

IN THE MATTER OF THE APPLICATION OF *
ROBERT J. SMITH FOR A SPECIAL HEARING *
AND SPECIAL EXCEPTION ON PROPERTY *
LOCATED ON THE EAST SIDE OF LONG GREEN *
PIKE, 580' NORTH OF THE CENTERLINE OF *
HYDES ROAD (13035 LONG GREEN PIKE) *
11TH ELECTION DISTRICT *
6TH COUNCILMANIC DISTRICT *

BEFORE
COUNTY BOARD OF APPEALS
OF
BALTIMORE COUNTY
CASE NO. 90-1-SPHX

* * * * *
ORDER OF DISMISSAL

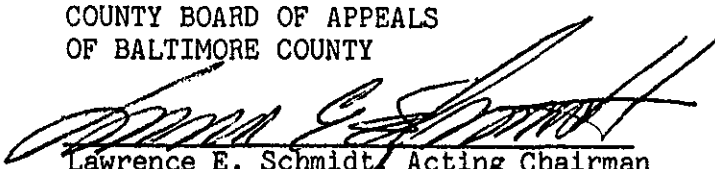
This matter comes before the Board as an appeal of the decision of the Deputy Zoning Commissioner dated August 3, 1989 which denied the subject Petitions for Special Hearing and Special Exception on property located in the Eleventh Election District of Baltimore County.

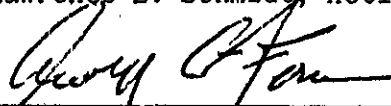
WHEREAS, the Board is in receipt of a letter of dismissal filed by G. Warren Mix, Esquire, Counsel for the Appellant in this matter on March 5, 1990 (a copy of which is attached hereto and made a part hereof); and

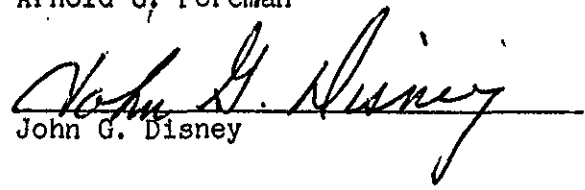
WHEREAS, Mr. Mix on behalf of Mr. Smith, the Appellant, requests that the appeal filed by him be withdrawn and dismissed as of March 5, 1990,

IT IS THEREFORE this 6th day of March, 1990 by the County Board of Appeals of Baltimore County ORDERED that the appeal filed in Case No. 90-1-SPHX be and the same is hereby DISMISSED.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY


Lawrence E. Schmidt, Acting Chairman


Arnold G. Foreman


John G. Disney

MICROFILMED

* * * * *

The Petitioner appeared, testified, and was represented by G. Warren Mix, Esquire. Also appearing on behalf of the Petition were: Joseph J. Riedlbauer, Calvin Carr, Betty Carr Grant, Lawrence Dulin, Michael DiRuggiero, Abraham Kline, Nicole Kline and Howard J. Kline. Michael Millemann, Esquire, appeared and testified on behalf of the Protestants. Appearing as Protestants in the matter were: Philip Klein, William Anderson, Melvin McDonald, Thomas Engelke, and Martin Wirtz. The following individuals appeared and signed as "speakers": Nancy L. Boyce, Ed Ilgenfritz, Denise Shapiro, Robert Oehrli, Dr. Walter Hepner, Nancy Hastings, Katherine Tyler, R. Bayly Buck, Richard Shapiro, Esquire, Daniel Denham, Elizabeth Hartline, and Elizabeth Lambert. Appearing on behalf of People's Counsel was Phyllis Freidman, Esquire.

WILLIAM SHAKESPEARE

[illegible]

三



Testimony indicated that the subject property, known as 13035 Long Green Pike, consists of 40.148 acres more or less zoned R.C. 2 and is improved with a single family dwelling, attached garage and in-ground swimming pool. Testimony and evidence produced indicated that Petitioner is desirous of constructing a "helistop/heliport" adjacent to a grass landing strip on the subject property zoned R.C. 2 as more particularly described on Petitioner's Exhibit 1. Petitioner testified he and his flight instructor have landed and taken off in a helicopter from the subject site on more than one occasion.

The threshold issue regarding the requested special hearing is whether the term "airport", as that term is employed in the Baltimore County Zoning Regulations (B.C.Z.R.), is sufficiently broad in scope to provide, by special exception, the landing and taking off of a helicopter in an R.C. 2 zone. Section 101 of the B.C.Z.R. defines separately the following: airport; helicopter; helicopter operation; heliport, Type I, heliport, Type II and helistop. While an airport is permitted by special exception in the R.C. 2 zone, pursuant to Section 1A01.2C of the B.C.Z.R., neither a heliport, Types I or II, nor a helistop are permitted, either as of right or by special exception. Counsel for Petitioner argued at great length, albeit unconvincingly, that the term "airport", which he more or less broadly defined as an area of land set aside for the taking-off and landing of aircraft, incorporates a helistop/heliport for purposes of the B.C.Z.R. Petitioner's argument fails since the B.C.Z.R. specifically defines helicopter operation and the use of same in its definition of heliport/helistop. A cursory examination of the B.C.Z.R. will glean the drafters' clear intent regarding the specific placement of airports, heliports and helistops within the various zones of Baltimore County. For

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Date

8/3/89

By

R. J. Sullivan

MICROFILMED

example, in the D.R. zone, helistops are permitted as a special exception and airports are excluded. In the B.L. zone, a helistop is permitted as of right; a heliport, Type II, by special exception; and airports are excluded. The C.T. zone permits only a heliport, Type I and II by special exception. In the M.R. zone, a heliport, Type II is permitted if located at least 200 feet from a residential zone; a helistop is permitted without such restriction. The R.C. regulations contain like specificity regarding the placement of airports, helistops and heliports within the R.C. zones. The R.C. 4 and R.C. 5 zones prohibit the subject uses either as of right or by special exception where the R.C. 3 zone permits airports and helistops by special exception. The subject zone, R.C. 2, permits an airport by special exception, but excludes both helistops and heliports both as of right and by special exception.

In Creswell vs. Baltimore Aviation Service, Inc., 257, Md. 712 (1970), (regarding an airport owner's Petition requesting a zoning reclassification), the Court ruled "there cannot be a scintilla of doubt that in Baltimore County, as generally, there cannot be a grant of a special exception unless the zoning statutes provide that the conditional use sought is permissible in the zone in which the land involved is situated..." In view of the specificity the drafters afforded the regulations regarding the inclusion or exclusion of airports, heliports and helistops within particular zones, it is the Deputy Zoning Commissioner's opinion, based on the legislative history, case law, and clear language of the pertinent zoning regulations, that neither a heliport, helistop, or as called by Petitioner, a "helipad" is permitted by special exception or otherwise in an R.C. 2 zone, nor is the operation of a helicopter a permitted primary,

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Date

8/3/89

By

Robert J. Schullman

accessory, conditional or temporary use in the R.C. 2 zone by special exception or in conjunction with an airport (grass landing strip).

Petitioner's Counsel argued that even if the request for Special Hearing was denied, Petitioner's request for Special Exception for an airport (private grass landing strip) in an R.C. 2 zone should be granted. Mr. Smith was the only witness called to testify that Petitioner's proposed use was as an airport and/or that an airport was appropriate. Testimony indicated that Petitioner did not prepare the site plan marked Petitioner's Exhibit 1, and demonstrated that he was otherwise unfamiliar with its content. He was unable to lucidly describe the specifications of the proposed landing strip, aircraft landing and departure patterns from the landing strip, minimum runway and aircraft requirements in view of the surrounding topography, runway requirements relative to aircraft weight, existing aircraft traffic in the area, and/or types of aircraft the site could accommodate, if any. Mr. Smith candidly admitted that aside from approximately 40 hours of helicopter flight lessons, he has never owned an airplane, has no experience flying an airplane, and no knowledge or expertise regarding the performance capabilities of airplanes. Petitioner failed to produce any testimony evidencing that Petitioner's Exhibit 1 was a site plan for landing of any aircraft other than a helicopter. Petitioner failed to produce any study regarding the subject site's viability to safely accommodate an airport. The Protestants contend the special exception request was a feeble attempt by Petitioner to use the site for the landing of a helicopter which is not permitted either as of right or by special exception on the property as presently zoned.

The Petitioner had the burden of adducing testimony and evidence which would show that the proposed use met the prescribed standards and

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Date

By

8/3/89
Bette J. Schuman

requirements set forth in Section 502.1 of the B.C.Z.R. When requesting a special exception, the Petitioner must show that the proposed use will be conducted without real detriment to the neighborhood and will not adversely affect the public interest. The facts and circumstances must show that the proposed use at the particular location described by Petitioner's Exhibit 1 will have no adverse impact above and beyond that inherently associated with such a special exception use, irrespective of its location within the zone. Schultz v. Pritts, 432 A.2d 1319 (1981).

As Mr. Smith was not qualified to render an expert opinion regarding the suitability of the subject site to safely accommodate an airport, and in view of the fact that no other testimony or evidence was received which would support a finding granting the relief requested, the Petitioner has not met his burden of showing that the proposed use meets the prescribed standards and requirements set forth in Section 502.1 of the B.C.Z.R. As such, no testimony from the Protestants was taken. For the reasons set forth herein, the relief requested in the special hearing and special exception should be denied.

Pursuant to the advertisement, posting of the property, and public hearing on these Petitions held, and for the reasons given above, the Petitions for Special Hearing and Special Exception should be denied.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 3rd day of August, 1989 that the Petition for Special Hearing for a finding that the landing and taking off of a helicopter (on a private grass landing strip) is permitted under the special exception requirements for an airport in an R.C. 2 zone, and the Petition for Special Exception to approve the use of the subject property as an airport (private grass landing strip) to include the landing of a helicop-

ORDER RECEIVED FOR FILING

Date

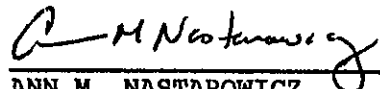
By

8/3/89
By Bette J. Schulman

ter, as more particularly described in Petitioner's Exhibit 1, be and are hereby DENIED; and,

IT IS FURTHER ORDERED that Petitioner shall cease permitting the landing and taking-off of helicopters from the subject property known as 13035 Long Green Pike, as more particularly described in Petitioner's Exhibit 1.

AMN:bjs

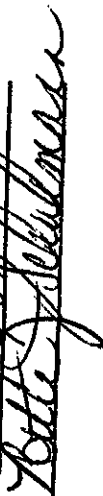

ANN M. NASTAROWICZ
Deputy Zoning Commissioner
for Baltimore County

ORDER RECEIVED FOR FILING

Date

8/3/89

By



NOTED

PETITION FOR SPECIAL EXCEPTION

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

90-1-SPHY

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Exception under the Zoning Law and Zoning Regulations of Baltimore County, to use the herein described property for an airport (private grass landing strip) including the landing of a helicopter.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Special Exception advertising, 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.

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

Contract Purchaser:

Legal Owner(s):

(Type or Print Name)

Robert J. Smith

(Type or Print Name)

Signature

Signature

Address

(Type or Print Name)

City and State

Signature

Attorney for Petitioner:

(Type or Print Name)

13035 Long Green Pike 366-6768
Baltimore, Md 21082
8/10/89

Signature

City and State

Address

Name, address and phone number of legal owner, contract purchaser or representative to be contacted

City and State

Name

Attorney's Telephone No.:

Address

Phone No.

ORDERED By The Zoning Commissioner of Baltimore County, this 26 day of April, 1989, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 18 day of July, 1989, at 9:30 o'clock P.M.

