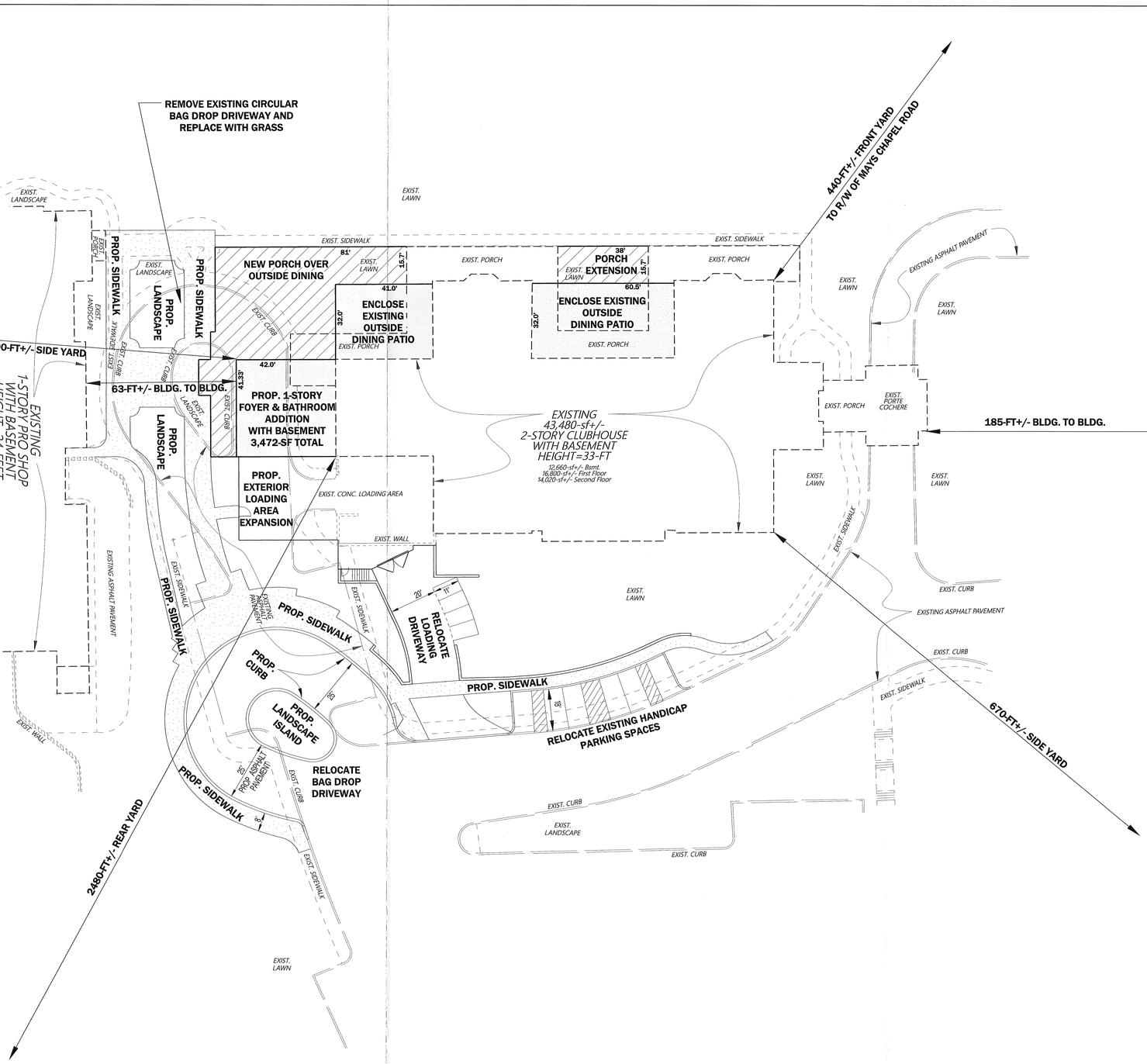


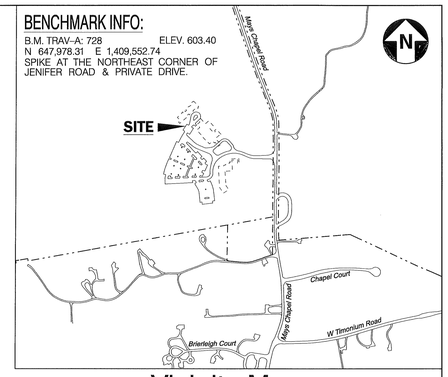
SITE DATA

ELECTION DISTRICT: 8
COUNCILMANIC DISTRICT: 3
GROSS AND NET AREA OF PROPERTY = 405.23 AC+/- (17,651,819 SF)
PREVIOUS COMMERCIAL PERMITS: NONE KNOWN
APPROXIMATE DATE OF LAST IMPROVEMENT: 2007 TENNIS FACILITY
EXISTING ZONING - RC 5
ZONING CASE HISTORY:
CASE NUMBER: 2006-652-SPHX; ORDER DATE: 08/04/2006
-SPECIAL EXCEPTION FOR COUNTRY CLUB, GRANTED
-AMEND PLANS FROM 93-37-SPH & 93-388-X, GRANTED
-SPECIAL EXCEPTION FOR OUTDOOR RECREATION CLUB, DISMISSED
-SETTLEMENT AGREEMENT IS A CONDITION OF APPROVAL
-CHANGES TO SPECIAL EXCEPTION BE SUBJECT TO LEGAL AND SETTLEMENT AGREEMENT PARAGRAPH 9 REQUIREMENTS
CASE NUMBERS: 2004-508-SPH & 2004-600-SPH; ORDER DATE: 10/22/2004
-ADDITIONAL 3 TENNIS COURTS GRANTED AS NON CONFORMING
-ONE ADDITIONAL TENNIS COURT AND TENNIS BUILDING MAY BE CONSTRUCTED WITH LANDSCAPE BARRIER BETWEEN THE COURTS AND ADJACENT PROPERTIES
-TENNIS COURTS 8 AND 9 ELIMINATED
-TERMS OF THE 93-388-X ORDER NOT MODIFIED AND FULLY IN FORCE AND EFFECT
--BOARD OF APPEALS ORDER DATE: 10/31/2005
-THERE WAS NO BREACH IN THE 1993 AGREEMENT
-THE 1993 AGREEMENT CONTAINS OBLIGATIONS BY BOTH PARTIES
-BCC DOES NOT LOSE NONCONFORMING OR SPECIAL EXCEPTION STATUS BY PETITIONING FOR CHANGE
-BCC NEEDS TO PETITION FOR SPECIAL HEARING WHEN MAKING CHANGES TO THE APPROVED PLANS
-PROPOSED PLAN CHANGES TO ADD TENNIS COURTS AND TENNIS BUILDING, DENIED
-- CIRCUIT COURT CASE 03-C-05-012378AA, DISMISSED
CASE NUMBER: 1997-384-SPH; ORDER DATE: 03/31/1998
-BCC HAS UTILIZED THE SPECIAL EXCEPTION PER CASE 1993-388-X
-BCC IS NOT PROPOSING FACILITIES IN VIOLATION
-BCC VIOLATED THE AGREEMENT AND IMMEDIATELY CORRECTED THE VIOLATION
-BCC IS NOT PROPOSING TO CONSTRUCT FACILITIES IN VIOLATION OF 1993-37-SPH
-THERE WAS A TECHNICAL BREACH OF THE AGREEMENT WHICH WAS IMMEDIATELY CURED
-ITEMS 6 AND 7 IN THE PETITION ARE NOT WITHIN THE JURISDICTION OF THE ZONING COMMISSIONER, DISMISSED
-BCC IS PERMITTED TO CONSTRUCT THE TENNIS FACILITY ON PARCEL A
-THE PARKING LOT LIGHTING ADJACENT TO BOMONT ROAD IS APPROPRIATE AND IS PERMITTED TO REMAIN
CASE NUMBER: 1993-388-X; ORDER DATE: 06/23/1993
-SPECIAL EXCEPTION GRANTED ON PARCELS A AND B
-TERMS OF 1993 AGREEMENT INCORPORATED INTO ORDER
CASE NUMBER: 1993-037-SPH; ORDER DATE: 03/05/1993
-SPECIAL HEARING FOR PORTIONS OF PROPERTY OWNED BY OTHERS ON 09/26/1963, DENIED
-SPECIAL HEARING FOR PORTIONS OF PROPERTY OWNED BY BCC ON 09/26/1963, GRANTED
PREVIOUS CRG, DRC, WAIVERS: NONE KNOWN
ZONING: RC-5
ZONING MAP NUMBERS: 051A3, 051B3, 060A1,060B1
OWNER:
BALTIMORE COUNTY CLUB OF BALTIMORE CITY, INC.
TAX ACCOUNT NUMBER: 08-0200-1650
DEED REFERENCE: WPC 592/324
TAX MAP #60, PARCEL 38
EXISTING USE - COUNTRY CLUB
PROPOSED USE - COUNTRY CLUB (ADDITION TO CLUBHOUSE)
NO SIGNS PROPOSED
THE PROPERTY IS SERVED BY PUBLIC WATER AND SEWER
THERE ARE NO STREAMS, WETLANDS, FLOODPLAINS IN THE VICINITY OF THE PROPOSED ADDITION
ON-SITE FIRE HYDRANTS ARE PROVIDED

PARKING REQUIRED: 36 GOLF HOLES @ 8 PARKING SPACES / HOLE = 288 PARKING SPACES REQUIRED
PARKING PROVIDED: 307 PARKING SPACES

BENCHMARK INFO:

B.M. TRAV-A: 728 ELEV. 603.40
N 647,978.31 E 1,409,552.74
SPIKE AT THE NORTHEAST CORNER OF JENIFER ROAD & PRIVATE DRIVE.



Vicinity Map
SCALE: 1" = 500'

"Approved as within the Spirit and Intent of the current zoning of the property and prior zoning decisions. See letter dated October 30, 2020."

11/24/20
W. Carl Richards, Zoning Supervisor — Date
2006-652-SPHX

No.	Revison / Issue	By	Date

Design and Drawing based on Maryland Coordinate System (MCS):
Horizontal: NAD 83/91 Vertical: NAVD 88

SCALE: 1"=20'
0' 20' 40'

Project Name and Address:

BALTIMORE COUNTRY CLUB FIVE FARMS

11500 Mays Chapel Road
Timonium, Maryland 21093

PROFESSIONAL CERTIFICATION:
I hereby certify that these documents were prepared or approved by me, and that I am a duly licensed profesional engineer under the laws of the state of Maryland, License No. 21162 Expiration Date: 03-20-2022.

Owner Developer: BALTIMORE COUNTRY CLUB OF BALTIMORE CITY
11500 Mays Chapel Road
Timonium, Maryland 21093

Engineer: MATIS WARFIELD Consulting Engineers
954 Ridgebrook Road, Suite 120
Sparks, Maryland 21152
Phone: (410) 472-5415

SITE PLAN TO ACCOMPANY SPIRIT AND INTENT REQUEST

Tax Map: 60	Election District: 08
Parcel: 38	Councilmanic District: 03
Date 11/23/2020	Sheet Number 01 OF 01

C-01

IN RE: **PETITIONS FOR SPECIAL HEARING AND SPECIAL EXCEPTION**	*	BEFORE THE
W/S Mays Chapel Road, N Bomont Road **(11500 Mays Chapel Road)**	*	ZONING COMMISSIONER
8th Election District	*	OF
2nd Councilmanic District	*	BALTIMORE COUNTY
Baltimore Country Club of Baltimore City, Inc., by Michael Stot, *Petitioner/Owner*	*	**Case No. 06-652-SPHX**

* * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Special Exception filed by the owner of the property, Baltimore Country Club of Baltimore City, to permit the use of the entire property as a Country Club. The property owner has also requested consideration of a Petition for Special Hearing to amend the previously approved Plans and Orders in Case Nos. 93-37-SPH and 93-388-X. While the property owner had also filed a Petition for Special Exception to approve a portion of the property for use as an Outdoor Recreation Club, and will be explained below, that Petition is now moot. The property in question is known as the Baltimore County Club at Five Farms property, located at 11500 Mays Chapel Road in Lutherville, Maryland. The property contains approximately 409 acres and is zoned R.C.5.

A requisite public hearing in this matter was held on July 27, 2006. Appearing in support of the request were G. Scott Barhight, Esquire, with the law firm of Whiteford, Taylor & Preston, on behalf of the Petitioner/Owner, Baltimore Country Club of Baltimore City ("BCC"), T. Edgie Russell, President, David deVilliers, Jr., Board Member, Michael R. Stott, the General Manager of BCC, and Michael W. Fisher, a registered landscape architect with Site Resources, Inc. Also appearing at the hearing were J. Carroll Holzer, Esquire, attorney for Deborah Terry,

Dr. Donna Dow, Joseph R.B. Tubman, and Courtney Spies, Jr. who live in close proximity to the subject property, and Peter Max Zimmerman, People's Counsel for Baltimore County. David Lykens, a representative of the Department of Environmental Protection and Resource Management (DEPRM) was also in attendance to present a revised comment from his agency, which was introduced as Baltimore County Exhibit 1.

The property was posted with Notice of Hearing on July 11, 2006, 15 days prior to the hearing, in order to notify all interested citizens of the requested zoning relief. In addition, a Notice of Zoning Hearing was published in *"The Jeffersonian"* newspaper on July 13, 2006 to notify any interested persons of the scheduled hearing date. Further, both counsel explained the many telephone conferences, face-to-face meetings and email transmissions with all of the known associations in the vicinity of the property, including the Valleys Planning Council, the Falls Road Community Association and the Lutherville-Timonium Community Council. Also appearing during the hearing was Mr. Lou Miller representing the Lutherville-Timonium Community Council. Although the newspaper advertisement was one day short of the statutory requirement, all of the facts taken as a whole make it clear to me that there has been substantial compliance with the notice requirements of Baltimore County Code §32-3-302. The clear intent of the statute to provide adequate notice to all potential parties has been met.

A Site Plan for the property, which was prepared by Mr. Fisher, was accepted into evidence and marked as Petitioner's Exhibit 1. The Site Plan shows the existing uses and improvements on the property, as well as proposed tennis courts and related improvements.

The property currently enjoys non-conforming use status as a Country Club on a portion of the property, and also currently enjoys Special Exception approval for a Country Club on other portions of the Property. A full summary of the relevant zoning history was provided in

the Agreed Statement of Facts provided by BCC and the neighbors, which was introduced as Petitioner's Exhibit 2.

After much hard work, BCC entered into a Settlement Agreement with the persons represented by Mr. Holzer (referred to herein as the "Neighbors"). A copy of that was introduced as Petitioner's Exhibit 4. As part of this Settlement Agreement, the parties will be dismissing all appeals taken from Case Nos. 04-508-SPH and 04-600-SPH. This Settlement Agreement contains numerous restrictions and conditions which will benefit the surrounding community, including limitations on future amendments.

Mr. Fisher, who was accepted as an expert in landscape architecture and zoning in Baltimore County, testified in support of the Petition for Special Exception. Mr. Fisher described the property and the surrounding neighborhood as well as the current and proposed uses. Mr. Fisher opined that the requirements of *Schultz v. Pritts*, 291 Md. 1 (1981) and Baltimore County Zoning Regulations (B.C.Z.R.) §502.1 have been met.

The proposed special exception will cover the entire Baltimore Country Club property and thus terminate the non-conforming status of the majority of the property in a way which places it in a legally permitted special exception category. The impetus of the special exception proposal is the addition of a tennis center. Prior to the proposed resolution here, earlier versions of the proposal led to protracted litigation over the scope of the non-conforming use. The special exception here has the effect of ending that litigation in a way which is agreeable to BCC and the neighbors, and which is consistent with Baltimore County law.

Mr. Fisher has worked with the project for over three years. He, under questioning by Mr. Zimmerman, described the locale as a suburban neighborhood. There are no agricultural zones or areas nearby. The site does not overlay a significant aquifer. To his knowledge, there

is no history of any significant adverse environmental impacts. The traffic access is good. In this context, the site is a good location for a country club. Mr. Fisher also highlighted BCC's particular efforts made here, in conjunction with the new tennis center, to provide added buffers, landscaping, stormwater management, and noise control measures to protect the surrounding residential areas. In other words, under the *Schultz* test, it does not appear " . . . to have any adverse effects in the neighborhood above and beyond those inherently associated with such a special exception use irrespective of its location within the zone." 291 Md. At 15.

Based upon the expert testimony of Mr. Fisher, the information supplied by the Agreed Statement of Facts accepted as Petitioner's Exhibit 2, as well as the lack of any negative comments from the various County agencies which provided Zoning Advisory Committee (ZAC) comments, clearly there is no dispute as to either the relevant facts or the legal reasons for why the Petition for Special Exception to approve the use of the property as a Country Club should not be granted. At the time BCC filed the Petitions, the Settlement Agreement had not yet been finalized. The finalized Settlement Agreement documents that the parties agree that the alternative Special Exception request to approve a portion of the property as an Outdoor Recreation Club is now moot. Therefore, I will dismiss that Petition without prejudice.

A Country Club is permitted on the property by special exception per B.C.Z.R. §1A04.2B.8. A special exception use has been identified by the Appellate Courts of this State as a use which is presumptively valid, absent a showing that the proposed use will cause unique detriment to the health, safety or general welfare of the surrounding community. Further, the petitioner must produce persuasive evidence that the standards enunciated in B.C.Z.R. §502.1 are satisfied in order for a special exception to be approved.

ORDER RECEIVED FOR FILING
Date 8-4-09
By 3

As testified to by Mr. Fisher and as described in the Agreed Statement of Facts, all of the required standards of B.C.Z.R. §502.1 have been met. I am persuaded that the Petitioner has met its burden. There is no evidence that the proposed use will, in any manner, adversely affect the health, safety or general welfare of the locale. The property is currently being used as a Country Club with no harm to the community. The proposed use is still a Country Club. What is being proposed is a change to the tennis facilities, as shown on Petitioner's Exhibit 1. The proposed changes are consistent with the current and existing use of the property and will not have an adverse impact on the surrounding community. For all of these reasons, I am persuaded that the Petition for Special Exception for a Country Club should be granted.

Pursuant to the advertisement, posting of the property and public hearing held on these Petitions, and for the reasons set forth above, it is my opinion that the Petition for Special Exception to permit use of the entire property as a Country Club should be granted, and that the Petition for Special Hearing to amend the previously approved Plans and Orders be granted as well. The Petition for Special Exception for use of a portion of the property as an Outdoor Recreation Club shall be dismissed as moot.

THEREFORE, IT IS ORDERED, by the Zoning Commissioner for Baltimore County this 4th day of August 2006, that the Petition for Special Exception to permit use of the property as a Country Club, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, and

IT IS FURTHER ORDERED, that the Petition for Special Hearing to amend the previously approved Plans and Orders in Case Nos. 93-37-SPH and 93-388-X be and is hereby GRANTED, and

ORDER RECEIVED FOR FILING
Date 8-4-06
By DJ

IT IS FURTHER ORDERED, that the Petition for Special Exception to permit a portion of the property to be used as an Outdoor Recreation Club shall be DISMISSED AS MOOT, without prejudice; and

IT IS FURTHER ORDERED, that the terms and conditions of the Settlement Agreement, Petitioner's Exhibit 4, be a condition of this approval; and

IT IS FURTHER ORDERED, that any changes to the approved special exception be subject to all relevant legal requirements and, in addition, to all requirements set forth in Paragraph 9 of the Settlement Agreement.

Any appeal of this Order shall be taken in accordance with the Baltimore County Code Section 32-3-401.

WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

ORDER RECEIVED FOR FILING
Date 8-4-09
By D. Wiseman

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

August 4, 2006

WILLIAM J. WISEMAN III
Zoning Commissioner

G. Scott Barhight, Esquire
Whiteford, Taylor & Preston
210 West Pennsylvania Avenue
Towson, Maryland 21286

RE: **PETITIONS FOR SPECIAL HEARING AND SPECIAL EXCEPTION**
W/S Mays Chapel Road, N Bomont Road
(11500 Mays Chapel Road)
8th Election District – 2nd Council District
Baltimore Country Club of Baltimore City, Inc., by Michael Stot – Petitioner/Owner
Case No. 06-652-SPHX

Dear Mr. Barhight:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petitions for Special Hearing and Special Exception have been granted, in accordance with the attached Order.

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

Very truly yours,

WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

WJWdlw

c: Mr. Thomas Edgie Russell, 3938 Worthington Avenue,
P.O. Box 330, Glyndon, Md. 21071
Mr. David deVilliers, Jr., 42 Woodward Lane, Lutherville, Md. 21093
Mr. Michael R. Stott, 1137 Fairbanks Drive, Lutherville, Md. 21093
Mr. Michael W. Fisher, Site Resources, Inc., 14315 Jarrettsville Pike,
Phoenix, Md. 21131

J. Carroll Holzer, Esquire, Holzer & Lee, 508 Fairmount Avenue, Towson, Md. 21286
Ms. Deborah Terry, 747 Bomont Road, Timonium, Md. 21093
Dr. Donna Dow, 721 Bomont Road, Lutherville, Md. 21093
Mr. and Mrs. Joseph R.B. Tubman, 11431 Mays Chapel Road, Timonium, Md. 21093
Courtney Spies, Jr., 722 Bomont Road, Lutherville, Md. 21093
Mr. Louis W. Miller, 44 E. Timonium Road, Timonium, Md. 21093
People's Counsel; David Lykens, DEPRM; Case File

bc: Counsel of Record

Gentlemen:

Two proposed versions of the Order were submitted for consideration. I have, after some editing, executed the 1st (referred to by Mr. Barhight in his e-mail as Version 2). While I am apprehensive of Mr. Zimmerman's analysis of the *Schultz* standards and his desire to have Version 3 selected, I feel I must remain consistent in my views as reflected in prior decisions. See for example the Order in recent Case No. 06-449-X (beginning at Page 8) where I discuss my interpretation of *Schultz and Lucas* (copy enclosed for your convenience). I hope this lends understanding for my reason in electing to execute Version 2.

It was a pleasure to have handled this matter with you, and I trust that we will have other matters in the future. Quite possibly, Mr. Zimmerman will ultimately prove to be correct. We shall await the Appellate decision in *Citizens v. Loyola* in this regard.

IN RE: PETITION FOR SPECIAL HEARING AND SPECIAL EXCEPTION

BALTIMORE COUNTRY CLUB OF BALTIMORE CITY ("BCC")
Legal Owner
11500 Mays Chapel Road
8th Election District, 2nd Councilmanic District

* BEFORE THE

* ZONING COMMISSIONER

* OF BALTIMORE COUNTY

* Case No.:

FINDINGS OF FACT AND CONCLUSION OF LAW

This matter comes before the Zoning Commissioner for Baltimore County for consideration of a Petition for Special Exception filed by the owner of the property to permit use of the entire property as a Country Club. The property owner has also requested consideration of a Petition for Special Hearing to amend the previously approved Plans and Orders in case numbers 93-37-SPH and 93-388-X. While the property owner had also filed a Petition for Special Exception to approve a portion of the property for use as an Outdoor Recreation Club, as is explained below, that Petition is now moot. The property in question is known as the Baltimore County Club at Five Farms property, located at 11500 Mays Chapel Road in Lutherville, Maryland.

A public hearing in this matter was held on July 27, 2006. Appearing at the public hearing in support of the request were G. Scott Barhight, Esq., with the law firm of Whiteford, Taylor & Preston, on behalf of the Petitioner/Owner Baltimore Country Club of Baltimore City ("BCC"), Michael R. Stott, the General Manager of BCC, and Michael W. Fisher, a registered landscape architect with Site Resources, Inc. Also appearing at the hearing were J. Carroll Holzer, Esq., attorney for a number of residents that live in close proximity to the subject property, and Peter Max Zimmerman, People's Counsel for Baltimore County.

The property was posted with Notice of Hearing on _____, for at least 15 days prior to the hearing, in order to notify all interested citizens of the requested zoning relief. In addition, a Notice of Zoning Hearing was published in "The Jeffersonian" newspaper on _____ to notify any interested persons of the scheduled hearing date.

A Site Plan for the property, which was prepared by Mr. Fisher, was accepted into evidence as **Exhibit 1**. The Site Plan shows the existing uses and improvements on the property, as well as proposed tennis courts and related improvements.

The property currently enjoys non-conforming use status as a Country Club on a portion of the property, and also currently enjoys Special Exception approval for a Country Club on other portions of the Property. A full summary of the relevant zoning history was provided in the Agreed Statement of Facts provided by BCC and the neighbors, a copy of which is attached hereto as **Exhibit 2**.

After much hard work, BCC entered into a Settlement Agreement with the persons represented by Mr. Holzer (referred to herein as the "Neighbors"). A copy of that is attached hereto as **Exhibit 3**. As part of this Settlement Agreement, the parties have dismissed all appeals taken from Case Nos. 04-508-SPH and 04-600-SPH.

