IN RE: PETITION FOR SPECIAL HEARING SW side Windsor Mill Road, 315 feet N c/l Rices Lane 2nd Election District 4th Councilmanic District **(8007 Windsor Mill Road)** Lynne Roche, Owner; Roche LLC *Legal Owner*	* * * * *	BEFORE THE DEPUTY ZONING COMMISSIONER OF BALTIMORE COUNTY **CASE NO. 07-347-SPH**

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

IN RE: PETITIONS FOR SPECIAL EXCEPTION, SPECIAL HEARING & VARIANCE NW side Windsor Mill Road, 415 feet N c/l Rices Lane 2nd Election District 4th Councilmanic District **(8009 Windsor Mill Road)** Lynn Roche, President; Child Care Academy of Baltimore County, Inc. *Legal Owner* Lynn Roch; Roche, LLC *Contract Purchaser*	* * * * * * * *	BEFORE THE DEPUTY ZONING COMMISSIONER OF BALTIMORE COUNTY **CASE NO. 07-348-SPHXA**

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

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as Petitions for Special Hearing (Case No. 07-347-SPH), Special Exception, Special Hearing and Variance (Case No. 07-348-SPHXA) filed by the legal owner of the subject property, Lynn Roche, President; for Child Care Academy of Baltimore County, Inc.

Case No. 07-347-SPH

Special Hearing relief is requested pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) to affirm the relief granted in Case No. 65-86-X to permit a Group Child Care Center, Class B and a Nursery School in the RC 6 zone; and to affirm and amend the relief granted in Case No. 06-447-SPH, to permit a Group Child Care Center, Class B

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and a Nursery School; and to determine that the existing use and improvements are not subject to the Conservancy Area requirements pursuant to BCZR Section 1A07.7, nor to the Development area and standards of BCZR Section 1A07.8.B and the Performance standards of BCZR Section 1A07.8.C; and to approve a modified parking plan pursuant to BCZR Section 409.12.B.

Case No. 07-348-SPHXA

Special Hearing relief is requested pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) to amend the relief granted in Case No. 06-447-SPH, to permit a Group Child Care Center, Class B and a Nursery School in the RC 6 zone; and to determine that the proposed use and existing improvements are not subject to the Conservancy Area requirements pursuant to BCZR Section 1A07.7, nor to the Development area and standards of BCZR Section 1A07.8.B and the Performance standards of BCZR Section 1A07.8.C; and to approve a modified parking plan pursuant to BCZR 409.12.B.

The Special Exception is pursuant to BCZR Section 1A07.3 and Section 424.5 to permit a Group Child Care Center, Class B and a Nursery School in the RC 6 zone.

The Variance request is from Section 1A07.8.B.6 to permit an existing impervious area of 35% to remain in lieu of the permitted 10%; and from Section 1A078.B.5.a.2 to permit a setback of 25 feet from an existing principal building in lieu of the required 80 feet.

The properties were posted with Notice of Hearing on April 20, 2007 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 April 24, 2007 to notify any interested persons of the scheduled hearing date.

Applicable Law

Section 502.1 of the B.C.Z.R. *Special Exceptions*

Before any special exception may be granted, it must appear that the use for which the special exception is requested will not:

A. Be detrimental to the health, safety or general welfare of the locality involved;

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B. Tend to create congestion in roads, streets or alleys therein;
C. Create a potential hazard from fire, panic or other danger;
D. Tend to overcrowd land and cause undue concentration of population;
E. Interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences or improvements;
F. Interfere with adequate light and air; [Bill No. 45-1982]
G. Be inconsistent with the purposes of the property's zoning classification nor in any other way inconsistent with the sprit and intent of these Zoning Regulations; [Bill No. 45-1982]
H. Be inconsistent with the impermeable surface and vegetative retention provisions of these Zoning Regulations; nor [Bill No. 45-1982]
I. Be detrimental to the environmental and natural resources of the site and vicinity including forests, streams, wetlands, aquifers and floodplains in an R.C.2, R.C.4, R.C.5 or R.C.7 zone. [Bill No. 74-2000]

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.

Section 307 of the B.C.Z.R. *Variances*

"The Zoning Commissioner of Baltimore County and the County Board of Appeals, upon appeal, shall have and they are hereby given the power to grant variances from height and area regulations, from off-street parking regulations, and from sign regulations only in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and where strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship. No increase in residential density beyond that otherwise allowable by the Zoning Regulations shall be permitted as a result of any such grant of a variance from height or area regulations. Furthermore, any such variance shall be granted only if in strict harmony with the spirit and intent of said height, area, off-street parking or sign regulations, and only in such manner as to grant relief without injury to the public health, safety and general welfare. They shall have no power to grant any other variances. Before granting any variance, the Zoning Commissioner shall require public notice to be given and shall hold a public hearing upon any application for a variance in the same manner as in the case of a petition for reclassification. Any order by the Zoning Commissioner or the County Board of Appeals granting a variance shall contain a finding of fact setting forth and specifying the reason or reasons for making such variance."

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

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dated March 20, 2007. That Office has reviewed the subject petition and visited the site. The Petitioner is modifying the site to allow one point of ingress and egress to accommodate a proposed expansion to an existing Class B Child Care Center. The proposed changes do not pose any significant impact to adjacent properties or to vehicles traveling on Windsor Mill Road. The Planning Office recommends approval of the requested special exceptions and to permit a Group Childcare Center, Class B and a Nursery School in the RC 6 zone. Additionally, that office does not oppose amending the relief granted in Case No. 06-447-SPH to permit a Group Child Care Center, Class B and a Nursery School in the RC 6 zone, and to approve a modified parking plan pursuant to BCZR Section 409.12.B.

Interested Persons

Appearing at the hearing on behalf of the variance and special exception requests were Richard Matz, of Colbert Matz Rosenfelt, Inc., who prepared the site plan and Golden Roche, for Roche LLC, Petitioner. Deborah Dopkin, Esquire, represented the Petitioner. There were no protestants or citizens attending the hearing. People's Counsel, Peter Max Zimmerman, entered the appearance of his office in this case.

Testimony and Evidence

The subject properties are adjacent lots on Windsor Mill Road each of which has been improved by a single family dwelling. Ms. Dopkin proffered that the Petitioner operates a Class B group child center at 8007 Windsor Mill Road in a converted single family dwelling, in which the Petitioner's staff provides day care and nursery school services for area families. In addition to classrooms, kitchen facilities and the like in the building, there is an extensive play area in the rear yard as shown on exhibit 2, the redline site plan. The childcare center was approved in a prior Case No. 65-86 X when the site was zoned R-20, operated successfully since 1965, is licensed by the State, and now has many children on the waiting list.

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To meet this need, the Petitioner purchased the single family dwelling next door at 8009 Windsor Mill Road. This property had previously been used as a service garage in support of a bus company and consequently has a large garage on the first floor/basement level. See exhibit 3. The Petitioner proposes to use the second floor, which has direct access to Windsor Mill Road, for 20 children ages 2 to 4 years and bring the total capacity of the school to 105. No physical changes are proposed for the building but the play areas in the rear would be reconfigured and combined. If this property were in a DR zone the new and existing facilities would meet all applicable County regulations for a child care center as well as State licensing regulations.

The issue in Case No. 06-447-SPH was that the zoning on this property had been changed from R-20 to RC 5 and now to RC 6. When the Council imposed RC 6 on this property, they did not change the table in Section 424.5 to include RC 6 along with the other resource conservation zones in which such centers are allowed by right or special exception. This Commission's decision in Case No. 06-447-SPH granting the requested relief was appealed by Peoples Counsel to the Board of Appeals. This Commission's Order reflected the need to improve the pick up and drop off area on Windsor Mill Road as the entrance to same was located near the crest of a substantial hill.

In the mean time the Petitioner contacted the County Council requesting the RC 6 regulations be amended to allow child care centers. The Council responded in Bill 132-06 which amended Section 424.5A of the BCZR to allow Group Child Care Centers in RC 6 by special exception as shown by exhibit 1.

While the regulations now allow group childcare centers in RC 6 zones, Ms. Dopkin proffered that the lots and dwellings on the lots, which were created many years before this zone was imposed, cannot meet the RC 6 area and setback regulations. She noted that the lots are

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long and narrow, are fully improved by the structures shown on the redline site plan and it would be impractical to change the existing conditions to meet the regulations. The Petitioner has been unsuccessful in getting the County to agree to extend public sewer service which is located in Windsor Mill Road to the properties. As a result the Petitioner had to relocate the septic reserve areas located in the front of each building to allow a major change to the pick up/drop off area from Windsor Mill Road. This redesign is nearly complete as shown in the photographs, exhibit 4.

Mr. Matz indicated that the pick up/drop off area for the existing child care center is located 150 feet below the crest of a hill on Windsor Mill Road and presents challenges to parents as there is not sufficient sight distance when exiting the property. By acquiring the adjacent property, combining the entrance/exit for both properties, and redesigning the front of both properties, the exit will be moved toward the crest which he opined would be a significant safety improvement.

In regard to parking he noted that the property at 8009 has existing parking in the rear where the former bus company operated. While this will be adequate for the staff in terms of spaces, the existing configuration does not meet the travel lane, back up distance, etc., specified in Section 409. As a result the Petitioner requests approval of a modified parking plan under Section 409.12.

Again because of the existing conditions, the properties cannot meet the Conservancy Area requirements pursuant to BCZR Section 1A07.7, nor to the Development area and standards of BCZR Section 1A07.8.B nor the Performance standards of BCZR Section 1A07.8.C. Mr. Matz opined that these regulations were not intended to apply to existing lots. He indicated that there is a growing demand for child care in the area and by supplying this need there would be no detriment to the community.

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In regard to the request for special exception to approve a Group Child Care Center, Class B and a Nursery School in the RC 6 zone, Mr. Matz that the request met each criteria of Section 502.1 of the BCZR, and would not result in an adverse impact on the community but rather would mean enhanced service. He opined that after redesign of the pick up/drop off area there would be improved safety for motorists and parents alike. He noted that the hours of operation were from 6:30 AM to 6 PM each week day, children come by car or bus accompanied by adults, and the play area meets the requirements for the 20 foot buffer along property boundaries.

