

In the Matter of: Trinity Assembly
of God-LO/ St. Joseph
Medical Ctr-CP

Petition of: People's Counsel for
Baltimore County

Civil Action#: 03-C-09-001950

Box
64

Board of Appeals Case #: 06-446-SPH

This file contains the Board of Appeals
case file, Exhibits and Transcripts.

7/16/09

RECEIVED
JUL 23 2009
BALTIMORE COUNTY
BOARD OF APPEALS

PETITION OF
PEOPLE'S COUNSEL FOR
BALTIMORE COUNTY

* IN THE
* CIRCUIT COURT
* FOR
* BALTIMORE COUNTY

FOR JUDICIAL REVIEW
OF THE BOARD OF APPEALS
OF BALTIMORE COUNTY

IN THE CASE OF THE APPLICATION
OF TRINITY ASSEMBLY OF GOD
OF BALTIMORE CITY, INC
AND SAINT JOSEPH MEDICAL
CENTER, INC. FOR SPECIAL HEARING
for property located on the E/S of Joppa
Road, 780 ft. North of Joppa Road and
Sunset Knoll Ct. (2122 West Joppa Road)

*
*
*
*
*
* Case No.: 03-C-09-001950

8TH ELECTION DISTRICT
3RD COUNCILMANIC DISTRICT
BOARD OF APPEALS
CASE NO.: 06-446-SPH

*
*
*

* * * * *

MEMORANDUM OPINION AND ORDER

This matter comes before the Court as a Petition for Judicial Review of the decision of the Board of Appeals of Baltimore County ("the Board") dated October 20, 2008, granting with conditions the Petition for Special Hearing filed by Trinity Assembly of God ("Trinity"). This decision by the Board allows the use of Trinity's parking lot by a secondary user, provided that Trinity first obtain a use permit pursuant to the procedure established by the Department of Permits and Development Management. People's Counsel for Baltimore County ("People's Counsel") and the Ruxton Riderwood Lake Roland Area Improvement Association, Inc. ("the Community Association") filed Motions for Reconsideration of the Board's decision, which were denied by an Order dated January 23, 2009. People's Counsel, the Community Association, and Frederick

FILED JUL 22 2009

Hudson filed timely appeals to this Court. A hearing was held before this Court on July 15, 2009. The Court has carefully considered the oral arguments heard, the legal memoranda presented, the decision of the Board of Appeals, and the applicable statutory and case law in reaching its decision in this matter.

STATEMENT OF FACTS

The facts in this case, as set forth by the opinion of the Board, are as follows. Trinity was approached by St. Joseph's Medical Center during a period when the hospital was undergoing major renovations. The hospital proposed to enter into an agreement whereby approximately 300 of Trinity's 750 parking spaces would be leased temporarily to the hospital for employee parking on weekdays while the hospital completed its renovations. The hospital stopped using Trinity's parking lot at or about the time of the hearing before the Board, having found other parking arrangements with Towson University that was closer to the hospital. Despite the fact that St. Joseph's was no longer utilizing the parking spaces at Trinity, the church planned to lease similar parking spaces to others in the future and therefore wanted a decision with respect to the ability of the church to do so. St. Joseph's Medical Center leased the 300 spaces from the church parking lot and operated a shuttle bus to and from the hospital for its employees.

SCOPE OF REVIEW

In reviewing a decision of the Board of Appeals, the Circuit Court is limited to whether that decision is "in accordance with the law." Maryland Code Annotated, Article 25A § 5(U) (1957, 1994 Repl. Vol.). The Circuit Court may correct any abuse of discretion by an administrative agency. The Court may also reverse or modify the Board's actions when they are unsupported by facts, arbitrary, illegal, capricious, or

unreasonable. *Heaps v. Cobb*, 185 Md. 372 (1945); *Art Woods Enterprises v. Wiseburg Community Assoc.*, 88 Md. App. 723, 727 (1991). However, the scope of judicial review of decisions by administrative agencies is narrow, recognizing that the Board members have expertise in a particular area and, ultimately, should be free to exercise their discretion as such. *Finney v. Halle*, 241 Md. 224 (1966).

Thus a reviewing court will not substitute its judgment for that of an administrative board where the issue is freely debatable and the record contains substantial evidence supporting the administrative decision. *Montgomery County v. Woodward and Lothrop, Inc.*, 280 Md. 686 (1977). Accordingly, the Circuit Court's role is limited to determining whether or not there is substantial evidence in the record as a whole to support the agency's finding and conclusions, and to determine whether or not the agency's decision is premised upon a proper construction of the law. *United Parcel Service, Inc. v. People's Counsel for Baltimore County*, 336 Md. 569, 577 (1994).

ANALYSIS

Thus, the issue for judicial review is whether the decision of the Board is supported by substantial evidence and whether it is in accordance with the law. In its opinion, the Board rejected Trinity's first contention that the proposed use of Trinity's parking spaces were an accessory use as defined in § 101 of the Baltimore County Zoning Regulations ("BCZR"), and this issue was not appealed. The Board referenced the testimony of Mitchell Kellman, offered in support of Trinity's Petition, who was recognized by the Board as an expert in zoning regulations. Mr. Kellman cited § 409.6.B.3 of the BCZR, which states:

Two or more uses shall be permitted to share their off street parking spaces in a common parking

facility if the hours or days of peak parking for the uses are so different that a lower total will provide adequately for all uses served by the facility, without conflict or encroachment.

This section of the BCZR also includes a chart that lists the uses for which shared parking is permitted, including “church, house of worship, or place of religious assembly,” and a category for “other uses.” Mr. Kellman testified before the Board that pursuant to this section, a church use such as Trinity may share its parking with a hospital under the “other uses” category. The chart does not list a specific percentage of spaces that churches may share at any given time. Rather, the chart provides:

The director of the Department of Permits and Development Management shall determine the percentage of parking spaces required for each of the five time periods on a case-by-case basis, depending on the existing and planned weekday and weekend activities.

Although the Board does not specifically state that it relies on § 409.6.B.3 of the BCZR in its decision to grant the special hearing, this Court infers this reliance. This inference is supported both by the Board’s rejection of Trinity’s accessory use argument, and by the language of the Board’s order granting the special hearing with the condition that:

“[f]or any future use of Trinity’s parking lot by a secondary user, Trinity must first obtain a use permit pursuant to the procedure established by the Department of Permits and Development Management.”

This conditional grant of the special hearing is therefore in direct compliance with the requirement of the chart in § 409.6.B.3. Thus, the Court finds that the intention of the Board was to allow Trinity to engage in a shared parking arrangement on a case-by-case basis to be determined by the director of the Department of Permits and Development

Management, pursuant to § 409.6.B.3 of the BCZR and the following chart. This decision was based upon the Board's interpretation of the BCZR, and this Court gives deference to the Board's freedom to exercise its discretion in the interpretation of such regulations. Therefore, the Court finds that the Board's decision to grant Trinity's petition with the stated condition was supported by substantial evidence, such as the testimony of Mr. Keller, and was made in accordance with the law, namely the Board's interpretation of § 409.6.B.3 of the BCZR.

CONCLUSION

Accordingly, on this 16th day of July, 2009, by the Circuit Court of Baltimore County, the Decision of the Board of Appeals of Baltimore County in this matter is hereby **AFFIRMED**.


THOMAS J. BOLLINGER, JUDGE

4/2/09

IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY

PETITION OF:

PEOPLE'S COUNSEL FOR BALTIMORE
COUNTY, RUXTON-RIDERWOOD-LAKE-
ROLAND IMPROVEMENT ASSOC., INC., AND *
FREDERICK M. HUDSON, INDIVIDUALLY *

CIVIL ACTION
NO.: 03-C-09-001950

FOR JUDICIAL REVIEW OF THE OPINION OF
THE COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY
JEFFERSON BUILDING – ROOM 203
105 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204

IN THE MATTER OF :
TRINITY ASSEMBLY OF GOD– LEGAL
OWNERS; AND SAINT JOSEPH'S MEDICAL
CENTER, INC. - C/P
FOR SPECIAL HEARING
ON PROPERTY LOCATED ON THE E/SIDE OF
JOPPA ROAD., 780 FEET N/OF INTERSECTION
OF JOPPA ROAD AND SUNSET KNOLL CT.
(2122 W. JOPPA ROAD)

8TH ELECTION DISTRICT
3RD COUNCILMANIC DISTRICT

BOARD OF APPEALS CASE NO.: 06-446-SPH

* * * * *

**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

RECEIVED AND FILED
2009 APR -2 AM 9: 41

CLERK OF THE CIRCUIT COURT
BALTIMORE COUNTY

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**

No. 06-446-SPH

March 23, 2006	Petition for Special Hearing filed by Trinity Assembly of God as Legal Owner and St. Joseph Medical Center as Contract Purchaser, through their attorneys, Arnold Jablon, Esquire and David Karceski, Esquire of Venable, LLP, for confirmation that a parking lot accessory to a principal use may be utilized by uses other than the principal use.
April 7	Entry of Appearance filed by Office of People's Counsel for Baltimore County.
May 29	Certificate of Posting.
May 30	Publication in newspaper
June 9	ZAC Comments.
June 12	Entry of Appearance filed by K. Donald Proctor, Esquire and Proctor and McKee, P.A. on behalf of Ruxton Riderwood Lake Roland Area Improvement Association, Inc.
June 14	Hearing held before the Zoning Commissioner
June 29	Findings of Fact and Conclusions of Law issued by the Zoning Commissioner. Petition for Special Hearing was GRANTED with the condition that for any future use of the Church's parking lot by a secondary use, the Church must obtain a use permit pursuant to the procedures of the Department of Permits and Development Management.
July 18	Notice of Appeal filed by Office of People's Counsel for Baltimore County.
August 17, 2006	Appeal received by Board
April 19, 2007	Notice of Assignment sent to all parties and interested persons.
May 25	Pre-Hearing Letter filed by Office of People's Counsel.

June 13

Board convened for hearing.

Exhibits submitted at the hearing before the Board of Appeals:

Petitioner's Exhibit No.

- 1a - Photograph of parking lot
- 1b - Photograph from sanctuary roof looking east
- 1c - Photograph from sanctuary roof looking east
- 1d - Photograph from sanctuary roof looking east
- 1e - Photograph from sanctuary roof looking west to staff parking lot for school.
- 1f - Photograph from Joppa Road
- 1g - Photograph from Joppa Road
- 1h - Photograph of Staff parking
- 1i - Photograph dated 6/7/07
- 2a-e - Photographs of Cones, buses, care from St. Joseph's
- 3 - Site plan
- 4 - Baltimore County Zoning Regulation (2 pages)
- 5 - Chart for shared parking regulations
- 6 - Pat Keller Memo to T. Kotroco dated 4/5/06

Protestants' Exhibit No.

- 1a-c - Riderwood-Ruxton Lake Roland Resolution

People's Counsel Exhibit No.

- 1 - SDAT listing of property dated 6/1/07
- 2 - Code Enforcement Citation dated 2/6/06
- 3 - Petition for Special Hearing (2 pages)
- 4a -b - ADP Map
- 5 - Aerial Photo of church and surrounding property

August 22, 2007

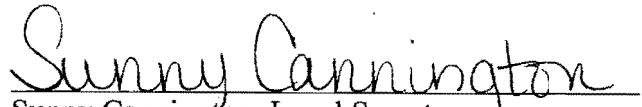
Post-Hearing Letter filed by Office of People's Counsel for Baltimore County.

September 6

Post Hearing Memorandum of Respondents filed by K. Donald Proctor, Esquire on behalf of Ruxton Riderwood Lake Roland Area Improvement Association, Inc., James D. Cahn, and Thomas B. and Merle Peace.

September 7	Petitioner's Post Hearing Memorandum filed by Arnold Jablon, Esquire and David Karceski, Esquire on behalf of Legal Owners/Petitioners Trinity Assembly of God.
October 10, 2007	Public deliberation held by Board of Appeals.
October 20, 2008	Final Opinion and Order issued by the Board in which the Petition for Special Hearing relief was GRANTED with the condition that for any future use of the Church's parking lot by a secondary use, the Church must obtain a use permit pursuant to the procedures of the Department of Permits and Development Management.
November 3	Motion for Reconsideration filed by People's Counsel for Baltimore County.
November 12	Response to Motion for Reconsideration filed by Arnold Jablon, Esquire and David Karceski, Esquire on behalf of Legal Owner/Petitioner, Trinity Assembly of God.
November 18	Motion for Reconsideration filed by K. Donald Proctor, Esquire on behalf of Ruxton Riderwood Lake Roland Area Improvement Association, Inc.
December 4	Public Deliberation on Motion for Reconsideration held by Board.
January 23, 2009	Ruling on People's Counsel's Motion for Reconsideration issued by Board DENYING the Motion for Reconsideration.
February 20	Petition for Judicial Review filed in the Circuit Court for Baltimore County by People's Counsel for Baltimore County, and K. Donald Proctor, Esquire on behalf of Ruxton Riderwood Lake Roland Area Improvement Association, Inc., and Frederick M. Hudson, Appellants
February 24	Copy of Petition for Judicial Review received from the Circuit Court for Baltimore County by the Board of Appeals.
February 26	Certificate of Notice sent to interested parties.
April 2, 2009	Transcript of testimony filed.
April 2, 2009	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.


Sunny Cannington, Legal Secretary
County Board of Appeals
The Jefferson Building, Suite 203
105 W. Chesapeake Ave.
Towson, Maryland 21204
410-887-3180

c: Arnold Jablon, Esquire
David Karceski, Esquire
Trinity Assembly of God
Silvia Moore, Executive Vice President/St. Joseph Medical Center
K. Donald Proctor, Esquire
Ruxton Riderwood Lake Roland Area Improvement Association, Inc.
Frederick Hudson
Office of People's Counsel for Baltimore County
William J. Wiseman, III, Zoning Commissioner
Timothy Kotroco, Director/Permits and Development Management
Arnold F. "Pat" Keller, Director/Planning
John Beverungen, County Attorney

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

Case Number: 03-C-09-001950

TO: COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY THE
The Jefferson Building
105 W Chesapeake Avenue Suite 203
Towson, MD 21204

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

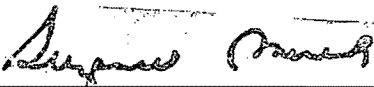
N O T I C E O F R E C O R D

Case Number: 03-C-09-001950 AA
C I V I L

In the Matter of Peoples Counsel For Baltimore County, et al

Notice

Pursuant to Maryland Rule 7-206(e), you are advised that the Record of Proceedings was filed on the 2nd day of April, 2009.



Suzanne Mensh
Clerk of the Circuit Court, per 

Date issued: 04/02/09

TO: COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY THE
The Jefferson Building
105 W Chesapeake Avenue Suite 203
Towson, MD 21204

RECEIVED
APR 06 2009
BALTIMORE COUNTY
BOARD OF APPEALS

CASE NO. 06-446-SPH

* IN THE
* CIRCUIT COURT
* FOR
* BALTIMORE COUNTY
*
*
* Case No. 03-C-09-001950

RECEIVED

MAR 25 2009

BALTIMORE COUNTY
BOARD OF APPEALS

RESPONSE TO PETITION FOR JUDICIAL REVIEW

Respondent Trinity Assembly of God of Baltimore, Maryland, Inc., by Arnold Jablon 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 People's Counsel for Baltimore County, 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.

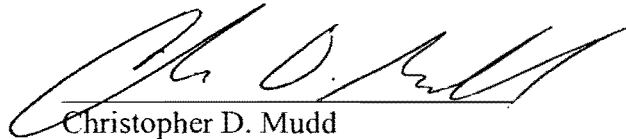
Respectfully submitted,

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

Arnold Jablon
Christopher D. Mudd
Venable LLP
210 Allegheny Avenue
Towson, Maryland 21204
(410) 494-6200
*Attorneys for Trinity Assembly of God of
Baltimore, Maryland, Inc.*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 25th day of March, 2009, a copy of the foregoing RESPONSE TO PETITION FOR JUDICIAL REVIEW was mailed first class postage prepaid to Peter Max Zimmerman, People's Counsel for Baltimore County, The Jefferson Building, 105 W. Chesapeake Avenue, Room 204, Towson, Maryland 21204; K. Donald Proctor, Proctor & McKee, P.A., 102 W. Pennsylvania Avenue, Suite 105, Towson, Maryland 21204; and Theresa R. Shelton, Administrator, County Board of Appeals of Baltimore County, The Jefferson Building, 105 W. Chesapeake Avenue, Room 203, Towson, Maryland 21204.


Christopher D. Mudd



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

February 26, 2009

Arnold Jablon, Esquire
Venable, LLP
210 Allegheny Avenue
Towson, MD 21204

Office of People's Counsel
The Jefferson Building, Suite 204
105 W. Chesapeake Avenue
Towson, MD 21204

RE: Petition for Judicial Review
Circuit Court Case No.: 03-C-09-001950
In the Matter of: Trinity Assembly of God
Board of Appeals Case No.: 06-446-SPH

Dear Counsel:

Notice is hereby given, in accordance with the Maryland Rules that a Petition for Judicial Review was filed on February 20, 2009 by the Office of People's Counsel for Baltimore County, Ruxton Riderwood Lake Roland Improvement Assoc., and Frederick M. Hudson in the Circuit Court for Baltimore County 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 with the Circuit Court for Baltimore County within 30 days after the date of this letter, pursuant to the Maryland Rules.

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 filed by People's Counsel within 60 days. The Office of People's Counsel, Ruxton-Riderwood-Lake Roland Improvement Assoc., and Frederick M. Hudson, having taken the appeal, are responsible for the cost of the transcript of the record and the transcript must be paid for in time to transmit the same to the Circuit Court within the 60 day timeframe as stated in the Maryland Rules.

The Court Reporter that must be contacted to obtain the transcript and make arrangement for payment is as follows:

CAROLYN PEATT
TELEPHONE: 410-828-4160
HEARING DATE: June 13, 2007

2/26/09

RECEIVED

FEB 20 2009

**BALTIMORE COUNTY
BOARD OF APPEALS**

PETITION OF:

**PEOPLE'S COUNSEL FOR BALTIMORE
COUNTY,**

The Jefferson Building,
105 W. Chesapeake Avenue, Ste. 204
Towson, MD 21204

**RUXTON-RIDERWOOD-LAKE-ROLAND
IMPROVEMENT ASSOCIATION, INC.,**

P.O. Box 204
8013 Bellona Avenue
Riderwood, MD 21139

and

FREDERICK M. HUDSON,

2110 West Joppa Road
Lutherville, MD 21093

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

The Jefferson Building
105 W. Chesapeake Avenue, Suite 203,
Towson, MD 21204

IN THE MATTER OF THE APPLICATION
OF TRINITY ASSEMBLY OF GOD OF
BALTIMORE CITY, INC. and SAINT
JOSEPH MEDICAL CTR, INC.

FOR SPECIAL HEARING for property
located on the E/S of Joppa Road, 780' N of
Joppa Road and Sunset Knoll Ct.
(2122 West Joppa Road)
8th Election District, 3rd Councilmanic District
Case No. 06-446-SPH before the County Board
of Appeals of Baltimore County

*
* IN THE
* CIRCUIT COURT
* FOR
* BALTIMORE COUNTY
* Case No.

* * * * *

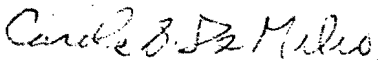
PETITION FOR JUDICIAL REVIEW

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, by Peter Max Zimmerman, and Carole S. Demilio, and RUXTON-RIDERWOOD-LAKE-ROLAND IMPROVEMENT ASSOCIATION, INC., and FREDERICK M. HUDSON, by their attorneys, K. Donald Proctor and Proctor & McKee, P.A., hereby request judicial review of the attached Ruling on People's Counsel's Motion for Reconsideration of the County Board of Appeals dated January 23, 2009, thereby finalizing the attached October 20, 2008 Opinion and Order of which judicial review is also requested. People's Counsel for Baltimore County, Ruxton-Riderwood-Lake-Roland Improvement Association, Inc., and Frederick M. Hudson were parties to the proceeding before the County Board of Appeals of Baltimore County in this matter.

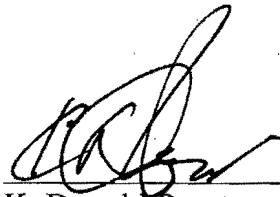
This Petition is filed pursuant to Rule 7-202 of the Maryland Rules of Procedure.



PETER MAX ZIMMERMAN
People's Counsel for Baltimore County



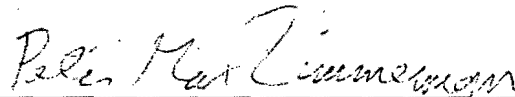
CAROLE S. DEMILIO
Deputy People's Counsel
The Jefferson Building
105 W. Chesapeake Avenue, Room 204
Towson, MD 21204
(410) 887-2188



K. Donald Proctor
Proctor and McKee, P.A.
102 West Pennsylvania Ave., Suite. 505
Towson, Maryland 21204
410-823-2258
Attorneys for Ruxton-Riderwood-Lake-Roland Improvement Association, Inc., and Frederick M. Hudson

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 26th of February, 2009 a copy of the foregoing Petition for Judicial Review was mailed to County Board of Appeals, The Jefferson Building, 105 West Chesapeake Avenue, Suite 203, Towson, Maryland 21204, and to Arnold Jablon, Esquire, Venable, LLP, 210 Allegheny Avenue, Towson, MD 21204, Attorney for Trinity Assembly of God of Baltimore City, Inc. and Saint Joseph Medical Center, Inc.



PETER MAX ZIMMERMAN

People's Counsel for Baltimore County

1/23/09

IN THE MATTER OF
THE APPLICATION OF
TRINITY ASSEMBLY OF GOD-LEGAL OWNER
ST. JOSEPHS MEDICAL CENTER-CP
FOR A SPECIAL HEARING
ON PROPERTY LOCATED ON THE
E/SIDE JOPPA RD, 780 FT N/OF THE
INTERSECTION OF JOPPA RD AND
SUNSET KNOLL COURT
(2122 WEST JOPPA ROAD)

8TH ELECTION DISTRICT
3RD COUNCILMANIC DISTRICT

* BEFORE THE
* BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* CASE NO. 06-446-SPH
*
*

* * * * *
RULING ON PEOPLE'S COUNSEL'S MOTION FOR RECONSIDERATION

This matter comes before the Board on a Motion for Reconsideration requested by Peter M. Zimmerman, People's Counsel for Baltimore County. A public deliberation was held for this Motion on December 4, 2008.

This Board believes that a Motion for Reconsideration should only be necessary when there has been substantive new case law or statute not available previously, which would clearly merit a modification of a Board's previous decision.

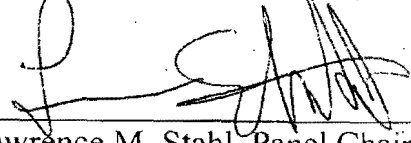
Such does not exist here. This Board has no doubt as to People's Counsel's position and opinion of the Board's conclusion in this case. People's Counsel takes issue with the Board's determination of the facts and its legal analysis. He alleges deficiencies in the Opinion and refers to what he considers incorrect reasoning in the Opinion to the issues raised in the case. That, however, is not sufficient grounds to require a modification of the Board's decision.

The appellate procedure in cases of this type is clear and appropriate. Therefore, any redress to which People's Counsel is entitled lies elsewhere. The Board's Opinion and Order issued on October 20, 2008 remains this Board's final decision in this matter.

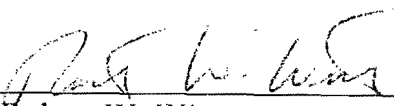
IT IS THEREFORE ORDERED THIS 23rd day of January 2009 that the Motion for Reconsideration filed in this matter is **DENIED**.

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

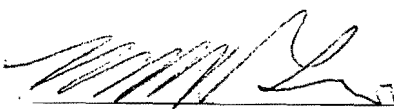
**COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY**



Lawrence M. Stahl, Panel Chairman



Robert W. Witt



Wendell H. Grier



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

January 23, 2009

Peter Max Zimmerman, Esquire
Office of People's Counsel for Baltimore County
The Jefferson Building, Suite 204
105 W. Chesapeake Avenue
Towson, MD 21204

RE: *In the Matter of: Trinity Assembly of God-Legal Owners*
Case No. 06-446-SPH

Dear Mr. Zimmerman:

Enclosed please find a copy of the Ruling on People's Counsel's Motion for Reconsideration 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*, **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,

Theresa R. Shelton
Administrator

TRS/klc
Enclosure

c:	Arnold Jablon, Esquire/David Karceski, Esquire	Trinity Assembly of God	
	Saint Joseph Medical Center, Inc.	Mitch Kellman/DMW	
	K. Donald Proctor, Esquire	Tom and Merle Peace	Fred Hudson
	Nancy Horst	Richard Parsons	V.C. Rinaujo
	Michael Pierce	Donald Gerding	
	William J. Wiseman, III/Zoning Commissioner	Arnold Keller, Director/Planning	
	Timothy Kotroco, Director/PDM		

BOARD OF APPEALS OF BALTIMORE COUNTY
MINUTES OF DELIBERATION

IN THE MATTER OF: TRINITY ASSEMBLY OF GOD

06-446-SPH

DATE: December 4, 2008

BOARD/PANEL: Lawrence Stahl
Wendell Grier
Robert Witt

RECORDED BY: Sunny Cannington/Legal Secretary

PURPOSE: To deliberate the following:

1. Motion for Reconsideration filed by People's Counsel for Baltimore County.

PANEL MEMBERS DISCUSSED THE FOLLOWING:

STANDING

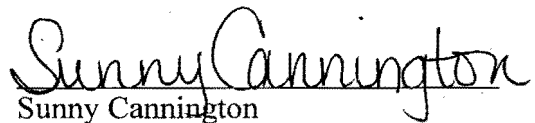
- In order for a Motion for Reconsideration to be successful, certain standards need to be met. The general standards for success include, but are not limited to, a change in statute, case law that establishes new guidelines, evidence that had not been unknown to all parties at the time of the hearing, and any misinformation by a witness during testimony that comes to light after the hearing.
- People's Counsel's Motion simply states that he disagrees with the Board's decision and reiterates his arguments presented at the hearing. If People's Counsel disagrees with the Board's decision, they have the option of appealing the decision.

DECISION BY BOARD MEMBERS: The Board feels that their decision in this case is appropriate based on the evidence, testimony and law presented in this case. A reiteration of People's Counsel's argument is not enough for a Reconsideration to be successful.

FINAL DECISION: After thorough review of the Motion for Reconsideration, Responses, and law in the matter, the Board unanimously agreed to DENY the Motion for Reconsideration.

NOTE: These minutes, which will become part of the case file, are intended to indicate for the record that a public deliberation took place on the above date regarding this matter. The Board's final decision and the facts and findings thereto will be set out in the written Opinion and Order to be issued by the Board.

Respectfully Submitted,


Sunny Cannington

11/18/08
RE: PETITION FOR SPECIAL HEARING
2122 West Joppa Road; E/S Joppa Road, 780'
N intersection of Joppa Rd & Sunset Knoll Ct.
8th Election & 3rd Councilmanic Districts
Legal Owner(s): **Trinity Assembly of God**
Contract Purchaser(s): Saint Joseph Medical
Center, Inc. by Sylvia Moore, Executive VP

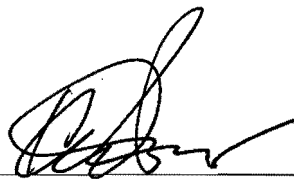
* BEFORE THE
* COUNTY BOARD OF APPEALS
* FOR
* BALTIMORE COUNTY

Petitioner(s) * Case No. 06-446-SPH

* * * * *

**MOTION FOR RECONSIDERATION OF RUXTON RIDERWOOD LAKE
ROLAND AREA IMPROVEMENT ASSOCIATION, INC.**

Ruxton Riderwood Lake Roland Area Improvement Association, Inc., by its attorneys, K. Donald Proctor and Proctor & McKee, P.A., file this motion for reconsideration of the October 20, 2008 Opinion and Order of the County Board of Appeals. In support thereof, it joins in and incorporates herein the motion for reconsideration of the People's Counsel filed in this proceeding on November 3, 2008.



K. Donald Proctor
Proctor & McKee, P.A.
Suite 505
102 West Pennsylvania Avenue
Towson, MD 21204
410-823-2258
kdproctor@proctorlaw.com
***Attorneys for Ruxton Riderwood Lake Roland Area
Improvement Association, Inc.***

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 18th day of November, 2008 I sent by U.S. mail
a copy of the foregoing Motion for Reconsideration to:

Arnold E. Jablon, Esquire
David Karceski, Esquire
Venable LLP
210 Allegheny Avenue
Towson MD 21204

and to:

Peter Max Zimmerman, Esquire
People's Counsel for Baltimore County
Jefferson Building
105 W. Chesapeake Avenue
Suite 204
Towson, MD 21204



K. Donald Proctor

LAW OFFICES
PROCTOR & MCKEE, P.A.
A PROFESSIONAL CORPORATION
SUITE 505
102 WEST PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204-4542

www.proctorlaw.com

K. DONALD PROCTOR
kdproctor@proctorlaw.com

TELEPHONE 410-823-2258
FACSIMILE 410-823-2268

November 18, 2008

Hand Delivery

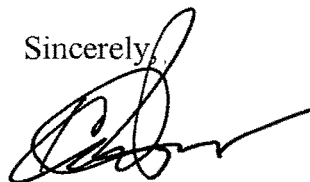
Ms. Kathleen C. Bianco, Administrator
County Board of Appeals of Baltimore County
Jefferson Building
105 W. Chesapeake Avenue
Suite 204
Towson, MD 21204

**Re: Trinity Assembly of God
Case No. 06-446-SPH**

Dear Ms. Bianco:

Enclosed herewith for filing in the matter are the original and three copies of a Motion for Reconsideration by Ruxton Riderwood Lake Roland Area Improvement Association, Inc.

