

December 31, 1997

1/6/98
8

Rec'd
1/7/98

Mr. Joseph Merrey, Planner
Baltimore County
Permits and Development Management
Zoning Review Bureau
111 West Chesapeake Avenue
Room 111
Towson, MD 21204

Re: Proposed Comfort Station
Baltimore Country Club at Five Farms
DMW Project No. 82032. MA



Daft-McCune-Walker, Inc.

200 East Pennsylvania Avenue
Towson, Maryland 21286
<http://www.dmw.com>
410 296 3333
Fax 410 296 4705

A Team of Land Planners,
Landscape Architects,
Engineers, Surveyors &
Environmental Professionals

Dear Mr. Merrey:

As you are well aware, on December 29, 1997, the Development Review Committee recommended an A.7 limited exemption for the proposed comfort station on the Baltimore Country Club at Five Farms property. Per your request, I am asking for your confirmation that this minor improvement falls within the spirit and intent of Zoning Case 93-37-SPH. The zoning order established that intensification of this nonconforming use would be permitted by prior case law.

Enclosed, please find a copy of the applicable pages of the zoning order along with a red-lined site plan. I have highlighted what I feel is relevant within this case. Also, please note that the structure will meet all zoning setback requirements. If you concur that the proposed structure is within the scope of the aforementioned zoning case, please confirm this by signing in the space provided below.

Very truly yours,

DAFT-McCUNE-WALKER, INC.

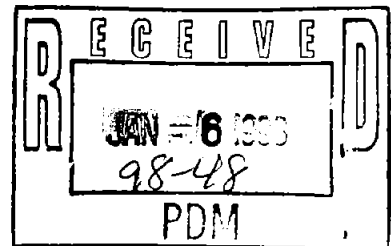
Mitchell J. Kellman
Planning and Zoning Coordinator

MJK/mls

Enclosures

cc Mr. Charles P. Gilmore

The proposed structure is within the scope of Zoning Case 93-37-SPH.



Joseph Merrey

1-9-98
Date

ship which is operated at Five Farms. Further, the uses are entirely consistent with the country club use and are not different in either character, nature or kind. They are clearly all within the umbrella of those uses which constitute a country club operation. Additionally, there will be no difference in impact on the neighborhood caused by these modifications. There is no difference in the traffic impact nor will the proposed modifications create environmental, pollution or other effects inherently different in the existing nonconforming use. Clearly, what is proposed is neither a drastic enlargement nor extension of the nonconforming use. It is merely an intensification of what already occurs on the property and is, therefore, permissible under the standards enunciated in the McKemy decision. Thus, the proposed improvements shown on the site plan is a permitted intensification of a legitimate nonconforming use and should be allowed.

7. Can the nonconforming use be extended onto properties not owned by the Petitioner as of September 26, 1963?

As indicated above, the acreage owned by Baltimore County Club at Five Farms has expanded over the years. Three small parcels have been acquired since to September 26, 1963. These are: a minute parcel acquired on October 7, 1963 on the south side of the site near Timonium Road; a rectangular parcel on the north side of the property acquired on December 27, 1984; and the lot which creates the largest controversy; that is, the tract known as the Boyce property acquired on December 16, 1991.

The Petitioner argues that the acquisition of these properties is no more than an extension of the nonconforming use and is, therefore, should be governed by the McKemy test. The Protestants, on the other hand, aver that it is a different animal and is not guided by McKemy.

forth in Section 104.3 of the B.C.Z.R. I do not believe the legislature intended such a result. Absent legislative direction to the contrary, I feel required to find that an extension of a nonconforming use of property not owned or utilized by the Petitioner at the time giving rise to the nonconforming use is impermissible.

Further, even if I did adopt the Petitioner's reasoning, I could not permit the Boyce tract to be utilized in the manner proposed. Arguably, the two small parcels (the one acquired on October 7, 1963 and the other on December 27, 1984) are so small and insignificant that they would be permitted to be annexed to the area previously devoted to the nonconforming use under the McKemy test. These small areas are used as portions of the golf course and are physically no different now as they existed in 1963.

However, the Boyce tract is different. The Petitioner proposes utilizing a piece of property heretofore used only for residential purposes and converting the use of same into the country club. This is a material and significant different use of this particular lot. Thus, even if I were to accept the Petitioner's argument that an extension of the nonconforming use to new acreage was permissible, I could not find that the property acquired from Boyce satisfied the McKemy test. Clearly, that individual tract is proposed to be used in a materially different fashion than its prior use. In viewing that tract as an individual parcel, it fails to satisfy McKemy.

A final comment is in order. As noted above, use of the entire property as a country club would be permissible if granted, pursuant to a Petition for Special Exception. Although, this case was not before me in that context, significant testimony was offered about the Club's current and proposed operation. In considering that evidence, it is difficult to imagine how the operation of the Club, even with the proposed expansion onto the

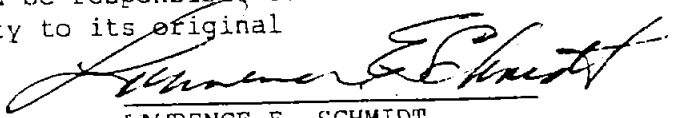
Boyce property, could be detrimental to the health, safety and general welfare of the community. However, that issue is, perhaps, for another day, and another record of evidence. Thus, I shall not address that issue further herein. Furthermore, I have previously herein determined that intensification of the facilities offered by the club (e.g. installation of tennis courts) is permissible under McKemy. Nonetheless, I cannot approve the site plan submitted, which shows the tennis courts on the Boyce tract. The Petitioner must locate any proposed intensification on property owned by it in September 1963; or obtain the requisite special exception.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the Petition for Special Hearing should be granted in part, and denied in part.

THEREFORE, IT IS ORDERED by the Zoning Commissioner of Baltimore County this 5th day of March, 1993 that the Petition for Special Hearing for that portion of the property now owned by the Petitioner, but owned by others on September 26, 1963, be and is hereby DENIED; and,

IT IS FURTHER ORDERED that the Petition for Special Hearing, for that portion of the property owned by the Petitioner, the Baltimore County Club of Baltimore City on September 26, 1963, be and is hereby GRANTED, including those modifications/improvements to the property both present and proposed, as shown on the site plan, subject, however, to the following restriction:

1. The 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

LES:mmn

IN RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE
SW/S Jenifer Road, N/S		
Timonium Road	*	ZONING COMMISSIONER
11500 Mays Chapel Road		
8th Election District	*	OF BALTIMORE COUNTY
3rd Councilmanic District	*	
	*	
Baltimore Country Club of		CASE # 93-37-SPH
Baltimore City	*	
Petitioner		

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition for Special Hearing, for that property located in Timonium known as the Baltimore Country Club at Five Farms. As stated in the Petition, the property owner seeks approval of "an existing nonconforming country club and modifications." Clearly, the wording of the Petition is but a general statement of the relief sought by the property owner. Specifically, the Petitioner seeks legitimization of a vast tract of property as a nonconforming country club use and approval of certain modifications to said use, both within the original tract boundary and on lands more recently acquired.

The Petition was filed by the Baltimore Country Club of Baltimore City, the legal owner of the property. The Petitioner is represented by G. Scott Barhight, Esquire. Numerous witnesses appeared on behalf of the Petition. They included William P. Geary, a long time member of the Country Club and its current President. He testified extensively as to the history of the property from the time of its acquisition by the Club in the 1920s to the present. Also testifying was Paul T. Spellman, Jr., who has been employed as the General Manager and Chief Operating Officer of the Club since 1985. Mr. Spellman is the individual who is the hands-on manager of the facility and directs its day to day operation. Also testifying was Edmund Haile of Daft, McCune and Walker. Mr. Haile, a Civil Engineer, assisted in the prepara-

The site plan submitted also shows certain proposed modifications within the tract which was owned by the Club in 1963. These modifications relate to the remodeling and renovation of several ancillary buildings, reconstruction of the country club building, relocation of the paved parking area, renovation of the pools and the installation of tennis courts. It is to be repeatedly stressed, the use of this site is that of a country club.

* Thus, these uses are permitted as ancillary to the overall use of the tract. *

Within the Memorandums of Law submitted by both counsel, various arguments have been raised regarding the extension or enlargement of a nonconforming use. Both sides have cited as the leading case, McKemy v. Baltimore County, 39 Md. App. 256, 385 A2d 96 (1978). Indeed, this case provides guidance in determining when a nonconforming use may be intensified. Within McKemy, the court set forth a four prong test to analyze this issue. Applied to this case, the four prong test may be characterized as follows: (1) To what extent do the proposed modifications of the Five Farms property reflect the nature and purpose of the original country club use? (2) Are the proposed modifications merely a different manner of utilizing the existing nonconforming country club use or do they constitute a use different in character, nature and kind?; (3) Do the proposed modifications have a substantial and different effect on the neighborhood?; (4) Are the proposed modifications a drastic enlargement or extension of the original nonconforming use?

It is clear that the modifications are permissible under the McKemy test. The modifications do nothing more than reflect the nature and purpose of a country club use. As Mr. Gavrelis noted, these modifications only serve to upgrade the facilities offered to the club membership. All of the modifications are targeted to improving the country club use to its member-

ship which is operated at Five Farms. Further, the uses are entirely consistent with the country club use and are not different in either character, nature or kind. They are clearly all within the umbrella of those uses which constitute a country club operation. Additionally, there will be no difference in impact on the neighborhood caused by these modifications. There is no difference in the traffic impact nor will the proposed modifications create environmental, pollution or other effects inherently different in the existing nonconforming use. Clearly, what is proposed is neither a drastic enlargement nor extension of the nonconforming use. It is merely an intensification of what already occurs on the property and is, therefore, permissible under the standards enunciated in the McKemy decision. Thus, the proposed improvements shown on the site plan is a permitted intensification of a legitimate nonconforming use and should be allowed.

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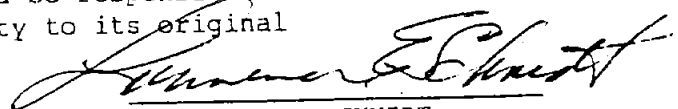
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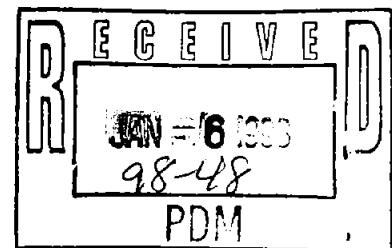
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Enclosures

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Joseph Merrey

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IN RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE
SW/S Jenifer Road, N/S		
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Baltimore City	*	
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IN THE MATTER OF
THE APPLICATION OF
BALTIMORE COUNTRY CLUB OF
BALTIMORE CITY
FOR A SPECIAL HEARING ON
PROPERTY LOCATED ON THE SOUTH-
WEST SIDE JENIFER ROAD, NORTH
SIDE TIMONIUM ROAD
(11500 MAYS CHAPEL ROAD)
9TH ELECTION DISTRICT
3RD COUNCILMANIC DISTRICT

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* CASE NO. 93-37-SPH

ORDER OF DISMISSAL

This case comes to this Board on appeal from a decision of the Zoning Commissioner dated March 5, 1993 in which the Petition for Special Hearing granted in part and denied in part.

WHEREAS, the Board is in receipt of a letter of dismissal dated August 17, 1993 and attached Agreement of the parties dated June 14, 1993, filed by J. Carroll Holzer, Esquire, Counsel for Joseph R. B. Tubman, Donna Dow, Deborah Terry and Courtney Spies, Appellants, on August 24, 1993 (a copy of which is attached hereto and made a part hereof); and

WHEREAS, said Counsel for Appellants requests that the appeal filed in this matter be dismissed consistent with the terms of said Agreement and withdrawn as of August 24, 1993;

IT IS HEREBY ORDERED this 1st day of September 1993 by the County Board of Appeals of Baltimore County that said appeal be and the same is hereby DISMISSED with prejudice.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

William T. Hackett
William T. Hackett, Chairman

Harry E. Buchheister, Jr.
Harry E. Buchheister, Jr.

S. Diane Levero
S. Diane Levero

IN RE: PETITION FOR
SPECIAL HEARING
SW/S Jenifer Road, W/S
Timonium Road
11500 Mays Chapel Road
8th Election District
3rd Councilmanic District
Baltimore County Club
of Baltimore City
Petitioner

* BEFORE THE
* ZONING COMMISSIONER
* OF
* BALTIMORE COUNTY
* Case No.: 93-37-SPH

NOTICE OF APPEAL

Joseph R. B. Tubman, Donna Dow and Deborah Terry, by and through their attorney, J. Carroll Holzer, Esquire, Holzer, Maher, Demilio & Lee, hereby note an appeal to the County Board of Appeals of the decision of the Zoning Commissioner in the above captioned case decided on March 5, 1993. Attached is a check made payable to Baltimore County to cover the costs of the appeal.

J. CARROLL HOLZER, Esquire
Holzer, Maher, Demilio & Lee
305 West Chesapeake Avenue
Suite 105
Towson, Maryland 21204
410-825-6960

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 2nd day of April, 1993, a copy of the foregoing Notice of Appeal was mailed first-class, postage pre-paid to: G. Scott Barhight, Esquire, 500 Court Towers, 210 West Pennsylvania Avenue, Towson, Maryland 21204 and the Board of Appeals, Old Courthouse, 400 Washington Avenue, Room 49, Towson, Maryland 21204.

app/country.n-a

PRESENT
4/2/93
ZONING OFFICE

IN THE MATTER OF
THE APPLICATION OF
BALTIMORE COUNTRY CLUB OF
BALTIMORE CITY FOR A
PETITION FOR SPECIAL HEARING
(11500 MAYS CHAPEL ROAD)
8TH ELECTION DISTRICT
THIRD COUNCILMANIC DISTRICT

* BEFORE THE
* ZONING COMMISSIONER
* FOR
* BALTIMORE COUNTY
* Case No. 93-37-SPH

PETITIONER'S MEMORANDUM

The Petitioner, Baltimore Country Club of Baltimore City ("BCC"), by its attorneys, G. Scott Barhight and Whiteford, Taylor & Preston, submits this Memorandum in accordance with the Zoning Commissioner's request and states as follows:

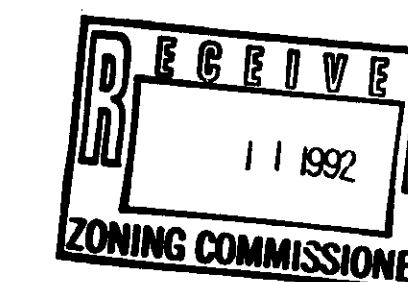
FACTUAL AND PROCEDURAL BACKGROUND

This Petition for Special Hearing comes before the Zoning Commissioner for Baltimore County upon the filing of the petition and appropriate documents which were accepted for filing on August 6, 1992. Testimony was taken by the Zoning Commissioner on November 10, 23, and 25, 1992.

BCC currently owns and operates a country club on over four hundred acres located at 11500 Mays Chapel Road in Timonium. This property, called "Five Farms" has been operated continuously as a country club since 1926.

The Petition for Special Hearing contains two requests for relief:

1. Confirmation that the existing use of Five Farms is a legal nonconforming country club; and



2. Approval of the modifications to Five Farms as shown on the Plan to Accompany the Special Hearing Petition.

The Petitioner's witnesses offered undisputed testimony and numerous exhibits regarding the history of the country club at Five Farms. Mr. George Gavrelis, a well recognized expert in planning and zoning, also offered undisputed testimony regarding the history of the Baltimore County Zoning Regulations and the zoning districts applied to Five Farms. A brief chronology summarizing the pertinent factual and zoning history is provided below.

Since the facts are undisputed, the questions before the Zoning Commissioner involve interpretations of law and application of the undisputed facts to the law. Legal argument in support of the Petition for Special Hearing is also provided below.

CHRONOLOGY

EVENT	DATE
Purchase of Five Farms (see Petitioner's Exhibit 31) (Petitioner's Exhibits will hereinafter be referred to as "PX")	May 5, 1924 through May 26, 1926
Opening of eighteen hole East golf course (PX 3)	By March 14, 1926
Adoption of Baltimore County Zoning Regulations (PX 38 and 39). Five Farms country club becomes a legal nonconforming use.	January 2, 1945
Amendment of Nonconforming Use Statute (PX 40)	July 2, 1953

- 2 -

Amendments to Zoning Regulations (PX 41, 42A, 42B, 43) Five Farms country club becomes a legal permitted use.	March 30, 1955
Pools and change house constructed (PX 13)	1957
Completion and beginning of play of new eighteen hole West course (PX 15 and Geary testimony)	Spring 1963
Recommendation by Planning and Capital Improvements Committee to construct new club house (PX 19)	April 11, 1963
Decision to begin construction of new club house prior to Labor Day, 1963 (PX 21)	April 15, 1963
Completion of plans for new club house (PX 24)	September 25, 1963
Adoption of Bill 64-63 (PX 44). Five Farms becomes a legal nonconforming use.	September 26, 1963
Purchase of small parcel near Chapel Hill (see red parcel on PX 31)	October 7, 1963
Bids accepted for club house project (Geary testimony)	October, 1963
Application for building permit for club house construction (PX 35)	November 27, 1963
Ground breaking for new club house (PX 26)	December 12, 1963
Razing of old club house (Geary testimony)	Early 1964
Begin use of locker rooms and new club house (Geary testimony)	Summer 1964
Opening of new club house (Geary testimony)	Fall 1964
Purchase of additional Mays Chapel Road frontage (see the blue parcel on PX 31)	December 27, 1984

- 3 -

Issuance of building permit for modifications to West golf course (PX 36)	April 6, 1990
Completion of modifications to West golf course (Geary testimony)	1991
Purchase of Boyce parcel (see gray parcel on PX 31)	December 16, 1991
Adoption of Five Farms Master Plan (PX 30). Miscellaneous modifications to buildings, relocation of paved parking, renovation of pools, and addition of nine tennis courts.	1992

LEGAL ARGUMENT

I. Five Farms is a Legal Nonconforming Country Club

A nonconforming use may continue as long as it has not been abandoned, discontinued for a period of one year or more, or changed to any other use. Baltimore County Zoning Regulations, Section 104.1. Each of the expert witnesses who testified, Messrs. Gavrelis, Dillon and Gerber, asserted that the definition of a nonconforming use contained in the 1955 Zoning Regulations applies to the current case (PX 41). That definition states as follows:

A legal use of a building or of land that antedates the adoption of these regulations and does not conform to the use regulations for the zone in which it is located.

The uncontradicted testimony clearly indicates that Five Farms has been used as a country club since 1926. The local newspaper articles (PX 3 and 23); the aerial photographs from 1932 (PX 5), 1960 (PX 7), and 1972 (PX 28); the numerous BCC documents (PX 1, 6, 8 through 22, 24 through 27); and the

- 4 -

building permit documentation (PX 35 and 36) all demonstrate beyond any doubt that the Five Farms property has been used as a country club continuously since 1926. Furthermore, the testimony of the current president of the Baltimore Country Club, Mr. William Geary, offers unrefutable personal knowledge from 1940 through to the present that the Baltimore Country Club has continuously operated a country club at Five Farms since well before the adoption of the Baltimore County Zoning Regulations on January 2, 1945.

After listening to the testimony of Mr. Geary and examining each of the documents presented into evidence, Mr. Gavrelis offered his unequivocal position with regard to the existence of a nonconforming country club. In Mr. Gavrelis' expert opinion, BCC enjoys a nonconforming country club use as shown on the site plan (PX 37).

Mr. Jack Dillon, a member of the Baltimore County Planning Staff was called to testify by the protestants on the issue of nonconforming uses. Mr. Dillon did not hear all of the Petitioner's witnesses and had not reviewed the Petitioner's exhibits prior to his testimony. Because of his lack of information, Mr. Dillon asserted that he was unable to render an opinion with regard to whether BCC enjoys a nonconforming country club use. However, it became clear after cross-examination, that Mr. Dillon believed that nonconforming uses could only apply to buildings, and not to land uses. Mr. Dillon continued to assert

- 5 -

this position in the face of the nonconforming use definition which he agreed applied to this petition (PX 41). This definition includes uses of land.

Mr. Dillon's interpretation of the law is not correct. The definition of a nonconforming use found in the 1955 Baltimore County Zoning Regulations (PX 41) unambiguously states that a nonconforming use can apply either to the use of a building or of land. In short, Mr. Dillon's opinion is unsupported by the law which he agreed applies to this case.

Mr. Norman Gerber, called by the protestants as an expert witness, offered his opinions as well with regard to the existence of a nonconforming use at Five Farms. Both on direct examination during his discussion of the McKemy analysis as well as during cross-examination, Mr. Gerber stated his position without hesitation or equivocation, that Baltimore Country Club enjoys a nonconforming country club use for its current activities.

Given the undisputed nature of the facts, the opinions of the Petitioner's expert, Mr. Gavrelis, as well as the protestant's expert, Mr. Gerber, it becomes obvious that the initial relief requested by the Petitioner should be granted. Therefore, the Petitioner respectfully asserts that the Zoning Commissioner confirm that a nonconforming country club exists at Five Farms as shown on the site plan (PX 37).

- 6 -



SCHEME D

ARCHITECTS

ALTERATIONS & ADDITIONS

FIVE FARMS CLUB HOUSE

PALM BEACH COUNTRY CLUB

DADE COUNTY, FLA.

2173	3/15/55	WA-151	1
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Ref. No. 16



LOCATION PLAN
SCALE 1" = 100'-0"

REVISED 4/8/63 -
SCHEME B

ALTERATIONS & ADDITIONS,
FIVE FARMS CLUB HOUSE
PALM BEACH COUNTRY CLUB
PALM BEACH, FLA. COUNTY, AR.

2:73 3 3 2 151 1

II. The Requested Modifications to the Nonconforming Country Club Site Plan are Permissible

The following analysis of whether the proposed modifications to the site plan are permitted assumes an affirmative finding on the part of the Zoning Commissioner with regard to the existence of a nonconforming country club. The modifications question must be analyzed relative to the existing nonconforming use areas as well as with regard to the recently acquired Boyce parcel. Therefore, these areas will be separately analyzed in this Memorandum.

A. The modifications requested within the existing nonconforming site use areas are permitted.

The site plan (PX 37) identifies minor modifications to the existing nonconforming site use areas constituting approximately 406.5 acres. The modifications include relocation and remodeling of several ancillary buildings, remodeling of the country club, relocation of paved parking, renovation of the pools and the addition of approximately six tennis courts. Approximately three tennis courts would be located on the Boyce parcel. These courts are discussed in Section II.B. below.

Section 500.8 of the Zoning Commissioner's Policy Manual sets forth public hearing rules with regard to nonconforming uses. Section 500.8 B.3 envisions additions to use areas and requires that calculations involving such changes within existing use areas being provided. In accordance with this requirement, the Petitioner has identified the following three existing site uses areas: golf, outdoor recreation and social. The area of

these site use areas, their location and the activities within these site use areas are described in detail on the site plan (PX 37).

Mr. Gavrelis applied the four part test contained in McKemy v. Baltimore County, 39 Md. App. 257, 269-270, 385 A.2d 96 (1978), to the proposed modifications. In applying the McKemy case to the facts of the instant Petition, the following four issues must be addressed:

- 1) To what extent does the proposed use of Five Farms reflect the nature and purpose of the existing nonconforming country club;
- 2) Is the proposed use merely a different manner of utilizing the existing nonconforming country club or does it constitute a use different in character, nature and kind;
- 3) Does the proposed use have a substantial and different effect upon the neighborhood; and
- 4) Is the proposed use a "drastic enlargement or extension" of the existing nonconforming country club.

McKemy, 39 Md. App. at 269-270.

Mr. Gavrelis offered testimony on each of these issues in strong support of the modifications requested. The proposed modifications more than reflect the nature and purpose of the country club. The changes to the buildings are with the intent

of upgrading the existing use to serve the club membership. There is no intention to do anything other than continue to operate Five Farms as a country club.

Additionally, the proposed changes to the site plan are merely a different manner of utilizing the existing nonconforming country club. The uses are precisely the same with regard to character, nature and kind. The building changes are minor and not significant. The relocation of parking will actually enhance the operation of the country club. The tennis courts, like tennis courts at many other country clubs in Baltimore County, are another outdoor recreation activity similar to existing activities on the site.

The proposed uses will have precisely the same impact on the neighborhood as the existing country club use. The traffic impact will be identical. The proposed landscaping and screening will remove any potential adverse visual impacts. The sediment and erosion control, storm water management, and environmental impacts will be properly controlled and regulated. The insignificant noise associated with the play of tennis will certainly be no greater than the current outdoor recreation activities experienced by the neighbors. The tennis courts will not be illuminated and will only be operated from 9:00 o'clock in the morning until dusk.

The proposed use is not a "drastic enlargement or extension" of the existing nonconforming use. "Minimal" and "insignificant" are the words that come to mind when reviewing

the proposed modifications to the improvements and the addition of approximately six tennis courts to the existing nonconforming country club area.

It is enlightening to review Mr. Gerber's testimony with regard to the McKemy test. In every instance, Mr. Gerber agreed that the modifications to the existing country club grounds, excluding the Boyce tract, met the requirements of the McKemy test. Succinctly stated, Mr. Gerber agreed that the proposed modifications to the existing 406.5 acres of the Baltimore Country Club at Five Farms should be approved under the McKemy test and applicable Baltimore County law.

In light of the minimal modifications requested, and the opinions of Messrs. Gavrelis and Gerber, there can be no doubt that the modifications requested on the site plan (PX 37) with regard to the existing boundaries of the nonconforming country club (406.5 acres) are permissible under Maryland and Baltimore County law. Therefore, the Petitioners respectfully request that the Zoning Commissioner enter his Order approving these modifications.

B. The inclusion of the Boyce tract and modifications to its use are permissible.

The only factual and legal area of dispute relates to the use of the Boyce parcel. This parcel was acquired by Baltimore Country Club on December 16, 1991. The Master Plan for Five Farms (PX 30) proposes that portions of three tennis courts

and additional parking to serve the country club be placed on the Boyce tract. The balance of the Boyce tract will remain in its residential use on a "for rent" basis.

Maryland courts distinguish between an intensification of a nonconforming use and an expansion of a nonconforming use. While an intensification of a nonconforming use is acceptable under certain circumstances, an expansion or enlargement of a nonconforming use is generally prohibited under Maryland case law. See Prince George's County v. E.L. Gardner, Inc., 47 Md. App. 471, 476, 424 A.2d 392 (1981) rev'd on other grounds 293 Md. 259 (1982); see also County Comm'rs v. Zent, 86 Md. App. 745, 587 A.2d 1205 (1991). Notwithstanding the general rule, the Maryland Court of Appeals has held that local ordinances govern whether a nonconforming use may be enlarged or extended. Phillips v. Zoning Commissioner, 225 Md. 102, 109, 169 A.2d 410 (1960). Where a zoning regulation authorizes an enlargement or extension, such activity may be allowed. Id. The applicable Baltimore County Zoning Regulations regarding nonconforming uses (BCZR Section 104.1) permit the extension of a nonconforming use.

The Baltimore County Zoning Regulations have always permitted some extension or enlargement of an existing nonconforming use. In 1945 (PX 39), nonconforming uses were permitted to "extended or enlarged to an extent not more than once again the area of the land used in the original nonconforming use." In 1953 (PX 40), the County Commissioners

amended the nonconforming use statute to permit extensions of nonconforming uses not more than "25% of the area of land or buildings used."

The 1955 regulations (PX 43) and the current Baltimore County Zoning Regulations (Section 104.1) contain similar language permitting extensions of not more than "25% of the ground floor area of buildings so used". Therefore, Baltimore County is in the minority and continues to permit extensions or enlargements.

The critical legal question presented by the instant case is whether the 25% extension rule of BCZR Section 104.1 permits the inclusion of the Boyce tract as proposed. Such an analysis requires a review of the principles of statutory construction.

