANN: I have one.

MR. HOFFMAN: You've got one too? Thank you.

You can take that one.

Thank you, Michael.

I do want to go back to the redline plan. I know it's shown, but there is additional parking that's shown as well. And that was mentioned by --

THE WITNESS: Yes.

MR. HOFFMAN: -- the two appellants that were here that there is additional parking that's being proposed --

THE WITNESS: Yes.

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MR. HOFFMAN: -- as part of the -- as part of the additions to the school.

THE WITNESS: Correct.

BY MR. HOFFMAN:

Q Now, if you -- let's start with what the County Code says. Do you have an opinion as to whether the proposed changes would materially alter the proposed development? And to the extent you want to use the policy manual, please do, where it defines or talks about material amendments.

MR. MCCANN: I object for the record that that question calls for a legal conclusion.

MR. HOFFMAN: I guess I would say that I'm not sure how that calls for a legal conclusion. The legal conclusion is going to be made by the Board whether the changes comply with the County Code section that says does it materially alter.

So I -- maybe that was just a circular argument, but that's going to ultimately -- it's going to be their decision. I'm asking this witness for his opinion as to whether it is a material alteration.

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MR. MCCANN: It's a legal conclusion because it's the very issue before the Board. So that's a legal and factual issue, but just object to the question on that basis.

CHAIRMAN CRIZER: Overruled.

MR. MCCANN: Thank you.

THE WITNESS: Would you restate it one more time?

BY MR. HOFFMAN:

Q Sure. The proposed additions to Maryvale School as shown on the -- on Appellants' 11, which was the DRC application, when you look at County Code section, do you have an opinion as to whether the proposed additions materially alter the proposed development?

A Yes, I do use that. I do use my experience both with Baltimore County and as a planner in general and the very nature of the plan itself.

Q Okay. Do you -- do you believe that the proposed additions and changes materially alter what was previously approved on the development plan?

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A I don't believe they do alter.

Q Can you explain why?

A Yes. In the context of Westwicke/Maryvale School -- let's just talk about Maryvale which is what this plan is about really. There are -- Maryvale School consists of a 113 acre site, the property. The area of the existing school, that is everything that's underlying and what was approved in 1995 on the development plan and is shown in gray or a dark gray tone on the plan is roughly a quarter of that 113 acres or 23 -- let's say 23 acres or so of use as a school.

It was a school in 1995. It was a school in 1998, I think when the second DRC which was introduced was requested for a building addition. It's a school today. It was a school when we filed this DRC application. And that is the principal -- the use has a lot to do with the development plan as it was shown to the community. It was represented as a school at the community input meeting. It was represented as a school at the development hearing, the original development hearing in 1995.

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And to alter the plan as is shown on this in red whereby buildings are added, parking and driveways are realigned and ball fields are now articulated, you know, in a more definitive way to me does not materially alter the fact that Maryvale property of 113 acres and the development is still sort of within the same area. There's not some proposed new use way over on the west side in the stream or down in the south. It's all occurring, but it's internal to their property, their use.

And I would believe that for those reasons and my experience, plans like this are for that very reason considered to be amendments. I don't think --

MR. MCCANN: Objection. I move to strike that. He's talking about other plans that are allegedly considered as refinements or amendments.

THE WITNESS: I meant this plan, Maryvale.

MR. MCCANN: What I thought you meant -- you mentioned other plans.

THE WITNESS: I meant this plan in its other iterations.

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MR. MCCANN: Okay.

BY MR. HOFFMAN:

Q Now, the proposed additions to the school under the policy manual, under material amendments, it says that, "The changes to be material would have a significant effect on neighboring properties or the neighborhood at large different from the approved plan."

A Yes.

Q Did you -- do you consider that in your testimony?

A Certainly. And I would come back to the statement, the edge of the school on -- let's start at the east side. The driveway is still where it is. There are still parking lots. There are driveways that exist, existed in 1995 on the original plan.

Certainly everybody that attended the 1995 CIM and the hearing officer's hearing that were interested parties had an opportunity. They know what's there. And that use has not changed. We're not imposing some serious alteration where the driveway is

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now cutting in some other location. And all of the other boundary uses are internal to the school.

Q The school is 113 acres?

A Yes.

Q Do you know approximately how much additional impervious area is being added?

A It's about two acres.

Q Out of 113?

A Yes.

Q I think you mentioned it, but the county when it -- in the letter seems to use the term refinement and not materially alter somewhat interchangeably.

A They do.

Q So I'd ask you to go to the policy manual again and I would ask you, did you consider these changes in the context of what the manual talks about being considered refinements?

A Plan refinements, yes.

Q Could you explain, if you would, if that's the appropriate approach to take and use the word refinement, could you go through the policy manual and

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explain if you believe that it is, it would also be considered a refinement?

A Yeah. Sure. First, I think you're referring to lists under refinements A through K; is that correct?

Q Yes.

A So the first number of units, the request that the DRC was not a part of that. No other units talking about unit type and location. We're not talking about residential dwelling units. Square footage or buildings, again, I would come back to the -- in the overall context of the school, that the square footage of the buildings are -- it's significant as far as when you look at the kind of -- you know, it's a percentage of the overall use of the site.

Location and area of grading, that's all still relatively confined within the area of existing facilities on Maryvale's immediate use of where the school facilities are.

Q Not completely though?

A Not completely, but approximately it's very

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similar.

Q Okay.

A The open space, the fields that exist in 1995 and exist today are similarly located on the new requested plan. So I don't see any major issue there.

Parking and driveways, we're articulating parking to accommodate the two new buildings and better serve obviously their uses. Some of that existing parking, by the way, is being replaced by a building, so the parking has to be rearticulated around those.

Location of streets, fire hydrants, there are no public streets in this area. There are no public fire hydrants. Street lights are private on the school.

The storm water management area, the location of that is not really changing. It's generally in the same area where it was shown on the Maryvale/Westwicke development plan, albeit it's now going to be underground. Sewers and --

Q There is an additional storm water management area that pick up new impervious areas as well?

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A Yes. That's correct.

Q Okay.

A Sewer and water lines, there are no public water and sewer lines on the property. Soil types and -- I mean, we're not proposing the wholesale, hog-out different soil types off the property and to switch it. And certainly we're not impacting the floodplain with this redline development.

Q Can I go back, and I hate to do this, but can I go back to the page before in the policy manual under material amendments.

CHAIRMAN CRIZER: Could I just make a note for the record?

MR. HOFFMAN: Yes.

CHAIRMAN CRIZER: Mr. Martin said A through K and on our policy manual, it's --

MR. HOFFMAN: One through 11.

CHAIRMAN CRIZER: Exactly. Does he have a different copy?

MR. HOFFMAN: He read the exact same thing. Could I get that extra copy now?

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CHAIRMAN CRIZER: Yeah. I don't want it to be confusing.

MR. HOFFMAN: I understand.

THE WITNESS: This is fine. It's the same thing that I just -- in one instance, it's labeled, which is probably an older version. It's PDM policy. It's numbered. The items are identical.

CHAIRMAN CRIZER: They are identical. I just -- I didn't want anybody to get confused.

MR. HOFFMAN: Well, if you have Mr. McCann's in your hand now --

CHAIRMAN CRIZER: Flip the page --

MR. HOFFMAN: -- you can go back to the prior page, page one. It says under material amendment, C1, it says, "Represents a fundamental departure from or material alteration of the original County Review Group concept." Was this --

THE WITNESS: That's exactly what it is.

MR. HOFFMAN: -- representing a fundamental departure?

THE WITNESS: No, it does not.

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MR. HOFFMAN: I don't think I asked you to look at that particular provision.

And back to the plan refinements, it says in the policy manual again that, "These changes would have no significant impact on the site or adjacent properties or the neighborhood at large." Do you believe that any of these changes would have a significant impact -- I know you said it, but I'm going to ask you again.

THE WITNESS: I would answer that question no, it would not. And I can only reinforce that by the zoning case that was sort of already talked about those issues on the special hearing to modify the special exception.

BY MR. HOFFMAN:

Q And is it in keeping with the informative, conceptual, and schematic nature of the plan?

A Yes.

Q Mr. Martin, how many Development Review Committee meetings and -- have you attended and requests have you made in your career?

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A Somewhere between 100 and 200 is my best recollection and guess over the past -- since 1991, '92.

Q And in your experience, does your experience tell you that the Development Review Committee made the proper recommendation here, recommending this limited exemption?

MR. MCCANN: Same objection as before. That is it calls for a legal conclusion.

MR. HOFFMAN: He's an expert. He's been to between 100 and 200 of these meetings. He's processed that many. I don't think this is the -- don't care?

CHAIRMAN CRIZER: I'm going to sustain it.

MR. HOFFMAN: Okay.

CHAIRMAN CRIZER: I don't see where it's relevant.

BY MR. HOFFMAN:

Q You stated it before, but the -- there was a -- this request for a limited exemption was originally tabled; was it not?

A Yes.

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Q It was tabled?

A Yes.

Q Okay. And the zoning special hearing relief to amend the special exception was granted and then it came back to the Development Review Committee for their approval?

A As is the normal practice, yes.

MR. HOFFMAN: May I confer with co-counsel for a second? I was asking the chairman.

CHAIRMAN CRIZER: There will be no division in this house. Off the record.

MR. HOFFMAN: Thank you.

(Whereupon, there was a discussion off the record.)

CROSS-EXAMINATION

BY MR. MCCANN:

Q I want to start by making sure that you've identified everything that is in redline. I took a list that you were identifying, the redline portions of the plan. I don't think it was complete.

You mentioned first a small building adjacent

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to the castle, correct?

A Yes.

Q The castle being at the southern portion of the --

A Yes. That's correct.

Q You said a small building? Am I not correct that --

A I think what --

Q The benefit of the doubt here, this is a control tank, fire control tank; is it not?

A Well, there was a garage in this area that I think was part of -- yes, it is, but there was part of a garage or existing carriage house that was --

MR. WESCOTT: Turn around, Mr. Martin.

THE WITNESS: In relationship to that facility, it needed some alterations along the front, some grade changes.

MR. WESCOTT: Remember, he's got to get everything that you're saying.

BY MR. MCCANN:

Q So where on this redline plan does it show in

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red where any additional buildings will take place?

A Well --

Q It doesn't, does it?

A No.

Q Okay.

A Well, it shows some alteration. It's maybe not --

Q It shows some grading, doesn't it?

A Yes, and maybe some facade stuff where this area was articulated in a little different manner to accommodate some grade changes and driveways and what have you.

Q Okay. But no --

A No new physical building, per se. There were some alterations in that area.

Q There is a proposed 25 gallon fire control tank next to that castle?

A Probably 25,000 gallon.

Q Twenty-five thousand. Sorry.

A Which is underground.

Q And you mentioned the performing arts

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center --

A Yes.

Q -- which is somewhat in the center?

A Center.

Q Okay. And that, according to my calculations, is going to be roughly 14,000 square feet? Does that sound about right?

A It's 141 by 99, so I would -- you know, it's pretty close.

Q Okay. You mentioned the media center --

A Yes.

Q -- to the east.

A Uh-huh.

Q A hundred and ten feet by 136 feet, approximately 15,000 square feet? Does that sound about right?

A It does sound about right.

Q How many stories are each of those buildings; do you know?

A I'm not sure. Probably two, but I don't know that.

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Q You did mention a third building is a proposed maintenance building also.

A Correct.

Q And that's to the east of the performing arts center?

A That's correct.

Q And approximately 40 by 40 is what it says?

A Yes.

Q So approximately 1,600 square feet?

A Uh-huh.

Q Yes?

A Yes.

Q Do you know how many floors or stories that is?

A I believe that's a one-story maintenance facility.

Q You mentioned the play fields. I understand that in the area where there is now depicted four play fields, there's some open space that used as a play field currently, correct?

A That's correct.

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Q In that general area?

A In the general area, yes.

Q But there are not four fields as delineated on this redline plan, is there?

A Well, fields are grass and they typically are delineated by paint and striping or line.

Q That's what I'm asking.

A Yeah. Well, the area is the same.

Q I'm not asking about the area. I'm asking what's there now. Are there line -- four lined fields in this area right now?

A There may be when they're playing games.

Q But you don't know?

A No.

Q And are there -- the largest of these fields, this one to the south, has stands around it, doesn't it?

A Yes.

Q Those are not there now, are they?

A No.

Q And it also has a track around it, doesn't

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it?

A Yes.

Q And that's not there now, is it?

A No.

Q Do you know what the track is made of, what type of material?

A I don't. I'm not sure that's been decided.

Q And you mentioned one of the fields is going to have an underground storm water management facility?

A Well, there is a surface facility now and that's going to be replaced by an underground facility, yes.

Q So in the area of these -- well, actually, of the three play fields, smaller play fields shown on the -- the two to the right, it's shown a storm water management facility right there?

A That is correct.

Q Where the intense grading is --

A That's correct.

Q -- in gray?

A Uh-huh.

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FORM CSR

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mean by that.

A Well, there's -- I think I said that the Maryvale School site proper is about 113 acres.

Q When you say 113, you mean all --

A All of the property they own, correct. The general area of the existing school and the redline, I believe there's roughly a two acre increase in that development area.

Q You're telling me that this redlined area is a two acre -- the entire property is how many?

A A hundred and thirteen acres.

Q A hundred and thirteen acres and the redline changes that we're looking at here constitute, comprise a total of two acres?

A No, no. That's not what I said. An increase of two acres from the development that exists today.

Q And how did you determine that?

A Actually, G.W. Stephens measured the plan.

Q Are you measuring impervious surface or are you measuring --

A No, no. It's roughly the same increase

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whether it's the development envelope, if you will, or the impervious, but there were two measurements made actually.

Q Okay. Tell me what they are, what they tell us.

A One measurement was if you were to draw I'll call it an envelope around the red improvements that are shown, the limit, the extent of those versus the extent of what Maryvale consists of today and manmade features supporting elements of those -- of the school septic reserve areas, wells, driveways, et cetera, there is about a two acre increase in this plan from what exists or what existed in 1995.

Q So in the simplest of terms, the amount of space that's being used under the redline plan as opposed to the old existing, correct?

A That's correct. About two acres.

Q And what -- do you have those calculations or do you have those plans?

A I don't have them, no.

Q And so in other words, let me ask you

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specifically about the ball fields, the play fields. There's four of them. Was there any increase in acreage as a result of having these four new play fields? Do you recall there being any?

A Acreage? I don't think so.

Q Okay. So in other words, even though this is currently open space now and it's used for -- at least some of it's used for playing fields, you don't know how much? I think you've already testified. You included all of this area as already being used in determining what is new to this plan?

A Yes.

Q You also said that one of the reasons you think it's refinement, because it's a school, it's been a school, and it's going to continue to be a school, is that --

A That's what I believe I said.

Q Wasn't that -- isn't that usually the case with refinements, that it's sometimes -- I'm sure sometimes a refinement proposes a new use, for instance, a commercial in a residential zone. But

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isn't that -- in your experience, isn't that the case with most refinements that it's the same use being -- it's just an expansion?

A That is my experience.

Q What about -- what about material amendments? Isn't that often the case with material amendments as well?

A I can't answer that because I've never seen a material amendment myself.

Q Did you attend the DRC in this case?

A Yes.

Q And representatives of all the various agencies were there, correct?

A Yes.

Q And why are -- in your experience, why are representatives of the various agencies there?

A In my experience, those agencies are sitting at that table to first determine from their perspective or their agency's perspective is there something dramatically different. And, again, we're talking about an approved development plan with a hearing

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officer's order on it that went through the full process.

Is there something proposed on a DRC request from that agency's perspective that would constitute a major alteration or affect the concerns that they might have had or raised when the plan went through the development process originally.

Q You used the term dramatic and major. Those terms aren't in the policy manual?

A No, they're not.

Q And you mentioned a couple times now the fact that there was a zoning exemption case. You would agree with me that under the policy manual, a determination of whether there's a -- it's a refinement or not or is a refinement that the fact that a special exception has been granted or has been amended isn't relevant to that determination?

A Well, under the policy manual, it may or may not be, but it -- in this instance or in most instances in my experience, it is relevant or the DRC considers it to be somewhat relevant.

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Q You mentioned -- I believe you used the word rearticulating or reconfiguring the driveways and the parking lots. We don't have to go through that now. But just for the Board's benefit, the gray lines under this redline plan show the existing drives and parking?

A Correct.

Q Again, you'll have to help me out because I'm trying to understand the relevance of the zoning commissioner's decision in the special -- the amended special exception case.

It's your contention because -- that because the zoning commissioner granted the amended special exception, you determined that there was no impact and that that decision is consistent with the decision made by the DRC?

A No. I don't think I said that.

Q Okay. Well, let's --

A He determines under 502.1 of the special exception requirements that there were no adverse impacts.

Q Okay. And that's a different standard than

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the impacts that are looked at when determining whether a plan on its face constitutes a material or a refinement -- refined plan under the policy manual? You agree with that, right?

A Yes.

Q In fact, the zoning commissioner held in his decision that he didn't have the authority to determine whether there was -- this was a plan refinement or amendment; isn't that correct?

MR. HOFFMAN: Objection. The zoning commissioner determined?

BY MR. MCCANN:

Q Didn't the zoning commissioner --

MR. HOFFMAN: Why -- we're not here on the zoning case. I don't have it in front of me. I don't -- I recall that the zoning commissioner granted the relief.

MR. MCCANN: I'm not asking substantively about the zoning commissioner's decision. I'm asking him whether or not the zoning commissioner held, to draw on his distinctions that the zoning commissioner

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held that the plan refinement was not an issue, whether this was a plan refinement was not an issue that was before him because he had no jurisdiction to decide it.

CHAIRMAN CRIZER: Sustained. I think this is going to speak for itself.

MR. MCCANN: The decision will speak for itself?

CHAIRMAN CRIZER: Yes.

THE WITNESS: I think the circumstances speak for themselves. I would assume that if somebody else had decided it, I wouldn't be sitting here today.

BY MR. MCCANN:

Q Do you have your policy manual in front of you? The first page of the policy, material amendment, the language "fundamental departure from" that Mr. Hoffman referred to, subsection C, do you see it under Roman numeral I, "An amendment or combination of amendments to any plan --

A Yes.

Q -- shall be considered a material amendment if it or they represents a fundamental departure from

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or material alteration of"? Is that correct?

A That is what it says. Uh-huh.

Q Isn't it also stated that, under Roman numeral IIB, where it says, "Thus, a nonmaterial amendment," et cetera, et cetera, "would be any change from an approved plan which does not, one, materially alter the original plan concept or --"

MR. HOFFMAN: I'm going to object. This section doesn't apply to any decision by the Development Review Committee.

MR. MCCANN: And there's been no testimony to that effect. In fact, there's -- Mr. Smith's testimony based on the last section in this policy manual that we have in this exhibit says that, "The process for amending CRG plans shall be extended to amending approved development plans." Obviously Roman numeral II as well as Roman numeral I relate to CRG plans.

MR. HOFFMAN: It says under Roman numeral II, "Nonmaterial amendments," under Section 2243, which has been changed. "Amendments to an approved plan which do not materially alter the proposed development may be

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approved by the Baltimore County Planning Board with a waiver of the CRG meeting." It's no longer applicable.

MR. MCCANN: The process doesn't apply, but obviously Mr. Smith testified the definitions applied. And I'll read it again. This is changes to approved development plan on the last couple pages of this exhibit.

"After the zoning commissioner, it has been determined the past process for amending CRG plans shall be extended to amending approved development plans."

MR. HOFFMAN: Development plans don't go to the Planning Board.

MR. MCCANN: I know they don't.

MR. HOFFMAN: So how can this apply?

MR. MCCANN: I'm not arguing that the process applies. I'm arguing that the definition of a nonmaterial amendment applies.

MR. HOFFMAN: The definition that's included on a process that's no longer applicable under the County Code, how can that apply in this case?

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water management facility is?

A Yes.

Q And that will -- that was also included in calculation? You said it's about the same development area?

A Yes.

MR. HOFFMAN: That's it. No, it's not it.

At the Development Review Committee, were there -- did all of the committee members agree that this should be considered to be two exemption?

THE WITNESS: They did.

BY MR. HOFFMAN:

Q Okay. And have you received anything from any county agencies subsequent to that that would alter their opinion that the process should be one under the limited exemption that was approved?

A I have not nor have I seen nor heard anything saying other than what they agreed to at the hearing.

MR. HOFFMAN: Okay. Thank you.

CHAIRMAN CRIZER: Anything else?

MR. MCCANN: No redirect -- no recross.

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E X H I B I T S
(Continued)

APPELLANT	DESCRIPTION	MARKED	REC'D
No. 9	11/29/05 Letter	35	35
No. 10	2/1/06 Letter	36	36
No. 11	Redline Plan	36	36
No. 12	Policy Manual	47	47
No. 13	Resolutions	65	--
No. 14	1995 Aerial Photograph	93	--
No. 15	1995 Aerial Photograph	93	--
No. 16	Zoning Plan Order	122	122
APPELLEE			
No. 1	Curriculum Vitae of Mr. Martin	124	124
No. 2A	Letter	128	128
No. 2B	Application Form	128	128
No. 2C	Receipt	128	128
No. 2D	Check List	128	128
No. 2E	1/1/06 Letter	128	128
No. 2F	Redline Plan	128	128

- - -

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CBA-06-006

APPEAL

Appeal of Limited Exemption Development Plan
815-817 Hampton Lane, Towson, MD 21286
Notre Dame Preparatory School
School Sisters of Notre Dame - Developer
8 9th Election District - 4th Councilmanic District 2
DRC No. 09148H, DRC No. 062402P
PDM # IX-703

Development Review Committee Application (DRC)
- ✓ Letter from Timothy Kotroco, Director to Venable LLP dated February 1, 2006 regarding DRC's decision (2 of 2)
- ✓ DRC Application (1 of 1)
- ✓ Receipt (1 of 1)
- ✓ Polling Place Results (1 of 1)
- ✓ Letters from Patricia A. Malone, Esq. to Don Rascoe, Development Manager dated November 29, 2005 stating reasons for DRC (1 of 1)
- ✓ DRC Application Form Checklist dated November 29, 2005 (1 of 1)
- ✓ Findings of Fact and Conclusions of Law signed by William Wiseman dated January 10, 2006 (8 of 8) (Copy)
- ✓ Letter from G. Macy Nelson to Timothy Kotroco dated January 18, 2006 (2 of 2) (copy)
- ✓ Plat to Accompany DRC Request (1 of 1)

Appeal
- Letter from G. Macy Nelson to Timothy Kotroco dated February 15, 2006 (4 of 4)
- Letter from Douglas Carroll to Timothy Kotroco dated February 15, 2006 (3 of 3)
- Letter from Harold H. Burns, Jr. to Timothy Kotroco dated February 15, 2006 (3 of 3)

NOTIFICATION LIST

Robert A. Hoffman, Esq., Venable LLP, 210 Allegheny Avenue, Post Office Box 5517, Towson, MD 21285
Attorney for Developer
~~G. Macy Nelson, Esq., Ste. 803, 401 Washington Avenue, Towson, MD 21204, Attorney for Appellants~~ McCann
The Valleys Planning Council, P.O. Box 5402, 207 Courtland Avenue, Towson, MD 21285-5402, Appellants
Gary Gensler, P.O. Box 1328, Brooklandville, MD 21022
Jack J. Shapiro, 7 Barstad Court, Lutherville, MD 21093
Lance Roth, 1008 Brooklandville Road, Lutherville, MD 21093 → Brooklandwood Rd.
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Harold H. Burns, Jr., 5 Candlestick Drive, Lutherville, MD 21093
Douglas Carroll, 1117 Greenspring Valley Road, Lutherville, MD 21093
Maryvale School, 11300 Falls Road, Brooklandville, MD 21022, Developer
David Martin, GWS, 1020 Cromwell Bridge Road, Towson, MD 21286, Engineer
The Falls Road Comm. Assoc., P.O. Box ?, Brooklandville, MD 21022
Timothy Kotroco, Director, Department of Permits and Development Management
Walt Smith, Development Manager

MICHAEL R. MCCANN ESQUIRE
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36 S CHARLES STREET
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CAROL AND MICHAEL CHOTI
1002 WESTWICKE LANE
LUTHERVILLE MD 21093

MARYVALE PREPARATORY SCHOOL INC

Case No.: 06-128 SPH A

Exhibit Sheet

	Petitioner/Developer	Protestant
No. 1	REVISED SITE PLAN	
No. 2	DAVID MARTIN, L.A. RESUME - PREPARED SITE PLAN	
No. 3	FREDERICK CHADSEY IV P.E. RESUME SWM & FLOOD PLAN	
No. 4	MICKEY CORNELIUS, PE RESUME TRAFFIC CONSULT.	
No. 5	THOMAS MILLS PE RESUME - WATER RESOURCES	
No. 6	ROBERT SHEESLEY ECO SENSE, INC. RESUME - ADEQUATE SEPTIC	
No. 7		
No. 8		/
No. 9		
No. 10		
No. 11		
No. 12		

1-10-08

CBA-06-006
Maryvale

Exhibits
Maryvale Preparatory School, Inc.
CBA-06-006

APPELLANTS'

EXHIBIT 1
- Development Plan (1995) 2/28/95

EXHIBIT 2
- Ltr dtd 12/19/95 fm Scottish Rite to
From A. Jnglon - DPM

EXHIBIT 3
- Ltr dtd 2/28/1996 To D Rascoe
From Dcm Hoover

Exhibit 4
Ltr dtd 3/14/96 To G.W. Stephens
From DPW

EXHIBIT 5 MAP 3/29/96

EXHIBIT 6 MAP 10-1-96 (David Flowers)

EXHIBIT 7 MARKED FOR IDENTIFICATION
Development Plan 3/05/02

EXHIBIT 8 11/23/2001
Ltr fm Src

EXHIBIT 9 11/29/2005
Ltr fm Sc. Venable LLP to

Exhibit 10 letter 2/1/2006
→ To Vanblc, LLP from DPW

Exhibit 11
Plat. Geo. M. Shipbens & Assoc.