PETITION FOR SPECIAL HEARING

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

90-1-SPHX

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Baltimore County Zoning Regulations, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve

the interpretation that the landing and taking off of a helicopter is allowed
under the special exception for an airport (private grass landing strip) in an
RC2 zone.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of the above Special Hearing advertising, 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.

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

Contract Purchaser:

(Type or Print Name)

Signature

Address

City and State

Attorney for Petitioner:

(Type or Print Name)

Signature

Address

City and State

Attorney's Telephone No.:

Legal Owner(s):

Robert J. Smith

(Type or Print Name)

Signature

(Type or Print Name)

Signature

Address

City and State

Name, address and phone number of legal owner, contract purchaser or representative to be contacted

Name

Address

Phone No.

ME 17-
4 D
E. D. 114
DATE 7-25
200 BF
1000 X
DP D

3/21/89
4110

13035 Long Green Pike 366-6769
Address Phone No.

Bg/10, MD 21082
City and State

ORDERED By The Zoning Commissioner of Baltimore County, this 26 day
of April, 1989, that the subject matter of this petition be advertised, as
required by the Zoning Law of Baltimore County, in two newspapers of general circulation through-
out Baltimore County, that property be posted, and that the public hearing be had before the Zoning
Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore
County, on the 18 day of July, 1989, at 9:30 o'clock

LAW OFFICES
TURNBULL, MIX & FARMER

708 WASHINGTON AVENUE
TOWSON, MARYLAND 21204

G. WARREN MIX
JAMES R. FARMER
DOUGLAS T. SACHSE
PATRICK J. PERKINS
GREGORY E. HAMMOND

(301) 828-0700
(301) 828-1817
FAX (301) 828-5086

OF COUNSEL
WILLIAM E. HAMMOND
107 MAIN STREET
HEISTERSTOWN, MD 21086
(301) 800-1822
JOHN GRASON TURNBULL
(1909-1984)
OCEAN CITY OFFICE
210 N. 18TH STREET
OCEAN CITY, MD 21849
(301) 289-6419

March 2, 1990

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

RE: Case No. 90-1-SPHX
Robert J. Smith

Daer Mr. Clerk:

I am enclosing a copy of the Order of Dismissal filed on behalf
of the Appellant in the above captioned matter.

Very truly yours,

TURNBULL, MIX & FARMER



G. Warren Mix

GM/dm

Enclosure

MICROFILMED

BEST IMAGES POSSIBLE

THE FOLLOWING DOCUMENT OR DOCUMENTS
WERE SCANNED AS RECEIVED AND CONTAINS
THE BEST POSSIBLE IMAGE.

MICRO RECORDS COMPANY, INC
BALTIMORE, MARYLAND

90-1-SPHX

BALTIMORE COUNTY OFFICE OF PLANNING & ZONING
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Your petition has been received and accepted for filing this
26th day of April, 1989

J. Robert Haines
J. ROBERT HAINES
Zoning Commissioner

Received by: Chairman, Zoning Plans
Advisory Committee

Petitioner: Robert J. Smith
Petitioner's Attorney

Baltimore County
Fire Department
800 York Road
Towson, Maryland 21204-2586
(301) 887-4500

Paul H. Roberts
Chief

J. Robert Haines
Zoning Commissioner
Office of Planning and Zoning
County Office Building
Towson, MD 21204

Dennis F. Rasmussen
County Executive

RE: Property Owner: Robert J. Smith

Location: ES Long Green Pike, 580' N of centerline of Hydes Road
(#13035 Long Green Pike)

Item No.: 441 Zoning Agenda: April 25, 1989

Gentlemen:

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

The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation. NFPA 30 - 1987 Edition for flammable and combustible liquids and also the applicable sections of NFPA Standard 407 - 1985 Edition shall apply.

REVIEWER: *Ch. Haines* Noted and Approved
Planning Group Fire Prevention Bureau
Special Inspection Division

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

July 11, 1989

COUNTY OFFICE BLDG.
111 W. Chesapeake Ave.
Towson, Maryland 21204

MEMBERS
Bureau of Engineering
Department of Traffic Engineering
State Roads Commission
Bureau of Fire Prevention
Health Department
Project Planning
Building Department
Board of Education
Zoning Administration
Industrial Development

Mr. Robert J. Smith
13035 Long Green Pike
Baltimore, MD 21082

RE: Item No. 441, Case No. 90-1-SPHX
Petitioner: Robert J. Smith
Petition for Special Exception and
Special Hearing

Dear Mr. Smith:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of comments are requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

IT WOULD BE APPRECIATED IF YOU WOULD RETURN YOUR WRITTEN COMMENTS TO MY OFFICE, ATTENTION JULIE WINIARSKI. IF YOU HAVE ANY QUESTIONS REGARDING THIS, PLEASE CONTACT HER AT 887-3391.

Very truly yours,
James E. Dyer
JAMES E. DYER
Chairman
Zoning Plans Advisory Committee

JED:jw
Enclosures

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

DATE: July 17, 1989

TO: J. Robert Haines
Zoning Commissioner

FROM: Pat Keller, Deputy Director
Office of Planning and Zoning

SUBJECT: ZONING ADVISORY COMMITTEE COMMENTS

Case No. 90-1-SPHX
Item No. 441

Re: Robert Smith

This office has no comment on the appropriateness of the petitioner's request but offers the following information:

1. The property is in an Agricultural Priority Area (Recreation, Parks and Land Preservation in Baltimore County. A Plan for the 1990's) and in the proposed Agricultural Preservation Area (Master Plan 1989-2000 submitted to Planning Board June 9, 1989).
2. The proposed use is not agriculturally related and the zoning is RC 2.
3. The proposed location is on a ridge over the Long Green Valley in an area of large lot residences and agricultural operations.
4. There is a school and church located on one of the departure approach paths.
5. There are community concerns as to whether the proposal is an appropriate use in an agricultural area.

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

April 25, 1989

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

Dear Mr. Haines:

The Bureau of Traffic Engineering has no comments for items number 424, 425, 426, 427, 428, 429, 430, 431, 432, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, and 448.

Very truly yours,
Michael S. Flanigan
Michael S. Flanigan
Traffic Engineer Assoc. II

MSF/lab

RECEIVED
APR 28 1989
ZONING OFFICE

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

DATE: May 17, 1989

TO: Zoning Advisory Committee

FROM: Robert W. Bowling, P.E.

RE: Zoning Advisory Committee Meeting
for April 25, 1989

The Developers Engineering Division has reviewed the zoning items for the subject meeting and we have no comments for Items 424, 425, 427, 428, 429, 430, 431, 432, 435, 437, 439, 440, 441, 442, 443, 444, 445, 447, and 448. Comments are attached for Items 426, 434, 436, 438 and 446.

Robert W. Bowling
ROBERT W. BOWLING, P.E., Chief
Developers Engineering Division

RWB:s
Encls.

MAY 1 1989

LAW OFFICES
TURNBULL, MIX & FARMER
700 WASHINGTON AVENUE
TOWSON, MARYLAND 21204

OF COUNSEL
WILLIAM E. HAMMOND
101 RACE STREET
BETHESDA, MD 20814
(301) 888-0700
(301) 888-1987
FAX (301) 888-0088

JOHN ORSON TURNBULL
(301) 888-1000
CRAIG CITY OFFICE
810 N. 10TH STREET
CRAIG CITY, MD 20824
(301) 888-0448

July 6, 1989

Zoning Commissioner for
Baltimore County
County Office Building
Towson, Maryland 21204

RE: Special Exception
Case No.: 90-1-SPHX

Dear Mr. Commissioner:

Please enter the appearance of G. Warren Mix and Turnbull, Mix & Farmer as counsel for the Petitioner, Robert J. Smith, in the above captioned matter. It is my understanding that the hearing is scheduled for July 18, 1989 at 9:30 a.m.

Very truly yours,
TURNBULL, MIX & FARMER
G. Warren Mix
G. Warren Mix

GWM:mfw

RECEIVED
JUL 7 1989
ZONING OFFICE

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

J. Robert Haines
Zoning Commissioner

September 12, 1989

Baltimore County Board of Appeals
County Office Building, Room 315
Towson, Maryland 21204

RE: Petition for Special Hearing and Special Exception
E/S Long Green Pike, 580' N of the c/l of Hydes Road
(13035 Long Green Pike)
11th Election District, 6th Councilmanic District
ROBERT J. SMITH - Petitioner
Case No. 90-1-SPHX

Dear Board:

Please be advised that an appeal of the above-referenced case was filed in this office on August 25, 1989, by W. Warren Mix. All materials relative to the case are being forwarded herewith.

Please notify all parties to the case of the date and time of the appeal hearing when it has been scheduled. If you have any questions concerning this matter, please do not hesitate to contact this office.

Very truly yours,
J. Robert Haines
J. ROBERT HAINES
Zoning Commissioner

JRH:cer
Enclosures

cc: Robert & Barbara Smith, 13035 Long Green Pike, Baltimore, MD 21082

G. Warren Mix, Turnbull, Mix & Farmer
706 Washington Avenue, Towson, Maryland 21204

Joseph J. Riedbauer, 9804 Magleat Road, Baltimore, MD 21234

Calvin Carr & Betty Carr Grant
12835 Long Green Pike, Hydes, MD 21082

Lawrence Dulin, 514 Chesapeake Avenue, Stevensville, MD 21606

MS065

ZONING VIOLATION ASSIGNMENT RECORD

CASE NO. C-89-2226 PRIOR OR RELATED CASES/HEARINGS:

LOCATION Rosebank Ave - S.E.S Parcel 125 & 164

NEAREST INTERSECTION:

ALLEGED VIOLATIONS: Non-Compliance / Site Plan

☐ R.F.A. ☐ LETTER ☐ IN-PERSON ☒ PICK-UP FROM: Counselor Dyer T. 10/2

ASSIGNED TO: ☐ K. CONNOR ☒ G. FREUND ☐ D. THOMPSON
☐ F. DIMEGLO ☐ C. MCGRAW ☐ L. WASILEWSKI
☐ T. FITTS ☐ D. PROPALIS ☐

ELECTION DISTRICT: 15 TAX ACCOUNT: 15-14-100511 ZONING: HL-IM
15-19-391960

COMMENTS:

ACKNOWLEDGEMENT NOTICE

DEAR: DATE:

PLEASE BE ADVISED THAT YOUR COMPLAINT, INVOLVING THE ABOVE REFERENCED PROPERTY, HAS BEEN RECEIVED BY THIS OFFICE. AN INSPECTOR HAS BEEN ASSIGNED TO THE CASE AND WILL VISIT THE LOCATION AS SOON AS POSSIBLE. YOU WILL ADDITIONALLY BE ADVISED OF ALL FURTHER DEVELOPMENTS IN OUR INVESTIGATION. SHOULD THIS MATTER BE SCHEDULED FOR A DISTRICT COURT TRIAL, YOU WILL BE NOTIFIED OF THE DATE.

ZONING ENFORCEMENT SECTION

TELEPHONE: 887-3351

TO: Baltimore County Zoning Commissioner
J. Robert Haines, Zoning Commissioner
Office of Planning and Zoning
Towson, MD 21204

PETITION OF OPPOSITION

CASE NUMBER: 90-1-SPHX
HEARING: July 18, 1989 - 9:30 a.m.

We, the undersigned, reside in the immediate area and/or have properties adjoining the petitioner, Robert J. Smith's property, and do strongly oppose the above petition for the special exception hearing for an airport (private grass landing strip).

