4/4/03 File
w of 8

HOLZER & LEE

LAW OFFICES
J. CARROLL HOLZER, PA
J. HOWARD HOLZER
1907-1989
THOMAS J. LEE
OF COUNSEL

THE 508 BUILDING
508 FAIRMOUNT AVE.
TOWSON, MD 21286
(410) 825-6961
FAX: (410) 825-4923
E-MAIL: JCHOLZER@BCPL.NET

March 31, 2003
6669

Gary Gill, President
Baltimore Country Club at Five Farms
11500 Mays Chapel Road
Timonium, MD 21093

Re: Relocation of Tennis Courts

Dear Mr. Gill:

As you will recall, I represent property owners adjacent to the southern boundary of your Club on Mays Chapel and Bomont Roads involving zoning issues related to the expansion of your Club in 1993 and 1998.

My clients and I have received and reviewed the Baltimore Country Club's *News & Views* newsletter which indicates a proposed planned expansion of tennis facilities at Five Farms. (**Exhibit A** attached hereto) The Plan appears to move parking and the entrance to the tennis courts closer to my clients' properties. The Plan fails to show a sound barrier that had previously been agreed to between my clients and the Club with a planned expansion from 9 to 12 tennis courts.

I would remind you that in the 1993 Agreement with my clients (Zoning Case No. 93-388-X), the Club is required to submit these Plans, and any others, to us for review and comment prior to the Club's permit application. (Please note that the Agreement calls for notification to my clients, **NOT** to any other community organization in the subject area) (**Exhibit B** attached hereto).

The Baltimore Country Club is also reminded that it is not allowed <u>any</u> deviation in the Plans unless it wishes to pursue a Special Hearing as required by the Deputy Zoning Commissioner's Order in Case No. 97-384-SPH. (See letter dated November 11, 1998, attached hereto as **Exhibit C** and Decision in Case No. 97-384-SPH, attached hereto as **Exhibit D**).

03-0936
APR 4 2003

C:\My Documents\Letters\Balto. Country Club-Bro Tubman.doc

We trust that the Baltimore Country Club will comply with its obligations required in the above referenced executed Agreement.

Very truly yours,

J. Carroll Holzer

Attachments

JCH:clh

cc: Tubman
Terry
Dow
Spies
A. Jablon
T. Kotroco
Site Resources Engineering

BALTIMORE COUNTRY CLUB

NEWS & VIEWS

March 2003

Special Edition

Continuation of the BCC Long-Range Plan

In 1992, the membership of Baltimore Country Club voted to adopt a Master Plan which focused primarily on improvements to the Five Farms facility, to step forward with a progressive and functional consolidation of summer sporting activity and renovations to aging facilities. The result of the vote was a remarkable 87% to proceed with the project. Included in this 1992 Master Plan were:

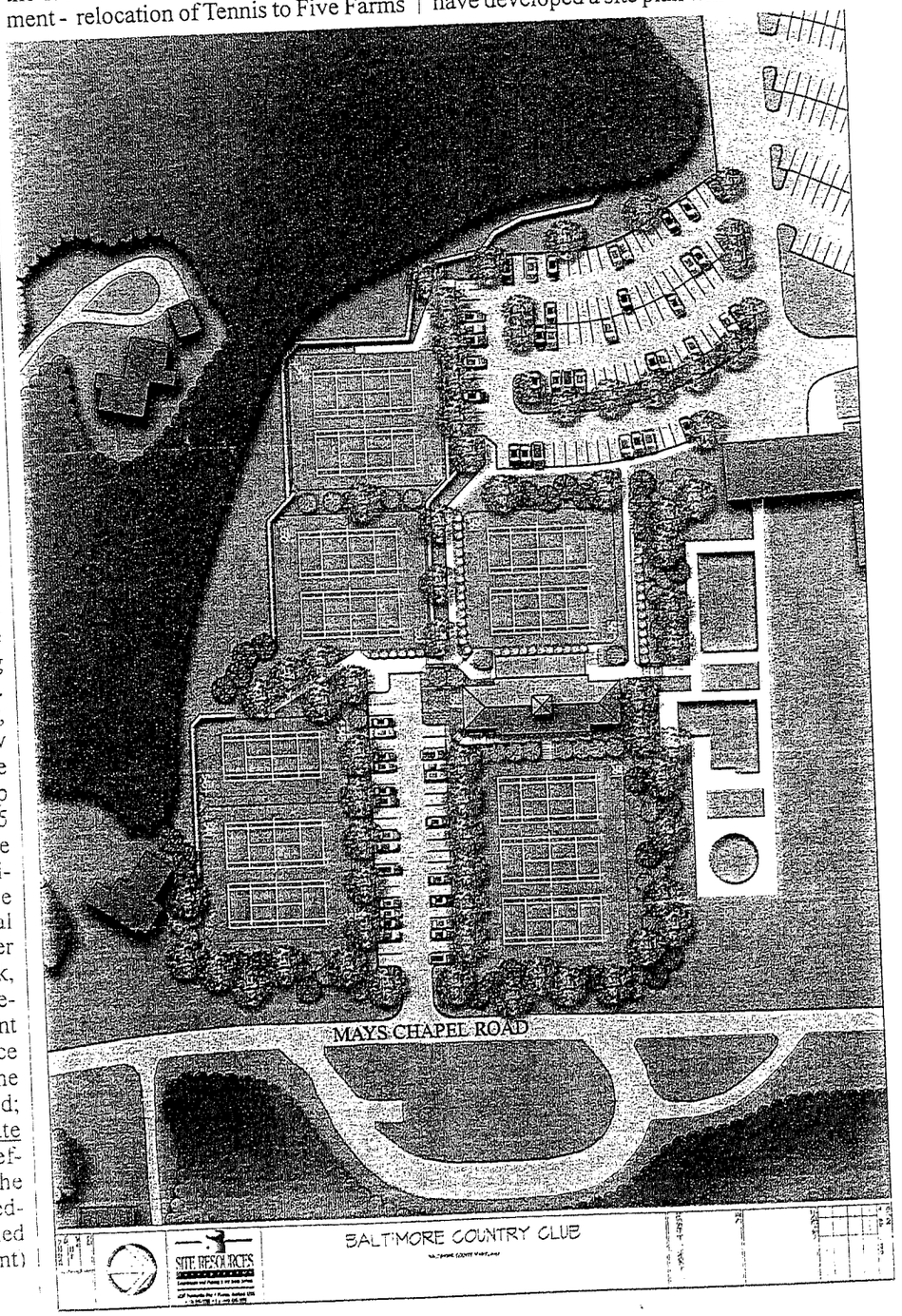
- A new Pool facility
- Increased and more convenient parking
- New Golf House including Golf Storage area and Hitting Loft
- Renovation of the Five Farms Clubhouse
- Relocation of Tennis to Five Farms

Members have, over the course of the last decade, enjoyed the first four items noted. The improvements have been outstanding and continue to provide delight for our members. Additionally, the vast improvements have helped attract new member interest in joining Maryland's premier full service Club. As you know, the relocation of Tennis is the sole remaining element to complete the 1992 Master Plan.

Furthermore, between 1992 and today, several projects were mandated by law or were determined to be a priority due to needs expressed by the membership and the Board. These include the 1995 Golf Maintenance facility in which the Club's golf course chemicals and pesticides are stored; reorientation of the Squash Courts in 1997 to international play; construction of the Fitness Center in 1998; and the elevator at Roland Park, completed in 2001. All of these improvements have enhanced member enjoyment and continue to keep BCC a full service Club. As a result of these projects, the timing of relocating Tennis was delayed; however, the commitment to relocate remains a top priority. As a point of reference, during the past ten years, the above improvements, at a cost exceeding $16 million, have been accomplished without additional funding (assessment) by the membership.

Relocation of Tennis to Five Farms

As we continue the implementation of the 1992 Master Plan, the remaining element - relocation of Tennis to Five Farms - is now before us. The Planning and Tennis Committees have respectively reviewed the preliminary drawings and schematics of Tennis at Five Farms, and have developed a site plan which has been



Ex 2A

well received by the Tennis Committee with 12 courts available for play. The Plan also offers a Tennis House which complements the agrarian architecture at Five Farms and includes shower facilities as well as a Pro Shop. While the plans are still being defined by the Tennis and Planning Committees, there is an abundance of support from the Tennis players to accomplish this project as soon as possible.

The next step will be to finalize the design team and develop the complete plan for the complex.

In addition to the strong support of the current Tennis membership, relocation of Tennis is an important element for usage, revenue opportunities and appeal for potential new members. The social aspects of having the Pool and Tennis side-by-side provide appeal to families with children as well as having all the summertime BCC activities at one convenient location.

The rich traditions and history of Tennis at Roland Park will not be forgotten. Just as the Club did in the 1920's, by purchasing the Five Farms property, it is important for us to look to the future. Our forefathers were very aware that the "future" required this bold step, and they had the responsibility and foresight to plan a program which was intended to, and did, benefit their children, grandchildren and great-grandchildren. We are, today, enjoying the fruits of their wisdom. We plan to continue this legacy by finally moving Tennis to Five Farms.

Master Plan II

A) *Relocation of Tennis to Five Farms as described above.*

B) *Roland Park Clubhouse*

As we continue to look to the future, other needs have become evident over the last decade. These include continued infrastructure initiatives at the Club's flagship - the Roland Park Clubhouse - the heart of Baltimore Country Club, and one of the most elegant and gracious buildings in the State. In a 1997 survey of the membership, members told the leadership that one of the most important traditions never to be lost is "the Roland Park Clubhouse". To that end, a detailed and comprehensive report has been prepared by Leach Wallace Associates, Inc., Consulting Engineers, to identify steps that must be taken to ensure that this magnificent Clubhouse will be enjoyed by your children and grandchildren for many decades to come. Elements to be addressed include roofing, windows, porte cochere renovations, expanded Grille Kitchen, updated HVAC and interior refurbishment. This certainly is part of the next phase of a Master Plan.

C) *Water Management Plan - Irrigation*

A continuous effort to keep your Club attractive to both existing members and provide future member interest is certainly maintaining the world-renown East Course. In consulting with experts on water source management and usage, the Club has been advised that it is necessary to replace the current irrigation system on the East Course which was installed in 1979 - almost 25 years ago. The system has become antiquated and unable to provide proper and efficient quantities in the appropriate locations on the course. Included in this plan is deliberation on water sources for the future - lowering pond intake valves, additional water sites, transfer systems between ponds, pumping stations - all of which will protect the East and West Courses from changing weather patterns, government-imposed water restrictions, and other environmental issues impacting golf courses in the Mid-Atlantic region. To protect and enjoy our golf courses, we must ensure and guard our water sources and storage, and implement a system to use the water in the most efficient and effective way.

Costs and Financial Position

These three important projects identified above have the following preliminary estimated costs:

Relocation of Tennis to Five Farms	$2,000,000
Roland Park Clubhouse	$2,000,000
Water Management Plan	$1,500,000
	$5,500,000

Currently, the Club's finances are stable and we continue to work diligently to control costs yet provide a superior club and amenities. Our debt position is approximately $3.6 million as of February 28, 2003. The Finance Committee and Board are working to ensure that appropriate fiscal disciplines are in place and that our dues structure supports the quality that the membership demands. Our continued financial success depends on member usage and our appeal to new prospective members.

Funding Options

There are numerous funding options, however the Board believes the following are the most viable:

Option 1 - Do nothing or defer
Option 2 - Member assessment
Option 3 - Assume additional debt
Option 4 - Sale of land at Roland Park
Option 5 - Combination of land sale and additional debt

Option #1 - Do nothing or defer: We believe that to continue to maintain the Club in its tradition of being a first class, full service club, and to carry out the mandate by the members to implement the Master Plan, Option 1 is not acceptable. To defer will weaken our attractiveness to new members and cause the loss of current members. It would also require approximately $250,000 to $300,000 of repairs to the current Tennis facility.

Option #2 - Member assessment: An assessment to fund any of the projects outlined previously would range from $1,500 to $3,000 per member. The Board sees this as a last alternative. BCC is one of the only clubs to not have an assessment in the past 30 years, which is a result of sound fiscal policies and attractiveness to new members.

Option #3 - Assume additional debt: Now may be the best time to take on debt as interest costs continue to be at historic lows. However, if we were to borrow approximately $5,500,000, amortized over 20 years, it would create significant increased costs per member and require significant dues increases. The Club's debt would total $9.1 million that, in the Board's opinion, is not prudent or appropriate.

Option #4 - Sale of land at Roland Park: In 1999, we were offered $5.1 million for the full 18 acres of land at Roland Park. Since 1999, there have been at least five groups that have shown continued interest in all or a portion of the lower 18 acres including the Tennis facility and the old first hole, but not the Clubhouse or surrounds. If the full 18 acres were sold, stringent covenants would be put in place regarding the use of the land. We would also plant significant trees at the bottom of the hill to provide a screen and protect our view down the hill.

Option #5 - Combination of land sale and additional debt: This entails the sale

of a portion of the land approximately defined by the boundaries of the Tennis facility at Roland Park. **This would not include the bottom of the hill directly below the Clubhouse.** We would be ardent in the creation of covenants and expect that the land will only be used for tennis or practice fields. This option remains viable as (1) the Club's "front yard" remains intact and (2) the risk of any adverse impact on the Club resulting from the sale of the land, or the buyer's use of the land, is minimized. However, the process of a partial land sale would not provide funding for all the projects listed previously. Therefore, we would supplement the process with additional debt at attractive financing rates and be in a position to accomplish our goals with minimal financial impact.

At the completion of the projects, our total outstanding debt would approximate the level of debt when the Five Farms Clubhouse was completed.

Current Status

The Club continues to receive inquiries about the potential sale of land at Roland Park and the current leadership believes it is incumbent upon us to bring the inquiries of interest to the membership. These inquiries include the entire 18 acres or only the Tennis courts and the Tennis facility. The sight line down the hill, the old bunker, would not be part of this partial sale.

The inquiries are from local private schools that would wish to use the courts and convert a portion of the existing Tennis facility into two practice fields. Additionally, the Roland Park Community Foundation has expressed interest in purchasing the property to protect the area as open space. In all these circumstances, very strong covenants and legally binding parameters with regard to use of the property would be enforced and they would also give Baltimore Country Club the right of first refusal, should the buyer desire to sell in the future. It is the strong desire of the Board that the voting members express their position on this potential sale of Club real estate prior to entering into the negotiation stages with the selected buyer, to include setting minimum purchase prices. This will allow us to begin negotiations immediately and with the support of the membership. Therefore, as a voting member, you will be receiving additional details on this potential sale within the next few weeks.

Master Plan Implementation

As noted earlier, there are clearly identified "needs" if we are going to maintain

our quality for current members and continue our attractiveness to new members. Moving the Tennis facility to Five Farms will have the highest immediate impact on attracting new members. This is a key issue in sustaining the current economics of the Club. Accordingly, maintaining two Tennis facilities is not financially practical or prudent. Therefore, the Board will bring these options to you and the required membership voting process will be initiated. The membership must ultimately decide the direction of the Club. The Board believes the full or partial land sale must be considered first and if the membership does not support the sale, the other option of debt and/or assessment will be pursued.

Baltimore Country Club has always set the standard of quality, and the next steps in the master plan are critical for us to continue as the premium Club in Maryland.

We look forward to the successful discussions and implementation of this phase of the master facility plan. The Club will always be a place you can consider to be your oasis and the place of choice to share with your family and guests. As in the past, we pledge first-class quality in our planning, our attention to value engineering and sound fiscal oversight.

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director **DATE:** September 29, 1999
Permits & Development Management

FROM: Charlotte E. Radcliffe
County Board of Appeals

SUBJECT: Closed File:
97-384-SPH /Baltimore Country Club of Baltimore City
Debra Terry, et al - Petitioners

Since no further appeal was taken in the above captioned matter, which was dismissed by Order dated November 27, 1998, we are hereby closing the file and returning same herewith.

Attachment (File No. 97-384-SPH)

SEMMES, BOWEN & SEMMES

A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW

401 WASHINGTON AVENUE
TOWSON, MARYLAND 21204

TELEPHONE 410-296-4400

FACSIMILE 410-296-8016

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McLEAN, VIRGINIA

RALPH L. ARNSDORF
Direct Dial: (410) 339-3767
Email: rarnsdorf@mail.semmes.com

File

9/22/99
CB
TO WCR

September 20, 1999

Gary Gill, President
Baltimore Country Club at Five Farms
4712 Club Road
Baltimore, Maryland 21210

Dear Mr. Gill:

I understand that you may soon be applying for permits for tennis court construction at Five Farms. Please be reminded of our 1993 Agreement (Zoning Case 93-388-X) whereby you are required to submit these plans to the below listed homeowners for review and comment prior to your permit application.

Also, please be reminded that you are not allowed <u>any</u> deviation in these plans from that on file with the above-1993 Agreement unless you wish to pursue a special hearing. No administrative appeal is available to you. This was the ruling of Deputy Zoning Commissioner Kotroco in Case No. 97-384-SPH.

I trust you will comply with your obligations in this matter.

Very truly yours,

Ralph L. Arnsdorf

RLA:jlp

cc: Donna Dow
Joseph and Kathryn Tubman
Fred and Deborah Terry
Courtney and Ruth Spies

Carroll Holzer, Esquire
Baltimore County Permits Office
Arnold Jablon, Director, PADM
Assistant Zoning Commissioner Kotroco
Ed Haile, DMW
Scott Barhight, Esquire
Donald Proctor, Esquire

T/11183

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99-2476
SEP 22 1999
DEPT. OF PERMITS AND
DEVELOPMENT MANAGEMENT

County Board of Appeals of Baltimore County

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

To atty & file

November 27, 1998

J. Carroll Holzer, P.A.
508 Fairmount Avenue
Towson, MD 21286

RE: Case No. 97-384-SPH /Deborah Terry, et al /Petitioners; Baltimore Country Club of Baltimore City /Legal Owners

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.

Very truly yours,

Charlotte E. Radcliffe for
Kathleen C. Bianco
Administrator

encl.

cc: Deborah Terry, et al
G. Scott Barhight, Esquire
Baltimore Country Club of Baltimore City
Robert D. Sellers, Esquire /Counsel for Falls Road Community Assn.
Mr. Harold Burns, Jr. /Falls Road Community Association
People's Counsel for Baltimore County
Pat Keller, Director /Planning
Lawrence E. Schmidt /Z.C.
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

98-5247

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County Board of Appeals of Baltimore County	*	COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY
In the Matter of Baltimore Country Club of Baltimore City/ Debra Terry et al	*	
Petitioners/Protestants	*	CaseNo. 97-384-SPH

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

It is this 27th day of November, 1998 hereby ordered as requested by the Appellants, that the appeal be dismissed in the above captioned matter.

HOLZER & LEE

LAW OFFICES

J. CARROLL HOLZER, PA

J. HOWARD HOLZER
1907-1989

THOMAS J. LEE
OF COUNSEL

THE 508 BUILDING

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TOWSON, MD 21286
(410) 825-6961
FAX: (410) 825-4923
E-MAIL: JCHOLZER@BCPL.NET

November 13, 1998

K
L
C

The Honorable Christine Howanski, Chairperson
County Board of Appeals
of Baltimore County
Old Court House, Room 49
400 Washington Avenue
Towson, MD 21204

Re: CaseNo. 97-384-SPH
In the Matter of Baltimore Country Club, Baltimore City

Dear Ms. Howanski:

Please accept this letter as a request, which was also made on the record before you on Tuesday, November 10, 1998 at 10:00 a.m., by the Appellents Debra Terry, Donna Dow, Joseph R.B. Tubman and Courtney Spies to dismiss their appeal from the decision of the Deputy Zoning Commissioner rendered on March 31, 1998. Also, enclosed is a proposed order.

Very truly yours,

J. Carroll Holzer

RECEIVED
COUNTY BOARD OF APPEALS
98 NOV 17 PM 12:00

cc: Scott Barheight
JCH: rls
a:\letters2\CBA.ltr

HOLZER
&
& LEE

LAW OFFICES
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J. HOWARD HOLZER
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THOMAS J. LEE
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E-MAIL: JCHOLZER@ BCPL.NET

11/1998

November 11, 1998
6669

CERTIFED MAIL TO:

FILE COPY

Arnold Jablon, Director
Department of Permits and Development Management
County Office Building
Towson, MD 21204

Pat Keller
Director of Planning
County Courts Bldg., Fourth Floor
401 Bosley Avenue
Towson, MD 21204

George Perdikakis
Department of the Environmental Protection
County Courts Bldg., Fourth Floor
401 Bosley Avenue
Towson, MD 21204

Timothy Kotroco
Deputy Zoning Commissioner
Suite 405
401 Bosley Ave.
Towson, MD 21204

Re: Baltimore Country Club/Expansion/Renovations

Gentlemen:

Please be advised that I have been representing several individuals on Bomont Rd., specifically Donna Dow, Bro Tubman, Deborah Terry, and Mr. Courtney Spies, all of whom are adjacent property owners and neighbors to the Baltimore Country Club who appeared in various zoning hearings before the Zoning Commissioner and the CBA.

Exhc

Today, November 11, I have dismissed our appeal in Case No. 97-384-SPH which leaves standing as the operative final decision the findings of fact and conclusion of law of Deputy Zoning Commissioner Timothy Kotroco dated March 31, 1998. In Mr. Kotroco's order, he sets forth on page 7 and 8 that any change to the approved development plan for the Baltimore Country Club would have to be by way of agreement between the adjacent property owners and the club, or by way of a Special Hearing. I would direct your attention to page 15 of his Order in which he said, "There shall be no administrative approval of any change or modification to the tennis court facility without the full knowledge and consent of the above name affected members of the adjacent community, or a special hearing to approve same."

I am bringing this operative decision to your attention in the respect that any future changes or modifications proposed by the Baltimore Country Club are encompassed by the Zoning Commissioner's Order, be complied with and no administrative change be permitted without a hearing.

On behalf of my clients, I would like to receive notification of any proposed change which will require community approval, or a special hearing under the Deputy Zoning Commissioner's decision which you will find attached hereto and incorporated herein. Thank you very much for your cooperation.

Very truly yours,

Carroll Holzer/RS

J. Carroll Holzer

cc: Bro Tubman
Donna Dow, M.D.
Deborah Terry

a:\letters2\baltoctr.ltr

Case No. 97-384-SPH

SPH -Petition filed by Deborah Terry, Donna Dow, Joseph R. B. Tubman, and Courtney A. Spies, Sr., adjoining property owners for determination relative to 7 issues raised as to whether prior relief granted to property has been forfeited; and whether there has been any violation of prior relief granted.

3/31/98 -DZC's Order in which Petition for Special Hearing was dismissed in part; issues raised resolved in part.

8/10/98 - Notice of Assignment for hearing scheduled for Tuesday, November 5, 1998 at 10:00 a.m. sent to following:

J. Carroll Holzer, Esquire
Deborah Terry, et al
c/o J. Carroll Holzer
G. Scott Barhight, Esquire
Baltimore Country Club of
Baltimore City
Robert D. Sellers, Esquire /Counsel for Falls Road Community Assn.
Mr. Harold Burns, Jr. /Falls Road Community Association
People's Counsel for Baltimore County
Pat Keller, Director /Planning
Lawrence E. Schmidt /Z.C.
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

11/10/98 -Board convened for hearing; on the record, counsel for Appellants /Petitioners (Protestants in this case; filed petition for special hearing at zoning commissioner's level) moved for dismissal of appeal; granted and appeal dismissed. Awaiting submittal by parties; Board to issue Order. (K.L.C.)

Baltimore County
Zoning Commissioner
Office of Planning

Suite 405, County Courts Bldg.
401 Bosley Avenue
Towson, Maryland 21204
410-887-4386

November 24, 1998

J. Carroll Holzer, Esquire
Holzer & Lee
508 Fairmount Avenue
Towson, Maryland 21286

RE: Baltimore Country Club/Expansion/Renovations
(11500 Mays Chapel Road)
Case No. 97-384-SPH

Dear Mr. Holzer:

In response to your letter dated November 11, 1998 concerning the above-captioned matter, the following comments are offered.

As you know, my position as Deputy Zoning Commissioner does not afford me the opportunity to review applications for building permits. It is possible that a permit for the tennis court facility on the subject property could be issued without my knowledge. Therefore, I would ask that you not rely on my office as protection against the issuance of any permit for the Baltimore Country Club. However, I will reiterate my position as stated in my Order, dated March 31, 1998, that any changes to the tennis court facility to be constructed on that portion of the Country Club property identified on the site plan as the Boyce property, consisting of approximately 2.67 acres, could only be made by way of a future public hearing, or by way of consent agreement entered into between your clients and the Petitioner.

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

Very truly yours,

Timothy Kotroco

TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

cc: G. Scott Barhight, Esquire, Whiteford, Taylor & Preston
210 W. Pennsylvania Avenue, Suite 500, Towson, Md. 21204
Arnold Jablon; Pat Keller; George Perdakakis; People's Counsel; Case File

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HOLZER

& LEE

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November 13, 1998

K
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e

The Honorable Christine Howanski, Chairperson
County Board of Appeals
of Baltimore County
Old Court House, Room 49
400 Washington Avenue
Towson, MD 21204

Re: CaseNo. 97-384-SPH
In the Matter of Baltimore Country Club, Baltimore City

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Very truly yours,

J. Carroll Holzer

cc: Scott Barheight
JCH: rls
a:\letters2\CBA.ltr

98 NOV 17 PM 12:00
COUNTY BOARD OF APPEALS

HOLZER

& LEE

LAW OFFICES
J. CARROLL HOLZER, PA
J. HOWARD HOLZER
1907-1989
THOMAS J. LEE
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November 11, 1998
6669

11/17/98
TO WCR
S
File 97-384

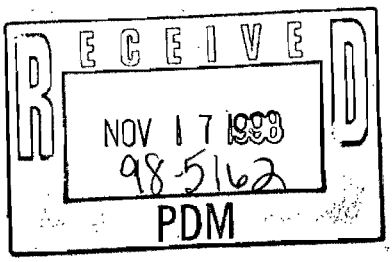
CERTIFED MAIL TO:

Arnold Jablon, Director
Department of Permits and Development Management
County Office Building
Towson, MD 21204

Pat Keller
Director of Planning
County Courts Bldg., Fourth Floor
401 Bosley Avenue
Towson, MD 21204

George Perdikakis
Department of the Environmental Protection
County Courts Bldg., Fourth Floor
401 Bosley Avenue
Towson, MD 21204

Timothy Kotroco
Deputy Zoning Commissioner
Suite 405
401 Bosley Ave.
Towson, MD 21204



Re: Baltimore Country Club/Expansion/Renovations

Gentlemen:

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Very truly yours,

Carroll Holzer/RS

J. Carroll Holzer

cc: Bro Tubman
Donna Dow, M.D.
Deborah Terry

a:\letters2\baltoctr.ltr

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FAX 202 331-0573

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ALEXANDRIA, VIRGINIA 22314-2928
TELEPHONE 703 836-5742
FAX 703 836-0265

G. SCOTT BARHIGHT
DIRECT NUMBER
410 832-2050
gbarhight@wtplaw.com

April 28, 1998

Kristine K. Howanski, Chairman
Board of Appeals
400 Washington Avenue, Room 49
Towson, Maryland 21204

Re: Petition for Special Hearing
Baltimore Country Club
Case No.: 97-384-SPH

Dear Ms. Howanski:

Please enter the appearance of G. Scott Barhight and David K. Gildea, Whiteford, Taylor & Preston L.L.P., on behalf of the Baltimore Country Club of Baltimore City in the above referenced matter. This representation began before the Deputy Zoning Commissioner for Baltimore County in the instant matter and will continue through the Board of Appeals hearings.

Should you have any questions or comments, please contact me.

Sincerely,

G. Scott Barhight

Can already entered as part by PDM

GSB:bhb
CC: J. Carroll Holzer, Esquire
134885

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COUNTY BOARD OF APPEALS
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APPEAL

Petition for Special Hearing
NWC Mays Chapel & Bormont Rds., SW/S Mays Chapel Rd., 361' SE of Chapel Ridge Rd.
(11500 Mays Chapel Road)
8th Election District - 3rd Councilmanic District
Baltimore Country Club of Baltimore City - Legal Owners
Deborah Terry, Donna Dow, Joseph R. B. Tubman, and Courtney A. Spies, Sr. - Petitioners
Case Number: 97-384-SPH

Petition for Special Hearing

Description of Property

Certificate of Posting

Certificates (2) of Publication

Entry of Appearance of People's Counsel

Zoning Advisory Committee Comments (Petitioners' Exhibit 8)

Petitioners and Protestants Sign-In Sheets

Petitioners' Exhibits:
1 - Zoning Commissioner's Findings of Fact and Conclusions of Law in Case #93-37-SPH dated March 5, 1993 (Granted in Part, Denied in Part)
2 - Deputy Zoning Commissioner's Findings of Facts and Conclusions of law in Case #93-388-X dated June 23, 1993 (Granted)
3A - An Agreement dated June 14, 1993 between Baltimore Country Club of Baltimore City ("BCC") and Joseph R. B. Tubman, Donna Dow, Deborah Terry and Courtney Spies ("the community")
3B - Restrictive Covenant Agreement dated September 29, 1993 between Baltimore Country Club of Baltimore City ("BCC") and Joseph R. B. Tubman, Donna Dow, Deborah Terry and Courtney Spies ("the community")
4A - Baltimore Country Club Drainage Area Map
4B - Baltimore Country Club Drainage Area Map
5 - Order of Dismissal issued by the County Board of Appeals dated September 1, 1993
6 - Parcel A & B Plan to Accompany Special Exception Petition
7 - Letter from the Falls Road Community Association, Inc. dated May 24, 1997
8 - Zoning Advisory Committee Comments
9 - Comments from J. Lawrence Pilson, DEPRM, dated September 2, 1997
10 - Five Pictures
11 - Baltimore Country Club News & Views, Volume 11, August 1994
12 - Comment from Pat Keller, Deputy Director of the Office of Planning and Zoning for Item 40 dated September 15, 1992
13 - Comment from Pat Keller, Deputy Director of the Office of Planning and Zoning for Item 396 dated June 3, 1993
14 - Letter from J. L. Hearn, Director of Water Management Administration, to Ms. Donna Dow dated February 25, 1997
15 - State of Maryland, Department of the Environment, Water Management Administration, Report of Observations dated December 12, 1996
16 - Letter from Edmund F. Haile, President of Daft McCune Walker, Inc., to Mr. P. Douglas Dollenberg, Nottingham Properties, Inc. and Pierce Linaweaver, P.E., Ph.D., dated June 25, 1996 (Revised)

Protestants' Exhibits:
1 - Circuit Court Second Amended Complaint and Demand for Jury Trial dated May 30, 1997
2 - The Falls Road Community Association, Inc. Neighborhood Bulletin dated September 9, 1996

Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

April 15, 1998

J. Carroll Holzer, Esquire
305 Washington Avenue, Suite 502
Towson, MD 21204

RE: Petition for Special Hearing
Case No.: 97-384-SPH
11500 Mays Chapel Road
8c3
Baltimore Country Club of
Baltimore City - Legal Owners
Deborah Terry, Donna Dow,
Joseph R. B. Tubman, and
Courtney A. Spies, Sr. - Petitioners

Dear Mr. Holzer:

Please be advised that an appeal of the above referenced case was filed in this office on April 13, 1998 by J. Carrol Holzer on behalf of Petitioners. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals (Board).

If you have any questions concerning this matter, please do not hesitate to call the Board of Appeals at 410-887-3180.

Sincerely,

Arnold Jablon
Director

AJ:rye

c: Robert D. Sellers, Esquire
Mr. Harold Burns, Jr.
People's Counsel

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Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

April 15, 1998

J. Carroll Holzer, Esquire
305 Washington Avenue, Suite 502
Towson, MD 21204

RE: Petition for Special Hearing
Case No.: 97-384-SPH
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8c3
Baltimore Country Club of
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Mr. Harold Burns, Jr.
People's Counsel

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IN RE:	PETITION FOR SPECIAL HEARING NW/Corner Mays Chapel & Bormont Roads, SW/S Mays Chapel Road, 361' S E of Chapel Ridge Road (11500 Mays Chapel Road) 8th Election District 3rd Councilmanic District	* BEFORE THE * DEPUTY ZONING * COMMISSIONER * FOR BALTIMORE COUNTY
	Baltimore Country Club of Baltimore City Baltimore City, Legal Owners; Deborah Terry, Donna Dow, Joseph R. B. Tubman, and Courtney Spies, Sr. - Petitioners	* Case No. 97-384-SPH

* * * * * * * * * * *

NOTICE OF APPEAL

Appellants Deborah Terry, Donna Dow, Joseph R.B. Tubman and Courtney Spies by and through their attorney, J. Carroll Holzer and Holzer and Lee, hereby note an appeal to the County Board of Appeals from the decision of the Deputy Zoning Commissioner rendered on March 31, 1998.

Filed concurrently with this appeal is a check to cover the costs of the appeal made payable to Baltimore County.

Respectfully submitted,

J. Carroll Holzer
Holzer & Lee
305 Washington Avenue
Suite 502
410-825-6961
Attorney for Appellants

FICE
D LEE
AVENUE

APR 13 1998
98-1444
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 9th day of April, 1998, a copy of the foregoing Notice of Appeal was mailed first class, postage pre-paid, to G. Scott Barhight, Esquire, Whiteford, Taylor and Preston, 210 W. Pennsylvania Avenue, 5th Floor, Towson, Maryland 21204.

J. Carroll Holzer

RECEIVED APR 10 1998

a:notices\terry.not

3 - Letter from J. Carroll Holzer, Esquire to Baltimore Country Club dated November 14, 1996
4 - Letter from Paul T. Spellman, Jr., General Manager of Baltimore Country Club, to Ms. Donna Dow dated November 20, 1996
5 - Letter from Fred Terry to Ed Schmaus dated May 21, 1996
6 - Plan to Accompany Special Hearing Petition
7 - Letter from F. Pierce Linaweaver, Member of Planning and Capital Improvements Committee of Baltimore Country Club, to Courtney Spies dated September 23, 1993
8A - Letter from Paul T. Spellman, Jr., General Manager of Baltimore Country Club, to J. Carroll Holzer, Esquire dated November 22, 1996
8B - Letter from Paul T. Spellman, Jr., General Manager of Baltimore Country Club, to Mr. and Mrs. Frederick D. Terry dated November 20, 1996
8C - Letter from Paul T. Spellman, Jr., General Manager of Baltimore Country Club, to Courtney A. Spies, Sr. dated November 20, 1996
8D - Letter from Paul T. Spellman, Jr., General Manager of Baltimore Country Club, to Joseph R. Tubman dated November 20, 1996
9 - Letter from Ralph L. Arnsdorf, Esquire to K. Donald Proctor, Esquire dated November 7, 1997

Petition for Special Hearing dated August 6, 1992

The Annotated Code of the Public General Laws of Maryland, 1988 Supplement, Volume 6, Cover and Page 296

Copies of 1997 Supplement, Article 66B, Pages 25, 26, and 27

County Council of Baltimore County, Maryland Bill No. 39-97 dated March 17, 1997

Entry of Appearance of Robert D. Sellers, Esquire dated May 20, 1997

Motion for More Definite Statement and Motion to Dismiss Submitted by G. Scott Barhight, Esquire and David K. Gildea, Esquire on behalf of Baltimore Country Club of Baltimore City dated September 29, 1997

Petitioners' Memorandum in Lieu of Final Argument Submitted by J. Carroll Holzer, Esquire on behalf of Deborah Terry, Donna Dow, Joseph R. Tubman, and Courtney Spies, Sr. dated December 2, 1997

Brief of Baltimore Country Club in Opposition to Petition for Special Hearing Submitted by G. Scott Barhight, Esquire on behalf of Baltimore Country Club of Baltimore City dated December 2, 1997

Deputy Zoning Commissioner's Order dated March 31, 1998 (Resolved in Part, Dismissed in Part)

Notice of Appeal received on April 10, 1998 from J. Carroll Holzer, Esquire on behalf of Deborah Terry, Donna Dow, Joseph R. B. Tubman, and Courtney Spies

c: J. Carroll Holzer, Esquire, 305 Washington Avenue, Suite 502, Towson, MD 21204
G. Scott Barhight, Esquire, Whiteford, Taylor & Preston, 210 W. Pennsylvania Avenue, 5th Floor, Towson, MD 21204 (and DAVID K. GILDEA, ESQ.)
Robert D. Sellers, Esquire, 401 Washington Avenue, Suite 303, Towson, MD 21204
Mr. Harold Burns, Jr., Falls Road Community Association, P. O. Box 555, Brooklandville, Maryland 21022
People's Counsel of Baltimore County, MS #2010
Timothy Kotroco, Deputy Zoning Commissioner
Arnold Jablon, Director of PDM

Baltimore County
Zoning Commissioner
Office of Planning and Zoning

Suite 112, Courthouse
400 Washington Avenue
Towson, Maryland 21204
(410) 887-4386

March 31, 1998

J. Carroll Holzer, Esquire
305 Washington Avenue, Suite 502
Towson, Maryland 21204

RE: PETITION FOR SPECIAL HEARING
NW/Corner Mays Chapel & Bormont Roads, SW/S Mays Chapel Road,
361' SE of Chapel Ridge Road
(11500 Mays Chapel Road)
8th Election District - 3rd Councilmanic District
Baltimore Country Club of Baltimore City, Legal Owners;
Deborah Terry, Donna Dow, Joseph R. B. Tubman
and Courtney A. Spies, Sr. - Petitioners
Case No. 97-384-SPH

Dear Mr. Holzer:

Enclosed please find a copy of the decision rendered in the above-captioned matter.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Zoning Administration and Development Management office at 887-3391.

Very truly yours,

Timothy Kotroco

TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

cc: G. Scott Barhight, Esquire, Whiteford, Taylor & Preston
210 W. Pennsylvania Avenue, 5th Floor, Towson, Md. 21204

Robert D. Sellers, Esquire
401 Washington Avenue, Suite 303, Towson, Md. 21204

Mr. Harold Burns, Jr., Falls Road Community Assoc.
P.O. Box 555, Brooklandville, Md. 21022

People's Counsel; Case Files

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3/21/98

IN RE: PETITION FOR SPECIAL HEARING * BEFORE THE
NW/Corner Mays Chapel & Bormont Roads,
SW/S Mays Chapel Road, 361' SE * DEPUTY ZONING COMMISSIONER
of Chapel Ridge Road
(11500 Mays Chapel Road) * OF BALTIMORE COUNTY
8th Election District
3rd Councilmanic District * Case No. 97-384-SPH

Baltimore Country Club of *
Baltimore City, Legal Owners;
Deborah Terry, Donna Dow, Joseph R. B. Tubman
and Courtney A. Spies, Sr. - Petitioners

* * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner for consideration of a Petition for Special Hearing filed by Deborah Terry, Donna Dow, Joseph R. B. Tubman, and Courtney A. Spies, Sr., adjoining property owners, through their attorneys, J. Carroll Holzer, Esquire, and Ralph Arnsdorf, Esquire, pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.). Specifically, the Petitioners seek a determination relative to seven issues raised within the Petition for Special Hearing as to whether the Owner of the subject property has forfeited the relief granted in prior Case No. 93-388-X and/or whether there has been any violation of the relief granted in prior Cases Nos. 93-388-X and 93-37-SPH, and provisions for the proper enforcement thereof. In addition, the Petitioners seek a determination as to whether there has been any violation or noncompliance with any zoning regulation, and/or proper interpretation thereof, with respect to the use of the subject property, by the Baltimore Country Club, hereinafter referred to as B.C.C. or "Club". The relief requested is more specifically set forth within the Petition for Special Hearing filed in March 1997, and as amended in July 1997.

As indicated above, this matter was originally scheduled for a public hearing on May 28, 1997, but was subsequently postponed so that the

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By

Petitioners could amend their special hearing request. The matter was then reset for September 24, 1997 and continued to a second hearing date of November 13, 1997

Appearing at the hearing on behalf of the special hearing request were many residents from the surrounding communities, including those individuals identified as the Petitioners. The Petitioners were represented by J. Carroll Holzer, Esquire, and Ralph Arnsdorf, Esquire. Appearing on behalf of the Owners were several representatives of B.C.C., including Dr. F. Pierce Linaweaver, who has held a variety of positions with B.C.C., including President of its Board of Governors from 1995 - 1997, and Paul Spellman, its current General Manager and Chief Operating Officer. These individuals and B.C.C. were represented by G. Scott Barhight, Esquire.

As noted above, the property at issue is the site of the Baltimore Country Club. The property is located in Timonium in the vicinity of Mays Chapel Road and is roughly bounded by Jennifer Road to the east, Chapel Ridge Road to the north, the Hill Farm to the west, and Bomont and Timonium Roads to the south. The property consists of 409.18 acres, zoned R.C.5., and is improved with two 18-hole golf courses, a club house, several swimming pools, related outbuildings and recreational space, a turf field and parking areas. This property was the subject of a prior case before Zoning Commissioner Lawrence E. Schmidt (Case No. 93-37-SPH) in which the Owners sought approval of the overall tract as a nonconforming country club. The Owners also sought approval of certain modifications to said use, both within the original tract boundary and on lands more recently acquired. Commissioner Schmidt granted a nonconforming use and proposed modifications thereto for only that portion of the tract owned by B.C.C. as of September 26, 1963 and denied same for the newly acquired

parcels. Apparently, the lands more recently acquired by the Owners included the property which was the subject of the subsequent special exception request that came before me in Case No. 93-388-X, and is now the focus of the special hearing requests before me.

The property at issue involves a rectangular parcel of land identified as Parcel A on the site plan submitted into evidence as Petitioner's Exhibits 4A & 4B. Parcel A is located at the southwest corner of the intersection of Mays Chapel Road and Bomont Road, and is bordered to the south and east by the residences owned by several of the Petitioners. Parcel A, also known as the Boyce Property, contains approximately 2.67 acres and is improved with a single family dwelling. Parcel A is also slated to be developed with portions of three tennis courts and some parking spaces associated therewith. This parcel was the subject of prior Case No. 93-388-X, in which the Owners came before me seeking a special exception for the operation of a country club on two parcels, namely, Parcel A, also known as the Boyce Property, and Parcel B. I granted the relief requested on June 23, 1993.

The Petitioners now come before me seeking a determination of seven questions (issues) relative to certain aspects of the relief granted in prior Case No. 93-388-X, and the special hearing granted by Commissioner Schmidt in prior Case No. 93-37-SPH. Each issue raised will be dealt with in the order they appeared within the Petition.

<u>Issue 1. Whether the special exception granted to the Baltimore Country Club in Case No. 93-388-X was not utilized within two years and has been extinguished, pursuant to Section 502.3 of the B.C.Z.R.</u>

As noted above, this Deputy Zoning Commissioner granted the relief requested in prior Case No. 93-388-X in accordance with the site

plan submitted in that case, a copy of which was submitted in the instant case as Petitioner's Exhibit 6. Parcel B as set forth on that plan was granted approval to operate as a Country Club. Parcel B borders the south side of Mays Chapel Road, just east of Chapel Ridge Road, and contains 1.213 acres, more or less. Parcel B is improved with the No. 3 green for the west 18-hole golf course of the Baltimore Country Club. At the time of the granting of the special exception in June 1993, Parcel B had already been improved and was being utilized as the No. 3 green for this particular course. Therefore, as to the first issue raised within the instant Petition for Special Hearing, Parcel B has, in fact, been utilized within the two-year period required by a special exception.

As to Parcel A, that parcel of land is proposed to be developed with portions of three tennis courts, and 12 parking spaces. However, at this time, only the single family residence formerly owned by the Boyce family exists. Mr. Edmund Haile, professional engineer and principal with Daft-McCune-Walker, Inc., testified on behalf of the Owners that the Club has done some construction on Parcel A in preparation of its future use, in that a water line has been extended from the greater country club property to the single family dwelling located thereon. Further testimony revealed that the renovations proposed to be made to the Country Club are proceeding in different stages. The B.C.C. developed an overall Master Plan and are fulfilling that Master Plan in several phases of construction.

Dr. F. Pierce Linaweaver testified on behalf of the B.C.C. that the overall redevelopment of the B.C.C. started with a $400,000 sewer connection which has taken place. In addition, an updated golf maintenance building was constructed at a cost of $1.3 million. The B.C.C. also proposes to upgrade/replace the existing swimming pools, build a golf house,

relocate the parking lot facility for the Club, followed by the construction of a tennis facility, portions of which will be located on Parcel A, and finally, the rehabilitation of the existing club house at a cost of $5 million. Dr. Linaweaver testified that the construction of the tennis court facility on Parcel A is scheduled for the latter stages of the redevelopment of the B.C.C. On behalf of the Owner, Mr. Barhight argued that vesting has occurred in that before the tennis court facility can be constructed, other stages in the redevelopment of the subject Club would have to first take place. Thus, in his view, the utilization of the special exception is proceeding in a natural progression and therefore, vesting has occurred.

