

Resolution No. 14-1497
Introduced: October 29, 2002
Adopted: October 29, 2002

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION
OF THE MARYLAND-WASHINGTON REGIONAL DISTRICT
IN MONTGOMERY COUNTY

By: County Council

Subject: APPLICATION NO. G-796 FOR AMENDMENT TO THE ZONING ORDINANCE
MAP, Robert H. Metz and Anne C. Martin, Attorneys for Georgetown Preparatory School, Inc.,
Applicant, OPINION AND RESOLUTION ON APPLICATION

Tax Account No. Part of 04-03033735

OPINION

Zoning Application No. G-796 requests reclassification from the R-90 Zone to the PD-28 Zone of 15 acres known as part of Parcel 1, as shown on a plat of subdivision entitled "Georgetown Preparatory School, Inc." and part of property of Joan W. Corby, and Part of Parcel C, Grosvenor Park, in the northeast corner of the intersection of Tuckerman Lane and Rockville Pike, Rockville, in the 4th Election District.

The Hearing Examiner recommended approval of the development plan and approval of the reclassification subject to the specifications and requirements of the development plan. These recommendations are based on conclusions that the PD-28 Zone at the proposed location is a proper use for the comprehensive and systematic development of the County; that the proposed development is capable of accomplishing the purposes of the PD-28 Zone; that the proposed development is in substantial compliance with the applicable master plan; and that the proposed development satisfies all of the technical requirements of the PD-28 Zone. In addition, the development plan conforms with the requirements of §59-D-1.61 in that it specifically complies with

the recommendations contained in the master plan and does not conflict with the General Plan, the County's CIP, or other plans or policies; that it complies with the purposes, standards and regulations of the PD-28 Zone; that it provides for the maximum safety, convenience and amenities of the residents of the development, and will be compatible with adjacent development; that it proposes vehicular and pedestrian circulation systems that are safe, adequate and efficient; that it provides for a site design that will tend to prevent soil erosion and preserve natural features of the site; and that the Applicant will retain ownership of the property and will assure perpetual maintenance and care for recreational, common, and quasi-public areas. The Planning Board and Technical Staff provided similar recommendations. The District Council agrees with the findings and conclusions of the Hearing Examiner, the Planning Board and the Technical Staff.

The subject property is located in the North Bethesda-Garrett Park Planning Area. The property is also located northeast of Interstate 270, along the west side of Rockville Pike, also known as Maryland Route 355, and about 1,800 feet west of the Grosvenor Metro Station. The site is irregular in shape and constitutes a 15-acre tract at the northwest quadrant of the intersection of Rockville Pike and Tuckerman Lane. The site is a part of the larger 91-acre tract that constitutes the campus of the Georgetown Preparatory School, which is the Applicant in this case. The land was acquired by the Applicant in 1915 and it has continuously operated the school at this location since 1919.

The subject property contains natural and environmental features that limit any development opportunities on the site. The eastern portion of the site contains an intermittent stream, a stream valley, steep slopes and a flood plain. This area is currently part of the School's golf course and that use is planned to continue under the proposed development. There are about 3 acres of forest conservation areas. The subject property was classified under the R-90 Zone by the

For these reasons and because to grant the instant application would aid in the accomplishment of a coordinated, comprehensive, adjusted, and systematic development of the Maryland-Washington Regional District, the application will be granted in the matter set forth below.

ACTION

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland approves the following resolution:

The revised development plan, submitted as Ex. 134 is hereby approved, with the following binding elements included:

- a. School recreation and educational activities/open space/golf to remain on 11.66 acres of the Property identified as Area "A".
- b. The 2.33 acre area west of the Property identified as the East-West Buffer Area shall be subject to site plan review and shall be restricted to the following uses: access road, sidewalk, gate, gatehouse or similar access-control feature and turnaround, landscaping, berming, screening, lighting, storm water management facilities, outdoor school recreational and educational activities and golf, and improved and used as set forth in the East-West Buffer Area, identified as Exhibit "D" in the Settlement Agreement (Hearing Examiner Exhibit No. 146).
- c. The East-West Buffer Area landscaping shall include: preservation of as many existing trees along the western property line adjacent to Tuckerman Heights as possible and enhanced by ten (10) feet of dense evergreen planting, an additional fifty (50) feet of wooded area adjacent to the ten (10) foot evergreen strip; and an additional area of landscaped open space

continuing east to the access road, and improved and used as set forth in the East-West Buffer Area, identified as Exhibit "D" in the Settlement Agreement (Hearing Examiner Exhibit No. 146).

d. The west façade of the building will be stepped from Tuckerman Lane going north from four stories to six stories to five stories to four stories.

