VENABLE® LLP

210 W. PENNSYLVANIA AVENUE SUITE 500 TOWSON, MD 21204
T 410.494.6200 F 410.821.0147 www.Venable.com

Christopher D. Mudd

T 410.494.6365
F 410.821.0147
cdmudd@venable.com

April 2, 2018

W. Carl Richards, Supervisor
Zoning Review Office
Department of Permits, Approvals
and Inspections
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

Re: **Request for Zoning Verification** for Golden Ring Yacht Basin, Inc.
Location: 114 Carroll Island Road
Tax Map No. 91, Grid 09, Parcel 343
6th Councilmanic District, 15th Election District

Dear Mr. Richards:

This firm represents Golden Ring Yacht Basin, Inc. ("GRYB"), the property owner of 114 Carroll Island Road, located southwest of the intersection of Carroll Island Road and Bowley's Quarters Road, and north of Edwards Lane, in the Middle River area of Baltimore County ("the Property"). The Property is bounded to the west by Limehouse Cove, which feeds into Frog Mortar Creek. The Property is 12.633± acres and is currently improved with a boatyard and marina operation commonly known as the Chesapeake Yachting Center.

On behalf of our client, I am requesting verification from your office regarding the zoning of the Property and other related items.

I. Zoning

To identify the Property, I have attached an aerial photograph/zoning map and printouts from the Maryland State Department of Assessments and Taxation website. As indicated on the aerial zoning map, the Property appears to be zoned B.M.B. (Business Maritime Boatyard), with small slivers of D.R. 3.5 (Density Residential) and B.L. (Business, Local) on the eastern and northern portions of the Property, respectively. I would appreciate your confirming, by countersignature below, that the Property is so zoned.

II. Development History

In September of 1986, GRYB filed a Petition for a Special Hearing, or in the alternative, a Petition for Special Exception and Variance for a boatyard/marina use and related relief (Case No. 1986-292-SPHXA) (the "1986 Case"). At the time, the Property was zoned D.R. 5.5 (Density Residential), and the B.M.B. zone did not exist.

Following a public hearing, on December 15, 1986, the Zoning Commissioner denied GRYB's Petition for Special Hearing requesting that the boat yard and its parking area be considered a "community building," and granted its Petition for Special Exception for "a boat yard with caretakers' living quarters and a double-faced, 80 square feet each side, outdoor advertising sign." The Zoning Commissioner also granted the Petition for Variance to permit "a single-faced sign containing 80 square feet in lieu of the required 40 feet," and granted GRYB's Petition for Special Hearing to allow the existing dwelling and access road to be located within a buffer area, subject to certain restrictions that are immaterial to this letter. A copy of the Findings of Fact and Conclusions of Law from the 1986 Case is enclosed for your reference.

In 1989, GRYB sought to amend the special exception and site plan approved in the 1986 Case to provide for the installation of a dry boat rack system on the Property. On November 8, 1989, the Zoning Commissioner issued a letter approving the amended site plan, which included the installation of a four-level boat rack system and reconfiguration of the Property. A copy of that November 8, 1989 letter and approved site plan is attached for your reference.

Following construction, neighbors complained about the boat rack and ultimately filed a petition for Special Hearing requesting "disapproval of the relief granted by [the Zoning Commissioner] dated November 8, 1989, which permitted the construction of boat racks on the subject property." See Case No. 1992-0171-SPH (the "1992 Case"), July 22, 1993 Opinion and Order, p. 12. Copies of the Board of Appeals Opinions and Orders from the 1992 Case are enclosed for your reference. On July 22, 1993, the Board of Appeals denied the neighbors request for disapproval of the relief granted vis-à-vis the four-level boat racks.

The neighbors appealed the Board's July 22, 1993 decision to Circuit Court. See Case No. 1992-0171-SPH, April 30, 1997 Opinion and Order, p. 1-2. At that time, the issues of (1) whether GRYB was entitled to a certain percentage of ground storage on the Property and (2) whether a related amended site plan should be approved became the focal points of the case. *Id.* Those issues had nothing to do with whether GRYB was entitled to the four-

level out-of-water storage facility, which had been constructed in connection with the Zoning Commissioner's November 8, 1989 letter. Thus, any challenge to the four-rack out-of-water boat storage facility was waived; the Zoning Commissioner's November 8, 1989 decision was final. Furthermore, **both the Circuit Court and the Court of Special Appeals affirmed the Board of Appeals' decision on all remaining issues raised by the neighbors in Case No. 1992-0171-SPH**. *Id.* Accordingly, it was unquestionably clear that GRYB was permitted to construct a four-level boat rack system in accordance with the Zoning Commissioner's November 22, 1989 approval letter.

III. The B.M.B. Zone and Current Use of the Property

In 1992, the County Council enacted legislation establishing three Business Maritime Zones for the purpose of efficiently regulating the use of land areas adjacent to the County's navigable waterways. One of these maritime zones was the B.M.B. zone.

The B.M.B. zone was established to include uses which are more intense than the B.M.M. zone (Business Maritime Marina). For that reason, the B.M.B. zone allows for all uses permitted by right in the B.M.M. zone in addition to other uses such as a boatyard, a research institute for marine-related purposes, and a machine shop for repair of engines or marina equipment. See B.C.Z.R. § 221.1. In 1992, the Property became zoned B.M.B, and it continues to be zoned as such today.

Section 502.9 to the B.C.Z.R., entitled "Validity of special exceptions previously granted," provides that:

> [n]either Bill No. 149-1992 nor Bill No. 179-1995 affects the validity of any order granting a special exception for a marina or boatyard which occurred prior to the effective date of the bill. Any such special exception may be used in accordance with the applicable provisions of the Baltimore County Zoning Regulations in effect at the time of the grant of such special exception and in accordance with the terms thereof, provided that construction is started prior to the expiration date of the special exception as required by Section 502.3.
>
> ...
>
> Notwithstanding any provisions of these regulations to the contrary, and in addition to the provisions contained in Subsection A above, the uses, conditions and requirements set forth in Bill No. 149-1992 may be utilized

> at the discretion of the owner of the property on which the marine or boatyard is located, and no hearing shall thereby be required to amend the prior special exception where the proposed change is permitted as a matter of right by Bill No. 149-1992.

In short, this section enables a property owner to operate an approved use in accordance with the law in existence at the time a special exception was granted, **or** in accordance with the current law.

As mentioned above, a boatyard/marina facility known as the Chesapeake Yachting Center operates on the Property today. Enclosed with this letter is a copy of a site plan which, consistent with the provisions of Section 502.9 of the B.C.Z.R., demonstrates that the existing boatyard/marina facility is in compliance with all current applicable provisions of the B.C.Z.R. As part of its operations and as described above, the Chesapeake Yachting Center includes a four-level out-of-water storage facility, which was constructed following the 1989 administrative approval by the Zoning Commissioner for a four-level boat rack system, among other items.

B.C.Z.R. § 417.7.C, which governs the height of boat racks, provides that "notwithstanding the provisions of these regulations, a four-boat-high out-of-water storage facility is permitted by special exception within a building existing before the effective date of Bill No. 149-1992." Here, the existing four-level out-of-water storage facility was approved in conjunction with an approved special exception by the Zoning Commissioner in 1989, constructed soon thereafter, and reaffirmed by way of the 1992 Case. Therefore, because the four-level boat rack system existed before the effective date of Bill No. 149-1992, it remains a lawful use pursuant to B.C.Z.R. § 417.7.C.

As such, please confirm the following by countersignature below: (1) that the existing four-level out-of-storage facility is permissible pursuant to B.C.Z.R. § 417.7.C by virtue of its prior approval and existence before the effective date of Bill No. 149-1992; and (2) that the current configuration and existing use of the Property, as shown and described on the enclosed site plan, complies with all applicable regulations of the B.C.Z.R.

IV. **No Violations**

Lastly, please confirm, by countersignature below, that there are no outstanding violations of any zoning, subdivision, building, or similar ordinances or regulations applicable to the Property, or any enforcement proceedings against the Property that are pending. ~~or contemplated.~~

UCR

As we are requesting an expedited response, I have enclosed with this letter a check in the amount of $150.00 made payable to "Baltimore County, Maryland" to cover the administrative costs associated with this expedited review.

If you have any questions or require any additional information to complete your review, please feel free to contact me. I appreciate your time and attention to this matter.

Very truly yours,

Christopher D. Mudd/ANT

Christopher D. Mudd

CDM:ant
Enclosures

REVIEWED AND APPROVED

4/11/18

W. Carl Richards, Supervisor
Zoning Review Office
for Baltimore County

LEGEND

- LIGHT POLE
- UTILITY POLE
- FIRE HYDRANT
- WATER METER
- STORM DRAIN MANHOLE
- STORM DRAIN INLET
- FENCE LINE
- SANITARY MANHOLE
- SEWER CLEANOUT
- GAS VALVES
- TRANSFORMER
- ELECTRIC RISER
- TELEPHONE RISER
- WATER VALVE

PROPERTY DESCRIPTION
CHESAPEAKE YACHTING CENTER

Beginning for the same at a capped bar (found) and the beginning of the second or North 26°44'21" East 558.72 foot line of that parcel of land as described in a Deed dated November 16, 1988 as recorded in the Land Records of Baltimore County, Maryland at Liber S.M. No. 8039, page 279 was conveyed by Golden Ring Yacht Basin, Inc. to Golden Ring Yacht, Inc. thence binding on the outline of said Deed the following six (6) courses and distances:

1. North 26°44'21" East 558.72 feet binding on the waters of said Frog Mortar Creek; continue thence binding on the waters of said Creek,
2. North 31°08'11" East 271.92 feet to a point, and
3. North 80°15'49" East 536.72 feet to a point; thence,
4. South 38°44'12" East 908.85 feet to a capped bar set; thence,
5. South 23°15'14" West 489.14 feet to a point, thence,
6. South 17°42'51" West 610.65 feet to a point on the northerly side of Edwards Lane as now widened, thence binding on said widening as described in a deed dated May 22, 1991 and as recorded in the Land Records of Baltimore County, Maryland at Liber 8966, page 225 was conveyed by Golden Ring Yacht Basin, Inc. to Baltimore County, Maryland, the following two (2) courses and distances:
7. North 82°17'29" West 239.22 feet to a point; thence,
8. South 37°42'31" West 23.16 feet to a point on the first line of the firstly described parcel of land, thence binding on said line,
9. North 41°52'29" West 294.78 feet to the point of beginning.

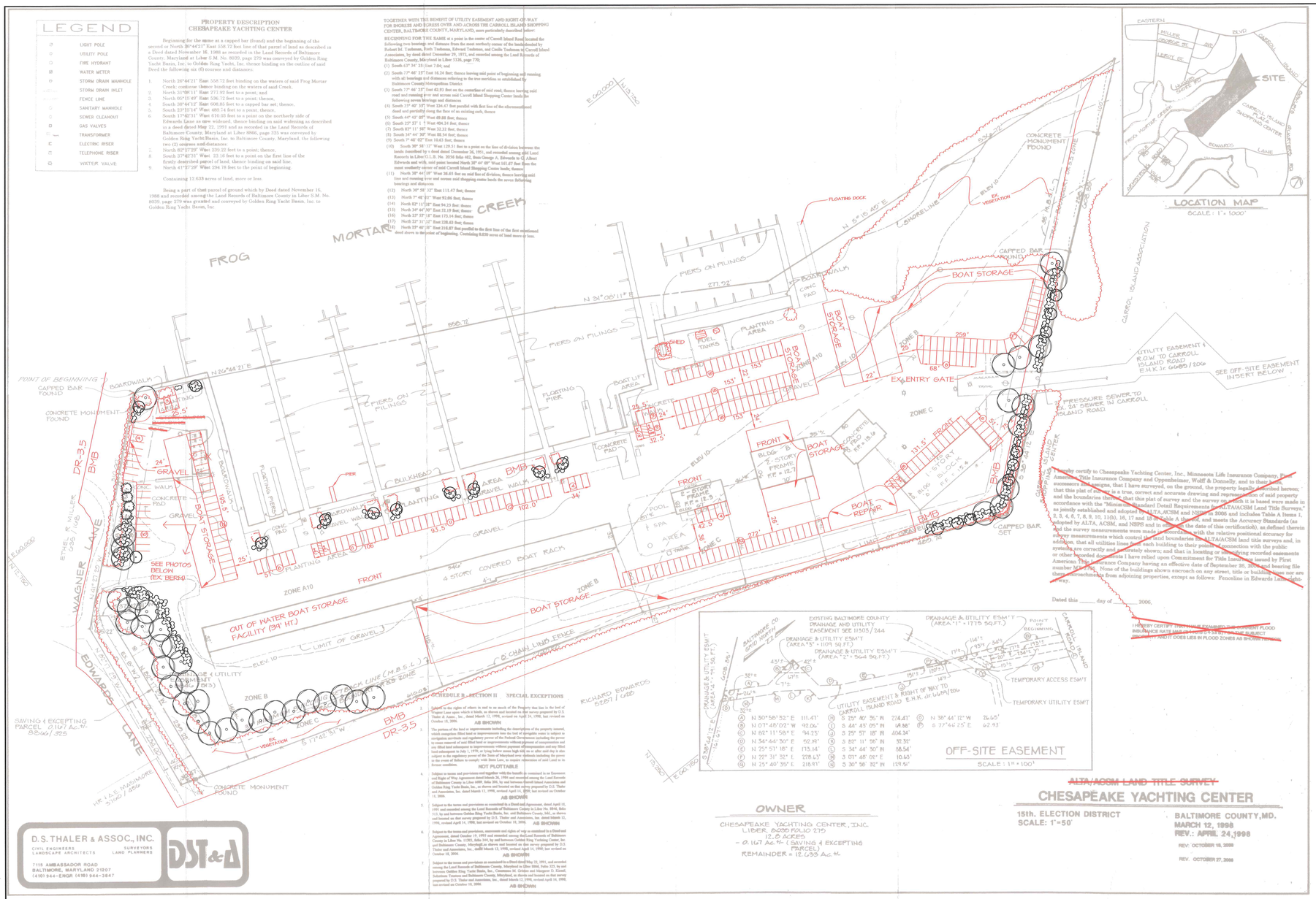
Containing 12.638 acres of land, more or less.

Being a part of that parcel of ground which by Deed dated November 16, 1988 and recorded among the Land Records of Baltimore County in Liber S.M. No. 8039, page 279 was granted and conveyed by Golden Ring Yacht Basin, Inc to Golden Ring Yacht Basin, Inc.

TOGETHER WITH THE BENEFIT OF UTILITY EASEMENT AND RIGHT-OF-WAY FOR INGRESS AND EGRESS OVER AND ACROSS THE CARROLL ISLAND SHOPPING CENTER, BALTIMORE COUNTY, MARYLAND, more particularly described below:

BEGINNING FOR THE SAME at a point in the centre of Carroll Island Road located the following two bearings and distance from the most northerly corner of the lands conveyed by Robert Int. Tomlinson, Ruth Tomlinson, Edward Tomlinson, and Cecille Tomlinson to Carroll Island Associates, by deed dated December 29, 1972, and recorded among the Land Records of Baltimore County, Maryland in Liber 5336, page 776;

(1) South 63° 34' 25 East 7.04; and
(2) South 77° 46' 25" East 16.34 feet; thence leaving said point of beginning and running with all bearings and distances referring to the true meridian as established by Baltimore County/Metropolitan District
(3) South 77° 46' 25" East 42.83 feet on the centerline of said road; thence leaving said road and running over and across said Carroll Island Shopping Center lands the following seven bearings and distances
(4) South 23° 46' 35" West 324.47 feet parallel with first line of the aforementioned deed and partially along the face of an existing curb, thence
(5) South 66° 43' 05" West 49.88 feet; thence
(6) South 23° 27' 1 1" West 404.24 feet; thence
(7) South 82° 11' 58" West 32.32 feet; thence
(8) South 34° 46' 30" West 88.54 feet; thence
(9) South 7° 48' 02" East 10.63 feet; thence
(10) South 30° 58' 32" West 139.51 feet to a point on the line of division between the lands described by a deed dated December 26, 1951, and recorded among said Land Records in Liber 611, fo. No. 1036 folio 482, from George A. Edwards to G. Albert Edwards and wife, said point located North 38° 46' 08" West 145.87 feet from the most southerly corner of said Carroll Island Shopping Center lands; thence
(11) North 38° 46' 08" West 36.65 feet on said line of division; thence leaving said line and running over and across said shopping center lands the seven following bearings and distances
(12) North 30° 58' 32" East 111.47 feet; thence
(13) North 7° 48' 02" West 92.06 feet; thence
(14) North 82° 11' 58" East 54.23 feet; thence
(15) North 34° 46' 30" East 32.19 feet; thence
(16) North 23° 27' 1 1" East 173.14 feet; thence
(17) North 23° 31' 32" East 238.43 feet; thence
(18) North 30° 46' 36" East 216.87 feet parallel to the first line of the first mentioned deed shown to the point of beginning. Containing 0.830 acres of land more or less.



A	N 30°58'32" E	111.47'	N	S 25° 40' 35" W	274.43'
B	N 07°48'02" W	92.06'	O	S 64° 43' 05" W	49.88'
C	N 82°11'58" E	54.23'	P	S 23° 27' 11" W	404.24'
D	N 34°46'30" E	32.19'	Q	S 82° 11' 58" W	32.32'
E	N 23° 51' 18" E	173.14'	R	S 34° 46' 30" W	88.54'
F	N 29° 31' 32" E	238.43'	S	S 07° 48' 02" E	10.63'
G	N 24° 40' 55" E	216.91'	T	S 30° 58' 32" W	139.51'
H	N 38° 44' 12" W	26.65'			
I	S 77° 46' 25" E	62.93'			

GENERAL NOTES

1. APPLICANT:
   Chesapeake Yacht Center, Inc.
   114 Carroll Island Road
   Baltimore, MD. 21220
   attn: Mr. Frank Lampron
   Tel: 410-335-4100
   Fax: 410-335-1771

   OWNER:
   Golden Ring Yacht Basin Inc.
   P.O. Box 5942
   Baltimore, MD. 21282-5942

2. PLAN PREPARED BY:
   D.S. Thaler & Assoc., LLC
   7115 Ambassador Road
   P.O. Box 47428
   Baltimore, Maryland 21244
   attn: Stacey A. McArthur, R.L.A.
   410-944-3647

   PROPERTY REFERENCES

PARCEL	DEED	TAX ACCT. #	ADDRESS	TAX MAP	ADC MAP
343	8039/279	2100008540	114 CARROLL ISLAND RD.	41	2466

   Zoning: Baltimore County, 200 Scale 2016 Zoning Map, 65 Tile Nos.: 0A1B2

4. GENERAL DATA:
   Election District: 15th.
   Councilmanic District: 6th.
   Zoning: BM3

5. PARKING:

USE	REQUIRED		AVAILABLE
BUILDING 'A' (2 STORIES) TOILET, OFFICE (1ST FLOOR) 2 CARETAKERS QTRS. (2ND FLOOR)	1100 SQ. FT.± @ 3.3/1000 1876 SQ. FT.± @ 1.5/DWELLING	4 3	4 3
BUILDING 'B' (2 STORIES) MAINTENANCE SHOP (1ST FLOOR) OFFICE (2ND FLOOR)	3500 SQ. FT.± @ 3.3/1000 1001 SQ. FT.± @ 3.3/1000	11 4	11 4
BUILDING 'D' MAINTENANCE SHOP	4800 SQ. FT.± @ 3.3/1000	16	16
OUT OF WATER BOAT STORAGE FACILITY BOAT SLIPS (6 SPACES IN DRY RACK STORAGE FOR SALES AND SERVICE)	200 UNITS @ 0.5 PER/1 UNIT 200 SLIPS @ 0.5 PER/1 SLIP	100 100	100 100
TOTAL PARKING SPACES:		236	236

I hereby certify to Chesapeake Yacht Center, Inc., Minnesota Life Insurance Company, First American Title Insurance Company and Oppenheimer, Wolff & Donnelly, and to their lenders, successors and assigns, that I have surveyed, on the ground, the property legally described hereon; that this plat of survey is a true, correct and accurate drawing and representation of said property and the boundaries thereof; that this plat of survey and the survey on which it is based were made in accordance with the "Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys," as jointly established and adopted by ALTA, ACSM and NSPS in 2006 and includes Table A Items 1, 2, 3, 4, 6, 7, 8, 9, 10, 11(b), 16, 17 and 18 of Table A thereof, and meets the Accuracy Standards (as adopted by ALTA, ACSM, and NSPS and in effect on the date of this certification), as defined therein and the survey measurements were made in accordance with the relative positional accuracy for survey measurements which control the land boundaries on ALTA/ACSM land title surveys and, in addition, that all utilities lines from each building to their points of connection with the public systems are correctly and accurately shown; and that in locating or describing recorded easements or other recorded documents I have relied upon Commitment for Title Insurance issued by First American Title Insurance Company having an effective date of September 26, 2006 and bearing file number MD-6790. None of the buildings shown encroach on any street, title or building lines nor are there encroachments from adjoining properties, except as follows: Fenceline in Edwards Lane right-of-way.

Dated this _____ day of _____ 2006.

I HEREBY CERTIFY THAT I HAVE EXAMINED THE CURRENT FLOOD INSURANCE RATE MAP(S) FOR THE AREA SHOWN HEREON AND THAT THE PROPERTY SHOWN DOES LIES IN FLOOD ZONES AE SHOWN HEREON.

ALTA/ACSM LAND TITLE SURVEY

CHESAPEAKE YACHTING CENTER

15th. ELECTION DISTRICT
SCALE: 1"=50'

BALTIMORE COUNTY, MD.
MARCH 12, 1998
REV.: APRIL 24,1998
REV.: OCTOBER 18, 2000
REV.: OCTOBER 27, 2000

OWNER
CHESAPEAKE YACHTING CENTER, INC.
LIBER 8039 FOLIO 279
12.0 ACRES
- 0.167 Ac.+/- (SAVING & EXCEPTING PARCEL)
REMAINDER = 12.033 Ac.+/-

SCHEDULE B - SECTION II SPECIAL EXCEPTIONS

2. Subject to the rights of others in and to so much of the Property that lies in the bed of Frogmore Lane upon which it binds, as shown and located on the survey prepared by D.S. Thaler & Assoc., Inc., dated March 12, 1998, revised on April 24, 1998, last revised on October 18, 2000.
AS SHOWN

3. The portions of the land or improvements installing the description of the property insured, which comprises filled land or improvements into the bed of navigable water is subject to navigation servitude and regulatory power of the Federal Government including the power to cause removal of said filled land or improvements without payment of compensation and any filled land subsequent to improvements without payment of compensation and any filled land subsequent to July 1, 1979, or long before mean high tide or after said day is also subject to the regulatory power of the State of Maryland now withheld including the power to the extent of failure to comply with State Law, to require relocation of said Land or to license conditions.
NOT PLOTTABLE

4. Subject to terms and provisions and together with the benefit as contained in an Easement and Right of Way Agreement dated March 26, 1984 and recorded among the Land Records of Baltimore County in Liber 6689, folio 206, by and between Carroll Island Associates and Golden Ring Yacht Basin, Inc., as shown and located on that survey prepared by D.S. Thaler and Associates, Inc. dated March 12, 1998, revised April 24, 1998, last revised on October 18, 2000.
AS SHOWN

5. Subject to the terms and provisions as contained in a Deed and Agreement, dated April 18, 1991 and recorded among the Land Records of Baltimore County in Liber No. 8966, folio 213, by and between Golden Ring Yacht Basin, Inc. and Baltimore County, Md., as shown and located on that survey prepared by D.S. Thaler and Associates, Inc. dated March 12, 1998, revised April 24, 1998, last revised on October 18, 2000.
AS SHOWN

6. Subject to the terms and provisions, easements and rights of way as contained in a Deed and Agreement, dated October 19, 1993 and recorded among the Land Records of Baltimore County in Liber No. 11202, folio 344, by and between Golden Ring Yachting Center, Inc. and Baltimore County, Maryland as shown and located on that survey prepared by D.S. Thaler and Associates, Inc., dated March 12, 1998, revised April 24, 1998, last revised on October 18, 2000.
AS SHOWN

7. Subject to the terms and provisions as contained in a Deed dated May 22, 1991, and recorded among the Land Records of Baltimore County, Maryland in Liber 8966, Folio 225, by and between Golden Ring Yacht Basin, Inc., Constance M. Grisbee and Margaret D. Kissel, Substitute Trustees and Baltimore County, Maryland, as shown and located on that survey prepared by D.S. Thaler and Associates, Inc., dated March 12, 1998, revised April 24, 1998, last revised on October 18, 2000.
AS SHOWN

D.S. THALER & ASSOC., INC.
CIVIL ENGINEERS — SURVEYORS
LANDSCAPE ARCHITECTS — LAND PLANNERS
7115 AMBASSADOR ROAD
BALTIMORE, MARYLAND 21207
(410) 944-ENGR (410) 944-3647





EXISTING BERM — NTS

1986-242-SPHXA
On December 15, 1986, the Zoning Commissioner GRANTED: 1) a Petition for Special Exception for a boat yard with caretakers living quarters and a double-faced, 80 square feet each side, outdoor advertising sign; 2) a Petition for Variances to permit a single-faced sign containing 80 square feet in lieu of the required one square foot and a distance between principal buildings of 32 feet in lieu of the required 40 feet; and 3) a Petition for Special Hearing to allow the existing dwelling and access road to be located within a buffer area.

1989 Amended Site Plan Approved
On November 8, 1989, the Zoning Commissioner approved the construction of a four-level boat rack system as being permitted within the spirit and intent of the special exception granted in Case No. 1986-242-SPHXA and approved an amended site plan including the proposed dry rack storage system.

1992-171-SPH
In 1992, this Petition for Special Hearing was filed requesting disapproval of the relief granted by the Zoning Commissioner on November 8, 1989. On July 22, 1993, the Board of Appeals DENIED the Special Hearing request, and APPROVED the construction of a four-level boat rack system on the property, and APPROVED an amended site plan. An appeal was taken with respect to the percentage of the property to be allocated for dry boat storage. The appeal did not relate to the issue of whether the four-level boat rack system was appropriate. Following appeal and subsequent remand relating to these issues and other improvements on the property, on April 30, 1997, the Board of Appeals APPROVED an amended site plan for the property.

LANDSCAPE CALCULATIONS:

D. Landscape Requirements:

Landscape requirements as specified in the Baltimore County Landscape Manual, adopted August 7, 2000, and as amended.

Note: Schematic Landscape Plan shown is preliminary in nature and is to show compliance with the Baltimore County Landscape Manual. The Schematic Landscape Plan is subject to a Final Landscape Plan. Final Landscaping Plan shall be approved prior to Building Permit Application.

1 Planting Unit (P.U.) =
- 1 major deciduous tree (2-2-1/2" cal.) or
- 2 minor deciduous trees (1-1/2" cal.) or
- 2 evergreen trees (6' ht.) or
- 5 shrubs
  or class A: 24- 30" ht.
  class B: 18" ht.
- 500 S.F. of ground cover or
- 10 herbaceous/perennial (1 gal.)*or
- 20 herbaceous/perennial (1 qpot)
  *To meet Class D screening requirements only.

	Required	Credit	Subtotal	Proposed
STREET FRONTAGE: (Condition A) Adjacent Road @ 1 PU/40 L.F. Interior Road @ 1 PU/20 L.F.	342 LF±/40=8.8 PU 454 LF±/20=22.7 PU	Existing Vegetation 342 LF±/40=8.8 PU	22.1 PU	130.6 PU
PARKING LOTS (Condition B) Class D screen @ 1 PU/20 L.F. Interior Parking @ 1 PU/12 PRK SPACES	187 LF±/20=9.4 PU 238 PRK/12=19.8 PU	Existing Vegetation 183 LF±/20=9.4 PU	19.8 PU	
NON-RESIDENTIAL BUILDINGS (Condition E) @ 1 PU/15 LF Building	884 LF±/15=58.9 PU	Existing Vegetation 531.0 LF±/15=35.4 PU	23.5 PU	
STORAGE AREA (Condition 6) @ 1 PU/10 LF Storage Area	642 LF±/15=64.2 PU		64.2 PU	
SLOPES (Condition J) @ 1 PU/15 LF Slope	581 LF±/15=38.7 PU	Existing Vegetation 581 LF±/15=38.7 PU	0.0 PU	
TOTAL:	223.5 PU	93.3 PU	130.2 PU	

*CREDIT FOR RETENTION OF EXISTING ORNAMENTAL GRASSES (0.0 PU) IS REQUESTED.

JOB NUMBER: 030408
DRAWN BY: DT
DESIGNED BY: SM
CHECKED BY: SM

DS Thaler & ASSOC. LLC
CIVIL AND ENVIRONMENTAL ENGINEERS, SURVEYORS, LANDSCAPE ARCHITECTS & LAND PLANNERS
7115 AMBASSADOR ROAD
P.O. BOX 47428
BALTIMORE, MARYLAND 21244-7428
(410) 944-3647 www.dsthaler.com

APPLICANT
CHESAPEAKE YACHTING CENTER, INC.
114 CARROLL ISLAND ROAD
BALTIMORE, MD. 21220
ATTN: MR. FRANK LAMPRON
TEL: 410-335-4100
FAX: 410-335-1771

OWNER
GOLDEN RING YACHT BASIN INC
P.O. BOX 5942
BALTIMORE, MD. 21282-5942

REVISIONS

Date:	Description:

LANDSCAPE COMPLIANCE
CHESAPEAKE YACHTING CENTER
ELECTION DISTRICT No. 15TH. — COUNCILMANIC DISTRICT 6TH.
BALTIMORE COUNTY, MARYLAND

SCALE: 1" = 50'
DATE: MARCH, 2018
SHEET: 1 OF 1

File name: T:\DTS\Dwg\Planning\Exhibits\LANDSCAPE COMPL..dwg Layout:Layout1 Mar 20, 2018-2:32pm EMGR

4-30-97

IN THE MATTER OF THE APPLICATION OF JOHN J. SCHMIDT, ET AL (GOLDEN RING YACHT BASIN, INC. / CHESAPEAKE YACHTING CENTER) FOR A SPECIAL HEARING ON PROPERTY LOCATED ON THE NORTH SIDE EDWARDS LANE, 1100' SOUTH WEST OF BOWLEYS QUARTERS ROAD (595 EDWARDS LANE) 15TH ELECTION DISTRICT 5TH COUNCILMANIC DISTRICT	*	ON REMAND FROM THE CIRCUIT COURT FOR BALTIMORE COUNTY Civil Action No. 93-CV-7344
ZONING CASE NO. 92-171-SPH		

* * * * * * * * * * *

OPINION ON REMAND BY VIRTUE OF ORDER REMANDING CASE TO BOARD OF APPEALS FOR DECISION ON ISSUE

This case returns to us on a remand from the Circuit Court for Baltimore County for the determination of a particular issue.

The case concerns a 10.6-acre boat yard on Frog Mortar Creek in Baltimore County owned and operated by Golden Ring Yacht Basin, Inc. /Chesapeake Yachting Center (GRYB). In 1986 Zoning Commissioner Arnold Jablon approved for GRYB a special exception for a marina on the subject site in accordance with a site plan.

In 1989 Zoning Commissioner Robert Haines approved an amended site plan which included the installation of a boat rack system and the reconfiguration of the property. The Bowleys Quarters Improvement Association (BQIA) requested a special hearing, asking that the boat rack system be disallowed, especially because there was no public hearing. Zoning Commissioner Lawrence Schmidt in 1992 granted an amended special exception approving the boat racks but prohibiting ground storage of any boats on the site.

The BQIA, through People's Counsel for Baltimore County, and GRYB appealed the Zoning Commissioner's decision to this Board, which heard the case de novo. In its decision of July 22, 1993, the Board approved GRYB's amended site plan, but restricted the ground storage of boats to 5 percent of the land site.

Both parties appealed the Board's decision to the Circuit Court, which affirmed the decision of the Board, including its restriction on ground storage. GRYB then appealed to the Court of Special Appeals, and People's Counsel cross-appealed.

The Court of Special Appeals affirmed GRYB's entitlement to the boat racks, but reversed and remanded for further proceedings the ground (dry) storage restrictions imposed by this Board. The grounds for the remand were that GRYB was deprived of procedural due process because the Board, in reaching its decision to restrict ground storage of boats to 5 percent of the total site, improperly considered an ex parte communication recommending such a restriction from Arnold F. "Pat" Keller, then-Deputy Director of the Baltimore County Office of Planning and Zoning (OPZ).

The Court said that GRYB had no opportunity to examine and challenge the Deputy Director's recommendations before the Board reached its conclusion. The Court therefore reversed and remanded to the Circuit Court, with instructions to remand to this Board for further proceedings that portion of the Board's decision restricting GRYB to a 5 percent limitation on dry storage.

The Board conducted two days of hearings on the remand, on January 15 and March 18, 1997. In his opening argument, Benjamin Bronstein, Counsel for GRYB, moved that the Board find that GRYB is entitled to current, unrestricted ground storage use because it is grandfathered under Bill 149-92. Argument on the motion was heard from Peter Zimmerman, People's Counsel for Baltimore County. The Board reserved ruling on the motion until it concluded the hearings.

People's Counsel presented as its first witness Robert Hannon, Economic Development Director for Baltimore County. Mr. Hannon testified that his agency works to create an environment that attracts jobs to the county, and that they have also been working to develop and revitalize southeast Baltimore County. He said that the subject facility, a well-run operation with a full range of marina services, generates jobs and income and attracts out-of-state business.

OPZ Director Pat Keller, the next witness, testified that his December 15, 1992, memo to William Hackett, then-chairman of the Board of Appeals, was an unsuccessful attempt to resolve the case.

Mr. Keller testified that he visited the subject site prior to writing the memo, and last visited it early in 1997. He said that the boat yard is a neat, well-operated, modern facility. He explained that he arrived at the 5 percent ground storage limitation figure that he proposed in his memo by the process of elimination: 5 percent of the 10.6-acre site, or approximately 1/2 acre, would be what is

left after deducting the buffer, parking, and dry rack storage areas and the present buildings, and after all future buildings shown on the site plan are completed.

Mr. Keller said that the areas designated by pink hash marks on People's Counsel Exhibit 3, the September 19, 1989, site plan, are presently used for ground storage of boats. This area is much larger than 1/2 acre, he said. His present viewpoint is that ground storage should be permitted in the pink areas, including the area near the waterfront, for the present, and that the buffer areas marked in green on the site plan should be maintained.

He said, however, that as the facility is built out, that is, proposed Buildings C, D and E, shown on the site plan with black dotted lines, are built, those parts of the ground storage area would be eliminated, i.e., the area for ground storage would be constricted.

Additionally, Mr. Keller testified, he would now also place a maximum limit of 130 on the number of boats. In the pink-designated area along the waterfront he would impose a 50-foot setback and permit no more than one layer of boats in depth, although it would be feasible that more than one line of boats could be stored along the water in the winter.

He said that the designations of the ground storage areas are conceptual and would have to be more precise, but he would want to make a site visit before he was more specific on details.

The remaining People's Counsel witnesses were John Schmidt, vice-president, BQIA; Philip Edwards, president, BQIA; and David Cahlander, who lives across the creek from the boat yard. All three witnesses said basically that they could accept the 5 percent limitation of ground storage, but they were opposed to Mr. Keller's current recommendation because it would, according to their square footage estimates, double the amount of boats allowed in ground storage, which would create additional traffic and overcrowding on Frog Mortar Creek, create negative aesthetics, and impact safety.

Charles Lampron, president and owner of Chesapeake Yachting Center, testified regarding the need for ground storage of boats at the subject facility. He explained that certain boats, such as sailboats and power boats over 36 feet in length, can't be stored in racks. He said that he keeps about 70 boats on the ground for sales and service, and that it would take more than 5 percent of the total site area just to take the boats out of the boat racks and service them. He also stated that storing boats on land is more environmentally sound than storing them in the water.

Mr. Lampron said that he would like to utilize his boat yard without restrictions on ground storage, but he would agree to a 130-boat ground storage limit in the summer and a 155-boat limit in the winter.

David Thaler, a licensed real estate broker and chairman of the Board of Directors, Baltimore County Chamber of Commerce, testified that a study by Wes Guckert of the Traffic Group showed that no more than 25 percent of boat owners take their boats out on a sunny Sunday. He said that even 170 boats on the ground would be rather low density for boat yards in Middle River, and that this is the most reviewed and environmentally responsive boat yard within his knowledge.

The Court of Special Appeals has instructed this Board to consider an extremely narrow issue on remand, namely, the issue of whether the Board's 5 percent limitation on ground storage of boats is a reasonable one. It is important to remember that the Board is not instructed to consider whether it has the authority to impose such a limitation. The Court has already ruled that the Board has the power to impose additional conditions on amendments to special exceptions, under Section 500.7 of the Baltimore County Zoning Regulations.

The Board agrees with People's Counsel that it needs to look at the subject facility as a whole; it should not split up each of the boat yard's elements, i.e., dry rack storage, slip storage, ground storage, buffers, etc., and view them in isolation from each other, but must consider their combined impact.

It is in this context, then, that the Board considered Mr. Keller's testimony. His explanation as to how he arrived at the 5 percent ground storage limitation figure was that that was roughly the area that would be left after the facility is completely built out according to the site plan; as he explained it, his 5 percent figure pre-empted an ultimate build-out scenario. Until then, Mr. Keller said, GRYB should be allowed ground storage in the pink-designated areas, with a limit of 130 boats.

In the Board's view, Mr. Keller, though anticipating in advance the final build-out, has essentially not changed his position on ground storage. When the facility is completely built out, GRYB will be left with roughly 5 percent ground storage.

Mr. Keller indicated in his testimony that when trying to work out an acceptable plan, he tried to achieve some balance between the interests of the residential community and those of the boat yard facility. For that reason he recommended, in addition to an area limit, that a limit of 130 be placed on the number of boats allowed in ground storage. Mr. Lampron said he would agree to 130 boats in the summer and 155 boats in the winter.

This Board finds Mr. Keller's recommendations in general to be a reasonable compromise between the community's wishes for severely restricted ground storage and GRYB's desire for unlimited ground storage. In light of testimony by Mr. Lampron and Mr. Thaler that boats cause less pollution stored out of water than in water, the Board finds that a slightly higher ground storage limit should be permitted in the winter than in the summer, and that two layers of boats should be allowed to be stored on the water's edge in the winter as opposed to one layer in the summer.

ORDER

IT IS THEREFORE this 30th day of April, 1997, by the County Board of Appeals of Baltimore County

ORDERED that the Property Owner's motion to permit current, unrestricted ground storage of boats be and is hereby **DENIED**; and it is further

ORDERED that this Board's Order in the instant case dated July 22, 1993, be amended as follows:

Restriction No. 2 in the list of restrictions to the amended site plan in Case No. 86-292-XSPHA shall be deleted and replaced with the following restriction:

> 2. Within 30 days of the date of this Order and prior to the issuance of any permits, the Property Owner shall submit an amended site plan to the Office of Planning and Zoning incorporating the relief granted herein. Said plan shall describe thereon the designated areas for the ground storage of boats and the active repair, sale, construction and general servicing of boats, said areas to conform in general with the conceptual plan for designation of ground storage areas as shown in pink on People's Counsel Exhibit 3 of these proceedings. Whenever proposed Buildings C, D and E are built, the area for ground storage shall be reduced accordingly, and no additional area for ground storage shall be permitted on the site. A note shall be appended to the site plan indicating that ground storage of boats shall be limited to 130 boats in the summer and 150

boats in the winter, and that a limit of one layer of boats may be stored in the pink-designated area at the water's edge, subject to a 50-foot setback, in the summer, the limit to be increased to two layers of boats in the winter.

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

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Robert O. Schuetz, Chairman

Lawrence M. Stahl

S. Diane Levero

County Board of Appeals of Baltimore County
OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

April 30, 1997

Benjamin Bronstein, Esquire
EVANS, GEORGE AND BRONSTEIN
Susquehanna Building, Suite 205
29 W. Susquehanna Avenue
Towson, MD 21204

RE: Case No. 92-171-SPH
John J. Schmidt, et al
Golden Ring Yacht Basin, Inc.

Dear Mr. Bronstein:

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

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the Maryland Rules and Procedure. If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

Charlotte E. Radcliffe for

Kathleen C. Bianco, Administrator
County Board of Appeals

encl.

c: Charles F. Lampron
Golden Ring Yacht Basin, Inc.
John J. Schmidt, et al
David Cahlander
Phil Edwards
People's Counsel for Baltimore County
Pat Keller, Director /Planning
Lawrence E. Schmidt /Z.C.
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

Printed with Soybean Ink on Recycled Paper

3-14-97

RE: PETITION FOR SPECIAL HEARING 595 Edwards Lane, 1100' SW of Bowleys Quarters Road, 15th Election Dist., 5th Councilmanic	*	BEFORE THE
	*	BOARD OF APPEALS
	*	OF BALTIMORE COUNTY
GOLDEN RING YACHT BASIN, INC./ CHESAPEAKE YACHTING CENTER Legal Owners	*	CASE NO.: 92-171-SPH
JOHN J. SCHMIDT, et al. Petitioners	*	(Cir.Ct. No. 93-CV-7344)
	*	(Ct.Spec.App. No. 1047/94)

* * * * * * * * * *

MEMORANDUM OF PEOPLE'S COUNSEL

This case is here on remand from the Court of Special Appeals (CSA). In its May 22, 1995 opinion, the Court ordered further proceedings on the CBA's limitation of ground storage, repair, sale, construction or servicing of boats to 5% of the site. In this connection, the Court accepted GOLDEN RING YACHT BASIN'S (GRYB) argument that it had not had the opportunity to review then Deputy Planning Director Pat Keller's report or cross-examine him.

Accordingly, the function of the CBA on remand is to afford Mr. Keller the opportunity to appear, explain his report, and be questioned by the parties. It is a very simple remand.

PEOPLE'S COUNSEL disagrees with GRYB'S latest argument, which comes well after the fact. It could have been presented to the Court of Special Appeals, and is wrong in any event.

PEOPLE'S COUNSEL reviewed in detail the background in this case in its Court of Special Appeals brief, enclosed herewith. Essentially, GRYB obtained a boatyard (marina) Special Exception in 1986, conditioned by the Zoning Commissioner on a site plan. In 1989, it procured Zoning Commissioner approval for major amendments,

but without a hearing. Then, upon Special Hearing requested by citizens outraged at the placement of a 4-high rack system in an area slated as a buffer, the Zoning Commissioner and CBA found there should have been a hearing on the amendments, but cured it by approving the rack Special Exception with the 5% site limitation on ground storage, etc. The CBA issued its de novo Opinion on July 22, 1993, after the passage of Bill 149-92, a comprehensive bill revising boatyard/marine zoning law.

GRYB now argues that it has had, and continues to have, a right to ground storage, without limitation. This is wrong.

Under the law prior to Bill 149-92, GRYB had to obtain a Special Exception. Under the terms of special exception law, the Zoning Commissioner and CBA may condition or limit the use. BCZR 502.1, 502.2. The conditions may include limits on slips and buffer areas. Skipjack Cove Marina v. Board, 264 Md. 381 (1972), attached. See Halle Co. v. Crofton Civic Ass'n., 339 Md. 131 (1995).

This means that ground storage and other activities, which might otherwise go by right with the use, were subject to the conditional review of the hearing authorities.

The CSA treated the rack system as being approved in 1989, so that the CBA's approval in 1993 essentially cured and related back to pre-Bill 149-92 status. See Slip Opinion, pgs. 21-23. Alternatively, it found an estoppel. Pages 17-21. In this way, GRYB escaped the 3-boat high limitation of new BCZR 417.7B. But it was still within the ambit of a Special Exception. The 1992 law also requires a Special Exception for out-of-water storage facilities, Class B, with multi-level racks. BCZR 101, 417.7B, attached.

Therefore, under either the old or new law, GRYB's use is a Special Exception use. This means that it is subject to site conditions. Ground storage is, in other words, not a matter or right but conditional.

The CBA approved the rack system as part of an overall comprehensive scheme, including the 5% storage, etc., limit. While the Court of Special Appeals remanded for a review of Pat Keller's evidence, there was never any genuine question of the right of the CBA to impose other site conditions appertinent to the approval.

Essentially, GRYB argues that the rack system somehow is unconditionally enshrined because it was built prior to Bill 149-92, and that ground storage goes on its own as a permitted use by right. Therefore, GRYB says, its current 4-boat high system use, which otherwise violates Bill 149-92 standards, may not now even be conditioned. See BCZR 502.9.

This misses the point that the rack system has always been, and continues to be, part and parcel of a Special Exception, and subject to appropriate conditions. In this context, ground storage is not immune from limitation.

Under the old or new law, there may be a buffer area, and site conditions. Indeed, under the 1986 Zoning Commissioner Order here, there was no question of the authority of the Zoning Commissioner to impose site conditions. The controversy focused on the substance of the conditions, and their later amendment. If GRYB wishes the protection of the approval under the old law to protect its 4-boat high facility, it must accept the consequence of site conditions.

On the other hand, if it wishes to obtain benefits from Bill 149-92, then its overall use must comply in its entirety with the new law. This means that it must obtain a Special Exception and Variance for its out-of-water storage facility, Class B, with 4 boats high. Here, the CBA may also impose site conditions. Either way, the GRYB use is subject the limitation.

GRYB seeks somehow to disconnect the finding that it can have its rack system based on pre-1992 conditions from the Special Exception of which it is a part. The proposed unlimited storage is not, and never has been, a matter of right. It is subject to review and approval as part of the overall Special Exception use.

GRYB's attempt to manipulate an escape from regulation compounds the pernicious impact of a use which exceeds current standards with a piggyback theory of immunity from site uses alleged, in isolation, to be permitted by right. The point is that the uses must be viewed together, and not in isolation.

It was never the intent of BCZR 502.9 to confer such immunity or produce such absurd results. Rather, to the extent that the new law allows entirely by right some uses which previously were subject to Special Exception, those uses can now proceed in a way equivalent to new permitted uses, within the scope of Bill 149-92 performance standards. It does not convert into permitted uses those facilities which were, are, and remain subject to special exception standards.

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio

CAROLE S. DEMILIO
Deputy People's Counsel
Office of the People's Counsel
for Baltimore County
Room 47, Courthouse
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 14th day of March, 1997, a copy of the foregoing Memorandum of People's Counsel was sent, via facsimile and first class mail, to Benjamin Bronstein, Esq., George and Bronstein, 29 W. Susquehanna Avenue, Suite 205, Towson, MD 21204, attorney for Golden Ring Yacht Basin, Inc./Chesapeake Yachting Center.

Peter Max Zimmerman

PETER MAX ZIMMERMAN

Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL
Room 47, Old CourtHouse
400 Washington Ave.
Towson, MD 21204

(410) 887-2188

PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

March 14, 1997

RECEIVED
MAR 14 12:51

Robert O. Schuetz, Chairman
Board of Appeals of Baltimore County
Room 49 Courthouse
400 Washington Avenue
Towson, MD 21204

Hand-delivered

Re: PETITION FOR SPECIAL HEARING
525 Edwards Lane, 1100' SW of Bowleys Quarters Road, 15th Election District, 5th Councilmanic
GOLDEN RING YACHT BASIN, INC./ CHESAPEAKE YACHTING CENTER
Legal Owners
JOHN J. SCHMIDT, et al., Petitioners
Case No.: 92-171-SPH
CBA Hearing Date: 3/18/97

Dear Chairman Schuetz:

Enclosed please find original and 3 copies of Memorandum of People's Counsel, responding to the Memorandum of Golden Ring Yacht Basin, Inc.

With each copy, we attached excerpts of Bill 149-92, referring to the new BCZR Section 101 definitions of out-of-water storage facilities, Class A and B, and BCZR Section 417.7 including new provisions relating to waterfront construction of out-of-water storage facilities, special exceptions for Class B facilities, and boat height limits.

Separately, we are transmitting to the CBA for your file a copy of People's Counsel's brief in the Court of Special Appeals case (No. 1047, September Term, 1994), which is referred to in the instant Memorandum and includes our view of the entire background. We also include for your file copy of Skipjack Cove Marina v. Board of County Commissioners of Cecil County, 264 Md. 381 (1972), also referred to in our Memorandum.

We hope this information is helpful to the Board.

Very truly yours,

Peter Max Zimmerman

Peter Max Zimmerman
People's Counsel for Baltimore County

Carole S. Demilio

Carole S. Demilio
Deputy People's Counsel

PMZ/caf
Enclosures

cc: Benjamin Bronstein, Esquire, George & Bronstein,
29 W. Susquehanna Avenue, Suite 205, Towson, MD 21204

CBA.LTR/PZONE/TXTCAF

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97 FEB 20 AM 11:58

IN THE MATTER OF GOLDEN RING YACHT BASIN, INC. /CHESAPEAKE YACHTING CENTER 15th ELECTION DISTRICT 5th COUNCILMANIC DISTRICT	*	IN THE BALTIMORE COUNTY BOARD OF APPEALS CASE NO.: 92-171-SPH

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

MEMORANDUM ON BEHALF OF GOLDEN RING YACHT BASIN, INC.

GOLDEN RING YACHT BASIN, INC./CHESAPEAKE YACHTING CENTER ("Chesapeake") by its attorneys Benjamin Bronstein and George and Bronstein, LLP, here submits this Memorandum following the January 15, 1997 hearing in this matter.

I. BACKGROUND

This matter has an involved procedural history going back more than ten years, to 1986. The current proceeding is upon remand from the Court of Special Appeals. For the convenience of the Board, Chesapeake will briefly review that background.

A. Initial Special Exception

Chesapeake owns and operates a boatyard on Frog Mortar Creek in eastern Baltimore County. The boatyard is on a 10.6 acre site and is one of the largest boatyards in Baltimore County.

The boatyard was in a deplorable condition at the time of Chesapeake's acquisition. Chesapeake undertook substantial and expensive rehabilitation of it, which included creating a wetland green space and a new access through an adjacent shopping center. As a non-conforming use, the number of boats which could be moored in the water or stored on land at site was unlimited.

In 1986, the Zoning Commissioner (then Arnold Jablon) approved for Chesapeake a special exception for a marina on the site. See Baltimore County Zoning Regulation (BCZR) §102.1 and §1B01.1C2. Commissioner Jablon based his decision upon the special exception petition, site plan review, and a public hearing, at which various area citizens participated, particularly citizens from the nearby Bowleys Quarters neighborhood.

As part of the special exception process, Chesapeake prepared a site plan which delineated "boat storage buildings." These "boat storage buildings" were intended to be open racks for storing boats out of the water.

Under then-existing County zoning policy, open racks were not deemed "structures." Under §417.7 of the BCZR, one of the uses allowed as of right in a boatyard were "out-of-water storage facilities." These "out-of-water storage facilities," by definition, included open rack storage for boats as shown by Chesapeake on the initial plan. As a result, the engineer for Chesapeake was directed to remove "boat storage buildings" from the site plan submitted for the special exception petition.

Chesapeake also was entitled as a matter of law to ground storage of boats under the special exception, by BCZR, §101, which defines a boatyard as [emphasis supplied]:

> A commercial or non-profit boat basin with facilities for one or more of the following: sale, construction, repair, storage, launching, berthing, securing, fueling, and general servicing of marine craft of all types. [Bill No. 64, 1963.]

The site plan provided (in note 6) for ground storage of boats in the parking area.

The 1986 special exception approval incorporated certain conditions. These included a "buffer area" in the southeastern part of the site for "passive recreation once trees are established" and to "exclude structures and paving."

There was no appeal of this special exception. Thus, Chesapeake had authorization for boat racks and ground storage.

B. Letter Approval for Later Site Change

Due to the renovation and building activities required to rehabilitate the boatyard, construction on the boat racks was not commenced immediately. In 1989, before boat rack construction began, Chesapeake received information leading it to understand that the County was reconsidering its definition of what constituted a "structure," to the extent that open boat storage racks might be included within that term.

To protect its right to these racks under the original site plan and uses permitted by the special exception, Chesapeake requested the Zoning Commissioner (Robert Haines) clarify the special exception order, to reflect that racks were permitted.

As part of this request, Chesapeake submitted to Commissioner Haines an "amended" site plan which was substantially the same as the plan for the special exception petition, granted in 1986. The boat racks clearly were delineated on this "amended" plan.

When the special exception was granted in 1986, the Chesapeake Bay Critical Areas legislation recently had been enacted. County

authorities were operating under interim regulations implementing this legislation. Thus, by the time Chesapeake submitted its request in 1989 to confirm rack storage for boats, final regulations had been promulgated.

As a result, the County Department of Environmental Protection and Resource Management requested certain changes in the marina site plan. These included making the racks one long unit (rather than two separate units with a fairway between), moving the green space/passive recreation area to the edge of the water (so it could act as a filter for run off), and placing a roof and sides on the rack storage units.

The requirement that a roof and sides be added to these racks necessitated anchoring structures for the racks so that the rack building would be resistant to wind. Chesapeake designed a rack structure which could withstand winds of 120 miles an hour, far in excess of hurricane strength. And the racks were positioned to substantially exceed BCZR setback requirements. No changes were made or required as to the ground storage uses at the marina site.

It is common practice in the County for the Zoning Commissioner to approve administratively, without a public hearing, certain administrative changes in site plans. Therefore, under the Commissioner's Policy and Procedure Manual, allowance and confirmation of the racks at the marina site was permissible without a public hearing, in the discretion of the Commissioner.

In 1989, Commissioner Haines, after circulating the "amended" plan to appropriate County agencies, and acting within his

discretion, allowed the "amendment" of the site plan to show the racks. He did so without a public hearing. Relying on the approval of Commissioner Haines, Chesapeake proceeded to obtain the appropriate permits from the County and then began construction of the racks.

C. Citizen Challenge to Boat Racks

In 1991, as the boat rack structure went up, members of the Bowleys Quarters Improvement Association ("BQIA") noticed the construction. Concerned about the construction--although it was allowed under the special exception and properly approved in all respects--BQIA filed, and pursued, a Petition for a Special Hearing under BCZR 500.7 ("BQIA Petition"). The BQIA claimed that the boat racks were not properly approved under the BCZR, contending a hearing was required. People's Counsel for Baltimore County also entered these proceedings.

By the time the BQIA Petition was filed on October 2, 1991, Chesapeake had installed footings for the rack structure and had erected over one-half of the structure, including roof and walls. The remainder of the structure already had been specially ordered from the manufacturer. Chesapeake had by then invested more than $900,000.00 in the rack structure and use, including materials for the structure as well as purchasing a specialized forklift needed to place boats into and remove them from the racks.

The BQIA Petition raised the sole issue of whether Commissioner Haines was wrong (i.e., abused his discretion) in permitting "amendment" of the site plan as to the boat racks

without a public hearing. A hearing on the Petition was held before the Commissioner (then Lawrence Schmidt) on January 17, 1992.

C. Hearing on Petition, Commissioner Action, Appeals

After the hearing, Zoning Commissioner Schmidt issued an Opinion and Order, dated March 6, 1992. He determined Chesapeake was entitled to the racks.

HOWEVER, perhaps due to a desire to respond in some way to the Petitioners' concerns, the Zoning Commissioner went on--on his own initiative, without request by BQIA, and without notice or opportunity to be heard by Chesapeake--to unilaterally remove all ground storage from the marina site. Yet, as pointed out, the ground storage issue was not raised in the Petition.

Chesapeake asserted that Commissioner Schmidt's order deprived it of a valuable right which it had under the special exception, without notice to Chesapeake or opportunity to be heard. Chesapeake was aggrieved by this decision, since ground storage is of immense importance in its marina business.

Chesapeake appealed to the Board of Appeals. The People's Counsel also appealed, triggering de novo proceedings before the Board. (Express Powers Act, Md. Code Ann., Art. 25A, §5(U), Baltimore County Charter Art. VI, and County Code §26-127).

D. County Council Legislation in 1992, Board of Appeals

As proceedings continued regarding the BQIA Petition, the County passed Bill 149-92, on September 8, 1992. It became effective on September 15, 1992. This legislation created two new "Business Maritime" zones, established new regulations and

standards for waterfront facilities, and defined new classes of "out-of-water storage facilities." The legislation limited boat rack heights to 3 boats high, for sites of 5 acres or more. BCZR 417.7. However, the Bill also stated that its provisions "do not affect the validity of any order granting a special exception for a marina or boat yard which occurred prior to the effective date of this bill." Thus, marina uses in effect at the time of the Bill, including racks and ground storage, were not subject to this requirement. The Bill contained other very pertinent provisions.

The Board of Appeals held two days of hearings, on September 15 and on December 17, 1992, regarding the BQIA petition. Various witnesses testified and evidence was submitted.

In a July 22, 1993 decision, the Board tracked the Zoning Commissioner ruling. It found the rack system on the Chesapeake marina to be a "substantial change," but it also nevertheless found that the racks were permissible on the merits.

The Board, further, added estoppel as a basis to justify the racks and preclude their disassembly. The Board determined that Bill 149-92 could not be invoked to require removal of the racks. However, the Board did not engage in extensive discussion of that Bill. The Board of Appeals thus denied the BQIA petition.

However, the Board, similar to the action of the Zoning Commissioner (which Chesapeake contended was improper), restricted Chesapeake's ground storage. The Board declared that no more than five per cent of the land site at the marina can be devoted to active repair, sale, construction, and general servicing of boats,

"said area or areas to be located away from the water and preferably adjacent to the Carroll Island Shopping Center." The Board stated that its intention in imposing this restriction "is to preserve parking spaces and traffic flow and to prevent random storage of boats throughout the site." Chesapeake was to submit an amended plan meeting these new restrictions. (See Board of Appeals Opinion at pp. 9-10).

Chesapeake again asserted that the Board exceeded its authority in imposing such a restriction on ground storage. Chesapeake maintained that the ground storage had been decided and resolved by the prior special exception matter. And the issue was still outside the scope of BQIA's Petition.

Also, such a restriction on ground storage is devastating to Chesapeake, in that ground storage is required for boats which cannot be stored in racks (e.g., sailboats, boats with flying bridges, etc.), for transitory placement of boats while being removed from the racks and placed in the water (and vice-versa), for temporary placement of boats being worked on by their owners (County Fire Regulations require boats be removed from racks while they are being serviced -- e.g., washed, motor fluids changed, etc.), and to display boats that are available for sale.

In addition, Chesapeake discovered that the Board, during its proceedings, had received, considered, and relied upon a letter and recommendation from Pat Keller, Deputy Director of the Office of Planning and Zoning, that ground storage at the Chesapeake site be restricted. Copies of Mr. Keller's letter, however, had not been

sent to Chesapeake and had not been introduced into evidence before the Board. Thus, Chesapeake had no opportunity to respond to the letter and recommendation. Chesapeake first learned of the letter when reference to it was made in the Board's Opinion.

Aggrieved by the Board's action, Chesapeake appealed to the Circuit Court for Baltimore County, contending that the Board exceeded its authority in restricting ground storage and also had denied Chesapeake due process by relying on the letter from the Office of Planning and Zoning, when Chesapeake had no notice of or opportunity to respond to it. The People's Counsel also appealed.

On January 20, 1994, Judge J. William Hinkel heard oral argument, and on April 5, 1994, issued a Memorandum Opinion and Order which affirmed the Board of Appeals, including its restriction on ground storage. Chesapeake filed a motion to alter or amend judgment, which was denied on April 29, 1994.

Chesapeake then appealed to the Court of Special Appeals. People's Counsel cross-appealed.

E. Court of Special Appeals Decision

In a decision issued May 22, 1995, the Court of Special Appeals affirmed Chesapeake's entitlement to the boat racks, and reversed and remanded for further proceedings the ground storage restrictions imposed by the Board of Appeals. (No. 1047, September Term, 1994 [unreported]).

The Court of Special Appeals stated that any failure to conduct a public hearing before the 1989 letter approval of the amended site plan was "cured" by the two days of hearings on the

BQIA Petition before the Zoning Commissioner, and by the two days of de novo hearings before the Board of Appeals. Thereafter, the Court stated, "the Board made determinations regarding the merits of the case. In its decision, the Board expressly said that it considered all the evidence... ." (Slip Opinion at 15, citing Hill v. Baltimore County, 86 Md. App. 642, 587 A.2d 1155 (1991), and Boehm v. Anne Arundel County, 54 Md. App. 497, 459 A.2d 590 (1983), cert. den., 291 Md. 108).

Further, as to the boat racks, the Court concluded, as had the Board of Appeals and the Zoning Commissioner, that the County was estopped from revoking permission to Chesapeake for construction of the rack facility. Chesapeake had proceeded on rack construction with clear authority to do so under the 1986 special exception and 1989 letter approval of its amended special exception plan. The Court stated that, in such circumstances, to deny Chesapeake, later on, permission to build the racks would be improper under doctrines of equitable estoppel or "municipal estoppel." (Slip Opinion at 17-19 and cases cited, including Lipsitz v. Parr, 164 Md. 222, 164 A.2d 743 (1932), and Inlet Associates v. Assateague House, 313 Md. 413, 545 A.2d 1296 (1988)).

The Court of Special Appeals further concluded that Bill 149-92 did not invalidate the racks (with respect to, for example, the height restriction on racks on marina sites of five acres or more), relying on explicit language of the Bill declaring that the Bill does not affect prior existing uses. The Court thus stated (Slip Opinion at 23) [emphasis supplied]:

> Accordingly, Bill No. 149-92 does not affect the validity of the 1986 order granting a special exception to [Chesapeake]. We note that when Commissioner Jablon permitted the use, he also approved the submitted site plan. The site plan indicated that the parking spaces were to serve as dry boat storage. The type of dry storage was not indicated on the plan and the Commissioner did not place any restrictions on the type of storage provided. No appeal was taken from that decision.

Turning to the restriction imposed by the Board of Appeals upon ground storage of boats at the marina, the Court of Special Appeals stated that the Board can "impose additional conditions on amendments to special exceptions." The Court noted BCZR §500.7 provides that the Zoning Commissioner "'shall have the power to conduct such other hearings and pass such orders thereon as shall, in his discretion, be necessary for the enforcement of all zoning regulations, subject to the right of appeal to the County Board of Appeals.'" (Slip Opinion at 24).

Yet, the Court also stated, on the ground storage issue, that the Board of Appeals, in imposing the ground storage restrictions, had considered and relied upon an "ex parte communication" to it from the Office of Planning and Zoning. The Court further noted--as Chesapeake pointed out in its appeal--that this letter from Mr. Keller was not received by Chesapeake either before or during Board proceedings and was not introduced into evidence.

Therefore, the Court of Special Appeals agreed with Chesapeake that procedural due process was denied. (See Slip Opinion at 25-26 and cases cited). The Court concluded, "as to that portion of the decision restricting [Chesapeake] to a 5% limitation on ground storage, we shall reverse and remand for further proceedings."

F. Pertinent Legislative Provisions for Consideration

As the Court of Special Appeals noted, the new "Business Maritime" zones established in 1992 by Bill 149-92--referenced to some extent by the Board of Appeals in the earlier proceeding--contain very pertinent language. Chesapeake is zoned "BMB." Chesapeake here notes or reiterates certain language of BCZR, through Bill 149-92, as to these "Business Maritime" zones.

As stated in §502.9A [emphasis supplied]:

> Bill No. 149-92 does not affect the validity of any order granting a special exception for a marina or boat yard which occurred prior to the effective date of this bill. Any such special exception may be used in accordance with the applicable provisions of the Baltimore County Zoning Regulations (BCZR) in effect at the time of the grant of such special exception and in accordance with the terms thereof, provided construction is started prior to the expiration date of the special exception as required by Section 502.3

Also, as stated in §502.9B:

> Notwithstanding any provisions of these regulations to the contrary, and in addition to the provisions contained in Subsection A, above, the uses, conditions and requirements as set forth in Bill No. 149-92 may be utilized at the discretion of the owner of the property on which the marina or boat yard is located, and no hearing shall thereby by required to amend the prior special exception where the proposed change is permitted as a matter of right by this bill. If such use should conflict with the terms or conditions of the prior special exception, the permitted use shall apply. If a use is permitted by special exception by this bill, the zoning commissioner, or the board of appeals, may on its own motion amend the previously granted special exception only in the least restrictive manner possible.

With this background, and following the Court of Special Appeals remand, Chesapeake here offers the following observations and statements regarding ground storage of boats at its site.

II. DISCUSSION

A. Bill 149-92 Confirms Chesapeake's Ground Storage Issues

Chesapeake first notes that, as it has pointed out, §502.9A (Bill 149-92) expressly states: "Bill No. 149-92 does not affect the validity of any order granting a special exception for a marina or boat yard which occurred prior to the effective date of this bill." Any such special exception "may be used in accordance with the applicable provisions" of the BCZR "in effect at the time of the grant of such special exception" and in accordance with the terms of that special exception.

It is beyond question that in applying legislation, the language of the statute is to be accorded its plain and ordinary meaning. See, e.g., Board of License Commissioners of Carroll County v. Pizza Hut of Maryland, Inc., 95 Md. App. 291, 620 A.2d 953 (1993) and Boatel Industries, Inc. v. Hester, 77 Md. App. 84, 550 A.2d 389 (1988).

The clear result of §502.9A is that all permitted uses for this marina site, under the site plan approved in 1986 under the original special exception--including ground storage--are validated and permanently confirmed. Chesapeake now is entitled to ground storage of boats as a use of right, as was previously allowed under that special exception. The earlier actions of the Commissioner and of the Board of Appeals restricting ground storage have been reversed and remanded by the Court of Special Appeals and thus are no longer valid. Any authority which the Board or the Zoning Commissioner may have (as is suggested by the Court of Special

Appeals in its decision) to restrict ground storage is precluded by operation of this statute.

This conclusion further is compelled by the language of §502.9B, stating "the uses, conditions and requirements as set forth in Bill No. 149-92 may be utilized at the discretion of the owner of the property on which the marina or boat yard is located, and no hearing shall thereby by required to amend the prior special exception... ." [Emphasis supplied]. The special exception granted to Chesapeake in 1986 allowed boat racks and ground storage at Chesapeake. Under Bill 149-92, those uses are proper. Chesapeake may employ those uses at its discretion.

This Board, on Chesapeake's appeal from the Zoning Commissioner's action on the BQIA Petition, chose not to consider the effect of Bill 149-92. Nevertheless, that effect remains. The pertinent provisions of Bill 149-92 confirm the status quo. Therefore, any remaining challenge to ground storage of boats at the marina site is foreclosed.

B. Under 149-92, Remand Does Not Require Restriction on Chesapeake's Confirmed Ground Storage Use

The effect of the Court of Special Appeals' reversal and remand is to return Chesapeake to the status quo, following the grant of the 1986 special exception and the 1989 letter approval of the marina site plan. Prior actions of the Commissioner and of the Board removing or restricting ground storage are nullified.

The Court of Special Appeals did state that, in general, the County has authority to impose additional restrictions on an "amendments to special exceptions." (Slip Opinion at 24, referring

further, to action by and hearings before the Zoning Commissioner in this regard rather than the Board of Appeals, as provided in BCZR §500.7). However, the Court did not find that this matter involves an amendment to a special exception. Nor did that Court remark on the merits of ground storage in this regard.

The site plan authorized by the 1989 letter approval was the same site plan originally submitted for the 1986 special exception. Thus, any authority indicated by the Court of Special Appeals which the County may have to impose additional restrictions on "amendments" to special exceptions does not extend to this situation.

Therefore, as clearly established by §502.9A and §502.9B, the current ground storage use at the Chesapeake marina, as allowed by the site plan under the special exception, is lawful--i.e., the present ground storage use is entirely valid. Despite the remand to the Board for "further proceedings" by the Court of Special Appeals, this Board should conclude--as has been concluded previously with respect to the issue of boat racks at the marina site, especially by the Court of Special Appeals--that Bill 149-92 authorizes and confirms the marina's present ground storage use.

In view of the foregoing, a restriction on ground storage regarding the Chesapeake marina should not be imposed. Given the effect of pertinent legislation, ground storage at the Chesapeake marina, as currently in use, is--and should be--allowed.

III. CONCLUSION

THEREFORE, GOLDEN RING YACHT BASIN, INC./CHESAPEAKE YACHTING CENTER requests of this Board:

a. that it DECLARE that current ground storage uses at its site ARE PERMITTED under the site plan approved by the 1986 Special Exception, and

b. and for other and further relief as the nature of this cause may require.

GEORGE AND BRONSTEIN, LLP

Benjamin Bronstein
205 Susquehanna Building
29 West Susquehanna Avenue
Towson, Maryland 21204
(410) 296-0200

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at a:\chesap\hearing.mm2

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 24 day of Feb, 1997, a copy of the foregoing memorandum was mailed, postage pre-paid to:

Peter Max Zimmerman, Esquire
and
Carole S. Demilio, Esquire
Office of People's Counsel for Baltimore County
Room 47
Courthouse
400 Washington Avenue
Towson, Maryland 21024

Benjamin Bronstein

2-24-97

LAW OFFICES
GEORGE AND BRONSTEIN, LLP
SUSQUEHANNA BUILDING, SUITE 205
29 WEST SUSQUEHANNA AVENUE
TOWSON, MARYLAND 21204
(410) 296-0200
FAX: (410) 296-3719

HARRIS JAMES GEORGE
BENJAMIN BRONSTEIN
C. WILLIAM MICHAELS

CONSTANCE K. PUTZEL
OF COUNSEL

February 24, 1997

Robert O. Schuetz, Chairman
Board of Appeals for Baltimore County
Courthouse
400 Washington Avenue
Towson, Maryland 21204

RE: **Golden Ring Yacht Basin, Inc./Chesapeake Yachting Center v. People's Counsel for Baltimore County**
Before the Board of Appeals for Baltimore County
Case No.: 92-171-SPH

Dear Mr. Schuetz:

Enclosed is a copy of the Memorandum in support of the Motion I made before the Board at the time of the initial hearing on January 15, 1997.

Thank you for your kind consideration.

Very truly yours,

EVANS, GEORGE AND BRONSTEIN

Benjamin Bronstein

BB/mlg
Enclosure

cc: Peter Max Zimmerman, Esquire
Mr. Frank Lampron
Mr. Michael Glick
Mr. Michael Weinman

97 FEB 25 PM 11:48

GOLDEN RING YACHT BASIN, INC./ CHESAPEAKE YACHINT CENTER	*	IN THE CIRCUIT COURT
	*	FOR BALTIMORE COUNTY
	*	
vs.	*	
	*	
PEOPLE'S COUNSEL FOR BALTIMORE COUNTY	*	CASE NO: 93 CV 7344

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

ORDER

In accordance with the Mandate of the Court of Special Appeals of Maryland, the Case is hereby remanded to the Baltimore County Board of Zoning Appeals.

J. William Hinkel, Judge

DATE: 20 July, 1995

Copy to:

Benjamin Bronstein, Esq./Susquehanna Building, Suite 205, 29 W. Susquehanna Avenue, Towson, MD 21204
Peter Max Zimmerman, People's Counsel for Balto. County, Courthouse 47, 400 Washington Avenue, Towson, MD 21204
Court File

FILED JUL 21 1995

6-21-95

MANDATE

Court of Special Appeals

Maryland Relay Service
1-800-735-2258
TT/VOICE

No. 1047, September Term, 1994

Golden Ring Yacht Basin, Inc./Chesapeake Yachting Center
v.
People's Counsel for Baltimore County

JUDGMENT: May 22, 1995: Per Curiam filed. Decision imposing limitation on dry storage reversed and remanded to the circuit court with instructions to remand the case to the Baltimore County Board of Zoning Appeals for further proceedings consistent with this opinion. Judgment affirmed in all other respects. Costs to be paid one-half by appellant and one-half by appellee.

June 21, 1995: Mandate issued.

STATEMENT OF COSTS:

In Circuit Court: for BALTIMORE COUNTY
93CV07344

Record.....		60.00
	* Total *	60.00 *

In Court of Special Appeals:

Filing Record on Appeal.....		50.00
Printing Brief for Appellant.....		129.60
Reply Brief.....		104.40
Portion of Record Extract--Appellant....		1281.60
	* Total *	1565.60 *
Printing Brief for Appellee.....		288.00
Filing Fee for Appellee.....		50.00
	* Total *	338.00 *

STATE OF MARYLAND, Sct:

I do hereby certify that the foregoing is truly 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-first *day of* June *A.D. 19* 95

Sedie D. Bradet

Clerk of the Court of Special Appeals

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

5-22-95

5/22/95 -REVERSED and REMANDED to CCt to REMAND to CBA insofar as limitation on dry storage; AFFIRMED in all other respects. (by Court of Special Appeals)

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 1047

SEPTEMBER TERM, 1994

GOLDEN RING YACHT BASIN, INC./
CHESAPEAKE YACHTING CENTER

v.

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY

Murphy,
Hollander,
Sause, John W., Jr.,
(Specially assigned)
JJ.

PER CURIAM

Filed: May 22, 1995

#93CV07344

In this case, both Golden Ring Yacht Basin, Inc./Chesapeake Yachting Center ("G.R.Y.B."), appellant, and People's Counsel for Baltimore County, appellee/cross appellant, appeal a decision issued by the County Board of Appeals for Baltimore County (the "Board"), that permitted a dry rack boat storage facility, but imposed certain other restrictions.

In 1986, after a public hearing, Baltimore County Zoning Commissioner Arnold Jablon approved a boat yard special exception for G.R.Y.B. Thereafter, in 1989, another Commissioner, Robert Haines, approved, without public notice or a hearing, an "administrative red line change in the site plan" allowing G.R.Y.B. to construct "dry [boat] rack storage" on the property.

After citizens in the area observed the construction, the home owners association, Bowleys Quarters Improvement Association ("B.Q.I.A.")[1], filed a petition for a special hearing requesting that the Commissioner disallow the construction of the racks, especially because there was no public hearing. The Zoning Commissioner, Lawrence Schmidt, exercised his discretion to hold a public hearing and decided that the racks constituted a material change from the original special exception and should not have been approved in 1989. Nevertheless, he granted an amended special exception that approved the racks, concomitant with a modified and additional restriction on the area.

As neither party was satisfied with the Commissioner's order, G.R.Y.B. and the People's Counsel appealed the decision, triggering

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[1]B.Q.I.A. is not a party to this appeal.

de novo proceedings before the County Board of Appeals for Baltimore County (the "Board"). In its decision, the Board essentially adopted Commissioner Schmidt's determinations. It found the racks to be a substantial change from the original site plan but warranted on the merits. The Board conditioned its approval on the designation of no more than 5% of the land site for active repair, sale, construction, and general service of boats.

Again, neither party was satisfied with the result and each appealed to the Circuit Court for Baltimore County. After oral argument on January 20, 1994, the circuit court issued a memorandum opinion and order on April 14, 1994, affirming the Board decision and providing additional legal analysis in support of the result. G.R.Y.B. then appealed to this Court, and the People's Counsel cross-appealed.

G.R.Y.B. presents the following question for our review, which we rephrase slightly for clarity:

> Whether the circuit court erred in affirming a decision of the County Board of Appeals, which unilaterally amended (without notice and without opportunity for hearing) the order of the zoning commissioner who granted a special exception for a boat yard with ground storage?

In its cross-appeal, People's counsel asks:

> I. Whether the Zoning Commissioner's approval of an amendment to a special exception, without notice to the citizens appearing as parties to the original proceedings, violates Baltimore County Zoning Law as well as the constitutional right to procedural due process of law? Whether the Special Hearing process is intended and structured to provide citizens an avenue of relief within the county zoning process under these circumstances?
>
> II. Whether a subsequent Zoning Commissioner and, on

appeal *de novo*, the County Board of Appeals may ameliorate the error by holding retroactively a hearing on the merits?

III. Whether, upon such hearing on the merits of the amendment, the decisionmaker may impose new conditions with the grant of the expanded request?

IV. Whether, upon such hearing on the merits, the decisionmaker is bound to grant the amendment in some form because of the principle of equitable estoppel?

V. Whether, upon such hearing on the merits, the decisionmaker is bound to apply the standards of newly enacted legislation in effect at the time of the later curative hearing?

Factual and Procedural Background

In 1985, G.R.Y.B. filed for a special exception with the Baltimore County Zoning Commission to develop a boat yard/marina along Frog Mortar Creek in Bowleys Quarters. After a public hearing, Zoning Commissioner Arnold Jablon granted the special exception and approved the submitted site plan. The site plan indicated that the parking spaces depicted in the plan were also to serve as dry boat storage. The type of storage, however, was not indicated or illustrated on the site plan.

Thereafter, in 1989, G.R.Y.B. sought permission to amend the site plan to provide for the installation of a dry boat rack storage system. The amended plan differed from the original plan in several ways. Most significantly, dry storage was delineated in the form of a rack facility. Further, the storage was not shown in the parking spaces but rather in a previously designated buffer area. The proposed amended site plan was reviewed by the various

County agencies, including the Department of Environmental Protection and Resource Management (DEPRM). After receiving comments and making changes, permission to amend was granted by Zoning Commissioner Robert Haines, without a hearing. The letter of permission, dated November 8, 1989, stated:

> [A]fter due consideration of the revised site plan dated September 19, 1989, it is the opinion of this Zoning Commissioner that the area identified as "Dry Rack Storage" and described under General Notes no. 6 shall serve as the boat storage area for the subject property and is consistent with the spirit and intent of the applicable zoning regulations and the Order issued December 15, 1986 by the then Zoning Commissioner, Arnold Jablon.

In 1991, when G.R.Y.B. commenced construction, B.Q.I.A. learned that the original site plan had been revised. At the suggestion of the Deputy Director of the Office of Planning and Zoning, B.Q.I.A. filed a request for a special hearing asking that the construction of the boat rack system be disallowed based on the failure to hold a public hearing.

A two-day hearing was then held before Zoning Commissioner Lawrence Schmidt.[2] Commissioner Schmidt concluded, in his opinion and order dated March 6, 1992, that a public hearing should have been afforded because the amended site plan constituted a material change. Nevertheless, he found that Baltimore County was estopped from withdrawing permission for G.R.Y.B. to complete the construction of the rack storage facility. Additionally,

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[2]Section 500.7 of the Baltimore County Zoning Regulation ("BCZR") authorizes a zoning commissioner to "conduct such other hearings and pass such orders thereon as shall, in his discretion, be necessary for the proper enforcement of all zoning regulations . . . ."

Commissioner Schmidt limited G.R.Y.B.'s right to utilize dry storage by denying use of any ground storage other than the rack system.

B.Q.I.A., through the People's Counsel for Baltimore County,[3] and G.R.Y.B. appealed Commissioner Schmidt's decision to the County Board of Appeals. The Board, which heard the case *de novo*, held hearings on September 15, 1992 and December 17, 1992. The People's Counsel offered the testimony of William Jordan, the President of B.Q.I.A.; John Schmidt, the Vice President of B.Q.I.A.; and David Cahlander, a resident and representative of the Stevens Road Community Association.

Jordan testified that the community was concerned that the original plan was amended without the benefit of a public hearing, that construction of the boat racks was already underway, and that the racks were too large and visibly obtrusive. Similarly, Schmidt informed the Board that B.Q.I.A. objected because the racks were unsightly and too high; although B.Q.I.A. had no objection to a rack system that was three levels high, G.R.Y.B. was constructing racks with four levels, which would result in approximately 200 more boats being placed on the property. Schmidt further informed the Board that B.Q.I.A. was aware that on-land storage was necessary for the marina for boats that did not fit into the racks. While B.Q.I.A. had no objection to outside storage, it was

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[3]The Baltimore County Charter, §524.1 (b)(3) provides that the People's Counsel "shall appear as a party before the zoning commissioner of Baltimore County, his deputy, the county board of appeals, and the courts on behalf of the interests of the public in general . . . "

concerned that the size of the racks would increase land traffic in the Bowleys Quarters area and increase boating traffic on Frog Mortar Creek. B.Q.I.A. sought compliance with the critical areas law. COMAR 27.01.03.06; *see also* BCZR § 417. Finally, Schmidt also stated that B.Q.I.A. was not aware that boat rack approval had been received and that B.Q.I.A. considered installation of the racks a breach of trust between the County and the community.

G.R.Y.B. offered the testimony of David Flowers, a former representative of DEPRM; Charles Lampron, the owner of G.R.Y.B./Chesapeake Yachting Center; and David Thaler, a professional engineer and land planner.

Flowers testified that it was his responsibility to implement the Chesapeake Bay Critical Areas Program in Baltimore County. He stated that his department received and reviewed both G.R.Y.B.'s original and revised site plan. He informed the Board that the revised plan complied with critical area measures. He also opined that a dry boat on land is better environmentally than a wet boat on the water or on the land and, for that reason, his department suggested to G.R.Y.B. that a roof be placed on the boat racks.

Lampron testified as the President and owner of G.R.Y.B. He stated that after receiving approval of the revised site plan from Commissioner Haines, he applied for, and received, a building permit to construct the boat racks. Accordingly, he purchased the rack system in 1991 at substantial cost and incurred much of the cost of construction before B.Q.I.A. ever filed the petition for a

special hearing.[4] He also stated that the rack system would not enable him to have more boats on the property. Because certain boats at the marina could not be accommodated by the rack system, due to their size or shape, and including boats for sale, additional ground space was necessary for the operation of the marina. He further testified as to the neatness and organizational benefits of the rack system.

Thaler testified that he specialized in land development in Baltimore County and that he was familiar with the several County agencies that were involved in the development process. Further, Thaler's office secured the special exception for G.R.Y.B. He informed the Board that G.R.Y.B.'s original site plan did not disclose boat rack structures. At that time, however, it was his opinion that the zoning office did not consider racks as structures, and as such he was instructed by the zoning office to remove the structures from the plan, although he had wanted to indicate them on the plan. He said:

> The zoning office at that time did not consider racks to be structures and structures were not to be shown on plans. So one of the instructions that we received was to take it off the plan, so that the plan that actually went to special hearing did not have the storage, the rack storage building shown on it.
>
> * * *
>
> I tried to put it on the plan, but their policy at that time . . . was that the racks, the developer's buildings, were not structures and not to be shown on the plan.
>
> Now, as you see, later, by '89, there's a written policy by the Zoning Commissioner that racks are considered structures.

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[4]The rack system cost $650,000 and the two forklifts needed to service the rack system cost $245,000.

He further testified that the 1986 special exception did not prohibit dry land storage, but that Commissioner Schmidt's Order deprived the property owner of an essential right.

After consideration of the testimony and the record evidence, the Board acknowledged that the construction of boat racks constituted a material change. In its decision of July 22, 1993, the Board approved G.R.Y.B.'s amended site plan. The Board found:

> Based upon the evidence and testimony presented to this Board de novo, the Board is satisfied that the previously approved site plan as amended in Case No. 86-292-XSPHA should be approved with certain restrictions hereinafter set out. The Board recognizes that the changes from the original to the revised site plan are substantial but believes that the plan with its changes should still be approved. This Board's finding is based upon the testimony offered in the Property Owner's case indicating that the changes were environmentally sound changes and were done after full review by DEPRM and after having complied with Chesapeake Bay Critical Areas legislation, as testified to by David Flowers. There is nothing in this record to indicate that there was any on-going secretive process taking place between the Property Owner and the County to secure approval of the installation of the boat rack system. . . .

In response to G.R.Y.B.'s argument that Commissioner Schmidt did not have authority to restrict dry storage of boats other than within the rack system, the Board said:

> The commissioner, as well as this Board on appeal, has authority to impose such a restriction should he choose to do so. The Board has considered the testimony offered by the Property Owner indicating that certain boats are too large and will not fit in the rack system such as cabin cruisers, sailboats and catamarans. Also, the community recognized this in their testimony given before the Board. We think that the restriction as imposed by Commissioner Schmidt prohibiting dry storage of any boats on the site with the exception of those within the rack system works an unreasonable hardship in the functioning of the marina. The Board has reviewed the comments from Pat Keller, Deputy Director of the Office of Planning and Zoning, dated December 15, 1992, and believes that his

> approach toward this issue is more appropriate by limiting storage to a percentage of the land site. The Board finds that the Property Owner should be limited to 5 percent of the land site . . . for dry storage of boats and active repair, sale, construction or servicing of boats, said area or areas to be located away from the water and preferably adjacent to the Carroll Island Shopping Center. . . .

The Board further found that the amended site plan should not be disallowed solely because it was approved without a pubic hearing. It reasoned:

> People's Counsel has argued to this Board that approval of the amended site plan by Commissioner Haines should be disallowed since it was done ex parte and denied the community the right of a public hearing. As we pointed out to People's Counsel at the hearing, the Board does not feel in this particular case that the community has been prejudiced or denied the opportunity to be heard. . . . A full evidentiary hearing consisting of two days took place before Commissioner Schmidt, and this very issue was before him. Commissioner Schmidt's hearing is also subject to review by this Board by the filing of an appeal where the matter is heard de novo in its entirety. The Petitioners availed themselves of their right of appeal to this Board, and a two-day hearing was also conducted before us. While these hearings occurred after the fact, this Board recognizes that both it and the Zoning Commissioner below have the authority under the special hearing process to grant the relief requested by the Petitioners, should the evidence so support such a finding. We feel that the Petitioners' rights have not been prejudiced and the issues presented by them have been fully reviewed and decided both by this Board and the Zoning Commissioner below.

Finally, the Board responded to the People's Counsel argument that Baltimore County was not estopped from revoking the permit for the construction of the boat racks. The Board determined that Baltimore County was estopped from taking any action to revoke the permits previously issued for the installation of the boat rack system. It said:

> When this appeal came before this Board, the permit for

> construction had already been issued by Baltimore county. The testimony was that the construction was nearly completed and that large sums of money had already been expended for the rack system, the forklifts and construction costs. For this Board to now rule that the County has authority to revoke the permits would be inequitable and result in substantial economic detriment for the Property Owner.

Thereafter, both parties appealed to the circuit court, which affirmed the decision of the Board. Like the Board and Commissioner Schmidt, the court concluded that the changes to the layout of the original plan were substantial. It also said that Commissioner Haines exercised his discretion pursuant to Section 500.7 of BCZR when he approved the amended plan without a public hearing. Further, the court held that even if there should have been a public hearing, B.Q.I.A. had an opportunity to be heard because it had a hearing before Commissioner Schmidt and the County Board of Appeals.