NAME	ADDRESS	PHONE
Nora Edwards	5323 Hydes Rd	592-5954
Ronald E. Epp	Hydes, Md. 21082	592-8504
Betty J. Epp	Bottom Farm Rd Hydes, Md. 21082	592-8504
Janet L. Epp	13728 Williams Rd Hydes, Md. 21082	592-8504
John D. Epp	5323 Hydes Rd Hydes, Md. 21082	592-8504

TO: Baltimore County Zoning Commissioner
J. Robert Haines, Zoning Commissioner
Office of Planning and Zoning
Towson, MD 21204

PETITION OF OPPOSITION

CASE NUMBER: 90-1-SPHX
HEARING: July 18, 1989 - 9:30 a.m.

We, the undersigned, reside in the immediate area and/or have properties adjoining the petitioner, Robert J. Smith's property, and do strongly oppose the above petition for the special exception hearing for an airport (private grass landing strip).

Mudell Bunn	6446 Bunker Rd Arb, Md.	
William C. Bunn	13320 Old Rd Baltimore, Md.	

TO: Baltimore County Zoning Commissioner
J. Robert Haines, Zoning Commissioner
Office of Planning and Zoning
Towson, MD 21204

PETITION OF OPPOSITION

CASE NUMBER: 90-1-SPHX
HEARING: July 18, 1989 - 9:30 a.m.

We, the undersigned, reside in the immediate area and/or have properties adjoining the petitioner, Robert J. Smith's property, and do strongly oppose the above petition for the special exception hearing for an airport (private grass landing strip).

Mary L. Epp	5507 Williams Rd Hydes, Md. 21082	Hydes, Md. 21082
Curly Epp	13305 Long Green Pk Hydes, Md. 21082	Hydes, Md. 21082
John Epp	5507 Williams Rd Hydes, Md. 21082	Hydes, Md. 21082
G.E. Markov	5505 Williams Rd Hydes, Md. 21082	Hydes, Md. 21082
Dorothy Markov	5505 Williams Rd Hydes, Md. 21082	Hydes, Md. 21082
Emma H. Wade	5511 Williams Rd Hydes, Md. 21082	Hydes, Md. 21082
Edna M. Denham	13015 Williams Rd Hydes, Md. 21082	Hydes, Md. 21082

TO: Baltimore County Zoning Commissioner
J. Robert Haines, Zoning Commissioner
Office of Planning and Zoning
Towson, MD 21204

PETITION OF OPPOSITION

CASE NUMBER: 90-1-SPHX
HEARING: July 18, 1989 - 9:30 a.m.

We, the undersigned, reside in the immediate area and/or have properties adjoining the petitioner, Robert J. Smith's property, and do strongly oppose the above petition for the special exception hearing for an airport (private grass landing strip).

NAME	ADDRESS	PHONE
Catrina E. Mager	5725 Williams Rd Hydes, Md. 21082	592-7473
Shirley G. Mager	5729 Williams Rd Hydes, Md. 21082	592-5311
Daniel E. Mager	5626 Williams Rd Hydes, Md. 21082	592-5311
Joanne S. Denham	5626 Williams Rd Hydes, Md. 21082	592-2329
Donald S. Denham	13340 Long Green Pk Hydes, Md. 21082	592-5821
John C. Denham	13340 Long Green Pk Hydes, Md. 21082	592-5821
Maril F. Denham	13340 Long Green Pk Hydes, Md. 21082	592-5821

Baltimore County Zoning Commissioner
J. Robert Haines, Zoning Commissioner
Office of Planning and Zoning
Towson, MD 21204

PETITION OF OPPOSITION

CASE NUMBER: 90-1-SPHX
HEARING: July 18, 1989 - 9:30 a.m.

We, the undersigned, reside in the immediate area and/or have properties adjoining the petitioner, Robert J. Smith's property, and do strongly oppose the above petition for the special exception hearing for an airport (private grass landing strip).

NAME	ADDRESS	PHONE
Marsha A. Kelly	13332 Long Green Pk, Hydes	592-2552
Marion T. Kelly	13338 Long Green Pk	592-2552
Thomas M. Kelly	13330 Long Green Pk	592-7117
Elizabeth C. Kelly	13330 Long Green Pk	592-7117
Rita E. Kelly	13330 Long Green Pk	592-5023
Ann Green	5515 Williams Rd	592-8504

Ms. Ann Nastanowicz
Deputy Zoning Commissioner of Baltimore County
Office of Planning and Zoning
111 West Chesapeake Avenue
Room 109
Towson, Maryland 21204

Re: Case Number 90-1-SPHX

We are greatly opposed to the granting of a Special Exception for a helicopter (private landing strip) being applied for by Robert S. Smith. We were the first family to move into the Burton Community and did so with the understanding of it being a private residential community. Here to a "Declaration of Restrictions" was signed and agreed to at purchase. Under section number 9, it states that "No noxious or offensive trade or activity shall be carried on upon any lot or parcel nor shall anything be done or placed thereon which may become an annoyance or nuisance to the neighborhood or to any adjoining property owner."

However, this covenant has been broken by a red and white helicopter number N16742, who has repeatedly flown directly over our home at a level which provides us with a clear view of it's number. This helicopter has been noted to frequent the same landing and takeoff area as late as 2:30 PM and as often as 10 to 12 times during a 24 hour period. The noise from this helicopter has not only upset our peace and surrounding wildlife but has disturbed our lives to the extent of creating a dangerous situation in relation to my job. As an Intensive Care Nurse on the night shift, 11PM-7:30AM, I must be fully alert to life threatening changes in my patients which could result in death if not corrected in time. Therefore, I require sleep during the day to perform my duties safely and responsibly. I had no problem with this prior to the presence of the helicopter and cannot tolerate this annoying activity that jeopardizes my job and patients.

The taking off and landing of a helicopter or plane in our area presents overwhelming safety to our home. Personally, our neighbors, and the children of St. John's school. There has been a private landing strip on Long Green Road for many years prior to our community's existence. To over load the airspace in less than a half mile area with another airstrip could cause takeoff and landing disasters as well as in flight crashes. A local alternative airport in the Fallston area is less than 15 minutes away and private airstrips don't have air traffic controllers. Possible water contamination is also a serious concern since we all use well water.

This is a rural historic area and to allow a Special Exception for a helicopter and plane are not consistent with our aim of rural preservation and living. We strongly oppose any zoning change in connection with this issue and wish to see the present zoning status upheld.

Joanne S. Denham: 7/16/89

Joanne S. Denham

Daniel L. Denham: 7/16/89

Daniel L. Denham

Ms. Ann Nastanowicz,
Deputy Zoning Commissioner of Baltimore County
Office of Planning and Zoning
111 West Chesapeake Avenue
Room 109
Towson, Md. 21204

I'm opposed to the airstrip and helicopter pad because it scares away the wildlife, wakes me up at night, interferes with my school studies, disturbs my phone calls so I can't hear and is very annoying in general.

Ann Denham
7/16/89
Age: 13

5515 William Road
Hydes, MD 21082
July 11, 1989

Ms. Ann Nastarowicz
Deputy Zoning Commissioner of Balto. Co.
Office of Planning & Zoning
111 West Chesapeake Avenue
Towson, MD 21204

Dear Ms. Nastarowicz:

This is a request to the Deputy Zoning Commissioner from Susan Collins, a resident of Long Green Valley, to re-evaluate case number 90-1SPHX. The application presented to the office of Planning & Zoning for the construction of a helicopter pad and landing site by property owners at 13001 Long Green Pike has a potential for many undesirable effects in our valley.

For the past four to six months frequent and low flying helicopters over our houses have been noted. A minimum of four to six trips have been made daily between the hours of 5:30 p.m. - 7:30 p.m., Monday through Friday. In addition, many late night flights have been noted from times ranging 9:30 p.m. - 2:30 a.m. On weekends flying is demonstrated by unaccountable number of trips noted as frequently as every twenty minutes up to four hours as noted on June 18, 1989.

Immediate action is justified and needs to be taken. This "frequent flyer" in helicopter N16742 is creating a nuisance by causing my house to shake and vibrate as it passes by. The safety of our homes and to shake and vibrate as it passes by. The safety of the hundreds of children attending the catholic school at St. John's Long Green, adjacent to the 12001 Long Green property, must be protected. The invasion of our privacy as the helicopter circles our property is inexcusable. It would appear that for the adverse effects of wildlife and the livestock of nearby farmers must be taken into account. This continued form of harassment is not consistent with our rural preservation, and it has for the past six months destroyed the peace and tranquility of our valley.

There is a more serious potential problem in allowing a special exception to the zoning laws of Baltimore County for it leaves us vulnerable to lowering our property values for potential buyers. It creates noise

Ms. Ann Nastarowicz
July 11, 1989
page 2

Pollution; it's simply dangerous.

I respectfully request that you review these concerns in order that proper action be taken for the safety and protection of our valley.

Sincerely,

Mrs. Susan Collins
(Mrs.) Susan Collins

1011 667-1800 BUSINESS
1011 378-0475 CALL
1011 562-4504 RESIDENCE
BETSY SAPP
1011 667-1800 BUSINESS
1011 378-0475 CALL
1011 562-4504 RESIDENCE
COLDWELL BANKER
Real Estate
2000 PAPER MILL ROAD
PAPER MILL, MARYLAND
P.O. BOX 21136

To Assistant Zoning Commissioner

I would like to register
my objections to a zoning
change allowing a landing
strip for Mr. Smith.

With all the needed official
helicopters, the Valley has more
noise than any of us planned
on when we built homes
20 years ago. And the potential
for a disaster is far too great
for anyone to be comfortable.

Dear Ms. Nastarowicz,

As a property owner in close
proximity to the petitioner, I would
like to express my concern and urge
you to oppose this special exception.
With adequate public airport
facilities close at hand, Mr. Robert
Smith's request is frivolous rather
than an expression of genuine need.
It is ethical to allow one large

Jeffrey R. Barnes, M.D.P.C.
Practitioner of Emergency & General Medicine

Jeffrey Barnes
13018 Bottom Rd.
Hydes, MD 21082

Ms Ann Nastarowicz
Deputy Zoning Commissioner
of Baltimore County
Office of Planning & Zoning
111 West Chesapeake Avenue
Room 109
Towson, Maryland, 21204

Reference: Case # 90-1-SPHX

I am writing to you concerning the
proposed "airport" near 13035 Long Green Pike.
I moved out to this area to get away from
noise and to feel closer to nature. I had
wanted to live near an "airport" I would
have bought property near BWZC which
certainly would have been less expensive than
my present location. At the present time I have
put up with frequent military rotor craft
overflights but the thought of a helicopter
landing pad near me is just too much to
endure. I am quite uneasy about
the safety of my property and my loved
ones in relationship to this issue as
well as the probable adverse effect on (over)

Ms. Ann Nastarowicz
Deputy Zoning Commissioner of Balto. Co.
Office of Planning & Zoning
111 W. Chesapeake Ave. Room 109
Balto. Md. 21204

Dear Ms. Nastarowicz,
This letter is being written to
request my opposition to the request by
Mr. Robert Smith to be granted a special
exception to put in a private landing
strip for the landing & taking off of a
helicopter.

We are concerned for the safety of our
families and our homes. We feel like this
would be just the beginning and would
encourage others to do the same thing.
Thank you for your consideration in this
matter.

Yours truly,

Patricia E. Mays
5725 William Rd.
Hydes, Md.
21082

To whom it may concern:

I am writing this letter in request to not permit the
Kliens' and Smiths' to establish an air base in their backyard. I
am concerned with the impact on the wildlife, noise, safety, and
air pollution.

Much of the wildlife that once inhabited our area have
been frightened away, including deer and red fox, by the loud
disturbance caused by the helicopters.

This loud disturbance makes our entire house shake as
the helicopters pass directly overhead making it difficult to
receive radio and television transmissions. It also scares our
household pets including cats, geese, and our dog.

If the airbase is approved and installed, the
underground fuel tanks will endanger our water supply provided by
our well. This in turn will jeopardize our health leading to
higher medical bills.