In Mayor and City Council of Baltimore v. Hackley, 300 Md. 277, 477 A.2d 1174 (1984), appeal after remand 70 Md. App. 111, cert. denied 309 Md. 605, the Court of Appeals summarized the rules of statutory construction as follows:

The cardinal rule of statutory construction is to ascertain and carry out the real legislative intent. In determining that intent, the court considers the language of an enactment in its natural and ordinary signification. A corollary to this rule is that if there is no ambiguity or obscurity in the language of a statute, there is usually no need to look elsewhere to ascertain the intent of the (legislature). Further, a court may not insert or omit words to make a statute express an intention not evidenced in its original form. Moreover, the legislative body is presumed to have had, and acted with respect to, full knowledge and information as to prior and existing law and legislation on the subject of the statute and the policy of

the prior law. Finally, absent a clear indication to the contrary, a statute, if reasonably possible, is to be read so that no word, clause, sentence, or phrase is rendered surplusage, superfluous, meaningless, or nugatory.

Id. at 283.

In Rucker v. Comptroller of the Treasury, 315 Md. 559, 555 A.2d 1060 (1989), the Court of Appeals stated the following with regard to statutory construction:

When a statute is susceptible of more than one meaning, the court may consider the consequences resulting from one meaning, rather than another, and adopt the construction which promotes the most reasonable result in light of the objectives and purpose of the enactment. (Citations omitted). Moreover, the legislative intent - more accurately described as legislative goal or purpose - is to be defined by considering the language of the statute in the context within which it was adopted.

Id. at 565.

The Court of Appeals provides further clarification of the rules of statutory construction in Wynn v. State, 313 Md. 533, 546 A.2d 465 (1988), as follows:

... the plain-meaning rule is not a complete, all-sufficient rule for ascertaining a legislative intention because the meaning of the plainest language is controlled by the context in which it appears. (Citations omitted) In determining the context of statutory language, we must consider any persuasive evidence including a bill's title and function paragraphs, amendments that occurred as it passed through the legislature, its relationship to earlier and subsequent legislation, and other material that fairly bears on the fundamental issue of legislative purpose or goal, which

becomes the context within which we read the particular language before us in a given case".

Id. at 539 citing Kaczorowski v. City of Baltimore, 309 Md. 505, 515, 525 A.2d 628 (1987).

Additional guidance on the issue of statutory construction can be found in In Re Criminal Investigation No. 1-162, 307 Md. 674, 516 A.2d 976 (1986), where the Court of Appeals states as follows:

When a statute can be fairly read to have more than one meaning, however, the court will examine the statute's subject matter, purpose, and object and consider the consequences flowing from different constructions. ... If one of the proposed interpretations would render the statute valid while another would render it invalid or ineffective, the court will construe the statute to be valid whenever feasible.

Id. at 685. (Citations omitted).

An examination of the applicable section is in order.

The 1955 statute provides as follows:

No nonconforming building or structure and no nonconforming use of a building, structure, or parcel of land shall hereafter be extended more than 25% of the ground floor area of buildings so used. (The current version uses the phrase "of the building so used".)

This sentence is ambiguous, especially in light of the legislative history of nonconforming uses in Baltimore County and the unreasonable results of an overly strict interpretation. The beginning of the sentence refers to "nonconforming building or structure", the second portion refers to "nonconforming use of a building, structure or parcel of land" and the third phrase

Charles H. Buck
Charles A. Masson
Gustav J. Requardt,
Chairman

THE PLANNING AND CAPITAL IMPROVEMENTS COMMITTEE
BALTIMORE COUNTRY CLUB
1304 St. Paul Street, Baltimore-2, Md.
April 12, 1963

Mr. Charles M. Nes, Jr.
Fisher, Nes, Campbell and Partners, Architects
2120 North Charles Street
Baltimore-18, Md.

Re: Contract Drawings and Specifications for
New Club Building at Five Farms
Baltimore Country Club

Dear Charlie,

Yesterday at a Special Meeting of the Board of Governors, Baltimore Country Club, this Committee was authorized to direct you to proceed with construction drawings and specifications, looking to formal bids on an entirely new clubhouse at Five Farms, as recommended by you in your letter of April 8th and approved by this Committee on April 11th.

The Board also approved retention of the Subcommittee for review of plans, as per copy of attached letter of this date.

It appears to me there should be a formal contract between the Club as Owner and you as Architect on this project. In your letter of March 4th you suggest entering a standard architectural agreement, which I believe covers preliminary sketches; semi-final contract drawings and specifications; final contract drawings and specifications; the taking and canvassing of bids; recommendations for low bidder; and inspection of construction. Heretofore you have made studies and preliminary 1/16" scale sketches dated December 4, 1962 for an entirely new west wing and rehabilitation of east wing; and preliminaries as above to 1/8" scale dated February 16, 1963, for which you rendered on approximately March 4, 1963 a bill including engineering to the amount of \$3,142.03, which subsequently was paid by the Club. You then were requested to make preliminary sketches showing the previously designed new west wing attached to an entirely new east wing. You submitted these sketches dated March 18th. These are the sketches upon which your final design now is to be made. It appears to me that your contract with the Club should have in mind the double designs and the amount previously paid.

In summary, may we ask that you write out a formal contract, 2 copies to Mr. Jones, with one, if possible, to me.

Very truly yours,

G.J. Requardt/m
Enclosures
cc: Mr. Charles H. Buck
Mr. Charles A. Masson
Mr. Loy T. Jones, Mgr.

THE PLANNING AND CAPITAL IMPROVEMENTS COMMITTEE
By: G.J.R.

Baltimore Country Club
Roland Park
Baltimore 10, Maryland
April 15th, 1963

The Sixty-fourth Annual Meeting of the Baltimore Country Club of Baltimore City was held at the Roland Park Club House on Monday evening, April 15th, at 8:00 P.M., pursuant to due notice by mail to all Class A Resident members, a copy of which, together with a proxy, is attached hereto and made a part of these minutes.

The following members of the Board of Governors were present: Messrs. Charles H. Buck, John W. Boynton, J. H. Leroy Chambers, John A. Emich, Donald F. Hagner, J. Early Hardesty, William T. Harper, Charles A. Masson, Gustav J. Requardt, William T. Russell, W. Hamilton Whiteford.

The meeting was called to order at 8:08 P.M. by the Vice-President, Mr. Charles H. Buck.

There were 990 members present by proxy and 52 members in person.

The Chair announced that nominations for election of four members to the Board of Governors, to serve for three years, in accordance with Article III, Section 5 of the Constitution, had been received.

The Nominating Committee, consisting of Messrs. William T. Harper, Chairman, Gustav J. Requardt, George D. Robinson, Jr., Robert H. Swindell and James F. Whitescarver, posted for consideration the following names for a tenure of three years: Charles H. Buck, Charles A. Masson, Harper R. Clark and William E. Lambie.

Messrs. Robert J. Boozie, Albert C. Schauman and Thomas F. Zink, tellers for the evening, reported that the following candidates for the Board of Governors to serve for the ensuing three years had received the following number of votes:

Charles H. Duck	990
Charles A. Masson	969
Harper R. Clark	930
William E. Lambie	967

It was moved and seconded that the secretary cast the ballot determining the election of the above.

Mr. J. Early Hardesty commented on his Treasurer's report and it was moved and seconded that the report be accepted as read.

Mr. Buck explained that due to the illness of Mr. John D. Williams, he was acting in his place and presiding at the meeting tonight. He advised that the past year had been a full and busy one: the sale of the land across Falls Road, all monies for the proposed schools collected, the construction of a new golf course at Five Farms, plans for developing both Roland Park and Five Farms. He also mentioned the re-furnishing of the in-town Club House -- main lounge, private dining rooms, foyer and main dining room, and further stated that other plans were afoot for additional improvements.

Charles H. Buck
Charles A. Masson
Gustav J. Requardt,
Chairman

THE PLANNING AND CAPITAL IMPROVEMENTS COMMITTEE
BALTIMORE COUNTRY CLUB
1304 St. Paul Street, Baltimore-2, Md.
May 6, 1963

Mr. Charles M. Nes, Jr.
Fisher, Nes, Campbell and Partners, Architects
2120 North Charles Street
Baltimore-18, Md.

Re: New Clubhouse, Five Farms

Dear Charlie,

Our Subcommittee and our Planning Committee have been meeting for the last week or so concerning details of the new clubhouse. The following lists approvals by my Committee on various items subject to your comments and recommendations.

Kitchen Layout: Mathias and Jones, by means of kitchen equipment outlets, will come forth on Wednesday with a suggested plan for a new design of the kitchen. It is understood that they will not attempt to re-arrange the grill room, the main and service bars, the men's room, No. 3 storage room and the stairs leading to the basement. It is believed they will suggest a dumb-waiter, appropriately located, from the second floor to the basement. They will have in mind door-opening mechanism, also the reduction of kitchen noises traveling into the dining room.

Ice Making: An ice-making machine in the kitchen area is desired with a chute and bin storage in the basement to hold up to 3,000 lbs. Walk-in refrigeration is desired. Mr. Jones will furnish his ideas of capacity by Wednesday. The refrigeration of garbage has been discussed with twice-a-week disposal by Robb Tyler, Inc. Incineration of garbage is being looked into by Jones and Mathias of an operation successfully being employed at the Airport.

Sprinkler and Fire Protection: It was thought the Club should be piped for a sprinkler system even though no copious water supply for fire-fighting is available at present. There should be an American District Telegraph (A.D.T.) fire detection and notification wiring system installed.

Wiring for Music, Announcements, Telephone and Electric Outlets: The Committee awaits the Architect's advice on interior music and announcements. The telephone system should be laid out with a number of jack outlets for portable telephone sets. There should be an adequate number of electric outlets in basements and elsewhere.

Dancing: It was suggested the Architect designate the south terrace, main floor, for outdoor dancing. Surface should be of terrazzo or tile (not wood) to stand up against winter weather. Applications of wax are easily removable by present-day detergents. It is suggested that two trees be eliminated on this terrace.

Baltimore Country Club
Roland Park
Baltimore 10, Maryland
September 25th, 1963

The regular monthly meeting of the Board of Governors was held at the Roland Park Club House on Wednesday evening, September 25th, 1963 at 6:00 p.m.

Those present were Messrs: Charles H. Buck, John W. Boynton, J. H. Leroy Chambers, John A. Emich, W. Burton Guy, J. Early Hardesty, William T. Lambie, William T. Russell, W. Hamilton Whiteford and Harper R. Clark. Mr. Loy T. Jones, General Manager of the Club, was present by invitation, and by special invitation, Messrs. Gustav J. Requardt and Charles Nes.

The reading of the minutes of the previous meetings was delayed until later in the meeting, and approved.

The President called on Mr. Nes to explain the plans for construction at Five Farms and make recommendations. It was agreed the Board would listen to recommendations by Messrs. Requardt and Nes regarding qualified companies who should be invited to bid. This would include members of the Club and other firms outside of the Club which Mr. Nes believed were qualified. Mr. Nes stated that he would make a recommendation of five or six additional companies who are not members of the Club. The President stated that there would be a committee to approve the bidders and it was also stated that under any conditions, the Club has the privilege of rejecting any or all bids.

Mention was also made that no Club member should be excluded from bidding except the builder now working in the cocktail lounge at Roland Park. This was approved by the Board.

Mr. Nes then reported that 95% of the plans for the Five Farms Project are complete and that the Club House would be built intact without disturbing present roads. The Pro shop and cab-house will be considered later, and it was also recommended that a landscaping firm take care of a certain amount of sodding. Mr. Nes then referred to excavating and moving of dirt and asked that be later obtain approval where to move it. He also wants test borings in the parking area -- the new Club House location -- to be sure that there is no rock. Mr. Requardt suggested Penniman and Brown for this work and stated that in his opinion, the cost would be nominal. Mr. Nes favored this action, stating that bidders should know if there is any rock which could affect their bids, if any was present. The Board approved that test borings should be made and left this in the hands of the Long Range Planning Committee.

Mr. Nes then referred to the list of Area Tabulations and Cost Estimates for the new Club House at Five Farms and a detailed list was provided to all present, a copy of which is attached hereto and made a part of these minutes.

Mr. Nes then gave an estimated cost of the construction work at Five Farms, amounting to \$686,850. With regard to the total cost, the following were also added:

Architects fees	\$40,000
New golf cart house	25,000
Demolition of present building	15,000
Additional parking lot to accommodate 225 cars at a cost of approximately \$2.00 per square foot, and roads	15,000
Carpeting, first and second floors	25,000
Landscaping	5,000
Furniture and fixtures	70,000

GRAND TOTAL \$886,000

It was then suggested that we add a minimum of 10% for contingencies, but it was generally conceded that over-all cost may amount to around one million dollars.

Mr. Buck then asked Mr. Requardt if he would like to say anything about the plans at Five Farms and he reported that the water from the present lake would be adequate to take care of the needs of the new building excluding, of course, any watering of the golf course. After discussion, the Board approved that Mr. Requardt and his associates make a study and give recommendations pertaining to bringing City water to Five Farms.

Baltimore Country Club
Roland Park
Baltimore, Maryland 21210

December 12th, 1963

The regular monthly meeting of the House Committee was held at the Roland Park Club House on Tuesday, December 10th, 1963.

The meeting was called to order at 5:15 P.M. by Mr. W. Hamilton Whiteford, Chairman. Those in attendance were: Messrs. Charles H. Buck, President, W. Burton Guy, J. Maxwell Hastings, Jr., Edgar M. Lewis, A. L. Mathias, Charles V. Phelps, Thomas F. Zink and Loy T. Jones, Club Manager.

The minutes of the preceding meeting were read and approved.

Mr. Whiteford reported that a meeting of the sub-committee on decorating was held on Saturday, December 7th, at 11:00 A.M. The purpose of the meeting was to discuss and make recommendation regarding a professional decorator for the new Five Farms Club House. It was recommended that Mr. Nes, the architect, be invited to the House Committee meeting on December 10th, to express his views regarding the above.

Mr. Buck advised that he intended, with the approval of the Board, to appoint a committee to work with the management in making a survey of existing furniture and equipment which may possibly be used in the new Club House, and to make general recommendations as to what additional items may be needed.

Mr. Jones reported on the following:

1. Progress on the widening of the service entrance at Roland Park.
2. The planned program of maintenance which included work accomplished during the past week in touching up paint in the dining room area.
3. The work which has just started on the new squash courts.
4. The ground breaking ceremony at Five Farms, held on Tuesday, December 12th, which included the taking of pictures by the two newspapers. Those in attendance were Mr. Buck, President, several Board members, Mr. Reisch, Chairman of the Golf Committee, together with members of his Committee, as well as several members of the House Committee.

The soil excavated from the foundation and basement area is being placed west of the parking lot adjacent to the pool and at the edge of the 28th fairway of the west course.

For the convenience of the golfers driving to the pro shop a turn-around area is being constructed by Frank Dunlap and his crew.

5. Indications are that New Year's Eve reservations will be about the same as last year's, approximately 475. He felt that the newly decorated cocktail lounge will prove useful to the membership on this occasion.

Steward's Department figures for the month of November and the nine months ending November 30th, 1963 were read and it was the consensus of opinion that emphasis must be made on good food and service in order to attract more usage of the Club by the membership and their guests.

BALTIMORE COUNTRY CLUB

REPORT ON EXAMINATION

For the year ended February 29, 1964

MAIR, LAURENTZ & CO.

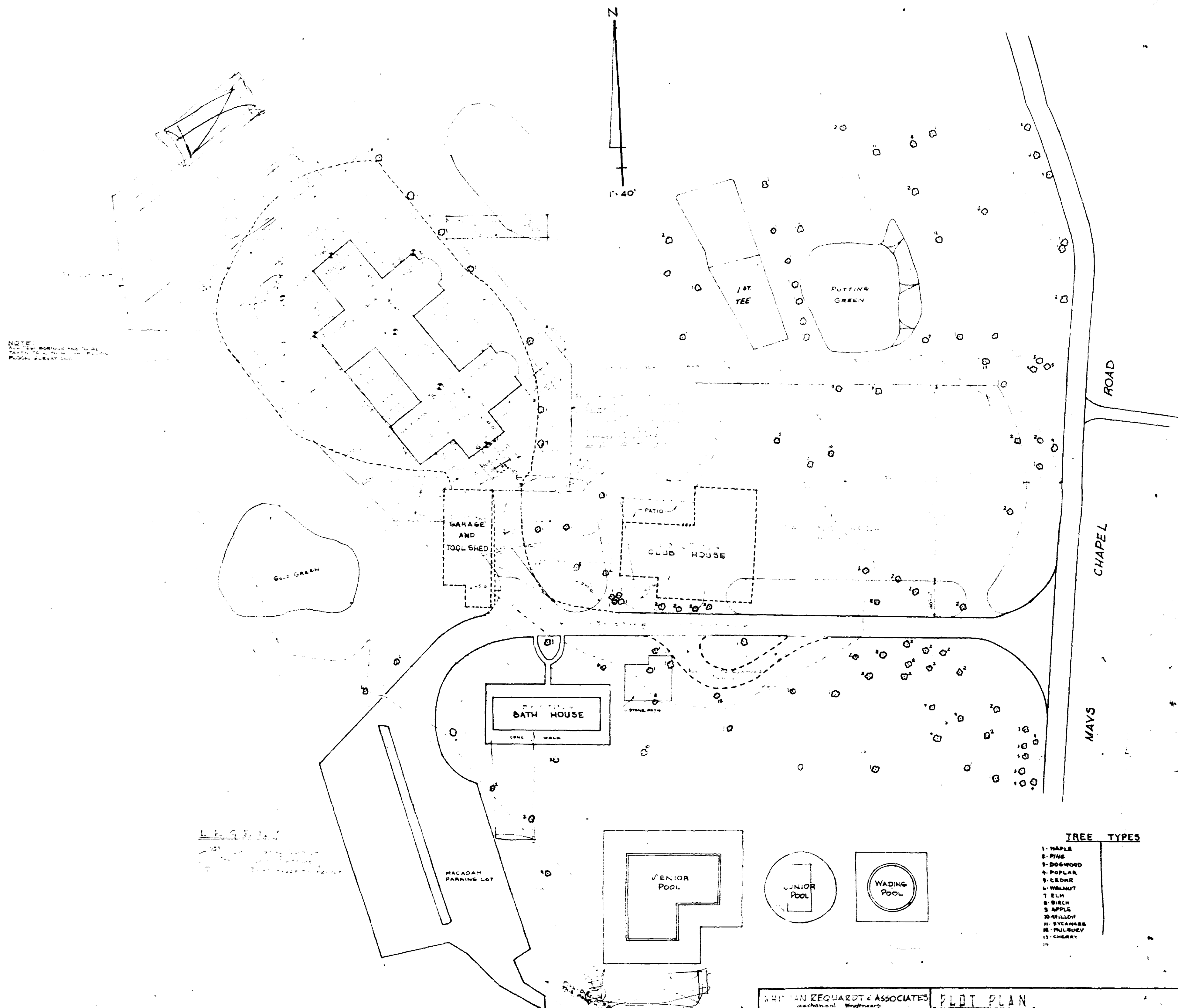
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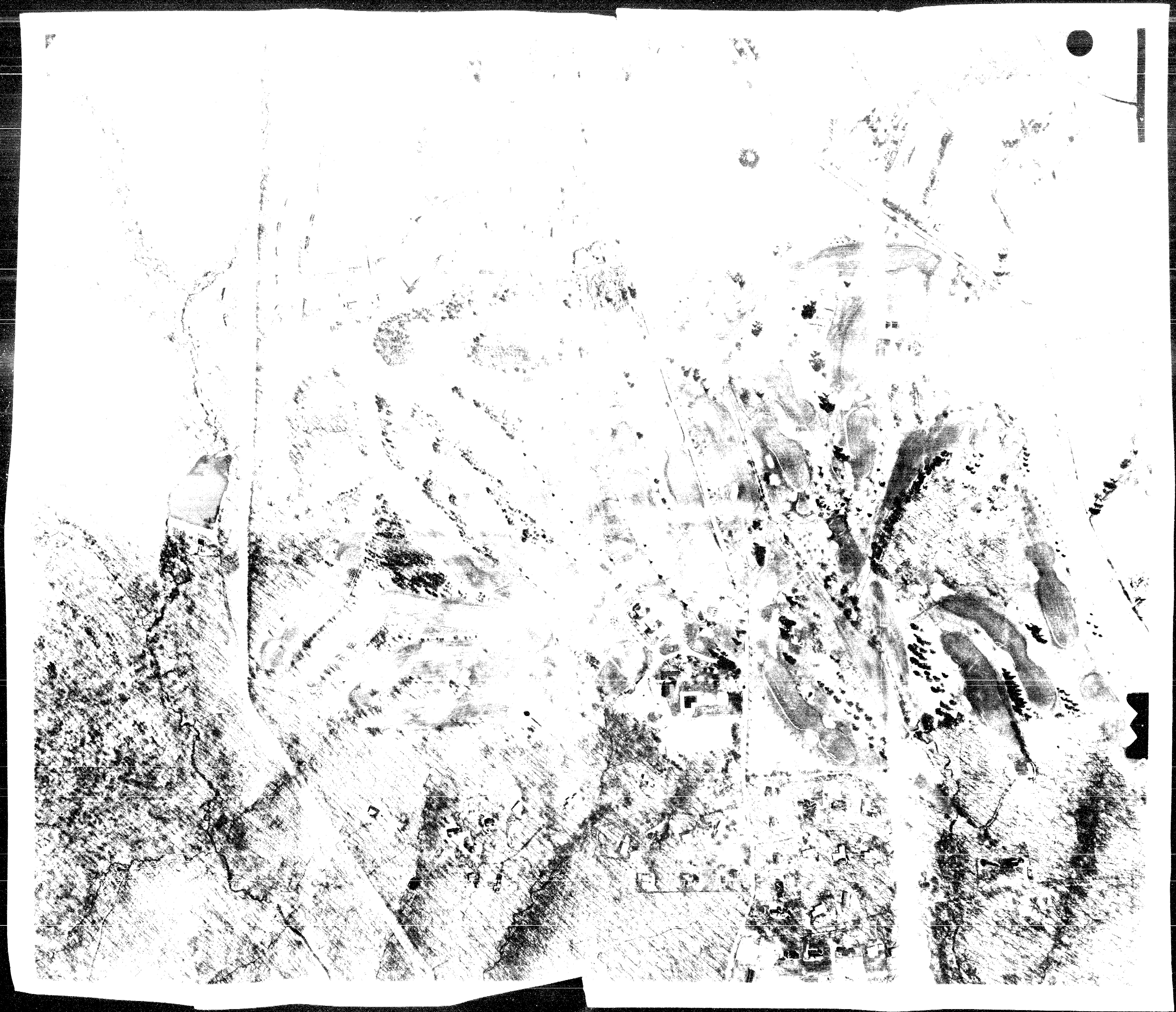


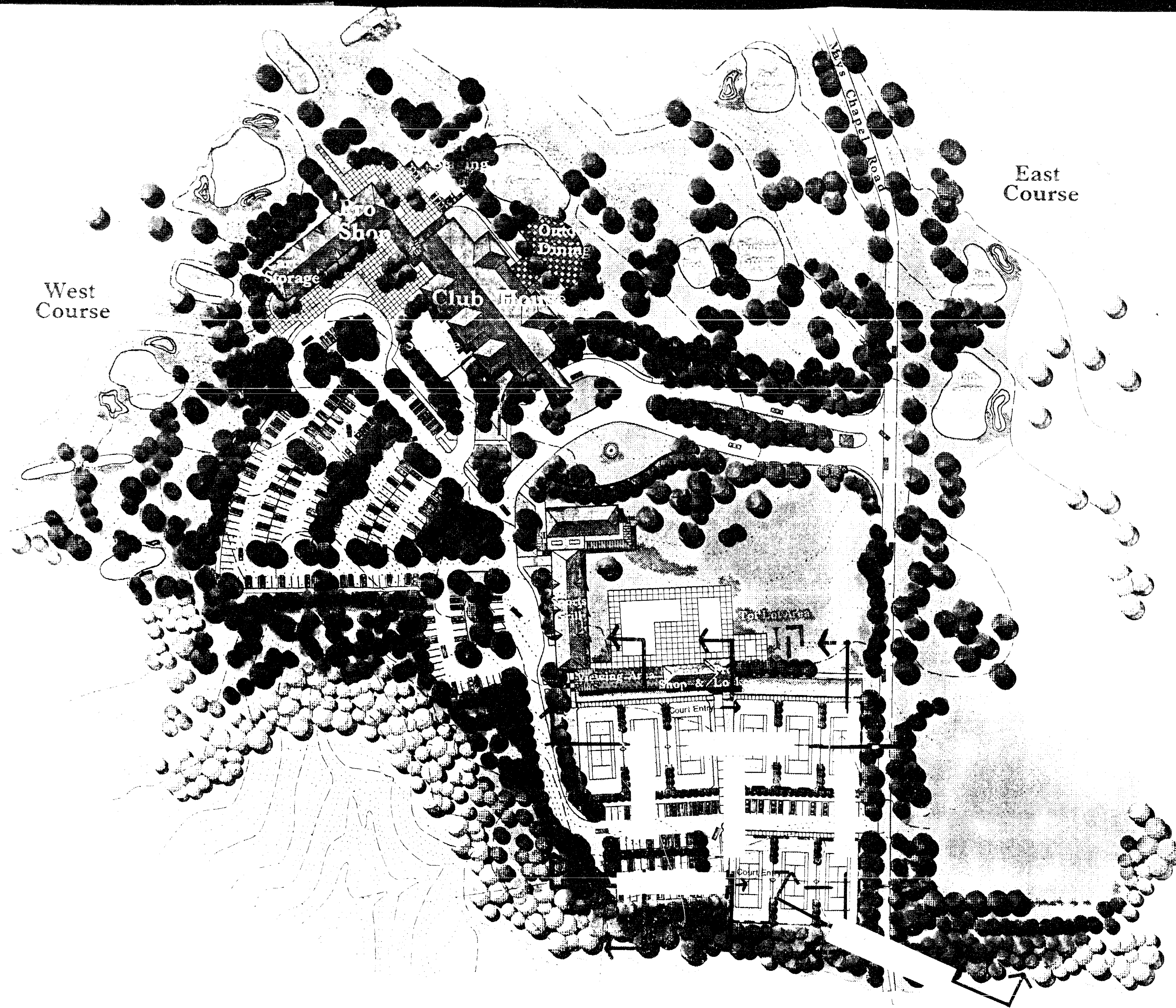
- TREE TYPES**
- 1. MAPLE
 - 2. PINE
 - 3. DOGWOOD
 - 4. POPLAR
 - 5. CEDAR
 - 6. WALNUT
 - 7. ELM
 - 8. BIRCH
 - 9. APPLE
 - 10. CHERRY
 - 11. SWEETGUM
 - 12. PAU-ROU
 - 13. CHERRY
 - 14.