With respect to the issue of estoppel, the court recognized that "to revoke [G.R.Y.B.'s] permits and require them to tear down or shorten their custom built facility, would work an undue hardship upon G.R.Y.B. and result in manifest injustice." The court further stated:

> [B.Q.I.A.] argues that the allowance of the boat rack facility without a public hearing violates [BCZR] § 26-211[5] and thus was outside the scope of the Zoning Commissioner's authority. Having found that § 26-211

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[5]BCZR § 26-211 applies to procedures before the planning board. It states, in pertinent part:

> Any material amendment to an approved plan shall be reviewed and approved in the same manner as the original plan. Any other material change shall be in accordance with the Comprehensive Manual of Administrative Policy.

> does not apply to this case and that Commissioner Haines acted within his authority in approving the amendments, [B.Q.I.A.'s] argument must fail. The [c]ourt finds that estoppel does indeed apply.

The court also answered, in the negative, B.Q.I.A.'s contention that the Board should have applied newly enacted legislation in its decision because the opinion was issued one year after the legislation went into effect. Baltimore County Bill No. 149-92, effective September 15, 1992, amended the BCZR; it limits the height of rack facilities and provides that out-of-water storage facilities are permitted at a boat yard or marina by special exception. The court noted that: "In 1989, three years after Commissioner Jablon issued his order, Zoning Commissioner Haines properly approved amendments to the original plan. Relying on Commissioner Haines's approval and the approval of various other agencies, GRYB rightfully began construction . . . ." (Emphasis in original).

Finally, the court addressed the issue of additional ground storage. The court affirmed the Board's determination that the agency is vested with the authority "to impose restrictions necessary to properly enforce applicable zoning regulations." The court further found the Board's limitations entirely reasonable and substantiated by the record before it.

Discussion

I. Standard of Review

Our role in reviewing an administrative decision is "precisely the same as that of the circuit court." *Dep't of Health & Mental*

Hygiene v. Shrieves, 100 Md. App. 283, 303-304 (1994); *see also Moseman v. County Council*, 99 Md. App. 258, 262, *cert. denied*, 335 Md. 229 (1994). Like the circuit court, we must review the administrative decision itself. *Pub. Serv. Comm'n v. Balto. Gas & Elec. Co.*, 72 Md. App. 578, 586, *rev'd on other grounds*, 314 Md. 46, *cert. denied*, 490 U.S. 1007 (1988); *see also Dep't Econ. & Emp't Dev't v. Hager*, 96 Md. App. 362 (1993). "Judicial review of administrative agency action is narrow." *United Parcel Serv., Inc. v. People's Counsel*, 336 Md. 569, 576 (1994). This Court may not uphold the agency's decision "unless it is sustainable on the agency's findings and for the reasons stated by the agency." *United Parcel Serv.*, 336 Md. at 577 (quoting *United Steelworkers v. Beth. Steel*, 298 Md. 665 (1984)). Without a reasoned analysis for the decision, the appellate court cannot determine the basis of the agency's decision. *Mortimer v. Howard Research*, 83 Md. App. 432, 441, *cert. denied*, 321 Md. 164 (1990). When the Board fails to meet this requirement, its decision may be deemed arbitrary, and should be remanded to supply the deficiencies. *Id.* at 442.

On review, we must determine whether the decision of the agency was in accordance with law. *Levy v. Seven Slade, Inc.*, 234 Md. 145, 149 (1964); *Gray v. Anne Arundel Co.*, 73 Md. App. 301 (1987). This Court has said that a decision is "not in accordance with law" when it is

> arbitrary, illegal or capricious. In making a determination of whether the [agency] decision is arbitrary, illegal or capricious, the reviewing court must decide whether the question before the agency was fairly debatable. An issue is fairly debatable if reasonable persons could have reached a different

> conclusion on the evidence and, if so, a reviewing court may not substitute its judgment for that of the administrative agency. The fairly debatable test is analogous to the clearly erroneous standard under Rule 8-131(c) and a decision is fairly debatable if it is supported by substantial evidence on the record taken as a whole.

Mortimer, 83 Md. App. at 441. *See also Moseman*, 99 Md. App. at 262-263.

In reviewing the Board's decision, this Court must not engage in judicial fact-finding. *Anderson v. Dep't of Public Safety,* 330 Md. 187, 212 (1993); *Bd. of County Comm'rs v. Holbrook*, 314 Md. 210, 218 (1988). Rather, factual findings made by the Board are binding upon a reviewing court, so long as they are supported by substantial evidence. *United Parcel Serv.*, 336 Md. at 577; *Mortimer*, 83 Md. App. at 441; *Floyd v. County Council of P.G. Co.*, 55 Md. App. 246 (1983). Substantial evidence has been defined as more than a scintilla of evidence. *Montgomery Co. v. Gr. Colesville Ass'n*, 70 Md. App. 374, 382 (1987). Further, the inferences reasonably to be drawn from the facts are also left to the Board. *Holbrook*, 314 Md. at 218 (citing *Snowden v. Mayor & C.C. of Balto.*, 224 Md. 443, 448 (1961)). *See also Moseman*, 99 Md. App. at 265. "'The Court may not substitute its judgment on the question whether the inference drawn is the right one or whether a different inference would be better supported. The test is reasonableness, not rightness.'" *Snowden*, 224 Md. at 448 (citations omitted). *See also People's Counsel v. Mangione*, 85 Md. App. 738, 751 (1991).

In sum, we quote at length from this Court's decision in *Gray*

v. Anne Arundel Co., as we believe it clearly sets forth the analysis that we must employ as we review the Board's decision.

> ". . . [T]he order of an administrative agency, such as a county zoning Board, must be upheld on review if it is not premised upon an error of law and if the agency's conclusions 'reasonably may be based upon the facts proven.'" . . . [T]he standard of review to be applied depends upon the nature of the agency finding being reviewed. It has been interpreted to require a three-step analysis, as follows:
>
> 1. First, the reviewing court must determine whether the agency recognized and applied the correct principles of law governing the case. The reviewing court is not constrained to affirm the agency where its order "is premised solely upon an erroneous conclusion of law."
>
> 2. Once it is determined that the agency did not err in its determination or interpretation of the applicable law, the reviewing court next examines the agency's factual findings to determine if they are supported by substantial evidence, *i.e.*, by such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. . . . "[I]t is the agency's province to resolve conflicting evidence, and, where inconsistent inferences can be drawn from the same evidence, it is for the agency to draw the inferences."
>
> 3. Finally the reviewing Court must examine how the agency applied the law to the facts. This of course is a judgmental process involving a mixed question of law and fact, and great deference must be accorded to the agency. The test of appellate review of this function is "Whether . . . a reasoning mind could reasonably have reached the conclusion reached by the [agency], consistent with a proper application of the [controlling legal principles]."

Gray, 73 Md. App. at 307-09 (citations omitted).

II. Approval of an amendment to a special exception site plan without a public hearing

People's Counsel argues that G.R.Y.B.'s proposed amendments to

the original site plan were material and substantial and that Commissioner Haines should have provided a public hearing. Appellee further asserts that the commissioner's failure to conduct a public hearing violated the Express Powers Act of Md. Ann. Code, Art. 25A, § 5(U)[6], the Baltimore County Code, and the Constitution.

We need not reach the issue of whether a hearing was required in the case *sub judice*, however, because B.Q.I.A. and the People's Counsel had two subsequent hearings that cured any error. First, Commissioner Schmidt conducted a two day evidentiary hearing. Then the Board reviewed the case *de novo* and also conducted a two-day hearing. It heard testimony from several witnesses, including the criticisms voiced by B.Q.I.A. representatives. Thereafter, the Board made determinations regarding the merits of the case. In its decision, the Board expressly said that it considered all the evidence:

> This Board has considered the testimony of all of the witnesses presented, the exhibits filed, the Zoning Commissioner's file, and arguments of counsel. Based upon the evidence and testimony presented to this Board *de novo*, the Board is satisfied that the previously approved site plan as amended . . . should be approved with certain restrictions hereinafter set out. The Board recognizes that the changes from the original to the revised site plan are substantial but believes that the plan with its changes should still be approved.

In determining that appellee was not denied an opportunity to be heard, the case of *Hill v. Baltimore County*, 86 Md. App. 642 (1991), is dispositive. In that case, appellant had no notice and no hearing before the Medical Board or the Board of Trustees

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[6]The Baltimore County Charter, Article VI, incorporates the Express Powers Act and further provides for *de novo* appeals.

regarding his claim of disability. On appeal, he claimed that he was denied due process of law. We disagreed, and stated:

> We hold that an individual is provided due process of law even if he or she is not given notice of or a hearing at the initial administrative levels when he or she is afforded a *de novo* hearing at the County Board of Appeals. Appellant received notice of the hearing, appeared with counsel, presented evidence, cross-examined witnesses and had a complete record that formed the basis of the Board of Appeals decision. Under its *de novo* review, the Board of Appeals could have decided the case completely. Here, it decided to affirm the decisions of the Medical Board and the Board of Trustees. Furthermore, we noted in *Boehm v. Anne Arundel County*, 54 Md. App. 497, 511, *cert. denied*, 297 Md. 108 (1983), that a *de novo* hearing is for all intents and purposes the first hearing of a case and cures any error existing in earlier administrative decisions.

Id. at 655.

The case of *Boehm v. Anne Arundel*, 54 Md. App. 497, *cert. denied*, 291 Md. 108 (1983), in which we explained the effect of a de novo appeal, is also pertinent. There we said:

> [A] *de novo* hearing is an entirely new hearing at which time all aspects of the case should be heard anew as if no decision had been previously rendered. Thus, the Board of Appeals may consider the decision of the Zoning Office in any light it desires but is not bound by the earlier decision in its *de novo* review. The *de novo* hearing, which is in actuality the first formal hearing on the issue, purges any potential errors from the earlier decision of the Zoning Office.

Id. at 511.

In this case, appellee was fully afforded a right to be heard at the *de novo* hearing. It is evident that the protestants were given ample opportunity to present their testimony, views and argument. They were also given an opportunity to cross-examine G.R.Y.B.'s witnesses and oppose its position. As both the Zoning Commissioner and the Board had the authority to provide the

requested relief,[7] appellee was not prejudiced by Commissioner Haines's initial failure to grant a hearing. Therefore, "it would be 'an act of futility, a useless gesture of no effect whatsoever, to consider this [issue],'" on appeal. *Wash. Sub. San. Comm'n v. T.K.U. Associates*, 281 Md. 1, 25 (1977).

III. Municipal Estoppel

As noted above, both Commissioner Schmidt and the Board found that Baltimore County was estopped from revoking permission for the construction of the rack facility. The Commissioner found:

> [T]he property owner's revision of the initial site plan was undertaken above-board and with full knowledge and approval of County officials. Testimony was uncontradicted that when the property owner initially considered implementation of the boat rack system, he sought approval of same from the appropriate County officials and agencies. Revised site plans were submitted and revisions of the plan were made in accordance with the suggestions of the Department of Environmental Protection and Resource Management (DEPRM). As noted above, Commissioner Haines approved the amendment by way of his letter dated November 8, 1989.... In any event, the property owner offered testimony regarding all of its efforts to obtain approval of its revised plan. Further, testimony was offered that the property owner obtained a permit for the construction of the boat racks . . . and that substantial sums of money were expended to specially order the racks from their manufacturer. Clearly, the property owner relied upon

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[7] B.C.Z.R. § 500.7 grants the Zoning Commissioner the "power to conduct such other hearings and pass such orders thereon as shall, in his discretion, be necessary for the proper enforcement of all zoning regulations, subject to the right of appeal to the County Board of Appeals as hereinafter provided."

B.C.Z.R. further provides that "The decision and order of the Board of Zoning Appeals may affirm or reverse in whole, or in part, any decision or order of the Zoning Commissioner, or may modify the Order appealed from and direct the issuance of a permit for such modified use as it may deem proper, subject, however, to zoning regulations and restrictions."

the County's approval in ordering and implementing the revisions to its plans.

The Board similarly concluded that:

> When this appeal came before this Board, the permit for construction had already been issued by Baltimore County. The testimony was that the construction was nearly completed and that large sums of money had already been expended for the rack system, the forklifts and construction costs. For this Board to now rule that the County has authority to revoke the permits would be inequitable and result in substantial economic detriment for the Property Owner. As previously stated, the evidence does not indicate that the Property Owner or Baltimore County was acting in any secretive manner in the process of securing the permit. This Board finds from the facts presented in the proceedings before it that Baltimore County is now estopped from taking any action to revoke the permits previously issued for the installation of the boat rack system.

Appellee asserts that estoppel should not prevent the municipality from revoking G.R.Y.B.'s permits. We disagree.

The doctrine of equitable estoppel applies "to municipal, as well as private, corporations and individuals." *Berwyn Heights v. Rogers*, 228 Md. 271, 279 (1962); *see also Mayor & City Council of Hagerstown v. Hagerstown Ry. Co.*, 123 Md. 183, 195 (1914). In *Inlet Associates v. Assateague House*, 313 Md. 413 (1988), the Court acknowledged that "[t]here is no settled rule in this country as to when, and under what circumstances, equitable estoppel is available against a municipal corporation." *Id.* at 434; *Perm. Fin. Corp. v. Montgomery Cty.*, 308 Md. 239, 247 (1986). The Court stated, however, that "while municipal corporations are not exempt from application of equitable estoppel principles, 'in practice we have applied the doctrine more narrowly,'" *Id.* at 435; *see also Levinson v. Montgomery County*, 95 Md. App. 307, 334, *cert. denied*,

331 Md. 197 (1993); *Perm. Fin Corp.*, 308 Md. at 249. Further, Maryland courts have consistently held that a municipality cannot be estopped by the action of an official that was illegal. *See Inlet Associates*, 313 Md. at 435-36; *Berwyn Heights*, 228 Md. 271; *Lipsitz v. Parr*, 164 Md. 222 (1932).

In *Lipsitz v. Parr*, 164 Md. 222 (1932) the Court explained municipal estoppel:

> A municipality may be estopped by the act of its officers if done within the scope and in the course of their authority or employment, but estoppel does not arise should the act be in violation of law. Paragraph 31 of the ordinance forbade the officials of the municipality to grant the permit which the plaintiff asked and obtained. . . .
>
> [I]t was therefore unlawful for the officers and agents of the municipality to grant the permit; and it would be unlawful for the licensee to do what the purporting permit apparently sanctioned. A permit thus issued without the official power to grant does not, under any principle of estoppel, prevent the permit from being unlawful nor from being denounced by the municipality because of its illegality. . . . [T]he doctrine of equitable estoppel cannot be here invoked to defeat the municipality in the enforcement of its ordinances, because of an error or mistake committed by one of its officers or agents which has been relied on by the third party to his detriment. Every one dealing with the officers and agents of a municipality is charged with knowledge of the nature of their duties and the extent of their powers, and therefore such a person cannot be considered to have been deceived or misled by their acts when done without legal authority.

Id. at 227-28.

Nevertheless, in *Inlet Associates*, the Court acknowledged that "None of this is to say that a municipality cannot be estopped where in the course of executing its granted powers it merely does so irregularly or defectively." *Id.* at 438. This Court also recognized the distinction in *Prince George's Co. v. Blumberg*, 44

Md. App 79, *rev'd on other grounds*, 288 Md. 275 (1980). There, the county sought to revoke a permit based on the failure of the property owner to obtain a required contractor's license. Although the appellee did not have the license at the time the permit was issued, he subsequently secured it prior to the time of the county's revocation. As in the present case, the proposed construction was a legal structure pursuant to county zoning laws. In distinguishing case law holding that municipalities cannot be estopped by its agent's illegal actions, we said:

> The Court of Appeals, it is true, has stated on a number of occasions that a municipal authority is not estopped from asserting the invalidity of a building permit that was erroneously and unlawfully issued - that such a permit confers no rights upon its holder. *See, for example, Lipsitz v. Parr*, 164 Md. 222 (1933); *Berwyn Heights v. Rogers*, 228 Md. 271 (1962); *Kent County v. Abel*, 246 Md. 395 (1967); and *cf. City of Hagerstown v. Long Meadow*, 264 Md. 481 (1972). Those cases, however, and others reaching similar conclusions, involved not merely a defect in the issuance of the permit, but rather a situation in which the project authorized by the permit was itself illegal. In each case, the proposed structure was prohibited by the applicable zoning ordinance. The illegality was not in the permit or the manner of its issuance, but rather in what it purported to authorize; and that illegality was a continuing one.

Id. at 100.

In this case, People's Counsel does not argue that the proposed use was unauthorized; the approved use was authorized pursuant to the BCZR. Rather, appellee claims that the amendment should not have been granted without an opportunity for public hearing. As noted above, this defect was procedural and was cured when the Board conducted a *de novo* appeal. There was substantial evidence in the record to support the Board's determination that

G.R.Y.B. relied to its detriment. Accordingly, the Board did not err in deciding that the County was estopped from revoking G.R.Y.B.'s permit.

IV. Newly enacted legislation

People's Counsel argues that the Board erred in failing to apply Bill 149-92, which became effective on September 15, 1992. The legislation required a special exception for rack facilities such as the one in the present case and limits the height of such racks. Appellee asserts that because the appeal was heard *de novo* and because the Board did not issue its opinion until July 22, 1993, it should have applied the new law consistent with the rule articulated in *Yorkdale v. Powell*, 237 Md. 121 (1963).

The Court, in *Yorkdale*, outlined the general rule applicable to zoning cases when there has been a change in law. The Court explained:

> Maryland consistently has followed the rule that 'an appellate court is bound to decide a case according to existing laws, even though a judgment rightful when rendered by the court below should be reversed as a consequence. . . .' See also for this proposition that a change in the law after a decision below and before final decision by the appellate Court will be applied by that Court *unless vested or accrued substantive rights would be disturbed* or unless the legislature shows a contrary intent.

Id. at 124 (citations omitted)(emphasis added).

Likewise, in *O'Donnell v. Bassler*, 289 Md. 501 (1981), the Court commented that "An appellate court must apply the law in effect at the time a case is decided, provided that its application does not affect intervening vested rights." *Id.* at 508.

Thereafter, the Court defined "vested right:"

> Generally, in order to obtain a vested right in an existing zoning use that will be protected against a subsequent change in a zoning ordinance prohibiting that use, the owner must initially obtain a valid permit. Additionally, in reliance upon the valid permit, the owner must make a substantial beginning in construction and in committing the land to the permitted use before the change in the zoning ordinance has occurred.

Id.

In this case, G.R.Y.B. acquired a valid "boat yard" special exception in 1986. Thereafter, in 1989, Commissioner Haines approved amendments to the original plan. The circuit court pointed out that it was within the Commissioner's discretion to approve the amendment without a hearing, pursuant to BCZR § 500.7. Moreover, the Board ultimately upheld the amendment, with restrictions, after considering extensive testimony, exhibits, and argument. Consequently, we believe that G.R.Y.B. had a valid permit allowing the installation of boat racks. Thereafter, G.R.Y.B. began construction of the racks and expended great sums of money to install them.

B.Q.I.A. did not petition the Zoning Commission for a special hearing concerning approval of the amendments until 1991. At this point, G.R.Y.B. had already purchased the rack system for $650,000 and spent $245,000 for other operating equipment. Further, much of the rack construction had been completed by the time B.Q.I.A. filed their petition. Consequently, G.R.Y.B. had vested rights in the construction, and the Board was not required to apply the newly enacted bill.

Moreover, a portion of Bill 149-92, which amends § 502.9 of

the BCZR, specifically provides as follows:

> Bill No. 149-92 does not affect the validity of any order granting a special exception for a marina or boat yard which occurred prior to the effective date of this bill. Any such special exception may be used in accordance with the applicable provisions of the Baltimore County Zoning Regulations (BCZR) in effect at the time of the grant of such special exception and in accordance with the terms thereof, provided construction is started prior to the expiration date of the special exception as required by Section 502.3.

Accordingly, Bill No. 149-92 does not affect the validity of the 1986 order granting a special exception to G.R.Y.B. We note that when Commissioner Jablon permitted the use, he also approved the submitted site plan. The site plan indicated that the parking spaces were also to serve as dry boat storage. The type of dry storage was not indicated on the plan and the Commissioner did not place any restrictions on the type of storage provided. No appeal was taken from that decision.

V. Additional Conditions imposed by the Board

After reviewing Commissioner Schmidt's prohibition of dry storage of any boat on the site with the exception of those within the rack system, the Board decided that his limitations were too restrictive. Consequently, the Board found that "the Property Owner should be limited to 5 percent of the land site . . . for dry storage of boats and the active repair, sale, construction or servicing of boats, said area or areas to be located away from the water and preferably adjacent to the Carroll Island Shopping Center."

Appellant contends that by imposing these additional

restrictions on G.R.Y.B.'s ground storage, the Board and the Zoning Commissioner went beyond the issue presented in the Petition for Special Hearing. Therefore, it claims that the agency acted outside its authority. Appellee asserts, on the other hand, that decisionmakers have the power to impose additional conditions on amendments to special exceptions. We agree. As noted earlier, BCZR § 500.7 provides that: "The said zoning commissioner shall have the power to conduct such other hearings and pass such orders thereon as shall, in his discretion, be necessary for the enforcement of all zoning regulations, subject to the right of appeal to the County Board of Appeals."

Nevertheless, G.R.Y.B. claims that in reaching its decision, the Board improperly considered an ex parte communication from Pat Keller, the Deputy Director of the Baltimore County Office of Planning and Zoning ("OPZ"), and relied on the document in imposing restrictions. The Board acknowledged that it reviewed the comments from Pat Keller in making its decision to limit storage. It is, apparently, undisputed that the document was not furnished to either G.R.Y.B. or People's Counsel.[8] The Director's letter,

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[8]In its reply brief, appellant noted:
The existence of this later document inadvertently was not made apparent to either party by the reference thereto in the Board's opinion. Although the Board's opinion refers to this document, there was a prior Zoning Advisory Comment properly filed by OPZ in this case. Having no knowledge that there was a later, ex parte submission by OPZ, counsel assumed (erroneously) the reference was to the prior, properly admitted ZAC comment. At no time until the office of counsel for Appellee discovered the document in the course of reviewing the record in this court on or about December 12, 1994, was counsel for Appellant aware of the existence of this document.

which was written on December 15, 1992, recommended in pertinent part:

> Based upon the information provided; site visit conducted by staff and discussions with both the petitioner and community representatives staff suggests that the following be considered.
>
> 1. In accordance with Section 220 BCZR, all lighting should be located below 20 feet and directed away from residences. Landscaping in the form of major deciduous trees should be provided.
>
> 2. As shown on the Site Plan dated September 19, 1989, at grade storage of larger boats and sail boats should be limited to active repair, sale, construction or servicing of craft. If any land storage is considered by the Board of Appeals it should be limited to 5% of the land Site (10.6± acres) and located in an area(s) away from the water, preferably adjacent to the Carroll Island Shopping center.

The Director did not testify before the Board, nor was the document formally introduced into evidence. Accordingly, appellant claims that it was deprived of procedural due process. We agree.

It is well settled that in Maryland, "Procedural due process, guaranteed to persons in this state by Article 24 of the Maryland Declaration of Rights, requires that administrative agencies performing adjudicatory or quasi-judicial functions observe the basic principles of fairness as to parties appearing before them." *Maryland State Police v. Zeigler*, 330 Md. 540, 559 (1993); see also *Schultz v. Pritts*, 291 Md. 1, 7 (1981). Further, as the Court stated in *Schultz*:

> When an administrative agency relies upon evidence submitted after the close of a hearing, *due process may be violated if no opportunity is provided to challenge the evidence by cross-examination or rebuttal*. However, when an administrative agency relies upon the evidence submitted after the close of hearing, there may be no due

> process violation when the parties are aware that the evidence will be considered but make no objection, particularly if the evidence is duplicative in nature. Under such circumstances, the requisite procedural fairness has been accorded because there was the opportunity to challenge the original evidence by cross-examination or rebuttal or to request the opportunity to challenge the newly acquired evidence before the agency reached its decision.

Id. (Citations omitted)(emphasis added).

Similarly, in *Dal Maso v. Bd. of County Comm'rs*, 238 Md. 333 (1964), the Court recognized that when the Board relies on a report made after the hearing, the case should be remanded to introduce the report into evidence, and to allow an opportunity for the parties to challenge the findings. The Court cautioned, however, that "when the party appearing before the board has the opportunity, however informally granted, to examine and challenge the report in question before the board reaches a conclusion, the requisite procedural fairness has been met." *Id.* at 337.

In this case, G.R.Y.B. had no opportunity to examine and challenge the Director's recommendations before the Board reached its conclusion. Accordingly, as to that portion of the decision restricting appellee to a 5% limitation on dry storage, we shall reverse and remand for further proceedings.

DECISION IMPOSING LIMITATION ON DRY STORAGE REVERSED AND REMANDED TO THE CIRCUIT COURT WITH INSTRUCTIONS TO REMAND THE CASE TO THE BALTIMORE COUNTY BOARD OF ZONING APPEALS FOR FURTHER PROCEEDINGS CONSISTENT WITH THIS OPINION. JUDGMENT AFFIRMED IN ALL OTHER RESPECTS. COSTS TO BE PAID ONE-HALF BY APPELLANT AND ONE-HALF BY APPELLEE.

Golden Ring Yacht Basin, Inc./Chesapeake Yachting Center	*	
	*	In the
Appellant	*	Court of Special Appeals
v.	*	No. 1047
Baltimore County, Maryland	*	September Term, 1994
Appellee	*	

ORDER

This Court having issued a Notice of Contemplated Dismissal on September 12, 1994, indicating that the captioned appeal would be dismissed unless Appellant showed cause on or before September 28, 1994, why a transcript of proceedings was not included in the record on appeal, and Appellant having responded satisfactorily to the Notice, it is this 27th day of October, 1994, by the Court of Special Appeals,

ORDERED that the record in the captioned appeal is accepted, subject to further review by the panel of judges hearing argument in the case.

Alan M. Wilner
Chief Judge

10-24-94

Court of Special Appeals

Courts of Appeal Building
Annapolis, Md. 21401-1699

LESLIE D. GRADET
CLERK

(410) 974-3646
WASHINGTON AREA (301) 261-2920

KATHARINE M. KNIGHT
CHIEF DEPUTY

October 27, 1994

Benjamin Bronstein, Esquire
205 Susquehanna Building
29 West Susquehanna Avenue
Towson, Maryland 21204

Re: Golden Ring Yacht Basin, Inc./Chesapeake Yachting Center vs. Baltimore County, Maryland
No. 1047, September Term, 1994

Dear Mr. Bronstein:

Enclosed find a copy of an Order of this Court dated October 27, 1994, advising that the record in the captioned appeal has been accepted subject to further review by the panel of judges hearing argument in the case.

Very truly yours,

Leslie D. Gradet

Leslie D. Gradet
Clerk

LDG:ls

Enclosure

cc: Carole S. Demilio, Esquire
Peter Max Zimmerman, Esquire

Maryland Relay Service
1-800-735-2258
TT/VOICE

MJC/mlg/09.19.94

IN THE COURT OF SPECIAL APPEALS OF MARYLAND

GOLDEN RING YACHT BASIN, INC./ CHESAPEAKE YACHTING CENTER	*	
	*	
Appellant		
	*	NO. 1047
V.		
	*	SEPTEMBER TERM, 1994
BALTIMORE COUNTY, MARYLAND		
	*	
Appellee		

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

ORDER

Upon consideration of the Response of Appellant to Notice of Contemplated Dismissal filed herein by Appellant, Golden Ring Yacht Basin, Inc./Chesapeake Yachting Center, and other matters of record, it is this _____ day of _____, 1994, by the Court of Special Appeals of Maryland,

ORDERED, that the Notice of Contemplated Dismissal is hereby withdrawn.

_____
Judge
Court of Special Appeals of Maryland

Golden Ring Yacht Basin, Inc. / Chesapeake Yachting Center	*	
	*	In the
Appellant	*	Court of Special Appeals
v.	*	No. 1047
Baltimore County, Maryland	*	September Term, 1994
Appellee	*	

NOTICE OF CONTEMPLATED DISMISSAL

It appears that the record transmitted to this Court did not include a transcript of the proceedings in the lower court as required by Maryland Rule 8-411. The captioned appeal will be dismissed unless appellant shows cause on or before the 28th day of September, 1994 as to why a transcript of the proceedings in this appeal is not required.

Alan M. Wilner
Chief Judge

DATED: September 12, 1994

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L.D. GRADET, CLERK

MJC/mlg/09.19.94

IN THE COURT OF SPECIAL APPEALS OF MARYLAND

GOLDEN RING YACHT BASIN, INC./ CHESAPEAKE YACHTING CENTER	*	
Appellant	*	NO. 1047
V.	*	SEPTEMBER TERM, 1994
BALTIMORE COUNTY, MARYLAND	*	
Appellee		

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

RESPONSE OF APPELLANT TO NOTICE OF CONTEMPLATED DISMISSAL

Golden Ring Yacht Basin, Inc./Chesapeake Yachting Center, Appellant, by Benjamin Bronstein and Evans, George and Bronstein, its attorneys, responds to the Notice of Contemplated Dismissal issued by this Court on September 12, 1994 in the above captioned action and says:

1. This proceeding arises out of a Petition for Judicial Review of a decision by an administrative body, the Board of Appeals for Baltimore County ("Board of Appeals").

2. There is no transcript of the proceedings before the Circuit Court because no live testimony was taken during the course of the judicial review of the Board of Appeals' decision.

3. The factual testimony in this matter was taken before the Board of Appeals. A transcript of the testimony before the Board of Appeals is included in the record forwarded to this Court. In a telephone conversation with Debbie Plaugher of the office of the Clerk of the Court of Special Appeals of Maryland, counsel for Appellant was advised that the transcript of the proceedings before

the Board of Appeals is, in fact, included in the record transmitted to this Court. Appellant respectfully suggests that inclusion of the transcript of the proceedings before the Board of Appeals is the appropriate transcript to be included in the record required by Maryland Rule 8-411.

WHEREFORE, Golden Ring Yacht Basin, Inc./Chesapeake Yachting Center, Appellant, respectfully requests that the Notice of Contemplated Dismissal be withdrawn.

EVANS, GEORGE AND BRONSTEIN

Benjamin Bronstein
205 Susquehanna Building
29 West Susquehanna Avenue
Towson, Maryland 21204
(410) 296-0200

Attorney for Golden Ring Yacht Basin, Inc./Chesapeake Yachting Center

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 19 day of September, 1994, a copy of the foregoing was mailed, postage pre-paid to Carole S. Demilio, Esquire, Deputy People's Counsel for Baltimore County and Peter Max Zimmerman, Esquire, People's Counsel for Baltimore County, Courthouse, 400 Washington Avenue, Towson, Maryland 21204.

Benjamin Bronstein

RECEIVED
COURT OF SPECIAL APPEALS OF MD
94 SEP 21 AM 9:57
L.D. GRADET, CLERK

LAW OFFICES
EVANS, GEORGE AND BRONSTEIN
SUSQUEHANNA BUILDING, SUITE 205
29 WEST SUSQUEHANNA AVENUE
TOWSON, MARYLAND 21204
(410) 296-0200
FAX: (410) 296-3719

L. ROBERT EVANS
HARRIS JAMES GEORGE
BENJAMIN BRONSTEIN

MICHAEL J. CHOMEL
DOUGLAS A. STUBBS

September 19, 1994

Leslie D. Gradet, Esquire
Clerk
Court of Special Appeals
Courts of Appeals Building
Annapolis, Maryland 21401-1699

RE: **Case No.: 1047 September Term 1994**
Golden Ring Yacht Basin, Inc./
Chesapeake Yachting Center v.
Baltimore County, Maryland

Dear Ms. Gradet:

Please file the enclosed Response of Appellant to Notice of Contemplated Dismissal in the above referenced case. As is more fully set forth in the Response, this proceeding involves an appeal from a decision of the Circuit Court for Baltimore County under Subtitle 2 of Title 7 of the Maryland Rules of Procedure -- Judicial Review of Administrative Agency Decisions. As a result, there was no transcript of testimony before the Circuit Court. I have been advised by Debbie Plaugher of your office that there is, in fact, a transcript of the live testimony before the Board of Appeals for Baltimore County contained in the record transmitted to this Court.

Thank you for your courtesy and cooperation in this matter.

Very truly yours,

EVANS, GEORGE AND BRONSTEIN

Benjamin Bronstein

MJC/BB/mlg
Enclosure
cc: Peter Max Zimmerman, Esquire
People's Counsel for Baltimore County

Court of Special Appeals
Courts of Appeal Building
Annapolis, Md. 21401-1699

LESLIE D. GRADET
CLERK

(410) 974-3646
WASHINGTON AREA (301) 261-2920

KATHARINE M. KNIGHT
CHIEF DEPUTY

September 12, 1994

Benjamin Bronstein, Esquire
29 West Susquehanna Avenue
Susquehanna Building, Suite 205
Towson, Maryland 21204

Re: Golden Ring Yacht Basin, Inc./Chesapeake Yachting Center vs. Baltimore County, Maryland
No. 1047, September Term, 1994

Dear Mr. Bronstein:

Enclosed is a copy of the Court's Notice of Contemplated Dismissal dated September 12, 1994. The captioned appeal will be dismissed unless Appellant shows cause on or before September 28, 1994 why a transcript of proceedings is not required in this appeal.

Very truly yours,

Leslie D. Gradet

Leslie D. Gradet
Clerk

LDG:ls

Enclosure

cc: Carole S. DeMilio, Esquire
Peter Max Zimmerman, Esquire

Maryland Relay Service
1-800-735-2258
TT/VOICE

Golden Ring Yacht Basin, Inc. / Chesapeake Yachting Center	*	
	*	In the
Appellant	*	Court of Special Appeals
v.	*	No. 1047
Baltimore County, Maryland	*	September Term, 1994
Appellee	*	

ORDER

It appearing that the record in the captioned appeal was not transmitted to this Court within the time prescribed by Maryland Rule 8-412(a); and it further appearing from the Clerk's Affidavit in the record that the delay was occasioned by the neglect, omission, or inability of the Clerk of the lower court,

It is therefore, this 2nd day of September, 1994, by the Court of Special Appeals, on its own motion,

ORDERED that the time for transmitting the record to this Court be, and it is hereby, extended to the date of this Order.

Alan M. Wilner
Chief Judge

GOLDEN RING YACHT BASIN, INC./ CHESAPEAKE YACHTING CENTER	*	IN THE CIRCUIT COURT
	*	FOR BALTIMORE COUNTY
VS	*	CIVIL
	*	DOCKET 59 PAGE 226
IN THE MATTER OF THE APPLICATION OF JOHN J. SCHMIDT, ET AL	*	CASE NO. 93 CV 07344

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TRANSCRIPTS AND EXHIBITS UNDER SEPARATE COVER

8-24

STATE OF MARYLAND
BALTIMORE COUNTY, TO WIT:

I, SUZANNE MENSH, CLERK of the Circuit Court for Baltimore County do hereby certify that Case No. 93 CV 07344 is one of the CIVIL original record of proceedings in the said Court, in the therein entitled cause in conformity with the rules of the Court of Special Appeals of Maryland relating thereto.

IN TESTIMONY THEREOF, I hereto Subscribe my name and affix the Seal of the Said Court, this 24TH day of AUGUST, 19 94.

Suzanne Mensh

CLERK, CIRCUIT COURT FOR
BALTIMORE COUNTY.

Preparation and Cost of Record $60.00

Stenographers Cost X

Appeal Fee $100.00

Postage or Transportation Fee X

1047/94

OFFICE OF

Clerk of the Circuit Court for Baltimore County

COUNTY COURTS BUILDING, TOWSON, MARYLAND 21204

SUZANNE MENSH
Clerk

AUGUST 24, 1994

Leslie D. Gradet, Clerk
Court Of Special Appeals Of Md.
Court Of Appeals Bldg.
Annapolis, Maryland 21401-2920

RE: GOLDEN RING YACHT BASIN, INC./
CHESAPEAKE YACHTING CENTER
VS
IN THE MATTER OF THE APPLICATION
OF JOHN J. SCHMIDT, ET AL
CASE NO. 93 CV 07344

Dear Ms. Gradet:

I am sending this as an official Notice of Affidavit. The case mentioned above was due on 8/23/94.

Please accept this case as late, due to the fact, that I have a large backlog of big cases along with a huge case due to The COS, ASASP.?
I sincerely apologize for this inconvenience.

Sincerely,

Angel Julio

ANGEL JULIO
Appeals Clerk
Appellate Appeals Dept.

CIRCUIT COURT FOR BALTIMORE COUNTY

CIVIL CATEGORY JUDICIAL REVIEW

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY
PETITION OF GOLDEN RING
YACHT BASIN, INC./CHESAPEAKE YACHTING
CENTER

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

IN THE CASE OF:
IN THE MATTER OF THE
APPLICATION OF
JOHN J. SCHMIDT, ET.AL.

PETITION OF PEOPLE'S COUNSEL FOR
BALTIMORE COUNTY

TRANSCRIPT IN BASEMENT
LOCATION: TRANSCRIPTS & EXHIBITS
Box 157

ATTORNEYS

Benjamin Bronstein
205 Susquehanna Building
29 West Susquehanna Avenue
21204 296-0200

Scott Burns
510 W. Baltimore St.
Baltimore, MD 21201 706-2147
(John J. Schmidt, et al)

Peter Max Zimmerman
Carole S. Demilio
Rm47, Courthouse, 400 Washington Ave
21204/887-2188(People's Counsel)

9 E.E. D/E: MAILED 4/

s(1) Aug. 16, 1993 Petition for Judicial Review fd. Notice sent.

lf (2) Aug. 16, 1993 - Certificate of Notice fd.

lf (3) Aug. 20, 1993 - People's Counsel for Baltimore County, Petition for Judicial Review fd.

PH(4) Sep 17,1993 Rec'd 9/7/93 Second certiifcate of notice/cross-appeal,fd.

rlb(5) Sept. 24.1993(rec'd 9/13/93) People's Counsel for Balto. Co.'s response to petition of Golden Ring Yacht Basin, Inc/Chesapeake Yachting Center, fd.

ld(6) *Oct. 13, 1993 Transcript of Record, fd. (rec'd 10/12/93)

ld(7)*Oct. 13, 1993 Notice of filing of Record, fd. Notices sent to parties. (10/12/93)

al (8) November 22, 1993 People's Counsel's Memorandum, fd. (recv'd 11-12-93)

al (9) November 22, 1993 Cross appellant's, John J. Schmidt et als', memorandum of law, fd. (recv'd 11-12-93)

*df (10) Dec. 7, 1993 - Stipulation for Extension of Time for Filing of Memoranda Pursuant to Maryland Rule 7-207 fd. (Filed 11/12/93).

DJC

CIVIL COSTS 937344
CV CLK 80.00
B LBRY 10.00
CKCHECK TL 90.00
#51028 C002 R01 T14:3
08/16/9

Civil

Docket 59 Page 226 Case 93CV 07344

CASE NO. 93CV7344

jh(11) dec. 17, 1993. Memorandum of Appellant Golden Ring Yacht Basin, INc./Chesapeake Yachting Center Pursuant To Maryland Rule 7-207

am (12) Dec 29, 1993 Golden Ring Yacht Basin, Inc., answer to memorandum pursuant to Maryland Rule 7-207, fd. Rec.'d 12/13/93.

jh(13) Jan. 6, 1994. People's Counsel's Reply Memorandum. fd. (rec'd 12/21/93)

January 20, 1994 Hon. J. William Hinkel. Hearing had. Opinion To Be Filed.

ps (14) April 7, 1994 Memorandum Opinionof Hon. J. W. Hinkel AFFIRMING Judgment of this Court as to the Decision of the County Board of Appeals, fd.

df (15) April 14, 1994 - Petitioner's GOLDEN RING YACHT BASIN, INC./CHESAPEAKE YACHTING CENTER, Motion to Alter or Amend Judgment fd.

cam (16) Apr 18, 1994 Petitioner's request for hearing, fd. (motion to alter or amend Judgment)

s*(17) May 2, 1994 Response of PEOPLE'S COUNSEL FOR BALTIMORE COUNTY to Motion to Alter or Amend Judgment fd. (rec'd 4-29-94)

al (18) May 4, 1994 Ruling from Judge J. William Hinkel DENYING the Motion to alter or amend judgment, etc., fd.

CIVIL 937344
CV CLK 60.00
CKCHECK TL 60.00
#69756 C001 R01 T11:3
05/16/9

s*(19) May 16, 1994 Appellant GOLDEN RING YACHT BASIN, INC./CHESAPEAKE YACHTING CENTER's Order for Appeal to the Court of Special Appeals of Maryland fd. (6/301)

dd(20) May 26,1994 People's Counsel for Baltimore County's Order for Appeal to the Court of Special Appeals, fd. (6/307) (2nd Appeal)

*df (21) June 1, 1994 - Notice to Strike the App. of the Environmental Law Clinic, University of Maryland School of Law on behalf of the Cross-Appellants JOHN J. SCHMIDT, ET AL fd.

jh*(22) July 6, 1994, Order of Court of Special Appeals directs that the above captioned appeal proceed without a Prehearing Conference, fd. (6/301) (rec'd 6/28/94)

dd(23) *Aug. 4,1994 Motion to Strike Appearance of the Environmemtal Law Clinic, University of Md. School of Law, fd. (rec'd 8/1/94)

6/30
7-14-94

8/22/94

Court of Special Appeals

Courts of Appeal Building
Annapolis, Md. 21401-1699

LESLIE D. GRADET
CLERK

(410) 974-3646
WASHINGTON AREA (301) 261-2920

KATHARINE M. KNIGHT
CHIEF DEPUTY

July 28, 1994

Suzanne Mensh, Clerk
Circuit Court for Baltimore County
Courthouse
Towson, Maryland 21204

Re: Golden Ring Yacht Basin, Inc./Chesapeake Yachting Center v. Baltimore County, Maryland
PHC No. 343, September Term, 1994
Civil No. 93-CV-07344

Dear Ms. Mensh:

Enclosed find a Request to Strike Appearance that was filed with this Court on July 20, 1994. We are making a copy for our files and sending the original to you for docketing and retention in the record.

Very truly yours,

Leslie D. Gradet

Leslie D. Gradet
Clerk

LDG:ceb

Enclosure

cc: All counsel

RECEIVED AND FILED
94 AUG -1 PM 1:48
CLERK OF
THE CIRCUIT COURT
BALTIMORE COUNTY

190

Maryland Relay Service
1-800-735-2258
TT/VOICE

RECEIVED
COURT OF SPECIAL APPEALS OF MD
94 JUL 20 AM 9:29
L.D. GRADET, CLERK

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY	*	CIVIL ACTION NO.: 93CV07344
PETITION OF GOLDEN RING YACHT BASIN, INC./CHESAPEAKE YACHTING CENTER	*	
FOR JUDICIAL REVIEW OF THE DECISION OF THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY	*	PHC #343/94
IN THE CASE OF: IN THE MATTER OF THE APPLICATION OF JOHN J. SCHMIDT, ET AL., FOR A SPECIAL HEARING ON PROPERTY LOCATED ON THE NORTH SIDE EDWARDS LANE, 1100' SOUTH WEST OF BOWLEYS QUARTERS ROAD (595 EDWARDS LANE) 15th ELECTION DISTRICT	*	
IN THE BALTIMORE COUNTY BOARD OF APPEALS CASE NO.: 92-171-SPH	*	

* *

REQUEST TO STRIKE APPEARANCE

Dear Madam Clerk:

Please strike the appearance of the Environmental Law Clinic, University of Maryland School of Law, on behalf of the Cross-appellants, John J. Schmidt et al., in the above-referenced case pursuant to Maryland Rule 8-402. Our clients have been notified that the Environmental Law Clinic has terminated its representation in this matter, and consent to that decision.

Michael Millemann
University of Maryland School of Law
501 West Baltimore Street
Baltimore, Maryland 21201
(410) 706-3295

RECEIVED AND FILED
94 AUG -1 PM 1:48
CLERK OF
THE CIRCUIT COURT
BALTIMORE COUNTY

1 & 9

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 14th day of July, 1994, a copy of the foregoing was mailed, postage pre-paid, to Benjamin Bronstein, Esquire, 205 Susquehanna Building, 29 West Susquehanna Avenue, Towson, Maryland 21204 and Peter Max Zimmerman, Esquire, and Carole S. Demilio, Esquire, Office of People's Counsel for Baltimore County, Room 47, Courthouse, 400 Washington Avenue, Towson, Maryland 21024.

Michael Millemann

6-24-94

6/30/
6/30?

7/14
7/25

8/22/94
11/25

CSA/PHC Form No. 2 Mailed: June 24, 1994

IN THE COURT OF SPECIAL APPEALS

GOLDEN RING YACHT BASIN, INC./ CHESAPEAKE YACHTING CENTER	*	
vs.	*	PHC No. 343
	*	September Term, 1994
BALTIMORE COUNTY, MARYLAND	*	

O R D E R

The Court of Special Appeals, pursuant to Maryland Rule 8-206(a)(1), orders and directs that the above captioned appeal proceed without a Prehearing Conference.

BY THE COURT

Paul E. Alpert
JUDGE

Date: June 24, 1994

cc:* Hon. Suzanne Mensh, Clerk
Circuit Court for Baltimore County
Benjamin Bronstein, Esquire
Carole S. Demilio, Esquire
Peter Max Zimmerman, Esquire
Rena Steinzor, Esquire
Michael Kresslein, Esquire

*Mr./Ms. Clerk: Will you kindly place this Order with the record in this cause (Your 93 CV 07344). The date of this Order establishes commencement of the 10 day period under Md. Rule 8-411(b) and the 60 day period for transmittal of the record under Md. Rule 8-412(a).

Leslie D. Gradet

Leslie D. Gradet, Clerk

RECEIVED AND FILED
94 JUN 28 PM 2:50
CLERK OF
THE CIRCUIT COURT
BALTIMORE COUNTY

(22) J.H.

87

5-26-94

Appeal 5-16

IN THE CIRCUIT COURT	*	CIVIL ACTION
FOR BALTIMORE COUNTY	*	NO.: 93CV07344
PETITION OF GOLDEN RING YACHT BASIN, INC./CHESAPEAKE YACHTING CENTER	*	59/226
FOR JUDICIAL REVIEW OF THE DECISION OF THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY	*	
IN THE CASE OF: IN THE MATTER OF THE APPLICATION OF JOHN J. SCHMIDT, ET AL., FOR A SPECIAL HEARING ON PROPERTY LOCATED ON THE NORTH SIDE EDWARDS LANE, 1100' SOUTH WEST OF BOWLEYS QUARTERS ROAD (595 EDWARDS LANE) 15th ELECTION DISTRICT	*	
IN THE BALTIMORE COUNTY BOARD OF APPEALS CASE NO.: 92-171-SPH	*	

* *

REQUEST TO STRIKE APPEARANCE

Dear Madam Clerk:

Please strike the appearance of the Environmental Law Clinic, University of Maryland School of Law, on behalf of the Cross-appellants, John J. Schmidt et al., in the above-referenced case pursuant to Maryland Rule 8-402. Our clients have been notified that the Environmental Law Clinic has terminated its representation in this matter, and consent to that decision.

Michael Millemann /RNN

Michael Millemann
University of Maryland School of Law
501 West Baltimore Street
Baltimore, Maryland 21201
(410) 706-3295

FILED JUN 01 1994

21 ft

186

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 26th day of May, 1994, a copy of the foregoing was mailed, postage pre-paid, to Benjamin Bronstein, Esquire, 205 Susquehanna Building, 29 West Susquehanna Avenue, Towson, Maryland 21204 and Peter Max Zimmerman, Esquire, and Carole S. Demilio, Esquire, Office of People's Counsel for Baltimore County, Room 47, Courthouse, 400 Washington Avenue, Towson, Maryland 21024.

Michael Millemann /RWT

Michael Millemann

195

5-26-94

OFFICE OF

Clerk of the Circuit Court for Baltimore County

COUNTY COURTS BUILDING, TOWSON, MARYLAND 21204

SUZANNE MENSH
Clerk
887-2998

To: PETER MAX ZIMMERMAN
PEOPLE'S COUNSEL FOR BALTO.CTY.
CAROLE S. DEMILIO
DEPUTY PEOPLE'S COUNSEL
ROOM 47, COURTHOUSE
400 WASHINGTON AVE.
TOWSON, MARYLAND 21204 ext.2188

Date: MAY 26, 1994

Re: PEOPLE'S COUNSEL FOR BALTIMORE COUNTY
vs.
IN THE MATTER OF THE APPLICATION OF
JOHN J. SCHMIDT, ET AL.

Case No.: 93 CV 07344

Dear MR. ZIMMERMAN:

Enclosed is a Prehearing Information Report which must be filed within the time set forth in Md. Rule 8-205. This form together with a copy of the notice of appeal must be sent to the Clerk, Court of Special Appeals of Maryland, Court of Appeals Building, 361 Rowe Blvd.and Taylor Ave., Annapolis, MD 21401-1699

Unless a copy of the transcript(s) of testimony is already on file, you must order in writing from the Court Stenographer (with a copy of that order to the Appeals Clerk of the Circuit Court for Baltimore County for inclusion in the record), a transcript of all testimony within the time set forth in Md. Rule 8-411.

You have a right to inspect the record in this office Monday through Friday between the hours of 8:30 and 4:30. Prior to the transmittal of the record to the Court of Special Appeals, you must deposit with this office a check or money order payable to the Clerk, Court of Special Appeals of Maryland in the amount of $50.00.

Very Truly Yours,

Angel Julio

MRS. ANGEL JULIO, APPEALS CLERK
887-3090

per _____

184

6/30/94 96 7/14/94 7/25/94

T-26-94 see 6

IN THE CIRCUIT COURT *
FOR BALTIMORE COUNTY
PETITION OF GOLDEN RING YACHT BASIN, *
INC./CHESAPEAKE YACHTING CENTER
*
FOR JUDICIAL REVIEW OF THE
DECISION OF THE COUNTY BOARD OF *
APPEALS OF BALTIMORE COUNTY
*
IN THE CASE OF:
IN THE MATTER OF THE APPLICATION OF * CIVIL ACTION
JOHN J. SCHMIDT, ET AL., NO. 93-CV-07344
FOR A SPECIAL HEARING ON PROPERTY *
LOCATED ON THE NORTH SIDE EDWARDS
LANE, 1100' SOUTH WEST OF BOWLEYS *
QUARTERS ROAD (595 EDWARDS LANE)
15th ELECTION DISTRICT *
5th COUNCILMANIC DISTRICT
*
IN THE BALTIMORE COUNTY BOARD OF
APPEALS, CASE NO.: 92-171-SPH *

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

ORDER FOR APPEAL

Dear Madam Clerk:

Please enter an appeal on behalf of the PEOPLE'S COUNSEL FOR BALTIMORE COUNTY from the Memorandum Opinion and Order filed in the above-captioned case and dated April 5, 1994. A Motion to Alter or Amend Judgment was filed on April 14, 1994, and was DENIED on April 29, 1994.

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio

CAROLE S. DEMILIO
Deputy People's Counsel
Room 47, Courthouse
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

RECEIVED AND FILED
94 MAY 26 PM 2:59
CLERK OF
THE CIRCUIT COURT
BALTIMORE COUNTY

183

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 26th day of May, 1994, a copy of the foregoing Order for Appeal was mailed to Benjamin Bronstein, Esquire, 29 W. Susquehanna Avenue, Suite 205, Towson, MD 21204, attorney for Appellant Golden Ring Yacht Basin, Inc./Chesapeake Yachting Center, and to Rena Steinzor and Michael Kresslein, University of Maryland School of Law, Clinical Law Office, 510 W. Baltimore Street, Baltimore, MD 21201.

Peter Max Zimmerman

PETER MAX ZIMMERMAN

RECEIVED AND FILED
94 MAY 26 PM 2:59
CLERK OF
THE CIRCUIT COURT
BALTIMORE COUNTY

5-26-94

PETITION OF PEOPLE'S COUNSEL FOR BALTIMORE COUNTY	*	IN THE
	*	CIRCUIT COURT
FOR JUDICIAL REVIEW OF THE DECISION OF THE COUNTY BOARD OF APPEALS FOR BALTIMORE COUNTY	*	FOR BALTIMORE COUNTY
	*	CIVIL ACTION NO.:
IN THE CASE OF: IN THE MATTER OF HILLTOP PLACE, RE: CRG DECISION, CBA NOS. 93-106, 93-140	*	74/328/94-CV-01844
	*	

* * * * * * * * * * *

PEOPLE'S COUNSEL'S MEMORANDUM

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RECEIVED AND FILED
94 MAY 26 PM 2:12
CLERK OF THE CIRCUIT COURT
BALTIMORE COUNTY

181

5-16-94

OFFICE OF

Clerk of the Circuit Court for Baltimore County

COUNTY COURTS BUILDING, TOWSON, MARYLAND 21204

SUZANNE MENSH
Clerk
887-2998

To: EVANS, GEORGE & BRONSTEIN
BENJAMIN BRONSTEIN, ESQ.
205 WEST SUSQUEHANNA BUILDING
29 WEST SUSQUEHANNA AVENUE
TOWSON, MARYLAND 21204
(410) 296-0200

Date: MAY 16, 1994

Re: GOLDEN RING YACHT BASIN, INC/
CHESAPEAKE YACHTING CENTER
vs.
IN THE MATTER OF THE APPLICATION
OF JOHN J. SCHMIDT, ET AL

Case No.: 93 CV 7344

Dear

Enclosed is a Prehearing Information Report which must be filed within the time set forth in Md. Rule 8-205. This form together with a copy of the notice of appeal must be sent to the Clerk, Court of Special Appeals of Maryland, Court of Appeals Building, 361 Rowe Blvd.and Taylor Ave., Annapolis, MD 21401-1699

Unless a copy of the transcript(s) of testimony is already on file, you must order in writing from the Court Stenographer (with a copy of that order to the Appeals Clerk of the Circuit Court for Baltimore County for inclusion in the record), a transcript of all testimony within the time set forth in Md. Rule 8-411.

You have a right to inspect the record in this office Monday through Friday between the hours of 8:30 and 4:30. Prior to the transmittal of the record to the Court of Special Appeals, you must deposit with this office a check or money order payable to the Clerk, Court of Special Appeals of Maryland in the amount of $50.00.

NOTE: THE FILING FEE IN THE AMOUNT OF $50.00 HAS BEEN PAID TO THE COURT OF SPECIAL APPEALS OF MARYLAND.

Very Truly Yours,

Angel Julio

MRS. ANGEL JULIO APPEALS CL
887-3090

per _____

5-16-94

6/301

MJC/mlg/05.13.94

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY PETITION OF GOLDEN RING YACHT BASIN, INC./CHESAPEAKE YACHTING CENTER	*	CIVIL ACTION NO.: 93CV07344
FOR JUDICIAL REVIEW OF THE DECISION OF THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY	*	
IN THE CASE OF: IN THE MATTER OF THE APPLICATION OF JOHN J. SCHMIDT, ET AL., FOR A SPECIAL HEARING ON PROPERTY LOCATED ON THE NORTH SIDE EDWARDS LANE, 1100' SOUTH WEST OF BOWLEYS QUARTERS ROAD (595 EDWARDS LANE) 15th ELECTION DISTRICT 5th COUNCILMANIC DISTRICT	*	
IN THE BALTIMORE COUNTY BOARD OF APPEALS CASE NO.: 92-171-SPH	*	

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

ORDER FOR APPEAL

Dear Madam Clerk:

Please enter an appeal on behalf of Appellant, Golden Ring Yacht Basin, Inc./Chesapeake Yachting Center, from the Memorandum Opinion and Order filed in the above captioned case and dated April 5, 1994. A Motion to Alter or Amend Judgment was filed on April 14, 1994, and was denied on April 29, 1994.

EVANS, GEORGE AND BRONSTEIN

Benjamin Bronstein
205 Susquehanna Building
29 West Susquehanna Avenue
Towson, Maryland 21204
(410) 296-0200

19

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 16 day of May, 1994, a copy of the foregoing was mailed, postage pre-paid to Peter Max Zimmerman, Esquire and Carole S. Demilio, Esquire, Office of People's Counsel for Baltimore County, Room 47, Courthouse, 400 Washington Avenue, Towson, Maryland 21024 and Rena Steinzor and Michael Kresslein, University of Maryland School of Law, Clinical Law Office, 510 West Baltimore Street, Baltimore, Maryland 21201.

Benjamin Bronstein

4-29-94

IN THE CIRCUIT COURT *
FOR BALTIMORE COUNTY
PETITION OF GOLDEN RING YACHT *
BASIN, INC./CHESAPEAKE YACHTING
CENTER *

CIVIL ACTION NO. 93 CV07344

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

IN THE CASE OF: *
IN THE MATTER OF THE APPLICATION
OF JOHN J. SCHMIDT, ET AL, *
FOR A SPECIAL HEARING ON THE
PROPERTY LOCATED ON THE NORTH *
SIDE OF EDWARDS LANE, 1100 SOUTH
WEST OF BOWLEY'S QUARTERS ROAD *
(595 EDWARDS LANE)
15th ELECTION DISTRICT *
5th COUNCILMANIC DISTRICT
*
IN THE BALTIMORE COUNTY BOARD
OF APPEALS *
CASE NO.: 92-171-SPH
* * * * * * * * * * * * *

R U L I N G

Having read and considered Golden Ring Yacht Basin's Motion to Alter or Amend Judgment and the response thereto filed by People's Counsel, the Court finds no basis on which to grant the Motion. Golden Ring Yacht Basin offers no additional legal arguments to support its motion.

The Motion to Alter or Amend Judgment is therefore DENIED.

April 29, 1994
DATE

Judge J. William Hinkel

FILED MAY 04 1994

18 Ag (JSC)

141

COPIES SENT TO:

Benjamin Bronstein, Esquire
205 Susquehanna Avenue
Towson, Maryland 21204

Rena Steinzor, Esquire
510 West Baltimore Street
Baltimore, Maryland 21201

Peter Max Zimmerman, Esquire
Carole S. Demilio, Esquire
Room 47, Old Court House
400 Washington Avenue
Towson, Maryland 21204

4-29-94

IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY
PETITION OF GOLDEN RING YACHT BASIN,
INC./CHESAPEAKE YACHTING CENTER

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

IN THE CASE OF:
IN THE MATTER OF THE APPLICATION
OF JOHN J. SCHMIDT, ET AL,
FOR A SPECIAL HEARING ON THE PROPERTY
LOCATED ON THE NORTH SIDE
EDWARDS LANE, 1100 SOUTH
WEST OF BOWLEYS QUARTERS ROAD
(595 EDWARDS LANE)
15th ELECTION DISTRICT
5th COUNCILMANIC DISTRICT

IN THE BALTIMORE COUNTY
BOARD OF APPEALS
CASE NO.: 92-171-SPH

CIVIL ACTION
59/226
NO.: 93CV07344

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CLERK OF THE CIRCUIT COURT
BALTIMORE COUNTY

RESPONSE TO MOTION TO ALTER OR AMEND JUDGMENT

People's Counsel for Baltimore County responds to the Motion of Golden Ring Yacht Basin, Inc. as follows:

1. This case was thoroughly briefed, argued, and reviewed in an extensive hearing on January 20, 1994.

2. By opinion dated April 5, 1994, the Court gave its reasons for rejecting the appeals filed by all parties.

3. It would be inappropriate, under these circumstances, for the Court to alter or amend its carefully considered judgment.

4. Although People's Counsel believes that its own appeal was appropriate, we believe also that any further review of any aspect of any Circuit Court decision should proceed, if at all, to the Court of Special Appeals.

5. If the Circuit Court is, however, inclined to reconsider its judgment,

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we would suggest, and by this Motion conditionally request a reconsideration of the issues of the estoppel, the application of the new 1992 regulation on marinas, and the reasoning of the County Board of Appeals in approving as much of the expanded marina and boat-racks as it did approve.

6. In conclusion, we believe it is inappropriate to modify the judgment as requested by Golden Ring Yacht Basin; but that if the Court does give modification further consideration, then the judgment should grant the relief requested in our appeal.

WHEREFORE, People's Counsel requests that the Motion to Alter or Amend Judgment be denied, or that if consideration of modification is given, then it should be combined with and result in a grant of the relief requested in People's Counsel's appeal.

Peter Max Zimmerman
People's Counsel for Baltimore County

Carole S. Demilio
Deputy People's Counsel
Room 47, CourtHouse
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

I HEREBY CERTIFY, that on this 29 day of April, 1994, a copy of the foregoing Response to Motion to Alter or Amend Judgment was mailed to Benjamin Bronstein, 29 W. Susquehanna Avenue, Towson, MD 21204; Rena Steinzor and Michael J. Kresslein, University of Maryland School of Law, 510 W. Baltimore Street, Baltimore, MD 21201.

Peter Max Zimmerman

4/18-94

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY PETITION OF GOLDEN RING YACHT BASIN, INC./CHESAPEAKE YACHTING CENTER	*	CIVIL ACTION NO.: 93CV07344
FOR JUDICIAL REVIEW OF THE DECISION OF THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY	*	
IN THE CASE OF: IN THE MATTER OF THE APPLICATION OF JOHN J. SCHMIDT, ET AL., FOR A SPECIAL HEARING ON PROPERTY LOCATED ON THE NORTH SIDE EDWARDS LANE, 1100' SOUTH WEST OF BOWLEYS QUARTERS ROAD (595 EDWARDS LANE) 15th ELECTION DISTRICT 5th COUNCILMANIC DISTRICT	*	
IN THE BALTIMORE COUNTY BOARD OF APPEALS CASE NO.: 92-171-SPH	*	

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

REQUEST FOR HEARING ON MOTION TO ALTER OR AMEND JUDGMENT

Golden Ring Yacht Basin, Inc./Chesapeake Yachting Center, Appellant, by Benjamin Bronstein and Evans, George and Bronstein its attorneys, requests a hearing on its Motion to Alter or Amend Judgment filed in the above-captioned case.

Respectfully submitted,

Benjamin Bronstein
Evans, George and Bronstein
29 West Susquehanna Avenue
Suite 205
Towson, Maryland 21204
(410) 296-0200

Attorneys for Golden Ring Yacht Basin, Inc./Chesapeake Yachting Center, Appellant

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BALTIMORE COUNTY

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on this 18 day of April, 1994, a copy of the foregoing was mailed, postage pre-paid to Peter Max Zimmerman, Esquire, People's Counsel for Baltimore County, 400 Washington Avenue, Towson, Maryland 21204, and to Michael S. Studdard, Michael J. Kresslein, and Scott Burns, Esquire, University of Maryland School of Law, Clinical Law Office, 510 West Baltimore Street, Baltimore, Maryland 21201, attorneys for Bowleys Quarters Improvement Association, Bill Jordan, Phil Edwards and John J. Schmidt.

Benjamin Bronstein

4-5-94

MJC/mlg/04.14.94

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY PETITION OF GOLDEN RING YACHT BASIN, INC./CHESAPEAKE YACHTING CENTER	*	CIVIL ACTION NO.: 93CV07344
FOR JUDICIAL REVIEW OF THE DECISION OF THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY	*	
IN THE CASE OF: IN THE MATTER OF THE APPLICATION OF JOHN J. SCHMIDT, ET AL., FOR A SPECIAL HEARING ON PROPERTY LOCATED ON THE NORTH SIDE EDWARDS LANE, 1100' SOUTH WEST OF BOWLEYS QUARTERS ROAD (595 EDWARDS LANE) 15th ELECTION DISTRICT 5th COUNCILMANIC DISTRICT	*	
IN THE BALTIMORE COUNTY BOARD OF APPEALS CASE NO.: 92-171-SPH	*	

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

MOTION TO ALTER OR AMEND JUDGMENT

Golden Ring Yacht Basin, Inc./Chesapeake Yachting Center ("Chesapeake") by Benjamin Bronstein and Evans, George and Bronstein, its attorneys, moves pursuant to Maryland Rule 2-534 that the Court to alter or amend the judgment in the above referenced case insofar as it affirms the decision of the Board of Appeals imposing restrictions on out-of-water storage.

1. In its Memorandum Opinion dated April 5, 1994, the court, in Section IV, Limitation of Ground Storage, affirmed that portion of the decision of the County Board of Appeals for Baltimore County ("Board of Appeals") which imposed restrictions on Chesapeake's use of its property for ground storage.

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BALTIMORE COUNTY

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2. This proceeding arose out of a Petition for Special Hearing filed by Appellees Bowleys Quarters Improvement Association ("BQIA") et al. Those parties previously participated in a proceeding before the Zoning Commissioner for Baltimore County which granted Chesapeake the right to use the property in question as a boatyard, and which permitted ground storage of boats on the property. Appellees, BQIA, et al. did not appeal that decision.

3. Subsequently, some five years later, Appellees BQIA, et al. filed a Petition for Special Hearing with the Zoning Commissioner on the sole issue of whether an amendment to the site plan should be disapproved. The amendment to the site plan which was challenged in the Petition for Special Hearing merely clarified certain aspects of the site plan regarding Chesapeake's right under the prior final (and unappealed) order to utilize rack storage.

4. In this Motion to Alter or Amend, Chesapeake urges the Court to amend its judgment by striking out that portion of the Board's decision which adversely affected Chesapeake's right to utilize ground storage on the property. In essence, what the Board has done is to unilaterally take away from Chesapeake a valuable right (essential for proper operation of the marina) to fully utilize the property for ground storage. This right derives from the prior (unappealed) order granting the special exception for a boatyard. The applicable Baltimore County Zoning Regulations (BCZR) expressly permit out-of-water storage in a boatyard.

5. Chesapeake finds itself in the unfortunate position of being deprived unfairly of the benefits it achieved in litigating

to a favorable conclusion its Petition for Special Exception for a boatyard. This was a final order from which no appeal was taken. Nor did Commissioner Haines modify the ground storage rights in his order. Under those decisions Chesapeake had the right to utilize the property for ground storage of boats. The Petition for Special Hearing was filed on the limited issue of whether Commissioner Haines could modify the original order without a hearing. During the course of the proceeding on the Petition for Special Hearing, Chesapeake was involuntarily deprived of a right which it had under the prior special exception. Such a result violates common-sense notions of justice and constitutional principles of due process.

6. The Petition for Special Hearing was narrow and precise in its scope. Chesapeake responded and addressed the narrow, precise issue in the context of the administrative proceeding. Without notice to Chesapeake, without an opportunity to be heard, and in derogation of Chesapeake's vested rights under the prior (and unappealed) order granting a special exception, Chesapeake's rights were "yanked away" in a manner which demands redress. What has happened here is that the Board of Appeals has attempted a "Solomonic" decision -- unfortunately the Board has cut the baby in half, rather than reaching the just result mandated by principles of fairness and due process.

The action by the Board was in error, and should be reversed by this Court.

WHEREFORE, Golden Ring Yacht Basin, Inc./Chesapeake Yachting Center, Appellant, request the court to alter or amend the judgment

entered in the above referenced case on April 5, 1994 to reverse the action of the County Board of Appeals for Baltimore County in limiting ground storage on the property.

EVANS, GEORGE AND BRONSTEIN

Benjamin Bronstein
205 Susquehanna Building
29 West Susquehanna Avenue
Towson, Maryland 21204
(410) 296-0200

STATEMENT OF GROUNDS AND AUTHORITIES

Maryland Rule 2-534

> "In an action decided by the court, on motion of any party filed within ten days after entry of judgment, the court may open the judgment to receive additional evidence, may amend its findings or its statement of reasons for the decision, may set forth additional findings or reasons, may enter new findings or new reasons, may amend the judgment, or may enter a new judgment. A motion to alter or amend a judgment may be joined with a motion for new trial."

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on this 14 day of April, 1994, a copy of the foregoing was mailed, postage pre-paid to Peter Max Zimmerman, Esquire, People's Counsel for Baltimore County, 400 Washington Avenue, Towson, Maryland 21204, and to Michael S. Studdard, Michael J. Kresslein, and Scott Burns, Esquire, University of Maryland School of Law, Clinical Law Office, 510 West Baltimore Street, Baltimore, Maryland 21201, attorneys for Bowleys Quarters Improvement Association, Bill Jordan, Phil Edwards and John J. Schmidt.

Benjamin Bronstein

4-11-94

LAW OFFICES

EVANS, GEORGE AND BRONSTEIN

SUSQUEHANNA BUILDING, SUITE 205
29 WEST SUSQUEHANNA AVENUE
TOWSON, MARYLAND 21204
(410) 296-0200
FAX: (410) 296-3719

L. ROBERT EVANS
HARRIS JAMES GEORGE
BENJAMIN BRONSTEIN

MICHAEL J. CHOMEL
DOUGLAS A. STUBBS

April 11, 1994

Clerk
Circuit Court for Baltimore County
County Courts Building
401 Bosley Avenue
Towson, Maryland 21204

RE: **Golden Ring Yacht Basin, Inc./**
Chesapeake Yachting Center
Civil Action No.: 93CV07344

Dear Sir or Madam:

Enclosed for filing is a Motion to Alter of Amend Judgment in the above referenced case.

Sincerely,

EVANS, GEORGE AND BRONSTEIN

Benjamin Bronstein

BB/mlg
Enclosure
cc: Peter Max Zimmerman, Esquire
People's Counsel for Baltimore County

Michael S. Studdard
Michael J. Kresslein
Scott Burnes, Esquire
University of Maryland School of Law

92-171-SPH John J. Schmidt
CCt affirms CBA
Hon. J. William Hinkel
4/5/94

IN THE CIRCUIT COURT	*	CIVIL ACTION
FOR BALTIMORE COUNTY	*	
PETITION OF GOLDEN RING YACHT BASIN, INC./CHESAPEAKE YACHTING CENTER	*	NO.: 93CV07344
FOR JUDICIAL REVIEW OF THE DECISION OF THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY	*	
IN THE CASE OF: IN THE MATTER OF THE APPLICATION OF JOHN J. SCHMIDT, ET AL., FOR A SPECIAL HEARING ON PROPERTY LOCATED ON THE NORTH SIDE EDWARDS LANE, 1100' SOUTH WEST OF BOWLEYS QUARTERS ROAD (595 EDWARDS LANE) 15th ELECTION DISTRICT 5th COUNCILMANIC DISTRICT	*	
IN THE BALTIMORE COUNTY BOARD OF APPEALS CASE NO.: 92-171-SPH	*	

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MEMORANDUM OPINION

Case History

In 1985, Golden Ring Yacht Basin (GRYB) filed for a special exception with the Baltimore County Zoning Commission to develop a boat yard along Frog Mortar Creek in Bowley's Quarters. After a public hearing, Zoning Commissioner Arnold Jablon granted the special exception in 1986 and approved the submitted site plan. The site plan indicated that the parking spaces illustrated on the plan were also to serve as dry boat storage. The type of dry storage however, was not indicated nor illustrated on the site plan.

Consequently, in 1989, GRYB sought permission to amend the site plan such that the plan would delineate dry storage. Permission to amend was granted by Zoning Commissioner Robert Haines without a public hearing. The amended plan differed from the original plan in several ways. Most significantly, dry storage was depicted in the form of a rack facility and was not shown in the parking spaces as

originally indicated, but rather in a previously designated buffer area.

In 1991, the home owners association, Bowley's Quarters Improvement Association and several homeowners (BQIA), applied for a special hearing before Zoning Commissioner Schmidt on the issue of whether then Commissioner Haines's approval of the amended site plan in 1989 should be overturned based on his failure to hold a public hearing. Though Commissioner Schmidt found that a public hearing should have been afforded, he further found that Baltimore County was estopped from withdrawing permission for GRYB to complete the construction of the rack storage facility. Finally, Commissioner Schmidt limited GRYB's right to utilize dry storage facilities by denying use of any ground storage other than the rack structure.

BQIA cross appealed Commissioner Schmidt's decision to the Baltimore County Board of Appeals (CBA). The CBA affirmed.

No party is satisfied with the result and each has appealed the CBA's decision to this Court. The issues presented on appeal are as follows: 1) Should Commissioner Haines have held a public hearing regarding the amended site plan? 2) If so, is the county estopped from revoking permission for BQIA to use rack storage? 3) Should the CBA have applied new legislation in reaching their determination? 4) Did the CBA err in imposing a limitation on ground storage of boats?

Standard of Review

When a Circuit Court sits in review of an agency decision, the scope of review is limited by Md. Ann. Code State Government Article § 10-215(g) which provides that the Circuit Court may:

(1) remand the case for further proceeding;

(2) affirm the decision of the agency; or
(3) reverse or modify the decision if any substantial right of the petitioner may have been prejudiced because a finding, conclusion, or decision of the agency:
(i) is unconstitutional;
(ii) exceeds the statutory authority or jurisdiction of the agency;
(iii) results from an unlawful procedure;
(iv) is affected by any other error of law;
(v) is unsupported by competent, material, and substantial evidence in light of the entire record as submitted; or
(vi) is arbitrary of capricious.

The statute does not further define the scope of review, however, Maryland case law is replete with opinions articulating the proper standard of review. Anderson v. Dept. of Public Safety, 330 Md. 187 (1993). In Anderson, the Court ruled that "the reviewing court's appraisal or evaluation must be of the agency's factfinding results and not an independent original estimate of or decision on the evidence." Id. at 212 (quoting Insurance Comm'r v. Nat'l Bureau, 248 Md. 292, 309 (1967)).

The test to be applied by the reviewing court is "whether reasoning minds could reasonably reach that conclusion by direct proof or by permissible inference from the facts and the record before the agency." Md. Commission on Human Relations v. Washington County Community Action Council, Inc., 59 Md. App. 451, 455 (1984). If reasoning minds could so find, then the reviewing court must affirm the agency's decision. In applying the test, the reviewing court should review the agency's decision in the light most favorable to the agency. Id. at 455; Bullock v. Pelham Wood Apts., 283 Md. 505, 513 (1978). "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 state by the agency." United Steel Workers v. Bethlehem Steel, 298 Md. 665 (1984).

I. Public Hearing

BQIA argues that the amendments to the original plan were material and substantial and as such, Commissioner Haines should have provided for a public hearing. His failure to do so, they assert, resulted in the denial of their right to be heard. The basis of their contention is Baltimore County Code, § 26-211 which provides that:

> Any material amendment to an approved plan shall be reviewed and approved in the same manner as the original plan. Any other material change shall be in accordance with the Comprehensive Manual of Administrative Policy. (Code 1978, § 22-63; Bill No. 18, 1990, § 2; Bill No. 1, 1992, § 2).

The appellant homeowners assert that because the original 1986 plan shows no evidence of racks, the amended plan which illustrates the racks, constitutes a material change which in turn requires a public hearing in order to be approved. It is true that racks are not specifically provided for on the plan, however, Note 6 on the plan explicitly states that parking spaces, which are clearly depicted, are to double as dry boat storage. Section 417.7 of the Baltimore County Zoning Regulations (BCZR) addresses "out-of-water storage" and clearly permits a rack facility. Further evidence that the rack facility was originally contemplated is the testimony of David S. Thaler, an engineer and land planner who specializes in Baltimore County land development. Mr. Thaler was involved with GRYB at the time of the original approval of the Special Exception. Mr. Thaler testified that the preliminary plans had illustrated the rack facility and that Mr. Thaler removed the racks because he believed that the zoning

office did not consider racks to be the kind of structure that must be detailed on the site plan. (CBA Opinion at p.7).

Notwithstanding the Court's belief that the rack facility was contemplated on the 1986 plan, the Court believes, as did Zoning Commissioner Schmidt and the CBA, that the changes to the layout of the original plan were substantial. The question then, is whether a public hearing should have been held. GRYB contends that the section of the BCZR relied upon by BQIA is inapposite. The basis of their argument is that Section 26-211 is located within Title 26, Article V of the Baltimore County Code and is titled "Development." GRYB argues that what is at issue here is a zoning matter and not a development issue. Zoning is addressed in Article IV which is expressly titled "Zoning." This argument is persuasive. The authority to grant or deny a Special Exception is vested within the Zoning Commissioner pursuant to § 26-127 of the Baltimore County Code. Section 26-127 is embodied within Article IV. There is no provision within Article IV that parallels § 26-211. The Rules of Practice and Procedure which govern the granting of Special Exceptions require only a "surveyor's plat"--not an "approved plan" as referred to in § 26-211.

As GRYB correctly notes, Section 500.7 of the BCZR provides the Zoning Commissioner with "the power to conduct such other hearings and pass such orders thereon as shall, in his discretion, be necessary for the proper enforcement of all zoning regulations . . . ." Thus, Zoning Commissioner Haines exercised the discretion granted to him in Section 500.7 when he approved the amended plan without a public hearing.

Even if the Court were to apply § 26-211 and find that Commisioner Haines should have held a public hearing, we do not find that BQIA has been denied their opportunity to be heard. BQIA has been heard, albeit somewhat late. BQIA received a hearing before Zoning Commissioner Schmidt on the issue of whether Zoning Commissioner Haines should have afforded BQIA a public hearing. Commissioner Schmidt agreed with BQIA that Commissioner Haines should have held a public hearing. However, because Commissioner Schmidt determined that the county was estopped from revoking GRYB's permit, he never reached the merits of the issue, that is, whether the amendments meet the standards delineated in Section 502.1 of the BCZR.1

BQIA appealed and was next granted a de novo hearing before the CBA which provided Appellants with a two day hearing on the merits. The Board was empowered to grant the requested relief if the evidence had so warranted. Unlike Commissioner Schmidt, the CBA did reach the merits of the issue. Thus, despite the post facto timing of the hearing before the Board, the Court does not believe that BQIA was prejudiced by Commissioner Haines's informal approval of the amendments in 1989.

In reaching the merits, the Board applied the same standard

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1 The CBA mistakenly noted that BQIA had been afforded an opportunity to be heard by virtue of their hearings before Zoning Commissioner Haines and before the Board. Zoning Commissioner Schmidt never reached the merits of the issue and thus did not provide BQIA with the due process that BQIA argues it is entitled to.

of review that applied to the approval of the original Special Exception. The Baltimore County Zoning Regulations provide that the Special Exception will not:

> a. Be detrimental to the health, safety, or general welfare of the locality involved;
>
> b. Tend to create congestion in roads, streets or alleys therein;
>
> c. Create a potential hazard from fire, panic or other dangers;
>
> d. Tend to overcrowd land and cause undue concentration of population;
>
> e. Interfere with adequate provisions for schools, parks, water, sewage, transportation or other public requirements, conveniences, or improvements;
>
> f. Interfere with adequate light and air;
>
> g. Be inconsistent with the purposes of the property's zoning classification nor in any other way inconsistent with the spirit and intent of these zoning regulations; nor
>
> h. Be inconsistent with the impermeable surface and vegetative retention provisions of these zoning regulations.

BCZR 502.1

The Board heard testimony from several experts who testified that the amendments were environmentally sound and had been approved by various agencies. David Flowers, a former representative of Department of Environmental Protection and Resource Management (DEPRM), testified that the original plan met Interim Critical Areas requirements and the revised plan complied with the final legislation. "He stated that the alternatives were suggested by his Department and that they were in compliance with Chesapeake Bay Critical Areas Legislation. In his opinion, dry boat on land is better

environmentally than a wet boat on the water or on the land." (CBA Opinion at p.5).

Mr. Lampron, the Property Owner, testified that the racks will not allow more boat storage than was originally contemplated. He further testified "as to the neatness of the rack system, that the boats would be more organized." (CBA Opinion at p. 6).

The Board also took note that "additional tree plantings and landscaping adjacent to the bulkhead area of the site will provide environmental protection and eventual buffering of the racks from those dwellings located across from Frog Mortar Creek . . . ." (CBA Opinion at p.9).

The record indicates that the amended plan includes the same elements as the original plan, albeit in different locations. The parking lot was originally approved and has simply been moved. The buffer area likewise has been moved, but complies with environmental regulations and with BCZR 417.7 which permits out-of-water boat storage provided that the storage facility is not located within 60 feet of any property line. This section of the BCZR further provides that screening shall be created as is found to be necessary in the discretion of the Zoning Commissioner or Board of Appeals.

Therefore, it is the opinion of this Court, based on the record of the hearing before the County Board of Appeals, that there was sufficient evidence before the Board with which to approve the amendments.

II.Estoppel

GRYB argues that it went through all of the appropriate channels in acquiring permission to erect the rack facility and

expended tremendous time and financial resources in reliance on that permission. Zoning Commissioner Schmidt took note that the "racks were custom-made, costing in excess of $1 million . . . ." (Schmidt's Findings at p.5). Both Zoning Commissioner Schmidt and the CBA found that the County was estopped from revoking permission for the construction of the rack facility. They rely, in part, on Kent County Planning Inspector v. E.C.F. Abel, et al., 246 Md. 395 (1967) which stands, inter alia, for the proposition that the doctrine of estoppel applies "to municipal, as well as to private, corporations and individuals." Id. at 400 (quoting Berwyn Heights v. Rogers, 228 Md. 271 (1962)). Zoning Commissioner Schmidt concluded, as did the Board, that large sums of money and effort had already been expended in constructing 50% of the racks and to revoke GRYB's permit would "be inequitable and result in substantial economic detriment for the Property Owner." (CBA's Opinion at p.11).

BQIA contests the application of Kent County to the facts of this case. They rely on Lipsitz v. Parr, 164 Md. 222 (1933). In Lipsitz, Appellant had been granted a permit to construct an ice manufacturing plant. It was discovered shortly after the granting of the permit, that the property was located in what was designated a "second commercial use district" in which such a factory was prohibited. The Court of Appeals held that although estoppel applies against a municipality or one of its officers when acting within the scope of their authority, it is inapplicable when the act is in violation of the law. Id. at 227. "The doctrine of equitable estoppel cannot be here invoked to defeat the municipality in the enforcement of its ordinances, because of an error or mistake

committed by one of its officers or agents which has been relied on by the third party to his detriment." Id. at 228.

In furtherance of their position, BQIA cites United Postal Service, Inc. v. People's Counsel for Baltimore County, 93 Md. App. 59 (1992). UPS had contacted the Zoning Commissioner prior to beginning construction of a new facility in Baltimore County in order to determine whether its proposed use of the site was consistent with the BCZR. The Zoning Commissioner confirmed that UPS's proposed use was consistent with a "warehouse" classification which was permitted without special exception. UPS subsequently obtained a building permit and completed construction. The dispute arose when a neighboring resident noticed the construction and observed that UPS appeared to be constructing a trucking facility which could only be approved by way of special exception. The Court of Special Appeals upheld the trial Judge's finding that the doctrine of equitable estoppel does not apply when the municipality has acted illegally. Id. at 74-79.

BQIA argues that the allowance of the boat rack facility without a public hearing violates § 26-211 and thus was outside the scope of the Zoning Commissioner's authority. Having found that § 26-211 does not apply to this case and that Commissioner Haines acted within his authority in approving the amendments, BQIA's argument must fail. The Court finds that estoppel does indeed apply.

It is worth noting however, the distinction between the case under consideration here and those cited by BQIA. In each of the cited cases, the defect occurred in the approval of an unauthorized structure or activity. In Lipsitz, the ice manufacturing plant was

approved in a district where such a plant was prohibited. In Kent County, a construction permit was issued for a boatyard operating in violation of a zoning ordinance. In UPS, a trucking facility was approved without the necessary Special Exception.

In the instant case, the approved use was legally authorized pursuant to Baltimore County Zoning Regulations. The only defect is a procedural one which occurred in the approval process and was subsequently cured when the CBA reached the merits of the case after providing BQIA with an oppotunity to be heard. The facts of the instant case are more in line with Prince George's Co. v. Blumberg, 44 Md. App. 79 (1979) (288 Md. 275 (1980) (reversed and remanded on other grounds), where Chief Judge Wilner, writing for the Court of Special Appeals, made a similar distinction. In Prince George's Co., the county sought to revoke a permit based on the failure of the Appellee to obtain a required contractor's license. Though it was true that Appellee did not have the license at the time the permit was issued, he subsequently secured it prior to the time of the county's revocation. As in the present case, the proposed construction was a legal structure pursuant to county zoning laws.

III. Bill 149-92

BQIA argues that the Board erred in failing to apply Bill 149-92 which requires a Special Exception for rack facilities such as the one in the present case. In addition, the bill limits the height of rack facilities. The bill became effective on September 15, 1992. BQIA argues that because the Board did not issue their opinion until July 22, 1993, they should have applied the new law consistent with the rule articulated in Yorkdale v. Powell, 237 Md. 121 (1963).

Yorkdale involved a dispute arising over a reclassification of property. While the case was pending before the Court of Appeals, the legislature amended a law rendering the case moot. In finding that it was required to "decide a case according to existing laws, even though a judgment rightful when rendered by the court below should be reversed," the Yorkdale Court applied the new law and dismissed the case. Id. at 124.

The Court disagrees with BQIA for several reasons. In the present case, GRYB had been properly granted a Special Exception by Zoning Commissioner Jablon in 1986. As already discussed in detail, that Special Exception included the right to develop dry boat storage which, as the Court has determined, included the rack facility at issue. No appeal from the granting of that Special Exception was noted by any party. Thus, Commisisoner Jablon's approval of the Special Exception became a final decision. This presents a significant departure from the facts in Yorkdale and other cases cited by BQIA where appellate remedies had not yet been exhausted at the time of the passage of the new legislation.

In 1989, three years after Commissioner Jablon issued his Order, Zoning Commissioner Haines properly approved amendments to the original plan. Relying upon Commisioner Haines' approval and the approval of various other agencies, GRYB rightfully began construction of the rack facility and expended a great deal of time and financial resources in doing so.

It was not until 1991, long after the passage of the appellate period, that BQIA Petitioned the Zoning Commission for a Special Hearing-- based not upon the 1986 Special Exception, but upon the 1989

approval of the amendments. It is important to note that the petition before Commissioner Schmidt was not an appeal. As Commissioner Schmidt properly determined, he was "not reviewing the propriety of Commisioner Haines' Order in an appellate capacity." (Schmidt Findings at p. 10). Rather, his review was of the Petition for Special Hearing. For reasons already stated, Commissioner Haines' approval of the amendments was proper and did not require a public hearing.