Our family moved out to the country to get away from air
pollution, and now our neighbors are polluting us and the
environment around us.

I hope that you will take my concerns into consideration
and not permit the Kliens' and Smiths' to establish an airbase.

Thank you,

Holly Denham
age 15

MS Contin® C
morphine sulfate 30 mg
controlled-release tablets

We are dealing
with a man who
apparently has a lot
of money & who
obviously feels this
gives him the
power to do whatever
he wants whenever
he wants which
he has demonstrated
back when his farm
1st moved in by
driving their dirt bike
(I think) into the cup
down the fence
across the street
from us, which
not only does not
belong to them but
they continue to do
PURDUE FREDERICK

MS Contin® C
morphine sulfate 30 mg
controlled-release tablets

this is the concern
of the owner &
more importantly
5. any consideration
to the Chap that
was growing in
the field. This
total irresponsibility
to our community
has further been
demonstrated by Mr
Smith's the purchase
of his helicopter by
the clearly frequency
of flying by
flying whenever
he wants, as low
as he wants & as
frequently as he
wants
PURDUE FREDERICK

MS Contin® C
morphine sulfate 30 mg
controlled-release tablets

which he continues
to do. For the
Zoning Justice,
was posted & many
Kannings Complaints
from the Comm
thus demonstrating
his apparent
attitude that
he got the
money & the power
& that's just
that.
PURDUE FREDERICK

5700 Williams Road
Hydes, Md. 21082
July 6, 1989

Ms. Ann Nastarowicz
Deputy Zoning Comm./Balto. Co.
Office of Planning and Zoning
111 West Chesapeake Ave.
Room 109
Towson, Md. 21204

Dear Ms. Nastarowicz:

It is with great concern for preservation of the Long Green Valley
area that we wish to protest the granting of any zoning exceptions
as requested in case number 90-1-SPHX.

The personal use of a helicopter in this area has been an increasing
nuisance. Not only do the repetitive entries and departures create a
most annoying noise, we question the safety of this practice relative
to residents and their personal property.

With the accessibility of airport facilities as near to us as Fallston,
we also question the absolute necessity of this request.

We sincerely hope our opinion and that of our neighbors who may also
be in protest weigh heavily in your considerations of our rights and
investment in this historic area.

Yours truly,

John P. Powell, Sr.
Diane H. Powell

Ms. Ann Nastarowicz
Deputy Zoning Commissioner
of Baltimore County
111 West Chesapeake Avenue
Room 109
Towson Md. 21204

Dear Ms. Nastarowicz, In reference to case number 90-1-SPHX
concerning Mr. Robert Smith's request for an exception for
an airport. For over a year Mr. Smith has operated his
airport without zoning approval. He has displayed a total
disrespect toward our community. He has been
and is in complete violation by continuing to take
off and land his helicopter. He constantly flies very low
as if giving tours of our homes and properties from the air.
He does this touring as often as 6 to 10 times a day. This
noise he creates when doing this is far beyond an acceptable
level for any residential area. The flight pattern he chooses
flies him directly above our homes. If ever he suffers a
mechanical failure while in this pattern he would surely
kill someone as well as cause catastrophic property damage.
I'm sure you will agree that any person who would display
zero concern for safety, no respect for the privacy of his
neighbors, and intentional noise and visual nuisance could
in no way be trusted to follow the rules and accept the
responsibility of operating an airport.

Yours Truly
Thomas E. Angelle
5710 Williams Rd.
Hydes Md. 21082

IN THE MATTER OF THE APPLICATION OF
ROBERT J. SMITH FOR A SPECIAL HEARING
AND SPECIAL EXCEPTION ON PROPERTY
LOCATED ON THE EAST SIDE OF LONG GREEN
PIKE, 580' NORTH OF THE CENTERLINE OF
HYDES ROAD (13035 LONG GREEN PIKE)
11TH ELECTION DISTRICT
6TH COUNCILMANIC DISTRICT

BEFORE
COUNTY BOARD OF APPEALS
OF
BALTIMORE COUNTY
CASE NO. 90-1-SPHX

ORDER OF DISMISSAL

This matter comes before the Board as an appeal of the decision of the Deputy Zoning Commissioner dated August 3, 1989 which denied the subject Petitions for Special Hearing and Special Exception on property located in the Eleventh Election District of Baltimore County.

WHEREAS, the Board is in receipt of a letter of dismissal filed by G. Warren Mix, Esquire, Counsel for the Appellant in this matter on March 5, 1990 (a copy of which is attached hereto and made a part hereof); and

WHEREAS, Mr. Mix on behalf of Mr. Smith, the Appellant, requests that the appeal filed by him be withdrawn and dismissed as of March 5, 1990,

IT IS THEREFORE this 6th day of March, 1990 by the County Board of Appeals of Baltimore County ORDERED that the appeal filed in Case No. 90-1-SPHX be and the same is hereby DISMISSED.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Lawrence E. Schmidt
Lawrence E. Schmidt, Acting Chairman

Arnold G. Foreman
Arnold G. Foreman

John G. Disney
John G. Disney

LAW OFFICES TURNBULL, MIX & FARMER 708 WASHINGTON AVENUE TOWSON, MARYLAND 21204

G. WARREN MIX
JAMES E. FARMER
DOUGLAS C. FARMER
PATRICK J. FARMER
GREGORY E. FARMER

OF COUNSEL
WILLIAM E. HAMMOND
107 MAIN STREET
BETHESDA, MD 20814
(301) 933-1200
(301) 933-1201
JOHN GRANT TURNBULL
1906-1944
OCEAN CITY OFFICE
800 N. LANE STREET
OCEAN CITY, MD 21842
(410) 939-1400

March 2, 1990

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

RE: Case No. 90-1-SPHX
Robert J. Smith

Dear Mr. Clerk:

I am enclosing a copy of the Order of Dismissal filed on behalf of the Appellant in the above captioned matter.

Very truly yours,
TURNBULL, MIX & FARMER

G. Warren Mix
G. Warren Mix

GWM/dm
Enclosure

IN RE: PETITIONS FOR SPECIAL HEARING
AND SPECIAL EXCEPTION - R/S
Long Green Pike, 580' N of the
c/l of Hydes Road
(13035 Long Green Pike)
11th Election District
6th Councilmanic District

BEFORE THE
DEPUTY ZONING COMMISSIONER
OF BALTIMORE COUNTY
Case No. 90-1-SPHX

Robert J. Smith
Petitioner

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioner herein requests a special hearing for a finding that the landing and taking off of a helicopter (on a private grass landing strip) is permitted under the special exception requirements for an airport in an R.C. 2 zone, and a special exception to approve the use of the subject property as an airport (private grass landing strip), to include the landing of a helicopter, as more particularly described in Petitioner's Exhibit 1.

The Petitioner appeared, testified, and was represented by G. Warren Mix, Esquire. Also appearing on behalf of the Petition were: Joseph J. Riedlbauer, Calvin Carr, Betty Carr Grant, Lawrence Dulin, Michael DiRuggiero, Abraham Kline, Nicole Kline and Howard J. Kline. Michael Milleman, Esquire, appeared and testified on behalf of the Protestants. Appearing as Protestants in the matter were: Philip Klein, William Anderson, Melvin McDonald, Thomas Engelke, and Martin Wirtz. The following individuals appeared and signed as "speakers": Nancy L. Boyce, Ed Ilgenfritz, Denise Shapiro, Robert Oehrli, Dr. Walter Hepler, Nancy Hastings, Katherine Tyler, R. Bayly Buck, Richard Shapiro, Esquire, Daniel Denham, Elizabeth Martiline, and Elizabeth Lambert. Appearing on behalf of People's Counsel was Phyllis Freidman, Esquire.

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Date 3/8/90
By *John G. Disney*

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Date 3/8/90
By *John G. Disney*

Testimony indicated that the subject property, known as 13035 Long Green Pike, consists of 40.148 acres more or less zoned R.C. 2 and is improved with a single family dwelling, attached garage and in-ground swimming pool. Testimony and evidence produced indicated that Petitioner is desirous of constructing a "helistop/heliport" adjacent to a grass landing strip on the subject property zoned R.C. 2 as more particularly described on Petitioner's Exhibit 1. Petitioner testified he and his flight instructor have landed and taken off in a helicopter from the subject site on more than one occasion.

The threshold issue regarding the requested special hearing is whether the term "airport", as that term is employed in the Baltimore County Zoning Regulations (B.C.Z.R.), is sufficiently broad in scope to provide, by special exception, the landing and taking off of a helicopter in an R.C. 2 zone. Section 101 of the B.C.Z.R. defines separately the following: airport; helicopter; helicopter operation; heliport, Type I, heliport, Type II and helistop. While an airport is permitted by special exception in the R.C. 2 zone, pursuant to Section 1A01.2C of the B.C.Z.R., neither a heliport, Types I or II, nor a helistop are permitted, either as of right or by special exception. Counsel for Petitioner argued at great length, albeit unconvincingly, that the term "airport", which he more or less broadly defined as an area of land set aside for the taking-off and landing of aircraft, incorporates a helistop/heliport for purposes of the B.C.Z.R. Petitioner's argument fails since the B.C.Z.R. specifically defines helicopter operation and the use of same in its definition of heliport/helistop. A cursory examination of the B.C.Z.R. will glean the drafters' clear intent regarding the specific placement of airports, heliports and helistops within the various zones of Baltimore County. For

example, in the D.R. zone, helistops are permitted as a special exception and airports are excluded. In the B.L. zone, a helistop is permitted as of right; a heliport, Type II, by special exception; and airports are excluded. The C.T. zone permits only a heliport, Type I and II by special exception. In the M.R. zone, a heliport, Type II is permitted if located at least 200 feet from a residential zone; a helistop is permitted without such restriction. The R.C. regulations contain like specificity regarding the placement of airports, helistops and heliports within the R.C. zones. The R.C. 4 and R.C. 5 zones prohibit the subject uses either as of right or by special exception where the R.C. 3 zone permits airports and helistops by special exception. The subject zone, R.C. 2, permits an airport by special exception, but excludes both helistops and heliports both as of right and by special exception.

In *Crowell vs. Baltimore Aviation Service, Inc.*, 257, Md. 712 (1970), (regarding an airport owner's Petition requesting a zoning reclassification), the Court ruled "there cannot be a scintilla of doubt that in Baltimore County, as generally, there cannot be a grant of a special exception unless the zoning statutes provide that the conditional use sought is permissible in the zone in which the land involved is situated..." In view of the specificity the drafters afforded the regulations regarding the inclusion or exclusion of airports, heliports and helistops within particular zones, it is the Deputy Zoning Commissioner's opinion, based on the legislative history, case law, and clear language of the pertinent zoning regulations, that neither a heliport, helistop, or as called by Petitioner, a "helipad" is permitted by special exception or otherwise in an R.C. 2 zone, nor is the operation of a helicopter a permitted primary,

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By *John G. Disney*

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Date 3/8/90
By *John G. Disney*

accessory, conditional or temporary use in the R.C. 2 zone by special exception or in conjunction with an airport (grass landing strip).

