IN THE MATTER OF
THE APPLICATION OF
CAVES VALLEY CLUB, INC.
FOR A ZONING RECLASSIFICATION OF
PROPERTY LOCATED ON THE NORTHEAST
SIDE OF PARK HEIGHTS AVENUE, 931'
NORTHWEST OF THE CENTERLINE OF
CAVES ROAD FROM R.C. 2 to R.C. 5
4th ELECTION DISTRICT
3rd COUNCILMANIC DISTRICT

BEFORE
COUNTY BOARD OF APPEALS
OF
BALTIMORE COUNTY
CASE NO. CR-89-367
(Out-of-cycle)

OPINION

This case comes before the board as an out-of-cycle Petition for Zoning Reclassification from R.C. 2 to R.C. 5 of a significant portion of property located in northwestern Baltimore County known as the Caves Valley. The Petitioner herein has acquired or is contract purchaser of approximately 920 acres within the Caves Valley. As the Board ruled from the bench during the hearing, the subject Petition encompasses the entire site; however, the request for rezoning from R.C. 2 to R.C. 5 pertains only to approximately 123 acres of the site. Additionally, the Petition comes to the Board accompanied by a documented site plan, which restricts the use of the 123 acres to a maximum 32 homesites and protects from all future development the remaining acreage. This remaining acreage will be placed in an agricultural trust, forever preventing development of that acreage, either residentially or commercially.

The case consumed four full days of hearing including lengthy testimony and exhibits. The Board will not herein attempt to encapsulate the voluminous testimony and evidence. The record created surely speaks for itself as do the memorandums submitted by the Petitioner and People's Counsel wherein the testimony and evidence before us is summarized. Prior to considering the merits and issues generated by the subject Petition, the Board feels compelled to address two areas which, although not specifically germaine to the narrow issue of the Petition before us, were the subject of significant testimony and

argument by the combatants in this case, namely the Petitioner and the Office of People's Counsel.

The first of these issues is the Board's consideration of that prior case before it known as "In the Matter of Conservation Associates," Case No. R-86-110. The Board was continually requested to consider the effect, or lack thereof, of its opinion in that case on the subject Petition. Although a rose by any other name may still be a rose, the subject Petition to reclassify this property is not merely a rehash of the Conservation Associates matter. The facts of these two cases are significantly different and this Board cannot be constrained to be bound by our decision within Conservation Associates. Two major areas of difference are noted. First, the subject site, under the current Petition contains not only the Conservation Associates acreage but significantly more adjoining property. Thus, the Board is compelled to consider the subject Petition as it relates to the entire 920 acres and not merely reconsider that 300 acres which were the subject of the Conservation Associates request for reclassification. Secondly, and equally importantly, is the fact that the Petition for Reclassification instituted by Conservation Associates proceeded under an open site plan. In the subject case, a specifically detailed documented site plan accompanied this Petition governing not only the acreage which the Petitioner seeks to reclassify from R.C. 2 to R.C. 5 but also the balance of the site. This is specifically relevant when the Board addresses the issue as required under Section 2-58.1(j)(2); namely, whether the prospective reclassification of the property is warranted.

The second hidden issue confronted by this Board pertains to the concern, bordering on hysteria, associated with the precedent the Board's decision may or may not establish. Although the Board has no doubt that its

Opinion herein will be carefully reviewed and perhaps noted in other proceedings in the future, it must be emphasized that our findings concern only the subject property. It is a fundamental tenant of zoning law that the use and zoning reclassification of a property runs with that particular land and is not a personal right. Although the request before us is not for permission to employ a particular use on this property, that tenant is applicable here. It should be made clear that the Board considered only this specific property as it relates to the adjoining lands and as offered in the documented site plan. Thus, any other petition must stand, or fail, on its own merits. Laying these two issues to rest, the Board then proceeds to consideration of the subject Petition.

This parcel as indicated contains some 920 acres and is located in the Caves Valley. It has long been the target for residential development, however, has largely remained as virgin land heavily wooded in some portions and actively cultivated in others. The valley conteins a fertile valley floor which then draws up steeply through sloped areas to a higher elevated ridge/plateau area whereon development of the 32 residential sites would occur. The steeply sloped hillsides and valley floor would remain under an R.C. 2 classification. According to the Petitioner, reclassification in this manner would not distrub the wetlands and streams on the valley slopes and floor; rather only affect the ridge/plateau area.

Reclassification of property pursuant to order of the County Board of Appeals of Baltimore County is governed by Section 2-58.1 of the Baltimore County Code. Section 2-58.1(1) sets forth the requirements of a documented site plan when the Petitioner seeks reclassification pursuant to such a plan. The Board has reviewed the documented site plan, with exhibits, submitted by the Petitioner herein and finds them to be in compliance with this section.

Further, subparagraph (1) of 2-58.1 governs out-of-cycle reclassifications. Ag'n, after review, the Board concludes that this matter is properly before us in accordance with that Code Section. Having therefore found that the Petition is technically sound, the Board must address the fundamental issue in this case, to wit, whether the Petition meets the standard enunciated in Code Section 2-58.1(j).

As indicated, Section 2-58.1(j) offers a two-prong test. First, the Board must determine that there has occurred a substantial change in the character of the neighborhood since the last rezoning cycle or that the last classification of the property was in error. In view of the relatively recent rezoning of this property during the 1980 comprehensive zoning process, no change in the character of the neighborhood is offered. Thus, the request turns on the issue of error. The first rationale offered by the Petitioner as a basis for error is the unique features of that acreage sought to be reclassified. Petitioner's expert witness, George Gavrelis, testified that the reclassification of the subject 123 acres makes good topographic and geographic sense. Specifically, Mr. Gavrelis noted that the acreage sought to be reclassified was oriented in such a fashion so as to have an adverse effect on neighboring properties if permitted to remain in the R.C. 2 classification. For example, Mr. Gavrelis stated that the acreage requested to be reclassified was inappropriate for cultivation and that use of the land for silva-culture, as allowed under R.C. 2 zoning, would be impractical and adversely effect adjoining properties. Thus, Mr. Gavrelis concluded that the R.C. 2 designation was improper in that it promoted conflict with the residential R.C. 5 properties immediately adjacent to the subject acreage.

In order to contradict this testimony, the Office of the People's Counsel offered two arguments. First, People's Counsel relies heavily upon

this Board's rationale in the Conservation Associates decision that the agricultural use of the property must be viewed in its entirety and that reclassification cannot be granted on the ground that any part of the site is found not to be suitable. As indicated earlier, the Conservation Associates case is uniquely different from the subject matter. The mere size of the acreage confronting the Board in this case convinces us that an examination and delineation of zoning designations within the total 920-acre area is warranted. Thus, at least when confronted with a parcel of this size and variety, the Board must take notice of geographic and topographic differences within the parcel.

As a second basis to contradict Mr. Gavrelis' opinion, the Office of the People's Counsel noted that zoning is historically done in accordance with property lines and that that format should remain valid in this case. Again, however, the Board must be mindful of the sheer size of this parcel and the irregularity of the topography within the total acreage. To be slavishly obedient to the property lines would ignore these valid considerations and not reflect the intent and spirit of the designated zoning classifications created by the legislature.

As a second basis for error, the Petitioner offered evidence that its proposal as presented was not known to the Council at the time of their adoption of the present zoning. It is clear that Councilman Ruppersberger, representing this district, appointed a committee prior to the enactment of the 1988 zoning maps to study the Petitioner's proposal. However, it is equally clear that the proposal at that time was not definitively formulated and presented to the Council. Even if it had been, the Council within its zoning process cannot classify properties subject to compliance with documented site

plans as is permitted to the Board of Appeals by Section 2-58.1 of the County Code. Thus, the Petitioner argues that this Board may find error in the existing zoning classification under the purview of People's Counsel v. Mockard, 73 MD App 340, 533 A2d 1344 (1987) wherein the Court stated "the presumption of validity accorded comprehensive zoning may be overcome by evidence establishing that there were then existing factors which the Council, in fact, failed to take into account, or subsequently occurring events which the Council could not have taken into account." We find that to be the case here and hold that the Council could not have taken into account the development of this plan as a subsequently occurring event.

The Board is of the opinion that to deny the requested reclassification would be an injustice to Baltimore County and to the residents whose properties abut the subject site. The Council, by approving the out-of-cycle reclassification petition, noted tacit approval of the documented site plan which they would not be able to incorporate in the comprehensive map process. In view of these factors, the Board is compelled to find that the zoning classification in this matter is in error.

Having therefore determined that the existing zoning classification is in error, the Board must address the second prong of the standard as it is set forth in 2-58.1(j)(2). Specifically, the Board must determine that the prospective reclassification is warranted. Section 2-58.1(j)(2) as interpreted by the Court of Appeals in Mockard (supra) mandates that this Board consider a variety of factors related to the purposes of the regulations and maps; including population trends, availability and adequacy of present and proposed transportation facilities, water supply facilities, etc. In this regard, the Board again carefully notes the testimony from Mr. George Gavrelis on behalf of the Petitioner. His consideration and treatment of each of these factors was

uncontradicted and is noted within the record of the case. The Board accepts his conclusions and therefore, based upon its consideration of these factors and others, finds that the prospective reclassification is so warranted. Because of the uniqueness of all of these factors in this particular case, the Board is of the opinion that the reclassification should be granted and will so order.

ORDER

It is therefore this 31st day of May, 1989 by the County Board of Appeals of Baltimore County ORDERED that the out-of-cycle Petition for Zoning Reclassification from R.C. 2 to R.C. 5 of a significant portion of property located in northwestern Baltimore County known as the Caves Valley in Case No. CR-89-367 and as clearly documented on Petitioner's Exhibits No. 11-1 and 11-2 be and the same is GRANTED.

Any appeal from this decision must be made in accordance with Rules B-1 through B-13 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

William T. Hackett
William T. Hackett, Chairman

Lawrence E. Schmidt

Henry H. Lewis

IN THE MATTER OF
CAVES VALLEY CLUB, INC.
MOTION TO AMEND DOCUMENTED SITE
PLAN /PROPERTY LOCATED ON THE NORTH-
EAST SIDE PARK HEIGHTS AVENUE, 931'
NORTHWEST OF CENTERLINE CAVES ROAD
4th ELECTION DISTRICT
3rd COUNCILMANIC DISTRICT

BEFORE THE
COUNTY BOARD OF APPEALS
OF
BALTIMORE COUNTY
CASE NO. CR-89-367
(Motion to Amend Documented Site Plan)

OPINION

This case comes before the Board on the property owner's Motion to amend the documented site plan which was approved and granted by the Board under a Petition for Reclassification in Case No. CR-89-367. The history of this site as well as the Petitioner's development plans are all set out within the record and Opinion of this Board dated May 31, 1989. We will not repeat herein that history or those plans but shall incorporate by reference our Opinion and the record of this case.

In addition to the filing of a Petition for Reclassification which was granted by the Board as noted above, the property owners have also filed a request for special exception to permit an 18-hole golf course and related facilities on the site. That petition was granted by the Zoning Commissioner and was not appealed to this Board. Since that time, the Petitioner has returned to the Zoning Commissioner under petitions for special hearing and variance to refine the layout of the golf course. These refinements are currently under consideration by the Zoning Commissioner.

As noted above, the Petitioner has also returned to this Board to amend the documented site plan previously approved. A full summary of the amendments proposed is contained within Petitioner's Exhibit No. 5 and need not be listed in detail herein. Suffice it to say the major amendment offered arises from the Petitioner's acquisition of a tract formerly owned by Katherine L. Fisher. This tract, which is shown on the Petitioner's plans bordering the

southeast portion of the golf course, was not owned by the Petitioner at the time of the Board's original hearing on the Petition for Reclassification and Opinion. Subsequently, however, the Petitioner acquired this parcel which contains approximately 8 acres in size. The thrust of the Petitioner's amendment at this time is to include the Fisher parcel within the plan and shift two density units from that parcel to the R.C. 5 lands so that 34 homesites will be available, rather than the 32 prevously shown. Further, the Petitioner will blind himself to a "no further residential development" restriction to the Fisher property. Of significant note is the fact that the amendment does not seek to rezone any additional acreage. Further, the owner argues that the proposed amendment does not adversely impact any adjoining property owners nor increase the total extent of development.

In evaluating this request, the threshhold issue before the Board is a consideration of the proper method in which an amendment shall be entertained after the documented site plan is approved. In the Board panel's collective memory, we cannot recall an amendment being offered on a documented site plan after that plan was approved. Rather, amendments have been offered at the Board's hearing while considering the documented site plan and before any opinion on that plan has been reached. In those cases, the Board is constrained to act under the language of Section 2-58.1(m) of the Baltimore County Code. A reading of the language in that section suggests that its provisions are applicable to amendments offered in the normal course; that is, during the Board's hearing and before an opinion on any plan is reached. Thus, the question is presented; is 2-58.1(m) applicable to the proposed amendment before us. The Board is aware of no other language within the reclassification statute which directly addresses the situation as before us, and we believe, therefore, that 2-58.1(m) is therefore applicable to the proceedings before us. We will not so narrowly construe

that section's language so as to prohibit this Petitioner from seeking an amendment at this stage in the proceedings.

Having decided therefore that Section 2-58.1(m) is applicable, the Board must then address the requirements therein to the Motion for amendment before us. That section provides that when a proposed amendment is offered, the Board's hearing shall immediately be suspended and the Board shall submit a copy of the proposed amendment to the Director of Planning for further distribution and comment by the County reviewing agencies. Although there is no specific language within that section providing same, the Board has in the past considered the scope of the amendment in determining whether its hearing should be suspended and the proposed amendment submitted to the Director of Planning as outlined. In the past, this Board has adopted the inherent authority granted to it by this section to consider the scope of the proposed amendment. That is, if the proposed amendment was significant, the Board would return the entire plan for comment. However, if insignificant, the Board would adopt the amendment within the offered plan at its hearing. Thus, the issue turns on whether the changes offered by the Petitioner are to be considered significant, thereby requiring strict adherence to the mandates of 2-58.1(m). As the Board stated repeatedly within its original Opinion, the character of this parcel and the relief requested in this case are unique. This Board has never entertained a Petition for Reclassification of a parcel of this great magnitude nor considered a documented site plan of the complexity of the one before us. The Board is well aware that in a project of this magnitude reasonable flexibility must be permitted as construction and plans progress. In view of the scope of this project and within the context of that reasonable flexibility which must be allowed, we believe that the amendments offered in this case must be considered

minor in nature. We are particularly mindful that the footprint of the collective homesite portion of the tract will not be altered and that no additional lands will be reclassified from one zoning designation to another. What may be considered a significant change on a smaller parcel or less sophisticated project pales in comparison with the size and scope of the overall scheme before us. Thus, we are persuaded that the amendments may be incorporated into the plan without the necessity of the project being returned to the Planning Director for further comment and study as provided in 2-58.1(m).

Notwithstanding our decision to press ahead, we must further inquire about the permissibility of the proposed amendments. First, we shall consider the acquisition of the Fisher property and the proposed transfer of two density units. Under the R.C. 2 regulations, the Fisher parcel would be allowed two residences. As indicated above, the amendment to the plan here requests that these two units be relocated to the R.C. 5 portion of the property. However, testimony and evidence presented to the Board indicate that a significant portion of the Fisher parcel has been subdivided to be included in the request for a special exception for the golf course. Specifically, that portion of the course upon which hole #1 will be located rests upon the northwest portion of the Fisher tract. It is the opinion of this Board, therefore, that under Section 1A01.3.B.1 of the Baltimore County Zoning Regulations no further subdivision of this parcel is permitted. Therefore, the Board believes that only one density unit may be transferred from the Fisher parcel to the R.C. 5 portion of the site. Thus, we will restrict the property owner's development to 33 homesites. In our view, the addition of one site does not materially affect the overall development scheme, has no detrimental effect, and is therefore a minor amendment and will be adopted by this Board.

In addition to the acquisition of the Fisher parcel and the impact created by same, the Petitioner offered numerous other amendments to his plan. These are listed within Petitioner's Exhibit No. 5 and are shown both on the geographic site plan and written notes to that plan. Having determined that the acquisition of the Fisher property was but a minor amendment, the Board further determines that these amendments are likewise minor and should be permitted.

Having made that determination, the Board will address however one area of amendment about which extensive testimony was received. That issue pertains to the location of the maintenance facility for the golf course. On the original documented site plan, the maintenance facility was shown in an area designated as Parcel A. That location was in proximity to existing homes. The evidence in the case before this Board on the proposed amendments was that the local community associations and individual residents objected to the original placement of the facility and asked the developer to relocate it elsewhere on the site. The developer concurred with this request and has agreed to relocate the maintenance facility to an as-yet undecided permanent location.

The Board heard a great amount of testimony both from County geologists and the Petitioner's expert about the proposed relocation site of the facility. In our view, the proposed relocation is acceptable. We are not convinced that this site presents any potentially hazardous pollutant effects to the locale. Notwithstanding our acceptance of this amendment, we believe it must also pass muster with the Zoning Commissioner and reviewing County agencies presently considering revisions to the special exception for the golf course. In our view, this issue should ultimately be decided there. Thus, although we did accept the proposed placement of the golf maintenance facility as shown on the amended plan, our decision cannot be perceived as the ultimate governmental

approval in view of the Zoning Commissioner's pending action and the relevant County approvals associated therewith.

For the aforegoing reasons, this Board shall grant the Petitioner's Motion to amend his documented site plan and shall so order, in accordance with the provisions herein.

ORDER

It is therefore this 16th day of May, 1990 by the County Board of Appeals of Baltimore County ORDERED that the Motion to Amend the Documented Site Plan be and the same is GRANTED with the following restrictions:

1. Only one density unit from the parcel known as the Fisher property may be transferred to the R.C. 5 portion of the site.

2. The final location of the maintenance facility must comply with all Baltimore County regulations.

Any appeal from this decision must be made in accordance with Rules B-1 through B-13 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

William T. Hackett
William T. Hackett, Chairman

Lawrence E. Schmidt

Michael B. Sauer

Re: In the Matter of the Application for Reclassification from RC-2 to RC-5 of Property Located at NE/S Park Hgts. Ave., 931' NW of C/L of Caves Rd., 4th Election Dist., 3rd Councilmanic Dist.

Caves Valley Club, Inc. and Mr. & Mrs. Alvin B. Krongard, Petitioners

* Before the Board
* of Appeals of
* Baltimore County
*
* Zoning Case
* No. CR-89-367
* (out-of-cycle)

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PETITIONERS' SUPPLEMENTAL MEMORANDUM

The Board has now heard four days of testimony and received an abundance of exhibits to assist it in ruling on what is an extremely limited request: the functional equivalent of rezoning 20 acres (2% of Petitioners' property). The Petitioners' documented site plan requests corrective reclassification for 123 of 920 acres of land, but then restricts to 32 the number of homesites which may be constructed on that 123 acres. Current zoning of the entire property already permits 19 homesites (People's Counsel has suggested it permits 22 homes), so the Petitioners' request reclassification in order to permit only the remaining 13 homesites. The creation of 13 homesites can normally be accomplished with 20 acres of RC-5 property; thus the magnitude and precedential value of this case has been exaggerated.

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The Board, in response to the vague fear tactics of the office of People's Counsel, has indicated its concern about establishing a precedent by reclassifying any RC-2 property, even for corrective purposes. However, the matter of precedent should not be an issue in the Board's determination of whether to reclassify any property on grounds of error. Section 2-58.1(j)(2) of the Baltimore County Code gives the Board the power, but not the obligation, to reclassify property zoned in error. If, in future cases, it finds error, it can still deny the request by determining that the proposed rezoning is not warranted by that error. Therefore, in future cases the Board will never be compelled to reclassify property but only justified in doing so if it finds error and sees fit to reclassify. Yewell v. Board of County Commissioners of Prince George's County, 260 Md. 42, 271 A.2d 360, 364 (1970).

Indeed, this case should provide a good precedent against developers in future years who seek to obtain the reclassification of RC-2 property. This case shows that the requirements for reclassifying RC-2 property in Baltimore County are staggering. Any party attempting to obtain some alleged precedential benefit from this case would have to incorporate into its petition the following central features of the Petitioners' plan:

1. The non-profit nature of the venture, created to promote community development (or some other public purpose).

2. Real and copious evidence of error in the current zoning classification of the property (e.g., significant mistake as to physical characteristics of property).

3. Confinement of the request for reclassification to exactly that property for which the evidence clearly shows error.

4. Application for reclassification through a documented site plan, limiting the number of homesites to less than half that allowed by the acreage of the property reclassified.

5. Imposition of other burdensome restrictions through the documented site plan: environmental controls, buffers, landscaping and architectural requirements, etc.

6. Support by the County and all neighborhood and community groups affected by the plan.

7. The granting of a perpetual conservation easement locking up many hundreds of acres of land, establishing it as permanent open space free from development forever.

The days of testimony in this case provide the Board with ample evidence to find (1) error in the classification of the 123 acres under petition and (2) that approval of the documented site plan is warranted by that error. The following represents a brief summary of the witnesses and exhibits offered by the Caves Valley Club, with emphasis given to those aspects of the evidence relating significantly to the issue of error.

1. Mr. Leslie Disharoon described the nature of the overall facility, identified the extensive June 15, 1988 agreement with the community groups in the area (Petitioners' Exhibit 3) extensively restricting the Club's use of the site, and testified to the critical importance of the additional residential units to the overall project and also to the importance of speedy action of both elements of the zoning application.

2. Representatives of every single community association in the vicinity of the site testified in wholehearted support of the application. Most of these same associations have previously opposed the application of Conservation Associates for the rezoning of approximately 300 acres of the site (the very issue before the County Council). Mr. George Doub, who testified as to the support of the community associations, also testified about the special committee established by Councilman Ruppersberger to deal with the Caves Valley site area. Mr. Doub confirmed that such a committee had been established by Councilman Ruppersberger and that the committee, chaired by Mr. Phillip Worrall, a member of the Baltimore County Planning Board, had resisted and opposed any efforts to seek a rezoning of any portion of the site during the 1988 comprehensive map process, but rather had insisted that any such rezoning efforts occur by way of the documented site plan process available

before the Board of Appeals. Mr. Dillon later confirmed this testimony.

3. Mr. Ron Lipman testified that under the present zoning of the site, the property could not be developed for residential purposes in such a way as would even begin to recover the acquisition costs of the site, let alone other infrastructure and development costs. He testified that development of the site for housing under existing zoning is thus not economically feasible. Mr. Lipman further testified that while budgetary and pro forma information indicate that the overall golf club facility is economically viable, its feasibility is entirely dependent upon the rezoning requested and the club's ability to develop 32 homesites rather than the 19 permitted under present zoning. This evidence strongly suggests that retention of the existing zoning and denial of the limited residential rezoning sought would be confiscatory and would deny the owner any reasonable use of the property. Mr. Lipman's full report is in evidence (Petitioners' Exhibit 8).

4. Mr. Ed Haile, from Daft-McCune-Walker, testified as to the physical characteristics of the site. He identified and introduced various exhibits showing the site and the Club's plans for the site, and he explained the physical characteristics of the land. He pointed out that the acreage

involved in the rezoning petition is entirely forested land, all of which is located off the Valley floor and above the Valley walls and comprises a series of ridges or plateaus largely around the perimeter of the site. He explained the physical relationship between these ridges or plateaus and the acreage which adjoins the Club's property, and he pointed out that none of the land in question is located over the Cockeysville marble aquifer found under the floor of the Valley. He indicated that the Club's plan contemplates a total of 32 homesites on 920 acres, and includes an absolute prohibition against any further residential development regardless of changes in either zoning or the zoning regulations. Mr. Haile characterized the restrictions which the Club has agreed to make applicable to its property as the most extensive and restrictive he has ever seen in his considerable experience. He pointed out that all of the residential lots proposed exceed 2 acres in size and that the average size is 3 acres, and he highlighted and explained a number of the notes accompanying the site plan.

5. Dr. George Stevens, who had previously testified in the Conservation Associates proceeding and was found by the Board to have offered the most credible testimony on the subject of the suitability of the acreage there in question for agricultural purposes, testified that the smaller 123 acres

involved in this petition is entirely unsuitable for agricultural use, including silvaculture. He explained why this was so, both in terms of the physical characteristics of the land and the relationship of the property to surrounding residential areas. He testified that while the soil involved in much of the subject property may be satisfactory for crop and grazing purposes, other features of the property including its configuration, isolation from the agricultural land on the Valley floor, and its location relative to adjoining stream valleys and residential communities make it entirely unsuitable for agricultural purposes. He testified as to the adverse environmental consequences which would result from utilization of this 123 acres for agricultural purposes, and he spoke of the potential for increased conflicts between agricultural uses and the existing residential development surrounding these portions of the site.

6. Mr. David Fields submitted written comments on behalf of the Office of Planning and Zoning supporting the petition to reclassify and recommending that it be granted. He cited the limited number of homesites proposed, the stringent conditions set out in the documented site plan and otherwise imposed on the proposed development of more than 900 acres, this Board's earlier determination that the land in question is not suitable for agricultural use, and this Board's earlier indication that

some intensification of residential use on the property may be acceptable. He also cited the proposed perpetual conservation easement, the fact that this proposal would end nearly a decade of controversy over the eastern portion of the Caves Valley, the shortage of golf course facilities in Baltimore County, and the support of the various community associations. He also specifically noted that the granting of the proposal "would not adversely impact the integrity of the RC-2 zoning on the Valley floor and Valley walls." It should be noted that Petitioner's Exhibit 21, an April 1, 1988 memorandum from Mr. Fields, indicates that "the ridge tops along Greenspring Avenue were placed in an RC-5 ... and we recommended that the property lines be used to delineate the boundary between the RC-2 and RC-5 zoned areas." As is demonstrated elsewhere in the evidence, the County Council had no knowledge that significant portions of the Caves Valley Club's property, and all of the property subject to the present rezoning request, constituted ridge top land of precisely the same character as that referred to by Mr. Fields, rather than Valley floor or Valley walls.

7. Mr. George Gavrellis testified at length for the Club and was cross-examined extensively. Mr. Gavrellis testified as to the sharp differences between the property involved in, and the relief sought in, the Conservation Associates (Gould) applications and this application. He described the

significant physical characteristics of the site which are relevant to this application and which were not known to the County Council (the property located on ridges or plateaus, not on Valley walls or Valley floor; property not located over Cockeysville marble aquifer; property distinctly oriented to adjacent RC-5 residential areas similarly located on ridge land, rather than to agricultural uses on the Valley floor below; etc.). Mr. Gavrellis testified in detail as to the various purposes of the zoning regulations generally and the RC-2 zone in particular which are not well served by retention of the existing zoning and which would be far better served by the proposed rezoning and documented site plan. Mr. Gavrellis pointed out all of the various positive features of this documented site plan which make the proposal far more attractive than the simple open site plan or unconditional rezoning as part of the comprehensive map process. Similarly, he testified relative to the various elements of the County master plan, indicating that they were not nearly as well served by retention of the RC-2 zoning for this 123 acres as would be the case if this limited rezoning were granted.

8. A variety of exhibits were offered by Petitioners illustrating the physical characteristics of the site, the elements of the Petitioners' proposed use of it, the particulars of the extensive support for the project by all

adjoining local community associations, and the specifics of the extensive restrictions to which Petitioners are prepared to subject their property.

The evidence before the Board clearly shows that this 123 acres was originally classified in error. In drawing the current RC-2 line at the property, the County Council failed to take into account topographical and physical features salient for the uses prescribed in the RC-2 zone. In prior cases the Board has found error and reclassified property where topographical and physical features were not considered at the time of zoning. For example, in In Re Application of Timanus Lane Partnership, No. R-87-90, pp. 3-5 (Feb. 2, 1987), the Board found error where the County Council did not consider subsurface rock formations which made development under the current zoning difficult and impractical. Likewise, zoning officials in other counties have reclassified property for the same reasons. See, e.g., Overton v. Board of County Commissioners of Prince George's County, 225 Md. 212, 170 A.2d 172 (1961). In similar cases, when appealed, the Board has been upheld by Maryland courts in finding error when topographical features were not considered. See, e.g., Bonnie View Country Club, Inc. v. Glass, 242 Md. 46, 217 A.2d 647 (1966); Jobar Corp. v. Rodgers Forge Community Assoc., 236 Md. 106, 202 A.2d 612 (1964).

It is clear from the evidence that the zoning lines in the vicinity of the Caves Valley do not even follow property lines, rather than topographical or physical characteristics, with any degree of accuracy. Even if the County did accurately follow property lines in determining the division between zones for this property having such unique topographical features, the practice would lead to absurd results. To obtain the proper zoning classification and practical use of this 123 acre portion of the property, the Petitioners would be forced to subdivide and sell the 123 acres which are unusable for agriculture, thereby creating a new property line which the County would then say it could use to draw the correct lines between the RC-2 and RC-5 zones. Such a result would be counter-productive -- it would encourage fragmentation rather than cohesive orderly development of large farms and other parcels.

The County Council likewise erred when it failed to correct this mistake at the time the zoning maps were redrawn in 1988. During the 1988 comprehensive map review process, substantial acreage owned by S & R Investors immediately adjacent to the property of the Caves Valley Club was rezoned from RC-2 to RC-5. See People's Counsel Exhibit 7B, 1988 Comprehensive Zoning Map - Worthington-Schawan (Sectors H14 and G14). This area rezoned to RC-5 coincided precisely with the

natural ridge and plateau land portion of the S & R property (see Petitioner's Exhibit 17 together with People's Counsel Exhibit 7B), without regard to the property lines of S & R's holdings (see photocopy of tax map in Board of Appeals Exhibit 2). The end result was that approximately 12 additional units were added to the development capacity of the S & R holdings. The S & R property is dramatically smaller than the property owned by the Caves Valley Club, which in this proceeding is the subject of a requested increase of 13 units. However, the County Council failed to accord to the Club's property the same treatment of rezoning for contours and not property lines, despite the fact that the Club's property exhibits the same characteristics of a plateau above the Caves Valley and adjacent to other RC-5 property. That failure to evenly treat like properties in the area constitutes a further element of mistake by the Council in the just-completed 1988 map process.

The Petitioners should not be brushed aside in this petition because the facts relative to the Club's property and its plans were not brought to the Council's attention during the 1988 map process. The undisputed testimony shows that a special committee established by Councilman Ruppersberger representing the affected district insisted that the Club defer its application and seek corrective reclassification for the 123 acre portion of its property through a documented site plan

after the 1988 rezoning process was completed. Also, Petitioners did not even sign contracts for the acquisition of the property until after the deadline for establishing new issues to be considered in the map process had passed. The Club was thus effectively prevented by the Council's procedures and by Councilman Ruppersberger himself from bringing these facts to the attention of the Council. This case presents very different facts from the Maryland Court of Special Appeals case, People's Counsel v. Nottingham Village, Inc., No. 1010 (September Term 1983) (unpublished), cited to the Board by the People's Counsel, in which the Court did discuss the fact that the petitioner applying for reclassification out-of-cycle did not request rezoning through the comprehensive map review process in earlier years. Slip op. at 6. In this case, the Petitioners did not have an opportunity to avail themselves of cycle rezoning to achieve corrective zoning for the subject property.

Taken in its entirety, the evidence shows the County Council failed to take into account matters during the original zoning of the 123 acres as well as during subsequent rezoning, so that the County's action was premised on a misapprehension, as is required by Maryland law for reclassification. Boyce v. Sembly, 25 Md. App. 43, 334 A.2d 137, 142-43 (1975).

In opposing this petition, the People's Counsel has presented a case which is largely a rehash of its case in opposition to the petition of Conservation Associates. People's Counsel has offered enormous amounts of evidence from that case: recorded testimony, briefs and opinions. However, the Board should keep firmly in mind that the Conservation Associates case was quite a different matter involving a total of 300 acres consisting primarily of Valley walls and floor. The Board itself in the Conservation Associates case found that much of that acreage has no potential for agriculture. The Board's opinion suggested that the property was zoned in error but that approval of the Conservation Associates petition was not warranted by that error. In Re Application of Conservation Associates, No. R-86-110, p. 10 (May 1, 1987). The Board pointedly noted that some increased density on the property would be warranted, and seemed to openly invite such a request on a documented site plan. That invitation, once extended, should not now be withdrawn.

The People's Counsel has raised the issue of res judicata when discussing the impact of the Conservation Associates case upon this petition. However, the doctrine of res judicata does not apply inflexibly to administrative proceedings. Klein v. Colonial Pipeline Co., 55 Md. App. 324, 462 A.2d 546, 555 (1983). Moreover, this case fails to present even the most

basic requirements of res judicata for the doctrine to be invoked to preclude a party from asserting a claim. Res judicata requires that both the claims and the parties be identical. Klein v. Whitehead, 40 Md. App. 1, 389 A.2d 374, 383 (1978). Here the petitions are different to the extent of 180 acres and a number of other characteristics. Likewise, the parties are different, as the Petitioners' have no affiliation with Conservation Associates and took no part in the Conservation Associates case.

In fact, if there is to be any preclusion of issues or claims in this case, the People's Counsel should be precluded from opposing the Petitioners on the issue of whether the 123 acres under petition is capable of being employed for agriculture. The People's Counsel should be collaterally estopped from reopening the issue of agricultural potential as to the 123 acres, because that issue has been decided by the Board against the People's Counsel in the earlier case. Even though the Petitioners were not a party to that earlier case, the Petitioners can prevent the relitigation of a matter determined against an adversary during an earlier proceeding. MPC, Inc. v. Kenny, 279 Md. 29, 367 A.2d 486, 490-91 (1977).

The People's Counsel further believes that failing to follow the Board's decision denying the Conservation Associates petition would be an arbitrary action by the Board. Quite to

the contrary, it would be far more arbitrary to simply reproduce the Conservation Associates result, in the face of a very different petition involving different property and despite the Board's own finding that the property is not viable or suitable for agriculture.

The Board has in many instances reclassified property on grounds of error and been upheld on appeal. See, e.g., People's Counsel for Baltimore County v. Williams, 45 Md. App. 617, 415 A.2d 585 (1980); Bonnie View Country Club, supra; Rohde v. County Board of Appeals for Baltimore County, 234 Md. 259, 199 A.2d 216 (1964); Jobar Corp., supra. In Rohde, the Court of Appeals stated that if there is evidence upon which the Board could have fairly reached its conclusions of fact, the court would not disturb the Board's order. 199 A.2d at 220. The People's Counsel has recited to the Board a number of its own victories in which no error was found, either by the Board itself or by a court on appeal. However, none of these cases involved the magnitude of actual evidence of error presented in this case.

One case so cited was Nottingham, supra, in which the Court of Special Appeals affirmed the Board's denial of a request to reclassify MLR property to ML. The evidence in Nottingham, however, bears no resemblance to the evidence in this case; in Nottingham the petitioner's claim of error was

based primarily on evidence of the need for industrially zoned property in the area generally with no evidence as to the manner in which the specific property under petition was zoned. Slip op. at 3-5. Also cited was a similar case, In Re Application of Baltimore Gas & Electric Co., Board of Appeals of Baltimore County, Case No. R-86-344 (Dec. 3, 1986), affirmed, Circuit Court for Baltimore County, No. 87-CG-18 (Aug. 17, 1987). In that case the petitioners did not produce strong evidence of error but only that the proposed zone would be an improvement over existing zoning. Opinion of Board of Appeals at 1-3.

Another case cited was Bancroft Homes, Inc. v. People's Counsel, Maryland Court of Special Appeals, No. 221 (September Term 1987) (unpublished). There, the Court of Special Appeals ruled that the Board of Appeals was misguided by an earlier zoning case and incorrectly applied a relaxed legal standard, one not requiring strong evidence of mistake, when reviewing requests for reclassification to increase density and not use. Slip op. at 13. However, nothing in Bancroft Homes suggests that the Board cannot properly find error when there is strong evidence of error as exists in this case. Yet another case cited by the People's Counsel, People's Counsel v. F. & S. Limited Partnership, Maryland Court of Special Appeals, No. 216 (September Term 1987) (unpublished), involved a ruling by the Court of Special Appeals that the evidence did not sufficiently show error. It appeared in the case that the petitioner's

evidence concentrated on the proximity of the subject property to incompatible uses without specific evidence as to the usability or unusability of the property under its current zoning classification. Slip op. at 9.

These cases argued by the People's Counsel would be more telling if the Petitioners were asking the Board to rely solely on the beneficial aspects of the plan and the responsible manner in which the Petitioners have worked with community members and public officials in developing it. In opening remarks, the People's Counsel described this petition as a model for responsible land use and protection by a private party. But the Club is only asking the Board to consider those matters in deciding whether the reclassification requested by the Petitioners is warranted by the error in the zoning of the property. Petitioners also ask the Board to focus on the abundant evidence of error in this case. The many exhibits and four days of testimony clearly resolve that issue in favor of granting this important petition.

Respectfully submitted,

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Attorneys for Petitioners

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on this 24th day of April, 1989, a copy of the foregoing Petitioners' Supplemental Memorandum was mailed, postage prepaid, to Phyllis Cole Friedman, Esquire, People's Counsel, Baltimore County, Maryland, Room 304, County Office Building, 111 West Chesapeake Avenue, Towson, Maryland 21204; and to Charles B. Heyman, Esquire, Kaplan, Heyman, Greenberg, Engelman & Belgrad, P.A., Tenth Floor, Sun Life Building, 20 South Charles Street, Baltimore, Maryland 21201.

Ted Millspaugh

Thomas E.D. Millspaugh

IN THE MATTER OF THE CAVES VALLEY CLUB, INC. TO AMEND DOCUMENTED SITE PLAN ON PROPERTY LOCATED ON THE NORTHEAST SIDE PARK HEIGHTS AVENUE, 931' NORTHWEST OF CENTERLINE CAVES ROAD 4TH ELECTION DISTRICT 3RD COUNCILMANIC DISTRICT

BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY CASE NO. CR-89-367

RULING ON MOTION

The Board has received and examined the Motion to Reconsider filed herein by the Caves Valley Club, Inc. There has been no response thereto.

In essence, the Movant requests that the Board amend its Order of May 16, 1990 to permit the transfer of two density units from that parcel known as the Fisher tract. Within its Order of May 16, 1990, the Board had granted the Movant's Motion to Amend their original documented site plan but for a restriction that only one density unit could be transferred from the Fisher parcel. The Opinion by the Board in the Movant's original Petition for Reclassification and Motion to Amend are incorporated by reference herein.

The Board has closely examined Caves Valley Club's Motion to Reconsider and reviewed the appropriate provisions of the Baltimore County Zoning Regulations (hereinafter "B.C.Z.R."). After a further evaluation, we agree that the Movant is correct. Clearly, a subdivision is defined within the B.C.Z.R. as a division of land for the purpose of building development for rental or sale. Thus, we stand corrected that the Club's previous use of a portion of the Fisher tract for placement of one of the golf course holes cannot be construed as a subdivision. Further, under the appropriate density regulations, the Fisher tract would be eligible to house two buildable lots. Thus, we shall amend our Order to permit the transfer of those two density units as requested.

ORDER

Upon the Motion to Reconsider filed herein by Caves Valley Club, Inc., and for the reasons set forth heretofore, it is this 22nd day of June, 1990 by the County Board of Appeals of Baltimore County ORDERED that the Caves Valley Club, Inc.'s Motion to Reconsider be and is hereby GRANTED; and further, that the Board's Order of May 16, 1990 be and is hereby amended by striking paragraph 1 of said Order in its entirety and in lieu thereof inserting the following:

1. Two density units from the parcel known as the Fisher property may be transferred to the R.C. 5 portion of the site.

In all other respects, the Board's Order of May 16, 1990 is AFFIRMED.

Any appeal from this decision must be made in accordance with Rules B-1 through B-13 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

William T. Hackett, Chairman

Lawrence B. Schmidt

Michael B. Sauer

IN THE MATTER OF THE PETITION OF CONSERVATION ASSOCIATES FOR ZONING RECLASSIFICATION FROM R.C. 2 TO R.C. 5 FOR PROPERTY LOCATED ON THE NORTHEAST SIDE OF PARK HEIGHTS AVENUE, 467' AND 1507' NORTHWEST OF CAVES ROAD 4th ELECTION DISTRICT

BEFORE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY CASE NO. R-86-110

OPINION

This matter comes before the Board on a petition for reclassification of two parcels with a total size of approximately 303 acres confined within a contiguous parcel of approximately 682 acres. The parcel owned by Petitioners is located north of Caves Road on both sides of Park Heights Avenue, extending to the southwest almost as far as Garrison Forest Road and extending to the northeast almost as far as Greenspring Avenue. This property comprises in substantial measure that portion of Maryland historically known as the Caves Valley. The existing zoning for the tract is R.C. 2. Petitioners have requested that approximately 277 acres of the northern portion of the tract be reclassified as R.C. 5 zoning and approximately 26 acres of the southern portion of the parcel, fronting on Caves Road, be reclassified as R.C. 5 zoning.

The issues presented to this Board were as broad in their impact of land use in Baltimore County as any in the history of the Board of Appeals. As would have been expected given the scope of this project, the testimony before this Board was as comprehensive and detailed on the issues raised as we have ever seen. In particular the testimony from the expert witnesses, a total of thirteen of whom testified during the five days during which this matter was heard, demonstrated authority of the highest order. The Board was extremely impressed by the quality of content presented by all sides in this matter.

The decision in this case was a most difficult one for the Board. In the thirteen years since resource conservation zones were established in Baltimore County, no parcel close to this size has been reclassified. The historical perspective of this case shows that prior to the 1984 Comprehensive Zoning Map the property was zoned R.C. 2. During the comprehensive review in 1984, the Petitioner identified this property as a specific issue. At that time the Planning staff and Planning Board recommended retention of R.C. 2 zoning and the Baltimore County Council reaffirmed R.C. 2 zoning for the parcel. In considering the herein petition, the Planning Board paid significant deference to the suitability of this property for active agricultural pursuits and the potential harm to the water supply source under this property. [redacted]

[redacted]

Petitioners have acknowledged the obvious agricultural profile of a substantial portion of their full tract and are not requesting rezoning of the entire parcel. They have carefully extracted those portions that comprise the Caves Valley floor and are requesting reclassification solely of the valley walls and ridge.

The conditions on the petitioned acreage are significantly different than conditions on the valley floor. The valley floor is cleared while the walls and ridge are heavily wooded. The floor is flat while the walls and ridge are steeply sloped. The soil types on the floor are significantly different than the soils on the walls and ridge. Clearly the use of the valley floor is for active agricultural pursuits. Equally clear is that those parcels contained in

the petition are not tillable in their present condition, do not possess essential qualities that would make the land profitable agriculturally, are not being used presently for any agricultural pursuit of a commercial nature and from all indications have not been used for such pursuits over the course of the last century, if ever.

Nevertheless these parcels are zoned to promote the conservation of agricultural property. The fundamental issue before this Board therefore is not necessarily whether or not those parcels contained in the herein petition are appropriately considered agricultural; but rather are they appropriate to remain in an "agricultural" zone in order to foster conditions favorable to a continued agricultural use of productive agricultural areas by preventing incompatible forms and degrees of urban uses. This Board holds that the petitioned properties are not agricultural in the sense that they can be used commercially in a profitable manner. We further hold that the qualities of these parcels and in particular their proximity to and effect on active farmland is wholly consistent with the purposes and legislative statement of findings of the R.C. 2 zoning classification as stated in Sections 1A01.1B and 1A01.A.1.d and G of the Baltimore County Zoning Regulations. Quite simply we are stating that the petitioned property is not suitable for profitable agricultural pursuits. This does not concluds however that the present or possible uses permitted as a matter of right under the R.C. 2 classification deny the property owners their reasonable use of the property; nor does it require us to permit a significantly more intensive development of the property solely because agricultural pursuits are not likely to be profitable at this location. [redacted]

[redacted] and that Baltimore County possesses numerous areas which are highly suitable for moderate intensity residential development which are not located in areas of such productive agricultural land.

AGRICULTURAL USE OF THE PARCELS

The Board heard extensive testimony from a number of highly credible sources as to the agricultural potential of this property. On balance we found the opinion of George A. Stevens, the Petitioner's agricultural economics expert, to be most persuasive. We will let the record speak for itself regarding the basis of these conclusions. We do however agree with his opinion that after consideration of the slope, erosion, soils, cover, general topography and other constraints the petitioned property is not viable or suitable as agricultural land. We believe it is not suitable for crop production, beef, sheep or other herd animal production, timber production, tree farming, or any other agricultural pursuit where the motive is to realize a profit. The facts of this case are simply too clear that the tree cover would have to be removed and the soils made productive for any of these pursuits. To accomplish this task would be much too costly relative to the potential monetary benefit not to mention that the result would be far less desirable than the aesthetic qualities of the property as it presently exists.

WOULD DEVELOPMENT OF THE PARCELS CONSISTENT WITH R.C. 5 ZONING FOSTER CONDITIONS UNFAVORABLE TO A CONTINUED AGRICULTURAL USE OF PRODUCTIVE AGRICULTURAL AREAS

[redacted]

[redacted] construct a home; creation of significant amounts of impermeable surface required for homes themselves and ancillary roads, driveways and other structures; establishment of wells; establishment of septic systems and the effectiveness of these systems, [redacted] The Board is not stating that any residential development near productive agricultural land is inherently evil or likely to cause a significant amount of harm to the farm areas. The R.C. 2 use regulations permit single-family detached dwellings at a density of one lot for each fifty acres. This level of development may appear unreasonably restrictive. However, when comparing such a right against the right to develop one house per every acre and one-half, the distinction requires close attention to the relative effects that such developments will have on the farmland. At a certain level the combination of unnatural factors does create an unfavorable environment for agriculturally used land.

The Board is convinced that the testimony of Larry F. Duket, Chief of the Current Planning Unit of the Maryland Department of State Planning, and the testimony of Paul J. Solomon, Environmental Planner for Baltimore County, was most credible and persuasive on this issue. In particular, Mr. Duket expressed the effectiveness of R.C. 2 zoning as a tool in preserving agriculture by channeling development away from agricultural areas and toward appropriate areas of moderate density residential or commercial development. He concluded that development at a density of one dwelling per one and one-half acres would compromise the aquifer that supports the farmland, reduce nutrients in the soil

which are considered prime and productive and that the services which of necessity must be provided to the homeowners would cause an impact well beyond the specific property over which their homes were located. There exists an aquifer of great size beneath this general geographic region including parts of the subject property. The integrity of this aquifer is of great concern in general and in particular to the retention of productive agricultural land. As stated by Mr. Duket, the capacity to obtain water from this aquifer is fine at present but development of the nature possible by rezoning these parcels could have a significant impact on maintaining this critical water supply. When trees are removed and foreign impervious surfaces are placed on the land, the soils lose valuable nutrients. The soils in the present instance generally have a hydrologic value "B". This is a rather porous quality. The result of placing septic systems each acre and one-half over properties with the above characteristics would create an environment where effluence would sift down rather quickly and creates a clear potential for damage to the aquifer. Mr. Solomon took the analysis one step further. It was his opinion that even if homes were not directly over the aquifer but were uphill of the aquifer, the sewage from such homes could infiltrate into this water supply. This he characterized as the potential for a serious problem with the aquifer. Obviously, once this aquifer begins to become compromised, the impact would be a detriment to the farmland of the Caves Valley. Furthermore, other services necessary to satisfy the needs of moderate residential development in this area would continue to compromise the region. Additionally, this land is part of the Piedmont, well recognized for its prime and productive agricultural qualities. It is an important natural resource. It is of a finite quantity. It is being lost to development continuously. Careful consideration on the impact that development will have across

the Piedmont is a factor that this Board recognizes.

Mr. Solomon testified further on the appropriateness of zoning land around a farm use as "agricultural" in order to support the strong farm use. In explaining the basis of using the Petitioners' property lines as the basis for distinguishing between R.C. 2 and R.C. 5 he satisfied the Board of the appropriateness of the County's policy of using such a standard consistently as the line which divides such uses. Clearly a "resource line" must be determined and then a "legal line" must be established in pursuit of promoting the resources worthy of protection. We do not believe that establishing the zoning demarcation around this property was arbitrary, capricious or illegal. Here there is a valuable resource--the Caves Valley--which was not previously compromised by development, maintains active and good soils and is of a large size. Zoning is an appropriate and effective tool in maintaining such a resource. Mr. Solomon explained that it is a rare exception to divide a farm between zones. The nature of agriculture is such that virtually every farm has a portion of woodland or other land not suitable for active agricultural pursuits. If this Board divided the property at the transmission line as suggested by Petitioners we may well open the floodgates to other farmers who want to carve out sections of their farms for development. Though such issues are not before this Board, are not relevant to our decision and have not been considered in reaching our decision, we would be foolish if we did not recognize the profound impact on the future development of other valley walls throughout Baltimore County that approval of this petition would encourage.

THE PRESENT ZONING AFFORDS THE PROPERTY OWNERS A REASONABLE USE OF THEIR PROPERTY

After five days of testimony, Paul Solomon was recalled as People's Counsel's final retuttal witness. Basing his testimony on the conclusions of

a number of the experts called previously in the case, he articulated a land plan that could be easily accomplished as a matter of right within the R.C. 2 zone. Such a plan affords a reasonable and appropriate use of the entire tract owned by Petitioners, conserves the Caves Valley resource, would preserve the agricultural nature of this resource for many years and at the same time provides the land owners with what would, by any measure, amount to a substantial profit on their investment in having purchased this property less than ten years ago. By taking advantage of the sales potential of fifteen lots each of approximately twenty acres and which could be clustered as permitted in an R.C. 2 zone and placing the remaining 350 acres into the Maryland Agricultural Land Preservation Program while continuing to farm that portion of the property which is capable of productive agricultural pursuits the result is a reasonable and effective land plan that accomplishes the conservation of a valuable natural resource for which the R.C. 2 zone was specifically created to protect and creates a reasonable and profitable residential use consistent with the R.C. 2 regulations that is a compatible form of development. The sum result of such use would foster conditions favorable to the continued use of the agriculturally productive Caves Valley. To retreat from this objective by granting the herein petition would not be appropriate. We are therefore denying this reclassification petition.

ADDITIONAL CONSIDERATIONS

The Board wishes to emphasize once again our agreement with Petitioner that the property that is the subject of this petition is not appropriately considered agricultural. Though the testimony on all sides dwelled extensively on the agricultural capacity of the petitioned acreage, we simply do not believe

that is the sole criteria for placement of land within the R.C. 2 zoning classification. We further contend that, after having heard the extensive testimony in this case, a somewhat higher use of a residential nature over that area contained in the petition above that which is permitted as a matter of right in an R.C. 2 zone may not be wholly incompatible with preservation of the viable agricultural land in the Caves Valley. It may be that more testimony on this point accompanied by a documented site plan in the future may satisfy this Board or the County Council in that regard. Testimony from Petitioner was that no more than 100 lots could be developed over this property. This Board however is compelled to assume that this property would be used to the fullest capacity permitted by the reclassification. We have no authority to restrict use following a reclassification and we are therefore required to apply the standards testified to in this case assuming that 202 homes would be sited over this property. Notwithstanding Petitioners' protestations to the contrary, this Board has been witness on more than one occasion to the completion of more implausible engineering feats than placing more than 100 homes over this property. As it was, no such documented site plan was provided in this case and ultimately may not have made any difference in our decision. Such facts were not before us and we will speculate no further on them.

In applying the legal standards that we must in this request we are convinced that the proposed rezoning would in time compromise the agricultural land that is adjacent to these parcels. We are required to presume the correctness of the original zoning and comprehensive rezoning. Under the circumstances, we see no reason to believe that such a determination was in error and will so order.

The Board recognizes that the R.C. 2 classification is entitled Agricultural Zones. Generally it exists where there are active farming activities. We do not believe that such activities or even the potential for them are prerequisites for the placement of land within the zone in light of the clear purposes stated in Section 1A01.1B. In this case we are specifically finding that notwithstanding the absence of farming on the subject petitioned property and the inability for such a potential, such a zoning classification is correct. If this basic presumption is nevertheless perceived as our indicating "error" for the subject site, we further hold that the petitioned reclassification for the property of R.C. 5 is not warranted by such perceived error, as would be required by §2-58.1(j)(2) of the Baltimore County Code.

O R D E R

It is therefore this 1st day of May, 1987, by the County Board of Appeals of Baltimore County ORDERED that the petitioned reclassification from R.C. 2 to R.C. 5 is hereby DENIED.

Any appeal from this decision must be made in accordance with Rules B-1 through B-13 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS OF
BALTIMORE COUNTY

Keith S. Franz, Acting Chairman

Patricia Phipps

Lenny B. Spurrier

Re: In the Matter of the Application of Caves Valley Club, Inc. for a Zoning Reclassification of Property Located at the Northeast Side of Park Heights Ave., 931' NW of the Centerline of Caves Rd. from R.C. 2 to R.C. 5 - 4th Election Dist.; 3rd Councilmanic Dist.

Caves Valley Club, Inc. and Mr. & Mrs. Alvin B. Krongard

Petitioners

* Before the County
* Board of Appeals of
* Baltimore County
* Zoning Case No. CR-89-367
* (out of cycle)

* * * * * * * *

MOTION OF CAVES VALLEY CLUB, INC., TO AMEND DOCUMENTATED SITE PLAN

On January 4, 1989, Caves Valley Club, Inc. (the "Club"), the owner of approximately 900 acres of land in the vicinity of the intersection of Caves Road and Park Heights Avenue, filed a request for the rezoning of approximately 123 acres of its property from R.C. 2 to R.C. 5 so as to permit the development of 32 residential homesites on those 123 acres plus 3.7 acres of existing R.C. 5 land. A request for out of cycle consideration was filed, and acted upon favorably by both the Baltimore County Planning Board and the County Council. The petition filed with this Board sought rezoning on a documented rather than an open site plan. Shortly after filing the documented site plan rezoning application with this Board, the Club filed a special exception request with the Zoning Commissioner seeking a special exception for the construction of an 18 hole golf course and related facilities on property adjoining the acreage sought to be rezoned from R.C. 2 to R.C. 5.

The rezoning petition before this Board came on for hearing beginning in March of 1989, and concluded after several days of hearings in April. The petition for rezoning on a documented site plan was granted by this Board in an Opinion and Order issued on May 31, 1989. No appeal was taken by the People's Counsel (who had actively participated in the hearing of this matter) or by any other person. Thus the matter has remained before this Board continuously from its initial filing until the present time.

During the time that the rezoning petition was pending before this Board, the Club secured the right to purchase a parcel of land containing approximately 8 acres which fronts on Park Heights Avenue and is otherwise surrounded entirely by property owned by the Club. That 8 acre parcel, which was owned by Katherine Fisher and others and is now owned by the Club (the "Fisher parcel"), is shown on the copy of the relevant portion of the 1989 documented site plan. (See Exhibit A to this Motion). Because the Club did not then own the Fisher parcel, it was indicated as an out parcel in the name of Katherine Fisher.

At the same time as the Club sought rezoning of 123 acres from R.C. 2 to R.C. 5 and the authorization to construct 32 homesites on its R.C. 5 acreage (see Note 7 to the documented site plan), it agreed to prohibit residential development on all of the remaining 800 acres (see Note 25 to

the documented site plan) "owned by Petitioners as of January 3, 1989" (excluding the Fisher parcel, which had not been acquired at that time), by providing that "there shall be no further residential development on such remaining land." (Copies of Notes 7 and 25 and the General Note are attached hereto as Exhibit B). Thus, under the documented site plan the Club was authorized to develop a total of 32 homesites on the property which it then owned, all of which would be located on the 126.7 acres which would be zoned R.C. 5 if the rezoning request were granted.

The subsequently acquired Fisher parcel, which is zoned R.C. 2, carries with it the right to develop two homesites. That parcel is not contiguous to the R.C. 5 acreage, and thus any homesites developed on the Fisher parcel would not be an integrated part of a residential community developed on the rezoned acreage portion of the Club's property.

Included within the Club's land rezoned in 1989 from R.C. 2 to R.C. 5 was a 20.9 acre site which was designated on the documented site plan as a "possible site of maintenance center." That site is designated "Parcel A" on Exhibit A to this Motion. That possible maintenance center was located in the general vicinity of the proposed clubhouse complex, well away from the nearest public street and along the edge of the Club's property in a location contiguous to the existing Worthington/Woodsyde community. While the application of a

number of criteria by the Club had strongly indicated that location as the most desirable maintenance facility site, continuing discussions with representatives of the Worthington/Woodsyde Community resulted in a strong request from those residents that the Club actively pursue the relocation of the maintenance facility site. When a general agreement was worked out with the Worthington/Woodsyde Community in the spring of 1989, it included a best efforts provision obligating the Club to pursue efforts to relocate the maintenance facility site. Those efforts culminated in the identification of an alternate site more centrally located in terms of the golf course itself, and in a spot just about as far away from any existing residents as could be found on the Club's property. That relocation of the maintenance facility, and certain other changes to the site plan for the proposed golf club facility, are presently the subject of a series of related special hearing and variance petitions now pending before the Zoning Commissioner and now scheduled to be heard on March 20, 1990.

The Club's proposal to amend by this Motion the documented site approved in 1989 is simple. It proposes basically that the plan be amended so as to (1) permit within the 126.7 acres which are now zoned R.C. 5 a total of 34 homesites instead of 32 homesites and (2) extend the "no further residential development" restriction applicable to the

Re: In the Matter of the Application for Reclassification from RC-2 to RC 5 of Property Located at NE/S Park Hgts. Ave., 931' NW of C/L of Caves Rd., 4th Election Dist.; 3rd Councilmanic Dist.

Caves Valley Club, Inc. and Mr. & Mrs. Alvin B. Krongard, Petitioners

* Before the Board
* of Appeals of Baltimore
* County
* Zoning Case No. CR-89-367 (out-of-cycle)

* * * * * * *

PETITIONERS' MEMORANDUM OF LAW ON THE ELEMENTS OF MISTAKE IN THIS CASE AND THE REQUIRED FINDINGS OF THE BOARD OF APPEALS

Under Section 2-58.1 of the Baltimore County Code, the Board must make two "ultimate findings" in this case in order for Petitioners to prevail. The Board must find that "the last classification of the property was established in error" (Section 2-58.1(j)(1)) and that "the prospective reclassification of the property (here - 123 acres to RC-5 on a documented site plan, increasing density on 920 acres from 19 to 32 homes) is warranted by that...error." (Section 2-58.1(j)(2)). Under Section 2-58.1(j)(2) and applicable case law, the Board must consider each of the following factors in arriving at these two ultimate findings:

1. Purposes of the the zoning regulations and maps.
2. Population trends.

3. Availability and adequacy of present and proposed (a) transportation, (b) water supply, (c) sewage and solid waste disposal, (d) school, (e) recreational, (f) and other public facilities.
4. Compatibility of uses generally allowable under the prospective classification with the present and projected development or character of the surrounding area.
5. Any pertinent recommendation of either the Planning Board or the Office of Planning and Zoning (see written comments in support filed by the Director of the Office of Planning and Zoning, Petitioners' Exhibit No. 1).
6. Consistency of the current and prospective classifications with the master plan.
7. Consistency of the current and prospective classifications with the County plan for sewage and water supply facilities.
8. Consistency of the current and prospective classification with the County's capital program.

The Board is not required to affirmatively find that each of these considerations is a factor in support of the finding of error or the proposed reclassification, but the Board is at least required to indicate that it has considered all of the factors. Obviously, the Board can determine that one or more

of the factors are simply not relevant to the particular resolution of the two ultimate issues in this case. The Board also can conclude that one factor mitigates against a result favorable to the Petitioners, and yet is outweighed by other factors which mitigate in favor of an ultimate ruling in Petitioners' favor. George Gavrellis testified extensively for the Petitioners, covering each factor. Without setting forth his testimony item by item, he stated categorically that each and every single factor supported his conclusion both that the current zoning is in error and that the proposed reclassification is warranted by that error. Factors 1, 4, 5 and 6 were the more significant ones.

In deciding the first issue - whether "the last classification of the property was established in error", the Board must begin by according a presumption of validity to the comprehensive zoning of this property. This presumption of validity, of course, however strong it may be, is one that can be overcome by a showing of particular facts and circumstances in a given case, and indeed has been overcome in the past in this County and elsewhere. We respectfully suggest that it has been overcome here.

Under well established law, effectively summarized in Boyce v. Sembly, 25 Md. Ap. 43, 334 A2d 137 (1975), the evidentiary burden of overcoming the presumption of correctness

of a comprehensive zoning action can be accomplished in any one of three ways:

1. By showing that specific physical facts were not readily visible or discernible at the time of the comprehensive zoning; or
2. By establishing that relevant facts existing at the time of the zoning were either not known to the County Council or were not taken into account by the County Council; or
3. By establishing that the Council failed to make any provision to accommodate a plan, project, trend or need which either should have been apparent at the time of zoning or has materialized since.

The evidence of mistake in this case focuses on the second and third types of mistake, and only to a limited extent involves physical facts not readily visible or discernible at the time of comprehensive zoning.

The evidence has established that the following physical and other facts relative to the 123 acres here sought to be rezoned (and the adjoining 800 acres) were not known to, and/or were not taken into account by, the Baltimore County Council when it last rezoned this property in 1988 (or, for that matter, on any prior occasion):

rest of the Club's holdings to the subsequently acquired Fisher parcel as well. This would require the amendment of Note 7 and the General Note to change "32" to "34" and the amendment of Note 25 to add after the phrase "owned by Petitioners as of January 3, 1989" the phrase, "or acquired within one year thereafter." In addition, and in the interest of completeness, the documented site plan should be amended so as to delete the original reference to a "possible site of maintenance center" on Parcel A and to indicate the relocation of the maintenance facility to another location outside of the rezoned area. A plan showing the proposed residential lots to be located in Parcel A is attached hereto as Exhibit C. Additional details relative to the final plans and reconfigurations for the golf course and the clubhouse complex and related facilities were not a part of the original documented site plan application and are the subject of the separate and psrallel proceedings before the Zoning Commissioner to amend the original special exception in several ways and to otherwise approve the final golf course layout. A copy of the plat filed in December, 1989 with those applications is attached hereto as Exhibit D for informational purposes.

The modification of the documented site plan requested by this Motion would not alter in any way the boundaries of the rezoned area, and would not increase the number of residential

units permitted to be constructed on the total holdings of the Club in the area. The amendment is entirely responsive to an initiative taken by an existing adjoining residential community to relocate the proposed maintenance facility to a site that would have a lesser impact on adjoining communities. Attached hereto as Exhibit E is the amended and restated agreement with the Worthington/Woodsyde Community reflecting the undertaking of the Club to relocate the maintenance facility and indicating support of the Worthington/Woodsyde Community for the Club's zoning application(s). Attached as Exhibit F is a letter of support from all of the other community associations in the area of the Club's property specifically endorsing the substance of the limited request made by this Motion. The limited amendment to the documented site plan will have no adverse impact whatsoever on any other property, will minimize the impact of the Club's development activities on adjoining properties, will not increase the allowable housing units at all, will enable the Club to locate all of its planned 34 residences in the same general interior portion of the site (within the R.C. 5 rezoned land), will avoid leaving 2 homesites off by themselves in a non-contiguous portion of the site, will move residential development off the Caves Valley walls and onto the ridge plateau (where it will not be visible from Park Heights Avenue), and will further minimize any potential impact on the acquifer underlying the Valley floor.

The Board has inherent authority to act on a request to amend a documented site plan. This is especially so where the amendment does not seek to rezone any additional acreage, does not propose any increase in the extent of development permitted on the applicant's property, and would not have any adverse impact on adjoining property owners. The amendment to the documented site plan proposed herein satisfies all three of these criteria. Its approval is within the authority and discretion of the Board, and the Club would respectfully request that the requested amendments be approved. The Club has provided copies of this motion and the attachments to it to all persons whose name appeared on the Board's service or copy list during the prior proceedings as well as to Charles Heyman, Esquire who appeared at one or more of the prior hearings.

Resepctfully submitted

George A. Nilson

Piper & Marbury
1100 Charles Center South
36 South Charles Street
Baltimore, Maryland 21201
(301) 539-2530

Attorney for Petitioner

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on this 8th day of February, 1990, a copy of the foregoing Motion of Caves Valley Club, Inc. to Amend Documented Site Plan was mailed, postage prepaid to Mr. and Mrs. Alvin B. Krongard, Mitchell Kolkin, Esquire, Mr. James Earl Kraft, Phyllis C. Friedman, Esquire, Mr. P. David Fields, Mr. Pat Keller, The Honorable J. Robert Haines, The Honorable Ann M. Nastarowicz, Mr. James E. Dyer, Arnold Jablon, Esquire and Charles Heyman, Esquire. (Exhibit D plat not sent to those who already have received it or have ready access to it).

George A. Nilson

1. That the "Property" (the 123 acres here sought to be rezoned) does not consist at all of land either on the Valley floor or the Valley walls, but instead consists entirely of ridge or plateau or high land, up above the Valley walls.

2. That the Property is immediately adjacent to and oriented towards adjoining RC-5 residential communities, and has basically no orientation to the agriculturally used Valley floor below.

3. That the Property does not in any respect overlay the sensitive Cockeysville marble aquifer below the Valley floor, and thus would not involve the construction of any septic areas either over the aquifer or on the Valley walls immediately adjacent to the aquifer.

4. That concentration of all residential units on the Property as here proposed avoids entirely the possibility of any residential units on the Valley floor (over the aquifer) or on the walls.