Finally, the Court takes note of the substantial amount of time and money expended by Mr. Lampron, the owner of GRYB, in constructing the racks. The Board noted that in 1991, prior to the filing of the Petition for Special Hearing, Mr. Lampron had already purchased the rack system for $650,000 in addition to $245,000 for the forklifts necesary to access the racks. Further, most of the rack construction had already been completed by the time of the filing of the Petition. Even if the Court were to accept all of BQIA's arguments up to this juncture, to revoke GRYB's permits and require them to tear down or shorten their custom built facility, would work an undue hardship upon GRYB and result in manifest injustice.

IV. Limitation of Ground Storage

The last issue raised before the Court concerns Zoning Commissioner Schmidt's limitation of out-of-water storage. It appears that Commissioner Schmidt was concerned with the impact of the rack system upon water traffic and upon overburdening of the land. As a result, he prohibited the dry storage of any marine craft to the rack facility. The Board felt a limitation of some sort was appropriate, however disagreed with Commissioner Schmidt's ban on all other dry

storage. The Board's remedy was to limit dry storgage to a percentage of the land site.

GRYB argues that Commissioner Schmidt had no authority to so limit dry storage because the Petition for Special Hearing did not raise the issue. As a result, GRYB argues, neither Commissioner Schmidt nor the Board had the benefit of evidence relating to the issue of whether ground storage was subject to further modification.

The Court disagrees. As the Board correctly points out, both the Zoning Commissioner and the Board are vested with the authority to impose restrictions necessary to properly enforce applicable zoning regulations. Section 500.7 BCZR. GRYB was given an opportunity to address this issue before the Board. In its Opinion, the Board notes the testimony of Mr. Lampron and based upon this testimony, determined that Commissioner Schmidt's restriction was, in fact, too restrictive. The Board then imposed the approach suggested to the Board by the Deputy Director of the Office of Planning and Zoning.

The Court finds that the determinations by the Board regarding limitiations on ground storage are entirely reasonable and substantiated by the record before it.

Accordingly, it is the judgment of this Court that the decision of the County Board of Appeals is hereby affirmed.

April 5, 1994
Date

Judge J. William Hinkel

COPIES SENT TO:

Peter Max Zimmerman, Esquire
Carole S. Demilio, Esquire
Deputy People's Counsel
Room 47, Old Courthouse
400 Washington Avenue
Towson, Maryland 21204

Mr. Michael S. Studdard
Mr. Michael S. Kreisslein
Scott Burns, Esquire
University of Maryland School of Law
Clinical Law Office
510 West Baltimore Street
Baltimore, Maryland 21201

Benjamin Bronstein, Esquire
29 West Squehanna Avenue
205 Susquehanna Avenue
Towson, Maryland 21204

Baltimore County Board of Appeals
Room 49
400 Washington Avenue
Towson, Maryland 21204
(M. S. 2013)

12-21-93

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY	:	CIVIL ACTION
PETITION OF GOLDEN RING YACHT BASIN, INC./CHESAPEAKE YACHTING CENTER	:	NO. 93CV07344/59/226
FOR JUDICIAL REVIEW OF THE DECISION OF THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY: OLD COURTHOUSE 400 WASHINGTON AVENUE TOWSON, MARYLAND 21204	:	
IN THE CASE OF: IN THE MATTER OF THE APPLICATION OF JOHN J. SCHMIDT, ET AL., FOR A SPECIAL HEARING ON PROPERTY LOCATED ON THE NORTH SIDE EDWARDS LANE, 1100' SOUTH WEST OF BOWLEYS QUARTERS ROAD (595 EDWARDS LANE) 15TH ELECTION DISTRICT 5TH COUNCILMANIC DISTRICT	:	
IN THE BALTIMORE COUNTY BOARD OF APPEALS CASE NO. 92-171-SPH	:	

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approved special exception without the required public hearing under BCZR 502. The CBA agreed that the "informal approval" of the Zoning Commissioner of material changes to the site plan, particularly as to a major out-of-water boat rack storage system, was incorrect and that such should be subject to public review in the special exception process. It is necessary to underline that a petition for special exception must be accompanied by a detailed site plan, and that the original special exception plan did not show the rack system. See Rule 2 of the Zoning Commissioner's Rules (attached); People's Counsel v. Mangione, 85 Md. App. 738 (1991). The Mangione special exception case confirms that conditions associated with the site plan are crucial zoning issues, and not mere "development" issues (as GRYB suggests). To the same effect, by analogy, is People's Counsel v. Crown Development Corp., 328 Md. 303 (1992). Here, the expansion could be approved, denied, or approved with conditions. BCZR 502.2 (attached).

As the current Zoning Commissioner, Lawrence Schmidt, accurately reported in his attached March 6, 1992 opinion, the original special exception approved in Case No. 86-292-XSPHA by then Commissioner Arnold Jablon incorporated a plat. Commissioner Schmidt wrote, at page 3,

> "Most significantly, the plat identifies a section of the property located roughly in the southeastern quadrant of the tract. This section is identified as a 'buffer area' and further provided that "this area may be used for passive recreation once trees are established. Uses exclude structures and paving."'"

There was no appeal of the original 1986 decision. Subsequently, the owner decided to convert from a "dry storage" to a boat rack system and received informal letter approval in 1989 from the next Commissioner, Robert Haines, to place the racks into the restricted buffer area. This was clearly illegal, and a variant of the "informal approval" process rejected in UPS v. People's Counsel, 93 Md. App. 59 (1992). Both Commissioner Schmidt and the CBA here found that the rack system constituted a substantive and material change which required a public hearing.

Upon the de novo hearing, the CBA took essentially the same path as Commissioner Schmidt and proceeded to a compromise result: the approval of a large part of the rack system, balanced by a limitation of marina land operations on a substantial part of the remainder of the property. While this limited use of an area previously approved, the unilateral decision of the Petitioner to expand its special exception opened up anew the issue of what conditions might accompany the expansion. Such conditions might involve limitations on the previously approved use, to balance the impact of the expansion. This would be a middle ground between total approval and total denial. Ordinarily, it would be within the discretion of the CBA, subject to the standards of BCZR 502.1 (also attached).

Therefore, the CBA does have jurisdiction and authority to approve a special exception with the type of conditions given. There is a different problem with the CBA decision, which we have identified in our earlier memorandum. The reasoning which the

CBA utilized to approve the boat rack system itself was defective. But the establishment of the conditions was otherwise within their authority and reasonable.

Peter Max Zimmerman

Peter Max Zimmerman
People's Counsel for Baltimore County

Carole S. Demilio

Carole S. Demilio
Deputy People's Counsel
Room 47, Old Courthouse
400 Washington Avenue
Towson, Maryland 21204
(410) 887-2188

I HEREBY CERTIFY that on this 21st day of December, 1993, a copy of the foregoing People's Counsel's Reply Memorandum was mailed to Michael S. Studdard, Michael J. Kresslein, and Scott Burns, Esquire, University of Maryland School of Law, Clinical Law Office, 510 W. Baltimore St., Baltimore, MD 21201, Attorneys for Bowleys Quarters Improvement Assn., Bill Jordan, Phil Edwards and John J. Schmidt; and Benjamin Bronstein, 205 Susquehanna Bldg., 29 W. Susquehanna Ave., Towson, MD 21204.

Peter Max Zimmerman

Peter Max Zimmerman

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Section 102--GENERAL REQUIREMENTS [B.C.Z.R., 1955.]

102.1--No land shall be used or occupied and no building or structure shall be erected, altered, located, or used except in conformity with these regulations and this shall include any extension of a lawful nonconforming use. [B.C.Z.R., 1955.]

102.2--No yard space or minimum area required for a building or use shall be considered as any part of the yard space or minimum area for another building or use. [B.C.Z.R., 1955.]

102.3--No portion of an alley shall be considered as any part of a side or rear yard. [B.C.Z.R., 1955.]

102.4--No dwelling, other than a multi-family building, shall be built on a lot containing less than 20,000 square feet which does not abut on a right-of-way at least 30 feet wide over which the public has an easement of travel, except as provided for panhandle lots in Section 26-266 of the County Code. [B.C.Z.R., 1955; Bill No. 172, 1989; Bill No. 2, 1992.]

102.5--On a corner lot in any residential zone no planting, fence, wall, building or other obstruction to vision more than 3 feet in height shall be placed or maintained within the triangular area bounded on two sides by the front and side street property lines, or by projections of said lines to their point of intersection, and on the third side by a straight line connecting points on said lot lines (or their projections) each of which points is 25 feet distant from the point of intersection. At the intersection of a street and an alley the dimension corresponding to the 25 ft. noted above shall be 15 feet; at the intersection of two alleys--10 ft. Poles, posts, and guys for street lights and for other utility services shall not be considered obstructions to vision within the meaning of this subsection. [B.C.Z.R., 1955; Resolution, November 21, 1956.]

102.6--No building permit shall be issued for any commercial, industrial, or apartment development until the proposed plan for vehicular access thereto shall have been first approved by the Baltimore County Office of Planning[12] and the Baltimore County Division of Engineering,[13] Department of Public Works. [B.C.Z.R., 1955; Resolution, November 21, 1956.]

ARTICLE 5--ADMINISTRATION AND ENFORCEMENT [B.C.Z.R., 1955.]

Section 500--ZONING COMMISSIONER AND/OR DEPUTY ZONING COMMISSIONER [B.C.Z.R., 1955; Bill No. 32, 1988.]

500.1--All applications to the buildings engineer for building permits shall be submitted to the zoning commissioner for approval by him as to zoning before any permit shall be issued. Before approving any such application, the zoning commissioner shall satisfy himself that the application is in proper form and contains all necessary information, and that the proposed building or use of land, building, or structure, complies in all respects with the regulations then in effect with respect to zoning. [B.C.Z.R., 1955.]

500.2.a.1 Whenever a petition is presented to the Office of Planning and Zoning for a zone or district classification or reclassification of a piece of property, or for a special exception, such petition may be filed with the zoning commissioner only if it meets the zoning commissioner's rules of practice and procedure. Whenever the Office of Planning and Zoning shall have acknowledged the adequacy of the petition in respect to such rules, including whatever site plan or other supporting material may be necessary, the petition may be filed with the zoning commissioner by the legal owner of the property or by his legally authorized representative. [B.C.Z.R., 1955, Subsection 500.2; Bill No. 85, 1964; No. 40, 1967.]

b. A date for a public hearing before the zoning commissioner on the petition for the proposed zone or district classification or reclassification may then be scheduled and such hearing shall be held not less than 30 nor more than 90 days after the date set on the zoning commissioner's acknowledgement of such filing.2 [B.C.Z.R., 1955 Subsection 500.2; Bill No. 85, 1964; No. 40, 1967.]

500.3--In the event the zoning commissioner shall refuse to grant a reclassification and upon appeal to the Board of Zoning Appeals3 the said board shall order such reclassification, the zoning commissioner shall then forthwith submit said reclassification to the County Commissioners of Baltimore County and upon their written approval thereof the said reclassification shall become effective and binding and shall constitute an amendment to the boundaries of the zoning districts.4 [B.C.Z.R., 1955.]

500.4--In cases in which no building permit is required, any person desiring to use any land for any purpose other than that for which said land is being used at the time of adoption of this Order and Resolution,5 shall make application to

APPENDIX E

RULES OF PRACTICE AND PROCEDURE
OF THE
ZONING COMMISSIONER OF BALTIMORE COUNTY[15]

The following rules and regulations are prescribed under the provisions of Subsection 500.8, Baltimore County Zoning Regulations, 1955:

RULE 1

Locations and Times of Hearings--In General

Hearings shall be held in the County Office Building, 111 West Chesapeake Avenue, Towson, Maryland, Monday through Friday. (The times for hearings on petitions will be set in accordance with Sections 22-22 and 22-23 of the Baltimore County Code 1968, as amended by Bills No. 72, 1969, and No. 42, 1970.[16]) Special sessions of the Zoning Commissioner for any and all authorized purposes may be held at such times and places as the Zoning Commissioner may direct.

RULE 2

Petitions and Preliminary Review

A. Acceptance. On receiving a petition, the Zoning Commissioner will refer it to the office staff and Zoning Plans Advisory Committee (see Section C, below) for examination and comment. If it is found to be in accordance with these rules, with the Baltimore County Code, with the Baltimore County Zoning Regulations, and with all reasonable requirements of the Committee, the Zoning Commissioner will accept the petition for filing and so notify the petitioner by letter. If it does not conform, the petitioner will be advised of the defects which must be corrected before the petition will be accepted for filing.

B. Form, contents, and accompanying documentation

1. Any petition to be accepted for filing must be on the form supplied by the Zoning Commissioner.

2. The petition shall be submitted in triplicate, and each copy shall be signed by the petitioner(s). All information on the petition other than the printed impression and the signature(s) shall be typewritten.

12-13-93

MJC/mlg/12.13.93

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ANSWERING MEMORANDUM OF APPELLANT GOLDEN RING YACHT BASIN, INC./CHESAPEAKE YACHTING CENTER PURSUANT TO MARYLAND RULE 7-207

Golden Ring Yacht Basin, Inc./Chesapeake Yachting Center ("Chesapeake"), Appellant, by Benjamin Bronstein, Michael J. Chomel and Evans, George and Bronstein, its attorneys, files this Memorandum in Answer to the Memoranda filed herein by Appellees Bowleys Quarters Improvement Association ("BQIA"), et al. and People's Counsel for Baltimore County pursuant to Maryland Rule 7-207(a).

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I

STATEMENT OF FACTS

In 1985, Chesapeake filed for a special exception for a marina and boatyard. The surveyor's plat attached to the Petition for Special Exception specifically provided that "parking spaces to double as dry storage area". Part of the dry storage was to be accomplished by means of a rack system. This is shown on the original site plan, which was admitted into evidence before the Board of Appeals as Developer's Exhibit 1, at notes 5 and 6. In the course of the initial review process with Baltimore County agencies, David Thaler, engineer for the project, and Frank Lampron (president of Chesapeake), were advised that there was no need to delineate a rack system on the surveyor's plat (commonly referred to and sometimes hereinafter referred to as a "site plan"), and that the racks should be deleted from the site plan since they were not "structures" within the purview of the Baltimore County Code and Baltimore County Zoning Regulations ("BCZR"). The racks were removed from the site plan by Chesapeake in compliance with the instructions of Baltimore County. The requested Special Exception was granted by then-Zoning Commissioner Jablon in Case No.: 86-292-XSPHA, authorizing Chesapeake to operate a marina and boatyard. Under the BCZR, a boatyard is specifically authorized to have out-of-water storage facilities. BCZR, Section 417.7

Subsequently, in August 1989, Chesapeake (in an effort to protect itself and make certain it was in full compliance with all relevant laws, regulations and ordinances) requested permission

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from the Zoning Commissioner for Baltimore County to amend the surveyor's plat filed as part of the Special Exception to show a rack facility. The Zoning Commissioner, on November 8, 1989, approved the site plan amendment which delineated a rack facility. (This amendment merely clarified the continued intent to utilize rack storage by showing a rack facility on the surveyor's plat.)

At the request of Baltimore County Department of Environmental Protection and Resource Management (DEPRM) certain additional amendments were made to the site plan relating to the location and configuration of the rack storage structure. These changes involved environmentally-related matters (not zoning issues), including the relocation and reconfiguration of the structure to create a grass buffer strip at the waters' edge. This strip, which also serves as passive recreation area, was previously a boat storage area. As a result, although Appellees complain about changes in the site plan in addition to the clarification regarding rack storage, the changes of which Appellees complain were done at the request of Baltimore County to conform the site plan to then-current requirements of the Chesapeake Bay Critical Areas legislation. (The original site plan had been approved under interim critical areas requirements. The amendments to the site plan were done pursuant to the final requirements of the Critical Areas legislation).

The testimony at the hearing before the Board was uncontradicted that the amendments to the site plan were disseminated for review and comments to other County agencies.

Contrary to the characterization which Appellees sought to put on this matter before the Board, this was not a casual or secretive process. There was no mere cursory review by the Zoning Commissioner; rather, the Zoning Commissioner was careful to inform the appropriate County agencies and seek their review and comments relating to the proposed changes. Additionally, a memorandum in support of the amendment to the site plan was submitted to the Zoning Commissioner in support of granting the requested changes. The Zoning Commissioner did not act in a cavalier or capricious manner in approving the amendment. To the contrary, the decision to permit the amendment was made in strict conformance with the policies then-existing in the Zoning Commissioner's office and after consultation with relevant County agencies, and after review of legal authorities.

Prior to October 1, 1991, (i.e., prior to the filing of the Petition for Special Hearing which gave rise to this appeal) Chesapeake applied for and received a building permit to erect the rack storage building. Pursuant to that building permit, and prior to the institution of this proceeding by Appellees, Chesapeake erected a substantial portion of the rack facility and performed substantial construction (including the pouring of footings and ordering of custom-sized structural components) for the remainder of the rack storage unit. The entire rack storage structure is now completed. Additionally, Chesapeake has expended substantial sums, including the purchase of a specially-sized forklift at a cost of over $245,000.00, in connection with the operation of the rack

storage structure. The testimony of Frank Lampron, chief operating officer of Chesapeake, was that the entire financing structure of the project was predicated upon utilization of rack storage.

The testimony before the Board of Appeals was that the site in question was formerly a derelict boatyard, a hazard to neighbors and navigation alike. Chesapeake has at all times throughout the course of its dealings with the property endeavored to act in a responsible manner as to environmental concerns and the concerns of its neighbors. The evidence before the Board established beyond cavil that Chesapeake has gone "above and beyond the call of duty" in its efforts to develop a project which is a benefit to Baltimore County and the surrounding area. What was formerly a health and navigational hazard is now a state-of-the-art boatyard facility which utilizes the cutting edge of technology in its effort to produce an environmentally benign and aesthetically unintrusive project.

There was testimony before the Board as to the benefits which Baltimore County and the surrounding area receive from this boatyard -- the tax base has been increased, jobs are created, the design of the facility is such as to minimize to the greatest extent possible any visual or other intrusive effect on surrounding areas. The boatyard meets or exceeds the setback and buffer requirements of the new marina and boatyard legislation. (Bill 149-92)

Objections by the Appellees that "there will be more boats" do not rise to a level sufficient to justify the rejection of

Chesapeake's efforts to comply with relevant laws, regulations and ordinances, protect the environment, and minimize any impact beyond the physical boundaries of the site. In fact, the uncontradicted testimony of Mr. Thaler and Mr. Lampron was that the rack storage structure would not increase the number of boats. More importantly, the evidence before the Board demonstrated that rack storage is more protective of the environment than open ground storage. It is the "high tech" answer to non-point source pollution of the Chesapeake Bay. The Zoning Commissioner's decision to allow the amendment to the site plan to show the rack storage structure (rack storage being permitted to Chesapeake as of right) was proper as a matter of law and was properly affirmed by the Board of Appeals.

On October 2, 1991, a Petition for Special Hearing was filed by the Bowleys Quarters Improvement Association (BQIA), which focused solely on the issue of whether the amendment to the surveyor's plat should be disapproved. In the words of the Petition for Special Hearing filed by Appellees BQIA, et al.:

> The undersigned, interested parties 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 500.7 of the Baltimore County Zoning Regulations, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should disapprove an amendment to the plat approved by Case #86-292-XSPHA (construction of boat racks) granted by a letter from the Zoning Commissioner, dated November 8, 1989 which was done without the benefit of a public hearing.

On January 17, 1992, a hearing was held before the Zoning

Commissioner for Baltimore County, who, in an Opinion and Order dated March 6, 1992, determined that Baltimore County was estopped to withdraw or otherwise denying permission to Chesapeake to continue and complete construction of the two rack storage units. A two day hearing was held before the Board of Appeals which, in an Opinion and Order of July 22, 1993, denied the Petition for Special Hearing filed by Appellees (thereby finding that the racks were permitted), and "approved the amended site plan in Case No.: 86-292-XSPHA" (the order granting Chesapeake a Special Exception). The Board, however, purported to restrict Chesapeake's ground storage to a small area (approximately one-half acre) at some distance from the water. This restriction is not in conformity with the prior order of Commissioner Jablon which granted unrestricted ground storage and is wholly unworkable as a practical matter. The ground storage is needed for transitory placement of boats while they are being removed from the racks and placed in the water (and vice-versa), as well as for temporary placement of boats which are being worked on by their owners. As more fully set forth in the Memorandum submitted by Chesapeake in support of its Petition for Judicial Review in this matter, the restriction on ground storage imposed by the Board of Appeals creates a situation of practical impossibility for Chesapeake to continue its operations as a marina (which was approved in the prior Special Exception case in 1986 and has been approved again in the present case).

II

APPELLEES' CONTENTION THAT THE ZONING COMMISSIONER WAS REQUIRED TO HOLD A PUBLIC HEARING BECAUSE THERE WAS A "MATERIAL AMENDMENT" OF A PLAN WITHIN THE AMBIT OF BALTIMORE COUNTY CODE, SECTION 26-211 DEMONSTRATES A FUNDAMENTALLY FLAWED UNDERSTANDING OF THE DIFFERENCE BETWEEN BALTIMORE COUNTY ZONING REGULATIONS AND BALTIMORE COUNTY DEVELOPMENT REGULATIONS

Appellees' argument is based on an erroneous understanding of Baltimore County law.

The arguments made by Appellees, BQIA, et al. and People's Counsel, are based on one underlying premise -- that under Baltimore County Code, Section 26-211 the Zoning Commissioner was required to hold a public hearing before approving the amendment to the site plan in the prior zoning case, Case No.: 86-292-XSPHA. The Appellees' understanding of Baltimore County law is fatally flawed, so the arguments made by Appellees must be dismissed.

Appellees cite Baltimore County Code, Section 26-211 for the proposition that a material amendment to a "approved plan" requires a public hearing. (Brief of BQIA at p. 3-4). Appellees' argument in this regard demonstrates a fundamental misunderstanding of Baltimore County law.

Section 26-211 of the Baltimore County Code is found in Article V of Title 26 of the Baltimore County Code. Article V deals with Development Regulations -- not zoning. Indeed, Zoning is addressed in an entirely different article of Title 26 -- Article IV of Title 26 of the Baltimore County Code specifically addresses "Zoning".

Section 26-211 -- contained in the Development Regulations -- refers to "an approved plan". The term "plan" is defined under the Development Regulations as meaning "the written and graphic representation of the proposed development prepared in compliance with Section 26-203". (Baltimore County Code, Section 26-168 emphasis supplied).

Baltimore County Code, Section 26-203(a) (located in Title V - not IV) refers to a plan for a "proposed development". This type of "plan" is a different creature than the surveyor's plat attached to the Petition for Special Exception (the plat at issue in the present case).

Baltimore County Code, Section 26-135 -- contained under Article IV "Zoning" -- grants the Zoning Commissioner:

> ...the full power and authority to make, adopt, promulgate, and amend, from time to time, such policies, rules or regulations relating to or in connection with the Zoning [not Development] Regulations as may be deemed necessary or proper to carry out and enforce the provisions of this title and which are not inconsistent therewith. (emphasis supplied)

Pursuant to the authority granted by the Baltimore County Council, the Zoning Commissioner has enacted Rules of Practice and Procedure. Rule 2.B.4 provides that a petition such as the petition in the present case -- and distinguished from a development plan such as referred to in Section 26-211 -- must be accompanied by 10 copies of a surveyor's plat (not "approved plan"). Rule 2.B.5 sets forth the specific items and information to be included on that surveyor's plat. (A copy of Rule 2 of the

Rules of Practice and Procedure of the Zoning Commissioner is attached as Exhibit A.)

It is clear, then, that there is an underlying and fundamental difference between the surveyor's plat (such as the plat amended by the order of Zoning Commissioner Haines which is at issue in this case) required to be filed with the Zoning Commissioner, and the conceptual plan under the Development Regulations which is referred to in Section 26-211 of the Baltimore County Code. The reliance by Appellees on Section 26-211 demonstrates a fundamental misconception of the issues involved in this case. Simply put, Section 26-211 is wholly irrelevant to the issues raised by Appellees in their Petition for Special Hearing, and the provisions of that (unrelated) section of the County Code have no bearing on this appeal.

In essence, Appellees seek to insert into this proceeding a wholly unrelated procedure from the Development Regulations. This is improper -- the Baltimore County Council determined that under the Development Regulations a material amendment to a development plan should follow a certain procedure as set out in Section 26-211. The County Council, however, did not intend to create such a procedure under the Zoning Regulations, because of the Council's decision not to enact a similar provision under the Zoning Regulations. The absence of any parallel procedure under the Zoning Regulations to that set forth in 26-211 compels the conclusion that the Baltimore County Council did not intend to create the procedure under the Zoning Regulations that it created

under the Development Regulations.

For this reason, the cross-appeal of BQIA, et al. and People's Counsel must be dismissed. Although the Appellees' fundamental reliance on an erroneous legal premise rips the foundation from their appeal, Appellees are also unable to prevail on the merits of the issues that they raise.

This case arises out of a Petition for Special Hearing filed by Appellees. That Special Hearing was limited -- by Appellees themselves -- to the sole issue of whether the Zoning Commissioner "should disapprove an amendment to the plat [not development plan] approved by Case No.: 86-292-XSPHA" which was granted by a letter of the Zoning Commissioner, dated November 8, 1989.

Appellees' own language focuses on the surveyor's plat which is not subject to the provisions of Section 26-211 of the Baltimore County Code. Rather, the authority of the Zoning Commissioner to approve an amendment to a surveyor's plat is governed by the policies and procedures of the Zoning Commissioner, enacted pursuant to the authority expressly granted by the Baltimore County Council.

Section 500.7 of the BCZR grants the Zoning Commissioner discretion to conduct hearings and to pass orders relating to special exceptions. Baltimore County law, therefore, clearly provides that the determination of Commissioner Haines to permit the amendment to the surveyor's plat (the only issue raised by Appellees in their Petition for Special Hearing) without a public hearing was within his discretion and is not subject to attack in

this collateral proceeding. It is clear that Commissioner Haines did not abuse his discretion in permitting the amendment without a public hearing.

There is a presumption that discretion vested in a decision maker was not abused but was exercised with just regard to the rights and interest of all parties. Vimco Concrete Accessories, Inc. v Maggitti, 44 Md. App. 176, 407 A.2d 1187, 1190 (1979); I.W. Berman Properties v Porter Brothers, Inc., 276 Md. 1, 344 A.2d 65, 76 (1975); Moreland, Inc. v Moreland, 175 Md. 145, 199A 871, 872 (1938). The burden is upon the complaining party to establish that the trial court abused its discretion and worked an injustice to that party on a consideration of all the circumstances of the particular case as disclosed at the hearing.

In the instant case, under the original special exception granted by then-Zoning Commissioner Arnold Jablon in 1986, Chesapeake was authorized, inter alia, to operate a marina and boatyard. This was conceded by Appellees BQIA, et al. and People's Counsel in the hearing below. Under the BCZR, the Special Exception authorized rack storage buildings on the Chesapeake property. Section 417.7 of the BCZR provides:

> Marinas located on property consisting of five or more acres shall be permitted to establish out-of-water storage facilities for recreational marine craft provided that no such facilities thereon shall be located within 60 feet of any property line, and provided, further, that screening shall be provided and maintained of such types and at such locations as may be required by the Zoning Commissioner or Board of Appeals, on Appeal. (emphasis supplied)

Under the special exception granted by Commissioner Jablon in 1986 (a decision to which Appellees were parties but did not appeal and which Appellees repeatedly conceded before the Board of Appeals below they did not contest) Chesapeake was entitled to establish "out-of-water storage facilities". The term "facility" is defined in Webster's Third New International Dictionary (unabridged) in pertinent part:

> 5a: "Something that promoted the ease of any action, operation, transaction, or course of conduct -- usu. used in pl. (excellent facilities for graduate study) b: Something (as a hospital, machinery, plumbing) that is built, constructed, installed, or established to perform some particular function or to serve or facilitate some particular end". (emphasis supplied)

Under Section 417.7, then, Chesapeake was entitled as a matter of right to have out-of-water storage facilities. These "out-of-water storage facilities" include rack units for boat storage. As a matter of law, therefore, Chesapeake was entitled to erect rack storage units on its property. The decision of Commissioner Haines permitting amendment of the surveyor's plat to show racks did not grant any right to Chesapeake which is subject to reversal -- Chesapeake was entitled to the rack storage unit, without question. The decision of the Zoning Commissioner in this regard merely acknowledged and clarified the existing legal right of Chesapeake to construct the rack storage unit and was a correct decision as a matter of law.

The property owned by Chesapeake at issue in this proceeding is almost thirteen acres in size (12.84 acres). The rack storage

unit at issue in this proceeding is located more than 60 feet from the property line, and screening is being provided and maintained in such types and in such locations as has been required by the Order of Commissioner Haines.

Chesapeake has met every condition set forth in Section 417.7, and is therefore entitled to out-of-water storage facilities as a matter of law. It was not an abuse of discretion by Commissioner Haines to authorize the erection of racks, which were associated with the use permitted -- operation of the premises as a boatyard and marina with the right to erect out-of-water storage facilities. Moreover, storage of boats is expressly within the use of a marina and boatyard under the Baltimore County Code and BCZR. A "boatyard is defined in the BCZR as "a commercial or non-profit boat basin with facilities for one or more of the following: sale, construction, repair, storage, launching, berthing, securing, fueling, and general servicing of marine craft of all types". A "marina" is defined in the BCZR as "a modern boat basin, restricted to recreational marine craft of all types, with facilities for one or more of the following: berthing, launching, and securing such craft, and permitting incidental minimum provision for refueling and emergency servicing, and also land (out-of-water) storage as provided in sub-section 417.7". BCZR Section 101. BCZR Section 417.7 provides: "Marinas located on property consisting of five or more acres shall be permitted to establish out-of-water storage facilities for recreational marine craft . . . ."

It is pellucid that Chesapeake was entitled to rack storage

units, as out-of-water storage facilities (BCZR Section 417.7) under the terms of the existing Special Exception granted by Commissioner Jablon in 1986 which authorized Chesapeake's use of the property as a marina and boatyard. (BCZR Section 101)

This is not a situation where permission was sought for ancillary but unrelated use which was not within the definition of the primary use of the property -- for example, operation of a restaurant at a marina. The requested use (i.e., storage of boats and use of out-of-water storage facilities) was inherent in the authorized use of the property as a marina and boatyard, and was within the scope of the activities permitted under the definition of that use. This further establishes that the amendment to the surveyor's plat approved by Commissioner Haines was not a "material" amendment, since it related to a use intrinsic to the operation of a boatyard and marina (storage of boats and out-of-water storage facilities), and did not concern an unrelated ancillary use (such as a restaurant).

Inasmuch as Chesapeake was entitled -- as a matter of law -- to have the rack storage units, Commissioner Haines did not abuse his discretion in permitting an amendment to the surveyor's plat which merely delineated on that plat the racks which Chesapeake was authorized to construct. Similarly, the Board of Appeals was clearly within its authority in upholding the action of Commissioner Haines and permitting the amendment of the surveyor's plat by Chesapeake to reflect the racks. Appellees' arguments are insufficient in law and in fact, and the action of the Board of

Appeals permitting the rack units should be upheld.

In summary, Appellees' suggestion that a public hearing was required in connection with the amendment of the surveyor's plat is ill-founded for a number of reasons. First, there was no material amendment to the plat at issue in this case. The original plan (approved in the order of then-Zoning Commissioner Jablon) was for a boatyard (which included out-of-water storage). That is all that the amendment in question proposes. The only changes made were done to reflect the rack storage structure (which did not need to be shown in the prior plan), with certain changes relating to the relocation and reconfiguration of the structure to create a grass buffer strip at the water's edge. The only testimony before the Board on this issue came from David Flowers of DEPRM and Frank Lampron of Chesapeake. The testimony of Mr. Flowers, (who was in charge of the Critical Areas compliance for Baltimore County at the relevant time) and Mr. Lampron established that these minor changes were required by Baltimore County under the final Chesapeake Bay Critical Area Legislation. This testimony was unrebutted. These changes did not: (1) vary the use of the property, nor (2) did they create any rights in Chesapeake which it did not already have -- Chesapeake already possessed the right to out-of-water storage facilities (i.e., racks).

Secondly, no public hearing was required because there is no provision under these circumstances that even a "material" amendment to the surveyor's plat (of which there was none in this case) requires a public hearing. Appellees' refer to the

provisions of the Development Regulations which require that a material amendment to an approved plan may require a public hearing. Baltimore County Code, Section 26-211. The provisions of Section 26-211 do not apply to the plan amendment in issue here, nor to the minor "housekeeping" changes which Baltimore County required Chesapeake to make in the present case.

Thirdly, as the Board of Appeals recognized in its opinion, Appellees had their public hearing (in fact, two of them -- one before the Zoning Commissioner, and one before the Board of Appeals) under their Petition for Special Hearing. Even given these "two bites at the apple", Appellees were unable to persuade either Commissioner Schmidt or the Board of Appeals as to the merits of their cause. The testimony and evidence submitted by Appellees before the Board of Appeals failed to establish that the proposed rack storage unit did not satisfy the requirements of BCZR 502.1 (which governs special exceptions). Both the Zoning Commissioner and the Board of Appeals found (at least implicitly) that the proposed building met the requirements of 502.1. Appellees (even though they were given two opportunities to do so) were unable to produce any evidence sufficient to establish that the proposed building should not be permitted under BCZR 502.1. Having failed twice to establish that the racks should not be built under the Special Exception granted by Commissioner Jablon (which Appellees concede is entirely proper), it would be a futile gesture for this court to find that Commissioner Haines erred in not having a public hearing, when Appellees -- having been given two hearings

already -- are manifestly unable to produce any evidence showing an adverse impact from the rack storage unit.

The Court of Appeals of Maryland has laid down the principle that a Special Exception may only be denied when the evidence supports a finding that the requested Special Exception would create adverse effects upon the health, safety or general welfare of the locality involved which would be above and beyond the adverse effects inherently associated with that use irrespective of its location within the zone in question. Schultz v Pritts, 291 Md. 1, 432 A.2d 1319 (1981). In order to deny a requested Special Exception, there must be a showing of "strong and substantial evidence" that the use in question at the proposed location would have adverse effects above and beyond those inherent ones ordinarily associated with such use in that particular zone. Id. Appellees BQIA, et al. were unable (in two separate multi-day hearings) to adduce any probative evidence that the rack storage units would create an adverse impact within the scope of the decision of the Court of Appeals in Schultz v Pritts, supra. Under these circumstances, there was an absence of evidence before the Board which could have supported denial of the rack storage unit and, the decision of the Board of Appeals which, in essence, permitted the rack storage units must be affirmed.

Appellees' suggest that the case of People's Counsel for Baltimore County v Crown Development Corporation, 328 Md. 303, 614 A.2d 553 (1992) applies in this case and requires a public hearing. The Crown Development case was concerned with former County Code,

Section 22-63 (the predecessor to current Section 26-211). The Crown Development case therefore dealt with the Development Regulations, (not Title IV - Zoning) which are not applicable to this case. In Crown Development, the Court of Appeals found that a material change under the Development Regulations might require a public hearing. This is not the situation in the present case, because: (1) the Development Regulations do not apply to this case, and (2) the change at issue in this case was not material and was required in order to comply with the existing Critical Areas legislation.

It is clear, then, that no public hearing was required in this case because: (1) there is no legal requirement that a public hearing be held under the circumstances of this case even if there is a "material" change; and (2) the changes at issue in this case were not "material".

III

THE BOARD OF APPEALS PROPERLY FOUND THAT BALTIMORE COUNTY IS ESTOPPED TO WITHDRAW PERMISSION FOR CHESAPEAKE TO COMPLETE CONSTRUCTION OF TWO RACK STORAGE UNITS

It has long been recognized in Maryland that the doctrine of estoppel is applied to municipal corporations. Kent County Planning Inspector v Abel, 246 Md. 395, 228 A.2d 247 (1967). See also, Town of Berwyn Heights v Rodgers, 228 Md. 271, 179 A.2d 712 (1962). It is held that municipalities may be estopped by reason of the issuance of permits. Kent County Planning Inspector v Abel, supra. As long ago as 1865 the United States Supreme Court observed in the case of Rodgers v Burlington, 70 U.S.(3 Wall) 654, 18 L.Ed.

79 (1865):

> [T]he rule that a [municipal] corporation quite as much as an individual is held to fair dealing with other parties, applies with all its force, and we repeat, that [municipal] corporations cannot by their acts, representations, or silence, involve others in onerous engagements, and be permitted to defeat the calculations and claims which their own conduct has superinduced.

70 U.S.(3 Wall) at 667.

In Permanent Financial Corporation v Montgomery County, 308 Md. 239, 518 A.2d 123 (1986), the Court of Appeals of Maryland addressed a situation quite similar to that in the case at bar. In Permanent Financial, a builder relied on a long-standing county interpretation of the phrase "nonhabitable structures" as permitting a maximum building height of 43 feet (35 feet plus 8 feet for "nonhabitable structures") and expended considerable sums in erecting a building.

The Court of Appeals held that the county was equitably estopped from claiming that the building's upper floor exceeded the height limits imposed by the local zoning ordinance. The court observed that the builder had designed and constructed the building in reliance on the building permit and on a long-standing and reasonable interpretation of the county as to how the building's height should be calculated, and ruled the County was estopped to deny approval, saying:

> "Permanent clearly relied upon the interpretation the County had given to the height limitation in its design of the building. In the initial application for a building permit, Permanent stated the height of the proposed building as "37 + 8."

> Appellees do not disagree that "37" was a typographical error, and that "35" was intended. Moreover, the measurement of the building as shown on the plans submitted with the application was 43 feet to the top of the fourth floor. We have no doubt that Permanent designed and built its building to a height of 43 feet through the fourth floor in reliance upon the long standing interpretation of the County, and that this interpretation, while subsequently found by the Board of Appeals to be incorrect, was nevertheless reasonable and debatable. Although the issue is somewhat clouded by the fact that the County should not have issued the building permit because of other deficiencies, it is at least clear that this portion of the decision to issue the permit was not the result of oversight by the County, but rather was consistent with its practice. This being the case, and Permanent having expended substantial funds in reliance upon the permit, it would be inequitable to now permit the County to require the removal of the fourth floor."

Id. at 129-130(emphasis supplied)

Similarly, in Leaf Company v Montgomery County, at 70 Md. 170, 520 A.2d 732 (1987), it was held that the county was estopped to deny an oral extension of a contract for disposal of leaves, where the county by its actions represented that a requirement that all contracts be in writing was not applicable to that renewal, where it was not unreasonable for the contractor to rely on the county's interpretation and the contractor incurred expense in honoring the renewal of the contract. 520 A.2d at 737-38.

In the case at bar, the uncontradicted testimony of David Thaler and Frank Lampron established that Chesapeake was advised by Baltimore County that boat storage racks need not be shown on the original surveyor's plat. In an "abundance of overcaution"

Chesapeake later came back to the Zoning Commissioner and requested the surveyor's plat be amended to show the rack unit so that "all the i's were dotted and all the t's were crossed" appropriately. The Zoning Commissioner, in the exercise of his discretion permitted the amendment (or, really, a mere clarification) of the surveyor's plat. The County issued a building permit to Chesapeake. Chesapeake expended substantial sums (in excess of one-half million dollars to date), in reliance on the amendment to the surveyor's plat and the building permit. Under these circumstances, the Board of Appeals correctly concluded that Baltimore County was estopped to withdraw permission for Chesapeake to complete construction of the rack units.

IV

THIS CASE IS DISTINGUISHABLE FROM UNITED PARCEL SERVICE, INC. V PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, 93 Md. App. 59, 611 A.2d 993, cert. granted 329 Md. 337, 619 A.2d 547 (1993)

Although a superficial reading of the UPS case might indicate a similarity with the present situation, the decision in UPS is clearly distinguishable and does not govern the case at bar.

In UPS, the Zoning Commissioner rendered an informal opinion that a proposed use was permitted in an ML zone. Subsequently, it was determined that the use in question was a trucking facility which was only permitted in an ML zone by way of special exception, the granting of which requires a public hearing.

A key distinguishing factor between this case and UPS is that in UPS, the Zoning Commissioner rendered an opinion (that the use

in question was one permitted in an ML zone as of right) which was in error. The erroneous determination made by the Zoning Commissioner in the UPS case was not one to which any discretion attached.

In the present case, however, the determination of whether a special hearing needed to be held at the time the site plan was amended was one within the discretion on the Zoning Commissioner. Further, neither the Zoning Commissioner nor the Board of Appeals approved a use not permitted in the zone (as occurred in the UPS case).

The Court of Special Appeals in the UPS case specifically recognized that the Zoning Commissioner (or Administrator, under the current statutory scheme) was not empowered to change or ignore the county zoning laws; where the conclusion that the proposed use was permitted as of right was incorrect there exists the ability on the part of interested and aggrieved persons to challenge it when the error is discovered.

The determination at issue in the present case, however, is one that is within the discretion of the Zoning Commissioner. No clear "error" (such as was present in UPS) can attach to a discretionary decision made by the Zoning Commissioner, at least in the absence of any abuse of that discretion (of which no complaint is made in the present case). The decision of Commissioner Haines in the present case, then, allowing amendment of the surveyor's plat is not analogous to the (erroneous) determination by then - Commissioner Jablon in the UPS case that the use was permitted as

a matter of right in an ML zone.

V

THE DECISION OF THE BOARD OF APPEALS ON THE SPECIAL EXCEPTION GRANTED IN 1985 IS NOT SUBJECT TO THE PROVISIONS OF BILL 149-92

Appellees appear to suggest that the Board of Appeals should have applied provisions of a recently enacted statute, Bill 149-92. Bill 149-92 created a new zone in Baltimore County dealing with boatyards. That local statute does not, however, apply to the case at bar because Chesapeake's right to utilize its property as a marina and boatyard is authorized by the decision of Zoning Commissioner Jablon in 1985 -- Chesapeake's right to utilize its property as a boatyard does not derive from Bill 149-92. As a result, the strictures of Bill 149-92 are not applicable to Chesapeake's operation of a marina and boatyard.

The case of Yorkdale Corp. v Powell, 237 Md. 121, 205 A.2d 269 (1964), and the other cases cited by Appellees are inapposite to the case at bar. All of the cases cited by Appellees BQIA, et al. dealt with reclassification of property. The enactment by the Baltimore County Council of a new zone does not, either by its express terms or by implication, abrogate the rights enjoyed by Chesapeake under the Special Exception granted in 1985. Prior to the passage of Bill 149-92, no Special Exception was required for rack storage units in Baltimore County. Indeed, it is clear that rack units (as out-of-water storage facilities) were permissible as a matter of right. BCZR 417.7 Chesapeake had the right to erect rack units, and did, erect the units in question prior to the

enactment of Bill 149-92. Appellees cite no law (nor is there any constitutional basis) for the proposition that Chesapeake can be compelled to tear down a rack storage unit (lawfully built in compliance with existing law) because the Baltimore County Council subsequently enacted a bill which made racks erected after the passage of the law subject to the Special Exception process. The right of Chesapeake to build the racks under the prior Special Exception was not abrogated by the subsequently enacted legislation. Yorkdale and its progeny do not apply to the situation presented by the instant case. Bill 149-92, while applicable to rack storage units constructed in Business Maritime zones after its enactment, has no application to the racks properly erected by Chesapeake pursuant to its lawfully granted Special Exception in Case No.: 86-292-XSPHA.

VI

CONCLUSION

The acts of Chesapeake in this case are not "in violation of law" because they are not premised on an erroneous decision by the Zoning Commissioner (as was the situation in UPS). Here, the act of the Zoning Commissioner in permitting amendment of the surveyor's plat to show out of water storage facilities (racks) without a public hearing was a determination made within the discretion of the Zoning Commissioner. In that context, the decision cannot be "in violation of law", within the rationale of UPS, and that decision cannot be stretched to include the present case.

Chesapeake has acted at all times with good faith. To withdraw permission to complete the rack units at this late stage would be inequitable and extremely unfair to Chesapeake. Under the principles of law enunciated and applied in Permanent Financial Corporation v. Montgomery County and Leaf Company v. Montgomery County, supra, the Board of Appeals properly held that Baltimore County is estopped to withdraw permission for Chesapeake to complete the rack units.

The decision of the Board of Appeals which, in effect, authorized amendment of the site plan and permitted construction of the racks, was supported by substantial evidence and must be affirmed.

Respectfully Submitted,

Benjamin Bronstein
205 Susquehanna Building
29 West Susquehanna Avenue
Towson, Maryland 21204
(410) 296-0200

Michael J. Chomel

Attorneys for Golden Ring Yacht Basin, Inc./ Chesapeake Yachting Center.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on this 13 day of December, 1993, a copy of the foregoing Answer to Memorandum was mailed, postage pre-paid to People's Counsel for Baltimore County, 400 Washington Avenue, Towson, Maryland 21204, and to Michael S. Studdard, Michael J. Kresslein, and Scott Burns, Esquire,

University of Maryland School of Law, Clinical Law Office, 510 West Baltimore Street, Baltimore, Maryland 21201, attorneys for Bowleys Quarters Improvement Association, Bill Jordan, Phil Edwards and John J. Schmidt.

Benjamin Bronstein

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APPENDIX E

RULES OF PRACTICE AND PROCEDURE
OF THE
ZONING COMMISSIONER OF BALTIMORE COUNTY[15]

The following rules and regulations are prescribed under the provisions of Subsection 500.8, Baltimore County Zoning Regulations, 1955:

RULE 1

Locations and Times of Hearings--In General

Hearings shall be held in the County Office Building, 111 West Chesapeake Avenue, Towson, Maryland, Monday through Friday. (The times for hearings on petitions will be set in accordance with Sections 22-22 and 22-23 of the Baltimore County Code 1968, as amended by Bills No. 72, 1969, and No. 42, 1970.[16]) Special sessions of the Zoning Commissioner for any and all authorized purposes may be held at such times and places as the Zoning Commissioner may direct.

RULE 2

Petitions and Preliminary Review

A. Acceptance. On receiving a petition, the Zoning Commissioner will refer it to the office staff and Zoning Plans Advisory Committee (see Section C, below) for examination and comment. If it is found to be in accordance with these rules, with the Baltimore County Code, with the Baltimore County Zoning Regulations, and with all reasonable requirements of the Committee, the Zoning Commissioner will accept the petition for filing and so notify the petitioner by letter. If it does not conform, the petitioner will be advised of the defects which must be corrected before the petition will be accepted for filing.

B. Form, contents, and accompanying documentation

1. Any petition to be accepted for filing must be on the form supplied by the Zoning Commissioner.

2. The petition shall be submitted in triplicate, and each copy shall be signed by the petitioner(s). All information on the petition other than the printed impression and the signature(s) shall be typewritten.

EXHIBIT 1

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12-13-93

LAW OFFICES

EVANS, GEORGE AND BRONSTEIN

SUSQUEHANNA BUILDING, SUITE 205
29 WEST SUSQUEHANNA AVENUE
TOWSON, MARYLAND 21204
(410) 296-0200
FAX: (410) 296-3719

L. ROBERT EVANS
HARRIS JAMES GEORGE
BENJAMIN BRONSTEIN

MICHAEL J. CHOMEL
DOUGLAS A. STUBBS

December 13, 1993

HAND DELIVERED

Clerk's Office
Circuit Court for Baltimore County
County Courts Building
401 Bosley Avenue
Towson, Maryland 21204

Re: **Answering Memorandum of Golden Ring Yacht Basin, Inc./Chesapeake Yachting Center**
Civil Action No.: 93CV07344/59/226

Dear Sir or Madam:

Enclosed, for filing, pursuant to Rule 7-207, is the Answering Memorandum of Appellant, Golden Ring Yacht Basin, Inc./Chesapeake Yachting Center.

Sincerely,

EVANS, GEORGE AND BRONSTEIN

Benjamin Bronstein

BB/mlg
Enclosure
cc: People's Counsel for Baltimore County (with enclosure)

Michael S. Studdard (with enclosure)
Michael J. Kresslein (with enclosure)
Scott Burns, Esquire (with enclosure)
University of Maryland School of Law

12-3-93

MJC/mlg/12.03.93

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY PETITION OF GOLDEN RING YACHT BASIN, INC./CHESAPEAKE YACHTING CENTER	*	CIVIL ACTION
	*	NO.: 93CV07344/59/226
FOR JUDICIAL REVIEW OF THE DECISION OF THE COUNTY BOARD OF APPEALS FOR BALTIMORE COUNTY COURTHOUSE 400 WASHINGTON AVENUE TOWSON, MARYLAND 21204	*	
IN THE CASE OF: IN THE MATTER OF THE APPLICATION OF JOHN J. SCHMIDT, ET AL. FOR A SPECIAL HEARING ON PROPERTY LOCATED ON THE NORTH SIDE EDWARDS LANE, 1100' SOUTH WEST OF BOWLEYS QUARTERS ROAD (595 EDWARDS LANE) 15TH ELECTION DISTRICT 5TH COUNCILMANIC DISTRICT	*	
IN THE BALTIMORE COUNTY BOARD OF APPEALS CASE NO.: 92-171-SPH	*	

RECEIVED AND FILED
93 DEC -3 PM 2:20
CLERK OF THE CIRCUIT COURT
BALTIMORE COUNTY

MEMORANDUM OF APPELLANT GOLDEN RING YACHT BASIN, INC./CHESAPEAKE YACHTING CENTER PURSUANT TO MARYLAND RULE 7-207

Golden Ring Yacht Basin, Inc./Chesapeake Yachting Center ("Chesapeake"), Appellant, by Benjamin Bronstein, Michael J. Chomel and Evans, George and Bronstein, its attorneys, files this Memorandum, pursuant to Maryland Rule 7-207(a), in support of the appeal in the above captioned case.

I

STATEMENT OF THE CASE

This case involves an appeal from the decision of the County

(11) J.H

Board of Appeals for Baltimore County ("Board of Appeals") which denied the relief sought by Appellees Bowleys Quarters Improvement Association (BQIA), et al. in a Petition for Special Hearing filed with the Zoning Commissioner for Baltimore County. The issue raised by Appellant Chesapeake in this appeal is that the Board of Appeals erred when it imposed a limitation on ground storage of boats, thereby amending (without notice to Chesapeake and without opportunity for hearing) the Zoning Commissioner's order in a previous case which granted a special exception for a boatyard without restrictions on ground storage. Chesapeake maintains that the action of the Board of Appeals in unilaterally altering the prior final decision was an error of law which must be reversed on this appeal.

II

ISSUE PRESENTED

Did the Board of Appeals for Baltimore County err when it imposed a limitation on ground storage of boats, thereby amending (without notice to Chesapeake and without opportunity for hearing) the Zoning Commissioner's order in a previous case which granted a special exception for a boatyard, without restrictions on ground storage?

III

STATEMENT OF FACTS

In 1985, Chesapeake filed for a special exception for a

boatyard. The Zoning Commissioner entered an opinion and order on December 15, 1986, granting Chesapeake a Special Exception for operation of a boatyard on the property in question and approving a site plan which provided for boat storage on the property.

Appellees BQIA, et al. were parties to that proceeding; no appeal from the decision of the Zoning Commissioner granting Chesapeake the right to use the property as a boatyard and permitting boat storage on the ground of the property was taken by BQIA or the individual parties.

On October 2, 1991, a Petition for Special Hearing was filed by BQIA on the sole issue of whether an amendment to the site plan which was approved by the Zoning Commissioner in the prior case which granted Chesapeake the special exception to operate a boatyard should be disapproved. The amendment in question clarified certain aspects of the site plan regarding Chesapeake's right under the prior final order to rack storage units.

On January 17, 1992, a hearing was held before the Zoning Commissioner for Baltimore County, who, in an Opinion and Order dated March 6, 1992, determined that Baltimore County was estopped from withdrawing or otherwise denying permission to Chesapeake to continue and complete construction of the rack storage unit.

The Zoning Commissioner went on, however, to deny Chesapeake the right to utilize out-of-water storage <u>other</u> than racks (i.e., ground storage). This issue was not raised in the Petition for Special Hearing, and, therefore, was not within the scope of the hearing before the Zoning Commissioner.

The Petition for Special Hearing filed by BQIA focused solely on the issue of whether the amendment to the site plan should be disapproved. This is readily apparent from the language of the Petition for Special Hearing filed by Appellees BQIA, et al. in this case, which stated as follows:

> The undersigned, interested parties 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 500.7 of the Baltimore County Zoning Regulations, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should disapprove an amendment to the plat approved by Case #86-292-XSPHA (construction of boat racks) granted by a letter from the Zoning Commissioner, dated November 8, 1989 which was done without the benefit of a public hearing.

The express language of the Petition filed by Appellees BQIA, et al. demonstrates beyond peradventure the narrow focus of the issue before the Zoning Commissioner and Board of Appeals in this case. Under these circumstances, both the Zoning Commissioner and Board of Appeals were without power to address the issue of ground storage on the Chesapeake property, since that issue was not raised in the Petition for Special Hearing.

In this regard, it should be noted that ground storage is expressly permitted under the Baltimore County Code definition of a boatyard, and that the site plan as it existed prior to the amendment provided (in note 6) for ground storage of boats in the parking area. Chesapeake took a de novo appeal to the Board of Appeals from that portion (alone) of the Zoning Commissioner's

decision which went beyond the narrow scope of the Petition for Special Hearing and purported to abrogate Chesapeake's right to utilize the property as a boatyard, with ground storage, under the prior, unappealed order granting the special exception.

The Board of Appeals, in an Opinion and Order of July 22, 1993, denied the Petition for Special Hearing (thereby finding that the racks were permitted), and "approved the amended site plan in case number 86-292-XSPHA" (the order granting Chesapeake a special exception). The Board, however, purported to restrict Chesapeake's ground storage to a small area (1/2 acre) at some distance from the water. This restriction exceeded the Board's authority in that ground storage was decided in the prior special exception case. This restriction also is wholly unworkable in that ground storage is utilized for boats which cannot be stored in racks (i.e., sailboats and boats with flying bridges), for transitory placement of boats while they are being removed from the racks and placed in the water (and vice-versa), and for temporary placement of boats which are being worked on by their owners (Baltimore County Fire Regulations require that boats be removed from racks while they are being serviced -- e.g., washed, motor fluids changed, etc.).

The restriction on ground storage imposed by the Board creates a situation of practical impossibility for Chesapeake and substantially impairs Chesapeake's ability (and established right) to continue its operations as a marina (which right was expressly approved in the prior special exception case and has been

reaffirmed in the present case). The issue of whether the ground storage should be so limited and located in a place distant from the water was not raised by Appellees BQIA, et al. (who were parties to the prior proceeding and who did not appeal the special exception granting Chesapeake the right to operate a boatyard and to have ground storage), and was not raised by the Board of Appeals at any point during the hearing -- it was raised unilaterally, and sua sponte, by the Board of Appeals in its decision after the hearing.

There was no legal or factual basis for the Board of Appeals to limit ground storage on the property. The evidence reflected that the Chesapeake property is surrounded by a berm which reduces, if not eliminates, any visual impact of ground storage. The Chesapeake property is located across Frog Mortar Creek, more than 560 feet from the four houses on Stevens Road. It is also instructive to note that the setbacks of 60 feet on Chesapeake's property far exceed the required setbacks under the new Baltimore County legislation governing marinas.

IV

STANDARD OF REVIEW

Although reviewing courts are required to give deference to the decisions of administrative bodies, and an order of an administrative agency will be upheld on judicial review if it is not based on an error of law and if the agency's conclusions reasonably may be based upon facts proven, a reviewing court is

under no constraints in reversing an administrative decision which was premised upon an erroneous conclusion of law. People's Counsel for Baltimore County v Maryland Marine Manufacturing Company, Inc., 316 Md. 491, 560 A.2d 32 (1989).

When reviewing an administrative action, the reviewing court may uphold the agency order only if it is sustainable on the agency's findings and for the reasons stated by the agency. Motor Vehicle Administration v Mohler, 318 Md. 219, 567 A.2d 929 (1990). The conclusion reached by an administrative agency, with all of its expertise, can be no more sound than the factual basis upon which that decision rests. A.H. Smith Sand and Gravel Company v Department of Water Resources, 270 Md. 652, 313 A.2d 820 (1974).

A reviewing court may always determine whether the administrative agency made an error of law. Erie Insurance Company v Insurance Commissioner, 84 Md. App. 317, 579 A.2d 771 (1990). The court will correct illegal, arbitrary, and unreasonable acts of administrative agencies. Secretary of Health and Mental Hygiene v Crowder, 43 Md. App. 276, 405 A.2d 279 (1979). An administrative action is "arbitrary and unreasonable" if it is not based upon or supported by sufficient facts or proper factual inferences; the refusal to consider evidence introduced or making findings without supporting evidence is "arbitrary action". Steuart Investment Company v Board of Commissioners, St. Mary's County, 38 Md. App. 381, 381 A.2d 1174 (1978).

V

ARGUMENT

THE ZONING COMMISSIONER AND THE BOARD OF APPEALS ERRED IN GOING BEYOND THE LIMITED CONFINES OF THE PETITION FOR SPECIAL HEARING FILED BY THE APPELLEES BQIA, ET AL.

The Petition for Special Hearing filed by Appellees was quite limited in scope. Both the Zoning Commissioner and the Board of Appeals, however, went beyond the narrow limitations of the Petition for Special Hearing and unilaterally (without notice and without opportunity for hearing) amended the prior order granting the special exception as it related to ground storage. As a result of the procedures utilized, neither the Zoning Commissioner nor the Board of Appeals had the benefit of evidence and argument on the issue of whether of the prior order relating to ground storage was subject to modification. In essence, both the Zoning Commissioner and the Board of Appeals acted in this regard without any evidence whatsoever before them on this issue. The acts of both the Zoning Commissioner and the Board of Appeals in this regard were in error as a matter of law and must be reversed on this appeal.

It is quite clear under Maryland law that at least some of the principles of the doctrine of res judicata are applicable to decisions of a zoning board. Board of County Commissioners of Cecil County v Racine, 24 Md. App. 435, 332 A.2d 306 (1975). An unreversed final decision by a zoning board, therefore, passed in the exercise of its discretion on mixed issues of law and fact is fully binding on the parties to the cause and their privies as to all issues determined thereby. Id. It is only when there has been

a substantial change of condition or it is shown that the decision was a product of fraud, surprise, mistake or inadvertence, that such an administrative body may reverse its prior decision in litigation between the same parties. Id.

The prior order granting a special exception to Chesapeake for utilization of the property in question as a marina was binding on the parties to that action (including BQIA) and their privies. There was no change in condition raised by the Appellees, nor any contention that the prior decision was a product of fraud, surprise, mistake or inadvertence which would permit the Board of Appeals to, in effect, reverse the prior decision in litigation between the same parties. The only issue raised by Appellees in their Petition for Special Hearing was whether racks were permitted under the prior zoning order. Both the Zoning Commissioner and the Board of Appeals determined that racks were permissible under the prior order. Under these circumstances, then, the actions of the Zoning Commissioner and Board of Appeals [in going] dehors the issues before them and unilaterally amending (in a material aspect) the prior zoning order were erroneous as a matter of law and must be reversed on review.

It is particularly instructive to observe that the Appellees did not appeal the prior zoning order granting the special exception, which permitted Chesapeake to utilize ground storage. The Court of Appeals of Maryland has held that an unappealed original decision of a board of zoning appeals addressing a requested special exception becomes final after the expiration of

the 30-day appeal period provided under the Maryland Rules; such decision is subject to challenge only for fraud, surprise or some other factor directly affecting the validity, vel non, of that decision. Skipjack Cove Marina, Inc. v County Commissioners for Cecil County, 252 Md. 440, 250 A.2d 260 (1969).

Similarly, in the present case none of the Appellees appealed the original decision of the Zoning Commissioner granting a special exception and permitting Chesapeake to utilize ground storage for boats. That decision became final after the expiration of the requisite appeal period and is subject to challenge only for fraud, surprise or some other factor directly affecting the validity of that decision. Skipjack Cove Marina, Inc. v County Commissioners for Cecil County, supra. None of the Appellees in this case directly challenged that decision by taking an appeal or otherwise suggesting that granting Chesapeake the right to utilize ground storage was improper. Under these circumstances both the Appellees and the Board of Appeals (and, derivatively, the Zoning Commissioner) are bound by the prior decision and cannot collaterally attack that in a later proceeding which does not involve that issue. See also, Miles v McKinney, 174 Md. 551, 199 A. 540 (1938) (generally, where Board of Zoning Appeals has considered an issue it may not re-open and re-hear the matter once it has been terminated, in the absence of a mistake in the prior proceedings).

The instant proceeding did not involve a direct challenge to the granting of ground storage to Chesapeake in the prior special

exception proceeding. The acts of the Board of Appeals and Zoning Commissioner in going beyond the scope of the issue properly before them and unilaterally modifying (to the detriment of Chesapeake) the prior special exception insofar as it related to ground storage were beyond their authority and were erroneous as a matter of law. That part of the Opinion and Order of the Board of Appeals purporting to limit ground storage and to locate it away from the water cannot be sustained and must be stricken by this Court.

VI

CONCLUSION

The acts of the Board of Appeals in limiting ground storage and in relocating it to an impractical location are erroneous and must be reversed by this Court. The issue of ground storage was not before the Board of Appeals because it was clearly beyond the narrow confines of the Petition for Special Hearing filed by Appellees. The Board did not at any time indicate that ground storage was an issue with which they were concerned; as a result, there was no evidence whatsoever adduced on this issue by any of the parties. The action of the Board in sua sponte modifying the previously issued special exception with respect to a matter which was not appealed by any party (in which was, as is this, a hotly contested proceeding) was:

(1) beyond the admissible scope of authority and power of the Board of Appeals in light of the Petition for Special Hearing which was before the Board; and

(2) constituted arbitrary and improper action in that it deprived Chesapeake of both notice and the opportunity to present evidence and be heard on the propriety of restricting ground storage.

Under these circumstances the action of the Board was clearly without foundation and that portion of the Opinion and Order of the Board of Appeals purporting to restrict and locate the ground storage in any respect different than that provided for in the prior zoning order granting the special exception must be stricken.

Respectfully Submitted,

Benjamin Bronstein
205 Susquehanna Building
29 West Susquehanna Avenue
Towson, Maryland 21204
(410) 296-0200

Michael J. Chomel

Attorneys for Golden Ring Yacht Basin, Inc./ Chesapeake Yachting Center.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on this 3 day of December, 1993, a copy of the foregoing Memorandum was mailed, postage pre-paid to People's Counsel for Baltimore County, 400 Washington Avenue, Towson, Maryland 21204, and to Michael S. Studdard, Michael J. Kresslein, and Scott Burns, Esquire, University of Maryland School of Law, Clinical Law Office, 510 West Baltimore Street, Baltimore, Maryland 21201, attorneys for Bowleys Quarters Improvement Association, Bill Jordan, Phil Edwards and John J. Schmidt.

Benjamin Bronstein

12-7-93

LAW OFFICES

EVANS, GEORGE AND BRONSTEIN

SUSQUEHANNA BUILDING, SUITE 205
29 WEST SUSQUEHANNA AVENUE
TOWSON, MARYLAND 21204
(410) 296-0200
FAX: (410) 296-3719

L. ROBERT EVANS
HARRIS JAMES GEORGE
BENJAMIN BRONSTEIN

MICHAEL J. CHOMEL
DOUGLAS A. STUBBS

December 3, 1993

HAND DELIVERED

Clerk's Office
Circuit Court for Baltimore County
County Courts Building
401 Bosley Avenue
Towson, Maryland 21204

Re: **Memorandum of Golden Ring Yacht Basin, Inc./Chesapeake Yachting Center**
Civil Action No.: 93CV07344/59/226

Dear Sir or Madam:

Enclosed, for filing, pursuant to Rule 7-207, is the Memorandum of Appellant, Golden Ring Yacht Basin, Inc./Chesapeake Yachting Center.

Sincerely,

EVANS, GEORGE AND BRONSTEIN

Benjamin Bronstein

BB/mlg
Enclosure
cc: People's Counsel for Baltimore County (with enclosure)

Michael S. Studdard (with enclosure)
Michael J. Kresslein (with enclosure)
Scott Burns, Esquire (with enclosure)
University of Maryland School of Law

11-12-93

MJC/csa/11.12.93

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY PETITION OF GOLDEN RING YACHT BASIN, INC./CHESAPEAKE YACHTING CENTER	*	CIVIL ACTION
	*	NO.: 93CV07344/59/226
FOR JUDICIAL REVIEW OF THE DECISION OF THE COUNTY BOARD OF APPEALS FOR BALTIMORE COUNTY COURTHOUSE 400 WASHINGTON AVENUE TOWSON, MARYLAND 21204	*	
IN THE CASE OF: IN THE MATTER OF THE APPLICATION OF JOHN J. SCHMIDT, ET AL. FOR A SPECIAL HEARING ON PROPERTY LOCATED ON THE NORTH SIDE EDWARDS LANE, 1100' SOUTH WEST OF BOWLEYS QUARTERS ROAD (595 EDWARDS LANE) 15TH ELECTION DISTRICT 5TH COUNCILMANIC DISTRICT	*	
IN THE BALTIMORE COUNTY BOARD OF APPEALS CASE NO.: 92-171-SPH	*	

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CLERK OF THE CIRCUIT COURT
BALTIMORE COUNTY

STIPULATION FOR EXTENSION OF TIME FOR FILING OF MEMORANDA PURSUANT TO MARYLAND RULE 7-207

All parties to this appeal, by their undersigned counsel, hereby stipulate to the extension of time for filing of memoranda pursuant to Maryland Rule 7-207 and say:

1. This case involves an appeal from a decision of the County Board of Appeals of Baltimore County. The record from the administrative agency was filed in the Circuit Court on October 13, 1993.

2. Pursuant to Maryland Rule 7-207(a), the Memoranda of Appellants are due on or before Friday, November 12, 1993.

3. The parties hereto stipulate, pursuant to Maryland Rule 7-

10 dM

207, that the time for filing of the Appellants' Memoranda be extended to and including Friday, December 3, 1993.

4. The hearing on this appeal is scheduled for January 20, 1994. Extending the time for Appellants' Memoranda will not affect the hearing as scheduled.

EVANS, GEORGE AND BRONSTEIN

Benjamin Bronstein /mge

Benjamin Bronstein
29 W. Susquehanna, Suite 205
Towson, Maryland 21014
(410) 296-0200
Attorney for Golden Ring Yacht Basin, Inc./Chesapeake Yachting Center

Peter Max Zimmerman /mge

Peter Max Zimmerman
People's Council for Baltimore County
Counsel for Bowley's Quarter's Improvement Association
Bill Jordan, Bill Edwards and John J. Schmidt, Individually

11-12-93

IN THE MATTER OF THE APPLICATION OF JOHN J. SCHMIDT, ET AL.,	:	IN THE CIRCUIT COURT
	:	FOR BALTIMORE COUNTY
Appellants	:	Civil Action No. 59/226/ 93-CV-7344
v.	:	Agency Case No. 92-171-SPH
PETITION OF PEOPLE' COUNSEL FOR BALTIMORE COUNTY	:	

: : : : : : :

PEOPLE'S COUNSEL'S MEMORANDUM

People's Counsel for Baltimore County files the following memorandum of points and authorities:

1. People's Counsel adopts by reference the facts stated in the memorandum of other Protestants - Bowleys Quarters Improvement Association, Bill Jordan, Phil Edwards, and John Schmidt.

2. The action of an administrative agency may be sustained only if its reasoning is sufficient. United Steelworkers v. Bethlehem Steel Corp., 298 Md. 665 (1984); People's Counsel for Baltimore County v. Maryland Marine Mfg. Co., 316 Md. 491 (1989); Harford County v. Preston, 322 Md. 493 (1991); and People's Counsel v. Mockard, 73 Md. App. 340 (1987).

3. Here, the County Board of Appeals (CBA) recognized properly that the marina operator had expanded way beyond the site plan approved in the original special exception, and thus that a hearing would be required to review the new or amended special exception with big boat racks and larger operations area. See People's Counsel v. Mangione, 85 Md. App. 738 (1991); People's Counsel v. Crown Development Corp., 328 Md. 303 (1991).

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BALTIMORE COUNTY

(8)

4. But the CBA reasoned, improperly, that the estoppel doctrine precluded denial; and that an informal approval by the Zoning Commissioner (without the required special exception hearing under BCZR 501 and 502.1) gave Petitioner reliance rights. Lipsitz v. Parr, 164 Md. 222 (1933); City of Hagerstown v. Longmeadow Shopping Center, 264 Md. 481 (1972); United Parcel Service v. People's Counsel, 93 Md. App. 59 (1991).

5. Moreover, in the context of a de novo hearing pursuant to Section 603 of the Baltimore County Charter, the CBA failed in its July 22, 1993 decision to apply recent legislation, Bill 149-92, which, inter alia, limits rack height to three high. BCZR 417.7. Yorkdale Corp. v. Powell, 237 Md. 121 (1964); O'Donnell v. Bassler, 289 Md. 501 (1981). The CBA decision postdated September 15, 1992, the effective date of the bill. It being a de novo case, the lower Zoning Commissioner Order had no effect. Boehm v. Anne Arundel County, 54 Md. App. 497 (1983). Thus, the transitional provision of Bill 149-92 (grandfathering prior orders) does not apply. See BCZR 502.9.

6. In other words, the CBA engaged in improper reasoning to approve a major expansion of a special exception. It relied on the estoppel doctrine. It disregarded the marina legislation amendments of Bill 149-92. The case must be reversed and remanded.

Peter Max Zimmerman

Peter Max Zimmerman
People's Counsel for Baltimore County

93CR2411

Carole S. Demilio
Deputy People's Counsel
Room 47, Old Courthouse
400 Washington Avenue
Towson, Maryland 21204
(410) 887-2177

I HEREBY CERTIFY that on this 12 day of November, 1993, a copy of the foregoing People's Counsel's Memorandum was mailed to Benjamin Bronstein, Esquire, 205 Susquehanna Bldg., 29 West Susquehanna Ave., Towson, MD 21204, Attorney for Golden Ring Yacht Basin/Chesapeake Yachting Center; Scott Burns, Esquire, Clinical Law Office, University of Maryland, 510 West Baltimore St., Baltimore, MD 21201; Bill Jordan, President, Bowley's Quarters Improvement Assn., P.O. Box 18051, Baltimore, MD 21220; Philip Edwards, 1016 Susquehanna Ave., Baltimore, MD 21220; and John J. Schmidt, 3833 Clarks Point Rd., Baltimore, MD 21220.

Peter Max Zimmerman

11-11-93

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY

PETITION OF GOLDEN RING YACHT BASIN, INC./CHESAPEAKE YACHTING CENTER FOR JUDICIAL REVIEW OF THE DECISION OF THE COUNTY BOARD OF APPEALS FOR BALTIMORE COUNTY	:	
	:	CIVIL ACTION NO.
IN THE CASE OF: IN THE MATTER OF THE APPLICATION OF JOHN J.SCHMIDT, ET AL, FOR A SPECIAL HEARING	:	93-CV-7344/59/226

CROSS-APPELLANTS MEMORANDUM OF LAW

INTRODUCTION

This memorandum is filed on behalf of the Cross-appellants, John J. Schmidt et al ., pursuant to Maryland Rule 7-207. The Cross-appellants are citizens who live adjacent or nearby the marina owned and operated by the Appellants, Golden Ring Yacht Basin Inc./ Chesapeake Yachting Center. It is our contention that the boat storage facility operated by the Appellants is illegal and injurious to Cross-appellants interests as nearby property owners.

This is an appeal from the Baltimore County Board of Appeals, which approved the amended site plan for a boat storage system submitted by the Appellants, subject to certain conditions. In this memorandum we argue that the decision below is illegal because Appellants' boat storage system has not been reviewed and approved in the manner required in the case of special exceptions in Baltimore County. Specifically, we argue that the Board of Appeals approved Appellants' boat storage system despite the failure of the county to

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adhere to the public notice, public hearing and agency review requirements that are mandatory prerequisites to the granting of special exceptions. We further argue that in its review of the instant case, the Board of Appeals failed to make any of the findings that are required by the Baltimore County Zoning Regulations in the case of special exceptions. In addition, we contend that the Board erred when it held that the doctrine of estoppel applied in the case at bar. Finally, we argue that the decision below is illegal because it is inconsistent with recently enacted Bill 149-92, which imposes new restrictions on boat storage facilities in Baltimore County.

The property that is the subject of this case is located at 595 Edward Lane in the community of Bowley's Quarters. In 1986 Appellants received a special exception permitting them to make certain improvements to their property, which has been a marina since the early 1900s. It is important to note that the development plan approved in 1986 **did not provide** for the boat storage facility that Appellants now seek. To the contrary, the area where Appellants boat storage facility now stands was designated as a "passive recreation" area on the 1986 development plan.

Subsequently, in 1989 the Appellants sought approval for an amended plan providing for a boat storage facility 548 feet long, 41 feet high, and 38 feet wide. Amazingly, Appellants plan was approved by Zoning Commissioner Robert Haines **without opportunity for a public hearing and contrary to numerous other requirements applicable to the review of special exceptions**, that are discussed later in this memorandum.

When they became aware that an amended plan had been approved without their knowledge or participation, the Cross-appellants applied for a special hearing before the

Baltimore County Zoning Commission, and subsequently appealed the denial of that application to the Baltimore County Board of Appeals. Because the decision of the Board of Appeals below is illegal for the reasons stated herein, the Cross-appellants respectfully request that it be reversed.

A. Because Appellants' boat rack system constitutes a material change from the plat approved in 1986 , it must be reviewed and approved in the same manner as the original special exception.

The Board of Appeals correctly ruled that Appellants' boat storage facility amounts to a material change from the site plan approved in 1986. Board of Appeals Opinion at 8. Baltimore County law clearly provides that a material change to a plan may not be permitted until it has been reviewed and approved in the same manner as the original plan. Baltimore County Code, §26-211. In the instant case, Appellants' 200 boat storage facility is obviously a material change from the special exception granted in 1986. Because the plan for Appellants' boat storage facility has not been reviewed and approved in the same manner as the original special exception, it is illegal.

Section 26-211 of the Baltimore County Code provides:

> Any material amendment to an approved plan shall be reviewed and approved in the same manner as the original plan or in accordance with the CRG comprehensive manual of administrative policy. (Code 1978, § 22-63; Bill No. 18, 1990, § 2)

In the case at bar, the 1986 plat submitted by Appellants and approved by the county showed no evidence of boat racks. No mention of boat racks was made at the public hearings

held with respect to the 1986 plat. In fact, the 1986 plat showed an open tract of land to be used for "passive recreation" where the boat racks now stand. There are many forms of passive recreation, but none involve a 548' by 41' by 32' boat storage structure. Clearly, this boat storage facility was a material departure from the plat approved in 1986. See, People's Counsel v. Crown Development, 328 Md. 303, 310-313 (1992). Accordingly, Appellants were required to obtain a special exception prior to constructing it.

It is apparent from the record that Appellants' boat storage facility has not been approved and reviewed in the manner required by the county laws governing the special exception process. Baltimore County Code Section 26-127, which governs the granting of special exceptions, states:

> "The zoning commissioner shall schedule a public hearing on any petition for such a variance or special exception for a date not less than thirty (30) nor more than ninety (90) days after the petition is accepted for filing."

The use of the word "shall" in a statute is presumed to create a mandatory obligation. See, Edward Arnold Moss v. Director, Patuxent Institution, 279 Md. 56, 369 A. 2d 1011. The zoning commissioner is clearly required to hold a public hearing prior to granting a special exception. Because in this case no hearing was held, the decision below is illegal and must be reversed.

Moreover, the review of the instant dispute by the Zoning Commissioner and the Board of Appeals is plagued by numerous, additional irregularities. For example, Appellants in this case failed to abide by the posting and advertisement requirements of §26-127 of the Baltimore County Code, (requiring conspicuous posting of property and advertisement in two newspapers of general circulation). Similarly, Appellants' proposal to build a boat

storage facility was never reviewed by the director of planning and zoning in the manner required by county laws governing special exceptions. Baltimore County Code §26-127, requires submission of a petition for special exception to the director of planning and zoning, and the preparation of a report containing findings with regard to planning factors. Finally, it is apparent that the Board of Appeals completely failed to apply the legal standards that govern the granting of special exceptions in Baltimore County. Prior to granting a special exception, the Board of Appeals must find that the proposed project conforms with the standards contained in §502.1 of the Baltimore County Zoning Regulations. Specifically, the Board must find that the proposed use will not be detrimental to the health, safety or general welfare of the locality involved, will not tend to create congestion in area roads, will not tend to overcrowd land and cause undue concentration of population, and will not interfere with adequate provisions for schools, parks, water, sewerage to other public requirements, conveniences or improvements.[1] Baltimore County Zoning Regulations §502.1 a,b,d,e. In its decision, the Board of Appeals completely failed to make any findings with respect to the aforementioned criteria for granting special exceptions. Accordingly, their decision is illegal and must be reversed. See, United Steel Workers of America AFL-CIO, Local 2610 v. Bethlehem Steel Corp., 298 Md. 665,679, 472 A. 2d 62, 69 (1984),("[I]n 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".).

---

[1]The regulation also provides that a proposed special exception must not create a potential fire hazard, interfere with adequate light or air, or be otherwise inconsistent with the spirit and intent of the zoning regulations. Baltimore County Zoning Regulations §502.1c,e,f,g. See, also, Schultz v. Pritts, 291 Md. 1, 432 A.2d 1319 (1981), (holding that a special exception may not be granted if it will adversely affect the public welfare).

The decision below was made in a manner that ignored both the procedural safeguards and the substantive criteria that govern the special exception process, and should be reversed.

B. The Board Erred In Applying the Doctrine of Estoppel In The Case At Bar

The Board of Appeals holding' "that Baltimore County is now estopped from taking any action to revoke the permits previously issued for the installation of the boat rack system" is wrong as a matter of law. The doctrine of estoppel is not applicable in the present action. Reliance upon a county official's decision doesn't give rise to estoppel when the act is in violation of the law. Lipsitz v. Parr, 164 Md. 222, 227, 164 A. 743, 745 (1933) For the reasons stated in Section I of this Memorandum, it is clear that the Zoning Commissioner acted illegally in 1989 when he authorized Appellants' boat storage facility without a hearing. Since the action was illegal and not within his authority the doctrine of estoppel doesn't apply. Furthermore, the Board of Appeals misapplied the rule of Kent County Planning Inspector v. E.C.F. Abel,246 Md. 395, 228 A.2d 247 (1976). Kent County applies when municipal officials are acting within the scope of their authority. The allowance of the boat rack system in the present case was not within the zoning commissioner's authority. Accordingly, Kent County is inapposite, and the doctrine of estoppel does not apply.

The Board should instead have followed United Postal Service, Inc. v. People's Counsel For Baltimore County, 93 Md. App 59, 611 A.2d 993 (1992). The facts and issues in UPS are strikingly similar to the ones in the present case. In UPS, the Court of Special Appeals held that a Baltimore County Zoning Commissioner acted illegally when he

approved a trucking facility without adhering to the procedures governing the special exceptions process. Because the Zoning Commissioner acted illegally when he approved the trucking facility, the Court ruled that the doctrine of estoppel did not arise. UPS at 74-79. Furthermore, the decision in UPS is consistent with a long line of cases holding that illegal acts by government officials do not give rise to the doctrine of estoppel. See, Lipsitz v. Parr, 164 Md. 222, 227, 164 A. 743, 745 (1933), City of Hagerstown v. Long Meadow, 264 Md. 48, 287 A.2d 242 (1972)(estoppel does not arise when city official illegally approved shopping center improvements).

In the case at bar, as in the decisions cited above, the Zoning Commissioner acted outside the scope of his legal authority in approving Appellants' project. Thus, the Board of Appeals erred in ruling that the doctrine of estoppel barred enforcement of county laws regarding the issuance of special exceptions. For this reason, the decision below should be reversed.

C. Because It Does Not Require Conformance With Bill 149-92, The Decision Below Is Illegal And Should Be Reversed

The County Board of Appeals for Baltimore County erred by failing to apply the requirements of recently enacted Bill 149-92. That bill changed the county requirements for boat storage facilities like the one operated by Appellants. Because the board erred by failing to impose the restrictions of that new legislation, the board's action is invalid as a matter of law.

1.This case should be decided in accordance with existing law, even if the law was enacted after the decision below

Maryland has consistently followed the rule that cases should be decided according to

existing laws, "'even though a judgment rightful when rendered by the court below should be reversed as a consequence,' ... (or, it may be noted, even when a judgment wrong when rendered is made right by the change in the law)." Yorkdale v. Powell, 237 Md. 121, 124, (1964) (quoting Woman's Club v. State Tax Comm'n, 195 Md. 16, 19. The Maryland Court of Appeals applied this rule of law in the Yorkdale case. In that case, Yorkdale Corporation petitioned the Zoning Commissioner of Baltimore County for a reclassification of residentially-zoned property to apartment use and for several variances for height and density. The requests were partially granted by the Zoning Commissioner and the Board of Zoning Appeals, whereupon Powell, a neighbor, appealed to the circuit court, arguing that the zoning officials had no power to grant variances as to density. The circuit court agreed with Powell, and Yorkdale appealed to the Court of Appeals. While that court was considering the decision, the Baltimore County Council amended the law in question, explicitly disallowing the zoning officials the power to grant such density variances. Holding the new amendment applicable, despite the fact that it was enacted subsequent to the administrative and circuit court decisions, the court further held that the case was thus rendered moot, and the appeal was dismissed.

The court in Yorkdale relied on several zoning cases which applied the same rule of law discussed above. In Banner v. Home Sales Company D, 201 Md. 425, 94 A.2d 264 (1953), a property owner sought to change the zoning classification of his property from "Cottage Residential" to "Group Housing." The Board of County Commissioners of Anne Arundel County approved the change, and the owner began to build foundations for 73 houses, whereupon the neighbors protested. By the time the case reached the Maryland

Court of Appeals, the zoning authorities had rezoned the property to "Cottage Residential." The court once again held that the newly enacted law governed, and declared the case moot.

Similarly, in Lake Falls Ass'n v. Board of Zoning Appeals of Baltimore County, 209 Md. 561, 121 A.2d 809 (1956), the Zoning Board of Appeals of Baltimore County approved a zoning change of a property from residential to "E" Commercial, and the Circuit Court affirmed. After the protestants had appealed the case to the Court of Appeals, the County Commissioners approved a new Land Use Map which rezoned the property in question to "Business Local. The court relied on Banner, supra, and held,

> the cause of action, i.e. the zoning classification that was the subject of litigation was extinguished by repeal. The basic reason for deciding that the matter was moot in the Banner case was: "The zoning contested in the case before this Court has been superseded by the zoning authorities." For the same reason, we hold that the controversy in the pending case is moot.

Lake Falls, 209 Md. at 565, .

Lastly, in Grau v. Board of Zoning Appeals, 210 Md. 19, 122 A.2d 824 (1956), the Board of Zoning Appeals for Baltimore County approved a rezoning of a particular property from "B" (Semi-detached) Residential to "E" Commercial, and the Circuit Court affirmed. Subsequently, a new zoning map was adopted which changed the zoning in question to R 6 (residential one and two families). As in the cases above, the court held the case moot because "the reclassification ordered by the Board of Zoning Appeals ... has been superseded by the County Commissioners." Id. at 23 .

In the case at bar, as in the cases cited above, a new statute has been enacted which by law must control the outcome of this matter. Bill 149-92 imposes new requirements on the height of boat storage facility like the one operated by the Appellants, and regulates other

aspects of their use in order to protect the surrounding community. It is clear from the record that Appellants boat storage facility does not comply with the requirements of Bill 149-92.[2] Because it incorrectly applied the doctrine of estoppel, the Board below never reviewed Appellants' project to determine whether it complied with Bill 149-92. See, Opinion of Board of Appeals of Baltimore County, Case No. 92-171-SPH at 11,12. The Board's failure to apply Bill 149-92 was illegal, and constitutes grounds for reversal.

2. None of the exceptions to the Yorkdale rule apply to the instant case

Although there are some exceptions to the rule that courts should apply existing law, none are applicable to the present situation, and this court should therefore apply the dictates of Bill 149-92. As stated in Yorkdale, "a change in the law after a decision below and before final decision by the appellate Court will be applied by that Court unless vested or accrued substantive rights would be disturbed or unless the legislature shows a contrary intent." Yorkdale, 237 Md. at 124, .

First, Appellant clearly does not have any vested or accrued rights in the boat rack. No vested or accrued rights were recognized in the Yorkdale case or any of the zoning precedents on which it relied. The court stated therein,

> [i]t would seem to follow from the decisions in Banner, Lake Falls, and Grau that an applicant for rezoning to a more intense use of his property, who has been successful before the zoning authorities and the circuit court does not acquire a vested or substantive right which may not be wiped out by legislation which takes effect during the pendency in this Court of the appeal from the actions below.

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[2]For example, Appellants boat storage facility exceeds the height requirements of Bill 149-92. In fact, Appellants' attorney admitted in argument before the Board of Appeals that his clients' boat storage facility exceeded the aforementioned height requirement. See, Transcript of December 17, 1992 hearing, Case No. 92-171-SPH, Board of Appeals of Baltimore County at 156, 157.

Id. at 126,. Furthermore, even if the approval by the zoning authorities was sufficient to grant vested rights in the boat rack, Appellant's contention must still fail due to the illegality of that approval.[3] In bypassing the public participation requirements of special exceptions, Appellant acquired no legal rights in the amended site plan.

As further support that no vested rights existed, it is significant that the County Board of Appeals has the right to review zoning cases de novo, pursuant to § 603 of the Baltimore County charter. The Court of Special Appeals addressed this de novo review in Boehm v. Anne Arundel County, 54 Md. App. 497, 506-11,(1983), in which the County Board of Appeals completely reversed a Zoning Commissioner determination. The property owner contended that the board hearing "is less than de novo, and that great deference must be given to the Zoning Office decision." Id. at 507,. The court disagreed, holding that "[t]he hearing before the Board is completely de novo. The Board is in no manner bound by the decision of the Zoning Office." Id. In its discussion of what exactly constitutes a de novo hearing, the court held,

> "A trial or hearing "de novo" means trying the matter anew the same as if it had not been heard before and as if no decision had been previously rendered. Thus, it is said that where a statute provides that an appeal shall be heard de novo such a hearing is in no sense a review of the hearing previously held, but is a complete trial of the controversy, the same as if no previous hearing had ever been held..."