MATERIALS			SYMBOLS		ABBREVIATIONS			
Earth	Concrete	Plywood	Column No.	S.P.T. Street Paving Tile	M.T. Metal Threshold	F.S. Floor Slab	L.C.C. Load Carrying Capacity	
Gravel	Plaster	Insulation		H.M. Hollow Metal	N.C. Neocline Cabinet	L.F. Lumber Floor		
Brick	Steel	Asbestos Tile		C.H. Ceiling Height	D.F. Drinking Fountain	W.P. Waterproofing		
Clay Brick	Tracing Paper			W.D. Window Drainage	N.C. Nook Corner	I.C. Inside Clearance		
S.P.T.	For Wood			M.O. Masonry Opening	D.S. Downspout	B.F. Bottom of Footing		

LOCATION AND GRADING PLAN
SCALE: 1" = 40' 0"

VAN ECKHART & ASSOCIATES ARCHITECTS BALTIMORE, MD.	CLUB HOUSE BALTIMORE COUNTRY CLUB FIVE PARKS BALTIMORE CO. MD. JOB NO. 2173 DATE 10-18-63 MADE BY H.E. 15-1 SHEET NO. A-1 Val. No 25
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Proposed Site Plan

93-37-SPH

Baltimore Country Club
Five Farms Master Plan

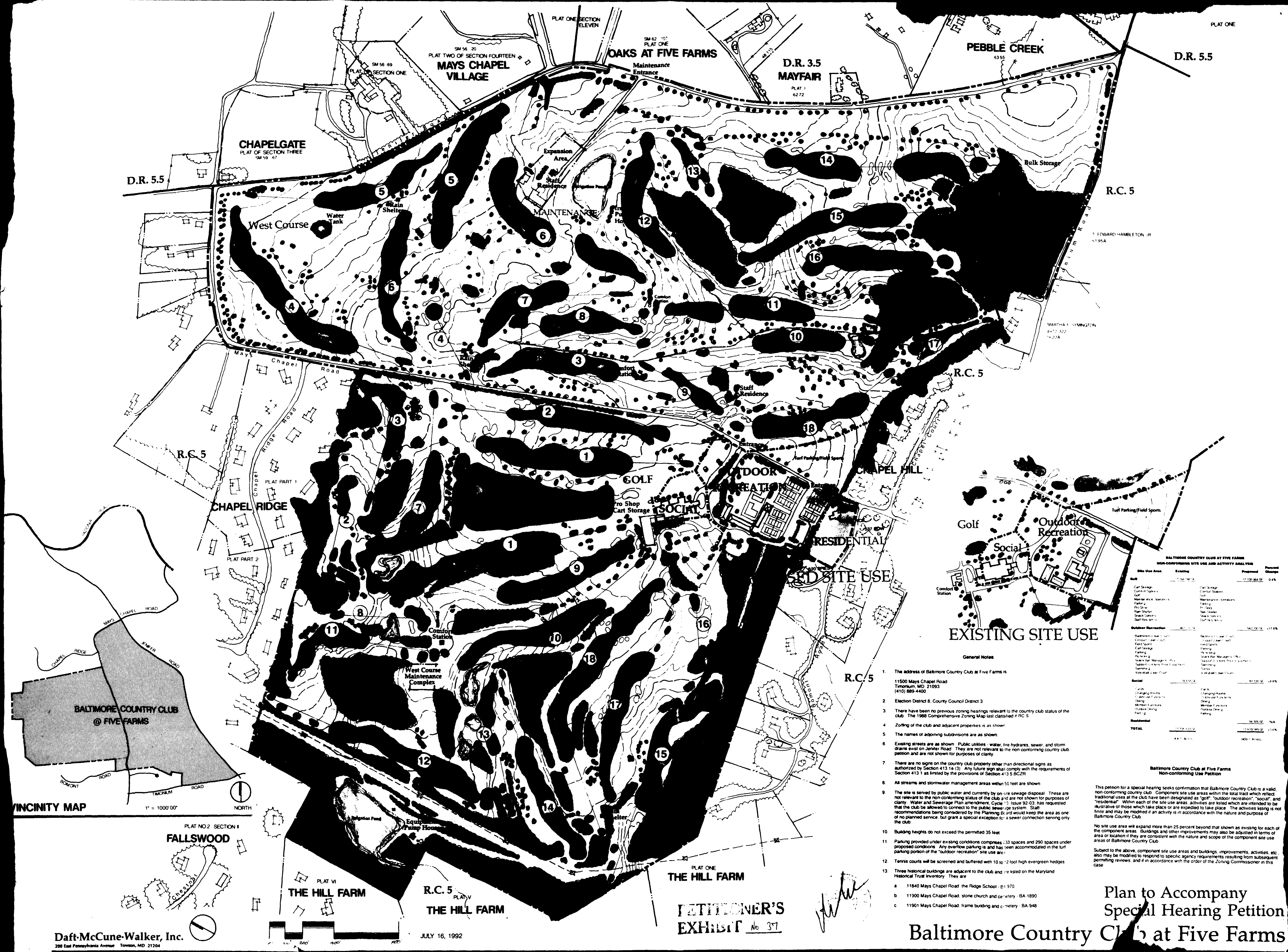


October 7, 1992

Daft McCune Walker, Inc. Land Planners

Cochran, Stephenson & Donkervoet, Incorporated

Baltimore Country Club



Plan to Accompany Special Hearing Petition Club at Five Farms

43-37-A 9-29

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration & Development Management

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

DATE: September 15, 1992

SUBJECT: Baltimore Country Club of Baltimore City

INFORMATION:
Item Number: 40

Petitioner: Baltimore Country Club of Baltimore City

Property Size: 409 acres

Zoning: RC 5

Requested Action: Special Hearing

Hearing Date: _____

SUMMARY OF RECOMMENDATIONS:

This petitioner is requesting a Special Hearing to approve an existing non-conforming Country Club and modifications. This request also includes a request to make some modifications and expansions to the existing facilities under the 25 percent rule. Specifically, the Club is going to make improvements to the pool, expand and relocate the parking area and construct nine additional tennis courts.

The Office of Planning and Zoning does not oppose the petitioner's request, however, we recommend the following concerns be addressed.

The Office of Planning and Zoning is concerned that the location of the three tennis courts closest to the existing residential area will create problems of noise and light. Consideration should be given to relocate those three courts away from the residential area to the area near the entrance road. Otherwise, those three particular courts could become a nuisance to adjacent neighbors. This would be especially true if the petitioner intends to use lights surrounding the courts.

The regrading and installation of additional parking may cause drainage problems. Our office is concerned about run-off from the new surfaces being proposed and the location of any storm water management facilities. This is an issue that should be addressed on the plan.

Prepared by: *James Morsey*

Division Chief: *Erin McDaniel*

PK/EMcd/FM: rdn

40.ZAC/ZAC1

43-37-SPH (9-29-92) (R) Nov. 11

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration and
Development Management

DATE: October 28, 1992

FROM: Ervin McDaniel, Chief
Office of Planning and Zoning
Development Review Section

SUBJECT: Addendum to Item No. 40

Supplemental Comments:

The Baltimore County Club at Five Farms is requesting a verification of an alleged non conforming use of a Country Club and golf course. The club is currently improved with a club house, two 18-hole golf courses, practice range, swimming pool, rain shelters, comfort stations, maintenance buildings and staff residences. Section 104 of RCZR states "no non conforming building or structure or parcel of land shall hereafter be extended more than 25% of the ground floor area of buildings so used the petitioner must provide an outline of all parcels owned by the club and when they were acquired. We are aware that parcel 73 on Tax Map 60 was recently purchased by the club and should not be included as part of the non-conforming use of the club. The petitioner may wish to amend the petition for a Special Exception to cover this property, as well as, any others which have not historically been part of the club. Also, a time line showing the dates of construction and size of all buildings on the site in order to determine the amount of expansion left under the 25% rule should be provided.

The community has raised significant concerns regarding runoff, erosion and periodic flooding in the area. These concerns must be addressed as a part of any approval for expansion of these facilities.

If there should be any further questions or if this office can provide additional information, please contact Francis Morsey in the Office of Planning at 887-3211.

Prepared by: *James Morsey*

Division Chief: *Erin McDaniel*

EMcd/FM: rdn

40ADDEN. FM/ZAC1

Rec'd 11/2/92

RECEIVED
NOV 4 1992
ZONING OFFICE

Ltr 93-37-SPH 9-29-92

BALTIMORE COUNTY, MARYLAND

DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT

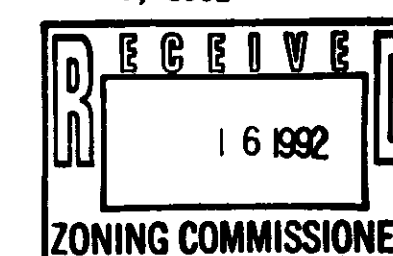
INTER-OFFICE CORRESPONDENCE

TO: Mr. Arnold Jablon, Director
Zoning Administration and
Development Management

DATE: November 6, 1992

FROM: J. Lawrence Pilson *JLP/llm*
Development Coordinator, DEPRM

SUBJECT: Zoning Item #40
11500 Mays Chapel Road
Zoning Advisory Committee Meeting of August 17, 1992



The Department of Environmental Protection and Resource Management (DEPRM) offers the following comments on the above referenced zoning item.

DEPRM does not oppose this zoning variance. Additional information must be provided by the applicant. It appears that the proposed development will not comply with DEPRM's Forest Buffer regulations and that a variance to these regulations will be required. Some redesign may also be required.

Additional information is needed from the applicant before the Department can complete the review of this zoning item. The applicant may contact the Environmental Impact Review Division of this Department at 887-3980 for details.

LP:sp

FIVEFARM/TXTSBP

Rec'd 11/10/92

Baltimore County Government
Zoning Commission
Office of Planning and Zoning

November 13, 1992

(410) 887-4386

Suite 113 Courthouse
400 Washington Avenue
Towson, MD 21204

G. Scott Barhight, Esquire
500 Court Towers
210 W. Pennsylvania Avenue
Towson, Maryland 21204

J. Carroll Holzer, Esquire
305 W. Chesapeake Avenue
Suite 105
Towson, Maryland 21204

RE: Case No. 93-37-SPH
Baltimore Country Club of Baltimore City
11500 Mays Chapel Road - Petitioner

Gentlemen:

This is to confirm telephone conversations, this date, with my secretary regarding the above captioned matter. It was agreed upon by all parties that this case will be heard before the Zoning Commissioner, and that testimony will be completed on the following two dates, in Room 118 of the Court House.

Monday, November 23, 1992 at 9:00 A.M.
Wednesday, November 25, 1992 at 9:00 A.M.

Thank you for your courtesy and cooperation.

Very truly yours,

Lawrence E. Schmidt
Lawrence E. Schmidt

LES:mmm
cc: Gwendolyn Stephens
Zoning Administration

RECEIVED
NOV 16 1992
ZONING OFFICE

THE PLAT

12 copies required. The plat shall be legible and clear enough for micro-filming and in no case shall it be larger than 24" x 36". It may be necessary for the plat to be provided in sections. It shall contain all the information as set forth on the checklist as follows:

1. NORTH ARROW, SECTION, DISTRICT, COUNTY, COMMITTEE, DISTRICT, TITLE, PLAN, "PLAN TO ACCOMPANY" HEARING AND THE PROPERTY ADDRESS AND THE DATE

2. SCALE OF DRAWING: 1" = 20' or 1" = 50'. If acreage exceeds 40 acres, use 1" = 100' scale.

3. OUTLINE OF PROPERTY: Indicated by a heavy bold line and bearings, distances and gross and net area (acres or square feet) of the parcel(s).

4. VICINITY MAP: vicinity map must be included on all site plans with the scale of 1" = 1,000' with street clearly and accurately depicted.

5. PREVIOUS COMMERCIAL PERMIT: The permit number(s) control number(s) of work on the same property and the approximate date of the last improvement listed on the plat.

6. ZONING HEARINGS, C.R.G., WAIVERS: The case number(s), date of the Order(s), what was granted or denied, and any restrictions must be listed and addressed on the plat of all prior zoning hearings. List any C.R.G. approval dates or waiver numbers and dates on the plat.

7. ZONING: All zone and district lines on the property, parcel(s) and adjacent property, parcel(s) must be shown on the plat. Copies of the official 1" = 200' zoning map may be obtained in the Zoning Office, Room 113, County Office Building.

8. OWNERSHIP: Of parcel(s) and relation of parcel(s) to adjacent property including reference deed numbers, lot numbers and subdivision names.

9. LOCATION: Street address and name of adjoining street(s) and distance from property corner to the nearest intersecting public street centerline. (Check record plans, state tax maps, or utility maps in Room 206, County Office Building.)

10. STREETS, WIDENING, R/W, EASEMENTS: Include all existing public boundary streets with the existing right-of-way and paving width. ALSO INCLUDE ANY RIGHT-OF-WAY WIDENING REQUIRED. STIPED BY BALTIMORE COUNTY DEPARTMENT OF PUBLIC WORKS OR THE STATE HIGHWAY ADMINISTRATION. Include any existing or proposed easements or rights-of-way and indicate if it is public or private.

11. USES, BUILDINGS: Location and proposed use of all buildings on the property. Plans for public hearing must also show the location of all uses and structures within 200 feet of the property.

12. DIMENSIONS: Dimensions, height, number of stories of all existing and proposed buildings (or additions) on the site including all property lines and building setbacks.

13. STREET STRUCTURES: And use of all permanent commercial buildings within 100 feet of each side property line to establish average street setback (see Section 303.2, C.C.Z.R., and policy 3-2.3).

14. ENTRANCES: Location and width of existing and/or proposed entrances (traffic channelization) and their relation to entrances on adjacent properties and properties across the street. Indicate method - cutting, R/W lines. (For requirements, contact either Bureau of Traffic Engineering or State Highways.)

15. SIGNS: All existing and proposed, indicating location, height, square footage, illumination, and single or double-faced. INCLUDE ELEVATION DRAWING(S) TO SCALE, IF PERMANENT and show placement of sign on the building wall if wall-mounted and dimensions of the wall.

16. UTILITIES: Show location and size of all public utilities and right-of-way both adjacent to and on-site. If no public water or sewer main, well and septic system locations must be indicated. (Public utilities reference - room 206, County Office Building.)

17. FEATURES: Location of streams, storm water management systems, drainage, and pipe systems on or within 50 feet of the property.

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18. FLOOR AREA RATIO CALCULATIONS: The floor area ratio of the total gross floor area of all the buildings on a site divided by the gross site area. (The gross site area includes up to one-half of the boundary streets to which the property has right of access up to a maximum of 30 feet.)

19. AMENITY OPEN SPACE: Location and square footage calculations in the following zones: R.A.E.-1, R.A.S.-2, R.O., O-1, O-2, O-3, R.L.-C.C.C., R.L.-C.T., R.M.-C.C.C., R.M.-C.T., R.R.-C.C.C., R.R.-C.T. The building R.O.S. areas within the net lot area must be shaded and separate areas calculated in square feet on the plat and included in the Amenity Open Space calculations in the notes.

20. HEIGHT DETERMINATION: Tent must be included for buildings above 40 feet. (See 231, C.C.Z.R.). Where a building height determination is required and 231, C.C.Z.R., does not apply, use Zoning Policy No. 6 and show a scaled detail drawing on the plan.

21. FIRE HYDRANTS: Location of fire hydrants and distance to the subject property.

22. SITE PLAN: Must be trimmed to a neat 8-1/2" x 11" or, where larger prints are necessary, they shall be folded to that size. THEY MUST BE CLEARLY SHOWN. IN NO CASE MAY A PLAT BE LARGER THAN 24" x 36". IT MAY BE NECESSARY FOR THE PLAT TO BE PRODUCED IN SECTIONS TO MEET THIS REQUIREMENT.

23. REQUIRED OFF-STREET PARKING AND CALCULATIONS: Must be included on the site plan for all uses on the property pursuant to Section 405 (C.C.Z.R.) and the attached "GENERAL REQUIREMENTS", "CALCULATIONS", "PARKING PATTERNS", and "SAMPLE SITE PLAN".

24. SPECIAL USE REQUIREMENTS: Certain types of uses are required to show compliance on the plat with the applicable zoning regulations. Such uses include, but are not necessarily limited to, the following: Truck Terminals, Section 410 (C.C.Z.R.); Service Stations, 405; Damaged or Disabled Vehicles and Parts, 405.A; Car Washes, 405.B; and 409.10; uses requiring automobile stacking such as banks, drive-through restaurants, etc., 409.10; Business, Industrial, Parking in a Residential Zone, 409.B.8 and all residential transition area requirements, 1001.1.B. The petitioner is responsible for determining if information of this nature is required on the plan and for its accurate inclusion.

25. SEALS: Public hearing plans and descriptions must be sealed by an engineer, land surveyor or landscape architect registered with the State of Maryland.

26. FIRE STATION BUILDINGS: Must meet building code, as well as fire code requirements with regard to type of construction, windows, etc.

27. ZONING MAP: The surveyor shall furnish one (1) copy of the 1" = 200' scale official zoning map which shall reflect the following information:

a. Scale: 1" = 200', Map # *NW 13#14B, B#14C*

b. Outline of the parcel(s) in question accurately depicted and the point of beginning with coordinates shown;

c. All existing and proposed streets and easements in the area;

d. Location of available utility connections;

e. Approximate plan of church sites or other landmarks within the area.

Zoning Advisory Committee

A. The above information is to be used as a guide by the members of the Zoning Advisory Committee.

B. The Zoning Advisory Committee, as established by the County Administrative Officer in 1943, presently consists of ten (10) representatives of various County agencies. The Committee reviews zoning petitions weekly.

C. The review by the Zoning Advisory Committee is aimed, not at making a judgment on the appropriateness of the zoning action requested, but rather to assure that all agencies are made aware of plans or problems that may have a bearing on the case.

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93-37-SPH 40

Baltimore Country Club at Five Farms
Non-conforming Use Petition

This petition for a special hearing seeks confirmation that Baltimore Country Club is a valid, non-conforming country club. Component site use areas within the total tract which reflect traditional uses at the club have been designated as "golf", "outdoor recreation", "social", and "residential". Within each of the site use areas, activities are listed which are intended to be illustrative of those which take place or are expected to take place. The activities listed in the petition and may be modified if an activity is in accordance with the nature and purpose of Baltimore Country Club.

No site use area will expand more than 25 percent beyond that shown as existing for each of the component areas. Buildings and other improvements may also be adjusted in terms of area or location if they are consistent with the nature and scope of the component site use areas of Baltimore Country Club.

Subject to the above, component site use areas and buildings, improvements, activities, etc., also may be modified to respond to specific agency requirements resulting from subsequent permitting reviews, and if in accordance with the order of the Zoning Commissioner in this case.

General Notes

- The address of Baltimore Country Club at Five Farms is:
11500 Mays Chapel Road
Timonium, MD 21093
(410) 889-4400
- Election District 8; County Council District 3
- There have been no previous zoning hearings relevant to the country club status of the club. The 1988 Comprehensive Zoning Map last classified it RC-5.
- Zoning of the club and adjacent properties is as shown.
- The names of adjoining subdivisions are as shown.
- Existing streets are as shown. Public utilities - water, fire hydrants, sewer, and storm drains exist on Jennifer Road. They are not relevant to the non-conforming country club petition and are not shown for purposes of clarity.
- There are no signs on the country club property other than directional signs as authorized by Section 413.1e(3). Any future sign shall comply with the requirements of Section 413.1 as limited by the provisions of Section 413.5 BCZR.
- All streams and stormwater management areas within 50 feet are shown.
- The site is served by public water and currently by on-site sewage disposal. These are not relevant to the non-conforming status of the club and are not shown for purposes of clarity. Water and Sewerage Plan amendment, Cycle 10, Issue 92-03, has requested that the club be allowed to connect to the public sewerage system. Staff recommendations being considered by the Planning Board would keep the area as one of no planned service, but grant a special exception for a sewer connection serving only the club.
- Building heights do not exceed the permitted 35 feet.
- Parking provided under existing conditions comprises 233 spaces and 290 spaces under proposed conditions. Any overflow parking is and has been accommodated in the turf parking portion of the "outdoor recreation" site use area.
- Tennis courts will be screened and buffered with 10 to 12 foot high evergreen hedges.
- Three historical buildings are adjacent to the club and are listed on the Maryland Historical Trust Inventory. They are:
 - 11840 Mays Chapel Road; the Ridge School - BA-970
 - 11900 Mays Chapel Road; stone church and cemetery - BA-1890
 - 11901 Mays Chapel Road; frame building and cemetery - BA-948

1. The line designating this subparagraph and those immediately following as parts of a Paragraph "A" was deleted from Bill No. 100, 1970 by amendment after introduction.
2. Findings deleted from Bill No. 100, 1970 by amendment after introduction.
3. Now Subparagraph 2, as a result of amendment of Bill No. 100, 1970 after introduction.

(Page 25--Bill No. 96-75)
SECTION 5.7. And be it further enacted, that this Act shall take effect forty-five days after its enactment.

READ AND PASSED this 3rd day of November, 1978.

By Order:

Thomas Toporovich, Secretary, Pro Tem

PRESENTED to the County Executive, for his approval this 4th day of November, 1978.

Thomas Toporovich, Secretary, Pro Tem

APPROVED AND ENACTED: November 7, 1978.

Theodore G. Ventresca, Jr.,
County Executive

I HEREBY CERTIFY THAT BILL NO. 96 IS TRUE AND CORRECT AND WILL TAKE EFFECT ON DECEMBER 22, 1978.

Gary Hadden,
Chairman, County Council

County Council of Baltimore County Maryland

Legislative Session 1978, Legislative Day No. 21

BILL NO. 96-75

Introduced by Mr. Hadden, Councilman

By the County Council, October 6, 1978.

A BILL

Enacted

AN ACT to amend the Baltimore County Zoning Regulations to establish four new zoning classifications intended to insure the preservation of Baltimore County's Natural Resources, by repealing paragraph 100.1A.2 of Section 100 of the Zoning Regulations of Baltimore County and enacting a new paragraph 100.1A.2 in lieu thereof; by adding certain new definitions to Section 101 of said regulations; by adding new subsection 103.3 to Section 103 of said regulations; and by repealing Article 1A, and Sections 1A00 and 1A01 thereunder, of said regulations and enacting new sections 1A00 through 1A04, under new Article 1A entitled "Resource-Conservation Zones", in lieu thereof.

WHEREAS, THE COUNTY COUNCIL HAS CONSIDERED THE FINAL REPORT OF THE PLANNING BOARD, ENTITLED PROPOSED ZONING, AMENDMENTS, ZONING CLASSIFICATIONS FOR RESOURCE CONSERVATION, IN ACCORDANCE WITH SECTIONS 22-20 AND 22-21 OF THE BALTIMORE COUNTY CODE (1974 SUPPLEMENT); AND,

WHEREAS, THE COUNTY COUNCIL HAS CONSIDERED TESTIMONY AT THE PUBLIC HEARING HELD IN ACCORDANCE WITH SECTION 22-21 OF THE BALTIMORE COUNTY CODE (1974 SUPPLEMENT); AND,

WHEREAS, THE COUNTY COUNCIL HAS REVIEWED IN WORK SESSION AND LEGISLATIVE SESSION THE PLANNING BOARD'S FINAL REPORT AS ELABORATED BY THE STAFF OF THE OFFICE OF PLANNING AND ZONING OF BALTIMORE COUNTY; AND,

WHEREAS, THE COUNTY COUNCIL HAS CONSIDERED THE COMPREHENSIVE PLAN FOR BALTIMORE COUNTY APPROVED BY THE PLANNING BOARD OCTOBER 18, 1978.

EXPLANATION: Italics indicate new matter added to existing law.
[Brackets] indicate matter stricken from existing law.
CAPITALS indicate amendments to bill.
Strokes and indicates matter stricken out of bill.

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND

LEGISLATIVE SESSION 1991, LEGISLATIVE DAY NO. 14

BILL NO. 124-91

MR. C. A. DUTCH RUPPERSBERGER, III, COUNCILMAN

BY THE COUNTY COUNCIL, JULY 1, 1991

A BILL ENTITLED

AN ACT concerning

Nonconforming Uses

FOR the purpose of redefining a nonconforming use so that a nonconforming structure which is damaged or destroyed by fire may be restored within a two year period but may not be enlarged; limiting the number of dwelling units or density of restored residentially used structures to the number of units which existed before the casualty; and consolidating provisions of the Zoning Regulations relating to damaged structures which are nonconforming.

BY repealing and re-enacting, with amendments,

Section 104

Baltimore County Zoning Regulations, as amended

BY repealing

Section 305

Baltimore County Zoning Regulations, as amended

WHEREAS, THE Baltimore County Council has received a final report, dated July 19, 1990, from the Planning Board concerning the subject legislation and held a public hearing thereon on November 13, 1990; now, therefore

1. SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF BALTIMORE
2. COUNTY, MARYLAND, that Section 104 of the Baltimore County Zoning
3. Regulations, as amended, be and it is hereby repealed and re-enacted,
4. with amendments, to read as follows:

5. Section 104 -- Nonconforming Uses

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter stricken from existing law.
Strokes and indicates matter stricken from bill.
Underlining indicates amendments to bill.

Medical Office: A place for the treatment of outpatients by one or more medical practitioners. This term does not include a veterinarian's office, medical clinic, ambulatory care center, diagnostic center, birthing center, or dialysis satellite unit. The term does not include ambulatory surgical facilities. [Bill No. 37, 1988.]

Medical Practitioner: A physician, dentist, optometrist, chiropractor, podiatrist, psychologist, physical therapist, nurse, or other similar health professional licensed by the state. [Bill No. 37, 1988.]

Multi-Family Building: A structure containing three or more apartments. A multi-family building includes garden and other apartment buildings. [Bill No. 2, 1992.]

["Neighborhood" and definition added by Bill No. 100, 1970; deleted by Bill No. 3, 1992.]

Nonconforming Use: A legal use that does not conform to a use regulation for the zone in which it is located or to a special regulation applicable to such a use. A specifically named use described by the adjective "nonconforming" is a nonconforming use. [B.C.Z.R., 1955; Bill No. 18, 1976.]

Nonindustrial Use: Any use other than an industrial, quasi industrial, or industry-related use. [Bill No. 178, 1979.]

Nudity: A state of dress in which a human buttock, anus, genitalia, or female breast is completely bared. [Bill No. 137, 1990.]

Nudity, Partial: A state of dress in which clothing covers no more than the genitals, pubic region, and areolae of the female breast, as well as portions of the body covered by supporting straps or devices. [Bill No. 137, 1990.]

Nursery, Horticultural: An agricultural operation primarily engaged in the production and marketing of trees, shrubs and plants. The plant materials may be produced on the premises and may be purchased elsewhere at any stage of maturity for further production. Horticultural nurseries may engage in accessory uses such as storage of plant materials, sale of products necessary for the health of the nursery stock, and provision of limited landscape services. A nursery which sells plant materials grown exclusively on-site and which does not offer any of the accessory services permitted at horticultural nurseries, shall be considered a farm.

Nursery School: A school or a level within a school providing educational instruction for children between two and four years old. [Bill No. 47, 1985.]

REV 05/92

1-22

William I. Goodman

EDITOR

Professor and Chairman

Department of Urban Planning

University of Illinois

Eric C. Freund

ASSOCIATE EDITOR

Associate Professor

Bureau of Community Planning

University of Illinois

Principles and Practice of Urban Planning

Editorial for the
Institute for Training in Municipal Administration
National City Managers' Association

NORMAN E. GERBER, AICP

35 Pickburn Court
Cockeysville, MD 21030

Business
(410)667-4543

Home
(410)667-4232

PROFESSIONAL
EXPERIENCE

Preparation of Master Plans and Land Use Regulations

•Prepared comprehensive, policy, small-area, facility and revitalization plans, capital programs and capital budgets.

•Prepared zoning and development ordinances, agricultural land preservation and historic district regulations and growth management programs.

•Conducted demographic, transportation, economic and market studies.

Implementation of Plans and Programs

•Reviewed and approved new development.

•Enforced zoning, agricultural and historic preservation regulations.

•Negotiated plan and facilities projects with community groups, local and state legislative bodies and private sector business.

Other

•Testified before local, state and national boards, commissions and legislatures on the behalf of plans and programs.

•Testified before boards of appeals, circuit courts and the U. S. Tax Court of Appeals on land use issues.

•Prepared RFP's, grant applications, selected consultants and administered contracts.

WORK
EXPERIENCE

2/88 to present

NORMAN E. GERBER, AICP, Cockeysville, MD

Principal

Private practice as planning consultant specializing in land planning, preparation of land use regulations property evaluation and expert testimony in zoning and development issues.

2/89 to 10/90

The City of Laurel, Laurel, MD

The Office of Planning and Zoning

Director

Administered the planning program and enforced the zoning code.

March 9, 1964

Mr. Loy E. Jones
Business Mfr. Baltimore Country Club
4712 Club Rd.
Baltimore 10, Maryland

Dear Sir,

Pursuant to our phone conversation of Monday, March 9, 1964, I wish to emphasize my concern about the storm drainage for the new parking lot at Five Pines located south of the existing swimming pool and in proximity to my property.