Exhibit 12 -
Developmental Management Policy
Dranft 2002 Edition

Exhibit 13 - Rule 8 for Ellis Rd
Community Association.

IDENTIFIED Exhibit 14 Photo 4" x 6"
IDENTIFICATION Aerial Photo of Maryvale (1995)

Exh. 6.t 15 Photo 4" x 6"
IDENTIFICATION Aerial Photo of Maryvale

IDENTIFIED Exhibit 16 - Hearing officer's Decision
8/17/1995

APPELLEE

Exhibit #1 C-V of Mr. David Martin

Exhibit #2
— A Mailing
— B App
— C Receipt
— D Checklist
— E 2/1/2006 Ltr
— F Copy of Plat to accompany DRC Record

VIII-651

Baltimore County Government
Department of Permits and
Development Management

111 West Chesapeake Ave.
Towson, Md. 21204

(410) 887-3321

December 19, 1995

Scottish Development Co., LLC
c/o G. W. Stephens, Jr. And Associates, Inc.
658 Kenilworth Drive
Towson, Maryland 21204

RE: Westwicke
Falls Road and Saters Lane
PDM Number VIII-651
DRC Number 12115G, Dist. 8C3

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 insure 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 18, 1995 and made the following recommendations:

The DRC has determined your request does not meet the requirements of a refinement under Section 26-211. Please note that this a material change which must be reviewed by the Zoning Commissioner.

Appellants'
Exh. 6.7 #2

I have reviewed the recommendations carefully and I have determined to adopt the recommendations set forth above. It is this 19th day of Decmeber, 1995, ordered and decided that the recommendations of the DRC are hereby adopted.

Should you submit an application for a building permit, your application will therefore, be denied subject to conditions set forth above.

Sincerely,

Arnold Jablon

Arnold Jablon
Director

AJ:DTR:KAK:aw

c: Larry Pilson
Susan Wimbley
File

Development Review Committee Request Form

12115 G

3 Copies of the Plan are Required **FEE: $** 400.00 pd V (payable to Baltimore County and is non-refundable)

Applicant & Engineer Name: SCOTTISH DEVELOPMENT CO. LLC & G.W. STEPHENS & ASSOCIATES, INC. Filing Date: 11/29/95

Address: 658 KENILWORTH DR. Phone #: (410) 825-8120

TOWSON, MD 21204 Acreage: 182

Project Name: WESTWICKE PDM File #: VIII-651

Project Address: FALLS ROAD & SATERS LANE ADC Map #: 18-A & B, 13

Councilmanic District: 3 Election District: 8 Building Permit #:

Request: ☒ Refinement ☐ Limited Exemption ☐ Waiver (see yellow form for requirements)

(Attach letter if necessary)

DUE TO A MISINTERPRETATION OF THE SELF IMPOSED LANDSCAPE BUFFER ALONG THE MARYVALE SCHOOL ENTRY, WE ARE REQUESTING A REDUCTION OF THE WIDTH OF THE SELF IMPOSED BUFFER FROM 35 FEET TO 25 FEET. COVENANTS WILL BE RECORDED TO LIMIT THE USE OF THE BUFFER TO ONLY LANDSCAPE PLANTING. THEREFORE, WE REQUEST THAT YOU SUPPORT THIS REFINEMENT. (2 RED LINED PLANS ATTACHED HERETO)

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 _____

plan another to follow.

COMMITTEE COMMENTS:

Agencies to Review and Return Comments to Committee:

( ) DPR ( ) OPCC ( ) Zoning ( ) DEPRM ( ) EIR ( ) SWM ( ) Rec & Parks ( ) Fire ( ) SHA

Signature of Coordinator Meeting Date:

ORDER FORM
DRC DECISION LETTER

Project: WESTWICKE

IS THIS A MINOR SUB? // Yes // No

Letter goes to: _____

DRC Date: 18 DEC

DRC No. 121156

/ / Correction
/ / Denial
/ / Exemption
/ / Refinement App'vl
/X/ Refinement Denial
/ / Action Tabled
/ / WAIVER

THIS IS A MATERIAL CHANGE WHICH MUST BE REVIEWED BY Z.C.

/ / Approval (a)(____)

/ / 2. $_____
/ / 3. (are addtl plns req'd?)
/ / 4. (SHA)
/ / 5. (Ltd Exe appvl letter to accompany plans)
/ / 6. (after compliance, go to P&L)
/ / Other

/ / Approval (b)(____)

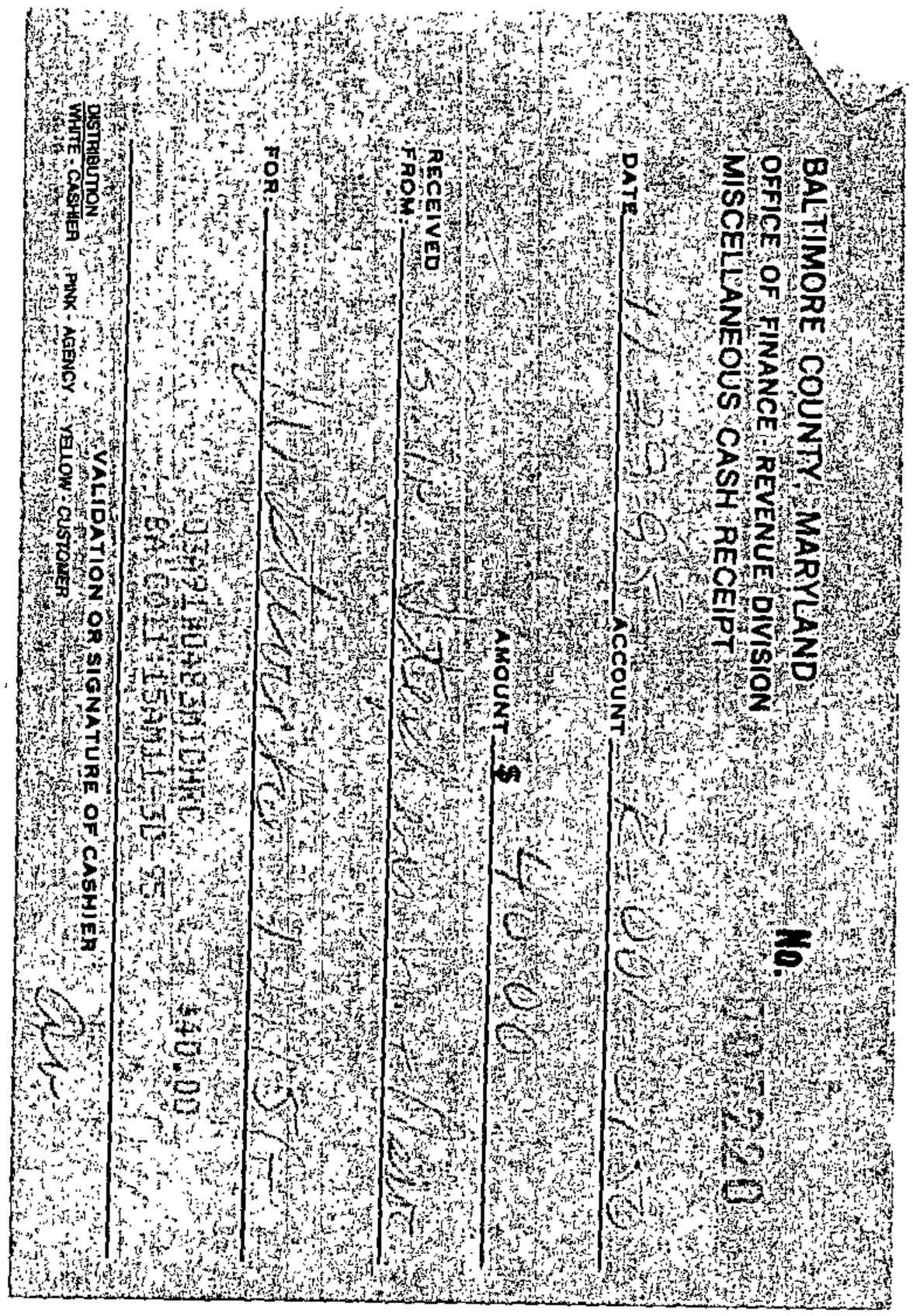
/ / 4. (SHA)
/ / 7. (submit check prints)
(Ltd Exe appvl letter to accompany plans)
(ck prnt will be examined, etc.)
(send 22 plans, etc.)
/ / 8. $_____
/ / Other

Comments: _____

_____

_____

DRC.3/ZADM/TXTGGL


BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT
DATE
ACCOUNT
RECEIVED FROM
FOR:
AMOUNT $
No.
DISTRIBUTION
WHITE - CASHIER
PINK - AGENCY
YELLOW - CUSTOMER
VALIDATION OR SIGNATURE OF CASHIER

GEORGE WILLIAM STEPHENS, JR.
AND ASSOCIATES, INC.
CONSULTING ENGINEERS

GEORGE WILLIAM STEPHENS, JR.
(1888-1983)

W. HARRY JESSOP, JR., P.L.S.
CHIEF EXECUTIVE OFFICER

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PRESIDENT

LEONARD A. PARRISH, P.E.
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PAUL W. TAYLOR, P.E.

ASSOCIATES

GERALD P. MARAGOS, P.E. & P.L.S.
JAMES A. MARKLE, P.E.

February 28, 1996

Mr. Don Rascoe
PDM
111 West Chesapeake Avenue
Towson, Maryland 21204

Re: Revision to Westwicke
Development Plan

Dear Mr. Roscoe,

On behalf of my client, G. W. Stephens is requesting a red line revision to the following lots on Westwicke.

1. *Lot 5 - The reconfiguration of the septic area to move the house forward to increase the back yard. Lot 5 may need an injector pump.*
2. *Lot 14 - Reconfiguration of the Forest Conservation area to fit the proposed house.*
3. *Lot 15 - Moving the septic area to eliminate the sand mound system (test completed 2/7/96). Also the reshaping of the Forest Conservation area on site and the shifting of the lot line to the north.*
4. *Lot 16 - Shifting lot line and reconfiguration of septic area and Forest Conservation easement.*
5. *Lot 25 - The reconfiguration of the septic area and Forest Conservation area. Thus allowing the house to move forward toward the street, giving Lot 25 a larger back yard.*
6. *Lots 3, 9, 13 & 14 - Adding a drainage and utility easement on the back of each lot, to provide drainage to the storm water management pond.*

If you have any questions please call.

Very truly yours,

Dean C. Hoover

DCH:elo

Applmts' Exhibit 3

Development Review Committee Request Form

031166

3 Copies of the Plan are Required **FEE: $** 40.00 pd ✓ (payable to Baltimore County and is non-refundable)

Applicant & Engineer Name: George W. Stephens, Jr. & Assoc. Inc. **Filing Date:** 2/28/96

Address: 658 Kenilworth Drive Suite 100 **Phone #:** (410) 825-8120

Towson, Maryland 21204 **Acreage:** 70CAC ±

Project Name: Westwicke **PDM File #:** VIII - 651

Project Address: Falls Road and Slater Lane **ADC Map #:** 18

Councilmanic District: 3 **Election District:** 8 **Building Permit #:**

Request:

[X] Refinement [ ] Limited Exemption [ ] Waiver (see yellow form for requirements)

(Attach letter if necessary)

See Letter

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 _____ (Documents)
( ) Requires a zoning ( ) Special Hearing; ( ) Special Exception; ( ) Variance
( ) Other _____

COMMITTEE COMMENTS:

Agencies to Review and Return Comments to Committee:

( ) DPR ( ) OPCC ( ) Zoning ( ) DEPRM ( ) EIR ( ) SWM ( ) Rec & Parks ( ) Fire ( ) SHA

Signature of Coordinator **Meeting Date:**

Baltimore County Government
Department of Permits and
Development Management

111 West Chesapeake Ave.
Towson, Md. 21204

(410) 887-3321

March 14, 1996

G. W. Stephens, Jr. And Assoc., Inc.
658 Kenilworth Drive, Ste. 100
Towson, Maryland 21204

RE: Westwicke
Falls Road and Slater Lane
PDM Number VIII-651
DRC Number 03116E, Dist. 8C3

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 insure 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 March 11, 1996 and made the following recommendations:

The DRC has determined your request meets the requirements of a refinement to the development plan under Section 26-211. The Department of Environmental Protection and Resource Management and the State Highway Administration is already reviewing the already submitted plans.

Applicants Exhibit # 4

After resolution of any outstanding issues, please submit ten copies of the plan to this office, Room 123, for signature.

I have reviewed the recommendations carefully and I have determined to adopt the recommendations set forth above. It is this 13th day of March, 1996, ordered and decided that the recommendations of the DRC are hereby adopted.

Should you submit an application for any permits that may be required for this project, your application will be processed subject to the conditions set forth above and any plans, securities, or non-county permits that may be required in accordance with County, State, or Federal regulations.

Additionally, this project is located on a state road; therefore, the State Highway Administration requires the plan to be reviewed prior to permit approval. For further information, contact Robert Small at 545-5581.

Sincerely,

Arnold Jablon
Director

AJ:DTR:aw

c: Bruce Seeley
Carol Brown
File

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

No.

DATE _____ ACCOUNT _____

AMOUNT $ _____

RECEIVED
FROM: _____

FOR: _____

_____

VALIDATION OR SIGNATURE OF CASHIER

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

Baltimore County Government
Department of Permits and
Development Management

111 West Chesapeake Avenue
Towson, MD 21204

410-887-3335

November 23, 2001

G. W. Stephens, Jr. & Associates
1020 Cromwell Bridge Road
Towson, MD 21286

RE: Westwicke
PDM Number VIII-651
DRC Number 111301G; Dist. 8C3

Dear Sir or Madam:

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 (PDM).

The DRC has, in fact, met in an open meeting on November 13, 2001, and made the following recommendations:

The DRC has determined that your project meets the requirements of refinement to the FDP and Record Plat, under Section 26-211.

For IDENTIFICATION
#8
Applicants

After resolution of any outstanding issues, please submit a copy of this letter, and ten copies of the plan to this office, Room 123, for signature.

I have reviewed the recommendations carefully, and I have determined to adopt the recommendations set forth above. It is this 23rd day of November 2001, ordered and decided that the recommendations of the DRC are hereby adopted.

Should you submit an application for any permits that may be required for this project, your application will be processed subject to the conditions set forth above and any plans, securities, or non-county permits that may be required in accordance with County, State, or Federal regulations.

Additionally, this project is located on a state road; therefore, the State Highway Administration requires the plan to be reviewed prior to the permit approval. For further information, contact Larry Gredlein at 410-545-5600.

Sincerely,

Arnold Jablon
Director

AJ:DTR:dak

c: Kristin Weis
File
Larry Gredlein

VENABLE LLP

210 Allegheny Avenue
Post Office Box 5517
Towson, Maryland 21285-5517

Telephone 410-494-6200
Facsimile 410-821-0147

www.venable.com

Patricia A. Malone
Of Counsel

(410) 494-6206

pamalone@venable.com

November 29, 2005

HAND-DELIVERED

Mr. Donald T. Rascoe, Deputy Director
Baltimore County Department of Permits
and Development Management
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

Re: DRC Application - Request for Limited Exemption
Refinement of Westwicke Development Plan
PDM No. VIII-651

Dear Mr. Rascoe:

On behalf of Maryvale Preparatory School, Inc., contract purchaser, we are respectfully requesting a limited exemption in accordance with Section 32-4-106(b)(2) of the Baltimore County Code for a refinement of the Westwicke Development Plan. The purpose of the refinement is to amend the plan to reflect additional building area, parking lots, and playing fields as shown on the enclosed plan.

Thank you for your consideration.

Very truly yours,

Patricia A. Malone

PAM/dk

TO1DOCS1/PAM01/#217633 v1

Protestants' Exhibit #9

BALTIMORE COUNTY, MARYLAND

Polling Place Locator

Polling Place Results

This is the result of your polling place search for address:

11300 Falls Rd 21093

Your Polling Place is: Chestnut Ridge Baptist Church

1010 Saters Lane 21093

Your Election District is: 8

Your Precinct is: 8

Legislative District: 11

Congressional District: 2

Councilmanic District: 2

Previous | Print | Map | Done

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 20th day of November, 2007, a copy of the foregoing RESPONSE TO PETITION FOR JUDICIAL REVIEW was hand delivered to Michael R. McCann, Michael R. McCann, P.A., 118 W. Pennsylvania Avenue, Baltimore, Maryland 21204 and Kathleen C. Bianco, Administrator, County Board of Appeals of Baltimore County, Old Courthouse, Room 49, 400 Washington Avenue, Towson, Maryland 21204.

Christopher D. Mudd

TO1DOCS1/252371 v1

County Board of Appeals of Baltimore County

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

October 9, 2007

Michael R. McCann, Esquire
118 W. Pennsylvania Avenue
Towson, MD 21204

RE: *In the Matter of: Baltimore Province of the Sisters of Notre Dame de Namur, Inc.* – Owners ; *Maryvale Preparatory School, Inc.* – C.P. /Petitioners
Case No. 06-128-SPHA /Case No. CBA-06-006

Dear Mr. McCann:

In response to your letter received via facsimile this date, we have reviewed the transcript of the above matter dated September 6, 2006.

It is our interpretation that the appeals filed in Case No. 06-128-SPHA were withdrawn by all parties, including the Falls Road Community Association and Mr. Harold Burns.

The only hearing that will be scheduled will be that in Case No. CBA-06-006.

Very truly yours,

FILE

Lawrence S. Wescott
Panel Chairman

Enclosure

c: Robert A. Hoffman, Esquire
Thomas M. Lingan, Esquire
Jennifer Busse, Esquire

Printed with Soybean Ink
on Recycled Paper

Best regards,

Michael R. McCann

cc: Robert A. Hoffman, Esquire
Thomas M. Lingan, Esquire
Jennifer Busse, Esquire

III. Plan Refinements

A. In order to further clarify the "Plan Amendment Process" it is proposed that slight, minor or insignificant changes to an approved plan, which have no significant impact on the site or on adjacent properties or the neighborhood at large may be considered as "Plan Refinements" fully in keeping with the informative, conceptual and schematic nature of the CRG plan. Plan refinements would not require a CRG meeting or a waiver by the Planning Board. The refinements would include, but not be limited to, minor changes in the following:

1. Number of dwellings.
2. Unit type and location.
3. Square footage or buildings.
4. Location and area of grading.
5. Area, location, and function of open space.
6. Parking and driveways.
7. Location of streets, fire hydrants and streetlights.
8. Location and areas of storm water management facilities.
9. Sewer and water lines and easements.
10. Soil type and location.
11. Location and area of flood plain.

B. Proposed non-material amendments to specific details or elements of an approved plan which were the subject of concern at the original CRG meeting may not be considered plan refinement. They may, however, be approved by the Planning Board with a waiver of CRG meeting. In such a case, the director of the Office of Planning shall mail notice of the date, time, and place of the meeting of the Planning Board at least 15 days prior to the date of such meeting to those persons who provided their names and addresses to the CRG and attended the CRG meeting or submitted written comments on the plan.

IV. Plan Corrections – In most instances, corrections to the following items on a CRG plan would not require a CRG meeting or waiver action by the Planning Board.

A. Address.
B. Lot lines.
C. Ownership.
D. Dimensions.
E. Scale, north arrow, etc.
F. Bearings and distances.
G. Election district, councilmanic district, and census tract.
H. Water and sewer shed.
I. Acreage.

SCHEDULE OF DOCUMENTS

The files of the Department of Permits and Development Management for the above-captioned project.

PDLV0102F Permits & Development - Livability System

View Cases

Case No: 05-5947

Address: 11300 FALLS RD 21022

Insp Area: 002 Dist: 000 Date Rcv: 6/28/2005 Grp: ENF Intk: CP

Inspec: CHEN Inspec2: Date Inspec: 9/21/2005

Close: 0/00/0000 Activity: Delete: _

Problem: HAVING CATERED EVENTS & PARTIES

CL Name: CARROLL DOUGLASS

CL Address: 00000

CL Home Phone: 410-823-2640 CL Work Phone: Tax Acct. 1700008730

Owner: HENRY J & RAE W JUNG, 1000 BROOKLANDWOOD RD, LUTH-TIMONIUM MD 21093-3701

Enter=Continue F12=Cancel

G. MACY NELSON
ATTORNEY AT LAW

SUITE 803
401 WASHINGTON AVENUE
TOWSON, MARYLAND 21204

TELEPHONE
(410) 296-8166

FACSIMILE
(410) 825-0670

February 15, 2006

HAND DELIVERY

Timothy R. Kotroco
Baltimore County Government
Department of Permits and Development
Management
111 W. Chesapeake Avenue, Room 123
Towson, Maryland 21204

Re: *Westwicke/Maryvale School*
PDM Number VIII-631
DRC Number 121905A; Dist. 8C2

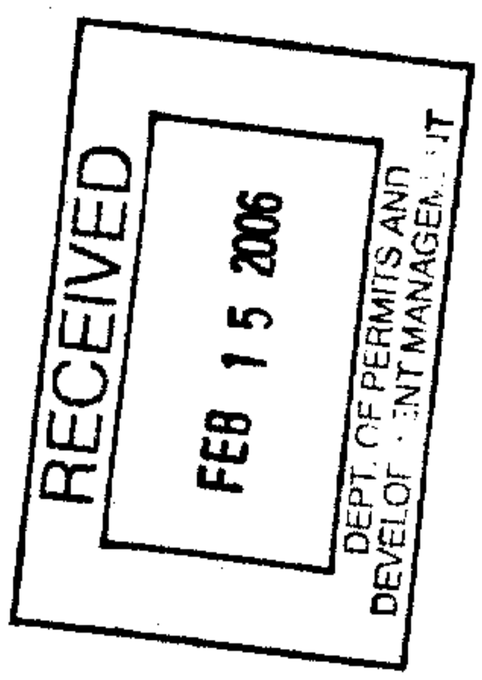
Dear Mr. Kotroco:

I represent certain Protestants in the above-captioned case and identify them below:

The Valleys Planning Council, Inc.
P.O. Box 5402
207 Courtland Avenue
Towson, Maryland 21285-5402

Gary Gensler
P.O. Box 1328
Brooklandville, Maryland 21022

Jack J. Shapiro
7 Barstad Court
Lutherville, Maryland 21093



Whereupon,

WALTER T. SMITH, JR.,

a witness, called for examination by counsel for the Petitioners, was duly sworn, and was examined and testified as follows:

MR. HOFFMAN: Mr. Crizer, just so I'm perfectly satisfied, Mr. McCann going first, back to the -- if I could, back to the Falls Road Community Association.

