

BALTIMORE COUNTY, MARYLAND
Board of Appeals of Baltimore County
Interoffice Correspondence

DATE: August 22, 2003

TO: Timothy Kotroco, Director
Permits & Development Management
Attn.: David Duvall

FROM: Theresa R. Shelton *tr*
Board of Appeals

SUBJECT: Greenspring Racquet Club
CBA No.: 99-282-SPH
PDM File No.: 99-282-SPH
Circuit Court Case No.: 03-C-01-5738

*missing this
order*

On March 6, 2003 the Circuit Court for Baltimore County issued an Order of Court Dismissing w/o Prejudice the above referenced case for Lack of Prosecution.

Since no further appeals have been taken in this matter. The Board of Appeals is closing and returning the file/exhibits that are attached herewith.

Attachment: SUBJECT FILE ATTACHED AND EXHIBITS

7/30/01

IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY

PETITION OF:
GREENSPRING RACQUET CLUB, INC.
10803 FALLS ROAD
BALTIMORE, MD 21093

AND

WILLIAM HIRSHFELD
LORETTA HIRSHFELD
3604 BARBERRY COURT
BALTIMORE, MD 21208

FOR JUDICIAL REVIEW OF THE OPINION
THE COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY
OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204

CIVIL ACTION
No. **3-C-01-5738**

IN THE MATTER OF
GREENSPRING RACQUET CLUB, INC.-CP.
LORETTA & WILLIAM HIRSCHFELD-LO
FOR A SPECIAL HEARING ON PROPERTY
LOCATED ON THE NORTH EAST SIDE
FALLS ROAD, 429 FEET EAST OF CENTER-
LINE GREENSPRING VALLEY ROAD
(10803 FALLS ROAD)

8TH ELECTION DISTRICT
3RD COUNCILMANIC DISTRICT

CASE NO. 99-282-SPH

* * * * *

**PROCEEDINGS BEFORE THE ZONING COMMISSIONER
AND THE BOARD OF APPEALS OF BALTIMORE COUNTY**

TO THE HONORABLE, THE JUDGE OF SAID COURT:

And now come Charles L. Marks and Lawrence S. Wescott, constituting the County Board of Appeals of Baltimore County, and in answer to the Petition for Judicial Review directed against them in this case, herewith return the record of proceedings had in the above-entitled matter, consisting of the following certified copies or original papers on file in the Department of Permits and Development Management and the Board of Appeals of Baltimore County:

RECEIVED AND FILED
01 JUL 30 PM 3: 22

CLERK OF THE COURT
BALTIMORE COUNTY

**ENTRIES FROM THE DOCKET OF THE BOARD OF APPEALS AND
THE DEPARTMENT OF PERMITS AND DEVELOPMENT
MANAGEMENT OF BALTIMORE COUNTY**

No. 99-282-SPH

January 27, 1999	Petition for Special Hearing filed by Julius W. Lichter, Esquire, on behalf of William and Loretta Hirshfeld, Legal Owners and Greenspring Racquet Club, Inc., Contract Lessee to approve a development plan which exceeds the height and area standards of BCZR Section 235C.1.
February 11	Entry of Appearance filed by People's Counsel for Baltimore County.
March 4	Publication in newspaper.
March 5	ZAC Comments
March 22	Certificate of Posting.
April 16	Order issued by the Circuit Court wherein Robert H. Freilich, Esquire, may appear and participate in this action.
April 19 thru June 17	Hearings (6) held on Petition by the Deputy Zoning Commissioner. (Motion file by all parties to the proceedings for an interpretation of a recently enacted County Council Bill No. 111-98).
June 7	Order issued by the Deputy Zoning Commissioner; Special Hearing request is not contiguous to an R.C. zone; Petitioners are not required to comply with the requirements of Section 235C.2.C; testimony and evidence offered by the Petitioners relating to compatibility is stricken from the record; ruling is applicable only to the property of the subject special hearing request. Any appeal of this order shall be stayed until a final order is issued by the Deputy Zoning Commissioner.
September 21	Findings of Fact and Conclusions of Law issued by the Deputy Zoning Commissioner; Petition for Special Hearing is DENIED.
September 24	Notice of Appeal filed by Robert Freilich, Esq., Julius Lichter, Esq., and Dino LaFiandra, Esq., on behalf of Greenspring Racquet Club, Inc., William Hirshfeld and Loretta Hirshfeld.
October 14	Notice of Appeal filed by Richard Burch, Esq., K. Donald Proctor, Esq., Deborah Dopkin, Esq., George Beall, Esq., and Joseph Young, Esq.
October 15	Notice of Appeal filed by People's Counsel for Baltimore County.
April 21, 2000	Entry of Appearance filed by People's Counsel for Baltimore County (also provided a letter/outline of the case).
May 10	Board of Appeals convened for hearing; postponement request granted.

June 30, 2000	Joint Motion and Memorandum in Support of Summary Denial filed by Richard Burch, Esq., Donald Proctor, Esq., Deborah Dopkin, Esq., and Joseph Young, Esq.
July 5	Hearing Day #1 held by the Board of Appeals.
July 6	Hearing Day #2 held by the Board of Appeals.
August 9	Hearing Day #3 – continued on the record.
September 13	Hearing Day #4 held by the Board of Appeals.
September 14	Hearing Day #5 held by the Board of Appeals.
October 24	Letter from Deborah Dopkin, Esq. re: Council's comprehensive rezoning and how it affects this matter. (Parties differ as to whether this should be dismissed as moot or stayed until various court actions have been resolved – request that this matter be considered by the Board on 10/26/00). Response from Julius Lichter, Esq. opposing any stay or dismissal of this matter; expects to proceed with the hearing on 10/26/00.
October 25	Letter from Joseph Young, Esq. in response to Mr. Lichter's 10/24/00 letter – Developer opposed dismissal but indicated intent to request stay.
October 26	The Board convened for hearing Day #6; argument on Motion to Dismiss

Exhibits submitted at the hearing before the Board of Appeals

Appellant /Petitioner's Nos.:

- 1-Request for Special Hearing dated 1/27/99
- 1A-Plat to accompany
- 2-Order issued on Petition for Special Hearing Case #99-282-SPH
- 3-H.O. Findings of Fact and Conclusions of Law 9/21/99
- *4-Plat, Greenspring Racquet Club 4/13/99 (per Ex. 13)
- *5-Plat, Zoning Map –B.Co. (prev. Exhibit 11)
- *6-Aerial Photo, BC Photo, Greenspring Station and surrounding areas 3/1996 (prior Exhibit 12)
- 7-Letter from C. Olsen, Dir/DPW to P. Keller, Dir/Planning 5/16/00
- 8-Special Admission of Robert Freilich in Case No. 99-282-SPH
- 9-Federal Flood Ins. Rate Map, Balto. Co., MD 2/2/89
- 10-Letter from Deborah Dopkin 6/19/90 re Greenspring Racquet Club Waiver No. 89-73
- 11-1983 site plan – “addition to Green Spring Station”
- 12-Master Plan (2000-2010) (Note: to be submitted by Dino LaFiandra)
- 13-Master Plan (1989 –2000)
- 14-Map 34 of 2010 Master Plan
- *15-Photo Board – 4/14/99 (prev. Exhibit 14)
- 16A-2-10-99 – Letter from Lenhart, Chief Eng. to Gwen Stephens
- B-3-5-99 –Letter from PDM -Carl Richards to Julius Lichter
- C-2-10-99 –Letter from DEPRM –B. Seeley to Arnold Jablon
- D-2-17-99 –Letter from Bureau of Dev. Planning review –
R. Bowling to A. Jablon

(Continued Petitioner's
Exhibit Nos.)

E-3-16-99 – Letter from P. Keller to A. Jablon
17 – Definition "Webster's" of contiguous

Appellant /Protestant's Nos. 1-Copy of letter – Balto Co. Office of Planning 3/16/99
 2-Letter 2-10-99
 3-Letter of 12/15/99 to Rascoe from Kenneth McDonald @
 State Highway
 4-Calculations of Mr. Davis re: shadow of building

November 16, 2000 Public Deliberation conducted by the Board of Appeals.

May 2, 2001 Opinion /Ruling on Motion to Dismiss issued by the Board; Protestants'
Motion to Dismiss is GRANTED.

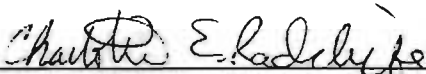
May 30 Petition for Judicial Review filed in the Circuit Court for Baltimore
County by Howard G. Goldberg, Esquire, on behalf of Greenspring
Racquet Club, Inc., William Hirshfeld and Loretta Hirshfeld.

June 7 Certificate of Notice sent to interested parties.

July 30, 2001 Transcript of testimony filed.

July 30, 2001 Record of Proceedings filed in the Circuit Court for Baltimore County.

Record of Proceedings pursuant to which said Order was entered and upon which said Board acted are hereby forwarded to the Court, together with exhibits entered into evidence before the Board. However,*all tangible material or evidence of an unwieldy or bulky nature will be retained in the Board of Appeals office and upon request of the parties or the Court will be transmitted to the Court by whomever institutes the request.


Charlotte E. Radcliffe, Legal Secretary
County Board of Appeals, Room 49 Basement
Old Courthouse, 400 Washington Avenue
Towson, Maryland 21204 (410-887-3180)

Howard G. Goldberg, Esq.
c: Richard C. Burch, Esquire
K. Donald Proctor, Esquire
Deborah C. Dopkin, Esquire
George Beall, Esquire
Joseph H. Young, Esquire
Dino LaFiandra, Esquire
Stuart D. Kaplow, Esquire
People's Counsel for Baltimore County

6/7/01

IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY

PETITION OF:
GREENSPRING RACQUET CLUB, INC.
10803 FALLS ROAD
BALTIMORE, MD 21093

AND

WILLIAM HIRSHFELD
LORETTA HIRSHFELD
3604 BARBERRY COURT
BALTIMORE, MD 21208

FOR JUDICIAL REVIEW OF THE OPINION
THE COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY
OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204

CIVIL ACTION
No. 3-C-01-5738

IN THE MATTER OF
GREENSPRING RACQUET CLUB, INC.-CP.
LORETTA & WILLIAM HIRSCHFELD-LO
FOR A SPECIAL HEARING ON PROPERTY
LOCATED ON THE NORTH EAST SIDE
FALLS ROAD, 429 FEET EAST OF CENTER-
LINE GREENSPRING VALLEY ROAD
(10803 FALLS ROAD)

8TH ELECTION DISTRICT
3RD COUNCILMANIC DISTRICT

CASE NO. 99-282-SPH

* * * * *

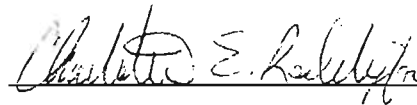
CERTIFICATE OF NOTICE

Madam Clerk:

Pursuant to the provisions of Rule 7-202(e) of the Maryland Rules of Procedure, Charles L. Marks, Donna M. Felling and Lawrence S. Wescott, constituting the of the County Board of Appeals of Baltimore County, has given notice by mail of the filing of the Petition for Judicial Review to the representative of every party to the proceeding before it; namely, Howard G. Goldberg, Esquire, and GORDON, PIKE & BESCHE, 2 E. Fayette Street, Baltimore, MD 21202; Counsel for Petitioners; *Greenspring Racquet Club, Inc.*, 10803 Falls Road, Baltimore,

RECEIVED AND FILED
01 JUN -7 AM 11:06
CLERK OF THE CIRCUIT COURT
BALTIMORE COUNTY

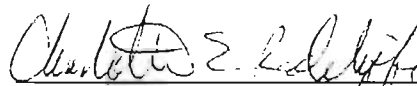
MD 21093, and *William & Loretta Hirshfeld*, 3604 Barberry Court, Baltimore, MD 21208, Petitioners; Richard C. Burch, Esquire, MUDD, HARRISON AND BURCH, 105 W. Chesapeake Avenue, Suite 300, Towson, MD 21204, Counsel for Protestants - *Mullan Pavilions Limited Partnership, Mullan Greenspring Limited Partnership, and Thomas F. Mullan, III*, at 2330 W. Joppa Road, Suite 210, Lutherville, MD 21093; K. Donald Proctor, Esquire, 102 W. Pennsylvania Avenue, Suite 505, Towson, MD 21204, Counsel for Protestants - *Norman W. Wilder, James Tehay*, and the *Meadows of Greenspring Homeowners Assoc., Inc.*, at 5 Yearling Way, Lutherville, MD 21093; George Beall, Esquire and Joseph H. Young, Esquire, HOGAN & HARTSON, LLP, 111 S. Calvert Street, Suite 1600, Baltimore, MD 21202, Co-Counsel, and Deborah C. Dopkin, Esquire, Mercantile-Towson Building, 409 Washington Avenue, Suite 920, Towson, MD 21204; as Counsel for Protestants - *Johns Hopkins Suburban Health Center, LP*, at 2330 W. Joppa Road, Suite 301, Lutherville, MD 21093; and Peter Max Zimmerman, PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, 400 Washington Avenue, Towson, MD 21204; a copy of which notice is attached hereto and prayed that it may be a part hereof.



Charlotte E. Radcliffe, Legal Secretary
County Board of Appeals, Rm. 49-Basement
Old Courthouse, 400 Washington Avenue
Towson, Maryland 21204 (410-887-3180)

I HEREBY CERTIFY that a copy of the foregoing Certificate of Notice has been mailed to Howard G. Goldberg, Esquire, and GOLDBERG, PIKE & BESCHE, 2 E. Fayette Street, Baltimore, MD 21202; Counsel for Petitioners; *Greenspring Racquet Club, Inc.*, 10803 Falls Road, Baltimore, MD 21093, and *William & Loretta Hirshfeld*, 3604 Barberry Court, Baltimore, MD 21208, Petitioners; Richard C. Burch, Esquire, MUDD, HARRISON AND BURCH, 105 W. Chesapeake Avenue, Suite 300, Towson, MD 21204, Counsel for Protestants - *Mullan Pavilions Limited Partnership, Mullan Greenspring Limited Partnership, and Thomas F.*

Mullan, III, at 2330 W. Joppa Road, Suite 210, Lutherville, MD 21093; K. Donald Proctor, Esquire, 102 W. Pennsylvania Avenue, Suite 505, Towson, MD 21204, Counsel for Protestants - ^{Michael Friedman} Norman W. Wilder, ~~James Tehay~~, and the Meadows of Greenspring Homeowners Assoc., Inc., at ^{1 Bluestone Rd} ~~5 Yearling Way~~, Lutherville, MD 21093; George Beall, Esquire & Joseph H. Young, Esquire, HOGAN & HARTSON, LLP, 111 S. Calvert Street, Suite 1600, Baltimore, MD 21202, Co-Counsel, and Deborah C. Dopkin, Esquire, Mercantile-Towson Building, 409 Washington Avenue, Suite 920, Towson, MD 21204; as Counsel for Protestants - Johns Hopkins Suburban Health Center, LP, at 2330 W. Joppa Road, Suite 301, Lutherville, MD 21093, and Peter Max Zimmerman, PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, 400 Washington Avenue, Towson, MD 21204, this 7th day of June, 2001.



Charlotte E. Radcliffe, Legal Secretary
County Board of Appeals, Room 49 Basement
Old Courthouse, 400 Washington Avenue
Towson, Maryland 21204 (410-887-3180)



County Board of Appeals of Baltimore County

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

FAX 410-887-3182

JUNE 7, 2001

Richard C. Burch, Esquire
MUDD, HARRISON & BURCH
105 W. Chesapeake Ave., Ste 300
Towson, MD 21204

K. Donald Proctor, Esquire
PROCTOR & SHACH, LLC
102 W. Pennsylvania Ave., Ste. 505
Towson, MD 21204

George Beall, Esq. & Joseph H. Young, Esq.
HOGAN & HARTSON, LLP
111 S. Calvert Street, Ste 1600
Baltimore, MD 21202

Deborah C. Dopkin, Esquire
409 Washington Avenue, Ste 920
Towson, MD 21204

RE: Civil Action No. 3-C-01-5738
Greenspring Racquet Club-CP
William & Loretta Hirshfeld-LO
99-282-SPH

Dear Counsel:

Notice is hereby given, in accordance with the Maryland Rules of Procedure, that a Petition for Judicial Review was filed on May 30, 2001, in the Circuit Court for Baltimore County for Baltimore County from the decision of the County Board of Appeals rendered in the above matter. Any party wishing to oppose the petition must file a response within 30 days after the date of this letter, pursuant to the Maryland Rules.

Please note that any documents filed in this matter, including, but not limited to, any other Petition for Judicial Review, must be filed under Civil Action No. 3-C-01-5738.

Enclosed is a copy of the Certificate of Notice, which has been filed in the Circuit Court.

Very truly yours,

Charlotte E. Radcliffe
Legal Secretary

c: Meadows of Greenspring Homeowners Association, Inc., Norman Wilder & James Tehay
Mullan Pavilions Limited Partnership, et al
Johns Hopkins Suburban Health Center, L.P.
Stuart Kaplow, Esquire for Foxleigh Enterprises
Jack Dillon /Valleys Planning Council
People's Counsel for Baltimore County
Pat Keller, Director /Planning
Lawrence M. Schmidt /Zoning Commissioner
Arnold Jablon, Director /PDM





County Board of Appeals of Baltimore County

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

FAX 410-2687-3182

JUNE 7, 2001

TO
W
C
P
F
F
F
Y

Richard C. Burch, Esquire
MUDD, HARRISON & BURCH
105 W. Chesapeake Ave., Ste 300
Towson, MD 21204

K. Donald Proctor, Esquire
PROCTOR & SHACH, LLC
102 W. Pennsylvania Ave., Ste.505
Towson, MD 21204

George Beall, Esq. & Joseph H. Young, Esq.
HOGAN & HARTSON, LLP
111 S. Calvert Street, Ste 1600
Baltimore, MD 21202

Deborah C. Dopkin, Esquire
409 Washington Avenue, Ste 920
Towson, MD 21204

RE: Civil Action No. 3-C-01-5738
Greenspring Racquet Club-CP
William & Loretta Hirshfeld-LO
99-282-SPH

Dear Counsel:

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Enclosed is a copy of the Certificate of Notice, which has been filed in the Circuit Court.

Very truly yours,

Charlotte E. Radcliffe
Legal Secretary

c: Meadows of Greenspring Homeowners Association, Inc., Norman Wilder & James Tehay
Mullan Pavilions Limited Partnership, et al
Johns Hopkins Suburban Health Center, L.P.
Stuart Kaplow, Esquire for Foxleigh Enterprises
Jack Dillon /Valleys Planning Council
People's Counsel for Baltimore County
Pat Keller, Director /Planning
Lawrence M. Schmidt /Zoning Commissioner
Arnold Jablon, Director /PDM





County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180
FAX: 410-887-3182
June 7, 2001

Howard G. Goldberg, Esquire
GOLDBERG, PIKE & BESCHE
2 E. Fayette Street
Baltimore, MD 21202

RE: Civil Action No. 3-C-01-5738
Greenspring Racquet Club, Inc.-CP
William & Loretta Hirshfeld -LO
99-282-SPH

Dear Mr. Goldberg:

In accordance with the Maryland Rules of Procedure, the County Board of Appeals is required to submit the record of proceedings of the petition for judicial review which you have taken to the Circuit Court for Baltimore County in the above-entitled matter within sixty days.

The cost of the transcript of the record must be paid by you. In addition, all costs incurred for certified copies of other documents necessary for the completion of the record must also be at your expense.

The cost of the transcript, plus any other documents, must be paid in time to transmit the same to the Circuit Court within sixty days.

Enclosed is a copy of the Certificate of Notice which has been filed in the Circuit Court.

Very truly yours,

A handwritten signature in cursive script, reading "Charlotte E. Radcliffe".

Charlotte E. Radcliffe
Legal Secretary

Enclosure

c: Greenspring Racquet Club, Inc.
William & Loretta Hirshfeld



5/30/01
IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY

GREENSPRING RACQUET CLUB, INC.
10803 FALLS ROAD
BALTIMORE COUNTY, MARYLAND

and

WILLIAM HIRSHFELD
LORETTA HIRSHFELD
3604 BARBERRY COURT
BALTIMORE, MARYLAND 21208

FOR JUDICIAL REVIEW OF THE DECISION
OF THE COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY
ROOM 49, OLD COURTHOUSE, 400 WASHINGTON
AVENUE, TOWSON, MARYLAND 21204

IN THE CASE OF: IN THE MATTER OF
GREENSPRING RACQUET CLUB, INC.
CASE NO. 99-282-SPH

* * * * *

PETITION FOR JUDICIAL REVIEW

Petitioners Greenspring Racquet Club, Inc., William Hirshfeld and Loretta Hirshfeld, by and through counsel, Howard G. Goldberg, and Goldberg, Pike & Besche, pursuant to Maryland Rule 7-202(b), hereby petition the Circuit Court for Baltimore County for judicial review of the May 2, 2001 Order of the County Board of Appeals of Baltimore County in its Case No. 99-282-SPH, *In the Matter of Greenspring Racquet Club, Inc.*

The Petitioners state:

1. They were parties to the County Board of Appeals proceeding of which review is sought;
2. William and Loretta Hirshfeld are the owners, and Greenspring Racquet Club, Inc.

RECEIVED AND FILED

01 MAY 30 PM 2:45

CLERK OF THE CIRCUIT COURT
BALTIMORE COUNTY

RECEIVED
COUNTY BOARD OF APPEALS
01 JUN -5 PM 2:58

CIVIL ACTION

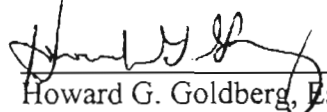
No.:

3-C-01-005738

is the lessee, of the property which was the subject of the appeal before the County Board of Appeals.

WHEREFORE, Petitioners respectfully request judicial review of the above-noted decision.

Respectfully submitted,



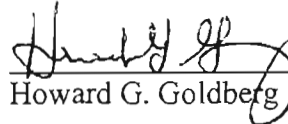
Howard G. Goldberg, Esquire
GOLDBERG, PIKE & BESCHE
2 E. Fayette Street
Baltimore, Maryland 21202
410-468-1360

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 20 day of May, 2001, a copy of the foregoing

Petition for Judicial Review was mailed, postage prepaid, to:

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


Howard G. Goldberg

5/2/01
IN THE MATTER OF
THE APPLICATION OF
GREENSPRING RACQUET CLUB, INC. -
C.P.; LORETTA & WILLIAM HIRSHFIELD-
LEGAL OWNERS /PETITIONERS FOR A
SPECIAL HEARING ON PROPERTY
LOCATED ON THE NE/S FALLS ROAD,
429' E OF C/L GREENSPRING VALLEY RD
(10803 FALLS ROAD)
8TH ELECTION DISTRICT
3RD COUNCILMANIC DISTRICT

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* Case No. 99-282-SPH
*

* * * * *

OPINION /RULING ON MOTION TO DISMISS

This case comes to the Baltimore County Board of Appeals based on an appeal of the "Findings of Fact and Conclusions of Law" rendered by the Deputy Zoning Commissioner by Order dated September 21, 1999. The appeal to this Board was timely filed by the Protestants, the Developer /Petitioners; and People's Counsel for Baltimore County (relating to that portion of the Deputy Zoning Commissioner's Order and Ruling on "motions for interpretation of Bill 111-98"; and the interlocking Order of the Deputy Zoning Commissioner).

The issues were heard by the Board over a period of 5 days in public sessions. Counsel for Appellants /Petitioners ("Petitioners") included Robert H. Freilich, Esquire; Julius W. Lichter, Esquire; and Dino LaFiandra, Esquire, appearing on behalf of William and Loretta Hirshfield and Greenspring Racquet Club, Inc. Richard C. Burch, Esquire, appeared on behalf of Appellant /Protestant, Mullan Greenspring Ltd. and Mullan Pavilions Ltd. Partnership; K. Donald Proctor, Esquire, appeared on behalf of Appellants /Protestants, Norman W. Wilder, James Tehay, and the Meadows of Greenspring Homeowners Association, Inc.; Johns Hopkins Suburban Health Center, L.P., was represented by Deborah C. Dopkin, Esquire; George Beall, Esquire; and Joseph H. Young, Esquire. Peter Max Zimmerman, People's Counsel for Baltimore County, appeared on behalf of that Office.

This case involves a Petition for Special Hearing to approve a development plan that exceeds the height and area standards under *Baltimore County Zoning Regulations* (BCZR) § 235.C.1. The Deputy Zoning Commissioner had taken two days of testimony on April 19, 1999 and June 17, 1999. At that juncture, it became obvious that an interpretation of the recently enacted Bill 111-98 was necessary, specifically § 235.C.2.C. The basic question is one of whether or not the subject of the special hearing request was "contiguous" to an R.C. zone. The Order of the Deputy Zoning Commissioner is self-explanatory. The Deputy Zoning Commissioner ordered "that the property which is the subject of this special hearing request is not contiguous to an R.C. zone, and, therefore, the Petitioner is not required to comply with the requirements of Section 235C.2.C." (p 4, Order of the Deputy Zoning Commissioner)

The Protestants at the commencement of the special hearing before the Board submitted a "Joint Motion and Memorandum in Support of Summary Denial." [T 7/05/00 pp 11-19] The Board ruled that it would preliminarily deny the Motion to Dismiss and suggested that, at the conclusion of the Appellant /Petitioner's case, the Protestants could renew their Motion. Until that time, the Motion to Dismiss was taken under advisement. [T 7/05/00 p 35]

At basic issue is the interpretation and application of Bill 111-98, codified now in BCZR § 235. Day one of the public hearing took place on July 5, 2000. Considerable time was expended on various motions filed by the respective parties. Reference is made to the comments made by the Chairman concerning the opening statements offered by Counsel and the various Motions pre-filed and made before the evidentiary portion of the hearing. [T 7/05/00, pp 33-34] Mr. Dino LaFiandra was the first witness called on behalf of the Petitioners. Mr. LaFiandra had prepared all of the applications before the various administrative agencies of Baltimore County. The Chairman ruled over Mr. Freilich's objections that that the hearing was limited to "the

appeal from the decision of the Deputy Zoning Commissioner, involving § 235 of the BCZR and also the question relating to the issue of the special exception.” Mr. LaFiandra opined that an application was prepared by the Petitioner requesting a special exception pursuant to Bill 111-98. Section 1 (§ 235 Special Regulations for B.M. lots within 750 feet of an RC zone). Mr. LaFiandra recited the provisions of § 235 [T 7/05/00, pp 46-48]. The witness also referenced the Zoning Commissioner’s Opinion and Order rendered on September 21, 1999, which was admitted as Petitioner’s Exhibit No. 3. [T 7/05/00, p 51]

On cross-examination, Mr. LaFiandra acknowledged that he represented the Greenspring Racquet Club and Mr. and Mrs. Hirshfeld. He indicated that he believed Mr. Howard Brown compensated his firm in connection with the case. He also opined that “nowhere in his petition did (he) asked the Zoning Officer to rule that any portion of § 235.C.2 did not apply [T 7/05/00, p 57]. Mr. LaFiandra indicated that “the project which was submitted on the plat accompany(ing) the application qualified for an exemption under BCZR § 235.C.2, and therefore the requirements of BCZR § 235.C.1 do not apply.” [pp 60-61]

Mr. Stephen Warfield also testified. He had been retained by William and Loretta Hirshfeld, the owners of the subject property. Mr. Warfield is engaged in environmental engineering and employed by Matis-Warfield. He had prepared the plan with regard to the application for special exception. He had also performed most of the work on Petitioner’s Exhibit No. 1A, and was familiar with the BCZR provisions. He cited experience on engineering projects in Baltimore County which were in the area of approximately 250 to 300; and was quite familiar with the Greenspring complex and the subject area. He stated that he was familiar with the neighboring “Meadows of Greenspring,” and that the subject site was zoned B.M., with a small portion on the west end zoned R.O. (about 3,960 sq. ft.). He opined that the height and

floor area ratios were in accord with Mr. LaFiandra's analysis of what was permitted in the B.M. zone in terms of height and floor area ratio. His firm developed the preliminary concept plans (Phase I) and works through the process with construction, floor plans, grading, stormwater management, and other concerns. His activity involves 5 feet outside the building and the architect is responsible for 5 feet in the building. He indicated that the subject site was approximately 5.3 acres, improved by a 125,000 square-foot building, single-story tennis barn, and surface parking. Under the proposal, the tennis barn would be removed and replaced with a five-story building, a six-story building, and a parking garage, which would all be connected. The total square footage of the office buildings, five-story and six-story, would be 242,000 square feet. [T 7/05/00, p 68] The first floor level would be at grade parking. There would be a total of 1,071 parking spaces which would be a four-story structure. He described the current uses in the Greenspring Station. Petitioner's Exhibit No. 4 was introduced, and the witness identified various sites in the exhibit. [pp 70-75] Mr. Warfield had examined the plat against the criteria spelled out in Bill 111-98 and § 235.C.2. He described the relationship of the B.M. property to the R.C. zones around it. At this point, questions were raised as to the expertise of Mr. Warfield. He was accepted by the Board as an expert in the fields of Civil Engineering and Environmental Engineering, reserving Protestants' right to object to any questions outside those parameters. [T 7/05/00, p 82] The witness opined that the R.C. 5 property at its closest point was about 150 feet away from the existing Racquet Club site. There is also a D.R. 1 zoned area between the two properties, mostly wooded with a stream running through it. The next R.C. area (R.C.2) was within 150 feet of the B.M. property [p 83]. He stated that the Racquet Club property did not touch or come into physical contact with any land within the R.C. zones. In his opinion, he did not believe that the D.R. zones touched the B.M. zone, nor were they contiguous

to the B.M. zone. It was also his opinion that the height and floor area ratios of the Petitioner's plan did not exceed the standards otherwise provided for a B.M. zone [p 85]

Thereafter, the witness was queried concerning BCZR § 502.1, Special Exception Requirements. He opined that the special exception, if granted, would not be detrimental to the health, safety, or general welfare of the locality involved. He opined that the parking requested met the Baltimore County requirements under the Code. He indicated that water runoff from the garage would "carry the water to where it drains right now, which is into the flood plain area and down to the stream and out." [p 90] Mr. Warfield discussed the roadway systems and areas in proximity. He indicated he had not performed an analysis concerning the streets within the Greenspring Station. He saw no flaws in the building that would cause panic or any other safety hazards involved in the building construction. The buildings proposed would meet all Baltimore County Code requirements. Schools and parks were not affected by development of this commercial project. He indicated that the building would meet the County requirements relative to the quality of the water effluent that came out of the storm drains. He indicated that "the stormwater management requirements would be met by applying for a waiver. There's a provision in the Code to allow for an increase of 10% in a two-year storm event peak flow which would actually have a decrease because we are decreasing the impervious areas on the site." [p 109] He further testified that, in fact, there would be a decrease on the stormwater flow. Because the building will be within the height tent, he indicated that the requirement for providing adequate light and air would be satisfied. [pp 109-114] In addition, it was Mr. Warfield's opinion that the structured parking actually allowed the Developer to reduce the impervious surface by stacking the parking and that more vegetation would be available because of the reduction in impervious areas, approximately 30,000 square feet reduction in impervious

areas, which would be vegetative, stabilized and landscaped. [p 114] Mr. Warfield indicated that no Public Works Agreements were involved in this project. [p 114]

On cross-examination, Mr. Warfield indicated that he had defined the footprint of the building. He did not design the building or the parking garage [pp 120-121]. Mr. Warfield was not familiar with the floor area ratio of other buildings within the Greenspring Station complex. The issue of compatibility was raised and that § 235.C.2 requires recommendations from the various County agencies; that is, the recommendations of the Directors of Planning, Environmental Protection & Resource Management; Permits & Development Management; and Public Works [p 125], "if the Board deemed that section applied." [p 126] References were made to whether or not Mr. Warfield had seen any affirmative recommendations from the Directors of Planning, Environmental Protection & Resource Management, Permits & Development Management, and/or Public Works. He indicated that he "did not recall" any "affirmative recommendations" but that the Office of Planning's recommendation was to scale down the building so it could be developed within the requirements of § 235.C.2 to make it compatible with the other uses. [p 126] Mr. Warfield agreed that he was not an expert in the area of compatibility as it related to development and zoning in Baltimore County. [p 129] Mr. Warfield acknowledged that the storm drain system for the project had not yet been designed. He also acknowledged that he did not believe there had been a wetland delineation performed. [p 130] He also opined that the water, oil, and grit from the garage would drain into a storm drain system that would be designed in the garage and it would drain into an oil /grit separator, and then into the rest of the storm drain system and out into the flood plain area. [p 134] Mr. Warfield's responses to the BCZR § 502.1 criteria were subject to cross-examination. Mr. Burch propounded questions concerning the 24-foot property entrance people were using (either legally

or illegally) owned by the Greenspring Inn, and whether or not the size limitation created a safety hazard in the event of an emergency. Special emphasis was placed upon the Board to review Appellant's Exhibit No. 4 and the limited access, the Protestants believed was applicable. Mr. Warfield stated that there was a County requirement that there be a 300-foot radius from where a fire truck would park and that the building met that requirement for fire access. Mr. Warfield acknowledged that there were about 100 to 150 parking spaces on the existing site for the racquet club and that the proposed parking facility would contain 1,070 spaces [pp 144-145]. He indicated that in terms of cars on the site at any given date and time, the proposed plan contemplates an additional 900 cars on the site at any given time then exists there today. [p 147] There was considerable cross-examination conducted relative to traffic conditions that existed at Greenspring Road and Falls Road, effects of lighting if the Petition were granted, sewer capacity, and questions relative to the floodplain.

Day two of the public hearing occurred on July 6, 2000. The Chairman acknowledged that Judge Bollinger had admitted Mr. Freilich to participate in the Deputy Zoning Commissioner's hearings, and Judge Fader had granted permission for his appearance before the Board on the morning of the current hearing, upon application of Mr. Lichter.

Mr. Robert W. Sheesley, President of ECHO Environmental Consultants, testified in support of the Appellants /Petitioners. The Board heard him outline his educational background and experience, and he was accepted as an expert in the field of environmental science. [T 7/06/00, pp 5-7] The witness was familiar with Bill 111-98, § 235.C.2(c) and based on the recommendations of the Directors of Planning, Environmental Protection & Resource Management, Permits & Development Management and Public Works," that the Zoning Commissioner determines if the proposed use is compatible, as determined in accordance with §

25-282 with the existing uses of the contiguous RC zone. He opined he was familiar with the site, the particulars of the case, and had performed a site evaluation. He was both clear and concise concerning his studies and "the effect of the property with regard to environmental impacts on either its own property or any adjacent properties." [T 7/06/00, p 10] Mr. Sheesley described the stream system tributary to the Jones Falls system that comes from the west side of the site, which separates one development parcel from another. There is an associated 100-year flood plain with it. His first visit was to determine if the proposed development was going to encroach in the flood plain and what could be done so that it would not present any greater impact than has already occurred by past development, as it develops in a different stage. His first impression was to make sure that the building envelope did not affect the flood plain nor would there be any violation of the flood plain. Mr. Sheesley referenced Appellant's Exhibit No. 1A, which he described in considerable detail [pp 13-16] with particular emphasis on the flood plain. He opined that [he] "instructed the people doing the sketch and design to stay out of the flood plain with any structure or any fill that would take capacity away from the flood plain." [p 16] He opined that, "except for the tiny corner of the property at the northwest, which is the OR, and a tiny corner of the property at the southwest, which is the OR-BM, the flood plain did not affect the Petitioner's property." [p 16] He stated that he had used FEMA maps in determining the flood plain location for the property [p 17] (Petitioner's Exhibit No. 8). The witness explained that surface water from the Petitioner's property flows to the west and southwest toward the flood plain, and then through the flood plain into the tributary. He opined that, based "on the design and the areas where the water would run off is generally smaller than it is now, it's going to be similar type of materials that collect over time that would be transported that are there now, so it is, in my opinion, it is not going to be any worse and maybe somewhat better as a

result of open areas and less impervious surface on the site.” [p 21] Mr. Sheesley also related that his investigation of the wetlands and that there was nothing that would happen relative to the Petitioner’s property that would affect off-site wetland. He had also heard the testimony of Mr. Warfield, and it was his opinion that there would not be any environmental impacts generated from the site relative to sewerage waste treatment. He opined that the sanitary sewer system was extended to the area in the 1970s to solve any then-existing problems. He acknowledged that capacity was used up to an extent, or almost used up, during development of the other areas of the Greenspring Station. He stated that there was only a specified amount left, but that a proposed moratorium in building did not occur because “there was supposed capacity within the sewer line; and apparently it has been reasserted since.” [p 24] He was not aware of any recommendations that were submitted from Environmental Protection or Public Works [p 24]. Mr. Sheesley also described the site vegetation and surrounding areas. He was not aware of any particular problems that would be present to prohibit the development of the site. Mr. Sheesley did believe that the use proposed for the site and the special exception requirements would not be detrimental to the health or safety of the community. [p 28] He also did not believe that the request for special exception would be inconsistent with the impermeable surface and vegetative retention provisions of the zoning regulations, but actually believed it would be to the benefit, since there was a decrease in the impermeable surface area. [p 29]

The witness was not as direct as the Board would have preferred relative to questions posed concerning the impact of proposed site changes as they would affect the Deep Run stream. [T 32] He did acknowledge that some drainage from the parking lot would go into Deep Run after going through some type of water quality management. He opined that the effect would be minimal due to the design of the garage which did not exist at the present time and the fact that

most of the materials would eventually evaporate. Questions concerning the flood plain and FEMA maps were explored. Mr. Sheesley had made ten site visits and acknowledged he had not field verified the location of the flood plain. [p 38] He acknowledged that Appellant's Exhibit No. 4 was not intended to represent existing conditions at the site and the impact that the Meadows subdivision had upon the site.

Mr. Burch continued questions relative to the location of the flood plain and the FEMA maps and the term "freeboard" as it applied to the site [p 43] – "to build a building, one must add an additional one-foot minimum elevation." Mr. Sheesley acknowledged that the freeboard was not depicted on Appellant's Exhibit No. 4 and therefore for development purposes the limit to the flood plain for purpose of development did not include the freeboard. [p 44] Mr. Sheesley opined that "the whole design of the system was set far enough into the property for this particular phase of the process, a concept plan, that more than allows for not only the floodplain elevation, but also the freeboard." [pp 44-45] Parking was also discussed at length and its effect on the stream area. Additional questions were posed concerning the additional demands that would be placed upon water and sewer resources in the area. Mr. Sheesley did not believe there would be any significant impact as to the streams or tributaries to the site if the site were developed, [p 54] and that stormwater management would lead to an actual construction design at the second phase of the development process after preliminary approval was given; that is, the building permit stage. [p 58] The discretionary approval comes first, followed by the permit stage, and if any needs are to be adjusted, it is done at that time. Nothing in Bill 111-98 or BCZR 502.1 or the BM zone required freeboarding at this point in the process. [p 58]

Mr. Wes Guckert also testified. He is president of The Traffic Group. He was accepted as an expert in the fields of traffic and traffic engineering. He was familiar with Petitioner's

Exhibit No. 1A. He was first retained in June 1998 to examine the site traffic, and possible future site traffic if the property were developed. He examined traffic conditions along Falls Road and Md Route 25 and various levels of service. Referencing Petitioner's Exhibit No. 4, he described the site. He opined that the access which presently existed complied with Baltimore County Code requirements. It was capable of handling emergency vehicles. [p 74 and p 76] Additional questions were presented concerning traffic conditions outside the site. A level of service classified as "D" existed at the time of the Hearing Officer's hearing under the Basic Service Maps. Appellant's Exhibit No. 7 was introduced and discussed, which reflected a level of "D" service. The level of service in April 1999 was "D". Since that time, the County adopted the Basic Service Maps.

Mr. Guckert also believed that signal time and improving upon them would also assist in traffic flow and control as well as the air quality from emissions. He indicated that arterial improvements had been undertaken by the State Highway Administration that would eliminate present-day service level of an "F" (failing) condition. On cross-examination, Mr. Guckert indicated that the current designation for the level of service at Greenspring Valley and Falls Road was a "F" for basic service designation. [p 114] He also agreed that for adequate facilities analysis today as a matter of law, a building permit would not be granted. [p 114] Mr. Guckert also acknowledged that the Planning Board in May 2000 did nothing and left it alone. [p 115] A letter from Mr. Kenneth McDonald, Acting Division Chief, Traffic Engineering Access Permits Division, State Highway Administration, was admitted as Protestants' Exhibit No. 3 which reflects why Md Route 25 at its intersect with 695 up to Seminary Avenue was a level of service "F". [119] Mr. Guckert stood by his premise that the State Highways concern was cured by the signalization adjustment on Seminary Avenue (Appellant's Exhibit No. 7). Mr. Guckert

acknowledged the possible presence of photo cameras at the Falls and Joppa Roads intersection and that these may have been installed for safety reasons. Mr. Guckert acknowledged that his office had not done any independent studies on any of those intersections (Falls and Joppa, Falls and Greenspring, Falls and Seminary) since April 1999. [123]

Day three was scheduled for August 29, 2000 and was postponed by request and Board approval due to the death in the immediate family of a chief witness for the Petitioner /Developer. Day four took place on September 13, 2000. Mr. William Hirshfeld testified. He is the majority owner with his wife of the Greenspring Racquet Club. He acquired the property in 1975 by way of a lease from the Peddy Enterprises. He purchased it 15 years later. He explained that his option to buy in 1990 while zoned B.R. Some of the neighbors at the Meadows subdivision were members of the club and could either drive or walk to the facility. He indicated he had applied for a plan for development to the Development Review Committee before Bill 111-98.

On cross-examination, he could identify only two specific members who resided in the Meadows subdivision, but believed others existed within the 1500 – 2000 membership of the club. He acknowledged B.M. zoning in the middle of the building, identifying the BM building in the middle of the plat. (Appellant's Exhibit No. 4) Mr. Hirshfeld admitted that, since Bill 111-98 restricted the building size to 35 feet, he could build a smaller office building, but it would be economically unfeasible. [T 9/13/2000, p 16] He also acknowledged that in 1992 the zoning changed from B.R. to B.M

Mr. Sean Davis was called as a witness. After stating his education and professional experience, he was accepted as "an expert in land use planning." [T 9/13/00, p 26-27] The witness was part of a development group to make recommendations on how the project could be

improved from a site plan standpoint. He was also to evaluate how the development proposal related to Bill 111-98 and an analysis of same. He began his studies on the project in February 1999 and outlined the information available from Baltimore County and their rules and regulations that applied to the site. He reviewed the site plan and the CRG review in 1983. A chronological list of building permits approved through the years was reviewed (Petitioner's Exhibit No. 11). The procedure for material amendments to an approved plan was also reviewed. The Master Plan was dealt with by the Project Team, consisting of Wes Guckert, Traffic Engineering; Steve Warfield, Project Engineer; and Bob Sheesley, Environmental Science. [T p 36]

The Baltimore County Master Plan was admitted as Petitioner's Exhibit No. 12. Mr. Davis opined that the Master Plan covered from 1989 to 2000. It was adopted on February 5, 1990, and that it was in effect when Bill 111-98 was adopted. [p 38] On the 2000 Master Plan, the property was described as a commercial and office use. [T 9/13/00, p 41] The 2010 Master Plan also describes the area as a commercial office use. The URDL (urban rural demarcation line) was the subject of discussion. "For the most part, intense urban development is located within the URDL line, and the Greenspring Racquet Club facility is within the "URDL" line." [p 44] Mr. Davis discussed County objectives both within and outside of the URDL. [pp 44-46] The Meadows was also within the URDL. A commercial node was also discussed and how it functions within the Master Plan concept. Mr. Davis described the Greenspring Racquet Club within the 2000 – 2010 Master Plan as a "commercial node" that, "is to serve those residents immediately surrounding it and further to the north." [p 49] He related the roadway system, commercial activity, and variety of uses associated with the site; and those office buildings which presently existed greater than 35 feet within the Greenspring complex. He stated the

Master Plan policies and how he believed them to be relevant to the subject property. [pp 53-54] He indicated that parking was included in the floor area calculations because the parking structure as proposed was physically attached to the building, and in his opinion, a "parking structure should never count against your floor area, because everybody in the industry is really focusing on developing parking structures to reduce the asphalt, so the planning and zoning people are interested in having developers build parking structures to reduce that asphalt." [pp56-57] It was his opinion that "in terms of the actual legality, because the parking structure is connected, the floor area ratio was 2.57, which in his opinion was still well under the 4.0 permitted. [p 57]

Mr. Davis also opined as to what constituted a commercial corridor, [p 67] and that in his opinion the project complied with the State's Comprehensive Smart Growth principles which referenced concentrated development in areas with existing infrastructure. He indicated that the subject site had sewer, water, and appropriate zoning but for Bill 111-98. In his opinion, the subject site was currently being underutilized and had every opportunity to be redeveloped. And again, smart growth legislation encouraged maximum use of the existing infrastructure, to promote and encourage creative redevelopment where appropriate.