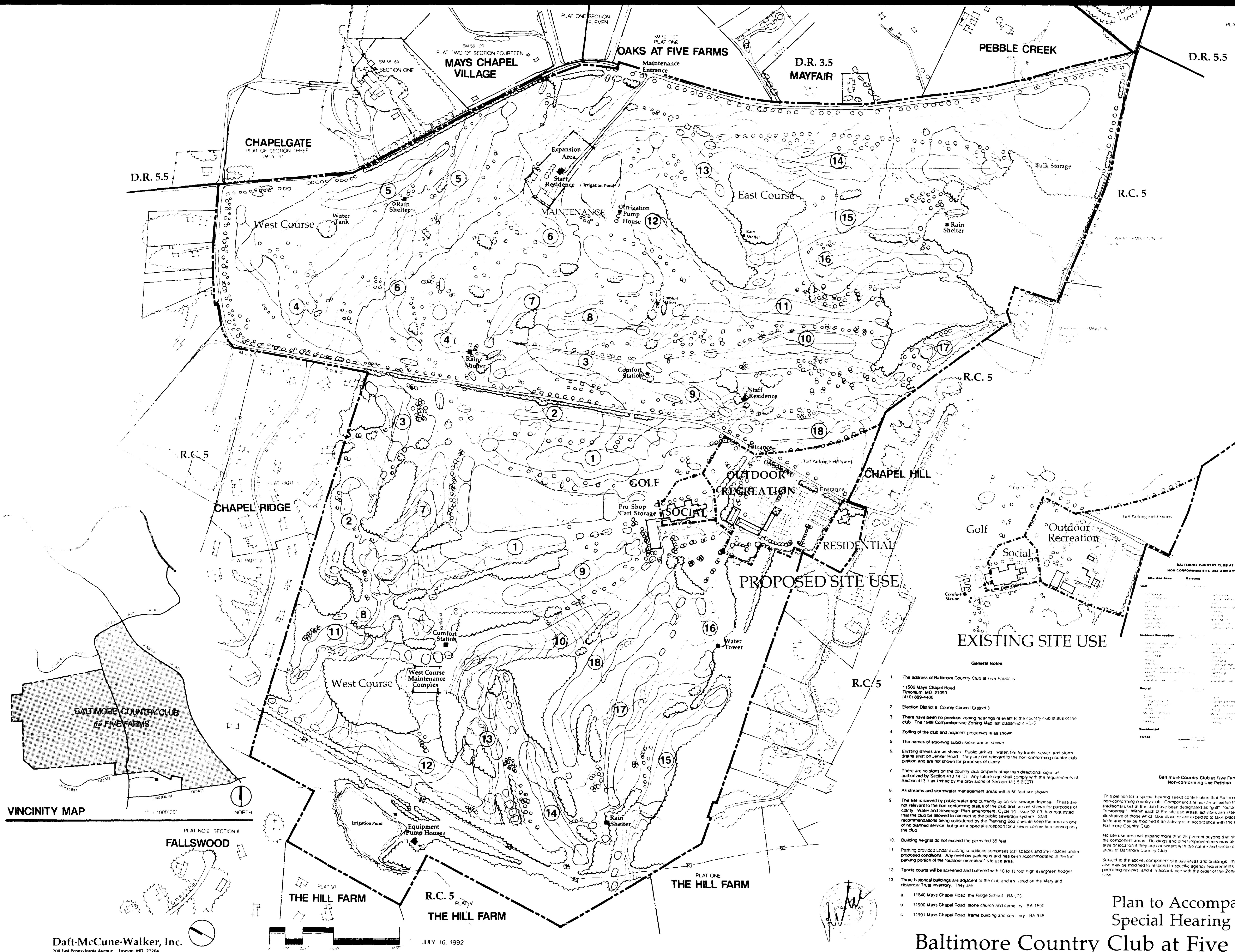
The watercourses designed to accept the runoff from the new paved area encircle my property to the east and west. The west runoff will come close to my existing spring which provides my potable water supply, and the east runoff passes under my driveway and Belmont Road.

This latter watercourse has a 6" T.C. pipe under my driveway and a wooden box culvert under Belmont Road which was sealed when that road was paved. So you can readily see there is a strong possibility of property damage when the flow increases due to the paved parking area.

I bring this to your attention in the hopes that these problems can be amicably solved. I also assume that all precautions will be taken to prevent any mud or storm water damage to my property during construction of the parking lot.

Sincerely Yours,

Courtney S. Spies
Belmont Road off May's Chisel Road
Lutherville, Maryland



VINCINITY MAP

PLAT NO. 2, SECTION 4
FALLSWOOD

PLAT VI
THE HILL FARM
R.C. 5
THE HILL FARM

Daft-McCune-Walker, Inc.
200 East Pennsylvania Avenue
Towson, MD 21204

JULY 16, 1992

- General Notes**
- The address of Baltimore Country Club at Five Farms is 11500 Mays Chapel Road, Timonium, MD 21093 (410) 889-4400.
 - Election District 8, County Council District 3.
 - There have been no previous zoning hearings relevant to the country club status of the club. The 1988 Comprehensive Zoning Map last classified it R.C. 5.
 - Zoning of the club and adjacent properties is as shown.
 - The names of adjoining subdivisions are as shown.
 - Existing streets are as shown. Public utilities, water, fire hydrants, sewer and storm drains exist on Janelle Road. They are not relevant to the non-conforming country club petition and are not shown for purposes of clarity.
 - There are no signs on the country club property other than directional signs as authorized by Section 413.1e (3). Any future sign shall comply with the requirements of Section 413.1 as limited by the provisions of Section 413.5 B(2)(1).
 - All streams and stormwater management areas within 50 feet are shown.
 - The site is served by public water and currently by on-site sewage disposal. These are not relevant to the non-conforming status of the club and are not shown for purposes of clarity. Water and Sewerage Plan Amendment Cycle 10, Issue 32.03 has recommended that the club be allowed to connect to the public sewerage system. Staff recommendations being considered by the Planning Board would keep the area as one of no planned service, but grant a special exception for a sewer connection serving only the club.
 - Building heights do not exceed the permitted 35 feet.
 - Parking provided under existing conditions comprises 231 spaces and 295 spaces under proposed conditions. Any overflow parking is and has been accommodated in the turf parking portion of the "outdoor recreation" site use area.
 - Tennis courts will be screened and buffered with 10 to 12 foot high evergreen hedges.
 - Three historical buildings are adjacent to the club and are listed on the Maryland Historical Trust Inventory. They are:
 - 11540 Mays Chapel Road: the Ridge School - BA 1170
 - 11500 Mays Chapel Road: stone church and cemetery - BA 1850
 - 11501 Mays Chapel Road: frame building and cemetery - BA 548

**BALTIMORE COUNTRY CLUB AT FIVE FARMS
NON-CONFORMING SITE USE AND ACTIVITY ANALYSIS**

Site Use Area	Existing	Proposed	Percent Change
Golf	100,000	100,000	0%
Outdoor Recreation	100,000	100,000	0%
Social	100,000	100,000	0%
Residential	100,000	100,000	0%
TOTAL	300,000	300,000	0%

**Baltimore Country Club at Five Farms
Non-conforming Use Petition**

This petition for a special hearing seeks confirmation that Baltimore Country Club is a valid non-conforming country club. Component site use areas within the total tract which reflect traditional uses of the club have been designated as "golf", "outdoor recreation", "social", and "residential". Within each of the site use areas, activities are listed which are intended to be illustrative of those which take place or are expected to take place. The activities listed are not final and may be modified if an activity is in accordance with the nature and purpose of Baltimore Country Club.

No site use area will expand more than 25 percent beyond that shown as existing for each of the component areas. Buildings and other improvements may also be adjusted in terms of area or location if they are consistent with the nature and scope of the component site use areas of Baltimore Country Club.

Subject to the above, component site use areas and buildings, improvements, activities, etc. also may be modified to respond to specific agency requirements resulting from subsequent permitting reviews, and if in accordance with the order of the Zoning Commissioner in this case.

Plan to Accompany
Special Hearing Petition
Baltimore Country Club at Five Farms

40
93-37-SBH

refers to the "ground floor area of buildings so used". Not only is this inconsistent language impossible to follow and understand, but if it is strictly interpreted, results in a ridiculous outcome. By example, if the statute was analyzed to determine, as in the instant case, the extension rights for a nonconforming use of a parcel of land, the statute would provide the following direction:

No nonconforming use of a ... parcel of land shall hereafter be extended more than 25% of the ground floor area of buildings so used.

It is utterly ridiculous to describe the extension of site use areas or the uses of parcels of land in the context of the ground floor area of buildings. Nonconforming uses which apply to site use areas and land uses simply cannot be analyzed with reference to buildings.

A more clear interpretation would result in an outcome similar to the zoning ordinance of 1953 (PX 40) which relates the extension percentage to the area of land or buildings used. The deletion of the reference to "land" created an absurd result which is inconsistent with the policy of the Baltimore County Zoning Regulations.

The Baltimore County Council recently amended the Baltimore County Zoning Regulations in a manner which dramatically altered the policy of nonconforming uses in Baltimore County. In Bill 124-91 (PX 47), the County Council significantly changed the policy with regard to damage to any extent created by fire or other casualty. Such a policy

- 15 -

encourages the continuation of nonconforming uses contrary to the general rule which promotes the eventual destruction of nonconforming uses. An interpretation of Section 104 which permits the extension of nonconforming parcels of land by 25% is much more consistent and harmonious with the policy of the Baltimore County Council to permit the continuation of nonconforming uses.

Assuming that it is legally possible to extend the nonconforming country club use onto the Boyce tract, we must still analyze whether this extension is permitted by the McKenney test. Mr. Gravelis thoughtfully analyzed the impacts on the community of the use of the Boyce parcel to include portions of three tennis courts and parking areas. After careful consideration of the issues, Mr. Gravelis opined that the McKenney test would be satisfied.

The proposed tennis courts and parking area on the Boyce tract reflect the nonconforming country club use. Tennis is a use customarily provided as a component activity of major country clubs in the area. Tennis is a use clearly consistent with the nonconforming country club activity and is not a use different in character, nature or kind. The tennis courts will not have a substantially different effect on the neighborhood in that tennis courts are inherently visually appealing, not intrusive and compatible with uses surrounding a country club. In fact, the tennis courts will act as a buffer between the neighbors and the club and create less adverse impacts than the existing large

- 16 -

parking lot. To the extent that these tennis courts could be considered to have an impact, they will certainly be no greater in effect than the existing nonconforming country club. Finally, the use of the Boyce tract is not a drastic enlargement or extension of the existing nonconforming country club. The entire Boyce tract only contains approximately 2.6 acres. Only approximately 26% of the Boyce tract is proposed for inclusion in the nonconforming country club use.

Careful consideration and analysis of the facts and legal arguments leaves one to the inescapable conclusion that Baltimore County law permits the extension of nonconforming uses of land and that the proposed use of the Boyce tract is consistent with the McKenney test. Therefore, the Petitioner respectfully requests that the Zoning Commissioner enter his Order affirming the modifications to the Boyce tract as shown on the site plan (PX 37).

CONCLUSION

The facts presented in support of the Petition for Special Hearing are completely uncontradicted. The legal analysis and interpretation asserted by the Petitioner is reasonable, rational

- 17 -

and in harmony with the policies of Baltimore County. Therefore, the Petitioner respectfully requests that the relief requested in the Petition for Special Hearing be granted.

Respectfully,


G. Scott Barlight
Whiteford, Taylor & Preston
500 Court Towers
210 West Pennsylvania Avenue
Towson, Maryland 21204
(410) 832-2050
Attorney for Petitioner

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 11TH day of December, 1992, a copy of the foregoing Petitioner's Memorandum was mailed, postage prepaid, to J. Carroll Holzer, Esquire, 305 West Chesapeake Avenue, Suite 105, Towson, Maryland 21204.


G. Scott Barlight

- 18 -

IN RE: PETITION FOR * BEFORE THE
SPECIAL HEARING * ZONING COMMISSIONER
THE BALTIMORE COUNTRY CLUB * OF
AT FIVE FARMS * BALTIMORE COUNTY
ITEM #40 * Case No.: 93-37-A
9th Election District *

PROTESTANT'S MEMORANDUM IN LIEU OF FINAL ARGUMENT

Protestants, Joseph R. B. Tubman, Donna Dow and Deborah Terry, by J. Carroll Holzer, Holzer, Maher, Demilio & Lee, hereby submit this Memorandum in Lieu of Final Argument on the above captioned case. The Protestants Tubman, Terry and Dow, (hereinafter "Protestants") along with other witnesses who testified before the Zoning Commissioner, are residents of the immediate area and in most cases, property owners adjacent and adjoining the Baltimore Country Club at Five Farms.

I. Facts

The Baltimore Country Club at Five Farms is requesting a verification of a non-conforming use as a Country Club and golf course. The Club is currently improved with a clubhouse, two 18 hole golf courses, practice range, swimming pools, rain shelters, comfort stations, maintenance buildings and staff residence. The Club is requesting permission to construct nine (9) additional tennis courts and to relocate the existing parking area and to provide for improvements to the pool area

as well as expansion of the Clubhouse. It is undisputed that tennis courts are not currently a part of the Baltimore Country Club at Five Farms.

An additional factor which has extreme significance to this case is the fact that the Baltimore Country Club (hereinafter "Club"), acquired most recently in 1992, residentially zoned property owned by the Boyce family and proposed to annex that property to the existing 406 acres to form a 409 acre tract all alleged to be non-conforming.

In requesting the parties to prepare a brief Memorandum addressing the legal points involved in this matter, the Zoning Commissioner made clear that there is not a great deal of dispute in regard to the facts as set forth during the two (2) days of hearings in this matter. Basically, that is correct because the exhibits submitted by the Petitioner, the Baltimore Country Club, represent factually what they have proposed. Moreover, Protestants are not contesting the factual history of the Club at the Five Farms site.

However, facts which are in dispute relate to precisely the action of the Club regarding the destruction of the then existing mansion used as a clubhouse and its reconstruction as a somewhat larger facility placed at a different location. These facts may be of future interest in this case. Because of the failure of the Petitioner to present more clearly defined

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evidence of the timeframe between the destruction of the old facility and the reconstruction of the new as well as the square footage of the buildings, the Protestants are unable to follow up on this issue. It should be made clear however that the Protestants intend to preserve those issues for any future discussion of this case.

The Zoning Commissioner will recall the testimony of Jack Dillon, Baltimore County Office of Planning, who expressed the opinion that if the evidence shows that the old clubhouse was destroyed and then rebuilt after November 27, 1963, that could have a bearing upon whether the non-conforming use of the Baltimore Country Club was lost at that time. Protestants submit that the limited evidence before the Zoning Commissioner would suggest such a scenario.

Protestants, however, before the hearing began through correspondence to the Office of Zoning, as well as in Motions both before and after the Petitioner's case was presented raised the issue that this Petition for Special Hearing could not be granted because the Petitioners had not supplied the appropriate information to the Baltimore County Planning Office. Nor in fact, did they present the required evidence to the Zoning Commissioner to make an appropriate evaluation of the existence of the Baltimore Country Club as a non-conforming use. Therefore, the issue is raised as to the appropriate

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degree of expansion permitted in view of their failure to provide square footage information in this case. The Zoning Commissioner reserved his decision on this issue pending the conclusion of the case.

II. Argument

A. Issues

The issues as defined by Protestants stage before the Zoning Commissioner are basically three (3) in number.

First, whether or not the failure of the Petitioner to provide appropriate proof and documentation of the square footage of the buildings on the site as of September 27, 1963, provides a suitable basis for the Zoning Commissioner to determine under this Petition for Special Hearing whether a non-conforming Country Club exists and whether or not modifications are to be allowed.

Secondly, whether or not the Baltimore Country Club at present is a valid non-conforming use on the basis of the evidence presented before the Zoning Commissioner that the clubhouse/mansion was, in fact, destroyed after September 27, 1963, thereby extinguishing the use of the Baltimore County Club's non-conforming status, which would, in turn, require the Club to obtain a need for a Special Exception for the whole site.

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EXHIBIT AND TITLE INFORMATION FROM THE
BALTIMORE COUNTY CLERK'S OFFICE
TUESDAY, APRIL 8, 1981 FOR TITLE REPORT BY
AMERICAN TITLE GUARANTEE CORPORATION (ANNOUNCED)

Dec. 27, 1984

93-37-SPH
Z.C. EXH.

May 5, 1924

April 17, 1925

CLERK OF
BALTIMORE CITY
187,800 12 1

May 26, 1926

Dec. 16, 1991

Feb. 8, 1926

Oct. 7, 1963

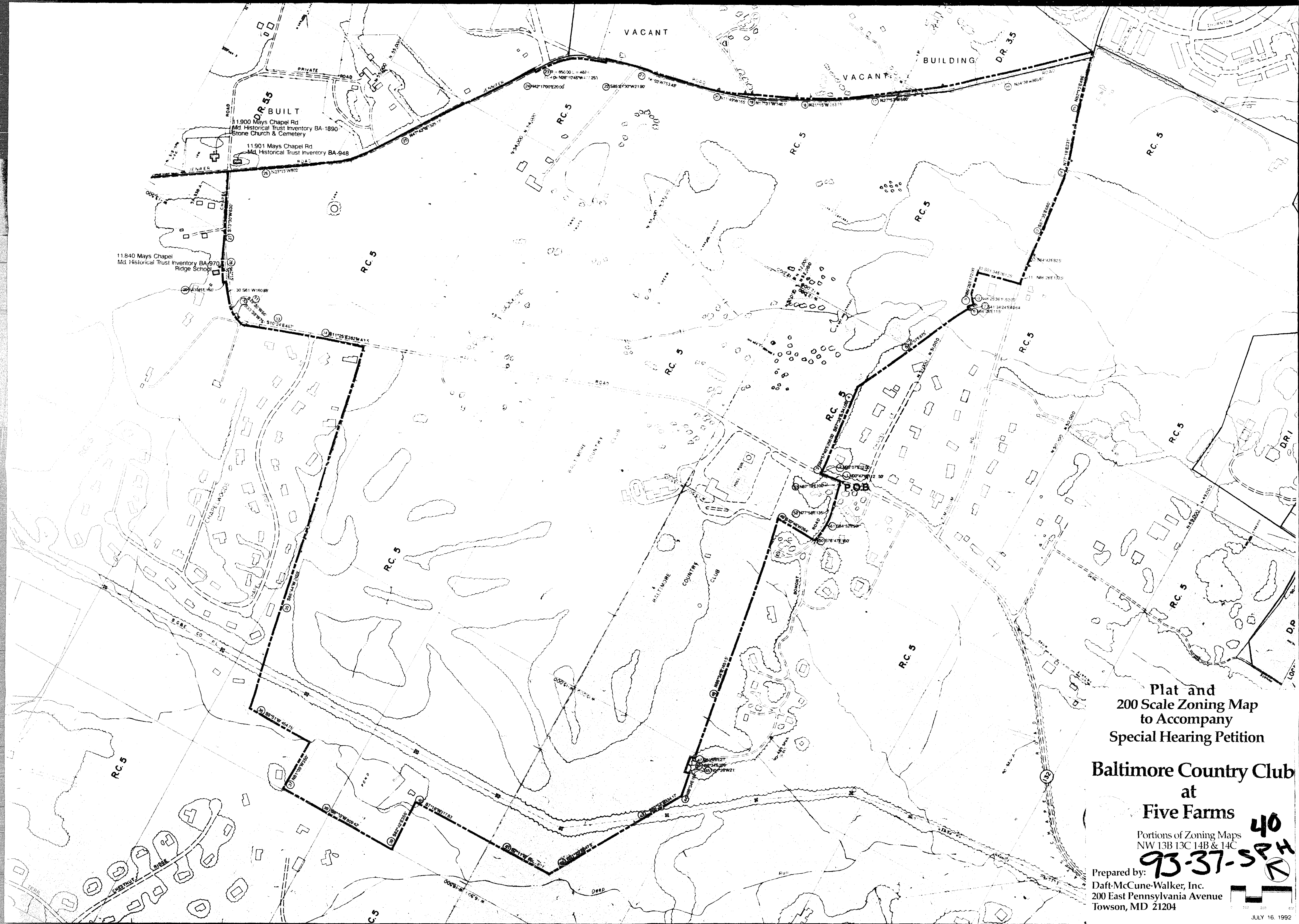
THE HILL FARM
CHUCKLE HILL
AND
RESUBDIVISION OF 10.14 AC
THE HILL FARM
CHUCKLE HILL

CLAY AT
MYNARD
CHUCKLE HILL

ARCHITECTURAL
BRIDGEVIEW
STATION IN
BALTIMORE

CLERK OF
BALTIMORE COUNTY CLERK
LA HART, MARYLAND

FILED JUNE 1981



Plat and
200 Scale Zoning Map
to Accompany
Special Hearing Petition

**Baltimore Country Club
at
Five Farms**

Portions of Zoning Maps
NW 13B 13C 14B & 14C

Prepared by:
Daft-McCune-Walker, Inc.
200 East Pennsylvania Avenue
Towson, MD 21204

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93-37-SPH

JULY 16, 1992

Third, whether or not the Club, by way of a Petition for Special Hearing can ask for an extension of non-conforming status beyond the original land subject to the non-conforming status as of September 27, 1963, to include the Boyce property recently acquired in 1992 as the location for some of the modifications suggested during the course of the hearing such as a new parking facility and at least nine (9) new tennis courts, three (3) of which will be placed upon the Boyce property.

B. Inadequate Information

The Petitioner, upon filing of the Petition received from the Office of Zoning Administration on August 6, 1992 notice that if the Petition had not been properly filed, there was the possibility that another hearing would be required, or that the Zoning Commissioner might be required to deny the Petition due to errors or incompleteness.

In the comments of the Office of Planning and Zoning dated September 15, 1992, issues of noise and lights were raised by the Office of Planning and Zoning concerning the three (3) tennis courts closest to the residential area as well as concern regarding the additional parking as it related to stormwater management and potential runoff. The Office of Planning and Zoning required that those issues be addressed on the plan. They were not!

Furthermore, on October 28, 1992, the Office of Planning again indicated the appropriate Section 104 of the Baltimore County Zoning Regulation to be applied and the requirement of the twenty-five percent (25%) rule of the ground floor area of buildings. The Planning Office, likewise raised the question of whether or not the Boyce property should be included as part of the non-conforming use, and required a timeline showing the dates of construction and size of all the buildings on the site in order to determine the amount of expansion left under the twenty-five percent (25%) rule. That information was not forthcoming by Petitioner.

Next, the Protestants, through their attorney, requested a postponement of this case on October 27, 1992 and again on November 3, 1992, where counsel for Protestants indicated the information required by the Planning Office and requested by Protestants in order to evaluate this case. Nevertheless, the postponement requests were denied and the information still not provided.

Again, before the hearing, counsel for Protestants indicated by way of Motion the desire to have the information necessary to determine what was in existence at the time of the inception of the non-conforming use as well as all buildings on site with their square footage calculated. During the course of the hearing and after the Petitioner's case, Protestants

again requested the same information. As the record amply reflects, no evidence was presented by the Petitioner as to the size and existence of buildings as of September 27, 1963.

It is uncontested that the September 27, 1963 date marks the beginning of the alleged non-conforming use of the Baltimore Country Club at Five Farms. The Protestants', in their case called Jack Dillon, Office of Planning and Zoning, who was responsible for preparing the Office of Planning's comments previously referred to, and who was the person in the Planning Office responsible for handling their review of this Request for a Petition for a Special Hearing.

Mr. Dillon's testimony is critical to this case. It reflects an unbiased evaluation of this Petition. Dillon's testimony was significant for the following reasons:

He defined non-conforming use as a use incompatible within a given area pre-existing to Regulations. That the theory for non-conforming uses from a planning standpoint is that some day they will go away. He recognized that Baltimore County in Section 104 allows non-conforming use to be determined and expanded up to twenty-five percent (25%) of the ground floor area of buildings. He established, that in his opinion, September 27, 1963,

was the date for the beginning of the non-conforming use zoning applied to the Baltimore Country Club. Mr. Dillon believed that the 1955 law, as amended, was applicable and that Section 104.1 ground floor areas of buildings is the law as it exists today. He opined that he would need the square footage of buildings to determine the non-conforming use. He further opined that if the evidence shows that the building (clubhouse) was removed, after September 27, 1963, that the non-conforming use could have been lost and, therefore, there would be a need for a Special Exception hearing legitimizing the use of request the whole Baltimore Country Club property.

He testified that the whole property needs to have application for Special Exception and he further said that the recent addition of the Boyce property also clearly needs a Special Exception because it was "clearly not within the boundary of the original property." In this vein, he reviewed Anderson, the American Law of Zoning and agreed with the treatise that land cannot be added to a non-conforming use.

Asked to respond to the expert testimony of George Gavrellis on behalf of the Petitioner, Dillon testified that, in his opinion, the policy manual,

since it is a recent addition to Planning and Zoning tools, did not even have application to the case at hand; further, that if it did, he believed that the policy manual did not abrogate Section 104, nor was it inconsistent with Section 104 and that they could be used and consistently read. He further disagreed with Gavrellis' testimony on behalf of the Petitioner that the golf course was the primary use and the other functions were accessory.

Dillon believed that the Country Club is the principal use and the golf courses and other facilities are accessory uses, even though the golf courses may be the predominant use of the property.

Dillon was also critical of the Plan as submitted and that in his opinion, the Plan did not distinguish the Boyce property as a separate tract of land, but was recently acquired by the Club. It was not until he, at the request of neighbors, visited the site and became aware, approximately one month ago, that the Boyce property was a recent acquisition and not part of the original tract acquired by the Club.

Upon cross-examination of Dillon, he refused to indicate that he could determine a non-conforming use. He reiterated that he would need facts as to timeline, square footage of

buildings and location on the site to properly render an opinion as to the non-conforming nature of the Baltimore Country Club.

Norman Gerber was called as a Planning expert on behalf of the Protestants and reinforced the testimony of Dillon as it related to the existing law and the requirement that square footage areas of existing buildings need to be evaluated to determine whether a non-conforming use exists and whether it can be modified. Gerber further testified as follows:

It was also his opinion that if the old clubhouse were completely demolished, there may be a question insofar as the new clubhouse in view of the fact that it was placed at a new location on the site as well as enlarged and that a Special Exception for the whole site would be required in that event.

He testified Section 104 speaks to expansion of non-conforming use only in terms of building area, not land use area. He confirmed acquisition of the Boyce tract could not be included in the non-conforming use under a Special Hearing and that a Special Exception would be required.

Mr. Gerber was familiar with the McKenry and Zenk cases and opined that by applying all four (4) factors as set forth in those cases, (as seen below) this non-conforming use request

could not be determined, and in fact, was an extension or drastic enlargement of the non-conforming use.

Finally, Mr. Gerber confirmed that in reading the policy manual along with the Zoning Regulations and the County Code, those documents are not inconsistent with each other and do not substitute "use areas" for square footage in determining expansion of non-conforming uses.

C. Case Citations

Non-conforming uses are generally viewed with disfavor by the Courts and the right to continue a non-conforming use does not include the right to extend or enlarge it. This appears to be the rule, whether or not the municipal corporation is adopting an ordinance which specifically limits the rights of the non-conforming user to enlarge or extend its use. The Courts feel that expansion of a non-conforming use offends the spirit of Zoning Regulations. Anderson's American Law of Zoning, Section 6.45.

Of course, in Baltimore County, we have a statutory authorization as to the degree of enlargement permitted of a non-conforming use and certainly that statutory permission must be viewed strictly by the interpreters of such regulations. It is undisputed in Baltimore County that Section 104 permits extension of a non-conforming use of not more than twenty-five percent (25%) of the ground floor areas of buildings.

Anderson, in Section 647, likewise speaks of unlawful extensions or enlargement of non-conforming uses affected by the addition of new equipment or facilities or the enlargement thereof. Anderson, in the American Law of Zoning, Section 650, comments upon the significant Maryland case of Phillips v. Zoning Commissioner of Howard County, 225 Md. 102, 169 A.2d 410 (1961), describing the differences between intensification of a non-conforming use which is permissible versus an illegal extension, by saying:

While it is true that mere intensification of non-conforming use is permissible so long as the nature of use is not substantially changed, it is generally recognized that the land owner to continue the same kind of use to which the property was devoted on the critical date does not confer on him a right to subsequently change or add to that use a new and different one, amounting to a drastic enlargement or extension of prior existing use.

Perhaps the most significant Section in Anderson applicable to this case, is Section 6.51:

The Courts have consistently disapproved extensions of non-conforming uses which involve use of new land (emphasis supplied), on a lot other than the one occupied by the original non-conforming use. This result has been reached where the land in question was acquired before, as well as after, enactment of the restrictive ordinance. Use of such land is proscribed, although the new land is located in the same district as across the street, as adjacent to the land originally occupied by the non-conforming use.