CHAIRMAN CRIZER: Yes.

MR. HOFFMAN: I guess I was incorrect that they had filed an appeal, and I wanted to just take a moment and just determine if that's the case. And if it is, I do have a preliminary matter that I would like the Board to consider and that would be whether Falls Road Association does have standing to be an appellant in the case. But I can reserve on that till -- if someone's going to testify from Falls Road, I can reserve on that until they testify or we can do it --

MR. MCCANN: They will be testifying.

MR. HOFFMAN: If I could reserve on that, I

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And then since this is our appeal, I think I need to mark as well the actual redline plan that accompanied the DRC request and that would be Exhibit 11. And I'll show that. I have one.

CHAIRMAN CRIZER: Any objection on the letter?

MR. HOFFMAN: No. The February 1, no.

CHAIRMAN CRIZER: That will be accepted.

(Whereupon, the documents were marked for identification Appellant Exhibit Nos. 10 and 11 and received in evidence.)

MR. MCCANN: Would you mind just looking at it real quick, Mr. Hoffman.

MR. HOFFMAN: It looks like the right one to me. Is there a date on it?

Thank you. I think it's the right one. If we could at a break, could I -- may I compare that one to the one that's in the Board's file? I'm sure one came up with the appeal, but it looks like -- it looks correct. I don't need to do it now.

CHAIRMAN CRIZER: Yeah. Sure, at the break.

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MR. HOFFMAN: Thank you.

BY MR. MCCANN:

Q Mr. Smith, could you tell the Board what the development management policy manual is. I take it you've heard of that?

A Yes, sir.

Q Could you explain what it is.

A It is a compilation of various policies that have been, I guess, duly drafted and processed for our department as far as how we handle different -- different aspects of development.

Q And is the policy manual something that's approved by the director of PDM?

A It is approved by the director of PDM. It's part of the step -- part of the process.

Q Let me show you, if I could, excerpts from the policy manual including its cover page and table of contents. Can you just confirm for the Board that this is a copy of a portion of the policy manual that's currently in effect and includes the policies relating to changes to approved development plans?

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A Yes, this is a portion.

MR. MCCANN: Could I -- I have a copy for each member of the Board.

And if you could turn, Mr. Smith, to the fifth page in. It's actually the substantive portion of the policy entitled "Amendments to Approve County Review Group Plan." Do you see that?

THE WITNESS: I do.

BY MR. MCCANN:

Q And subsection Roman numeral I entitled "Material Amendment," do you see that?

A I do.

Q Subsection II, Nonmaterial Amendment, and then, III, Plan Refinements on the next page.

A Yes.

Q Is this the -- this makes reference to CRG plans. Lord knows what those are, but is this the policy that would apply today to a plan that was not a CRG approved plan?

A Yes. We would use this -- these definitions.

Q And more specifically, your office uses the

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Smith, whether or not the -- I think I may have asked you a similar question -- whether or not the determination of this particular request for a refinement which involved reduction of buffer was ever reversed by Mr. Jablon or anyone else at PDM?

THE WITNESS: I --

MR. HOFFMAN: I'm going to object. I think the -- I'm sorry I asked the question to begin with because if I had objected earlier, this wouldn't be in either. But I'm going to object. I don't see the relevance of pursuing what may or may not have happened subsequent to this letter as being relevant to the case.

MR. MCCANN: It goes to the truth, the accuracy, the -- of this letter itself. If something was done subsequent to December 19th, 1995, that changed Mr. Jablon's determination that this reduction in buffer didn't constitute a refinement, then the Board should know about it. That's what Mr. Hoffman was suggesting, I thought. At least I thought that's what he was suggesting.

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Q Mr. Burns, I didn't mean to interrupt you. When you -- what evidence have you seen that you can tell us about? You're not an expert in storm water management, I take it?

A No.

Q What impacts have you seen with your own eyes that you can tell the Board about?

MR. HOFFMAN: Objection.

CHAIRMAN CRIZER: I'm going to allow it. It's his view.

THE WITNESS: There is currently -- there are two houses. These are the last two houses in Westwicke. And immediately south of them is an enormous storm water management pond. There is an outfall from that storm water management pond pretty much right where that arrow is (indicating).

At the same place, Maryvale's ball fields are -- they end at that storm water management pond and they outfall there. But they're about 20 feet apart, the two outfalls. So water comes off those two places, goes downhill a little bit, 15, 20 feet, and when I say

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downhill, it's going downhill in one direction, but as soon as it starts flowing downhill, as I said 15 or 2 feet, it turns left, and that's where the more steep hill is and joins, and those two flows of water have cut an enormous ditch, not big enough to drive a Jeep in, but a very, very big ditch, let's say close to over my head. And I could probably just about touch both sides of the ditch with my hands outstretched. And that ditch goes right on down alongside the ball fields.

BY MR. MCCANN:

Q When you say ball fields, you're talking about the proposed, where the --

A The location of the current ball fields.

Q Which are where?

A Right here (indicating).

Q In relationship to this exhibit, which is the proposed new ball fields, where are the existing ball fields? Why don't you just direct where on this particular Exhibit 11.

A There's a -- the very dense lines here

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alongside the proposed ball fields on this plan is a very steep hill and that hill marks the edge of the existing ball fields (indicating).

Now, when I was a little boy going to the school, right there where that steep hill is was a very deep ravine. There was no ball field there. And that ravine went all the way across almost to Maryvale's driveway. But it all got filled and now there's a ball field.

MR. HOFFMAN: Objection.

CHAIRMAN CRIZER: I'm going to sustain the objection there. Mr. McCann, if you can --

MR. MCCANN: Well, I think --

CHAIRMAN CRIZER: -- or maybe my direction should be to Mr. Burns. We have a limited appeal and the history is good, but if we get to more of why we're here.

THE WITNESS: Well, why we're here is this is going to be -- there's going to more -- this little finger ridge that Maryvale is located on is going to get more and more impervious surface, a lot more

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A That's what I understand, media, electronics, books, yes.

Q Okay. Those buildings are labeled that way, but they could have other school uses in those --

A Of course.

Q -- buildings? Is the use of the property by Maryvale changing in any way from what was previously approved?

A It's a school. It's going to remain a school.

Q All right. What was the nature of the exception -- excuse me -- the limited exemption that was granted by Mr. Kotroco's letter of February 1?

A I think the limited exemption -- what? I'm sorry.

Q The limited exemption that was granted for --

A This plan?

Q -- what's shown on Petitioners -- Appellants' 11.

A The limited exemption states that, "The redline plat that was shown to the DRC would be

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considered in the process of Baltimore County's development regulations as a -- an amendment to the development plan and that the letter further states that, "In the normal course of events from a DRC decision that the plan would move on and be reviewed by all of the agencies listed in the letter."

And in this case, I believe all of the government agencies that chair the -- or that sit at the DRC table asked to see the plan for further scrutiny, technical review. The DRC process being just a determination of just that, the process.

Q Okay. Now, the exemption category which was granted shows an amendment to an approved development plan or plat that do not materially alter the proposed development, correct?

A Correct.

Q You agree with -- do you agree with Mr. Smith that the Development Review Committee and you also look at the develop policy manual for guidance with regard to certain terms?

A Yes.

FORM C.S.R.-LASER REPORTERS PAPER & MFG. CO. 800-626-6313

Q And the -- it says, "Under field, storm water management." There's going to be a storm water management facility of some sort under all three of those smaller fields?

A At this point in the DRC, that was not something that was defined. I'm not even sure it's referenced or defined now.

Q There will be a separate facility under the larger field?

A There may be. It says underground storm water management. At the time this was proposed, it was anticipated there might have to be something like that.

Q And Mr. Hoffman pointed out there is a storm water pond to the east -- to the west of the site, correct?

A That is correct.

Q In fact, there's three new ponds, correct?

A Yeah. They're near each other and they're all connected with water quality and sand filters and that.

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Q And in terms of the outfalls of the storm water management facilities, what's new and redlined is an outfall into the forest buffer area to the west of the two ball fields, correct? That's an outfall, isn't it?

A Correct.

Q And then there's outfall or piping of some sort below that heading towards the west above the three storm water management ponds, correct?

A That's correct also.

Q You talked about parking. By my calculations, I added up the parking spaces, there's going to be an increase from 197 parking spaces to 337. Does that sound about right?

A It does sound about right.

Q It's an additional 140 spaces or so, correct?

A Yes.

Q And then you didn't mention, but there are also a substantial amount of access roads and roads interior to the school that's going to -- that are new, correct?

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A New or differently defined as from existing, yes.

Q Well, anything in red is new, correct?

A Yes.

Q Okay. For instance, this -- there's an access road depicting -- starting from the eastern side of the large field heading towards the upper school gym and there's a turnaround in front of the gym, correct?

A Yes.

Q And there's a turnoff from that to go to additional parking to the west, correct?

A That's correct.

Q And then there's also some -- is this in red to the east of the proposed septic reserve area, is this also a road?

A That's a driveway, yes.

Q And that driveway in front of the castle is connected to the parking over here somehow (indicating)?

A I think it actually is using this whole -- it's articulated. There is a little drive right there

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in front of the carriage house.

Q And I just mentioned the septic reserve area. That's new, correct?

A Yes.

Q And I think we're all aware of this, but the changes in grading are identified in red as well, aren't they?

A Yes, they are.

Q For instance, pretty significant changes in grading to the east side of the turn -- the west side of the turnaround?

A Yes.

Q Changes in grading to the west side of the three smaller fields?

A Correct. There are changes.

Q You can sit down. Thank you, Mr. Martin.

I think you gave a couple reasons, again, I wrote them down, why you believe that the amendments constitute a refinement under the policy manual. And number one, you said the acreage is small in comparison to the total site. What -- can you explain what you

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MR. MCCANN: It applies as much as anything else in this policy and there's no reason for distinguishing this definition from the definition of material amendment or refinement other than the fact that you refer to some process by which --

MR. WESCOTT: What's your question?

MR. MCCANN: The question is, would he also agree that Roman numeral -- under Roman numeral IIB, it's also stated in this that is --

MR. WESCOTT: It is what it is.

MR. MCCANN: Okay. Well, that's not what Mr. Hoffman led us to believe. I want to make sure that --

MR. WESCOTT: It states what it states. Whether it's material or not as far as --

MR. MCCANN: Okay. That's all I have. Thank you.

CHAIRMAN CRIZER: Redirect?

MR. HOFFMAN: Just very quickly.

REDIRECT EXAMINATION

BY MR. HOFFMAN:

Q Mr. Martin, the heights of the buildings that

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have been proposed, those are as limited by the height regulations under the zoning --

A Under the zoning code, yes.

Q You indicated on cross-examination, and I think it was just a -- well, you said anything in red is new. Anything in red is either new or revised from what was previously shown --

A Yes.

Q -- isn't that correct?

A I think that's what I said.

Q I'm not sure I heard it correctly. There's an existing --

A I might have actually used the word rearticulated.

Q Okay. All right. All grading changes that are proposed are, again, as you stated, internal to the site?

A Yes.

Q On the development area, and I think you did clarify this, when you calculated what was being used by the school and today, you included where the storm

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Thank you.

CHAIRMAN CRIZER: Thank you, Mr. Martin.

THE WITNESS: You're welcome.

MR. HOFFMAN: That would be appellants' case.

CHAIRMAN CRIZER: You going to do briefs?

MR. HOFFMAN: Whatever the Board's pleasure. Whatever you guys want.

MR. MCCANN: I'd prefer oral argument to save my client some money. And if you'd like briefs, I'd be happy to. Whatever the Board -- I want to do what the Board wants obviously.

MR. HOFFMAN: Briefs is fine. I didn't mean to interrupt you, but a brief is fine.

MR. MCCANN: That's fine. A brief is fine. A couple weeks? Three weeks okay?

CHAIRMAN CRIZER: Three weeks would be fine.

MR. HOFFMAN: Could I ask to get those, the minutes and --

CHAIRMAN CRIZER: Yes.

MR. HOFFMAN: -- documents? A week would be fine.

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CHAIRMAN CRIZER: You want to put a time line on those?

MR. HOFFMAN: How about a week? Would that give you enough time?

MR. MCCANN: To provide those to you?

MR. HOFFMAN: Yes.

MR. MCCANN: She's going to go back and look at them. What I'm concerned about and she expressed this concern to me is getting the -- making public the minutes.

What she can do is obtain the resolution and then provide you with dates when the meetings were, but to disclose to the public minutes -- maybe you can redact them. Maybe we can do that. I just don't see the need to turn over and open to the public.

MR. WESCOTT: How about just making the portion of the minutes, beginning, end, and the --

MR. MCCANN: So redact the rest?

MR. WESCOTT: Yeah.

MR. MCCANN: Okay. We'll do that.

MR. HOFFMAN: I'm going to join the

FORM OSR-LASER REPORTERS PAPER & MFG. CO. 800-626-6313

association. I'm going to get those minutes. It'll cost me 50 bucks.

MR. MCCANN: Because Rob's mentioned -- name is mentioned a lot. I don't want to --

MR. WESCOTT: We don't want any defamation.

CHAIRMAN CRIZER: You want to make it -- how about Monday, the 4th --

MR. HOFFMAN: That would be great.

CHAIRMAN CRIZER: -- of March?

MR. HOFFMAN: Great.

CHAIRMAN CRIZER: Are you able to comply with the week on the --

MR. MCCANN: I will, one week. Hopefully before then.

CHAIRMAN CRIZER: Okay. Anything else?

MR. HOFFMAN: No, sir. Thank you all very much.

CHAIRMAN CRIZER: Thank you.

(Whereupon, at 2:40 p.m., the above-entitled hearing was concluded.)

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FORM CSR - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

C O N T E N T S

APPELLANT WITNESSES	EXAMINATION BY	PAGE
WALTER T. SMITH, JR.	DIRECT - MR. MCCANN	5
	CROSS - MR. HOFFMAN	48
	REDIRECT - MR. MCCANN	53
	RECROSS - MR. HOFFMAN	56
HAROLD H. BURNS, JR.	DIRECT - MR. MCCANN	63
	CROSS - MR. HOFFMAN	100
MARCIA WATSON GOLDBERG	DIRECT - MR. MCCANN	109
APPELLEE WITNESS		
DAVID L. MARTIN	DIRECT - MR. HOFFMAN	123
	CROSS - MR. MCCANN	145
	REDIRECT - MR. HOFFMAN	166

E X H I B I T S

APPELLANT	DESCRIPTION	MARKED	REC'D
No. 1	1995 Development Plan	16	16
No. 2	Letter with Request Form	18	18
No. 3	1/28/96 Letter	21	21
No. 4	3/14/96 Letter	21	21
No. 5	5/16/96 Plat	22	22
No. 6	Revised Development Plan	25	25
No. 7	3/5/02 Final Development Plan	32	--
No. 8	11/23/01 Letter	34	--

FORM CSR - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

LEGEND

PLAT BOUNDARY
LOT LINES
BUILDING SETBACK LINES
FOREST BUFFER EASEMENT — FB EB44
FOREST CONSERVATION EASEMENT — FCE EC85
WETLANDS — WETLANDS
FLOOD PLAIN — FP
FLOOD PLAIN SECTIONS — ④ ④
100-YEAR WATER SURFACE ELEVATION — WS 484.59
COORDINATE POINT NAME — DB7 RW31
EASEMENT

100 YEAR FLOOD PLAIN
DRAINAGE & UTILITY EASEMENT

OWNER

THE BALTIMORE PROVINCE OF THE SISTERS OF NOTRE DAME de NAMUR, INC.
C/O SCOTT BARHIGHT
Whiteford, Taylor, Preston
210 W. Pennsylvania Ave.
Suite 400
Towson, Maryland 21204

DEVELOPER

SCOTTISH DEVELOPMENT CO., LLC
C/O MR. CLARK F. MacKENZIE
MacKenzie, O'Conner, Pipin & Flynn
2328 West Joppa Road
Suite 200
Lutherville, Maryland 21093

SUBDIVISION PLAT OF
CHESTNUT RIDGE BAPTIST CHURCH
(Formerly SATERS BAPTIST CHURCH)
#1010 SATERS LANE
S.M. 67/53

VICINITY MAP
1" = 2000'

FOREST CONSERVATION EASEMENT COURSES

COURSE	BEARING	DISTANCE
FC1	N 44°00'54" E	203.48
FC2	N 21°08'12" E	133.49
FC3	N 10°12'00" W	97.20
FC4	N 40°45'00" W	52.00
FC5	S 59°23'49" W	250.31
FC6	S 90°00'00" W	94.20
FC7	N 01°01'44" E	98.71
FC8	N 43°58'16" E	28.28
FC9	S 01°01'44" W	94.00
FC10	S 88°58'16" E	50.00
FC11	S 01°01'44" W	66.00
FC12	S 43°58'18" W	32.53
FC13	S 01°01'44" W	81.00
FC14	S 46°01'44" E	18.38
FC15	S 01°01'44" W	75.07
FC16	N 26°13'38" W	222.70
FC17	N 85°57'21" W	54.42
FC18	S 26°13'38" E	250.00
FC19	N 63°06'07" E	47.00
FC20	N 58°17'24" W	92.58
FC21	N 72°40'11" W	98.00
FC22	N 76°08'30" W	62.42
FC23	S 26°30'00" E	70.00
FC24	S 34°34'00" E	70.00
FC25	S 31°06'20" E	38.00
FC26	N 36°53'36" E	15.00
FC27	S 53°53'00" E	50.00
FC28	S 36°19'00" E	98.00
FC29	N 41°52'45" E	73.00
FC30	S 29°18'47" E	175.92
FC31	N 44°52'09" W	79.00
FC32	N 69°13'09" W	90.50
FC32a	N 24°39'07" W	31.70
FC32b	S 65°20'53" W	25.50
FC32c	S 05°43'39" E	107.65
FC32d	N 88°09'45" W	115.00
FC33	S 69°30'00" W	50.00
FC34	N 42°39'28" E	57.28
FC35	S 47°20'32" W	39.00
FC36	S 50°27'30" E	80.00
FC37	N 73°51'49" E	85.14
FC38	S 81°30'00" E	90.00
FC39	S 28°49'00" E	39.42
FC40	N 21°58'01" E	89.93
FC41	N 84°55'00" W	108.32
FC42	N 47°02'00" W	99.31
FC43	S 71°47'12" E	152.49
FC44	N 82°40'00" E	39.00
FC45	N 35°01'17" E	79.44
FC46	N 71°47'12" W	114.40
FC47	N 48°50'33" E	156.36
FC48	N 42°14'00" E	73.25
FC49	N 69°45'38" E	157.56
FC50	N 35°29'20" E	12.03
FC51	N 58°30'23" E	26.73
FC52	N 35°24'20" E	21.95
FC53	N 54°32'00" E	59.31
FC54	N 15°30'40" E	86.00
FC55	N 54°03'00" E	116.56
FC56	N 75°05'00" E	40.89
FC57	N 60°24'12" E	85.00
FC58	N 29°35'48" E	58.00
FC59	N 60°24'12" W	135.00
FC60	N 12°37'08" W	87.10
FC61	N 81°45'27" W	37.20
FC63	S 08°14'33" E	65.00
FC64	N 19°10'49" W	55.15
FC65	S 60°00'00" W	123.49
FC66	N 75°30'16" W	34.72
FC67	S 69°55'59" W	57.00
FC68	S 20°04'01" E	50.00
FC69	S 69°55'59" W	50.00
FC70	S 76°02'00" E	50.47
FC71	N 21°36'00" E	40.00
FC73	N 70°19'11" E	26.00
FC74	N 19°40'49" W	121.93
FC75	S 70°19'11" W	26.00
FC76	S 19°40'49" E	121.93
FC77	S 19°40'49" E	43.09
FC78	S 30°00'00" E	29.51
FC79	S 21°02'32" E	48.80
FC80	N 87°00'00" E	86.26
FC81	S 21°02'32" E	47.65
FC82	N 68°57'28" E	35.00
FC83	N 21°02'39" W	71.27
FC84	N 82°44'29" E	22.72
FC85	N 21°02'32" W	98.84
FC86	S 67°15'13" W	55.96
FC87	S 09°56'52" E	66.82
FC88	S 80°13'00" E	35.64
FC89	S 17°09'28" E	27.78
FC90	N 72°50'32" E	89.81
FC91	N 17°09'28" W	141.35
FC92	S 10°00'00" E	67.00
FC93	S 20°00'00" W	41.02
FC94	S 50°00'00" E	62.07
FC95	S 09°47'19" W	51.00
FC96	S 67°12'49" E	65.00
FC97	S 36°00'00" E	50.00
FC98	N 75°00'00" E	53.00
FC99	N 08°14'33" W	74.15
FC100	N 48°01'51" E	61.66
FC101	N 62°00'00" W	78.00
FC102	N 30°17'29" E	141.16
FC103	S 88°13'33" E	91.41
FC104	N 00°24'23" E	44.00
FC105	S 05°47'00" W	84.00
FC106	N 82°00'55" E	48.50
FC107	S 08°14'33" E	52.34
FC108	N 81°45'27" E	54.00
FC109	S 63°10'56" E	21.21
FC110	N 15°40'36" E	125.47
FC111	S 01°32'00" E	65.00
FC112	S 26°30'00" E	61.10
FC113	S 07°31'59" W	47.00
FC114	S 47°00'00" W	63.50
FC115	S 55°30'00" E	50.00
FC116	N 40°25'00" E	33.00
FC117	S 70°50'20" E	89.74
FC118	DUE NORTH	85.81
FC119	N 36°00'00" W	47.50
FC120	N 07°31'59" E	98.09
FC121	N 68°28'00" E	187.24
FC122	S 01°01'44" E	120.00
FC123	S 01°01'44" E	60.00
FC124	S 15°00'00" E	61.00
FC125	S 51°15'00" E	50.00
FC126	S 88°00'00" E	62.00
FC127	N 07°18'36" E	86.51
FC128	S 88°58'16" E	41.83
FC129	N 01°01'44" E	95.83
FC130	N 30°09'00" E	58.10
FC131	N 89°28'00" E	133.73
FC132	S 16°00'00" E	62.69
FC133	S 01°01'44" E	56.95
FC134	N 88°58'16" E	50.00
FC135	N 01°01'44" W	62.22
FC136	N 50°00'00" E	38.25
FC137	N 88°28'00" E	190.29
FC138	N 01°32'00" W	50.00