5. That the Property is 100% forested, and utterly incapable of use for any agricultural purpose, whether the planting of crops, livestock or silvaculture.

6. That the current RC-2 - RC-5 line does not coincide with perimeter property ownership lines.

7. That the Property, along with 800 adjoining acres, was acquired by the Caves Valley Club in mid 1988 for the purpose of developing the golf course and limited residential facilities described in evidence before the Board, and that as a part of its plan the Club has committed to substantially restrict the utilization of that adjoining 800 acres in the manner described below.

The record establishes (through numerous exhibits and witnesses) that these facts are true. The record also establishes (O.P.Z. file and George Gavrellis testimony) that the County Council was not aware of these facts and/or did not take them into account in deciding on the RC-2 zoning for the Property. The testimony of George Gavrellis sums up the individual and cumulative significance of these facts to a decision as to the correct zoning for the property.

The Council was not aware of and did not take into account the plans of the Caves Valley Club for the facility now planned and the substantial land use and planning benefits flowing from the Club's plans for the property. The specific elements of the Petitioners' proposed development of the overall site which

are important to the determination of both error and the correct zoning of the property include the following:

1. The Petitioners' plans to locate all of its limited number of housing units up off the Valley floor and the Valley walls, and to completely restrict its utilization of the adjoining 800 acres for residential purposes - thus entirely eliminating the prospect of septic systems over the aquifer on the Valley floor;

2. The Petitioners' plans to place an absolute cap on the total residential development of the entire site, so that even if the zoning regulations or maps change in the future to allow a greater number of units in either the RC-2 or the RC-5 zone, the limited residential density on the 920 acres will not increase;

3. The Petitioners' plans to place virtually all of its holdings in a perpetual conservation easement, assuring that all land not utilized for the golf club facility and the limited residential component will remain open and undeveloped forever;

4. The fact that Petitioners' restrictions on the 800 acre site virtually eliminate future development pressures and thus greatly enhance

the extent to which the site will remain in long-term agricultural use, while, on the other hand, the proposed rezoning of the Property poses no adverse consequences whatsoever to nearby agricultural land.

5. The Petitioners' acceptance of the many additional restrictive provisions set forth in the agreement (Petitioners' Exhibit 3) entered into with the nearby community associations constituting in the words of Mr. Haile "the most restrictive development limitations he had ever seen a developer agree to;"

6. The opportunity afforded by Petitioners' plans for the site to put to rest forever the years of controversy that have surrounded the eastern end of the Caves Valley;

7. The fact that Petitioners' plan for the site involves a total of 32 homesites on 920 acres whereas the prior proposal before the Council during the map process would have permitted 200 RC-5 homesites plus more than a dozen RC-2 homesites, many of which would have been located on the Valley floor or walls;

8. The extent to which the Petitioners' plans for the Property and the site better serve the purposes of the zoning regulations and are more consistent with the Master Plan than retention of the existing zoning (see extensive testimony of George Gavrellis); and

9. The fact that both the Office of Planning and Zoning and the neighboring communities, which have long opposed previous proposals for the site, support the present plans and the requested reclassification (see written comments of David Fields, Petitioners' Exhibit 5, and the testimony of community representatives).

We respectfully submit that substantial documentary and testimonial evidence offered by Petitioners fully supports a determination by this Board that the RC-2 zoning of the Property was in error and that in order to correct that error, the Property should be reclassified to RC-5, to be used in accordance with Petitioners' documented site plan filed herein.

The RC-2 zone has served Baltimore County well, and will hopefully continue to do so for years to come. However, its boundaries are not perfectly drawn, and in this case are simply in error. If the Board turns down this request, and thus rejects this extraordinarily beneficial plan, the RC-2 zone and

the change/mistake doctrine will have become an engine of destruction rather than a positive force. If the RC zones of Baltimore County cannot respond to projects like this, then the extraordinarily restrictive RC-2 zone will collapse in the face of ever more strident attacks from landowners backed into a corner and prevented from going forward even with not for profit ventures such as this. Petitioners respectfully urge the Board not to paint them into that corner. By basing its decision on the many unusual and, when taken together, unique features presented in this case and outlined above, the Board need not worry about opening the floodgates or setting troublesome precedents. It is not likely that there will ever be another case like this one.

Respectfully submitted,

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Attorneys for Petitioners

Caves Valley Club, Inc.
Petition for a
Reclassification
From RC 2 to RC 5

* Baltimore County Board of Appeals

* Case Number CR-89-367

* * * * * * *

POST HEARING MEMORANDUM OF PEOPLE'S COUNSEL

This case is an out-of-cycle petition for a zoning reclassification of approximately 125 acres from RC 2 to RC 5. The land in question is part of a parcel of 925 acres of Caves Valley that the Petitioner, Caves Valley Club, Inc. has assembled. It consists of approximately 425 acres on the southwest side and 500 acres on the northeast side of Park Heights Avenue, northeast of Caves Road. The land was previously owned by Conservation Associates, Alvin Krongard and S & R Investors. Although rezoning is only requested on 125 acres, the Petition has been submitted pursuant to Section 2-58.1(1) of the Baltimore County Code as a documented site plan covering the entire 925 acres.

A number of conditions are imposed as notes on the plan. The most significant are mentioned here. First and foremost, the plan limits Petitioner to 32 RC 5 building lots on the ridge area on the northeast side of Park Heights Avenue. This area already has 3.7 acres zoned RC 5 along its border adjacent to neighboring RC 5. Since one hundred twenty-five acres of RC 5 would ordinarily generate about 80 building lots, Petitioner's proposal is considerably more limited than an open site plan.

In addition, Petitioner is waiving all rights to any other residential development on the entire 925 acres. Because the extreme southwest 20.9 acres are zoned RC 5, this would mean that Petitioner has waived its right to 14 RC 5 lots. Also, the balance of the 925 acres zoned RC 2 would generate about 18 RC 2 building sites. Petitioner thus appears to be waiving its right to 32 residential lots on the total site as a condition to the requested rezoning. Or, stated another way, when the total density of the RC 2 and RC 5 land is added together, Petitioner has asked for the same number of building lots they appear to have been entitled to as of right. The proposed reclassification, however, will permit Petitioners to place the building lots on the ridge area, adjacent to the surrounding RC 5 on the northeast side of Park Height Avenue. This could not be done under the existing zoning because of zoning regulations. And, although a Special Hearing could conceivably have reduced the acreage needing rezoning by utilizing at least some of the existing density, Petitioner evidently decided that this approach would be the least complicated.

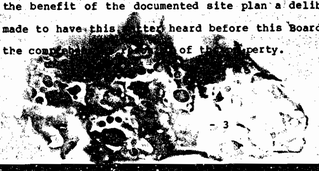
Finally, the Petition contains representations about a golf course and a conservation easement on the property. The golf course is the subject of a Special Exception which is being considered by the Zoning Commissioner of Baltimore County and the easement is conditioned upon permission for the entire project. One proposed easement will result in the agricultural land on the

425 acres on the southwest side of Park Heights remaining all fields available for agricultural use. The remaining easements and agreements have not yet been finalized.

Only a few months ago, the Court of Special Appeals dismissed this Board's denial of the request of Conservation Associates for a reclassification from RC 2 to RC 5 of 300 acres including virtually this same property; and, as it has for at least the last eight years, the same property was an issue in the last comprehensive zoning where the request for reclassification from RC 2 to RC 5 was denied by the Baltimore County Council.

Unlike this case, however, Conservation Associates proceeded on an open site plan for 300 acres which, if granted, would have permitted 200 housing units on the site with no guarantees as to the remainder of the parcel. Also unlike Conservation Associates, this proposal has received the approval of the Planning Board, the Planning Director, every nearby community association and the Valleys Planning Council. Even the County Council participated in an affirmative way when it authorized this case to proceed out of cycle.

Testimony was that the support of the various community groups is directly related to the documented site plan with the modest number of building lots requested and the finality of the proposed conservation easement. Evidence suggests that to gain the benefit of the documented site plan a deliberate decision was made to have this matter heard before this Board rather than press the comprehensive rezoning of the property.



The problem with this case is that while it may resolve the issue of what to do with the Caves Valley, it has the potential for establishing a precedent for the other 120,000 acres of RC 2 land in Baltimore County. This case therefore tests, as no other case has before, the true limits and meaning of the documented site plan in Baltimore County. Fortuitously, the Court of Appeals has recently focused on the Baltimore County Code Section 2-58.1(j) as an illustration of acceptable conditional zoning. Attman v. Mayor, 314 Md. 675 (1989), citing People's Counsel v. Mockard, 73 Md. App. 340, 343-45, 533 A. 2d 1344 (1987) at 686 n.8. Thus, we begin our analysis with this Section.

THE DOCUMENTED SITE PLAN

The authority of the Board of Appeals to reclassify zoning is contained in Sec. 2-58.1 of the Baltimore County Code. Subsection (j) contains the standard for such a reclassification. It provides in pertinent part that:

> (j) Before any property is reclassified..., the board of Appeals must find:
>
> (1) ...that the last classification of the property was established in error; and
>
> (2) that the ... reclassification of the property is warranted by that ... error."

In addition, there are 13 identified factors in Section 2-58.1(j)(2) that this Board must consider. Each of these factors must be considered both in regard to any finding of error and in any decision that the reclassification is warranted. People's Counsel v. Mockard 73 Md. App. 340 at 345 (1987).

In addition, when the zoning petition includes documentation relating to the proposed use in accordance with Subsection (1), subection (n) limits the property only to use in accordance with the plan included within that documentation. The Court of Appeals has now confirmed that, correctly applied, this statute constitutes a device for legally permissable conditional zoning in Baltimore County. Attman v. Mayor, however, tells us that it still must be correctly applied. That means that this Board must make an independent judgment and not be bound by the conditions or the judgments imposed by the Planning Board, the Planning Staff, the Community Associations, the Valleys Planning Council, or even People's Counsel.

Thus, the enthusiasm over a possible solution to the Caves Valley should not cloud this Board's opinion as to the required findings: 1) whether the last classification of the property as RC 2 was in error; and if so, 2) whether the reclassification sought is warranted by that error.

DID THE COUNTY COUNCIL ERR
ON THE LAST ZONING MAP

It is important to note that there is a "strong presumption of the correctness of original zoning and of comprehensive rezoning in particular." Boyce v. Sembley, 25 Md. App. 43 at 49 (1975). Recently, in People's Counsel v. Mockard, 73 Md. App. 340, (1978), the Court of Special Appeals addressed the standard for error to overcome the presumption of the correctness of the comprehensive zoning map. The Court said:

> A petitioner can also establish error in the comprehensive zoning with probative evidence to show that the assumptions or premises relied upon by the Council at the time of the comprehensive (re)zoning were invalid. The presumption of validity accorded comprehensive zoning may be overcome by evidence establishing that there were then existing facts which the Council, in fact, failed to take into account, or subsequently occurring event which the Council could not have taken into account. Id at 350

Do we have such evidence here?

Since this Board only recently upheld the correctness of the RC 2 zone on the property; and the correctness of the Board's decision was also only recently affirmed by the Circuit Court and reaffirmed by the County Council, only a brief restatement of the basis for those findings seems necessary. Evidence demonstrates that the property in question contains mostly prime and productive soils which both historically and currently can be used for agriculture. Although not all of the land can be tilled and the Board questioned whether silvaculture is properly included as part of agriculture, evidence shows that most farms in Baltimore County include wooded areas as well as fields.

It is essential to underline that the Board of Appeals in Conservation Associates took the point of view that the agricultural use must be viewed in its entirety, and is not subject to rezoning on the ground that any part is alleged or found not to be currently profitable or suitable. The Board therefore concluded correctly that there was no error despite its finding that part of the property was not profitable under economic conditions existing in 1986.

As to the economics of the potential current farming operation, this Board has repeatedly found that the economic

impact of a particular zoning classification is not appropriate for consideration pursuant to Section 2-58.1, and that economic feasibility is not an issue of error. (See Memorandum Opinion and Order, Gambrill et al, In the Circuit Court for Baltimore County Case No. 86-CG-2109, December 1, 1986, at page 4-5.)

Thus, there can be no dispute, that viewed in its entirety, the 925 acres contains sufficient prime and productive fields that agricultural zoning is correct. Petitioners, however, seek not the rezoning of the entire parcel, but the redrawing of the northeast zoning demarcation line along the ridges so that the portion of this property bearing the same topographical characteristics as the adjacent RC 5 also becomes RC 5.

The drawing of zoning boundaries is always a judgment call. However, it is the judgment of the County Council to which we must defer. Traditionally, boundaries have been drawn along property lines not because this method is the only method, or because it never produces mistakes, but because it produces the fewest mistakes. Streams move, power lines come down, railroad tracks are removed, but, so jealous are we of our ownership of property that ownership lines remain the most reliable.

Petitioners contend that since the adjacent RC 5 shares topographical similarity with the property for which rezoning is requested, and sizeable amounts of wooded land is not viable for agriculture, the drawing of the boundary line, in the case of this now 925 acre farm, was in error. We disagree. The issue is not where the Council might have drawn the zoning line. The issue is "at the time of the comprehensive zoning (where) the Council

failed to take into account then existing facts, or projects or trends which were reasonably foreseeable of fruition in the future, so that the Council's action was premised initially on a misapprehension."

Which brings us to the testimony of Mr. Gavrelis, the only witness to pronounce the present zoning in error. Mr. Gavrelis's conclusion may be summarized as contending that because the Council did not consider the present plan for the entire 925 acre tract including the golf course, conservation easements and limited number of homesites, it erred. Inasmuch as the present shape of the project was only in its infancy during the comprehensive rezoning, and the golf course, the linch-pin in this whole project, is still not a fait-accompli, how could the failure of the Council to consider this project be error? The council is not required to be mind-readers.

DISCUSSION

This is a curious case. In many ways, unlike Conservation Associates, it is a modest proposal for the 925 acres in question. Had Petitioner obtained clarification as to the number of RC 2 building lots to which it was entitled and obtained permission to use them on the portion of the reclassification request that shall be loosely referred to as the "tail of the Salamander," then the area for reclassification would have been reduced to 90 acres with only 15 RC 5 lots requested along the Northeast whose RC 5 boundary already runs irregularly across and into Petitioners' property line.

Equally curious, Petitioners have sufficient density on the 925 acres they have assembled to create the number of lots they require, but it is not located where it should be. Instead of the 20.5 acres now zoned RC 5 being located above the ridge on the northeast, it is on the valley walls on the southwest of this enormous parcel; and the Baltimore County Zoning Regulations do not provide any tool by which to move this density around between zones except through a reclassification petition. That means that Petitioners have the burden of proving error, even with a documented site plan.

In contrast to the seeming equities on the side of Petitioner, this Board must consider the potential impact of this case on Agricultural zoning in Baltimore County. The County Council Logs for the 1988 process show over 3,000 acres of specific issues involving R.C. 2 zoning in the Third Councilmanic District, including properties in Hereford, Sparks-Glencoe, the Middletown Road area, and the Greater Parkton, as well as the Northwest Valleys area; over 3,000 acres in the Fifth District, including Kingsville and the Bird River, together with other R.C. issues on Back River Neck and Holly Neck; and over 1,000 acres in the Sixth District, extending up into the Glenarm and the Eastern Valleys; and isolated issues in the First and Seventh Councilmanic Districts, such as Patapsco and Norris farm (Browning Ferris). The great majority of these issues involved requests for R.C. 5 zoning, with the exception of the Fifth Councilmanic District, where much of the property was placed in the new Critical Area Classifications (R.C. 20 or R.C. 50). It is important that this

case does not encourage the expectation that agricultural land can be converted to residential use at a higher density than existing zoning, or create uncertainty in the agricultural community as to the intent of the county so that farmers refrain from making investment necessary to maintain and improve their agricultural operations.

Respectfully submitted,

Phyllis Cole Friedman

Phyllis Cole Friedman
People's Counsel for Baltimore County

3053B/1-10

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 25th day of April, 1989, a copy of the foregoing Post Hearing Memorandum of People's Counsel was mailed to George A. Nilson, Esquire and Thomas E. D. Millspaugh, Esquire, Piper & Marbury, 1100 Charles Center South, 36 South Charles Street, Baltimore, MD 21201; and to Charles B. Heyman, Esquire, Kaplan, Heyman, Greenberg, Engelman & Belgrad, P.A., Tenth Floor, Sun Life Bldg., 20 South Charles Street, Baltimore, MD 21201.

Phyllis Cole Friedman/mk

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REPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 451

September Term, 1987

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY

v.

ROBERT W. MOCKARD, et al

Wilner
Alpert
Bell, Rosalyn B., JJ.

OPINION BY BELL, ROSALYN B., J.

Filed: December 7, 1987

People's Counsel for Baltimore County appeals from a decision of the Circuit Court for Baltimore County, reversing in part and remanding in part, the administrative order of the County Board of Appeals of Baltimore County. Upon a finding of error in the county-wide comprehensive zoning, the County Board had conditionally granted Robert W. Mockard, et al., appellees, a piecemeal zoning reclassification. Appellees filed a cross-appeal. The issues we will deal with on appeal are:

1. Whether the Board's limitation on the future use of the subject property is an invalid condition on the reclassification.

2. Whether the Board failed to make proper findings as required by the Baltimore County Code.

3. Whether there was an error in the comprehensive zoning.

Appellees, Robert W. Mockard, et al., petitioned the Baltimore County Board of Appeals for a reclassification of property zoned Business, Local (BL-CS-2). They claimed that there was an error in the 1984 comprehensive zoning map and requested a reclassification of the property to the next higher intensity business zone, Business, Major (BM-CS-2). Appellees filed an "open plat" reclassification which, if granted, authorizes any permitted use within the designated classification. The Board, finding error, granted the reclassification for the specific purpose of expanding appellees' existing used and new car dealership.

Both parties appealed the Board's decision to the Circuit Court for Baltimore County. The court affirmed the Board's

finding of error in the comprehensive zoning but found that the conditional zoning was invalid. The court remanded the case to the Board to determine whether, based on the factors delineated by the county code, the prospective classification was warranted. Both appellant and appellee agree with the circuit court's finding regarding the invalidity of conditional zoning. Appellant appeals the court's finding of error. It claims that the evidence before the Board demonstrated that the requested reclassification was unwarranted. Appellees cross-appeal, contesting the court's remand to the Board for findings under the Baltimore County Code. They argue that the finding of error in the comprehensive zoning should be affirmed, and the condition should be stricken without remanding the case to the Board.

-- Conditional Zoning --

Conditional zoning is a zoning reclassification subject to conditions not generally applicable to land similarly zoned. "[W]hen an area of land is rezoned from one classification to another, and such change is not outright but subject to some type of conditions, then we are confronted with a conditional zoning problem." Board of County Comm'rs of Washington County v. H. Manny Holtz, Inc., 65 Md. App. 574, 579 (1985), quoting Miller, The Current Status of Conditional Zoning, Institute on Planning, Zoning, & Eminent Domain 122 (1974).

In Montgomery County v. National Capital Realty Corp., 267 Md. 364 (1972), the court said, "The invalidity of conditional zoning in Maryland is not seriously open to question."

National Capital Realty Corp., 267 Md. at 373. This Court continues to reaffirm the invalidity of conditional zoning. H. Manny Holtz, Inc., 65 Md. App. at 586. In Holtz, appellant argued that the Maryland Code provision granting local legislative bodies the general authority to rezone land contained an express grant of conditional zoning power. H. Manny Holtz, Inc., 65 Md. App. at 580. We heid that, although "various states have been attracted to conditional rezoning as a valuable planning tool, we are not inclined to construe the statute to provide for conditional use zoning in Maryland." H. Manny Holtz, Inc., 65 Md. App. at 586.

In chartered counties such as Baltimore County, there are certain limitations to the general rule invalidating conditional zoning. The Baltimore County Code provides two alternative methods for those seeking reclassification.

Sections 2-58.1(1)-(n) permit a form of conditional zoning.[1] Baltimore County, Md. Code § 2-58.1(1) (1985 Cum. Supp.) allows a petitioner to submit a specific site plan.[2]

[1]Section 2-58.1(m) deals with amending zoning reclassification petitions and is not relevant to this case.

[2]Section 2-58.1(1) provides:

"(1) If a zoning reclassification petition includes documentation relating to the proposed use of the property under petition, that documentation must include:

(Cont.)

That section requires petitioners to provide extensive

(Cont.)

"(1) Elevation drawings and a plan satisfying the zoning commissioner's rules of practice and procedure and showing locations, coverage, floor areas, heights, character, and exterior materials of all proposed structures and all existing structures to be retained; and all existing structures to be removed; signs visible outdoors; all principal uses; hours of operation, maximum number of employees, and maximum levels of emanations (including sound and other vibrations, dust, odors, gases, light and heat); parking and loading facilities; existing and proposed public and quasi-public facilities on and adjacent to the site, including stormdrain systems, waterlines, sewerage, streets and drives, and railroad sidings; existing ponds and other bodies of water, watercourses, 100 year floodplains, major vegetations, and unusual natural formations, and proposed changes in grade; and

"(2) An environmental impact statement, as defined in the Baltimore County Zoning Regulations, that concerns the proposed use of the property under petition and that has been competently prepared by a professional planner or engineer of appropriate qualifications.

"A plan submitted pursuant to this subsection may show the location of a

(Cont.)

documentation, including a specific site plan and an environmental impact statement. § 2.58.1(1) & (2). If a petitioner chooses to submit a site plan, the requirements set forth in § 2-58.1(j)[3] must be satisfied before a reclassification will be

(Cont.)

precise building envelope (a clearly delimited area within which a building is to be entirely located but which is larger than the area covered by the building itself) in lieu of the precise location of a building; may show precise maxima and minima in lieu of fixed values; may set forth lists of precisely described possible uses of a given space, in lieu of specifying a single use; and may otherwise reasonably allow for flexibility or alternatives, provided that appropriate precise limits are set forth."

[3]Section 2-58.1(j) provides:

"(j) Before any property is reclassified pursuant to this section, the board of appeals must find:

"(1) That there has occurred a substantial change in the character of the neighborhood in which the property is located since the property was last classified, or that the last classification of the property was established in error; and

"(2) That the prospective reclassification of the property is warranted by that change or error. Any finding of such a change or error and any finding that the prospective reclassification is warranted may be made only upon consideration of factors relating to the purposes of the zoning regulations and maps,

(Cont.)

granted. The reclassification is contingent upon compliance with the submitted site plan and is specifically exempted from the uniformity requirement of Baltimore County Code § 22-20, Baltimore County, Md. Code, § 2-58.1(n) (1985 Cum. Supp.).[4]

(Cont.)

including, but not limited to, the following: all of Population trends; availability and adequacy of present and proposed transportation facilities, water-supply facilities, sewerage, facilities, solid-waste disposal facilities, recreational schools, and other public facilities, compatibility of facilities generally allowable under uses the prospective classification with the present and projected development or character of the surrounding area; any pertinent recommendation of the planning board or office of planning and zoning; and consistency of the current and prospective classifications with the master plan, the county plan for sewerage and water-supply facilities, and the capital program."

[4]Section 2.58.1(n) provides:

"(n) Property may be reclassified under this section only upon making the findings required under subsection (j) of this section. Property may not be reclassified solely on the basis of documentation relating to the property's proposed use. However, any provision of section 22-20 to the contrary notwithstanding, if the petition to reclassify the property does include such documentation and is granted, the property

(Cont.)

Appellees did not choose to proceed under this method of reclassification.

In the case sub judice, appellees sought an unconditional (or "open plat") reclassification. Section 2-58.1(j) sets forth the requirement for such an unconditional reclassification.[5] Appellees were not required to submit any of the documentation necessary for a specific site reclassification. An unconditional reclassification, if granted, allows appellees to engage in any use permitted by the new zoning classification.

Even though appellees proceeded under and requested an unconditional reclassification, they introduced substantial evidence at the hearing of their intent to use the property to

(Cont.)

may be used only in accordance with the plan included within that documentation; the zoning classification of any such property will revert to the previous classification unless, within three (3) years after the date of the final order granting the petition, the property is being used in accordance with the plan or, in a case where development is necessary to implement the plan, unless the development either is completed or has been substantially undertaken and is being diligently pursued to completion. The requirement that such a property be utilized in accordance with a plan, and the provision that otherwise the classification of the property will revert, will not be affected by the subsequent enactment of a zoning map, pursuant to section 22-22 or 22-23 of this Code unless the zone classification of the property is further changed by that map.

[5]See supra n.3.

expand the existing car dealership. Neighboring property owners testified that they were concerned about a general reclassification, but had no objections to appellees' extension plans. Thus, it is not surprising that in finding error, the Board specifically conditioned the reclassification "for the specific purpose of expanding the existing used and new car dealership." In this way, the Board apparently felt it could grant the reclassification and at the same time protect the quality of life of the surrounding neighborhood.

While we appreciate the Board's concerns, we cannot ignore the method it chose to implement them. Appellees requested an unconditional reclassification. The Board did not grant it. Appellees did not follow the procedure necessary for the granting of a specific site reclassification. The Board did grant that type of reclassification. Thus, we affirm the trial judge's decision that the Board's conditional granting of the reclassification was invalid.

Appellees propose that we strike the condition but affirm the Board's decision to reclassify the property. We disagree. It is possible that the Board would have granted the reclassification despite the invalidity of the condition. But it is equally as likely that the Board would not have granted the reclassification unless it could attach the condition. Thus, it is necessary to remand the case to the Board to determine whether all permitted uses under the prospective classification are, in fact, warranted.[6]

-- Section 2-58.1(j)(2) --

The circuit court found that in granting the reclassification the Board's opinion did not reflect the requisite consideration of factors enumerated in § 2-58.1(j)(2). The court remanded the case to the Board to consider whether, based on those factors, the reclassification to BM was warranted.

Section 2-58.1(j)(2) provides:

> "That the prospective reclassification of the property is warranted by that change or error. Any finding of such a change or error and any finding that the prospective reclassification is warranted may be made only upon consideration of factors relating to the purposes of the zoning regulations and maps, including, but not limited to, all of the following: Population trends; availability and adequacy of present and proposed transportation facilities, water-supply facilities, sewerage, solid-waste disposal facilities, schools, recreational facilities, and other public facilities, compatibility of uses generally allowable under the prospective classification with the present and projected development or character of the surrounding area; any pertinent recommendation of the planning board or office of planning and zoning; and consistency of the current and prospective classifications with the master plan, the county plan for sewerage and water-supply facilities, and the capital program." (Emphasis added.)

[6] On remand, appellees may choose to amend and proceed in accordance with the specific site plan provisions.

Under that provision, the Board must make two findings: 1) that there was error in the comprehensive zoning, and 2) that the prospective reclassification is warranted. Both of those findings must be made "only upon consideration of factors ... including, but not limited to, all of the following...."

Two issues are before us on appeal. The first involves an interpretation of the phrase "consideration of factors." The second issue is whether the Board's finding of error in the comprehensive zone plan was in accordance with § 2-58.1(j)(2).

-- Consideration of Factors --

Appellees filed a cross-appeal, arguing that § 2-58.1(j)(2) does not require the Board to enter specific findings as to each factor. They claim that the Board is only required to "consider" the factors. In support of their argument, appellees quote a provision from the Anne Arundel County, Md. Code dealing with specific factors to be taken into account in rezoning cases. That provision provides in pertinent part:

> "Rezoning shall be granted or denied ... but a rezoning may not be granted except on the basis of an affirmative finding that: ...." (Specific factors omitted.) (Emphasis added.)

Anne Arundel County, Md. Code, art. 28, § 11-102 (1985).

Appellees argue that the words "affirmative finding" necessitate express findings. Conversely, they claim that the Baltimore County Board need only "consider" certain factors, hence the Board did not need to objectively deal with the factors. We do not agree with appellees' conclusion.

The threshold question is, irrespective of the specific language used in a given statute, on what basis does a court review an agency's actions? In United Steelworkers of America AFL-CIO, Local 2610 v. Bethlehem Steel Corp., 298 Md. 665 (1984), the Court answered that question as follows:

> "Judicial review of administrative action differs from appellate review of a trial court judgment. In the latter context the appellate court will search the record for evidence to support the judgment and will sustain the judgment for a reason plainly appearing on the record whether or not the reason was expressly relied upon by the trial court. However, in judicial review of agency action, the court may not uphold the agency order unless it is sustainable on the agency's findings and for the reasons stated by the agency."

United Steel Workers, 298 Md. at 679. See also Abrams, Guide to Maryland Zoning Decisions 92-93 (2d ed. 1984). The court may not supply factual findings which were not made by the Board. Ocean Hide Away Condominium Ass'n v. Boardwalk Plaza Venture, 68 Md. App. 650, 664-65 (1986). It is only when the Board's finding is uncontradicted from other sources and only one conclusion could be reached, that a lack of findings will not warrant remand. Gough v. Board of Zoning Appeals for Calvert County, 21 Md. App. 697, 704 (1974).

Anderson, American Law of Zoning, § 16.41, states succinctly the reasons why administrative agencies should make express findings:

> "Given express findings, the court can determine whether the findings are supported by substantial evidence, and whether the findings warrant the decision of the board.

If no findings are made, and if the court elects not to remand, its clumsy alternative is to read the record, speculate upon the portions which probably were believed by the board, guess at the conclusions drawn from credited portions, construct a basis for decision, and try to determine whether a decision thus arrived at should be sustained. In the process, the court is required to do much that is assigned to the board, and the latter becomes a relatively inefficient instrument for the construction of a record." (Emphasis added.)

Hence, we hold that "consideration of factors" requires an articulation of the findings as to each of the applicable factors contained in § 2-58.1(j)(2). The Board must make such findings in both a finding of error in the comprehensive plan and in a decision that the reclassification was warranted.

-- Finding of Error --

As discussed earlier, in finding error or that a reclassification is warranted, the Board must consider factors, "including, but not limited to, all of the following...." Section 2-58.1(j)(2). This means that, in order to make either of those findings, the Board must at least articulate its findings as to the 13 identified factors. Under that section, the Board is not limited in its determination to consideration of just those factors. A petitioner can also establish error in the comprehensive zoning with probative evidence to show that the assumptions or premises relied upon by the Council at the time of the comprehensive (re)zoning were invalid. The presumption of validity accorded comprehensive zoning may be overcome by evidence establishing that there were then existing facts

which the Council, in fact, failed to take into account, or subsequently occurring events which the Council could not have taken into account. Howard County v. Dorsey, 292 Md. 351, 356-58 (1982), citing Boyce v. Sembly, 25 Md. App. 43, 50-53 (1975).

In the case sub judice, the Board's decision failed to include findings relative to the factors set forth in the Code. It is conclusory in nature and lacks sufficient indication of which, if any, factors the Board considered in making its determination. In this case, the evidence introduced at the hearing does not lead to the inevitable conclusion that there was an error in the existing comprehensive plan. There was testimony by appellees' own witness that the present zoning provides for a reasonable use of the subject property. While some of the nearby property is zoned BM, the property to the immediate west is zoned BL and BR. Finally, there is no indication that there was any evidence before the Board demonstrating that the Council relied on erroneous assumptions or premises in formulating the comprehensive zoning plan.

We hold that the Board's finding of error in the comprehensive plan was not made in accordance with § 2-58.1(j)(2). There is no evidence that the Board properly considered the factors contained in that section. Thus, we are unable to reach the issues of whether there was convincing evidence of error and whether the Board's finding of error was fairly debatable.

Although with more specificity than expressed by the trial judge, we affirm the remand of the case for the Board to decide whether there was an error in the comprehensive zoning plan. In making that determination, the Board must at least "consider," as we have defined that word, the factors found in § 2-58.1(j)(2). Secondly, the Board must at least "consider" those factors and make specific findings as to whether the proposed reclassification is warranted.

JUDGMENT AFFIRMED.
COSTS TO BE DIVIDED EQUALLY BY APPELLANTS/CROSS-APPELLEES AND APPELLEES/CROSS-APPELLANTS.

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND
No. 216
September Term, 1987

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, ET AL

v.

F. & S. LIMITED PARTNERSHIP

ZONING CASE NO. R-86-340

Wilner
Bishop
Bell, Robert M.,
JJ.

PER CURIAM

Filed: October 26, 1987

Appellee, F. & S. Limited Partnership, is the owner of a 16 acre parcel of land situated in west Towson on the south side of Chesapeake Avenue. On the subject property, which is known as 7 W. Chesapeake Avenue, stands a colonial type brick dwelling, the use of which has been the subject of many lawsuits, including this one. In this case, the People's Counsel of Baltimore County appeals from an Order of the Circuit Court for Baltimore County (Turnbull, J.) which affirmed the decision of the Board of Appeals of Baltimore County (Board) reclassifying the property from Density Residential 5.5 to Residential Office.

The People's Counsel raises two questions,[1]

1. Does the record before the Board of Appeals contain evidence of error sufficient to make the Board's decision fairly debatable?

2. Is the Board's decision invalid as a matter of law because the Board failed to make the findings required by statute?

FACTS

The subject property is zoned Density Residential (D.R.) 5.5 and lies on the boundary line between that zone and the Residential Office (R-O) Zone to the east. The issue is whether the R-O Zone should be extended into the subject property.

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[1] Because we find appellant's first argument persuasive, we decline to address the second argument.

requested rezoning to R-O. The request was denied by the Board of Appeals and later affirmed by the circuit court and this Court.

Four years later, after the 1984 comprehensive rezoning maps retained the D.R. 5.5 zoning, appellee once again applied for rezoning. At the April 9, 1986, hearing, appellee presented two witnesses, Howard Frey, who is one of the principals of F. & S. Limited Partnership, and Paul Cooper, a real estate appraiser. Both witnesses testified that there had been a change in the character of the neighborhood since the zoning maps were issued in 1984. Three witnesses testified against the zoning application: Eugene Kibbe and Philip Kenney, two residents of the neighborhood in which the property is located, and James Hoswell, a member of the Office of Planning of Baltimore County. These three witnesses admitted that the area surrounding the property had seen considerable office development, although none of them felt that there had been a substantial change in the character of the neighborhood since the 1984 maps had been issued. Mr. Hoswell also testified that there had been no mistake in zoning the property D.R. 5.5 because the existing zoning provides for a reasonable use of the land.

On May 6, 1986, the Board of Appeals granted the Petition for Reclassification on the basis that the D.R. 5.5 classification was in error. On January 12, 1987, the

different conclusions, the courts will not substitute their judgment for that of the administrative body, in the absence of an unconstitutional taking of private property for public use without the payment of just compensation.... [emphasis supplied]" (Footnotes and citations omitted.)

Id. at 700 (quoting Annapolis v. Annapolis Waterfront Co., 284 Md. 383, 395-96 (1979)). In Sedney v. Lloyd, 44 Md. App. 633, 637 n.6 (1980), we noted:

> The 'fairly debatable' test is analogous to the 'clearly erroneous' standard commonly applied under Md. Rules 886 and 1086. A court must consider all of the evidence before the zoning authority; the decision is 'fairly debatable' if it is supported by substantial evidence on the record taken as a whole. (Citations omitted).

Furthermore, as the Court of Appeals stated in County Comm'rs v. Brown, 253 Md. 632, 640 (1969), citing Board v. Oak Hill Farms, 232 Md. 274, 283 (1963), : "[i]n the context of a zoning case, 'substantial evidence' means 'more than a scintilla'; such evidence 'as a reasonable mind might accept as adequate to support a conclusion'; and 'enough to justify, if the trial were to a jury, a refusal to direct a verdict.'"

There is a strong presumption of correctness of the original zoning and comprehensive rezoning; to sustain a piecemeal change, there must be strong evidence of mistake in the original zoning or a change in the character of the neighborhood. The burden of proving the basis for a piecemeal change is a heavy one. Pattey v. Board of Co. Comm'rs, 271 Md.

comprehensive zoning, that at the time of the adoption of the map the Council had before it and did, in fact, consider all of the relevant facts and circumstances then existing. Thus, in order to establish error based upon a failure to take existing facts or events reasonably foreseeable of fruition into account, it is necessary not only to show the facts that existed at the time of the comprehensive zoning but also which, if any, of those facts were not actually considered by the Council. This evidentiary burden can be accomplished by showing that specific physical facts were not readily visible or discernible at the time of the comprehensive zoning... by adducing testimony on the part of those preparing the plan that then existing facts were not taken into account;... or by producing evidence that the Council failed to make any provision to accommodate a project, trend or need which it, itself, recognized as existing at the time of the comprehensive zoning.... Because facts occurring subsequent to a comprehensive zoning were not in existence at the time, and, therefore could not have been considered, there is no necessity to present evidence that such facts were not taken into account by the Council at the time of the comprehensive zoning. Thus, unless there is probative evidence to show that there were then existing facts which the Council could not have taken into account, the presumption of validity accorded to comprehensive zoning is not overcome and the question of error is not "fairly debatable."'"

Boyce, 25 Md. App. at 50-52 (footnote and citations omitted; emphasis added).

With the applicable standard of review, presumptions and burden of proof clearly in mind, we consider the record of the evidence presented in the case sub judice which forms the basis of the decision of the Board of Appeals. In its opinion, the Board, after briefly outlining the testimony of the

"error" standard as set out in Boyce. In that case we emphasized:

> [U]nless there is probative evidence to show that there were then existing facts which the Council, in fact, failed to take into account, or subsequently occurring events which the Council could not have taken into account, the presumption of validity accorded to comprehensive zoning is not overcome and the question of error is not "fairly debatable."

Id. at 52 (footnote omitted). Certainly the physical aspects of the site were taken into account by the Council when it zoned the site D.R. 5.5 in 1984 and presumably the Council was also aware of Sections 203.1 and 203.2, since they had been passed just four years earlier. Furthermore, neither the opinion nor the testimony of the witnesses who spoke in favor of the rezoning indicates that there were any subsequently occurring events which the Council could not have taken into account when it zoned the property D.R. 5.5. The record is devoid of any evidence of "error". Indeed, as appellants point out in their brief, neither of the two witnesses who testified in favor of the rezoning even mentioned the words "mistake" or "error". The only witness who testified regarding the possibility of error was Mr. Hoswell and he stated that in his opinion, the D.R. 5.5 zoning was not in error.

The language the Board of Appeals used when it granted the petition for reclassification makes clear that the decision was premised on a finding of error. The opinion specifically states that:

> plainly appearing on the record whether or not the reason was expressly relied upon by the trial court. However, in judicial review of agency action the court may not uphold the agency order unless it is sustainable on the agency's findings and for the reasons stated by the agency.

See also Ocean Hideaway Condo v. Boardwalk Plaza, 68 Md. App. 650, 661 (1986).

It is clear from the record in this case, and from the language of the Board's opinion, that the "mistake/error" test set forth in Boyce was neither met nor properly applied, and as such, the decision of the Board of Appeals was arbitrary and capricious. Accordingly, we reverse the order of the circuit court which affirmed that decision and direct that the circuit court reverse the order of the Board of Appeals in which the rezoning was granted.

JUDGMENT REVERSED; COSTS TO BE PAID BY APPELLEE.

PETITION FOR ZONING RE-CLASSIFICATION
SPECIAL EXCEPTION AND/OR VARIANCE

TO THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY: CR-89-367

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 (1) that the zoning status of the herein described property be re-classified, pursuant to the Zoning Law of Baltimore County, from an RC-2 zone to an RC-5 zone, for the reasons given in the attached statement; and (2) for Special Exception under the Zoning Regulations of Baltimore County for the herein described property.

for

(Indicate the hardship or practical difficulty or the special exception use requested and the zoning relief requested from the zoning sections of the Zoning Law and Zoning Regulations of Baltimore County.)

This reclassification petition includes documentation in the form of a documented site plan. The documented site plan is filed herewith.

An environmental impact statement is also filed with the petition, as required.

Petitioner intends to file a related petition seeking a special exception use for a golf course/country club on adjacent property owned by or under contract to petitioner.

MAP NW/NE/SW/SE No. 27 4A DATE 11-23-87 200 BR 1000 GP G

ok to file Subject to Compliance with S. 258.1 (i) UCR 1988 0 4 1988

Property is to be posted and advertised as prescribed by The Baltimore County Code.

I, or we, agree to pay expenses of above Re-classification, Special Exception and/or Variance, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contract Purchaser: *	Legal Owner(s):*
Caves Valley Club, Inc. (Type or Print Name)	Caves Valley Club, Inc. (Type or Print Name)
Signature	Signature
2 Hopkins Plaza, Suite 1210 Address	Mr. & Mrs. Alvin B. Krongard (Type or Print Name)
Baltimore, Maryland 21201 City and State	Signature
Attorney for Petitioner:	Signature
George A. Nilson (Type or Print Name)	11747 Park Heights Avenue 356-6287 Address Phone No.
Signature	Owings Mills, Maryland 21117 City and State
36 South Charles Street Address	Name, address and phone number of legal owner, contract purchaser or representative to be contacted
Baltimore, Maryland 21201 City and State	George A. Nilson Name
Attorney's Telephone No.: 576-1769	36 S. Charles Street 576-1769 Address Phone No.
	Baltimore, Maryland 21201

BARC--Form 1

*Caves Valley Club, Inc. is the legal owner of most of the property which is the subject of this petition and is the contract purchaser of a small portion of the property (the legal owners of that portion being Mr. & Mrs. Alvin B. Krongard). See attached plat for details.

PETITION FOR ZONING RE-CLASSIFICATION
SPECIAL EXCEPTION AND/OR VARIANCE

RECEIVED COUNTY BOARD OF APPEALS JAN 5 PM 5:00

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Baltimore, Maryland 21201 City and State	Signature
Attorney for Petitioner:	Signature
George A. Nilson (Type or Print Name)	11747 Park Heights Avenue 356-6287 Address Phone No.
Signature	Owings Mills, Maryland 21117 City and State
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Baltimore, Maryland 21201 City and State	George A. Nilson Name
Attorney's Telephone No.: 576-1769	36 S. Charles Street 576-1769 Address Phone No.
	Baltimore, Maryland 21201

BARC--Form 1

*Caves Valley Club, Inc. is the legal owner of most of the property which is the subject of this petition and is the contract purchaser of a small portion of the property (the legal owners of that portion being Mr. & Mrs. Alvin B. Krongard). See attached plat for details.

DAFT-McCUNE-WALKER, INC.

200 East Pennsylvania Avenue
Towson, Maryland 21204
Telephone: 301—296-3333
Land Planning Consultants
Landscape Architects
Engineers & Surveyors

Description

To Accompany Zoning Petition

122.98 Acre Parcel, Part of Caves Valley Club, Inc. Property,

Northeast of Park Heights Avenue,

Fourth Election District, Baltimore County, Maryland

Beginning for the same at the end of the second of the two following courses and distances measured from the intersection of the centerline of Caves Road, with the centerline of Park Heights Avenue (Maryland Route 129) (1) Northwesterly 931 feet, more or less, measured along the centerline of Parks Heights Avenue, and thence leaving said centerline of Park Heights Avenue (2) North 42 degrees 56 minutes 30 seconds East 1778.75 feet, thence leaving said beginning point, referring all courses of this description to the Grid Meridian established in the Baltimore County Metropolitan District, and running the 38 following courses and distances, viz: (1) North 40 degrees 22 minutes 42 seconds West 415.25 feet, thence (2) North 60 degrees 17 minutes 31 seconds East 445.28 feet, thence (3) North 47 degrees 59 minutes 13 seconds East 366.25 feet, thence (4) North 12 degrees 17 minutes 58 seconds East 187.28 feet, thence (5) North 26 degrees 46 minutes 52 seconds West 702.03 feet, thence (6) North 35 degrees 19 minutes 26 seconds West 317.62 feet, thence (7) North 26 degrees 25 minutes 37 seconds West 257.41 feet, thence (8) North 01 degree 00 minutes 26 seconds East

340.68 feet, thence (9) North 16 degrees 24 minutes 33 seconds West 396.28 feet, thence (10) North 65 degrees 19 minutes 43 seconds East 455.16 feet, thence (11) North 29 degrees 50 minutes 32 seconds West 327.13 feet, thence (12) South 48 degrees 43 minutes 51 seconds West 441.36 feet, thence (13) North 43 degrees 33 minutes 56 seconds West 574.89 feet, thence (14) North 01 degree 25 minutes 56 seconds East 411.38 feet, thence (15) North 66 degrees 59 minutes 38 seconds West 269.35 feet, thence (16) South 17 degrees 06 minutes 44 seconds West 370.96 feet, thence (17) North 70 degrees 13 minutes 30 seconds West 1123.33 feet, thence (18) North 89 degrees 39 minutes 23 seconds West 168.08 feet, thence (19) South 51 degrees 51 minutes 28 seconds West 391.07 feet, thence (20) South 69 degrees 33 minutes 34 seconds West 337.70 feet, thence (21) South 07 degrees 29 minutes 37 seconds East 363.29 feet, thence (22) North 73 degrees 07 minutes 39 seconds East 477.22 feet, thence (23) South 81 degrees 56 minutes 35 seconds East 357.60 feet, thence (24) South 59 degrees 49 minutes 56 seconds East 550.19 feet, thence (25) South 76 degrees 58 minutes 17 seconds East 706.32 feet, thence (26) South 15 degrees 56 minutes 25 seconds East 401.98 feet, thence (27) South 36 degrees 58 minutes 15 seconds West 459.33 feet, thence (28) South 22 degrees 25 minutes 31 seconds West 469.27 feet, thence (29)

North 56 degrees 10 minutes 07 seconds West 351.87 feet, thence (30) North 13 degrees 38 minutes 27 seconds West 442.31 feet, thence (31) North 48 degrees 35 minutes 06 seconds West 350.22 feet, thence (32) North 80 degrees 38 minutes 45 seconds West 505.34 feet, thence (33) North 69 degrees 16 minutes 29 seconds West 240.56 feet, thence (34) North 44 degrees 44 minutes 52 seconds West 443.42 feet, thence (35) South 82 degrees 01 minute 42 seconds West 463.42 feet, thence (36) North 31 degrees 38 minutes 59 seconds West 392.07 feet, thence (37) North 81 degrees 29 minutes 33 seconds West 137.30 feet, and thence (38) North 10 degrees 28 minutes 04 seconds West 263.91 feet to intersect the Zoning Line separating the RC-2 zone from the RC-5 zone as shown on the 1988 Comprehensive Zoning Map of Baltimore County, thence binding along part of said Zoning Line the four following courses and distances, viz: (39) North 79 degrees 56 minutes 04 seconds East 210.72 feet, thence (40) North 03 degrees 37 minutes 34 seconds West 176.20 feet, thence (41) North 83 degrees 16 minutes 34 seconds East 47.18 feet, and thence (42) North 03 degrees 28 minutes 43 seconds West 379.45 feet, thence leaving the aforesaid Zoning Line and running the two following courses and distances, viz: (43) North 84 degrees 51 minutes 42 seconds East 1061.66 feet, and thence (44) North 06 degrees 16 minutes 56 seconds West 142.41

feet to intersect the aforesaid Zoning Line separating the RC-2 zone from the RC-5 zone, thence binding along part of said Zoning Line the two following courses and distances, viz: (45) North 85 degrees 26 minutes 03 seconds East 82.08 feet, and thence (46) North 03 degrees 03 minutes 01 second West 250.45 feet, thence leaving the aforesaid Zoning Line and running the two following courses and distances, viz: (47) South 69 degrees 25 minutes 27 seconds East 1805.80 feet, and thence (48) North 21 degrees 00 minutes 50 seconds East 95.05 feet to intersect the aforesaid Zoning Line separating the RC-2 zone from the RC-5 zone, thence binding along part of said Zoning Line the two following courses and distances, viz: (49) South 67 degrees 45 minutes 53 seconds East 24.03 feet, and thence (50) North 23 degrees 13 minutes 29 seconds East 216.50 feet, thence leaving aforesaid Zoning Line and running the two following courses and distances, viz: (51) South 38 degrees 23 minutes 32 seconds East 1112.48 feet, thence (52) South 24 degrees 33 minutes 19 seconds East 1150.68 feet to intersect the aforesaid Zoning Line separating the RC-2 zone from the RC-5 zone, thence binding along part of said Zoning Line (53) South 59 degrees 11 minutes 16 seconds West 674.27 feet, and thence (54) South 35 degrees 54 minutes 30 seconds East 36.97 feet, thence leaving the aforesaid Zoning Line and running the two following courses and distances, viz: (55) South 59 degrees 03 minutes 12 seconds West 7.12 feet,

and thence (56) South 37 degrees 01 minute 03 seconds East 366.50 feet to intersect the aforesaid Zoning Line separating the RC-2 zone from the RC-5 zone, thence binding along part of said Zoning Line the two following courses and distances, viz: (57) South 35 degrees 54 minutes 30 seconds East 275.70 feet, and thence (58) South 56 degrees 54 minutes 46 seconds East 15.68 feet, thence leaving the aforesaid Zoning Line and running the two following courses and distances, viz: (59) South 37 degrees 01 minute 03 seconds East 12.26 feet, and thence (60) South 58 degrees 22 minutes 54 seconds East 162.79 feet to intersect the aforesaid Zoning Line separating the RC-2 zone from the RC-5 zone, thence binding along part of said Zoning Line the three following courses and distances (61) South 56 degrees 54 minutes 46 seconds East 574.88 feet, thence (62) South 45 degrees 05 minutes 49 seconds West 427.27 feet, and thence (63) South 44 degrees 43 minutes 34 seconds East 49.84 feet, thence leaving aforesaid Zoning Line (64) South 42 degrees 56 minutes 30 seconds West 1018.21 feet to the point of beginning; containing 122.98 acres of land more or less.

THIS DESCRIPTION HAS BEEN PREPARED FOR ZONING PURPOSES ONLY AND IS NOT INTENDED TO BE USED FOR CONVEYANCE.

December 20, 1988

Our Job No. 88015 (L88015)

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3353

J. Robert Haines
Zoning Commissioner

Dennis F. Rasmussen
County Executive

NOTICE OF HEARING
PETITION FOR ZONING RECLASSIFICATION

CASE NUMBER: CR-89-367

LOCATION: Northeast Side of Park Heights Avenue, 931 feet Northwest of the centerline of Caves Road

PUBLIC HEARING: TUESDAY, MARCH 21, 1989 at 10:00 a.m.

The County Board of Appeals for Baltimore County, by authority of the Baltimore County Charter, will hold a public hearing:

To reclassify the property from an RC-2 zone to an RC-5 zone.

All that parcel of land in the 4th Election District of Baltimore County

Beginning for the same at the end of the second of the two following courses and distances measured from the intersection of the centerline of Caves Road, with the centerline of Park Heights Avenue (Maryland Route 129) (1) Northwesterly 931 feet, more or less, measured along the centerline of Parks Heights Avenue, and thence leaving said centerline of Park Heights Avenue (2) North 42 degrees 56 minutes 30 seconds East 1778.75 feet, thence leaving said beginning point, referring all courses of this description to the Grid Meridian established in the Baltimore County Metropolitan District, and running the 38 following courses and distances, viz: (1) North 40 degrees 22 minutes 42 seconds West 415.25 feet, thence (2) North 60 degrees

IN THE MATTER OF CAVES VALLEY CLUB, INC. REQUEST FOR RECLASSIFICATION OF APPROXIMATELY 123 ACRES, NORTHEAST SIDE OF PARK HEIGHTS AVENUE, FOURTH ELECTION DISTRICT, THIRD COUNCILMANIC DISTRICT

* BEFORE THE BOARD OF
* APPEALS OF BALTIMORE COUNTY
* CASE NO. CR89-367
*

* * * * * * * * * * *

ENTRY OF APPEARANCE

Please enter the appearance of Charles B. Heyman and Kaplan, Heyman, Greenberg, Engleman & Belgrad, P.A. on behalf of Garrison Forest Corporation, 19 S. Charles Street, Suite 700, Baltimore, Maryland 21201, telephone 727-1562, Contract Purchaser of the property known as Caves Farm Investment Company Property.

CHARLES B. HEYMAN

KAPLAN, HEYMAN, GREENBERG, ENGELMAN & BELGRAD, P.A.
20 S. Charles Street, 10th Floor
Baltimore, Maryland 21201
539-6967

Board of App. Ex No 1

RE: IN THE MATTER OF THE APPLICATION FOR RECLASSIFICATION FROM R.C. 2 TO R.C. 5 ON PROPERTY LOCATED AT: NE/S PARK HGTS. AVE., 931' NW OF C/L OF CAVES RD., 4th Election Dist.; 3rd Councilmanic Dist.
BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

CAVES VALLEY CLUB, INC. and MR. & MRS. ALVIN B. KRONGARD, Petitioners
ZONING CASE NO. CR-89-367 (out-of-cycle)

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notices should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

Phyllis Cole Friedman
Phyllis Cole Friedman
People's Counsel for Baltimore County

Peter Max Zimmerman
Peter Max Zimmerman
Deputy People's Counsel
Room 304, County Office Bldg.
111 W. Chesapeake Avenue
Towson, Maryland 21204
(301) 887-2188

I HEREBY CERTIFY that on this 27th day of February, 1989, a copy of the foregoing Entry of Appearance was mailed to George A. Nilson, Esquire, 36 S. Charles St., Baltimore, MD 21201, Attorney for Petitioners; Caves Valley Club, Inc., 2 Hopkins Plaza, Suite 1210, Baltimore, MD 21201, Contract Purchaser; and Lisa Keir, Valleys Planning Council, P. O. Box 5402, Towson, MD 21285-5402.

RECEIVED
COUNTY BOARD OF APPEALS
89 FEB 27 PM 2:17

Peter Max Zimmerman

IN THE MATTER OF
CAVES VALLEY CLUB, INC.
PETITION FOR
RECLASSIFICATION

BEFORE THE
COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY
CASE NO. CR-89-367

SUBPOENA

Please issue a Subpoena to the following named witness to appear before the County Board of Appeals of Baltimore County at the hearing for the matter captioned above on Tuesday, April 4, 1989 at 10:00 a.m. at Room 301 in the County Office Building, Towson, Maryland, and continuing thereafter as necessary for such witness' testimony and as scheduled by the Board:

Witness: P. David Fields
Address: 401 Bosley Avenue
Towson, Maryland 21204

Thomas E.D. Millspaugh
Piper & Marbury
1100 Charles Center South
36 South Charles Street
Baltimore, Maryland 21201

The witness named above is hereby ordered to so appear before the County Board of Appeals. The Board requests the Sheriff to issue the summons set forth herein.

Kathleen C. Weidenhammer
County Board of Appeals of
Baltimore County

89 MAR 31 AM 8:29
RECEIVED
COUNTY BOARD OF APPEALS

IN THE MATTER OF
CAVES VALLEY CLUB, INC.
PETITION FOR
RECLASSIFICATION

BEFORE THE
COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY
CASE NO. CR-89-367

AFFIDAVIT OF SERVICE

I, the undersigned, certify that on March 31, 1989, I effected service of process by personally serving a Subpoena upon Mr. P. David Fields at 401 Bosley Avenue, Towson, Maryland 21204 to appear before the County Board of Appeals of Baltimore County.

I further certify that I am over the age of 18.

I solemnly affirm under the penalty of perjury that the contents of this Affidavit are true and correct to my knowledge.

Thomas E.D. Millspaugh
Piper & Marbury
1100 Charles Center South
36 South Charles Street
Baltimore, Maryland 21201

RE: CAVES VALLEY CLUB, INC., et al.
PETITION FOR RECLASSIFICATION
FROM R.C. 2 to R.C. 5
NE/S Park Hgts. Ave., 931' NW
of Caves Rd., 4th Election Dist.
3rd Councilmanic District

BEFORE THE COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

ORDER FOR SUBPOENA

89 MAR 22 PM 12:00
RECEIVED
SHERIFF'S OFFICE
BALTIMORE CO.

Madame Secretary:

Please issue a subpoena for:

John J. Dillon, Jr.
Office of Planning and Zoning
Fourth Floor, Courts Building
401 Bosley Avenue
Towson, Maryland 21204

to appear as a witness on behalf of the People's Counsel for Baltimore County at the hearing scheduled in this matter before the County Board of Appeals for Wednesday, March 29, 1989, at 10:00 a.m., to attend said hearing on that date and on any subsequent days upon which it might thereafter be scheduled.

Peter Max Zimmerman
Deputy People's Counsel for
Baltimore County
Room 304, County Office Bldg.
Towson, Maryland 21204
(301) 887-2188

MR. SHERIFF:

Please issue the above Summons.

LindaLee M. Kuszmaul
Legal Secretary

COST $ 15.00
SUMMONED 3-23 1989
NOT SERVED
REASON NOT SERVED

SHERIFF
OF BALTIMORE COUNTY
J. EDWARD MALONE

89 MAR 27 AM 8:22
RECEIVED
COUNTY BOARD OF APPEALS

CERTIFICATE OF POSTING

ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

CR 89-367

District 4th Date of Posting 2-24-89
Posted for: Reclassification
Petitioner: Caves Valley Club Inc. et al
Location of property: NE side of Park Heights ave. 931 NW of the c/l of Caves Road
Location of Signs: N.E. side of Park Heights Ave. approx 1500' north of Caves Road
Remarks:
Posted by: S. J. Custer Signature Date of return: 3-3-89
Number of Signs: 1

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: James E. Dyer, Zoning Office Date: February 9, 1989
FROM: Kathleen C. Weidenhammer, County Board of Appeals
SUBJECT: Out-of-Cycle Reclassification -- Caves Valley Club, Inc.

Pursuant to Section 2-58.1(i), we are holding the hearing date of Tuesday, March 21, 1989 at 10:00 a.m. for the subject out-of cycle reclassification (Caves Valley Club, Inc.).

Attached is a copy of Resolution 6-89 passed by the County Council on February 6, 1989 approving the exemption of this reclassification petition from the regular cyclical procedure.

Please advise us of the case number assigned to this petition, and forward to this office a copy of the Notice of Hearing at the time it is mailed for our records.

Attachment

cc: People's Counsel
Pat Keller
Docket Clerk -Zoning

County Board of Appeals of Baltimore County
COUNTY OFFICE BUILDING, ROOM 315
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 887-3180

March 1, 1989

Phyllis Cole Friedman
People's Counsel for Baltimore County
Room 304, County Office Building
Towson, MD 21204

RE: Case No. CR-89-367
Caves Valley Club, Inc.

Dear Ms. Friedman:

Regarding your request for a postponement in Case No. CR-89-367, the Board will deny the requested postponement.

Case No. CR-89-367 is a Petition for Reclassification granted out-of-cycle status by the Baltimore County Council, fully advertised, and set within the prescribed limits designated for out-of-cycle reclassifications. The Board as of this moment has no dates available within these prescribed limits. Therefore, to be in compliance with these regulations, the Board has no choice but to open the case on the scheduled date.

The reasons stated in your request for the postponement may well create some difficulty in your office schedule, but do not provide justification for this Board to grant the postponement in noncompliance with the regulations that affect out-of-cycle reclassifications.

Very truly yours,

William T. Hackett, Chairman
County Board of Appeals

cc: George A. Nilson, Esquire

Mr. Hackett:

Attached is a letter from Phyllis Friedman requesting a postponement of the out of cycle reclass on the golf course (set in for 3/21/89).

I've explained to her that we must, by law, at least open this case before May 6th, give or take a day. She said that obvious choice, should Mr. Nilson agree to the request, might be to open on 3/21 and continue in open hearing to a later date in May or June. She will talk w/Nilson and get back to us as soon as she can. I'll keep in touch w/Shirley so it doesn't fall between cracks.

kathi

PETER MAX ZIMMERMAN
Deputy People's Counsel

y Club, Inc., et al.,
Petitioners - Zoning Case No.
CR-89-367

89 FEB 23 PM 3:
RECEIVED
COUNTY BOARD OF APPEALS

Dear Chairman Hackett:

I have just received notice that the above-referenced petition for reclassification has been set in for hearing on Tuesday, March 21, 1989, at 10:00 a.m., and I would respectfully request that this matter be rescheduled to a later date.

The reason for this request is many faceted. First and foremost, the matter is a major issue and will require careful preparation. Even if this office had nothing else scheduled, we would be unable to properly prepare by the 21st. However, and as a supporting reason for our request for postponement, between the date of this letter and March 21st, in addition to our regular hearing schedule, several important briefs are due in the Court of Special Appeals and the Court of Appeals, and the Circuit Court is hearing the UPS cases on March 17th. Since the Board's hearings on UPS consumed thirteen days, I am sure you will appreciate the magnitude of preparation required for this hearing. Finally, we have already had a matter set in at the Circuit Court on the 21st (Bell - Case No. 88CG2253).

I realize that the Petitioners are anxious to proceed with this matter but would point out that the granting of the golf course special exception is a condition to their petition and a postponement of this matter will not affect the processing of the request for the golf course.

I have conveyed this request to George Nilson, who will get back to me Tuesday, February 28th, after he confers with his clients.

Sincerely yours,

Phyllis Cole Friedman
People's Counsel for Baltimore County

PCF:sh
cc: George A. Nilson, Esquire

County Council of Baltimore County
Court House, Towson, Maryland 21204
(301) 494-3196

RECEIVED
COUNTY BOARD OF APPEALS
89 FEB -8 PM 2:18

COUNCIL

Ronald B. Hickernell
FIRST DISTRICT

Melvin G. Mintz
SECOND DISTRICT

Charles A. Ruppersberger, III
THIRD DISTRICT

Barbara F. Bachur
FOURTH DISTRICT

Norman W. Lauenstein
FIFTH DISTRICT

William R. Evans
SIXTH DISTRICT

Dale T. Volz
SEVENTH DISTRICT

Thomas Toporovich
SECRETARY

February 7, 1989

Mr. William T. Hackett, Chairman
Baltimore County Board of Appeals
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Dear Mr. Hackett:

Attached please find Resolution 6-89 approving the Planning Board's certification that the zoning reclassification petition filed on behalf of Caves Valley Club, Inc., owner and contract purchaser, for 123 acres of land on the northeast side of Park Heights Avenue north of Caves Road, Fourth Election District, Third Councilmanic District, should be exempted from the regular cyclical procedure of Section 2-58.1(c) through (h), inclusive, of the Baltimore County Code, 1978, 1987 Cumulative Supplement, as amended.

This Resolution was unanimously approved by the County Council at their meeting on Monday, February 6, 1989 and is being forwarded to you for appropriate action.

Sincerely,

Thomas Toporovich
Secretary

TT:dp
Enclosure

cc: The Honorable C. A. Dutch Ruppersberger, III
Mr. P. David Fields

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 1989, Legislative Day No. 1

Resolution No. 6-89

Mr. William R. Evans Councilman

By the County Council, February 6, 1989

A RESOLUTION to approve the Planning Board's certification that the zoning reclassification petition filed on behalf of Caves Valley Club, Inc., owner and contract purchaser, for 123 acres of land on the northeast side of Park Heights Avenue north of Caves Road, Fourth Election District, Third Councilmanic District, should be exempted from the regular cyclical procedure of Section 2-58.1(c) through (h), inclusive, of the Baltimore County Code, 1978, 1987 Cumulative Supplement, as amended.

WHEREAS, the Planning Board, by Resolution dated January 19, 1989, has certified that early action on the Petition for Zoning Reclassification filed on behalf of Caves Valley Club, Inc. requesting a reclassification of the above described property would be in the public interest; and

WHEREAS, the County Council of Baltimore County, in accordance with the provisions of Section 2-58.1(i) may approve said certification and exempt the Petition for Zoning Reclassification from the regular cycle procedures of Section 2-58.1.

NOW THEREFORE, BE IT RESOLVED by the County Council of Baltimore County, Maryland, that the certification by the Planning Board that early action on the zoning Reclassification Petition filed on behalf of Caves Valley Club, Inc. be and the same is hereby approved; and

BE IT FURTHER RESOLVED that the Board of Appeals shall schedule a public hearing on said Petition in accordance with Section 2-58.1(i) of the Baltimore County Code.

OFFICE COPY

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

February 15, 1989

TO: Baltimore County Zoning Plans Advisory Committee Members

FROM: W. Carl Richards
Zoning Coordinator
887-3391

SUBJECT: Out of Cycle, Documented Zoning Reclassification Petition
No: CR-89-367; Caves Valley Club, Inc./Alvin B. Krongard;
NE & SW/S Park Heights Avenue 931 Ft. NW of C/L of Caves Rd.
District: 4c3

THE ABOVE REFRENCED PETITION HAS BEEN EXEMPTED FROM THE REGULAR CYCLICAL BI-YEARLY ZONING RECLASSIFICATION PROCEDURE BY CERTIFICATION OF THE BALTIMORE COUNTY PLANNING BOARD ON JANUARY 19,1989 AND BY RESOLUTION OF THE BALTIMORE COUNTY COUN , DATED FEBRUARY 6, 1989 (ATTACHED). PURSUANT TO SECION 2-58.1(a) OF THE BALTIMORE COUNTY CODE, THE COUNTY BOARD OF APPEALS HAS SET AN EARLY HEARING DATE OF TUESDAY, MARCH 21, 1989 AT 10:00 A.M.. BECAUSE OF THE ACCELLERATED PROCEDURE, YOU ARE REQUESTED TO EXPEDITE YOUR REVIEW AND FORWARD YOUR COMMENTS PRIOR TO THE HEARING DATE. IF YOU SHOULD NEED ADDITIONAL MATERIALS TO COMPLETE YOUR COMMENTS, YOU SHOULD CONTACT THE ENGINEER, ATTORNEY OR MYSELF IN THIS OFFICE IMMEDIATELY.