A number of cases cited from other jurisdictions illustrate the majority view of denying extension of a non-conforming use into land, newly or subsequently acquired. See

Rotter v. Coconino County, 818 Pacific Reporter, Second Series 704, 169 Arizona, 269 (1991) attached hereto. See also, Minquadales Civic Association v. Kline, 212 A.2d 811 (1965), attached hereto, and finally, Patillo v. Board of Zoning Appeals of the Town of New Haven, 162 Atlantic Reporter Second, 508 (1960), attached; See also, Milcrest Corporation v. Clackamas County, 650 Pacific Second, 963 (1982), attached.

A further discussion of the Phillips v. Zoning Commissioner case, can likewise be found in Jahnigen v. Staley, 245 Md. 130 (1965).

Throughout the course of this hearing, Petitioner has placed great reliance on McKemy v. Baltimore County, 39 Md. App. 257. Protestants likewise brought to the Zoning Commissioner's attention the more recent case of County Commissioners v. Zent, 86 Md. App. 745 (1991). These cases basically set forth the factors for the Zoning Commissioner to consider in determining the difference between extension and intensification.

It should be pointed out that this test has not and does not apply to the question of enlargement or extension of the non-conforming use site by way of acquisition of additional land, but has been applied in both cases where the non-conforming use has sought to introduce additional intensity to the site or additional types of uses or changed uses from that of the original non-conforming use.

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For instance, in the Zent case, the non-conforming use involved a milk truck and distribution operation. The Protestants there questioned of the number of trucks and storage of decommissioned old trucks as junk storage on the site. The Court applied the four (4) factors to determine (1) whether an activity is within the scope of a non-conforming use, (2) to what extent does the current use of these lots reflect the nature and purpose of the original non-conforming use; is the current use merely a different matter of utilizing the original non-conforming use or does it constitute a use different in character and nature and kind; (3) does the current use have a substantially different effect upon the neighborhood; (4) is the current use a drastic enlargement or an extension of the non-conforming use.

It should be pointed out that in the very case of County Commissioners v. Zent at footnote 5, page 754, the Court cites the case of Prince George's County v. E. L. Gardiner, 47 Md. App. 471 (1981), in which the Court makes a distinction between the enlargement or extension of non-conforming uses and intensification of such uses. The Court there said:

"An increase in floor space... an increase in an area of a lot used for non-conforming uses; or a change in business methods or a provision of a new accessory facilities with the resulting extensions of the use involved herein have all been held to be proposals for the enlargement of a non-conforming use."

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It is clear then that in the instant case, the Petitioners case falls directly within that definition set forth by the Court of Special Appeals in Gardiner.

Turning to the McKemy case, it again dealt with a question of the use of various lots for the parking of fuel trucks and whether or not the various lots had been proved to be a non-conforming use before the Board of Appeals. The McKemy case again recites the four (4) factors which the Board should evaluate in considering whether or not the current activity is within the scope of non-conforming use. This case does no harm to the arguments set forth above in this Memorandum, and in fact, is consistent, as illustrated by the Court in deciding the Zent case fourteen years later utilizing this same methodology.

The key to both cases is that, in neither one, is there presented an issue of an increase in land area of the non-conforming use by a subsequent acquisition, which is the crux of the situation here.

WHEREFORE, the Protestants respectfully request the Zoning Commissioner to find, that based upon the evidence presented at the hearing, that insufficient evidence has been presented to determine at this time, whether or not the Baltimore Country Club has a valid non-conforming use and secondly, in view of the testimony by the Club in this case, that a Petition for

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Special Exception should be required for all of the property for the Club, based upon the testimony regarding the destruction of the clubhouse after September 27, 1963; and finally, that a Special Exception is required as it relates to the acquisition of the Boyce property if the Boyce property is to be used in the modifications as suggested in this hearing.

Respectfully submitted,

[Signature]
J. CARROLL HOLZER, Esquire
Holzer, Maher, Demilio & Lee
305 West Chesapeake Avenue
Suite 105
Towson, Maryland 21204
410-825-6960

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 11th day of December, 1992, a copy of the foregoing Protestant's Memorandum in Lieu of Final Argument was mailed, postage pre-paid to: G. Scott Barhight, Esquire, Whiteford, Taylor & Preston, 500 Court Towers, 210 West Pennsylvania Avenue, Towson, Maryland 21204.

[Signature]
J. CARROLL HOLZER, Esquire

c:\wp\memo-3\club.mem

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IN RE: PETITION FOR SPECIAL HEARING * BEFORE THE
SW/S Jennifer Road, N/S * ZONING COMMISSIONER
Timonium Road *
11500 Mays Chapel Road * OF BALTIMORE COUNTY
8th Election District *
3rd Councilmanic District *
Baltimore Country Club of * CASE # 93-37-SPH
Baltimore City *
Petitioner *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition for Special Hearing, for that property located in Timonium known as the Baltimore Country Club at Five Farms. As stated in the Petition, the property owner seeks approval of "an existing nonconforming country club and modifications." Clearly, the wording of the Petition is but a general statement of the relief sought by the property owner. Specifically, the Petitioner seeks legitimization of a vast tract of property as a nonconforming country club use and approval of certain modifications to said use, both within the original tract boundary and on lands more recently acquired.

The Petition was filed by the Baltimore Country Club of Baltimore City, the legal owner of the property. The Petitioner is represented by G. Scott Barhight, Esquire. Numerous witnesses appeared on behalf of the Petition. They included William P. Geary, a long time member of the Country Club and its current President. He testified extensively as to the history of the property from the time of its acquisition by the Club in the 1920s to the present. Also testifying was Paul T. Spellman, Jr., who has been employed as the General Manager and Chief Operating Officer of the Club since 1985. Mr. Spellman is the individual who is the hands-on manager of the facility and directs its day to day operation. Also testifying was Edmund Haile of Daft, McCune and Walker. Mr. Haile, a Civil Engineer, assisted in the prepara-

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ration of many of the numerous exhibits which were submitted. In fact, a colorized version of the site plan, marked as Petitioner's Exhibit No. 37, clearly shows the existing and proposed layout of the country club facilities at this location. Also testifying on behalf of the Petitioner was George E. Gavrelis. He testified as an expert in land planning and zoning, and is qualified to render opinions about the Baltimore County zoning regulations. Mr. Gavrelis testified as to the many technical aspects of the evolution of the Baltimore County Zoning Regulations (B.C.Z.R.) as they relate to nonconforming uses in Baltimore County.

In addition to the Petitioner's case, testimony and evidence in opposition to the Petition was offered by several neighbors of the property. They included Joseph R.B. Tubman, Donna Dow and Deborah Terry, all of whom testified and reside in the vicinity. Testimony and evidence was also received from John J. Dillon, the Community Planner from the Office of Planning and Zoning and Norman Gerber, an expert Urban Regional and Site Planner. The Protestants were represented by J. Carroll Holzer, Esquire.

Following the presentation of testimony and evidence at the requisite public hearing, counsel for both sides submitted legal memorandums in support of their respective positions. These memorandums set forth a number of the relevant facts presented, as well as fully explain the legal arguments which the parties believe support their positions. Clearly, there is not a significant dispute as to the factual history of the development of the property. Rather, the issue is whether this use, both as now existing and as proposed, is a legitimate nonconforming use and is, thereby, authorized by the B.C.Z.R.

As to the property, itself, the Baltimore Country Club of Baltimore City currently owns 409.18 acres in Timonium. The entire parcel is zoned

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R.C.5. The site is roughly bounded by Jennifer Road and several residential communities to the east, Chapel Ridge Road and the residential community of Chapel Ridge to the north, the Hill Farm to the west, and Bomont and Timonium Roads and the community of Chapel Hill to the south. The majority of the Protestants reside in the Chapel Hill community. The site is presently improved with two 18 hole golf courses which occupy the vast majority of the acreage. Also featured is a club house for social and other gatherings, several swimming pools, related outbuildings and recreational space, and a turf field and parking areas. The Petitioner proposes to expand a number of the facilities on site. Although the golf courses will remain the same, the Petitioner proposes constructing nine tennis courts on the eastern portion of the property. Also, parking will be realigned and several outbuildings will be constructed to improve the facilities offered of the club. Certain improvements to the clubhouse are also planned. Significantly, as far as this case is concerned, the Club has recently acquired a lot adjacent to Bomont Road known as the Boyce property. A portion of this acreage will be devoted to the recreational facilities provided by the Club; namely, portions of the tennis courts will be located on the lot. Moreover, approximately 94,305 sq. ft. will remain devoted to residential purposes. Specifically, the dwelling on the Boyce tract will be retained and rented as a residence.

The above is but a brief synopsis of the extensive factual testimony and evidence presented. As noted above, the historical development of the site is not disputed. The facts presented will not be repeated at length herein, except as they are germane to the issues discussed. The chronology of the development of the site, as listed in detail in the Memorandum of Law

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offered by the Petitioner, accurately describes the history of the use of the site.

A number of issues are presented in this case. They will be addressed in turn.

1. What version of the B.C.Z.R., as has been amended over the years, is the applicable law to this case?

Although the answer to the aforementioned question might seem obvious, the determination of the applicable law is vital to a resolution of the issues presented. It is noted in the Petitioner's Memorandum that several of the expert witnesses who testified, including Messrs. Gavrelis, Dillon and Gerber, asserted that the definition of a nonconforming use contained in the 1955 version of the B.C.Z.R. is controlling (see Petitioner's Memorandum, page 4). For the reasons set forth below, I believe that this conclusion is erroneous.

Although nonconforming uses have been identified since zoning first came to Baltimore County in 1945, the definition of that term has been repeatedly revised. Currently, a nonconforming use is defined by Section 101 of the B.C.Z.R. as "A legal use that does not conform to a use regulation for the zone in which it is located or to a special regulation applicable to such a use. A specifically named use described by the adjective 'nonconforming' is a nonconforming use." (B.C.Z.R. 1955, Bill No. 18-1976) This language replaced the 1955 definition of a nonconforming use and must be applied to every Petition for Special Hearing seeking the designation of a use as nonconforming which is filed after the enactment of Bill No. 18-1976.

From a plain reading of the current definition, it is clear that in order for a use to be nonconforming, it must be identified as a legal use. That is, the use must be among those uses which are recognized within the

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B.C.Z.R. A country club is, in fact, defined in Section 101 of the B.C.Z.R. and, therefore, the use is legal.

Having established the legality of the use, the definition then goes on to provide that in order for a use to be nonconforming, it must either, be not among those uses allowed by the property's zoning classification, or not conform to a special regulation applicable to the use. In this instance, a nonconforming use is permitted in an R.C. zone only by special exception. There has been no special exception granted for this property for a country club. Therefore, the use in this case meets the definitional requirements of the B.C.Z.R. in that it is both a legal use and not permitted within the property's zoning classification as of right. Further, the Country Club use of this property may be permitted to remain only after showing that same is nonconforming. That is, the Petitioner must show that the use predates the adoption of the zoning classification which prohibits its use as of right.

Further, nonconforming uses are governed by Section 104 of the B.C.Z.R. That section provides that nonconforming uses may continue provided that they are not changed, abandoned, or discontinued for a period of one year or more. Section 104 goes on to provide further guidelines as to the repair of nonconforming uses after casualty, the expansion of such uses, and other regulations relevant to specific uses.

As is clear from both the relevant provisions of the B.C.Z.R. and the case law, nonconforming uses are not favored by law. Maryland's appellate court have consistently held that nonconforming uses pose a threat to the success of an orderly zoning scheme and can limit the effectiveness of land use control. See e.g. County Council of Prince Georges County v. E.L.

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Gardner, Inc. 293 Md. 259, 443 A.2d 114, (1982) and County Commissioners of Carroll County v. Uhler 78 Md. App. 140, 552 A.2d 942, (1989).

Nonetheless, despite their undesirability from a land use and land planning standpoint, the courts have recognized the legal authority for nonconforming uses to continue under certain guidelines. Specifically, both the B.C.Z.R. and the case law provide for a grandfathering mechanism to permit nonconforming uses to continue even after a rezoning and/or reregulation of the property on which they are located which would render that use impermissible. As noted above, however, nonconforming uses may continue only if not abandoned, discontinued or changed; and limits are placed upon their expansion and repair.

It is vital to realize that this case, filed under Petition for Special Hearing in or about August of 1992, is governed by the current law as set forth in the B.C.Z.R. Although a nonconforming use may be established by looking to the date when the reregulation and/or reclassification of a property rendered a pre-existing use impermissible, the law in effect at that time is not the appropriate law under which the merits of the case should be adjudged. The law to be applied to any case is the law that is in effect at the time that that case comes before the hearing body. This is a most basic premise of law. Although there might be some exceptions (e.g. decriminalization of a specific act subsequent to a charging of that act), none are applicable here. Even the B.C.Z.R. notes, "These regulations shall apply as of the date of their adoption . . ." (B.C.Z.R. Section 103.1) Further, Bill 18-1976, which was enacted on April 19, 1986 as emergency legislation, provides that its provisions are effective on that date. In that the Petition is filed and comes before the Zoning Commissioner in 1992-93; the law of nonconforming uses in effect in 1992-93 must control. This conclusion is

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inescapable and well settled. This premise of law has even been applied to those cases where a change in the law has occurred after a trial court has considered a case, but prior to the appellate court's deliberation of the issue presented. Even in those instances, the law in effect at the time the appellate court considers the case is applicable, even if a reversal of the lower court's ruling must result. As noted in Yorkdale Corporation v. Powell, 237 Md. 121 205, A.2d 269 (1964), "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." (p. 271- citations omitted) This standard of law is well settled and thus the current version of the B.C.Z.R., wherein nonconforming use is defined in Section 101 and regulated in Section 104, must be applied. (See also Rockville Fuel and Feed Co. v. City of Gaithersburg, 266 Md. 117, 291 A.2d 672 (1972) and O'Donnel v. Baseler, 289 Md. 501, 425 A.2d 1003 (1981))

There are also practical reasons which require this finding. Specifically, if the current law were not followed, evaluation and identification of nonconforming uses would be impossible. That is, nonconforming uses would be governed by out of date laws which might be entirely inconsistent with other portions of the zoning code.

2. Does the Petitioner's failure to provide proof of the square footage of the clubhouse building prevent the Zoning Commissioner from determining the nonconforming use.

This issue is raised by the Protestant as a threshold matter. Specifically, the Protestants aver that the Petitioner's failure to provide certain information relative to the square footage of the clubhouse building is fatal to the Petitioner's case. Apparently, the Protestants' argument is

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based upon the language contained within Section 104.3 of the B.C.Z.R. which relates to an expansion of nonconforming uses by 25% of the ground floor area of the buildings used. The full explanation for the Protestants' position in this regard is more fully set out in their Memorandum.

Although the Protestants' argument may be persuasive in some instances, it is inapplicable in the case before me. As noted above, nonconforming uses are defined by Sections 101 and 104 of the B.C.Z.R. Section 104.3 governs the expansion of a nonconforming use and provides that "No nonconforming building or structure and no nonconforming use of a building, structure, or parcel of land shall hereafter be extended more than 25% of the ground floor of the building so used." (Emphasis added) Further, the prior 1955 version of the B.C.Z.R. defines a nonconforming use as "A legal use of the building or of land that ante dates the adoption of these regulations and does not conform to the use regulations for the zone in which it is located." Although this definition is not controlling to this case for the reasons set forth above, it is useful. Specifically, after tracing the legislative history of nonconforming law use in Baltimore County and examining the existing language in Section 104.3, I must conclude that use of land, a building and/or both may be nonconforming. That is, a given parcel of property may enjoy a nonconforming character, even if some is unimproved and there are no structures thereon. Section 104.3 states as much, and nothing in Bill 18-1976 suggests that the legislature intended on eliminating only land use (without a building) as a nonconforming use when the definition was changed.

Having, therefore, established that a nonconforming use can be based upon a given use of a particular land, vis-a-vis a structure, it is clear that a country club is, in fact, a land use. As noted above, the definition

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Date 3/6/93
By Mr. Gant

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of country club in the B.C.Z.R. is the use of a property as a golf course with a clubhouse and other appropriate facilities. Clearly, it is the land and not any structure which forms the basis of the country club use. In this case, the clubhouse and other recreational/social facilities which are on site would not exist if not surrounded by the two 18 hole golf courses. As such, the nature of the use to be determined in this instance is whether the use of this land in this fashion is nonconforming. Thus, the square footage of the building is irrelevant. Whether the building has been replaced does not matter. Rather, the most significant determination to be made is whether the existence of the golf courses is nonconforming.

3. Does the razing of the original clubhouse/mansion prohibit the finding of a nonconforming use for the site?

For the reasons set forth in discussion of the second issue above, the answer to this question must be in the negative. Testimony and evidence presented was that the original clubhouse was constructed on site in the 1920s. In 1963, the club razed the original structure and built a replacement. The Protestants expended great energy in advancing the proposition that the replacement of the clubhouse by a new building extinguished any right to a nonconforming use of the property. However, for the reasons set forth above, the clubhouse structure in and of itself is not significant. Clearly, the Baltimore Country Club would not have purchased this tract only to build a single building on approximately 400 acres. The tract was acquired and developed for use as a golf course. The clubhouse is incidental to that use only. Whether same was replaced or enlarged does not prohibit the establishment of a nonconforming use in this case.

4. Is the country club use at Five Farms a nonconforming use?

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At least as this property was configured in 1963, the answer to this question is in the affirmative. The history of the property and the evolution of the B.C.Z.R. is particularly germane to this issue. As noted above, the property was acquired by the Petitioner between May 5, 1924 and May 26, 1926. At that time, there were no zoning regulations in existence in Baltimore County. Zoning came to Baltimore County on January 2, 1945. Since the use was in existence at that time, it was, arguably, a nonconforming use upon the date of the adoption of the original zoning regulations. However, there was never any such designation or Petition for Special Hearing to establish such a use. In any event, use of the property has continued in the same manner for the past 48 years. Interestingly, however, the B.C.Z.R. was comprehensively amended effective May 30, 1955. As a result of those amendments, a country club became a permitted use under the use regulations for the zoning classification of the property at that time. Again, there was no affirmative action taken by the property owner or the County to establish the legality of the use at that time.

The County's zoning regulations were amended again, however, under Bill 64-63 effective September 26, 1963. By an enactment of that Bill, the use of the property for a country club was prohibited. Since that time, the use regulations and zoning classification of this property have prohibited a country club on site without a special exception. Thus, it seems clear that the Petitioner must establish, pursuant to Section 104, that the use has continued uninterrupted since, at least, September 26, 1963. In fact, the testimony, in this respect, was overwhelming and uncontradicted. Clearly, the use of this property as a country club has continued uninterrupted since that time. Therefore, it follows that the land which encompassed Five Farms Country Club use as it existed on September 26, 1963 is nonconforming

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and the Petition for Special Hearing must be granted in that respect. In fact, the Petitioner has submitted an exhibit which depicts the dates of acquisition of the various parcels which comprise the Five Farms Country Club. Parcel 1, the main tract of 387.866 acres, was acquired on May 5, 1924. Shortly thereafter, Parcel 2 (6.429 acres) was acquired on May 17, 1925. Later, two smaller triangular shaped parcels were acquired on February 8, 1926. Subsequently, an 11.477 acre tract was acquired on May 26, 1926. Clearly, these parcels were collectively in active use as a country club in September of 1963 and all are, therefore, nonconforming and may continue to be used under the Petition for Special Hearing which will be granted herein.

Interestingly, it is even arguable that the Petitioner having failed to affirmatively legitimize the use in 1963, might be required to demonstrate that the use existed prior to 1945. Even if that were the case, they would prevail, however, in that the evidence is uncontradicted that the country club use has existed continuously since the 1920s.

5. Are certain modifications within the existing nonconforming use area permitted?

Having determined that the Baltimore County Club has been established as a nonconforming use since 1963, attention is next turned to any modifications/intensification of the use since that date. The site has evolved over the years and no doubt there have been some physical changes to the property and facilities thereon since September 1963. As to any changes which have occurred, I am persuaded that they are permissible. The state of the club today is entirely consistent with the character of the nonconforming country club use established in September 1963.

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The site plan submitted also shows certain proposed modifications within the tract which was owned by the Club in 1963. These modifications relate to the remodeling and renovation of several ancillary buildings, reconstruction of the country club building, relocation of the paved parking area, renovation of the pools and the installation of tennis courts. It is to be repeatedly stressed, the use of this site is that of a country club. Thus, these uses are permitted as ancillary to the overall use of the tract.

Within the Memorandum of Law submitted by both counsel, various arguments have been raised regarding the extension or enlargement of a nonconforming use. Both sides have cited as the leading case, McKemy v. Baltimore County, 39 Md. App. 256, 385 A.2d 96 (1978). Indeed, this case provides guidance in determining when a nonconforming use may be intensified. Within McKemy, the court set forth a four prong test to analyze this issue. Applied to this case, the four prong test may be characterized as follows: (1) To what extent do the proposed modifications of the Five Farms property reflect the nature and purpose of the original country club use? (2) Are the proposed modifications merely a different manner of utilizing the existing nonconforming country club use or do they constitute a use different in character, nature and kind? (3) Do the proposed modifications have a substantial and different effect on the neighborhood? (4) Are the proposed modifications a drastic enlargement or extension of the original nonconforming use?

It is clear that the modifications are permissible under the McKemy test. The modifications do nothing more than reflect the nature and purpose of a country club use. As Mr. Gavrelis noted, these modifications only serve to upgrade the facilities offered to the club membership. All of the modifications are targeted to improving the country club use to its member-

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Date 3/6/93
By Mr. Gant

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ship which is operated at Five Farms. Further, the uses are entirely consistent with the country club use and are not different in either character, nature or kind. They are clearly all within the umbrella of those uses which constitute a country club operation. Additionally, there will be no difference in impact on the neighborhood caused by these modifications. There is no difference in the traffic impact nor will the proposed modifications create environmental, pollution or other effects inherently different in the existing nonconforming use. Clearly, what is proposed is neither a drastic enlargement nor extension of the nonconforming use. It is merely an intensification of what already occurs on the property and is, therefore, permissible under the standards enunciated in the McKemy decision. Thus, the proposed improvements shown on the site plan is a permitted intensification of a legitimate nonconforming use and should be allowed.

7. Can the nonconforming use be extended onto properties not owned by the Petitioner as of September 26, 1963?

As indicated above, the acreage owned by Baltimore County Club at Five Farms has expanded over the years. Three small parcels have been acquired since to September 26, 1963. These are: a minute parcel acquired on October 7, 1963 on the south side of the site near Timonium Road; a rectangular parcel on the north side of the property acquired on December 27, 1984; and the lot which creates the largest controversy; that is, the tract known as the Boyce property acquired on December 16, 1991.

The Petitioner argues that the acquisition of these properties is no more than an extension of the nonconforming use and is, therefore, should be governed by the McKemy test. The Protestants, on the other hand, aver that it is a different animal and is not guided by McKemy.

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As noted above, the nonconforming use presented in this case arises out of the use of land versus the use of a structure or building. Further, Section 104.3 of the B.C.Z.R. regulates extensions of nonconforming uses. It is provided within that section that extensions of nonconforming uses are limited to an area of not more than 25% of the ground floor area of the building. The statute is silent as to expansion of land area. Therefore, a strict reading of the regulation mandates that expansion of a nonconforming use can only be to a building and not land. This is consistent with the case law. In McKemy and the other cases cited by the Petitioners, including Phillips v. Zoning Commissioner of Howard County, 225 Md. 102, 169 A.2d 410 (1961), the appellate courts considered expansions of nonconforming uses within a given tract. The issue presented here, however, is different. The Petitioner seeks an expansion of a nonconforming use outside of the original tract boundaries of the property which was owned by the Petitioner on the relevant date. Thus, the present situation and the cases are distinguished. In none of the cases cited was intensification on a nonconforming use contemplated on a "new" tract.

Further, as noted above, nonconforming uses are not favored at law. In fact, they are described as contrary to best land management practices and planning. Due to disfavor which the courts look upon nonconforming uses and the lack of any Maryland authority presented, I am unwilling to "break new ground" and permit the Petitioner to extend its nonconforming use outside the tract boundaries established. Simply stated, the Petitioner has set forth no authority consistent with the facts in this case which would justify such an expansion. If the Petitioner's reasoning was to follow to its logical conclusion, the Country Club, in this case, could expand the site by nearly 100 acres, all the while claiming compliance with the 25% limit set

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forth in Section 104.3 of the B.C.Z.R. I do not believe the legislature intended such a result. Absent legislative direction to the contrary, I feel required to find that an extension of a nonconforming use of property not owned or utilized by the Petitioner at the time giving rise to the nonconforming use is impermissible.

Further, even if I did adopt the Petitioner's reasoning, I could not permit the Boyce tract to be utilized in the manner proposed. Arguably, the two small parcels (the one acquired on October 7, 1963 and the other on December 27, 1984) are so small and insignificant that they would be permitted to be annexed to the area previously devoted to the nonconforming use under the McKemy test. These small areas are used as portions of the golf course and are physically no different now as they existed in 1963.

However, the Boyce tract is different. The Petitioner proposes utilizing a piece of property heretofore used only for residential purposes and converting the use of same into the country club. This is a material and significant different use of this particular lot. Thus, even if I were to accept the Petitioner's argument that an extension of the nonconforming use to new acreage was permissible, I could not find that the property acquired from Boyce satisfied the McKemy test. Clearly, that individual tract is proposed to be used in a materially different fashion than its prior use. In viewing that tract as an individual parcel, it fails to satisfy McKemy.

A final comment is in order. As noted above, use of the entire property as a country club would be permissible if granted, pursuant to a Petition for Special Exception. Although, this case was not before me in that context, significant testimony was offered about the Club's current and proposed operation. In considering that evidence, it is difficult to imagine how the operation of the Club, even with the proposed expansion onto the

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Boyce property, could be detrimental to the health, safety and general welfare of the community. However, that issue is, perhaps, for another day, and another record of evidence. Thus, I shall not address that issue further herein. Furthermore, I have previously herein determined that intensification of the facilities offered by the club (e.g. installation of tennis courts) is permissible under McKemy. Nonetheless, I cannot approve the site plan submitted, which shows the tennis courts on the Boyce tract. The Petitioner must locate any proposed intensification on property owned by it in September 1963; or obtain the requisite special exception.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the Petition for Special Hearing should be granted in part, and denied in part.

THEREFORE, IT IS ORDERED by the Zoning Commissioner of Baltimore County this 5th day of March, 1993 that the Petition for Special Hearing for that portion of the property now owned by the Petitioner, but owned by others on September 26, 1963, be and is hereby DENIED; and,

IT IS FURTHER ORDERED that the Petition for Special Hearing, for that portion of the property owned by the Petitioner, the Baltimore County Club of Baltimore City on September 26, 1963, be and is hereby GRANTED, including those modifications/improvements to the property both present and proposed, as shown on the site plan, subject, however, to the following restriction:

1. The 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

LES:mmm

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Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning



Suite 113 Courthouse
400 Washington Avenue
Towson, MD 21204

(410) 887-4386

March 4, 1993

G. Scott Barhight, Esquire
500 Court Towers
210 W. Pennsylvania Avenue
Towson, Maryland 21204

J. Carroll Holzer, Esquire
Holzer, Maher, Demilio
305 W. Chesapeake Avenue
Suite 105
Towson, Maryland 21204

RE: Petition for Special Hearing
Case No. 93-37-SPH
The Baltimore Country Club of Baltimore City

Dear Mr. Barhight:

Enclosed please find a copy of the decision rendered in the above captioned matter. The Petition for Special Hearing has been granted in part and denied in part, with restriction.

In the event any party finds the decision rendered 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 the Appeals Clerk at 887-3391.

Very truly yours,

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:mmm
encl.
cc: Mr. William P. Geary
cc: Mr. George E. Gavrellis

Petition for Special Hearing 40

to the Zoning Commissioner of Baltimore County

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 an existing non-conforming country club and modifications

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

I, or we, agree to pay expenses of the above Special Hearing advertising, posting, etc., upon filing of this Petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

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

Contract Purchaser/Lessee:

Legal Owner(s):

Baltimore County Club of Baltimore City

(Type or Print Name)

By: William P. Geary, Senior

Signature

President

Type Legal Owner is

Baltimore County

Signature

Club of Baltimore

City

Towson

Address

500 Court Towers

210 W. Pennsylvania Avenue

Towson, Maryland 21204

City and State

Address

210 W. Pennsylvania Ave, 5th Floor

Towson, MD 21204

Address

Phone No.