Sincerely,



K. Donald Proctor

KDP:tw
Enclosures

cc: Arnold Jablon, Esquire
David Karceski, Esquire
Peter Max Zimmerman, Esquire
Ms. Peggy Squitieri (by email)

RECEIVED
NOV 18 2008

**BALTIMORE COUNTY
BOARD OF APPEALS**

11/12/08

IN THE MATTER OF
THE APPLICATION OF
TRINITY ASSEMBLY OF GOD – LEGAL OWNER
FOR A SPECIAL HEARING
ON A PROPERTY LOCATED ON THE
E/SIDE JOPPA RD., 780 FT N/OF THE
INTERSECTION OF JOPPA RD. AND
SUNSET KNOLL COURT
(2122 WEST JOPPA ROAD)

RECEIVED

NOV 12 2008

*
BALTIMORE COUNTY
BOARD OF APPEALS
*

BEFORE THE
COUNTY BOARD
OF APPEALS OF
BALTIMORE COUNTY
CASE NO. 06-446-SPH

8TH ELECTION DISTRICT
3RD COUNCILMANIC DISTRICT

* * * * *

PETITIONER'S RESPONSE TO MOTION FOR RECONSIDERATION

Petitioner Trinity Assembly of God ("Trinity"), by Arnold Jablon and David Karceski with Venable LLP, its attorneys, respectfully submits this Response to the Motion for Reconsideration filed by People's Counsel for Baltimore County.

People's Counsel's Motion for Reconsideration should be denied because there was no fraud, mistake, or irregularity present that would permit the County Board of Appeals of Baltimore County to revise its October 20, 2008 order. Rule 10 of the Board's Rules of Practice and Procedure – the Rule governing motions for reconsideration – cannot be read or construed without reference to the limitations upon the Board's revisory powers, outlined in Rule 11. On April 18, 2005, the Baltimore County Council adopted Bill 50-05, which added Rule 10 to the Board's Rules. Prior to Bill 50-05, the only reference in the Rules to the Board's ability to alter its orders after issuance was in Rule 11¹, which states: "Within thirty (30) days after the entry of an order, the board shall have revisory power and control over the order in the event of fraud, mistake, or irregularity." Because Rule 11 did not specifically permit interested parties to request the Board to reconsider and revise its orders, the Council adopted Rule 10 to provide that right. However, although a party may now request that the

¹ Prior to the adoption of what is now Rule 10, Rule 11 was actually Rule 10.

Board *reconsider* an order, pursuant to Rule 10, the Board still may not *revise* that order without meeting the standard outlined in Rule 11. A party requesting reconsideration of a Board order, pursuant to Rule 10, must, therefore, allege and prove some “fraud, mistake, or irregularity” in order to compel the Board to revise the order. People’s Counsel has not done so here. His Motion should be denied.

In its order in this case, the Board was clear in finding that Trinity’s proposed parking arrangement was an acceptable utilization of the shared parking provisions outlined in Section 409.6.B.3 of the Baltimore County Zoning Regulations (“BCZR”). When recounting the testimony presented during the hearing, the Board specifically identified the two alternative legal theories that Trinity presented in support of its proposed parking use: (a) as an accessory use; or (b) as shared parking. (Board Order, p. 2-4). The Board specifically credited the testimony of Trinity’s expert witness Mitchell Kellman, who explained that an applicant must obtain permission from the Director Permits and Development Management in order to employ a shared parking arrangement on its property. (Board Order, p. 4). Therefore, when the Board subsequently found that Trinity’s proposed use did not constitute an accessory use, but instead granted the special hearing and determined that the Director of Permits and Development Management could issue a use permit for such a use on a case-by-case basis, the Board was adopting Mr. Kellman’s explanation that the proposed use was permitted under the shared parking provisions of the BCZR. (Board Order, p. 6-7). People’s Counsel’s assertion that the Board has somehow created a new use category or “use permit procedure” is simply incorrect.

For the above stated reasons, Trinity respectfully requests that the Board of Appeals decline to reconsider or revise its October 20, 2008 decision.

Respectfully Submitted,



Arnold Jablon
David H. Karceski
Venable LLP
210 Allegheny Avenue
Towson, Maryland 21204
(410) 494-6200
Attorneys for Trinity Assembly of God

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 12th day of November, 2008, a copy of the foregoing PETITIONER'S RESPONSE TO MOTION FOR RECONSIDERATION was mailed first class, postage prepaid to Peter Max Zimmerman, Esquire, Jefferson Building, 105 W. Chesapeake Avenue, Suite 204, Towson, MD 21204 and to K. Donald Proctor, Esquire, 102 West Pennsylvania Avenue, Suite 505, Towson, MD 21204.


ARNOLD JABLON

11/3/08

IN THE MATTER OF
THE APPLICATION OF
TRINITY ASSEMBLY OF GOD – L. O.
ST. JOSEPH MEDICAL CENTER – C. P.
For Special Hearing on property E/S Joppa Road,
780' N of Joppa Road & Sunset Knoll Court
(2122 W. Joppa Road)

8th Election & 3rd Councilmanic Districts

* BEFORE THE
* COUNTY BOARD
* OF APPEALS
* FOR
* BALTIMORE COUNTY
* CASE NO: 06-446-SPH

RECEIVED
NOV - 3 2008
**BALTIMORE COUNTY
BOARD OF APPEALS**

* * * * *

**PEOPLE'S COUNSEL FOR BALTIMORE COUNTY'S
MOTION FOR RECONSIDERATION**

People's Counsel for Baltimore County files this motion for reconsideration of the October 20, 2008 Opinion and Order of the County Board of Appeals (CBA). Rule 10 of the CBA Rules of Practice and Procedure authorizes and governs this motion. The specific grounds and reasons for the motion follow:

1. The County Board of Appeals, in its analysis and decision, pages 6-7, found that the proposed use is a "shuttle depot" and "is not among the permitted uses for property zoned for residential use (D.R. 1). Our office agrees that the proposed use is not a permitted use, whether fairly described as a shuttle depot or by any other accurate name. The CBA's finding is correct and reasonable.

2. The County Board of Appeals also found "... that the proposed use of the lot is not an accessory use under BCZR § 101. Accordingly, there is no right under the applicable County law for an ongoing business use of the subject property as a parking and shuttle facility." We agree that the proposed use does not satisfy the BCZR § 101 definition of "accessory use." Again, the CBA's finding is correct and reasonable.

3. Nevertheless, to the contrary, the CBA added on page 7,

"The Board finds that the subject property may be used on a case-by-case basis subject to restrictions to be determined by the appropriate county agencies."

In this vein, the CBA entered the following Order,

“**ORDERED**, that the Petitioner’s request for Special Hearing relief filed pursuant to § 500.7 of the *Baltimore County Zoning Regulations* (BCZR), confirmation that a parking lot accessory to a principle use may be utilized by uses other than the principle use is **GRANTED** with the following condition:

1. For any future use of Trinity’s parking lot by a secondary user, Trinity must obtain a use permit pursuant to the procedure established by the Department of Permits and Development Management.”

Our office disagrees with the CBA’s ultimate allowance of a shuttle depot on a case-by-case basis. It conflicts with the CBA’s findings that the proposed use is not a permitted principal use or accessory use. It sets up an unauthorized use permit procedure to be administered by the Department of Permits and Management Development without regard to the law and, inevitably, without any discernible legal standards.

4. An administrative agency may not bypass a restriction by inserting something in an order. See *Vest v. Giant Food Stores* 329 Md. 461, 476 (1993). As the Court of Appeals wrote in *Board of Liquor License Commissioners v. Hollywood* 344 Md. 2, 11 (1996),

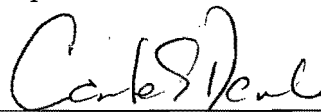
“[I]n determining whether a[n] ... administrative agency is authorized to act in a particular manner, the statutes, legislative background and policies pertinent to that agency are controlling.” *Lussier v. Md. Racing Comm’n*, 343 Md. 681, 686, 684 A.2d 804, 806 (1996). Where the legislature has properly and broadly delegated regulatory authority to an agency, we have quite liberally construed the scope of the agency’s implied powers to act in that area. See, e.g., *Christ v. Maryland Department of Natural Resources*, 335 Md. 427, 440, 644 A.2d 34, 40 (1994) (holding that a Department of Natural Resources (DNR) regulation imposing a minimum age requirement for operating personal watercraft was a proper exercise of the DNR’s statutory authority to adopt regulations “governing the operations” of water vessels); *McCullough v. Wittner*, 314 Md. 602, 612, 552 A.2d 881, 886 (1989) (holding that the Inmate Grievance Commission had authority to make monetary awards to an inmate as long as funds are appropriated or otherwise properly available, despite the fact that this particular remedy was not statutorily prescribed). Notwithstanding this general trend, however, an agency may not take action “which is inconsistent or out of harmony with, or which alters, adds to, extends or enlarges, subverts, impairs, limits, or restricts the act being administered.” *Insurance Comm’r v. Bankers*, 326 Md. 617, 624, 606 A.2d 1072, 1075 (1992). A determination of the scope of an agency’s powers, therefore, turns on the General Assembly’s intent in empowering the agency and the statutory scheme under which the agency acts.”

5. The CBA's supralegal creation of an unauthorized use permit procedure is clearly without any legitimate foundation in Baltimore County zoning law. Whatever impetus may have prompted the Board to make this allowance should, on reconsideration, give way to the controls and restraints of legislation. If a use permit procedure is to be established, it is up to the County Council to enact legislation and provide appropriate standards.

Wherefore, People's Counsel respectfully requests, based on the County Board of Appeals' correct analysis of the impermissibility of the proposed shuttle depot use either as a principal or accessory use, that the Board reconsider the October 20, 2008 decision, enter an order which determines that the proposed use is impermissible, and reverse or withdraw its order granting the special hearing to allow the use by permit on a case-by-case basis.



PETER MAX ZIMMERMAN
People's Counsel for Baltimore County



CAROLE S. DEMILIO
Deputy People's Counsel
Jefferson Building, Room 204
105 West Chesapeake Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 3rd day of ~~November~~, 2008, a copy of the foregoing People's Counsel for Baltimore County's Motion for Reconsideration was mailed to Arnold Jablon, Esquire, Venable, LLP, 210 Allegheny Avenue, Towson, MD 21204, Attorney for Petitioner(s) and to Donald Proctor, Proctor and McKee, P.A., 102 West Pennsylvania Avenue, Suite 505, Towson, Maryland 21204, Attorney for Protestants.



PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

10/20/08

IN THE MATTER OF
THE APPLICATION OF
TRINITY ASSEMBLY OF GOD-LEGAL OWNER
ST. JOSEPHS MEDICAL CENTER-CP
FOR A SPECIAL HEARING
ON PROPERTY LOCATED ON THE
E/SIDE JOPPA RD, 780 FT N/OF THE
INTERSECTION OF JOPPA RD AND
SUNSET KNOLL COURT
(2122 WEST JOPPA ROAD)
8TH ELECTION DISTRICT
3RD COUNCILMANIC DISTRICT

* BEFORE THE
* BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* CASE NO. 06-446-SPH
*
*

* * * * *

OPINION

Petitioner, Trinity Assembly of God (herein referred to as Trinity), filed a Petition for Special Hearing pursuant to § 500.7 of the *Baltimore County Zoning Regulations* (BCZR) for confirmation that the parking lot accessory to a principle use may be utilized for uses other than the principle use. A hearing was held before the Deputy Zoning Commissioner and, by decision dated June 29, 2006, the Deputy Zoning Commissioner granted the special hearing with a condition.

People's Counsel for Baltimore County filed an appeal from the decision of the Deputy Zoning Commissioner on July 18, 2006. The Ruxton /Riderwood /Lake Roland Area Improvement Association, Inc., James D. Cahn, and Thomas B. and Merle Peace, Protestants, joined in the Appeal.

A *de novo* hearing was held before the Board on June 13, 2007. Petitioner Trinity was represented by its attorneys, Arnold Jablon, Esquire, and David Karceski, Esquire, with Venable LLP. Ruxton /Riderwood /Lake Roland Area Improvement Association, Inc. (herein referred to as Association), and James D. Cahn, and Thomas and Merle Peace, Protestants, were represented

by K. Donald Proctor, Esquire, and Proctor and McKee, P.A. Peter Max Zimmerman, People's Counsel for Baltimore County, entered his appearance and participated.

Briefs were filed on September 7, 2007, and public deliberation was held October 10, 2007.

Facts

The Petitioner Trinity was approached by St. Joseph's Medical Center during the period when the hospital was undergoing major renovations. The hospital proposed to enter into an agreement whereby approximately 300 of the church's 750 parking spaces would be leased temporarily to the hospital for employee parking on weekdays while the hospital completed its renovations. The hospital stopped using the Petitioner's parking lot at or about the time of the hearing in this matter, having found other parking arrangements with Towson University that was closer to the hospital. Despite the fact that St. Joseph's was no longer utilizing the parking spaces at the church, the church planned to lease similar parking spaces to others in the future and therefore wanted a decision with respect to the ability of the church to do so. St. Joseph's Medical Center leased the 300 spaces from the church parking lot and operated a shuttle bus service to and from the hospital for its employees.

Testimony

In support of its position, the Petitioners presented Mitchell Kellman, recognized by the Board as an expert in Zoning Regulations. Mr. Kellman testified that in his opinion the parking spaces on Trinity's parking lot were an accessory use as defined in § 101 of the BCZR. That definition is:

A use or structure which:

- a) Is customarily incident and subordinate to and serves a principle use or structure;
- b) Is subordinate in area, extent or purpose to the principle use or structure;

- c) Is located on the same lot as the principle use or structure served;
- d) Contributes to the comfort, convenience or necessity of occupants, business, or industry in the principle use or structure served...

Mr. Kellman's opinion was that the parking lot is an accessory to the church since it supports the church use. He contended that, since the parking spaces were subordinate in area to the church and since the church was actually a building, the parking is a service not a building, supporting the church's use. Mr. Kellman stated that the parking spaces are located on the same lot as the church and contributed to the needs of the church since they were required by the Zoning Regulations to be there for church use. He felt that the Trinity parking lot met every condition of the accessory use definition and was in fact an accessory use to the principle church use.

Mr. Kellman also testified that the utilization of Trinity's parking spaces by St. Joseph's was not an accessory use to the hospital. It was his opinion that the utilization of Trinity's parking lot by St. Joseph's, or any other secondary user, was permitted by way of an entirely different theory of law under the Zoning Regulations.

Mr. Kellman cited § 409.6.B.3 of the BCZR which states:

Two or more uses shall be permitted to share their off street parking spaces in a common parking facility if the hours or days of peak parking for the uses are so different that a lower total will provide adequately for all uses served by the facility, without conflict or encroachment.

He testified that this section goes on to provide a chart that lists the uses for which parking is permitted to be shared, including "church, house of worship, or place of religious assembly." The chart also has a catch all category for "other uses." Mr. Kellman then concluded that, pursuant to that section, Trinity, a church use, may share its parking with a hospital use or "any other use."

In referring to the chart in § 409.6.B.3 Mr. Kellman noted that it helps one determine how many parking spaces should be provided at any given time for a parking lot if it is used for shared parking. With regard to churches, the chart does not provide a specific number of spaces to be provided at any given time; instead, it provides the following caveat:

The director of the Department of Permits and Development Management shall determine the percentage of parking spaces required for each of the five time periods on a case by case basis, depending on the existing and planned weekday and weekend activities.

Mr. Kellman indicated that this notation means that under a shared parking arrangement the number of spaces required for church at any given time of the week is up to the Director of the Department of Permits and Development Management (PDM) or his/her designee. He felt that a person who reviews commercial permits in that office may make the determination on what percentage is for Trinity and whether the shared parking arrangement will work.

Mr. Kellman explained how Trinity would achieve permission from the Director of PDM in the future, stating that in his experience one would prepare a site plan, submit it to PDM and discuss it with a reviewer in the Zoning Office. If the reviewer in the Zoning Office agreed with the way it would be done, the shared parking arrangement would be approved.

Trinity proposed that, for any future use of the parking lot, it would compile information on the expected parking usage and provide it to the Zoning Office in order to obtain permission for the proposed shared parking arrangement.

The Petitioner also offered the testimony of William J. Collins, Jr., an administrative officer for Trinity's church operations. Mr. Collins testified that Trinity agreed to allow St. Joseph's to use the parking spaces because the church administration thought it would help broaden the ministry of the church. Not only did the income from the lease arrangement financially help the ministry and allow the church to do other foreign missions trips or outreach

into Baltimore City but they felt they were helping the local hospital by alleviating a hardship with which the hospital was confronted. Mr. Collins testified as to other opportunities to make money, which were rejected by Trinity because they felt that these opportunities did not fit the ministry of the church in any sort of way. The church felt that the case of St. Joseph's Medical Center was a unique situation that fit in with their ministry.

Protestants felt that the definition of accessory use did not fit the utilization by Trinity of its parking lot for lease to St. Joseph's during the construction period and its utilization by St. Joseph's employees.

The Protestants cited § 409.7 as a limitation in the shared parking divisions of § 409.6.B.3. Section 409.7 states:

Location of parking. All required off-street parking spaces shall be located either on the same lot as the structure or use to which they are accessory or off-site as provided for below.

- A. Off-site parking spaces for residential uses and lodging uses shall be located within 300 feet walking distance of a building entrance to the use that such spaces serve.
- B. Uses other than residential
 - 1. Except in C.T. Districts and R-O-A and R-O Zones, off-site parking spaces for uses other than residential and lodging shall be located within 500 feet walking distance of a building entrance to the use that such spaces serve. In C.T. Districts, such spaces shall be permitted within 1,000 feet walking distance of the building entrance. In the C.T. District of Towson, such spaces shall be permitted within 1,500 feet walking distance of the building entrance, provided that they are located within the town center boundary...

Protestants contend that this acts as a limitation and requires the parking spaces to be located within 300 to 1,000 feet from the structure or use to which they are an accessory or uses that serve such spaces, not five (5) miles away from St. Joseph's Medical Center as is the case before the Board.

Protestants also contended that the church parking lot was being utilized as a bus terminal, which was not permitted in the D.R. 1 zone.

Analysis

The decision in this case turns on the question of whether the proposed use of the subject property as an off-site parking facility and transit depot for yet undetermined business uses is permissible under the BCZR.

The subject property is located in a D.R. 2 residential zone and is allowed to be there based on a grandfathering of the present use as a church. The church makes the argument that the forecasted uses are "accessory uses" as defined in § 101 of the BCZR. An accessory use as defined in the BCZR must, inter alia, be "customary, incident and subordinate" to the principal use of the subject property. The proposed use of the subject property in the instant case is for the parking of vehicles as part of a commercial enterprise to be conducted on a yet to be determined basis.

The proposed use, based on the past usage of the parking lot at the subject property, would necessitate the establishment of a private transit route through the residential neighborhood for the purpose of transporting individuals from their parked cars to their place(s) of employment. The anticipated "shuttle" service does not appear to constitute a bus terminal as described in the definition of same found in § 101 of the BCZR. However, the proposed use as a shuttle depot is not among the permitted uses for property zoned for residential use (D.R. 1).

Decision

The Board finds, based upon the evidence presented herein, that the proposed use of the parking lot is not an accessory use under BCZR § 101. Accordingly there is no right under the applicable County law for an ongoing business use of the subject property as a parking and

shuttle facility. The Board finds that the subject property may be used on a case-by-case basis subject to restrictions to be determined by the appropriate county agencies.

ORDER

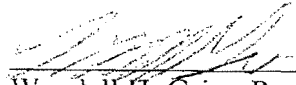
THEREFORE, IT IS, this 20th day of October, 2008, by the Board of Appeals of Baltimore County hereby

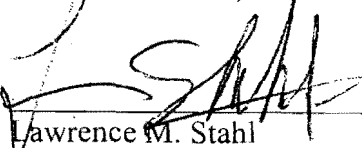
ORDERED, that the Petitioners' request for Special Hearing relief filed pursuant to § 500.7 of the *Baltimore County Zoning Regulations* (BCZR), confirmation that a parking lot accessory to a principle use may be utilized by uses other than the principle use is **GRANTED** with the following condition:

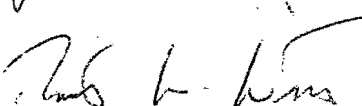
1. For any future use of Trinity's parking lot by a secondary user, Trinity must obtain a use permit pursuant to the procedure established by the Department of Permits and Development Management.

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**


Wendell H. Grier, Panel Chairman


Lawrence M. Stahl


Robert W. Witt



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

October 20, 2008

Peter Max Zimmerman
People's Counsel for
Baltimore County
Suite 204, Jefferson Building
105 W. Chesapeake Avenue
Towson, MD 21204

RE: *In the Matter of: Trinity Assembly of God -Legal Owner;*
Saint Joseph Medical Center, Inc. -C.P./Lessee
Case No. 06-446-SPH

Dear Mr. Zimmerman:

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 subsequent Petitions for Judicial Review filed from this decision should be noted under the same civil action number as the first Petition. 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 Bianco/sc

Kathleen C. Bianco
Administrator

Enclosure

c: Arnold Jablon, Esquire
David Karceski, Esquire
Trinity Assembly of God
Saint Joseph Medical Center, Inc.
Mitch Kellman /DMW
Donald Proctor, Esquire
Tom and Merle Peace
Richard Parsons
Donald Gerding
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM
Fred Hudson
Nancy Horst
Michael Pierce

BOARD OF APPEALS OF BALTIMORE COUNTY
MINUTES OF DELIBERATION

IN THE MATTER OF: ST. JOSEPH MEDICAL CTR. 06-446-SPH
 2122 W. JOPPA ROAD
 Joppa Road & Sunset Knoll Court
 Trinity Assembly of God – L/O
 St. Joseph Medical Ctr. – C/P
 8th E; 3rd C

DATE: October 10, 2007

BOARD/PANEL Wendell H. Grier, Chairman
 Lawrence M. Stahl
 Robert W. Witt

RECORDED BY: Linda B. Fliegel/Legal Secretary

PURPOSE: To deliberate a Petition for Variance – Special Hearing relief requested pursuant to Sec. 500.7 of the BCZR for confirmation that a parking lot accessory to a principal use may be utilized by uses other than the principal use.

PANEL MEMBERS DISCUSSED THE FOLLOWING:

Some of the topics discussed were:

- (1) *Can Trinity now, and in the future, rent out their parking lot?*
- (2) *Can Trinity rent out their excess parking spaces for something other than their own use?*

STANDING

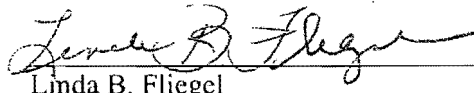
- Apparently GBMC rented from St. Joseph's Church and they were cited for violating applicable County laws.
- One Board member felt that they were entitled to rent the space because it is an accessory use and stated that necessity use does not mean that it is unfettered use, especially in a D.R. zone. (LMS)
- Mr. Stahl agreed with the Zoning Commissioner on the matters of posting and community in-put, and further stated that the community is entitled to the protection of the Zoning Commissioner. (LMS)
- Chairman Grier stated that the use as a accessory use for 52 weeks out of the year is more in keeping with a business. WHG)
- Mr. Witt stated that the community had concerns regarding the increased traffic it would/has caused. (RWW)
- Mr. Witt further stated that he felt that the church did not have the right to operate a commercial parking lot. (RWW)

DECISION BY BOARD MEMBERS:

FINAL DECISION: After a thorough review of the facts, testimony, and law in the matter, the Board unanimously decided to grant Petitioner's request with restrictions.

NOTE: These minutes, which will become part of the case file, are intended to indicate for the record that a public deliberation took place that date regarding this matter. The Board's final decision and the facts and findings thereto will be set out in the written Opinion and Order to be issued by the Board.

Respectfully Submitted

A handwritten signature in cursive script, appearing to read "Linda B. Fliegel", is written over a horizontal line.

Linda B. Fliegel
County Board of Appeals

9/1/07

IN THE MATTER OF:	*	BEFORE THE
TRINITY ASSEMBLY OF GOD	*	COUNTY BOARD
	*	OF APPEALS OF
3 rd Councilmanic District	*	BALTIMORE COUNTY
8 th Election District	*	
	*	
Trinity Assembly of God	*	Case No.: 06-446-SPH
Petitioner	*	
* * * * *		

PETITIONER'S POST-HEARING MEMORANDUM

Petitioner Trinity Assembly of God ("Trinity"), by Arnold Jablon and David Karceski with Venable LLP, its attorneys, respectfully submits this Post-Hearing Memorandum in support of its Petition for Special Hearing to confirm that a parking lot accessory to a principal use may be utilized by uses other than the principal use, as follows:

Introduction

The Baltimore County Zoning Regulations ("BCZR" or "Zoning Regulations") plainly permit Trinity's church parking lot, which is accessory to Trinity's principal church use, to be utilized by a use other than that principal use. As discussed in detail below, the shared parking adjustments to the general parking requirements of the Zoning Regulations, which are contained in BCZR Section 409.6.B.3, permit Trinity to share its parking lot with other uses. Furthermore, as the case record establishes, the utilization of the parking lot by certain uses not affiliated with the church is, itself, an accessory use to the principal church use. Consequently, this Board should grant Trinity's Petition for Special Hearing.

RECEIVED

SEP 07 2007

BALTIMORE COUNTY
BOARD OF APPEALS

Facts

Trinity owns a 15 acre $\pm$ parcel, located at 2122 West Joppa Road, in Baltimore County (the "Property"). The Property is zoned Density Residential ("DR") 1, which, in addition to permitting various residential uses by right, permits both churches and hospitals by right. The Property is improved with Trinity's church sanctuary, along with several other buildings dedicated to Trinity's ministry. In addition, there is a parking lot on the Property, which contains 744 parking spaces – 74 more spaces than the 670 required under the Zoning Regulations.

The history of Trinity's previous parking arrangements for the parking lot on the Property are of little relevance to the relief requested by Trinity in the instant Petition for Special Hearing. Nevertheless, we shall briefly recapitulate Trinity's prior arrangement with St. Joseph's Hospital ("St. Joseph's"), in order to set the stage for the arguments outlined below.

In June, 2005, St. Joseph's was on the verge of undertaking a construction project on its campus, which was slated to temporarily deprive the hospital of a significant number of parking spaces. (Board Hearing Transcript ("T."), pp. 16-18). Knowing that it would be temporarily unable to provide optimal onsite parking for certain employees, St. Joseph's contacted Trinity to inquire about temporarily using Trinity's parking lot. (T., pp. 16-18).

Ultimately, St. Joseph's and Trinity reached an agreement, whereby St. Joseph's would use no more than 400 of Trinity's parking spaces on weekdays only. St. Joseph's further agreed to only use the parking lot during certain hours, and the parties understood that St. Joseph's would use shuttle buses to transport its employees to and from Trinity's

parking lot. In exchange for its use of Trinity's parking lot, St. Joseph's agreed to financially compensate Trinity, which, as explained below, Trinity used to further its various ministries. Both entities believed they were acting within their rights under the Zoning Regulations. (T., pp. 16-23).

St. Joseph's thereafter began to use Trinity's parking lot pursuant to the agreement, and did so for several months. This arrangement has since ceased. In order to clarify the legality of this shared parking arrangement, Trinity filed the instant Petition for Special Hearing. As representatives of Trinity indicated to the Board of Appeals, Trinity is seeking the requested relief because it may wish to agree to similar parking arrangements in the future.

Issue

Whether the Zoning Regulations permit the parking lot that is accessory to Trinity's principal church use to be utilized by uses other than that particular principal use?

Argument

I. Trinity Is Permitted Under The Zoning Regulations To Share It's Parking Lot With Other Uses.

The Zoning Regulations make clear that Trinity may make arrangements with other uses – including hospitals or *any* other uses – to utilize the parking lot on the Property that is accessory to Trinity's principal church use. As described below, not only do the Zoning Regulation explicitly permit the parking lot to be *shared* by Trinity's church use and any other use(s), but the facts also demonstrate that the utilization of Trinity's parking spaces by other uses is, itself, an accessory use to Trinity's principal church use.

A. The shared parking adjustments to the general parking requirements under the Zoning Regulations alone permit Trinity to share its parking lot with other uses.

The substantial evidence presented to the Board establishes that the parking lot located on the parcel of land owned by Trinity is an “accessory use,” as defined under the BCZR, which is accessory *only* to the principal church use of Trinity. Nevertheless, the shared parking adjustments to the general parking requirements, contained in BCZR Section 409.6.B.3, permit Trinity to share its accessory parking lot with other uses.

1. An accessory explanation.

BCZR Section 101 defines “accessory use or structure” to be:

A use or structure which: (a) is customarily incident and subordinate to and serves a principal use or structure; (b) is subordinate in area, extent or purpose to the principal use or structure; (c) is located on the same lot as the principal use or structure served; and (d) contributes to the comfort, convenience or necessity of occupants, business or industry in the principal use or structure served....

Based on this definition, it is clear that the parking spaces on Trinity’s parcel of land are accessory to Trinity’s church use. In fact, Mitchell Kellman, recognized by the Board as an expert in the Zoning Regulations, confirmed this for the Board.

With regard to how each of the elements of the “accessory use” definition relate to Trinity’s church use and the supporting parking spaces, Mr. Kellman testified as follows:

(a) “In simple terms, those parking space [*sic*] are accessory to the church. They support the church use.” (T., p. 113).

(b) “[The parking spaces] are subordinate in area to the church. The church is actually a building. The parking is a service, not a building, but it’s supporting the church uses.” (T., p. 114):

(c) “[The parking spaces are] located on the same lot.” (T., p. 114).

(d) “Those parking spaces do contribute to the necessity of the church. They are required by the zoning regulations to be there for the church use.” (T., p. 115).