Based on the information supplied by the Agreed Statement of Facts accepted as **Exhibit 2**, clearly there is no dispute as to either the relevant facts or the legal reasons for why the Petition for Special Exception to approve the use of the property as a Country Club should be granted. At the time BCC filed the Petitions, the Settlement Agreement had not yet been finalized. The finalized Settlement Agreement documents that the parties agree that the alternative Special Exception request to approve a portion of the property as an Outdoor Recreation Club is now moot. Therefore, I will dismiss that Petition without prejudice.

A Country Club is permitted on the property by special exception per Baltimore County Zoning Regulations ("BCZR") §1A04.2B.8. A special exception use has been identified by the Appellate Courts of this State as a use which is presumptively valid, absent a showing that the proposed use will cause unique detriment to the health, safety or general welfare of the surrounding community. Further, the petitioner must produce persuasive evidence that the standards enunciated in BCZR §502.1 are satisfied in order for a special exception to be approved.

As described in the Agreed Statement of Facts, all of the required standards of BCZR §502.1 have been met. I am persuaded that the Petitioner has met its burden. There is no evidence that the proposed use will, in any manner, adversely affect the health, safety or general welfare of the locale. The property is currently being used as a Country Club with no harm to the community. The proposed use is still a Country Club. What is being proposed is a change to the tennis facilities, as shown on **Exhibit 1.** The proposed changes are consistent with the current and existing use of the property and will not have an adverse impact on the surrounding community. For all of these reasons, I am persuaded that the Petition for Special Exception for a Country Club should be granted.

Pursuant to the advertisement, posting of the property and public hearing held on these Petitions, and for the reasons set forth above, it is my opinion that the Petition for Special Exception to permit use of the entire property as a Country Club should be granted, and that the Petition for Special Hearing to amend the previously approved Plans and Orders be granted as well. The Petition for Special Exception for use of a portion of the property as an Outdoor Recreation Club shall be dismissed as moot.

THEREFORE, IT IS ORDERED, by the Zoning Commissioner for Baltimore County this _____ day of _____, 2006, that the Petition for Special Exception to permit use of the property as a Country Club be GRANTED, and

IT IS FURTHER ORDERED, that the Petition for Special Hearing to amend the previously approved Plans and Orders in Cases 93-37-SPH and 93-388-X be GRANTED, and

IT IS FURTHER ORDERED, that the Petition for Special Exception to permit a portion of the property to be used as an Outdoor Recreation Club shall be DISMISSED AS MOOT, without prejudice; and

IT IS FURTHER ORDERED, that the terms and conditions of the Settlement Agreement, Exhibit 3, be a condition of this approval.

Any appeal of this Order shall be taken in accordance with the Baltimore County Code Section 32-3-401.

William J. Wiseman, III
Zoning Commissioner
for Baltimore County

364154v2

VERSION (3)

IN RE: PETITION FOR SPECIAL HEARING AND SPECIAL EXCEPTION	*	BEFORE THE
BALTIMORE COUNTRY CLUB OF BALTIMORE CITY ("BCC") Legal Owner	*	ZONING COMMISSIONER OF BALTIMORE COUNTY
11500 Mays Chapel Road 8th Election District, 2nd Councilmanic District	*	Case No.: 06-652-SPHX
	*	

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for Baltimore County for consideration of a Petition for Special Exception filed by the owner of the property to permit use of the entire property as a Country Club. The property owner has also requested consideration of a Petition for Special Hearing to amend the previously approved Plans and Orders in case numbers 93-37-SPH and 93-388-X. While the property owner had also filed a Petition for Special Exception to approve a portion of the property for use as an Outdoor Recreation Club, as is explained below, that Petition is now moot. The property in question is known as the Baltimore County Club at Five Farms property, located at 11500 Mays Chapel Road in Lutherville, Maryland. The property contains approximately 409 acres and is zoned R.C. 5.

A public hearing in this matter was held on July 27, 2006. Appearing at the public hearing in support of the request were G. Scott Barhight, Esq., with the law firm of Whiteford, Taylor & Preston, on behalf of the Petitioner/Owner Baltimore Country Club of Baltimore City ("BCC"), T. Edgie Russell, President, David deVilliers, Jr., Board Member, Michael R. Stott, the General Manager of BCC, and Michael W. Fisher, a registered landscape architect with Site Resources, Inc. Also appearing at the hearing were J. Carroll Holzer, Esq., attorney for Deborah Terry, Donna Dow, Joseph R.B. Tubman, and Courtney Spies, Jr. who live in close proximity to the subject property, and Peter Max Zimmerman, People's Counsel for Baltimore County. David

Lykens, a representative of the Department of Environmental Protection and Resource Management was also in attendance to present a revised comment from his agency, which was introduced as Baltimore County Exhibit 1.

The property was posted with Notice of Hearing on July 11, 2006, for at least 15 days prior to the hearing, in order to notify all interested citizens of the requested zoning relief. In addition, a Notice of Zoning Hearing was published in "The Jeffersonian" newspaper on July 13, 2006 to notify any interested persons of the scheduled hearing date. Further, both counsel explained the many telephone conferences, face to face meetings and email with all of the known associations in the vicinity of the property, including the Valleys Planning Council, the Falls Road Community Association and the Lutherville-Timonium Community Council. Also appearing during the hearing was Mr. Lou Miller representing the Lutherville-Timonium Community Council. Although the newspaper advertisement was one day short of the statutory requirement, all of the facts taken as a whole make it clear to me that there has been substantial compliance with the notice requirements of Baltimore County Code §32-3-302. The clear intent of the statute to provide adequate notice to all potential parties has been met.

A Site Plan for the property, which was prepared by Mr. Fisher, was accepted into evidence as Petitioner's Exhibit 1. The Site Plan shows the existing uses and improvements on the property, as well as proposed tennis courts and related improvements.

The property currently enjoys non-conforming use status as a Country Club on a portion of the property, and also currently enjoys Special Exception approval for a Country Club on other portions of the Property. A full summary of the relevant zoning history was provided in the Agreed Statement of Facts provided by BCC and the neighbors, which was introduced as Petitioner's Exhibit 2.

After much hard work, BCC entered into a Settlement Agreement with the persons represented by Mr. Holzer (referred to herein as the "Neighbors"). A copy of that was introduced as Petitioner's Exhibit 4. As part of this Settlement Agreement, the parties will be dismissing all appeals taken from Case Nos. 04-508-SPH and 04-600-SPH. This Settlement Agreement contains numerous restrictions and conditions which will benefit the surrounding community, including limitations on future amendments.

Mr. Fisher, who was accepted as an expert in landscape architecture and zoning in Baltimore County, testified in support of the Petition for Special Exception. Mr. Fisher described the property and the surrounding neighborhood as well as the current and proposed uses. Mr. Fisher opined that the requirements of *Schultz v. Pritts*, 291 Md. 1 (1981) and Baltimore County Zoning Regulations §502.1 have been met.

The proposed special exception will cover the entire Baltimore Country Club property and thus terminate the non-conforming status of the majority of the property in a way which places it in a legally permitted special exception category. The impetus of the special exception proposal is the addition of a tennis center. Prior to the proposed resolution here, earlier versions of the proposal led to protracted litigation over the scope of the non-conforming use. The special exception here has the effect of ending that litigation in a way which is agreeable to BCC and the neighbors, and which is consistent with Baltimore County law.

Mr. Fisher has worked with the project for over three years. He described the neighborhood as a suburban neighborhood. There are no agricultural zones or areas nearby. The site does not overlay a significant aquifer. To his knowledge, there is no history of any significant adverse environmental impacts. The traffic access is good. In this context, the site is a good location for a country club. Mr. Fisher also highlighted BCC's particular efforts made

here, in conjunction with the new tennis center, to provide added buffers, landscaping, stormwater management, and noise control measures to protect the surrounding residential areas. In particular, Mr. Fisher compared this site to potential R.C. 5 Zone sites in more remote agricultural areas of the County, where there could be significant impacts on agricultural areas, troublesome environmental impacts, and access problems on narrow rural roads. It does not present the problems or adverse effects likely to occur at other potential sites in the R.C. 5 Zone. In other words, under the Schultz test, it does not appear ". . . to have any adverse effects in the neighborhood above and beyond those inherently associated with such a special exception use irrespective of its location within the zone." 291 Md. At 15.

Based upon the expert testimony of Mr. Fisher, the information supplied by the Agreed Statement of Facts accepted as Petitioner's Exhibit 2, as well as the lack of any negative comments from the various County agencies which provided zoning advisory committee comments, clearly there is no dispute as to either the relevant facts or the legal reasons for why the Petition for Special Exception to approve the use of the property as a Country Club should be granted. At the time BCC filed the Petitions, the Settlement Agreement had not yet been finalized. The finalized Settlement Agreement documents that the parties agree that the alternative Special Exception request to approve a portion of the property as an Outdoor Recreation Club is now moot. Therefore, I will dismiss that Petition without prejudice.

A Country Club is permitted on the property by special exception per Baltimore County Zoning Regulations ("BCZR") §1A04.2B.8. A special exception use has been identified by the Appellate Courts of this State as a use which is presumptively valid, absent a showing that the proposed use will cause unique detriment to the health, safety or general welfare of the surrounding community. Further, the petitioner must produce persuasive evidence that the

standards enunciated in BCZR §502.1 are satisfied in order for a special exception to be approved.

As testified to by Mr. Fisher and as described in the Agreed Statement of Facts, all of the required standards of BCZR §502.1 have been met. I am persuaded that the Petitioner has met its burden. There is no evidence that the proposed use will, in any manner, adversely affect the health, safety or general welfare of the locale. The property is currently being used as a Country Club with no harm to the community. The proposed use is still a Country Club. What is being proposed is a change to the tennis facilities, as shown on Petitioner's Exhibit 1. The proposed changes are consistent with the current and existing use of the property and will not have an adverse impact on the surrounding community. For all of these reasons, I am persuaded that the Petition for Special Exception for a Country Club should be granted.

Pursuant to the advertisement, posting of the property and public hearing held on these Petitions, and for the reasons set forth above, it is my opinion that the Petition for Special Exception to permit use of the entire property as a Country Club should be granted, and that the Petition for Special Hearing to amend the previously approved Plans and Orders be granted as well. The Petition for Special Exception for use of a portion of the property as an Outdoor Recreation Club shall be dismissed as moot.

THEREFORE, IT IS ORDERED, by the Zoning Commissioner for Baltimore County this _____ day of _____, 2006, that the Petition for Special Exception to permit use of the property as a Country Club be GRANTED, and

IT IS FURTHER ORDERED, that the Petition for Special Hearing to amend the previously approved Plans and Orders in Cases 93-37-SPH and 93-388-X be GRANTED, and

IT IS FURTHER ORDERED, that the Petition for Special Exception to permit a portion of the property to be used as an Outdoor Recreation Club shall be DISMISSED AS MOOT, without prejudice; and

IT IS FURTHER ORDERED, that the terms and conditions of the Settlement Agreement, Petitioner's Exhibit 4, be a condition of this approval; and

IT IS FURTHER ORDERED, that any changes to the approved special exception be subject to all relevant legal requirements and, in addition, to all requirements set forth in Paragraph 9 of the Settlement Agreement.

Any appeal of this Order shall be taken in accordance with the Baltimore County Code Section 32-3-401.

William J. Wiseman, III
Zoning Commissioner
for Baltimore County

365494v2

IN RE: PETITION FOR SPECIAL HEARING AND SPECIAL EXCEPTION

BALTIMORE COUNTRY CLUB OF BALTIMORE CITY ("BCC")
Legal Owner
11500 Mays Chapel Road
8th Election District, 2nd Councilmanic District

* BEFORE THE

* ZONING COMMISSIONER

* OF BALTIMORE COUNTY

* Case No.: 06-652-SPHX

AGREED STATEMENT OF FACTS

This matter comes before the Zoning Commissioner for Baltimore County for consideration of a Petition for Special Exception filed by the owner of the property to permit use of the entire property as a Country Club. The property owner has also requested consideration of a Petition for Special Hearing to amend the previously approved Plans and Orders in case numbers 93-37-SPH and 93-388-X. While the property owner had also filed a Petition for Special Exception to approve a portion of the property for use as an Outdoor Recreation Club, the property owner now respectfully requests that Petition be dismissed as moot. The property in question is known as the Baltimore County Club at Five Farms property, located at 11500 Mays Chapel Road in Lutherville, Maryland. The basic site plan information is identified on the attached **Exhibit 1**, the Plan to Accompany the Zoning Hearing.

Representing the property owner and Petitioner, Baltimore Country Club of Baltimore City ("BCC") is G. Scott Barhight, Esq. and Whiteford, Taylor & Preston, L.L.P. Representing Deborah Terry, Donna Dow, Joseph R.B. Tubman, and Courtney Spies, Jr. (the "Community") is J. Carroll Holzer, Esq. Peter Max Zimmerman, People's Counsel of Baltimore County is a party to these proceedings as well.

The parties now submit this Agreed Statement of Facts in support of their joint request that BCC's Petition for Special Exception for a Country Club be granted.

H-1

The Property's Zoning History

BCC acquired the majority of the property located at 11500 Mays Chapel Road (the "Property") from May 5, 1924 to May 26, 1926. At that time, there were no zoning regulations in Baltimore County. Since that time, BCC has used the Property as a country club and was granted non-conforming use status in Case 93-37-SPH. BCC acquired Parcels A and B (the "Special Exception Area") after the critical date for non-conforming status and was granted special exception status for that portion of the Property in Case 93-388-X.

A Petition for Special Hearing was filed by the Community in Case 04-508-SPH. Subsequently, BCC filed a Petition for Special Hearing in Case 04-600-SPH. The cases were combined and public hearings were held before the Deputy Zoning Commissioner. After full hearings on the merits, the Deputy Zoning Commissioner issued his Findings of Fact and Conclusions of Law on October 22, 2004, granting in part and denying in part the relief sought in the Community's Case 04-508-SPH and granting in part and denying in part, with conditions the relief sought in BCC's Case 04-600-SPH. On appeal, the Board of Appeals issued its Order on Cases 04-508 and 04-600 on October 15, 2005, denying BCC's requested expansion and denying in part and granting in part the relief requested by the Community. Appeals were taken to the Circuit Court by both parties. Those cases have not been heard by the Circuit Court and in accordance with the Settlement Agreement entered into by the parties, those cases will be dismissed.

Below is a more comprehensive summary of the property's zoning history.

Case 93-37-SPH

The majority of BCC's property was granted non-conforming use status in Case 93-37-

SPH. Specifically, Case 93-37-SPH, confirmed a non-conforming country club use for what has been identified as BCC's Non-conforming Use Area.

Lawrence E. Schmidt, then the Zoning Commissioner, found that a country club's use of land may be non-conforming. Zoning Commissioner Schmidt held that BCC's use was in existence at the time zoning began in Baltimore County and that BCC's use has continued in the same manner for the past 48 years. He further held that the land which encompassed the Property as it existed in 1963 is non-conforming.

The approved Plan to Accompany Special Hearing Petition contains four "site use areas" including the Golf, Social, Outdoor Recreation and Residential Areas. These site use areas reflect the traditional uses on the Property.

The Community appealed the decision in Case 93-37-SPH, and while the appeal was pending, the parties entered into a settlement agreement (the "1993 Agreement") to resolve their differences. Accordingly, the Community dismissed its appeal.

Case 93-388-X

A portion of the Property was not granted nonconforming use status. As a result, another zoning case was filed and special exception relief was granted to BCC. Specifically, two small parcels were granted special exception relief for a country club in Case 93-388-X. The site plan approved in Case 93-388-X shows three tennis courts and parking on "Parcel A," formerly known as the Boyce Parcel. As a result of the 1993 Agreement, the Community appeared at the special exception hearing in support of BCC.

Case 97-384-SPH

As a result of a dispute which arose in 1997, a subsequent Order was entered in Case 97-384-SPH. Case 97-384-SPH involved a Petition for Special Hearing filed by the Community.

The Deputy Zoning Commissioner's decision in the 1997 case, addressed a number of issues raised by the Community.

Case 04-508-SPH & Case 04-600-SPH

BCC desired to amend the previously approved Plans and Orders and the Community had questions regarding the proposed activities. Specifically, BCC requested approval of certain refinements to the previously approved tennis improvements for the Nonconforming Use Area and the Special Exception Area. The Zoning Commissioner issued an Order granting in part and denying in part the relief sought in the Community's Case 04-508-SPH and granting in part and denying in part with conditions the relief sought in BCC's Case 04-600-SPH. On appeal, the Board of Appeals issued its Order on Cases 04-508 and 04-600 on October 15, 2005, denying BCC's requested expansion and denying in part and granting in part the relief requested by the Community.

Relevant Facts

In addition to the above, the parties herein stipulate to the following facts in support of BCC's Petition for Special Exception for a Country Club:

1. A grant of the requested Special Exception for a Country Club will not:

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

   B. Tend to create congestion in roads, streets or alleys therein;

   C. Create a potential hazard from fire, panic or other dangers;

   D. Tend to overcrowd land and cause undue concentration of population;

   E. Interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences or improvements;

   F. Interfere with adequate light and air;

   G. Be inconsistent with the purposes of the property's zoning classification nor in

any other way inconsistent with the spirit and intent of these Zoning Regulations;

H. Be inconsistent with the impermeable surface and vegetative retention provisions of these Zoning Regulations; nor

I. Be detrimental to the environmental and natural resources of the site and vicinity including forests, streams, wetlands, aquifers and floodplains in an R.C. 2, R.C. 4, R.C. 5 or R.C. 7 Zone.

2. The proposed changes are consistent with the current and existing use of the property and will not have an adverse impact on the surrounding community.

G. Scott Barhight
Jennifer R. Busse
Whiteford, Taylor & Preston L.L.P.
210 West Pennsylvania Avenue
Towson, Maryland 21204-4515
Attorneys for Baltimore Country Club of Baltimore City

J. Carroll Holzer, Esq.
Holzer & Lee
508 Fairmount Avenue
Towson, Maryland 21286
Attorney for Deborah Terry, et al.

Peter Max Zimmerman, Esq.
People's Counsel for Baltimore County
Old Courthouse, Room 47
400 Washington Avenue
Towson, Maryland 21204

364154

652

Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 11500 Mays Chapel Road
which is presently zoned RC5

This Petition shall be filed with the 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

Please 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:

N/A
Name - Type or Print

Signature

Address Telephone No.

City State Zip Code

Attorney For Petitioner:

G. Scott Barhight
Name - Type or Print

Signature

Whiteford, Taylor & Preston L.L.P.
Company

210 W. Pennsylvania Avenue, 4th Floor 410-832-2050
Address Telephone No.

Towson, Maryland 21204
City State Zip Code

Legal Owner(s):

Baltimore County Club of Baltimore City, Inc.
Michael R. Stott
Name

General Manager and COO
Title

Signature

11500 Mays Chapel Road 410-832-2050
Address Telephone No.

Timonium, Maryland 21093
City State Zip Code

Representative to be Contacted:

G. Scott Barhight, Esq.
Name

210 W. Pennsylvania Avenue 410-832-2050
Address Telephone No.

Towson, Maryland 21204
City State Zip Code

ORDER RECEIVED FOR FILING
Date 6-4-06
By

Case No. 06 652 SPHX

REV 9/15/98

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING 2HRS

UNAVAILABLE FOR HEARING —

Reviewed By JL/WCR Date 6/16/06

Attachment to Petition for Special Hearing

Baltimore Country Club of Baltimore City
11500 Mays Chapel Road
Timonium, Maryland 21093
Zoned RC 5

Case No.: _____

Petition for Special Hearing to amend the previously approved Plan and Order in Case 93-37-SPH.

Petition for Special Hearing to amend the previously approved Special Exception approved in Case 93-388-X.

652

Petition for Special Exception

to the Zoning Commissioner of Baltimore County

for the property located at 11500 Mays Chapel Road

which is presently zoned RC5

This Petition shall be filed with the *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 Exception under the Zoning Regulations of Baltimore County, to use the herein described property for

Please 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 Exception, 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:

N/A
Name - Type or Print

Signature

Address Telephone No.

City State Zip Code

Attorney For Petitioner:

G. Scott Barhight
Name - Type or Print

Signature

Whiteford, Taylor & Preston L.L.P.
Company

210 W. Pennsylvania Avenue, 4th Floor 410-832-2050
Address Telephone No.

Towson, Maryland 21204
City State Zip Code

Legal Owner(s):

Baltimore Country Club of Baltimore City, Inc.
Michael R. Stott
Name

General Manager and COO
Title

Signature

11500 Mays Chapel Road 410-832-2050
Address Telephone No.

Timonium, Maryland 21093
City State Zip Code

Representative to be Contacted:

G. Scott Barhight, Esq.
Name

210 W. Pennsylvania Avenue 410-832-2050
Address Telephone No.

Towson, Maryland 21204
City State Zip Code

ORDER RECEIVED FOR FILING
Date 8-4-06
By

Case No. 06 652 SPHX

REV 09/15/98

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING 2HRS

UNAVAILABLE FOR HEARING

Reviewed By JL/WCR Date 6/16/06

Attachment to Petition for Special Exception

Baltimore Country Club of Baltimore City
11500 Mays Chapel Road
Timonium, Maryland 21093
Zoned RC 5

Case No.: _____

Petition for Special Exception to approve use of the property as a Country Club.

In the alternative, Petition for Special Exception to approve use of portions of the property as an Outdoor Recreation Club.

dismissed in open hearing

PLAN 'A'

652

SITE RESOURCES
incorporated
Comprehensive Land Planning & Site Design Services

Description to Accompany
Petition for Special Hearing AND SPECIAL EXCEPTION
409.1 Acre Parcel, Baltimore Country Club
Of Baltimore City Property
Southwest Side of Jenifer Road
North Side of Timonium Road
Eighth Election District, Baltimore County, Maryland

Beginning for the same at the intersection of the centerline of Mays Chapel Road with the centerline of Bomont Road, thence binding on said centerline of Mays Chapel Road the following two course and distances, viz: (1) North 00 degrees 47 minutes West 112.50 feet, and thence (2) North 08 degrees 07 minutes East 12 feet, thence leaving said centerline of Mays Chapel Road and running the following eight courses and distances, viz: (3) South 84 degrees 57 minutes 40 seconds East 256 feet, thence (4) South 87 degrees 38 minutes East 343.08 feet, thence (5) South 56 degrees 57 minutes East 875 feet, thence (6) North 86 degrees 26 minutes East 11.5 feet, thence (7) South 41 degrees 34 minutes 24 seconds East 40.64 feet, thence (8) North 48 degrees 25 minutes 36 seconds East 52.00 feet, thence (9) North 86 degrees 26 minutes East 172 feet, and thence (10) South 03 degrees 34 minutes East 261.25 feet to intersect the centerline of Timonium Road, thence binding on said centerline of Timonium Road the following five courses and distances, viz: (11) North 86 degrees 26 minutes East 132.5 feet, thence (12) South 84 degrees 43 minutes East 82.5 feet, thence (13) South 87 degrees 35 minutes East 660 feet, thence (14) North 77 degrees 18 minutes East 231 feet, and thence (15) North 82 degrees 10 minutes East 495 feet to intersect the northeast side of Jenifer Road, thence leaving the said centerline of Timonium Road and binding on the said northeast side of Jenifer Road (16) North 34 degrees 38 minutes West 985.67 feet, thence (17) North 27 degrees 57 minutes West 660 feet to a point in the centerline of said road, thence (18) North 21 degrees 15 minutes West 283.75 feet to a point in the centerline of said road, thence (19) North 17 degrees 31 minutes

14315 Jarrettsville Pike · P.O. Box 249 · Phoenix, MD 21131-0249
(410) 683-3388 · (410) 683-3389 Fax

West 346.5 feet to a point on the northeast side of said road, thence (20) North 11 degrees 49 minutes West 165 feet to a point on the northeast side of said road, thence (21) North 06 degrees 03 minutes West 753.43 feet, thence (22) South 85 degrees 21 minutes 30 seconds West 21.90 feet to the southwest right-of-way line of said Jenifer Road, thence binding on said right-of-way line (23) Northwesterly, by a line curving to the left with a radius of 650 feet for a distance of 488.67 feet (the arc of said curve being subtended by a chord bearing North 26 degrees 10 minutes 45 seconds West 477.25 feet), thence leaving said right-of-way line (24) North 42 degrees 17 minutes 00 seconds East 20 feet, thence binding along the southwest side of said Jenifer Road (25) North 47 degrees 43 minutes West 1325.17 feet, thence (26) North 25 degrees 15 minutes West 802 feet to a point in said road, thence (27) South 73 degrees 30 minutes West 630 feet to a point on the northwest side of Mays Chapel Road, thence binding on said northwest side of road (28) South 62 degrees 15 minutes West 100 feet, thence (29) South 43 degrees 45 minutes East 15.60 feet to the centerline of said road, thence binding on the centerline of said road (30) South 61 degrees West 160.88 feet, thence (31) South 49 degrees 30 minutes West 66 feet, thence (32) South 33 degrees 38 minutes West 75 feet to a point on the West side of said road, thence binding on said West side, (33) South 10 degrees 24 minutes East 467 feet thence, (34) South 11 degrees 25 minutes East 362 feet to a point in Mays Chapel Road, thence leaving said road and running the following fifteen courses and distances, viz: (35) South 86 degrees 44 minutes West 2459 feet, thence (36) South 08 degrees 51 minutes West 454.75 feet thence (37) North 81 degrees 09 minutes West 350 feet, thence (38) South 08 degrees 30 minutes West 809.42 feet, thence (39) South 82 degrees 42 minutes East 350 feet, thence (40) South 07 degrees 18 minutes West 277.83 feet, thence (41) South 07 degrees 11 minutes West 696.75 feet, thence (42) South 51 degrees 29 minutes East 647.5 feet, thence (43) South 50 degrees 52 minutes East 334.17 feet, thence (44) North 88 degrees 34 minutes East 162 feet, thence (45) North 01 degree 26 minutes West 21 feet, thence (46) North 88 degrees 34 minutes East 100 feet, thence (47) South 01 degree 26 minutes East 21 feet, thence (48) North 88 degrees 34 minutes East 1651.5 feet, and thence (49) South 10 degrees 45 minutes West 264 feet to intersect the centerline of mentioned Bomont Road, thence binding on centerline of the following four courses and distances, viz: (50) South 76 degrees 47 minutes East 150 feet, thence (51) South 84 degrees 52 minutes East 50 feet, thence (52) North 77 degrees 58 minutes East 135 feet, and thence (53) North 87 degrees 18 minutes East 100 feet to the point of beginning containing 409.1 acres of land, more or less.