Mr. Davis opined concerning the various studies and products that he had utilized relative to the conditions with regard to the Greenspring Station community. A number of exhibits were introduced into evidence and explained in considerable detail by Mr. Davis. Mr. Davis acknowledged that the B.M. property did not touch in any way upon the R.C zone; and that the closest R.C. zone was the R.C. 5 zone, approximately 150 feet away from the subject property. [p 91] He also indicated that the R.C. 2 zone was over 350 feet away from the subject property, and that in no area did the R.C. touch the B.M. [p 91]

Counsel for the Appellants /Petitioners walked Mr. Davis through Appellant's Exhibit No. 4, a summary analysis which in essence was the planning issues evaluated that his firm had developed which "pulls together all the site opportunities and constraints (along with the existing conditions....)" [p 93]. These issues are described in detail in the transcript, pp 93 through 110. Mr. Davis also opined concerning his findings relative to § 502.1, and stated his opinion concerning the definition of "locality" and its applicability to the site. [pp 123-149] Mr. Davis again stated that the proposal met the floor area ratio requirements since they do not exceed the standards otherwise permitted in a B.M. zone. The standards permitted in the B.M. zone are 100 feet and 4.0 FAR or "75 feet and 2.57 floor area ratio significantly less than what was permitted under the B.M. underlying zone." [p 150] It was Mr. Davis's stated opinion that he had made an analysis of 15 sites throughout Baltimore County similarly situated, plus or minus 5 acres, zoned B.M., within 750 feet and he found that in almost every case, the impact of this use in those sites would be more egregious than here. In no instance was it better than here. [pp 175-176]

Day five continued on September 14, 2000 with the testimony of Mr. Sean Davis and cross-examination by Protestants' counsel. Questions were posed concerning the flood plain, freeboard, stormwater management, floor area ratios, compatibility issues, uses within the Greenspring complex, the Basic Service Map and levels of service, the roadway system, building elevation, Baltimore County approval required by § 235.C, proposed design factors, safety issues, traffic congestion and flow. Mr. Freilich objected to Mr. Burch's continued cross-examination on the basis that the Board, in permitting same, was being both "arbitrary and capricious" and that in continuing this type of cross-examination, "the actions of these protestors constituted abuse of process." [p 146] The Board responded appropriately on pages 147-148 of the transcript.

Day six, October 26, 2000, was an abbreviated session primarily given to closing arguments. Protestants basically argued that there were two questions that needed to be addressed by the Board, the first of which was the case should be dismissed as moot in light of the comprehensive rezoning of the property; and second that the Petitioner had not met its burden and could not meet its burden under § 235.C of the BCZR. Both sides were given an opportunity to orally argue their respective points; and the Board indicated that it would review the transcript, all of the evidence taken during the previous hearing days, along with previous memorandums that had been submitted, and that a public deliberation would be scheduled at which time the Protestants' Motion to Dismiss would either be granted or denied. The date of November 16, 2000 was established to publicly deliberate exclusively on the Motion to Dismiss.

The issue before the Board involves an appeal from the decision of the Deputy Zoning Commissioner in which the Petitioner's request for special hearing to approve a development plan which exceeded the height and area standards for buildings, as contained within § 235.C of the *Baltimore County Zoning Regulations* (BCZR) was denied. The principal zoning regulations applicable are codified in § 235.C of the BCZR (Bill 111-1998). Section 235.C of the BCZR provides:

Special Regulations for B.M. Lots Within 750 Feet of an R.C. Zone.

Notwithstanding other provisions of these zoning regulations to the contrary, if the exterior wall of any proposed building located on a B.M. lot is within 750 feet of an R.C. Zone, the provisions of this section apply to the entire lot. The provisions of this section do not apply if, as of October 5, 1998, the lot is governed by a C.R., I.M., C.T., or C.C.C. District or is located in a planned unit development or in the White Marsh or Owings Mills growth areas. (All aspects not governed by the provisions of this section are governed by all other applicable provisions of these zoning regulations.)

235.C.1 Except as provided in Section 235.C.2:

A. The height of a building may not exceed 35 feet; and

- B. The floor area ratio of a building may not exceed 0.5.
- 235.C.2 The Hearing Officer may approve a plan which exceeds the height and area standards in Section 235.C.1 if:
- A. The requirements of Section 502.1 are met;
 - B. The proposed height and floor area ratio requirements do not exceed the standards otherwise permitted for a B.M. Zone; and
 - C. Based on the recommendations of the Directors of Planning, Environmental Protection and Resource Management, Permits and Development Management and Public Works, the Hearing Officer determines that the proposed use is compatible, as determined in accordance with Section 26-282, with the existing uses of the contiguous R.C. Zone.

From the facts of the case, the Board has determined the following:

1. It is undisputed that the exterior wall of the proposed building is located in a B.M. zone; and is within 750 feet of an R.C. zone;
2. The lot is not located in a planned unit development or in the White Marsh or Owings Mills growth area. These are the exceptions set forth in § 235. Since they do not apply, § 235 is applicable.
3. Petitioner is proposing a building that exceed 35 feet in height and a floor area ratio greater than 0.5. Because the tallest of the proposed buildings to be constructed on the subject site is 78 feet in height and the floor area ratio of the buildings and parking garage is 2.56, the Board has determined that the Petitioner must also satisfy the provisions of § 235.C.2.A, B, and C.

The first question which the Board will seek to address is whether the property is or is not contiguous to an R.C. zone and whether or not § 235.C.2C applies to the development proposal. Simply stated, is the site zoned B.M. contiguous with the R.C. zone? To address that basic

question, the Deputy Zoning Commissioner requested briefs from both sides supporting their respective positions. In addition, Foxleigh Enterprises filed an "amicus curiae" memorandum in support of Petitioner /Developer's stance that the Petitioner's lot was not contiguous with an R.C. district. All three briefs were well written and more than adequately expressive of their various opinions. The Board members had an opportunity to review same subsequent to the Petitioner /Developer's closing of their case (from the file of the Zoning Commissioner in addition to Petitioner's Exhibit No. 7 [Bill 111-98]). The matter is an interpretive one and whether or not there is a "contiguous" R.C. zone present here, where the subject property's boundary is close to two R.C 5 zones by 150 feet and 350 feet respectively, but does not immediately border those zones.

Counsel for all the litigants have property cited that the cardinal rule of interpretation is "to ascertain and give effect to the intent of the legislative body which enacted the statute." *Harford Co. v. McDonough*, 535 Md.App. 119, 123 (1998) In so doing, it is also well established that such laws should be literally construed to accomplish the plain purpose and intent. *Aspen Hill Adventure v. Montgomery County Council*, 265 Md 303, 308 (1972), citing *Landay v. Board of Appeals*, 3 App 173 Md 460, 466 (1938).

Section 101 of the *Baltimore County Code* does not specifically define the word "contiguous." Therefore, it becomes necessary to relate the term to the ordinarily accepted definition as set forth in the most recent edition of *Webster's Third New International Dictionary of the English Language*. The word "contiguous" is defined by *Webster* in the following order:

to touch on all sides...**1a**: touching along boundaries often for considerable distances...**b**: next to or adjoining with nothing similar intervening...**c**: nearby; close; not distant...**d**: continuous, unbroken, uninterrupted: touching or connected throughout....

In examining the interpretation of the word "contiguous," the Board has had the benefit of reviewing the various briefs submitted by the respective parties and an *amicus curiae* brief before the Zoning Commissioner. While there is merit in the briefs submitted by the Petitioner /Developer to suggest that "contiguous" means in actual contact or touching, which comes from the two Latin words "con" and "tangere", it would seem to suggest that there must be a "touching" at least on one side. However, this Board in reaching its conclusion has also afforded considerable weight to the premise that all parts of the statute must be read together to find the intention as to any one part; and that all parts are to be reconciled and harmonized if possible. The same principle applies in examining the text of a zoning ordinance. Ordinarily the *Webster* definition of "contiguous" does embody not only the sense of touching but also the sense of "near, but not necessarily touching." Admittedly, the term infers "not distance," but again that is interpretive, subject to the ultimate goal and intent of the County Council.

It is evident to this Board that the primary purpose of the ordinance was to protect R.C. zoned land that comes within 750 feet of B.M. lots. In that regard, this Board likens § 235.C to other stated conditions that have created "residential transitional areas" that seek to protect existing residential areas (BCZR § 1B01.B et seq). Such statutory provisions create essentially a 100-foot buffer zone that protects residential areas from new development, regardless of intervening uses such as roads or other naturally occurring boundaries that may exist.

The Board concludes that § 235.C must be read in *pari materia* with similar provisions in the regulations which apply standards based upon proximity of a proposed development, regardless of whether a proposed site and the existing areas intended to be protected actually abut or touch one another. *People's Counsel v. Prosser Co, Inc.*, 119 Md.App.150, 171 (1998) This Board, based on the testimony and evidence produced at the hearing and its analysis of the

word "contiguous" in attempting to assess the legislative intent of the County Council has concluded that the evident purpose of the ordinance was to protect the R.C. zones that come within 750 feet of the subject property. Section 235.C clearly reflects a concern on the part of the County Council that large office development can have on the nearby population in an R.C. zone. It clearly establishes a 750-foot zone, regardless of intervening uses, from any exterior wall. To that end, the County Council set up a compatibility test with respect to the nearby R.C. zone which would in effect promote the legislative intent of the ordinance. By designing and protecting R.C. zones pursuant to Bill 111-98, the County Council sought to protect those values and objectives upon which the R.C. zones were originally based: To reduce consumption and use of prime agricultural land, critical watershed areas, and other natural resources; to discourage undesirable land use problems, and urban sprawl; to protect desirable areas for more intense future development by regulating undesirable forms of development within these areas until such time as intensive development commences. (BCZR Article IA, RC zones, § 1A "General Provisions for All RC Classifications.")

The meaning of the word "contiguous" is, in the opinion of this Board, very specific to Bill 111-98 and its context. To that end, this Board adopts the posture taken by the Court of Appeals in *Swathmore v. Kestmer*, 258 Md. 517 (1970) in which the Court permitted a flexible approach allowing continuity to include properties. In that case, the court held that [the regulation] does not require that the two districts "abut" each other; merely that they be "contiguous." In *Black's Law Dictionary*, "contiguous" is defined to mean "in close proximity; neighboring; adjoining; near in succession; in actual close contact; touching at a point or along a boundary; bounded or traversed by."

The failure of the Petitioner to secure definitive approval of the respective agency departmental heads is sufficient reason alone for this Board to sustain the Protestants' Motion to Dismiss. However, having heard testimony and evidence over a 5-day period relative to § 502.1, the Board feels compelled to comment on those issues.

Section 502.1A requires that the use for which the special exception is being requested will not "be detrimental to the health, safety, or general welfare of the locality involved." [Emphasis added.] The question of what constitutes "locality" was defined by the various witnesses of the Petitioner. Without exception, the general opinion of the Petitioner's witnesses was one that would limit the definition to that of "neighborhood." [T 9/13/00, p 125] In the viewpoint of Mr. Davis, the locality, or "neighborhood," "is clearly defined by Falls Road to the west, by Joppa Road to the South, by the demarcation as between the B.L. and B.R. zones to the east and northeast also here and the demarcation between the D.R. 1 to the immediate north. The roads, the significant difference in land use characteristic, the natural features of the Deep Run here, to me, are what classify the neighborhood. That would be the locality, in (your) opinion? Yes, because, in my opinion [Sean Davis], the word locality has no definitive meaning." [T 9/13/00, p 129]

While considerable objections were raised concerning Mr. Warfield's belief as to what constitutes the locality or "neighborhood," the Board sensed that his interpretation was similar to that of Mr. Davis, who testified subsequently at the hearing. Mr. Guckert's analysis of the traffic conditions in the area also tended to support the definition of "locality" as suggested by Mr. Davis and Mr. Warfield. [T 7/06/00, p 77]

The Board, however, after extensive review of the evidence, does not agree with the rather narrow analysis offered by Petitioner's witnesses that essentially the locality involved only

the Greenspring Station commercial complex and immediate roadway system. The Board has heard many cases that, on appeal, have accepted a much broader definition of what constitutes "locality."

By any stretch of the imagination, the definition suggested by the Petitioner's witnesses is much too narrow and parochial. The Board adopts the posture suggested in the "Opinion and Order" issued by the Deputy Zoning Commissioner that locality encompasses a much broader area than simply that of the commercial complex. This Board is quite familiar with the Greenspring Station area, and its impact on the territory that it encompasses. In this case, the Petitioners are suggesting that a 242,000 square foot office building be constructed along with a 342,000 square foot multi-level parking garage. This would replace an existing 125,000 square foot tennis barn. The presently existing 100 to 150 parking spaces would be replaced with a parking facility containing 1,071 parking spaces, this on a relatively small site consisting of approximately 5.3 acres. The Board must accept as valid and fact that the overall effects of such a massive undertaking, considering the present site usage, will have a dramatic impact upon the community outside of the perimeters of Greenspring Station, extending well to the west of Greenspring Valley Road to the west, Falls Road to the north, Joppa Road to the east and the Jones Falls Expressway to the south. The Board has also taken into consideration the immense impact on the adjacent Meadows of Greenspring relative to traffic, light, and general visibility of the proposed structures from homeowners' residences.

In considering the impact of the proposed structures on a much larger definition of what constitutes "locality," the Board concurs that the burden placed upon the Petitioner to establish that the use proposed will not be detrimental to the health, safety, or general welfare of the "locality" involved has not been achieved.

The Board has also considered the issue of "congestion in roads, streets, or alleys therein." Having reached the conclusion that the "locality" issue extends well beyond the confines of the commercial complex, the Board has considered the impact of such a large-scale proposal on the roadway system that surrounds and permits entry into the complex. Many of the roads are two-lane systems already near capacity during peak travel hours.

While Mr. Davis was accepted as an expert in land use planning [T 9/13/00, pp 26-27], he acknowledged that the Baltimore County Basic Service Maps referenced do not have any significance in his land planning activities [p 58]. He relies on the traffic expert's analysis. The Board did not believe that, as an expert land planner, Mr. Davis took into broader consideration the overall effect on traffic from a land planning perspective. "We evaluated roads from a circulation standpoint to see if we could get people to and from the building. That was the extent of it, whether or not that was, in our opinion, appropriate for the proposed use." [T 9/14/00, pp 60-61] Mr. Warfield also had not taken into consideration the congestion on Falls Road, or Joppa Road, or Seminary Road in his analysis with respect to Civil Engineering and land planning. [T 7/05/00, pp 134-135] He acknowledged that the Basic Service Maps reflected a failing condition as far as the county was concerned. [p 135]

In reaching its conclusions, the Board also focused its attention on the testimony of Mr. Wes Guckert, the President of The Traffic Group and an expert in transportation and traffic matters. [T 7/06/00, p 69] He was engaged to examine the amount of traffic that the site is currently generating, and to examine the amount of traffic the site could generate if the property was redeveloped as currently proposed as part of the special hearing. He was also requested to examine the traffic. [T 7/06/00, p 70] He indicated that he had "examined Falls – at that time, Falls, Greenspring, and Falls and Joppa, and the station access across at Joppa Road" [p 77] –

“basically Greenspring Road to the west; Falls Road to the north; Greenspring facility to the west and Joppa to the south.” Mr. Guckert acknowledged that in April 1999 the intersection of Falls Road and Greenspring Valley Road had a service level of “D”. Subsequently, the County adopted the Basic Service Maps, with the Planning Board voting on a map that reflected a level service of “F”.

Mr. Guckert stated that his review of roads and State Road improvements indicated that, in his opinion, based upon his analysis of data, that a current level of “C” or “B” existed. He explained the methodology employed by Baltimore County (loaded cycle method) [p 93]. He also explained other methodology that existed naturally to study levels of service at interchanges (Highway Capacity Manual) [p 94] – explaining that “the State Highway Administration prefers the critical lane methodology and Baltimore County prefers the one they use in the Basic Service and Growth Management Legislation [p 95]. Mr. Guckert’s analysis was that the proposal would not create congestion and that the roadways are capable of handling traffic that would be generated [p 98].

The Board has considered the conflicts, and weighing the factors, agrees with the Protestants that the intersection at Falls & Greenspring Valley Roads, based on the current Basic Service Maps, reflects a failed intersection and by its very definition suggests that the proposed construction will have an adverse effect on traffic and congestion above and beyond that which is inherently associated with like development within the zone, and therefore does not meet the requirements imposed by *Schultz v. Pritts*, 291 Md 1, 432 A.2d 1319 (1981).

The Board also notes the imposition of cameras by Baltimore County at intersections considered dangerous, few in number, of which the intersection at issue is but one of a limited number in the County.

For the reasons so stated, the Board will deny the Petitioner's Special Hearing request to approve a development plan which exceeds the height and area standards for buildings as contained in § 235.C of the *Baltimore County Zoning Regulations*.

ORDER

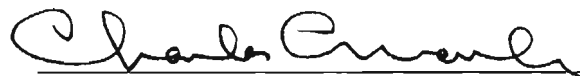
THEREFORE, IT IS THIS 2nd day of May, 2001 by the
County Board of Appeals of Baltimore County

ORDERED that Protestants' Motion to Dismiss be and the same is hereby **GRANTED**;
and it is further

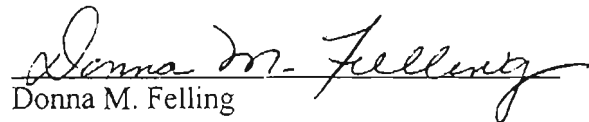
ORDERED that the Petition for Special Hearing filed in Case No. 99-282-SPH be and the same is **DENIED**.

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

**COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY**



Charles L. Marks, Panel Chairman



Donna M. Felling



Lawrence S. Wescott



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180
FAX: 410-887-3182

May 2, 2001

Dino LaFiandra, Esquire
Law Offices of Peter G. Angelos
515 Court Towers
210 West Pennsylvania Avenue
Towson, MD 21204

RE: *In the Matter of: Greenspring Racquet Club, Inc;*
Loretta & William Hirshfeld - Legal Owner / Case No. 99-282-SPH

Dear Mr. LaFiandra:

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

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules of Procedure*, with a photocopy provided to this office concurrent with filing in Circuit Court. Please note that all Petitions for Judicial Review filed from this decision should be noted under the same civil action number. If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

Kathleen C. Bianco
Administrator

Enclosures

c: Robert H. Freilich, Esquire
William and Loretta Hirshfeld
Greenspring Racquet Club Inc
Edmund Haile /Daft McCune Walker, Inc.
Richard C. Burch, Esquire
Mullan Greenspring Ltd and Mullan Pavilions Ltd Partnership
K. Donald Proctor, Esquire
Norman W. Wilder
James Tebay, President /Meadows of Greenspring Homeowners Assn Inc
Deborah C. Dopkin, Esquire
George Beall, Esquire
Joseph H. Young, Esquire
Johns Hopkins Suburban Health Center L.P.
Office of People's Counsel
Valleys Planning Council /Jack Dillon
Jorgen Jensen
Michael Friedman
Stuart Kaplow, Esquire
Virginia Barnhart, County Attorney
Pat Keller /Planning Director
Lawrence Schmidt /ZC
Arnold Jablon, Director /PDM
George Gavrelis



6/30/00
IN THE MATTER OF
GREENSPRING RACQUET
CLUB, INC.

William Hirshfeld, et ux,
Petitioners

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF BALTIMORE COUNTY
* Case No. 99-282-SPH

* * * * *

JOINT MOTION AND MEMORANDUM
IN SUPPORT OF SUMMARY DENIAL

Protestants/Appellees Mullan Greenspring Limited Partnership and Mullan Pavilions Limited Partnership, The Meadows of Greenspring Homeowners Association, Inc., Norman W. Wilder, and Johns Hopkins Suburban Health Center, L.P., by their undersigned counsel, hereby submit this Motion and Memorandum of law in advance of the scheduled hearing in this matter, scheduled to begin on July 5, 2000. Protestants/Appellees move that the County Board of Appeals summarily deny the application of Greenspring Racquet Club, Inc. seeking a special exception for a proposed 584,000 square foot office complex which it proposes be constructed at Green Spring Station based on purely legal issues that render further review of this project wasteful and wholly unnecessary. There are numerous substantive factual and legal reasons that the County Board of Appeals should not grant the Petition. Accordingly, if the Board deems that an full evidentiary hearing is appropriate, Protestant/Appellees reserve the right to present testimony and evidence regarding such matters.

Abraham C. Dopkin
Attorney At Law
9 Washington Avenue
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Applicable Law Section 235C

Section 235C of the Baltimore County Zoning Regulations provides:

Special Regulations for B.M. Lots Within 750 Feet of an R.C. Zone.
[Bill No. 111-1998]

Notwithstanding other provisions of these zoning regulations to the contrary, if the exterior wall of any proposed building located on a B.M. lot is within 750 feet of an R.C. Zone, the provisions of this section apply to the entire lot. The provisions of this section do not apply if, as of October 5, 1998, the lot is governed by a C.R., I.M., C.T. or C.C.C. District or is located in a planned unit development or in the White Marsh or Owings Mills growth areas. (All aspects not governed by the provisions of this section are governed by all other applicable provisions of these zoning regulations.)

235C.1 Except as provided in Section 235C.2:

- A. The height of a building may not exceed 35 feet; and
- B. The floor area ratio of a building may not exceed 0.5.

235C.2 The Hearing Officer may approve a plan which exceeds the height and area standards in Section 235C.1 if:

- A. The requirements of Section 502.1 are met;
- B. The proposed height and floor area ratio requirements do not exceed the standards otherwise permitted for a B.M. Zone; and
- C. Based on the recommendations of the Directors of Planning, Environmental Protection and Resource Management, Permits and Development Management and Public Works, the Hearing Officer determines that the proposed use is compatible, as determined in accordance with Section 26-282, with the existing uses of the contiguous R.C. Zone.

Summary of Argument

Notwithstanding the plain language and intent of the County Council's 1998 revisions to BCZR §§ 232C, 235C and 238C (Bill 111-98), Petitioners have taken the position that the compatibility requirements set forth in the new regulations,

which are integral to the County Council's goal of protecting Resource Conservation zones from encroaching business developments, apply only if the proposed development actually abuts -- that is, touches -- an affected R.C. Zone. Petitioners' strained interpretation of the regulation's use of the term "contiguous" is not credible and finds no support in either the plain language of BCZR §235C or the relevant case law.

Once it is established that the compatibility determination is a necessary component of a successful petition for special exception under BCZR §235C.2.C, it is apparent that the special exception sought by the Petitioners should be summarily denied without the need of conducting additional hearings. Simply stated, and setting aside various other factual issues which Protestants/Appellees submit ultimately should preclude approval, the legal effect of certain indisputable facts requires that the special exception be denied. In particular:

- Petitioners have failed to obtain the necessary recommendations of the various department directors required for approval under § 235C.2.C; the single recommendation it did receive recommended against approval of the project as proposed;
- the failed intersection at Falls and Greenspring Valley Roads by definition means that Petitioners' proposed development at this location will have an adverse effect on traffic and congestion above and beyond that inherently associated with similar development regardless of its location within the zone; thus Petitioners cannot meet the special exception standard, at common law or pursuant to § 502.1, as incorporated by § 235C.2.A; and

· as a purely legal matter, Section 402A of the BCZR operates as an absolute bar to approving a plan in an area designated as deficient on the Basic Services Maps, as the subject area is currently designated.

For these reasons, Protestants/Appellees respectfully request that the Board of Appeals consider these arguments at the outset of the hearing scheduled in this matter, and further submit that, given the unusual posture of this case and the current restrictions on development imposed by the Basic Services Maps, that the Petitioners' request for special exception be summarily denied.

Factual Background

Petitioners have proposed construction of a roughly 580,000 square foot office/garage complex, to be located on an existing 5.3 acre parcel split-zoned Business Major ("BM") and OR-1 and located within what is commonly referred to as Green Spring Station. The proposed office center, which is expected to bring an additional 1,000 professional employees and clients onto the Green Spring Station campus, would replace the Greenspring Racquet Club's existing 125,000 square foot tennis barn, which is located on the extreme north side of Green Spring Station.

The height of the proposed buildings, their proposed floor area ratio ("FAR"), and proximity to surrounding R.C.-5 and R.C.-2 zones -- and thus the applicability of the special

regulations under BCZR § 235C -- is not in dispute.¹ A maximum building height of 78 feet is proposed. The FAR (including a four-deck parking garage) would be 2.56.² Most importantly, property zoned R.C.-5 runs within 75 feet of the proposed building, and more restrictive R.C.-2 zoned property (Resource Conservation, Agricultural) in Greenspring Valley lies no more than 150 feet to the west, well within the 750 foot radius intended to trigger the special regulations for BM lots under Section 235C.

Nevertheless, Petitioners have taken the position that their proposed development is not governed by the compatibility requirements of Section 235C.2 because the building lot is not "contiguous" to an R.C. Zone, which they interpret to mean "touching" or "immediately adjacent to" the zone. As discussed below, Petitioners' reading is inconsistent with both the plain language of the regulation and with the governing case law pertaining to statutory construction, and is offered solely in an effort to avoid a standard that they understand full well they cannot meet.

¹ Section 235C pertains to special regulations for BM lots within 750 feet of an RC zone. Other sections amended by Bill 111-98 instituted like protections for RC zoned property in proximity to proposed developments on BL lots (see BCZR § 232C) and BR lots (see BCZR § 238C).

² By contrast, Section 235C.1 limits construction within 750 feet of an RC zone to buildings with a maximum height of 35 feet and an FAR of 0.5 or less, unless certain required findings, including compatibility with existing uses of the R.C. Zone, are made. See BCZR §§ 235C.1.A and B, 235C.2.

Argument

I. A PLAIN READING OF THE REGULATION REQUIRES PETITIONERS TO ESTABLISH COMPATIBILITY PURSUANT TO §235C.2.C.

A plain reading of Section 235C mandates that, in connection with a request for special exception, the Hearing Officer make a finding (and, by extension, a petitioner must come forward with sufficient evidence) regarding the compatibility of the proposed use with existing uses of any neighboring R.C. Zones within 750 feet of the development site. The language of the regulation, taken as a whole, could not be more clear, and any effort to limit the reach of Section 235C.2 to only those business developments on lots physically adjoining an R.C. Zone would render the specification of a 750 foot buffer meaningless.

Section 235C, by its terms, applies to the entire lot "if the exterior wall of any proposed building located on a B.M. lot is within 750 feet of an R.C. Zone." In such a case, pursuant to subpart C.2, the Hearing Officer may approve a plan which exceeds the height and area standards that are otherwise applicable if:

- A. The requirements of Section 502.1 [special exceptions] are met,
- B. The proposed height and floor area ratio requirements do not exceed the standards otherwise permitted for a B.M. Zone, and
- C. Based on the recommendations of the Directors of Planning, Environmental Protection and Resource Management, Permits and Development Management and Public Works, the Hearing Officer determines that the proposed use is compatible, as determined in

accordance with Section 26-282, with the existing
uses of the contiguous R.C. Zone.

BCZR §235C.2 (emphasis added).

The cardinal rule of statutory interpretation is "to ascertain and give effect to the intention of the legislative body which enacted the statute." *Harford County v. McDonough*, 536 Md. App. 119, 123 (1988) (citations omitted). Contrary to Petitioners' suggestion before the Hearing Officer, this rule, like other generally applicable rules of statutory construction, applies with equal force to zoning and land use regulations.³ While, to be sure, such regulations have been recognized as being in derogation of common-law rights regarding use of property, Maryland courts have routinely recognized that such laws nevertheless "should be *liberally construed* to accomplish their plain purpose and intent." See, e.g. *Aspen Hill Venture v. Montgomery County Council*, 265 Md. 303, 308 (1972) (emphasis added) (citing *Landay v. Board of Zoning Appeals*, 173 Md. 460, 466 (1938)); *Harford County v. McDonough*, *supra*, 74 Md. App. at 123.

Perhaps more to the point, Maryland courts have routinely recognized that the provisions of zoning ordinances and land use regulations, like any other statutory provisions, must be considered in their entirety, their parts to be read together and reconciled and given effect to the extent possible. See, e.g.,

³ Specifically, Petitioners' counsel stated that, because zoning laws operate to deprive landowners of certain otherwise lawful uses of property, ordinances must be "strictly construed in favor of the property owner." Tr. at 472:21 - 473:7 (4/20/99). Whatever the law in other jurisdictions, this is not the law in Maryland.

Smith v. Miller, 239 Md. 390 (1968); Gruver-Cooley Jade Corp. v. Perlis, 252 Md. 684, 692-93 (1968), Bowie Volunteer Fire Dep't & Rescue Squad, Inc. v. County Comm'rs of Prince George's County, 255 Md. 381, 387 (1969). In this last case, in determining the intent of the phrase "immediate vicinity" in connection with the location of a firehouse, the Court specifically noted, contrary to Petitioners' contention, that "[i]t is a hornbook rule of statutory construction that, in ascertaining the intention of the legislature, all parts of a statute are to be read together to find the intention as to any one part and that all parts are to be reconciled and harmonized if possible." This is no less true of the legislative body enacting a zoning ordinance." *Id.*, 255 Md. at 387 (quoting Thomas v. Police Comm'r, 211 Md. 357, 361 (1956)). Yet, it is only by taking words out of their context that Petitioners are able even to suggest any ambiguity or confusion as to the County Council's legislative intent (let alone clear mandate) in enacting Bill 111-98's amendments to Section 235C.

The obvious intent of Bill 111-98's amendments to Section 235C was to afford protection to R.C. Zones located near large-scale office/commercial developments. As the bill's sponsor stated at the time, the amendments were intended to provide what is, in essence, a "set back" or transition zone for office buildings located near agricultural or rural residential areas, providing protections similar to those already in place for areas zoned residential. See *Bill Would Limit Big Buildings in Rural Areas*,

The Baltimore Sun, Sept. 16, 1998, at 3B; *Council to Vote on Limit to Growth*, The Baltimore Sun, Oct. 5, 1998, at 1A (10/5/98). The regulation thus does not speak in terms of "abutting" properties or properties sharing a single property line. Instead, concerned with the effect that large scale office development can have on nearby properties in an R.C. Zone, Section 235C measures its reach in precise and objectively reasonable terms -- creating a 750 foot zone, regardless of intervening uses, from any exterior wall. It is thus readily apparent that "the contiguous R.C. Zone," as used in Section 235C.2.C, refers back to R.C. Zones located "within 750 feet" of any exterior wall of a proposed development, as used in the introductory paragraph to the section.⁴

Such a commonsense reading of the regulation is further supported by use of the conjunction "and" in Section 235C.2. Petitioners read Subpart C as if it is an exception to the general requirements under Section 235C. By their reading, the compatibility requirements under Subpart C would apply only if there was an abutting R.C. Zone. However, nothing in Subpart C suggests that it was intended to be limited in this way or to apply separately from the other requirements for a special exception under Section 235C.2. See, e.g., Comptroller of the Treasury v.

⁴ In this regard, Section 235C is not unlike other provisions of the Zoning Regulations, like BCZR § 1B01, which creates a so-called "residential transition area" to protect existing residential areas. See BCZR § 1B01.B, et seq. RTAs create what is, in essence, a 100 foot buffer zone to protect residential areas from new development, regardless of intervening uses -- such as roads or other naturally-occurring boundaries -- that may exist within in the strip. To this extent, Section 235C should be read in *pari materia* with similar provisions in the regulations which apply standards based upon proximity of a proposed development, regardless of whether a proposed site and the existing area intended to be protected actually abut or touch one another. See, e.g., *People's Counsel v. The Prosser Company, Inc.*, 119 Md. App. 150, 171 (1998).

Fairchild Indus., Inc., 303 Md. 285-86 (1985) (the word "and" is generally intended to operate in its traditional sense, consistent with its definition in both Black's Law Dictionary and Webster's Third New International Dictionary).

Indeed, had the County Council intended Section 235C to apply in such a manner, it could easily have done so merely by specifying that the subpart applied only if there was an abutting R.C. Zone. There is, however, no such language qualifying the conjunction between Section 235.C.2.B and C, and it is clear that Subpart C is, instead, a third *additional* requirement -- one that is, in the context of the regulation, perhaps the most significant requirement, inasmuch as it is the only portion of the inquiry dedicated specifically to the effects of a proposed development on nearby R.C. Zones.

That the County Council did not intend to limit Section 235C to BM lots actually abutting an R.C. Zone is further supported by Maryland case law. In Swarthmore Company v. Kaestner, 285 Md. 517 (1970), for example, in considering a zoning dispute over the construction of a gas station, the Court of Appeals had occasion to construe the term "contiguous" where a six-foot strip of land separated zones. In language no less compelling in the context of this petition, the Court held that

[the regulation] does not require that the two districts "abut" each other, merely that they be "contiguous." In Black's Law Dictionary, "contiguous" is defined to mean "in close proximity, near though not in contact; neighboring;

adjoining; near in succession; an actual close contact; touching; bounded or traversed by."

258 Md. at 529-30.⁵

Similarly, in Grand Union Co. v. Laurel Plaza, Inc., 256 F. Supp. 78, 81-82 (D. Md.), *aff'd*, 369 F.2d 697 (1966), then-District Judge Winter determined that the word "contiguous" was intended, in the context of a restrictive covenant in a commercial lease, to include property that was separated by a road: "[T]he parties intended the word 'contiguous' to include the property south of Fort Meade Road, so that Grand Union's exclusive right to sell food for consumption off the premises embraced that area, as well as . . . properties physically touching [the shopping center in which it was located]. See also Gruver-Cooley Jade Corp. v. Perlis, *supra* 252 Md. at 695 (finding that subdivisions separated by an 80 foot roadway were nevertheless "adjoining," noting that the meaning of the word "as employed in a particular case must be gathered from the context, the intention, and the particular circumstances under which it is used.").

Whether separated by six feet or 600, there can be no doubt that the development proposed by Petitioners herein is, by any analysis, "near" affected R.C. Zones which the County Council's bill was intended to protect. Whatever confusion Petitioners might hope to generate by their out-of-context reference to the term

⁵ Like the Black's Law Dictionary definition relied upon by the Court in *Kaestner*, Webster's Third New International Dictionary, which governs the definition of undefined terms used in Baltimore County's zoning regulations, see BCZR § 101, variously defines the word "contiguous" to mean "nearby" or "close," as well as "touching," "next to or adjoining."

"contiguous" is put to rest if one simply inserts, as the County Council intended, the phrase "if that zone is located within 750 feet" after the phrase "the contiguous R.C. Zone." While Petitioners and their counsel should, perhaps, be commended for their innovative arguments, the novelty of their position does not entitle them to avoid their clear burden of coming forward with affirmative evidence of compatibility, pursuant to Section 235C.2.C and Section 26-282.

**II. PETITIONERS HAVE FAILED TO COME FORWARD
WITH AFFIRMATIVE EVIDENCE OF COMPATIBILITY.**

In order to establish compatibility under § 235C.2.C, Petitioners must come forward with the "recommendations of the Directors of Planning, Environmental Protection and Resource Management, Permits and Development Management and Public Works," based upon which the Hearing Officer is to determine whether the proposed development is "compatible, as determined in accordance with Section 26-282, with the existing uses f the contiguous R.C. Zone."

Here, Petitioners have failed to obtain the necessary affirmative recommendations of the Directors of Planning, Environmental Protection and Resource Management, Permits and Development Management, and Public Works, as required by Section 235C.2.C. Instead, and with the exception of the Director of the Office of Planning, which affirmatively recommended against approval of the project based upon its incompatibility with the surrounding area, they did not obtain any substantive

recommendations from the remaining Directors, depriving the Hearing Officer and this Board of the necessary basis for determining issues relating to the project's compatibility, or not, with existing uses in the neighboring R.C. Zones.

III. PETITIONERS CANNOT MEET THE SPECIAL EXCEPTION STANDARD UNDER SECTION 502.1.

In order to meet the special exception criteria under BCZR §502.1, Petitioner must establish that the grant will not have a detrimental impact on the locality involved. One such impact is the creation of traffic congestion. Petitioner failed to do so before the Deputy Zoning Commissioner at the hearing below, and it is impossible for Petitioner to do so now.

On March 20, 2000, the County Council adopted the Basic Services Map for Transportation (the "Map") which took effect on May 11, 2000. The Map designated the area in which the development is proposed as deficient because the intersection of Falls and Greenspring Valley Roads is operating at an inadequate level of service.

The purpose and intent of the §402A of the BCZR, which establishes the Basic Services Maps and Growth Management Regulations, states:

"... public facilities in certain predominantly urban areas of the county are inadequate to serve all of the development that would be permitted under the zones or commercial districts within which those areas lie."

The adoption of the current Map by the County Council designates the area of the proposed complex as one where additional

development will create congestion, the impact of which would be detrimental. Section 502.1 cannot be satisfied in light of this finding by the Council.

The same analysis holds true if one applies the standard for special exception enunciated by the Maryland courts: "that the particular use proposed at the particular location proposed would have [no] adverse effect above and beyond those inherently associated with such a special exception use irrespective of its location within the zone." Schultz v. Pritts, 291 Md 1, 432 A 2d 1319 (1981).

The fact that the use is proposed in a location identified as a traffic deficient area when other locations within the zone do not suffer the deficiency, absolutely defeats Petitioner's ability to satisfy the requisites for special exception approval.

IV. THE CURRENT STATUS OF THE INTERSECTION AT FALLS AND GREENSPRING VALLEY ROADS, WITHOUT MORE, BARS APPROVAL OF THE SPECIAL EXCEPTION SOUGHT IN THIS CASE.

Section 4A02 of the BCZR establishes controls on non-industrial development where it has been determined "that the capacity of arterial and arterial collector intersections is less than the capacity necessary to accommodate traffic, both from establishes uses and from uses likely to be billed... Such development is not intended to be restricted unless there is a substantial probability that an arterial and arterial collector

intersection situated within the mapped area will, on the date the map becomes effective, be rated at level- of - service E or F..."

The adoption of the Map by the County Council has so established the subject area.

That law further specifically mandates that "no building permit... and no final subdivision approval *shall* be issued or granted after the effective date of this Article within a Basic Services Mapped area, unless the Director of the Officer of Planning has issued, upon appropriate application on forms prepared by the Director, a reserve capacity use certificate for that development..." B.C.Z.R. 4A02.3G.

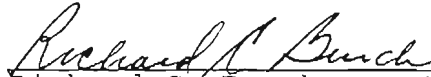
The language of the Zoning Regulations operates as an absolute bar to the approval of this plan. As such, this Board cannot approve the plan as submitted.

CONCLUSION

WHEREFORE, for the reasons set forth herein, Protestants/Appellees respectfully submit that the required determination of compatibility pursuant to Section 235C.2.C applies with full force and effect to the Petitioners' proposed development. Protestants/Appellees further submit that Petitioners/appellants have not and indeed cannot, given current circumstances, meet their burden of coming forward with affirmative evidence regarding compatibility with surrounding residential,

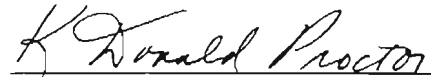
rural residential and agricultural areas, and that the special exception sought herein should be summarily denied.

Respectfully submitted,



Richard C. Burch *my/SCB*
Mudd, Harrison and Burch
105 W. Chesapeake Ave., Suite 300
Towson, MD 21204
410-828-1335

Attorneys for Mullan Greenspring
Limited Partnership and Mullan
Pavilions Limited Partnership

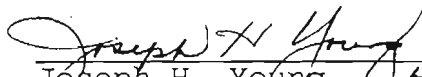


K. Donald Proctor *my/SCB*
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Attorney for Meadows of
Greenspring Homeowners
Association, Inc. and Norman
Wilder



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Joseph H. Young *my/SCB*
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Baltimore, MD 21202
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Attorneys for Johns Hopkins
Suburban Health Center

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that copies of the foregoing Joint Motion and Memorandum in Support of Summary Denial was served, this 30 day of June, 2000, by hand delivery on:

Julius W. Lichter, Esq.
Dino C. LaFiandra, Esq.
Law Offices of Peter G. Angelos
Court Towers, Suite 300
210 W. Pennsylvania Avenue
Towson, MD 21204

and by first-class mail, postage prepaid, on:

Robert H. Freilich, Esq.
Freilich, Leitner & Carlisle
1000 Plaza West
4600 Madison
Kansas City, MO 64112-3012

and by first-class mail, postage prepaid, on:

Peter Max Zimmerman, Esquire
Baltimore County, Maryland
Office of People's Counsel
Room 47, Old Courthouse
400 Washington Avenue
Towson, Maryland 21204


Deborah C. Dopkin

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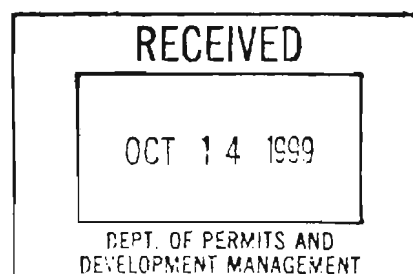
10/14/99

RE: PETITION FOR SPECIAL HEARING * BEFORE THE
10803 Falls Road *
NE/S Falls Road, 429' E of * BOARD OF APPEALS
the c/l of Greenspring Valley *
Road, 8th Election District, * OF BALTIMORE COUNTY
3rd Councilmanic District *
William Hirshfeld, et ux * Case No. 99-282-SPH
Petitioners *

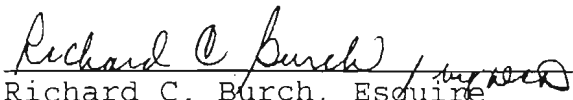
* * * * *

NOTICE OF APPEAL

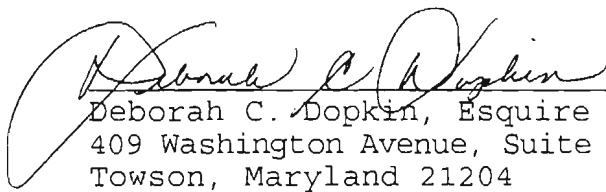
Please note an appeal from the Findings of Fact and Conclusions of Law rendered by the Deputy Zoning Commissioner of Baltimore County, dated September 21, 1999 and forward all papers in connection therewith to the Board for hearing. The Appellants in this matter are: Mullan Greenspring Limited Partnership and Mullan Pavilions Limited Partnership, whose address is Foxleigh Building, 2320 Joppa Road, Lutherville, Maryland 21093; The Meadows of Greenspring Homeowners Association, Inc., whose address is c/o Jim Tebay, President, 5 Yearling Way, Lutherville, Maryland 21093; Norman W. Wilder, whose address is 65 Seminary Farm Road, Lutherville, Maryland 21093; and The Johns Hopkins Suburban Health Center L.P., 10753 Falls Road, Suite 405, Lutherville, Maryland 21093.

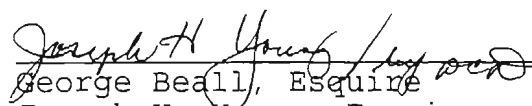


Also enclosed is the appeal fee of \$175.00 and a posting fee of \$35.00.


Richard C. Burch, Esquire
Mudd, Harrison and Burch
105 West Chesapeake Avenue
Suite 300
Towson, Maryland 21204
ATTORNEY FOR MULLAN GREENSPRING
LIMITED PARTNERSHIP AND MULLAN
PAVILIONS LIMITED PARTNERSHIP


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ATTORNEY FOR NORMAN W. WILDER
AND FOR THE MEADOWS OF
GREENSPRING HOMEOWNERS
ASSOCIATION, INC.


Deborah C. Dopkin, Esquire
409 Washington Avenue, Suite 920
Towson, Maryland 21204


George Beall, Esquire
Joseph H. Young, Esquire
Hogan & Hartson, L.L.P.
111 South Calvert Street
Baltimore, Maryland 21202

ATTORNEYS FOR JOHNS HOPKINS
SUBURBAN HEALTH CENTER, L.P.

CERTIFICATE OF MAILING

I HEREBY CERTIFY, that on this 12th day of October, 1999, a

copy of the foregoing Notice of Appeal was mailed, postage prepared to Robert H. Freilich, Esquire, Freilich, Leitner & Carlisle, 1000 Plaza West, 4600 Madison, Kansas City, Missouri 64112-3012 and to Julius W. Lichter and Dino C. LaFiandra, Julius W. Lichter, Esquire, Dino C. La Fiandra, Esquire, Law Offices of Peter G. Angelos, Court Towers, Suite 300, 210 W. Pennsylvania Avenue, Towson, Maryland 21204.

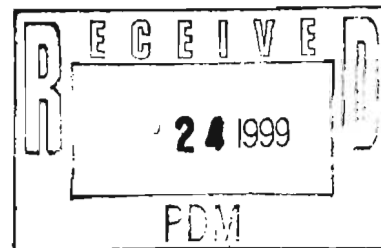

Deborah C. Dopkin

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BEFORE THE
ZONING COMMISSIONER
FOR
BALTIMORE COUNTY
Case Number: 99-282-SPH

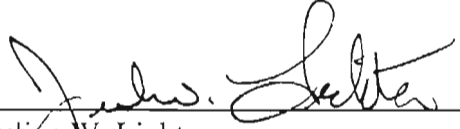
BALTIMORE COUNTY

Case Number: 99-282-SPH



LAW OFFICES OF PETER G. ANGELOS, P.C.

by:


Julius W. Lichter
Dino C. LaFiandra
210 W. Pennsylvania Avenue, Suite 300
Towson, Maryland 21204
Telephone: (410) 825-7300
Facsimile: (410) 296-2541

ATTORNEYS FOR PETITIONERS
GREENSPRING RACQUET CLUB, INC.,
WILLIAM HIRSHFELD AND LORETTA
HIRSHFELD

CERTIFICATE OF MAILING

I hereby certify that on this 24 day of September, 1999, copies of the herein Notice of

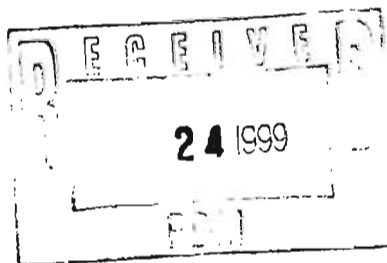
Appeal were mailed by first-class mail, postage-prepaid, to:

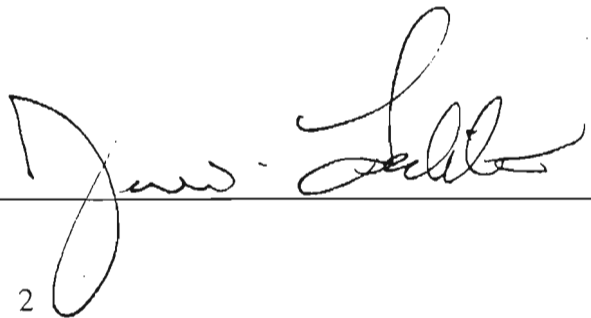
Richard C. Burch, Esq.
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Towson, Maryland 21204-4542

Deborah C. Dopkin, Esq.
409 Washington Avenue - Suite 920
Towson, Maryland 21204

George Beall, Esq.
Joseph ("Hank") H. Young, Esq.
Hogan & Hartson, L.L.P.
111 S. Calvert Street
Baltimore, Maryland 21202




2

9/21/99
IN RE: PETITION FOR SPECIAL HEARING

NE/S Falls Road, 429' E of the c/l of

Greenspring Valley Road

(10803 Falls Road)

8th Election District

3rd Councilmanic District

(10803 Falls Road)

William Hirshfeld, et ux

Petitioners

*

BEFORE THE

*

DEPUTY ZONING COMMISSIONER

*

OF BALTIMORE COUNTY

*

CASE NO. 99-282-SPH

*

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner/Hearing Officer as a petition for special hearing filed by the legal owners of the subject property, William & Loretta Hirshfeld and the Lessee, Greenspring Racquet Club, Inc. The Petitioners are requesting a special hearing to approve a development plan which exceeds the height and area standards for buildings as contained within the Baltimore County Zoning Regulations (B.C.Z.R.), specifically Section 235C.1.