Mr. Kellman further confirmed that there were no “other conditions for an accessory use to a principal use.” (T., p. 115). Therefore, having established that Trinity’s parking lot meets every condition of the “accessory use” definition, Mr. Kellman determined that the parking lot is an “accessory use” to Trinity’s principal church use.

Mr. Kellman went on to explain that, with regard to St. Joseph’s utilization of Trinity’s parking spaces, “those spaces are *not accessory to the hospital*.” (T., p. 129 (emphasis supplied)). As explained in greater detail below, this opinion extends to the utilization of Trinity’s parking lot by *any* secondary user – not just St. Joseph’s. Indeed, the utilization of Trinity’s parking lot by St. Joseph’s – or any other secondary user – is permitted by way of an entirely different theory of law under the Zoning Regulations.

2. Parking lots are meant to be shared.

Section 409.6.B.3 of the BCZR states:

Two or more uses shall be permitted to share their off-street parking spaces in a common parking facility if the hours or days of peak parking for the uses are so different that a lower total will provide adequately for all uses served by the facility, without conflict or encroachment.

That Section goes on to provide a chart that lists the uses for which parking is permitted to be shared, including “[c]hurch, house of worship or place of religious assembly.” The chart also has a catch-all category of permitted uses: “[o]ther uses.” Consequently, pursuant to that Section, Trinity (a church use) may share its parking with a hospital use (like its previous arrangement with St. Joseph’s) or *any other use*, for that matter.

Mr. Kellman corroborated this shared parking theory for the Board. To

complement his explanation that Trinity's parking spaces were *not* accessory to St. Joseph's when used by St. Joseph's, Mr. Kellman testified that "[t]he shared parking requirements under the parking regulations in the zoning regulations support that [another user] can have [Trinity's parking] spaces, they can be shared by somebody else, another entity." (T., p. 116). He went on to explain in detail how to apply the shared parking regulations, first offering a summary of the workings of the regulations:

The shared parking provision in the zoning regulations is, let's say, a technique or a calculation of when there is two or more uses, some of those uses that are not parked at the same time can be combined to get the total required uses. Therefore you don't have to park a certain use at a hundred percent and then another use at a hundred percent. There's different hours in that shared parking chart that have. [*sic*] A certain use has more spaces used during the nighttime, and another use has more spaces used during the daytime, those uses can be combined to share the parking spaces.

(T., p. 122).

The chart to which Mr. Kellman refers in his testimony, which is contained in BCZR Section 409.6.B.3, regulates the number of parking spaces that must be provided for the individual uses listed, based on specific days and times. The chart helps one determine how many parking spaces should be provided at any given time for a parking lot that is used for shared parking. With regard to churches, the chart does *not* provide a specific number of spaces to be provided at any given time; instead, it provides the following caveat:

The Director of the Department of Permits and Development Management shall determine the percentage of parking spaces required for each of the five time periods on a case-by-case basis, depending on the existing and planned weekday and weekend activities.

As Mr. Kellman indicated, this notation means that, under a shared parking arrangement, the number of spaces required for a church at any given time of the week "is up to the

discretion of the director of PDM or his or her designee.” (T., p. 128). Therefore, “a person who reviews commercial permits in that office may make the determination on what the percentage is for [Trinity] and whether the shared parking arrangement will work.” (T., p. 128).

Mr. Kellman also explained to the Board how, in the future, Trinity would achieve permission from the director of PDM to utilize a shared parking arrangement. He stated that, in his experience, one would “prepare a site plan, and either submit it, discuss it with whoever the reviewer is in the zoning office, and if they agree with the way you have done the shared parking requirement, they approve it.” (T., p. 133). In explaining how to use the above-described chart to determine the logistics of the shared parking arrangement, Mr. Kellman noted that “[i]t’s determined by [the use’s] hours of operation....So you’re drawing your conclusions based on your information provided. And, again, you’re running it by the reviewer in the zoning office.” (T., p. 133). In Mr. Kellman’s experience, the maximum usage “[f]or a church, it’s Sunday....[f]or a synagogue, it would be Saturday, or Friday evening” and the minimum usage would be “in the middle of day, during the week.” (T., p. 134). “[T]he reviewer also has common sense on how these hours are interpreted, too.” (T., p. 134).

Thus, based on its experience, Trinity would compile information on the expected parking usage of the church and of the proposed shared use and provide it to the zoning office in order to obtain permission for the proposed shared parking arrangement. In reviewing the information provided, the zoning reviewer would determine the appropriateness of the proposed shared parking arrangement – like that Trinity had with St. Joseph’s – whereby the parking lot would be used exclusively by the church use on

the weekends, and by secondary use(s) during designated hours on the weekdays.

Such an arrangement is not atypical and certainly not prohibited. (T., pp. 149-50). As Mr. Kellman made clear, the shared parking regulations in the BCZR plainly permit such an arrangement. Nevertheless, in participating in such an arrangement, Trinity's parking lot would remain an "accessory use" to Trinity's principal church use; Trinity would just be sharing its accessory use with an off-site user. The intent of the County Council is clear, unequivocal, and unambiguous.

B. The utilization of Trinity's parking lot by certain other uses – including hospitals – is, itself, an accessory use to Trinity's principal church use.

The evidence presented to the Board makes clear that Trinity's leasing of its parking spaces to St. Joseph's was in furtherance of the church's ministries. Indeed, the record confirms that any similar arrangements Trinity may make in the future would likewise further its ministries. As such, Trinity's leasing of its parking spaces is, itself, an accessory use to Trinity's principal church use.

During the Board hearing, Trinity offered the testimony of William J. Collins, Jr., an administrative officer for Trinity's church operations. (T., pp. 15-101). "At the time of when St. Joe's Medical Center approached the church, [he] was in a full-time capacity as a senior administrator" for Trinity. (T., p. 15). He indicated that the decision was made to allow St. Joseph's to utilize the parking spaces because the church administration felt it would help "broaden the ministry" of the church. (T., p. 37). Not only did they feel the income from the lease agreement would financially boost the ministry by allowing the church "to do another foreign mission trip or another outreach into Baltimore city," but they also felt they were helping their local hospital by relieving St.

Joseph's of a "hardship." (T., pp. 37-40). In fact, Mr. Collins confirmed that the latter factor was far more important to Trinity.¹

Mr. Collins noted specific instances where Trinity was approached by various companies and organizations with different proposals that would have enabled Trinity to earn additional income, but Trinity turned down the offers because they did not "fit the ministry of the church in any sort of way." (T., pp. 38-39). Specifically, he explained that Trinity had been approached by wireless telecommunications companies to install a tower in the parking lot, but the church turned-down the offer "for aesthetic reasons and for the sake of the community." (T., p. 39). He further stated that Trinity was "asked to sell Christmas trees on the parking lot," but the church "said no" because "it didn't relieve [the Christmas tree salespeople] of any hardship." (T., p. 39). He even told the Board that "there's an occasional time where a bus company will ask, and we just don't – that's just not – we're not looking for the extra financing, even for a ministry." (T., p. 39). Ultimately, he concluded that "in the case of St. Joseph, it was a unique situation, and that's how [Trinity] looked at it." (T., p. 39).

Protestants' argument that Trinity has been a successful church for years, even without receiving additional income from leasing parking spaces (or otherwise), is irrelevant. Mr. Collins' testimony establishes that the financial aspect of Trinity's shared parking arrangement with St. Joseph's – and any similar arrangement in the future – is a secondary consideration, behind the more important consideration of whether Trinity will

¹ Protestants have argued that, by leasing the unused parking spaces to off-site users for compensation, Trinity is thereby converting the parking lot into a "commercial parking lot," which is not permitted in the DR zone. Protestants are wrong. Mr. Kellman specifically opined that Trinity's lot is "not converted to a commercial parking lot...because that parking lot is accessory, or an accessory use to the church." (T., p. 132). Furthermore, he noted that BCZR Section 409.7.C "references that there would have to be a lease agreement, so they're indicating in the regulations that a lease is permissible." (T., p. 128). Simply put, a lease and financial compensation do not equate to the operation of a commercial parking lot.

be relieving the other party of an undue hardship. Furthermore, Mr. Collins confirmed for the Board that, regardless of Trinity's ever-present financial capabilities, any additional income it could earn through the leasing of its parking spaces would help "expand the ministry" of the church. (T., p. 38). Whether or not Trinity may "rely" on such income is of no moment.

Instead, the record before the Board, including Mr. Collins' testimony, confirms that the leasing of parking spaces to an off-site user is, itself, an accessory use to Trinity's principal church use. Specifically:

- (a) The leasing of excess, unused parking spaces is *customarily incident and subordinate* to the principal use: Mr. Kellman testified that he "know[s] there are churches, schools, that make parking spaces available on a temporary basis for certain things" and that he "heard of a church leasing out spaces for a car dealership before." (T., pp. 149-50). Additionally, Mr. Collins' testimony established that the leasing *serves* the principal church use, both through the financial expansion of the church's ministry, and through the church's ability to help relieve a particular hardship. (T., pp. 37-39).
- (b) The leasing of 300-400 parking spaces is *subordinate in area, extent, or purpose* to the principal use: Mr. Kellman testified that the *entire* parking lot is subordinate in area to the church use (T., p. 114), and, therefore, 300-400 spaces of the lot is likewise subordinate in area. Furthermore, the purpose of Trinity's principal church use is to carry-on its ministry, and Mr. Collins testified that, by leasing the parking spaces under certain circumstances can "broaden the ministry." (T., p. 37). The leasing is but one aspect of the

church's ministry and, therefore, it is subordinate to the overall church use.

(c) The leased parking spaces are *located on the same lot* as the principal use:

Mr. Kellman testified to this fact. (T., p. 114).

(d) The leasing of the parking spaces *contributes to the comfort, convenience or necessity* of occupants, business or industry in the principal use: Again, Mr. Collins' testimony revealed that leasing the parking spaces to a user in need would contribute to the church's ministry by relieving the lessee of a "hardship." (T., pp. 37-40). Additionally, the lease's financial benefits to Trinity clearly contribute to the comfort and convenience of the church and its members by enabling the church to "expand its ministry." (T., pp. 37-39).

Because Trinity's leasing of parking spaces to an off-site user meets each of the conditions of the accessory use definition, that use, itself, is accessory to the principal church use and is, therefore, permitted by right.²

II. Trinity Should Be Encouraged To Share It's Parking Lot With Other Users In Need.

No matter what theory the Board follows to permit the off-site parking use under the Zoning Regulations, it makes good practical sense for the Board to permit such a use. Temporary parking hardships are virtually inescapable, and the simplest and most benign way to rectify such hardships is by permitting certain principal uses that have plenty of

² In its August 22, 2007 letter to this Board, People's Counsel cites two cases in support of its position that Trinity's shared parking use is not accessory to the principal church use. Neither case is applicable here. In *Dampman v. City of Baltimore*, 231 Md. 280 (1963), the Court of Appeals, in interpreting the Baltimore City zoning code, addressed the propriety of extending a non-conforming use on a particular lot. When compared to the instant matter, where this Board is asked to interpret the Baltimore County Zoning Regulations with regard to the propriety of a permitted use, it is clear that *Dampman* does not apply. Furthermore, in *Arundel Supply Corp. v. Cason*, 265 Md. 371 (1972), the Court of Appeals reviews the definition of "gravel pit," and uses accessory thereto, contained in the 1942 Prince George's County zoning ordinance. Again, the limited scope of the Court's review of that County's zoning ordinance is of no moment to the instant matter. People's Counsel offers no case on point that interprets the BCZR definition of "accessory use"; the irrelevant cases it has cited should be ignored.

excess parking (whether in general or at certain times of the day/week) to share that parking with the off-site uses in need of parking, on a temporary basis. Such an arrangement is certainly far better than requiring a use that is temporarily in need of parking to build a new lot, and thereby create more impervious surfaces, or to park on already crowded residential streets.

While Protestants raised some legitimate concerns regarding Trinity's shared parking arrangement with St. Joseph's, none warrant a general prohibition against such arrangements in the future. One of Protestants' main arguments is that, because the parking spaces located on Trinity's property actually "served" St. Joseph's, those spaces are required, pursuant to BCZR Section 409.7.B.1, to be located within 500 feet walking distance of St. Joseph's. Because St. Joseph's is roughly 5 miles from Trinity, Protestants argue that St. Joseph's may not utilize Trinity's parking spaces. However, the plain language of that section confirms that such distance limitations do not apply to *all* parking for a given use:

All required off-street parking spaces shall be located either on the same lot as the structure or use to which they are accessory or off-site as provided for below....Except in [certain districts or zones], off-site parking spaces for uses other than residential and lodging shall be located within 500 feet walking distance of a building entrance to the use that such spaces serve.

BCZR §409.7.B.1 (emphasis supplied). Indeed, as Mr. Kellman testified, the distance limitation plainly does *not* apply "for spaces that are *not* required." (T., p. 132 (emphasis supplied)). That is, if an off-site use is *not* utilizing Trinity's parking lot in order to meet the minimum number of spaces required under BCZR Section 409.6, then the distance limitation under Section 409.7.B.1 *does not apply*.³

³ This is a moot point for the prior arrangement Trinity had with St. Joseph's. However, in the future,

Protestants also raised issues over the shuttle bus usage of Joppa Road, Bellona Avenue, and other local roads. Protestants raise a valid point; however, the Baltimore County roads identified by Protestants are certainly equipped to handle bus traffic. Indeed school busses travel such roads to carry children to and from school on a daily basis during the school year. Nevertheless, if the bus traffic is, in fact, determined by the County to be a hazard, the Director of PDM may require, as part of the shared parking approval, that any shuttle busses delivering persons to and from the Trinity parking lot must travel a certain route. However, the mere fact that shuttle busses are traveling along Joppa Road should not altogether preclude a use that is otherwise permitted by right on Trinity's property.

Again, from a practical standpoint, it simply makes sense that existing, unused parking areas that are accessory to a particular principal use should be permitted to temporarily be shared by off-site users in need. It makes no sense to require a use that is temporarily in need of parking to construct a permanent parking lot or to be forced to overcrowd available parking on streets, alleys, and highways surrounding the use.

Trinity understands, and any potential user of Trinity's parking lot will be informed, that such spaces cannot be utilized to enable the off-site user to meet its minimum number of spaces required under the Zoning Regulations. As Mr. Kellman testified, "[s]ome uses are over-parked, voluntarily." (T., p. 140). One such use is hospitals – the minimum amount of parking spaces required by the Zoning Regulations simply does not practically serve the needs of many hospitals. Therefore, hospitals typically supply far more spaces than required – in order to serve the numerous employees, as well as the sometimes unpredictable amount of visitors – so as to reach an optimal amount of spaces. If, for some reason or another, the optimal amount of spaces is not available, the hospital may need to seek additional spaces off-site, even though they may technically meet the County's minimal amount of spaces on-site.

CONCLUSION

Trinity has presented substantial evidence proving that the temporary and limited sharing of unused parking spaces with off-site users is permitted by right under the Zoning Regulations. Therefore, Trinity respectfully requests that the Board grant the Petition for Special Hearing

Respectfully Submitted,



Arnold Jablon
David H. Karceski
Venable LLP
210 Allegheny Avenue
Towson, Maryland 21204
(410) 494-6200
Attorneys for Petitioner

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 2nd day of September, 2007, a copy of the foregoing PETITIONER'S POST-HEARING MEMORANDUM was hand delivered to Peter Max Zimmerman, Esquire, 400 Washington Avenue, Room 47, Towson, MD 21204 and mailed to K. Donald Proctor, Esquire, 102 West Pennsylvania Avenue, Suite 505, Towson, MD 21204.



ARNOLD JABLON

9/6/07

RE: PETITION FOR SPECIAL HEARING
2122 West Joppa Road; E/S Joppa Road, 780'
N intersection of Joppa Rd & Sunset Knoll Ct.
8th Election & 3rd Councilmanic Districts
Legal Owner(s): **Trinity Assembly of God**
Contract Purchaser(s): Saint Joseph Medical
Center, Inc. by Sylvia Moore, Executive VP

* BEFORE THE
* COUNTY BOARD OF APPEALS
* FOR
* BALTIMORE COUNTY
* Case No. 06-446-SPH

Petitioner(s)

* * * * *

POST HEARING MEMORANDUM OF RESPONDENTS

Ruxton Riderwood Lake Roland Area Improvement Association, Inc., James D. Cahn, and Thomas B. and Merle Peace, Respondents, by their attorneys, K. Donald Proctor and Proctor & McKee, P.A., file this memorandum in opposition to the petition for special hearing herein.

The Baltimore County Zoning Regulations only permit a parking lot accessory to a church to be utilized for church parking. This is because an accessory use must be "customarily incident and subordinate to and serve a principal use or structure" as required by BCZR § 101. In addition, the evidence here is that the parking lot also was being used as a bus terminal which is not a permitted use in the DR 1 zone.

1. **There is no evidence that the use "is customarily incident and subordinate to and serves a principal use or structure" as required by BCZR § 101.**

BCZR § 101 defines "accessory use" as, "A use or structure which: (a) is *customarily incident and subordinate to and serves a principal use or structure. ...*"

(Emphasis added). There is absolutely no evidence in this matter that the use of a church

RECEIVED
SEP 06 2007

parking lot for commercial parking by others for a fee is “customarily incident” to the use of church parking lots in Baltimore County. Such a finding is necessary. Compare *Eastern Service Centers, Inc. v. Cloverland Farms Dairy, Inc.*, 130 Md. App. 1, 11 (2000) (“it is ‘generally known – that the sale of some products at gasoline stations, or the sale of gasoline in connection with convenience store operations, is becoming commonplace in this country’ ... [T]here was substantial evidence in the record that ... Cloverland’s proposed convenience store is an accessory use to the gasoline station.”). Likewise, the use in question here is not “a use which is dependent on or pertains to the principal or main use” as required by *County Commissioners v. Zent*, 86 Md. App. 745, 758 (1991), and it therefore is not an accessory use because it does not “serves a principal use or structure” as required by BCZR § 101.¹

¹ While there are no Maryland cases which speak specifically to the church parking issue, the Court of Special Appeals has clearly recognized the difference between parking as an accessory use and parking for a fee under the BCZR. That Court, in *McKemy v. Baltimore County*, 39 Md. App. 257, 268-69 (1978), said:

From their inception in 1945, the county zoning regulations have rejected the notion that all parking lots are the same, and have instead drawn careful distinctions between types of parking uses. To do otherwise would blur obvious and important distinctions, given clear recognition by the courts, between the “parking” and the “storage” of vehicles, between the parking or storage of commercial vehicles and the parking or storage of non-commercial vehicles, ***between the business of renting parking spaces and parking as an accessory use***, and between parking qua parking and parking as part of a commercial enterprise. ***All parking lots are not the same, and one type of parking use does not necessarily beget or permit another.*** (Footnotes omitted) (Emphasis added).

§ 409.6.B.3 of the BCZR does contemplate shared parking in certain situations. However, this case does not involve a permissible shared parking situation. § 409.7 acts as a limitation on the shared parking provisions of § 409.6.B.3 and requires the parking spaces to be located a short distance (300 to 1,000 feet) from the “structure or use to which they are accessory” or “the use that such spaces serve,” not 5 miles away from St. Joseph’s Hospital, as is the case here. § 409.7 provides:

409.7 Location of parking. All required off-street parking spaces shall be located either on the same lot as the *structure or use to which they are accessory* or off-site as provided for below.

- A. Off-site parking spaces for residential uses and lodging uses shall be located within 300 feet walking distance of a building entrance to *the use that such spaces serve*.
- B. Uses other than residential.
 - 1. Except in C.T. Districts and R-O-A and R-O Zones, off-site parking spaces for uses other than residential and lodging shall be located within 500 feet walking distance of a building entrance to *the use that such spaces serve*. In C.T. Districts, such spaces shall be permitted within 1,000 feet walking distance of the building entrance. In the C.T. District of Towson, such spaces shall be permitted within 1,500 feet walking distance of the building entrance, provided that they are located within the town center boundary.
 - 2. In R-O and R-O-A Zones, all required off-street parking spaces shall be provided on the same lot as *the structure or use to which they are accessory*, except that in cases where adjacent dwellings have been converted to Class A office buildings, parking spaces may be provided on the adjacent lots. The use of an off-site parking facility which is accessory to a church or other existing principal use may satisfy the

parking requirement, if located no more than 500 feet from the lot. (Emphasis added).

Indeed, when the County Council has intended churches to share their parking it has expressly so provided in the BCZR. Thus, § 407.F makes provision for shared parking for churches located in manufacturing zones. If the County Council had intended churches located in residential zones to share their parking in situations such as that presented in this case, it would have made express provision for it.

Even more importantly, in BCZR § 409.8.B the County Council has expressly legislated on the subject of this dispute, that is, how to deal with parking in a residential zone to meet the parking requirements for a non-residential use. § 409.8.B provides that, “the Zoning Commissioner may issue a use permit for the use of land in a residential zone for parking facilities to meet the requirements of Section 409.6.” However, among other requirements for such a use permit are those contained in § 409.8.B.2(a) and (b) that, “The land so used must adjoin or be across an alley or street from the business or industry involved,” and that, “Only passenger vehicles, excluding buses, may use the parking facility.” Clearly, neither of these requirements could be or are met in this case.

In short, this use as a commercial parking lot is not a permitted use in a DR 1 zone. The use is therefore prohibited.

2. **The church parking lot was also being used as a bus terminal which is not a permitted use in the DR 1 zone.**

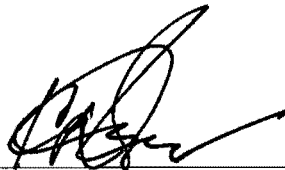
The evidence is that the church's parking lot was also being used as a bus terminal with buses (accommodating more than 10 passengers) running regularly throughout the day and night. BCZR § 101 defines "bus terminal" as:

A station for common carrier vehicles having a carrying capacity of 10 or more passengers. In addition to providing passenger services such as ticket sales, boarding and alighting, a bus terminal has areas for short-term storage of busses during layover periods not exceeding one night. This definition does not include mass transit administration vehicles or Baltimore County public school busses.

A bus terminal is not a permitted use in the DR 1 zone, although bus terminals are permitted by special exception in certain other zones. See BCZR §§ 233.4, 236.4 and 270. For reasons similar to those outlined above, this use as a bus terminal is not a permitted use in a DR 1 zone. The use is therefore prohibited.

Conclusion

For the foregoing reasons, it is respectfully requested that the proposed use be denied.



K. Donald Proctor
Proctor & McKee, P.A.
Suite 505
102 West Pennsylvania Avenue
Towson, MD 21204
410-823-2258
kdproctor@proctorlaw.com
Attorneys for Respondents

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 6th day of September, 2007 I sent by U.S. mail
a copy of the foregoing Post Hearing Memorandum of Respondents to:

Arnold E. Jablon, Esquire
Venable LLP
210 Allegheny Avenue
Towson MD 21204

and to:

Peter Max Zimmerman, Esquire
People's Counsel for Baltimore County
Room 74, Old Court House
400 Washington Avenue
Towson, MD 21204

A handwritten signature in black ink, appearing to read 'K. Donald Proctor', is written over a horizontal line.

K. Donald Proctor

LAW OFFICES
PROCTOR & MCKEE, P.A.
A PROFESSIONAL CORPORATION
SUITE 505

102 WEST PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204-4542

www.proctorlaw.com

K. DONALD PROCTOR
kdproctor@proctorlaw.com

TELEPHONE 410-823-2258
FACSIMILE 410-823-2268

September 6, 2007

Hand Delivery

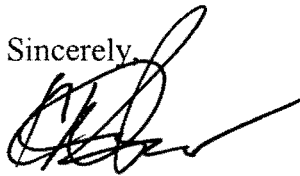
Ms. Kathleen C. Bianco, Administrator
County Board of Appeals of Baltimore County
Old Court House, Room 49
400 Washington Avenue
Towson, MD 21204

**Re: Trinity Assembly of God
Case No. 06-446-SPH**

Dear Ms. Bianco:

Enclosed herewith for filing in the matter are the original and three copies of the Post Hearing Memorandum of Respondents.

Sincerely,



K. Donald Proctor

KDP:rm
Enclosures

cc: Arnold Jablon, Esquire
Peter Max Zimmerman, Esquire
Ms. Nancy Horst (by email)
Mr. James D. Cahn (by email)
Mr. and Mrs. Thomas Peace (by email)
Mr. Frederick Hudson (by email)

RECEIVED

SEP 06 2007

BALTIMORE COUNTY
BOARD OF APPEALS



Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL

Room 47, Old Courthouse
400 Washington Ave.
Towson, MD 21204

410-887-2188
Fax: 410-823-4236

PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

August 22, 2007

Hand-delivered

Wendell H. Grier, Panel Chair
Lawrence M. Stahl, Panel Member
Robert W. Witt, Panel Member
County Board of Appeals
400 Washington Avenue, Room 49
Towson, MD 21204

RECEIVED
AUG 22 2007

BALTIMORE COUNTY
BOARD OF APPEALS

Re: Trinity Assembly of God, Inc, et al.
06-446-SPH

Dear Chair Grier and members of the panel,

This office presented its preliminary view in the attached May 25, 2007 letter to Board Chair Margaret Brassil. The CBA held the *de novo* hearing as scheduled on June 13, 2007. The evidentiary record both confirms and reinforces our position. It is not permissible to use the church parking lot in a D.R. 2 residential zone for a shuttle bus service for employees of the distant St. Joseph's Hospital or like institutions. Petitioners' claim of a legitimate "accessory use" is not sustainable.

As it relates to the BCZR 101 definition of "accessory use", the shuttle service is clearly not a use "(a) which is customarily incident and subordinate and serves a principal use or structure" It is not "(c) located on the same lot as the principal use or structure served." Rather, it is a separate use of its own. The proposed use is significant with respect to the area occupied, the type of buses used, the number and duration of trips, and impact on the neighborhood. Moreover, it serves off-site principal uses. It does not serve the onsite principal church use, except as a revenue source.

In the recent Znamiroski case, 7-332-SPHA, we had occasion to review the law of accessory uses in another context. We there underlined the Court of Appeals decisions in Dampman v. City of Baltimore, 231 Md. 280 (1963) and Arundel Supply Corp., v. Cason, 265 Md. 371, 377-78 (1972). We again attach the relevant excerpts from those cases. The Dampman case focused on a second-story addition of business space, 12 feet X 22 feet and held that it was not "incidental." It was a "major" addition, not "appertaining, subordinate, or casual." The Arundel Supply case addressed another alleged accessory use involving an offsite activity --- the washing, screening, and batching of materials trucked in from other places --- and held it was not accessory to the onsite activity --- the excavation of gravel on the property.

Wendell H. Grier, Panel Chair
Lawrence M. Stahl, Panel Member
Robert W. Witt, Panel Member
August 22, 2007
Page 2

In Arundel Supply, Judge McWilliams reinforced his opinion with the observation that under the applicable zoning ordinance "... washing, screening, and batching required a highly restrictive special exception use." This is telling here because, as Donald Proctor, Esq. accurately said in opening statement, the proposed shuttle service here actually meets the BCZR 101 definition of "bus terminal,"

"BUS TERMINAL -- A station for common carrier vehicles having a carrying capacity of 10 or more passengers. In addition to providing passenger services such as ticket sales, boarding and alighting, a bus terminal has areas for short-term storage of busses during layover periods not exceeding one night. This definition does not include mass transit administration vehicles or Baltimore County public school busses."

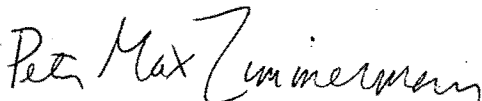
Research reveals that a bus terminal is permitted by special exception in the B.M. (Business-Major) and B.R. (Business-Roadside) Zones. BCZR 233.4, 236.4. To be sure, the proposal here is not for an intercity bus terminal. Nevertheless, the use fits and is within the scope of the BCZR 101 definition. It is not among the permitted use in the residential zones. Moreover, it is a significant use of the property.

It is also significant that less intense motor vehicle uses such as "automobile parking lot" and "parking lot" are restricted to the Business Zones, BCZR 230.9 or permitted as conditional auxiliary uses in the manufacturing zones. BCZR 253.1.C.18.

For all of the above reasons, the County Board of Appeals should and must deny the petition for special hearing as a matter of law.

Thank you for your consideration in this matter.

Sincerely,



Peter Max Zimmerman
People's Counsel for Baltimore County



Carole S. Demilio
Deputy People's Counsel

PMZ/rmw

cc: Arnold Jablon, Esquire
K. Donald Proctor, Esquire



Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL

Room 47, Old CourtHouse
400 Washington Ave.
Towson, MD 21204

410-887-2188
Fax: 410-823-4236

PETER MAX ZIMMERMAN
People's Counsel

May 25, 2007

CAROLE S. DEMILIO
Deputy People's Counsel

Hand-delivered

Margaret Brassil, Chair
County Board of Appeals
400 Washington Avenue, Room 49
Towson, MD 21204

RECEIVED
MAY 25 2007

Re: PETITION FOR SPECIAL HEARING BALTIMORE COUNTY
E/S Joppa Road, 780' N of intersection of Joppa Road and Sholl Ct
(2122 West Joppa Road)
8th Election District; 3rd Council District
Trinity Assembly of God, Inc - Petitioners
Case No.: 06-446-SPH

Dear Ms. Brassil:

The purpose of this letter is to express our office's position with respect to our appeal of the Deputy Zoning Commissioner's June 28, 2006 conditional approval of this petition. The case comes before the CBA as a special hearing, which essentially requests a legal determination. The question presented is whether a church (Trinity Assembly of God, Inc.) in a residential zone can rent its parking lot to an outside institution (such as St. Joseph's Hospital or Greater Baltimore Medical Center) for employee parking, shuttle bus service, and perhaps other transportation uses. The Deputy Zoning Commissioner's opinion refers to a past temporary rental of 300 of the 750 spaces to St. Joseph's Hospital. Evidently, the church wishes to rent any number of spaces on a recurring basis, whether temporary or permanent, to other potential lessees. In our view, the answer is the same whether the use is temporary or permanent, and whether part or all of the parking lot is involved. The use is impermissible.