14315 Jarrettsville Pike · P.O. Box 249 · Phoenix, MD 21131-0249
(410) 683-3388 · (410) 683-3389 Fax

THIS DESCRIPTION HAS BEEN PREPARED FOR ZONING PURPOSES ONLY

AND IS NOT INTENDED TO BE USED FOR CONVEYANCE OR ANY OTHER PURPOSE.

Kenneth R. Kinsey

Maryland Professional Land Surveyor # 10742

June 16, 2006

14315 Jarrettsville Pike · P.O. Box 249 · Phoenix, MD 21131-0249
(410) 683-3388 · (410) 683-3389 Fax

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: # 06-652-SPHX
11500 Mays Chapel Road
West side of Mays Chapel Road, north of Bomont Road
8th Election District — 2nd Councilmanic District
Legal Owner(s): Michael Stott, Baltimore Country Club of Baltimore City, Inc.

Special Hearing: to amend the previously approved Plan and Order in Case *97-37-SPH and to amend the previously* approved Special Exception approved in Case 93-388-X.
Special Exception: to approve use of the property as a Country Club. In the alternative, Petition for Special Exception *to approve use of portions of the property as an* Outdoor Recreation Club.
Hearing: Thursday, July 27,2006 at 9:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue, Towson 21204.

WILLIAM J. WISEMAN, III.
Zoning Commissioner for Baltimore County
NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Contact the Zoning Commissioner's Office at (410) 887-3868.
(2) For information concerning the File and/or Hearing, Contact the Zoning Review Office at (410) 887-3391.
7/180 July 13 102217

CERTIFICATE OF PUBLICATION

7/13/, 2006

THIS IS TO CERTIFY, that the annexed advertisement was published in the following weekly newspaper published in Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 7/13/,2006.

- [X] The Jeffersonian
- [ ] Arbutus Times
- [ ] Catonsville Times
- [ ] Towson Times
- [ ] Owings Mills Times
- [ ] NE Booster/Reporter
- [ ] North County News

S. Wilkinson

LEGAL ADVERTISING

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

#652 JL

No. 5972

DATE 6/16/06 ACCOUNT 001 006 6150

AMOUNT $ 705.00

RECEIVED FROM: Co Rutsy of Taylor

FOR: SPHX. Balto County Club of Balto City Inc

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

PAID RECEIPT
BUSINESS ACTUAL TIME DRW
6/20/2006 6/16/2006 12:39:40
REG W803 WALKIN [illegible]
RECEIPT # 310714 6/16/2006
Dept 5 528 ZONING VERIFICATION
CR NO. 005972
Recpt Tot $705.00
$705.00 CK $.00
Baltimore County, Maryland

CASHIER'S VALIDATION

CERTIFICATE OF POSTING

RE: Case No.: 06-652-SPHX

Petitioner/Developer: MICHAEL SCOTT
BALTO. COUNTRY CLUB OF BALTO. CITY, INC

Date of Hearing/Closing: 7-27-06

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

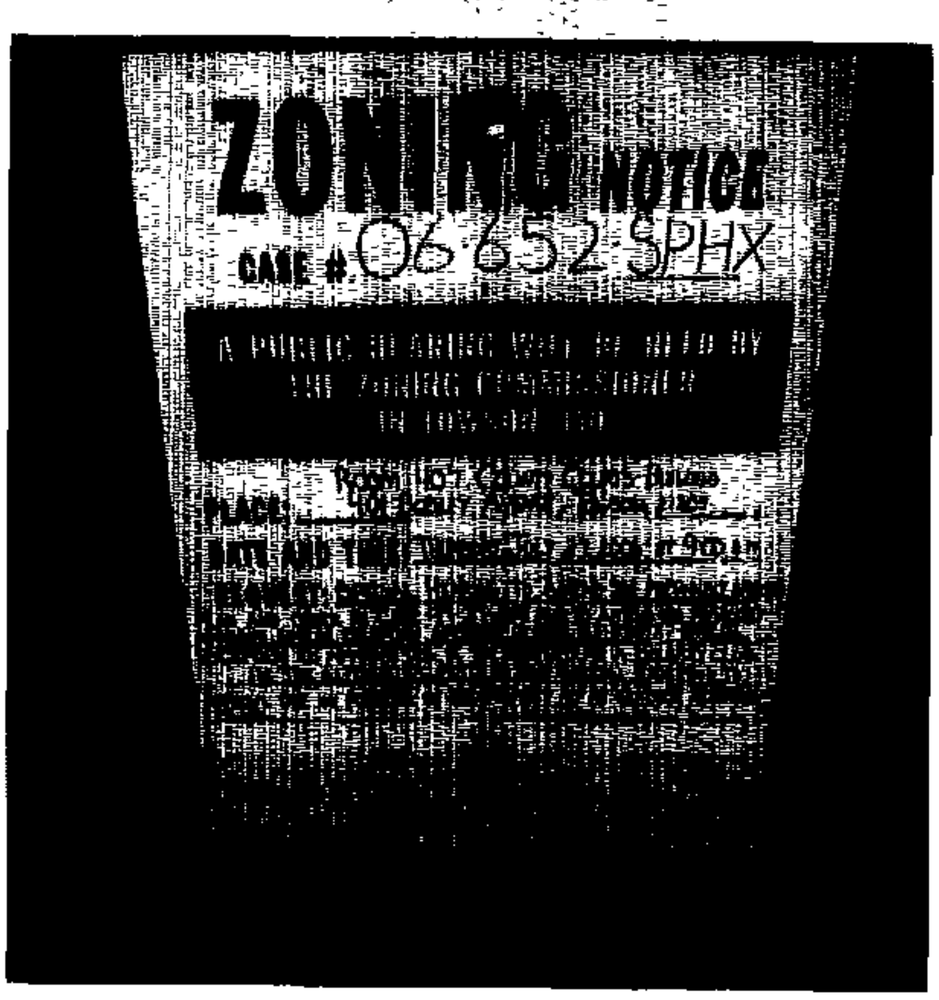
ATTN: Kristen Matthews {(410) 887-3394}

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: 11500 MAYS CHAPEL RD

The sign(s) were posted on 7-12-06
(Month, Day, Year)

Sincerely,



Robert Black 7-16-06
(Signature of Sign Poster) (Date)

SSG Robert Black
(Print Name)

1508 Leslie Road
(Address)

Dundalk, Maryland 21222
(City, State, Zip Code)

(410) 282-7940
(Telephone Number)

Department of Permits and Development Management

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

Baltimore County

James T. Smith, Jr., County Executive
Timothy M. Kotroco, Director

July 10, 2006

CORRECTED 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: 06-652-SPHX
11500 Mays Chapel Road
West side of Mays Chapel Road, north of Bomont Road
8th Election District – 2nd Councilmanic District
Legal Owners: Michael Stott, Baltimore Country Club of Baltimore City, Inc.

Special Hearing to amend the previously approved Plan and Order in Case 97-37-SPH and to amend the previously approved Special Exception approved in Case 93-388-X. Special Exception to approve use of the property as a Country Club. In the alternative, Petition for Special Exception to approve use of portions of the property as an Outdoor Recreation Club.

Hearing: Thursday, July 27, 2006 at 9:00 a.m. in Room 407, County Courts Building,
401 Bosley Avenue, Towson 21204

Timothy Kotroco
Director

TK:klm

C: G. Scott Barhight, 210 W. Pennsylvania Avenue, 4th Floor, Towson 21204
Michael Stott, General Manager, 11500 Mays Chapel Road, Timonium 21093

NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY WEDNESDAY, JULY 12, 2006.**
(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.

TO: PATUXENT PUBLISHING COMPANY
Thursday, July 13, 2006 Issue - Jeffersonian

Please forward billing to:
Jennifer Busse, Esq. 410-832-2077
Whiteford, Taylor & Preston
210 W. Pennsylvania Avenue, Ste. 400
Towson, MD 21204

CORRECTED 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: 06-652-SPHX
11500 Mays Chapel Road
West side of Mays Chapel Road, north of Bomont Road
8th Election District – 2nd Councilmanic District
Legal Owners: Michael Stott, Baltimore Country Club of Baltimore City, Inc.

Special Hearing to amend the previously approved Plan and Order in Case 97-37-SPH and to amend the previously approved Special Exception approved in Case 93-388-X. Special Exception to approve use of the property as a Country Club. In the alternative, Petition for *Special Exception to approve use of portions of the property as an Outdoor Recreation Club.*

Hearing: Thursday, July 27, 2006 at 9:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue, Towson 21204

WILLIAM J. WISEMAN III
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.

Copy was faxed
7/10/06 (pm)

Department of Permits and Development Management

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

Baltimore County

James T. Smith, Jr., County Executive
Timothy M. Kotroco, Director

June 30, 2006

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: 06-652-SPHX
11500 Mays Chapel Road
West side of Mays Chapel Road, north of Bomont Road
8th Election District – 2nd Councilmanic District
Legal Owners: Michael Stott, Baltimore Country Club of Baltimore City, Inc.

Special Hearing to amend the previously approved Plan and Order in Case 97-37-SPH and to amend the previously approved Special Exception approved in Case 93-388-X. Special Exception to approve use of the property as a Country Club. In the alternative, Petition for Special Exception to approve use of portions of the property as an Outdoor Recreation Club.

Hearing: Tuesday, August 15, 2006 at 9:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue, Towson 21204

Timothy Kotroco
Director

TK:klm

C: G. Scott Barhight, 210 W. Pennsylvania Avenue, 4th Floor, Towson 21204
Michael Stott, General Manager, 11500 Mays Chapel Road, Timonium 21093

NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY MONDAY, JULY 31, 2006.**
(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.

TO: PATUXENT PUBLISHING COMPANY
Thursday, July 27, 2006 Issue - Jeffersonian

Please forward billing to:
Jennifer Busse, Esq. 410-832-2077
Whiteford, Taylor & Preston
210 W. Pennsylvania Avenue, Ste. 400
Towson, MD 21204

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: 06-652-SPHX
11500 Mays Chapel Road
West side of Mays Chapel Road, north of Bomont Road
8th Election District – 2nd Councilmanic District
Legal Owners: Michael Stott, Baltimore Country Club of Baltimore City, Inc.

Special Hearing to amend the previously approved Plan and Order in Case 97-37-SPH and to amend the previously approved Special Exception approved in Case 93-388-X. Special Exception to approve use of the property as a Country Club. In the alternative, Petition for Special Exception to approve use of portions of the property as an Outdoor Recreation Club.

Hearing: Tuesday, August 15, 2006 at 9:00 a.m. in Room 407, County Courts Building,
401 Bosley Avenue, Towson 21204

WILLIAM J. WISEMAN III
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.

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 06-652-SPHX

Petitioner Baltimore County Club of Baltimore City, Inc.

Address or Location 11500 Mays Chapel Road

PLEASE FORWARD ADVERTISING BILL TO

Name: Jennifer Busse, Esq.

Address c/o Whiteford, Taylor & Preston
210 W. Pennsylvania Ave., Ste 400
Towson MD 21204

Telephone Number 410 832 2077

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

TIMOTHY M. KOTROCO, *Director*
Department of Permits and Development Management

July 19, 2006

G. Scott Barhight
Whiteford, Taylor & Preston L.L.P.
210 W.Pennsylvania Avenue, 4th Floor
Towson, MD 21204

Dear Mr. Barhight:

RE: Case Number: 06-652-SPHX, 11500 Mays Chapel Road

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on June 16, 2006.

The Zoning Advisory Committee (ZAC), which consists of representatives from several 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, please do not hesitate to contact the commenting agency.

Very truly yours,

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR:amf

Enclosures

c: People's Counsel
Baltimore Country Club of Baltimore City, Inc. Michael R. Stott 11500 Mays Chapel Road Timonium 21093

Baltimore County
Fire Department

Office of the Fire Marshal
700 East Joppa Road
Towson, Maryland 21286-5500
410-887-4880

County Office Building, Room 111
Mail Stop #1105
111 West Chesapeake Avenue
Towson, Maryland 21204

June 29,2006

ATTENTION: Zoning Review Planners

Distribution Meeting Of: June 26, 2006

CS2

Item Number(s): 644 through 656

Pursuant to your request, the referenced plan(s) have been reviewed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

1. The Fire Marshal's Office has no comments at this time.

Lieutenant Roland P Bosley Jr.
Fire Marshal's Office
410-887-4881 (C)443-829-2946
MS-1102F

cc: File

BLS 7/27

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Timothy M. Kotroco, Director
Department of Permits and
Development Management

DATE: July 13, 2006

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

RECEIVED

JUL 26 2006

ZONING COMMISSIONER

SUBJECT: *11500 Mays Chapel Road*

INFORMATION:

Item Number: 6-652

Petitioner: Baltimore County Club of Baltimore City Inc.

Zoning: RC 5

Requested Action: **Special Exception**

The Baltimore Country Club has enjoyed a non-conforming use for all portions of the property that were owned by the club as of September 26, 1963. A special exception for country club was approved on Parcels A and B via Case No. 93-388x on June 23, 1993. There is a covenant agreement between the country club and adjacent residential property owners.
There is an on-going zoning hearing pending before the Circuit Court of Maryland involving the denial of Case No 04-508sph and 04-600 in which the Board of Appeals denied a request for increase in the number of tennis courts and the construction of a tennis building.
The instant case requests a special exception for a country club on those portions of the property that enjoy the non-conforming use. In the event that the special exception is denied, the request is for an outdoor recreation club. It is the opinion of the Office of Planning that the use constitutes a country club use and not an outdoor recreation club.

SUMMARY OF RECOMMENDATIONS:

In the event that the Zoning Commissioner should grant the requested special exception, the country club/ golf course use should be limited to the existing and proposed uses as shown on the site plan dated 6/16/06 prepared by Site Resources Inc.

For further information concerning the matters stated here in, please contact Diana Itter at 410-887-3480.

Prepared by: Curtis Murray

Division Chief: Lynn Lanham
AFK/LL: CM

W \DEVREV\ZAC\6-652.doc

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

RECEIVED

JUL 27 2006

ZONING COMMISSIONER

TO: Timothy M. Kotroco

FROM: Dave Lykens, DEPRM - Development Coordination JWL

DATE: July 25, 2006

SUBJECT: Zoning Item # 06-652-SPHX
Address Baltimore Country Club
11500 Mays Chapel Road

Zoning Advisory Committee Meeting of June 26, 2006

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

X Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (Sections 33-3-101 through 33-3-120 of the Baltimore County Code). See additional comments.

X Development of this property must comply with the Forest Conservation Regulations (Sections 33-6-101 through 33-6-122 of the Baltimore County Code). See additional comments.

Additional Comments:

DEPRM reserves the right to impose Forest Conservation and the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains depending on the scope of any future improvement projects. DEPRM requests that the special exception be conditioned to include this language.

Reviewer: Glenn Shaffer Date: July 25, 2006

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

TO: Timothy M. Kotroco

FROM: Dave Lykens, DEPRM - Development Coordination

DATE: July 25, 2006

SUBJECT: Zoning Item # 06-652-SPHX
Address Baltimore Country Club
11500 Mays Chapel Road

Zoning Advisory Committee Meeting of June 26, 2006

Comments:

DEPRM reserves the right to impose Forest Conservation and water quality regulations as required by law depending on the scope of any future improvement projects. DEPRM requests that the special exception be conditioned to include this language.

Reviewer: Glenn Shaffer Date: July 25, 2006

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Timothy M. Kotroco, Director
Department of Permits & Development Management

DATE: June 28, 2006

FROM: Dennis A. Kennedy DAK, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
For July 3, 2006
Item Nos. 647, 648, 649, 650, 651, 652, 653, 654, 655, and 656

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

DAK:CEN:clw
cc: File
ZAC-NO COMMENTS-06282006.doc

Robert L. Ehrlich, Jr., *Governor*
Michael S. Steele, *Lt. Governor*

SHA
Driven to Excel
State Highway Administration
Maryland Department of Transportation

Robert L. Flanagan, *Secretary*
Neil J. Pedersen, *Administrator*

Date: 6.27.06

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

RE: Baltimore County
Item No. 652 JLL

Dear. Ms. Matthews:

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

Should you have any questions regarding this matter, please contact Larry Gredlein at 410-545-5606 or by E-mail at (lgredlein@sha.state.md.us).

Very truly yours,

S. D. Foster

Steven D. Foster, Chief
Engineering Access Permits Division

RE:	PETITION FOR SPECIAL HEARING AND SPECIAL EXCEPTION	*	BEFORE THE
	11500 Mays Chapel Road; W/S Mays Chapel Road, North of Bomont Road	*	ZONING COMMISSIONER
	8th Election & 2nd Councilmanic Districts	*	FOR
	Legal Owner(s): Baltimore Country Club of Baltimore City by Michael Stot, GM	*	BALTIMORE COUNTY
	Petitioner(s)	*	06-652-SPHX

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

ENTRY OF APPEARANCE

Please enter the appearance of People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and the passage of any preliminary or final Order. All parties should copy People's Counsel on all correspondence sent/ documentation filed in the case.

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 27th day of June, 2005, a copy of the foregoing Entry of Appearance was mailed to G. Scott Barhight, Esquire, Whiteford, Taylor & Preston, 210 W. Pennsylvania Avenue, Towson, MD 21204, Attorney for Petitioner(s).

RECEIVED
JUN 27 2006
Per.....

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

Bill Wiseman - FW: BCC Findings of Fact and Conclusions of Law

From: "Barhight, G. Scott" <GSBarhight@wtplaw.com>
To: "Bill Wiseman" <wwiseman@co.ba.md.us>
Date: 08/01/06 1:56 PM
Subject: FW: BCC Findings of Fact and Conclusions of Law
CC: <peoplescounsel@co.ba.md.us>, "J. Caroll Holzer" <jcholzer@bcpl.net>, <DnnDDD@aol.com>, "deVilliers, Jr. David" <DavidD@frpdev.com>, "Stott, Michael" <MStott@bcc1898.com>, "Barhight, G. Scott" <GSBarhight@wtplaw.com>

Mr. Wiseman, attached as version 2 is a proposed order which has been agreed to by Mr. Holzer, on behalf of the Neighbors and me, on behalf of Baltimore Country Club. The second attachment, identified as version 3, contains language which Mr. Zimmerman has requested be added to the order. On behalf of Baltimore Country Club, I can not agree to the additional language requested by Mr. Zimmerman.

Mr. Zimmerman and I have discussed our disagreement. We have agreed to provide you with both versions, and let you independently decide which to sign. As always, you are obviously free to sign whatever order and make any changes to either of the proposed orders as you see fit as the zoning commissioner. We also decided not "argue our cases" to you about which to sign. We intend to remain silent. It is my understanding that neither People's Counsel nor Baltimore Country Club intend to file an appeal of either of the proposed orders, should you sign one of them.

The executed documents (Settlement Agreement, Revised Covenants and all Exhibits to the Settlement Agreement) are being copied and will be provided to you in the next day or two.

Thank you again for you cooperation regarding this case. All the parties appreciate your assistance in bringing this matter to a successful conclusion.

Scott Barhight

Scott - What about Pete maintains a request for any changes at the Pete

PLEASE PRINT CLEARLY

CASE NAME 06-652-SPHA
CASE NUMBER _____
DATE _____

PETITIONER'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
Michael Fisher	Site Resources, Inc. 14315 Jarrettsville Pike	Phoenix MD 21131	mfisher@siteresourcesinc.com
MICHAEL R. STOTT	1137 FAIRBANKS DR.	LUTHERVILLE, MD, 21093	mstott@bcc1898.com
Thomas Edgie Russell	3938 Worthington Ave PO Box 330	Glyndon, Md 21071	edgeman53@comcast.net
DAVID DeVILLIERS	42 WOODWARD LA	LUTHERVILLE MD 21093	DAVIDD@FRPDEV.COM
G-Scott Barbight	210 W Penn Ave	Towson, MD 21204	

PLEASE PRINT CLEARLY

CASE NAME Baltimore Country Club
CASE NUMBER 06-652 SPHX
DATE 7/27/06

CITIZEN'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E-MAIL
Deborah Terry	747 Bomont Rd.	Tim MD 21093	
(DR.) Donna Dow	721 Bomont Rd	Lutherville, MD 21093	
COURTNEY SPIES, JR	722 BOMONT RD	LUTHERVILLE, MD 21093	
Kathryn Tubman	11431 Mays Chapel Rd.	Timonium, MD 21093	
JOSEPH R.B. TUBMAN	11431 MAYS CHAPEL RD.	" " "	
LOUIS W. MILLER	44 E. TIMONIUM R	" " 21093	LEABO@AOL.COM

PLEASE PRINT CLEARLY

CASE NAME 06-652-SPHX
CASE NUMBER
DATE

COUNTY REPRESENTATIVE'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E-MAIL
DAVID LYKENS	DEPRM		
Pete Zimmerman	Peoples Counsel		

Case No.: 06-652-SPHX BALTIMORE COUNTRY CLUB

Exhibit Sheet

Petitioner/Developer ~~Protestant~~ County Exhibits

No. 1	Site PLAN-A (alternative)	DEPRM - ZAC COMMENT Dated 7/27/06 - bottom of Page
No. 2	Agreed Statement of FACTS	NOTICE REQUIREMENT MEMO BCC SECT 33-3-302(b)
No. 3	FINDINGS OF FACTS AND CONCLUSIONS OF LAW	
No. 4	Collectively - NOTEBOOK SETTLEMENT AGREEMENT WITH EXHIBITS	
No. 5	MICHAEL W. FISHER SITE RESOURCES - RESUME -	
No. 6		
No. 7		
No. 8		
No. 9		
No. 10		
No. 11		
No. 12		

Extra

IN RE: PETITION FOR SPECIAL HEARING AND SPECIAL EXCEPTION

BALTIMORE COUNTRY CLUB OF BALTIMORE CITY ("BCC")
Legal Owner
11500 Mays Chapel Road
8th Election District, 2nd Councilmanic District

* BEFORE THE

* ZONING COMMISSIONER

* OF BALTIMORE COUNTY

* Case No.: 06-652-SPHX

AGREED STATEMENT OF FACTS

This matter comes before the Zoning Commissioner for Baltimore County for consideration of a Petition for Special Exception filed by the owner of the property to permit use of the entire property as a Country Club. The property owner has also requested consideration of a Petition for Special Hearing to amend the previously approved Plans and Orders in case numbers 93-37-SPH and 93-388-X. While the property owner had also filed a Petition for Special Exception to approve a portion of the property for use as an Outdoor Recreation Club, the property owner now respectfully requests that Petition be dismissed as moot. The property in question is known as the Baltimore County Club at Five Farms property, located at 11500 Mays Chapel Road in Lutherville, Maryland. The basic site plan information is identified on the attached **Exhibit 1**, the Plan to Accompany the Zoning Hearing.

Representing the property owner and Petitioner, Baltimore Country Club of Baltimore City ("BCC") is G. Scott Barhight, Esq. and Whiteford, Taylor & Preston, L.L.P. Representing Deborah Terry, Donna Dow, Joseph R.B. Tubman, and Courtney Spies, Jr. (the "Community") is J. Carroll Holzer, Esq. Peter Max Zimmerman, People's Counsel of Baltimore County is a party to these proceedings as well.

The parties now submit this Agreed Statement of Facts in support of their joint request that BCC's Petition for Special Exception for a Country Club be granted.

PETITIONER'S
EXHIBIT NO. 2

The Property's Zoning History

BCC acquired the majority of the property located at 11500 Mays Chapel Road (the "Property") from May 5, 1924 to May 26, 1926. At that time, there were no zoning regulations in Baltimore County. Since that time, BCC has used the Property as a country club and was granted non-conforming use status in Case 93-37-SPH. BCC acquired Parcels A and B (the "Special Exception Area") after the critical date for non-conforming status and was granted special exception status for that portion of the Property in Case 93-388-X.