Id. at 509,(emphasis in original) (quoting 2 Am. Jur. 2d Administrative Law § 698 (1962)). Given that a decision by the Zoning Commissioner is reviewable de novo by the board, and that no deference whatsoever need be given to that earlier decision, it cannot possibly be

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[3]The illegal nature of the Zoning Commissioner's actions in the instant case are discussed in Section A and B of this Memorandum.

asserted that vested rights exist from the Zoning Commissioner decision.

There is also no legislative intent that the provisions of Bill 149-92 should not be applied in the present case. The Bill contains a transitional provision, § 502.9 of the Baltimore County Zoning Regulations, which clearly applies only to decisions which are final and legal. The bill provides, "Bill No. 149-92 does not affect the validity of any order granting a special exception for a marina or boat yard which occurred prior to the effective date of this bill," BCZR 502.9(a), but taken together with the de novo review given by the County Board of Appeals, Bill 149-92 clearly does not grandfather Appellant's approval by the Zoning Commissioner, which had not even been reviewed by the Board of Appeals. Moreover, §502.9(a) clearly does not grandfather approvals that are granted without legal authority.

Bill 149-92 took effect on September 15, 1992, which was prior to the Board of Appeals hearing in the instant case. Because it failed to apply the requirements of Bill 149-92 as required by the cases cited above, the Board of Appeal's decision is illegal and should be reversed.

CONCLUSION

In summary, we argue that the decision below illegally upholds Appellants' plan despite the uncontested fact that it has never been reviewed and approved in accordance with the longstanding requirements for special exceptions in Baltimore County. We also contend that by applying the doctrine of estoppel in this case, the Board of Appeals failed to adhere to the many appellate decisions holding that estoppel does not arise as the consequence of

illegal administrative acts. Finally, we argue that the Board erred in failing to apply the mandates of Bill 149-92.

For all of these reasons we respectfully request that this Court reverse the decision below.

Michael S. Studdard*

Michael J. Kresslein*

Scott Burns
University of Maryland School of Law
Clinical Law Office
510 West Baltimore Street
Baltimore, Maryland 21201
(410) 706-2147
Attorneys for Cross-appellants

* Practicing pursuant to Rule 16, Rules Governing Admission to the Bar of Maryland

CERTIFICATE OF SERVICE

I hereby certify that, on November 11, 1993, a copy of the foregoing Memorandum of Law was mailed, postage prepaid, to Benjamin Bronstein, Susquehanna Building, Suite 205, 29 West Susquehanna Avenue, Towson, Maryland 21204, Attorney for Appellants; Peter Max Zimmerman, People's Counsel for Baltimore County, Rom 47, Courthouse, 400 Washington Avenue, Towson Maryland 21204; and to the Board of Appeals for Baltimore County, County Office Building, 111 West Chesapeake Avenue, Towson Maryland 21204.



Scott Burns

10-12-93

CIRCUIT COURT FOR BALTIMORE COUNTY

In the Matter of the Application of John J. Schmidt, et al

Civil Action No. 59/226/93CV7344
Agency Case No. 92171SPH

VS.

Petition of People's counsel for Baltimore County

Notice

Pursuant to Maryland Rule 7-206(e), you are advised that the Record of Proceedings was filed on Oct. 13, 1993.

Clerk

Date mailed:

Copy to:

Benjamin Bronstein, Esq.
205 Susquehanna AVenue
Towson, Maryland 21204

address corrected & resent 11/5/93 BJ.

Peter Max Zimmerman, Esq.
Carole S. Demilio, Esq.
RM. 47, Courthouse
400 Washington Avenue
Towson, Maryland 21204

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FILED OCT 12 1993

IN THE CIRCUIT COURT *
FOR BALTIMORE COUNTY
*
PETITION OF GOLDEN RING YACHT
BASIN, INC. /CHESAPEAKE YACHTING CENTER *
1755 Hilltop Avenue
Essex, MD 21221 *

AND *

PETITION OF PEOPLE'S COUNSEL FOR *
BALTIMORE COUNTY
*
AND

BOWLEY'S QUARTERS IMPROVEMENT *
ASSOCIATION: BILL JORDAN,
PRESIDENT; PHIL EDWARDS, BOARD OF *
GOVERNORS MEMBER; AND JOHN J. SCHMIDT,
CHAIRMAN ZONING COMMITTEE *
PO Box 18051
Baltimore, Maryland 21220 *

AND *

BILL JORDAN, PHIL EDWARDS, AND *
JOHN J. SCHMIDT, INDIVIDUALLY
*
FOR JUDICIAL REVIEW OF THE DECISION OF CIVIL
THE COUNTY BOARD OF APPEALS * ACTION
OF BALTIMORE COUNTY No. 93-CV-07344
Room 49, Old Courthouse * /59/226
Towson, MD 21204
*
IN THE CASE OF: IN THE MATTER OF
THE APPLICATION OF JOHN J. SCHMIDT, *
ET AL FOR A SPECIAL HEARING ON PROPERTY
1100' SOUTH WEST OF BOWLEY'S QUARTERS RD*
(595 EDWARDS LANE)
15TH ELECTION DISTRICT *
5th COUNCILMANIC DISTRICT
*
CASE NO. 92-171-SPH
* * * * * * * * * * * * *

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CLERK OF THE CIRCUIT COURT
BALTIMORE COUNTY

CERTIFIED COPIES OF PROCEEDINGS BEFORE THE ZONING COMMISSIONER
AND THE BOARD OF APPEALS OF BALTIMORE COUNTY

TO THE HONORABLE, THE JUDGE OF SAID COURT:

And now come Michael B. Sauer and S. Diane Levero, constituting the County Board of Appeals of Baltimore County, and

in answer to the Petition for Judicial Review directed against them in this case, herewith return the record of proceedings had in the above-entitled matter, consisting of the following certified copies or original papers on file in the Office of Zoning Administration and Development Management and the Board of Appeals of Baltimore County:

ENTRIES FROM THE DOCKET OF THE BOARD OF APPEALS AND OFFICE OF ZONING ADMINISTRATION AND DEVELOPMENT MANAGEMENT OF BALTIMORE COUNTY

No. 92-171-SPH

October 7, 1991	Petition for Special Hearing filed by Milton Rehbein, President, and John J. Schmidt, Chairman of the Zoning Committee for Bowleys Quarters Improvement Association, to disapprove an amendment to the plat approved by Case #86-292-XSPHA (construction of boat racks/Golden Ring Yacht Basin, Inc.) granted by a letter from the Zoning Commissioner, dated November 8, 1989 which was done without the benefit of a public hearing.
October 31	Publication in newspapers. (Hearing 11/19/91)
November 18	Notice of Reassignment. (Hearing 12/19/91)
November 30	Certificate of Posting of property.
December 12	Notice of Reassignment. (Hearing 1/17/92)
January 14, 1992	Comments of Baltimore County Zoning Plans Advisory Committee.
January 17	Hearing held on Petition by the Zoning Commissioner.
March 6	Order of the Zoning Commissioner DENYING Petition for Special Hearing.
March 23	Motion for Reconsideration filed by Benjamin Bronstein on behalf of Golden Ring Yacht Basin, Inc. t/a Chesapeake Yacht Center.
April 2	Order of Appeal received from Benjamin

	Bronstein, Esquire on behalf of the Respondent, Golden Ring Yacht Basin, Inc., t/a Chesapeake Yacht Center.
April 3	Notice of Appeal received from People's Counsel for Baltimore County.
September 15	Hearing before the Board of Appeals. (Day #1)
December 17	Hearing before the Board of Appeals. (Day #2)
July 22, 1993	Opinion and Order of the Board DENYING the Petition for Special Hearing, and APPROVING amended site plan in Case No. 86-292-XSPHA.
August 16	Petition for Judicial Review of Administrative Agency Decision filed in the Circuit Court for Baltimore County by Benjamin Bronstein, Esquire, on behalf of Golden Ring Yacht Basin, Inc./Chesapeake Yachting Center.
August 18	Copy of Petition for Judicial Review of Administrative Agency Decision received by the Board of Appeals from the Circuit Court for Baltimore County.
August 19	Certificate of Notice sent to interested parties.
August 20	Petition for Judicial Review (Cross Appeal) filed in the Circuit Court for Baltimore County by People's Counsel for Baltimore County and Bowley's Quarters Improvement Association, et al.
September 2	Copy of Petition for Judicial Review (Cross Appeal) received by the Board of Appeals from the Circuit Court for Baltimore County.
September 7	Second Certificate of Notice/Cross Appeal sent to interested parties.
October 12	Transcript of testimony filed.

Petitioner's Exhibits No. 1 - Advertisement for Chesapeake Yachting Center.
2 - Resolution of Bowley's Quarters Improvement Association.
3 - Photo (aerial) of marina and surrounding waterways.

4 - Photo from water - subject marina and boat racks.
5 - File from the beginning of the original petition. The entire Zoning Commissioner's file plus 86-292-XSPHA and 92-171-SPH.
6 - County Review Group Comments from Planning & Zoning.
7 - Memo -1/31/86 to John O'Rourke from Gerber.
8 - Summary of Technical Findings Critical Area Review - 4/7/86.
9 - Memo -6/18/86 to CRG file from Susan Carrell.

Developer's Exhibits No. 1 - Plan by Thaler - 1984 (from Zoning file) of marina.
2 - Site Plan, Grading Plan & Revised CRG Plan by Thaler - 9/19/89, of Golden Ring Yacht Basin.
3 - Plat to accompany Zoning Commissioner's Special Exception Petition & CRG Approval: Rehabilitation of Golden Ring Yacht Basin by Thaler - 1/14/86.
4 - Plat to accompany Zoning Special Exception by Century Engineering - 1984.
5 - Building Permit - Approved 9/6/91. Issued 5/24/91.
6 - Photo - of marina 10/18/91.
7 - Photo - completed boat rack
8 - Photo - Last section of boat rack.
9 - Photo - Concrete footing of boat rack (with Petitioner's #4).
10 - Photo - Forklift (with Petitioner's #4).
11 - Specs. for Star Steelex Rack Supported Boat Storage Systems.
12 - Photo - Chain link fence with berm - taken from far lane of Edwards Lane.
13 - Findings of Fact and Conclusions of Law before Zoning Commissioner Jablon 12/15/86.
14 - Mr. Haines' letter 11/8/89 granting revised Site Plan.
15 - Plat to accompany Zoning Special Exception Petition and CRG

approval - July 1984 (shows boat racks).
16 - Letter to Haines 11/20/89 - from Bronstein.
17 - Letter 8/1/89 - to Haines from Bronstein.
18 - Baltimore County Zoning Commissioner's Policy Manual - Section on Marina/Commercial & Community 8/1/89.

October 12, 1993 Record of Proceedings filed in the Circuit Court for Baltimore County.

Record of Proceedings pursuant to which said Board acted are permanent records of the originating agency in Baltimore County. Certified copies of these records in the Board's file are hereby forwarded to the Court, together with exhibits entered before the Board.

Respectfully submitted,

Charlotte E. Radcliffe

Charlotte E. Radcliffe
Legal Secretary
County Board of Appeals of Baltimore County, Room 49, Basement - Old Courthouse
400 Washington Avenue
Towson, MD 21204 (410) 887-3180

cc: Benjamin Bronstein, Esquire
Golden Ring Yacht Basin, Inc. /Chesapeake Yachting Center
Bowley's Quarters Improvement Association
People's Counsel for Baltimore County

9-13-93

IN THE CIRCUIT COURT :
FOR BALTIMORE COUNTY
:
PETITION OF GOLDEN RING YACHT BASIN,
INC../CHESAPEAKE YACHTING CENTER :

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

IN THE CASE OF: : CIVIL ACTION
IN THE MATTER OF THE APPLICATION OF
JOHN J. SCHMIDT, ET AL. FOR A SPECIAL : No. 93 CV 7344/59/226
HEARING

Case No. 92-171-SPH :

: : : : : : :

RESPONSE TO PETITION OF GOLDEN RING YACHT BASIN, INC./
CHESAPEAKE YACHTING CENTER

People's Counsel for Baltimore County; Bowley's Quarters Improvement Association, Bill Jordan, President, Phil Edwards, Board of Directors Member, and John J. Schmidt, Chairman, Zoning Committee, and Bill Jordan, Phil Edwards and John J. Schmidt, Individually, intend to participate in the above action for judicial review.

BOWLEY'S QUARTERS IMPROVEMENT
ASSOCIATION, BY

Bill Jordan, President
P.O. Box 18051
Baltimore, MD 21220
(410) 335-4363

Philip Edwards, Individually
1016 Susquehanna Avenue
Baltimore, MD 21220
(410) 335-4716

Peter Max Zimmerman
People's Counsel for Baltimore County

Carole S. Demilio
Deputy People's Counsel
Room 47, Courthouse
400 Washington Avenue
Towson, Maryland 21204
(410) 887-2188

RECEIVED AND FILED
93 SEP 13 AM 11:41
CLERK OF THE CIRCUIT COURT
BALTIMORE COUNTY

12

John J. Schmidt

John J. Schmidt, Individually
3833 Clarks Point Road
Baltimore, MD 21220
(410) 522-6379

Bill Jordan

Bill Jordan, Individually
3800 Bay Drive
Baltimore, Maryland 21220
(410) 335-4363

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 13th day of September, 1993, a copy of the foregoing Response to Petition of Golden Ring Yacht Basin, Inc./ Chesapeake Yachting Center was mailed to Benjamin Bronstein, Esquire, 205 Susquehanna Bldg., 29 W. Susquehanna Ave., Towson, MD 21204.

Peter Max Zimmerman

Peter Max Zimmerman

9-7-93

IN THE CIRCUIT COURT *
FOR BALTIMORE COUNTY *

PETITION OF PEOPLE'S COUNSEL FOR *
BALTIMORE COUNTY *

and *

BOWLEY'S QUARTERS IMPROVEMENT * CIVIL
ASSOCIATION: BILL JORDAN, ACTION
PRESIDENT; PHIL EDWARDS, BOARD * No. 93-CV-07344
OF GOVERNORS MEMBER; AND JOHN J. /59/226
SCHMIDT, CHAIRMAN ZONING COMMITTEE *
PO Box 18051
Baltimore, Maryland 21220 *

and *

BILL JORDAN, PHIL EDWARDS, AND *
JOHN J. SCHMIDT, INDIVIDUALLY *

FOR JUDICIAL REVIEW OF THE
DECISION OF THE BALTIMORE COUNTY *
BOARD OF APPEALS
Room 49, Old Courthouse *
Towson, Maryland 21204 *

IN THE CASE OF: IN THE MATTER OF
THE APPLICATION OF JOHN J. SCHMIDT, *
ET AL FOR A SPECIAL HEARING ON PROPERTY
LOCATED ON THE NORTH SIDE EDWARDS LANE *
1100' SOUTH WEST OF BOWLEY'S QUARTERS RD
(595 EDWARDS LANE) *
15TH ELECTION DISTRICT
5TH COUNCILMANIC DISTRICT *

CASE NO. 92-171-SPH *

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

RECEIVED AND FILED
93 SEP -7 PM 3:39
CLERK OF THE CIRCUIT COURT
BALTIMORE COUNTY

SECOND CERTIFICATE OF NOTICE /CROSS APPEAL

Madam Clerk:

Pursuant to the provisions of Rule 7-202(e) of the Maryland Rules of Procedure, Michael B. Sauer and S. Diane Levero, constituting the County Board of Appeals of Baltimore County, have given notice by mail of the filing of the Petition for Judicial Review to the representative of every party to the proceeding before it; namely, Peter Max Zimmerman, People's Counsel for Baltimore County, Room 47 - Basement, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204, Petitioner; and Bowley's Quarters Improvement Association, et al, P.O. Box 18051, Baltimore, Maryland 21220, Petitioner; and Phillip Edwards, 1016

Susquehanna Avenue, Baltimore, Maryland 21220, Petitioner; and John J. Schmidt, 3833 Clarks Point Road, Baltimore, Maryland 21220, Petitioner; and Bill Jordan, 3800 Bay Drive, Baltimore, Maryland 21220, Petitioner; Benjamin Bronstein, Esquire, EVANS, GEORGE AND BRONSTEIN, 29 West Susquehanna Avenue, Towson, MD 21204; Golden Ring Yacht Basin, Inc./Chesapeake Yachting Center, 1755 Hilltop Avenue, Essex, MD 21221, a copy of which Notice is attached hereto and prayed that it may be made a part hereof.

Charlotte E. Radcliffe

Charlotte E. Radcliffe
Legal Secretary, County Board
of Appeals, Room 49, Basement -
Old Courthouse, 400 Washington Avenue
Towson, MD 21204 (410) 887-3180

I HEREBY CERTIFY that a copy of the aforegoing Certificate of Notice has been mailed to Peter Max Zimmerman, People's Counsel for Baltimore County, Room 47 - Basement, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204, Petitioner; and Bowley's Quarters Improvement Association, et al, P.O. Box 18051, Baltimore, Maryland 21220, Petitioner; and Phillip Edwards, 1016 Susquehanna Avenue, Baltimore, Maryland 21220, Petitioner; and John J. Schmidt, 3833 Clarks Point Road, Baltimore, Maryland 21220, Petitioner; and Bill Jordan, 3800 Bay Drive, Baltimore, Maryland 21220, Petitioner; Benjamin Bronstein, Esquire, EVANS, GEORGE AND BRONSTEIN, 29 West Susquehanna Avenue, Towson, MD 21204; Golden Ring Yacht Basin, Inc./Chesapeake Yachting Center, 1755 Hilltop Avenue, Essex, Maryland 21221, on this 7th day of September, 1993.

Charlotte E. Radcliffe

Charlotte E. Radcliffe
Legal Secretary, County Board
of Appeals, Room 49, Basement -
Old Courthouse, 400 Washington Avenue
Towson, MD 21204 (410) 887-3180

9-7-93

County Board of Appeals of Baltimore County
OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

September 7, 1993

Peter Max Zimmerman
PEOPLE'S COUNSEL FOR BALTIMORE COUNTY
Room 47, Courthouse
400 Washington Avenue
Towson, Maryland 21204

RE: Civil Action No. 93-CV-07344
JOHN J. SCHMIDT, ET AL -Petitioner
(Case No. 92-171-SPH)

Dear Mr. Zimmerman:

The Board has received on September 2, 1993, a copy of your Petition for Judicial Review filed in the Circuit Court for Baltimore County on August 20, 1993. In accordance with Rule 7-206(c) of the Maryland Rules Procedure, the County Board of Appeals is required to submit the record of proceedings in the above-entitled matter to the Circuit Court for Baltimore County.

The cost of the transcript of the record must be paid by you. In addition, all costs incurred for certified copies of other documents necessary for the completion of the record must also be at your expense.

The cost of the transcript, plus any other documents, must be paid in time to transmit the same to the Circuit Court in accordance with Rule 7-206(c).

Enclosed is a copy of the Second Certificate of Notice /Cross Appeal which has been filed in the Circuit Court.

Very truly yours,

Charlotte E. Radcliffe

Charlotte E. Radcliffe
Legal Secretary

Enclosure

cc: Bowley's Quarters Improvement Association, et al
Phillip Edwards
John J. Schmidt
Bill Jordan

Printed with Soybean Ink on Recycled Paper

County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

September 7, 1993

Benjamin Bronstein, Esquire
EVANS, GEORGE AND BRONSTEIN
Susquehanna Building, Suite 205
29 W. Susquehanna Avenue
Towson, MD 21204

RE: Civil Action No. 93-CV-07344
JOHN J. SCHMIDT, ET AL -Petitioner
(Case No. 92-171-SPH)

Dear Mr. Bronstein:

Notice is hereby given, in accordance with the Maryland Rules of Procedure, that a Petition for Judicial Review was filed on August 20, 1993 in the Circuit Court for Baltimore County from the decision of the County Board of Appeals rendered in the above matter, a copy of which was received by the Board from the Circuit Court on September 2, 1993. Any party wishing to oppose the petition must file a response within 30 days after the date of this letter, pursuant to Rule 7-202(d)(2)(B) of the Maryland Rules.

Enclosed is a copy of the Second Certificate of Notice /Cross Appeal which has been filed in the Circuit Court.

Very truly yours,

Charlotte E. Radcliffe

Charlotte E. Radcliffe
Legal Secretary

Enclosure

cc: Charles F. Lampron -
Golden Ring Yacht Basin, Inc./
Chesapeake Yachting Center
P. David Fields
Lawrence E. Schmidt
Timothy M. Kotroco
W. Carl Richards
Docket Clerk /ZADM
Arnold Jablon /ZADM

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B-20-93

IN THE CIRCUIT COURT :
FOR BALTIMORE COUNTY :

PETITION OF PEOPLE'S COUNSEL FOR :
BALTIMORE COUNTY :

and :

BOWLEYS QUARTERS IMPROVEMENT :
ASSOCIATION: BILL JORDAN, :
PRESIDENT; PHIL EDWARDS, BOARD :
OF GOVERNORS MEMBER; AND JOHN J. :
SCHMIDT, CHAIRMAN ZONING COMMITTEE :
P. O. Box 18051
Baltimore, Maryland 21220 : Civil Action

and : No. 93 CV 7344
59/226

BILL JORDAN, PHIL EDWARDS, AND :
JOHN J. SCHMIDT, INDIVIDUALLY :

FOR JUDICIAL REVIEW OF THE :
DECISION OF THE BALTIMORE COUNTY :
BOARD OF APPEALS
Room 49, Old Courthouse :
Towson, Maryland 21204

IN THE CASE OF: IN THE MATTER OF :
THE APPLICATION OF JOHN J. SCHMIDT, :
ET AL. FOR A SPECIAL HEARING :

Case No.: 92-171-SPH :

: : : :

8-19-93

IN THE CIRCUIT COURT *
FOR BALTIMORE COUNTY *

PETITION OF GOLDEN RING YACHT *
BASIN, INC./ CHESAPEAKE YACHTING CENTER *
1755 Hilltop Avenue
Essex, MD 21221 *

FOR JUDICIAL REVIEW OF THE DECISION OF * CIVIL
THE COUNTY BOARD OF APPEALS ACTION
OF BALTIMORE COUNTY * No. 93-CV-07344
Room 49, Courthouse, 400 Washington /59/226
Towson, MD 21204 *

IN THE CASE OF: IN THE MATTER OF *
JOHN J. SCHMIDT, ET AL
FOR A SPECIAL HEARING ON PROPERTY *
LOCATED ON THE NORTH SIDE EDWARDS LANE
1100' SOUTH WEST OF BOWLEYS QUARTERS RD *
(595 EDWARDS LANE)
15TH ELECTION DISTRICT *
5TH COUNCILMANIC DISTRICT
CASE NO. 92-171-SPH *

* * * * * * * * * * *

RECEIVED AND FILED
93 AUG 19 PM 2:07
CLERK OF THE CIRCUIT COURT
BALTIMORE COUNTY

CERTIFICATE OF NOTICE

Madam Clerk:

Pursuant to the provisions of Rule 7-202(e) of the Maryland Rules of Procedure, Michael B. Sauer and S. Diane Levero, constituting the County Board of Appeals of Baltimore County, have given notice by mail of the filing of the Petition for Judicial Review to the representative of every party to the proceeding before it; namely, Benjamin Bronstein, Esquire, EVANS, GEORGE AND BRONSTEIN, 29 West Susquehanna Avenue, Towson, MD 21204, Counsel for Petitioner; Golden Ring Yacht Basin, Inc./Chesapeake Yachting Center, 1755 Hilltop Avenue, Essex, MD 21221, Petitioner; John J. Schmidt, 1124 Bowleys Quarters Road, Baltimore, MD 21220; People's Counsel of Baltimore County, Room 47 - Basement, Old Courthouse, 400 Washington Avenue, Towson, MD; and Michael B. Sauer, Esquire, c/o County Board of Appeals, Room 49 - Basement, Old Courthouse, 400 Washington Avenue, Towson, MD 21204, a copy of which Notice is attached hereto and prayed that it may be made a part hereof.

Charlotte E. Radcliffe

Charlotte E. Radcliffe
Legal Secretary, County Board
of Appeals, Room 49, Basement -
Old Courthouse, 400 Washington Avenue
Towson, MD 21204 (410) 887-3180

2 of 6

I **HEREBY CERTIFY** that a copy of the aforegoing Certificate of Notice has been mailed to Benjamin Bronstein, Esquire, EVANS, GEORGE AND BRONSTEIN, 29 West Susquehanna Avenue, Towson, MD 21204, Counsel for Petitioner; Golden Ring Yacht Basin, Inc./Chesapeake Yachting Center, 1755 Hilltop Avenue, Essex, MD 21221, Petitioner; John J. Schmidt, 1124 Bowleys Quarters Road, Baltimore, MD 21220; People's Counsel of Baltimore County, Room 47 - Basement, Old Courthouse, 400 Washington Avenue, Towson, MD; and Michael B. Sauer, Esquire, c/o County Board of Appeals, Room 49 - Basement, Old Courthouse, 400 Washington Avenue, Towson, MD 21204, on this 19th day of August, 1993.

Charlotte E. Radcliffe

Charlotte E. Radcliffe
Legal Secretary, County Board
of Appeals, Room 49, Basement -
Old Courthouse, 400 Washington Avenue
Towson, MD 21204 (410) 887-3180

County Board of Appeals of Baltimore County
OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

August 19, 1993

Benjamin Bronstein, Esquire
EVANS, GEORGE AND BRONSTEIN
Susquehanna Building, Suite 205
29 W. Susquehanna Avenue
Towson, MD 21204

RE: Civil Action No. 93-CV-07344
JOHN J. SCHMIDT, ET AL /92-171-SPH

Dear Mr. Bronstein:

In accordance with Rule 7-206(c) of the Maryland Rules of Procedure, the County Board of Appeals is required to submit the record of proceedings of the petition for judicial review which you have taken to the Circuit Court for Baltimore County in the above-entitled matter within sixty days.

The cost of the transcript of the record must be paid by you. In addition, all costs incurred for certified copies of other documents necessary for the completion of the record must also be at your expense.

The cost of the transcript, plus any other documents, must be paid in time to transmit the same to the Circuit Court within sixty days, in accordance with Rule 7-206(c).

Enclosed is a copy of the Certificate of Notice which has been filed in the Circuit Court.

Very truly yours,

Charlotte E. Radcliffe

Charlotte E. Radcliffe
Legal Secretary

Enclosure

cc: Charles F. Lampron -
Golden Ring Yacht Basin, Inc./
Chesapeake Yachting Center

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County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

August 19, 1993

John J. Schmidt, Chairman
Bowleys Quarters Improvement Association, Inc.
1124 Bowleys Quarters Road
Baltimore, MD 21220

RE: Civil Action No. 93-CV-07344
JOHN J. SCHMIDT, ET AL /92-171-SPH

Dear Sir/Madam:

Notice is hereby given, in accordance with the Maryland Rules of Procedure, that a Petition for Judicial Review was filed on August 16, 1993 in the Circuit Court for Baltimore County from the decision of the County Board of Appeals rendered in the above matter. Any party wishing to oppose the petition must file a response within 30 days after the date of this letter, pursuant to Rule 7-202(d)(2)(B).

Enclosed is a copy of the Certificate of Notice which has been filed in the Circuit Court.

Very truly yours,

Charlotte E. Radcliffe

Charlotte E. Radcliffe
Legal Secretary

Enclosure

cc: Milton Rehbein
David R. Cahlander
People's Counsel for Baltimore County
P. David Fields
Lawrence E. Schmidt
Timothy M. Kotroco
W. Carl Richards
Docket Clerk /ZADM
Arnold Jablon /ZADM

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8-16-93

MJC/csa/8.13.93

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY PETITION OF GOLDEN RING YACHT BASIN, INC/CHESAPEAKE YACHTING CENTER FOR JUDICIAL REVIEW OF THE DECISION OF THE COUNTY BOARD OF APPEALS FOR BALTIMORE COUNTY COURTHOUSE 400 WASHINGTON AVENUE TOWSON, MARYLAND 21204	*	
IN THE CASE OF: IN THE MATTER OF THE APPLICATION OF JOHN J. SCHMIDT, ET AL FOR A SPECIAL HEARING ON PROPERTY LOCATED ON THE NORTH SIDE EDWARDS LANE, 1100' SOUTH WEST OF BOWLEYS QUARTERS ROAD (595 EDWARDS LANE) 15TH ELECTION DISTRICT 5TH COUNCILMANIC DISTRICT	*	CIVIL ACTION NO.: 59/226/93CV7344
IN THE BALTIMORE COUNTY BOARD OF APPEALS CASE NO. 92-171-SPH	*	

* *

PETITION FOR JUDICIAL REVIEW OF ADMINISTRATIVE AGENCY DECISION

Golden Ring Yacht Basin, Inc./Chesapeake Yachting Center, Petitioner, requests judicial review of the final Opinion and Order of the County Board of Appeals of Baltimore County entered in the above case on July 22, 1993. Petitioner was a party to the agency proceeding.

EVANS, GEORGE AND BRONSTEIN

Benjamin Bronstein
205 Susquehanna Building
29 West Susquehanna Avenue
Towson, Maryland 21204
(410) 296-0200

RECEIVED AND FILED
93 AUG 16 PM 2:27
CLERK OF THE CIRCUIT COURT
BALTIMORE COUNTY

1 Copy sent

LAW OFFICES

EVANS, GEORGE AND BRONSTEIN

SUSQUEHANNA BUILDING, SUITE 205
29 WEST SUSQUEHANNA AVENUE
TOWSON, MARYLAND 21204
(410) 296-0200
FAX: (410) 296-3719

L. ROBERT EVANS
HARRIS JAMES GEORGE
BENJAMIN BRONSTEIN

MICHAEL J. CHOMEL
DOUGLAS A. STUBBS

August 16, 1993

Clerk,
Circuit Court for
Baltimore County
County Courts Building
Towson, Maryland 21204

In Re: Petition of Golden Ring Yacht Basin, Inc./Chesapeake Yachting Center for Judicial Review of the Decision of the County Board of Appeals for Baltimore County Case No. 92-285-SPHXA

Dear Madame Clerk:

Pursuant to Maryland Rule 7-202 (d) enclosed please find an original and one copy of a Petition for Judicial Review in the above referenced case.

Please call me if you have any questions. Thank you for your courtesy and cooperation.

Sincerely,

EVANS, GEORGE AND BRONSTEIN

Michael J. Chomel

Michael J. Chomel

MJC/csa
Enclosure

7-22-93

IN THE MATTER OF THE THE APPLICATION OF JOHN J. SCHMIDT, ET AL FOR A SPECIAL HEARING ON PROPERTY LOCATED ON THE NORTH SIDE EDWARDS LANE, 1100' SOUTH WEST OF BOWLEYS QUARTERS ROAD (595 EDWARDS LANE) 15TH ELECTION DISTRICT 5TH COUNCILMANIC DISTRICT	*	BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY CASE NO. 92-171-SPH

* * * * * * * * *

O P I N I O N

This matter comes to this Board on appeal from the decision of the Zoning Commissioner dated March 6, 1992 wherein a Petition for Special Hearing was denied. The Petition was filed by John Schmidt and the Bowleys Quarters Community Association. Specifically, the Petition requests that the Zoning Commissioner and now this Board on appeal disallow the construction of boat racks on the subject property of these proceedings owned by Golden Ring Yacht Basin, Inc./Chesapeake Yachting Center (hereinafter "Property Owner").

The matter was heard before this Board de novo on September 15 and December 17, 1992. The decision of this Board is made based upon the evidence and testimony presented to the Board, as well as from documents contained in the file. The subject property is a marina/boat yard located at 595 Edwards Lane, which fronts on Frog Mortar Creek. The property is zoned D. R. 5.5 and is approximately 12 acres. It has been a marina for many years and fell into disrepair in the 1980's. The property was purchased by Chesapeake Yacht in 1982, and from that date extensive revitalization of the marina has taken place. In 1986, the Property Owner filed for and received a special exception to use the property as a boat yard/marina. In 1989, the Property Owner received CRG approval

pursuant to an amended site plan. After the original special exception site plan was approved by then Zoning Commissioner Jablon, the Property Owner requested that the original site plan be amended to provide for the installation of a dry boat rack system. The proposed amended site plan was reviewed by the various County agencies, including DEPRM. After receiving the various comments and making changes, the Property Owner sought approval of the amended site plan from the Zoning Commissioner. On November 8, 1989, Zoning Commissioner Haines, without the benefit of a hearing, approved the amended site plan, which included the installation of the boat rack system and the reconfiguration of the property.

The Property Owner commenced construction and the Petitioners contacted Baltimore County to first learn that the original site plan had been revised. At the suggestion of Pat Keller, Deputy Director of the Office of Planning and Zoning, the Petitioners filed their request for a special hearing asking that the construction of the boat rack system be disallowed, and giving as one of their reasons the failure to have a public hearing.

A two-day hearing was held before Zoning Commissioner Schmidt. The Commissioner in his Opinion and Order dated March 6, 1992 denied Petitioners' request that construction of the boat rack system be disallowed. He further found that the amended site plan did in fact constitute a material change, but held that Baltimore County is estopped from taking any action to stop the Property Owner's construction and installation of the boat rack system.

People's Counsel and the Property Owner appealed Commissioner

Schmidt's decision to this Board. This Board hears the case de novo. Petitioners through People's Counsel offered the testimony of William Jordan, President of the Bowleys Quarters Improvement Association (the "Association"); John Schmidt, Vice President of Bowleys Quarters Improvement Association; and David R. Cahlander, an area resident and representative of Stevens Road Community Association.

Mr. Jordan informed the Board that he was not involved with the original plan or the granting of the original special exception but was authorized to speak on behalf of the Association concerning their objections to the revised site plan, and the recent construction of the boat rack system at the site. He expressed the Association and community's concerns that the original plan was amended without the benefit of a public hearing, and that construction of the boat racks was already underway and was too large in size and visibly obtrusive.

John Schmidt testified also on behalf of the Association, and as Zoning Chairman authorized to speak for the Association. He informed the Board that he contacted the County Executive's office for assistance concerning the construction of the boat racks. He stated that he spoke with Arnold Jablon and after doing so filed a Petition with the zoning office requesting a special hearing to have the construction of the boat racks disallowed. He stated that his Association was not aware that boat rack approval had been received and that they considered it a breach of trust between the County and the community when they learned that the racks were

being installed. The Association's objections were that the racks were unsightly and too high. He informed the Board that the Association did not have any objections if the rack system was only three levels as opposed to the four levels constructed. He further informed the Board that the Association was aware that on-land storage was necessary for the marina for boats that did not fit into the racks and that the Association had no objection to outside storage as long as it complied with Critical Areas law. In his opinion, the construction at the site would result in approximately 200 boats being placed in the racks, and that it was going to increase land traffic on Carroll Island Road and in the Bowleys Quarters area. He also felt that it would increase boating traffic on Frog Mortar Creek.

David R. Cahlander testified in his capacity as a property owner at 218 Stevens Road. He stated that he can see the rack system from Stevens Road and that he and his community association are opposed to the proliferation of additional boats and marinas on Frog Mortar Creek and other waterways in Baltimore County. He stated that the community had no objection to the approval of 200 boats at the site but that the association was opposed to the installation of the boat racks, believing that it would increase the number of boats on the site to 400. He informed the Board that his association was not notified by Commissioner Haines when he approved the revised site plan, and that they were denied the opportunity of a hearing. As likewise testified to by John Schmidt, he had no objection to dry land storage in cradles as long

as they were not on top of each other.

The Property Owner offered the testimony of David Flowers, a former representative of the Department of Environmental Protection & Resource Management (DEPRM); Charles Lampron, the owner of Chesapeake Yachting Center; and David S. Thaler, a Professional Engineer and land planner.

Mr. Flowers, in his capacity as a DEPRM representative, informed the Board that it was his responsibility to implement the Chesapeake Bay Critical Areas Program in Baltimore County. He stated that his Department received and reviewed both the original site plan and the revised site plan as modified, and approved by Commissioner Haines. He stated that the original plan was approved by his Department under Interim Critical Areas measures. He further stated that the revised site plan was in compliance with critical area measures. He testified to discussions his Department had with the Property Owner and alternatives that he had worked out with them concerning changes in the plan. He stated that the alternatives were suggested by his Department and that they were in compliance with Chesapeake Bay Critical Areas legislation. In his opinion, a dry boat on land is better environmentally than a wet boat on the water or on the land, and for that reason, he suggested to the Property Owner that a roof be placed on the boat racks. He corroborated the testimony of Mr. Lampron later set out herein that his Department was asked how the original plan could be revised so as to include boat racks.

Mr. Lampron testified as President of Chesapeake Yacht and

property owner. He stated that the site had been used as a boat yard since 1910, and that the property fell into a state of disrepair. When he purchased the property in the early 1980's, he immediately began to revitalize the site. He informed the Board that he met with the neighbors and presented his proposed plans to them. He testified that every contiguous and adjacent neighbor to the site gave him letters of support. After receiving approval by Commissioner Haines of his revised site plan, he made application for and received the building permit to construct the boat racks. He purchased the rack system in 1991 before the Petition for Special Hearing was filed, and most of the cost of the construction had already been incurred before the filing of the Petition. The cost of the rack system was $650,000 and $245,000 for two forklifts to service the rack system. He stated that in his opinion the rack system does not permit him to have more boats on the property. He testified as to the neatness of the rack system, that the boats would be more organized and that it was more desirable for boat owners to have their boats under roof. He informed the Board that there were boats at the marina which would have to be kept in the water since they would not fit in the rack building because they were too big or of the wrong style, such as sailboats, power boats with cabins, or catamarans. He also stated that he had boats on the site for sale and they were stored near the sales office. In addition, the parking lot on the plan was being used as the sales facility area. He stated that he met with representatives of DEPRM, and in doing so had discussions with them concerning the

inclusion of the boat rack system on his site plans. At the time of the hearing, it was testified that construction of the rack system was nearly completed, that the racks were four levels high, and the rack heights were 32 feet and 29 feet, and were set back from the property line 105 feet, although only required to be set back 60 feet.

David S. Thaler, a Professional Engineer and land planner, testified on behalf of the Property Owner. He testified that he specializes in land development in Baltimore County and was most familiar with the several County agencies involved in the development process. He stated that almost every project in which he is involved has numerous administrative changes, often after plans have been approved following a public hearing. With regard to this particular plan his firm picked up the job from a previous engineering company and secured the special exception for the Property Owner. He informed the Board that the original plan of 1986 did not disclose any boat rack structures. At that time, it was his opinion that the zoning office did not consider racks to be a structure, and as such he was instructed to remove the structures from this plan, although he wanted to put them on. He informed the Board that the original granting of the special exception in 1986 by then Commissioner Jablon does not prohibit dry land storage, and that Commissioner Schmidt's Opinion and Order takes this right away from the Property Owner. He further testified that the rack systems do not require a special exception under the zoning regulations, and that in his opinion the changes made from the old

to the revised plan are of a nature that are customarily made administratively. He testified that he appeared at the original hearing for the special exception and that the issue of boat storage was amply discussed. He stated that the plan changes included the boat racks, moving of the parking area, and the movement of the buffer area to the water's edge. The plan as revised included the same five buildings that were on the original plan.

This Board has considered the testimony of all of the witnesses presented, the exhibits filed, the Zoning Commissioner's file, and arguments of Counsel. Based upon the evidence and testimony presented to this Board de novo, the Board is satisfied that the previously approved site plan as amended in Case No. 86-292-XSPHA should be approved with certain restrictions hereinafter set out. The Board recognizes that the changes from the original to the revised site plan are substantial but believes that the plan with its changes should still be approved. This Board's finding is based upon the testimony offered in the Property Owner's case indicating that the changes were environmentally sound changes and were done after full review by DEPRM and after having complied with Chesapeake Bay Critical Areas legislation, as testified to by David Flowers. There is nothing in the record to indicate that there was any on-going secretive process taking place between the Property Owner and the County to secure approval of the installation of the boat rack system. Mr. Flowers testified that the Property Owner in the very beginning was seeking a boat rack system and wanted his

final site plan approval to provide for a rack system. This was known by DEPRM and fully discussed and considered before the approval of the revised site plan by Commissioner Haines.

In making this ruling, the Board is not unmindful of the objections and concerns raised by the community concerning the rack system. As was considered by Commissioner Schmidt below, this Board believes that additional tree plantings and landscaping adjacent to the bulkhead area of the site will provide environmental protection and eventual buffering of the racks from those dwellings located across Frog Mortar Creek, and this Board's Order will so require.

Counsel for the Property Owner argues on appeal that Commissioner Schmidt did not have authority to take away from the site dry storage of boats other than within the rack system. This Board does not agree. The Commissioner, as well as this Board on appeal, has authority to impose such a restriction should he choose to do so. The Board has considered the testimony offered by the Property Owner indicating that certain boats are too large and will not fit in the rack system such as cabin cruisers, sailboats and catamarans. Also, the community recognized this in their testimony given before the Board. We think that the restriction as imposed by Commissioner Schmidt prohibiting dry storage of any boats on the site with the exception of those within the rack system works an unreasonable hardship in the functioning of the marina. The Board has reviewed the comments from Pat Keller, Deputy Director of the Office of Planning & Zoning, dated December 15, 1992 and believes

that his approach toward this issue is more appropriate by limiting storage to a percentage of the land site. The Board finds that the Property Owner should be limited to 5 percent of the land site (10.6 +/- acres) for dry storage of boats and the active repair, sale, construction or servicing of boats, said area or areas to be located away from the water and preferably adjacent to the Carroll Island Shopping Center. The Board will require the Property Owner to submit to the Zoning Commissioner an amended plan setting out that area or areas where this storage and activity will take place. The Board's intention is to preserve parking spaces and traffic flow and to prevent random storage of boats throughout the site. The amended plan will be incorporated into the case file and become a part of this Order.

People's Counsel has argued to this Board that approval of the amended site plan by Commissioner Haines should be disallowed since it was done ex parte and denied the community the right of a public hearing. As was pointed out to People's Counsel at the hearing, the Board does not feel in this particular case that the community has been prejudiced or denied the opportunity to be heard. The record discloses that, upon learning of the construction of the boat rack system, the community filed a Petition for Special Hearing requesting that this approval of the boat rack system be disallowed. A full evidentiary hearing consisting of two days took place before Commissioner Schmidt, and this very issue was before him. Commissioner Schmidt's hearing is also subject to review by this Board by the filing of an appeal where the matter is heard de

novo in its entirety. The Petitioners availed themselves of their right of appeal to this Board, and a two-day hearing was also conducted before us. While these hearings occurred after the fact, this Board recognizes that both it and the Zoning Commissioner below have the authority under the special hearing process to grant the relief requested by the Petitioners, should the evidence so support such a finding. We feel that the Petitioners' rights have not been prejudiced and the issues presented by them have been fully reviewed and decided both by this Board and the Zoning Commissioner below.

People's Counsel also raises the issue that Baltimore County is not estopped from revoking the permit for the construction of the boat racks. The Board is satisfied from a review of the legal memorandums submitted by the parties that the Doctrine of Estoppel applies to municipalities as well as to private corporations and individuals when municipal officials are acting within the scope of their authority and justice requires that the public be estopped (see Kent County Planning Inspector v. E. C. F. Abel, et al, 246 Md. 395, 228 A2d 247 [1967]). When this appeal came before this Board, the permit for construction had already been issued by Baltimore County. The testimony was that the construction was nearly completed and that large sums of money had already been expended for the rack system, the forklifts and construction costs. For this Board to now rule that the County has authority to revoke the permits would be inequitable and result in substantial economic detriment for the Property Owner. As previously stated, the

evidence does not indicate that the Property Owner or Baltimore County was acting in any secretive manner in the process of securing the permit. This Board finds from the facts presented in the proceedings before it that Baltimore County is now estopped from taking any action to revoke the permits previously issued for the installation of the boat rack system.

O R D E R

For the reasons set out above, IT IS this 22ND day of July, 1993 by the County Board of Appeals for Baltimore County

ORDERED that the Petition for Special Hearing requesting disapproval of the relief granted by Zoning Commissioner J. Robert Haines dated November 8, 1989 which permitted the construction of boat racks on the subject property of these proceedings be and is hereby DENIED; and it is further

ORDERED that the amended site plan in Case No. 86-292-XSPHA (Property Owner's Exhibit 2 in these proceedings) be and is hereby APPROVED subject to the following restrictions:

1. The Property Owner is hereby made aware that proceeding at this time is at its 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 relief granted herein shall be rescinded.

2. Within 30 days of the date of this Order and prior to the issuance of any permits, the Property Owner shall submit an amended site plan to the Zoning Office incorporating the relief granted herein, said plan shall describe thereon the designated area or areas for the dry storage of boats and the active repair, sale, construction and general servicing of boats, said area not to exceed 5 percent of the land site (10.6 +/- acres), and to be away from the water, and preferably adjacent to the Carroll Island Shopping Center.

3. The Property Owner shall submit a landscaping plan

for approval by the Deputy Director of Planning and the Landscape Planner for Baltimore County. A copy of the approved plan shall be submitted to the Zoning Office for inclusion in the case file.

4. When applying for any permits, the site plan and/or landscaping plan filed must reference this case and set forth and address the restrictions of this Order.

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

Michael B. Sauer, Acting Chairman

John G. Disney

S. Diane Levero

County Board of Appeals of Baltimore County
OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

July 22, 1993

Benjamin Bronstein, Esquire
EVANS, GEORGE AND BRONSTEIN
Susquehanna Building, Suite 205
29 W. Susquehanna Avenue
Towson, MD 21204

RE: Case No. 92-171-SPH
John J. Schmidt, et al

Dear Mr. Bronstein:

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

Very truly yours,

Kathleen C. Weidenhammer
Administrative Assistant

encl.

cc: Golden Ring Yacht Basin, Inc.
Bowleys Quarters Improvement Association
David R. Cahlander
People's Counsel for Baltimore County
P. David Fields
Lawrence E. Schmidt
Timothy M. Kotroco
W. Carl Richards, Jr. /ZADM
Docket Clerk /ZADM
Arnold Jablon, Director/ZADM

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2-18-93

For CBA

Baltimore County, Maryland

PEOPLE'S COUNSEL
~~ROOM 304 COUNTY OFFICE BUILDING~~ Room 47, Courthouse
~~111 WEST CHESAPEAKE AVENUE~~ 400 Washington Avenue
TOWSON, MARYLAND 21204
887-~~2188~~2188

PHYLLIS COLE FRIEDMAN
People's Counsel

PETER MAX ZIMMERMAN
Deputy People's Counsel

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February 18, 1993

The Honorable
William T. Hackett, Chairman
County Board of Appeals
Room 49, Courthouse
400 Washington Avenue
Towson, Maryland 21204

RE: John J. Schmidt, et al., Petitioners
Zoning Case No. 92-171-SPH

Dear Chairman Hackett:

This is in response to the letter dated January 19, 1993 in which Mr. Bronstein, attorney for Petitioners, objects to the attachment by People's Counsel of an unreported decision of the Court of Special Appeals.

Initially, I would point out that the memorandum opinion by Judge Raine was not overturned and remains valid as to the Baltimore County Zoning Regulations. Secondly, the rule cited by counsel applies to the formal rules of procedure of trial courts and not to administrative decisions. While People's Counsel recognizes that the unreported decision of the Court of Special Appeals is not precedent, the reasoning is relevant and People's Counsel believes that this Board may and should consider it.

Sincerely yours,

Phyllis Cole Friedman

Phyllis Cole Friedman
People's Counsel for Baltimore County

cc: Benjamin Bronstein, Esquire

PCF:sh

1-19-93

MJC/mlh/01.18.93

RE: PETITION FOR SPECIAL HEARING Center of Edwards Lane, 1100' (+ -) SW of Bowleys Quarters Rd. (595 Edwards Lane), 15th Election District 5th Councilmanic District	*	BEFORE THE BALTIMORE COUNTY BOARD OF APPEALS
JOHN J. SCHMIDT, et al., Petitioners	*	Case No. 92-171-SPH

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

MEMORANDUM OF LAW

Golden Ring Yacht Basin, Inc./Chesapeake Yachting Center ("Chesapeake"), Appellant, files this Memorandum of Law in support of its position in the above captioned case.

I. STATEMENT OF FACTS

In 1985, Chesapeake filed preliminary plans for CRG approval and for Special Exception with areas delineated for "boat storage." Part of the storage in those areas was to be accomplished by means of a rack system. In the initial review process with Baltimore County employees, Frank Lampron (president of Chesapeake), was advised that there was no need to delineate those racks on the plan, and that the racks should be deleted from the site plan since they were not "structures" within the purview of the Baltimore County Code and Baltimore County Zoning Regulations. The racks were removed from the site plan by Chesapeake in compliance with the instructions of Baltimore County.

Subsequently, in August 1989, Chesapeake (in an effort to protect itself and make certain it was in full compliance with all relevant laws, regulations and ordinances) requested permission from the Zoning Commissioner for Baltimore County to amend the site

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plan to show a rack facility. The Zoning Commissioner, on November 8, 1989, approved the site plan amendment which showed racks for boat storage. (This amendment merely clarified the continued intent to utilize rack storage by showing a rack facility on the site plan.)

Certain additional amendments were made to the site plan relating to the location and configuration of the rack storage structure at the request of Baltimore County (specifically, the Baltimore County Department of Environmental Protection and Resource Management). These changes involved environmentally-related matters, including the relocation and reconfiguration of the structure to create a grass buffer strip at the waters' edge. As a result, although Petitioners complain about changes in the site plan in addition to the clarification regarding rack storage, the changes of which Petitioners complain were done at the request of Baltimore County to conform the site plan to then-current requirements of the Chesapeake Bay Critical Areas legislation. (The original site plan had been approved under interim critical areas requirements. The amendments to the site plan were done pursuant to the final requirements of the Critical Areas legislation).

The testimony at the hearing before this Board was uncontradicted that the amendments to the site plan were disseminated other County agencies. Contrary to the characterization which Appellants seek to put on this matter, this was <u>not</u> a casual or secretive process. There was no mere cursory

review by the Zoning Commissioner; rather, the Zoning Commissioner was careful to inform the appropriate County agencies and seek their review and comments relating to the proposed changes. Additionally, a memorandum in support of the amendment to the site plan was submitted to the Zoning Commissioner in support of granting the requested changes. The Zoning Commissioner did not act in a cavalier or capricious manner in approving the amendment. To the contrary, the decision to permit the amendment was made in strict conformance with the policies then-existing in the Zoning Commissioner's office and after consultation with relevant County agencies, and after review of legal authorities.

Prior to October 1, 1991, Chesapeake applied for and received a building permit to erect a rack storage building. Pursuant to that building permit, Chesapeake erected a substantial portion of the rack facility and performed substantial construction (including the pouring of footings and ordering of custom size structural components) for the remainder of the rack storage unit. The entire rack storage structure is now completed. Chesapeake has expended substantial additional sums in connection with the errection of the rack storage structure, including the purchase of a specially-sized forklift for the insertion and removal of boats from the rack system at a cost of over $200,000.00. The testimony of Frank Lampron, the chief operating officer of Chesapeake, was that the entire financing structure of the project was predicated upon utilization of rack storage. This financial aspect of the undertaking was done in reliance on the amended zoning order and

building permit issued by Baltimore County.

The testimony before this Board is that the site in question was formerly a derelict boatyard, a hazard to neighbors and navigation alike. Chesapeake has at all times throughout the course of its dealings with the property endeavored to act in a responsible manner as to environmental concerns and the concerns of its neighbors. The evidence before the Board establishes beyond dispute that Chesapeake has gone "above and beyond the call of duty" in its efforts to develop a project which is a benefit to Baltimore County and the surrounding area. What was formerly a health and navigational hazard is now a state-of-the-art boatyard facility which utilizes the cutting edge of technology in its effort to produce an environmentally benign and aesthetically unintrusive project.

There is testimony before the Board as to the benefits which Baltimore County and the surrounding area receive from this boatyard -- the tax base has been increased, jobs are created, the design of the facility is such as to minimize to the greatest extent possible any visual or other intrusive effect on surrounding areas. The boatyard meets the setback and buffer requirements of the new marina and boatyard legislation.

Objections by the Protestants that "there will be more boats" do not rise to a level sufficient to justify the rejection of Chesapeake's efforts to comply with relevant laws, regulations and ordinances, protect the environment, and minimize any impact beyond the physical boundaries of the site. The evidence before the Board

demonstrates that rack storage is more protective of the environment than open ground storage. It is the "high tech" answer to non-point source pollution of the Chesapeake Bay. The Zoning Commissioner's decision to allow the amendment to the site plan to show the rack storage structure (rack storage being permitted to Chesapeake as of right) was proper and should be affirmed by this Board.

On October 2, 1991, a Petition for Special Hearing was filed by the Bowleys Quarters Improvement Association, ostensibly for the purpose of determining whether the amendment to the site plan should be disapproved. On January 17, 1992, a hearing was held before the Zoning Commissioner for Baltimore County, who in an Opinion and Order dated March 6, 1992, determined that Baltimore County was estopped from withdrawing or otherwise denying permission to Chesapeake to continue and complete construction of the two rack storage units.

The Zoning Commissioner went on, however, to deny Chesapeake the right to utilize out-of-water storage <u>other</u> than racks. This issue was not within the scope of the hearing before the Zoning Commissioner, and was not, therefore, an issue which he could determine. The Petition for Special Hearing filed by B.Q.I.A. dealt <u>solely</u> with the issue of whether the amendment to the site plan should be disapproved. The Zoning Commissioner was without power to address the issue of ground storage on the Chesapeake property since that issue was not raised by the Petition for Special Hearing. It should be noted that ground storage is

expressly permitted under the Baltimore County Code definition of a boatyard. Moreover, the site plan as it existed prior to the amendment in question provided (in note 6) for ground storage on the parking area.

There was no reason for the Zoning Commissioner to limit ground storage on the property. The evidence reflects that the Chesapeake property is surrounded by a berm which reduces, if not eliminates, any visual impact of ground storage. The Chesapeake property is located over 560 feet from the four houses on Stevens Road. It is also instructive to note that the setbacks on this property far exceed the required setbacks under the new Baltimore County legislation governing marinas.

The act of the Zoning Commissioner in going beyond the scope of the hearing before him presents a practical impossibility to Chesapeake, because sailboats, larger power-boats, boats with flying bridges and boats under repair or for sale cannot be stored on racks.

II. THE DECISION OF THE ZONING COMMISSIONER ALLOWING AN AMENDMENT TO THE SITE PLAN WAS CORRECT AND WAS WITHIN THE DISCRETION OF THE ZONING COMMISSIONER.

The Baltimore County Zoning Regulations, Section 417.7, specifically permit rack storage buildings on the Chesapeake property. Section 417.7 provides:

> Marinas located on property consisting of five or more acres shall be permitted to establish out-of-water storage facilities for recreational marine craft provided that no such facilities thereon shall be located within 60 feet of any property line, and provided, further, that screening shall be provided and maintained of such types and at

> such locations as may be required by the Zoning Commissioner or Board of Appeals, on Appeal.

The term "facility" is defined in Webster's Third New International Dictionary (unabridged) in pertinent part:

> 5a: "Something that promoted the ease of any action, operation, transaction, or course of conduct -- usu. used in pl. (excellent facilities for graduate study) b: Something (as a hospital, machinery, plumbing) that is built, constructed, installed, or established to perform some particular function or to serve or facilitate some particular end".

Under Section 417.7, Chesapeake was entitled as a matter of right to have out-of-water storage facilities. These "out-of-water storage facilities" include rack units for boat storage. As a matter of law, Chesapeake was entitled to erect rack storage units on its property. The decision of Commissioner Haines permitting amendment of the site plan to show racks did not grant any right to Chesapeake which was subject to review -- Chesapeake was entitled to the rack storage unit without question. The decision of the Zoning Commission in this regard merely acknowledged the existing legal right of Chesapeake to construct the rack storage unit and was a correct decision as a matter of law.

The property owned by Chesapeake in this proceeding is almost thirteen acres in size (12.84 acres). The rack storage unit at issue in this proceeding is located more than 60 feet from the property line, and screening is being provided and maintained in such types and in such locations as has been required by the Zoning Commissioner pursuant to the Order of Commissioner Haines.

Chesapeake has met every condition set forth in Section 417.7

-- Chesapeake is therefore entitled to out-of-water storage facilities as a matter of law.

The determination to permit the amendment to the site plan without a public hearing was within the discretion of the Zoning Commissioner and is not subject to attack in this collateral proceeding. At the time this amendment to the site plan occurred, it was a long-standing practice in the office of the Zoning Commissioner for Baltimore County to permit such amendments without a public hearing, in the discretion of the Zoning Commissioner. This policy was formalized in the Zoning Commissioner's Policy Manual adopted pursuant to the Baltimore County Administrative Procedures Act. Section 417 1(a)I(B) of the policy manual provides that the determination relating to approval of boat racks "may" be subject to a special hearing at the discretion of the Zoning Commissioner on a case - by - case basis." (emphasis supplied.)

III. THE AMENDMENT TO THE PLAN DOES NOT REQUIRE A PUBLIC HEARING.

People's Counsel has suggested that a public hearing was required in connection with the amendment of the plan at issue in this case. People's Counsel's position in this regard cannot be sustained.

People's Counsel has suggested that because there was a "material" amendment to the plan a public hearing was required. This position is ill-founded for two reasons. First, there was no "material" amendment to the plan at issue in this case. The original plan (approved in the order of then-Zoning Commissioner Jablon) was for a boatyard with out-of-water storage. That is all

that the present plan proposes. The only changes were to reflect the rack storage structure (which did not need to be shown in the prior plan), with certain changes relating to the relocation and reconfiguration of the structure to create a grass buffer strip at the water's edge. These minor changes were required by Baltimore County under the final Chesapeake Bay Critical Area Legislation. These changes did not vary the use of the property, nor did they create any rights in Chesapeake which it did not already have -- Chesapeake already possessed the right to out-of-water storage structures (i.e., racks).

Secondly, no public hearing was required because there is no provision under these circumstances that even a "material" amendment to the plan (of which there was none in this case) requires a public hearing. People's Counsel's appears to refer to the provisions of the Development Regulations which require that a material amendment to an approved plan may require a public hearing. Baltimore County Code, Section 26-211. The provisions of Section 26-211 do not apply to the plan amendment in issue here, nor to the minor "housekeeping" changes which Baltimore County required Chesapeake to make in the present case.

People's Counsel further suggests that the case of People's Counsel for Baltimore County v Crown Development Corporation, 328 Md. 303, 614 A.2d 553 (1992) applies in this case and requires a public hearing. The Crown Development case was concerned with former County Code, Section 22-63 (the predecessor to current Section 26-211). The Crown Development case therefore dealt with

the Development Regulations, which are not applicable to this case. In Crown Development, the Court of Appeals found that a material change under the Development Regulations might require a public hearing. This is not the situation in the present case, because: (1) the Development Regulations do not apply to this case, and (2) the change at issue in this case was not material and was required in order to comply with the existing critical areas legislation.

It is clear, then, that no public hearing was required in this case because: (1) there is no legal requirement that a public hearing be held under the circumstances of this case even if there is a "material" change; and (2) the changes at issue in this case were not "material".

IV. BALTIMORE COUNTY IS ESTOPPED TO WITHDRAW PERMISSION FOR CHESAPEAKE TO COMPLETE CONSTRUCTION OF TWO RACK STORAGE UNITS.

It has long been recognized in Maryland that the doctrine of estoppel is applied to municipal corporations. Kent County Planning Inspector v. Abel, 246 Md. 395, 228 A.2d 247 (1967). See also, Town of Berwyn Heights v. Rodgers, 228 Md. 271, 179 A.2d 712 (1962). It is held that municipalities may be estopped by reason of the issuance of permits. Kent County Planning Inspector v. Abel, supra. As long ago as 1865 the United States Supreme Court observed in the case of Rodgers v. Burlington, 70 U.S.(3 Wall) 654,

18 L.Ed. 79 (1865):

> [T]he rule that a [municipal] corporation quite as much as an individual is held to fair dealing with other parties, applies with all its force, and we repeat, that [municipal] corporations cannot by their acts, representations, or silence, involve others in onerous engagements, and be permitted to defeat the calculations and claims which their own conduct has superinduced. 70 U.S.(3 Wall) at 667.

In Permanent Financial Corporation v. Montgomery County, 308 Md. 239, 518 A.2d 123 (1986), the Court of Appeals of Maryland addressed a situation similar to that in the case at bar. In Permanent Financial, a builder relied on a long-standing county interpretation of the phrase "nonhabitable structures" as permitting a maximum building height of 43 feet (35 feet plus 8 feet for "nonhabitable structures") and had expended considerable sums in erecting the building.

The Court of Appeals held that the county was equitably estopped from claiming that the building's upper floor exceeded the height limits imposed by the local zoning ordinance. The court observed that the builder had designed and constructed the building in reliance on the building permit and on a long-standing and reasonable interpretation of the county as to how the building's height should be calculated, and ruled the County was estopped to deny approval, saying:

> "Permanent clearly relied upon the interpretation the County had given to the height limitation in its design of the building. In the initial application for a building permit, Permanent stated the height of the proposed building as "37 + 8." Appellees do not disagree that "37" was a

> typographical error, and that "35" was intended. Moreover, the measurement of the building as shown on the plans submitted with the application was 43 feet to the top of the fourth floor. We have no doubt that Permanent designed and built its building to a height of 43 feet through the fourth floor in reliance upon the long standing interpretation of the County, and that this interpretation, while subsequently found by the Board of Appeals to be incorrect, was nevertheless reasonable and debatable. Although the issue is somewhat clouded by the fact that the County should not have issued the building permit because of other deficiencies, it is at least clear that this portion of the decision to issue the permit was not the result of oversight by the County, but rather was consistent with its practice. This being the case, and Permanent having expended substantial funds in reliance upon the permit, it would be inequitable to now permit the County to require the removal of the fourth floor."

Id. at 129-130.

Similarly, in Leaf Company v. Montgomery County, at 70 Md. 170, 520 A.2d 732 (1987), it was held that the county was estopped to deny an oral extension of a contract for disposal of leaves, where the county by its actions represented that a requirement that all contracts be in writing was not applicable to that renewal, where it was not unreasonable for the contractor to rely on the county's interpretation and the contractor incurred expense in honoring the renewal of the contract. 520 A.2d at 737-38.

In the case at bar, Chesapeake was advised that a rack need not be shown on the original site plan. In an "abundance of over caution" Chesapeake later came back to the Zoning Commissioner and requested the site plan be amended to show the rack unit so that "all the i's were dotted and all the t's were crossed"

appropriately. The Zoning Commissioner, in accordance with a long-standing practice and as recognized in the Policy Manual, permitted the amendment (or, really, a mere clarification) of the site plan. The County issued a building permit to Chesapeake. Chesapeake has expended substantial sums (in excess of one-half million dollars to date), in reliance on the amendment to the site plan and the building permit.

V. THIS CASE IS DISTINGUISHABLE FROM UNITED PARCEL SERVICE, INC. V. PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, NO.315, SEPTEMBER TERM, 1992 (SEPTEMBER 2, 1992).

Although a superficial reading of the UPS case might indicate a similarity with the present situation, the decision in UPS is clearly distinguishable and does not govern the case at bar.

In UPS, the Zoning Commissioner rendered an informal opinion that a proposed use was permitted in an ML zone. Subsequently, it was determined that the use in question was a trucking facility which was only permitted in an ML zone by way of special exception, the granting of which requires a public hearing.

A key distinguishing factor between this case and UPS is that in UPS, the Zoning Commissioner rendered an opinion (that the use in question was one permitted in an ML zone as of right) which was in error. The erroneous determination made by the Zoning Commissioner in the UPS case was not one to which any discretion attached.

In the present case, however, the determination of whether a special hearing needed to be held at the time the site plan was amended was one within the discretion on the Zoning Commissioner.

This had been the long-standing procedure utilized in the office of the Zoning Commissioner, as formalized in the Zoning Commissioner's Policy Manual, Section 417.1(a)I(B), which provides that the determination relating to approval of boat racks "may be subject to a special hearing at the discretion of the Zoning Commissioner on a case by case basis".

The Court of Special Appeals in the UPS case specifically recognized that the Zoning Commissioner (or Administrator, under the current statutory scheme) is not empowered to change or ignore the county zoning laws; where the conclusion that the proposed use was permitted as of right was incorrect there exists the ability on the part of interested and aggrieved persons to challenge it when the error is discovered.

The determination at issue in the present case, however, is one that is within the discretion of the Zoning Commissioner. No clear "error" (such as was present in UPS) can attach to a discretionary decision made by the Zoning Commissioner, at least in the absence of any abuse of that discretion (of which no complaint is made in the present case). The decision of Commissioner Haines in the present case, then, allowing amendment of the site plan is not analogous to the (erroneous) determination by then - Commissioner Jablon in the UPS case that the use was permitted as a matter of right in an ML zone.

VI. CONCLUSION

The acts of Chesapeake in this case are not "in violation of law" because they are not premised on an erroneous decision by the

Zoning Commissioner (as was the situation in UPS). Here, the act of the Zoning Commissioner in permitting amendment of the site plan to show rack storage without a public hearing was a determination made within the discretion of the Zoning Commissioner. In that context, the decision cannot be "in violation of law", within the rationale of UPS, and that decision cannot be stretched to include the present case.

Chesapeake has acted at all times with good faith. To withdraw permission to complete the rack units at this late stage would be inequitable and extremely unfair to Chesapeake. Under the principles of law enunciated and applied in Permanent Financial Corporation v. Montgomery County and Leaf Company v. Montgomery County, supra, it should be held that Baltimore County is estopped to require Chesapeake to remove the rack facility in whole or in part.

Respectfully Submitted,

Benjamin Bronstein
205 Susquehanna Building
29 West Susquehanna Avenue
Towson, Maryland 21204
(410) 296-0200

Michael J. Chomel

Attorney for Golden Ring Yacht Basin, Inc./ Chesapeake Yachting Center.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on this 19 day of January, 1993, a copy of the foregoing Memorandum of Law was ~~mailed~~ hand delivered, postage pre-paid to Phyllis Cole Freidman, Esquire, People's Counsel for Baltimore County.

Benjamin Bronstein

1-19-93

LAW OFFICES

EVANS, GEORGE AND BRONSTEIN

SUSQUEHANNA BUILDING, SUITE 205
29 WEST SUSQUEHANNA AVENUE
TOWSON, MARYLAND 21204
(410) 296-0200
FAX: (410) 296-3719

L. ROBERT EVANS
HARRIS JAMES GEORGE
BENJAMIN BRONSTEIN

MICHAEL J. CHOMEL
DOUGLAS A. STUBBS

January 19, 1993

HAND DELIVERED

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

Attn: Ms. Kathie Weidenhammer

RE: **Petition for Special Hearing**
John J. Schmidt, et al. Petitioners
Case No.: 92-171-SPH

Dear Ms. Weidenhammer:

Enclosed please find the Memorandum of Chesapeake Yacht Center, Inc. in connection with the above-referenced case. This Memorandum was completed prior to receipt of People's Counsel's Post-Hearing Memorandum.

On behalf of Chesapeake Yachting Center, Inc., we would object to the attachment by People's Counsel of an unreported decision of the Court of Special Appeals. Maryland Rule 8-114 clearly prohibits citation or reliance upon an unreported decision of the Court of Special Appeals. In light of the clear dictates of the Rule, we would ask that such attachment to People's Counsel's Memorandum be stricken and not considered by the Board.

Very truly yours,

EVANS, GEORGE AND BRONSTEIN

Benjamin Bronstein

MJC/BB/mlh
Enclosure
cc: People's Counsel

1-14-93

RE; PETITION FOR SPECIAL HEARING N/S Edwards La., 1100' SW of Bowleys Quarters Rd. (595 Edwards Lane) 15th Election District 5th Councilmanic District	:	BEFORE THE COUNTY BOARD OF APPEALS
	:	Case No. 92-171-SPH
JOHN J. SCHMIDT, et al., Petitioners	:	

: : : : : : :

RECEIVED
COUNTY BOARD OF APPEALS
93 JAN 14 PM 3: 01

PEOPLE'S COUNSEL'S POST-HEARING MEMORANDUM

The legal issues before this Board focus on the factual question of whether the 1989 modification to the plat approved in the 1986 Special Exception case constituted a "material" change. It is clear that the primary difference between the 1986 and 1989 plats is the presence in the 1989 plat of a building that houses boat racks measuring 548 feet long (almost two football fields), 30 feet wide and 45 feet high -- a massive accessory structure -- that stores in excess of 200 boats. The location of the racks and pitch of the roof on this structure were approved administratively by DEPRM, according to David Flowers. Subsequently, the Zoning Commissioner, according to documentary evidence, also approved the change by a letter dated November 8, 1989, but the neighbors were given no notice or opportunity for hearing during this process.

The threshold legal question therefore is whether the neighbors were denied procedural due process by the Zoning Commissioner's ex parte action.

The record shows that the 1986 special exception was contested. There were Protestants of record who certainly would have been interested in this new massive structure. Moreover,

the only reference to boat storage at that time was dual usage of the parking lot, which use continues today. Nevertheless, the Zoning Commissioner subsequently authorized the reconfiguration of the site plan with the addition of this massive structure by a letter; and on this authority a permit was issued. Only after it arose out of the ground did the protesting community realize that the marina they believed had been limited in size by the special exception to 200 slips had now effectively been expanded to include a Boatel for another 200 plus boats -- almost doubling its capacity, with no further hearing or opportunity for them to comment.

The legal questions posed therefore are:

1. Was the Zoning Commissioner's ex parte action a denial of due process?

2. Does the issuance of the building permit estop the County from now reversing the action and requiring a hearing?

3. Does the critical area compliance affect the above questions?

4. If a public hearing is required because of due process, does the present hearing satisfy this right?

5. If this public hearing can be used to satisfy Petitioner's due process rights, does the developer have to bring his building into compliance with Bill No. 149-92?

1. The Zoning Commissioner's ex parte action was clearly a denial of due process.

This matter factually is not significantly different than that of People's Counsel v. DiNenna, Baltimore County Circuit Court Equity No. 95842 (1978), in which the court concluded that a regulation that purported "to give to the Zoning Commissioner the power to take actions affecting property rights of others without any notice or hearing and without any enunciated criteria for the exercise of the power" is unconstitutional. In that matter as here, the Zoning Commissioner modified a special exception. There, it was done by an order; here, it was done by letter. The effect is the same. There is no issue as to what the result would have been had there been a hearing but as Judge Raine stated, "Due process requirements such as notice, hearing, and cross-examination, are applicable to quasi-judicial proceedings by an administrative agency," citing Union vs Montgomery County, 244 Md., 585. Therefore, this Board should declare the administrative approval null and void and require that the modification to the original 1986 special exception requires notice and opportunity for hearing. (Judge Raine's Memorandum Opinion, dated November 15, 1978, and the Unreported decision in the Court of Special Appeals of Maryland in the matter of Baltimore Lodge No. 7 of the Benevolent and Protective Order of Elks, et al. v. People's Counsel, No. 1625, September Term, 1979,, Per Curiam, filed October 2, 1980, are attached.)

2. The issuance of the building permit does not estop the county.

The premise of estoppel is to prevent the assertion of a right, based on equity. In the zoning context, this would intercept civil and criminal action against the violation of public law. In 1933, the Court of Appeals followed Jack Lewis, Inc. v. Mayor & City Council of Baltimore, 164 Md. 146, 164 A. 220 (1933), with an emphatic rejection of the idea that estoppel could protect an illegal zoning use. Lipsitz v. Parr, 164 Md. 222, 164 A. 743 (1933). Judge Parke expressed the court's concern not only for unauthorized approvals by error or mistake, but also for potential evasion of the law[1] Any permit so "issued would be void."

Lipsitz has never been overruled, and the Court of Appeals has consistently followed it in use regulation cases. Kent County Planning Inspector v. Abel, 246 Md. 395, 228 A.2d 247 (1967); City of Hagerstown v. Longmeadow Shopping Center, 264 Md. 481, 287 A.2d 242 (1972). To be sure, there has been a limited qualification of this rule for area regulations, if involving innocent reliance on a long-standing reasonable and articulate, but wrong, interpretation. Permanent Financial Corp. v. Montgomery Co., 308 Md. 239, 518 A.2d 123 (1986). But area regulations are secondary to use regulations. McLean v. Soley,

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[1]The opposition to the use of estoppel went hand in hand with a wary attitude toward broad or unrestricted delegations of power to administrative officials. See Jack Lewis, supra, 164 Md. at 150; Prince George's County v. Cemetery Co., 160 Md. 653, 154 A. 652 (1931).

270 Md. 208, 310 A.2d 783 (1973). Meanwhile, the availability of estoppel in cases of significant public land use rights was further restricted in Inlet Associates v. Assateague House, 313 Md. 413, 545 A.2d 1296 (1988). The New York Court of Appeals has also recently disallowed estoppel in a major and highly publicized zoning case. Parkview Assoc. v. City of New York, 519 N.E.2d 1372 (N.Y. 1988).

In any event, even if estoppel were available in principle to protect a public zoning violation in Baltimore County, the record discloses a "close to the vest attitude toward the community." See National Inst. Health Credit Union v. Hawk, 47 Md. App. 189, 201, 422 A.2d 55 (1980). Moreover, estoppel has never been applied to the substantial detriment of innocent, aggrieved members of the public. When all is said and done, there is no escape from the conclusion that a major modification was made to the special exception without proper approval.

3. The critical area compliance has no impact on this matter.

It is common practice for county officials to assist citizens in meeting regulations. The fact that David Flowers worked with the developer so that the boat rack building could meet critical areas compliance does not rise to the level of approval in any significant way. To be sure, had there been a hearing before the Zoning Commissioner, Mr. Flowers' testimony that the boat rack building met critical areas compliance would undoubtedly have been both important and necessary. However, it

was then, as it is now, merely a gratuitous attempt to inform and assist development so as to comply with one of many regulatory requirements.

4. Even if this Board finds that a public hearing is required, the instant hearing does not satisfy this right.

All too often and with increasing frequency, in a rush to cut red tape, this office is seeing construction that does not comply with county regulations and, though illegal, built pursuant to a building permit. The estoppel aspects of this are discussed above. However, the mere process of permitting construction tends to prejudice the opposition. The fact is that a building measuring 500 feet by 45 feet by 30 feet is in place, substantial sums have been expended and even the angels could not ignore this in their deliberations. At the least, the developer should be forced to stand in the role of Petitioner and seek approval independently of this proceeding.

5. No approval can be granted the developer that does not comply with Bill No. 149-92.

The testimony is that the subject property is now zoned B.M.B. (Business Maritime Boatyard). This zoning permits a Class B out-of-water storage facility by special exception that reaches a maximum height of only 36 feet. The developer's building exceeds this number and no variance is permitted by law.

Moreover, the existing storage rack building was never legally constructed. Therefore, nothing contained in any grandfathering provisions of Bill No. 149-92 should apply. To do

otherwise would be to reward procedures that bypass the established "safe harbor" of public hearings that are the essence of our zoning regulations and our entire governmental system.

CONCLUSION

For the above reasons, Petitioner's request should be granted. The amendment to the site plan should be held to be a violation of due process ab initio, a new public hearing should be required, and the developer should be held to the standard of the current law.

Respectfully submitted,

Phyllis Cole Friedman

Phyllis Cole Friedman
People's Counsel for Baltimore County

Peter Max Zimmerman

Peter Max Zimmerman
Deputy People's Counsel
Room 47, Courthouse
400 Washington Avenue
Towson, Maryland 21204
(410) 887-2188

I HEREBY CERTIFY that on this 14th day of January, 1993, a copy of the foregoing People's Counsel's Post-Hearing Memorandum was mailed to Benjamin Bronstein, Esquire, Evans, George and Bronstein, 205 Susquehanna Bldg., 29 W. Susquehanna Ave., Towson, MD 21204; and John J. Schmidt and Milton Rehbein,

Bowleys Quarters Improvement Association, 1124 Bowleys Quarters Rd., Baltimore, MD 21221.

Phyllis Cole Friedman

Phyllis Cole Friedman

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND

LEGISLATIVE SESSION 1992, LEGISLATIVE DAY NO. 17

Passed 9-8-92 W & S
Effective 9-15-92

BILL NO. 149-92

MR. VINCE GARDINA, COUNCILMAN

BY THE COUNTY COUNCIL, SEPTEMBER 8, 1992

AN ACT concerning

Business Maritime Zones

FOR the purpose of creating two Business Maritime Zones in the Baltimore County Zoning Regulations which will permit commercial waterfront facilities; updating the list of zone classifications; defining terms; stating legislative intent; authorizing certain uses in the zones by right or by special exception; providing bulk regulations, parking and signage requirements; setting performance standards; creating a special exception for off-premises directional signs for waterfront businesses; creating two classes of out-of-water storage facilities; conforming certain provisions of the development regulations; and generally relating to uses in Maritime Zones.

BY repealing and reenacting, with amendments,

Section 100.1.A.2 and Section 101, the definition of "Marina"

Baltimore County Zoning Regulations, as amended

BY adding

Section 101, the definitions of "Out-of-Water Storage Facility, Class A" and "Out-of-Water Storage Facility, Class B" and Sections 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 413.7 and 502.9.

Baltimore County Zoning Regulations, as amended

BY repealing and reenacting with amendments,

Sections 409.6A.4 and 417.7

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

App. 42

4-3-92

RE: PETITION FOR SPECIAL HEARING : BEFORE THE ZONING COMMISSIONER
N/S Edwards Lane, 1100' SW of
Bowleys Quarters Road : OF BALTIMORE COUNTY
(595 Edwards Lane)
15th Election District : Case No. 92-171-SPH
5th Councilmanic District
:
JOHN J. SCHMIDT AND MILTON
REHBEIN FOR THE BOWLEYS :
QUARTERS IMPROVEMENT ASSN.,
Petitioner :

: : : : : : :

NOTICE OF APPEAL

Please note an appeal from your decision in the above-captioned matter, under date of March 6, 1992, to the County Board of Appeals and forward all papers in connection therewith to the Board for hearing.

Phyllis Cole Friedman

Phyllis Cole Friedman
People's Counsel for Baltimore County

RECEIVED
PAYMENT
4-3-92
ZONING OFFICE

Peter Max Zimmerman

Peter Max Zimmerman
Deputy People's Counsel
Room 47, Courthouse
400 Washington Avenue
Towson, Maryland 21204
(410) 887-2188

I HEREBY CERTIFY that on this 3rd day of April, 1992, a copy of the foregoing Notice of Appeal was mailed to Mr. Milton Rehbein, President, and Mr. John J. Schmidt, Chairman, Zoning Committee, Bowleys Quarters Improvement Assn., 1124 Bowleys Quarters Road, Baltimore, MD 21220; and Benjamin Bronstein, Esquire, 29 W. Susquehanna Ave., Suite 205, Towson, MD 21204, Attorney for Golden Ring Yacht Basin, Inc.

Phyllis Cole Friedman

Phyllis Cole Friedman

4-2-92

BB/mlh/03.31.92

IN RE: PETITION FOR SPECIAL HEARING N/S of Edwards Lane, 1100' SW of Bowleys Quarters Road (595 Edwards Lane) 15th Election District 5th Councilmanic District Milton Rehbein & John J. Schmidt for Bowleys Quarters Imp. Assoc.	*	BEFORE THE ZONING COMMISSIONER OF BALTIMORE COUNTY
Petitioners	*	CASE NO.: 92-171-SPH

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

ORDER OF APPEAL

On behalf of the Respondent, Golden Ring Yacht Basin, Inc., t/a Chesapeake Yacht Center, please enter an appeal to the Board of Appeals from the order of the Zoning Commissioner dated March 6, 1992.

EVANS, GEORGE AND BRONSTEIN

Benjamin Bronstein
205 Susquehanna Building
29 West Susquehanna Avenue
Towson, Maryland 21204
(410) 296-0200

Attorney for Respondent

RECEIVED
PAYMENT
4-2-92
ZONING OFFICE

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on this 2 day of April, 1992, a copy of the foregoing Order of Appeal was mailed, postage pre-paid to Mr. Milton Rehbein, President and Mr. John J. Schmidt, Chairman, Zoning Committee, Bowleys Quarters Improvement Association, 1124 Bowleys Quarters Road, Baltimore, Maryland 21220,

and Phyllis Friedman, People's Counsel, County Courts Building, 401 Bosley Avenue, Towson, Maryland 21204, Lawrence E. Schmidt, Zoning Commissioner for Baltimore County, Zoning Office, Suite 113, Courthouse, 400 Washington Avenue, Towson, Maryland 21204.

Benjamin Bronstein

3-23-92

N/S Edwards Lane, 1100' SW of Bowleys Quarters Road (595 Edwards Lane)	*	BEFORE THE ZONING COMMISSIONER
15th Election District 5th Councilmanic District	*	FOR
John J. Schmidt and Milton Rehbein for the Bowleys Quarters Improvement Association	*	BALTIMORE COUNTY
Petitioner	*	CASE NO.: 92-171-SPH

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

MOTION FOR RECONSIDERATION

Golden Ring Yacht Basin, Inc., by Benjamin Bronstein, its attorney moves for reconsideration of the order dated March 6, 1992 to delineate the number of boats permitted for non-rack ground storage.

EVANS, GEORGE AND BRONSTEIN

Benjamin Bronstein
205 Susquehanna Building
29 West Susquehanna Avenue
Towson, Maryland 21204
(410) 296-0200

RECEIVED
MAR 23 1992
ZONING COMMISSIONER

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on this 23 day of March, 1992, a copy of the foregoing Motion for Reconsideration was mailed, postage pre-paid to Phyllis Cole Friedman, Esquire, People's Counsel for Baltimore County, County Office Building, 111 West Chesapeake Avenue, Towson, Maryland 21204, Mr. Milton Rehbein, President, and Mr. John J. Schmidt, Chairman, Zoning Committee, Bowleys Quarters Improvement Association, 1124 Bowleys Quarters Road, Baltimore, Maryland 21220.

Benjamin Bronstein

3-6-92

IN RE: PETITION FOR SPECIAL HEARING
N/S of Edwards Lane, 1100' SW
of Bowleys Quarters Road
(595 Edwards Lane)
15th Election District
5th Councilmanic District

Milton Rehbein & John J. Schmidt
for Bowleys Quarters Imp. Assoc.
Petitioners

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 92-171-SPH

* * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before me as a Petition for Special Hearing requesting that I disapprove the relief granted by Zoning Commissioner J. Robert Haines in his letter dated November 8, 1989 which permitted the construction of boat racks on the subject property and amended the previously approved site plan in Case No. 86-292-XSPHA, without benefit of a public hearing.

The vast majority of zoning petitions filed in Baltimore County are submitted by or on behalf of the owner of the property which is the subject of the Petition. However, the instant case arises for consideration in a different manner. Herein, the Petition has been filed by Milton Rehbein, President, and John J. Schmidt, Chairman of the Zoning Committee, for the Bowleys Quarters Improvement Association. The relief which they request pertains to a property not owned by them but located within the geographic boundaries of their community association. The property is owned by Golden Ring Yacht Basin, Inc. and is the site of the Chesapeake Yachting Center. By land, the property is located near the intersection of Edwards Lane and Bowleys Quarters Road. By water, the property is adjacent to Frog Mortar Creek.

The Petitioners, by John J. Schmidt, appeared and testified. Numerous residents of the area appeared and testified in support of the

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By

Petition. Appearing in opposition to the relief requested was Charles F. Lampron, President, Golden Ring Yacht Basin, Inc./Chesapeake Yachting Center, property owners. Mr. Lampron was represented by Benjamin Bronstein, Esquire. Also appearing on behalf of the property owner was David S. Thaler, Engineer.

Although the legal issues presented by the parties are sophisticated and contested, the factual history which has led to the filing of this Petition is uncontradicted. As noted above, the property is used as a boatyard and is an ongoing commercial enterprise. It is zoned D.R. 5.5 and is approximately 12 acres, more or less in size. Apparently the property has been used as a boatyard/marina for many years, possibly as far back as 1910. The present owner acquired the site in 1982. At that time, the facility was in a state of disrepair and the business thereon was not actively operating. The structures within the property were deteriorated, the bulkheads were failing, and there were a great number of abandoned boats and equipment on the site. The present owner subsequently expended great effort, and no doubt, large sums of money to rehabilitate the facility. The bulkheads were repaired, additional slips were added, and the entire property revitalized during a massive reclamation project. Ultimately, in 1986, the property owner came in before the then Zoning Commissioner, Arnold Jablon, under Petitions for Special Hearing, Special Exception and Zoning Variances in Case No. 86-292-XSPHA. Within these Petitions, the property owner requested relief so as to enable him to operate a marina/boatyard facility on the site. Additional accessory buildings, caretaker quarters, and sign variances were also requested.

After a public hearing was held, Commissioner Jablon authored a well-reasoned, 11-page opinion, which is referred to and incorporated

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By

herein. Within his opinion and order, Commissioner Jablon denied the Petition for Special Hearing; however, he granted a portion of the Petitions for Special Exception and Zoning Variance. Commissioner Jablon approved the subject property for use as a boatyard and specifically provided that the Petitioner was limited to those uses actually delineated within the definition of a "boatyard" as found in Section 101 of the B.C.Z.R.

Section 101 of the B.C.Z.R. defines boatyard and the activities which encompass such a use. Specifically, the term is defined to mean "a commercial and non-profit boat basin with facilities for one or more of the following: Sale, construction, repair, storage, launching, berthing, securing, fueling, and general servicing of marine craft of all types." Thus, Commissioner Jablon held that the property could be used as a boatyard, encompassing all uses contained within the definition of that term.

It should be further noted that Commissioner Jablon's opinion and order incorporated a plat to accompany the various Petitions filed by the property owner. A copy of that plat was offered in the instant case and is identified as Protestant's Exhibit 1. Most significantly, the plat identifies a section of the property located roughly in the southeastern quadrant of the tract. That section is identified as a "buffer area" and further provided that "this area may be used for passive recreation once trees are established. Uses exclude structures and paving."

