

92-480-A

NE/S Sulphur Spring Road, 413' NE of c/l Washington Boulevard

1st C.D.

Item 511

Petitioner(s): BBC Associates

07/29/92

Zoning Commissioner Hearing set for this date beginning at 9:00 a.m.

08/03/92

ORDERED BY ZONING COMMISSIONER LAWRENCE E. SCHMIDT that the Petition for Special Exception for permission to construct a golf driving range as an interim income producing use on the site, in accordance with Petitioner(s)' Exhibit No. 1, is hereby **GRANTED**, subject to restriction(s).

IN RE: PETITION FOR SPECIAL EXCEPTION	*	BEFORE THE
NE/S Sulphur Spring Road,	*	ZONING COMMISSIONER
413 ft. N/E of c/l of	*	OF BALTIMORE COUNTY
Washington Boulevard	*	CASE No. 92-480-X
13th Election District	*	
1st Councilmanic District	*	
BBC Associates/ Leroy M. Merritt	*	
Petitioner	*	

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition for Special Exception for that site of 9.487 acres in area located on Washington Boulevard immediately adjacent to that roadway's intersection with the Baltimore Beltway. The subject property is owned by BBC Associates/Leroy M. Merritt. The Petitioner seeks approval to construct a golf driving range as an interim income producing use on the site.

At the public hearing on this matter, Robert Hoffman, Esquire, appeared on behalf of the property owner. Also appearing in support of the Petition was Wes Guckert, Traffic Engineer, and Frederick Chadsey, the Engineer who prepared Petitioner's Exhibit No. 1, the site plan to accompany the Petition. There were no Protestants present.

As indicated, the parcel is a sizable tract which is located in the heavy commercial corridor adjacent to Washington Boulevard and the Baltimore Beltway (I-695). Previously, the property has received C.R.G. approval for development as an office complex. However, due to the economic recession and glut of office space available in this area, the Petitioner has decided to delay construction. The Petitioner intends on deferring construction until such time as tenants are located for the proposed use.

During this interim period, the Petitioner proposes to operate a golf driving range on site so as to produce income. The range will feature 33 tees and is permitted in the subject M.L. zone by special exception.

Mr. Hoffman proffered the testimony of Messrs. Guckert and Chadsey and opined that the proposed development would not be detrimental to the surrounding locale. He also noted that the proposed use has obtained an exemption from the Hearing Officer's hearing and community input meeting, as well as the necessity for the development plan.

It is clear that the B.C.Z.R. permits the use proposed in an M.L. zone by special exception. It is equally clear that the proposed use would not be detrimental to the primary uses in the vicinity. Therefore, it must be determined whether the conditions as delineated by Section 502.1 are satisfied by the Petitioner.

The Petitioner had the burden of adducing testimony and evidence which would show that the proposed use met the prescribed standards and requirements set forth in Section 502.1. In fact, the Petitioner has shown that the proposed use would be conducted without real detriment to the neighborhood and would not adversely affect the public interest. The facts and circumstances do not show that the proposed use at the particular location described by Petitioner's Exhibit 1 would have any adverse impact above and beyond that inherently associated with such a special exception use, irrespective of its location within the zone. Schultz v. Pritts, 291 Md. 1, 432 A2d 1319 (1981).

The proposed use will not be detrimental to the health, safety or general welfare of the locality, nor tend to create congestion in roads, streets, or alleys therein, nor be inconsistent with the purposes of the

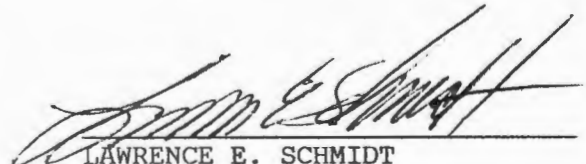
property's zoning classification, nor in any other way be inconsistent with the spirit and intent of the B.C.Z.R.

After reviewing all of the testimony and evidence presented, it appears that the special exception should be granted, with certain restrictions as more fully described below.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner of Baltimore County this 3rd day of August, 1992 that the Petition for Special Exception for permission to construct a golf driving range as an interim income producing use on the site, in accordance with Petitioner's Exhibit No. 1, be and is hereby GRANTED, subject, however, to the following restriction which is a condition precedent to the relief granted herein:

1. The Petitioner may apply for its building permit and be granted same upon receipt of this Order; however, Petitioner 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 Petitioner would be required to return, and be responsible for returning, said property to its original condition.


LAWRENCE E. SCHMIDT
Zoning Commissioner for
Baltimore County

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