Appearing representing the Petitioner in the special hearing request were Julius W. Lichter, Dina Lafiandra and Robert H. Freilich, attorneys at law. Appearing as counsel for the Protestants in the matter were Richard C. Burch, attorney for Mullan Greenspring Ltd. Partnership and Mullan Pavilions Ltd. Partnership, K. Donald Proctor, attorney representing the Valleys Planning Council, the Meadows of Greenspring Homeowners Association and Norman Wilder, Joseph H. Young and Deborah C. Dopkin, attorneys representing the Johns Hopkins Suburban Health Center. Numerous other individuals appeared as interested citizens and protestants, all of whom signed in on their respective sign-in sheets. Also in attendance at the hearing were various expert witnesses, all of whom signed in on their respective sign-in sheets.

Date

9/21/99

By

J.P. Johnson

235C.2 The Hearing Officer may approve a plan which exceeds the height and area standards in Section 235C.1 if:

- A. The requirements of Section 502.1 are met;
- B. The proposed height and floor area ratio requirements do not exceed the standards otherwise permitted for a B.M. Zone; and
- C. Based on the recommendations of the Director of Planning, Environmental Protection and Resource Management, Permits and Development Management and Public Works, the Hearing Officer determines that the proposed use is compatible, as determined in accordance with Section 26-282, with the existing uses of the contiguous R.C. Zone."

The language contained in Section 235 establishes a simple step by step process which must be followed when a development of this nature is considered for approval. The first step requires the Hearing Officer to determine whether an exterior wall of any proposed building located on the lot to be developed is situated within 750 ft. of an R.C. zone. Based on the testimony and evidenced offered at the hearing, as well as the exhibits submitted, I hereby find that the exterior walls of the buildings which are proposed to be constructed on the subject property are in fact located within 750 feet of an R.C. zone. Therefore, the provisions of Section 235C apply to the entire property to be developed.

The second step, as required by the legislation, requires the Hearing Officer to determine whether the project falls under any of the exceptions as stated in the first paragraph of Section 235. That is, whether the lot is governed by a CR., IM., C.T. or CCC. district or is located in a Planned Unit Development, or in the White Marsh or Owings Mills growth areas. None of these exceptions apply to this project. Therefore, Section 235 is applicable.

The third step in the application of this section, (specifically Section 235C.1) requires a finding as to whether the Petitioner proposes to construct a building which exceeds 35 feet in height and a floor area ratio of greater than 0.5.

The uncontradicted testimony indicated that the tallest of the buildings proposed to be constructed on the property is 78 feet in height and the floor area ratio of the buildings and parking garage is 2.56. Accordingly, I hereby find that the Petitioner must satisfy the provisions of Section 235C.2.A,B&C.

Section 235C.2 C was the subject of a motion made by all parties during the course of the hearing before me. An order on that motion was issued the 7th day of June, 1999 by this Deputy Zoning Commissioner/Hearing Officer. I determined in my prior ruling that the property which is the subject of this development proposal is not in fact contiguous to an R.C. zone and therefore Section 235C.2 C does not apply to this development proposal. Having so previously ruled it is not necessary to once again restate that finding.

Section 235C.2 B provides that a development plan which exceeds the height and area standards of this section may be approved if the height and floor area ratio requirements proposed do not exceed the standards otherwise permitted for a B.M. zone. The uncontradicted testimony and evidence offered at the hearing indicated that the B.M. zone permits buildings with a height of up to 100 ft. and a floor area ratio of up to 4.0. The Petitioner herein proposes a project with a floor area ratio of 2.56 and a tallest building of up to 78 feet. Therefore, I find that the Petitioner has satisfied this provision.

The final step of the approval process, (which involves Section 235C.2.A.), requires the Petitioner to prove that the requirements of Section 502.1 have been met. Section 502.1 of the Baltimore County Zoning Regulations provides as follows:

"502.1 Before any special exception may be granted, it must appear that the use for which the special exception is requested will not:

- A. Be detrimental to the health, safety or general welfare of the locality involved;

- B. Tend to create congestion in roads, streets or alleys therein;
- C. Create a potential hazard from fire, panic or other danger;
- D. Tend to overcrowd land and cause undue concentration of population;
- E. Interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences or improvements;
- F. Interfere with adequate light and air; [Bill No. 45-1982]
- G. Be inconsistent with the purposes of the property's zoning classification nor in any other way inconsistent with the spirit and intent of these Zoning Regulations; nor [Bill No. 45-1982]
- H. Be inconsistent with the impermeable surface and vegetative retention provisions of these Zoning Regulations. [Bill No. 45-182]"

The Petitioners have the burden to prove that the use proposed on this site satisfies the provisions as stated in Section 502.1.A-H. First and foremost, the Petitioners must prove that the use proposed will not be detrimental to the health, safety or general welfare of the locality involved. This subsection A is most important in that it requires the Petitioners to define the locality for which this use will not have a detrimental affect. It is fundamental to the Petitioners' case that the locality involved be accurately defined, given that the remaining provisions of Section 502.1 reference that defined area.

Several expert witnesses were called to testify by the Petitioners. Each expert was asked to provide a definition of the "locality" that was affected by this development proposal. This request was critical, as it set the stage by which the remainder of the witnesses' testimony would relate.

The first expert witness called to testify by the Petitioners was Mr. Sean Davis. Mr. Davis qualified and was accepted as an expert in the areas of comprehensive, environmental and

resource planning. As stated previously, Mr. Davis was asked to preface his expert opinion by first defining the "locality" that could be affected by this project. He offered the following:

"Based on my review of the existing conditions of the property, my review of the existing master plan, the current and approved Master Plan, as well as the existing zoning on the property, I believe the locality, if you will, the neighborhood for the property, to be the Greenspring Station site itself". (See Page 113 of the trial transcript).

In addition to the definition provided by Mr. Sean Davis, a second definition of "locality" was offered by Mr. Stephen Warfield, another expert called to testify by the Petitioners. Mr. Warfield was offered and accepted as an expert in civil engineering, public works improvements, and the development improvement process. Mr. Warfield concurred with Mr. Davis' opinion that the "locality" for the use proposed in this case was the Greenspring Station commercial complex itself.

Mr. Wes Guckert, who was offered and accepted as an expert in traffic engineering, attempted to apply a broader definition of "locality" in the early part of his testimony. However, after persistent questioning from Mr. Freilich, attorney for the Petitioner, Mr. Guckert concluded that the "locality", was in fact the Greenspring Station commercial complex.

The cumulative testimony of the witnesses offered by the Petitioners established that this proposed use would not be detrimental to the health, safety or general welfare of the surrounding uses in the Greenspring Station commercial complex and that it would not create congestion in the roads, streets or alleys within that complex. Certainly, the definition of "locality", as established by these witnesses, was extremely narrow.

The term "locality" is not defined within the Baltimore County Zoning Regulations. Section 101 of the B.C.Z.R. provides that when a definition is not contained within the Zoning Regulations, then that term shall have the ordinarily accepted definition as set forth in the most

recent addition of Webster's Third New International Dictionary of the English Language, Unabridged. The definitions contained within Webster's offer little assistance as that term is applied within the Zoning Regulations. Notwithstanding the lack of a clear definition provided by the B.C.Z.R. or Webster's, the concept of "locality" has been the subject of many cases that have proceeded through this Zoning Commissioner's Office. For example, in the case of People's Counsel for Baltimore County, et al. v. Nicholas B. Mangione, et ux., 85 Md. App 738 (1991), this office and the Appellate Courts considered testimony which defined a much broader area of "locality". At issue in that case was a special exception request by the Petitioner to build a convalescent home on a 4 acre parcel of ground in the area of Lutherville, Baltimore County. The subject property in that case was located one block east of York Road. However, in determining whether the convalescent home use would be detrimental to the health, safety or general welfare of the "locality" involved, this office entertained testimony and evidence as to the affects that this convalescent home would have on the entire York Road corridor, the residential neighborhoods that surround the proposed convalescent use and the small arterial streets surrounding the site.

11/21/94
H. J. [Signature]
Similarly, in the case of Villa Julie College, Inc. v. Valleys Planning Council, et al., (Unreported, Court of Special Appeals of Md., No.1033, Sept. Term 1994), this office and the Appellate Courts considered testimony and evidence as to whether the expansion proposed on the Village Julie College campus would have an adverse impact on the surrounding agricultural uses located beyond the Villa Julie campus, not just the affects on the campus itself. Again, a much broader interpretation of "locality" was applied in that case.

In the case of Hayfields v. Valleys Planning Council, Inc., et al., 122 Md. App. 616 (1998), which involved the development of a golf course and country club on 228 acres of land located

on the northwest corner of the intersection of Shawan Road and Interstate 83, this office and the Appellate Courts considered testimony as to the affects that development would have on the nearby Oregon Ridge Park, the farms located further west along Shawan Road, and the farms located to the north of the site.

There are many other cases that deal with this issue of "locality", each of which apply a much broader definition. "Locality" is a concept that must be determined on a case by case basis. It may vary depending on the location of a project and the particular use proposed.

In this particular case, the burden imposed upon the Petitioner is greater than a mere showing that the redevelopment of the Greenspring Racquet Club site will not have a detrimental impact on the Greenspring commercial complex itself. The "locality" involved in this case certainly extends beyond the four corners of this commercial center. The Petitioners failed to provide testimony and evidence as to whether adverse impacts would be experienced along Greenspring Valley Road to the west, Falls Road to the north, Joppa Road to the east, and even Falls Road and Jones Falls Expressway to the south. One cannot assume that the affects of the construction of an additional 242,000 sq. ft. of office space and a 342,000 sq. ft. multi-level parking garage would only impact the Greenspring Station commercial complex. A much broader definition of "locality" must be applied. While the Petitioners did offer testimony relating to the affects of this project on the adjacent Meadows of Greenspring residential community (specifically the visibility of the new buildings from those homeowners' residences), that testimony fell short of the overall burden imposed on the Petitioners.

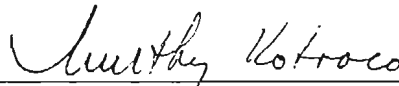
In my judgment, the Applicant has failed to establish that the use proposed will not be detrimental to the health, safety or general welfare of the "locality" involved. Consequently,

having failed to satisfy the requirements of Section 502.1 of the B.C.Z.R., the Petitioners' special hearing request must be denied.

Pursuant to the advertisement, posting of the property and public hearing held on the Petition and for the reasons given above, the special hearing request should be denied.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 21st day of September, 1999 that the Petitioners' Special Hearing request to approve a development plan which exceeds the height and area standards for buildings as contained within Section 235.C of the Baltimore County Zoning Regulations, be and is hereby DENIED.

Any appeal of this decision must be filed within thirty (30) days from the date of this decision. Additionally, as was discussed and agreed upon during the course of the hearing before me, any appeal of my Order dated the 7th day of June, 1999 shall be filed within thirty (30) days from the date of this Order.



TIMOTHY M. KOTROCO
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

TMK:raj

9/21/99
[Handwritten signature]



Baltimore County
Zoning Commissioner

Suite 405, County Courts Bldg.
401 Bosley Avenue
Towson, Maryland 21204
410-887-4386
Fax: 410-887-3468

September 21, 1999

Robert H. Freilich, Esquire
Freilich, Leitner & Carlisle
2000 Plaza West
4600 Madison, Suite 1000
Kansas City, Missouri 64112-3012

RE: Petition for Special Hearing
Case No. 99-282-SPH
William Hirshfeld, et ux
10803 Falls Road

Dear Mr. Freilich:

Enclosed please find the Order rendered in the above-captioned case. The petition for special hearing has been denied, in accordance with the enclosed Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days from the date of the Order to the County Board of Appeals. If you require additional information concerning filing an Appeal, please feel free to contact our Appeals Clerk at 410-887-3391.

Very truly yours,

Timothy M. Kotroco
Deputy Zoning Commissioner

TMK:raj
Enclosure

cc: Julius W. Lichter, Esquire
Dina Lafiandra, Esquire
Stuart D. Kaplow, Esquire
Richard C. Burch, Esquire
K. Donald Proctor, Esquire
Deborah C. Dopkin, Esquire
George Beall, Esquire

Come visit the County's Website at www.co.ba.md.us



6/17/99

IN RE: PETITION FOR SPECIAL HEARING
NE/S Falls Road, 429' E of the c/l of
Greenspring Valley Road
(10803 Falls Road)
8th Election District
3rd Councilmanic District
William Hirshfeld, et ux, Petitioners

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* CASE NO. 99-282-SPH

* * * * *

ORDER

This matter comes before this Deputy Zoning Commissioner as a Petition for Special Hearing filed by the legal owner of the subject property, William Hirshfeld and the lessee, Greenspring Racquet Club, Inc. Specifically, the Petitioners are requesting a special hearing to approve a development plan which exceeds the height and area standards in the Baltimore County Zoning Regulations, specifically Section 235C.1. The subject case was set in for six days of testimony, commencing on April 19, 1999 and potentially concluding on June 17, 1999. Two days of testimony have already taken place before this Deputy Zoning Commissioner on April 19 & 20, 1999. Preliminarily, and during the course of the taking of testimony and evidence, a motion was made by all parties to the proceeding for an interpretation of the recently enacted County Council Bill No. 111-98.

The issue relating to that newly enacted legislation deals with Section 235C.2.C. Specifically, the issue raised by the parties is whether the Petitioners property, which is the subject of this special hearing request, is "contiguous" to an R.C. Zone. Oral arguments were made by all parties in attendance at the hearing before me, and written memoranda were submitted by the Petitioners, as well as a joint memorandum submitted by the Protestants in the case. In addition, an Amicus Curiae Memorandum was submitted by a nearby property owner.

The uncontradicted testimony and evidence presented at the hearing indicated that the property, which is the subject of this special hearing request, is almost entirely zoned BM with a

6/17/99
R. J. J. J.

very small sliver of OR-1 located on the western edge of the subject site. The property contains 5.3267 acres, more or less, and is located within the Greenspring Station Retail and Office Complex, located at the intersection of Falls Road and Joppa Road, in the Brooklandville area of Baltimore County. The site is currently being utilized by the Petitioners as the Greenspring Racquet Club, which consists of tennis, racquet ball and other related recreational activities. The Petitioners wish to redevelop the site with two office buildings and a parking garage.

As stated previously, the subject site is zoned BM and is immediately bordered by property zoned DR.1 to the north and northeast of the site; BL zoning to the southeast of the site which touches on a corner of the property; the BM zoning continues to extend southerly from the site, with OR-1 zoning found immediately west of the site. There is no R.C. zoning which actually touches the subject property. Reference is hereby made to Petitioners' Exhibit No. 11, the Baltimore County official 200' scale Zoning Map of the subject site and surrounding properties for a more complete description of the surrounding zoning of the property. In addition, the uncontradicted testimony and evidence demonstrated that there does exist within 750 feet of the exterior wall of the proposed building to be located on the property, land which is zoned R.C. 5. Specifically, due west on the opposite side of Falls Road exists an area of R.C. 5 zoning. This R.C. 5 zoning is approximately 350 feet from the subject site. In addition, to the north and west of the subject property is another pocket of R.C. 5 zoning located on the east side of Falls Road which is approximately 150 feet from the subject site. These areas of R.C. 5 zoning are clearly located within 750 feet of the proposed development. Therefore, the Petitioners are subject to the requirements of Section 235C.1. This issue was not disputed at the hearing before me.

However, what is disputed, and is the subject of this Motion and Order, is whether the site to be developed is "contiguous" to an R.C. zone. The term "contiguous" is not defined anywhere within the Baltimore County Zoning Regulations. Therefore, it becomes necessary to reference

Webster's Third New International Dictionary of the English Language, Unabridged, for a definition of "contiguous". That definition was submitted into evidence as Protestant's Exhibit No.

1. Oral arguments were made at the hearing before me as to each parties' interpretation of that definition found within Webster's. In addition, very thorough and well written memoranda were submitted by the parties which also interpret that definition, as well as applicable case law which attempts to define the term "contiguous". After considering the oral arguments of counsel, as well as the memoranda submitted, I find that the property which is the subject of this special hearing request is not "contiguous" to an R.C. zone.

Having so found that the subject property lacks contiguity with an R.C. zone, the Petitioners need not satisfy the burdens imposed upon them by Section 235C.2.C. In other words, it is not necessary for the Petitioners or the Protestants to offer any testimony or evidence as to issue of compatibility with the uses existing within the contiguous R.C. zone. Furthermore, it is not necessary to provide any recommendations of the Directors of Planning, Environmental Protection and Resource Management, Permits and Development Management and Public Works as to compatibility.

This ruling is only applicable to the petition for special hearing which is presently before me, that being the petition of Mr. Hirshfeld as the legal owner of the subject property located at 10803 Falls Road. This ruling shall have no applicability to the property owned by Foxleigh Enterprises, Inc., whose attorney, Stuart D. Kaplow, submitted an Amicus Curiae Memorandum on their behalf. This ruling shall in no way be interpreted to apply to the Foxleigh property which is completely separate and apart from the property which is the subject of this special hearing request. The issue of contiguity must be determined if and when that property becomes the subject of a development proposal.

Date 6/1/77
By R. Jameson

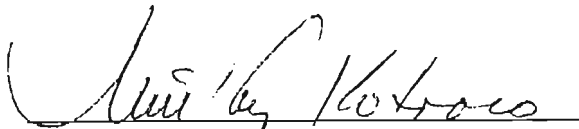
THEREFORE, having considered the joint motions submitted by all parties to this proceeding, it is this 7th day of June, 1999, by the Deputy Zoning Commissioner of Baltimore County,

ORDERED that the property which is the subject of this special hearing request is not contiguous to an R.C. zone and, therefore, the Petitioners are not required to comply with the requirements of Section 235C.2.C.

IT IS FURTHER ORDERED, that any and all testimony and evidence offered by the Petitioners relating to the compatibility of this proposed development to the surrounding neighborhood, be and is hereby stricken from the record.

IT IS FURTHER ORDERED, that the ruling herein is applicable only to the property which is the subject of this special hearing request and shall in no way be utilized by any other property owner as being dispositive on the issue of contiguity of their own site with any R.C. zoning.

Any appeal of this order shall be stayed until a final order is issued by this Deputy Zoning Commissioner on the petition for special hearing request, that is it shall not be necessary for any party aggrieved by this Order to have to file an appeal within thirty days from the date of this decision. All parties shall have thirty days from the date of my final order within which to appeal this particular ruling.


TIMOTHY M. KOTROCO
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

6/17/99
H. Johnson
TMK:raj

5/21/99
In Re: PETITION OF GREENSPRING
RACQUET CLUB, INC.,

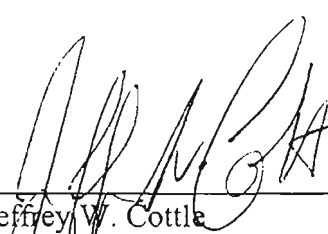
Petitioner

* BEFORE THE
* ZONING COMMISSIONER
* OF
* BALTIMORE COUNTY
* Case No. 99-282-SPH

* * * * *

NOTICE OF WITHDRAWAL OF APPEARANCE

Jeffrey W. Cottle, counsel for Protestants, Valleys Planning Council, Inc., The Meadows of Greenspring Homeowner's Association, Inc. and Norman W. Wilder, hereby notifies all parties that his appearance is hereby withdrawn from this action. K. Donald Proctor will continue to represent the above-named Protestants.



Jeffrey W. Cottle
K. Donald Proctor, P.A.
102 West Pennsylvania Avenue, Suite 505
Towson, Maryland 21204
(410) 823-2258

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 24 day of May, 1999, a copy of the foregoing Notice of Withdrawal of Appearance was mailed, postage pre-paid, to:

Deborah C. Dopkin, Esquire
Deborah C. Dopkin, P.A.
409 Washington Avenue, Suite 920
Towson, Maryland 21204

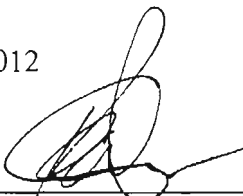
Richard C. Burch, Esquire
Mudd, Harrison & Burch
105 West Chesapeake Avenue, Suite 300
Towson, Maryland 21204

Joseph H. Young, Esquire
Hogan & Hartson, LLP
111 South Calvert Street, Suite 1600
Baltimore, Maryland 21202

Julius W. Lichter, Esquire
Law Offices of Peter Angelos
210 West Pennsylvania Avenue
Suite 515
Towson, Maryland 21204

and to:

Robert H. Freilich, Esquire
Freilich, Leitner & Carlisle
1000 Plaza West
4600 Madison
Kansas City, Missouri 64112-3012



K. Donald Proctor

LAW OFFICES
K. DONALD PROCTOR, P.A.
A PROFESSIONAL CORPORATION
SUITE 505
102 WEST PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204-4542

K. DONALD PROCTOR
JEFFREY W. COTTLE

TELEPHONE 410-823-2258
FACSIMILE 410-823-2268

May 21, 1999

MAY 24

Timothy Kotroco, Esquire
Office of the Zoning Commissioner
County Courts Building
401 Bosley Avenue
Suite 405
Towson, MD 21204

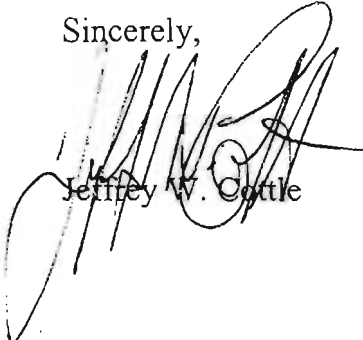
Re: In Re: Petition of Greenspring Racquet Club, Inc.
Case No. 99-282-SPH

Dear Mr. Kotroco:

Enclosed for filing in the above-captioned action, please find a Notice of Withdrawal of Appearance.

Thank you for your customary courtesy.

Sincerely,


Jeffrey W. Cottle

JWC/lrs

Enclosure

cc: Deborah C. Dopkin, Esquire
Richard C. Burch, Esquire
Joseph H. Young, Esquire
Julius W. Lichter, Esquire
Robert H. Freilich, Esquire



Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 10803 Falls Road
which is presently zoned BM and OR-1

This Petition shall be filed with the Department of Permits and 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

a plan which exceeds the height and area standards in Baltimore County Zoning Code section 235C.1; see attached.

Property is to be posted and advertised as prescribed by the zoning regulations. I, or we, agree to pay expenses of above Special Hearing, advertising, posting, etc. and further agree to and are to be bounded 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:

Greenspring Racquet Club, Inc.
Name - Type or Print
William Harkfeld (President)
Signature
10803 Falls Road 410-821-5683
Address Telephone No.
Lutherville, Maryland 21093
City State Zip Code

Attorney For Petitioner:

Julius W. Lichter, Esquire
Name - Type or Print
Julius W. Lichter
Signature
Law Offices of Peter G. Angelos, P.C.
Company
210 West Pennsylvania Ave., #300 410-825-7300
Address Telephone No.
Towson, Maryland 21204
City State Zip Code

Legal Owner(s):

William Hirshfeld
Name - Type or Print
William Hirshfeld
Signature
Loretta Hirshfeld
Name - Type or Print
Loretta Hirshfeld
Signature
3604 Barberry Court 410-484-4210
Address Telephone No.
Baltimore, Maryland 21208
City State Zip Code

Representative to be Contacted:

Julius W. Lichter, Esquire
Name
210 W. Pennsylvania Ave., #300 410-825-7300
Address Telephone No.
Towson, Maryland 21204
City State Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

UNAVAILABLE FOR HEARING _____

Reviewed By _____ Date _____

Case No. 99-282-SPH

Attachment to Petition for Special Hearing

Property address: 10803 Falls Road, Lutherville, Maryland 21212
Zone Classification: BM
Lessee: Greenspring Racquet Club, Inc.
Owners: William and Loretta Hirshfeld
Attorney: Julius W. Lichter, Esquire
Law Offices of Peter G. Angelos, P.C.
210 W. Pennsylvania Avenue, Suite 300
Towson, Maryland 21204
410-825-7300

to approve
Petitioners seek relief under the provisions and criteria of BCZR § 235C.2 (Bill 111-98) and approval of the plan accompanying the petition. Specifically, Petitioners seek approval of a plan providing a Floor Area Ratio ("FAR") of 2.56 in lieu of 0.50 and a building height of 78 feet in lieu of 35 feet.

This Petition is being submitted because Bill 111-98 is unconstitutional both on its face and as applied to the property. Petitioners are seeking administrative relief to eliminate/minimize the unconstitutional impacts. Petitioners do not waive any of their federal or state constitutional or statutory claims by merely applying for administrative relief which may be required pursuant to applicable state and federal constitutional law. The relief requested in this petition does not exceed the height and area standards which are otherwise allowed pursuant to the existing "BM" zoning.

282

January 19, 1999

**Description to Accompany Petition
For Special Hearing
Greenspring Racquet Club
10803 Falls Road**

Beginning for the same at a point distant North 49° East 429 feet, more or less from the intersection of the centerlines Greenspring Valley Road and Falls Road running thence the eight following courses viz:

1. North 21° 31' 05" West 279.20 feet
2. South 71° 39' 30" West 20.03 feet
3. North 21° 31' 05" West 198.43 feet
4. North 68° 28' 55" East 422.75 feet
5. South 21° 31' 05" East 73.50 feet
6. North 68° 28' 55" East 189.11 feet
7. South 05° 36' 50" West 459.34 feet
8. South 68° 28' 55" West 368.44 feet to the place of beginning.

Containing 5.3267 acres more or less

This description is intended for zoning purposes only and is not for use in conveyance of land.



99-282-SPH

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

DATE 1/27/99 ACCOUNT 282 ~~250.00~~ R0016150
AMOUNT \$ 250.00

RECEIVED FROM: J W LICHTER

FOR: (C) SPH FILING

99-282-SPH

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

No.

050862

PAID RECEIPT

PROCESS ACTUAL TIME
1/27/1999 1/27/1999 11:23:35

RE: MS02 CASHIER JRIC JNR DAWMER
5 MISCELLANEOUS DASH RECEIPT

Receipt # 078348 OFLN
CR. NO. 050862

250.00 CHECK

Baltimore County, Maryland

CASHIER'S VALIDATION

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 072262

DATE 10/14/99 ACCOUNT 001-6150

AMOUNT \$ 210.00

RECEIVED FROM: Deborah Dopkin, Esq

FOR: Appeal + Sign
49-282-5PM

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

PAID RECEIPT

PROCESS	ACTUAL	TIME
10/19/1999	10/19/1999	11:25:42
REG 4602	CASHIER DOOL AND DRYMER	
Dept 5	528 ZONING VERIFICATION	
Receipt #	112920	
CR NO.	072262	

Receipt Tot 210.00
210.00 OK .00 00
Baltimore County, Maryland

CASHIER'S VALIDATION

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No.

072133

DATE

9/24/99

ACCOUNT

R-001-6150

AMOUNT

\$ 210.00

RECEIVED
FROM:

Law Officer Peter G. Angeles PC

FOR:

Appeal of case # 99-282-SPH

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

PAID RECEIPT

PROCESS

ACTUAL

TIME

9/27/1999

9/24/1999

16:12:25

REG MS05

CASHIER

WSTE

MES

DRIVER

Dep

5

528 ZONING VERIFICATION

Receipt #

124388

UFLH

CR NO.

072133

Receipt Tot

210.00

210.00

CK

.00

CA

Baltimore County, Maryland

CASHIER'S VALIDATION

TRANSMISSION VERIFICATION REPORT

Post-it™ Fax Note

7671

Date	9/22/99	# of pages	9
To	ROBERT FREILICH		
From	BALTIMORE COUNTY		
Co./Dept.	ZONING COMM. OFF.		
Phone #	410/887-4386		
Fax #	816/561-7931		

TIME: 09/22/1999 09:01
 NAME: ZONING COMM OFFICE
 FAX : 410-887-3468
 TEL :

DATE, TIME

09/22 08:56

FAC. NO. / NAME

918165617931

DURATION

00:04:51

PAGE(S)

09

RESULT

OK

MODE

STANDARD

(Order dated 9/21/99)

TRANSMISSION VERIFICATION REPORT

Post-it™ Fax Note

7671

Date	9/21/99	# of pages	9
To	HANK YOUNG		
From	TIM KOTROCO		
Co./Dept.	HOGAN & HARTSON		
Co.	ZONING COMM. OFF.		
Phone #			
Fax #	410/539-6981		

TIME: 09/22/1999 09:20
 NAME: ZONING COMM OFFICE
 FAX : 410-887-3468
 TEL :

FAC. NO. / NAME

09/22 09:15

DURATION

94105396981

PAGE(S)

00:04:57

RESULT

09

MODE

OK

STANDARD

NOTICE OF ZONING 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: #99-282-SPH

10803 Falls Road
E/S Falls Road, 429' from intersection of Greenspring Valley Road and Falls Road

8th Election District - 3rd Councilmanic District

Legal Owner(s): Loretta & William Hirshfeld

Contract Purchaser: Greenspring Racquet Club, Inc.

Special Hearing: to approve a Floor Area Ratio (FAR) of 2.46 in lieu of .50 and a building height of 78 feet in lieu of 35 feet.

Hearing: Friday, March 19, 1999 at 9:00 a.m. in Room 106, County Office Bldg., 111 West Chesapeake Avenue; Monday, March 22, 1999 at 9:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue; and Tuesday, March 23, 1999 at 9:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue.

LAWRENCE E. SCHMIDT

Zoning Commissioner for Baltimore County

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Contact the Zoning Commissioner's Office at (410) 887-4386.

(2) For information concerning the File and/or Hearing, Contact the Zoning Review Office at (410) 887-3391.
3/018 March 4

C294589

CERTIFICATE OF PUBLICATION

TOWSON, MD., 3/4/, 1999

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 3/4/, 1999

THE JEFFERSONIAN,

J. Wilkinson

LEGAL ADVERTISING

Pct Ex 4B

CERTIFICATE OF POSTING

RE: Case No.: 99-282-SPH

Petitioner/Developer: _____

GREENSPRING RACQUET CLUB

Date of Hearing/Closing: _____

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 10303 FALLS RD.

The sign(s) were posted on 2/15/00
(Month, Day, Year)

Sincerely,

GARY C. FREUND - 2/15/00
(Signature of Sign Poster and Date)

GARY C. FREUND
(Printed Name)

(Address)

(City, State, Zip Code)

(Telephone Number)

CERTIFICATE OF POSTING

New Dates

RE: Case No.: 99-282-SPH

Petitioner/Developer: GREENSPRING R.C., ETAL

C/O R. Hoffman & BIRCH, ESQ

Date of Hearing/Closing: 4/19 & 4/20/99

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 ONSITE @ FALLS ROAD @
GREENSPRING STATION & GREENSPRING RACQUET
CLUB

The sign(s) were posted on 3/22/99
(Month, Day, Year)

Sincerely,

Patrick M. O'Keefe 4/2/99
(Signature of Sign Poster and Date)

PATRICK M. O'KEEFE

(Printed Name)

523 PENNY LANE

(Address)

HUNT VALLEY, MD. 21030

(City, State, Zip Code)

410-666-5366 ; CELL 410-905-8571

(Telephone Number)

ZONING NOTICE

Case #: 99-282-SPH

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

PLACE, ROOM AND DATE OF PUBLIC HEARING
TIME & DATE: 7:00 PM TO 9:00 PM
SPECIAL HEARING TO APPROVE A FLOOR
AREA RATIO OF 2.56 AND A BUILDING
HEIGHT OF 78 FEET IN LIEU OF THE
MAXIMUM PERMITTED GROUND FLOOR AREA
RATIO AND 35 FOOT HEIGHT
SPECIAL HEARING IS SCHEDULED FOR: 4/19/99

HEARING IS SCHEDULED FOR: 4/19/99

NEW DATES

HEARING IS SCHEDULED FOR: 4/19/99

99-282-SPH
GREENSPRING RACQUET
@ FALLS RD.
NEW DATES 4/19 & 20

Pet Ex 4A

DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT
ZONING REVIEW

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The Baltimore County Zoning Regulations (BCZR) require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property (responsibility of the petitioner) and placement of a notice in a newspaper of general circulation in the County, both at least fifteen (15) days before the hearing.

Zoning Review will ensure that the legal requirements for advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements. The newspaper will bill the person listed below for the advertising. This advertising is due upon receipt and should be remitted directly to the newspaper.

OPINIONS MAY NOT BE ISSUED UNTIL ALL ADVERTISING COSTS ARE PAID.

For Newspaper Advertising:

Item Number or Case Number: 282

Petitioner: William and Loretta Hurshfeld, Greenspring Racquet Club, Inc.

Address or Location: 10803 Falls Rd

PLEASE FORWARD ADVERTISING BILL TO:

Name: Julius W. Lichter, Esquire, Law Offices of Peter Angelos

Address: 210 W. Pennsylvania Ave, Suite 300
Towson, MD 21204

Telephone Number: 410-825-7300

Revised 2/20/98 - SCJ

99-282-SPH

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:

ZONING NOTICE

Case No.: 99-282-SFH

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

PLACE: _____

DATE AND TIME: _____

REQUEST: A SPECIAL HEARING TO APPROVE A FLOOR AREA RATIO OF 2.56
AND A BUILDING HEIGHT OF 78 FT. IN LIEU OF THE MAXIMUM
PERMITTED .5 FLOOR AREA RATIO AND 35 FT. HEIGHT.

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



Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
pdmlandacq@co.ba.md.us

February 4, 1999

NOTICE OF ZONING 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: 99-282-SPH

10803 Falls Road

E/S Falls Road, 429' from intersection of Greenspring Valley Road and Falls Road

8th Election District – 3rd Councilmanic District

Legal Owner: Loretta & William Hirshfeld

Contract Purchaser: Greenspring Racquet Club, Inc.

Special Hearing to approve a Floor Area Ration (FAR) of 2.46 in lieu of .50 and a building height of 78 feet in lieu of 35 feet.

HEARING: Friday, March 12, 1999 at 9:00 a.m. in Room 106, County Office Building, 111 West Chesapeake Avenue; Monday, March 15, 1999 at 9:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue; and Tuesday, March 16, 1999 at 9:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue

Arnold Jablon, Director

c: Julius W. Lichter, Esquire
Loretta & William Hirshfeld
Greenspring Racquet Club, Inc.

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY FEBRUARY 25, 1999.**
- (2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
- (3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

Come visit the County's Website at www.co.ba.md.us



TO: PATUXENT PUBLISHING COMPANY
February 25, 1999 Issue – Jeffersonian

Please forward billing to:

Julius W. Lichter, Esquire
Law Offices of PeterAngelos
210 West Pennsylvania Avenue
Suite 300
Towson, MD 21204

410-825-7300

NOTICE OF ZONING 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: 99-282-SPH

10803 Falls Road

E/S Falls Road, 429' from intersection of Greenspring Valley Road and Falls Road
8th Election District – 3rd Councilmanic District

Legal Owner: Loretta & William Hirshfeld

Contract Purchaser: Greenspring Racquet Club, Inc.

Special Hearing to approve a Floor Area Ratio (FAR) of 2.46 in lieu of .50 and a building height of 78 feet in lieu of 35 feet.

HEARING: Friday, March 12, 1999 at 9:00 a.m. in Room 106, County Office Building, 111 West Chesapeake Avenue; Monday, March 15, 1999 at 9:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue; and Tuesday, March 16, 1999 at 9:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue


Lawrence E. Schmidt

54
LAWRENCE E. SCHMIDT
ZONING COMMISSIONER FOR BALTIMORE COUNTY

- NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMODATIONS, PLEASE CONTACT THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
- (2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

TO: PATUXENT PUBLISHING COMPANY
March 4, 1999 Issue – Jeffersonian

Please forward billing to:

Julius W. Lichter, Esquire
Law Offices of PeterAngelos
210 West Pennsylvania Avenue
Suite 300
Towson, MD 21204

410-825-7300

NOTICE OF ZONING 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: 99-282-SPH

10803 Falls Road

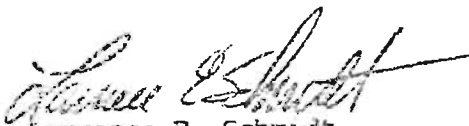
E/S Falls Road, 429' from intersection of Greenspring Valley Road and Falls Road
8th Election District – 3rd Councilmanic District

Legal Owner: Loretta & William Hirshfeld

Contract Purchaser: Greenspring Racquet Club, Inc.

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HEARING: Friday, March 19, 1999 at 9:00 a.m. in Room 106, County Office Building, 111 West Chesapeake Avenue; Monday, March 22, 1999 at 9:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue; and Tuesday, March 23, 1999 at 9:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue



Lawrence E. Schmidt

54)

LAWRENCE E. SCHMIDT
ZONING COMMISSIONER FOR BALTIMORE COUNTY

- NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMODATIONS, PLEASE CONTACT THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
- (2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180
FAX: 410-887-3182

May 15, 2000

Julius W. Lichter, Esquire
LAW OFFICE OF PETER G. ANGELOS
210 W. Pennsylvania Avenue
Suite 300
Towson, MD 21204

Robert E. Freilich, Esquire
FREILICH, LEITNER & CARLISLE
4600 Madison, Suite 1000
Kansas City, MO 64112-3012

K. Donald Proctor, Esquire
102 W. Pennsylvania Avenue
Suite 505
Towson, MD 21204-4542

Deborah C. Dopkin, Esquire
409 Washington Avenue
Suite 920
Towson, MD 21204

Joseph H. Young, Esquire
HOGAN & HARTSON, LLP
111 S. Calvert Street
Baltimore, MD 21202

Richard Burch, Esquire
MUDD HARRISON AND BURCH
105 W. Chesapeake Avenue, Suite 300
Towson, MD 21204

RE: Greenspring Racquet Club, Inc. /Case No. 99-282-SPH

Dear Counsel:

Enclosed is a copy of the Notice of Assignment for the subject case as discussed with and agreed to by all concerned.

Please note that the start time on each of the three days is varied: i.e., 10:00 a.m. on July 5th; 10:30 a.m. on July 6th; and 1:00 p.m. on August 29th. In addition, due to a schedule conflict for one of the sitting Board members on July 6th, it will be necessary for the Board to recess at an earlier hour on that particular date. However, to provide as much time as possible for this hearing, the Board will forego a lunch break on July 6th, choosing to continue through with only a brief break taken as needed.

As I'm sure you're aware, assigning multiple dates this late in the calendar, and particularly during the summer months, is very difficult, and your assistance in scheduling this case has been appreciated. Should you have any questions, please call me at 410-887-3180. Again, thank you for your cooperation and patience.

Very truly yours,

Kathleen C. Bianco
Administrator

c: Peter Max Zimmerman
People's Counsel for Baltimore County





County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180
FAX: 410-887-3182

October 26, 2000

NOTICE OF DELIBERATION ON MOTION TO DISMISS

IN THE MATTER OF:

GREENSPRING RACQUET CLUB, INC. /;
WILLIAM HIRSHFELD, ET UX
Case No. 99-282-SPH

The following date and time has been scheduled for deliberation of the Motion to Dismiss filed in the subject matter (as to the Motion to Dismiss ONLY):

DATE AND TIME : THURSDAY, NOVEMBER 16, 2000 at 9:00 a.m.

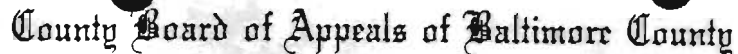
LOCATION : Hearing Room 48, Basement, Old Courthouse

Kathleen C. Bianco
Administrator

c: Counsel for Appellant /Petitioner	: Robert H. Freilich, Esquire
	: Julius W. Lichter, Esquire
Appellant /Petitioner	: Dino LaFiandra, Esquire
	: William and Loretta Hirshfeld
Edmund Haile /Daft McCune Walker, Inc.	and Greenspring Racquet Club Inc
Counsel for Appellant/Protestant	: Richard C. Burch, Esquire
Appellant/Protestant	: Mullan Greenspring Ltd and
	Mullan Pavilions Ltd Partnership
Counsel for Appellants/Protestants	: K. Donald Proctor, Esquire
Appellants/Protestants	: Norman W. Wilder
	James Tebay, President /Meadows
Counsel for Appellant/Protestant	of Greenspring Homeowners Assn Inc
	: Deborah C. Dopkin, Esquire
Appellant/Protestant	George Beall, Esquire
	Joseph H. Young, Esquire
Appellant	: Johns Hopkins Suburban Health
	Center L.P.
	: Peter Max Zimmerman, Esquire
	Carole S. Demilio, Esquire
	/Office of People's Counsel
Valleys Planning Council /Jack Dillon	
Jorgen Jensen	Pat Keller /Planning Director
Michael Friedman	Lawrence Schmidt /ZC
Stuart Kaplow, Esquire	Arnold Jablon, Director /PDM
Virginia Barnhart, County Attorney	George Gavrelis

Copy: C.F.S.





Hearing Room - Room 48
Old Courthouse
400 Washington Avenue

IN THE MATTER OF: GREENSPRING RACQUET CLUB, INC. -
Legal Owner /Petitioner 10803 Falls Road
8th Election District; 3rd Councilmanic

TUESDAY, AUGUST 29, 2000 at 1 p.m. /Day #3; PPD
WEDNESDAY, SEPTEMBER 13, 2000 at 10 a.m. /Day #4;
THURSDAY, SEPTEMBER 14, 2000 at 10 a.m. /Day #5; and
THURSDAY, OCTOBER 26, 2000 at 10 a.m. /Day #6 *

NOTICE: This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney. Please refer to the Board's Rules of Practice & Procedure, Appendix C, Baltimore County Code. IMPORTANT: No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c). If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.

cc: Counsel for Appellant /Petitioner : Robert H. Freilich, Esquire
: Julius W. Lichter, Esquire
: Dino LaFiandra, Esquire
Appellant /Petitioner: William and Loretta Hirshfeld
and Greenspring Racquet Club Inc
Edmund Haile /Daft McCune Walker, Inc.

Counsel for Appellant/Protestant : Richard C. Burch, Esquire
Appellant/Protestant : Mullan Greenspring Ltd and
Mullan Pavilions Ltd Partnership

Counsel for Appellants/Protestants: K. Donald Proctor, Esquire
Appellants/Protestants: Norman W. Wilder
James Tebay, President /Meadows
of Greenspring Homeowners Assn Inc

Counsel for Appellant/Protestant : Deborah C. Dopkin, Esquire
George Beall, Esquire
Joseph H. Young, Esquire
Appellant/Protestant : Johns Hopkins Suburban Health
Center L.P.

Appellant : Peter Max Zimmerman, Esquire
Carole S. Demilio, Esquire
/Office of People's Counsel

Valleys Planning Council /Jack Dillon
Jorgen Jensen Pat Keller /Planning Director
Michael Friedman Lawrence Schmidt /ZC
Stuart Kaplow, Esquire Arnold Jablon, Director /PDM
Virginia Barnhart, County Attorney George Gavrelis



Hearing Room - Room 48
Old Courthouse
400 Washington Avenue

September 15, 2000

NOTICE OF ASSIGNMENT /Additional Days

CASE #: 99-282-SPH

IN THE MATTER OF: GREENSPRING RACQUET CLUB, INC. -
Legal Owner /Petitioner 10803 Falls Road
8th Election District; 3rd Councilmanic

ASSIGNED FOR:

THURSDAY, OCTOBER 26, 2000 at 10 a.m. /Day #6;
TUESDAY, JANUARY 30, 2001 at 10 a.m. /Day #7;
WEDNESDAY, JANUARY 31, 2001 at 10 a.m. /Day #8; and
THURSDAY, FEBRUARY 1, 2001 at 10 a.m. /Day #9 *

*ALL DATES AS CONFIRMED AND VERIFIED WITH COUNSEL; Day #3 (8/29/00) was continued on the record only.

NOTICE: This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney.

Please refer to the Board's Rules of Practice & Procedure, Appendix C, Baltimore County Code. **IMPORTANT:** No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).

If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.

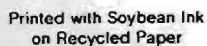
Kathleen C. Bianco /Administrator

CC: Counsel for Appellant /Petitioner : Robert H. Freilich, Esquire
: Julius W. Lichter, Esquire
: Dino LaFiandra, Esquire
Appellant /Petitioner: William and Loretta Hirshfeld
and Greenspring Racquet Club Inc
Edmund Haile /Daft McCune Walker, Inc.

Counsel for Appellant/Protestant : Richard C. Burch, Esquire
Appellant/Protestant : Mullan Greenspring Ltd and
Mullan Pavilions Ltd Partnership
Counsel for Appellants/Protestants: K. Donald Proctor, Esquire
Appellants/Protestants: Norman W. Wilder
James Tebay, President /Meadows
of Greenspring Homeowners Assn Inc
Counsel for Appellant/Protestant : Deborah C. Dopkin, Esquire
George Beall, Esquire
Joseph H. Young, Esquire
Appellant/Protestant : Johns Hopkins Suburban Health
Center L.P.