832-2050

Address

Phone No.

832-2050

Address

Phone No.

832-2050

Address

Phone No.

832-2050

DAFT-MC CUNE-WALKER, INC.

200 East Pennsylvania Avenue Towson, Maryland 21204 301 296 3333 FAX 301 296 4705



Land Planning
Environmental Sciences
Landscape Architecture
Computer Technologies
Engineering
Surveying/GIS

Description to Accompany

Petition for Special Hearing

409.1 Acre Parcel, Baltimore Country Club

of Baltimore City Property

Southwest Side of Jenifer Road

North Side of Timonium Road

Eighth Election District, Baltimore County, Maryland

Beginning for the same at the intersection of the centerline of Mays Chapel Road with the centerline of Bascom Road, thence binding on said centerline of Mays Chapel Road the following two course and distances, viz: (1) North 00 degrees 47 minutes West 112.50 feet, and thence (2) North 08 degrees 07 minutes East 12.00 feet, thence leaving said centerline of Mays Chapel Road and running the following eight courses and distances, viz: (3) South 84 degrees 57 minutes 40 seconds East 256.00 feet, thence (4) South 87 degrees 38 minutes East 343.08 feet, thence (5) South 56 degrees 57 minutes East 875 feet, thence (6) North 86 degrees 26 minutes East 11.5 feet, thence (7) South 41 degrees 34 minutes 24 seconds East 40.64 feet, thence (8) North 48 degrees 25 minutes 36 seconds East 52.00 feet, thence (9) North 86 degrees 26 minutes East 172.00 feet, and thence (10) South 03 degrees 34 minutes East 261.25 feet to intersect the centerline of Timonium Road, thence binding on said centerline of Timonium Road the following five courses and distances, viz: (11) North 86 degrees 26 minutes East 132.5 feet, thence (12) South 84 degrees 43 minutes East 82.5 feet, thence (13)

Page 1 of 4

South 87 degrees 35 minutes East 660 feet, thence (14) North 77 degrees 18 minutes East 231 feet, and thence (15) North 82 degrees 10 minutes East 495 feet to intersect the northeast side of Jenifer Road, thence leaving the said centerline of Timonium Road and binding on the said northeast side of Jenifer Road (16) North 34 degrees 38 minutes West 985.67 feet, thence (17) North 27 degrees 57 minutes West 660 feet to a point in the centerline of said road, thence (18) North 21 degrees 15 minutes West 283.75 feet to a point in the centerline of said road, thence (19) North 17 degrees 31 minutes West 346.5 feet to a point on the northeast side of said road, thence (20) North 11 degrees 49 minutes West 165 feet to a point on the northeast side of said road, thence (21) North 06 degrees 03 minutes West 753.43 feet, thence (22) South 85 degrees 21 minutes 30 seconds West 21.90 feet to the southwest right-of-way line of said Jenifer Road, thence binding on said right-of-way line (23) Northwestwardly, by a line curving to the left with a radius of 650.00 feet for a distance of 488.67 feet (the arc of said curve being subtended by a chord bearing North 26 degrees 10 minutes 45 seconds West 477.25 feet), thence leaving said right-of-way line (24) North 42 degrees 17 minutes 00 seconds East 20.00 feet, thence binding along the southwest side of said Jenifer Road (25) North 47 degrees 43 minutes West 1325.17 feet, thence (26) North 25 degrees 15 minutes West 802 feet to a point in said road, thence (27) South 71 degrees 30 minutes West 630 feet to a point on the northwest side of Mays Chapel Road, thence binding on said northwest side of road (28) South 62 degrees 15 minutes West 100 feet, thence (29) South 43 degrees 45 minutes

Page 2 of 4

93-37-SPH 40

BALTIMORE COUNTRY CLUB AT FIVE FARMS NON-CONFORMING SITE USE AND ACTIVITY ANALYSIS			
Site Use Area	Existing	Proposed	Percent Change
Golf	17,188,148 SF	17,100,884 SF	-0.4%
Cart Storage			
Concession Stands			
Golf			
Maintenance Operations			
Parking			
Pro Shop			
Rain Shelter			
Snack Stations			
Staff Residence			
Outdoor Recreation	481,000 SF	542,100 SF	+12.7%
Badminton (Lawn Court)			
Croquet (Lawn Court)			
Field Sports			
Cart Storage			
Parking			
Picnicking			
Snack Bar, Manager's Office			
Support (Lockers, Pool, Equipment)			
Swimming			
Volleyball (Lawn Court)			
Swimming	78,656 SF	81,720 SF	+3.9%
Cards			
Changing Rooms			
Clubhouse Functions			
Dining			
Member Functions			
Outdoor Dining			
Parking			
Residential		94,306 SF	N/A
TOTAL	17,705,833 SF	17,819,088 SF	+0.6%
	(408.5 Acres)	(408.1 Acres)	

Draft McCune-Walker, Inc. July 30, 1992

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning
111 West Chesapeake Avenue
Towson, MD 21204
(410) 887-3353

September 9, 1992

G. Scott Barhight, Esquire
500 Court Towers
210 West Pennsylvania Avenue
Towson, MD 21204

RE: Final Petition Review (Item #40)
Case #93-37-SPH
Legal Owner: Baltimore Country Club of
Baltimore City
9th Election District

Dear Mr. Barhight:

At the request of the attorney/petitioner, the above referenced petition was accepted for filing without a final filing review by the staff. The petition was accepted with the understanding that all zoning issues/filing requirements would be addressed. A subsequent review by the staff has revealed some technical requirements that are unaddressed and some incomplete information. The following comments, even though final, are advisory and do not necessarily identify all details and inherent technical zoning requirements. As with all petitions filed in this office, it is the final responsibility of the petitioner to make a proper application, address any zoning conflicts and, if necessary, to file revised petition materials. All revisions (including those required by the hearing officer) must be accompanied by a check made out to Baltimore County, Maryland for the \$100.00 revision fee.

1. No reference is made as to the date when the existing uses became non-conforming. Confirm on the plan that there has been no increase in any of the use areas since the start (including the date) of the non-conforming status or show calculations as to each increase at the time of any enlargement.

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G. Scott Barhight, Esquire
September 9, 1992
Page 2

2. Indicate and label the 2.6 acres area of increase in the overall site area on the plan.
3. Section 102.2 and Section 1A04.3.8.3 (B.C.Z.R.) requires separate yard areas for all structures which are not functionally attached or a zoning variance public hearing is required. At the level of detail provided on the plan (1"=200' scale), it is difficult to determine compliance. When more detailed plans are available indicating setbacks and methods of building attachment, this office can determine compliance with these technical requirements.
4. Parking: The new parking proposed on the plan requires compliance with Section 409.4 (B.C.Z.R.). It should be noted on the plan that future plans will indicate compliance with this section of the Baltimore County Zoning Regulations.

If you need further information or have any questions, please do not hesitate to contact John Lewis at 887-3391.

Very truly yours,

W. Carl Richards, Jr.
Zoning Coordinator

By: John N. Lewis
Planner II

JLL:scj

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning
111 West Chesapeake Avenue
Towson, MD 21204
(410) 887-3353

October 29, 1992

J. Carroll Holzer, Esquire
Holzer, Maher, Demilio
305 W. Chesapeake Avenue, Suite 105
Towson, MD 21204

RE: Case No. 93-37-SPH
11500 Mays Chapel Road
Baltimore County Club of Baltimore City

Dear Mr. Holzer:

I am in receipt of your letter to Commissioner Schmidt, dated October 27, 1992, in which you requested a continuance of the above captioned matter for reasons as stated therein.

I am also in receipt of a letter from Mr. Barhight, dated October 28, 1992, in which he objects to your request.

Please be advised, that after discussion with Commissioner Schmidt, I am denying your request. However, Commissioner Schmidt has stated that he will accommodate the witnesses you identify as not being able to appear on the scheduled date by beginning the case, and then continuing it so as to permit you the opportunity to have them testify.

Sincerely,

ARNOLD JASION
Director

AJ:ech

cc: Lawrence E. Schmidt
Zoning Commissioner

G. Scott Barhight, Esquire

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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

November 5, 1992

J. Carroll Holzer, Esquire
Holzer, Maher, Demilio
305 W. Chesapeake Avenue, Suite 105
Towson, MD 21204

RE: Case No. 93-37-SPH
11500 Mays Chapel Road
Baltimore County Club of Baltimore City

Dear Mr. Holzer:

I am in receipt of your letter dated November 3, 1992. Any petition that is filed to be heard before the zoning commissioner is at the risk of the petitioner. I have no authority to dismiss the petition, nor will I acquiesce to a continuance for the reasons outlined in your letter.

This is not to diminish the issues you raise, only that they should be raised before the zoning commissioner who can then rule on their merits. The zoning commissioner, as you know, could dismiss the petition, continue the hearing pending the filing of any new petition, or proceed as scheduled, in his discretion. I do recognize the concern you raise, but the petitioner is represented by counsel who is well-versed and knowledgeable in the law of zoning. The issues you raise, therefore, should be brought up at the time of the hearing and addressed by the zoning commissioner at that time.

Sincerely,

ARNOLD JASION
Director

AJ:ech

cc: Lawrence E. Schmidt
Zoning Commissioner

G. Scott Barhight, Esquire

Printed on Recycled Paper

TRANSMITTAL

DAFT-MCCUNE-WALKER, INC.
Land Planning Consultants
Landscape Architects
Engineers & Surveyors

200 East Pennsylvania Avenue
Towson, Maryland 21204
Telephone: (410) 296-3333

To: Scott Barhight
Date: 8/5/92
Job no.: 85032 G
Attention: BCC Five Farms
Reference: BCC Five Farms

Gentlemen:
We are sending you ☐ attached ☐ under separate cover: ☒ via Carry
☐ Shop drawings ☐ Samples ☐ Plans
☐ Specifications ☐

Copies	Date	Number	Description
1A			Plan to accompany Petition
1B			Plot & Zoning Map to accompany Petition
5			Descriptions

These are transmitted as checked below:
☐ For approval ☐ Approved as submitted ☐ Resubmit _____ copies for approval
☐ For your use ☐ Approved as noted ☐ Submit _____ copies for distribution
☐ As requested ☐ Returned for corrections ☐ Return _____
☐ For review and comment ☐

Remarks: For Petition for Special Hearing to be filed today for Baltimore County Club at Five Farms

cc: _____ Signed: Gary E. Grawley

IN THE MATTER OF * BEFORE THE ZONING
Baltimore Country Club * COMMISSIONER OF
11500 Mays Chapel Rd. * BALTIMORE COUNTY
* CASE NO. 93-37-SPH

SUBPOENA

Please process in accordance with Zoning Commission Rule IV (c).

TO: Carl Richards
Zoning
County Office Bldg.
Towson

YOU ARE HEREBY COMMANDED TO: () Personally appear; () Produce documents and or objects only; (X) Personally appear and produce documents or objects;

at Room 118 Old Courthouse, Towson, Md.
(Place where attendance is required)

on Tuesday the 10th day of November, 1992, at 10:00 a.m./P.M.

YOU ARE COMMANDED TO produce the following documents or objects: All letters, site plans, plats, correspondence, reports, recommendations, and any other documents relating to Baltimore Country Club's request for Special Hearing.

J. Carroll Holzer, 305 W. Chesapeake Ave. #105 Towson 825-6961
(Name of Party or Attorney, Address and Phone Number requesting subpoena)

Date Nov. 5, 1992

Zoning Commissioner

SHERIFF'S RETURN

() Served and copy delivered on date indicated below.
() Unserved, by reason of _____ Fee: \$ _____
Date: _____

SHERIFF

IN THE MATTER OF * BEFORE THE ZONING
Baltimore Country Club * COMMISSIONER OF
11500 Mays Chapel Rd. * BALTIMORE COUNTY
* CASE NO. 93-37-SPH

SUBPOENA

Please process in accordance with Zoning Commission Rule IV (c).

TO: Pat Keller, Deputy Dir. of Planning
4th Floor
County Courts Bldg.
Towson

YOU ARE HEREBY COMMANDED TO: () Personally appear; () Produce documents and or objects only; (X) Personally appear and produce documents or objects;

at Room 118 Old Courthouse, Towson, Md.
(Place where attendance is required)

on Tuesday the 10th day of November, 1992, at 10:00 a.m./P.M.

YOU ARE COMMANDED TO produce the following documents or objects: All letters, site plans, plats, correspondence, reports, recommendations, and any other documents relating to Baltimore Country Club's request for Special Hearing.

J. Carroll Holzer, 305 W. Chesapeake Ave. #105 Towson 825-6961
(Name of Party or Attorney, Address and Phone Number requesting subpoena)

Date Nov. 5, 1992

Zoning Commissioner

SHERIFF'S RETURN

() Served and copy delivered on date indicated below.
() Unserved, by reason of _____ Fee: \$ _____
Date: _____

SHERIFF

93-37-SPH 40

East 15.60 feet to the centerline of said road, thence binding on the centerline of said road (30) South 61 degrees West 160.88 feet, thence (31) South 49 degrees 30 minutes West 66 feet, thence (32) South 33 degrees 38 minutes West 75 feet to a point on the west side of said road, thence binding on said west side (33) South 10 degrees 24 minutes East 467 feet, thence (34) South 11 degrees 25 minutes East 362 feet to a point in Mays Chapel Road, thence leaving said road and running the following fifteen courses and distances, viz: (35) South 86 degrees 44 minutes West 2459 feet, thence (36) South 08 degrees 51 minutes West 454.75 feet, thence (37) North 81 degrees 09 minutes West 350 feet, thence (38) South 08 degrees 30 minutes West 809.42, feet, thence (39) South 82 degrees 42 minutes East 350 feet, thence (40) South 07 degrees 18 minutes West 277.83 feet, thence (41) South 07 degrees 11 minutes West 696.75 feet, thence (42) South 51 degrees 29 minutes East 647.5 feet, thence (43) South 50 degrees 52 minutes East 334.17 feet, thence (44) North 88 degrees 34 minutes East 162 feet, thence (45) North 01 degree 26 minutes West 21 feet, thence (46) North 88 degrees 34 minutes East 100 feet, thence (47) South 01 degrees 26 minutes East 21 feet, thence (48) North 88 degrees 34 minutes East 1651.5 feet, and thence (49) South 10 degrees 46 minutes West 264 feet to intersect the centerline of aforementioned Bonant Road, thence binding on the centerline of said road the following four courses and distances, viz: (50) South 76 degrees 47 minutes East 150 feet, thence (51) South 84 degrees 52 minutes East 50 feet, thence (52) North 77 degrees 58 minutes East 135 feet, and thence (53) North 87 degrees 18 minutes

Page 3 of 4

93-37-SPH 40

East 100 feet to the point of beginning containing 409.1 acres of land, more or less.

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

THE BALTIMORE COUNTRY CLUB OUTLINES DESCRIBED HEREIN ARE CURRENT THROUGH APRIL 8, 1991, PER TITLE REPORT BY AMERICAN TITLE GUARANTEE CORPORATION (APP. NO. BC-8395). THE OUTLINES OF THE FORMER BOYCE PARCEL HAVE BEEN ADDED TO THIS DESCRIPTION.

August 4, 1992

Project No 82032.G (L82032G)



Page 4 of 4

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 8th Date of Posting: 9/5/92
Posted for: Special Hearing
Petitioner: Baltimore Country Club of Baltimore City
Location of property: 11500 Mays Chapel Rd., N/S Timonium Rd. & Co. Harwood Rd. (11500)
Location of Sign: 11500 Mays Chapel Rd. at 11500 Mays Chapel Rd.
Remarks:
Posted by: [Signature]
Number of Signs: 1

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 8th Date of Posting: 10/21/92
Posted for: Special Hearing
Petitioner: Baltimore Country Club of Baltimore City
Location of property: 11500 Mays Chapel Rd., N/S Timonium Rd. & Co. Harwood Rd. (11500)
Location of Sign: 11500 Mays Chapel Rd. at 11500 Mays Chapel Rd.
Remarks:
Posted by: [Signature]
Number of Signs: 1

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 8th Date of Posting: 9/9/92
Posted for: Special Hearing
Petitioner: Baltimore Country Club of Baltimore City
Location of property: 11500 Mays Chapel Rd., N/S Timonium Rd. & Co. Harwood Rd. (11500)
Location of Sign: 11500 Mays Chapel Rd. at 11500 Mays Chapel Rd.
Remarks:
Posted by: [Signature]
Number of Signs: 1

CERTIFICATE OF PUBLICATION

TOWSON, MD. Aug 21, 1992

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 Aug 20, 19 92

THE JEFFERSONIAN,

S. Zeke [Signature]
Publisher

CASE 93-37-SPH (Item 40)
11500 Mays Chapel Road
8th Election District
3rd Councilmanic
Petitioner(s):
Baltimore Country Club
of Baltimore City
HEARING: TUESDAY,
SEPTEMBER 29, 1992
at 9:00 a.m. in Rm. 118,
Old Courthouse
Special Hearing to approve an
existing non-conforming country
club and modifications.

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

DATE: 4/5/93 ACCOUNT: R-001-6150

AMOUNT: \$ 210.00

RECEIVED FROM: J. CARROLL HULZER

FOR: 11500 MAYS CHAPEL ROAD 93-37-SPH

APPEAL - SHP = \$175.00

SIGN: [Signature] \$210.00

VALIDATION OR SIGNATURE OF CARRIER

Baltimore County
Zoning Administration &
Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204

Account: R-001-6150
Number: 93-37

DATE: 4/5/93

AMOUNT: \$210.00

RECEIVED FROM: J. CARROLL HULZER

FOR: 11500 MAYS CHAPEL ROAD 93-37-SPH

APPEAL - SHP = \$175.00

SIGN: [Signature] \$210.00

VALIDATION OR SIGNATURE OF CARRIER

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

DATE: 9-4-92

Baltimore Country Club of Baltimore City
11500 Mays Chapel Road
Baltimore, Maryland 21093

RE:
CASE NUMBER: 93-37-SPH (Item 40)
SA/S Jenifer Road, N/S Timonium Road
11500 Mays Chapel Road
8th Election District - 3rd Councilmanic
Petitioner(s): Baltimore Country Club of Baltimore City
HEARING: TUESDAY, SEPTEMBER 29, 1992 at 9:00 a.m. in Rm. 118, Old Courthouse

Dear Petitioner(s):

Please be advised that \$ 62.69 is due for advertising and posting of the above captioned property and hearing date.

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 109, Towson, Maryland 21204. Place the case number on the check and make same payable to Baltimore County, Maryland. In order to avoid delay of the issuance of proper credit and/or your order, immediate attention to this matter is suggested.

[Signature]
DIRECTOR

cc: G. Scott Barlight, Esq.

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

AUGUST 13, 1992

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, 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 93-37-SPH (Item 40)
SA/S Jenifer Road, N/S Timonium Road
11500 Mays Chapel Road
8th Election District - 3rd Councilmanic
Petitioner(s): Baltimore Country Club of Baltimore City
HEARING: TUESDAY, SEPTEMBER 29, 1992 at 9:00 a.m. in Rm. 118, Old Courthouse

Special Hearing to approve an existing non-conforming country club and modifications.

[Signature]
Lawrence E. Schmidt

Zoning Commissioner of
Baltimore County

cc: Baltimore Country Club of Baltimore City
G. Scott Barlight, Esq.

NOTE: HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.

Baltimore County
Zoning Commissioner
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

Account: R-001-6150
Number: 93-37

DATE: 4/5/93

AMOUNT: \$250.00

RECEIVED FROM: J. CARROLL HULZER

FOR: 11500 MAYS CHAPEL ROAD 93-37-SPH

APPEAL - SHP = \$175.00

SIGN: [Signature] \$250.00

VALIDATION OR SIGNATURE OF CARRIER



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

SEPTEMBER 24, 1992

NOTICE OF POSTPONEMENT

CASE NUMBER: 93-37-SPH
PETITIONER(S): BALTIMORE COUNTRY CLUB OF BALTIMORE CITY
LOCATION: 11500 MAYS CHAPEL ROAD

THE ABOVE MATTER, PREVIOUSLY ASSIGNED TO HEARD ON SEPTEMBER 29, 1992,
HAS BEEN POSTPONED AT THE REQUEST OF MARK D. DOPKIN, ATTORNEY FOR THE
PROTESTANTS.

NOTIFICATION OF THE NEW HEARING DATE WILL BE FORWARDED SHORTLY.

Arnold Jablon
Arnold Jablon
Director

cc: G. Scott Barhight, Esq.
Mark D. Dopkin, Esq.
Baltimore Country Club of Baltimore City

AJ:ggg



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

OCTOBER 6, 1992

NOTICE OF REASSIGNMENT

CASE NUMBER(S): 93-37-SPH
LEGAL OWNER: BALTIMORE COUNTRY CLUB OF BALTIMORE CITY
LOCATION: 11500 MAYS CHAPEL ROAD

HEARING OF THE ABOVE MATTER WILL TAKE PLACE AS FOLLOWS:

TUESDAY, NOVEMBER 10, 1992 at 10:00 a.m.

IN ROOM 118, OLD COURTHOUSE, 400 WASHINGTON AVENUE, TOWSON MD 21204.

Lawrence E. Schmidt
Lawrence E. Schmidt
ZONING COMMISSIONER
BALTIMORE COUNTY

cc: Baltimore Country Club of Baltimore City
G. Scott Barhight, Esq.
Mark D. Dopkin, Esq.



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

September 9, 1992

G. Scott Barhight, Esquire
500 Court Towers
210 W. Pennsylvania Avenue
Towson, MD 21204

RE: Item No. 40, Case No. 93-37-A
Petitioner: Baltimore County Club
Petition for Special Hearing

Dear Mr. Barhight:

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans
submitted with the above referenced petition. The attached comments
from each reviewing agency are not intended to indicate the
appropriateness of the zoning action requested, but to assure that all
parties, i.e. Zoning Commissioner, attorney and/or the petitioner, are
made aware of plans or problems with regard to the proposed
improvements that may have a bearing on this case.

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

The following comments are related only to the filing of future
zoning petitions and are aimed at expediting the petition filing
process with this office.

1) The Director of Zoning Administration and Development
Management has instituted a system whereby seasoned zoning
attorneys who feel that they are capable of filing petitions that
comply with all aspects of the zoning regulations and petitions
filing requirements can file their petitions with this office
without the necessity of a preliminary review by Zoning personnel.



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

Your petition has been received and accepted for filing this
6th day of August, 1992

Arnold Jablon
ARNOLD JABLON
DIRECTOR

Received By:

W. Carl Rebeck Jr.
W. Carl Rebeck Jr.
Chairman,
Zoning Plans Advisory Committee

Petitioner: Baltimore County Club of Baltimore City, et al
Petitioner's Attorney: G. Scott Barhight



08/27/92

Project Name: Stonegate at Patapsco (Azreal Property)
File Number: 90476
Waiver Number: TE (Waiting for developer to submit plans first)
Zoning Issue: 6-1-92
Meeting Date: 6-1-92

Project Name	Waiver Number	Zoning Issue	Meeting Date
Stonegate at Patapsco (Azreal Property)	TE (Waiting for developer to submit plans first)	6-1-92	6-1-92
COUNT 1			
✓ James And Linda Heier	35	8-24-92	NC
DED DEPRM RP STP TE			
✓ Allan L. Snyder Et. Al.	36		NC
DED DEPRM RP STP TE			
✓ Salvo Auto Parts	37		NC
DED DEPRM RP STP TE			
✓ Adela M. Lombardi And Florence Kunsky	38		NC
DED DEPRM RP STP TE			
✓ Helaine G. And Melvin R. Trosch	39		NC
DED DEPRM RP STP TE			
✓ Baltimore Country Club of Baltimore City			NC
DED DEPRM RP STP TE			
✓ Robert E. And Cynthia A. Lyons	43		NC
DED DEPRM RP STP TE			
✓ Perring Woods Court Corporation	44		NC
DED DEPRM RP STP TE			
✓ Perring Woods Court Corporation	45		NC
DED DEPRM RP STP TE			
✓ Helen Mooney Murphy	46		NC
DED DEPRM RP STP TE			
✓ Michael E. Turley	47		comment
DED DEPRM RP STP TE			

08/31/92

Project Name: Stonegate at Patapsco (Azreal Property)
File Number: 90476
Waiver Number: TE (Waiting for developer to submit plans first)
Zoning Issue: 6-1-92
Meeting Date: 6-1-92

Project Name	Waiver Number	Zoning Issue	Meeting Date
Stonegate at Patapsco (Azreal Property)	TE (Waiting for developer to submit plans first)	6-1-92	6-1-92
COUNT 1			
✓ James And Linda Heier	35	N/C	8-24-92
DED DEPRM RP STP TE			
✓ Allan L. Snyder Et. Al.	36	N/C	
DED DEPRM RP STP TE			
✓ Salvo Auto Parts	37	N/C	
DED DEPRM RP STP TE			
✓ Adela M. Lombardi And Florence Kunsky	38	N/C	
DED DEPRM RP STP TE			
✓ Helaine G. And Melvin R. Trosch	39	N/C	
DED DEPRM RP STP TE			
✓ Baltimore Country Club of Baltimore City	40	N/C	
DED DEPRM RP STP TE			
✓ Robert E. And Cynthia A. Lyons	43	N/C	
DED DEPRM RP STP TE			
✓ Perring Woods Court Corporation	44	N/C	
DED DEPRM RP STP TE			
✓ Perring Woods Court Corporation	45	N/C	
DED DEPRM RP STP TE			
✓ Helen Mooney Murphy	46	N/C	
DED DEPRM RP STP TE			
✓ Michael E. Turley	47	N/C	
DED DEPRM RP STP TE			



700 East Joppa Road, Suite 901
Towson, MD 21204-5500

AUGUST 17, 1992

(410) 887-4500

Arnold Jablon
Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21204

RE: Property Owner: BALTIMORE COUNTRY CLUB OF BALTIMORE CITY
Location: 11500 MAYS CHAPEL ROAD
Item No.: +40 (WCR) Zoning Agenda: AUGUST 17, 1992

Gentlemen:

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

5. The buildings and structures existing or proposed on the site
shall comply with all applicable requirements of the National Fire
Protection Association Standard No. 101 "Life Safety Code", 1988
edition prior to occupancy.

REVIEWER: *JP/KEK* Noted and
Approved
Planning Group
Special Inspection Division

Fire Prevention Bureau

JP/KEK

RECEIVED
AUG 17 1992
ZONING OFFICE

8/31/92

Project Name: Stonegate at Patapsco (Azreal Property)
File Number: 90476
Waiver Number: TE (Waiting for developer to submit plans first)
Zoning Issue: 6-1-92
Meeting Date: 6-1-92

Project Name	Waiver Number	Zoning Issue	Meeting Date
Stonegate at Patapsco (Azreal Property)	TE (Waiting for developer to submit plans first)	6-1-92	6-1-92
COUNT 1			
✓ Alfred Pinkard	28	No Comment	8-10-92
DED DEPRM RP			
✓ Bee Tree Partnership	30	No Comment	
DED DEPRM RP			
✓ Albert F. Baumgart	31	No Comment	
DED DEPRM RP			
✓ Edith B. Ransom	32	No Comment	
DED DEPRM RP			
✓ Michael And Patricia A. Perholtz	33	No Comment	
DED DEPRM RP			
✓ Charles C. Sr. And Patricia G. Chelbda	34	No Comment	
DED DEPRM RP			
COUNT 6			
✓ James And Linda Heier	35	No Comment	8-24-92
DED DEPRM RP STP TE			
✓ Allan L. Snyder Et. Al.	36	No Comment	
DED DEPRM RP STP TE			
✓ Salvo Auto Parts	37	No Comment	
DED DEPRM RP STP TE			
✓ Adela M. Lombardi And Florence Kunsky	38	No Comment	
DED DEPRM RP STP TE			
✓ Helaine G. And Melvin R. Trosch	39	No Comment	
DED DEPRM RP STP TE			
✓ Baltimore Country Club of Baltimore City	40	No Comment	
DED DEPRM RP STP TE			

IN THE MATTER OF * BEFORE THE ZONING
Baltimore Country Club * COMMISSIONER OF
11500 Mays Chapel Rd. * BALTIMORE COUNTY
* CASE NO. 93-37-SPH

SUBPOENA

Please process in accordance with Zoning Commission
Rule IV (c).