Petitioner's Counsel argued that even if the request for Special Hearing was denied, Petitioner's request for Special Exception for an airport (private grass landing strip) in an R.C. 2 zone should be granted. Mr. Smith was the only witness called to testify that Petitioner's proposed use was as an airport and/or that an airport was appropriate. Testimony indicated that Petitioner did not prepare the site plan marked Petitioner's Exhibit 1, and demonstrated that he was otherwise unfamiliar with its content. He was unable to lucidly describe the specifications of the proposed landing strip, aircraft landing and departure patterns from the landing strip, minimum runway and aircraft requirements in view of the surrounding topography, runway requirements relative to aircraft weight, existing aircraft traffic in the area, and/or types of aircraft the site could accommodate, if any. Mr. Smith candidly admitted that aside from approximately 40 hours of helicopter flight lessons, he has never owned an airplane, has no experience flying an airplane, and no knowledge or experience regarding the performance capabilities of airplanes. Petitioner failed to produce any testimony evidencing that Petitioner's Exhibit 1 was a site plan for landing of any aircraft other than a helicopter. Petitioner failed to produce any study regarding the subject site's viability to safely accommodate an airport. The Protestants contend the special exception safely accommodate an airport. The Protestants contend the special exception on the property as presently zoned.

The Petitioner had the burden of adducing testimony and evidence which would show that the proposed use met the prescribed standards and

requirements set forth in Section 502.1 of the B.C.Z.R. When requesting a special exception, the Petitioner must show that the proposed use will be conducted without real detriment to the neighborhood and will not adversely affect the public interest. The facts and circumstances must show that the proposed use at the particular location described by Petitioner's Exhibit 1 will have no adverse impact above and beyond that inherently associated with such a special exception use, irrespective of its location within the zone. *Schultz v. Pritts*, 432 A.2d 1319 (1981).

As Mr. Smith was not qualified to render an expert opinion regarding the suitability of the subject site to safely accommodate an airport, and in view of the fact that no other testimony or evidence was received which would support a finding granting the relief requested, the Petitioner has not met his burden of showing that the proposed use meets the prescribed standards and requirements set forth in Section 502.1 of the B.C.Z.R. As such, no testimony from the Protestants was taken. For the reasons set forth herein, the relief requested in the special hearing and special exception should be denied.

Pursuant to the advertisement, posting of the property, and public hearing on these Petitions held, and for the reasons given above, the Petitions for Special Hearing and Special Exception should be denied.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 3rd day of August, 1990 that the Petition for Special Hearing for a finding that the landing and taking off of a helicopter (on a private grass landing strip) as permitted under the special exception requirements for an airport in an R.C. 2 zone, and the Petition for Special Exception to approve the use of the subject property as an airport (private grass landing strip) to include the landing of a helicopter

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By *John G. Disney*

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Date 3/8/90
By *John G. Disney*

ter, as more particularly described in Petitioner's Exhibit 1, be and are hereby DENIED; and,

IT IS FURTHER ORDERED that Petitioner shall cease permitting the landing and taking-off of helicopters from the subject property known as 13035 Long Green Pike, as more particularly described in Petitioner's Exhibit 1.

AMN:djs

ANN M. NASTAKOWICZ
ANN M. NASTAKOWICZ
Deputy Zoning Commissioner
for Baltimore County

13107 Bottom Road
Hydes, MD 21082
July 12, 1989

Ms. Ann Nastarowicz
Deputy Zoning Commissioner
of Baltimore County
Office of Planning and Zoning
111 West Chesapeake Avenue
Room 109
Towson, MD 21204

Dear Ms. Nastarowicz:

Re: Case Number: 90-1-SPHX

I understand that a formal request has been filed to permit the landing and take-off of a helicopter from a residence at 13035 Long Green Pike. As a neighbor, I have been aware for some time now of this nuisance. I find this a real intrusion of privacy; not to mention the noise and safety factors. The helicopter has been spotted flying very low. Often a pattern of circling, up and down, take offs, landings, and hovering for an hour or more is not uncommon.

This area is protected against this type of distraction by certain zoning laws, and I personally would like to see them enforced.

Signed,

B. Lynn Clayton
B. Lynn Clayton

*Baltimore County Zoning Commissioner
J. Robert Haines, Zoning Commissioner
Office of Planning and Zoning
Towson, Maryland 21204*

Dear Mr. Haines:

*In regard to Case # 90-1-SPHX - the
Petition for Mr. Robert Smith to have a airport in his
backyard is totally unacceptable. Being the mother
of 5 children - having them fly over our home all the time
is very annoying and really a worry. Our property value
will drop - the noise is a bother - and flying low causes
a real interruption every morning on our family life.
I am totally against this airport behind our
home!*

*Thanks,
Carol S. McDonald*

5509 Williams Road
Hydes, Maryland 21082
July 3, 1989

Ms. Ann Nastarowicz
Deputy Zoning Commissioner
of Baltimore County
Office of Planning and Zoning
111 West Chesapeake Avenue
Room 109
Towson, Maryland 21204

Dear Ms. Nastarowicz:

I am writing to you about Case No. 90-1-SPHX. I am opposed to allowing an air field and helicopter pad being requested at this hearing. It certainly is not consistent with our rural manner of living. I am concerned about the safety of the surrounding homes and residents. I am also concerned about the safety of livestock in our nearby areas.

Thank you.

Sincerely,

Erma Wade
Erma Wade

5507 Williams Road
Hydes, Maryland 21082
July 3, 1989

Ms. Ann Nastarowicz
Deputy Zoning Commissioner
of Baltimore County
Office of Planning and Zoning
111 West Chesapeake Avenue
Room 109
Towson, Maryland 21204

Re: Case No 90-1-SPHX

Dear Ms. Nastarowicz:

Since we will be on vacation during the week of July 17th, we feel that it was imperative to write to you with regard to our objections regarding a private grass landing strip and a helicopter pad. We feel this is not consistent with rural preservation and would encourage future zoning exceptions, and, quite frankly, would be an additional noise nuisance.

Thank you for your consideration in this matter.

Very truly yours,

Jack Seipp
Jack Seipp
Mary Seipp
Mary Seipp

5505 Williams Road
Hydes, Maryland 21082
July 3, 1989

Ms. Ann Nastarowicz
Deputy Zoning Commissioner
of Baltimore County
Office of Planning and Zoning
111 West Chesapeake Avenue
Room 109
Towson, Maryland 21204

Dear Ms. Nastarowicz:

This letter is being written in reference to Case No. 90-1-SPHX. We oppose a private grass landing strip and helicopter pad that has been requested in a nearby area. We feel it is certainly not consistent with rural preservation and certainly would impose an additional noise nuisance. Above all, we are concerned about our safety and also that of our neighbors.

Thank you.

Sincerely,

Arthur Markert
Dorothy Markert

Dorothy Markert

David B. Clissold
6009 Church Lane
Hydes, MD 21082

July 12, 1989

To Whom It May Concern:

I am writing to express my concern over the proposed zoning variance regarding an airstrip, an underground fuel storage tank, and a helicopter landing pad on the property of Mr. Robert Smith. Since I live in one of the four houses closest to Mr. Smith's current helipad, I have a unique opportunity to observe his current flightpaths and conduct. Although I have not been keeping precise records of takeoffs and landings, I can attest that on numerous occasions Mr. Smith has shown a total lack of regard for current zoning laws, applicable FAA regulations, and for the rights of his neighbors. I have observed the helicopter, usually on landing approaches, well below 500 feet over nearby residences, including my own.

I am convinced that given the nearby alternative provided by Fallston Airport, Mr Smith's request is unnecessary and I urge you to deny it.

Respectfully,

David B. Clissold
David B. Clissold

*Baltimore County Zoning Commissioner
J. Robert Haines, Zoning Commissioner
Office of Planning and Zoning
Towson, MD 21204*

Case II: 90-1-SPHX

*As a homeowner for the past 12 years,
Mr. Joseph Haines and Vi Haines living
at 6035 Church Lane are greatly concerned
about the proposed private grass
landing strip. For the past year, we
have been annoyed by the constant
noise above our homes. There is also
a safety problem. We appeal this
petition.*

Sincerely,

Joseph + Vi Haines
392-7397

PAGE

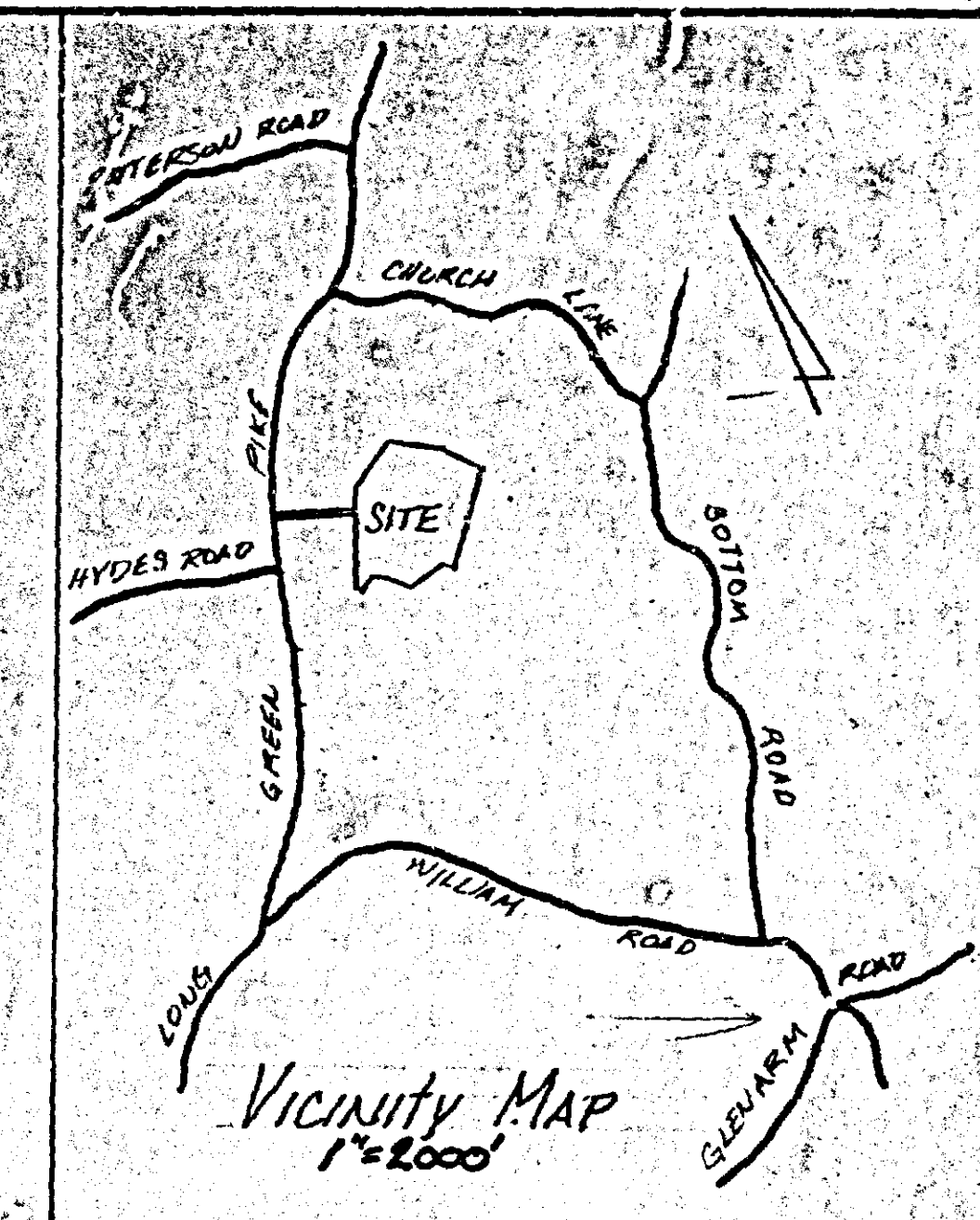
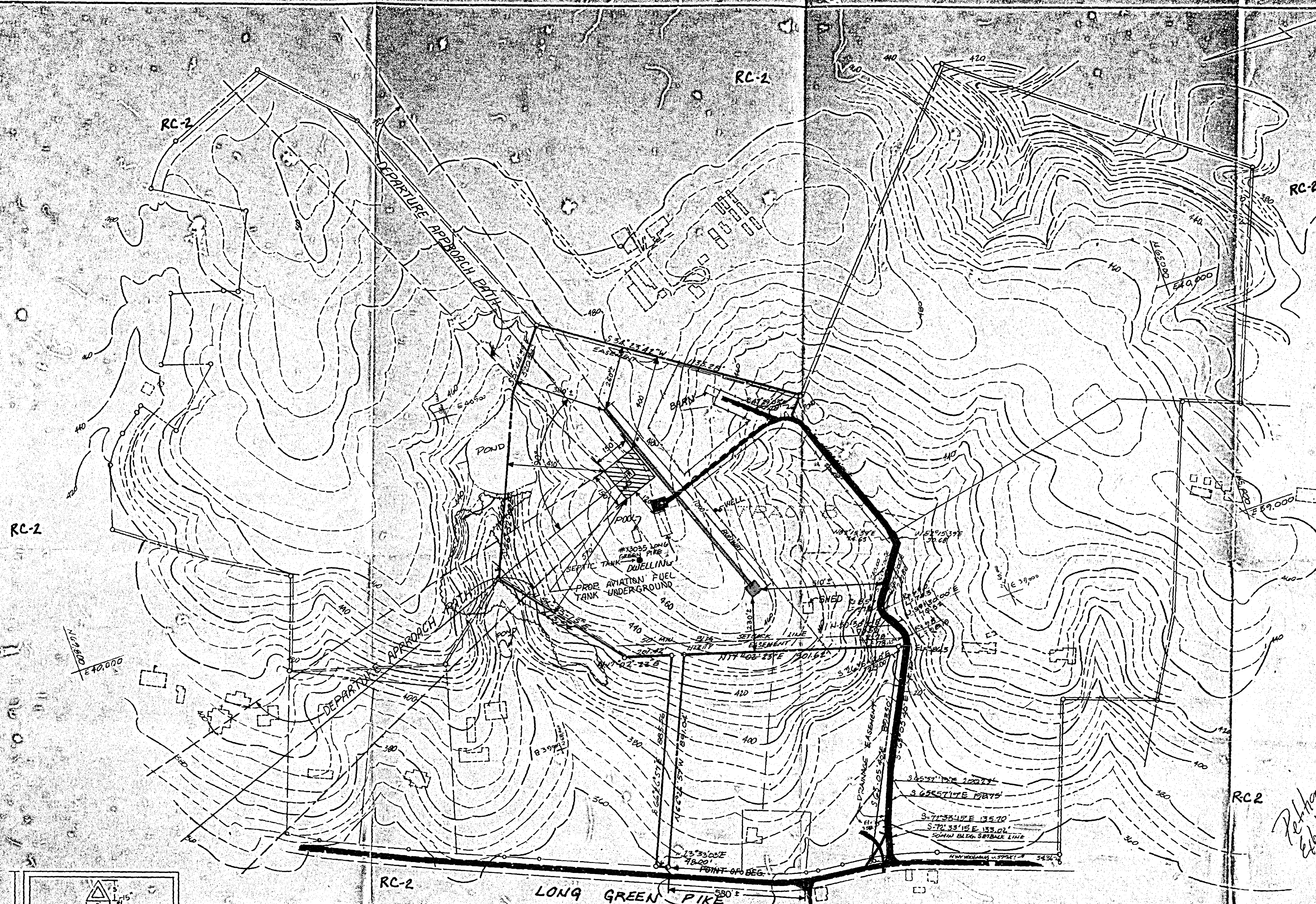
Re: Case # 90-1-SPHX