Appellant : Peter Max Zimmerman, Esquire
Carole S. Demilio, Esquire
/Office of People's Counsel

Valleys Planning Council /Jack Dillon
Jorgen Jensen Pat Keller /Planning Director
Michael Friedman Lawrence Schmidt /ZC
Stuart Kaplow, Esquire Arnold Jablon, Director /PDM
Virginia Barnhart, County Attorney George Gavrelis





Baltimore County
Department of Permits and
Development Management

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

March 5, 1999

Julius W. Lichter, Esq.
Law Offices of Peter G. Angelos, P.C.
210 W. Pennsylvania Avenue, #300
Towson, MD 21204

RE: Case No.: 99-282-SPH
Petitioner: Greenspring Racquet Club
Location: 10803 Falls Road

Dear Mr. Lichter:

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM), on January 27, 1999.

The Zoning Advisory Committee (ZAC), which consists of representatives from several Baltimore County approval agencies, has reviewed the plans that were submitted with your petition. All comments submitted thus far from the members of the ZAC are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to ensure 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. All comments 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.

Very truly yours,

A handwritten signature in black ink, reading "W. Carl Richards, Jr." with a stylized flourish at the end.

W. Carl Richards, Jr.
Zoning Supervisor
Zoning Review

WCR:ggs

Enclosures

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

Date: February 17, 1999

FROM: Robert W. Bowling, Supervisor
Bureau of Developer's Plans Review

SUBJECT: Zoning Advisory Committee Meeting
for February 16, 1999
Item Nos. 278, 280, 281, 282, 285,
288

AND

Revised Variance Petitions & Plats for
Case #98-467-SPHA (7601 Osler Drive)

The Bureau of Developer's Plans Review has reviewed the subject zoning items, and we have no comments.

RWB:HJO:jrb

cc: File

ZONE0216.NOC

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

TO: Arnold Jablon, Director
Permits and Development Management

DATE: 2/10/99

FROM: R. Bruce Seeley, Project Manager
Development Coordination
DEPRM

SUBJECT: Zoning Advisory Committee

Distribution Meeting Date: Feb 8, 99

The Department of Environmental Protection and Resource Management has
no comments for the following Zoning Advisory Committee Items:

Item #'s: 278
279
280
281
282
283
285
286
287
288
289
98-467 SP HA



**Maryland Department of Transportation
State Highway Administration**

Parris N. Glendening
Governor
John D. Porcari
Secretary
Parker F. Williams
Administrator

Date: February 10, 1999

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

RE: Baltimore County
Item No. 282 (JLL)
MD 25
Greenspring Racquet Club, Inc.
MP 3.76

Dear Ms. Stephens:

This office has reviewed the referenced Special Hearing and have no objection to approval.

However we will require the owner to obtain an access permit. Please have their representative contact this office regarding the roadway improvements conditioned to the permit.

Please contact Larry Gredlein at 410-545-5606 or by E-mail at (lgredlein@sha.state.md.us).

Very truly yours,

for Michael M. Lenhart, Acting 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

Sign
4/19

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: March 16, 1999

FROM: Arnold F. 'Pat' Keller, III
Director, Office of Planning

SUBJECT: Greenspring Racquet Club

INFORMATION:

Item Number: 282
Petitioner: William and Loretta Hirshfeld
Property Size: 5.33± acres
Zoning: BM and OR-1
Requested Action: Special Hearing
Hearing Date:

The petitioner is seeking relief from BCZR Section 235C.1. This section restricts the floor area ratio and height of buildings proposed for certain lots located in business zones when the lot is proximate to a Resource Conservation Zone. In this case the petitioner requests, via a Special Hearing, a building height of 78 feet and a floor area ratio of 2.58 in lieu of the permitted 35 foot building height and permitted floor area ratio of 0.50.

Relief from Section 235C.1 is provided in Section 235C.2. This Section allows the Zoning Commissioner to approve a plan that exceeds the regulations if:

A) The requirements of Section 502.1 are met.

B) The proposed height and floor area ratio do not exceed the standards otherwise permitted in the underlying business zone.

C) The proposed use is compatible, as determined by the criteria of Section 26-282, with the existing uses in the nearby Resource Conservation zone.

Existing Site Information

The subject site is 5.3± acres. The existing zoning is Business Major (BM). The existing use is a one story, 125,000 square foot, 30 foot high racquet club. The existing floor area ratio is 0.55.

Site Proposal

The petitioner proposes to build two new office buildings, one of which would be six stories in height and contain 132,000 square feet of office space, the other is proposed at five stories in height and contain 110,000 square feet of space. A maximum building height of 78 feet is proposed. The sites proposed floor area ratio, which includes a four deck parking garage, is 2.56.

SUMMARY OF RECOMMENDATIONS:

Staff Comments

Section 235C.2, which allows relief from to Section 235C.1, relies heavily on the eight elements of compatibility listed in Section 26.282 of the Baltimore County Development Regulations. It has been determined by this office that the petitioners submitted plan lacks the detail needed to establish a finding of compatibility. For example, site proposals for open space planning, landscaping and buffers, signs and lighting and building detail-all key compatibility elements-are not provided. It is, therefore, not possible for staff to report on this important criteria of Section 235C.2.

Notwithstanding the lack of proposed development data that is needed to establish a compatibility finding, the Office of Planning has analyzed the surrounding zoning and land uses. Master Plan issues were also identified.

The zoning to the south of the site is BM and BL. The land-use is mixed retail and office. The mixed uses are located in several two and three story buildings. The zoning to the east is DR-2, and has been developed with low-density residential uses. To the north of the site the zoning is DR-1 and RC-5. The DR-1 land is vacant while the RC-5 portion is developed with large lot residential uses with private water and sewer. To the west the properties are zoned OR-1 and RC-2. The uses include a two-story office building, a small school and a large agricultural use located at Greenspring Valley Road and Falls Road.

The current Baltimore County Master Plan identifies the proposed development site as being located in the area of a visual "Gateway" to the rural valley area. The Master Plan recognizes that a "gateway" is an area where there is a fairly abrupt change in the physical surroundings. The design treatment should emphasize the distinctive characteristics on each side of the gateway so the sense of transition becomes stronger. Special review of the design aspects of proposed developments at these locations is recommended.

There is an abrupt, and in certain locations absence of any urban to rural transition area at the entire Greenspring Station commercial hub that indicates a historic overzoning of the area. Whether from a land-use or Master Plan perspective, the intensification of development as proposed in this petition only accentuates an already inadequate urban to rural transition area.

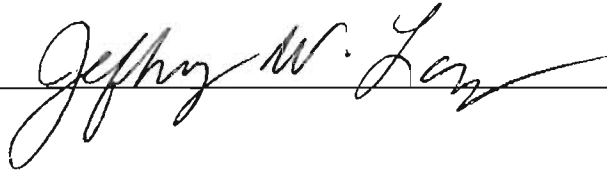
Alternative Development and Final Comment

As an alternative to the proposed development the staff has created a development concept that is permitted by right by the existing regulations (.5 FAR; 35 ft., height limit). The concept consists of two, three story office building situated on the same building footprint as the petitioners. Each

building is 57,000 square feet (19,000/floor) for a site total of 114,000 square feet. 376 parking spaces are provided on an at grade parking lot.

It is the recommendation of the Office of Planning that the existing zoning regulations allow a reasonable use of the petitioner's property. The intent of existing regulations are to allow for the gradual transition from urban to rural land-uses when urban commercial zones abut rural zoning. The alternative development presented above reduces the scale of development on the site, reduces the intensity of future use by reducing usable space and lessens the visual impact from adjacent properties. These objectives are consistent with the existing regulations.

Section Chief:

A handwritten signature in cursive script, reading "Jeffrey W. Lane", is written over a horizontal line.

AFK:BH:lsn



Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL

Room 47, Old CourtHouse
400 Washington Ave.
Towson, MD 21204

(410) 887-2188

PETER MAX ZIMMERMAN
People's Counsel

October 15, 1999

CAROLE S. DEMILIO
Deputy People's Counsel

Arnold Jablon, Director
Department of Permits and
Development Management
111 W. Chesapeake Avenue
Towson, MD 21204
Hand-delivered

Re: PETITION FOR SPECIAL HEARING
10803 Falls Road, Beginning at a point N 49 degrees E,
429' from the intersection of Greenspring Valley Rd and
Falls Rd., 8th Election Dist., 3rd Councilmanic
Legal Owners: **William & Loretta Hirshfeld**
Contract Purchaser: **Greenspring Racquet Club, Inc.**
Case No.: 99-282-SPH

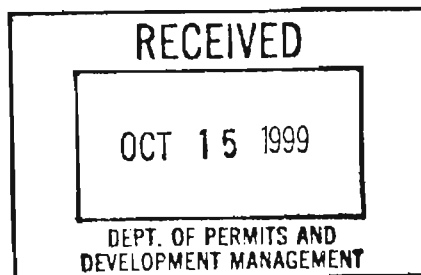
Dear Mr. Jablon:

Please enter an appeal of the People's Counsel for Baltimore County to the County Board of Appeals, of that portion of the of the Baltimore County Deputy Zoning Commissioner's Order dated June 7, 1999 relating to ruling on Motions for interpretation of Bill 111-98, which states the Petitioners' site:

"is not contiguous to an R.C. zone and, therefore, the Petitioners are not required to comply with the requirements of Section 235C.2.C."

This limited appeal pertains to the interlocutory Order of the Deputy Zoning Commissioner. The final Order dated September 21, 1999 ultimately denied the Petition for Special hearing on other grounds.

Please forward copies of any papers pertinent to the appeal as necessary and appropriate.



Very truly yours,

Peter Max Zimmerman
People's Counsel for Baltimore County

Carole S. Demilio
Deputy People's Counsel

PMZ/CSD/cdf

cc: Julius W. Lichter, Esq., Attorney for Petitioners
Deborah C. Dopkin, Esq., Attorney for Protestants

Richard C. Burch, Attorney for Protestants
K. Donald Proctor, Attorney for Protestants



Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
pdmlandacq@co.ba.md.us

November 10, 1999

Julius W. Lichter, Esquire
210 West Pennsylvania Avenue
Suite 300
Towson, MD 21204

Dear Mr. Lichter:

RE: Petition for Special Hearing, 10803 Falls Road, 8th Election District:

Please be advised that an appeal of the above referenced case was filed in this office on September 24, 1999 by Robert H. Freilich, Esquire and on October 14, 1999 by Richard C. Burch, K. Donald Proctor, Deborah C. Dopkin, George Beall, and Joseph Young, Esquires, and on October 15, 1999 by People's Counsel for Baltimore County. 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,

A handwritten signature in cursive script that reads "Arnold Jablon".

Arnold Jablon
Director

AJ:scj

c: Loretta & William Hirshfeld
Greenspring Racquet Club, Inc.
Robert H. Freilich, Esquire
Richard C. Burch, Esquire
K. Donald Proctor, Esquire
Deborah C. Dopkin, Esquire
George Beall, Esquire
Joseph Young, Esquire
People's Counsel



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APPEAL

Petition for Special Hearing
10803 Falls Road
NE/S Falls Road, 429' E of centerline Greenspring Valley Road
8th Election District – 3rd Councilmanic District
Loretta & William Hirshfeld- Legal Owner
Greenspring Racquet Club, Inc.- Contract Purchaser
Case Number: 99-282-SPH

- ✓ Petition for Special Hearing (see Petitioner's Exhibit 1) ^{ORIGINAL}
- ✓ Description of Property
- ✓ Notice of Original Zoning Hearing (2/4/99)
- ✓ Certificate of Posting (3/22/99 – Patrick M. O'Keefe)
- ✓ Certification of Publication (3/4/99 – The Jeffersonian)
- ✓ Entry of Appearance by People's Counsel (2/11/99)
- ✓ Petitioner(s) Sign-In Sheet (3)
- ✓ Protestant(s) Sign-In Sheet (3)
- ✓ Sign-In Sheet (not marked)
- ✓ Zoning Advisory Committee Comments (see Petitioner's Exhibit 2) ^{ORIGINAL}

RECEIVED
COUNTY BOARD OF APPEALS
99 NOV -9 PM 4:28

✓E

Petitioners' Exhibits:

NOTE: All FOAM BOARDS - IN CBA CLOSET)

- ✓ 1. Petition for Special Hearing (filed 1/27/99) - COPY MADE - CLIPPED IN FILE
- ✓ 2. Zoning Advisory Committee Comments - COPY MADE - CLIPPED IN FILE
- ✓ 3. Plat to Accompany Petition for Special Hearing for Greenspring Racquet Club (dated 1/19/99)
- ✓ 4. Exhibit Not Found
- ✓ 5A. Deed – Liber 8642, Page 093 (dated 11/6/90)
- ✓ 5B. Deed – Liber 8642, Page 086 (dated 11/6/90)
- ✓ 6. Letter to Arnold Jablon, Director, from Julius Lichter, Esquire (dated 6/10/98)
- ✓ 7. County Council Bill No. 111-98 (dated 9/8/98)
- ✓ 8. Motion for Special Admission of Out-of State Attorney (dated 4/16/99)
- ✓ 9A. Draft of Master Plan 2010 (dated 10/98)
- ✓ 9B. Proposed Land Use Map No. 34
- ✓ 10. Master Plan of Baltimore County 1989-2000 (adopted 2/5/90)
- ✓ 11. ON FOAM BOARD – 200' Scale Zoning Map, NW-12C (dated 1/86)
- ✓ 12. ON FOAM BOARD -- Aerial Photograph, Baltimore Co. Tile: 06023 (dated 3/96)
- ✓ 13. ON FOAM BOARD -- Colored Overall Development Plan of Greenspring Racquet Club (dated 4/14/99)
- ✓ 14. ON FOAM BOARD – 30 Photographs of Greenspring Racquet Club (dated 4/14/99)
- ✓ 15. Copy of Page 5-7 (Section 502) of the Baltimore County Zoning Regulations
- ✓ 16. ON FOAM BOARD -- Plat to Accompany Petition for Special Hearing, Greenspring Racquet Club (dated 4/10/99)
- ✓ 17. Plat for Redevelopment of the Existing Greenspring Racquet Club Within the Same Footprint and With a Square Footage per Story Less Than the Existing Improvement (dated 4/19/99)

APPEAL

Case Number: 99-282-SPH

10803 Falls Road

Page 2

Petitioners' Exhibits: (con't):

18. Projects With One Means of Access from The Traffic Group, Inc. (dated 6/10/99)
18. ON FOAM BOARD -- Proposed Office Building Elevations at Greenspring Racquet Club Property
19. Third Amendment to Deed of Easement -- Liber 8642, Page 099 (dated 10/31/90)

Protestants' Exhibits:

1. Copy of page of Webster's Third New International Dictionary
2. Transcript of Case No. Y99 CV231 from United States District Court for the District of Maryland, Northern Division
3. Transcript of Case No. C98 6483 from the Circuit Court for Baltimore County
4. ON FOAM BOARD -- Greenspring Station Wetland and Stream Locations with 7 Photographs (dated 6/3/99)
5. Resume of C. Richard Moore, Vice President of Wells & Associates, Inc.
- 6A. Restrictive Covenant Agreement (dated 6/23/88)
- 6B. First Amendment to Restrictive Covenant Agreement (dated 6/11/97)
- 7A. One Photograph (dated 4/20/99)
- 7B. One Photograph (dated 4/20/99)
- 7C. One Photograph (dated 4/20/99)
- 7D. One Photograph (dated 4/20/99)
- 8A. One Photograph
- 8B. One Photograph
- 8C. One Photograph
9. Resolution from Falls Road Community Association, Inc. (dated 4/8/99)

Misc. (Not Marked as Exhibits): CHRONOLOGY OF CORRESPONDENCE

- Note in File Concerning Scheduling of Hearing
- Letter to Julius Lichter, Esquire, from Arnold Jablon, Director (dated 2/9/99)
- Letter to Arnold Jablon, Director, from Richard Burch, Esquire (dated 2/25/99)
- Letter to Arnold Jablon, Director, from Julius Lichter, Esquire (dated 3/2/99)
- Letter to Richard Burch, Esquire, from Arnold Jablon, Director (dated 3/2/99)
- Letter to Richard Burch, Esquire, from Arnold Jablon, Director (dated 3/3/99)
- Motion for Admission Pro Hac Vice from the United States District Court for the District of Maryland (dated 4/9/99)
- Order for Case Number 3-C-98-6483 in Circuit Court for Baltimore County (dated 4/16/99)
- Transcript of Case No. 99282SPH (hearing 4/19/99) (IN EXH. WALLET)
- Letter to Julius Lichter, Esquire, from Timothy Kotroco, Deputy Zoning Commissioner (dated 4/21/99)
- Letter to Timothy Kotroco, Deputy Zoning Commissioner, from Julius Lichter (dated 4/28/99)
- Amicus Curiae Memorandum in Support of Petitioners (dated 5/3/99) (IN EXH. WALLET)
- Petitioners' Brief (dated 4/29/99) (IN EXH. WALLET)
- Letter to Timothy Kotroco, Deputy Zoning Commissioner, from Deborah Dopkin, Esquire (dated 5/4/99) w/ Protestants' JT. memo. (IN EXH. WALLET)
- Letter to Timothy Kotroco, Deputy Zoning Commissioner, from Robert Freilich, Esquire (dated 5/7/99)

APPEAL

Case Number: 99-282-SPH

10803 Falls Road

Page 3

Misc. ~~(Not Marked as Exhibits)~~ (Con't):

- ✓ Letter to Timothy Kotroco, Esquire, from Jeffrey Cottle, Esquire (dated 5/21/99)
- ✓ Letter to Julius Lichter, Esquire, from Arnold Jablon, Director (dated 5/25/99)
- ✓ Deputy Zoning Commissioner's Order dated 6/7/99. (Applicable only to Pet. of LO. PROPERTY IS NOT CONTIGUOUS)
- ✓ Deputy Zoning Commissioner's Order dated 9/21/99. (FINAL)
- ✓ Notice of Appeal received on 9/24/99 from Robert H. Freilich, Esquire on behalf of Petitioners, William and Loretta Hirshfeld, and Greenspring Racquet Club, Inc.
- ✓ Notice of Appeal received on 10/14/99 from Richard C. Burch, Esquire, and K. Donald Proctor, Esquire, and Deborah C. Dopkin, Esquire, and George H. Beall, Esquire, and Joseph H. Young, Esquire, on behalf of Mullan Greenspring Limited Partnership and Mullan Pavilions Limited Partnership, and The Meadows of Greenspring Homeowners Association, Inc., and Norman W. Wilder, and The Johns Hopkins Suburban Health Center, L.P.
- ✓ Notice of Appeal received on 10/15/99 from People's Counsel for Baltimore County.

- AS
PF
6/01
- * Robert H. Freilich, Esquire, FREILICH, LEITNER & CARLISLE, 4600 Madison, Suite 1000, Kansas City, MO 64112-3012
 - Julius W. Lichter, Esquire and Dino LaFiandra, Esquire, 210 W. Pennsylvania Avenue, Suite 300, Towson, MD 21204
 - William and Loretta Hirshfeld, 3604 Barberry Court, Baltimore, MD 21208
 - Greenspring Racquet Club, Inc., 10803 Falls Road, Lutherville, MD 21093
 - * Richard C. Burch, Esquire, MUDD, HARRISON and BURCH, 105 W. Chesapeake Ave., Suite 300, Towson, MD 21204
 - Mullan Greenspring Ltd. and Mullan Pavilions Ltd. Partnership, 2320 Joppa Road, Lutherville, MD 21093
 - * K. Donald Proctor, Esquire, 102 W. Pennsylvania Avenue, Suite 501, Towson, MD 21204-4542
 - Norman W. Wilder, 65 Seminary Farm Road, Lutherville, MD 21093
 - * James Tobay, President, Meadows of Greenspring Homeowners Assn., Inc., 5 Yearling Way, Lutherville, MD 21093
 - * Deborah C. Dopkin, Esquire, 409 Washington Avenue, Suite 920, Towson, MD 21204
 - George Beall, Esquire & Joseph H. Young, Esquire, HOGAN & HARTSON, LLP, 111 S. Calvert Street, Baltimore, MD 21202
 - Johns Hopkins Suburban Health Center, L.P., 10753 Falls Road, Suite 405, Lutherville, MD 21093
 - Valleys Planning Council /Jack Dillon, 207 Courtland Avenue, Towson, MD 21204
 - Jorgen Jensen, 8216 Tally Ho Road, Lutherville, MD 21093
 - Michael Friedman, 1 Bluestone Road, Lutherville, MD 21093
 - Stuart Kaplow, Esquire, 15 E. Chesapeake Avenue, Towson, MD 21286
 - Edmund Baile, Daft McCune Walker, Inc., 200 E. Pennsylvania Avenue, Towson, MD 21286
 - * Peter Max Zimmerman and Carole S. Demilio, People's Counsel for Baltimore County
 - Pat Keller, Director /Planning
 - Lawrence E. Schmidt, Zoning Commissioner
 - Arnold Jablon, Director /PDM
 - Virginia W. Barnhart, County Attorney

Case No. 99-282-SPH

SPH -To approve development plan which exceeds the height and area standards for buildings as contained within the BCZR, specifically Section 235C.1.

GREENSPRING RACQUET CLUB INC

6/07/99 -D.Z.C.'s Order that subject property is not contiguous to RZ zone and Petitioners are not required to comply with the rrrquirements of Section 235.C.2.C (Appeals from this Order stayed pending final Order of the D.Z.C. in this case.)

9/21/99 -Final Order of the D.Z.C. in which Petition for Special Hearing was DENIED.

2/07/2000 - Notice of Assignment for hearing scheduled for Wednesday, May 10, and Thursday, May 11, 2000 at 10:00 a.m. sent to following:

Robert H. Freilich, Esquire
Julius W. Lichter, Esquire
Dino LaFiandra, Esquire
William and Loretta Hirshfeld
and Greenspring Racquet Club Inc
Edmund Haile /Daft McCune Walker Inc
Richard C. Burch, Esquire
Mullan Greenspring Ltd and
Mullan Pavilions Ltd Partnership
K. Donald Proctor, Esquire
Norman W. Wilder
James Tebay, President /Meadows
of Greenspring Homeowners Assn Inc
Deborah C. Dopkin, Esquire
George Beall, Esquire
Joseph H. Young, Esquire
Johns Hopkins Suburban Health
Center L.P.
Peter Max Zimmerman, Esquire
Carole S. Demilio, Esquire
/Office of People's Counsel
Valleys Planning Council /Jack Dillon
Jorgen Jensen
Michael Friedman
Stuart Kaplow, Esquire
Virginia Barnhart, County Attorney
Pat Keller /Planning Director
Lawrence Schmidt, ZC
Arnold Jablon, Director /PDM

4/21/00 - Letter from Peter M. Zimmerman, People's Counsel -- outline of case from perspective of PC.

5/08/00 -T/C from Dino LaFiandra, Esquire -- lead counsel, Robert H. Freilich, Esquire, had emergency eye surgery; will be unable to attend hearing on 5/10 and 5/11-- cannot travel per doctor's orders (surgery performed in Kansas City, MO); also requested possible dates available if postponement were to be formally requested and granted by the Board. Advised Mr. LaFiandra that there were no dates available in June; scattered dates beginning in July and going into August and also October.

Case No. 99-282-SPH

SPH -To approve development plan which exceeds the height and area standards for buildings as contained within the BCZR, specifically Section 235C.1.

GREENSPRING RACQUET CLUB INC

Page 2

5/09/00 -Telephone conversations with D. Proctor and R. Burch; Mr. Lichter stopped in Office this date; letter requesting PP sent via FAX. Upon consideration of this request, and also the fact that Mr. Burch would not be available until the afternoon session (a.m. funeral), the Board will convene at 1:00 p.m. on 5/10/00 to receive Mr. Lichter's request on the record; and to receive the comments and response of counsel in this matter.

- Letter by FAX to Messrs. Burch, Proctor, Lichter and Young and to Ms. Dopkin; copy by mail to Mr. Freilich; copy hand-delivered to Mr. Zimmerman's office this date -- advising and confirming 1:00 pm. start on Wednesday, May 10, 2000. Board also advised this date; message left for CP.

5/10/00 - FAX from R. Freilich, Esquire -- letter from Thomas J. Whittaker, M.D. advising of Mr. Freilich's surgery and his limitations as to travel and egaging in business activities for another ten (10) days.

- Board convened as scheduled at 10:00 a.m. Postponement request granted on the record. Upon confirmation of availability of all counsel, the Board has tentatively scheduled three days for this matter; namely, 7/05/00 at 10:00 a.m.; 7/06/00 at 10:30 a.m.; and 8/29/00 at 1:00 p.m. Upon confirmation of Board member availability on these dates, a Notice of PP and Reassignment will be issued. (C.B.M.)

-Added to file (home address) per request: George Gavrelis - 2 Southerly Court - Unit 307 - Towson, MD 21286-2705

5/15/00 -Notice of Assignment sent to parties; case reassigned for hearing to the following dates upon confirmation by all counsel and upon confirmation of panel members: Wednesday, July 5, 2000 at 10:00 a.m.; Thursday, July 6, 2000 at 10:30 a.m. (breaking for the day by 2:00 p.m. due to Board member conflict); and Tuesday, August 29, 2000 at 1:00 p.m. Letter sent to counsel as attachment to notice advising of varied hours of start and stop in the assignment of this case.

6/21/00 -Copy of letter (by fax) from J. Lichter to all counsel -- advising of videotaped depo of Sean Davis on 6/30/00.

6/22/00 -Response from H. Young to above letter; objecting to same for reasons as stated, including unavailability of R. Burch (Mr. Burch scheduled for court in Harford County on 6/30/00); unable to reach Mr. Proctor and also parties' own witnesses to determine availability; and othter reasons as stated.

- T/C from J. Lichter -- had received Mr. Young's letter; in light of circumstances, videotaped session will be cancelled; Mr. Lichter will respond in writing to counsel; will consider taking witness out of turn instead.

6/23/00 -Letter by FAX from J. Lichter regarding cancellation of deposition; requesting confirmation from CBA that witness can be called out of order and "possibly of close of our case-in-chief."

6/23/00 - T/C from R. Burch -- objecting to above sentence in letter; conference call w/R. Burch and J. Lichter -- Per J. Lichter -- there will be no deposition taken on 6/30/00; the hearing in this matter will be convened as scheduled on 7/05/00 at 10 a.m.; any outstanding issues regarding witnesses, procedures, etc., to be addressed at that time and on the record.

6/26/00 -Letter by FAX from Mr. Lichter -- deposition of Mr. Davis scheduled for 6/30/00 has been cancelled; witness to be called depending upon progress of hearing after 7/06/00.

6/30/00 - Joint Motion and Memorandum in Support of Summary Denial filed by R. Burch, Esquire; D. Proctor, Esquire; D. Dopkin, Esquire; and J. Young, Esquire. Hand-delivered original to BOA office; copy by messenger to C. Marks, L Wescott, and D. Felling; copies to opposing counsel as indicated in certification.

7/05/00 -Convened for and concluded day #1; scheduled 7/06/00 @ 10:30 a.m. for Day #2 (Marks, Wescott, Felling)

7/06/00 -Concluded day #2; to convene on 8/29/00 at 1:00 pm for day #3. Also, per scheduling conference with counsel post-hearing this date, possible 9/12, 9/13 and/or 9/14 for three additional dates; 9/14/00 also possible, even should Valley Concourse go forward on 9/12 and 9/13; also holding 10/26 and 10/31/00. Dates to be confirmed by notice after motion hearing in Valley Concourse matter on 7/25/00; all parties to have in hand copies of Notice of Assignment, which will include all dates assigned, by 8/29/00.

7/31/00 --Amended Notice of Assignment sent to parties; with the availability of the September dates, and upon confirmation with counsel, the following dates have been confirmed and notice is sent this date for Days 4, 5 and 6 as follows: Wednesday, September 13; Thursday, September 14; and Thursday, October 26, 2000 at 10:00 a.m.

8/28/00 -Letter via FAX from J. Lichter, Esquire -- were advised by their witness, Sean Davis, that his mother-in-law had passed away 8/27/00; he would be unable to meet with them this date; unclear whether or not he will be available for hearing on 8/29/00. Will advise. (Copies also sent via FAX to opposing counsel.)

- T/C from D. Dopkin in response to this letter. Advised her that we are awaiting further update from Mr. Lichter regarding availability of Mr. Davis for 8/29/00; hearing still scheduled.

- T/C from D. LaFiandra -- has spoken with opposing counsel; witness cannot attend on 8/29/00 (received second FAX advising of same; requesting that he be taken out of turn and Petitioner would close on 8/29 reserving right to call Mr. Davis at later time). Mr. LaFiandra will call opposing counsel(FAX to them as well) and advise this office re tomorrow's hearing.

8/28/00 (continued) - T/C from D. Dopkin; opposing counsel would agree to continue this matter on the record on 8/29/00 at scheduled hearing time. Petitioner could then concluded his case at next scheduled date with no witnesses out of turn.

8/28/00 -FAX from J. Lichter -- with agreement of counsel, case is to be continued and, if in agreement, no one need appear on 8/29/00.

- T/C to Mr. LaFiandra -- advised that, per telephone conversation with D. Dopkin, opposing counsel will agree to postponement /continuance, to be granted on the record at 1 p.m. on 8/29/00.

FINAL NOTE: Board will convene at 1:00 p.m. on 8/29/00 to grant Mr. Lichter's continuance request on the record; witness unavailable due to unexpected death in family. Will convene for hearing on next scheduled date of 9/13/00.

8/29/00 -Board convened at 1:00 p.m. as scheduled. Continuance requested by Mr. Lichter was put on the record; Board granted same. To reconvene for next hearing day on 9/13/00 at 10 a.m. (CSF)

9/13/00 -Concluded Day #4 (day #3 having been postponed on the record). (CSF)

9/14/00 -Concluded Day #5; to convene on 10/26/00 for day #6; additional dates to be added upon confirmation of counsel as to availability and their respective schedules. (Possible 1/30, 1/31, and 2/01/01)

9/15/00 -Notice of Assignment /Additional Days sent to parties this date; includes October 26, 2000; January 30, 2001; January 31, 2001; and February 1, 2001, all beginning at 10:00 a.m. FYI copy also sent to C.F.S. for calendar.

10/24/00 -Letter from D. Dopkin -- re Council's comprehensive rezoning and how that affects this matter (from B.M. to 0-3); this petition was filed pursuant to 253C BCZR - regulations for BM lots within 750' of RC zone; parties differ as to whether this should be dismissed as moot or stayed until various court actions have been resolved. Requests that this matter be considered by the Board on 10/26/00.

-- FAX from Ms. Dopkin to correct subject line.

-- Response from Mr. Lichter -- opposes any stay or dismissal of this matter; will expect to proceed with the hearing on 10/26/00. (via FAX)

10/25/00 -Letter from Joseph Young, Esquire, via FAX -- in response to J. Lichter's 10/24 letter --Developer had opposed dismissal but indicated intent to request stay. Will argue pending motion to dismiss on 10/26/00.

-- Original letter received from D. Dopkin /Corrected case caption; also original letter referenced above from J. Lichter.

Case No. 99-282-SPH

SPH -To approve development plan which exceeds the height and area standards for buildings as contained within the BCZR, specifically Section 235C.1.

GREENSPRING RACQUET CLUB INC

Page 5

10/26/00 -Board convened for hearing (Marks, Wescott, Felling); argument on Motion to Dismiss and discussion regarding correspondence received; deliberation scheduled for Motion only -- Notice of Deliberation sent to parties; scheduled for Thursday, November 16, 2000 at 9:00 a.m. (deliberation on Motion only). Copy to C.S.F.

January 27, 1999	Petition for Special Hearing filed by Julius W. Lichter, Esquire, on behalf of William and Loretta Hirshfeld, LO and Greenspring Racquet Club, Inc., CL to approve a development plan which exceeds the height and area standards of BCZR Section 235C.1.
February 11	Entry of Appearance filed by People's Counsel for Baltimore County.
April 16	Order issued by the Circuit Court wherein Robert H. Freilich, Esquire, may appear and participate in this action.
April 19 thru June 17	Hearings (6) held on Petition by the Deputy Zoning Commissioner. (Motion file by all parties to the proceedings for an interpretation of a recently enacted County Council Bill No. 111-98).
June 7	Order issued by the DZC; Special Hearing request is not contiguous to an R.C. zone; Petitioners are not required to comply with the requirements of Section 235C.2.C; testimony and evidence offered by the Petitioners relating to compatibility is stricken from the record; ruling is applicable only to the property of the subject special hearing request. Any appeal of this order shall be stayed until a final order is issued by the DZC.
September 21	Findings of Fact and Conclusions of Law issued by the Deputy Zoning Commissioner; Petition for Special Hearing is DENIED.
September 24	Notice of Appeal filed by Robert Freilich, Esq., Julius Lichter, Esq., and Dino LaFiandra, Esq., on behalf of Greenspring Racquet Club, Inc., William Hirshfeld and Loretta Hirshfeld.
October 14	Notice of Appeal filed by Richard Burch, Esq., K. Donald Proctor, Esq., Deborah Dopkin, Esq., George Beall, Esq., and Joseph Young, Esq.
October 15	Notice of Appeal filed by People's Counsel for Baltimore County.
April 21, 2000	Entry of Appearance filed by People's Counsel for Baltimore County (also provided a letter/outline of the case).
May 10	Board of Appeals convened for hearing; postponement request granted.
June 30, 2000	Joint Motion and Memorandum in Support of Summary Denial filed by Richard Burch, Esq., Donald Proctor, Esq., Deborah Dopkin, Esq., and Joseph Young, Esq.
July 5	Hearing Day #1 held by the Board of Appeals.
July 6	Hearing Day #2 held by the Board of Appeals.
August 9	Hearing Day #3 – continued on the record.
September 13	Hearing Day #4 held by the Board of Appeals.
September 14	Hearing Day #5 held by the Board of Appeals.
October 24	Letter from Deborah Dopkin, Esq. re: Council's comprehensive rezoning.
October 25	Letter from Joseph Young, Esq. in response to Mr. Lichter's 10/24/00 letter – Developer opposed dismissal but indicated intent to request stay.
October 26	The Board convened for hearing Day #6; argument on Motion to Dismiss
November 16, 2000	Public Deliberation conducted by the Board of Appeals.
May 2, 2001	Opinion /Ruling on Motion to Dismiss issued by the Board; Protestants' Motion to Dismiss is GRANTED.

Greenspring Racquet Club
CCT# 3-C-01-5738

99-282-SPH

- May 30 ✓ Petition for Judicial Review filed in the Circuit Court for Baltimore County by Howard G. Goldberg, Esquire, on behalf of Greenspring Racquet Club, Inc., William Hirshfeld and Loretta Hirshfeld.
- June 7 Certificate of Notice sent to interested parties.
- July 30, 2001 ✓ Transcript of testimony and Record of Proceedings filed in the Circuit Court for Baltimore County.

RE: PETITION FOR SPECIAL HEARING
10803 Falls Road, Beginning at a point N 49 degrees
E, 429' from the intersection of Greenspring Valley
Rd and Falls Rd., 8th Election District,
3rd Councilmanic

Legal Owners: William & Loretta Hirshfeld
Contract Purchaser: Greenspring Racquet Club, Inc.
Petitioner(s)

* BEFORE THE
* ZONING COMMISSIONER
* FOR
* BALTIMORE COUNTY
* Case Number: 99-282-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 of 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
Old Courthouse, Room 47
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 11th day of February, 1999, a copy of the foregoing Entry of Appearance was mailed to Julius W. Lichter, Esq., Law Offices Peter G. Angelos, 210 W. Pennsylvania Avenue, Suite 515, Towson, MD 21204, attorney for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN



Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL

Room 47, Old CourtHouse
400 Washington Ave.
Towson, MD 21204

(410) 887-2188

PETER MAX ZIMMERMAN
People's Counsel

April 21, 2000

CAROLE S. DEMILIO
Deputy People's Counsel

Charles L. Marks, Panel Chairman
County Board of Appeals
of Baltimore County
401 Washington Avenue, Room 49
Towson, MD 21204

Hand-delivered

Re: PETITION FOR SPECIAL HEARING
10803 Falls Road, Beginning at a point N 49 degrees E,
429' from intersection Greenspring Valley and Falls Rds.
8th Election District, 3rd Councilmanic
William & Loretta Hirshfeld, Legal Owners
Greenspring Racquet Club, Inc., Contract Purchaser
Hearing Date: May 10-11, 2000
Case No.: 99-282-SPH

RECEIVED
COUNTY BOARD OF APPEALS
00 APR 21 PM 12:50

Dear Mr. Marks:

This is the first case at the Board of Appeals concerning enclosed Bill 111-98, the recent ordinance which sets height and floor area ratio (FAR) limits for commercial developments on property within 750 feet of any Resource Conservation zone. The property in question is near Joppa and Falls Roads and is zoned Business-Major (BM). With respect to BM zones, the applicable limits are 35 feet in height and 0.5 FAR. The ordinance does allow for approval in excess of the limits upon satisfaction of three (3) criteria. The Petitioners here are requesting such approval for a development up to 78 feet in height and 2.56 FAR.

Upon review of the record, our office is submitting this outline to put the case in perspective.

Bill 111-98 is already the subject of a United States District Court case, Greenspring Racquet Club v. Baltimore County, 70 F.Supp.3d 598 (1999), enclosed. Judge André Davis there upholds the constitutionality of the ordinance. The case is on appeal to the United States Court of Appeals. We agree with Judge Davis' opinion and, therefore, believe that the Board should also find the law to be a valid exercise of the police power.

Charles L. Marks, Panel Chairman
County Board of Appeals
April 21, 2000
Page Two

The question, then, is whether the Petition satisfies Bill 111-98 criteria, which are specified in BCZR 235.C.2 for the BM zone. There are three (3) criteria:

The first test is the satisfaction of special exception standards set in BCZR 502.1. This will depend on the facts of the case and the application of special exception principles. Schultz vs. Pritts, 291 Md. 1 (1981); People's Counsel v. Mangione, 85 Md.App. 738 (1991); Moseman v. County Council of P.G. County, 99 Md.App. 258 (1994); Hayfields, Inc. v. Valleys Planning Council, 122 Md.App. 616 (1998).

A question appears to have arisen before the Deputy Zoning Commissioner (DZC) as to the definition of "locality." Suffice it to say that "locality" includes the property itself, the commercial complex, and the surrounding neighborhood to the extent that it is affected. The Board should pay attention particularly to the nearby Resource Conservation zoned area because that is the area which the ordinance explicitly protects.

The second test is the satisfaction of height and FAR standards for the BM zone, which respectively are 100 feet and 4.0. It appears to be agreed this test is met.

The third and last test is whether the proposed use is compatible "with existing uses of the contiguous RC zone." A threshold question arose before the DZC as to whether there is a "contiguous" RC zone here, where the subject property's boundary is close to two RC 5 zones (within 150 feet and 350 feet, respectively), but does not immediately border these zones.

The evident purpose of the ordinance is to protect RC zoned areas which come within 750 feet of the subject property. In this context, in order to effectuate the legislative purpose, the Council logically set up a compatibility test with respect to the nearby RC zone. In other words, the "contiguous" RC zone is the entirety of an RC zoned area, any part of which is within 750 feet of the subject property.

This meaning of "contiguous" is thus specific to Bill 111-98 and its context. However, we add that, in other contexts, the Court of Appeals has taken a flexible approach, allowing contiguity to include properties separated by substantial roads. Swarthmore Co. v. Kaestner, 258 Md. 517 (1970). As Judge Barnes there wrote:

"In any event, Bill No. 40 does not require that the two districts 'abut' each other, merely that they be 'contiguous.' In Black's Law Dictionary, 'contiguous' is defined to mean 'in close proximity, near though not in contact, neighboring, adjoining; near in succession; an actual close contact, touching; bounded or traversed by.' See *Grand Union Company v. Laurel Plaza, Inc.*, 256 F.Supp. 78, 81-82 (D.Md.1966).

Charles L. Marks, Panel Chairman
County Board of Appeals
April 21, 2000
Page Three

Cf. *Gruver-Cooley Jade Corp. v. Perlis*, 252 Md. 684, 695-96, 251 A.2d 589 (1969).
On any theory, the C.S.A. District is 'near' the C.C.C. District and hence is 'contiguous' to it even if it be assumed, for the argument, that it did not 'abut' it. We find no invalidity in Bill No. 23 because of any failure to comply with the requirement that the C.S.A. District be contiguous to a C.C.C. District."

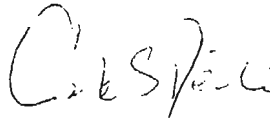
Similarly, on any theory here, there is a nearby and hence, "contiguous" RC zone. This also logically fits as part of the "locality." Therefore, the specific "compatibility" test comes into play. This involves application to the facts of the criteria listed in Code Section 26-282.

We hope that this outline will assist the Board in defining the ground rules for the upcoming hearing.

Very truly yours,



Peter Max Zimmerman
People's Counsel for Baltimore County



Carole S. Demilio
Deputy People's Counsel

PMZ/CSD/caf
Enclosures

cc: Julius W. Lichter, Esq., Attorney for Petitioners

Richard C. Burch, Esq., Attorney for Mullan Greenspring L.P. et al.

K. Donald Proctor, Esq., Attorney for Valleys Planning Council, Meadows of Greenspring H.A., et al.

Deborah C. Dopkin, Esq. Attorney for Johns Hopkins Suburban Health Center

Virginia W. Barnhart, Esq., County Attorney

John Beverungen, Esq., Deputy County Attorney



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180
FAX: 410-887-3182

May 9, 2000

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Towson, MD 21204
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Joseph H. Young, Esquire
HOGAN & HARTSON, LLP
111 S. Calvert Street
Baltimore, MD 21202
FAX 410-539-6981

RE: Greenspring Racquet Club, Inc. /Case No. 99-282-SPH

Dear Counsel:

In response to Mr. Lichter's request for continuance received this date, this letter will confirm that the Board will convene on Wednesday, May 10, 2000 at 1:00 p.m. in lieu of the previously scheduled morning hour, pursuant to telephone conversations with counsel this date.

At that time, Mr. Lichter's request for postponement, as well as any and all comments or responses thereto, will be made on the record.

Should you have any questions, please call me at 410-887-3180. Thank you for your cooperation and patience in this matter.

Very truly yours,

Kathleen C. Bianco
Administrator

c: Robert H. Freilich, Esquire
(via US Mail)



Printed with Soybean Ink
on Recycled Paper

Copy have delivered to P. Freilich 5/9/00

RE: PETITION FOR SPECIAL HEARING
10803 Falls Road, Beginning at a point N 49 degrees E,
429' from intersection of Greenspring Valley and Falls Rds
8th Election District, 3rd Councilmanic

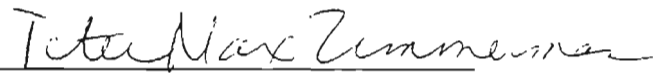
Legal Owners: William & Loretta Hirshfeld
Contract Purchaser: Greenspring Racquet Club, Inc.
Petitioners

* BEFORE THE
* COUNTY BOARD OF APPEALS
* FOR
* BALTIMORE COUNTY
* Case No. 99-282-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
People's Counsel for Baltimore County


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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 21st day of April, 2000 a copy of the foregoing Entry of Appearance was mailed to Julius W. Lichter, Esq., Law Offices Peter G. Angelos, 210 W. Pennsylvania Avenue, Suite 515, Towson, MD 21204, attorney for Petitioners, to Richard C. Burch, Esq., 105 W. Chesapeake Avenue, Suite 300, Towson, MD 21204, to K. Donald Proctor, Esq., 102 W. Pennsylvania Avenue, Towson, MD 21204, to Deborah C. Dopkin, Esq., 409 Washington Avenue, Suite 920, Towson, MD 21204, to Virginia W. Barnhart, Esq., County Attorney, and John Beverungen, Esq., Deputy County Attorney, Baltimore County Office of Law, Old Courthouse, 2nd Floor, Towson, MD 21204..


PETER MAX ZIMMERMAN

RECEIVED
COUNTY BOARD OF APPEALS
00 APR 21 PM 12:55

MEMORANDUM

TO: Circulation List (attached)
FROM: Deborah C. Dopkin, Esquire 
DATED: April 20, 1999
RE: Johns Hopkins Suburban Health Center
Racquet Club
Case No. 99-282-SPH

The Deputy Zoning Commissioner is holding open the following dates for the continuance of the above captioned case:

June 9, 1999 - all day
June 10, 1999 - morning only
June 11, 1999 - all day
June 17, 1999 - morning only

Please note that he is not available on June 15, 1999.

cc: Timothy M. Kotroco
Deputy Zoning Commissioner
for Baltimore County

Johns Hopkins Suburban Health Center

C:\docs\kms\WCD\Johns Hopkins Greenspring Racquet Memo

DEBORAH C. DOPKIN, P.A.
920 MERCANTILE - TOWSON BUILDING
409 WASHINGTON AVENUE
TOWSON, MARYLAND 21204-4513

FAX TRANSMISSION LEAD SHEET

NOTICE

The information contained in the following pages is PRIVILEGED AND CONFIDENTIAL and belongs to Deborah C. Dopkin, P.A., and/or its clients. The information is intended solely for the use of the person or entity named below to whom it is addressed. Deborah C. Dopkin, P.A. expressly preserves and asserts all privileges and immunities applicable to this transmission. If you are not the intended recipient or an agent or employee of the intended recipient, then you have received this transmission in error -- READ ONLY THIS COVER SHEET. immediately call the phone number below to explain that you have received this transmission in error, and return all pages to us by mail. If you are not the intended recipient, any review, examination, use, disclosure, reproduction, or distribution of this transmission or the information contained herein is PROHIBITED.

DATE: April 20, 1999

NAME: Timothy M. Kotroco
Deputy Zoning Commissioner
for Baltimore County

COMPANY: Zoning Commissioner's Office

FAX: (410) 887-3468

RE: Case No. 99-282-SPH
Greenspring Racquet Club

SENDER: Deborah C. Dopkin, Esquire
920 Mercantile - Towson Building
409 Washington Avenue
Towson, Maryland 21204

Please contact (410) 494-8080 should you experience any problem with this transmission.