WRC:jaw

Baltimore County, Maryland
Executive Office
Courthouse Mezzanine
Towson, Maryland 21204
(301) 887-2450
(301) 887-3728 (TDD)

February 24, 1989

Dennis F. Rasmussen
County Executive

Mr. Paul A. Hoffstein
3126 Huntmaster Way
Owings Mills, MD 21117

Dear Mr. Hoffstein:

Thank you for your letter dated February 2, 1989 regarding the out of cycle reclassification of Caves Valley Club, Inc. (CR 89-367).

The Board of Appeals will hold a hearing on this issue on Tuesday, March 21 at 10 a.m. in Room 301, County Office Building, 111 W. Chesepeake Avenue in Towson. No advance preparation is needed to testify at a Board of Appeals hearing. You should simply be present when the hearing begins and as a part of the process the Board will ask anyone wishing to testify to stand.

If you have specific questions regarding the process, please contact the Board of Appeals at 887-3180.

Sincerely yours,

Dennis F. Rasmussen
County Executive

DFR:pat

cc: P. David Fields, Director, OPZ
Board of Appeals

RECEIVED
COUNTY BOARD OF APPEALS
89 MAR -1 AM 8:35

County Board of Appeals of Baltimore County
COUNTY OFFICE BUILDING, ROOM 315
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 887-3180

May 16, 1990

George A. Nilson, Esquire
PIPER & MARBURY
1100 Charles Center South
36 S. Charles Street
Baltimore, MD 21201

RE: Motion to Amend Documented Site Plan -
Caves Valley Club, Inc. /#CR-89-367

Dear Mr. Nilson:

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

Sincerely,

Kathleen C. Weidenhammer
Administrative Assistant

encl.

cc: Mr. & Mrs. Alvin B. Krongard
Mitchell Kolkin, Esquire
Charles B. Heyman, Esquire
Mr. James Earl Kraft
People's Counsel for Baltimore County
P. David Fields
Pat Keller
J. Robert Haines
Ann M. Nastarowicz
James E. Dyer
W. Carl Richards, Jr.
Docket Clerk -Zoning
Arnold Jablon, County Attorney

2/27/90 -Notice of Assignment sent to following re hearing set for Wednesday, March 21, 1990 at 1:30 p.m. on Motion to Amend Documented Site Plan:

G. Nilson, Esq.
M/M Alvin B. Krongard
M. Kolkin, Esq.
C. B. Heyman, Esq.
J. Kraft
People's Counsel
D. Fields
P. Keller
R. Haines
A. Nastarowicz
J. Dyer
C. Richards
Docket Clerk -Zonirg
A. Jablon, Esq.

3/22/90 -Hearing set for 2nd day on Wednesday, March 28, 1990 at 1:30 p.m.; notice of assignment sent to above.

County Board of Appeals of Baltimore County
COUNTY OFFICE BUILDING, ROOM 315
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 887-3180

June 22, 1990

George A. Nilson, Esquire
PIPER & MARBURY
1100 Charles Center South
36 S. Charles Street
Baltimore, Maryland 21201

Re: Case No. CR-89-367 /Caves Valley Club, Inc.
Motion to Reconsider

Dear Mr. Nilson:

Enclosed please find a copy of the Ruling on Motion issued this date by the County Board of Appeals of Baltimore County in the subject matter.

Sincerely,

Kathleen C. Weidenhammer
Administrative Assistant

Enclosure

cc: Mr. & Mrs. Alvin B. Krongard
Mitchell Kolkin, Esquire
Charles B. Heyman, Esquire
Mr. James Earl Kraft
People's Counsel for Baltimore County
P. David Fields
Pat Keller
J. Robert Haines
Ann M. Nastarowicz
James E. Dyer
W. Carl Richards, Jr.
Docket Clerk - Zoning
Arnold Jablon, County Attorney

County Board of Appeals of Baltimore County
COUNTY OFFICE BUILDING, ROOM 315
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 887-3180

May 31, 1989

George A. Nilson, Esquire
Piper & Marbury
1100 Charles Center South
36 S. Charles Street
Baltimore, Maryland 21201

Re: Case No. CR-89-367
Caves Valley Club, Inc

Dear Mr. Nilson:

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

Sincerely,

Kathleen C. Weidenhammer
Administrative Secretary

Enclosure

cc: Caves Valley Club, Inc.
Mr. and Mrs. Alvin B. Krongard
Mr. Mitchell Kolkin
Mr. James Earl Kraft
Phyllis C. Friedman, People's Counsel
P. David Fields
Pat Keller
J. Robert Haines
Ann M. Nastarowicz
James E. Dyer
Docket Clerk -Zoning
Arnold Jablon, County Attorney

County Board of Appeals of Baltimore County
COUNTY OFFICE BUILDING
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 887-3180

HEARING ROOM -
Room 301, County Office Building

September 20, 1989

NOTICE OF ASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH BOARD RULE 2(b). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c), COUNTY COUNCIL BILL NO. 59-79.

CASE NO. 89-409-X — CAVES VALLEY CLUB, INC.
NE and SW side of Park Heights Avenue, 470' NW of c/l of Caves Road
4th Election District
3rd Councilmanic District
SE -for Country Club w/attendant facilities and overnight accommodations
6/6/89 -Z.C.'s Order GRANTED in part w/restrictions; DENIED in part; DISMISSED in part
7/14/89 -Z.C.'s Amended Order amending restriction #6 and permitting 8 overnight accommodation rooms.

has been scheduled for a MOTIONS ONLY HEARING on October 18, 1989; no testimony or evidence on the merits will be received at that time.

ASSIGNED FOR: WEDNESDAY, OCTOBER 18, 1989 at 11:00 a.m.

cc: Keith G. Franz, Esquire — Counsel for Appellants/Protestants
Mr. Jerry Benesch, et al — Appellants/Protestants
Andre W. Brewster, Esquire — Counsel for Petitioner
George A. Nilson, Esquire — " " "
Caves Valley Club, Inc. — Petitioner
Mr. Edward Hale — Daft, McCune & Walker, Inc. - Engineer
Mr. John Spencer — Daft, McCune & Walker, Inc. - Engineer
Ms. Virginia P. Kearney — " " " " " "
Mr. George E. Gavrelis — " " " " " "
Mr. Glen Cook (Traffic Group, Inc.) — J. Robert Haines - Ann M. Nastarowicz
Mr. Thomas Marzolf — P. David Fields - James E. Dyer
Mr. Edward G. O. Hon — Pat Keller - W. Carl Richards, Jr.
Mr. Lawrence Bectanus (Baltimore Gas & Electric) — Docket Clerk - Zoning
Ms. Kathleen Pontone (Valleys Planning Council) — Arnold Jablon - County Attorney
Mr. James Cox (Caveswood Association)
Mr. Charles Anderson (Chestnut Ridge Associate)
Mr. Norman Lorch (Timber Valley Association)
Mr. Richard Goldman (Worthington-Woodside Association)
Mr. Neil Rosenberg
Charles Heyman, Esquire
Mr. Larry Carson
People's Counsel for Baltimore County

LindaLee M. Kuszmaul
Legal Secretary

County Board of Appeals of Baltimore County
COUNTY OFFICE BUILDING
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 887-3180

HEARING ROOM -
Room 301, County Office Building

April 5, 1989
NOTICE OF ASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH BOARD RULE 2(b). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c), COUNTY COUNCIL BILL NO. 59-79.

(CONTINUED FROM 4/04/89)

CASE NO. CR-89-367 (out of cycle) — CAVES VALLEY CLUB, INC.

Hearing Day #4 — NE/s Park Heights Avenue 931' NW of c/l Caves Road
4th Election District
3rd Councilmanic District
R.C. 2 to R.C. 5
1/1/89 -Petition filed (out-of-cycle request)
2/6/89 -Resolution #6-89 passed by County Council approving out-of-cycle exemption

ASSIGNED FOR: FRIDAY, APRIL 7, 1989 at 10:00 a.m.

cc: Caves Valley Club, Inc. — Petitioner
George A. Nilson, Esquire — Counsel for Petitioner
Phyllis C. Friedman, Esquire — People's Counsel for Baltimore County
Mr. & Mrs. Alvin B. Krongard
Mr. James Earl Kraft
P. David Fields
Pat Keller
J. Robert Haines
Ann M. Nastarowicz
James E. Dyer
Docket Clerk -Zoning
Arnold Jablon, County Attorney

Kathleen C. Weidenhammer
Administrative Secretary

County Board of Appeals of Baltimore County
COUNTY OFFICE BUILDING
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 887-3180

HEARING ROOM - Room 301, County Office Building

March 29, 1989

NOTICE OF ASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH BOARD RULE 2(b). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c); COUNTY COUNCIL BILL NO. 59-79.

(CONTINUED FROM 3/29/89)

CASE NO. CR-89-367 (out-of-cycle) — CAVES VALLEY CLUB, INC.
Day #3 — NE/s Park Heights Avenue, 931' NW of c/l Caves Road
4th Election District
3rd Councilmanic District
R.C.2 to R.C.5 (Petition to reclassify the property)
1/1/89 -Petition filed (out-of-cycle request)
2/6/89 -Resolution 6-89 passed approving exemption.

ASSIGNED FOR: TUESDAY, APRIL 4, 1989 at 10:00 a.m.

cc: Caves Valley Club, Inc. — Petitioner
George A. Nilson, Esquire — Counsel for Petitioner
Mr. and Mrs. Alvin B. Krongard
Mr. James Earl Kraft
Phyllis C. Friedman, Esquire — People's Counsel for Baltimore County
P. David Fields
Patrick Keller
J. Robert Haines
Ann M. Nastarowicz
James E. Dyer
Docket Clerk -Zoning
Arnold Jablon, Esquire — Office of Law

Lindalee M. Kuszmaul
Legal Secretary

County Board of Appeals of Baltimore County
COUNTY OFFICE BUILDING
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 887-3180

HEARING ROOM - Room 301
COUNTY OFFICE BUILDING

March 22, 1990

NOTICE OF ASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH BOARD RULE 2(b). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c), COUNTY COUNCIL BILL NO. 59-79.

CASE NO. [redacted] — CAVES VALLEY CLUB, INC.
NE side Park Heights Avenue, 931' NE of centerline Caves Road
4th Election District, 3rd Councilmanic District
Day #2
5/31/89 -Zoning reclassification granted by Board of Appeals from R.C. 2 to R.C. 5 (documented site plan)
2/09/90 -Motion of Caves Valley Club,Inc., to Amend Documented Site Plan filed with Board

ASSIGNED FOR: WEDNESDAY, MARCH 28, 1990 at 1:30 p.m.

cc: George A. Nilson, Esquire — Counsel for Petitioner
Mr. & Mrs. Alvin B. Krongard
Mitchell Kolkin, Esquire
Charles B. Heyman, Esquire
Mr. James Earl Kraft
People's Counsel for Baltimore County
P. David Fields
Pat Keller
J. Robert Haines
Ann M. Nastarowicz
James E. Dyer
W. Carl Richards, Jr.
Docket Clerk -Zoning
Arnold Jablon, County Attorney

Kathleen C. Weidenhammer
Administrative Assistant

PIPER & MARBURY
1100 CHARLES CENTER SOUTH
36 SOUTH CHARLES STREET
BALTIMORE, MARYLAND 21201
301-539-2530
TELECOPIER 301-539-0489
CABLE PIPERMARB BAL
TELEX 908064

1200 NINETEENTH STREET, N.W.
WASHINGTON, D.C. 20036
202-861-3900

GEORGE A. NILSON
DIRECT DIAL NUMBER
301-576-1760

June 1, 1990

CRANESMOOR CREST

The Honorable William T. Hackett
Baltimore County Board of Appeals
County Office Building, Room 315
111 West Chesapeake Avenue
Towson, Maryland 21204

Re: Caves Valley Club - Motion to Amend Documented Site Plan
Case No. CR-89-367

Dear Chairman Hackett:

I am sorry to have to file the enclosed Motion to Reconsider, but I hope that you and the other Board members will understand when you review the Motion.

I genuinely believe that the narrow issue treated in the motion is sufficiently clear that it can be handled without a hearing, but I am certainly prepared to make myself available on short notice for a brief hearing or conference should the Board find that necessary. I believe Ms. Friedman agrees that such a conference or hearing might be desirable for all concerned.

I would appreciate your office letting me know what procedure the Board will follow in connection with this Motion to Reconsider. If at all possible, I would like to avoid having to note an appeal on the 30th day after the Board's May 16th Order.

Very truly yours,

George A. Nilson

GAN/rg
Enclosure
cc: Phyllis C. Friedman, Esquire (w/encl)
Charles B. Heyman, Esquire (w/encl).

RECEIVED
COUNTY BOARD OF APPEALS
90 JUN -1 PM 3:36

Re: In the Matter of Caves Valley Club, Inc. Motion to Amend Documented Site Plan
* Before the County Board of Appeals of Baltimore County
* Zoning Case No. CR-89-367
* (Motion to Amend Documented Site Plan)

* * * * * * * *

MOTION TO RECONSIDER

On May 16, 1990 this Board granted the motion of the Caves Valley Club, Inc. (the "Club") to amend its documented site plan approved last year, but in doing so it effectively cut the permitted density on one of petitioner's properties in half, and then reflected that density reduction in the amendment to the documented site plan which the Board approved. With all due respect to the Board, this density reduction was based upon an erroneous understanding of the facts, a misapplication of the Zoning Regulations for RC-2 land, and a misunderstanding of the nature of the Club's requested amendment. Accordingly, the Club files this Motion to Reconsider.

In 1989 the Club sought and obtained this Board's approval for the rezoning of a small portion of its 900 acre property at the intersection of Caves Road and Park Heights Avenue. This rezoning allowed the development of 32 residential homesites on approximately 120 acres of RC-5 land,

on a documented site plan pursuant to which the Club agreed to restrict the other acreage it then owned so as not to permit any residential development. Since the filing of that application in 1989, the Club has acquired an adjoining triangular parcel of land known as the Fisher parcel and containing approximately 9 acres. The Club then proceeded to evaluate two alternative plans relative to the 9 acre Fisher parcel:

1. The division of the Fisher parcel into two residential lots, with the Club retaining the 2 1/2 acre upland portion of the parcel in order to be able to redesign the first hole and locate a part of the redesigned hole on the Fisher parcel; or

2. The "surrender" of these 2 residential development units, and the amendment, with this Board's approval, of the documented site plan to allow a total of 34 units in the RC-5 acreage, and no units on the Fisher parcel (which as an after acquired parcel was not encumbered by the "no residential development" restriction of the 1989 plan).

Neither of these plans involved any increase in density on either the Fisher parcel or the Club's remaining acreage. The possible division of Fisher was not in any way designed to circumvent density restrictions or to squeeze additional density out of the Club's holdings by redrawing lot or parcel lines.

For a variety of reasons, all of which were set forth in the original Motion to Amend Documented Site Plan filed earlier this year and at the hearing thereon, the Club thought alternative No. 2 was far preferrable, and thus pursued appropriate relief with the Board.

While the Board has granted the relief requested, holding among other things that it possesses the power to amend the documented site plan and that the amendment covered by the Club's petition does not have to be "returned to the Planning Director," the Board sua sponte concluded that "a significant portion of the Fisher parcel has [already] been subdivided to be included in the special exception for the golf course" and that the parcel thus could not be further subdivided under Section 1A01.3.B.1 of the Zoning Regulations, which does not permit an RC-2 lot of this size to "be subdivided into more than 2 lots." The Board thus concluded that the Club only has the legal ability to develop a single residential unit on the remainding 6 1/2 acres of the Fisher property not being used for the golf course. Moreover, while the Club has never couched its motion for an amended documented site plan as a request to transfer density units, the Board perceived that this was the nature of the motion, and as a consequence it approved only a single additional unit for inclusion within the RC-5 area, for a total of 33 units.

In its decision, the Board erred in several respects. First, it erred in concluding that the Club had already "subdivided" the Fisher parcel, or would inevitably subdivide it, since that parcel has never been divided into separate lots, for "building development" or other purposes. It was always the Club's intention, if required to do this residential development on Fisher, to simply divide the parcel into two residential lots, retaining the right to use a 2 1/2 acre portion of the property for the first hole located on the property. The approximately 2 1/2 acres retained for use by the golf course is not and could not be used to achieve any greater density on the golf course property or increase the number of buildings or lots that can be developed there. The remaining portion of Fisher (6 1/2 acres) is more than large enough to satisfy the minimum 1 acre lot size or lot density requirements of Section 1A01.3.B.2, since each of the two platted lots would be more than two acres in size. The provision of the Zoning Regulations in question, which in essence says that an RC-2 lot of between 2 and 100 acres in size can be utilized for not more than two building lots, was never intended to prevent some other non-building use of a part of the property. The Club's proposal is not intended to circumvent the two building lot maximum in any way and is entirely faithful to it.

Section 1A01.3.B.1. provides that no "lot of record lying within an RC-2 zone" and "having a gross area between 2 and 100 acres may be subdivided into more than 2 lots (total)..." The term "subdivision," which is the key to Section 1A01.3.B.1. dealing with "Subdivision Lot Density," is defined by Section 101 as "the division of any tract or parcel of land...into two or more lots, plats or other divisions of land for the purpose...of building development for rental or sale..." (Copies of Section 1A01.3 and the definition of "subdivision" of the Zoning Regulations are attached hereto). The term "building" is defined by Section 101 as "a structure enclosed within exterior walls...for the shelter, or enclosure of persons, animals or property of any kind." The Fisher parcel is not being subdivided into more than two lots or other divisions "for rental or sale" and it is not being subdivided into more than two lots for "building development." The use of a part of the parcel for a golf hole is not the use of the land for building development, any more than would be the use of a portion of an RC-2 parcel for common open space, a baseball field, a tennis court for joint use or some other non-building use as allowed in an RC-2 zone. Moreover, it is clear that the thrust of Section 1A01.3.B. is residential density; no more than one principal dwelling is permitted on any lot in an RC-2 zone. Zoning Policy RSD-8 (copy attached) confirms the thrust and intent of Section 1A01.3 by explicitly providing for

"non-density transfers," two examples of which are for access or agriculture. In short, the Fisher parcel has not yet been subdivided into lots for building development within the meaning of the Zoning Regulations, and the Club has no intention of "subdividing" it, within the meaning of the Zoning Regulations, into any more than two building development lots. The use of a portion of Fisher for the first hole is a "non-density use" just as a tennis court or common open space would be. The Club has never contemplated more than one principal dwelling unit on each of the two lots permitted on Fisher. It is entitled to do this, and the Board was in error in concluding otherwise.

Clearly the Club could have proceeded by first dividing all of Fisher into two building lots and then either simultaneously or thereafter granting the Club an easement over the 2 1/2 acre portion to allow for a portion of the first hole. It makes no sense to say that the Club may not achieve precisely the same end result here simply because it proceeded first to construct the golf course and thereafter to consider the creation of lots (or their abandonment in favor of two lots elsewhere). To bar the second lot elevates form over substances.

In addition, this Board proceeded under the assumption that it was being asked to transfer development units from the Fisher parcel to the RC-5 acreage, and thus

appears to have felt that it was strictly limited in the number of additional homesites that it could approve within the RC-5 acreage to the number that it perceived were capable of being developed on the Fisher parcel. An examination of the Motion to Amend reveals that this is not an application to transfer, and that the Board mistakenly perceived itself as being so limited. All the Club said in its Motion was that it was capable of (and it still believes it is capable of) developing two residential lots on the Fisher property, and that it was prepared to surrender the capacity to do so as a part of this Board's approving the development of two additional lots within the Club's RC-5 acreage. The Club meant by this nothing more than to demonstrate that its proposed amendment would not result in any overall increase in the number of residential units capable of being developed on the Club's entire acreage. Even if the Board is correct in its conclusion that the use of a portion of the Fisher parcel in order to accommodate a better designed first hole somehow constitutes "a subdivision for building development" and bars the development of two residential lots on the remainder of that property, then the Board is still entirely free to grant the Club's application to allow 34 lots in the RC-5 acreage. Preclusion of one of the two lots on Fisher because of the golf course construction does not make the 120 RC-5 acres any less suitable for 34 homesites. Whether the first hole is designed as a dog leg,

thus using Fisher, or as a straightaway hole, avoiding Fisher, should not be taken as the determining factor in whether or not the Club may construct somewhere on its 900 acres the two residential units which it believed it was acquiring when it purchased the Fisher parcel. One of the units which the Club believed it was thus acquiring should not now be taken away based on a technical (and we would submit, erroneous) reading of the provisions of Section 1A01.3.B.1 of the Zoning Regulations and a derivative application of them to the Amended Documented Site Plan. This lot is a very important part of the revenue stream critically necessary to support this expensive project.

A final reason for granting the Club's motion for reconsideration is the surprise factor. The Club filed an application seeking to locate two residential units in a different and more logical portion of its 900 acre site. In acting upon that petition, the Board has proceeded to take away from the Club the right to develop one of the two residential lots which it believed and still believes it has the legal right to develop on Fisher, thus making the Club worse off than it was before it filed the Motion to Amend. At the very least, the Board owes the Club the opportunity to present facts and

argument, as set forth in this Motion, designed to demonstrate why it should not suffer a loss of one of the two Fisher lots. Fairners suggests as much.

Respectfully submitted,

George A. Nilson

George A. Nilson

Piper & Marbury
1100 Charles Center South
36 South Charles Street
Baltimore, Maryland 21201
(301) 539-2530

Attorney for Petitioner

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on this 1st day of June, 1990, a copy of the foregoing Motion to Reconsider was mailed, postage prepaid to Phyllis C. Friedman, Esquire, People's Counsel for Baltimore County, Room 304, County Office Building, Towson, Maryland 21204 and Charles B. Heyman, Esquire, Sun Life Building, 20 South Charles Street, 10th Floor, Baltimore, Maryland 21201.

George A. Nilson

Sludge Disposal Facility: Any facility used to contain, store, utilize, or dispose of stabilized sludge, including a surface impoundment, a site used for incineration, co-land-filling, land spreading, or composting of stabilized sludge. [Bill No. 46, 1982.]

Stabilized Sludge: The sludge that has been treated by a process to reduce putrescibility, significantly reduce pathogenic organisms and, except for lime stabilization, reduce the folatile [sic] solids content. [Bill No. 46, 1982.]

Story: That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, the space between such floor and the ceiling above it. A basement shall be counted as a story if its ceiling is over six feet above the average level of the finished ground surface adjoining the exterior walls of such story, or if it is used for business or dwelling purposes. [B.C.Z.R., 1955.]

Street: A motorway which is not a freeway or expressway, but which has a right of way more than 20 feet in width. [B.C.Z.R., 1955; Bill No. 100, 1970.]

Street Line: A line which divides the right of way of a street from other property; a street right-of-way line. [Bill No. 111, 1958.]

Subdivision: The division of any tract or parcel of land, including frontage along an existing street or highway, into two or more lots, plots or other divisions of land for the purpose, whether immediate or future, of building development for rental or sale, and including all changes in street or lot lines, provided, however, that this definition of a subdivision shall not include divisions of land for agricultural purposes. [B.C.Z.R., 1955.]

["Subdivision, Cluster" and definition added by Bill No. 106, 1963; deleted by Bill No. 100, 1970.]

System of Rubble Disposal or Land Reclamation for Public or Private Use: System of rubble disposal or land reclamation for public or private use means the services, facilities or properties used in connection with the disposal of rubble or land reclamation, unless these activities are limited to rubble generated by a single individual or business and disposed of on the same property where generated. While limited operation of a rubble landfill can be accessory to agricultural use, it is not a primary agricultural activity. [Bill No. 97, 1987.]

APPROVED JUL 0 1 1989

1A01.3--HEIGHT AND AREA REGULATIONS [Bill No. 98-75]

A. Height regulation. No structure hereafter erected in an R.C. 2 zone shall exceed a height of 35 feet, except as otherwise provided under Section 300. [Bill No. 98-75]

B. Area regulations. [Bill No. 178-79]

1. Subdivision Lot Density. No lot of record lying within an R.C. 2 zone and having a gross area of less than 2 acres may be subdivided. No such lot having a gross area between 2 and 100 acres may be subdivided into more than 2 lots (total), and such a lot having a gross area of more than 100 acres may be subdivided only at the rate of 1 lot for each 50 acres of gross area. [Bill No. 178-79]

2. Lot size. A lot having an area less than 1 acre may not be created in an R.C. 2 zone. [Bill No. 178-79]

3. Setback requirements. No principal structure or dwelling (whether or not it is a principal structure) in an R.C. 2 zone may be situated within 75 feet of the centerline of any street or within 35 feet of any lot line other than a street line. [Bill No. 178-79]

4. Principal dwellings per lot. No more than 1 principal dwelling is permitted on any lot in an R.C. 2 zone. [Bill No. 178-79]

1A01.4--MARYLAND AGRICULTURAL LAND PRESERVATION PROGRAM

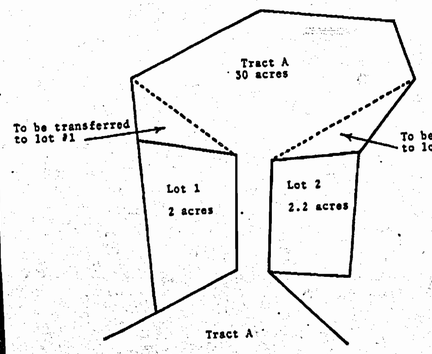
The use or development of land in an agricultural district established in accordance with Section 2-509 of the Agricultural article of the Annotated Code of Maryland, 1974, 1979 Cumulative Supplement, shall be governed by agricultural land preservation provisions enacted by the County Council pursuant to Section 2-513 of that article in the case of any conflict between those provisions and these regulations. [Bill No. 178-79]

6:17 P.09

RSD-8 SALE OR TRANSFER OF SMALL R.C. ZONED PARCELS

A. The sale or transfer of small R.C. zoned parcels, usually too small to meet the minimum lot size, for non-density purposes such as access, or agriculture, may be permitted. Depending on the use and the size of the parcels, a special hearing before the Zoning Commissioner may be required to determine if a non-density transfer is permitted.

B. In an R.C.2 zone, a parcel could possibly be transferred from the overall development tract to an adjacent existing lot of record provided that the end result does not permit a re-subdivision into a greater number of lots. In the judgement of the Zoning Supervisor and/or Zoning Commissioner, a special hearing may be required as under "A". (See diagram)



County Board of Appeals of Baltimore County
COUNTY OFFICE BUILDING, ROOM 315
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 887-3180

June 6, 1989

Keith S. Franz, Esquire
Azrael, Gann and Franz
401 Washington Avenue
Suite 502
Towson, Maryland 21204

Re: Case No. CR-89-367
Caves Valley Club, Inc.

Dear Mr. Franz:

Per your request of this date, enclosed please find a copy of the Board's final Opinion and Order issued May 31, 1989 regarding the subject matter.

Sincerely,

Lindalee M. Kuszmaul

Lindalee M. Kuszmaul
Legal Secretary

Enclosure

County Board of Appeals of Baltimore County
COUNTY OFFICE BUILDING, ROOM 315
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 887-3180

June 19, 1989

Mr. Lewis Fleury
424 Woodbine Avenue
Towson, MD 21204

RE: Caves Valley Club, Inc.
Case No. CR-89-367

Dear Mr. Fleury:

Enclosed is a copy of the final Opinion and Order which was issued by the Board of Appeals on May 31, 1989 in the subject case, as requested by you this date.

Should you have any further questions, please contact this office.

Sincerely,

Kathleen C. Weidenhammer
Administrative Secretary

Encl.

PIPER & MARBURY
800 CHARLES CENTER SOUTH
36 SOUTH CHARLES STREET
BALTIMORE, MARYLAND 21201
301-539-2530
TELECOPIER 301-539-0469
CABLE PIPERMAR BAL
TELEX 908084

1200 NINETEENTH STREET, N.W.
WASHINGTON, D.C. 20036
202-861-3900

GEORGE A. NILSON
DIRECT DIAL NUMBER
301-576-1769

April 11, 1990

The Honorable William T. Hackett, Chairman
Baltimore County Board of Appeals
Room 315, County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

Re: Caves Valley Club, Inc.
Case No. CR-89-367

Dear Chairman Hackett:

In the Documented Site Plan (dated March 16, 1990) submitted with our Motion to Amend Documented Site Plan there was a typographical error in Note 16.h.(7.) under the heading "Septic Area". It should read as follows (the underlined word being added):

"A maximum of 5,000 s.f. of any buffer area may be used for a septic reserve area unless there are NO other feasible alternatives."

We would request that the Board treat the submitted plan as amended by this note. I hope you will agree that this typographical error is clearly an inadvertent one and that the change can be made.

RECEIVED
COUNTY BOARD OF APPEALS
90 APR 12 AM 11:51

The Honorable William T. Hackett, Chairman
April 9, 1990
Page 2

PIPER & MARBURY

Thank you for your attention to this matter.

Very truly yours,

George A. Nilson

GAN/rg
cc: Mr. and Mrs. Alvin B. Krongard
Mitchell Kolkin, Esquire
Mr. James Earl Kraft
Phyllis C. Friedman, Esquire
Mr. P. David Fields
Mr. Pat Keller
The Honorable J. Robert Haines
The Honorable Ann M. Nastarowicz
Mr. James E. Dyer
Arnold Jablon, Esquire
Charles Heyman, Esquire

Baltimore County, Maryland
PEOPLE'S COUNSEL
Room 304 COURTHOUSE County Office Building
TOWSON, MARYLAND 21204
887-2188

PHYLLIS COLE FRIEDMAN
People's Counsel

PETER MAX ZIMMERMAN
Deputy People's Counsel

July 19, 1990

90 JUL 18 PM 4:40
COUNTY BOARD OF APPEALS

William T. Hackett, Chairman
County Board of Appeals
of Baltimore County
Room 315, County Office Building
Towson, MD 21204

RE: Case No. CR-89-367
Caves Valley Club, Inc.

Dear Chairman Hackett:

After much contemplation and discussion, People's Counsel has decided not to appeal the above-captioned decision which permitted petitioner to amend a documented site plan without formal submission to the Director of Planning and the Planning Board as required by Section 2-58.1(m) of the Baltimore County Code.

In making the decision not to appeal, People's Counsel does not want to suggest that they concur with the Board's reasoning that full compliance with Section 2-58.1(m) when a previously granted documented site plan is presented for amendment is not required in all cases. Rather, in weighing the substantive result, with which we concur in this case, against the procedural defect with which we do not concur, it was decided that the substantive issues outweigh the procedural and an appeal would not be sufficiently productive to expend the resources of this office.

Nevertheless, the purpose of this letter is to bring our position to the Board's attention and ask that the Board join this office in not considering the procedure in this case as precedent so that full compliance with Section 2-58.1(m) will remain an open issue to be more fully considered in any future proposal for amendment of a documented site plan.

Singerely yours,

Phyllis C. Friedman
People's Counsel for
Baltimore County

PCF/kcw

cc: George Nilson, Esquire

1800 MERCANTILE BANK & TRUST BUILDING
2 HOPKINS PLAZA
BALTIMORE, MD. 21201

February 1, 1990

Baltimore County Board of Appeals
Room 315, County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

Re: Motion of Caves Valley Club, Inc. to Modify and/or Reconsider Order entered in Case No. CR-89-367 on May 31, 1989

Gentlemen:

The undersigned associations are parties with The Caves Valley Club (the "Club") and The Valleys Planning Council to an Agreement Relative to the Proposed Caves Valley Club Golf Course Project dated as of June 15, 1988 (the "Agreement"). As contemplated by the Agreement, we supported the Club's rezoning petition which was the subject of Case No. CR-89-367 before the Board of Appeals and submitted a letter to you dated March 9, 1989 to confirm our support.

With respect to the above-referenced motion, the Club has requested our support for its proposal to shift the two residential homesites attributable to the 8-acre parcel which it acquired from Katherine Fisher to the area zoned RC-5 which had initially been designated as the site for the Club's maintenance facility. We understand from the Club that the Worthington Woodsyde Association, whose members adjoin the site, support the shifting of the two Fisher units to the site. The Club has also agreed that if its proposal to shift the Fisher units is approved, it will add the Fisher parcel to the perpetual conservation easement required under our Agreement for the northeast side of Park Heights Avenue.

On the basis of the foregoing, we are pleased to support the Club's proposal to shift the two Fisher units. If approved, this shift would take residential development off of Valley walls and move it up onto the ridge plateau, where it would not be visible from Park Heights Avenue and would not have any significant impact on the acquifer underlying the Valley floor. Furthermore, approval would assure permanent

EXHIBIT F

Baltimore County Board of Appeals
February 1, 1990
Page 2

protection for the Fisher as open space and woodland, thereby enhancing the Caves Valley at its northern end.

Sincerely,

Charles R. Anderson
Chestnut Ridge
Improvement Assn.

James G. Cox
Caveswood Association

Norman J. Lorch
Timber/Valley Association

cc: Mr. Leslie B. Disharoon
Caves Valley Club

Mr. Richard B. Buck
Valleys Planning Council

9607E

PIPER & MARBURY
1100 CHARLES CENTER SOUTH
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GEORGE A. NILSON
DIRECT DIAL NUMBER
301-576-1769

1200 NINETEENTH STREET, N.W.
WASHINGTON, D.C. 20036
202-861-3900

February 8, 1990

The Honorable William T. Hackett, Chairman
Baltimore County Board of Appeals
Room 315 County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Case No. CR-89-367 - Caves Valley Club
Motion to Amend Documented Site Plan

Dear Chairman Hackett:

Enclosed for filing is a Motion to Amend Documented Site Plan filed by the Caves Valley Club in the above rezoning classification matter, where rezoning was granted by the Board of Appeals on a documented site plan, and no appeal was taken. The proposed amendments are primarily to the notes of the documented site plan; they do not increase the size of the rezoned area in any way and they do not result in any increase in the permitted (residential) density on petitioner's property (although they do result in the relocation of two units from one a portion of petitioner's property to another interior portion of the property). The end result would be to permit 34 residential units within 126.7 R.C. 5 acres and no residential development on the Club's remaining 800 acres.

I would hope that following a 15-day response time the matter could be scheduled for hearing before the Board. I would anticipate that the hearing would be very short -- no more than an hour. All community associations surrounding the property are in support of the amendment. I informed People's

90 FEB 9 AM 8:05
COUNTY BOARD OF APPEALS

Chairman Hackett
February 6, 1990
Page 2

PIPER & MARBURY

Counsel some time ago of the essence of the proposal, and I do not believe People's Counsel opposes the change. The particulars of the proposed amendment, the background of it, and the reasons why we think it is desirable are all spelled out in the attached Motion.

Very truly yours,

George Nilson

GN:rg
cc: Mr. and Mrs. Alvin B. Krongard
Mitchell Kolkin, Esquire
Mr. James Earl Kraft
Phyllis C. Friedman, Esquire
Mr. P. David Fields
Mr. Pat Keller
The Honorable J. Robert Haines
The Honorable Ann M. Nastarowicz
Mr. James E. Dyer
Arnold Jablon, Esquire
Charles Heyman, Esquire
Enclosure

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

RECEIVED COUNTY BOARD OF APPEALS
89 MAR 13 PM 12:57

TO: William T. Hackett, Chairman
Baltimore County Board of Appeals

DATE: March 10, 1989

FROM: P. David Fields, Director
Office of Planning & Zoning

SUBJECT: Out of Cycle, Documented Zoning Reclassification Petition No: CR-89-367; Caves Valley Club, Inc./Alvin B. Krongard; NE & SW/S Park Heights Avenue 931' Ft. NW of C/L of Caves Rd
Districts: 4c3

On January 19, 1989, the Planning Board certified that a petition for reclassification submitted by the Caves Valley Club, under Section 2-58-1(1) of the County Code, be heard out of cycle.

At its meeting on February 6, 1989, the Baltimore County Council unanimously approved the Planning Board's certification and, by Resolution 6-89 requested the Board of Appeals to schedule a public hearing on the petition.

The Petitioner

The Caves Valley Club, Inc. is a non-profit organization established in 1988 by business and professional leaders in the Baltimore Metropolitan Area for the purpose of developing a 18-hole championship golf course in the County, in association with a limited number of homesites.

The Petition

The Caves Valley Club property contains approximately 900 acres and is located in the northwestern rural area of Baltimore County at the intersection of Park Heights Avenue and Caves Road. The area is not served with public utilities and is shown as a no plan service area on the County's Water and Sewerage Master Plan. For the most part, single family detached houses on large lots zoned almost entirely, RC 5, surround the subject property.

The petition, in the form of a documented site plan, would authorize and limit the development of no more than 32 homesites (as opposed to the 19 permitted by the current zoning) on 123 acres to be rezoned from RC 2 to RC 5 within a total holding of approximately 900 acres. The remaining acreage will remain RC 2 and will be placed in a permanent perpetual conservation easement. A related petition to permit the construction of a championship golf course on a portion of the 900 acres has been filed with the Zoning Commissioner.

Petition Review

In reviewing the petition by the Board of Appeals, this office has considered the following factors:-

1. A previous petition (Case No. R-86-110) requested a reclassification of two parcels with a total area of 303 acres, within a contiguous tract of 682 acres. The requested change of zoning from RC 2 to RC 5, if approved, would have permitted up to 202 residential units on land predominantly on the valley walls surrounding the floor of the Caves Valley and on the ridge or plateau above the valley.

In denying the petition, the Board acknowledged that the 303 acres under review could not be considered agricultural but determined that the proposed rezoning if approved would have unacceptable environmental impacts on the agricultural potential of the remaining RC 2 land.

The Board, in its finding however, did note that, "after having heard the extensive testimony in this case, a somewhat higher use of a residential nature over that area contained in the petition above that which is permitted as a matter of right in an RC 2 zone may not be wholly incompatible with preservation of the viable agricultural land in the Caves Valley. It may be that more testimony on this point accompanied by a documented site plan in the future may satisfy this Board or the County Council in that regard."

It is the position of this office that given the Boards' previous findings, the construction of no more than 32 homesites located on the plateau adjacent to existing single family large lot development in accordance with the documented site plan would not adversely impact the integrity of the RC 2 zoning on the valley floor and valley walls.

Road locations and alignments and lot configurations have been determined on the basis of sound environmental and site design considerations. There will be no development on valley walls, streams, buffers will be protected and tree clearance will be limited to no more than 25% of the buildable lot area.

In addition, if approved, the proposed documented site plan will require further indepth review by County Agencies as part of the regular Development Review process, prior to issuance of building permits.

2. Three further considerations have influenced our review of the current rezoning petition:-
   a. The 123 acres under consideration is part of a total holding of approximately 900 acres upon which the Caves Valley Club, Inc. desire to construct a championship golf course, as permitted in an RC 2 zone by Special Exception.

   If approved, the golf course and all remaining land zoned RC 2 will be placed in a permanent perpetual environmental easement, ensuring no further development.

   This part of the Caves Valley has been the subject of a number of rezoning requests over the past 10 years aimed primarily at obtaining zoning to permit large scale rural-residential development.

   The current petition, if approved, will put the future zoning for this part of the valley to rest and will ensure retention of its existing open character. In addition, the documented site plan stipulates that the RC 5 zoning will not take affect until construction of course is assured (as determined by County agencies).

In the event that for some unforeseen reason the golf course does not go ahead as proposed, the rezoning of the 123 acres to RC 5 will lapse and the total tract will revert to RC 2.

b. There is a significant lack of golf courses in the County. The County has limited recreational funds and the privately funded construction of this course which is dependent in part upon funds to be generated by the rezoning of the 123 acres to RC 5, will help provide additional facilities for the County's citizens.

c. The County's Economic Development Commission has identified the lack of adequate golf course provision, as a factor in deterring corporate businesses from locating in Baltimore County. The proposed reclassification will ultimately strengthen the County's economic base and provide additional employment opportunities for our citizens.

3. For the record, community associations representing residents of the area, including the Valley's Planning Council are not opposed to this petition.

Recommendation

The Board of Appeals has determined at an earlier hearing that the characteristics of the land in question do not make it suitable for agriculture. In addition, the board indicated that some intensification of residential use may be acceptable in the area subject to a documented site plan that would ensure compatibility of the proposed development with the retention of RC 2 zoning on the remainder of the property.

In view of the limited number of homesites proposed and the stringent conditions set out in the documented site plan, this office supports the petition to reclassify 123 acres from RC 2 to RC 5 as requested.

We do however, reserve the right to comment on detailed plans and permits submitted to the County as part of the subsequent development process.

Dave Fields
P. David Fields

PDF:bjs

CC: J. Timothy Fagan, Deputy Administrative Officer
J. Robert Haines, Zoning Commissioner
Robert W. Sheesley, Director, Department of Environmental Protection and Resource Management
Raymond D. Carignan, Director, Economic Development Commission
Robert R. Staab, Director, Recreation & Parks

TO: Office of Planning & Zoning
DATE: September 14, 1987
*March 2, 1988

RE: Zoning Issue Comments
Project No. 1-004

REVIEWER: Environmental Protection and Resource Management

___ The Department has no comments on the proposal.

___ The proposal is consistent with the goals of the department and meets regulatory requirements.

___ The project raises concerns in certain environmental areas, but is generally consistent with departmental goals (see comments).

_x_ The project raises substantial concerns which do not conform with the goals of the department (see comments).

___ The project would violate regulatory requirements and should be denied (see comments).

Petitioner Contact: ___
Date: ___

Field Inspection: ___
Date: ___

Comments: The Department of Environmental Protection and Resource Management is preparing a Groundwater Protection Strategy, which encompasses the critical water areas of the Valleys. Residential development at this density does not conform with attempts to preserve environmentally sensitive and woodland areas.

*This site consists of highly productive agricultural soils (Prime and Productive) as well as highly productive woodland subsoil groups, as defined by the Baltimore County Soil Survey. Silva-culture is a major component of agricultural resources; which justifies that, even though this site is predominately

Signature: Robert W. Sheesley
Title: Director
Agency: Department of Environmental Protection and Resource Management

Bd No 2 this packet

Baltimore County, Maryland

PEOPLE'S COUNSEL
ROOM 304, COUNTY OFFICE BUILDING
111 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
887-2188

PHYLLIS COLE FRIEDMAN
People's Counsel

PETER MAX ZIMMERMAN
Deputy People's Counsel

April 18, 1989

The Honorable
William T. Hackett, Chairman
Baltimore County Board of Appeals
Room 315, County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

RE: Caves Valley Club, Inc., et al., Petitioners - Zoning Case No. CR-89-367 (out of cycle)

Dear Chairman Hackett:

During the hearing of this case, People's Counsel agreed to provide the Board copies of various court and County Board of Appeals decisions. Accordingly, the following cases are enclosed:

1. People's Counsel v. Nottingham Village, Court of Special Appeals No. 1010, September Term, 1933; Circuit Court No. 83-M-91.

2. Paul Gambrill (Bancroft Homes, Inc., et al.) v. People's Counsel, Circuit Court No. 86-CG-2109; County Board of Appeals No. R-86-108.

3. Baltimore Gas and Electric Co. v. People's Counsel, Circuit Court No. 87 CG 18.

4. People's Counsel v. F. & S. Limited Partnership, Court of Special Appeals No. 216, September Term, 1987.

5. Steven H. Cudeman, et ux, Petitioners, County Board of Appeals Case No. 88-490-SPH; Circuit Court Case No. 89CG911.

6. Conservation Associates, et al. v. People's Counsel for Baltimore County, et al., No. 1724, September Term, 1987

People's Counsel will discuss the significance of these cases in their memorandum.

Sincerely yours,
Phyllis Cole Friedman
Phyllis Cole Friedman
People's Counsel for Baltimore County

Enclosures

cc: George A. Milson, Esquire (NOTE: Has enclosures)

RECEIVED COUNTY BOARD OF APPEALS 89 APR 18 PM 1:

MANDATE
Court of Special Appeals

No. 1724, September Term, 1987

Conservation Associates et al.
v.
People's Counsel for Baltimore County et al.

JUDGMENT: November 29, 1988: Order of Court, on its own motion, dismissing the appeal as moot. Maryland Rule 8-602(a)(10).

February 23, 1989: Mandate issued.

STATEMENT OF COSTS:

In Circuit Court: for BALTIMORE COUNTY
87CG2107

Record	40.00	
Stenographer Costs	286.00	
* Total *	326.00	*

In Court of Special Appeals:

Filing Record on Appeal	50.00	
Printing Brief for Appellant	177.60	
Reply Brief	177.60	
Portion of Record Extract--Appellant	2011.20	
* Total *	2416.40	*
Printing Brief for Appellee	580.80	
Portion of Record Extract--Appellee	1046.40	
* Total *	1627.20	*

STATE OF MARYLAND, Sct:

I do hereby certify that the foregoing is true taken from the records and proceedings of the said Court of Special Appeals, in testimony whereof, I have hereunto set my hand as Clerk and affixed the seal of the Court of Special Appeals, this twenty-third day of February A.D. 19 89

Sadie D. Gladet
Clerk of the Court of Special Appeals

COSTS SHOWN ON THIS MANDATE ARE TO BE SETTLED BETWEEN COUNSEL AND NOT THROUGH THIS OFFICE.

1800 MERCANTILE BANK & TRUST BUILDING
2 HOPKINS PLAZA
BALTIMORE, MD. 21201

May 18, 1989

Baltimore County Board of Appeals
Room 315, County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

Re: Rezoning Petition of Caves Valley, Club, Inc.
(Case No. CR-89-367)

Gentlemen:

This letter is to request a copy of your decision for the above-referenced case when it becomes available.

Thank you for your consideration.

Very truly yours,

Mitchell Kolkin

MK/jmc
9670O/67

RECEIVED COUNTY BOARD OF APPEALS 89 MAY 19 AM 11:25

RE: CAVES VALLEY CLUB, INC., et al. : BEFORE THE COUNTY BOARD OF APPEALS
PETITION FOR RECLASSIFICATION FROM R.C. 2 to R. C. 5 : OF BALTIMORE COUNTY
NE/S Park Hgts. Ave., 931' NW of Caves Rd., 4th Election Dist.: Zoning Case No. CR-89-367
3rd Councilmanic District
:

ORDER FOR SUBPOENA

Madame Secretary:

Please issue a subpoena for:

Paul J. Solomon
Water Quality & Resource Management
Baltimore County Environmental Protection and Resource Management Department
Fourth Floor, Courts Building
401 Bosley Avenue
Towson, Maryland 21204

to appear as a witness on behalf of the People's Counsel for Baltimore County at the hearing scheduled in this matter before the County Board of Appeals for Wednesday, March 29, 1989, at 10:00 a.m., to attend said hearing on that date and on any subsequent days upon which it might thereafter be scheduled.

Peter Max Zimmerman
Peter Max Zimmerman
Deputy People's Counsel for Baltimore County
Room 304, County Office Bldg.
Towson, Maryland 21204
(301) 887-2188

MR. SHERIFF:

Please issue the above Summons.

Linda Lee M. Kuszmaul
LindaLee M. Kuszmaul
Legal Secretary

COST $ 17.00

SUMMONED 7-33 19 89
NOT SERVED ____ 19 ____
REASON NOT SERVED ____

SHERIFF
OF BALTIMORE COUNTY
EDWARD MALONE

RECEIVED COUNTY BOARD OF APPEALS 89 MAR 22 AM 11:32
RECEIVED SHERIFF'S OFFICE BALTO. CO. 89 MAR 22 AM 11:59

PIPER & MARBURY
1100 CHARLES CENTER SOUTH
36 SOUTH CHARLES STREET
BALTIMORE, MARYLAND 21201
301-539-2530
TELECOPIER 301-539-0489
CABLE PIPERMAR BAL
TELEX 908508
1100 NINETEENTH STREET, N.W.
WASHINGTON, D.C. 20036
202-861-3900

GEORGE A. NILSON
DIRECT DIAL NUMBER
301-575-1788

March 31, 1989

William T. Hackett, Chairman
County Board of Appeals
County Office Building, Room 315
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Caves Valley Club, Inc.
Case No. CR-89-367

Dear Mr. Hackett:

As a follow up to our discussion at the conclusion of the hearing on March 29, 1989 relative to the admissibility of a testimonial transcript from of proceedings, I am enclosing copies of the following:

1. Memorandum Opinion and Order of the Circuit Court for Harford County in the Bo Peep case (see discussion at pages 17 - 36). From pages 17 - 28, the Court discusses the due process implications of an administrative agency relying substantially on evidence which a party is not able to test by cross examination. At pages 33 - 36, the Court allows the introduction of a prior hearing transcript in the Bo Peep matter, but quite pointedly on the basis that all parties in the present proceeding participated at the prior hearing and fully exercised their right to cross examination at that prior proceeding. In addition, the factual issues in those 2 proceedings were exactly the same.

RECEIVED
COUNTY BOARD OF APPEALS
89 APR -3 PM 12:27

William T. Hackett, Chairman
March 31, 1989
Page 2

PIPER & MARBURY

2. The Court of Appeals' Opinion in the Yellow Cab case, holding that testimony given in one proceeding cannot be used in another, unless the witness is dead or beyond the jurisdiction of the Court, and the parties and questions at issue are substantially the same.

3. Opinion of the Court of Appeals in Rogers v. Radio Shack, for the general proposition that in an administrative proceeding principles of fundamental fairness preclude an agency from relying on material where a party has no opportunity for cross examination or rebuttal.

4. Opinion of the Court of Appeals in Hyson v. Montgomery County Council regarding the right to cross examination in an administrative proceeding (see pages 585 - 586).

I would also like to reiterate my strong disagreement with the proposition asserted by Mr. Zimmerman that the County Council is presumed to have full knowledge of all of the testimony given in a Board proceeding such as the Conservation Associates matter. While the Council may be (rebuttably) presumed to have knowledge of readily observable physical facts about a piece of land at the time of comprehensive zoning, (1) that presumption does not extend to testimony before the Board or other administrative agencies and (2) that presumption is clearly rebuttable. There is no support in the Zoning Regulations or in case law for the kind of sweeping presumption espoused by Mr. Zimmerman.

Sincerely,

George A. Nilson

George A. Nilson

GAN/rg
Enclosures
cc: Phyllis C. Friedman, Esquire (w/encl)

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3353

J. Robert Haines
Zoning Commissioner

Dennis F. Rasmussen
County Executive

March 8, 1989

Caves Valley Club, Inc.
2 Hopkins Plaza
Suite 1210
Baltimore, Maryland 21201

Re: Petition for Reclassification
Case Number: CR-89-367

Dear Petitioners:

This is to advise you that $323.94 is due for advertising and posting of the above property. This fee must be paid before an Order is issued.

THIS FEE MUST BE PAID AND THE RECLASSIFICATION SIGN AND POST RETURNED TO THE BALTIMORE COUNTY ZONING OFFICE ON THE DAY OF THE BOARD OF APPEALS' HEARING OR THE ORDER WILL NOT BE ISSUED.

Please make your check payable to "Baltimore County, Maryland" and remit it to Ms. G. Stephens, Zoning Office, Room 113, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland 21204, before the hearing.

Very truly yours,

J. Robert Haines

J. Robert Haines
Zoning Commissioner

cc: George A. Nilson, Esq.
File

3/22/89 -Following notified of hearing (Day #2) continued Wednesday, March 29, 1989 at 10:00 a.m.:

Caves Valley Club, Inc.
George A. Nilson, Esquire
Mr. and Mrs. Alvin B. Krongard
Mr. James Earl Kraft
Phyllis Cole Friedman, Esquire
P. David Fields
Pat Keller
J. Robert Haines
Ann M. Nastarowicz
James E. Dyer
Docket Clerk -Zoning
Arnold Jablon, Esquire

3/29/89 -Above parties notified of hearing (Day #3) Tuesday, April 4, 1989 at 10:00 a.m.

4/05/89 -Above notified of hearing continued to Day #4 -Friday, April 7, 1989 at 10:00 a.m. as agreed to at close of hearing day #3, 4/04/89.

4/7/89 -Hearing completed. Counsel to provide memos by April 25, 1989; Nilson to provide Supplemental Memo by April 25. per WTH

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

DATE 2/13/89 # 085772

ACCOUNT R-01-615-000

RECEIVED FROM Piper & Marbury (fee Caves Valley Club, Inc.) AMOUNT $ 100.00

FOR Out of Cycle Reclass CR-89-367

DISTRIBUTION WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

B 071****100:01a 213LF

VALIDATION OR SIGNATURE OF CASHIER

STATEMENT OF GROUNDS OF CONTENTION OF ERROR
IN EXISTING ZONING

Attached to and Made a Part of Reclassification Petition
of Caves Valley Club, Inc. Seeking Reclassification
of Certain Property Located to the Northeast of
Park Heights Avenue and Caves Road

The requested rezoning of the property subject to this petition from RC-2 to RC-5 is based on a contention that the present RC-2 zoning of this particular property is in error. The error consists of at least the following elements:

1. The particular acreage in question comprises a small portion of a number of larger tracts presently under common ownership or control by Caves Valley Club, Inc. Those tracts in the aggregate consist of more than 900 acres, and constitute virtually the entire eastern portion of the area known as the Caves Valley. Much of the Caves Valley, particularly the floor of the Caves Valley, is zoned RC-2 and is devoted to agricultural use. The Valley floor consists of low-lying terrain which is not suitable for building generally or for residential development in particular. The acreage for which rezoning is sought consists of land dramatically different from the floor of the Caves Valley. It is located at substantially higher elevations, is located above the walls of the Valley or up on plateaus or ridges, is fully forested, drawn its water from a different aquifer, and in virtually all physical and topographical respects is far more similar to the contiguous RC-5 zoned land which adjoins it and which largely surrounds the northeastern portion of the Caves Valley.

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15688-1

-2-

2. The perimeter ownership boundaries of the property coincide with the dividing lines between RC-5 and RC-2 roughly but not precisely. The zoning boundaries as now drawn are thus arbitrary and in error in that they do not coincide with either property ownership lines or land characteristics.

3. The acreage for which rezoning is sought is not capable of being utilized for the planting of crops or for other prime agricultural purposes. The Baltimore County Board of Appeals has so found as a matter of fact in prior zoning proceedings relative to this and adjoining acreage. Virtually all of the subject property is fully forested; foresting and tree harvesting on this property is not feasible, economically or otherwise, and would be more environmentally harmful than retention of these forested portions of the site not planned for development under the proposed documented site plan.

4. The acreage for which rezoning is sought is topographically and functionally separate from and independent of the farmland located on the Valley floor. It is separated from that agricultural land by a large overhead BG&E transmission line and Park Heights Avenue.

5. The larger property owned or controlled by petitioner, of which the subject acreage is a part, cannot economically be retained in RC-2 zoning in its entirety and devoted to agricultural use. Use of the property for entirely agricultural purposes and the limited homesites permitted under 100% 50 acre RC-2 zoning, with no relief whatsoever, would deprive petitioner of the right either to make a fair and economical use of the property, to realize the fair value of the property and/or to recover the costs of acquisition. Retention of the present zoning and denial of the limited relief requested by the petition would constitute a taking of the petitioner's property without just compensation.

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15688-1

-3-

6. The requested rezoning of the subject acreage would make possible the permanent retention of approximately 800 acres of the Caves Valley (now owned or controlled by Petitioner) in open space, entirely undeveloped by buildings or other similar man-made structures, and the permanent preservation of the vast majority of that acreage in an entirely natural and/or agricultural use state. These permanent protections would be achieved by a combination of documented site plan limitations and perpetual conservation easements. Such a possibility has never before been presented to the zoning authorities of Baltimore County and represents a unique opportunity to preserve the open and undeveloped character of the Caves Valley.

7. The requested rezoning, and the related use of the adjoining acreage, could not be presented to the County Council of Baltimore County during the 1988 comprehensive rezoning process because the petitioner did not own or control the property in question at the time of the deadline for submitting rezoning requests, and because, in any event, the Community Associations most immediately affected by the use of the acreage insisted on petitioners' delaying the presentation of any rezoning request until January of 1989. While the County Council's rejection of the far different and more sweeping rezoning requests presented to the County Council (which would have authorized hundreds of dwelling units on the 900 acres now controlled by petitioner) was understandable, the maps adopted are in error by their failure to have rezoned the lesser acreage which is the subject of this petition to the RC-5 category.

7124e:12/20/88
15688-1

-4-

PIPER & MARBURY

1100 CHARLES CENTER SOUTH
36 SOUTH CHARLES STREET
BALTIMORE, MARYLAND 21201
301-539-2530
TELECOPIER 301-539-0489
CABLE ADDRESS: PIPMAR BALT
TELEX 908093

1200 NINETEENTH STREET, N.W.
WASHINGTON, D.C. 20036
202-861-3900

GEORGE A. NILSON
DIRECT DIAL NUMBER
301-539-2195

January 3, 1989

Mr. Harold Reid, Chairman
Baltimore County Planning Board
401 Bosley Avenue, Room 406
Towson, Maryland 21204

Mr. David Fields
Director, Office of Planning and Zoning
for Baltimore County
401 Bosley Avenue
4th Floor Courthouse
Towson, Maryland 21204

Re: Caves Valley Club Request for Out of Cycle Reclassification of 2 proximately 123 Acres, Northeast Side of Park Heights Avenue to the North of Caves Road; Fourth Election District, Third Councilmanic District

Gentlemen:

This firm represents the Caves Valley Club, Inc. petitioner in a zoning reclassification case on a documented site plan now pending before the County Board of Appeals of Baltimore County. For the reasons set forth herein, The Caves Valley Club respectfully requests pursuant to Section 2-58.1(i) of the Baltimore County Code that the Planning Board certify to the County Council of Baltimore County that it is manifestly in the public interest to accept a petition for reclassification on a documented site plan "out of cycle" for the rezoning of the above referenced parcel from RC-2 to RC-5.

The petition would authorize, and limit the development of only 32 homesites on a 123 acre area out of the more than 900 acres now owned or controlled by the Caves Valley Club. The petition and documented site plan have been filed with the Baltimore County Board of Appeals, and a related petition for a special exception authorizing the establishment of a world class championship golf course (designed by Tom Fazio) on a portion of Caves Valley Club's adjoining acreage will soon be filed with County Zoning Officials. We ask that the Planning Board consider this issue now for action at its January meeting in the hope that the certification to the County Council can permit action by the Council in February, 1989.

Caves Valley Club is a non-profit organization established in mid-1988 by 15 leaders of the business and professional community in the Baltimore Metropolitan area (see attached list) for the purpose of developing a unique world class golf course facility in Baltimore County. Options and contracts were obtained for substantial acreage in the Caves Valley area, and Caves Valley Club is now either the legal owner or the contract purchaser of more than 900 acres of land comprising virtually the entire eastern portion of the Caves Valley. This acreage includes the property formerly owned or controlled by Kingdon Gould, Jr., (and his development entity, Conservation Associates), as well as the adjoining properties of Mr. and Mrs. Alvin B. Krongard and S&R Investors. As I think you know, the Gould property has long been the subject of ambitious residential development and rezoning proposals, and zoning disputes with the local community, the Valleys Planning Council and the Peoples Counsel.

The thrust of our client's proposed use of the Caves Valley Club site is the establishment of a truly exceptional championship golf course designed both to serve the general community and to help overcome what has been an obstacle on a number of recent occasions to efforts to bring major corporate facilities to the Baltimore Metropolitan area - the lack of a outstanding golf course facility with membership openings in the foreseeable future.

Approval for the golf course itself (and directly related facilities) will be sought by a special exception application to be filed shortly. This letter, and its request for out of cycle rezoning consideration, relates specifically to the request for limited residential rezoning of a portion of the site, to make possible the development of 32 homesites (rather than 19, as now permitted) on the total 900 acre property in conjunction with the proposed golf course.

This limited residential rezoning is critically needed for the entire facility to be economically viable. The Caves Valley Club Board is understandably unwilling to proceed with an approximately $25,000,000 facility without having a decision in hand relative to the residential rezoning which is the linchpin of the facility's economic feasibility. While consideration of the special exception by the Zoning Commissioner could ordinarily be expected to take place in the March-April, 1989 time frame, application of the normal cycle requirements with respect to the residential rezoning would preclude consideration by the Board of Appeals until the fall of 1989. This delay of months in action on the residential rezoning would delay the golf course opening by a full year, because of the timing of site preparation work and the critical planting season. Effectively, a brief delay at the front end would translate into a delay of 12 months in the opening of the club. Given the high cost of the land assemblage involved, an extra year's carrying costs and the concomitant delay in opening (and in the receipt of revenues) would have a critical adverse affect on the economics of this non-profit, break-even proposal. The adverse impact would amount to several million dollars.

At the very least, the significant additional costs generated by a full year's delay would make it that much more difficult for the Club to continue to plan for the extra protections, amenities and other features that it would like to be able to provide. For example, we have aggressively pursued the undergrounding of the existing overhead transmission lines which presently cross the open fields of the Caves Valley, so as to enhance the aesthetics and ambiance not only of the golf course but of the Valley generally. These additional undergrounding costs will have to be borne by the club, rather than the Baltimore Gas and Electric Company or its customers, and they are substantial. It will become increasingly difficult, if not impossible, to undertake such extra measures if the Club is required to carry its land purchase costs and delay its opening for another full year. Final action on both the golf course special exception and the residential rezoning which is the subject of this letter by the spring of 1989 would make possible a spring, 1991 course opening if the result is approval rather than disapproval. Strict adherence to the cycle timing requirements would result in a full years delay in that schedule.

It is obviously impossible to anticipate what opportunities may arise in the next year to lure major corporate employers to the Baltimore Metropolitan area. There have been specific instances in recent years where this area lost out in very close contests for facilities that would have

employed thousands of people in the aggregate, and where the absence of a golf club facility is believed to have been one of perhaps several "tie, breaking" factors in the final decision-making process. The sooner that Baltimore County and the metropolitan area can rectify that shortcoming and turn it into a positive factor, the more likely we are to be able to effectively compete for major employers in our region.

Early out of cycle action on the petition for residential reclassification on a documented site plan is essential if the overall facility is to have a chance at getting underway this year, in anticipation of a 1991 opening. A delay would be substantially harmful to the overall facility for the reasons described above. Accordingly, we respectfully submit that it is manifestly in the public interest that the petition for reclassification and documented site plan be taken out of cycle as requested.

In so deciding, it is understood that the Planning Board is not making a recommendation as to the appropriateness of the requested documented RC-5 reclassification. The Board simply is certifying to the Council that, based on the facts presented, the zoning issues need to be resolved quickly for the public good.

Very truly yours,

George A. Nilson

George A. Nilson

GAN/rg
Enclosure

Directors of Caves Valley Club, Inc.

H. Furlong Baldwin
William F. Blue, Esquire
Andre W. Brewster
Peyton S. Cochran, Jr.
Leslie H. Disharoon
Jerome W. Geckle
Willard Hackerman
Robert H. Levi
George V. McGowan
Harvey M. Meyerhoff
Jack Moseley
Christian H. Poindexter
Bernard C. Trueschler
Sanford I. Weill
Calman J. Zamoiski, Jr.

STATEMENT OF GROUNDS OF CONTENTION OF ERROR IN EXISTING ZONING

Attached to and Made a Part of Reclassification Petition of Caves Valley Club, Inc. Seeking Reclassification of Certain Property Located to the Northeast of Park Heights Avenue and Caves Road

The requested rezoning of the property subject to this petition from RC-2 to RC-5 is based on a contention that the present RC-2 zoning of this particular property is in error. The error consists of at least the following elements:

1. The particular acreage in question comprises a small portion of a number of larger tracts presently under common ownership or control by Caves Valley Club, Inc. Those tracts in the aggregate consist of more than 900 acres, and constitute virtually the entire eastern portion of the area known as the Caves Valley. Much of the Caves Valley, particularly the floor of the Caves Valley, is zoned RC-2 and is devoted to agricultural use. The Valley floor consists of low-lying terrain which is not suitable for building generally or for residential development in particular. The acreage for which rezoning is sought consists of land dramatically different from the floor of the Caves Valley. It is located at substantially higher elevations, is located above the walls of the Valley and up on plateaus or ridges, is fully forested, draws its water from a different aquifer, and in virtually all physical and topographical respects is far more similar to the contiguous RC-5 zoned land which adjoins it and which largely surrounds the northeastern portion of the Caves Valley.

2. The perimeter ownership boundaries of the property coincide with the dividing lines between RC-5 and RC-2 roughly but not precisely. The zoning boundaries as now drawn are thus arbitrary and in error in that they do not coincide with either property ownership lines or land characteristics.

3. The acreage for which rezoning is sought is not capable of being utilized for the planting of crops or for other prime agricultural purposes. The Baltimore County Board of Appeals has so found as a matter of fact in prior zoning proceedings relative to this and adjoining acreage. Virtually all of the subject property is fully forested; foresting and tree harvesting on this property is not feasible, economically or otherwise, and would be more environmentally harmful than retention of these forested portions of the site not planned for development under the proposed documented site plan.

4. The acreage for which rezoning is sought is topographically and functionally separate from and independent of the farmland located on the Valley floor. It is separated from that agricultural land by a large overhead BG&E transmission line and Park Heights Avenue.

5. The larger property owned or controlled by petitioner, of which the subject acreage is a part, cannot economically be retained in RC-2 zoning in its entirety and devoted to agricultural use. Use of the property for entirely agricultural purposes and the limited homesites permitted under 100% 50 acre RC-2 zoning, with no relief whatsoever, would deprive petitioner of the right either to make a fair and economical use of the property, to realize the fair value of the property and/or to recover the costs of acquisition. Retention of the present zoning and denial of the limited relief requested by the petition would constitute a taking of the petitioner's property without just compensation.