A Petition for Special Hearing was filed by the Community in Case 04-508-SPH. Subsequently, BCC filed a Petition for Special Hearing in Case 04-600-SPH. The cases were combined and public hearings were held before the Deputy Zoning Commissioner. After full hearings on the merits, the Deputy Zoning Commissioner issued his Findings of Fact and Conclusions of Law on October 22, 2004, granting in part and denying in part the relief sought in the Community's Case 04-508-SPH and granting in part and denying in part, with conditions the relief sought in BCC's Case 04-600-SPH. On appeal, the Board of Appeals issued its Order on Cases 04-508 and 04-600 on October 15, 2005, denying BCC's requested expansion and denying in part and granting in part the relief requested by the Community. Appeals were taken to the Circuit Court by both parties. Those cases have not been heard by the Circuit Court and in accordance with the Settlement Agreement entered into by the parties, those cases will be dismissed.

Below is a more comprehensive summary of the property's zoning history.

Case 93-37-SPH

The majority of BCC's property was granted non-conforming use status in Case 93-37-

SPH. Specifically, Case 93-37-SPH, confirmed a non-conforming country club use for what has been identified as BCC's Non-conforming Use Area.

Lawrence E. Schmidt, then the Zoning Commissioner, found that a country club's use of land may be non-conforming. Zoning Commissioner Schmidt held that BCC's use was in existence at the time zoning began in Baltimore County and that BCC's use has continued in the same manner for the past 48 years. He further held that the land which encompassed the Property as it existed in 1963 is non-conforming.

The approved Plan to Accompany Special Hearing Petition contains four "site use areas" including the Golf, Social, Outdoor Recreation and Residential Areas. These site use areas reflect the traditional uses on the Property.

The Community appealed the decision in Case 93-37-SPH, and while the appeal was pending, the parties entered into a settlement agreement (the "1993 Agreement") to resolve their differences. Accordingly, the Community dismissed its appeal.

Case 93-388-X

A portion of the Property was not granted nonconforming use status. As a result, another zoning case was filed and special exception relief was granted to BCC. Specifically, two small parcels were granted special exception relief for a country club in Case 93-388-X. The site plan approved in Case 93-388-X shows three tennis courts and parking on "Parcel A," formerly known as the Boyce Parcel. As a result of the 1993 Agreement, the Community appeared at the special exception hearing in support of BCC.

Case 97-384-SPH

As a result of a dispute which arose in 1997, a subsequent Order was entered in Case 97-384-SPH. Case 97-384-SPH involved a Petition for Special Hearing filed by the Community.

The Deputy Zoning Commissioner's decision in the 1997 case, addressed a number of issues raised by the Community.

Case 04-508-SPH & Case 04-600-SPH

BCC desired to amend the previously approved Plans and Orders and the Community had questions regarding the proposed activities. Specifically, BCC requested approval of certain refinements to the previously approved tennis improvements for the Nonconforming Use Area and the Special Exception Area. The Zoning Commissioner issued an Order granting in part and denying in part the relief sought in the Community's Case 04-508-SPH and granting in part and denying in part with conditions the relief sought in BCC's Case 04-600-SPH. On appeal, the Board of Appeals issued its Order on Cases 04-508 and 04-600 on October 15, 2005, denying BCC's requested expansion and denying in part and granting in part the relief requested by the Community.

Relevant Facts

In addition to the above, the parties herein stipulate to the following facts in support of BCC's Petition for Special Exception for a Country Club:

1. A grant of the requested Special Exception for a Country Club will not:

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

   B. Tend to create congestion in roads, streets or alleys therein;

   C. Create a potential hazard from fire, panic or other dangers;

   D. Tend to overcrowd land and cause undue concentration of population;

   E. Interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences or improvements;

   F. Interfere with adequate light and air;

   G. Be inconsistent with the purposes of the property's zoning classification nor in

any other way inconsistent with the spirit and intent of these Zoning Regulations;

H. Be inconsistent with the impermeable surface and vegetative retention provisions of these Zoning Regulations; nor

I. Be detrimental to the environmental and natural resources of the site and vicinity including forests, streams, wetlands, aquifers and floodplains in an R.C. 2, R.C. 4, R.C. 5 or R.C. 7 Zone.

2. The proposed changes are consistent with the current and existing use of the property and will not have an adverse impact on the surrounding community.

G. Scott Barhight
Jennifer R. Busse
Whiteford, Taylor & Preston L.L.P.
210 West Pennsylvania Avenue
Towson, Maryland 21204-4515
Attorneys for Baltimore Country Club of Baltimore City

J. Carroll Holzer, Esq.
Holzer & Lee
508 Fairmount Avenue
Towson, Maryland 21286
Attorney for Deborah Terry, et al.

Peter Max Zimmerman, Esq.
People's Counsel for Baltimore County
Old Courthouse, Room 47
400 Washington Avenue
Towson, Maryland 21204

364154

IN RE: PETITION FOR SPECIAL HEARING AND SPECIAL EXCEPTION

BALTIMORE COUNTRY CLUB OF BALTIMORE CITY ("BCC")
Legal Owner
11500 Mays Chapel Road
8th Election District, 2nd Councilmanic District

* BEFORE THE

* ZONING COMMISSIONER

* OF BALTIMORE COUNTY

* Case No.:

FINDINGS OF FACT AND CONCLUSION OF LAW

This matter comes before the Zoning Commissioner for Baltimore County for consideration of a Petition for Special Exception filed by the owner of the property to permit use of the entire property as a Country Club. The property owner has also requested consideration of a Petition for Special Hearing to amend the previously approved Plans and Orders in case numbers 93-37-SPH and 93-388-X. While the property owner had also filed a Petition for Special Exception to approve a portion of the property for use as an Outdoor Recreation Club, as is explained below, that Petition is now moot. The property in question is known as the Baltimore County Club at Five Farms property, located at 11500 Mays Chapel Road in Lutherville, Maryland.

A public hearing in this matter was held on July 27, 2006. Appearing at the public hearing in support of the request were G. Scott Barhight, Esq., with the law firm of Whiteford, Taylor & Preston, on behalf of the Petitioner/Owner Baltimore Country Club of Baltimore City ("BCC"), Michael R. Stott, the General Manager of BCC, and Michael W. Fisher, a registered landscape architect with Site Resources, Inc. Also appearing at the hearing were J. Carroll Holzer, Esq., attorney for a number of residents that live in close proximity to the subject property, and Peter Max Zimmerman, People's Counsel for Baltimore County.

PETITIONER'S
EXHIBIT NO. 3

Michael W. Fisher
Principal

SITE RESOURCES
incorporated
Comprehensive Land Planning & Site Design Services

Mr. Fisher's experience working closely with allied professionals such as architects, engineering and environmental specialists has provided him with unique opportunities to understand the full range of skills required to provide the complete scope of services needed for today's sophisticated development. It has also equipped him to coordinate the various site-related services involved in a project. Specific experience includes both public and private projects. Public work has included educational facilities, community centers, public buildings, fire protection and fire training facilities, parks and libraries, as well as federal government research and development facilities, and state institutions. Mr. Fisher has extensive experience with campus design for private schools, higher education campuses, hospitals, and large scale recreation facility planning. He maintains extensive knowledge of local policies and procedures for many of the counties throughout Maryland.

Professional Registration

Landscape Architect – Maryland, No. 544
Board Member – Maryland State Board of Examiners
for Landscape Architecture, Appointed 2003

Education

B.S., Landscape Architecture, PA State University, 1978
B. Landscape Architecture, PA State University, 1979

Continuing Education

Intergraph Computer Training - IDGS
Americans with Disabilities Act Seminar
JHU Seminar on Continuing Care and
Retirement Communities
Land Stewardship Symposium -
Longwood Gardens
The Dale Carnegie Course
The Harford Leadership Academy
Forest Conservation Act Seminar

Professional Associations

American Society of Landscape Architects
Building Congress and Exchange
Maryland Chamber of Commerce
Harford County Chamber of Commerce
Cecil County Chamber of Commerce

Years Experience

With this firm: 11
With other firms: 15

Professional Background

Site Resources, Inc.
Land Planners/Landscape Architects/
Civil Engineers
Phoenix, Maryland
Principal, 1994 - Present

Daft McCune Walker, Inc.
Landscape Architects/
Planners/Engineers
Towson, Maryland
Senior Associate, 1986-1994

Gaudreau, Inc.
Architects/Planners/Engineers
Baltimore, Maryland
Associate 1981-1986

David L. Gregory & Associates
Engineers/Landscape Architects
Towson, Maryland
Landscape Architect 1979-1981

Smith/Kirwin, Inc.
Landscape Architects
Towson, Maryland
Landscape Architect 1978-1979

Representative Experience

Towson Golf & Country Club – zoning assistance
Valley Motors – zoning assistance
Franklin Square Hospital Center – zoning assistance
St. Joseph Medical Center – zoning assistance
Shawan Downs – zoning assistance

PETITIONER'S
EXHIBIT NO. 5

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

TO: Timothy M. Kotroco

FROM: Dave Lykens, DEPRM - Development Coordination

DATE: July 7, 2006

SUBJECT: Zoning Item # 06-652-SPHX
Address Baltimore Country Club
11500 Mays Chapel Road

Zoning Advisory Committee Meeting of June 26, 2006

Revised Comments:

DEPRM reserves the right to impose Forest Conservation and water quality regulations as required by law depending on the scope of any future improvement projects. DEPRM requests that the special exception be conditioned to include this language.

Reviewer: David Lykens Date: July 27, 2006

BALTIMORE COUNTY

EXHIBIT NO. 1

TO: Bill Wiseman
FROM: Ked Whitmore
RE: Deficient notice in 05-552-SPHX

Section 32-3-302 of the Baltimore County Code discusses the notice required prior to a public hearing for a special exception. 32-3-302(b)(1)(ii) states the requirement that notice shall be given in at least one newspaper of general circulation at least 15 days prior to the hearing. In the present case, Petitioner has failed to meet this standard, publishing notification in *The Jeffersonian* newspaper on July 13, 2006 for a public hearing scheduled to be held on July 27, 2006.

The statute's language is clear, and indeed it has been held that the failure to provide the notice required may prevent the Zoning Commissioner from having the jurisdiction to grant the relief requested. *Cassidy v. County Board of Appeals of Baltimore County,* 218 Md. 418, 421-2 (1958).

Several decisions, however, have looked to the intent of such statutes rather than the absolute letter. The court in *Cassidy* also held that notice will be sufficient if it: (1) alerts interested parties to defend their interests and that their input will impact the decision; (2) states the jurisdiction and authority of the Zoning Commissioner; and (3) describes the nature of the relief requested and the basis upon which it rests sufficiently to permit preparation of an intelligent defense. *Id.* at 424.

Several other cases have followed this guidance, holding that when Protestants were aware of public hearings, deficiencies in the notice would not curtail the jurisdiction of the decision-making authority. See e.g. *Largo Civic Ass'n v. Prince George's County,* 21 Md. App. 76; *Landover Books, Inc., v. Prince George's County, Maryland,* 81 Md. App. 54 (1989); *Charles H. O'Donnell, Jr. v. Basslers, Inc.,*56 Md. App. 507 (1983); *McLay v. Maryland Assemblies, Inc.,* 269 Md. 465 (1973). Actual notice of a public hearing may be evidenced by the attendance and participation of Protestants at that public hearing. E.g. *Largo*, 21 Md. App. at 86.

Although the relief requested and the nature of the deficient notice in these cases varies from the present case, the principle underlying each decision is applicable: *notice requirements serve the purpose of alerting individuals and groups who may oppose the relief requested of the time and location of the public hearing and the nature of the relief requested.* If the notice served this purpose, it will be held as sufficient to meet the statutory requirements.

The parties to the present case have been involved with these issues for several years. As such, it is unlikely that any person or group who is opposed to this Special Exception has been prejudiced by notice published in a newspaper one day late. In fact, the represented group that has stood in starkest opposition to the relief requested in this case has agreed to waive any deficiencies in notice. This is not the behavior of a group prejudiced by insufficient notice.

BALTIMORE COUNTY

EXHIBIT NO. 2

Therefore, because Protestants in attendance had constructive notice of the July 27, 2006 public hearing and were not prejudiced by printed notification 14 days in advance of the hearing rather than the required 15 days, I find that Petitioners have substantially complied with the notice requirements stated in Section 32-3-302. To find otherwise would be to hew to the language of the statute, recognizing neither the intent of the code nor applicable case law.

SEVEN SAINT PAUL STREET
BALTIMORE, MARYLAND 21202-1626
TELEPHONE 410 347-8700
FAX 410 752-7092

20 COLUMBIA CORPORATE CENTER
10420 LITTLE PATUXENT PARKWAY
COLUMBIA, MARYLAND 21044-3528
TELEPHONE 410 884-0700
FAX 410 884-0719

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

WHITEFORD, TAYLOR & PRESTON
L.L.P.

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

1025 CONNECTICUT AVENUE, NW
WASHINGTON, D.C. 20036-5405
TELEPHONE 202 659-6800
FAX 202 331-0573

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

August 3, 2006

DELIVERY BY HAND

Mr. William J. Wiseman, III
Baltimore County Zoning Commissioner
4th Floor, Room 405
401 Bosley Avenue
Towson, Maryland 21204

Re: Baltimore Country Club - 11500 Mays Chapel Road
Case No. 06-652-SPHX

Dear Mr. Wiseman:

As promised, enclosed please find Petitioner's Exhibit 4, the binder containing a copy of the fully executed Settlement Agreement, together with all exhibits, between Baltimore Country Club and the Neighbors for the above-referenced matter.

Of course, if you have any questions or comments, please do not hesitate to contact me.

Sincerely,

G. Scott Barhight

GSB:sll
Enclosure
cc: Peter M. Zimmerman, Esquire *(w/encl., delivery by hand)*
J. Carroll Holzer, Esquire

365908

06-652-SPHX
PETITIONER'S
EXHIBIT NO. 4

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT ("Agreement"), entered into this 27TH day of July, 2006, by and among BALTIMORE COUNTRY CLUB OF BALTIMORE CITY ("BCC") and DEBORAH TERRY, DONNA DOW, JOSEPH R.B. TUBMAN, and COURTNEY SPIES, JR. (the "Neighbors").

The parties stipulate to the following facts and exhibits which are specifically incorporated as terms of this Agreement:

BCC operates a country club on the property known as Five Farms in Baltimore County, Maryland ("Five Farms");

The Neighbors reside and own real property either adjacent to or in close proximity to Five Farms;

By his Order dated March 5, 1993 in Case No. 93-37-SPH, the Zoning Commissioner of Baltimore County granted the Petition for Special Hearing filed by BCC thereby granting the existing non-conforming country club and modifications (said Order is attached hereto as **Exhibit A** and the approved plan is attached hereto as **Exhibit B**);

By his Order dated June 23, 1993 in Case No. 93-388-X, the Deputy Zoning Commissioner granted the Petition for Special Exception approving the operation of a country club on portions of Five Farms which were not non-conforming, (said Order is attached hereto as **Exhibit C** and the approved plan is attached hereto as **Exhibit D**);

BCC and Joseph R.B. Tubman, Donna Dow, Deborah Terry and Courtney Spies (the "Community"), entered into an Agreement dated June 14, 1993 to resolve the

disputes arising out of the zoning orders in 1993 (the "1993 Agreement") attached hereto as **Exhibit E. Further, the parties stipulate that Exhibit D to this Agreement is the same as "Exhibit B" as referred in the 1993 Agreement;**

In accordance with the 1993 Agreement, BCC recorded the Restrictive Covenant Agreement attached hereto as **Exhibit F** among the Land Records of Baltimore County ("the 1993 Covenants");

BCC desires to amend the previous zoning approvals to permit changes in the proposed tennis facility at Five Farms;

The Neighbors have brought an action against BCC arising out of their concerns regarding the proposed tennis facility in Case No. 03-C-04-004420, *Terry, et al. v. Baltimore Country Club of Baltimore City* in the Circuit Court for Baltimore County (the "civil action");

The Neighbors, as a result of their concerns regarding the proposed tennis facility, also filed a Petition for Special Hearing before the Baltimore County Zoning Commissioner in Case No. 04-508-SPH;

BCC, in order to obtain approvals for the proposed tennis facility, filed a Special Hearing before the Baltimore County Zoning Commissioner in Case No. 04-600-SPH;

By its Order dated October 31, 2005, the County Board of Appeals of Baltimore County (the "Board") approved in part and denied in part the Petitions filed by BCC and the Neighbors (the "Board Order) attached hereto as **Exhibit G;**

BCC and the Neighbors have each filed an appeal of the Board Order to the Circuit Court for Baltimore County and agreed to stay the civil action pending the

outcome of the Special Exception and Special Hearing identified in paragraph 1, below; and

BCC and the Neighbors have now resolved their differences and intend to settle all of the actions currently pending before the Circuit Court for Baltimore County.

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

1. Completion of New Zoning Cases.

As a part of this Agreement, BCC has filed new zoning petitions, Case No. 06-652-SPHX, before the Baltimore County Zoning Commissioner. At the hearing before the Baltimore County Zoning Commissioner, the parties agree to submit the Agreed Statement of Facts attached hereto as Exhibit H, to the Baltimore County Zoning Commissioner. Additionally, the parties agree to submit the proposed Findings of Facts and Conclusions of Law attached hereto as Exhibit I;

2. Agreed Tennis Facility Plan. BCC agrees to construct any future improvements to the tennis facility at Five Farms in accordance with Exhibit I and the Plan dated June 26, 2006 attached as **Exhibit J, subject to non-material modifications and all necessary approvals by governmental authorities.** The Neighbors agree to support any and all governmental approvals necessary to facilitate the construction of the tennis facilities as shown on Exhibit J. To the extent that Exhibits I and J are inconsistent with Exhibits A, B, C and/or D, Exhibits I and J supersede the previous plan approvals and orders. The hours of operation for the tennis courts serving BCC at Five Farms shall be from 8:00 a.m. to sunset from March 31st to December 15th . BCC

agrees to lock the tennis court access gates except for maintenance and security from sunset to 8:00 a.m. from March 31st to December 15th of each calendar year. From December 16th to February 28th of each calendar year, BCC agrees to lock the tennis court access gates except for maintenance and security. The tennis courts shall not be lit. The requirements of this paragraph shall exist for as long as the tennis facilities exist.

3. Stormwater Management Plan. The parties agree that the stormwater management associated with the approved tennis facility as shown on the attached Exhibit J shall be constructed in accordance with the attached **Exhibit K**, subject to any necessary governmental approvals.

4. Inspection. BCC agrees to permit the Neighbors to inspect the work being performed in accordance with Exhibits J and K. BCC agrees, at its sole cost and expense, to employ an environmental consultant mutually acceptable to both parties to provide weekly inspections during construction and inspections as described below thereafter.

During construction, on a weekly basis, the environmental consultant will inspect the construction of the stormwater management facilities and sediment and erosion control facilities regarding the tennis facility construction. Weekly written reports will be prepared and distributed to BCC and the Neighbors via facsimile and regular mail within 3 days following the inspection. Weekly inspections will begin at the initiation of construction and will continue until construction is complete and the contractor has executed a final release of liens or at such other earlier date when

mutually agreed upon between both parties in writing Any required repairs or corrective action to ensure conformance to the stormwater management plan (Exhibit K) will be coordinated with the appropriate Baltimore County agencies, BCC and the Neighbors on an as needed basis. In the event of an emergency requiring immediate corrective action, the Neighbors will be notified by telephone.

The environmental consultant will conduct one inspection per year at years 1, 2, 5, 8, 12, 16, and 20 after completion of the tennis facility . The inspection shall include the stormwater management facilities for the existing parking lot at Five Farms, as drawn on Exhibit R, the environmental and stream conditions, and the tennis facility and its stormwater management in Exhibits J and K. Written inspection reports will include a description of current conditions, maintenance performed by BCC, ensure the conformance to the previously approved stormwater management plans (Exhibits K and R), and will recommend any maintenance or repairs to the facilities.

In the event of a stormwater or other environmental problem noted by the Neighbors between inspections, the Neighbors will notify BCC's general manager in writing. BCC agrees to address the Neighbor's concerns in good faith and, as appropriate, involve the environmental consultant and Baltimore County agencies for inspection and/or necessary remedies.

In the event the environmental consultant discovers that the stormwater management facilities are inadequate to protect the water shed from material negative impact, and such inadequacies are confirmed by the appropriate Baltimore County

agencies, BCC shall undertake such remedial action at BCC's sole cost and expense, subject to Baltimore County's approval.

5. Retaining Walls. The parties agree that, concurrent with construction of the tennis facility as shown on Exhibit J, BCC shall construct retaining walls in accordance with the retaining walls shown on Exhibit J. The retaining walls shall be constructed of masonry units similar to those used for the parking lot retaining walls. Retaining walls located on tennis courts numbers 8, 9 and 10 as shown on Exhibit J will be planted and maintained for as long as the retaining walls exist with Virginia Creeper or other suitable native vines, as approved by both parties, on the Neighbors' side of the wall. That portion of Revegetation Planting Zone, as identified on Exhibit M, which is entirely situated directly south of the location of the southernmost portion of the retaining wall south of Courts 8, 9 and 10, shall be planted and maintained in perpetuity.

6. Sound Barrier. Concurrent with construction of the tennis facility as shown on Exhibit J, BCC agrees to construct a sound barrier wall at BCC's sole cost and expense in the locations shown on Exhibit L and in accordance with the specifications identified on **Exhibit L**, attached hereto. BCC Agrees to maintain the sound barrier wall in accordance with Exhibit L for as long as the tennis facility exists. In the event that Exhibit L has not been completed prior to the execution of this Agreement, the parties agree to negotiate in good faith to achieve agreement on Exhibit L. If the parties can not agree on Exhibit L within thirty (30) days of the execution of this Agreement, this Agreement is null and void, no further action by any party being necessary.

7. Revegetation Planting Zone. As a part of the construction of the tennis facility as shown on Exhibit J, BCC agrees to plant and maintain for as long as the tennis facility exists, at BCC's sole cost and expense, Revegetation Planting Zone in accordance with **Exhibit M**. Exhibit M shall include specifications of all planting materials. Exhibit M shall include the landscaping plans associated with all of the improvements described on Exhibit J.

8. Southern Mays Chapel Road Gate. As a part of its tennis facility construction as shown on Exhibit J, BCC will, for as long as the tennis facility exists, permanently remove the southern Mays Chapel Road gate. No vehicular access to the tennis facility as shown on Exhibit J will ever be allowed from Mays Chapel Road except through BCC's main entrance as long as the tennis facility exists.

9. Non-Conforming Use Status and Future Expansion.

a. With the exception of the improvements identified on Exhibits J and Q, BCC agrees that there shall be no additional tennis courts requested or built in the Outdoor Recreational Area as described on Exhibit B by any means for a period of twenty-five (25) years from the date of this Agreement.

b. Including the additional improvements identified on Exhibits J, K, L, M and Q, BCC agrees that it has reached the limit of its permitted expansion under the non-conforming use approval for the "Outdoor Recreational Area" and "Social Area" as identified on Exhibit B .

Any future structure, parking, sports court or tennis addition, changes of use from a country club or outdoor recreation club, or addition of any activity which is

identified in the Baltimore County Zoning Regulations as a principal use not specifically identified by this Agreement in the special exception areas subject to Exhibit I in Case No. 06-652-SPHX will require an amendment to the special exception approved or such other public approval process as required by Baltimore County at that time. Additionally, this Agreement is not intended to limit, in any way, the rights of the Neighbors to oppose the approval of any such amendment pursuant to this paragraph. In any event, any new structure, parking, sports court or tennis addition constructed in the special exception areas subject to Exhibit I in Case No. 06-652-SPHX, not shown on Exhibits J and Q must be setback from any Neighbor's property line at least 100 feet. Additionally, the stormwater management area for any such structure, parking, sports court or tennis addition shall, at a minimum, meet the quantity and quality requirements of the then current SWM regulations .

Subject to Exhibit I in Case No. 06-652-SPHX, this Agreement is not intended to limit, in any way, the rights of BCC relative to the "Golf" non-conforming use area as approved in Case No. 93-37-SPH and identified on Exhibit B. Additionally, subject to Exhibit I in Case No. 06-652-SPHX, this Agreement is not intended to limit, in any way, the rights of the Neighbors to oppose the approval of any changes in said "Golf" area.

In the event that BCC seeks approval for future expansion of its country club use at Five Farms via special exception approval process or such other approval process as required by Baltimore County at that time, paragraphs 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 15, 16, 18, 19, 20, 21, 22, 23, 24, 25 and 26 shall be incorporated and survive

the filing of any such approval. Notwithstanding anything contrary in this Agreement, BCC is not obligated to construct the tennis facility. Additionally, if BCC does construct the tennis facility as described herein, BCC is not obligated to continue the uses described herein.