Finally, the representatives from the Club assert that the single family residence on Parcel A, the Boyce property, is used in conjunction with the operation of the country club. That is, the house is part and parcel of the country club and can be utilized as the Club sees fit.

After considering the testimony and evidence offered by both sides on this issue, I find that the special exception granted in 1993 for Parcel A has, in fact, been utilized by the Club. Inasmuch as Parcel A was improved with a single family residence at the time the special exception was granted in 1993, its use as part of the country club occurred immediately by virtue of its existence. That is, the country club had at its disposal a single family residence which could be used by a greenskeeper, assistant pro, or any other employee of the B.C.C. for residential purposes. That residence is, in fact, an asset of the B.C.C. In addition, as Mr. Haile testified, a minor improvement was made to Parcel A by virtue of the extension of the water line to that residence. Finally, given that the renovation and redevelopment of the B.C.C. is occurring in different

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stages, the latter of which involves the construction of a proposed tennis court facility, I find that vesting has occurred given that the Club has, in fact, commenced with the precursory phases of construction necessary for the utilization of the special exception on Parcel A. For all of these reasons, I find that the special exception relief granted for both Parcels A and B in Case No. 93-388-X, as shown on Petitioner's Exhibit 6, has been utilized within the two-year period.

Issue 2) Whether the Baltimore Country Club is proposing to construct facilities on the subject site which violate the Zoning Commissioner's Order in Case No. 93-388-X and further are in conflict with the B.C.Z.R.

Testimony offered by the Petitioners, specifically, Ms. Dow, was that the B.C.C. is attempting to construct a tennis court facility that differs from that approved in prior Case No. 93-388-X. Ms. Dow testified that at this time, no construction of the tennis courts has actually taken place on the site, however, she acquired a copy of a drainage area map that was submitted by the B.C.C. to Baltimore County which shows a tennis court facility. A copy of this map was entered into evidence as Petitioner's Exhibit 4. Ms. Dow testified that the layout and design of the tennis court facility shown on Petitioner's Exhibit 4 is quite different from that shown on the site plan approved in prior Case No. 93-388-X. Ms. Dow and the other citizens are very much concerned that the B.C.C. is attempting to redesign the tennis facility by way of the submission of this drainage area map.

Mr. Haile testified that the reason for submitting the drainage area map to Baltimore County was to illustrate the amount of storm water runoff that will be generated as a result of the construction of the

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parking lot at the Club. The drainage area map was not submitted for the purpose of redesigning the tennis court facility.

Further testimony elicited from those representatives of the B.C.C. indicated that the Club has not yet decided on a final design for the tennis facility. Their testimony indicated that the tennis facility shown on the drainage area map was never approved by the Club and was merely a conceputal design. No decision has been made as to the final design of the tennis facility.

When the B.C.C. applied for its special exception in 1993, the citizens surrounding the Club's property, namely Joseph Tubman, Donna Dow, Deborah Terry and Courtney Spies, were very much concerned about the design and configuration of the tennis court facility adjacent to their homes. In an effort to alleviate those concerns, these individuals entered into a very specific agreement with the Owners of the subject property which included restrictive covenants that governed the development of Parcel A and the proposed tennis court facility. Owing to the intentions of the parties at the time the special exception was granted, and the agreement they entered into, it is only reasonable that the community be given full assurance as to the exact design of the tennis court facility.

In Case No. 93-388-X, the B.C.C. was given approval to construct nine (9) tennis courts and an accessory parking area for up to 12 cars. The design and layout of this facility is clearly shown on Petitioner's Exhibit 6, the site plan approved in that case. A blow-up of the Boyce property was shown on that plan which presented a clear understanding to the citizens who participated in that hearing as to how the proposed tennis court facility would be situated on that property. Therefore, any deviation during the construction phase of the tennis court facility from

that which is shown on Petitioner's Exhibit 6 would have to be brought back before this Deputy Zoning Commissioner for a determination as to whether any modification thereto would be appropriate.

While I can certainly appreciate the concern of the community relative to the ultimate design and construction of the proposed tennis court facility, I believe their request for a ruling on this issue at this time is, in fact, premature. The representatives from the B.C.C. indicated that the design of the tennis court facility has not yet been finalized and they are not prepared to go forward with construction at this time. However, should the B.C.C. decide to alter the design and configuration of those nine (9) tennis courts and related accessory parking area from that shown on the previously approved plan, a special hearing to approve same would absolutely be necessary. The only way the B.C.C. could avoid a special hearing and make any modification to the tennis court facility, be it minor or major, would be to exchange the amended proposed plan with those individuals who were parties to the previously signed agreement, namely, Tubman, Dow, Terry and Spies, and their attorney, J. Carroll Holzer, for their review and comment as to the appropriateness of such change or modification. If the parties consent to the changes, in writing, then the modifications could be made without another hearing (assuming all County agencies approved of the modifications). However, at this time, I find from the testimony and evidence presented, that the B.C.C. has not intended to construct a tennis court facility different from that shown on the previously approved plan and thus, I find that they are not in violation of the Order issued in Case No. 93-388-X nor are they in conflict with the B.C.Z.R.

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3) Whether the B.C.C. has violated its agreement with the Petitioners and the Order of the Baltimore County Deputy Zoning Commissioner, as contained in Exhibit 3.

Testimony and evidence offered by Ms. Dow alleged that the B.C.C. failed to notify the community prior to the construction of the parking areas. Ms. Dow testified that she was not personally advised of the fact that the B.C.C. was beginning construction of the parking lot facility, as required by the agreement executed between the parties. In addition, she testified that the plans for the proposed storm water management facility were not submitted to the community for their review and comment.

On behalf of the B.C.C., Dr. Linaweaver testified that prior to the construction of the parking lot facility, several telephone calls were made to many of the citizens surrounding that facility to alert them of the impending construction. Furthermore, entered into evidence as Protestant's Exhibit 2, was a neighborhood bulletin which had been distributed by the Falls Road Community Association alerting all of the citizens in the Five Farms area to the fact that the B.C.C. would begin construction of the subject parking lot facility. That neighborhood bulletin specifically states that Dr. Linaweaver was particularly concerned that all of the neighbors were alerted that construction of the parking lot facility was about to begin and that they should see an increase of traffic coming and going to the site. Furthermore, that bulletin alerted the citizens that it would not be until the construction of the parking lot was completed that the work on the new tennis courts would begin. That neighborhood bulletin is dated September 9, 1996.

Dr. Linaweaver further testified that he believed that the storm water management plans had been provided to the community for their review

and comment. However, he testified that he later learned that said storm water management plans were not, in fact, submitted to the members of the community. This was brought to his attention by virtue of a letter written by J. Carroll Holzer, Esquire, attorney for the community, dated November 14, 1996. Immediately upon receiving that letter and realizing their mistake, the B.C.C. provided copies of the storm water management plans to those affected members of the community who were entitled to receive and review same. Furthermore, the B.C.C. offered to meet with members of the community to discuss those plans, if deemed necessary. No meeting was requested by the community, nor were any written comments received by any member of the community.

After hearing the testimony and evidence offered by the Petitioners as well as the respondents, it is clear that the B.C.C. did in fact commit a technical violation of their agreement with those members of the community who were parties to that agreement. This violation was admitted to by Dr. Linaweaver. However, once this error was brought to the attention of the B.C.C., they immediately attempted to correct the matter by supplying the plans to the appropriate members of the community. In addition, there was ample time for those members of the community to comment on those plans, or accept the offer of a meeting with the B.C.C. to explain or answer any questions concerning those plans. Those members of the community failed to ask any questions or request a meeting. I believe that the B.C.C. was forthright in their communications with the community, not only in the telephone calls made by Dr. Linaweaver to alert them of the pending construction of the parking lot, but also of the neighborhood bulletin that was circulated by the Falls Road Community Association to the citizens in the Five Farms area. Furthermore, there

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was ample opportunity for review and comment, not only on the construction of the parking lot facility, but also of the storm water management plans that were submitted for comment. Therefore, while I find that there was a technical breach of the agreement, I am persuaded that it was immediately remedied once it was brought to the attention of the B.C.C. and was not in any way prejudicial to the members of the community. Therefore, I find that the spirit and intent of the previous Order in Case No. 93-388-X was adhered to by the B.C.C. in their actions and efforts to keep the community informed of the construction progress as well as providing the storm water management plans to them.

4) Whether the B.C.C. is proposing to construct facilities on the subject site which violates the Zoning Commissioner's Order in Case No. 93-37-SPH, and further, are in conflict with the B.C.Z.R.

For the reasons previously stated in response to Issue 2 set forth above, I find that the B.C.C. is not intending to construct facilities on the subject property which conflict with my previous decision in Case No. 93-388-X or Commissioner Schmidt's decision in Case No. 93-37-SPH. Again, I believe it is premature to rule on this issue at this time.

5) Whether the B.C.C. has violated its agreement with the Petitioners in the Order of the Baltimore County Zoning Commissioner, and the Baltimore County Board of Appeals, as contained in Exhibit 3, and the Order of Dismissal in CBA Case No. 93-37-SPH, as contained in Exhibit 5.

The relief sought in this issue is similar to that requested in Issue 3 above; thus, the findings made pursuant to that particular issue are incorporated herein.

6) Whether the B.C.C. has violated its agreement with the Petitioners as contained in Exhibit 3 and with the Order of the Deputy Zoning

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Commissioner in Case No. 93-388-X as contained in Exhibit 2, and the Order and dismissal of the CBA as contained in Exhibit 5 as to environmental compliance with storm water runoff in accordance with all applicable federal, state and Baltimore County laws and regulations contained in Paragraph #1A through C (Exhibit 3).

The matters raised pursuant to this particular issue are more appropriately handled by the federal, state and Baltimore County agencies that regulate environmental compliance with storm water runoff. Therefore, I believe it is not appropriate for this Deputy Zoning Commissioner to attempt to rule upon an alleged violation of environmental regulations. As such, this issue shall be dismissed.

7) Whether the B.C.C. complied with all the Baltimore County sediment control and water quality requirements in regard to the implementation of the nonconforming use on the subject site in Case No. 93-37-SPH.

Again, as in Issue 6 above, I find that it is not appropriate for this Deputy Zoning Commissioner to rule upon whether the B.C.C. has complied with Baltimore County sediment control and water quality requirements as this is an issue that would be better addressed by the Department of Environmental Protection and Resource Management. As such, this issue shall also be dismissed.

In addition to the issues raised in the Petition for Special Hearing, another issue was raised by some residents of the surrounding community adjacent to the country club. It was brought to my attention that the lighting on the newly constructed parking lot can be seen and reflects onto adjacent residential properties. In order to fully determine whether the lighting was appropriate for the parking lot, this Deputy Zoning Commissioner made a site visit to the property during the evening

hours to inspect the parking lot and determine its impact upon those residences along Bomont Road. The testimony offered by the Club and my inspection confirmed that the Petitioners have utilized lamp-post lighting on their parking lot. The lamp-post fixtures are not as tall as one normally finds on parking areas and are a more formal design than that most commonly found on parking lots. These lamp-post fixtures are attractive and work well with the parking lot design and layout. In addition, the globes used to cover the light fixture itself are circular, glass globes. That is, there is no shading on any of the sides of the light itself. This does allow for the residents of Bomont Road and those travelling along Bomont Road to actually see the light fixtures on the parking lot. However, while it is possible to see the light bulbs themselves from this distance, there is no spillage of light from the lamp-posts onto adjacent residential properties. Therefore, I find that the lighting of the parking lot is appropriate and should not be altered in any fashion.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and there being no other issues raised at the public hearing which needed to be addressed, the relief requested in the special hearing has been decided as set forth below.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 31st day of March, 1998 that the issues raised within the Petition for Special Hearing have been resolved as follows:

1) That the B.C.C. has utilized the special exception relief granted in prior Case No. 93-388-X within the applicable two-year period, in accordance with Section 502.3 of the B.C.Z.R.;

2) that the B.C.C. is not proposing to construct facilities on the subject property in violation of the Deputy Zoning Commissioner's

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By

Order in prior Case No. 93-388-X, and is not constructing facilities in conflict with the B.C.Z.R. at this time;

3) that the B.C.C., by their own admission, violated the technical terms of the agreement entered into between themselves and Joseph Tubman, Donna Dow, Deborah Terry and Courtney Spies, dated June 14, 1993; however, that such violation was minor in nature and immediately corrected by the B.C.C. once it was brought to their attention, and was not prejudicial towards the affected community. Furthermore, I find that the actions of the B.C.C. as previously stated within the body of this Order, were within the spirit and intent of my previous decision in Case No. 93-388-X;

4) that the B.C.C. is not proposing to construct facilities on the subject site which violate the Zoning Commissioner's Order in Case No. 93-37-SPH and are not proposing to construct facilities in conflict with the B.C.Z.R. at this time;

5) that there was a technical breach of the agreement between the B.C.C. and the Petitioners; however, that it was immediately cured once it was brought to the attention of the B.C.C. and was not in any way prejudicial towards members of the community. Furthermore, I find that the spirit and intent of the previous Order in Case No. 93-388-X was adhered to by the B.C.C. in their actions and efforts to keep the community informed of the construction progress as well as providing the storm water management plans to them for their review and comment;

6) that Issues 6 and 7 contained within the Petition for Special Hearing are not within the jurisdiction of this Deputy Zoning Commissioner, and as such, are hereby DISMISSED; and,

IT IS FURTHER ORDERED that the Baltimore Country Club shall be permitted to construct the proposed tennis court facility on Parcel A, also

known as the Boyce property, which is adjacent to the affected "community", in the fashion depicted on the site plan submitted into evidence as Petitioner's Exhibit 6 herein, and the previously approved site plan in prior Case No. 93-388-X. Any deviation from that shown on either plan shall require a special hearing to approve an amendment thereto. Furthermore, the B.C.C. shall be entitled to avoid such a special hearing for any modification, provided it acquires the consent and approval of those parties to the previously executed agreement between the B.C.C. and Joseph Tubman, Donna Dow, Deborah Terry, and Courtney Spies, dated June 14, 1993, and assuming that all County agencies approve of such modification. There shall be no administrative approval of <u>any</u> change or modification to the tennis court facility without the full knowledge and consent of the above-named affected members of the adjacent community, or a special hearing to approve same.

IT IS FURTHER ORDERED that the lighting on the parking lot adjacent to the Bomont Road community is appropriate and shall be permitted to remain as it presently exists.

TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

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By

AGREEMENT

THIS AGREEMENT, entered into on this 14th 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 Bomont 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.

W I T N E S S E T H:

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.

(Exh D)

Prior to submitting any stormwater plans pursuant to this Section, BCC shall submit such plans to the Community for their review and comment. BCC shall respond in good faith to each comment received from the Community.

B. When and if BCC constructs the proposed tennis courts and adjacent parking, BCC shall handle all stormwater run-off in accordance with the quantity and quality requirements of all then existing and applicable federal, state and Baltimore County laws and regulations.

Prior to submitting any stormwater plans pursuant to this Section, BCC shall submit such plans to the Community for their review and comment. BCC shall respond in good faith to each comment received from the Community.

C. To reduce the impact of the existing stormwater runoff emanating from the existing parking facility adjacent to the Boyce parcel, BCC shall install energy dissipation and settling measures on the BCC property by December 31, 1993.

Prior to submitting any stormwater plans pursuant to this Section, BCC shall submit such plans to the Community for their review and comment. BCC shall respond in good faith to each comment received from the Community.

D. After the recordation of the Restrictive Covenant Agreement pursuant to Sections 1.G and 4, the Community shall make whatever improvements they deem necessary to the existing improvements in and around Bomont Road, including but not limited to the existing culverts, the existing paving and the removal of sediment and other debris from the drainage areas along Bomont Road. After the improvements have been completed, the Community shall submit all bills and invoices to BCC for payment, not to exceed $7,500.00.

E. Subject to the option of a majority of the Community stated herein, BCC shall erect a wall along the entire eastern and southern sides of the three tennis courts to be constructed on the Boyce parcel. This wall shall be six (6) feet high above the tennis court level at its northern most portion, six (6) feet high above the tennis court level at its western most portion, and ten (10) feet high above the tennis court level at the southeastern corner of the three tennis courts to be situated on the Boyce parcel. The elevations of the wall shall gradually change in sections of six, eight and ten feet in equal proportions. Said wall shall continue at a height of six (6) feet above the tennis court level to the northwest corner of the Boyce parcel.

This wall shall be masonry along the eastern side of the three tennis courts on the Boyce parcel. This wall shall be masonry along the southern side of the easternmost tennis court on the Boyce parcel (the "first court"). From the south-western corner of the first court to the northwest corner of the

Boyce parcel, the wall may, at the discretion of BCC, be in staggered sections and constructed of wood, provided the wall is of comparable sound attenuation quality to a continuous masonry wall. PRIOR TO CONSTRUCTION OF A WOOD WALL BCC SHALL SUBMIT SUCH PLANS AND SUPPORTING DATA TO THE COMMUNITY FOR THEIR REVIEW AND COMMENT. D.T. E.A.S. JABT

The Community may exercise their option to trigger this BCC obligation upon providing written notice to BCC within thirty-six (36) months after the construction of the three tennis courts on the Boyce parcel. If the Community exercises such option, BCC shall erect said wall within six (6) months of receipt of said notice. BCC shall maintain said wall after construction.

F. The shortest distance from the centerline of Mays Chapel Road to the easternmost portion of the tennis courts on the Boyce parcel shall be seventy-five (75) feet, more or less.

G. The hours of operation for the three tennis courts on the Boyce parcel shall be from 9:00 a.m. to sunset. The hours of operation for the tennis courts serving the BCC at Five Farms, not on the Boyce parcel, shall be from 8:00 a.m. to sunset. The tennis courts serving the BCC at Five Farms, including the three tennis courts on the Boyce parcel, shall not be lit. Appropriate lighting is permitted on all parking areas serving the BCC at Five Farms, provided such lighting is directed away from neighborhood properties. At the request of BCC, and subject to the approval of a majority of the Community, the provisions of this Section may be modified.

H. BCC shall provide a vehicle pull-off area of six (6) feet from Mays Chapel Road to serve the mail and paper boxes adjacent to the Boyce parcel by December 31, 1993.

I. BCC shall record the Restrictive Covenant Agreement (attached hereto as **Exhibit A**) among the Land Records of Baltimore County at its sole cost and expense, effective for a period of twenty-five (25) years after the date of recordation, which will prohibit any use of the Boyce property other than as one single family residence, three tennis courts, and twelve (12) parking spaces.

2. <u>Community Obligations</u>.

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

A. The Community shall represent to the Zoning Commissioner for Baltimore County that they are not in opposition to the Petition for Special Exception for a country club (Case No. 93-388-X), as shown on the attached revised site plan (Exhibit 5). D.T. E.A.S.

B. Immediately after the passage of the thirty (30) day appeal period, without appeal of the Special Exception Order in Case No. 93-388-X, granting the Petition for Special Exception, the Community shall dismiss, with prejudice, its appeal to JABT

the Board of Appeals of Baltimore County of the Zoning Commissioner's Order dated March 5, 1993 granting the Petition for Special Hearing for Non-Conforming Use and Certain Modifications (Case No. 93-37-SPH).

C. The Community shall not file an appeal of the Special Exception Order in Case No. 93-388-X if the Zoning Commissioner grants the Special Exception.

3. Conditions Precedent.

The obligations of BCC listed under Section 1 of this Agreement are contingent upon the following:

A. The granting of the Petition for Special Exception in Case No. 93-388-X satisfactory to BCC and the passage of the thirty (30) day appeal period without any appeal having been filed from the Zoning Commissioner's Order.

B. The completion of all of the obligations of the Community as listed in Section 2.

4. Recordation of Covenants.

BCC shall record the covenants identified in Section 1 (G) of this Agreement within fifteen (15) days after the occurrence of both of the following events:

A. The running of the thirty (30) day appeal period after the granting of the Special Exception in Case No. 93-388-X without any appeal having been filed from the Zoning Commissioner's Order.

B. All of the Community's obligations in Section 2 having been completed.

5. Notices.

Any notices regarding this Agreement shall be sent to the parties at the following address:

If to Baltimore Country Club of Baltimore City:

Baltimore Country Club
Roland Park
4712 Club Road
Baltimore, Maryland 21210
Attn: Edward A. Johnston, President

If to the Community:

Mr. Joseph R.B. Tubman
11431 Mays Chapel Road
Timonium, Maryland 21093

Ms. Donna Dow
721 Bomont Road
Timonium, Maryland 21093

Ms. Deborah Terry
747 Bomont Road
Timonium, Maryland 21093

Mr. Courtney Spies
722 Bomont Road
Timonium, Maryland 21093

6. Miscellaneous Provisions.

A. This Agreement shall bind the parties, their successors, heirs and assigns.

B. This Agreement shall be governed by the laws of the State of Maryland.

C. This Agreement contains all of the terms and conditions of this Agreement and cannot be modified, except by written agreement of the parties.

WHEREFORE, the parties execute this Agreement as of the day and year first above written.

~~ATTEST:~~ WITNESS:

BALTIMORE COUNTRY CLUB OF
BALTIMORE CITY

By: PRES.

WITNESS:

(SEAL)
JOSEPH R.B. TUBMAN

(SEAL)
DONNA DOW

(signatures continued)

WITNESS:

_____ Deborah Terry (SEAL)
DEBORAH TERRY

_____ _____ (SEAL)
COURTNEY SPIES

EXHIBIT A

RESTRICTIVE COVENANT AGREEMENT

THIS AGREEMENT, has been entered into on this _____ day of _____, 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").

RECITALS

A. BCC owns a parcel of land containing approximately 2.67 acres on the west side of Mays Chapel Road, on the north side of Bomont Road in the Eighth Election District of Baltimore County, Maryland being known as the Boyce Parcel. The Boyce parcel consists of all of the land described in the Deed dated December 16, 1991 and recorded among the Land Records of Baltimore County in Liber 9032, folio 738.

B. The Boyce parcel is the subject of a Petition for Special Exception before the Zoning Commissioner of Baltimore County (Case No. 93-388-X).

C. The Community is willing to discontinue their opposition to the Petition for Special Exception regarding the Boyce parcel if, among other things, BCC enters into this Restrictive Covenant Agreement.

D. In order to make the covenants, restrictions and conditions contained in this Agreement binding and in full force and effect upon the Boyce parcel and upon the present and future owners and occupants thereof, the parties have entered into this Agreement to the end and to the intent that BCC, its successors and assigns, will hold, utilize and hereinafter convey or foreclose the property subject to the said covenants, restrictions and conditions contained herein.

E. BCC and the Community hereby enter into this Agreement as set forth below.

NOW, THEREFORE, in consideration upon the mutual agreements and understandings herein contained, and for other good and valuable considerations, the receipt and sufficiency of which is hereby mutually acknowledged, the parties hereby enter into the following Agreement:

ARTICLE I - USE RESTRICTIONS.

BCC agrees for a twenty-five (25) year period from the date of recordation of these covenants not to use the Boyce parcel for any uses other than those listed below:

12/2/97

IN RE:

AMENDED PETITION FOR SPECIAL HEARING

11500 MAYS CHAPEL ROAD: Parcel A-NWC Mays Chapel and Bomont Roads; Parcel B-SWS Mays Chapel Road, 361 Feet SE Chapel Ridge Road

8th Election District
Third Councilmanic District
Legal Owner: Baltimore Country Club of Baltimore City

Deborah Terry, Donna Dow, Joseph R. B. Tubman, Courtney A. Spies, Sr., Petitioners

BEFORE THE DEPUTY ZONING COMMISSIONER

FOR

BALTIMORE COUNTY

CASE NO. 97-384-SPH

RECEIVED
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ZONING COMMISSIONER

BRIEF OF BALTIMORE COUNTRY CLUB IN OPPOSITION TO PETITION FOR SPECIAL HEARING

Baltimore Country Club of Baltimore City ("BCC") by and through its attorneys, G. Scott Barhight and Whiteford, Taylor & Preston L.L.P., hereby submits this brief in opposition to the Petition for Special hearing and states:

I. STATEMENT OF THE CASE

By order of the Zoning Commissioner of Baltimore County on March 5, 1993, BCC's Petition for Special Hearing seeking approval of an existing non-conforming country club and modifications was granted for those portions of the property owned by BCC on September 26, 1963 (the applicable date to establish the non-conforming use). The Zoning Commissioner denied the special hearing for two portions of the Baltimore Country Club which were acquired subsequent to September 26, 1993;

namely, the Boyce and Merrick parcels. (See Petitioner's Exhibit 1.) The non-conforming use plan approved pursuant to the Zoning Commissioner's Order is in the record as Protestant's Exhibit 6. The Petitioner's in the current case filed an Appeal of the Zoning Commissioner's order to the Board of Appeals for Baltimore County.

In accordance with the Zoning Commissioner's March 5, 1993 Order regarding the non-conforming use, BCC filed a Petition for Special Exception for a country club on the Boyce (Parcel A) and Merrick (Parcel B) properties. By Order dated June 23, 1993, the Deputy Zoning Commissioner granted the Petition for Special Exception, approving the operation of a country club on Parcels A and B (see Petitioner's Exhibit 2). The special exception site plan which was approved has been introduced into the record as Petitioner's Exhibit 6. The Special Exception Order incorporated the terms of an Agreement dated June 15, 1993 (Petitioner's Exhibit 3) into the Order.

In accordance with the agreement (Petitioner's Exhibit 3), the Protestants dismissed their appeal of the non-conforming use order to the County Board of Appeals of Baltimore County (Petitioner's Exhibit 5). Additionally, the Restrictive Covenant Agreement dated September 29, 1993 which is an attachment to the Agreement (Petitioner's Exhibit 3) was recorded among the Land Records of Baltimore County.

Subsequent to the Orders, BCC began its work on the modernization of the Country Club at Five Farms. Several phases were completed over the next several years.

In September, 1996, BCC began construction of a new parking lot at Five Farms. On December 6, 1996, a sedimentation event occurred when the contents of a sediment

and erosion control facility were discharged into a stream which flows across a portion of the BCC property in the direction of Bomont Road. This sedimentation event triggered the filing of a lawsuit by the Petitioners (Protestants' Exhibit 1) in the Circuit Court for Baltimore County, Case No. 03-C-97-001983, and the filing of the subject Petition for Special Hearing.

This matter first came before the Deputy Zoning Commissioner for Hearing on May 28, 1997. As a result of the Petitioner's request to amend the Petition for Special Hearing, the hearing was continued until an Amended Petition for Special Hearing was filed. After the Amended Petition was filed, this matter came before the Deputy Zoning Commissioner on November 13, 1997.

On November 13, 1997, the Petitioners and BCC presented witnesses and evidence in support of their respective positions. The Deputy Zoning Commissioner provided the respective parties with an opportunity to file a brief by December 2, 1997.

II. QUESTIONS PRESENTED

A) Whether the Baltimore Country Club utilized the special exception granted for a country club.

B) Whether BCC violated the terms of the Agreement, and therefore the Deputy Zoning Commissioner's Order in the special exception case, by:

(1) Providing the storm water management plans to the Petitioner's after the due date;

(2) Changing the plans approved by the non-conforming use and special exception orders; and

(3) Installing lights on the parking lot contrary to the requirements of the Agreement.

III. APPLICABLE LAW

(A) THE LAW OF SPECIAL EXCEPTION UTILIZATION.

BCZR[1] Section 502.3 requires that a special exception be "utilized within a period of two years from the date of the final Order granting the same ..." Section 502.3 further states "a special exception which requires any construction for its utilization shall be deemed to have been used within its authorized time if such construction shall have been commenced during the authorized period, or any extension thereof, provided said construction is thereafter pursued to completion with reasonable diligence." (Emphasis added.) It is clear from this section that it is possible to utilize a special exception without construction.

There are no reported Appellate cases which discuss the standard for utilization under BZCR Section 502.3. However, it is clear from Pemberton v. Montgomery County, 275 Md 363, 340 A.2nd, 240 (1975), that the law of vesting is applied to the question of special exception utilization. The general rule regarding vesting is well stated in Sterling Homes Corp. v. Anne Arundel County, MD, 116 Md App. 206, 695 A.2nd, 1238 (1997). The doctrine of vested rights is predicated on the legal theory that an owner who obtains a lawful permit, commences to build in good faith, and completes substantial construction on the property, gains the right to complete the construction unaffected by a subsequent change in the zoning regulations. The parties

[1] References to BCZR are to the Baltimore County Zoning Regulations.

seeking a vested right must proceed to exercise its rights on the land so that the neighborhood may be advised that the land is being devoted to that particular use. A vested right can only result when a lawful permit was obtained and the owner, in good faith, has proceeded with such construction under it as will advise the public that the owner has made a substantial beginning to construct and commit the use of the land to the permission granted. (116 Md. App. at 218.)

The proper question in the context of a special exception utilization is whether pursuant to proper permits, if necessary, the use of the land pursuant to the special exception has been so exercised, often through construction, as to advise the public that the land is being devoted to that special exception use.

In Sterling Homes, the Court discusses Prince George's County v. Equitable Trust Company, 44 Md. App. 272, 408 A.2nd, 737 (1979) regarding whether the vesting of rights on one parcel vests rights in an adjacent parcel. The Court establishes that there must be a *perceivable nexus* between the parcels and that the intent to connect the parcels has been communicated to the public. (44 Md. App. at 282.)

In Malmar Associates v. Board of County Commissioners for Prince George's County, 260 Md. 292, 272 A.2nd 6 (1971), the Court of Appeals adopted the "separate and distinct" standard for vesting when there are two adjacent parcels. In reviewing the question of whether the activities on one site vest the activities on another, a Court must review whether the parcels were treated separately and distinctly or whether they were tied together in a uniform project (260 Md. at 309).

In Sterling Homes, the Court also addressed whether Maryland should adopt the "common scheme of development" rule of vesting as set forth in the New York case, Schoonmaker Homes--John Steinberg, Inc. v. Village of Maybrook, 178 A.D.2nd 722, 576 N.Y.S.2nd 954 (1991). In that case, a New York Appellate Court describes the "single integrated project theory" that controls in that jurisdiction. The Maryland Court of Appeals in Sterling decided that it need not decide whether to adopt Schoonmaker as Maryland law, because the facts of that case did not support its application and the developer failed to cite his case or make any specific arguments in favor of adoption of Schoonmaker at the zoning board below[2].

The case law clearly shows that in Maryland, a "perceivable nexus" rule is the proper standard to apply in determining whether the vesting of one parcel may apply to vest another parcel. Where a property owner has undertaken a project which contains several parcels, and clearly communicates his intent to connect the parcels in a uniform project, rather than as separate and distinct projects, the vesting of a portion of the project vests the whole.

(B). THE LAW OF VIOLATIONS.

BCZR Section 500.6 and 500.7 are cited by the Petitioners as the authority for this violation hearing. BCC will not recite in this brief the details of its assertions regarding the proper legal mechanisms for violation cases as previously argued in various Motions to Dismiss before the Deputy Zoning Commissioner. However, BCC preserves

[2] The Schoonmaker case is being cited for the purpose of preserving the arguments of BCC relative to the "common scheme of development" or "single integrated project theory" in the event that this matter proceeds to the Appellate Courts.

its rights on appeal regarding these issues. Since the Deputy Zoning Commissioner has ruled in open court on these issues, it would be unnecessarily redundant to restate the arguments in this brief.

IV. THE FACTS

One witness, Donna Dow, testified on behalf of the Petitioners. Three witnesses, Dr. Pearce Lineweaver, Paul Spellman and Ed Haile testified on behalf of BCC. Various documents, some of which have already been referenced in this brief, were introduced through these various witnesses. Below is a brief summary of the relevant testimony and evidence introduced by and through these witnesses.

(A) DONNA DOW

- One of the original Protestants in the non-conforming use and special exception case.
- First became aware of parking lot construction on November 20, 1996.
- Received storm water management plans on November 20, 1996.
- No construction or change on Parcel A.
- Drainage area map (Petitioner's Exhibit 4) shows a change in the plans which the Petitioners are opposed to; shifts the courts and parking towards the community, larger grandstand, new tennis center.
- Lighting of parking lot violates the Agreement, not directed away from community.
- Heard construction noises in September and October of 1996, did not understand the source.

- Drove by BCC several times a week in September, October and November but never realized that there was construction on the site and failed to see the construction entrance onto Mays Chapel Road until November 20, 1996.
- Although on the mailing list for the Falls Road Community Association, cannot recall seeing the neighborhood bulletin alerting the neighborhood to the beginning of construction dated September 9, 1996 (Protestants' Exhibit 2).
- No objection to Parcel B, not sure if utilized.
- Agreed that the description of the proposed changes to the tennis area as reflected in Petitioners' Exhibit No. 11, the BCC "News and Views", was merely the recommendation of BCC's architect, Mr. Rinehart.
- Only problem with storm water management plans presented is that it requires a forest buffer variance.
- Petitioners would have objected to the forest buffer variance had they known.
- None of the Petitioners have ever provided any comment, whatsoever, regarding the storm water management plans.
- Believed that it was too late to make comments on the storm water management plans subsequent to November 20, 1996; basis of this belief was her conversations with Glenn Shaffer; conversations with Glenn Shaffer did not occur until March, 1997.

- Representatives of BCC requested comment and offered to meet to discuss the storm water management plans.
- No one at BCC ever discouraged comment.
- BCC always described the plans for the modernization of the Country Club as an integrated project which would occur in phases.
- BCC did inform the community that the tennis courts were to be constructed after the parking lot was completed.
- With reference to the ZAC comments, there is no comment by Baltimore County which asserts that BCC is in violation of the Agreement or the Zoning Commissioner's Orders.
- Large sedimentation incident occurred on December 6.
- Discussed options with Mr. Holzer on December 9.
- Met with attorney ultimately utilized in civil suit in January, 1997 to discuss options and decided to file suit.
- Cannot recall whether discussed the option to provide comments on the storm water management plans during the September 9, 1996 or January, 1997 meetings with counsel.

(B) <u>DR. PEARCE LINAWEAVER</u>

- President of BCC between 1995 and 1997.
- Master Plan for modernization effort of Country Club adopted in 1992.

- Seven phases with actual or expected costs as shown below:
  - Sewer connection $400,000
  - Upgrade golf maintenance $1.3 million
  - Upgrade/replace swimming pools and area $2,000,000
  - Build golf house $2,000,000
  - Relocation of parking lot $2,000,000
  - Construction of tennis facility $1,000,000 est.
  - Rehabilitation of club house $5,000,000 est.

- Including soft costs of $250,000, five of seven phases have been completed at a cost in excess of $8,000,000. Expected expenditures in the future of approximately $6,000,000.
- Work performed as described on non-conforming use and special exception plans.
- Project must occur in phases in order to maintain club operations, finance the costs and coordinate the total construction (i.e. new parking lot must be relocated before tennis courts can be built in the location of the old parking lot).
- BCC always intended the modernization effort to be a single integrated project.
- BCC always treats the entire ownership as part of the country club, as a single entity.

- Regularly communicated with neighbors (i.e. Protestants' Exhibit 7).
- Before construction on the parking lot began made numerous telephone calls to community representatives and neighbors to alert to start of construction; FRCA Bulletin was the result of his phone calls. Bulletin indicates that parking lot construction must be completed before work can begin on the new tennis courts.
- Did not call Donna Dow directly, Mr. Terry agreed to alert Ms. Dow.
- No one ever mentioned the need for storm water management plans to be delivered during any of these telephone conversations.
- Believed that the storm water management plans had been provided in a timely fashion.
- Storm water management plans mistakenly not provided prior to their review by Baltimore County.
- Upon discovering that storm water management plans had not been provided, immediately provided copy to the neighbors (Protestants' Exhibits 8A through 8D).
- Offered to meet with the Petitioners to discuss the storm water management plans.
- Followed up with the Petitioners seeking comments on the storm water management plans.
- Has never received any comments from the Petitioners regarding the storm water management plans. Had comments been received

subsequent to November 20, 1996, comments could have been reviewed in good faith given the status of construction.

(C) PAUL SPELLMAN

- BCC General Manager.
- Believed the storm water management plans had been provided to Petitioners in a timely fashion; the plans were mistakenly not provided.
- Immediately upon discovery cured the problem, requested comments, offered meetings with Petitioners.
- Has never received any comment from the Petitioners on the storm water management plans.
- Many options for the lighting of the parking lot were reviewed by BCC, the option selected was to be residential in tone and character.
- The drainage area map (Petitioner's Exhibit 4) does not reflect the final approved concept or plans for the tennis area.
- The planning for the tennis courts is being done now so that construction can begin in the near future.
- Will abide by whatever appropriate steps are required by Baltimore County to amend the plans.

(D) ED HAILE

- Accepted as expert in civil engineering and zoning.
- Project Manager for BCC at Daft-McCune-Walker.
- BCC always intended to treat Country Club as single integrated project, Parcels A and B always seen as part of the Country Club.
- Covenants recorded among the Land Records of Baltimore County.
- Offered opinion that special exception had been utilized; both Areas A and B have been utilized pursuant to the Special Exception Plans, A contains an operating single family residence pursuant to the plans and B contains a portion of an active golf hole, pursuant to the plans; public water connection was made between the residence on Parcel A and club house; no construction necessary for residence or golf hole, the tennis court construction was always described as being a phased portion of the overall project.
- Described the December 6th sedimentation event and subsequent remediation efforts.
- Permission recently received from Petitioners to enter their property to complete remediation efforts (Protestant's Exhibit 9).
- Described the process to achieve approval of "changes" to the Non-Conforming Use and Special Exception Plans relative to the tennis courts; first, run by zoning technician at counter; second, may require

spirit and intent letter from Arnold Jablon; third, Arnold Jablon may require special hearing for change if determined to be material.

- Storm water management plans approved September 17, 1996.
- Showed change in tennis court plans on Petitioner's Exhibit 4 because it represented the "best thinking" at that point in time.
- Tennis area as shown on Petitioner's Exhibit 4 does not represent final decision of BCC.

V. ARGUMENT

(A) THE SPECIAL EXCEPTION (AREAS A AND B) HAS BEEN UTILIZED.

(1) *The Special Exception was utilized immediately through the use of Parcels A and B as shown on the approved plans.*

The approved special exception plan (Petitioner's Exhibit 6) clearly identifies the uses for Parcels A and B. Parcel A shows a tennis and residential use. Parcel B shows a golf use (a portion of a golf hole). The construction necessary for the residential use on Parcel A and the golf use on Parcel B has long been completed. All necessary permits for those construction activities were issued years ago. When the special exception order was granted on June 23, 1993, BCC immediately utilized the special exception for Parcels A and B.

A special exception approval goes to the "use" approval for a piece of property. Parcels A and B were clearly used in accordance with the special exception plan at the moment of the issuance of the Order. It is undisputed that Parcel A has been used for residential purposes and that Parcel B has been used for golf.

The Petitioners will no doubt assert that because the tennis facilities have not yet been constructed, the tennis portion of Parcel B has not yet been utilized. However, when one applies the law of vesting, it is clear that the approved Special Exception has been utilized. All necessary permits for the residence and the golf hole have been previously approved and far more than a substantial beginning to construct has occurred prior to the two (2) year deadline. In fact, complete construction on the residential portion of Parcel A occurred and complete construction of the golf hole on Parcel B occurred prior to the two (2) year deadline. When the mere construction of a foundation or footing is enough to vest a use (see Pemberton), it is amazing that the Petitioner's assert that a completed residence and a completed golf hole are insufficient. Far less actual activity on Parcels A and B would have been necessary to vest the use. It is important to recall that the use that is being vested is that of a country club consistent with the special exception order and special exception plan. This has clearly been done.

An important element of the vesting test is whether there is activity regarding the use which properly informs the neighborhood of the ultimate use of the property. In this case, the residence and the golf hole have already been constructed. Further, there were contested zoning hearings in the non-conforming use and special exception cases when the plans for the country club and its modernization were divulged to the petitioners and the rest of the public. The community was well aware of the plans. They were so well aware, that they entered into an Agreement which describes in detail the ultimate use of Parcels A and B. Additionally, the entire world has been put on notice of the ultimate use of Parcel B through the recording of the

Although the Schoonmaker test has not yet been incorporated into Maryland law, it is clear that the facts and circumstances of the instant case meet the single integrated project test. It appears that the Court of Appeals is willing to adopt the single integrated project rule, when presented with the proper case. In the event that this matter is appealed to the appellate courts of Maryland, BCC preserves its argument that Parcels A and B were a portion of a single integrated project (the Baltimore Country Club), and as such, have been fully vested as a result of the existence of and modifications to Five Farms.

(B) BCC HAS NOT VIOLATED THE AGREEMENT

(1) *BCC did not violate the requirements to provide storm water management plans to the Petitioners.*

The second paragraph of Section 1.A of the Agreement states as follows:

> "Prior to submitting any storm water plans pursuant to this section, BCC shall submit such plans to the community for their review and comment. BCC shall respond in good faith to each comment received from the community."

Although BCC mistakenly failed to provide the plans to the community prior to submitting the same to Baltimore County, the purpose and spirit and intent of the section was still met. The plans were submitted in a timely fashion. Had comments been received from the community, BCC could have responded to them in good faith. Construction of the storm water management facilities had not yet begun when the

plans were provided to the community. Had the community not remained silent, BCC would have responded to their comments.

Additionally, notwithstanding the timing of the plans submittal, BCC was under no obligation to actually change the storm water management plans. The community had no right of approval. BCC's only obligation was to "respond in good faith to each comment received". It is undisputed that the community failed and refused to provide any comment whatsoever to BCC. Had they done so, BCC would have only been obligated to "respond in good faith."

The community has also failed to show any prejudice whatsoever as a result of the late submission of the plans. Ms. Dow failed to articulate any actual harm. BCC cannot be held in violation if there was no prejudice or harm. It appears that Petitioners are asserting that mere tardiness, without prejudice, constitutes a violation of the Order.

Finally, the community has clearly waived any objection to the timeliness of the plans submittal given their complete failure to provide any comment. BCC is unable to respond to comments which were never received. In lieu of providing substantive and rational comments to the storm water management plans, the community instead chose the path of litigation. Instead of providing comments to give BCC an opportunity to review and respond to them in good faith, the community chose to file a lawsuit and bring a violation hearing before the Zoning Commissioner. By failing to provide any comments, the community waived any rights it had pursuant to Section 1A.

(2) *BCC has not violated the Agreement by changing the plans.*

It is undisputed that BCC has not made a decision to alter the plans from those shown on the non-conforming use and special exception plans. It is clear that BCC, as it proceeds with the construction of the tennis courts, will submit its detailed plans to Baltimore County for approval as required. If these alternate detailed plans contain changes, then the Department of Permits and Development Management will take appropriate and customary steps to insure compliance with the approved plans. These steps may include review by the Director for "spirit and intent compliance" or the requirement by the Director of PDM for a special hearing to determine whether the changes to the plan may be approved.

In any event, Baltimore Country Club has not yet proceeded with that detailed plan process. Any order by the Deputy Zoning Commissioner at this point would be premature. The proper time for Baltimore County to review whether filed plans are in accordance with the approved plans, is at the time of filing.

The community's only assertion of an inappropriate change relates to the tennis facilities. The community is not alleging that anything that has actually be constructed was performed in an manner inconsistent with either the special exception or non-conforming use plans. Since the permit plans for the tennis courts have not yet been submitted to Baltimore County, it is clear that there has been no violation of the approved special exception or non-conforming use plans. It appears that the community has mistakenly interpreted a drainage area map to be the ultimate plans of

Baltimore Country Club and has prematurely voiced opposition to the plans as shown on the drainage area map before the plans are finalized or submitted.

Pursuant to Section 1B of the Agreement, BCC is required to submit storm water plans prior to their submittal to Baltimore County in the event that BCC desires to proceed with the construction of the proposed tennis courts. Such storm water management plans would need to show the layout of the tennis facility. At that time, the community will have the opportunity to complain if they are dissatisfied with any potential changes to the tennis area. They should hold their complaints until there is something of substance about which to complain.

(3) *BCC is not violating the lighting requirements of the Agreement.*

Section 1.G of the Agreement contains the following provision:

> Appropriate lighting is permitted on all parking areas serving the BCC at Five Farms, provided such lighting is directed away from neighborhood properties.

Mr. Spellman described the lighting for the new parking lot. The lighting was designed to be as residential as possible and still meet the security and safety needs of BCC. The lighting should not be directed towards the neighborhood. BCC asserts that none of the lighting fixtures are directed towards the neighborhood properties. All of the fixtures are down lights which are intended for the specific purpose of lighting the parking area. The Deputy Zoning Commissioners' visual inspection of the parking facility from the neighboring properties should confirm that the lighting is not directed towards the neighborhood properties.

VI. CONCLUSION

There is no substantive basis for either the utilization question or the violation issues presented by the Petition for Special Hearing. The action of the Petitioners to file and proceed with this Petition for Special Hearing is nothing more than harassment of BCC.