TO: Jack Dillon
Planning Office
County Courts Bldg.

YOU ARE HEREBY COMMANDED TO: () Personally appear; () Produce
documents and or objects only; (X) Personally appear and produce
documents or objects;

at Room 118 Old Courthouse, Towson, Md.
(Place where attendance is required)

on Tuesday the 10th day of November
1992, at 10:00 a.m. /PM

YOU ARE COMMANDED TO produce the following documents or
objects: All letters, site plans, plats, correspondence, reports,
recommendations, and any other documents relating to Baltimore
Country Club's request for Special Hearing.

J. Carroll Holzer, 305 W. Chesapeake Ave. #105 Towson 825-6961
(Name of Party or Attorney, Address and Phone Number requesting
subpoena)

Date Nov. 5, 1992

Zoning Commissioner

SHERIFF'S RETURN

() Served and copy delivered on date indicated below.

() Unserved, by reason of

Date: Fee: \$

SHERIFF

IN THE MATTER OF * BEFORE THE ZONING
Baltimore Country Club * COMMISSIONER OF
11500 Mays Chapel Rd. * BALTIMORE COUNTY
* CASE NO. 93-37-SPH

SUBPOENA

Please process in accordance with Zoning Commission
Rule IV (c).

TO: Jack Dillon
Office of Planning
County Courts Bldg.

YOU ARE HEREBY COMMANDED TO: (X) Personally appear; () Produce
documents and or objects only; () Personally appear and produce
documents or objects;

at Old Courthouse, Room 118
(Place where attendance is required)

on Wednesday the 25th day of November
1992, at 9:00 a.m. /PM

YOU ARE COMMANDED TO produce the following documents or
objects:

J. Carroll Holzer, 305 W. Chesapeake Ave. #105 Towson 825-6961
(Name of Party or Attorney, Address and Phone Number requesting
subpoena)

Date Nov. 23, 1992

Zoning Commissioner

SHERIFF'S RETURN

() Served and copy delivered on date indicated below.

() Unserved, by reason of

Date: Fee: \$

SHERIFF

Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

April 5, 1993

G. Scott Barhight, Esquire
500 Court Towers
210 W. Pennsylvania Avenue
Towson, MD 21204

RE: Petition for Special Hearing
SW/S Jenifer Road, N/S Timonium Road
(11500 Mays Chapel Road)
8th Election District
3rd Councilmanic District
Baltimore Country Club of Baltimore
City - Petitioner
Case No. 93-37-SPH

Dear Mr. Barhight:

Please be advised that an appeal of the above-referenced case was
filed in this office on April 2, 1993 by J. Carroll Holzer, Esquire.
All materials relative to the case have been forwarded to the Board of
Appeals.

If you have any questions concerning this matter, please do not
hesitate to contact Julie Winiarski at 887-3391.

Sincerely,

Arnold Jablon
Director

AJ:jaw

cc: J. Carroll Holzer, Esquire
Mr. William P. Geary
Mr. George E. Gavrelis
People's Counsel

5/14/93 - Following parties notified of hearing set for Wednesday,
August 4, 1993 at 10:00 a.m.:

J. Carroll Holzer, Esquire
Joseph R. B. Tubman, et al
G. Scott Barhight, Esquire
George E. Gavrelis /Daft, McCune & Walker
Mr. William P. Geary
People's Counsel for Baltimore County
P. David Fields
Lawrence E. Schmidt
Timothy M. Kotroco
W. Carl Richards, Jr.
Docket Clerk /ZADM
Arnold Jablon, Director /ZADM

5/26/93 - Ltr from J. Carroll Holzer requesting postponement of above hearing due
to schedule conflict (previously planned vacation out of town).

6/03/93 - Postponement granted; matter rescheduled to Thursday, August 26, 1993 at
10:00 a.m.; notices sent to all parties as listed above.

8/24/93 - Letter of dismissal hand-delivered from J. Carroll Holzer, Esquire, on
behalf of Appellants; dismissed per agreement reached between parties;
copy of agreement (indicated as attachment to letter of dismissal) to be
provided /telephone call to Mr. Holzer re same. Order of Dismissal to be
issued.



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

September 1, 1993

J. Carroll Holzer, Esquire
HOLZER, MAHER, DEMILIO & LEE
305 W. Chesapeake Avenue, Suite 105
Towson, MD 21204

RE: Case No. 93-37-SPH
Baltimore Country Club of
Baltimore City

Dear Mr. Holzer:

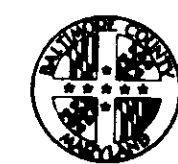
Enclosed please find a copy of the final Order of Dismissal
issued this date by the County Board of Appeals of Baltimore County
in the subject matter.

Sincerely,

Kathleen C. Weidenhammer
Administrative Assistant

encl

cc: Mr. Joseph R. B. Tubman
G. Scott Barhight, Esquire
Mr. William P. Geary
Mr. George E. Gavrelis
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



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 3, 1993

NOTICE OF POSTPONEMENT & REASSIGNMENT
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. 93-37-SPH BALTIMORE COUNTRY CLUB OF BALTIMORE CITY
SW/S Jenifer Road, N/S Timonium Road
(11500 Mays Chapel Road)
8th Election District
3rd Councilmanic District

SPH - for approval of "an existing
nonconforming country club and
modifications."

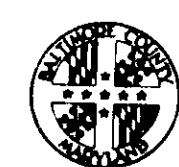
3/05/93 - Z.C.'s Order in which Petition
for Special Hearing is GRANTED as to
property owned prior to 1963; and DENIED
as to portion owned post-1963.

which was scheduled to be heard on August 4, 1993 has been
POSTPONED at the request of Counsel for Appellants/Protestants due
to previously scheduled conflict; and has been

REASSIGNED FOR: THURSDAY, AUGUST 26, 1993 AT 10:00 a.m.

cc: J. Carroll Holzer, Esquire Counsel for Appellants
Joseph R. B. Tubman, et al Appellants /Protestants
G. Scott Barhight, Esquire Counsel for Petitioner
George E. Gavrelis /Daft, McCune & Walker
People's Counsel for Baltimore County
P. David Fields
Lawrence E. Schmidt
Timothy M. Kotroco
W. Carl Richards, Jr.
Docket Clerk /ZADM
Arnold Jablon, Director /ZADM

Kathleen C. Weidenhammer
Administrative Assistant



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 14, 1993

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. 93-37-SPH BALTIMORE COUNTRY CLUB OF BALTIMORE CITY
SW/S Jenifer Road, N/S Timonium Road
(11500 Mays Chapel Road)
8th Election District
3rd Councilmanic District

SPH - for approval of "an existing
nonconforming country club and
modifications."

3/05/93 - Z.C.'s Order in which Petition
for Special Hearing is GRANTED as to
property owned prior to 1963; and DENIED
as to portion owned post-1963.

ASSIGNED FOR: WEDNESDAY, AUGUST 4, 1993 AT 10:00 a.m.

cc: J. Carroll Holzer, Esquire Counsel for Appellants
Joseph R. B. Tubman, et al Appellants /Protestants
G. Scott Barhight, Esquire Counsel for Petitioner
George E. Gavrelis /Daft, McCune & Walker
Mr. William P. Geary
People's Counsel for Baltimore County
P. David Fields
Lawrence E. Schmidt
Timothy M. Kotroco
W. Carl Richards, Jr.
Docket Clerk /ZADM
Arnold Jablon, Director /ZADM

Kathleen C. Weidenhammer
Administrative Assistant

17 00 533 3P
(408 Acres)
17 00 533 3P
(408 Acres)

**Baltimore Country Club at Five Farms
Non-conforming Use Petition**

This petition for a special hearing seeks confirmation that Baltimore Country Club is a valid, non-conforming country club. Component site use areas within the total tract which reflect traditional uses at the club have been designated as "golf," "outdoor recreation," "social," and "residential." Within each of the site use areas, activities are listed which are intended to be illustrative of those which take place or are expected to take place. The activities listed are not finite and may be modified if an activity is in accordance with the nature and purpose of Baltimore Country Club.

No site use area will expand more than 25 percent beyond that shown as existing for each of the component areas. Buildings and other improvements may also be adjusted in terms of area or location if they are consistent with the nature and scope of the component site use areas of Baltimore Country Club.

Subject to the above, component site use areas and buildings, improvements, activities, etc., also may be modified to respond to specific agency requirements resulting from subsequent permitting reviews, and if in accordance with the order of the Zoning Commissioner in this case.

**Plan to Accompany
Special Hearing Petition
Country Club at Five Farms**

40
93-37-SPH

MILCREST CORP. v. CLACKAMAS COUNTY Or. 963

Reversed and remanded for a new trial.

39 Or App 177
MILCREST CORPORATION, an Oregon corporation, Respondent,

CLACKAMAS COUNTY, a municipal corporation, Sylvia Murthe, Jean Baker, Victor Brings, Mike Churchill, Jim Whitfield, Vernon L. Becker, Wendell H. Harmon, Willie B. Eppers and Adell Eppers, Donald G. Kirkpatrick and Anna May P. Kirkpatrick, Kermit Kunat, Jerry E. Marks and Leslie J. Marks, Richard M. Heile, Hugo Paul and Harriet Paul, John R. Ferguson and Lauren L. Ferguson, Eugene M. Barger and Karen K. Barger, and R. E. Robert Dawes, Defendants.

Portland Metropolitan Area Local Government Boundary Commission, Metropolitan Service District, and Oregon Land Use Project, Inc., an Oregon nonprofit corporation, Appellants.

No. 75-11-41; CA A22184.

Court of Appeals of Oregon
Argued and Submitted June 23, 1982.
Decided Sept. 15, 1982.

Developer which was involved with a planned unit development not conforming with comprehensive plan adopted by county after it approved the development, brought action for declaratory judgment. The Circuit Court, Clackamas County, Richard D. [?], Judge, granted summary judgment for the developer. The court of appeals reversed and remanded the summary judgment for a new trial.

508 Conn. 162 ATLANTIC REPORTER, 24 SERIES

these circumstances, any error in the charge on the issue of negligence was cured by the general verdict. Meglio v. Comeau, 137 Conn. 551, 554, 79 A.2d 187; Halter v. T. H. Cady & Co., 138 Conn. 343, 346, 84 A.2d 577; Messier v. Zangis, 144 Conn. 449, 455, 133 A.2d 619.

There is no error.

1. Licensee 4-18(1)
Statute governing the location, operation and licensing of motor vehicle junkyards is a licensing statute enacted under the police power of the state for their proper regulation. C.G.S.A. §§ 21-16 to 21-18, 21-23.

2. Licensee 4-22
Zoning board of appeals, in acting upon an application for a certificate of approval of location for either a motor vehicle junkyard or a used car business, acts under the statutes regulating locations and licenses for these particular businesses and not under the local zoning regulations or zoning statutes. C.G.S.A. §§ 8-1 et seq., 14-54, 21-16 to 21-18, 21-23.

3. Licensee 4-22
Zoning board of appeals, when acting within the procedures provided by legislation for the licensing of junkyards, performs dual function of certifying that proposed location is not within a district restricted by zoning commission against junkyards and of conducting public hearings to determine the suitability of the proposed location, but may not change the bounds of restricted districts as established by zoning commission. C.G.S.A. §§ 21-16 to 21-18, 21-23.

4. Zoning 4-330
Where zoning commission had prohibited the establishment of automobile junkyards in area after plaintiff had obtained a license and begun operating a junkyard in area and where plaintiff sought to extend zoning nonconforming use to an adjoining lot within zoned area, board of zoning appeals had no authority to grant a variance for, or otherwise allow, the extension of the present nonconforming use. C.G.S.A. §§ 21-16 to 21-18, 21-23.

5. Zoning 4-618
Where proprietor of junkyard and used car lot applied for permission to extend the nonconforming use of his junkyard.

147 Conn. 490
John P. PETRILLO
v.
BOARD OF ZONING APPEALS OF THE TOWN OF NORTH HAVEN.
Supreme Court of Errors of Connecticut.
June 14, 1980.

Application by proprietor of junkyard for permission to extend yard operations to adjoining land and for certificates of approval for junkyard and for a used car lot on adjoining land. The Court of Common Pleas, New Haven County, Barber, J., reversed on appeal the action of the board of zoning appeals which had denied the applications and the board appealed. The Supreme Court of Errors, Murphy, J., held that where area in which proprietor sought to extend junkyard operations had been restricted against junkyard operations by zoning commission, zoning board of appeals lacked authority, when acting within framework of statute covering the licensing of junkyards to grant a variance from zoning commission restriction.

Judgment set aside and case remanded with directions.

Appellee filed a motion for reargument which was denied.

MINQUADALE CIVIC ASSOCIATION v. KLINE Del. 811

These circumstances, any error in the charge on the issue of negligence was cured by the general verdict. Meglio v. Comeau, 137 Conn. 551, 554, 79 A.2d 187; Halter v. T. H. Cady & Co., 138 Conn. 343, 346, 84 A.2d 577; Messier v. Zangis, 144 Conn. 449, 455, 133 A.2d 619.

There is no error.

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Judgment set aside and case remanded with directions.

Appellee filed a motion for reargument which was denied.

704 Ariz. 818 PACIFIC REPORTER, 24 SERIES

169 Ariz. 269

FRANK ROTTER, South Grand Canyon Hospitality, Inc., an Arizona Corporation, Plaintiffs-Appellees Cross Appellants,

v.

COCONINO COUNTY, Coconino County Planning and Zoning Commission, and William L. Towler, Director of the Coconino County Department of Community Development, Defendants-Appellants Cross Appellees.

No. CV-90-0327-PR.
Supreme Court of Arizona,
En Banc.
Oct. 3, 1991.

Landowners brought special action from decision of county planning and zoning commission denying request for conditional use permit to expand onto adjacent parcel. The Superior Court, Navajo County, Cause No. 24480, Jay M. Abbey, J., ordered issuance of permit, but denied request for attorney fees. All parties appealed. The Court of Appeals, 167 Ariz. 198, 805 P.2d 1019, affirmed in part, reversed in part, and remanded. County petitioned for review. The Supreme Court, Feldman, V.C.J., held that statute which states that nonconforming business use may expand by 100% of area of original business did not grant right to expand nonconforming use and that statute which states that nonconforming business use may expand by 100% of area of original business did not grant right to expand nonconforming use. The Court of Appeals' opinion vacated; judgment reversed; and case remanded.

1. Zoning and Planning 4-221
"Nonconforming land use" is commonly defined as lawful use maintained after effective date of zoning ordinance prohibiting such use in the applicable district. See publication Words and Phrases for other judicial constructions and definitions.

2. Zoning and Planning 4-221
Ordinance that eliminates nonconforming use solely by virtue of its enactment generally held unconstitutional as taking of property without due process. U.S. Const. Amends. 5, 14.

3. Constitutional Law 4-278(21)
Zoning and Planning 4-221
Ordinance that eliminates nonconforming use solely by virtue of its enactment generally held unconstitutional as taking of property without due process. U.S. Const. Amends. 5, 14.

4. Zoning and Planning 4-223
Nonconforming use is source of vested rights only if it was in actual existence and use before effective date of ordinance.

5. Zoning and Planning 4-221, 238
Vested right to continued nonconforming use runs with land and is not personal to owner of use at time that right vests; owner is thus limited to original premises and may not assert any vested right to remove nonconforming use to another parcel of land that was not used for the purpose prior to effective date of ordinance.

6. Zoning and Planning 4-221
Nonconforming uses are not favored by the law and should be eliminated or reduced to conformity as quickly as possible within limits of fairness and justice.

7. Zoning and Planning 4-27
In general, zoning ordinance will be upheld if it is reasonable exercise of power to zone for purposes of public health, safety, and welfare.

8. Zoning and Planning 4-14, 23
Zoning ordinance must operate via statutory grant of authority to zone and is invalid if it conflicts with state statute delegating to local authority power to act. A.R.S. §§ 11-801 to 11-802.

9. Municipal Corporations 4-129
Statutes and ordinances in apparent conflict must be construed, if possible, to give full force and effect to each.

LAW OFFICES
KAPLAN, HEYMAN, GREENBERG, ENGELMAN & BELORAD, P.A.
TENTH FLOOR - SUN LIFE BUILDING
20 SOUTH CHARLES STREET
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(410) 539-6967
TELECOPIER
(410) 752-0685

TELECOPIER TRANSMITTAL SHEET

DATE: 09/22/92 TIME: FAX NO. 887-5708

TO: The Honorable Arnold Jablon
Director of Zoning Administration and Development Management

FROM: MARK D. DOPKIN, ESQ.

NAME OF DOCUMENT: LETTERS RE CASE #93-37-SPH

NOTES:

Our telecopier number is (410) 752-0685

There are 3 pages INCLUDING this cover sheet.

Please contact ERIN CAREW (x-266), at (410) 539-6967, if less than the total number of pages are received, or if transmission error occurs.

HARD COPY TO FOLLOW: ☒ Yes ☐ No 9999 - 00206

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The document in this facsimile transmission is ATTORNEY PRIVILEGED AND CONFIDENTIAL and intended for the use of the individual or entity named above. If you have received this communication in error, or are not sure whether it is privileged, please immediately notify us by telephone at (410) 539-6967, and return the original document in its entirety to us at the above address via the U.S. Postal Service. Any DISSEMINATION, DISTRIBUTION, COPYING, OR TAKING OF ANY ACTION IN RELIANCE ON THE CONTENTS OF THIS DOCUMENT BY ANYONE OTHER THAN THE INTENDED RECIPIENT IS STRICTLY PROHIBITED.

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September 22, 1992

VIA FACSIMILE
(887-5708)

The Honorable Arnold Jablon
Director, Office of Zoning Administration and Development Management
111 West Chesapeake Avenue
Towson, MD 21204

RE: Case #93-37-SPH
Legal Owner: Baltimore Country Club of Baltimore City

Dear Mr. Jablon:

Please enter my appearance in the above referenced matter on behalf of Joseph R.B. Tubman, Deborah A. Terry and Donna Dow, protestants in the above referenced matter.

Cordially,
Mark D. Dopkin

MDD:ec

cc: G. Scott Barhight, Esquire

LAW OFFICES
KAPLAN, HEYMAN, GREENBERG, ENGELMAN & BELORAD, P.A.
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September 22, 1992

VIA FACSIMILE
(887-5708)

The Honorable Arnold Jablon
Director, Office of Zoning Administration and Development Management
111 West Chesapeake Avenue
Towson, MD 21204

RE: Case #93-37-SPH
Legal Owner: Baltimore Country Club of Baltimore City

Request for Postponement

Dear Mr. Jablon:

The Protestants in the above referenced matter respectfully request a postponement of the hearing presently scheduled for Tuesday, September 29 at 9:00 a.m.

The reasons for the requested postponement are twofold. First, Counsel was retained on the evening of September 21, 1992 and would like a reasonable period of time to prepare the Protestants case. Secondly, the hearing is currently scheduled during the Jewish High Holy Day of Rosh Hashana which would make attendance by Counsel difficult.

Respectfully submitted,
Mark D. Dopkin

MDD:ec

cc: G. Scott Barhight, Esquire

11/15/92 8177-92
LAW OFFICES
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SOLOMON KAPLAN
OF COUNSEL
MICHAEL L. FOREMAN
JEROME A. WILSON
ELISA B. WHITMAN
LOUIS B. BARR

G. Scott Barhight, Esquire
Whiteford, Taylor & Preston
500 Court Towers
210 West Pennsylvania Avenue
Towson, MD 21204

RE: Case No. 93-37-SPH
Baltimore Country Club of Baltimore City

Dear Scott:

I am writing to confirm my conversation with Gwenn Stevens this morning, whereby she advised me that my Request for Postponement of the hearing scheduled for September 29, 1992 was granted. She asked that I get in touch with you to provide some agreeable dates in November. To this end, my preference would be any one of November 10, 11, 12, 16, 17, 18 or 30. If more dates are needed, please let me know.

Cordially,

Mark D. Dopkin

MDD:ec

cc: Ms. Gwenn Stephens

RECEIVED
SEP 25 1992
ZONING OFFICE

RONALDI MAHER
11 ARBUTHNOT STREET
CARROLL COUNTY, MARYLAND 21031-1111
THOMAS LEE
LAW OFFICES
HOLZER, MAHER, DEMILIO & LEE
205 LIBERTY ROAD
ELLSBURG, MARYLAND 21744
SUITE 105
TOWSON, MARYLAND 21204
FAX: 410-832-2015
LAW OFFICES
WHITEFORD, TAYLOR & PRESTON
500 COURT TOWERS
210 WEST PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204-4515
FAX: 410-832-2000
DIRECT NUMBER
410-832-2000

The Honorable Lawrence E. Schmidt
Zoning Commissioner for
Baltimore County
First Floor
County Office Building
Towson, Maryland 21204

RE: Baltimore Country Club at Five Farms Special Hearing
Case No.: 93-37-SPH
Scheduled For: Tuesday, November 10, 1992

Dear Commissioner Schmidt:

On Monday, October 26, 1992, I was retained by a number of individual Protestants to the proposed request at the Baltimore Country Club at Five Farms. Apparently, these same individuals had previously retained another attorney who asked for and received a postponement of the scheduled hearing date at that time.

I recognize that this would be the second request for a postponement, however, I am just getting in the case and do need the opportunity to become familiar with the issue. I have been advised by my clients, Donna Dow, Fred Terry and Bro Taubman that there are two (2) key witnesses from the community that will not be available due to prior commitments or being hospitalized. In addition, I believe it is necessary to obtain the services of an expert in this matter and I am not sure we will be able to complete those arrangements by Tuesday, November 10, 1992.

I would therefore request a postponement of two (2) to three (3) weeks in this matter. I will be available to discuss my schedule if you deem it appropriate.

Thank you very much for your cooperation.

Very truly yours,

J. Carroll Holzer

JCH:mlg

cc: G. Scott Barhight, Esquire

RONALDI MAHER
11 ARBUTHNOT STREET
CARROLL COUNTY, MARYLAND 21031-1111
THOMAS LEE
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FAX: 410-832-2000
DIRECT NUMBER
410-832-2000

Arnold Jablon, Esquire
Office of Zoning Administration
and Development Management
Office of Planning & Zoning
County Office Building
111 Chesapeake Avenue
Towson, Maryland 21204

RE: Case No.: 93-37-SPH
11500 Mays Chapel Road
Baltimore Country Club of Baltimore City

Dear Mr. Jablon:

Please be advised that I am in receipt of your letter of October 29, 1992 refusing to postpone the hearing scheduled in the above captioned matter. Since the time of my request, I have reviewed the request of Mr. Barhight and the Baltimore Country Club and find it impossible for them to obtain the requested relief under a Petition for Special Hearing.

It is clear in the Record that additional property which they acquired would not allow the Zoning Commissioner to decide in their favor on a Petition for Special Hearing. It is absolutely clear that a Petition for Special Exception is necessary in this matter. I, therefore, object to the case proceeding and would again request a postponement of this case based upon an incomplete filing before the Zoning Commissioner.

I would also request dismissal of the Petition for Special Hearing in that it is inappropriately filed for the above reason.

Very truly yours,

J. Carroll Holzer

JCH:mlg

cc: Lawrence E. Schmidt
Zoning Commissioner
G. Scott Barhight, Esquire
Ms. Donna Dow
Mr. Fred Terry
Mr. Bro Taubman

RECEIVED
NOV 4 1992
ZONING OFFICE

RONALDI MAHER
11 ARBUTHNOT STREET
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THOMAS LEE
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TOWSON, MARYLAND 21204-4515
FAX: 410-832-2000
DIRECT NUMBER
410-832-2000

G. Scott Barhight
DIRECT NUMBER
410-832-2000

November 4, 1992

DELIVERY BY HAND

Arnold Jablon, Esquire
Director
Office of Zoning Administration
and Development Management
Office of Planning & Zoning
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Baltimore Country Club of Baltimore City
11500 Mays Chapel Road
Case No. 93-37-SPH

Dear Mr. Jablon:

Please accept this as my response to Mr. Holzer's letter to you dated November 3, 1992. Mr. Holzer's letter seems to contain both a renewed Motion for Postponement as well as a new Motion for Dismissal of the Petition for Special Hearing. On behalf of the Petitioner, we respectfully request that each of the Motions be denied.

The renewed Motion for Postponement is "based upon an incomplete filing before the Zoning Commissioner". Notwithstanding Mr. Holzer's inaccurate assertions, each of the requirements for filing have been met, the Petition was properly accepted for filing, and the hearing should proceed as rescheduled on November 10, 1992. Assuming, arguendo, that Mr. Holzer is correct in his assertions regarding the incomplete nature of the filing, the Zoning Commissioner will have full authority after presentation of all of the evidence at the hearing to rule appropriately on the Petition for Special Hearing.

Mr. Holzer's letter also seems to contain a Motion for Dismissal. The basis for this Motion seems to be the same as that for the Motion for Postponement. Mr. Holzer asserts that it is impossible for the Petitioner to obtain the requested relief

Arnold Jablon, Esquire
November 4, 1992
Page 2

and that a Petition for Special Exception is necessary. Mr. Holzer fails to cite any facts or law in support of this Motion. Mr. Holzer's mere assertion is an insufficient basis for a dismissal of the Petition.

On behalf of the Petitioner, I respectfully request that the Motion for Postponement and the Motion for Dismissal be denied.

If I can be of any further assistance, please feel free to contact me.

Sincerely,

G. Scott Barhight

GSB:slr

cc: The Honorable Lawrence E. Schmidt (delivery by hand)
J. Carroll Holzer, Esquire

Arnold Jablon, Esquire
October 28, 1992
Page 2

Should you have any questions or comments, please feel free to contact me. Thank you for your consideration of this opposition to the second request for postponement.

Sincerely,

G. Scott Barhight

GSB:slr

cc: The Honorable Lawrence E. Schmidt (delivery by hand)
J. Carroll Holzer, Esquire

RONALDI MAHER
11 ARBUTHNOT STREET
CARROLL COUNTY, MARYLAND 21031-1111
THOMAS LEE
LAW OFFICES
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SOLOMON KAPLAN
OF COUNSEL
MICHAEL L. FOREMAN
JEROME A. WILSON
ELISA B. WHITMAN
LOUIS B. BARR

November 6, 1992

The Honorable Arnold Jablon
Director, Office of Zoning Administration
and Development Management
111 W. Chesapeake Avenue
Towson, MD 21204

RE: Case #93-37-SPH
Owner: Baltimore Country Club of
Baltimore City

Dear Mr. Jablon:

Please withdraw my appearance in the above referenced matter on behalf of Joseph R.B. Tubman, Deborah A. Terry and Donna Dow.

Cordially,

Mark D. Dopkin

MDD:ec

cc: G. Scott Barhight, Esquire
Mr. Joseph R.B. Tubman
Carroll J. Holzer, Esquire

RECEIVED
NOV 9 1992
ZONING OFFICE

RONALD L. MAHER
1 CARROLL HOLZER
CARROLL'S (HOLZER)
THOMAS L. LEE
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ELKERSBURG, MARYLAND 21724
410-795-8550
FAX 410-795-5535
SUITE 200
1725 IN SALES STREET, N.W.
WASHINGTON, D.C. 20036

May 26, 1993

Chairman William T. Hackett
Baltimore County
Board of Appeals
Old Courthouse
400 Washington Avenue
Room 49
Towson, Maryland 21204

RE: Hearing on the Baltimore Country Club
Wednesday, August 4, 1993

Dear Chairman Hackett:

I have just received notice in regard to the Board
scheduling the Baltimore Country Club hearing for Wednesday,
August 4, 1993 at 10:00 a.m. I have plans to be out of the
office on vacation from July 31, 1993 until August 9, 1993. I
would therefore appreciate if you could reschedule the above
captioned case for the next convenient date.