In the event that BCC seeks approval for expansion by special exception or other required process, information and plans will be hand delivered to the Neighbors no less than thirty (30) calendar days prior to their submission to Baltimore County for approval. Failure to submit the plans in accordance with this agreement and this time frame shall constitute a material breach of this Agreement by BCC. The Neighbors agree to review the plans promptly and provide comments to BCC within thirty (30) calendar days of receipt of said plans. BCC will respond in good faith to the comments and concerns of the Neighbors. In the event that BCC seeks approval to change the activities or uses of Five Farms from the activities and uses approved in Case Nos. 93-37-SPH, 93-388-X and 06-652-SPHX, then in addition to the information delivery noted above, BCC shall also be required to have the appropriate zoning hearing before the Baltimore County Zoning Commissioner.

The requirements of paragraph 9.b. shall be in perpetuity, subject to the impossibility of performance.

10. Preservation of Boyce Property. BCC agrees to record the Revised Restrictive Covenant Agreement, attached hereto as **Exhibit N** among the Land Records of Baltimore County at BCC's sole cost and expense. Copies of the recorded covenants shall be provided to the neighbors within 30 days after recording.

Failure to submit the plans in accordance with Section 1.G of the Revised Restrictive Covenant Agreement shall constitute a material breach of this Agreement by BCC.

11. Amendment of 1993 Covenants. The parties agree to amend the 1993 Covenants in accordance with the Revised Restrictive Covenant Agreement attached hereto as Exhibit N.

12. Parking Lots Lights. BCC agrees to shield the lights identified on **Exhibit O** in accordance with the specifications identified on **Exhibit P**, attached hereto. The parking lot lights identified on Exhibit O will be timed to be turned off two hours after events end for the balance of the night. On non-event evenings, parking lots lights shall be turned off when BCC closes for the evening. The requirements of this paragraph shall continue for as long as the lights identified on Exhibit O exist at Five Farms.

13. Areas Adjacent to Tubman Property. Pursuant to Exhibits A, B, H, ~~I~~ I and J, in those areas on the eastside of Mays Chapel Road within the Outdoor Recreation Area as described on Exhibit B, the following uses shall be permitted and no other uses shall be allowed: overflow turf parking and associated temporary lighting, field sports, badminton, croquet, picnicking, and temporary golf tournament activities. Temporary tournament activities are limited to tents, media towers, temporary grandstands, existing bus and vehicle turn around, and associated temporary lighting. Any temporary grandstands in this area will face towards the golf course. Tents, media towers and grandstands will be erected no sooner than thirty (30) calendar days prior to a golf tournament and removed within fifteen (15) calendar days of completion of the

SR, DT CS DD JAST

tournament. The existing bus and vehicle turn around may exist in its current size but may not be expanded and shall at all times be properly maintained by BCC. The fence to the area identified in this paragraph shall be maintained along Mays Chapel Road, and the gates will be locked except when in use for the above-described activities or maintenance. The requirements of this paragraph shall continue for as long as the tennis facility exists.

14. Construction Meetings. The parties acknowledge that the construction may be phased. The phases may include general grading (approximately six (6) months), construction of retaining walls (approximately six (6) months), installation of tennis courts (approximately two (2) months), construction of tennis building (approximately six (6) months), or any combination of the above. BCC shall use its best efforts to complete any phase, subject to force majeur. The parties agree to meet regularly during the construction period, but not less than monthly. The requirements of this paragraph exist for as long as construction occurs regarding the tennis facility.

15. On-Going Communications. The parties agree that on-going communication in the future will be beneficial to all parties. BCC agrees to host semi-annual meetings with the Neighbors at the BCC Five Farms clubhouse for as long as BCC operates a country club at Five Farms.

16. Tennis Court Equipment. BCC agrees that any motorized tennis court rolling/ grooming equipment will be powered solely by electricity (i.e., not gas or diesel powered). BCC agrees that the use of motorized equipment will occur only between

the hours of 8:00 a.m. and sunset. The requirements of this paragraph shall continue for as long as the tennis facility exists.

17. Addition of Tennis Center As shown on Exhibit J, the existing 2-story pool building (labeled pool building "A") has an approximate 9,500 square foot footprint with approximately 4,500 square feet on the lower level. A new 2-story tennis building (labeled Tennis Center of approximately 1,750 square feet per floor on the first and the second floor exclusive of exterior porches, patios, stairs, etc. may be added south of pool building "A" and will be joined to pool building "A" by an approximate 300 square foot connecting building containing a stairway and lobby area. Pool building "A" shall be permitted to include a fitness center, baby sitting services for members/guests only, locker rooms, kitchen, food and beverage service areas, food and beverage consumption areas, pool equipment, tennis pro shop, administrative areas and miscellaneous storage.

The Tennis Center shall be permitted to include everything in pool building "A" with the exception of a kitchen and food and beverage service areas.

The Tennis Center and the building connecting it to pool building "A" as shown on Exhibit J will be constructed in accordance with attached **Exhibit Q** except for non-material modifications, and subject to all governmental approvals.

18. Submittal of Plans. All plans intended to be submitted to Baltimore County government for approval of the tennis facility as shown on Exhibit J shall be hand delivered to the Neighbors in writing no less than thirty (30) days prior to submission to Baltimore County to permit adequate time for review and comment. The

Neighbors agree to review plans promptly and provide comments within the thirty (30) day period. Once comments from the Neighbors are received by BCC, plans may be submitted to Baltimore County, even if the comments from the Neighbors are received in less than the allotted thirty (30) day period. BCC agrees to respond in good faith to any comments received from the Neighbors.

19. Viewing Stands. The parties agree that no permanent viewing stands shall be erected at the tennis facility as shown on Exhibit J. Temporary stands may be erected at the tennis facility for tournaments. Temporary stands shall be erected no sooner than one (1) week prior to a tournament and removed no later than one (1) week after the tournament and will not be utilized for viewing more than 15 total calendar days per season. Temporary stands will not be permitted on courts 8 through 10, as shown on Exhibit J. Temporary stands may be erected on courts 1 through 7, provided that they are facing either east or west (Mays Chapel Road being north/south). During tournaments, championship matches will generally be held on courts 1 through 3. No temporary stands will be erected in the area between the Tennis Center and swimming pool areas to the north, and the courts, to the south.

20. Sound Amplification. No amplified sound equipment shall be erected or operated on the tennis courts at any time.

21. Boyce Driveway. BCC agrees to permanently close the existing opening from the Boyce driveway to Mays Chapel Road. Access to the Boyce property shall be limited to Bomont Road.

22. Barbed Wire Fence. BCC agrees to repair and maintain the existing barbed wire fence along the southern boundary of Five Farms and the Tubman property for as long as the tennis facility exists.

23. Enforcement. Prior to any party initiating any legal proceeding or mediation arising out of this Agreement, the initiating party shall provide thirty (30) days prior written notice of any alleged dispute. Immediately upon receiving notice of any alleged dispute, the parties shall attempt to amicably resolve any such dispute. If such dispute is not resolved, the parties agree to participate in a mediation session with the mediator mutually agreed upon, such agreement not to be unreasonably withheld. The mediation session must be held within thirty (30) days after notice of any alleged dispute. The parties may extend the thirty (30) day period within which the mediation session must occur by mutual agreement. Each party shall pay one-half (1/2) of the mediator's fee, and shall bear their own additional mediation costs.

In the event that mediation fails to resolve any dispute, any party may institute legal action to enforce this Agreement. Should the Neighbors prevail in the litigation, they will be entitled to reimbursement of all reasonable attorney's fees together with all other reasonable costs associated with the prosecution of the action, including but not limited to expert witnesses' fees and the costs of depositions.

Damages shall not be deemed adequate compensation for any breach or violation of any provision hereof. The non-breaching party shall be entitled to enforce any provision hereof by way of injunction as well as any other available relief either at

equity or law, including but not limited to specific performance, or injunctive relief. The requirements of this paragraph shall exist in perpetuity.

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

25. Recordation. The BCC agrees to record this Agreement with all exhibits among the Land Records of Baltimore County at its sole cost and expense. The parties and/or counsel have initialed each exhibit, which may be recorded in reduced form.

26. Notification. Any notification required by this Agreement shall be hand-delivered to the persons and addresses listed below. Any change to the names and addresses shall be in accordance with this paragraph.

If to BCC:

Mr. Michael Stott, General Manager
Baltimore Country Club
4712 Club Road
Baltimore, Maryland 21210

If to Neighbors:

Dr. Donna Dow
721 Bomont Road
Timonium, Maryland 21093

Deborah Terry
747 Bomont Road
Timonium, Maryland 21093

Courtney Spies, Jr.
722 Bomont Road
Timonium, Maryland 21093

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

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

WITNESS/ATTEST:

TIMOTHY D.A. CHRIS SECRETARY

BALTIMORE COUNTRY CLUB OF BALTIMORE CITY

By: _____ (SEAL)
President
T. EDGIE RUSSELL III

WITNESS:

_____ (SEAL)
DEBORAH TERRY

_____ (SEAL)
DONNA DOW

_____ (SEAL)
JOSEPH R.B. TUBMAN

_____ (SEAL)
COURTNEY SPIES, JR.

(All Notary Certifications follow on page 17)

NOTARY CERTIFICATIONS

STATE OF MARYLAND, CITY/COUNTY OF BALTIMORE:

I HEREBY CERTIFY that on this 26th day of JULY, 2006, before me, the subscriber, a Notary Public of the State and Subdivision aforesaid, personally appeared T. EDGIE RUSSELL III, PRESIDENT of BALTIMORE COUNTRY CLUB OF BALTIMORE CITY, named in the foregoing Settlement Agreement, who made oath in due form of law that the matters and facts set forth therein are true and correct.

AS WITNESS my hand and Notarial Seal.

M. Dee Sr
NOTARY PUBLIC

My Commission Expires: 08/01/08

STATE OF MARYLAND, ~~CITY~~/COUNTY OF Baltimore

I HEREBY CERTIFY that on this 27th day of July, 2006, before me, the subscriber, a Notary Public of the State and Subdivision aforesaid, personally appeared DEBORAH TERRY, named in the foregoing Settlement Agreement, who made oath in due form of law that the matters and facts set forth therein are true and correct.

AS WITNESS my hand and Notarial Seal.

Darlene E Ramsey
NOTARY PUBLIC IN AND FOR
BALTIMORE COUNTY, MD

DARLENE E. RAMSEY NOTARY PUBLIC BALTIMORE COUNTY, MD

My Commission Expires: 6-1-10

STATE OF MARYLAND, ~~CITY~~/COUNTY OF Baltimore:

I HEREBY CERTIFY that on this 27th day of July, 2006, before me, the subscriber, a Notary Public of the State and Subdivision aforesaid, personally appeared

DONNA DOW, named in the foregoing Settlement Agreement, who made oath in due form of law that the matters and facts set forth therein are true and correct.

AS WITNESS my hand and Notarial Seal.

Darlene E Ramsey
NOTARY PUBLIC IN AND FOR
BALTIMORE COUNTY, MD

My Commission Expires: 6-1-10

STATE OF MARYLAND, ~~CITY~~/COUNTY OF Baltimore

I HEREBY CERTIFY that on this 27th day of July, 2006, before me, the subscriber, a Notary Public of the State and Subdivision aforesaid, personally appeared JOSEPH R. B. TUBMAN, named in the foregoing Settlement Agreement, who made oath in due form of law that the matters and facts set forth therein are true and correct.

AS WITNESS my hand and Notarial Seal.

Darlene E Ramsey
NOTARY PUBLIC IN AND FOR
BALTIMORE COUNTY, MD

DARLENE E. RAMSEY NOTARY PUBLIC BALTIMORE COUNTY, MD

My Commission Expires: 6-1-10

STATE OF MARYLAND, ~~CITY~~/COUNTY OF Baltimore

I HEREBY CERTIFY that on this 27th day of July, 2006, before me, the subscriber, a Notary Public of the State and Subdivision aforesaid, personally appeared COURTNEY SPIES, JR., named in the foregoing Settlement Agreement, who made oath in due form of law that the matters and facts set forth therein are true and correct.

AS WITNESS my hand and Notarial Seal.

Darlene E Ramsey
NOTARY PUBLIC IN AND FOR
BALTIMORE COUNTY, MD

My Commission Expires: 6-1-10

DARLENE E. RAMSEY NOTARY PUBLIC BALTIMORE COUNTY, MD

ATTORNEY CERTIFICATION

This is to certify that this instrument has been prepared under the supervision of the undersigned, an attorney duly admitted to practice law before the Court of Appeals of Maryland or a party hereto.

G. Scott Barhight

353078v13 (7/31/2006 2:32 PM)

List of Exhibits

**Note: label each exhibit more clearly when we go to record.*

Zoning Commissioner's Order dated March 5, 1993 in Case No. 93-37-SPH (non-conforming use)	Exhibit A	Existing
Approved Plan in Case No. 93-37-SPH	Exhibit B	Existing
Deputy Zoning Commissioner's Order dated June 23, 1993 in Case No. 93-388-X (special exception)	Exhibit C	Existing
Approved Plan in Case No. 93-388-X	Exhibit D	Existing
1993 Agreement between BCC and the Neighbors	Exhibit E	Existing
1993 Restrictive Covenant Agreement	Exhibit F	Existing
Baltimore County Board of Appeals' Order dated October 31, 2005	Exhibit G	Existing
Agreed Statement of Facts	Exhibit H	Existing
Findings of Fact and Conclusions of Law	Exhibit I	Existing
Plan for improvements to the tennis facility	Exhibit J	Existing
Stormwater Management Plan	Exhibit K	Existing
Specifications for sound barrier wall	Exhibit L	To Be Drafted
Plan for planting area	Exhibit M	Existing
Revised Restrictive Covenant Agreement	Exhibit N	Existing
Plan for Parking Lot lights to be shielded	Exhibit O	Existing
Specifications for shielding parking lots lights	Exhibit P	Existing
Architectural drawings for Tennis Center	Exhibit Q	Existing
SWM Plan for Existing Parking Lot	Exhibit R	Existing

11/3

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

****

FINDINGS OF FACT AND CONCLUSIONS OF LAW

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Gardner, Inc. 293 Md. 259, 443 A2d 114, (1982) and County Commissioners of Carroll County v. Uhler 78 Md. App. 140, 552 A2d 942, (1989).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

forth in Section 104:3 of the B.C.Z.R. I do not believe the legislature intended such a result. Absent legislative direction to the contrary, I feel required to find that an extension of a nonconforming use of property not owned or utilized by the Petitioner at the time giving rise to the nonconforming use is impermissible.

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

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

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

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

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

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

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

1. The Petitioner is hereby made aware that proceeding at this time is at its own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.

LAWRENCE E. SCHMIDT
Zoning Commissioner for
Baltimore County

LES:mmn

IN RE: PETITION FOR SPECIAL * BEFORE THE
EXCEPTION FOR A COUNTRY CLUB *
11500 Mays Chapel Road * ZONING COMMISSIONER
Parcel A - NWC Mays Chapel Road
and Bomont Road * OF
Parcel B - W/S Mays Chapel Road,
361 feet plus or minus *
S/S Chapel Ridge Road
Eighth Election District * BALTIMORE COUNTY
Third Councilmanic District
Petitioner: Baltimore Country *
Club of Baltimore
City * Case No. 93-388-X

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

FINDINGS OF FACTS AND
CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as a Petition for Special Exception for the subject parcels located at 11500 Mays Chapel Road. The Petition was filed by the property owner, Baltimore Country Club of Baltimore City, which operates a country club at this location known as Five Farms.

The Petitioner seeks approval for a country club on two parcels. In Case No. 93-37-SPH, the Zoning Commissioner of Baltimore County granted a Petition for Special Hearing confirming a nonconforming country club and modifications for those portions of the property owned by the Petitioner as of September 26, 1963. The two parcels which are the subject of this Petition for Special Exception were not owned by the Petitioner as of September 26, 1963. Therefore, Parcels A and B are not part of the nonconforming country club.

The Petitioner is represented by G. Scott Barhight, Esquire. Appearing at the hearing on behalf of the Petitioner as witnesses

were Paul T. Spellman, Jr., who has been employed as the general manager and chief operating officer of the Baltimore Country Club since 1985, and Edmund F. Haile, P.E. and George E. Gavrelis from Daft-McCune-Walker, the engineers/land planners, who prepared the site plan. Several protestants, Joseph R.B. Tubman, Donna Dow, Deborah Terry and Courtney Spies also appeared. The Protestants were represented by J. Carroll Holzer, Esquire.

Mr. Barhight proffered the testimony of the three witnesses on behalf of the Petitioner. This proffer indicated that the Club was granted the aforementioned nonconforming status and that such order has been appealed to the Board of Appeals by the Protestants. Parcels A and B which are the subject of this Petition for Special Exception, are contiguous to those portions of the Club which enjoy the nonconforming use status. Parcel A, known as the "Boyce Parcel" is currently improved by a single family residence and consists of approximately 2.67 acres. The Club proposes to improve the Boyce Parcel by adding three tennis courts and twelve parking spaces all as shown on the revised site plan marked as Petitioner's Exhibit 2B. Parcel B, known as the "Merrick Parcel" is currently improved as part of the 3rd hole of the West Course and consists of approximately 1.213 acres. Both parcels are zoned R.C.5. The proffer further indicated that the witnesses would testify that the requirements of Section 502.1 of the Baltimore County Zoning Regulations would be met if the Petition for Special Exception is granted.

The Protestants had expressed concerns regarding, among other things, stormwater run-off, the visual and sound impact of

the proposed improvements to the Boyce Parcel, and the future use of the Boyce Parcel. Counsel for the Petitioner and the Protestants represented that the parties have been diligently negotiating in good faith to resolve the concerns raised by the Protestants. As a result of these negotiations, the parties have entered into an Agreement, which was offered into evidence as Petitioner's Exhibit 2A. In return for the Petitioner's obligations contained in the Agreement, the Protestants have agreed, among other things, to withdraw their opposition to the subject Petition for Special Exception and to dismiss, with prejudice, their appeal of the Zoning Commissioner's Order in the nonconforming use case. During the hearing, the Planning Office also provided the Deputy Zoning Commissioner with a revised comment which is in support of the granting of the requested Special Exception, subject to the Agreement (Exhibit 2A).

Pursuant to Section 1A04.2.B.8 of the Baltimore County Zoning Regulations, a country club is permitted on the subject parcels by special exception. The special exception use has been identified by the Appellate Courts of the State as a use which is presumptively valid, absent a showing that the proposed use will cause unique detriment to the health, safety or general welfare of the surrounding community. Further, the Petitioner must produce persuasive evidence that the standards enunciated in Section 502.1 are satisfied in order for the Special Exception to be approved. Based on the uncontradicted evidence and testimony presented, I am persuaded that the Petitioner has met its burden. There is no evidence that the proposed use will, in any manner,

adversely effect the health, safety or general welfare of the locale. Parcel B is currently being used as a portion of the golf course with no harm to the community whatsoever. Additionally, the proposed use of the Boyce Parcel, with the conditions as shown on the revised site plan (Exhibit 2B), is consistent with the country club use of the Five Farms property and will not have an adverse impact on the surrounding community. For all of these reasons, I am persuaded that the Petition for Special Exception should be granted.

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

IT IS THEREFORE ORDERED, by the Deputy Zoning Commissioner for Baltimore County, this 23rd day of June, 1993, that, pursuant to the Petition for Special Exception, approval for the operation of a country club on Parcels A and B as shown on the revised site plan (Exhibit 2B) pursuant to Section 502.1 of the Baltimore County Zoning Regulations, be and is hereby GRANTED; subject, however, to the following restrictions which are conditions precedent to the relief granted herein:

1. The Petitioner may apply for its building permit and be granted same upon receipt of this Order, however, Petitioner is hereby made aware that proceeding at this time is at its own risk until such time as the thirty (30) day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner will be required, and responsible for returning, said property to its original condition.

2. The terms of the Agreement dated June 15, 1993 (Exhibit 2A), are incorporated into this Order and must be complied with as a part of the approval herein granted.

Timothy M. Kotroco,
Deputy Zoning Commissioner for
Baltimore County

AGREEMENT

THIS AGREEMENT, entered into on this 14th day of June, 1993, by and between BALTIMORE COUNTRY CLUB OF BALTIMORE CITY ("BCC") and JOSEPH R.B. TUBMAN, DONNA DOW, DEBORAH TERRY and COURTNEY SPIES ("the Community").

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

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

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

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

W I T N E S S E T H:

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

1. BCC Obligations.

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

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

EXHIBIT 1

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

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

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

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

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

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

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

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

Boyce parcel, the wall may, at the discretion of BCC, be in staggered sections and constructed of wood, provided the wall is of comparable sound attenuation quality to a continuous masonry wall. Prior to construction of the wood wall, BCC shall submit such plans and supporting data to the Community for their review and comment.

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

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

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

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

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

2. Community Obligations.

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

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

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

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

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

3. Conditions Precedent.

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

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

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

4. Recordation of Covenants.

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

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

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

5. Notices.

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

If to Baltimore Country Club of Baltimore City:

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

If to the Community:

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

Ms. Donna Dow
721 Bomont Road
Timonium, Maryland 21093

Ms. Deborah Terry
747 Bomont Road
Timonium, Maryland 21093

Mr. Courtney Spies
722 Bomont Road
Timonium, Maryland 21093

6. Miscellaneous Provisions.

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

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

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

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

~~ATTEST:~~ WITNESS:

BALTIMORE COUNTRY CLUB OF BALTIMORE CITY

By: _____ PRES.

WITNESS:

_____ (SEAL)
JOSEPH R.B. TUBMAN

_____ (SEAL)
DONNA DOW

(signatures continued)

WITNESS:

Deborah Terry (SEAL)
DEBORAH TERRY

Courtney A. Spies Sr. (SEAL)
COURTNEY SPIES

EXHIBIT A DT DD CAS TMF SMJ

RESTRICTIVE COVENANT AGREEMENT

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

RECITALS

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

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

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

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

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

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

ARTICLE I - USE RESTRICTIONS.

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

1 single family residence;

3 tennis courts as a part of the Baltimore Country Club; and

12 parking spaces as a part of the Baltimore Country Club.

ARTICLE II - GENERAL PROVISIONS.

1. The conveyance of the Boyce parcel or of any interest in the Boyce parcel, by BCC or its successors and assigns, shall be deemed to be subject to this Agreement.

2. The conditions of this Agreement shall inure to the benefit of the successors and assigns of BCC and the Community.

WITNESS the due execution of the Agreement by BCC and the Community as of the day and year first above written.

ATTEST:

BALTIMORE COUNTRY CLUB OF BALTIMORE CITY

_____ By: _____

WITNESS:

_____ _____ (SEAL)
JOSEPH R.B. TUBMAN

_____ _____ (SEAL)
DONNA DOW

_____ _____ (SEAL)
DEBORAH TERRY

_____ _____ (SEAL)
COURTNEY SPIES

STATE OF MARYLAND, COUNTY OF _____, to wit:

I HEREBY CERTIFY, that on this ____ day of _____, 1993, before me, the subscriber, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared

_____, who acknowledged himself to be a duly authorized agent of the Baltimore Country Club of Baltimore City, and as such being authorized to do so, executed the foregoing instrument for the purposes herein contained, by signing the name of Baltimore Country Club of Baltimore city.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year aforesaid.

_____
Notary Public

My Commission Expires: _____

STATE OF MARYLAND, CITY/COUNTY OF _____, TO WIT:

I HEREBY CERTIFY, that on this _____ day of _____, 1993, before me, the subscriber, a Notary Public of the State of Maryland, in and for the aforesaid city/county, personally appeared JOSEPH R.B. TUBMAN, who acknowledged the foregoing Agreement to be his act and that he executed the foregoing instrument for the purposes therein contained by signing his name.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year aforesaid.

_____
Notary Public

My Commission Expires: _____

STATE OF MARYLAND, CITY/COUNTY OF _____, TO WIT:

I HEREBY CERTIFY, that on this _____ day of _____, 1993, before me, the subscriber, a Notary Public of the State of Maryland, in and for the aforesaid city/county, personally appeared DONNA DOW, who acknowledged the foregoing Agreement to be her act and that she executed the foregoing instrument for the purposes therein contained by signing her name.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year aforesaid.

_____
Notary Public

My Commission Expires: _____

STATE OF MARYLAND, CITY/COUNTY OF _____, TO WIT:

I HEREBY CERTIFY, that on this _____ day of _____, 1993, before me, the subscriber, a Notary Public of the State of Maryland, in and for the aforesaid city/county, personally appeared DEBORAH TERRY, who acknowledged the foregoing Agreement to be her act and that she executed the foregoing instrument for the purposes therein contained by signing her name.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year aforesaid.

_____
Notary Public

My Commission Expires: _____

STATE OF MARYLAND, CITY/COUNTY OF _____, TO WIT:

I HEREBY CERTIFY, that on this _____ day of _____, 1993, before me, the subscriber, a Notary Public of the State of Maryland, in and for the aforesaid city/county, personally appeared COURTNEY SPIES, who acknowledged the foregoing Agreement to be his act and that he executed the foregoing instrument for the purposes therein contained by signing his name.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year aforesaid.

_____
Notary Public

My Commission Expires: _____

RESTRICTIVE COVENANT AGREEMENT

THIS AGREEMENT, has been entered into on this 29TH day of SEPTEMBER, 1993 by and between BALTIMORE COUNTRY CLUB OF BALTIMORE CITY ("BCC") and JOSEPH R.B. TUBMAN, DONNA DOW, DEBORAH TERRY and COURTNEY SPIES ("the Community").