Any assertion by the community that the special exception areas have not been utilized is not only unsubstantiated by reality, but contrary to the spirit and intent of the Agreement. The community always knew that the tennis courts were to be a later phase of the construction project for the modernization of Five Farms. Significant negotiations resulted in modifications to the special exception plan and the ultimate creation of the Agreement to protect their interests. BCC's current activities in the special exception areas (Parcel A and Parcel B) are completely consistent with the Agreement, covenants and the approved special exception plan. The Petitioners are now asking the Deputy Zoning Commissioner to void the special exception for the country club for a portion of the special exception area which, pursuant to their demands, has been subjected to a use restriction recorded among the Land Records of Baltimore County where no harm or prejudice has been identified. The Petitioners are simply going back on their word that they are no longer opposed to the tennis courts as shown on the special exception plan contrary to their written Agreement.

BCC has not violated the non-conforming use order, the special exception order or the Agreement. The Petitioners have frivolously asserted a violation for failing to provide the storm water management plans within a prescribed period when they

have failed and refused to provide any comments whatsoever. It is clear that the tennis court plans have not been altered and BCC has exercised considerable diligence to properly design the lighting for the parking lot.

Upon full consideration of the evidence, it is clear that there is no factual basis to support the assertions of the Petitioners. BCC respectfully requests that the Petition for Special Hearing be denied.

Respectfully submitted,

G. Scott Barhight, Esquire
Whiteford, Taylor & Preston L.L.P.
210 W. Pennsylvania Avenue
Suite 400
Towson, Maryland 21204
410-832-2050

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 2nd day of December, 1997, a copy of the above-captioned **BRIEF OF BALTIMORE COUNTY CLUB IN OPPOSITION TO PETITION FOR SPECIAL HEARING** was mailed, postage pre-paid, first class to:

J. Carroll Holzer, Esquire
Holzer & Lee
Suite 502
305 Washington Avenue
Towson, MD 21204

G. Scott Barhight

122795

12/2/97

IN RE: AMENDED PETITION FOR SPECIAL HEARING 11500 MAYS CHAPEL ROAD MAYS CHAPEL AND BOMONT RDS. PARCEL B	*	BEFORE THE DEPUTY ZONING COMMISSIONER OF BALTIMORE COUNTY
PETITIONERS: DEBORAH TERRY, DONNA DOW, JOSEPH R. TUBMAN, AND COURTNEY A. SPIES, SR.	*	CASE NO. 97-384-SPH
RESPONDENT: THE BALTIMORE COUNTRY CLUB AT FIVE FARMS	*	

RECEIVED
3 - 1997
ZONING COMMISSIONER

* * * \

Facts

Evidence was presented by way of testimony and physical exhibits that established that the Baltimore Country Club failed to utilize the Special Exception granted in Case No. 93-388-X. Furthermore, the Baltimore Country Club (hereinafter BCC) is proposing to construct facilities on the subject site which violate the Zoning Commissioners Order in Case No. 93-388-X, and further, are in conflict with the Baltimore County Zoning Regulations. In addition, Petitioners established that BCC violated its agreement with Petitioners and the order of the Baltimore County Deputy Zoning Commissioner in that case. Further, the Petitioners presented evidence to support that the Zoning Commissioners Order in Case No. 93-37-SPH was being violated by the change in the proposed configuration of the Baltimore Country Club on the nonconforming use portion.

The documentation evidence and testimony presented established that the Baltimore Country Club, by the filing of its proposed drainage map marked as an Exhibit, violates both of the Zoning Commissioner's Orders in Cases No. 93-388-X and 93-37-SPH.

Argument

Petitioners believe that they have clearly established that the Baltimore Country Club has deviated from both the plat submitted in the nonconforming use case and the plat to accompany the Petition for Special Exception which was previously granted by the Deputy Zoning Commissioner.

Petitioners do not intend to respond to any of the Motions previously addressed orally at the hearing and already ruled upon by the Deputy Zoning Commissioner.

Petitioners believe, however, that they should point out one factual point in the testimony which is very relevant to their request in this Special Hearing, and that is testimony of Mr. Ed Haile of Daft, McCune and Walker, Inc. Haile testified that because the drainage area map described

through an exhibit was preliminary and had not been approved by the membership of the Club, that it did not reflect the intentions of the Club to violate either of the Zoning Commissioner's Orders from the previous Cases and that the Petitioners' requests were premature. Haile then went on to testify during Cross-Examination that had the Petition for Special Hearing not been filed by the Petitioners, bringing this matter to the attention of the Zoning Commissioner, that he would have presented the amended plans (if the Club decided to develop in accordance with the drainage area map) to the Zoning Administrator's Office for a determination as to whether or not the proposed deviations were minor adjustments to the approved Zoning Commissioner's Order. If Haile had received informal approval from the Zoning Administrator's Office, there would have been no public hearing of the changes from the two previous Zoning Commissioner Orders. Haile further testified that the plans would have changed and been approved administratively, the project built, and that there would have been no need for a public hearing before the Zoning Commissioner for an interpretation of the two previous cases.

It is exactly that informal process that bypasses open and public scrutiny avoids the opportunity of the Petitioners to comment upon the proposed changes and to have the Deputy Zoning Commissioner review the changes consistent with the two previous decisions that caused the filing of this Request for Special Hearing.

The Baltimore Country Club's attempt to bypass an agreement and two previous Zoning Commissioner's Orders has been exposed by the Petitioners through the instant Petition for Special Hearing.

The Petitioners, therefore, request the Deputy Zoning Commissioner in this case, regardless of what the ruling is on the merits of this case, to require that the Baltimore Country Club submit any changes to the proposed plans in Case No. 93-388-X or 93-37-SPH to the Deputy Zoning

Commissioner for interpretation of the respective Orders in the previous case and not to permit the Baltimore Country Club to unilaterally make these changes and receive administrative approval for these changes.

Respectfully Submitted,

J. Carroll Holzer

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 2nd day of December, 1997, the foregoing Memorandum in Lieu of Final Argument was mailed first class, postage prepaid to David Gildea, Whiteford, Taylor & Preston, 210 West Pennsylvania Ave., Towson, Maryland 21204.

J. Carroll Holzer

a:memo1\bcc.wpd

9/29/97

IN RE: AMENDED PETITION FOR SPECIAL HEARING	* BEFORE THE
11500 Mays Chapel Rd; Parcel A-NWC Mays Chapel and Bormont Rds; Parcel B-SW/S Mays Chapel Rd, 361' SE Chapel	* ZONING COMMISSIONER
Ridge Rd 8th Election District, 3rd Councilmanic Legal Owner: Baltimore	* FOR
Country Club of Balto. City	* BALTIMORE COUNTY
Deborah Terry, Donna Dow, Joseph Taubman, Courtney Spies, Sr. Petitioners	* Case No: 97-384-SPH

* * * * * * * * * * *

MOTION FOR MORE DEFINITE STATEMENT

Baltimore Country Club of Baltimore City ("BCC") by and through its attorneys, G. Scott Barhight, David K. Gildea, and Whiteford, Taylor & Preston L.L.P., hereby submits this Motion for More Definite Statement and states:

I. INTRODUCTION

On May 28, 1997, the Deputy Zoning Commissioner scheduled a hearing on Petitioners' Petition for Special Hearing. At the preliminary stages of the hearing, Mr. Holzer, counsel for the Petitioners, requested to amend the Petition to include allegations that BCC was in violation of Order 93-37-SPH. The Deputy Zoning Commissioner ruled that the Petitioners could not amend its Petition at that time and would have to file a new Petition alleging a violation of Commissioner Schmidt's Order in Case Number 93-37-SPH. Deputy Commissioner Kotroco stated, "I don't think it's appropriate to amend it at this time. However, I do believe it is appropriate that if you should wish to file a new Petition alleging a violation of Commissioner Schmidt's Order or the site plan filed in that case, I think you have the ability to do that." (T. 24 - 25). The Deputy Zoning

Commissioner concluded his remarks by stating, "As I've indicated, I do not believe it is appropriate to amend on the spot and make Baltimore Country Club have to defend on those alleged violations. It simply would not be fair to them to have to defend on something that they weren't prepared to do today." (T. 31).

Deputy Zoning Commissioner Kotroco then made clear to counsel for the Petitioners that the Amended Petition must allege specific violations of Order 93-37-SPH and could not simply be general allegations. The Deputy Zoning Commissioner stated,

"Mr. Holzer, you will be required to file a written amendment to your Petition alleging the specific violations...

Mr. Holzer - Yes.

Deputy Zoning Commissioner Kotroco - ...of the Order and non-conforming use case, whatever violations exist of that Order or the site plan." (T. 32-33)

Mr. Holzer agreed to be specific in his allegations regarding the alleged violations. Counsel for BCC (Mr. Barhight) requested that the "Petition for Special Hearing as it relates to the non-conforming use portion which he [Holzer] intends to add, to be as specific in his allegations as he would relative to the special exception, and to provide us with specific notice of that which he has asserted." (T. 30)

Mr. Holzer responded to that request by stating, "I will be brief. I certainly agree to do that." (T. 30)

II. APPLICABLE LAW

The Amended Petition for Special Hearing was brought pursuant to Baltimore County Zoning Regulations ("BCZR") Sections 500.6 and 500.7. Sections 500.6 and 500.7 provide jurisdiction to the Zoning Commissioner to conduct hearings "involving any violation or alleged violations or non-compliance with any zoning regulations."

Section III of the Zoning Commissioner's Rules states that, "a clear and specific statement describing the alleged violation" is necessary for any complaint of alleged zoning violations brought by way of a Special Hearing pursuant to Sections 500.6 and 500.7.

III. DISCUSSION

The Amended Petition amends the Petition for Special Hearing by adding allegations of non-compliance with the Zoning Commissioner's Order in case number 93-37-SPH and the Agreement arising from that Order and contained in the Order of Dismissal in 93-37-SPHA. The Amended Petition for Special Hearing uses general language regarding the alleged violations and does not provide a "clear and specific statement describing the alleged violation(s)." *See* Section III of the Zoning Commissioner's Rules.

Counsel for the Petitioners agreed to draft its Amended Petition with specificity as it relates to the violations of case number 93-37-SPHA. The Zoning

Commissioner ordered the Petitioners to allege specific violations. The Zoning Commissioner Rules provide that in filing a Special Hearing pursuant to Section 500.6 and 500.7, the Petitioner must state, "a clear and specific statement describing the alleged violation." *See* Section III of the Zoning Commissioner's Rules.

The Amended Petition is so vague and ambiguous that BCC cannot reasonably ascertain the alleged violations to adequately prepare for the hearing.

In a "normal" zoning case, the owner of the property must file a site plan which must show information required by law. The law requires the Petitioner to provide information to both the County and any interested party in the form of a site plan to accompany the Petition for zoning relief. The site plan gives sufficient notice of relief requested and provides an opportunity of any interested party to review the site plan and raise issues.

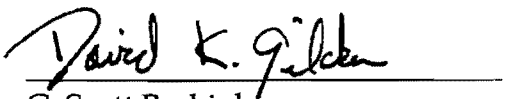
In the instant case, the Amended Petition does not provide sufficient notice of the issues to be presented before the Deputy Zoning Commissioner. The Petitioners simply assert that BCC is proposing to construct facilities which violate the Zoning Commissioner's Order and would violate Agreements entered into between the Petitioners and BCC. There is no notice given regarding the specific violation(s) of either the Order or the Agreement.

Due process, and the Zoning Commissioner's Rules, mandates that the Petitioners plead with specificity the alleged violations so that the Respondents have the

ability to prepare and respond. BCC will suffer undue prejudice if it is mandated to proceed to hearing without first being given specific notice of the alleged violations.

WHEREFORE, for the aforegoing reasons, Baltimore Country Club of Baltimore City respectfully requests the Deputy Zoning Commissioner to dismiss Petitioners' Amended Petition or, in the alternative, order the Petitioners to resubmit the Petition describing the specific violation(s) as required by BCZM §§500.6 and 500.7.

Respectfully submitted,



G. Scott Barhight
David K. Gildea
Whiteford, Taylor & Preston L.L.P.
210 West Pennsylvania Avenue
Towson, Maryland 21204-4515
(410) 832-2000

Attorneys for Respondent,
Baltimore Country Club of Baltimore City

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 2nd day of September 1997, a copy of the foregoing Motion for More Definite Statement was mailed first class, postage prepaid to:

Peter Max Zimmerman, Esquire
Carole S. Demilio, Esquire
Room 407, Courthouse
400 Washington Avenue
Towson, Maryland 21204

J. Carroll Holzer, Esquire
305 Washington Avenue, Suite 502
Towson, Maryland 21204

Ralph Arnsdorf, Esquire
Semmes, Bowen & Semmes
250 W. Pratt Street
Baltimore, MD 21201

David K. Gildea

116257

9/29/97

IN RE: AMENDED PETITION FOR SPECIAL HEARING	*	BEFORE THE
11500 Mays Chapel Rd; Parcel A-NWC Mays Chapel and Bormont Rds; Parcel B-SW/S Mays Chapel Rd, 361' SE Chapel Ridge Rd 8th Election District, 3rd Councilmanic Legal Owner: Baltimore Country Club of Balto. City	*	ZONING COMMISSIONER
	*	FOR
	*	BALTIMORE COUNTY
Deborah Terry, Donna Dow, Joseph Taubman, Courtney Spies, Sr. Petitioners	*	Case No: 97-384-SPH

* * * * * * * * * * *

MOTION TO DISMISS

Baltimore Country Club of Baltimore City ("BCC") by and through its attorneys, G. Scott Barhight, David K. Gildea, and Whiteford, Taylor & Preston L.L.P., hereby submits this Motion to Dismiss Petitioner's Amended Petition for Special Hearing and states:

I. INTRODUCTION

Petitioner's Amended Petition for Special Hearing requests relief which is outside the jurisdiction of the Zoning Commissioner. Tribunals other than the Zoning Commissioner have jurisdiction to determine many of the issues raised in Petitioner's Amended Petition for Special Hearing and are better suited to make those determinations. All portions of Petitioner's Amended Petition for Special Hearing relating to issues which the Zoning Commissioner does not have jurisdiction should be dismissed.

II. APPLICABLE LAW

The Amended Petition for Special Hearing was brought pursuant to Baltimore County Zoning Regulations ("BCZR") Sections 500.6 and 500.7. Sections 500.6 and 500.7 confer onto the Zoning Commissioner jurisdiction to conduct hearings "involving any violation or alleged violations or non-compliance with any zoning regulations." It is clear that the Zoning Commissioner's jurisdiction in the instant case only pertains to issues regarding the Baltimore County Zoning Regulations and the proper interpretation thereof.

III. DISCUSSION

In Petitioner's Amended Petition for Special Hearing, the Petitioners are requesting that the Zoning Commissioner determine whether the proposed construction complied with Federal, State and Baltimore County laws and regulations. The Baltimore County Zoning Commissioner does not have jurisdiction to rule on federal and state law matters, and does not have the jurisdiction to rule on Baltimore County laws if they are not zoning matters.

The Petitioners also are requesting that the Zoning Commissioner find that the failure to comply with the applicable Federal, State and Baltimore County laws and regulations caused monetary damages to them. The Zoning Commissioner does not have jurisdiction to determine issues of monetary damages and causation issues associated with monetary damages.

In Paragraph 6 of the Petitioner's Amended Petition, the Petitioners request the Zoning Commissioner to determine whether there was "environmental compliance with storm water run-off in accordance with all applicable Federal, State and Baltimore County laws and regulations contained in Paragraph 1A through C." The Zoning Commissioner does not have jurisdiction to rule on the issue of compliance with federal and state law and does not have jurisdiction to rule on Baltimore County laws and regulations which pertain to issues other than zoning issues. Therefore, the Zoning Commissioner should dismiss all issues relating to compliance with Federal, State and Baltimore County laws (other than zoning), and should not permit any testimony on those issues.

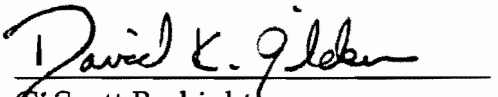
In Paragraph D of the Amended Petition, the Petitioners request that the Zoning Commissioner find BCC in violation of "all then existing and applicable Federal, State and Baltimore County laws and regulations." Clearly, the Zoning Commissioner does not have jurisdiction to make such a finding, and should not do so. Paragraph D should be dismissed and no testimony should be permitted on those issues.

Paragraph E of the Amended Petition requests the Zoning Commissioner to find that BCC is in violation of the applicable Federal, State and Baltimore County laws and regulations and that violation has "caused extensive damage to the Petitioners." The Zoning Commissioner does not have jurisdiction to determine monetary damages nor causation issues associated with monetary damages. Paragraph E should be dismissed and no testimony should be permitted on those issues.

Paragraph F states, "BCC's failure in this regard has contributed to property damage from storm water run-off in the Deep Run Watershed." The Zoning Commissioner does not have jurisdiction to make determinations as to property damage nor to make determinations regarding causation relating to property damages. Paragraph F should be dismissed and no testimony should be permitted on those issues.

WHEREFORE, for the aforegoing reasons, Baltimore Country Club of Baltimore City respectfully requests the Zoning Commissioner grant its Motion to Dismiss.

Respectfully submitted,



G. Scott Barhight
David K. Gildea
Whiteford, Taylor & Preston L.L.P.
210 West Pennsylvania Avenue
Towson, Maryland 21204-4515
(410) 832-2000

Attorneys for Respondent,
Baltimore Country Club of Baltimore City

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 29th day of September, 1997, a copy of the foregoing Motion to Dismiss was mailed first class, postage prepaid to:

Peter Max Zimmerman, Esquire
Carole S. Demilio, Esquire
Room 407, Courthouse
400 Washington Avenue
Towson, Maryland 21204

J. Carroll Holzer, Esquire
305 Washington Avenue, Suite 502
Towson, Maryland 21204

Ralph Arnsdorf, Esquire
Semmes, Bowen & Semmes
250 W. Pratt Street
Baltimore, MD 21201

David K. Gildea

David K. Gildea

116216

9/29/97

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FAX 202 331-0573

1317 KING STREET
ALEXANDRIA, VIRGINIA 22314-2928
TELEPHONE 703 836-5742
FAX 703 836-0265

G. SCOTT BARHIGHT
DIRECT NUMBER
410 832-2050
gbarhight@wtplaw.com

September 29, 1997

RECEIVED
SEP 29 1997

Via Hand Delivery
Deputy Zoning Commissioner Kotoroco
Office of Planning and Zoning
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Baltimore Country Club
Case No.: 97-384-SPH
Our File No.: 00868/00001

Dear Deputy Zoning Commissioner Kotoroco:

Enclosed please find BCC's Motion for More Definite Statement and Motion to Dismiss for filing in the above referenced matter. Although there is no Zoning Commissioner Rule for time to respond, the Maryland Rules should be used as a guide. The Maryland Rules provide that the opposition have 15 days to file a response to the Motion. If a response is not filed within the requisite time period, the Zoning Commissioner may rule on the issue without a response.

Should you have any questions or comments, please contact me. My client and I look forward to your ruling on these Motions.

Sincerely,

G. Scott Barhight
DKG

G. Scott Barhight

GSB:bhb
CC: J. Carroll Holzer, Esquire (w/enclosures)
David K. Gildea, Esquire (w/enclosures)

97-384-SPA

AMENDED

REVISED 7/22/97

Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 11500 Mays Chapel Road

which is presently zoned RC 5

This Petition shall be filed with the Office of Zoning Administration & Development Management.
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 Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve

SEE ATTACHED AMENDED PETITION

Property is to be posted and advertised as prescribed by Zoning Regulations.
I, or we, agree to pay expenses of 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:

(Type or Print Name)

Signature

Address

City State Zipcode

Legal Owner(s):
Baltimore Country Club of Baltimore City
(Type or Print Name)

Signature

(Type or Print Name)

Signature

Petitioners:
(See attached individuals)

11500 Mays Chapel Road
Address Phone No.

Baltimore MD 21093
City State Zipcode

Attorney for Petitioner:

J. Carroll Holzer
(Type or Print Name)

for Petitioners
Signature

J. Carroll Holzer, P.A.
305 Washington Ave.
Suite 502
Towson, MD 21204

410 825 6961
Phone No.

21204
Zipcode

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

G. Scott Barhight, Esq.
Name 210 W. Pennsylvania Ave., 5th Flr.
Towson, MD 21204 410-832-8050
Address Phone No.

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____
unavailable for Hearing
the following dates _____ Next Two Months
ALL _____ OTHER _____
REVIEWED BY: _____ DATE _____

ORDER RECEIVED FOR FILING
Date 3/31/97
By

DROP-OFF
No Review
8/12/97 UCR

INDIVIDUALS:

1. **DEBORAH TERRY**
   747 Bomont Road, Timonium, MD 21093

2. **DONNA DOW**
   721 Bomont Road, Timonium, MD 21093

3. **JOSEPH R.B. TUBMAN**
   11431 Mays Chapel Road, Timonium, MD 21093

4. **COURTNEY A. SPIES, SR.**
   722 Bomont Road, Timonium, MD 21093

ORDER RECEIVED FOR FILING
Date 3/31/22
By

AMENDED PETITION

Petitioners, Deborah Terry; Donna Dow; Joseph R.B. Tubman; and Courtney A. Spies, Sr.; by their attorneys J. Carroll Holzer and Ralph Arnsdorf being interested persons, adjoining and adjacent to the subject property described in the description and plat attached hereto and made in part hereof, hereby petition for a Special Hearing under Sec. 500.7 of the Zoning Regulations of Baltimore County, to have the Zoning Commissioner determine the following questions presented and provide for the proper enforcement thereof; and under Sec. 500.6 to determine any violation or non-compliance with any Zoning Regulation, or proper interpretation thereof:

1). Whether the Special Exception granted to Baltimore Country Club in Case No. 93-388-X was not utilized within 2 years and has been extinguished under the B.C.Z.R, Sec. 502.3 ?

2). Whether the Baltimore Country Club (hereinafter B.C.C.) is proposing to construct facilities on the subject site which violate the Zoning Commissioner's Order in Case No. 93-388-X and further are in conflict with the B.C.Z.R.?

3). Whether the B.C.C. has violated its agreement with the Petitioners and the Order of the Baltimore County Deputy Zoning Commissioner, as contained in **Exh. 3**.

4). Whether the B.C.C. is proposing to construct facilities on the subject site which violates the Zoning Commissioner's Order in Case No. 93-37-SPH and further, are in conflict with the B.C.Z.R.

5). Whether the B.C.C. has violated its agreement with the Petitioners in the Order of the Baltimore County Zoning Commissioner, and the Baltimore County Board of Appeals, as contained in **Exh. 3** and as contained in the Order of Dismissal contained in CBA Case No. 93-37-SPH **(Exh.**

ORDER RECEIVED FOR FILING
Date 3/31/00
By

6). Whether the B.C.C. has violated its agreement with the Petitioners as contained in **Exh. 3** and with the order of the Deputy Zoning Commissioner in Case No. 93-388-X as contained in **Exh. 2** and the order and dismissal of the CBA contained in **Exh. 5** as to environmental compliance with stormwater runoff in accordance with all applicable federal, state and Baltimore County laws and regulations contained in paragraph #1A through C (**Exh. 3**).

7). Whether the B.C.C. complied with all the Baltimore County sediment control and water quality requirements in regard to the implementation of the non-conforming use on the subject site in Case No. 93-37-SPH.

8). Such other and further issues as may be raised at the public hearing on this Petition. All of the above information relates to the following facts by way of background:

A). The B.C.C. came before the Deputy Zoning Commissioner in June of 1993 seeking a Special Exception for the above-referenced parcels at 11500 Mays Chapel Road. In Case No. 93-37-SPH, the Zoning Commissioner of Baltimore County granted a Petition for Special Hearing so the B.C.C. could confirm a non-conforming country club and modifications for those portions of the property owned by the B.C.C. as of September 26, 1963. (See attached **Exh. 1**- "Findings of Fact and Conclusions of Law; issued by Lawrence E. Schmidt, Zoning Commissioner for Baltimore County- June, 1993). See also attached **Exh. 5**- The CBA Order of Dismissal.

B). Thereafter, the B.C.C. did file a Petition for a Special Exception for a country club. The matter came before the Deputy Zoning Commissioner in June of 1993. In Case No. 93-388-X, Deputy Zoning Commissioner Timothy M. Kotroco granted the B.C.C.'s Petition for Special Exception subject to certain conditions. (See attached **Exh. 2** -- Findings of Fact and Conclusions of Law, issued by Timothy M. Kotroco, Deputy Zoning Commissioner for Baltimore County.)

ORDER RECEIVED FOR FILING
Date 3/31/99
By

C). Specifically, as part of Commissioner Kotroco's Order, the Deputy Zoning Commissioner required the B.C.C. to comply with the terms of an Agreement dated June 15, 1993 between the B.C.C. and the Petitioners and also incorporated them the terms of the Agreement in his Order. (See **Exh. 3**-- Agreement dated June 14, 1993 and incorporated by reference herein.)

D). As part of the Zoning Commissioner's Order, **Exh. 3** hereto, the B.C.C. agreed that if the B.C.C. began to construct parking areas immediately adjacent to the clubhouse, that B.C.C. would 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, which Petitioners then allege that B.C.C. failed to do. Petitioners request the Zoning Commissioner to find B.C.C. in violation thereof.

E). The B.C.C. has failed to comply with applicable regulations and that the B.C.C.'s failure to do so has caused extensive damage to the Petitioners. Petitioners request the Zoning Commissioner to find that B.C.C. is in violation thereof.

F). As part of the Deputy Zoning Commissioner's Order, **Exh. 3** hereto, the B.C.C. agreed to submit their stormwater management plans to the Petitioners for their review and comment, Id., prior to submitting it to the County. The B.C.C. failed to submit their plans to the Petitioners. This failure has deprived the Petitioners of an important legal right. B.C.C.'s failure in this regard has also contributed to property damage from stormwater runoff in the Deep Run watershed.

G). The B.C.Z.R. Sec. 502.3 require the B.C.C. to begin construction on the "Boyce property" referred to in **Exh. 2** hereto, two years from the date the Special Exception was granted.

ORDER RECEIVED FOR FILING
Date 3/31/99
By

It has been more than two years and the B.C.C. has not begun any construction on the Boyce property; therefore, Petitioners allege that B.C.C. has lost its Special Exception.

H). It is clear from the foregoing that the B.C.C. has materially breached their Agreement with the Petitioners and has violated the Zoning Commissioner's Order in Case No. 93-388-X, **Exh. 2** hereto; and Petitioners request the Zoning Commissioner to so find.

I). The B.C.C. has submitted plans for approval by Baltimore County which differ substantially and materially from the Special Exception approved by the Deputy Zoning Commissioner in Case No. 93-388-X (See **Exh. 4**); and differ substantially and materially from the plat to accompany the non-conforming use approved by the Zoning Commissioner in Case No. 93-37-SPH (See **Exh. 1**); and Petitioners request the Zoning Commissioner to so determine that B.C.C.'s plan is in violation of the orders in both cases as well as with their agreement with the Protestants contained in **Exh. 3**.

J). The attached five (5) photographs taken by Petitioner Deborah Terry on Saturday, March 8, 1997, clearly indicate that BCC failed to act upon the Special Exception granted in June, 1993 through March 8, 1997.

K). Petitioners request the Zoning Commissioner to conduct a hearing and rule upon issues raised by this Petition.

Respectfully submitted,

J. Carroll Holzer
305 Washington Avenue, Suite 502
Towson, Maryland 21204
(410) 825-6961

ORDER RECEIVED FOR FILING
Date 3/31/97
By

Ralph Arnsdorf
Semmes, Bowen & Semmes
250 West Pratt Street
Baltimore, Maryland 21201
(410) 539-5040
Attorneys for Petitioners

PETITIONS\A:\MAYSCHP2.PET

ORDER RECEIVED FOR FILING
Date 3/31/00
By

384

Petition for Special Hearing

97-384-SPH

to the Zoning Commissioner of Baltimore County

for the property located at 11500 Mays Chapel Road

which is presently zoned RC5

This Petition shall be filed with the Office of Zoning Administration & Development Management.
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 Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve

SEE ATTACHED PETITION

Property is to be posted and advertised as prescribed by Zoning Regulations.
I, or we, agree to pay expenses of 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:

(Type or Print Name)

Signature

Address

City State Zipcode

Petitioners:
(See attached individuals)

Attorney for Petitioner:

J. Carroll Holzer
(Type or Print Name)

Signature

J. Carroll Holzer, P.A.
305 Washington Ave.
Suite 502
Towson, MD 21204
825-6961

Phone No.

Zipcode

DROP-OFF
NO REVIEW
3/11/97
LLR

Legal Owner(s):
Baltimore Country Club of Baltimore City
(Type or Print Name)

Signature

(Type or Print Name)

Signature

11500 Mays Chapel Road
Address Phone No.

Baltimore MD 21093
City State Zipcode

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

G. Scott Barhight, Esq.
Name
210 W. Pennsylvania Ave., 5th Floor
Towson, MD 21204 832-8050
Address Phone No.

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

unavailable for Hearing

the following dates _____ Next Two Months

ALL _____ OTHER _____

REVIEWED BY _____ DATE _____

97-384-SPH

INDIVIDUALS:

1. **DEBORAH TERRY**
   747 Bomont Road, Timonium, MD 21093

2. **DONNA DOW**
   721 Bomont Road, Timonium, MD 21093

3. **JOSEPH R.B. TUBMAN**
   11431 Mays Chapel Road, Timonium, MD 21093

4. **COURTNEY A. SPIES, SR.**
   722 Bomont Road, Timonium, MD 21093

PETITION 97-384-SPH

Petitioners, Deborah Terry; Donna Dow; Joseph R.B. Tubman; and Courtney A. Spies, Sr.; by their attorneys J. Carroll Holzer and Ralph Arnsdorf being interested persons, adjoining and adjacent to the subject property described in the description and plat attached hereto and made in part hereof, hereby petition for a Special Hearing under Sec. 500.7 of the Zoning Regulations of Baltimore County, to have the Zoning Commissioner determine the following questions presented and provide for the proper enforcement thereof; and under Sec. 500.6 to determine any violation or non-compliance with any Zoning Regulation, or proper interpretation thereof:

1) Whether the Special Exception granted to Baltimore Country Club in Case No. 93-388-X was not utilized within 2 years and has been extinguished under the B.C.Z.R, Sec. 502.3 ?

2) Whether the Baltimore Country Club (hereinafter B.C.C.) is proposing to construct facilities on the subject site which violate the Zoning Commissioner's Order in Case No. 93-388-X and further are in conflict with the B.C.Z.R.?

3) Whether the B.C.C. is constructing facilities on the subject site which differ from the approved site plan for the Special Exception in Case No. 93-388-X in that it: a) proposes a tennis center not included in the Special Exception; b) shifts 3 tennis courts on the "Boyce" property toward Bomont Road; c) provides for a new parking lot. (See **Exh. 4**).

4) Whether the B.C.C. has violated its agreement with the Petitioners and the Order of the Baltimore County Deputy Zoning Commissioner, as contained in **Exh. 3**.

5) Such other and further issues as may be raised at the public hearing on this Petition.

All of the above information and questions relate to the following facts by way of

background:

97-384-SPH

1) The B.C.C. came before the Deputy Zoning Commissioner in June of 1993 seeking a Special Exception for the above-referenced parcels at 11500 Mays Chapel Road. In Case No. 93-37-SPH, the Zoning Commissioner of Baltimore County granted a Petition for Special Hearing so the B.C.C. could confirm a non-conforming country club and modifications for those portions of the property owned by the B.C.C. as of September 26, 1963. (See attached **Exh. 1**- "Findings of Fact and Conclusions of Law; issued by Lawrence E. Schmidt, Zoning Commissioner for Baltimore County- June, 1993).

2) Thereafter, the B.C.C. did file a Petition for a Special Exception for a country club. The matter came before the Deputy Zoning Commissioner in June of 1993. In Case No. 93-388-X, Deputy Zoning Commissioner Timothy M. Kotroco granted the B.C.C.'s Petition for Special Exception subject to certain conditions. (See attached **Exh. 2** -- Findings of Fact and Conclusions of Law, issued by Timothy M. Kotroco, Deputy Zoning Commissioner for Baltimore County.)

3) Specifically, as part of Commissioner Kotroco's Order, the Deputy Zoning Commissioner required the B.C.C. to comply with the terms of an Agreement dated June 15, 1993 between the B.C.C. and the Petitioners and also incorporated them the terms of the Agreement in his Order. (See **Exh. 3**-- Agreement dated June 14, 1993 and incorporated by reference herein.)

4) As part of the Zoning Commissioner's Order, **Exh. 3** hereto, the B.C.C. agreed that if the B.C.C. began to construct parking areas immediately adjacent to the clubhouse, that B.C.C. would 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, which Petitioners then allege that B.C.C. failed to do.

5) The B.C.C. has failed to comply with applicable regulations and that the B.C.C.'s failure to do so has caused extensive damage to the Petitioners. 97-384-SPH

6) As part of the Deputy Zoning Commissioner's Order, **Exh. 3** hereto, the B.C.C. agreed to submit their stormwater management plans to the Petitioners for their review and comment, Id., prior to submitting it to the County. The B.C.C. failed to submit their plans to the Petitioners. This failure has deprived the Petitioners of an important legal right. B.C.C.'s failure in this regard has also contributed to property damage from stormwater runoff in the Deep Run watershed.

7) The B.C.Z.R. Sec. 502.3 require the B.C.C. to begin construction on the "Boyce property" referred to in **Exh. 2** hereto, two years from the date the Special Exception was granted. It has been more than two years and the B.C.C. has not begun any construction on the Boyce property; therefore, Petitioners allege that B.C.C. has lost its Special Exception.

8) It is clear from the foregoing that the B.C.C. has materially breached their Agreement with the Petitioners and has violated the Zoning Commissioner's Order in Case No. 93-388-X, **Exhibit 2** hereto; and Petitioners request the Zoning Commissioner to so find.

9) The B.C.C. has submitted plans for approval by Baltimore County which differ substantially and materially from the Special Exception approved by the Deputy Zoning Commissioner in Case No. 93-388-X (See **Exh. 4**); and Petitioners request the Zoning Commissioner to so determine that B.C.C.'s plan is in violation with **Exh. 3**.

10) The attached five (5) photographs taken by Petitioner Deborah Terry on Saturday, March 8, 1997, clearly indicate that BCC failed to act upon the Special Exception granted in June, 1993 through March 8, 1997.

11) Petitioners request the Zoning Commissioner to conduct a hearing and rule upon issues raised by this Petition.

97-384-SPH

Respectfully submitted,

J. Carroll Holzer
305 Washington Avenue, Suite 502
Towson, Maryland 21204
(410) 825-6961

Ralph Arnsdorf
Semmes, Bowen & Semmes
250 West Pratt Street
Baltimore, Maryland 21201
(410) 539-5040
Attorneys for Petitioners

PETITIONS\A:\MAYSCHPL.PET

DAFT·McCUNE·WALKER, INC.
200 East Pennsylvania Avenue Towson, Maryland 21204 301 296 3333 FAX 301 296 4705

•384

97-384-SPH

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 Bomont 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)

40

97-384-SPH

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) Northwesterly, 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 73 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

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 Bomont 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

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97-384-SPH

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)

STATE OF MARYLAND
PATRICK ARTHUR SIMON
No. 10914
REGISTERED
PROFESSIONAL LAND SURVEYOR

97-384-
SPH

97-384-
SP+1

BALTIMORE COUNTY, MARYLAND

OFFICE OF FINANCE - REVENUE DIVISION

MISCELLANEOUS CASH RECEIPT

No. [illegible]

DATE 5/27/97 ACCOUNT R-001-6150

AMOUNT $ 500

RECEIVED FROM: [illegible]

FOR: [illegible]

VALIDATION OR SIGNATURE OF CASHIER

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 035927

DATE 8/12/97 ACCOUNT 001-6150

AMOUNT $ 100.00 (WCR)]

RECEIVED FROM: J. Carroll Holzer

FOR: #110 - REVISIONS

Revised Petition Form
Item #384 Drop-Off - No Review

Baltimore Country Club #97-384-SPH

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

PAID RECEIPT

PROCESS	ACTUAL	TIME
8/12/1997	8/12/1997	14:36:32

REG WS01 CASHIER CLUM CHL DRAWER 1
5 MISCELLANOUS CASH RECEIPT
Receipt # 018367 OFLN
CR NO. 035927

100.00 CHECK
Baltimore County, Maryland

CASHIER'S VALIDATION

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 035802

DATE 3/12/97 ACCOUNT 001-6150

AMOUNT $250.00 (WCR)

RECEIVED FROM: J. Carroll Holzer, P.A.

FOR: #040 - SPECIAL HEARING
11500 Mays Chapel Road

DROP-OFF — NO REVIEW
Item #384; Case #97-384-SPH

U3A91ND081M CHRC $250.00
BA C011:20AM 03-12-97

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

CASHIER'S VALIDATION

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 050820

DATE 4/14/98 ACCOUNT R-001-6150

AMOUNT $ 210.00

RECEIVED FROM: J. Carroll Holzer, Esquire

FOR: Appeal - Case # 97-384-SPH

R4E

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

PAID RECEIPT

PROCESS	ACTUAL	TIME
4/16/1998	4/15/1998	15:24:22

REG WS02 CASHIER JRIC JMR DRAWER 2
5 MISCELLANOUS CASH RECEIPT
Receipt # 041193 OFLN
CR NO. 050820

210.00 CHECK
Baltimore County, Maryland

CASHIER'S VALIDATION

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 050620

DATE 4/14/98 ACCOUNT R-001-6150

AMOUNT $ 210.00

RECEIVED FROM: J Carroll Holzer, Esquire

FOR: Appeal - Case # 97-384-SPH

R4E

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

PAID RECEIPT

PROCESS	ACTUAL	TIME
4/16/1998	4/15/1998	15:24:22

REG WS02 CASHIER JRIC JMR DRAWER 2
5 MISCELLANEOUS CASH RECEIPT
Receipt # 041193 OFLN
CR NO. 050820

210.00 CHECK
Baltimore County, Maryland

CASHIER'S VALIDATION

CERTIFIC "E OF POSTING

Rescheduled -

RE: Case No.: 97-384 SPH

Petitioner/Developer: BALTO. C.C., ETAL
C/O J.C. HOLTZER, ESQ

Date of Hearing/Closing: 11/13/97

Baltimore County Department of
Permits and Development Management
County Office Building, Room 111
111 West Chesapeake Avenue
Towson, MD 21204

Attention: Ms. Gwendolyn Stephens

Ladies and Gentlemen:

This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at N/S MAY CHAPEL RD. E. OF BOMONT & AT ENTR. TO B.C.C

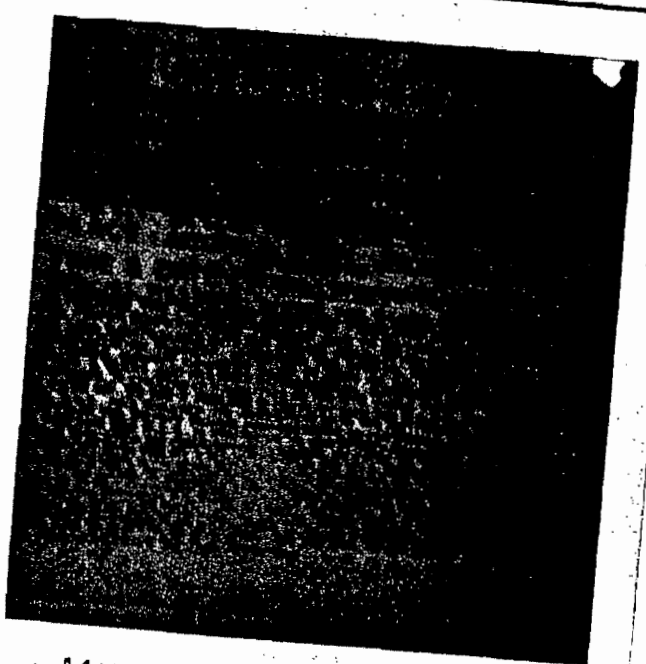
The sign(s) were posted on 10/27/97
(Month, Day, Year)

Sincerely,

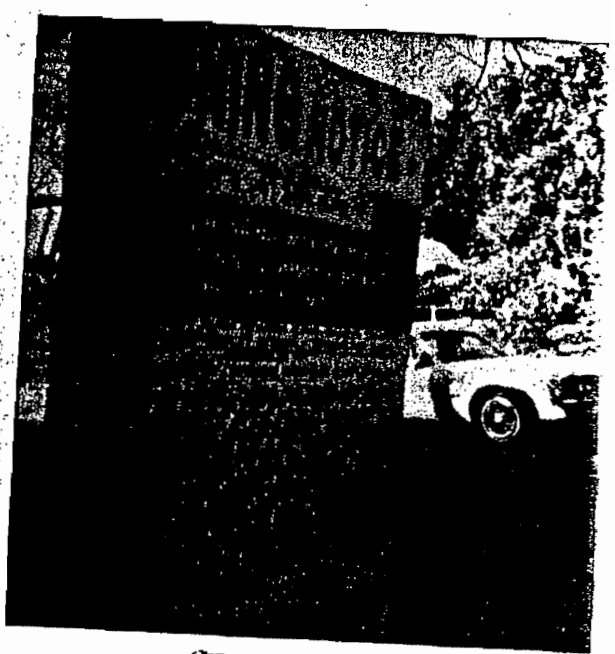
Patrick M. O'Keefe 10/29/97
(Signature of Sign Poster and Date)

Patrick M. O'Keefe
(Printed Name)

523 Penny Lane
(Address)



MAYS CHAPEL & BOMONT
J.C. HOLTZER, ESQ. BALTO. C.C.
H: 11/13/97



97-384
MAYS CHAPEL RD @ BOMONT

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing in Towson, Maryland on the property identified herein as follows:

Case: #97-384-SPH
11500 Mays Chapel Road
Parcel A - NWC Mays Chapel and Bormont Road
Parcel B - SW/S Mays Chapel Rd., 361' SE Chapel Ridge Rd.
8th Election District
3rd Councilmanic
Legal Owner(s):
Baltimore Country Club of Baltimore City
Petitioners:
Deborah Terry, Donna Dow, Joseph R. B. Tubman and Courtney A. Spies, Sr.

Special Hearing: to have the Zoning Commissioner determine the following questions presented and provide for the proper enforcement thereof; and to determine any violation or non-compliance with any Zoning Regulation, or property interpretation thereof; 1) whether the Special Exception granted the Baltimore Country Club in Case No. 93-388-X was not utilized within 2 years and has been extinguished; 2) whether the Baltimore Country Club (hereinafter B.C.C.) is proposing to construct facilities on the subject site which violate the Zoning Commissioner's Order in Case No. 93-388-X and further are in conflict with the B.C.Z.R.; 3) whether the B.C.C. has violated its agreement with the Petitioners and the Order of the Baltimore County Deputy Zoning Commissioner, as contained in Exh. 3; 4) whether the B.C.C. is proposing to construct facilities on the subject site which violated the Zoning Commissioner's Order in Case No. 93-37-SPH and further, are in conflict with the B.C.Z.R.; 5) whether the B.C.C. has violated its agreement the Petitioners in the Order of the Baltimore County Zoning Commissioner, and the Baltimore County Board of Appeals, as contained in Exh. 3 and contained in the Order of Dismissal contained in CBA No. 93-37-SPH; 6) whether the B.C.C. has violated its agreement with the Petitioners as contained in Exh. 3 and with the order of the Deputy Zoning Commissioner in Case No. 93-388-X as contained in Exh. 2 and the order and dismissal of the CBA contained in Exh. 5 as to environmental compliance with stormwater runoff in accordance with all applicable federal, state and Baltimore County laws and regulations contained in paragraph #1A through C (Exh. 3); 7) whether the B.C.C. complied with all the Baltimore County sediment control and water quality requirements in regard to the implementation of the non-conforming use on the subject site in Case No. 93-37-SPH; 8) Such other and further issues as may be raised at the public hearing of this Petition.

Hearing: Wednesday, September 24, 1997 at 9:00 a.m., Room 407 Courts Bldg., 401 Bosley Avenue.

LAWRENCE E. SCHMIDT
Zoning Commissioner for
Baltimore County

NOTES: (1) Hearings are Handicapped Accessible; for

CERTIFICATE OF PUBLICATION

TOWSON, MD., Aug. 28, 1997

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. 28, 1997.

THE JEFFERSONIAN,

A. Henrikson

LEGAL AD. - TOWSON

CERTIFICATE OF PUBLICATION

TOWSON, MD., 4/24, 1997

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 4/24, 1997.