100 YEAR FLOOD PLAIN

COURSE	BEARING	DISTANCE
A	N 86°42'47" E	74.25
B	S 34°43'49" E	94.13
C	S 07°15'37" W	210.45
D	N 22°47'11" W	63.75
E	N 19°40'49" W	210.12
F	N 53°15'16" E	85.00
G	N 32°28'15" E	119.54
H	N 10°08'14" W	87.78
I	N 39°05'09" E	80.00
J	N 67°53'31" E	124.24
K	S 84°51'37" E	13.00
L	S 22°47'11" E	55.15
M	S 11°30'16" W	66.42
N	S 34°40'29" W	47.87
O	S 41°52'59" W	127.46
P	S 31°53'04" W	57.03
Q	N 71°47'12" W	89.00
R	N 77°48'43" E	31.95
S	S 36°35'31" W	34.24
T	N 54°32'29" E	19.86
U	N 78°55'15" W	108.61

COORDINATES

NAME	NORTH	WEST	NAME	NORTH	WEST
BIS	50233.98	18595.39	RW15	50394.68	19268.43
CL6	49754.54	19255.89	RW16	50360.25	19283.59
CL12	49827.92	20308.25	RW18	50317.71	19264.30
CL18	50294.28	20985.78	RW19	50235.32	19286.86
DB7	50609.77	20896.92	RW21	50226.58	19316.36
DB8	50464.66	21057.85	RW22	50233.35	19374.23
DP1	50247.40	18587.03	RW23	50225.33	19815.69
DP2	50077.87	18692.73	RW24	50147.30	20079.79
DP4	49970.41	18767.59	RW26	50151.75	20099.50
DP5	49829.29	18881.38	RW27	50179.78	20119.35
DP7	49753.24	18925.63	RW28	50269.16	20330.05
DP9	49643.18	19004.58	RW30	50212.35	20721.78
DP10	49534.41	19114.95	RW31	50249.32	20883.41
DP12	49369.61	19200.82	RW32	50270.91	20915.34
DP13	49001.92	19256.15	RW33	50303.31	20936.60
DP17	48773.31	19281.16	RW34	50245.29	20975.76
EA2	50109.39	18743.66	RW36	50237.75	20937.77
EA3	50007.47	18811.93	RW37	50216.17	20905.78
EA4	49861.16	18928.72	RW38	50172.78	20716.05
EA5	49779.45	18979.80	RW62	50026.45	20345.45
EA6	49635.92	19046.71	RW63	50138.45	20139.53
EA7	49573.14	19157.07	RW41	50126.54	20132.47
EA8	49374.81	19280.23	RW43	50102.15	20133.29
EA14	49009.75	19315.65	RW44	49951.94	20264.19
EE25	50510.82	19294.03	RW45	49900.28	20292.00
FP8	50525.82	19294.40	RW47	49875.95	20322.14
FP9	50748.12	20729.66	RW48	49842.77	20360.50
FP17	50749.32	20637.12	RW50	49881.32	20256.78
FP18	49284.23	19340.79	RW51	49932.87	20226.97
LL11	49082.00	19888.00	RW52	50185.33	19814.96
LL12	49030.75	19897.50	RW53	50193.18	19804.72
LL63	49443.24	20397.72	RW66	49937.83	19206.47
LL64	49383.67	20775.83	RW55	49808.50	19248.72
LL65	48877.00	20980.00	RW57	49800.61	19275.65
LL66	49481.65	21234.02	RW58	49875.35	19210.37
MA2	50474.28	20639.07	RW60	49814.07	19211.47
MM3	50063.97	20110.61	RW61	49833.80	19165.19
PP17	50560.61	21814.51	RW59	50283.28	18635.37
PL1	50529.49	19136.44	RW100	50412.68	19260.55
PL3	50507.84	18606.89	RW101	50493.16	18812.18
RW1	50563.52	19290.54	RW102	50479.56	18789.16
RW2	50505.77	19076.13	RW5	50482.77	20112.63
RW3	50563.50	19175.87	RW26	50710.65	20779.10
RW4	50468.17	19190.52	RW27	50449.19	21286.68
RW5	50416.56	19198.50	RW29	50450.02	21146.14
RW7	50375.61	19198.85	RW39	50506.55	18787.15
RW8	50219.85	19261.92	RW40	50478.09	18764.47
RW10	50201.24	19255.93	RW33	49579.16	21873.25
RW11	50510.96	19288.38	PL5	50490.00	21855.00
RW12	50486.30	19272.73	ZL6	50435.00	21575.00
RW13	50414.69	19270.87			
LL71	45915.15	20x20 SQ.

FOREST BUFFER EASEMENT COURSES

COURSE	BEARING	DISTANCE
FB2	N 25°40'52" E	87.48
FB3	N 42°27'04" E	111.60
FB4	N 32°08'00" E	346.60
FB5	N 37°35'37" E	161.93
FB6	N 41°34'19" E	70.41
FB7	N 22°18'44" E	100.00
FB8	N 34°50'49" E	53.49
FB9	N 64°16'36" E	126.86
FB10	N 88°41'34" E	130.93
FB11	S 65°15'29" E	203.49
FB12	S 40°06'00" E	152.00
FB13	S 52°35'59" E	165.83
FB14	S 64°29'14" E	180.87
FB15	S 64°29'14" E	178.26
FB16	S 81°02'30" E	130.00
FB17	S 86°49'14" E	220.26
FB18	S 47°20'38" E	40.00
FB19	S 21°58'01" E	395.80
FB20	S 38°00'00" E	75.80
FB21	N 15°21'00" E	42.60
FB22	N 16°06'04" E	69.69
FB23	N 11°57'39" E	135.09
FB24	N 20°11'40" E	104.71
FB25	N 10°08'14" W	165.00
FB26	N 24°22'37" E	268.40
FB27	N 49°52'00" E	47.00
FB28	N 69°45'38" E	233.24
FB29	N 35°24'20" E	77.48
FB30	N 30°00'00" E	92.00
FB31	N 30°00'00" W	47.89
FB32	S 60°00'00" W	46.85
FB33	N 39°00'00" E	235.93
FB34	N 78°13'20" E	73.27
FB35	S 78°33'59" E	100.12
FB36	S 75°30'15" E	171.43
FB37	S 68°57'28" E	55.00
FB38	S 53°00'45" E	36.40
FB39	S 37°19'40" E	81.06
FB40	S 21°36'00" W	152.00
FB41	S 33°04'00" E	35.00
FB42	N 30°00'00" W	64.19
FB43	N 58°00'00" E	100.00
FB44	N 67°15'13" E	130.75
FB45	S 68°53'32" W	54.37

CURVE DATA

POINTS	DELTA	RADIUS	LENGTH	BEARING	CHORD	TANGENT
RW13-RW15	11°27'33"	100.00	20.00	S 07°01'52" E	19.97	10.03
RW16-RW18	35°30'40"	70.00	43.39	S 04°59'42" W	42.69	22.42
RW19-RW21	81°26'05"	15.00	21.32	S 63°28'05" W	19.57	12.91
RW21-RW23	15°23'19"	220.00	59.12	S 83°25'19" W	58.95	29.78
RW23-RW24	30°41'53"	520.00	278.61	S 73°37'19" W	275.29	142.74
RW24-RW26	86°14'56"	15.00	22.58	S 29°36'09" W	20.51	14.05
RW27-RW28	62°45'52"	220.00	241.00	N 66°51'37" E	229.13	134.20
RW29-RW30	62°15'15"	230.00	169.62	N 77°06'55" E	165.80	88.88
RW31-RW33	45°34'22"	50.00	39.77	N 33°12'06" E	38.73	21.00
RW33-RW34	271°09'42"	50.00	236.62			
RW34-RW30	45°34'22"	50.00	39.77	S 78°46'29" E	38.73	21.00
RW37-RW38	42°15'15"	270.00	199.12	S 77°06'55" E	194.64	104.33
RW62-RW63	62°45'52"	215.02	235.54	S 66°51'37" E	223.94	131.15
RW41-RW43	86°14'56"	15.00	22.58	S 07°38'47" W	20.51	14.05
RW43-RW44	22°28'14"	520.00	203.94	S 30°32'08" W	202.63	103.30
RW45-RW47	45°34'23"	50.00	39.77	S 31°05'12" W	38.73	21.00
RW47-RW48	271°08'46"	50.00	236.62			
RW48-RW50	45°34'23"	50.00	39.77	N 05°30'49" E	38.73	21.00
RW51-RW52	160°40'15"	480.00	308.28	N 58°38'08" E	484.86	280.89
RW64-RW66	112°10'56"	187.57	367.25	S 84°56'16" E	311.34	239.04
RW55-RW57	45°34'23"	50.00	39.77	S 43°56'23" W	38.73	21.00
RW57-RW58	271°08'46"	50.00	236.62			
RW58-RW60	45°34'23"	50.00	39.77	N 01°37'59" W	38.73	21.00
RW60-RW61	79°53'21"	220.00	306.83	N 45°58'16" W	282.35	184.07
RW10-RW8	81°26'05"	15.00	21.32	N 17°58'00" E	19.57	12.91
RW7-RW5	24°03'07"	270.00	113.34	N 10°43'29" E	41.67	21.30
RW2-RW1	05°02'41"	1200.00	105.66	S 88°46'45" E	105.62	52.86
RW102-RW100	05°47'31"	819.72	82.86	S 36°08'43" E	82.83	41.47
PL3-RW102	02°19'59"	819.72	33.38	S 34°04'58" E	33.38	16.69
EA2- EA3	06°00'00"	1189.68	124.58	S 34°54'42" W	124.52	62.35
EA4- EA5	12°00'00"	480.39	98.25	S 31°54'42" W	98.25	49.39
EA5- EA6	19°30'00"	339.89	115.68	S 35°39'42" W	115.12	58.38
EA7- EA8	36°47'00"	359.92	231.09	S 27°01'12" W	227.12	119.67
DP2- DP4	6°00'00"	1249.66	130.86	S 34°54'42" W	130.81	65.49
DP5- DP7	12°00'00"	400.39	83.86	S 31°54'42" W	83.71	42.08
DP7- DP9	19°30'00"	399.89	136.10	S 35°39'42" W	135.44	68.71
DP10-DP12	36°47'00"	299.92	192.55	S 27°01'12" W	189.26	99.72

SITE DATA TABLE

EXISTING ZONING: RC2 & RC5
TOTAL AREA OF PLAT: 72.9652 Ac. +/-
TOTAL AREA OF LOTS: 55.3825 Ac. +/-
AREA OF LOTS IN RC2: 5.6806 Ac. +/-
AREA OF LOTS IN RC5: 49.7169 Ac. +/-
DWELLING UNITS PROPOSED IN RC2: 1
DWELLING UNITS PROPOSED IN RC5: 29
PARKING REQUIRED: 2 Spaces/Unit x 30 Units = 60 Spaces
OPEN SPACE REQUIRED: NONE
TOTAL H.O.A. OPEN SPACE: 10.3423 Ac. +/-

GENERAL NOTES

THIS PLAT MAY EXPIRE IN ACCORDANCE WITH THE PROVISIONS OF THE BALTIMORE COUNTY CODE, SECTION 26-216.

THE RECORDING OF THIS PLAT DOES NOT CHARACTERIZE THE PROPERTY WITH ANY LIMITATIONS WHATSOEVER.

THE INFORMATION SHOWN HEREON MAY BE SUPPLEMENTED BY A SUBSEQUENT OR AMENDED PLAT.

ADDITIONAL INFORMATION CONCERNING THIS PLAT MAY BE OBTAINED FROM THE BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING AND THE DEPARTMENT OF PUBLIC WORKS.

THE RECORDING OF THIS PLAT DOES NOT CONSTITUTE OR IMPLY ACCEPTANCE BY THE COUNTY OF ANY STREET, EASEMENT, PARK, OPEN SPACE OR OTHER PUBLIC AREA SHOWN ON THE PLAT.

THE OWNER/DEVELOPER WILL COMPLY WITH THE BEST MANAGEMENT PRACTICES ADOPTED BY THE MARYLAND DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT.

THE PLAN FOR THE PROPERTY SHOWN ON THIS PLAT WAS APPROVED ON AUGUST 17, 1995.

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

EXCEPT AS OTHERWISE INDICATED, ALL BUILDING RESTRICTION LINES SHOWN HEREON HAVE BEEN PLACED AS THE RESULT OF AN INTERPRETATION ONLY OF CURRENTLY APPLICABLE REGULATIONS AND POLICIES OF THE BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING. EXCEPTIONS TO THESE RESTRICTIONS MAY APPLY.

THE AREA DESIGNATED AS A FLOODPLAIN INCLUDES THE AREA INUNDATED BY THE 100-YEAR FREQUENCY STORM AND A MINIMUM OF 1 FOOT VERTICAL FREEBOARD. THE ELEVATIONS SHOWN ON THE FLOODPLAIN SECTIONS ARE THE 100-YEAR DESIGN FREQUENCY SURFACE ELEVATIONS.

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

DEED REFERENCE: O.T.G. 5098/248
TAX ACCOUNT NO. 08-20-068928
H.O.A. = HOMEOWNER'S ASSOCIATION
S.W.M. = STORM WATER MANAGEMENT

TRASH COLLECTION, SNOW REMOVAL, AND ROAD MAINTENANCE ARE TO BE PROVIDED TO THE JUNCTION OF THE PANNANKIE AND STREET MISS-DE-MO.

SOIL PERCOLATION TESTS WILL BE VALID FOR A PERIOD OF FIVE YEARS FROM THE DATE THE RECORD PLAT IS SIGNED BY THE BALTIMORE COUNTY DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT AT THE EXPIRATION OF THIS PERIOD, NEW TESTS MAY BE REQUIRED.

ALL REQUIREMENTS OF THE MARYLAND STATE DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT PERTAINING TO PRIVATE WATER AND/OR SEWAGE SYSTEMS MUST BE COMPLIED WITH PRIOR TO APPROVAL OF BUILDING APPLICATIONS.

"PARCEL A" IS A INGRESS AND EGRESS PARCEL TO THE REMAINDER OF PARCEL IN DEED O.T.G. 5098/248

A STATE WATER APPROPRIATION PERMIT HAS BEEN ISSUED FOR THE PROJECT, PERMIT NO. BA95055(01).

S.M. 68/88
Filed for record
S.M. 68 FOLIO 88
Date MAY 16 1996
Test:
Clerk

PLAT OF VIII (61)

WESTWICKE

BALTIMORE COUNTY, MARYLAND
SCALE: 1" = 100'

8TH ELECTION DISTRICT
DATE: MARCH 29, 1996

NOTE:

HIGHWAYS AND HIGHWAY WIDENINGS, SLOPE EASEMENTS, DRAINAGE AND UTILITY EASEMENTS, ACCESS EASEMENTS, FOREST BUFFER AREAS IN ITE OR EASEMENT, GREENWAY AREAS IN FEE OR EASEMENT, AND STORM WATER MANAGEMENT AREAS, NO MATTER HOW ENTITLED, SHOWN HEREON ARE RESERVED UNTO THE OWNER AND, EXCEPT FOR THOSE INDICATED AS PRIVATE, ARE HEREBY OFFERED FOR DEDICATION AND ASSIGNS SHALL CONVEY SAID AREAS BY DEED TO BALTIMORE COUNTY, BALTIMORE COUNTY, THE OWNER AUTHORIZES BALTIMORE COUNTY, ITS AGENTS AND ASSIGNS, THE RIGHT TO ENTER UPON THE PROPERTY FOR THE PURPOSE OF INSTALLING, CONSTRUCTING, MAINTAINING AND REPAIRING ROADS, UTILITY LINES AND FACILITIES, AND STORM WATER MANAGEMENT PONDS AND FACILITIES.

NOTE:

COORDINATES AND BEARINGS SHOWN ON THIS PLAT ARE REFERRED TO THE SYSTEM OF COORDINATES ESTABLISHED IN THE BALTIMORE COUNTY METROPOLITAN DISTRICT AND ARE BASED ON THE FOLLOWING TRAVERSE STATIONS.

X-883	N 50,618.35	W 18,832.36
X-884	N 50,974.74	W 18,963.09

THIS PLAN IS SEALED AND CERTIFIED AS BEING IN ACCORDANCE WITH THE APPROVED DEVELOPMENT PLAN.

NOTE:

THE STREETS AND/OR ROADS AS SHOWN HEREON AND THE MENTION THEREOF IN DEEDS ARE FOR THE PURPOSE OF DESCRIPTION ONLY AND THE SAME ARE NOT INTENDED TO BE DEDICATED TO PUBLIC USE; THE FEE SIMPLE TITLE TO THE BEDS THEREOF IS EXPRESSLY RESERVED IN THE GRANTORS OF THE DEED TO WHICH THIS PLAT IS ATTACHED, THEIR HEIRS AND ASSIGNS.

OWNERS CERTIFICATE:

THE UNDERSIGNED, OWNER OF THE LAND SHOWN ON THIS PLAT, HEREBY CERTIFIES THAT, TO THE BEST OF ITS KNOWLEDGE, THE REQUIREMENT OF SUBSECTION (C) OF SECTION 3-108 OF THE REAL PROPERTY ARTICLE OF THE ANNOTATED CODE OF MARYLAND, HAS BEEN COMPLIED WITH, INSOFAR AS SAME CONCERNS THE MAKING OF THE PLAT AND THE SETTING OF THE MARKERS.

Sister Marie Kelly, SND 4/16/96
THE BALTIMORE PROVINCE OF THE SISTERS OF NOTRE DAME de NAMUR, INC. — DATE
SISTER MARIE KELLY, PRESIDENT

SURVEYORS CERTIFICATE:

THE UNDERSIGNED, A REGISTERED LAND SURVEYOR OF THE STATE OF MARYLAND, DOES HEREBY CERTIFY THAT HE IS THE SURVEYOR WHO PREPARED THIS PLAT AND THAT THE LAND SHOWN ON THIS PLAT HAS BEEN LAID OUT, AND THE PLAT THEREOF HAS BEEN PREPARED, IN COMPLIANCE WITH SUBSECTION (C) OF SECTION 3-108 OF THE REAL PROPERTY ARTICLE OF THE ANNOTATED CODE OF MARYLAND, PARTICULARLY INSOFAR AS SAME CONCERNS THE MAKING OF THE PLAT AND SETTING OF THE MARKERS.

Walter Francis Eisner 3/29/96
REG. NO. 10889 — DATE

APPROVED BY BALTIMORE COUNTY DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT
DIRECTOR — 5-16-96 DATE

APPROVED BY THE DIRECTOR OF PERMITS AND DEVELOPMENT MANAGEMENT PURSUANT TO SECTION 26-215(C), BALTIMORE COUNTY CODE
DIRECTOR OF PERMITS AND DEVELOPMENT MANAGEMENT — 5/16/96 DATE

GEORGE WILLIAM STEPHENS, JR. AND ASSOCIATES, INC.
CIVIL ENGINEERS & LAND SURVEYORS
658 KENILWORTH DRIVE
SUITE 100
TOWSON, MARYLAND 21204

P.W.A. COMPLETED	89603	7FB 5-16-96
FINAL PLAT CHECKED		
PLANNING		
ENGINEERING	DAK	5/17/96
HOUSE NOS.		
LAND ACQUISITIONS		
REC'S PARKS		

COMPUTED BY: WFE & DRT CHECKED BY: WFE & RWH
DRAWN BY: DRT / WASP W.O. NO. 769

Baltimore Exhibit # 5

ZONING HISTORY

I. 98 - 305 - SPH

THEREFORE, IT IS ORDERED by the Zoning Commissioner of Baltimore County this 31st day of March 1998 that, pursuant to the Petition for Special Hearing, approval of a waiver pursuant to Baltimore County Code, Section 26-172(a) or (b) or Sections 26-103(c)(8) and 26-278, be and is hereby GRANTED.

Any appeal from this decision must be made in accordance with the applicable provisions of law.

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:sunn

2. 95 - 435 - X

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

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

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

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

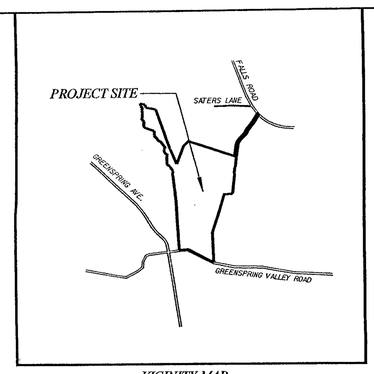
1. The maximum enrollment of the Maryvale School shall not exceed 360 students without amendment of the Petition for Special Exception and site plan attendant therewith, and public hearing theeo thereon.

2. The Developer, with the consent of adjoining property owners, shall install off site landscaping substantially similar to that shown on Developer's Exhibits 2A through 2C.

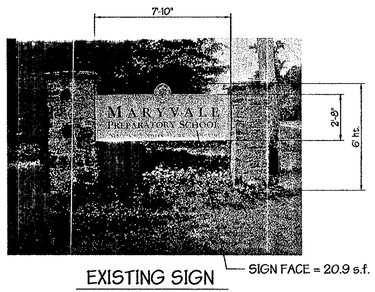
Any appeal from this decision must be taken in accordance with Section 26-209 of the Baltimore County Code and the applicable provisions of law.

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:sunn



VICINITY MAP
1" = 2000'



EXISTING SIGN — SIGN FACE = 20.9 s.f.
NTS

GENERAL NOTES:

1. A 100 YEAR FLOOD PLAIN ANALYSIS HAS BEEN PERFORMED AND INDICATED ON THIS PLAN. NO DEVELOPMENT OR CONSTRUCTION SHALL BE PERMITTED IN THE 100 YEAR FLOODPLAIN WITHOUT THE APPROVAL OF ALL APPLICABLE REGULATORY FEDERAL STATE AND LOCAL AGENCIES.
2. ALL ADJACENT LANDS ARE RESIDENTIAL ZONED RC-5 OR RC-2 & ARE RESIDENTIAL USES EXCEPTING THE MARYVALE SCHOOL.
3. IT IS ANTICIPATED THAT THIS PROJECT WILL BE PHASED.
4. THE MAXIMUM NUMBER OF STUDENTS PROPOSED IS 425.
5. STREET LIGHTS ARE NOT REQUIRED ON PRIVATE STREETS. A LIMITED NUMBER OF STREET LIGHTS ARE SHOWN ON THIS PLAN.
6. BUILDING FOOTPRINTS SHOWN ARE CONCEPTUAL AND MAY BE CHANGED PROVIDED ALL WELL AND SEPTIC CRITERIA IS MET AND THE FRONT ORIENTATION RANGE REMAINS AS SHOWN ON THIS PLAN.
8. ACCESSORY STRUCTURE NOTE:
   a. ENVELOPES SHOWN HEREON ARE THE LOCATION OF ALL PRINCIPAL BUILDINGS ONLY. ACCESSORY STRUCTURES, FENCES AND PROJECTIONS INTO THE YARD MAY BE CONSTRUCTED OUTSIDE THE ENVELOPE, BUT MUST COMPLY WITH SECTION 400 & 301 OF THE BC.2 R/SUBJECT TO COVENANTS AND APPLICABLE BUILDING PERMITS).
   b. ACCESSORY STRUCTURES, FENCES, AND PROJECTIONS INTO YARDS CANNOT BE LOCATED IN FLOODPLAIN AREAS OR HYDRIC SOILS.
8. THE MAXIMUM BUILDING HEIGHT SHALL NOT EXCEED 50' OR AS PERMITTED IN SECTION 300.2 BC.2 R. ALL EXISITNG BUILDINGS ON THIS SITE ARE LESS THAN 50 FEET IN HEIGHT. ALL PROPOSED BUILDINGS WILL NOT EXCEED 50' IN HEIGHT
9. ALL SIGNS SHALL BE CONSTRUCTED AND PERMITTED IN ACCORDANCE WITH THE BALTIMORE COUNTY ZONING REGULATIONS SECTION 450.
10. THIS PROPERTY IS WITHIN THE GREENSPRING VALLEY NATIONAL REGISTERED HISTORIC DISTRICT.
11. A PORTION OF THIS PROPERTY IS SUBJECT TO A DEED OF CONSERVATION EASEMENT, DATED JUNE 6,1997, RECORDED IN THE LAND RECORDS OF BALTIMORE COUNTY AT LIBER 12276, FOLIO 178.
12. BASIC SERVICES MAPS - THIS SITE IS OUTSIDE OF THE URDL.