Fax Number: (410) 494-8082

Number of Pages, Including This Lead Sheet: 4

Hard Copy to Follow? no

Comments to Recipient:

**BOARD OF APPEALS OF BALTIMORE COUNTY
MINUTES OF DELIBERATION**

IN THE MATTER OF: Greespring Racquet Club, Inc. /William Hirshfeld, et ux
Case No. 99-282-SPH

DATE : Thursday, November 16, 2000

BOARD /PANEL : Charles L. Marks (CLM)
Donna M. Felling (DMF)
Lawrence S. Wescott (LSW)

RECORDED BY : Kathleen C Bianco /Administrator

PURPOSE: To deliberate Motion to Dismiss in Case No. 99-282-SPH /Petition for Special Hearing (deliberation scheduled **ONLY** as to Motion to Dismiss).

Panel members discussed:

- ◆ Developer rested; Mr. Proctor raised issue of earlier Motion to Dismiss (Board had proceeded and allowed Developer to put on his case and then consider said Motion).
- ◆ Review of file, exhibits, transcript
- ◆ Issue of "contiguous" and its meaning (this hearing is *de novo*; DZC has no impact)
- ◆ Read 235C – "within 750 feet of an R.C. zone" – B.M. land and then read down to "the" contiguous RC zone
- ◆ Cited Webster's as submitted – "contiguous" means nearby, close, not distant
- ◆ 235C.2C refers to R.C. zone that is within 750' of the property
- ◆ Reviewed Briefs; excellent but with divergent opinions of what the word means
- ◆ Case law = restrictive meaning; but courts have also indicated entire scheme must be looked at as to intent
- ◆ Council used word "contiguous" and not "abut" – clearly given by Council as buffer – areas in transition

Determination /Ruling of Board:

- ◆ DZC erred – legislation included close /near; RTA clearly given by CC as buffer
- ◆ With adoption of new maps, zone will be changed
- ◆ Does not have to touch or abut
- ◆ § 235C.2C does apply

Second point – definition of "locality":

- ◆ Reviewed 502.1 as to compatibility
- ◆ Developer's witnesses – narrowly define "locality" (per Guckert, Warfield, Davis – meant "neighborhood")
- ◆ Reviewed case law – higher Maryland courts – UBMC – CSA said broader concept must be taken; not parochial in scope but more expansive

- ♦ As to traffic – conflicting view points; conflict between reports; reviewed letter to Keller from Olsen /class of intersection
- ♦ Reviewed classification of intersection; maps still classify as “F”
Change in designation must be made by County Council

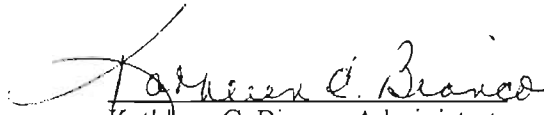
Final Decision:

Burden is on the Petitioner – has not met burden as to compatibility and 502.1 issues; unanswered questions need not be addressed if Motion to Dismiss is granted.

Granted Protestants’ Motion to Dismiss by unanimous decision of the Board; any appeal to the Circuit Court will lie from the date of issuance of the Board’s written Ruling granting said Motion.

NOTE: These minutes, which will become part of the case file, are intended only to indicate for the record that a public deliberation took place this date regarding the Motion to Dismiss filed in this zoning case. The Board’s final decision and the facts and findings thereto will be set out in the written Opinion and Order (Ruling) to be issued by this Board.

Respectfully submitted


Kathleen C. Bianco, Administrator
County Board of Appeals

Johns Hopkins Suburban Health Center
Racquet Club - Special Hearing Case No. 99-282-SPH

PETITIONERS:

William and Loretta Hirshfeld
Greenspring Racquet Club

Attorneys:

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Dino C. La Fiandra, Esquire
Law Offices of Peter G. Angelos
Court Towers, Suite 300
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(410) 825-7300
(410) 296-2541 (fax)

and

Robert H. Freilich, Esquire
Freilich, Leitner & Carlisle
1000 Plaza West
4600 Madison
Kansas City, Missouri 64112-3012
(816) 561-4414
(816) 561-7931 (fax)

PROTESTANTS:

Mullan Enterprises

Attorneys:

Richard C. Burch, Esquire
James Anderson, Esquire
Mudd, Harrison and Burch
105 West Chesapeake Avenue
Suite 300
Towson, Maryland 21204
(410) 828-1335
(410) 828-1042 (fax)

Valley Plannings Council
Homeowners of the Meadows

Attorneys:

K. Donald Proctor, Esquire
Jeffrey W. Cottle, Esquire
102 West Pennsylvania Avenue
Suite 505
Towson, Maryland 21204-4542
(410) 823-2258
(410) 823-2268 (fax)

Johns Hopkins Suburban Health Center

Attorneys:

Deborah C. Dopkin, Esquire
409 Washington Avenue
Suite 920
Towson, Maryland 21204
(410) 494-8080
(410) 494-8082 (fax)

and

George Beall, Esquire
Hogan & Hartson, L.L.P.
111 South Calvert Street
Baltimore, Maryland 21202
(410) 659-2700
(410) 539-6981 (fax)

and

Joseph ("Hank") H. Young, Esquire
Hogan & Hartson, L.L.P.
(410) 308-4994
(410) 308-4995 (fax)
ABOULTON @ aol.com

C:\docs\kmo\DCD\CLIENT ADDRESSES\Johns Hopkins (Greenspring)

RE: PETITION FOR SPECIAL HEARING
10803 Falls Road, Beginning at a point N 49 degrees
E, 429' from the intersection of Greenspring Valley
Rd and Falls Rd., 8th Election District,
3rd Councilmanic

Legal Owners: William & Loretta Hirshfeld
Contract Purchaser: Greenspring Racquet Club, Inc.
Petitioner(s)

* BEFORE THE
* ZONING COMMISSIONER
* FOR
* BALTIMORE COUNTY
* Case Number: 99-282-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 of 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
Old Courthouse, Room 47
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 11th day of February, 1999, a copy of the foregoing Entry of Appearance was mailed to Julius W. Lichter, Esq., Law Offices Peter G. Angelos, 210 W. Pennsylvania Avenue, Suite 515, Towson, MD 21204, attorney for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN

CIRCUIT COURT FOR BALTIMORE COUNTY
Suzanne Mensh
Clerk of the Circuit Court
County Courts Building
401 Bosley Avenue
P.O. Box 6754
Towson, MD 21285-6754
(410)-887-2601, TTY for Deaf: (800)-735-2258
Maryland Toll Free Number (800) 938-5802

County Board Of Appeals Of Baltimore County The
400 Washington Avenue
Room 49 Old Courthouse
Baltimore, MD 21204

N O T I F I C A T I O N O F C O N T E M P L A T E D D I S M I S S A L

Case Number: 03-C-01-005738 AE

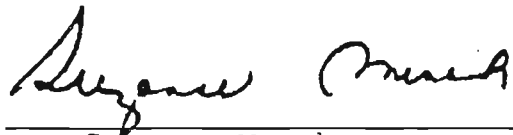
C I V I L

In The Matter of: Greenspring Racquet Club Inc, et al

NOTIFICATION TO PARTIES OF CONTEMPLATED DISMISSAL

Pursuant to Maryland Rule 2-507 this proceeding will be "DISMISSED FOR LACK OF JURISDICTION OR PROSECUTION WITHOUT PREJUDICE," 30 days after service of this notice, unless prior to that time a written motion showing good cause to defer the entry of an order of dismissal is filed.

Costs will be assessed in accordance with Maryland Rules.



Suzanne Mensh
Clerk of the Circuit Court



Date Issued: 11/19/02

C: Howard G Goldberg Esq
K Donald Proctor Esq
Joseph Young
Deborah C Dopkin Esq
Richard C Burch Esq

RECEIVED

NOV 20 2002

BALTIMORE COUNTY
BOARD OF APPEALS

CIRCUIT COURT FOR BALTIMORE COUNTY
Suzanne Mensh
Clerk of the Circuit Court
County Courts Building
401 Bosley Avenue
P.O. Box 6754
Towson, MD 21285-6754
(410)-887-2601, TTY for Deaf: (800)-735-2258
Maryland Toll Free Number (800) 938-5802

Case Number: 03-C-01-005738

RECEIVED
COUNTY BOARD OF APPEALS
01 JUN -4 PM 2:19

TO: COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY THE
400 Washington Avenue
Room 49 Old Courthouse
Baltimore, MD 21204

CIRCUIT COURT FOR BALTIMORE COUNTY
Suzanne Mensh
Clerk of the Circuit Court
County Courts Building
401 Bosley Avenue
P.O. Box 6754
Towson, MD 21285-6754
(410)-887-2601, TTY for Deaf: (800)-735-2258
Maryland Toll Free Number (800) 938-5802

Dismissed
3/6/03
Loch of Pros

08/07/03

Case Number: 03-C-01-005738 AE
Date Filed: 05/30/2001
Status: Closed/Active
Judge Assigned: To Be Assigned,
Location :

In The Matter of: Greenspring Racquet Club Inc, et al

CASE HISTORY

OTHER REFERENCE NUMBERS

Description	Number

Case Folder ID	C01005738V01

INVOLVED PARTIES

Type Num	Name(Last,First,Mid,Title)	Addr Str/End	Disposition Addr Update	Entered
ET 001	Greenspring Racquet Club Inc	Party ID: 0432806	CT DO 03/06/03	06/01/01
	Mail: 10803 Falls Road Baltimore, MD	06/01/01		
	Attorney: 0016517 Goldberg, Howard G Goldberg, Pike & Besche, P C 100 South Charles Street Tower II Ste 1001 Baltimore, MD 21201-2728 (410)468-1360			06/01/01
ET 002	Hirshfeld, William	Party ID: 0432807	CT DO 03/06/03	06/01/01

Mail: 3604 Barberry Court 06/01/01
Baltimore, MD 21208

Attorney: 0016517 Goldberg, Howard G 06/01/01
Goldberg, Pike & Besche, P C
100 South Charles Street
Tower II Ste 1001
Baltimore, MD 21201-2728
(410)468-1360

Type Num	Name(Last,First,Mid,Title)	Addr Str/End	Disposition Addr Update	Entered
PET	003 Hirshfeld, Loretta	Party ID: 0432809	CT DO 03/06/03	06/01/01
	Mail: 3604 Barberry Court 06/01/01 Baltimore, MD 21208			
	Attorney: 0016517 Goldberg, Howard G 06/01/01 Goldberg, Pike & Besche, P C 100 South Charles Street Tower II Ste 1001 Baltimore, MD 21201-2728 (410)468-1360			
ES	001 County Board Of Appeals Of Baltimore County The	Party ID: 0432813	CT DO 03/06/03	06/01/01
	Mail: 400 Washington Avenue 06/01/01 Room 49 Old Courthouse Baltimore, MD 21204			
TP	001 Meadows Of Greenspring Homeowners Association Inc	Party ID: 0438026	CT DO 03/06/03	06/27/01
	Attorney: 0010793 Proctor, K Donald 06/27/01 K. Donald Proctor, P.A. Suite 505 102 W. Pennsylvania Ave. Towson, MD 21204-4542 (410)823-2258			
TP	002 Johns Hopkins Suburban Health Center L P	Party ID: 0438192	CT DO 03/06/03	06/27/01
	Attorney: 0010078 Young, Joseph 06/27/01 Hogan & Hartson L L P 111 S Calvert Street Suite 1600 Baltimore, MD 21202 (342)599-6332			

0012358 Dopkin, Deborah C
Deborah C Dopkin P A
409 Washington Avenue
Suite 920
Towson, MD 21204
(410)296-5120

06/27/01

Type Num	Name(Last,First,Mid,Title)	Addr Str/End	Disposition Addr Update	Entered
ITP 003	Mullan Pavilions Limited Partnership	Party ID: 0439023	CT DO 03/06/03	07/03/01
	Attorney: 0017989 Burch, Richard C Mudd, Harrison & Burch 105 W Chesapeake Ave 300 Jefferson Building Towson, MD 21204 (410)828-1335			07/03/01
ITP 004	Mullan Greenspring Limited Partnership	Party ID: 0439024	CT DO 03/06/03	07/03/01
	Attorney: 0017989 Burch, Richard C Mudd, Harrison & Burch 105 W Chesapeake Ave 300 Jefferson Building Towson, MD 21204 (410)828-1335			07/03/01
TP 005	Mullan, Thomas F. III	Party ID: 0439025	CT DO 03/06/03	07/03/01
	Attorney: 0017989 Burch, Richard C Mudd, Harrison & Burch 105 W Chesapeake Ave 300 Jefferson Building Towson, MD 21204 (410)828-1335			07/03/01
TP 006	Wilder, Norman W	Party ID: 0439026	CT DO 03/06/03	07/03/01
	Attorney: 0017989 Burch, Richard C Mudd, Harrison & Burch 105 W Chesapeake Ave 300 Jefferson Building Towson, MD 21204 (410)828-1335			07/03/01
	0010793 Proctor, K Donald K. Donald Proctor, P.A.			10/17/01

Suite 505
102 W. Pennsylvania Ave.
Towson, MD 21204-4542
(410)823-2258

CALENDAR EVENTS

Date	Time	Dur	Cer	Evnt	Lvl	Atty	Jdg	Day	Of	Rslt	By	ResultDt	Jdg	T	Notice	Rec	User	ID
11/13/01	09:30A	01H	yes	CIVI	S		JOH	01	/01	VAC	C	03/06/03	P				KLS	MJC

JUDGE HISTORY

JUDGE ASSIGNED	Type	Assign Date	Removal	RSN
TBA To Be Assigned,	J	06/01/01		

DOCUMENT TRACKING

Num/Seq	Description	Filed	Entered	Party	Jdg	Ruling	Closed	User ID
001000	Petition for Judicial Review Filed by PET001-Greenspring Racquet Club Inc. , PET002-Hirshfeld, William, PET003-Hirshfeld, Loretta. With Certificate of Service.	06/01/01	06/01/01	PET001	TBA		03/06/03	JET MJC
001001	Answer *	06/26/01	06/27/01	ITP001	TBA		03/06/03	CKC MJC
001002	*Response to Petition for Judicial Review	06/25/01	06/27/01	ITP002	TBA		03/06/03	AR MJC
001003	Answer Filed by ITP003-Mullan Pavilions Limited Partnership, , ITP004-Mullan Greenspring Limited Partnership, , ITP005-Mullan, Thomas F. III, ITP006-Wilder, Norman W	07/03/01	07/03/01	ITP003	TBA		03/06/03	CKC MJC
002000	Certificate of Notice	06/07/01	06/08/01	RES001	TBA		03/06/03	AR MJC
003000	Transcript of Record from Adm Agency *	07/30/01	08/01/01	RES001	TBA		03/06/03	DFF MJC
004000	Notice of Transcript of Record Sent	08/01/01	08/01/01	ITP001	TBA		08/01/01	DFF DFF
005000	Notice of Transcript of Record Sent	08/01/01	08/01/01	ITP002	TBA		08/01/01	DFF DFF
006000	Notice of Transcript of Record Sent	08/01/01	08/01/01	ITP003	TBA		08/01/01	DFF DFF

Num/Seq Description	Filed	Entered	Party	Jdg Ruling	Closed	User ID
0007000 Notice of Transcript of Record Sent	08/01/01	08/01/01	PET001	TBA	08/01/01	DFF DFF
0008000 Notice of Transcript of Record Sent	08/01/01	08/01/01	RES001	TBA	08/01/01	DFF DFF
0009000 Scheduling Order	08/08/01	08/08/01	000	TBA	08/08/01	KLS KLS
0010000 Memorandum with exhibits	08/31/01	09/05/01	PET001	TBA	09/05/01	AR AR
0011000 Stipulation that the parties agree that the respondents have through and including October 12, 2001 to respond to memorandum filed 8/31/01	09/24/01	09/25/01	000	TBA	09/25/01	MJ MJ
0012000 Respondent's Answering Memorandum Filed by ITP004-Mullan Greenspring Limited Partnership, . ITP003-Mullan Pavilions Limited Partnership, . ITP005-Mullan, Thomas F. III, ITP006-Wilder, Norman W, ITP001-Meadows Of Greenspring Homeowners Association Inc. . ITP002-Johns Hopkins Suburban Health Center L P.	10/12/01	10/17/01	ITP004	TBA	03/06/03	AR MJC
0013000 *Motion to Strike Appearance of Dino C. La Fiandra	11/07/01	11/09/01	000	TBA	03/06/03	MJ MJC
0014000 Open Court Proceeding November 13, 2001. Hon. John O. Hennegan. Hearing had re: Appeal. Postponed. Reset and Reissue.	11/13/01	11/13/01	000	JOH	03/06/03	RG MJC
0015000 Notice of Cont. Dismissal Lack of Pros.	11/19/02	11/19/02	000	TBA	11/19/02	PA PA
0016000 Dismissed - Lack of Pros. w/o Prejudice	03/06/03	03/06/03	000	TBA	03/06/03	MJC PA

TICKLE

ode Tickle Name	Status Expires	#Days	AutoExpire	GoAhead	From Type	Num Seq
ANS 1st Answer Tickle	CLOSED 06/26/01	0	no	no	DANS D	001 001
YRT One Year Tickle (Jud	CLOSED 06/01/02	365	no	no	DAAA D	001 000
XPU Exhibit Pickup Notic	CLOSED 05/05/03	30	no	no		000 000
LMR Set List For Motions	CANCEL 11/29/01	22	no	no	MSAP D	013 000
LTR Set List For Trial	DONE 06/26/01	0	yes	yes	1ANS T	001 001

EXHIBITS

Line # Marked Code Description SpH Sloc NoticeDt Disp Dt Dis By

Offered By: ITP 001 Meadows Of Greenspring Homeow
000 I BOX 280/ZOANING TR B

DIFFERENTIATED CASE MANAGEMENT**TRACKS AND MILESTONES**

Track : R1 Description: EXPEDITED APPEAL TRACK Custom: Yes
Assign Date: 08/08/01 Order Date : 08/08/01
Start Date : 08/08/01 Remove Date:

Milestone	Scheduled	Target	Actual	Status
Motions to Dismiss under MD. Rule 2-322(	08/23/01	03/06/03	CLOSED	
All Motions (excluding Motions in Limine	09/27/01	03/06/03	CLOSED	
TRIAL DATE is	11/13/01	11/06/01	03/06/03	CLOSED

Circuit Court for Baltimore County

City or County

C-01-5738

CIVIL—NON-DOMESTIC CASE INFORMATION REPORT

Directions:

Plaintiff: This Information Report must be completed and attached to the complaint filed with the Clerk of Court unless your case is exempted from the requirement by the Chief Judge of the Court of Appeals pursuant to Rule 2-111. A copy must be included for each defendant to be served.

Defendant: You must file an Information Report as required by Rule 2-323(h).

THIS INFORMATION REPORT CANNOT BE ACCEPTED AS AN ANSWER OR RESPONSE.

FORM FILED BY: ☒ PLAINTIFF ☐ DEFENDANT CASE NUMBER: _____ (Clerk to insert)

CASE NAME: In the Matter of Greenspring Racquet Club, Inc.

JURY DEMAND: ☐ Yes ☒ No Anticipated length of trial: 1 hours or _____ days

RELATED CASE PENDING? ☒ Yes ☐ No If yes, Case #(s), if known: 03-C-99-4790 (JFF)

HAS ALTERNATIVE DISPUTE RESOLUTION (ADR): Been Tried? ☐ Yes ☒ No
Requested? ☐ Yes ☒ No

If yes, specify: _____

Special Requirements? ☐ Interpreter/communication impairment
☐ Other ADA accommodation: _____

NATURE OF ACTION (CHECK ONE BOX)		DAMAGES / RELIEF	
TORTS ☐ Motor Tort ☐ Premises Liability ☐ Assault & Battery ☐ Product Liability ☐ Professional Malpractice ☐ Wrongful Death ☐ Business & Commercial ☐ Libel & Slander ☐ False Arrest/Imprisonment ☐ Nuisance ☐ Toxic Torts ☐ Fraud ☐ Malicious Prosecution ☐ Lead Paint ☐ Asbestos ☐ Other _____	LABOR ☐ Workers' Comp. ☐ Wrongful Discharge ☐ EEO ☐ Other _____ CONTRACTS ☐ Insurance ☐ Confessed Judgment ☐ Other _____ REAL PROPERTY ☐ Judicial Sale ☐ Condemnation ☐ Landlord Tenant ☐ Other _____ OTHER ☐ Civil Rights ☐ Environmental ☐ ADA ☒ Other <u>Judicial Review</u>	A. TORTS Actual Damages ☐ Under \$7,500 ☐ \$7,500 - \$50,000 ☐ \$50,000 - \$100,000 ☐ Over \$100,000 ☐ Medical Bills \$ _____ ☐ Property Damages \$ _____ ☐ Wage Loss \$ _____	B. CONTRACTS ☐ Under \$10,000 ☐ \$10,000 - \$20,000 ☐ Over \$20,000 C. NONMONETARY RELIEF ☐ Declaratory Judgment ☐ Injunction ☒ Other <u>Reverse/Remand</u>

TRACK REQUEST

With the exception of Baltimore County and Baltimore City, please fill in the estimated LENGTH OF TRIAL. THIS CASE WILL THEN BE TRACKED ACCORDINGLY.

☒ 1/2 day of trial or less
☐ 1 day of trial time
☐ 2 days of trial time

☐ 3 days of trial time
☐ More than 3 days of trial time

IF YOU ARE FILING YOUR COMPLAINT IN BALTIMORE COUNTY, BALTIMORE CITY, OR PRINCE GEORGE'S COUNTY, PLEASE SEE REVERSE SIDE OF FORM FOR INSTRUCTIONS.

Date: 5/30/2001

Signature: [Signature]

Over

IF YOU ARE FILING YOUR COMPLAINT IN BALTIMORE COUNTY, BALTIMORE CITY, OR PRINCE GEORGE'S COUNTY, PLEASE FILL OUT THE APPROPRIATE BOX BELOW.

CIRCUIT COURT FOR BALTIMORE CITY (check only one)

- ☐ Expedited Trial 60 to 120 days from notice. Non-jury matters.
- ☐ Standard-Short Trial seven months from Defendant's response. Includes torts with actual damages up to \$7,500; contract claims up to \$20,000; condemnations; injunctions and declaratory judgments.
- ☐ Standard-Medium Trial 12 months from Defendant's response. Includes torts with actual damages over \$7,500 and under \$50,000, and contract claims over \$20,000.
- ☐ Standard-Complex Trial 18 months from Defendant's response. Includes complex cases requiring prolonged discovery with actual damages in excess of \$50,000.
- ☐ Lead Paint Fill in: Birthdate of youngest plaintiff _____
- ☐ Asbestos Events and deadlines set by individual judge.
- ☐ Protracted Cases Complex cases designated by the Administrative Judge.

CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY

To assist the Court in determining the appropriate Track for this case, check one of the boxes below. This information is not an admission and may not be used for any purpose other than Track Assignment.

- ☐ Liability is conceded.
- ☐ Liability is not conceded, but is not seriously in dispute.
- ☐ Liability is seriously in dispute.

CIRCUIT COURT FOR BALTIMORE COUNTY

- ☒ Expedited (Trial Date-90 days) Attachment Before Judgment, Declaratory Judgment (Simple), Administrative Appeals, District Court Appeals and Jury Trial Prayers, Guardianship, Injunction, Mandamus.
- ☐ Standard (Trial Date-240 days) Condemnation, Confessed Judgments (Vacated), Contract, Employment Related Cases, Fraud and Misrepresentation, Intentional Tort, Motor Tort, Other Personal Injury, Workers' Compensation Cases.
- ☐ Extended Standard (Trial Date-345 days) Asbestos, Lender Liability, Professional Malpractice, Serious Motor Tort or Personal Injury Cases (medical expenses and wage loss of \$100,000, expert and out-of-state witnesses (parties), and trial of five or more days), State Insolvency.
- ☐ Complex (Trial Date-450 days) Class Actions, Designated Toxic Tort, Major Construction Contracts, Major Product Liabilities, Other Complex Cases.



Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL

Room 47, Old CourtHouse
400 Washington Ave.
Towson, MD 21204

(410) 887-2188

PETER MAX ZIMMERMAN
People's Counsel

October 15, 1999

CAROLE S. DEMILIO
Deputy People's Counsel

Arnold Jablon, Director
Department of Permits and
Development Management
111 W. Chesapeake Avenue
Towson, MD 21204
Hand-delivered

Re: PETITION FOR SPECIAL HEARING
10803 Falls Road, Beginning at a point N 49 degrees E,
429' from the intersection of Greenspring Valley Rd and
Falls Rd., 8th Election Dist., 3rd Councilmanic
Legal Owners: **William & Loretta Hirshfeld**
Contract Purchaser: **Greenspring Racquet Club, Inc.**
Case No.: 99-282-SPH

Dear Mr. Jablon:

Please enter an appeal of the People's Counsel for Baltimore County to the County Board of Appeals, of that portion of the of the Baltimore County Deputy Zoning Commissioner's Order dated June 7, 1999 relating to ruling on Motions for interpretation of Bill 111-98, which states the Petitioners' site:

"is not contiguous to an R.C. zone and, therefore, the Petitioners are not required to comply with the requirements of Section 235C.2.C."

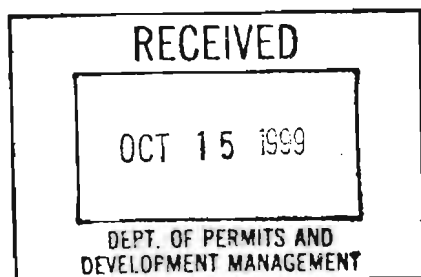
This limited appeal pertains to the interlocutory Order of the Deputy Zoning Commissioner. The final Order dated September 21, 1999 ultimately denied the Petition for Special hearing on other grounds.

Please forward copies of any papers pertinent to the appeal as necessary and appropriate.

Very truly yours,

Peter Max Zimmerman
People's Counsel for Baltimore County

Carole S. Demilio
Deputy People's Counsel



PMZ/CSD/csf

cc: Julius W. Lichter, Esq., Attorney for Petitioners
Deborah C. Dopkin, Esq., Attorney for Protestants

Richard C. Burch, Attorney for Protestants
K. Donald Proctor, Attorney for Protestants



Baltimore County
Department of Permits and
Development Management

Director's Office
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
410-887-3353
Fax: 410-887-5708

May 25, 1999

Julius W. Lichter
Law Offices of Peter Angelos
Court Towers, Suite 515
210 W. Pennsylvania Avenue
Towson, Maryland 21204

Dear Mr. Lichter:

Re: Greenspring Tennis and Racquetball Complex, Falls and Joppa Roads

The latest submittals, by your letter dated April 27, 1999, on behalf of the Greenspring Tennis and Racquetball complex has been reviewed by the Development Review Committee (DRC). Subsequent to its review, at which your representatives were present and made their presentation, I was asked by the DRC whether the particular issues presented to it were subject to their comment and recommendations.

I did review the submittals. Particularly, a request was made of the DRC to review and comment on the applicability of a zoning regulation. The DRC does not have such jurisdiction within the responsibilities assigned to it. On an issue such as that which you request clarification, and as you well know, the responsibility of interpretation lies with the zoning commissioner. I would recommend to you that a petition for special hearing be filed, the purpose of which is for the zoning commissioner to determine the applicability of your interpretation, subject to appeal to the Board of Appeals, if necessary. Should the zoning commissioner agree with your interpretation of the particular zoning regulation at issue, then the issue of what development regulations are applicable becomes of import. Should the zoning commissioner disagree, then any presentation to the DRC would be moot. Thus, your request to the DRC was premature.

Sincerely,


Arnold Jablon
Director

AJ/cab



File



Baltimore County
Zoning Commissioner

April 21, 1999

Suite 405, County Courts Bldg.
401 Bosley Avenue
Towson, Maryland 21204
410-887-4386
Fax: 410-887-3468

Julius W. Lichter, Esquire
Law Offices of Peter G. Angelos, P.C.
210 West Pennsylvania Avenue, Suite 300
Towson, Maryland 21204

RE: PETITION FOR SPECIAL HEARING
NE/S Falls Road, 429' E of the c/l of Greenspring Valley Road
(10803 Falls Road)
8th Election District - 3rd Councilmanic District
William Hirshfeld, et ux - Petitioners
Case No. 99-282-SPH

Dear Mr. Lichter:

Pursuant to Bette's telephone conversations yesterday with Deborah Dopkin, Esquire, who was kind enough to coordinate the scheduling for all of the attorneys in this case, this letter is to confirm that the continued hearing in the above-captioned matter has been scheduled for the following dates and locations:

Wednesday, June 9, 1999, 9:00 AM, Room 106, County Office Building (COB)
Thursday, June 10, 1999, 9:00 AM to 12:00 PM, only, Room 106 (COB)
Friday, June 11, 1999, 9:00 AM in Room 106 (COB)
Thursday, June 17, 1999, 9:00 AM to 12:00 PM, only, Room 407, County Courts Building (CCB)

It is my understanding that these dates and times were agreed upon by all parties, subject to any unforeseen scheduling conflicts. It was also agreed that while the property need not be readvertised, I will require that the property be reposted.

Thank you for your attention in this matter and should there be any questions concerning the rescheduled hearing dates and times, please feel free to call me.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Timothy M. Kotroco".

TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs
cc: Circulation List Attached

Come visit the County's Website at www.co.ba.md.us



Printed with Soybean Ink
on Recycled Paper

Julius W. Lichter, Esquire

April 21, 1999

Page 2 (Circulation List: Greenspring Racquet Club (Case No. 99-282-SPH))

PETITIONERS: William and Loretta Hirshfeld/Greenspring Racquet Club

Julius W. Lichter, Esquire

Dino C. LaFiandra, Esquire

Law Offices of Peter G. Angelos

210 W. Pennsylvania Avenue, Towson, Md. 21204

and

Robert H. Freilich, Esquire

Freilich, Leitner & Carlisle

1000 Plaza West

4600 Madison, Kansas City, Missouri 64112-3012

PROTESTANTS:

Mullan Enterprises:

Richard C. Burch, Esquire

James Anderson, Esquire

Mudd, Harrison and Burch

105 W. Chesapeake Avenue, Suite 300, Towson, Md. 21204

Valleys Planning Council/Homeowners of the Meadows:

K. Donald Proctor, Esquire

Jeffrey W. Cottle, Esquire

102 West Pennsylvania Avenue, Suite 505, Towson, Md. 21204-4542

Johns Hopkins Suburban Health Center

Deborah C. Dopkin, Esquire

409 Washington Avenue, Suite 920, Towson, Md. 21204

and

George Beall, Esquire

Joseph ("Hank") H. Young, Esquire

Hogan & Hartson, LLP

111 South Calvert Street, Baltimore, Md. 21202



Baltimore County
Department of Permits and
Development Management

Director's Office
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
410-887-3353
Fax: 410-887-5708

May 25, 1999

Julius W. Lichter
Law Offices of Peter Angelos
Court Towers, Suite 515
210 W. Pennsylvania Avenue
Towson, Maryland 21204

Dear Mr. Lichter:

Re: Greenspring Tennis and Racquetball Complex, Falls and Joppa Roads

The latest submittals, by your letter dated April 27, 1999, on behalf of the Greenspring Tennis and Racquetball complex has been reviewed by the Development Review Committee (DRC). Subsequent to its review, at which your representatives were present and made their presentation, I was asked by the DRC whether the particular issues presented to it were subject to their comment and recommendations.

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Sincerely,


Arnold Jablon
Director

AJ/cab





Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
pdmlandacq@co.ba.md.us

March 3, 1999

Richard C. Burch, Esquire
Mudd, Harrison & Burch
105 West Chesapeake Avenue
300 Jefferson Building
Towson, MD 21204

Dear Mr. Burch:

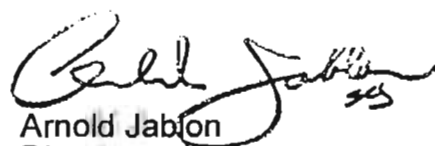
RE: Case Number 99-282-SPH, 10803 Falls Road (Greenspring Racquet Club)

The above matter, previously assigned to be heard on March 19 through March 23, 1999 has been **rescheduled for Monday, April 19, 1999 and Tuesday, April 20, 1999 at 9:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue.**

As the person requesting the postponement, you are now responsible for affixing the new hearing date and time to the hearing notice sign posted on the property as soon as possible.

If you need further information or have any questions, please do not hesitate to contact Sophia Jennings at 410-887-3391.

Very truly yours,


Arnold Jablon
Director

AJ:scj

c: Julius W. Lichter, Esquire
Loretta & William Hirshfeld
Greenspring Racquet Club, Inc

*2 consecutive days
if more - at our
convenience per AS
3/2/99*

Come visit the Cou





Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
pdmlandacq@co.ba.md.us

March 2, 1999

Richard C. Burch, Esquire
Mudd, Harrison & Burch
105 West Chesapeake Avenue
300 Jefferson Building
Towson, MD 21204

Dear Mr. Burch:

RE: Case Number 99-282-SPH, 10803 Falls Road (Greenspring Racquet Club)

The above matter, previously assigned to be heard on March 19 through March 23, 1999 has been postponed at your request. You will be notified when this hearing is rescheduled.

Please be advised that, as the individual requesting and receiving the postponement, the responsibility and costs associated with the appropriate posting of the property now lies with you. The petitioner or his/her agent may not personally post or change a zoning sign. One of the currently approved vendors/posters must be contacted to do so. If the property has been posted with notice of the hearing date, as quickly as possible a notice of postponement should be affixed to the sign(s).

Very truly yours,

Arnold Jablon
Director

AJ:scj

c: Julius W. Lichter, Esquire
Loretta & William Hirshfeld
Greenspring Racquet Club, Inc.

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Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
pdmlandacq@co.ba.md.us

February 9, 1999

Julius W. Lichter, Esquire
Law Offices of Peter Angelos
210 West Pennsylvania Avenue
Suite 300
Towson, MD 21204

Dear Mr. Lichter:

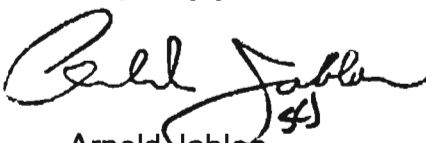
RE: Case Number 99-282-SPH, 10803 Falls Road

The above matter, previously assigned to be heard on March 12, March 15 and March 16 has been postponed at your request. The hearing has been rescheduled for Friday, March 19, 1999 at 9:00 a.m. in Room 106, County Office Building, 111 West Chesapeake Avenue; Monday, March 22, 1999 at 9:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue; and Tuesday, March 23, 1999 at 9:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue

Please be advised that, as the individual requesting and receiving the postponement, the responsibility and costs associated with the appropriate posting of the property now lies with you. The petitioner or his/her agent may not personally post or change a zoning sign. One of the currently approved vendors/posters must be contacted to do so. If the property has been posted with notice of the hearing date, as quickly as possible a notice of postponement should be affixed to the sign(s). The property must be posted by March 4, 1999.

If you need further information or have any questions, please do not hesitate to contact Sophia Jennings at 410-887-3391.

Very truly yours,


Arnold Jablon
Director

AJ:scj

c: Loretta & William Hirshfeld
Greenspring Racquet Club, Inc.

Come visit the County's Website at www.co.ba.md.us



BALTIMORE COUNTY, MARYLAND
Board of Appeals of Baltimore County
Interoffice Correspondence

DATE: August 22, 2003

TO: Timothy Kotroco, Director
Permits & Development Management
Attn.: David Duvall

FROM: Theresa R. Shelton *tr*
Board of Appeals

SUBJECT: **Greenspring Racquet Club**
CBA No.: 99-282-SPH
PDM File No.: 99-282-SPH
Circuit Court Case No.: 03-C-01-5738

On March 6, 2003 the Circuit Court for Baltimore County issued an Order of Court Dismissing w/o Prejudice the above referenced case for Lack of Prosecution.

Since no further appeals have been taken in this matter. The Board of Appeals is closing and returning the file/exhibits that are attached herewith.

Attachment: SUBJECT FILE ATTACHED AND EXHIBITS

3 11/99
5j - ok
has att callt
coordinate new
hearing date

MUDD, HARRISON & BURCH
ATTORNEYS AT LAW
105 WEST CHESAPEAKE AVENUE
300 JEFFERSON BUILDING
TOWSON, MARYLAND 21204
(410) 828-1335
FAX (410) 828-1042

JOHN E. MUDD
RICHARD C. BURCH
DOUGLAS W. BISER
H. PATRICK STRINGER, JR.
ANDREW JANQUITTO
T. ROGERS HARRISON
(1949-1995)

JAMES R. ANDERSEN
MATTHEW P. LALUMMA
NANCY C. HOPKINS
OF COUNSEL
WILLIAM T. RUSSELL, JR.
DELVERNE A. DRESSEL

February 25, 1999

HAND DELIVERY

Mr. Arnold Jablon, Director
Department of Permits and
Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204

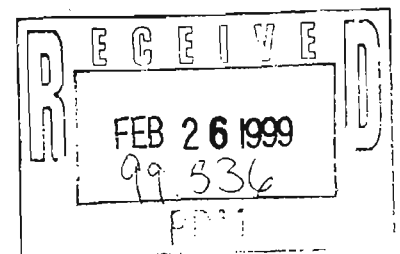
Re: Case No. 99-282-SPH
Greenspring Racquet Club, Inc.

Dear Mr. Jablon:

I understand that a Special Hearing to seek approval for a Floor Area Ratio (FAR) of 2.56 in lieu of 0.50 and a building height of 78 feet in lieu of 35 feet has been scheduled in the captioned matter for Friday, March 19, 1999, Monday, March 22, 1999 and Tuesday, March 23, 1999. As you may recall from my involvement in related development matters in connection with the proposed developments at Greenspring Station, I represent the Mullan related entities. Unfortunately, I am not available for the hearing as currently scheduled as my wife and I have long standing plans to be out of the country during the week of March 17 through March 24, 1999. Accordingly, on behalf of the Mullan related entities, I respectfully request a continuance of the hearing so as to allow their interests to be represented at the hearing. You should know that I just learned of the scheduling of the hearing on Wednesday, February 24, 1999, and this request is being made immediately upon my client and I learning of the scheduling of the Special Hearing.

Many thanks for your kind attention to this request. If you would like, I am more than willing to attempt to coordinate the rescheduling of the hearing with counsel for the petitioner(s) so as to avoid the need for any interested party to seek a postponement based on a subsequent scheduling conflict. I should also note that neither I nor my clients have requested a postponement previously.

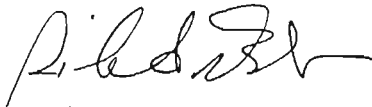
OK



Mr. Arnold Jablon
February 25, 1999
Page 2

Thank you.

Very truly yours,

A handwritten signature in black ink, appearing to read "Richard C. Burch", written in a cursive style.

Richard C. Burch

RCB/lfc

cc: Julius W. Lichter, Esquire
Mr. Thomas F. Mullan, III

LAW OFFICES

FREILICH, LEITNER & CARLISLE

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

1000 PLAZA WEST

4600 MADISON

KANSAS CITY, MISSOURI 64112-3012

FACSIMILE

(816) 561-7931

TELEPHONE

(816) 561-4414

May 9, 2000

IN KANSAS CITY, MISSOURI

ATTORNEYS AT LAW

ROBERT H. FREILICH, P.C.^{1,2,3}

MARTIN L. LEITNER, P.C.¹

RICHARD G. CARLISLE, P.C.¹

STEPHEN J. MOORE, P.C.¹

S. MARK WHITE^{1,2}

KYLE E. FOOTE¹

ADMITTED IN MO¹, Cal², NY³, MO⁴

CERTIFIED LAND USE PLANNERS

MICHAEL J. LAUER, AICP

JENNIFER K. BARRETT, AICP

IN ASPEN, COLORADO

FREILICH, MYLER, LEITNER & CARLISLE

100 S. MILL ST., SUITE 202

ASPEN, COLORADO 81611-1873

TELEPHONE: (970) 920-1018

FACSIMILE: (970) 920-4259

ATTORNEYS AT LAW

DAVID J. MYLER, P.C.¹

E. MICHAEL HOFFMAN¹

SHANE J. HARVEY¹

ADMITTED IN CO¹

Lawrence M. Stahl, Chair
Board of Appeals
400 Washington Ave., Room 49
Towson, MD 21204

Dear Mr. Stahl:

As counsel for Greenspring Racquet Club I formally request a continuance of the Board of Appeals hearing scheduled for Wednesday and Thursday, May 10 and 11, 2000 for medical reasons.

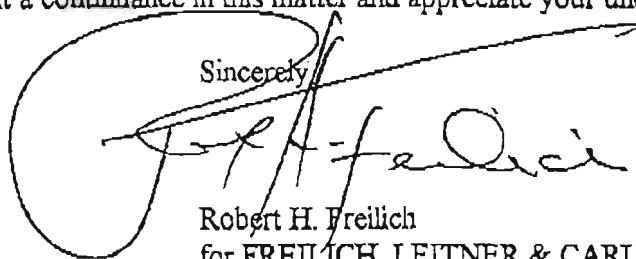
On Thursday, May 4, 2000 I was examined by Thomas J. Whittaker, M.D., a neuro-ophthalmologist, for serious problems of pain in my left eye. The physician, in the course of a two-hour examination, discovered a significant tear in the retina of my left eye and advised that without immediate surgery it was likely that the retina could detach within days, resulting in blindness or major loss of vision.

The emergency surgery was performed that afternoon by King Lee, M.D., an ophthalmological surgeon specializing in retinal damage. He has advised that no physical exercise or travel can be undertaken for ten days until the retinal surgery has taken hold. This was not "elective" laser surgery to improve vision.

I was prepared to conduct the appeal but was disabled from doing so by reason of the emergency surgery on Thursday.

I request that the Board grant a continuance in this matter and appreciate your understanding.

Sincerely,



Robert H. Freilich

for FREILICH, LEITNER & CARLISLE

RHF/jd#44637

cc: Julius W. Lichter, Esq.

LAW OFFICES

FREILICH, LEITNER & CARLISLE

IN KANSAS CITY, MISSOURI

ATTORNEYS AT LAW

ROBERT H. FREILICH, P.C. 174

MARTIN L. LEITNER, P.C. 1

RICHARD C. CARLISLE, P.C. 1

STEPHEN J. MOORE, P.C. 1

S. MARK WHITE 17

KYLE G. FOOTE 1

ADMITTED IN MO., CAL., ILL., NEV.

CERTIFIED LAND USE PLANNERS

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FACSIMILE COVER PAGE

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ATTORNEYS AT LAW

DAVID J. MYLER, P.C. 1

J. MICHAEL HOFFMAN 1

SHANE J. HARVEY 1

ADMITTED IN CO.

DATE: MAY 9, 2000

TIME OF TRANSMISSION: _____

PLEASE DELIVER THIS TRANSMISSION AS SOON AS POSSIBLE TO:

NAME: LAWRENCE M. STAHL Client # _____

COMPANY: CHAIR, BOARD OF APPEALS, BALTIMORE COUNTY

FACSIMILE NUMBER: 410-887-3182

SENDER: ROBERT H. FREILICH

RE: GREENSPRING (STATION) RACQUET CLUB APPEAL

TOTAL NUMBER OF PAGES 3 (INCLUDING COVER PAGE) MAY 10-11 2000
CASE NO.: 99-282-SPH

If there are any problems with the transmission, please call the operator named below at (816) 561-4414 as soon as possible.

Additional Message

I HAVE ATTACHED A FORMAL LETTER WITH
ACCOMPANYING DOCTOR'S LETTER REGARDING
CONTINUANCE DUE TO EMERGENCY EYE SURGERY.
A SECOND DOCTOR'S LETTER WILL BE FORTHCOMING.

Operator: _____

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The documents accompanying this facsimile transmission contain confidential information belonging to the sender which is legally privileged. The information is intended only for the use of the individual or entity named above. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or the taking of any action in reliance on the contents of this facsimiled information is strictly prohibited. If you have received this facsimile in error, please immediately notify the sender by telephone to arrange for the return of the original documents.

LAW OFFICES

FREILICH, LEITNER & CARLISLE

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

IN KANSAS CITY, MISSOURI

ATTORNEYS AT LAW

ROBERT H. FREILICH, P.C.^{1,2,3}
MARTIN L. LEITNER, P.C.¹
RICHARD G. CARLISLE, P.C.¹
STEPHEN J. MOORE, P.C.¹
S. MARK WHITE^{1,7}
KYLE E. FOOTE¹

ADMITTED IN MO.¹, CA.², NY.³, NC.⁷

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FACSIMILE: (970) 920-4259

ATTORNEYS AT LAW

DAVID J. MYLER, P.C.⁸
E. MICHAEL HOFFMAN⁸
SHANE J. HARVEY⁸
ADMITTED IN CO.⁸

MAY 10

May 7, 1999

VIA FEDERAL EXPRESS PRIORITY OVERNIGHT

Mr. Timothy M. Kofroco
Deputy Zoning Commissioner
for Baltimore County
County Courts Building
401 Bosley Avenue
Towson, Maryland 21204

Re: **In re Petition for Special Hearing
Greenspring Racquet Club, Inc., et al.
Case No.: 99-282-SPH**

Dear Mr. Kofroco:

It was understood by all the parties that the memoranda of law to be submitted to you was to concern solely the issue of whether the BM property of petitioner was contiguous to an RC Zone, where it is separated by private land, over 150 feet in distance, which intervening land is zoned DR.