PREPARED BY: DATE

Ms. Ann Nastarowicz
Deputy Zoning Commissioner of Balto. Co.

*I oppose the proposition for an air
strip because I wonder why must
one person's convenience destroy the
peace of many others' lives? Let
the city remain an area where
people may take short-cuts
and make their lives simpler.
The country is to be reserved for
those who want to work a
little harder and a little longer
for a more peaceful life.*

Rocke Shaw
5315 Hydes Rd



- GENERAL NOTES:**
- (1) OWNER-Applicant: Robert J. Smith
2203 Maryland Avenue
Baltimore, Maryland 21218
Phone (301) 366-6769
 - (2) Deed Reference: 7609/069
 - (3) Tax Account No: 19-00-005-011
 - (4) Existing Zoning: RC-2
 - (5) Existing Use: Residential
 - (6) Well And Septic
 - (7) Subdivision: "Burton" Tract "B"
Plat Book E.H.K.J.R. 48
Folio 43
 - (8) Area: 40.148 Ac±

- LEGEND**
- HELIPAD 20' x 20'
 - GRASS RUNWAY
 - HELIPAD CLEARANCE ZONE

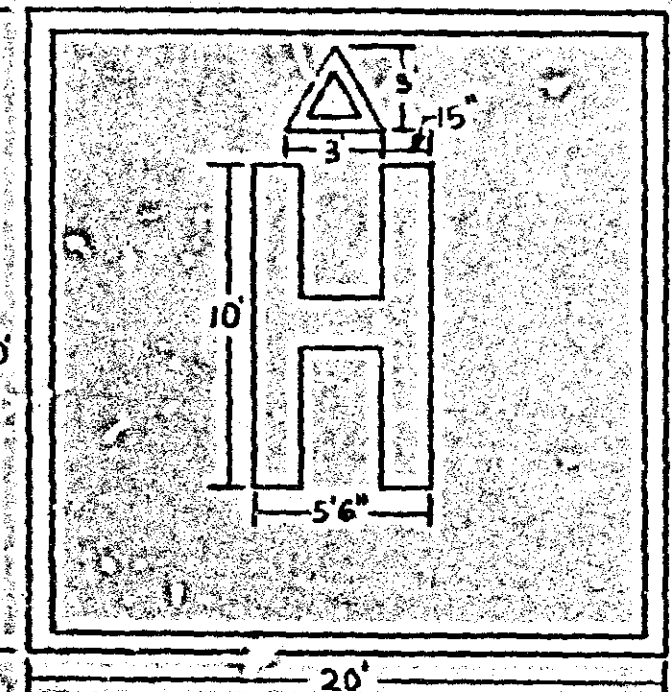
William N. Baftis, P.E.
201-381-2336
Baftis & Associates
Civil Engineers / Land Planners / Surveyors
1249 Englebert Rd. Baltimore, Md. 21221

PLAT TO ACCOMPANY PETITION
FOR
SPECIAL EXCEPTION HEARING 441
AND
SPECIAL HEARING
FOR
ROBERT J. SMITH PROPERTY
(13035 LONG GREEN PIKE)
ELECTION DISTRICT # 11 CONGRESSIONAL DISTRICT # 11

SCALE
1" = 200'
JOB ORDER NO.
89008
DATE
FEB-13-89
SHEET 1 OF 1
Wm. N. Baftis P.E.

ZONING NOTES

1. SPECIAL HEARING TO APPROVE THE INTERPRETATION THAT THE LANDING AND TAKEOFF OF A HELICOPTER IS ALLOWED UNDER THE SPECIAL EXCEPTIONS FOR AN AIRPORT (PRIVATE GRASS LANDING STRIP) IN A RC-2 ZONE.
2. PURSUANT TO SECTION 101.2.C. TO ALLOW AN AIRPORT (PRIVATE GRASS LANDING STRIP) WITHIN A RC-2 AGRICULTURAL ZONE.



HELICOPTER TOUCHDOWN PAD DETAIL

PETITION FOR SPECIAL HEARING TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situated in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 507 of the Baltimore County Zoning Regulations, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve the interpretation that the landing and taking off of a helicopter is allowed under the special exception for an airport (private grass landing strip) in an R22 zone.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of the above Special Hearing advertising, 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.

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

Contract Purchaser: Robert J. Smith
(Type or Print Name)
Signature
Address
City and State

Legal Owner(s): Robert J. Smith
(Type or Print Name)
Signature
Address
City and State

G. WARREN MIX
ATTORNEY-AT-LAW
TOWSON, MARYLAND 21204

Attorney's Telephone No.: 301-828-0700

ORDERED By The Zoning Commissioner of Baltimore County, this 26 day of April, 1989, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be held before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 18 day of July, 1989, at 2:30 o'clock P.M.

J. Robert Haines
Zoning Commissioner of Baltimore County

PETITION FOR SPECIAL EXCEPTION

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: 90-1-SPHX

The undersigned, legal owner(s) of the property situated in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Exception under the Zoning Law and Zoning Regulations of Baltimore County, to use the herein described property for an airport (private grass landing strip) including the landing of a helicopter.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Special Exception advertising, 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.

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

Contract Purchaser: Robert J. Smith
(Type or Print Name)
Signature
Address
City and State

Legal Owner(s): Robert J. Smith
(Type or Print Name)
Signature
Address
City and State

Attorney for Petitioner: J. Robert Haines
(Type or Print Name)
Signature
Address
City and State

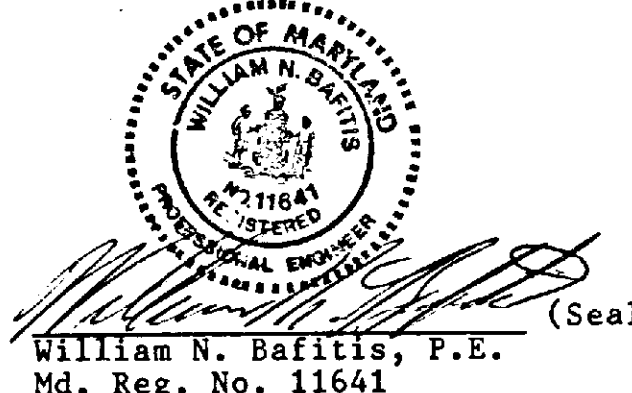
ORDERED By The Zoning Commissioner of Baltimore County, this 26 day of April, 1989, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be held before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 18 day of July, 1989, at 2:30 o'clock P.M.

J. Robert Haines
Zoning Commissioner of Baltimore County



Zoning Description for Robert J. Smith's Property

Beginning on the east side of Long Green Pike, at the distance of 580 feet, more or less, north of the centerline of Hydes Road. Being tract "B", in the subdivision of "Burton" Tracts A, B, C, and D. Plat recorded among the Land Records of Baltimore County in Plat Book E.H.K., Jr. No. 48, Folio 43. Also known as 13035 Long Green Pike in the 11th Election District.



William N. Baftis, P.E.
Md. Reg. No. 11641

Civil Engineers / Land Planners / Surveyors — 1249 Engleberth Road / Baltimore, Maryland 21221 / 301-391-2336

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3333

Mr. Robert J. Smith
13035 Long Green Pike
Baltimore, Maryland 21082

Re: Petitions for Special Hearing and Special Exception
CASE NUMBER: 90-1-SPHX
ES Long Green Pike, 580' N of c/l of Hydes Road
13035 Long Green Pike
11th Election District - 6th Councilmanic
Petitioner(s): Robert J. Smith
HEARING SCHEDULED: TUESDAY, JULY 18, 1989 at 9:30 a.m.

Dear Petitioner(s):

Please be advised that \$132.35 is due for advertising and posting of the above referenced property.

THIS FEE MUST BE PAID AND THE ZONING SIGN AND POST SET(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT BE ISSUED. DO NOT REMOVE THE SIGN AND POST SET(S) FROM THE PROPERTY UNTIL THE DATE OF THE HEARING.

Please make your check payable to Baltimore County, Maryland. Bring the check and the sign and post set(s) to the County Office Building, Room 113, Towson, Maryland.