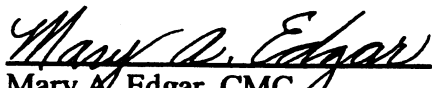
e. The access point at Tuckerman Lane will be designed to prevent cut-through traffic from the access road to Grosvenor Place.

f. No permanent encroachment in the stream buffer, except as may be necessary and unavoidable for infrastructure needs.

A waiver is approved from the minimum percentages of multi-family structures under the provisions of §59-C-1.31 to permit less than 25% of the units in structures of four stories or less.

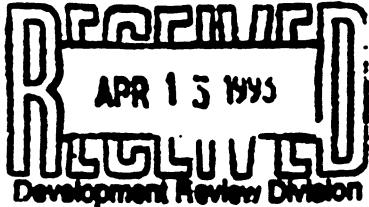
Zoning Application No. G-796, for the reclassification from the R-90 Zone to the PD-28 Zone of 15.0 acres known as part of Parcel 1, as shown on a plat of subdivision entitled "Georgetown Preparatory School, Inc.", and part of Property of Joan W. Corby, and part of Parcel C, Grosvenor Park, located at the Northwest corner of the intersection of Tuckerman Lane and Rockville Pike, Rockville, in the 4th Election District, is granted for the PD-28 Zone in the amount requested subject to the specifications and requirements of the revised development plan approved above; provided, however, that within 10 days of receipt of this resolution, the applicant must submit the revised development plan as a single document for certification in accordance with §59-D-1.64.

This is a correct copy of Council action.


Mary A. Edgar, CMC
Clerk of the Council

PHR&A

Patton Harris Rust & Associates, P.C.
1400 Rockledge Place
Rockville, Maryland 20855



April 9, 1993

Mr. Gregory Leck
Montgomery County Department of Transportation
Subdivision Review
101 Monroe Street
Rockville, Maryland 20850

Office
Fairfax, VA
Hideswater, VA
Lynchburg, VA
Rockville, MD
Virginia Beach, VA

RE: REVISION TO RECORD PLAT
GEORGETOWN PREPARATORY SCHOOL
M-NCPPC FILE NO. 2-93028
PHR&A F#2416-1-0

Dear Greg:

We have enclosed a draft of the Adequate Public Facilities Ordinance Agreement that has been submitted to M-NCPPC by our client's attorney for their review. Having this agreement in place will trigger interagency review should there be any revisions to the site.

Knowing your concerns about new access points to this property, we believe this agreement will solve each of our problems. We have revised the reference to the "denied access note" and added a note referencing the enclosed agreement. The liber and folio have been left blank at this time to allow further processing of the plat. By copy of this letter we are notifying Mr. Malcolm Shanneman of the direction we have taken on this matter.

We will submit the original mylar of the Record Plat upon notification from you or someone from your office that you are in agreement with the direction we have taken on this matter. Please contact me as soon as possible should you need further information.

Sincerely,

PATTON HARRIS RUST & ASSOCIATES
a professional corporation


Richard E. Travers, P.E.
Director of Engineering

ret(124)

Enclosures

cc: E. Gonzales, MCDOT
M. Shanneman, M-NCPPC ✓
M. Frankiewicz, WCC
E. Reid, Furey, Doolan & Abell
Father Thomas E. Roach, GPS

AGREEMENT

THIS AGREEMENT is made this 25 day of May 1973 by and between Georgetown Preparatory School, Inc. (hereinafter "Applicant") and Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission (hereinafter the "Planning Board").