It is elementary that BCZR 102.1 prohibits all uses not specifically permitted in the zoning law. Kowalski v. Lamar 25 Md. App. 493 (1975). This structure, which involves affirmative enumeration of permitted uses, is typical to Euclidean comprehensive zoning law in the United States.

Trinity's use amounts to a commercial parking lot. A "parking lot" is a permitted use in the Business-Local (B.L.) Zone. BCZR 230.9. By incorporation, it is also permitted in the Business-Major (B.M.) and Business-Roadside (B.R.) Zones. It is not permitted in the Density-Residential Zones. BCZR 1B01.1.A, C.

Trinity would like to bootstrap or shoehorn the proposed parking lot in under the guise of an "accessory use." This conflicts, however, with the BCZR 101 definition of "accessory use" for several reasons. First of all, a commercial parking lot is not "customarily incident and subordinate" to the principal use of a church. Secondly, the use is not "located on the same lot as the principal use or structure served," the hospitals. On the latter point, we enclose the CBA decision in Helix Health System 92-186-SPH, July 29, 1992. A commercial parking lot by any other name is still a commercial parking lot, and just as offensive in a residential zone.

The question presented and material facts relating to the petition are sufficiently clear that we see no need to add any detailed evidence. Moreover, there is no expert opinion which can alter the clear and required legal result. Therefore, we do find it necessary to produce witnesses or documents at the hearing scheduled June 13, 2007. We will rely primarily on this legal argument and the record. We anticipate that the other appellants, Ruxton-Riderwood Lake Roland Community Association and James D. Cahn and Thomas B. Peace will appear and present such additional facts and argument as they deem appropriate.

Very truly yours,



Peter Max Zimmerman
People's Counsel for Baltimore County



Carole S. Demilio
Deputy People's Counsel

PMZ/CSD/rmw

cc: Arnold Jablon, Esquire, Venable, LLP, 210 Allegheny Avenue, Towson, MD 21204
Donald Gerding, 335 Old Trail Road, Towson, MD 21212
Nancy Horst, P.O. Box 204, Riderwood, MD 21139
K. Donald Proctor, 102 West Pennsylvania Avenue, Towson, MD 21204
James D. Cahn, 1819 Thornton Ridge Road, Ruxton, MD 21204
Thomas B. Peace, 2022 W. Joppa Road, Lutherville, MD 21093

IN THE MATTER OF THE
THE APPLICATION OF
HELIX HEALTH SYSTEM
(AS PARENT OF FRANKLIN SQUARE
HOSPITAL) FOR SPECIAL HEARING
ON PROPERTY LOCATED ON THE
NORTH SIDE FRANKLIN SQUARE
DRIVE, 950' EAST OF CENTER-
LINE ROSSVILLE BOULEVARD
(9000 FRANKLIN SQUARE DRIVE)
14TH ELECTION DISTRICT
6TH COUNCILMANIC DISTRICT

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF

* BALTIMORE COUNTY

* CASE NO. 92-186-SPH

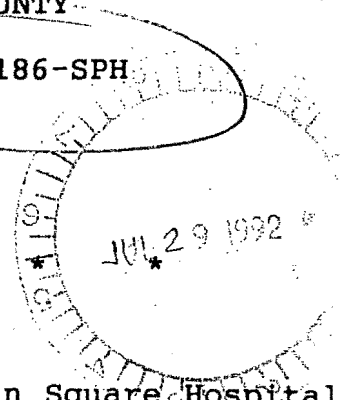
* * * * *

O P I N I O N

Helix Health System, as parent of Franklin Square Hospital, seeks by a Petition for Special Hearing an order permitting it to incinerate waste at an incinerator located at 9000 Franklin Square Drive on the property of Franklin Square Hospital from its subsidiary or sister hospital corporation, The Union Memorial Hospital, located in the City of Baltimore, as a permitted accessory use of Franklin Square's site under the Helix Health System Plan of shared use of hospital facilities.

The Board heard from David Mork, the Vice President of Administration in Charge of Support Services for Franklin Square Hospital, and Charles D. Mross, President and Chief Executive Officer of Franklin Square Hospital and Vice President of Helix Health System, Inc., in support of the Petition. In opposition to the Petition, William J. Burgess appeared individually and in his capacity as President of the Greater Rosedale Community Council. From the testimony and evidence received, we find the facts as follows.

Franklin Square operates an incinerator which is located on the 22-acre site which also houses 450,000 sq. ft. of hospital



of waiver by the assurer, after an improper notice, had been properly submitted to the jury. During the course of its opinion, the Court uses some broad and sweeping language. In so far as there is anything in this opinion contrary to what is there said, we, respectfully, decline to follow that case. We note that although the case was decided nearly a half century ago, it has been followed in no case since.

[5] The question of estoppel gives us little difficulty. In the case at bar, there is not a shred of evidence that the insured was in any way prejudiced, in any way misled, or in any way changed his position as a result of the time span between his receipt of the reservation of rights letter and the institution of the present suit. We hold that the assurer was not estopped from denying liability.

Judgment affirmed, with costs.



231 Md. 280

Francis T. DAMPMAN

v.

CITY OF BALTIMORE et al., and
William Steinmetz, et ux., etc.

No. 268.

Court of Appeals of Maryland.

April 5, 1963.

Board of Municipal Zoning Appeals rendered an order permitting the extension of a non-conforming commercial use in a residential area, and an appeal was taken. The Baltimore City Court, Dulany Foster, J., affirmed the order, and an appeal was taken. The Court of Appeals, Marbury, J., held that action of Board in permitting owners, whose business constituted non-conforming use in residential area, to erect second story addition 12 feet wide and 22

feet long for purpose of expanding business space under zoning ordinance was arbitrary and capricious, where there was no showing that need for addition was real and substantial and no showing that zoning restriction when applied to owners' property was so unreasonable as to constitute arbitrary and capricious interference with basic right of private ownership.

Judgment reversed.

1. Zoning §329

"Incidental use" within zoning ordinance providing that zoning board may permit, where otherwise excluded or limited, use of same classification, necessary or incidental to non-conforming use presently existing in certain districts within 50 feet from existing non-conforming use, provided that 50 foot measurement should not extend across street or alley does not contemplate major addition to or major expansion of non-conforming use, but rather one appertaining, subordinate, or casual thereto.

See publication Words and Phrases for other judicial constructions and definitions.

2. Zoning §329

Action of board of municipal zoning appeals in permitting owners, whose business constituted non-conforming use in residential area, to erect second story addition 12 feet wide and 22 feet long for purpose of expanding business space under zoning ordinance was arbitrary and capricious, where there was no showing that need for addition was real and substantial and no showing that zoning restriction when applied to owners' property was so unreasonable as to constitute arbitrary and capricious interference with basic right of private ownership.

Douglas H. Gordon, Baltimore (C. Rider Brandau, Jr., Baltimore, on the brief), for appellant.

public's tastes, trends and consumption of certain foods and its interest in leisure activities; to determine and evaluate population growth or decline in various areas as indicative of the probabilities in regard to future sales; the ability to determine the location of advantageous sites for outlets and the solution of traffic, zoning and construction problems, as well as making provision for construction financing; and, to deal more effectively with problems of labor-management relations, to name a few which come to mind.

Our predecessors stated the purpose of § 57 in *Read Drug and Chemical Co.*, *supra*, as follows:

"* * * to exact an additional license fee for the privilege of engaging in the 'chain store' business, by reason of the advantages such a method of conducting business has over the individual operator, thereby rendering more equal competition and also deriving additional revenue for the State. It is evident that the Legislature concluded that, as the number of stores or mercantile establishments in the chain increased there was a corresponding increase in the advantages secured."

(165 Md. at 258, 166 A. at 746.)

The advantages obtained by Fair Lanes by the greater quality, expertise and experience of its management, as well as its ownership and supervision of Arundel and English, bring Fair Lanes within the language and purpose of § 57 and support the order of the Maryland Tax Court sustaining the ruling of the Comptroller in denying the refunds and holding that there was no denial of the equal protection of the laws under the Fourteenth Amendment.

Order of August 20, 1971, affirmed, the appellant to pay the costs.

ARUNDEL SUPPLY CORPORATION ET AL. v.
CASON ET AL.

[No. 309, September Term, 1971.]

Decided April 12, 1972.

LACHES—*A Suit To Enforce Zoning Ordinances Requiring The Cessation Of An Illegal And Quite Profitable Business Enterprise Will Not Be Barred By Laches Where The Firm Is Unable To Show Any Disadvantage, Injury Or Prejudice Suffered Because Of The Delay In Bringing Suit.* pp. 375-377

ZONING—"Gravel Pit" Defined—*Where A Gravel Pit Is Permitted, It Is Anticipated That The Use Will Be For An Excavation From Which Gravel Will Be Removed And Not Particularly For Washing And Screening Of The Gravel.* p. 377

ZONING—"Gravel Pit" — *Accessory Use—Washing, Screening And Batching Of Materials Trucked In From Other Places Is Not A Use Accessory To The Excavation Of Gravel On The Property.* pp. 377-378

STATUTES—*Although Customs And Usage Are Admissible To Ascertain The Intention Of A Legislative Body When A Statute Is Vague Or Ambiguous, No Custom Can Nullify The Clear And Manifest Meaning Of The Statute.* pp. 378-379

ZONING—*A Use And Occupancy Permit Cannot Be Validated Under Provisions For Correcting Erroneous Permits Where The Use Itself Has Been Declared Illegal.* p. 379

INJUNCTIONS—DECREEES — APPEAL — *A Matter May Be Remanded For Revision Of A Decree To Comply With The Requirements Of Maryland Rule BB78 a Without Upsetting The Effect Of The Decree.* pp. 379-380

R. L. H.

Motion for rehearing filed May 8, 1972; denied May 16, 1972.

Three appeals in one record from the Circuit Court for Prince George's County (POWERS, Ralph W., J.).

Suit by James P. Cason and other residents of Prince George's County, Maryland, against Arundel Supply Corporation, Arundel Concrete Co., Arundel Asphalt Products, Inc., Ben Woodward and Lorenzo F. Thompson seek-

IN THE MATTER OF:

* BEFORE THE

TRINITY ASSEMBLY OF GOD-

* COUNTY BOARD OF APPEALS

Legal Owner: SAINT JOSEPH

* OF

MEDICAL CENTER, INC. - C.P.

* BALTIMORE COUNTY

2122 West Joppa Road

* CASE NO. 06-446-SPH

8th Election District

* June 13, 2007

3rd Councilmanic District

*

* * * * *

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 o'clock a.m., June 13, 2007.

ORIGINAL

Reported by:

C.E. Peatt

APPEAL

Petition for Special Hearing
2122 West Joppa Road
E/side Joppa Rd., 780 ft. n/of intersection Joppa Rd & Sunset Knoll Court
8th Election District – 3rd Councilmanic District
Legal Owners: Trinity Assembly of God
Contract Purchaser: Saint Joseph Medical Center, Inc.

Case No.: 06-446-SPH

RECEIVED

AUG 17 2006

BALTIMORE COUNTY
BOARD OF APPEALS

- ✓ Petition for Special Hearing (March 23, 2006)
- ✓ Zoning Description of Property
- ✓ Notice of Zoning Hearing (April 11, 2006)
- ✓ Certification of Publication (The Jeffersonian – April 30, 2006)
- ✓ Certificate of Posting (April 29, 2006) by SSG Robert Black
- ✓ Entry of Appearance by People's Counsel (April 7, 2006)
- ✓ Petitioner(s) Sign-In Sheet – One Sheet
 - Protestant(s) Sign-In Sheet - None
- ✓ Citizen(s) Sign-In Sheet – One Sheet
- ✓ Zoning Advisory Committee Comments
- ✓ Petitioners' Exhibit
 - ✓ 1. Plan to accompany petition
- Protestants' Exhibits:
 - ✓ 1. Photograph
 - ✓ 2. (A thru D) Photographs
- Miscellaneous (Not Marked as Exhibit)
 - ✓ 1. Violation of Case Documents
 - ✓ 2. Entry of Appearance from K. Donald Proctor
 - ✓ 3. Memorandum of Law of Ruxton Riderwood Lak Roland Area Improvement Assoc., Inc.
 - ✓ 4. Letter dated June 5, 2006 from West Towson Neighborhood Association
- ✓ Deputy Zoning Commissioner's Order (GRANTED w/Restrictions – June 29, 2006)
- ✓ Notice of Appeal received on July 18, 2006 from People's Counsel of Baltimore County

c: People's Counsel of Baltimore County, MS #2010
Deputy Zoning Commissioner
Timothy Kotroco, Director of PDM
Arnold Jablon
Trinity Assembly of God
Saint Joseph Medical Center
Mitch Kellman
Mr. & Mrs. Peace
K. Donald Proctor
Nancy Horst
Richard Parsons
✓ ~~VC Rinaujo~~ Ret'd by P.O.
Michael Pierce
Frederick Hudson

date sent August 17, 2006, klm

APPEAL

Petition for Special Hearing
2122 West Joppa Road
E/side Joppa Rd., 780 ft. n/of intersection Joppa Rd & Sunset Knoll Court
8th Election District – 3rd Councilmanic District
Legal Owners: Trinity Assembly of God
Contract Purchaser: Saint Joseph Medical Center, Inc.

Case No.: 06-446-SPH

Petition for Special Hearing (March 23, 2006)

Zoning Description of Property

Notice of Zoning Hearing (April 11, 2006)

Certification of Publication (The Jeffersonian – April 30, 2006)

Certificate of Posting (April 29, 2006) by SSG Robert Black

Entry of Appearance by People's Counsel (April 7, 2006)

Petitioner(s) Sign-In Sheet – One Sheet

Protestant(s) Sign-In Sheet - None

Citizen(s) Sign-In Sheet – One Sheet

Zoning Advisory Committee Comments

Petitioners' Exhibit

1. Plan to accompany petition

Protestants' Exhibits:

1. Photograph
2. (A thru D) Photographs

Miscellaneous (Not Marked as Exhibit)

1. Violation of Case Documents
2. Entry of Appearance from K. Donald Proctor
3. Memorandum of Law of Ruxton Riderwood Lak Roland Area Improvement Assoc., Inc.
4. Letter dated June 5, 2006 from West Towson Neighborhood Association

Deputy Zoning Commissioner's Order (GRANTED w/Restrictions – June 29, 2006)

Notice of Appeal received on July 18, 2006 from People's Counsel of Baltimore County

c: People's Counsel of Baltimore County, MS #2010
Deputy Zoning Commissioner
Timothy Kotroco, Director of PDM
Arnold Jablon
Trinity Assembly of God
Saint Joseph Medical Center
Mitch Kellman
Mr. & Mrs. Peace
K. Donald Proctor
Nancy Horst
Richard Parsons
VC Rinaujo
Michael Pierce
Frederick Hudson

date sent August 17, 2006, klm

**Department of Permits and
Development Management**



Baltimore County

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

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

August 17, 2006

Arnold Jablon, Esquire
Venable, LLP
210 Allegheny Avenue
Towson, MD 21204

Dear Mr. Jablon:

RE: Case: 06-446-SPH, 2122 West Joppa Road

Please be advised that an appeal of the above-referenced case was filed in this office on June 29, 2006 by People's Counsel of Baltimore. 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.

Sincerely,

A handwritten signature in black ink that reads "Timothy Kotroco".

Timothy Kotroco
Director

TK:klm

c: William J. Wiseman III, Zoning Commissioner
Timothy Kotroco, Director of PDM
People's Counsel
Arnold Jablon
Trinity Assembly of God
Saint Joseph Medical Center
Mitch Kellman
Mr. & Mrs. Peace
K. Donald Proctor
Nancy Horst
Richard Parsons
VC Rinaujo
Michael Pierce
Frederick Hudson

Visit the County's Website at www.baltimorecountyonline.info



LAW OFFICES
PROCTOR & MCKEE, P.A.
A PROFESSIONAL CORPORATION
SUITE 505
102 WEST PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204-4542

www.proctorlaw.com

K. DONALD PROCTOR
kdproctor@proctorlaw.com

TELEPHONE 410-823-2258
FACSIMILE 410-823-2268

July 31, 2006

Hand Delivery

Mr. Timothy Kotroco, Director
Baltimore County Department of Permits and Development Management
111 W. Chesapeake Avenue
Towson, MD 21204

**Re: PETITION FOR SPECIAL HEARING
E/S Joppa Road, 780' N of intersection of Joppa Rd and Sunset Knoll Ct
(2122 West Joppa Road)
8th Election District; 3rd Councilmanic District
Trinity Assembly of God, Inc – Petitioners, Case No. 06-446-SPH**

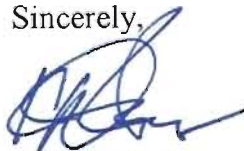
Dear Mr. Kotroco:

This letter amends the appeal filed in this matter by my letter of July 28, 2006, a copy of which is enclosed.

Please enter an appeal by the Ruxton Riderwood Lake Roland Area Improvement Association, Inc., whose address is 8013 Bellona Avenue, Riderwood, MD 21139, by James D. Cahn, whose address is 1819 Thornton Ridge Road, Ruxton, MD 21204 and by Mr. and Mrs. Thomas B. Peace, whose address is 2022 W. Joppa Road, Lutherville, MD 21093, to the County Board of Appeals from the Findings of Fact and Conclusions of Law of the Deputy Zoning Commissioner in this matter dated June 29, 2006.

Our check payable to Baltimore County for the \$400.00 filing fee was delivered with my letter of July 28, 2006.

Sincerely,



K. Donald Proctor

KDP:rm
Enclosure

RECEIVED

JUL 31 2006

Per... 

cc: Arnold Jablon, Esquire
 Peter Max Zimmerman, Esquire
 Ms. Nancy Horst
 Mr. James D. Cahn
 Mr. and Mrs. Thomas Peace
 Mr. Frederick Hudson

LAW OFFICES
PROCTOR & MCKEE, P.A.
A PROFESSIONAL CORPORATION
SUITE 505
102 WEST PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204-4542

www.proctorlaw.com

K. DONALD PROCTOR
kdproctor@proctorlaw.com

TELEPHONE 410-823-2258
FACSIMILE 410-823-2268

July 28, 2006

Hand Delivery

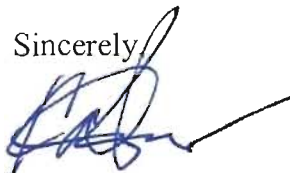
Mr. Timothy Kotroco, Director
Baltimore County Department of Permits and Development Management
111 W. Chesapeake Avenue
Towson, MD 21204

**Re: PETITION FOR SPECIAL HEARING
E/S Joppa Road, 780' N of intersection of Joppa Rd and Sunset Knoll Ct
(2122 West Joppa Road)
8th Election District; 3rd Councilmanic District
Trinity Assembly of God, Inc - Petitioners
Case No. 06-446-SPH**

Dear Mr. Kotroco:

Please enter an appeal by the Ruxton Riderwood Lake Roland Area Improvement Association, Inc., whose address is 8013 Bellona Avenue, Riderwood, MD 21139, and by James D. Cahn, whose address is 1819 Thornton Ridge Road, Ruxton, MD 21204, to the County Board of Appeals from the Findings of Fact and Conclusions of Law of the Deputy Zoning Commissioner in this matter dated June 29, 2006. Our check payable to Baltimore County for the \$400.00 filing fee is enclosed.

Sincerely,



K. Donald Proctor

KDP:rm

cc: Arnold Jablon, Esquire
Peter Max Zimmerman, Esquire
Ms. Nancy Horst
Mr. James D. Cahn
Mr. and Mrs. Thomas Peace
Mr. Frederick Hudson

RECEIVED
JUL 28 2006
Per. *KDP*



Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL

Room 47, Old CourtHouse
400 Washington Ave.
Towson, MD 21204

410-887-2188
Fax: 410-823-4236

PETER MAX ZIMMERMAN
People's Counsel

July 18, 2006

CAROLE S. DEMILIO
Deputy People's Counsel

Hand-delivered

Timothy Kotroco, Director
Department of Permits and
Development Management
111 W. Chesapeake Avenue
Towson, MD 21204

Re: PETITION FOR SPECIAL HEARING
E/S Joppa Road, 780' N of intersection of Joppa Rd and Sunset Knoll Ct
(2122 West Joppa Road)
8th Election District; 3rd Council District
Trinity Assembly of God, Inc - Petitioners
Case No.: 06-446-SPH

Dear Mr. Kotroco:

Please enter an appeal by the People's Counsel for Baltimore County to the County Board of Appeals from the Findings of Fact and Conclusions of Law dated June 29, 2006 by the Baltimore County Deputy Zoning Commissioner.

Please forward copies of any papers pertinent to the appeal as necessary and appropriate.

Very truly yours,

Peter Max Zimmerman
People's Counsel for Baltimore County

Carole S. Demilio
Deputy People's Counsel

RECEIVED

JUL 18 2006

Per. [Signature]

PMZ/CSD/rmw

cc: Arnold Jablon, Esquire, Venable, LLP, 210 Allegheny Avenue, Towson, MD 21204
Donald Gerding, 335 Old Trail Road, Towson, MD 21212
Nancy Horst, P.O. Box 204, Riderwood, MD 21139
K. Donald Proctor, 102 West Pennsylvania Avenue, Towson, MD 21204

6/29/06

IN RE: PETITION FOR SPECIAL HEARING * BEFORE THE
E/S of Joppa Road, 780 feet north of
intersection of Joppa Road and *
Sunset Knoll Court * DEPUTY ZONING COMMISSIONER
8th Election District *
3rd Councilmanic District * OF BALTIMORE COUNTY
(2122 West Joppa Road) *
Trinity Assembly of God * CASE NO. 06-446-SPH
Legal Owner and Petitioner *
* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner on a Petition for Special Hearing for the property located at 2122 West Joppa Road in the Towson area of Baltimore County. The Petition was filed by Trinity Assembly of God, Legal Owner. Special Hearing relief is requested pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), for confirmation that a parking lot accessory to a principal use may be utilized by uses other than the principal use.

The property was posted with Notice of Hearing on May 29, 2006, for 15 days prior to the hearing, in order to notify all interested citizens of the requested zoning relief. In addition, a Notice of Zoning hearing was published in "The Jeffersonian" newspaper on May 30, 2006, to notify any interested persons of the scheduled hearing date.

Applicable Law

Section 500.7 of the B.C.Z.R. *Special Hearings*

The Zoning Commissioner shall have the power to conduct such other hearings and pass such orders thereon as shall in his discretion be necessary for the proper enforcement of all zoning regulations, subject to the right of appeal to the County Board of Appeals. The power given hereunder shall include the right of any interested persons to petition the Zoning Commissioner for a public hearing after advertisement and notice to determine the existence of any non conforming use on any premises or to determine any rights whatsoever of such person in any property in Baltimore County insofar as they may be affected by these regulations.

RECEIVED FOR FILING
6-29-06
PZ

Zoning Advisory Committee Comments

The Zoning Advisory Committee (ZAC) Comments are made part of the record of this case and contain the following highlights: ZAC comments were received from the Office of Planning dated April 5, 2006, a copy of which is attached hereto and made a part hereof.

Interested Persons

Appearing at the hearing on behalf of the requested special hearing was Mitch Kellman, from Daft, McCune and Walker, for the Petitioner. Arnold Jablon, Esquire, and David Karceski, Esquire, represented that the Petitioner. Tom and Merle Peace, and Fred Hudson testified against the request. Nancy Horst, Richard Parsons, V. C. Rinaujo and Michael Pierce attended the hearing but did not testify. Donald Proctor, Esquire, represented the Ruxton Riderwood Lake Roland Area Improvement Association in opposition to the request at the hearing. People's Counsel, Peter Max Zimmerman, entered the appearance of his office in this case.

Code Enforcement Comments

This matter is currently the subject of an active violation case (Case No. 06-0780) in the Division of Code Inspections and Enforcement. A citation for code violation has been issued in this matter due to the allegation that the parking lot is being used for illegal commercial business as a parking lot in a residential zone. It should be noted, for the record, that the fact that a zoning violation is issued is simply ignored in this zoning case. This means that the Petitioner cannot use the fact that a use was made of the property to set a precedent in order to allow it to continue. Nor does the fact that not having that use in the future may be costly come into consideration of the zoning case. Zoning enforcement is conducted by the Department of Permits and Development Management, which has the authority to impose fines and other penalties for violation of law. This is not the province of this office.

RECEIVED FOR PLANNING
6-29-06
PJS

Testimony and Evidence

Mr. Jablon indicated that the Petitioner and St. Joseph's Hospital entered into an agreement whereby approximately 300 of the Church's 750 parking spaces would be leased temporarily to the Hospital for employee parking on weekdays while the Hospital completed major renovations. The Hospital stopped using the Petitioner's parking lot at or about the time of the hearing having found other parking arrangements with Towson University for the summer. However when asked why this case was not moot, Mr. Jablon indicated that the Church planned to lease similar parking spaces to others in the future and so wanted a decision in this regard.

He noted that the Church entered into a similar arrangement with GBMC Hospital while they had renovations some time ago apparently without difficulty. The Petitioner has 750 parking spaces which he opined are little used during the week. The Church uses the parking lot on weekends. St. Joseph's Hospital leased 300 spaces from the Church for employee parking each workday and operated a shuttle bus service to and from the Hospital for these employees.

Preliminary Matter

Mr. Jablon proffered that the question is whether an accessory parking lot may be leased to a secondary user who is not related in any way to the principal use under the zoning regulations? He saw this issue in the broadest terms including shopping centers, schools, churches, etc., who have large parking lots and who lease parking spaces to others.

Mr. Proctor argued that the issues raised by the Petitioner were extremely broad, and that Section 500.7 of the BCZR was not intended to answer abstract questions. In this case he noted that it was not a matter of the Petitioner using the parking lot but others unrelated using the parking lot. Finally he argued that there was insufficient notice to property owners adjacent to

RECEIVED FOR FILING
6-29-06
Pj

the Church that such an arrangement was being considered. As such the Petition should be dismissed.

This Deputy Zoning Commissioner denied the Motion to Dismiss but limited the question to the issues in this case, to the site plan presented and to the facts of this particular use.

Testimony and Evidence

The protestants presented photographs of the Hospital's shuttle busses on Joppa Road, the areas leased marked by traffic cones, and scenes of Hospital employees' vehicles in the Church parking lots as shown on protestants exhibits 1 and 2.

Mr. Hudson who lives nearby on Joppa Road expressed concern about the traffic generated by this use on Joppa Road, indicated that there were several failing intersections nearby, and that the leasing of parking spaces had adversely affected the community. He objected to a church in a residential zone using its parking lot for commercial purposes.

Mr. Kellman, a zoning consultant for the Petitioner, reviewed the site plan presented with the Petition which was accepted as Petitioner's exhibit 1. He noted that the size of a parking lot for a church is specified in the zoning regulations as one space for every 4 seats in the church. In this case the site plan shows 744 spaces are available whereas 640 are required under the regulations. He noted that parking vehicles on the lot is allowed by right under the regulations, the property is zoned DR 1 and hospitals are likewise permitted by right in this residential zone. In response to the Planning Office comments, he was unsure of the issue raised about the prior sign case, and noted that while the parking regulations of Section 409.6.B.3 allow shared parking, the Church in this case has all the parking it needs to meet the regulations. So even though this is not a shared parking situation, the regulations encourage shared parking such as being proposed.

RECEIVED FOR FILING
6-29-06
Py

He noted that many enterprises with large parking lots lease spaces to others for remuneration, and new car dealers often park their vehicles on others' parking lots. He opined that nothing in the zoning regulations prohibits leasing parking spaces. Finally he noted the Zoning Office requires those leasing space to others to file for a use permit and file a site plan.

Upon questioning he admitted that he had not actually counted the parking spaces on the lot but relied on the site plan. He confirmed that based on the site plan 670 spaces are required whereas 744 are provided according to the site plan.

Mr. Peace who lives on Joppa Road near the Church objected to the requested relief. He noted that the Church actually operates a day school on the property during weekdays and members of the Church often come to the Church during the week. As a result the lot is not empty during the time the Church leases to others. He also noted that Hospital buses ran every 15 minutes for employees beginning at 6 AM and continuing until 7 PM at night. He reviewed past controversies with the Church on their request for an electric sign, reflected on a 1990 request for commercial parking in residential zone by a limousine service, and noted a lack of notice by the Church to the community of its plans. Mrs. Pease confirmed that there were 200 to 300 vehicles on the parking lot when the Hospital shuttle was operating, and generally supported her husband's opposition to the request.

Findings of Fact and Conclusions of Law

Let me again state that Section 500.7 of the BCZR is not intended to answer theoretical questions. The Circuit Court has dealt with this kind of issue for many years in suits filed for Declaratory Judgment. The Circuit Court has directed, there must be enough specific facts in such a suit to give the Court a focus of what is being asked. By limiting the scope of the question to facts or law in controversy the Court can grasp the implications of its decisions. I

RECEIVED FOR FILING
6-29-06
PZ

certainly agree and have limited my decision in this case to those facts presented including this specific site plan and the law as argued by very able attorneys.

I agree with Mr. Kellman that there is no specific prohibition in the zoning regulations against leasing accessory parking spaces to others not related to the principal use. Common knowledge tells us that if something is not specifically prohibited by law then under our system of laws, citizens are allowed to do what they want. I can understand why the Church would look at this as a matter of use of private property, which again not being specifically prohibited, is allowed. Given this perspective of law, there clearly is no need to contact the community, to explain the Church's plan and to somehow take community objections into account.

However zoning law does not work this way. As strange as it may seem, unless a use is specifically permitted by the zoning regulations, that use is not permitted. This property is in a DR 1 zone. Section 102.1 of the BCZR directs that

"No land shall be used or occupied and no building or structure erected, altered, located or used except in conformity with these regulations ...".