Following their receipt of the approval of the Petition for Special Exception from Commissioner Jablon, the property owners proceeded with the revitalization of the subject property. It should be noted that Commissioner Jablon's order provided 200 water slips to be installed at

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the site and that this number was reduced from the property owners' original proposal to provide 296 slips. In any event, the project proceeded and eventually CRG approval was obtained. In time, construction was completed so that the property now features a full-scale, ongoing boatyard facility.

At the hearing before me, the property owner and his witnesses testified as to the evolution of this business as described above. They further indicated that at the time the original Petition was granted, it was intended that dry storage of boats would be permitted on site. Subsequently, however, the property owner decided to convert the dry storage plan to a rack system. The property owner and his witnesses testified that they approached Baltimore County and advised County officials of their intention to construct the aforementioned boat racks. After substantive negotiations with the Department of Environmental Protection and Resource Management (DEPRM), it was determined that the racks should be placed on that portion of the property which had formerly been designated on the plan as the buffer area. Further, the site was redesigned so that the buffer area and additional landscaping were placed immediately adjacent to the bulkhead. This was done, according to the property owners, to address environmental concerns and present a best case scenario, enabling the property owner room for storage while causing the least amount of adverse impact on the creek and neighboring locale.

It was these negotiations that gave birth to Zoning Commissioner J. Robert Haines' letter of November 8, 1989 which is the subject of this hearing. In response to a letter from the property owner's counsel regarding construction of the subject boat racks, Commissioner Haines opined that the property owner's site plan could properly be amended and that the

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proposed revisions were consistent with the spirit and intent of the Order issued by Commissioner Jablon on December 5, 1986. Thus, Commissioner Haines determined that a public hearing was not necessary. Further, he reasoned that construction of the racks was wholly consistent with the spirit and intent of the applicable zoning regulations.

Following this approval, the property owner then went about making the necessary physical alterations to the site. The landscaping and buffer construction on that portion of the property adjacent to the waterline was undertaken and the boat racks ordered from their manufacturer. These racks were custom-made, costing in excess of $1 million, and can store approximately 200 boats. To date, approximately 50% of the racks have been constructed and are now in use.

The purpose of the racks is to be noted. Although the racks are designed for storage of marine craft, the storage is not, as one might expect, long-term. That is, the racks supplement the existing water slips on site by providing temporary storage of boats when not in use. If a boat owner wishes to enjoy the use of his craft on any given day or weekend, he need only call the boatyard operator beforehand. By the use of elaborate and sophisticated machinery, the boat will be removed from the storage rack and placed in the water that day. Thus, the property owner has substantially increased the number of boats which may readily enter Frog Mortar Creek from this property by the construction of the boat racks.

As is shown in the photographs submitted at the hearing, the boat racks are substantial in size and breadth. Upon their construction, they immediately became visible to the neighboring property owners. These property owners then consulted their community association, the Bowleys Quarters Improvement Association, and ascertained the property owners'

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plans. Feeling that the County had wrongfully approved the amendment which essentially permitted the enlargement of the property owner's business without a public hearing, the subject Petition was filed.

The Petition raises a number of issues which must be addressed in determining whether the requested relief should be granted. These issues will be addressed, in turn.

> 1) Does the Petitioner's construction of the subject boat racks, as detailed by the revised site plan dated September 19, 1989, constitute a material change to the previously approved plan in Case No. 86-292-XSPHA issued by Commissioner Jablon on December 15, 1986?

As is clearly shown from the exhibits submitted at the hearing, the racks are substantial in size and dimension. Although they are buffered to the rear (eastern) portion of the property by a berm and tree line, they dominate the view from the water and those dwellings across from the site on Frog Mortar Creek. The photographs which were submitted as exhibits demonstrate the height and breadth of the racks, of which only 50% are installed at this time.

Additionally, there has been substantial physical change to the site occasioned by the property owner's revision to the original plan. This includes the relocation of the parking lot and placement of the buffer area immediately adjacent to the bulkhead. Although these are desirable changes from an environmental standpoint, it is clear that these alterations constitute a substantive change to the layout of the commercial activity on this site.

However, notwithstanding these significant physical changes to the property and layout of the commercial activity thereon, the property owner submits that the amended plan is not materially different from the originally approved plan and Order. The property owner argues that Commis-

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By

sioner Jablon's Order permitted a "boatyard" on this tract and that use as defined within the B.C.Z.R. encompasses a wide range of activities. The property owner contends, for example, that under the previously approved plan, boats could have been stored in the parking lot and just as easily launched under that scenario as compared with the elaborate rack and launch system now in place. Thus, the property owner claims that the number of boats on site is actually less under the present plan than was previously approved and that the rack system provides a more aesthetically pleasing and efficient use of the boatyard facilities.

Although the owner's points in this regard are well-taken, I cannot help but reason that the plan's revision, even if for the better, is a substantial change to what was initially proposed and approved. At the hearing before me, there was testimony regarding negotiations which had taken place prior to Commissioner Jablon's hearing concerning the number of water slips for this site. Testimony indicated that negotiations between the community association and the property owner resulted in a reduction of water slips from 296 to 200. One cannot help but conclude that these negotiations were founded, in part, upon the consideration that the boatyard would generate significant water traffic on Frog Mortar Creek. Although I am appreciative that the boatyard has launching facilities for the public who bring their marine craft to the site on trailers and that boats could be launched from the dry storage area on the parking lot, I must conclude that the sophisticated rack system which the property owner implemented will cause a significant increase in the number of boats which enter the waterway from this locale. For that reason alone, which must be a consideration in the evaluation of any special exception for a boatyard, I must find that the revisions here are substantial.

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Further, Section 417.1(a)1(A) of the Zoning Commissioner's Policy Manual describes the use of boat racks. Specifically, the Policy states that when boat racks were initially introduced in the industry, they were used for winter storage of boats which had water berths at the boatyard/ marina. However, the Policy goes on to describe the increasingly common trend of using the racks as seasonal dry slips. This comment enforces the conclusion that the implementation of the dry rack system constitutes a material and substantive change in the property owner's original plan for those reasons previously set forth.

> 2) Does Section 417.1 of the Zoning Commissioner's Policy Manual prohibit my consideration of the Petition filed in the instant case?

At the hearing, Counsel for the property owner argued that Section 417.1 of the Zoning Commissioner's Policy Manual prohibits consideration of the instant Petition under the theory of res judicata. This section concerns boatyards and marinas, both commercial and community, and was adopted by the Order of then Commissioner Haines on May 21, 1991. The date of the adoption of this policy is significant.

This Policy provides a mechanism for the Zoning Commissioner to evaluate an amendment to the plan brought about by the installation of boat racks. Specifically, Section 417.1(a)1(B) provides that the Zoning Commissioner shall determine if the installation of racks constitutes a substantive change to the special exception on a case by case basis. Applying this Policy to the instant case, the property owner argues that Commissioner Haines, by his letter dated November 8, 1989, has in fact, reviewed this case and determined that there is no substantive change. Thus, the property owner argues that the present Petition cannot be considered in that the issue has been decided.

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However, a closer reading of Commissioner Haines' Order does not support that argument. Specifically, although Commissioner Haines notes that the revised plan is consistent with the spirit and intent of the applicable zoning regulations and Order issued by Commissioner Jablon, he does not address the issue of substantive change. Although I would agree with his conclusion that the revisions are consistent with the prior Order and regulations, I nonetheless believe that the installation of boat racks constitutes a substantive change to the previously approved site plan.

More importantly, it is noted that Commissioner Haines' decision is dated November 8, 1989, prior to the enactment of Section 417.1 of the Policy Manual in May, 1991. That is, Section 417.1 was not in place at the time Commissioner Haines reviewed the updated plan and authored his letter. Thus, the Policy's terms and provisions are not applicable to this case.

However, notwithstanding the enactment of this legislation subsequent to Commissioner Haines' letter, the property owner contends that Section 417.1 is applicable. In support of his theory, the property owner relies on Yorkdale Corporation v. Edwin E. Powell, 237 Md. 121, 205 A2d 269 (1964). That case stands for the proposition that a subsequent change in the law is binding on the reviewing court. That is, if a change in the law is enacted subsequent to a trial court's decision but prior to the appellate court's consideration of the matter, the "new" law is binding. Although the property owner correctly summarizes the holding of that case, it is easily distinguishable from the facts of the matter before me. Yorkdale addresses an appellate review of an underlying administrative decision. Specifically, in Yorkdale, a zoning ordinance was adopted after the administrative review but prior to a review of the case by the

ORDER RECEIVED FOR FILING
Date 3/4/92
By

appellate court. The Court of Appeals held that the reviewing court was obligated to apply the law in effect at the time of its review. In the subject Petition before me, there is no appellate court. I am not reviewing the propriety of Commissioner Haines' Order in an appellate capacity. Rather, my consideration is based upon the Petition for Special Hearing filed on behalf of the Bowleys Quarters Community Association. Clearly, therefore, I must conclude that Section 417.1 is inapplicable in the instant case and thus, I am not precluded from ruling on the Petition for Special Hearing before me.

> 3) Is Baltimore County estopped from revoking the approvals (i.e. building permit) previously granted to the property owner, enabling him to construct the boat racks?

This is the most difficult issue to decide. As indicated above, the property owner's revision of the initial site plan was undertaken above-board and with the full knowledge and approval of County officials. Testimony was uncontradicted that when the property owner initially considered implementation of the boat rack system, he sought approval of same from the appropriate County officials and agencies. Revised site plans were submitted and revisions of the plan were made in accordance with the suggestions of the Department of Environmental Protection and Resource Management (DEPRM). As noted above, Commissioner Haines approved the amendment by way of his letter dated November 8, 1989. In fact, I concur with the decision of the various County agencies that the rack system actually constitutes an improvement over the prior plan in that it may eliminate the haphazard storage of boats on blocks throughout the property and more favorably address environmental concerns by placing the buffer adjacent to the bulkhead. In any event, the property owner offered testimony regarding all of its efforts to obtain approval of its revised plan.

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Date 3/4/92
By

Further, testimony was offered that the property owner obtained a permit for the construction of the boat racks, marked Respondent's Exhibit 7, and that substantial sums of money were expended to specially order the racks from their manufacturer. Clearly, the property owner relied upon the County's approval in ordering and implementing the revisions to its plans.

In support of its argument that the County is estopped from now revoking the permit, the property owner offers the Court of Appeals case, Kent County Planning Inspector v. E. C. F. Abel, et al, 246 Md. 395, 228 A2d 247 (1967). This case stands before the proposition that municipalities may be estopped from revoking authorization to construct through the issuance of permits. Further, the case states that the majority rule "that the doctrine of estoppel in pais is applied to municipal, as well as private, corporations and individuals, at least where the acts of its officers are within the scope of their authority and justice and require that the public be estopped." Supra, Page 249.

An examination of the facts in this case discloses that the permit for construction was issued by the appropriate agency lawfully charged with that responsibility. Further, I believe that substantial and real harm would come to the property owner if the permits were revoked at this time. In my view, it would be inequitable to permit a revokation of the permits. I make this judgment based upon the facts presented to me at the hearing, and with the knowledge that only 50% of the racks have been installed. However, the testimony presented was that the supports for the balance of the racks are in place and that substantial funds have been expended in specially ordering the rack system. Therefore, I must con-

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Date 3/4/82
By

clude that the County is now estopped from revoking the permit issued in this case.

However, notwithstanding my conclusion in this regard, I remain concerned over the effect of the rack system as it pertains to the number of craft which will be stored on and launched from this site. The impact of this boatyard upon the water traffic on Frog Mortar Creek is an issue which should be addressed. Further, the overburdening of the land which comprises the boatyard must be considered. Therefore, my order shall be restricted so as to provide that any storing, launching, berthing and/or securing of any marine craft must be done within either the water slips at the site or the rack system. That is, my Order shall prohibit the dry storage of any marine craft on this site, with the exception of those craft within the rack system. It is my hope that this restriction will prohibit the aesthetically unpleasing storage of boats on the parking lot or other land areas of the site which interferes with motor vehicle circulation and parking, and otherwise overburdens the land. Thus, only the active repair, sale, construction and general servicing of marine craft shall be permitted on the premises. Further, I will require that the property owner again amend his plan so as to designate that portion of the property where the ongoing repair, sale, construction and general servicing of marine craft is to occur. This revision shall be submitted for my approval and shall be consistent with the views expressed herein as to the necessity to preserve parking space and traffic flow, as well as prevent the haphazard storage of boats throughout the site. Said amended plan shall be incorporated into the case file and made a part of this Order.

Further, the Zoning Plans Advisory Committee comments which were submitted with this Petition are noted. Particularly, the Office of Plan-

ORDER RECEIVED FOR FILING
Date 3/19/92
By

ning's comments suggest that a schematic landscape plan be submitted. I concur with this assessment in that additional tree plantings and landscaping adjacent to the bulkhead would provide environmental protection, and, in time, visual buffering of the racks from those dwellings located across Frog Mortar Creek. Therefore, my Order will be further restricted so as to require the property owner to submit a schematic landscape plan detailing the proposed landscape treatment of the subject property, as consistent with this Order, for approval by the Deputy Director of Planning and the Landscape Planner for Baltimore County. Said plan shall be incorporated into the case file and made a part of this Order.

Pursuant to the advertisement, posting of the property and public hearing on this Petition held, and for the reasons set forth above, the relief requested in the Petition for Special Hearing shall be denied and the property owner subject to the restrictions set forth hereinafter.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 6th day of March, 1992 that the Petition for Special Hearing requesting that I disapprove the relief granted by Zoning Commissioner J. Robert Haines in his letter dated November 8, 1989 which permitted the construction of boat racks on the subject property and amended the previously approved site plan in Case No. 86-292-XSPHA without benefit of a public hearing, be and is hereby DENIED, subject to the following restrictions:

1) The property owner is hereby made aware that proceeding at this time is at its 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 relief granted herein shall be rescinded.

2) Within thirty (30) days of the date of this Order and prior to the issuance of any permits, the property owner shall submit a revised site plan incorporating the relief granted herein. Said plan shall describe

ORDER RECEIVED FOR FILING
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By

thereon the designated area for the active repair, sale, construction and general servicing of marine craft. With the exception of those boats being temporarily stored in the designated area described above, the property owner shall not allow or cause any marine craft to be stored outside the boat rack system or water slips.

3) The property owner shall submit a landscape plan for approval by the Deputy Director of Planning and the Landscape Planner for Baltimore County. A copy of the approved plan shall be submitted to this Office for inclusion in the case file.

4) When applying for any permits, the site plan and/or landscaping plan filed must reference this case and set forth and address the restrictions of this Order.

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

ORDER RECEIVED FOR FILING
Date 3/4/92
By

3-6-92

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

Suite 113 Courthouse
400 Washington Avenue
Towson, MD 21204

(410) 887-4386

March 6, 1992

Mr. Milton Rehbein, President, and
Mr. John J. Schmidt, Chairman, Zoning Committee
Bowleys Quarters Improvement Association
1124 Bowleys Quarters Road
Baltimore, Maryland 21220

RE: PETITION FOR SPECIAL HEARING
N/S Edwards Lane, 1100' SW of Bowleys Quarters Road
(595 Edwards Lane)
15th Election District - 5th Councilmanic District
John J. Schmidt and Milton Rehbein for the Bowleys Quarters Improvement Association - Petitioner
Case No. 92-171-SPH

Dear Mr. Rehbein and Mr. Schmidt:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Special Hearing has been denied in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 887-3391.

Very truly yours,

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

cc: Benjamin Bronstein, Esquire
29 W. Susquehanna Avenue, Suite 205, Towson, Md. 21204

People's Counsel

File

Chesapeake Bay Critical Areas Commission
Tawes State Office Building, D-4, Annapolis, Md. 21404

DEPRM

1-17-92

For ZC

RE: PETITION FOR SPECIAL HEARING : BEFORE THE ZONING COMMISSIONER
Center of Edwards Lane, 1100'
(+ -) SW of Bowleys Quarters : OF BALTIMORE COUNTY
Rd. (595 Edwards Lane),
15th Election District :
5th Councilmanic District
:
JOHN J. SCHMIDT, et al., Case No. 92-171-SPH
Petitioners :

: : : : : : : :

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 17th day of January, 1992, a copy of the foregoing Entry of Appearance was delivered to John J. Schmidt, Chairman, Zoning Committee, & Milton Rehbein, President, Bowley's Quarters Improvement Assn., 1124 Bowley's Quarters Rd., Baltimore, MD 21220, Petitioners; and Frank Lampron, President, Golden Ring Yacht Basin, Inc./Chesapeake Yachting Center, 1775 Hilltop Ave., Essex, MD 21221, Legal Owner.

Phyllis Cole Friedman

Phyllis Cole Friedman

CRITICAL AREA #180

16.41-92
WCR

Petition for Special Hearing

to the Zoning Commissioner of Baltimore County 92-171-SPH
interested parties

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~~ ------

disapprove an amendment to the plat approved by Case #86-292-XSPHA

(construction of boat racks) granted by a letter from the Zoning Commissioner,

dated November 8, 1989 which was done without the benefit of a public hearing.

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.

Legal Owner(s):
~~Contract Purchaser/Lessee:~~
Golden Ring Yacht Basin, Inc./
Chesapeake Yachting Center
(Type or Print Name)

Signature Frank Lampron, President

1755 Hilltop Avenue
Address

Essex, MD 21221
City and State

Attorney for Petitioner:

(Type or Print Name)

Signature

Address

City and State

Attorney's Telephone No.: ------

Representative of Interested Parties
~~Legal~~ Owner(s):
John J. Schmidt
Chairman of Zoning Committee
(Type or Print Name)

John J. Schmidt
Signature

Milton Rehbein
President, Bowley's Quarters Improvement Assn.
(Type or Print Name)

Milton Rehbein
Signature

Bowley's Quarters Improvement Assn., Inc.
11241 Bowley's Quarters Road 522-6379
Address Phone No.

Baltimore, MD 21220
City and State

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

Name

Address Phone No.

RECEIVED
OCT 2 1991
ZONING OFFICE

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING -1/2HR. +1HR.
AVAILABLE FOR HEARING
MON./TUES./WED. - NEXT TWO MONTHS
ALL OTHER

REVIEWED BY: WCR DATE 10-7-91

ORDER RECEIVED FOR FILING
Date 3/6/92
By

ITEM #180

CRITICAL AREA

ZONING DESCRIPTION
PARCEL "A"

92-171-SPH

Golden Ring Yacht Basin - Being a lot of parcel of ground located in the 15th Election District of Baltimore County, State of Maryland, more particularly described as follows:

BEGINNING for the same at a point in the center of Edwards Lane located southwesterly 1,100 feet, more or less, from Bowleys Quarters Road; run thence

(1) North 82° 17' 29" West 234.00 feet; thence

(2) North 41° 27' 29" West 310.00 feet; thence

(3) North 26° 44' 21" East 558.72 feet; thence

(4) North 31° 08' 11" East 277.92 feet; thence

(5) North 05° 15' 49" East 536.72 feet; thence

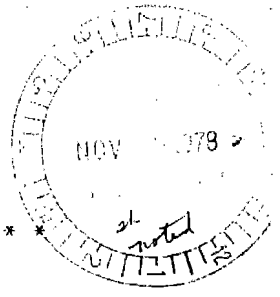
(6) South 38° 44' 12" East 608.85 feet; thence

(7) South 23° 15' 14" West 489.74 feet; thence

(8) South 17° 42' 31" West 640.50 feet to the point of beginning.

CONTAINING 12.8 acres of land, more or less.

JOHN W. HESSIAN, III People's Counsel for Baltimore County,	*	IN THE CIRCUIT COURT
	*	FOR BALTIMORE COUNTY
Complainant	*	
VS	*	EQUITY NO. 95842
S. ERIC DINENNA, Zoning Commissioner of Baltimore County, et al.,	*	
Respondents	*	
	*	



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

MEMORANDUM OPINION

This case involves a narrow question of law since there is no factual dispute. On April 28, 1976, the Court granted a special exception to Baltimore Lodge No. 7, B.P.O. Elks, for a community building to be used by the Lodge for its fraternal and social purposes. The property is located on Windsor Mill Road, south of Old Court Road, and contains 17.29 acres. Certain restrictions were imposed by the Board, none of which are here relevant.

Section 502.3, of the Baltimore County Zoning Regulations provides that a special exception that is not utilized within two years shall be void unless the final Order granting the same specifies a longer period, not exceeding five years. The final Order granting the special exception did not specify any longer period so that it would become void on April 28, 1978, and it is clear that the special exception was not utilized within the two year period. However, counsel for the Elks wrote a letter to the Zoning Commissioner asking him to extend the time period of the special exception's life. On an ex parte basis, without notice to anyone or hearing of any kind, the Zoning Commissioner signed an Order extending the time period for a full five years from the date of the original grant of the special exception. This Order was dated May 23, 1977. In this suit, People's Counsel asks that the Court declare the permit to be void, that the Court declare that the Zoning Commissioner's extension Order of May 23, 1977, is void, and that the Elks be

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 1625

September Term, 1979

BALTIMORE LODGE NO. 7 OF THE BENEVOLENT AND PROTECTIVE ORDER OF ELKS, et al

v.

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY

Thompson,
Piginski, M. Albert
(Specially Assigned)
Cavan, Stanley
(Specially Assigned)
JJ.

Per Curiam

Filed: October 2, 1980

OCT 0 3
PEOPLE'S CO

97-171-SPH

CERTIFICATE OF POSTING

ZONING DEPARTMENT OF BALTIMORE COUNTY

Towson, Maryland

District 15th Date of Posting 11/1/91

Posted for: Special Hearing

Petitioner: Bowley's Quarters Improvement Assn.

Location of property: Center Edwards Lane, ~1110' + SW Bowleys Quarter

595 Edwards Lane

Location of Signs: Posted at entrance to Yacht Basin, which is at the SE/cor. of Carrol Island Plaza.

Remarks:

Posted by M. A. Healey Date of return: 11/1/91

Signature

Number of Signs: 1

CERTIFICATE OF POSTING

ZONING DEPARTMENT OF BALTIMORE COUNTY 92-171-SPH

Towson, Maryland

District 15th Date of Posting 11/30/91

Posted for: Special Hearing

Petitioner: Golden Ring Yacht Ctr - Bowley's Quarters Emp Assn

Location of property: 585 Center Edwards Lane, 1110' ± SW Bowley Quarters

Location of Signs: Posted at entrance to Yacht Ctr at the N/S of Yacht Ctr & W/S of Carroll Island Shopping Plaza.

Remarks:

Posted by [signature] Date of return: 12/6/91

Signature

Number of Signs: 1

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 21204 as follows:

Case Number: 92-171-SPH
Center Edward Lane, 1110'(+-) SW of Bowleys Quarters Road
595 Edwards Lane
15th Election District
5th Councilmanic
Owner:
Golden Ring Yacht Basin, Inc., a/k/a Chesapeake Yachting Center
Petitioner(s):
Bowley's Quarters Improvement Assn., Inc. et al
Hearing Date: Tuesday, November 19, 1991 at 2:00 p.m.

Special Hearing: to disapprove an amendment to the plat approved by Case #86-292-XSPHA (construction of boat racks) granted by a letter from the Zoning Commissioner dated November, 8, 1989, which was done without the benefit of a public hearing.

LAWRENCE E. SCHMIDT
Zoning Commissioner of
Baltimore County

10/331 October 31.

CERTIFICATE OF PUBLICATION

TOWSON, MD., 10/31, 19 91

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 10/31, 19 91.

THE JEFFERSONIAN,

S. Zeke Orlinsky

Publisher

$44.52

CERTIFICATE OF PUBLICATION

Office of

THE AVENUE NEWS

442 Eastern Blvd.
Balto., MD. 21221

October 31, 19 91

THIS IS TO CERTIFY, that the annexed advertisement of

Golden Ring Yacht Basin Inc in the matter
of Zoning Hearing of 595 Edwards Lane
Case #92-171-SPH, P.O. #0116144, Req #M49785
66.5 lines @.60 or $39.90

was inserted in **The Avenue News** a weekly newspaper published in Baltimore County, Maryland once a week for 1 successive week(s) before the 1 day of November 19 91 ; that is to say, the same was inserted in the issues of October 31 19 91 .

The Avenue Inc.

per publisher

By Diane B Coldwell

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 21204 as follows:

Case Number: 92-171-SPH
Center Edward Lane, 1110' (+-) SW of Bowleys Quarters Road
595 Edwards Lane
15th Election District - 5th Councilmanic
Owner: Golden Ring Yacht Basin, Inc. a/k/a Chesapeake Yachting Center
Petitioner(s): Bowleys Quarters Improvement Assn., Inc., et al
HEARING: TUESDAY, NOVEMBER 19, 1991 at 2:00 P.M.

Special Hearing to disapprove an amendment to the plat approved by Case #86-292-XSPHA (Construction of boat racks) granted by a letter from the Zoning Commissioner dated November 8, 1989, which was done without the benefit of a public hearing.

Lawrence E. Schmidt
Zoning Commissioner
of Baltimore County

92-171-SPH

CERTIFICATE OF POSTING

ZONING DEPARTMENT OF BALTIMORE COUNTY

Towson, Maryland

District 15th Date of Posting 5/8/92

Posted for: Appeal

Petitioner: Schmidt & Rehbein For Bowleys Qtrs. Impr. Assoc.

Location of property: N/S Edwards Lane, 1100' SW/Bowleys Qtrs. Rd.
595 Edwards Lane.

Location of Signs: Post at Entrance to Yacht Basin at Western end of Carroll Island Shp. Ctr.

Remarks:

Posted by M. Healy Date of return: 5/15/92
Signature

Number of Signs: 1

Baltimore County
Zoning Commisioner
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

receipt

Date 4/02/92

Account: R-001-6150

Number A9200053

92-171-SPH

APPEAL FEES	QTY		PRICE
140 -OF ALL OTHER ORDERS	1	X	$175.00
150 -POSTING SIGNS / ADVERTISING	1	X	$35.00
	TOTAL:		$210.00

LAST NAME OF OWNER: GOLDEN RING YACHT

Please Make Checks Payable To: Baltimore County $210.00

BA C002:47PM04-02-92

Cashier Validation

receipt

Baltimore County
Zoning Commisioner
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

Account: R-001-6150

Date

Number

$75.00 PARTIAL PAYMENT APPROVED PER ARNOLD JABLON, DIRECTOR OF THE DEPARTMENT OF ZONING ADMINISTRATION AND DEVELOPMENT MANAGEMENT.

10/09/91 H9200180

PUBLIC HEARING FEES	QTY	PRICE
040 -SPECIAL HEARING (OTHER)	1 X	$175.00
	TOTAL:	$175.00

LAST NAME OF OWNER: GOLDEN RING YACHT

Please Make Checks Payable To: Baltimore County

Cashier Validation

receipt

Baltimore County
Zoning Commisioner
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

Account: R-001-6150
Number

Date 10/18/91

ITEM #180

PUBLIC HEARING FEES:

#040 - SPECIAL HEARING (OTHER)

BALANCE OF SPECIAL HEARING FEE $100.00

(SEE OTHER RECEIPT FOR PAYMENT)

LEGAL OWNER: Golden Ring Yacht Basin, Inc./
Chesapeake Yachting Club

04A04#0056MICHRC $100.00
10:09AM10-18-91

Please Make Checks Payable To: Baltimore County

ashier Validation

receipt

Baltimore County
Zoning Commisioner
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

Account: R-001-6150
Number

ITEM #180

Date 10/9/91

PUBLIC HEARING FEES:

#040 - SPECIAL HEARING (OTHER)

PARTIAL PAYMENT APPROVED PER ARNOLD JABLON, DIRECTOR OF Z.A.D.M.

$75.00

LEGAL OWNER: Golden Ring Yacht ~~Club~~ Basin, INc./
Chesapeake Yachting Club

04A04#0034MICHRC $75.00
BA CO03:55PM10-09-91

Please Make Checks Payable To: Baltimore County

Cashier Validation

Form CA2

Sandra Sanidas—887-2660
Civil Assignment Commissioner

Joyce Grimm—887-3497
Director of Central Assignment

CIRCUIT COURT FOR BALTIMORE COUNTY

ASSIGNMENT OFFICE
COUNTY COURTS BUILDING
401 Bosley Avenue
P.O. Box 6754
Towson, Maryland, 21285-6754

Kathy Rushton—887-2660
Jury Assignments—Civil

Jan Dockman—887-2661
Non-Jury Assignments—Civil.

November 1, 1993

BENJAMIN BRONSTEIN, ESQ.

COUNTY BOARD OF APPEALS OF BALTO. OC.

PETER MAX ZIMMERMAN, ESQ.
CAROLE S. DEMILIO, ESQ.

RECEIVED
COUNTY BOARD OF APPEALS
93 NOV -3 PM 3:38

RE: Non-Jury 93 CV 7344 - MATTER OF THE APPLICATION OF JOHN J. SCHMIDT, ETAL

SETTLEMENT CONFERENCE DATE: N/A

Conference Room # 507 before the Honorable

All counsel and their clients MUST attend this Settlement Conference in person. All Insurance Representatives or, in domestic cases, a corroborating witness MUST attend this Settlement Conference in person. Failure of attendance in person of all parties listed above can result in sanctions being imposed, unless prior approval of the Court is obtained. THERE WILL BE NO EXCEPTIONS.

HEARING DATE: Appeal: 2 hours Thursday, January 20, 1994, @ 9:30 a.m.

WITH THE EXCEPTION OF DOMESTIC CASES, COURT COSTS MUST BE PAID ON THE DATE OF SETTLEMENT CONFERENCE OR TRIAL, UPON SETTLEMENT OF THE CASE.

POSTPONEMENT POLICIES:

UPON RECEIPT OF THIS NOTICE: Counsel shall contact each other to conform calendars for the above date(s). Claim of not receiving notice will not constitute reason for postponement.

A request for postponement **MUST BE MADE IN WRITING** to the Assignment Office with a copy to all counsel involved.

COUNSEL MUST NOTIFY THE CIVIL ASSIGNMENT OFFICE **WITHIN 15 DAYS OF RECEIPT OF THIS NOTICE** AS TO ANY CONFLICTS THAT MAY EXIST WITH THE ABOVE REFERENCED DATES. OTHERWISE, IT WILL BE ASSUMED THAT THESE DATES ARE VALID AND **NO POSTPONEMENT WILL BE GRANTED.**

INDIVIDUALS WITH DISABILITIES, WHO MAY NEED ACCOMMODATIONS PRIOR TO COURT DATES, SHOULD CONTACT THE COURT ADMINISTRATOR'S OFFICE (887-2687) OR USE THE COURT'S TDD LINE (887-3018) OR THE VOICE/TDD MD. RELAY SERVICE 1-800-735-2258.

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning

111 West Chesapeake Avenue
Towson, MD 21204

887-3353

DATE: 11-5-91

Bowley's Quarters Improvement Assn., Inc.
1124 Bowley's Quarters Road
Baltimore, Maryland 21220

RE:
Case Number: 92-171-SPH
Center Edward Lane, 1110'(+-) SW of Bowleys Quarters Road
595 Edwards Lane
15th Election District - 5th Councilmanic
Owner: Golden Ring Yacht Basin, Inc., a/k/a Chesapeake Yachting Center
Petitioner(s): Bowley's Quarters Improvement Assn., Inc., et al
HEARING: TUESDAY, NOVEMBER 19, 1991 at 2:00 p.m.

Dear Petitioner(s):

Please be advised that $ 109.46 is due for advertising and posting of the above captioned property.

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

Please forward your check via return mail to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 113, Towson, Maryland 21204. It should have your case number noted thereon and be made payable to Baltimore County, Maryland. In order to prevent delay of the issuance of proper credit and/or your Order, immediate attention to this matter is suggested.

Lawrence E. Schmidt

Lawrence E. Schmidt
ZONING COMMISSIONER
BALTIMORE COUNTY, MARYLAND

PETITION OF: GOLDEN RING YACHT CLUB, INC./ CHESAPEAKE YACHTING CENTER

CIVIL ACTION # 93 CV 7344 59/226

IN THE MATTER OF JOHN J. SCHMIDT, ET AL

RECEIVED FROM THE COUNTY BOARD OF APPEALS EXHIBITS, BOARD'S RECORD EXTRACT & TRANSCRIPT FILED IN THE ABOVE-ENTITLED CASE, AND ZONING COMMISSIONER'S FILE AND EXHIBITS

Mary Ross

Clerk's Office

Date: 10/12/93

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning

111 West Chesapeake Avenue
Towson, MD 21204

887-3353

DATE: 11-5-91

COPY

Bowley's Quarters Improvement Assn., Inc.
1124 Bowley's Quarters Road
Baltimore, Maryland 21220

RE:
Case Number: 92-171-SPH
Center Edward Lane, 1110'(+-) SW of Bowleys Quarters Road
595 Edwards Lane
15th Election District - 5th Councilmanic
Owner: Golden Ring Yacht Basin, Inc., a/k/a Chesapeake Yachting Center
Petitioner(s): Bowley's Quarters Improvement Assn., Inc., et al
~~HEARING: TUESDAY, NOVEMBER 19, 1991 at 2:00 p.m.~~

Dear Petitioner(s):

Please be advised that $ 109.46 is due for advertising and posting of the above captioned property.

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

Please forward your check via return mail to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 113, Towson, Maryland 21204. It should have your case number noted thereon and be made payable to Baltimore County, Maryland. In order to prevent delay of the issuance of proper credit and/or your Order, immediate attention to this matter is suggested.

Lawrence E. Schmidt

Lawrence E. Schmidt
ZONING COMMISSIONER
BALTIMORE COUNTY, MARYLAND

County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

Hearing Room - Room 48
Old Courthouse, 400 Washington Avenue

January 15, 1997

NOTICE OF ASSIGNMENT /Day #2

CASE #: 92-171-SPH

IN THE MATTER OF: JOHN J. SCHMIDT, ET AL (GOLDEN RING YACHT BASIN, INC. /CHESAPEAKE YACHTING CENTER)
595 Edwards Lane
15th E; 5th C

(On remand from the Circuit Court for Baltimore County pursuant to Order of Court of Special Appeals)

Continued from 1/15/97

ASSIGNED FOR: TUESDAY, MARCH 18, 1997 at 10:00 a.m. /Day #2

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

No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c). For further information, see Board's Rules of Practice & Procedure, Appendix C, Baltimore County Code.

Kathleen C. Bianco
Legal Administrator

---

cc:

Counsel for Golden Ring Yacht Basin /Chesapeake Yachting	Benjamin Bronstein, Esquire
Golden Ring Yacht Basin	Charles F. Lampron
People's Counsel for Baltimore Co	Peter Max Zimmerman
Bowleys Qrtrs Improvement Assn.	John J. Schmidt, et al
Mr. David Cahlander	
Pat Keller, Director /Planning	Arnold Jablon, Director /PDM
Lawrence E. Schmidt	Virginia W. Barnhart, Co Atty

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County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

Hearing Room - Room 48
Old Courthouse, 400 Washington Avenue

August 30, 1996

SECOND NOTICE OF POSTPONEMENT & REASSIGNMENT
/On Remand to the Board of Appeals

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH RULE 2(b). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c), BOARD'S RULES OF PRACTICE & PROCEDURE, APPENDIX C, BALTIMORE COUNTY CODE.

CASE NO. 92-171-SPH — JOHN J. SCHMIDT, ET AL (GOLDEN RING YACHT BASIN, INC. /CHESAPEAKE YACHTING CENTER)
N/s Edwards Lane, 1100' SW of Bowleys Quarters Road (595 Edwards Lane)
15th Election District
5th Councilmanic District

RE: Remand Order of the Circuit Court for Baltimore County

5/22/95 -Remanded to CBA pursuant to Order of the Court of Special Appeals of Maryland; REVERSED and REMANDED as to portion of decision restricting appellee to 5% limitation on dry storage for further proceedings consistent with CSA Opinion.

This matter, which had been scheduled for hearing on 10/30/96 by Remand Order of the Circuit Court, pursuant to the May 22, 1995 decision of the Court of Special Appeals of Maryland, No. 1047 Unreported, September Term 1994, has been **POSTPONED** at the request of Counsel for Golden Ring Yacht Basin, Inc. /Chesapeake Yachting Center; and has been

REASSIGNED FOR: **WEDNESDAY, JANUARY 15, 1997 at 10:00 a.m.**

cc: Benjamin Bronstein, Esquire — Counsel for Golden Ring Yacht Basin /Chesapeake Yachting
Charles F. Lampron /Golden Ring YB
Peter Max Zimmerman
/People's Counsel for Baltimore County
John J. Schmidt, et al
/Bowleys Quarters Improvement Association
Mr. David Cahlander
Pat Keller, Director /Planning
Lawrence E. Schmidt
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

Kathleen C. Bianco
Legal Administrator

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County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

Hearing Room - Room 48
Old Courthouse, 400 Washington Avenue

July 9, 1996

NOTICE OF POSTPONEMENT & REASSIGNMENT /On Remand to the Board of Appeals

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH RULE 2(b). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c), BOARD'S RULES OF PRACTICE & PROCEDURE, APPENDIX C, BALTIMORE COUNTY CODE.

CASE NO. 92-171-SPH / JOHN J. SCHMIDT, ET AL (GOLDEN RING YACHT BASIN, INC. /CHESAPEAKE YACHTING CENTER)
N/s Edwards Lane, 1100' SW of Bowleys Quarters Road (595 Edwards Lane)
15th Election District
5th Councilmanic District

pp'd to 1/15/97 - request of B. Bronstein - none opposed - trying to resolve

RE: Remand Order of the Circuit Court for Baltimore County

5/22/95 -Remanded to CBA pursuant to Order of the Court of Special Appeals of Maryland; REVERSED and REMANDED as to portion of decision restricting appellee to 5% limitation on dry storage for further proceedings consistent with CSA Opinion.

This matter, which had been scheduled for hearing on 9/26/96 by Remand Order of the Circuit Court, pursuant to the May 22, 1995 decision of the Court of Special Appeals of Maryland, No. 1047 Unreported, September Term 1994, has been **POSTPONED** at the request of Counsel for Golden Ring Yacht Basin, Inc.; and has been

REASSIGNED FOR: WEDNESDAY, OCTOBER 30, 1996 at 10:00 a.m.

cc: Benjamin Bronstein, Esquire Counsel for Golden Ring Yacht Basin, Inc.
Charles F. Lampron /Golden Ring Yacht Basin, Inc.
Peter Max Zimmerman
/People's Counsel for Baltimore County
John J. Schmidt, et al
/Bowleys Quarters Improvement Association
Mr. David Cahlander

Pat Keller, Director /Planning
Lawrence E. Schmidt
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

Kathleen C. Bianco
Administrative Assistant

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LAW OFFICES
EVANS, GEORGE AND BRONSTEIN
SUSQUEHANNA BUILDING, SUITE 205
29 WEST SUSQUEHANNA AVENUE
TOWSON, MARYLAND 21204
(410) 296-0200
FAX: (410) 296-3719

L. ROBERT EVANS
HARRIS JAMES GEORGE
BENJAMIN BRONSTEIN
MICHAEL J. CHOMEL

CONSTANCE K. PUTZEL
OF COUNSEL

July 9, 1996

Ms. Kathleen C. Bianco
Board of Appeals for Baltimore County
Courthouse
400 Washington Avenue
Towson, Maryland 21204

RE: **Golden Ring Yacht Basin, Inc./Chesapeake Yachting Center v. People's Counsel for Baltimore County**
In the Circuit Court for Baltimore County
Case No.: 93CV7344

Dear Ms. Bianco:

This letter will confirm our recent telephone conversation wherein I requested a postponement of the September 26, 1996 hearing date until October 30, 1996.

Thank you for your kind consideration.

Very truly yours,

EVANS, GEORGE AND BRONSTEIN

Benjamin Bronstein

BB/mlg

cc: Peter Max Zimmerman, People's Counsel
Mr. Frank Lampron
Mr. Michael Glick
Mr. Michael Weinman
David S. Thaler, P.E.

96 JUL 10 PM 12:02
COUNTY BOARD OF APPEALS
RECEIVED

County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

Hearing Room - Room 48
Old Courthouse, 400 Washington Avenue

June 10, 1996

NOTICE OF ASSIGNMENT /On Remand to the Board of Appeals

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH RULE 2(b). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c), BOARD'S RULES OF PRACTICE & PROCEDURE, APPENDIX C, BALTIMORE COUNTY CODE.

CASE NO. 92-171-SPH

JOHN J. SCHMIDT, ET AL (GOLDEN RING YACHT BASIN, INC. /CHESAPEAKE YACHTING CENTER)
N/s Edwards Lane, 1100' SW of Bowleys Quarters Road (595 Edwards Lane)
15th Election District
5th Councilmanic District

pp'd to 10/30/96 - req of counsel for Golden Ring

RE: Remand Order of the Circuit Court for Baltimore County

5/22/95 -Remanded to CBA pursuant to Order of the Court of Special Appeals of Maryland; REVERSED and REMANDED as to portion of decision restricting appellee to 5% limitation on dry storage for further proceedings consistent with CSA Opinion.

This matter has been scheduled for hearing by Remand Order of the Circuit Court, pursuant to the May 22, 1995 decision of the Court of Special Appeals of Maryland, No. 1047 Unreported, September Term 1994; and has been

ASSIGNED FOR: THURSDAY, SEPTEMBER 26, 1996 at 10:00 a.m.

cc: Benjamin Bronstein, Esquire Counsel for Golden Ring Yacht Basin, Inc.
Charles F. Lampron /Golden Ring Yacht Basin, Inc.
Peter Max Zimmerman
/People's Counsel for Baltimore County
John J. Schmidt, et al
/Bowleys Quarters Improvement Association
Mr. David Cahlander

Pat Keller, Director /Planning
Lawrence E. Schmidt
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

Kathleen C. Bianco
Administrative Assistant

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County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

Hearing Room -
Room 48, Old Courthouse
400 Washington Avenue

September 16, 1992

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 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. 92-171-SPH

JOHN J. SCHMIDT, ET AL
N/s Edwards La., 1100' SW of Bowleys Quarters Road (595 Edwards Lane)
15th Election District;
5th Councilmanic District

(Day #2 - Cont.'d from 9/15/92)

SPH-to disapprove relief granted by ZC (boat racks without public hearing)

3/6/92 - Z.C.'s Order DENYING Petition.

ASSIGNED FOR: **THURSDAY, DECEMBER 17, 1992 AT 9:00 a.m.**

cc: Benjamin Bronstein, Esquire - Counsel for Legal Owner

Golden Ring Yacht Basin, Inc. - Legal Owner/Appellant

John J. Schmidt and Milton Rehbein
Bowleys Quarters Impr. Assoc., Inc. - Petitioner

People's Counsel for Baltimore County - Appellant
P. David Fields
Public Services
Lawrence E. Schmidt
Timothy M. Kotroco
W. Carl Richards, Jr.
Docket Clerk - Zoning
Arnold Jablon, Director of Zoning Administration
Mr. David Cahlander

LindaLee M. Kuszmaul
Legal Secretary

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County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

Hearing Room -
Room 48, Old Courthouse
400 Washington Avenue

September 16, 1992

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 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. 92-171-SPH

JOHN J. SCHMIDT, ET AL
N/s Edwards La., 1100' SW of Bowleys Quarters Road (595 Edwards Lane)
15th Election District;
5th Councilmanic District

(Day #2 - Cont.'d from 9/15/92)

SPH-to disapprove relief granted by ZC (boat racks without public hearing)

3/6/92 - Z.C.'s Order DENYING Petition.

ASSIGNED FOR: **THURSDAY, DECEMBER 17, 1992 AT 9:00 a.m.**

cc: Benjamin Bronstein, Esquire - Counsel for Legal Owner

Golden Ring Yacht Basin, Inc. - Legal Owner/Appellant

John J. Schmidt and Milton Rehbein
Bowleys Quarters Impr. Assoc., Inc. - Petitioner

People's Counsel for Baltimore County - Appellant
P. David Fields
Public Services
Lawrence E. Schmidt
Timothy M. Kotroco
W. Carl Richards, Jr.
✓Docket Clerk - Zoning
Arnold Jablon, Director of Zoning Administration

LindaLee M. Kuszmaul
Legal Secretary

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SEP 17 1992
ZONING OFFICE

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County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

Hearing Room -
Room 48, Old Courthouse
400 Washington Avenue

May 11, 1992

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 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. 92-171-SPH

JOHN J. SCHMIDT, ET AL
N/s Edwards La., 1100' SW of Bowleys Quarters Road (595 Edwards Lane)
15th Election District;
5th Councilmanic District

SPH-to disapprove relief granted by ZC (boat racks without public hearing)

3/6/92 - Z.C.'s Order DENYING Petition.

ASSIGNED FOR: **TUESDAY, SEPTEMBER 15, 1992 AT 10:00 a.m.**

cc: Benjamin Bronstein, Esquire - Counsel for Legal Owner

Golden Ring Yacht Basin, Inc. - Legal Owner/Appellant

John J. Schmidt and Milton Rehbein
Bowleys Quarters Impr. Assoc., Inc. - Petitioner

People's Counsel for Baltimore County - Appellant
P. David Fields
Lawrence E. Schmidt
Timothy M. Kotroco
W. Carl Richards, Jr.
Docket Clerk - Zoning
Arnold Jablon, Director of Zoning Administration
Public Services

LindaLee M. Kuszmaul
Legal Secretary

Printed on Recycled Paper

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning

11 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

APRIL 2, 1992

NOTICE OF HEARING
ON MOTION FOR RECONSIDERATION

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, Baltimore County Office Building, located at 111 W. Chesapeake Avenue, Towson, Maryland, as follows:

CASE NUMBER: 92-171-SPH
N/S of Edwards Lane, 1100' SW of Bowleys Quarters Road
595 Edwards Lane
15th Election District - 5th Councilmanic
Petitioner(s): Bowleys Quarters Improvement Association
HEARING: THURSDAY, APRIL 30, 1992 at 2:00 p.m.

HEARING ON MOTION FOR RECONSIDERATION - ONLY.
NO ADDITIONAL TESTIMONY WILL BE TAKEN.

Lawrence E. Schmidt

ZONING COMMISSIONER
BALTIMORE COUNTY, MARYLAND

cc: Benjamin Bronstein, Esq.
All Protesants (Per Sign-In Sheet)
People's Counsel

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Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

APRIL 2, 1992

NOTICE OF HEARING
ON MOTION FOR RECONSIDERATION

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, Baltimore County Office Building, located at 111 W. Chesapeake Avenue, Towson, Maryland, as follows:

CASE NUMBER: 92-171-SPH
N/S of Edwards Lane, 1100' SW of Bowleys Quarters Road
595 Edwards Lane
15th Election District - 5th Councilmanic
Petitioner(s): Bowleys Quarters Improvement Association
HEARING: THURSDAY, APRIL 30, 1992 at 2:00 p.m.

HEARING ON MOTION FOR RECONSIDERATION - ONLY.
NO ADDITIONAL TESTIMONY WILL BE TAKEN.

Lawrence E. Schmidt

ZONING COMMISSIONER
BALTIMORE COUNTY, MARYLAND

cc: Benjamin Bronstein, Esq.
All Protesants (Per Sign-In Sheet)
People's Counsel

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Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

December 12, 1991

NOTICE OF REASSIGNMENT

CASE NUMBER(S): 92-171-SPH
LEGAL OWNER Golden Ring Yacht Basin, Inc.
LOCATION: 595 Edwards Lane

HEARING OF THE ABOVE MATTER WILL TAKE PLACE AS FOLLOWS:

FRIDAY, JANUARY 17, 1992 at 9:30 a.m.

IN THE BALTIMORE COUNTY, COUNTY OFFICE BUILDING, ROOM 106, 111 W. CHESAPEAKE AVENUE, TOWSON, MARYLAND 21204.

Lawrence E. Schmidt

ZONING COMMISSIONER
BALTIMORE COUNTY

cc: Golden Ring Yacht Basin, Inc.
Bowley's Quaters Improvement Association
Benjamin Bronstein, Esq.
John J. Schmidt
David R. Cahlander

RING

12/4/91

2807-92

TO GS
OK - call Ben + get alternative dates - have Ben make sure date is OK w/ John Schmidt
GS

LAW OFFICES
EVANS, GEORGE AND BRONSTEIN
SUSQUEHANNA BUILDING, SUITE 205
29 WEST SUSQUEHANNA AVENUE
TOWSON, MARYLAND 21204
(301) 296-0200
FAX: (301) 296-3719

L. ROBERT EVANS
HARRIS JAMES GEORGE
BENJAMIN BRONSTEIN

MICHAEL J. CHOMEL
DOUGLAS A. STUBBS

RECEIVED
DEC 4 1991
ZONING OFFICE

December 3, 1991

The Honorable Lawrence Schmidt
Zoning Commissioner for Baltimore County
First Floor
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

RE: **Case No.: 92-171-SPH**
Legal Owner: Golden Ring Yacht Center
Location: 595 Edwards Lane

Dear Commissioner Schmidt:

The above entitled case was set for December 19, 1991 at 9:00 a.m. as an agreed date. I subsequently learned that one of my witnesses was unavailable on that date. I have notified Mr. John Schmidt the Petitioner's representative who does not object to a new date. I confirmed this request with Gwen Stevens of your department. I would therefore appreciate that the matter be reset for hearing during the month of January.

Thank you for your kind consideration.

Very truly yours,

EVANS, GEORGE AND BRONSTEIN

Benjamin Bronstein

BB/mlh
cc: Gwen Stevens
Zoning Office

Mr. John Schmidt
Bowley's Quarters Improvement Association

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning

111 West Chesapeake Avenue
Towson, MD 21204

887-3353

NOVEMBER 18, 1991

NOTICE OF REASSIGNMENT

CASE NUMBER(S): 92-171-SPH
LEGAL OWNER Golden Ring Yacht Center
LOCATION: 595 Edwards Lane

PER AGREED DATE
HEARING OF THE ABOVE MATTER WILL TAKE PLACE AS FOLLOWS:

THURSDAY, DECEMBER 19, 1991 at 9:00 a.m.

IN THE BALTIMORE COUNTY OFFICE BUILDING, ROOM 106, 111 W. CHESAPEAKE AVENUE, TOWSON, MARYLAND 21204.

Lawrence E. Schmidt

ZONING COMMISSIONER
BALTIMORE COUNTY

cc: Golden Ring Yacht Basin, Inc.
Bowley's Quarters Improvement Association
Benjamin Bronstein, Esq.
John J. Schmidt

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning

111 West Chesapeake Avenue
Towson, MD 21204

887-3353

COPY

NOVEMBER 5, 1991

NOTICE OF POSTPONEMENT

CASE NUMBER:	92-171-SPH
LEGAL OWNER(s):	Golden Ring Yacht Basin, Inc.
LOCATION:	595 Edwards Lane

THE ABOVE MATTER, PREVIOUSLY ASSIGNED TO HEARD ON TUESDAY, NOVEMBER 5, 1991, HAS BEEN POSTPONED AT THE REQUEST OF BENJAMIN BRONSTEIN, ATTORNEY FOR THE PROPERTY OWNER(S).

NOTIFICATION OF THE NEW HEARING DATE WILL BE FORWARDED SHORTLY.

Arnold Jablon
Director

cc: Bowley's Quarters Improvement Association, Inc.
Golden Ring Yacht Basin, Inc.
Benjamin Bronstein, Esq.

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning

111 West Chesapeake Avenue
Towson, MD 21204

887-3353

OCTOBER 22, 1991

NOTICE OF HEARING

COPY

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 21204 as follows:

Case Number: 92-171-SPH
Center Edward Lane, 1110'(+-) SW of Bowleys Quarters Road
595 Edwards Lane
15th Election District - 5th Councilmanic
Owner: Golden Ring Yacht Basin, Inc., a/k/a Chesapeake Yachting Center
Petitioner(s): Bowley's Quarters Improvement Assn., Inc., et al
HEARING: TUESDAY, NOVEMBER 19, 1991 at 2:00 p.m.

Special Hearing to disapprove an amendment to the plat approved by Case #86-292-XSPHA (construction of boat racks) granted by a letter from the Zoning Commissioner dated November 8, 1989, which was done without the benefit of a public hearing.

Lawrence E. Schmidt

Zoning Commissioner of
Baltimore County

cc: Frank Lampron
Bowley's Quarters Improvement Assn., Inc.

N/s Edwards La., 1100' SW of Bowleys Qtrs. Rd. (595 Edwards La.)

#92-171-SPH SCHMIDT & REHBEIN FOR BOWLEYS QUARTERS IMPR. ASSOC.

Appealed: 4/2 & 4/3/92 15th District

BALTIMORE COUNTY, MARYLAND

DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT

INTER-OFFICE CORRESPONDENCE

Respondent No 4

TO: Mr. Arnold Jablon, Director
Office of Zoning Administration
and Development Management

DATE: December 18, 1991

FROM: J. James Dieter, Director

92-171-SPH

SUBJECT: Petition for Special Hearing - Item 180
Golden Ring Yacht Basin/Chesapeake Yachting Center
Chesapeake Bay Critical Area Findings

RECEIVED
DEC 19
ZONING COMMISSIONER

SITE LOCATION

The subject property is located at 595 Edwards Lane. The site is within the Chesapeake Bay Critical Area and is classified as a Limited Development Area (LDA).

APPLICANT Bowley's Quarters Improvement Association, Inc.

APPLICANT PROPOSAL

The applicant has requested 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 disapprove an amendment to the plot approved by Case #86-292-XSPHA (construction of boat racks) granted by a letter from the Zoning Commissioner, dated November 8, 1989 which was done without the benefit of a public hearing.

GOALS OF THE CHESAPEAKE BAY CRITICAL AREA PROGRAM

In accordance with the Chesapeake Bay Critical Area Program, all project approvals shall be based on a finding which assures that proposed projects are consistent with the following goals of the Critical Area Law:

1. "Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have runoff from surrounding lands;

2. Conserve fish, wildlife and plant habitat; and

3. Establish land use policies for development in the Chesapeake Bay Critical Area which accommodate growth and also address the fact that even if pollution is controlled, the number, movement, and activities of persons in that area can create adverse environmental impacts." <COMAR 14.15.10.01.0>

CONCLUSION

This project has previously received an approved Chesapeake Bay Critical Area Findings from the Office of Planning and Zoning. The amendment to the plot was reviewed by the Department of Environmental Protection and Resource Management and found to be in accordance with the original Findings. If there are any questions, please contact Ms. Patricia M. Farr at 887-2904.

J. James Dieter, Director

JJD:SRO:ju
Attachment

cc: Mr. John J. Schmidt
Mr. Milton Rehbein
Mr. Frank Lampron

GOLDEN/TXTNSS

92-171-SPH

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director DATE: October 29, 1991
Zoning Administration and Development Management

FROM: Robert W. Bowling, P.E.

RE: Zoning Advisory Committee Meeting
for October 22, 1991

The Developers Engineering Division has reviewed the subject zoning items and we have no comments for Items 124, 167, 168, 169, 170, 173, 176, 178, 179, 180, 184, 186, 187, 188 and 189.

In addition, we have no comments at this time for Item #438 (Case No. 91-466).

For Item 166, we will have no comments until the County Review Group Meeting.

For Item 171, see our County Review Group comments dated October 10, 1991.

For Items 174 and 175, minor subdivision review comments were prepared for this site, dated October 9, 1990.

Item 181 represents a minor subdivision, which should be processed through the minor subdivision procedures.

For Item 182, no comments are necessary on density transfer.

Robert W. Bowling

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

RWB:s

92-171-SPH No[redacted]

BUREAU OF TRAFFIC ENGINEERING
DEPARTMENT OF PUBLIC WORKS
BALTIMORE COUNTY, MARYLAND

DATE: November 6, 1991

TO: Mr. Arnold Jablon, Director
Office of Zoning Administration
and Development Management

FROM: Rahee J. Famili

SUBJECT: Z.A.C. Comments

Z.A.C. MEETING DATE: October 22, 1991

This office has no comments for item numbers 124, 166, 167, 168, 169, 173, 174, 175, 176, 179, 180, 181, 182, 184, 186, 187, 188 and 189.

Rahee J. Famili
Traffic Engineer II

RJF/lvd

92-171-SPH · 11/19

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration and
Development Management

DATE: November 7, 1991

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

SUBJECT: Chesapeake Yachting Center, Item No. 180
John J. Schmidt, Petitioner

In reference to the applicant's request to disapprove an amendment to the plat approved in Case No. 86-292 -XSPHA, staff offers the following comments:

Prior approval of boat racks was erroneously given because of misunderstanding on part of county staff. The originally approved plan, which was negotiated by the project engineer, developer and the community, should be reinstated to accurately reflect the negotiated terms. The Office of Planning and Zoning feels that the instant Special Hearing is the most appropriate action to take at this time.

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3211.

PK/JL/rdn

CHESPKE/TXTROZ

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO Lawrence Schmidt, Zoning Commissioner — Date January 10, 1992

FROM Ken Nohe, Director K.N. Economic Development Commission

SUBJECT Chesapeake Yacht Marina

This is to advise you that the Economic Development Commission supports the addition of boat storage racks at the Chesapeake Yacht Marina located on Frog Mortar Creek.

Formerly known as the Edwards Boat Yard, this full-service marina came under new ownership in 1983. During the past eight years, the management has invested approximately four million dollars in capital improvements which include, but are not limited to, redesigning the physical layout of the marina, renewal of dilapidated piers, landscaping, and significant shoreline enhancement including dredging of the creek. The additional boat racks are consistent with boat storage techniques at other marinas, and are necessary for maintaining the viability of the operation in view of the significant investment already made at the marina.

Throughout the entire renovation at this marina, the ownership has been extraordinarily cooperative and has complied, without protest, with all federal, state, and Baltimore County regulations. As a result of these improvements, the Chesapeake Yacht Marina is better able to serve the increasing public demand for boating services, while contributing to the surrounding community significantly through improved aesthetics. Upon final completion of the project, the marina will provide over 50 full-time employment opportunitites.

KN/vw

c: Arnold Jablon

Printed on Recycled Paper

B A L T I M O R E C O U N T Y , M A R Y L A N D
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration and
Development Management

DATE: January 14, 1992

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

SUBJECT: Chesapeake Yachting Center,
Item No. 180
John J. Schmidt, Petitioner

REVISED COMMENT

Upon further consideration of the applicant's Petition, the office of Planning and Zoning feels that a detailed analysis of this request is essential prior to any determination by the Zoning Commissioner. In order to conduct such an analysis the owner of the property would be required to provide the following information to this office:

-Elevation drawings depicting the boat racks as seen from adjacent residential properties.

-A schematic landscape plan revealing the existing and proposed landscape treatment of the subject property (staff is hopeful that any such plan will be developed with the cooperation of this office the owner of the subject property and the community).

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3211.

PK/JL:rdn
CHSPK/TXTROZ

Filed: Golden Ring Yacht Basin XV-386

Baltimore County Government
Office of Planning and Zoning

401 Bosley Avenue
Towson, MD 21204

887-3211
Fax 887-5862

September 30, 1991

Mr. John J. Schmidt, Zoning Chairman
Bowley's Quarters Improvement Association, Inc.
1124 Bowley's Quarters Road
Baltimore, MD 21220

Re: Chesapeake Yachting Center

Dear John,

Thank you for your letter regarding the 200 Dry Storage Boat Racks currently under construction as part of this project, and the copy of your letter to Roger Hayden dated September 9, 1991. I understand that you have spoken to Mr. Arnold Jablon who informed me that you are to submit a petition for a Special Hearing before the Zoning Commissioner.

Reviewed

I am also sure you know that the CRG Refinement Committee 'approved' the plan change, based on the Zoning Commissioner's letter to Benjamin Bronstein dated November 16, 1989. At that time, there was no public hearing held by the Zoning Commissioner and no plans were circulated for review - at least none that I saw.

I did receive a copy of the Zoning Commissioner's letter to Mr. Bronstein and assumed incorrectly, that the "note on the plan" referred to, Note 6, dealt with storing boats on the parking areas, which was agreed to in the original CRG plan.

As you probably remember, I spent about six months, on and off, negotiating the CRG plan for this project with the project engineer, developer and community. I really thought we achieved an equitable solution to everyone's concerns. I can understand your frustration at the present time.

I am particularly concerned as to your comments regarding the proposed CRG changes. Everyone's work on the Master Plan and on the CRG changes will be in vain if communities have neither faith nor confidence in the County's determination to act honorably and equitably.

I do not wish to comment on the specifics of this issue at the present time. A number of County agencies are involved and I am still trying to sort out exactly what happened. Do press forward with the Special Hearing before the Zoning Commissioner, as I think this is the most appropriate course of action for you.

Sincerely yours,

Dave Fields

P. David Fields
Director

PDF:ggl
cc: Roger B. Hayden, County Executive
Arnold Jablon, Director
Zoning Administration & Development Mgt.
Gene L. Neff, Director
Department of Public Works
John J. Dieter, Director
Department of Environmental Mgt.

IN RE:	ZONING COMMISSIONER'S	*	BEFORE THE
	POLICY MANUAL (ZCPM)	*	ZONING COMMISSIONER
PURSUANT TO:	SECTIONS 2-160 THRU 166	*	OF BALTIMORE COUNTY
	AND 22-34.1 OF THE	*	
	BALTIMORE COUNTY CODE	*	

WHEREAS, on August 13, 1990, Baltimore County Council Bill No. 88-90 became effective establishing a Code of Baltimore County Regulations and the method for adoption of same; and

WHEREAS, on April 23, 1991, the Zoning Commissioner's Policy Manual (ZCPM) received the approval of the County Attorney; and

WHEREAS, a public hearing was scheduled, and advertised in two newspapers of general circulation, and copies of the Zoning Commissioner's Policy Manual (ZCPM) were made available for review; and

WHEREAS, on May 21, 1991, the Zoning Commissioner held a Public Hearing on the Zoning Commissioner's Policy Manual (ZCPM); and

WHEREAS, there being no adverse testimony submitted either written or verbal, and

NOW THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County, this 21st day of May, 1991, that the Zoning Commissioner's Policy Manual (ZCPM), be and is hereby ADOPTED and shall be incorporated into the Code of Baltimore County Regulations.

J. Robert Haines

J. Robert Haines
Zoning Commissioner for
Baltimore County

B A L T I M O R E C O U N T Y, M A R Y L A N D

INTER-OFFICE CORRESPONDENCE

TO: William Hackett, Chairman
Baltimore County Board of Appeals

DATE: December 15, 1992

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

SUBJECT: Case No. 92-171-SPH
GOLDEN RING YACHT BASIN

Location: 595 Edwards Lane
Middle River, MD

Zoning: DR 5.5

RECEIVED
COUNTY BOARD OF APPEALS
92 DEC 16 PM 1:20

INTRODUCTION:

At the request of Golden Ring Yacht Basin, the Office of Planning and Zoning is submitting comments to the County Board of Appeals. This particular project has undergone a lengthy and complicated review and approval process. In addition, appeals by the owner and the community have extended this process.

The community on one hand thinks that the dry rack storage which consists of 4 levels of storage which is enclosed on three sides, contains a roof and is approximately 548 feet in length, with a height of 45 feet constitutes a major change in the CRG Plan and Special Exception which should have not been allowed by the County. The developer on the other hand is of the opinion that all necessary approvals were solicited and ultimately granted by the County. Based upon these approvals the developer proceeded with the project.

During the CRG, and Special Exception process the County fostered an effort to bring Golden Ring Yacht Basin and the Bowley's Quarters Improvement Association into a level of understanding and agreement as to the extent to which the site would be upgraded and improved. Issues over the intensification of the site regarding the number of slips was a major concern, as was the visual impact that this facility would have on the community. In the Zoning Commissioner's Order No. 86-292-XSPHA, the marina/boatyard was limited to the number of slips appropriate for the site and the access onto Edwards Lane was limited.

In 1989, Golden Ring Yacht Basin approached the County regarding the provision of a Dry Rack Storage Building which was subsequently granted by the Zoning Commissioner as an administrative interpretation of 86-292-XSPHA. Based upon the Zoning Commissioner's decision at that time the CRG Plan was amended to reflect the Dry Rack Storage. The plan as amended shows 200 boat slips and 200 spaces for boats in Dry Rack Storage.

Project Review and Approval History:

1. September 4, 1986 the CRG was approved.

2. November 15, 1986, Case No. 86-292-XSPHA, GRANTED use as marina/boatyard subject to 3 conditions, slips reduced from 296 to 200.

3. September 4, 1989, CRG Plan was extended for 3 more years.

4. November 8, 1989, Zoning Commissioner accepted revised Site Plan dated September 19, 1989 to allow Dry Rack Storage.

5. March 16, 1992, Case No. 92-171-SPH (Hearing at the request of community), the Zoning Commissioner, found that the Dry Rack Storage constituted a substantial change to the site and amended Case No. 86-292-XSPHA to include 4 conditions.

Existing Conditions:
The site has been improved in accordance with the September 19, 1989 plan. The Dry Rack Facility is constructed, a large grassed berm has been placed along Edwards Lane as well as the eastern portion of the site. The berm appears to be at least 10-12 feet in height. The slips have been installed and the site appears neat and well maintained. The buildings are in good repair and the gravel lots are clean. Very little debris or junk is located on the site and what debris exists appears temporary in nature consisting of what would normally be associated with boat repair and maintenance.

SUMMARY:
In a more perfect world based upon the level of community involvement and concern which went into the CRG (this particular project took 4 CRGs extending over a year and a half to approve) the boat racks should have been required to undergo full CRG review including amending 86-292-XSPHA. In addition, it would have been desirable for the Dry Rack Storage to meet the new criteria of Bill 149-92 which limits the height of dry rack storage to 3 levels at height not to exceed 36 feet including performance standards as provided in Section 220 BCZR. It should be noted that this legislation was generated and adopted after this project received all of its approvals. The fact remains, however, that the County did grant administrative approval of the Dry Rack Storage and amended the CRG Plan. The petitioner using this information proceeded with the improvements to the site and the community conversely filed a Special Hearing to appeal the County's decision.

Based upon the information provided; site visit conducted by staff and discussions with both the petitioner and community representatives staff suggests that the following be considered.

1. In accordance with Section 220 BCZR, all lighting should be located below 20 feet and directed away from residences. Landscaping in the form of major deciduous trees should be provided.

2. As shown on the Site Plan dated September 19, 1989, at grade storage of larger boats and sail boats should be limited to active repair, sale, construction or servicing of craft. Such an area should be clearly outlined on the September 18, 1989 Plan. If any land storage is considered by the Board of Appeals it should be limited to 5% of the land site (10.6± acres) and located in an area(s) away from the water, preferably adjacent to the Carroll Island Shopping Center.

Pat Keller

PK:bjs

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND

LEGISLATIVE SESSION 1992, LEGISLATIVE DAY NO. 17

Passed (w+E) 9-8-92
Effective 9-15-92

BILL NO. 149-92

MR. VINCE GARDINA, COUNCILMAN

BY THE COUNTY COUNCIL, SEPTEMBER 8, 1992

AN ACT concerning

Business Maritime Zones

FOR the purpose of creating two Business Maritime Zones in the Baltimore County Zoning Regulations which will permit commercial waterfront facilities; updating the list of zone classifications; defining terms; stating legislative intent; authorizing certain uses in the zones by right or by special exception; providing bulk regulations, parking and signage requirements; setting performance standards; creating a special exception for off-premises directional signs for waterfront businesses; creating two classes of out-of-water storage facilities; conforming certain provisions of the development regulations; and generally relating to uses in Maritime Zones.

BY repealing and reenacting, with amendments,

Section 100.1.A.2 and Section 101, the definition of "Marina"

Baltimore County Zoning Regulations, as amended

BY adding

Section 101, the definitions of "Out-of-Water Storage Facility, Class A" and "Out-of-Water Storage Facility, Class B" and Sections 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 413.7 and 502.9.

Baltimore County Zoning Regulations, as amended

BY repealing and reenacting with amendments,

Sections 409.6A.4 and 417.7

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

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

May 4, 1992

Baltimore County Board of Appeals
Old Courthouse, Room 49
400 Washington Avenue
Towson, Maryland 21204

RE: Petition for Special Hearing
N/S of Edwards Lane, 1100' SW of Bowleys Quarters Road
(595 Edwards Lane)
15th Election District, 5th Councilmanic District
JOHN J. SCHMIDT AND MILTON REHBEIN FOR THE BOWLEYS QUARTERS IMPROVEMENT ASSN., Petitioner
Case No. 92-171-SPH

Dear Board:

Please be advised that appeals of the above-referenced case were received on the following dates:

1. On April 2, 1992 by Benjamin Bronstein, Attorney on behalf of the Protestant

2. On April 3, 1992 by People's Counsel

All materials relative to the case are being forwarded herewith.

Please notify all parties involved 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,

Zoning Commissioner

LES:cer

RECEIVED
COUNTY BOARD OF APPEALS
92 MAY -4 PM 3:21

cc: John J. Schmidt and Milton Rehbeing
Bowleys Quarters Improvement Association
1124 Bowley's Quarters Road, Balto., MD 21220

Golden Ring Yacht Basin, Inc.
1755 Hilltop Avenue, Essex, MD 21221

Benjamin Bronstein - Evans, George and Bronstein
205 Susquehanna Bldg., 29 West Susquehanna Ave., Towson, MD 21204

People's Counsel, 400 Washington Ave., Towson, MD 21204

Printed on Recycled Paper

APPEAL

Petition for Special Hearing
N/S of Edwards Lane, 1100 SW of Bowleys Quarters Road
(595 Edwards Lane)
15th Election District - 5th Councilmanic District
MILTON REHBEIN & JOHN J. SCHMIDT
FOR BOWLEYS QUARTERS IMPROVEMENT ASSOCIATION - Petitioner
Case No. 92-171-SPH

Petition(s) for Special Hearing

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 (Included with ZAC Comments)
Petitioner(s) and Protestant(s) Sign-In Sheet

Protestant's Exhibits: 1. Plat to accompany Petition

Unmarked Exhibit: Site Plan and Grading Plan

Zoning Commissioner's Order dated March 6, 1992 (Denied)

Motion for Reconsideration

Notice of Appeal received April 2, 1992 from Benjamin Bronstein, Attorney on behalf of the Protestant

Notice of Appeal received April 3, 1992 from People's Counsel

Bowleys Quarters Improvement Association
1124 Bowley's Quarters Road, Balto., MD 21220

Golden Ring Yacht Basin, Inc.
1755 Hilltop Avenue, Essex, MD 21221

Benjamin Bronstein - Evans, George and Bronstein
205 Susquehanna Bldg., 29 West Susquehanna Ave., Towson, MD 21204

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
Lawrence E. Schmidt, Zoning Commissioner
Timothy M. Kotroco, Deputy Zoning Commissioner
W. Carl Richards, Jr., Zoning Coordinator
Docket Clerk
Arnold Jablon, Director of Zoning Administration and Development Management
Public Services

APPEAL

Petition for Special Hearing
N/S of Edwards Lane, 1100 SW of Bowleys Quarters Road
(595 Edwards Lane)
15th Election District - 5th Councilmanic District
MILTON REHBEIN & JOHN J. SCHMIDT
FOR BOWLEYS QUARTERS IMPROVEMENT ASSOCIATION - Petitioner
Case No. 92-171-SPH

Petition(s) for Special Hearing ✓

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 (Included with ZAC Comments) ✓
Petitioner(s) and Protestant(s) Sign-In Sheet ✓

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

Unmarked Exhibit: Site Plan and Grading Plan ✓

Zoning Commissioner's Order dated March 6, 1992 (Denied) ✓

Motion for Reconsideration ✓

Notice of Appeal received April 2, 1992 from Benjamin Bronstein, ✓
Attorney on behalf of the Protestant

Notice of Appeal received April 3, 1992 from People's Counsel ✓

REHBEIN & SCHMIDT
Bowleys Quarters Improvement Association
1124 Bowley's Quarters Road, Balto., MD 21220

CHAS. F. LAMBROS
Golden Ring Yacht Basin, Inc.
1755 Hilltop Avenue, Essex, MD 21221

* Benjamin Bronstein - Evans, George and Bronstein
205 Susquehanna Bldg., 29 West Susquehanna Ave., Towson, MD 21204

* 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
Lawrence E. Schmidt, Zoning Commissioner
Timothy M. Kotroco, Deputy Zoning Commissioner
W. Carl Richards, Jr., Zoning Coordinator
Docket Clerk
Arnold Jablon, Director of Zoning Administration
and Development Management
Public Services

Mr. David R. Caldander
3528 Pelham Ave.
Balto., MD 21213 ✓E

JOHN J. SCHMIDT, ET AL	*	BEFORE THE
N/s Edwards La., 1100' SW of Bowleys Quarters Road (595 Edwards Lane)	*	BOARD OF APPEALS
	*	FOR
15th Election District 5th Councilmanic District	*	BALTIMORE COUNTY
	*	CASE NO.: 92-171-SPH

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

RECEIVED
COUNTY BOARD OF APPEALS
92 DEC 14 PM 1:58

SUBPOENA DUCES TECUM

TO: David Flowers
Office of Zoning Administration
and Development Management
for Baltimore County
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

At the request of Benjamin Bronstein, Esquire, attorney for the Developer, you are commanded to appear and testify at the following date, time and place:

Date: Thursday, December 17, 1992

Time: 9:00 a.m.

Place: Room 48, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204.

Linda Lusby Mann
Board of Appeals for Baltimore County

Date of Issuance: _____

JOHN J. SCHMIDT, ET AL	*	BEFORE THE
N/s Edwards La., 1100' SW of Bowleys Quarters Road (595 Edwards Lane)	*	BOARD OF APPEALS
	*	FOR
15th Election District 5th Councilmanic District	*	BALTIMORE COUNTY
	*	CASE NO.: 92-171-SPH

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

SUBPOENA DUCES TECUM

TO: David Flowers
Office of Zoning Administration
and Development Management
for Baltimore County
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

RECEIVED
COUNTY BOARD OF APPEALS
92 DEC 14 PM 1:58

At the request of Benjamin Bronstein, Esquire, attorney for the Developer, you are commanded to appear and testify at the following date, time and place:

Date: Thursday, December 17, 1992

Time: 9:00 a.m.

Place: Room 48, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204.

Linda Kuszmaul
Board of Appeals for Baltimore County

Date of Issuance: _____

JOHN J. SCHMIDT, ET AL	*	BEFORE THE
N/s Edwards La., 1100' SW of Bowleys Quarters Road (595 Edwards Lane)	*	BOARD OF APPEALS
	*	FOR
15th Election District 5th Councilmanic District	*	BALTIMORE COUNTY
	*	CASE NO.: 92-171-SPH

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

AFFIDAVIT OF SERVICE

1. I, Michelle L. Horner, am at least 18 years of age, competent to testify, and not a party to this action.

2. On December 14, 1992, service of the attached Subpoena was served by serving the office of David Flowers, Office of Zoning Administration and Development Management, County Office Building, 111 West Chesapeake Avenue, Towson, Maryland 21204.

I solemnly affirm under the penalties of perjury that the contents of the foregoing affidavit are true to the best of my knowledge, information, and belief.

Michelle L. Horner

Michelle L. Horner
205 Susquehanna Building
29 West Susquehanna Avenue
Towson, Maryland 21204

92 DEC 15 AM 11:15
COUNTY BOARD OF APPEALS
RECEIVED

IN THE MATTER OF THE APPLICATION OF JOHN J. SCHMIDT, ET AL	*	BEFORE THE
FOR A SPECIAL HEARING ON PROPERTY LOCATED ON THE NORTH SIDE EDWARDS LANE, 1100' SOUTH WEST OF BOWLEYS QUARTERS RD (595 EDWARDS LANE)	*	BOARD OF APPEALS OF
15TH ELECTION DISTRICT 5TH COUNCILMANIC DISTRICT	*	BALTIMORE COUNTY
	*	CASE NO.: 92-171-SPH

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

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, March 18, 1997 at 10:00 a.m.** in Room 48, Basement, Old Courthouse, located at 400 Washington Avenue, Towson, Maryland 21204, and continuing thereafter as necessary for such witness' testimony and as scheduled by the Board.

WITNESS: Arnold F. "Pat" Keller, III, Director
ADDRESS: Office of Planning for Baltimore County
County Courts Building
401 Bosley Avenue
Towson, Maryland 21204

REQUESTED BY:

NAME: Benjamin Bronstein, Esquire
FIRM: George & Bronstein, LLP
ADDRESS: 205 Susquehanna Building
29 West Susquehanna Avenue
Towson, Maryland 21204

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.)

County Board of Appeals of
Baltimore County

97 MAR 11 AM 10:39

IN THE MATTER OF THE APPLICATION OF JOHN J. SCHMIDT, ET AL	*	BEFORE THE
FOR A SPECIAL HEARING ON PROPERTY LOCATED ON THE NORTH SIDE EDWARDS LANE, 1100' SOUTH WEST OF BOWLEYS QUARTERS RD (595 EDWARDS LANE)	*	BOARD OF APPEALS OF
15TH ELECTION DISTRICT 5TH COUNCILMANIC DISTRICT	*	BALTIMORE COUNTY
	*	CASE NO.: 92-171-SPH

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

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 **Wednesday, January 15, 1997 at 10:00 a.m.** in Room 48, Basement, Old Courthouse, located at 400 Washington Avenue, Towson, Maryland 21204, and continuing thereafter as necessary for such witness' testimony and as scheduled by the Board.

WITNESS: Arnold F. "Pat" Keller, III, Director
ADDRESS: Office of Planning for Baltimore County
County Courts Building
401 Bosley Avenue
Towson, Maryland 21204

REQUESTED BY:

NAME: Benjamin Bronstein, Esquire
FIRM: George & Bronstein, LLP
ADDRESS: 205 Susquehanna Building
29 West Susquehanna Avenue
Towson, Maryland 21204

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.)

County Board of Appeals of
Baltimore County

97 JAN 10 AM 8:55

IN THE MATTER OF THE APPLICATION OF JOHN J. SCHMIDT, ET AL	*	BEFORE THE
FOR A SPECIAL HEARING ON PROPERTY LOCATED ON THE NORTH SIDE EDWARDS LANE, 1100' SOUTH WEST OF BOWLEYS QUARTERS RD (595 EDWARDS LANE)	*	BOARD OF APPEALS OF
15TH ELECTION DISTRICT 5TH COUNCILMANIC DISTRICT	*	BALTIMORE COUNTY
	*	CASE NO.: 92-171-SPH

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 **Wednesday, January 15, 1997 at 10:00 a.m.** in Room 48, Basement, Old Courthouse, located at 400 Washington Avenue, Towson, Maryland 21204, and continuing thereafter as necessary for such witness' testimony and as scheduled by the Board.

WITNESS: Robert L. Hannon, Executive Director
ADDRESS: Department of Economic Development
for Baltimore County
Courthouse Mezzanine
400 Washington Avenue
Towson, Maryland 21204

REQUESTED BY:

NAME: Benjamin Bronstein, Esquire
FIRM: George & Bronstein, LLP
ADDRESS: 205 Susquehanna Building
29 West Susquehanna Avenue
Towson, Maryland 21204

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.)

County Board of Appeals of
Baltimore County

97 JAN 10 AM 11:57

County Board of Appeals of Baltimore County
OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

August 4, 1993

Mr. Phil Edwards
1016 Susquehanna Avenue
Baltimore, MD 21220

RE: Case No. 92-171-SPH
John J. Schmidt, et al

Dear Mr. Edwards:

In response to your telephone request, enclosed is a copy of the Board's final Opinion and Order issued on July 22, 1993 in the subject matter.

Should you have any additional questions, please call me at 887-3180.

Very truly yours,

Kathleen C. Weidenhammer
Administrative Assistant

encl.

Printed with Soybean Ink on Recycled Paper

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

TO: R. Schuetz
L. Stahl
D. Levero

DATE: March 13, 1997

FROM: Kathi

SUBJECT: Case No. 92-171-SPH /Golden Ring Yacht Basin, Inc. /Chesapeake Yachting Center (John Schmidt -Petitioner) /Memorandum in Support of Motion

The subject matter is scheduled for hearing (day #2) on Tuesday, March 18th. The enclosed Memorandum in Support of Motion was filed by Benjamin Bronstein, Counsel, a copy of which is provided herewith for you review prior to Tuesday's hearing.

I've spoken with Pete Zimmerman, and he has indicated that his office will be filing a response by Friday, March 14th. While normally I would send you both submittals in one mailing, since the hearing in this matter is on Tuesday, I thought it might be wiser to at least give you sufficient time to review the enclosed. Peter has also me that his response is not lengthy.

Please call me if you have any questions.

kathi

Attachments

NOTE: Diane's copy was given to her directly this morning.

Baltimore County, Maryland

PEOPLE'S COUNSEL
~~ROOM 304 COUNTY OFFICE BUILDING~~ Room 47, Courthouse
~~111 WEST CHESAPEAKE AVENUE~~ 400 Washington Avenue
TOWSON, MARYLAND 21204
887-~~6984~~2188

PHYLLIS COLE FRIEDMAN
People's Counsel

PETER MAX ZIMMERMAN
Deputy People's Counsel

November 12, 1992

The Honorable
Michael B. Sauer, Acting Chairman
Baltimore County Board of Appeals
Room 49, Courthouse
400 Washington Avenue
Towson, Maryland 21204

RE: John J. Schmidt, et al., Petitioners
Golden Ring Yacht Basin, Inc./
Chesapeake Yachting Center, Owners
Case No. 92-171-SPH

Dear Chairman Sauer:

Since the last day of hearing on the above-referenced matter, the Court of Appeals has issued an Opinion in the matter of People's Counsel for Baltimore County, et al. v. Crown Development Corporation, No. 41, September Term, 1991 (1992).

On pages 8-11, the Court discusses the correct procedure for a "material amendment" to a CRG plan. This requires notice of the proposed amendment to the nearby residents and an opportunity to attend a CRG meeting for such purpose (pp. 8, 9). These pages are enclosed for your convenience.

In this matter, the evidence is that the approved 1986 plat was changed by locating racks on a buffer area, relocating the parking lot, modifying the buffer and the view from the water. These changes were substantial and based upon the court's most recent holding, the November 8, 1989 letter was not sufficient procedurally to amend the plan.

I would appreciate your consideration of this legal point.

Sincerely yours,

Phyllis Cole Friedman

Phyllis Cole Friedman
People's Counsel for Baltimore County

Enclosure

cc: Benjamin Bronstein, Esquire

PCF:sh

RECEIVED
COUNTY BOARD OF APPEALS
92 NOV 12 AM 9:17

Day #2 = 12/17/92 SBD

IN THE COURT OF APPEALS OF MARYLAND

No. 41

September Term, 1991

PEOPLE'S COUNSEL FOR
BALTIMORE COUNTY et al.

v.

CROWN DEVELOPMENT CORPORATION

Murphy, C.J.
Eldridge
Rodowsky
McAuliffe
Karwacki
Bell
Orth, Charles E. Jr. (Retired,
Specially Assigned)

JJ.

Opinion by McAuliffe, J.

Filed: October 27, 1992

approval without any amendment to add additional property to that plan. Had there been such an amendment prior to final approval of the plan, the agreement of the parties arguably would have continued to control the density development of all property shown on the plan. The agreement clearly ties the property shown in the plan to the restriction -- indeed, the agreement incorporates the plan by reference and refers to the property restricted as the property shown on the plan. Even if this were not so, and the developer had amended his plan before final approval to include the Wagers property so that the unused density might conceivably be used there, the property owners would have had an opportunity to amend the agreement, or to withdraw entirely from the agreement and contest approval of the plan as amended. The developer did not, however, make any attempt to amend the plan before final approval, although, as testimony by the developer's representative later made clear, the developer had signed a contract to purchase the Wagers property before the agreement was signed, and thus before final approval of the plan.

The Baltimore County Code does provide for amendment to an approved plan. Section 22-63 provides that "[a]ny material amendment to an approved plan shall be reviewed and approved in the same manner as the original plan." The addition of a tract of 7.04 acres would certainly constitute a "material amendment." This record does not disclose that any such amendment was made. The plan for Woodholme Green that is before us does not include

the Wagers property. It has nowhere been suggested that Alison Tucker or the other nearby residents were given notice of a proposed amendment to the Woodholme Green plan, or given an opportunity to attend a CRG meeting called for such purpose.

Curiously, at the 1989 meeting of the CRG called to consider the Roslyn Station Section II plan, there was a reference by Joe Maranto, one of two members of the CRG, to a note on "the previously approved CRG plan that proposes 133 units total and the remaining density for future use is indicated as 61 units." Similarly, in the summary of that meeting, the following appears:

> Tom Watson and Joe Maranto examined the agreement between the neighborhood association and the developer, and compared it to the approved CRG plan for Woodholme Green since the agreement specifically was written for that plan. Under the density notes was written:
>
> | | |
> |---|---|
> | Total No. of Units Allowed: | 194 |
> | Total No. of Units Proposed: | 133 |
> | No. of Units Leftover for Future Development: | 61 |
>
> Since the plan referred to stated that there would be future development, the agreement has not been violated in their opinion.

Perhaps based on these references, Judge Hinkel found:

> Prior to this [February 2, 1989] CRG meeting, there had been approval of an amended plan treating the combined tracts as a single project in accordance with BCZR 1 B01.3A.7. The evidence clearly shows that Crown combined Sections I and II into one tract for the purpose of developing them together, thus creating one development tract.

This record does not support that finding -- there is no density

calculation note similar to that referred to by the CRG on the Woodholme Green plan that is before us. That plan simply shows:

Entire site is zoned D.R. 5.5.	
Allowed: 30.514 acres @ D.R. 5.5 =	167 units
Proposed: single family detached	7
Townhouse units:	126
TOTAL	133

Indeed, the Woodholme Green plan considered at the 1987 CRG meeting, and attached as an exhibit to the agreement signed by the parties, could not have borne the density calculation note referred to by Mr. Maranto, because the Wagers property was not included in the plan. No amended plan for Woodholme Green appears in this record. When a representative of the zoning office testified before the Board of Appeals, he reiterated the concern of his office that the CRG require an "overall" plan of both properties before approving the density development proposed for the Wagers property, and he stated to the best of his knowledge that had not been done. We restrict our consideration to the record that is before us, which contains no amended Woodholme Green plan incorporating the Wagers property.