Protestants' joint memorandum (submitted by Deborah C. Dopkin) (see copy of letter enclosed) goes far beyond that issue by seeking to support a motion to dismiss the Petition. All of that material concerning whether the property was or was not compatible with the nearest RC Zone is totally irrelevant. Similarly, whether or not we met our case was not the subject of the briefing issue. The protestants seem to miss the entire point -- the fact that the body of the ordinance discusses a 750 foot radius applicable to the height and FAR restrictions does not apply to Section 238 C.2 which authorizes an exception to the act and does not refer to the 750 foot

Mr. Timothy M. Kofroco
May 7, 1999
Page 2

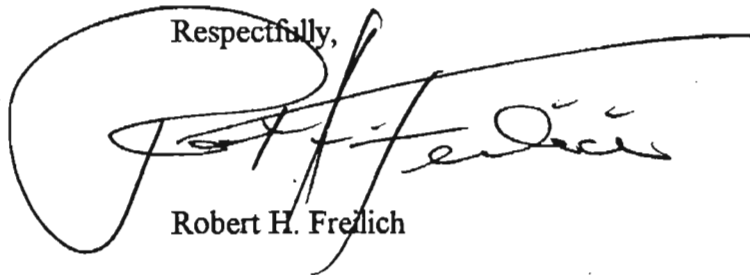
radius at all but substitutes instead the words "contiguous R.C. zone" so that non-contiguous properties should be granted an exception to the otherwise applicable standard.

Thus, the issue to be briefed was limited solely to the legal meaning of "contiguous" to be applied in this case.

Since we did not brief any issues as to whether the Petition was sufficient or should be dismissed, that material in protestants' brief should not be entertained by the Zoning Commissioner, as it would be extremely prejudicial to our case and constitutes complete surprise and disregard of the Zoning Commissioner's instructions.

Thank you for your consideration in this matter.

Respectfully,

A large, stylized handwritten signature in dark ink, appearing to read "R. H. Freilich". The signature is written over the word "Respectfully," and extends across the line for the name.

Robert H. Freilich

RHF:jmj
Enclosure

cc (without enclosure):

Deborah C. Dopkin, Esq.
Richard C. Burch, Esq.
Julius W. Lichter, Esq.
K. Donald Proctor, Esq.
Joseph H. Young, Esq.
George Beall, Esq.
Stuart D. Kaplow, Esq.

RECEIVED
COUNTY BOARD OF APPEALS

00 AUG 29 PM 12:30

LAW OFFICES
PETER G. ANGELOS
A PROFESSIONAL CORPORATION
COURT TOWERS, SUITE 300
210 W. PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204
410-825-7300 FAX # 410-296-2541

JULIUS W. LICHTER

August 28, 2000

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PITTSBURGH, PENNSYLVANIA
BETHLEHEM, PENNSYLVANIA
WILMINGTON, DELAWARE
KNOXVILLE, TENNESSEE

VIA FAX 410-887-3182 AND U.S. MAIL

Mr. Charles S. Marks, Chairperson
Baltimore County Board of Appeals
401 Washington Avenue, Room 49
Towson, Maryland 21204

Re: Greenspring Racquet Club, Inc. / 99-282-SPH

Dear Mr. Marks:

The hearing in the above-referenced matter is scheduled to resume tomorrow, August 29, 2000, at 1:00 p.m. At 10:30 a.m. today, I was advised by Sean Davis that his mother-in-law, Mrs. Lola Silvestri, passed away last night. Mr. Davis is our expert planning witness, and we expected to present him as our final witness at tomorrow's hearing. When we spoke Mr. Davis had indicated that, because the arrangements had not been set, there was a *possibility* that he might still be able to testify before the Board tomorrow. Earlier this afternoon, we notified opposing counsel of these events by facsimile, with a copy to the Board.

Unfortunately, at 1:45 p.m. today Mr. Davis advised that under the circumstances he is unable to appear before the Board tomorrow. Aside from Mr. Davis, we intended only to call witnesses in rebuttal, after the conclusion of the Protestants' case.

Mr. Davis testified for nearly four hours before the Zoning Commissioner in this case regarding the statutory criteria for relief under Bill 111-98. He has conducted exhaustive analyses regarding the Greenspring Racquet Club property, and his testimony is an integral part of our clients' case.

Today, my client's lead counsel, Robert H. Freilich of Freilich, Leitner & Carlisle, came to Towson in anticipation of tomorrow's hearing. If agreeable to opposing counsel and the Board, I propose that we minimize the disruption to the proceedings caused by Mr. Davis' inability to appear tomorrow by allowing the Petitioners to present Mr. Davis out of order. This is to say that the Petitioners would close its case tomorrow, reserving the right to call Mr. Davis as part of Petitioner's case in chief at the first opportunity to do so on September 13, 2000. This way, we do not lose a half day of hearing which is scheduled for tomorrow, and the Protestants could begin their case. Otherwise, the Petitioners will have no choice but to request a postponement of the hearing in order to preserve the right to call Mr. Davis as an expert witness.

ONE CHARLES CENTER
100 N. CHARLES STREET
BALTIMORE, MD 21201-3812
410-649-2000
(800) 252-6622
FAX 410-659-2101, 81, 82

UNION PARK CENTER
5905 HARFORD ROAD
BALTIMORE, MD 21214-1846
410-426-3200
(800) 492-3240
FAX 410-426-1269

STEELWORKERS' HALL
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BALTIMORE, MD 21224-2997
410-633-8100
FAX 410-633-0480

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BELTSVILLE, MD 20705-3149
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FAX 301-937-5738

63 HENDERSON AVENUE
CUMBERLAND, MD 21502-2482
301-759-2700
FAX 301-759-2703

201 S. CLEVELAND AVENUE
HAGERSTOWN, MD 21740-5745
301-739-4000
FAX 301-739-3848

PETER G. ANGELOS

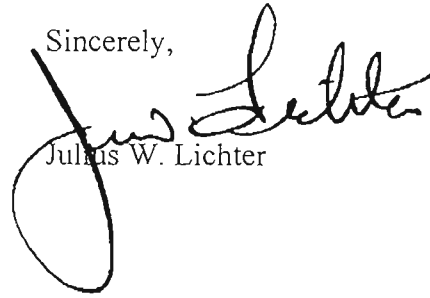
Greenspring Racquet Club, Inc., Case No. 99-282-SPH

August 28, 2000

Page 2.

I truly regret this unfortunate turn of events, both for Mr. Davis' personal loss and for the inconvenience of the Board and counsel. Hopefully, we will be able to preserve the day which is set aside for tomorrow as set forth above. Should you have any questions, please contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Julius W. Lichter", is written over the typed name. The signature is fluid and cursive, with a large loop at the end.

Julius W. Lichter

cc: All by Facsimile and U.S. Mail

Joseph Young, Esquire

Richard M. Burch, Esquire

K. Donald Proctor, Esquire

Deborah C. Dopkin, Esquire

Peter M. Zimmerman, Esquire

Robert H. Freilich, Esquire

Greenspring Racquet Club, Inc.

Mr. & Mrs. William Hirshfeld

Mr. Sean Davis

Ms. Kathleen C. Bianco, Administrator, County Board of Appeals

RECEIVED
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00 AUG 29 PM 12:30

LAW OFFICES
PETER G. ANGELOS
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COURT TOWERS, SUITE 300
210 W. PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204
410-825-7300 FAX # 410-296-2541

JULIUS W. LICHTER

August 28, 2000

OTHER OFFICES:
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PITTSBURGH, PENNSYLVANIA
BETHLEHEM, PENNSYLVANIA
WILMINGTON, DELAWARE
KNOXVILLE, TENNESSEE

VIA FAX 410-887-3182 AND U.S. MAIL

Mr. Charles S. Marks, Chairperson
Baltimore County Board of Appeals
401 Washington Avenue, Room 49
Towson, Maryland 21204

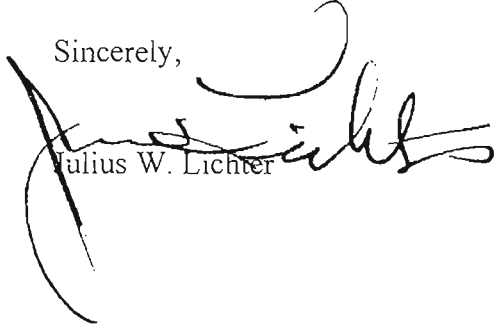
Re: Greenspring Racquet Club, Inc. / 99-282-SPH

Dear Mr. Marks:

As a result of my two letters to counsel and the Board of earlier today, and telephone conversations with Messrs. Burch, Proctor, and Young, and Ms. Dopkin, all counsel agree that, due to the death in Mr. Davis' family and his inability to appear as a witness tomorrow, this matter should be pulled from the docket for August 29, 2000. Petitioners will resume their case on September 13, 2000, the next date scheduled for this matter.

I understand from the Board's administrator, Ms. Kathleen Bianco, that the appearance of counsel on August 29 before the Board will not be necessary and that the matter will be postponed. Should you have any questions, please contact me.

Sincerely,


Julius W. Lichter

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FAX 301-739-3848

LAW OFFICES

PETER G. ANGELOS

Greenspring Racquet Club, Inc., Case No. 99-282-SPH

August 28, 2000

Page 2.

cc: All by Facsimile and U.S. Mail

Joseph Young, Esquire

Richard M. Burch, Esquire

K. Donald Proctor, Esquire

Deborah C. Dopkin, Esquire

Peter M. Zimmerman, Esquire

Robert H. Freilich, Esquire

Greenspring Racquet Club, Inc.

Mr. & Mrs. William Hirshfeld

Mr. Sean Davis

Ms. Kathleen C. Bianco, Administrator, County Board of Appeals

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JULIUS W. LICHTER

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PITTSBURGH, PENNSYLVANIA
BETHLEHEM, PENNSYLVANIA
WILMINGTON, DELAWARE
KNOXVILLE, TENNESSEE

August 28, 2000

VIA FACSIMILE AND U.S. MAIL

Richard Burch, Esquire
Mudd, Harrison & Burch
105 W. Chesapeake Avenue, Suite 300
Towson, Maryland 21204
Fax: 410-828-1042

Peter M. Zimmerman, Esquire
Office of People's Counsel
400 Washington Avenue
Towson, Maryland 21204

Deborah C. Dopkin, Esquire
409 Washington Avenue, Suite 920
Towson, Maryland 21204
Fax: 410-494-8082

K. Donald Proctor, Esquire
102 W. Pennsylvania Avenue, Suite 505
Towson, Maryland 21204
Fax: 410-823-2268

Joseph H. Young, Esquire
Hogan & Hartson, LLP
111 S. Calvert Street
Baltimore, Maryland 21202
Fax: 410-539-6981

Re: Greenspring Racquet Club, Inc. / Case No. 99-282-SPH

Dear Counsel:

As you know, day three of the above-referenced case is scheduled for tomorrow afternoon. This morning at 10:30 a.m., Sean Davis of LDR International informed my office that his mother-in-law, Mrs. Lola Silvestri, passed away last night. We intended to present Mr. Davis as our final witness at tomorrow's hearing. In final preparation for tomorrow's testimony, we had planned to meet with Mr. Davis today.

In light of this unfortunate happening, Mr. Davis has advised us that he will not be available today for our final preparatory meeting. Moreover, we are in the process of determining whether he will be available tomorrow for testimony before the Board. We will keep you up advised as soon as we know.

ONE CHARLES CENTER
100 N. CHARLES STREET
BALTIMORE, MD 21201-3812
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LAW OFFICES

PETER G. ANGELOS

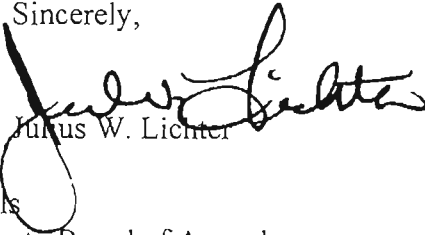
Board of Appeals Case No. 99-282-SPH

August 28, 2000

Page 2.

Should you have any questions, please contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Julius W. Lichter". The signature is fluid and cursive, with a large loop at the end.

Julius W. Lichter

cc: Mr. Charles Marks, County Board of Appeals
Ms. Kathleen C. Bianco, Administrator, County Board of Appeals
Mr. Sean Davis
Greenspring Racquet Club, Inc., *et al.*

LAW OFFICES
PETER G. ANGELOS
A PROFESSIONAL CORPORATION
COURT TOWERS, SUITE 300
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JULIUS W. LICHTER

June 26, 2000

OTHER OFFICES:
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PITTSBURGH, PENNSYLVANIA
BETHLEHEM, PENNSYLVANIA
WILMINGTON, DELAWARE
KNOXVILLE, TENNESSEE

VIA FAX 410-887-3182 AND U.S. MAIL

Mr. Charles S. Marks, Chairperson
Baltimore County Board of Appeals
401 Washington Avenue, Room 49
Towson, Maryland 21204

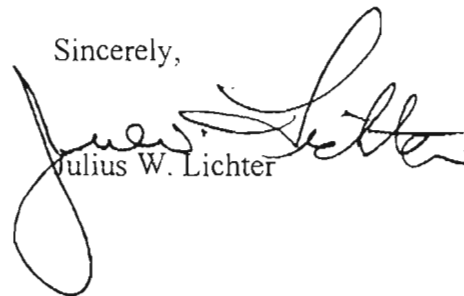
Re: Greenspring Racquet Club, Inc. / 99-282-SPH

Dear Mr. Marks:

On Friday, June 23, 2000, after I dispatched my letter of that date to you, I had the opportunity to discuss the matter of the deposition of Sean Davis with Mr. Burch. As a result of this discussion, I have decided to cancel the deposition which had been noted for Mr. Davis for June 30, 2000. Petitioners will call Mr. Davis during their case-in-chief in August or thereafter, depending upon the progress of the hearing after July 6, 2000..

Should you have any questions, please contact me.

Sincerely,


Julius W. Lichter

JWL/cld

cc: All by Facsimile and U.S. Mail
Joseph Young, Esquire
Richard M. Burch, Esquire
K. Donald Proctor, Esquire
Deborah C. Dopkin, Esquire
Peter M. Zimmerman, Esquire
Robert H. Freilich, Esquire
Greenspring Racquet Club, Inc.
Mr. & Mrs. William Hirshfeld
Mr. Sean Davis
Ms. Kathleen C. Bianco, Administrator, County Board of Appeals

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JULIUS W. LICHTER

June 23, 2000

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VIA FAX 410-887-3182 AND U.S. MAIL

Mr. Charles S. Marks, Chairperson
Baltimore County Board of Appeals
401 Washington Avenue, Room 49
Towson, Maryland 21204

Re: Greenspring Racquet Club, Inc. / 99-282-SPH

Dear Mr. Marks:

I am in receipt of Mr. Young's letter of June 22, 2000 in which he, apparently on his client's and Mr. Burch's behalf, presents a lengthy objection to the deposition of Sean Davis which I noted for June 30, 2000. Because Mr. Davis is not available on July 5 or 6, we had decided to preserve his testimony by way of deposition in order to avoid a delay of this trial. However, if, as Mr. Young suggests, Mr. Davis may be called out of order in August or later, if necessary, then I surely would agree to cancel the deposition.

In the unlikely event that we complete the Petitioner's case and commence with the Protestant's case before close of business on July 6, with the Board's permission, I would simply reserve the right to call Mr. Davis out of order in August, or later, which I assume would be agreeable to Mr. Young and Mr. Burch. If we do not even get that far and we do not close the Petitioner's case by July 6, then we will call Mr. Davis as part of our case when we reconvene in August.

Lastly, I note that Mr. Young refers to tentative dates in September which have been set aside. Although a number of dates in September were discussed, I am unaware that any were to be held open. As this case will certainly extend beyond August 29, 2000, perhaps it would be appropriate to set in several dates in September (and October?) now. I suggest we do so before we break on July 6 or at an earlier date, if possible.

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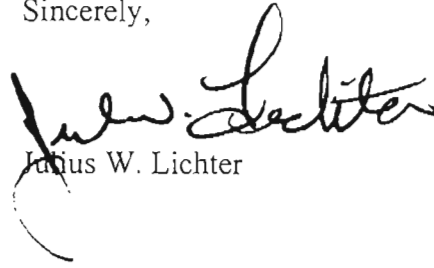
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Charles S. Marks, Chairperson
Baltimore County Board of Appeals
June 23, 2000
Page 2

Please confirm that we may call Mr. Davis out of order, and possibly after the close of our case-in-chief. Once I have this confirmation, I will cancel the deposition. Should you have any questions, please contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Julius W. Lichter". The signature is fluid and cursive, with a large initial "J" and "L".

Julius W. Lichter

JWL/cld

cc: All by Facsimile and U.S. Mail

Joseph Young, Esquire
Richard M. Burch, Esquire
K. Donald Proctor, Esquire
Deborah C. Dopkin, Esquire
Peter M. Zimmerman, Esquire
Robert H. Freilich, Esquire
Greenspring Racquet Club, Inc.
Mr. & Mrs. William Hirshfeld
Mr. Sean Davis
Ms. Kathleen C. Bianco, Administrator, County Board of Appeals

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A PROFESSIONAL CORPORATION
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410-825-7300 FAX # 410-296-2541

JULIUS W. LICHTER

June 21, 2000

VIA FACSIMILE AND U.S. MAIL

Richard Burch, Esquire
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105 W. Chesapeake Avenue, Suite 300
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Fax: 410-828-1042

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Office of People's Counsel
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Towson, Maryland 21204

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Towson, Maryland 21204
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K. Donald Proctor, Esquire
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Joseph H. Young, Esquire
Hogan & Hartson, LLP
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00 JUN 22 PM 3:17

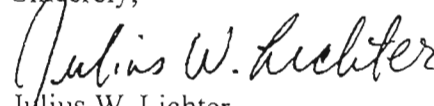
Re: Greenspring Racquet Club, Inc. / Case No. 99-282-SPH

Dear Counsel:

NOTICE

Mr. Sean Davis is not available for the trial of this matter on July 5 or 6, 2000. In order to preserve his testimony for trial, counsel for Greenspring Racquet Club, Inc, *et al.* shall conduct a deposition upon oral examination of Sean Davis on June 30, 2000 at 1:45 p.m. at the Law Offices of Peter Angelos, 210 W. Pennsylvania Avenue, Suite 300, Towson, Maryland 21204. The deposition will be recorded on videotape for the purpose of using same at the trial of this matter before the Board of Appeals. So that these proceedings are not delayed, counsel for Greenspring Racquet Club, Inc., *et al* has followed the suggestion of opposing counsel made at the hearing of this matter on May 10, 2000 that the Petitioner present crucial testimony by videotape.

Sincerely,


Julius W. Lichter

ONE CHARLES CENTER
100 N. CHARLES STREET
BALTIMORE, MD 21201-3812
410-649-2000
(800) 252-6622
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cc: Mr. Charles Marks, County Board of Appeals
Ms. Kathleen C. Bianco, Administrator, County Board of Appeals
Mr. Sean Davis
Greenspring Racquet Club, Inc., *et al.*

RECEIVED
COUNTY BOARD OF

00 MAY 16 PM 1:50

LAW OFFICES
PETER G. ANGELOS
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COURT TOWERS, SUITE 300
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TOWSON, MARYLAND 21204
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JULIUS W. LICHTER

May 12, 2000

Richard C. Burch, Esquire
Jefferson Building
105 W. Chesapeake Avenue
Suite 300
Towson, Maryland 21204-4712

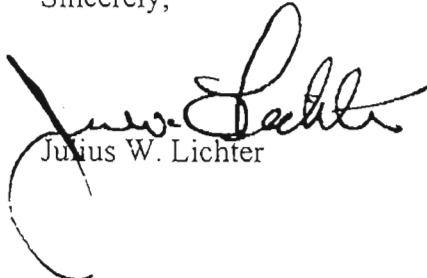
Re: Greenspring Racquet Club, Inc.
Appeal of Special Hearing
Case No. 99-282-SPH

Dear Mr. Burch:

Enclosed you will find copies of correspondence requested by Mr. Young relative to the request for a continuance of the hearing, which was delivered to the Board by fax communication on May 9, 2000.

Should you have any questions, please call.

Sincerely,


Julius W. Lichter

JWL/cld
Enclosure

cc: Deborah Dopkin, Esquire
Joseph H. Young, Esquire
K. Donald Proctor, Esquire
George Beall, Esquire
Peter M. Zimmerman, Esquire
Lawrence M. Stahl, Chair, Board of Appeals

ONE CHARLES CENTER
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BALTIMORE, MD 21201-3812
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JULIUS W. LICHTER

April 28, 1999

Mr. Timothy M. Kotroco
Deputy Zoning Commissioner
Zoning Commissioner's Office
401 Bosley Avenue
Towson, Maryland 21204

Re: Greenspring Racquet Club, Inc.
Special Hearing Case No. 99-282-SPH

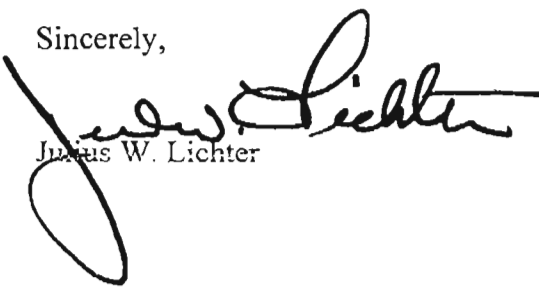


Dear Mr. Kotroco:

I am in receipt of your correspondence dated April 21, 1999 regarding the above-referenced matter which sets forth dates and times for the hearing of the matter to resume. The dates and times which you indicate in that letter are fine with counsel for the Petitioners.

We will repost the property accordingly.

Sincerely,


Julius W. Lichter

cc: Circulation List Attached.

ONE CHARLES CENTER
100 N. CHARLES STREET
BALTIMORE, MD 21201-3812
410-649-2000
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FAX 410-659-2101, 81, 62

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Mr. Timothy Kotroco

April 28, 1999

Page 2.

PETITIONERS: William and Loretta Hirshfeld/Greenspring Racquet Club

Julius W. Lichter, Esquire

Dino C. LaFiandra, Esquire

Law Offices of Peter Angelos

210 W. Pennsylvania Avenue, Towson, MD 21204

and

Robert H. Freilich, Esquire

Freilich, Leitner & Carlisle

1000 Plaza West

4600 Madison, Kansas City, Missouri 64112-3012

APR 28

PROTESTANTS:

Mullan Greenspring Limited Partnership/Mullan Pavilians Limited Partnership

Richard C. Burch, Esquire

James Anderson, Esquire

Mudd, Harrison and Burch

105 W. Chesapeake Avenue, Suite 300, Towson, MD 21204

Valleys Planning Council/Meadows of Greenspring Homeowners Association/Norman Wilder:

K. Donald Proctor, Esquire

Jeffrey W. Cottle, Esquire

102 West Pennsylvania Avenue, Suite 505, Towson, MD 21204-4542

Johns Hopkins Suburban Health Center

Deborah C. Dopkin, Esquire

409 Washington Avenue, Suite 920, Towson, MD 21204

and

George Beall, Esquire

Joseph ("Hank") H. Young, Esquire

Hogan & Hartson, LLP

111 South Calvert Street, Baltimore, MD 21202

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210 W. PENNSYLVANIA AVENUE
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410-825-7300 FAX # 410-296-2541

3/2/99
TO SJ - call jules + tell
JP Grant -
make sure brief
calls + sets all
date
DONE

OTHER OFFICES:

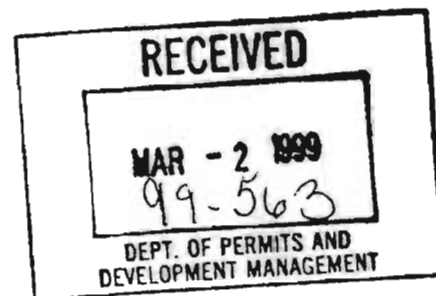
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KNOXVILLE, TENNESSEE

JULIUS W. LICHTER

March 2, 1999

VIA FACSIMILE & HAND DELIVERED

Arnold Jablon, Director
Department of Permits and Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204



Re: Case No. 99-282-SPH
Greenspring Racquet Club, Inc., et al.
Hearing Date: March 19, 22 and 23, 1999

Dear Mr. Jablon:

I received a letter dated February 25, 1999, addressed to you on March 1, 1999 from Richard C. Burch, Esq., representing Mullan-related entities, requesting a postponement of the hearing in this matter.

I oppose this request and ask that you deny the postponement.

As you are aware, my clients have initiated legal action regarding your decisions as to the exemption request, and have likewise instituted litigation concerning the County Council's actions affecting the property.

Mr. Burch's client has been involved in all of the aforementioned proceedings and has filed appeals of DRC decisions, despite the decision being favorable to them. Postponements have been requested by opponents of my clients in these matters, and there is a pattern of delay requests in attempts to frustrate my clients' interests.

The Mullan interests are economically motivated as my clients' desire to develop their property would result in competition with Mullan's properties adjoining.

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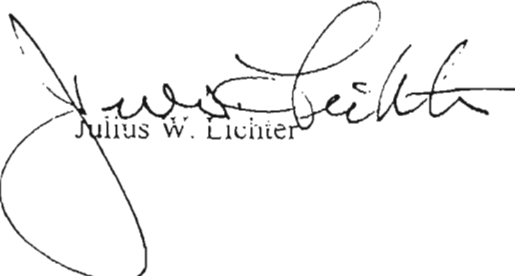
99-282-SPH

LAW OFFICES
PETER G. ANGELOS

Mr. Arnold Jablon
March 2, 1999
Page 2

I urge that you deny the request for postponement.

Sincerely,



Julius W. Lichter

JWL/bsw

cc: Mr. & Mrs. William Hirshfeld
Greenspring Racquet Club, Inc.
Richard C. Burch, Esquire

LAW OFFICES
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A PROFESSIONAL CORPORATION
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JULIUS W. LICHTER

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WILMINGTON, DELAWARE
KNOXVILLE, TENNESSEE

March 2, 1999

VIA FACSIMILE (410-828-1042)

Richard C. Burch, Esquire
Mudd, Harrison & Burch
Jefferson Building, Suite 300
105 West Chesapeake Avenue
Towson, Maryland 21204

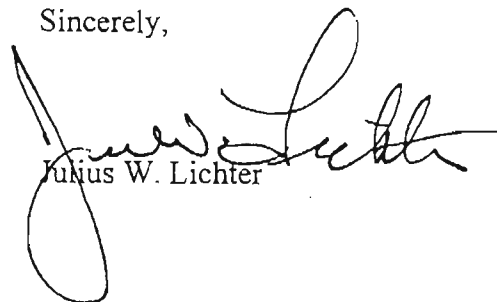
Re: Greenspring Racquet Club, Inc.
Case No. 99-282-SPH

Dear Mr. Burch:

My address is 210 West Pennsylvania Avenue, Suite 300, Towson, Maryland 21204. My phone number is 410-825-7300, and my fax number is 410-296-2541.

Please note your records and files accordingly.

Sincerely,



Julius W. Lichter

JWL/bsw

✓cc: Arnold Jablon, Director
Department of Permits and Development Management

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100 N. CHARLES STREET
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HOGAN & HARTSON
L.L.P.

JOSEPH H. YOUNG
PARTNER
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JHYOUNG@HHLAW.COM

111 SOUTH CALVERT STREET, SUITE 1600
BALTIMORE, MARYLAND 21202
TEL: (410) 659-2700
FAX: (410) 539-6981
WWW.HHLAW.COM

June 22, 2000

BY TELECOPY AND FIRST CLASS MAIL

Charles S. Marks, Esq.
Chairman, Baltimore County
Board of Appeals
400 Washington Avenue, Room 49
Towson, MD 21204

RECEIVED
COUNTY BOARD OF APPEALS
00 JUL -5 PM 12:40

Re: Greenspring Racquet Club, Inc./Case No. 99-282-SPH

Dear Mr. Marks:

I am in receipt of Mr. Lichter's June 21 notice, in which he announces his intention to take the *de bene esse* deposition of Sean Davis, an expert witness, on June 30, 2000, beginning at 1:45 p.m.¹ The purpose of this letter is to advise the Board of the parties' objection, on numerous grounds, to the taking of testimony in such a manner, given the late notice, the utter lack of any effort to determine counsel's availability, the unavailability of at least one counsel, and the alternatives that exist that will not compromise the hearing that was scheduled, with Mr. Lichter's specific approval, to begin on July 5. Richard Burch and I attempted to reach Mr. Lichter yesterday in an effort to advise him of the parties' positions and in the hopes of resolving these issues without the Board's intervention but have not, as of this writing, heard back from him.

Preliminarily, and contrary to Mr. Lichter's letter, the parties never suggested, let alone agreed, that testimony should be taken or presented by videotape. Rather, as the Board will recall, at the May 10 hearing, I suggested that, rather than scuttle the then-calendared hearing dates, perhaps Mr. Lichter's co-

¹ Mr. Davis was called at prior proceedings before the Hearing Officer as the petitioner's expert in comprehensive, environmental and resource planning.

WASHINGTON, DC

BRUSSELS BUDAPEST* LONDON MOSCOW PARIS* PRAGUE* WARSAW

BOULDER, CO COLORADO SPRINGS, CO DENVER, CO LOS ANGELES, CA MCLEAN, VA NEW YORK, NY

WASHINGTON OFFICE: 535 THIRTEENTH STREET NW, WASHINGTON DC 20004-1109 TEL: (202) 637-5600 FAX: (202) 637-5910

BA - 69636/2 - #94153 v1

*Affiliated Office

Charles S. Marks, Esq.
June 22, 2000
Page 2

counsel could participate by live video teleconference if he was unable, because of surgery, to travel to Baltimore.

What is frankly more difficult to understand is why, after the passage of more than five weeks since the May 10 scheduling conference, Mr. Lichter only now announces that Mr. Davis is suddenly unavailable and further declares, without even the courtesy of checking with counsel, that the testimony will be taken at a *de bene esse* deposition on June 30 – on the eve of not only the hearing itself, but on the Friday afternoon before a busy holiday weekend.

Bottom line, the deposition should not be permitted to go forward. First and foremost, I have been advised by Mr. Burch, who represents the Mullan entities, that he is unavailable because of a previously scheduled court hearing in Harford County. I have been unable to reach Mr. Proctor to determine his availability, and likewise have not yet been able to determine the availability of the parties' own experts, who obviously would need to attend Mr. Davis' deposition, were it to go forward.

Second, Mr. Lichter's notice fails even to comply with the time requirements of Maryland Rule 2-412, which requires that any notice of deposition be served at least 10 days prior to the date on which the deposition is scheduled.

Third, no explanation is even offered as to why Mr. Lichter did not or could not inquire as to Mr. Davis' availability shortly after the May 10 hearing in this matter, so that the deposition, if necessary, could have been scheduled at a time mutually convenient to all of the parties and their representatives, assuming that such a procedure was otherwise warranted and acceptable.

Finally, and as the Board is aware, the hearing in this matter is expected to span several days, with specific dates scheduled in July and August and tentative dates set aside in September. Under all of the circumstances, and in an effort to avoid any additional delay or further postponement, I can see no reason why Mr. Lichter should not simply be required to proceed on July 5 and 6 with his other witnesses (the developer's case consumed three full days during proceedings before Mr. Katroko) and to call Mr. Davis out of turn, if necessary, when the Board reconvenes in August, prior to the start of the protestants' case.

HOGAN & HARTSON L.L.P.

Charles S. Marks, Esq.

June 22, 2000

Page 3

Should you have any questions regarding the parties' positions or any other aspect of this letter, please let me know.

Respectfully submitted,



Joseph H. Young

cc: Julius W. Lichter, Esq.
Richard C. Burch, Esq.
Deborah C. Dopkin, Esq.
K. Donald Proctor, Esq.
Peter M. Zimmerman, Esq.

HOGAN & HARTSON
L.L.P.

JOSEPH H. YOUNG
PARTNER
(410) 659-2773
JHYOUNC@HHLAW.COM

111 SOUTH CALVERT STREET, SUITE 1600
BALTIMORE, MARYLAND 21202
TEL (410) 659-2700
FAX (410) 559-6981
WWW.HHLAW.COM

October 24, 2000

BY TELECOPY AND FIRST CLASS MAIL

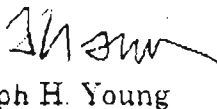
Charles S. Marks, Esq.
Chair
County Board of Appeals
401 Washington Avenue
Room 49
Towson, MD 21204

Re: Greenspring Racquet Club, Inc.
Case No. 99-282-SPH

Dear Mr. Marks:

I was astounded to receive Mr. Lichter's letter to the Board, in which he "opposes any dismissal or stay" of this appeal. In a series of communications between protestant's counsel and Mr. Lichter's office on October 20 and October 23 (during which protestants shared a draft of their proposed letter to the Board), Mr. Lichter's office specifically advised protestants's counsel that, while the developer opposed outright dismissal of this appeal, it intended to request the Board to stay this appeal indefinitely, pending final resolution of its various pending civil cases. In light of Mr. Lichter's position *du jour*, protestants will be prepared, at the conclusion of the developer's case, to argue their pending motion to dismiss this appeal on its merits.

Respectfully submitted,


Joseph H. Young

cc: Counsel of Record

WASHINGTON, DC

BRUSSELS BUDAPEST LONDON MOSCOW PARIS PRAGUE WARSAW

BOULDER, CO COLORADO SPRINGS, CO DENVER, CO LOS ANGELES, CA MCLEAN, VA NEW YORK, NY

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\\DA - 70335/630 - #101454 v.1

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NEW YORK, NY (THIRD AVE)
ROCKVILLE, MD

**Affiliated Office*

IMPORTANT NOTICE
TELECOPY/FACSIMILE COVER LETTER

DATE: October 24, 2000TIME: 6:42 PM

FROM: Joseph H. Young
Hogan & Hartson LLP

TOTAL NO. OF PAGES: 2
(INCLUDING COVER)

TO:	COMPANY:	FAX #:	PHONE #:
Charles S. Marks, Esq.		410-887-3182	
Kathleen C. Bianco		410-887-3182	
Julius Lichter, Esq.		410-296-2541	
Robert H. Freilich, Esq.		816-561-7931	
Deborah C. Dopkin, Esq.		410-494-8082	
Richard C. Burch, Esq.		410-828-1042	
K. Donald Proctor, Esq.		410-823-2268	

MESSAGE:

The attached information is **CONFIDENTIAL** and is intended only for the use of the addressee(s) named above. If the reader of this message is not the intended recipient(s) or the employee or agent responsible for delivering the message to the intended recipient(s), please note that any dissemination, distribution or copying of this communication is strictly prohibited. Anyone who receives this communication in error should notify us immediately by telephone and return the original message to us at the above address via the U.S. Mail

FOR INTERNAL PURPOSES ONLY

TELECOPY/FAX NUMBER: _____

CLIENT NUMBER: 69636-0002ATTORNEY BILLING NUMBER: 0335

CONFIRMATION NUMBER: _____

DEBORAH C. DOPKIN, P.A.
ATTORNEY AT LAW
409 WASHINGTON AVENUE, SUITE 920
TOWSON, MARYLAND 21204
TELEPHONE 410-494-8080
FACSIMILE 410-494-8082
e-mail dbdop@erols.com

DEBORAH C. DOPKIN

October 24, 2000

VIA HAND DELIVERY
AND FIRST CLASS MAIL

Charles L. Marks, Esquire
County Board of Appeals of Baltimore County
Old Court House, Room 49
400 Washington Avenue
Towson, MD 21204

Re: In the Matter of Greenspring Station/Valley Concourse
Case Nos. CBA-98-145 and CBA-99-151

Dear Chairman Marks:

The purpose of this letter is to request the Board's guidance in light of the County Council's comprehensive rezoning, approved October 10, 2000, which rezoned the subject property in the above-referenced appeal to O-3. The practical effect of the rezoning is to moot the present appeal. The parties differ, however, as to whether the matter should be dismissed as moot, as Protestants believe, or stayed indefinitely until various pending court actions brought by the developer are concluded, as the developer suggests. Protestants respectfully submit that this appeal should not be drawn out any further and should be dismissed - either on the merits or as moot - now.

As the Board is aware, the continued hearing of this appeal is scheduled to resume on October 26, 2000. The sole issue on appeal is whether the developer is entitled to a special exception for its proposed office building. The underlying petition was filed pursuant to Section 235C of the Baltimore County Zoning Regulations, which sets out special regulations for B.M. lots located within 750 feet of an R.C. zone. By virtue of the County Council's action, the subject parcel has been rezoned from B.M. to O-3. As a result, the special hearing provisions under Section 235C.2.A are no longer applicable to the proposed development, in effect rendering this appeal moot.

COUNTY BOARD OF APPEALS
00 OCT 24 AM 10:44

Charles L. Marks, Esquire
October 24, 2000
Page 2

In an effort to avoid needless expenditure of time and resources, the Protestants request that, at the outset of proceedings on October 26, the Board consider what effect, if any, the County Council's action has on this proceeding.

Respectfully submitted,


Deborah C. Dopkin

DCD/kmc

cc: Julius W. Lichter, Esquire
Robert H. Freilich, Esquire
Richard C. Burch, Esquire
K. Donald Proctor, Esquire
Johns Hopkins Suburban Health Center

DEBORAH C. DOPKIN, P.A.
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e-mail dbdop@erols.com

DEBORAH C. DOPKIN

October 24, 2000

CORRECTED CASE CAPTION

VIA HAND DELIVERY
AND FIRST CLASS MAIL

Charles L. Marks, Esquire
County Board of Appeals of Baltimore County
Old Court House, Room 49
400 Washington Avenue
Towson, MD 21204

RECEIVED
COUNTY BOARD OF APPEALS
00 OCT 25 PM 2:32

Re: In the Matter of Greenspring Station Racquet Club
Case No. 99-282-SPH

Dear Chairman Marks:

The purpose of this letter is to request the Board's guidance in light of the County Council's comprehensive rezoning, approved October 10, 2000, which rezoned the subject property in the above-referenced appeal to O-3. The practical effect of the rezoning is to moot the present appeal. The parties differ, however, as to whether the matter should be dismissed as moot, as Protestants believe, or stayed indefinitely until various pending court actions brought by the developer are concluded, as the developer suggests. Protestants respectfully submit that this appeal should not be drawn out any further and should be dismissed - either on the merits or as moot - now.

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Charles L. Marks, Esquire
October 24, 2000
Page 2

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Respectfully submitted,


Deborah C. Dopkin

DCD/kmc

cc: Julius W. Lichter, Esquire
Robert H. Freilich, Esquire
Richard C. Burch, Esquire
K. Donald Proctor, Esquire
Johns Hopkins Suburban Health Center

LAW OFFICES
PETER G. ANGELOS
A PROFESSIONAL CORPORATION
COURT TOWERS, SUITE 300
210 W. PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204
410-825-7300 FAX # 410-296-2541

JULIUS W. LICHTER

October 24, 2000

OTHER OFFICES:
NEW YORK, NEW YORK
PHILADELPHIA, PENNSYLVANIA
HARRISBURG, PENNSYLVANIA
PITTSBURGH, PENNSYLVANIA
BETHLEHEM, PENNSYLVANIA
WILMINGTON, DELAWARE
KNOXVILLE, TENNESSEE

VIA FAX 410-887-3182 AND U.S. MAIL

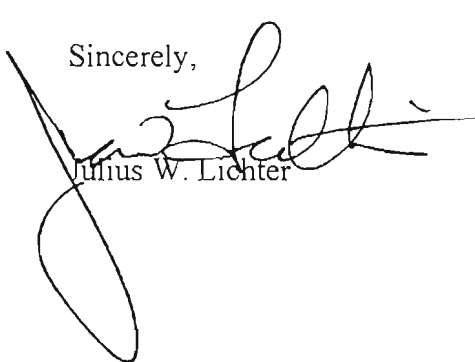
Mr. Charles S. Marks, Chairperson
Baltimore County Board of Appeals
401 Washington Avenue, Room 49
Towson, Maryland 21204

Re: Greenspring Racquet Club, Inc. / 99-282-SPH

Dear Mr. Marks:

I am in receipt of Ms. Dopkin's letter to you of this date. Greenspring opposes any action by the Board in response to the CZMP vote of October 10, 2000. The new zoning does not go into effect until December 21, 2000, and until that time relief still may be had under Bill 111-98. We will be present at the hearing on October 26 and we will expect that the trial of this matter will proceed as scheduled. Greenspring opposes any dismissal or stay of this matter.

Sincerely,


Julius W. Lichter

cc: All by Facsimile and U.S. Mail
Joseph Young, Esquire
Richard M. Burch, Esquire
K. Donald Proctor, Esquire
Deborah C. Dopkin, Esquire
Peter M. Zimmerman, Esquire
Robert H. Freilich, Esquire
Greenspring Racquet Club, Inc.
Mr. & Mrs. William Hirshfeld
Ms. Kathleen C. Bianco, Administrator, County Board of Appeals

ONE CHARLES CENTER
100 N. CHARLES STREET
BALTIMORE, MD 21201-3812
410-649-2000
18001 252-6822
FAX 410-659-2101, 81, 82

UNION PARK CENTER
5905 HARFORD ROAD
BALTIMORE, MD 21214-1846
410-428-3200
18001 492-3240
FAX 410-426-1269

STEELWORKERS' HALL
540 DUNDALK AVENUE
BALTIMORE, MD 21224-2997
410-633-8100
FAX 410-633-0480

CENTERPARK II
SUITE 315
4081 POWDER MILL ROAD
BELTSVILLE, MD 20705-3149
18001 537-8261
FAX 301-937-5738

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CUMBERLAND, MD 21502-2452
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FAX 301-739-2703

201 S. CLEVELAND AVENUE
HAGERSTOWN, MD 21740-5745
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ATTORNEY AT LAW

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e-mail dbdop@erols.com

MAY - 4

DEBORAH C. DOPKIN

May 4, 1999

Timothy M. Kotroco
Deputy Zoning Commissioner
for Baltimore County
County Courts Building
401 Bosley Avenue
Towson, Maryland 21204

RE: In Re: Petition of Greenspring Racquet Club, Inc.
Case No. 99-282-SPH

Dear Mr. Kotroco:

Please find enclosed the Protestants' Joint Memorandum in Support of their Motion to Dismiss Greenspring Racquet Club, Inc.'s Petition with regard to the above captioned matter. A copy has been delivered to Petitioner's counsel, Julius Lichter, this afternoon.

Very truly yours,


Deborah C. Dopkin

DCD/kmc

Enclosure

cc: Julius W. Lichter, Esquire
Robert H. Freilich, Esquire
Richard C. Burch, Esquire
K. Donald Proctor, Esquire
Joseph H. Young, Esquire
Johns Hopkins Suburban Health Center

C:\docst\KMC\DCD\LETTERS\Kotroco Timothy

May 9, 2000

Lawrence M. Stahl
Chair
Board of Appeals
400 Washington Ave., Room 49
Towson, MD 21204

Dear Mr. Stahl:

This is to advise you that on Thursday, May 4, 2000, Dr. Robert H. Freilich was seen in my office upon urgent referral from Dr. Thomas Whittaker for emergency surgery. I determined that there was a tear in the left retina and performed emergency surgery. Without the surgery that afternoon, permanent retinal damage was imminent.

Dr. Freilich cannot travel or engage in business activity for another ten days to allow the surgery to heal.

A continuance of the proceedings before you is absolutely essential.

Very truly yours,



King Y. Lee, M.D.

cc: Julius W. Lichter/by fax: 410-296-2541
#44603

Alan E. Bauman, M.D.
General Ophthalmology
Diseases & Surgery of the Eye

Ginger E. Cline, O.D.
Family Eye Care
Low Vision and Contact Lenses

Amy W. Gemperli, M.D.
Glaucoma Consultations
Diseases & Surgery of the Eye



EYE CARE CENTER

Roland Sabates, M.D.
Diseases & Surgery of
the Vitreous & Retina

Thomas J. Whittaker, J.D., M.D.
Neuro-Ophthalmology
Adult Strabismus

Wilber B. Spalding, Jr., M.D.
General Ophthalmology

Susan Harrington Miller, O.D.
Family Eye Care
Low Vision and Contact Lenses

May 9, 2000

Lawrence M. Stahl
Chair
Board of Appeals
400 Washington Ave., Room 49
Towson, MD 21204

Dear Mr. Stahl:

This is to advise you that on Thursday morning, May 4, 2000, Dr. Robert H. Freilich was seen by me in my offices for a neurological ophthalmological examination related to pain in the left eye and difficulty with eyelid function.

During an extensive examination I discovered a significant tear in the retina of the left eye which required emergency surgery that afternoon to prevent retina detachment and further severe complications. I referred him to Dr. King Lee.

The surgery was performed by Dr. King Lee, an ophthalmologic surgeon. Dr. Freilich was advised that he cannot travel or engage in business activity for another ten (10) days in order to ensure the healing process.

A continuance of the proceedings before you is absolutely essential.

Very truly yours,

Thomas J. Whittaker, M.D.

cc: Julius W. Lichter/by fax: 410-296-2541
446571

STATE LINE
EYE CARE CENTER
7701 State Line Rd.
Kansas City, MO 64114
(816) 444-2900

CASS COUNTY
EYE CARE CENTER
424 E. North Ave.
Belton, MO 64012
(816) 322-6100

UNION HILL
EYE CARE CENTER
2914 Main
Kansas City, MO 64108
(816) 931-7700

RESEARCH
EYE CARE CENTER
6420 Prospect, Suite T203
Kansas City, MO 64132
(816) 333-8600

2-4-99 → Called Jules to confirm hearing dates. He'll check with client + call me back today or tomorrow.

2-8-99 → Never heard from Jules. Called his office + left message that dates would be scheduled unless I heard from him by noon.

I put letters in mail as I left for lunch (12:55).

Jules came in around 2:30, very upset that case had been scheduled - his clients will be out of time. Told WCR he called before noon, but I wasn't here. WCR told him I didn't leave for lunch till almost 1. WCR agreed to PP + change date without a letter from Jules.