RECITALS

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

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

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

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

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

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

ARTICLE I - USE RESTRICTIONS.

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

1 single family residence;

3 tennis courts as a part of the Baltimore Country Club; and

12 parking spaces as a part of the Baltimore Country Club.

ARTICLE II - GENERAL PROVISIONS.

1. The conveyance of the Boyce parcel or of any interest in the Boyce parcel, by BCC or its successors and assigns, shall be deemed to be subject to this Agreement.

2. The conditions of this Agreement shall inure to the benefit of the successors and assigns of BCC and the Community.

WITNESS the due execution of the Agreement by BCC and the Community as of the day and year first above written.

ATTEST:

Paul F. Obrecht, Jr.

WITNESS:

BALTIMORE COUNTRY CLUB OF BALTIMORE CITY

By: Edward A. Johnston, Pres.

JOSEPH R.B. TUBMAN (SEAL)

DONNA DOW (SEAL)

DEBORAH TERRY (SEAL)

COURTNEY SPIES (SEAL)

STATE OF MARYLAND, ~~COUNTY~~ City/OF Baltimore, to wit:

I HEREBY CERTIFY, that on this 4th day of October, 1993, before me, the subscriber, a Notary Public of the State of Maryland, in and for the ~~County~~ City aforesaid, personally appeared

02168

Edward A. Johnston who acknowledged himself to be a duly authorized agent of the Baltimore Country Club of Baltimore City, and as such being authorized to do so, executed the foregoing instrument for the purposes herein contained, by signing the name of Baltimore Country Club of Baltimore city.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year aforesaid.

Jane L. Lawler
Notary Public

JANE L. LAWLER NOTARY PUBLIC BALTIMORE CITY, MD.

My Commission Expires: 9/1/97

STATE OF MARYLAND, CITY/COUNTY OF Baltimore, TO WIT:

I HEREBY CERTIFY, that on this 21 day of Sept., 1993, before me, the subscriber, a Notary Public of the State of Maryland, in and for the aforesaid city/county, personally appeared JOSEPH R.B. TUBMAN, who acknowledged the foregoing Agreement to be his act and that he executed the foregoing instrument for the purposes therein contained by signing his name.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year aforesaid.

Margaret Wunder
Notary Public

My Commission Expires: 5/1/95

STATE OF MARYLAND, CITY/COUNTY OF Baltimore, TO WIT:

I HEREBY CERTIFY, that on this 21 day of Sept, 1993, before me, the subscriber, a Notary Public of the State of Maryland, in and for the aforesaid city/county, personally appeared DONNA DOW, who acknowledged the foregoing Agreement to be her act and that she executed the foregoing instrument for the purposes therein contained by signing her name.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year aforesaid.

Margaret Wernette
Notary Public

My Commission Expires: 5/1/95

STATE OF MARYLAND, CITY/COUNTY OF Baltimore, TO WIT:

I HEREBY CERTIFY, that on this 21st day of Sept, 1993, before me, the subscriber, a Notary Public of the State of Maryland, in and for the aforesaid city/county, personally appeared DEBORAH TERRY, who acknowledged the foregoing Agreement to be her act and that she executed the foregoing instrument for the purposes therein contained by signing her name.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year aforesaid.

Margaret Wernette
Notary Public

My Commission Expires: 5/1/95

STATE OF MARYLAND, CITY/COUNTY OF Baltimore, TO WIT:

I HEREBY CERTIFY, that on this 21st day of Sept., 1993, before me, the subscriber, a Notary Public of the State of Maryland, in and for the aforesaid city/county, personally appeared COURTNEY SPIES, who acknowledged the foregoing Agreement to be his act and that he executed the foregoing instrument for the purposes therein contained by signing his name.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year aforesaid.

Margaret Wernette
Notary Public

My Commission Expires: 5/1/95

IN THE MATTER OF	*	BEFORE THE
THE APPLICATION OF		
BALTIMORE COUNTRY CLUB OF	*	COUNTY BOARD OF APPEALS
BALTIMORE CITY-LEGAL OWNER		
/PETITIONER AND DEBORAH TERRY,	*	OF
ET AL –PROTESTANTS /PETITIONERS		
FOR SPECIAL HEARING ON PROPERTY	*	BALTIMORE COUNTY
LOCATED ON NW/S BOMONT RD @		
INTERSECTION W/ MAYS CHAPEL RD	*	Case No. 04-600-SPH and
		Case No. 04-508-SPH
8TH ELECTION DISTRICT	*	
2ND COUNCILMANIC DISTRICT		

* * * * * * * * *

OPINION

These two cases come before the Baltimore County Board of Appeals as appeals from a Deputy Zoning Commissioner decision of October 22, 2004. The two cases are Case No. 04-600-SPH, filed by Appellants and Legal Owner Baltimore Country Club (hereinafter "BCC"); and Case No. 04-508-SPH, filed by Deborah Terry, et al., Appellants/Protestants, hereinafter referred to collectively as "the Community." G. Scott Barhight, Esquire, represented Baltimore Country Club. The Community was represented by J. Carroll Holzer, Esquire. Both cases were combined and heard together *de novo* before the County Board of Appeals during four days of public hearings held on June 15, June 16, June 21, and August 19, 2005. A public deliberation was held on October 6, 2005.

The Issues

In its case, #04-600-SPH, the Baltimore Country Club raised the following questions:

1. Whether the addition of three tennis courts is permissible intensification of BCC's nonconforming county club use.
2. Whether BCC is permitted to construct a tennis building.
3. Whether the Agreement limits BCC to the construction of *nine* tennis courts.
4. Whether *res judicata* and collateral estoppel preclude the community from re-litigating the nonconforming use and special exception cases.

5. Whether BCC's request to modify the Plans is a breach of the Agreement.
6. Assuming *arguendo* that BCC breached the agreement, whether the Orders in Cases 93-37-SPH and 93-388-X are null and void and whether BCC loses its nonconforming use and special exception status.
7. Whether the proposed tennis improvements meet applicable environmental and development process standards.
8. Whether a Special Hearing is necessary to approve refinements to the Nonconforming Use Area and/or the Special Exception Area.

The Community, in Case No. 04-508-SPH, objects to the proposed increase in tennis courts and the building of a tennis facility. In their Petition for Special Hearing, the Community raised the following questions (Issue #11 was withdrawn during the present hearings):

1. Does the Deputy Zoning Commissioner's decision in Case No. 97-384-SPH require BCC to seek a Special hearing to determine whether its proposal to construct twelve tennis courts in lieu of nine is permissible?
2. Is the BCC proposed Plan for twelve tennis courts, a tennis building, and parking in violation of the Agreement between the parties of June 14, 1993?
3. Does the BCC breach of the 1993 Agreement void the prior Special Exception so that the BCC must reapply for the Special Exception?
4. Does the proposal of BCC for twelve tennis courts require review by the County Department of Permits and Development Management per *Baltimore County Code* 26-168(p)(i)?
5. What is the definition of "development" pursuant to the BCZR and does the construction of twelve tennis courts and a building meet that definition?

6. Does the breach of the Parties' 1993 Agreement reopen the Petitioners' issue in Case No. 98-388?
7. Has the BCC exceeded the expansion permitted a nonconforming use by the BCZR Section 104 and 104.3?
8. If the BCC has exceeded the expansion permitted by 104.3, has it lost its nonconforming status?
9. Even if the BCC now has the legal nonconforming use, will the construction of twelve tennis courts and an additional building be an illegal expansion of the nonconforming use?
10. Environmental Issues A through E (listed on the original Petition for Special Hearing).

Testimony and Evidence

The facts, history, and circumstances delineating how the parties arrived here are contained in a number of cases over the years, and are not in dispute. What is in dispute is what the Agreement and Order in Case No. 93-388-X meant (see Community Exhibit 5). While the history and testimony in this current case did provide background and the witnesses' understanding of past occurrences, the most compelling pieces of evidence were the Plan to Accompany the Special Hearing Petition (Community Exhibit 2) and Zoning Commissioner Order in Case No. 93-37-SPH (granting the nonconforming use to BCC; Community Exhibit 3); the Plan to Accompany the Special Exception Petition (Community Exhibit 4) and the Zoning Commissioner Order and Agreement in Case No. 93-388-X (Community Exhibits 5A – C).

Brief History

Baltimore Country Club consists of approximately 400 acres at 11500 Mays Chapel Road, referred to as the Five Farms Country Club, to distinguish this property from the portion of the BCC in Baltimore City. The property contained two 18-hole golf courses, a clubhouse,

swimming pool, and related buildings. In 1992, BCC petitioned for a Special Hearing to declare the use at Five Farms to be nonconforming. At that time, the zoning was RC-5, which did not allow country clubs in the zone by right.

The Zoning Commissioner, in his order dated March 5, 1993, found that the property had been in continual use as a country club since about 1924, prior to the existence of zoning regulations in the County, and therefore granted it nonconforming status (see Zoning Commissioner Order Case No. 93-37-SPH, Community Exhibit 3). While granting it such status, however, the Zoning Commissioner also allowed the BCC to change or modify the use by installing nine tennis courts—a use that had not been previously part of the country club at Five Farms. (The tennis facilities then, as now, were at the country club's site in Baltimore City.) The Zoning Commissioner reasoned, rightly or wrongly, that as long as the new use reflected "the nature and purpose of a country club use," it was a permissible intensification under *McKemy v. Baltimore County*, 39 Md.App 256, 385 A2d 96 (1978).

Although granting nonconforming use status to the roughly 400 acres of BCC that had existed prior to 1963 (when the latest zoning of the area took effect), the Zoning Commissioner found that the nonconforming use did not extend to parcels of land acquired by the BCC after 1963. For those parcels, BCC had to petition for a Special Exception. Following the Zoning Commissioner's Order, Protestants (the Community in the current case) filed a timely appeal with the Baltimore County Board of Appeals. Protestants live in a community on Bomont Road, a single-lane road with thirteen houses, south and adjacent to the country club. They argue they are directly affected by the BCC's plans for the nine tennis courts, since three of those courts would be built on property adjacent to their homes.

BCC meanwhile filed a Site Plan and Petition for Special Exception in Case No. 93-388-X for the more recently acquired parcels, referred to as Parcel A and Parcel B (see Community

Exhibit 4). The Community entered this case as Protestants, concerned particularly with the proposed use of Parcel A, also known as the Boyce parcel, located at the corner of Mays Chapel Road and Bomont Road. This parcel of about 2.7 acres had been a residential property. BCC intended to build three tennis courts on this property, and the Zoning Commissioner in his opinion noted that the Community was concerned with "among other things, stormwater run-off, the visual and sound impact of the proposed improvements to the Boyce Parcel, and the future use of the Boyce Parcel."

Prior to the hearing before the Zoning Commissioner, however, BCC and the Community reached an agreement that was made part of the Zoning Commissioner's Order (see Community Exhibit 5A-C). In exchange for a number of obligations on the part of BCC, the Community agreed not to oppose the granting of a Petition for Special Exception and to dismiss with prejudice their appeal of Case No. 93-37-SPH before the Board of Appeals of Baltimore County.

Findings of Fact and Conclusion of Law

Many of the questions posed by both sides hinge on the meaning of the Agreement entered into by both parties in Case No. 93-388-X (hereinafter referred to as "the Agreement") and on the question of whether or not the proposed changes to BCC's site plan, under its current Petition for Special Hearing (see Community Exhibit 1) constitute a permissible intensification or an impermissible expansion of its nonconforming use status.

What is or is not permitted by the Agreement?

Under the current site plan, BCC plans to increase the number of tennis courts from nine to twelve and build a tennis building/facility on the nonconforming use portion of its property. Protestants argue that neither is permitted under the Agreement.

While the Board finds that the Agreement is valid and enforceable by the Board, a plain reading of the text of the Agreement shows it is limited to activity on the Boyce parcel only, and, as such, it does not limit the BCC to nine tennis courts or prohibit the tennis facility. The Agreement contains no language that would indicate Baltimore Country Club was prohibited from requesting any changes on the nonconforming use portion of its property. The only mention of nine tennis courts in the Agreement is contained in the "whereas" clause, but this does not limit BCC to nine courts. The Agreement addresses the Community's concerns noted by the Zoning Commissioner in the Special Exception Petition Hearing—such as stormwater runoff management, sound barriers, distance from the courts to the nearest residence, and hours of operation of the "three tennis courts on the Boyce parcel." As evidenced by even that last point—hours of operation—all the obligations were directed to the Boyce parcel, not to the operation of the BCC on its nonconforming use property.

The Agreement required Baltimore Country Club to provide the Community with "any stormwater plans," for the parcel, which the Community argued it did not do before submitting to Baltimore County a stormwater management study (BCC Exhibit 2) and Drainage Area map (Community Exhibit 8), in November 2003. BCC argues in their Closing Memo that these were not "stormwater plans" and therefore not covered by the Agreement. BCC did in fact provide the Community with additional stormwater improvements in December 2003, (BCC Exhibits 13A and J and BCC Exhibit 3C) and site plans detailing the stormwater management proposal 9BCC Exhibits 3A-C, BCC Exhibits 13A-R).

To answer Community Issues 2, 3, and 6, and BCC's Issues 5 and 6, there has been no breach of the Agreement that would cause a reopening or reconsideration of the nonconforming use status on the bulk of BCC property or the Special Exception status of the Boyce property.

Since the Agreement does not control activity on the nonconforming use parcel, the BCC's request to modify the original site plan also is not a breach of the Agreement.

Nonconforming Use Issues

Community Issue 1 and BCC Issue 8 ask whether a Special Hearing is required to approve refinements/changes/modifications to the original site plan by which nonconforming use status was granted. The Board finds that BCC is required to apply for a Special Hearing in order to meet the standards of Sections 104 and 104.3 of the *Baltimore County Zoning Regulations* (B.C.Z.R.). BCC's position that it does not have to do so, because of the ruling in Case no 93-37-SPH by Zoning Commissioner Schmidt, in our view, is incorrect. It is clear to the Board that that ruling decided and granted BCC's Five Farms area nonconforming use status. It is illogical to think this decision gave BCC "carte blanche" to increase or expand its activities on the nonconforming use area in any manner it desires as long as it describes the activity as "country club," without compliance with the BCZR.

The Maryland Court of Appeals in *Prince George's County v. E.L. Gardner* 293 Md.259 (1992) notes that "one of the fundamental problems of zoning is the inability to eliminate incompatible nonconforming land uses." (p. 267) Citing a number of cases, the Court points out that the conflict is "ordinarily resolved, under local ordinances, by permitting existing uses to continue as nonconforming uses subject to various limitations upon the right to change, expand, alter, repair, restore, or recommence after abandonment. Moreover, this Court has further recognized that the purpose of such restrictions is to achieve the ultimate elimination of nonconforming uses" (P. 268).

The relevant local ordinance in Baltimore County is BCZR Section 104.1:

> A nonconforming use (as defined in Section 101) may continue except as otherwise specifically provided in these regulations, provided that upon any change from such nonconforming use to any other use whatsoever, or any abandonment or discontinuance of such nonconforming use for a period of one

> year or more, the right to continue or resume such nonconforming use shall terminate.

BCZR Section 104.3 explains the limitations on the right to change or modify a nonconforming use:

> No nonconforming building or structure and *no nonconforming use* of a building, structure *or parcel of land shall* hereafter be extended more than 25% of the ground floor area of the building so used (italics added).

In its current Petition for Special Hearing, BCC seeks approval to make a number of changes to the Site Plan to Accompany Petition for Special Hearing originally approved in Case No. 93-37-SPH (Community Exhibit 2). Specifically, BCC seeks approval to construct a total of twelve tennis courts—nine on the nonconforming use property and three (per the 1993 Agreement) on the Special Exception, or Boyce, property. BCC also seeks approval to construct a tennis building—something that was never shown on any earlier plan. In addition, BCC plans to convert a parking area into a grassy lawn between the three tennis courts on the Boyce property and the other nine courts. (See Community Exhibit 1, the Site Plan to Accompany Special Hearing, dated 6/18/04; and BCC Exhibit 6) As discussed by a number of BCC witnesses, the club intends to move its entire tennis facility from the Baltimore City location to the Five Farms location, shutting down the Baltimore City facility.

In order to determine if the Baltimore County Club's proposals are an allowed intensification of the nonconforming use or an impermissible extension, the proposal must meet the standard as stated in *McKemy v. Baltimore County*, 39 Md. App. 257 (1978). In *McKemy*, the Court established a four-part test:

1. To what extent does the current use of the property reflect the nature and purpose of the original nonconforming use;

2. Is the current use merely a different manner of utilizing the original nonconforming use or does it constitute a use different in character, nature and kind;

3. Does the current use have a substantially different effect upon the neighborhood;

4. Is the current use a "drastic enlargement" of the original nonconforming use.

Because nine tennis courts were permitted to be added to the county club's recreational activities under Commissioner Schmidt's opinion in 1993, BCC argues that the addition of three more courts is a "natural expansion" of what was already granted. But the issue here is not just the addition of three courts, but an entire tennis complex that was not in the original Site Plan to Accompany the Petition for Special Hearing in 1992.

This Board cannot at this juncture overturn or change the 1993 decision in Case # 93-37-SPH allowing nine courts—even though they were never part of the original use of the club. In deciding whether the proposed changes meet the *McKemy* criteria, we have to compare them with what was granted to the BCC when it was giving a nonconforming use status. We also have to consider that, although the Agreement with the Community is restricted to the Boyce parcel, the Community did drop its appeal to the Board of Appeals of the nonconforming use status. In doing so, based on testimony before this Board, it is clear the Community thought the package they were accepting included the Site Plan to Accompany the Petition for Special Hearing in Case #93-37-SPH.

That Site Plan (Community Exhibit 2) shows nine tennis courts. It shows a small box marked with an "X" (highlighted on the exhibit in blue). BCC argues that this box is the proposed new tennis building (although on the current petition's Site Plan, it has been moved and is much larger). It is noteworthy, however, that every other building on the 1992 plan is labeled—including comfort stations, rain shelters, staff residence, etc. This "building" is not

noted anywhere on the plan. The Zoning Commissioner's Order granting nonconforming use to the property in Case No. 93-37-SPH does not make mention of this "building" or even of the plans for moving the entire tennis facility to the Five Farms location (Community Exhibit 3). It too only mentions the nine tennis courts.

BCC argues, and cites Schmidt's opinion justifying the nine tennis courts, that since tennis is a typical use of a country club, that adding it to the Five Farms area is only an intensification. Following this logic, however, BCC should also be able to add skeet shooting, paddle tennis, horse back riding and any other "typical use" of a country club, whether or not the use existed at the time the nonconforming use was granted. This Board disagrees with this logic.

We find that the proposed use fails on three parts of the *McKemy* criteria. We find that the proposed use is different in character nature and kind to the use of the club at the time nonconforming use status was granted. Tennis courts were then granted, not a competitive twelve-court tennis facility. The proposed use would have a substantially different effect upon the Community in that there would be more and different activities at this location. The proposed twelve tennis courts and tennis building would also certainly be a "drastic enlargement" of the original nonconforming use since neither was shown to exist prior to the nonconforming status.

ORDER

IT IS THEREFORE this 31st day of October, 2005, by the County Board of Appeals of Baltimore County

ORDERED that the issues raised within the two Petitions for Special Hearing before this Board have been resolved as follows:

1. That there was no breach in the 1993 Agreement between BCC and the Community settling the Special Exception Case No. 93-388-X. The Agreement remains valid and binding on both parties.

2. That the 1993 Agreement contains obligations by both parties relating to the Special Exception (Boyce) Parcel only and not to the nonconforming use portion of the BCC property.

3. That BCC does not lose either its nonconforming use status or its special exception status simply by petitioning for changes in its site plan.

4. That BCC does need to petition for Special Hearing when it wishes to make changes to the Site Plan approved for the nonconforming use part of Five Farms and for the Special Exception (Boyce) parcel.

5. That the proposed changes to the nonconforming use part of Five Farms—namely the increase in number of tennis courts and construction of a tennis building—are impermissible expansions of the nonconforming use granted in Case No. 93-37-SPH and are thereby **DENIED**.

5. Other issues are made moot or are outside the jurisdiction of the Board of Appeals.

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

Michael O. Ramsey, Panel Chairman

Margaret Brassil, Ph.D.

Edward W. Crizer, Jr.

IN RE: PETITION FOR SPECIAL HEARING AND SPECIAL EXCEPTION

	*	BEFORE THE
BALTIMORE COUNTRY CLUB OF BALTIMORE CITY ("BCC") Legal Owner	*	ZONING COMMISSIONER
11500 Mays Chapel Road	*	OF BALTIMORE COUNTY
8th Election District, 2nd Councilmanic District		
	*	Case No.: 06-652-SPHX

AGREED STATEMENT OF FACTS

This matter comes before the Zoning Commissioner for Baltimore County for consideration of a Petition for Special Exception filed by the owner of the property to permit use of the entire property as a Country Club. The property owner has also requested consideration of a Petition for Special Hearing to amend the previously approved Plans and Orders in case numbers 93-37-SPH and 93-388-X. While the property owner had also filed a Petition for Special Exception to approve a portion of the property for use as an Outdoor Recreation Club, the property owner now respectfully requests that Petition be dismissed as moot. The property in question is known as the Baltimore County Club at Five Farms property, located at 11500 Mays Chapel Road in Lutherville, Maryland. The basic site plan information is identified on the attached **Exhibit 1**, the Plan to Accompany the Zoning Hearing.

Representing the property owner and Petitioner, Baltimore Country Club of Baltimore City ("BCC") is G. Scott Barhight, Esq. and Whiteford, Taylor & Preston, L.L.P. Representing Deborah Terry, Donna Dow, Joseph R.B. Tubman, and Courtney Spies, Jr. (the "Community") is J. Carroll Holzer, Esq. Peter Max Zimmerman, People's Counsel of Baltimore County is a party to these proceedings as well.

The parties now submit this Agreed Statement of Facts in support of their joint request that BCC's Petition for Special Exception for a Country Club be granted.

GSB
H-1

The Property's Zoning History

BCC acquired the majority of the property located at 11500 Mays Chapel Road (the "Property") from May 5, 1924 to May 26, 1926. At that time, there were no zoning regulations in Baltimore County. Since that time, BCC has used the Property as a country club and was granted non-conforming use status in Case 93-37-SPH. BCC acquired Parcels A and B (the "Special Exception Area") after the critical date for non-conforming status and was granted special exception status for that portion of the Property in Case 93-388-X.

A Petition for Special Hearing was filed by the Community in Case 04-508-SPH. Subsequently, BCC filed a Petition for Special Hearing in Case 04-600-SPH. The cases were combined and public hearings were held before the Deputy Zoning Commissioner. After full hearings on the merits, the Deputy Zoning Commissioner issued his Findings of Fact and Conclusions of Law on October 22, 2004, granting in part and denying in part the relief sought in the Community's Case 04-508-SPH and granting in part and denying in part, with conditions the relief sought in BCC's Case 04-600-SPH. On appeal, the Board of Appeals issued its Order on Cases 04-508 and 04-600 on October 15, 2005, denying BCC's requested expansion and denying in part and granting in part the relief requested by the Community. Appeals were taken to the Circuit Court by both parties. Those cases have not been heard by the Circuit Court and in accordance with the Settlement Agreement entered into by the parties, those cases will be dismissed.

Below is a more comprehensive summary of the property's zoning history.

Case 93-37-SPH

The majority of BCC's property was granted non-conforming use status in Case 93-37-

SPH. Specifically, Case 93-37-SPH, confirmed a non-conforming country club use for what has been identified as BCC's Non-conforming Use Area.

Lawrence E. Schmidt, then the Zoning Commissioner, found that a country club's use of land may be non-conforming. Zoning Commissioner Schmidt held that BCC's use was in existence at the time zoning began in Baltimore County and that BCC's use has continued in the same manner for the past 48 years. He further held that the land which encompassed the Property as it existed in 1963 is non-conforming.

The approved Plan to Accompany Special Hearing Petition contains four "site use areas" including the Golf, Social, Outdoor Recreation and Residential Areas. These site use areas reflect the traditional uses on the Property.

The Community appealed the decision in Case 93-37-SPH, and while the appeal was pending, the parties entered into a settlement agreement (the "1993 Agreement") to resolve their differences. Accordingly, the Community dismissed its appeal.

Case 93-388-X

A portion of the Property was not granted nonconforming use status. As a result, another zoning case was filed and special exception relief was granted to BCC. Specifically, two small parcels were granted special exception relief for a country club in Case 93-388-X. The site plan approved in Case 93-388-X shows three tennis courts and parking on "Parcel A," formerly known as the Boyce Parcel. As a result of the 1993 Agreement, the Community appeared at the special exception hearing in support of BCC.

Case 97-384-SPH

As a result of a dispute which arose in 1997, a subsequent Order was entered in Case 97-384-SPH. Case 97-384-SPH involved a Petition for Special Hearing filed by the Community.

The Deputy Zoning Commissioner's decision in the 1997 case, addressed a number of issues raised by the Community.