In regard to request for variances, he opined the property was unique due to the existing buildings and lot configurations. For example the buildings are separated by 25 feet rather than the required 80 feet and it would be impractical to move the buildings farther apart to meet the regulations. Similarly the existing impervious area together with the resigned pick up area have 35% impervious area and cannot therefore meet the 10% requirement.

In regard to the ZAC comment from the Bureau of Development Plans Review that two parking spaces be moved out of the right of way of Windsor Mill Road, the Petitioner agreed and modified both site plans as shown in red on exhibits 2 and 3.

Findings of Fact and Conclusions of Law

In regard to the request for variance I agree the existing buildings are examples of the peculiar circumstances which make the property unique in a zoning sense. These lots were created much before the RC 6 zoning was imposed on the area. The imposition of zoning on this property disproportionably impacts the subject property as compared to others in the zoning district.

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I further find that strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship. Clearly it is impractical to move the buildings farther apart, or to meet the 10% impervious area regulations.

Finally, I find these variances can be granted in strict harmony with the spirit and intent of said regulations, and in such manner as to grant relief without injury to the public health, safety and general welfare. The two existing dwellings converted to child care will appear very similar so there will be no change to the character of the neighborhood. Therefore I will grant the variances requested.

In regard to the request for special hearing, the Petitioner asks that I find that the proposed use and existing improvements are not subject to the Conservancy Area requirements pursuant to BCZR Section 1A07.7, nor to the Development area and standards of BCZR Section 1A07.8.B nor the Performance standards of BCZR Section 1A07.8.C. I admit that declaring that certain requirements of the RC 6 zoned simply do not apply to existing and proposed structures and uses gives me pause. I agree that the intent of the RC 6 regulations is to guide new development in environmentally sensitive areas of the County. Lot density regulations apply to new residential development and not a new use of an existing structure. Primary and secondary conservancy requirements seem to apply to new development as well. Yet I would not want to find that under every circumstance, existing uses are not subject to these regulations. Consequently I find that these particular existing and proposed uses are not subject to these regulations in this case only.

I have no difficulty at all in granting the request by special hearing to amend the relief granted in Case No. 06-447-SPH to reflect this greatly improved site plan. The new entrance nearly at the top of the hill will be a significant safety improvement because of greater sight distance. Similarly I will approve the modified parking plan which reflects existing conditions

5-17-07

with sufficient parking spaces but does not meet the dimensional requirements for aisle ways, etc. This will be used by staff and not the general public. I find that to meet the parking regulations would create an undue hardship for the Petitioner.

Finally I will approve the request for special exception to allow the Group Child Care Center Class B on the property at 8009 Windsor Mill Road as I find the request meets the criteria of Section 502.1 of the BCZR, is within the spirit and intent of the RC 6 regulations and will not adversely affect the community for the reasons given above.

Pursuant to the advertisement, posting of the property, and public hearing on these Petitions held, and after considering the testimony and evidence offered by the Petitioners, I find that the Petitioners' requests for special exception and special hearing should be granted, and the requests for variance should be granted.

THEREFORE, IT IS ORDERED, by the Deputy Zoning Commissioner for Baltimore County, this 17th day of May, 2007, as set forth as follows:

CASE NO. 07-347-SPH

Special Hearing relief pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) to affirm the relief granted in Case No. 65-86-X to permit a Group Child Care Center, Class B and a Nursery School in the RC 6 zone; and to affirm and amend the relief granted in Case No. 06-447-SPH, to permit a Group Child Care Center, Class B and a Nursery School; and to approve a modified parking plan pursuant to BCZR Section 409.12.B are hereby GRANTED; and

IT IS FURTHER ORDERED that the request to determine that the existing use and improvements are not subject to the Conservancy Area requirements pursuant to BCZR Section 1A07.7, nor to the Development area and standards of BCZR Section 1A07.8.B and the

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Date 5-17-07
By PM

Performance standards of BCZR Section 1A07.8.C;, is hereby GRANTED IN THIS CASE ONLY; and

Case No. 07-348-SPHXA

IT IS FURTHER ORDERED that Special Hearing relief is requested pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) to amend the relief granted in Case No. 06-447-SPH, to permit a Group Child Care Center, Class B and a Nursery School in the RC 6 zone and to approve a modified parking plan pursuant to BCZR 409.12.B are hereby GRANTED; and

IT IS FURTHER ORDERED that the request to determine that the proposed use and existing improvements are not subject to the Conservancy Area requirements pursuant to BCZR Section 1A07.7, nor to the Development area and standards of BCZR Section 1A07.8.B and the Performance standards of BCZR Section 1A07.8.C is hereby GRANTED IN THIS CASE ONLY; and

IT IS FURTHER ORDERED, that the Special Exception pursuant to BCZR Section 1A07.3 and Section 424.5 to permit a Group Child Care Center, Class B and a Nursery School in the RC 6 zone is hereby GRANTED.

IT IS FURTHER ORDERED, that the Variance from Section 1A07.8.B.6 to permit an existing impervious area of 35% to remain in lieu of the permitted 10%; and from Section 1A078.B.5.a.2 to permit a setback of 25 feet from an existing principal building in lieu of the required 80 feet is hereby GRANTED, subject to the following:

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

5-17-07

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

John V. Murphy

JOHN V. MURPHY
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

JVM:pz

5-17-07

Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at: 8007 Windsor Mill Road
which is presently zoned RC-6

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 of thereof, hereby petition for a Special Hearing under 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commission 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:

Name – Type or Print

Signature

Address. Telephone No.

City State Zip Code

Legal Owner(s):

Lynn Roche, Owner Roche LLC
Name – Type or Print

Lynn Roche
Signature

Name – Type or Print

Signature

4 Saddlestone Ct. 410-902-8999
Address. Telephone No.

Owings Mills MD 21117
City State Zip Code

Attorney For Petitioner:

Deborah C. Dopkin, Esq.
Name – Type or Print

Deborah C. Dopkin
Signature

Law Offices of Deborah C. Dopkin, P.A.
Company

409 Washington Avenue 410-821-0200
Address Telephone No.

Towson MD 21204
City State Zip Code

Representative to be Contacted:

Richard E. Matz, P.E.
COLBERT MATZ ROSENFELT, INC

2835 Smith Avenue, Suite G 410-653-3838
Address Telephone No.

Baltimore MD 21209
City State Zip Code

Case No. 07-347-SPH

[redacted] FOR FILING
[redacted] 5/17/07
[redacted] PO

OFFICE USE ONLY
ESTIMATED LENGTH OF HEARING_____
UNAVAILABLE FOR HEARING_____
Reviewed By BM Date 2/1/07

SPECIAL HEARING - 8007 WINDSOR MILL ROAD

To affirm the relief granted in Case No. 65-86X to permit a Group Child Care Center, Class B and a Nursery School in the R.C. 6 zone;

And

To affirm and amend the relief granted in Case no. 06-447-SPH, to permit a Group Child Care Center, Class B and a Nursery School;

And

To determine that the existing use and improvements are not subject to the Conservancy Area requirements pursuant to BCZR §1A07.7, nor to the Development area and standards of BCZR §1A07.8.B and the Performance standards of BCZR §1A07.8.C;

And

To approve a modified parking plan pursuant to BCZR §409.12.B.

Colbert Matz Rosenfelt, Inc.

Civil Engineers • Surveyors • Planners

ZONING DESCRIPTION
8007 WINDSOR MILL ROAD

Beginning at a point on the south side of Windsor Mill Road, which is of varying width, at a distance of 315 feet west of Rices Lane, which is of varying width, thence the following courses and distances:

S 45°15'04" W, 454.63 ft.;
N 51°19'03" W, 100.00 ft.;
N 45°37'19" E, 439.95 ft.; thence
S 59°53'41"E, 100.00 ft. to the Point of Beginning

As recorded in Deed Liber 16549, folio 408, and containing 1.04 acres. Also known as #8007 Windsor Mill Road and located in the 2nd Election District, 4th Councilmanic District.

STATE OF MARYLAND
RICHARD EARL MATZ
No. 13203
PROFESSIONAL ENGINEER

Jan 19, 2007

2835 Smith Avenue, Suite G Baltimore, Maryland 21209
Telephone: (410) 653-3838 / Facsimile: (410) 653-7953

#347

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: #07-347-SPH
8007 Windsor Mill Road
Southwest side Windsor Mill Road, 315 feet north centerline Rices Lane
2nd Election District - 4th Councilmanic District
Legal Owner(s): Lynne Roche, Roche LLC

Special Hearing: To affirm the relief granted in Case No. 65-86-X to permit a Group Child Care Center, Class B and a Nursery School in the RC - 6 zone; and to affirm and amend the relief granted in Case No. 06-447-SPH, to permit a Group Child Care Center, Class B and a Nursery School; and to determine that the existing use and improvements are not subject to the Conservancy Area requirements pursuant to BCZR Section 1A07.7, nor to the Development area and standards of BCZR Section 1A07.8.B and the Performance standards of BCZR Section 1A07.8.C; and to approve a modified parking plan pursuant to BCZR Section 409.12.B.

Hearing: Wednesday, April 4, 2007 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 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/3/699 Mar. 20 128598

CERTIFICATE OF PUBLICATION

3/22/, 2007

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 3/20/, 2007.

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

S. Wilkinson

LEGAL ADVERTISING

NOTICE OF ZONING HEARING

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Hearing: Wednesday, May 9, 2007 at 10:00 a.m. in Room 106, County Office Building, 111 West Chesapeake Avenue, Towson 21204

WILLIAM J. WISEMAN, III
Zoning Commissioner for Baltimore County

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Contact the Zoning Commissioner's Office at (410) 887-3868.
(2) For information concerning the File and/or Hearing, Contact the Zoning Review Office at (410) 887-3391.

JT 4/732 April 24 132761

CERTIFICATE OF PUBLICATION

4/26/, 2007

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 4/24/, 2007.