SITE DATA TABLE

ELECTION DISTRICT	8
COUNCILMANIC DISTRICT	2
CENSUS TRACT	4083
WATERSHED	JONES FALLS
SUBSEWERSHED	N/A
WATER DESIGNATION	PRIVATE
SEWER DESIGNATION	PRIVATE
ZONING OF SUBJECT PROPERTY	RC-2
PROPERTY ADDRESS:	11300 FALLS ROAD BROOKLANDVILLE, MARYLAND 21022
DENSITY CALCULATIONS	
ACREAGE IN RC-2	113.34 AC.
MAX. UNITS PERMITTED IN RC-2	2
PERMITTED DENSITY IN RC-2	2 UNITS
PROPOSED UNITS IN RC-2	MARYVALE SCHOOL LOT
PROPOSED DENSITY IN RC-2	1 UNIT
MIN. LOT SIZE IN RC-2	1 AC.
OPEN SPACE REQUIRED	NONE
DEVELOPMENT SCHEDULE	UNKNOWN
TRAFFIC GENERATED BY SCHOOL	1054 ADT's
PARKING REQUIREMENTS	
PARKING FOR SCHOOL	
REQUIRED -	1 SP. PER EMPLOYEE; PLUS VISITOR & STUDENT PARKING AS DETERMINED BY THE ZONING COMMISSIONER
- 25 EMPLOYEE	= 25 SP.
- 50 VISITOR	= 50 SP.
- 425 STUDENT	= 425 x 0.33 = 141 SP.
TOTAL REQ.	= 216 SP.
EXISTING - TOTAL	= 216 SP.
PROPOSED - TOTAL	= 355 SP.

LEGEND

- 20% SLOPES
- WETLANDS
- LIMIT OF SPECIAL EXCEPTION
- SEPTIC RESERVE AREA
- MhE — SOIL TYPES
- FBE — FBE — FOREST BUFFER EASEMENT
- 100 YEAR FLOODPLAIN
- F.C.E. — FOREST CONSERVATION EASEMENT
- EXISTING TAGGED WELLS
- DRY WELLS
- STREET LIGHTS

SCALE = 1" = 100'

ZONING REQUESTS

PETITION FOR SPECIAL HEARING:
SPECIAL HEARING PURSUANT TO SECTION 500.7 OF THE BALTIMORE COUNTY ZONING REGULATIONS TO AMEND THE SPECIAL EXCEPTION APPROVED IN CASE NO. 95-435-X.

PETITION FOR VARIANCE:
VARIANCE FROM SECTION 1A01.3.B.3 & 102.2 OF THE BALTIMORE COUNTY ZONING REGULATIONS TO PERMIT A PRINCIPAL BUILDING TO PRINCIPAL BUILDING SETBACK OF 34 FEET IN LIEU OF THE REQUIRED 70 FEET (EXISTING SCHOOL BUILDING AND PROPOSED PERFORMING ARTS BUILDING

PETITION FOR SPECIAL HEARING:
SPECIAL HEARING PURSUANT TO SECTIONS 409.6 AND 500.7 OF THE BALTIMORE COUNTY ZONING REGULATIONS TO CONFIRM THAT THE PROPOSED NUMBER OF PARKING SPACES IS SUFFICIENT.

PLAT TO ACCOMPANY D.R.C. REQUEST AMENDED
PLAT TO ACCOMPANY PETITIONS FOR SPECIAL HEARING AND VARIANCE
MARYVALE PREPARATORY SCHOOL

TAX ACCOUNT #08-20-066828
PDM FILE # VIII-651

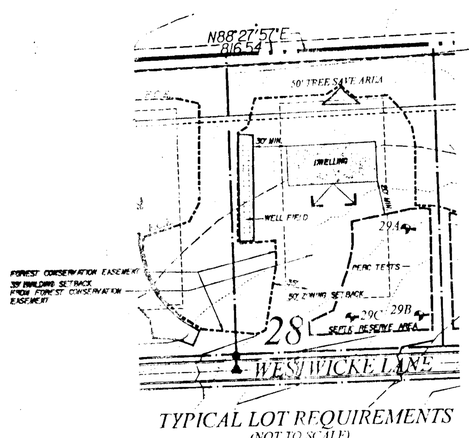
Legal Owner
THE BALTIMORE PROVINCE OF SISTERS OF NOTRE DAME deNAMUR, INC.
1531 GREENSPRING VALLEY ROAD
STEVENSON, MARYLAND 21153

Contract Purchaser
MARYVALE PREPARATORY SCHOOL, INC.
11300 FALLS ROAD
BROOKLANDVILLE, MARYLAND 21022

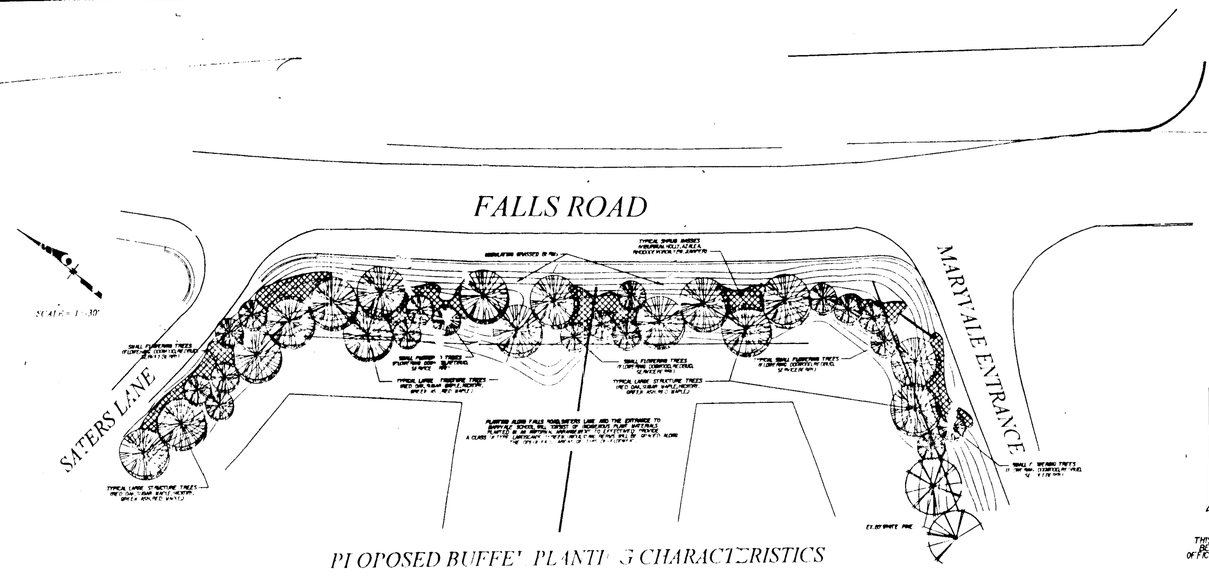
GEORGE WILLIAM STEPHENS, JR. AND ASSOCIATES, INC.
CIVIL ENGINEERS & LAND SURVEYORS
1020 CROMWELL BRIDGE ROAD
TOWSON, MARYLAND 21286-3396
(410) 825-8120

Appealed 2-F
Case No. 06-006 (DRC
BD OF APPEALS FILE COPY

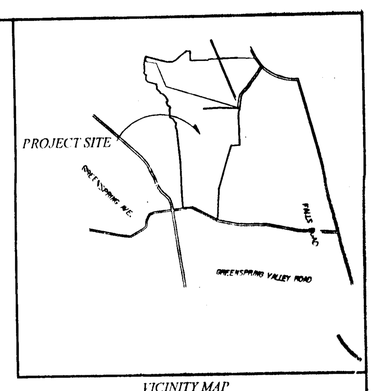
..\7696DRCplan.s01 11/30/2005 10:33:44 AM rpspiel SCALE 100.0000 " / IN.



TYPICAL LOT REQUIREMENTS
(NOT TO SCALE)



PROPOSED BUFFER PLANTING CHARACTERISTICS



VICINITY MAP
1" = 2000'

THIS PLAN IS SEALED AND CERTIFIED TO BE IN ACCORDANCE WITH THE HEARING OFFICER'S ORDER AND ALL AGENCY COMMENTS

HEARING OFFICER'S ORDER

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

THEREFORE, IT IS ORDERED by the Zoning Commissioner of Baltimore County this 11th day of August, 1995, that the development plan submitted in the within case as Developer/Petitioner's Exhibit No. 1, be and is hereby approved in accordance with the terms and conditions as set forth hereinbefore; and,

IT IS FURTHER ORDERED that the Developer shall petition and obtain the Private and Development Management (PADM), within 14 days from the date of this order, a development plan which reflects and incorporates the terms, conditions, and restrictions, if any, of this opinion and order; and,

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

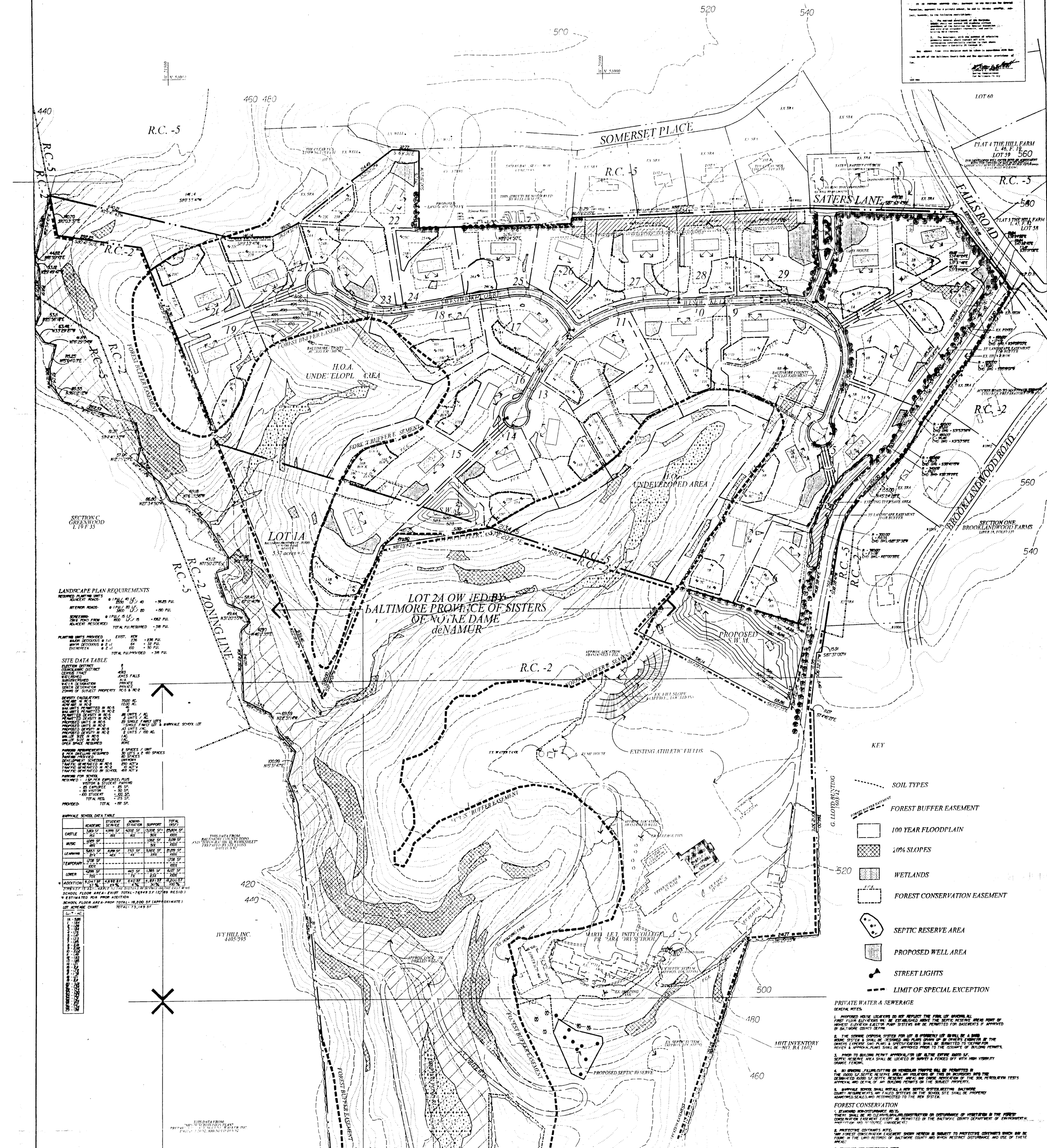
1. The maximum enrollment of the Maryvale School shall not exceed 300 students without amendment of the Petition for Special Exception and site plan attendant thereto, and until hearing held thereon.

2. The Developer, with the assent of adjoining property owners, shall install off-site landscaping substantially similar to that shown on Developer's Exhibits 2B through 2C.

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

CHARLES E. HAMMEN
Zoning Commissioner
for Baltimore County

LES:mmn



LANDSCAPE PLAN REQUIREMENTS

REQUIRED PLANTING UNITS
ADJACENT ROADS: @ 1 P.U./ 40 LF./ 2500 LF./ 40 = 56.25 P.U.
INTERIOR ROADS: @ 1 P.U./ 80 LF./ 5800 LF./ 80 = 190 P.U.
SCREENING: @ 1 P.U./ 15 LF./ 1900 LF./ 15 = 1067 P.U.
(NEW POND FROM ADJACENT RESIDENCE)
TOTAL P.U. REQUIRED = 318 P.U.

PLANTING UNITS PROVIDED

	EXIST.	NEW	
MAJOR DECIDUOUS @ 1 x 1		236	= 236 P.U.
MINOR DECIDUOUS @ 2 x 1		64	= 32 P.U.
EVERGREEN @ 2 x 1		100	= 50 P.U.
TOTAL P.U. PROVIDED			= 318 P.U.

SITE DATA TABLE

ELECTION DISTRICT	8
COUNCILMANIC DISTRICT	4
CENSUS TRACT	4083
WATERSHED	JONES FALLS
SUBSEWERSHED	N.A.
W.C.I.A. DESIGNATION	PRIVATE
SEWER DESIGNATION	PRIVATE
ZONING OF SUBJECT PROPERTY	RC-5 & RC-2
DENSITY CALCULATIONS	
ACRE AGE IN RC-5	70.00 AC.
ACRE AGE IN RC-2	11.00 AC.
MAX. UNITS PERMITTED IN RC-5	46
MAX. UNITS PERMITTED IN RC-2	2
PERMITTED DENSITY IN RC-5	.66 UNITS / AC.
PERMITTED DENSITY IN RC-2	.2 UNITS / AC.
PROPOSED UNITS IN RC-5	85 SINGLE FAMILY LOTS - 1 SINGLE FAMILY LOT & MARYVALE SCHOOL LOT
PROPOSED UNITS IN RC-2	
PROPOSED DENSITY IN RC-5	.43 UNITS / AC.
PROPOSED DENSITY IN RC-2	2 UNITS / 100 AC.
MIN. LOT SIZE IN RC-5	1 AC.
MIN. LOT SIZE IN RC-2	1 AC.
OPEN SPACE REQUIRED	NONE
PARKING REQUIREMENTS	2 SPACES / UNIT
2 PER DWELLING REQUIRED	30 LOTS x 2 = 60 SPACES
PARKING PROVIDED	60 SPACES
DEVELOPMENT SCHEDULE	UNKNOWN
TRAFFIC GENERATED IN RC-5	850 ADT's
TRAFFIC GENERATED IN RC-2	10 ADT's
TRAFFIC GENERATED BY SCHOOL	468 ADT's

PARKING FOR SCHOOL
REQUIRED - 1 SP. PER EMPLOYEE, PLUS VISITOR & STUDENT PARKING
- 85 EMPLOYEE = 85 SP.
- 50 VISITOR = 50 SP.
- 100 STUDENT = 100 SP.
TOTAL REQ. = 175 SP.
PROVIDED- TOTAL = 197 SP.

MARYVALE SCHOOL DATA TABLE

	ACADEMIC	STUDENT SERVICE	ADMINISTRATION	SUPPORT	TOTAL (NSF)
CASTLE	3,801 SF 15%	4,999 SF 19%	4,008 SF 16%	13,008 SF 50%	25,804 SF 100%
MUSIC	1,089 SF 39%			1,084 SF 52%	2,218 SF 100%
LEARNING	5,851 SF 21%	4,849 SF 16%	753 SF 4%	5,922 SF 23%	17,279 SF 100%
TEMPORARY	1,708 SF 100%				1,708 SF 100%
LOWER	4,299 SF 70%		443 SF 7%	1,385 SF 23%	6,127 SF 100%
ADDITION	6,047 SF 37 %	4,893 SF 29 %	640 SF 4 %	4,871 SF 30 %	16,200 SF 100 %

THIS DATA FROM BALTIMORE COUNTY TOPO TOPOGRAPHICAL WORKSHEET PREPARED BY SITE VISITATIONS DATED 9/92

3,399 N.S.F. IS ASSIGNABLE TO THE SISTERS RESIDENCE IN THE EAST WING
SCHOOL FLOOR AREA - EXIST. TOTAL- 56,949 S.F. (27,189 RESID.)
* ESTIMATED FOR PROP. ADDITION
SCHOOL FLOOR AREA - PROP. TOTAL- 16,200 S.F. (APPROXIMATE)
LOT ACREAGE CHART TOTAL- 73,149 SF

LOT #	AC.
1A	5.86
1	1.64
2	1.28
3	1.84
4	1.76
5	1.49
6	1.73
7	1.95
8	2.18
9	2.56
10	2.02
11	1.49
RC-5	1.93
13	1.98
14	1.11
15	1.24
16	1.72
17	1.79
18	1.71
19	2.11
20	1.93
21	1.74
22	1.50
23	1.74
24	1.97
25	2.07
26	1.98

THIS DATA FROM "MARYVALE SUBDIVISION PLANS" PREPARED BY GWS, INC. DATED 3/20/92, AMENDED 10/5/92

DEVELOPMENT PLAN ISSUES

GENERAL NOTES:

1. A COMMUNITY INPUT MEETING FOR THIS PROJECT WAS HELD ON APRIL 7, 1995 AND WAS CHAIRED BY MR. DAVID FLOWERS, REPRESENTATIVE OF BALTIMORE COUNTY DEPARTMENT OF ZONING ADMINISTRATION AND DEVELOPMENT MANAGEMENT.
2. THIS DEVELOPMENT CONFORMS TO THE BALTIMORE COUNTY MASTER PLAN, COMMUNITY PLANS, RECREATION AND PARKS PLAN, STREETSCAPE PLANS AND GREENWAYS PLAN.
3. A STEEP SLOPE ANALYSIS AND FOREST BUFFER LINE WAS APPROVED BY BALTIMORE COUNTY "DEPRM".
4. A FOREST STAND DELINEATION PLAN AND A FOREST CONSERVATION PLAN HAS BEEN SUBMITTED AND APPROVED BY BALTIMORE COUNTY "DEPRM". THIS PLAN INDICATES FOREST BUFFER EASEMENT AREAS IDENTIFIED FOR PROTECTION AND A 35' BUILDING SETBACK LINE FROM SAID FOREST BUFFER.
5. A 100 YEAR FLOOD PLAIN ANALYSIS HAS BEEN PERFORMED AND INDICATED ON THIS PLAN.
6. A FINAL SEPTIC PERCOLATION PLAT WAS APPROVED BY BALTIMORE COUNTY "DEPRM" AND ON-SITE TESTING WAS PERFORMED BY "DEPRM" REPRESENTATIVES.
7. THERE ARE NO DESIGNATED ARCHEOLOGICAL SITES ON THE PROPERTY OR ON ADJACENT SUBDIVISIONS.
8. [illegible] THERE ARE NO KNOWN HAZARDOUS WASTE MATERIALS LOCATED ON THIS PROPERTY.
10. IT IS ANTICIPATED THAT THIS PROJECT WILL NOT BE PHASED.
11. STREET LIGHTS ARE NOT REQUIRED ON PRIVATE STREETS. A LIMITED NUMBER OF STREET LIGHTS (6) ARE SHOWN ON THIS PLAN.
12. BUILDING FOOTPRINTS SHOWN ARE CONCEPTUAL AND MAY BE CHANGED, PROVIDED ALL WELL AND SEPTIC CRITERIA IS MET AND THE FRONT ORIENTATION RANGE REMAINS AS SHOWN ON THIS PLAN.
13. THE DEVELOPER WILL PROVIDE AN APPROPRIATE LEVEL OF LANDSCAPE BUFFER MATERIALS ON THE EAST SIDE OF FALLS ROAD ACROSS THE WESTWICKE FRONTAGE OF HILL FARM.
14. THE DEVELOPER WILL COOPERATE WITH THE FALLS ROAD COMMUNITY ASSOCIATION AND MARYLAND STATE HIGHWAY ADMINISTRATION TO CLEAR VEGETATION FOR SITE DISTANCE AT SOMERSET PLACE AND FALLS ROAD.
15. THE EXISTING CEMETERY GATES ON SATERS LANE WILL BE RELOCATED TO THE WESTERLY PROPERTY LINE OF THE SATER, CHURCH PROPERTY LINE.
16. THE BOUNDARY ACROSS THE CEMETERY FRONTAGE OF SATERS LANE WILL BE ADJUSTED TO PROVIDE FOR PROPER OWNERSHIP OF EXISTING SATERS LANE. ONE-HALF (1/2) OF THE ROAD BED TO BE OWNED BY THE SATERS CHURCH AND ONE-HALF (1/2) TO BE OWNED BY THE WESTWICKE H.O.A.
17. A MAINTENANCE AGREEMENT WILL BE EXECUTED BETWEEN THE SATERS CHURCH, THE DEVELOPER AND THE WESTWICKE H.O.A. FOR THE MAINTENANCE OF THE IMPROVED SECTION OF SATERS LANE.
18. WESTWICKE COURT AND WESTWICKE LANE ARE TO REMAIN PRIVATE STREETS OWNED AND MAINTAINED BY THE DEVELOPER AND ULTIMATELY THE WESTWICKE H.O.A. STREET ROAD BEDS AND CURBS WILL BE CONSTRUCTED TO BALTIMORE COUNTY D.P.W. STANDARDS.
19. A VARIANCE REQUEST OF FOREST BUFFER EASEMENT & RELATED SETBACK REQUIREMENTS FOR THE CONTINUED USE OF EXISTING PRIVATE SCHOOL FACILITIES HAS BEEN REQUESTED.