THE JEFFERSONIAN,

A. Henrikson

LEGAL AD. - TOWSON

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 in Towson, Maryland on the property identified herein as follows:

Case: #97-384-SPH
11500 Mays Chapel Road
Parcel A - NWC Mays Chapel and Bormont Road
Parcel B - SW/S Mays Chapel Road, 361' SE Chapel Ridge Road
8th Election District
3rd Councilmanic
Legal Owner(s):
Baltimore Country Club of Baltimore City
Petitioners:
Deborah Terry, Donna Dow, Joseph R.B. Tubman, and Cortney A. Spies, Sr.

Special Hearing: to determine the validity of special exception case #93-388-X including any conflicts with the BCZR and any non-compliance with the approved plan and agreement.

Hearing: Wednesday, May 28, 1997 at 9:00 a.m., 4th floor hearing room Courts Bldg., 401 Bosley Avenue.

LAWRENCE E. SCHMIDT
Zoning Commissioner for Baltimore County

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Call 887-3353.
(2) For information concerning the File and/or Hearing, Please Call 887-3391.

4/364 April 24 C137614

Exhibit B

2 SIGNS MUST BE POSTED

Request for Zoning: Variance, Special Exception, or Special Hearing

Date to be Posted: Anytime before but no later than _____.

Format for Sign Printing, Black Letters on White Background:

ITEM 384

ZONING NOTICE

Case No. 97-384-SPH

A PUBLIC HEARING WILL BE HELD BY
THE ZONING COMMISSIONER
IN TOWSON, MD

PLACE: _____

DATE AND TIME: _____

REQUEST: SPECIAL HEARING TO DETERMINE THE VALIDITY OF SPECIAL EXCEPTION CASE #93-388-X INCLUDING ANY CONFLICTS WITH THE BCZR AND ANY NON-COMPLIANCE WITH THE APPROVED PLAN AND AGREEMENT.

POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES NECESSARY.
TO CONFIRM HEARING CALL 887-3391.

DO NOT REMOVE THIS SIGN AND POST UNTIL DAY OF HEARING UNDER PENALTY OF LAW

HANDICAPPED ACCESSIBLE

9/96
post.4.doc

Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

F.Y.I.

This case set per written notifacation from Ho
as to available dates
Speed s
oral con

April 18, 1997

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 in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 97-384-SPH
11500 May Chapel Road
Parcel A - NWC Mays Chapel and Bormont Road
Parcel B - SW/S Mays Chapel Road, 361' SE Chapel Ridge Road
8th Election District - 3rd Councilmanic
Legal Owner(s): Baltimore Country Club of Baltimore City
Petitioners: Deborah Terry, Donna Dow, Joseph R.B. Tubman, and Cortney A. Spies, Sr.

Special Hearing to determine the validity of special exception case #93-388-X including any conflicts with the BCZR and any non-compliance with the approved plan and agreement.

HEARING: WEDNESDAY, MAY 28, 1997 at 9:00 a.m., 4th floor hearing room Courts Bldg., 401 Bosley Avenue.

Arnold Jablon
Director

cc: Petitioners
J. Carroll Holzer, Esq.
G. Scott Barhight, Esq.

NOTES: (1) YOU MUST HAVE THE ZONING NOTICE SIGN POSTED ON THE PROPERTY BY MAY 13, 1997.
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(3) FOR INFORMATION CONCERING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3391.

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on Recycled Paper

TO: PUTUXENT PUBLISHING COMPANY
April 24, 1997 Issue - Jeffersonian

Please foward billing to:

J. Carroll Holzer, Esq.
305 Washington Avenue, #502
Towson, MD 21204
825-6961

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 in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 97-384-SPH
11500 May Chapel Road
Parcel A - NWC Mays Chapel and Bormont Road
Parcel B - SW/S Mays Chapel Road, 361' SE Chapel Ridge Road
8th Election District - 3rd Councilmanic
Legal Owner(s): Baltimore Country Club of Baltimore City
Petitioners: Deborah Terry, Donna Dow, Joseph R.B. Tubman, and Cortney A. Spies, Sr.

Special Hearing to determine the validity of special exception case #93-388-X including any conflicts with the BCZR and any non-compliance with the approved plan and agreement.

HEARING: WEDNESDAY, MAY 28, 1997 at 9:00 a.m., 4th floor hearing room Courts Bldg., 401 Bosley Avenue.

LAWRENCE E. SCHMIDT
ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, PLEASE CALL 887-3391.

Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

August 22, 1997

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 in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 97-384-SPH
11500 May Chapel Road
Parcel A - NWC Mays Chapel and Bormont Road
Parcel B - SW/S Mays Chapel Road, 361' SE Chapel Ridge Road
8th Election District - 3rd Councilmanic
Legal Owner(s): Baltimore Country Club of Baltimore City
Petitioners: Deborah Terry, Donna Dow, Joseph R. B. Tubman, and Courtney A. Spies, Sr.

Special Hearing to have the Zoning Commissioner determine the following questions presented and provide for the proper enforcement thereof; and to determine any violation or non-compliance with any Zoning Regulation, or property interpretation thereof; 1) whether the Special Exception granted the Baltimore Country Club in Case No. 93-388-X was not utilized within 2 years and has been extinguished; 2) whether the Baltimore Country Club (hereinafter B.C.C.) is proposing to construct facilities on the subject site which violate the Zoning Commissioner's Order in Case No. 93-388-X and further are in conflict with the B.C.Z.R.; 3) whether the B.C.C. has violated its agreement with the Petitioners and the Order of the Baltimore County Deputy Zoning Commissioner, as contained in Exh. 3; 4) whether the B.C.C. is proprosing to construct facilities on the subject site which violated the Zoning Commissioner's Order in Case No. 93-37-SPH and further, are in conflict with the B.C.Z.R.; 5) whether the B.C.C. has violated its agreement the the Petitioners in the Order of the Baltimore County Zoning Commissioner, and the Baltimore County Board of Appeals, as contained in Exh. 3 and contained in the Order of Dismissal contained in CBA Case No. 93-37-SPH; 6) whether the B.C.C. has violated its agreement with the Petitioners as contained in Exh. 3 and with the order of the Deputy Zoning Commissioner in Case No. 93-388-X as contained in Exh. 2 and the order and dismissal of the CBA contained in Exh. 5 as to environmental compliance with stormwater runoff in accordance with all applicable federal, state and Baltimore County laws and regulations contained in paragraph #1A through C (Exh. 3).; 7) whether the B.C.C. complied with all the Baltimore County sediment control and water quality requirements in regard to the implementation of the non-conforming use on the subject site in Case No. 93-37-SPH; 8) Such other and further issues as may be raised at the public hearing of this Petition.

HEARING: WEDNESDAY, SEPTEMBER 24, 1997 at 9:00 a.m., Room 407 Courts Building, 401 Bosley Avenue.

Arnold Jablon
Director

cc: J. Carroll Holzer, Esq.
G. Scott Barhight, Esq.

NOTES: (1) YOU MUST HAVE THE ZONING NOTICE SIGN POSTED ON THE PROPERTY BY SEPTEMBER 9, 1997.
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(3) FOR INFORMATION CONCERING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3391.

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TO: PUTUXENT PUBLISHING COMPANY
August 28, 1997 Issue - Jeffersonian

Please foward billing to:

J. Carroll Holzer, Esq.
305 Washington Avenue, Suite 502
Towson, MD 21204
410-825-6961

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 in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 97-384-SPH
11500 May Chapel Road
Parcel A - NWC Mays Chapel and Bormont Road
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8th Election District - 3rd Councilmanic
Legal Owner(s): Baltimore Country Club of Baltimore City
Petitioners: Deborah Terry, Donna Dow, Joseph R. B. Tubman, and Courtney A. Spies, Sr.

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HEARING: WEDNESDAY, SEPTEMBER 24, 1997 at 9:00 a.m., Room 407 Courts Building, 401 Bosley Avenue.

LAWRENCE E. SCHMIDT
ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, PLEASE CALL 887-3391.

TO: PUTUXENT PUBLISHING COMPANY
August 28, 1997 Issue - Jeffersonian

Please foward billing to:

J. Carroll Holzer, Esq.
305 Washington Avenue, Suite 502
Towson, MD 21204
410-825-6961

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 in Towson, Maryland on the property identified herein as follows:

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11500 May Chapel Road
Parcel A - NWC Mays Chapel and Bormont Road
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HEARING: WEDNESDAY, SEPTEMBER 24, 1997 at 9:00 a.m., Room 407 Courts Building, 401 Bosley Avenue.

LAWRENCE E. SCHMIDT
ZONING COMMISSIONER FOR BALTIMORE COUNTY

File

RECEIVED
SEP 16 1997
ZONING COMMISSIONER

IN RE: PETITION FOR SPECIAL HEARING	*	ZONING COMMISSIONER
11500 Mays Chapel Road	*	FOR
Parcel A-NWC Mays Chapel and Bomont Road	*	BALTIMORE COUNTY
	*	Case No. 97-384-SPH
Parcel B-SWIS Mays Chapel Road 361' SPECIAL EXCEPTION Chapel Ridge Road	*	
3rd Councilmanic District Legal Owner: Baltimore Country Club	*	
	*	

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

ORDER

Upon consideration of Petitioners' request to postpone the scheduled hearing in the above matter, and any response thereto, it is this 16th day of September, 1997 ORDERED that the above hearing scheduled for September 24, 1997 be postponed to a date or dates mutually agreeable by the parties.

Timothy Kotroco
Deputy Zoning Commissioner

ORDERS\A:\MAYS.ORD

Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

October 10, 1997

NOTICE OF REASSIGNMENT

Rescheduled from 5/28/97 and 9/24/97
CASE NUMBER: 97-384-SPH
11500 May Chapel Road
Parcel A - NWC Mays Chapel and Bormont Road
Parcel B - SW/S Mays Chapel Road, 361' SE Chapel Ridge Road
8th Election District - 3rd Councilmanic
Legal Owner(s): Baltimore Country Club of Baltimore City
Petitioners: Deborah Terry, Donna Dow, Joseph R. B. Tubman, and Courtney A. Spies, Sr.

HEARING: THURSDAY, NOVEMBER 13, 1997 at 9:00 a.m. in Room 407, Courts Building, 401 Bosley Avenue.

ARNOLD JABLON
DIRECTOR

cc: J. Carroll Holzer, Esq
G. Scott Barhight, Esq.

*PLEASE NOTE THAT THE ZONING SIGN ON THE PROPERTY MUST BE ALTERED TO GIVE NOTICE OF THE ABOVE HEARING ON OR BEFORE OCTOBER 29, 1997 AND CERTIFICATION OF SAME FILED WITH THIS OFFICE. PLEASE CONTACT THE SIGN VENDOR USED FOR THE ORIGINAL POSTING.

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on Recycled Paper

P.P.

to amend Petition (file returned to Mr.)

RE: PETITION FOR SPECIAL HEARING 11500 Mays Chapel Rd; Parcel A - NWC Mays Chapel and Bormont Rds; Parcel B - SW/S Mays Chapel Rd, 361' SE Chapel Ridge Rd 8th Election District, 3rd Councilmanic Legal Owner: Baltimore Country Club of Balto City Deborah Terry, Donna Dow, Joseph Tubman, Courtney Spies, Sr. Petitioners	*	BEFORE THE ZONING COMMISSIONER OF BALTIMORE COUNTY CASE NO. 97-384-SPH

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

ENTRY OF APPEARANCE

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

Peter Max Zimmerman
PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 16th day of May, 1997, a copy of the foregoing Entry of Appearance was mailed to J. Carroll Holzer, Esq., 305 Washington Avenue, Suite 502, Towson, MD 21204, attorney for Petitioners, and to G. Scott Barhight, Esq., 210 W. Pennsylvania Avenue, 4th Floor, Towson, MD 21204, attorney for legal owners.

Peter Max Zimmerman
PETER MAX ZIMMERMAN

Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

March 12, 1997

J. Carroll Holzer, Esquire
305 Washington Avenue
Suite 502
Towson, MD 21204

97-384

RE: Drop-Off Petition (Item #384)
11500 Mays Chapel Road
8th Election District

Dear Mr. Holzer:

At the request of the attorney/petitioner, the above referenced petition was accepted for filing without a final filing review by the staff. Once a detailed review has been completed by the staff, those comments will be forwarded to you (hopefully before the hearing).

As Baltimore County is no longer responsible for posting properties, I have enclosed the proper forms pertaining to this. There is a form indicating the posting standards required by Baltimore County, as well as a list of vendors serving the Baltimore County area. The sign must contain the wording indicated on the "Zoning Notice" form and the certificate of posting must be completed by the poster and returned to Gwendolyn Stephens. **For this particular property, 2 signs must be posted.**

If you have any questions regarding the sign posting, please do not hesitate to contact Gwendolyn Stephens at 887-3391.

Very truly yours,

W. Carl Richards, Jr.
Zoning Supervisor
Zoning Review

WCR:scj

Enclosures

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Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

March 27, 1997

J. Carroll Holzer
305 Washington Avenue
Suite 502
Towson, MD 21204

97-384-SPH

RE: Drop-Off Petition Review (Item #384)
11500 Mays Chapel Road
8th Election District

Dear Mr. Holzer:

At the request of the attorney/petitioner, the above referenced petition was accepted for filing without a final filing review by the staff. The plan was accepted with the understanding that all zoning issues/filing requirements would be addressed. A subsequent review by the staff has revealed no unaddressed zoning issues and/or incomplete information. As with all petitions/plans 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.

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

Very truly yours,

Mitchell J. Kellman
Planner II
Zoning Review

MJK:scj

Enclosure (receipt)

c: Zoning Commissioner

Printed with Soybean Ink
on Recycled Paper

Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

September 22, 1997

J. Carroll Holzer, Esq.
Holzer & Lee
305 Washington Avenue #502
Towson, Maryland 21204

Re: Newspaper Advertising, Case No. 97-384-SPH

Dear Mr. Holzer:

I am returning to you herewith the invoice with regard to the above matter.

A few words about our procedures:

1) Yes, often in the case of continued hearings, the Zoning Commissioner or Deputy Zoning Commissioner will determine whether or not the property needs reposting. In such circumstance, written verification in the form of an order, memorandum, or letter is sent to the parties, with a copies going to the file.

2) Revisions are never filed with the Zoning Commissioner. They must be submitted through the Zoning Review section of PDM and include the $100.00 revision fee. As revisions make a change in the relief requested, that relief has not been advertised. Therefore, revisions are always advertised and the billing forwarded to the petitioner and/or his representative.

When revisions are filed, a case is no longer simply a continued hearing, one in which the Commissioner would make a decision as to reposting. Further, and as it should be, in this particular case, pursual of the file found nothing from the Commissioner's office regarding posting of the property. The Notice of Hearing forwarded to on August 22, 1997, indicated that the property had to be posted by September 9, 1997.

Perhaps in the hearing room on the original hearing date, thinking of the matter as a simple continued hearing, there was talk regarding reposting. Nothing written made it to the file. A moot point, as posting and advertising are separate things. In some cases, reposting may be deemed unnecessary. Revisions, however, are always advertised.

I apologize for any misunderstanding generated, but would urge you to see to payment of the advertising bill as soon as possible.

Very truly yours,

G. G. Stephens
(401) 887-3391

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on Recycled Paper

APPEAL

Petition for Special Hearing
NWC Mays Chapel & Bormont Rds., SW/S Mays Chapel Rd., 361' SE of Chapel Ridge Rd.
(11500 Mays Chapel Road)
8th Election District - 3rd Councilmanic District
Baltimore Country Club of Baltimore City - Legal Owners
Deborah Terry, Donna Dow, Joseph R. B. Tubman, and Courtney A. Spies, Sr. - Petitioners
Case Number: 97-384-SPH

Petition for Special Hearing

Description of Property

Certificate of Posting

Certificates (2) of Publication

Entry of Appearance of People's Counsel

Zoning Advisory Committee Comments (Petitioners' Exhibit 8)

Petitioners and Protestants Sign-In Sheets

Petitioners' Exhibits:

1 - Zoning Commissioner's Findings of Fact and Conclusions of Law in Case #93-37-SPH dated March 5, 1993 (Granted in Part, Denied in Part)
2 - Deputy Zoning Commissioner's Findings of Facts and Conclusions of law in Case #93-388-X dated June 23, 1993 (Granted)
3A - An Agreement dated June 14, 1993 between Baltimore Country Club of Baltimore City ("BCC") and Joseph R. B. Tubman, Donna Dow, Deborah Terry and Courtney Spies ("the community")
3B - Restrictive Covenant Agreement dated September 29, 1993 between Baltimore Country Club of Baltimore City ("BCC") and Joseph R. B. Tubman, Donna Dow, Deborah Terry and Courtney Spies ("the community")
4A - Baltimore Country Club Drainage Area Map
4B - Baltimore Country Club Drainage Area Map
5 - Order of Dismissal issued by the County Board of Appeals dated September 1, 1993
6 - Parcel A & B Plan to Accompany Special Exception Petition
7 - Letter from the Falls Road Community Association, Inc. dated May 24, 1997
8 - Zoning Advisory Committee Comments
9 - Comments from J. Lawrence Pilson, DEPRM, dated September 2, 1997
10 - Five Pictures
11 - Baltimore Country Club News & Views, Volume 11, August 1994
12 - Comment from Pat Keller, Deputy Director of the Office of Planning and Zoning for Item 40 dated September 15, 1992
13 - Comment from Pat Keller, Deputy Director of the Office of Planning and Zoning for Item 396 dated June 3, 1993
14 - Letter from J. L. Hearn, Director of Water Management Administration, to Ms. Donna Dow dated February 25, 1997
15 - State of Maryland, Department of the Environment, Water Management Administration, Report of Observations dated December 12, 1996
16 - Letter from Edmund F. Haile, President of Daft McCune Walker, Inc., to Mr. P. Douglas Dollenberg, Nottingham Properties, Inc. and Pierce Linaweaver, P.E., Ph.D., dated June 25, 1996 (Revised)

Protestants' Exhibits:

1 - Circuit Court Second Amended Complaint and Demand for Jury Trial dated May 30, 1997
2 - The Falls Road Community Association, Inc. Neighborhood Bulletin dated September 9, 1996

3 - Letter from J. Carroll Holzer, Esquire to Baltimore Country Club dated November 14, 1996
4 - Letter from Paul T. Spellman, Jr., General Manager of Baltimore Country Club, to Ms. Donna Dow dated November 20, 1996
5 - Letter from Fred Terry to Ed Schmaus dated May 21, 1996
6 - Plan to Accompany Special Hearing Petition
7 - Letter from F. Pierce Linaweaver, Member of Planning and Capital Improvements Committee of Baltimore Country Club, to Courtney Spies dated September 23, 1993
8A - Letter from Paul T. Spellman, Jr., General Manager of Baltimore Country Club, to J. Carroll Holzer, Esquire dated November 22, 1996
8B - Letter from Paul T. Spellman, Jr., General Manager of Baltimore Country Club, to Mr. and Mrs. Frederick D. Terry dated November 20, 1996
8C - Letter from Paul T. Spellman, Jr., General Manager of Baltimore Country Club, to Courtney A. Spies, Sr. dated November 20, 1996
8D - Letter from Paul T. Spellman, Jr., General Manager of Baltimore Country Club, to Joseph R. Tubman dated November 20, 1996
9 - Letter from Ralph L. Arnsdorf, Esquire to K. Donald Proctor, Esquire dated November 7, 1997

Petition for Special Hearing dated August 6, 1992

The Annotated Code of the Public General Laws of Maryland, 1988 Supplement, Volume 6, Cover and Page 296

Copies of 1997 Supplement, Article 66B, Pages 25, 26, and 27

County Council of Baltimore County, Maryland Bill No. 39-97 dated March 17, 1997

Entry of Appearance of Robert D. Sellers, Esquire dated May 20, 1997

Motion for More Definite Statement and Motion to Dismiss Submitted by G. Scott Barhight, Esquire and David K. Gildea, Esquire on behalf of Baltimore Country Club of Baltimore City dated September 29, 1997

Petitioners' Memorandum in Lieu of Final Argument Submitted by J. Carroll Holzer, Esquire on behalf of Deborah Terry, Donna Dow, Joseph R. Tubman, and Courtney Spies, Sr. dated December 2, 1997

Brief of Baltimore Country Club in Opposition to Petition for Special Hearing Submitted by G. Scott Barhight, Esquire on behalf of Baltimore Country Club of Baltimore City dated December 2, 1997

Deputy Zoning Commissioner's Order dated March 31, 1998 (Resolved in Part, Dismissed in Part)

Notice of Appeal received on April 10, 1998 from J. Carroll Holzer, Esquire on behalf of Deborah Terry, Donna Dow, Joseph R. B. Tubman, and Courtney Spies

c: J. Carroll Holzer, Esquire, 305 Washington Avenue, Suite 502, Towson, MD 21204
G. Scott Barhight, Esquire, Whiteford, Taylor & Preston, 210 W. Pennsylvania Avenue, 5th Floor, Towson, MD 21204
Robert D. Sellers, Esquire, 401 Washington Avenue, Suite 303, Towson, MD 21204
Mr. Harold Burns, Jr., Falls Road Community Association, P. O. Box 555, Brooklandville, Maryland 21022
People's Counsel of Baltimore County, MS #2010
Timothy Kotroco, Deputy Zoning Commissioner
Arnold Jablon, Director of PDM

HOLZER & LEE

LAW OFFICES
J. CARROLL HOLZER, PA
THOMAS J. LEE

J. HOWARD HOLZER
1907-1989

TOWSON OFFICE
305 WASHINGTON AVENUE
SUITE 502
TOWSON, MD 21204
(410) 825-6961
FAX: (410) 825-4923

CARROLL COUNTY OFFICE
1315 LIBERTY ROAD
ELDERSBURG, MD 21784
(410) 795-8556
FAX: (410) 795-5535

384

March 10, 1997
#6669

97-384-SPH

DROP-OFF
NO REVIEW
OK-WCR
3/11/97

Hand Delivered

Arnold Jablon, Director
Permits and Development Management
County Office Building
Towson, Maryland 21204

RE: ***Petition for Special Hearing***
11500 Mays Chapel Road
Case No. 93-388-X

Dear Mr. Jablon:

Enclosed please find 3 original Petitions for Special Hearing filed by neighbors of the property located at 11500 Mays Chapel Road owned by the Baltimore Country Club.

Because of the significance of the issues presented herein, I would respectfully request that a hearing be set in at the earliest convenient date. Also enclosed is a check to cover the cost of filing the Petition.

If you should have any questions, please call me at 825-6961.

Very truly yours,

J. Carroll Holzer

JCH:alt
Enclosure
cc: T. Kotroco
L. Scmidt
C:\LETTERS\JABLON5.LT

Per Stalling:
No Review
No Violations

97-1695

HOLZER & LEE

5/97
9
TO 68
please schedule

LAW OFFICES
J. CARROLL HOLZER, PA
J. HOWARD HOLZER
1907-1989
THOMAS J. LEE
OF COUNSEL

TOWSON OFFICE
305 WASHINGTON AVENUE
SUITE 502
TOWSON, MD 21204
(410) 825-6961
FAX: (410) 825-4923
E-MAIL: JCHOLZER@MAIL.BCPL.LIB.MD.US

April 15, 1997
#6669

HAND DELIVERED
Arnold Jablon, Director
Permits and Development Management
County Office Building
Towson, Maryland 21204

RE: ***Petition for Special Hearing, Case No. 97-384-SPH***
11500 Mays Chapel Road

Dear Mr. Jablon:

On or about March 12, your office docketed my Petition for Special Hearing filed on behalf of my clients Deborah Terry, Donna Dow, Joseph R.B. Tubman, and Courtney Spies, Sr. in reference to the Baltimore Country Club located at 11500 Mays Chapel Road. I indicated that because of the issues and adverse impact upon my clients' properties, I requested a hearing be set in at the earliest convenience.

I contacted Scott Barhight when it was suggested that he might be representing the Baltimore Country Club; however, in the last conversation my office had with him, it was indicated that Mr. Barhight was not sure he represented the BCC in this matter. Therefore, because it is not clear at this time what counsel is representing the BCC, and may remain unclear for some time to come, I would like PADM to set this case in for a hearing on any of the following dates: May 14, 16, week of May 19, and 26, 27 or 28. 9. AM

If you should have any questions, please call me at 825-6961.

Very truly yours,

J. Carroll Holzer

JCH:clg
cc: T. Kotroco
L. Schmidt
S. Barhight, Esq.
C:\LETTERS\JABLON11.LIEUTENANT

HOLZER & LEE

LAW OFFICES
J. CARROLL HOLZER, PA
J. HOWARD HOLZER
1907-1989
THOMAS J. LEE
OF COUNSEL

TOWSON OFFICE
305 WASHINGTON AVENUE
SUITE 502
TOWSON, MD 21204
(410) 825-6961
FAX: (410) 825-4923
E-MAIL: JCHOLZER@MAIL.BCPL.LIB.MD.US

August 12, 1997

G. Scott Barhight, Esquire
210 West Pennsylvania Ave.
Suite 400
Towson, Maryland 21204

Re: Item # 384
Case No. 97-384-SPH Baltimore Country Club

Dear Mr. Barhight:

In a conversation I had this morning with the docket clerk in the Zoning Office, I understand that the Deputy Zoning Commissioner will be unavailable for hearings the first and third weeks of September. Consequently, I am writing to you to indicate days that I have available in September for for above case. I am available all day on Tuesday, September 9, and all day Friday, September 12, 1997. I also have available September 22, 24, and 25 all day.

I would appreciate checking with your clients and your calendar to see if any of these dates are available, and if so, let me know and I will confirm with Gwen Stephens in Zoning to set the case in. If you need to call, I can be reached at 410-825-6961.

Very truly yours,

J. Carroll Holzer

JCH:clg
cc: Robert Sellers
Donna Dow, M.D.
Gwen Stephens

HOLZER & LEE

LAW OFFICES
J. CARROLL HOLZER, PA
J. HOWARD HOLZER
1907-1989
THOMAS J. LEE
OF COUNSEL

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(410) 825-6961
FAX: (410) 825-4923
E-MAIL: JCHOLZER@MAIL.BCPL.LIB.MD.US

File

September 11, 1997
6669

RECEIVED
SEP 16 1997
ZONING COMMISSIONER

HAND DELIVERED
Timothy Kotroco
Deputy Zoning Commissioner
4th Floor
County Courtts Building
Towson, Maryland 21204

Re: Petition for Special Hearing, Balto. Country Club
Case No. 97-384-SPH

Dear Tim:

As you recall, Sterling of my office called you about ten days ago to request that the hearing in the BCC matter be postponed from September 24, 1997 because several key people cannot make that hearing and others will not be available until after October 17. It is my understanding that you had no objection if the parties could agree to alternative dates. I also understand from a call Sterling made to Gwen Stephens in the zoning office that no hearing room is available on October 23, the date agreeable to the parties. Consequently, all the parties and counsel have agreed that Monday, November 3, and November 13, 1997 after 10:00 a.m. is available for the hearing.

Mr. Barhight has requested that you sign an order, which I have prepared and attached hereto, indicating that Petitioners have requested that the September 24 date has been rescheduled. I will send a copy of this letter to Gwen Stephens to be sure that we all are on the same page.

I appreciate your assistance in this matter.

Very truly yours,

J. Carroll Holzer

JCH:clg
cc: G. Scott Barhight, Esq.
Gwen Stephens
Donna Dow, M.D.
Ralph Arnsdorf, Esq.
Bob Sellers, Esq.
C:\LETTERS\KOTROCO3.LTR

HOLZER & LEE

LAW OFFICES
J. CARROLL HOLZER, PA
J. HOWARD HOLZER
1907-1989
THOMAS J. LEE
OF COUNSEL

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305 WASHINGTON AVENUE
SUITE 502
TOWSON, MD 21204
(410) 825-6961
FAX: (410) 825-4923
E-MAIL: JCHOLZER@MAIL.BCPL.LIB.MD.US

refer to Arnold Jablon per Smith

September 12, 1997
6669

RECEIVED
SEP 16 1997
ZONING COMMISSIONER

Timothy Kotroco
Deputy Zoning Commissioner
4th Floor
County Courts Building
401 Bosley Avenue
Towson, Maryland 21204

Re: Petition for Special Hearing
Baltimore Country Club, Case No. 97-384-SPH

Dear Mr. Kotroco:

During the last of hearing in the above matter, when it was agreed that Petitioners needed to amend their petition, you ordered that it would not be necessary to repost the subject property. I was surprised, therefore, when The Jeffersonian mailed me on August 28 an invoice in the amount of $157.44 and a certificate of publication for the notice of the continued hearing. Apparently, whoever is responsible in the county for providing advertising of hearings was not aware that such notice was not required by the Deputy Zoning Commissioner. I was also unaware that the responsible party in the county was taking this action of notice of hearing.

I am enclosing the original of the notice and invoice and would appreciate your taking whatever action is necessary to resolve this issue so that it is not a burden on my clients. If you need to call me, I can be reached at 410-825-6961.

Very truly yours,

J. Carroll Holzer

JCH: clg
cc: G. Scott Barhight, Esq.
Donna Dow, M.D.

C:Kotroco2.Ltr

97-4565

HOLZER & LEE

LAW OFFICES
J. CARROLL HOLZER, PA
J. HOWARD HOLZER
1907-1989
THOMAS J. LEE
OF COUNSEL

TOWSON OFFICE
305 WASHINGTON AVENUE
SUITE 502
TOWSON, MD 21204
(410) 825-6961
FAX: (410) 825-4923
E-MAIL: JCHOLZER@MAIL.BCPL.LIB.MD.US

September 30, 1997
#6669

HAND DELIVERED

Ms. Gwen Stephens
Permits and Development Management
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: ***Petition for Special Hearing***
Case No. 97-384-SPH

Dear Gwen:

On September 11, 1997, I wrote a letter to Tim Kotroco, who has the above referenced case, requesting that he signs a prepared Order postponing this case scheduled for September 24. On September 16, the Deputy Zoning Commissioner signed the Order.

To date I have not received confirmation of the rescheduled hearing requested for November 3 and 13, 1997. I have been receiving calls from interested persons regarding the confirmed date, and as a result, am requesting the same.

If you need to call me, I can be reached at 410-825-6961.

Very truly yours,

J. Carroll Holzer

JCH:alt
cc: Tim Kotroco, Esq.
G. Scott Barhight, Esq.
Donna Dow, M.D.
Ralph Arnsdorf, Esq.
Bob Sellers, Esq.
C:\LETTERS\STEPHENS.LTR

RECEIVED
OCT 1997

File

WHITEFORD, TAYLOR & PRESTON
L.L.P.

210 WEST PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204-4515
410 832-2000
FAX 410 832-2015
www.wtplaw.com

SEVEN SAINT PAUL STREET
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FAX 410 884-0719

1025 CONNECTICUT AVENUE, NW
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TELEPHONE 202 659-6800
FAX 202 331-0573

1317 KING STREET
ALEXANDRIA, VIRGINIA 22314-2928
TELEPHONE 703 836-5742
FAX 703 836-0265

G. SCOTT BARHIGHT
DIRECT NUMBER
410 832-2050
gbarhight@wtplaw.com

COPY

September 10, 1997

RECEIVED
SEP 15 1997
ZONING COMMISSIONER

J. Carroll Holzer, Esquire
Holzer & Lee
305 Washington Avenue
Suite 502
Towson, Maryland 21204

Re: BCC Special Hearing
Case No.: 97-384-SPH
Our File No.: 00868/00001

Dear Carroll:

It is my understanding that the above referenced matter, which was previously scheduled for Wednesday, September 24, 1997, has been postponed by the Deputy Zoning Commissioner. Please forward me a copy of that Order granting the postponement once you have received it from the Deputy Zoning Commissioner.

It is also my understanding that Sterling Lease, of your office, and David Gildea have been discussing possible dates for the Special Hearing. My clients and I will be available on the morning of October 23, 1997 (9:00 a.m. - 12:00 noon), November 3, 1997 (after 10:00 am.), and November 13, 1997 (after 10:00 a.m.).

Please contact David Gildea to arrange the scheduling of the Special Hearing. Should you have any questions or comments in the interim, please contact me.

Sincerely,

G. Scott Barhight

GSB:bhb
CC: David K. Gildea, Esquire
Timothy Kotroco, Deputy Zoning Commissioner

bcc: Mr. Jack B. Dunn, IV
F. Pierce Linaweaver, Ph.D.
Mr. Gary T. Gill
Mr. Edmund F. Haile

116041

WHITEFORD, TAYLOR & PRESTON
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FAX 703 836-0265

DAVID K. GILDEA
DIRECT NUMBER
410 832-2066
dgildea@wtplaw.com

RECEIVED
OCT 29 1997
ZONING COMMISSIONER

October 27, 1997

Robert D. Sellers, Esquire
Falls Road Community Association
401 Washington Avenue
Towson, Maryland 21204

Re: Baltimore County Club Special Hearing
Case No. 97-384-SPH
Our File No. 868/001

Dear Mr. Sellers:

Enclosed please find Baltimore County Club's Motion to Dismiss and Motion for More Definite Statement which were filed in the above-referenced matter. We inadvertently did not forward copies of these Motions to you at the time of the filing because your name is not shown on the file as a party. However, upon receipt of the transcript, it was noted that you had entered your appearance orally at the hearing.

Should you have any questions or comments, please contact me.

Sincerely,

David K. Gildea

David K. Gildea

DKG:dpp
Enclosures
cc: Deputy Zoning Commissioner Timothy Kotoroco (w/enclosures)
G. Scott Barhight, Esquire (w/o enclosures)
J. Carroll Holzer, Esquire (w/o enclosures)
Ralph Arnsdorf, Esquire (w/o enclosures)

119753

WHITEFORD, TAYLOR & PRESTON
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FAX 703 836-0265

G. SCOTT BARHIGHT
DIRECT NUMBER
410 832-2050
2029522@mcimail.com

May 23, 1997

RECEIVED
MAY 23 1997
ZONING COMMISSIONER

Via Hand Delivery
The Hon. Timothy M. Kotroco
Deputy Zoning Commissioner
Baltimore County Department of Zoning
400 Washington Avenue
Room 124
Towson, Maryland 21204

Re: Baltimore Country Club
Petition for Special Hearing filed by Neighborhood
Case No.: 97-384-SPH
Our File: 00868/00001

Dear Deputy Zoning Commissioner Kotroco:

Baltimore Country Club by and through its attorneys, Whiteford, Taylor & Preston, hereby respectfully request that the Special Hearing scheduled for May 28, 1997, in Case No. 97-384-SPH, be postponed.

Mr. Paul Spellman, a material witness in Baltimore Country Club's case, has become unexpectedly unavailable due to the recent rescheduling of surgery for his wife. Mrs. Spellman is now scheduled for surgery on May 28, 1997. Unfortunately, the surgery cannot be rescheduled to permit Mr. Spellman's participation in the hearing. As a result, Baltimore Country Club would be unduly prejudiced if the postponement is not granted. The neighbors would suffer no undue prejudice due to the postponement.

I apologize for filing this Request for Postponement so close to the hearing date. I was informed of this problem only several hours ago. This office has attempted to communicate with Mr. Holzer through voice mail to discuss this request. However, we have been unable to communicate directly. Therefore, I am not aware of Mr. Holzer's position regarding this request.

Thank you for your kind consideration.

Sincerely,

G. Scott Barhight

GSB:dmk

cc: Carroll Holzer, Esquire
F. Pierce Linaweaver, P.E., Ph.d.
P. Douglas Dollenberger
Gary P. Gill
Paul T. Spellman, Jr.
Edmund F. Haile, P.E.
K. Donald Proctor, Esquire
David K. Gildea, Esquire

IN RE: 11500 Mays Chapel Road	*	BEFORE THE
	*	ZONING COMMISSIONER
	*	OF BALTIMORE COUNTY
	*	Case No: 97-384 SPH

* * * * * *

Please enter the appeareance of Robert D. Sellers in the above captioned matter on behalf of the Falls Road Community Association, Inc.

Robert D. Sellers
Suite 303
401 Washington Ave.
Towson, Md 21204
(410) 583-1712

CERTIFICATE OF SERVICE

I hereby certify that on the 28th day of May, 1997, a copy of the foregoing Entry of Appearance was hand delivered to Carol J. Holzer, Attorney for Petitioners, and G. Scott Barhight, Attorney for Respondents.

Robert D. Sellers

410-889-4400

Baltimore Country Club

4712 CLUB ROAD - ROLAND PARK

BALTIMORE, MARYLAND 21210

November 20, 1996

Mr. and Mrs. Frederick D. Terry
747 Bomont Road
Timonium, Maryland 21093

Dear Mr. and Mrs. Terry:

It was a pleasure speaking with you last night. Enclosed are the requested set of water quality and storm water management plans specific to the construction underway at Five Farms.

It is my understanding from talking with Ms. Dow and Mr. Spies, that they will be looking to your leadership in reviewing these plans and directing questions to you. It will be our pleasure to then schedule a meeting for the "community" where our engineers can personally address any questions or comments that you may have. Please accept our sincere apology for not getting these plans to you in a more timely manner.

Very truly yours,

Paul T. Spellman, Jr. CCM
General Manager

410-889-4400

Baltimore Country Club

4712 CLUB ROAD - ROLAND PARK

BALTIMORE, MARYLAND 21210

November 20, 1996

Mr. Courtney A. Spies, Sr.
722 Bomont Road
Timonium, Maryland 21093

Dear Mr. Spies:

Thank you for returning my phone call last night. It was a pleasure speaking with you. I have forwarded, per your request, a full copy of the water quality and stormwater management plans to Mr. Fred Terry who I understand will be acting as the "community" spokesperson for the neighborhood. All questions and comments you have may be best directed towards him.

It will be our pleasure to then call a meeting of the "community" where our engineers can personally addresss any questions or comments that you may have. Please accept our sincere apology for not getting these plans to you in a more timely manner.

Very truly yours,

Paul T. Spellman, Jr. CCM
General Manager

410-889-4400

Baltimore Country Club

4712 CLUB ROAD - ROLAND PARK

BALTIMORE, MARYLAND 21210

November 20, 1996

Mr. Joseph R. Tubman
11431 Mays Chapel Road
Timonium, Maryland 21093

Dear Mr. Tubman:

As a follow up to your phone call last night, enclosed are your set of water quality and storm water management plans specific to the construction underway at Five Farms. Several neighbors are using Mr. Fred Terry as a contact for questions. If you have any questions or comments, please feel free to address them to him or you may send them to me directly at the Club.

It will be our pleasure to then schedule a meeting for the "community" where our engineers can personally address any questions that you may have. Please accept our sincere apology for not getting these plans to you in a more timely manner.

Very truly yours,

Paul T. Spellman, Jr. CCM
General Manager

May 21, 1996

Mr. Ed Schmaus
DEPRM - Bureau of Engineering
County Court Building
401 Bosley Avenue
Towson,MD 21204

Dear Mr. Schmaus:

As residents of Bomont road, a privately owned and maintained road south of the Baltimore Country Club, we are concerned that the proposed expansion of the Baltimore Country Club's facilities will generate a greater concentration of storm water runoff to our road. Since this road is the only means of ingress and egress for emergency and service vehicles as well as residential traffic, we do not want our welfare compromised by flood damage or, in the winter, excessive icing. We request you review the Club's plans of development with our concerns in mind so you can insure us there will be no detrimental effects that will be costly to us in the future. It should be remembered as residents, we own and use this road on a daily basis and depend on it for the delivery of goods and services necessary to conduct the routines of our daily lives. We feel our welfare should not be subordinated or compromised by the needs of a recreational facility used mostly on weekends and in good weather.

The included photographs and copies of correspondence between the Club and neighborhood residents document a history of flooding that started in 1964 when the Club cleared a substantial portion of wooded land to construct a parking lot. Much of the discharge from this parking lot was to a swale between the Spies property and the Boyce property, now owned by the club. The increase in storm runoff to this swale was very damaging and at the request of Spies and Boyce the inlet midway along the south curb line was plugged and all parking runoff was diverted to a swale to the north of the Spies property. This has caused severe erosion of the receiving swale. On two occasions, storm runoff eroded sediment from this swale and deposited it 6 inches deep on Bomont Road, filled a wetland area to the north and covered a parking area to the south. The Club removed the sediment from the road but never restored the wetlands or parking area. We are now worried that planned improvements will increase the frequency of road flooding and property damage.

We feel the following points must be addressed in order to assure us there will be no further damage from flooding or erosion to our neighborhood.

1) No storm water should be released in the swale between the Spies property and the former Boyce property. An adequate drain does not exist at the Spies drive where this water would concentrate. (See

Boyce letter March 11, 1964)

2) In calculating runoff for existing conditions, the Baltimore Country Club property should be evaluated as it existed in the year storm water management became law. The Club has continuously cleared land and added impervious area with no provisions for managing the increased runoff. Now is the time to account for these former uncontrolled improvements.

3) A runoff coefficient for asphalt paving should be used for the proposed tennis courts. There is no assurance in the future they won't be resurfaced with an impervious material. This will result in a substantial increase in uncontrolled runoff to our neighborhood.

4) Channels receiving runoff from the existing Club parking are severely eroded and will only deteriorate further when the quantity of runoff is increased. Discharge from a storm water management facility is supposed to be to a suitable outfall. These channels should be evaluated for adequacy and rehabilitated where required.

5) Storm water management should be provided for a bus turn around east of Mays Chapel road which was to be temporary when installed but still remains today. An asphalt diversion dike at this turn around should be reconstructed to divert runoff to the north of the Tubman property to prevent further siltation of his property.

It is our understanding the purpose for storm water management is to prevent flooding and damage to downstream properties when development of upstream land increases runoff. If this is correct, then proper implementation of storm water management facilities on the Baltimore Country Club, should be such that our neighborhood is not effected by these improvements. We hope this is the outcome. Our experience of over twenty five years suggests otherwise. It is to the benefit of everyone that extra effort and engineering be applied now. The expense to correct a failing situation at a later date will be far greater than money spent to insure it won't happen.

We feel an on site evaluation of our road and drainage courses will provide a clear understanding of our concerns. If this would benefit your review, I can meet with you at your convenience. I can be reached during the day at 252-8600 ex.22.

Sincerely,

Fred Terry

Fred Terry
747 Bomont Road
Lutherville, MD 21093

cc Al Wirth

May 28, 97

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME	ADDRESS
Kathryn G. Tubman	11431 Mays Chapel Rd., 21093
ADRIENNE K. TOLAND	830 BOMONT RD 21093
JOSEPH R. B. TUBMAN	11431 MAYS CHAPEL RD, 21093
Donna C. Dow	721 Bomont Rd 21093
Diane L Sterchi	11420 Mays Chapel Rd. 21093
DENNIS J. STERCHI	11422 MAYS CHAPEL Rd 21093
Deborah A. Terry	747 Bomont Rd
FREDERICK D. TERRY	747 BOMONT RD. 21093
Ruth C. Spies	722 Bomont Rd. 21093
COURTNEY A. SPIES, SR	722 BOMONT RD 21093
JOHN M HART	752 BOMONT RD 21093

Printed with Soybean Ink on Recycled Paper

11/13/97

ATTENDING SPECIAL HEARING 97-384

Bro Tuirman
Deborah Terry
JOHN HART
DENNIS STERCHI
DIANE STERCHI
Adrienne Roland
Ruth C. Spies
Courtney A. Spies, Sr.
HARRY B. TURNER

H. John Beckmann, III (B.C.C.)
GARY T. GILL (B.C.C.)
Mrs J.B. Miller (B.C.C)
Mrs. Paul K. Hampshire (B.C.C.)
Peggy T. Miller (BCC)
Carole Lee McCrory (BCC)
PAUL SULLIVAN (BCC)
F. Pierce Linaweaver (BCC)
Joseph A. Kultt (BCC)
Robert Sellers (FRCA)
Mary Rose Dunn (BCC)
Nancy Jones-Bonbrest (Valley Voice Newspaper)
Harold H. Burns Jr (FRCA-Director)
Doug Dollenberg (BCC)

May 28, 1997

PLEASE PRINT CLEARLY

PROTESTANT(S) SIGN-IN SHEET

NAME	ADDRESS
Edmund F. Haile	200 E. Penna Ave Towson 21286
PAUL T SPELLMAN	4712 Club RD 21210
F. Pierce Linaweaver	111 S. Calvert St. Suite 2700 21202
Jack Dunn	1 Murray Hill Circle 21212
Libby Hayle	1011 Brooklandwood Rd. 21093
KARL SILEX	18 BUCHANAN RD. 21212
GARY GILL	2328 W. JOPPA RD. 21093
Doug Dellenbaugh	105 W. Penna Ave - 21204

PLEASE PRINT CLEARLY

PROTESTANT(S) SIGN-IN SHEET

NAME	ADDRESS
Ann M. Remington (BCC)	10331 Malcolm Circle 21030

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 1997, Legislative Day No. 6

Bill No. 39-97 → County Code Section 1-7.