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

S. Wilkinson

LEGAL ADVERTISING

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 23037

DATE 2/1/07 ACCOUNT R001-006-6150

AMOUNT $ 325.00

RECEIVED FROM: Lutheran Academy of Baltimore County

FOR: Special Hearing

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

Item # 347

PAID RECEIPT
BUSINESS ACTUAL TIME
2/02/2007 2/01/2007 10:19:49
REG USR: MARKTH CASH FXR
RECEIPT # 547158 2/01/2007
Rept: 5 FOR ZONING VERIFICATION
(B 10) 023157
Rcpt Tot $325.00
$1,125.00 CK $0.00 CA
Baltimore County, Maryland

CASHIER'S VALIDATION

CERTIFICATE OF POSTING

ATTENTION: KRISTEN MATHHEWS **DATE:** 04/20/07

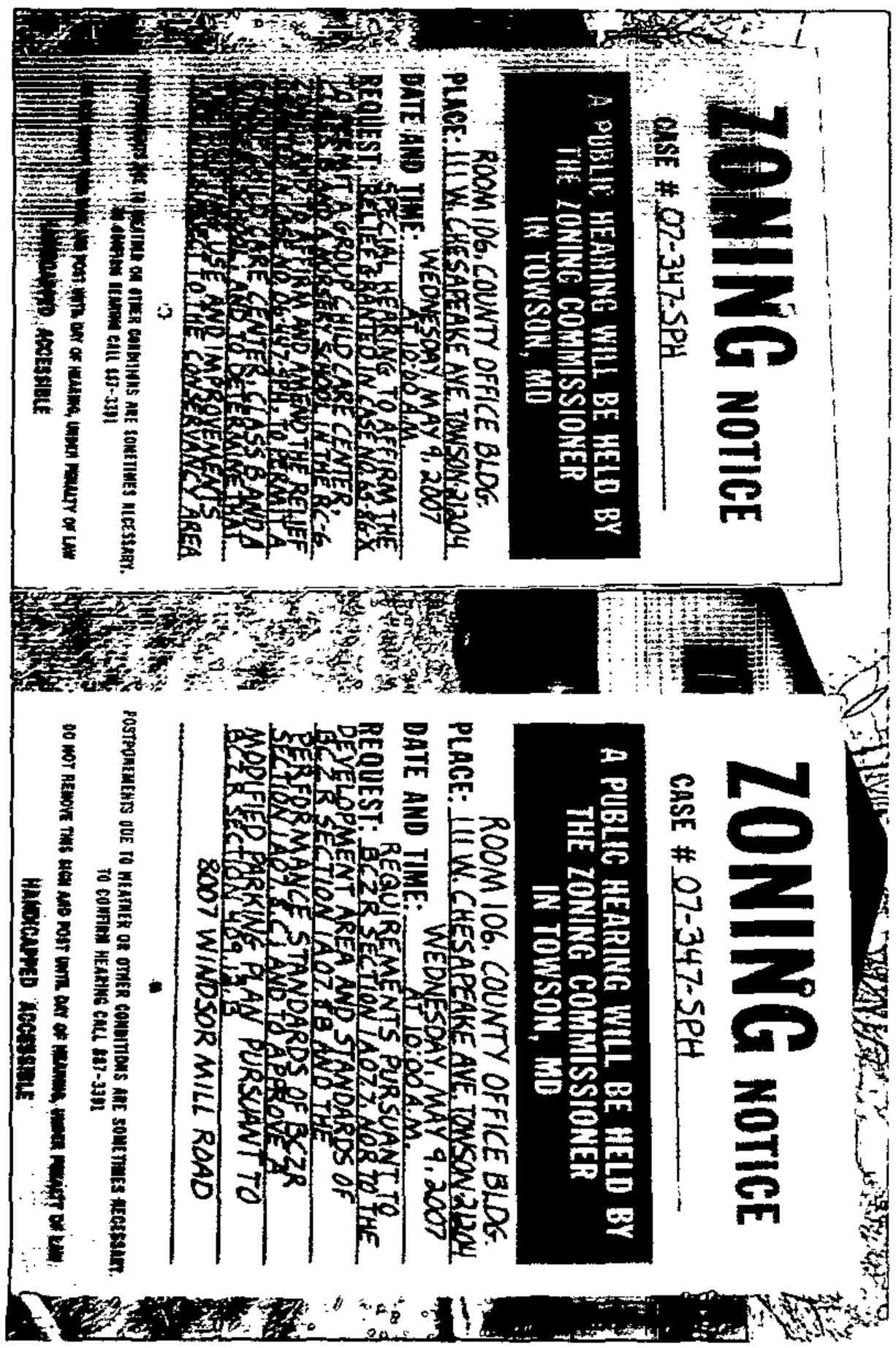
Case Number: 07-347-SPH

Petitioner/Developer: DEBORAH C. DOPKIN, ESQ.—LYNN ROCHE, LLC—RICHARD E. MATZ

Date of Hearing (Closing): May 9, 2007

This is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at: 8007 WINDSOR MILL ROAD

The sign(s) were posted on: April 20, 2007



Linda O'Keefe
(Signature of Sign Poster)

Linda O'Keefe
(Printed Name of Sign Poster)

523 Penny Lane
(Street Address of Sign Poster)

Hunt Valley Maryland 21030
(City, State, Zip Code of Sign Poster)

410-666-5366
(Telephone Number of Sign Poster)

BALTIMORE COUNTY

MARYLAND

JAMES T. SMITH, JR.
County Executive

March 30, 2007

TIMOTHY M. KOTROCO, *Director*
Department of Permits and Development Management

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: 07-347-SPH
8007 Windsor Mill Road
Southwest side Windsor Mill Road, 315 feet north centerline Rices Lane.
2nd Election District – 4th Councilmanic District
Legal Owner(s): Lynne Roche, Roche LLC

Special Hearing To affirm the relief granted in Case No. 65-86-X to permit a Group Child Care Center, Class B and a Nursery School in the RC - 6 zone; and to affirm and amend the relief granted in Case No. 06-447-SPH, to permit a Group Child Care Center, Class B and a Nursery School; and to determine that the existing use and improvements are not subject to the Conservancy Area requirements pursuant to BCZR Section 1A07.7, nor to the Development area and standards of BCZR Section 1A07.8.B and the Performance standards of BCZR Section 1A07.8.C; and to approve a modified parking plan pursuant to BCZR Section 409.12.B.

Hearing: Wednesday, May 9, 2007 at 10:00 a.m. in Room 106, County Office Building, 111 West Chesapeake Avenue, Towson 21204.

Timothy Kotroco

Timothy Kotroco
Director

TK:klm

C: Deborah C. Dopkin, Esq. 409 Washington Avenue Towson 21204
Lynn Roche Roche, LLC 4 Saddlestone Court Owings Mills 21117
Richard E. Matz, P.E. Colbert Matz Rosenfelt, Inc. 2835 Smith Avenue, Suite G Baltimore 21209

NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY TUESDAY, APRIL 24, 2007.**
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

TO: PATUXENT PUBLISHING COMPANY
Tuesday, April 24, 2007 Issue - Jeffersonian

Please forward billing to:
Lynn Roche
4 Saddlestone Court
Owings Mills, MD 21117

410-902-8999

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: 07-347-SPH
8007 Windsor Mill Road
Southwest side Windsor Mill Road, 315 feet north centerline Rices Lane.
2nd Election District – 4th Councilmanic District
Legal Owner(s): Lynne Roche, Roche LLC

Special Hearing To affirm the relief granted in Case No. 65-86-X to permit a Group Child Care Center, Class B and a Nursery School in the RC - 6 zone; and to affirm and amend the relief granted in Case No. 06-447-SPH, to permit a Group Child Care Center, Class B and a Nursery School; and to determine that the existing use and improvements are not subject to the Conservancy Area requirements pursuant to BCZR Section 1A07.7, nor to the Development area and standards of BCZR Section 1A07.8.B and the Performance standards of BCZR Section 1A07.8.C; and to approve a modified parking plan pursuant to BCZR Section 409.12.B.

Hearing: Wednesday, May 9, 2007 at 10:00 a.m. in Room 106, County Office Building, 111 West Chesapeake Avenue, Towson 21204.

WILLIAM J. WISEMAN III
ZONING COMMISSIONER FOR BALTIMORE COUNTY

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

BALTIMORE COUNTY

MARYLAND

February 27, 2007

JAMES T. SMITH, JR.
County Executive

TIMOTHY M. KOTROCO, *Director*
Department of Permits and Development Management

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Hearing: Wednesday, April 4, 2007 at 9:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue, Towson 21204.

Timothy Kotroco

Timothy Kotroco
Director

TK:amf

C: Deborah C. Dopkin, Esq. Law Offices of Deborah C. Dopkin, P.A. 409 Washington Avenue Towson 21204
Lynn Roche Roche, LLC 4 Saddlestone Court Owings Mills 21117
Richard E. Matz, P.E. Colbert Matz Rosenfelt, Inc. 2835 Smith Avenue, Suite G Baltimore 21209

NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY TUESDAY, MARCH 20, 2007.**
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

TO: PATUXENT PUBLISHING COMPANY
Tuesday, March 20, 2007 Issue - Jeffersonian

Please forward billing to:
Lynn Roche
4 Saddlestone Court
Owings Mills, MD 21117

410-902-8999

NOTICE OF ZONING HEARING

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

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: 07-347-SPH

Petitioner: Roche, LLC

Address or Location: 8007 Windsor Mill Road

PLEASE FORWARD ADVERTISING BILL TO:

Name: Lynn Roche

Address: 4 Saddlestone Ct.
Owings Mills, MD 21117

Telephone Number: 410-902-8999

Revised 7/11/05 - SCJ

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

TIMOTHY M. KOTROCO, *Director*
Department of Permits and Development Management

May 3, 2007

Deborah C. Dopkin, Esquire
Law Offices of Deborah C. Dopkin, P.A.
409 Washington Avenue
Towson, MD 21204

Dear Ms. Dopkin:

RE: Case Number: 07-347-SPH, 8007 Windsor Mill Road

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on February 1, 2007.

The Zoning Advisory Committee (ZAC), which consists of representatives from several approval agencies, has reviewed the plans that were submitted with your petition. All comments submitted thus far from the members of the ZAC are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to ensure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. All comments will be placed in the permanent case file.

If you need further information or have any questions, please do not hesitate to contact the commenting agency.