6. The requested rezoning of the subject acreage would make possible the permanent retention of approximately 800 acres of the Caves Valley (now owned or controlled by Petitioner) in open space, entirely undeveloped by buildings or other similar man-made structures, and the permanent preservation of the vast majority of that acreage in an entirely natural and/or agricultural use state. These permanent protections would be achieved by a combination of documented site plan limitations and perpetual conservation easements. Such a possibility has never before been presented to the zoning authorities of Baltimore County and represents a unique opportunity to preserve the open and undeveloped character of the Caves Valley.

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-4-

7120:12/20/88
1568B-1

FEB 14 1989

NOTICE OF HEARING

Petition for Zoning Reclassification
Case Number: CR-89-367
NE/S Park Heights Avenue, 931 Ft. NW of c/l Caves Road
Petitioner(s): Caves Valley Club, Inc., et al

Petition to reclassify the property from an RC-2 zone to an RC-5 zone.

TIME: 10:00 a.m.

DATE: TUESDAY, MARCH 21, 1989

LOCATION: Room 301, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland 21204

WILLIAM T. HACKETT, CHAIRMAN
County Board of Appeals

cc: George A Nilson, Esq.
Caves Valley Club, Inc.
People's Counsel
Board of Appeals

THIS IS TO ADVISE YOU THAT YOU WILL BE BILLED BY THE ZONING OFFICE FOR ADVERTISING AND POSTING COSTS WITH RESPECT TO THIS CASE APPROXIMATELY A WEEK BEFORE THE HEARING. THIS FEE MUST BE PAID AND THE SIGN AND POST RETURNED TO THE ZONING OFFICE ON THE DAY OF THE HEARING OR THE ORDER WILL NOT BE ISSUED.

W.T.H.

BALTIMORE COUNTY, MARYLAND
Inter-Office Correspondence

TO: Baltimore County Zoning Plans Advisory Committee Members Date: February 15, 1989

FROM: W. Carl Richards
Zoning Coordinator WCR
887-3391

SUBJECT: Out of Cycle, Documented Zoning Reclassification Petition
No: CR-89-367; Caves Valley Club, Inc./Alvin B. Krongard;
NE & SW/S Park Heights Avenue 931 Ft. NW of C/L of Caves Rd.
District: 4c3

THE ABOVE REFRENCED PETITION HAS BEEN EXEMPTED FROM THE REGULAR CYCLICAL BI-YEARLY ZONING RECLASSIFICATION PROCEDURE BY CERTIFICATION OF THE BALTIMORE COUNTY PLANNING BOARD ON JANUARY 19,1989 AND BY RESOLUTION OF THE BALTIMORE COUNTY COUNCIL DATED FEBRUARY 6, 1989 (ATTACHED). PURSUANT TO SECION 2-58.1 (1) OF THE BALTIMORE COUNTY CODE, THE COUNTY BOARD OF APPEALS HAS SET AN EARLY HEARING DATE OF TUESDAY, MARCH 21, 1989 AT 10:00 A.M.. BECAUSE OF THE ACCELLERATED PROCEDURE, YOU ARE REQUESTED TO EXPEDITE YOUR REVIEW AND FORWARD YOUR COMMENTS PRIOR TO THE HEARING DATE. IF YOU SHOULD NEED ADDITIONAL MATERIALS TO COMPLETE YOUR COMMENTS, YOU SHOULD CONTACT THE ENGINEER, ATTORNEY OR MYSELF IN THIS OFFICE IMMEDIATELY.

WRC:jaw

Baltimore County
Department of Public Works,
Bureau of Traffic Engineering
Courts Building, Suite 405
Towson, Maryland 21204
(301) 887-3554

RECEIVED
MAR 23 1989
ZONING OFFICE

March 21, 1989

Dennis F. Rasmussen
County Executive

Mr. J. Robert Haines
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Z.A.C. Item No.: 341 & CR-89-367 February 21, 1989
Property Owner: Caves Valley Club, Inc. et. al
Location: NE & SW/S Park Heights Avenue
470' NW of the C/L Caves Road
Existing Zoning: R.C. 2
Proposd Zoning: A country club (primarily a golf oriented facility), including one regulation 18-hole golf course, practice fairways, greens, holes, and other appropriate practice facilities, a clubhouse complex including without limitation a pro shop, lounge, eating facility and locker rooms, overnight accommodations for a maximum of 40 members and their guests, other appropriate recreational facilities, maintenance facilities, associated with the aforegoing, shelters, restroom structures.
Area: 783.8 acres +/-
District: 4th Election District

Dear Mr. Haines:

The requested special exception for a golf course, country club, and 32 houses can be expected to generate between 1,490 to 1,610 trips per day.

Access to this site is from a State road and all must be approved by the State Highway Administration.

The site will be reviewed at the C.R.G. level.

Very truly yours,

Michael S. Flanigan
Traffic Engineer Associate II

MSF/lvw

Baltimore County
Fire Department
Towson, Maryland 21204-2586
494-4500

Paul H. Reincke
Chief

RECEIVED
COUNTY BOARD OF APPEALS
89 MAR 20 PM 3:40

Dennis F. Rasmussen
County Executive

J. Robert Haines, Zoning Commissioner
Office of Planning & Zoning
Baltimore County Office Building
Towson, Maryland 21204

Re: Property Owner: Caves Valley Club, Inc.

Location: NE/S Park Heights Avenue

Item No.: CR-89-367 Zoning Agenda: 03/14/89

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the coomments below marked with an "x" are applicable and required to be corrected or incorporated into the final plans for the property.

( ) 1. Fire hydrante for the referenced property are required and shall be located at intervals or _____ feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works.

( ) 2. A second means of vehicle access is required for the site.

( ) 3. The vehicle dead end condition shown at _____
EXCEEDS the maximum allowed by the Fire Department.

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

( ) 5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code," 1976 edition prior to occupancy.

( ) 6. Site plans are approved, as drawn.

(X) 7. The Fire Prevention Bureau has no comments at this time.

REVIEWER: Capt. Jay Kelly 3-20-89 NOTED & APPROVED: John E. O'Neill
Planning Group
Special Inspection Division
Fire Prevention Bureau

SEMMES, BOWEN & SEMMES
ATTORNEYS AT LAW
250 WEST PRATT STREET
BALTIMORE, MARYLAND 21201
TELEPHONE 301-539-5040
TELECOPIER 301-539-5223
CABLE TREVLAC
TELEX 87-478

P. O. BOX 6708
401 WASHINGTON AVE.
TOWSON, MARYLAND 21285
301-296-4400

1028 CONNECTICUT AVE., N.W.
WASHINGTON, D.C. 20036
TELEPHONE 202-822-8810
TELECOPIER 202-822-8858

November 2, 1987

WRITER'S DIRECT DIAL (301) 576-4845

Mr. Paul Solomon
Office of Planning & Zoning
County Courts Building
401 Bosley Avenue
Towson, Maryland 21204

Re: In the Matter of Conservation Associates

Dear Paul:

Now that both the federal and state court have rejected Mr. Gould's claims for rezoning the Caves Valley, I wanted to again thank you for your efforts in this case.

As you can see from the enclosed opinion of the Circuit Court which was issued last week, the Court "notes" your testimony which the Board of Appeals found extremely persuasive in affirming the retention of R.C. 2 zoning.

Again, many thanks for your cooperation and hard work in carefully analyzing this situation.

Sincerely,

Kathleen Pontone

KP/dlm

Enc.

cc: Robert Sheesley, Director
Department of Environmental Planning

Jack Dillon,
Office of Planning & Zoning

BALTIMORE COUNTY
DEPARTMENT OF TRAFFIC ENGINEERING
TOWSON, MARYLAND 21204
494-3550

STEPHEN E. COLLINS
DIRECTOR

March 7, 1985

Mr. William Hackett
Chairman, Board of Appeals
Office of Law, Courthouse
Towson, Maryland 21204

Cycle I - Meeting of March 6, 1985
Item No. - 4
Property Owner: Conservation Associates

Location: NE/S Park Heights Avenue 467' and 1507'
NW Caves Road
Existing Zoning: R.C.2
Proposed Zoning: R.C.5 - (3 Lots)

Acres: 306
District: 4th

Dear Mr. Hackett:

As presently zoned this site can be expected to generate approximately 75 trips per day. The proposed zoning can be expected to generate approximately 2,530 trips per day.

Michael S. Flanigan
Traffic Engineering Assoc. II

MSF/ccm

MARYLAND
DEPARTMENT OF STATE PLANNING
301 W. PRESTON STREET
BALTIMORE, MARYLAND 21201-2365

WILLIAM DONALD SCHAEFER
GOVERNOR

CONSTANCE LIEDER
SECRETARY

April 19, 1988

Mr. Harold G. Reid, Acting Chairman
Baltimore County Planning Board
Office of Planning and Zoning
County Courts Building
Room 401
Towson, Maryland 21204

Dear Mr. Reid:

Since 1976, State Planning has provided comment on Baltimore County's quadrennial comprehensive rezonings. This input evolves from the Department's interest in preserving agricultural land, protecting natural resources, and promoting growth management. We wish to thank the County's planning staff for its assistance to us in our evaluation of these zoning issues, and support its efforts to maintain a high quality living environment in Baltimore County.

This Department believes that your staff has done an excellent job in analyzing the numerous rezoning requests in the third district and making its recommendations.

Attached are our comments concerning eleven zoning issues in the Third Councilmanic District. These proposals would significantly raise development densities in areas which the County has reserved for relatively low density uses. If allowed, development at the scale envisioned under these proposals would be inimical to major goals of the Baltimore County Master Plan for these areas. These are the preservation of rural areas, agriculture, and natural resources.

Such development would also be of concern to the State.

We would appreciate your incorporating these comments into the public record of the Planning Board deliberations on these zoning issues.

Sincerely,

Scribner H. Sheafor
Director, Local Planning Assistance

cc: P. David Fields, Director of Planning
Honorable C. A. Ruppersberger, III,
County Council, Third District

SHS:MN:bez

TELEPHONE: 301-225-4550
TTY for Deaf: 301-383-7555
OFFICE OF COMPREHENSIVE POLICY PLANNING

DEPARTMENT OF STATE PLANNING REVIEW AND COMMENT
1988 Baltimore County Comprehensive Zoning Process

3-004 Conservation Associates RC2 to RC5

This Department has opposed this proposal in the past and continues to do so. The site is comprised of prime and productive agricultural land. Within a three-mile radius of the subject property, 90 percent of the undeveloped soil is prime and productive.

Rezoning would result in the loss of agricultural land and also encourage similarly destructive rezonings elsewhere in the immediate area.

Under RC5 zoning, residential construction would also create a substantial increase in impervious surface on the site, thereby reducing its ability to provide groundwater recharge to one of the most important aquifers in the County. Moreover, the introduction of septic systems on the property will potentially create problems in terms of adversely affecting the water quality of the aquifer.

To protect these agricultural and groundwater resources, and to promote the goals of the Master Plan which reserves the Caves Valley for rural and agricultural use, the County has placed its land in the RC2 category.

This Department supports the retention of this zoning.

TO: Office of Planning & Zoning DATE: September 14, 1987

RE: Zoning Issue Comments
Project No. 3-004

REVIEWER: Environmental Protection and Resource Management

___ The Department has no comments on the proposal.

___ The proposal is consistent with the goals of the department and meets regulatory requirements.

___ The project raises concerns in certain environmental areas, but is generally consistent with departmental goals (see comments).

_x_ The project raises substantial concerns which do not conform with the goals of the department (see comments).

___ The project would violate regulatory requirements and should be denied (see comments).

Petitioner Contact: ___

Date: ___

Field Inspection: ___

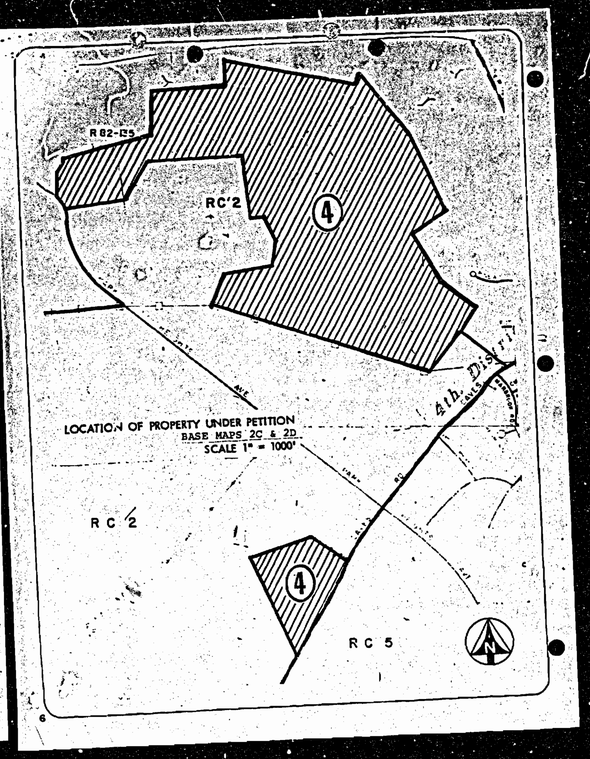
Date: ___

Comments: The Department of Environmental Protection and Resource Management is preparing a Groundwater Protection Strategy, which encompasses the critical water areas of the Valleys. Residential developmentat this density does not conform with attempts to preserve environmentally sensitive and woodland areas.

Signature: Robert W. Hurley

Title Director

Agency Department of Environmental Protection and Resource Management



6

ITEM NO. 4

PROPERTY OWNER: Conservation Associates ACREAGE: 303.3
LOCATION: S/W/S of Green Spring Avenue, 1300' N/W of Caves Road;
N/W/S of Caves Road, 2400' S/W of Park Heights Avenue
ELECTION DISTRICT: 4
COUNCILMANIC DISTRICT: 3

RECOMMENDED DATE OF HEARING: Week of September 23, 1985

ZONING PRIOR TO ADOPTION OF 1984 COMPREHENSIVE ZONING MAP: R.C. 2; R.C. 5
EXISTING ZONING: R.C. 2; R.C. 5
REQUESTED ZONING: R.C. 5

PLANNING BOARD RECOMMENDATION: Retain Existing Zoning, R.C. 2; R.C. 5

The subject site is comprised of two parcels of land, 277 and 26.3 acres, respectively, in size. It is part of a 682-acre property that is a major portion of the landform known as the Caves Valley. The portion of the property under petition corresponds for the most part with the wooded areas of the valley wall. The petitioner is requesting a change from R.C. 2 to R.C. 5 zoning and has chosen to submit plans that do not show a proposed use for the property.

Prior to the adoption of the 1984 Comprehensive Zoning Map, the property was zoned R.C. 2. During the preparation and processing of this map, the zoning of the property was identified as a specific issue before both the Planning Board and the County Council (Issue No. 3-60). The Planning staff and the Planning Board recommended the retention of R.C. 2 zoning; the County Council reaffirmed R.C. 2 zoning here.

The subject site encompasses a variety of soil types and topographic conditions that range from nearly level land (3% slope) to steep (25% to 50% slope). Areas from 3% to 8% slope are suitable for crop cultivation, pasture and woodland. The areas from 8% to 15% slope are designated as productive farm land in the Soil Survey of Baltimore County published by the U.S. Department of Agriculture; it's suitable for pasture and woodland and, with care, crop cultivation. The remainder of the site, with slopes in the 15% to 25% and 25% to 50% ranges, are wooded, and although portions could be used for pasture, the tree cover should be retained and the steeper areas should remain undisturbed. Such woodland areas prevent soil erosion and provide a habitat for wildlife.

The Caves Valley is underlain by an acquifer that has the potential to serve as a water supply source. This acquifer is recharged from the watersheds of the valley floor and walls, and the relative intensity of development at densities permitted in the R.C. 5 zoning classification would not protect this acquifer. It should be noted that the uniqueness of this area has been recognized by its inclusion in the report, Designation of Areas Of Critical State Concern Within Baltimore County.

The Planning Board believes that the existing zoning of this site is consistent with the Baltimore County Master Plan 1979-1990 and with the spirit and intent of the R.C. 2 zoning classification. Further, the Board is of the opinion that the existing zoning of the entire 682-acre property is appropriate and that the zoning map is correct.

It is therefore recommended that the existing zoning be retained.

7

ITEM NO. 4

PROPERTY OWNER: Conservation Associates ACREAGE: 303.3
LOCATION: S/W/S of Green Spring Avenue, 1300' N/W of Caves Road;
N/W/S of Caves Road, 2400' S/W of Park Heights Avenue
ELECTION DISTRICT: 4
COUNCILMANIC DISTRICT: 3

RECOMMENDED DATE OF HEARING: Week of September 23, 1985

ZONING PRIOR TO ADOPTION OF 1984 COMPREHENSIVE ZONING MAP: R.C. 2; R.C. 5
EXISTING ZONING: R.C. 2; R.C. 5
REQUESTED ZONING: R.C. 5

PLANNING BOARD RECOMMENDATION: Retain Existing Zoning, R.C. 2; R.C. 5

The subject site is comprised of two parcels of land, 277 and 26.3 acres, respectively, in size. It is part of a 682-acre property that is a major portion of the landform known as the Caves Valley. The portion of the property under petition corresponds for the most part with the wooded areas of the valley wall. The petitioner is requesting a change from R.C. 2 to R.C. 5 zoning and has chosen to submit plans that do not show a proposed use for the property.

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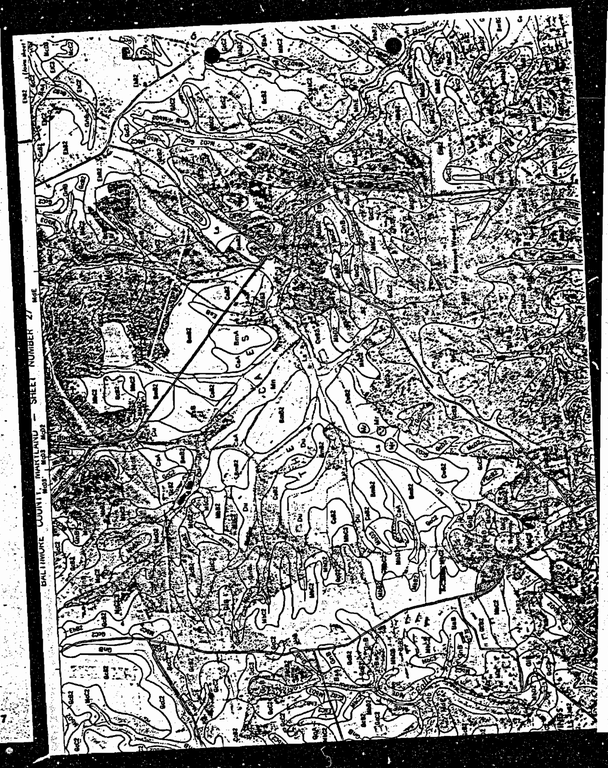
The Caves Valley is underlain by an acquifer that has the potential to serve as a water supply source. This acquifer is recharged from the watersheds of the valley floor and walls, and the relative intensity of development at densities permitted in the R.C. 5 zoning classification would not protect this acquifer. It should be noted that the uniqueness of this area has been recognized by its inclusion in the report, Designation of Areas Of Critical State Concern Within Baltimore County.

The Planning Board believes that the existing zoning of this site is consistent with the Baltimore County Master Plan 1979-1990 and with the spirit and intent of the R.C. 2 zoning classification. Further, the Board is of the opinion that the existing zoning of the entire 682-acre property is appropriate and that the zoning map is correct.

It is therefore recommended that the existing zoning be retained.

7



Baltimore County, Maryland

PEOPLE'S COUNSEL
RM. 223, COURT HOUSE
TOWSON, MARYLAND 21204
494-2188

PHYLLIS COLE FRIEDMAN
People's Counsel

PETER MAX ZIMMERMAN
Deputy People's Counsel

June 17, 1988

RECEIVED
BALTIMORE COUNTY
JUN 20 1988
OFFICE OF PLANNING AND ZONING

The Honorable
Alan M. Wilner, Judge
Panel Chairman
Court of Special Appeals
of Maryland
Courts of Appeal Building
Rowe Blvd. & Taylor Ave.
Annapolis, Maryland 21401

RE: Conservation Associates, et al.
v. People's Counsel for Baltimore
County, et al., No. 1724, September
Term, 1987

Dear Judge Wilner:

As an officer of the court, I feel an obligation to bring to your attention and that of the panel the enclosed information published in the Baltimore Evening Sun, June 15th, and the Baltimore Sun, June 16, 1988, regarding the Caves Valley. These newspaper articles, which appear to be reliable, relate to plans which are of such magnitude that they should not be overlooked.

If an agreement has been reached to sell the property under consideration in this case for $5,000,000, then questions are raised both as to whether this is further confirmation of the profitability of the property under existing zoning and whether this latest development is not further evidence of what I have argued to be the "artificial" atmosphere of this petition.

In view of the larger issues concerning resource conservation zoning in Baltimore County raised by this case, I would request that the court still issue an Opinion affirming the validity and application of the agricultural zone to the property, along with such comment on the latest development as the court feels is appropriate.

At the same time, let me make it clear that this office has not participated in any of the transactions pertaining to the proposed championship corporate golf course, which would require a special exception and could not be legally approved unless all statutory requirements

June 17, 1988

The Honorable
Alan M. Wilner, Judge
Panel Chairman
Court of Special Appeals
of Maryland

were met. Among other things, it would have to be demonstrated beyond any reasonable doubt that the project would not raise concerns about overutilization or pollution of the aquifer and would not be detrimental to the primary agricultural uses in the vicinity.

Considering my appearance for oral argument on June 14th, prior to publication of the Sun newspaper articles, I am signing this personally. I am also authorized to say that Phyllis Cole Friedman, People's Counsel for Baltimore County, concurs with the substance of this letter.

Very truly yours,

Peter Max Zimmerman

Peter Max Zimmerman
Deputy People's Counsel

Enclosures

cc: Michael U. Gisriel, Esquire
Thomas J. Gisriel, Esquire
George C. Doub, Jr., Esquire
Kathleen Pontone, Esquire
Andrew H. Naida, Esquire
Robert W. Sheesley, Environmental Director
W. David Fields, Planning Director

PMZ:sh

Thursday, June 16, 1988

$20 million golf course is planned in Balto. Co.

By Lynda Robinson
Baltimore County Bureau of The Sun

Fifteen Baltimore business leaders announced yesterday that they are buying 900 acres of agricultural land in Baltimore County's Caves Valley to build a $20 million, championship golf course for private, corporate use.

The golf course, which will take about four years to build, is envisioned by its corporate sponsors as a major economic development tool for Central Maryland.

"Facilities like these are terribly important in terms of attracting top people here," said Leslie B. Disharoon, president of Monumental Corp. and leader of Caves Valley Club Inc., a group of high-powered businessmen and attorneys.

At least two major corporations, Bell Atlantic and CSX, rejected Baltimore as a site for their corporate headquarters, in part, because the area could not provide adequate golfing opportunities for their executives, Mr. Disharoon said. Existing private courses have long waiting lists for new members and are not focused on corporate use.

The new course would be comparable to Laurel Valley near Pittsburgh or Cypress Point in California. Both clubs cater to an elite group of corporate, professional and political leaders from all over the country and host major tournaments.

"There are only about 10 of them in the world, and one of them will be in Baltimore," Mr. Disharoon said. "This is very, very important to the state of Maryland and Baltimore."

The golf course will require a zoning exception from Baltimore County

to be built on agricultural land. But the concept already has the enthusiastic backing of county officials, who met with representatives of Caves Valley Club last week.

The golf course has been endorsed by the powerful Valleys Planning Council, a private group dedicated to the preservation of Baltimore County's scenic, northern valleys.

The planning council agreed not to oppose the golf course in exchange for a commitment from the purchasers that the entire 900-acre parcel will be placed under the permanent protection of the Maryland Environmental Trust, a non-profit that protects environmentally sensi-

See GOLF, 6F, Col. 3

New golf course is planned for Baltimore County

GOLF, from 1F

tive land from development.

"It will tie up that valley forever," said Lisa Kerr, executive director of the planning council. Her group has fought for a decade to prevent developer Kingdon Gould Jr. from building 200 luxury houses on 300 acres in the Caves Valley.

Mr. Gould has agreed to sell his tract, 682 acres east of Park Heights Avenue and north of Caves Road, to Caves Valley Club Inc. for $5 million. The group also exercised options to buy 211 acres west of Park Heights Avenue from S and R Associates and Alvin "Bunny" Krongard for $3 million, Mr. Disharoon said.

About 450 acres of the land will be used for the golf course, a club house and sleeping facilities for 40 people, he estimated. Another chunk of land along the northeastern ridge of the property will be used for the construction of 30 to 35 luxury houses. The rest of the land will remain agricultural or open space.

Mr. Disharoon said he expects to hire a top-flight golf course architect soon to design the course. The architect's job will be complicated by the environmental sensitivity of the land, which covers a major source of underground water in northern Baltimore County.

But Mr. Disharoon said the golf course will be designed around the environmentally sensitive areas to satisfy the concerns of the county's Department of Environmental Protection and Resource Management.

"We don't see any roadblocks," Mr. Disharoon said. "Maybe some bumps in the road, but no blocks."

THE EVENING SUN WEDNESDAY, JUNE 15, 1988 A1B

Executives to buy land for golf course

GOLF, From A1

tion "Bunny" Krongard. The Krongard Bond would be the site of the executives has decided to buy future clubhouse, the statement said.

Under the proposal announced yesterday, the golf course east of Park Heights on the Gould land along with 33 estate lots on ridges and perhaps another, separate golf course on the flatter land west of Park Heights.

Mr. Disharoon confirmed that the Gould land, purchased in 1977 for $5 million, first refused to say how much the other two parcels will cost. Sources say that Gould has spent about $1 million in unsuccessful efforts to build club facilities would not be a profit-making venture, Disharoon said, and the club would be the symbolic "anchor" for the area, Disharoon said.

The statement said agreement by the Valleys Planning Council and affected community associations to protection of the Maryland Environmental Trust will ensure that the land could never be developed and that open space.

The community and conservation groups have been pressuring Gould to sell the land for years to get 300 acres of the land to permit the building of up to 200 houses. Gould has been frustrated by opposition to any change from the current agricultural zoning.

Conservationists, for example, have opposed Gould's plans to build a golf course on the land, which would take about four years to complete, because they say the project would require the use of too much pesticide and fertilizer and is "grossly unsuitable" for a championship golf course to equal the public golf courses in Baltimore County.

Treasurer refused to comment directly on the plan yesterday, but said that Schaefer is in a very good position in respect to the governor's race. "Everybody knows that Schaefer is very popular in Western Maryland," he said. "Everybody knows that Schaefer is very popular in Western Maryland to Perry Hall."

Schaefer, who is still a "little bitter" about the defeat of his plan to build the city-owned Pine Ridge Golf Course in Baltimore County, he said [illegible] at the future Locust Run, which would be a championship course.

A championship course is a lot more still than the flatter courses used by the average golfer.

Graphic by Sun

Annapolis has sought for several metropolitan area. People who [illegible] in the county's northern [illegible] and permit the building of up [illegible] long waiting lists at most Balti- [illegible] charge from the current agricultu

Conservationists, for principal [illegible] by the Valleys Planning Council, [illegible] site, which would take about four [illegible] championship golf course to equal [illegible] the public golf courses in Baltimore County, he said [illegible] change zoning would be an attack [illegible] championship golf course in north-central Baltimore County also is typi- [illegible] especially one called Locust Run. [illegible] the new Owings Mills Town Cente [illegible] for Robert Stanis said yesterday th [illegible] the county is working to interest [illegible] tion in locating in Baltimore Co

Gould's continuing effort to re- [illegible] zone his land for housing was the [illegible] Court of Special Appeals a

BALTIMORE COUNTY

1988 COMPREHENSIVE ZONING MAP PROCESS

COMMENT FORM

RECEIVED
BALTIMORE COUNTY
APR 20 1988
OFFICE OF PLANNING AND ZONING

Zoning Request
Item No. 3-204

PLEASE PRINT

☒ Support Requested Zoning

☐ Oppose Requested Zoning

Name [illegible]

Organization (if any) [illegible]

Address [illegible]

Phone No. [illegible]

Comment [illegible]

Signature [illegible] Date [illegible]

CHESTNUT RIDGE IMPROVEMENT ASSOCIATION

Phone Number 252-1856
11801 Greenspring Ave.
Owings Mills, MD 21117
April 19, 1988

RECEIVED
APR 21 1988
EXECUTIVE OFFICE

Mr. C. A. Dutch Ruppersberger, III
Councilman, Third District
County Council Chambers
Old Court House
Towson, MD 21204

Dear Mr. Ruppersberger: Re: Rezoning Issue Number 3-004

The Chestnut Ridge Improvement Association is strongly opposed to granting the requested rezoning on the referenced property.

The proper zoning of this property was correctly determined over 10 years ago after exhaustive study. The present property owner purchased this property with the present zoning in place and with full knowledge of the restrictions which it placed on the property. This is the third comprehensive zoning process in which the owner has requested rezoning to permit greater development of this fragile piece of land. His request was denied on the last 2 occasions and it should definitely be denied on this occasion.

This land comprises part of the valley floor and the valley walls of the Caves Valley. It is ecologically important to preserve these areas. The groundwater in this valley is in a limestone formation called Cockeysville Marble. Numerous septic tanks and drain fields from development could pollute this extremely valuable groundwater resource. If many new wells are permitted, the effect on wells in adjacent properties could be disastrous because many are in critical condition at the present time.

The wooded walls of the valley are an important buffer to the valley floor and its underlying acquifer. The forest cover reduces runoff and controls erosion of the slopes. This is important because of the numerous springs and environmentally sensitive streams in the area. It is essential to prohibit development on the valley walls and retain their existing vegetative cover.

For all the above reasons we urge you to retain the existing zoning on this property that is within our community.

Very truly yours,

Charles R. Anderson
President

cc: Rasmussen, Hickernell, Mintz, Bachur, Lauenstein, Evans, Volz, Wheeler

Renate M. Kniffin
261 Saint Thomas Lane
P.O. Box 134
Garrison, MD 21055

4/15/88

C.A. Dutch Ruppersberger, III
Councilman, Third District County Council Chambers
Old Court House
Towson, MD 21204

Re: Rezoning issue number 3-025
3-270

Dear Mr. Ruppersberger:

I am opposed to granting the requested rezoning on these properties.

The Owings Mills and White Marsh town centers have been planned in order to preserve green spaces. Rezoning of Caves Valley would foster development of the green areas that have been set aside by the planning board to preserve open and green areas in the county.

I am strongly opposed to rezoning and urge you to resist inappropriate pressure from developers.

I urge you to retain the existing zoning on these properties.

Sincerely,

cc:
Honorable Dennis A. Rasmussen
County Executive
Joshua Wheeler, Chairman
Planning Board of Baltimore County

RECEIVED
BALTIMORE COUNTY
APR 18 1988
OFFICE OF PLANNING AND ZONING

1800 MERCANTILE BANK & TRUST BUILDING
2 HOPKINS PLAZA
BALTIMORE, MD. 21201

RECEIVED
APR 20 1988
OFFICE OF PLANNING & ZONING

April 14, 1988

Planning Board of Baltimore County
County Courts Building
401 Bosley Avenue
Towson, Maryland 21204

Re: Issue No. 3-004 --
Application Of Kingdon Gould, Jr. And Others
For Reclassification Of 303 Acres in Caves Valley

Dear Members of the Planning Board:

We oppose the above-referenced application for the reasons hereinafter stated.

BACKGROUND

The applicants are several partnerships of Kingdon Gould, Jr. which own several parcels totalling approximately 700 acres near the intersection of Park Heights Avenue and Caves Road. The property is presently zoned R.C. 2. The owners seek to have two portions of the 682 acres reclassified R.C. 5. The staff of the Office of Planning and Zoning has recommended against the reclassification and we support its recommendation.

In connection with the 1984 comprehensive zoning map revisions, the owners filed precisely the same application. In that zoning cycle, the staff of the Office of Planning and Zoning recommended against the proposed reclassification, the Planning Board recommended against the proposed reclassification, and the County Council declined to adopt the proposed reclassification. Thereafter, the County Board of Appeals, following a four-day trial ending in January 1987 (one of the longest trials ever held before the Board of Appeals),

Planning Board of Baltimore County
April 14, 1988
Page 2

denied the reclassified, and in October 1987 the Circuit Court for Baltimore County affirmed the decision of the County Board of Appeals.[1]

Furthermore, in 1980 an application covering the same and additional land was made, disapproved by the staff of Planning and Zoning and thereafter withdrawn by the owner. (Issue 3-198).

There has been no change in conditions with respect to the subject properties since 1984.

The application is opposed by all residents of the area and all community associations, including the Valleys Planning Council, and an organization of several hundred residents of the Caves Valley area formed as a consequence of the 1984 petition. The Valleys Planning Council lists it as one of a dozen issues which the Council opposes the most strongly.

REASONS FOR OPPOSING THE RECLASSIFICATION

The largest of the two parcels, composed of approximately 275 acres, is located on the north side of Caves Valley partially on the valley floor and partially on the valley wall with a very minor portion on the plateau to the north. The smaller of the two parcels, comprising of approximately 25 acres, is located on the south side of Caves Valley fronting on Caves Road and lies half on the valley floor and half on the valley wall.

Caves Road throughout its entire length (with an extremely minor exception of a few yards at the northern end) is the dividing line between R.C. 2 and R.C. 5 zoning. All land west of Caves Road is zoned R.C. 2 and all land east of Caves Road is zoned R.C. 5. Caves Road also closely approximates the crest of the valley wall, i.e., the dividing line between the valley wall and the plateau.

[1] In the fall of 1986 Mr. Gould also filed a suit in federal court claiming that the R.C. 2 zoning of his property was unconstitutional. That suit was dismissed.

Planning Board of Baltimore County
April 14, 1988
Page 3

Mr. Doub represented the community at the trial and on appeal. The testimony at the trial clearly demonstrated the correctness of the R.C. 2 zoning:

Lawrence Duket. Lawrence Duket, the chief of the current planning unit of the Maryland Department of State Planning, testified at the trial in opposition to the reclassification. He testified that the State was concerned that there is presently occurring a fragmentation of large contiguous parcels of farm and forest land which are needed to preserve farm and forest resources and for environmental protection of ground water resources. He testified that the subject properties are particularly ill-suited to residential development because residential support facilities which can be extremely expensive are not available to the area, whereas such support facilities have been made available at a cost of approximately $500,000,000 several miles to the west in the Owings Mills area. Duket testified that the existing R.C. 2 zoning of the subject property was consistent with the purposes of the State and County plans for the area, and that rezoning the subject property R.C. 5 was likely to be used by adjacent land owners in the future as a "change" to justify further reclassification.

Finally, Duket testified that as a rule the dividing line between R.C. 2 and R.C. 5 should be located at the crest of valley walls rather than the foot of valley walls in order to protect farm lands from development in too close proximity. He found the present zoning to be appropriate for that further reason.

Paul Solomon. Paul Solomon, the head of the environmental planning section of the Baltimore County Office of Planning and Zoning, also testified in opposition to the reclassification. He had participated in the mapping of the R.C. 2 zones in 1977. The zones had been established by first determining the general location of prime and productive agricultural soils and then drawing R.C. 2 boundary lines around such soils, where little development had taken place, based upon property lines. Since the office drew the lines based upon property lines, farms were not divided. That approach was followed in connection with the subject properties.

Mr. Gould's attorney had contended that parts of the subject properties were too steep, too wet or too forested to be farmed profitably under present conditions and at present farm prices. Solomon testified that all farms have some such acreage and that it would be catastrophic for R.C. 2 zoning to permit reclassification of portions of farms simply because the

Planning Board of Baltimore County
April 14, 1988
Page 4

portions are too steep, too wet or too forested. The result would be chaos. Accordingly, Solomon was of the view that all of the subject properties are properly zoned, even those portions which may not be ideally suited for farming. Solomon further testified that all of the subject properties which are not presently being utilized for farming are utilized for forest, which also constitutes an agricultural use.

Solomon also testified that ideally, the R.C. 2 zoning lines should appear at the crest of the valley walls rather than the valley floors.

Antionette Seymour. Toni Seymour, an urban and regional planner with the firm of Wallace, Roberts and Todd which represented Baltimore County in the preparation of the Growth Management Plan and which prepared the well known "Plan for the Valleys," testified that the proposed reclassification is inconsistent with the Plan for the Valleys and that Caves Road is the proper boundary between R.C. 2 and R.C. 5 zoning.[2]

The Acquifer. Both Duket and Solomon testified that there is a large acquifer underlying the Caves Valley which was important to Baltimore County and the State of Maryland as a ground water resource. The effluent from septic systems constructed on the walls of Caves Valley under the proposed zoning (which could number as many as 200 septic systems each producing 400 gallons per day) may penetrate and contaminate the acquifer. Accordingly, they objected to the proposed reclassification on that second basis.

Successive Applications. The proposal to rezone these properties was rejected by Planning and Zoning in 1980 and was rejected by Planning and Zoning, the Planning Board, the County Council, the Board of Appeals and the Circuit Court in 1984. When a proposed reclassification has been rejected in the immediately preceding cycle, and particularly when it has been rejected in two immediately preceding cycles, there is a strong presumption that the reclassification should be denied.

[2] The evidence further established that Mr. Gould paid $850,000 for the property in 1977 and that its present value under R.C. 2 zoning is substantially in excess of $4,000,000.

Planning Board of Baltimore County
April 14, 1988
Page 5

Reclassification should be permitted in the subsequent cycle only upon a strong showing of change of condition. Otherwise, zoning reclassifications would be capricious. Mr. Gould has made no showing whatever of a change in condition since 1984 and none has occurred.

CONCLUSION

On the basis of the evidence presented at the trial, the Board of Appeals and the Circuit Court found that the subject properties are correctly zoned. Mr. Gould has obtained an exhaustive airing of his contentions during the 1984 map process and his appeals. Everyone who has considered the matter (other than his paid experts) has rejected Mr. Gould's contentions. There has been no change in conditions since those proceedings. Accordingly, it would be capricious and unjustifiable for the Planning Board to arrive at a contrary conclusion at this juncture.

Thank you for your consideration of the foregoing.

Very truly yours,

George C. Doub, Jr.

Mitchell Kolkin

GCD:MK:bb
0937S

cc: The Honorable Charles A. Ruppersberger, III
P. David Fields, Planning Director
Robert W. Sheesley, Environmental Director
Richard B. Buck (Valleys Planning Council)
James G. Cox (Caveswood Ass'n)
Charles R. Anderson (Chestnut Ridge Improvement Ass'n)
A. Douglas McComas (Falls Road Community Ass'n)
Lance I. Yateman, Esquire (Timber/Valley Ass'n)
Michael U. Gisriel, Esquire
Thomas J. Gisriel, Esquire

2522 CAVES ROAD
OWINGS MILLS, MARYLAND 21117

April 14, 1988

Harold G. Reid, Acting Chairman
Planning Board of Baltimore County
c/o Office of Planning and Zoning
New Courts Building
Bosley Avenue
Towson, Maryland 21204

RECEIVED
APR 19 1988
EXECUTIVE OFFICE

RE: Zoning Issue 3-004 (Gould Property, Conservation Associates)

Dear Mr. Reid:

I support the Office of Planning & Zoning staff's recommendation on Issue No. 3-004 and strongly oppose the request for the rezoning of approximately 300 acres from R.C. 2 to R.C. 5 for the following reasons:

1. This property is primarily on the floor and walls of the fragile Caves valley and is properly zoned R.C. 2. This opinion has been affirmed by the Office of Planning & Zoning Staff and Larry Duket, the Chief of the current Planning Unit for the Maryland State Department of Planning in sworn testimony before the Board of Appeals. The land use planning firm of Wallace Roberts and Todd which produced the Plan for the Valleys believes that the retention of the R.C. 2 on this tract is "essential in upholding the intent of the Plan for the Valleys and to preserve irreplaceable natural resources."

2. This property has been the subject of two prior petitions (1980 and 1984 map cycles) and the R.C. 2 zoning has been retained. The 1984 decision was affirmed by the Board of Appeals and the Circuit Court for Baltimore County. There has been no change in circumstances since the last review of this issue and it is in keeping with the Baltimore County Growth Management Plan.

3. The petitioned change would destroy the woodland which is an important agricultural and environmental resource of the Caves Valley.

4. The petitioned change would threaten the aquifer beneath the porous valley floor and otherwise damage the

Harold G. Reid, Acting Chairman
April 14, 1988
Page 2

environment by adding septic effluent and other runoff to contaminate the floor.

5. The requested change would threaten the agricultural use of the valley floor of the Caves Valley.

6. The petitioned change would threaten the natural character of the Caves Valley landform.

7. The requested change would greatly increase traffic in this unspoiled natural valley.

8. The requested change would threaten the water supplies of the Caves Valley and Chestnut Ridge area residents.

9. Community opposition to the requested change has been overwhelming.

10. The requested change would destroy the tranquility of the Caves Valley by adding to the noise levels in this oval, bowl-shaped valley which amplifies sound.

For these reasons, I respectfully request that you deny this petition.

Sincerely,

Kathleen Pontone

KP/dlm
cc: Honorable Dennis A. Rasmussen - County Executive
C. A. Dutch Ruppersberger, III - Councilman, Third District
Ronald B. Hickernell - Councilman, First District
Melvin G. Mintz - Councilman, Second District
Barbara Bachur - Councilman, Fourth District
Norman W. Lauenstein - Councilman, Fifth District
William R. Evans - Councilman, Seventh District
Dale T. Volz - Councilman, Seventh District
All Planning Board Members

MENSANA CLINIC
GREENSPRING VALLEY ROAD
STEVENSON, MARYLAND 21153
301-653-2403

3-004

STAFF
NELSON HEDDLER, M.D., M.S.
PSYCHIATRY AND CHRONIC PAIN
SHELDON LEVIN, Ph.D.
CLIN. & NEUROCHOLOGY & BIOFEEDBACK
M. UST., AVIDSON, L.C.S.W.
SOCIAL SERVICES AND GROUP THERAPY

CONSULTANTS
WILLIAM BLITZMAN, D.D.S.
CONSULTANT IN MAXILLO-FACIAL PAIN
JOSEPH COTLE, M.D.
CONSULTANT IN NEUROPSYCHOPHARMACOLOGY

MICHAEL HOLLIDAY, M.D.
CONSULTANT IN MAXILLO-FACIAL AND OTONEUROLOGICAL DISORDERS
EDGAR LEWIS, M.D., Ph.D.
CONSULTANT IN NEUROSURGERY AND CHRONIC PAIN
ANDREW MONTAGUE, M.D.
CONSULTANT IN OPHTHALMOLOGY AND NEUROCHEMISTRY
SOLOMON SNYDER, M.D.
CONSULTANT IN PSYCHOPHARMACOLOGY AND NEUROCHEMISTRY
WILLIAM SPEED, III, M.D.
CONSULTANT IN INTERNAL MEDICINE AND NEUROSURGERY
DANIEL VAN KAMMEN, M.D.
RESEARCH CONSULTANT IN PSYCHIATRY AND PSYCHOPHARMACOLOGY

April 14, 1988

Joshua Wheeler, Chairman
Planning Board of Baltimore County
c/o Office of Planning and Zoning
New Courts Building
Bosley Avenue
Towson, MD 21204

Dear Mr. Wheeler:

I live in the original manor house for the Caves Valley, which overlooks the entire Valley. My house was constructed in 1909, and we have applied for this house to be included in the National Register of Historic Places, which is administered by the U.S. Department of the Interior. We would also like to apply for State, and County protection, if they are available.

It has come to my attention that certain parties wish to rezone the Caves Valley. I strongly oppose this, and if you would be kind enough to oppose rezoning, I shall make every effot to assemble a group, to purchase the entire Caves Valley, and donate it to the Conservation Easement. However, I would not be able to affect such a plan, if the Caves Valley were rezoned, because of the cost of purchase and donation would be too high.

Please do not permit rezoning of the Caves Valley, which is bounded by Caves Road to the south, Park Heights Avenue to the east, and Garrison Forrest Road to the west. RC-2 zoning is the only appropriate use for this valley.

I hope you will act favorable upon my request.

Sincerely,

Nelson Hendler, M.D, M.S.
Clinical Director, Mensana Clinic
Assistant Professor of Neurosurgery, Johns Hopkins Hospital
Associate Professor of Physiology, University of Maryland School of Medicine
Surgery

NH:Kls
D: 4/6/88
S: 4/11/88

RECEIVED
BALTIMORE COUNTY
APR 18 1988
OFFICE OF PLANNING AND ZONING

RECEIVED
BALTIMORE COUNTY
APR 15 1988
OFFICE OF PLANNING AND ZONING

April 14, 1988

Mr. C. A. Dutch Ruppersberger, III
Councilman, Third District
County Council Chambers
Old Court House
Towson, MD 21204

Re: Rezoning issue number 3-004
3-025
3-270

Dear Mr. Ruppersberger:

I am opposed to granting the requested rezoning on these three properties. To change these 766 acres of agricultural lands into one acre lots would be criminal!

If any of these rezonings were to be allowed, it is very likely that the Caves Valley would become totally developed in the near future.

Sincerely,

Katharine Pinney Baetjer

Mrs. Katharine Pinney Baetjer

Mr. Howard Baetjer, II
Stevenson, Maryland 21153
(301) 363-4033

cc: Honorable Dennis A. Rasmussen
Councilman Melvin G. Mintz
Mr. Joshua Wheeler

JAMES E. HOOPER, JR.
2518 CAVES ROAD
OWINGS MILLS, MD 21117

RECEIVED
BALTIMORE COUNTY
APR 14 1988
OFFICE OF PLANNING AND ZONING

April 12, 1988

Joshua Wheeler, Chairman
Planning Board of Baltimore County
c/o Office of Planning and Zoning
New Courts Building
Bosley Avenue
Towson, Maryland 21204

RE: Zoning Issue 3-004 (Gould Property, Conservation Associates)

Dear Mr. Wheeler:

As a resident of the Caves Valley for over 25 years, I wish to register my strong opposition to issue 3-004 requesting rezoning of the Gould property from R.C. 2 to R.C. 5.

Any such zoning reclassifications of this 300 acre tract would be bad land resource management and would have a domino effect in threatening the irreplaceable natural resources of an important "open space" area of Baltimore County.

The R.C. 2 zoning of this property has been affirmed by the Board of Appeals and the Circuit Court of Baltimore County after two previous petitions, and there has been no change in much studied circumstances to warrant reconsideration since Circuit Court opinion as recent as October 28, 1987.

The present owners of this property surely were aware of the unsuitability of this area for development when they purchased this land under Chaper I of the Bankruptcy Act in 1977. Yet they seem determined to try to alter established facts and criteria in the face of almost unanimous opposition from neighbors and community groups in the surrounding area.

The private financial gain of absentee venture capital ownership must not be permitted to subjugate the good of the community and the County. For these and other well-documented reasons, I join with other residents of the Caves Valley in requested that you deny this petition.

Sincerely,

James Hooper

Stephen M. Dimond
1503 Near Thicket Lane, Stevenson, Maryland 21153

April 5, 1988

C. A. Dutch Ruppersberger, III
Councilman Third District
County Council Chambers
Old Court House
Towson, Maryland 21204

RE: (3-004) 3-025, 3-270 Rezoning Issue

Dear Mr. Ruppersberger:

I am opposed to granting the requested rezoning on this property.

We can't allow either the Caves Valley or Worthington to be destroyed by extensive development.

For the above reason, I urge you to refrain the existing zoning on the property.

Sincerely,

Stephen M. Dimond

Phone No. 484-2530

To Tim
From Frank

HARVEY M. MEYERHOFF
25 SOUTH CHARLES STREET
BALTIMORE, MARYLAND 21201

Residence: 3206 Caves Road

March 31, 1988

C. A. "Dutch" Ruppersberger III
Councilman, Third District
Old Court House
Towson, Maryland 21204

Re: Rezoning issue number 3-004

Dear Mr. Councilman:

I write in opposition to the granting of the requested zoning on this property. For many years, Reisterstown Road and Falls Road north of the Beltway have been regarded as the lines between which high density zoning should not be tolerated. This request seeks to rezona the Valley walls to accommodate greater density development. It is, therefore, totally inconsistent with the Plan for the Valleys.

Additionally, as I know you are aware, public sewer and water is unavailable and will not be available under any proposed plans. The impact of continued septic tank disposal on the underground water supply has to be deleterious. Continued expansion of private water supplies drawn from the underlying aquifers in the area have already produced problems and will continue to do so. The roads in the area are now choked at certain times of the day, and this could only compound that problem.

For all the above reasons I urge you to retain the existing zoning on the property.

Very truly yours,

Harvey M. Meyerhoff

Harvey M. Meyerhoff

cc: Planning Board of Baltimore County

Jack

Mrs. Herbert A. May Jr.
10804 Linson Road, Owings Mills, Md. 21117

March 29th

I Strike 3004

Dear Mr. Ruppersberger,

I am strongly opposed to any rezoning of the Caves Valley. If any of those rezonings were to be allowed, it is very likely that the Caves Valley would become Totally developed in the near future. It is beautiful agricultural land and should remain so To preserve the Valley.

Sincerely,

Janet May

RECEIVED MAY 17 1988

Joshua Wheeler, Chairman
Planning Board of Baltimore County
c/o Office of Planning and Zoning
New Courts Building
Bosley Avenue
Towson, Md 21204

Re: Rezoning Issue Number 3-004

Dear Mr Wheeler

We are strongly opposed to granting the requested rezoning on this property. Rezoning the valley walls to accomodate greater density development would destroy the agricultural nature of the land, and more importantly, would jeopardize the underlying aquifer in the Valley floor. In addition at this point in Baltimore County Roads and Schools have been planned with the present zoning in mind. This property is zoned correctly as RC-2.

We urge you to retain the existing zoning on this property

Sincerely,

Eric Hopkins Gary Fogle
Gary and Eris Fogle
12134 Hinesson Garth
Owings Mills Md 21117

AMENDED AND RESTATED
AGREEMENT RELATIVE TO CAVES VALLEY CLUB,
GOLF COURSE AND RESIDENTIAL FACILITY

This Agreement, originally executed on March 21, 1989 and amended and fully restated as of _____, 1989 (thereby replacing the March 21, 1989 Agreement), by and between Caves Valley Club, Inc. ("CVC") and the Worthington-Woodsyde Association, Inc., ("WW").

WHEREAS, CVC proposes to develop a golf club consisting of one 18 hole world class caliber course and various facilities appurtenant to the operation of a golf club including other recreational facilities, and a limited number of homesites, on its property in the Caves Valley; and

WHEREAS, the CVC property abuts and is adjacent to residences owned by members of the Worthington-Woodsyde Assoc., Inc. (the "members"); and

WHEREAS, WW wishes to eliminate any potential detrimental effects to their members' properties due to the proposed club; and

WHEREAS, CVC has made certain changes in its site plan since March 21, 1989, which are generally shown on the plan depicting the "Clubhouse Complex," attached hereto as Exhibit I;

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt of which are hereby acknowledged, the parties do hereby amend and restate their agreement in its entirety as follows:

SECTION I. INTENT OF THE PARTIES

A. To eliminate or mitigate any potential detrimental effect of the construction of the club on the properties of WW's members by maintaining wooded buffer zones, creating restricted areas, and locating certain facilities at a sufficient distance from WW member properties so as to reduce the extent to which they will have any impact on those properties.

B. To extend the protection of certain outdoor lighting and noise restrictions to the WW members living in the immediate area of the Golf Club complex so that they can continue to enjoy the piece and quiet of their homes and their residential neighborhood.

EXHIBIT E

C. To provide appropriate assurances and/or protections to WW members to the effect that CVC's use of water from the aquifer beneath the floor of Caves Valley will not adversely effect the adequacy of their residential water supplies (wells).

D. To provide support to CVC from WW and its members for CVC's proposed facility, including CVC's two pending zoning applications (one for residential rezoning on a documented site plan and the other for a special exception to permit the golf course facility), including without limitation, support for these elements of the zoning applications which would allow for certain overnight accommodations as specified therein and for the inclusion within the golf course facility of two homes for the golf course superintendent and the manager of the golf course (or some other comparable member(s) of the club management group), and to provide support for CVC's other permit and licensing requests necessary to permit development of the proposed facility as described in the pending zoning applications.

SECTION II. A WOODLAND BUFFER

A. A minimum 150-foot wide woodland buffer will be established and maintained along the entire common border shared by CVC's property and the properties owned by the WW members between the "N 05° 07' 12" E" line as shown on the plat attached hereto as Exhibit A and the stream immediately to the northeast of the "possible maintenance facility" as shown on the plat attached hereto as Exhibit B. In addition, with respect to the golf practice area, the buffer need only be a minimum of 150 feet in the vicinity of the practice tee(s), but shall expand to 200 feet at a distance of 75 yards from the practice tee and to between 200 and 250 feet at the far end of the practice area, as generally depicted on the plat attached hereto as Exhibit A.

B. Subject to the above provisions, the woodland buffer will be retained in its natural state and kept free of debris and construction of any kind. It will be identified as a restricted buffer area on all future plans and drawings for the Club. The woodland buffer must be marked and identified on site, and approved by WW before any trees can be removed from the general area involved.

SECTION III.. AREA BETWEEN WOODLAND BUFFER AND GAS TRANSMISSION LINE

The following use, locational and other restrictions shall apply to the area between the 150-foot woodland buffer and the gas transmission pipeline, and no other structures or improvements or removal of trees will be permitted in this area:

-2-

A. The Maintenance Facility: CVC's initial proposed site for the golf course maintenance facility is within this area. Any such facility will be located either entirely within the shaded area shown on Exhibit B or on another site to the south of the gas transmission line. CVC has agreed to use its reasonable efforts to identify an alternative location for the maintenance facility entirely to the south of the pipeline right of way, and as of the amendment and restatement of the agreement has identified a preferred site well removed from the WW community. In designing any maintenance area and establishing its final configuration on or to the north of the pipeline (if CVC is not able to secure approval of the alternative preferred location), CVC will locate the building so as to serve as an acoustical buffer between any parking areas and the WW properties, will attempt to minimize the number of trees removed, will use its best efforts to maximize the distance between the maintenance facilities and the WW properties, will continue to explore the possibility of locating the parking areas associated with the maintenance facility on the gas transmission line (thus potentially increasing the distance between the parking area and the WW properties), and will provide acoustical protection measures designed to reduce maximum decibel levels occurring on WW properties from normal maintenance facility operations to no more than 50 decibels (which is below applicable regulatory standards). In addition, maintenance operations will be conducted within the maintenance building. Building design and construction will utilize sound abatement materials and insulation in roof and wall surfaces. Maintenance of vehicles or equipment with acoustical consequences will be conducted between 8:00 a.m. and 5:00 p.m. Subject to the above undertakings and CVC's obligation to do its best to achieve each of the above sometimes conflicting objectives, CVC shall retain the final decision as to the precise siting and configuration of the maintenance facility within the shaded area, subject to the necessity of its obtaining any required County approvals.

B. Access Road: The residential entrance road of CVC may be constructed so as to pass through a portion of this area, but no closer to the WW properties than is indicated on Exhibit I. The road will be constructed so as to minimize disturbances of natural woodland.

C. Residential Uses: CVC may locate no more than two residential structures (either (1) homes or (2) cottages sleeping no more than 8 persons) within this area if the maintenance facility remains in the area. Any clearing of woodland for such use shall be in accordance with the notes on the documented site plan and shall be the minimum normally associated with heavily wooded lots.

-3-

D. Parking Lot: CVC may locate a portion of its required clubhouse complex parking area within the area, but outside of the woodland buffer, as generally shown on Exhibit I, provided that it provides landscaping sufficient to make the parking lot and cars parked in it eventually invisible from the WW properties in and subsequent to the first year of operation. Said landscaping shall be done in a manner consistent with the estimate of Mazales Nurseries dated October 31, 1989 attached hereto as Exhibit II. The buffer planting shall extend approximately from where the 150 foot buffer line intersects the 650 foot contour line to where it meets the practice tee, as shown on Exhibit I. If CVC proposes any changes to the landscaping plan reflected in Exhibit II, it shall first obtain the written concurrence of Mazales Nurseries to the effect that such changes will provide the equivalent or better screening between the adjacent WW properties and the CVC parking lot. Said landscaping must be completed before CVC begins operations for its members.

E. Other Uses: In the event that CVC's plans change and the maintenance facility, including all parking and storage areas, is relocated entirely to the south of the transmission lines, CVC may locate other uses in the shaded area shown on Exhibit B, provided that they are less intrusive visually and acoustically than the planned maintenance facility (e.g., cart storage, limited overflow parking). If the maintenance facility, is relocated entirely to the south of the transmission line and the shaded area is not used for cart storage, overflow parking or the like, then in addition to the road permitted by Section III B, CVC may locate in the area between the buffer zone and the transmission line golf holes, putting greens and traps, paths, and/or up to four residential structures of the type permitted under Section III C.

SECTION IV. NOISE CONTROL

A. CVC will not utilize combustion engine carts for golf course play without the approval of WW.

B. Functions and events held at the Club house and in the Club house area shall be conducted in such a manner as not to generate music or other noise audible at the homes of the WW members.

C. See Section III A regarding maintenance facility.

SECTION V. LIGHT CONTROL

All on-site lighting will be arranged to not reflect or shine upon the residential properties of the WW families.

-4-

SECTION VI. WATER AVAILABILITY

CVC represents that water quantity and water quality in the WW community will not be adversely affected by CVC's presence or by the wells required for the golf course and associated facilities. CVC's hydrogeologist will be certifying to the Maryland State Department of Natural Resources that CVC's contemplated water usage from the aquifer contained beneath the floor of the Caves Valley will not have an adverse impact on the existing well water supplies of the properties in the vicinity, including the properties of WW members. CVC hereby makes and extends this same representation to WW and its members, and confirms the applicability of the Environmental Agreement dated April 19, 1989 and its remedies to the WW Community. CVC further agrees to investigate the price and availability of insurance and/or bonding arrangements to afford backup protection at least through the grow-in period of the golf course and one year beyond, in the event WW determines that it needs such backup protection. If such insurance or bond coverage is available at a reasonable price, CVC agrees to obtain it and to exert its best efforts to allow either WW or individual members to expand or continue at its or their own cost the benefits of any such coverage.

SECTION VII. WW SUPPORT FOR CVC's APPLICATIONS

WW agrees to support the zoning submissions of CVC for limited residential rezoning on a documented site plan and for a special exception for the golf course including limited overnight accommodations for up to 40 as specified and up to two staff residences, provided that the plans for which zoning approval is sought conform to the terms of this agreement. WW also agrees to support the anticipated liquor license application for a private liquor license for the club and to otherwise support the efforts of CVC to secure the necessary permits and licenses for its proposed facility. Such support shall include the preparation and submission of such letters of support as may be reasonably required and the provision of brief testimony in support, on request, before the appropriate County agencies/officials.

SECTION VIII. ATTORNEYS FEES

CVC shall pay the reasonable attorneys' fees of Kaplan, Heyman, Greenberg, Engelman & Belgrad, P.A. in connection with legal services rendered regarding the Amended and Restated Agreement through the date of its recordation.

-5-

SECTION IX. RECORDATION

This Agreement is to be recorded within ten (10) days of the date of final execution hereof.

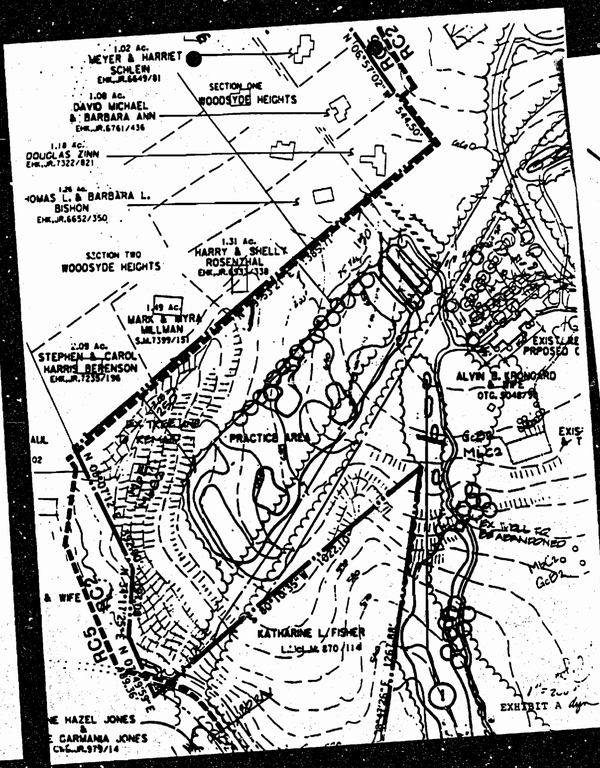
WORTHINGTON-WOODSYDE ASSOCIATION, INC.

By: _____, Pres.

CAVES VALLEY CLUB, INC.

By: _____

-6-



Landscape Architects
Landscape Contractors
Master Clients

MAXALEA NURSERIES INC.

Established in 1939

900 Old Frederick Road
Baltimore, MD 21229
301-277-7300

ESTIMATE

October 31, 1989

Mr. Douglas Zinn
President
Worthington-Woodsyde Association
7 Woodsyde Place
Owings Mills, Maryland 21117

Proposed Buffer Planting Between Association and Caves Valley Club

Approximately 700 feet of distance to be planted. All plants are to be planted on five foot centers.

140 Sheared White Pine 6-7'

Estimate: $ 14,000.00

140 Norway Spruce 6-7'

Estimate: $ 17,500.00

140 Leyland Cypress 6-7'

Estimate: $ 21,000.00

** If you elect to purchase the trees, the following prices would apply.

Sheared White Pine 6-7' $75.00 each
Norway Spruce 6-7' $90.00 each
Leyland Cypress 6-7' $100.00 each

Again, due to the quantity of trees, a non-refundable deposit would be required.

Accepted: _____

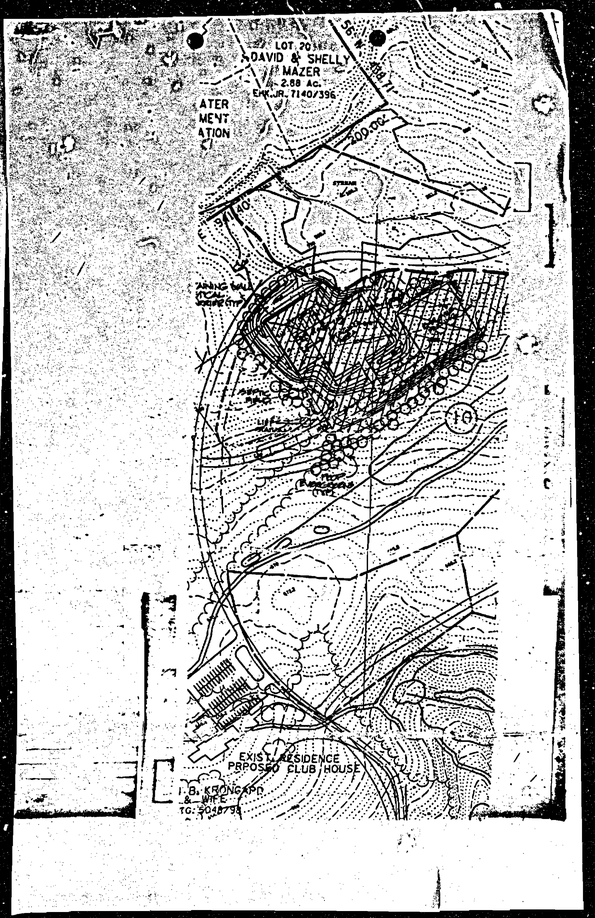
Donald G. Hamilton

TERMS: One third deposit, balance due within 10 days of completion of work.

Member: Maryland Nurserymen's Association and Landscape Contractors Association

This proposal may be withdrawn within 30 days. All plants are planted according to standard practices of the American Association of Nurserymen. All shrubbery, trees and ground cover will be fully guaranteed for one year (12 months). Plants must be properly cared for and all accounts must be paid in full for this guarantee to be in effect. Labor charges are guaranteed for 6 months. Transplanted materials are not guaranteed.

EXHIBIT #1



STATE OF MARYLAND

CITY/COUNTY OF BALTIMORE

I HEREBY CERTIFY that on this ____ day of _____, 1989 before me, the subscriber, a Notary Public of the jurisdiction aforesaid, duly commissioned and qualified, personally appeared Douglas Zinn who acknowledged himself to be the President of WORTHINGTON-WOODSYDE ASSOCIATION, INC., a Maryland corporation, and that he, as such President being authorized to do so, executed the foregoing Amended and Restated Agreement Relative to Caves Valley Club, Golf Course and Residential Facility for the purposes therein contained.

WITNESS my hand and Notarial Seal.

_____
Notary Public

My Commission Expires 7/1/90

STATE OF MARYLAND

CITY/COUNTY OF BALTIMORE

I HEREBY CERTIFY that on this ____ day of _____, 1989 before me, the subscriber, a Notary Public of the jurisdiction aforesaid, duly commissioned and qualified, personally appeared Leslie B. Disharoon who acknowledged himself to be the President of Caves Valley Club, Inc., a Maryland corporation, and that he, as such President being authorized to do so, executed the foregoing Amended and Restated Agreement Relative to Caves Valley Club, Golf Course and Residential Facility for the purposes therein contained.