Councilmembers Kamenetz, DePazzo, Moxley & Gardina

By the County Council, March 17, 1997

A BILL
ENTITLED

AN ACT concerning

Code Enforcement

FOR the purpose of establishing a procedure for the enforcement by administrative process of the zoning regulations and the building, electric, mechanical, licenses and permits, plumbing and livability codes; defining terms; describing the administrative procedure; repealing conflicting and redundant provisions; providing a civil penalty for violations; and generally relating to an administrative process for the enforcement of certain codes.

BY adding

Section 1-7
Title 1 - General Provisions
Baltimore County Code, 1988

BY renumbering Section 1-7, to be Section 1-8.1

Title 1 - General Provisions
Baltimore County Code, 1988

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter stricken from existing law.
~~Strike out~~ indicates matter stricken from bill.
Underlining INDICATES AMENDMENTS TO BILL.

THE ANNOTATED CODE
OF THE PUBLIC GENERAL LAWS
OF MARYLAND

1988 Supplement

Prepared by the Editorial Staff of the Publishers

Under the Supervision of

ADRIAN D. KOWALSKY, RICHARD W. WALTER, JR., KATHARINE A. WELCH, WANDA F. BROWN ROSZAK AND ALICE E. ESTES

Consultant

F. CARVEL PAYNE

Director, State Department of Legislative Reference

Volume 6

Place Beside Volume 6 of Main Set.

Effective Date of Statutes

See Md. Const., Article XVI, § 2

Annotated through 540 A.2d 31. For complete scope of annotations and legislation, see preface in supplement to Volume 1.

THE MICHIE COMPANY
Law Publishers
CHARLOTTESVILLE, VIRGINIA
1988

›roval generally.

unapproved subdivisions; s to Charles, St. Mary's, ›ll Counties.

subsections (b) through (d) of this of the owner of any land located rees to sell or negotiate to sell any ther use of a plat of a subdivision, nning commission and recorded or clerk, shall forfeit and pay a civil han $1,000 in the discretion of the sold or agreed or negotiated to be rcel by metes and bounds in the used in the process of selling or ess of selling or transferring shall lties or from the remedies herein on may enjoin the transfer or sale ght in any court of equity jurisdic- action in any court of competent

Mary's Counties. — In Charles and pr o the sale or negotiation for

ties. — In Frederick and Carroll contract for sale or negotiation for al, or both industrial and commer- cordance with this article prior to

ng the provisions of subsection (a) nty Commissioners may provide a a proceeding before the District forced in the same manner and to ıfractions in Article 23A, § 3 (b) of 1933, ch. 599, § 19; 1970, ch. 672, 519; 1996, ch. 564; 1997, ch. 478.)

litor's note. — Section 2, ch. 478, Acts provides that "this Act shall be construed prospectively and may not be applied or preted to have any effect on or application y violation of a St. Mary's County ordi- occurring before October 1, 1997."

nalties. — The enforcement mechanism s section leaves to the county the discretion of choosing the method of enforcement; therefore, where an order of the trial court could be read to require that the county seek imposition of civil penalties and injunctions in every instance of a violation of the section, the issuance of a writ of mandamus was improper. Board of County Comm'rs v. Potomac River Ass'n, 113 Md. App. 580, 688 A.2d 515 (1997).

GENERAL PROVISIONS

§ 7.01. Enforcement and remedies.

(a) *Generally; ordinances and regulations; Baltimore County.* — (1) The local legislative body may provide by ordinance for the enforcement of this article and of any ordinance or regulation made thereunder. A violation of this article or of such ordinance or regulation is a misdemeanor, and such local legislative body may provide for punishment by fine or imprisonment or both. It is also empowered to provide civil penalties for such violation.

(2) In addition to the jurisdiction as defined in subsection (c) of this section, the legislative body of Baltimore County may provide by ordinance for an administrative proceeding to enforce its zoning regulations, including the imposition of civil fines and penalties for zoning violations.

(b) *Actions to prevent, abate, etc., violation, etc.* — In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, sign, or land is used in violation of this article or of any ordinance or other regulations made under authority conferred hereby, the proper local authorities of the jurisdiction in addition to other remedies, may institute any appropriate action or proceeding to prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use, to restrain, correct, or abate the violation, to prevent the occupancy of the building, structure, or land, or to prevent any illegal act, conduct, business, or use in or about the premises. However, despite any provisions of this section, the proper local authorities may not institute any action or proceeding to abate a transfer which has been completed or to prevent the occupancy of a building, structure, or land involved in the transfer as a result of a violation of § 5.05 or § 5.06 of this article. Further provided, that any property subdivided in violation of §§ 5.05 and 5.06 of this article shall remain subject to the adopted subdivision regulations.

(c) *Civil penalty for zoning violation.* — (1) In this subsection, the following words have the meanings indicated.

(i) "Commission" means the planning and zoning commission or similar body of the county.

(ii) "Local legislative body" means:

1. The elected body of a county, whether known as county commissioners, or county council; and

2. The Mayor and City Council of Baltimore.

(iii) "Zoning official" means a county employee with the duty of enforcing the zoning ordinance.

(2) The local legislative body may provide a civil penalty for a zoning violation, which shall be enforced as provided in this subsection.

(3) The zoning official may deliver a citation to a person believed to be committing a civil zoning violation. A copy of the citation shall be retained by

Petition for Special Hearing

40

93-37-SPH

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:

(Type or Print Name)

Signature

Address

City and State

Attorney for Petitioner:

G. Scott Barhight
(Type or Print Name)

Signature

500 Court Towers
210 W. Pennsylvania Avenue
Address

Towson, Maryland 21204
City and State

Attorney's Telephone No.: 832-2050

Legal Owner(s):

Baltimore County Club of Baltimore City
(Type or Print Name)

By: William P. Geary, Sr.
Signature William P. Geary, Senior President

(Type or Print Name)

Signature

11500 Mays Chapel Road
Address Phone No.

Baltimore, Maryland 21093
City and State

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

G. Scott Barhight
Name

210 W. Pennsylvania Ave, 5th Floor
Towson, MD 21204 832-2050
Address Phone No.

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING -1/2HR. +1HR.

AVAILABLE FOR HEARING

MON./TUES./WED. - NEXT TWO MONTHS

ALL _____ OTHER _____

~~REVIEWED~~ BY: WCR DATE 8/6/92

NO REVIEW

384

97-384-SPH

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
****

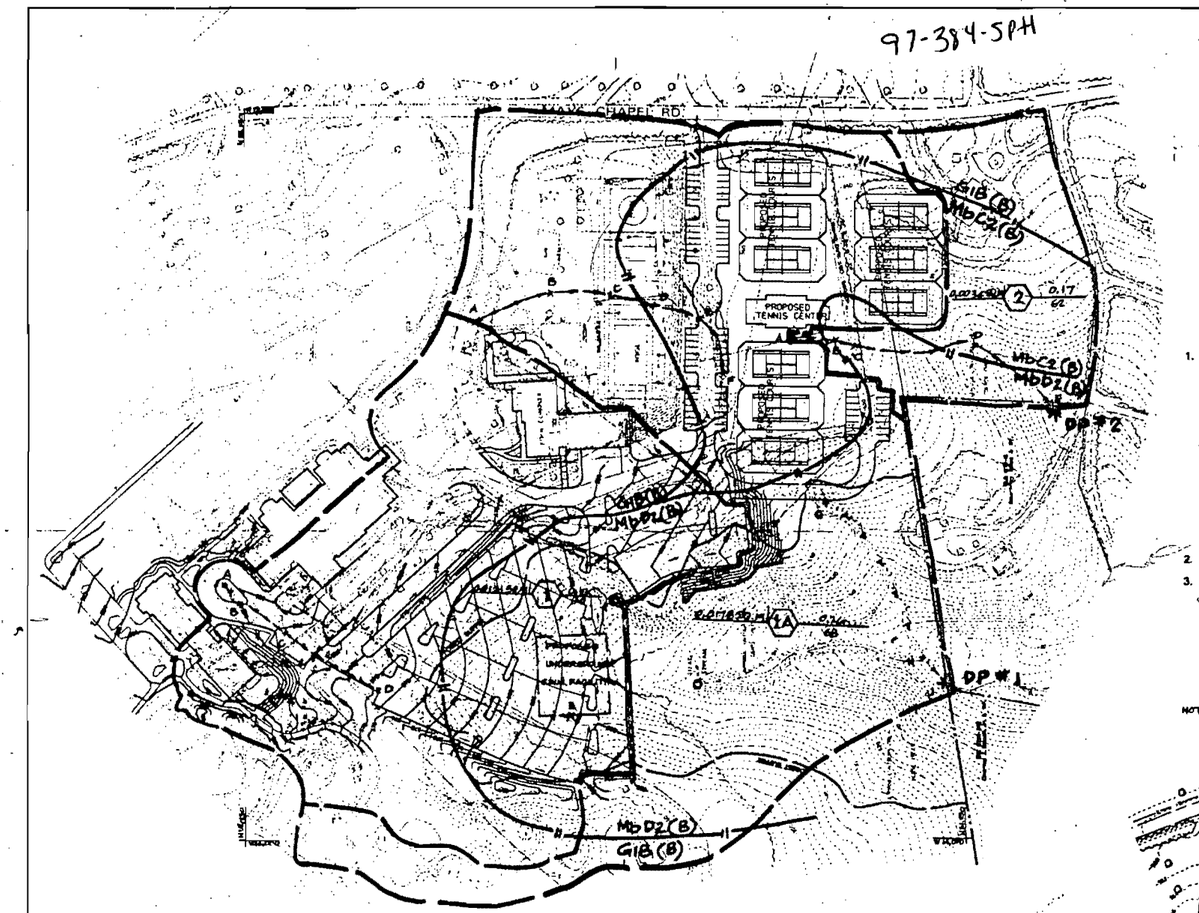
FINDINGS OF FACT AND CONCLUSIONS OF LAW

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 prepa-

EXHIBIT 1

97-384-SPH



PROPOSED DRAINAGE AREA MAP

DEVELOPERS /LANDOWNERS CERTIFICATION

WE HEREBY CERTIFY THAT ALL PROPOSED WORK SHOWN ON THESE CONSTRUCTION DRAWING(S) AND ON THE APPROVED SEDIMENT CONTROL DRAWING(S) WILL BE ACCOMPLISHED PURSUANT TO THESE PLANS. WE ALSO UNDERSTAND THAT IT IS ANYOUR RESPONSIBILITY TO HAVE THE CONSTRUCTION SUPERVISED AND CERTIFIED, INCLUDING THE SUBMITTAL OF "AS-BUILT" PLANS WITHIN THIRTY (30) DAYS OF COMPLETION, BY A REGISTERED PROFESSIONAL ENGINEER.

SIGNED _____
PRINT Bill T. Spiral, Jr. DATE 7/18/96

ENGINEERS CERTIFICATION

I HEREBY CERTIFY THAT THIS PLAN HAS BEEN PREPARED BY ME OR UNDER MY SUPERVISION AND MEETS THE MINIMUM STANDARDS OF THE BALTIMORE COUNTY DEPARTMENT OF PUBLIC WORKS AND THE BALTIMORE COUNTY SOIL CONSERVATION DISTRICT.

SIGNED _____ P.E. 16872
PRINT MAX KANTZER DATE 6-13-96

CONTRACTORS "AS-BUILT" NOTE

AS-BUILT PLANS AND CERTIFICATION ARE REQUIRED FOR THIS STORMWATER MANAGEMENT FACILITY. THESE MUST BE PREPARED AND SEALED BY A REGISTERED PROFESSIONAL ENGINEER. BALTIMORE COUNTY WILL NOT PERFORM THE INSPECTION OR PREPARE THE AS-BUILT PLANS OR CERTIFICATION. THE STORMWATER MANAGEMENT PERMIT SECURITY WILL NOT BE RELEASED UNTIL THE AS-BUILT PLANS AND CERTIFICATION ARE APPROVED BY BALTIMORE COUNTY.

IN ORDER TO PREPARE THE REQUIRED AS-BUILT PLANS AND CERTIFICATION, THIS STORMWATER MANAGEMENT FACILITY MUST BE INSPECTED BY THE ENGINEER AT SPECIFIC STAGES DURING CONSTRUCTION AS REQUIRED BY THE CURRENT BALTIMORE COUNTY STORMWATER MANAGEMENT POLICY AND DESIGN MANUAL. THE CONTRACTOR SHALL NOTIFY THE ENGINEER AT LEAST FIVE (5) WORKING DAYS PRIOR TO STARTING ANY WORK SHOWN ON THESE PLANS.

"AS-BUILT" CERTIFICATION

I HEREBY CERTIFY THAT THE FACILITY SHOWN ON THIS PLAN WAS CONSTRUCTED AS SHOWN ON THE "AS-BUILT" PLANS AND MEETS THE APPROVED PLANS AND SPECIFICATIONS.

SIGNED _____ P.E. _____
PRINT _____ DATE _____

Sequence of Construction

1. Obtain all necessary permits from federal, state, and local authorities having jurisdiction over the proposed construction.
2. Notify the Baltimore County Department of Environmental Protection and Resource Management, Inspection and Enforcement Division (887-3226) at least 48 hours prior to beginning work.
3. Clear, grub, and install sediment control measures only.
4. Excavate the underground facility.
5. Install underground facility (store, modified Type C manhole, stormceptor, and retaining wall).
6. Concurrent with backfill over the underground facility, install storm drain inflow pipes from M-1 and I-14.
7. Stabilize disturbed areas with seed and mulch.
8. With prior approval of the Sediment Control Inspector, remove all sediment control measures after disturbed areas have been stabilized.
9. Fine grade site and stabilize all remaining disturbed areas.
10. Remove inlet protection/blocking from all storm drain inlets draining to the underground facility.
11. Conduct "as-built" survey of facility and storm drains within the limit of stormwater management easement.

Exh 4

Design Flow Summary

Desi[illegible] Point #1	2-Year	10-Year	100-Year
Pred[illegible]eloped Peak (cfs)	12.68	38.06	69.64
Dev[illegible]oped Peak (cfs)	12.59	37.87	68.61
Desi[illegible] Point [illegible]			
Pred[illegible]eloped Peak (cfs)	1.30	5.40	10.90
Deve[illegible]oped Peak (cfs)	0.99	4.05	8.02

Underground Facility

	2-Year	10-Year	100-Year
Desi[illegible] Discharge (cfs)	8.44	18.26	64.77
Dev[illegible]ped Inflow (cfs)	17.46	34.16	52.01
Deve[illegible]ped Outflow (cfs)	4.35	13.57	24.83
Wate[illegible] Surface Elevation (ft)	539.12	541.06	543.96
Stora[illegible] Provided (cft)	16,287	30,312	45,243

Struc[illegible]re Type:	Underground Facility/Stormceptor
Struc[illegible]re Classification	A
Struc[illegible]re Location	Urban
Wate[illegible]hed Area to Facility	7.76 Ac.
Level[illegible] Management Provided	2, 10, 100-Year Storms
Stora[illegible] Height Product	5.98 Ac. Ft.^{2}

Inspection Schedule

1. Prior [illegible]tification shall be given to the engineer so that inspections may be made at the fo[illegible]wing stages:
   (1) Upon completion of excavation to subfoundation and where required, installation of structural supports or reinforcement for structures, including but not limited to:
   (a) Stone bedding below underground facility;
   (b) Inlet-outlet structures, watertight connections on pipes; and
   (c) Trenches for enclosed storm drainage facilities.
   (2) During placement of structural fill, reinforcing and concrete, and installation of piping and catch basins;
   (3) During backfill of foundations and trenches; and
   (4) Upon completion of final grading and establishment of permanent stabilization.

   No [illegible]ork shall proceed until the engineer inspects and app[illegible] the work previously completed.
2. Geote[illegible]nical compaction testing of the facility backfill is required. Certification must be pro[illegible]ded to the designated engineer in charge of the as-built.
3. A copy of all material supply tickets must be given to the designated engineer in charge of the as-built.

Underground S.W.M Facility Maintenance Schedule

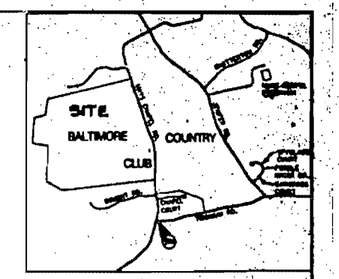
The [illegible]cility shall be inspected twice annually. The underground facility owner(s) and [illegible]y heirs, successors, or assigns shall be responsible for the safety of the facil[illegible] and the continued operation, surveillance, inspection, and maintenance the[illegible]f. All appurtenances shall be kept free of trash. Erosion and/or undermining of the retaining wall at the underground facility outfall pipe(s) must be avoided, and [illegible]pair immediately as needed.

NOTE: THIS UNDERGROUND STORMWATER MANAGEMENT FACILITY IS A CLOSED SPACE AND ACCESS TO THIS FACILITY WILL BE CONTROLLED BY OSHA REQUIREMENTS.

General Notes:

1. Unless otherwise noted, all construction and workmanship shall be in accordance with:
   A. Baltimore County Department of Public Works Standard Specifications and Details for Construction 1978, Errata and Addenda.
   B. Maryland Department of Transportation State Highway Administration, January, 1982, Standard Specifications for Construction and Materials.
2. This site lies within the Gunpowder Branch watershed.
3. Stormwater management is approved under Bill No. 105-84.
4. This facility is private and shall be maintained by the developer.
5. All construction must be supervised by a geotechnical engineer.
6. Two, 10 and 100 year stormwater management is required and provided.
7. Baltimore County storm drain design standards and special specifications conformed with the latest edition.

* NOTE: Allowable release rate determined using Rational Method which is a conservative estimation. Therefore the developed outflow exceeds the allowable release rate. Management is provided at the design point and is shown in the design flow summary.



LOCATION MAP

SCALE 1" = 2000'

BENCHMARK: HUB [illegible]737 ELEV. 640.757
1/2" IRON BAR IN GROUND ON SOUTH SIDE OF TIMONIUM ROAD AT MAYS CHAPEL ROAD.

LEGEND

G1B (B)	SOILS DELINEATION
A → B	TIME OF CONCENTRATION
	DRAINAGE AREA DIVIDE
	PROPERTY LINE
AREA IN SQ. MILES (1)	TIME OF CONCENTRATION RUNOFF CURVE NUMBER

OWNER/DEVELOPER:

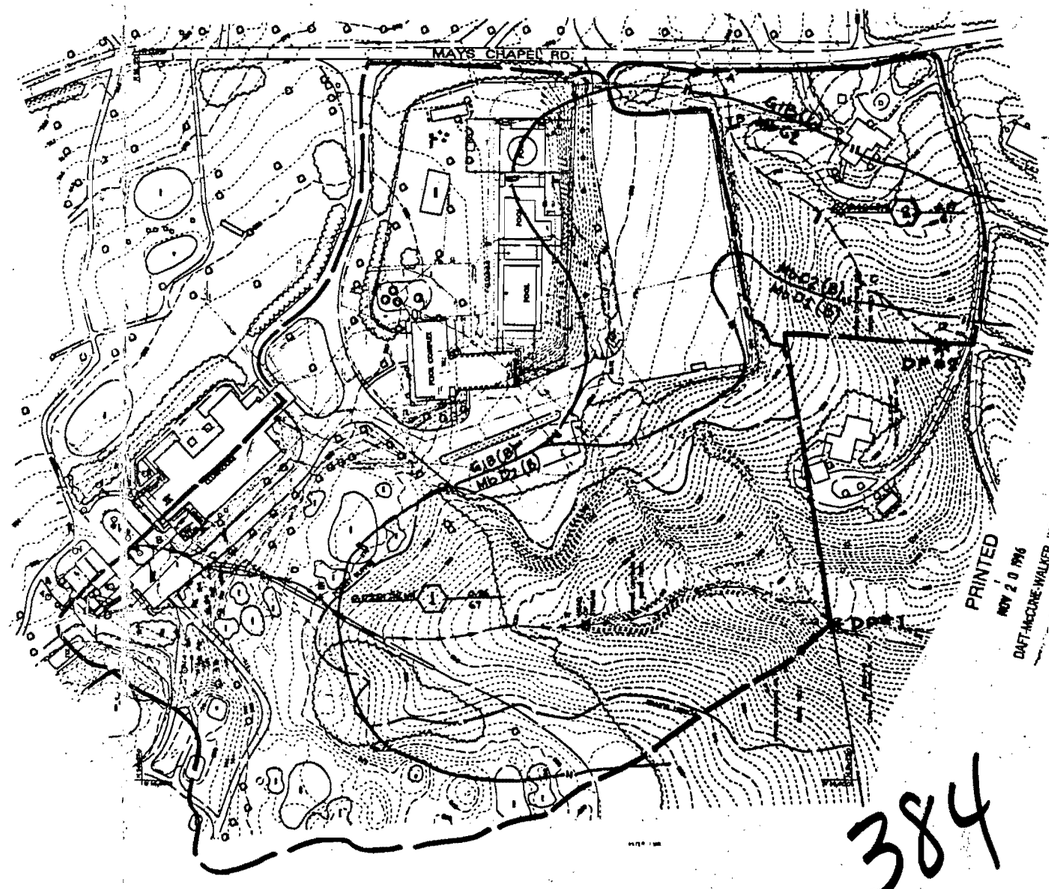
BALTIMORE COUNTY CLUB
4712 CLUB ROAD
BALTIMORE, MARYLAND 21210
(410) 889 4400

APPROVED R.A. Worth Chief 9-17-96
Storm Water Management Division
BALTO. CO. DEPT. OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT

DATA SOURCES:

Baltimore County Soil Conservation District
APPROVED FOR STORM WATER MANAGEMENT
R.A. Worth 9-17-96 211-1640-96
DISTRICT OFFICIAL DATE PLAN NO.

REVIEW FOR DISTRICT
R.A. Worth 9-17-96
BALTO. CO. DEPT. OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT DATE



384

EXISTING DRAINAGE AREA MAP

FINAL PLAN
DAFT-McCUNE-WALKER, INC.
DATE

DMW
Daft-McCune-Walker, Inc.
200 East Pennsylvania Avenue
Towson, Maryland 21286
(410) 296-3333
Fax 296-4705

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

Baltimore Country Club

Drainage Area Maps

Tire Pumps Phase II
Clubhouse Addition/Concrete Parking and Tennis Court Plan

STATE OF MARYLAND
MAX KANTZER
No. 16872
PROFESSIONAL ENGINEER

DATE	BY	REVISIONS

ISSUE DATES			
REVIEW:		BASE:	PSN
BID:		DRAWN:	DBS
PERMIT:		DESIGNED:	PSN
CONSTRUCTION:		CHECKED BY:	JWR
SCALE:	1" = 100'	DATE CHECKED:	09/06/96
PROJECT NO.:	82032MI	DRAWING:	1 OF 6

S-SW S-SE
S-NW S-NE

THIS MAP HAS BEEN REVISED IN SELECTED AREAS.
TOPOGRAPHY COMPILED BY PHOTOGRAMMETRIC METHODS
BY BUCHART-HORN, INC. BALTIMORE, MD. 21210

1996 COMPREHENSIVE ZONING MAP
ADOPTED by
THE BALTIMORE COUNTY COUNCIL
OCTOBER 8, 1996
Bills Nos. 129-96, 130-96, 131-96, 132-96, 133-96, 134-96, 135-96

Kevin Kamenetz
Chairman, County Council

BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
OFFICIAL ZONING MAP

SCALE	LOCATION	SHEET
1" = 200'±	TIMONIUM	N. W. 13-C
DATE OF PHOTOGRAPHY JANUARY 1986		

97-384-SPH

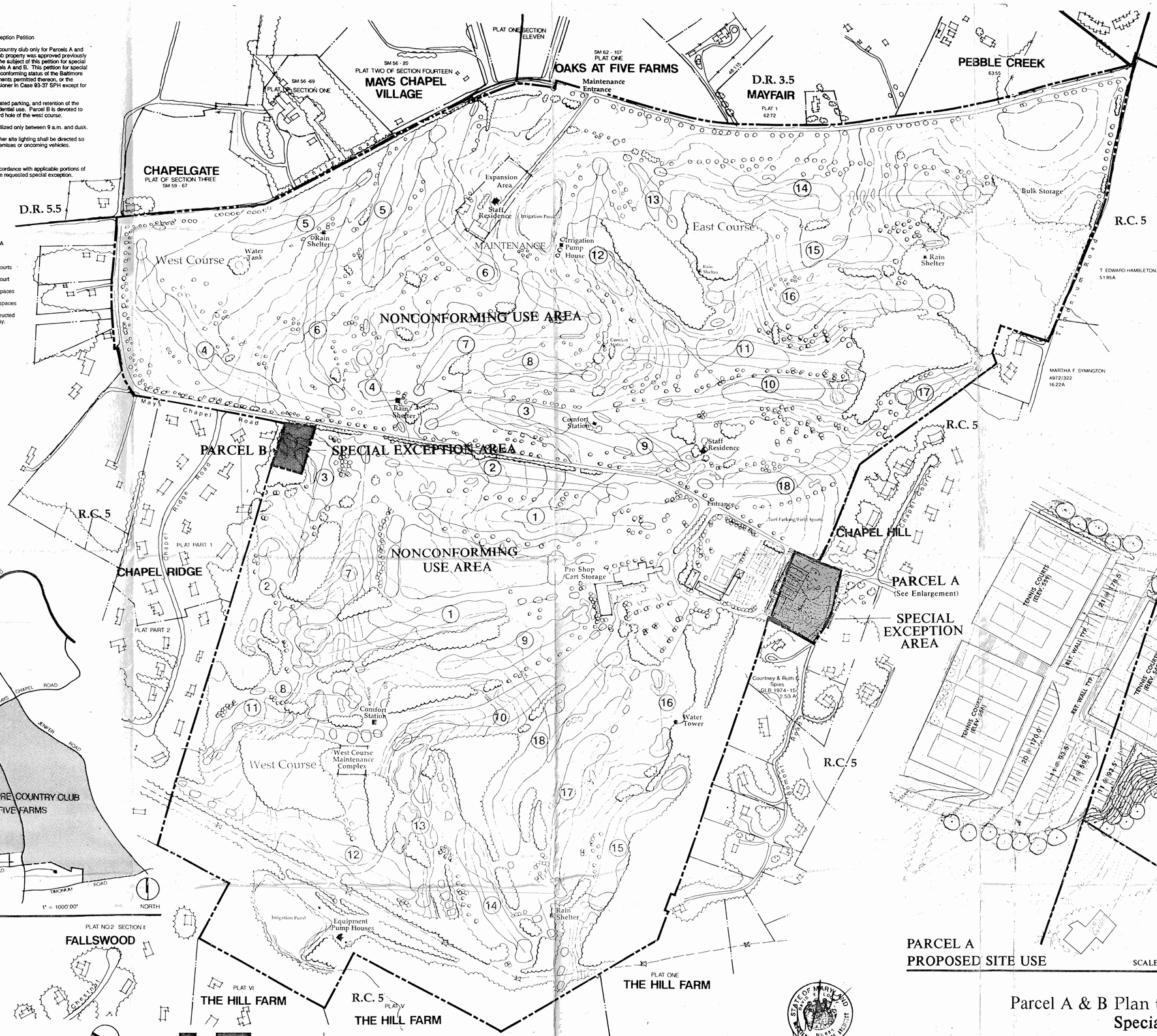
Zoning Notes

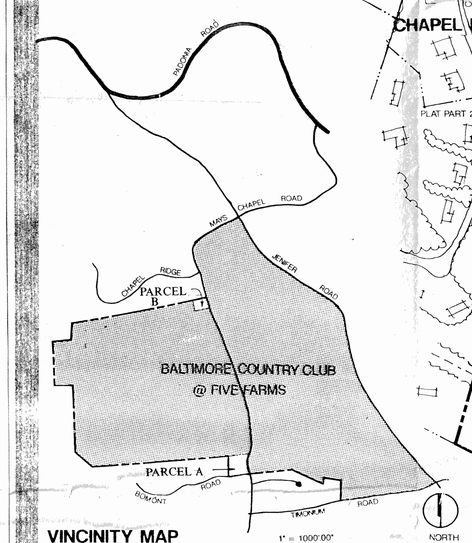
Baltimore Country Club at Five Farms Special Exception Petition

1. This petition seeks a special exception for a country club only for Parcels A and B. The balance of the Baltimore Country Club property was approved previously as a nonconforming country club and is not the subject of this petition for special exception. This petition applies only to Parcels A and B. This petition for special exception does not modify or amend the nonconforming status of the Baltimore Country Club property, the uses or improvements permitted thereon, or the March 5, 1993, order of the Zoning Commissioner in Case 93-37 SPH except for Parcels A and B.
2. Parcel A will be devoted to tennis courts, related parking, and retention of the existing dwelling which will be limited to residential use. Parcel B is devoted to parts of the fairway and the green for the third hole of the west course.
3. Hours of Operation - Tennis courts will be utilized only between 9 a.m. and dusk.
4. The tennis courts will not be lighted. Any other site lighting shall be directed so as to not shine upon adjoining residential premises or oncoming vehicles.
5. All paved parking spaces shall be striped.
6. Modifications may be made if they are in accordance with applicable portions of BCZR and the terms of an order granting the requested special exception.

PARCEL A SPECIAL EXCEPTION AREA PARKING COMPUTATIONS

1.	Number of tennis courts in Parcel A	3 courts
2.	Parking standard	3/court
3.	Required spaces	9 spaces
4.	Parking spaces provided in Parcel A	11 spaces
5.	The retained dwelling has at least two unobstructed parking spaces on its existing circular driveway.	





VINCITY MAP 1" = 1000'-00"

PLAT NO 2 SECTION II
FALLSWOOD

General Notes

1. The address of Baltimore Country Club at Five Farms is:

   11500 Mays Chapel Road
   Timonium, MD 21093
   (410) 889-4400
2. Election District 8; County Council District 3
3. Zoning History

   Zoning Case 93-37 SPH. On March 5, 1993, the Zoning Commissioner issued an order establishing that those portions of the club included in its ownership as of September 26, 1963, are a valid, non-conforming country club use and approving modifications.

   The order denied the right to extend the non-conforming country club use to three properties not included in its ownership as of September 26, 1963. This petition seeks a special exception for two parcels, A and B, to authorize their use as a country club. The third parcel is not improved so as to require authorization by special exception.
4. Zoning of the club and adjacent properties are as shown.
5. The names of adjoining subdivisions are as shown.
6. Existing streets are as shown. Public utilities - water, fire hydrants, sewer, and storm drains exist on Jenifer Road. They are not relevant to this petition and are not shown for purposes of clarity.
7. 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.
8. All streams and stormwater management areas within 50 feet are shown.
9. 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 th-t the club be allowed to connect to the public sewerage system. In accordance with staff and Planning Board recommendations, the County Council has amended the plan to show it as a continued area of no planned service, but granted a special exception for a sewer connection serving only Baltimore Country Club.
10. Building heights do not exceed the permitted 35 feet.
11. Parking provided under existing conditions for the total club comprises 233 spaces and 290 spaces under proposed conditions. Any overflow parking is and has been accommodated in the turf parking portion of the existing club.
12. Tennis courts will be screened and buffered with 10 to 12 foot high evergreen hedges. See plan of Parcel A for details of the tennis component of the club.
13. Three historical buildings are adjacent to the club and are listed on the Maryland Historical Trust Inventory. They are:

    a. 11840 Mays Chapel Road; the Ridge School - BA-970
    b. 11900 Mays Chapel Road; stone church and cemetery - BA-1890
    c. 11901 Mays Chapel Road; frame building and cemetery - BA-948

PARCEL A
PROPOSED SITE USE

SCALE: 1"=50'-0"

MAY 3, 1993 REVISED JUNE 11, 1993

Daft·McCune·Walker, Inc.
200 East Pennsylvania Avenue Towson, MD 21286

PROJECT NO 82032.G1

Parcel A & B Plan to Accompany
Special Exception Petition

Baltimore Country Club at Five Farms

Two of Two

97-384-SPH

Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

May 23, 1997

J. Carroll Holzer, Esquire
305 Washington Avenue, Suite 502
Towson, MD 21204

RE: Item No.: 384
Case No.: 97-384-SPH
Petitioner: Baltimore Country Club

Dear Mr. Holzer:

The Zoning Advisory Committee (ZAC), which consists of representatives from Baltimore County approval agencies, has reviewed the plans submitted with the above referenced petition, which was accepted for processing by Permits and Development Management (PDM), Zoning Review, on March 11, 1997.

Any comments submitted thus far from the members of ZAC that offer or request information on your petition are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. Only those comments that are informative will be forwarded to you; those that are not informative will be placed in the permanent case file.

If you need further information or have any questions regarding these comments, please do not hesitate to contact the commenting agency or Roslyn Eubanks in the zoning office (410-887-3391).

Sincerely,

W. Carl Richards, Jr.
Zoning Supervisor

WCR/re
Attachment(s)

Printed with Soybean Ink
on Recycled Paper

X Attach original petition

Due Date 4/10/97

To: Arnold L. Jablon

From: Bruce Seeley BS/pp

Subject: Zoning Item #384

Baltimore Country Club

Zoning Advisory Committee Meeting of March 24, 1997

____ The Department of Environmental Protection and Resource Management has no comments on the above-referenced zoning item.

____ The Department of Environmental Protection and Resource Management requests an extension for the review of the above-referenced zoning item to determine the extent to which environmental regulations apply to the site.

X The Department of Environmental Protection and Resource Management offers the following comments on the above-referenced zoning item:

X Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (Sections 14-331 through 14-350 of the Baltimore County Code).

X Development of this property must comply with the Forest Conservation Regulations (Sections 14-401 through 14-422 of the Baltimore County Code).

____ Development of this property must comply with the Chesapeake Bay Critical Area Regulations (Sections 26-436 through 26-461, and other Sections, of the Baltimore County Code).

X See attached memo of March 28, 1997.

jablon doc

Maryland Department of Transportation
State Highway Administration

David L. Winstead
Secretary

Parker F. Williams
Administrator

Ms. Roslyn Eubanks
Baltimore County Office of
Permits and Development Management
County Office Building, Room 109
Towson, Maryland 21204

RE: Baltimore County 3.21.97
Item No. 384 WCR

Dear Ms. Eubanks:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not affected by any State Highway Administration projects.

Please contact Larry Gredlein at 410-545-5606 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,

for Ronald Burns, Chief
Engineering Access Permits
Division

LG

My telephone number is _____

Maryland Relay Service for Impaired Hearing or Speech
1-800-735-2258 Statewide Toll Free

Mailing Address: P.O. Box 717 • Baltimore, MD 21203-0717
Street Address: 707 North Calvert Street • Baltimore, Maryland 21202

B A L T I M O R E C O U N T Y, M A R Y L A N D

INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits & Development Management

Date: March 31, 1997

FROM: Robert W. Bowling, Chief
Development Plans Review Division

SUBJECT: Zoning Advisory Committee Meeting
for March 31, 1997
Item Nos. 378, 379, 380, 381, 382, 383, 384, 385, 386, 387 & 391

The Development Plans Review Division has reviewed the subject zoning item, and we have no comments.

RWB:HJO:cab

cc: File

ZONE331.NOC

B A L T I M O R E C O U N T Y , M A R Y L A N D

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Permits and Development
Management

DATE: March 25, 1997

FROM: Pat Keller, Director
Office of Planning

SUBJECT: Petitions from Zoning Advisory Committee

The Office of Planning has no comments on the following petition(s):

Item No. 384

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3495.

Prepared by: Jeffrey W. Long

Division Chief: Carl L. Kelner

PK/JL

ITEM384/PZONE/ZAC1

Baltimore County Government
Fire Department

700 East Joppa Road Suite 901
Towson, MD 21286-5500

(410) 887-4500

March 31, 1997

Arnold Jablon, Director
Zoning Administration and Development Management
Baltimore County Office Building
Towson, MD 21204
MAIL STOP-1105

RE: Property Owner: SEE BELOW

Location: DISTRIBUTION MEETING OF March 24, 1997

Item No.: SEE BELOW Zoning Agenda:

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.

8. The Fire Marshal's Office has no comments at this time, IN REFERENCE TO THE FOLLOWING ITEM NUMBERS:

380, 381, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392

REVIEWER: LT. ROBERT P. SAUERWALD
Fire Marshal Office, PHONE 887-4881, MS-1102F
cc: File

RECEIVED
3 1997

Printed on Recycled Paper

DEPARTMENT OF ENVIRONMENTAL PROTECTION
AND RESOURCE MANAGEMENT
INTEROFFICE CORRESPONDENCE

TO: R. Bruce Seeley,
Development Coordination

DATE: March 28, 1997

FROM: Glenn Shaffer, EIR

SUBJECT: Baltimore Country Club
Amended Special Exception

Upon reviewing the allegations and concerns of the neighbors of Baltimore Country Club (BCC), EIR offers the following information and comments. 1)Any future improvements at the Five Farms site involving forest clearing will subject BCC to the Forest Conservation Regulations (FCR) as 40,000 square feet of forest have been cleared since the effective date of the FCR. 2)There have been several sediment control and water quality violations at BCC associated with construction of the parking facility. 3) BCC is required by DEPRM to both mitigate the permanent impacts to the Forest Buffer Easement (FBE) associated with the new parking lot as well as restore the stream accidentally impacted during the current parking lot construction; no grading securities shall be released by DEPRM until BCC completes the latter restoration.
4) Construction plans for any future improvements at BCC (such as the proposed tennis courts) must be reviewed and approved by DEPRM for compliance with theFCR and the Regulations for the Protection of Water Quality, Streams, Wetlands, and Floodplains as well as all other applicable environmental regulations. 5) Storm water management (SWM) for the recent improvements was reviewed and approved by the SWM Design and Approval Section of DEPRM which decided that the improvements and associated SWM concept adequately met State SWM Regulations.

If there are any questions regarding the information above, please contact me at 887-3980.

c. Patricia Farr
BCC File

bccspex.doc/gs

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT
INTER-OFFICE CORRESPONDENCE

DATE: September 9, 1997

To: Arnold L. Jablon

From: R. Bruce Seeley

Subject: Zoning Item #97-384-SPH

Baltimore Country Club

Zoning Advisory Committee Meeting of August 25, 1997

_____ The Department of Environmental Protection and Resource Management has no comments on the above-referenced zoning item.

_____ The Department of Environmental Protection and Resource Management requests an extension for the review of the above-referenced zoning item to determine the extent to which environmental regulations apply to the site.

_X_ The Department of Environmental Protection and Resource Management offers the following comments on the above-referenced zoning item:

_X_ Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (Sections 14-331 through 14-350 of the Baltimore County Code.)

_X_ Development of this property must comply with the Forest Conservation Regulations (Sections 14-401 through 14-422 of the Baltimore County Code).

_____ Development of this property must comply with the Chesapeake Bay Critical Area Regulations (Sections 26-436 through 26-461, and other Sections, of the Baltimore County Code).

_X_ The property is currently in violation of the water quality regulations cited above due to a sediment control violation which occurred in November of 1996.

BS:GS:sp

P.P.
to amend Petition
(file returned to Gwen)

RE: PETITION FOR SPECIAL HEARING 11500 Mays Chapel Rd; Parcel A - NWC Mays Chapel and Bormont Rds; Parcel B - SW/S Mays Chapel Rd, 361' SE Chapel Ridge Rd 8th Election District, 3rd Councilmanic Legal Owner: Baltimore Country Club of Balto City Deborah Terry, Donna Dow, Joseph Tubman, Courtney Spies, Sr. Petitioners	* * * * *	BEFORE THE ZONING COMMISSIONER OF BALTIMORE COUNTY CASE NO. 97-384-SPH

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

ENTRY OF APPEARANCE

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

Peter Max Zimmerman
PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 16th day of May, 1997, a copy of the foregoing Entry of Appearance was mailed to J. Carroll Holzer, Esq., 305 Washington Avenue, Suite 502, Towson, MD 21204, attorney for Petitioners, and to G. Scott Barhight, Esq., 210 W. Pennsylvania Avenue, 4th Floor, Towson, MD 21204, attorney for legal owners.

Peter Max Zimmerman
PETER MAX ZIMMERMAN

11/13/97

ATTENDING SPECIAL HEARING 97-384

Bro Tuman
Deborah Terry
JOHN HART
DENNIS STERCHI
DIANE STERCHI
Adrienne Toland
Ruth C. Spies
Courtney A. Spies, Sr.
HARRY B. TURNER

H. John Beemiller, III (B.C.C.)
GARY T. GILL (B.C.C.)
Mas J.B. Miller (B.C.C)
Mrs. Paul K. Hampshire (B.C.C.)
Peggy T. Miller (BCC)
Carole Lee McCrory (BCC)
PAUL SCHUAN (BCC)
A. Pierce Gruenwerner (BCC)
Joseph A. Kuelt (BCC)
Robert Sellers (FRCA)
Mary Rose Dunn (BCC)
Nancy Jones-Bonbrest (Valley Voice Newspaper)
Harold H. Burns Jr (FRCA-Director)
Dave Dollenberg (BCC)

PLEASE PRINT CLEARLY

PROTESTANT(S) SIGN-IN SHEET

NAME	ADDRESS
Ann M. Remington (BCC)	10331 Malcolm Circle 21030

May 28, '97

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME	ADDRESS
Kathryn G. Tubman	11431 Mays Chapel Rd., 21093
ADRIENNE K. TOLAND	830 BOMONT RD 21093
JOSEPH R. B. TUBMAN	11431 MAYS CHAPEL RD, 21093
Donna L. Dow	721 Bomont Rd 21093
Diane L Sterchi	11422 Mays Chapel Rd 21093
DENNIS J. STERCHI	11422 MAYS CHAPEL Rd 21093
Deborah A Terry	747 Bomont Rd. 21093
FREDERICK D. TERRY	747 BOMONT RD. 21093
Ruth C. Spies	722 Bomont Rd. 21093
COURTNEY A. SPIES, SR	722 BOMONT RD 21093
JOHN M. HART	752 BOMONT RD 21093

Printed with Soybean Ink
on Recycled Paper

May 28, 1997

PLEASE PRINT CLEARLY

PROTESTANT(S) SIGN-IN SHEET

NAME	ADDRESS
Edmund F. Haile	200 E. Penna Ave Towson 21286
Paul T Spellman	4712 Club Rd 21210
F. Pierce Linaweaver	111 S. Calvert St. Suite 2700 21202
Jack Dunn	1 Murray Hill Circle 21212
Libby Hoyle	1011 Brooklandwood Rd. 21093
KARL SILEX	18 BUCHANAN RD. 21212
GARY GILL	2328 W. TOPPA RD. 21093
Jim Dollenberg	100 W. Penna Ave - 21204

Protestant's Ex #1

FRED TERRY 747 Bomont Road Timonium, MD 21093	*	IN THE
	*	CIRCUIT COURT
DEBORAH TERRY 747 Bomont Road Timonium, MD 21093	*	FOR
	*	BALTIMORE COUNTY
DONNA DOW 721 Bomont Road Timonium, MD 21093	*	
	*	Case No.: 03-C-97-001983
JOSEPH R.B. & KATHRYN TUBMAN 11431 Mays Chapel Road Timonium, MD 21093	*	
	*	? 93-388-X ?
KATHARINE LATROBE 800 Bomont Road Timonium, MD 21093	*	93-37-SPH
	*	
JOHN HART 752 Bomont Road Timonium, MD 21093	*	
	*	
RUTH & COURTNEY A. SPIES, SR. 722 Bomont Road Timonium, MD 21093	*	
	*	
COURTNEY SPIES, JR., 722 Bomont Road Timonium, MD 21093	*	
	*	
WILLIAM & ADRIENNE TOLAND 830 Bomont Road Timonium, MD 21093	*	
	*	
DENNIS & DIANE STERCHI 11422 Mays Chapel Road Timonium, MD 21093	*	
	*	
STAN & MARY PALMER 711 Bomont Road Timonium, MD 21093	*	
	*	
Plaintiffs,	*	

EXHIBIT
Dev #2

V. *

BALTIMORE COUNTRY CLUB OF * BALTIMORE CITY ("BCC")

*

Defendant.

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

SECOND AMENDED COMPLAINT AND DEMAND FOR JURY TRIAL

NOW COMES Plaintiffs, collectively referred to as the South Five Farms Community ("SFFC"), by their counsel, Ralph L. Arnsdorf, Semmes, Bowen & Semmes and for a complaint hereby states.

1. On or about June 14, 1993, certain members of the SFFC entered into a written agreement with the BCC (See attached Exhibit 1, incorporated by reference herein.).

2. As part of the June 14, 1993 agreement, the BCC obligated themselves to comply with specific negotiated provisions; to wit:

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.

Prior to submitting any stormwater plans pursuant to this Section, BCC shall submit such plans to the Community for their review and comment. BCC shall respond in good faith to each comment received from the Community.

B. When and if BCC constructs the proposed tennis courts and adjacent parking, 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.

3. Notwithstanding these specific provisions, the BCC has failed to handle stormwater runoff in accordance with existing regulations. The BCC also failed to submit its stormwater management plans to the SFFC for their review and comment prior to submitting them to Baltimore County.