Very truly yours,

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR:amf

Enclosures
c: People's Counsel
Lynne Roche, Owner Roche LLC 4 Saddlestone Court Owings Mills 21117
Richard E. Matz, P.E. Colbert Matz Rosenfelt, Inc 2835 Smith Avenue, Suite G Baltimore 21209

RE: PETITION FOR SPECIAL HEARING 8007 Windsor Mill Road; S/S Windsor Mill Road, 315' W Rices Lane 2nd Election & 4th Councilmanic Districts Legal Owner(s): Lynn Roche, Roche, LLC Petitioner(s)	* * * * * *	BEFORE THE ZONING COMMISSIONER FOR BALTIMORE COUNTY 07-347-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 9th day of February, 2007, a copy of the foregoing Entry of Appearance was mailed to, Richard E. Matz, PE, Colbert Matz Rosenfelt, Inc, 2835 Smith Avenue, Suite G, Baltimore, MD 21209 and Deborah C. Dopkin, Esquire, 409 Washington Avenue, St 1000, Towson, MD, 21204, Attorney for Petitioner(s).

RECEIVED
FEB 0 9 2007
Per.....

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

jm 5/9

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: March 20, 2007

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

RECEIVED
APR 10 2007
BY:

SUBJECT: 1014 Liberty Road

INFORMATION: ✓

Item Number: 7-347 and 7-348

Petitioner: Lynn Roche

Zoning: RC 6

Requested Action: **Special Hearing**

SUMMARY OF RECOMMENDATIONS:

After reviewing the subject petition and visiting the referenced site location the petitioner is modifying the site to allow one point of ingress and egress to accommodate a proposed expansion to an existing Class B Childcare Center. The proposed changes do not pose any significant impact to adjacent properties or to vehicles traveling on Windsor Mill Road.

Consequently, the Office of Planning recommends approval of the requested Special Exception and to permit a Group Childcare Center, Class B and a Nursery School in the R.C. 6 zone. Additionally this office does not oppose amending the relief granted in Case no. 06- 447-SPH, to permit a Group Child Care Center, Class B and a Nursery School in the R.C. 6 zone; and to approve a modified parking plan pursuant to BCZR § 409.12 B.

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

Reviewed by: Curtis Murray

Division Chief: Lynn Lovelace
AFK/LL: CM

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BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

DATE: February 8, 2007

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

SUBJECT: Zoning Advisory Committee Meeting
For February 12, 2007
Item No. 07-347

The Bureau of Development Plans Review has reviewed the subject zoning item and we have the following comment(s).

The layout must be revised to move the parking spaces out of the Windsor Mill Road right-of-way.

DAK:CEN:clw
cc: File
ZAC-ITEM NO 07-347-02082007.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

February 6, 2007

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

ATTENTION: Zoning Review planners

Distribution Meeting of: February 5, 2007

Item No.: 346, 347 and 348

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.

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

Acting Lieutenant Don W. Muddiman
Fire Marshal's Office
(O)410-887-4880
MS-1102F

cc: File

Martin O'Malley, *Governor*
Anthony Brown, *Lt. Governor*

State Highway Administration
Driven to Excel
Maryland Department of Transportation

John D. Porcari, *Secretary Designate*
Neil J. Pedersen, *Administrator*

Date: FEBRUARY 12, 2007

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

RE: Baltimore County
Item No. 7-347-SPH
8007 WINDSOR MILL RD
RECHE, LLC PROPERTY
SPECIAL HEARING

Dear Ms. Matthews:

Thank you for the opportunity to review your referral request on the subject of the above captioned. We have determined that the subject property does not access a State roadway and is not affected by any State Highway Administration projects. Therefore, based upon available information this office has no objection to Baltimore County Zoning Advisory Committee approval of Item No. 7-347SPH.

Should you have any questions regarding this matter, please contact Michael Bailey at 410-545-2803 or 1-800-876-4742 extension 5593. Also, you may E-mail him at (mbailey@sha.state.md.us).

Very truly yours,

Michael P. Bailey

For Steven D. Foster, Chief
Engineering Access Permits
Division

SDF/MB

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 2006, Legislative Day No. 20

Bill No. 132-06

Mr. Kenneth N. Oliver, Councilman

By the County Council, November 6, 2006

A BILL
ENTITLED

AN ACT *concerning*

Zoning Regulations - Group Child Care Centers

FOR the purpose of permitting Group Child Care Centers and Nursery Schools in the R.C. 6 Zone by Special Exception.

By repealing and re-enacting, with amendments

Section 424.5A.
Baltimore County Zoning Regulations, as amended

SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND, that Section 424.5A. of the Baltimore County Zoning Regulations, be and it is hereby repealed and re-enacted, with amendments, to read as follows:

424.5 *Child care center as principal use.*

A. All other principal use group child care centers and nursery schools in residential zones are permitted in accordance with the following schedule:

Group Child Care Centers	***Class A***	***Class B***	***Schools***
R.C.2	SE	SE	SE
R.C.3	SE	SE	SE
R.C.4	N	N	N
R.C.5 *AND* R.C. 6	SE	SE	SE
D.R.(all zones)			
More than 40 children	N/A	SE	SE
40 or fewer children	C	C	C
40 or fewer children and RTA is applicable	SE	SE	SE
R.A.E.1, R.A.E.2	R	R	R
Within apartment buildings of 50 or more units and subject to supplemental regulations of Sections 200.2.B and 201.2.B.			
Freestanding	SE	SE	SE

R = Permitted as of right
SE = Permitted by special exception
N = Not permitted
C = Permitted subject to additional conditions

SECTION 2. AND BE IT FURTHER ENACTED, *that this Act shall take effect forty-five days after its enactment.*

b13206.wpd

EXPLANATION: *CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.*
[Brackets] indicate matter stricken from existing law.
~~Strike-out~~ indicates matter stricken from bill.
Underlining indicates amendments to bill.

Pet #1

BALTIMORE COUNTY

MARYLAND

JAMES T. SMITH, JR.
County Executive

May 15, 2007

WILLIAM J. WISEMAN III
Zoning Commissioner

DEBORAH DOPKIN, ESQUIRE
409 WASHINGTON AVENUE
TOWSON, MD 21204

Re: Petition for Special Hearing
Case No. 07-347-SPH-SPH located at 8007 Windsor Mill Road
Case No. 07-348-SPHXA located at 8009 Windsor Mill Road

Dear Ms. Dopkin:

Enclosed please find the decision rendered in the above-captioned case.

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

John V. Murphy
Deputy Zoning Commissioner
for Baltimore County

JVM:pz

Enclosure

c: Richard E. Matz, Colbert, Matz & Rosenfelt, 2835 Smith Avenue, Suite G, Baltimore MD 21209
Lynn Roche, Roche LLC, 4 Saddlestone Court, Owings Mills MD 31117

PLEASE PRINT CLEARLY

CASE NAME 8007, 8009 WINDSOR MILL ROAD
CASE NUMBER 07-347 SPH, 07-348 SPHXA
DATE MAY 9, 2007

PETITIONER'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
GOLDEN ROCHE	3721 NORTON RD	BAL MD	
Deborah Dopkin	409 Washington Ave	Towson MD 21204	ddopkin@dopkinlaw.com
RICHARD MATZ	2835 SMITH AVE, SUITE G	BALTO., MD 21209	dmatz@cmrengineers.com.

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: March 20, 2007

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

SUBJECT: 1014 Liberty Road

INFORMATION:

Item Number: 7-347 and 7-348

Petitioner: Lynn Roche

Zoning: RC 6

Requested Action: **Special Hearing**

SUMMARY OF RECOMMENDATIONS:

After reviewing the subject petition and visiting the referenced site location the petitioner is modifying the site to allow one point of ingress and egress to accommodate a proposed expansion to an existing Class B Childcare Center. The proposed changes do not pose any significant impact to adjacent properties or to vehicles traveling on Windsor Mill Road.

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

Reviewed by: Curtis Murray

Division Chief: Lynn Lochner
AFK/LL: CM

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BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: March 20, 2007

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

SUBJECT: 1014 Liberty Road

INFORMATION:

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

Reviewed by: Cindy Murray

Division Chief: Lynn Lochar
AFK/LL: CM

W:\DEVREV\ZAC\7-348.doc

previous order

IN RE: PETITION FOR SPECIAL HEARING South side of Windsor Mill Road, 315 feet West of Rices Lane 2nd Election District 4th Councilmanic District **(8007 & 8009 Windsor Mill Road)** Lynn Roche, *Legal Owner* *Petitioner*	* * * * * *	BEFORE THE DEPUTY ZONING COMMISSIONER OF BALTIMORE COUNTY CASE NO. 06-447-SPH

* * * * * * * * * * *

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 8007 and 8009 Windsor Mill Road in the western area of Baltimore County. The Petition was filed by Lynn Roche, the Legal Owner. Special Hearing relief is requested pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), to amend the prior zoning case, No. 65-86-X, to include the adjoining property at 8009 Windsor Mill Road.

The property was posted with Notice of Hearing on April 1, 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 April 6, 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.

Zoning Advisory Committee Comments

The Zoning Advisory Committee (ZAC) Comments are made part of the record of this case and contain the following highlights: None.

Interested Persons

Appearing at the hearing on behalf of the requested special hearing were Golden Roche, Lynn Roche, Petitioner and Deborah C. Dopkin, Esquire, her attorney. Also in attendance was Richard E. Matz of Colbert, Matz, Rosenfelt, Inc., the firm that prepared the site plan. There were no protestants or citizens at the hearing. People's Counsel, Peter Max Zimmerman, entered the appearance of his office in this case.

Testimony and Evidence

Ms. Dopkin proffered that this property operates a Class B group child center at 8007 Windsor Mill Road. The center has children presently with a staff of 15 employees. The site is improved by a converted single family dwelling, in which the Petitioner's staff provide day care and nursery school services for area families. In addition to classrooms, kitchen facilities and the like in the building, there is an extensive play area in the rear yard as shown on exhibit 2 A. This center was approved in a prior case no. 65-86 X when the site was zoned R-20. The Petitioner indicated that she has operated the center successfully since 1965 at this location, is licensed by the State and now has former children for whom she cared bringing back their children for her services. There are 55 children on the waiting list. The Petitioner is a County employee who supervises a Police Athletic Club in Lansdowne and so comes to this center in the mornings to oversee operations.

The Petitioner recently purchase the single family dwelling next door at 8009 Windsor Mill Road. This property had previously been used as a service garage in support of a bus

company and consequently has large garage on the first floor/basement level. The Petitioner proposes to use the second floor, which has direct access to Windsor Mill Road, for twenty children ages 2 to 4 years bring the total capacity of the school to 105. No physical changes are proposed for the building but the play areas in the rear would be reconfigured and combined. If this property were in a DR zone the new and existing facilities would meet all applicable county regulations for a child care center as well as State licensing regulations.