WITNESS my hand and Notarial Seal.

_____
Notary Public

My Commission Expires 7/1/90

0351p

corrected first page

IN THE MATTER OF THE PETITION OF CONSERVATION ASSOCIATES, ET AL. FOR ZONING RECLASSIFICATION FROM R.C. 2 TO R.C. 5 FOR PROPERTY LOCATED ON THE NORTHEAST SIDE OF PARK HEIGHTS AVENUE, 467' and 1507' NORTHWEST OF CAVES ROAD 4th ELECTION DISTRICT

* IN THE
* CIRCUIT COURT
* FOR
* BALTIMORE COUNTY
*
* CASE NO. 87-CG-2107

****

MEMORANDUM OPINION AND ORDER

This case comes before the Court on appeal from the Board of Appeals, denying a petition for reclassification of two parcels of land with a total size of approximately three hundred three (303) acres, confined within a contiguous parcel of approximately six hundred eighty-two (682) acres. Appellants appeal from a finding that although the subject parcels are not suitable for profitable agricultural use, they nevertheless should remain zoned R.C. 2 to protect the agricultural land on the floor of the Caves Valley. The Court, having reviewed the entire record below, together with memoranda and argument of counsel, renders the following opinion.

The property at issue is located in the Caves Valley area of northern Baltimore County. The present zoning for the property is Resource Conservation 2 (R.C. 2).

Appellants' bought the subject property in 1977. In 1980, during the Comprehensive Rezoning Process, attempt was made to have the whole property rezoned from R.C. 2 to R.C. 5. Both the Planning Board and the County Council refused to make this change, leaving the land zoned R.C. 2.

During the 1984 Comprehensive Rezoning Process, Appellants brought a petition to have 303 acres of the subject property rezoned to R.C. 5. This

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request dealt with the same land at issue in the present appeal. Again, b the Planning Board and the County Council concluded that R.C. 2 was the ap priate classification.

Appellants took appeal of the decision to the Board of Appeals, which heard five days of testimony on the matter. On May 1, 1987, the Board of Appeals issued an opinion denying Appellants request for reclassification. Unsatisfied with the Board of Appeals' decision, Conservation Associates brought appeal before this Court.

In reviewing the decision of the Board of Appeals, this Court can not substitute its judgment in a zoning case as to the wisdom or soundness of the action of the Board of Appeals if its decision is supported by substantial evidence and the issue is fairly debatable. Montgomery County v. Woodward & Lothrop, Inc., 280 Md. 686, 706, 376 A.2d 483 (1977), cert. den. 434, U.S. 1067, 98 S. Ct. 1245, S.S. L. Ed. 2d 769.

The Board of Appeals said in its May 1, 1987 opinion that "the testimony before this Board was as comprehensive and detailed on the issues raised as we have ever seen." There were a total of thirteen (13) expert witnesses who participated in five days of testimony.

Based on its narrow scope of review, this Court can not say that the decision of the Board of Appeals in this case was not fairly debatable or that the decision was not supported by substantial evidence.

The Board stated in its opinion that:

> The fundamental issue before this Board therefore is not necessarily whether or not those parcels contained in the herein petition are appropriately considered agricultural; but rather are they

appropriate to remain in an 'agricultural' zone in order to foster conditions favorable to a continued agricultural use of productive agricultural areas by preventing incompatible forms and degrees of urban uses.

Under present zoning, Appellants could develop the subject property into one homesite for every fifty (50) acres of land. If reclassification of the parcels to R.C. 5 zoning were approved, Appellants could construct one homesite for every one and one-half (1½) acres of land. In determining whether this proposed change would foster conditions that are unfavorable to a continued agricultural use of the Caves floor, the Board heard substantial testimony. This Court notes the testimony of Larry F. Duket and Paul J. Solomon, which the Board of Appeals found most persuasive.

Mr. Duket is Chief of the Current Planning Unit of the Maryland Department of State Planning. He concluded that necessary services which would be provided to the proposed homeowners would cause an impact well beyond the specific property over which their homes were located. Additionally, it was Mr. Duket's opinion that homesites at the proposed density would compromise the acquifer that supports the farmland and reduce nutrients in the soil.

Mr. Solomon is Environmental Planner for Baltimore County. It was his opinion that homesites of the density allowable under the proposed zoning would create the potential for a serious problem with the acquifer.

In regard to the present appeal, this Court has had numerous memoranda placed before it and additionally has heard lengthy argument.

If this Court had de novo review over the present appeal, it could draw its own conclusions from the evidence placed before it; but since this Court has a standard of review to apply, any conclusions of its own are irrelevant.

Under the applicable standard, this Court is restricted to a determination of whether the Board's decision to deny reclassification of the subject parcels was based on substantial evidence and was fairly debatable. Using this standard, the Court finds that the Board's action was based on substantial evidence and was fairly debatable.

In light of the above, it is this 28th day of October, 1987, by the Circuit Court for Baltimore County,

ORDERED that the decision of the Baltimore County Board of Appeals be and is hereby AFFIRMED.

A. Owen Hennegan

A. OWEN HENNEGAN, JUDGE

COPIES SENT:
Michael Gisriel, Esquire &
Thomas J. Gisriel, Esquire
Peter Max Zimmerman, Esquire &
Phyllis C. Friedman, Esquire
George C. Doub, Jr., Esquire
Andrew H. Baida, Esquire
Kathleen Pontone, Esquire &
Donald R. DeLorenz, Esquire

5-004

LAW OFFICES

GISRIEL & GISRIEL

SUITE 400
210 E. LEXINGTON STREET
BALTIMORE, MARYLAND 21202-3514

W. THOMAS GISRIEL
MICHAEL GISRIEL
PHILIP G. TILGHMAN
WM. H. GRADEMAN
THOMAS J. GISRIEL

TELEPHONE
(301) 539-0513

October 28, 1987

TO: Baltimore County, Maryland
c/o Baltimore County Office of Planning and Zoning

FROM: Michael Gisriel, Esquire (539-0513)

RE: BRIEF WRITTEN JUSTIFICATION FOR ZONING RECLASSIFICATION REQUEST OF KINGDON GOULD, JR. ET AL FOR RECLASSIFICATION OF 303.3 OF 682 ACRES FROM RC2 TO RC5

Our firm represents Conservation Associates and Caveman Properties, two limited partnerships, and Kingdon Gould, Jr., Trustee, owners of the above captioned property which consists of 682 acres of land in the Third Election District, Third Councilmanic District of Baltimore County on both sides of Park Heights Avenue, along and just to the north of Caves Road.

The owners of the above captioned property seek a zoning reclassification from the existing zoning of RC2 (rural-agricultural) for the whole tract to RC5 (rural residential) for approximately 303 acres with the remaining approximately 400 acres to remain RC2. You currently have many drawings and maps which delineate the subject property and the zoning reclassification requested. (If additional copies of these drawings and maps are currently unavailable, we would be happy to provide additional copies.) For the purposes of this zoning reclassification request, all three of the above entities which are the owners of the subject property, join in requesting the change as outlined in our Request for Change Application, and the supporting maps, drawings and memoranda.

The owners of the subject property strongly maintain that the current RC2 zoning for the entire 682 acre tract is not the proper zoning for the entire tract if the existing Baltimore County Zoning REgulations and consistent uniform zoning practices are properly applied. Instead, the owners contend that a better zoning plan for the subject property would allow them to make use of the valley walls with forest cover and ridge areas of the property for small estate single family development without jeopardizing the integrity of the valley floor. Thus, a mix of RC2 and RC5 zoning for the property seems a more appropriate zoning scheme when the existing Baltimore County Zoning Regulations are properly applied. James Schulte, the Land Use Planner retained by the owners, who prepared our various maps and drawings concurs with this view and estimates that if the proposed zoning reclassification is allowed, good planning and the topography of the land dictates that no more than 101 houses could be placed on the approximately 303 acres to be rezoned RC5. In fact, in all probability, the number of units built could be fewer. Thus, while all the proposed building lots would be heavily wooded with the planned residences to be high quality and custom built in harmony with those already in the community, there is also contemplated no interference with the existing open fileds in the valley floor. Furthermore, the density, taking into account all the land

Baltimore County, Maryland
Page Two
October 28, 1987

sought to be rezoned RC5 would be one house per approximately 3 acres - far less than would be allowed under Baltimore County RC5 density regulations and consistent with the plan for the Valleys developed twenty years ago.

The existing Baltimore County Zoning Regulations, as embodied in Council Bills 98-75 and 178-79, state in their declaration of legislative findings that the purpose of the RC2 zoning classification is "to foster conditions favorable to a continued agricultural use of the productive agricultural areas of Baltimore County by preventing incompatible forms and degrees of urban uses" (emphasis supplied). The purpose of the RC5 zoning classification is stated to be in order to:

"Provide for rural-residential development in suitable areas in which basic services are not anticipated. Eliminate scattered and general disorderly patterns of future rural-residential development. Assure that encroachments onto productive or critical natural resource areas will be minimized. Provide a minimum lot size which is sufficient to provide adequate area for the proper functioning of on-lot sewer and water systems."

When these stated Baltimore County Council legislative findings and zoning purposes are applied to the subject property, it seems self-evident that the approximately 303 acres sought by this Request for Change Application should be zoned RC5, not RC2. The approximately 303 acres sought to be rezoned RC5 (i.e. along Caves Road on the western side of Park Heights Avenue and above the power transmission line on the eastern side of Park Heights Avenue) is land that is not currently in agriculture nor is it land that will ever be conducive to farming. Rather, it is hilly, wooded land that is surrounded by and adjacent to existing large lot development. By rezoning the approximately 303 acre part of the subject property RC5, Baltimore County would accomplish all of the above stated purposes embodied in the Baltimore County's RC5 zoning classification.

The subject property is ringed by existing RC5 zoning. Development exists or is contemplated all around the property. In fact, it could be accurately stated that our property is the RC2 hole in a surrounding doughnut of RC5 zoning and development. We do not seek to totally eliminate this RC2 doughnut hole which exists to protect the integrity of the Caves Valley floor, rather we seek a refinement of the RC2 line (or a shrinking of the RC2 doughnut hole, if you will). RC2 zoning for the zoning reclassification requested area cannot be defended under existing Baltimore County Regulations, i.e. to preserve a continued agricultural use of productive farmland, it can only be defended by using as its justification the purpose of preventing development of the entire subject property and this is not a proper purpose or rationale that is encompassed in the existing Baltimore County Zoning Regulations.

According to the proper application of the Baltimore County Zoning Regulations, the boundary of the RC2 zoning should be determined by environmental and use conditions in order to meet the stated objective of preserving agricultural opportunity. The existing RC2 boundary for the subject property follows the property lines in an arbitrary manner since the property lines delineate no particular environmental or use condition and as such, include considerable acreage not suitable for any kind of agricultural use. The

Baltimore County, Maryland
Page Three
October 28, 1987

key environmental and use "break" on the subject property occurs along edges of the valley floor where agricultural lands meet the steeply sloped wooded hillsides. At this landscape junction, soil types change as well as vegetation characteristics. Coincidentally, the existing BG&E transmission line generally follows this environmental break. Use of this transmission line as the zoning boundary would accurately reflect the existing environmental and use conditions as well as serving as a boundary that is easy to find and define in the field. In a similar way, the railroad right-of-way is used on the south side of the Greenspring Valley to define the change in both environmental and zoning conditions. It should be noted that the same BG&E transmission line is used as the zoning boundary elsewhere in the Caves Valley (i.e. northwest of the subject property).

While our rezoning plan would not conflict with the stated purpose of the RC2 zoning classification, it would definitely allow for "moderated growth" in an area in which basic water and sewer services are not anticipated as envisioned in Baltimore County's Land Use Element 1979-1990 Master Plan.

Finally, our zoning reclassification request and our proposed development scheme on the valley walls with forest cover ridges areas of the Caves Valley is in conformity with the Plan for the Valleys as developed by the Valleys Planning Council more than ten years ago and substantially adopted as law and regulation by the Baltimore County Council. (See p. 38 of said Plan.) Our proposed plan and development concept protects the County's goal of preserving open fields and agricultural land while encouraging responsible development. It also benefits the local community in that the Caves Valley floor will remain undeveloped for the foreseeable future.

bls

GOROVE/SLADE ASSOCIATES, INC.
Suite 1200/1140 Connecticut Avenue, N.W./Washington, D.C. 20036/(202) 296-8625 Telecopier (202) 785-1278

MEMORANDUM

TO: Mr. Kingdon Gould, III

CC: Ms. Pat Faux, EDAW
Mr. Michael Gisriel

RECEIVED NOV 20 1987

FROM: Louis J. Slade
Edward F. Stollof
Gorove/Slade Associates, Inc.

DATE: October 29, 1987

SUBJECT: Traffic Information for The Caves Project Rezoning
Baltimore County, Maryland

This memorandum summarizes the assumptions used in developing the required traffic information for the rezoning application.

The rezoning will affect two pieces of property located in the general vicinity of Greenspring Road, Park Heights Avenue, and Caves Road in Baltimore County, Maryland. The northerly of the two parcels is 277 acres and the southerly of the two parcels is 26.34 acres. Both parcels will be developed at a density of 0.667 dwelling units per acre. This will yield 184 lots on the northerly parcel and 17 lots on the southerly parcel.

Access to the northerly parcel will be provided on Park Heights Avenue and on Greenspring Road. The internal circulation system will be interconnected, i.e., motorists will be able to access Greenspring Road or Park Heights Avenue from all of the lots within the northerly parcel.

The sourtherly parcel will have access only from Caves Road.

The trip generation for the entire project is estimated to be 10 vehicle trips per lot (dwelling unit) per day on an average daily basis. This will yield 1,840 vehicle trips for the northerly parcel and 170 vehicle trips for the southerly parcel. This trip generation information is summarized on the table below.

MEMORANDUM/PAGE 2
Mr. Kingdon Gould, III
October 29, 1987

PARCEL	NUMBER OF LOTS	AVERAGE DAILY TRAFFIC (Vehicle Trip Ends)
Northerly	184	1,840 Trips
Southerly	17	170 Trips
Total	201	2,010

The distribution of the traffic generated by the project was based on judgement regarding the probable orientation of homeowners within the project to their jobs, shopping, schools, social recreation and other trip purposes. In general, we anticipate that on an average daily basis 70 percent of the trips will be oriented in the southerly direction in the corridor and 30 percent will be oriented in the northerly direction.

Traffic generated within the northerly parcel will have two opportunities for access. The distribution to the entrances was based on the relative accessibility of the lots to those entrances. It was judged that 70 percent of the lots would have a probability of using the Park Heights Avenue access and 30 percent would have a probability using the Greenspring Road access.

Utilizing the above distributions, the following trip allocation was computed:

Northerly Parcel

Greenspring Road North	166 trips per day	(9%)
Greenspring Road South	386 trips per day	(21%)
Park Heights Avenue North	386 trips per day	(21%)
Park Heights Avenue South	902 trips per day	(49%)
Subtotal	1,840 trips per day	(100%)

Southerly Parcel

Caves Road North	51 trips per day	(30%)
Caves Road South	119 trips per day	(70%)
Subtotal	170 trips per day	(100%)
Total	2,010 trips per day	

LJS14/am
1063-TBA

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ISSUE NO.

TRAFFIC INFORMATION
Average Daily Trips

Manufacturing Zones — M.L.R., M.L., M.H.

____ Acres X 100 = _____ A.D.T.

Business Zones — B.L., B.M., B.R.

____ Acres X 750 = _____ A.D.T.

Elevator Apartment Zones — R.A.E. 1, R.A.E. 2

____ Acres X 750 = _____ A.D.T.

Office Zones — R-O, O-1, O-2

____ Acres X 200 = _____ A.D.T.

Density Residential Zones —

D.R. 1	____ Acres X 10 = _____	A.D.T.
D.R. 2	____ Acres X 20 = _____	A.D.T.
D.R. 3.5	____ Acres X 35 = _____	A.D.T.
D.R. 5.5	____ Acres X 50 = _____	A.D.T.
D.R. 10.5	____ Acres X 50 = _____	A.D.T.
D.R. 16	____ Acres X 120 = _____	A.D.T.

Northerly Parcel: 277 acres x 6.67 = 1,840 A.D.T.*

Southerly Parcel: 26.34 acres x 6.67 = 170 A.D.T.*

*Rounded down to reflect rounding of actual number of lots

- 4 -

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DEPARTMENT OF STATE PLANNING REVIEW AND COMMENT
1988 Baltimore County Comprehensive Zoning Process

3-006 Conservation Associates RC2 to RC5

This Department has opposed this proposal in the past and continues to do so. The site is comprised of prime and productive agricultural land. Within a three-mile radius of the subject property, 90 percent of the undeveloped soil is prime and productive.

Rezoning would result in the loss of agricultural land and also encourage similarly destructive rezonings elsewhere in the immediate area.

Under RC5 zoning, residential construction would also create a substantial increase in impervious surface on the site, thereby reducing its ability to provide groundwater recharge to one of the most important aquifers in the County. Moreover, the introduction of septic systems on the property will potentially create problems in terms of adversely affecting the water quality of the aquifer.

To protect these agricultural and groundwater resources, and to promote the goals of the Master Plan which reserves the Caves Valley for rural and agricultural use, the County has placed this land in the RC2 category.

This Department supports the retention of this zoning.

It does not guarantee the issuance of plan approval or a building permit. At the time of development processing, all County, State and Federal requirements in effect at that time must be satisfied.

1988 COMPREHENSIVE ZONING MAP
Request For Change
Office of Planning and Zoning
Baltimore County, Maryland

1 APPLICANT'S NAME Conservation Associates, Caveman Properties, Inc. Kingdon Gould, Jr., Trustee, Owners, by Michael Gisriel, Attorney
2 ADDRESS c/o Michael Gisriel, Esquire; 210 E. Lexington Street, Suite 400
3 CITY Baltimore 4 STATE MD 5 ZIP 21202 6 PHONE 539-0513
7 ORGANIZATION (if any) N/A 8 COMMUNITY ORGANIZATION INVOLVED: Valley Planning Council, et al
9 APPLICANT STATUS: (Please Circle one) Property Owner; Contract Purchaser; Legal Rep.
10 PROPERTY LOCATION 8th Election Dist., 3rd Councilmanic Dist., on both sides of Park Heights Ave. along and north of Caves Road
11 ACREAGE OR LOT SIZE Total acreage 622 acres
12 EXISTING ZONING BY ACRES RC2 for entire tract-maximum units allowed under existing zoning-15
13 REQUESTED ZONING BY ACRES RC5 for 303.3 acres, RC2 for remainder of tract, maximum number of units allowed under the zoning law would remain the same
14 EXISTING USE Undeveloped woodlands & open fields
15 PROPOSED USE (if known) small estate, single-family development on ridge areas of Caves Valley and on valley walls with forest cover
16 ZONING HISTORY: 17(a) Comprehensive Zoning Map Process; 18Issue No. 3-60- 19Year 1984
(if applicable) 20(b) Cycle Zoning; 21 Case No. 4-2-1985
22 WATER SERVICE ZONE No Plans for Sewer
23 SUBSEWERSHED NUMBER (If request is located in more than one subsewershed, the number of dwelling units for each subsewershed must be shown, if known.) No Plans Currently
24 Property information from tax bills - Also available from Assessments Recordation Office, Room 48, Court House, Towson, MD 21204 (494-3691)

District	Property Number		
8	17	00	013399/013400
Deed	Liber		Folio
ERK Jr.	5797		349 thru 356

Map	Block	Parcel
59	18 & 2	215/227/254
Rec. Plat	Liber	Folio
N/A	5797	349 thru 356
	Block	Lot
	N/A	N/A

25 APPLICANT ACKNOWLEDGEMENT:
I hereby grant permission to Baltimore County for any required field inspections or sign posting of my property in regard to the subject zoning request.
I hereby acknowledge that if the requested zoning is granted, a change in the property tax assessment and/or transfer taxes may result for which the property owner would be responsible.
NAME Michael Gisriel, Attorney (Type or Print)
(Landowner, Contract Purchaser and/or Legal Representative)
SIGNATURE
Application Must be Presented in Person

It does not guarantee the issuance of plan approval or a building permit. At the time of development processing, all County, State and Federal requirements in effect at that time must be satisfied.

1988 COMPREHENSIVE ZONING MAP
Request For Change
Office of Planning and Zoning
Baltimore County, Maryland

COUNCIL DISTRICT 3rd
ZONING MAP 3 NE
ISSUE NO. 3-60
ACRES 303.3
DRAWN D.W.
PLATTED
DATE Aug 3, 1987

1 APPLICANT'S NAME Conservation Associates C/o Michael Gisriel Esq
2 ADDRESS 204 N. Liberty St. Suite 200
3 CITY Balto 4 STATE MD 5 ZIP 21201 6 PHONE 539-0513
7 ORGANIZATION (if any) 8 COMMUNITY ORGANIZATION INVOLVED: Valleys Planning Council Chestnut Ridge
9 APPLICANT STATUS: (Please Circle one) Property Owner; Contract Purchaser; Legal Rep.
10 PROPERTY LOCATION S/W/S of Green Spring Ave 800' N/W of Caves Rd, S W/S of Park Heights Ave
11 ACREAGE OR LOT SIZE CAVES VAL. 2400' S/W of PARK Heights Ave 303.3 Ac
12 EXISTING ZONING BY ACRES RC2; 303.3 Ac
13 REQUESTED ZONING BY ACRES RC5 303.3 Ac.
14 EXISTING USE Agricultural
15 PROPOSED USE (if known) Residential, Rural
16 ZONING HISTORY: 17(a) Comprehensive Zoning Map Process: 18Issue No. 3-10 19Year 84
(if applicable) 20(b) Cycle Zoning; 21 Case No. R 84-110
22 WATER SERVICE ZONE N/A.
23 SUBSEWERSHED NUMBER (If request is located in more than one subsewershed, the number of dwelling units for each subsewershed must be shown, if known.) N/A
24 Property information from tax bills - Also available from Assessments Recordation Office, Room 48, Court House, Towson, MD 21204 (494-3691)

District	Property Number		
	17	00	013399
Deed	Liber		Folio
	5797		349-356

17 - 00 - 013399
17 - 00 - 013400

Map	Block	Parcel
59	018 02	214/227/254
Rec. Plat	Liber	Folio
	5797	349-356
	Block	Lot

25 APPLICANT ACKNOWLEDGEMENT:
I hereby grant permission to Baltimore County for any required field inspections or sign posting of my property in regard to the subject zoning request.
I hereby acknowledge that if the requested zoning is granted, a change in the property tax assessment and/or transfer taxes may result for which the property owner would be responsible.
NAME (Type or Print)
(Landowner, Contract Purchaser and/or Legal Representative)
SIGNATURE
Application Must be Presented in Person

OFFICE OF PLANNING AND ZONING STAFF REPORT
1988 COMPREHENSIVE ZONING MAP

Planner: Dillon Date: 3/16

Issue No.: 3-004 Total Tract 682 request is to change 379 Ac to

Site Size: Total Tract 682 RC5 377 Ac+/-

Location: Caves Valley and 31 Hillsboro

Existing Zoning: RC2

Existing Land Use: Agricultural land

Proposed Zoning: RC5 (377 Ac+/-)

Proposed Land Use: Residential

Surrounding Zoning - North: RC5
South: RC2
East: RC2
West: RC2

Surrounding Land Use - North: Residential
South: Farm land
East: Residential / Farmland
West: Farm land

Special Information (i.e., significant findings concerning) -

Water Service: No Planned Service

Sewerage Service: No Planned Service

Transportation: Access via CAVES Rd, PARK Heights Ave, Greenspring Ave.

RE: CAVES VALLEY CLUB, INC., et al. : BEFORE THE COUNTY BOARD OF APPEALS
PETITION FOR RECLASSIFICATION :
FROM R.C. 2 to R.C. 5 : OF BALTIMORE COUNTY
NE/S Park Hgts. Ave., 931' NW :
of Caves Rd., 7th Election Dist.:
3rd Councilmanic District

ORDER FOR SUBPOENA

Madame Secretary:

Please issue a subpoena for:

John J. Dillon, Jr.
Office of Planning and Zoning
Fourth Floor, Courts Building
401 Bosley Avenue
Towson, Maryland 21204

to appear as a witness on behalf of the People's Counsel for Baltimore County at the hearing scheduled in this matter before the County Board of Appeals for Wednesday, March 29, 1989, at 10:00 a.m., to attend said hearing on that date and on any subsequent days upon which it might thereafter be scheduled.

Peter Max Zimmerman
Deputy People's Counsel for
Baltimore County
Room 304, County Office Bldg.
Towson, Maryland 21204
(301) 887-2188

MR. SHERIFF:

Please issue the above Summons.

Linda Lee M. Kuszmaul
Legal Secretary

RECEIVED
89 MAR 22 AM 11:32
COUNTY BOARD OF APPEALS

LAW OFFICES
GISRIEL & GISRIEL
SUITE 400
210 E. LEXINGTON STREET
BALTIMORE, MARYLAND 21202-3514

October 29, 1987

Mr. Jack Dillon
Senior Planner
Baltimore County Office of Planning and Zoning
New Court House, 4th Floor
Towson, MD 21204

RE: 1988 Baltimore County Comprehensive Zoning Reclassification Request of Kingdon Gould, Jr. et al for Reclassification of 303.3 out of 682 acres from RC2 to RC5 North of Caves Road on both sides of Park Heights Avenue

Dear Jack:

Attached is the Request for Change Application which the Goulds have requested me to file with Baltimore County for the above captioned matter for use during the 1988 Baltimore County Comprehensive Re-Zoning Process. I know that the Goulds 1988 Zoning Reclassification Request for the rezoning of 303.3 out of their 682 acres has already been listed as a 1988 issue by your office (i.e. 1988 Map Issue #3-004), however the Goulds have asked me to file the attached request so that they, through me as their legal representative, will be the moving party for the Map Issue for their property. As the moving party, we would thus be in control of the Map Issue for purposes of amendment, etc. If your office wants to give the Goulds a new Map Issue number or merely allow them control as the moving party of Map Issue 3-004 is a decision that we'll leave to your discretion. The important thing to the Goulds is that their Issue remain alive for the entire 1988 Map Process (with their power to amend the Issue at a later time remaining intact) regardless of the disposition of their pending Court Case and any subsequent appeals.

We are today filing with your office the following items:

1. Request for Change Application (1988)
2. Brief written justification for request
3. Metes and Bounds description of subject property
4. Traffic study for existing and proposed zoning
5. Three (3) copies of Map showing subject property, the existing zoning and proposed RC5 area
6. Three (3) copies of Topography Relief Map of the subject property
7. Three (3) copies of Slope Condition of the subject property
8. Three (3) copies of Land Uses of subject property
9. Three (3) copies of Constraints for Septic Installations of subject property
10. Three (3) copies of Buildable Area Composite of subject property

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Mr. Jack Dillon
Page Two
October 29, 1987

Because of the familiarity which you and your office already have with the subject property and because the subject property is currently listed as a 1988 Map Issue, we understand that your office is not asking us to file the 200, 600 and 1,000 scale zoning maps, the 1986 aerial photographic maps, the 200 scale photogrametrics, nor additional traffic information for the subject property. However, if any of this information for the subject property is not already available to your office or if your office would like any other information about the subject property generally or our Map Issue, in particular, the Goulds have instructed me that they will see that it is provided to you - all you have to do is ask.

Please don't hesitate to call me if you have any questions about our 1988 Zoning Reclassification Request or if I can provide you with any additional information. I look forward to working with you during the 1988 Map Process.

Continued best regards, I remain

Very truly yours,

Michael Gisriel

MG/bls

Enclosure

cc: Kingdon Gould, Jr.
Kingdon Gould, III

LAW OFFICES
GISRIEL & GISRIEL
SUITE 400
210 E. LEXINGTON STREET
BALTIMORE, MARYLAND 21202-3514

November 19, 1987

RECEIVED NOV 20 1987

Mr. Jack Dillon
Senior Planner
Baltimore County Office of Planning and Zoning
New Court House, 4th Floor
Towson, MD 21204

RE: 1988 Baltimore County Comprehensive Zoning Reclassification Request of Kingdon Gould, Jr. et al for Reclassification of 303.3 out of 682 acres from RC2 to RC5 north of Caves Road on both sides of Park Heights Avenue
Map Issue #3-004

Dear Jack:

I understand that you have been appointed by Councilman Ruppersberger to the "Advisory Committee" that he has appointed to discuss the above captioned Map Issue. As you know, this Advisory Committee is scheduled to meet on Tuesday, December 1, 1987 at 10 a.m. in the Council Chambers. I just want you to know on behalf of the Goulds, we would be happy to provide any information or cooperation to you and your office in your analysis of this Map Issue. In accordance with the above, I attach for your analysis, the following:

1. A copy of the 1986 200 scale zoning map with the subject property outlined
2. A copy of the 1986 600 scale zoning map with the subject property outlined
3. A copy of the 1986 1,000 scale zoning map with the subject property outlined
4. A copy of the traffic information report for the Caves Project Rezoning

Finally, in our request for change application, we indicated that the Goulds would agree to limit the number of units to 101. I would like to withdrew that limitation at this time and let the Goulds themselves make a presentation as to the limitation of the number of units on the subject property at the upcoming December 1, 1987 meeting.

Please call if you have any questions or require any additional information.

I remain

Very truly yours,

Michael Gisriel

MG/bls
Enclosures
cc: Kingdon Gould, Jr and Kingdon Gould, III

1988 COMPREHENSIVE ZONING MAP
Request For Change

Office of Planning and Zoning
Baltimore County, Maryland

(Office Use Only)
COUNCILMANIC DISTRICT 3rd
ISSUE NO. 3-004
AREA
PLANNER MAD
DATE RECEIVED 11/20/87

Approval at this request is granted, it does not guarantee the issuance of plan approval or a building permit. At the time of development processing, all County, State and Federal requirements in effect at that time must be satisfied.

Conservation Associates, Caveman Properties, two limited partnerships

1 APPLICANT'S NAME and Kingdon Gould, Jr., Trustee, Owners, by Michael Gisriel, Attorney

2 ADDRESS c/o Michael Gisriel, Esquire; 210 E. Lexington Street, Suite 400

3 CITY Baltimore 4 STATE MD 5 ZIP 21202 6 PHONE 539-0513

7 ORGANIZATION (if any) N/A

8 COMMUNITY ORGANIZATION INVOLVED: Valley Planning Council, et al

9 APPLICANT STATUS: (Please Circle one) and Property Owner / ~~Contract Purchaser~~ / Legal Rep.

10 PROPERTY LOCATION 4th Election Dist., 3rd Councilmanic Dist., on both sides of Park Heights Ave. along and north of Caves Road

11 ACREAGE ~~Net~~ Total acreage 682 acres

12 EXISTING ZONING BY ACRES RC2 for entire tract-maximum units allowed under existing zoning-15

13 REQUESTED ZONING BY ACRES RC5 for 303.3 acres, RC2 for remainder of tract, maximum number of units allowed under new zoning-200 but owner would agree to limit number of

14 EXISTING USE undeveloped woodlands & open fields /units to 101

15 PROPOSED USE (if known) small estate, single-family development on ridge areas of Caves Valley and on Valley walls with forest cover

16 ZONING HISTORY: 17(a) Comprehensive Zoning Map Proc. 1984 18Issue No. 3-60 19Year 1984
(if applicable) 20(b) Cycle Zoning: 21Case No. 4-1385

22 WATER SERVICE ZONE No Planned Service

23 SUBSEWERSHED NUMBER (If request is located in more than one subsewershed, the number of dwelling units for each subsewershed must be shown, if known.) No Planned Service

24 Property information from tax bills - Also available from Assessments Recordation Office, Room 48, Court House, Towson, MD 21204 (494-3691)

District	Property Number		
4	17	00	013399/013400/ 013401
Deed	Liber		Folio
EHK Jr.	5797		349 thru 356

Map	Block	Parcel
59	1 & 2	215/397/454
Rec. Plat	Liber	Folio
N/A	5797	349 thru 356
	Block	Lot
	N/A	N/A

25 APPLICANT ACKNOWLEDGEMENT:

I hereby grant permission to Baltimore County for any required field inspections or sign posting of my property in regard to the subject zoning request.

I hereby acknowledge that if the requested zoning is granted, a change in the property tax assessment and/or transfer taxes may result for which the property owner would be responsible.

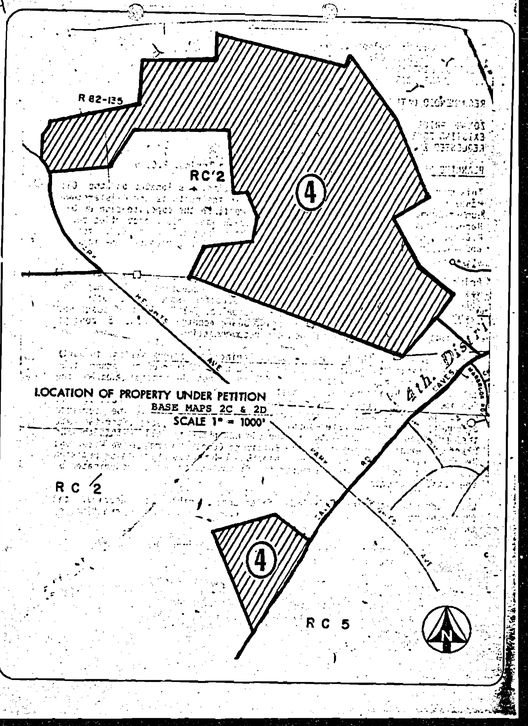
NAME Michael Gisriel, Esquire (Type or Print)

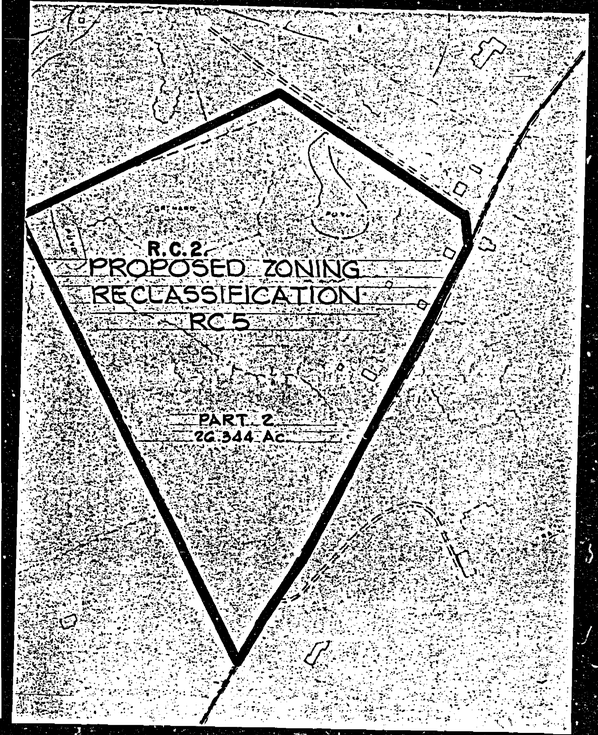
~~Owner~~ / ~~Contract Purchaser~~ / Legal Representative)

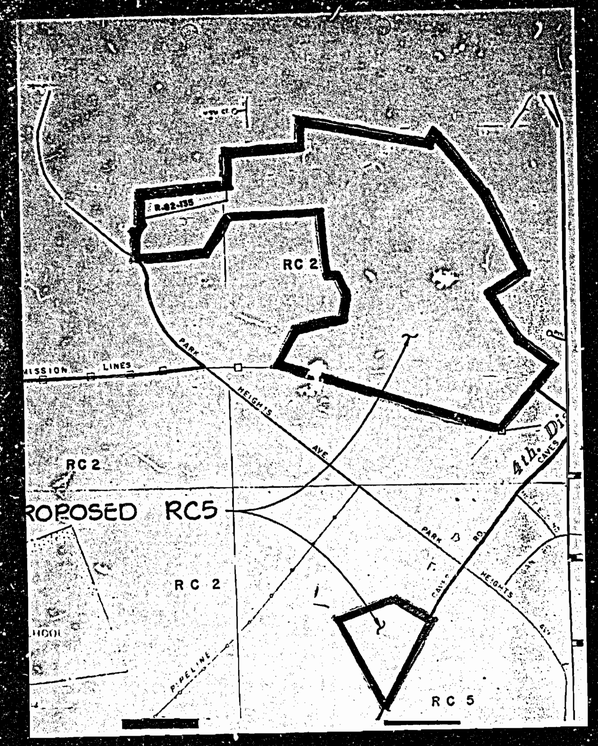
SIGNATURE Michael Gisriel, Esq.

Application Must be Presented in Person

3-004







IN THE MATTER OF
BO PEEP DAY NURSERY
SUSPENSION OF DAY CARE
LICENSE

IN THE CIRCUIT COURT
FOR
HARFORD COUNTY

IN THE MATTER OF
BO PEEP DAY NURSERY
REVOCATION AND DENIAL OF
RENEWAL OF DAY CARE LICENSE

Case No. 1998 - 5 - 99

Case No. 2089 - 5 - 145

MEMORANDUM OPINION AND ORDER

PRELIMINARY STATEMENT

The Court is keenly aware that many believe our forum will determine whether abuse took place at Bo Peep Nursery. Such is not the case, as the Court's mandated function is to review the proceedings before the Health Department to discern whether legal error was committed and whether the Hearing Officer had sufficient, substantial evidence before him to conclude that physical abuse took place. Thus, the Court will make no fresh factual determinations concerning the issue of abuse.

FACTS

Deborah Cassilly comes before this Court in order to appeal the decisions of the Department of Health and Mental Hygiene which resulted in (1) suspension of her day care license and (2) revocation/non-renewal of her license. The two appeals were consolidated and argument was presented to the Court on November 16, 1988.

FILED
1989 MAR -9 PM 3:29

578 MD. 217 ATLANTIC REPORTER, 2d SERIES

the Comptroller, prior to the enactment of Chapter 91, when he considered that the words "all property" in the then existing legislation *included personal property*, he construed the language "shall have the • • • effect of a lien of judgment" as requiring a levy to establish the State's lien. See In re Meisel, 159 F.Supp. 879 (D.Md. 1958). Chief Judge Thomsen for the United States District Court for the District of Maryland, after stating that the Comptroller had filed' s lien notice with the Clerk for the Circuit Court for Anne Arundel County for unpaid sales and use taxes on May 5, 1955, ordered the Clerk on December 30, 1955 to issue a writ of *fi. fa.* on the lien directed to the Sheriff of Anne Arundel County to seize certain chattels belonging to the debtor, which levy was made by the Sheriff on January 4, 1956, stated in Note 1 on page 882 of 159 F.Supp.

"The Comptroller based his petition for review on two grounds, but for the purpose of this appeal he has abandoned the first: that 'the Comptroller's lien is superior to the lien of the District Director of Internal Revenue for the reason that the latter, though recorded prior in point of time to the Comptroller's lien, *does not attach to personal property until levy is effected;* and that the Comptroller's lien, *perfected through levy and possession of the goods, must therefore prevail.*' In any event, this ground is without merit for reasons stated in United States v. Levin, D.C.Md., 128 F.Supp. 465, and the authorities cited therein at pp. 468, 469. The State lien in this case had the form and effect of a lien of judgment. Ann.Code Md.1957, Art. 81, Sec. 342(b)." (Emphasis supplied).

This case indicates that the Comptroller's construction of the applicable language of Section 342(b) and of the necessity of a levy to make consummate the *inchoate* lien arising upon delivery of the writ of *fi. fa.* was in accord with what, in my opinion, is the proper construction of the language in Section 342(b). This prior construction by the Comptroller of the language is significant. Cf. Comptroller v. M. E. Rockhill, Inc., supra.

I would reverse the order of the lower court.

Pl585-86

242 Md. 55

GEORGE MYSON et al.
v.
MONTGOMERY COUNTY COUNCIL et al.
No. 91.
Court of Appeals of Maryland.
Feb. 11, 1966.

Concurring Opinion March 29, 1966.

Proceeding for reclassification of property. From determination of Montgomery County council granting reclassification, appeal was taken. The Circuit Court, Montgomery County, Ralph G. Shure, J., entered judgment adverse to protestants and they appealed. The Court of Appeals, Prescott, C. J., held that protestants had right to cross-examine petitioner's witnesses, but that record disclosed that they were not denied that right, and that evidence of changes in neighborhood was sufficient to make fairly debatable the reclassification of lots therein from residential to commercial.

Order affirmed.

1. Evidence ⇐⇒3(2)

It is common knowledge that generally witnesses at zoning hearings are not summoned and are not required to remain until hearing is concluded.

2. Administrative Law and Procedure ⇐⇒291
Constitutional Law ⇐⇒48

Governmental bodies, tribunals, agencies, boards and by whatever other appella-

uld certainly be prefer-
" *Id.* at 289.

30 is intended to make a
cessary. It will be nos-
ame question raised by
is pertinent here. Or-
t to January 1, 1970.
Code (1957, 1969 Repl.
301 and 12-102, title to
l devolve upon his per-
s. How could a decree
the payment of money
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tive?

nt case of Goldman v.
22, 271 A.2d 639 (1970),
for the Court that an
se validity of a Nevada
d brought in Maryland
could not proceed until
ppliance with Rule 220,
rectly affected title to
land, formerly owned as
erties, and other proper-
mer husband died prior
te of what is now Code
Vol.) Art. 93. There-
property passed directly
evisees upon his death,
personal representative
under § 1-301. The ad-
dministrator *ad colligen-*
lefendant was held not
ase was remanded for
with the comment:

e trial judge should,
appropriate, identify
essary party so as to
ortunity to be heard.
mplished through the
ed in Maryland Rules
and 282." *Id.* at 226-
-41.

le that in the interest of
the authority of Rule
ld be remanded for the
parties, in this case the
ative of Orvis and the

ROGERS v. RADIO SHACK Md. 113
Cite as 314 A.2d 113

widow of Orvis.* Upon the remand there may be additional evidence presented. Because it is possible that when the issues here are ultimately decided the record before the chancellor will not be the same as it now is, it would be unwise for us to express a view on the record as it previously developed before the chancellor. It is conceivable, of course, that a designated personal representative after being made a party to the proceeding may seek to dismiss it. In that event those entitled to share in Orvis' estate may wish to consider the applicability of Tribull v. Tribull, 208 Md. 490, 503, 119 A.2d 399 (1956), to their situation.

Case remanded without affirmance or reversal for further proceedings; costs to abide the final result.

P.115

271 Md. 126
Dassie A. ROGERS
v.
RADIO SHACK et al.
No. 170.
Court of Appeals of Maryland.
Jan. 31, 1974.

Unemployment insurance claim was denied by the Board of Appeals of the Employment Security Administration on the ground that claimant had been discharged for misconduct. The Circuit Court, Prince George's County, William B. Bowie, J., affirmed and claimant appealed. The Court of Appeals, Eldridge, J., held that use of report filed by investigator which dealt with the circumstances of claimant's discharge and which claimant was given no opportunity to rebut was precluded by fundamental fairness; that an examination of the record indicated that neither the Board of Appeals nor Circuit Court placed any weight on the report; that written statement by claimant's former employer which merely alleged misconduct and which was largely repudiated by second statement from employer's vice president was insufficient to support finding of discharge for misconduct; and that claimant's own testimony was insufficient on which to base a finding of misconduct.

Reversed and remanded.

1. Administrative Law and Procedure ⇐⇒473

Administrative agency, while not bound by common-law rules of evidence, must observe the basic rules of fairness as to parties appearing before them.

2. Social Security and Public Welfare
⇐⇒611, 631

Where unemployment insurance applicant had no opportunity to cross-examine investigator who prepared report on the circumstances of his discharge or to rebut the report, fundamental fairness precluded reliance on the report by the administrative agency or reviewing court in deciding the claim.

3. Social Security and Public Welfare ⇐⇒631

Where record indicated that neither board of appeals nor circuit court placed any weight on report submitted by investigator who had looked into the circumstances surrounding discharge of claimant of unemployment insurance benefits, any error in admitting the report without giving claimant opportunity to cross-examine the investigator or rebut the report was harmless.

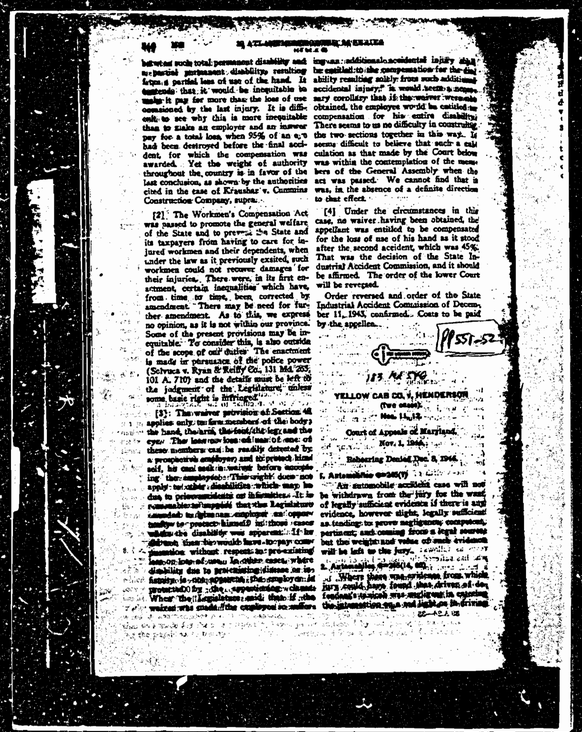
4. Social Security and Public Welfare ⇐⇒384

Initial statement by employer, which was to the effect that unemployment insur-

dower is abolished, but the conveyance to Norman by its terms reserved a life estate in Orvis' widow.

3. Under Code (1957, 1969 Repl. Vol.) Art. 93, § 3-202, and our holding in Silberman v. Jacobs, 259 Md. 1, 267 A.2d 208 (1970).

314 A.2d—8



440 [265 MD. 302 ELDRIDGE v. TAWNMOOR APARTMENTS [265 Md.

but worse such total permanent disability and no partial settlement disability resulting from a partial loss of use of the hand. It is contended that it would be inequitable to make it pay far more than the loss of use occasioned by the last injury. It is difficult to see why this is more inequitable than to make an employer and an insurer pay for a total loss, when 95% of an 85% had been destroyed before the final accident, for which the compensation was awarded. Yet the weight of authority throughout the country is in favor of the last conclusion, as shown by the authorities cited in the case of Krauskar v. Cummins Construction Company, supra.

[2] The Workmen's Compensation Act was passed to promote the general welfare of the State and to prevent the State and its taxpayers from having to care for injured workmen and their dependents, when under the law as it previously existed, such workmen could not recover damages for their injuries. There were, in its first enactment, certain inequalities which have, from time to time, been corrected by amendment. There may be need for further amendment. As to this, we express no opinion, as it is not within our province. Some of the present provisions may be inequitable. To consider this, is also outside of the scope of our duties. The enactment is made in pursuance of the police power (Schraca v. Ryan & Reiffy Co., 131 Md. 263, 101 A. 710) and the details must be left to the judgment of the Legislature unless some basic right is infringed.

[3] The waiver provision of Section 48 applies only to the employee of the body of the hand, the wrist, the foot, the leg, and the eye. The loss or loss of use of one of these members can be readily detected by a prospective employer and to protect himself, he can seek an insurer before accepting the employee. Catastrophic disease or similar disabilities which may be due to pre-existing conditions or infirmities. It is reasonable to suppose that when Section 48 is amended to lighten the employer an opportunity to protect himself in those cases within the disability now apparent. If he believes that he would have to pay compensation without regards to pre-existing loss or loss of use, in other cases, where disability due to pre-existing illness or infirmity is not apparent, the employer is protected by [illegible] operations should [illegible] When this is amended, then if the waiver was made, the employee is entitled to additional accidental injury shall be entitled to the compensation for disability resulting solely from such additional accidental injury." It would seem a necessary corollary that if the waiver was not obtained, the employee would be entitled to compensation for his entire disability. There seems to us no difficulty in construing the two sections together in this way. It seems difficult to believe that such a calculation as that made by the Court below was within the contemplation of the members of the General Assembly when the act was passed. We cannot find that it was, in the absence of a definite direction to that effect.

[4] Under the circumstances in this case, no waiver having been obtained, the appellant was entitled to be compensated for the loss of use of his hand as it stood after the second accident, which was 45%. That was the decision of the State Industrial Accident Commission, and it should be affirmed. The order of the lower Court will be reversed.

Order reversed and order of the State Industrial Accident Commission of December 11, 1943, confirmed. Costs to be paid by the appellee.

P1551-52

185 Md. 576

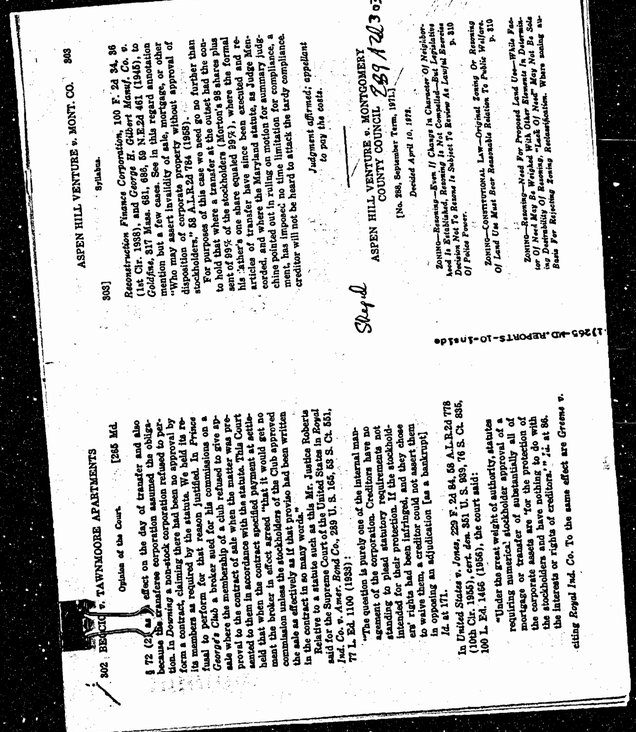
YELLOW CAB CO. v. HENDERSON
(No case)
Nos. 14, 15.
Court of Appeals of Maryland.
Nov. 1, 1945.
Rehearing Denied Dec. 3, 1945.

1. Automobiles ⇐⇒245(7)

An automobile accident case will not be withdrawn from the jury for the want of legally sufficient evidence if there is any evidence, however slight, legally sufficient as tending to prove negligence as charged, pertinency and coming from a legal source but the weight and value of such evidence will be left to the jury.

2. Automobiles ⇐⇒245(14, 65).

Where there was evidence from which jury could have found that driver of defendant's taxicab was engaged in operating the transportation unit and duties in driving



302 ELDRIDGE v. TAWNMOOR APARTMENTS [265 Md.

Opinion of the Court.

§ 72 (2) as to the effect on the day of transfer and also because the latter a non-stock corporation refused to permit the former to form a contract, claiming there had been no valid transfer of its members as required by the statute. In *Price George's* Club, membership of a club refused to give appellant to the contract of sale when the matter was presented to them in accordance with the contract. This Court held that when the contract stated "that it would get no consent of the corporation. Creditors not consent from the stockholders of the Club approved the sale effectively as if that proviso had been written in the contract in so many words.

Relative to a statute such as that considered by Mr. Justice Roberts said for the Supr *Bond Co.*, 289 U. S. 166, 53 S. Ct. 551, 77 L. Ed. 1100 (1933):

"The question is purely one of the internal management of the corporation. Creditors have no standing to object to the action of the stockholders intended for their benefit, and they chose to deal with them, a creditor could not assert them in opposing an adjudication [as a bankrupt]."

Id. at 171.

In *United States v. Jones*, 290 F. 2d 94, 58 A.L.R.2d 778 (10th Cir. 1956), *cert. den.* 368 U. S. 989, 76 S. Ct. 835, 100 L. Ed. 1466 (1956), the court said:

"Under the great weight of authority, statutes requiring the consent of stockholder approval of a mortgage or transfer of substantially all of the corporate assets are for the protection of the stockholders and have nothing to do with the interests or rights of creditors." 14 A. at 86.

citing *Royal Ind. Co.* To the same effect are *Grimes v.*

ASPEN HILL VENTURE v. MONTGOMERY COUNTY COUNCIL

[No. 398, September Term, 1972.]

Decided April 10, 1973.

Zoning—Rezoning—Even If Change in Character Of Neighborhood Is Established, Rezoning Is Not Compelled Thereby But Decision Not To Rezone Is Subject To Judicial Review To Determine If Action Of Police Power.

Zoning—Construction Law—Original Zoning Or Rezoning Of Land Use Must Bear Reasonable Relation To Public Welfare.

Zoning—Rezoning—Need For Proposed Land Use—While Planning Commission's Recommendation Is Not Binding On Council, It Is Weighted With Other Elements In Determining Reasonableness Or Unreasonableness Of Rezoning Classification.

Zoning—Rezoning—Burden Of Proof—Applicant For Rezoning Has Burden Of Showing Unreasonable Relation To Public Welfare Of Existing Zoning Classification.

Judgment affirmed; appellant to pay the costs.

ASPEN HILL VENTURE v. MONTGOMERY COUNTY COUNCIL

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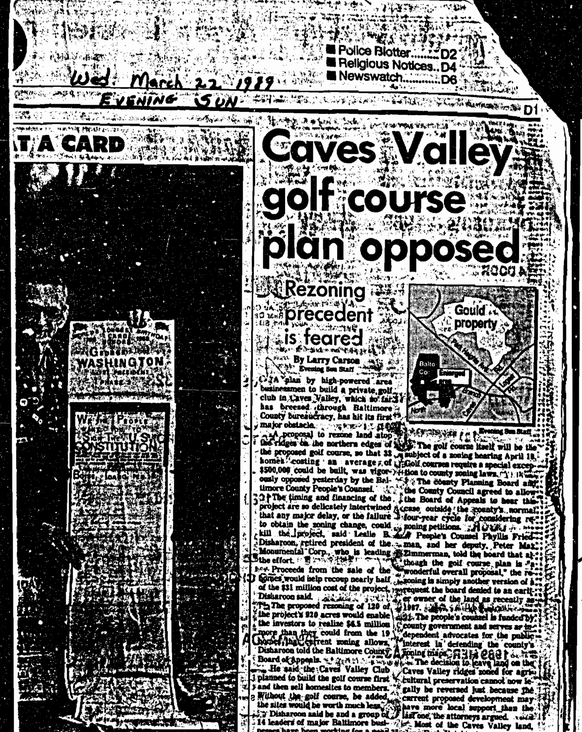


Wed. March 22, 1989
EVENING SUN

Police Blotter....D2
Religious Notices....D4
Newswatch....D6

D1

T A CARD

Caves Valley golf course plan opposed

Rezoning precedent is feared

By Larry Carson
Evening Sun Staff

A plan by high-powered area businessmen to build a private golf club in Caves Valley, which for fast has hovered through Baltimore County bureaucracy, has hit its first major obstacle.

A proposal to rezone land on the ridges to the northern edges of the proposed golf course, so that as many as 1,000 homes costing an average of $500,000 could be built, was vigorously opposed yesterday by the Baltimore County People's Counsel.

The timing and financing of the project are so delicately interwined that any major delay, or the failure to obtain the zoning change, could kill the project, said Leslie R. Disharoon, vice president of the Monumental Corp., who is leading the effort.

Proceeds from the sale of the homes would help recoup nearly half of the $31 million cost of the project, Disharoon said.

The proposed rezoning of 139 of the project's 219 acres would enable the investors to realize $4.5 million more than they could from the 19 homes allowed under existing zoning, Disharoon told the Baltimore County Board of Appeals.

He added that the Caves Valley Club planned to build the golf course first and then sell homesites to members.

Without the golf course, he added, the sites would be worth much less.

Disharoon said he and a group of 14 leaders of major Baltimore businesses have been working for a year to find a way to build a new private, championship-level golf course to help lure more corporations to the Baltimore area. "Golf is important to executives say, and the area is badly 'under-golfed.'"

Memberships in good golf clubs in the Baltimore area are all filled, the executives say, and the area is

Evening Sun Staff

The golf course itself will be the subject of a zoning hearing April 18. Golf courses require a special exception to county zoning laws.

The County Planning Board and County Council agreed to allow the Board of Appeals to hear the case, outside the county's normal four-year cycle for considering rezoning petitions.

People's Counsel Phyllis Friedman, and her deputy, Peter Max Zimmerman, told the board that although the golf course plan is a "reasonable proposal," the rezoning is simply another version of a proposal denied to as early as 1967.

The people's counsel is funded by the government and serves as an independent advocates for the public interest in defending the county zoning laws.

The decision to save land on the Caves Valley ridges zoned for agricultural preservation cannot now legally be reversed just because the current proposed development may have more local support than the last one, the attorneys argued.

Most of the Caves Valley land, along Park Heights Avenue north of Caves Road, was owned by Kingdon Gould's Conservation Associates until last June when the Caves Valley Club bought it for the golf course. Gould had sought rezoning for 366 acres of the land to enable him to

See GOLF, D4, Col. 1

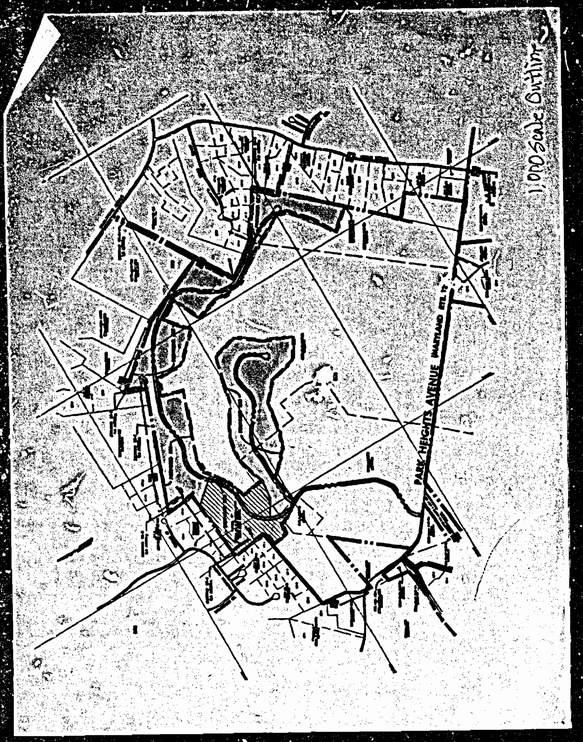
card commemorating the 200th anniversary of the Constitution and Bill of Rights. The card is signed by politicians and celebrities.

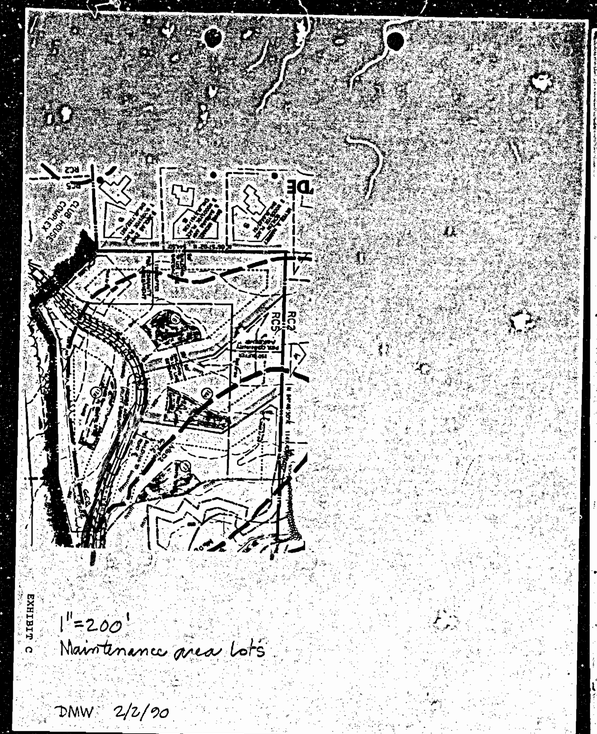
becomes law; drug package pushed

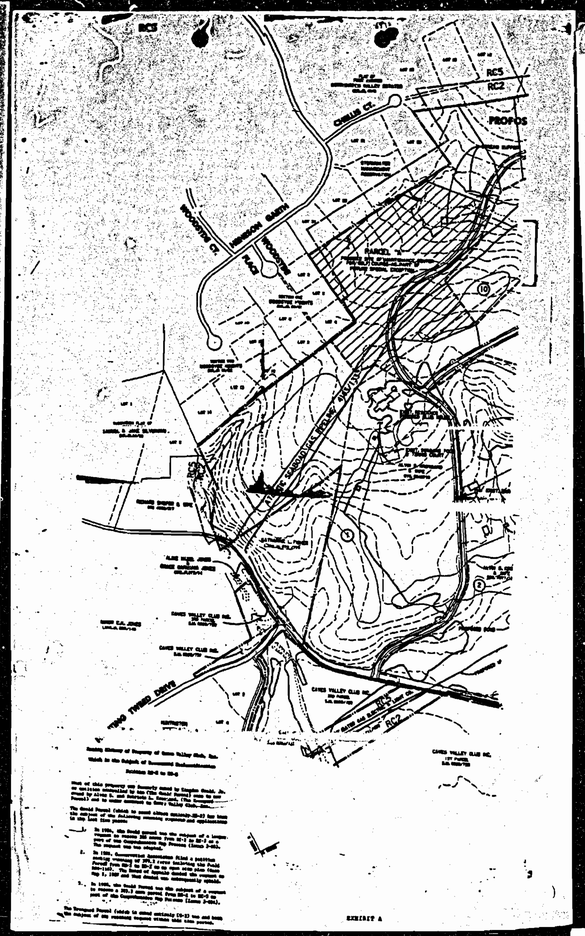
e panel

House OKs bill that would make Personal Injury Protec-

Neither a signature nor a veto



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DMW ENVIRONMENTAL SERVICES, INC.

Assessment of the Groundwater Supply of the Caves Valley Golf Course

Caves Valley Club
Baltimore County, Maryland

By Edmond G. Otton, Consulting Geologist
7400 York Road
Towson, Maryland 21204

March 1989
DMW Project Number 88015A

Prepared for:

Caves Valley Club, Inc.
2 Hopkins Plaza, Suite 1210
Baltimore, Maryland 21201

To Read Full Report You Must get File

Bd of Appeals No 1

420 Virginia Avenue • Towson, Maryland 21204 • (301) 296-5220 • Fax (301) 296-4705

DMW ENVIRONMENTAL SERVICES, INC.