Given such a such a slap at the use of private property, one can understand that zoning regulations were routinely held to be unconstitutional by Maryland Courts until about WWII. In fact, the first Baltimore County zoning regulations were thrown out by the Courts. It was not until a set of County zoning regulations enacted January 2, 1945 were found to be constitutional that such regulations were allowed by the Courts. Again for perspective, the 1945 Residence Zone regulations provided that

"Except as hereinafter expressly provided no building or land shall be used and no building or structure shall be hereafter erected, altered, repaired or used except for ...(a list of

SEALED FOR FILING

62506

12/1

permitted uses)". So this reverse law, if you will, has been around a while but is clearly contrary to common understanding and experience of our system of laws.

So the question then for me is whether or not the use as a parking lot by someone other than the owner of land for money is allowed under the DR zoning regulations. A review of Section 1B01.1A reveals that dwellings, churches and hospitals are allowed uses in DR zones. However there is no specific use of parking lots by others for money in residential zones allowed under the regulations. Use of parking lots for money are allowed under several business zones. So there can be no commercial parking lots in residential zones.

Mr. Jablon argues that in this specific case, the parking lot is an accessory use to the Church which is allowed under the DR regulations. I agree. He further opines that there is nothing in the regulations which would prohibit use of an accessory use by someone other than the principal use. This of course is the issue in this case. Mr. Proctor disagrees. He cites the definition of accessory use or structure from the zoning regulations. He points out that to fit within the definition "accessory use or structure" the use must be customarily incident to and subordinate to and serve a principal use or structure. In addition the definition requires the accessory use to contribute to the comfort, convenience or necessity of the occupants, business or industry in the principal use served. He points out the principal use is that of a church. Parking for a hospital cannot possibly serve the principal use (church) and certainly such use is not customarily incident to the principal use (church). Said another way the Church could use the parking lot for parking for perhaps field trips for its school, excursions of members to Atlantic City, flea markets to raise funds for the Church, etc. These are customarily incidental to the principal use as a church and clearly serve that principal use directly.

RECEIVED FOR FILING
621906
By

Considering the testimony evidence and argument of counsel, I find the following:

1. Just what constitutes an acceptable accessory use of a parking lot has to be determined on a case by case basis. The variables are simply too great to make any sweeping pronouncements.
2. The secondary use of parking lots is governed by Section 500.4 of the BCZR. Secondary use of this parking lot not directly in support of the principal use requires a use permit.
3. The use permit would be processed under procedure established by the Department of Permits and Development Management. Simply to illustrate for the Church and community the kinds of regulations DPDM could create, I have adapted the use permit regulations for child care centers as follows:

1. Nature and extent of the principal and secondary uses
 - a. Zoning of the property
 - b. The dates and hours of operation proposed
 - c. Number parking spaces provided on site
 - d. Number of spaces used by the applicant
 - e. Number of spaces leased to the secondary use
 - f. Estimated amount of traffic generated including types of vehicles involved
 - g. Photographs of the parking lot to be leased and immediate environs
 - h. A site plan indicating location of the parking lot in question, location of area proposed to be leased and proximity of dwellings on adjacent lots
2. Notice of the application for the use permit shall be conspicuously posted on the property in question, for a period of 30 days following the filing of the application.
3. Within the thirty-day posting period, any occupant or owner within 1,000 feet of the parking lot in question may file a formal request for a public hearing with the Zoning Commissioner in accordance with Section 500.7.
4. If a formal request for a public hearing is not filed, the Zoning Commissioner, without a public hearing, may grant a use permit for a secondary use for a parking lot if the proposed use meets all the requirements of this BCZR and any other applicable requirements. Such use permit may be issued with such conditions or restrictions as determined appropriate by the Zoning Commissioner to ensure that the secondary use will not be detrimental to the health, safety or general welfare of the surrounding community.
5. If a formal request for a public hearing is filed, the Zoning Commissioner shall schedule a date for the public hearing, such hearing to be held not less than 15 days following public notice of such hearing in two newspapers of general circulation and not more than 60 days from the date of filing of the requests for public hearing.

SEALED FOR FILING

6-29-06

PJ

6. Following the public hearing, the Zoning Commissioner may either deny or grant a use permit conditioned upon:
 - a. His findings following the public hearing.
 - b. The character of the surrounding community and the anticipated impact of the proposed use on that community.
 - c. The manner in which the applicable requirements are met; and any additional requirements as deemed necessary by the Zoning Commissioner in order to ensure that the leased portion of the parking lot will not be detrimental to the health, safety or general welfare of the surrounding community and as are deemed necessary to satisfy the objectives of Section 502.1 of these regulations.

Having generally outlined the procedure for the use permit for information of the Parties, I will not make a specific ruling in the use by a secondary user of the subject parking lot in this case. The use by St. Joseph's Hospital has ceased. What new use may be proposed for the parking lot in the future must be judged upon the facts of that particular application for use permit and processed according to rules established by DPDM.

Pursuant to the advertisement, posting of the property, and public hearing on this petition held, and after considering the testimony and evidence offered by the Petitioner, I find that the Petitioners' request for special hearing should be granted with conditions.

THEREFORE, IT IS ORDERED, by the Deputy Zoning Commissioner for Baltimore County, this 29th day of June, 2006, that the Petitioners' request for Special Hearing relief filed pursuant to Section 500.7 to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), confirmation that a parking lot accessory to a principal use may be utilized by uses other than the principal use is GRANTED with the following condition:

1. For any future use of the Church's parking lot by a secondary user, the Church must obtain a use permit pursuant to the procedure established by the Department of Permits and Development Management.

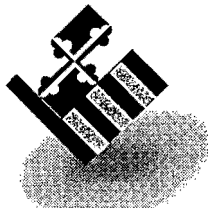
Any appeal of this decision must be made within thirty (30) days of the date of this Order.

RECEIVED FOR FILING
62506
Bj

John V. Murphy
JOHN V. MURPHY
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

JVM:pz

RECEIVED FOR FILING
6/2/90
pro



BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

WILLIAM J. WISEMAN III
Zoning Commissioner

June 28, 2006

TRINITY ASSEMBLY OF GOD
2122 WEST JOPPA ROAD
LUTHERVILLE MD 21093

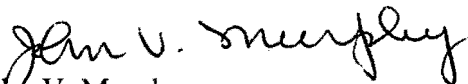
Re: Petition for Special Hearing
Case No. 06-446-SPH
Property: 2122 West Joppa Road

Dear Mr. Sir:

Enclosed please find the decision rendered in the above-captioned case. The petition for Special Hearing has been granted with restrictions in accordance with the enclosed Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days from the date of the Order to the Department of Permits and Development Management. If you require additional information concerning filing an appeal, please feel free to contact our appeals clerk at 410-887-3391.

Very truly yours,


John V. Murphy
Deputy Zoning Commissioner
for Baltimore County

JVM:pz
Enclosure

c: Arnold Jablon, Esquire, Venable, Baetjer & Howard, LLP, 210 Allegheny Avenue, Towson MD 21204
Saint Joseph Medical Center Inc., Attn: Silvia Moore, Exec VP, 7601 Osler Drive, Towson MD 21204
David Karceski, Esquire, 210 Allegheny Avenue, Towson MD 21204
Mitch Kellman, 200 East Pennsylvania Avenue, Towson MD 21286
Tom And Merle Peace, 2022 West Joppa Road, Lutherville MD 21093
K Donald Proctor, 102 West Pennsylvania Avenue, Towson MD 21204
Nancy Horst, Po Box 204, Riderwood MD 21139
Richard Parsons, 412 Woodbine, Towson MD 21204
VC Rinaujo, 22 West Allegheny, Suite 200, Towson MD 21204
Michael Pierce, 7448 Bradshaw Road, Kingsville MD 21087
Frederick Hudson, 2110 West Joppa Road, Lutherville MD 21093

RE: PETITION FOR SPECIAL HEARING
2122 West Joppa Road; E/S Joppa Road, 780'
N intersection of Joppa Rd & Sunset Knoll Ct.
8th Election & 3rd Councilmanic Districts
Legal Owner(s): Trinity Assembly of God
Contract Purchaser(s): Saint Joseph Medical
Center, Inc. by Sylvia Moore, Executive VP

* BEFORE THE
* ZONING COMMISSIONER
* FOR
* BALTIMORE COUNTY

Petitioner(s)

* Case No. 06-446-SPH

* * * * *

**MEMORANDUM OF LAW OF RUXTON RIDERWOOD LAKE ROLAND AREA
IMPROVEMENT ASSOCIATION, INC.**

Ruxton Riderwood Lake Roland Area Improvement Association, Inc., by its attorneys, K. Donald Proctor and Proctor & McKee, P.A., submits this memorandum of law in the above-captioned matter.

Petitioner argues that “a parking lot accessory to a principal use [here a church in a DR1 zone] may be utilized by uses other than the principal use.” Specifically, it argues that in addition to using its parking lot for persons attending church related activities, it may use the parking lot for parking for non-church purposes such as, (1) parking for employees of St. Joseph’s Hospital while that hospital undergoes renovations, and (2) pick up and drop off of those employees at the church’s parking lot by large buses which regularly travel from the church to St. Joseph’s.

Such a contention totally ignores that portion of the definition of “accessory use” in the BCZR which requires that an accessory use be “customarily incident and

subordinate to and serves a principal use” and that it “contributes to the comfort, convenience or necessity of occupants ... in the principal use or structure served.” BCZR

Section 101 (“Definitions”) provides as to accessory use:

ACCESSORY USE OR STRUCTURE -- A use or structure which: (a) *is customarily incident and subordinate to and serves a principal use or structure*; (b) is subordinate in area, extent or purpose to the principal use or structure; (c) is located on the same lot as the principal use or structure served; and (d) *contributes to the comfort, convenience or necessity of occupants, business or industry in the principal use or structure served*; except that, where specifically provided in the applicable regulations, accessory off-street parking need not be located on the same lot. An accessory building, as defined above, shall be considered an accessory structure. A trailer may be an accessory use or structure if hereinafter so specified. An ancillary use shall be considered as an accessory use; however, a use of such a nature or extent as to be permitted as a "use in combination" (with a service station) shall be considered a principal use. (emphasis added).

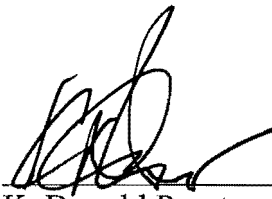
Clearly, the use of a church parking lot for parking (presumably for a fee) for employees of a hospital remote from the church and the busing of employees between the church and the hospital is not “customarily incident” to church use. Just as clearly these uses by St. Joseph’s Hospital do not “serve the principal use or structure” as a church; rather, they serve St. Joseph’s Hospital and are therefore prohibited.

While there are no Maryland cases which speak specifically to this issue, the Court of Special Appeals has clearly recognized the difference between parking as an accessory use and parking for a fee under the Baltimore County Zoning Regulations. That Court, in *McKemy v. Baltimore County*, 39 Md. App. 257, 268-69 (1978), said:

From their inception in 1945, the county zoning regulations have rejected the notion that all parking lots are the same, and have instead drawn careful distinctions between types of parking uses. To do otherwise would blur obvious and important distinctions, given clear recognition by the courts, between the “parking” and the “storage” of vehicles, between the parking or storage of commercial vehicles and the parking or storage of non-commercial vehicles, ***between the business of renting parking spaces and parking as an accessory use***, and between parking qua parking and parking as part of a commercial enterprise. ***All parking lots are not the same, and one type of parking use does not necessarily beget or permit another.*** (footnotes omitted) (emphasis added).

Further, the Court of Special Appeals in *County Commissioners v. Zent*, 86 Md. App. 745, 758 (1991) said that, “In general, an accessory use is regarded as ‘a use which is dependent on or pertains to the principal or main use.’” The use here by St. Joseph’s does not pertain to the principal church use on the premises.

Accordingly, the Zoning Commissioner should determine that the uses at issue herein are not permitted.



K. Donald Proctor
Margaret M. McKee
Proctor & McKee, P.A.
Suite 505
102 West Pennsylvania Avenue
Towson, MD 21204
410-823-2258
kdproctor@proctorlaw.com
***Attorneys for Ruxton Riderwood Lake Roland
Area Improvement Association, Inc.***



Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 2122 West Joppa Road

which is presently zoned DR1

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:

Saint Joseph Medical Center, Inc.

Name - Type or Print

Signature [Signature]
By: Silvia Moore, Executive Vice President and COO

Address 7601 Osler Drive Telephone No. 410-337-1000
Towson, MD 21204
City State Zip Code

Attorney For Petitioner:

Arnold Jablon / David H. Karciski

Name - Type or Print

Signature [Signature]

Venable LLP

Company

Address 210 Allegheny Avenue Telephone No. 410-494-6200
Towson, MD 21204
City State Zip Code

Legal Owner(s):

Trinity Assembly of God

Name Type or Print

Signature [Signature]

Name - Type or Print J. Collins, Jr.

Signature

2122 West Joppa Road 410-821-6573

Address

Telephone No.

Lutherville, MD 21093

City

State

Zip Code

Representative to be Contacted:

Arnold Jablon

Name

210 Allegheny Avenue 410 494-6200

Address

Telephone No.

Towson, MD 21204

City

State

Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

UNAVAILABLE FOR HEARING _____

Case No. 06-446-SPH

Reviewed By D.T. Date 3/23/06

REV 9/15/98

INDEX RECEIVED FOR FILING

6-29-06

[Signature]

ATTACHMENT TO PETITION FOR SPECIAL HEARING

Special hearing for confirmation that a parking lot accessory to a principal use may be utilized by uses other than the principal use.

**ZONING DESCRIPTION
FOR TRINITY ASSEMBLY OF GOD IN BALTIMORE COUNTY**

Beginning at a point on the east side of Joppa Road, 780 feet, plus or minus, north of the intersection of Joppa Road and Sunset Knoll Court, then extending the following courses and distances:

Beginning for the same at a pipe set at the point formed by the intersection of the northeast side of Joppa Road, varying in width, as shown on the State Highway Administration of Maryland Right-of-Way Plat No. 23544 and the northeast side of the Baltimore Beltway Right-of-Way Line, as shown on Right-of-Way Plat No. 10577 said point of beginning also being the beginning of the last line of the second parcel of land in the aforementioned conveyance to Bennett and hence binding on the southeast side of said Beltway as shown on Right-of-Way Plats No. 10577, 10578 and 10547 and on the last line of the said conveyance to Bennett as now surveyed (1) by a line curving to the right with a radius of 7514.44 feet, the distance of 1750.24 which arc is subtended by a chord bearing North 46°43'41" East 1,746.28 feet, to a pipe set; thence leaving said Beltway and binding on the first line of said conveyance to Bennett and being also the southerly side of the Janco Keelty and Co. Inc. property recorded in said Land Records in Liber 4671, folio 351, as now surveyed, (2) South 02°14'56" East 239.79 feet to a pipe set on the northwest outline of Plat Four, Section Five, "Thornleigh" recorded among the said Land Records in Plat Book RRG No. 30, Folio 10 said pipe being 14.29 feet from the northwest corner of Lot 1 and the southwest corner of Lot 2, Block "C" as shown on said Plat Four; thence binding on said northwest outline and on the second line of said conveyance to Bennett, as now surveyed, (3) South 17°12'09" West 140.38 feet to a concrete monument found, said concrete monument being 30.23 feet from the north side of Sherwick Road and the southwest corner of Lot 1, Block "C" as shown on said Plat Four; thence binding on all of the westernmost outline of said Plat Four and part of the westernmost outline of Plat Six, Section Five, "Thornleigh" recorded among the said Land Records in Plat Book OTG No. 31, Folio 24, and in align with the third line of the said conveyance to Bennett, as now surveyed, (4) South 02°31'32" East 250.96 feet, to a pipe set; thence binding on the Fourth line of said conveyance to Bennett and on the second line of a parcel of land conveyed to Charles Nes, Jr. by deed dated April 17, 1957 and recorded among said Land Records in Liber 3148, folio 426, as now surveyed, (5) North 75°22'42" West 265.09 feet to a concrete monument found, and continuing the same bearing 223.35 feet to a second concrete monument found on the southeast side of a 35 foot Right-of-Way and still continuing the same bearing 39.35 feet to a third and last monument found on the northeast side of said 35 foot Right-of-Way for an aggregate distance of 265.09 feet to the end of the fifth line of this description; thence binding on part of the third line of a conveyance to Charles Nes, Jr. by deed dated April 17, 1957 and recorded among the aforesaid Land Records in Liber 3148, Folio 426 and on the fifth line of the said conveyance to Bennett, said line being the northwest side of a 35 foot Right-of-Way described in Liber RJS No. 1492, Folio 246 from Elizabeth L. Nes and Husband to Eli C. Wareheim as now surveyed, (6) North 41°46'39" West 1421.61 feet to a concrete monument found on the southeast side of Joppa Road, 60 feet wide thence binding on the northeast side of Joppa Road, 60 feet wide thence binding on the northeast side of Joppa Road and on the sixth line of said conveyance to Bennett as now surveyed, (7) North 47°57'55" West 153.14 feet to a pipe set and thence binding on the northeast side of Joppa Road, varying width, as shown on said Right-of-Way Plat No. 23844 and on the seventh line of said conveyance to Bennett, as now surveyed, the two (2) following courses and distances, (8) North 64°49'53" West 154.03 feet to a pipe set and, (9) North 36°52'49" West 79.39 feet to the place of beginning.



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: 06-446 - SPH
Petitioner: St. Joseph's Medical Center, Inc.
Address or Location: 2122 W. Joppa Rd.

PLEASE FORWARD ADVERTISING BILL TO:

Name: Amy Dantell
Address: 210 Allegheny Avenue
Towson, MD. 21204

Telephone Number: (410) 494-16244

PROCTOR & McKEE, P.A. OPERATING ACCOUNT

5833

Baltimore County, Maryland

5833

7/28/2

\$400.00

Trinity Assembly - Appeal Fee
Account Detail:

1-6000 Advanced Client Costs

\$400.00

**BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT**

No. **4983**

DATE 3/23/06 ACCOUNT 0010066150

AMOUNT \$ 325.00

RECEIVED FROM: VENABLE

FOR: ITEM # 446 06-446-SPH

2122 W. JOPPA RD. D.T.

DISTRIBUTION
WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

PAID RECEIPT

BUSINESS	ACTUAL	TIME	DATE
3/24/2006	3/23/2006	10:18:38	1
ED MODI	WALTON	JOHN JNR	
>>RECEIPT # 270621 3/23/2006 DELH			
Dept 5 520 ZONING VERIFICATION			
CP NO. 004983			
Recpt Tot		4325.00	
4325.00 CR		1.00 CR	
Baltimore County, Maryland			

CASHIER'S VALIDATION



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

March 31, 2006

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: 06-446-SPH

2122 West Joppa Road

East side of Joppa Road, 780 feet north of intersection of Joppa Road and Sunset Knoll Court
8th Election District – 3rd Councilmanic District

Legal Owner: Trinity Assembly of God

Contract Purchaser: Saint Joseph Medical Center, Inc.,

By: Sylvia Moore, Exec. V.P. and COO

Special Hearing for confirmation that a parking lot accessory to a principal use may be utilized by uses other than the principal use.

Hearing: Tuesday, May 2, 2006 at 9:00 a.m. in Room 407, County Courts Building,
401 Bosley Avenue, Towson 21204

A handwritten signature in black ink that reads "Timothy Kotroco".

Timothy Kotroco
Director

TK:raj

C: Arnold Jablon, Esquire & David H. Karceski, Esquire, Venable, LLP, 210 Allegheny Avenue,
Towson, MD 21204
Trinity Assembly of God, 2122 West Joppa Road, Lutherville, MD 21093
Saint Joseph Medical Center, Inc., c/o Silvia Moore, Exec. V.P. and COO, 7601 Osler Drive, Towson,
MD 21204

**NOTES:(1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN
APPROVED POSTER ON THE PROPERTY BY MONDAY, APRIL 17, 2006.**

(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL
ACCOMMODATIONS PLEASE CALL THE ZONING COMMISSIONER'S OFFICE
AT 410-887-3868.

(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT
THE ZONING REVIEW OFFICE AT 410-887-3391.

CERTIFICATE OF POSTING

RE: Case No.: 06-446-SPH

Petitioner/Developer: SAINT JOSEPH
MEDICAL CNTR, SYLVIA MOORE

Date of Hearing/Closing: JUNE 14, 2006

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}

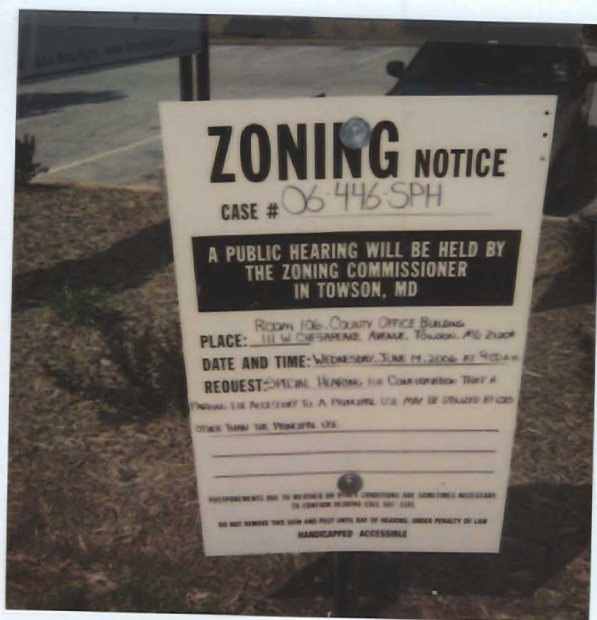
Ladies and Gentlemen:

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: _____

2122 WEST JOPPA ROAD

The sign(s) were posted on 5-29-06
(Month, Day, Year)

Sincerely,



Robert Black 5-30-06
(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)



Towson Office
409 Washington Avenue
Legal Advertising
Ph: 410-337-2425
FAX: 410-825-4278

Susan Wilkinson Ext. 3425
Ellen Harris Ext. 3418
Leah Dean Ext. 3432
Joanne Wernick Ext. 3512
Kathy Conahan Ext. 3417
Sue Thomas Ext. 3513

VERIFICATION OF CANCELLATION

TO: Kristen / Zoning Office

RE: Ad No.

4/139

Invoice No.

91352

Run Dates:

Property No.

2122 W. Joppa Rd. # 06-446-SPH

Amount Owed:

\$ 0.00

The above ad was tentatively canceled on 4/10/06.
Please verify this cancellation by signing below and faxing this form back to us

Your written verification is necessary in order to stop charges on this a

Signature

Kristen Matthews

Company

DM-Zoning

409 WASHINGTON AVENUE ■ TOWSON ■ MD ■ 21204 ■ 410-337-2455

ARBITUS TIMES ■ BALTIMORE MESSENGER ■ CATONSVILLE TIMES ■ COLUMBIA FLIER ■ HOWARD COUNTY TIMES ■ THE JEFFERSONIAN ■ LAUREL LEADER
NORTH COUNTY NEWS ■ NORTHEAST BOOSTER ■ NORTHEAST REPORTER ■ OWINGS MILLS TIMES ■ SOUND OFF! TOWSON TIMES ■ COLUMBIA MAGAZINE
GUIDE TO HOWARD COUNTY

APPEAL SIGN POSTING REQUEST

CASE NO. 06-⁴⁴⁶~~466~~-SPH

2122 WEST JOPPA ROAD

8TH ELECTION DISTRICT

APPEALED: 7/18/2006

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-~~46~~⁴⁴⁶-SPH

LEGAL OWNER: TRINITY ASSEMBLY OF GOD

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

2122 WEST JOPPA ROAD

MAP 26E3

The sign was posted on

6/25/07

~~2006~~

By:

(Signature of Sign Poster)

Jeff Raddiffe

(Print Name)

**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*

April 11, 2006

NEW 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: 06-446-SPH

2122 West Joppa Road

East side of Joppa Road, 780 feet north of intersection of Joppa Road and Sunset Knoll Court
8th Election District – 3rd Councilmanic District

Legal Owner: Trinity Assembly of God

Contract Purchaser: Saint Joseph Medical Center, Inc.,

By: Sylvia Moore, Exec. V.P. and COO

Special Hearing for confirmation that a parking lot accessory to a principal use may be utilized by uses other than the principal use.

Hearing: Wednesday, June 14, 2006 at 9:00 a.m. in Room 106, County Office Building,
111 W. Chesapeake Avenue, Towson 21204

A handwritten signature in black ink that reads "Timothy Kotroco".

Timothy Kotroco
Director

TK:raj

C: Arnold Jablon, Esquire & David H. Karceski, Esquire, Venable, LLP, 210 Allegheny Avenue,
Towson, MD 21204
Trinity Assembly of God, 2122 West Joppa Road, Lutherville, MD 21093
Saint Joseph Medical Center, Inc., c/o Silvia Moore, Exec. V.P. and COO, 7601 Osler Drive, Towson,
MD 21204

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY TUESDAY, MAY 30, 2006.**
- (2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ZONING COMMISSIONER'S OFFICE AT 410-887-3868.
- (3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.



ARNOLD JABLON
(410) 494-6298

aejablon@venable.com

6 April 2006

Timothy M. Kotroco, Director
Attn: Kristin Matthews
Department of Permits and Development Management
County Office Building
111 West Chesapeake Ave
Towson, Maryland 21204

Re: Case # 06-446 SPH
Hearing Date: 5/2/06 @ 9:00 a.m.
Rm 407

Dear Ms. Matthews:

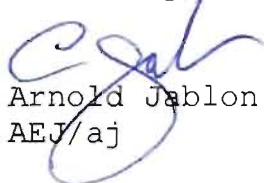
As we discussed by the telephone, on behalf of my client, St. Joseph Medical Center, Inc., we are requesting that this matter be postponed for the following reason.

On this date I have a scheduling conflict. I will be in Atlanta for the graduation of my daughter from Georgia Tech University. The property has not as yet been posted.

You have indicated that June 14th at 9:00 a.m. is available. This date would be acceptable to us.

Thank you for your consideration.

Sincerely,



Arnold Jablon
AEJ/aj



County Board of Appeals of Baltimore County

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

Hearing Room – Room 48
Old Courthouse, 400 Washington Avenue

April 19, 2007

NOTICE OF ASSIGNMENT

CASE #: 06-446-SPH

**IN THE MATTER OF: TRINITY ASSEMBLY OF GOD – Legal Owner;
SAINT JOSEPH MEDICAL CENTER, INC. – C.P.
2122 West Joppa Road 8th E; 3rd C**

6/29/06 – D.Z.C.'s decision in which requested relief was GRANTED
with restrictions.

ASSIGNED FOR:

WEDNESDAY, JUNE 13, 2007 at 10:00 a.m.

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

Please refer to the Board's Rules of Practice & Procedure, Appendix B, Baltimore County Code.

IMPORTANT: No postponements will be granted without sufficient reasons; said requests must be
in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted
within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).

If you have a disability requiring special accommodations, please contact this office at least one week prior to
hearing date.

Kathleen C. Bianco
Administrator

c:	Appellant	: Office of People's Counsel
	Counsel for Petitioners	: Arnold Jablon, Esquire David Karceski, Esquire
	Petitioner /Legal Owner	: Trinity Assembly of God
	C.P. /Lessee	: Saint Joseph Medical Center, Inc.
	Mitch Kellman /DMW	
	Counsel for Protestant /RRLR Area Imp. Assn.	: Donald Proctor, Esquire
	Tom and Merle Peace	Fred Hudson
	Richard Parsons	V. C. Rinaujo
	Donald Gerding	Nancy Horst Michael Pierce
	William J. Wiseman III /Zoning Commissioner	
	Pat Keller, Planning Director	
	Timothy M. Kotroco, Director /PDM	





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 25, 2007

NOTICE OF DELIBERATION

IN THE MATTER OF:

TRINITY ASSEMBLY OF GOD –Legal Owner /Petitioner
Case No. 06-446-SPH

Having heard this matter on 6/13/07, public deliberation has been assigned for the following date and time:

DATE AND TIME : WEDNESDAY, OCTOBER 10, 2007 at 9:00 a.m.

LOCATION : Hearing Room 48, Basement, Old Courthouse

**NOTE: Closing briefs are due on Friday, September 7, 2007.
(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: Appellant	: Office of People's Counsel
Counsel for Petitioners	: Arnold Jablon, Esquire David Karceski, Esquire
Petitioner /Legal Owner	: Trinity Assembly of God
C.P. /Lessee	: Saint Joseph Medical Center, Inc.
Mitch Kellman /DMW	
Counsel for Protestant /RRLR Area Imp. Assn.	: Donald Proctor, Esquire
Tom and Merle Peace	Fred Hudson
Richard Parsons	Nancy Horst
Donald Gerding	Michael Pierce
William J. Wiseman III /Zoning Commissioner	
Pat Keller, Planning Director	
Timothy M. Kotroco, Director /PDM	

FYI: 4-2-6



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: #06-446-SPH

2122 West Joppa Road

East side of Joppa Road, 780 feet north of intersection of Joppa Road and Sunset Knoll Court

8th Election District — 3rd Councilmanic District

Legal Owner(s): Trinity Assembly of God

Contract Purchaser: Saint Joseph Medical Center, Inc.

By: Sylvia Moore, Exec. V.P. and COO

Special Hearing: for confirmation that a parking lot accessory to a principal use may be utilized by uses other than the principal use.

Hearing: Wednesday, June 14, 2006 at 9:00 a.m. in Room 106, County Office Building, 111 W. 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) 887-3868.

(2) For information concerning the File and/or Hearing, Contact the Zoning Review Office at (410) 887-3391.

JT 5/761 May 30

97001

CERTIFICATE OF PUBLICATION

6/1, 2006

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 5/30, 2006.