4. As a result of the BCC's failure to submit plans to the SFFC and as a result of the BCC's failure to comply with applicable regulations for sediment control and stormwater runoff, the SFFC has sustained significant damage to Bomont Road and the surrounding watershed. The Bomont Road roadbed has been severely damaged by excessive erosion and water damage. The roadbed has been completely undermined and now creates a serious risk of personal injury and property damage to the SFFC residents.

5. In addition, construction traffic from the BCC's project has caused damage to Mays Chapel Road which, in turn, has caused damage to property on the east side of Mays Chapel Road.

COUNT I
(BREACH OF CONTRACT)

(Plaintiffs Joseph R.B. Tubman, Donna Dow, Deborah Terry and Courtney Spies, only.)

6. The factual allegations of Plaintiff's 1-5 inclusive, are incorporated by reference herein.

7. The actions of the BCC constitute a material and serious breach of the Agreement entered into between the Plaintiffs referenced in Count I and the BCC.

8. As a proximate result of the BCC's material breach, the Plaintiffs

referenced in Count I have sustained property damage to their private road and/or private real property. There has been overall damage to the private watershed, which is used by all Plaintiffs, and there remains a serious risk of personal injury and property damage from the BCC's continuing activities.

WHEREFORE, the Plaintiffs in Count I demand judgment, compensatory damages in the amount of $500,000, court costs, interest, reasonable attorneys' fees and such other and further relief as the Court deems just and proper.

COUNT II

(NEGLIGENCE)

(All Plaintiffs of the SFFC except Joseph R.B. & Kathryn Tubman and Dennis & Diane Sterchi)

9. The factual allegations of plaintiff's 1-8 are incorporated by reference herein.

10. The BCC owed a duty of reasonable care to Plaintiffs to perform and direct their construction activities as to avoid causing personal injury and/or property damage to the Plaintiffs.

11. The BCC has breached their duty of care to Plaintiffs because they have failed to direct their construction activities with reasonable care.

12. As an actual and proximate result of the BCC's negligence in directing their construction activities, the Plaintiffs and each of them have suffered damages to their real property, including, but not limited to, the private Bomont Road, the roadbed, as well as the entire private watershed of the SFFC. The BCC has also created a substantial risk of personal injury through eroding and undermining the integrity of Bomont Road.

WHEREFORE, all Plaintiffs of the SFFC demand judgment against the BCC for compensatory damages in the amount of $500,000 plus interest, court costs, reasonable attorneys' fees and such other relief as the Court deems just and proper.

COUNT III
(NEGLIGENCE)

(Plaintiffs Joseph R.B. & Kathryn Tubman
and Dennis & Diane Sterchi)

13. The factual allegations of Plaintiff's 1-12 are incorporated by reference herein.

14. Plaintiffs Tubmans and Sterchis both reside on Mays Chapel Road, but both have been detrimentally affected by the BCC's failure to direct their construction activities as to avoid causing personal injury and/or property damage to the Tubmans and the Sterchis. Specifically, there is an asphalt/gravel vehicle "turn-around" area on the east side of Mays Chapel Road, due north of the Tubman residence and northeast of the Sterchi residence. This "turn-around," which is solely on BCC property, has been improperly and negligently maintained. The BCC has failed to exercise reasonable care to provide storm water management and runoff from the turn-around. The BCC has also failed to exercise reasonable care in removing trees from the turn-around area. This deforestation without adequate replanting has contributed to accelerated storm water runoff. The BCC has also failed to exercise reasonable care in the maintenance and implementation of sediment control and erosion control techniques to prevent storm water runoff and sediment from causing damage to the Tubman's and Sterchi's property. The BCC has also negligently stockpiled sand and other materials in the turn-around which have migrated onto the

Tubman's and Sterchi's property. [All of these problems have been caused by and are continually exacerbated by the ongoing construction on the BCC property.] Specifically, heavy construction traffic from the BCC construction project has severely damaged the Mays Chapel roadbed and shoulder, including private property owned by the Tubmans and Sterchis. Damage to the road shoulder has increased the rate of stormwater runoff and has resulted in increased erosion of rocks and other particulate onto the Tubman and Sterchi properties.

15. As an actual and proximate result of the BCC's negligence in maintaining their property as described in more detail in the preceding paragraphs, the Tubmans and the Sterchis have suffered extensive damages to their real property. Sediment and stones from the BCC's property has washed away substantial portions of the Tubmans' landscape, flooded their driveway and basement, and eroded deep channels onto the north and south borders of the property. These channels are so deep as to represent a foreseeable risk of personal injury to the Tubmans and third-parties. Storm water runoff has also caused damage to the Sterchis' property. Due to the improper maintenance of the turn-around and continuing construction without proper safeguards, as described in the preceding paragraphs, stormwater floods across Mays Chapel Road from the turn-around and onto the west slope of the Sterchis' property. There has been extensive property damage to the Sterchis' real property and the flooding continues with each significant rain (greater than .05 inches) as the berms constructed on the BCC property actually direct storm water runoff away from the BCC's property and onto the Sterchis' and Tubmans' property. The BCC's negligence has also deprived the Tubmans and

Sterchis from their use and enjoyment of the private watershed of the SFFC which, due to their immediate proximity, the Tubmans and the Sterchis utilize on a regular basis.

WHEREFORE, the Tubmans and the Sterchis demand judgment against the BCC for compensatory damages in the amount of $100,000, plus interest, court costs, reasonable attorneys' fees, and such other relief as the Court deems just and proper.

COUNT IV
(NUISANCE)

(All Plaintiffs against the BCC)

16. The factual allegations of Plaintiffs' paragraphs 1 through 14 are incorporated by reference herein.

17. The BCC has intentionally directed their construction activities adjoining the SFFC in such a manner so as to deprive all of the Plaintiffs in the SFFC of the use and enjoyment of their property. Specifically, the BCC's current construction efforts have caused extensive damage to the entire private watershed of the SFFC, which impacts all Plaintiffs. Sediment has flowed into the watershed from current construction activities, damaging the real property of all Plaintiffs and, especially, the Spies and the Tolands. The Tolands' driveway has been eroded. The banks of the Deep Run stream which flows through the Spies' property has been deeply eroded. Sediment has piled onto lawns and Bomont Road itself has been eroded and damaged. Failure to maintain the turn-around and, as a result of construction activities on the BCC property on the east side of Mays Chapel Road has caused extensive erosion damage to the Tubman and Sterchi properties. All of the Plaintiffs

have suffered a loss of the use and enjoyment of the Bomont Road watershed. All of the Plaintiffs, except Tubmans and Sterchis, are in danger of losing their sole means of ingress and egress to Mays Chapel Road. The BCC's current construction activities are damaging the water quality of the Deep Run watershed and have destroyed many species of flora and fauna through excessive water diversion into the Deep Run watershed. The Deep Run watershed role as a native trout stream has been damaged.

18. The BCC's construction activities have also been conducted in violation of Baltimore County noise ordinances, to the detriment of all Plaintiffs. Construction activities began at 5:30 a.m. on the Good Friday before Easter, 1997. On two other occasions in March, 1997, the BCC's construction activities were conducted after 12 midnight and 3:00 a.m..

WHEREFORE, all Plaintiffs demand judgment against the BCC for compensatory damages in the amount of $500,000, an Order directing the BCC to permanently cease and desist all construction activities and for such other and further relief as the Court deems just and proper.

/s/

RALPH L. ARNSDORF
Semmes, Bowen & Semmes
250 West Pratt Street, 15th Floor
Baltimore, MD 21201
(410) 539-5040
Attorneys for Plaintiffs

DEMAND FOR JURY TRIAL

Plaintiffs demand a jury trial on all issues triable before a jury.

/s/
RALPH L. ARNSDORF

I HEREBY CERTIFY, that on this 30 day of May, 1997, a copy of the aforegoing was mailed, postage prepaid, to:

K. Donald Proctor, Esquire
102 West Pennsylvania Avenue
Suite 505
Towson, Maryland 21204

Robert Bouse, Esquire
Anderson, Coe & King
Suite 2000
201 North Charles Street
Baltimore, Maryland 21201

/s/
Ralph L. Arnsdorf

SS2\77366

EXHIBIT

Dow #5

FRCA

ESTABLISHED 1947

Richard Allchin, Director
727 Chapel Ridge Road
Timonium MD 21093
Phone: (410) 252-5544

[redacted]

September 9, 1996

NEIGHBORHOOD BULLETIN

[The Five Farms Area]

Pierce Linaweaver, President of the Baltimore Country Club, telephoned to alert the neighborhood that this month (September) the Club is beginning construction of its new parking lot and golf cart storage building. These will be located to the rear (west) of the club house), and extend past the north end of the club house. When completed, they will unlikely be in view from the Mays Chapel Road; at the worst, a roof line of the cart storage building.

He was particularly concerned that the neighbors be alerted to this, as there will be a considerable amount of activity of ingress and egress of traffic bringing in equipment and materials for the construction. He indicated that the activity will probably continue for some months, through the fall and winter and even into the springtime.

It will not be until this construction is completed that work will begin on the new tennis courts.

While havng your car, we call your attention to the FRCA Annual meeting; reservation form below. For full information, call the Secretary, Melanie Elliott at 252-2631.

Please tear here and return form for you dinner reservation(s).

DINNER RESERVATION FORM - FRCA Annual Meeting Oct 21,1996
at Oregon Ridge Lodge - 6:00pm Cash Bar; Buffet Dinner at 6:45pm
Please make _____ dinner reservations for myself and guests
at $20.00 per person (check enclosed): No. ___ @ $20 = $_____
[Note: If convenient, include your 1997 dues with an additional $25.00]

Name: _____

Address: _____

_____

Telephone: _____

[Check payable to: FRCA; [illegible]

HOLZER & LEE

LAW OFFICES
J. CARROLL HOLZER, PA
THOMAS J. LEE

J. HOWARD HOLZER
1907-1989

TOWSON OFFICE
305 WASHINGTON AVENUE
SUITE 502
TOWSON, MD 21204
(410) 825-6961
FAX: (410) 825-4923

CARROLL COUNTY OFFICE
1315 LIBERTY ROAD
ELDERSBURG, MD 21784
(410) 795-8556
FAX: (410) 795-5535

November 14, 1996

Baltimore Country Club
4712 Club Road
Baltimore, Maryland 21210

Dear Mr. Linaweaver:

I am writing on behalf of Joseph R. Tubman, Donna Dow, Courtney Spies, and Mr. and Mrs. Terry in regards to the Agreement between the "Community" and the Baltimore Country Club which was entered into on June 14, 1993. According to Section 1. A. of the Agreement, the BCC was to submit plans to the Community, for their review before storm water plans were submitted to Baltimore County. It appears that construction on the parking areas immediately adjacent to the Clubhouse has begun. By not submitting plans and supporting information to the Community for their review and comment, BCC is in violation of the Agreement. The Community requests copies of the construction plans be forwarded promptly for their review and comment. I am enclosing a copy of the Agreement for your review.

Very truly yours,

J. Carroll Holzer

JCH:alt
cc: Donna Dow
Courtney Spies
Joseph R. Tubman
Deborah Terry

C:\LINAWEAV.LTR

3

NOV 15

410-889-4400

Baltimore Country Club

4712 CLUB ROAD - ROLAND PARK

BALTIMORE, MARYLAND 21210

November 20, 1996

Ms. Donna Dow
721 Bomont Road
Timonium, Maryland 21093

Dear Ms. Dow:

Thank you for returning my phone call last night. It was a pleasure speaking with you. Enclosed are the requested set of water quality and stormwater management plans specific to the construction underway at Five Farms. It is my understanding that Mr. Fred Terry will be acting as the "community" spokesperson and all questions might be best directed towards him.

It will be our pleasure to then call a meeting of the "community" where our engineers can personally addresss any questions or comments that you may have. Please accept our sincere apology for not getting these plans to you in a more timely manner.

Very truly yours,

Paul T. Spellman, Jr. CCM
General Manager

May 21, 1996

5

Mr. Ed Schmaus
DEPRM - Bureau of Engineering
County Court Building
401 Bosley Avenue
Towson,MD 21204

Dear Mr. Schmaus:

As residents of Bomont road, a privately owned and maintained road south of the Baltimore Country Club, we are concerned that the proposed expansion of the Baltimore Country Club's facilities will generate a greater concentration of storm water runoff to our road. Since this road is the only means of ingress and egress for emergency and service vehicles as well as residential traffic, we do not want our welfare compromised by flood damage or, in the winter, excessive icing. We request you review the Club's plans of development with our concerns in mind so you can insure us there will be no detrimental effects that will be costly to us in the future. It should be remembered as residents, we own and use this road on a daily basis and depend on it for the delivery of goods and services necessary to conduct the routines of our daily lives. We feel our welfare should not be subordinated or compromised by the needs of a recreational facility used mostly on weekends and in good weather.

The included photographs and copies of correspondence between the Club and neighborhood residents document a history of flooding that started in 1964 when the Club cleared a substantial portion of wooded land to construct a parking lot. Much of the discharge from this parking lot was to a swale between the Spies property and the Boyce property, now owned by the club. The increase in storm runoff to this swale was very damaging and at the request of Spies and Boyce the inlet midway along the south curb line was plugged and all parking runoff was diverted to a swale to the north of the Spies property. This has caused severe erosion of the receiving swale. On two occasions, storm runoff eroded sediment from this swale and deposited it 6 inches deep on Bomont Road, filled a wetland area to the north and covered a parking area to the south. The Club removed the sediment from the road but never restored the wetlands or parking area. We are now worried that planned improvements will increase the frequency of road flooding and property damage.

We feel the following points must be addressed in order to assure us there will be no further damage from flooding or erosion to our neighborhood.

1) No storm water should be released in the swale between the Spies property and the former Boyce property. An adequate drain does not exist at the Spies drive where this water would concentrate. (See

Boyce letter March 11, 1964)

2) In calculating runoff for existing conditions, the Baltimore Country Club property should be evaluated as it existed in the year storm water management became law. The Club has continuously cleared land and added impervious area with no provisions for managing the increased runoff. Now is the time to account for these former uncontrolled improvements.

3) A runoff coefficient for asphalt paving should be used for the proposed tennis courts. There is no assurance in the future they won't be resurfaced with an impervious material. This will result in a substantial increase in uncontrolled runoff to our neighborhood.

4) Channels receiving runoff from the existing Club parking are severely eroded and will only deteriorate further when the quantity of runoff is increased. Discharge from a storm water management facility is supposed to be to a suitable outfall. These channels should be evaluated for adequacy and rehabilitated where required.

5) Storm water management should be provided for a bus turn around east of Mays Chapel road which was to be temporary when installed but still remains today. An asphalt diversion dike at this turn around should be reconstructed to divert runoff to the north of the Tubman property to prevent further siltation of his property.

It is our understanding the purpose for storm water management is to prevent flooding and damage to downstream properties when development of upstream land increases runoff. If this is correct, then proper implementation of storm water management facilities on the Baltimore Country Club, should be such that our neighborhood is not effected by these improvements. We hope this is the outcome. Our experience of over twenty five years suggests otherwise. It is to the benefit of everyone that extra effort and engineering be applied now. The expense to correct a failing situation at a later date will be far greater than money spent to insure it won't happen.

We feel an on site evaluation of our road and drainage courses will provide a clear understanding of our concerns. If this would benefit your review, I can meet with you at your convenience. I can be reached during the day at 252-8600 ex.22.

Sincerely,

Fred Terry

Fred Terry
747 Bomont Road
Lutherville, MD 21093

cc Al Wirth

IN RE: PETITION FOR SPECIAL	*	BEFORE THE
EXCEPTION FOR A COUNTRY CLUB	*	ZONING COMMISSIONER
11500 Mays Chapel Road	*	OF
Parcel A - NWC Mays Chapel Road and Bomont Road	*	BALTIMORE COUNTY
Parcel B - W/S Mays Chapel Road, 361 feet plus or minus S/S Chapel Ridge Road	*	
Eighth Election District	*	
Third Councilmanic District		
Petitioner: Baltimore Country Club of Baltimore City	*	Case No. 93-388-X
	*	

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

FINDINGS OF FACTS AND
CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as a Petition for Special Exception for the subject parcels located at 11500 Mays Chapel Road. The Petition was filed by the property owner, Baltimore Country Club of Baltimore City, which operates a country club at this location known as Five Farms.

The Petitioner seeks approval for a country club on two parcels. In Case No. 93-37-SPH, the Zoning Commissioner of Baltimore County granted a Petition for Special Hearing confirming a nonconforming country club and modifications for those portions of the property owned by the Petitioner as of September 26, 1963. The two parcels which are the subject of this Petition for Special Exception were not owned by the Petitioner as of September 26, 1963. Therefore, Parcels A and B are not part of the nonconforming country club.

The Petitioner is represented by G. Scott Barhight, Esquire. Appearing at the hearing on behalf of the Petitioner as witnesses

Exh. 2

2

were Paul T. Spellman, Jr., who has been employed as the general manager and chief operating officer of the Baltimore Country Club since 1985, and Edmund F. Haile, P.E. and George E. Gavrelis from Daft-McCune-Walker, the engineers/land planners, who prepared the site plan. Several protestants, Joseph R.B. Tubman, Donna Dow, Deborah Terry and Courtney Spies also appeared. The Protestants were represented by J. Carroll Holzer, Esquire.

Mr. Barhight proffered the testimony of the three witnesses on behalf of the Petitioner. This proffer indicated that the Club was granted the aforementioned nonconforming status and that such order has been appealed to the Board of Appeals by the Protestants. Parcels A and B which are the subject of this Petition for Special Exception, are contiguous to those portions of the Club which enjoy the nonconforming use status. Parcel A, known as the "Boyce Parcel" is currently improved by a single family residence and consists of approximately 2.67 acres. The Club proposes to improve the Boyce Parcel by adding three tennis courts and twelve parking spaces all as shown on the revised site plan marked as Petitioner's Exhibit 2B. Parcel B, known as the "Merrick Parcel" is currently improved as part of the 3rd hole of the West Course and consists of approximately 1.213 acres. Both parcels are zoned R.C.5. The proffer further indicated that the witnesses would testify that the requirements of Section 502.1 of the Baltimore County Zoning Regulations would be met if the Petition for Special Exception is granted.

The Protestants had expressed concerns regarding, among other things, stormwater run-off, the visual and sound impact of

the proposed improvements to the Boyce Parcel, and the future use of the Boyce Parcel. Counsel for the Petitioner and the Protestants represented that the parties have been diligently negotiating in good faith to resolve the concerns raised by the Protestants. As a result of these negotiations, the parties have entered into an Agreement, which was offered into evidence as Petitioner's Exhibit 2A. In return for the Petitioner's obligations contained in the Agreement, the Protestants have agreed, among other things, to withdraw their opposition to the subject Petition for Special Exception and to dismiss, with prejudice, their appeal of the Zoning Commissioner's Order in the nonconforming use case. During the hearing, the Planning Office also provided the Deputy Zoning Commissioner with a revised comment which is in support of the granting of the requested Special Exception, subject to the Agreement (Exhibit 2A).

Pursuant to Section 1A04.2.B.8 of the Baltimore County Zoning Regulations, a country club is permitted on the subject parcels by special exception. The special exception use has been identified by the Appellate Courts of the State as a use which is presumptively valid, absent a showing that the proposed use will cause unique detriment to the health, safety or general welfare of the surrounding community. Further, the Petitioner must produce persuasive evidence that the standards enunciated in Section 502.1 are satisfied in order for the Special Exception to be approved. Based on the uncontradicted evidence and testimony presented, I am persuaded that the Petitioner has met its burden. There is no evidence that the proposed use will, in any manner,

adversely effect the health, safety or general welfare of the locale. Parcel B is currently being used as a portion of the golf course with no harm to the community whatsoever. Additionally, the proposed use of the Boyce Parcel, with the conditions as shown on the revised site plan (Exhibit 2B), is consistent with the country club use of the Five Farms property and will not have an adverse impact on the surrounding community. For all of these reasons, I am persuaded that the Petition for Special Exception should be granted.

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

IT IS THEREFORE ORDERED, by the Deputy Zoning Commissioner for Baltimore County, this 23rd day of June, 1993, that, pursuant to the Petition for Special Exception, approval for the operation of a country club on Parcels A and B as shown on the revised site plan (Exhibit 2B) pursuant to Section 502.1 of the Baltimore County Zoning Regulations, be and is hereby GRANTED; subject, however, to the following restrictions which are conditions precedent to the relief granted herein:

1. The Petitioner may apply for its building permit and be granted same upon receipt of this Order, however, Petitioner is hereby made aware that proceeding at this time is at its own risk until such time as the thirty (30) day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner will be required, and responsible for returning, said property to its original condition.

2. The terms of the Agreement dated June 15, 1993 (Exhibit 2A), are incorporated into this Order and must be complied with as a part of the approval herein granted.

Timothy Kotroco

Timothy M. Kotroco,
Deputy Zoning Commissioner for
Baltimore County

3A

AGREEMENT

THIS AGREEMENT, entered into on this 14th 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 Bomont 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.

W I T N E S S E T H:

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.

Prior to submitting any stormwater plans pursuant to this Section, BCC shall submit such plans to the Community for their review and comment. BCC shall respond in good faith to each comment received from the Community.

B. When and if BCC constructs the proposed tennis courts and adjacent parking, BCC shall handle all stormwater run-off in accordance with the quantity and quality requirements of all then existing and applicable federal, state and Baltimore County laws and regulations.

Prior to submitting any stormwater plans pursuant to this Section, BCC shall submit such plans to the Community for their review and comment. BCC shall respond in good faith to each comment received from the Community.

C. To reduce the impact of the existing stormwater runoff emanating from the existing parking facility adjacent to the Boyce parcel, BCC shall install energy dissipation and settling measures on the BCC property by December 31, 1993.

Prior to submitting any stormwater plans pursuant to this Section, BCC shall submit such plans to the Community for their review and comment. BCC shall respond in good faith to each comment received from the Community.

D. After the recordation of the Restrictive Covenant Agreement pursuant to Sections 1.G and 4, the Community shall make whatever improvements they deem necessary to the existing improvements in and around Bomont Road, including but not limited to the existing culverts, the existing paving and the removal of sediment and other debris from the drainage areas along Bomont Road. After the improvements have been completed, the Community shall submit all bills and invoices to BCC for payment, not to exceed $7,500.00.

E. Subject to the option of a majority of the Community stated herein, BCC shall erect a wall along the entire eastern and southern sides of the three tennis courts to be constructed on the Boyce parcel. This wall shall be six (6) feet high above the tennis court level at its northern most portion, six (6) feet high above the tennis court level at its western most portion, and ten (10) feet high above the tennis court level at the southeastern corner of the three tennis courts to be situated on the Boyce parcel. The elevations of the wall shall gradually change in sections of six, eight and ten feet in equal proportions. Said wall shall continue at a height of six (6) feet above the tennis court level to the northwest corner of the Boyce parcel.

This wall shall be masonry along the eastern side of the three tennis courts on the Boyce parcel. This wall shall be masonry along the southern side of the easternmost tennis court on the Boyce parcel (the "first court"). From the southwestern corner of the first court to the northwest corner of the

Boyce parcel, the wall may, at the discretion of BCC, be in staggered sections and constructed of wood, provided the wall is of comparable sound attenuation quality to a continuous masonry wall. Prior to construction of the wood wall, BCC shall submit such plans and supporting data to the Community for their review and comment.

The Community may exercise their option to trigger this BCC obligation upon providing written notice to BCC within thirty-six (36) months after the construction of the three tennis courts on the Boyce parcel. If the Community exercises such option, BCC shall erect said wall within six (6) months of receipt of said notice. BCC shall maintain said wall after construction.

F. The shortest distance from the centerline of Mays Chapel Road to the easternmost portion of the tennis courts on the Boyce parcel shall be seventy-five (75) feet, more or less.

G. The hours of operation for the three tennis courts on the Boyce parcel shall be from 9:00 a.m. to sunset. The hours of operation for the tennis courts serving the BCC at Five Farms, not on the Boyce parcel, shall be from 8:00 a.m. to sunset. The tennis courts serving the BCC at Five Farms, including the three tennis courts on the Boyce parcel, shall not be lit. Appropriate lighting is permitted on all parking areas serving the BCC at Five Farms, provided such lighting is directed away from neighborhood properties. At the request of BCC, and subject to the approval of a majority of the Community, the provisions of this Section may be modified.

H. BCC shall provide a vehicle pull-off area of six (6) feet from Mays Chapel Road to serve the mail and paper boxes adjacent to the Boyce parcel by December 31, 1993.

I. BCC shall record the Restrictive Covenant Agreement (attached hereto as **Exhibit A**) among the Land Records of Baltimore County at its sole cost and expense, effective for a period of twenty-five (25) years after the date of recordation, which will prohibit any use of the Boyce property other than as one single family residence, three tennis courts, and twelve (12) parking spaces.

2. <u>Community Obligations</u>.

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

A. The Community shall represent to the Zoning Commissioner for Baltimore County that they are not in opposition to the Petition for Special Exception for a country club (Case No. 93-388-X), as shown on the attached revised site plan (Exhibit B).

B. Immediately after the passage of the thirty (30) day appeal period, without appeal of the Special Exception Order in Case No. 93-388-X, granting the Petition for Special Exception, the Community shall dismiss, with prejudice, its appeal to

the Board of Appeals of Baltimore County of the Zoning Commissioner's Order dated March 5, 1993 granting the Petition for Special Hearing for Non-Conforming Use and Certain Modifications (Case No. 93-37-SPH).

C. The Community shall not file an appeal of the Special Exception Order in Case No. 93-388-X if the Zoning Commissioner grants the Special Exception.

3. Conditions Precedent.

The obligations of BCC listed under Section 1 of this Agreement are contingent upon the following:

A. The granting of the Petition for Special Exception in Case No. 93-388-X satisfactory to BCC and the passage of the thirty (30) day appeal period without any appeal having been filed from the Zoning Commissioner's Order.

B. The completion of all of the obligations of the Community as listed in Section 2.

4. Recordation of Covenants.

BCC shall record the covenants identified in Section 1 (G) of this Agreement within fifteen (15) days after the occurrence of both of the following events:

A. The running of the thirty (30) day appeal period after the granting of the Special Exception in Case No. 93-388-X without any appeal having been filed from the Zoning Commissioner's Order.

B. All of the Community's obligations in Section 2 having been completed.

5. Notices.

Any notices regarding this Agreement shall be sent to the parties at the following address:

If to Baltimore Country Club of Baltimore City:

Baltimore Country Club
Roland Park
4712 Club Road
Baltimore, Maryland 21210
Attn: Edward A. Johnston, President

If to the Community:

Mr. Joseph R.B. Tubman
11431 Mays Chapel Road
Timonium, Maryland 21093

Ms. Donna Dow
721 Bomont Road
Timonium, Maryland 21093

Ms. Deborah Terry
747 Bomont Road
Timonium, Maryland 21093

Mr. Courtney Spies
722 Bomont Road
Timonium, Maryland 21093

6. Miscellaneous Provisions.

A. This Agreement shall bind the parties, their successors, heirs and assigns.

B. This Agreement shall be governed by the laws of the State of Maryland.

C. This Agreement contains all of the terms and conditions of this Agreement and cannot be modified, except by written agreement of the parties.

WHEREFORE, the parties execute this Agreement as of the day and year first above written.

~~ATTEST:~~ WITNESS:

BALTIMORE COUNTRY CLUB OF
BALTIMORE CITY

By: _____ PRES.

WITNESS:

_____ _____ (SEAL)
JOSEPH R.B. TUBMAN

_____ _____ (SEAL)
DONNA DOW

(signatures continued)

WITNESS:

Deborah Terry (SEAL)
DEBORAH TERRY

Courtney A. Spies Sr. (SEAL)
COURTNEY SPIES

3B

RESTRICTIVE COVENANT AGREEMENT

THIS AGREEMENT, has been entered into on this 29TH day of SEPTEMBER 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").

RECITALS

A. BCC owns a parcel of land containing approximately 2.67 acres on the west side of Mays Chapel Road, on the north side of Bomont Road in the Eighth Election District of Baltimore County, Maryland being known as the Boyce Parcel. The Boyce parcel consists of all of the land described in the Deed dated December 16, 1991 and recorded among the Land Records of Baltimore County in Liber 9032, folio 738.

B. The Boyce parcel is the subject of a Petition for Special Exception before the Zoning Commissioner of Baltimore County (Case No. 93-388-X).

C. The Community is willing to discontinue their opposition to the Petition for Special Exception regarding the Boyce parcel if, among other things, BCC enters into this Restrictive Covenant Agreement.

D. In order to make the covenants, restrictions and conditions contained in this Agreement binding and in full force and effect upon the Boyce parcel and upon the present and future owners and occupants thereof, the parties have entered into this Agreement to the end and to the intent that BCC, its successors and assigns, will hold, utilize and hereinafter convey or foreclose the property subject to the said covenants, restrictions and conditions contained herein.

E. BCC and the Community hereby enter into this Agreement as set forth below.

NOW, THEREFORE, in consideration upon the mutual agreements and understandings herein contained, and for other good and valuable considerations, the receipt and sufficiency of which is hereby mutually acknowledged, the parties hereby enter into the following Agreement:

ARTICLE I - USE RESTRICTIONS.

BCC agrees for a twenty-five (25) year period from the date of recordation of these covenants not to use the Boyce parcel for any uses other than those listed below:

1 single family residence;

3 tennis courts as a part of the Baltimore Country Club; and

12 parking spaces as a part of the Baltimore Country Club.

ARTICLE II - GENERAL PROVISIONS.

1. The conveyance of the Boyce parcel or of any interest in the Boyce parcel, by BCC or its successors and assigns, shall be deemed to be subject to this Agreement.

2. The conditions of this Agreement shall inure to the benefit of the successors and assigns of BCC and the Community.

WITNESS the due execution of the Agreement by BCC and the Community as of the day and year first above written.

ATTEST:

Paul F. Obrecht, Jr.

BALTIMORE COUNTRY CLUB OF BALTIMORE CITY

By: Edward A. Johnston, Pres.

WITNESS:

JOSEPH R.B. TUBMAN (SEAL)

DONNA DOW (SEAL)

DEBORAH TERRY (SEAL)

COURTNEY SPIES (SEAL)

STATE OF MARYLAND, ~~COUNTY~~ City OF Baltimore, to wit:

I HEREBY CERTIFY, that on this 4th day of October, 1993, before me, the subscriber, a Notary Public of the State of Maryland, in and for the City County aforesaid, personally appeared

Edward A. Johnston who acknowledged himself to be a duly authorized agent of the Baltimore Country Club of Baltimore City, and as such being authorized to do so, executed the foregoing instrument for the purposes herein contained, by signing the name of Baltimore Country Club of Baltimore city.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year aforesaid.

Jane L. Lawler
Notary Public

JANE L. LAWLER NOTARY PUBLIC BALTIMORE CITY MD.

My Commission Expires: 9/1/97

STATE OF MARYLAND, CITY/COUNTY OF Baltimore, TO WIT:

I HEREBY CERTIFY, that on this 21 day of Sept., 1993, before me, the subscriber, a Notary Public of the State of Maryland, in and for the aforesaid city/county, personally appeared JOSEPH R.B. TUBMAN, who acknowledged the foregoing Agreement to be his act and that he executed the foregoing instrument for the purposes therein contained by signing his name.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year aforesaid.

Margaret Wunsch
Notary Public

My Commission Expires: 5/1/95

STATE OF MARYLAND, CITY/COUNTY OF Baltimore, TO WIT:

I HEREBY CERTIFY, that on this 21 day of Sept, 1993, before me, the subscriber, a Notary Public of the State of Maryland, in and for the aforesaid city/county, personally appeared DONNA DOW, who acknowledged the foregoing Agreement to be her act and that she executed the foregoing instrument for the purposes therein contained by signing her name.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year aforesaid.

Margaret Werneth
Notary Public

My Commission Expires: 5/1/95

STATE OF MARYLAND, CITY/COUNTY OF Baltimore, TO WIT:

I HEREBY CERTIFY, that on this 21st day of Sept, 1993, before me, the subscriber, a Notary Public of the State of Maryland, in and for the aforesaid city/county, personally appeared DEBORAH TERRY, who acknowledged the foregoing Agreement to be her act and that she executed the foregoing instrument for the purposes therein contained by signing her name.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year aforesaid.

Margaret Werneth
Notary Public

My Commission Expires: 5/1/95

STATE OF MARYLAND, CITY/COUNTY OF Baltimore, TO WIT:

I HEREBY CERTIFY, that on this 21st day of Sept., 1993, before me, the subscriber, a Notary Public of the State of Maryland, in and for the aforesaid city/county, personally appeared COURTNEY SPIES, who acknowledged the foregoing Agreement to be his act and that he executed the foregoing instrument for the purposes therein contained by signing his name.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year aforesaid.

Margaret Werneth
Notary Public

My Commission Expires: 5/1/95

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97-384-SPH

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
* CASE # 93-37-SPH
Baltimore Country Club of
Baltimore City *
Petitioner
****

ORDERS
EXHIBIT 1

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 prepa-

EXHIBIT 1

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

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

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

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

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.

Gardner, Inc. 293 Md. 259, 443 A2d 114, (1982) and County Commissioners of Carroll County v. Uhler 78 Md. App. 140, 552 A2d 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

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. Bassler, 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

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 then 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

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?*

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 uninterruptedly 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 uninterruptedly 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

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. <u>Are certain modifications within the existing nonconforming use area permitted?</u>

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.

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.

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.

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

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.

LES:mmn

LAWRENCE E. SCHMIDT
Zoning Commissioner for
Baltimore County

County Board of Appeals of Baltimore County

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

September 1, 1993

5

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 /ca

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

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Ex# 5

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

RONALD L. MAHER
J. CARROLL HOLZER
CAROLE S. DEMILIO
THOMAS J. LEE

J. HOWARD HOLZER
1907-1989

LAW OFFICES
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FAX (410) 795-5535

SUITE 700
1725 DeSALES STREET, N.W.
WASHINGTON, D.C. 20036

Direct Dial:
410-825-6961

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COUNTY BOARD OF APPEALS
93 AUG 24 PM 2:28

August 17, 1993
#6669

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.

I therefore, on their behalf, would move to dismiss the appeal consistent with their obligations under the attached Agreement of June 14, 1993.

Very truly yours,

J. Carroll Holzer

JCH:mlg

Enclosure

cc: Scott Barhight, Esquire

APPROVE DISMISSAL:

JOSEPH R. B. TUBMAN	8/18/93 Date
DONNA DOW	8/18/93 Date
DEBORAH TERRY	8/18/93 Date
COURTNEY SPIES	8/18/93 Date

AGREEMENT

THIS AGREEMENT, entered into on this 14th 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 Bomont 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.

W I T N E S S E T H:

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.

Prior to submitting any stormwater plans pursuant to this Section, BCC shall submit such plans to the Community for their review and comment. BCC shall respond in good faith to each comment received from the Community.

B. When and if BCC constructs the proposed tennis courts and adjacent parking, BCC shall handle all stormwater run-off in accordance with the quantity and quality requirements of all then existing and applicable federal, state and Baltimore County laws and regulations.

Prior to submitting any stormwater plans pursuant to this Section, BCC shall submit such plans to the Community for their review and comment. BCC shall respond in good faith to each comment received from the Community.

C. To reduce the impact of the existing stormwater runoff emanating from the existing parking facility adjacent to the Boyce parcel, BCC shall install energy dissipation and settling measures on the BCC property by December 31, 1993.

Prior to submitting any stormwater plans pursuant to this Section, BCC shall submit such plans to the Community for their review and comment. BCC shall respond in good faith to each comment received from the Community.

D. After the recordation of the Restrictive Covenant Agreement pursuant to Sections 1.G and 4, the Community shall make whatever improvements they deem necessary to the existing improvements in and around Bomont Road, including but not limited to the existing culverts, the existing paving and the removal of sediment and other debris from the drainage areas along Bomont Road. After the improvements have been completed, the Community shall submit all bills and invoices to BCC for payment, not to exceed $7,500.00.

E. Subject to the option of a majority of the Community stated herein, BCC shall erect a wall along the entire eastern and southern sides of the three tennis courts to be constructed on the Boyce parcel. This wall shall be six (6) feet high above the tennis court level at its northern most portion, six (6) feet high above the tennis court level at its western most portion, and ten (10) feet high above the tennis court level at the southeastern corner of the three tennis courts to be situated on the Boyce parcel. The elevations of the wall shall gradually change in sections of six, eight and ten feet in equal proportions. Said wall shall continue at a height of six (6) feet above the tennis court level to the northwest corner of the Boyce parcel.

This wall shall be masonry along the eastern side of the three tennis courts on the Boyce parcel. This wall shall be masonry along the southern side of the easternmost tennis court on the Boyce parcel (the "first court"). From the southwestern corner of the first court to the northwest corner of the

Boyce parcel, the wall may, at the discretion of BCC, be in staggered sections and constructed of wood, provided the wall is of comparable sound attenuation quality to a continuous masonry wall. PRIOR TO CONSTRUCTION OF A WOOD WALL BCC SHALL SUBMIT SITE PLANS AND SUPPORTING DATA TO THE COMMUNITY FOR THEIR REVIEW AND COMMENT. D.T. E.A.S. LRBT

The Community may exercise their option to trigger this BCC obligation upon providing written notice to BCC within thirty-six (36) months after the construction of the three tennis courts on the Boyce parcel. If the Community exercises such option, BCC shall erect said wall within six (6) months of receipt of said notice. BCC shall maintain said wall after construction.

F. The shortest distance from the centerline of Mays Chapel Road to the easternmost portion of the tennis courts on the Boyce parcel shall be seventy-five (75) feet, more or less.

G. The hours of operation for the three tennis courts on the Boyce parcel shall be from 9:00 a.m. to sunset. The hours of operation for the tennis courts serving the BCC at Five Farms, not on the Boyce parcel, shall be from 8:00 a.m. to sunset. The tennis courts serving the BCC at Five Farms, including the three tennis courts on the Boyce parcel, shall not be lit. Appropriate lighting is permitted on all parking areas serving the BCC at Five Farms, provided such lighting is directed away from neighborhood properties. At the request of BCC, and subject to the approval of a majority of the Community, the provisions of this Section may be modified.

H. BCC shall provide a vehicle pull-off area of six (6) feet from Mays Chapel Road to serve the mail and paper boxes adjacent to the Boyce parcel by December 31, 1993.

I. BCC shall record the Restrictive Covenant Agreement (attached hereto as **Exhibit A**) among the Land Records of Baltimore County at its sole cost and expense, effective for a period of twenty-five (25) years after the date of recordation, which will prohibit any use of the Boyce property other than as one single family residence, three tennis courts, and twelve (12) parking spaces.

2. <u>Community Obligations</u>.

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

A. The Community shall represent to the Zoning Commissioner for Baltimore County that they are not in opposition to the Petition for Special Exception for a country club (Case No. 93-388-X), AS SHOWN ON THE ATTACHED REVISED SITE PLAN (EXHIBIT E) D.T. E.A.S. LRBT

B. Immediately after the passage of the thirty (30) day appeal period, without appeal of the Special Exception Order in Case No. 93-388-X, granting the Petition for Special Exception, the Community shall dismiss, with prejudice, its appeal to

the Board of Appeals of Baltimore County of the Zoning Commissioner's Order dated March 5, 1993 granting the Petition for Special Hearing for Non-Conforming Use and Certain Modifications (Case No. 93-37-SPH).

C. The Community shall not file an appeal of the Special Exception Order in Case No. 93-388-X if the Zoning Commissioner grants the Special Exception.

3. Conditions Precedent.

The obligations of BCC listed under Section 1 of this Agreement are contingent upon the following:

A. The granting of the Petition for Special Exception in Case No. 93-388-X satisfactory to BCC and the passage of the thirty (30) day appeal period without any appeal having been filed from the Zoning Commissioner's Order.

B. The completion of all of the obligations of the Community as listed in Section 2.

4. Recordation of Covenants.

BCC shall record the covenants identified in Section 1 (G) of this Agreement within fifteen (15) days after the occurrence of both of the following events:

A. The running of the thirty (30) day appeal period after the granting of the Special Exception in Case No. 93-388-X without any appeal having been filed from the Zoning Commissioner's Order.

B. All of the Community's obligations in Section 2 having been completed.

5. Notices.

Any notices regarding this Agreement shall be sent to the parties at the following address:

If to Baltimore Country Club of Baltimore City:

Baltimore Country Club
Roland Park
4712 Club Road
Baltimore, Maryland 21210
Attn: Edward A. Johnston, President

If to the Community:

Mr. Joseph R.B. Tubman
11431 Mays Chapel Road
Timonium, Maryland 21093

Ms. Donna Dow
721 Bomont Road
Timonium, Maryland 21093

Ms. Deborah Terry
747 Bomont Road
Timonium, Maryland 21093

Mr. Courtney Spies
722 Bomont Road
Timonium, Maryland 21093

6. Miscellaneous Provisions.

A. This Agreement shall bind the parties, their successors, heirs and assigns.

B. This Agreement shall be governed by the laws of the State of Maryland.

C. This Agreement contains all of the terms and conditions of this Agreement and cannot be modified, except by written agreement of the parties.

WHEREFORE, the parties execute this Agreement as of the day and year first above written.

~~ATTEST:~~ WITNESS:

BALTIMORE COUNTRY CLUB OF
BALTIMORE CITY

By: _____ PRES

WITNESS:

_____ (SEAL)
JOSEPH R.B. TUBMAN

_____ (SEAL)
DONNA DOW

(signatures continued)

WITNESS:

_____ Deborah Terry (SEAL)
DEBORAH TERRY

_____ _____ (SEAL)
COURTNEY SPIES

EXHIBIT A

RESTRICTIVE COVENANT AGREEMENT

THIS AGREEMENT, has been entered into on this _____ day of _____, 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").

RECITALS

A. BCC owns a parcel of land containing approximately 2.67 acres on the west side of Mays Chapel Road, on the north side of Bomont Road in the Eighth Election District of Baltimore County, Maryland being known as the Boyce Parcel. The Boyce parcel consists of all of the land described in the Deed dated December 16, 1991 and recorded among the Land Records of Baltimore County in Liber 9032, folio 738.

B. The Boyce parcel is the subject of a Petition for Special Exception before the Zoning Commissioner of Baltimore County (Case No. 93-388-X).

C. The Community is willing to discontinue their opposition to the Petition for Special Exception regarding the Boyce parcel if, among other things, BCC enters into this Restrictive Covenant Agreement.

D. In order to make the covenants, restrictions and conditions contained in this Agreement binding and in full force and effect upon the Boyce parcel and upon the present and future owners and occupants thereof, the parties have entered into this Agreement to the end and to the intent that BCC, its successors and assigns, will hold, utilize and hereinafter convey or foreclose the property subject to the said covenants, restrictions and conditions contained herein.

E. BCC and the Community hereby enter into this Agreement as set forth below.

NOW, THEREFORE, in consideration upon the mutual agreements and understandings herein contained, and for other good and valuable considerations, the receipt and sufficiency of which is hereby mutually acknowledged, the parties hereby enter into the following Agreement:

ARTICLE I - USE RESTRICTIONS.

BCC agrees for a twenty-five (25) year period from the date of recordation of these covenants not to use the Boyce parcel for any uses other than those listed below:

1 single family residence;

3 tennis courts as a part of the Baltimore Country Club; and

12 parking spaces as a part of the Baltimore Country Club.

ARTICLE II - GENERAL PROVISIONS.

1. The conveyance of the Boyce parcel or of any interest in the Boyce parcel, by BCC or its successors and assigns, shall be deemed to be subject to this Agreement.

2. The conditions of this Agreement shall inure to the benefit of the successors and assigns of BCC and the Community.

WITNESS the due execution of the Agreement by BCC and the Community as of the day and year first above written.

ATTEST:

BALTIMORE COUNTRY CLUB OF BALTIMORE CITY

_____

By: _____

WITNESS:

_____

_____ (SEAL)
JOSEPH R.B. TUBMAN

_____

_____ (SEAL)
DONNA DOW

_____

_____ (SEAL)
DEBORAH TERRY

_____

_____ (SEAL)
COURTNEY SPIES

STATE OF MARYLAND, COUNTY OF _____, to wit:

I HEREBY CERTIFY, that on this ____ day of _____, 1993, before me, the subscriber, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared

_____, who acknowledged himself to be a duly authorized agent of the Baltimore Country Club of Baltimore City, and as such being authorized to do so, executed the foregoing instrument for the purposes herein contained, by signing the name of Baltimore Country Club of Baltimore city.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year aforesaid.