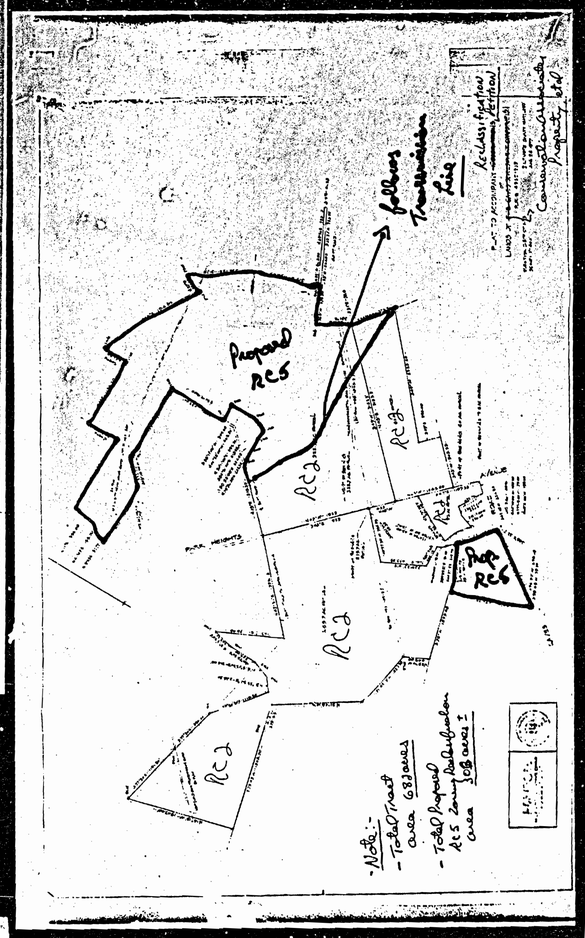
CAVES VALLEY CLUB

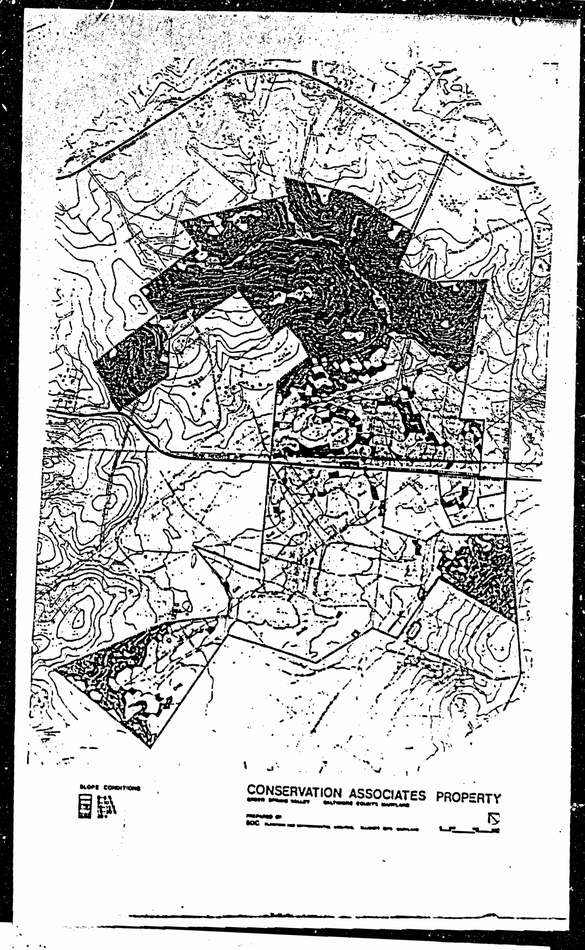
REZONING REQUEST

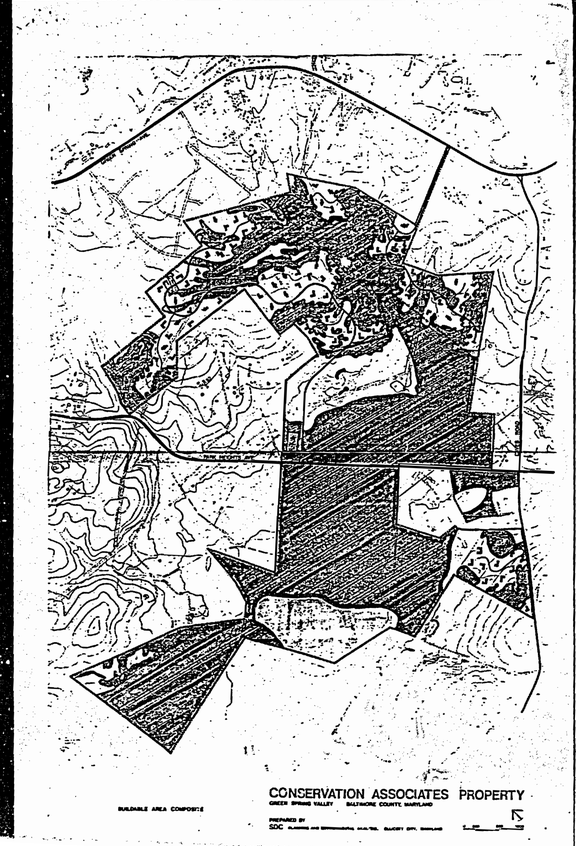
ENVIRONMENTAL IMPACT STATEMENT

To Read Full Report You Must get File

420 Virginia Avenue • Towson, Maryland 21204 • (301) 296-5220 • Fax (301) 296-4705







TRACY, SCHULTE & ASSOCIATES INC
planning • architecture • engineering

8450 Baltimore National Pike • Suite 34 • Ellicott City, Maryland 21043 • (301) 465-8105

METES & BOUNDS DESCRIPTION
PROPERTY OF: CONSERVATION ASSOCIATES
CAVEMAN PROPERTIES & KINGDON GOULD, JR., TRUSTEE
FOR ZONING RE-CLASSIFICATION PETITION

Part 1

BEGINNING for the same at a point on the westerlymost side of Greenspring Avenue, thence leaving said Greenspring Avenue and running along the lines of the property of Conservation Associates, et al., as recorded among the Land Records of Baltimore County, Maryland in Liber 5797 at folio 349, the following five (5) courses and distances, viz:

1) South 63°30'00" West, 726.00 feet, thence
2) South 65°03'00" West, 1336.50 feet, thence
3) South 31°00'00" East, 673.20 feet, thence
4) South 52°20'00" East, 775.50 feet, thence
5) South 49°00'00" West, 1256.20 feet to a point, said point being the intersection of the projection of the northerly centerline of the Baltimore Gas and Electric Transmission line right of way, then leaving the outline of the property of Conservation Associates, et al., and running along the centerline of said B.G.& E. Transmission line right of way the following course and distance,

6) North 65°16'25" West, 3379.96 feet to a point in the centerline of a thirty (30) foot road leading to Park Heights Avenue, thence continuing along the outlines of the Conservation Associates, et al., property, being common with the centerline of said thirty (30) feet wide road, the following course and distance,

7) North 45°00'00" East, 485.18 feet, thence leaving the centerline of said road and continuing along the outline of said property the following six (6) courses and distances,

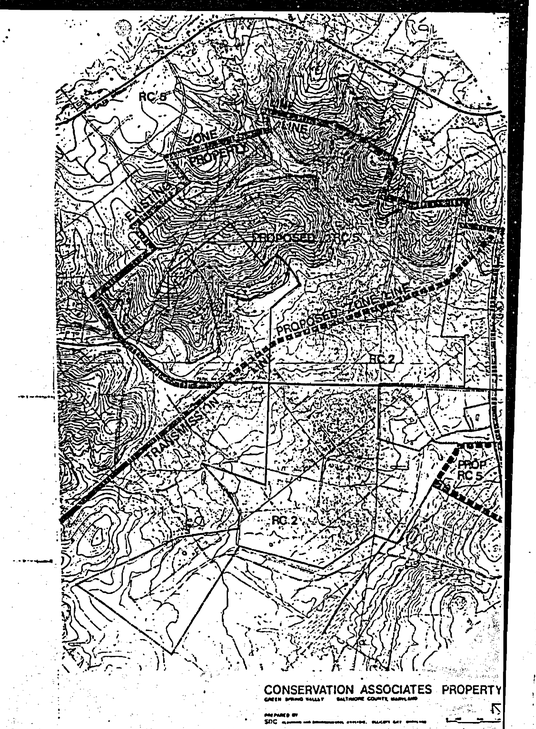
8) North 88°52'00" East, 242.82 feet, thence
9) South 88°58'00" East, 224.65 feet, thence
10) South 82°21'00" East, 215.25 feet, thence
11) North 20°11'00" East, 293.80 feet, thence
12) North 00°28'00" West, 463.20 feet, thence
13) South 88°11'00" West, 309.60 feet to a point in the centerline of the aforesaid thirty (30) feet wide road, thence running along the centerline of said road, being common with the outlines of said property, the following course and distance,

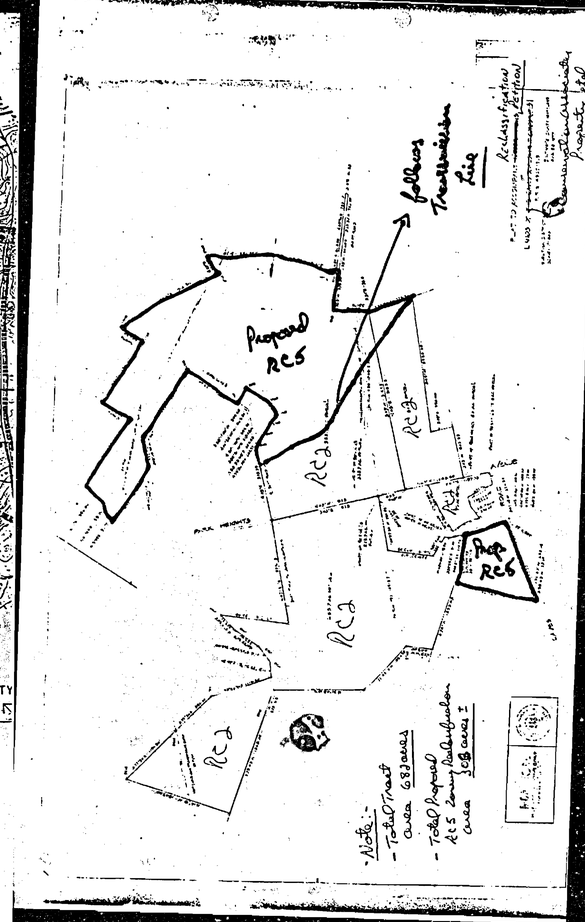
14) Due North, 1053.60 feet to a point, thence leaving the centerline of said road and continuing along the outlines of said property the following course and distance,

15) Due West, 1379.60 feet to a point in the centerline of the Maryland Gas Transmission Corporation right of way, thence continuing along the outline of said property, being common with the centerline of said right of way, the following course and distance,

16) South 45°06'00" West, 532.96 feet to a point, thence leaving said right of way and continuing along the outlines of said property, the following fourteen (14) courses and distances,

17) Due West, 1016.10 feet, thence
18) North 13°45'00" East, 189.75 feet, thence





19) North 40°45'00" East, 198.00 feet, thence
20) North 11°00'00" East, 396.00 feet, thence
21) Due East, 1386.00 feet, thence
22) Due North, 544.50 feet, thence
23) Due East 1136.60 feet, thence
24) Due North, 440.55 feet, thence
25) South 63°00'00" East, 1914.00 feet, thence
26) North 27°30'00" East, 330.00 feet, thence
27) South 32°15'00" East, 1151.70 feet, thence
28) South 19°00'00" East, 1156.65 feet, thence
29) North 65°00'00" East, 660.00 feet, thence
30) North 63°30'00" East, 726.00 feet to a point on the aforesaid westerlymost side of Greenspring Avenue, thence continuing along the outline of said property and the westerlymost side of Greenspring Avenue the following course and distance,

31) South 19°00'00" East, 41.25 feet to the point of Beginning

Containing 277.005 acres of land more or less.

Part 2

BEGINNING for the same at a point on the westerlymost side of Caves Road, thence leaving said Caves Road and running along the lines of the property of Conservation Associates, et al., as recorded among Land Records of Baltimore County, Maryland in Liber 5797 at Folio 349, the following course and distance, viz:

1) North 20°00'00" West, 1476.75 feet, thence leaving the outline of the property of Conservation Associates, et al., and running the following course and distance

2) North 69°54'48" West, 835.31 feet to a point on the outline of the property of Conservation Associates, et al., thence continuing along the outline of said property the following two (2) courses and distances,

3) South 50°00'10" East, 664.46 feet, thence
4) South 05°00'00" East, 83.17 feet, thence to a point on the aforesaid westerlymost side of Caves Road, thence running along said westerlymost side of Caves Road, being commong with the outline of said property the following three (3) courses and distances

5) South 33°45' 00" West, 1080.75 feet, thence
6) South 36°30'00" West, 232.65 feet, thence
7) South 35°45'00" West, 97.35 feet to the point of beginning,

Containing 26.344 acres of land more or less.

DIVISION 3. BOARD OF APPEALS

I. Authority To Rezone

Sec. 2-58.1. Delegation to board of appeals of interim power to change zoning classification of property; method of interim zoning reclassification; method for early action on reclassification due to public interest or emergency.

(a) The board of appeals shall have the power to make a change as to the district, division or zone within which a particular piece of property is classified (zoning reclassification) as hereinafter provided. As used in this section, the term "use" includes development, except where otherwise indicated by the context.

II. Out of Cycle Zoning Request

(f) In any case where the planning board certifies to the county council that early action upon a zoning reclassification petition is manifestly required in the public interest or because of emergency, and the county council by an affirmative vote approves said certification, such petition shall be exempted from the regular, cyclical procedure of subsections (c) through (h) of this section, and also from the suspension of reclassification-petition filing requirements under section 2-58.2 of this article. For any such petition, the board of appeals shall schedule a public hearing for a date not less than thirty (30) nor more than ninety (90) days after the county council's approval of the planning board's certification. For a period of at least fifteen (15) days prior to the time of such hearing, notice of the time and place of the hearing relating to the property under petition shall be conspicuously posted thereon and shall be given in at least two (2) newspapers of general circulation in the county. Such notice shall describe the property under petition and the action requested therein. Within five (5) days after receipt of such a petition, the board of appeals shall forward a copy of such petition to the office of the zoning commissioner and the director of planning or his deputy for consideration and written report thereon containing their findings thereon with regard to compliance with zoning regulations and planning factors.

CUMULATIVE SUPPLEMENT § 2-58.1

II. Standard for Reclassification in All Cases

(j) Before any property is reclassified pursuant to this section, the board of appeals must find:

(1) That there has occurred a substantial change in the character of the neighborhood in which the property is located since the property was last classified, or that the last classification of the property was established in error; and

(2) That the prospective reclassification of the property is warranted by that change or error. Any finding of such a change or error and any finding that the prospective reclassification is warranted may be made only upon consideration of factors relating to the purposes of the zoning regulations and maps, including, but not limited to, all of the following: Population trends; availability and adequacy of present and proposed transportation facilities, water-supply facilities, sewerage, solid-waste-disposal facilities, schools, recreational facilities, and other public facilities, compatibility of uses generally allowable under the prospective classification with the present and projected development of the area; any comment or characterization of the planning board or office of planning and zoning; and consistency of the current and prospective classifications with the master plan, the county plan for sewerage and water-supply facilities, and the capital programs.

IV. Cannot Use "Change"

(k) No zoning reclassification of property shall, for a period of one (1) year after a zoning map applicable thereto may by an ordinance of the county council have been adopted, be granted on the ground that the character of the neighborhood has changed.

V. Documented Site Plan

A. Requirements

§ 2-58.1 BALTIMORE COUNTY CODE

(l) If a zoning reclassification petition includes documentation relating to the proposed use of the property under petition, that documentation must include:

(1) Elevation drawings and a plan satisfying the zoning commissioner's rules of practice and procedure and showing locations, coverage, floor areas, heights, character, and exterior materials of all proposed structures and all existing structures to be retained; and all existing structures to be removed; signs visible outdoors; all principal uses; hours of operation, maximum number of employees, and maximum levels of emanations (including sound and other vibrations, dust, odors, gases, light and heat); parking and loading facilities; existing and proposed public and quasi-public facilities on and adjacent to the site, including stormdrain systems, waterlines, sewerage, streets and drives, and railroad sidings; existing ponds and other bodies of water, watercourses, 100-year floodplains, major vegetations, and unusual natural formations, and proposed changes with respect to any of these; screening and landscaping; and existing topography and proposed major changes in grade; and

(2) An environmental impact statement, as defined in the Baltimore County Zoning Regulations, that concerns the proposed use of the property under petition and that has been competently prepared by a professional planner or engineer of appropriate qualifications.

A plan submitted pursuant to this subsection may show the location of a precise building envelope (a clearly delimited area within which a building is to be entirely located but which is larger than the area covered by the building itself) in lieu of the precise location of a building; may show precise maxima and minima in lieu of fixed values; may set forth lists of precisely described possible uses of a given space, in lieu of specifying a single use; and may otherwise reasonably allow for flexibility or alternatives, provided that appropriate precise limits are set forth.

B. Standard for Reclassification the Same

(n) Property may be reclassified under this section only upon making the findings required under subsection (j) of this section. Property may not be reclassified solely on the basis of documentation relating to the property's proposed use.

VI. Effect of Documentation on Classification

A. Property may be used Only in accordance w/ Plan

However, any provision of section 22-20 to the contrary notwithstanding, if the petition to reclassify the property does include such documentation and is granted, the property may be used only in accordance with the plan included within that documentation;

or

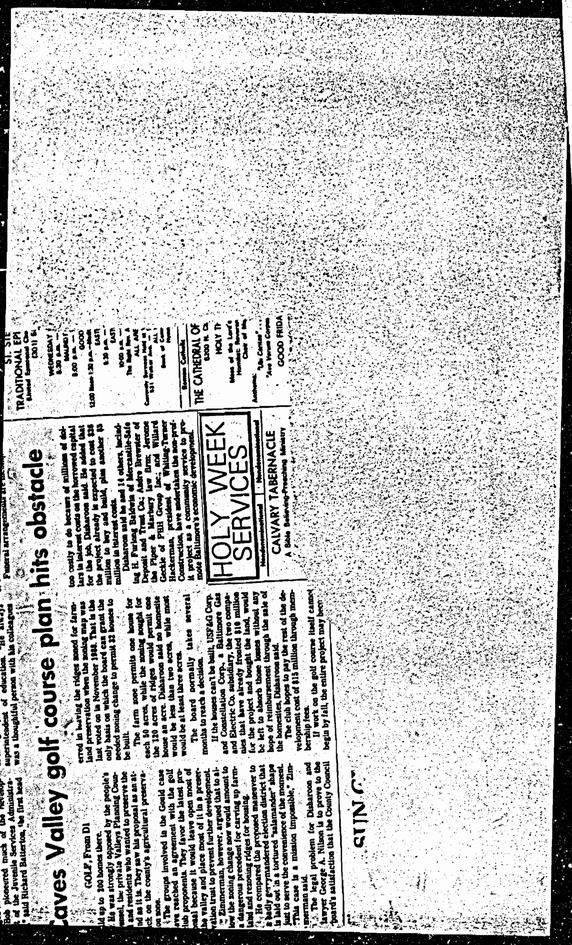
B. Reverts to former Classification in 3 years

Unless

Completed or

Substantially undertaken and diligently pursued

the zoning classification of any such property will revert to the previous classification unless, within three (3) years after the date of the final order granting the petition, the property is being used in accordance with the plan or, in a case where development is necessary to implement the plan, unless the development either is completed or has been substantially undertaken and is being diligently pursued to completion. The requirement that such a property be utilized in accordance with a plan, and the provision that otherwise the classification of the property will revert, will not be affected by the subsequent enactment of a zoning map, pursuant to section 22-22 or 22-23 of this Code unless the zone classification of the property is further changed by that map.



Proposed arrange...

Caves Valley golf course plan hits obstacle

GOLF, From D1

...ground is having the ridges zoned for agriculture. Last year, a similar request was turned down in November 1984. That is the only basis on which the board can grant the petition, Dukeson said.

The farm now permits one house for each 10 acres of ridge. Zoning would permit one house per acre. Dukeson said the golf course would be a much better use.

The board normally takes several months to reach a decision, Dukeson said.

Timothy Kotroco Jr., a Baltimore Gas and Electric Co. subsidiary, has said the utility company would sell the 110 acres for the project and bought the land, would let Kirk to Hawks Nest Golf Club for the duration of the lease, which is set at three years, Dukeson said.

The club hopes to purchase the land at the end of the lease through mandatory fees.

If work on the golf project may begin by this summer, Kotroco said.

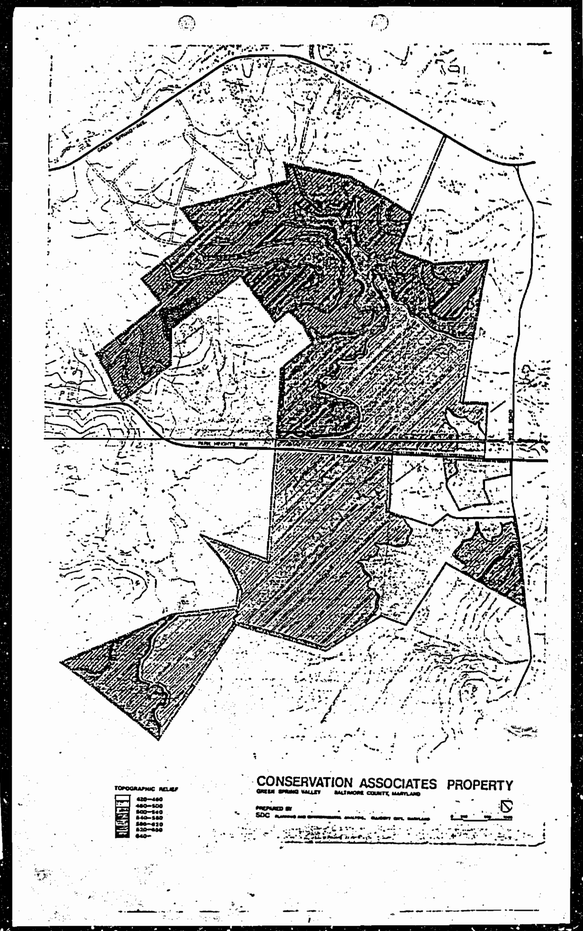
...ion for Dukeson and ...n, Nilson is to prove to the ...board's satisfaction that the County Council ...

HOLY WEEK SERVICES

CALVARY TABERNACLE
A Bible Believing/Preaching Ministry

TRADITIONAL EA...
10311 B...
WEDNESDAY
Maundy
8:00 P.M.
GOOD
12:00 Noon-3:00 p.m.
9:30 A.M.
7:00 p.m.
ALL WE...
Carol Service—7:...
Sermon: Colloss...

THE CATHEDRAL OF...
5300 N. Ch...
HOLY TH...
Mass at 8, 9, 10:...
Choir of Ju...
"In Coena"...
Antiphons, Responsories & Motets
GOOD FRIDA...



R.C. 5
R.C. 5
R.C. 5
R.C. 2
R.C. 5
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R.C. 2
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R.C. 5
R.C. 2
R.C. 5

N 51,000

N 50,000

N 49,000

N 48,000

W 36,000

W 34,500

W 33,500

R.C. 2

R.C. 5

R.C. 5

R.C. 5

R.C. 2

R.C. 5

R.C. 5

R.C. 2

R.C. 5

POND

POND

North Branch

CAVES ROAD

MELINDA AVE.

CAVESDALE

SHADED BROOK

PRIVATE RD.

PRIVATE ROAD

CAVES ROAD

PATAPSCO AVE

VALLEY

North Branch

SIGHTS

VELVET RIDGE RD

HEIGHTS

(SHEET N.W.-12-F)

EDAW

EDAW Inc.
Alexandria, VA 22314
703 836-1414

Landscape Architecture Planning | Urban Design Environmental Analysis | Site Engineering Graphic Design

CONSERVATION ASSOCIATES PROPERTY

T-SE

T-NE

THIS MAP HAS BEEN REVISED IN SELECTED AREAS.

TOPOGRAPHY COMPILED BY PHOTOGRAMMETRIC METHODS BY BUCHART-HORN, INC. BALTIMORE, MD. 21218

BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING

OFFICIAL ZONING MAP

SCALE	LOCATION	SHEET
1" = 200'±	THE CAVES	
DATE OF PHOTOGRAPHY		

N-58,000

HUNTING

HUNT MEADOW CT.

HOUNDS HOLLOW CT.

TWEED

POND

R.C. 5

PRIVATE RD.

ROBERTS

N-57,000

NANCY ELLEN WAY

AVE.

HUNTFIELD CT.

HUNTER HORN CT.

DR.

R.C. 5

W-42,000

N-56,000

W-40,500

HUNTING TWEED

HIGHPASTURE CT.

HOUNDSTOOTH CT.

DR.

R.C. 5

N 55,000

W-39,000

R.C. 5

R.C. 5

R.C. 5

HUNTING GAS TWEED DR.

SEABOARD CORP.

PIPE LINE

R.C. 2

R.C. 2

R.C. 2

R.C. 2

N-56,000

N-57,000

W-37,500

A.B.C.

JEFFERSON

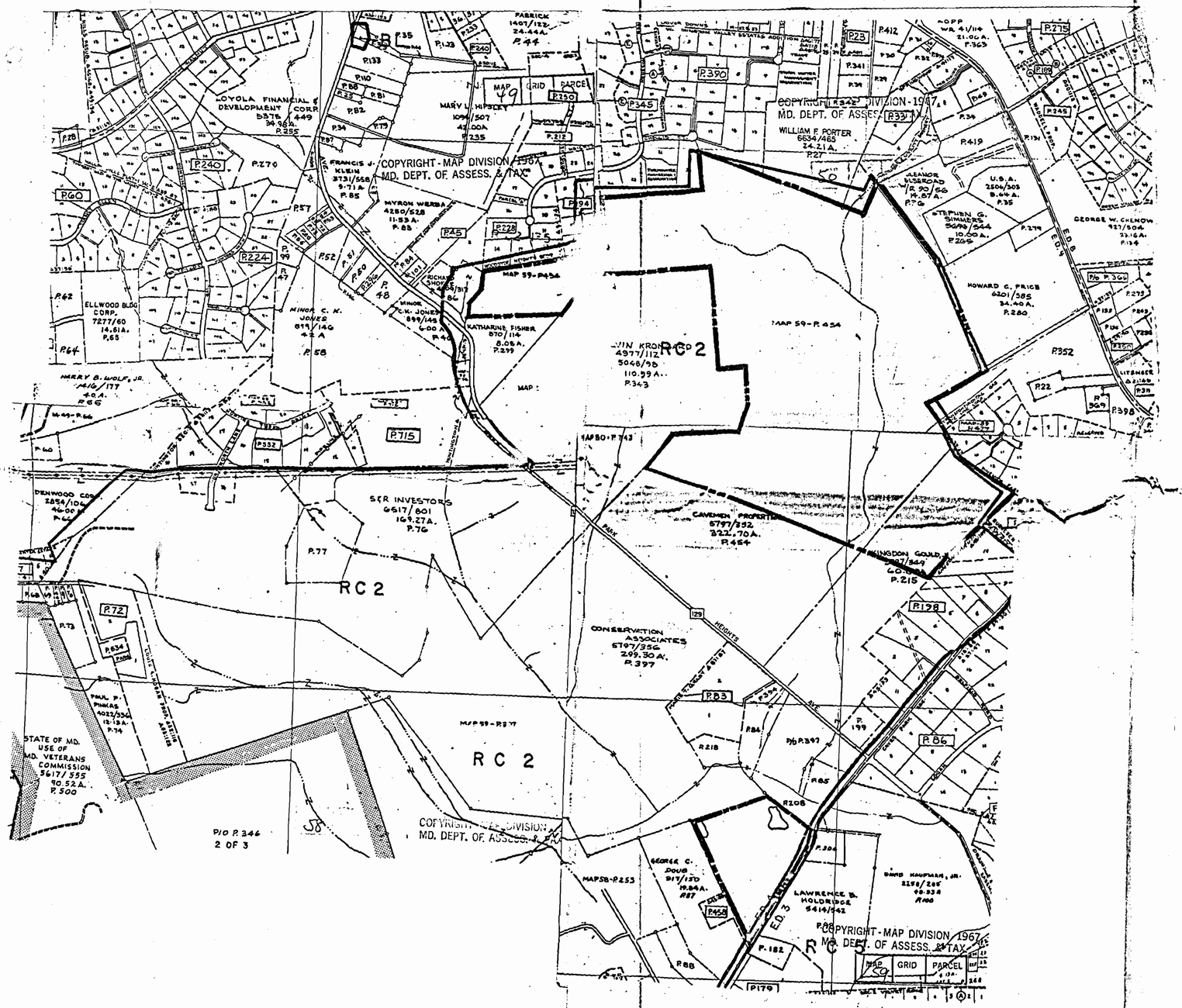
WOODSIDE PL.

DAVIS

POOL

N-55,000

PROPOSED POND #2
PROPOSED POND #5
PROPOSED POND #4
P2
P3
P1
2
6
10
10
100 YR. FLOODPLAIN
25' STREAM / WETLAND BUFFER



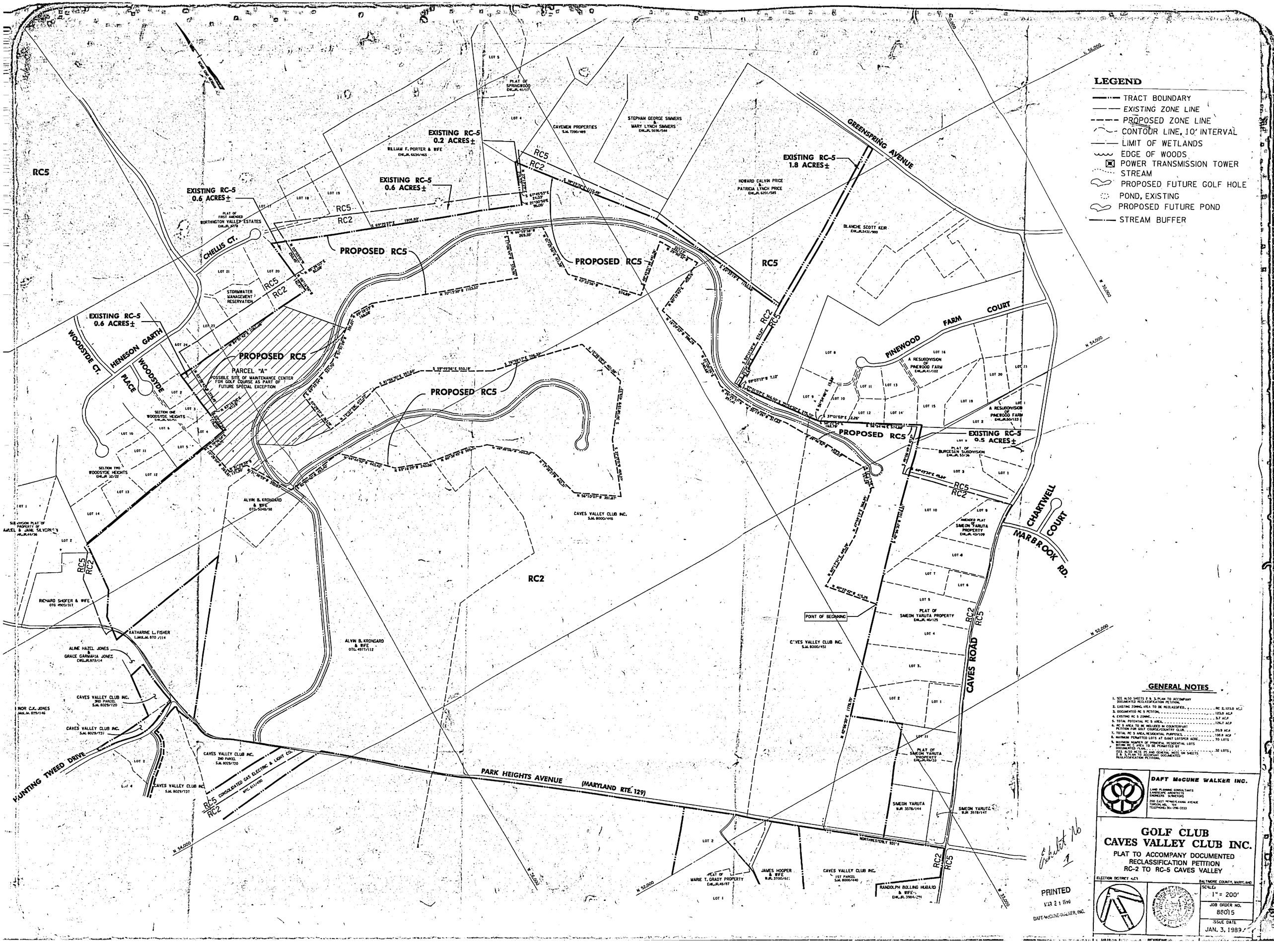
EDAW

RECEIVED NOV 20 1987

CONSERVATION ASSOCIATES PROPERTY

W = Well Area

S = Soil Boring Site



GENERAL NOTES

1. SEE ALSO SHEETS 2 & 3, PLAN TO ACCOMPANY DOCUMENTED RECLASSIFICATION PETITION.
2. EXISTING ZONING, AREA TO BE RECLASSIFIED. . . . . RC 2, 123.0 ACS
3. DOCUMENTED RC 5 PETITION. . . . . 123.0 ACS
4. EXISTING RC 5 ZONING. . . . . 3.7 ACS
5. TOTAL POTENTIAL RC 5 AREA. . . . . 126.7 ACS
6. RC 5 AREA TO BE INCLUDED IN COUNTERPART PETITION FOR GOLF COURSE/COUNTRY CLUB. . . . . 20.9 ACS
7. TOTAL RC 5 AREA, RESIDENTIAL PURPOSES. . . . . 105.8 ACS
8. MAXIMUM PERMITTED LOTS AT 0.667 LOTS PER ACRE. . . . . 70 LOTS
9. MAXIMUM NUMBER OF PRINCIPAL RESIDENTIAL LOTS WITHIN RC 5 AREA TO BE PERMITTED BY DOCUMENTED PLAN. . . . . 32 LOTS
   SEE ALSO NOTE 25 AND GENERAL NOTE ON SHEETS 2 & 3, PLAN TO ACCOMPANY DOCUMENTED RECLASSIFICATION PETITIONS.

DAFT McCUNE WALKER INC.
LAND PLANNING CONSULTANTS
LANDSCAPE ARCHITECTS
ENGINEERS SURVEYORS
200 EAST PENNSYLVANIA AVENUE
TOWSON, MD. 21204
TELEPHONE 301-296-3333

GOLF CLUB
CAVES VALLEY CLUB INC.
PLAT TO ACCOMPANY DOCUMENTED RECLASSIFICATION PETITION
RC-2 TO RC-5 CAVES VALLEY

ELECTION DISTRICT 4,C3 — BALTIMORE COUNTY, MARYLAND

SCALE: 1" = 200'
JOB ORDER NO. 88015
ISSUE DATE: JAN. 3, 1989

PRINTED
MAR 2 1 1989
DAFT-McCUNE-WALKER, INC.

E LINE
TO INTERVAL
ANDS
DS
SMISSION TOWER
UTURE GOLF HOLE
NG
UTURE POND
FFER

ROAD GRID MERIDIAN

RC5

WILLIAM F. PORTER & WIFE
ENC.,BL 6654/465

PLAT OF SPRINGWOOD
ENC.,BL 41/17

LOT 4 LOT 5

CAVEMEN PROPERTIES INC. 1304/189

STEPHN. GEORGE SAWERS/ MARY LYNCH SAWERS
ENC.,BL 5696/544

RC5 RC2

HOWARD CALVIN PRICE & PATRICIA LYNCH PRICE
ENC.,BL 6201/585

GREENSPRING AVENUE

PLAT OF FIRST AMENDED WORTHINGTON VALLEY ESTATES
ENC.,BL 47/8

LOT 17 LOT 18 LOT 19 LOT 20 LOT 21

CHELLIS CT.

RC5 RC2

PROPOSED RC5

STREAM BUFFER

STORMWATER MANAGEMENT RESERVATION

LIMIT OF WET 35

PROPOSED RC5

STREAM BUFFER

RC5

RC2 RC5

BLANCHE SCOTT KERR
ENC.,BL 5431/980

LOT 22 LOT 23 LOT 24

WOODSIDE CT.

HENESON GARTH

WOODSIDE PLACE

PARCEL "A"
POSSIBLE SITE OF MAINTENANCE CENTER FOR GOLF COURSE AS PART OF FUTURE SPECIAL EXCEPTION

PROPOSED RC5

FABIA COURT

PINEWOOD

& RESUBDIVISION OF PINEWOOD FARM
ENC.,BL/FL 5162

LOT 8 LOT 16 LOT 17 LOT 20

LOT 2 LOT 6 LOT 4

SECTION ONE WOODSIDE HEIGHTS
ENC.,BL 50/51

LOT 10 LOT 11 LOT 13 LOT 9 LOT 10 LOT 12 LOT 15 LOT 16

SECTION TWO WOODSIDE HEIGHTS
ENC.,BL 52/22

LOT 1 LOT 12 LOT 13 LOT 14

SUBDIVISION PLAT OF PROPERTY OF SAMUEL & JANE SILVERMAN
ENC.,BL 44/36

LOT 2

RC5 RC2

ATLANTIC SEABOARD GAS PIPELINE 4/185/135

RICHARD SHOFER & WIFE
DTG 4939/347

KATHARINE L. FISHER
Cncl.M. 870/174

EXIST. RESIDENCE PROPOSED CLUB HOUSE

EXIST. SWIMMING POOL & TENNIS COURT

ALVIN B. KRONGARD & WIFE
DTG. 5048/98

EXIST. BARN

EXIST. TENANT & FARM HOUSE

RC2

CAVES VALLEY CLUB INC.
S.BL 8000/446

PROPOSED UNDERGROUND TERMINATION STATION

CONSOLIDATED GAS & ELECTRIC & LIGHT CO.

RAINSCO/TINENTAL GAS PIPELINE 1843 / 317

PLAT OF SIMEON YARUTA PROPERTY
ENC.,BL 45/125

CHARTWELL COURT

HARBROOK RD.

ALVIN B. KRONGARD & WIFE
DTG. 4911/212

LIMIT OF WETLANDS

EXIST. POND

CAVES VALLEY CLUB INC.
S.BL 8000/451

LIMIT OF WETLANDS

CAVES ROAD

RC2 RC5

ALINE HAZEL JONES & GRACE CARUANA JONES
CNC.,BL 979/14

CAVES VALLEY CLUB INC.
3RD PARCEL
S.M. 8029/720

PROPOSED POND

PROPOSED POND

PROPOSED UNDERGROUND E.G. & E. LINE

MINOR C.E. JONES
Lmcl.M. 898/146

CAVES VALLEY CLUB INC.
S.M. 8029/737

CAVES VALLEY CLUB INC.
2ND PARCEL
S.M. 8029/720

RC5 RC2

CONSOLIDATED GAS ELECTRIC LIGHT CO.
MRC 611/190

RC2

PARK HEIGHTS AVENUE (MARYLAND RTE. 129)

HUNTING TWEED DRIVE

HUNTINGTON
SECTION ONE
ENC.,BL 50/66

CAVES VALLEY CLUB INC.
S.M. 8029/737

CAVES VALLEY CLUB INC.
1ST PARCEL
S.M. 8029/720

CAVES VALLEY CLUB INC.
2ND PARCEL
S.M. 8000/440

PLAT OF MARIE T. GRADY PROPERTY
ENC.,BL 48/87

JAMES HOOPER & WIFE
R.R. 3700/611

CAVES VALLEY CLUB INC.
1ST PARCEL
S.M. 8000/440

RANDOLPH BOLLING HUBARD & WIFE

PLAT OF SIMEON YARUTA PROPERTY
ENC.,BL 45/125

SIMEON YARUTA
R.R. 3578/144

SIMEON YARUTA
R.R. 3578/147

PROPOSED RC5

& RESUBDIVISION OF PINEWOOD FARM
ENC.,BL/FL 5162

LOT 1 LOT 2 LOT 3 LOT 5 LOT 6 LOT 7 LOT 8 LOT 9 LOT 10 LOT 11 LOT 12 LOT 13

RC5 RC2

CAVES ROAD

Zoning History of Property of Caves Valley Club, Inc. which is the Subject of Documented Reclassification Petition RC-2 to RC-5

Most of this property was formerly owned by Kingdon Gould, Jr. in addition controlled by him (The Gould Parcel) some is now owned by Alvin B. and Patricia L. Kronyard, (The Kronyard Parcel) and is under contract to Caves Valley Club, Inc.

The Gould Parcel (which is zoned almost entirely RC-2) has been the subject of the follow

---

4. Maximum number of lots permitted at a 4.667 density: 70 lots

5. Maximum number of individual residential lots to be on any access street: 22 as permitted by this RC-5 documented site plan(see general notes).

6. Existing Uses:
Site is undeveloped and is in woodland or agricultural usage.

7. Proposed Principal Uses:
a. Single family, detached dwellings with customary and usual accessory structures and appurtenances subject to restrictions noted on documented site plan. <
b. Portions of golf course. Details will be resolved in connection with special exception for a golf course use by club.

8. Signs:
In accordance with provisions of Section 413.1, Baltimore County Zoning Regulations, signs shall be limited to:
a. Name and address of premises, not to exceed one square foot in area (Section 413.1a).
b. Directional and informational signs not exceeding 18 or 25 square feet each in total area and involving no advertising aspect (Sections 413.1c and 413.1e(2)).
c. Temporary real estate signs (Section 413.1f.)

9. Minimum Setbacks:
Setbacks and yards shall be provided as follows:
a. Setback from perimeter of property: 50 ft.
b. Setback from public roads: 50 ft.
c. Setback from interior lot lines: 25 ft.
d. Setback from streams, ponds, lakes and wetlands: 25 ft.

10. Topography:
Existing topography is based on Dell McClure Walker, Inc. field run contour and boundary survey with Photo-Graphics Inc. 100 scale photogrammetry dated December, 1965, 4-20-66 photo.

11. Trees - Cover:
It's proposed RC-5 area is wooded. Trees will be removed only as the extent necessary in connection with grading and construction of licensed roads; grading in connection with road, underground services, dispersal areas, driveways, fairway tees, on lots; individual tree grading and removal/relocation of certain old trees, large outcrops or groups as part of the golf courses.

12. Setbacks, Bertiers, and Other Standards:
a. Lot Lines Bordering Tract Boundary:
1. Tree Buffer, undisturbed 25 ft.
2. Principal buildings setback 50 ft.
3. Accessory Building Setback 25 ft.

Directional

Establish 12 field transplant or nursery grown deciduous canopy trees with 2 in. caliper per every 1,000 sq. ft. of area cleared by either seed every inches, stolons or by grading, or

Establish 24 nursery grown or copy and subcanopy trees per every grown trees between 1 in. and 3 in. caliper per 1,000 sq. ft. or -

Establish indigenous tree shrub cover at 150 shrubs/24 in., minimum size) per 1,000 sf. Acceptable shrub species are Azalea, Kalmia, Rhododendron, Cornus, Amelanchier, Viburnum, Clethra, Vaccinium and Ilex. Acceptable species are Linden, Cornus, Viburnum, Clethra, Amelanchier, Hamamelis, Ilex or other indigenous species. or

Any combination of the above. Clustering of the above minimum quantities of material may be considered as per individual case basis as part of a comprehensive Landscape Plan.

Proposed Road Crossings Over Streams:

Minimized to not more than three as shown on the documented site plan.

2. Disturbed areas will be replanted as set forth in "D" above. Special emphasis will be placed on providing trees which replace lost canopy along the stream.

Steep Slopes:

Other than as part of reusable rock construction, all slopes 25 percent or greater within the RC-5 area and within any proposed lot shall not be used for any building purposes.

Fill 'n Actions:

At each time as the proposed RC-5 zoning reclassification is resolved and permission issued and land sales are completed so as to finalize a lot layout, addition of clearing grading and construction of roads and storm prevention techniques will be established on presentation as a component of the GP/D plan submittal.

k. Septic Areas:

1. Minimum septic reserve area - 17,000 s.f.
2. Offset from property line or dedicated ass ement - 10 ft.
3. Offset from proposed residence - 20 ft.
4. Offset from any well or stream - 100 ft.
5. System must be located at a lower elevation than rest dence or well.
6. Septic reserve area may penetrate any buffer are by no more than 6,000 s.f. if site conditions dictate not other practical solution

l. Wells:

1. Offset from street centerline - 15 ft.
2. Offset from property line or dedicated easement - 10 ft.
3. Offset from proposed residence - 30 ft.
4. Offset from any well or septic reserve - 100 ft.
5. Well must be located at a higher or equivalent elevation to highest elevation of the septic sys tem

17. Exceptions:

Subject to review and approval by the Architectural Review Committee, the RC - 5 zoning regulations shall apply only to individual lots in cases where "...other practical solution complying with the standards set forth above apply:

a. Well locations and related clearing - to be reinvestigated upon completion of construction.
b. Dimensions to golf course driveways.
c. Dimensions and golf cart trails.
d. A principal residential structure not more than 1,000 s.f. without a basement floor.
e. All applicable RC-5 zoning standards must be met.

18. RC - 5 Height and Area Standards:

a. Height shall not exceed 35 feet except as may be permitted by Section 300, Baltimore County Zoning Regulations.
b. Minimum lot area shall not be less than one acre. Higher minimum lot areas may be established.
c. Not more than 15 per cent of any lot may be covered by buildings.
d. Accessory for accessory structures shall be considered as a component of architectural restrictions. The height of any accessory structure shall not exceed 15 feet.

19. Architectural Review Board:

An Architectural Review Board will be established and remain in force indefinitely to regulate and enforce design criteria for structures, landscaping, lighting, and all aspects of exterior appearance and guidelines. This board will consist of a representative of the Caves Valley Golf Course, an Architect, a Landscape Architect and a representative of the lot owners.

20. Parking:

Not to a much use of street parking is planned and be provided for guest purposes. Architectural covenants may establish higher requirements.

21. Utilities:

All cable and telephone will be encouraged to be installed underground.

22. Lighting:

All exterior lighting will be encouraged to be reflect or shine upon or into adjacent premises.

23. Sewer Service:

Sewage shall be disposed of by means of a connection to Baltimore County Sewerage System as shown on the Preliminary Plan phase of the development plan process.

24. G.S.P.:

Street lights, if any, and crossing width are as shown. If not details shall be reviewed at GP/D.

25. Additional Requirements:

Preliminary work in excess of 500 acres of subdividing property or grading of land for development purposes shall not be undertaken until the recording of this resubdivision petition. Final approval shall be as set forth in Section 5.1.2 and 5.1.3 of the Plan. Phase shall be required for development to be less developed areas.

1. Caves Valley Club, Inc. shall develop and maintain the property in fully developed and achievable manner of a quality and preservation equal to or better than that existing on the property as of the date of approval by Petitioners. Such maintenance shall be governed in favor of the Maryland Department of Natural Resources and the Baltimore County Commissioners, represented by the Office of Planning and Zoning. Caves Valley Club, Inc. and its successors, heirs and assigns shall be bound by such commitment.

Any proposed development plan presently permitted as a result of RC-2 or RC-4 zonings owned by Petitioners in the area west and east of the Greenspring Avenue/Park Heights Avenue corridor shall be so further subject to the conditions and restrictions of any development plan approved by the Baltimore County Commissioners, as shown on Sheet 2 of this Plat.

If the above requirements have not been completed, or if the Petitioners, or any successor in title to the property, do not comply with the restrictions and conditions of this petition, it is understood that the zoning classification of the property shall revert to its present classification. It is further understood that the reclassification pursuant to this petition shall not become effective

(a) the golf course concept supported shall have

(b) the Office of Planning and Zoning has received Caves Valley Club, Inc. (i) a copy of the fully executed agreement or memorandum thereof, agreement, covenant, or other instrument (collectively the "Agreement") between and (ii) assurances that Caves Valley Club, Inc. and its successors in title to the property is in full compliance with the conceptual plan or as

(c) the Office of Planning and Zoning, in the exercise of its sole judgment, shall have approved the form of the Agreement executed by Caves Valley Club, Inc. as sufficient to assure maintenance and quality to commence and continue

Proposed Uses

The development of lots, lot lines, density and density of the proposed RC - 5 portions of the site is schematically shown. Road Lot designations, dwelling locations and other details are subject to modification based on: (1) final details of construction lands and lots/ units on each lot. A lots shall be designed to architectural and siting standards as shown on this documented plan. All proposed lots will be located generally within the outlines of the proposed RC - 5 zoning reclassification. The number of lots will RC - 5 reclassification shall not exceed 58.

Caves Valley Golf Course - Architectural Restrictions

1. The conceptual plan of amenities, arrangement for the property and the golf course and other unique patterns the opportunity for creative development and a superior living environment.

Specific and general guidelines will therefore be established to assure the quality of the development. Review and approval by the Architectural Review Committee, which will be established by the Declaration of Covenants, Easements, Charges and Liens (or by a similar instrument recorded as a covenant running with the land) prior to selling all lots.

2. Home construction will be restricted to the APC list parties mentioned:

Site Plan showing location of the following, where applicable:
Buildings
Exterior Landscaping Features
Garages
Swimming Pools, Tennis Courts and similar
Paved Areas including walks, drives, decks and Driveways
Other
Proposed Ends of Clearing, including plan and mowing
Any utility
Any other site improvement including spa other
Any works and approval

Floor Plan
Architectural Elevations and Details

3. All dwellings are to be designed to the fullest extent possible to blend with the natural topography of each lot. The following items are specifically prohibited from the property:
Above ground pool and vinyl siding
Storage of boats and recreational vehicles not contained within
Temporary structures
Clothes lines
Outdoor clothes drying are trees
Window air conditioners that are visible from
White or

4. The following rules and or site improvements shall be subject to specific ARC or one prior approval:
Fence of not except for pool area fencing required to
Outside volume (Dog house as and pens)
Play house or enclosure
Flood lights or other (except for ground mounted)
Receptacles used to place structures

DAFT McCUNE WALK
LAND PLANNING CONSULTANTS
ENGINEERS ARCHITECTS
SURVEYORS SURVEYORS
200 EAST PENNSYLVANIA AVENUE
TOWSON, MD. 21204
TELEPHONE 301 296-3333

GOLF CLUB
CAVES VALLEY CLUB

PLAN TO ACCCMPANY DOCUMENTED RECLASSIFICATION PETITION
RC-2 TO RC-5 CAVES VALLEY

ELECTION DISTRICT 4C3 BALTIMORE

SCALE 1" =

ALINE WIZEL JONES & GRACE GARMANA JONES
ENR.,LIR.975/14

CAVES VALLEY CLUB INC.
3RD PARCEL
S.M. 8029/720

MINOR C.K. JONES
Lmcl.,M. 919/146

CAVES VALLEY CLUB INC.
S.M. 8029/737

CAVES VALLEY CLUB INC.
S.M. 8000/446

PROPOSED POND

PARK HEIGHTS AVENUE (MARYLAND RTE 129)

PLAT OF
SIMEON YARUTA
PROPERTY
ENR.,LIR. 92/33

SIMEON YARUTA
W.M. 3578/144

SIMEON YARUTA
W.M. 3578/147

HUNTING TYKE DRIVE

CAVES VALLEY CLUB INC.
2ND PARCEL
S.M. 8029/720

CONSOLIDATED GAS ELECTRIC & LIGHT CO.
WPC 617/180

LOT 2

LOT 4

HUNTINGTON
SECTION ONE
ENR.,LIR. 50/66

CAVES VALLEY
CLUB INC.
S.M. 8029/737

LOT 6

LOT 8

LOT 10

HUNTINGTON
SECTION TWO
ENR.,LIR. 55/13

LOT 12

RC2

RC5

CAVES VALLEY CLUB INC.
4TH PARCEL
S.M. 8029/720

GOLF COURSE IRRIGATION
SYSTEM WELL SUPPLY

CAVES VALLEY CLUB INC.
1ST PARCEL
S.M. 8029/720

LOT 2

PLAT OF
MARIE T. GRADY PROPERTY
ENR.,LIR. 48/87

LOT 1

JAMES HOOPER
& WFE
W.M. 3700/611

CAVES VALLEY CLUB INC.
1ST PARCEL
S.M. 8000/140

RANDOLPH ROLLING HUBARD
& WFE
ENR.,LIR. 3984/291

SIDNEY FREDMAN & WFE
ENR.,LIR. 6778/141

LILLY L. CROSS
W.M. 3459/303

CAVES VALLEY CLUB INC.
2ND PARCEL
S.M. 8000/440

TRANSCONTINENTAL GAS PIPELINE

LIMIT OF WETLANDS

ARNOLD M. SELIGMAN
GLB 2545/443

RC2

CAVES ROAD

GEORGE C. DOUB & WFE

LOT 1
PLAT OF
DOUB & WFE

S & R INVESTORS
ENR.,LIR. 6517/801

ATLANTIC SEABOARD GAS PIPELINE

LIMIT OF WETLANDS

CAVES FARM INVESTMENT CO.
RRC. 4245/212

ROSEWOOD STATE
TRAINING SCHOOL
RPC 405/48

LOT 1

RESUBDIVISION OF
LOUIS A. HOGAN PROPERTY
S.M. 55/122

LOT 2

PROPOSED
GOLF COURSE

50' BLDG. SETBACK

SEPTIC
10,000
S.F.A.

PROPOSED
GOLF COURSE

50' BLDG. SETBACK (TYP.)

25' TREE BUFFER (TYP.)

50' BLDG. SETBACK (TYP.)

PROPOSED
GOLF COURSE

DAFT McCUNE WALKER

LAND PLANNING CONSULTANTS
LANDSCAPE ARCHITECTS
ENGINEERS SURVEYORS

720 EAST PENNSYLVANIA AVENUE
TOWSON, MD. 21204
TELEPHONE: 301-256-3333

GOLF CLUB
CAVES VALLEY CLUB

PLAN TO ACCOMPANY DOCUMENTED
RECLASSIFICATION PETITION
CAVES VALLEY

ELECTION DISTRICT 4C3

BALTIMORE CO. M.

SCALE: 1" =

JOB OR

8P

LEGEND

- TRACT BOUNDARY
- EXISTING ZONE LINE
- PARCEL LINE
- EDGE OF WOODS
- POWER TRANSMISSION TOWER
- STREAM
- *PROPOSED FUTURE GOLF HOLE*
- POND, EXISTING
- PROPOSED FUTURE POND
- NATURAL RESOURCE CONSERVATION EASEMENT
- LIMIT OF RC5 SPECIAL EXCEPTION
- AREAS OF SPECIAL VARIANCE FOR WELL AND SEPTIC

GENERAL NOTES

1. SEE ALSO SHEETS 2 & 3, PLAN TO ACCOMPANY DOCUMENTED RECLASSIFICATION PETITION.
2. EXISTING ZONING AREA TO BE RECLASSIFIED ..... 31.2123.0 ACS
3. DOCUMENTED RC-5 PETITION ..... 1.0 ACS
4. EXISTING RC-5 ZONING ..... 8.2 ACS
5. TOTAL POTENTIAL RC-5 AREA ..... 10.2 ACS
6. RC-5 AREA TO BE INCLUDED IN CONCURRENT PETITION FOR GOLF COURSE/COUNTRY CLUB ..... 7.5 ACS
7. TOTAL RC-5 AREA RESIDENTIAL PURPOSES ..... 13.7 ACS
8. MAXIMUM PERMITTED LOTS AT 0.687 LOTS PER ACRE ..... 78 LOTS
9. MAXIMUM NUMBER OF PRINCIPAL RESIDENTIAL LOTS WITHIN RC-5 AREA TO BE PERMITTED BY DOCUMENTED PLAN ..... 56 LOTS

SEE ALSO NOTE 25 AND GENERAL NOTE ON SHEETS 2 & 3 OF PLAN TO ACCOMPANY DOCUMENTED RECLASSIFICATION PETITION.

THE WHITING-TURNER CONTRACTING CO.
300 E. JOPPA ROAD, TOWSON
BALTIMORE, MARYLAND 21204-5048
301-821-1100

DAFT McCUNE WALKER INC.
LAND PLANNING CONSULTANTS
LANDSCAPE ARCHITECTS
ENGINEERS SURVEYORS
200 EAST PENNSYLVANIA AVENUE
TOWSON, MD. 21204
TELEPHONE 301-296-3333

GOLF CLUB
CAVES VALLEY CLUB INC.

DOCUMENTED SITE PLAN

ELECTION DISTRICT 4,C3 — BALTIMORE COUNTY, MARYLAND

SCALE: 1" = 200'
JOB ORDER NO. 88015
DATE 3-16-90

Exhibit 3 (New plan)

INTERVAL

ON TOWER

E GOLF HOLE

POND

RTY LINE

CART PATH

AR FLOODPLAIN

SIDENTIAL

- Request for two additional lots in the RC-5 area instead of two lots in the Fisher tract.
- Acquisition of a 1.13 acre portion of the Howard Calvin Price and Patricia Lynch Price tract (cemetery under negotiations).
- Conveyance of a 1.26 acre portion of the Caves Valley Club property to Howard Calvin Price (currently under negotiations).
- Refinement of internal road alignment (road alignment may be further modified based on zoning comments).

1. Existing Zoning: RC2, RC-5
2. Requested Zoning: RC-5
3. Site Area:
   a. RC-5 request 123.0 acres
   *b. Existing RC-5 Zoning 3.2 acres
   *c. Total RC-5 Zoning 126.2 acres

*4. RC-5 area included in counterpart petition of special exception for golf course encompassing on portion of RC-5 request. 8.5 Acres

*5. Remaining RC-5 site area 117.7 Acres

*6. Maximum number of lots permitted at 0.667 lots/acre 78 Lots

*7. Maximum number of principal residential lots to be on exposed area shall be 34 as permitted by this RC-5 documented site plan (see general notes).

*8. Existing Use: The Residential portion of the site is undeveloped and is to remain in an open field. Well areas and septic fields are currently being developed. The portion of the RC-5 within the golf course special exception is under construction for a golf course and associated facilities.

9. Proposed Principal Uses:

   a. Single family detached dwellings with community and social accessory structures and appurtenances subject to restrictions stated on the documented site plan.

   *b. Portions of golf course - details will be resolved in connection with the amended special exception for a golf course/country club.

*10. Signs (Residential portion of RC-5)

In accordance with provisions of Section 413.1, Baltimore County Zoning Regulations, signs shall be limited to:

   a. Name and address of resident, not to exceed one square foot in area (Section 413.1a).

   c. Architectural restrictions may establish higher standards.

11. Existing Structure:

There are no existing structures located within the proposed RC-5 portions of the site.

*12. Environmental Impacts:

Development of the site is not expected to result in a substantial increase in sound or odor vibration, dust, glare, lights, and heat emanations beyond those normally associated with a golf course residential development. An environmental impact statement concerning entire golf course/country club development was submitted with the original Documented Site Plan and is on record at Baltimore County.

13. Streams and Wetlands:

Streams, associated stream buffers and approximate limits of wetlands within the proposed RC-5 area are as shown.

14. Topography:

Existing topography is based on Def. McCune-Walker, Inc. field run control and boundary survey with Pickett Science, Inc., 100 scale photogrammetry dated December, 1968, 4-20-68 photos.

15. Tree Cover:

The Pr. portion of RC-5 area is wooded. Trees will be preserved only to the extent necessary in connection with grading and construction of internal roads, grading in connection with well, underground sewage disposal areas, driveways, house pads, on site parking, and other customary accessory residential uses on individual lots, grading and construction of component roughs, tees, fairways, or greens as part of the golf course.

16. Setbacks, Buffers, and Other Standards:

a. Lot Lines Bordering Tract Boundary:
   1. Tree buffer, undisturbed 25 ft.
   2. Principal building setback 50 ft.
   3. Accessory building setback 30 ft.

b. Lot Line Bordering Proposed Golf Course:
   1. Tree buffer, undisturbed 50 ft.
   2. Principal building setback 100 ft.
   3. Accessory building setback 50 ft.

c. Internal Lot Line:
   1. Tree buffer, undisturbed 20 ft.
   2. Principal building setback 30 ft.
   3. Accessory building setback 10 ft.

*d. Street lot line: (setback from easement)
   1. Principal building setback 50 ft.
   2. Accessory building setback 50 ft.
   3. Tree buffer, undisturbed 30 ft.
   except for driveways

*e. Lot Line Bordering Stream:
   A 150 foot tree buffer shall be provided between the applicants property and the Wedgewood - Woodside neighborhood as described as Exhibit B accompanying the Interim Request

*Zoning statement

Allowances shall be provided to make any tree clear' g for the construction of roads, driveways, lot grading, and underground construction that exceeds the maximum net loss of forest and woodland cover approved CRG by the Caves Valley Golf Club documented site plan, 11-1987 Reforestation shall be in accordance with guidelines to be developed by Baltimore County DEPRM and the applicant.

*Revegetation:

Areas disturbed for stream crossings for roads shall be revegetated at the full-swing maximum standards, as may be modified by the CRG.

Disturbed areas will be planted with indigenous species of understory trees, shrubs, and herbaceous plant material. All planting will be spaced according to their mature dim...). Plant sizes are to be used to stabilize disturbances to stream embankments and to provide canopy for the stream channel. Road embankments will be stabilized with grassy ground cover and allowed to succeed to natural vegetative species.

*Prior Approval Requirements:

At such time as the proposed golf course and RC-5 zoning reclassification is resolved and preliminary roads and test wells are constructed so as to finalize a lot layout, preliminary roads and test wells are constructed so as to finalize a lot layout, preliminary roads and test wells are constructed so as to finalize a lot layout, additional standards governing development on each lot and preservation techniques will be established as a component of the architectural restrictions.

b. Septic Area:

1. Minimum septic reserve area - 10,000 s.f
2. Offset from property line or dedicated easement - 10 ft.
3. Offset from proposed residence - 20 ft
4. Offset from any well or stream - 100 ft.
5. Systems must be located at a lower elevation than residence, or well
*6. Maximum 25 foot distance from grade to 25 percent or steeper
*7. A minimum of 5,000 s.f of any buffer area may be used for a septic reserve area unless there are other feasible alternatives. Septic fields may be located within designated RC-2 well and septic easements approved by the Zoning Commissioner in connection with Case 90-362-SPHA.

I. Wells:

*1. Offset from street easement - 15 ft.
2. Offset from property line or dedicated easement - 10 ft.
3. Offset from proposed residence - 30 ft.
4. Offset from any well or septic reserve - 100 ft.

5. Well must be located at a higher or equivalent elevation to highest elevation of the septic system.
*6. Wells may be located within designated RC-2 well and septic easements if approved by the Zoning Commissioner in connection with Case 90-362-SPHA.

*17. Exceptions:

Subject to review and approval by the Architectural Review Committee, variations in the developer imposed restrictions may be permitted for individual lots in cases where there is no practical solution complying with the standards herein. Variations in county standards applicable to this zoning t'tus cannot be reduced or altered

*18. RC-5 Height and Area Standards (Residential Use):

a. Height shall not exceed 35 feet except as may be permitted by Section 300, above.

*b. Minimum lot area shall be not less than two acres. Higher standards may be established.

c. Not more than 15 percent of any lot may be covered by buildings.

d. Standards for accessory structures shall be developed as a component of architectural restrictions. The height of any accessory structure shall not exceed 15 feet.

19. Architectural Review Board

An architectural review board will be established and remain in force underfoutth its regular and continuous design criteria for structures, landscape treatment, and to interpret all applicable restrictions and guidelines. This board will consist of a representative of the Caves Valley Golf Course, an architect, a landscape architect, and a representative of the home owners.

20. Parking

Not less than two off street parking spaces shal. ~e provided for each principal dwelling. Architectural restrictions may establish higher requirements.

*21. Uniform (RC-5 Residential Areas):

The site is not served by public water or sewer lines. Water supply and sewage disposal shall be on an individual lot basis unless no feasible alternative solution exists.

22 Lighting

All street lighting will be arranged to not reflect or shine upon adjacent residential premises.

*23. Storm Drains

Runoff from the roads in the residential portion of the RC-5 area shall be conveyed in underground roads with curb and underground storm drainage systems. Details shall be reached at the Final Development Plan phase of the development approval process.

*24 Street easements and pave ing widths are as shown. Final details shall be reached at CRG

*25. Addit•al Requirements

The Purchasers own an es tate of 800 acres of adjoining property located on the southeast and southwest sides of Park Heights Avenue as of the filing of this revising petition. The property is described in Parcels 1, 2 and 3 of this plat. There shall be the following additional requirements in this documented site plan reclassification.

*a. Caves Valley Club, Inc. shall complete construction of a golf course substantially in accordance with the general design concepts shown on the document submitted in connection with Case 90-362-SPHA as the plan prepared by the Zoning Commissioner and CRG. Completion shall be certified by the golf course architect engaged by the Caves Valley Club, Inc.

*b. Caves Valley Club, Inc. has executed and recorded among the Land Records a fully executed and acknowledged counterpart of a permanent perpetual Conservation Easement for the 40' RC-5 area (southwest side) of Pinkneys Road on the north side of Park Heights Avenue. Such Conservation Easement was granted in favor of the Maryland Environmental Trust.

The club shall execute and record a similar conservation easement for its acreages on the northeast side of Park Heights Avenue are subject for residential development X or Y clubhouse complex, including the expansion area

*c Any additional dwelling units presently permitted as of right on the remaining RC-2 or RC-5 acreage owned by Petitioners as of April 1, 1990, and as a part of this reclassification petition are subsumed in this request and there shall be no further residential development on such remaining land. Any remaining density units that may be permitted under the special exception for golf course/country club indicated on the documented site plan approved in Case No 90-362-SPHA shall not be used for "residential development".

If the above requirements have not been complied with within three years following approval of this petition the zoning reclassification of the property pursuant to this petition shall terminate. The zoning reclassification of the property pursuant to this petition shall not become effective until

(a) The golf course specified on exposes shall have been approved.

*(b) The Office of Planning and Zoning has received from Caves Valley Club, Inc. (i) a copy of the fully executed construction contract or contracts for golf course construction, which shall be held a trustee, from budget for construction of the golf course and (ii) a performance bond, letter of credit, or other security acceptable to the Office of Planning and Zoning in the amount of the estimated cost of construction of the golf course as the same is approved in connection with Case No 90-362-SPHA as the same is approved by the Zoning Commissioner and CRG, and

(c) The Office of Planning and Zoning as the exercise of reasonable judgement shall have approved the long-rang terms as has provided by Caves Valley Club, Inc. in such form and evidence of the construction and delivery to completion of the golf course

*26. The owners and Residential Covenants Documents shall be reviewed by the Applicants as Developers with Baltimore County parties shall have the right to be consulted by the Developer with regard to the land is developed and Covenants Proposals during the stages of use in Baltimore County.

*Boundary Notes

The arrangements of lots, lot lines, streets, and dwellings within the proposed RC-5 portions of the site is subsequent and non-approval. Future lot arrangements, dwelling locations, and other matters may be changed in the course of subdivision processing. Such changes may be necessary to meet all applicable zoning, subdivision, and other requirements. Final plats and the erection of principal dwellings may be delayed until the golf course is substantially complete and the Caves Valley Golf Club, Inc. has received its membership. Lots may be sold by reference to this documented site plan or to lot and survey with the outlines of the approved RC-5 zoning including lots, areas or dwelling locations. Any changes in the RC-5 zoning boundaries, lot lines, or dwelling locations within the RC-5 area may be permitted by the Zoning Commissioner. The maximum lot size within the RC-5 zoning shall not exceed 3A

Architectural Restrictions

1 The environmental natural resources, unique forests for the property and adjacent golf course acreages provide the opportunity for extensive custo ch lots in and a superior living environment.