Children are brought to the center now by parents and County bus services. While there are no sidewalks along Windsor Mill Road, there are no children being walked to school. All children must be accompanied by an adult who must sign in and out. Ms. Roche indicated that there is more than adequate parking on site behind 8009 as shown on the Plat to Accompany.

Ms. Dopkin indicated that problem in this case is that the zoning on this property has been changed from R-20 to RC –5 and now to RC 6. Unfortunately while the Council imposed RC 6 on this property, they did not change the table in Section 424.5 to include RC 6 along with the other resource conservation zones in which such centers are allowed by right or special exception.

As the result the Petitioner submitted two alternative plans at the hearing. Exhibit 2 A is a non conforming plan in which the Petitioner recognizes that RC 6 does not allow such centers. However the Petitioner indicates that a nursery school/child care center has been operating continuously since 1969 on this site at 8007 Windsor Mill Road. Ms. Dopkin opined that this was a legal use in 1969 under the R-20 zone. Mr. Matz then indicated that a legal non conforming use could be intensified up to 25 % of the floor area of the non conforming use which in this case is 1130 sq. feet. He then designated 1130 sq. feet of space on the second floor

of 8009 as shown in the red cross hatch of exhibit 2 A. Consequently Ms. Dopkin opined that the combined properties could be approved under the non conforming provisions of the BCZR.

In the alternative, Mr. Matz presented exhibit 2 B which assumes that the nursery school was allowed by right. In this case the whole second floor of 8009 is used for the nursery school. Ms. Dopkin opined that schools are allowed by right in RC 6 zones and so the Petitioner's nursery school should be allowed as well.

Mr. Matz indicated that neither property is connected to public water and sewer. However he indicated that a large new development was approved across Windsor Mill Road for which public water and sewer are being brought down the Windsor Mill. He indicated that the Petitioner intended to hook up immediately when the public water and sewer were available to the property. This also has a effect on the front yards of both properties because the septice reserve areas for each private sewer system is located in the front yards as shown on exhibit 2 A and 2 B. This greatly limits improvements to the pick up and drop off area on 8009.

Findings of Fact and Conclusions of Law

I have no doubt that the Council would approve having nursery schools and group B child care centers in RC 6 zones. These are allowed by special exception in the "old" resource conservation zones such as RC 2, RC 3 and RC 5 as shown in the chart of Section 424.5. They are not allowed in RC 4 which is intended to protect the metropolitan water supply. RC 6 was intended to replace RC 3 which was the temporary zone established in this part of the County to allow limit development until a permanent plan could be developed. RC 6 has the title of rural conservation and residential zone so that child care centers and nursery schools would be compatible with this zone. While the RC 6 zone does not list these uses under those allowed by special exception, neither do the RC 2, RC 3 or RC 5 regulations. The reason for this apparent

oversight is that group child care centers and nursery schools are controlled by the Regulations for certain uses section again which specifically allow these uses in these zones. It is apparent to me that Ms. Dopkin is quite correct that RC 6 zone was imposed on this property and the table of Section 424.5 was not updated. This is simply an oversight which I hope the Council will address. I also note there are now several other "new" RC zones which have similar problems. Again I state that I believe that group b child care centers and nursery schools should be allowed by special exception in RC 6 zones but for a drafting oversight.

That said, the problem is how to resolve this case? The Petitioner presented alternative solutions both of which have certain problems. Clearly the property at 8007 is now non conforming as a child care center and nursery school. This was a legal use that has continued uninterruptedly from before the zoning changed to RC 6. However in practice allowing 1130 sq. feet of extension seems more than impractical. I can imagine a white zoning use division line painted on the floor of a room at 8009 which the 2 to 4 year old children would not cross so as not to trigger a zoning violation.

On the other hand Ms. Dopkin's well intended argument that only 2 to 4 year olds will be using 8009 and so I should consider this a school within the meaning of that term. Since schools are allowed by right, then this use is allowed by right. Unfortunately it is clear to me that nursery schools are not considered "schools" in the zoning regulations. For example in RC 5 zones the terms "schools" are illustrated by private preparatory schools, colleges, conservatories and other fine arts schools. It is clear to me these do not include programs for 2 to 4 year olds. Rather the zoning regulations lump nursery schools together with group A and B child care centers. Perhaps it would be more accurate to describe these as nursery programs. In any case I

would not want to establish a precedent whereby nursery schools are pulled out of Section 424.5 to stand alone as a "school" in the zoning regulations.

Again I hope that the Council will update Section 424.5 to include these uses as allowed by special exception in the new RC zones. I note that the chart in Section 424.5 A makes a special category for freestanding facilities which is separate from any particular zone. I find the Petitioner's proposed use to be a freestanding facility. Freestanding facilities are allowed in the chart by special exception. I also note that the Petitioner already has a special exception for a day nursery through case no. 65-86-X. What the Petitioner asks is simply to update the site plan for the day nursery to include 8009 as well as 8007. I find that as a freestanding facility that such a request would be permitted and will grant the expansion of the site plan for the 1965 special exception to 8009 Windsor Mill Road with conditions;

I am very concerned about the safety of the children at the pick up and drop off location on 8007. I imagine what chaos there must be in the morning when 85 (much less 105) children arrive for programs by private car and public school bus. There are only three parking spaces at this location although hopefully some parents will use the other 12 spaces provided at 8009. But clearly the pick up drop off area needs to be reconfigured for more area, better sight distance and more parking. The Petitioner is most willing to do this but can not until the septic reserve area in front of both facilities can be done away with or said another way until the Petitioner can hook up to public sewer. While this improvement is apparently coming down Windsor Mill Road it is not there now. Therefore I will condition my approval of the modification of the site plan as requested to open the facilities at 8009 only after the pick up and drop off area is reconfigured which in turn will be only when the public sewer line is actually operable for this property.

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 Petitioner's request for special hearing should be granted with conditions.

THEREFORE, IT IS ORDERED, by the Deputy Zoning Commissioner for Baltimore County, this _____ day of May 2006, that the Petitioner's request for Special Hearing relief pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), to amend the prior zoning case, No. 65-86-X, to include the adjoining property at 8009 Windsor Mill Road, be and is hereby GRANTED, subject to the following restriction:

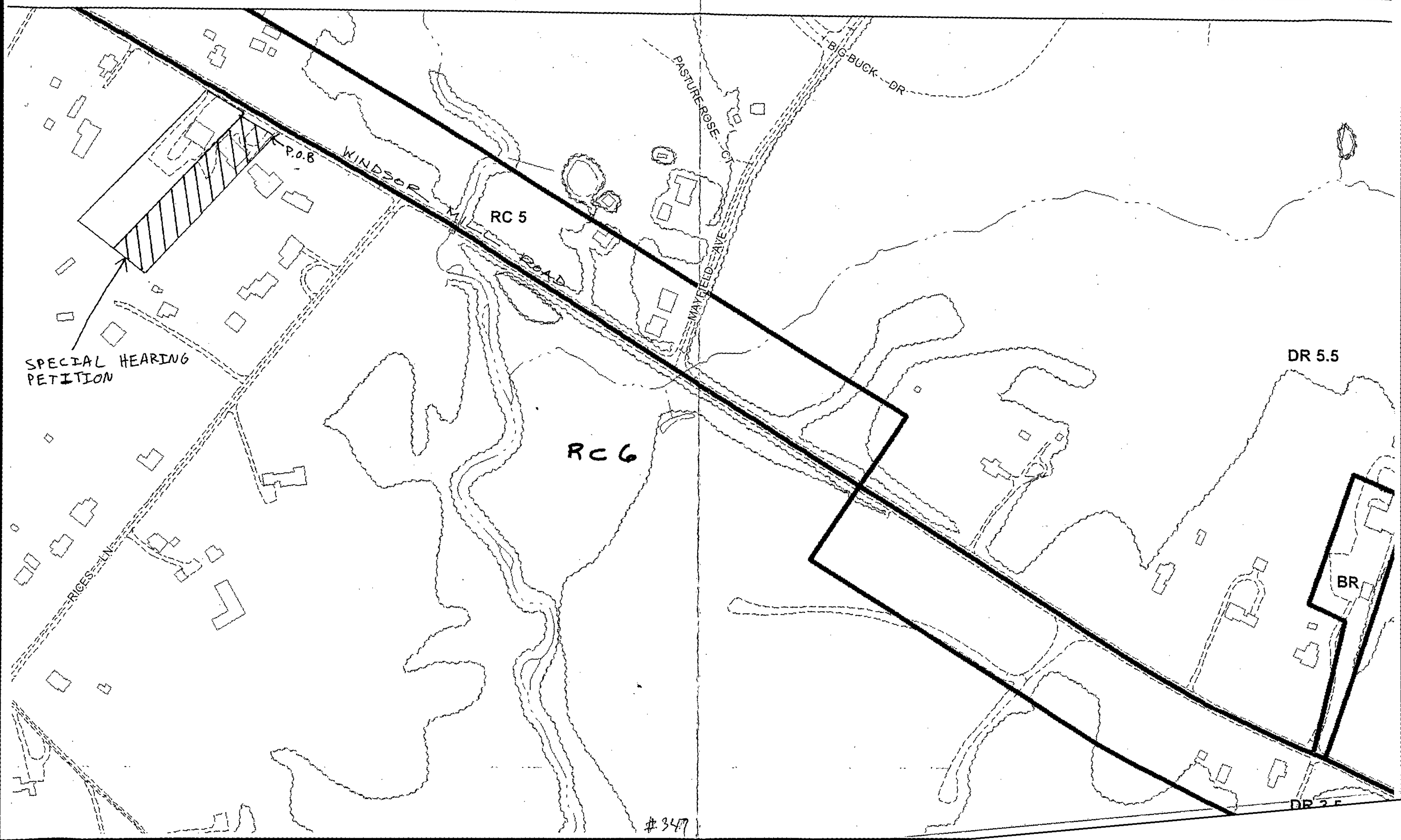
1. The Petitioner may apply for her building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at her own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.
2. The Petitioner shall reconfigure the pick up/ drop off area of the facility for improved safety, access and parking and shall submit a plan for such to the Office of Planning for its review and approval in consultation with other appropriate County agencies prior to any permit being issued by the County.
3. The Petitioner may not use 8009 Windsor Mill Road for any nursery school or group child care center until the pick up / drop off area is reconstructed pursuant to the reconfiguration in 2 above and both buildings are hooked up to public water and public sewer.
4. When applying for any permits, the site plan and/or landscape plan filed must reference this case and set forth and address the restrictions of this Order.