WHEREAS, Applicant is the owner in fee simple of proposed Parcel 1, Georgetown Preparatory School, Inc., Fourth Election District, Montgomery County, Maryland, more particularly identified as Exhibit A attached hereto and made a part hereof, subject to easements, rights of way, and restrictions of record; and

WHEREAS, subdivision of the property was predicated upon subdivision of an existing school-improved site without any proposed increase in existing enrollment; and

WHEREAS, in order to assess the adequate public facilities for any future improvement or increase in expansion to the facility, restriction of the property to a private educational facility affiliated with a religious organization is necessary; and

WHEREAS, Applicant and the Planning Board have agreed that the property could be subdivided, provided further development is limited to a private educational facility affiliated with the religious organization and that any increase or expansion above the existing enrollment may result in further adequate public facilities review; and

WHEREAS, Applicant and the Planning Board have agreed that this Agreement shall bind the Applicant, its successors and assigns; and

WHEREAS, by the execution of this instrument, Applicant intends to create a restriction on the property necessary to meet the conditions of subdivision approval. The purpose of this restriction is to limit the construction of structures on the property and to limit the use of the property so that persons and properties will not be harmed by overburdened public facilities. These restrictions shall be binding upon the Applicant, its successors and assigns and lessees and upon the land and improvements described herein in perpetuity or until release with the consent of the Planning Board.

NOW, THEREFORE, in consideration of mutual promises and stipulations set forth herein and other good and valuable consideration, receipt of which is hereby acknowledged, and in accordance with the approval of the subdivision of the property (Preliminary Plan 1-92072) dated December 17, 1992, and of the promises and covenants contained herein, the parties, their successors and assigns, hereby covenant and agree as follows:

1. The recitals set forth above are incorporated herein by reference and made a part hereof.
2. Development on the property shall be limited to a private educational facility affiliated with a religious organization. Increase or expansion above the enrollment existing at the time of the execution of this Agreement may

result in further adequate public facilities review and approval by the Planning Board.

3. Applicant must not violate the restrictions agreed to in paragraph 2 above without the successful completion of an adequate public facilities review by the Planning Board pursuant to Section 50-35(k) of the Montgomery County Code.

4. Applicant must notify the Planning Board of an application for building permit or use and occupancy permit for a structure or use on the property that violates the restrictions created herein. In the event permits are sought which violate the restrictions created herein, neither the Planning Board nor the Maryland-National Capital Park and Planning Commission need recommend issuance of any such permit, and Montgomery County, Maryland, may withhold issuance of any such permit.

5. Representatives or designees of the Planning Board may enter upon the property from time to time for the purpose of inspection and enforcement of the terms, conditions, and restriction created herein. Whenever possible, a representative of Applicant shall be present at the inspection. In the event that the representative or designee determines on the basis of the inspection that the restrictions created herein are being violated, the representative or designee must promptly advise Applicant concerning the problem.

6. The Planning Board, Maryland-National Capital Park and Planning Commission, and Montgomery County, Maryland, have the

right to bring an action for any legal or equitable relief necessary to enforce the restrictions created herein.

7. Upon request of Applicant, the Planning Board shall release the property from these restrictions if it finds that public facilities are adequate pursuant to Section 50-35(k) of the Montgomery County Code for additional development of the property. Such review shall include the public facilities' impact of any existing building or use to remain on the property as well as the proposed additional development.

8. This Agreement shall bind and inure to the benefit of the Applicant, its successors and assigns. Wherever this Agreement refers to the Montgomery County Planning Board, it also shall refer to any successor agency, if any, who will administer the "adequate public facilities" ordinance (Section 50-35(k) of the Montgomery County Code).

9. A notation of this Agreement must be made on any record plat for the property.

10. This Agreement may be modified only in a writing signed by the parties, their heirs, successors, or assigns.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first above written.

ATTEST:

GEORGETOWN PREPARATORY SCHOOL,
INC.

Rose Marie Manis
Rose Marie Manis

By: Thomas E. Roach, S.J.
Rev. Thomas E. Roach, S.J.
President

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ATTEST:

**MONTGOMERY COUNTY PLANNING
BOARD**

James E. Green
6/27/93

By: *Charles R. Loehr*
Charles R. Loehr
Deputy Planning Director

APPROVED AS TO LEGAL SUFFICIENCY

my
M-DCPPC Legal Department
Date 6/17/93