- ☒ The Jeffersonian
- ☐ Arbutus Times
- ☐ Catonsville Times
- ☐ Towson Times
- ☐ Owings Mills Times
- ☐ NE Booster/Reporter
- ☐ North County News

S. Wilkinson

LEGAL ADVERTISING



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

November 7, 2008

NOTICE OF DELIBERATION /Motion for Reconsideration

IN THE MATTER OF:

Trinity Assembly of God – LO; St. Joseph's Medical Center
Case No. 06-446-SPH

In response to the filing of a Motion for Reconsideration by the Office of People's Counsel, a public deliberation has been scheduled for the following date and time pursuant to Board Rule 10, which states as follows:

Rule 10. Motion for reconsideration.

A party may file a motion for reconsideration of an order of the board of appeals. The motion shall be filed within thirty (30) days after the date of the original order. The motion shall state with specificity the grounds and reasons for the motion. **The filing of a motion for reconsideration shall stay all further proceedings in the matter, including the time limits and deadlines for the filing of a petition for judicial review.** After public deliberation and in its discretion, the board may convene a hearing to receive testimony or argument or both on the motion. Each party participating in the hearing on the motion shall be limited to testimony or argument only with respect to the motion; the board may not receive additional testimony with respect to the substantive matter of the case. Within 30 days after the date of the board's ruling on the motion for reconsideration, any party aggrieved by the decision shall file a petition for judicial review. The petition for judicial review shall request judicial review of the board's original order, the board's ruling on the motion for reconsideration or both. **[Bill 50-05] [Emphasis added.]**

DATE AND TIME : **THURSDAY, DECEMBER 4, 2008, at 9:30 a.m.**

LOCATION : **Hearing Room #2, Second Floor (next to Suite 203)
The Jefferson Building, 105 W. Chesapeake Avenue**

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

Kathleen C. Bianco
Administrator

c: Appellant	: Office of People's Counsel
Counsel for Petitioners	: Arnold Jablon, Esquire David Karceski, Esquire
Petitioner /Legal Owner	: Trinity Assembly of God
C.P. /Lessee	: Saint Joseph Medical Center, Inc.
Mitch Kellman /DMW	
Counsel for Protestant /RRLR Area Imp. Assn.	: Donald Proctor, Esquire
Tom and Merle Peace	Fred Hudson
Richard Parsons	Nancy Horst
Donald Gerding	Michael Pierce
William J. Wiseman III /Zoning Commissioner	
Pat Keller, Planning Director	
Timothy M. Kotroco, Director /PDM	

FYI: 4-2-6

TO: PATUXENT PUBLISHING COMPANY
Thursday, April 13, 2006 Issue - Jeffersonian

Please forward billing to:

Amy Dontell (410-494-6244)
Venable, LLP
210 Allegheny Avenue
Towson, MD 21204

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: 06-446-SPH

2122 West Joppa Road

East side of Joppa Road, 780 feet north of intersection of Joppa Road and Sunset Knoll Court

8th Election District – 3rd Councilmanic District

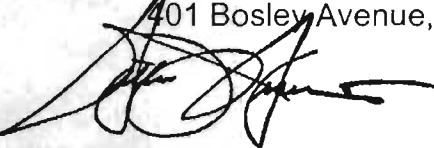
Legal Owner: Trinity Assembly of God

Contract Purchaser: Saint Joseph Medical Center, Inc.,

By: Sylvia Moore, Exec. V.P. and COO

Special Hearing for confirmation that a parking lot accessory to a principal use may be utilized by uses other than the principal use.

Hearing: Tuesday, May 2, 2006 at 9:00 a.m. in Room 407, County Courts Building,
401 Bosley 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 410-887-3868.
- (2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

TO: PATUXENT PUBLISHING COMPANY
Tuesday, May 30, 2006 Issue - Jeffersonian

Please forward billing to:
Amy Dontell (410-494-6244)
Venable, LLP
210 Allegheny Avenue
Towson, MD 21204

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: 06-446-SPH

2122 West Joppa Road

East side of Joppa Road, 780 feet north of intersection of Joppa Road and Sunset Knoll Court
8th Election District – 3rd Councilmanic District

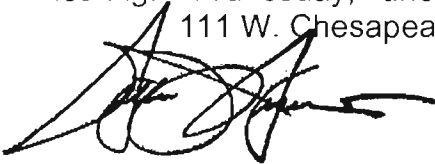
Legal Owner: Trinity Assembly of God

Contract Purchaser: Saint Joseph Medical Center, Inc.,

By: Sylvia Moore, Exec. V.P. and COO

Special Hearing for confirmation that a parking lot accessory to a principal use may be utilized by uses other than the principal use.

Hearing: Wednesday, June 14, 2006 at 9:00 a.m. in Room 106, County Office Building,
111 W. 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 410-887-3868.
- (2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

**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*

June 9, 2006

Arnold Jablon
David Karceski
210 Allegheny Ave.
Towson, MD, 21204

Dear: Mr. Jablon & Mr. Karceski

RE: Case Number: 06-446-SPH; 2122 West Joppa Rd.

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on March 23, 2006

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,

A handwritten signature in black ink, reading "W. Carl Richards, Jr.", is written over a horizontal line.

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR:sma

Enclosures

c: People's Counsel
Trinity Assembly of God, 2122 West Joppa Rd., Lutherville, MD, 21093
St. Joseph Medical Center, Inc., 7601 Osler Dr., Towson, MD, 21204



BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

TO: Timothy M. Kotroco, Director
Department of Permits & Development
Management

DATE: April 6, 2006

FROM: Dennis A. Kennedy, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
For April 10, 2006
Item Nos. 446, 457, 458, 459, 462, 463,
464, 465, 467, 468, 469, and 470

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-04062006.doc

Fire Department

700 East Joppa Road
Towson, Maryland 21286-5500
Tel: 410-887-4500



Baltimore County

James T. Smith, Jr., County Executive
John J. Hohman, Chief

County Office Building, Room 111
Mail Stop #1105
111 West Chesapeake Avenue
Towson, Maryland 21204

April 4, 2006

ATTENTION: Zoning Review Planners

Distribution Meeting of: April 3, 2006

Item Numbers: 446, 457-470

Pursuant to your request, the referenced plan(s) have been reviewed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

1. The Fire Marshal's Office has no comments at this time.

Lieutenant Roland P Bosley Jr.
Fire Marshal's Office
410-887-4881 (C) 443-829-2946
MS-1102F

cc: File

Visit the County's Website at www.baltimorecountyonline.info



Printed on Recycled Paper

Robert L. Ehrlich, Jr., Governor
Michael S. Steele, Lt. Governor



Robert L. Flanagan, Secretary
Neil J. Pedersen, Administrator

Maryland Department of Transportation

Date: 3.31.06

Ms. Kristen Matthews
Baltimore County Office of
Permits and Development Management
County Office Building, Room 109
Towson, Maryland 21204

RE: Baltimore County
Item No. 446 DT

Dear Ms. Matthews:

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

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,

Steven D. Foster, Chief
Engineering Access Permits Division

My telephone number/toll-free number is _____

Maryland Relay Service for Impaired Hearing or Speech: 1.800.735.2258 Statewide Toll Free

Street Address: 707 North Calvert Street • Baltimore, Maryland 21202 • Phone 410.545.0300 • www.marylandroads.com

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Timothy M. Kotroco, Director
Department of Permits and
Development Management

DATE: April 5, 2006

FROM: Arnold F. 'Pat' Keller, III
Director, Office of Planning

SUBJECT: 2122 West Joppa Road

INFORMATION:

Item Number: 6-446

Petitioner: Trinity Assembly of God

Zoning: DR1

Requested Action: Special Hearing

The County Board of Appeals denied the requested 25' high 249.75 square foot sign on March 8, 2006. The sign information shall be removed from the plan and include a complete and accurate zoning history in the general notes.

SUMMARY OF RECOMMENDATIONS:

The Office of Planning does not oppose a shared parking arrangement wherein the church parking lot is used by other uses provided there is adequate parking during the peak hours for church services.

For further information concerning the matters stated here in, please contact Diana Itter at 410-887-3480.

Prepared by:

Division Chief:
AFK/LL: CM

RECEIVED

APR 05 2006

ZONING COMMISSIONER

Boj
5/2 P/P
jm
6/14

RECEIVED FOR FILING
62906
926129

RE: PETITION FOR SPECIAL HEARING * BEFORE THE
2122 West Joppa Road; E/S Joppa Road, 780' ZONING COMMISSIONER
N intersection of Joppa Rd & Sunset Knoll Ct*
8th Election & 3rd Councilmanic Districts
Legal Owner(s): Trinity Assembly of God * FOR
Contract Purchaser(s): Saint Joseph Medical
Center, Inc by Sylvia Moore, Executive VP * BALTIMORE COUNTY
Petitioner(s) *
06-446-SPH

* * * * *

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 and all 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 7th day of April, 2006, a copy of the foregoing Entry of Appearance was mailed to, Arnold Jablon, Esquire, Venable, LLP, 210 Allegheny Avenue, Towson, MD 21204, Attorney for Petitioner(s).

RECEIVED

APR 07 2006

Per *kh*

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

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

03/12/10

Case Number: 03-C-09-001950 AA OTH
Date Filed: 02/20/2009
Status: Open/Active
Judge Assigned: To Be Assigned,
Location :
CTS Start : 02/20/09 Target : 08/19/10

In the Matter of Peoples Counsel For Baltimore County, et al

C A S E H I S T O R Y

OTHER REFERENCE NUMBERS

Description	Number
Case Folder ID	C09001950V01

INVOLVED PARTIES

Type Num	Name(Last,First,Mid,Title)	Addr Str/End	Pty. Disp. Addr Update	Entered
PET	001 Peoples Counsel For Baltimore County			02/23/09
		Party ID: 1352527		
	Mail: The Jefferson Building 105 W Chesapeake Avenue Suite 204 Towson, MD 21204	02/23/09		02/23/09 KTW
	Attorney: 0005744 Demilio, Carole S People's Counsel For Baltimore County 105 W Chesapeake Avenue Room 204 Towson, MD 21204 (410)887-2188	Appear: 02/20/2009		02/23/09
	0029075 Zimmerman, Peter M People's Counsel For Baltimore County	Appear: 02/20/2009		02/23/09

105 West Chesapeake Ave.
Room 204
Towson, MD 21204
(410)887-2188

Type Num	Name (Last, First, Mid, Title)	Addr Str/End	Pty. Disp. Addr Update	Entered
PET 002	Ruxton Riderwood Lake Roland Improvement Assn Inc			02/23/09
		Party ID: 1352558		
	Mail: P O Box 204	02/23/09		02/23/09 KTW
	8013 Bellona Avenue			
	Riderwood, MD 21139			
	Attorney: 0010793 Proctor, K Donald	Appear: 02/20/2009		02/23/09
	Proctor & McKee, P.A.			
	Suite 505			
	102 W. Pennsylvania Ave.			
	Towson, MD 21204-4542			
	(410)823-2258			
PET 003	Hudson, Frederick M			02/23/09
		Party ID: 1352560		
	Mail: 2110 West Joppa Road	02/23/09		02/23/09 KTW
	Lutherville, MD 21093			
	Attorney: 0010793 Proctor, K Donald	Appear: 02/20/2009		02/23/09
	Proctor & McKee, P.A.			
	Suite 505			
	102 W. Pennsylvania Ave.			
	Towson, MD 21204-4542			
	(410)823-2258			
RES 001	Trinity Assembly Of God Of Baltimore City Inc			02/23/09
		Party ID: 1352575		
	Attorney: 0024987 Jablon, Arnold	Appear: 03/23/2009		04/04/09
	210 W Pennsylvania Ave			
	Towson, MD 21204			
	(410)494-6298			
	0811558 Mudd, Christopher D	Appear: 03/23/2009		04/04/09
	Venable, LLP			
	210 Allegheny Ave			
	PO Box 5517			
	Towson, MD 21285-5517			
	(410)494-6200			
RES 002	Saint Joseph Medical Center Inc			02/23/09
		Party ID: 1352577		

Type Num	Name(Last,First,Mid,Title)	Addr Str/End	Pty. Disp. Addr Update	Entered
ADA	001 County Board Of Appeals Of Baltimore County The	Party ID: 1352567		02/23/09
	Mail: The Jefferson Building 105 W Chesapeake Avenue Suite 203 Towson, MD 21204	02/23/09		02/23/09 KTW

CALENDAR EVENTS

Date	Time	Fac	Event Description	Text,SA	Jdg Day	Of Notice	User ID
Result			ResultDt By Result Judge	Rec			
07/15/09	09:30A	CR13	Civil Non-Jury Trial	Y	TJB	01 /01	JMO
			Held/Concluded			07/15/09 E T.Bollinger, Sr.	Y
			Stenographer(s): Court Smart				

JUDGE HISTORY

JUDGE ASSIGNED	Type	Assign Date	Removal RSN
TBA To Be Assigned,	J	02/23/09	

DOCUMENT TRACKING

Num/Seq	Description	Filed	Entered	Party	Jdg Ruling	Closed	User ID
0001000	Petition for Judicial Review w/exhibits	02/20/09	02/23/09	PET001	TBA		KTW KTW
0001001	Response To Petition For Judicial Review	03/23/09	04/04/09	RES001	TBA		KTW KTW
0001002	Memorandum in Opposition to Petition to For Judicial Review w/exhibits	06/05/09	06/26/09	RES001	TBA		KET KET
0002000	Certificate of Notice	02/26/09	03/13/09	ADA001	TBA		ANH
0003000	Transcript of Record from Adm Agency *	04/02/09	04/02/09	ADA001	TBA		EMH EMH
0004000	Notice of Transcript of Record Sent	04/02/09	04/02/09	ADA001	TBA	04/02/09	EMH
0005000	Notice of Transcript of Record Sent	04/02/09	04/02/09	PET001	TBA	04/02/09	EMH
0006000	Notice of Transcript of Record Sent	04/02/09	04/02/09	PET002	TBA	04/02/09	EMH

Num/Seq Description	Filed	Entered	Party	Jdg Ruling	Closed	User ID
0007000 Scheduling Order	04/07/09	04/07/09	000	TBA	04/07/09	JMO
0008000 Memorandum of Petitioners Ruxton Riderwood Lake Roland Improvement Ass'n Inc And Frederick M Hudson * Filed by PET002-Ruxton Riderwood Lake Roland Improvement Assn Inc, PET003-Hudson	05/04/09	05/20/09	PET002	TBA	05/20/09	KTW
0009000 Peoples Counsel For Baltimore Countys Memorandum	05/04/09	05/20/09	RES001	TBA	05/20/09	KTW
0010000 Reply Memorandum of Petitioners Filed by PET002-Ruxton Riderwood Lake Roland Improvement Assn Inc, PET003-Hudson, PET001-Peoples Counsel For Baltimore County	06/22/09	07/08/09	PET002	TBA	07/08/09	LAC
0011000 Open Court Proceeding July 15, 2009 - Hon. Thomas J. Bollinger, Sr. - Hearing had in re: Administrative Appeal - Dispo held sub-curia. Opinion and Order to be filed.	07/15/09	07/15/09	000	TJB		MK
0012000 Memorandum opinion and order affirming decision of the Board of Appeals	07/22/09	07/22/09	000	TJB Affirmed	07/22/09	EMH
0013000 Docket entries sent to Baltimore County Board of Appeals	07/30/09	07/30/09	000	TBA		CVM

TICKLE

Code Tickle Name	Status	Expires	#Days	AutoExpire	GoAhead	From	Type	Num	Seq
1ANS 1st Answer Tickle	OPEN	03/23/09	0	no	no	DANS	D	001	001
1YRT One Year Tickle (Jud	OPEN	02/20/10	365	no	no	DAAA	D	001	000
SLMR Set List For Motions	CANCEL	06/27/09	22	no	no	MOPP	D	001	002
SLTR Set List For Trial	Done	04/02/09	0	yes	yes	DTRA	D	003	000

EXHIBITS

Line #	Marked	Code Description	SpH	Sloc	NoticeDt	Disp Dt	Dis By
000		Offered By: ADA 001 County Board Of Appeals Of Ba B BOX 648/CBA TRANSC B					

DIFFERENTIATED CASE MANAGEMENT**TRACKS AND MILESTONES**

Track : R1 Description: EXPEDITED APPEAL TRACK Custom: Yes
Assign Date: 04/07/09 Order Date : 04/07/09
Start Date : 04/07/09 Remove Date:

Milestone	Scheduled	Target	Actual	Status
Motions to Dismiss under MD. Rule 2-322(		04/22/09		OPEN
All Motions (excluding Motions in Limine		06/05/09		OPEN
TRIAL DATE is	07/15/09	07/06/09	07/15/09	REACHED

ACCOUNTING SUMMARYNON-INVOICED OBLIGATIONS AND PAYMENTS

Date	Rcpt/Initials	Acct Desc	Oblig	Payment	Total MOP	Balance
02/23/09		1500 Appearance F	10.00	.00	10.00	10.00
02/23/09		1265 MLSC	25.00	.00	25.00	35.00
02/23/09		1102 CF-Civil Fil	80.00	.00	80.00	115.00

BALTIMORE COUNTY, MARYLAND

Board of Appeals of Baltimore County

Interoffice Correspondence

DATE: April 5, 2010

TO: Timothy Kotroco, Director
Permits & Development Management

FROM: Sunny Cannington, Legal Secretary
Board of Appeals

SUBJECT: CLOSED APPEAL CASE FILES/CASES DISMISSED

The following cases have been closed as of the above date and are being returned to your office.

Case No: _____ Case Name: _____

06-446-SPH Trinity Assembly of God-LO/St Joseph Medical Ctr-CP

c: John Beverungen, County Attorney

IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY

PETITION OF:

PEOPLE'S COUNSEL FOR BALTIMORE
COUNTY, RUXTON-RIDERWOOD-LAKE-
ROLAND IMPROVEMENT ASSOC., INC., AND
FREDERICK M. HUDSON, INDIVIDUALLY

CIVIL ACTION
NO.: 03-C-09-001950

FOR JUDICIAL REVIEW OF THE OPINION OF
THE COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY
JEFFERSON BUILDING - ROOM 203
105 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204

IN THE MATTER OF :
TRINITY ASSEMBLY OF GOD- LEGAL
OWNERS; AND SAINT JOSEPH'S MEDICAL
CENTER, INC. - C/P
FOR SPECIAL HEARING
ON PROPERTY LOCATED ON THE E/SIDE OF
JOPPA ROAD., 780 FEET N/OFF INTERSECTION
OF JOPPA ROAD AND SUNSET KNOLL CT.
(2122 W. JOPPA ROAD)

8TH ELECTION DISTRICT
3RD COUNCILMANIC DISTRICT

BOARD OF APPEALS CASE NO.: 06-446-SPH

RECEIVED AND FILED

2009 FEB 26 PM 1:11

CLERK OF THE CIRCUIT COURT
BALTIMORE COUNTY

* * * * *

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:

Arnold Jablon, Esquire
David Karceski, Esquire
Venable, LLP
210 Allegheny Avenue
Towson, MD 21204

Trinity Assembly of God
2122 W. Joppa Road
Lutherville, MD 21093

Silvia Moore, Executive Vice President
Saint Joseph Medical Center, Inc.
7601 Osler Drive
Towson, MD 21204

Mitch Kellman
Daft, McCune & Walker
200 E. Pennsylvania Avenue
Towson, MD 21286

Donald Gerding
335 Old Trail Road
Baltimore, MD 21212

K. Donald Proctor, Esquire
102 W. Pennsylvania Avenue
Towson, MD 21204

V.C. Rinaujo
22 W. Allegheny Avenue, Ste 200
Towson, MD 21204

Tom and Morle Peace
2022 W. Joppa Road
Lutherville, MD 21093

Nancy Horst
PO Box 204
Riderwood, MD 21139

Richard Parsons
412 Woodbine
Towson, MD 21204

Michael Pierce
7448 Bradshaw Road
Kingsville, MD 21087

Frederick Hudson
2110 W. Joppa Road
Lutherville, MD 21093

Ruxton-Riderwood-Lake-Roland
Improvement Association, Inc.
P.O. Box 204
8013 Bellona Avenue
Riderwood, MD 21139

Office of People's Counsel
The Jefferson Building, Suite 204
105 W. Chesapeake Avenue
Towson, MD 21204

William J. Wiseman, III, Zoning Commissioner
The Jefferson Building, Suite 103
105 W. Chesapeake Avenue
Towson, MD 21204

Arnold F. "Pat" Keller, Director
Office of Planning
The Jefferson Building, Suite 101
105 W. Chesapeake Avenue
Towson, MD 21204

Timothy Kotroco, Director
Office of Permits and Development Mgmt
County Office Building
111 W. Chesapeake Avenue, Suite 105
Towson, MD 21204

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

Sunny Cannington
Sunny Cannington, Legal Secretary
County Board of Appeals
The Jefferson Building, Suite 203
105 W. Chesapeake Avenue
Towson, Maryland 21204
410-887-3180

I HEREBY CERTIFY that on this 26th day of February, 2009, a copy of the foregoing Certificate of Notice has been mailed to: Arnold Jablon, Esquire, David Karceski, Esquire, Venable, LLP, 210 Allegheny Avenue, Towson, MD 21204; Trinity Assembly of God, 2122 W. Joppa Road, Lutherville, MD 21093; Silvia Moore, Executive Vice President, Saint Josphe Medical Center, Inc., 7601 Osler Drive, Towson, MD 21204; Mitch Kellman, Daft, McCune & Walker, 200 E. Pennsylvania Avenue, Towson, MD 21286; Donald Gerding, 335 Old Trail Road, Baltimore, MD 21212; K. Donald Proctor, Esquire, 102 W. Pennsylvania Avenue, Towson, MD 21204; V.C. Rinaujo, 22 W. Allegheny Avenue, Ste 200, Towson, MD 21204; Tom and Morle Peace, 2022 W. Joppa Road, Lutherville, MD 21093; Nancy Horst, PO Box 204, Riderwood, MD 21139; Richard Parsons, 412 Woodbine, Towson, MD 21204; Michael Pierce, 7448 Bradshaw Road, Kingsville, MD 21087; Frederick Hudson, 2110 W. Joppa Road, Lutherville, MD 21093; Ruxton-Riderwood-Lake-Roland Improvement Association, Inc., P.O. Box 204, 8013 Bellona Avenue, Riderwood, MD 21139; and Office of People' Counsel, The Jefferson Building, Suite 204, 105 W. Chesapeake Avenue, Towson, MD 21204.

Sunny Cannington
Sunny Cannington, Legal Secretary
County Board of Appeals
Jefferson Building, Suite 203
105 W. Chesapeake Avenue
Towson, Maryland 21204
410-887-3180

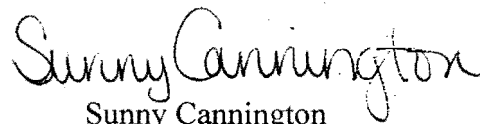
Trinity Assembly of God-Legal Owners
Circuit Court Case No.: 03-C-09-001950
Board of Appeals Case No.: 06-446-SPH

Page 2

This office has also notified Ms. Peatt that a transcript on the above matter is due for filing in the Circuit Court. A copy of the Petition for Judicial Review has been provided to the Court Reporter which will enable her to contact the responsible parties.

A copy of the Certificate of Notice has been enclosed for your convenience.

Very truly yours,


Sunny Cannington
Legal Secretary

Enclosure

cc: K. Donald Proctor, Esquire
Ruxton-Riderwood-Lake Roland Improvement Assoc.
Frederick Hudson
Trinity Assembly of God
Saint Joseph Medical Center, Inc.
Tom and Merle Peace
Richard Parsons
Michael Pierce
William J. Wiseman, III/Zoning Commissioner
Arnold Keller, Director/Planning
Timothy Kotroco, Director/PDM

Mitch Kellman/DMW
Nancy Horst
V.C. Rinaujo
Donald Gerding

DIVISION OF CODE INSPECTIONS AND ENFORCEMENT

VIOLATION CASE DOCUMENTS

VIOLATION CASE: 06-0780

2122 West Joppa Road

**ZONING CASE: 06-446-SPH
2122 WEST JOPPA ROAD**

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

DATE: April 10, 2006

TO: W. Carl Richards, Jr.
Zoning Review Supervisor

FROM: Rick Wisnom, Chief
Division of Code Inspections & Enforcement

SUBJECT: Item No.: 446
Legal Owner/Petitioner: Trinity Assembly of God
Contract Purchaser: Saint Joseph Medical Center, Inc., Sylvia Moore, Executive Vice-
President and COO
Property Address: 2122 West Joppa Road
Location Description: East side Joppa Road, 780 feet north of intersection of Joppa
Road and Sunset Knoll Court

VIOLATION INFORMATION: **Case No.: 06-0780**
Defendants: Trinity Assembly of God

Please be advised that the aforementioned petition is the subject of an active violation case.
When the petition is scheduled for a public hearing, please notify the following person(s) regarding the hearing date:

**Nancy Horst
P.O. Box 204
Riverwood, MD 21139**

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:

Complaint Intake Form
State Tax Assessment printout
Correction Notice/Code Violation Notice
Other: letter

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

CODY ENFORCEMENT REPORT

DATE: 2, 2, 106 INTAKE BY: AP CASE #: 06-0780 INSPEC: 8

COMPLAINT

LOCATION: 2122 W. Joppa Rd.

Trinity Assembly of God ZIP CODE: 21093 DIST:

COMPLAINANT

NAME: Nancy Horst PHONE #: (H) 410 794 7757 (W)

ADDRESS: P.O. 204 Riderwood ZIP CODE: 21139

PROBLEM: running bus service with St Joseph's Hospital
is this OK

IS THIS A RENTAL UNIT? YES ☐ NO ☐

IF YES, IS THIS SECTION 8? YES ☐ NO ☐

OWNER/TENANT

INFORMATION: Trustees of the Trinity Assembly of God St Balto.
City

TAX ACCOUNT #: 0802 023610 ZONING:

INSPECTION:

complainant is Exec. Director of
Ruxton / Riderwood / Lake Roland I.A
contact church administrator Bill Collins Jr
410 821 6188 ext 110

REINSPECTION:

REINSPECTION:

DATE: 02/02/2006

STANDARD ASSESSMENT INQUIRY (1)

TIME: 10:48:01

PROPERTY NO.	DIST	GROUP	CLASS	OCC.	HISTORIC	DEL	LOAD DATE
08 02 023610	08	2-0	01-00	N	NO		01/04/06

TRUSTEES OF THE TRINITY ASSEMBLY	DESC-1.. IMPS15.0681 AC NS
OF GOD OF BALTO CITY	DESC-2.. 2350 NE OLD COURT RD

2122 W JOPPA RD	PREMISE. 02122 JOPPA	RD W
		00000-0000

LUTHERVILLE MD 21093-0000 FORMER OWNER: BENNETT RICHARD S

----- FCV ----- PHASED IN -----

	PRIOR	PROPOSED		CURR	CURR	PRIOR
LAND:	632,400	632,400		FCV	ASSESS	ASSESS
IMPV:	1460,200	1460,200	TOTAL..	2092,600	2092,600	2092,600
TOTL:	2092,600	2092,600	PREF...	0	0	0
PREF:	0	0	CURT...	0	0	0
CURT:	0	0	EXEMPT.		0	0

DATE: 08/01 07/04

---- TAXABLE BASIS ---- FM DATE

ASSESS: 0 01/11/05

ASSESS: 0

ASSESS: 0

ENTER-INQUIRY2 PA1-PRINT PF4-MENU PF5-QUIT PF7-CROSS REF



CODE INSPECTION AND ENFORCEMENT CORRECTION NOTICE

CASE NUMBER 06-0780	PROPERTY TAX ID 08 02023610
NAME(S): TRUSTEES OF THE TRINITY ASSEMBLY OF GOD OF BALTY	
ATTN: BILL COLLINS JR	
CURRENT ADDRESS 2122 W. JOPPA RD	
CITY BALTY	STATE MD
ZIP CODE 21093	
VIOLATION ADDRESS Same as above	
CITY BALTY	STATE MARYLAND
ZIP CODE	

DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY LAWS AND/OR REGULATIONS:

RESIDENTIAL ZONE CLASSIFICATION

- ☒ **DR1** ☐ DR2 ☐ DR3.5 ☐ DR5.5 ☐ DR10.5 ☐ DR16
☐ RC2 (1A01) ☐ RC4 (1A03) ☐ RC20 & 50 (1A05) ☐ RC6 (1A07)
☐ RC3 (1A02) ☐ IRC5 (1A04) ☐ RCC (1A06) ☐ RC7 (1A08)
☐ OTHER: _____

NON-RESIDENTIAL CLASSIFICATION

- ☐ BL (230) ☐ BR (236) ☐ BM (233)
☐ MR (240) ☐ ML (253) ☐ MH (256)
☐ OTHER: _____

BALTIMORE COUNTY ZONING REGULATIONS (B.C.Z.R.)