We do not agree with the Court of Special Appeals that because it may be possible to amend the existing plan to include the additional tract, the CRG is justified in treating the two separate tracts as one. The zoning regulations clearly contemplate the existence of a single subdivision tract within which density may be adjusted. When a single plan embracing all the involved property is before the CRG, all parties are fully informed concerning the proposed density and are made aware of

any proposed clustering or reservation of initially unused density units. Any subsequent purchaser of property within the subdivision tract is informed by the plan of any increase or decrease of density affecting the property because of approved clustering or underutilization in the remainder of the tract. See BCZR 1B01.3 B.1. The developer offering a single plan, whether originally or by amendment, offers the entire plan for comment, and for approval or rejection. What the developer apparently seeks to do in this case is to insulate the first tract from further consideration or attack, while at the same time using it as a source of additional density development units for an adjoining tract. We agree with the Board of Appeals that the Baltimore County Zoning Regulations do not permit transfer of density units under these circumstances.

III.

Respondent contends that the Board of Appeals misconstrued its function in this case -- that it should have acted in a purely appellate capacity, declining to take testimony and affording the same degree of deference to the decision of the CRG as a court would afford in its review of the action of an administrative body. Petitioners on the other hand, contend that state law requires the Board of Appeals to hear cases of this kind de novo, and that provisions of the Baltimore County Charter and the Baltimore County Code to the contrary are invalid.

Article 25A, § 5 of the Maryland Code (1957, 1990 Repl.

#180 CRITICAL AREA

Baltimore County Government
Office of Planning and Zoning

191 1634-92
to call- for file

401 Bosley Avenue
Towson, MD 21204

887-3211
Fax 887-5862

92-171-SPH

RECEIVED
OCT 3 1991
By DCJ

September 30, 1991

Mr. John J. Schmidt, Zoning Chairman
Bowley's Quarters Improvement Association, Inc.
1124 Bowley's Quarters Road
Baltimore, MD 21220

Re: Chesapeake Yachting Center

Dear John,

Thank you for your letter regarding the 200 Dry Storage Boat Racks currently under construction as part of this project, and the copy of your letter to Roger Hayden dated September 9, 1991. I understand that you have spoken to Mr. Arnold Jablon who informed me that you are to submit a petition for a Special Hearing before the Zoning Commissioner.

I am also sure you know that the CRG Refinement Committee 'approved' the plan change, based on the Zoning Commissioner's letter to Benjamin Bronstein dated November 16, 1989. At that time, there was no public hearing held by the Zoning Commissioner and no plans were circulated for review - at least none that I saw.

I did receive a copy of the Zoning Commissioner's letter to Mr. Bronstein and assumed, incorrectly, that the "note on the plan" referred to, Note 6, dealt with storing boats on the parking areas, which was agreed to in the original CRG plan.

As you probably remember, I spent about six months, on and off, negotiating the CRG plan for this project with the project engineer, developer and community. I really thought we achieved an equitable solution to everyone's concerns. I can understand your frustration at the present time.

I am particularly concerned as to your comments regarding the proposed CRG changes. Everyone's work on the Master Plan and on the CRG changes will be in vain if communities have neither faith nor confidence in the County's determination to act honorably and equitably.

RECEIVED
OCT 2 1991

92-171-SPH

I do not wish to comment on the specifics of this issue at the present time. A number of County agencies are involved and I am still trying to sort out exactly what happened. Do press forward with the Special Hearing before the Zoning Commissioner, as I think this is the most appropriate course of action for you.

Sincerely yours,

Dave Fields

P. David Fields
Director

PDF:ggl
cc: Roger B. Hayden, County Executive
Arnold Jablon, Director
Zoning Administration & Development Mgt.
Gene L. Neff, Director
Department of Public Works
John J. Dieter, Director
Department of Environmental Mgt.

December 4, 1991

COPY

Benjamin Bronstein, Esq.
Evans, George and Bronstein
29 West Susquehanna Avenue
Suite 205
Towson, Maryland 21204

Re: Case Number: 92-171-SPH
Golden Ring Yacht Center

Dear Mr. Bronstein:

As you are aware, this office has granted your postponement request with regard to the December 19, 1991 hearing of the above captioned case. I would appreciate your contacting me with regard to those dates in January, 1992 both you and Mr. Schmidt will be able to proceed with this matter.

As I will be on vacation the later part of this month, with plans to wrap up the January schedule on or before December 11, 1991, your prompt attention to this matter is greatly appreciated.

Very truly yours,

G. G. Stephens
(401) 887-3391

cc: John Schmidt

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

December 11, 1991

Benjamin Bronstein, Esquire
Evans, George and Bronstein
Suite 205
29 West Susquehanna Avenue
Towson, Maryland 21204

Re: Case No. 92-171-SPH
Chesapeake Yacht Club

Dear Mr. Bronstein:

It has come to my attention that your client is proceeding to construct additional boat racks on the property which is the subject of the above captioned hearing.

I wish to take this opportunity to underscore the possible risk to your client in doing so. If the permission granted by letter of the zoning commissioner is revoked or amended as a result of the hearing, any construction undertaken as a result of the letter would be invalid. The construction would, therefore, have to be removed. Of course, if the permission is upheld, then the construction undertaken pursuant thereto would be valid.

The purpose of this letter is to provide your client with notice of the potential risk.

Sincerely,

ARNOLD JABLON
Director

AJ/cmm

c: John Schmidt

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

Suite 113 Courthouse
400 Washington Avenue
Towson, MD 21204

(410) 887-4386

March 23, 1992

Benjamin Bronstein, Esquire
29 West Susquehanna Avenue, Suite 205
Towson, Maryland 21204

RE: PETITION FOR SPECIAL HEARING
1100' SW of Bowleys Quarters Road
(595 Edwards Lane)
15th Election District - 5th Councilmanic District
Milton Rehbein & John J. Schmidt for
Bowleys Quarters Improvement Assoc. - Petitioners
Case No. 92-171-SPH

Dear Mr. Bronstein:

This is to acknowledge receipt of your Motion for Reconsideration in the above-captioned matter. To confirm our conversation and based upon my review of your Motion, I understand that you are requesting that I reconsider my Order dated March 6, 1992 so as to approve and delineate the number of boats permitted for non-rack ground storage.

In that I consider your request to be a significant change to the Order issued March 6, 1992, I have decided to schedule this matter for a public hearing. Kindly note that the hearing shall address only the substance of the Motion which you have filed and shall not constitute a reopening of the entire case. Further, if there are any additional Motions for Reconsideration filed in this case, they shall likewise be considered at the hearing.

Also, as I have discussed with both you and Phyllis Friedman of People's Counsel, the necessity of an appeal from my decision of March 6, 1992 is hereby stayed by the filing of your Motion for Reconsideration. When an amended Order is issued, it shall incorporate all of the findings and conclusions of the March 6, 1992 Order, except as expressly changed. Therefore, all rights of appeal, be they filed by any party or address any issue, are hereby stayed.

I shall promptly advise you when the hearing for your Motion has been scheduled. Also, kindly note that a copy of this letter is being forwarded to Mrs. Friedman and all Protestants who attended the previous hearing for this case on January 17, 1992.

Very truly yours,

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs
cc: All Protestants
Phyllis Friedman
Case File

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

Suite 113 Courthouse
400 Washington Avenue
Towson, MD 21204

(410) 887-4386

April 1, 1992

Benjamin Bronstein, Esquire
29 West Susquehanna Avenue, Suite 205
Towson, Maryland 21204

RE: PETITION FOR SPECIAL HEARING
1100' SW of Bowleys Quarters Road
(595 Edwards Lane)
15th Election District - 5th Councilmanic District
Milton Rehbein & John J. Schmidt for
Bowleys Quarters Improvement Assoc. - Petitioners
Case No. 92-171-SPH

Dear Mr. Bronstein:

This is to acknowledge our recent conversation in which you advised me that you are going to withdraw the Motion for Reconsideration filed in the above-captioned matter on March 23, 1992 and that in lieu thereof, you plan to file an appeal of the decision rendered in my Order issued March 6, 1992 to the County Board of Appeals.

As a result of your appeal, this matter will be heard de novo by the Board of Appeals and the Zoning Commissioner's Office will lose jurisdiction over this case in that I will be unable to conduct further hearings and/or amend my Order issued March 6, 1992. For your information, a copy of this letter is being forwarded to Phyllis Friedman of People's Counsel and all Protestants who attended the previous hearing on this matter for their information.

In the event you have any further questions or comments on the subject, please feel free to contact me at 887-3468.

Very truly yours,

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

cc: Phyllis Friedman, People's Counsel
All Protestants
Case File

County Board of Appeals of Baltimore County
OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

March 20, 1997

NOTICE OF DELIBERATION

Having heard this matter January 15, 1997 and March 18, 1997, on Remand, the Board has scheduled the following date and time for deliberation in the matter of:

JOHN J. SCHMIDT, ET AL (GOLDEN RING YACHT BASIN, INC./CHESAPEAKE YACHTING CENTER
Case No. 92-171-SPH

DATE AND TIME : **Tuesday, April 8, 1997 at 9:30 a.m.**

LOCATION : **Room 48, Basement, Old Courthouse**

Contact: Kathleen C. Bianco
Legal Administrator
410-887-3180

---

c: Counsel for Golden Ring Yacht Basin: Benjamin Bronstein, Esquire
Charles F. Lampron /Golden Ring Yacht Basin, Inc.

John J. Schmidt, et al /Bowleys Quarters Improvement Association
David Cahlander

Peter Max Zimmerman /People's Counsel for Baltimore County
Pat Keller
Lawrence E. Schmidt
Arnold Jablon, Director /PDM
Virginia W. Barnhart, Co Atty

Copied: R.L.M.

Printed with Soybean Ink on Recycled Paper

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

MINUTES OF DELIBERATION

IN THE MATTER OF: John J. Schmidt, et al (Golden Ring Yacht Club) Case No. 92-171-SPH

DATE : April 8, 1997 @ 9:30 a.m.

BOARD /PANEL : Robert O. Schuetz, Acting Chairman (ROS)
Lawrence M. Stahl (LMS)
S. Diane Levero (SDL)

SECRETARY : Kathleen C. Bianco
Legal Administrator

Among those present at the deliberation were Benjamin Bronstein, Esquire, Counsel for Golden Ring Yacht Club; Peter Max Zimmerman, People's Counsel for Baltimore County; and other interested parties to this case.

ROS: Good morning, everyone. We are here this morning to deliberate Case No. 92-171-SPH which is here on remand. I would like to remind everyone that this portion of the proceeding is not going to be part of the official record. The Board's Legal Administrator is taking minutes for what is going to occur this morning. This part of the process is new to this particular case, however old this case may be. The Board's minutes will serve to indicate compliance with the open meetings law, but will not be part of the official record. Essentially this is a discussion among panel members; you have been invited to attend.

I frequently go first, and I think I will this morning. I would like to talk about a couple of things. One of the things that disturbs me about this particular case, and I think I mentioned it on the record but I wanted it to be in the minutes of the deliberation as well, is what I think is going to be a chilling effect on the public because of the existence of Mr. Keller's comments in the file prior to the conclusion of this particular case. And I make that note because of what the Court wrote when it talked about this particular issue, and as it relates to what Mr. Keller had in his memorandum, and lack of opportunity for cross-examination or rebuttal. When they wrote in Schultz that "...due process may be violated if no opportunity is provided to challenge the evidence by cross-examination or rebuttal. However, when an administrative agency relies upon the evidence submitted after the close of the hearing, there may be no due process violation when the parties are aware that the evidence will be considered but make no objection..." and so on and so forth.

I know that the allegation is you did not know it was here. And one of my panel members and I -- I wouldn't call it

battled over the issue, but discussed what we are going to do as a Board, knowing we get letters in the mail every single day. Are we going to send them back and indicate they are not going to be entered in the file? Or create a general correspondence file and essentially ignore it? Or do we raise the issue every time we come out here, that mail was received -- better check the files? I believe that is what we are doing here, although we are talking about an expert witness in Mr. Keller, we also frequently have argument on both sides where lay witnesses with certain areas of expertise or knowledge of an area can have real probative value to the Board. What effect is this type of finding going to have on the Board? But I wanted it said here because here is where it started.

Having said all that, I will go first. We had an opportunity for Mr. Keller to come on the stand. We also had rebuttal witnesses and so everybody has had the opportunity to address the issues once again. We also had Mr. Hannon, although, while I have great deal of respect for what he is accomplishing, I question what it had to do with what the Board is now considering. The Petitioner is doing a fine job of running the operation. There may be some things that are not liked, but I think we have seen a good relationship between the petitioners and protestants, to their credit.

But what we have here is an extremely narrow issue on remand, and I agree with People's Counsel in most of its Memorandum in that I think the Court has already found that the special hearing, which the Zoning Commissioner at that time made a certain finding -- and was an amendment to a special exception, and therefore, because of the powers granted to the Zoning Commissioner and therefore to the Board on appeal, there is an opportunity for alteration or amendment to conditions on the granting of the special exception. I agree with that.

The question becomes what the Court of Special Appeals has asked us to find as to why is 5 percent a reasonable or unreasonable number. I am questioning whether or not the petitioner is to be granted unlimited ground storage. I agree with People's Counsel that one has to look at the project as a whole. One cannot split each of the elements when taking into consideration the fact that all of these elements are already stated as parts of such a facility. And so, we get down to Mr. Keller's testimony, therefore.

Now, what Mr. Keller provided before in his Memorandum was this 5 percent limitation. I think Mr. Keller on the stand, I don't believe he's come off of that position. All he has done is clarified for me how he arrived at that number. That

means that in my view, when the facility is completely built out, and that's a business decision of petitioner, when it is completely built out, he will be left with roughly 5 percent. He acknowledged that was a number arrived at by the process of elimination. If petitioner chooses to alter that plan, maybe he is due some more. I agree with that. He's not changing the intensity of use; he 's using to the best use as contemplated previously. All Mr. Keller provided, in my view, was clarification that if this petitioner goes all the way, he will have 5 percent. Between now and then, he can do something else.

So the question then becomes what is a reasonable number, if a reasonable number needs to be arrived at. Now, one of the other things that Mr. Keller said on the stand that I think is laudable is that when trying to work through these processes, he tries to achieve some balance. The community needs petitioners to remain vital, yet at the same time, one cannot give petitioners carte blanche to do as they will because not everyone is scrupulous. That's not saying anything about this particular petitioner, but protections need to be there.

When Mr. Keller indicated 130 boats maximum, then we started getting into finer and finer details; one layer of boats adjacent to water's edge facing protestants' properties across the river or whether two or more would be necessary; or whether necessary to get to that level of detail; I think it's wholly appropriate to do so if such an intense use is given proximity to residential properties.

We also had petitioner on the stand in rebuttal; could live with 130 boats but would like 155. And so, we also had Mr. Keller indicate that one needs to expect that when you live near the water, there's a certain expected result -- visible or otherwise. You are going to have to deal with a certain amount of ugliness when dealing with life. Because we live near the water does not mean we can live there to the exclusion of everyone else.

I agree with Mr. Keller and the argument of Mr. Bronstein that that expectation is not unreasonable. So I would allow 150 boats in the interim. And I would indicate that that is a maximum number of ground storage boats, exclusive of the racks. One layer of boats during the summer as petitioner has acknowledged he can live with; in the winter, two layers of boats adjacent to the water's edge; space set aside for moving boats off the racks, and so forth. I don't know if he will be able to get 150 boats; he may not be able to get 150 boats given site constraints. Those constraints will serve as its own condition limiting use of property, given berm and other set-asides on the site.

I don't know what language will be in the Opinion, or who will write it, or how we will finish up here today. But if the majority goes in favor of petitioner, I want it clear to the Court that I think that was there from the very beginning.

That's where I fall on this. I would deny Motion for unlimited storage; would indicate the number and indicate that is a safety valve in achieving balance which the Office of Planning says they seek.

SDL: This was remanded only to consider that portion restricting the property owner to 5 percent limitation. Pat Keller indicated that his memorandum was an attempt to resolve the case by compromise. He testified that he would revise what he wrote; 5 percent limitation on ground storage for 1/2 acre of site acreage; would change his recommendation to allow ground storage and limit boats stored on the ground to 130.

Three witnesses to protestants indicated they could live with 5 percent but opposed to Mr. Keller's proposal; increased traffic, negative aesthetics, would impact safety. Petitioner would agree to 155-boat limit in the winter and 130-boat limit in the summer.

People's Counsel said the Board's decision is a judgement call. No study indicates overcrowding. In prior decision, the Board of Appeals recognized balance; citizens are entitled to respect; the Board has discretion.

Basically I would agree with Rob; that I think, on following his line of reasoning, I would agree to a 155-boat storage in winter and 130 in summer.

LMS: The record should reflect my continuing feelings and concerns about this process. It's interesting when we have a remand case; we are sitting here having to make decisions in the type of forum that the Court of Special Appeals and the Court of Appeals would not set out for themselves in coming to our decision. I believe that is the essential flaw in this open deliberation process.

Having said that, we had discussion as to when it opens and when it closes. From an attorney's point of view, we have no discovery in this process. We have had our differences about that, but after several years on the Board, I believe that if we had formal discovery we would probably drive everyone crazy, and be here twice as long.

When you say we are an administrative board without discovery, you do have to have a process, an understanding when this type of thing happens. This may be the watershed -- this may be

where it begins to happen. The Court said you have a piece of paper; everyone may have known, but the paper and that person were not subject to cross; you have to go back to do that.

When they philosophically say that's what you have to do, that's what you do in every case; it then means that procedures of the Board and the procedures even if they be informal between attorneys and pro se parties; they need to be altered, adjusted and educated by what's going on in this case. We need to be extremely circumspect about what we accept and what we do not accept. The answer may be that we accept nothing; may be that we accept everything. But the Board is not its own discovery process. We should not be in a position to provide everything we get to everyone who appears before us.

The answer may be that this is an administrative process, and those who practice before it, whether attorney or not, should know that the Board has procedures as to what we will or will not accept. How do we satisfy the Court of Special Appeals not to have this happen again? Maybe they knew about it, but did not cross-examine; maybe we have to say to the world that once the record is closed, anything that comes in will have no impact but will go in correspondence file. We may have attorneys agree as part of the record that nothing more is coming in because they will not be allowed to send it in later on. The Court of Special Appeals has denied the use of such material. That issue is not part of this process, but something the Board will deal with.

Having said that, I agree with Rob that this is a very narrow issue. I am not amazed but impressed by the good relationship that exists between all the parties. That's good; but sometimes it makes it harder as a Board member to do something that may disrupt the harmony and balance. But as far as I am concerned, we have a narrow task; to put Pat Keller on the stand; allowed his memorandum to be subjected to cross; heard any rebuttal. I also agree regarding Mr. Hannon; why was he here? This could have been a rather quick session of examination and cross of Mr. Keller and some rebuttal.

I know very little about boat yards; I'm purely a dry-land person; other than knowing there are things behind fences that I drive by and wonder how the boats get up there. You do not have to be sailor or boat person to come to a conclusion. There are two times of year that are part of reality of boat yards. You have to maintain boats and store boats. But you cannot store a lot of them in the winter in the water. If the zoning regulations say you can do it, then there should be a finite number that you can store and use and reflect realities of what goes on. Reflects reality, needs, operation of a boat

yard. I'm tending to go along -- five boats here or there does not make a difference. I'm comfortable with the setup of 130 in the summer with one row and 150 to 155 in the winter in two rows.

My question is -- are you suggesting that even the complete build-out -- even if some back out -- there is approximately 5 percent of space? Are we maintaining 5 percent with limitations in the winter and summer? Limitations will be 5 percent when completely built out?

ROS: Correct. He has not changed a thing; he clarified his thought process; assumed ultimate build-out.

LMS: Build-out is generally a process. At what point of build-out does it become impossible to put 130 boats there?

ROS: That is for petitioner to work out when he applies for permit. He has already recognized the maximum and use of property, being built out with some ground storage.

LMS: You're talking about 5 percent of the land mass without boats?

ROS: There is nothing to stop this petitioner, or appellee, from leasing ground storage space to people who have very large craft; need to be taken out of the water and have them set up on cradle for the winter. A big boat takes up more space.

LMS: He may have less than 130 boats in the winter? In sum and substance, I agree with those explanations.

ROS: He's limited to 150 boats beginning the date of the Order; will be allowed to continue to develop according to the plan. When structures are placed on the property, you will be eating into the 150 boats and ultimately to the extent that ultimate build-out will have. He will build out to 5 percent or whatever is left after build out.

It's a number arrived at as a matter of coming to some conclusion by the Office of Planning. And therefore considers expectation that that will exist on that type of property.

NOTE: **At this point, Mr. Bronstein asked following question: Assuming all buildings are built out, you anticipate that what will be left is 5 percent of land, but in theory is they wanted 150 rowboats in there. But if they take space up for 150 big boats, that will be their problem?**

ROS: That's right.

LMS: Every build-out request will carry with it an impact on numbers of boats.

ROS: This is not supposed to be a give and take session, but I acknowledge that the law is inexact because it needs to be inexact so reviewing authorities can do their job in reviewing how many boats -- will give opportunity for protestants to file petition for special hearing to see if that is being observed.

And for us to be any more exact would be for us to be usurping their authority as reviewing authority. So I don't know what more we can say except that is where it will stand.

Additional comment from Mr. Bronstein: I just want to be sure that the maximum is 150 or 155?

ROS: At this point, we will get you an Order; it will not make a difference for either side.

Additional comment from Mr. Bronstein: You ruled on the Motion, Mr. Schuetz, but I don't believe the others....

LMS: I agree on the Motion as well.

ROS: The Board will issue a written Opinion and Order. Any Petition for Judicial Review will be filed from that date. thank you everyone.

* * * * * * * * *

Respectfully submitted,

Kathleen C. Bianco
Legal Administrator

John J. Schmidt, et al #92-171-SPH
1100' South West of Bowley's Quarters Rd
(595 Edwards Lane)

RE: SPECIAL HEARING

No. 92-171-SPH

October 7, 1991	Petition for Special Hearing filed by Milton Rehbein, President, and John J. Schmidt, Chairman of the Zoning Committee for Bowley's Quarters Improvement Association, to disapprove an amendment to the plat approved by Case #86-292-XSPHA (construction of boat racks/Golden Ring Yacht Basin, Inc.) granted by a letter from the Zoning Commissioner, dated November 8, 1989 which was done without the benefit of a public hearing.
January 17	Hearing held on Petition by the Zoning Commissioner.
March 6	Order of the Zoning Commissioner DENYING Petition for Special Hearing.
March 23	Motion for Reconsideration filed by Benjamin Bronstein on behalf of Golden Ring Yacht Basin, Inc. t/a Chesapeake Yacht Center.
April 2	Order of Appeal received from Benjamin Bronstein, Esquire on behalf of the Respondent, Golden Ring Yacht Basin, Inc., t/a Chesapeake Yacht Center.
April 3	Notice of Appeal received from People's Counsel for Baltimore County.
September 15	Hearing before the Board of Appeals. (Day #1)
December 17	Hearing before the Board of Appeals. (Day #2)
July 22, 1993	Opinion and Order of the Board DENYING the Petition for Special Hearing, and APPROVING amended site plan in Case No. 86-292-XSPHA.
August 16 ✓E	Petition for Judicial Review of Administrative Agency Decision filed in the Circuit Court for Baltimore County by Benjamin Bronstein, Esquire, on behalf of Golden Ring Yacht Basin, Inc./Chesapeake Yachting Center.
August 18	Copy of Petition for Judicial Review of Administrative Agency Decision received by the

Board of Appeals from the Circuit Court for Baltimore County.

August 19 — Certificate of Notice sent to interested parties.

August 20 E — Petition for Judicial Review (Cross Appeal) filed in the Circuit Court for Baltimore County by People's Counsel for Baltimore County and Bowley's Quarters Improvement Association, et al.

September 2 — Copy of Petition for Judicial Review (Cross Appeal) received by the Board of Appeals from the Circuit Court for Baltimore County.

September 7 — Second Certificate of Notice/Cross Appeal sent to interested parties.

October 12 — Transcript of testimony filed; Record of Proceedings filed in the Circuit Court.

April 5, 1994 ✓E — Order issued by the Circuit Court for Baltimore, Maryland in which decision of the County Board of Appeals was AFFIRMED.

May 16, ✓E — Notice of Appeal filed in the Court of Special Appeals by Benjamin Bronstein.

May 22, 1995 JE — Order filed by the Court of Special Appeals: that decision imposing limitation on dry storage REVERSED and REMANDED to CCt to REMAND to CBA for further proceedings consistent with CSA Opinion; Judgement AFFIRMED in all other respects.

5/11/92 - Following parties notified of hearing set for September 15, 1992 at 10:00 a.m.:

Benjamin Bronstein, Esquire
Golden Ring Yacht Basin, Inc.
John J. Schmidt and Milton Rehbein
People's Counsel for Baltimore County
P. David Fields
Lawrence E. Schmidt
Timothy M. Kotroco
W. Carl Richards, Jr.
Docket Clerk - Zoning
Arnold Jablon

9/16/92 - Above parties sent Notice of Assignment for Day #2 set for December 17, 1992 at 9:00 a.m.

11/12/92 -Ltr from People's Counsel regarding Court of Appeals decision in People's Counsel for BaltimoreCCounty, et al v. Crown Development Corp. /correct procedure for a "material amendment" to a CRG plan.

12/17/92 -Hearing concluded before Board; memos due thirty days from today (1/19/92)
PC fd 1/14/93 B. Bronstein, Esq. fd 1/19/93

6/10/96 -Notice of Assignment for hearing scheduled for Thursday, September 26, 1996 at 10:00 a.m. sent to the following:

Benjamin Bronstein, Esquire
Charles F. Lampron /Golden Ring Yacht Basin, Inc.
Peter Max Zimmerman
/People's Counsel for Baltimore County
John J. Schmidt, et al
/Bowleys Quarters Improvement Association
Mr. David Cahlander
Pat Keller, Director /Planning
Lawrence E. Schmidt
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

6/26/96 -T/C from B. Bronstein requesting postponement of hearing scheduled for 9/26/96 due to conflict; will follow with written request. Postponement will be granted.

7/09/96 -Notice of PP and Reassignment sent to parties; confirmed with B. Bronstein's office that letter confirming above request is forthcoming. Matter has been rescheduled to Wednesday, October 30, 1996 at 10:00 a.m.

8/30/96 -Telephone request from B. Bronstein for postponement of 10/30 hearing; possible resolution of matter; Mr. Bronstein indicated that the parties to this matter require additional time. To be granted and rescheduled to January 1997 hearing date.

8/30/96 -Second Notice of PP and Reassignment sent to parties; matter rescheduled to Wednesday, January 15, 1997 at 10:00 a.m.

1/15/97 -Case begun before Board; continued to March 18, 1997 at 10:00 a.m. for Day #2. Parties notified by Notice of Assignment.

3/20/97 -Hearing concluded before the Board on 3/18/97; Notice of Deliberation sent to parties; scheduled for public deliberation on Tuesday, April 8, 1997 at 9:30 a.m.

97-2657

Baltimore County
Office of Planning

401 Bosley Avenue
Towson, Maryland 21204
(410) 887-3211
Fax: (410) 887-5862

RECEIVED
JUN 6 1997
PDM

File

6/6/97
8
To WCR 92-171-SPH

June 5, 1997

Mr. Alan E. Scoll, RLA
DS Thaler & Associates, Inc.
7115 Ambassador Road
Baltimore, MD 21244

Dear Mr. Scoll:

The Office of Planning has reviewed the revised Site Plan for the Chesapeake Yachting Center (Golden Ring Yacht Basin) for compliance with the Baltimore County, Board of Appeals Order dated April 30, 1997. The Site Plan accurately reflects those areas not allowed for boat storage. In addition, the 50 foot setback, and the maximum number of boats stored during the winter versus summer has also been provided.

Portions of the Board of Appeals Order so limiting the site have also been provided. The Site Plan accurately reflects the conditions set by the Board of Appeals. Staff would suggest filing the revised CRG Plan with Permits and Development Management.

Thank you for your assistance.

Sincerely,

Pat Keller

Arnold F. 'Pat' Keller, III
Director

AFK:bjs

C: Arnold Jablon, Director, PDM

SCOLL.DOC

Printed with Soybean Ink on Recycled Paper

CIRCUIT COURT FOR BALTIMORE COUNTY
Civil/Criminal

PETITION OF GOLDEN RING
YACHT BASIN, INC/CHESAPEAKE
YACHTING CENTER

$75.00

Plaintiff(s)/Attorney(s) & phone no.	Defendant(s)/Attorney(s) & phone no.
Benjamin Bronstein 296-0200	
	04/13/94 - D/E - mailed

07/24/95 - Original record and proceedings remanded to the Baltimore County Board of Zoning Appeals. Mailed by inter-office Mail.

VOLUME___

1 pl ___ to ___
2 pl ___ to ___
3 pl ___ to ___
4 pl ___ to ___
5 pl ___ to ___
6 pl ___ to ___
7 pl ___ to ___
8 pl ___ to ___
9 pl ___ to ___
10 pl ___ to ___
11 pl ___ to ___
12 pl ___ to ___
13 pl ___ to ___
14 pl ___ to ___
15 pl ___ to ___

ADDITIONAL RECORDS ON MICROFILM YES ☐

93CV 07344

JUDICIAL REVIEW

CASE NUMBER 59/226

Court of Special Appeals

No. 1047, September Term, 1994

Golden Ring Yacht Basin, Inc./Chesapeake Yachting Center
v.
People's Counsel for Baltimore County

DISPOSITION OF APPEAL IN COURT OF SPECIAL APPEALS:
May 22, 1995: Per Curiam filed. Decision imposing limitation on dry storage reversed and remanded to the circuit court with instructions to remand the case to the Baltimore County Board of Zoning Appeals for further proceedings consistent with this opinion. Judgment affirmed in all other respects. Costs to be paid one-half by appellant and one-half by appellee.

June 21, 1995: Mandate issued.

RECORD RETURNED TO CLERK OF CIRCUIT COURT FOR:
BALTIMORE COUNTY
TOWSON, MD 21285-6754 DATE: 6/21/95

REMARKS:
BY: HAND DELIVERED

Sedie D. Gadet

(25 cm)

RECEIVED AND FILED
95 JUL 11 PM 4:00
CLERK OF
THE CIRCUIT COURT
BALTIMORE COUNTY

CIVIL admin app (zoning)

No. 1047 (LEAVE BLANK) SEPTEMBER TERM, 19 94

• 1 volume
• 1 expanding file

TRANSCRIPT OF RECORD

FF-$100
ant-50
ee-50

FROM THE

CIRCUIT COURT FOR BALTIMORE COUNTY

Judge: HONORABLE J. WILLIAM HINLEL

Cross-Appeal

IN THE CASE OF

GOLDEN RING YACHT BASIN, INC./CHESAPEAKE YACHTING CENTER

Appellant

VS.

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY

BALTIMORE COUNTY, MARYLAND

Appellee

TO THE

COURT OF SPECIAL APPEALS

FOR APPELLANT

BENJAMIN BRONSTEIN, ESQ. (410) 296-0200
205 SUSQUEHANNA BUILDING
29 WEST SUSQUEHANNA AVENUE
TOWSON, MARYLAND 21204

R=60
S=0

FOR APPELLEE

PETER MAX ZIMMERMAN, ESQ.
CAROLE S. DEMILIO, ESQ.
OFFICE OF PEOPLE'S COUNSEL FOR BALTIMORE COUNTY
ROOM 47, COURTHOUSE
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204

C# P412966752
8.24.94 753

(SEE ATTACHED)

Filed 8.25.94 (LEAVE BLANK)

10/4

2/95

93CV07344

PHC 343/94 NC

Start 8.16.93

judgment 5.4.94

appeal 5.16.94

Appellee Attorney Continued

RENA STEINZOR
MICHAEL KRESSLEIN
UNIVERSITY OF MARYLAND SCHOOL OF LAW
CLINICAL LAW OFFICE
510 WEST BALTIMORE STREET
BALTIMORE, MARYLAND 21201

RECEIVED
COUNTY BOARD OF APPEALS

95 JUL 25 PM 1:46

In The Circuit Court for Baltimore County

Docket ....59..... Folio .226.....

Case No. 93CV07344

..... TERM, 19....

PETITION OF GOLDEN RING

YACHT BASIN, INC./ CHESAPEAKE YACHTING CENTER.

Vs

ORIGINAL RECORD AND PROCEEDINGS

REMANDED TO THE BALTIMORE COUNTY

BOARD OF ZONING APPEALS. MAILED

BY INTER-OFFICE MAIL.

Suzanne Mensh ..... Clerk

I Hereby Certify, That I have this day received under cover from the Clerk of the Circuit Court for Baltimore County, process as above.

IN TESTIMONY WHEREOF, I hereto subscribe my name and affix th

Seal of the BOARD OF APPEALS Court for BALTIMORE County-

City, on the ..... day of ..... nineteen

hundred and .....

..... Cler

James S. Patton, P.E.
16 West 25th Street
Baltimore, Maryland 21218

RECEIVED
AUG 24 1989
ZONING OFFICE

August 23, 1989

The Honorable J. Robert Haines
Zoning Commissioner for Baltimore County
111 W. Chesapeake Avenue
County Office Building
Towson, Maryland 21204

Re: Golden Ring Yacht Basin
Now Known as Chesapeake Yachting
Center, Inc.

Dear Mr. Haines:

I have been advised by Frank Lampron of Chesapeake Yachting Center, Inc. that concerns have been raised regarding the rack storage in the above entitled project.

As the project manager for the site development, all plans and studies required to obtain County approvals were done under my supervision or by me. During the whole planning period the area designated for dry storage was always considered to be either surface or rack storage and that dry storage was considered synonymous with rack storage. Based on various discussions with County personnel that there would be less adverse impact on the environment. I revised the site plan to show rack storage within the parking area.

At no time did we consider that dry storage did not include rack storage during this approval process.

Should you have further questions in this regard.

Sincerely yours,

James S. Patton, P.E.

JSP/jcc
cc: Benjamin Bronstein, Esquire
Mr. Frank Lampron

417.1 WATERFRONT CONSTRUCTION

(a) BOAT YARDS & MARINAS/COMMERCIAL & COMMUNITY

1. BOAT RACKS:

A major concern which has recently become a problem as far as over-loading are boat racks. When these racks were first introduced several years ago, they were used for winter storage of boats which had water berths at the marina. But recently, with the dearth of available facilities, many marinas have begun renting space in boat racks as seasonal dry slips; i.e., instead of having a water slip for the summer season, the boat is kept on the boat rack until you call the marina and inform them you want it placed in the water.

Because boat racks increase density on the land, create additional traffic and impervious surface area, it must be considered a substantive change to a Special Exception as granted.

(A) CONDITIONS: Boat racks may be permitted where they will meet the following conditions:

i. a boat rack, whether in the open or under roof, shall be considered a structure and therefore, require a building or use permit, whichever may be applicable; and

ii. a setback will be required under Section 417.7 (B.C.Z.R.) if an open/unwalled portion of the structure faces the property line; such setback shall be measured from the property line to the closest point be it either boat, rack or the eaves of the structure itself; and

iii. each rental space in a boat rack shall be considered a dry boat slip and thus subject to B.C.Z.R. parking requirements under Section 409, unless the petitioner can verify that each boat rack space is the out-of-water storage space for an individual water slip.

(B) INTERPRETATION: This determination may be subject to a Special Hearing at the discretion of the Zoning Commissioner on a case-by-case basis.

(b) Residential: If, on residentially improved waterfront property a large pier and/or many piles are proposed, justification may be required by the zoning office that the property will continue to be used for private residential purposes. The improvements are approved under a residential permit, then it can be assumed that the zoning approval was for private residential use only.

(c) Unimproved Lots:
1. Waterfront construction (piers, mooring piles, bulkheads) may be constructed on unimproved lots pursuant to Section 417, provided that no accessory buildings/structures are constructed (See 84-275-A; 85-106-SPH);
2. If waterfront construction such as a pier or piles, launching ramp and/or any buildings are proposed on vacant community property, a special exception for a "community building....." is required (See Case 84-251-XA).

Proposed New Policy - 1 Aug 89
Revised - 14 Sept 89

RM-23
BM-28
A-28

MARINAS/COMMERCIAL & COMMUNITY

Under the authority of Section 500.7, B.C.Z.R., the following interpretations of various aspects regarding marinas have been promulgated.

BOAT RACKS:

A major concern which has recently become a problem as far as over-loading are boat racks. When these racks were first introduced several years ago, they were used for winter storage of boats which had water berths at the marina. But recently, with the dearth of available facilities, many marinas have begun renting space in boat racks as seasonal dry slips; i.e., instead of having a water slip for the summer season, the boat is kept on the boat rack until you call the marina and inform them you want it placed in the water.

Because boat racks increase density on the land, create additional traffic and impervious surface area, it must be considered a substantive change to a Special Exception as granted.

The following guidelines have been formulated so that this matter can be handled consistently:

CONDITIONS:

Boat racks may be permitted where they will meet the following conditions:

1. a boat rack, whether in the open or under roof, shall be considered a structure and therefore, require a building or use permit, whichever may be applicable; and
2. a setback will be required under Section 417.7 (B.C.Z.R.) if an open/unwalled portion of the structure faces the property line; such setback shall be measured from the property line to the closest point be it either boat, rack or the eave of the structure itself; and
3. each rental space in a boat rack shall be considered a dry boat slip and thus subject to B.C.Z.R. parking requirements under Section 409, unless the petitioner can verify that each boat rack space is the out-of-water storage space for an individual water slip.

INTERPRETATION:

This determination may be subject to a Special Hearing at the discretion of the Zoning Commissioner on a case-by-case basis.

BEST MANAGEMENT PRACTICES
SIGNED BY F. LAMPRON

ITEM 3: MISCELLANEOUS MARINA DESIGN FEATURES

A. Wetlands

Issue: Protection of wetlands--

- Because wetlands are a natural feature of tidal areas and provide numerous benefits, the marina will be designed and operated to maintain and enhance wetlands, by the following actions:

  1. Existing wetland areas in Frog Mortar Creek, north and west of the marina, will not be utilized or affected by the construction of the marina.
  2. A new wetland area approximately 440 ft^2 in size will be planted at the southern edge of the marina along Frog Mortar Creek.

- Shallow water habitat in which wetland plants and aquatic life may develop will be protected along the northwestern edge of the marina by stabilizing the shoreline with riprap and crown vetch.

B. Shorelines

Issue: Shoreline erosion and turbidity from prop wash--

- Shorelines in Frog Mortar Creek will be protected against erosion by maintenance and creation of marshes, riprap stabilization of eroding banks, and by construction of bulkheads in the excavated basin.

- To minimize effects of boat wakes, the marina area will be posted as a "5 MPH speed limit" and "No Wake" zone.

- The location of the marina in upper Frog Mortar Creek, and plans to attract sailboats over power boats, will further minimize the possibility of boat wakes capable of affecting shorelines and shallow water habitat.

- The design depth of Golden Ring Yacht Basin will be greater than 2.5 ft to prevent turbidity due to prop wash scour in shallow water where boats are berthed and fairways are located.

- Boats will be designated slips suitable for their drafts to minimize prop wash.

[redacted] File In my office

D.S. THALER & ASSOCIATES, INC.

11 WARREN ROAD • BALTIMORE, MARYLAND 21208 • (301) 484-4100
FAX (301) 486-7074

RECEIVED
SEP 1 1989
ZONING OFFICE

August 29, 1989

Baltimore County, Maryland
Office of Planning and Zoning
Courts Building
401 Bosley Avenue
Towson, Maryland 21204

ATTN: Mr. J. Robert Haines
Zoning Commissioner

RE: Golden Ring Yacht Basin

Dear Mr. Haines:

I have been asked to provide some information with respect to boat storage at the Golden Ring Yacht Basin.

The original plan entitled "Plat to Accompany Zoning Special Exception Petition and CRG Approval" prepared by Century Engineering, Inc., and dated May 11, 1984 ("The Century Plan") indicates" open boat storage" and an "open boat storage" building on the site. Enclosed herewith is a photocopy of the relevant portions of that plan.

This office took over the engineering for the project subsequent to the preparation of the Century plan. Our plan dated January 14, 1986 entitled "Plat to Accompany Zoning Special Exception Petition and CRG Approval (The Plat")" was ultimately approved by the County Review Group and the then Zoning Commissioner of Baltimore County.The Plat does not indicate a specific location for boat storage. However, Note No. 6 on the plat states "Parking spaces to double as dry boat storage-no boat storage within 60 feet of property line." The plan was approved by all appropriate State and Local agencies.

The removal of the boat storage from the Century plan and the addition of Note No. 6 to our plan is entirely consistent with Mr. Lampron's recollection of being instructed by Baltimore County reviewing authorities to remove the racks, and our experience in the preparation of both CRG and zoning plans that non-permanent elements are not indicated on such plans.

Please do not hesitate to contact this office if we can provide any further information.

Very truly yours,

D.S. THALER & ASSOCIATES, INC.

David S. Thaler, P.E., L.S.
President

DST/gfl

Enclosure

cc: Benjamin Bronstein, Esquire
Michael Glick
Frank Lampron

IATES AND BEARING SHOWN ARE BASED
MORE COUNTY COORDINATE SYSTEM.

IG PILE

D PILE

D HANDICAP PARKING SPACE

Y LINE

ONE

6/1/84

May 11, 1984
Date

STATE OF MARYLAND
RICHARD REIKENIS
No. 2518
REGISTERED
PROFESSIONAL ENGINEER

Richard Reikenis

Professional Engr. No. 5218

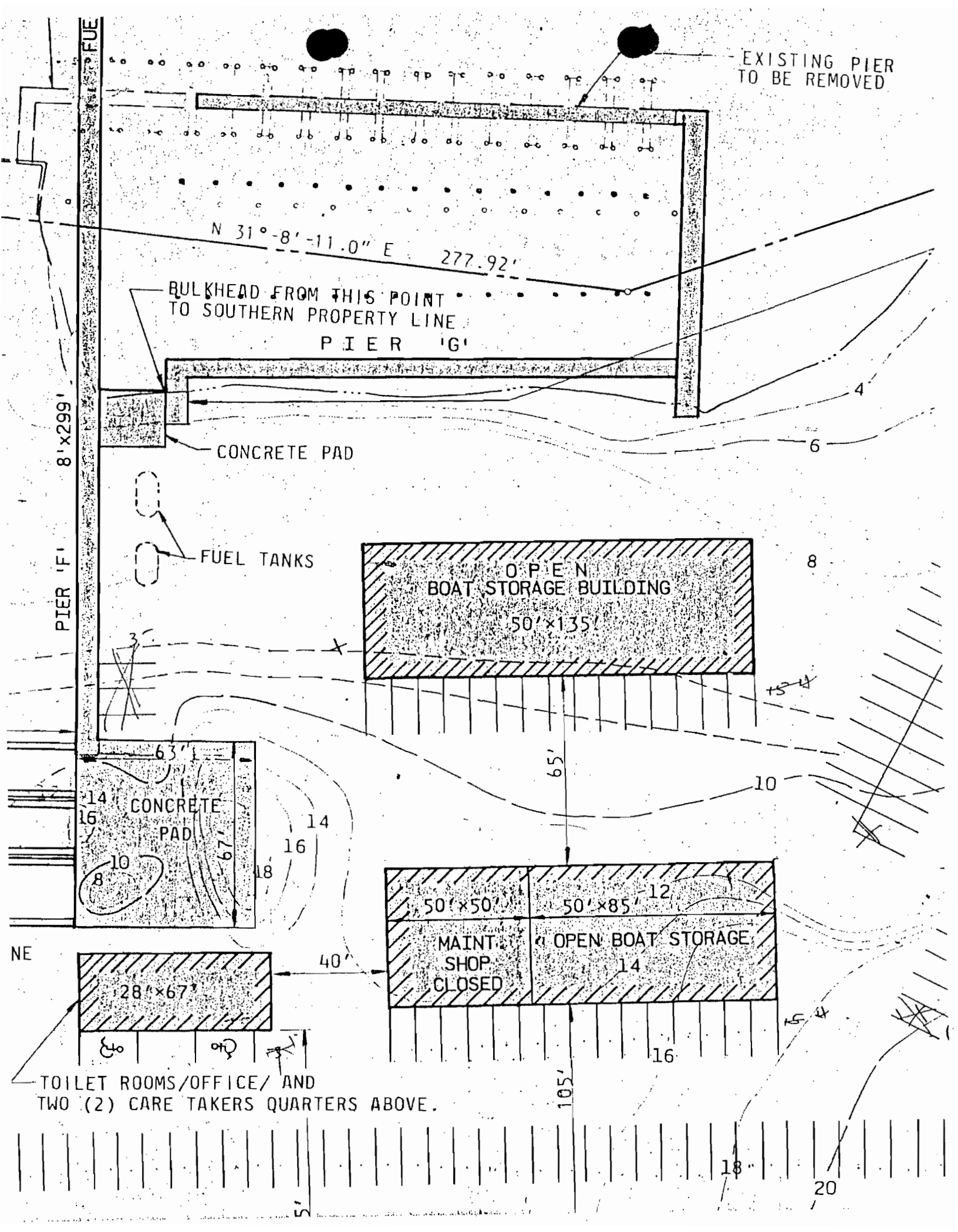
Date	No.	Revision Description

CENTURY ENGINEERING, INC.
CONSULTING ENGINEERS • PLANNERS
TOWSON, MARYLAND 21204

AREA
GOLDEN RING YACHT BASIN, INC.
MIDDLE RIVER, MARYLAND

TITLE PLAT TO ACCOMPANY ZONING SPECIAL EXCEPTION PETITION AND C.R.G. APPROVAL

Des By	Scale 1" = 40'	Proj No 1208
Drn By C.G.O.	Date	Drawing No. 1 OF 1
Chk By	Approved	


EXISTING PIER
TO BE REMOVED
N 31°-8'-11.0" E 277.92'
BULKHEAD FROM THIS POINT
TO SOUTHERN PROPERTY LINE
PIER 'G'
8'x299'
PIER 'F'
CONCRETE PAD
FUEL TANKS
OPEN
BOAT STORAGE BUILDING
50'x135'
63'
CONCRETE
PAD
67'
65'
50'x50'
MAINT.
SHOP
CLOSED
50'x85'
OPEN BOAT STORAGE
14
28'x67'
40'
105'
TOILET ROOMS/OFFICE/ AND
TWO (2) CARE TAKERS QUARTERS ABOVE.
NE
4
6
8
10
12
14
16
18
20
5'

9/20/91 IHH-92
8

BOWLEY'S QUARTERS IMPROVEMENT ASSN., Inc.
1124 BOWLEY'S QUARTERS ROAD
BALTIMORE, MARYLAND 21220

Telephone: 335-9802

September 17, 1991

Mr. David Fields
Direct of Planning
County Courts Building
401 Bosley Avenue
Towson, MD 21204

RE: Chesapeake Yachting Center

Dear Mr. Fields:

The attached letter sent to Roger Hayden expresses the concern felt by the Bowley's Quarters Improvement Association on the construction of 200 Dry-Storage Boat Racks.

The decision by the Refinement Committee of the Critical Review Group (G.R.G.) is seriously questioned.

How can a decision to allow 200 Dry-Storage Boat Racks be considered a minor change or a refinement to a C.R.G. approved plan which did not include boat racks? How can this change be allowed without a public hearing? Is it proper procedure to find out a change this significant was made when construction is underway?

Sincerely,

John J. Schmidt
Zoning Chairman

JJS/sb

Attachment
bcc: A. Jablon
cc: Roger B. Hayden

RECEIVED
SEP 20 1991
ZONING OFFICE

9/20/91
Of

BOWLEY'S QUARTERS IMPROVEMENT ASSN., Inc.
1124 BOWLEY'S QUARTERS ROAD
BALTIMORE, MARYLAND 21220

Telephone: 335-9802

September 17, 1991

Mr. Gene Neff
Director of Public Works
County Courts Building
401 Bosley Avenue
Towson, MD 21204

RE: Chesapeake Yachting Center

Dear Mr. Neff:

The attached letter sent to Roger Hayden expresses the concern felt by the Bowley's Quarters Improvement Association on the construction of 200 Dry-Storage Boat Racks.

The decision by the Refinement Committee of the Critical Review Group (G.R.G.) is seriously questioned.

How can a decision to allow 200 Dry-Storage Boat Racks be considered a minor change or a refinement to a C.R.G. approved plan which did not include boat racks? How can this change be allowed without a public hearing? Is it proper procedure to find out a change this significant was made when construction is underway?

Sincerely,

John J. Schmidt
Zoning Chairman

JJS/sb

Attachment
bcc: A. Jablon
cc: Roger B. Hayden

#180

BOWLEY'S QUARTERS IMPROVEMENT ASSN., Inc.
1124 BOWLEY'S QUARTERS ROAD
BALTIMORE, MARYLAND 21220

Telephone: 335-9802

RECEIVED
OCT 18 1991
By OCJ

10/17/91
8

October 15, 1991

92-171-SPH

Baltimore County Zoning Office
Development Control
111 West Chesapeake Avenue
Room 113
Towson, MD 21204

1965-92
GS

Dear Sirs:

Enclosed please find a check in the amount of $100.00, to be in the addition of the $75.00 check you have already received. This total of $175.00 is to file the appeal for Case #86-292-XSPHA.

Very truly yours,

John J. Schmidt

John J. Schmidt
Chairman of Zoning Committee

JJS/sb

Enclosure

RECEIVED
OCT 17 1991
ZONING OFFICE

AS

11/1/91
9
OK
to file
Arnold -
Since this is "down the road" - your decision as whether to grant
LES

LAW OFFICES
EVANS, GEORGE AND BRONSTEIN
SUSQUEHANNA BUILDING, SUITE 205
29 WEST SUSQUEHANNA AVENUE
TOWSON, MARYLAND 21204
(301) 296-0200
FAX (301) 296-3719

L. ROBERT EVANS
HARRIS JAMES GEORGE
BENJAMIN BRONSTEIN

MICHAEL J. CHOMEL
DOUGLAS A. STUBBS

RECEIVED
OCT 28 1991
ZONING COMMISSIONER

October 28, 1991

HAND DELIVERED

The Honorable Lawrence Schmidt
Zoning Commissioner for Baltimore County
First Floor
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

RE: **Golden Ring Yacht Basin, Inc., a/k/a Chesapeake Yachting Center**
Case No.: 92-171-SPH

Dear Mr. Schmidt:

Please enter my appearance in the above entitled case on behalf of Golden Ring Yacht Basin, Inc., a/k/a Chesapeake Yachting Center.

I have received a notice of hearing for the above entitled matter which is set for Tuesday, November 19, 1991 at 2:00 p.m. Because of prior commitments, I am unable to prepare this case for hearing on that date. I would appreciate your consideration in continuing this case to the latter part of December or after the first of the year.

Very truly yours,

EVANS, GEORGE AND BRONSTEIN

Benjamin Bronstein

BB/mlh
cc: Arnold Jablon, Esquire

RECEIVED
OCT 28 1991
ZONING OFFICE

LAW OFFICES

EVANS, GEORGE AND BRONSTEIN

SUSQUEHANNA BUILDING, SUITE 205
29 WEST SUSQUEHANNA AVENUE
TOWSON, MARYLAND 21204
(410) 296-0200
FAX: (410) 296-3719

L. ROBERT EVANS
HARRIS JAMES GEORGE
BENJAMIN BRONSTEIN

MICHAEL J. CHOMEL

RECEIVED
COUNTY BOARD OF APPEALS
95 JUL 25 PM 1:10

July 24, 1995

Ms. Kathy Weidenhammer
Board of Appeals for Baltimore County
Courthouse
400 Washington Avenue
Towson, Maryland 21204

RE: **Golden Ring Yacht Basin, Inc./Chesapeake Yachting Center v. People's Counsel for Baltimore County**
In the Circuit Court for Baltimore County
Case No.: 93CV7344

Dear Ms. Weidenhammer:

I have received a copy of Judge Hinkel's Order dated July 20, 1995 remanding the above entitled case back to the Board of Appeals.

I suggest that there be a pre-hearing conference with the Board's chairman, Peter Max Zimmerman, People's Counsel and me to discuss procedure in this case. I am also requesting that the case be set in for hearing no earlier than October 15, 1995. I will not be available for a conference until August 14, 1995 because of my vacation schedule.

Thank you for your kind consideration.

Very truly yours,

EVANS, GEORGE AND BRONSTEIN

Benjamin Bronstein

BB/mlg
cc: Peter Max Zimmerman, People's Counsel

92-171-SPH

TO WHOM IT MAY CONCERN:

The Stevens Road Improvement Association, Inc., a legal corporation in the State of Maryland, located in Baltimore County, consisting of the homeowners of the land known as THE WALTER STEVENS PLAT, which is on file in the land records of Baltimore County, does resolve by the authority of the Board of Directors of Stevens Road Improvement Association, Inc., to appoint, until replaced, David R. Cahlander and Gerald B. Novak as Zoning Committee members to be responsible for review and action on all zoning matters which may have impact on our community both directly or indirectly, and shall include, but not be limited to, being opposed to further marina construction on Frog Mortar Creek, i.e. Chesapeake Yachting Center, a.k.a. Golden Ring Yacht Center, Parkside Marina, etc.

Be it also resolved that the Zoning Committee shall be concerned and supportive of other like community associations, such as, but not limited to, The Bowleys Quarters Improvement Association.

This Resolution shall serve as to include all parts of Rule 8 of the Board of Appeals of Baltimore County, and as such, so states it has been the intention of the Board of Directors of the Stevens Road Improvement Association, Inc, for David R. Cahlander and Gerald B. Novak to represent the Association in all zoning matters in the past, in the present and in the future.

AFFIDAVIT: I swear upon penalty of perjury that I am a duly appointed member of the Zoning Committee of The Stevens Road Improvement Association, Inc.

David R. Cahlander _____

Gerald B. Novak _____

RECEIVED
COUNTY BOARD OF APPEALS
'92 SEP 15 AM 9:15

As witness our hands and seals this 14th day of September 1992 Board of Directors, Stevens Road Improvement Association, Inc.

Lawrence P. Kramer Jr. _____

Douglas M. Miller _____

DAVID ARNETT _____

PAM ARNETT _____

As witness our hands and seals this 14th day of September 1992,

ATTEST: Stevens Road Improvement Association, Inc.

Louise C. Weitzel
Secretary

Gerald B. Novak
President

July 8, 1993

Chairman William Hackett
Baltimore County Board
of Appeals
49 Old Court House
Towson, Maryland 21204

RECEIVED
COUNTY BOARD OF APPEALS
93 JUL 12 PM 2:08

Dear Chairman Hackett :

It is with total dismay that I find it necessary to write to you in regard to the Petition for Special Hearing; Case No. 92-171-SPH brought by John J. Schmidt, et al., and the Bowley's Quarters Community Association. This Appeal was heard on December 17, 1992 by a three member panel, with member Mr. Sauer serving as the Chair.

My concern is that it would appear that your office does not care about providing timely decisions to issues which affect communities such as Bowley's Quarters? I level this comment because of the serious nature of the concerns the community raised and the importance of the decision which your office must render. Delays of six months plus, need to be explained to those involved if for no other reason than to belay the cynical thoughts which will usually come to the forefront when no real communication is offered.

Over the last three months, many citizens from the community and BQIA Board Members have inquired about the progress with the appeal and presumably because I also serve on the Planning Board they think that I have an inside track. Needless to say, we both know that I don't. However, I have contacted your office on many occasions, usually speaking with a Ms. Kathy Windenhammer, inquiring of the progress with the case only to hear general statements such as " Mr. Sauer still has

the folder " or " If Mr. Sauer returns it next week then I have to submit it for review by the other officers ". Before I go further, let me say that I am not upset with Ms. Windenhammer and I am sure that she was giving me the best information that she had. What I am upset about is the simple fact that your panel of hearings officers have had over six months to study the case, review the facts and render a decision, but for reasons beyond my understanding have failed to do so!

What I respectfully ask for, is a written response indicating why this case is consuming so much time and why the excessive delays are warranted !? Once this information is received, I will then be able to better answer the communities questions.

In closing, when notifying the BQIA Board of my intent to write to you for an explanation, one Board member exclaimed, how wonderful and enjoyable it will be reading the information you provide as we all settle up next to our fireplaces and throw a few more logs into the fire for warmth as winter overtakes us in December 1993 !.

Sincerely,

Philip Edwards

cc: Roger Hayden
Baltimore County Councilpersons
Phyllis Cole Friedman
Peter Max Zimmerman
William Jordan &
BQIA Boardmembers

92-171-SPH

Baltimore County
Office of Planning

401 Bosley Avenue
Towson, Maryland 21204
(410) 887-3211
Fax: (410) 887-5862

June 5, 1997

RECEIVED
JUN 07 1997

Mr. Alan E. Scoll, RLA
DS Thaler & Associates, Inc.
7115 Ambassador Road
Baltimore, MD 21244

Dear Mr. Scoll:

The Office of Planning has reviewed the revised Site Plan for the Chesapeake Yachting Center (Golden Ring Yacht Basin) for compliance with the Baltimore County, Board of Appeals Order dated April 30, 1997. The Site Plan accurately reflects those areas not allowed for boat storage. In addition, the 50 foot setback, and the maximum number of boats stored during the winter versus summer has also been provided.

Portions of the Board of Appeals Order so limiting the site have also been provided. The Site Plan accurately reflects the conditions set by the Board of Appeals. Staff would suggest filing the revised CRG Plan with Permits and Development Management.

Thank you for your assistance.

Sincerely,

Pat Keller

Arnold F. 'Pat' Keller, III
Director

AFK:bjs

C: Arnold Jablon, Director, PDM

SCOLL.DOC

Printed with Soybean Ink
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D. S. THALER & ASSOCIATES, INC.

7115 AMBASSADOR ROAD • BALTIMORE, MARYLAND 21244
(410) 944-ENGR • (410) 944-3647 • FAX: (410) 944-3684

Date June 9, 1997

To: County Board of Appeals of
Baltimore County
Old Court House Room 49
400 Washington Ave.
Towson, Maryland 21204

Re: Chesapeake Yachting Center, Inc.
(formerly known as Golden Ring
Yacht Basin)
#92-171-SPH

Attention: Kathleen C. Bianco, Adminstrator

97 JUN -9 PM 4:00
RECEIVED
COUNTY BOARD OF APPEALS

Gentlemen:

☒ We are submitting ☒ Herewith ☐ Under Separate Cover
☐ We are forwarding
☐ We are returning
☐ We request

No.	Description
1	Revised site plan
1	Letter from the Office of Planning

Remarks:

☐ In accordance with your request
☐ For your review
☐ For processing
☐ Plans reviewed and accepted
☐ Plans reviewed and accepted as noted
☐ For revision by you

☒ For your use
☐ Please call when ready
☐ Please return to this office
☐ Approval requested
☐ Conference requested at your convenience

For further information, please contact the writer at this office

Sincerely yours,

Stacey A. McArthur, R.L.A.

CC: file
Enclosure ☒
Frank Lampron
Ben Bronstein, Esquire

D. S. THALER & ASSOCIATES, INC.

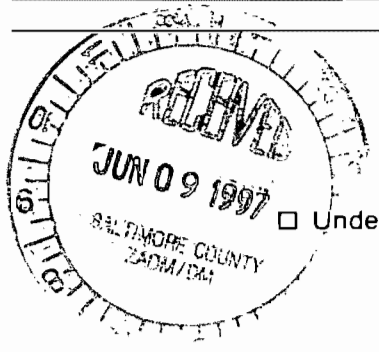
7115 AMBASSADOR ROAD • BALTIMORE, MARYLAND 21244
(410) 944-ENGR • (410) 944-3647 • FAX: (410) 944-3684

Date June 9, 1997

To: PDM
Zoning

Re: Chesapeake Yachting Center

Attention: Mr. Carl Richards



Gentlemen:

☒ We are submitting ☒ Herewith ☐ Under Separate Cover
☐ We are forwarding
☐ We are returning
☐ We request

No.	Description
1	Print
1	Letter from the Office of Planning

Remarks: Copy of the plan approved by Baltimore County Board of Appeals for your records

Pat Keller's
☒ In accordance with ~~your~~ request
☐ For your review
☐ For processing
☐ Plans reviewed and accepted
☐ Plans reviewed and accepted as noted
☐ For revision by you

☒ For your use
☐ Please call when ready
☐ Please return to this office
☐ Approval requested
☐ Conference requested at your convenience

For further information, please contact the writer at this office

Sincerely yours,

Stacey A. McArthur, R.L.A.

CC: file
Enclosure ☒
Ben Bronstein

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME	ADDRESS
Lenyanna Thornton	Suite 205 29 W Susquehanna Ave 21204
Charles F. Lamprecht	1755 HILLTOP AVE, BALTO. MD 21221
DAVID S. TYLER PE LS	7115 AMBASSADOR RD BALT 21207



FROM THE DESK OF
DAVID CAHLANDER

Ms. Linda Kuszmaul

Please Add My Name
To The Mailing List
For Special Appeal
92-172 SPA
Schmidt/Richbell Vs
Chesapeake Yacht
Center —
David R Cahlander
3528 Pelham Ave.
Baltimore Md
21213
(over)

Hearing 92-172-A

David R. Cahlander
Stevens Rd for
3528 Pelham Ave
21213

PROTESTANT(S) SIGN-IN SHEET

NAME	ADDRESS
DAVID R CAHCANDER	218 STEVENS Rd
John J Schmidt	3833 Charles Pt. Rd
Bill Jordan	3800 Bay DR 21220
H. ANDREW JONES	1026 Susquehanna Ave. 21220
Philip Edwards	1016 SUSQUEHANNA AVE 21220
Gerard B. NOVAK	200 Stevens Rd 21220
Deborah Brill	3926 New Section Rd. 21220
Bob Christopher	2116 Holly Neck Rd - 21221
Michael J Dain	946 Middlebrook Rd 21221
Hazel Bauer (Do not wish to speak)	1920 Wilson Pt. Rd. 21220
Lillian M. Yulis (Do not wish to speak)	1914 Wilson Pt Road
Clayton L Burgess	113 Hughes Shore Road 21220
Byron E Livingston	109 Hughes Shore Rd 21220
Veronica M. Bierbower	117 Hughes Shore Rd 21220
Stacey Wilson	115 Hughes Shore Rd 21220
JOHN ZELLER	115 HUGHES SHORE RD 21220
EARL HOLCOMB	206 STEVENS RD 21220
Louise Weitzel	204 Stevens Rd. 21220

92-171-SPH

JOHN J. SCHMIDT, ET AL
EDWARDS LN & BOWLEYS QUARTERS RD

92-171-SPH

~~9/26/96 @ 10:00 am On Remand PP'd~~
~~10/30/96 @ 10:00 am On Remand PP'd~~
1/15/97 @ 10:00 am On Remand PP'd
3/18/97 @ 10:00 am on Remand #2
4/08/97 @ 9:30 am Delib

(19920171)

EXHIBITS

1

3 of 4

SECTION A-A

NOT TO SCALE

SOILS DATA - LIMITATIONS

AREA	TYPE	BLDG. LESS THAN 3-STORY, NO BSMT	ROADS & PARKING	CLASS
8.2 Ac.	Ma	NONE	NONE	VARIABLE
2.4 Ac.	ShA	SLIGHT	SLIGHT	ML-CL, SM, SC, SP
2.2 Ac.	LmB	SEVERE - HIGH WATER TABLE*	SEVERE HIGH WATER TABLE*	ML, MH, CL, CH, SM

* SLOPE TO DRAIN READILY
Ma = MADE LAND
ShA = SASSAFRAS SILT LOAM, 0 TO 2% SLOPES
LmB = LENOIR SILT LOAM, 0 TO 5% SLOPES

VICINITY MAP
SCALE: 1"=2000'

JUSTIFICATION FOR CARETAKER'S UNITS

The history of this area has indicated high theft and vandalism in the shopping center contiguous to this marina. During the past recent years the Radio Shack (directly adjacent to the marina) has been burglarized as frequently as four to five times in one month. Additionally our dockmaster reports several incidents each season of breaking and entering of boats an having electronics and other gear stolen. Direct observation by owner of marina over the past three years indicated high level of young persons frequenting our premises nights and weekends which has led to vandalism. Experience has indicated in a similar situation that adequate caretaker coverage necessitated four caretakers (involving 80 slips in a one acre marina) positioned strategically to maintain direct line of sight over the area involved. Based on this experience our five caretakers will be the minimum required to secure this 12 acre (200 boat) area.

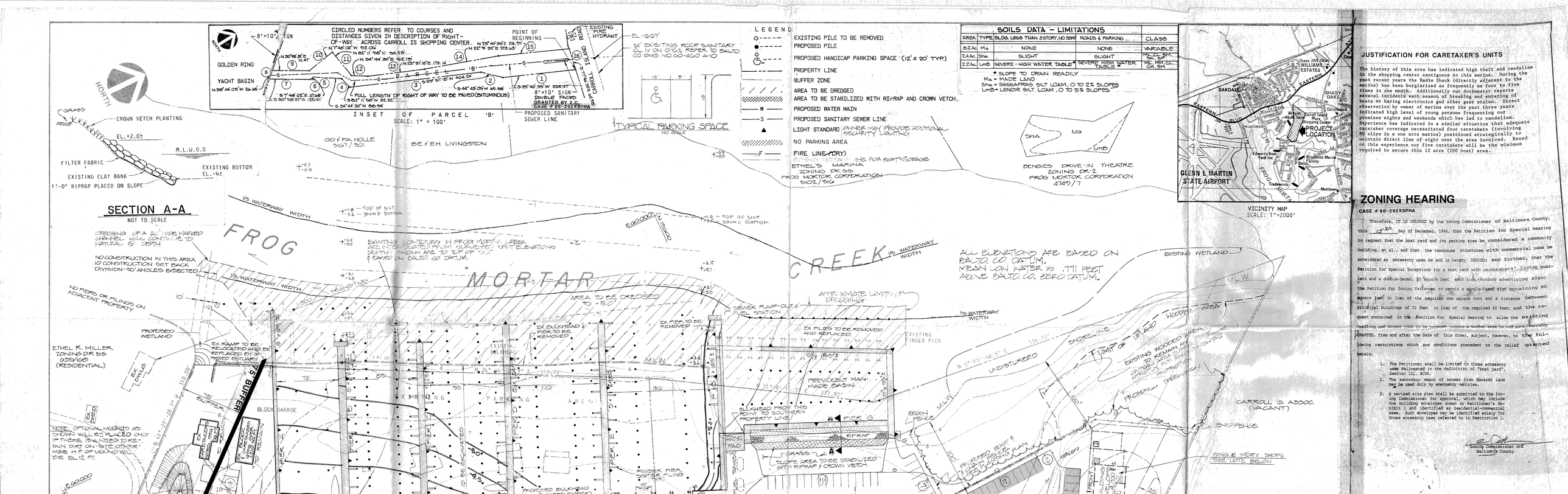
ZONING HEARING

CASE # 86-292XSPHA

Therefore, IT IS ORDERED by the Zoning Commissioner of Baltimore County, this 15th day of December, 1986, that the Petition for Special Hearing to request that the boat yard and its parking area be considered a community building, et al., and that the townhouse structures with commercial uses be considered as accessory uses be and is hereby DENIED; and further, that the Petition for Special Exceptions for a boat yard with caretakers' living quarters and a double-faced, 80 square feet each side, outdoor advertising sign; the Petition for Zoning Variances to permit a single-faced sign containing 80 square feet in lieu of the required one square foot and a distance between principal buildings of 32 feet in lieu of the required 40 feet; and the request contained in the Petition for Special Hearing to allow the existing dwelling and access road to be located within a buffer area be and are hereby GRANTED, from and after the date of this Order, subject, however, to the following restrictions which are conditions precedent to the relief granted herein:

1. The Petitioner shall be limited to those accessory uses delineated in the definition of "boat yard", Section 101, BCZR.
2. The secondary means of access from Edwards Lane may be used only by emergency vehicles.
3. A revised site plan shall be submitted to the Zoning Commissioner for approval, which may include the building envelopes shown on Petitioner's Exhibit 1 and identified as residential-commercial uses. Such envelopes may be identified solely for those accessory uses referred to in Restriction 1.

Zoning Commissioner of Baltimore County


FROG MORTAR CREEK
1/2 WATERWAY WIDTH
EXISTING CONTOURS IN FROG MORTAR CREEK DEPTHS INDICATED BELOW ARE SOUNDED DEPTHS AT MEAN LOW WATER AS REFER TO MEAN LOW WATER DATUM AS REFER TO BALTO CO DATUM.
ALL ELEVATIONS ARE BASED ON BALTO CO DATUM. MEAN LOW WATER IS .771 FEET ABOVE BALTO. CO. ZERO DATUM.
DREDGING OF A 5' WIDE MARKED CHANNEL WILL CONTINUE TO NATURAL DEPTH
NO CONSTRUCTION IN THIS AREA 10' CONSTRUCTION SET BACK DIVISION 90° ANGLED BISECTED
NO PIERS OR PILINGS ON ADJACENT PROPERTY
AREA TO BE DREDGED TO -5.0'
SEWER PUMP-OUT & FUEL STATION
EX PILES TO BE REMOVED AND REPLACED
EXISTING FINGER PIER
EX BULKHEAD & PIERS TO BE REMOVED
EX PIER TO BE REMOVED
APPROXIMATE LIMIT OF DREDGING
PROPOSED WETLAND
EX RAMP TO BE RELOCATED AND RE-REPLACED BY IMPROVED BOATLIFT
ETHEL R. MILLER ZONING DR 5.5 0.05/100 (RESIDENTIAL)
EX SHED
EX GARAGE
75' BUFFER
BLOCK GARAGE
EXISTING BULKHEAD
PARKING AREA
EX PIER TO BE REMOVED
PREVIOUSLY MAN-MADE BASIN
BULKHEAD PROJECTS FROM THIS POINT TO SOUTHERN PROPERTY LINE
PIER G
RIPRAP
GRASS
SLOPE AREA TO BE STABILIZED WITH RIPRAP & CROWN VETCH.
BEGIN FENCE
MLW
SHORELINE
LIMIT OF "UPLAND" WOODED AREA
EXISTING WOODED AREA TO REMAIN AS BUFFER AREA
UNDISTURBED
CARROLL IS ASSOC. (VACANT)
SINGLE STORY SHOPS SEE NOTE BELOW
R.O.W. TO CARROLL IS RD (SEE INSERT ABOVE) REF EHK JR. 5923/0
N 24°44'50" E 52.10'
N 20°55'22" E 111.47'
PRIMARY ENTRANCE
WATER SERVICE FROM CARROLL IS. ROAD
S 33°48'30" W 65.54'
S 7°40'02" E 10.00'
S 82°11'58" W 32.21'
S 75°57'16" W 104.74'
FOR ENTRY DRIVE CONTINUATION SEE SHT. 3
CARROLL ISLAND SHOPPING CENTER
ZONING BL 2 6127/199
DR-55
BL-2
EXISTING FIRE HYDRANT
NOTE:
1. PROPOSED 1 1/2 STORY SHOPS ONLY THOSE ACCESSORY USES DELINEATED IN THE DEFINITION OF "BOAT YARD" IN THE BALTO CO. ZONING REGS SHALL BE PERMITTED.
2. THE SECONDARY MEANS OF ACESS FROM EDWARDS LA. MAY BE USED ONLY BY EMERGENCY VEHICLES
SEE OPTIONAL MOUNDS AS SHOWN WILL BE PLACED ONLY IF THERE IS NEEDED TO BE TAN DIRT ON-SITE OTHERWISE HT OF MOUND WILL BE EL.12 FT.
EX. GAZEBO
EX. WOOD DECK
EX. CONC. PAD
EX. WOOD DECK TO REMAIN
EX. CONC. PAD TO REMAIN

BOARD OF APPEALS ORDER APRIL 30,1997

ORDER

IT IS THEREFORE this 30th day of April, 1997, by the County Board of Appeals of Baltimore County

ORDERED that the Property Owner's motion to permit current, unrestricted ground storage of boats be and is hereby **DENIED**; and it is further

ORDERED that this Board's Order in the instant case dated July 22, 1993, be amended as follows:

Restriction No. 2 in the list of restrictions to the amended site plan in Case No. 86-292-XSPHA shall be deleted and replaced with the following restriction:

2. Within 30 days of the date of this Order and prior to the issuance of any permits, the Property Owner shall submit an amended site plan to the Office of Planning and Zoning incorporating the relief granted herein. Said plan shall describe thereon the designated areas for the ground storage of boats and the active repair, sale, construction and general servicing of boats, said areas to conform in general with the conceptual plan for designation of ground storage areas as shown in pink on People's Counsel Exhibit 3 of these proceedings. Whenever proposed Buildings C, D and E are built, the area for ground storage shall be reduced accordingly, and no additional area for ground storage shall be permitted on the site. A note shall be appended to the site plan indicating that ground storage of boats shall be limited to 130 boats in the summer and 150

Circuit Case No. 93-CV-7344 /John J. Schmidt
On Remand from the Circuit Court/Zoning #92-171-SPH 6

boats in the winter, and that a limit of one layer of boats may be stored in the pink-designated area at the water's edge, subject to a 50-foot setback, in the summer; the limit to be increased to two layers of boats in the winter.

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

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

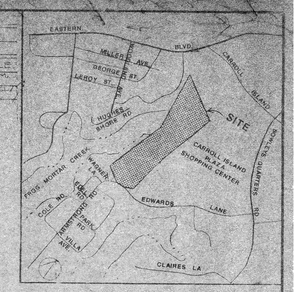
Robert O. Schuetz, Chairman

Lawrence M. Stahl

S. Diane Levero

SOILS DATA - LIMITATIONS			
SYMB.	TYPE	BLDG. LESS THAN 3 STORY, NO BSMT., ROADS & PARKING	CLASS
MrA	Mra	NONE	NONE	VARIABLE
MrB	Mra	SLIGHT	SLIGHT	MOD. 5 sm.
FeA	HYDRIC	SEVERE: HIGH WATER TABLE & PONDING	SEVERE: HIGH WATER TABLE & FLOODING	MOD. SEVERE (FLOODING)

* SLOPE TO DRAIN READILY.
Mra = MADE LAND
SmrA = SASSAFRAS SILT LOAM, 0 TO 2% SLOPES
LmrB = LENOX SILT LOAM, 0 TO 5% SLOPES



VICINITY MAP
SCALE: 1" = 1000'

FROG MORTAR CREEK

EXISTING GRASS BUFFER

(NO BOAT STORAGE)

EXISTING STONE PAVING

NO BOAT STORAGE (EXISTING GRASS BUFFER)

SECONDARY ENTRANCE GATE FOR EMERGENCY VEHICLES ONLY

(NO BOAT STORAGE)

NO BOAT STORAGE

DRY RACK STORAGE
200 UNITS FOR BOAT STORAGE
8 UNITS FOR SALES & SERVICE (SEE GENERAL NOTES)
'B' CLASS STORAGE

FIRE LANE (24' MIN.)
OPTIONAL BERM
(20 FEET HIGH)

BUFFER AREA - SEE LANDSCAPE PLAN. THIS AREA MAY BE USED FOR PASSIVE RECREATION ONCE TREES ARE ESTABLISHED. USES EXCLUDE STRUCTURES & PAVING. NO DREDGED MATERIAL SHALL BE USED FOR EXTERIOR CONSTRUCTION OF BERM. EARTH EXCAVATED FROM EXISTING LAND AREAS TO BE USED FOR EXTERIOR.
(NO BOAT STORAGE)

DRAINAGE TO BE CONTINUOUS UNDER DRY RACK STORAGE

PIER AREA WORK TO BE PERFORMED UNDER SEPARATE D.N.R. PERMIT

APPROXIMATE LOCATION OF ABOVE-GROUND FUEL TANKS (FENCED)

50' SETBACK

(DESIGNATED BOAT STORAGE AREA (SUMMER ONLY)

ADDITIONAL BOAT STORAGE AREA (WINTER ONLY)

BLDG. 'A' (1 STY.) TOILET, OFFICE W/ 2 CARETAKERS QRTS. ABOVE F.F.EL. 13.0

BLDG. 'B' (2 STY.) SERVICE MAINTENANCE BLDG. F.F.EL. 12.0 2 STY.

BLDG. 'C' (2 STY.) SHIP STORE W/ OFFICES ABOVE F.F.EL. 12.0 2 STY.

BLDG. 'D' PROPOSED SHOPS

BOTTOM CLEANING AREA SEE DETAIL THIS SHEET

SECTION A-A
NOT TO SCALE

THIS AREA TO REMAIN UNDISTURBED AT ALL TIMES (NO BOAT STORAGE)

(NO BOAT STORAGE)

CARROLL ISLAND SHOPPING CENTER

CARROLL ISLAND ASSOC. VACANT

ROW TO CARROLL ISLAND REF. LIBER 5926

EDWARDS LANE

FISHER LANE

FRED R. MILLER RESIDENTIAL

HOUSE MASONRY STORE FRONT

TYPICAL PARKING SPACE

TYP PAVING SECTION
NOT TO SCALE
8" DURABLE AND DUSTLESS POROUS PAVING, TYPICAL
2" WASHED GRAVEL
2" CR-6 BASE
4" CR-1 SUBBASE

BENCH DETAIL
NO SCALE

TYPICAL SECTION OF PROPOSED BULKHEAD
NOT TO SCALE

GENERAL NOTES

1. EXISTING USE - BOAT YARD
2. PROPOSED USE - BOAT YARD
   EXISTING ZONING: BMB
3. PROPOSED CHANGE - EXPANSION OF MOORING FACILITIES, ADDITION OF SHOPS STORE, OFFICE AND DWELLING UNITS, SERVICE AND MAINTENANCE FACILITIES.
4. PARKING SPACES TO DOUBLE AS DRY BOAT STORAGE AREA - NO BOAT STORAGE WITHIN BUFFER PROPERTY LINE.
5. WATER SERVICES TO BE TAKEN FROM EXISTING 8" IN EDWARDS LANE OR CARROLL ISLAND ROAD.
6. SEWER CONNECTION TO BE TO EXISTING SANITARY LINE IN CARROLL ISLAND ROAD (24") VIA RIGHT-OF-WAY OBTAINED FROM CARROLL ISLAND ASSOCIATES.
7. NEW PIERS SHALL REMAIN WITHIN EXISTING PIER LINE OF PRESENT SLIPS IN FROG MORTAR CREEK.
8. PARKING (20' TO BE PAVED WITH POROUS PAVING. SEE DETAIL EXISTING SITE PARKING AREA IS GAN UNDEFINED AREA OR BARE EARTH
9. RAILROAD TIES TO BE USED AS PARKING STOPS.
10. ESTIMATED AVERAGE DAILY TRIPS FOR CARROLL ISLAND ROAD = 8.6 SLIP X 400 = 400 ADT (MOSTLY WEEKENDS)
11. ALL HABITABLE BUILDING FLOOR ELEVATIONS WILL BE ABOVE EL. 10.0 (100 YR. FLOOD LEVEL)
12. GEOGRAPHIC DATA:
    SECTION DISTRICT: 5
    COUNCILMANIC DISTRICT: 5
    CENSUS TRACT: 4511.02
    WATERSHED: 13
    ZONING(PRESENT): BMB
    SITE AREA: 11.8 AC.
    USGS REFERENCE: E.N.E. (2) 4615/16 AS
    PARCELS: 15/65/79520
                 15/23/79521
15. SIGN SPACE WILL BE MAINTAINED BY INDIVIDUAL OWNERS.
16. SIGN MAKER UNDECIDED WILL BE BY THE LETTERING.
17. THE SITE CONTAINS NO HISTORICAL STRUCTURES OR ARCHEOLOGICAL SITES.
18. CRITICAL AREAS ARE DEFINED SO AS TO INCLUDE THE UNDISTURBED SHORELINE AREA OF THE NORTH END OF THE SITE.
19. THERE ARE NO KNOWN TRANSFER FACILITIES IN THE AREA.
20. THERE ARE NO HAZARDOUS WASTES ON SITE
21. SITE LIGHTING WILL CONSIST OF HIGH PRESSURE SODIUM FIXTURES, 400 WATT (400 WATT) ON PARKING AREA, AND 50 WATT (50 WATT) ON POST LIGHTS, 200 WATT, OR APPROVED EQUAL.
    ALL BE PROVIDED AT BUILDING ENTRANCES, WALKWAYS AND PIERS WHERE LIGHTING WITHIN 200 FT. OF ALL RESIDENTIAL OR FLOODPROOF FIXTURES AT FINGER PIERS.
22. THE ONLY INGRESS/EGRESS FROM CARROLL ISLAND ROAD WILL BE VIA RAILROAD GRADE CROSSING FOR WHICH A RIGHT-OF-WAY IS OBTAINED FOR THAT PURPOSE FROM CARROLL ISLAND ASSOCIATES.
23. THE ONLY DEFINED CRITICAL AREA WITHIN THE SITE IS THE EXISTING BULKHEAD AT NORTH END OF THE SITE WHICH IS SHOWN ON GRADING PLAN. TREES WILL/WILL NOT BE DISTURBED.
24. SHORELINE EROSION WILL BE ARRESTED BY STRUCTURES AND SHORELINE GRADING AS PROPOSED. THERE ARE NO SHORELINE EROSION CONTROL STRUCTURES OTHER THAN THOSE PROPOSED
25. THERE IS NO DOCUMENTED AQUATIC VEGETATION INDICATED ON THE STATE WETLANDS MAP NO. 241, BUT ANY VEGETATION IS PROHIBITED AS KNOWN TOXIC: CATTAIL AND RAINBOW.
26. SITE AREAS:

	EXISTING	PROPOSED
LAND	11.7 AC.	11.5 AC.
WATER	0.1 AC.	0.3 AC.
GROSS AREA	11.8 AC.	11.8 AC.

27. MAINTENANCE DREDGING IN THIS AREA (FROG MORTAR CREEK) WILL BE PERFORMED BY THE OWNERS.
28. FINGER PIERS TO BE CONSTRUCTED 1 PER EACH 2 SLIPS TYPICAL.
29. TOTAL IMPERVIOUS SURFACE TO BE MAXIMUM 15% OF SITE AREA.
30. MINIMUM 15% OF SITE TO BE TREE COVERED. SEE LANDSCAPE PLAN.
31. PARKING REQUIREMENTS:

	AREA	REQUIREMENT	PARKING SPACES REQUIRED	PARKING SPACES PROVIDED
BUILDING 'A' (2 STORIES)				
TOILET, OFFICE (1ST FLOOR)	1100 SQ.FT. @ 3.3/1000		4	4
2 CARETAKERS QTRS. (2ND FLOOR)	1675 SQ.FT. @ 1.5/DWELLING		3	3
BUILDING 'B' (2 STORIES)				
MAINTANCE SHOP (1ST FLOOR)	3300 SQ.FT. @ 3.3/1000		11	11
OFFICE (2ND FLOOR)	1651 SQ.FT. @ 3.3/1000		6	6
BUILDING 'C' (2 STORIES)				
STORE & OFFICE (1ST FLOOR)	270 SQ. FT. @ 3.3/1000 OFFICE 2070 SQ.FT. @ 5/1000 STORE		15	15
OFFICE (2ND FLOOR)	2540 SQ.FT. @ 3.3/1000		9	9
BUILDING 'D' & E				
PROPOSED SHOPS	14,400 SQ.FT. @ 5/1000		72	72
BUILDING 'F'				
EX. SHOP	1200 SQ.FT. @ 5/1000		6	6
PROP. CARETAKERS QTRS. (2ND FLOOR)	1200 SQ.FT. @ 1.5/DWELLING		3	3
BUILDING 'G'				
1 CARETAKERS QTRS.	1000 SQ.FT. @ 1.5/DWELLING		2	2
DRY RACK STORAGE	200 UNITS @ 0.5 PER/1 UNIT		100	100
BOAT SLIPS	200 SLIPS @ 0.5 PER/1 SLIP		100	100
8 SPACES IN DRY RACK STORAGE FOR SALES & SERVICE			0	0
EXTRA SPACES:				6
TOTAL PARKING SPACES:			327	335

PARKING SPACES TO BE DELINEATED WITH RAILROAD TIES.

32. PARKING PATTERN



NOTE:
CLASS 'A' STORAGE OF BOATS SHALL BE LIMITED TO 130 BOATS IN SUMMER AND 150 BOATS IN WINTER.

CLASS 'A' STORAGE REFERS TO ANY LANDSIDE STORAGE OF BOATS NOT NORMALLY STORED IN DRY RACK FACILITIES (CLASS 'B').

* **BOAT STORAGE IN THESE AREAS WILL BE PHASED OUT AS PROPOSED FACILITIES ARE CONSTRUCTED. NO ADDITIONAL AREAS WILL BE PERMITED.**

THE C.R.G. PLAN WAS REVISED ON APRIL 2,1990 PER THE CRITICAL AREA COMMENTS OF THE DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT

NOTE:

1. PROPOSED SHOPS ONLY THOSE ACCESSORY USES PERMITTED IN THE DEFINITION OF "BOAT YARD" IN THE BALTO. CO. ZONING REG.'S SHALL BE PERMITTED. # OF THE PROPOSED SHOPS WILL BE 2 STORIES.
2. THE SECONDARY MEANS OF ACCESS FROM EDWARDS LN. MAY BE USED ONLY BY EMERGENCY VEHICLES.

ZONING HEARING

Case #86-292-XSPHA

Therefore, it is ORDERED by the Zoning Commissioner of Baltimore County, this 15th day of December, 1986, that the Petition for Special Hearing to approve that the boat yard and its parking area be considered a community building, or at, and that the residential structures with commercial uses be considered as accessory uses be and is hereby DENIED; and further, that the Petition for Special Exception for a boat yard with caretakers' living quarters and a marina for 48 square feet each side, outdoor advertising sign, the Petition for Zoning Variances to permit a single-faced ground sign 80 square feet in area in lieu of the required one square feet and a distance between principal buildings of 32 feet in lieu of the required 40 feet and the request contained in the Petition for Special Hearing to allow the existing dwelling and access road to be located within a buffer area be and are hereby GRANTED, from and after the date of this Order, subject, however, to the following restrictions as to use conditioned precedent to the relief granted herein:

1. The Petitioner shall be limited to those accessory uses determined to be delineated as "boat yard", section 400, BCZR.
2. The secondary means of access from Edwards Lane may be used only by emergency vehicles.
3. A revised site plan submitted to the Zoning Commissioner for approval, which may include the building restrictions shown on Petitioner's Exhibits 1 and described as residential-commercial use. Such drawings may be submitted solely for those accessory uses referred to in Restriction 1.