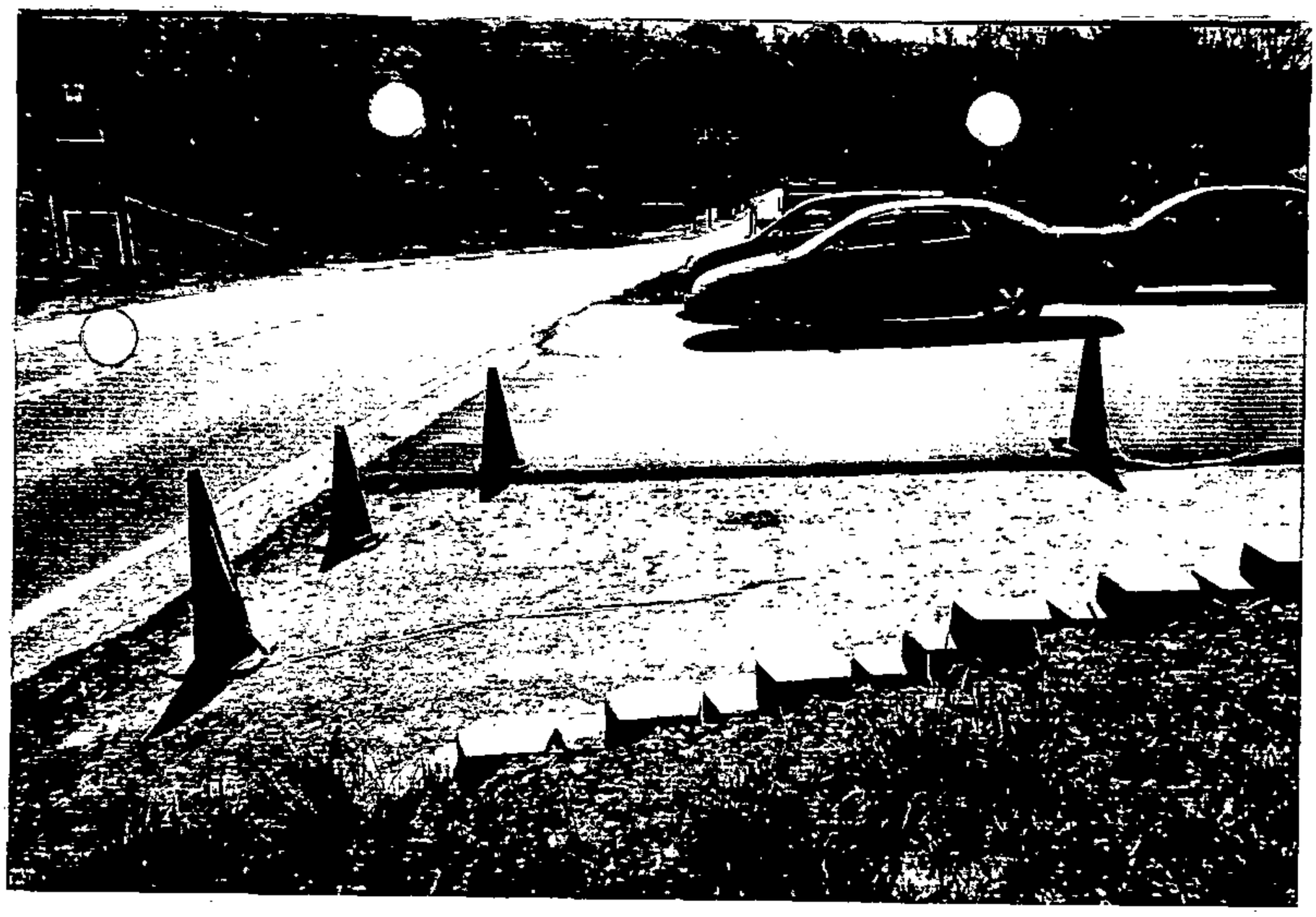
Any appeal of this decision must be made within thirty (30) days of the date of this Order.