GEORGE WILLIAM STEPHENS, JR. AND ASSOCIATES, INC.
CIVIL ENGINEERS & LAND SURVEYORS
658 KENILWORTH DRIVE, SUITE 100
TOWSON, MARYLAND 21204
(410) 825-8120

DATA FROM GWS FIELD SURVEY, MT. SQUIRE WALKER, INC. SITE GROUP, BALTIMORE COUNTY TOPO MAPS, SOIL CONSERVATION SERVICE MAPS

PRIVATE WATER & SEWERAGE
GENERAL NOTES:

1. PROPOSED HOUSE LOCATIONS DO NOT REFLECT THE FINAL LOT GRADING. ALL FIRST FLOOR ELEVATIONS WILL BE ESTABLISHED ABOVE THE SEPTIC RESERVE AREAS POINT OF HIGHEST ELEVATION EJECTOR PUMP SYSTEMS MAY BE PERMITTED FOR BASEMENTS IF APPROVED BY BALTIMORE COUNTY DEPRM.
2. THE SEWAGE DISPOSAL SYSTEM FOR LOT 1B (FORMERLY LOT 1B) WILL BE A SAND MOUND SYSTEM & SHALL BE DESIGNED AND PLANS DRAWN UP BY OWNER'S ENGINEER AT THE OWNERS EXPENSE. SAID PLANS & SPECIFICATIONS SHALL BE SUBMITTED TO DEPRM FOR REVIEW & APPROVAL. PLANS SHALL BE APPROVED PRIOR TO THE ISSUANCE OF BUILDING PERMITS.
3. PRIOR TO BUILDING PERMIT APPROVAL FOR LOT 4 (THE ENTIRE 10000 S.F. SEPTIC RESERVE AREA SHALL BE LOCATED BY SURVEY & FENCED OFF WITH HIGH VISIBILITY ORANGE FENCING.
4. NO GRADING, FILLING, CUTTING OR VEHICULAR TRAFFIC WILL BE PERMITTED IN THE 10,000 S.F. SEPTIC RESERVE AREA. ANY VIOLATIONS OF THIS OR INCURSIONS INTO THE DESIGNATED 10,000 S.F. SEPTIC RESERVE AREAS MAY CAUSE REVOCATION OF THE SOIL PERCOLATION TESTS APPROVAL AND DENIAL OF ANY BUILDING PERMITS ON THE SUBJECT PROPERTY.
5. MARYVALE SCHOOL SHALL INSTALL A NEW SEPTIC SYSTEM MEETING BALTIMORE COUNTY REQUIREMENTS. ANY FAILED SYSTEMS ON THE SCHOOL SITE SHALL BE PROPERLY ABANDONED, SEALED AND RECONNECTED TO THE NEW SYSTEM.

FOREST CONSERVATION
1. STANDARD NON-DISTURBANCE NOTE:
"THERE SHALL BE NO CLEARING, GRADING, CONSTRUCTION OR DISTURBANCE OF VEGETATION IN THE FOREST CONSERVATION EASEMENT, EXCEPT AS PERMITTED BY THE BALTIMORE COUNTY DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT."
2. PROTECTIVE COVENANTS NOTE:
"ANY FOREST CONSERVATION EASEMENT SHOWN HEREON IS SUBJECT TO PROTECTIVE COVENANTS WHICH MAY BE FOUND IN THE LAND RECORDS OF BALTIMORE COUNTY AND WHICH RESTRICT DISTURBANCE AND USE OF THESE AREAS."
3. STANDARD NON-DISTURBANCE NOTE:
"THERE SHALL BE NO CLEARING, GRADING, CONSTRUCTION, SOIL COMPACTION OR EXCAVATION, INTRODUCTION OF TOXIC CHEMICALS OR OTHER DISTURBANCES DETRIMENTAL TO THE LIVE SPECIMEN TREE OR CRITICAL ROOT ZONES FOR THESE TREES EXCEPT AS PERMITTED BY THE BALTIMORE COUNTY DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT."

SPECIAL EXCEPTION PETITION
REQUEST FOR SPECIAL EXCEPTION PER SECTION 1405.2 - B TO PERMIT A PRIVATE SCHOOL IN AN RC-2 ZONE

CERTIFICATION AS TO DELINQUENT ACCOUNTS
This certification is submitted in connection with the development known as WESTWICKE and is given in accordance with the provisions of Section 22-55 (d) of the Baltimore County Code, 1978, as amended.
I, David Flowers, state and make oath that to the best of my knowledge and belief there are no delinquent accounts for any other development due and owed Baltimore County, Maryland by the applicant, or any person who will perform construction. If applicant is a corporation, this certification must be executed on behalf of the proposed development.

I HEREBY CERTIFY, that on this 30th day of August, 1995, before me, the subscriber, a Notary Public in and for the County and State aforesaid, personally appeared David Flowers and made oath in due form of law that the matters and facts hereinabove set forth are true.

Anetta A. Wasam
My Commission Expires:
May 1, 1999

NOTE:
executed by an authorized officer and if applicant is a partnership or joint venture, it must be completed by a general partner of venturer or an officer thereof, if the partner or venturer is a corporation

SCALE = 1" = 100'

1ST AMENDED
DEVELOPMENT PLAN
&
SPECIAL EXCEPTION PLAT

WESTWICKE

Developer
SCOTTISH DEVELOPMENT CO., LLC
C/O MR. CLARK F. MacKENZIE
MacKenzie, O'Conner, Piper & Flynn
2328 West Joppa Road
Suite 200
Lutherville, Maryland 21093
TAX ACCOUNT #08-20-066828
ZADM FILE # VIII-651

PLAN TO ACCOMPANY HEARING OFFICER'S ORDER
10-1-96 David Flowers
DATE PROJECT MANAGER

PLAN TO ACCOMPANY HEARING OFFICER'S ORDER
9-1-95 David Flowers
DATE PROJECT MANAGER

Owner
BALTIMORE PROVINCE OF SISTERS OF NOTRE DAME deNAMUR
C/O Scott Barhight
Whiteford, Taylor, Preston
210 W. Pennsyvainia Ave.
Suite 400
Towson, Maryland 21204

REASON & NOTES FOR 1ST AMENDMENT.

REASON FOR 1ST AMENDMENT
1. TO REPLACE THE "FUTURE 15,000 S.F. BUILDING EXPANSION ENVELOPE" AT THE NORTHEAST SIDE OF THE EXISTING UPPER SCHOOL & GYM WITH A FINAL FOOT PRINT OF THE PROPOSED ADDITION AND TO RE-LABEL "PROPOSED 2 STORY ADDITION."
2. TO REVISE THE "MARYVALE SCHOOL DATA TABLE" TO INCLUDE THE PROPOSED EXPANSION.

NOTES
1. ON JUNE 26, 1996 THE BALTIMORE COUNTY DEVELOPMENT REVIEW COMMITTEE APPROVED A REQUEST FOR LIMITED EXEMPTION FOR THE CONSTRUCTION OF THE ADDITION TO THE UPPER SCHOOL & GYM (D.R.C. NO. 062466).
2. DEVELOPER FOR SCHOOL ADDITION: SAME AS OWNER
3. PROP. ADDITION TO CONNECT TO EXISTING ON SITE PRIVATE WATER & SEWER SYSTEMS.
4. S.W.M., W.Q.M. & LANDSCAPING FOR THE ADDITION, IF REQUIRED, SHALL BE PROVIDED BY THE SCHOOL AND NOT THE DEVELOPERS OF "WESTWICKE".

STATE OF MARYLAND DAVID LEE HICKS No. 19115 PROFESSIONAL ENGINEER
Donald E. Hicks, P.E. 9/4/96
SIGNATURE DATE
FOR 1ST AMENDMENT ONLY

HICKS ENGINEERING CO., INC.
ENGINEERS, SURVEYORS & PLANNERS
200 EAST JOPPA ROAD - SUITE 402
TOWSON, MARYLAND 21286

DATA FROM GWS FIELD SURVEY, MT. SQUIRE WALKER, INC. SITE GROUP, BALTIMORE COUNTY TOPO MAPS, SOIL CONSERVATION SERVICE MAPS

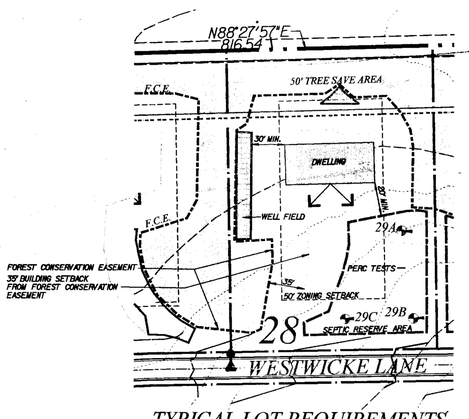
RECEIVED SEP 27 1996 BALTIMORE COUNTY ZADM/ZAC

RECEIVED AUG 31 1995 BALTIMORE COUNTY ZADM/ZAC

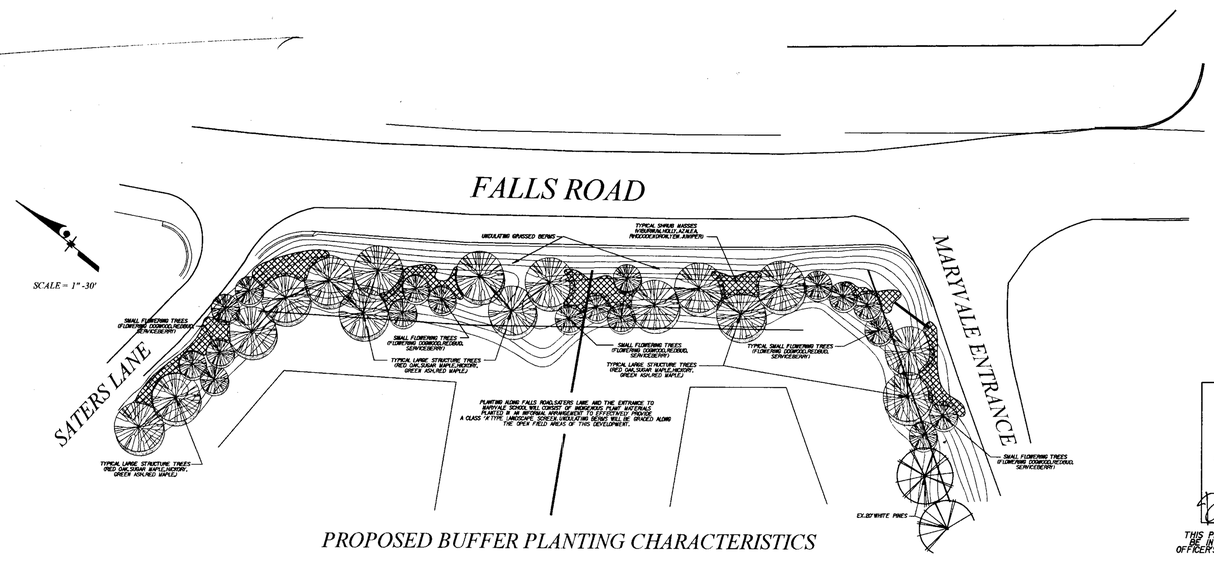
May 22, 1995

Appellants' Exhibit #6

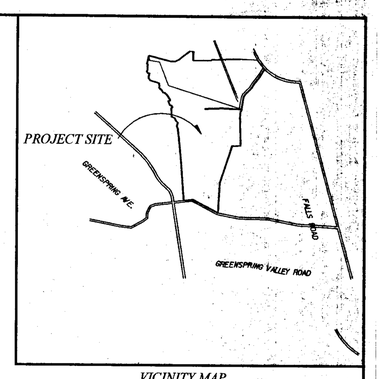
1ST AMENDMENT - JULY 30, 1996



TYPICAL LOT REQUIREMENTS
(NOT TO SCALE)



PROPOSED BUFFER PLANTING CHARACTERISTICS



VICINITY MAP
1" = 2000'

THIS PLAN IS SEALED AND CERTIFIED TO BE IN ACCORDANCE WITH THE HEARING OFFICER'S ORDER AND ALL AGENCY COMMENTS

STATE OF MARYLAND — DAVID LLOYD MARTIN — No. 7736 — REGISTERED LANDSCAPE ARCHITECT

HEARING OFFICER'S ORDER

WHEREAS in the development regulations of Baltimore County, as duly framed within Article 26 of the Baltimore County Code, the advertising of the property and the public hearing thereon, it will appear the developer plan conformant with the ordinance set forth above and which is as follows:

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

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

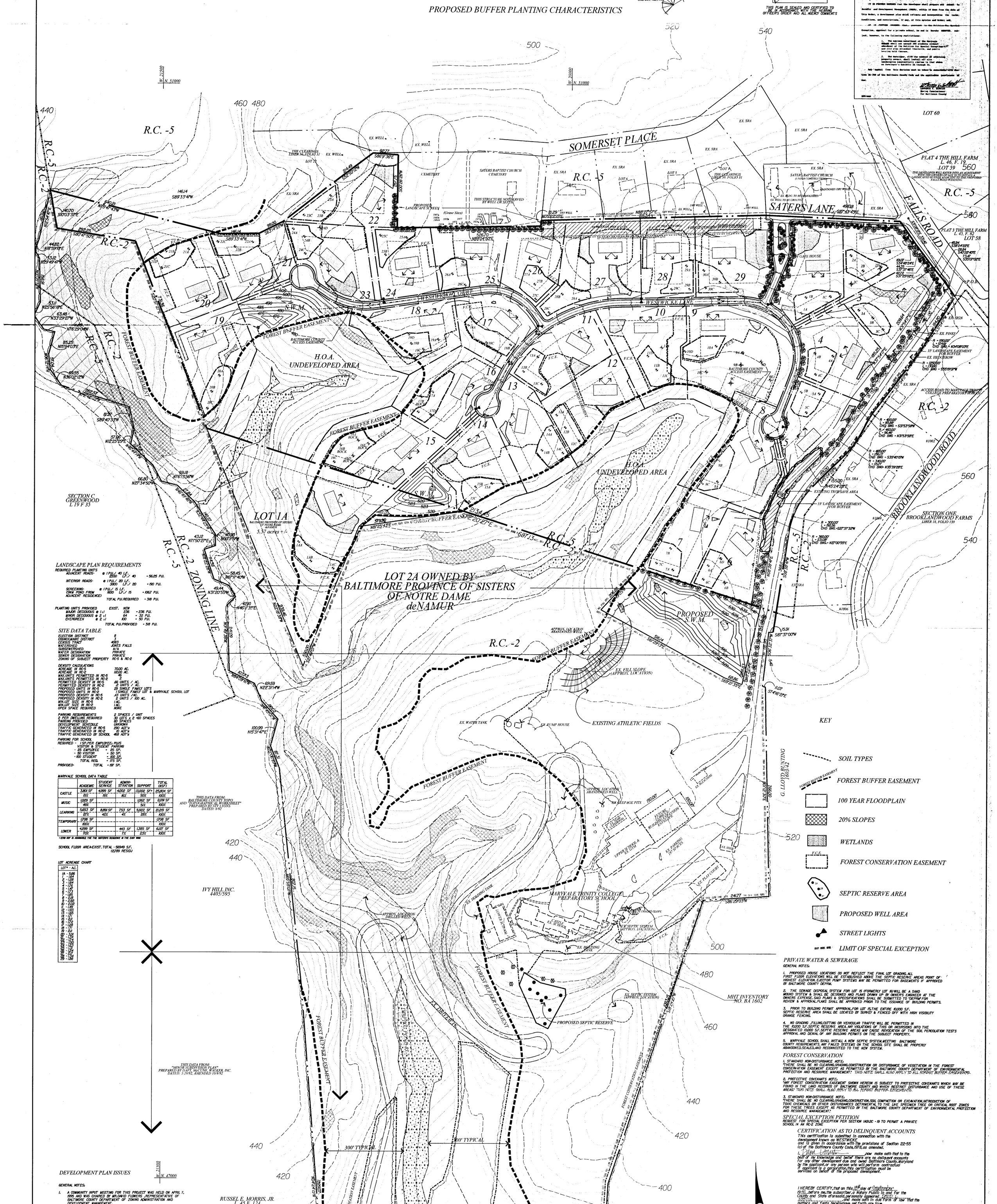
IT IS FURTHER ORDERED that, pursuant to the Petition for Special Exception, approval for a private school, be and is hereby GRANTED, subject, however, to the following restrictions:

1. The maximum enrollment of the Maryvale School shall not exceed 300 students without amendment of the Petition for Special Exception and site plan attendant thereto, and public hearing held thereon.

2. The Developer, with the consent of adjoining property owners, shall install off site landscaping substantially similar to that shown on Developer's Exhibits 2A through 2C.

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

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County



LANDSCAPE PLAN REQUIREMENTS

REQUIRED PLANTING UNITS
- ADJACENT ROADS- @ 1 PU./ 40 LF./ 40 — 2580 LF./ 40 — 56.25 P.U.
- INTERIOR ROADS- @ 1 PU./ 20 LF. — 3800 LF./ 20 — 190 P.U.
- SCREENING- @ 1 PU./ 15 LF. (SWM POND FROM ADJACENT RESIDENCE) — 1800 LF./ 15 — 1067 P.U.
- TOTAL P.U. REQUIRED — 318 P.U.

PLANTING UNITS PROVIDED	EXIST.	NEW	
MAJOR DECIDUOUS @ 1:1		236	= 236 P.U.
MINOR DECIDUOUS @ 2:1		64	= 32 P.U.
EVERGREEN @ 2:1		100	= 50 P.U.
TOTAL P.U. PROVIDED			= 318 P.U.

SITE DATA TABLE

ELECTION DISTRICT	8
COUNCILMANIC DISTRICT	3
CENSUS TRACT	4063
WATERSHED	JONES FALLS
SUBSEWERSHED	N/A
WATER DESIGNATION	PRIVATE
SEWER DESIGNATION	PRIVATE
ZONING OF SUBJECT PROPERTY	RC-5 & RC-2
DENSITY CALCULATIONS	
ACREAGE IN RC-5	70.00 AC.
ACREAGE IN RC-2	112.00 AC.
MAX. UNITS PERMITTED IN RC-5	46
MAX. UNITS PERMITTED IN RC-2	72
PERMITTED DENSITY IN RC-5	46 UNITS / AC.
PERMITTED DENSITY IN RC-2	2 UNITS / AC.
PROPOSED UNITS IN RC-5	29 SINGLE FAMILY LOTS
PROPOSED UNITS IN RC-2	1 SINGLE FAMILY LOT & MARYVALE SCHOOL LOT
PROPOSED DENSITY IN RC-5	.43 UNITS / AC.
PROPOSED DENSITY IN RC-2	2 UNITS / 100 AC.
MIN. LOT SIZE IN RC-5	1 AC.
MIN. LOT SIZE IN RC-2	1 AC.
OPEN SPACE REQUIRED	NONE
PARKING REQUIREMENTS	2 SPACES / UNIT
2 PER DWELLING REQUIRED	30 LOTS x 2 =60 SPACES
PARKING PROVIDED	60 SPACES
DEVELOPMENT SCHEDULE	UNKNOWN
TRAFFIC GENERATED IN RC-5	290 ADT's
TRAFFIC GENERATED IN RC-2	10 ADT's
TRAFFIC GENERATED BY SCHOOL	468 ADT's
PARKING FOR SCHOOL	
REQUIRED - 1 SP. PER EMPLOYEE, PLUS VISITOR & STUDENT PARKING	
- 25 EMPLOYEE	= 25 SP.
- 50 VISITOR	= 50 SP.
- 100 STUDENT	= 100 SP.
TOTAL REQ.	= 175 SP.
PROVIDED- TOTAL	= 197 SP.

MARYVALE SCHOOL DATA TABLE

	ACADEMIC	STUDENT SERVICE	ADMINISTRATION	SUPPORT	TOTAL (NSF)
CASTLE	3,801 SF / 15%	4,999 SF / 19%	4,002 SF / 15%	13,002 SF* / 50%	25,804 SF / 100%
MUSIC	1,029 SF / 49%			1,062 SF / 51%	2,091 SF / 100%
LEARNING	5,653 SF / 27%	8,891 SF / 42%	753 SF / 4%	5,982 SF / 28%	21,219 SF / 100%
TEMPORARY	1,708 SF / 100%				1,708 SF / 100%
LOWER	4,299 SF / 70%		443 SF / 7%	1,385 SF / 23%	6,127 SF / 100%

* 1289 NSF IS ASSUMABLE THE THE WATERS RESIDENCE IS THE EAST WING

THIS DATA FROM BALTIMORE COUNTY TOPO AND "TOPOGRAPHICAL WORKSHEET" PREPARED BY JAY LYONS DATED: 8/92

SCHOOL FLOOR AREA-EXIST.- TOTAL - 56949 S.F. (2289 RESID.)

LOT ACREAGE CHART

LOT* - AC.	
1A - 5.66	
1 - 1.64	
2 - 1.28	
3 - 1.64	
4 - 1.76	
5 - 1.47	
6 - 1.73	
7 - 1.85	
8 - 2.18	
9 - 2.92	
10 - 2.02	
11 - 1.49	
12 - 1.53	
13 - 1.65	
14 - 1.71	
15 - 2.11	
16 - 1.72	
17 - 1.29	
18 - 1.71	
19 - 2.11	
20 - 3.01	
21 - 1.74	
22 - 1.74	
23 - 1.20	
24 - 1.10	
25 - 1.24	
26 - 2.17	
27 - 1.44	
28 - 1.28	
29 - 1.28	

THIS DATA FROM "MINOR SUBDIVISION PLAN" PREPARED BY DAFT, McCUNE, WALKER, INC. DATED: 5/2092, AMENDED 10/9/92

DEVELOPMENT PLAN ISSUES

GENERAL NOTES:

1. A COMMUNITY INPUT MEETING FOR THIS PROJECT WAS HELD ON APRIL 7, 1995 AND WAS CHAIRED BY MR. DAVID FLOWERS, REPRESENTATIVE OF BALTIMORE COUNTY DEPARTMENT OF ZONING ADMINISTRATION AND DEVELOPMENT MANAGEMENT.
2. THIS DEVELOPMENT CONFORMS TO THE BALTIMORE COUNTY MASTER PLAN, COMMUNITY PLANS, RECREATION AND PARKS PLAN, STREETSCAPE PLANS AND GREENWAYS PLAN.
3. A STEEP SLOPE ANALYSIS AND FOREST BUFFER LINE WAS APPROVED BY BALTIMORE COUNTY "DEPRM".
4. A FOREST STAND DELINEATION PLAN AND A FOREST CONSERVATION PLAN HAS BEEN SUBMITTED AND APPROVED BY BALTIMORE COUNTY "DEPRM". THIS PLAN INDICATES FOREST BUFFER EASEMENT AREAS IDENTIFIED FOR PROTECTION AND A 35' BUILDING SETBACK LINE FROM SAID FOREST BUFFER.
5. A 100 YEAR FLOOD PLAIN ANALYSIS HAS BEEN PERFORMED AND INDICATED ON THIS PLAN.
6. A FINAL SEPTIC PERCOLATION PLAT WAS APPROVED BY BALTIMORE COUNTY "DEPRM" AND ON-SITE TESTING WAS PERFORMED BY "DEPRM" REPRESENTATIVES.
7. THERE ARE NO DESIGNATED ARCHEOLOGICAL SITES ON THE PROPERTY OR ON ADJACENT SUBDIVISIONS.
8. ALL ADJACENT LANDS ARE RESIDENTIAL ZONED RC-5 OR RC-2 & ARE RESIDENTIAL USES.
9. THERE ARE NO KNOWN HAZARDOUS WASTE MATERIALS LOCATED ON THE PROPERTY.
10. IT IS ANTICIPATED THAT THIS PROJECT WILL NOT BE PHASED.
11. STREET LIGHTS ARE NOT REQUIRED ON PRIVATE STREETS. A LIMITED NUMBER OF STREET LIGHTS (6) ARE SHOWN ON THIS PLAN.
12. BUILDING FOOTPRINTS SHOWN ARE CONCEPTUAL AND MAY BE CHANGED PROVIDED ALL WELL AND SEPTIC CRITERIA IS MET AND THE FRONT ORIENTATION RANGE REMAINS AS SHOWN ON THIS PLAN.
13. THE DEVELOPER WILL PROVIDE AN APPROPRIATE LEVEL OF LANDSCAPE BUFFER MATERIALS ON THE EAST SIDE OF FALLS ROAD ACROSS THE WESTWICKE FRONTAGE OF HILL FARM.
14. THE DEVELOPER WILL COOPERATE WITH THE FALLS ROAD COMMUNITY ASSOCIATION AND MARYLAND STATE HIGHWAY ADMINISTRATION TO CLEAR VEGETATION FOR SITE DISTANCE AT SOMERSET PLACE AND FALLS ROAD.
15. THE EXISTING CEMETERY GATES ON SATERS LANE WILL BE RELOCATED TO THE WESTERLY PROPERTY LINE OF THE SATERS CHURCH PROPERTY LINE.
16. THE BOUNDARY ACROSS THE CEMETERY FRONTAGE OF SATERS LANE MAY BE ADJUSTED TO PROVIDE FOR PROPER OWNERSHIP OF EXISTING SATERS LANE. ONE-HALF (1/2) OF THE ROAD BED TO BE OWNED BY THE SATERS CHURCH AND ONE-HALF (1/2) TO BE OWNED BY THE WESTWICKE H.O.A.
17. A MAINTENANCE AGREEMENT WILL BE EXECUTED BETWEEN THE SATERS CHURCH, THE DEVELOPER AND THE WESTWICKE H.O.A. FOR THE MAINTENANCE OF THE IMPROVED SECTION OF SATERS LANE.
18. WESTWICKE COURT AND WESTWICKE LANE ARE TO REMAIN PRIVATE STREETS OWNED AND MAINTAINED BY THE DEVELOPER AND ULTIMATELY THE WESTWICKE H.O.A. STREET ROAD BEDS AND CURBS WILL BE CONSTRUCTED TO BALTIMORE COUNTY D.P.W. STANDARDS.
19. A VARIANCE REQUEST OF FOREST BUFFER EASEMENT & RELATED SETBACK REQUIREMENTS FOR THE CONTINUED USE OF EXISTING PRIVATE SCHOOL FACILITIES HAS BEEN REQUESTED.