Zoning Commissioner of Baltimore County

* THIS PLAN HASBEEN SUBMITTED AND APPROVED.

NOTES

NOTE: Contractor cancelling these facilities to notify "Miss Utility" at 1-800-257-7777 at least three (3) days prior to starting work so that we can arrange to mark the location of our facilities. In making this notification, the Contractor should (1) state nature of work to be done; (2) give location of job; (3) advise time and date work will be started. The Contractor should also be advised to exercise care when digging adjacent to and crossing these facilities.

NOTE: All grading, elevations, earth quantities, etc., shown hereon are to be verified by the Contractor. Any earth quantities shown or implied are measured in "in-place" grade. No allowance has been made for unsuitable material encountered during construction. Suitability of soil for use in fill areas, stability of cut areas, compaction, etc., shall be verified by a soils engineer.

NOTE:

All manmade embankments over 20' in height shall be designed and/or certified by a soils engineer.

All excess cut/fill material will be taken to/from a site with an approved sediment control plan.

NOTE:

Prior to beginning construction, contractor is to call D.S. Thaler & Associates, Inc. at (410)944-3647 to verify that he has the most current plan.

NOTE: DRY RACK STORAGE: (CLASS 'B')
30' X 162' UNITS TO BE 42' HIGH TO ROOF PEAK.
37' X 162' UNITS TO BE 45' HIGH TO ROOF PEAK.

TOILET, OFFICES W/ 2 CARETAKERS QRTS. ABOVE:
28' X 67' TO BE 27' MAX. HEIGHT TO ROOF PEAK.

SERVICE MAINTANCE BLDG.:
50' X 80' TO BE 25' MAX. HEIGHT TO ROOF PEAK.

SHIP STORE W/ OFFICES ABOVE:
50' X 80' TO BE 54' MAX. HEIGHT TO ROOF PEAK.

NOTE: PREVIOUS PERMITS:
GRADING PERMIT: 8-2-88 #102765
PIER CONSTRUCTION PERMIT: 8-8-88 #102767
BULKHEAD CONSTRUCTION PERMIT: 8-8-88 #102766
BUILDING REMODELING PERMIT: 9-23-88 #104893
STOCK PILE PERMIT: 10-8-88 #104735
BUILDING RAZING PERMIT: 10-11-88 #455188
ELECTRICAL SLIPS PERMIT 4:14:97 #B-29888

SITE PLAN, GRADING PLAN AND REVISED C.R.G. PLAN

(NOW SUBJECT TO BMB ZONING)

CHESAPEAKE YACHTING CENTER, INC.
(FORMERLY GOLDEN RING YACHT BASIN)

#595 EDWARDS LANE MIDDLE RIVER, MD.
15TH ELECTION DISTRICT SCALE: 1" = 40'
SEPTEMBER 19, 1989
REVISED 05/30/97, PER ORDER OF THE BALTIMORE COUNTY BOARD OF APPEALS

D.S. THALER & ASSOCIATES INC.
7115 AMBASADOR ROAD
BALTIMORE, MD 21244
(410) 944-3647

DEVELOPER/APPLICANT/OWNER

CHESAPEAKE YACHTING CENTER, INC.
c/o FRANK LAMPRON, PRESIDENT
400 WAGNER LANE
ESSEX, MD 21220
(410) 335-4900

#180

89-463 SPHA

BR-CSA

ML

BL-CNS

89-427-A

BL-CNS

D.R. 10.5

BL-CCC

CARROLL

TT55

QUARTERS

D.R. 16

89-302-A

BL EASTERN

D.R. 16

MANOR

EASTERN AVE

MILLER

PRIVATE

GEORGE ST

WOODLAND ROAD

D.R. 10.5

D.R. 5.5

D.R. 16

D.R. 5.5

STEVENS ROAD

D.R. 5.5

92-171-SPH

PIER

PIER

PIERS

D.R. 5.5

D.R. 16

PIERS

D.R. 5.5

EDELL RD.

EDWARDS RD.

PIER

PIER

LANE

NE 4 J

NE 4K

D.R. 5.5

ARMSTRONG

PARK RD

PIER

PIERS

D.R. 5.5

CLAIRE'S LANE

GOLF ROAD

EDWARD

ROAD

N15,000

N14,000

N13,000

N12,000

E 58,500

E 60,000

E 65,500

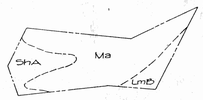
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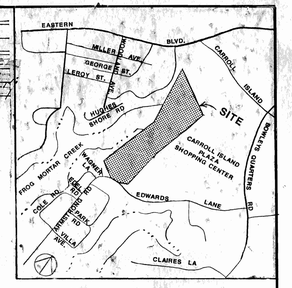
N 548,000

E 958,000

SOILS DATA – LIMITATIONS			
AREA	TYPE BLDG. LESS THAN 3 STORY, NO BSMT	ROADS & PARKING	CLASS
6.2 Ac.	Ma NONE	NONE	VARIABLE
2.4 Ac.	ShA SLIGHT	SLIGHT	ML-CL, SM, CL, SC
2.2 Ac.	LmB SEVERE - HIGH WATER TABLE *	SEVERE HIGH WATER TABLE *	ML, MH, CL, CH, SM

* SLOPE TO DRAIN READILY
Ma - MADE LAND
ShA - SASSAFRAS SILT LOAM, 0 TO 2% SLOPES
LmB - LENOIR SILT LOAM, 0 TO 5% SLOPES





VICINITY MAP
SCALE: 1" = 1000'

FROG MORTAR CREEK

BALTIMORE CO. GRID NORTH

O.D. & P.A. HOLLE 3607/301

B.E. & E.H. LIVINGSTON

ETHEL'S MARINA FROG MORTAR CORPORATION 5102/510

BERGIES DRIVE-IN THEATRE FROG MORTAR CORPORATION 4149/171

ETHEL R. MILLER (RESIDENTIAL) 035/100

CARROLL ISLAND ASSOC. VACANT

EX. DWLG.

EX. STONE PAVE

NOTE: OPTIONAL BERM AS SHOWN WILL BE PLACED ONLY IF THERE IS A NEED TO RETAIN DIRT ON SITE. OTHERWISE, H.P. OF BERM WILL BE EL. 12 FT.

EX. GUARD SHACK

SECONDARY ENTRANCE GATE FOR EMERGENCY VEHICLES ONLY

WASHER LANE

EXIST. 8" WATER

EXIST. 8" SEWER

ETHEL R. MILLER (RESIDENTIAL)

PIPE TO BE RELOCATED WITHIN BUFFER TO WIDEN ROAD.

HK & A.E. MASIMORE 3700/450

EDWARDS LANE

N 36° 44' 21" E 552.72'

N 54° 00' 11.5" E 277.72'

PIER AREA WORK TO BE PERFORMED UNDER SEPARATE D.N.R. PERMIT

SEWER PUMPOUT & FUEL STATION

FUEL TANKS

DEADMAN BATTERSHIP FACE EL. +4

PROPOSED PIER

PROPOSED FLOAT & GANGWAY FOR FLOATING MAIN

SLOPE AREA TO BE STABILIZED WITH RIP-RAP & CROWN VETCH

THIS AREA TO REMAIN UNDISTURBED AT ALL TIMES

PROPOSED PIER

EXISTING PIER

CONCRETE TAG ANCHOR (SEE DETAIL THIS SHEET)

DRIVEWAY

PROPOSED ENTRANCE

EXISTING ENTRANCE

GAZEBO

GUARD SHACK

ASPHALT PAVING AREA (SEE DETAIL THIS SHEET)

PROPOSED 2 STORY MAINTENANCE BUILDING 8.5 EL. +10.0

ADD'L 9 SLIPS PROPOSED

EXISTING 2 STORY BUILDING TO BE RENOVATED FOR OFFICE & SHOPS EL. +10.0

EXISTING 1 STORY BUILDING TO BE RENOVATED FOR SHOPS EL. +10.0

DRY RACK STORAGE 200 UNITS FOR BOAT STORAGE & UNITS FOR SALES & SERVICE (SEE GENERAL NOTES)

ROOF PITCH 7

OPTIONAL BERM 120 FEET HIGH

BUFFER AREA - SEE LANDSCAPE PLAN. THIS AREA MAY BE USED FOR PASSIVE RECREATION ONCE TREES ARE ESTABLISHED. USES EXCLUDE STRUCTURES & PAVING. NO DREDGED MATERIAL SHALL BE USED FOR EXTERIOR CONSTRUCTION OF BERM. EARTH EXCAVATED FROM EXISTING LAND AREAS TO BE USED FOR EXTERIOR.

DRAINAGE TO BE CONTINUOUS UNDER DRY RACK STORAGE

ADD'L 9 SLIPS PROPOSED

CARROLL ISLAND SHOPPING CENTER

R.O.W. TO CARROLL IS. RD. REF. EHK Jr. 59278

S 23° 15' 14.4" W 480.74'

S 11° 42' 31.3" W 440.00'

CHAIN LINK FENCE W/ 3 STRAND BARB WIRE

RICHARD EDWARDS 3507/620 VACANT

EDWARDS LANE

EXISTING 8" WATER

EXISTING 8" SEWER

GRASS

EL. + 5.0

CROWN VETCH PLANTING

YARD BERM

EL. + 3.0

M.L.W. EL. +0.0'

FILTER FABRIC

EXISTING BOTTOM EL. - 5'

EXISTING CLAY BANK

1'-0" R/RAP PLACED ON SLOPE

SECTION A-A
NOT TO SCALE

E 10' x 5' HALF FACED SIGN GRANTED BY Z.C. CASE NO. 86-292-XSPHA

NOTE: PROPOSED SHOPS-ONLY THOSE ACCESSORY USES DELINEATED IN THE DEFINITION OF "BOAT YARD" IN THE BALTO. CO. ZONING REG'S SHALL BE PERMITTED. 4 OF THE PROPOSED SHOPS WILL BE 2 STORIES.
2. THE SECONDARY MEANS OF ACCESS FROM EDWARDS LN. MAY BE USED ONLY BY EMERGENCY VEHICLES.

ZONING HEARING

Case No. 86-292-XSPHA

Therefore, IT IS ORDERED by the Zoning Commissioner of Baltimore County, this 15th day of December, 1986, that the Petition for Special Hearing to request that the boat yard and its parking area be considered a community building, et al., and that the townhouse structures with commercial uses be considered as accessory uses be and is hereby DENIED; and further, that the Petition for Special Exceptions for a boat yard with caretakers' living quarters and a double-faced, 80 square feet each side, outdoor advertising sign; the Petition for Zoning Variances to permit a single-faced sign containing 80 square feet in lieu of the required one square foot and a distance between principal buildings of 32 feet in lieu of the required 40 feet; and the request contained in the Petition for Special Hearing to allow the existing dwelling and access road to be located within a buffer area be and are hereby GRANTED, from and after the date of this Order, subject, however, to the following restrictions which are conditions precedent to the relief granted herein:

1. The Petitioner shall be limited to those accessory uses delineated in the definition of "boat yard", Section 404, BCZR.
2. The secondary means of access from Edwards Lane may be used only by emergency vehicles.
3. A revised site plan submitted to the Zoning Commissioner for approval, which may include the building envelopes shown on Petitioner's Exhibit 1 and identified as residential-commercial uses. Such envelopes may be identified solely for those accessory uses referred to in Restriction 1.

Zoning Commissioner of Baltimore County

IS THIS PLAN HAS BEEN SUBMITTED AND APPROVED.

NOTES

NOTE: Contractor installing these facilities to notify "Miss Utility" at 1-800-257-7777 at least three (3) days prior to starting work so that we can arrange to mark the location of our facilities. In making this notification, the Contractor should: (1) state nature of work to be done; (2) give location of job; (3) advise time and date work will be started. The Contractor should also be advised to exercise care when digging adjacent to and crossing these facilities.

NOTE: All grading, elevations, earth quantities, etc., shown hereon are to be verified by the Contractor. Any earth quantities shown or implied are measured to finished grade and are approximate. No allowance has been made for unsuitable material encountered during construction. Suitability of soil for use in fill areas, stability of cut areas, compaction, etc., should be verified by a soils engineer.

NOTE:

All manmade embankments over 10' in height shall be designed and/or certified by a soils engineer.

All excess cut/fill material will be taken to/from a site with an approved sediment control plan.

NOTE:

Prior to beginning construction, contractor is to call D.S. Thaler & Associates, Inc., at 484-4100 to verify that he has the most current plan.

NOTE: DRY RACK STORAGE:
40' X 162' UNITS TO BE 42' HIGH TO ROOF PEAK.
37' X 112' UNITS TO BE 45' HIGH TO ROOF PEAK.

TOILET, OFFICES W/ 2 CARETAKERS QRTS. ABOVE:
28' X 67' TO BE 27' MAX. HEIGHT TO ROOF PEAK.

SERVICE MAINTANCE BLDG.:
50' X 70' TO BE 25' MAX. HEIGHT TO ROOF PEAK.

SHIP STORE W/ OFFICES ABOVE:
50' X 50' TO BE 34' MAX. HEIGHT TO ROOF PEAK.

NOTE: PREVIOUS PERMITS:
GRADING PERMIT: 8-2-88 #102765
PIER CONSTRUCTION PERMIT: 8-8-88 #102767
BULKHEAD CONSTRUCTION PERMIT: 8-8-88 #102766
BUILDING REMODELING PERMIT: 9-23-88 #104693
STOCK PILE PERMIT: 10-8-88 #104735
BUILDING RAZING PERMIT: 10-11-88 #455188

Zoning (OLD) Case File 86-292-XSPHA

GENERAL NOTES

1. EXISTING USE - BOAT YARD
2. PROPOSED USE - BOAT YARD
3. EXISTING USE - OR-1.5
4. PROPOSED ZONING - BOAT YARD BY SPECIAL EXCEPTION
5. PROPOSED CHANGE - EXPANSION OF BOATING FACILITIES, ADDITION OF SHIPS STORE, OFFICE AND DWELLING UNITS, SERVICE AND MAINTENANCE FACILITIES.
6. PARKING SPACES TO DOUBLE AS DRY BOAT STORAGE AREA - NO BOAT STORAGE WITHIN 80' OF PROPERTY LINE.
7. WATER SERVICE TO BE TAKEN FROM EXISTING MAIN IN EDWARDS LANE OR CARROLL ISLAND ROAD
8. SEWER CONNECTION TO BE TO EXISTING SANITARY LINE IN CARROLL ISLAND ROAD (24") VIA RIGHT-OF-WAY OBTAINED FROM CARROLL ISLAND ASSOCIATES
9. NEW PIERS SHALL REMAIN WITHIN EXISTING PILE LINE OF PRESENT SLIPS IN FROG MORTAR CREEK
10. PARKING LOT TO BE PAVED WITH POROUS PAVING. SEE DETAIL EXISTING SITE PARKING AREA IS AN UNDEFINED AREA OF RARE EARTH
11. RAILROAD TIES TO BE USED AS PARKING STOPS
12. ESTIMATED AVERAGE DAILY TRIPS VIA CARROLL ISLAND ROAD : 5.6 SLIP X 400 = 400 ADT (MOSTLY WEEKENDS)
13. ALL HABITABLE BUILDING FLOOR ELEVATIONS WILL BE ABOVE EL. 10.4 (100 YR. FLOOD LEVEL)
14. GEOGRAPHIC DATA:
- ELECTION DISTRICT: 5
- COUNCILMANIC DISTRICT: 15
- CENSUS TRACT: 4518.02
- WATERSHED: 19
- SUBWATERSHED: 10
- SITE AREA: 13.8 AC.
- DEED REFERENCE: E.H.K., Jr. 6618/46, 48
- PROPERTY: 15-05-100120, 15-05-100121
15. OPEN SPACE WILL BE MAINTAINED BY MARINA OWNERS.
16. STORM WATER MANAGEMENT WILL BE BY INFILTRATION.
17. THE SITE CONTAINS NO HISTORIC STRUCTURES OR ARCHEOLOGICAL SITES.
18. CRITICAL AREAS ARE DEFINED TO BE THE UNDISTURBED SHORELINE AREA AT THE MOUTH-END OF THE SITE.
19. THERE ARE NO KNOWN ENDANGERED SPECIES IN THE AREA.
20. THERE ARE NO HAZARDOUS WASTES ON SITE.
21. SITE LIGHTING WILL CONSIST OF HIGH PRESSURE SODIUM FIXTURES, 400 WATT, EVERY 120 FT. IN PARKING AREA. (30 FT. HIGH) FLOOD LIGHTS, 200 WATT, OR APPROVED EQUAL, WILL BE PROVIDED AT BUILDING EAVES. BULKHEADS AND PIERS WILL BE LIGHTED BY LOW PROFILE 60 WATT INCANDESCENT OR FLORESCENT FIXTURES AT FINGER PIERS.
22. PRIMARY INGRESS/EGRESS FROM CARROLL ISLAND ROAD WILL BE VIA EASEMENT OBTAINED FOR THAT PURPOSE FROM CARROLL ISLAND ASSOCIATES.
23. THE ONLY DEFINED CRITICAL AREA WITHIN THE SITE IS THE EXISTING WETLAND AT NORTH END OF THE SITE WHICH IS SHOWN ON DRAWING NO.1. THIS WETLAND WILL NOT BE DISTURBED.
24. SHORELINE EROSION WILL BE ARRESTED BY STRUCTURES AND SHORELINE TREATMENT PROPOSED. THERE ARE NO SHORELINE EROSION CONTROL STRUCTURES OTHER THAN THOSE PROPOSED.
25. THERE IS NO SUBMERGED AQUATIC VEGETATION INDICATED ON THE STATE WETLANDS MAP (NO. 24) WETLAND VEGETATION IS IDENTIFIED AS COMMON REED, CATTAIL AND BULRUSH.
26. SITE AREA:

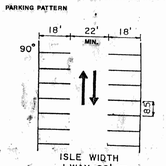
	EXISTING	PROPOSED
LAND	±12.4 AC.	±10.8 AC.
WATER	± 1.4 AC.	± 2.7 AC.
GROSS AREA	±13.8 AC.	±13.8 AC.

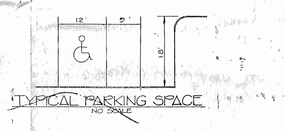
27. MAINTENANCE DREDGING IN THIS AREA OF FROG MORTAR CREEK WILL BE PROVIDED BY THE OWNERS.
28. FINGER PIERS TO BE CONSTRUCTED 1 PER EACH 2 SLIPS TYPICAL.
29. TOTAL IMPERVIOUS SURFACE TO BE MAXIMUM 15% OF SITE AREA.
30. MINIMUM 15% OF SITE TO BE TREE COVERED. SEE LANDSCAPE PLAN.
31. PARKING REQUIREMENTS:

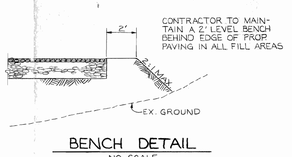
	AREA	REQUIREMENT	PARKING SPACES REQUIRED	PARKING SPACES PROVIDED
BUILDING 'A' (2 STORIES)				
TOILET, OFFICE (1ST FLOOR)	1100 SQ.FT.	@ 3.3/1000	4	4
2 CARETAKERS QTRS. (2ND FLOOR)	1870 SQ.FT.	@ 1.5/DWELLING	3	3
BUILDING 'B' (2 STORIES)				
MAINTANCE SHOP (1ST FLOOR)	3500 SQ.FT.	@ 3.3/1000	11	11
OFFICE (2ND FLOOR)	1091 SQ.FT.	@ 3.3/1000	4	4
BUILDING 'C' (2 STORIES)				
STORE & OFFICE (1ST FLOOR)	570 SQ. FT.	@ 3.3/1000 OFFICE	4	4
OFFICE (2ND FLOOR)	2070 SQ.FT.	@ 5/1000 STORE	11	12
	2640 SQ.FT.	@ 3.3/1000	9	
BUILDING 'D' & 'E'				
PROPOSED SHOPS	14,490 SQ.FT.	@ 5/1000	72	72
BUILDING 'F'				
EX. SHOP	1200 SQ.FT.	@ 5/1000	6	6
PROP. CARETAKERS QTRS. (2ND FLOOR)	1200 SQ.FT.	@ 1.5/DWELLING	3	3
BUILDING 'G'				
1 CARETAKERS QTRS.	1000 SQ.FT.	@ 1.5/DWELLING	2	2
DRY RACK STORAGE	200 UNITS	@ 0.5 PER/1 UNIT	100	100
BOAT SLIPS	200 SLIPS	@ 0.5 PER/1 SLIP	100	100
0 SPACES IN DRY RACK STORAGE FOR SALES & SERVICE			0	0
EXTRA SPACES:			-	8
TOTAL PARKING SPACES:			327	335

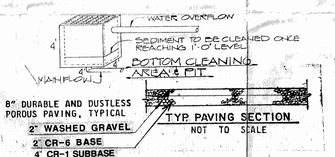
PARKING SPACES TO BE DELINEATED WITH RAILROAD TIES.

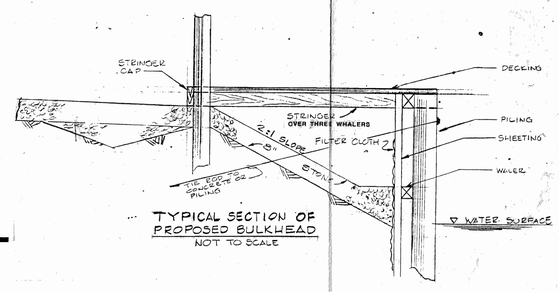
32. PARKING PATTERN











D.S. THALER & ASSOCIATES INC.
11 WARREN ROAD
BALTIMORE, MARYLAND 21208
(301) 484-4100

DEVELOPER/APPLICANT/OWNER

GOLDEN RING YACHT BASIN, INC.
% MR. FRANK LAMPRON, PRESIDENT
1755 HILLTOP AVENUE
ESSEX, MD. 21221
(301) 687-6149

SITE PLAN AND GRADING PLAN

GOLDEN RING YACHT BASIN

#595 EDWARDS LANE — MIDDLE RIVER MD.
15TH ELECTION DISTRICT — SCALE: 1" = 40'
SEPTEMBER 19, 1989

86-292-XSPHA

VERIFIED ALL EXHIBITS LISTED HAVE BEEN INCLUDED IN CASE FILE CCT 8-19-93

Verified 7-12-93 K.

9/15/92

Petitioner's Exhibits

1. Advertisement for Chesapeake Yachting Center
2. Resolution of Bowley's Quarters Imp. Assoc.
3. Photo (aerial) of marina + surrounding waterways
4. Photo - from water - subject marina + boat racks
5. File from the beginning of the original petition - The entire Zoning commissioner's file plus 86-292-Special Hearing Case & 92-171-SPH
6. County Review Group Comments from Office of Planning & Zoning
7. Memo. Jan. 31, 1986 to John O'Rourke from Gerber
8. Summary of Technical Findings 4/7/86
9. Inter office correspondence 6/18/86 to CRG file from Susan Carrell

Developer's Exhibits

1. Plan by Thaler - 1984 (from zoning file) of marina
2. 9/19/89 - ~~CRG~~ Site plan, grading plan, + Revised CRG plan by Thaler - of Golden Ring Yacht Basin
3. Plat to accompany Zoning Commission's Special Exception Petition & CRG Approval : Rehabilitation of Golden Ring Yacht Basin 1/14/86 - D.S. Thaler
4. Plat to accompany Zoning Special Exception - Century Eng - 1984
5. Bldg. Permit - 9/6/91 - approved Issued May 24, 1991
6. Photo - of marina 10/18/91
7. Photo - Completed boat rack
8. Photo - last section of boat rack
9. Photo - concrete footings of boat rack } IN ENVELOPE WITH PET-#4
10. Photo - Forklift
11. ~~Photo~~ Specs for Star Steel Rack Supported Boat Storage Systems
12. Photo - Chain link fence with berm - taken from far lane of Edwards Lane

(over)

13. ✓ Findings of Fact & ~~Exhibit~~ Conclusions of Law before Zoning Commissioner Jablon 12/15/86

14. ✓ Mrs. Haines' letter 11/8/89 granting revised site plan

15. ✓ Plat to accompany Zoning special exception petition + CRG approval - July, 1984 (shows boat racks)

16. ✓ Letter to Haines 11/20/89 - from Bronstein

17. ✓ Letter 8/1/89 to Haines from Bronstein

18. ✓ Balto County Zoning Commissioner's Policy Manual - Section on Marinas / Commercial & Community 8/1/89

13. ✓ Findings of Fact & ~~Exhibit~~ Conclusions of Law before Zoning Commission 12/15/86 Jablon

14. ✓ Mrs. Haines' letter 11/8/89 granting revised site plan

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17. ✓ Letter 8/1/89 to Haines from Bronstein

18. ✓ Balto County Zoning Commissioner's Policy Manual - Section on Marinas/Commercial & Community 8/1/89

Pet Ex #2

Bowleys Quarters Improvement Association
P.O. Box 18051
Baltimore, Maryland 21220
301-335-9802

RESOLUTION

RESOLVED, that the Bowleys Quarters Improvement Association has delegated the responsibility for reviewing and acting upon all zoning matters to the zoning committee consisting of the following persons, who have been appointed to such positions by the board of directors of the association:

John Schmidt - Chairman
William Jordan
Philip Edwards
James Hock
Thomas Lehner
H. Andrew Jones

****

The undersigned Officer of the Corporation hereby certifies that the above Resolution is a True Copy of a Resolution adopted by Bowley's Quarters Improvement Association at it's first board of directors meeting held on January 7, 1992.

William Jordan
President

H. Andrew Jones

(Attested by) H. Andrew Jones
Secretary

CHESAPEAKE YACHTING CENTER

The Best On The Bay



The Bay's finest full-service marina — and best marina value — is now taking shape on Frog Mortar Creek off Middle River.

Designed, built, and operated by yachtsmen for yachtsmen, beautiful new Chesapeake Yachting Center offers unparalleled convenience, service, value, and amenities to satisfy your every boating requirement. The 13-acre site is located in a calm, sheltered harbor, and contains over 200 slips ranging from 24' to 80' in length; more than 200 covered dry storage racks accomodating boats to 35'; and a complete marine maintenance and repair facility to handle anything you and your boat could need.

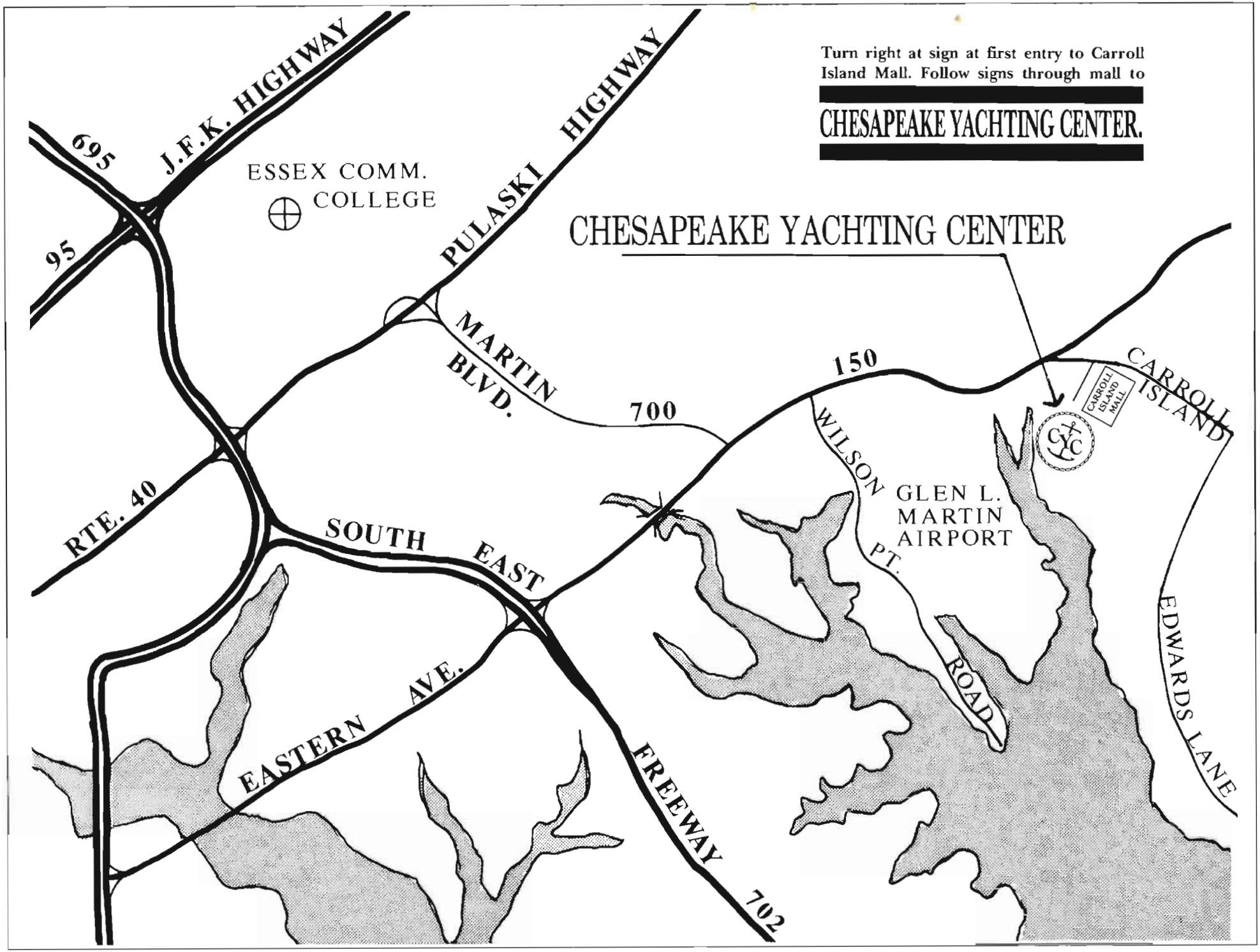
At Chesapeake Yachting Center, everything from paint to provisions is at hand, without the need to get into your car.

Despite its protected location, CYC offers quick access to Middle River and the Chesapeake, and is just five minutes by car from the Beltway via a 4-lane road. Sailboats and power boats alike can be accomodated handily in the marina and in recently deepened Frog Mortar Creek. Buildings have been carefully designed by award-winning D.R. Brasher Architects. All this will be open for the 1991 season after years of planning, approval processing, and construction.

Our facilities and services include:

- 200+ Wet Slips
- 200+ Enclosed Dry Storage Racks
- Fuel Dock
- Engine Shop
- Mast & Rigging Service
- Hull Repair & Painting
- Electronic Sales & Installation
- Sail Loft
- Travel Lifts
- Ice Protection System
- Bottom Painting
- Full Chandlery
- Pump Out Service
- 24 Hour On-Site Staff
- Boat Storage Winter & Year'Round
- Shop Building to Accomodate up to 70' Boats
- Designated Hurricane Hole
- Ample Parking
- Owned and managed by Frank Lampron

For More Information Call [redacted] 335-4900


Turn right at sign at first entry to Carroll Island Mall. Follow signs through mall to
CHESAPEAKE YACHTING CENTER.
CHESAPEAKE YACHTING CENTER
J.F.K. HIGHWAY
695
95
ESSEX COMM. COLLEGE
PULASKI HIGHWAY
MARTIN BLVD.
700
150
CARROLL ISLAND
CARROLL ISLAND MALL
CYC
WILSON PT. ROAD
GLEN L. MARTIN AIRPORT
EDWARDS LANE
RTE. 40
SOUTH EAST
EASTERN AVE.
FREEWAY
702


219

Pet. Ex. 3

10/18/91 -6, #9

AERIAL PHOTOGRAPHY
David J. Wallace
701 Chesapeake Avenue
Annapolis, Maryland 21403
(301) 544 - 1225, 261 - 1289

Pet Ex #6

BALTIMORE COUNTY, MARYLAND

SUBJECT: COUNTY REVIEW GROUP COMMENTS
FROM: OFFICE OF PLANNING AND ZONING

DATE: September 3, 1986

PROJECT NAME: GOLDEN RING YACHT BASIN

COUNCIL & ELECTION DISTRICT XV-386

PLAN XXXXXXXXXXXXXXXX

PLAN EXTENSION

REVISED PLAN

PLAT

The Office of Planning and Zoning has reviewed the revised plan for the Golden Ring Yacht Basin received September 2, 1986 and has the following comments:

The revised plan shows a significant change from the original submission dated July 14, 1984. The number of slips proposed has been reduced from 296 to 200; the proposed parking spaces have been reduced from 488 to 314; a significant Critical Areas Buffer has been included and an effective landscaping plan has been prepared. The Critical Area Report has also been amended so as to meet County requirements, and the Golden Ring Yacht Basin submission is now acceptable. (see Critical Area Review August 22, 1986 which is attached) subject to:

(a) Approval of the request for a Special Exception for a marina-boat yard and associated uses. (see Zoning Office comments dated April 16, 1986 and September 4, 1986.

(b) Satisfactory resolution of the proposed access through the Carroll Island Shopping Center. This office has neither reviewed nor approved additional parking adjacent to the Golden Ring Yacht Basin site in that part of the Carroll Island Shopping Center currently in "turf and natural vegetation" (see developers submission Sheet 3 received September 2, 1986, and the previous access road submission "Entrance road plan and profile" revised April 14, 1986.)

(c) A final landscaping plan will be required prior to issuance of building permits

BALTIMORE COUNTY, MARYLAND

Pet Ex #7

INTER-OFFICE CORRESPONDENCE

TO COUNCILMAN JOHN W. O'ROURKE
Baltimore County Council, Dist. 7 Date January 31, 1986

FROM NORMAN E. GERBER, AICP, Director
Office of Planning and Zoning

SUBJECT Golden Ring Yacht Basin

The environmental data and site plan for the Golden Ring Yacht Basin are currently under review by this office and the County Health Department. Until that review is completed, it is difficult to answer questions, such as yours, which seek an evaluation of the proposed marina's "impact on water quality and ecological balance ..." The developer's engineers and environmental subcontractors have submitted three separate and comprehensive reports dealing specifically with water quality and habitat issues. Additionally, the site plan was recently revised to incorporate preliminary staff comments; for example, a 100-foot grassed and naturally vegetated buffer along the shoreline and wetlands was added to the original plan, parking was reduced, and a more stringent list of Best Management Practices to minimize pollution was prepared. These revisions, and the comprehensive reports, are the result of our ongoing dialogue with the developer. This office has kept preservation of environmental quality as its foremost goal on this project and, when our staff evaluation is complete, I would be glad to forward a copy to you. With regard to your more specific question concerning dredge disposal, no site has yet been named. It has been stipulated, however, that the site be outside the 1000-foot Critical Area.

If you like, I will arrange for a briefing on the current proposals and the as yet to be reviewed issues. Please let me know.

NEG:ALT:vh

Norman E. Gerber, AICP
Director of Planning
and Zoning

Pet Ex #8 4/7/86 Pr-06

SUMMARY OF TECHNICAL FINDINGS - CRITICAL AREA REVIEW

GOLDEN RING YACHT BASIN

Although the applicant has made considerable and commendable modifications to the land-based aspects of this project, two major problems prevent the County from making a "finding" that the plat dated January 14, 1986 complies with Section 8-1813 of the Critical Area Law:

1. The cumulative weight of the evidence available to the County (including transects of the creek taken by County staff on two separate occasions and an earlier Existing Conditions map submitted by the applicant in February, 1985) indicates that water depths in the creek are considerably more shallow than shown on the current submittal and basin profile plan (dated 1/14/86 and 2/20/86 respectively). The resulting depth discrepancy means that more extensive dredging than previously planned will be necessary. Additionally, a depth difference of approximately 3 1/2 feet will occur where the limit of the dredged area meets the natural channel, thereby creating sink conditions in the upper portion of Frog Mortar Creek. Creation of a sink is unacceptable.

2. The assimilative capacity of Frog Mortar Creek is overtaxed. This water body is in violation of Class I water quality standards for fecal coliform, dissolved oxygen, and pH. Furthermore, several reports indicate that marina facilities can, in fact, significantly contribute to fecal coliform levels. It is likely, therefore, that marina expansion on the scale proposed here would pose a further degradation hazard to this water body. Despite the applicant's stated intention to prevent additional pollution through the availability of free sewage pump-out facilities and a program of Best Management Practices, the County can only conclude that the sheer number of additional boats in combination with the sink hazard described above and the relatively slow flushing rate in the existing creek will produce more than a "minimal" adverse impact on the water quality of Frog Mortar Creek (because of likely pollutant level increases).

In addition to the above, there are four other problems with the plan as submitted. Resolution of these problems is contingent on resolution of both of the major problems.

1. There appears to be the possibility of poor flushing conditions within the excavated basin itself. This hazard stems from placement of the travel lift (and the resulting five foot dredging requirement) at the landward edge of the pier.

2. The note on construction phasing states that "Each phase is projected to be accomplished during an annual construction season." The purpose of phased construction should be to allow an increase in the number of slips if and

BALTIMORE COUNTY, MARYLAND

Pet Eq #4

INTER-OFFICE CORRESPONDENCE

CRG File XV-386

TO Golden Ring Yacht Basin **Date** June 18, 1986

FROM Susan Carrell

SUBJECT Comments of Meeting held June 10, 1986 with Developers, Health Department and Current Planning

Summary of Current Planning Comments

Comments on Plan dated 4/14/86, Schematic Landscape Plan certification dated 3/11/86:

1) Developers advised to meet with Zoning Office (Jim Dyer and Carl Richards) to resolve Zoning Office CRG comments dated April 16, 1986 in order to make necessary plan revisions.

2) Note #16 requires clarification -
The first sentence is confusing and meaningless. Local Open Space calculation must be added- amount required, amount proposed, etc. The note also states that open space would be 100% of the site which is obviously incorrect. Open space must be called Local Open Space in the calculations. Local Open Space cannot be located in the vegetated buffer as shown. It must be relocated elsewhere. Current Planning will coordinate with Recreation and Parks.

3) A clear written explanation of the types of residential units combined with commercial and office use must be on the plan. The explanation on the plan dated 4/14/86 must be expanded.

4) Note # 29 must be expanded -
Show existing vs. proposed land area, water area, gross area.

5) The overall plan of Carroll Island Shopping Center must be revised to show the new access configuration and submitted as part of CRG. The original overall plan has disappeared from Current Planning files and must be returned. A copy was given to Jim Patton originally.

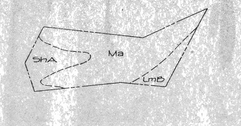
6) The vegetated buffer area located within the parking area along the Edwards Property, must be enlarged as per sketch dated 5/21/86 provided by Current Planning and parking spaces must be reduced to the previous amount since fewer slips are now proposed. The number of loblolly pines must also increase and be reflected on the schematic landscape plan. The reference to just "grass" must be removed from the CRG plan. A detail of the proposed fence around the buffer must be added to the schematic landscape plan.

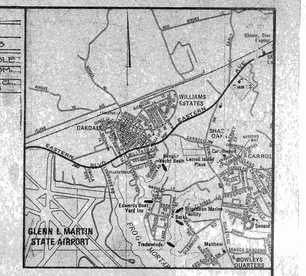
7) The buffer area along the shore line must be revised to agree with the schematic landscape plan - the "limit of wetland wooded area" lines do not coincide. The existing vs. proposed wooded area must be clarified.

SOILS DATA – LIMITATIONS			
AREA	TYPE BLDGS. LESS THAN 3 STORY, NO BSMT.	ROADS & PARKING	CLASS
8.2 Ac.	Ma	NONE	NONE	VARIABLE*
2.4 Ac.	Sha	SLIGHT	SLIGHT	MC-SC, SM, CH, SH
2.2 Ac.	LmD	SEVERE - HIGH WATER TABLE*	SEVERE HIGH WATER TABLE*	MC, MH, CL, CH, SH

* SLOPE TO DRAIN READILY

Ma – MADE LAND
Sha – SASSAFRAS SILT LOAM, 0 TO 2% SLOPES
LmD – LENOIR SILT LOAM, 0 TO 15% SLOPES





VICINITY MAP
SCALE 1"=2000'

FROG MORTAR CREEK

ORIOLE HOLLE 3607/361

BE & EH LIVINGSTON

ETHEL'S MARINA
FROG MORTAR CORPORATION
5102/310

BERGIES DRIVE-IN THEATRE
FROG MORTAR CORPORATION
4747/107

CARROLL ISLAND ASSOC.
VACANT

ETHEL R. MILLER
(RESIDENTIAL)
035/100

EX. DWLG.

EX. SHED

EX. STONE PAVING

EX. BUMPER

EX. CONCRETE SEA WALL

EX. TOP OF BANK ELEVATIONS VARY

EX. BOTTOM OF BANK ELEVATIONS VARY

NOTE: OPTIONAL MOUND AS SHOWN WILL BE PLACED ONLY IF THERE IS A NEED TO RETAIN DIRT ON SITE. OTHERWISE, H.P. OF MOUND WILL BE EL. 12 FT.

N 36° 44' 21" E 559.73'

PIER AREA WORK TO BE PERFORMED UNDER SEPARATE D.N.R. PERMIT

SEWER PUMP-OUT & FUEL STATION

N 09° 15' 40.5" E 554.72'

THIS AREA TO REMAIN UNDISTURBED AT ALL TIMES

SEAWALL BATTERBOARD FENCE & CONC. PAD

FUEL TANKS

TRAVEL LANE

PROP. TIMBER WALKWAY

EXISTING

PROPOSED SHOPS

PROPOSED SHOPS

DRIVEWAY

COVERED

OPEN

BOAT RAMP

WASHER LANE

EDWARDS LANE

ETHEL R. MILLER
(RESIDENTIAL)

HOUSE TO BE RELOCATED WHEN BASTARD D. WIDEN ROAD

HR & AE MACKMORE
3760/456

N 11° 21' 12" W 360.00'

N 15° 00' 00" W 150.00'

N 11° 21' 12" W 360.00'

S 11° 21' 12" E 360.00'

S 15° 00' 00" E 150.00'

S 11° 21' 12" E 360.00'

S 73° 15' 14.4" W 482.74'

S 17° 21' 31" W 440.00'

DRY RACK STORAGE
200 UNITS

DRAINAGE TO BE CONSTRUCTED UNDER DRY RACK STORAGE

BOTTOM CLEARING AREA SEE DETAIL THIS SHEET

SERVICE MAINTENANCE BLDG. F.F.EL. 12.20

DOUBLE OFFICE W/ 4 CARETAKERS OFFS. ABOVE F.F.EL. 12.20

SHIPS STORE W/ 4 OFFICES ABOVE F.F.EL. 12.44

R.O.W. TO CARROLL IS RD. REF: EHK Jr. 5927/5

CARROLL ISLAND SHOPPING CENTER

EX. TREES TO REMAIN

EX. TREES TO BE REMOVED

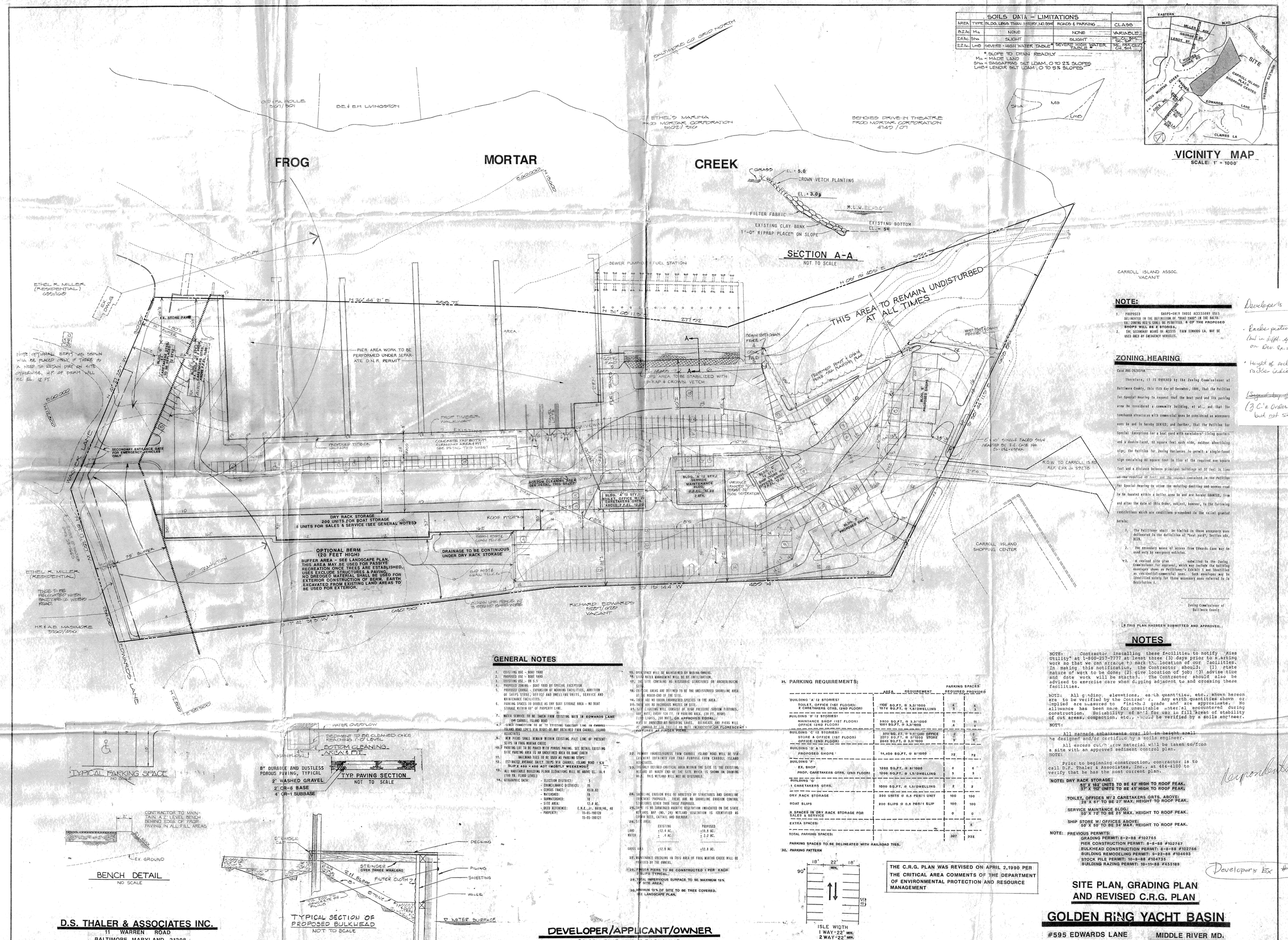
EX. GROUND

FILTER AREA - SEE LANDSCAPE PLAN

SEE DETAIL THIS SHEET

SEE DETAIL THIS SHEET

SEE DETAIL THIS SHEET


FROG
MORTAR
CREEK
BALTIMORE CO. GRID NORTH
G.S. PA HOLLE 307/301
BE & EM LIVINGSTON
ETHEL'S MARINA FROG MORTAR CORPORATION 5107/ 516
BERGIES DRIVE-IN THEATRE FROG MORTAR CORPORATION 4749 / 071
ETHEL R. MILLER (RESIDENTIAL) 025/1628
EX. DWLG.
EX. STONE PAVE
EX. SHED
EX. GAZEBO
EX. PIER
EX. BOAT HOUSE
EX. PIER TO BE REMOVED
EX. BOAT HOUSE TO BE REMOVED

ALL CONTIGUOUS PROPERTY OWNERS ARE IN SUPPORT OF THE PROJECT SEE LETTERS ATTACHED.

NOTES (Continued):

25. PRIMARY INGRESS/EGRESS FROM CARROLL ISLAND RD. WILL BE VIA EASEMENT OBTAINED FOR THAT PURPOSE FROM CARROLL ISLAND ASSOCIATES.
26. THE ONLY DEFINED CRITICAL AREA WITHIN THE SITE IS THE EXISTING WETLAND AT NORTH END OF THE SITE AS SHOWN ON DRAWING NO.1. THIS WETLAND WILL NOT BE DISTURBED.
27. THE AVERAGE WATER DEPTH WITHIN 50 FT. OF THE SHORELINE AT MEAN HIGH TIDE IS THE SUBMARINE CONTOURS SHOWN ON DRG. NO.1 PLUS 1.2 FT.
28. SHORELINE EROSION WILL BE ARRESTED BY STRUCTURES AND SHORELINE TREATMENT PROPOSED. THERE ARE NO SHORELINE EROSION CONTROL STRUCTURES OTHER THAN THOSE PROPOSED.
29. THERE IS NO SUBMERGED AQUATIC VEGETATION INDICATED ON THE STATE WETLANDS MAP (No.24) WETLAND VEGETATION IS IDENTIFIED AS COMMON REED, CATTAIL AND SUMPWEED.
30. SITE AREA:
    LAND AREA - 8.09Ac
    WATER AREA - 3.56Ac
    GROSS AREA - 12.05 Ac

LEGEND:
- EXISTING PILE TO BE REMOVED
- PROPOSED PILE
- PROPOSED HANDICAP PARKING SPACE (12' x 20' TYP.)
- PROPERTY LINE
- BUFFER ZONE
- AREA TO BE DREDGED
- AREA TO BE STABILIZED WITH RIP-RAP AND CROWN VETCH.
- PROPOSED WATER MAIN
- PROPOSED SANITARY SEWER LINE
- LIGHT STANDARD WITH DIRECTION INDICATED
- NO PARKING AREA
- FIRE LINE (DRY)

VICINITY MAP
SCALE: 1" = 2000'

SECTION A-A
NOT TO SCALE

INSET OF PARCEL 'B'
SCALE: 1" = 100'

SOILS DATA - LIMITATIONS

AREA	TYPE	BLDG LESS THAN 3 STORY	ROADS & PARKING	CLASS
6.2Ac	Ma	NONE	NONE	VARIABLE
2.4Ac	ShA	SLIGHT	SLIGHT	MODERATE
2.7Ac	LmD	SEVERE: WATER TABLE*	SEVERE: THIN LAYER	MODERATE

* SLOPE TO DRAIN READILY
Ma - MARSH LAND
ShA - SASSAFRAS SILT LOAM, 0 TO 2% SLOPES
LmD - LENOIR SILT LOAM, 0 TO 15% SLOPES

FROG MORTAR CREEK

NO DEFINED CHANNEL

APPROXIMATE LIMIT OF DREDGING

AREA TO BE DREDGED TO -9.0 M.L.W.

FROG MORTAR CORPORATION
5102/316

ZONING O.R.55
(Residential)

ETHEL'S MARINA

BENGIES DRIVE-IN THEATRE
ZONING O.R.2
FROG MORTAR CORPORATION
4745/7

EXISTING BULKHEAD TO BE REMOVED

EXISTING PIER TO BE REMOVED

EXISTING PILES TO BE REMOVED AND REPLACED

SEWAGE PUMP-OUT AND FUEL STATION

NEW PIER

EXISTING PIER TO BE REMOVED

EXISTING PARKING AREA

PROPOSED BULKHEAD

BULKHEAD FROM THIS POINT TO SOUTHERN PROPERTY LINE

PIER 'A'

SLOPE AREA TO BE STABILIZED WITH RIPRAP AND CROWN VETCH.

OPEN BOAT STORAGE SHED
50'x115'
12' HIGH
FFE=9.5

MAINT. SHOP
50'x60'
FFE=9.5

OPEN BOAT STORAGE
50'x77'
12' HIGH
FFE=9.5

OFFICE BUILDING
FFE=9.5

FUEL TANKS

FINGER PIER & BUFFER PILING

TOILET ROOMS (1 M. AND 1 W.) AND (2) GAS-TANKS QUARTERS ABOVE

DINGHY STORAGE

PROPOSED WETLAND

EXISTING WETLAND

EXISTING BUILDINGS TO BE REMOVED

EXISTING WOODED AREA TO REMAIN

EXISTING DWELLING

639/168
ETHEL R. MILLER
(Residential)
ZONING O.R. 5.5
(MORE THAN 2 AC.)

EXIST. SHED

EXIST. RAMP TO BE RELOCATED AND/OR REPAIRED/IMPROVED IF NECESSARY

EXIST. PILE CLUSTERS (TYP.)

EXIST. PILES (TYP.)

EXISTING PILES

PROPOSED PILE CLUSTERS (TYP.)

PROPOSED PILES (TYP.)

ETHEL R. MILLER
(Residential)

ZONING O.R.5.5

RICHARD EDWARDS
ZONING O.R.5.5
(Vacant)
1465/81 DAY 7 AC.±

RICHARD EDWARDS
ZONING O.R. 5.5
4827/536

PROPERTY LINE AND APPROX. TOWN LINE R/W CHAIN LINK FENCE WITH 3 STRAND BARBED WIRE INSERTED TO CARROLL ISLAND

CARROLL ISLAND ASSOCIATES
(Vacant)

PARCEL 'B'

TO EASTERN AVENUE VIA CARROLL ISLAND ROAD

PRIMARY ENTRANCE

PROPOSED WHEEL LINE

END OF USE

CARROLL ISLAND SHOPPING CENTER

CARROLL IS. ASSOCIATES
ZONING O.R.2
4232/299

SITE SAMPLE POINT
(SEE INSET ABOVE FOR REFERENCE E.P.H.S. OR SAMPLE)

PARCEL 'A'

SOLOMONS PAINT CORP. PARCEL
PRINCE GEORGES COUNTY, MD.
AS SURVEYED BY
THE COMPANY OF THE
CHESAPEAKE
DATE: 4/1/83
SCALE: 1" = 100'

SITE PLAN
FOR
CARROLL ISLAND YACHT BASIN

OLD

DATA

GOLDEN RING
YACHT BASIN
N 38° 54' 00" W 51.40'
N 38° 54' 00" W 51.40'
N 38° 54' 00" W 51.40'

Developer's Ex. #1

Boat Racks pictured

(Submitted w/ Petition for Special Exception)

from Case #86-292-XSPHA

(Do not unfold for microfilming)

ALL CONTIGUOUS PROPERTY OWNERS ARE IN SUPPORT OF THE PROJECT. SEE LETTERS ATTACHED.

NOTES (Continued):

25. PRIMARY INGRESS/EGRESS FROM CARROLL ISLAND RD. WILL BE VIA EASEMENT OBTAINED FOR THAT PURPOSE FROM CARROLL ISLAND ASSOCIATES.
26. THE ONLY DEFINED CRITICAL AREA WITHIN THE SITE IS THE EXISTING WETLAND AT NORTH END OF THE SITE WHICH IS SHOWN ON DRAWING NO.1. THIS WETLAND WILL NOT BE DISTURBED.
27. THE AVERAGE WATER DEPTH WITHIN 50 FT. OF THE SHORELINE AT MEAN HIGH TIDE IS THE SUBMARINE CONTOURS SHOWN ON DRG. NO.1 PLUS 1.2 FT.
28. SHORELINE EROSION WILL BE ARRESTED BY STRUCTURES AND SHORELINE TREATMENT PROPOSED. THERE ARE NO SHORELINE EROSION CONTROL STRUCTURES OTHER THAN THOSE PROPOSED.
29. THERE IS NO SUBMERGED AQUATIC VEGETATION INDICATED ON THE STATE WETLANDS MAP (No. 24) WETLAND VEGETATION IS IDENTIFIED AS COMMON REED, CATTAIL AND BULRUSH.
30. SITE AREA:
    LAND AREA = 8.08 Ac.
    WATER AREA = 3.98 Ac.
    GROSS AREA = 12.06 Ac.

VICINITY MAP
SCALE: 1"=2000'

SECTION A-A
NOT TO SCALE

INSET OF PARCEL 'B'
SCALE: 1" = 100'

SOILS DATA - LIMITATIONS

AREA	TYPE	BLDG. USES LESS THAN 3-STORY, NO BSMT.	ROADS & PARKING	CLASS
6.2 Ac.	Ma	NONE	NONE	VARIABLE
2.4 Ac.	ShA	SLIGHT	SLIGHT	MD-SCS-SOIL SC. 5
2.2 Ac.	LmD	SEVERE - HIGH WATER TABLE	SEVERE: HIGH WATER TABLE	MD-SCS-SOIL SC. 5

* SLOPE TO DRAIN READILY
Ma = MADE LAND
ShA = SASSAFRAS SILT LOAM, 0 TO 2% SLOPES
LmD = LENOIR SILT LOAM, 0 TO 5% SLOPES

LEGEND:
- EXISTING PILE TO BE REMOVED
- PROPOSED PILE
- PROPOSED HANDICAP PARKING SPACE (12'x 20' TYP.)
- PROPERTY LINE
- BUFFER ZONE
- AREA TO BE DREDGED
- AREA TO BE STABILIZED WITH RI-RAP AND CROWN VETCH.
- PROPOSED WATER MAIN
- PROPOSED SANITARY SEWER LINE
- LIGHT STANDARD WITH DIRECTION INDICATED
- NO PARKING AREA
- FIRE LINE (DRY)

GENERAL NOTES:

1. EXISTING USE - BOAT YARD
2. PROPOSED USE - BOAT YARD
3. EXISTING ZONING - D.R. 5.5
4. PROPOSED ZONING - BOAT YARD BY SPECIAL EXCEPTION.
5. PROPOSED CHANGE - EXPANSION OF MOORING FACILITIES, ADDITION OF STORES, OFFICE AND BOAT STORAGE SHEDS.
6. PARKING SPACES TO DOUBLE AS DRY STORAGE AREA
7. PARKING REQUIREMENTS:

USE	AREA	PARKING SPACES REQUIRED	PROVIDED
SHOP AND OFFICE	1,000 SQ.FT.	1334	169
BOAT SLIPS	205	205	205
RESIDENCES (4)	4,000 SQ.FT.	8	
TOTAL PARKING SPACES		434	405

8. WATER SERVICE TO BE TAKEN FROM EXISTING MAIN IN EDWARDS LANE (8")
9. SEWER CONNECTION TO BE TO EXISTING SANITARY LINE IN CARROLL ISLAND RD. (24") VIA RIGHT OF WAY OBTAINED FROM CARROLL ISLAND ASSOCIATES
10. ICE PILERS TO BE INSTALLED WITHIN EXISTING PILE LINE OF PRESENT SLIPS IN FROG MORTAR CREEK
11. PARKING LOT TO BE PAVED WITH POROUS PAVING. SEE DETAIL AT LEFT. EXISTING GRAVEL AREAS, & ALL UNDESIGNED AREAS OF BASE, SHALL BE PAVED.

12. ANCHORED RAILROAD TIES TO BE USED AS PARKING STOPS.
13. ESTIMATED AVERAGE DAILY TRIPS VIA CARROLL IS. ROAD = 15 PER SLIP x 209 = 444 - (MOSTLY ON WEEKENDS)
14. ON-SITE NATURAL VEGETATION IN BUFFER AREAS SHOWN HEREON WILL BE REVIEWED BY THE PLANNING BOARD, THE ZONING COMMISSIONER, OR THE BOARD OF APPEALS UPON COMPLETION OF IMPROVEMENTS TO BE REMADE COMPLIANCE WITH THE BALTIMORE COUNTY ZONING REGULATIONS, SECTIONS 1801.1.B.2.a.3.(c) AND 1801.1.B.1.b.5. IF ON-SITE NATURAL VEGETATION DOES NOT COMPLY WITH THE AFOREMENTIONED ZONING REGULATIONS, THE OWNERS AGREE TO ADD PLANT MATERIAL IN THE BUFFER AREAS SO AS TO COMPLY WITH THE SAID REGULATIONS. PLANTING WILL BE DONE WITHIN A REASONABLE TIME FOLLOWING INSPECTION/NOTIFICATION, BUT NOT LATER THAN THE NEXT PLANTING SEASON FOLLOWING COMPLETION OF THE IMPROVEMENTS OR OCCUPANCY, WHICHEVER SHALL FIRST OCCUR.
    IF ON-SITE NATURAL VEGETATION IS DETERMINED TO BE IN COMPLIANCE WITH THE AFOREMENTIONED ZONING REGULATIONS THEN THE OWNERS AGREE TO REVISE THE SITE PLAN, WITHIN SIXTY DAYS, TO SHOW THE LOCATION WITH THIS AREA OF ALL EVERGREENS AND TREES OVER TWO INCHES IN DIAMETER.
15. ALL HABITABLE BUILDING FLOOR ELEVATIONS WILL BE ABOVE EL. 10.4 (100 Yr. FLOOD LEVEL.)
16. GEOGRAPHIC DATA:
    - ELECTION DISTRICT: 15
    - COUNCILMANIC DISTRICT: 5
    - CENSUS TRACT: 4518.02
    - WATERSHED: 13
    - SUBSHEDS CO: 12
    - SITE AREA: 12.8 acres
    - GRID REFERENCE: SW 4E-5618/4S 48
    - PROPERTY MAP: 69-25-HOMES 69-30-HOMES
17. RESIDENTIAL OPEN SPACE REQUIREMENTS WILL NOT BE OPERATIVE IF SPECIAL EXCEPTION IS GRANTED. OPEN SPACE PROVIDED EXCEEDS 400 SQ. FT. PER UNIT. OPEN SPACE WILL BE MAINTAINED BY MARINA OWNERS.
18. STORM WATER MANAGEMENT EXEMPTION REQUESTED.
19. THE SITE CONTAINS NO HISTORIC STRUCTURES OR ARCHEOLOGICAL SITES.
20. CRITICAL AREAS ARE DEFINED TO BE THE UNDISTURBED SHORELINE AREA AT THE NORTH END OF THE SITE.
21. THERE ARE NO KNOWN ENDANGERED SPECIES IN THE AREA.
22. THERE ARE NO HAZARDOUS WASTES ON SITE.
23. SITE LIGHTING WILL CONSIST OF HIGH PRESSURE SODIUM FIXTURES 400 WATT, EVERY 120 FT. IN PARKING AREA. (30 Ft. MH) FLOOD LIGHTS, 200 WATT.
    WILL BE PROVIDED AT BUILDING EAVES. BULKHEADS AND PIERS WILL BE LIGHTED BY LOW PROFILE 60 WATT INCANDESCENT FIXTURES AT 50 FT. CENTERS. (6 Ft. HIGH)
24. BASIN EXCAVATION TO SLOPE FROM EL. -3.0 AT BULKHEAD TO EL. -5.0 AT 100 FT. FROM BULKHEAD AND CONTINUE AT EL. -5.0 TO LIMIT OF DREDGING (EXCEPT TO TRAVEL LIFTS WHERE EL. -5.0 WILL BE MAINTAINED).

(Notes continue at top of Drawing)

Date	No.	Revision Description

DEVELOPER/APPLICANT/OWNER:
GOLDEN RING YACHT BASIN, INC.
C/O MR. FRANK LANDRON, PRESIDENT
1765 HILLTOP AVENUE
ESSEX, MARYLAND 21221 687-6149

THE REHABILITATION OF THE GOLDEN RING YACHT BASIN

DSTEA — Daft, Stansfield, Tolbert & Associates, Inc.
81 MAYFIELD AVENUE, EDGEWOOD, MARYLAND 21040 (301) 679-0417

GOLDEN RING YACHT BASIN
MIDDLE RIVER, MARYLAND

PLAT TO ACCOMPANY ZONING SPECIAL EXCEPTION PETITION AND C.R.S. APPROVAL

Des. By	Scale 1" = 50'	Proj. No.	1806
Dft. By	Date 1984	Drawing No.	1
Ckd. By	Approved	Sheet No.	01

FROG MORTAR CREEK

BALTIMORE CO GRID NORTH

O D & PA HOUSE 3107/321

B E & E M LIVINGSTON

ETHEL'S MARINA
FROG MORTAR CORPORATION
5102/316

BERGIES DRIVE-IN THEATRE
FROG MORTAR CORPORATION
4949/107

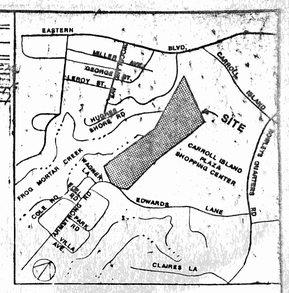
E 100000 N 19432

SOILS DATA - LIMITATIONS

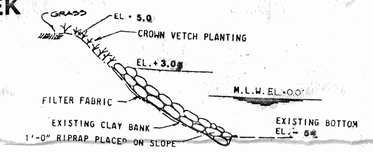
AREA	TYPE	BLDG. LESS THAN 3 STORY, NO BSMT	ROADS & PARKING	CLASS
6.2 Ac	Ma	NONE	NONE	VARIABLE *
2.4 Ac	ShA	SLIGHT	SLIGHT	MC-CL, SM, CH, SH
2.2 Ac	LmB	SEVERE - HIGH WATER TABLE *	SEVERE HIGH WATER TABLE *	MC, MH, CL, CH, SH

* SLOPE TO DRAIN READILY
Ma = MADE LAND
ShA = SASSAFRAS SILT LOAM, 0 TO 2% SLOPES
LmB = LENOIR SILT LOAM, 0 TO 5% SLOPES





VICINITY MAP
SCALE: 1" = 1000'



SECTION A-A
NOT TO SCALE

ETHEL R. MILLER (RESIDENTIAL) 622/160

WAGNER LANE

EX. STONE PAVE

PIER AREA WORK TO BE PERFORMED UNDER SEPARATE D.N.R. PERMIT

SECONDARY ENTRANCE GATE FOR EMERGENCY VEHICLES ONLY

DRY RACK STORAGE
200 UNITS FOR BOAT STORAGE
8 UNITS FOR SALES & SERVICE (SEE GENERAL NOTES)

OPTIONAL BERM (20 FEET HIGH)
BUFFER AREA - SEE LANDSCAPE PLAN. THIS AREA MAY BE USED FOR PASSIVE RECREATION ONCE TREES ARE ESTABLISHED. USES EXCLUDE STRUCTURES & PAVING. NO DREDGED MATERIAL SHALL BE USED FOR EXTERIOR CONSTRUCTION OF BERM. EARTH EXCAVATED FROM EXISTING LAND AREAS TO BE USED FOR EXTERIOR.

DRAINAGE TO BE CONTINUOUS UNDER DRY RACK STORAGE

ROCK RIGHT

CABLE

EDWARDS LANE

ROADWAY ELEVATIONS EDWARDS LANE VACANT

ETHEL R. MILLER (RESIDENTIAL)

THIS AREA TO REMAIN UNDISTURBED AT ALL TIMES

CARROLL ISLAND ASSOC. VACANT

CARROLL ISLAND SHOPPING CENTER

R.O.W. TO CARROLL IS RD. REF. ERK Jr. 5927/0

PROPOSED BOAT & CANOE RACK PLANTING PLAN

PROPOSED SHOPS

BLDG. 'A' 12 STY. TOILET, OFFICE W/ 2 CARETAKERS QRTS. ABOVE, F.F.EL. 12.0

BLDG. 'B' 12 STY. SERVICE MAINTENANCE 3,456 S.F.

BLDG. 'C' 12 STY. STORE & OFFICE W/ 2 BEDROOM CARETAKERS QRTS. ABOVE F.F.EL. 12.0

BLDG. 'D' PROPOSED SHOPS

POOL

GARAGE CONVERTED TO OFFICE PERMIT 72-RACC-OPERATION

6" x 10' SINGLE FACED SIGN MOUNTED ON 2-C CAGE HP 2U-14L-XXPHA

DRAIN SOFT DRAIN FENCE

SLOPE AREA TO BE STABILIZED WITH RIPRAP & CROWN VETCH

FILTER FABRIC

EXISTING CLAY BANK

PROP. SOFT DRAIN

ROCK RIGHT

CABLE

EDWARDS LANE

ROADWAY ELEVATIONS EDWARDS LANE VACANT

NOTE:

1. PROPOSED SHOPS-ONLY THOSE ACCESSORY USES DELINEATED IN THE DEFINITION OF "BOAT YARD" IN THE BALTO CO. ZONING REG'S SHALL BE PERMITTED. # OF THE PROPOSED SHOPS WILL BE # STORIES.
2. THE SECONDARY MEANS OF ACCESS FROM EDWARDS LN. MAY BE USED ONLY BY EMERGENCY VEHICLES.

ZONING HEARING

Case #88-282-SPHA

Therefore, IT IS ORDERED by the Zoning Commissioner of Baltimore County, this 15th day of December, 1988, that the Petition for Special Hearing to request that the boat yard and its parking area be considered a community building, et al., and that the townhouse structures with commercial uses be considered an accessory use be and is hereby DENIED; and further, that the Petition for Special Exceptions for a boat yard with caretakers' living quarters and a double-faced, 48 square feet each side, outdoor advertising sign; the Petition for Zoning Variances to permit a single-faced sign containing 48 square feet in lieu of the required non-square feet and a distance between principal buildings of 32 feet in lieu of the required 40 feet, and the request contained in the Petition for Special Hearing to allow the existing dwelling and access road to be located within a buffer area be and are hereby GRANTED, from and after the date of this Order, subject, however, to the following restrictions which are conditions precedent to the relief granted herein:

1. The Petitioner shall be limited to those accessory uses delineated in the definition of "boat yard", Section 404, BCZR.
2. The secondary means of access from Edwards Lane may be used only by emergency vehicles.
3. A revised site plan submitted to the Zoning Commissioner for approval, which may include the building envelopes shown on Petitioner's Exhibit 1 and identified as residential-commercial uses. Such envelopes may be identified solely for those accessory uses referred to in Restriction 1.

Zoning Commissioner of Baltimore County

IF THIS PLAN HASBEEN SUBMITTED AND APPROVED.

NOTES

NOTE: Contractor installing these facilities to notify "Miss Utility" at 1-800-257-7777 at least three (3) days prior to starting work so that we can arrange to mark the location of our facilities. In making this notification, the Contractor should: (1) state nature of work to be done; (2) give location of job; (3) advise time and date work will be started. The Contractor should also be advised to exercise care when digging adjacent to and crossing these facilities.

NOTE: All grading elevations, earth quantities, etc., shown hereon are to be verified by the Contractor. Any earth quantities shown or implied are measured to finished grade and are approximate. No allowance has been made for unsuitable material encountered during construction. Suitability of soil for use in fill areas of stability of cut areas, compaction, etc., should be verified by a soils engineer.

NOTE:

All manmade embankments over 10' in height shall be designed and/or certified by a soils engineer.

All excess cut/fill grow material will be taken to/from a site with an approved sediment control plan.

NOTE:

Prior to beginning construction, contractor is to call D.S. Thaler & Associates, Inc., at 484-4100 to verify that he has the most current plan.

NOTE: DRY RACK STORAGE:
50' X 162' UNITS TO BE 42' HIGH TO ROOF PEAK.
37' X 112' UNITS TO BE 45' HIGH TO ROOF PEAK.

TOILET, OFFICES W/ 2 CARETAKERS QRTS. ABOVE:
26' X 67' TO BE 27' MAX. HEIGHT TO ROOF PEAK.

SERVICE MAINTANCE BLDG.:
50' X 70' TO BE 25' MAX. HEIGHT TO ROOF PEAK.

SHIP STORE W/ OFFICES ABOVE:
50' X 50' TO BE 34' MAX. HEIGHT TO ROOF PEAK.

NOTE: PREVIOUS PERMITS:
GRADING PERMIT: 8-2-88 #102765
PIER CONSTRUCTION PERMIT: 8-8-88 #102767
BULKHEAD CONSTRUCTION PERMIT: 8-8-88 #102766
BUILDING REMODELING PERMIT: 9-23-88 #104693
STOCK PILE PERMIT: 10-8-88 #104735
BUILDING RAZING PERMIT: 10-11-88 #455188

BALTIMORE COUNTY, MD.
COUNTY REVIEW GROUP
Plan Extension Approval
Approval Date 9-4-89
Original Expiration Date 9-4-90
Original Approved DPW
Extension Approved OPZ
Extension Expiration Date 9-4-92

SITE PLAN, GRADING PLAN AND REVISED C.R.G. PLAN

GOLDEN RING YACHT BASIN

#595 EDWARDS LANE
15TH ELECTION DISTRICT
MIDDLE RIVER MD.
SCALE: 1" = 40'
SEPTEMBER 19, 1989

Golden Ring Rev. #2

GENERAL NOTES

1. EXISTING USE - BOAT YARD
2. PROPOSED USE - BOAT YARD
3. EXISTING USE - OR 1.1
4. PROPOSED ZONING - BOAT YARD BY SPECIAL EXCEPTION
5. PROPOSED CHANGE - EXPANSION OF BOATING FACILITIES, ADDITION OF SHIPS STORE, OFFICE AND DWELLING UNITS. EXISTING BOAT MAINTENANCE FACILITIES.
6. PARKING SPACES TO DOUBLE AS DRY BOAT STORAGE AREA - NO BOAT STORAGE WITHIN 80' OF PROPERTY LINE
7. WATER SERVICE TO BE TAKEN FROM EXISTING MAIN IN EDWARDS LANE OR CARROLL ISLAND ROAD
8. SEWER CONNECTION TO BE TO EXISTING SANITARY LINE IN CARROLL ISLAND ROAD (24") VIA RIGHT OF WAY OBTAINED FROM CARROLL ISLAND ASSOCIATES
9. NEW PIERS SHALL REMAIN WITHIN EXISTING PILE LINE OF PRESENT SLIPS IN FROG MORTAR CREEK
10. PARKING LOT TO BE PAVED WITH POROUS PAVING. SEE DETAIL EXISTING SITE PARKING AREA TO BE UNDISTURBED AREA OR SAND EARTH
11. RAILROAD TIES TO BE USED AS PARKING STOPS
12. ESTIMATED AVERAGE DAILY TRIPS VIA CARROLL ISLAND ROAD = 1.0 BLDG. X 400 = 400 ADT (MONTHLY WEEKENDS)
13. ALL HABITABLE BUILDING FLOOR ELEVATIONS WILL BE ABOVE EL. 10.4 (100 YR. FLOOD LEVEL)
14. GEOGRAPHIC DATA:
- ELECTION DISTRICT: 15
- COUNCILMANIC DISTRICT: 11
- CENSUS TRACT: 4101.02
- WATERSHED: 15
- SUBWATERSHED: 10
- SITE AREA: 12.8 AC.
- DEED REFERENCE: E.H.K., Jr. 5678/49, 49
- PARCELS: 11-11 136726
11-11 136727

10. OPEN SPACE WILL BE MAINTAINED BY RADIUS OWNERS.
16. STORM WATER MANAGEMENT WILL BE OF AN INFILTRATION.
17. THE SITE CONTAINS NO HISTORIC STRUCTURES OR ARCHEOLOGICAL SITES.
18. CRITICAL AREAS ARE DEFINED TO BE THE UNDISTURBED SHORELINE AREA AT THE SOUTH END OF THE SITE.
19. THERE ARE NO KNOWN ENDANGERED SPECIES ON THE AREA.
20. THERE ARE NO HAZARDOUS WASTES ON SITE.
21. SITE LIGHTING WILL CONSIST OF ROAM PRESSURE SODIUM FIXTURES, 400 WATT, EVERY 320 FT. TO PARKING AREA. (20 FT. ROAM) FLOOD LIGHTS, 250 WATT, OR APPROVED EQUAL. WILL BE PROVIDED AT BUILDING EAVES. BULKHEADS AND PIERS WILL BE LIGHTED BY 100 WATT INCANDESCENT FLORESCENT FIXTURES AT FINGER PILES.
22. PRIMARY INGRESS/EGRESS FROM CARROLL ISLAND ROAD WILL BE VIA EASEMENT OBTAINED FOR THAT PURPOSE FROM CARROLL ISLAND ASSOCIATES.
23. THE ONLY DEFINED CRITICAL AREA WITHIN THE SITE IS THE EXISTING WETLAND AT HEAD END OF THE SITE WHICH IS SHOWN ON DRAWING NO. 1. THIS WETLAND WILL NOT BE DISTURBED.
24. SHORELINE EROSION WILL BE ARRESTED BY STRUCTURES AND SHORELINE TREATMENT PROPOSED. THERE ARE NO SHORELINE EROSION CONTROL STRUCTURES OTHER THAN THOSE PROPOSED.
25. THERE IS NO SUBMERGED AQUATIC VEGETATION INDICATED ON THE STATE WETLANDS MAP (NO. 24) WETLAND VEGETATION IS IDENTIFIED AS CORDON BLEU, CATTAIL AND BULGOSA.
26. SITE AREA:

	EXISTING	PROPOSED
LAND	±12.4 AC.	±10.6 AC.
WATER	± .4 AC.	± 2.2 AC.
GROSS AREA	±12.8 AC.	±12.8 AC.

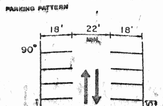
27. MAINTENANCE DREDGING IN THIS AREA OF FROG MORTAR CREEK WILL BE PROVIDED BY THE OWNERS.
28. FINGER PIERS TO BE CONSTRUCTED 1 PER EACH 2 SLIPS TYPICAL.
29. TOTAL IMPERVIOUS SURFACE TO BE MAXIMUM 15% OF SITE AREA.
30. MINIMUM 15% OF SITE TO BE TREE COVERED. SEE LANDSCAPE PLAN.

31. PARKING REQUIREMENTS;

	AREA	REQUIREMENT	PARKING SPACES REQUIRED	PARKING SPACES PROVIDED
BUILDING 'A' (2 STORIES)				
TOILET, OFFICE (1ST FLOOR)	1100 SQ.FT. @ 3.3/1000		4	4
2 CARETAKERS QTRS. (2ND FLOOR)	1670 SQ.FT. @ 1.5/DWELLING		3	3
BUILDING 'B' (2 STORIES)				
MAINTANCE SHOP (1ST FLOOR)	3500 SQ.FT. @ 3.3/1000		11	11
OFFICE (2ND FLOOR)	1031 SQ.FT. @ 3.3/1000		4	4
BUILDING 'C' (2 STORIES)				
STORE & OFFICE (1ST FLOOR)	870 SQ.FT. @ 3.3/1000 OFFICE		3	-
OFFICE (2ND FLOOR)	2070 SQ.FT. @ 5/1000 STORE		10	9
	2840 SQ.FT. @ 3.3/1000			
BUILDING 'D' & 'E'				
PROPOSED SHOPS	14,400 SQ.FT. @ 8/1000		72	72
BUILDING 'F'				
EX. SHOP	1200 SQ.FT. @ 5/1000		6	6
PROP. CARETAKERS QTRS. (2ND FLOOR)	1200 SQ.FT. @ 1.5/DWELLING		3	3
BUILDING 'G'				
1 CARETAKERS QTRS.	1000 SQ.FT. @ 1.5/DWELLING		2	2
DRY RACK STORAGE	200 UNITS @ 0.5 PER/1 UNIT		100	100
BOAT SLIPS	200 SLIPS @ 0.5 PER/1 SLIP		100	100
8 SPACES IN DRY RACK STORAGE FOR SALES & SERVICE			0	0
EXTRA SPACES!				8
TOTAL PARKING SPACES!			327	335

PARKING SPACES TO BE DELINEATED WITH RAILROAD TIES.

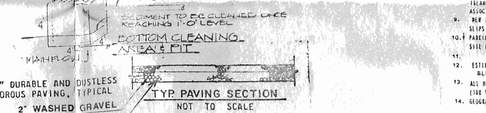
32. PARKING PATTERN



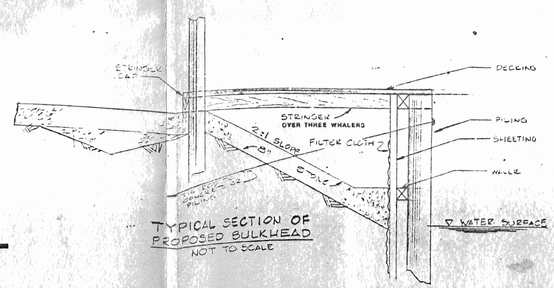
THE C.R.G. PLAN WAS REVISED ON APRIL 2,1990 PER THE CRITICAL AREA COMMENTS OF THE DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT

RECEIVED MAY 04 1990 BUREAU OF PLANNING BALTIMORE COUNTY





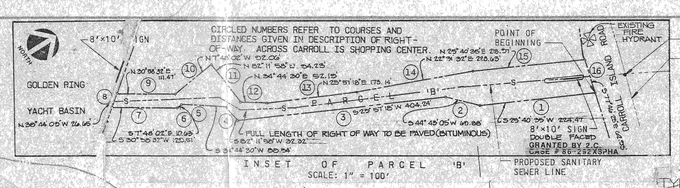


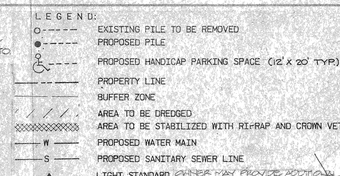


D.S. THALER & ASSOCIATES INC.
11 WARREN ROAD
BALTIMORE, MARYLAND 21208
(301) 484-4100

DEVELOPER/APPLICANT/OWNER

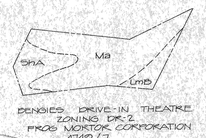
GOLDEN RING YACHT BASIN, INC.
C/O MR. FRANK L. CAMPRON, PRESIDENT
1955 HILLTOP AVENUE
ESSEX, MD 21221
(301) 687-6449

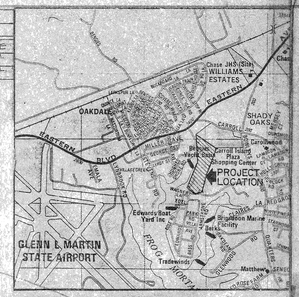




SOILS DATA - LIMITATIONS				
AREA	TYPE	BLDG. LESS THAN 3 STORY, NO BSMT	ROADS & PARKING	CLASS
8.2 Ac	Ma	NONE	NONE	VARIABLE
2.4 Ac	Sha	SLIGHT	SLIGHT	MU-GC, SM-SC
2.2 Ac	LmB	SEVERE - HIGH WATER TABLE	SEVERE HIGH WATER TABLE & FROST	ML, CH, OH, CL, CH-CL

* SLOPE TO DRAIN READILY
Ma = MADE LAND
Sha = SASSAFRAS SILT LOAM, 0 TO 2% SLOPES
LmB = LENOIR SILT LOAM, 0 TO 5% SLOPES





JUSTIFICATION FOR CARETAKER'S UNITS

The history of this area has indicated high theft and vandalism in the shopping center contiguous to this marina. During the past (recent) years the Radio Shack (directly adjacent to the marina) has been burglarized as frequently as four to five times in one month. Additionally our dockmaster reports several incidents each season of breaking and entering of boats an having electronics and other gear stolen. Direct observation by owner of marina over the past three years indicated high level of young persons frequenting our premises nights and weekends which has led to vandalism. Experience has indicated in a similar situation that adequate caretaker coverage necessitated four caretakers (involving 80 slips in a one acre marina) positioned strategically to maintain direct line of sight over the area involved. Based on this experience our five caretakers will be the minimum required to secure this 12 acre (200 boat) area.

ZONING HEARING

CASE # 86-292XSPHA

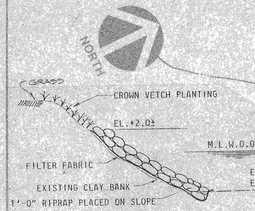
Therefore, IT IS ORDERED by the Zoning Commissioner of Baltimore County, this 17th day of December, 1986, that the Petition for Special Hearing to request that the boat yard and its parking area be considered a community building, et al., and that the townhouse structures with commercial uses be considered as accessory uses be and is hereby DENIED; and further, that the Petition for Special Exceptions for a boat yard with caretakers' living quarters and a double-faced, 80 square feet each side, outdoor advertising sign; the Petition for Zoning Variances to permit a single-faced sign containing 80 square feet in lieu of the required one square foot and a distance between principal buildings of 32 feet in lieu of the required 40 feet; and the request contained in the Petition for Special Hearing to allow the existing dwelling and access road to be located within a buffer area be and are hereby GRANTED, from and after the date of this Order, subject, however, to the following restrictions which are conditions precedent to the relief granted herein:

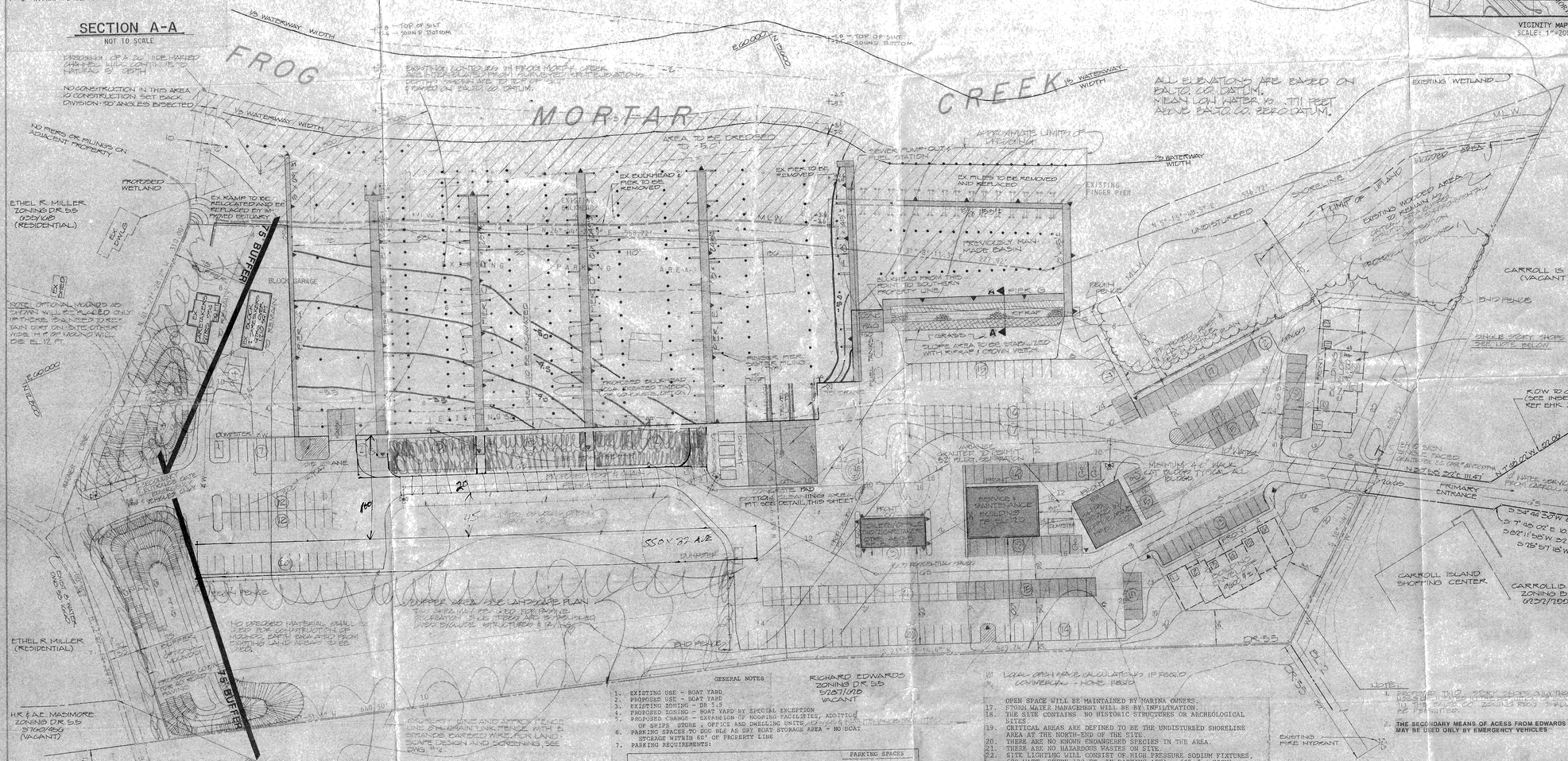
1. The Petitioner shall be limited to those accessory uses delineated in the definition of "boat yard", Section 101, BCZR.
2. The secondary means of access from Edwards Lane may be used only by emergency vehicles.
3. A revised site plan shall be submitted to the Zoning Commissioner for approval, which may include the building envelopes shown on Petitioner's Exhibit 1 and identified as residential-commercial uses. Such envelopes may be identified solely for those accessory uses referred to in Restriction 1.