Specific, and general guidelines will facilitate the architectural review process by establishing standards to assure the development of a harmonious community. The ARC shall be the sole interpreter of these guidelines and may add additional criteria if deemed necessary to preserve the natural character or integrity of the adjacent golf course acreage

These criteria and restrictions shall be enforced via a document entitled "Caves Valley Declaration of Restrictions, Covenants, Charges and Liens," or by a similar legal instrument recorded as a non-conformity with the land and binding all purchasers

*2 Home owners shall submit the following to the ARC for prior review

Plan indicating locations, materials, and descriptions of the following elements

Home
Significant landscaping features
Garages
Recreational pools, tennis courts, and similar items
Paved areas on building walks, patios, decks, and driveways
Grades, approved on - site systems for storm
Walls
Proposed limits of clearing, including a plan demonstrating tree removal
Any fences or other improvements requiring specific ARC review and approval

Floor plan
Architectural elevations and details

3 All dwellings shall be designed in the fullest extent possible to blend into the natural surroundings of each lot. The following items are specifically prohibited from use

Aluminum, plywood, and vinyl siding
Shingle of brake, and mansard roof vehicles not contained within an approved garage
Exposed concrete block
Bottle or light colored roof shingles

*4 All accessory use structures and or site improvements shall be subject to specific ARC review and prior approval, including but limited to:

Fencing
Pet habitat structures (dog houses and pens)
Recreation facilities (pool or ground mounted)
Gazebos

5 In addition to applicable zoning restrictions, easements and minimum criteria of similar applicable shall be established by the Caves Valley Club (subject to later modification by the ARC) for the following elements.

Building footprint
Building height
Exterior details
Colors
Proposed pre-existent including drives, eyes, walks, patios and decks

6 No more than 35 percent of an zoning tree coverage may be removed from any lot, exclusive of scrub saplings and bushes.

*27. The 40 foot strip of property between the Price property and the R.ow or query shall be conveyed to M. Price et. al. in exchange for a triangular portion of the Price property in the vicinity of the stream crossing as shown on this plan

*28. Residential Roads

*a. A waiver of Public Works Standards (Right-of-way width of 40 feet, per-my turnouts, maximum grade of 12 percent, horizontal alignment) was granted September 22, 1989 (W-89-313).

*b. All measured roads shall be shown on the record plat within a 50 foot easement. The roads shall be maintained by the Applicants as long as retained as a source of commitment to be fitted with the Baltimore County Department of Public Works

CONTINUED ON SHEET 3

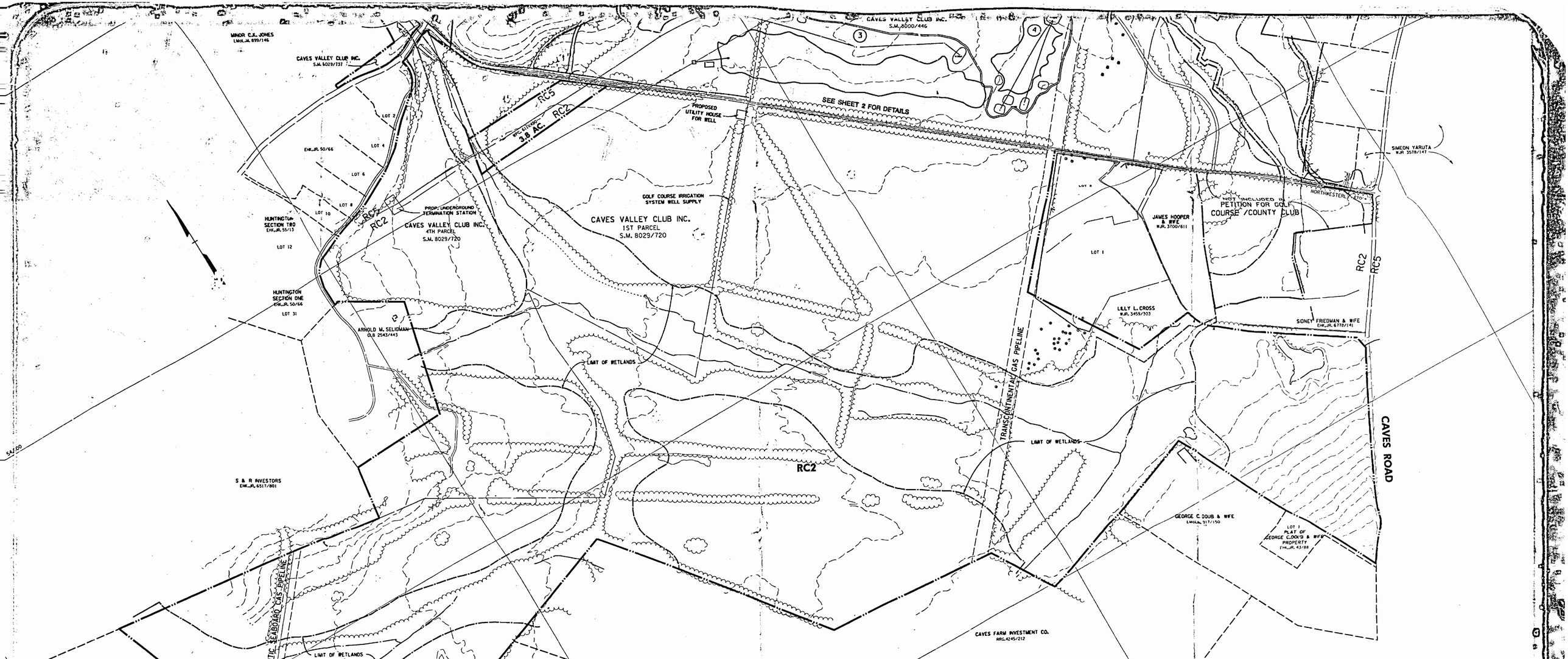
THE WHITING-TURNER CONTRACTING CO.
700 E. JOPPA ROAD, TOWSON
BALTIMORE, MARYLAND 21204-3048
301-321-1100

DAFT McCUNE WALKER INC.
LAND PLANNING CONSULTANTS
LANDSCAPE ARCHITECTS
ENGINEERS SURVEYORS
200 EAST PENNSYLVANIA AVENUE
TOWSON, MD. 21204
TELEPHONE 301-296-3333

GOLF CLUB
CAVES VALLEY CLUB INC.
DOCUMENTED SITE PLAN

ELECTION DISTRICT 4C3 — BALTIMORE COUNTY, MARYLAND

SCALE: 1" = 200'



...vously owned by Kingdon Gould Jr., an associate controlled by ... is now owned by Alvin B. and Patricia L. Knoepard, Cher... Caves Valley Club, Inc.

...leased after 1. entirely RC-2) has been subject to the following ... in the last five years.

...Parcel w... the subject of a larger request to convert 300 acres ... as part of the Comprehensive Map Process (Issue 5-002). The ... zoned.

...ney Assoc. ...ion filed a petition seeking rezoning of 303.3 acres ... of Parcel 6 ... RC-2 to RC-5 on an open site plan (Case #86-... Appeals ...ioned the request on May 7, 1987 and that denial ... July.

...Parcel w... the subject of a request to remove a 303.3 acre ... RC-5 as ...art of the Comprehensive Map Process (Issue 5-... was not ... zoned.

...ch is zoned ...ently RC-2) was the subject of the 1984 ... (Docket 5 ...004). The request for RC-5 rezoning was not ... granted.

...ently the subject of a documented site plan request to ... RC-2 to RC 5. On January 27, 1999 the Planning Board ...ered that it ...as in the public interest to examine the ...ues in the regu...y cyclical procedure. On February 6, 1999 the ...ard held a ...ic hearing and, after hearing testimony, voted 5-3 to ...ommend that the 269 acres of the requested RC-5 area also were ...ed for a golf ...se or country club special exception.

...ard adopted ...ph 1 replied Petitioner's position was assigned Case No. C-... in which ...ioner had filed that the three existing RC-2 zoning ...ts were ... in error ...ssuming ...y overturned by the evidence presented. On May 21, ... the Zoning ...ssioner approved the Petitioner's Redistribution from RC-... and RC-5 ...ioner's Exhibits No. 11-5 and 11-2 be granted. ...ioner's Exhibit No. ... was denied.

...ioned a Special ...ception for a country club and other related ...ses on July ...1989 at which ... the Zoning Commissioner approved the ...ioner's ...ed golf course, ...ng a golf oriented facility), including one ...ew, previous ...ion, ...ers, greens, holes and other appurtenances ...ew, ...ation, ...arch, ...ing, well, ...ent locations, ...per ...ation, ...ainage, ...ation, ...ther appurtenances, ...ommercial facilities, maintenance ...ng, ...ation, ...ation, ...ation, ...ations. The ...ioner ...ould ...ould ...ould

NE, 10' INTERVAL
NETLANDS
BUFFER
TRANSMISSION TOWER

SED FUTURE GOLF HOLE
EXISTING
OSED FUTURE POND
IOR PROPERTY LINE
OSED. GOLF CART PATH
IRAL RESOURCE
ERVATION LINE
OF 100 YEAR FLOODPLAIN
OF SPECIAL
CEPTION
RMER MAINTENANCE AREA TO BE REMOVED
M GOLF COURSE SPECIAL EXCEPTION
TO BE UTILIZED FOR RESIDENTIAL
S. MAINTENANCE AREA RELOCATED IN RC2
SHOWN (SEE SHEET 3 FOR DETAILS)

A TO BE ADDED TO SPECIAL EXCEPTION
CLUBHOUSE COMPLEX (SEE SHEET 3
DETAILS) AND GOLF COURSE

C2 AREA WITHIN GOLF COURSE SPECIAL
XCEPTION TO SERVE ADJOINING RC5 LOTS
EASEMENTS AND PROVIDE WELLS AND
EPTIC SITES WITHIN AN RC2 ZONE,
SHOWN

REA OF FORMER FISHER TRACT
O BE DELETED FROM GOLF COURSE
ECIAL EXCEPTION
REQUEST FOR 34 LOTS
RC-5 IS NOT APPROVED

Vicinity Map
Scale 1"=1000'

GREENSPRING AVENUE
HIDDEN GLEN DR.
CHELLIS CT.
WOODSIDE CT.
HENESON GARTH
WOODSIDE PLACE
PINEWOOD FARM COURT
CHARTWELL COURT
MARBROOK RD.
CAVES ROAD
PARK HEIGHTS AVENUE (MARYLAND RTE. 129)
HUNTING TWEED DRIVE
PRIVATE DRIVEWAY

RC5
RC2

NOT INCLUDED GOLF COURSE/ COUNTRY CLUB
AREA TO BE DELETED FROM SPECIAL EXCEPTION 15.3 Acres
NOT INCLUDED IN GOLF COURSE/COUNTRY CLUB 36.8 Acres
SPECIAL EXCEPTION EXPANSION AREA 2.8 Acres
SPECIAL EXCEPTION EXPANSION AREA 0.12 Acres
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SPECIAL EXCEPTION EXPANSION AREA 0.27 Acres
PROPOSED EASEMENT FOR WELL AND SEPTIC
6.7 ACRE AREA TO BE DELETED FROM SPECIAL EXCEPTION
3.8 AC.
6.7 Acres

PLAT OF SPRINGWOOD EHK.JR. 41/17
PLAT OF FIRST AMENDED NORTHINGTON VALLEY ESTATES EHK.JR.47/8
WILLIAM F. PORTER & WIFE EHK.JR. 6634/465
CAVEMEN PROPERTIES S.M. 7390/489
STEPHAN GEORGE SIMMERS & MARY LYNCH SIMMERS EHK.JR. 5696/544
HOWARD CALVIN PRICE & PATRICIA LYNCH PRICE EHK.JR. 6201/585
BLANCHE SCOTT KER EHK.JR.5431/980
SECTION ONE WOODSIDE HEIGHTS EHK.JR. 57/51
SECTION TWO WOODSIDE HEIGHTS EHK.JR. 97/1
SECTION ONE WOODSIDE HEIGHTS EHK.JR. 50/66
SUBDIVISION PLAT OF PROPERTY OF SAMUEL & JANE SILVERMAN EHK.JR.44/56
ALVIN B. KRONGARD & WIFE OTG. 5048/98
ALVIN B. KRONGARD & WIFE OTG. 4977/112
RICHARD SHOFER & WIFE OTG 4909/311
GRACE CARMANA JONES EHK.JR.919/14
MINOR C.K. JONES LIBER.M. 899/146
HUNTINGTON SECTION ONE EHK.JR. 50/66
CAVES VALLEY CLUB INC. 2ND PARCEL S.M. 8029/720
CAVES VALLEY CLUB INC. 1ST PARCEL S.M. 8029/720
CAVES VALLEY CLUB INC. S.M. 8029/737
CAVES VALLEY CLUB INC. S.M.8000/441
CAVES VALLEY CLUB INC. S.M.8000/451
CAVES VALLEY CLUB INC. 2ND PARCEL S.M. 8000/440
PLAT OF SIMEON YARUTA PROPERTY EHK.JR.95/33
SIMEON YARUTA EHK.JR 3578/144
PLAT OF MARIE T. GRADY PROPERTY EHK.JR.48/87
JAMES HOOPER & WIFE EHK.JR. 3700/611
RANDOLPH BOLLING HUBBARD & WIFE EHK.JR. 3984/291
A RESUBDIVISION OF PINEWOOD FARM EHK.JR.41/82

FORMER KATHARINE T. FISHER TRACT NOW A PART OF CAVES VALLEY, INC.

EXIST. RESIDENCE PROPOSED CLUB HOUSE
EXIST. SWIMMING POOL & TENNIS COURT
EXIST. BARN & STORAGE
EXIST. TENANT FARM HOUSE
PRACTICE AREA
PRACTICE HOLES
EXISTING DRAIN UTILITY EASEMENT
PROPOSED ENTRANCE DRIVE
PROPOSED POND
TENT SHELTER AND FOUNTAIN
BG&E UNDERGROUND TERMINATION STATION
DUPLICATED MAINTENANCE FACILITY
PROPOSED ACCESS AND UTILITY EASEMENT
PROPOSED UNDERGROUND BG&E LINE
PUMP HOUSE
GATE HOUSE
SEE SHEET 3
ROAD WIDENING PER CRG REQUIREMENTS
FUTURE 50' R/W
FUTURE 70' R/W
EX. R/W VARIES
EX. 20' T PAVING
EX. 30' PAVING
EX. 40' R/W
EX. 80' R/W
PROP. 50' ACCESS EASEMENT
PROP. PAVING
40' STRIP TO BE CONVEYED TO H.PRICE ET.AL.
CONVEYANCE OF ELECTRIC & LIGHT CO.
PROP. 80' RIGHT-OF-WAY FOR IMPROVEMENTS
POINT OF BEGINNING
18' ROLLING PAVING
6' BITUM. PAVING
24' PAVING
BITUMINOUS PAVING

CONTINUED ON SHEET 2

PRINTED

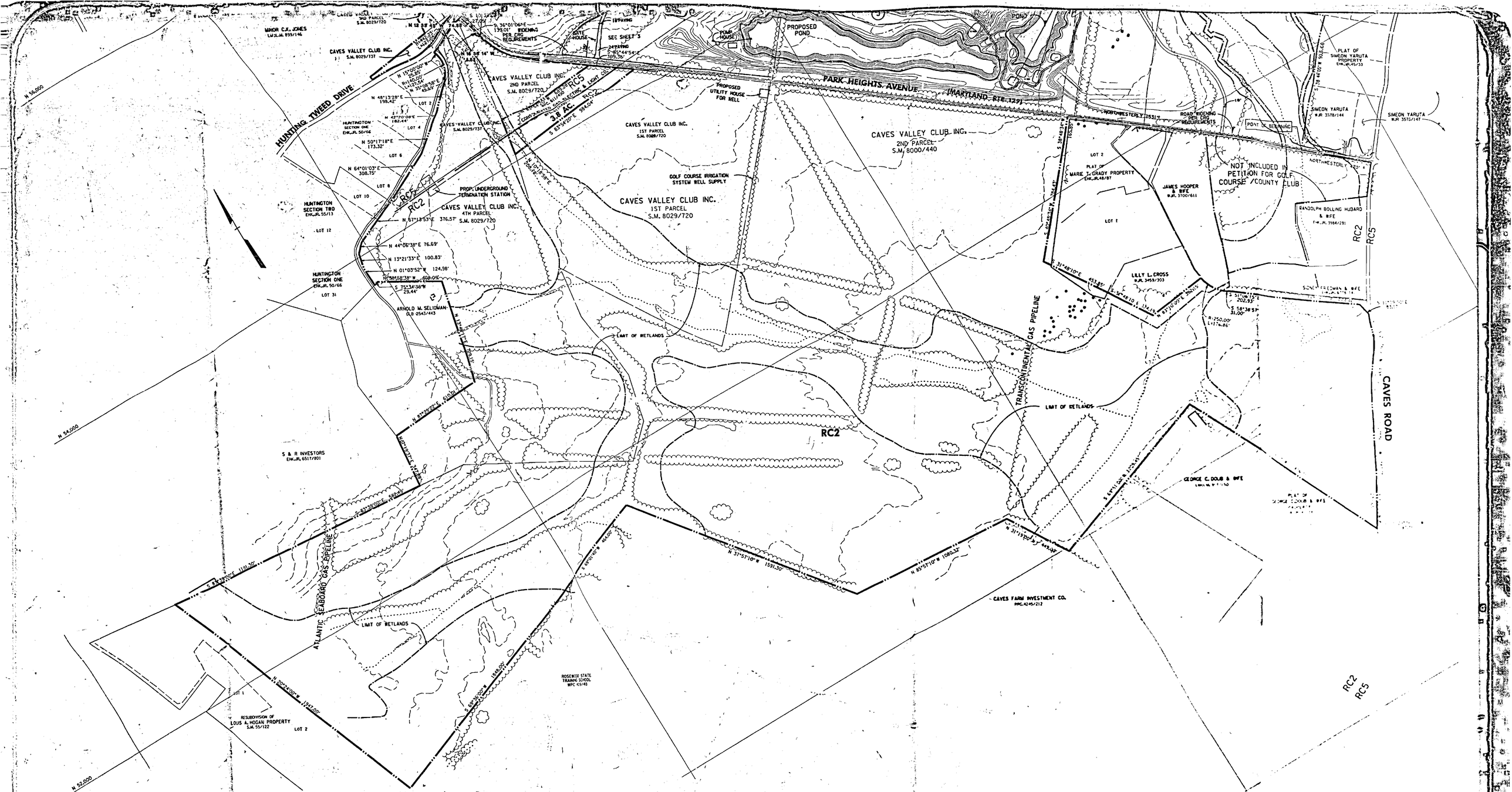
WT

DAFT McCU

GOLF CL
CAVES VALLEY
PLAN AND P
ACCOMPANY ZONIN

ELECTION DISTRICT 4C3

DATE	REVISIONS
1-22-92	ADD 3 PARCELS - 6.7 ± AC.
	ADD 15 LOTS SHOWN AS RC5
	ADD 2 PARCELS AS RC2
	ADD FUTURE POND
	ADD FUTURE GOLF HOLE



quest for Special Exception for Golf Course Use within Existing RC-2 and RC-5 Zones

1. Existing Zonings: RC-2 and RC-5. See plat for zone lines.
2. Requested Special Exception:

Country Club/Golf Course and appropriate facilities as set forth in petitions and as shown on this plan.

3. Site Area:

A. RC-2 area Northeast of Park Heights 409.7 acres ±

B. RC-5 area included in golf course northeast of Park Heights 5.8 acres ±

C. RC-2 area Southeast of Park Heights 361.6 acres ±

D. Total area within golf course 7.5.4 acres ±

4. Existing Use:

Golf course, currently under construction.

5. The area within the golf course special exception includes all golf holes and a large portion of undeveloped property existing mainly of fallow fields. The remainder of the site not in the golf course special exception is generally undeveloped woodland.

6. Proposed Principle Uses: A golf course

A golf course includes:

18 holes of championship golf play area, including tees, roughs, hazards, fairways and greens (91 acres total exclusive of hazards).

Paths (including bridges) for golf carts, pedestrians (players), and course/club maintenance and emergency vehicles.

Private infrastructure serving golf course facility, including, but not limited to: irrigation and accessory water distribution mains, laterals and remote control wiring, private three phase and two phase electrical distribution, storm drainage lines, catchbasins and wiring for remote and public telephone and cable TV lines, miscellaneous conduits for future and electrical utilities and communication wiring.

Aesthetic and functional ponds and other water holding facilities.

Irrigation and general use wells and all necessary pumps, distribution piping and other irrigation system equipment serving golf courses and related facilities.

Golf course facilities.

7b. Demolition:

The area encompassed by the golf course includes several existing residential structures and accessory buildings. Present plans contemplate that all existing structures, with the exception of Kronegard residence, will be razed. The existing swimming pool and tennis court will also be removed prior to opening of the course.

7. Maintenance Facility: (see Sheet 3)

The Club will maintain the proposed golf course facility and related property by employing trained professional maintenance staff. The maintenance facility will be located as shown on the attached plans accompanied where necessary by such equipment elements with the following functions. It is contemplated that the maintenance facility will not be limited to:

A. Maintenance Building, including administration, shop and equipment storage.

B. Support outbuildings for bulk materials, equipment and sand maintenance.

C. Facilities for storing and dispensing diesel and gasoline fuels.

D. Employee parking and additional outdoor storage areas for equipment and bulk materials.

E. A Residential Facility either in one of the maintenance complex structures or in the alternative, in a separate facility to be owned by the Club, as shown on the plan. The occupants hall be limited to club employees, specifically the golf course superintendent or people under his supervision. The separate residential facility shall provide housing for the club employee and family.

8. Clubhouse Facility: (see Sheet 3)

The Club will maintain a clubhouse facility to serve the golfing and related needs of the membership. The clubhouse facility will be located as shown. Its component elements in Phase I will include, but not be limited to:

A. Clubhouse: The Club will renovate and expand the existing Kronegard residence which will serve as the primary clubhouse structure. This structure will provide areas for gathering, food preparation, and dining, a cocktail lounge (a private club liquor license is required), and overnight guest accomodations in a maximum of 9 bedrooms.

B. Golf pro shop and cart shed,

C. Meeting house,

C. Resident Manager's House: a private residence for the Resident Manger and family, to be owned by the Club,

D. Parking areas, and

E. Other facilities customarily associated with a golf course clubhouse complex.

Phase II of construction will include the following structures:

F. Housekeeping, including laundry and storage facilities.

G. 10th Hole Facility, including overnight guest bedrooms and rooms for gathering and meal dining.

H. Up to three cottages for overnight guest accomodations.

The Clubhouse complex, including the Clubhouse itself, Phase I Guest House, 10th hole facility, and the cottages will provide overnight accomodations in a maximum of 28 bedrooms for not more than 40 members and their guests. All overnight accomodations will be available only for club members and member's guests visiting the Club in order to use its golf facilities. Such overnight accomodations are often found at golf clubs with a significant number of non-resident members and are appropriate facilities to include in a golf/country club of this type.

9. Other Accessory Uses:

Accessory uses normally provided as a part of a golf course facility will include golf course rain and shade structures, rest rooms and light food and snack facilities at appropriate locations on the course.

10. Other Recreational Uses:

The Club may locate up to 6 tennis or racket courts and a single swimming pool of up to 25 yards in length (plus a diving area) in the general clubhouse complex area.

11. Signs:

Sign shall be in accordance with provisions of Section 413.1, Baltimore County Zoning Regulations, and such other street name and traffic control signs as may be required by Baltimore County.

12. Environmental Impact:

Development of the site is not expected to result in any substantial increase in sound or other vibrations, dust, odor, gases, light, heat emanations beyond those normally occurring within private golf course facilities. The Club has done extensive analysis of the environmental impact of

13. Topography:

Existing topography is based on Daft-McCune-Walker, Inc. field run control and boundary survey with Photo-Science 100 Scale photogrammetry dated December 28, 1988.

14. Tree Cover:

The golf course is currently under construction. Tree clearing limits have been established with Baltimore County DEPRM to minimize disturbance.

15. Stream Crossings:

Areas disturbed for golf cart stream crossings shall be revegetated to the following minimum standards:

Cart paths will be field aligned to avoid major deciduous trees. Disturbed areas will be planted with indigenous species of understory trees, shrubs and herbaceous plant material. All plantings will be spaced according to their natural density. Plantings are to be used to stabilize present density. Plantings are to be used to provide adequate disturbance to stream embankments, and to provide adequate canopy for the stream channel.

16. RC-2 and RC-5 Building Standards: (see Sheet 3 and Petition form for requested variances related to distances between buildings.)

RC-2

A. Height shall not exceed 35 feet except as may be permitted by Section 300, Baltimore County Zoning Regulations.

B. Standards for accessory structures on the course shall be developed as a component of architectural restrictions.

C. Buildings shall be setback a minimum of 75 feet from the centerline of Park Heights Avenue or 35 feet from any lot line other than a street line.

RC-5

A. Height shall not exceed 35 feet except as permitted by Section 300, Baltimore County Zoning Regulations.

B. Standards for accessory structures on the course shall be developed as a component of architectural restrictions.

C. Buildings shall be setback 75 feet from the centerline of any county owned street or 50 feet from any lot-line other than a street line.

17. Parking:

Off street parking shall be provided for employees and members of this facility. No less than 144 spaces shall be provided (18 holes at 8 spaces/hole). All parking areas shall be 9'-1/2" x 18' and shall be provided with a durable, dustless surface property drained so as not to create any undesirable conditions. All parking areas shall be screened in accordance with the provisions of the Baltimore County Landscape Manual adopted May 7, 1984, and the community agreement established with the Northington-Woodyde Community group.

18. Utilities:

The site is not served by public water or sewerage lines. It is expected that water supply and sewage disposal for the clubhouse, maintenance and accessory use facilities will be on an individual facility basis. Irrigation for golf course areas will be handled on the basis of an overall, course-wide system or systems utilizing modern water conservation techniques. The water for this irrigation system will be drawn from on site storage ponds, supplemented by water from production wells. Storage ponds may be used as an emergency source of water for fire suppression purposes.

19. Lighting:

All on-site lighting shall be minimized. Lighting will be arranged to not reflect or shine upon adjacent residential premises.

20. Storm Drains:

Runoff shall be accommodated by a storm drain system and management facilities. Water quality will be provided through infiltration and vegetative practices. A Water Quality Concept plan has been established with the Baltimore County Stormwater Management Division.

21. H.O.W.:

On site roads and drives shall be private. Paving widths are as shown.

22. Additional Requirements:

Caves Valley Club, Inc. shall execute and record among the Land Records a fully executed and acknowledged counterpart of a permanent perpetual conservation easement or easements, for the property which is the subject of this application. Such conservation easement shall be granted in favor of the Maryland Environmental Trust or another independent conservation group such as the Nature Conservancy approved by the Office of Planning and Zoning and Peoples' Counsel of Baltimore County. This easement, however, need not be exclusive. This easement will impose significant additional restrictions on the use and development of the property.

General Notes:

The arrangement of golf course holes, streets, structures and other facilities are schematic and conceptual. Final course configuration, accessory facility layout and other details are subject to modification based on field data and final plans.

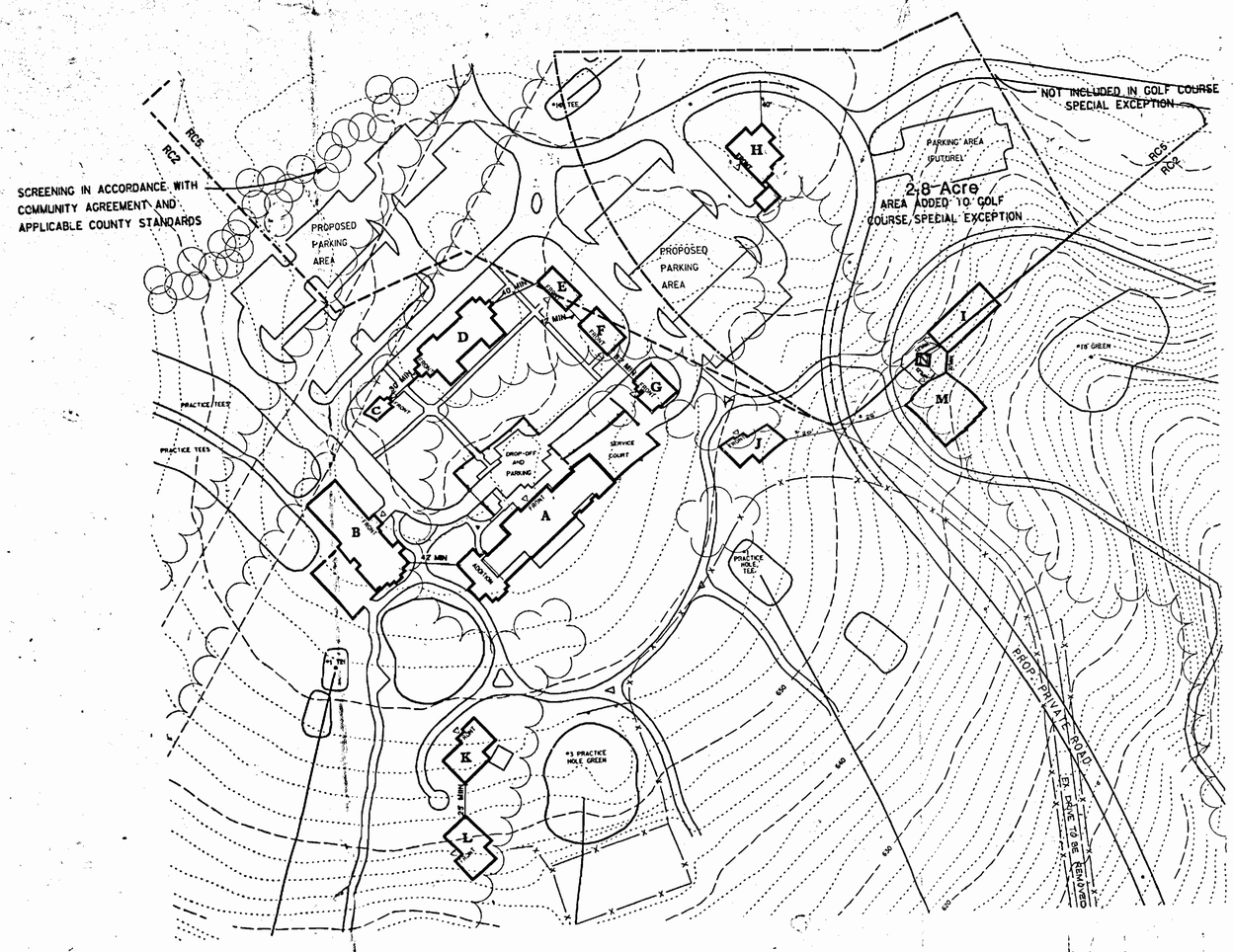
These facilities are subject to the following locational criteria:

1. While specific routing and location of holes of golf may vary from what is shown on the routing and location plan contained in this application, the Club intends to adhere to that general plan to the extent it is able and is permitted to do so. All 18 holes are located to the northwest of Park Heights Avenue as presently shown.

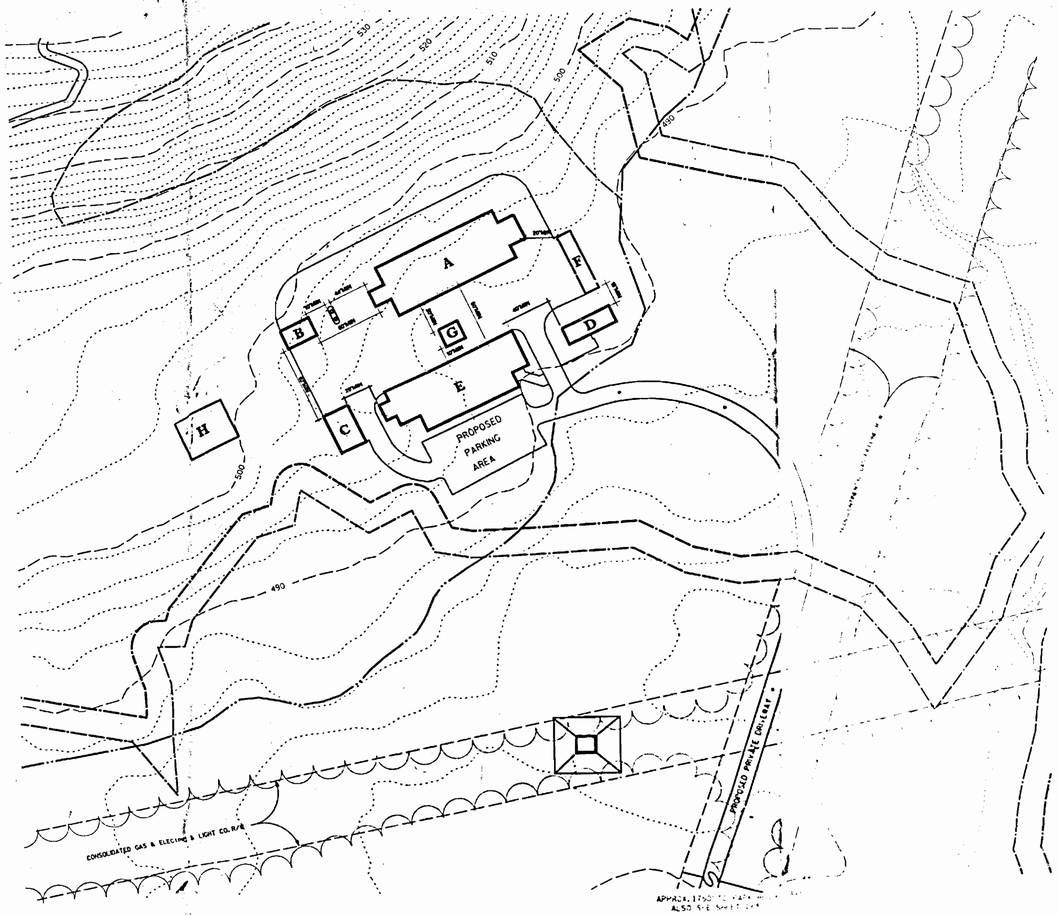
2. The clubhouse complex will be located in the area of the existing Kronegard residence as shown. The maintenance complex will be located near the center of the portion of the site northeast of Park Heights Avenue as shown. All the site northeast of Park Heights Avenue as shown. All the site northeast of Park Heights Avenue as shown. All

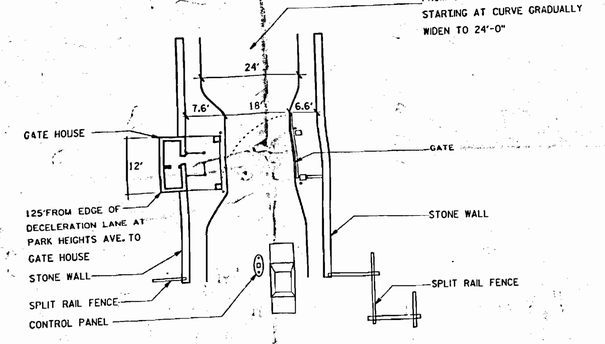
A CLUBHOUSE
B PRO SHOP AND CART SHED
C MEETING HOUSE
D MEN'S LOCKER BUILDING
E GUEST HOUSE
F ADMINISTRATION BUILDING
H RESIDENT MANAGER'S HOUSE

G HOUSEKEEPING
I 18TH HOLE DORMITORY
J COTTAGE #ONE
K COTTAGE #TWO
L COTTAGE #THREE
M 18TH HOLE DINING AREA
N 18TH HOLE PAVILION



B WASH STATION
C BULK MATERIAL STORAGE
D EMPLOYEE RESIDENCE
E SHOP/ADMINISTRATION
F STORAGE SHED
G STORAGE/HOIST
H ALTERNATIVE RESIDENCE FACILITY
(TO BE USED IF D IS CONVERTED TO NONRESIDENTIAL USE)





GATEHOUSE (PRELIMINARY)
(NOT TO SCALE)

Zoning History

A. Most of this property was formerly owned by Kingdon Gould Jr., or entities controlled by him (The Gould Parcel); some is now owned by Alvin B. and Patricia L. Kronyard. (The Kronyard Parcel) and is under contract to Caves Valley Club, Inc.

B. The Gould Parcel (which is zoned almost entirely RC-2) has been subject to the following rezoning requests and applications in the last five years.

1. In 1984, The Gould Parcel was the subject of a larger request to rezone 306 acres from RC-4 to RC-5 as part of the Comprehensive Map Process (Issue 3-66). The request was not adopted.

3. In 1986, Conservation Associates filed a petition seeking rezoning of 303.3 acres including The Gould Parcel from RC-2 to RC-8 on an open site plan (Case #86-111). The Board of Appeals denied the request on May 1, 1987 and that denial was subsequently upheld.

3. In 1988, The Gould Parcel was the subject of a request to rezone a 303.3 acre parcel from RC-2 to RC-5 as part of the Comprehensive Map Process (Issue 3-066). The request was not adopted.

C. The Kronyard Parcel (which is zoned entirely RC-2) was the subject of the 1984 Comprehensive Map Process (Issue 3-004). The request for RC-5 rezoning was not adopted.

D. Portions of the property were also the subject of a documented site plan request to reclassify 121 acres from RC-2 to RC-5. On January 4, 1989 the Planning Board certified to the County Council that it was in the Public Interest to accept the reclassification petition from the regular cyclical procedure. On February 6, 1989 the County Council approved the certification; 20.9 acres of the requested RC-5 area also were included in this petition for a golf course country club special exception.

E. The out-of-cycle, documented site plan reclassification petition was assigned Case No. 89-89-347. The Board of Appeals determined that the then existing RC-2 zoning was in error and that the requested RC-5 zoning was warranted by the evidence presented. On May 31, 1989, the Board ordered that the out-of-cycle petition for Zoning Reclassification from RC-2 to RC-5 as clearly documented in Petitioner's Exhibits No. 11-1 and 11-2 be granted. This order was unappealed and became final.

F. Case No. 89-409-X requested a Special Exception for a country club and other related accessory uses. On June 6, 1989 an order by the Zoning Commissioner approved the Special Exception for a country club (primarily a golf oriented facility), including one regulation 18 hole golf course, tennis (always), greens, holes and other appropriate practice facilities, a clubhouse complex, including, without limitation, a pro shop, locker, meeting facility and locker rooms, other appropriate recreational facilities, maintenance facilities associated with the foregoing, shelters, and restroom structures. The order dismissed approval of proposed residential quarters on the subject site within the Special Exception area and denied approval of overnight accommodations for a maximum of 40 members and their guests. The order was subject to the following restrictions:

1. The Petitioner may apply for his building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his 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. Pursuant to Section 502.3 of the B.C.Z.R., this Special Exception may be utilized within five years of the date of this final order.

3. 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, and the Petitioner shall submit to the Zoning Commissioner's office by no later than June 15, 1990 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 distances from all property lines, and any other information as may be required to be a certified site plan.

4. The country club and golf courses shall be closed to the general public. The facilities shall not be rented or leased to the general public and this shall include golf tournaments. All facilities shall be used only by members and guests of the country club.

On June 30, 1989, the Zoning Commissioner's order was appealed to the Board of Appeals. The appeal was subsequently dismissed.

G. Case No. 89-474-SPHX added the Fisher tract to the previously requested Special Exception in Case No. 89-409-X and by Special Hearing sought to amend the previously issued Special Exception by introducing a new plan for the country club/golf course as more particularly described on Petitioner's Exhibits 1 and 2 this particularly described on Petitioner's Exhibits 1 and 2 this particularly described on Petitioner's exhibits 1 and 2 this expanded the northern parcel to approximately 375 acres and the total area covered by the Special Exception to approximately 793 acres.

On June 8, 1989, the Zoning Commissioner ordered that the Special Exception component of Case No. 89-474 be dismissed and that the Special Exception area for the purposes and in a manner Special Hearing to amend the previously granted Special Exception in Case No. 89-409-X by adding additional land area as shown and described for primary use in the golf course operation and to accept a new Special Exception site plan (Petitioner's Exhibits 1 and 2) for the country club/golf courses be granted. All other terms, conditions, and restrictions of the Order of June 6, 1989 in Zoning Case No. 89-409-X are to be enforced except as amended by this order concerning the new site plan and additional land areas. The order was subject to the following restrictions:

The Petitioner shall use the land incorporated into the Special Exception area for the purposes and in a manner consistent with Petitioner's Exhibits 1 and 2. Any additional use or different use of any part, area, lot or parcel included within the Special Exception area shall require an amendment to the Special Exception country club granted in Zoning Case No. 89-409-X and as amended in Zoning Case No. 89-474-SPHX.

H. Petitioner requested relief to amend or modify the Orders in Zoning Case No. 89-409-X issued on June 6, 1989 and in Case No. 89-474-SPHX issued on June 8, 1989. Additional evidence was provided together with a new plan for the clubhouse (Petitioner's Exhibit A).

On July 14, 1989 the Zoning Commissioner ordered that the Order in Zoning Case No. 89-409-X issued on June 6, 1989 and the Order in Zoning Case No. 89-474-SPHX issued on June 8, 1989 be amended to permit the eight overnight accommodation rooms, as shown on Petitioner's Exhibit A, as an accessory and ancillary use in conjunction with the principal use of the golf course and country club, as more particularly described on Petitioner's Exhibit 1A, subject, however, to the following restrictions:

The Petitioner may submit to the Zoning Commissioner a proposal for expansion of the accessory overnight accomodations use not to exceed a maximum of 28 rooms.

We further ordered that a Special Exception for approval of the proposed residential quarters for the golf course superintendent and either the general manager of the golf professional on the actual site of the golf course be dismissed.

The Zoning Commissioner further ordered that Restriction No. 6 of the Order issued on June 6, 1989 in Zoning Case No. 89-409-X shall be amended to read as follows:

6. The country club and golf course shall be operated as private membership facilities and not as facilities generally available for public use. The facilities shall not be rented or leased for commercial purposes to the general public, either for golf tournaments or other events, provided that this limitation shall not prevent the Club itself from holding or sponsoring tournaments or other events to which persons other than members may be invited.

We further ordered, that all other terms, conditions and restrictions of the original Orders of June 6, 1989 and June 8, 1989 be and are enforced except as amended by this Order.

See preliminary architectural floor plans and elevation to be submitted as an exhibit with this case, for all building dimensions.

Listing of Variances, Distances Between Buildings

1. Clubhouse Complex (RC-2 and RC-5)
   a. Building A to B - 42 instead of 70 feet
   b. Building C to D - 30 instead of 70 feet
   c. Building D to E - 40 instead of 70 feet
   d. Building E to F - 12 instead of 70 feet
      12 instead of 100 feet (RC-5)
   e. Building F to G - 32 instead of 70 feet
   f. Building E to L - 25 instead of 70 feet
   g. Building M to I - 12 instead of 70 feet
      M to I - 12 instead of 100 feet (RC-5)
   h. Building M to N - 12 instead of 70 feet
   i. Building I to M - 20 instead of 70 feet
2. Maintenance Facility (RC-2)
   a. Building A to pump island-44 instead of 70 feet
   b. Building A to B - 40 instead of 70 feet
   c. Building B to pump island-10 instead of 70 feet
   d. Building B to C - 62 instead of 70 feet
   e. Building C to E - 25 instead of 70 feet
   f. Building D to E - 40 instead of 70 feet
   g. Building D to F - 15 instead of 70 feet
   h. Building F to A - 20 instead of 70 feet
   i. Building A to G - 20 instead of 70 feet
   j. Building E to G - 10 instead of 70 feet
   k. Building A to I - 30 instead of 70 feet

LEGEND

- EXISTING ZONE LINE
- CONTOUR LINE
- STREAM
- EDGE OF EXSITING WOODS
- POWER TRANSMISSION TOWER
- LIMIT OF WETLANDS
- STREAM BUFFER
- PROPOSED GOLF CART PATH
- NATURAL RESOURCE CONSERVATION EASEMENT
- LIMIT OF 100 YEAR FLOODPLAIN

CAVES
PLAN
ELECTION DISTRICT 4C
DATE
2/6/90 A

M BUFFER
TRANSMISSION TOWER
AM
OSED FUTURE GOLF HOLE
D, EXISTING
OPOSED FUTURE POND
ERIOR PROPERTY LINE
OPOSED GOLF CART PATH
TURAL RESOURCE
NSERVATION LINE
MIT OF 100 YEAR FLOODPLAIN
MIT OF SPECIAL
CEPTION
RMER MAINTENANCE AREA TO BE REMOVED
ROM GOLF COURSE SPECIAL EXCEPTION
ND TO BE UTILIZED FOR RESIDENTIAL
OTS. MAINTENANCE AREA RELOCATED IN RC2
AS SHOWN (SEE SHEET 3 FOR DETAILS)
REA TO BE ADDED TO SPECIAL EXCEPTION
OR CLUBHOUSE COMPLEX (SEE SHEET 3
OR DETAILS)
RC2 AREA WITHIN GOLF COURSE SPECIAL
EXCEPTION TO SERVE ADJOINING RC5 LOTS
BY EASEMENTS AND PROVIDE WELLS AND
SEPTIC SITES WITHIN AN RC2 ZONE,
S SHOWN
REA OF FORMER FISHER TRACT
TO BE DELETED FROM GOLF COURSE
SPECIAL EXCEPTION
REQUEST FOR 34 LOTS
IN RC-5 IS NOT APPROVED

Vicinity Map Scale 1"=1000'

RC5
RC2
NOT INCLUDED GOLF COURSE/ COUNTRY CLUB
RC5 AREA TO BE DELETED FROM SPECIAL EXCEPTION 15.3 Acres
NOT INCLUDED IN GOLF COURSE/COUNTRY CLUB 37.3 Acres
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EXIST. BARN
EXIST. TENANT FARM HOUSE
RELOCATED MAINTENANCE FACILITY
BG&E UNDERGROUND TERMINATION STATION
PUMP HOUSE
GATE HOUSE
PROPOSED UNDERGROUND B.G.& E. LINE
PRIVATE DRIVEWAY
ROAD WIDENING PER CRG REQUIREMENTS
POINT OF BEGINNING
SEE SHEET 3
CONTINUED ON SHEET 2

GREENSPRING AVENUE
HIDDEN GLEN DR
CHELLIS CT.
WOODSYDE CT.
WOODSYDE PLACE
HUNTING TWEE DRIVE
PINEWOOD FARM COURT
CHARTWELL COURT
MARBROOK RD.
CAVES ROAD
PARK HEIGHTS AVENUE (MARYLAND RTE. 129)

PLAT OF SPRINGWOOD
PLAT OF FIRST AMENDED WORTHINGTON VALLEY ESTATES
PLAT OF SECTION ONE WOODSYDE HEIGHTS
PLAT OF SIMEON YARUTA PROPERTY
PLAT OF MARIE T. CRADY PROPERTY
WILLIAM F. PORTER & WIFE
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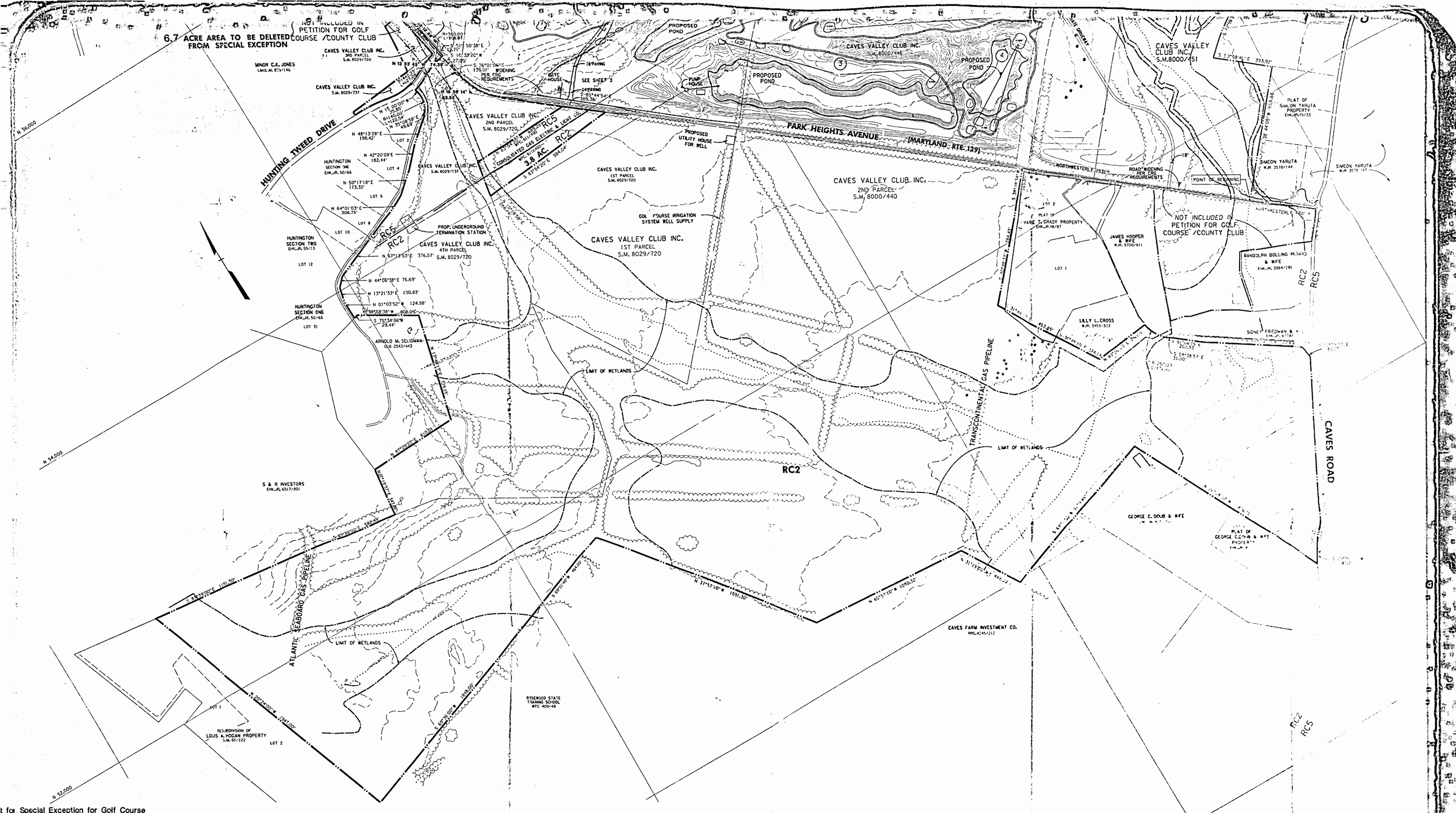
RICHARD SHOFER & WIFE
GRACE GARMENA JONES
CAVES VALLEY CLUB INC.
CAVES VALLEY CLUB INC. 2ND PARCEL
CAVES VALLEY CLUB INC. 1ST PARCEL
JAMES HOOPER & WIFE
RANDOLPH BOLLING HUBARD & WIFE
SIMEON YARUTA

PRINTED FEB 05 1990
DAFT-McCUNE-WALKER, INC.
DAFT McCUNE
GOLF CLU
CAVES VALLEY CL
PLAN AND PLAT
ACCOMPANY ZONING
ELECTION DISTRICT 4C3



t for Special Exception for Golf Course
vithin Existing RC-2 and RC-5 Zones

sting Zonings: RC-2 and RC-5. See plat for zone ...es.

quests: Special Exception:

ountry Club/Golf Course and appropriate facilities as set ...rth in petitions and as shown on this plan

te Area:

RC-2 area Northeast of Park Heights 409.7 acres ±

RC-5 area included in golf course northeast of Park Hei...ts 8.5 acres ±

RC- area Southwest of Park Heights 362.4 acres ±

Total area within golf course 780.6 acres ±

isting Use:

If course, currently under construction.

e area within the golf course special exception includes ...e golf holes and a large portion of undeveloped property ...isti..g mainly of fallow fields. The remainder of the ...te not in the golf course special exception is generally ...devel..ed woodland.

oposed Principle Uses: A golf course

a golf course includes:

In...ales of championship golf play area, including ...ter, rough..., hazards, fairways and greens (91 acres ...tal exclusive of hazards).

...s (including bridges) for golf carts, pedestrians ...g ways), and course/club maintenance and emergency ...hicles.

Private infrastructure serving golf course facili..., ...cluding, but not limited to: Irrigation and ...ance way water distribution mains, laterals and ...ervice control wiring, private three phase and two ...phase electrical distribution, storm drainage lines, ...condui... and wiring for private and public telephone and cable TV lines, miscellaneous conduits for future ...electrical services and communication wiring.

Aesthetic and ... ponds and other water ...

*b. Demolition:

The area encompassed by the golf course includes several existing residential structures and accessory buildings. Present plans contemplate that all existing structures, with the exception of Kronegard residence, will be razed. The existing swimming pool and tennis court will also be removed prior to opening of the course.

*j. Maintenance Facility: (see Sheet 3)

The Club will maintain the proposed golf course facility and related property by employing trained professional maintenance staff. The maintenance facility will be located as shown on the amended plans accompanying these petitions. Its component elements will include but not be limited to:

A. Maintenance Building, including administration, shop and equipment storage.

B. Support outbuildings for bulk materials, equipment and cart maintenance.

C. Facilities for storing and dispensing diesel and gasoline fuels.

D. Employee parking and additional outdoor storage areas for equipment and bulk materials.

E. A Residential Facility either in one of the maintenance complex structures or in the alternative, in a separate facility to be owned by the Club, as shown on the plan. The occupants shall be limited to club employees, specifically the golf course superintendent or people under his supervision. The separate residential facility shall provide housing for the club employee and family.

*o. Clubhouse Facility: (see Sheet 3)

The Club will maintain a clubhouse facility to serve the golfing and related needs of the membership. The clubhouse facility will be located as shown. Its component elements in Phase I will include, but not be limited to:

A. Clubhouse: The Club will renovate and expand the existing Kronegard residence which will serve as the primary clubhouse structure with ...

G. Resident manager's House: a private residence for the Resident Manger and family, to be owned by the Club.

H. Parking areas, and

I. Other facilities customarily associated with a golf course clubhouse complex.

Phase II of construction will include the following structures:

J. Housekeeping, including laundry and storage facilities.

K. 18th Hole Facility, including overnight guest bedrooms and spaces for gathering and informal dining.

L. Up to three cottages for overnight guest accomodations.

The Clubhouse complex, including the Clubhouse itself, Phase I Guest House, 18th hole facility, and the cottages will provide overnight accomodations in a maximum of 28 bedrooms for not more than 40 members and their guests. All overnight accomodations will be available only for club members and members's guests visiting the Club in order to use its golf facilities. Such overnight accomodations are often found at golf clubs with a significant number of non-resident members and are appropriate facilities to include in a golf/country club of this type.

*v. Other Accessory Uses:

Accessory uses normally provided as a part of a golf course facility will include golf course rain and shade structures, rest rooms and light food and snack facilities at appropriate locations on the course.

10. Other Recreational Uses:

The Club may locate up to 6 tennis or racket courts and a single swimming pool of up to 25 yards in length (plus a diving area) in the general clubhouse complex area.

11. Signs:

Sign shall be in accordance with provisions of Section 413.1, Baltimore County Zoning Regulations, and such other street name and traffic control signs as may be required by

12. Topography:

Existing topography is based on Ieft-McCune-Walker, Inc. field run control and boundary survey with Photo-Science 100 scale photogrammetry dated December 28, 1968.

*14. Tree Cover:

The golf course is currently under construction. Tree clearing limits have been established with Baltimore County Bureau to minimize disturbance.

*15. Stream Crossings:

Areas disturbed for golf cart stream crossings shall be revegetated to the following minimum standards:

Cart paths will be field aligned to avoid major deciduous trees. Disturbed areas will be planted with indigenous species of understory trees, shrubs and herbaceous plant material. All plantings will be spaced according to their present density. Plantings are to be used to stabilize disturbance to stream embankments, and to provide adequate canopy for the stream channel.

*16. RC-2 and RC-5 Building Standards: (see Sheet 3 and Petition form for requested variances related to distances between buildings.)

RC-2

A Height shall not exceed 35 feet except as may be permitted by Section 300, Baltimore County Zoning Regulations.

B Standards for accessory structures on the course shall be developed as a component of architectural restrictions.

C Buildings shall be setback a minimum of 75 feet from the centerline of Park Heights Avenue or 35 feet from any lot line other than a street line.

RC-5

A Height shall not exceed 35 feet except as permitted by Section 300, Baltimore County Zoning Regulations.

B Standards for accessory structures on the course shall be developed as a component of architectural

*17. Parking:

Off street parking shall be provided for employees and members of this facility. No less than 144 spaces shall be provided (18 holes at 8 spaces/hole). All parking areas shall be 9-1/2' x 18' and shall be provided with a durable, dustless surface property drained so as not to create any undesirable conditions. All parking areas shall be screened in accordance with the provisions of the Baltimore County Landscape Manual adopted May 7, 1984, and the community agreement established with the Worthington-Woodyds Community group.

*18. Utilities:

The site is not served by public water or sewerage lines. It is expected that water supply and sewage disposal for the clubhouse, maintenance and accessory use facilities will be on an individual facility basis. Irrigation for golf course areas will be handled on the basis of an overall, course-wide system or systems utilizing modern water conservation techniques. The water for this irrigation system will be drawn from on site storage ponds, supplemented by water from production wells. Storage ponds may be used as an emergency source of water for fire suppression purposes.

*19. Lighting:

All on-site lighting shall be minimized. Lighting will be arranged to not reflect or shine upon adjacent residential premises.

20. Storm Drains:

Runoff shall be accomodated by a storm drain system and management facilities. Water quality will be provided through infiltration and vegetative practices. A Water Quality Concept plan has been established with the Baltimore County Stormwater Management Division.

*21. R.O.W.:

On site roads and drives shall be private. Paving widths are as shown.

*22. Additional Requirements:

Caves Valley Club, Inc. shall execute and record among the Land Records a fully executed and acknowledged counterpart

General Notes:

The arrangement of golf course holes, streets, structures and other facilities are schematic and conceptual. Final cohesive configuration, accessory facility layout and other details are subject to modification based on field data and final plans.

These facilities are subject to the following locational criteria:

1. While specific routing and location of holes of golf may vary from what is shown on the routing and location plan contained in this application, the Club intends to adhere to that general plan to the extent it is able and is permitted to do so. All 18 holes are located to the northeast of Park Heights Avenue as presently shown.

*2. The clubhouse complex will be located in the area of the existing Kronegard residence as shown. The maintenance complex will be located near the center of the portion of the site northeast of Park Heights Avenue as shown. All buildings and other significant structures constituting centralized facilities related directly to the operation of the clubhouse and golf course will be located either within these two areas or on that portion of the property to the northeast of Park Heights Avenue and in a location where they will not be visible from Park Heights Avenue. This limitation shall not apply to half-way houses, shelters or other facilities typically located along the route of the golf course.

3. No parking lots, buildings or similar structures associated with the golf course will be located to the southeast of Park Heights Avenue. Production wells or wells will be either to the northeast of Park Heights Avenue and/or to the southwest of Park Heights Avenue along with appropriate pumping equipment and piping.

This application for special exception is directly and substantially related to the counterpart RC-5 documented on this plan.

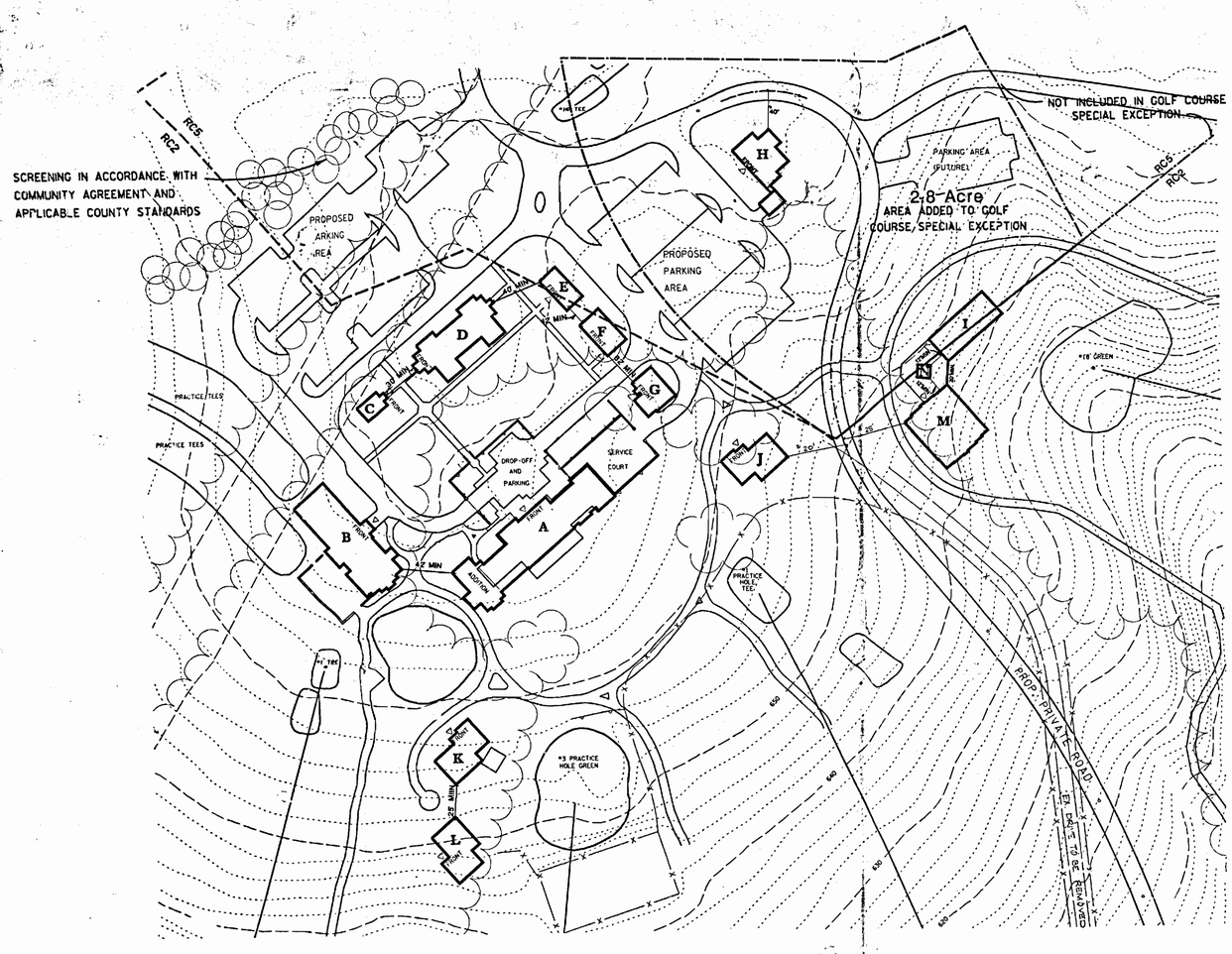
*Note text changed from that on the original petition.

DAFT

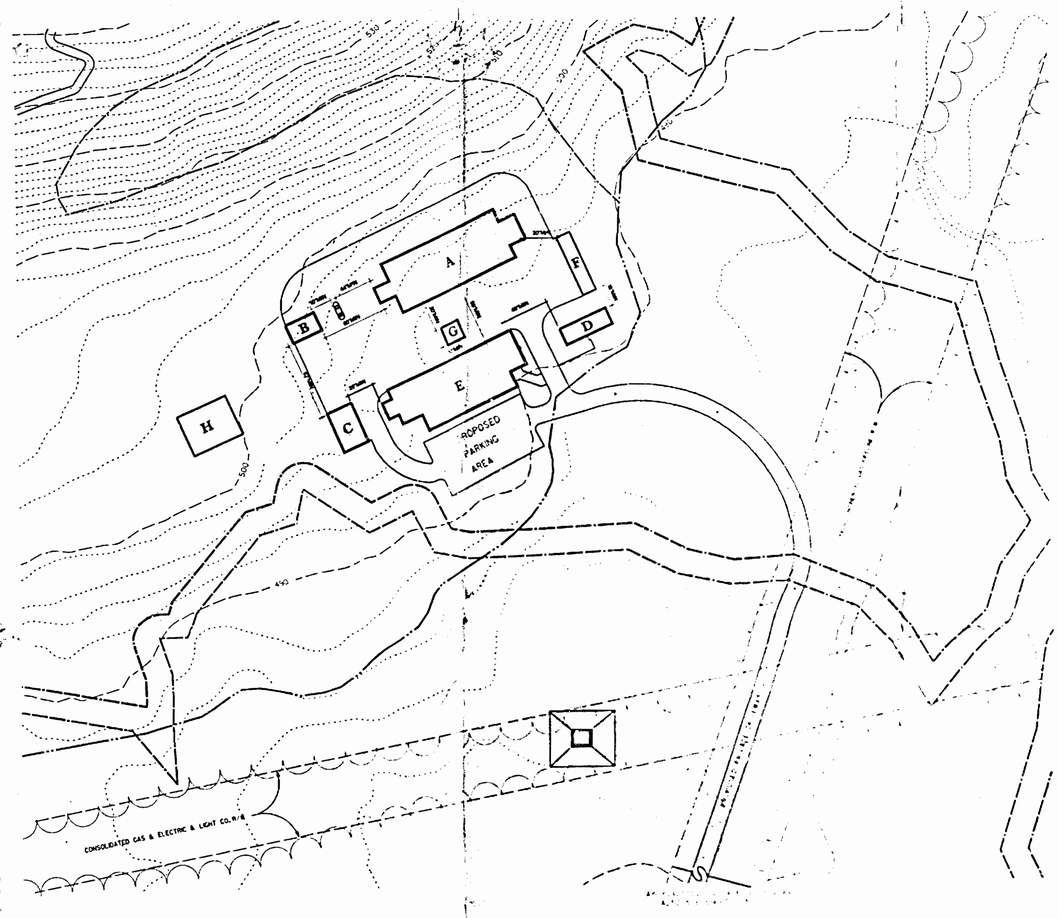
GOLF
CAVES VALL
PLAN AN
ACCOMPANY Z

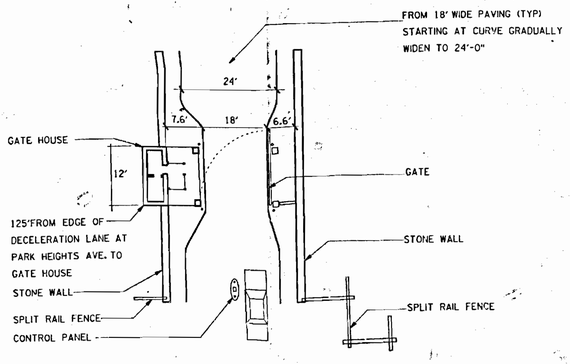
ELECTION DISTRICT #3

A CLUBHOUSE
B PRO SHOP AND CART SHED
C MEETING HOUSE
D MEN'S LOCKER BUILDING
E GUEST HOUSE
F ADMINISTRATION BUILDING
H RESIDENT MANAGER'S HOUSE
I 18TH HOLE [illegible]
J COTTAGE #ONE
K COTTAGE #TWO
L COTTAGE #THREE
M 18TH HOLE DINING AREA
N 18TH HOLE PAVILION



C BULK MATERIAL STORAGE
D EMPLOYEE RESIDENCE
E SHOP/ADMINISTRATION
F STORAGE SHED
G STORAGE/HOIST
H ALTERNATIVE RESIDENCE FACILITY
(TO BE USED IF D IS CONVERTED TO NONRESIDENTIAL USE)





GATEHOUSE (PRELIMINARY)

(NOT TO SCALE)

Zoning History

A. Most of this property was formerly owned by Kingdon Gould Jr., or entities controlled by him (The Gould Parcel) a[illegible] is now owned by Alvin D. and Patricia L. Kronqard. (The Kronq[illegible]d Parcel) and is under contract to Caves Valley Club, Inc.