Case 04-508-SPH & Case 04-600-SPH

BCC desired to amend the previously approved Plans and Orders and the Community had questions regarding the proposed activities. Specifically, BCC requested approval of certain refinements to the previously approved tennis improvements for the Nonconforming Use Area and the Special Exception Area. The Zoning Commissioner issued an Order granting in part and denying in part the relief sought in the Community's Case 04-508-SPH and granting in part and denying in part with conditions the relief sought in BCC's Case 04-600-SPH. On appeal, the Board of Appeals issued its Order on Cases 04-508 and 04-600 on October 15, 2005, denying BCC's requested expansion and denying in part and granting in part the relief requested by the Community.

Relevant Facts

In addition to the above, the parties herein stipulate to the following facts in support of BCC's Petition for Special Exception for a Country Club:

1. A grant of the requested Special Exception for a Country Club will not:

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

   B. Tend to create congestion in roads, streets or alleys therein;

   C. Create a potential hazard from fire, panic or other dangers;

   D. Tend to overcrowd land and cause undue concentration of population;

   E. Interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences or improvements;

   F. Interfere with adequate light and air;

   G. Be inconsistent with the purposes of the property's zoning classification nor in

any other way inconsistent with the spirit and intent of these Zoning Regulations;

H. Be inconsistent with the impermeable surface and vegetative retention provisions of these Zoning Regulations; nor

I. Be detrimental to the environmental and natural resources of the site and vicinity including forests, streams, wetlands, aquifers and floodplains in an R.C. 2, R.C. 4, R.C. 5 or R.C. 7 Zone.

2. The proposed changes are consistent with the current and existing use of the property and will not have an adverse impact on the surrounding community.

G. Scott Barhight
Jennifer R. Busse
Whiteford, Taylor & Preston L.L.P.
210 West Pennsylvania Avenue
Towson, Maryland 21204-4515
Attorneys for Baltimore Country Club of Baltimore City

J. Carroll Holzer, Esq.
Holzer & Lee
508 Fairmount Avenue
Towson, Maryland 21286
Attorney for Deborah Terry, et al.

Peter Max Zimmerman, Esq.
People's Counsel for Baltimore County
Old Courthouse, Room 47
400 Washington Avenue
Towson, Maryland 21204

364154

IN RE: PETITION FOR SPECIAL HEARING AND
SPECIAL EXCEPTION

BALTIMORE COUNTRY CLUB
OF BALTIMORE CITY ("BCC")
Legal Owner
11500 Mays Chapel Road
8th Election District, 2nd Councilmanic District

* BEFORE THE

* ZONING COMMISSIONER

* OF BALTIMORE COUNTY

* Case No.:

FINDINGS OF FACT AND CONCLUSION OF LAW

This matter comes before the Zoning Commissioner for Baltimore County for consideration of a Petition for Special Exception filed by the owner of the property to permit use of the entire property as a Country Club. The property owner has also requested consideration of a Petition for Special Hearing to amend the previously approved Plans and Orders in case numbers 93-37-SPH and 93-388-X. While the property owner had also filed a Petition for Special Exception to approve a portion of the property for use as an Outdoor Recreation Club, as is explained below, that Petition is now moot. The property in question is known as the Baltimore County Club at Five Farms property, located at 11500 Mays Chapel Road in Lutherville, Maryland.

A public hearing in this matter was held on _____. Appearing at the public hearing in support of the request were G. Scott Barhight, Esq., with the law firm of Whiteford, Taylor & Preston, on behalf of the Petitioner/Owner Baltimore Country Club of Baltimore City ("BCC"), Michael R. Stott, the General Manager of BCC, and Michael W. Fisher, a registered landscape architect with Site Resources, Inc. Also appearing at the hearing were J. Carroll Holzer, Esq., attorney for a number of residents that live in close proximity to the subject property, and Peter Max Zimmerman, People's Counsel for Baltimore County.

I-1

The property was posed with Notice of Hearing on _____, for at least 15 days prior to the hearing, in order to notify all interested citizens of the requested zoning relief. In addition, a Notice of Zoning Hearing was published in "The Jeffersonian" newspaper on _____ to notify any interested persons of the scheduled hearing date.

A Site Plan for the property, which was prepared by Mr. Fisher, was accepted into evidence as **Exhibit 1**. The Site Plan shows the existing uses and improvements on the property, as well as proposed tennis courts and related improvements.

The property currently enjoys non-conforming use status as a Country Club on a portion of the property, and also currently enjoys Special Exception approval for a Country Club on other portions of the Property. A full summary of the relevant zoning history was provided in the Agreed Statement of Facts provided by BCC and the neighbors, a copy of which is attached hereto as **Exhibit 2**.

After much hard work, BCC entered into a Settlement Agreement with the persons represented by Mr. Holzer (referred to herein as the "Neighbors"). A copy of that is attached hereto as **Exhibit 3**. As part of this Settlement Agreement, the parties have dismissed all appeals taken from Case Nos. 04-508-SPH and 04-600-SPH.

Based on the information supplied by the Agreed Statement of Facts accepted as **Exhibit 2**, clearly there is no dispute as to either the relevant facts or the legal reasons for why the Petition for Special Exception to approve the use of the property as a Country Club should be granted. At the time BCC filed the Petitions, the Settlement Agreement had not yet been finalized. The finalized Settlement Agreement documents that the parties agree that the alternative Special Exception request to approve a portion of the property as an Outdoor Recreation Club is now moot. Therefore, I will dismiss that Petition without prejudice.

A Country Club is permitted on the property by special exception per Baltimore County Zoning Regulations ("BCZR") §1A04.2B.8. A special exception use has been identified by the Appellate Courts of this State as a use which is presumptively valid, absent a showing that the proposed use will cause unique detriment to the health, safety or general welfare of the surrounding community. Further, the petitioner must produce persuasive evidence that the standards enunciated in BCZR §502.1 are satisfied in order for a special exception to be approved.

As described in the Agreed Statement of Facts, all of the required standards of BCZR §502.1 have been met. I am persuaded that the Petitioner has met its burden. There is no evidence that the proposed use will, in any manner, adversely affect the health, safety or general welfare of the locale. The property is currently being used as a Country Club with no harm to the community. The proposed use is still a Country Club. What is being proposed is a change to the tennis facilities, as shown on **Exhibit 1.** The proposed changes are consistent with the current and existing use of the property and will not have an adverse impact on the surrounding community. For all of these reasons, I am persuaded that the Petition for Special Exception for a Country Club should be granted.

Pursuant to the advertisement, posting of the property and public hearing held on these Petitions, and for the reasons set forth above, it is my opinion that the Petition for Special Exception to permit use of the entire property as a Country Club should be granted, and that the Petition for Special Hearing to amend the previously approved Plans and Orders be granted as well. The Petition for Special Exception for use of a portion of the property as an Outdoor Recreation Club shall be dismissed as moot.

THEREFORE, IT IS ORDERED, by the Zoning Commissioner for Baltimore County this _____ day of _____, 2006, that the Petition for Special Exception to permit use of the property as a Country Club be GRANTED, and

IT IS FURTHER ORDERED, that the Petition for Special Hearing to amend the previously approved Plans and Orders in Cases 93-37-SPH and 93-388-X be GRANTED, and

IT IS FURTHER ORDERED, that the Petition for Special Exception to permit a portion of the property to be used as an Outdoor Recreation Club shall be DISMISSED AS MOOT, without prejudice; and

IT IS FURTHER ORDERED, that the terms and conditions of the Settlement Agreement, Exhibit 3, be a condition of this approval.

Any appeal of this Order shall be taken in accordance with the Baltimore County Code Section 32-3-401.

William J. Wiseman, III
Zoning Commissioner
for Baltimore County

364154v2

AMENDED AND RESTATED RESTRICTIVE COVENANT AGREEMENT

THIS AMENDED AND RESTATED RESTRICTIVE COVENANT AGREEMENT (this "Covenant") is made effective as of the 27th day of July, 2006, by and between **BALTIMORE COUNTRY CLUB OF BALTIMORE CITY** ("BCC") and **JOSEPH R.B. TUBMAN, DONNA DOW, DEBORAH TERRY, and COURTNEY SPIES, JR.** (collectively, the "Neighbors").

BCC and the Neighbors, for good and valuable consideration, wish to amend and restate in its entirety that certain Restrictive Covenant Agreement dated September 29, 1993, by and between BCC and Joseph R.B. Tubman, Donna Dow, Deborah Terry, and Courtney Spies, and recorded among the Land Records of Baltimore County in Liber 10086, page 733 (the "Original Restrictive Covenant"). Courtney Spies has passed from this life since the date of the Original Restrictive Covenant and his son, Courtney Spies, Jr., now owns the property previously owned by Courtney Spies in close proximity to the Boyce Parcel described below. Courtney Spies, Jr. is a party to this Covenant in lieu of Courtney Spies. The Original Restrictive Covenant is hereby amended and restated as follows:

RECITALS

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

B. Each member of the Neighbors owns a parcel of land adjacent to or in close proximity to the Boyce Parcel. Each such residential parcel of land currently owned by a member of the Neighbors and in close proximity to the Boyce Parcel shall be referred to collectively as "Neighbors' Parcels." BCC and the Neighbors have a common purpose in maintaining the Boyce Parcel as a buffer, conserving its natural features between the main golf, tennis, pool, and related facilities owned by BCC and the Neighbors' Parcels.

C. In order to resolve a dispute between BCC and the Neighbors with respect to the use of the Boyce Parcel and to further the interests of all parties, the parties have agreed, among other things, to enter into this Covenant.

NOW, THEREFORE, in consideration of the mutual agreements and understandings herein contained, and for other good and valuable considerations, the receipt and sufficiency of which are hereby mutually acknowledged, the parties agree as follows:

Section 1 – Use Restrictions. BCC agrees from the date of recordation of these covenants not to use the Boyce Parcel for any uses other than those listed below:

(i) One (1) single-family residence or housing for personnel of BCC; and

(ii) A portion of the tennis courts and a retaining wall required by the construction and use of the tennis courts as a part of the Baltimore County Club, as shown on Exhibit J to the Settlement Agreement between the parties recorded simultaneously herewith.

The following uses shall be prohibited or restricted:

A. Industrial or commercial activities are prohibited on the Boyce Parcel, except for such activities as can be conducted in existing structures without alteration of the external appearance thereof.

B. Display of billboards, signs or advertisements is prohibited on or over the Boyce Parcel, except (1) to state solely the name and/or address of the Boyce Parcel and/or the owners; (2) to advertise the sale or lease of the Boyce Parcel; or (3) to commemorate the history of the Boyce Parcel, its recognition under state or federal historical registers, or its protection under this Covenant, or state and local environmental or game laws; provided that no sign or billboard on the Boyce Parcel shall exceed four feet by four feet (4'x4').

C. Dumping of soil, trash, ashes, garbage, waste, abandoned vehicles, appliances, or machinery, or other materials on the Boyce Parcel is prohibited, except as may be reasonably necessary for the construction and/or maintenance of structures permitted under this Covenant and means of access.

D. Excavation, dredging, mining and removal of loam, gravel, soil, rock, sand, coal, petroleum and other materials are prohibited, except (1) for the purpose of combating erosion or flooding; (2) for wildlife habitat, means of access and for the construction and/or maintenance of permitted structures. No excavation is permitted in wooded areas of the Boyce Parcel.

E. Diking, draining, filling or removal of wetlands is prohibited.

F. Management and harvesting of all forests on the Boyce Parcel shall be limited and in accordance with the Maryland Forest Practices Guidelines or comparable provisions of any guidelines or regulations which may replace the Forest Practices Guidelines in the future or as they may be amended from time to time and must be sensitive to the natural habitat features of the Boyce Parcel. All stream buffers shall remain forested. Trees may be removed within fifty feet (50') of the existing residence. No other trees may be removed unless they are dead, dying or invasive.

G. No building, facility, or other structure shall be constructed on the Boyce Parcel during the term of this Covenant, except BCC shall be permitted:

(1) To construct accessory structures designed, constructed and utilized in connection with the residential uses of the Boyce Parcel within fifty (50) feet of the existing residence;

(2) To replace all existing structures (which consist of a house and a shed) and other structures permitted under this Covenant with structures of similar purpose;

(3) Subject to applicable zoning and building codes and restrictions, to improve, enlarge, repair, restore, alter, remodel and maintain all existing structures and other structures permitted under this Covenant; and

(4) To maintain the existing driveway.

BCC shall notify the Neighbors at least thirty (30) days prior to submission to Baltimore County for approval of any work pursuant to subparagraphs (1) through (3) above. The Neighbors agree to review the plans promptly and provide comments and concerns to BCC. BCC agrees to respond to comments of the Neighbors in good faith.

BCC shall not be permitted to construct any additional residential structures of any nature on the Property (including, for example, but not limited to, principal residences, guest houses, tenant houses, farm manager houses, condominiums, apartments, mobile homes, or seasonal cabins).

Subdivision of the Property is prohibited except for a transfer of a portion of the Property, as to which all use is prohibited other than as permitted hereunder. The word "subdivide", as used herein, means voluntarily to transfer a portion, less than one hundred percent (100%), of the subject property on which portion one (1) or more residential structures exist.

Section 2 – Personnel Restrictions. If BCC elects to use the Boyce Parcel for personnel, the following are the items that would be applicable to every non-married person taking residence at the Boyce Parcel; understanding that there could never be more than three (3) persons not related by blood or marriage residing in the house at any one time:

A. Male personnel only or female personnel only residing at one time. No gender mixing;

B. All personnel would be responsible to sign a housing agreement and give a significant security deposit ($500);

C. The housing agreement would have a three strike clause in it that would allow BCC to remove, without notice, the personnel if a pattern of behavior is determined by BCC to be detrimental to the image of BCC;

D. Personnel would not be entitled to have any guests sleep over or reside with or in place of them in the house;

E. No parties could be hosted at the Boyce Parcel; and

F. No more than three female or male personnel could reside at one time in the house.

These restrictions shall not be applicable to other single-family uses. Additionally, Sections 2.A, 2.D, 2.E and 2.F shall not be applicable to personnel who are related by blood or marriage.

Section 3 – Enforcement and Remedies.

A. Upon any breach of the terms of this Covenant by BCC, the Neighbors may, after reasonable not to BCC, exercise any or all of the following remedies:

1. Institute suits to enjoin any breach or enforce any covenant by ex parte, temporary, and/or permanent injunction, either prohibitive or mandatory; and

2. Require that the Boyce Parcel be restored promptly to the condition required by this Covenant.

The Neighbors's remedies shall be cumulative and shall be in addition to any other rights and remedies available to Grantee, at law or in equity. If BCC is found by a court of law to have breached any of its obligations under this Covenant, BCC shall reimburse the Neighbors for any costs or expenses incurred by the Neighbors, including court costs and reasonable attorney's fees.

B. No failure on the part of the Neighbors to enforce any covenant or provision of this Covenant shall discharge or invalidate such covenant or any other covenant, condition, or provision hereof or affect the right of the Neighbors to enforce the same in the event of a subsequent breach or default.

C. The Neighbors shall have the right, with reasonable notice, to enter the Boyce Parcel at reasonable times for the purpose of inspecting the Boyce Parcel to determine whether BCC, its successors or assigns, are complying with the terms, conditions and restrictions of this Covenant. This right of inspection does not include access to the interior of buildings and structures. The Neighbors agree to employ a consultant acceptable to both parties to perform said inspections, at the Neighbors' sole cost and expense.

Section 4 - General Provisions.

1. The conveyance of the Boyce Parcel or of any interest in the Boyce Parcel, by BCC or its successors and assigns, shall be deemed to be subject to this Covenant.

2. The conditions of this Covenant shall inure to the benefit of the successors and assigns of BCC and the title to the Neighbors Parcels and upon each person from time to time holding such title of record and such covenants shall be considered covenants appurtenant and not covenants in gross.

3. The terms of this Covenant cannot be amended or terminated except by an agreement executed by seventy-five percent (75%) of the Neighbors and BCC.

WITNESS the due execution of this Covenant by BCC and the Neighbors as of the day and year first above written.

ATTEST:

_____
G. Scott Barhight

BALTIMORE COUNTY CLUB OF BALTIMORE CITY

By: _____ (SEAL)
Name: T. Edgie Russell
Title: President

WITNESS:

_____ _____ (SEAL)
Joseph R.B. Tubman

_____ _____ (SEAL)
Donna Dow

_____ _____ (SEAL)
Deborah Terry

_____ _____ (SEAL)
Courtney Spies, Jr.

(Notary Certifications continue on page 6)

STATE OF Maryland, County of Baltimore TO WIT:

I HEREBY CERTIFY, that on this 27th day of July, 2006, before me, the subscriber, a Notary Public of the State of Maryland, in and for the President aforesaid, personally appeared T. Edgie Russell, who acknowledged himself to be a duly authorized agent of the Baltimore County Club of Baltimore City, and as such being authorized to do so, executed the foregoing instrument for the purposes therein contained, by signing the name of Baltimore County Club of Baltimore City.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year aforesaid.

Darlene E Ramsey
Notary Public IN AND FOR BALTIMORE COUNTY, M

My Commission Expires: 6-1-10

DARLENE E. RAMSEY NOTARY PUBLIC BALTIMORE COUNTY, MD

STATE OF Maryland, County of Baltimore, TO WIT:

I HEREBY CERTIFY that on this 27th day of July, 2006, before me, a Notary Public for the jurisdiction aforesaid, personally appeared Joseph R.B. Tubman, known to me or satisfactorily proven to be the person whose name is subscribed to the within instrument, and who acknowledged to me that he executed the same for the purposes therein contained.

WITNESS my hand and Notarial Seal.

Darlene E Ramsey
Notary Public
IN AND FOR Baltimore County, MD

DARLENE E. RAMSEY NOTARY PUBLIC BALTIMORE COUNTY, MD.

My Commission Expires: 6-1-10

STATE OF Maryland, County of Baltimore, TO WIT:

I HEREBY CERTIFY that on this 21st day of July, 2006, before me, a Notary Public for the jurisdiction aforesaid, personally appeared Donna Dow, known to me or satisfactorily proven to be the person whose name is subscribed to the within instrument, and who acknowledged to me that she executed the same for the purposes therein contained.

WITNESS my hand and Notarial Seal.

Darlene E Ramsey
Notary Public
IN AND FOR
BALTIMORE COUNTY, MD

DARLENE E. RAMSEY NOTARY PUBLIC BALTIMORE COUNTY, MD

My Commission Expires: 6-1-10

STATE OF Maryland, County of Baltimore, TO WIT:

I HEREBY CERTIFY that on this 20th day of July, 2006, before me, a Notary Public for the jurisdiction aforesaid, personally appeared Deborah Terry, known to me or satisfactorily proven to be the person whose name is subscribed to the within instrument, and who acknowledged to me that she executed the same for the purposes therein contained.

WITNESS my hand and Notarial Seal.

Darlene E Ramsey
Notary Public
IN AND FOR BALTIMORE COUNTY, MD

DARLENE E. RAMSEY NOTARY PUBLIC BALTIMORE COUNTY, MD

My Commission Expires: 6-1-10

STATE OF Maryland, County of Baltimore TO WIT:

I HEREBY CERTIFY that on this 27th day of July, 2006, before me, a Notary Public for the jurisdiction aforesaid, personally appeared Courtney Spies, Jr., known to me or satisfactorily proven to be the person whose name is subscribed to the within instrument, and who acknowledged to me that he executed the same for the purposes therein contained.

WITNESS my hand and Notarial Seal.

Darlene E Ramsey
Notary Public IN AND FOR BALTIMORE COUNTY, MD

DARLENE E. RAMSEY NOTARY PUBLIC BALTIMORE COUNTY

My Commission Expires: 6-1-10

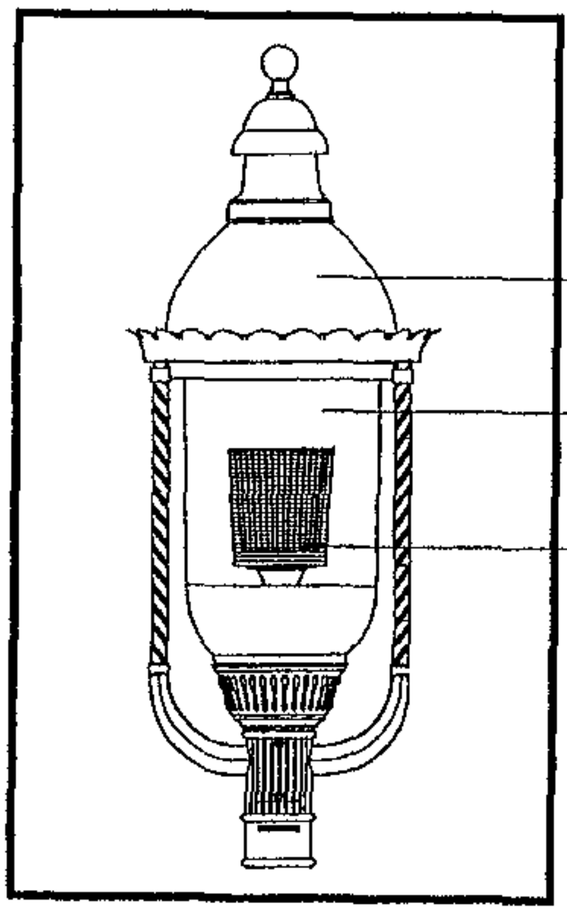
ATTORNEY CERTIFICATION

This is to certify that this instrument has been prepared under the supervision of the undersigned, an attorney duly admitted to practice law before the Court of Appeals of Maryland or a party hereto.

Joseph N. Schaller

Joseph N. Schaller

6590 VICTORIAN GASLIGHT I SERIES SPECIFICATIONS



GENERAL

The 6590 Gaslight I is a large scale Victorian authentically detailed fixture which consists of a decorative cast aluminum fitter, cast ballast housing assembly and polycarbonate or acrylic clear lens. It features decorative ropes supporting gracefully detailed aluminum hinged roof. It shall be appointed with a cast aluminum pedestal ball finial on top of a tall spun aluminum cupola.

FITTER

The fitter shall be heavy wall cast aluminum, 319 alloy for high tensile strength. It shall have an inside diameter opening to accept a 3" diameter pole or tenon. When ordered with a Sternberg aluminum pole, the fitter shall be set screwed to the pole top or tenon.

BALLAST HOUSING

The ballast housing shall be heavy wall cast aluminum, 319 alloy for high tensile strength. The housing shall be mounted to the cast fitter with two screws. The ballast shall be attached to the ballast housing by two aluminum wide faced "Z" brackets to ensure high capacity heat sinking of ballast temperatures, keeping the ballast cooler and ensuring long life.

ELECTRICAL

Fixture shall be U.L. or E.T.L. listed. H.I.D. ballasts shall be high power factor with lamp starting down to -30 degrees C. Medium base and mogul base porcelain sockets are 4KV rated. The ballast/socket assembly shall be pre-wired when ballast is located in the fixture. All compact fluorescent (PL) ballasts shall be instant start electronic with a starting temperature of down to 0 degrees F. They shall have a 4-pin socket to accept quad or triple tube lamps.

FIXTURE HOUSING

The 6590 fixture shall be 18" in diameter x 46" tall with a 7" diameter neck on the lens. The clear lens shall be made of vandal resistant clear textured polycarbonate or dent resistant (DR) clear acrylic. The lower section of the lens shall be frosted. The cast aluminum lens holder and scalloped roof ring shall be made of cast aluminum, 319 alloy for high tensile strength. The roof shall be spun aluminum, painted white (Model 6590), white translucent acrylic (Model 6590GT), polished brass (Model 6590BD) or antique copper (Model 6590CD).

OPTICAL OPTIONS

Refractors shall be 6" diameter borosilicate glass with an I.E.S. Type 3 (RE3G) or Type 5 RE5G) distribution. It shall be secured to the socket stem with $^3/_8$" plated steel threaded pipe nipple and rest on a cast aluminum holder with anti-shock gasket. The refractor will be secured to cast holder with a quarter-turn internal aluminum twist ring for ease of maintenance.

The **NIGHTSKY™ OPTI-SHIELD™ Louver Optic System** (LO or LO-S) shall be a multi-tier reflector with 7" diameter rings to produce an I.E.S. Cut-off Type 3 or 5 distribution. The Louver Optic System shall be made of highly specular anodized aluminum and shall come standard with medium base socket.

LIST NO. 6590 VICTORIAN GASLIGHT I SERIES →

NIGHTSKY™ STAR-SHIELD™ Roof Optics distribution shall be delivered by multi-segmented

(Continued on back page)

6590 VICTORIAN GASLIGHT I SERIES SPECIFICATIONS

LIST NO. 6590 VICTORIAN GASLIGHT I SERIES

roof mounted reflector systems which eliminate uplight and provide cut-off. The reflector cavity shall be made of specular anodized aluminum. Roof Optics Type 2 (RO2H-S), Type 3 (RO3H-S), Type 5 (RO5H-S) horizontal are available for medium base lamps.

Frosted Glass Mission Chimney (FHC) is an optic option which adds an authentic touch and can be used with Roof Optics.