Sophia

PLEASE PRINT CLEARLY

~~PROJECT~~ (S) SIGN-IN SHEET

NAME

ADDRESS

RICHARD C. BURCH
FOR MULLAN ENTITIES

105 W. Chesapeake Ave
Suite 300 21004

K DONALD PROCTOR

102 W. PENNA. AVE
TOWSON MD 21204

JOSEPH H. YOUNG

111 SCHAUBER ST BALD MD 21202

Deborah C Dopkin Hopkins

409 Washington Ave 21204

George E. Gavrilis

200 E Penn Ave 21206

W. Gil Wylie Hopkins

4501 Roland Ave, Balto. 21210

Peggy L. R. Reilly

7 Yorking Way 21043 Lutherville

Susan C. Tiram

57 Seminary Farm Rd, Lutherville

JAMES E. TEBBY

5 YEARLING WAY, LUTHERVILLE

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1 Bluestone Rd, Lutherville 21043

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COLUMBIA MD 21046

Wm Hushfeldt

3604 Parkway & Balto Md
21208

Thomas S. Braun

100 PARKERS MILL RD 21117

Robert W Shuler

8354 Chestnut Farm Lane 21043

C. Richard Moore

420 Virginia Ave, 21286

~~STEVEN J. JAY~~

~~600 YORK RD, BALTO MD 21202~~

Gustaf Griesner

1106 Broadway Rd Lutherville

Clarence Griesner

1106 BROADWAY RD Lutherville

PLEASE PRINT CLEARLY

PROTESTANT(S) SIGN-IN SHEET

NAME	ADDRESS
JEFFREY W. COTTE, ^{ATTORNEY FOR} VPC, INC; MEADOWS, INC. NORMAN W. WILSON	K. DONALD PROCTOR, P.A., TOWSON
NORMAN WILSON	65 SEMINARY FARM RD
DEBORAH DOPKIN	409 WASHINGTON AVE 21204
George Beall ^{Atty for Tom's Hospital} Superior Health	111 S. CALVERT ST. BALTIMORE 21202
JORAN YOUNG, NEXAN? HANSON "	111 S CALVERT ST BALTIMORE MD 21202
THOMAS PRICE	74 SEMINARY FARM Rd LUTHERVILLE, 21093
F. Pierce Linaweaver	10 Quail Hollow Road Lutherville, MD 21093
Regina R. O'Reilly	7 Yearling Way, Lutherville Md 21093
C. RICHARD MOORE	420 VIRGINIA AVE 21286
Jorgen Jensen	8216 Tally Ho Rd. 21093
Jack Dillon	VPC. 207 Coulter Ave 21004
George F. Garrels	DMW 200 F. Penn Ave 21288
LORIAN A. GRAF	29 SEMINARY FARM Rd. 21093
Garth M. Graf	29 Seminary Farm Rd 21093
KEN MAYHORNE	1 OLD BOXWOOD LANE 21093
W.R. Martin	1 NEARFIELD Rd 21093
CARMA MARTIN	SUITE 300
RICHARD C. BURCH ^{ATTY FOR} MILLAN ENTITIES	105 W. CHESAPEAKE AVE 21204
Susan C. Timmeroff	57 Seminary Farm Rd. 21093
Reyton S. Cochran Jr	3542 Butler Rd GLYDM. 21071
H. GERALD MURPHY	1435 14th Hill Rd 21030
Nancy Young	10932 May's Chapel Rd 21093 ^{the Meadows}

PLEASE PRINT CLEARLY

PROTESTANT(S) SIGN-IN SHEET

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Richard C. BURCH MULLAN ATTORNEY FOR JAMES HOPKINS SUBURBAN ESTATES INC. LP	Suite 300 21204 105 W. Chesapeake Ave
JOSEPH H. YOUNG	111 S. Calvert St, Ste 1600 Balt 21202
DEBORAH C. DOPKIN	409 WASHINGTON AVE, 21204
George E. Gaytelis	DMM 200 E Penn Ave. 21286
C. RICHARD MOORE	420 VIRGINIA AVE. 21286
THOMAS PRICE	74 SEMINARY FARM RD, 21093
LOUISE W. WILSON	5 SEMINARY FARM RD
Susan C. Tinanoff	57 Seminary Farm Rd., 21093
Leann L. O'Reilly	7 Yearling Way - 21093
Torger Jensen	8216 Tally Ho Rd - 21093
F. Pierce Linaweaver	10 Quail Hollow Road 21093
JACK M. ...	...
BERTOLD BODENHEIMER	2100 WILTONWOOD RD STEVENSON 21153
JEFFREY W. COTTE ATTORNEY FOR VPC, MEADOWS, WILDER	K. DONARD PROCTOR, P.A.
Nathaniel Jenkins MITON	BROOKLANDVILLE MD 21022
Lynne Ellis	11044 Greenspring Ave 21093
RICHARD B. BUCK	11219 GREENSPRING AVE 21093
Gail Vylea	4501 Roland Ave.
Nancy BRATZ	Club Rd Stevenson
Thomas M. Brager	14141 Greenbelt 21208

PLEASE PRINT CLEARLY

PROTESTANT(S) SIGN-IN SHEET

NAME

ADDRESS

Jad Diller VPE
Tom Price
Margaret Johnson
Kim Young
Dedric Beck
C. J. Shusky
Sean Davis

207 Canton Ave
74 Seminary Farm Rd.
49 Seminary Farm Rd.
10932 Mays Chapel Rd
55 Seminary Farm Rd.
P334 Chestnut Farm Lane
9175 Guilford Rd., Ste 100
Columbia, MD. 21046

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PETITIONER(S) SIGN-IN SHEET

NAME

ADDRESS

- JULIUS W. LICHTER
- DINO C. LaFiandra
- ROBERT H. FREILICH
- SEAN DAVIS
- Steve Warfield

210 W. PENNSYLVANIA AVE ^{Suite 200} 21204
210 W. Pennsylvania Ave Suite
1000 PLAZA WEST
4600 MADISON KANSAS CITY, MO 64111
9175 Guilford Road, Suite 100
Columbia, MD. 21046
6600 YORK RD, SUITE 209
BALTIMORE, MD 21212



PLEASE PRINT CLEARLY

Petitioners

~~PROTESTANT(S)~~ SIGN-IN SHEET

NAME

ADDRESS

~~But~~ Dino LaFiandra, Esq.
Julius W. Lichter, Esq.
Robert H. Freilich, Esq.
Freilich, Lichter & Carlisle
Wim HIRSHFELD

210 W. Pennsylvania Ave #300

210 W. Pennsylvania Ave #300

1000 Plaza West, 4600 Madison

Kansas City, Mo. 64112

3604 Barbours St. Baltimore
121208 ml

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME

ADDRESS

Julius W. Lichter

210 W. PENNSYLVANIA AVENUE

ROBERT H. FREILICH

DINO C. LAFIANDRA

210 W. Pennsylvania Ave #300

Stephen D. Lownfield

JAIME FISHMAN

400 W. PENNSYLVANIA AVE

SEAN DAVIS

9175 GUILFORD RD STE 100 COLUMBIA 21046

Wm Hushfield

3604 Barbours St Baltimore 21208

HAROLD S. BRADY

#100 FARMERS Mill RD -

Hyatt H. Young

AGAINST Petition

Elizabeth W. Young

AGAINST Petition

Prathi Reddy

210 W. Pennsylvania Ave #300

STUART D. KIPLOW, JR (OBSERVER)

15 E CUMBERLAND LANE 21286

DEES HARRISON

12601 BEANS RD 21117

Lynne Ellis

Against

11044 Greenspring Ave 21093



1

1 IN RE: PETITION FOR SPECIAL

2 HEARING, GREENSPRING

Case No. 99282SPH

3 RACQUET CLUB

4 10803 Falls Road

5 _____/

6

7 The hearing in the above-entitled matter was

8 held on Monday, April 19, 1999, commencing at 9:00 a.m., at

9 401 Bosley Avenue, Suite 407, Towson, Maryland, 21204,

10 before Timothy Katroko, Hearing Officer.

11 APPEARANCES:

12 JULIUS LICHTER, ESQUIRE

13 ROBERT H. FREILICH, ESQUIRE and

14 DINO LAFIANDRA, ESQUIRE

15 On behalf of the Petitioners

16 RICHARD C. BURCH, ESQUIRE

17 On behalf of Mullan Enterprises

18 JOSEPH YOUNG, ESQUIRE

19 GEORGE BELL, ESQUIRE and

20 DEBRA DOPKIN, ESQUIRE

21 On behalf of Johns Hopkins

22 JEFFREY COTTLE, ESQUIRE

23 On behalf of Meadows of Greenspring

24 REPORTED BY: Paula Eliopoulos

2

1 P R O C E E D I N G S

2 HEARING OFFICER: Good morning, ladies and

3 gentlemen. Let me have your attention. We'll get started

4 with the 9:00 o'clock hearing.

5 My name is Timothy Katroko. I'm the deputy

6 zoning commissioner. I'm the hearing officer for Baltimore

7 County who's been assigned to hear this case.

8 This is Case Number 99282SPH, special hearing

9 petition filed by William and Loretta Hirshfeld, property

10 owners, and the Greenspring Racquet Club, Inc. as the

11 lessee or contract purchaser of the site.

12 The petition was prepared and filed by Julius

13 Lichter, Attorney At Law. The special hearing request is

14 for property located at 10803 Falls Road. Property is

15 split zone BM and/or OR1.

16 The special hearing request is to approve a

17 plan which exceeds the height and area standards in the

18 Baltimore County zoning regulations, Section 235C.1.

19 Particularly it's for an approval of a building

20 with a true area ratio of 2.56 in lieu of 0.50, and

21 building height 78 feet in lieu of the required 35 feet.

3

1 Now, counsel for the petitioner, if you would

2 identify yourself for the record, please.

3 MR. LICHTER: Julius Lichter, the law firm of

4 Peter Angelos, and with me is Robert Freilich of the firm

5 of Freilich & Carlisle of Kansas City, Missouri, who is the

6 editor of the Urban Lawyer, the Journal of ABA, and his

7 firm specializes in land use on a national basis as co-

8 counsel. And Dino LaFiandra, who is also a member of the

9 law firm of Peter Angelos as well.

10 HEARING OFFICER: Thank you, Mr. Lichter.

11 Has anybody had an opportunity to pass around

12 any sign-in sheets this morning?

13 If you would print your name, your address and

14 your Zip Code on those sign-in sheets so we have a record

15 of everyone who's in attendance.

16 Has yours been filled out, Mr. Lichter?

17 I see we have a number of citizens in

18 attendance, probably a few lawyers sitting out there. Let

19 me get some introductions, if I could have -- counsel, if

20 you would identify yourselves for the record, who you

21 represent, and then we'll take it from there. Let's start

4

1 with that.

2 MR. BURCH: Good morning, Mr. Katroko. Richard

3 Burch of the law firm Mudd, Harrison & Burch on behalf of

4 Mullan Greenspring Limited Partnership and Mullan Limited

5 Partnership adjacent property owner.

6 MR. COTTLE: Good morning, Mr. Katroko. Jeff

7 Cottle, law firm of K. Donald Proctor, P.A., on behalf of

8 Valley's Planning Council, Inc., the Meadows of Greenspring

9 Homeowners Association, Inc. and Norman W. Wilder

10 individually.

11 MS. DOPKIN: Debra C. Dopkin on behalf of Johns

12 Hopkins Suburban Health Center Limited Partnership.

13 MR. BELL: Good morning. George Bell, also on

14 behalf of Johns Hopkins Suburban Health Systems. I'm with

15 the law firm of Hogan & Hartson.

16 MR. YOUNG: Joseph Young, also with the law

17 firm of Hogan & Hartson, on behalf of Johns Hopkins.

18 MR. KRICE: My name is Tom Krice. I'm on the

19 board of directors of the Homeowners Association of Meadows

20 of Greenspring.

21 HEARING OFFICER: Let me just make sure. Are

BEFORE THE ZONING COMMISSIONER
OF BALTIMORE COUNTY

MAY - 4

IN RE:

PETITION OF GREENSPRING
RACQUET CLUB, INC.

Petitioner.

Case No. 99-282-SPH

**PROTESTANTS' JOINT MEMORANDUM IN
SUPPORT OF THEIR MOTION TO DISMISS
GREENSPRING RACQUET CLUB, INC.'S PETITION**

Protestants respectfully submit this memorandum in support of their pending motion to dismiss the Petition for Special Hearing filed by Greenspring Racquet Club, Inc. and William and Loretta Hirshfeld (collectively, "petitioners") in connection with the petitioners' proposed construction of a 584,000 square foot office complex at Green Spring Station.¹ For the reasons set forth herein, and during the hearing before the Zoning Commissioner on April 19-20, 1999, protestants' motion should be granted.

Summary of Argument

Notwithstanding the plain language and intent of the County Council's revisions last year to BCZR §§ 232C, 235C and 238C (Bill 111-98), petitioners have taken the anomalous position that the compatibility requirements set forth in the new regulations, which are integral to the County Council's goal of protecting Resource Conservation zones from encroaching business

¹ The protestants include Mullan Greenspring Limited Partnership, Mullan Pavillions Limited Partnership, Valleys Planning Council, Meadows of Greenspring Homeowners Association, Norman Wilder, Johns Hopkins Suburban Health Center, L.P. For purposes of this memorandum, and unless otherwise noted, they will be referred to collectively as "protestants."

RE: PETITION FOR SPECIAL HEARING
NE/S Falls Road, 429' E of the c/l of
Greenspring Valley Road
(10803 Falls Road)
8th Election District - 3rd Councilmanic District
William Hirshfeld, et ux, Petitioners
Case No. 99-282-SPH

* BEFORE THE
* BALTIMORE COUNTY
* ZONING COMMISSIONER
*

* * * * *

MAY - 4

**AMICUS CURIAE MEMORANDUM
IN SUPPORT OF PETITIONERS**

Foxleigh Enterprises, Inc., amicus curiae, by its attorneys, Stuart D. Kaplow, and Stuart D. Kaplow, P.A., files this Amicus Curiae Memorandum in support of the position of the Petitioners, that the Petitioners' lot of ground is not contiguous with an R.C. zoning district, and says:

PARTICIPATION AS AN AMICUS CURIAE

Foxleigh Enterprises, Inc., a Maryland corporation ("Foxleigh"), is a long time developer of the Green Spring Station mixed use project on Falls Road north of the Baltimore Beltway.¹ Representatives of Foxleigh have attended the two days of public hearing before the Deputy Zoning Commissioner on the above captioned matter.

Foxleigh has property interests, and other interests in the outcome of the pending Petition, and particularly in the determination that the Petitioners' lot of ground is not contiguous with an R.C. Zone. Foxleigh is currently developing a mixed use project on

¹ Amicus curiae means, literally, friend of the court or in this instance friend of the Zoning Commissioner. A person with a strong interest in or views on a subject matter of an action files a brief, ostensibly on behalf of a party, but also to suggest a rationale consistent with its own views. Leave of court is required to file an amicus brief in the federal appellate courts or Maryland state courts of appeal, but both given the informal nature of participation of parties in an administrative hearing of this type (i.e., the opportunity of the public to ask questions at the close of each witness' testimony afforded by the Deputy Zoning Commissioner, and the ability to testify when the hearing reconvenes, etc.), and the mere 14 day deadline for filing memoranda, leave to file this pleading is certainly not required and neither practicable nor desirable.

RE: PETITION FOR SPECIAL HEARING
10803 Falls Road, Beginning at a point N 49
degrees E, 429' from the intersection of
Greenspring Valley Road and Falls Road,
8th Election District, 3d Councilmanic

Legal Owners: William & Loretta Hirshfeld
Tenant: Greenspring Racquet Club, Inc.
Petitioners

: BEFORE THE
:
: ZONING COMMISSIONER
:
: FOR
:
: BALTIMORE COUNTY
:
: Case Number: 99-282-SPH
:
:
:

MAY - 4

PETITIONERS' BRIEF

Petitioners William and Loretta Hirshfeld, and Greenspring Racquet Club, Inc., submit this Brief concerning the meaning of "contiguous" pursuant to the request of the Deputy Zoning Commissioner for Baltimore County, dated April 20, 1999. This Brief is submitted in response to the Zoning Commissioner's request to support the definition and meaning of the term "contiguous" which supports Petitioners' position in the Special Hearing that Bill No. 111-98 is not applicable to Petitioners' Property.

STATUTORY INTERPRETATION

The interpretation of land use statutes and ordinances must be in conformance with the basic principle that zoning ordinances are in derogation of common law rights and operate to deprive landowners of the use of property which would otherwise be lawful, and should be strictly construed in favor of the property owner. Rohan, Zoning and Land Use Controls, Vol. 6, Section 36.03[2]; *see also Aspen Hill Venture v. Montgomery County Council*, 265 Md. 303, 313 (1972). Furthermore, there exists "public policy favoring unrestricted use of property." *Grand*

4/16/99
GREENSPRING RACQUET
CLUB, INC., et al.

Plaintiffs,

v.

BALTIMORE COUNTY,
MARYLAND, et. al.

Defendants.

* IN THE

* CIRCUIT COURT

* FOR

* BALTIMORE COUNTY

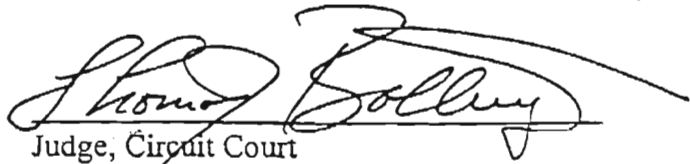
* Case Number: 3-C-98-6483

* * * * *

ORDER

Upon consideration of the Motion of Julius W. Lichter, Esquire, a member of the
Maryland Bar and an attorney of record in the above referenced action, it is this 16th day of
April, 1999

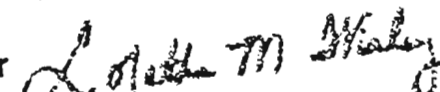
ORDERED by the Circuit Court of Baltimore County that Robert H. Freilich, Esquire,
may appear and participate in the above referenced action as co-counsel with the movant.


Judge, Circuit Court

copies to:
Julius W. Lichter, Esquire
Law Office of Peter Angelos, P.C.
210 West Pennsylvania Avenue, Suite 300
Towson, Maryland 21204

Virginia W. Barnhart, Esquire
Jeffrey Grant Cook, Esquire
Baltimore County Law Office
401 Washington Avenue
Towson, Maryland 21204

True Cop/Text
SUZANNE MENSCH, Clerk

Per 
Assistant Clerk

FILED APR 16 1999

X: All Copies to Julius Lichter

THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

GREENSPRING RACQUET CLUB, INC.,
ET AL.

Plaintiff(s)

vs.

BALTIMORE COUNTY, MARYLAND, ET AL

Defendant(s)

FILED
U.S. DISTRICT COURT
DISTRICT OF MARYLAND

Civil Action No. AMD 99-469

CLERK'S OFFICE
AT BALTIMORE

BY [Signature] DEPUTY

MOTION FOR ADMISSION PRO HAC VICE

Pursuant to Local Rule 101.1.(b) of this Court, Julius W. Lichter Esquire
a member of the Bar of this court, moves the admission of ROBERT H. FREILICH Esquire to
appear pro hac vice in the captioned proceeding as counsel for PLAINTIFFS

Movant and the proposed admittee respectfully certify as follows:

1) The proposed admittee is a member in good standing of the Bar(s) of the State(s) of
CALIFORNIA, MISSOURI AND NEW YORK

and/or the following United States Court(s): U. S. SUPREME COURT; 2^d, 3^d, 5th, 7th, 8th, 9th, 10th & 11th FEDERAL COURTS OF APPEAL

2) During the twelve (12) months immediately preceding the filing of this motion, the proposed admittee has
been admitted pro hac vice in this court 1 time(s).

3) The proposed admittee has never been disbarred, suspended, or denied admission to practice, or has set
forth all relevant facts, including disposition, as follows: N/A

EFFECTIVE 7/1/95 - \$50.00 FILING FEE (non-refundable) REQUIRED FOR PRO HAC VICE ADMISSION PAYABLE TO
CLERK, U. S. DISTRICT COURT

4/12
[Signature]

18
[Signature]

4) The proposed admittee is familiar with the Federal Rules of Civil Procedure, the Local Rules of the United States District Court for the District of Maryland, the Federal Rules of Evidence, and the Rules of Professional Conduct, and understands that he/she shall be subject to the disciplinary jurisdiction of this Court.

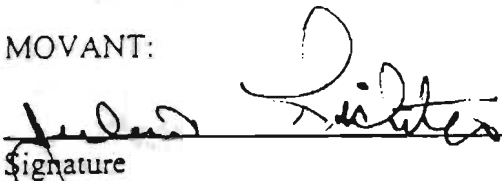
5) Co-counsel for the proposed admittee in this proceedings will be the undersigned or

H. Russell Smouse Esquire, who has been formally admitted to the bar of this Court.

6) It is understood that admission pro hac vice does not constitute formal admission to the bar of this Court.

Respectfully submitted,

MOVANT:


Signature

Law Office of Peter G. Angelos, P.C.
Address

210 W. Pennsylvania Ave #300
Towson, MD 21204

Office phone number
410 - 825-7300
410 - 296-2541

Fax number

PROPOSED ADMITTEE:


Signature

FREILICH, LEITNER & CARLISLE
Address

1000 PLAZA WEST, 4600 MADISON
KANSAS CITY, MISSOURI 64112

Office phone number
(816) 561-4414
(816) 561-7931

Fax number

Md. U. S. District Court Number

ORDER

Motion ☒ GRANTED

Motion GRANTED subject to payment of \$50.00 filing fee to Clerk of Court.

Motion DENIED

April 9, 1999
Dated


Judge, U. S. District Court

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MARYLAND, NORTHERN DIVISION

1999 JUL 29 PM 12:43

GREENSPRING RACQUET
CLUB, INC.
10803 Falls Road
Lutherville, Maryland

and

WILLIAM HIRSHFELD
3604 Barberry Court
Baltimore, Maryland 21208

and

LORETTA HIRSHFELD
3604 Barberry Court
Baltimore, Maryland 21208

Plaintiffs,

v.

BALTIMORE COUNTY,
MARYLAND
A Body Corporate and Politic

Serve: Virginia Barnhart, Esq.
County Attorney
400 Washington Avenue, 2nd Floor
Towson, Maryland 21204

and

BALTIMORE COUNTY COUNCIL

Serve: Virginia Barnhart, Esq.
County Attorney
400 Washington Avenue, 2nd Floor
Towson, Maryland 21204

Case No. _____

999 CV 231

Proffers

**GREENSPRING RACQUET
CLUB, INC.**
10803 Falls Road
Lutherville, Maryland

and

WILLIAM HIRSHFELD
3604 Barberry Court
Baltimore, Maryland 21208

and

LORETTA HIRSHFELD
3604 Barberry Court
Baltimore, Maryland 21208

Plaintiffs,

v.

BALTIMORE COUNTY, MARYLAND
A Body Corporate and Politic

Serve: Virginia Barnhart, Esq.
County Attorney
400 Washington Avenue, 2nd Floor
Towson, Maryland 21204

and

BALTIMORE COUNTY COUNCIL

Serve: Virginia Barnhart, Esq.
County Attorney
400 Washington Avenue, 2nd Floor
Towson, Maryland 21204

and

**BALTIMORE COUNTY COUNCIL
MEMBERS: S. G. SAMUEL
MOXLEY, KEVIN KAMENETZ,
T. BRIAN McINTIRE, VINCENT J.
GARDINA, JOSEPH BARTENFELD,**

IN THE

CIRCUIT COURT

FOR

BALTIMORE COUNTY

Case Number: C98 6483

Prot Et 3

Prot Ex 5



WELLS & ASSOCIATES, INC.

TRAFFIC, TRANSPORTATION, and PARKING CONSULTANTS

C. RICHARD MOORE
VICE PRESIDENT

PROFILE:

Mr. Moore has 34 years of experience in traffic, transportation, transit, parking, and pedestrian planning and engineering. He has worked for Baltimore County Government for 31 years in all facets of traffic and transportation planning. This experience includes traffic impact studies, transportation analysis of full scale communities, as well as individual site review of various land uses. Additionally, his experience encompasses travel demand studies, parking studies, transit access studies, traffic signal studies and design, parking and traffic management studies and community transportation studies. Mr. Moore has provided expert testimony before numerous planning boards, elected officials, administrative hearing officers, district and circuit courts, as well as citizens groups.

EXPERIENCE:

Traffic Impact Studies. Conducted and reviewed numerous traffic impact studies for residential, commercial, and mixed use projects, as well as town master plans throughout Baltimore County and Maryland. This includes preparation of reports and expert testimony in support of rezoning, subdivisions, site plans, and master plan approval.

Conducted large scale multi-modal transportation studies for such communities as White Marsh, Hunt Valley, Owings Mills, Towson, and others. These impact studies included large industrial and business complexes, such as the Rutherford Business Park, HCFA, town centers of Owings Mills, White Marsh, Towson, Loveton, Jack Kent Cooke stadium as well as others during the last 34 years. Numerous large and small scaled residential projects, such as Owings Mills New Town, Mays Chapel, Key Property, Loveton Farms, Honeygo, Cockeysville, Randallstown, and others.

Traffic Signal Operations. Conducted numerous studies for the installation and modernization of over 400 traffic signals in Baltimore County. This included studies to determine the need for traffic signals, as well as studies analyzing the signal timing and their coordination in signal systems in the various systems throughout the county. Installed and designed the first digital computerized signal system on the East Coast. Participated in the many years of continued upgrading of this signal system with improved signal technology and signal timings.

Prot ex 6A

RESTRICTIVE COVENANT AGREEMENT

THIS AGREEMENT has been entered into on this 23rd day of June, 1988, by and between VALLEY ACRES PARTNERSHIP, a general partnership, and CATHERINE C. PEDDY (hereinafter collectively referred to as "the Owner"); DEEP RUN PARTNERSHIP, a general partnership (hereinafter referred to as "Deep Run"); FOXLEIGH ENTERPRISES, INC., a Maryland corporation (hereinafter referred to as "the Developer"); and THE MEADOWS OF GREEN SPRING HOMEOWNERS' ASSOCIATION, INC., a Maryland corporation (hereinafter referred to as "the Association").

RECITALS:

A. The Owner is the legal owner of a tract of land containing 12.95 acres, located in the northeast quadrant of the intersection of Joppa and Falls Roads in the Eighth Election District of Baltimore County, Maryland. The tract is identified hereinafter and on the plat attached hereto (Exhibit A) as "Parcel 1." Exhibit A is hereby incorporated as a part of this Agreement.

B. Deep Run is the owner of another tract of land located on the south side of Seminary Avenue, east of Falls Road, in the Eighth Election District of Baltimore County, Maryland. This second tract is identified hereinafter and on the plat attached hereto (Exhibit A) as "Parcel 3."

C. The Developer is the contract purchaser of Parcel 1 and desires to develop the same with two office buildings,

Prot Ex 6B

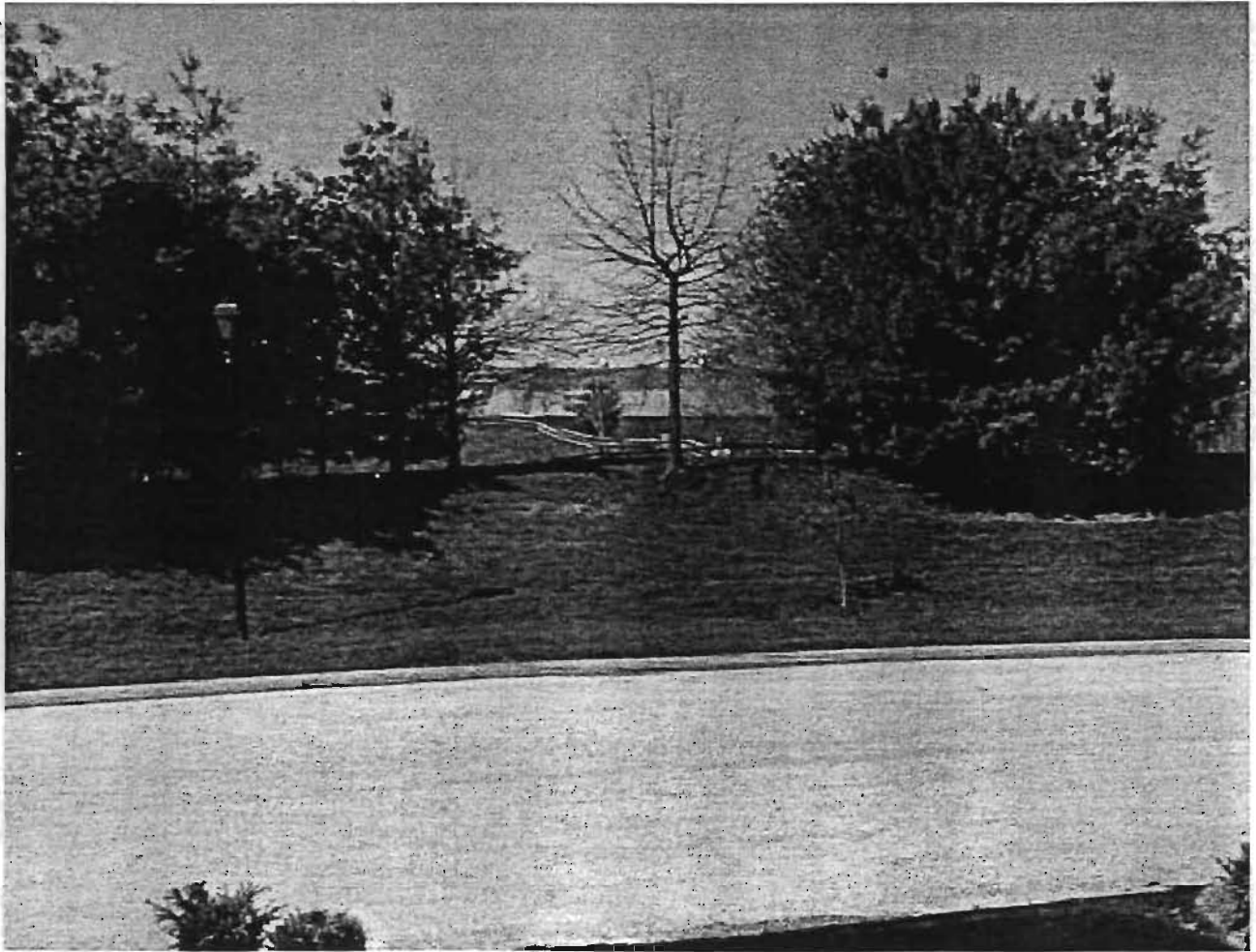
FIRST AMENDMENT
TO RESTRICTIVE COVENANT AGREEMENT

THIS AMENDMENT is made this 11 day of June, 1997, by and among MULLAN PAVILIONS LIMITED PARTNERSHIP, a Maryland limited partnership ("MPLP"), THE JOHNS HOPKINS HEALTH SYSTEM CORPORATION, a Maryland not-for-profit corporation ("JHHS"), JOHNS HOPKINS SUBURBAN HEALTH CENTER LIMITED PARTNERSHIP, a Maryland limited partnership ("JHSHC"), and THE MEADOWS OF GREEN SPRING HOMEOWNER'S ASSOCIATION, INC., a Maryland corporation (the "Association").

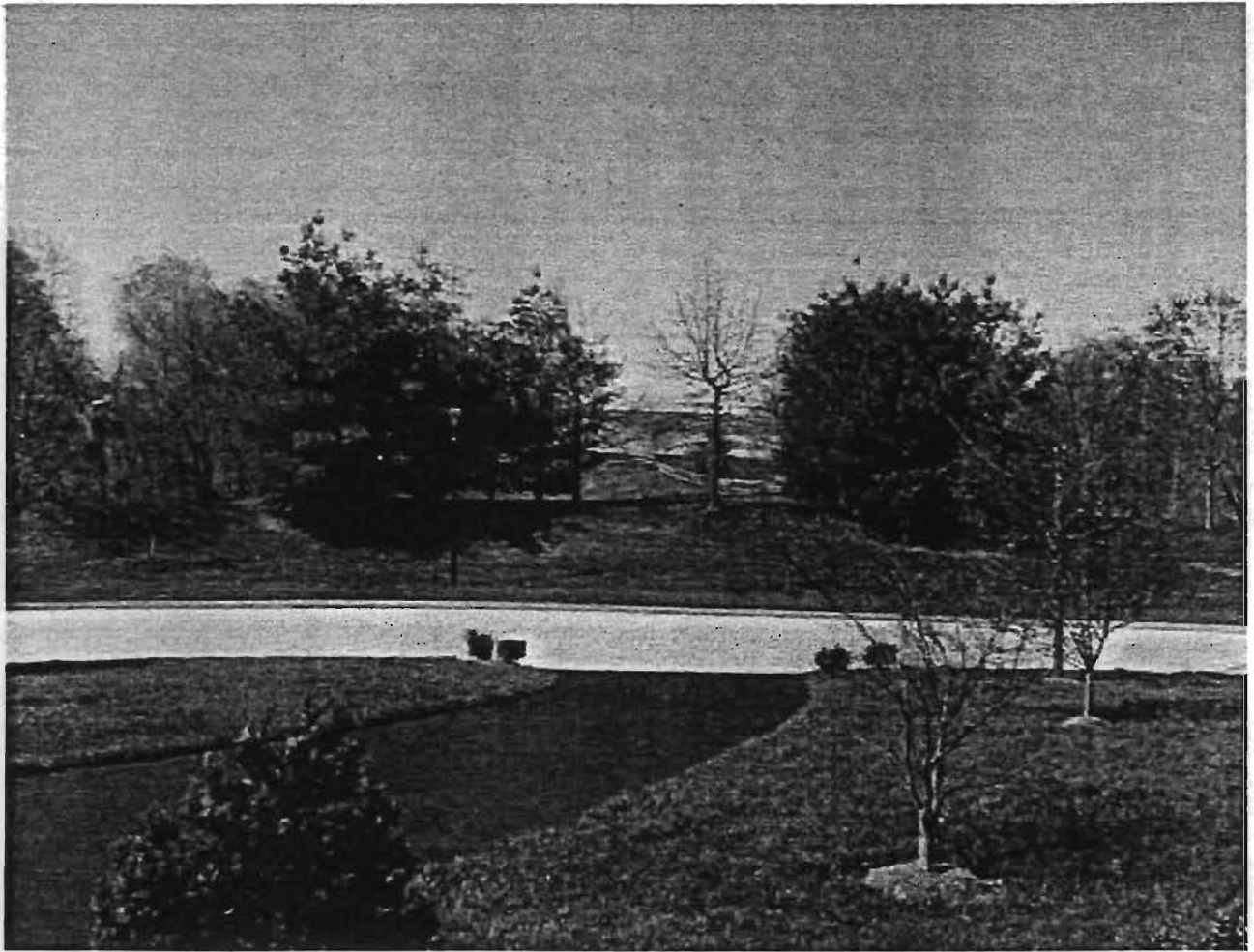
RECITALS

A. On June 23, 1988, Deep Run Partnership, the Association, Mullan Development, Inc., ("MDI"), formerly known as Foxleigh Enterprises, Inc., Valley Acres Partnership and Catherine C. Peddy entered into a Restrictive Covenant Agreement (the "Agreement"), which Agreement is recorded among the Land Records of Baltimore County, Maryland at Liber ___, folio ___. Pursuant to the Agreement, certain restrictions were placed on the development by MDI of the property described on *Exhibit A* attached to this Amendment (the "Property"). MPLP, JHSHC, and JHHS, respectively, now own all right, title and interest in the Property. Catherine C. Peddy, Valley Acres Partnership and Deep Run Partnership no longer have any interest in the Property or right to enforce the Agreement.

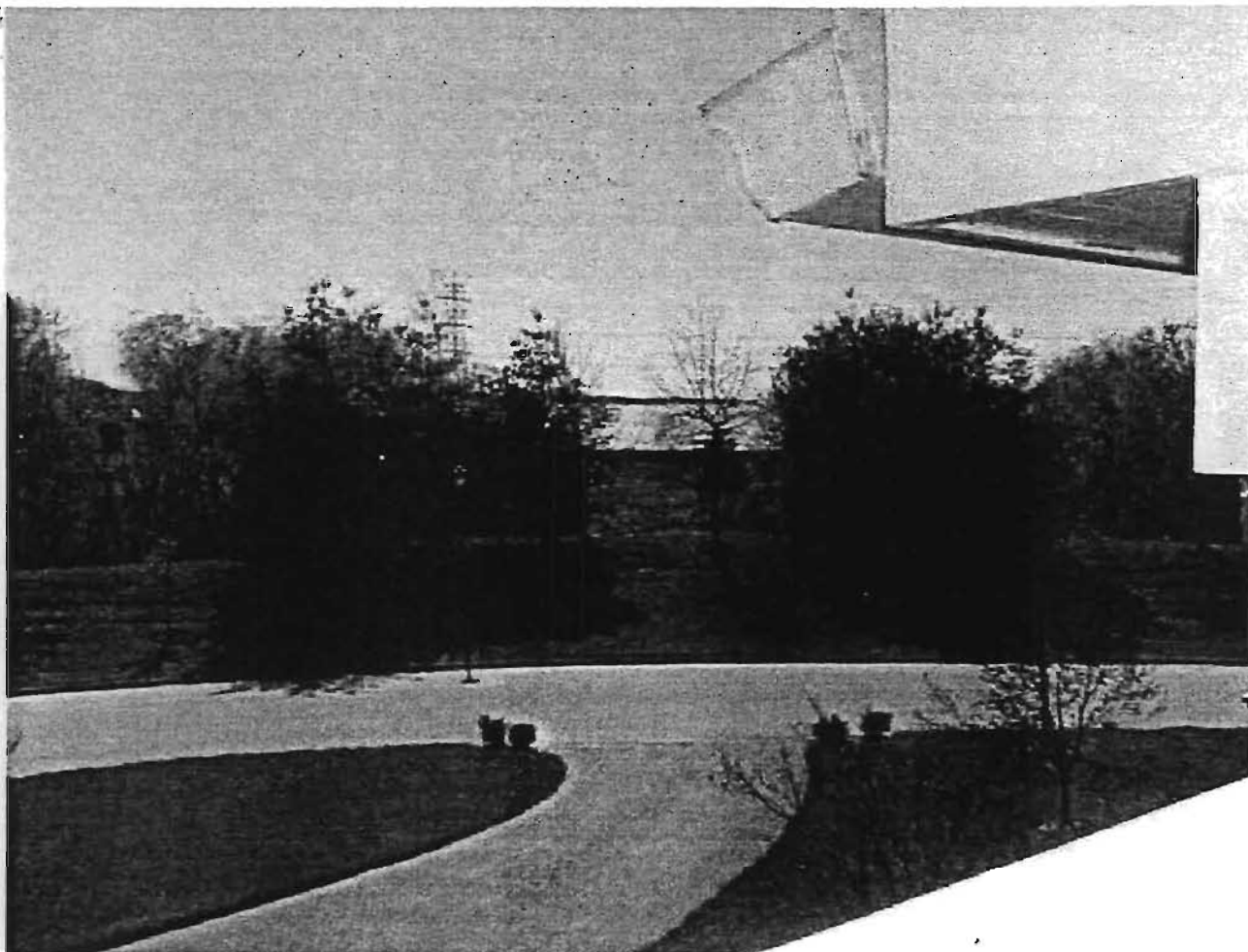
B. JHHS and/or JHSHC desire to construct from time to time up to an additional five thousand (5,000) square feet of improvements ("Additional Improvements") on the Property, which Additional Improvements will be used for medical purposes. JHHS and JHSHC have requested that MPLP and the Association consent to construction of the Additional Improvements. MPLP and the Association have agreed to do so subject to the terms and conditions hereinafter set forth.



Prot Ex 7A



7B



7c



7D



Prot Ex 9

Falls Road Community Association, Inc.

The undersigned hereby acknowledge and attest that on April 8, 1999 the Board of Directors of the Falls Road Community Association, Inc., a Maryland corporation (the "Association"), 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 Association opposes granting relief to William and Loretta Hirshfeld for proposed buildings that exceed the permitted 35 foot building height and permitted floor area ratio of 0.50.

AND FURTHER RESOLVED: That the Board empowers and instructs its President, officers and/or any of its Directors, to appear for the Association at any hearing before the Hearing Officer of Baltimore County in connection with said William and Loretta Hirshfeld petition and make known the Association's position in this matter, to wit, that:

- (1) The proposed buildings would significantly exceed the height and floor area ratio for properties in the Greenspring Station complex proximate to RC Zones and would not be compatible with other structures in and nearby the Station.
- (2) The intensity of use proposed will stress or overload the utilities serving the Greenspring complex (sewer, water and sub-station power) all of which are now at or near capacity.
- (3) The traffic that will be generated by the proposed buildings will overburden the already overloaded intersections of Greenspring Valley, Joppa and Falls Roads, as well as the entrances to the Greenspring Station and Johns Hopkins facilities, the new Windy Valley building, the Wine Shop, the Exxon Station, the three banks (Nations, Provident and Mercantile) each with branch offices and drive-in windows and ATMs, and the Montessori School.

AS WITNESS OUR HANDS THIS 8TH day of April, 1999.

ATTEST:

Falls Road Community Association, Inc.

By: _____

John Meredith, Vice President

99-282

Pat Ex #2

392-14



Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 10803 Falls Road
which is presently zoned BM and OR-1

This Petition shall be filed with the Department of Permits and 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

a plan which exceeds the height and area standards in Baltimore County Zoning Code section 235C.1; see attached.

Property is to be posted and advertised as prescribed by the zoning regulations. I, or we, agree to pay expenses of above Special Hearing, advertising, posting, etc. and further agree to and are to be bounded 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:

Greenspring Racquet Club, Inc.
Name - Type or Print
William Hirshfeld (Owner)
Signature
10803 Falls Road 410-821-5683
Address Telephone No.
Lutherville, Maryland 21093
City State Zip Code

Attorney For Petitioner:

Julius W. Lichter, Esquire
Name - Type or Print
Julius W. Lichter
Signature
Law Offices of Peter G. Angelos, P.C.
Company
210 West Pennsylvania Ave., #300 410-825-7300
Address Telephone No.
Towson, Maryland 21204
City State Zip Code

Legal Owner(s):

William Hirshfeld
Name - Type or Print
William Hirshfeld
Signature
Loretta Hirshfeld
Name - Type or Print
Loretta Hirshfeld
Signature
3604 Barberry Court 410-484-4210
Address Telephone No.
Baltimore, Maryland 21208
City State Zip Code

Representative to be Contacted:

Julius W. Lichter, Esquire
Name
210 W. Pennsylvania Ave., #300 410-825-7300
Address Telephone No.
Towson, Maryland 21204
City State Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING 3 DAYS

UNAVAILABLE FOR HEARING

Reviewed By JL Date 1/27/99

Case No. 99-282-SPH

PARKING TABULATION

Parking Required: $(3.3\text{--spaces}/1000\text{--sf}) * (242,000\text{--sf}) = 799\text{ spaces}$

Parking Provided:

4-Story Parking Garage: 1071 spaces

Open At-Grade Parking: 57 spaces

Total Provided: = 1128 spaces (includes HC spaces)

NOTE:

- 1) THIS PLAT WAS PREPARED FOR ZONING PURPOSES ONLY AND IS NOT INTENDED FOR USE IN CONVEYANCE OF LAND.
- 2) THE PROPERTY OUTLINE SHOWN HEREON WAS COMPILED FROM DEEDS, TAX RECORDS, AND AVAILABLE PUBLIC INFORMATION AND THEREFORE DOES NOT REPRESENT A BOUNDARY SURVEY.
- 3) THE TOPOGRAPHIC INFORMATION SHOWN WAS COMPILED FROM AVAILABLE PUBLIC RECORDS.
- 4) ZONING LINES OBTAINED FROM ZONING MAP NW-12-C

Ref Ex #3

ALL KNOWN STRUCTURES AND USES ARE SHOWN
WITHIN 200 FEET OF THE SITE

PLAT TO ACCOMPANY APPLICATION FOR SPECIAL HEARING RENEWAL OF RACQUET CLUB

10803 FALLS ROAD

99-282-SPH

ELICOTT COUNTY, MD
DISTRICT NO.8
PLANNING DISTRICT NO.3

SCALE 1" = 50'
JANUARY 19, 1999
MWI 98018

CERTIFICATE OF POSTING

New Dates

RE: Case No. 99-282-SPH

Petitioner/Developer: GREENSPRING R.C., ET AL

C/O R. Hoffman & BIRCH, ESQ

Date of Hearing/Closing: 4/19 & 4/20/99

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 ONSITE @ FALLS ROAD @
GREENSPRING STATION & GREENSPRING RACQUET
CLUB

The sign(s) were posted on

3/22/99

(Month, Day, Year)

Sincerely,

Patrick M. O'Keefe 4/2/99
(Signature of Sign Poster and Date)

PATRICK M. O'KEEFE

(Printed Name)

523 PENNY LANE

(Address)

HUNT VALLEY, MD. 21030

(City, State, Zip Code)

410-666-5366 ; CELL 410-905-8571

(Telephone Number)



99-282-SPH
GREENSPRING RACQUET
& FALLS RD.
NEW DATES 4/19 & 20

NOTICE OF ZONING 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: #99-282-SPH

10803 Falls Road

E/S Falls Road, 429' from intersection of Greenspring Valley Road and Falls Road

8th Election District - 3rd Councilmanic District

Legal Owner(s): Loretta & William Hirshfeld

Contract Purchaser: Greenspring Racquet Club, Inc.

Special Hearing: to approve a Floor Area Ratio (FAR) of 2.46 in lieu of .50 and a building height of 78 feet in lieu of 35 feet.

Hearing: Friday, March 19, 1999 at 9:00 a.m. in Room 106, County Office Bldg., 111 West Chesapeake Avenue; Monday, March 22, 1999 at 9:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue; and Tuesday, March 23, 1999 at 9:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue.

LAWRENCE E. SCHMIDT

Zoning Commissioner for Baltimore County

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Contact the Zoning Commissioner's Office at (410) 887-4386.