GEORGE WILLIAM STEPHENS, JR. AND ASSOCIATES, INC.
CIVIL ENGINEERS & LAND SURVEYORS
658 KENILWORTH DRIVE, SUITE 100
TOWSON, MARYLAND 21204
(410) 825-8120

SITE DATA FROM:
GWS, INC. FIELD SURVEY
DAFT, McCUNE, WALKER, INC.
STV GROUP
BALTIMORE COUNTY TOPO MAPS
SOIL CONSERVATION SERVICE MAPS

SOIL TYPES
FOREST BUFFER EASEMENT
100 YEAR FLOODPLAIN
20% SLOPES
WETLANDS
F.C.E. FOREST CONSERVATION EASEMENT
SEPTIC RESERVE AREA
PROPOSED WELL AREA
STREET LIGHTS
LIMIT OF SPECIAL EXCEPTION

PRIVATE WATER & SEWERAGE

GENERAL NOTES:

1. PROPOSED HOUSE LOCATIONS DO NOT REFLECT THE FINAL LOT GRADING. ALL FIRST FLOOR ELEVATIONS WILL BE ESTABLISHED ABOVE THE SEPTIC RESERVE AREAS POINT OF HIGHEST ELEVATION. EJECTOR PUMP SYSTEMS MAY BE PERMITTED FOR BASEMENTS IF APPROVED BY BALTIMORE COUNTY DEPRM.
2. THE SEWAGE DISPOSAL SYSTEM FOR LOT 15 (FORMERLY LOT 16) WILL BE A SAND MOUND SYSTEM & SHALL BE DESIGNED AND PLANS DRAWN UP BY OWNER'S ENGINEER AT THE OWNERS EXPENSE. SAID PLANS & SPECIFICATIONS SHALL BE SUBMITTED TO "DEPRM FOR REVIEW & APPROVAL. PLANS SHALL BE APPROVED PRIOR TO THE ISSUANCE OF BUILDING PERMITS.
3. PRIOR TO BUILDING PERMIT APPROVAL FOR LOT 15, THE ENTIRE 10,000 S.F. SEPTIC RESERVE AREA SHALL BE LOCATED BY SURVEY & FENCED OFF WITH HIGH VISIBILITY ORANGE FENCING.
4. NO GRADING, FILLING, CUTTING OR VEHICULAR TRAFFIC WILL BE PERMITTED IN THE 10,000 S.F. SEPTIC RESERVE AREA. ANY VIOLATIONS OF THIS OR INCURSIONS INTO THE DESIGNATED 10,000 S.F. SEPTIC RESERVE AREAS MAY CAUSE REVOCATION OF THE SOIL PERCOLATION TESTS APPROVAL AND DENIAL OF ANY BUILDING PERMITS ON THE SUBJECT PROPERTY.
5. MARYVALE SCHOOL SHALL INSTALL A NEW SEPTIC SYSTEM MEETING BALTIMORE COUNTY REQUIREMENTS. ANY FAILED SYSTEMS ON THE SCHOOL SITE SHALL BE PROPERLY ABANDONED, SEALED, AND RECONNECTED TO THE NEW SYSTEM.

FOREST CONSERVATION

1. STANDARD NON-DISTURBANCE NOTE: "THERE SHALL BE NO CLEARING, GRADING, CONSTRUCTION OR DISTURBANCE OF VEGETATION IN THE FOREST CONSERVATION EASEMENT EXCEPT AS PERMITTED BY THE BALTIMORE COUNTY DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT." THIS NOTE SHALL ALSO APPLY TO ALL FOREST BUFFER EASEMENTS.
2. PROTECTIVE COVENANTS NOTE: "ANY FOREST CONSERVATION EASEMENT SHOWN HEREON IS SUBJECT TO PROTECTIVE COVENANTS WHICH MAY BE FOUND IN THE LAND RECORDS OF BALTIMORE COUNTY AND WHICH RESTRICT DISTURBANCE AND USE OF THESE AREAS." THIS NOTE SHALL ALSO APPLY TO ALL FOREST BUFFER EASEMENTS.
3. STANDARD NON-DISTURBANCE NOTE: "THERE SHALL BE NO CLEARING, GRADING, CONSTRUCTION, SOIL COMPACTION OR EXCAVATION. INTRODUCTION OF TOXIC CHEMICALS OR OTHER DISTURBANCES DETRIMENTAL TO THE LIVE SPECIMEN TREE OR CRITICAL ROOT ZONES FOR THESE TREES EXCEPT AS PERMITTED BY THE BALTIMORE COUNTY DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT."

SPECIAL EXCEPTION PETITION

REQUEST FOR SPECIAL EXCEPTION PER SECTION 1A01.2C - 19 TO PERMIT A PRIVATE SCHOOL IN AN RC-2 ZONE

CERTIFICATION AS TO DELINQUENT ACCOUNTS

This certification is submitted in connection with the development known as WESTWICKE and is given in accordance with the provisions of Section 22-55 (c) of the Baltimore County Code, 1978, as amended.

I, David Martin, now make oath that to the best of my knowledge and belief there are no delinquent accounts for any other development due and owed Baltimore County, Maryland by the applicant, or any person who will perform contractual if applicant is a corporation, this certification must be services on behalf of the proposed development.

I HEREBY CERTIFY, that on this 12th day of September 1995, before me, the subscriber, a Notary Public in and for the County and State aforesaid, personally appeared David L. Martin and made oath in due form of law that the matters and facts hereinabove set forth are true.

Betty L. Sichenedes
My Commission Expires:
December 4, 1998

NOTE:
completed by an authorized officer and if applicant is a partnership or joint venture, it must be completed by a general partner or venturer or an officer thereof, if the partner or venturer is a corporation

SCALE = 1" -100'

DEVELOPMENT PLAN & SPECIAL EXCEPTION PLAT

WESTWICKE

Developer
SCOTTISH DEVELOPMENT CO., LLC
C/O MR. CLARK F. MacKENZIE
MacKenzie, O'Conner, Piper & Flynn
2328 West Joppa Road
Suite 200
Lutherville, Maryland 21093
TAX ACCOUNT #08-20-066828
ZADM FILE # VIII-651

Owner
BALTIMORE PROVINCE OF SISTERS OF NOTRE DAME deNAMUR
C/O Scott Barhight
Whiteford, Taylor, Preston
210 W. Pennsyvainia Ave.
Suite 400
Towson, Maryland 21204

PLAN TO ACCOMPANY HEARING OFFICER'S ORDER
Sept 28, 1995 — DATE — David Flowers — PROJECT MANAGER

REV. SEPT. 18, 1995
May 22, 1995

Appellant's Exh. 6, 7 #1

ZONING HISTORY

1. 98 - 305 - SPH

THEREFORE, IT IS ORDERED by the Zoning Commissioner of Baltimore County this 24th day of March 1998 that, pursuant to the Petition for Special Hearing, approval of a waiver pursuant to Baltimore County Code, Section 26-172(a) or (b) or Sections 26-103(c)(8) and 26-278, be and is hereby GRANTED.

Any appeal from this decision must be made in accordance with the applicable provisions of law.

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:cmc

2. 95 - 435 - X

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

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

IT IS FURTHER ORDERED that the Developer shall prepare and submit to Permits and Development Management (PADM), within 15 days from the date of this Order, a development plan which reflects and incorporates the terms, conditions, and restrictions, if any, of this opinion and Order; and,

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

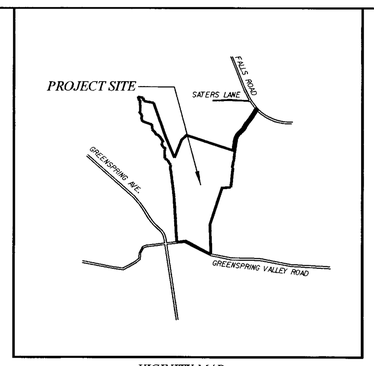
1. The maximum enrollment of the Maryvale School shall not exceed 300 students without amendment of the Petition for Special Exception and site plan attendant thereunto, and public hearing held thereon.

2. The Developer, with the consent of adjoining property owners, shall install off site landscaping substantially similar to that shown on Developer's Exhibits 2A through 2D.

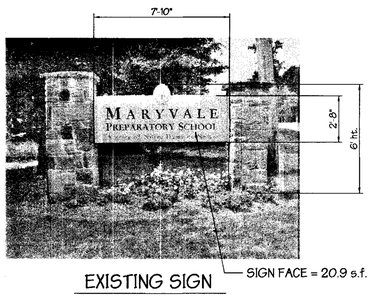
Any appeal from this decision must be taken in accordance with Section 26-209 of the Baltimore County Code and the applicable provisions of law.

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:mmn



VICINITY MAP
1" = 2000'



EXISTING SIGN
NTS
SIGN FACE = 20.9 s.f.

GENERAL NOTES:

1. A 100 YEAR FLOOD PLAIN ANALYSIS HAS BEEN PERFORMED AND INDICATED ON THIS PLAN. NO DEVELOPMENT OR CONSTRUCTION SHALL BE PERMITTED IN THE 100 YEAR FLOODPLAIN WITHOUT THE APPROVAL OF ALL APPLICABLE REGULATORY FEDERAL, STATE AND LOCAL AGENCIES.
2. ALL ADJACENT LANDS ARE RESIDENTIAL ZONED RC-5 OR RC-2 & ARE RESIDENTIAL USES EXCEPTING THE MARYVALE SCHOOL.
3. IT IS ANTICIPATED THAT THIS PROJECT WILL BE PHASED.
4. THE MAXIMUM NUMBER OF STUDENTS PROPOSED IS 425.
5. STREET LIGHTS ARE NOT REQUIRED ON PRIVATE STREETS. A LIMITED NUMBER OF STREET LIGHTS ARE SHOWN ON THIS PLAN.
6. BUILDING FOOTPRINTS SHOWN ARE CONCEPTUAL AND MAY BE CHANGED PROVIDED ALL WELL AND SEPTIC CRITERIA IS MET AND THE FRONT ORIENTATION RANGE REMAINS AS SHOWN ON THIS PLAN.
8. ACCESSORY STRUCTURE NOTE:
   a. ENVELOPES SHOWN HEREON ARE THE LOCATION OF ALL PRINCIPAL BUILDINGS ONLY. ACCESSORY STRUCTURES, FENCES AND PROJECTIONS INTO THE YARD MAY BE CONSTRUCTED OUTSIDE THE ENVELOPE, BUT MUST COMPLY WITH SECTION 400 & 301 OF THE B.C.Z.R. SUBJECT TO COVENANTS AND APPLICABLE BUILDING PERMITS.
   b. ACCESSORY STRUCTURES, FENCES, AND PROJECTIONS INTO YARDS CANNOT BE LOCATED IN FLOODPLAIN AREAS OR HYDRIC SOILS.
8. THE MAXIMUM BUILDING HEIGHT SHALL NOT EXCEED 50' OR AS PERMITTED IN SECTION 300.2 B.C.Z.R. ALL EXISTING BUILDINGS ON THIS SITE ARE LESS THAN 50 FEET IN HEIGHT. ALL PROPOSED BUILDINGS WILL NOT EXCEED 50' IN HEIGHT
9. ALL SIGNS SHALL BE CONSTRUCTED AND PERMITTED IN ACCORDANCE WITH THE BALTIMORE COUNTY ZONING REGULATIONS SECTION 450.
10. THIS PROPERTY IS WITHIN THE GREENSPRING VALLEY NATIONAL REGISTERED HISTORIC DISTRICT.
11. A PORTION OF THIS PROPERTY IS SUBJECT TO A DEED OF CONSERVATION EASEMENT, DATED JUNE 6, 1997, RECORDED IN THE LAND RECORDS OF BALTIMORE COUNTY AT LIBER 12276, FOLIO 178.
12. BASIC SERVICES MAPS - THIS SITE IS OUTSIDE OF THE URDL.

SITE DATA TABLE

ELECTION DISTRICT	8
COUNCILMANIC DISTRICT	2
CENSUS TRACT	4083
WATERSHED	JONES FALLS
SUBSEWERSHED	N/A
WATER DESIGNATION	PRIVATE
SEWER DESIGNATION	PRIVATE
ZONING OF SUBJECT PROPERTY	RC-2
PROPERTY ADDRESS:	11300 FALLS ROAD BROOKLANDVILLE, MARYLAND 21022

DENSITY CALCULATIONS	
ACREAGE IN RC-2	113.34 AC.
MAX. UNITS PERMITTED IN RC-2	2
PERMITTED DENSITY IN RC-2	2 UNITS
PROPOSED UNITS IN RC-2	MARYVALE SCHOOL LOT
PROPOSED DENSITY IN RC-2	1 UNIT
MIN. LOT SIZE IN RC-2	1 AC.
OPEN SPACE REQUIRED	NONE
DEVELOPMENT SCHEDULE	UNKNOWN
TRAFFIC GENERATED BY SCHOOL	1054 ADT's

PARKING REQUIREMENTS
PARKING FOR SCHOOL
REQUIRED - 1 SP. PER EMPLOYEE; PLUS
VISITOR & STUDENT PARKING
AS DETERMINED BY THE ZONING COMMISSIONER
- 25 EMPLOYEE * 25 SP.
- 50 VISITOR * 50 SP.
- 425 STUDENT * 425 x 0.33 = 141 SP.
TOTAL REQ. * 216 SP.
EXISTING - TOTAL * 216 SP.
PROPOSED - TOTAL * 355 SP.

PLAT TO ACCOMPANY D.R.C. REQUEST
AMENDED
PLAT TO ACCOMPANY PETITIONS
FOR SPECIAL HEARING AND VARIANCE
MARYVALE PREPARATORY SCHOOL

TAX ACCOUNT #08-20-066828
PDM FILE # VIII-651

GEORGE WILLIAM STEPHENS, JR. AND ASSOCIATES, INC.
CIVIL ENGINEERS & LAND SURVEYORS
1020 CROMWELL BRIDGE ROAD
TOWSON, MARYLAND 21286-3396
(410) 825-8120

Page Notes Exhibit #1

Legal Owner
THE BALTIMORE PROVINCE OF SISTERS OF NOTRE DAME deNAMUR, INC.
1531 GREENSPRING VALLEY ROAD
STEVENSON, MARYLAND 21153

Contract Purchaser
MARYVALE PREPARATORY SCHOOL, INC.
11300 FALLS ROAD
BROOKLANDVILLE, MARYLAND 21022

ZONING REQUESTS

PETITION FOR SPECIAL HEARING:
SPECIAL HEARING PURSUANT TO SECTION 500.7 OF THE BALTIMORE COUNTY ZONING REGULATIONS TO AMEND THE SPECIAL EXCEPTION APPROVED IN CASE NO. 95-435-X.

PETITION FOR VARIANCE:
VARIANCE FROM SECTION 1A01.3.B.3 & 102.2 OF THE BALTIMORE COUNTY ZONING REGULATIONS PERMIT A PRINCIPAL BUILDING TO PRINCIPAL BUILDING SETBACK OF 34 FEET IN LIEU OF THE REQUIRED 70 FEET (EXISTING SCHOOL BUILDING AND PROPOSED PERFORMING ARTS BUILDING).

PETITION FOR SPECIAL HEARING:
SPECIAL HEARING PURSUANT TO SECTIONS 409.6 AND 500.7 OF THE BALTIMORE COUNTY ZONING REGULATIONS TO CONFIRM THAT THE PROPOSED NUMBER OF PARKING SPACES IS SUFFICIENT.

LEGEND

- 20% SLOPES
- WETLANDS
- LIMIT OF SPECIAL EXCEPTION
- SEPTIC RESERVE AREA
- MhE — SOIL TYPES
- FBE — FBE — FOREST BUFFER EASEMENT
- 100 YEAR FLOODPLAIN
- F.C.E. — FOREST CONSERVATION EASEMENT
- EXISTING TAGGED WELLS
- DRY WELLS
- STREET LIGHTS

SCALE = 1" = 100'

\plan.s01 11/30/2005 10:33:44 AM rpspisel SCALE 100.0000 ' / IN.

ZONING HISTORY

I-98-305-SPH

THEREUPON, IT IS ORDERED by the Zoning Commissioner of Baltimore County, this [illegible] day of [illegible], that a hearing, pursuant to the Petition for Special Hearing, approval of a variance pursuant to Baltimore County Code, Section [illegible] to approve [illegible] be and the same is hereby granted, subject to the following restrictions:

Any appeal from this decision must be made in accordance with all applicable provisions of law.

LES:mmn

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

- 7 -

2-95-175-X

Pursuant to the development regulations of Baltimore County, as embodied within Article 26 of the Baltimore County Code, the advertisement of the property, and the public hearing thereon, I will approve the development of a nonresidential use in accordance with the plans and petitions filed herein.

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

IT IS FURTHER ORDERED that the Developer shall prepare and submit to Permits and Development Management (PDM), within 30 days from the date of this Order, a development plan which reflects and incorporates the terms, conditions, and restrictions, if any, of this opinion and Order; and,

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

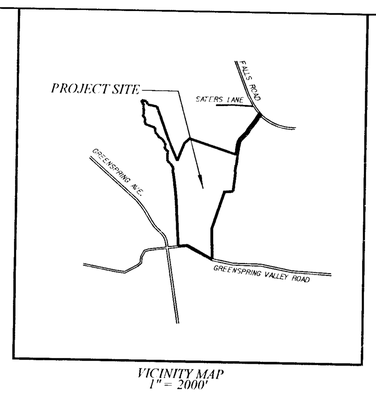
1. The maximum enrollment of the Maryvale School shall not exceed 400 students without amendment of the Petition for Special Exception and site plan attendant thereunto, and public hearing held thereon.

2. The Developer, with the consent of adjoining property owners, shall install off site landscaping substantially similar to that shown on Developer's Exhibits 2A through 2C.

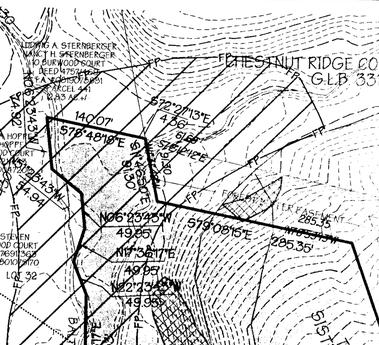
Any appeal from this decision must be taken in accordance with Section [illegible] of the Baltimore County Code and the applicable provisions of law.

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:mmn



VICINITY MAP
1" = 2000'



EXISTING SIGN — SIGN FACE = 20.9 s.f.
NTS

GENERAL NOTES:

1. A 100 YEAR FLOOD PLAIN ANALYSIS HAS BEEN PERFORMED AND INDICATED ON THIS PLAN. NO DEVELOPMENT OR CONSTRUCTION SHALL BE PERMITTED IN THE 100 YEAR FLOODPLAIN WITHOUT THE APPROVAL OF ALL APPLICABLE REGULATORY FEDERAL, STATE AND LOCAL AGENCIES.
2. ALL ADJACENT LANDS ARE RESIDENTIAL ZONED RC-5 OR RC-2 & ARE RESIDENTIAL USES EXCEPTING THE MARYVALE SCHOOL.
3. IT IS ANTICIPATED THAT THIS PROJECT WILL BE PHASED.
4. THE MAXIMUM NUMBER OF STUDENTS PROPOSED IS 425. ADDITIONAL STUDENTS BEYOND 425 SHALL REQUIRE A SPECIAL HEARING.
5. STREET LIGHTS ARE NOT REQUIRED ON PRIVATE STREETS. A LIMITED NUMBER OF STREET LIGHTS ARE SHOWN ON THIS PLAN.
6. BUILDING FOOTPRINTS & LOCATIONS SHOWN ARE APPROXIMATE AND MAY BE CHANGED PROVIDED ALL WELL AND SEPTIC CRITERIA IS MET AND THE FRONT ORIENTATION RANGE REMAINS AS SHOWN ON THIS PLAN.
8. ACCESSORY STRUCTURE NOTE:
   a. ENVELOPES SHOWN HEREON ARE THE LOCATION OF ALL PRINCIPAL BUILDINGS ONLY. ACCESSORY STRUCTURES, FENCES AND PROJECTIONS INTO THE YARD MAY BE CONSTRUCTED OUTSIDE THE ENVELOPE, BUT MUST COMPLY WITH SECTION 400 & 301 OF THE B.C.Z.R. SUBJECT TO COVENANTS AND APPLICABLE BUILDING PERMITS.
   b. ACCESSORY STRUCTURES, FENCES, AND PROJECTIONS INTO YARDS CANNOT BE LOCATED IN FLOODPLAIN AREAS OR HYDRIC SOILS.
8. THE MAXIMUM BUILDING HEIGHT SHALL NOT EXCEED 50' OR AS PERMITTED IN SECTION 300.2 B.C.Z.R. ALL EXISTING BUILDINGS ON THIS SITE ARE LESS THAN 50 FEET IN HEIGHT. ALL PROPOSED BUILDINGS WILL NOT EXCEED 50' IN HEIGHT.
9. ALL SIGNS SHALL BE CONSTRUCTED AND PERMITTED IN ACCORDANCE WITH THE BALTIMORE COUNTY ZONING REGULATIONS SECTION 450.
10. THIS PROPERTY IS WITHIN THE GREENSPRING VALLEY NATIONAL REGISTERED HISTORIC DISTRICT.
11. A PORTION OF THIS PROPERTY IS SUBJECT TO A DEED OF CONSERVATION EASEMENT, DATED JUNE 6, 1991, RECORDED IN THE LAND RECORDS OF BALTIMORE COUNTY AT LIBER 12276, FOLIO 178.
12. BASIC SERVICES MAPS - THIS SITE IS OUTSIDE OF THE URDL.
13. ANY NEW EXTERIOR LIGHTING WILL BE REVIEWED AND APPROVED BY THE COUNTY LANDSCAPE ARCHITECT TO INSURE SAFE LEVELS OF LIGHTING ON SITE AND TO MINIMIZE IMPACTS TO OFF-SITE PROPERTIES.
14. ANY PROPOSED RELOCATION OF THE SWM OUTFALL SHOWN HEREON TO A DIFFERENT DRAINAGE COURSE SHALL REQUIRE A FURTHER HEARING BEFORE THE ZONING COMMISSIONER.