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT
No. 068833
DATE 7/21/89 ACCOUNT 201-615-000
AMOUNT \$ 132.35
RECEIVED FROM Robert J. Smith
FOR Policy Order 90-1-SPHX
B 8 068833 132.35 a 021-F
VALIDATION OR SIGNATURE OF CASHIER

RE: PETITION FOR SPECIAL EXCEPTION : BEFORE THE ZONING COMMISSIONER
PETITION FOR SPECIAL HEARING : OF BALTIMORE COUNTY
E/S Long Green Pike, 580' N of :
C/L Hydes Rd. (13035 Long Green :
Pike), 11th Election District; :
6th Councilmanic District :
ROBERT J. SMITH, Petitioner : Case No. 90-1-SPHX

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 Building
Towson, Maryland 21204
887-2188

I HEREBY CERTIFY that on this 30th day of June, 1989, a copy of the foregoing Entry of Appearance was mailed to Robert J. Smith, 13035 Long Green Pike, Baltimore, MD 21082, Petitioner.

Peter Max Zimmerman
Peter Max Zimmerman

CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY Towson, Maryland

District: 11TH Date of Posting: 6/30/89
Posted for: Robert J. Smith
Petitioner: Robert J. Smith
Location of property: E/S Long Green Pike, 580' N of Hydes Rd.
13035 Long Green Pike
Location of Sign: E/S Long Green Pike, 580' N of Hydes Rd.
13035 Long Green Pike
Remarks: Robert J. Smith
Posted by: Robert J. Smith Date of return: 7/7/89
Number of Signs: 2

CERTIFICATE OF PUBLICATION

TOWSON, MD., June 23, 1989
THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on June 22, 1989.

NORTHEAST TIMES
THE JEFFERSONIAN,

S. Zeke Orlean
Publisher

PO 13592
NY 130967
CA 90-1-SPHX
PUCS 82.35

County Board of Appeals of Baltimore County
COUNTY OFFICE BUILDING
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 887-3333 887-3180
October 9, 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. 90-1-SPHX ROBERT J. SMITH, E/S Long Green Pike, 580' N of the c/l of Hydes Rd. (13035 Long Green Pike) 11th Election District; 6th Councilmanic District
SPH - to find that landing & takeoff of a helicopter is allowed under the special exception for an airport
SE - an airport
8/3/89 - D.Z.C.'s Order DENYING Petitions
ASSIGNED FOR: WEDNESDAY, MARCH 28, 1990 at 10:00 a.m.

cc: Mr. and Mrs. Robert Smith Appellants/Petitioners
G. Warren Mix, Esquire Counsel for Appellants/Petitioners
Joseph J. Riedbauer
Calvin Carr & Betty Carr Grant
Lawrence Dulin
Michael DiRuggiero
Abraham & Nicole Kline
Howard J. Kline
Larry Carson
Richard W. Daw, Sr.
Michael Millemann
Phillip Klein
William Anderson
Melvin McDonald
Thomas Engelke
Martin Wirtz
Nancy L. Boyce
Ed Igenfritz
Denise Shapiro
Robert Gehrl
Dr. Walter Hepper
Nancy Hastings
Katherine Tyler
R. Bayly Buck
Richard Shapiro
Daniel Denias
Elizabeth Hartline
Elizabeth Lambert
Mr. and Mrs. Richard Hyman
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
Linda Lee M. Kusmaul
Legal Secretary

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
494-3333

J. Robert Haines
Zoning Commissioner

June 7, 1989

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows:

Petitions for Special Hearing and Special Exception
CASE NUMBER: 90-1-SPHX
ES Long Green Pike, 580' N of c/l of Hydes Road
13035 Long Green Pike
11th Election District - 6th Councilmanic
Petitioner(s): Robert J. Smith
HEARING SCHEDULED: TUESDAY, JULY 18, 1989 at 9:30 a.m.

Special Exceptions for an airport (private grass landing strip), including the landing of a helicopter. Special Hearing to approve the interpretation that the landing and taking landing strip).

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.

J. ROBERT HAINES
Zoning Commissioner of Baltimore County

cc: Robert J. Smith
William Anderson
Phil Klein
Walter Hepper
Melvin McDonald
File

CERTIFICATE OF POSTING
EDWARDS DEPARTMENT OF BALTIMORE COUNTY
 Towson, Maryland

District: 11th
 Posted for: Robert J. Smith
 Location of property: 13035 Long Green Pike, 11th Election District
 Location of Sign: 13035 Long Green Pike, 11th Election District
 Remarks: Added of letter to sign
 Posted by: William R. Anderson
 Number of Signs: 1

COPY

October 13, 1988

Mr. Gary Freund, Inspector
 Baltimore County Zoning Commissioner
 Office of Planning and Zoning
 111 W. Chesapeake Avenue
 Towson, Maryland 21204

Re: Case No. C-89-497
 13035 Long Green Pike
 11th Election District

Dear Mr. Freund:

Thank you for your letter of September 30, 1988 (copy attached). Listed below are the take-offs and landings that I personally observed at that address subsequent to the date of your letter.

Date	Approximate Time	Action
10/2	2:15 PM	Landed
10/2	2:45 PM	took-off
10/2	5:15 PM	Landed
10/2	5:45 PM	took-off
10/2	2:25 PM	Landed
10/8	2:55 PM	took-off
10/8	3:00 PM	took-off
10/9	4:00 PM	Landed
10/9	4:27 PM	took-off
10/9	5:46 PM	Landed
10/9	5:49 PM	took-off

Very truly yours,

William R. Anderson
 William R. Anderson
 c/o 105 W. Chesapeake Avenue
 Baltimore, Maryland 21204

cc: Mr. James Thompson, Zoning Coordinator
 Mr. J. Robert Haines, Zoning Commissioner

Mr. Gary Freund, Inspector
 Baltimore County Zoning Commission

I am respectfully requesting that the complaints listed in my letters of October 13 and 24, 1988 and those listed in this letter be combined. I am also requesting a written response to this letter as I intend to pursue further the violation after cessation has been demanded by the Office of Planning and Zoning.

Very truly yours,

William R. Anderson
 William R. Anderson
 c/o 105 W. Chesapeake Avenue
 Baltimore, Maryland 21204

cc: Mr. James Thompson

June 22, 1989

Timothy Kotroco, Esquire
 Office of Law
 2nd Floor
 Old Court House
 400 Washington Avenue
 Towson, Maryland 21204

Re: Case 89-118
 13035 Long Green Pike
 11th Election District

Dear Mr. Kotroco:

In a recent telephone conversation, I expressed to you my concern that zoning laws could be violated after a cease order had been issued because no additional penalties would be imposed. I advised you that I had written to the zoning commission expressing my concerns and requested consolidation of my complaints. A response that I received did not address the issue of consolidating the complaints.

At your request, I have enclosed copies of correspondence I previously submitted and data obtained from the three other listed complainants listed in the case. The letter from Mr. McDonald has not been submitted directly to Mr. Freund.

In addition, I have observed the following violations not previously submitted.

Date	Approximate Time	Action
1989		
4/19	6:20 P.M.	took-off
4/19	6:45 P.M.	Landed
4/19	7:10 P.M.	took-off
6/3	9:00 A.M.	Landed
6/3	9:20 A.M.	took-off
6/3	10:10 A.M.	Landed
6/3	10:20 A.M.	took-off
6/11	6:25 P.M.	Landed
6/11	6:25 P.M.	took-off
6/18	4:30 P.M.	Landed
6/18	5:10 P.M.	took-off
6/18	5:20 P.M.	Landed
6/18	5:25 P.M.	took-off

Timothy Kotroco, Esquire

June 22, 1989

On June 11th, and at least one other occasion, there was another helicopter on the property although I did not see it take-off or land. As a result of our conversation, you agreed to consider filing an amended complaint listing all of the violations and to seek a court injunction to prohibit use of the property for the helicopter until the outcome of any appeal from the hearing scheduled for July 18th.

Very truly yours,

William R. Anderson
 William R. Anderson
 Kathryn M. Anderson
 105 W. Chesapeake Avenue
 Baltimore, Maryland 21204

July 5, 1989

Federal Aviation Agency
 A.E.A.-F.S.D.O.-07
 P.O. Box 8747
 BWI Airport, Maryland 21240

Attention: Mr. Don Clay

Dear Mr. Clay:

I am registering a complaint against helicopter N16742. This helicopter flew dangerously low over my property at 5:05 P.M. on July 1, 1989 and at 5:50 P.M. on June 24, 1989. There have been a number of previous instances of low flying over my property by the same craft. On one occasion the copter turned from the direction it had been flying and flew at a low level directly over me when I was horseback riding on my property. I made a telephone complaint on one occasion but never received a reply.

I would greatly appreciate this situation being investigated. Please let me hear from you regarding my concern.

Very truly yours,

William R. Anderson
 William R. Anderson
 c/o 105 W. Chesapeake Avenue
 Baltimore, Maryland 21204
 Phone No. (301) 494-8855

The documents filed indicate that the tax account no. is 19-00-005-071. I believe this account indicates that the property is being assessed agriculture (Class 05) even though no significant amount of farming has taken place since January, 1986, a possible violation of assessment regulations. Again, an inconsistency with the commercial aircraft usage for an entity not involved in farming.

The plans submitted for the exception indicate that an underground aviation fuel tank is proposed. According to the drawings, the tank is just over 400 hundred feet from a pond that is partly on my property and is used to provide water for livestock. There have been instances of underground fuel tanks polluting entire neighborhoods. I have attached copies of articles appearing in local newspapers regarding such pollution in Baltimore County. I believe the fuel tank presents a real and imminent danger to my livestock.

A portion of the previously mentioned pond is on the property of the applicant and both tame and wild duck, geese and other waterfowl utilize the pond. Unfortunately, that also attracts hunters even though my property is posted. I am concerned that the repeated low flying of the craft may cause someone to become irate enough to fire at the craft as has happened in Cecil County (copy of article attached). I am also concerned that the propellers of the plane will strike one of the birds causing the craft to crash.

Lastly, I am concerned that both approach and departure routes cross my property which adjoins 13035 Long Green Pike.

Very truly yours,

William R. Anderson
 c/o 105 W. Chesapeake Ave
 Towson Md 21204

July 7, 1989

Ms. Ann Nastrowicz
 Deputy Zoning Commissioner
 of Baltimore County
 Office of Planning and Zoning
 111 West Chesapeake Avenue
 Room 109
 Towson, Maryland 21204

Re: Case No. 89-1 SRH

Dear Ms. Nastrowicz:

I am writing you to express my concerns regarding the hearing scheduled on July 18, 1989, requesting a special exception for an airport (private grass landing strip) including the landing of a helicopter. I am deeply concerned that the granting of such an exception is not in the best interests of the residents and taxpayers of the community for the reasons contained in the following paragraphs.

I believe that the safety of the residents, their homes and livestock is at stake since the helicopter in question frequently flies at very low altitudes over adjoining properties. I have personally complained to the F.A.A. regarding that matter (copy of correspondence attached). I have personally experienced a very docile horse being frightened, rearing in the air, landing on my foot and running away frightened when the copter took off nearby. I also consider the flying of the craft over my property as an invasion of airspace and my privacy rights.

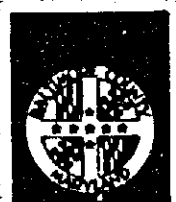
The noise of the copter is a significant and repetitive nuisance prohibiting the quiet, peaceful enjoyment of adjoining properties. Letters from various people to the zoning commissioner listing a portion of the take-offs and actual landings observed (as opposed to those heard) is attached.

The granting of a special exception may and probably will encourage the filing of additional requests for exceptions since more than one helicopter has been seen on the property on several occasions.