Zoning Commissioner of Baltimore County

SECTION A-A

NOT TO SCALE




FROG MORTAR CREEK
½ WATERWAY WIDTH
EXISTING CONTOURS IN FROG MORTAR CREEK DELINEATED FROM SURVEYED WATER ELEVATIONS TAKEN ON 6/6/86 TIED ON BALTO. CO. DATUM.
ALL ELEVATIONS ARE BASED ON BALTO. CO. DATUM. MEAN LOW WATER IS .731 FEET ABOVE BALTO. CO. ZERO DATUM.
PROPOSED WETLAND
ETHEL R. MILLER ZONING DR 5.5 37.00'x165' (RESIDENTIAL)
NO PIERS OR PILINGS ON ADJACENT PROPERTY
NO CONSTRUCTION IN THIS AREA NO CONSTRUCTION SET BACK DIVISION 150 ANGLES BISECTED
EX. KAMP TO BE RELOCATED & REPLACED BY IMPROVED EQUIP.
EX. PIER TO BE REMOVED
EX. BULKHEAD & PILES TO BE REMOVED
AREA TO BE DREDGED TO -5.0'
APPROXIMATE LIMITS OF DREDGING
SEWER PUMP-OUT & FUEL STATION
EX. PILES TO BE REMOVED AND REPLACED
EXISTING FINGER PIER
EXISTING WETLAND
M.L.W.
WOODED AREA
EXISTING WOODED AREA TO REMAIN UNDISTURBED
SHORELINE
POINT OF INLAND WETLAND
UNDISTURBED
CARROLL IS ASSOC (VACANT)
BULKHEAD FROM THIS POINT TO SOUTHERN PROPERTY LINE
PREVIOUSLY MAN-MADE BASIN
RIPRAP
GRASS
SLOPE AREA TO BE STABILIZED WITH RIPRAP / CROWN VETCH
REMAIN PIERS
REMAIN BULK.
BULKHEAD
ONE STORY SHOE SEE NOTE BELOW
ROW TO CARROLL IS RD (SEE INSERT ABOVE) REF EHK JR. 5927/0
N 54°48'53"W 80.84'
S 7°46'02"E 10.00'
S 82°11'58"W 82.23'
S 75°57'15"W 404.78'
CARROLL ISLAND SHOPPING CENTER
CARROLL IS ASSOC ZONING B.L.2 6757/100
DR-5.5
B.L.2
EXISTING FIRE HYDRANT
NOTE:
1. PROPOSED TWO STORY SHOES ONLY THOSE ACCESSORY USES DELINEATED IN THE DEFINITION OF "BOAT YARD" IN THE BALTO. CO. ZONING REGS. SHALL BE PERMITTED
2. THE SECONDARY MEANS OF ACESS FROM EDWARDS LA. MAY BE USED ONLY BY EMERGENCY VEHICLES
PROPERTY LINE
BUFFER
BLOCK GARAGE
DUMPSTER AREA
DRIVE
PROPOSED BULKHEAD (CCA TREATED TIMBER) SEE DETAIL THIS SHEET
PROPOSED BOAT SLIPS
DRIVE
PROPOSED BUILDING ENVELOPE
PROPOSED BUILDING ENVELOPE
SITE PAD
SEE DETAIL THIS SHEET
PROPOSED BUILDING ENVELOPE
PROPOSED BUILDING ENVELOPE
PROPOSED BUILDING ENVELOPE

Dev. Ex. 5

BALTIMORE COUNTY, MARYLAND

DEPARTMENT OF PERMITS AND LICENSES

TOWSON, MARYLAND 21204

John R. Reisig
BUILDINGS ENGINEER

BUILDING PERMIT

PERMIT #: B089719 CONTROL #: C-721-91 DIST: 15 PREC: 08
DATE ISSUED: 05/24/91 TAX ACCOUNT #: 2100008540 CLASS: 29

PLANS: CONST 3 PLOT 9 R PLAT 0 DATA 0 ELEC NO PLUM NO
LOCATION: 595 EDWARDS LANE
SUBDIVISION:

OWNERS INFORMATION
NAME: CHESAPEAKE YACHTING SERVICE
ADDR: ESSEX MARINA /1255 HILLTOP AVE. BALTO, MD. 21221

TENANT:
CONTR: TO BE DETERMINED
ENGNR:
SELLR:
WORK: CONSTRUCT FOUNDATION FOR AND ERECT STEEL "DRY DOCK" STORAGE BOAT RACKS. DATA SHEET WAIVED GM 04/26/91.
(548'X 77'X 40'1") 18,008 SQ. FT.

BLDG. CODE: BOCA CODE
RESIDENTIAL CATEGORY: OWNERSHIP:

ESTIMATED $ PROPOSED USE: MARINA/BOATYARD/WATER FRONT AND BOAT RACK
NA EXISTING USE: MARINA/BOATYARD/WATER FRONT

TYPE OF IMPRV: NEW BUILDING CONTRUCTION
USE: OTHER - NON-RESIDENTIAL
FOUNDATION: BASEMENT:
SEWAGE: PUBLIC EXIST WATER: PUBLIC EXIST

LOT SIZE AND SETBACKS

SIZE: 12.8 AC
FRONT STREET:
SIDE STREET:
FRONT SETB: 75'
SIDE SETB: 107'/95'
SIDE STR SETB:
REAR SETB: 87'

DPL 114—11-74
BALTIMORE COUNTY, MARYLAND
Department of Permits and Licenses
Office of Buildings Engineer
County Office Building
Towson, Maryland 21204

Telephone: 887-3957

Part Of Building Inspected:

Approved ( ) Disapproved ( )

Remarks:

9/6/91
Date

Building Inspector

PLEASE REFER TO PERMIT NU



Deposition Exhibit 6

10/18/91 -5, #2

AERIAL PHOTOGRAPHY
David J. Wallace
701 Chesapeake Avenue
Annapolis, Maryland 2140[illegible]
(301) 544 - 1225, 261 - 1289

Received
NOV



Dev. Ex. 7



Stefan Zweig

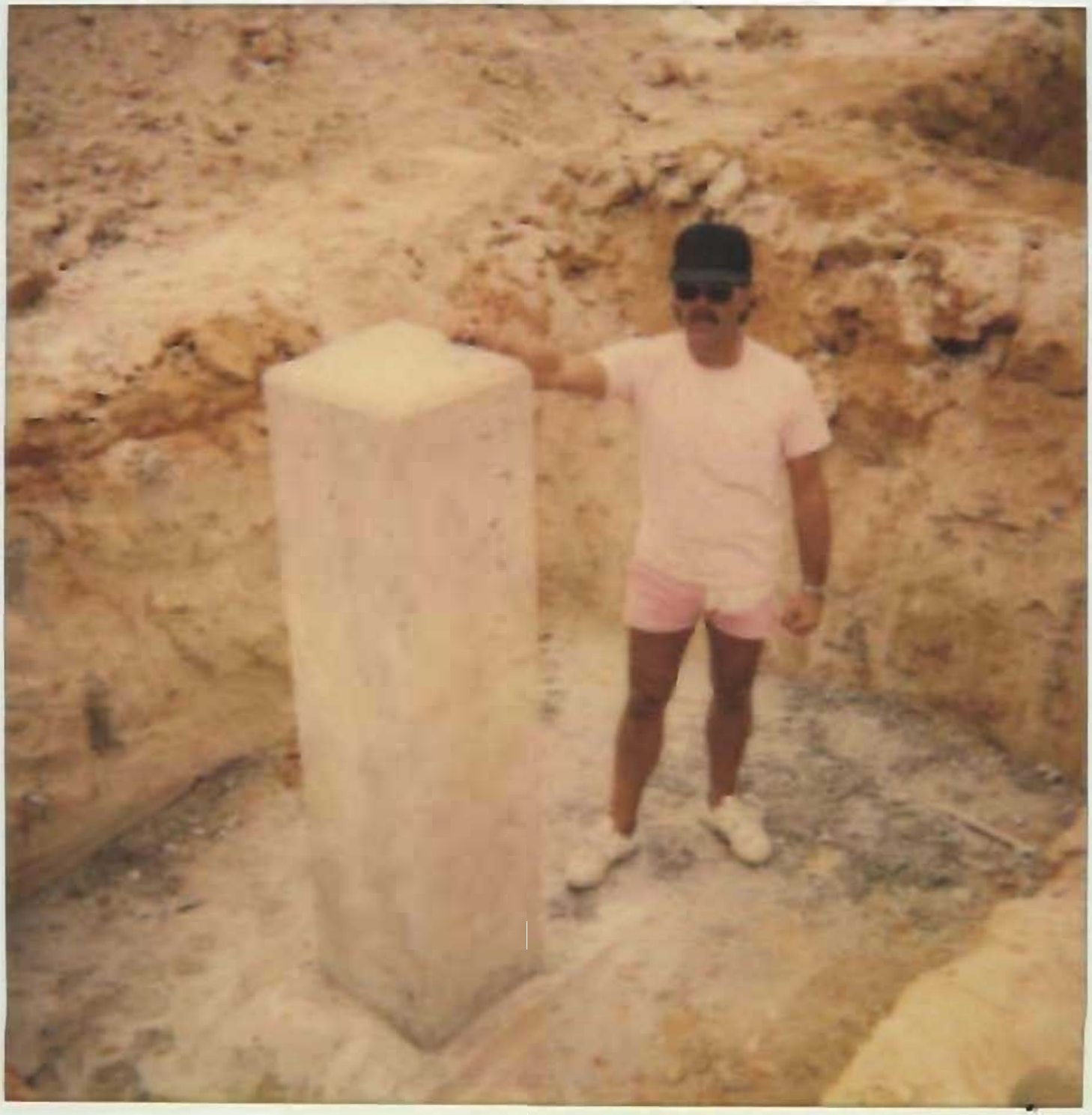
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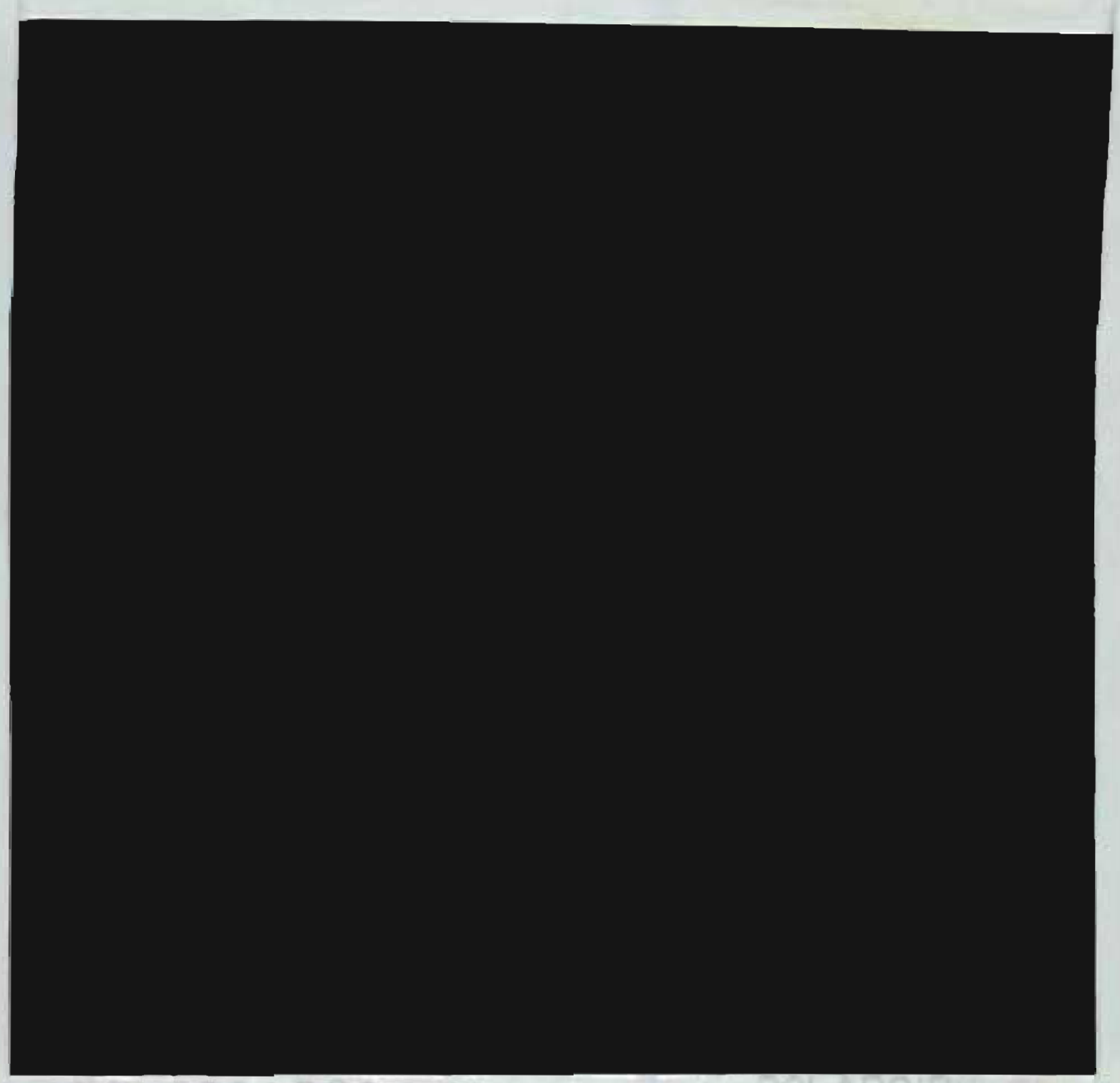






Dandgeni Ex 10

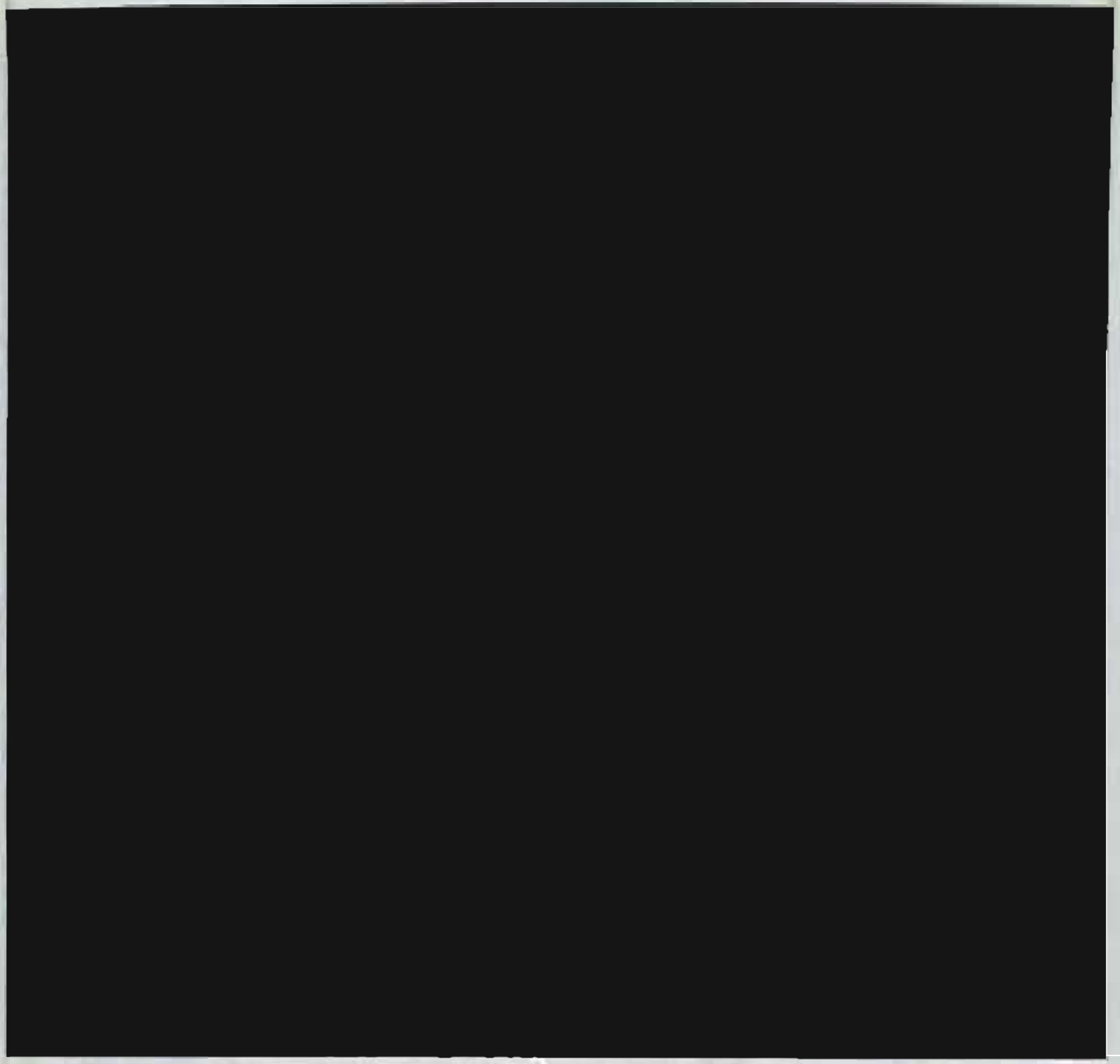




[illegible] POLAROID

Daelyn's Bday





3814702502 1 POLAROID

Pet. Ex. 4 ~~Boot No 3~~

RACK SUPPORTED BOAT STORAGE
Specifications

I. GENERAL

A. The design of the structure shall be a single gabled, braced frame with constant depth column and rafter sections of shop welded steel plates.

B. Actual structure width shall be measured from outside-to-outside of sidewall framing and length from outside-to-outside of endwall framing.

C. The roof slope shall have a 1" rise on a 12" run (other roof slopes available).

D. All material shall be new and free from defects. Components will be clearly shown on erection drawings furnished by the manufacturer for the erection of the building.

E. All primary frame connections will use ASTM A-325, zinc plated, high strength bolts. All secondary connections at purlins, girts, eave struts, and flange brace will use ½" diameter bolts.

F. The lower flange of rafters will be braced by flange braces bolted to factory attached clips on the rafter. Flange braces may be required on one side of the rafter only.

G. All standard drawings and designs will bear the stamp of a registered professional engineer. Complete design analysis of all structural components will be on file and furnished by the manufacturer upon request.

H. There will be no field modification of rigid frame members unless authorized and specified on the manufacturer's drawings.

I. Foundations will be designed locally by a qualified engineer. Anchor bolts shall be as specified by the manufacturer. Anchor bolts and concrete reinforcing will be supplied by the concrete contractor.

J. Erection must be performed in accordance with the erection drawings.

II. DESIGN LOAD CRITERIA

A. Rack-supported boat storage systems shall be designed using the same design analysis and procedures as any other building manufactured by Star. This analysis can be modified to include any local code provision, as well as national codes, such as SBC, BOCA and UBC.

B. Rack loads are designed for 50/50 percent fore and aft weight distribution.

C. Boat racks are designed to place the heaviest boats on levels 1 and 2. These levels can support boats weighing from 2,000 to 13,000 pounds and over, depending on boat length (see chart on the inside). For levels above, design loads are lighter, due to limitations in the lifting capacity of marine forklifts.

III. BAY SPACING

A. Bay spacing (the spacing between the primary frames) is usually found to be from 20' to 24' according to the requirements of the particular project. In most cases, two boats can be stored on the same level in the same bay at the same time; other spacings available.

B. Due to the configuration of individual boats, the boat support beams are adjustable. The bottom boat support beam is adjustable 1' up. Intermediate boat support beams are adjustable 2' up and 2' down. The top boat support beam is adjustable 1' down. Fully adjustable is available but will require special design.

IV. WOOD STRINGER DATA

A. As Star/Steelex does not provide nor inspect raw material for wood stringers, the following data is provided as a guide only. It is the responsibility of the purchaser to select, inspect and size wood stringers for his particular use.

1. **Wood Types:** Types to be selected should be tough woods, such as oak, fir, etc.
2. **Wood Grades:** As boat loads are applied directly to this member, only straight #1 grades should be used. Full cut (rough) dimensions are also advised.
3. **Wood Sizes:** Wood sizes are determined by the weight of the boats and vary from 3" x 12"s to 2" x 10"s.

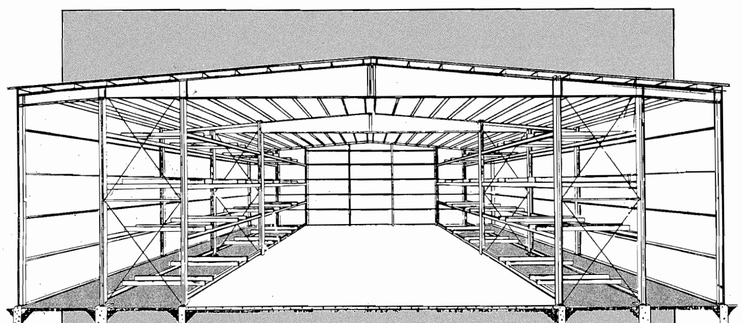
V. CRADLING/SUSPENSION

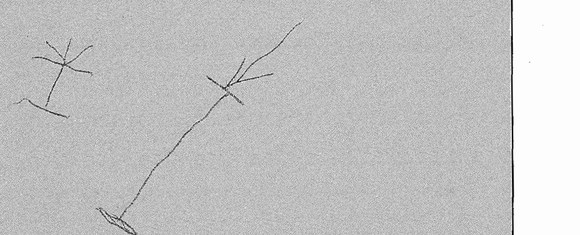
A. Long wood stringers extending 1'-0 past boat beams is the Star/Steelex recommended method of cradling. This type of suspension uses four boat support brackets.

B. Three-point and four-point support suspension using short wood stringers is possible. Special design is required if used. If three or four-point suspension is used, the owner must pay attention to the cradling system, particularly when racking shorter boats.

C. Care should be taken that boat is not resting on two points along these long wood stringers (due to rounded hull shape). Excessive stress may be placed on the long wood stringers or on the boat hull. Some wood will conform to rounded hull shapes and some won't. Particular attention to these factors is required when using long wood stringers for the heavier or longer boats.

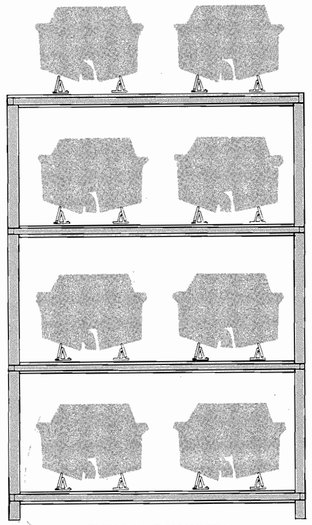
THE STAR STEELEX
RACK SUPPORTED BOAT STORAGE SYSTEMS



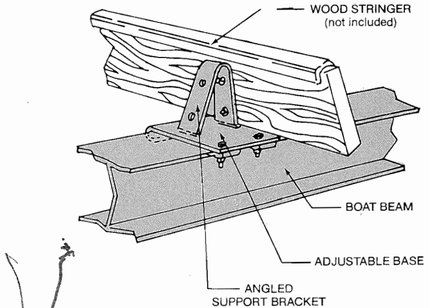


Robertson Star

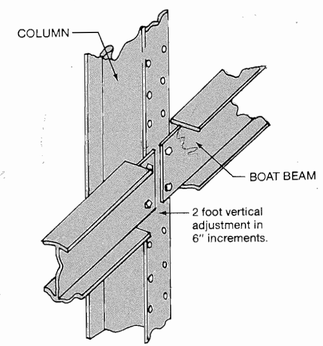
Star/Steelex
Rack Supported Boat Storage



TYPICAL BAY WIDTH



ANGLED SUPPORT BRACKET CONNECTION



BOAT BEAM TO COLUMN CONNECTION

Star Building Systems are erected by independent building contractors. All Star claims as to the ultimate performance of its products are contingent upon proper erection techniques as employed by the erecting contractor. These techniques must be in accordance with Star Building Systems' suggested erection procedures. Star Building Systems is not liable for damages incurred through improper erection procedures. Descriptions and specifications contained herein were in effect at the time this publication was approved for printing. Star reserves the right to discontinue products at any time or change specifications and/or designs without notice and without incurring obligation.

Robertson Star

Star Building Systems
H.H. Robertson Company
8600 South Interstate 35
Box 94910
Oklahoma City, OK 73143 **(800) 654-3921**

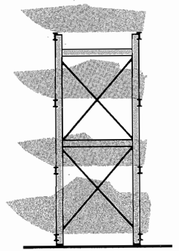
With manufacturing plants in:
California Oklahoma
Georgia Pennsylvania
Iowa

MBMA
METAL BUILDING MANUFACTURERS ASSOCIATION

Certified Professional Erector
Seal of Approval
Star Steelex
Rack Stored
Boat Professional Engineer

PDS-SSLX-889

Star/Steelex Rack Supported Boat Storage

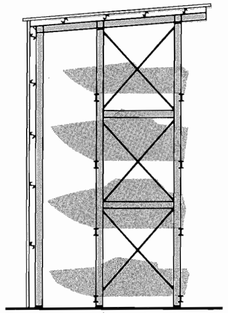


C R O S S S E C T I O N

Outside storage racks are available in configurations from two to five levels. They are used where shelter is not a consideration, either for temporary storage outside or inside an existing structure. Boat insertion is from one side.

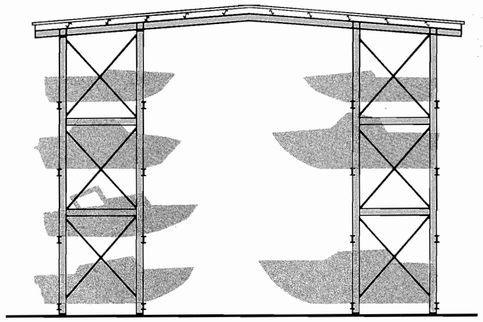
ADVANTAGES OF VERTICAL RACK STORAGE

- Suitable shoreline boat storage property is expensive and diminishing. Vertical rack storage allows up to six times as many boats to be stored.
- Vertical rack boat storage may be used as an add-on profit center for existing marinas.
- The ability to tow boats with today's smaller cars is becoming less desirable.
- Rack supported buildings are less expensive than clear span buildings.
- Vertical rack storage structures offer convenient access to water.
- Star/Steelex has 44,000 boats in storage; over 80 years experience and 750 builder/contractors located in all 50 states.
- Star/Steelex has the capability to custom design to meet regional requirements, technological requirements and custom designed overhead bridge crane systems.
- Concrete floor slabs underneath the racks are not required.
- Depreciation on rack supported buildings can possibly be taken at 7 years in lieu of normal depreciation allowances.
- Star/Steelex has professional engineers registered in 48 states.



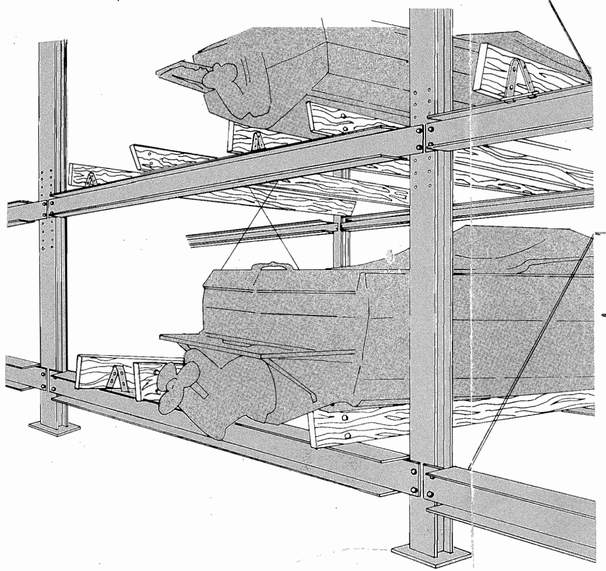
C R O S S S E C T I O N

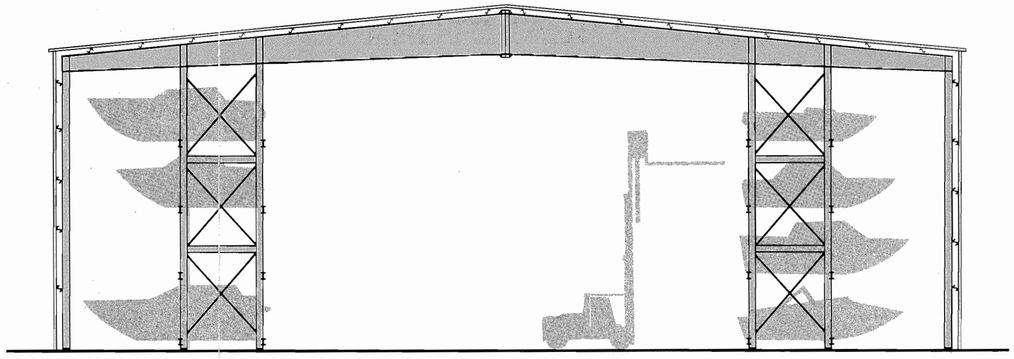
Model A. Model A is a single slope, rack supported structure with the roof, both endwalls, and the low sidewall sheeted. Boat insertion is from the high side. This model comes standard with a 3' overhang. Sidewall and endwall sheeting can be left off as an option. Building width is determined by length of longest boat stored plus 3'.



C R O S S S E C T I O N

Model B. Model B is a double rack system designed for boat insertion from each side with the bow pointed toward the center. Model B is available with the roof and endwalls sheeted, with an option to remove the endwalls if required. Building width is determined by two times the length of the longest boat stored plus 6'. This model has 3' overhangs on both sidewalls.





C R O S S S E C T I O N

Model C. Model C is a completely enclosed boat storage system with racks on each side of a center aisle. Boats are inserted **by a marina forklift or an overhead crane** from the center aisle with the bow pointed toward each sidewall. Model C is available from three to eight levels high.

STANDARD BUILDING GUIDELINES**

LENGTH OF LONGEST BOAT TO BE RACKED AND NUMBER OF STORAGE LEVELS		BUILDING (MODEL 'C' FULLY ENCLOSED)			BOAT LOAD CAPACITIES		BOAT RACK LEVELS: - SUGGESTED STARTING LEVELS - PLUS DEPTH OF BOAT RACK SECTION		STANDARD BAY WIDTHS (Other bay widths available.)
		WIDTH	EAVE	AISLE WIDTH	LEVELS 1 & 2	ABOVE	BOAT RACK LEVELS (Top of Beams)	BOAT RACK DEPTH	STANDARD WIDTH
34' Boats	3 High	135'	33'0"	67'	13,000 lb.	6,000 lb.	1'6", 13', 24'	Boat Rack 14'0" Deep	20'
	4 High	135'	39'0" *	67'	13,000 lb.	6,000 lb.	1'6", 13', 24', 32'	Same	20'
	5 High	135'	48'0" *	67'	13,000 lb.	6,000 lb.	1'6", 13', 24', 32', 39'	Same	20'
30' Boats	3 High	120'	30'0"	60'	10,000 lb.	5,000 lb.	1'4", 11', 20'	Boat Rack 13' Deep	20'
	4 High	120'	37'0"	60'	10,000 lb.	5,000 lb.	1'4", 11', 20', 29'	Same	20'
	5 High	120'	43'0" *	60'	10,000 lb.	5,000 lb.	1'4", 11', 20', 29', 36'	Same	20'
26' Boats	3 High	110'	27'0"	58'	8,000 lb.	4,000 lb.	1'2", 10', 19'	Boat Rack 12' Deep	20'
	4 High	110'	35'0"	58'	8,000 lb.	4,000 lb.	1'2", 10', 19', 28'	Same	20'
	5 High	110'	42'0" *	58'	8,000 lb.	4,000 lb.	1'2", 10', 19', 28', 34'	Same	20'
22' Boats	3 High	96'	23'0"	52'	4,000 lb.	4,000 lb.	1', 9', 16'	Boat Rack 11' Deep	18'6"
	4 High	96'	29'0"	52'	4,000 lb.	4,000 lb.	1', 9', 16', 23'	Same	18'6"
	5 High	96'	35'0"	52'	4,000 lb.	4,000 lb.	1', 9', 16', 23', 29'	Same	18'6"

* REQUIRES FORKLIFT WITH POSITIVE LIFT OVER 30' ** DIMENSIONS SHOWN ARE MINIMUM REQUIREMENTS; ACTUAL NUMBER OF BOATS STORED IS DETERMINED BY OWNER REQUIREMENTS.

Dev. Ex. #13

IN RE: PETITIONS SPECIAL EXCEPTION, SPECIAL HEARING, AND ZONING VARIANCES Beginning at the centerline of Edwards Lane, approx. 1,100' W of Bowleys Quarters Road - 15th Election District

Golden Ring Yacht Basin, Inc., Petitioner

* BEFORE THE

* ZONING COMMISSIONER

* OF BALTIMORE COUNTY

* Case No. 86-292-XSPHA

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

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioner herein requests an interpretation as to whether a boat yard/marina and attendant parking area would be exempt from the Residential Transition Area (RTA) requirements as a community building or other structure devoted to social, recreational or educational activities, or in the alternative, a special exception for a marina; clarification as to whether an existing dwelling and access can be located within a buffer area if the marina is subject to the RTA requirements and whether combination residential-commercial uses can be considered accessory to a marina; variances to permit a distance between principal buildings of 32 feet in lieu of the required 40 feet and a single-faced sign containing 80 square feet in lieu of the permitted one square foot; and a special exception for an outdoor advertising sign, as more particularly described on Petitioner's Exhibit 1.

The Petitioner, by Charles Lampron, President, appeared and testified and was represented by Counsel. Testifying on behalf of the Petitioner were Ernest Young, an adjacent property owner to the Essex Marina, another marina owned by the Petitioner; Nick Blackstone, Executive Director of the Marine Trades Association of Maryland; Dr. Frank Pine, an environmental scientist; Glen Cook, a traffic engineer; and David Thaler, a registered civil engineer. Fred Conrad, on behalf of the Bowleys Quarters Improvement Association,

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

J. Robert Haines
Zoning Commissioner

Dev. Ex. #14

November 8, 1989

Dennis F. Rasmussen
County Executive

Benjamin Bronstein, Esquire
Evans, George and Bronstein
29 W. Susquehanna Avenue, Suite 205
Towson, Maryland 21204

RE: PETITIONS FOR SPECIAL EXCEPTION, SPECIAL HEARING & VARIANCES
Beginning at the c/l of Edwards Lane, 1100' +/- W of
Bowleys Quarters Road
15th Election District
Golden Ring Yacht Basin, Inc. - Petitioners
Case No. 86-292-XSPHA

Dear Mr. Bronstein:

In response to your letter dated August 1, 1989 regarding the above-captioned matter, the following comments are offered.

Pursuant to the relief granted in Case No. 86-292-XSPHA and after due consideration of the revised site plan dated September 19, 1989, it is the opinion of this Zoning Commissioner that the area identified as "Dry Rack Storage" and described under General Notes No. 6 shall serve as the boat storage area for the subject property and is consistent with the spirit and intent of the applicable zoning regulations and the Order issued December 15, 1986 by the then Zoning Commissioner, Arnold Jablon. It is understood that said "dry rack storage" is not an enclosed building, but is simply an open rack system designed specifically for boat storage.

Very truly yours,

J. Robert Haines

J. ROBERT HAINES
Zoning Commissioner
for Baltimore County

JRH:bjs

cc: P. David Fields
Phyllis Friedman, Esquire
James E. Dyer
W. Carl Richards
Case File

Dev. Ex. #16

LAW OFFICES
EVANS, GEORGE AND BRONSTEIN
SUSQUEHANNA BUILDING, SUITE 205
29 WEST SUSQUEHANNA AVENUE
TOWSON, MARYLAND 21204
(301) 296-0200
FAX: (301) 296-3719

L. ROBERT EVANS
HARRIS JAMES GEORGE
BENJAMIN BRONSTEIN

MICHAEL J. CHOMEL
DOUGLAS A. STUBBS
WILLIAM R. LEVASSEUR, JR.

WALLACE DANN
COUNSEL

November 20, 1989

The Honorable J. Robert Haines
Zoning Commissioner for Baltimore County
County Office Building
Towson, Maryland 21204

RE: PETITIONS FOR SPECIAL EXCEPTION, SPECIAL HEARING AND VARIANCES
Beginning at the c/l of Edwards Lane, 1100' +/- of Bowleys Quarters Road
15th Election District
Golden Ring Yacht Basin, Inc. - Petitioners
Case No.: 86-292-XSPHA

Dear Mr. Haines:

Thank you for your letter of November 8, 1989. Please confirm that "dry rack storage" in an open rack system would be a rack with an open front, back, ends and roof. This is the most esthically attractive type of rack system and the one recommended by David Flowers of DEPRON.

Thank you for your kind consideration.

Very truly yours,

EVANS, GEORGE & BRONSTEIN

Benjamin Bronstein

BB/ksr

cc: Mr. Frank Lampron
Mr. David S. Thaler

RECEIVED
NOV 21 1989
ZONING OFFICE

November 29, 1989

Dear Mr. Bronstein:

All of the above is agreed to as recommended by David Flowers of D.E.P.R.M.

RECEIVED
1989

Very truly yours,

W. Carl Richards, Jr.
Zoning Coordinator
for J. Robert Haines

scj

Dev. Ex. #17

LAW OFFICES

EVANS, GEORGE AND BRONSTEIN

SUSQUEHANNA BUILDING, SUITE 205
29 WEST SUSQUEHANNA AVENUE
TOWSON, MARYLAND 21204
(301) 296-0200
FAX: (301) 296-3719

L. ROBERT EVANS
HARRIS JAMES GEORGE
BENJAMIN BRONSTEIN

MICHAEL J. CHOMEL
DOUGLAS A. STUBBS
WILLIAM R. LEVASSEUR, JR.

WALLACE DANN
COUNSEL

August 1, 1989

The Honorable J. Robert Haines
Zoning Commissioner for Baltimore County
111 W. Chesapeake Avenue
County Office Building
Towson, Maryland 21204

Re: Golden Ring Yacht Basin, Inc., Now known as Chesapeake Yachting Center, Inc.

Dear Mr. Haines:

We understand that within the Zoning Office an issue has been raised concerning the right of Chesapeake Yachting Center, Inc. to store boats in racks pursuant to the Special Exception granted by Arnold Jablon, then Zoning Commissioner of Baltimore County, in Case No. 86292-XSPHA on December 15, 1986.

The determination of the Zoning Commissioner was made after a well attended meeting of the County Review Group ("CRG") and an adversary hearing before the Zoning Commissioner. No appeals were taken, and the decisions of the Zoning Commissioner and the CRG are final.

In his Findings of Fact and Conclusions of Law, the Zoning Commissioner recognized that the Baltimore County Zoning Regulations ("BCZR") define a "boatyard" as a boat basin with facilities for the sale, construction, repair, storage, launching, berthing, securing, fueling, and general servicing of marine craft of all types. Under the BCZR, "storage" and "berthing" (the tying of boats at piers) are recognized as two separate, discrete uses permitted as of right in a "boatyard."

The Zoning Commissioner granted a Special Exception for use of the property as a boatyard, with certain restrictions. Those restrictions, in pertinent part, are that use of the property as a boatyard was limited to those accessory uses delineated in the

Proposed New Policy - 1 Aug 89
Revised - 14 Sept 89

NOW LAW

MAY 1991

RM-23
BM-28
A-28

MARINAS/COMMERCIAL & COMMUNITY

Dev. Ex. 18

Under the authority of Section 500.7, B.C.Z.R., the following interpretations of various aspects regarding marinas have been promulgated.

BOAT RACKS:

A major concern which has recently become a problem as far as over-loading are boat racks. When these racks were first introduced several years ago, they were used for winter storage of boats which had water berths at the marina. But recently, with the dearth of available facilities, many marinas have begun renting space in boat racks as seasonal dry slips; i.e., instead of having a water slip for the summer season, the boat is kept on the boat rack until you call the marina and inform them you want it placed in the water.

Because boat racks increase density on the land, create additional traffic and impervious surface area, it must be considered a substantive change to a Special Exception as granted.

The following guidelines have been formulated so that this matter can be handled consistently:

CONDITIONS:

Boat racks may be permitted where they will meet the following conditions:

1. a boat rack, whether in the open or under roof, shall be considered a structure and therefore, require a building or use permit, whichever may be applicable; and
2. a setback will be required under Section 417.7 (B.C.Z.R.) if an open/unwalled portion of the structure faces the property line; such setback shall be measured from the property line to the closest point be it either boat, rack or the eave of the structure itself; and
3. each rental space in a boat rack shall be considered a dry boat slip and thus subject to B.C.Z.R. parking requirements under Section 409, unless the petitioner can verify that each boat rack space is the out-of-water storage space for an individual water slip.

INTERPRETATION:

This determination may be subject to a Special Hearing at the discretion of the Zoning Commissioner on a case-by-case basis.

Developer's Ex 18

EXHIBIT 2

PETITIONER'S EXHIBIT 1

4 Boards

SHEET 1 OF 3

86-292-XSPHA

Baltimore County Government
County Executive's Office

Roger B. Hayden
County Executive

400 Washington Avenue
Towson, Maryland 21204
887-2450

September 16, 1991

Note No 2 (including all attached)

Bowley's Quarters Improvement Association, Inc.
1124 Bowley's Quarters Road
Baltimore, Maryland 21220

Attention: John J. Schmidt, Zoning Chairman

Dear John:

I received your fax letter concerning the Chesapeake Yachting Center and have asked Arnold to call you and Milton Rehbein about your concerns. He assures me that he will call you, and be available for any continued action taken on this issue. You may call him at 887-3020.

Respectfully yours,

Roger B. Hayden
County Executive

RBH:mas

We will not accept of changes!

Exhibit No 4

DENIAL OF DUE PROCESS

Several important issues became serious eye-openers when reviewing the Baltimore County Files on "The Golden Ring Yacht Basin", AKA: "Chesapeake Yachting Center, Inc." (approved originally 9/4/86-CRG and 2/17/87-Planning & Zoning)

1. All approvals and reviews, both zoning and CRG's consistently refer to 200 wetslips only, even Mr. Lampron's, expert, Dr. Pine referred by letter to downsizing to 200 slips.

2. All non-accessory items were DENIED by then Zoning Commissioner, Arnold Jablon's ruling. With townhouses being excluded.

3. A. The November 8, 1989 approval by Robert Haines letter-"Being in the spirit of Mr. Jablon's ruling"- was based on a "Red-lined" CRG (Which calls for a non-material, minor change). However, a 548 foot long by 41 foot high building with varying depths of 32' to 37' is a very major change and should have been subject to a Public Hearing. This is a denial of Due Process!

B. Mr. Haines' ruling refers to "Dry-Rack Storage", "is not an enclosed building - but is simply an open rack system", etc. AGAIN - Mr. Jablon had excluded buildings!

C. 11/20/89 Letter from Mr. Lampron's lawyer states "Dry Rack Storage" is "an open rack with an open front, back, ends and roof." (See letter)

THE REHABILITATION OF THE GOLDEN RING YACHT BASIN

5th ELECTION DISTRICT — MIDDLE RIVER, MD.
SCALE: 1-40' — JAN 14, 1986

PLANNING NO. — SHEET 2 OF 3

SOILS DATA - LIMITATIONS

AREA	TYPE	BLDG. LESS THAN 3 STORY, NO BSMT	ROADS & PARKING	CLASS
8.2 Ac	Ma	NONE	NONE	VARIABLE
2.4 Ac	Sha	SLIGHT	SLIGHT	ML, ML-CL, SC, SM
2.2 Ac	LmD	SEVERE - HIGH WATER TABLE	SEVERE HIGH WATER TABLE	ML, ML-CL, CH, OH

* SLOPE TO DRAIN READILY
Ma - MADE LAND
Sha - SASSAFRAS SILT LOAM, 0 TO 2% SLOPES
LmD - LENOIR SILT LOAM, 0 TO 5% SLOPES

LEGEND:
- EXISTING PILE TO BE REMOVED
- PROPOSED PILE
- PROPOSED HANDICAP PARKING SPACE (12' x 20' TYP.)
- PROPERTY LINE
- BUFFER ZONE
- AREA TO BE DREDGED
- AREA TO BE STABILIZED WITH RIP-RAP AND CROWN VETCH.
- W — PROPOSED WATER MAIN
- S — PROPOSED SANITARY SEWER LINE
- LIGHT STANDARD OWNER MAY PROVIDE ADDITIONAL SECURITY LIGHTING
- NO PARKING AREA
- F — FIRE LINE (DRY)

INSET OF PARCEL 'B'
SCALE: 1" = 100'

TYPICAL PARKING SPACE
NO SCALE

SECTION A-A
NOT TO SCALE

ALL ELEVATIONS ARE BASED ON BALTO. CO DATUM.
MEAN LOW WATER = .771 FEET ABOVE BALTO. CO. ZERO DATUM.

VICINITY MAP
SCALE: 1"=2000'

PLANS APPROVED
OFFICE OF PLANNING & ZONING
BY: W. Carl Richard
DATE: 2/17/87

GENERAL NOTES
1. EXISTING USE - BOAT YARD
2. PROPOSED USE - BOAT YARD
3. EXISTING ZONING - M.L.R.

LEGEND
- MAJOR DECIDUOUS
- MINOR DECIDUOUS
- EVERGREEN
- SHRUBS
- FENCE
- EXISTING WOODS

PLANTING REQUIRED

REQUIRED FOR:
1) PARKING LOT LANDSCAPING ÷ 20 = 41 TREES (MINIMUM 50% SHADE DECIDUOUS)
2) PERIMETER LANDSCAPING ÷ 20 = 31 TREES
3) BUFFER ÷ 20 = 13.5 TREES
OR COMBINATION = 13.5 EVERGREEN TREES OR COMBINATIONS

15 MAJOR DECID.
30 MINOR DECID./EVER.
13.5 SHRUBS
13.5 EVER. OR COMBO.

PROPOSED:
1) UNDER ANTICIPATED 4 BOAT FOR 30% OF TREE PLANTING REQUIREMENTS REMAINS IN EXISTING PLANT MATERIAL TO BE SAVED
.30 x 40 ÷ 9 TREE CREDIT OR 3% REQUIRED MAJOR DECIDUOUS ITEM
2) 3% MAJOR DECIDUOUS
4 MINOR DECIDUOUS
23% MINOR EVERGREEN
13.5 SHRUBS
3) BUFFER
15 MAJOR DECIDUOUS
15 MINOR DECIDUOUS
13.5 EVERGREEN
COMBINATION OF EVERGREEN TREES, MINOR & MAJOR DECIDUOUS TREES & SHRUBS TO SATISFY MIN. MAJOR REQUIREMENTS
4) ADDITIONAL BUFFER PLANTING PROVIDED:
77 SHRUBS (CRITICAL AREA PROTECTION)
30 EVERGREEN TREES
5) LOG LOCUST PINE REFORESTED 1750 ±

BALTIMORE COUNTY, MARYLAND
COUNTY REVIEW GROUP
This Plan was reviewed and approved by the County Review Group on 9-4-86
PLAN APPROVED
Plan Approved Date: 9-4-86
Signature: Robert J. Haley
Total Disturbed Area: ± 8.5 AC
Total Disturbed To Final: ± 8.5 AC
OR ± 0 AC

I CERTIFY THAT THE SCHEMATIC PLANTING PLAN SHOWN HEREIN IS CONSISTENT WITH THE SPIRIT AND INTENT OF THE BALTIMORE COUNTY LANDSCAPE MANUAL STANDARDS AND MEETS ALL APPLICABLE POLICY GUIDELINES AND ORDINANCES.

PROTECTIVE MOUNDS AS SHOWN WILL BE PLACED ONLY IF THERE IS NEED TO RE-TAIN DIRT ON SITE OTHER-WISE, IT IS OPTIONAL. TOP OF MOUND WILL BE EL. 12 FT.

PENCE DETAIL — NO SCALE

DEVELOPER/APPLICANT/OWNER

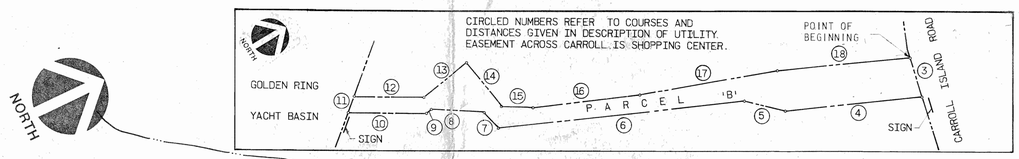
GOLDEN RING YACHT BASIN, INC.
% MR. FRANK LAMPRON, PRESIDENT
1752 HILLTOP AVENUE
ESSEX, MD 21221
(301) 687-0149

D. S. THALER & ASSOC. INC.

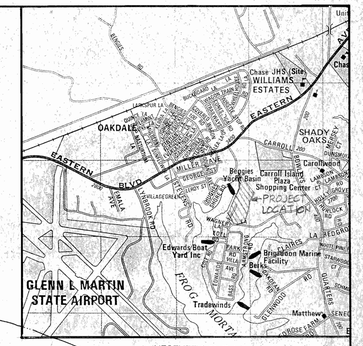
11 WARREN ROAD
BALTO. MD 21208
(301) 484-4100

Plat #5

Developer's Ex. 4



INSET OF PARCEL 'B'
SCALE: 1" = 100'



VICINITY MAP
SCALE: 1"=2000'

BENGIES DRIVE-IN THEATRE

ZONING D.R. 5.5
(Residential)

ZONING D.R. 2

FROG MORTAR CORPORATION
(Commercial)

NOTE: NO DEFINED CHANNEL

FROG MORTAR CREEK

DIVISION = 90° ANGLES BISECTED

10' CONSERVATION SET BACK

NO CONSTRUCTION OR CONSERVATION THIS AREA

40'±

NO PIERS OR PILINGS ON ADJACENT PROPERTY

TO EDWARD'S BOAT YARD

SIGN

EXIST. RAMP TO BE ABANDONED RELOCATED

EXISTING DWELLING

ETHEL R. MILLER
(Residential)
ZONING D.R. 5.5
(MORE THAN 2 AC.)

EXIST. SHED

110.00'

75' MIN. BUFFER

EXIST. CARETAKERS QUARTERS (994 SQ.FT.)

EXIST. BLOCK STORAGE BLDG. (1,120 SQ.FT.)

BLOCK GARAGE

EXISTING BULKHEAD

EXISTING PIER TO BE REMOVED

EXISTING PIER

FUEL DOCK

EXISTING PIER TO BE REMOVED

N 76°-41'-21" E 553.73'

N 31°-38'-11.0" E 277.92'

N 5°-15'-49" E 36.72'

UNDISTURBED SHORELINE

BULKHEAD FROM THIS POINT TO SOUTHERN PROPERTY LINE

PIER 'G'

EXISTING PARKING AREA

8'×365'

8'×375'

18'×360'

8'×332'

8'×299'

PIER 'A'

PIER 'B'

PIER 'C'

PIER 'D'

PIER 'E'

PIER 'F'

CONCRETE PAD

FUEL TANKS

OPEN BOAT STORAGE BUILDING 50'×135'

EXISTING DRIVEWAY

75'

88'

98'

110'

TRAVEL LIFTS

CONCRETE PAD

FINGER PIER AND SISTER PILING (TYP.)

RAMP 6:1 SLOPE

10' (TYP.)

20' TYP.

MAINT. SHOP CLOSED

50'×50'

OPEN BOAT STORAGE 14

50'×85'

12

16

105'

65'

SHORELAND OFFICE BUILDING 80'×300'

608.85'

12' (TYP.)

S 38°-44'-15" E

SIGN

FEE SIMPLE UTILITY EASEMENT AND R.O.W. TO CARROLL IS.RD. (SEE INSET ABOVE)

PRIMARY ENTRANCE

PARCEL 'B'
TO EASTERN AVENUE VIA CARROLL ISLAND ROAD

END OF USE

CARROLL IS. ASSOCIATES
ZONING B.L. 2

CARROLL ISLAND SHOPPING CENTER

58'-0"

65'

22

18

20

95'

14

16

POINT OF BEGINNING PARCEL 'A'

WAGNER LANE

SECONDARY ENTRANCE

GATE

75' MIN. BUFFER

S 17°-42'-31.0" W 40.50'

N 72°-22'-29" W 300'±

N 17°-42'-31.0" E 489.74'

318 CRANE

DINGHY STORAGE

28'×67'

TOILET ROOMS/OFFICE/ AND TWO (2) CARE TAKERS QUARTERS ABOVE.

PROPERTY LINE AND APPROX. FENCE LINE 8'H. CHAIN LINK FENCE WITH 3 STRANDS BARBED WIRE.

RICHARD EDWARDS
ZONING D.R. 5.5

ZONING D.R. 5.5
(Vacant)
(LESS THAN 2 AC.)

RICHARD EDWARDS
ZONING D.R. 5.5
(Vacant)
(GREATER THAN 2 AC.)

EDWARDS LANE (50' R/W)

1,100' TO BOWLEY'S QUARTER RD.

D.R. 5.5

EXIST. HOUSE

DENSE WOODED AREA

GREATER THAN 2 ACRES
(Vacant)

CARROLL IS. ASSOCIATES
(Vacant)

GENERAL NOTES:

1. EXISTING USE - BOAT YARD
2. PROPOSED USE - BOAT YARD
3. EXISTING ZONING - D.R. 5.5
4. PROPOSED ZONING - BOAT YARD BY SPECIAL EXCEPTION.
5. PROPOSED CHANGE - EXPANSION OF MOORING FACILITIES, ADDITION OF STORES, OFFICE AND BOAT STORAGE SHEDS
6. PARKING SPACES TO DOUBLE AS DRY STORAGE AREA.
7. PARKING REQUIREMENTS:

SPACE	AREA	PARKING SPACES REQUIRED	PARKING SPACES PROVIDED
SHOP AND OFFICE	27,500 (÷200)=	138	138
BOAT SLIPS	296	296	300
RESIDENCES (3)	3,000/Sq.Ft.	3	6
TOTAL PARKING SPACES		383	431

8. WATER SERVICE TO BE TAKEN FROM EXISTING MAIN IN EDWARDS LANE. (8")
9. SEWER CONNECTION TO BE TO EXISTING SANITARY LINE IN CARROLL ISLAND RD. (24") VIA RIGHT-OF-WAY OBTAINED FROM OWNERS OF CARROLL ISLAND SHOPPING CENTER.
10. NEW PIERS SHALL REMAIN WITHIN EXISTING PILE LINE OF PRESENT SLIPS IN FROG MORTAR CREEK.
11. PARKING LOT TO BE CONCRETE AND OR BLACK TOP.
12. RAILROAD TIES TO BE USED AS PARKING STOPS.
13. SPRING LINE PILINGS AND 10' FINGER PIERS TO BE CONSTRUCTED AT EVERY OTHER SLIP.
14. ON-SITE NATURAL VEGETATION IN BUFFER AREAS SHOWN HEREON WILL BE REVIEWED BY THE PLANNING BOARD, THE ZONING COMMISSIONER, OR THE BOARD OF APPEALS, UPON COMPLETION OF IMPROVEMENTS TO DETERMINE COMPLIANCE WITH THE BALTIMORE COUNTY ZONING REGULATIONS, SECTIONS 1B01.1.B.1.b.3.(a) AND 1B01.1.B.1.b.5. IF ON-SITE NATURAL VEGETATION DOES NOT COMPLY WITH THE AFOREMENTIONED ZONING REGULATIONS, THE OWNERS AGREE TO ADD PLANT MATERIAL IN THE BUFFER AREAS SO AS TO COMPLY WITH THE SAID REGULATIONS. PLANTING WILL BE DONE WITHIN A REASONABLE TIME FOLLOWING WRITTEN NOTIFICATION, BUT NOT LATER THAN THE NEXT PLANTING SEASON FOLLOWING COMPLETION OF THE IMPROVEMENTS OR OCCUPANCY, WHICHEVER SHALL FIRST OCCUR.

    IF ON-SITE NATURAL VEGETATION IS DETERMINED TO BE IN COMPLIANCE WITH THE AFOREMENTIONED ZONING REGULATIONS THEN THE OWNERS AGREE TO REVISE THE SITE PLAN, WITHIN SIXTY DAYS, TO SHOW THE LOCATION WITH THIS AREA OF ALL EVERGREENS AND TREES OVER TWO INCHES IN DIAMETER.
15. ALL BUILDING FLOOR ELEVATIONS WILL BE ABOVE ELEVATION 10.0

NOTE: COORDINATES AND BEARING SHOWN ARE BASED ON BALTIMORE COUNTY COORDINATE SYSTEM.

LEGEND:

- EXISTING PILE
- PROPOSED PILE
- PROPOSED HANDICAP PARKING SPACE
- PROPERTY LINE
- BUFFER ZONE

S-11-84
5-1-84
4-10-84
4-4-84
11-1-83
10-25-83

1208

Date	No	Revision Description
		Respondent No 3

May 11, 1984
Date

STATE OF MARYLAND — RICHARD NEWCOMER — No. 5218 — REGISTERED PROFESSIONAL ENGINEER

Professional Engr. No. 5218

Reviewed Planning Group
RGG
7 A M

CENTURY ENGINEERING, INC.
CONSULTING ENGINEERS - PLANNERS
TOWSON, MARYLAND 21204

AREA
GOLDEN RING YACHT BASIN, INC.
MIDDLE RIVER, MARYLAND

TITLE
PLAT TO ACCOMPANY ZONING SPECIAL EXCEPTION PETITION AND C.R.G. APPROVAL

Des By	Scale 1" = 40'	Proj No 1208
Drn By C.G.O.	Date	Drawing No. 1 OF 1
Chk By	Approved	

(7)

Respondent No 2

Golden Ring Yacht B asin Inc.
c/o Essex Marina
1755 Hilltop Road
Baltimore, Maryland, 21221

Gentlemen:

Please be advised that Golden Ring Yacht Basin Inc. has this date notified me concrning its application to the appropriate governmental agencies to uprade and improve the old Bengies Yacht Basin on Edwards&Lane&Wagners Lane, Baltimore 21220, Md., according to plans shown me this date drawn by Century Engineers of Towson, Md.

I feel that approval of this plan will help to improve the area.

7-7-84
(date)

Byron E Livingston
(Name)

109 Hughes Shore Rd
(address)

Balto, Md 21220

BALTIMORE COUNTY, MARYLAND

DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT

INTER-OFFICE CORRESPONDENCE

Respondent No 4

TO: Mr. Arnold Jablon, Director
Office of Zoning Administration
and Development Management

DATE: December 18, 1991

FROM: J. James Dieter, Director

92-171-SPH

SUBJECT: Petition for Special Hearing - Item 180
Golden Ring Yacht Basin/Chesapeake Yachting Center
Chesapeake Bay Critical Area Findings

RECEIVED
DEC 19
ZONING COMMISSION

SITE LOCATION

The subject property is located at 595 Edwards Lane. The site is within the Chesapeake Bay Critical Area and is classified as a Limited Development Area (LDA).

APPLICANT Bowley's Quarters Improvement Association, Inc.

APPLICANT PROPOSAL

The applicant has requested 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 disapprove an amendment to the plot approved by Case #86-292-XSPHA (construction of boat racks) granted by a letter from the Zoning Commissioner, dated November 8, 1989 which was done without the benefit of a public hearing.

GOALS OF THE CHESAPEAKE BAY CRITICAL AREA PROGRAM

In accordance with the Chesapeake Bay Critical Area Program, all project approvals shall be based on a finding which assures that proposed projects are consistent with the following goals of the Critical Area Law:

1. "Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have runoff from surrounding lands;

2. Conserve fish, wildlife and plant habitat; and

3. Establish land use policies for development in the Chesapeake Bay Critical Area which accommodate growth and also address the fact that even if pollution is controlled, the number, movement, and activities of persons in that area can create adverse environmental impacts." <COMAR 14.15.10.01.0>

BALTIMORE COUNTY, MARYLAND

DEPARTMENT OF PERMITS AND LICENSES

TOWSON, MARYLAND 21204

John R. Reisinger

BUILDINGS ENGINEER

BUILDING PERMIT

PERMIT #: B069719 CONTROL #: C-721-91 DIST: 15 PREC: 09
DATE ISSUED: 05/24/91 TAX ACCOUNT #: 2100009540 CLASS: 29

PLANS: CONST 3 PLOT Y R PLAT 0 DATA 0 ELEC NO PLUM NO
LOCATION: 595 EDWARDS LANE
SUBDIVISION:

OWNERS-INFORMATION
NAME: CHESAPEAKE YACHTING SERVICE
ADDR: ESSEX MARINA 1255 HILLTOP AVE. BALTO, MD. 21221

TENANT:
CONTR: TO BE DETERMINED
ENGNR:
SELLR:
WORK: CONSTRUCT FOUNDATION FOR AND ERECT STEEL "DRY DOCK" STORAGE BOAT RACKS. DATA SHEET WAIVED CM 04/26/91.
(548'X 37'X 49'1") 18,008 SQ. FT.

BLDG. CODE: BOCA CODE
RESIDENTIAL CATEGORY: OWNERSHIP:

ESTIMATED $ PROPOSED USE: MARINA/BOATYARD/WATER FRONT AND BOAT RACK
NA EXISTING USE: MARINA/BOATYARD/WATER FRONT

TYPE OF IMPRV: NEW BUILDING CONTRUCTION
USE: OTHER - NON-RESIDENTIAL
FOUNDATION: BASEMENT:
SEWAGE: PUBLIC EXIST WATER: PUBLIC EXIST

LOT SIZE AND SETBACKS

SIZE: 12.8 AC
FRONT STREET:
SIDE STREET:
FRONT SETB: 75'
SIDE SETB: 107'/95'
SIDE STR SETB:
REAR SETB: 87'

THIS PERMIT EXPIRES ONE YEAR FROM DATE OF ISSUE

Respondent No 7

PLEASE REFER TO PERMIT NUMBER WHEN MAKING INQUIRIES.

LAW OFFICES
EVANS, GEORGE AND BRONSTEIN
SUSQUEHANNA BUILDING, SUITE 205
29 WEST SUSQUEHANNA AVENUE
TOWSON, MARYLAND 21204
(301) 296-0200
FAX: (301) 296-3719

L. ROBERT EVANS
HARRIS JAMES GEORGE
BENJAMIN BRONSTEIN

MICHAEL J. CHOMEL
DOUGLAS A. STUBBS
WILLIAM R. LEVASSEUR, JR.

WALLACE DANN
COUNSEL

November 20, 1989

The Honorable J. Robert Haines
Zoning Commissioner for Baltimore County
County Office Building
Towson, Maryland 21204

RE: PETITIONS FOR SPECIAL EXCEPTION, SPECIAL HEARING AND VARIANCES
Beginning at the c/l of Edwards Lane, 1100' +/- of Bowleys Quarters Road
15th Election District
Golden Ring Yacht Basin, Inc. - Petitioners
Case No.: 86-292-XSPHA

Dear Mr. Haines:

Thank you for your letter of November 8, 1989. Please confirm that "dry rack storage" in an open rack system would be a rack with an open front, back, ends and roof. This is the most esthically attractive type of rack system and the one recommended by David Flowers of DEPRON.

Thank you for your kind consideration.

Very truly yours,

EVANS, GEORGE & BRONSTEIN

Benjamin Bronstein

BB/ksr

cc: Mr. Frank Lampron
Mr. David S. Thaler

Respondent
No 8

RECEIVED
NOV 21 1989
ZONING OFFICE

November 29, 1989

Dear Mr. Bronstein:

All of the above is agreed to as recommended by David Flowers of D.E.P.R.M.

RECEIVED
DEC 4 1989
EVANS, GEORGE & BRONSTEIN

Very truly yours,

W. Carl Richards, Jr.
Zoning Coordinator
for J. Robert Haines

scj

P.C. Ex. 2

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: William Hackett, Chairman
Baltimore County Board of Appeals

DATE: December 15, 1992

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

RECEIVED
COUNTY BOARD OF APPEALS
92 DEC 16 PM 1:20

SUBJECT: Case No. 92-171-SPH
GOLDEN RING YACHT BASIN

Location: 595 Edwards Lane
Middle River, MD

Zoning: DR 5.5

INTRODUCTION:

At the request of Golden Ring Yacht Basin, the Office of Planning and Zoning is submitting comments to the County Board of Appeals. This particular project has undergone a lengthy and complicated review and approval process. In addition, appeals by the owner and the community have extended this process.

The community on one hand thinks that the dry rack storage which consists of 4 levels of storage which is enclosed on three sides, contains a roof and is approximately 548 feet in length, with a height of 45 feet constitutes a major change in the CRG Plan and Special Exception which should have not been allowed by the County. The developer on the other hand is of the opinion that all necessary approvals were solicited and ultimately granted by the County. Based upon these approvals the developer proceeded with the project.

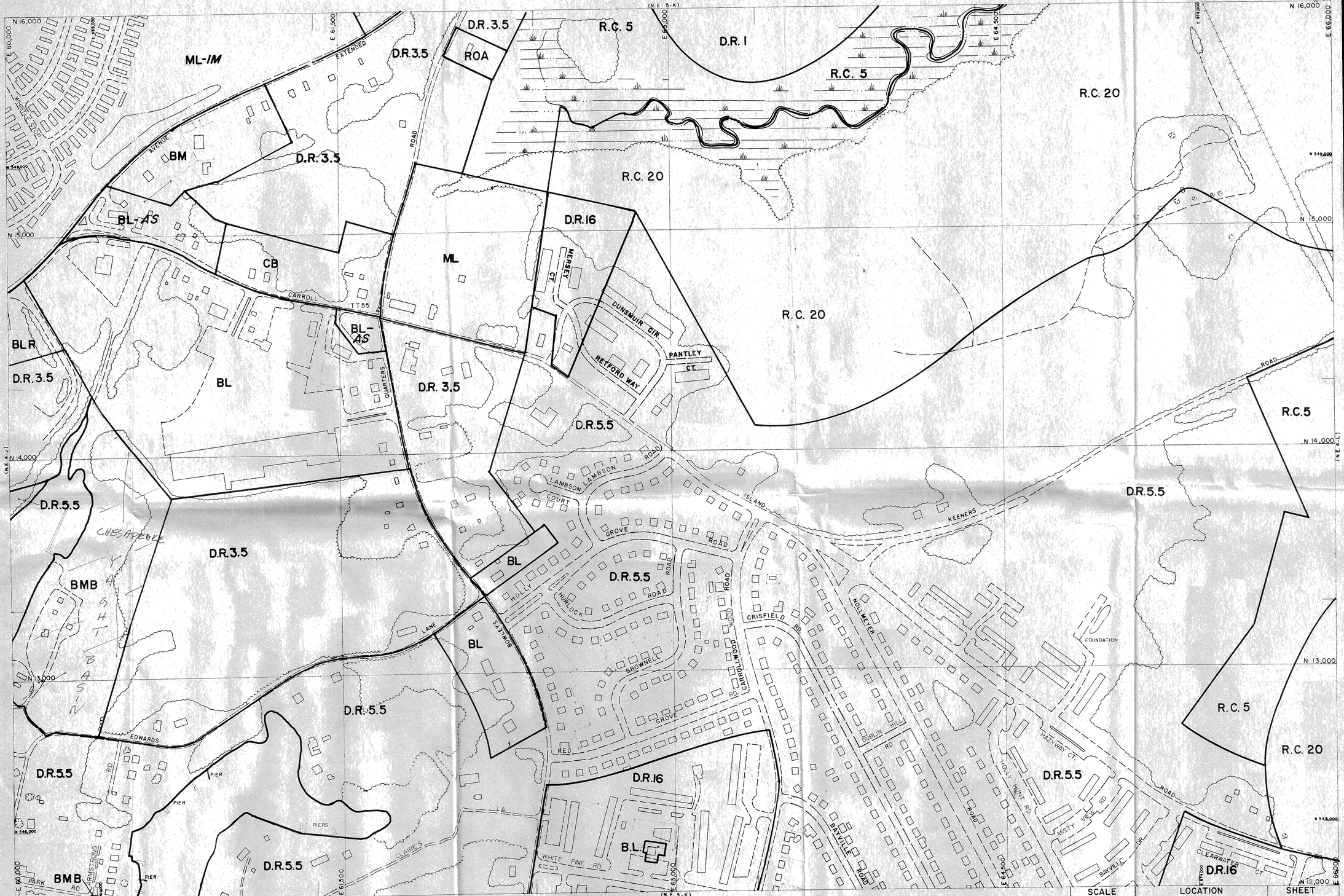
During the CRG, and Special Exception process the County fostered an effort to bring Golden Ring Yacht Basin and the Bowley's Quarters Improvement Association into a level of understanding and agreement as to the extent to which the site would be upgraded and improved. Issues over the intensification of the site regarding the number of slips was a major concern, as was the visual impact that this facility would have on the community. In the Zoning Commissioner's Order No. 86-292-XSPHA, the marina/boatyard was limited to the number of slips appropriate for the site and the access onto Edwards Lane was limited.

In 1989, Golden Ring Yacht Basin approached the County regarding the provision of a Dry Rack Storage Building which was subsequently granted by the Zoning Commissioner as an administrative interpretation of 86-292-XSPHA. Based upon the Zoning Commissioner's decision at that time the CRG Plan was amended to reflect the Dry Rack Storage. The plan as amended shows 200 boat slips and 200 spaces for boats in Dry Rack Storage.

Project Review and Approval History:

1. September 4, 1986 the CRG was approved.

2. November 15, 1986, Case No. 86-292-XSPHA, GRANTED use as marina/boatyard subject to 3 conditions, slips reduced from 296 to 200.



1996 COMPREHENSIVE ZONING MAP
ADOPTED by
THE BALTIMORE COUNTY COUNCIL
OCTOBER 8, 1996
Bills Nos. 129-96, 130-96, 131-96, 132-96, 133-96, 134-96, 135-96

Kevin Kamenetz
Chairman, County Council

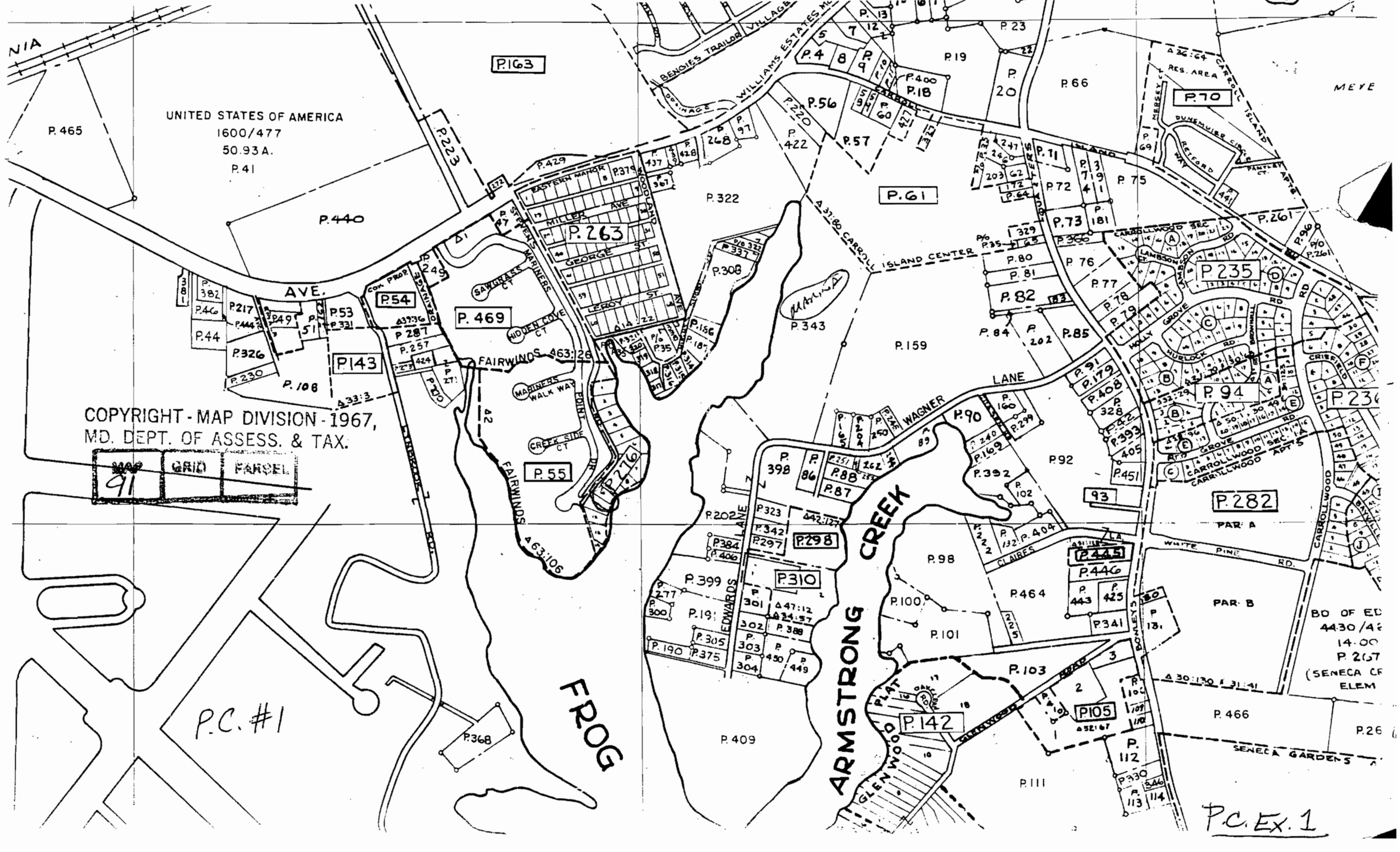
I-NE Z-NW

THIS MAP HAS BEEN REVISED IN SELECTED AREAS.
TOPOGRAPHY COMPILED BY PHOTOGRAMMETRIC METHODS
BY BUCHART-HORN, INC. BALTIMORE, MD. 21210

BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
OFFICIAL ZONING MAP

SCALE	LOCATION	SHEET
1" = 200'±	BENGIES BOWLEYS QUARTERS	N.E. 4-K
DATE OF PHOTOGRAPHY JANUARY 1986		

Motion Ex. 1


UNITED STATES OF AMERICA
1600/477
50.93 A.
P. 41
P. 465
P. 440
P. 223
P. 163
P. 263
P. 469
P. 322
P. 61
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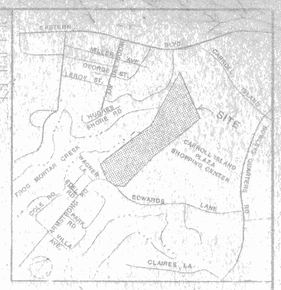
FROG MORTAR CREEK

SOILS DATA - LIMITATIONS

	TYPE: BLDG. LESS THAN 3 STORY, NO BSMT.	ROADS & PARKING	GLASS
MaA	NONE	NONE	MODERATE
MaB	SLIGHT	SLIGHT	SLIGHT
UnB	SEVERE: HIGH WATER TABLE*	SEVERE: HIGH WATER TABLE*	SEVERE: HIGH WATER TABLE*

* SLOPES TO DRAIN POORLY

MaA = MATAPEAKE SILT LOAM, 0 TO 2% SLOPES
MaB = MATAPEAKE SILT LOAM, 2 TO 5% SLOPES



VICINITY MAP
SCALE: 1" = 1000'

SECTION A-A
NOT TO SCALE

THIS AREA TO REMAIN UNDISTURBED AT ALL TIMES

FILL AREA WORK TO BE PERFORMED UNDER SEPARATE E.S.C. PERMIT

BOTTOM CLEARING AREA SEE DETAIL THIS SHEET

BLDG. 'B' (2 STY.) SERVICE MAINTENANCE BLDG. F.F.EL. 17.30 (1 ST.)

TOILET OFFICE W/2 CARETAKERS UNITS

DRY RACK STORAGE 300 UNITS FOR BOAT STORAGE 8 UNITS FOR SALES & SERVICE (SEE GENERAL NOTES)

OPTIONAL BERM (20 FEET HIGH)
BUFFER AREA - SEE LANDSCAPE PLAN
THIS AREA MAY BE USED FOR PASSIVE RECREATION ONCE TREES ARE ESTABLISHED. USES EXCLUDE STRUCTURES & PAVING.
NO DREDGED MATERIAL SHALL BE USED FOR EXTERIOR CONSTRUCTION OF BERM. EARTH EXCAVATED FROM EXISTING LAND AREAS TO BE USED FOR EXTERIOR.

DRAINAGE TO BE CONTINUOUS UNDER DRY RACK STORAGE

SECONDARY ENTRANCE GATE FOR EMERGENCY VEHICLES ONLY

STONE PAVE

THEL R. MILLER (RESIDENTIAL)

H.F. & A.E. MAGSMORE

EDWARDS LANE

RICHARD EDWARDS (YACHT CLUB) VACANT

CARROLL ISLAND SHOPPING CENTER

NOTE:

1. PROPOSED SHOPS-ONLY LOOSE ACCESSORY USES DELINEATED IN THE DEFINITION OF "BOAT YARD" IN THE BALTO. CO. ZONING REG'S SHALL BE PERMITTED. 6 OF THE PROPOSED SHOPS WILL BE 2 STORIES.
2. THE SECONDARY MEANS OF ACCESS FROM EDWARDS LA. MAY BE USED ONLY FOR EMERGENCY VEHICLES.

ZONING HEARING

Case #88-264-A(X)

Whereas, it is ordered by the Zoning Commissioner of Baltimore County, this 6th day of December, 1988, that the Petition for Special Hearing to request that the boat yard and its parking area be permitted a community building, et al., and that the townhouse structures with commercial uses be considered as accessory uses to and in harmony therewith; and further, that the Petition for Special Exception for a boat yard with accessory living quarters in a D.R.16 zone; and Petitions for Zoning Variances to permit a public road with less than 50 feet right-of-way and a distance between principal buildings of 32 feet in lieu of the required 60 feet; to permit a setback of 0 feet in lieu of the required 30 feet; to permit a setback of 0 feet in lieu of the required 30 feet; to permit a setback of 0 feet in lieu of the required 30



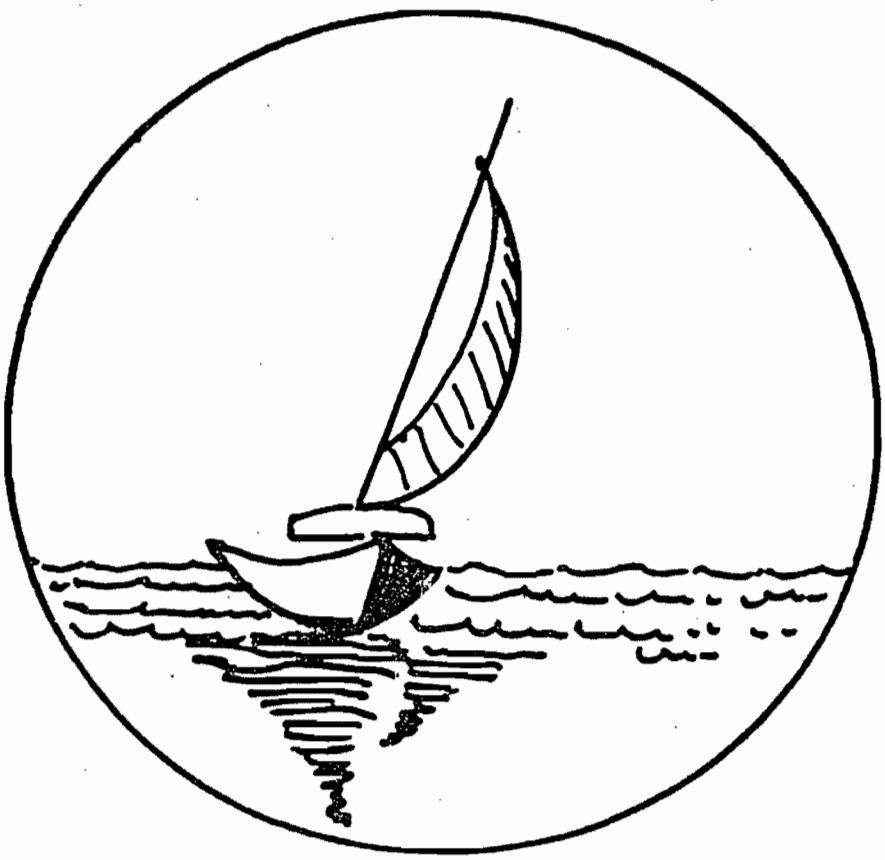
1996 COMPREHENSIVE ZONING MAP
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OCTOBER 8, 1996
Bills Nos. 129-96, 130-96, 131-96, 132-96, 133-96, 134-96, 135-96

Kevin Kamenetz
Chairman, County Council

THIS MAP HAS BEEN REVISED IN SELECTED AREAS.
TOPOGRAPHY COMPILED BY PHOTOGRAMMETRIC METHODS
BY BUCHART-HORN, INC. BALTIMORE, MD. 21210

BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
OFFICIAL ZONING MAP

SCALE	LOCATION	SHEET
1" = 200' ±	GLENN L. MARTIN AIRPORT	N.E. 4-J
DATE OF PHOTOGRAPHY JANUARY 1986	Motion Ex 1A	



Waterfront Enhancement Strategy

Golden Rey Ex. 1

(To be replaced by entire report)



BALTIMORE COUNTY
MARYLAND

Golden Ring Ex. 1
(Complete exhibit)

February 15, 1996

ORIGINAL

IN THE MATTER OF	*	BEFORE THE
JOHN J. SCHMIDT, et al	*	COUNTY BOARD OF APPEALS
for special hearing	*	OF BALTIMORE COUNTY
	*	Case No. 92-171-SPH
	*	December 17, 1992

* * * * *

The above-entitled matter came on for hearing before the County Board of Appeals of Baltimore County at the Old Courthouse, Towson, Maryland at 9 o'clock a.m., December 17, 1992.

* * * * *

Reported by:

C.E. Peatt

IN THE

COURT OF SPECIAL APPEALS OF MARYLAND

SEPTEMBER TERM, 1994

NO. 1047

GOLDEN RING YACHT BASIN, INC./CHESAPEAKE YACHTING CENTER

Appellants,

v.

BALTIMORE COUNTY, MARYLAND, et al.,

Appellees.

APPEAL FROM THE CIRCUIT COURT FOR BALTIMORE COUNTY

(J. William Hinkel, Judge)

JOINT RECORD EXTRACT

Peter Max Zimmerman
People's Counsel for
Baltimore County
Courthouse
400 Washington Avenue
Towson, Maryland 21204
(410) 887-2188

People's Counsel for
Baltimore County

Benjamin Bronstein
Michael J. Chomel
205 Susquehanna Building
29 West Susquehanna Avenue
Towson, Maryland 21204
(410) 296-0200

Attorneys for Appellant
Golden Ring Yacht Basin, Inc./
Chesapeake Yachting Center

IN THE COURT OF SPECIAL APPEALS OF MARYLAND

September Term, 1994
No. 1047

GOLDEN RING YACHT BASIN, INC./CHESAPEAKE YACHTING CENTER

Appellants,

v.

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY

Appellees/Cross-Appellants.

APPEAL FROM THE CIRCUIT COURT FOR BALTIMORE COUNTY
(J. William Hinkel, Judge)

BRIEF AND APPENDIX OF APPELLEE/CROSS-APPELLANT PEOPLE'S COUNSEL FOR BALTIMORE COUNTY

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

CAROLE S. DEMILIO
Deputy People's Counsel
Room 47, Courthouse
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

ORIGINAL

IN THE MATTER OF * BEFORE THE
JOHN J. SCHMIDT, et al * COUNTY BOARD OF APPEALS
for special hearing * OF BALTIMORE COUNTY
* Case No. 92-171-SPH
* September 15, 1992

* * * * *

The above-entitled matter came on for hearing before the County Board of Appeals of Baltimore County at the Old Courthouse, Towson, Maryland at 10 o'clock a.m., September 15, 1992.

* * * * *

Reported by:
C.E. Peatt
Diane Hebert