(2) For information concerning the File and/or Hearing, Contact the Zoning Review Office at (410) 887-3391.
3/018 March 4

C294589

CERTIFICATE OF PUBLICATION

TOWSON, MD., 3/4/, 1999

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 3/4/, 1999

THE JEFFERSONIAN,

J. Wilkinson

LEGAL ADVERTISING

Ref Ex 4B

Pet Ex 5A

T-347

THIS DEED, made this 1st day of ~~October~~ ^{November}, 1990, by and between LEROY PEDDY, DENNIS M. PEDDY and THOMAS L. PEDDY, individually and as co-partners trading as DEEP RUN PARTNERSHIP (also known as DEEP RUN ASSOCIATES and RACQUET CLUB PARTNERSHIP), Grantors, parties of the first part, and WILLIAM S. HIRSHFELD and LORETTA HIRSHFELD, his wife, as tenants by the entireties, Grantees, parties of the second part.

WITNESSETH: That in consideration of the sum of One Million Nine Hundred Ninety-one Thousand Five Hundred Ninety-two Dollars (\$1,991,592.00), the said parties of the first part do grant and convey unto the said Grantees, as tenants by the entireties, their assigns, the survivor of them and the survivor's heirs, personal representatives, successors and assigns, in fee simple, all that lot of ground situate, lying and being in the Eighth Election District of Baltimore County, State of Maryland, and as more particularly described on Exhibit A attached hereto and made a part hereof.

TOGETHER with the easements and rights of way appurtenant to the above-described parcel as set forth in a Deed of Easement dated July 24, 1975 and recorded among the Land Records of Baltimore County in Liber E.H.K., Jr. No. 5550, folio 268, by LeRoy Peddy, et al. to Greenspring Racquet Club Partnership, and First Amendment to Deed of Easement dated September 28, 1976 and recorded among the aforesaid Land Records at Liber E.H.K., Jr. No. 5680, folio 654, and a Second Amendment to Deed of Easement dated March 19, 1986 and recorded among the aforesaid Land Records at Liber E.H.K., Jr. No. 7120, folio 260.

BEING a part of the property described in a Deed dated October 29, 1968 and recorded among the aforesaid Land Records at Liber No. 4541, folio 97, from Marlene T. Doran to LeRoy Peddy, et al.

BEING ALSO part of the property secondly described in a Deed dated October 5, 1973 and recorded among the aforesaid Land Records at Liber No. 5402, folio 659, from LeRoy Peddy, Trustee, unto Dennis M. Peddy and Thomas L. Peddy.

DEED 0:
 D RC/F 32.00
 D T TX 9957.96
 D DOCS 9950.00
 SH CLERK 19949.96
 #05799 0002 R02 T10:11
 11/07/90

By

Date

NOT APPLICABLE

SIGNATURE AT DATE 11-7-90

DIAD2H00P0TLTRTX \$31,865.47
 EA 0009:30AM11-07-90

Ret Ex 5B

T-347

THIS DEED, made this 6th day of ~~October~~ ^{November}, 1990, by and between PEDDY ENTERPRISES, LTD., a Maryland corporation, Grantor, party of the first part, and WILLIAM S. HIRSHFELD and LORETTA HIRSHFELD, his wife, as tenants by the entireties, Grantees, parties of the second part.

WITNESSETH: That in consideration of the sum of Ninety-three Thousand Four Hundred Eight Dollars (\$93,408.00), the said party of the first part does grant and convey unto the said Grantees, as tenants by the entireties, their assigns, the survivor of them and the survivor's heirs, personal representatives, successors and assigns, in fee simple, all that lot of ground situate, lying and being in the Eighth Election District of Baltimore County, State of Maryland, and as more particularly described on Exhibit A attached hereto and made a part hereof.

TOGETHER with the easements and rights of way appurtenant to the above-described parcel as set forth in a Deed of Easement dated July 24, 1975 and recorded among the Land Records of Baltimore County in Liber E.H.K., Jr. No. 5550, folio 268, by LeRoy Peddy, et al. to Greenspring Racquet Club Partnership, and First Amendment to Deed of Easement dated September 28, 1976 and recorded among the aforesaid Land Records at Liber E.H.K., Jr. No. 5680, folio 654, and a Second Amendment to Deed of Easement dated March 19, 1986 and recorded among the aforesaid Land Records at Liber E.H.K., Jr. No. 7120, folio 260.

BEING a part of the property described in a Deed dated July 9, 1968 and recorded among the aforesaid Land Records at Liber O.T.G. No. 4897, folio 227, by LeRoy Peddy unto Green Spring Inn, Inc. Said Green Spring Inn, Inc. now being known as Peddy Enterprises, Ltd.

D RC/F 19.00
D T TX 467.04
D DOCS 467.50
DEED 0 H
SM CLERK 953.54
#05797 C002 R02 T10:17
11/07/90

TOGETHER with the buildings and improvements thereupon; and the rights, alleys, ways, waters, privileges, appurtenances and advantages to the same belonging or in anywise appertaining.

TO HAVE AND TO HOLD the said lot of ground and premises, above described and mentioned, and hereby intended to be conveyed; together with the rights, privileges, appurtenances and advantages

1.50
7.04
19

RECEIVED FOR TRANSFER
State Department of
Assessments & Taxation
for Baltimore County

D1A02#0092TLTRTX \$1,494.53
BA C009:30AM11-07-90

SIGNATURE [Signature] DATE 11-7-90

By [Signature] Date 11-7-90



PETER G. ANGELOS
A PROFESSIONAL CORPORATION

PETER G. ANGELOS (MD, D.C., TN, NY)
H. RUSSELL SMOUSE (MD)
THOMAS MINKIN (MD, D.C., TN)
THEODORE W. HIRSH (MD)
EDWARD P. MONAGHAN (MD, PA)
GARY J. IGNATOWSKI (MD, D.C., TN, NY)
R. BRUCE MCELHONE (MD, PA)
ARMAND J. VOLTA, JR. (MD, D.C.)
GEORGE A. WEBER, III (MD, D.C., TN, PA, NY)
DAVID L. PALMER (MD, D.C.)
EDWARD J. LILLY (MD)
MICHAEL T. WARD (DE, VA, MD)
PATRICIA J. KASPUTYS (MD, D.C.)
BRUCE C. HILL (MD)
ANDREW M. CANTOR (MD, D.C.)
FREDERICK H. DURST (MD, D.C.)
THOMAS C. SUMMERS (MD, D.C.)
THEODORE M. FLERLAGE, JR. (MD)

COUNSEL
FANNIE ANGELOS (MD, D.C.)
THOMAS L. SAMUEL (MD, VA)
NORMAN R. STONE, JR. (MD)
THOMAS V. FRIEDMAN
(1929-1997)

JOSEPH L. JOHNSON (MD)
ROGER A. OOHMAR (MD)
WILLIAM D. POLAND, JR. (PA, WV, MD, NY)
CHARLES A. CANDON (MD, D.C., TN)
LOUISE A. LOCK (MD, D.C.)
JAMES T. FITZGERALD (PA, NJ)
STEVEN W. SMITH (MD, D.C.)
THOMAS P. KELLY (MD, D.C.)
RONALD E. RICHARDSON (MD, D.C.)
KATHLEEN D. HADLEY (DE)
JOSEPH A. VANSANT (MD, PA, D.C.)
BESSIE S. DEMOS (MD, D.C.)
KENNETH D. PACK (MD, D.C.)
JEFFREY G. MOYER (PA, NY)
FREDERIC M. BRANDES (MD)
RICHARD E. WALDT (MD)
SCOTT SHELLINGER (MD, D.C.)
E. DAVID HOSKINS (MD, NY, D.C.)

WASHINGTON, D.C.
NEW YORK, NY
PHILADELPHIA, PENNSYLVANIA

FRANCES M. ANGELOS (MD, FL)
JOHN C. M. ANGELOS (MD, D.C.)
GREGORY R. SMOUSE (MD)
DAVID G. BOLDIANO (MD, D.C.)
KEVIN E. O'NEILL (MD)
STEPHEN J. HOLMES (MD)
PAUL M. MATHENY (MD)
MARK P. RYSCAVAGE (MD, CA)
MIKE G. NASSIOS (TN)
RANDALL E. REAGAN (TN)
TIMOTHY M. McLAUGHLIN (TN)
KEITH E. HAYNES (MD)
VASILIKI P. SZCZESNY (MD)
MICHAEL B. GILLAND (MD)
GREGORY N. BUNITSKY (PA, NJ)
JERE F. OWNBY (TN)
CYNTHIA G. BOYLE (MD)
THOMAS C. SIMONES (PA, D.C.)

HARRISBURG, PENNSYLVANIA
PITTSBURGH, PENNSYLVANIA
ALLENTOWN, PENNSYLVANIA

EDWARD V. REEVES (PA)
BRIAN J. TAYLOR (PA)
MARLA A. MACEY (PA, NJ)
GARY M. MINTZ (PA, NJ, NY)
ELIZABETH H. MOYSE (D.C., MD)
BRIAN S. McNAIR (MD)
J. ROBERT WARREN, II (MD, FL, LA)
WILLIAM G. MINKIN (MD, D.C.)
ANTHONY N. FORCINA (DE, PA)
KURT M. MUELLER (MD)
EVAN J. FELDMAN (MD)
JEFFREY J. UTERMORHLE (MD, D.C.)
MARLO A. TROTTA (MD)
HELLEN HARLSTON (MD, NC)
J. MICHAEL SAWYERS (VA)
ANDREW T. THEOBALD (PA)
CLEOPATRA PAPPAS (MD, NY)

WILMINGTON, DELAWARE
KNOXVILLE, TENNESSEE

ONE CHARLES CENTER
100 N. CHARLES STREET
22ND FLOOR
BALTIMORE, MD 21201-3812
410-638-0100
(800) 251-6622
FAX 410-638-1780, 61, 62
UNION PARK CENTER
8805 HARBOR ROAD
BALTIMORE, MD 21214-1848
410-426-3200
(800) 492-3240
FAX 410-426-1269
COURT TOWERS, SUITE 315
210 W. PENNSYLVANIA AVENUE
TOWSON, MD 21204
410-625-7300
J. MICHAEL SAWYERS (VA)
(800) 675-9706
FAX 410-296-2541
STEELWORKERS' HALL
540 DUNDALK AVENUE
BALTIMORE, MD 21224-2997
410-633-8100
FAX 410-633-0460
CENTERPARK II
SUITE 315
4061 POWDER MILL ROAD
BELTSVILLE, MD 20705-3149
(800) 537-2661
FAX 301-937-5736
63 HENDERSON AVENUE
CUMBERLAND, MD 21502-2452
301-759-2700
FAX 301-759-2703
201 S. CLEVELAND AVENUE
HAGERSTOWN, MD 21740-3745
301-739-4000
FAX 301-739-3848

REPLY TO: Towson Office

June 10, 1998

HAND DELIVERED

Mr. Arnold Jablon, Director
Department of Permits and
Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204

Re: Greenspring Tennis and
Racquetball Complex
Falls and Joppa Roads

Dear Mr. Jablon:

I represent the owners of the above-captioned complex, which complex was completed, as shown on the attached plan, in the early to mid 1970's, pursuant to a building permit application and perhaps a JSPC review. My client is about to further develop the site by razing the existing constructed improvements consisting of 125,000 square feet of building footprint, together with 58,500 square feet of additional impervious surface for a total of 183,500 square feet..

BEING ALSO part of the property described in a Deed dated July 9, 1968 and recorded among the aforesaid Land Records in Liber No. 4897, folio 227, by LEROY PEDDY unto GREEN SPRING INN, INC. The said GREEN SPRING INN, INC. now being known as PEDDY ENTERPRISES, LTD., a Maryland Corporation.

BEING ALSO a part of the property secondly described in a Deed dated October 5, 1973 and recorded among the aforesaid Land Records in Liber No. 5402, folio 659, by LEROY PEDDY, Trustee unto DENNIS M. PEDDY and THOMAS L. PEDDY.

Pet Ex #6

DOC-AMN6.GMS
10-09-90

D RC/F 84.00
AMEND 0
SM CLERK 84.00
#05800 C002 R02 T10:1
11/07/90

THIRD AMENDMENT TO DEED OF EASEMENT

THIS THIRD AMENDMENT TO DEED OF EASEMENTS is made this 31st day of October, 1990, by LEROY PEDDY, DENNIS M. PEDDY, THOMAS L. PEDDY, DEEP RUN PARTNERSHIP, PEDDY ENTERPRISES, LTD., formerly known as Green Spring Inn, Inc. and LEROY PEDDY and THOMAS L. PEDDY, co-partners trading as VALLEY ACRES, a partnership (hereinafter collectively referred to as "the Original Grantors"), VALLEY CENTER PARTNERSHIP, FOXLEIGH PAVILIONS LIMITED PARTNERSHIP and PF&M ASSOCIATES LIMITED PARTNERSHIP (hereinafter, collectively and together with the Original Grantors, referred to collectively as "Grantors"), benefitting each Grantor, William S. Hirshfeld, Loretta Hirshfeld and Cockey's Tavern Partnership,

WITNESSETH, THAT:

WHEREAS the Original Grantors granted to Green Spring Racquet Club Partnership (hereinafter referred to as "the Original Grantee") certain roadway easements described in that certain Deed of Easements by and between the Original Grantors and the Original Grantee dated July 24, 1975, and recorded among the Land Records of Baltimore County in Liber 5550 at folios 268 et seq. (hereinafter referred to as "the Original Easement Agreement"); and

WHEREAS the Original Grantors and the Original Grantee entered into that certain First Amendment to Deed of Easements dated September 28, 1976, and recorded among the Land Records of the said County in Liber 5680 at folios 654 et seq. (hereinafter referred to as "the First Amendment") and the Original Grantors, Valley Center Partnership and the Original Grantee entered into that certain Second Amendment to Deed of Easements dated March 19, 1986, and recorded among the Land Records of the said County

841

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 1998, Legislative Day No. 16

Bill No. 111-98

Mr. T. Bryan McIntire, Councilman

By the County Council, September 8, 1998

A BILL
ENTITLED

AN ACT concerning

Zoning Regulations - Transitional Areas in B.L., B.M., and B.R. Zones

FOR the purpose of amending the Baltimore County Zoning Regulations in order to establish

special height and area limitations for certain lots in B.L., B.M., and B.R. zones;

establishing criteria for the approval of certain development plans in B.L., B.M., and B.R.

zones; providing certain exceptions; and generally relating to transitional areas in B.L.,

B.M., and B.R. zones.

BY adding

Sections 232C, 235C, and 238C

Baltimore County Zoning Regulations, as amended

1 SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF BALTIMORE
2 COUNTY, MARYLAND that Sections 232C, 235C, and 238C be and they are hereby added to
3 the Baltimore County Zoning Regulations, as amended, to read as follows:
4 SECTION 232C - SPECIAL REGULATIONS FOR B.L. LOTS WITHIN ~~1000~~ 750 FEET OF
5 AN R.C. ZONE.

Pot Ex #8

GREENSPRING RACQUET
CLUB, INC., *et al.*

Plaintiffs,

v.

BALTIMORE COUNTY,
MARYLAND, *et al.*

Defendants.

* IN THE
* CIRCUIT COURT
* FOR
* BALTIMORE COUNTY
*
* Case Number: 3-C-98-6483
*

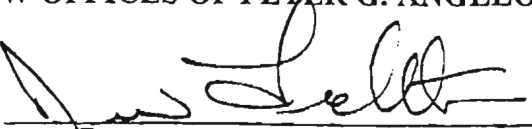
* * * * *

**MOTION FOR SPECIAL ADMISSION
OF OUT-OF STATE ATTORNEY**

Julius W. Lichter, an attorney of record for Greenspring Racquet club, Inc., *et al.*, in this action, pursuant to Rule 14 of the Rules Governing Admission to the Bar of Maryland, moves for the special admission of Robert H. Freilich, a member in good standing of the Bars of Missouri, New York and California, for the limited purpose of appearing and participating in this case as counsel with me.

LAW OFFICES OF PETER G. ANGELOS, P.C.

by:


Julius W. Lichter
210 W. Pennsylvania
Suite 300, Court Towers
Fowson, Maryland 21204
Telephone (410) 825-7300
Facsimile: (410) 296-2541
Federal Bar Number: 25592

ATTORNEY FOR PLAINTIFFS GREENSPRING
RACQUET CLUB, INC., WILLIAM HIRSHFELD
AND LORETTA HIRSHFELD

FILED APR 16 1999

Ref Ex 9A

DRAFT

MASTER PLAN

2010



BALTIMORE COUNTY OFFICE OF PLANNING
October 1998



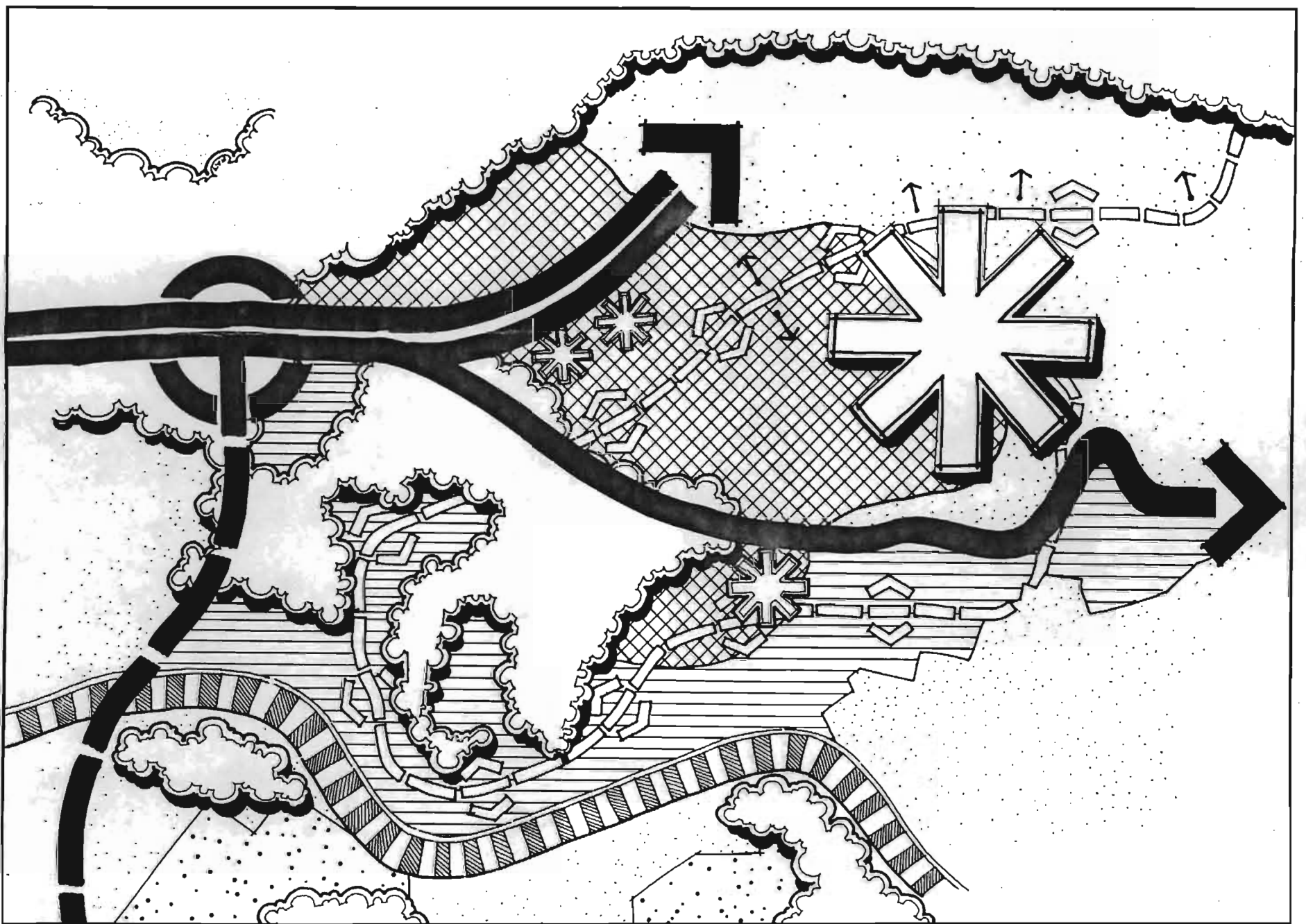
Chesapeake
Bay

Ref Ex 9.B

Master Plan

Per Ex #10

Baltimore County 1989-2000



As adopted February 5, 1990

business and industrial, and therefore must be located with discrimination in relation to their surroundings. All the items listed are proper uses of land, but have certain aspects which call for special consideration of each proposal. Because under certain conditions they could be detrimental to the health, safety or general welfare of the public, the uses listed as special exceptions are permitted only if granted by the Zoning Commissioner, and subject to an appeal to the County Board of Appeals.

In granting any special exception, the Zoning Commissioner and the County Board of Appeals, upon appeal, shall be governed by the following principles and conditions.

- 502.1 Before any special exception may be granted, it must appear that the use for which the special exception is requested will not:
- A. Be detrimental to the health, safety or general welfare of the locality involved;
 - B. Tend to create congestion in roads, streets or alleys therein;
 - C. Create a potential hazard from fire, panic or other danger;
 - D. Tend to overcrowd land and cause undue concentration of population;
 - E. Interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences or improvements;
 - F. Interfere with adequate light and air; [Bill No. 45-1982]
 - G. Be inconsistent with the purposes of the property's zoning classification nor in any other way inconsistent with the spirit and intent of these Zoning Regulations; nor [Bill No. 45-1982]
 - H. Be inconsistent with the impermeable surface and vegetative retention provisions of these Zoning Regulations. [Bill No. 45-1982]
- 502.2 In granting any special exception, the Zoning Commissioner or the Board of Appeals, upon appeal, shall impose such conditions, restrictions or regulations as may be deemed necessary or advisable for the protection of surrounding and neighboring properties. The owners, lessees or tenants of the property for which a special exception is granted, if required by the Zoning Commissioner, or Board of Appeals, upon appeal, shall enter into an agreement in writing with said Zoning Commissioner and/or the County Commissioners of Baltimore County,¹⁸ stipulating the conditions, restrictions or regulations governing such special exception, the same to be recorded among the land records of Baltimore County. The cost of such agreement and the cost of recording thereof shall be borne by the party requesting such special exception. When so recorded, said agreement shall govern the exercise of the special exception as granted, as to such property, by any person, firm or corporation, regardless of subsequent sale, lease, assignment or other transfer.
- 502.3 A special exception which has not been utilized within a period of two years from the date of the final order granting same, or such longer period not exceeding five years, as may have been specified therein, shall thereafter be void. The Zoning

¹⁸ Editor's Note: Under Section 1107 of the Baltimore County Charter, the County Council and County Executive have succeeded "to all powers heretofore vested in the county commissioners by the constitution and laws of this state."

KING TABULATION

ing Required: $(3.3\text{--spaces}/1000\text{--sf}) \times (242,000\text{--sf}) = 799\text{ spaces}$
ing Provided:

5-Story Parking Garage: 1004 spaces

Open At Grade Parking: 87 spaces

Total Provided: = 1091 spaces (includes HC spaces)

Ref Ex #17

NOTE:

THIS PLAT WAS PREPARED FOR ZONING PURPOSES ONLY
AND IS NOT INTENDED FOR USE IN CONVEYANCE OF LAND.
THE PROPERTY OUTLINE SHOWN HEREON WAS COMPILED
FROM DEEDS, TAX RECORDS, AND AVAILABLE PUBLIC
INFORMATION AND THEREFORE DOES NOT REPRESENT A
BOUNDARY SURVEY.

THE TOPOGRAPHIC INFORMATION SHOWN WAS COMPILED FROM
AVAILABLE PUBLIC RECORDS.

ZONING LINES OBTAINED FROM ZONING MAP NW-12-C

KNOWN STRUCTURES AND USES ARE SHOWN
WITHIN 200 FEET OF THE SITE

**FOR REDEVELOPMENT OF THE
GREENSPRING RACQUET CLUB
ON THE SAME FOOTPRINT AND
SQUARE FOOTAGE PER STORY
AS THE EXISTING IMPROVEMENT**

10803 FALLS ROAD

COUNTY, MD-
DISTRICT NO.8
DISTRICT NO.3

SCALE: 1" = 40'
APRIL 19, 1999
MWI 98018

PROJECTS WITH ONE MEANS OF ACCESS

- Washington Avenue Garage @ York Road - 869 spaces
- Yellow Brick Road - 3,800 ft. long; multi-1,000's sq.ft. industrial space; 6,700 ADT; 600 peak hour trips
- Physicians Pavilion Garage East - 486 spaces - 1 access
- GBMC ±2,500 spaces; 11,000 ADT
- BJ's White Marsh - Entrance @ US 1 - 3,400 weekday; 5,400 Saturday; 250 peak hour in or out
- BJ's - Music Fair Road - 5,000 cars BJ's & other uses
- Villa Julie College - 1993 - peak outbound 187; 1 access in/out; 900 students
- Owings Mills Corporate Campus, Red Run Boulevard (McDonough School)
 - Phase I - 663,000 sq.ft. - 1994 - 7,500 ADT; 550 cars out in PM peak
 - Phase II - 600,000 sq.ft.
 - Total - 1 access - 1.2 million sq.ft.
- Entrance to Best Buy/Petco Store - MD 45 - south of Ridgely opposite Lutherville Elementary School - 60,000 sq.ft. retail; ±2,400 trips/day
- Entrance to Pine Ridge Golf Course, Dulaney Valley Road and Driving Range - ±40 T positions
- Charleston Retirement Community - 2,500 units & corporate offices
- Highlands Corporate Park - 1.2 million sq.ft.; IHS Headquarters 240k alone

The Traffic Group, Inc.

June 10, 1999

Verified 7/05/00

Verified 9/14/00

Verified
for 7-22-01
cc

Verified 7/06/00
Verified 8/09/00

99-282-SPH

Petitioner

Appellant Exhibit List

#1 Reg. for Spec. Hearing dated 1/27/99

#1A Plat to accompany.

#2 Copy - Petition for Special Hearing, Case # 99-282-SPH.

#3 H.O. finding of fact & conclusions of law
6/21/99

Large #4 Plat, Green Spring Racquet Club 4/13/99 (prev. Exhibit 13)

Large #5 Plat, zoning map - B Co. (prev. Exhibit 11)

Large #6 Aerial Photo, B Co. Photo, G'sp Station & Surrounding
3/1996 (prior Exh 12) Areas

#7 Letter from Charles Abern - Director of P.W. to
Pat Keller, Off. of Planning 5/16/00

#8 Special Admission of Robert Freilich, ex Case No.
99-282-SPH

#9 Federal Flood Ins. Rate Map, B Co. Md. 2/2/89

#10 Letter fr Deborah Dopkin 6/19/90 Re Gsp. Racg. Club.
Warner No. 89-73

#11 1983 site plan - "Addition to Green Spring Station"

#12 2000 - Master Plan (2000-2010)

#13 Master Plan - 1989-2000

#14 Map 34 of 2010 Master Plan

✓ revised for
Oct.
7-22-01/ur.

99-282-SPH

Large
#15 ✓

~~Photos~~ Photos Board - 4/14/99 (Pet. Exh #14) ^{H.O.}

- ✓ #16 (A) 2-10-99 Letter fr. Lenthart, Chief Eng. to Gwen Stephens
- ✓ (B) 3-5-99 " " Carl Richards, B Co. " Julius Lichter
- ✓ (C) 2-10-99 " " W & P R M Seeley to Arnold Jablon
- ✓ (D) 2-17-99 " " Ben Devel. R. Lee Bowling to Jablon
- ✓ (E) 3-16-99 " " Koeler to Jablon

✓ #17 Definition "Webster's" of contiguous

Verified 7/05/00
Verified 7/06/00
Verified 8/09/00

Verified 9/14/00

Verified
for ect
7-24-01

99-282-SPH

Appellant

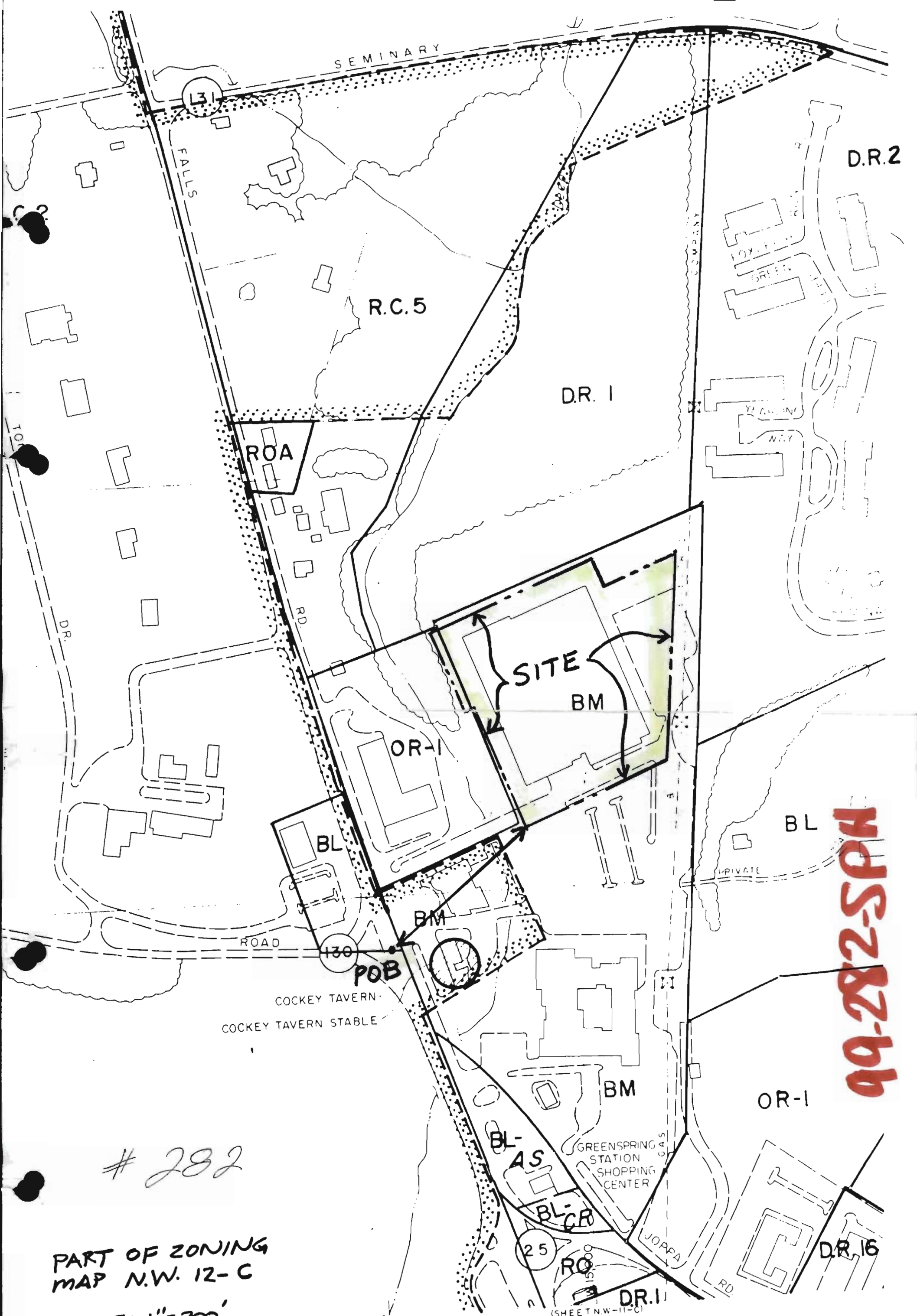
Protestant Exhibit List

✓✓✓✓ #1 Copy of letter - B Co ~~from~~ of Planning 3/16/99

✓✓✓✓ #2 Letter 2-10-99

✓✓✓✓ #3 Letter of 12/15/99 to Rascoe Jr. Kenneth McDonald
@ State Hwy.

✓✓✓✓ I.D. only
#4 Calculations of Mr Davis re shadow of bldg.

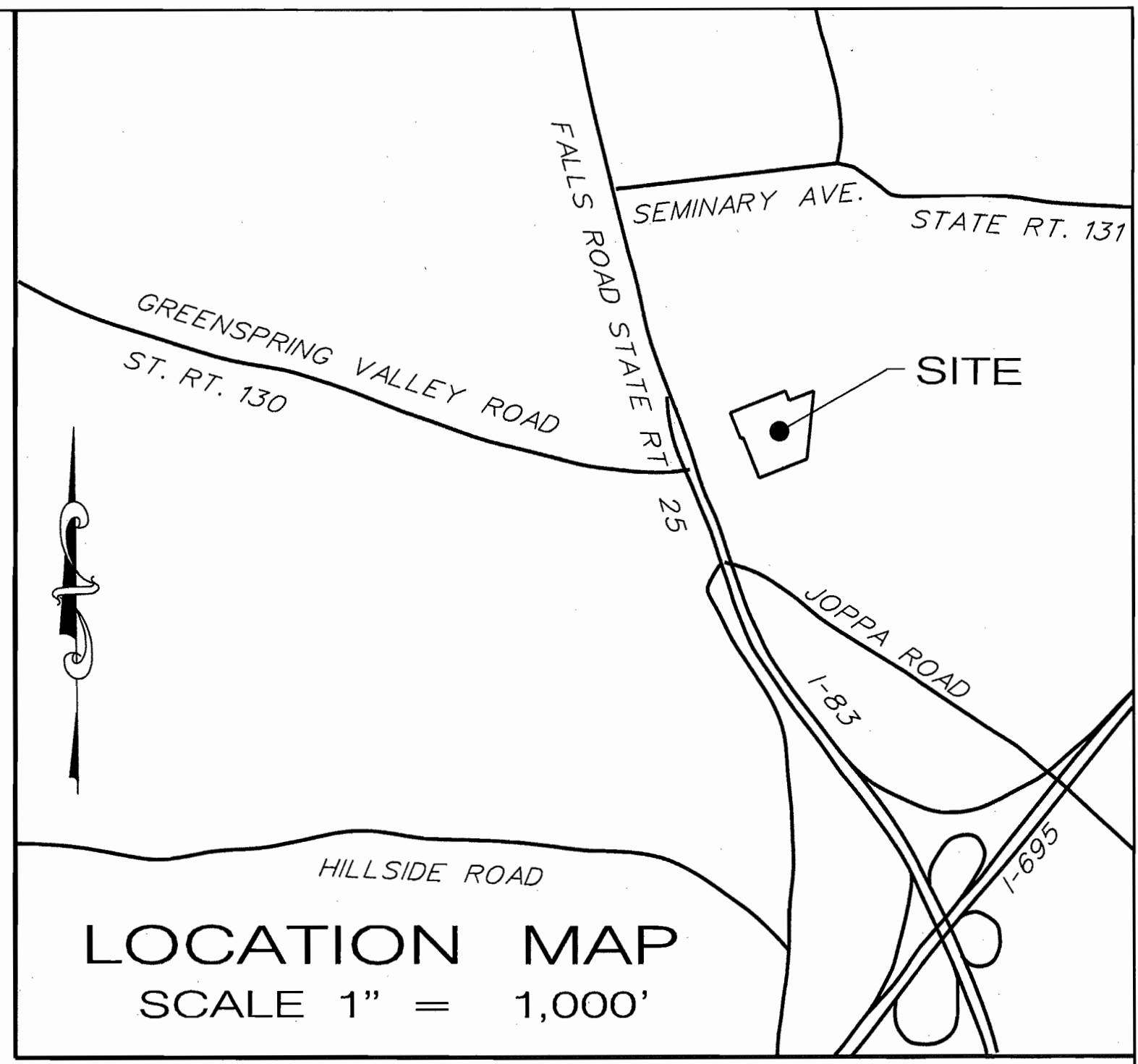
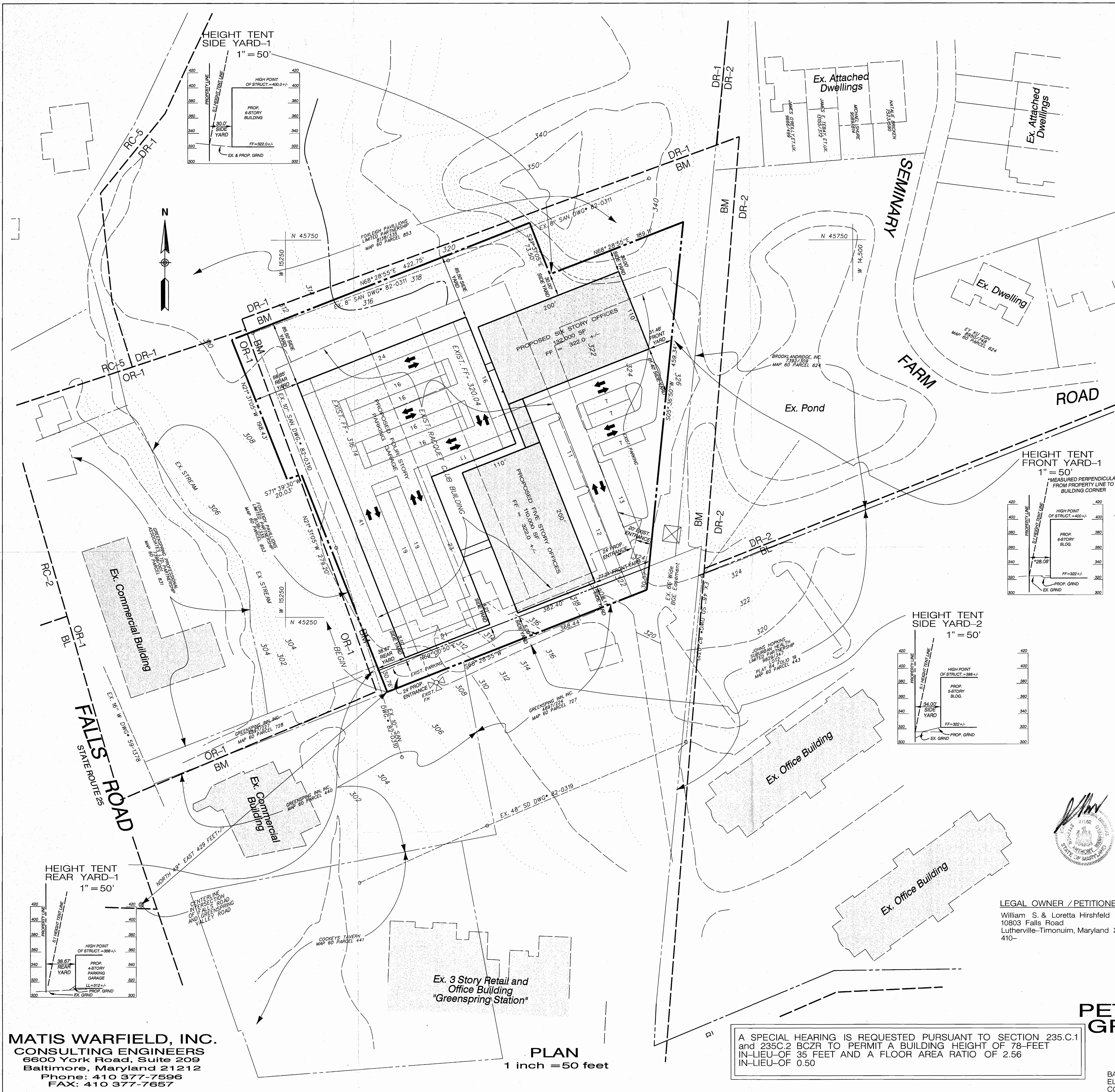


#282

PART OF ZONING
MAP N.W. 12-C

SCALE: 1"=200'

BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING



SITE DATA

GROSSNET AREA OF PROPERTY: 5.3267 ACRES +/- 232,035 SF
EXISTING ZONING: (228,075-sf BM), & (3,960-sf OR-1)
EXISTING USE: 1-Story, 125,000-sf Racquet Club (30-ft high)
EXISTING F.A.R.: (125,000-sf bldg)/(228,075-sf lot) = 0.55
PROPOSED USE:
5-Story, 110,000 sf Office Building
6-Story, 132,000 sf Office Building
4-Story, 342,300-sf Parking Garage
PROPOSED HEIGHT:
All three proposed structures to be connected, maximum height = 78-ft
measured from highest point on outside grade to highest point on structure
PROPOSED F.A.R.: (584,300-sf bldgs)/(228,075-sf lot) = 2.56
AMENITY OPEN SPACE: None Required
TAX ACCOUNT #s 08-180003271, & 08-2200005649
DEED REFERENCE: 864293 & 864296
STORM WATER MANAGEMENT:
QUANTITATIVE WAIVER TO BE APPLIED FOR
QUALITATIVE MANAGEMENT TO BE
ADDRESSED BY REDUCING IMPERVIOUS AREA
FOREST CONSERVATION:
NA, REDEVELOPMENT SITE WITH NO ON-SITE FOREST
TAX MAP: 60 PARCELS 67 & 870
PRIOR PERMITS:
559-75 CONSTRUCT TENNIS BARN AND CLUBHOUSE
728-76 ADDITION TO TENNIS BARN
373-77 CONSTRUCT RACQUET COURTS
542-77 CONSTRUCT PLATFORM FOR TENNIS
551-77 ADDITION TO TENNIS BARN
277-79 ADDITION TO TENNIS BARN
PRIOR ZONING CASES:
76-167-X - "Therefore IT IS ORDERED by the Deputy Zoning Commissioner of Baltimore County this 15th day of March, 1976, that the Special Exception for a community building in a R.D.P. Zone should be and the same is GRANTED, from and after the date of this Order, subject to the approval of a site plan by the Department of Public Works, State Highway Administration, and the Office of Planning and Zoning."
77-173-XSPH - "Therefore IT IS ORDERED by the Deputy Zoning Commissioner of Baltimore County, this 24th day of March, 1977, that the Special Exception to permit construction of two platform tennis courts on a 1.4 acre parcel designated as Parcel 'A', additional outdoor recreational courts and an outdoor swimming pool on a 3.42-acre parcel designated as Parcel 'B', and the substitution of recreational facilities, as herein described should be and the same is hereby GRANTED, from and after the date of this Order. It is further ORDERED that the Special Hearing to permit the enclosure of the area between the two wings should also be GRANTED, from and after the date of this Order; however, the proposed expansion to the extent of six additional racquet ball courts and the building to house same is hereby DENIED. All of the above is subject to the approval of a site plan by the State Highway Administration, the Department of Public Works, the Department of Traffic Engineering, and the Office of Planning and Zoning."
DRC ACTIONS:
DRC # 06228E - Withdrawn at Owner's request prior to consideration
DRC # 06228E - "The DRC has determined that your project is a material change to the CRG"; Letter from Arnold Jablon, Director, Department of Permits and Development Management dated July 6, 1998. Judicial review pending in the Circuit Court of Baltimore County, Case No. C-98-6483.
DRC # 09288E - Tabled pending passage of Bill No. 111-98, not rescheduled.
THIS PROPERTY LIES WITHIN ZONE 'C' AS DEPICTED ON THE FLOOD INSURANCE RATE MAP 240010 0245E EFFECTIVE DATE NOV. 17, 1993. THIS PROPERTY IS SERVED BY PUBLIC WATER AND SEWAGE SYSTEMS.
SEWAGE FLOWS:
AVERAGE DAILY SEWER FLOWS FROM EX. SITE: 7,139 GPD
ADDITIONAL AVERAGE DAILY SEWER FLOWS FOR PROP. BLDGS=14,641 GPD
TOTAL AVERAGE FLOWS=21,780 GPD
ADEQUATE CAPACITY EXISTS IN THE EXISTING SEWAGE SYSTEM FOR THESE ADDITIONAL PROPOSED FLOWS.
PUBLIC FIRE HYDRANTS EXIST ALONG FALLS ROAD
SIGNAGE: NO SIGNAGE IS PROPOSED AT THIS TIME, HOWEVER, ANY FUTURE SIGNAGE SHALL CONFORM TO SECTION 450 BCZR AND ALL ZONING SIGN POLICIES.
TRAFFIC NOTE: EXISTING INTERSECTION AT JOPPA AND FALLS ROADS OPERATES AT LEVEL OF SERVICE 'D'

PARKING TABULATION

Parking Required: (3.3-spaces/1000-sf)*(242,000-sf) = 799 spaces
Parking Provided:
4-Story Parking Garage: 1071 spaces
Open At-Grade Parking: 57 spaces
Total Provided: =1128 spaces (includes HC spaces)

NOTE:

- 1) THIS PLAT WAS PREPARED FOR ZONING PURPOSES ONLY AND IS NOT INTENDED FOR USE IN CONVEYANCE OF LAND.
2) THE PROPERTY OUTLINE SHOWN HEREON WAS COMPILED FROM DEEDS, TAX RECORDS, AND AVAILABLE PUBLIC INFORMATION AND THEREFORE DOES NOT REPRESENT A BOUNDARY SURVEY.
3) THE TOPOGRAPHIC INFORMATION SHOWN WAS COMPILED FROM AVAILABLE PUBLIC RECORDS.
4) ZONING LINES OBTAINED FROM ZONING MAP NW-12-C

ALL KNOWN STRUCTURES AND USES ARE SHOWN WITHIN 200 FEET OF THE SITE

PLAT TO ACCOMPANY PETITION FOR SPECIAL HEARING GREENSPRING RACQUET CLUB

10803 FALLS ROAD

99-282-SPH

PET. EX. NO.

BALTIMORE COUNTY, MD
ELECTION DISTRICT NO.8
COUNCILMANIC DISTRICT NO.3

SCALE 1" = 50'
JANUARY 19, 1999
MWI 98018

MATIS WARFIELD, INC.
CONSULTING ENGINEERS
6600 York Road, Suite 209
Baltimore, Maryland 21212
Phone: 410 377-7596
FAX: 410 377-7657

A SPECIAL HEARING IS REQUESTED PURSUANT TO SECTION 235.C.1 and 235.C.2 BCZR TO PERMIT A BUILDING HEIGHT OF 78- FEET IN-LIEU-OF 35 FEET AND A FLOOR AREA RATIO OF 2.56 IN-LIEU-OF 0.50

PLAN
1 inch = 50 feet

LEGAL OWNER / PETITIONER
William S. & Loretta Hirshfeld
10803 Falls Road
Lutherville-Timonium, Maryland 21093
410-