AUTHORITY TO ENFORCE ZONING REGULATIONS: 32-3-102; 32-3-602; 32-3-603; 32-4-114

- ☒ **101; 102.1: Definitions; general use**
☒ **1801.1: DR Zones-use regulations**
☐ 428: License/ Remove all untagged/ inoperative or damaged/ disabled motor vehicle(s)
☐ 1801.1D: Remove open dump/ junk yard
☐ 431: Remove commercial vehicle(s)
☐ 101; 102.1: Remove contractors equip. storage yard
☐ 101; 102.1: ZCPM: Cease service garage activities
☐ 402: Illegal conversion of dwelling
☐ 101; 102.1: ZCPM: Illegal home occupation
☐ 415A: License/ remove untagged recreation vehicle
☐ 415A: Improperly parked recreation vehicle
☐ 415A: One recreational vehicle per property
☐ 410: Illegal Class II trucking facility
☐ 400: Illegal accessory structure placement
☐ 1802.1; 270; 421.1: Illegal kennel. Limit 3 dogs
☐ 102.5: Residential site line violation /obstruction
☐ 408B: Illegal rooming/ boarding house
☐ BCC: 32-3-102; 500.9 BCZR; ZCPM: Violation of commercial site plan and/or zoning order

BALTIMORE COUNTY CODE (B.C.C)

- ☐ 13-7-112: Cease all nuisance activity
☐ 13-7-115: County to abate nuisance & lien costs
☐ 13-7-310: Remove all trash & debris from property
☐ 13-7-312: Remove accumulations of debris, materials, etc
☐ 13-7-201(2): Cease stagnant pool water
☐ 12-3-106: Remove animal feces daily
☐ 35-5-208(a)(c): Seal exterior openings from rodents & pests
☐ 13-4-201(b)(d): Store garbage in containers w/tight lids
☐ 35-2-301: Obtain building/ fence/ sign permit
☐ 18-2-602: Obstruction of county right of way
☐ 13-7-310(2): Remove bird seed / other food for rats
☐ 32-3-102: Violation of development plan/ site plan
☐ IBC115; BCBC 115: Remove/Repair unsafe structure board & secure all openings to premise
☐ 13-7-401; 13-7-402; 13-7-403: Cut & remove all tall grass & weeds to 3 inches in height

OWNER OCCUPIED HOUSING (B.C.C)

- ☐ 35-5-302(a)(1): Unsanitary conditions.
☐ 35-5-302(a)(3): Cease _____ infestation from prop.
☐ 35-5-302(b)(1)(2): Repair decorative trim, cornices, etc
☐ 35-5-302(b)(1)(4): Repair chimney & similar extentions
☐ 35-5-302(b)(1)(6): Repair defective door(s) / window(s)
☐ 35-5-302(a)(2): Store all garbage in trash cans
☐ 35-5-302(b)(1): Repair exterior structure
☐ 35-5-302(b)(1)(3) Repair exterior extensions
☐ 35-5-302(b)(1)(5) Repair metal/wood surfaces
☐ 35-5-302(b)(1)(7) Repair defective fence

INVESTMENT PROPERTY (B.C.C)

- ☐ 35-2-404(a)(1)(i): Remove hazardous or unsafe condition
☐ 35-2-404(a)(1)(iii): Repair roof or horizontal members
☐ 35-2-404(a)(1)(v): Repair ext. plaster or masonry
☐ 35-2-404(a)(1)(vii): Repair exterior construction (see below)
☐ 35-2-404(a)(1)(3): Repair /remove defective exterior sign(s)
☐ 35-2-404(a)(1)(ii): Repair ext. walls / vertical members
☐ 35-2-404(a)(1)(iv): Repair exterior chimney
☐ 35-2-404(a)(1)(vi): Waterproof walls/ roof /foundations
☐ 35-2-404(a)(1)(2): Remove trash, rubbish, & debris
☐ 35-2-404(a)(4)(i)(ii): Board & secure. Material to match building color of structure

ILLEGAL COMMERCIAL BUSINESS PARKING LOT IN A RESIDENTIAL ZONE.

CEASE ALL ACTIVITIES OF THIS SPECIFIC USE OF YOUR PARKING LOT

POTENTIAL FINE: ~~\$200.00~~ ☐ \$500.00 ☐ \$1000.00 Per Day, Per Violation and to be placed as a lien upon your tax bill

COMPLIANCE: MONTH **3** DAY **6** YEAR **06**

INSPECTOR NAME: **CHEN, JERRY** ISSUED DATE: **2, 4, 4**
(PRINT NAME)

ARNOLD JABLON
(410) 494-6298

aejablon@venable.com

28 February 2006

Mr. James Thompson
Supervisor, Code Enforcement
Department of Permits and Development Management
111 West Chesapeake Ave
Towson, Maryland 21204

Re: Trinity Assembly of God Church
Case No. 06-0780

Dear Mr. Thompson:

As we discussed, David Karceski and I represent St. Joseph Medical Center. St. Joseph entered into an agreement with Trinity Assembly of God Church, located 2122 W. Joppa Rd, to use its parking lot for employee parking while its campus is undergoing major renovation and construction.

An integral part of St. Joseph's expansion of its campus includes the construction of a parking garage. As a result, its available on-site parking capabilities have been dramatically reduced and as a consequence there are not sufficient parking spaces available for its employees. In an effort to allay the concerns of the surrounding residential communities, St. Joseph promised these communities that it would make every effort to provide off-street parking to its employees so that they would not have to park on the streets surrounding the Hospital. To do so, St. Joseph entered into an agreement with Trinity Church by which employees of St. Joseph would park on the Church's parking lot and St. Joseph would provide bus service from the Church parking lot to the hospital campus. While Trinity is some distance from the hospital campus, the shuttle service provides hospital employees a convenient parking alternative to parking in the communities surrounding the hospital. Indeed, it is evident that this arrangement has been successful in negated these concerns. Parking while off-site is off-street as well.

St. Joseph's agreement with the Church is not unique. In fact, GBMC while undergoing its own expansion had entered into a similar agreement with the Church. St. Joseph believed that this arrangement was viable and legal, and was comfortable with the arrangement, based on its knowledge that GBMC and the Church had done this exact arrangement previously.

February 28, 2006

Page 2

After a review of the Baltimore County Zoning Regulations (BCZR), it is our conviction that employee parking on the Church lot is not in violation of County zoning regulations. Parking lots are permitted in a residential zone as an accessory use. Certainly, the lot is accessory to the principal use, the Church. An accessory use is defined in the BCZR as that which (a) is customarily incident and subordinate to and serves a principal use or structure; (b) is subordinate in area, extent or purpose to the principal use or structure; (c) is located on the same lot as the principal use or structure served; and (d) contributes to the comfort, convenience or necessity of occupants, business or industry in the principal use or structure served.

In this situation, the parking lot is definitely "customarily incident and subordinate" to the Church; the principal use of the property, is "subordinate in area, extent or purpose" to the Church; is located on the same lot as the Church; and "contributes to the comfort, convenience or necessity" of the Church. Nowhere, however, does the definition preclude use of an accessory parking lot by those who do not use the principal use. The parking lot serves the Church; the parking lot may also serve others who do not visit the Church. There is nothing to prevent the Church from entering into an agreement with a third party to utilize its parking lot. Such an arrangement does nothing to alter or diminish the incidental and subordinate use of the parking lot to the Church. There is nothing in any zoning regulation that prohibits the use of an accessory parking lot by anyone who is not visiting or using the principal use to which it is accessory. The issue is a civil matter, between the owners of the parking lot and those who use it—the issue is trespass. If I may draw an analogy to the use of a shopping center parking lot by those who do not use the center. The owners to prevent and prohibit such use post the property with no-trespassing notices. Remedies ensue therefrom. But not from any restrictions or constrictions delineated in the BCZR. The remedies are provided in State and County laws, i.e. trespass and "trespass towing". In the instant matter, there is no trespassing because the owner of the lot has agreed to its use.

Code Enforcement has issued a correction notice to the Church in which the Code Enforcement Inspector has cited the Church for "illegal commercial business parking lot in a residential zone." As stated above, we disagree with this allegation. We believe it appropriate and advisable that we seek an interpretation of the Zoning Commissioner on this issue. Therefore, St. Joseph Medical Center will file a petition for a special hearing and request the Zoning Commissioner to decide this issue. We presume that should there be a final, non-appealable order by the Zoning Commissioner agreeing with our interpretation of the BCZR, your office would abide by such decision. If a contrary decision is rendered, St Joseph will comply immediately and cease the arrangement. Therefore, we are requesting that no citation be issued until such time as there is a final decision rendered in this matter.

February 28, 2006
Page 3

Should you need more information, please feel free to contact me. I thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'Arnold Jablon', written over a circular stamp.

Arnold Jablon

AEJ/aj

c: Dominick A. Garcia, Esq.
2 Dunmanway
Suite 210
Dundalk, Maryland 21222

RE: PETITION FOR SPECIAL HEARING
2122 West Joppa Road; E/S Joppa Road, 780'
N intersection of Joppa Rd & Sunset Knoll Ct.
8th Election & 3rd Councilmanic Districts
Legal Owner(s): Trinity Assembly of God
Contract Purchaser(s): Saint Joseph Medical
Center, Inc. by Sylvia Moore, Executive VP

* BEFORE THE
* ZONING COMMISSIONER
* FOR
* BALTIMORE COUNTY

Petitioner(s)

* Case No. 06-446-SPH

* * * * *

ENTRY OF APPEARANCE

Please enter the appearance of K. Donald Proctor and Proctor & McKee, P.A. on behalf of Ruxton Riderwood Lake Roland Area Improvement Association, Inc. 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 the undersigned on all correspondence sent and all documentation filed in the case.

RECEIVED

JUN 12 2006

ZONING COMMISSIONER



K. Donald Proctor
Margaret M. McKee
Proctor & McKee, P.A.
Suite 505
102 West Pennsylvania Avenue
Towson, MD 21204
410-823-2258
kdproctor@proctorlaw.com
*Attorneys for Ruxton Riderwood Lake Roland
Area Improvement Association, Inc.*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on June 12, 2006 I emailed and mailed a copy of the foregoing Entry of Appearance by U.S. mail to:

Arnold Jablon, Esquire
Venable, LLP
210 Allegheny Avenue
P.O. Box 5517
Towson, MD 21285-5517
Attorneys for Petitioner

and to

Peter Max Zimmerman, Esquire
People's Counsel for Baltimore County
Old Courthouse, Room 47
400 Washington Avenue
Towson, MD 21204



K. Donald Proctor

Jm
6/14

LAW OFFICES
PROCTOR & MCKEE, P.A.

A PROFESSIONAL CORPORATION
SUITE 505

102 WEST PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204-4542

www.proctorlaw.com

K. DONALD PROCTOR
kdproctor@proctorlaw.com

TELEPHONE 410-823-2258
FACSIMILE 410-823-2268

June 12, 2006

RECEIVED

JUN 12 2006

Hand Delivery

Mr. William J. Wiseman, III
Zoning Commissioner for Baltimore County
County Courts Building
Towson, MD 21204-0754

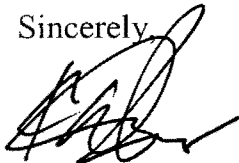
ZONING COMMISSIONER

Re: Case No. 06-446-SPH, 2122 West Joppa Road

Dear Mr. Wiseman:

Please file the enclosed Entry of Appearance in this matter.

Sincerely,



K. Donald Proctor

KDP:rm
Enclosure

cc: Arnold Jablon, Esquire (By email and U.S. Mail)
Peter Max Zimmerman, Esquire (By email and U.S. Mail)
Ms. Nancy Horst, Ruxton Riderwood Lake Roland Area Improvement
Association, Inc.

WEST TOWSON NEIGHBORHOOD ASSOCIATION

JM
6-14-06

P.O. BOX 502
RIDERWOOD, Maryland 21139-0502

June 5, 2006

John V. Murphy
Deputy Zoning Commissioner
401 Bosley Avenue
Towson, MD 21204

RECEIVED

JUN 09 2006

Re: Case No. 06-446-SPH - Trinity Assembly of God
2122 W. Joppa Road

ZONING COMMISSIONER

Dear Mr. Murphy:

I am writing to inform you of our neighborhood association's concern and position regarding the above-referenced matter. We object to the premise of Trinity Assembly of God allowing unaffiliated parties to park on its lot, then board shuttle buses to another location, as is the case currently with St. Joseph's Hospital. As you are aware, Trinity is situated in the middle of a low density residential community. The heavy shuttle buses transit Joppa Road between the Trinity parking lot and Towson many times a day, endangering the residents who live along the route as well as those who drive Joppa Road to local destinations such as Blakehurst and Loyola High.

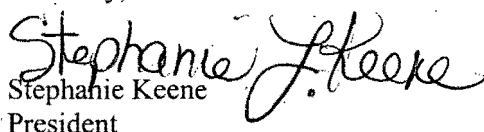
As you review the petitioner's request, we ask you to please consider the impacts on the community. We believe the Zoning Regulations do not adequately address whether **a parking lot accessory to a principal use may be utilized by uses other than the principal use.** However we feel that the fundamental purpose of the underlying D.R. zoning is to limit the encroachment of commercial uses on residential neighborhoods.

We also ask you to consider whether Trinity is abusing their zoning rights by bargaining their rights away to a commercial tenant. Trinity's stated purpose in the petition is clearly a commercial use, and the resulting shuttle buses have the same impact on the neighborhood as if a commercial operation were located on the property.

If a decision is made to permit an exception that would allow the continued use of the parking lot by St. Joseph's Hospital, we urge you to establish a fixed expiration date to this right, so that Trinity will not bargain its zoning rights away in the future. The potential for their future abuse of zoning rights is great, and the neighborhood association should not be put in the position of challenging the size of buses, the frequency of service and the destinations of any future shuttle bus arrangement that Trinity may enter into.

We believe the relief requested by the petitioners sets an unacceptable precedent for commercial uses in residential zones.

Sincerely,


Stephanie Keene
President

CASE NAME Trinity Assembly of God
CASE NUMBER 06-446-SPH
DATE 6/14/06

[illegible]

CASE NAME _____
CASE NUMBER 06-446-SPH
DATE 6/14/06

[illegible]

PETITIONER'S
EXHIBITS

CASE NO. 06-JUG-SPH

6/13/07

PETITIONER'S
TRINITY ASSEMBLY OF GOD

EXHIBITS

Trinity
Assembly
of God

✓ 1A - ~~I~~ PICTURES - PARKING LOT

A - FROM SANCTUARY ROOF LOOKING EAST.

B - " "

C -

D -

E - LOOKING WEST - STAFF PARKING FOR SCHOOL.

F - FROM LPPA RM.

G -

H - STAFF PARKING

I - Photo 06-07-2007

✓ 2A ✓ PICTURES - CONES - BUSES - CARS FROM ST. JOSEPH.

✓ 3. SITE PLAN - ZONING OFFICE 5/16/91

✓ 4. BALTO. COUNTY ZONING REGULATIONS

✓ 5. CHART FOR SCHOOL PARKING REGULATIONS

✓ 6. PAT KELCH MEMO TO T. KOTROCO 4/5/06



06-06-2007

14:21:00 PM

PET. 1A



06-06-2007

14:22:00 PM

PET. 18



06-06-2007

14:24:00 PM

PET. 1C



06-06-2007

14:25:00 PM

PET. 1D



06-06-2007

14:31:00 PM

PET. 1XE



RET. 1X F



06-07-2007

09:58:00 AM

PET. 1X6



06-07-2007

09:59:00 AM

PET. 19 H



06-07-2007

10:00:00 AM

PET. 1X I











Pet 244 4

§ 409

SPECIAL REGULATIONS

§ 409

Type of Use	Minimum Number of Required Off-Street Parking Spaces
Swimming pool:	
Community	1 per 7 persons permitted in the pool at one time by the Department of Health.
Commercial	1 per 4 persons permitted in the pool at one time by the Department of Health.
Tennis, handball, or racquetball courts and other similar courts	3 per court.
Theater, auditorium, arena or stadium	1 per 4 seats. [Bill No. 136-1996]

B. Adjustments to general requirements.

1. Transit adjustment. The required number of off-street parking spaces for any office or industrial use may be reduced by 5% if a pedestrian entrance of the building is located within 1,000 feet walking distance of a transit stop on a mass transit administration route with scheduled peak-period headway of 20 minutes or better. The transit adjustment shall not apply to general offices in the C.T. District of Towson.
2. Ridesharing adjustment. The required number of off-street parking spaces for any office or industrial use with 100 or more employees may be reduced by 10% for participation in a continuous, personalized ridesharing assistance program. The ridesharing adjustment shall not apply to general offices in the C.T. District of Towson.
 - a. Conditions for approval. To qualify for a 10% reduction, the owner or lesser shall meet the following requirements:
 - (1) Actively participate in the regional ridesharing program, as administered by the State of Maryland or Baltimore County.
 - (2) Assign an on-site ridesharing coordinator to periodically interact with the regional ride-sharing program and promote the program internally to employees.
 - (3) Establish an in-house carpool promotion and matching program and provide such maps, displays and materials as are necessary to inform employees of its availability.
 - (4) Reserve a minimum of 10% of all parking spaces for carpools or vanpools and have those spaces so designated by appropriate signage.

CERTAIN USES

SPECIAL REGULATIONS

part EXH 5

	Weekday		Weekend		
	Daytime (6:00 a.m. to 6:00 p.m.)	Evening (6:00 p.m. to midnight)	Daytime (6:00 a.m. to 6:00 p.m.)	Evening (6:00 p.m. to midnight)	Nighttime (Midnight to 6:00 a.m.)
Church, house of worship or place of religious assembly*					
Hotel or motel	75%	100%	75%	100%	75%
Office or industrial	100%	10%	10%	5%	5%
Restaurant	50%	100%	100%	100%	10%
Retail	60%	90%	100%	70%	5%
Shopping center with 100,000 square feet or more of GLA	60%	90%	100%	70%	5%
Theater, commercial recreation, night-club or tavern	40%	100%	80%	100%	10%
Other uses	100%	100%	100%	100%	100%

*The Director of the Department of Permits and Development Management shall determine the percentage of parking spaces required for each of the five time periods on a case-by-case basis, depending on the existing and planned weekday and weekend activities. [Bill No. 144-1997]

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Timothy M. Kotroco, Director
Department of Permits and
Development Management

DATE: April 5, 2006

FROM: Arnold F. 'Pat' Keller, III
Director, Office of Planning

SUBJECT: 2122 West Joppa Road

INFORMATION:

Item Number: 6-446

Petitioner: Trinity Assembly of God

Zoning: DR1

Requested Action: Special Hearing

The County Board of Appeals denied the requested 25' high 249.75 square foot sign on March 8, 2006. The sign information shall be removed from the plan and include a complete and accurate zoning history in the general notes.

SUMMARY OF RECOMMENDATIONS:

The Office of Planning does not oppose a shared parking arrangement wherein the church parking lot is used by other uses provided there is adequate parking during the peak hours for church services.

For further information concerning the matters stated here in, please contact Diana Itter at 410-887-3480.

Prepared by:

Division Chief:
AFK/LL: CM

PET EXH 8 6

PEOPLE'S
COUNSEL
EXHIBITS

CASE 06-446-SPH

PEOPLE'S COUNSEL
PROTESTANTS EXHIBITS

Trinity
Assembly of
God

✓ 1. M.D. of A-T 6/1/07 OF PROPERTY.

✓ 2. CODE ENFORCEMENT CITATION DATED 2/6/06.

✓ 3. PETITION FOR SPECIAL HEARING.

✓ 4. A+B ACP MAP

✓ 5. AERIAL PHOTO OF CHURCH AND SURROUNDING PROPERTY.

Click here for a plain text ADA compliant screen.



Maryland Department of Assessments and Taxation
BALTIMORE COUNTY
Real Property Data Search

[Go Back](#)
[View Map](#)
[New Search](#)
[Ground Rent](#)

Account Identifier: District - 08 Account Number - 0802023610

Owner Information

Owner Name: TRUSTEES OF THE TRINITY ASSEMBLY
OF GOD OF BALTO CITY Use: EXEMPT COMMERCIAL
Principal Residence: NO
Mailing Address: 2122 W JOPPA RD Deed Reference: 1) / 5499/ 179
LUTHERVILLE MD 21093 2)

Location & Structure Information

Premises Address: 2122 W JOPPA RD Legal Description: 15.0681 AC NS
W JOPPA RD
2350 NE OLD COURT RD

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Assessment Area	Plat No:
60	21	182						2	Plat Ref:
Special Tax Areas				Town Ad Valorem Tax Class					
Primary Structure Built				Enclosed Area	Property Land Area			County Use	
0000					1.00 AC			01	
Stories		Basement		Type				Exterior	

Value Information

	Base Value	Value As Of	Phase-in Assessments	
		01/01/2005	As Of	As Of
			07/01/2006	07/01/2007
Land:	632,400	632,400		
Improvements:	1,460,200	1,460,200		
Total:	2,092,600	2,092,600	2,092,600	2,092,600
Preferential Land:	0	0	0	0

Transfer Information

Seller: BENNETT RICHARD S Date: 12/24/1974 Price: \$0
Type: NOT ARMS-LENGTH Deed1: / 5499/ 179 Deed2:
Seller: Date: Price:
Type: Deed1: Deed2:
Seller: Date: Price:
Type: Deed1: Deed2:

Exemption Information

Partial Exempt Assessments	Class	07/01/2006	07/01/2007
County	000	0	0
State	000	0	0
Municipal	000	0	0

Tax Exempt: COUNTY AND STATE
Exempt Class:

Special Tax Recapture:

* NONE *

PC
EXH
NO. 1



CODE INSPECTION AND ENFORCEMENT CORRECTION NOTICE

CASE NUMBER 06-0780	PROPERTY TAX ID 08 02023610
NAME(S) TRUSTEES OF THE TRINITY ASSEMBLY OF GOD OF BAL CITY	
ATTN: BILL COLLINS JR	
CURRENT ADDRESS 2122 W. JOPPA RD	
CITY BAL	STATE MD
ZIP CODE 21093	
VIOLATION ADDRESS Same as above	
CITY Same as above	STATE MD
ZIP CODE 21093	

DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY LAWS AND/OR REGULATIONS:

RESIDENTIAL ZONE CLASSIFICATION

- ☒ DR1 ☐ DR2 ☐ DR3.5 ☐ DR5.5 ☐ DR10.5 ☐ DR16 ☐ BL (230) ☐ BR (236) ☐ BM (233)
☐ RC2 (1A01) ☐ RC4 (1A03) ☐ RC20 & 50 (1A05) ☐ RC6 (1A07) ☐ MR (240) ☐ ML (253) ☐ MH (256)
☐ RC3 (1A02) ☐ RC5 (1A04) ☐ RCC (1A06) ☐ RC7 (1A08)
☐ OTHER: _____

NON-RESIDENTIAL CLASSIFICATION

- ☐ OTHER: _____

BALTIMORE COUNTY ZONING REGULATIONS (B.C.Z.R.)

AUTHORITY TO ENFORCE ZONING REGULATIONS: 32-3-102; 32-3-602; 32-3-603; 32-4-114

- ☒ 101; 102.1: Definitions; general use
☒ 1B01.1: **DR Zones-use regulations**
☐ 428: License/ Remove all untagged/ inoperative or damaged/ disabled motor vehicle(s)
☐ 1B01.1D: Remove open dump/ junk yard
☐ 431: Remove commercial vehicle(s)
☐ 101; 102.1: Remove contractors equip. storage yard
☐ 101; 102.1: ZCPM: Cease service garage activities
☐ 402: Illegal conversion of dwelling
☐ 101; 102.1: ZCPM: Illegal home occupation
☐ 415A: License/ remove untagged recreation vehicle
☐ 415A: Improperly parked recreation vehicle
☐ 415A: One recreational vehicle per property
☐ 410: Illegal Class II trucking facility
☐ 400: Illegal accessory structure placement
☐ 1B02.1; 270; 421.1: Illegal kennel. Limit 3 dogs
☐ 102.5: Residential site line violation /obstruction
☐ 408B: Illegal rooming/ boarding house
☐ BCC: 32-3-102; 500.9 BCZR; ZCPM: Violation of commercial site plan and/or zoning order

BALTIMORE COUNTY CODE (B.C.C.)

- ☐ 13-7-112: Cease all nuisance activity
☐ 13-7-115: County to abate nuisance & lien costs
☐ 13-7-310: Remove all trash & debris from property
☐ 13-7-312: Remove accumulations of debris, materials, etc
☐ 13-7-201(2): Cease stagnant pool water
☐ 12-3-106: Remove animal feces daily
☐ 35-5-208(a)(c): Seal exterior openings from rodents & pests
☐ 13-4-201(b)(d): Store garbage in containers w/tight lids
☐ 35-2-301: Obtain building/ fence/ sign permit
☐ 18-2-602: Obstruction of county right of way
☐ 13-7-310(2): Remove bird seed / other food for rats
☐ 32-3-102: Violation of development plan/ site plan
☐ IBC115; BCBC 115: Remove/Repair unsafe structure board & secure all openings to premise
☐ 13-7-401; 13-7-402; 13-7-403: Cut & remove all tall grass & weeds to 3 inches in height

OWNER OCCUPIED HOUSING (B.C.C.)

- ☐ 35-5-302(a)(1): Unsanitary conditions.
☐ 35-5-302(a)(3): Cease infestation from prop.
☐ 35-5-302(b)(1)(2): Repair decorative trim, cornices, etc
☐ 35-5-302(b)(1)(4): Repair chimney & similar extensions
☐ 35-5-302(b)(1)(6): Repair defective door(s) / window(s)
☐ 35-5-302(a)(2): Store all garbage in trash cans
☐ 35-5-302(b)(1): Repair exterior structure
☐ 35-5-302(b)(1)(3) Repair exterior extensions
☐ 35-5-302(b)(1)(5) Repair metal/wood surfaces
☐ 35-5-302(b)(1)(7) Repair defective fence

INVESTMENT PROPERTY (B.C.C.)

- ☐ 35-2-404(a)(1)(i): Remove hazardous or unsafe condition
☐ 35-2-404(a)(1)(iii): Repair roof or horizontal members
☐ 35-2-404(a)(1)(v): Repair ext. plaster or masonry
☐ 35-2-404(a)(1)(vii): Repair exterior construction (see below)
☐ 35-2-404(a)(1)(3): Repair /remove defective exterior sign(s)
☐ 35-2-404(a)(1)(ii): Repair ext. walls / vertical members
☐ 35-2-404(a)(1)(iv): Repair exterior chimney
☐ 35-2-404(a)(1)(vi): Waterproof walls/ roof /foundations
☐ 35-2-404(a)(1)(2): Remove trash, rubbish, & debris
☐ 35-2-404(a)(4)(i)(ii): Board & secure. Material to match building color of structure

**ILLEGAL COMMERCIAL BUSINESS PARKING
LOT IN A RESIDENTIAL ZONE**

**CEASE ALL ACTIVITIES OF THIS SPECIFIC
USE OF YOUR PARKING LOT**

POTENTIAL FINE: ~~\$200.00~~ ☐ \$500.00 ☐ \$1000.00 Per Day, Per Violation and to be placed as a lien upon your tax bill

COMPLIANCE: MONTH **3** DAY **6** YEAR **06**

INSPECTOR NAME: **CHEN, JERRY**
(PRINT NAME)

ISSUED DATE: **2, 4, 4**

P.E.
EXH. APT
NO2



Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 2122 West Joppa Road
which is presently zoned DRI

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:

Saint Joseph Medical Center, Inc.

Name - Type or Print

Silvia Moore

Signature By: Silvia Moore, Executive Vice
President and COO

Address 7601 Osler Drive Telephone No. 410-337-1000
Towson, MD 21204

City State Zip Code

Attorney For Petitioner:

Arnold Jablon / David H. Karceski

Name - Type or Print

A. Jablon / D. Karceski

Signature

Venable LLP
Company

Address 210 Allegheny Avenue Telephone No. 410-494-6200

Towson, MD 21204
City State Zip Code

Legal Owner(s):

Trinity Assembly of God

Name, Type or Print

William S. Collins, Jr.

Signature

William S. Collins, Jr.

Name - Type or Print

Signature

2122 West Joppa Road 410-821-6573

Address Lutherville, MD 21093 Telephone No.

City State Zip Code

Representative to be Contacted:

Arnold Jablon

Name

210 Allegheny Avenue 410 494-6200

Address Towson, MD 21204 Telephone No.

City State Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

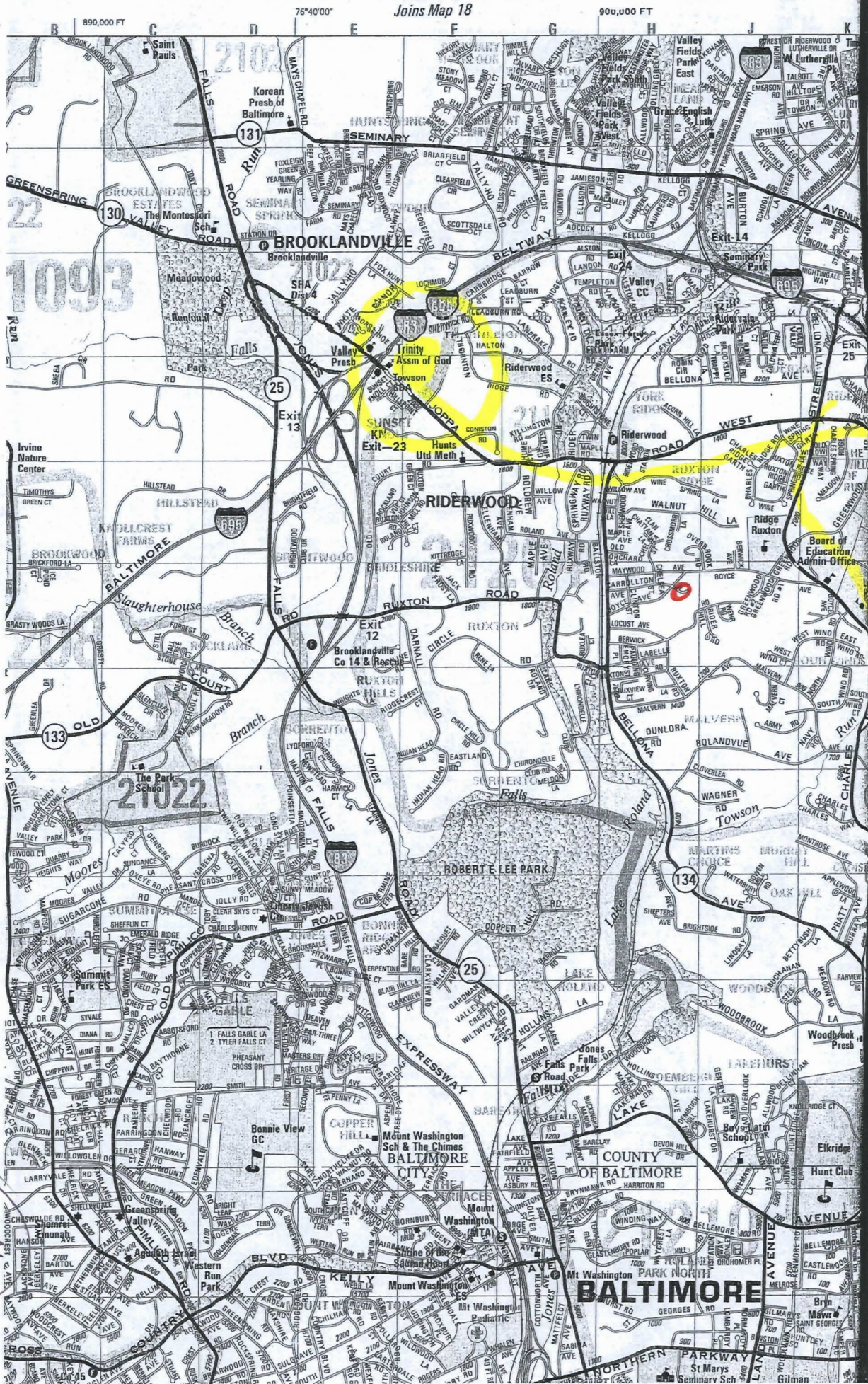
UNAVAILABLE FOR HEARING

Case No.