_____
Notary Public

My Commission Expires: _____

STATE OF MARYLAND, CITY/COUNTY OF _____, TO WIT:

I HEREBY CERTIFY, that on this _____ day of _____, 1993, before me, the subscriber, a Notary Public of the State of Maryland, in and for the aforesaid city/county, personally appeared JOSEPH R.B. TUBMAN, who acknowledged the foregoing Agreement to be his act and that he executed the foregoing instrument for the purposes therein contained by signing his name.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year aforesaid.

_____
Notary Public

My Commission Expires: _____

STATE OF MARYLAND, CITY/COUNTY OF _____, TO WIT:

I HEREBY CERTIFY, that on this _____ day of _____, 1993, before me, the subscriber, a Notary Public of the State of Maryland, in and for the aforesaid city/county, personally appeared DONNA DOW, who acknowledged the foregoing Agreement to be her act and that she executed the foregoing instrument for the purposes therein contained by signing her name.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year aforesaid.

_____
Notary Public

My Commission Expires: _____

STATE OF MARYLAND, CITY/COUNTY OF _____, TO WIT:

I HEREBY CERTIFY, that on this _____ day of _____, 1993, before me, the subscriber, a Notary Public of the State of Maryland, in and for the aforesaid city/county, personally appeared DEBORAH TERRY, who acknowledged the foregoing Agreement to be her act and that she executed the foregoing instrument for the purposes therein contained by signing her name.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year aforesaid.

_____
Notary Public

My Commission Expires: _____

STATE OF MARYLAND, CITY/COUNTY OF _____, TO WIT:

I HEREBY CERTIFY, that on this _____ day of _____, 1993, before me, the subscriber, a Notary Public of the State of Maryland, in and for the aforesaid city/county, personally appeared COURTNEY SPIES, who acknowledged the foregoing Agreement to be his act and that he executed the foregoing instrument for the purposes therein contained by signing his name.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year aforesaid.

_____
Notary Public

My Commission Expires: _____

7

THE FALLS ROAD COMMUNITY ASSOCIATION, Inc.

The undersigned hereby acknowledge and attest that on May 8, 1997 the Board of Directors of The Falls Road Community Association, Inc., a Maryland corporation (the "FCRA") in accordance with Section 2-408 of the Maryland Corporations and Associations Code and its Charter and By-Laws, approved the Resolution set forth herein:

RESOLVED: That the FRCA supports the residents of Bomont Road and other neighbors of the Baltimore Country Club ("BCC"), collectively known as the South Five Farms Community, in their effort to protect their homes from the environmental destruction caused by the BCC during construction and its associated earth-grading on BCC property within the past year; and in their effort to enforce the 1992-'93 Agreements concluded between them and the BCC pursuant to which Agreements the BCC was granted certain zoning privileges.

AND FURTHER RESOLVED: That the Board empowers and instructs its Director Harold H. Burns, Jr., as the chair of its Development Review Committee, to retain counsel to represent the FRCA at a hearing before the Zoning Commissioner of Baltimore County in the case known as 97-384-SPH, 11500 Mays Chapel Road; and delegates Mr. Burns to appear at that hearing for the FRCA and make known to the Commissioner the position of the FRCA in this matter, to wit, that:

> The FRCA has witnessed tremendous destruction of the falls, runs and streams of Baltimore County in the past few years caused by the infusion of sediment from construction sites in violation of Maryland and County environmental protection laws. The FRCA has been informed by the South Five Farms Community that just such destruction is resulting from the construction on the property of the Baltimore Country Club since fall 1996, in violation of the 1992-'93 Agreements between that Community and the BCC. The FRCA supports the effort by the South Five Farms Community to prevail upon the Baltimore County Zoning Commissioner to rule that the BCC has forfeited the special zoning privileges that it was granted in 1993 pursuant to its Agreements with the South Five Farms Community.

AS WITNESS OUR HANDS THIS 24 day of May, 1997.

ATTEST:

Melanie Elliott

Melanie Elliott, Secretary

THE FALLS ROAD COMMUNITY ASSOCIATION, INC.

BY: H. George Meredith

H. George Meredith, President

384-SPH

BALTIMORE COUNTY

ZONING PLANS

ADVISORY COMMITTEE

BALTIMORE COUNTY MARYLAND

PETITIONER'S

EXHIBIT 8

PETITION AND SITE PLAN

EVALUATION COMMENTS

18 E 12

✓ Attach original petition

Due Date 9/2/97

To: Arnold L. Jablon

From: J. Lawrence Pilson

Subject: Zoning Item # 97-381-SPH

Baltimore County Club

9

Zoning Advisory Committee Meeting of 8/25/97

___ The Department of Environmental Protection and Resource Management has no comments on the above-referenced zoning item.

___ The Department of Environmental Protection and Resource Management requests an extension for the review of the above-referenced zoning item to determine the extent to which environmental regulations apply to the site.

✓ The Department of Environmental Protection and Resource Management offers the following comments on the above-referenced zoning item:

✓ Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (Sections 14-331 through 14-350 of the Baltimore County Code).

✓ Development of this property must comply with the Forest Conservation Regulations (Sections 14-401 through 14-422 of the Baltimore County Code).

___ Development of this property must comply with the Chesapeake Bay Critical Area Regulations (Sections 26-436 through 26-461, and other Sections, of the Baltimore County Code).

✓ The property is currently in violation of the water quality regulations cited above due to a sediment control violation occurred in November of 1996. This Department requests that no zoning variances or special exceptions be granted until the property is in compliance with all DEPRM-enforced regulations.

97-384-SPH

97-384-SPH

BALTIMORE COUNTRY CLUB

NEWS & VIEWS

Volume 11, August 1994

11 *Special Edition*

Report Of The Planning Committee And Board Of Governors: Master Plan Update For The Facilities At Five Farms

In March of 1992, all members of the club were mailed a special edition of "News & Views" which contained a ballot seeking approval of a phased improvement plan for our Five Farms Complex. This plan would create a more functional and updated family-oriented facility at Five Farms that would be a significant benefit to all current and future members of the Baltimore Country Club. The plan also assured members that they would not be burdened with any new or increased assessments, and that the club's Replacement Reserve Fund would be the basis for financing the proposed improvements at Five Farms through the decade of the 1990's.

The results of that vote included the following: of the 1,283 total votes received, 1,117 voted "yes" in support of the plan, 142 voted "no" to the plan, and 24 members did not vote, but returned their cards with comments. Across all ages of members, from the younger members age 25-31, to the older members age 85 and over, and all groups in between, the vote was a remarkable 87% "yes" / 11% "no" to proceed with the project and the processing of these plans with Baltimore County, including the Offices of Planning and Zoning, the Department of Environmental Protection and Resource Management, and other State government agencies.

This report will bring you up to date on the results of work completed over the last two years by the Planning Committee, the Board of Governors, the club's Executive Staff, and the club's various consultants.

Water and Sewer Plan

Baltimore Country Club was previously in a "no-plan" area designated as an RC zone as it pertains to sewer service. As a matter of policy, Baltimore County would not permit the extension of public utilities for water or sewage into RC zones, but they would grant a special exception that would permit existing institutions, adjacent to land served by public water and sewer, to be connected.

The club filed for this special exception and, after many private and public hearings, received State and County approval to hook into the existing sewer systems at the eastern-most edge of the Five Farms golf course property bordering Jenifer Road. The club and its consultants engineered and designed a force main sewer system that was competitively bid by four different utility contractors, with the contract for construction being awarded to The Matricciani Company. A construction manager and owner's representative were hired to manage this project and, following this most severe of winters, the sewer project was completed and activated on June 1, 1994, on time and on budget. The old septic system tanks have now been filled in their current locations and have been officially abandoned.

Water Appropriations Permits

The club, after an extensive year-long review and study of its current use of surface water for the current and future irrigation practices at Five Farms, received concurrence and approval from the State Department of Water Resources for a 12-year renewal and extension of the club's current Water Appropriations Permit. This report and study not only confirmed the club's current use of surface water, but also confirmed the club's quality control measures and harmony with all current environmental issues, including but not limited to the club's being recognized by the Department of Environmental Protection and Resource Management as having excellent stream management programs.

Zoning Approvals

Following a lengthy process of public hearings before the Baltimore County Zoning Commissioner, and following meetings and deliberations with our immediate neighbors along Bomont and Mays Chapel Road, the County has confirmed the club's non-conforming use of our Five Farms property as a country club. The club was also successful in obtaining special exceptions with regards to all properties acquired since 1963, which is the base line date of the existence of our non-conforming use. This approval gave the club full entitlement to its Master Plan provisions and recognized zoning approval for all 407 acres at Five Farms. We also received a waiver from Baltimore County for Phase I of the development review process which eliminates the need for further public hearings.

Search and Hiring of Architect

Following the receipt of the zoning approval for Five Farms, the Planning Committee pre-qualified several architectural firms and sent out requests for proposals to four of those firms. The requests required that their proposals concentrate primarily on the design overview or architecural look of the Five Farms Complex, and asked that the following be included in the scope of services requested by the club in the RFP.

- conceptual sketches of the clubhouse and pool buildings and the general architectural theme for Five Farms;

Pet # 11

- recommend and design the pool buildings and pools for the swimming pool area;
- input and coordination of the prior approved site plan relative to the clubhouse side of Mays Chapel Road, including the proposed pool complex, the proposed tennis complex, the golf service department support buildings, the clubhouse, entrance drive, and parking lots;
- that golf maintenance facility deficiencies be coordinated into the previously-approved Master Plan, recognizing the need to come into compliance with revised regulations in this area of our operation.

While the balance of the proposed improvements were not to be designed at this point, the architects were requested to take into account how all elements of the Five Farms Complex should fit together, and that, conceptually, all proposed future uses would need to be architecturally integrated with the clubhouse and the first phase of the Master Plan, specifically the design and construction of the Swimming Pool Complex.

Following a committee-wide presentation by each of the firms, the Planning Committee recommended, and the Board subsequently approved, the hiring of M. Jack Rinehart, Jr., FAIA, of Charlottesville, Virginia, as the architect for the improvements at Five Farms. Mr. Rinehart was chosen based not only on his architectural sensitivity and his club experience, but also based on his firm understanding of the games of golf and tennis, member clubhouse usage, and for his traditional approach to architecture.

Architectural Design Overview

Mr Rinehart's first assignment included an in-depth analysis of the history of Roland Park and Five Farms, as well as the structural and landscape elements of both club locations. With this as background, he focused on the future facility needs of Five Farms. An architectural development plan then evolved that would, when implemented, enhance the importance of the current clubhouse, giving it more of the feeling of a "Manor House". This would be done by adding vertical elements such as cupolas, gables, and a portico, as well as adding new one-story elements to our current two-story structure. With these modifications, a clear architectural hierarchy would be established, with the strong articulation of the brick clubhouse dominating the various support buildings.

With reference to the support buildings that would surround the main clubhouse, namely the pool, golf, and tennis structures, Mr. Rinehart has recommended that, rather than working from the current 1960's-style architecture of long, low brick buildings that lack in character and appropriate detail for a club such as BCC, the club consider adopting a rural agrarian theme for these buildings. They would mainly be wooden structures with metal roofs, and be further supported by related entry gates, gate posts, fencing, and appropriate landscaping and exterior lighting reflective of a fine Maryland horse farm. This theme for the new and refurbished buildings would compliment the "Manor House", or main clubhouse, and would reflect the concept of a series of farms being merged together for recreational pursuit, just as the club's Five Farms land had actually evolved in our early history. This concept would also blend with the rural character so prevalent in many areas of Northern Baltimore County, and provide the basis for architectural theming throughout the Five Farms Complex.

Your Board approved this concept with the understanding that modifications to the main clubhouse floor plan would answer some of today's most significant improvement needs, including: interior access for women to the Golf Pro Shop; improved access from the front to the back of the clubhouse; possible addition of a small family dining room; improved and expanded outside patio; an updated kitchen with a better supply/delivery area; and a greater sense of "arrival" and "feel" by way of master-planned walkways and further supported by improved and upgraded landscaping and exterior lighting.

Search and Hiring of Construction Manager

The Planning Committee and the Board of Governors came to an agreement early in the process that the club would be best served to hire a professional Construction Manager who would be involved in the scheduling, permitting, preliminary budget development, and bidding phases of the swimming pool and golf maintenance projects that are scheduled to begin this fall

Construction management proposals were reviewed from five Baltimore firms with specific emphasis on firms with a prior history of work in the club field. Following an in-depth review process, the Planning Committee and your Board of Governors hired the firm of Henry H Lewis Contractors, Inc. to be employed during the pre-construction and construction phases of both projects Their services include coordinating and expediting the majority of details necessary to take the projects through final planning, construction drawings, permitting, and up to the point of bidding the project so that the club is protected with a guaranteed maximum price on construction work. This arrangement is currently working very well as Henry Lewis Contractors is overseeing the collective work of our architect, electrical and mechanical subcontractors, kitchen design consultants for the new pool facility, professional pool design/build contractors, and lastly, interfacing with our land planners and civil engineers to provide for proper bid documents and plan filing with Baltimore County this summer.

Pool Site Plan

Based on input from our architect, professional pool consultants, the Swim Committee, and BCC Executive Staff, we will be retaining a three-pool complex that will be slightly modified from our current three-pool complex. Our new wading pool (not shown on the rendering) will be approximately 10% larger than our current wading pool and will be generally in the same location but with two separate structures inside the fenced area. One of these structures will have the filter for the wading pool, and the other will house two separate changing rooms with toilet, vanity sinks, and baby changing tables for convenience of parents with toddlers The traditional play areas will remain in place for your infants, and we will endeavor to further enhance them.

The middle pool will be significantly increased in size and will also have a diving well with two ½-meter diving boards A flotation safety rope will not only segregate the diving well from the rest of the pool, but will also mark the depth level at 3½ feet, the deep point of our current middle pool. This design will effectively double the amount of shallow water areas for your youngsters who are transitioning from the wading pool to the middle pool, while still creating greater flexibility in the design and future use of our pools.

The multi-purpose/lap pool will be a gutter pool with a depth of 5 feet at the shallow end, with a tapered drop to 8 feet at the end closest to the pool house. This pool will become a total deep-water pool that can be set up with six racing lanes for swim meets and swim team practices, but will generally be set up at all times with two lanes reserved for lap swimmers with the balance of the pool open as a play area for those members and children who have passed the traditional swim test required of the "big pool". The pools will be connected by walkways and the multi-purpose pool and middle pool will both be handicap accessible.

The pool kitchen will be significantly upgraded for increased productivity and will include some of the menu options most often requested at our current facility. A large, open-air, screened dining porch will accommodate approximately 50 people and will be a place to get away from the sun to relax and enjoy a lunch with your child or bridge partner. This dining area will be complimented by a new and expanded flagstone terrace with a trellis and will offer members a choice of self- or full-service menu options.

Golf Maintenance Facility Upgrade

Our architect has also been engaged to provide plans for making improvements to our Golf Maintenance Facility — improvements which are sorely needed. These improvements include a significant grade leveling of the existing site inside our maintenance area so the new buildings will not be in conflict with the visual images from the 6th hole of the East Course Naturally, the exterior of the current barn will remain in its entirety, but will be refurbished for preservation purposes. In addition to renovating the current barn structures for improved and more environmentally-sensitive storage of fertilizers and plant protection materials, two new buildings will be built for equipment care and maintenance, additional equipment storage, proper equipment cleaning, and improved humanities for the staff to include appropriate locker rooms, toilets and showers, as well as a training/conference room to meet today's mandated training regulations. Our current facility is deficient in all of these areas.

In addition to these new and renovated structures, the entire area will be piped to collect and properly filter all stormwater run-off and contain any possible spills thereby reducing the potential of contaminating our own or any water sources. Also, during construction, our existing underground gasoline and diesel fuel oil tanks will be removed and replaced with above ground storage tanks. These maintenance facility upgrades will bring the club's golf maintenance operation into compliance with new governmental regulations concerning the handling, storage, and use of the materials necessary to support our golf facilities.

Other Site Plan Recommendations

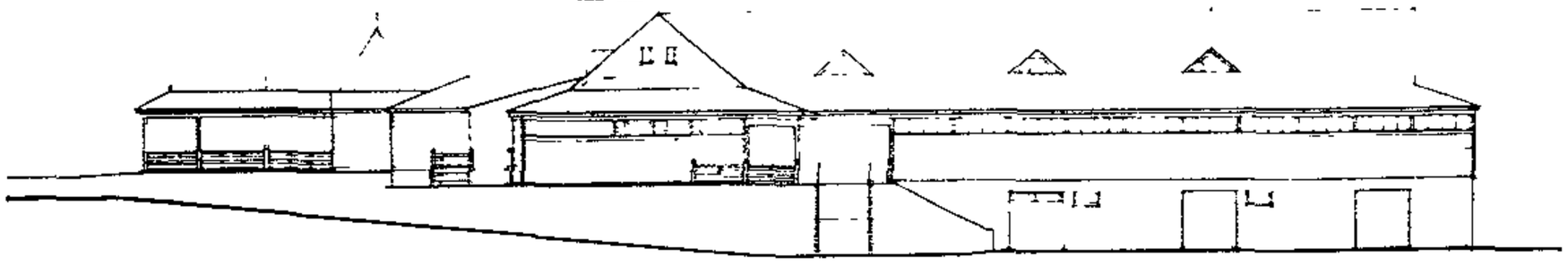
Our architect, Mr. Rinehart, has recommended one site plan refinement to the approved Master Plan, that being that the proposed tennis facility become somewhat its own complex adjacent to the pool, to include 9 tennis courts with its own Pro Shop facility and locker rooms centrally located within the tennis complex. This recommendation necessitated some re-orientation of the lower tennis parking lot as previously planned, but will eliminate some of the noise between facilities while simultaneously eliminating the need for a driveway through the center of the tennis facility.

Start Date

The pool and golf maintenance facility improvements are scheduled to begin this fall and building plans are currently being filed with Baltimore County. The Finance Committee and your Board of Governors have approved these expenditures for payment from the Replacement Reserve Account and it has been determined that these projects can be completed with existing cash flow The balance of the Master Plan Study is still proceeding and as future projects become more clearly defined, and as the architectural tone and hard project costs begin to take shape, other improvements beyond the pool and golf maintenance facility will be considered and reported to the membership.

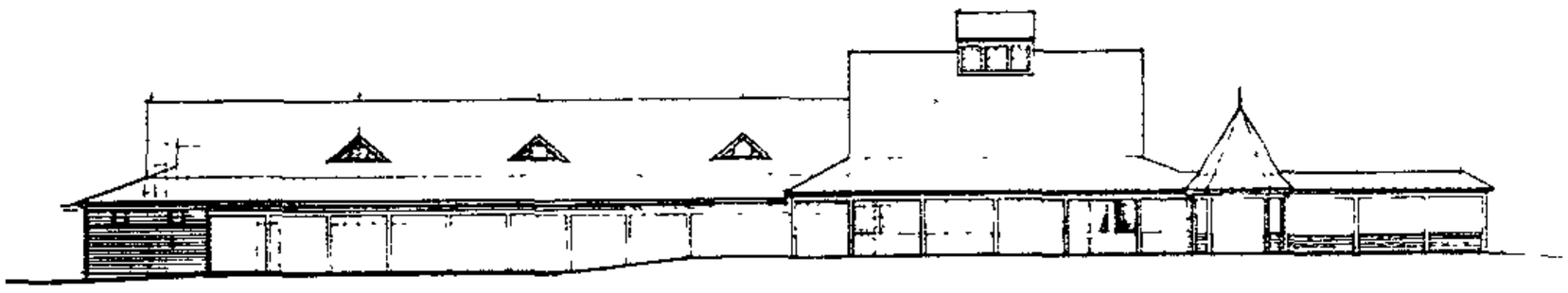
We hope that this information brings you up to date on the status of the immense amount of work that has been *completed in the last two years and we* look forward to the successful completion of the first two phases of improvements to our Five Farms facility early next year.

The back page of this issue shows three elevations and a partial site plan for the Five Farms Swimming Pool Complex refurbishments. It also includes a schematic layout of the pool buildings with a new screened dining area and flagstone patio, as well as the location of the multi-purpose/lap pool and the new middle pool complex. These pool refurbishment plans have recently been filed with Baltimore County, and construction is scheduled to begin in mid-September.

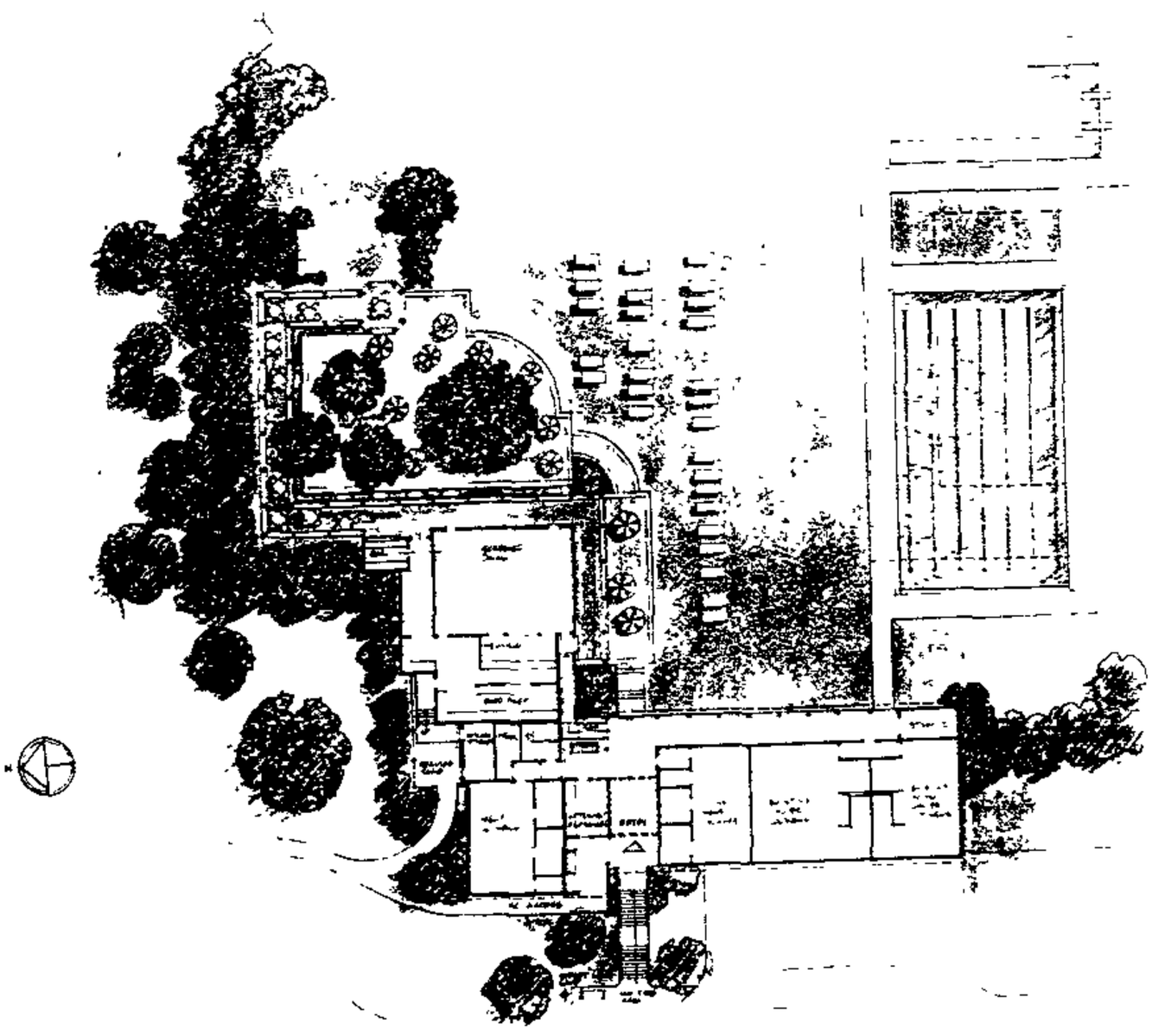


WEST ELEVATION

SOUTH ELEVATION



EAST ELEVATION



93-37-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

EXHIBITS
EXHIBIT 12

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 new 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: Francis Morsey

Division Chief: Ervin McDaniel

PK/EMcD/FM:rdn

B A L T I M O R E C O U N T Y, M A R Y L A N D

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration &
Development Management

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

13

DATE: June 3, 1993

SUBJECT: 11500 Mays Chapel Road

INFORMATION:

Item Number: 396 93-388-X

Petitioner: Baltimore Country Club of Baltimore

Property Size:

Zoning: RC 5

Requested Action:

Hearing Date: / /

SUMMARY OF RECOMMENDATIONS:

This Petition concerns two parcels of land acquired by the Baltimore Country Club at Five Farms. Parcel A is zoned RC 5 and contains 2.67 acres of land on the northwest corner of Mays Chapel Road and Bomont Road. The property is currently improved with a single-family dwelling.

Parcel B is located on the west side of Mays Chapel Road, just south of Chapel Ridge Road and has been incorporated into the third hole of the "west course."

This property has an interesting zoning history and is currently the subject of an appeal from the Zoning Commissioner's decision in Case No. 93-37 SPH. In that case the Zoning Commissioner ruled that the Baltimore Country Club had established a non-conforming use as a country club and golf course on all but three parcels of land which the Club purchased after September 26, 1963. Because of the complex nature of the technicalities of the case, many questions will remain until such time as the Board of Appeals renders its decision.

Other concerns of the adjacent community were raised which dealt with the adequacy of stormwater management and off-site impact resulting from past and continuing management practices.

With respect to the present issue, we must review the request with regard to its potential impact upon the adjacent community. The community has already expressed its concerns about placing tennis courts in close proximity to its property line and adjacent homes. Their concerns are not only limited by the unique

sound generated by the return of the ball from the racquet but also the chatter of the players. If the courts are to be lighted, this could also negatively impact the neighborhood. Additionally, the area shown on the plan for the tennis courts is not improved with any structures. It is, however, a wooded residential lot with a steep grade where the proposed parking lot would be located. The manner by which stormwater will be accommodated has not been indicated and must be addressed so as to avoid additional off-site impacts.

Based upon the information presented and in view of the concerns raised at the previous hearing (Case 93-37 SPH), this office cannot support the Special Exception for Parcel A unless several outstanding issues identified by staff and the community are resolved. This office, however, is not opposed to the request for Parcel B.

Prepared by: Jeffrey N. Long

Division Chief: Carl L. Ecker

PK/JL:lw

MDE

MARYLAND DEPARTMENT OF THE ENVIRONMENT
2500 Broening Highway • Baltimore, Maryland 21224
(410) 631-3000

Parris N. Glendening
Governor

Jane T. Nishida
Secretary

FEB 25 1997

14

Ms. Donna Dow
7600 Osler Drive, Suite 209
Towson, MD 21204

Dear Ms. Dow:

Thank you for the copy of your recent letter that you sent to Baltimore County Department of Environmental Protection and Resource Management (DEPRA) regarding construction activities at the Baltimore Country Club at Five Farms (BCC). The Water Management Administration responded to a citizen's complaint on December 6, 1996 concerning sediment runoff from the BCC.

From our investigation we found a contractor at BCC was constructing a stormwater management pond. The contractor was not in compliance with the approved Soil Conservation District erosion and sediment control plan and sediment had been released offsite into Deep Run. We have an active enforcement case for the violations we observed.

After our investigation on December 6, we notified Baltimore County DEPRA of the erosion and sediment control problems and met with DEPRA on site. We met with the County on December 12 to make the County aware of the problems at BCC. The County has been delegated by the State to perform erosion and sediment control inspections in Baltimore County and the County has been performing the inspections at BCC.

Should problems continue at BCC or if you have additional questions or comments, please contact me at (410) 631-3512, or Mr. Thomas C. Boone, Program Director of the Compliance Program at (410) 631-3532.

Sincerely,

J. L. Hearn, Director
Water Management Administration

JLH:mgr

Pet Exh 14

Petitioner's Exhibit 15

STATE OF MARYLAND
DEPARTMENT OF THE ENVIRONMENT
WATER MANAGEMENT ADMINISTRATION
2500 BROENING HIGHWAY
BALTIMORE, MARYLAND 21224

Report of Observations

Date: December 12, 1996 PAF Seq. 9701117
Facility: Baltimore Country Club
11500 Mays Chapel Road
Timonium, Maryland 21093 Baltimore County

Contacts: Douglas W. Petersan, Golf Course Superintendent
Robert Nicholson, Construction Superintendent
Henry H. Lewis Contractors

Complaint investigation. The complainant is concerned with a sediment discharge to Deep Run, tributary to Jones Falls, and to Bomont Road. On Friday evening, December 6th, I observed mud and sediment ontop of Bomont Road at the Deep Run crossing. This area did not have rain on Friday.

This project is inspected by Baltimore County Department of Environmental Protection and Resource Management ("DEPRM"). The Grading, Sediment and Erosion Control plan was approved May 7, 1996. Today's site inspection was performed concurrently to DEPRM's inspection. DEPRM was represented by: Mike Moorefield; Kevin Shurbonda; and Glen Shaffer. I was provided copies of DEPRM's inspection reports from Friday, December 6th, and Monday, December 9th; these reports detail violations at the site for these two days.

The site was active today. The site is currently in violation regarding sediment and erosion control.

We reviewed of the events of Friday, December 6th, with Mr. Nicholson. Mr. Nicholson acknowledged that the project is operating out of sequence from the approved plan regarding construction of the storm water management control structure. Mr. Nicholson explained that last Friday, when constructing the dewatering basin, the backhoe opened the outfall pipe for the storm water facility resulting in the discharge of sediment to Deep Run.

During the site tour, I observed sediment in the outfall structure for the storm water management facility. I observed sediment in Deep Run from the storm water management structure down through to Bomont Road. I observed a layer of sediment on leaves on the stream bank up to an eighth of an inch deep; this sediment layer appeared to be recently deposited. I observed sediment on Bomont Road at the Deep Run Crossing. I observed a minor amount

Pet Exh 15

of sediment deposited in the nontidal wetlands adjacent Bomont Road. This nontidal wetlands impact is negligible.

I, also, observed a sediment accumulation along the super silt fence down slope from the paved lot. This sediment accumulation was to within ten (10) inches of the top of the fence. The bottom corner of this run of silt fence had a separation allowing sediment to be discharged to Deep Run.

Incident mitigation was discussed between DEPRM and Baltimore Country Club during the time of today's inspection. Mr. Nicholson stated that they are considering stabilizing the site and shutting down operations for the winter.

The area of disturbance is seven (7) acres. My file review determines that the project has not obtained the required NPDES General Permit for Construction Activity, 93-GP-0005. I provided Mr. Nicholson with a copy of the general permit and application

The permittee is advised that all operation are to be managed so as to prevent the discharge of pollutants to Waters of this State. All control devices are to be routinely inspected and maintained. Operational management and physical improvements are to be implemented/deployed as necessary to maintain the site in compliance with the permit and approved plan.

PENALTY ADVISORY: State Law Provides for Civil and Criminal Penalties ranging from $1,000 to $50,00 per day for violations of Titles 4 & 9 of the Maryland Environmental Article. Continuation of the violation(s) or failure to take corrective actions may result in additional sanctions or penalties.

Baltimore Country Club is issued a WARNING! VIOLATIONS of Sediment Control, Sediment Pollution, and NPDES.

Within five (5) days, Baltimore Country Club shall submit a written report to this Administration detailing the sediment discharge incident, its cause and actions taken to prevent recurrence. This report shall also detail Baltimore Country Club's intentions for stream mitigation and plans for stabilizing/shutting down the site for winter. This report shall be addressed to Michael G. Reahl, District Manager, address atop this form with a copy of this report submitted to Michael J. Moorefield, Program Supervisor, DERPM.

For questions concerning this report or sediment control and water pollution control issues contact Mr. Michael G. Reahl, District Manger, at (410) 631-3510.

Observer: John M. Beazley
John M. Beazley
410-631-3510

Received By: [illegible]

Received By: [illegible]

Linthicum

PMW 6/26

June 25, 1996 (Revised)

Mr. P. Douglas Dollenberg
Nottingham Properties, Inc.
100 West Pennsylvania Avenue
Towson, MD 21204

F. Pierce Linaweaver, P.E., Ph.D.
Legg Mason Tower, Suite 2700
111 South Calvert Street
Baltimore, MD 21202

DMW

Daft·McCune·Walker, Inc.

200 East Pennsylvania Avenue
Towson, Maryland 21286
410 296 3333
Fax 296 4705

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

Re: Baltimore Country Club
Parking Lot Improvements
Project No. 82032.M

Dear Doug and Pierce:

We are pleased to furnish you with the status of the construction drawings and permits for the construction of the parking lot adjacent to the clubhouse.

The grading and sediment erosion control plan, stormwater management construction drawings, and site drawings are complete.

The sediment and erosion control plan has been resubmitted to the Soil Conservation District for second review and signature. It is anticipated that these drawings will be signed and returned to the county on July 7. It will then take the county approximately one week to approve the drawings, which means that the grading permit can be applied for on July 15 and should be issued by July 29. The issuance of the grading permit is contingent on the posting of a Letter of Credit by the club.

Stormwater management construction drawings have been submitted to the county and will be returned with first review comments on July 10. After county comments have been cared for, these plans will be resubmitted and sent to the District on July 24. It is anticipated that the district first review will take place on August 7. Second review and approval is expected on August 15. The drawings will then be returned to the county for final approval by August 19. The stormwater management permit will be applied for on August 20 and should be issued by August 30. The issuance of this permit is contingent on the posting of a Letter of Credit by the club amounting to 110 percent of the estimated construction cost.

ENVIRONMENTAL IMPACT REVIEW

16

Pet Exh # 16

With respect to the forest buffer variance, Glen Shaffer of DEPRM has indicated that they will approve the forest buffer variance. A condition of this approval will be some mitigation to offset the loss of the forest buffer. Glen has suggested that the next stream west of the stormwater management outfall is more accessible and has a better chance of restoration than the stormwater management outfall stream. He has indicated that restoration of the portion of this stream on the club property will cost between $5,000 and $7,500. Eric Hadaway is going to visit the stream in question and a similar project which has been restored next Monday to get more specific details of what is being suggested. In addition, Glen would like the club to reforest the area immediately downstream from the stormwater management outfall. This amounts to approximately 5,000 square feet, and the cost of restoration should total approximately $1,250. Based on all of this, it appears that the mitigation being requested can be accomplished for less than $10,000. The letter granting the forest buffer waiver will set forth these conditions. Upon acceptance by the club, the grading permit can be released.

Based on the above, we would expect to have all issues resolved and all permits issued before the 1st of September. It should be noted that grading operations can proceed once the grading permit has been issued, but stormwater management construction should not commence before the stormwater management drawings have been fully approved.

Sincerely,

Edmund F. Haile
President

EFH/pmh

cc: Mr. Chuck Gilmore
Mr. Eric Hadaway
Mr. David Locke
Mr. Glen Shaffer
Mr. Al Wirth

410-889-4400

Baltimore Country Club
4712 CLUB ROAD - ROLAND PARK
BALTIMORE, MARYLAND 21210

September 23, 1993

Mr. Courtney Spies
722 Bomont Road
Timonium, Maryland 21093

Dear Mr. Spies:

Pursuant to paragraph 1.C. of our agreement with you, Joseph R.B. Tubman, Ms. Donna Dow, and Ms. Deborah Terry, enclosed for your review is the engineering plan for the energy dissipation and settling measures to be installed to reduce the impact of the existing stormwater runoff from the existing parking lot of Baltimore Country Club at Five Farms.

As I discussed with you on September 22, David Locke of Daft, McCune & Walker (DMW) and I will meet you on Wednesday, September 29th at 10:00 a.m. at the southwest corner of the lot to review the plan and discuss any comments you or the others may have on the plan.

Sincerely,

F. Pierce Linaweaver
Member
Planning and Capital
Improvements Committee

Enclosures

cc: Paul Spellman, General Manager
G. Scott Barhight, Esq.
David E. Locke, DMW

PFL:sim

EXHIBIT NO. 7

410-889-4400

Baltimore Country Club

4712 CLUB ROAD - ROLAND PARK

BALTIMORE, MARYLAND 21210

November 22, 1996

J. Carroll Holzer, Esq.
Holzer and Lee
305 Washington Avenue
Suite 502
Towson, Maryland 21204

Dear Mr. Holzer:

This letter will serve to inform you that the members of the "Community" adjacent to Five Farms have been communicated with and received the appropriate storm water management and water quality plans. Copies of these letters are enclosed for your files.

Thank you for your interest in this matter.

Very truly yours,

Paul T. Spellman, Jr. CCM
General Manager

EXHIBIT NO. 8A

enclosure

410-889-4400

Baltimore Country Club

4712 CLUB ROAD - ROLAND PARK

BALTIMORE, MARYLAND 21210

November 20, 1996

Mr. and Mrs. Frederick D. Terry
747 Bomont Road
Timonium, Maryland 21093

Dear Mr. and Mrs. Terry:

It was a pleasure speaking with you last night. Enclosed are the requested set of water quality and storm water management plans specific to the construction underway at Five Farms.

It is my understanding from talking with Ms. Dow and Mr. Spies, that they will be looking to your leadership in reviewing these plans and directing questions to you. It will be our pleasure to then schedule a meeting for the "community" where our engineers can personally address any questions or comments that you may have. Please accept our sincere apology for not getting these plans to you in a more timely manner.

Very truly yours,

Paul T. Spellman, Jr. CCM
General Manager

8B

410-889-4400

Baltimore Country Club

4712 CLUB ROAD - ROLAND PARK

BALTIMORE, MARYLAND 21210

November 20, 1996

Mr. Courtney A. Spies, Sr.
722 Bomont Road
Timonium, Maryland 21093

Dear Mr. Spies:

Thank you for returning my phone call last night. It was a pleasure speaking with you. I have forwarded, per your request, a full copy of the water quality and stormwater management plans to Mr. Fred Terry who I understand will be acting as the "community" spokesperson for the neighborhood. All questions and comments you have may be best directed towards him.

It will be our pleasure to then call a meeting of the "community" where our engineers can personally addresss any questions or comments that you may have. Please accept our sincere apology for not getting these plans to you in a more timely manner.

Very truly yours,

Paul T. Spellman, Jr. CCM
General Manager

SC

410-889-4400

Baltimore Country Club

4712 CLUB ROAD - ROLAND PARK

BALTIMORE, MARYLAND 21210

November 20, 1996

Mr. Joseph R. Tubman
11431 Mays Chapel Road
Timonium, Maryland 21093

Dear Mr. Tubman:

As a follow up to your phone call last night, enclosed are your set of water quality and storm water management plans specific to the construction underway at Five Farms. Several neighbors are using Mr. Fred Terry as a contact for questions. If you have any questions or comments, please feel free to address them to him or you may send them to me directly at the Club.

It will be our pleasure to then schedule a meeting for the "community" where our engineers can personally address any questions that you may have. Please accept our sincere apology for not getting these plans to you in a more timely manner.

Very truly yours,

Paul T. Spellman, Jr. CCM
General Manager

8D

SEMMES, BOWEN & SEMMES

A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW

OFFICES IN
WASHINGTON, D.C.
BALTIMORE, MARYLAND
HAGERSTOWN, MARYLAND
SALISBURY, MARYLAND
WILMINGTON, DELAWARE

401 WASHINGTON AVENUE
11TH FLOOR
TOWSON, MARYLAND 21204

TELEPHONE 410-296-4400

FACSIMILE 410-296-8016

SCALDARA & POTLER, LLP
OF COUNSEL
410-576-4858

RALPH L. ARNSDORF
DIRECT DIAL: (410)339-3767

November 7, 1997

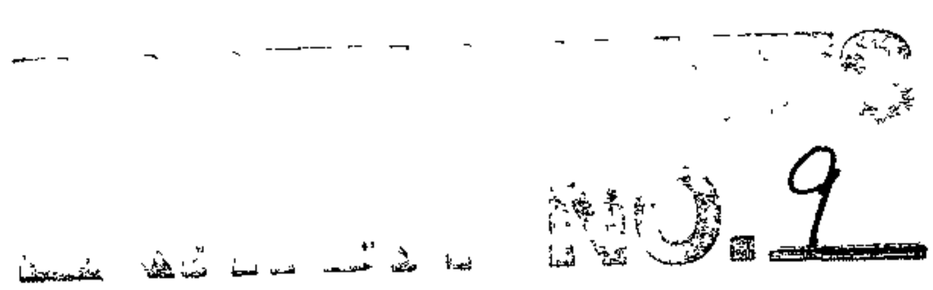
VIA FAX - (410) 823-2268
K. Donald Proctor, Esq.
102 West Pennsylvania Ave.
Suite 505
Towson, Maryland 21204

Re: Terry, et al. v. Baltimore Country Club

Dear Don:

This letter will confirm that employees or agents of the BCC may enter onto the plaintiffs' real property for the sole purpose of completing stream remediation efforts required by Baltimore County. We would appreciate it if you could have your client notify either Dr. Dow or Ms. Terry at least 24 hours in advance of beginning any work so they, in turn, may alert the neighbors.

This letter will also further supplement Plaintiffs' expert designations in this case. Mr. Timothy Schueler, P.E. is further expected to testify that the construction work performed on BCC property in the fall of 1996 caused extensive damage to the Deep Run watershed. The streams and their tributaries are wider than they were before construction began. As a result, greater volumes of water will be flowing through the stream during peak periods. This will, in turn, necessitate larger culverts at the points where the streams flow under Bomont Road. Several sections of road will also need to be replaced and reconstructed. Mr. Schueler will testify that all of the stream remediation work required by Baltimore County was a proximate result of the BCC's negligence in directing the construction project which began in the fall of 1996. Mr. Schueler is also expected to testify that the Plaintiffs are required to recoup the cost of remediation efforts and that the costs incurred were fair and reasonable.



Dover Hankins, of Cossentino Contracting Company, will support Mr. Schueler's testimony for costs of construction of Bomont Road, the culverts and remediation efforts.

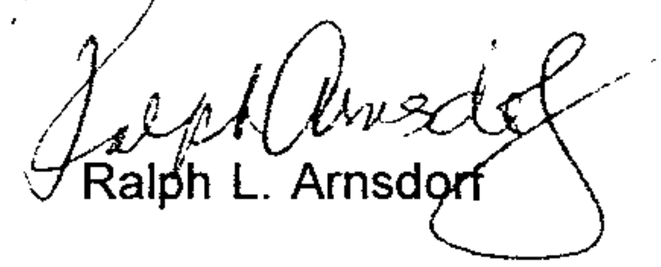
We are still awaiting final remediation figures from the County to determine our final costs, although we expect economic losses will be between $75,000 to $100,000.

As to your letter of October 30, 1997, while I have agreed that the BCC may have several additional days to name their experts, I have **not** made any such agreement with counsel for Henry Lewis. As far as plaintiffs are concerned, Henry Lewis Contractors have waived their right to name any expert witnesses in this case. The deadline for Lewis was Nov. 1, 1997. Further, Lewis has completely ignored the subpoena which was served on them to produce documents at my office last month. I am filing the appropriate discovery motion to address that issue.

Driggs also failed to comply with a document subpoena.

Please let me know if you have any questions.