Very truly yours,

J. Carroll Holzer

JCH:mlg

RONALD L. MAHER
1 CARROLL HOLZER
CARROLL'S (HOLZER)
THOMAS L. LEE
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ELKERSBURG, MARYLAND 21724
410-795-8550
FAX 410-795-5535
SUITE 200
1725 IN SALES STREET, N.W.
WASHINGTON, D.C. 20036

Direct Dial:
410-825-6961

August 17, 1993
#5669

93 AUG 24 PM 2:28
COUNTY OFFICE

Baltimore County
Board of Appeals
Old Courthouse
400 Washington Avenue
Room 49
Towson, Maryland 21204

RE: Case No.: 93-37-SPH

Gentlemen:

Please be advised that I represent Joseph R. B. Tubman,
Donna Dow, Deborah Terry and Courtney Spies, Appellants, in the
above captioned matter. My clients took an appeal from the Zoning
Commissioner's Order granting the Special Hearing for non-
conforming use and certain modifications. In the meantime, a
separate case was filed before the Zoning Commissioner in
Case No.: 93-388-X in which the Baltimore Country Club and my
clients have come to an agreement concerning the disputed issues.

As part of the Agreement attached to this letter dated
June 14, 1993, it is incumbent upon my clients to dismiss their
appeal to the Board with prejudice as part of the community
obligations contained in paragraph 2.B.

AGREEMENT

THIS AGREEMENT, entered into on this 11th day of June, 1993,
by and between BALTIMORE COUNTRY CLUB OF BALTIMORE CITY ("BCC")
and JOSEPH R.B. TUBMAN, DONNA DOW, DEBORAH TERRY and COURTNEY
SPIES ("the Community").

WHEREAS, BCC has operated a country club on the property
known as Five Farms in Baltimore County, Maryland since the 1920s
and would like to make certain modifications to the country club
including but not limited to improvements to the Clubhouse and
other facilities, addition of new parking areas and the construction
of nine (9) new tennis courts;

WHEREAS, by his Order dated March 5, 1993, the Zoning
Commissioner of Baltimore County granted the Petition for Special
Hearing filed by BCC thereby granting the existing non-conforming
country club and modifications;

WHEREAS, BCC has filed a Petition for Special Exception for
a country club to apply to two (2) parcels not included in the
March 5, 1993 Order of the Zoning Commissioner (the "Merrick" and
"Boyce" parcels); and

WHEREAS, the Community has expressed concerns about (i) the
existing and future stormwater runoff leaving the country club
and passing onto certain properties along Bonmont Road, (ii) the
potential sound and visual impact of the proposed additional
tennis courts and relocated parking facilities adjacent to said
tennis courts, and (iii) the possibility that the Boyce parcel
may be used for purposes other than for a single family
residence, three tennis courts and twelve parking spaces.

WITNESSETH:

In consideration of the mutual promises contained herein,
the sufficiency of which is hereby acknowledged, the parties
agree as follows:

1. BCC Obligations.

In consideration of the obligations of the Community,
BCC agrees as follows:

A. When and if BCC constructs the parking areas
immediately adjacent to the Clubhouse, BCC shall handle all
stormwater runoff in accordance with the quantity and quality
requirements of all then existing and applicable federal, state
and Baltimore County laws and regulations.

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME

ADDRESS

Wm P. Geary
George E. Govealis
John T. Schmitt
Tom Thiller
Mary G. S. Cooke
John M. Dorman
Ed Bryant III
Gary T. Gill
P.D. Dollenberg
BC TRUESCHLE
E. Peter Lindemann
Ed Hille

5609 ENDERLY RD 21212
DOW 200 E Penn Ave
1 Towson Court, Odessa 21030
5118 H. Allen Way Ball 21212
100 N. B. Rd.
33 Murray Hill Circle Baltimore
1802 Circle Rd. Towson 21204
4104 Ravenhurst Dr.
2328 W. Joppa Rd. 21093
11702 Fawnwood Terrace 21093
20 State Park Rd
224 Wendover Blvd
1501 Providence Rd.

11/2/92

93-37-SPH

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME

ADDRESS

Mary G. S. Cooke
Tom Thiller
E. Peter Lindemann
P.D. Dollenberg
Ed Bryant III

6101 N. Charles St. Baltimore 21212
5118 H. Allen Way Ball 21212
224 Wendover Blvd 21218
100 W. Penn 21204
1802 Circle Rd. 21204

11-23-92

93-37-SPH

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME

ADDRESS

John T. Schmitt
P.D. Dollenberg
Wm P. Geary
John M. Dorman
E. Peter Lindemann
John T. Schmitt
Ed Hille
George E. Govealis
Ed Bryant III
George Bell
Kathleen Dollenberg
Gary T. Gill

4104 Ravenhurst Dr.
Green Arrow Rd 21093
100 W. Penn Ave
5609 ENDERLY - 21212 21204
33 Murray Hill Cir 21212
224 Wendover Rd 21218
1802 Circle Rd 21093
200 E. Penn Ave. 21286
1802 Circle Rd. Towson 21204
2730 Caves Road, Owings Mills 21117
11702 Fawnwood Ter. 21093
2328 W. Joppa Rd. 21093

PROTESTANT(S) SIGN-IN SHEET

NAME

ADDRESS

Courtney Spies, Jr.
Donna L. Dow
John W. Tyler
Deborah Terry
Joseph R.B. Tubman
Charles Schumann
Carol Conover
John M. Dorman
Douglas McCombs
Ruth L. Spies
William BROWNELL

722 Bonmont Rd.
721 Bonmont Rd
801 Bonmont Rd.
747 Bonmont Rd.
11431 Maple Chapel Rd
232 Castleman Rd 21093
802 Bonmont Rd. 21093
82 Bonmont Rd
12405 Falls Rd.
722 Bonmont Rd 21093
735 Bonmont Rd 21093

PROTESTANT(S) SIGN-IN SHEET

NAME

ADDRESS

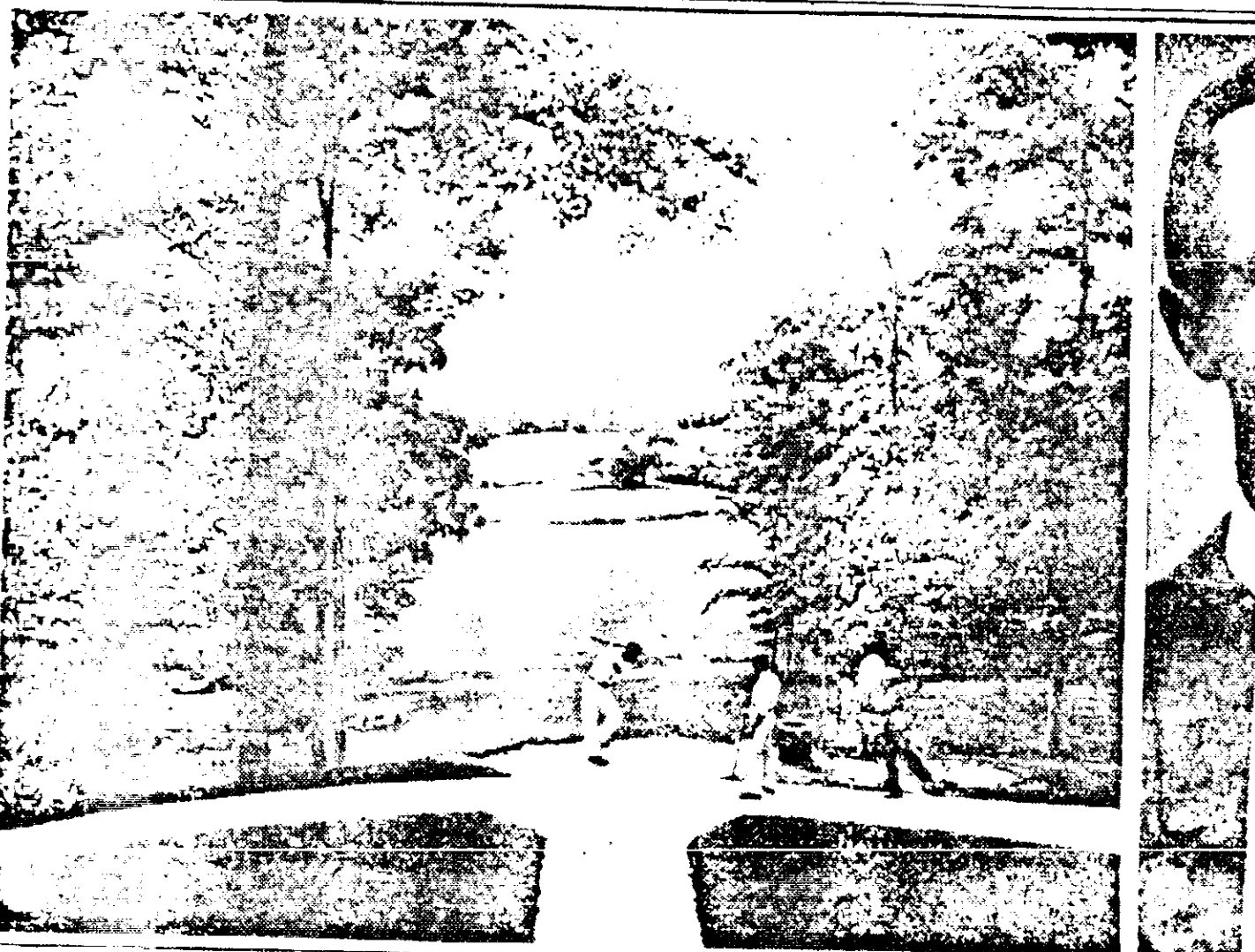
Dynne Dow
Deborah Terry
John W. Tyler
Charles Schumann

722 Bonmont Rd. 21093
747 Bonmont Rd. 21093
11431 Maple Chapel Rd 21093
722 Bonmont Rd. 21093
232 Castleman Rd 21093

BALTIMORE COUNTRY CLUB

and you get the thought it was interesting

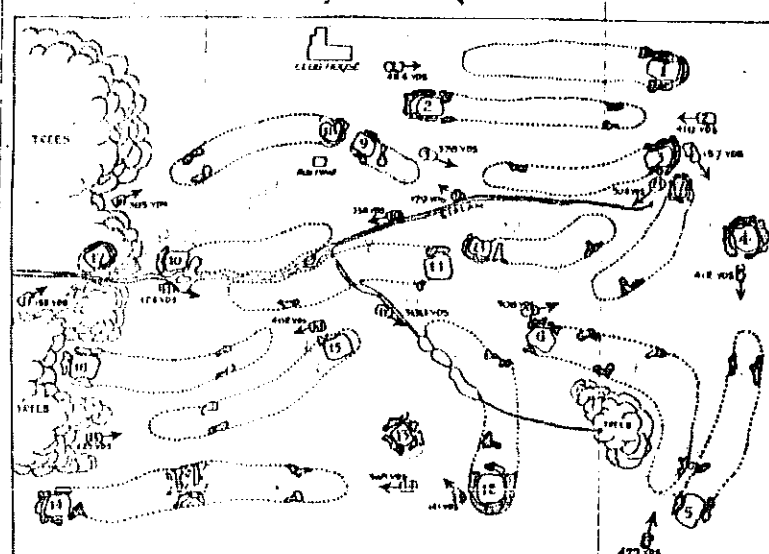
Knapp Preserves Interesting Record
When The Baltimore Country Club Opened



THE ABOVE picture was taken in June, 1898, and was first reproduced in the September (1898) issue of "Golf," the official magazine of the then new United States Golf Association. It shows George Brant in the act of driving off the first tee of the first 18-hole golf course opened in Maryland—the Baltimore Country Club links at Roland Park. The clubhouse, at that time known as the most palatial golf temple in America, was built and opened within six months of the date when Edward H. Benton, Clymer Whyte and Dr. William H. Buckler went out to their friends the printed circular announcing the movement to organize a golf and country club to be known as the Baltimore Country Club. The formal opening of clubhouse and course was held on June 4, 1898. The portrait in the center of the above strip across the top of this page is that of Dr. Buckler, one of the three organizers of the club.

Knapp Has Memo

NEW LINKS AT FIVE FARMS SPORTY
New Baltimore Country Club Golf Course At Five Farms

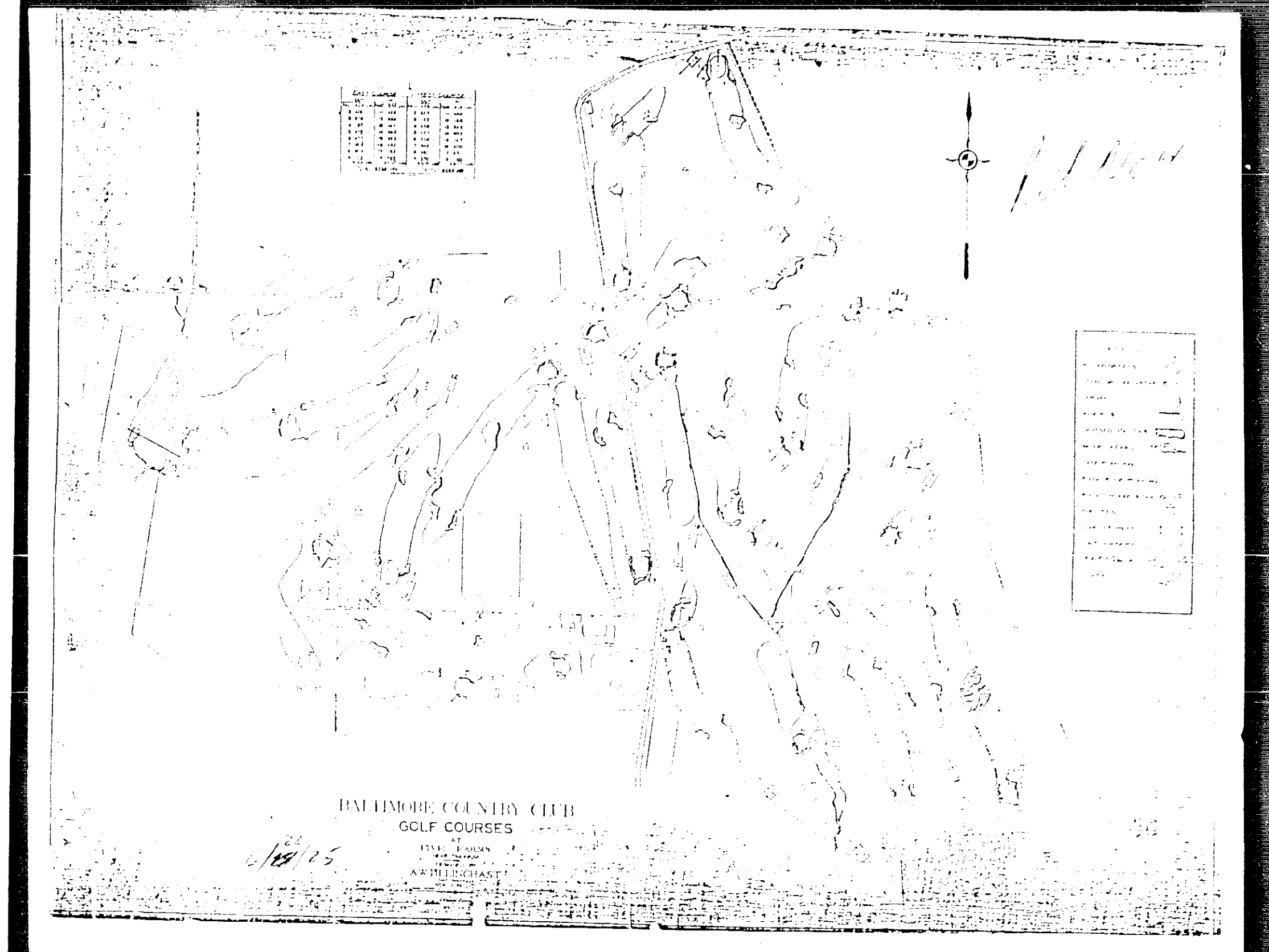


IT MEETS OTHER REQUIREMENTS
Baltimore Country Club Layout Easy For Women To Play
FEATURES: SMOOTH, 18 TONS OF GRASS, WATER AND SANDS PROVED COMPLETELY

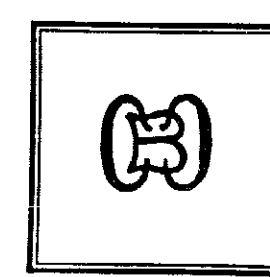
Cardinals Set For Trip West
Circuit: St. Louis, Cincinnati, Cleveland, Detroit, Chicago, St. Paul, Minneapolis, Kansas City, Omaha, Lincoln, St. Louis

Twenty Years Of American Golf
GOLFERS SEEK PERFECT CLUB
Players Spend Much Time Hunting For "Red Play" Club

W Pe 50 good

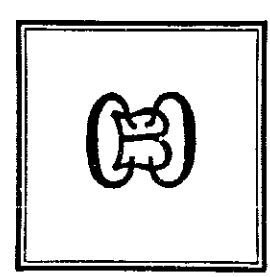


BALTIMORE COUNTRY CLUB
BALTIMORE, MARYLAND



**ANNUAL REPORT OF THE PRESIDENT
AND TREASURER**
FEBRUARY 29, 1960

BALTIMORE COUNTRY CLUB
BALTIMORE, MARYLAND



**ANNUAL REPORT OF THE PRESIDENT
AND TREASURER**
FEBRUARY 28, 1961

REPORT AND RECOMMENDATIONS
BY THE PLANNING AND CAPITAL IMPROVEMENTS COMMITTEE
FOR IMPROVEMENTS AT ROLAND PARK AND FIVE FARMS

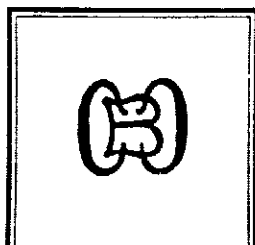
TO
BOARD OF GOVERNORS
BALTIMORE COUNTRY CLUB
BALTIMORE, MARYLAND

February 21, 1962

COMMITTEE
CHARLES H. LUCK
CHARLES A. MASSON
GUSTAV J. BEQUARDT
CHAIRMAN

BALTIMORE COUNTRY CLUB

BALTIMORE, MARYLAND



ANNUAL REPORT OF THE PRESIDENT AND TREASURER

FEBRUARY 28, 1962

BALTIMORE COUNTRY CLUB

REPORT ON EXAMINATION For the year ended February 28, 1962

F. W. LAFRENTE & CO.
CERTIFIED PUBLIC ACCOUNTANTS
EXECUTIVE OFFICE: 88 WILLIAM ST., NEW YORK CITY

Baltimore Country Club
Roland Park
Baltimore 10, Maryland
December 24th, 1962

The regular monthly meeting of the Board of Governors was held at the Roland Park Club House on Wednesday evening, December 26th, 1962 at 5:00 p.m.

Those present were Messrs: Charles H. Buck, John W. Poynton, J. H. Leroy Chambers, John A. Betch, J. Early Hardesty, Charles A. Masson, Gustav J. Requardt, William T. Russell and C. Hamilton Whitford. Mr. Thomas F. Farley, Club Manager, was present by invitation.

In the absence of Mr. John D. Williams, President, who is ill in the hospital, Mr. Charles H. Buck, Vice-President, presided at the meeting.

The minutes of the previous meeting were read and approved.

The death of the following members was noted with regret.

Mr. Thomas W. Harrison, III died December 10th, 1962
Mr. James MacDonald died December 4th, 1962

It was noted that the following minors had attained their majorities since the last meeting of the Board, and both they and their sponsors had been notified that the minors' privileges heretofore enjoyed by them had been cancelled.

Mr. James C. Alban, III became of age December 16th, 1962
Mr. Charles A. Balfour, III " " " 27th, "
Miss Carol H. Geyer " " " 7th, "
Mr. Anthony V. Knapp " " " 2nd, "
Miss Sharon A. Leslie " " " 26th, "

The following resignations were accepted with regret, all indebtedness to the Club having been paid.

Mrs. William L. Dave
General D. N. Hausenau

Minors' Privileges in the Club were granted to Miss Anne West Conaway, whose parents are members of the Club.

The requests from the following to have their membership status in the Club changed from Resident to Non-Resident membership were granted. They are now residing at stated opposite their names.

NEW RESIDENCE

Mr. Hugo R. Hoffmann Fort Lauderdale, Florida
Mrs. Hugo R. Hoffmann Fort Lauderdale, Florida

The request from Mrs. John H. Conney to be reinstated to membership in the Club was granted. Mrs. Conney resided in good standing as of September 1st, 1962 and will pay her September 1st, 1962 dues.

LIFE	Men	11		
	Women	2		
RESIDENT MEN CLASS B		18	11	18
		122	135	

THE PLANNING AND CAPITAL IMPROVEMENTS COMMITTEE BALTIMORE COUNTRY CLUB

Charles H. Buck
Charles A. Masson
Gustav J. Requardt, Chairman

February 27, 1963

The Board of Governors
Baltimore Country Club
Baltimore-10, Maryland

Re: Expansion of Change House Facilities
Swimming Pools - Five Farms

Gentlemen:

In 1957 the Club built its 3 new swimming pools and Change House at Five Farms. Some 143 - 15' x 15' x 36" men's lockers and 106 women's lockers of the same size were provided. Swimming and bathing have proved popular and profitable.

In January, at informal meetings with this Committee, the Swimming Pool Committee, Thomas Mallan, Jr., Chairman, expressed the desire for more and larger lockers, more ventilation, a first-aid room and a roofed outdoor paved area containing an enclosure bar. It is believed these improvements can be obtained for from \$35,000 to \$40,000.

If Mr. Mallan's Committee writes the Board of its desires, this Committee recommends it be authorized to employ a competent Architect to make preliminary sketches, brief specifications and estimates of cost.

Respectfully submitted,

Charles H. Buck
Charles A. Masson
Gustav J. Requardt

BY: *G. J. Requardt*

THE PLANNING AND CAPITAL IMPROVEMENTS COMMITTEE BALTIMORE COUNTRY CLUB

Charles H. Buck
Charles A. Masson
Gustav J. Requardt, Chairman

February 27, 1963

The Board of Governors
Baltimore Country Club
Baltimore-10, Maryland

Re: Improved Club House Facilities at Five Farms

Gentlemen:

In about the year 1963 the Club purchased some 400 acres in Baltimore County and built an 18-hole golf course. To the existing stone-stucco building a wood addition was constructed to the west in about 1938. Modern swimming facilities were built in 1957. In 1959 a modern kitchen and new bar were built. At present the Club's second 18-hole golf course is being constructed. Club use of the Five Farms property is growing.

At its September 25, 1962 meeting the Board authorized this Committee to employ a competent Architect to make preliminary sketches, specifications and cost estimates on enlarged sports clubhouse facilities using as much of the existing building as possible. Mr. Charles M. Nes, Jr. was retained shortly thereafter for this purpose.

Because of the decision for not less than 500 men's lockers in the new clubhouse, it was found necessary to remove entirely the wood part of the existing structure. Mr. Nes on December 4th submitted sketches and elevations to a 1/16" scale of a new brick 2-story structure attached on the west to the stone-stucco original building, the combined building containing all the required accommodations outlined to him. He gave his opinion that the whole proposed structure would be sound architecturally and could be built at about \$350,000.

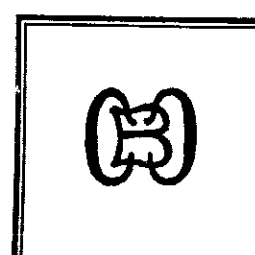
This Committee generally approved the Nes planning. Copies were sent to members of the House, Golf, Executive and Finance Committees, and on December 19th some 15 Club officials met with this Committee and Mr. Nes to discuss details.

At its meeting on December 26, 1962 the Board approved the recommendations of this Committee for reconstruction and additions to the present Five Farms Clubhouse, the appointment of a Subcommittee to work out details with Nes, and directives to Nes to produce 1/8" scale drawings. The Subcommittee met with the Committee and Nes in January and many constructive suggestions were made. Nes submitted the enlarged sketches and specifications of interior finishes on February 15th.

At the Board meeting of January 23, 1963 this Committee reported progress on the Five Farms Clubhouse plans. At this meeting Roy Chambers of the Board submitted a memorandum urging the whole structure be raised and a complete new building erected. This Committee met with Chambers on January 30th, to discuss a new memorandum of his in which he concluded that a new building in place of the east part of the existing structure would cost \$27,500. more.

BALTIMORE COUNTRY CLUB

BALTIMORE, MARYLAND



ANNUAL REPORT OF THE BOARD OF GOVERNORS

FEBRUARY 28, 1963

FISHER, NES, CAMPBELL AND PARTNERS, ARCHITECTS 2120 NORTH CHARLES STREET BALTIMORE 18, MARYLAND HOPKINS 7-6164

PARTNERS: L. W. FISHER, F.A.A., CHARLES M. NES, JR., F.A.A., JAMES I. CAMPBELL, A.A.
ASSOCIATES: RICHARD L. ANDERSON, A.A., WILLIAM J. BARNES, A.A., ROBERT T. CHRISTOPHER
WILLIAM A. FOREMAN, JR., RONALD A. GRIFFIN, LEO F. MCGINN, CHARLES M. NES, III, A.A.

8 April 1963

Mr. Gustav J. Requardt, Chairman
The Planning and Capital Improvements Committee
Baltimore Country Club
c/o Whitman, Requardt and Associates
1304 St. Paul Street
Baltimore 2, Maryland

Re: Baltimore Country Club
Proposed New Clubhouse - Five Farms

Dear Gus:

A meeting of The Planning and Capital Improvements Committee was held on April second at the Roland Park Clubhouse of the Baltimore Country Club. I, as Architect, was present. The purpose of this meeting was to discuss the Proposed New Clubhouse for Five Farms.

Two schemes were submitted. The one included the remodeling of the existing East Wing and a new West Wing. The second scheme provided for the demolition of the existing clubhouse and entirely new East and West Wings. In both schemes, the new West Wing was identical and the East Wings included equal facilities. I was requested to state to the Committee my opinion as to the merits of these two schemes. I stated that it was advisable and advantageous to demolish the existing clubhouse and to proceed with Scheme 2, an entirely new building. I gave the following reasons for this opinion:

1. By adding onto the existing east wing, a congested road situation would result at the west end between the new wing and the bathhouse. This congestion would be more severe if additions to the existing bathhouse would extend to the north as proposed.
2. Better arranged and better looking interior facilities can be provided in a new east wing than by a remodeling job.
3. The construction of an entirely new building will result in a better looking and more harmonious exterior.
4. The construction of a new building will enable the location to be moved slightly to the north and east, thus eliminating the congestion around the bathhouse.

THE PLANNING AND CAPITAL IMPROVEMENTS COMMITTEE BALTIMORE COUNTRY CLUB

Charles H. Buck
Charles A. Masson
Gustav J. Requardt, Chairman

1304 St. Paul Street, Baltimore-2, Md.

April 11, 1963

The Board of Governors
Baltimore Country Club
Club Road, Roland Park
Baltimore-10, Md.

Re: Provision for Adequate Clubhouse Facilities at Five Farms
Baltimore Country Club

Gentlemen:

This Committee has given much thought to proper recommendations on this project. It started with modest additional facilities, advanced to more adequate ones, and employed a competent Architect to make preliminary sketches and cost estimates on (1) a new west structure and the rehabilitation of the existing east wing and (2) the entire reconstruction of the total existing building and the moving of the new structure north and eastward of the existing location.

During the processes of his studies the Architect has reached conclusions which are of much weight with us. At a meeting of the Subcommittee (appointed by the Board December 26, 1962) on April 2nd to study the alternate preliminary sketches of February 16th and March 18th, Mr. Charles M. Nes, Jr., Architect for the Club, was asked to reduce his opinion to writing as to the alternatives above noted. This he has done and copy of his letter of April 8th is attached. Mr. Nes is firmly of the opinion that an entirely new clubhouse should be planned. His reasons, as copied from his letter, are as follows:

1. By adding onto the existing east wing, a congested road situation would result at the west end between the new wing and the bathhouse. This congestion would be more severe if additions to the existing bathhouse would extend to the north as proposed.
2. Better arranged and better looking interior facilities can be provided in a new east wing than by a remodeling job.
3. The construction of an entirely new building will result in a better looking and more harmonious exterior.
4. The construction of a new building will enable the location to be moved slightly to the north and east, thus eliminating the congestion around the bathhouse.
5. According to the preliminary estimates of Henry A. Knott, the costs of remodeling the East Wing to provide the re-