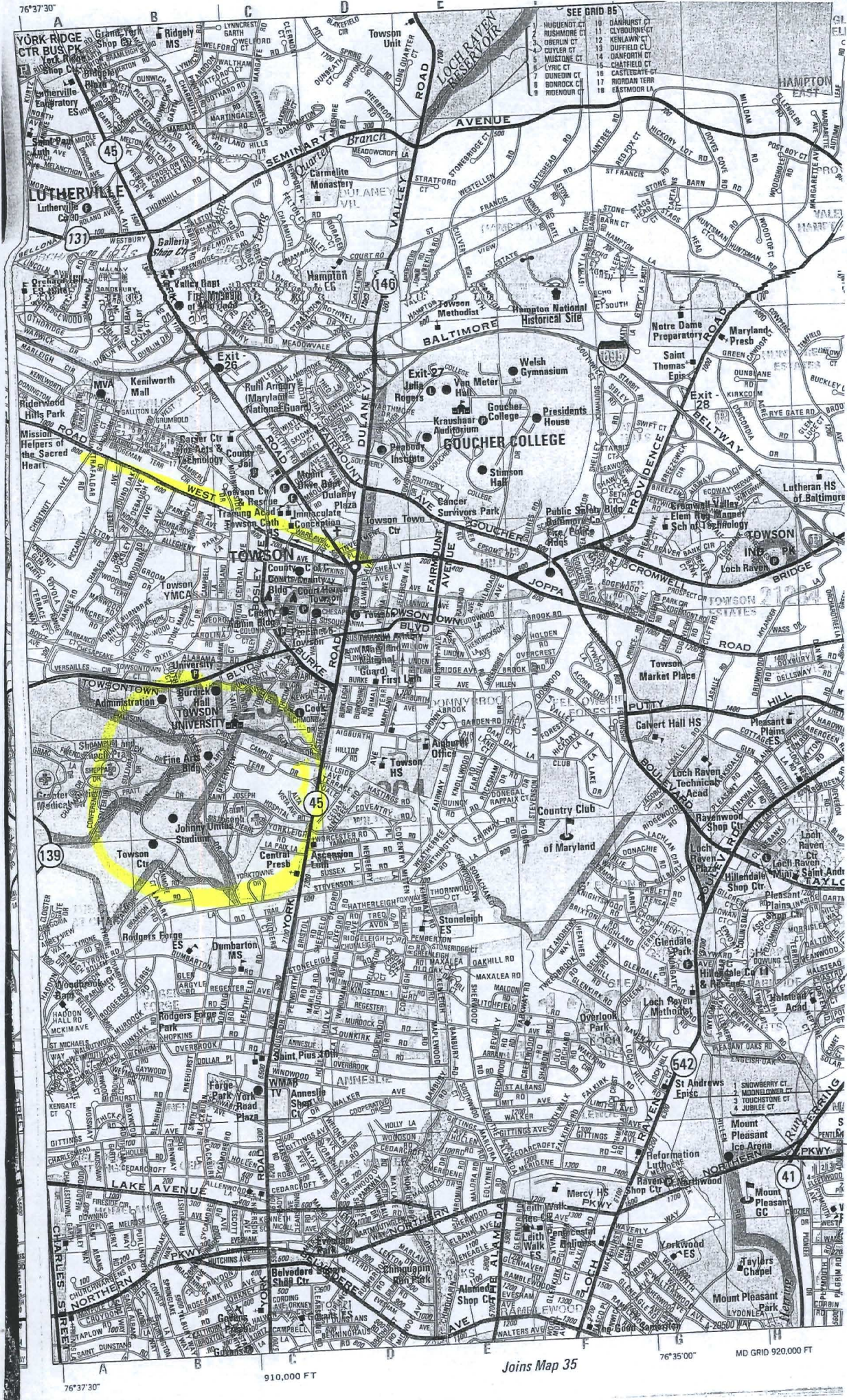
Reviewed By Date

REV 9/15/98

PEOPLE'S COUNCIL
EXH. 3
NO. 3



Populus' Council
4A



PEOPLE'S COUNSEL

4B

910,000 FT

Joins Map 35

76°35'00" MD GRID 920,000 FT



PROTESTANT'S
EXHIBITS

TRANSCRIPTS

changed
K.

PROTESTANT'S EXTRACTS

06-446-SPH

Trinity Assembly

✓ 1A, B, C FIDELITY - LUTHERAN - LAKE POLAND RESOLUTION

**The Ruxton-Riderwood-Lake Roland Area
Improvement Association, Inc.**

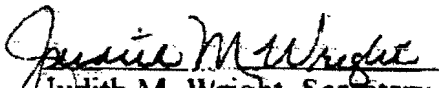
P. O. Box 204
Riderwood, Maryland 21139

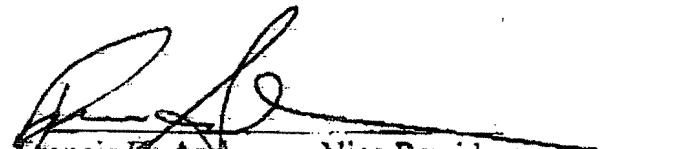
RESOLVED: The position of The Ruxton-Riderwood-Lake Roland Area Improvement Association, Inc., as adopted by the Board of Governors on the zoning matter known as Trinity Assembly of God, Case Number #06-446-SPH, 2122 West Joppa Road, is that we are opposed to the use by Trinity Assembly of God of their parking lot for any commercial purpose, such as a bus depot or commercial parking lot, in a residential zone.

AS WITNESS OUR HANDS AND SEAL THIS 11th day of June

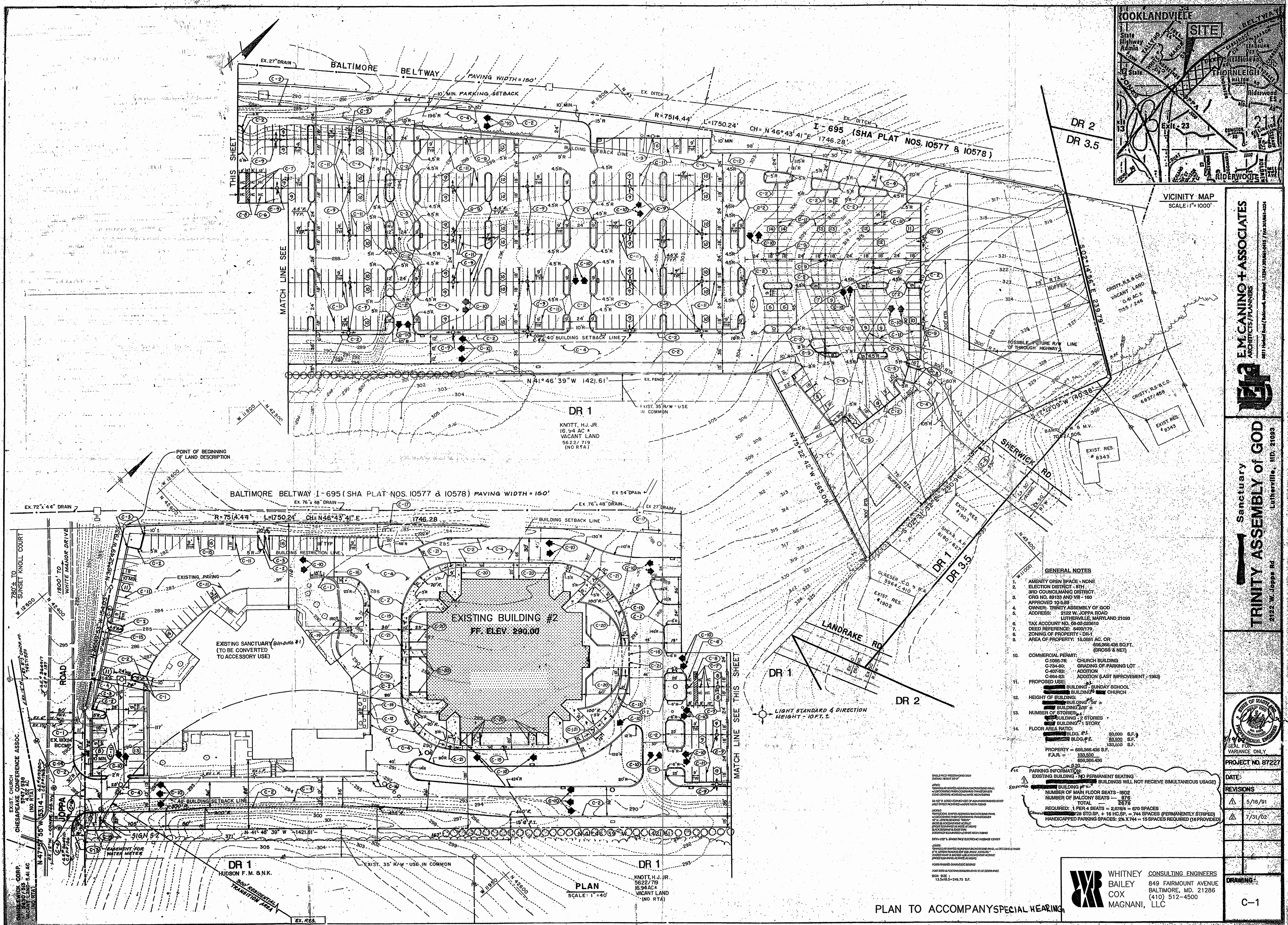
ATTEST:
Area

The Ruxton-Riderwood-Lake Roland
Improvement Association, Inc.


Judith M. Wright, Secretary


Francis B. Anderson, Vice President

PHOT. EXA
No. 1A



E.M. CANINO & ASSOCIATES
ARCHITECTS/PLANNERS



Sanctuary
TRINITY ASSEMBLY OF GOD
LUTHERVILLE, MD. 21103



PROJECT NO. 87227

DATE:

REVISIONS

5/16/91

7/31/92

DATE:

REVISIONS

5/16/91

7/31/92

DATE:

REVISIONS

5/16/91

7/31/92

DATE:

REVISIONS

5/16/91

7/31/92

DATE:

REVISIONS

5/16/91

7/31/92

DATE:

REVISIONS

5/16/91

7/31/92

DATE:

REVISIONS

5/16/91

7/31/92

DATE:

REVISIONS

5/16/91

7/31/92

DATE:

REVISIONS

5/16/91

7/31/92

DATE:

REVISIONS

5/16/91

7/31/92

DATE:

REVISIONS

5/16/91

7/31/92

DATE:

REVISIONS

5/16/91

7/31/92

DATE:

REVISIONS

5/16/91

7/31/92

DATE:

REVISIONS

5/16/91

7/31/92

DATE:

REVISIONS

5/16/91

7/31/92

DATE:

REVISIONS

5/16/91

7/31/92

DATE:

REVISIONS

5/16/91

7/31/92

DATE:

REVISIONS

5/16/91

7/31/92

DATE:

REVISIONS

5/16/91

7/31/92

DATE:

REVISIONS

5/16/91

7/31/92

DATE:

REVISIONS

5/16/91

7/31/92

DATE:

REVISIONS

5/16/91

7/31/92

DATE:

REVISIONS

5/16/91

7/31/92

DATE:

REVISIONS

5/16/91

7/31/92

DATE:

REVISIONS

5/16/91

7/31/92

DATE:

REVISIONS

5/16/91

7/31/92

DATE:

REVISIONS

5/16/91

7/31/92

DATE:

REVISIONS

5/16/91

7/31/92

DATE:

REVISIONS

5/16/91

7/31/92

DATE:

REVISIONS

5/16/91

7/31/92

DATE:

REVISIONS

5/16/91

7/31/92

DATE:

REVISIONS

5/16/91

7/31/92

DATE:

REVISIONS

5/16/91

7/31/92

DATE:

REVISIONS

5/16/91

7/31/92

DATE:

REVISIONS

5/16/91

7/31/92

DATE:

REVISIONS

5/16/91

7/31/92

DATE:

REVISIONS

5/16/91

7/31/92

DATE:

REVISIONS

5/16/91

7/31/92

DATE:

REVISIONS

5/16/91

7/31/92

DATE:

REVISIONS

5/16/91

7/31/92

DATE:

REVISIONS

5/16/91

7/31/92

DATE:

REVISIONS

5/16/91

7/31/92

DATE:

REVISIONS

5/16/91

7/31/92

DATE:

REVISIONS

5/16/91

7/31/92

DATE:

REVISIONS

5/16/91

7/31/92

DATE:

REVISIONS

5/16/91

7/31/92

DATE:

REVISIONS

5/16/91

7/31/92

DATE:

REVISIONS

5/16/91

7/31/92

DATE:

REVISIONS

5/16/91

7/31/92

DATE:

REVISIONS

5/16/91

7/31/92

DATE:

REVISIONS

5/16/91

7/31/92

DATE:

REVISIONS

5/16/91

7/31/92

DATE:

REVISIONS

5/16/91

7/31/92

DATE:

REVISIONS

5/16/91

7/31/92

DATE:

REVISIONS

5/16/91

7/31/92

DATE:

REVISIONS

5/16/91

7/31/92

DATE:

REVISIONS

5/16/91

7/31/92

DATE:

REVISIONS

5/16/91

7/31/92

DATE:

REVISIONS

5/16/91

7/31/92

DATE:

REVISIONS

5/16/91

7/31/92

DATE:

REVISIONS

5/16/91

7/31/92

DATE:

REVISIONS

5/16/91

7/31/92

DATE:

REVISIONS

5/16/91

7/31/92

DATE:

REVISIONS

5/16/91

7/31/92

DATE:

REVISIONS

5/16/91

7/31/92

DATE:

REVISIONS

5/16/91

7/31/92

DATE:

REVISIONS

5/16/91

7/31/92

DATE:

REVISIONS

5/16/91

7/31/92

DATE:

REVISIONS

5/16/91

7/31/92

DATE:

REVISIONS

5/16/91

7/31/92

DATE:

REVISIONS

5/16/91

7/31/92

DATE:

REVISIONS

5/16/91

7/31/92

DATE:

REVISIONS

5/16/91

7/31/92

DATE:

REVISIONS

5/16/91

7/31/92

DATE:

REVISIONS

5/16/91

7/31/92

DATE:

REVISIONS

ZONING BUILDING LENGTH VARIANCE CASE # 90-270-A

THEREFORE, IT IS ORDERED BY THE ZONING COMMISSIONER FOR BALTIMORE COUNTY THIS 21ST DAY OF MAY, 1990 THAT THE PETITION FOR ZONING VARIANCE FROM SECTION 1801.2.B.2 TO PERMIT A LENGTH OF ATTACHED BUILDINGS TO BE 630 FEET IN LIEU OF THE MAXIMUM PERMITTED LENGTH OF 300 FEET, BE AND IS HEREBY GRANTED; AND,

IT IS FURTHER ORDERED THAT THE PETITIONER MAY CONSTRUCT SMALLER BUILDINGS THAN THAT PROPOSED PROVIDED THAT SUCH BUILDINGS ARE CONTAINED WITHIN THE FOOTPRINT AREA DESCRIBED AS "NEW BUILDING", IN ACCORDANCE WITH PETITIONER'S EXHIBIT 1, SUBJECT, HOWEVER, TO THE FOLLOWING RESTRICTIONS WHICH ARE CONDITIONS PRECEDENT TO THE RELIEF GRANTED:

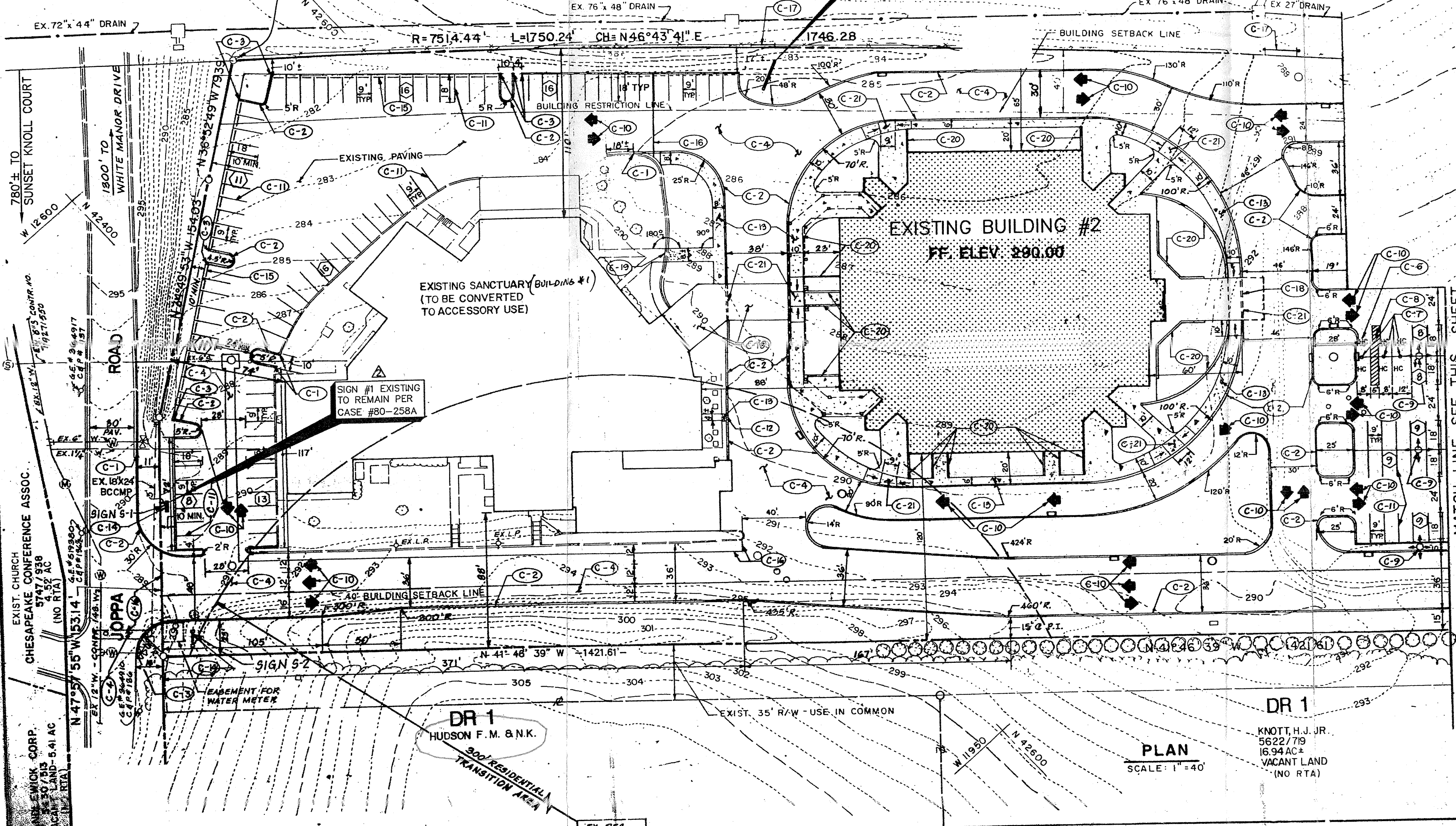
- 1) THE PETITIONER MAY APPLY FOR ITS BUILDING PERMIT AND BE GRANTED SAME UPON RECEIPT OF THIS ORDER; HOWEVER, PETITIONER IS HEREBY MADE AWARE THAT PROCEEDING AT THIS TIME IS AT ITS OWN RISK UNTIL SUCH TIME AS THE 30-DAY APPEAL PROCESS FROM THIS ORDER HAS EXPIRED. IF, FOR WHATEVER REASON, THIS ORDER IS REVERSED, THE PETITIONER WOULD BE REQUIRED TO RETURN, AND BE RESPONSIBLE FOR RETURNING, SAID PROPERTY TO ITS ORIGINAL CONDITION.
- 2) PETITIONER SHALL SUBMIT A LANDSCAPING PLAN TO THE BALTIMORE COUNTY LANDSCAPE PLANNER FOR APPROVAL PRIOR TO THE ISSUANCE OF ANY BUILDING PERMITS. A COPY OF THE APPROVED PLAN SHALL BE SUBMITTED TO THE ZONING COMMISSIONER'S OFFICE FOR INCLUSION IN THE CASE FILE.
- 3) COMPLIANCE WITH ALL ZONING PLANS ADVISORY COMMITTEE COMMENTS SUBMITTED HERETO AND MADE A PART OF THIS ORDER.
- 4) WHEN APPLYING FOR A BUILDING PERMIT, THE SITE PLAN AND LANDSCAPING PLAN FILED MUST REFERENCE THIS CASE AND SET FORTH AND ADDRESS THE RESTRICTIONS OF THIS ORDER.
- 5) PETITIONER SHALL SUBMIT FOR APPROVAL TO THE ZONING COMMISSIONER'S OFFICE BY NO LATER THAN JANUARY 1, 1991 A NEW SITE PLAN PREPARED BY A REGISTERED PROFESSIONAL ENGINEER AND/OR LAND SURVEYOR, WHICH CLEARLY IDENTIFIES ALL BUILDINGS, THEIR SIZE AND AREA DIMENSIONS, THEIR EXACT LOCATION ON THE SUBJECT PROPERTY, THEIR DISTANCES FROM ALL PROPERTY LINES, AND ANY OTHER INFORMATION AS MAY BE REQUIRED TO BE A CERTIFIED SITE PLAN.
- 6) PETITIONER SHALL SUBMIT A COPY OF THE NEW SITE PLAN TO THE DEPUTY DIRECTOR OF PLANNING FOR APPROVAL PRIOR TO THE ISSUANCE OF ANY BUILDING PERMITS.
- 7) WHEN APPLYING FOR A BUILDING PERMIT, THE SITE PLAN AND LANDSCAPE PLAN FILED MUST REFERENCE THIS CASE AND SET FORTH AND ADDRESS THE RESTRICTIONS OF THIS ORDER.

ZONING SIGN VARIANCE CASE #80-288A

- 8/22/80 Zoning Commissioner granted 2 double-faced non-illuminated signs of 60 sq. ft. total in lieu of the permitted 1 sign of 30 sq. ft. total. (Sign #1 to remain, Sign #2 to be replaced)
- 9/16/80 Order for Appeal filed by John W. Henshaw, III, Esquire on behalf of People's Counsel.
- 9/1/81 Order by County Board of Appeals: (1) variance from permitted 30 sq. ft. to existing 36 sq. ft. sign be GRANTED; (2) the 4'x8' sign located near the NW/cor of said property to be removed within 60 days of the date of this order. (Sign #1)
- 10/6/81 Order for Appeal to Circuit Court by Earl D. Baldwin, Pastor.
- 8/16/82 Ordered by Circuit Court that decision of Board of Appeals be REVERSED and the variance should be granted in accordance with Zoning Commissioner's findings.
- 8/26/82 People's Counsel filed Appeal to Court of Special Appeals, the decision dated 8/16/82.
- 5/2/83 Judgment Affirmed - by Court of Special Appeals.
- 6/14/83 Writ of Certiorari filed to Court of Special Appeals by People's Counsel.
- 9/14/83 Writ of Certiorari DENIED by Judge Robert C. Murphy.

POINT OF BEGINNING OF LAND DESCRIPTION

BALTIMORE BELTWAY I-695 (SHA PLAT NOS. 10577 & 10578) PAVING WIDTH = 150'



DR 1

KNOTT, H.J. JR.
18 54 AC
VACANT LAND
5622/719
(NO RTA)

DR 1

KNOTT, H.J. JR.
18 54 AC
VACANT LAND
(NO RTA)

PLAN
SCALE: 1"=40'

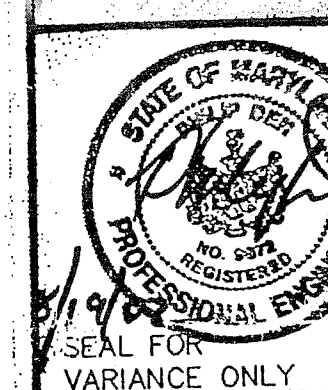


VICINITY MAP
SCALE: 1"=1000'

E.M. CANINO + ASSOCIATES
ARCHITECTS/PLANNERS
3871 Harbor Road / Baltimore, Maryland 21244-3444 / FAX 301/461-4274



Sanctuary
TRINITY ASSEMBLY of GOD
Lutherville, MD. 21093
2122 W. Joppa Rd.



VARIANCE ONLY

PROJECT NO. 87227

DATE:

REVISIONS

5/18/91

7/31/92

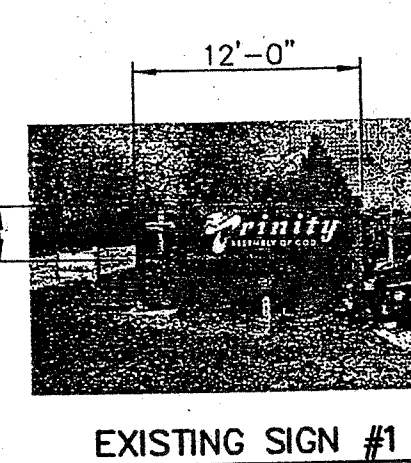
DRAWING

C-1

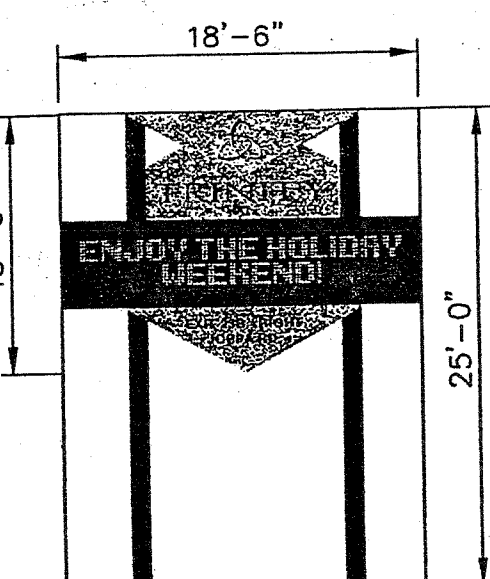
GENERAL NOTES

1. AMENITY OPEN SPACE - NONE
2. ELECTION DISTRICT - 8TH
3. 3RD COUNCILMANIC DISTRICT
4. CRG NO. 89133 AND VIII - 150
5. APPROVED 10-5-89
6. OWNER: TRINITY ASSEMBLY OF GOD
7. ADDRESS: 2122 W. JOPPA ROAD, LUTHERVILLE, MARYLAND 21093
8. TAX ACCOUNT NO. 08-02-023610
9. DEED REFERENCE: 5489/179
10. ZONING OF PROPERTY: D-1A
11. AREA OF PROPERTY: 15.0081 AC. OR 656,366.436 SQ. FT. (GROSS & NET)
12. COMMERCIAL PERMIT: CHURCH BUILDING
13. C-1086-78: GRADING OF PARKING LOT
14. C-407-83: ADDITION (LAST IMPROVEMENT - 1983)
15. C-664-83: ADDITION (LAST IMPROVEMENT - 1983)
16. PROPOSED USE: BUILDING - SUNDAY SCHOOL
17. BUILDING - CHURCH
18. HEIGHT OF BUILDING: BUILDING #1 = 28' BUILDING #2 = 28'
19. NUMBER OF STORIES: BUILDING #1 = 2 BUILDING #2 = 1
20. FLOOR AREA RATIO: BLDG. #1 = 50,000 S.F. BLDG. #2 = 83,500 S.F. TOTAL = 133,500 S.F.
21. PROPERTY = 656,366.436 S.F. F.A.R. = 133,500 / 656,366.436 = 0.203
22. PARKING INFORMATION: EXISTING BUILDING - NO PERMANENT SEATING EXISTING BUILDINGS WILL NOT RECEIVE SIMULTANEOUS USAGE
23. NUMBER OF MAIN FLOOR SEATS - 1802
24. NUMBER OF BALCONY SEATS - 2678
25. TOTAL REQUIRED: 1 PER 4 SEATS = 2,678/4 = 670 SPACES
26. 720 STD. SP. + 75 HC SP. = 744 SPACES (PERMANENTLY STRIPED)
27. HANDICAPPED PARKING SPACES: 2% X 744 = 15 SPACES REQUIRED (16 PROVIDED)

Ret ex 3



EXISTING SIGN #1
SCALE: 1"=10'



FINISH GRADE
PLACEMENT SIGN #2
SCALE: 1"=10'

PLAN TO ACCOMPANY VARIANCE

WHITNEY
BAILEY
COX
MAGNANI, LLC

CONSULTING ENGINEERS
849 FAIRMONT AVENUE
BALTIMORE, MD. 21286
(410) 512-4500