Very truly yours,

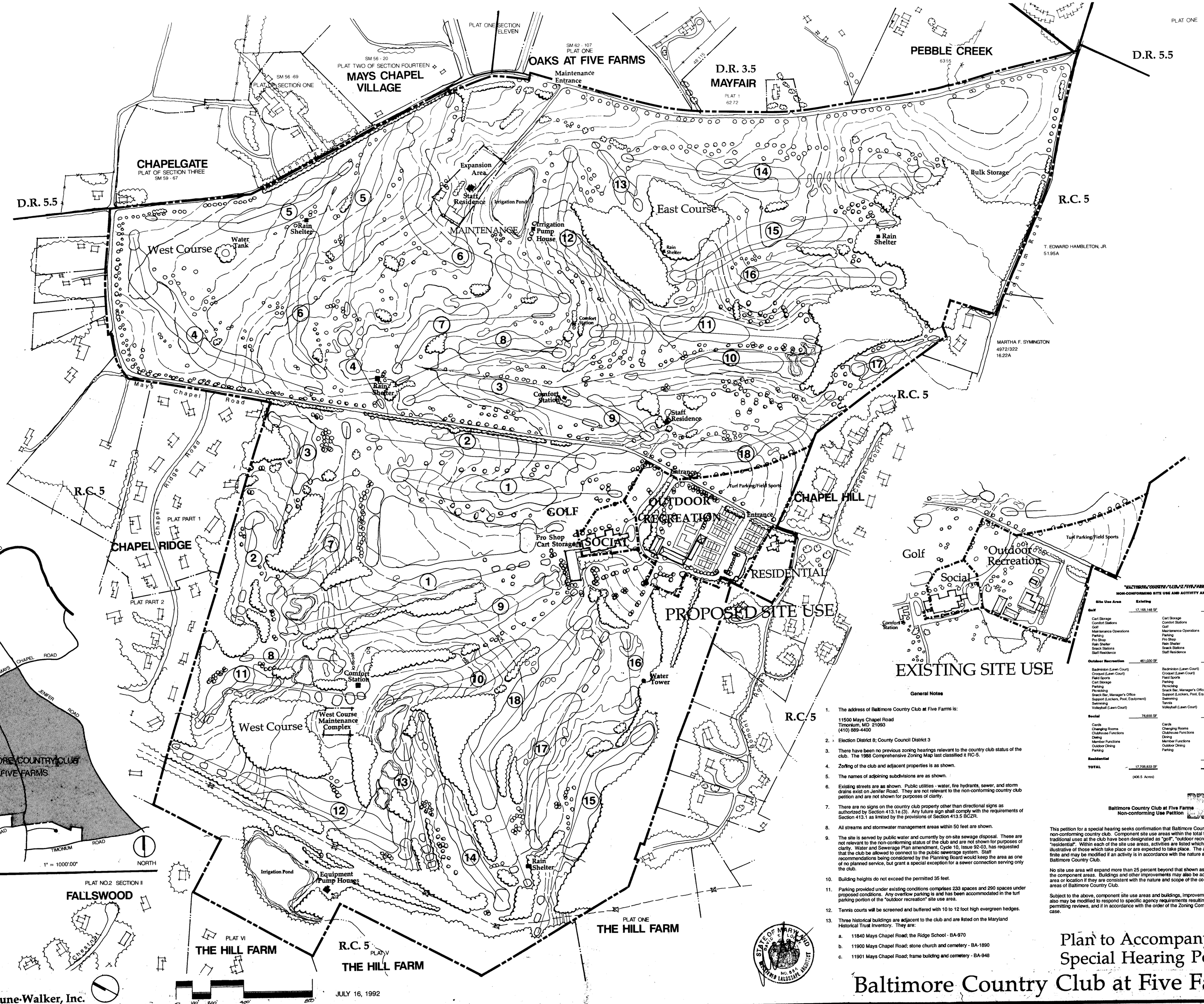


Ralph L. Arnsdorf

RLA:jlp

cc: Donna Dow
Chad Joseph, Esquire

SST/32645



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

Site Use Area	Existing		Proposed	Percent Change
Golf	17,168,148 SF		17,100,964 SF	-0.4%
Cart Storage		Cart Storage		
Comfort Stations		Comfort Stations		
Golf		Golf		
Maintenance Operations		Maintenance Operations		
Parking		Parking		
Pro Shop		Pro Shop		
Rain Shelter		Rain Shelter		
Snack Stations		Snack Stations		
Staff Residence		Staff Residence		
Outdoor Recreation	461,030 SF		542,100 SF	+17.6%
Badminton (Lawn Court)		Badminton (Lawn Court)		
Croquet (Lawn Court)		Croquet (Lawn Court)		
Field Sports		Field Sports		
Cart Storage		Parking		
Parking		Picnicking		
Picnicking		Snack Bar, Manager's Office		
Snack Bar, Manager's Office		Support (Lockers, Pool, Equipment)		
Support (Lockers, Pool, Equipment)		Swimming		
Swimming		Tennis		
Volleyball (Lawn Court)		Volleyball (Lawn Court)		
Social	76,655 SF		81,720 SF	+6.6%
Cards		Cards		
Changing Rooms		Changing Rooms		
Clubhouse Functions		Clubhouse Functions		
Dining		Dining		
Member Functions		Member Functions		
Outdoor Dining		Outdoor Dining		
Parking		Parking		
Residential			94,305 SF	N/A
TOTAL	17,705,833 SF		17,819,089 SF	+0.6%
	(406.5 Acres)		(409.1 Acres)	

General Notes

1. The address of Baltimore Country Club at Five Farms is:

   11500 Mays Chapel Road
   Timonium, MD 21093
   (410) 889-4400

2. Election District 8; County Council District 3
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.
4. Zoning of the club and adjacent properties is as shown.
5. The names of adjoining subdivisions are as shown.
6. Existing streets are as shown. Public utilities - water, fire hydrants, sewer, and storm drains exist on Jenifer Road. They are not relevant to the non-conforming country club petition and are not shown for purposes of clarity.
7. 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.
8. All streams and stormwater management areas within 50 feet are shown.
9. 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.
10. Building heights do not exceed the permitted 35 feet.
11. 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.
12. Tennis courts will be screened and buffered with 10 to 12 foot high evergreen hedges.
13. Three historical buildings are adjacent to the club and are listed on the Maryland Historical Trust Inventory. They are:
    a. 11840 Mays Chapel Road; the Ridge School - BA-970
    b. 11900 Mays Chapel Road; stone church and cemetery - BA-1890
    c. 11901 Mays Chapel Road; frame building and cemetery - BA-948

STATE OF MARYLAND
STEPHEN C. SCHOLZ
No. 844
REGISTERED LANDSCAPE ARCHITECT

Baltimore Country Club at Five Farms
Non-conforming Use Petition

PROTESTANT'S EXHIBIT NO. 6

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 listing is 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

Baltimore Country Club at Five Farms

Zoning Notes

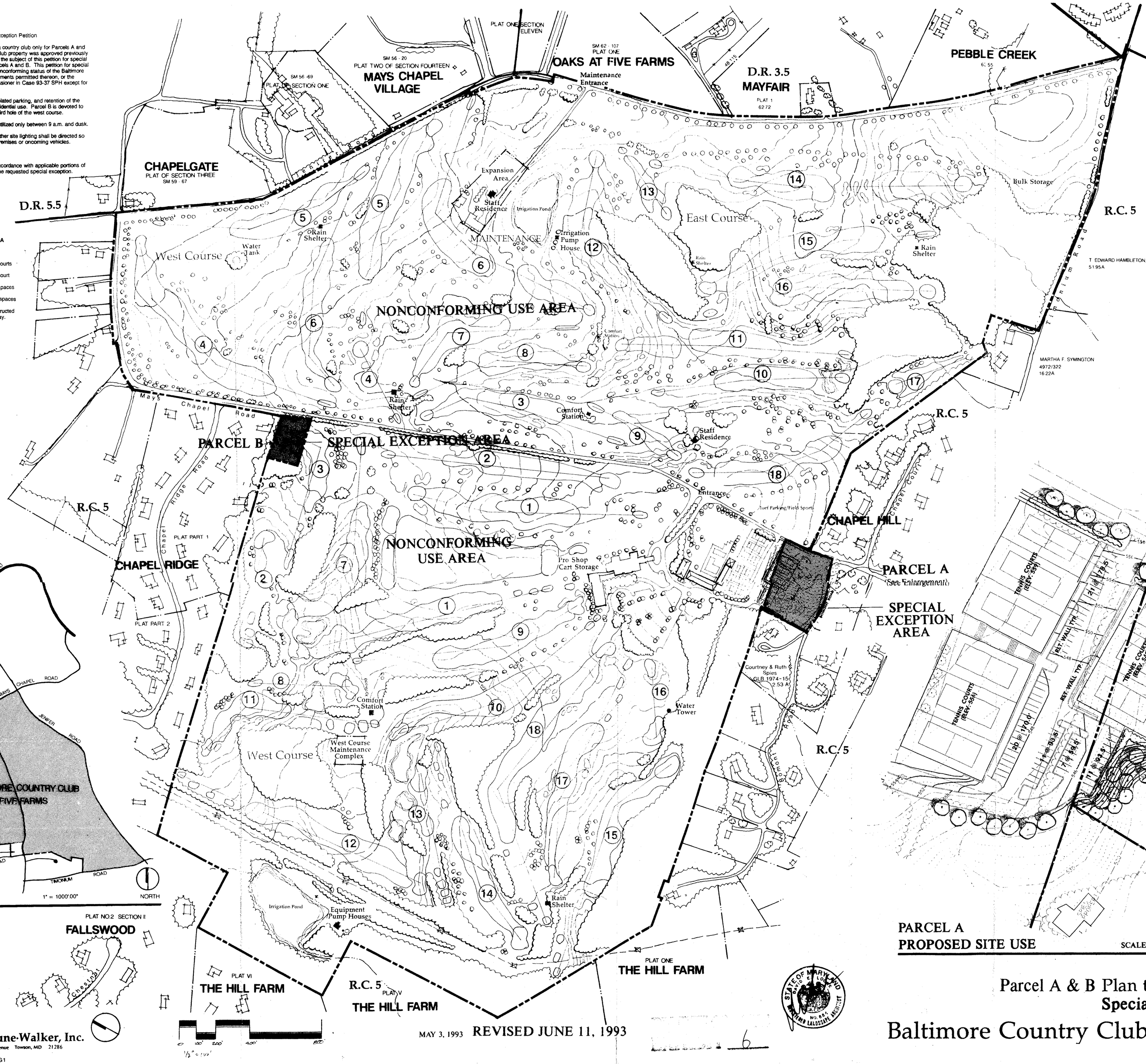
Baltimore Country Club at Five Farms Special Exception Petition

1. This petition seeks a special exception for a country club only for Parcels A and B. The balance of the Baltimore Country Club property was approved previously as a nonconforming country club and is not the subject of this petition for special exception. This petition applies only to Parcels A and B. This petition for special exception does not modify or amend the nonconforming status of the Baltimore Country Club property, the uses or improvements permitted thereon, or the March 5, 1993, order of the Zoning Commissioner in Case 93-37 SPH except for Parcels A and B.
2. Parcel A will be devoted to tennis courts, related parking, and retention of the existing dwelling which will be limited to residential use. Parcel B is devoted to parts of the fairway and the green for the third hole of the west course.
3. Hours of Operation - Tennis courts will be utilized only between 9 a.m. and dusk.
4. The tennis courts will not be lighted. Any other site lighting shall be directed so as to not shine upon adjoining residential premises or oncoming vehicles.
5. All paved parking spaces shall be striped.
6. Modifications may be made if they are in accordance with applicable portions of BCZR and the terms of an order granting the requested special exception.

PARCEL A SPECIAL EXCEPTION AREA PARKING COMPUTATIONS

1.	Number of tennis courts in Parcel A	3 courts
2.	Parking standard	3/court
3.	Required spaces	9 spaces
4.	Parking spaces provided in Parcel A	11 spaces

5. The retained dwelling has at least two unobstructed parking spaces on its existing circular driveway.



General Notes

1. The address of Baltimore Country Club at Five Farms is:

   11500 Mays Chapel Road
   Timonium, MD 21093
   (410) 889-4400

2. Election District 8; County Council District 3
3. Zoning History

   Zoning Case 93-37 SPH. On March 5, 1993, the Zoning Commissioner issued an order establishing that those portions of the club included in its ownership as of September 26, 1963, are a valid, non-conforming country club use and approving modifications.

   The order denied the right to extend the non-conforming country club use to three properties not included in its ownership as of September 26, 1963. This petition seeks a special exception for two parcels, A and B, to authorize their use as a country club. The third parcel is not improved so as to require authorization by special exception.

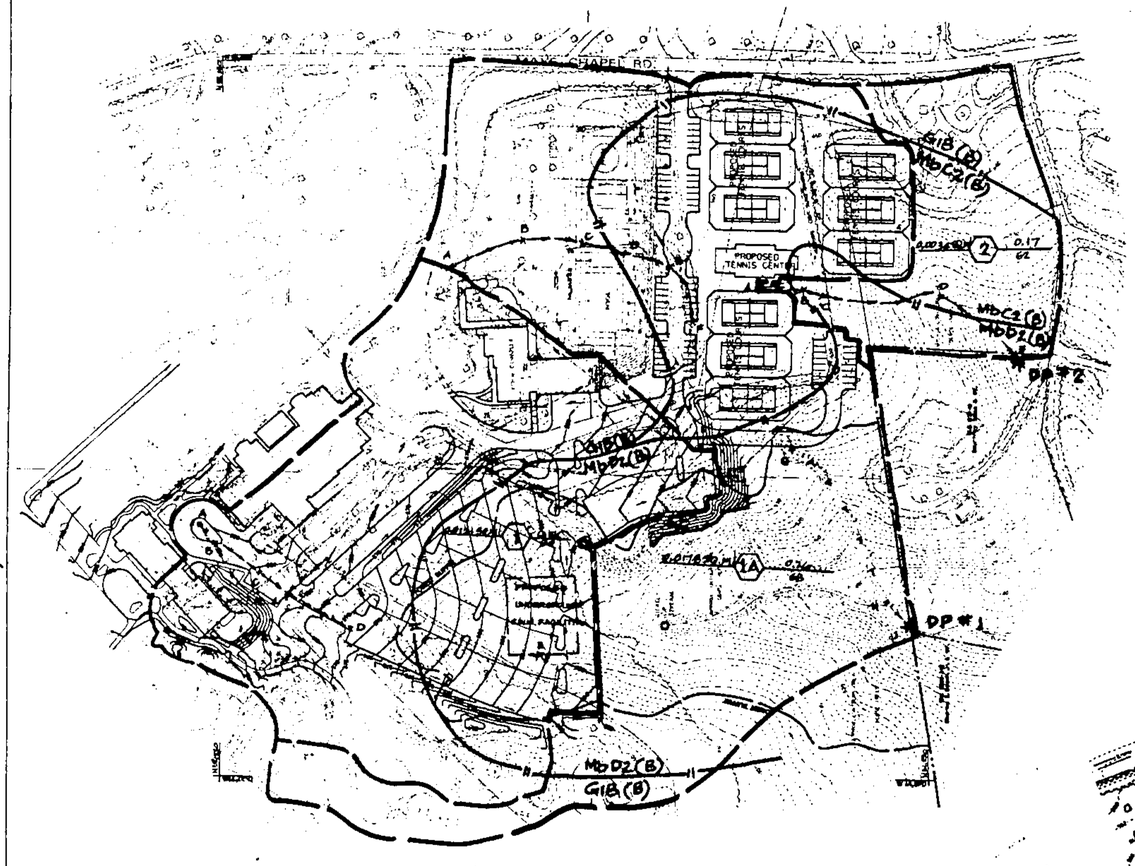
4. Zoning of the club and adjacent properties are as shown.
5. The names of adjoining subdivisions are as shown.
6. Existing streets are as shown. Public utilities - water, fire hydrants, sewer, and storm drains exist on Jenifer Road. They are not relevant to this petition and are not shown for purposes of clarity.
7. 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.
8. All streams and stormwater management areas within 50 feet are shown.
9. 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. In accordance with staff and Planning Board recommendations, the County Council has amended the plan to show it as a continued area of no planned service, but granted a special exception for a sewer connection serving only Baltimore Country Club.
10. Building heights do not exceed the permitted 35 feet.
11. Parking provided under existing conditions for the total club comprises 233 spaces and 290 spaces under proposed conditions. Any overflow parking is and has been accommodated in the turf parking portion of the existing club.
12. Tennis courts will be screened and buffered with 10 to 12 foot high evergreen hedges. See plan of Parcel A for details of the tennis component of the club.
13. Three historical buildings are adjacent to the club and are listed on the Maryland Historical Trust Inventory. They are:

    a. 11840 Mays Chapel Road; the Ridge School - BA-970
    b. 11900 Mays Chapel Road; stone church and cemetery - BA-1890
    c. 11901 Mays Chapel Road; frame building and cemetery - BA-948

Parcel A & B Plan to Accompany
Special Exception Petition

Baltimore Country Club at Five Farms

Two of Two



PROPOSED DRAINAGE AREA MAP

97-384-SPH

DEVELOPERS /LANDOWNERS CERTIFICATION

I/WE HEREBY CERTIFY THAT ALL PROPOSED WORK SHOWN ON THESE CONSTRUCTION DRAWING(S) AND ON THE APPROVED SEDIMENT CONTROL DRAWING(S) WILL BE ACCOMPLISHED PURSUANT TO THESE PLANS. I/WE ALSO UNDERSTAND THAT IT IS MY/OUR RESPONSIBILITY TO HAVE THE CONSTRUCTION SUPERVISED AND CERTIFIED, INCLUDING THE SUBMITTAL OF "AS-BUILT" PLANS WITHIN THIRTY (30) DAYS OF COMPLETION, BY A REGISTERED PROFESSIONAL ENGINEER.

SIGNED _____
PRINT Paul T. Gerhold, Jr. DATE 7/18/96

ENGINEERS CERTIFICATION

I HEREBY CERTIFY THAT THIS PLAN HAS BEEN PREPARED BY ME OR UNDER MY SUPERVISION AND MEETS THE MINIMUM STANDARDS OF THE BALTIMORE COUNTY DEPARTMENT OF PUBLIC WORKS AND THE BALTIMORE COUNTY SOIL CONSERVATION DISTRICT.

SIGNED _____ P.E. 16872
PRINT MAX KANTZER DATE 6-13-96

CONTRACTORS "AS-BUILT" NOTE

AS-BUILT PLANS AND CERTIFICATION ARE REQUIRED FOR THIS STORMWATER MANAGEMENT FACILITY. THESE MUST BE PREPARED AND SEALED BY A REGISTERED PROFESSIONAL ENGINEER. BALTIMORE COUNTY WILL NOT PERFORM THE INSPECTION OR PREPARE THE AS-BUILT PLANS OR CERTIFICATION. THE STORMWATER MANAGEMENT PERMIT SECURITY WILL NOT BE RELEASED UNTIL THE AS-BUILT PLANS AND CERTIFICATION ARE APPROVED BY BALTIMORE COUNTY.

BY ORDER TO PREPARE THE REQUIRED AS-BUILT PLANS AND CERTIFICATION, THIS STORMWATER MANAGEMENT FACILITY MUST BE INSPECTED BY THE ENGINEER AT SPECIFIC STAGES DURING CONSTRUCTION AS REQUIRED BY THE CURRENT BALTIMORE COUNTY STORMWATER MANAGEMENT POLICY AND DESIGN MANUAL. THE CONTRACTOR SHALL NOTIFY THE ENGINEER AT LEAST FIVE (5) WORKING DAYS PRIOR TO STARTING ANY WORK SHOWN ON THESE PLANS.

"AS-BUILT" CERTIFICATION

I HEREBY CERTIFY THAT THE FACILITY SHOWN ON THIS PLAN WAS CONSTRUCTED AS SHOWN ON THE "AS-BUILT" PLANS AND MEETS THE APPROVED PLANS AND SPECIFICATIONS.

SIGNED _____ P.E. _____
PRINT _____ DATE _____

Sequence of Construction

1. Obtain all necessary permits from federal, state, and local authorities having jurisdiction over the proposed construction.
2. Notify the Baltimore County Department of Environmental Protection and Resource Management, Inspection and Enforcement Division (887-3226) at least 48 hours prior to beginning work.
3. Clear, grub, and install sediment control measures only.
4. Excavate the underground facility.
5. Install underground facility (stone, modified Type C manhole, stormceptor, and retaining wall).
6. Concurrent with backfill over the underground facility, install storm drain inflow pipes from M-1 and I-14.
7. Stabilize disturbed areas with seed and mulch.
8. With prior approval of the Sediment Control Inspector, remove all sediment control measures after disturbed areas have been stabilized.
9. Fine grade site and stabilize all remaining disturbed areas.
10. Remove inlet protection/blocking from all storm drain inlets draining to the underground facility.
11. Conduct "as-built" survey of facility and storm drains within the limit of stormwater management easement.

Ext 4

Design Flow Summary

	2-Year	10-Year	100-Year
Design Point #1			
Pre-Developed Peak (cfs)	12.68	36.06	69.64
Developed Peak (cfs)	12.59	37.87	68.61
Design Point #2			
Pre-Developed Peak (cfs)	1.30	5.40	10.90
Developed Peak (cfs)	0.99	4.05	8.02

Underground Facility

Allowable Release (cfs)	2-Year 5.96	10-Year 12.46	100-Year 24.17
Developed Inflow (cfs)	17.46	34.16	52.01
Developed Outflow (cfs)	4.35	13.52	24.83
Water Surface Elevation (ft)	539.12	541.06	543.96
Storage Provided (cft)	16,287	30,312	45,243

Structure Type:	Underground Facility/Stonaceptor
Structure Classification	A
Structure Location	Urban
Watershed Area to Facility	7.76 Ac.
Level of Management Provided	2, 10, 100-Year Storms
Storage Height Product	5.98 Ac. Ft.

Inspection Schedule

1. Prior notification shall be given to the engineer so that inspections may be made at the following stages:
   (1) Upon completion of excavation to subfoundation and where required, installation of structural supports or reinforcement for structures, including but not limited to:
   (a) Stone bedding below underground facility;
   (b) Inlet-outlet structures, watertight connections on pipes; and
   (c) Trenches for enclosed storm drainage facilities.
   (2) During placement of structural fill, reinforcing and concrete, and installation of piping and catch basins;
   (3) During backfill of foundations and trenches; and
   (4) Upon completion of final grading and establishment of permanent stabilization.

   No work shall proceed until the engineer inspects and approves the work previously completed.
2. Geotechnical compaction testing of the facility backfill is required. Certification must be provided to the designated engineer in charge of the as-built.
3. A copy of all material supply tickets must be given to the designated engineer in charge of the as-built.

Underground S.W.M Facility Maintenance Schedule

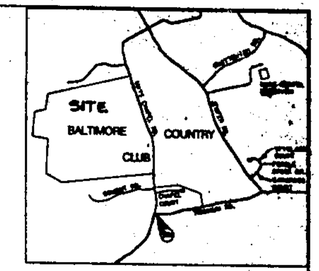
The facility shall be inspected twice annually. The underground facility owner(s) and any heirs, successors, or assigns shall be responsible for the safety of the facility and for continued operation, surveillance, inspection, and maintenance thereon. All appurtenances shall be kept free of trash. Erosion and/or undermining of the retaining wall at the underground facility outfall pipe(s) must be avoided, and repair immediately as needed.

NOTE: THE UNDERGROUND STORMWATER MANAGEMENT FACILITY IS A CONFINED SPACE AND ACCESS TO THE FACILITY WILL BE CONTROLLED BY OSHA REQUIREMENTS.

General Notes:

1. Unless otherwise noted, all construction and workmanship shall be in accordance with:
   A. Baltimore County Department of Public Works Standard Specifications and Details for Construction 1976, Errata and Addenda.
   B. Maryland Department of Transportation State Highway Administration, January, 1982, Standard Specifications for Construction and Materials.
2. This site lies within the Gunpowder Branch watershed.
3. Stormwater management is approved under Bill No. 105-84.
4. This facility is private and shall be maintained by the developer.
5. All construction must be supervised by a geotechnical engineer.
6. Two, 10 and 100 year stormwater management is required and provided.
7. Baltimore County criteria (design standards and general criteria) conformed with the latest edition.

* NOTE: Allowable release was determined using check off routing which is a downstream application. Therefore this development application only requires detention, however, water management is provided at the design point and is shown in the design flow summary.



LOCATION MAP

SCALE: 1" = 2000'

BENCHMARK: HUB #A-8757 ELEV. 640.787
1/2" IRON BAR IN GROUND ON SOUTH SIDE OF THONIUM ROAD AT MAYS CHAPEL ROAD.

LEGEND

GIB (B)	SOILS DELINEATION
A — — — — — A	TIME OF CONCENTRATION
	DRAINAGE AREA DIVIDE
	PROPERTY LINE

AREA IN SQ. MILES (1) TIME OF CONCENTRATION RUNOFF CURVE NUMBER

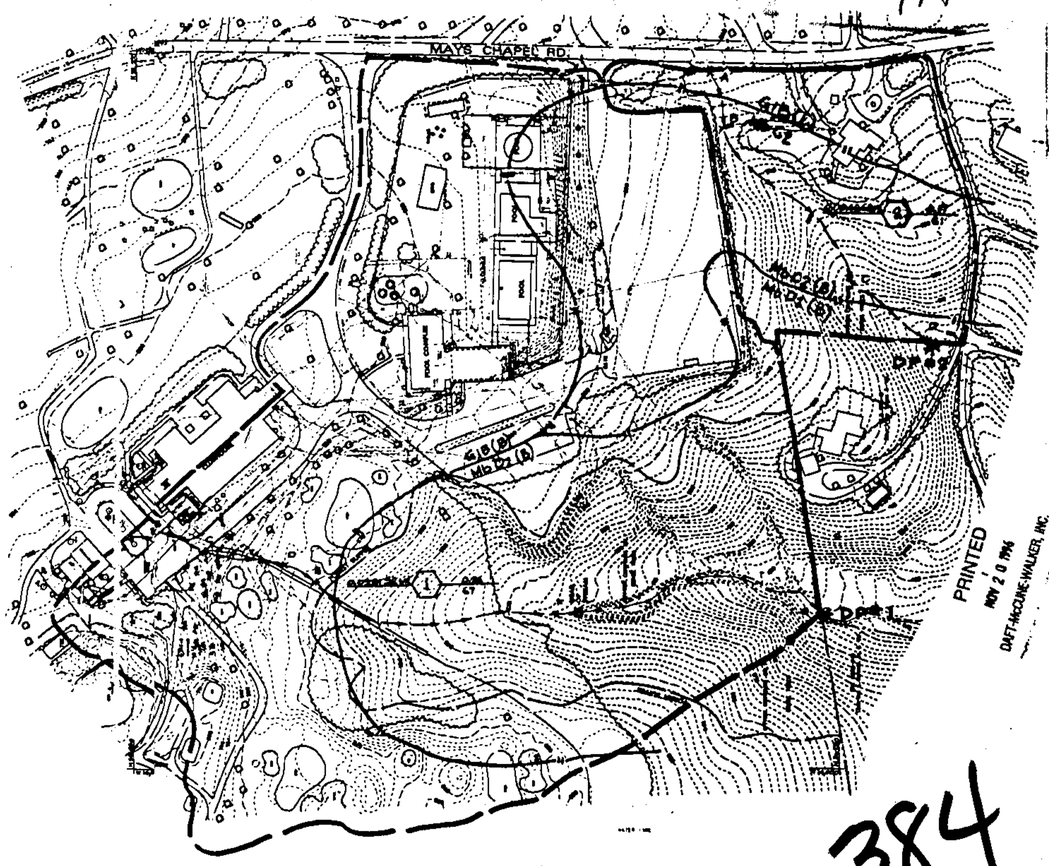
OWNER/DEVELOPER:
BALTIMORE COUNTY CLUB
4712 CLUB ROAD
BALTIMORE, MARYLAND 21210
(410) 889-4400

APPROVED: R.A. Kirsch Chief 9-17-96
Storm Water Management Division
BALTO. CO. DEPT. OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT

DATA SOURCES:

Baltimore County Soil Conservation District
APPROVED FOR STORM WATER MANAGEMENT
R.A. Kirsch 9-17-96
DISTRICT OFFICIAL DATE
REVIEW FOR DISTRICT
R.A. Kirsch 9-17-96
DEPT. OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT DATE

4A



EXISTING DRAINAGE AREA MAP

384

FINAL PLAN
DAFT-McCUNE-WALKER, INC.
DATE _____

DMW
Daft-McCune-Walker, Inc.
200 East Pennsylvania Avenue
Towson, Maryland 21286
(410) 296-3333
Fax 296-4705
A Team of Land Planners, Landscape Architects, Engineers, Surveyors & Environmental Professionals

Baltimore Country Club

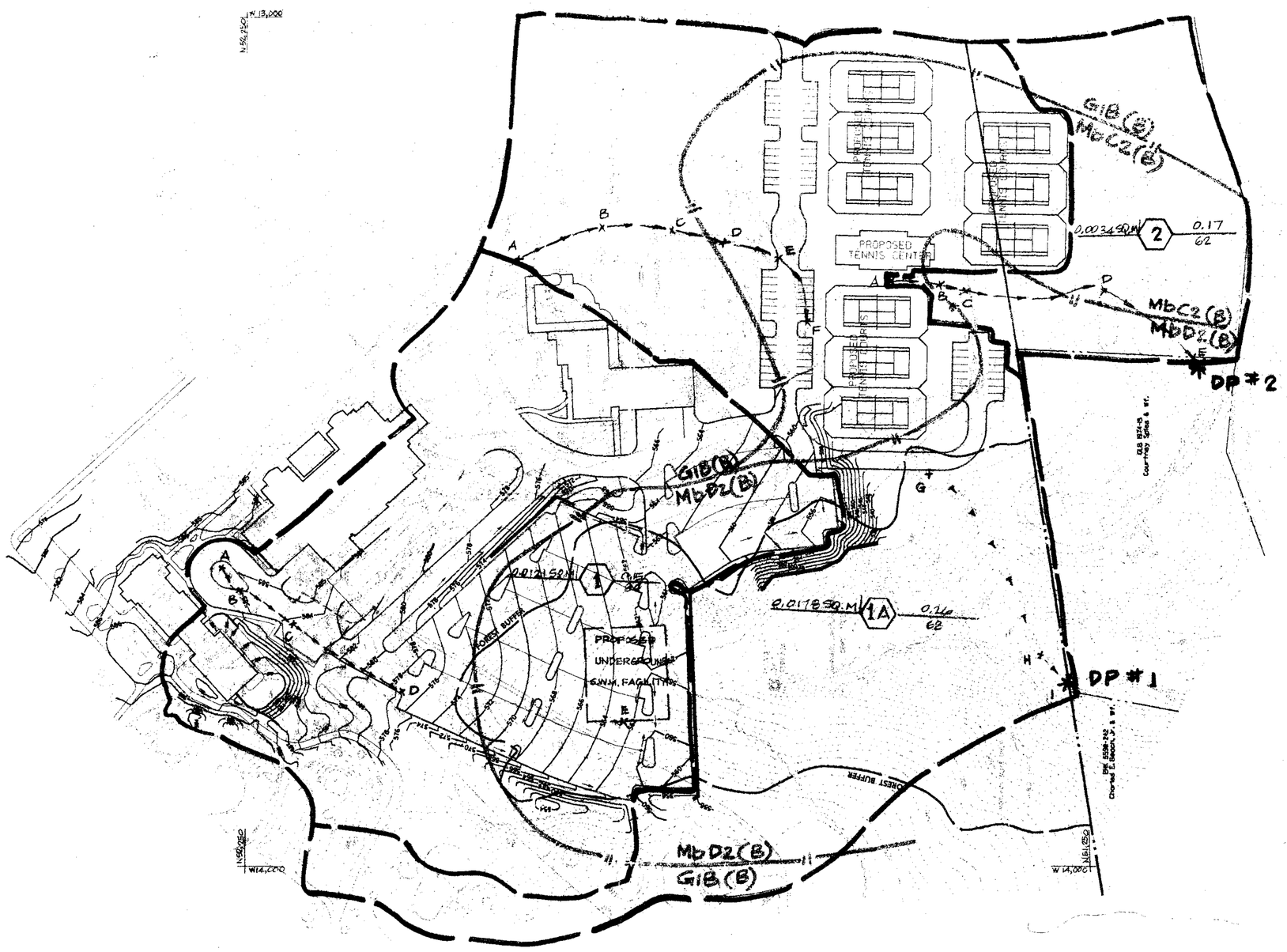
Drainage Area Maps

Five Farms Phase II
Clubhouse and Tennis Court Plan
Parking and Tennis Court Plan

STATE OF MARYLAND
MAX KANTZER
No. 16872
PROFESSIONAL ENGINEER

DATE	BY	REVISIONS

ISSUE DATES			
REVIEW:		BASE:	PSN
BID:		DRAWN:	DBS
PERMIT:		DESIGNED:	PSN
CONSTRUCTION:		CHECKED BY:	JWR
SCALE:	1" = 100'	DATE CHECKED:	09/09/96
PROJECT NO.:	82032MI	DRAWING:	1 OF 6



PROPOSED DRAINAGE AREA MAP

Design Flow Summary

Design Point #1	2-Year	10-Year	100-Year
Predeveloped Peak (cfs)	12.68	38.06	69.64
Developed Peak (cfs)	12.59	37.87	68.61

Design Point #2			
Predeveloped Peak (cfs)	1.30	5.40	10.90
Developed Peak (cfs)	0.99	4.05	8.02

Underground Facility

	2-Year	10-Year	100-Year
Allowable Release (cfs)	3.96	12.86	24.17
Developed Inflow (cfs)	17.46	34.16	52.01
Developed Outflow (cfs)	4.35	13.52	24.83
Water Surface Elevation (ft)	539.12	541.06	543.96
Storage Provided (cft)	16,287	30,312	45,243

Structure Type:	Underground Facility/Stormceptor
Structure Classification	A
Structure Location	Urban
Watershed Area to Facility	7.76 Ac.
Level of Management Provided	2, 10, 100-Year Storms
Storage Height Product	5.98 Ac. Ft^2

Inspection Schedule

1. Prior notification shall be given to the engineer so that inspections may be made at the following stages:
   (1) Upon completion of excavation to subfoundation and where required, installation of structural supports or reinforcement for structures, including but not limited to:
   (i) Stone bedding below underground facility;
   (ii) Inlet-outlet structures, watertight connectors on pipes; and
   (iii) Trenches for enclosed storm drainage facilities.
   (2) During placement of structural fill, reinforcing and concrete, and installation of piping and catch basins;
   (3) During backfill of foundations and trenches; and
   (4) Upon completion of final grading and establishment of permanent stabilization.

No work shall proceed until the engineer inspects and approves the work previously completed.

2. Geotechnical compaction testing of the facility backfill is required. Certification must be provided to the designated engineer in charge of the as-built.
3. A copy of all material supply tickets must be given to the designated engineer in charge of the as-built.

Underground S.W.M Facility Maintenance Schedule

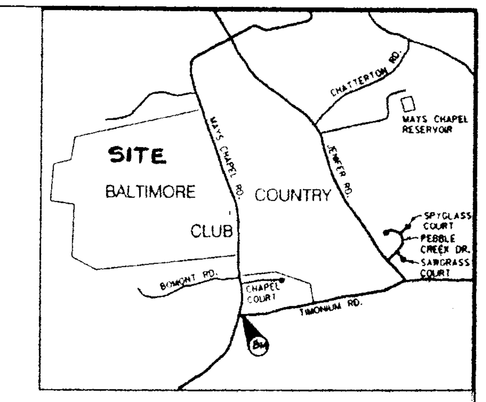
The facility shall be inspected twice annually. The underground facility owner(s) and any heirs, successors, or assigns shall be responsible for the safety of the facility and the continued operation, surveillance, inspection, and maintenance thereof. All appurtenances shall be kept free of trash. Erosion and/or undermining of the retaining wall at the underground facility outfall pipe(s) must be avoided, and repair immediately as needed.

NOTE: THIS UNDERGROUND STORMWATER MANAGEMENT FACILITY IS A CONFINED SPACE AND ACCESS TO THE FACILITY WILL BE CONTROLLED BY OSHA REQUIREMENTS.

General Notes:

1. Unless otherwise noted, all construction and workmanship shall be in accordance with:
   A. Baltimore County Department of Public Works Standard Specifications and Details for Construction 1976, Errata and Addenda.
   B. Maryland Department of Transportation State Highway Administration, January, 1982, Standard Specifications for Construction and Materials.
2. This site lies within the Gunpowder Branch watershed.
3. Stormwater management is approved under Bill No. 105-84.
4. This facility is private and shall be maintained by the developer.
5. All construction must be supervised by a geotechnical engineer.
6. Two, 10 and 100 year stormwater management is required and provided.
7. Baltimore County storm drain design standards and general standards conformed with the latest edition.

* NOTE: Allowable release was determined using short cut routing which is a conservative estimation, therefore the developed outflow exceeds the allowable release but management is provided at the design point and is shown in the design flow summary.



LOCATION MAP

SCALE: 1" = 2000'

BENCHMARK: HUB No. 11797 ELEV. 540.787
1/2" IRON BAR IN GROUND ON SOUTH SIDE OF TIMONIUM ROAD AT MAYS CHAPEL ROAD.

LEGEND

G1B (B)	SOILS DELINEATION
A → B	TIME OF CONCENTRATION
	DRAINAGE AREA DIVIDE
	PROPERTY LINE
AREA IN SQ. MILES (1) TIME OF CONCENTRATION / RUNOFF CURVE NUMBER	

OWNER/DEVELOPER:

BALTIMORE COUNTY CLUB
4712 CLUB ROAD
BALTIMORE, MARYLAND 21210
(410) 889 4400

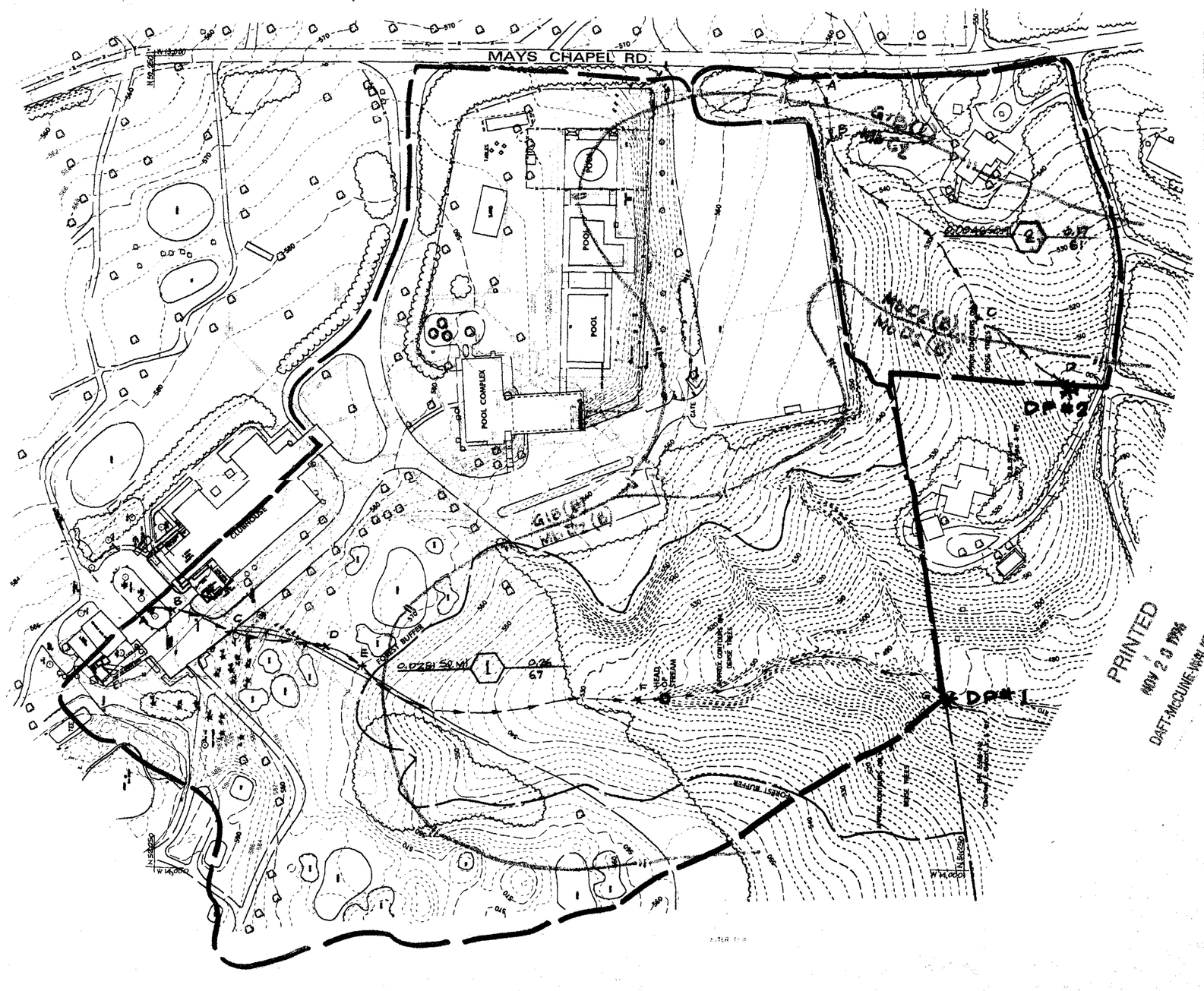
APPROVED: R. A. Worth 9-17-96
State Water Management Engineer
BALTO. CO. DEPT. OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT

DATA SOURCES:

Baltimore County Soil Conservation District
APPROVED FOR STORM WATER MANAGEMENT
R. A. Worth 9-17-96 211-SCD-96
DISTRICT CHAIRMAN DATE FILE NO.
APPROVED BY DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT
R. A. Worth 9-17-96
DATE

FINAL PLAN
DAFT-McCUNE-WALKER, INC.
DATE

PRINTED NOV 2 3 1996 DAFT-McCUNE-WALKER, INC.



EXISTING DRAINAGE AREA MAP

DMW
Daft-McCune-Walker, Inc.
200 East Pennsylvania Avenue
Towson, Maryland 21286
(410) 296-3333
Fax 296-4705

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

Baltimore Country Club

Drainage Area Maps

Five Farms Phase II
Clubhouse Improvements
Parking and Tennis Court Plan

DATE	BY	REVISIONS

ISSUE DATES			
REVIEW:		BASE:	PSN
BID:		DRAWN:	DBS
PERMIT:		DESIGNED:	PSN
CONSTRUCTION:		CHECKED BY:	JWR
SCALE:	1" = 100'	DATE CHECKED:	08/30/96
PROJECT NO.:	82032MI	DRAWING:	1 OF 6

DEVELOPERS /LANDOWNERS CERTIFICATION

I/WE HEREBY CERTIFY THAT ALL PROPOSED WORK SHOWN ON THESE CONSTRUCTION DRAWING(S) AND ON THE APPROVED SEDIMENT CONTROL DRAWING(S) WILL BE ACCOMPLISHED PURSUANT TO THESE PLANS. I/WE ALSO UNDERSTAND THAT IT IS MY/OUR RESPONSIBILITY TO HAVE THE CONSTRUCTION SUPERVISED AND CERTIFIED, INCLUDING THE SUBMITTAL OF "AS-BUILT" PLANS WITHIN THIRTY (30) DAYS OF COMPLETION, BY A REGISTERED PROFESSIONAL ENGINEER.

SIGNED _____
PRINT Paul T. Spindler Jr. DATE 7/11/96

ENGINEERS CERTIFICATION

I HEREBY CERTIFY THAT THIS PLAN HAS BEEN PREPARED BY ME OR UNDER MY SUPERVISION AND MEETS THE MINIMUM STANDARDS OF THE BALTIMORE COUNTY DEPARTMENT OF PUBLIC WORKS AND THE BALTIMORE COUNTY SOIL CONSERVATION DISTRICT.

SIGNED _____ P.E. 16872
PRINT MAX KANTZER DATE 6-13-96

CONTRACTORS "AS-BUILT" NOTE

AS-BUILT PLANS AND CERTIFICATION ARE REQUIRED FOR THIS STORMWATER MANAGEMENT FACILITY. THESE MUST BE PREPARED AND SEALED BY A REGISTERED PROFESSIONAL ENGINEER. BALTIMORE COUNTY WILL NOT PERFORM THE INSPECTION OR PREPARE THE AS-BUILT PLANS OR CERTIFICATION. THE STORMWATER MANAGEMENT PERMIT SECURITY WILL NOT BE RELEASED UNTIL THE AS-BUILT PLANS AND CERTIFICATION ARE APPROVED BY BALTIMORE COUNTY.

IN ORDER TO PREPARE THE REQUIRED AS-BUILT PLANS AND CERTIFICATION, THIS STORMWATER MANAGEMENT FACILITY MUST BE INSPECTED BY THE ENGINEER AT SPECIFIC STAGES DURING CONSTRUCTION AS REQUIRED BY THE CURRENT BALTIMORE COUNTY STORMWATER MANAGEMENT POLICY AND DESIGN MANUAL. THE CONTRACTOR SHALL NOTIFY THE ENGINEER AT LEAST FIVE (5) WORKING DAYS PRIOR TO STARTING ANY WORK SHOWN ON THESE PLANS.

"AS-BUILT" CERTIFICATION

I HEREBY CERTIFY THAT THE FACILITY SHOWN ON THIS PLAN WAS CONSTRUCTED AS SHOWN ON THE "AS-BUILT" PLANS AND MEETS THE APPROVED PLANS AND SPECIFICATIONS.

SIGNED _____ P.E. _____
PRINT _____ DATE _____

Sequence of Construction

1. Obtain all necessary permits from federal, state, and local authorities having jurisdiction over the proposed construction.
2. Notify the Baltimore County Department of Environmental Protection and Resource Management, Inspection and Enforcement Division (887-3226) at least 48 hours prior to beginning work.
3. Clear, grub, and install sediment control measures only.
4. Excavate the underground facility.
5. Install underground facility (stone, modified Type C manhole, stormceptor, and retaining wall).
6. Concurrent with backfill over the underground facility, install storm drain inflow pipes from M-1 and I-14.
7. Stabilize disturbed areas with seed and mulch.
8. With prior approval of the Sediment Control Inspector, remove all sediment control measures after disturbed areas have been stabilized.
9. Fine grade site and stabilize all remaining disturbed areas.
10. Remove inlet protection/blocking from all storm drain inlets draining to the underground facility.
11. Conduct "as-built" survey of facility and storm drains within the limit of stormwater management easement.

Pet Exh 4 (B)