_____
JOHN V. MURPHY
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

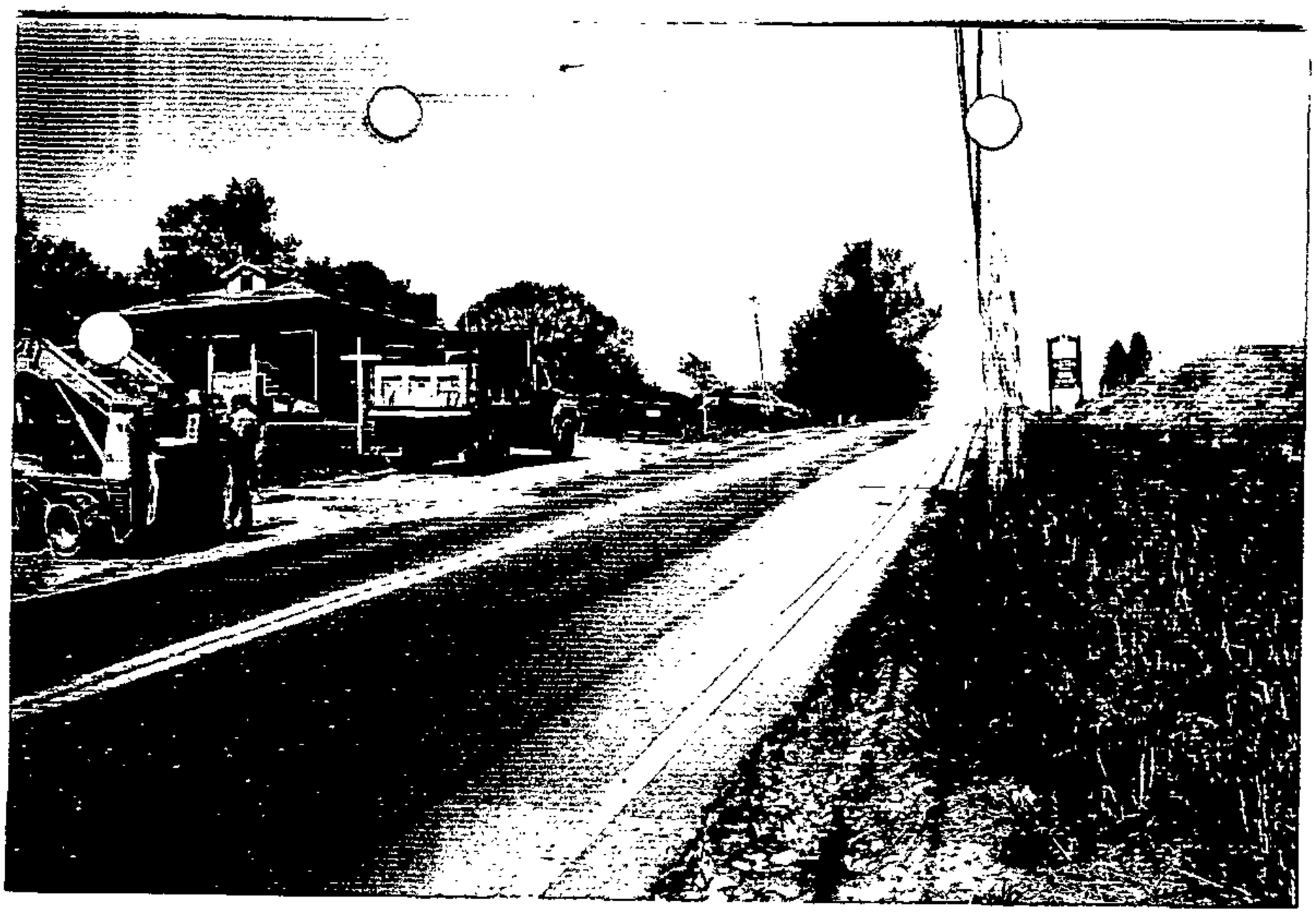
JVM:raj

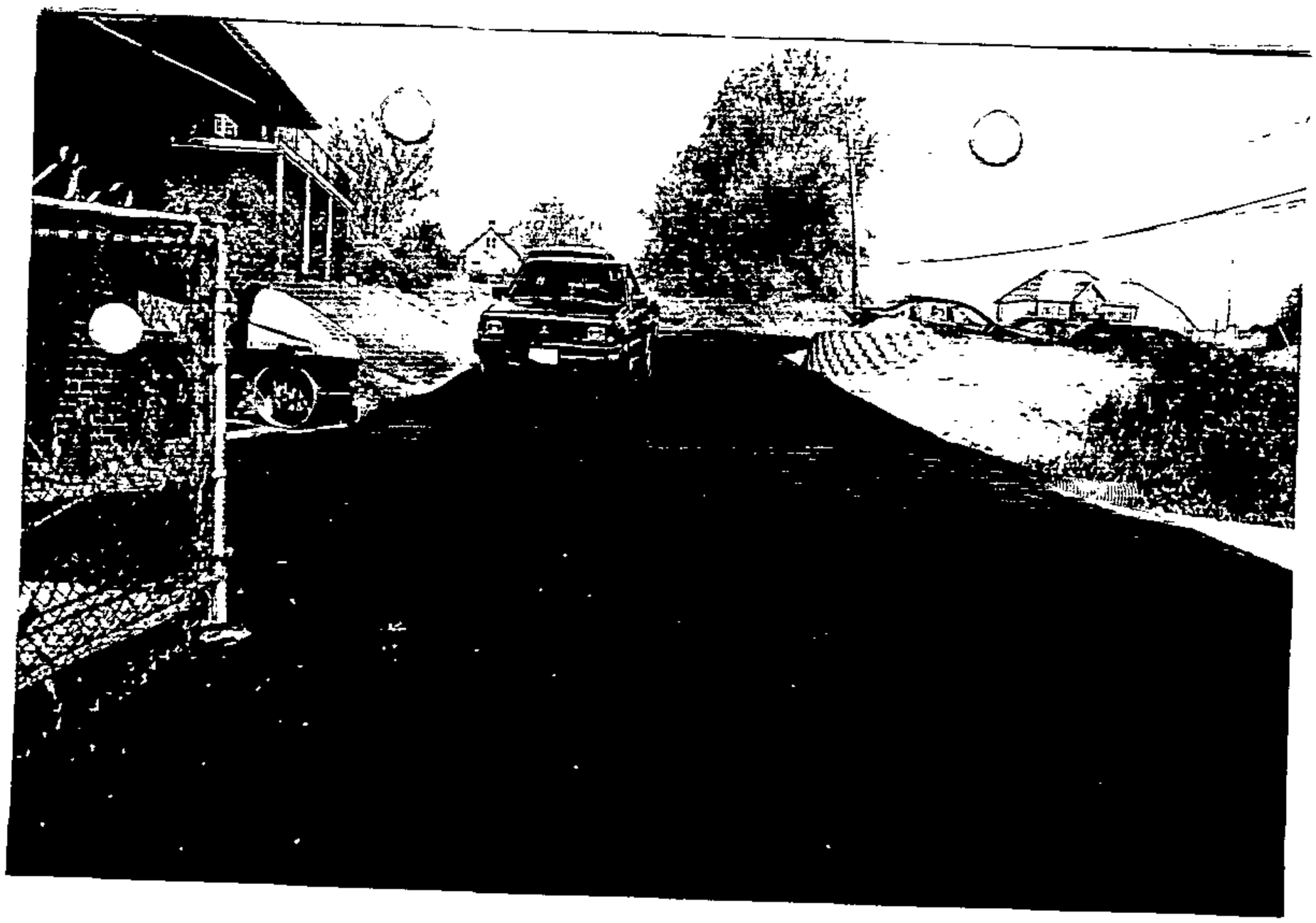
ZONING MAP NO. 87B1

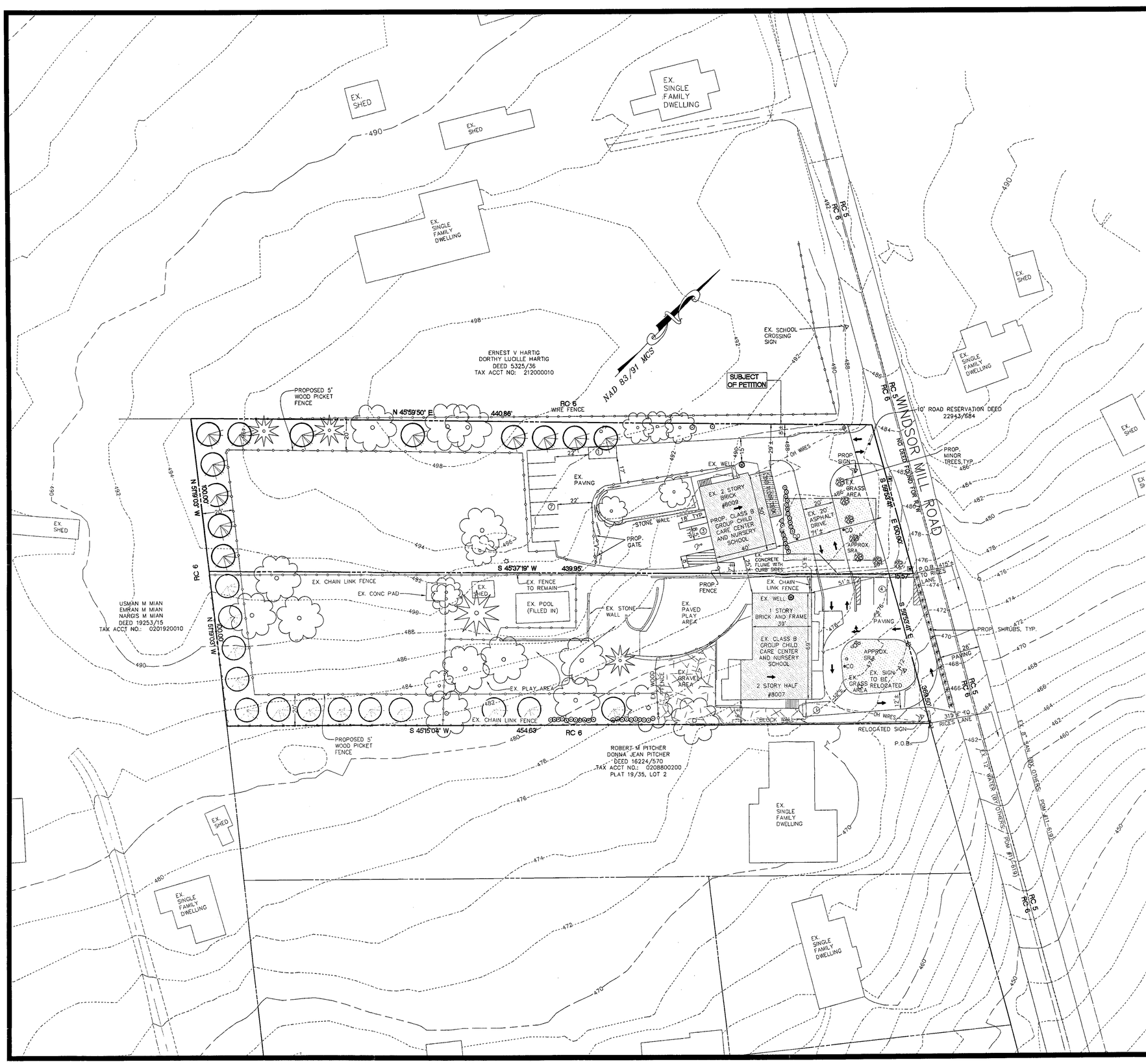


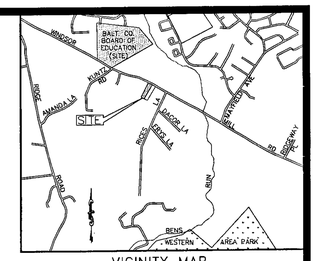


32R-606









VICINITY MAP
SCALE: 1"=2000'

ZONING NOTES

1. OWNER: CHILD CARE ACADEMY OF BALTIMORE COUNTY, INC.
C/O LYNN M. ROCHE
4 SADDLESTONE COURT
OWINGS MILLS, MD 21117

2. SITE DATA: P. 399

SITE AREA: 1.03 AC.
TAX ACCOUNT NO.: 0211350001
DEED REFERENCE: 22943/684
PLAT REFERENCE: --

ELECTION DISTRICT 2, COUNCIL DISTRICT 4

3. ZONED RC-6, ZONING MAP NO. 78B1

4. ZONING HISTORY:
ON MAY 1, 2006, IN CASE NO. 06-447-SPH, THE DEPUTY ZONING COMMISSIONER APPROVED A REQUEST FOR SPECIAL HEARING TO AMEND THE PRIOR ZONING CASE, NO. 85-86-X, SUBJECT TO THE FOLLOWING RESTRICTIONS:

- RECONFIGURATION OF THE PICK-UP/DROP-OFF AREA FOR IMPROVED SAFETY, ACCESS AND PARKING, TO BE APPROVED BY THE OFFICE OF PLANNING
- 8009 WINDSOR MILL ROAD NOT TO BE USED FOR A NURSERY OR GROUP CHILD CARE CENTER UNTIL THE PICK-UP/DROP-OFF AREA IS RECONSTRUCTED AND BOTH BUILDINGS ARE HOOKED UP TO PUBLIC WATER AND PUBLIC SEWER.

ON JUNE 15, 2006, THE DEPUTY ZONING COMMISSIONER ISSUED AN ORDER ON MOTION FOR RECONSIDERATION IN CASE NO. 06-447-SPTT TO REPLACE CONDITION 3 WTH THE FOLLOWING:

THE PETITIONER MAY NOT USE 8009 WINDSOR MILL ROAD FOR ANY NURSERY SCHOOL OR GROUP CHILD CARE CENTER UNTIL THE PICK UP/DROP OFF AREA IS RECONSTITUTED...AND BOTH PROPERTIES ARE CONNECTED TO PUBLIC WATER AND PUBLIC SEWER; PROVIDED THAT UNTIL THE PROPERTIES ARE CONNEC'ED TO PUBLIC WATER AND SEWER, IF THE EXISTING SEPTIC RESERVE AREA ON 8009 WINDSOR MILL ROAD IS RELOCATED AND THE DRIVEWAY IMPROVEMENTS MADE TO THE SATISFACTION OF COGNIZANT COUNTY AGENCIES INCLUDING BUT NOT LIMITED TO THE DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT AND THE DEPARTMENT OF PUBLIC WORKS. PETITIONER MAY COMMENCE THE APPROVED USE ON AN INTERIM BASIS AT THAT LOCATION.

ON JUNE 30, 2006, THE OFFICE OF PEOPLE'S COUNSEL FILED AN APPEAL TO THE ORDER IN CASE NO. 06-447-SPH.

5. THIS SITE IS NOT IN THE CHESAPEAKE BAY CRITICAL AREA OR A 100-YEAR FLOODPLAIN.

6. THERE ARE NO HISTORIC BUILDINGS ON THIS SITE.

7. EXISTING AND PROPOSED USE: CLASS "B" GROUP CHILD CARE CENTER AND NURSERY SCHOOL -105 CHILDREN, 15 STAFF (INCLUDING #8007 WINDSOR MILL ROAD)

8. OFF-STREET PARKING CALCULATIONS
REQUIRED: 15 SPACES @ 1 SPACE/EMPLOYEE
PROPOSED: 16 SPACES INCLUDING 1 HC SPACE
(PARKING WILL BE SHARED BY 8007 & 8009 WINDSOR MILL ROAD)

9. ALL SIGNS WILL MEET THE REQUIREMENT OF SEC. 450, AND A07.8.C.5, BCZR.

10. IMPERVIOUS AREA:
14,981 SF OR 0.344 AC± (33.4%)

11. NO CURBS PROPOSED

12. NO EXTERIOR IMPROVEMENTS ARE PROPOSED.

PLAN TO ACCOMPANY PETITIONS FOR SPECIAL EXCEPTION, SPECIAL HEARING & VARIANCE

8009 WINDSOR MILL ROAD

TAX MAP 87 GRID 3 PARCEL 399
2nd ELECTION DISTRICT 4th COUNCILMANIC DISTRICT
BALTIMORE COUNTY, MD.