According to the documents filed with the zoning commission, the fee was paid by NPS Inc. NPS Inc. is presumed to be a corporate entity and may be the owner of the craft involved. If the owner of the helicopter is a corporation, it is presumed that the craft is used for commercial purposes which is inconsistent with preservation of the rural aspect of an area zoned RC-2.

Baltimore County
Zoning Commission
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3353
J. Robert Haines
Zoning Commissioner

September 12, 1989



Dennis F. Rasmussen
County Executive

Baltimore County Board of Appeals
County Office Building, Room 315
Towson, Maryland 21204

Re: Petition for Special Hearing and Special Exception
E/S Long Green Pike, 580' N of the c/l of Hydes Road
(13035 Long Green Pike)
11th Election District, 6th Councilmanic District
ROBERT J. SMITH - Petitioner
Case No. 90-1-SPHX

Dear Board:

Please be advised that an appeal of the above-referenced case was
filed in this office on August 25, 1989, by W. Warren Mix. All
materials relative to the case are being forwarded herewith.

Please notify all parties to the case of the date and time of the
appeal hearing when it has been scheduled. If you have any questions
concerning this matter, please do not hesitate to contact this office.

Very truly yours,

J. Robert Haines

J. ROBERT HAINES
Zoning Commissioner

JRH:cer

Enclosures

cc: Robert & Barbara Smith, 13035 Long Green Pike, Baltimore, MD 21082

G. Warren Mix, Turnbull, Mix & Farmer
706 Washington Avenue, Towson, Maryland 21204

Joseph J. Riedlbauer, 9804 Magleth Road, Baltimore, MD 21234

Calvin Carr & Betty Carr Grant
12835 Long Green Pike, Hydes, MD 21082

Lawrence Dulin, 514 Chesapeake Avenue, Stevensville, MD 21606

Appeal Cover Letter - Case No. 90-1-SPHX
Robert J. Smith - Petitioner
September 12, 1989
Page 2

Michael DiRuggerio, 1634 Shakespeare Street, Balto., MD 21231

Abraham & Nicole Kline, 13001 Long Green Pike, Hydes, MD 21082

Howard J. Kline, 12929 Long Green Pike, Hydes, MD 21082

Larry Carson, P.O. Box 1377, Balto., MD 21278-0001

Richard W. Daw, Sr., House of Delegates
House Office Building, Annapolis, MD 21401

Michael Millemann, 13009 Bottom Road, Hydes, MD 21082

Phillip Klein, 6019 Church Lane, Hydes, MD 21082

William Anderson, 7714 Oakleigh Road, Balto., MD 21234

Melvin McDonald, 6011 Church Lane, Hydes, MD 21082

Thomas Engelke, 5710 Williams Road, Hydes, MD 21082

Martin Wirtz, 13031 Bottom Road, Hydes, MD 21082

Nancy L. Boyce, 5912 Glen Arm Road, Hydes, MD 21082

Ed Ilgenfritz, 13015 Bottom Road, Hydes, MD 21082

Denise Shapiro, 5300 Hydes Road, Hydes, MD 21082

Robert Oehrli, 13818 Baldwin Mill Road, Baldwin, MD 21013

Dr. Walter Hegner, 5905 Church Lane, Hydes, MD 21082

Nancy Hastings, 7714 Buck Hill Road, Kingsville, MD 21087

Katherine Tyler, 12601 Long Green Pike, Hydes, MD 21082

R. Bayly Buck, 12722 Long Green Pike, Hydes, MD 21082

Richard Shapiro, 309 Cathedral Street, Balto., MD 21201

Daniel Denham, 5626 Williams Road, Hydes, MD 21082

Elizabeth Hartline, 5430 Patterson Road, Hydes, MD 21082

Elizabeth Lambert, 13010 Bottom Road, Hydes, MD 21082

People's Counsel, Rm. 304, County Office Bldg., Towson, Md. 21204

File

IN RE: PETITIONS FOR SPECIAL HEARING
AND SPECIAL EXCEPTION - E/S
Long Green Pike, 580' N of the
c/l of Hydes Road
(13035 Long Green Pike)
11th Election District
6th Councilmanic District
Robert J. Smith
Petitioner

ORDER OF APPEAL

DEAR MR. CLERK:

Please enter an Appeal from the decision of the
Deputy Zoning Commissioner dated August 3, 1989 to the County
Board of Appeals on behalf of Robert J. Smith, Petitioner.

G. WARREN MIX
TURNBULL, MIX & FARMER
706 Washington Avenue
Towson, Maryland 21204
(301) 825-1517
Attorney for Petitioner

CERTIFICATION OF MAILING

I HEREBY CERTIFY that on this day of August, 1989,
a copy of the foregoing was mailed to the Office of Peoples
Counsel for Baltimore County, Court House, Towson, Maryland
21204; and, Michael Millemann, Esquire, 13009 Bottom Road,
Hydes, Maryland 21082; Attorney for Protestants.

G. WARREN MIX
TURNBULL, MIX & FARMER

April 17, 1989

Mr. Gary Freund, Inspector
Baltimore County Zoning Commission
Office of Planning and Zoning
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Case No. C89-497
13035 Long Green Pike
11th Election District

Dear Mr. Freund:

I wrote to you on October 13 and 24, 1988 (copies attached) regarding
take-offs and landings that I personally observed at the above address.

In a telephone conversation I was advised that fines would be imposed
only for the dates indicated in the citation because of policies of the Office
of Planning and Zoning. As a result, zoning rules are continuing to be violated
because no impediment to breaking the rules exists.

Listed below are additional violations that I personally observed.

Date	Approximate Time	
3/10/89	6:05 P.M.	Landed
3/12/89	11:00 A.M.	Landed
3/12/89	11:05 A.M.	Took-off
3/12/89	1:55 P.M.	Landed
3/12/89	2:00 P.M.	Took-off
4/ 9/89	1:47 P.M.	Landed
4/ 9/89	1:50 P.M.	Took-off
4/ 9/89	1:50 P.M.	Landed
4/ 9/89	3:40 P.M.	Took-off
4/10/89	6:40 P.M.	Landed
4/10/89	7:05 P.M.	Took-off
4/16/89	2:30 P.M.	Landed
4/16/89	2:40 P.M.	Took-off
4/16/89	3:00 P.M.	Landed
4/16/89	3:10 P.M.	Took-off
4/16/89	5:45 P.M.	Landed
4/16/89	5:55 P.M.	Took-off

COPY

October 24, 1988

Mr. Gary Freund, Inspector
Baltimore County Zoning Commission
Office of Planning and Zoning
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Case No. C-89-497
13035 Long Green Pike
11th Election District

Dear Mr. Freund:

Listed below are the take-offs and landings that I personally
observed at the above address subsequent to my letter dated October 13, 1988.

Date	Approximate Time	
10/15	2:20 PM	Landed
10/15	2:35 PM	took-off
10/21	6:00 PM	took-off
10/21	6:05 PM	Landed
10/21	1:55 PM	took-off
10/23	2:05 PM	Landed
10/23	2:50 PM	practiced hovering, turns, ups and down
10/23	2:50 to 3:05 PM	took-off
10/23	3:05 PM	Landed
10/23	3:50 PM	took-off
10/23	4:40 PM	

Very truly yours,

William R. Anderson
c/o 105 W. Chesapeake Avenue
Baltimore, Maryland 21204

cc: Mr. James Thompson, Zoning Coordinator

June 14, 1989

Mr. Gary Freund, Inspector
Baltimore County Zoning Commission
Office of Planning and Zoning
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Case No. C89-497
13035 Long Green Pike
11th Election District

Dear Mr. Freund:

Attached is a list of dates and times that I have personally observed
landing and take off at the address listed above. I would like these items to be
added to those listed in the complaint that was filed last October.

Very truly yours,

Melvin L. McDonald
6011 Church Lane
Hydes, Maryland 21082

CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY Towson, Maryland

District: 11th
Posted for: Robert J. Smith
Petitioner: Robert J. Smith
Location of property: 13035 Long Green Pike
Location of Sign:
Remarks: Reported - Sign Now
Posted by: [Signature]
Number of Signs: 1

September 13, 1989
Page 2

Melvin McDonald, 6011 Church Lane, Hydes, MD 21082
Thomas Engelke, 5710 Williams Road, Hydes, MD 21082
Martin Wirtz, 13031 Bottom Road, Hydes, MD 21082
Nancy L. Boyce, 5912 Glen Arm Road, Hydes, MD 21082
Ed Ilgenfritz, 13015 Bottom Road, Hydes, MD 21082
Denise Shapiro, 5300 Hydes Road, Hydes, MD 21082
Robert Oehrli, 13818 Baldwin Mill Road, Baldwin, MD 21013
Dr. Walter Hegner, 5905 Church Lane, Hydes, MD 21082
Nancy Hastings, 7714 Buck Hill Road, Kingsville, MD 21087
Katherine Tyler, 12601 Long Green Pike, Hydes, MD 21082
R. Bayly Buck, 12722 Long Green Pike, Hydes, MD 21082
Richard Shapiro, 309 Cathedral Street, Balto., MD 21201
Daniel Denham, 5626 Williams Road, Hydes, MD 21082
Elizabeth Hartline, 5430 Patterson Road, Hydes, MD 21082
Elizabeth Lambert, 13010 Bottom Road, Hydes, MD 21082
The People's Counsel of Baltimore County
Rm. 304, County Office Bldg., Towson, Md. 21204

Request Notification: P. David Fields, Director of Planning & Zoning
Patrick Keller, Office of Planning & Zoning
J. Robert Haines, Zoning Commissioner
Ann M. Nastarowicz, Deputy Zoning Commissioner
James E. Dyer, Zoning Supervisor
W. Carl Richards, Zoning Coordinator
Pocket Clerk
Arnold Jablon, County Attorney

APPEAL

Petition for Special Hearing and Special Exception
E/S Long Green Pike, 580' N of the c/l of Hydes Road
(13035 Long Green Pike)
11th Election District - 6th Councilmanic District
ROBERT J. SMITH - Petitioner
Case No. 90-1-SPHX

Petitions for Special Hearing and Special Exception ✓

Description of Property ✓

Certificate of Posting ✓

Certificate of Publication ✓

Entry of Appearance of People's Counsel ✓

Zoning Plans Advisory Committee Comments ✓

Director of Planning & Zoning Comments ✓

Petitioner's Exhibits: 1. Plat to accompany Petition ✓

2. & 3. - 8 x 10 photographs of location ✓

Deputy Zoning Commissioner's Order dated August 3, 1989 (Denied) ✓

Notice of Appeal received August 25, 1989 from G. Warren Mix, Attorney ✓
for Petitioner.

cc: Robert & Barbara Smith, 13035 Long Green Pike, Baltimore, MD 21082

G. Warren Mix, Turnbull, Mix & Farmer
706 Washington Avenue, Towson, Maryland 21204

Joseph J. Riedlbauer, 9804 Magleth Road, Baltimore, MD 21234

Calvin Carr & Betty Carr Grant
12835 Long Green Pike, Hydes, MD 21082

Lawrence Dulin, 514 Chesapeake Avenue, Stevensville, MD 21606

Michael DiRuggerio, 1634 Shakespeare Street, Balto., MD 21231

Abraham & Nicole Kline, 13001 Long Green Pike, Hydes, MD 21082

Howard J. Kline, 12929 Long Green Pike, Hydes, MD 21082

Larry Carson, P.O. Box 1377, Balto., MD 21278-0001

Richard W. Daw, Sr., House of Delegates
House Office Building, Annapolis, MD 21401

Michael Millemann, 13009 Bottom Road, Hydes, MD 21082

Phillip Klein, 6019 Church Lane, Hydes, MD 21082

William Anderson, 7714 Oakleigh Road, Balto., MD 21234