SITE DATA TABLE

ELECTION DISTRICT	8
COUNCILMANIC DISTRICT	2
CENSUS TRACT	4083
WATERSHED	JONES FALLS
SUBSEWERSHED	N/A
WATER DESIGNATION	PRIVATE
SEWER DESIGNATION	PRIVATE
ZONING OF SUBJECT PROPERTY	RC-2
PROPERTY ADDRESS:	11300 FALLS ROAD BROOKLANDVILLE, MARYLAND 21022
DENSITY CALCULATIONS	
ACREAGE IN RC-2	113.34 AC.
MAX. UNITS PERMITTED IN RC-2	2
PERMITTED DENSITY IN RC-2	2 UNITS
PROPOSED UNITS IN RC-2	MARYVALE SCHOOL LOT
PROPOSED DENSITY IN RC-2	1 UNIT
MIN. LOT SIZE IN RC-2	1 AC.
OPEN SPACE REQUIRED	NONE
DEVELOPMENT SCHEDULE	UNKNOWN
TRAFFIC GENERATED BY SCHOOL	1054 ADT's
PARKING REQUIREMENTS	
PARKING FOR SCHOOL	
REQUIRED -	1 SP. PER EMPLOYEE; PLUS VISITOR & STUDENT PARKING AS DETERMINED BY THE ZONING COMMISSIONER
- 25 EMPLOYEE	= 25 SP.
- 50 VISITOR	= 50 SP.
- 425 STUDENT	= 425 x 0.33 = 141 SP.
TOTAL REQ.	= 216 SP.
EXISTING - TOTAL	= 216 SP.
PROPOSED - TOTAL	= 337 SP.

SCALE = 1" = 100'

LEGEND

- 20% SLOPES
- WETLANDS
- LIMIT OF SPECIAL EXCEPTION
- SEPTIC RESERVE AREA
- MhE — SOIL TYPES
- FBE — FBE — FOREST BUFFER EASEMENT
- 100 YEAR FLOODPLAIN
- F.C.E. — FOREST CONSERVATION EASEMENT
- EXISTING TAGGED WELLS
- DRY WELLS
- STREET LIGHTS
- NO NEW BUILDINGS AREA.
- NO BUILDINGS OR PARKING AREA.
- AREA RESERVE FOR EXISTING AND FUTURE SEPTIC FROM DEED 12276/193 306,950 S.F.

ZONING REQUESTS

PETITION FOR SPECIAL HEARING:
SPECIAL HEARING PURSUANT TO SECTION 500.7 OF THE BALTIMORE COUNTY ZONING REGULATIONS TO AMEND THE SPECIAL EXCEPTION APPROVED IN CASE NO. 95-435-X.

PETITION FOR SPECIAL HEARING:
SPECIAL HEARING PURSUANT TO SECTIONS 409.6 AND 500.7 OF THE BALTIMORE COUNTY ZONING REGULATIONS TO CONFIRM THAT THE PROPOSED NUMBER OF PARKING SPACES IS SUFFICIENT.

PETITIONER'S
EXHIBIT NO. 1

REVISED: DECEMBER 21, 2005 - REMOVED NOTE 15; ADJUSTED NO BUILDINGS OR PARKING AREA; CLARIFIED LEGEND.
REVISED: NOVEMBER 30, 2005 - ADDED NOTES 13-15; MODIFIED MAX. PARKING PROVIDED; ADDED NO NEW BUILDING AREA; ADDED TIME LIMITATIONS FOR FUTURE EXPANSION AND / OR MODIFICATIONS TO THIS PLAN.

AMENDED PLAT TO ACCOMPANY PETITIONS FOR SPECIAL HEARING

MARYVALE PREPARATORY SCHOOL

TAX ACCOUNT #08-20-066828
PDM FILE # VIII-651

GEORGE WILLIAM STEPHENS, JR. AND ASSOCIATES, INC.
CIVIL ENGINEERS & LAND SURVEYORS
1020 CROMWELL BRIDGE ROAD
TOWSON, MARYLAND 21286-3396
(410) 825-8120

Legal Owner
THE BALTIMORE PROVINCE OF SISTERS OF NOTRE DAME deNAMUR, INC.
1531 GREENSPRING VALLEY ROAD
STEVENSON, MARYLAND 21153

Contract Purchaser
MARYVALE PREPARATORY SCHOOL, INC.
11300 FALLS ROAD
BROOKLANDVILLE, MARYLAND 21022

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ZONING HISTORY

1. 98 - 305 - SPH

THEREFORE, IT IS ORDERED by the Zoning Commissioner of Baltimore County this 24th day of March 1998 that, pursuant to the Petition for Special Hearing, approval of a waiver pursuant to Baltimore County Code, Section 26-172(a) or (b) or Sections 26-103(c)(8) and 26-278, be and is hereby GRANTED.

Any appeal from this decision must be made in accordance with the applicable provisions of law.

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:mmn

2. 95 - 435 - X

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

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

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

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

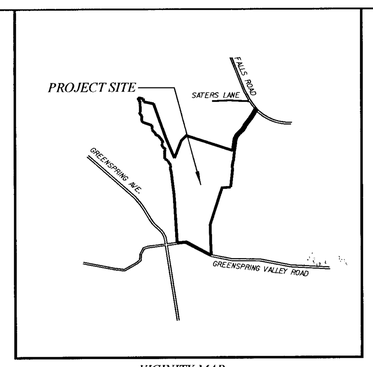
1. The maximum enrollment of the Maryvale School shall not exceed 300 students without amendment of the Petition for Special Exception and site plan attendant therewith, and public hearing held thereon.
2. The Developer, with the consent of adjoining property owners, shall install off site landscaping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

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

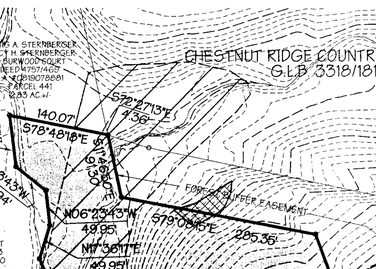
LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:mmn

- 7 -



VICINITY MAP
1" = 2000'



EXISTING SIGN
NTS

SIGN FACE = 20.9 s.f.

GENERAL NOTES:

1. A 100 YEAR FLOOD PLAIN ANALYSIS HAS BEEN PERFORMED AND INDICATED ON THIS PLAN. NO DEVELOPMENT OR CONSTRUCTION SHALL BE PERMITTED IN THE 100 YEAR FLOODPLAIN WITHOUT THE APPROVAL OF ALL APPLICABLE REGULATORY FEDERAL, STATE AND LOCAL AGENCIES.
2. ALL ADJACENT LANDS ARE RESIDENTIAL ZONED RC-5 OR RC-2 & ARE RESIDENTIAL USES EXCEPTING THE MARYVALE SCHOOL.
3. IT IS ANTICIPATED THAT THIS PROJECT WILL BE PHASED.
4. STREET LIGHTS ARE NOT REQUIRED ON PRIVATE STREETS. A LIMITED NUMBER OF STREET LIGHTS ARE SHOWN ON THIS PLAN.
5. BUILDING FOOTPRINTS SHOWN ARE CONCEPTUAL AND MAY BE CHANGED PROVIDED ALL WELL AND SEPTIC CRITERIA IS MET AND THE FRONT ORIENTATION RANGE REMAINS AS SHOWN ON THIS PLAN.
6. ACCESSORY STRUCTURE NOTE:
   a. ENVELOPES SHOWN HEREON ARE THE LOCATION OF ALL PRINCIPAL BUILDINGS ONLY. ACCESSORY STRUCTURES, FENCES AND PROJECTIONS INTO THE YARD MAY BE CONSTRUCTED OUTSIDE THE ENVELOPE, BUT MUST COMPLY WITH SECTION 400 & 301 OF THE B.C.Z.R. SUBJECT TO COVENANTS AND APPLICABLE BUILDING PERMITS).
   b. ACCESSORY STRUCTURES, FENCES, AND PROJECTIONS INTO YARDS CANNOT BE LOCATED IN FLOODPLAIN AREAS OR HYDRIC SOILS.
7. THE MAXIMUM BUILDING HEIGHT SHALL NOT EXCEED 50' OR AS PERMITTED IN SECTION 300.2 B.C.Z.R., ALL EXISITNG BUILDINGS ON THIS SITE ARE LESS THAN 50 FEET IN HEIGHT. ALL PROPOSED BUILDINGS WILL NOT EXCEED 50' IN HEIGHT
8. ALL SIGNS SHALL BE CONSTRUCTED AND PERMITTED IN ACCORDANCE WITH THE BALTIMORE COUNTY ZONING REGULATIONS SECTION 450.
9. THIS PROPERTY IS WITHIN THE GREENSPRING VALLEY NATIONAL REGISTERED HISTORIC DISTRICT.
10. A PORTION OF THIS PROPERTY IS SUBJECT TO A DEED OF CONSERVATION EASEMENT, DATED JUNE 6,1991, RECORDED IN THE LAND RECORDS OF BALTIMORE COUNTY AT LIBER 10276, FOLIO 178.
11. BASIC SERVICES MAPS - THIS SITE IS OUTSIDE OF THE URDL.

SITE DATA TABLE

ELECTION DISTRICT	8
COUNCILMANIC DISTRICT	2
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SUBSEWERSHED	N/A
WATER DESIGNATION	PRIVATE
SEWER DESIGNATION	PRIVATE
ZONING OF SUBJECT PROPERTY	RC-2
PROPERTY ADDRESS:	11300 FALLS ROAD BROOKLANDVILLE, MARYLAND 21022
DENSITY CALCULATIONS	
ACREAGE IN RC-2	113.34 AC.
MAX. UNITS PERMITTED IN RC-2	2
PERMITTED DENSITY IN RC-2	2 UNITS
PROPOSED UNITS IN RC-2	MARYVALE SCHOOL LOT
PROPOSED DENSITY IN RC-2	1 UNIT
MIN. LOT SIZE IN RC-2	1 AC.
OPEN SPACE REQUIRED	NONE
DEVELOPMENT SCHEDULE	UNKNOWN
TRAFFIC GENERATED BY SCHOOL	468 ADT's
PARKING REQUIREMENTS	
PARKING FOR SCHOOL	
REQUIRED - 1 SP. PER EMPLOYEE, PLUS VISITOR & STUDENT PARKING AS DETERMINED BY THE ZONING COMMISSIONER	
- 25 EMPLOYEE	- 25 SP.
- 50 VISITOR	- 50 SP.
- 100 STUDENT	- 100 SP.
TOTAL REQ.	- 175 SP.
EXISTING - TOTAL	- 197 SP.
PROPOSED - TOTAL	- 371 SP.

34' YARD VARIANCE REQUESTED BETWEEN EXISTING SCHOOL BUILDING AND PROPOSED PERFORMING ARTS BUILDING

306,950 S.F.

LEGEND

- 20% SLOPES
- WETLANDS
- LIMIT OF SPECIAL EXCEPTION
- SEPTIC RESERVE AREA
- MhE — SOIL TYPES
- FOREST BUFFER EASEMENT
- 100 YEAR FLOODPLAIN
- F.C.E. — FOREST CONSERVATION EASEMENT
- EXISTING TAGGED WELLS
- DRY WELLS
- STREET LIGHTS

SCALE - 1" -100'
DATE: AUGUST 30, 2005

ZONING REQUESTS

PETITION FOR SPECIAL HEARING:
SPECIAL HEARING PURSUANT TO SECTION 500.7 OF THE BALTIMORE COUNTY ZONING REGULATIONS TO AMEND THE SPECIAL EXCEPTION APPROVED IN CASE NO. 95-435-X.

PETITION FOR VARIANCE:
VARIANCE FROM SECTIONS 1A01.3.B.3 & 102.2 OF THE BALTIMORE COUNTY ZONING REGULATIONS TO PERMIT A PRINCIPAL BUILDING TO PRINCIPAL BUILDING SETBACK OF 34 FEET IN LIEU OF THE REQUIRED 70 FEET (EXISTING SCHOOL BUILDING AND PROPOSED PERFORMING ARTS BUILDING).

PETITION FOR SPECIAL HEARING:
SPECIAL HEARING PURSUANT TO SECTIONS 409.6 AND 500.7 OF THE BALTIMORE COUNTY ZONING REGULATIONS TO CONFIRM THAT THE PROPOSED NUMBER OF PARKING SPACES IS SUFFICIENT.

PLAT TO ACCOMPANY PETITIONS FOR SPECIAL HEARING AND VARIANCE

MARYVALE PREPARATORY SCHOOL

TAX ACCOUNT #08-20-066828
PDM FILE # VIII-651

GEORGE WILLIAM STEPHENS, JR. AND ASSOCIATES, INC.
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Contract Purchaser
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11300 FALLS ROAD
BROOKLANDVILLE, MARYLAND 21022

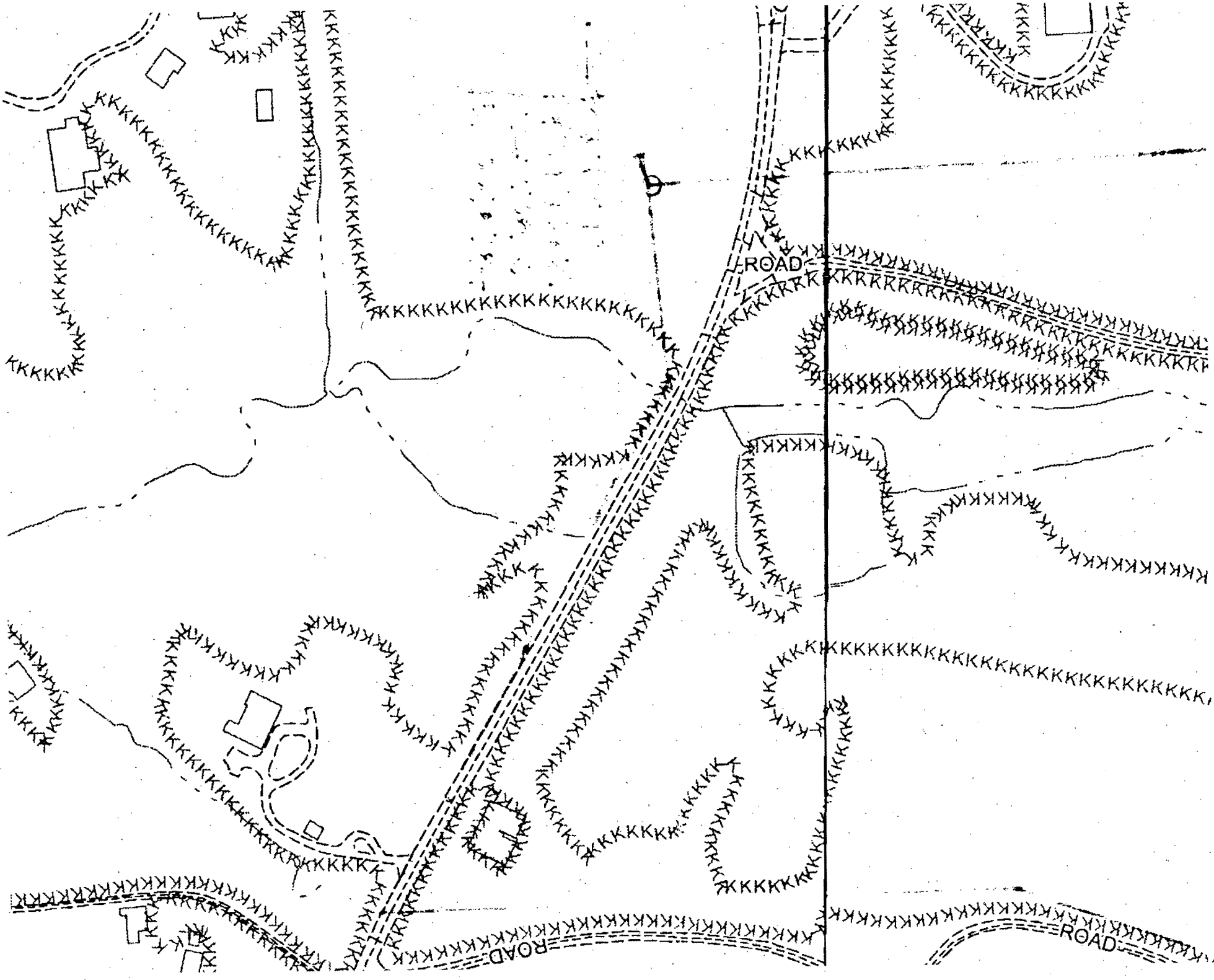
...\7696zoningplat.s01 8/31/2005 8:40:45 AM bpetersen SCALE 100.5000 ' / IN.

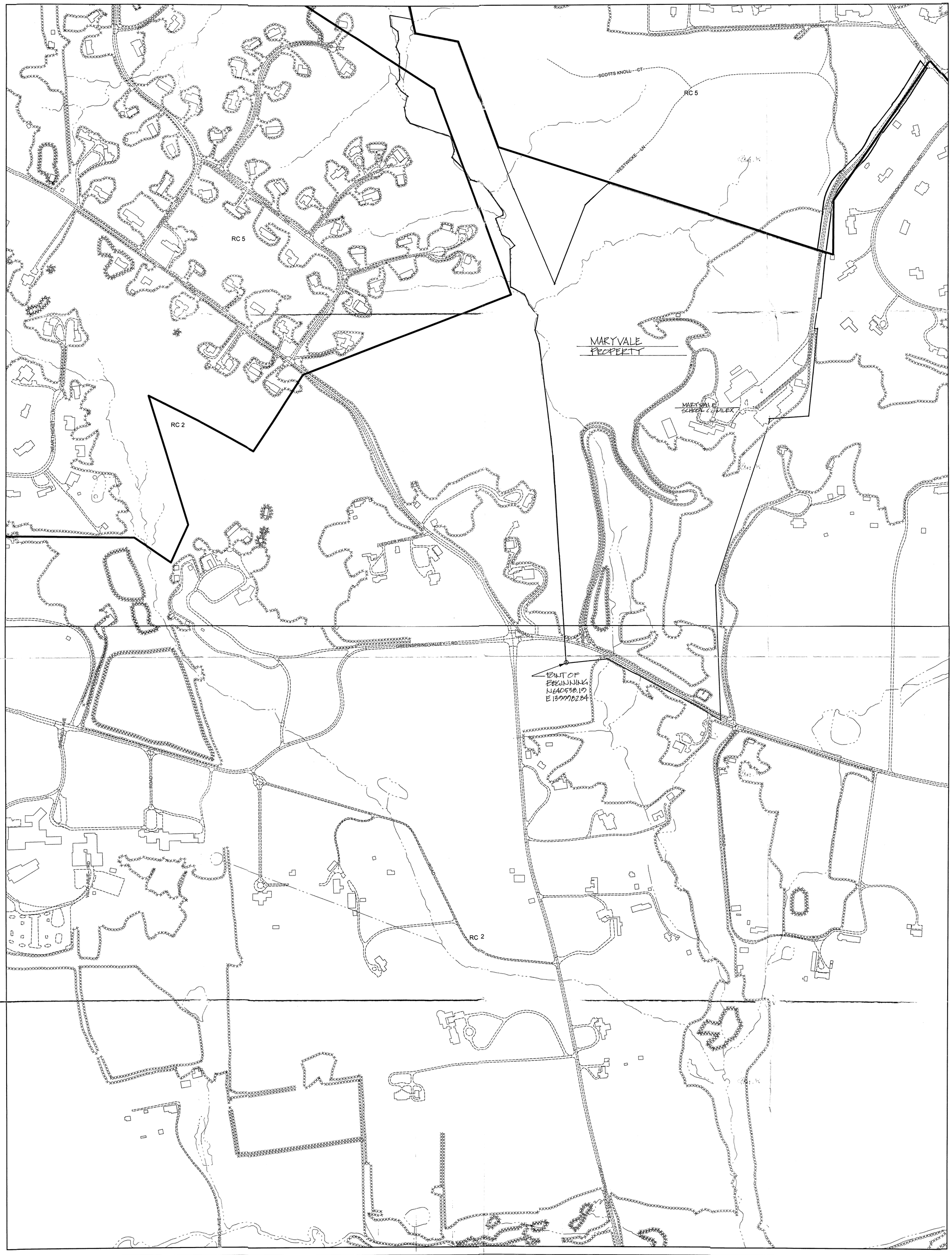
06-128-SPHA

Cr 2006-0128-SPHA

MARYVALE Property
11300 Falls RD
N/S Greenspring Valley Rd between Greenspring Ave and Falls Rd.

this map has been scanned but the the red-line areas are illegible...
may want to re-do


ROAD
ROAD



06-128-SPHA

Plan Sheet: *059C3*

Note: Section 32-3-202 of the Baltimore County, 2003 Code establishes the zoning database. This map represents the actions of the Baltimore County Council on August 31, 2004 (Bills 82-04, 83-04, 84-04, 85-04, 86-04, 87-04, 88-04, and 89-04) effective September 3, 2004.

Legend

Zoning — Streams — Vegetation

Buildings — Roads

Baltimore County
Office of Planning and Zoning
Official Zoning Map

059A2	059B2	059C2	060A2	060B2
059A3	059B3	059C3	060A3	060B3
068A1	068B1	068C1	069A1	069B1

Scale

1" = 200'

0 100 200 400 Feet

1

Data Sources:
Planametric Data - Baltimore County OIT/GIS Services Unit 1:2400, from 1995/96 photography
Zoning - Baltimore County Office of Planning 1:2400, 2004

RC 5

RC 2

RC 5

RC 2

06-128-SPHA

Plan Sheet: *059C3*

Note:
Section 32-3-202 of the Baltimore County, 2003 Code establishes the zoning geodatabase. This map represents the actions of the Baltimore County Council on August 31, 2004 (Bills 82-04, 83-04, 84-04, 85-04, 86-04, 87-04, 88-04, and 89-04) effective September 3, 2004.

Legend

Zoning — Streams — Vegetation

Buildings — Roads

Baltimore County
Office of Planning and Zoning
Official Zoning Map

059A2	059B2	059C2	060A2	060B2
059A3	059B3	059C3	060A3	060B3
068A1	068B1	068C1	069A1	069B1

Scale

1" = 200'

0 100 200 400 Feet

1

Data Sources:
Planametric Data - Baltimore County OIT/GIS Services Unit
1:2400, from 1995/96 photography
Zoning - Baltimore County Office of Planning
1:2400, 2004