30 0 15 30 60 120
GRAPHIC SCALE (IN FEET)
1 inch = 30 ft.

STATE OF MARYLAND PROFESSIONAL ENGINEER No. 13203 Jan 31, 2007

Colbert Matz Rosenfelt, Inc.
Engineers * Surveyors * Planners
2835 Smith Avenue, Suite G
Baltimore, Maryland 21209
Telephone: (410) 653-3838
Facsimile: (410) 653-7953

NO.	DATE	REVISIONS:	BY

SCALE: 1"= 30'
DATE: January 31, 2007
JOB NO.: 2006031
DESIGNED: NAF/SR
DRAWN: NAF/SR
CHECKED: JMF/REM
FILE: 2006031_PROP_8009.dwg
DRAWING NUMBER:
SHEET 1 OF 1

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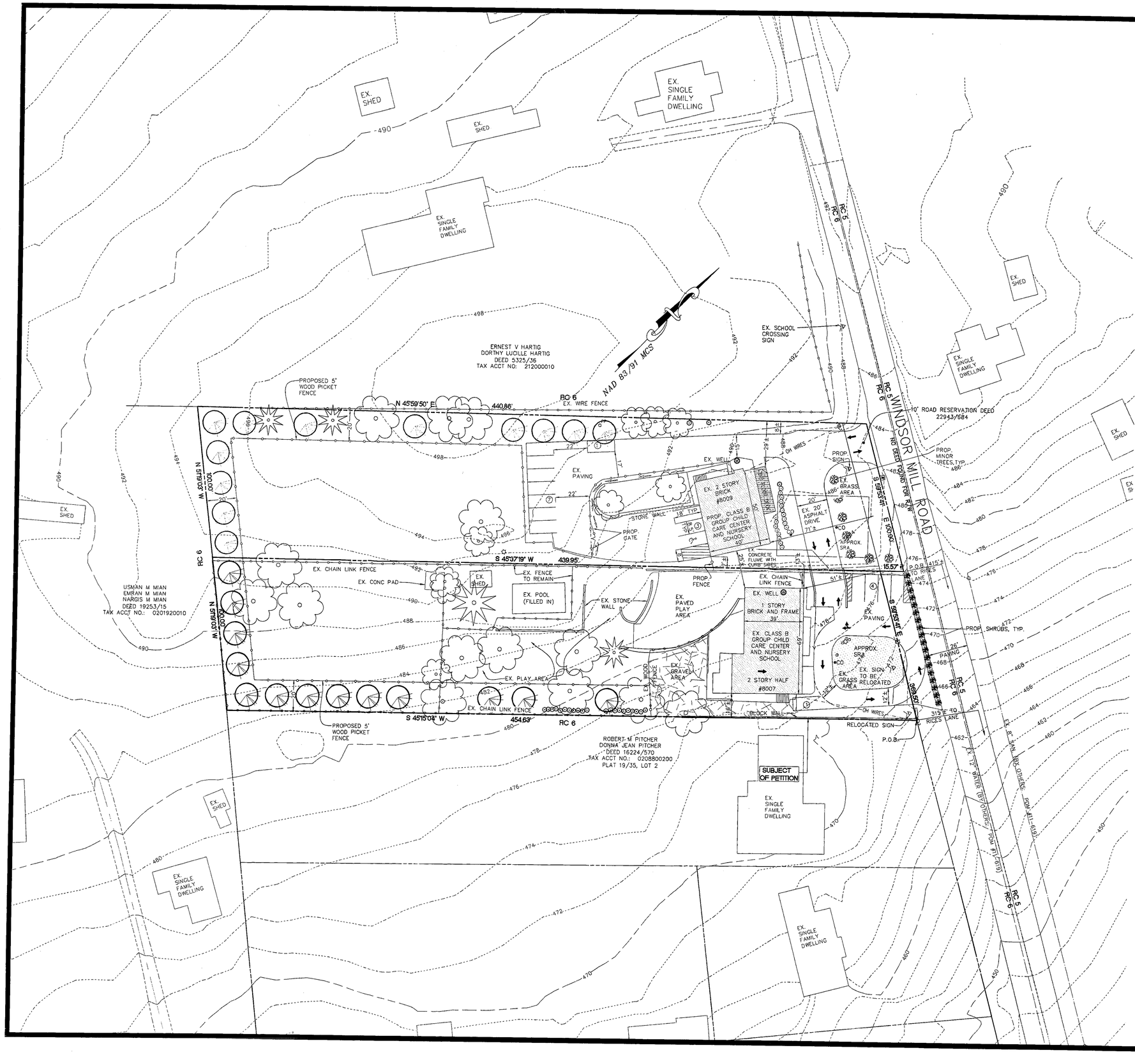
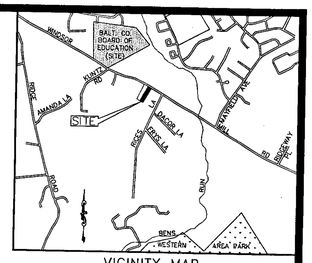
Rec #3





VICINITY MAP
SCALE: 1"=2000'

ZONING NOTES

1. OWNER: ROCHE, LLC.
C/O LYNN M. ROCHE
4 SADDLESTONE COURT
OWINGS MILLS, MD 21117

2. SITE DATA: P. 31

SITE AREA:	1.04 AC.
TAX ACCOUNT NO.:	0208800090
DEED REFERENCE:	16549/408
PLAT REFERENCE:	19/35

ELECTION DISTRICT 2, COUNCIL DISTRICT 4

3. ZONED RC-6, ZONING MAP NO. 78B1

4. ZONING HISTORY:
ON OCTOBER 14, 1964 (CASE NO. 65-86X), THE ZONING COMMISSIONER APPROVED A SPECIAL EXCEPTION TO PERMIT A DAY NURSERY, SUBJECT TO THE FOLLOWING RESTRICTIONS;
(1) RECREATIONAL FACILITIES ARE TO BE ERECTED IN THE REAR OF THE PREMISES AND SHOULD BE ENCLOSED WITH A CHAIN LINK TYPE FENCE AT LEAST FIVE FEET HIGH.
(2) CHILDREN ARE NOT PERMITTED TO BE OUTSIDE BEFORE 9 AM OR AFTER 6 PM.
(3) THE DAY NURSERY SHALL NOT BE OPERATED ON SUNDAYS OR LEGAL HOLIDAYS.
(4) THE PETITIONER MUST PROVIDE TRANSPORTATION TO AND FROM THE DAY NURSERY IN NO MORE THAN TWO VEHICLES.

ON JULY 25, 1965, IN AN AMENDED ORDER, THE DEPUTY ZONING COMMISSIONER REMOVED RESTRICTION #4.

ON MAY 1, 2006, IN CASE NO. 06-447-SPH, THE DEPUTY ZONING COMMISSIONER APPROVED A REQUEST FOR SPECIAL HEARING TO AMEND THE PRIOR ZONING CASE, NO. 65-86-X, SUBJECT TO THE FOLLOWING RESTRICTIONS:

- RECONFIGURATION OF THE PICK-UP/DROP-OFF AREA FOR IMPROVED SAFETY, ACCESS AND PARKING, TO BE APPROVED BY THE OFFICE OF PLANNING
- 8009 WINDSOR MILL ROAD NOT TO BE USED FOR A NURSERY OR GROUP CHILD CARE CENTER UNTIL THE PICK-UP/DROP-OFF AREA IS RECONSTRUCTED AND BOTH BUILDINGS ARE HOOKED UP TO PUBLIC WATER AND PUBLIC SEWER.

ON JUNE 15, 2006, THE DEPUTY ZONING COMMISSIONER ISSUED AN ORDER ON MOTION FOR RECONSIDERATION IN CASE NO. 06-447-SPTT TO REPLACE CONDITION 3 WITH THE FOLLOWING:

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ON JUNE 30, 2006, THE OFFICE OF PEOPLE'S COUNSEL FILED AN APPEAL TO THE ORDER IN CASE NO. 06-447-SPH.

5. THIS SITE IS NOT IN THE CHESAPEAKE BAY CRITICAL AREA OR A 100-YEAR FLOODPLAIN.

6. THERE ARE NO HISTORIC BUILDINGS ON THIS SITE.

7. EXISTING AND PROPOSED USE: CLASS "B" GROUP CHILD CARE CENTER AND NURSERY SCHOOL -105 CHILDREN, 15 STAFF (INCLUDING #8007 WINDSOR MILL ROAD)

8. OFF-STREET PARKING CALCULATIONS:
REQUIRED: 15 SPACES @ 1 SPACE/EMPLOYEE
PROPOSED: 16 SPACES INCLUDING 1 HC SPACE
(PARKING WILL BE SHARED BY 8007 & 8009 WINDSOR MILL ROAD)

9. ALL SIGNS WILL MEET THE REQUIREMENT OF SEC. 450, AND A07.8.C.5, BCZR.

10. IMPERVIOUS AREA:
13,505 SF OR 0.310 AC± (29.9%)

11. NO CURBS PROPOSED

12. NO EXTERIOR IMPROVEMENTS ARE PROPOSED.

PLAN TO ACCOMPANY PETITION FOR
SPECIAL HEARING

8007
WINDSOR MILL ROAD

TAX MAP 87 GRID 3 PARCEL 31
2nd ELECTION DISTRICT 4th COUNCILMANIC DISTRICT
BALTIMORE COUNTY, MD.

30 0 15 30 60 120
GRAPHIC SCALE (IN FEET)
1 inch = 30 ft.

STATE OF MARYLAND
NICHOLAS A. FIGNAR II
No. 13393
PROFESSIONAL ENGINEER
Jan 31, 2007

Colbert Matz Rosenfelt, Inc.
*Engineers * Surveyors * Planners*
2835 Smith Avenue, Suite G
Baltimore, Maryland 21209
Telephone: (410) 653-3838
Facsimile: (410) 653-7953

NO.	DATE	REVISIONS:	BY

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DATE:	January 31, 2007
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DESIGNED:	NAF/SR
DRAWN:	NAF/SR
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FILE:	2006031_PROP_8007.dwg
DRAWING NUMBER:	
SHEET	1 OF 1

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Petit #2