B. The Gould Parcel (which is zoned almost entirely RC-2) has been subject to the following rezoning requests and applications in the last five years.

1. In 1984, The Gould Parcel was the subject of a larger request to rezone 306 acres from RC-6 to RC-5 as part of the Comprehensive Map Process (Issue 3-60). The request was not adopted.

2. In 1986, Conservation Associates filed a petition seeking rezoning of 2[illegible].3 acres including The Gould Parcel from RC-2 to RC-5 on an open site plan (Case #86-110). The Board of Appeals denied the request on May 1, 1987 and that denial was subsequently upheld.

3. In 1988, The Gould Parcel was the subject of a request to rezone a 301.3 acre parcel from RC-2 to RC-5 as part of the Comprehensive Map Process (Issue 3-004). The request was not adopted.

C. The Kronqard Parcel (which is zoned entirely RC-2) was the subject of the 1984 Comprehensive Map Process (Issue 3-004). The request for RC-5 rezoning was not adopted.

D. Portions of the property were also the subject of a documented site plan request to reclassify 84 acres from RC-2 to RC-5. On January 19, 1989 the Planning Board certified to the County Council that it was in the public interest to exempt the reclassification petition from the regular cyclical procedure. On February 6, 1989 the County Council approved the certification; 20.9 acres of the requested RC-5 area also were included in this petition for a golf course country club special exception.

E. The out-of-cycle, documented site plan reclassification petition was assigned Case No. CR-89-367. The Board of Appeals determined that the then existing RC-2 zoning was in error and that the requested RC-5 zoning was warranted by the evidence presented. On May 31, 1989, the Board ordered that the out-of-cycle Petition for Zoning Reclassification from RC-2 to RC-5 as clearly delineated in Petitioner's Exhibits No. 11-1 and 11-2 be granted. This order was unappealed and became final.

F. Case No. 89-409-X requested a Special Exception for a country club and other related accessory uses. On June 6, 1989 an order by the Zoning Commissioner approved the Special Exception for a country club (primarily a golf oriented facility), including one regulation 18 hole golf course, practice fairways, greens, holes and other appropriate practice facilities, a clubhouse complex, including, without limitation, a pro shop, lounge, eating facility and locker rooms, other appropriate recreational facilities, maintenance facilities associated with the foregoing, shelters, and restroom structures. The order dismissed approval of proposed residential quarters on the subject site within the Special Exception area and denied approval of overnight accommodations for a maximum of 40 members and their guests. The order was subject to the following restrictions:

1. The Petitioner may apply for his building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his 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. Pursuant to Section 502.3 of the B.C.Z.R., this Special Exception may be utilized within five years of the date of this final order.

3. 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, and the Petitioner shall submit to the Zoning Commissioner's office by no later than June 15, 1990 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 distances from all property lines, and any other information as may be required to be a certified site plan.

4. Upon request and reasonable notice, the Petitioner shall permit a representative of the Zoning Enforcement Division to make an inspection of the subject property to insure [illegible]

6. The country club and golf courses shall be closed to the general public. The facilities shall not be rented or leased to the general public and this shall include golf tournaments. All facilities shall be used only by members and guests of the country club.

On June 30, 1989, the Zoning Commissioner's order was appealed to the Board of Appeals. The appeal was subsequently dismissed.

G. Case No. 89-476-SPHX added the Fisher tract to the previously requested Special Exception in Case No. 89-409-X and by special hearing sought to amend the previously issued Special Exception by introducing a new plan for the country club/golf course as more particularly described on Petitioner's Exhibits 1 and 2 this expanded the northern parcel to approximately 375 acres and the total area covered by the Special Exception to approximately 793 acres.

On June 8, 1989, the Zoning Commissioner ordered that the Special Exception component of Case No. 89-476 be dismissed and that the Exception component to amend the previously granted Special Exception Special Hearing to amend the previously granted Special Exception in Case No. 89-409-X by adding additional land area as shown and described for primary use in the golf course operation and to accept a new Special Exception site plan (Petitioner's Exhibits 1 and 2) for the country club/golf course be granted. All other terms, conditions, and restrictions of the Order of June 6, 1989 in Zoning Case No. 89-409-X are to be enforced except as amended by this order concerning the new site plan and additional land areas. The order was subject to the following restriction:

The Petitioner shall use the land incorporated into the Special Exception area for the purposes and in a manner consistent with Petitioner's Exhibits 1 and 2. Any additional use or different use of any part, area, lot or parcel included within the Special Exception area shall require an amendment to the Special Exception country club granted in Zoning Case No. 89-409-X and as amended in Zoning Case No. 89-476-SPHX.

H. Petitioner requested relief to amend or modify the Orders in Zoning Case No. 89-409-X issued on June 6, 1989 and in Case No. 89-476-SPHX issued on June 8, 1989. Additional evidence was provided together with a new plan for the clubhouse (Petitioner's Exhibit A).

On July 14, 1989 the Zoning Commissioner ordered that the Order in Zoning Case No. 89-409-X issued on June 6, 1989 and the Order in Zoning Case No. 89-476-SPHX issued on June 8, 1989 be amended to permit the eight overnight accommodation rooms, as shown on Petitioner's Exhibit A, as an accessory and ancillary use in conjunction with the principal use of the golf course and country club, as more particularly described on Petitioner's Exhibit 1A, subject, however, to the following restrictions:

The Petitioner may submit to the Zoning Commissioner a proposal for expansion of the accessory overnight accommodations use not to exceed a maximum of 28 rooms.

He further ordered that a Special Exception for approval of the proposed residential quarters for the golf course superintendent and either the general manager or the golf professional on the actual site of the golf course be dismissed.

The Zoning Commissioner further ordered that Restriction No. 6 of the Order issued on June 6, 1989 in Zoning Case No. 89-409-X shall be amended to read as follows:

6. The country club and golf course shall be operated as private membership facilities and not as facilities generally available for public use. The facilities shall not be rented or leased for commercial purposes to the general public, either for golf tournaments or other events, provided that this limitation shall not prevent the club itself from holding or sponsoring tournaments or other events to which persons other than members may be invited.

He further ordered, that all other terms, conditions and restrictions of the original Orders of June 6, 1989 and June 8, 1989 be and are enforced except as amended by this Order.

See preliminary architectural floor plans and elevation to be submitted as an exhibit with this case, for all building dimensions.

Listing of Variances, Distances Between Buildings

1. Clubhouse Complex (RC-2 and RC-5)
   a. Building A to B - 42 instead of 70 feet
   b. Building C to D - 30 instead of 70 feet
   c. Building D to E - 40 instead of 70 feet
   d. Building E to F - 12 instead of 70 feet
      12 instead of 100 feet (RC-5)
   e. Building F to G - 32 instead of 70 feet
   f. Building K to L - 25 instead of 70 feet
   g. Building N to I - 12 instead of 70 feet
      N to I - 12 instead of 100 feet (RC-5)
   h. Building M to N - 12 instead of 70 feet
   i. Building I to N - 20 instead of 70 feet
2. Maintenance Facility (RC-2)
   a. Building A to pump island-44 instead of 70 feet
   b. Building A to B - 50 instead of 70 feet
   c. Building B to pump island-10 instead of 70 feet
   d. Building B to C - 62 instead of 70 feet
   e. Building C to E - 25 instead of 70 feet
   f. Building D to E - 40 instead of 70 feet
   g. Building D to F - 15 instead of 70 feet
   h. Building F to A - 20 instead of 70 feet
   i. Building A to G - 20 instead of 70 feet
   j. Building E to G - 10 instead of 70 feet
   k. Building A to K - 30 instead of 70 feet

LEGEND

- EXISTING ZONE LINE
- CONTOUR LINE
- STREAM
- EDGE OF EXSITING WOODS
- POWER TRANSMISSION TOWER
- LIMIT OF WETLANDS
- STREAM BUFFER
- PROPOSED GOLF CART PATH
- NATURAL RESOURCE CONSERVATION EASEMENT
- LIMIT OF 100 YEAR FLOODPLAIN

DA

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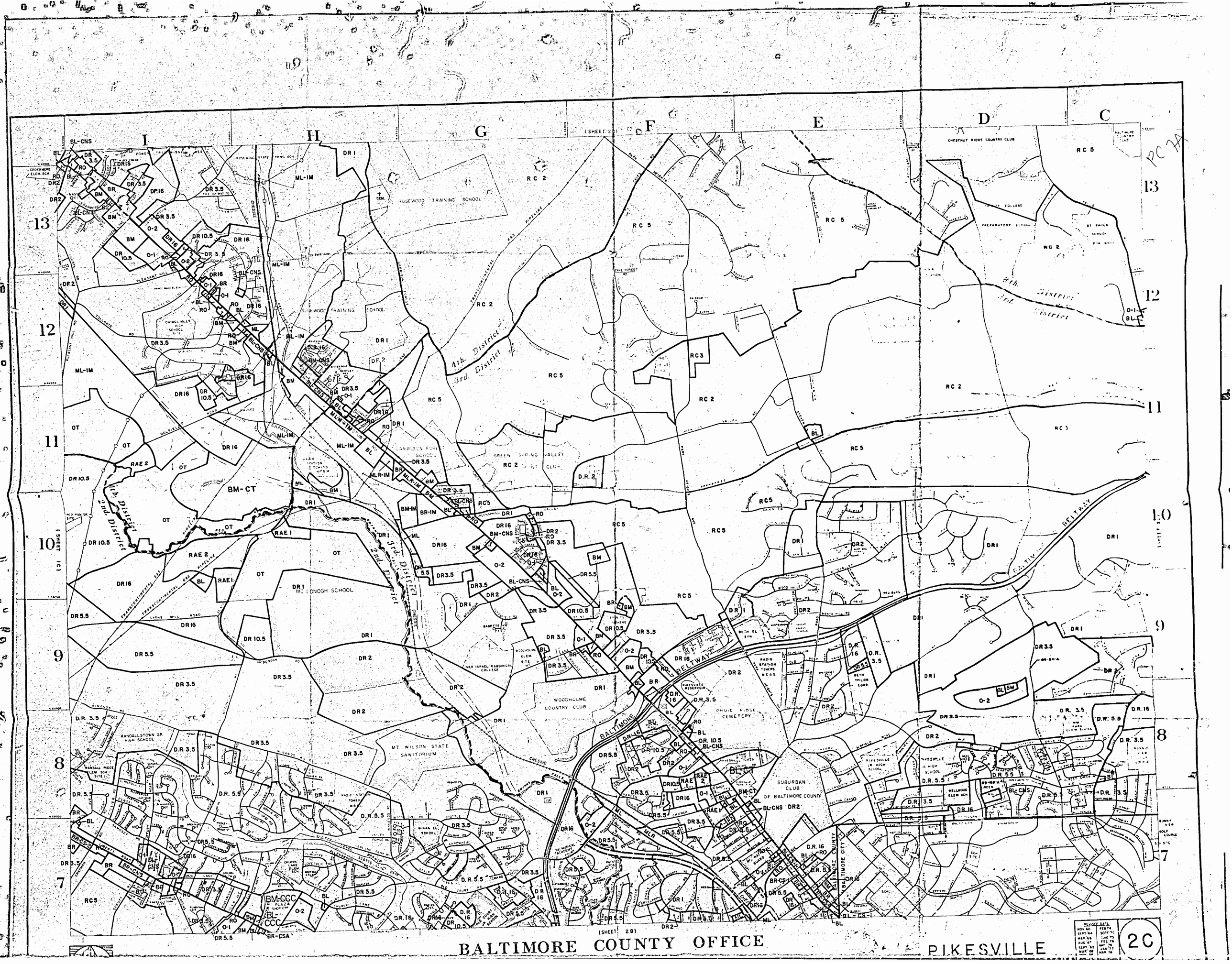
ZO

ELECTION DISTRICT 4C5

DATE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ROSEWOOD STATE TRNG SCH
ROSEWOOD TRAINING SCHOOL
CHESTNUT RIDGE COUNTRY CLUB
GREEN SPRING VALLEY CLUB
WOODHOLME COUNTRY CLUB
MT WILSON STATE SANITORIUM
SUBURBAN CLUB OF BALTIMORE COUNTY
OWINGS MILLS HIGH SCHOOL
RANDALLSTOWN SR HIGH SCHOOL
PIKESVILLE JR HIGH SCHOOL
PIKESVILLE RESERVOIR
BELTWAY
BALTIMORE
PIKESVILLE
4th. District
3rd. District
2nd. District
1st. District
TRANSCONTINENTAL GAS PIPELINE
PC 7A
BALTIMORE COUNTY OFFICE
PIKESVILLE
REVISED DATES
NOV 60
SEPT 64
MAR 66
AUG 67
SEPT 68
MAR 69
FEB 74
SEPT 75
FEB 76
MAY 76
JAN 77
MAR 78
2C

Notes for Documented Site Plan:

1. **Existing Zoning:** RC-2, RC-5

2. **Requested Zoning:** RC-5

3. **Site Area:**
   a. RC-5 request 123.0 acres
   b. Existing RC-5 Zoning 3.7 acres
   c. Total RC-5 Zoning 126.7 acres

4. **RC-5 area included in counterpart petition of special exception for golf course easement on portions of RC-5 request.** 20.9 acres

5. **Remaining RC-5 site area** 105.8 acres.

6. **Maximum number of lots permitted** at 0.667 lots/acre. 70 lots

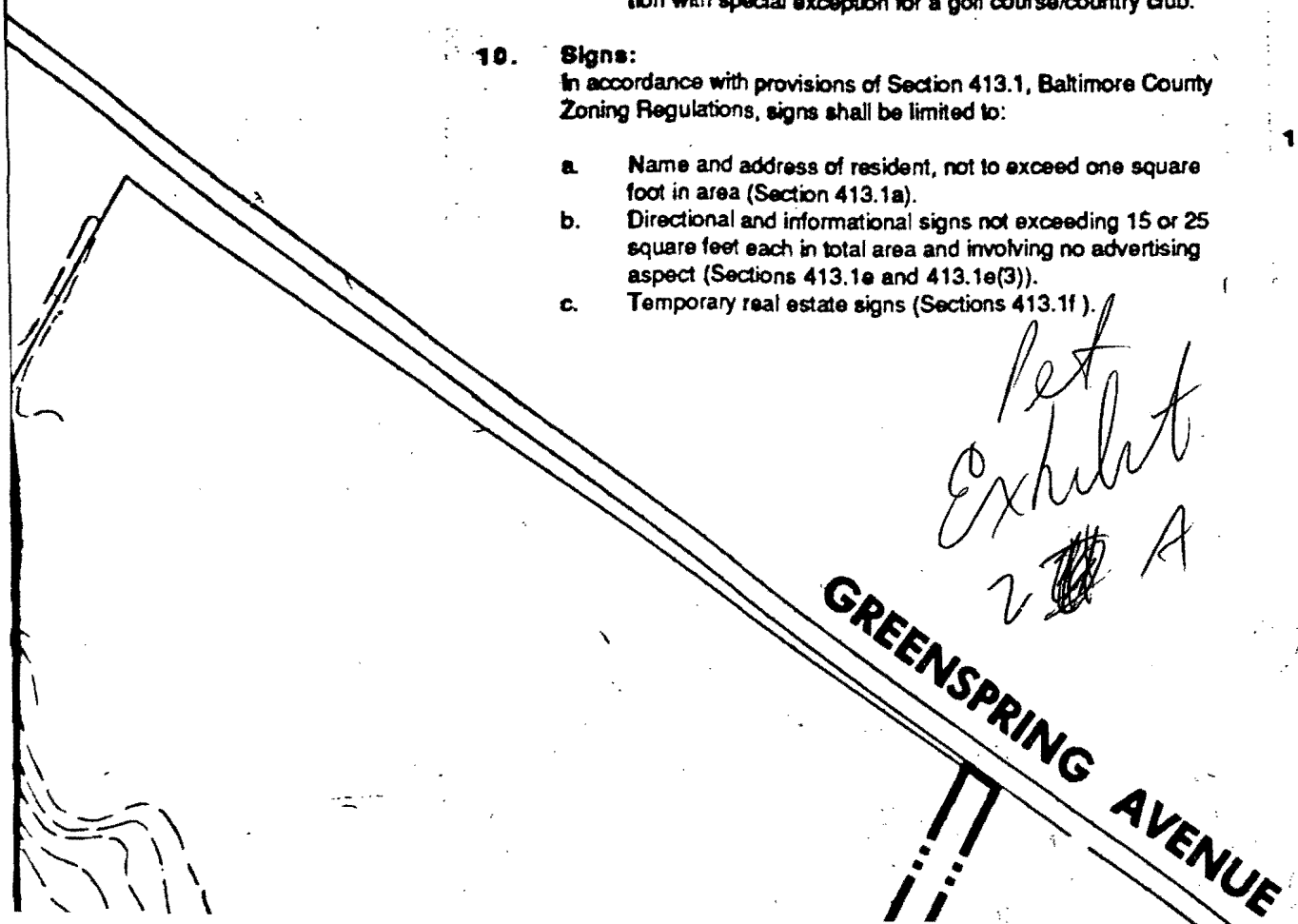
7. **Maximum number of principal residential lots to be on rezoned area shall be 32 as permitted by this RC-5 documented site plan(see general notes).**

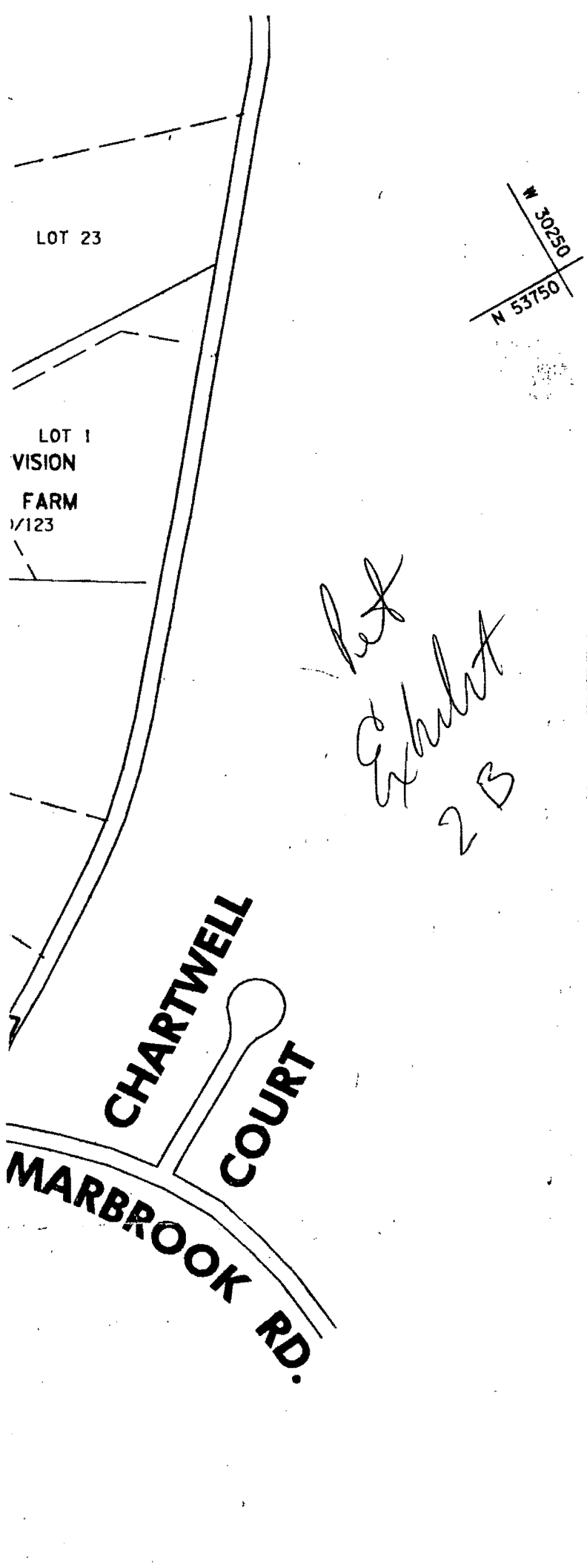
8. **Existing Use:**
   Site is undeveloped and is in woodlands or agricultural usage.

9. **Proposed Principal Uses:**
   a. Single family, detached dwellings with customary and usual accessory structures and appurtenances subject to restrictions stated on documented site plan.
   b. Portions of golf course. Details will be resolved in connection with special exception for a golf course/country club.

10. **Signs:**
    In accordance with provisions of Section 413.1, Baltimore County Zoning Regulations, signs shall be limited to:
    a. Name and address of resident, not to exceed one square foot in area (Section 413.1a).
    b. Directional and informational signs not exceeding 15 or 25 square feet each in total area and involving no advertising aspect (Sections 413.1e and 413.1e(3)).
    c. Temporary real estate signs (Sections 413.1f).

Pet Exhibit 2 A





Pet Exhibit 28

21. Utilities:
The site is not served by public water or sewerage lines. It is expected that water supply and sewage disposal for residences will be on an individual lot basis. Irrigation for golf course areas may be handled on the basis of an overall, course-wide system or systems utilizing modern water conservation techniques.

22. Lighting:
All on-site lighting will be arranged to not reflect or shine upon adjacent residential premises.

23. Storm Drains:
Runoff shall be accomodated by a storm drain system and management facilities as may be required by Baltimore County, Details to be resolved at Final Development Plan phase of the development approval process.

24. R.O.W.:
Street rights of way and paving width are as shown. Final details shall be resolved at CRG.

25. Additional Requirements

Petitioners own in excess of 800 acres of adjoining property and property located on the southeast side of Park Heights Avenue as of the filing of this rezoning petition. The property is described on Sheets 1, 2 and 3 of this Plat. There shall be the following additional requirements to this documented site plan reclassification.

1. Caves Valley Club, Inc. shall complete construction of a golf course substantially in accordance with the general design concept shown on Sheet 2 of this Plat that receives special exception approval for a golf course by Baltimore County. Completion shall be certified by the golf course architect engaged by Caves Valley Club, Inc.

2. Caves Valley Club, Inc. shall execute and record among the Land Records a fully executed and acknowledged counterpart of a permanent perpetual conversation easement for the 800 plus acres presently owned by Petitioners. Such conservation easement shall be granted in favor of the Maryland Environmental Trust or another independent conservation group such as the Nature Conservancy approved by the Office of Planning and Zoning and Peoples' Counsel of Baltimore County. This easement, however, need not be exclusive.

Any additional dwellings units presently permitted as of right on the remaining RC-2 or RC-5 acreage owned by Petitioners as of Janury 3, 1989 and not part of this reclassification petition are subsumed in this request and there shall be no further residential development on such remaining land. Any overnight accommodations that may be permitted under the special exception for golf course/country club concept shown on Sheet 2 shall not be considered "residential development".

If the above requirements have not been complied with within three years following approval of this petition, the zoning reclassification of the property pursuant to this petition shall revert to the previous classification. Petitioners further acknowledge that the zoning reclassification pursuant to this petition shall not become effective until:

(a) the golf course special expection shall have been approved,

(b) the Office of Planning and Zoning has received from Caves Valley Club, Inc. (i) a copy of the fully executed construction contract or construction management agreement, which shall include a construction budget for construction of the golf course and (ii) assurances that Caves Valley Club, Inc. has sufficient financial resources to complete the golf course substantially in accordance with the concept shown on Sheet 2 and

(c) the Office of Planning and Zoning, in the exercise of reasonable judgment, shall have approved the foregoing items to be provided by Caves Valley Club, Inc. as sufficient evidence of its commitment and ability to commence and complete such golf course.

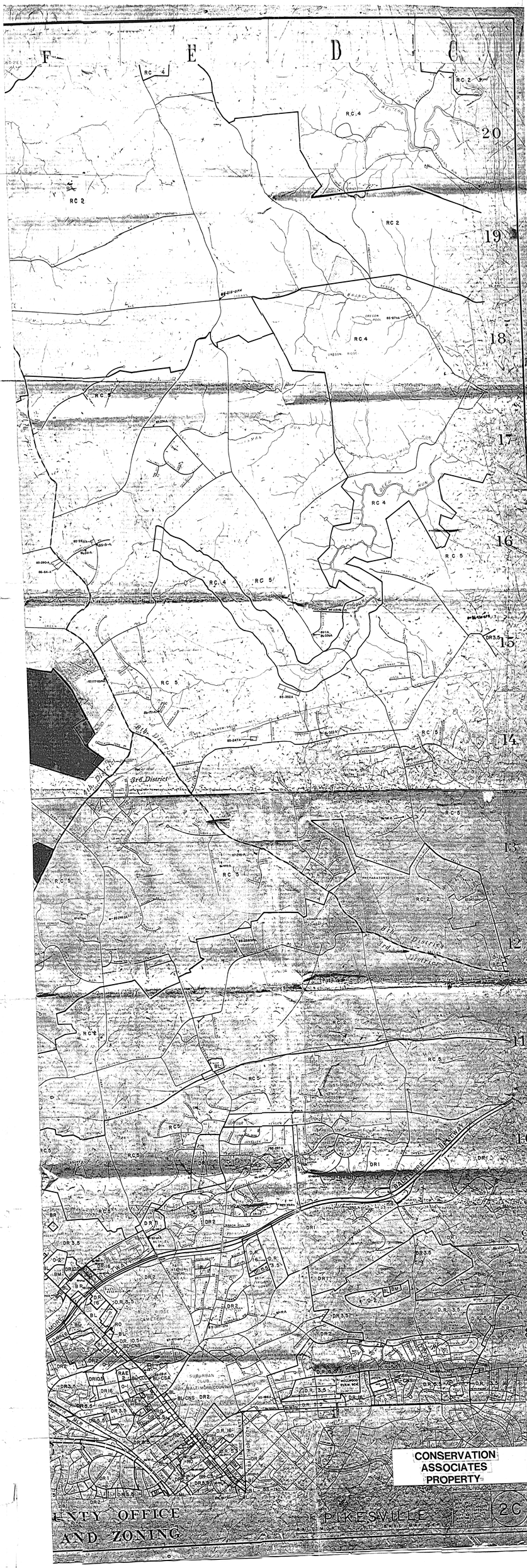
General Note:
The arrangement of lots, lot lines, streets and dwellings within the proposed RC - 5 portions of the site is schematic and conceptual. Final lot delineation, dwelling location and other details are subject to modification based on field data and the results of percolation tests and test wells on each lot. All RC - 5 lots shall be subject to architectural and siting restrictions set forth elsewhere in this documented plan. All proposed RC - 5 lots will be located entirely within the outlines of the requested RC - 5 zoning reclassification. The number of lots within the RC - 5 reclassification shall not exceed 32.

f Course - Architectural Restrictions

natural amenities, unique layout for the property and urse usage provide the oppertunity for creative custom perior living environment.

ieral guidelines will facilitate the architectural review iding the criteria against which designs will be evaluated ural Review Committee. The ARC shall be the sole se guidelines and may add additional criteria if reserve the natural character or integrity of the adjacent ge.

nd restrictions shall be enforced via a document entitled eclaration of Covenants, Easements, Charges and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RC 5
RC 1
DR 1
DR 2
DR 3.5
DR 5.5
DR 10.5
BL
BR
BM
O-1
O-2
BL-CNS
BL-CS
BL-CSA
RAE 2
RAE 3
Baltimore County
3rd District
6th District
Pikesville
Suburban Club
Woodlawn Cemetery
Old Court Road
Reisterstown Road
Pikesville Road
Park Heights Avenue
Baltimore Beltway
CONSERVATION
ASSOCIATES
PROPERTY
NTY OFFICE
AND ZONING
PIKESVILLE
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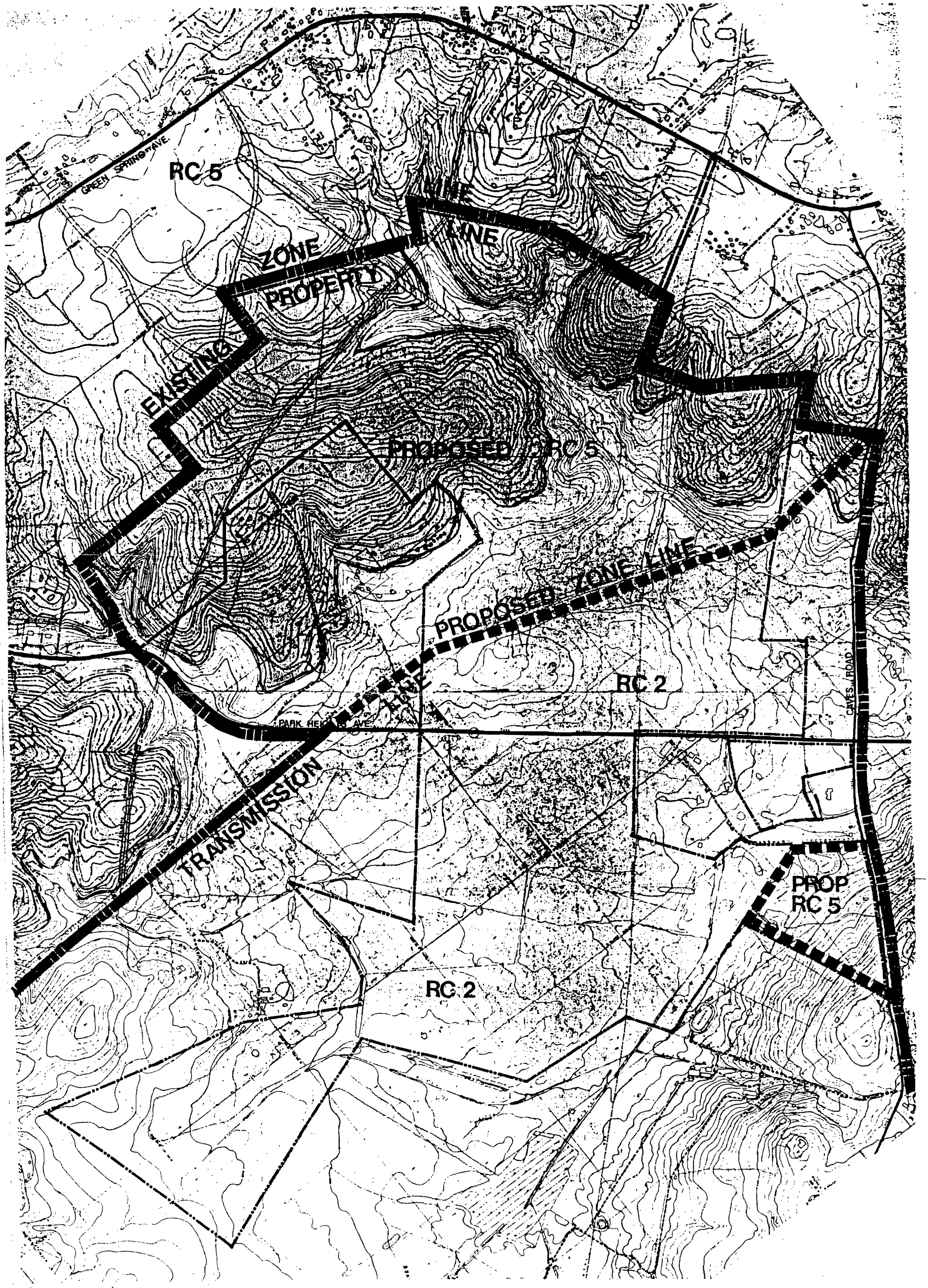

CONSERVATION ASSOCIATES PROPERTY

GREEN SPRING VALLEY BALTIMORE COUNTY, MARYLAND

PREPARED BY

SDC PLANNING AND ENVIRONMENTAL ANALYSIS, ELLICOTT CITY, MARYLAND

0 200 600 1000

— — — CONTOUR LINE, 10 INTERVAL
— — — LIMIT OF WETLANDS
EDGE OF WOODS
POWER TRANSMISSION TOWER
STREAM
PROPOSED FUTURE GOLF HOLE
POND, EXISTING
PROPOSED FUTURE POND
STREAM BUFFER

BALTIMORE GRID MERIDIAN

PLAT OF SPRINGWOOD EHK.JR. 41/17

LOT 5

LOT 4

CAVEMEN PROPERTIES S.M. 7390/489

STEPHAN GEORGE SIMMERS & MARY LYNCH SIMMERS EHK.JR. 5636/544

WILLIAM F. PORTER & WIFE EHK.JR. 6634/465

RC5

RC5 RC2

GREENSPRING AVENUE

HOWARD CALVIN PRICE & PATRICIA LYNCH PRICE EHK.JR. 6201/585

PLAT OF FIRST AMENDED NORTHINGTON VALLEY ESTATES EHK.JR. 47/8

LOT 17 LOT 18 LOT 19

CHELLIS CT.

LOT 21 LOT 20

STORMWATER MANAGEMENT RESERVATION

PROPOSED RC5

STREAM BUFFER

LIMIT OF WETLANDS

BLANCHE SCOTT KEIR EHK.JR.5431/980

WOODSYDE CT.

HENESON GARTH

WOODSYDE PLACE

LOT 23 LOT 24

LOT 2 LOT 3

PARCEL "A"
POSSIBLE SITE OF MAINTENANCE CENTER FOR GOLF COURSE AS PART OF FUTURE SPECIAL EXCEPTION

PINEWOOD FARM COURT

LOT 8 LOT 16

A RESUBDIVISION OF PINEWOOD FARM EHK.JR.41/102

LOT 11 LOT 13 LOT 23

LOT 9 LOT 10 LOT 12 LOT 14 LOT 15 LOT 19 LOT 20

A RESUBDIVISION OF PINEWOOD FARM EHK.JR.50/123

LOT 1 LOT 2

SECTION ONE WOODSYDE HEIGHTS EHK.JR. 50/51

LOT 6 LOT 4 LOT 10 LOT 5

SECTION TWO WOODSYDE HEIGHTS EHK.JR. 52/22

LOT 12 LOT 13

PLAT OF BURGESEN SUBDIVISION EHK.JR. 53/36

LOT 3 LOT 1

RC5 RC2

SUBDIVISION PLAT OF PROPERTY OF SAMUEL & JANE SILVERMAN EHK.JR.44/36

LOT 1 LOT 14 LOT 2

EXIST. RESIDENCE PROPOSED CLUB HOUSE

EXIST. SWIMMING POOL & TENNIS COURT

ALVIN B. KRONGARD & WIFE OTG. 5048/98

EXIST. BARN

EXIST. TENANT & FARM HOUSE

ATLANTIC SEABOARD GAS PIPELINE 4183/133

RC2

CAVES VALLEY CLUB INC. S.M. 8000/446

TRANSCONTINENTAL GAS PIPELINE 1843 / 317

AMENDED PLAT OF SIMEON YARUTA PROPERTY EHK.JR. 43/109

LOT 8 LOT 7 LOT 6 LOT 5

CHARTWELL COURT

MARBROOK RD.

RICHARD SHOFER & WIFE OTG 4905/317

KATHARINE L. FISHER LMcL.M. 870 /114

PROPOSED UNDERGROUND TERMINATION STATION

CONSOLIDATED GAS & ELECTRIC & LIGHT CO.

PLAT OF SIMEON YARUTA PROPERTY EHK.JR. 40/125

LOT 4

ALVIN B. KRONGARD & WIFE OTG. 4971/312

LIMIT OF WETLANDS

EXIST. POND

ALINE HAZEL JONES
GRACE GARMANA JONES CWG.JR.979/14

CAVES VALLEY CLUB INC. S.M. 8000/451

CAVES ROAD

LOT 3 LOT 2 LOT 1

CAVES VALLEY CLUB INC. 3RD PARCEL S.M. 8029/720

PROPOSED POND

LIMIT OF WETLANDS

MINOR C.K. JONES LMcL.M. 859/146

CAVES VALLEY CLUB INC. S.M. 8029/737

PROPOSED UNDERGROUND B.G. & E. LINE

PROPOSED POND

LOT 11

PLAT OF SIMEON YARUTA PROPERTY EHK.JR.45/33

CAVES VALLEY CLUB INC. 2ND PARCEL S.M. 8029/720

CONSOLIDATED GAS ELECTRIC & LIGHT CO. WFC. 617/490

RC5 RC2

PARK HEIGHTS AVENUE (MARYLAND RTE 129)

HUNTINGTON SECTION ONE EHK.JR. 50/66

LOT 2 LOT 4

CAVES VALLEY CLUB INC. S.M. 8029/737

CAVES VALLEY CLUB INC. 1ST PARCEL S.M. 8029/720

CAVES VALLEY CLUB INC. 2ND PARCEL S.M. 8000/440

SIMEON YARUTA WJR 3578/144

SIMEON YARUTA WJR 3578/147

PLAT OF MARIE T. GRADY PROPERTY EHK.JR.48/87

LOT 2

JAMES HOOPER WIFE WJR. 3700/611

CAVES VALLEY CLUB INC. 1ST PARCEL S.M. 8000/440

RANDOLPH BOLLING HUBARD & WIFE EHK.JR. 3984/291

HUNTING TWEED DRIVE

Zoning History of Property of Caves Valley Club, Inc.

Which is the Subject of Documented Reclassification

Petition RC-2 to RC-5

Most of this property was formerly owned by Kingdon Gould, Jr. or entities controlled by him (The Gould Parcel) some is now owned by Alvin B. and Patricia L. Kronsgard, (The Kronsgard Parcel) and is under contract to Caves Valley Club, Inc.

The Gould Parcel (which is zoned almost entirely RC-2) has been the subject of the following rezoning requests and applications in the last five years:

1. In 1984, the Gould parcel was the subject of a larger request to rezone 306 acres from RC-2 to RC-5 as a part of the Comprehensive Map Process (Issue 3-60). The request was not adopted.

2. In 1986, Conservation Associates filed a petition seeking rezoning of 303.3 acres including the Gould Parcel from RC-2 to RC-5.

7. **Maximum number of principal residential lots to be on rezoned area shall be 32 as permitted by this RC-5 documented site plan(see general notes).**

8. **Existing Use:**
Site is undeveloped and is in woodlands or agricultural usage.

9. **Proposed Principal Uses:**
a. Single family, detached dwellings with customary and usual accessory structures and appurtenances subject to restrictions stated on documented site plan.
b. Portions of golf course. Details will be resolved in connection with special exception for a golf course/country club.

10. **Signs:**
In accordance with provisions of Section 413.1, Baltimore County Zoning Regulations, signs shall be limited to:
a. Name and address of resident, not to exceed one square foot in area (Section 413.1a).
b. Directional and informational signs not exceeding 15 or 25 square feet each in total area and involving no advertising aspect (Sections 413.1e and 413.1e(3)).
c. Temporary real estate signs (Sections 413.11).

12. **Streams and Wetlands:**
Streams, associated stream buffers and approximate limits of wetlands within the proposed RC-5 area are as shown.

13. **Topography:**
Existing topography is based on Daft McCune Walker, Inc. field run control and boundary survey with Photo-Science Inc. 100 scale photogrammetry dated December, 1988, 4-20-88 photo.

14. **Tree Cover:**
The proposed RC - 5 area is wooded. Trees will be removed only to the extent necessary in connection with grading and construction of internal roads; grading in connection with well, underground sewage disposal areas, driveways, house pads, on site parking and other customary accessory residential uses on individual lots; grading and construction of component roughs, tees, fairways or greens as part of the golf course.

15. **Setbacks, Buffers, and Other Standards:**
a. Lot Lines Bordering Tract Boundary:
1. Tree Buffer, undisturbed 25 ft.
2. Principal buildings setback 50 ft.
3. Accessory Building Setback 25 ft.

Establish 12 field transplant or nursery grown specimen canopy trees with 5 in. caliper or greater per 1,000 sf. of area disturbed by either road cross section, driveway or lot grading. **or**

Establish 24 nursery grown canopy and subcanopy nursery grown trees between 1 in. and 3 in. caliper per 1,000 sf. **or**

Establish indigenous type shrub cover at 625 shrubs(24 in. minimum size) per 1,000 sf. Acceptable shrub species are Azalea, Kalmia, Rhododendron, Cornus, Amelanchier, Viburnum, Clethra, Vaccinium and Ilex. Acceptable species are Lindera, Cornus, Viburnum, Clethra, Amelanchier, Hammemelis, Ilex or other indigenous species. **or**

Any combination of the above. Clustering of the above minimum quantities of material may be considered on an individual case basis as part of a comprehensive Landscape Plan.

e. Proposed Road Crossings Over Streams:
1. Minimized to not more than three as shown on documented site plan.
2. Disturbed areas will be replanted as set forth in "d" above. Special emphasis will be placed on providing trees which replace lost canopy along the stream.

f. Steep Slopes:
Other than as part of roadway construction, all slopes 25 percent or greater within this RC-5 area and within any proposed lot shall not be used for any building purposes.

g. Future Actions:
At such time as the proposed RC-5 zoning reclassification is resolved and percolation tests and test wells are completed so as to finalize a lot layout, additional standards governing development on each lot and preservation techniques will be established or presented as a component of the CRG plan submittal.

h. Septic Area:
1. Minimum septic reserve area - 10,000 s.f.
2. Offset from property line or dedicated easement - 10 ft.
3. Offset from proposed residence - 20 ft.
4. Offset from any well or stream - 100 ft.
5. System must be located at a lower elevation than residence or well.
6. Septic reserve area may penetrate any buffer are by not more than 5,000 s.f. if site conditions dictate not other practical solution

i. Wells:
1. Offset from street Setback - 15 ft.
2. Offset from property line or dedicated easement - 10 ft.
3. Offset from proposed residence - 50 ft.
4. Offset from any well or septic reserve - 100 ft.
5. Well must be located at a higher or equivalent elevation to highest elevation of the septic sys tem.

17. **Exceptions:**
Subject to review and approval by the Architectural Review Committee, the following variations shall apply only to individual lots in cases where no other practical solution complying with the standards set forth above apply:
a. Well locations and related clearing - to be revegetated upon completion of construction.
b. Driveways and panhandle driveways.
c. Pedestrian and golf cart trails.
d. A principal residential structure not more than 1,000 s.f. within a required buffer.
e. All applicable RC-5 zoning standards must be met.

18. **RC - 5 Height and Area Standards:**
a. Height shall not exceed 35 feet except as may be permitted by Section 300, Baltimore County Zoning Regulations.
b. Minimum lot area shall not be less than one acre. Higher standards may be established.
c. Not more than 15 per cent of any lot may be covered by buildings.
d. Standards for accessory structures shall be developed as a component of architectural restrictions. The height of any accessory structure shall not exceed 15 feet.

19. **Architectural Review Board:**
An architectural review board will be established and remain in force indefinitely to regulate and enforce design criteria for structures, landscape treatment and to interpret all applicable restrictions and guidelines. This board will consist of a representative of the Caves Valley Golf Course,an Architect, a Landscape Architect and a representative of the home owners.

20. **Parking:**
Not less than two off street parking spaces shall be provided for each principal dwelling. Architectural restrictions may establish higher requirements.

21. **Utilities:**
The site is not served by public water or sewerage lines. It is expected that water supply and sewage disposal for residences will be on an individual lot basis. Irrigation for golf course areas may be handled on the basis of an overall, course-wide system or systems utilizing modern water conservation techniques.

22. **Lighting:**
All on-site lighting will be arranged to not reflect or shine upon adjacent residential premises.

23. **Storm Drains:**
Runoff shall be accomodated by a storm drain system and management facilities as may be required by Baltimore County. Details to be resolved at Final Development Plan phase of the development approval process.

24. **R.O.W.:**
Street rights of way and paving width are as shown. Final details shall be resolved at CRG.

25. **Lots on Adjoining RC-2 Property:**
Petitioner owns or has under contract in excess of 800 acres of adjoining property as of the filing of this rezoning petition. In the event the golf course/country club proposed for this adjoining acreage is approved and built, then no residences will be constructed on such property except for: Overnight accommodations in up to 16 rooms for members as may be permitted under the special exception petition, and any lots out of the total of 32 proposed for the RC-5 acreage which under final lot plans cannot be located on the RC-5 acreage. In the event petitioner should acquire additional property contiguous to its present property, this limitation shall not limit the number of dwelling units that may be developed on such contiguous property or that may as a consequence of such acquisition be developed elsewhere on petitioner's property by clustering as may be permitted by special hearing.

General Note:
The arrangement of lots, lot lines, streets and dwellings within the proposed RC - 5 portions of the site is schematic and conceptual. Final lot delineation, dwelling location and other details are subject to modification based on field data and the results of percolation tests and test wells on each lot. All RC - 5 lots shall be subject to architectural and siting restrictions set forth elsewhere in this documented plan. All proposed RC - 5 lots will be located entirely within the outlines of the requested RC - 5 zoning reclassification. The number of lots within the RC - 5 reclassification shall not exceed 32 exclusive of any lots utilized to provide up to 16 rooms for such overnight accomodations for members as may be permitted pursuant to the counterpart golf course/country club special exception. However, to the extent that any lots may be permitted on the adjoining RC-2 acreage in accordance with note 25, then up to that number of lots may be relocated within the RC-5 acreage subject to review and approval by CRG.

Caves Valley Golf Course - Architectural Restrictions

1. The exceptional natural amenities, unique layout for the property and adjacent golf course usage provide the opportunity for creative custom homes and a superior living environment.

   Specific and general guidelines will facilitate the architectural review process by providing the criteria against which designs will be evaluated by the Architectural Review Committee. The ARC shall be the sole interpreter of these guidelines and may add additional criteria if appropriate to preserve the natural character or integrity of the adjacent golf course usage.

   These criteria and restrictions shall be enforced via a document entitled "Caves Valley Declaration of Covenants, Easements, Charges and Liens" or by a similar legal instrument recorded as a convenent running with the land and binding all owners.

2. Home owners shall submit the following to the ARC for prior review:
   Site Plan showing location of the following elements:
   - Home
   - Significant Landscaping Features
   - Garage
   - Swimming Pools, Tennis Courts and similar
   - Paved areas including walks, patios, decks and Driveways
   - County approved sewage system location
   - Wells
   - Proposed limits of Clearing, including plan mini mizing tree removal
   - Any Fences or othe improvement requireing specific ARC review and approval

   Floor Plan
   Architectural Elevations and Details

3. All dwellings shall be designed to the fullest extent possible to blend into the natural surroundings of each lot. The following items are specifically prohibited from use:
   Aluminum, plywood and vinyl siding
   Storage of Boats and recreational vehicles not contained within approved garage
   Exposed Concrete Block
   White or light colored roof shingles

4. The following structures and or site improvements shall be subject to specific ARC review and prior approval:
   Fence structures except for pool area fencing required to meet code
   Pet habitat structures (Dog houses and pens)
   Roof-mounted antennas
   Reception Satellites (roof or ground mounted)
   Gazebos not attached to patio structures

5. In addition to applicable zoning restrictions maximum and minimum criteria of uniform application shall be established by the Caves Valley Club (subject to final modification by the ARC) for the following elements:
   Building footprint
   Building height
   Garage size
   Combined pavement including driveways, walks, patios, and decks

6. No more than 25 per cent of existing tree coverage may be removed from any lot, exclusive of steep slopes and buffers.

January 3, 1989 - prepared by Daft-McCune Walker, Inc. for Caves Valley - 88015A

DAFT McCUNE WALKER INC.
LAND PLANNING CONSULTANTS
LANDSCAPE ARCHITECTS
ENGINEERS SURVEYORS
200 EAST PENNSYLVANIA AVENUE
TOWSON, MD. 21204
TELEPHONE: 301-296-3333

GOLF CLUB
CAVES VALLEY CLUB INC.
PLAN TO ACCOMPANY DOCUMENTED RECLASSIFICATION PETITION
RC-2 TO RC-5 CAVES VALLEY

ELECTION DISTRICT 4,C3 — BALTIMORE COUNTY, MARYLAND

SCALE: 1" = 200'

JOB ORDER NO. 88015A

PROPOSED ZONE LINE
CONTOUR LINE, 10' INTERVAL
LIMIT OF WETLANDS
EDGE OF WOODS
POWER TRANSMISSION TOWER
STREAM
PROPOSED FUTURE GOLF HOLE
POND, EXISTING
PROPOSED FUTURE POND
STREAM BUFFER

BOARD GRD MERIDIAN

PLAT OF SPRINGWOOD EHK.,JR. 41/17

LOT 5

LOT 4

WILLIAM F. PORTER & WIFE EHK.,JR. 6634/465

CAVEMEN PROPERTIES S.M. 7350/489

STEPHAN GEORGE SIMMERS & MARY LYNCH SIMMERS EHK.,JR. 5696/544

GREENSPRING AVENUE

HOWARD CALVIN PRICE & PATRICIA LYNCH PRICE EHK.,JR. 6201/585

BLANCHE SCOTT KEIR EHK.,JR.543/380

RC5

RC2

PROPOSED RC5

STREAM BUFFER

LIMIT OF WETLANDS

PLAT OF FIRST AMENDED WORTHINGTON VALLEY ESTATES EHK.,JR. 47/8

LOT 17 LOT 18 LOT 19 LOT 20 LOT 21

CHELLIS CT.

STORMWATER MANAGEMENT RESERVATION

LOT 23 LOT 24

WOODSYDE CT. HENESON GARTH WOODSYDE PLACE

PARCEL "A"
POSSIBLE SITE OF MAINTENANCE CENTER FOR GOLF COURSE AS PART OF FUTURE SPECIAL EXCEPTION

SECTION ONE WOODSYDE HEIGHTS EHK.,JR. 50/51

SECTION TWO WOODSYDE HEIGHTS EHK.,JR 52/22

LOT 1 LOT 2 LOT 3 LOT 4 LOT 5 LOT 6 LOT 10 LOT 11 LOT 12 LOT 13 LOT 14

SUBDIVISION PLAT OF PROPERTY OF SAMUEL & JANE SILVERMAN EHK.,JR.44/36

N 87000
E 93000

ATLANTIC SEABOARD GAS PIPELINE 41/857/135

EXIST. RESIDENCE PROPOSED CLUB HOUSE

EXIST. SWIMMING POOL & TENNIS COURT

ALVIN B. KRONGARD & WIFE OTG. 5046/98

EXIST. BARN

EXIST. TENANT & FARM HOUSE

RICHARD SHOFER & WIFE OTG 4909/317

KATHARINE L. FISHER Circuit Ct. 870 1968

ALVIN B. KRONGARD & WIFE OTG. 4977/212

EXIST. POND

PROPOSED POND

ALINE HAZEL JONES & GRACE CARMANIA JONES CWG.JR.979/14

MINNIE C.K. JONES LIBER M. 899/146

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HUNTINGTON SECTION ONE EHK.,JR. 50/66

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CAVES VALLEY CLUB INC. 2ND PARCEL S.M. 8029/720

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PROPOSED UNDERGROUND B.G & E. LINE

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CONSOLIDATED GAS & ELECTRIC & LIGHT CO.

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CAVES VALLEY CLUB INC. S.M. 8000/446

CAVES VALLEY CLUB INC. S.M. 8000/451

CAVES VALLEY CLUB INC. 2ND PARCEL S.M. 8000/440

CAVES VALLEY CLUB INC. 1ST PARCEL S.M. 8000/440

PLAT OF MARIE T. GRADY PROPERTY EHK.,JR.48/87

JAMES HOOPER & WIFE W.JR. 3700/611

RANDOLPH BOLLING HUBARD & WIFE EHK.,JR. 3984/298

PINEWOOD FARM COURT

LOT 8 LOT 9 LOT 10 LOT 11 LOT 12 LOT 13 LOT 14 LOT 15 LOT 16 LOT 23

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LOT 1 LOT 19

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LOT 1 LOT 2 LOT 3

CHARTWELL COURT

MARBROOK RD.

AMENDED PLAT SIMEON YARUTA PROPERTY EHK.,JR. 43/109

LOT 6 LOT 7 LOT 8 LOT 9 LOT 10

PLAT OF SIMEON YARUTA PROPERTY EHK.,JR. 40/125

LOT 1 LOT 2 LOT 3 LOT 4 LOT 5

CAVES ROAD

PLAT OF SIMEON YARUTA PROPERTY EHK.,JR.45/33

LOT 1 LOT 11

SIMEON YARUTA W.JR 3578/144

SIMEON YARUTA W.JR 3578/147

N 90000
E 93000

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Which is the Subject of Documented Reclassification

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15. Tree Cover:
The proposed RC - 5 area is wooded. Trees will be removed only to the extent necessary in connection with grading and construction of internal roads; grading in connection with well, underground sewage disposal areas, driveways, house pads, on site parking and other customary accessory residential uses on individual lots; grading and construction of component roughs, tees, fairways or greens as part of the golf course.

16. Setbacks, Buffers, and Other Standards:
a. Lot Lines Bordering Tract Boundary:
1. Tree Buffer, unobstructed 25 ft.
2. Principal buildings setback 50 ft.
3. Accessory Building Setback 25 ft.

Establish 12 field transplant or nursery grown specimen canopy trees with 5 in. caliper or greater per 1,000 sf. of area disturbed by either road cross section, driveway or lot grading. or

Establish 24 nursery grown canopy and subcanopy nursery grown trees between 1 in. and 3 in. caliper per 1,000 sf. or

Establish indigenous type shrub cover at 625 shrubs(24 in. minimum size) per 1,000 sf. Acceptable shrub species are Azalea, Kalmia, Rhododendron, Cornus, Amelanchier, Viburnum, Clethra, Vaccinium and Ilex. Acceptable species are Linders, Cornus, Viburnum, Clethra, Amelanchier, Hammemelis, Ilex or other indigenous species. or

Any combination of the above. Clustering of the above minimum quantities of material may be considered on an individual case basis as part of a comprehensive Landscape Plan.

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Streams, associated stream buffers and approximate limits of wetlands within the proposed RC-5 area are as shown.

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The proposed RC - 5 area is wooded. Trees will be removed only to the extent necessary in connection with grading and construction of internal roads; grading in connection with well, underground sewage disposal areas, driveways, house pads, on site parking and other customary accessory residential uses on individual lots; grading and construction of component roughs, tees, fairways or greens as part of the golf course.

Setbacks, Buffers, and Other Standards:
a. Lot Lines Bordering Tract Boundary:
1. Tree Buffer, unobstructed 25 ft.
2. Principal buildings setback 50 ft.
3. Accessory Building Setback 25 ft.

b. Proposed Road Crossings Over Streams:
1. Minimized to not more than three as shown on documented site plan.
2. Disturbed areas will be replanted as set forth in "d" above. Special emphasis will be placed on providing trees which replace lost canopy along the stream.

c. Steep Slopes:
Other than as part of requisite road construction, all slopes 25 percent or greater within this RC-5 area and within any proposed lot shall not be used for any building purposes.

g. Future Actions:
At such time as the proposed RC-5 zoning reclassification is resolved and percolation tests and test wells are completed so as to finalize a lot layout, additional standards governing development on each lot and preservation techniques will be established or presented as a component of the CRG plan submittal.

h. Saptic Area:
1. Minimum septic reserve area - 10,000 s.f.
2. Offset from property line or dedicated ess ment - 10 ft.
3. Offset from proposed residence - 20 ft.
4. Offset from any well or stream - 100 ft.
5. System must be located at a lower elevation than resi dence or well.
6. Septic reserve area may penetrate any buffer are by not more than 5,000 s.f. ll site conditions dictate not other practical solution

i. Walls:
1. Offset from street setback - 15 ft.
2. Offset from property line or dedicated easement - 10 ft.
3. Offset from proposed residence - 20 ft.
4. Offset from any well or septic reserve - 100 ft.
5. Well must be located at a higher or equivalent elevation to highest elevation ofthe septic sys tem.

17. Exceptions:
Subject to review and approval by the Architectural Review Committee, the following variations shall apply only to individual lots in cases where no other practical solution complying with the standards set forth above apply:
a. Well locations and related clearing - to be revegetated upon completion of construction.
b. Driveways a nd panhandle driveways.
c. Pedestrian and golf cart trails.
d. A principal residential structure not more than 1,000 s.f. within a required buffer.
e. All applicable RC-5 zoning standards must be met.

18. RC - 5 Height and Area Standards:
a. Height shall not exceed 35 feet except as may be permitted by Section 300, Baltimore County Zoning Regulations.
b. Minimum lot area shall not be less than one acre. Higher standards may be established.
c. Not more than 15 per cent of any lot may be covered by buildings.
d. Standards for accessory structures shall be developed as a component of architectural restrictions. The height of any accessory structure shall not exceed 15 feet.

19. Architectural Review Board:
An architectural review board will be established and remain in force indefinitely to regulate and enforce design criteria for structures, landscape treatment and to interpret all applicable restrictions and guidelines. This board will consist of a representative of the Caves Valley Golf Course,an Architect, a Landscape Architect and a representative of the home owners.

20. Parking:
Not less than two off street parking spaces shall be provided for each principal dwelling. Architectural restrictions may establish higher requirements.

21. Utilities:
The site is not served by public water or sewerage lines. It is expected that water supply and sewage disposal for residences will be on an individual lot basis. Irrigation for golf course areas may be handled on the basis of an overall, course-wide system or systems utilizing modern water conservation techniques.

22. Lighting:
All on-site lighting will be arranged to not reflect or shine upon adjacent residential premises.

23. Storm Drains:
Runoff shall be accomodated by a storm drain system and management facilities as may be required by Baltimore County. Details to be resolved at Final Development Plan phase of the development approval process.

24. R.O.W.:
Street rights of way and paving width are as shown. Final details shall be resolved at CRG.

25. Additional Requirements

Petitioners own in excess of 800 acres of adjoining property and property located on the southeast side of Park Heights Avenue as of the filing of this rezoning petition. The property is described on Sheets 1, 2 and 3 of this Plat. There shall be the following additional requirements to this documented site plan reclassification.

1. Caves Valley Club, Inc. shall complete construction of a golf course substantially in accordance with the general design concept shown on Sheet 2 of this Plat that receives special exception approval for a golf course by Baltimore County. Completion shall be certified by the golf course architect engaged by Caves Valley Club, Inc.

2. Caves Valley Club, Inc. shall execute and record among the Land Records a fully executed and acknowledged counterpart of a permanent perpetual conversation easement for the 800 plus acres presently owned by Petitioners. Such conservation easement shall be granted in favor of the Maryland Environmental Trust or another independent conservation group such as the Nature Conservancy approved by the Office of Planning and Zoning and Peoples' Counsel of Baltimore County. This easement, however, need not be exclusive.

Any additional dwellings units presently permitted as of right on the remaining RC-2 or RC-5 acreage owned by Petitioners as of Janury 3, 1989 and not part of this reclassifiion petition are subsumed in this request and there shall be no further residential development on such remaining land. Any overnight accommodations that may be permitted under the special exception for golf course/country club concept shown on Sheet 2 shall not be considered "residential development".

If the above requirements have not been complied with within three years following approval of this petition, the zoning reclassifications of the property pursuant to this petition shall revert to the previous classification. Petitioners further acknowledge that the zoning reclassification pursuant to this petition shall not become effective until:

(a) the golf course special expedtion shall have been approved,

(b) the Office of Planning and Zoning has received from Caves Valley Club, Inc. (i) a copy of the fully executed construction contract or construction management agreement, which shall include a construction budget for construction of the golf course and (ii) assurances that Caves Valley Club, Inc. has sufficient financial resources to complete the golf course substantially in accordance with the concept shown on Sheet 2 and

(c) the Office of Planning and Zoning, in the exercise of reasonable judgment, shall have approved the foregoing items to be provided by Caves Valley Club, Inc. as sufficient evidence of its commitment and ability to commence and complete such golf course.

General Note:
The arrangement of lots, lot lines, streets and dwellings within the proposed RC - 5 portions of the site is schematic and conceptual. Final lot delineation, dwelling location and other details are subject to modification based on field data and the results of percolation tests and test wells on each lot. All RC - 5 lots shall be subject to architectural and siting restrictions set forth elsewhere in this documented plan. All proposed RC - 5 lots will be located entirely within the outlines of the requested RC - 5 zoning reclassification. The number of lots within the RC - 5 reclassification shall not exceed 32 exclusive of any lots utilized to provide up to 16 rooms for such overnight accommodations for members as may be permitted pursuant to the counterpart golf course/country club special exception.

Caves Valley Golf Course - Architectural Restrictions

1. The exceptional natural amenities, unique layout for the property and adjacent golf course usage provide the opportunity for creative custom homes and a superior living environment.

Specific and general guidelines will facilitate the architectural review process by providing the criteria against which designs will be evaluated by the Architectural Review Committee. The ARC shall be the sole interpreter of these guidelines and may add additional criteria if appropriate to preserve the natural character or integrity of the adjacent golf course usage.

These criteria and restrictions shall be enforced via a document entitled "Caves Valley Declaration of Covenants, Easements, Charges and Liens" or by a similar legal instrument recorded as a convenient running with the land and binding all owners.

2. Home owners shall submit the following to the ARC for prior review:

Site Plan showing location of the following elements:
Home
Significant Landscaping Features
Garage
Swimming Pools, Tennis Courts and similar
Paved Areas including walks, patios, decks and Driveways
County approved sewage system location
Wells
Proposed limits of Clearing, including plan mini mizing tree removal
Any Fences or othe improvement requireing spe cific ARC review and approval
Floor Plan
Architectural Elevations and Details

3. All dwellings shall be designed to the fullest extent possible to blend into the natural surroundings of each lot. The following items are specifically prohibited from use:
Aluminum, plywood and vinyl siding
Storage of Boats and recreational vehicles not contained within enclosed garage
Exposed Concrete Block
White or light colored roof shingles

4. The following structures and or site improvements shall be subject to specific ARC review and prior approval:
Fence structures except for pool area fencing required to meet code
Pet habitat structures (Dog houses and pens)
Roof-mounted antennas
Reception Satellites (roof or ground mounted)
Gazebos not attached to patio structures

5. In addition to applicable zoning restrictions maximum and minimum

REVISED PLANS
1/19/89

DAFT McCUNE WALKER INC.
LAND PLANNING CONSULTANTS
LANDSCAPE ARCHITECTS
ENGINEERS SURVEYORS
200 EAST PENNSYLVANIA AVENUE
TOWSON, MD. 21204
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GOLF CLUB CAVES VALLEY CLUB INC.

PLAN TO ACCOMPANY DOCUMENTED RECLASSIFICATION PETITION
RC-2 TO RC-5 CAVES VALLEY

ELECTION DISTRICT 4,C3 — BALTIMORE COUNTY, MARYLAND

SCALE: 1" = 200'

JOB ORDER NO. 88015A

PRESERVATION TECHNIQUES MAP BALTIMORE COUNTY MARYLAND

Legend

2 = R.C.2 (AGRICULTURAL)
3 = R.C.3 (DEFERRAL OF PLANNING)
4 = R.C.4 (WATERSHED PROTECTION)
5 = R.C.5 (RURAL RESIDENTIAL)
AGRICULTURAL LAND PRESERVATION DISTRICT
AGRICULTURAL LAND PRESERVATION DISTRICT-EASEMENT
MARYLAND ENVIRONMENTAL TRUST-EASEMENT
NATURAL ENVIRONMENTAL AREA
NATIONAL HISTORIC DISTRICT