Cone Optics Type 5 (CO5) distribution uses a vertically mounted lamp inside a highly specular reflector system to provide a reduction of uplight with a wide lighting span.

House Side Shield (HSS) is an option which will block up to 120° of light in any one direction.

QUARTZ RE-STRIKE

All 6590 fixtures can be supplied with an optional quartz re-strike system to retain constant fixture light if the H.I.D. lamp fails. The fixture will be equipped with a 100 watt quartz lamp and a controller to run on a 120 volt circuit and must be used in conjunction with a 120 volt or multi-tap ballast.

PHOTOCELLS

Photocells shall be either the thermo bi-metal button type or the electronic button type. On single post top fixtures the photocell shall be mounted in the fitter and pre-wired to ballast. On multiple head fixture assemblies photocells shall be mounted in the pole shaft on an access plate and are not pre-wired as ballast housing assemblies and fitters are packaged separately for ease of wiring to source. The thermo bi-metal photocell shall be designed to turn on at 1.0 footcandle and turn off at not more than 5 footcandles. The electronic button type photocell is instant on and a 5-10 second turn off and shall turn on at 1.5 footcandles with a turn-off at 2-3 footcandles. Photocells are either 120 volt or 208 thru 277 volt.

ARMS

All arms are made of cast aluminum and/or extruded aluminum. Arms with decorative filigree have meticulously detailed scroll work and gracefully curved brackets. All 6590 fixtures will have its fitter either welded to the arm or will be mechanically attached at the factory to ensure arms will be plumb, secure and level over the life of the installation. Each arm shall be bolted to a post mount adapter, which is welded to the pole to ensure proper alignment to the base. BA, TA, 579 and 779 arms will be attached to a decorative center hub which will slip fit the center tenon of the pole. Arms are pre-wired for ease of installation.

FINISH

Prior to coating, each assembly shall be chemically cleaned and etched in a 5-stage washing system which includes alkaline cleaning, rinsing, phosphoric etching, reverse osmosis water rinsing, and non-chrome sealing to ensure corrosion resistance and excellent adhesion for the finish coating. The finish coating shall be electrostatically applied semi-gloss, super durable polyester powder baked at 400 degrees for a durable and superior, color retentive finish. Our optional antique Verde Green finish and Swedish Iron finish are hand brushed using a 3-step process. The total assembly shall be wrapped in shockproof wrapping or fully enclosed in corrugated cartons.

WARRANTY

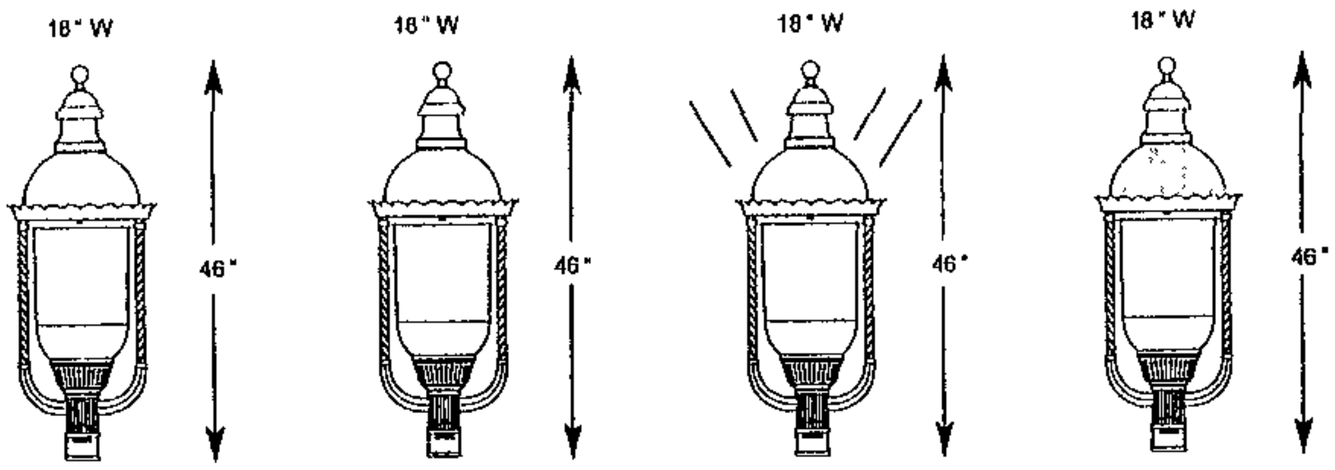
Five-year limited warranty. See product and finish warranty guide for details.

STERNBERG LIGHTING
555 Lawrence Ave. Roselle, IL 60172 • 847-588-3400 • Fax 847-588-3440
www. sternberglighting.com Email: info@sternberglighting.com

STERNBERG

6590 VICTORIAN GASLIGHT I — FIXTURES / ARMS PM - WB

FIXTURES



6590 Polycarbonate Lens

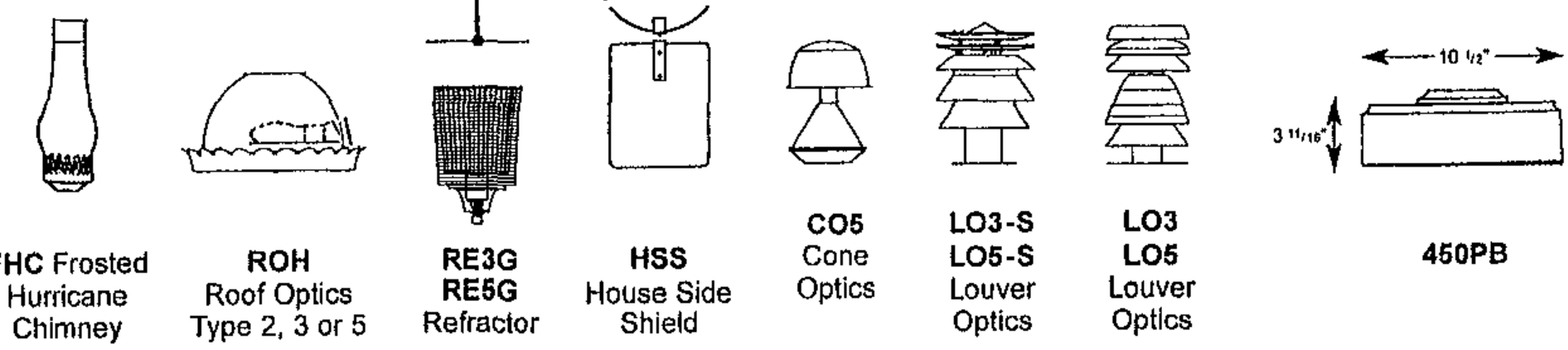
6590A Acrylic Lens

6590GT Polycarbonate
6590AGT Acrylic Glow Top

6590BD Brass Dome
6590CD Copper Dome

OPTICAL SYSTEMS

PIER BASE MOUNTS (PB)



FHC Frosted Hurricane Chimney

ROH Roof Optics Type 2, 3 or 5

RE3G
RE5G Refractor

HSS House Side Shield

CO5 Cone Optics

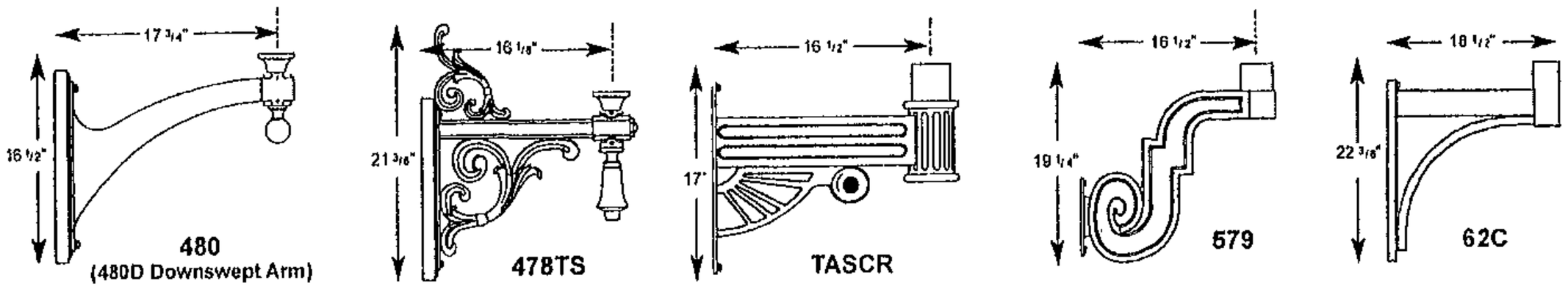
LO3-S
LO5-S Louver Optics

LO3
LO5 Louver Optics

450PB

ARMS - POST MOUNT (PM) or WALL BRACKETS (WB)

See Arms Section for more information



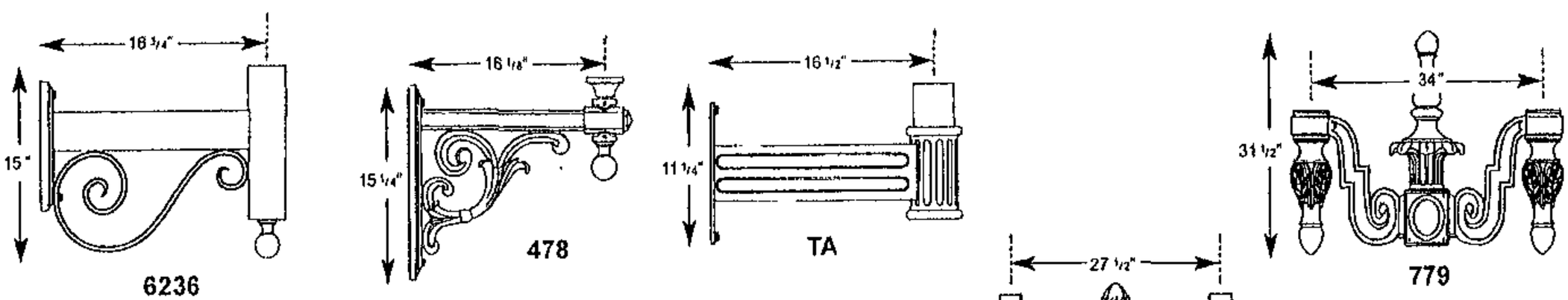
480
(480D Downswept Arm)

478TS

TASCR

579

62C



6236

478

TA

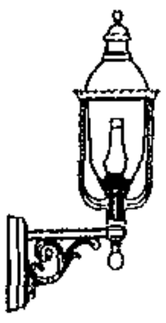
BAPT

779

BUILDING A PART NUMBER

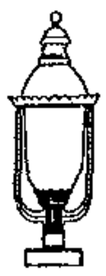
POST & ARM FIXTURES

ARM MOUNTED FIXTURE		CENTER POST TOP FIXTURE (PT)	POST	POST CAP	LIGHT SOURCE BALLAST	OPTICS	OPTIONS	FINISH
NO. OF ARMS	FITTER / POSTARM		(See Post Section)		WATTS / TYPE / VOLTS			
[ ] —	[ ] /	[6590] PT /	[3912FP4] /	[ ] /	[100HPS120] /	[RE3G] /	[HPS100/MED] /	[BK]



WALL FIXTURES

FIXTURE/WALLBRACKET	LIGHT SOURCE BALLAST WATTS/TYPE/VOLTS	OPTICS	OPTIONS	FINISH
[6590/478WB] /	[100HPS120] /	[RO3/FHC] /	[HPS100/MED] /	[BK]



PIER FIXTURES

Uses same information boxes as wall fixture

[6590/450PB]

FIXTURE / PIER BASE

PART NUMBER SELECTIONS

FIXTURES
- 6590
- 6590A
- 6590GT[6]
- 6590AGT[6]
- 6590BD
- 6590ABD
- 6590CD
- 6590ACD

OPTICS
- RE3G
- RE5G
- ALZAK
- HSS
- LO3-S[5]
- LO5-S[5]
- LO3[7]
- LO5[7]
- RO2H-S[5]
- RO3H-S[5]
- RO5H-S[5]
- CO5
- FHC[4]

WALL BRACKET ARMS
- 478WB
- 478TSWB
- 480WB
- 480DWB
- 62CWB
- 6236WB
- 579WB
- TAWB
- TASCRWB

VOLTAGES
- 120
- 208
- 240
- 277
- MULTI (120-277)

POST ARMS
- 478PM
- 478TSPM
- 480PM
- 480DPM
- 62CPM
- 6236PM
- 579PT
- TAPT
- TASCR
- BAPT
- 779PT

PIER BASE
- 450PB

BALLASTS
- 35HPS[1]
- 50HPS[2]
- 70HPS
- 100HPS
- 150HPS
- 250HPS*
- 50MH
- 70MH
- 100MH
- 150MH
- 250MH*
- 26PLT
- 32PLT
- 42PLT
- INCAND
- QL55*
- QL85*

*Consult factory for specification details

LAMPS[3]
- HPS35/MED
- HPS50/MED
- HPS70/MED
- HPS100/MED
- HPS150/MED
- HPS250/MOG/ED18
- MH50/MED
- MH70/MED
- MH100/MED
- MH150/MED
- MH175/MED
- MH250/MOG/ED28
- PLT26
- PLT32
- PLT42

FINISHES STANDARD
- BK Black
- VG Verde Green
- PG Park Green
- ABZ Arch Med Bronze
- SI Swedish Iron
- DB Dark Bronze

FINISHES CUSTOM
- WH White
- RT Rust
- CM Custom Match
- OI Old Iron
- TT Two Tone

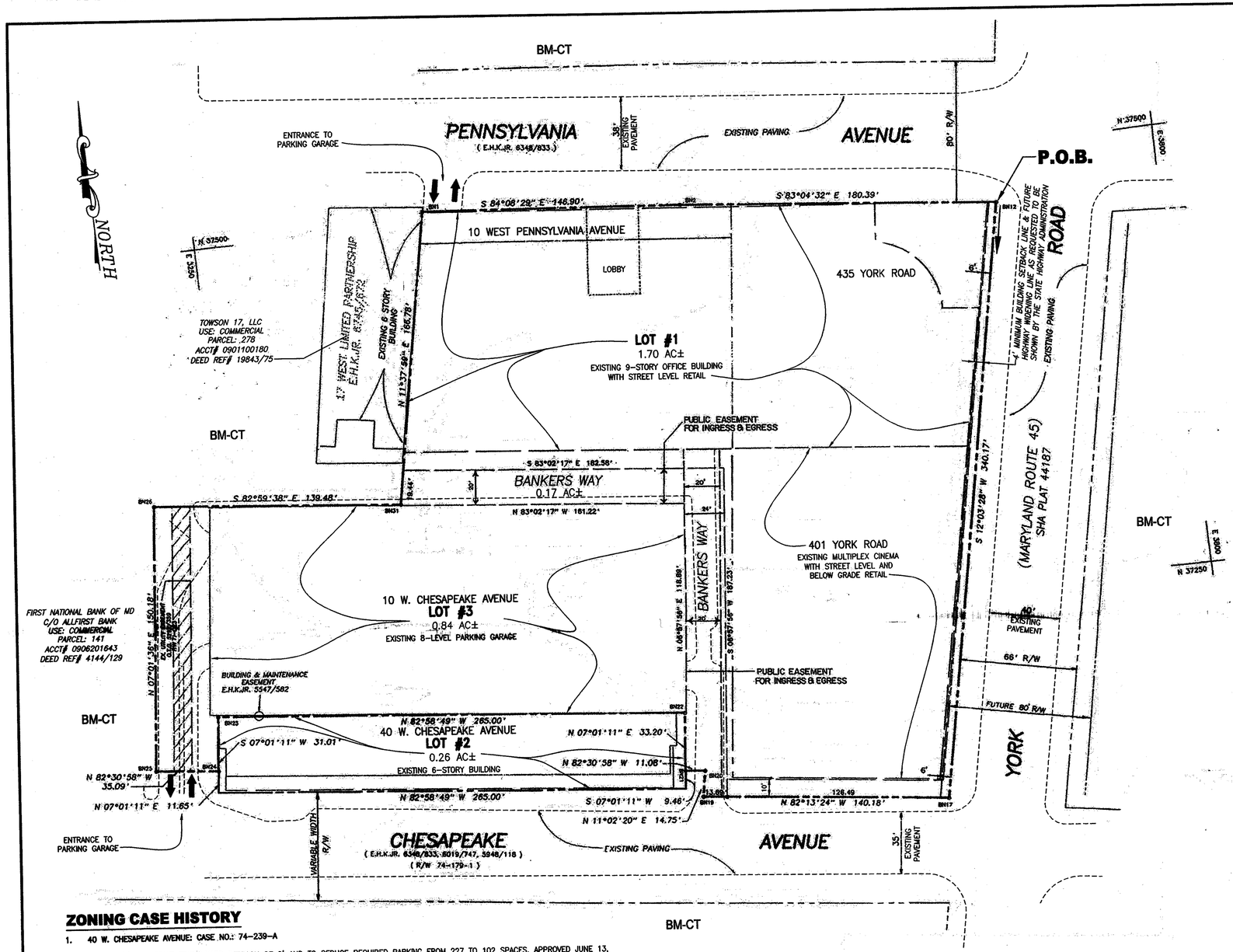
OPTIONS
- PEC1 Photocell-Bimetal 120 Volt
- PEC2 Photocell-Bimetal 208-277 Volt
- PEC1-E Photocell-Electronic 120 Volt
- PEC2-E Photocell-Electronic 208-277 Volt
- FHS Single Fuse and Holder-120,277 Volt
- QR Quartz Re-Strike
- FHD Dual Fuse and Holder-208,240,480 Volt
- PF Pineapple Finial or Font (TA, TASCR)
- BF Ball Finial or Font (TA, TASCR)
- LAMPS Select from list

NOTES:

[1] 35HPS is 120 volt only.
[2] 50HPS available as 120 or 277 volt only. Other are special order.
[3] Standard is clear, for coated HID lamps add C (MH70/C/MED) Medium base sockets standard with ballasts up to 175 watts. Mercury vapor ballasts and induction lamps are available.
[4] Medium base only when used to house lamp.
[5] Medium base lamp only.
[6] RE3G, RE5G or FHC optics only. 175 watt max.
[7] Choice of 3 Models: Medium base for HPS or MH (ED17 only). Or mogul base for HPS (ED18 only). Or mogul base for MH (ED28 only)

STERNBERG LIGHTING

555 Lawrence Ave. Roselle, IL 60172 • 847-588-3400 • Fax 847-588-3440
www. sternberglighting.com Email: info@sternberglighting.com



ZONING CASE HISTORY

1. **40 W. CHESAPEAKE AVENUE: CASE NO.: 74-239-A**

   VARIANCE(S) TO PERMIT FRONT YARD SETBACK OF 0' AND TO REDUCE REQUIRED PARKING FROM 227 TO 102 SPACES, APPROVED JUNE 13, 1974.

2. **401-435 YORK ROAD: CASE NO.: 90-130-SPHA**

   A. ON NOVEMBER 14, 1989, THE DEPUTY ZONING COMMISSIONER GRANTED THE VARIANCES SET FORTH BELOW, SUBJECT TO CERTAIN RESTRICTIONS, BUT DISMISSED THE SPECIAL HEARING RELIEF REQUESTED.

   B. ON MARCH 23, 1990, THE BOARD OF APPEALS GRANTED THE REQUESTED VARIANCES FROM BCZR SECTIONS:

   1. 235.1 - TO PERMIT A FRONT YARD SETBACK OF 0 FEET ALONG PENNSYLVANIA AVENUE IN LIEU OF THE REQUIRED 15 FEET.
   2. 235.1 - TO PERMIT A STREET CORNER SETBACK OF 4 FEET IN LIEU OF THE REQUIRED 10 FEET ON YORK ROAD.
   3. 231.D AND 235B.5 - TO PERMIT 125 FEET OF THE BUILDING TO PROJECT 30 FEET ABOVE AND 8 FEET BEYOND A PLANE SLOPING INWARD AND UPWARD AT A 1 TO 7.5 SLOPE.
   4. 235B.4 - TO PERMIT 22,880 SQUARE FEET OF AMENITY OPEN SPACE IN LIEU OF THE REQUIRED 39,943 SQUARE FEET.

   THE BOARD OF APPEALS GRANTED THE ABOVE REFERENCED VARIANCES SUBJECT TO THE FOLLOWING RESTRICTIONS:

   1. THE PETITIONER SHALL LANDSCAPE THE PROPERTY IN ACCORDANCE WITH AND AS REQUIRED BY THE BALTIMORE COUNTY LANDSCAPING MANUAL AND AS MAY BE REQUIRED BY THE DIRECTOR OF PLANNING AND ZONING AND THE LANDSCAPE PLANNER.
   2. ALL SIGNS AND THE SCORING PATTERN IN THE BRICK AND CONCRETE AT THE ENTRANCES TO THE PROPERTY SHALL BE SUBMITTED TO THE OFFICE OF PLANNING FOR APPROVAL PRIOR TO CONSTRUCTION.
   3. THAT THE FINAL LANDSCAPING PLAN SHALL BE MAINTAINED AT ALL TIMES BY PETITIONER AND/OR SUBSEQUENT PROPERTY OWNERS.
   4. THE PETITIONERS SHALL IMPLEMENT, AT THEIR EXPENSE, ANY IMPROVEMENTS AS MAY BE REQUIRED BY THE STATE HIGHWAY ADMINISTRATION AND/OR THE BALTIMORE COUNTY BUREAU OF TRAFFIC ENGINEERING TO ASSURE SAFE PEDESTRIAN TRAVEL AT THE INTERSECTIONS OF YORK ROAD AND PENNSYLVANIA AVENUE, AND YORK ROAD AND CHESAPEAKE AVENUE.

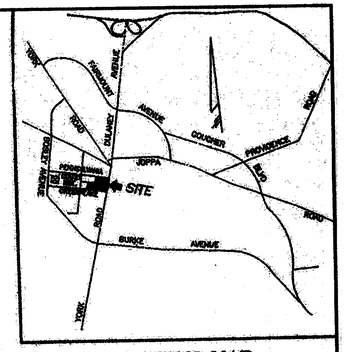
PROPERTY OWNERSHIP

LOT #1 OWNER: 401-435 YORK ROAD AND
10 WEST PENNSYLVANIA AVENUE
TOWSON COMMONS, LLC
1054 31ST STREET NW
WASHINGTON, DC 20007-4403
DEED REFERENCE: 22729/024
TAX MAP: 70
PARCEL: 16

LOT #2 OWNER: 40 WEST CHESAPEAKE AVENUE
40 WEST CHESAPEAKE, LLC
2328 WEST JOPPA ROAD, SUITE 200
LUTHERVILLE TIMONIUM, MD 21093-4674
DEED REFERENCE: 11969/438
TAX MAP: 70
PARCEL: 136

CONTRACT PURCHASER: TOWSON COMMONS, LLC
1054 31ST STREET NW
WASHINGTON, DC 20007-4403

LOT #3 OWNER: 10 WEST CHESAPEAKE AVENUE
PARKING GARAGE
TOWSON COMMONS, LLC
1054 31ST STREET NW
WASHINGTON, DC 20007-4403
DEED REFERENCE: 22729/024
TAX MAP: 70
PARCEL: 16



LOCATION MAP
SCALE: 1" = 2000'

GENERAL NOTES:

1. ZONING: BM-CT
2. PROPERTY AREA:

LOT #1	74,071 SF	=	1.70 AC±
LOT #2	11,455 SF	=	0.26 AC±
LOT #3	36,764 SF	=	0.84 AC±
BANKERS WAY	7,540 SF	=	0.17 AC±
TOTAL PROPERTY AREA:	129,672 SF	=	2.97 AC±
INCLUDES 30' WITHIN ADJACENT PUBLIC ROADS, (PENNSYLVANIA AVENUE, YORK ROAD, AND CHESAPEAKE AVENUE)	35,994 SF	=	0.82 AC±
TOTAL: PROPERTY AND 30' WITHIN ADJACENT PUBLIC ROADS	165,666 SF	=	3.79 AC±

3. BALTIMORE COUNTY SOILS SURVEY MAP: 35
4. ZONING MAP: 070A2
5. PLAT REFERENCE: S.M. 62-115
6. CENSUS TRACT: 4907.3, 4909.0
7. WATERSHED: 12
8. SUBSEWERSHED: 55
9. SEWAGE PLAN DESIGNATION: S1
10. WATER SUPPLY PLAN DESIGNATION: W1
11. REGIONAL PLANNING DISTRICT: 315
12. ELECTION DISTRICT: 9TH
    COUNCILMANIC DISTRICT: 5TH
13. EXISTING USE: RETAIL, OFFICE, STRUCTURED PARKING (GARAGE)
14. POTENTIAL USE: UNDETERMINED USES AS PERMITTED BY BCZR
15. FLOOR AREA RATIO (F.A.R.):
    MAXIMUM ALLOWED - 5.5
16. MAXIMUM PERMITTED BUILDING AREA: (5.5 X 165,666 SF) (PER NOTE #2) = 911,163 SF
17. EXISTING AND POTENTIAL BUILDING AREA:

LOTS 1 AND 3 (PER APPROVED 3RD REFINED CRG PLAN)	=	402,085 SF
LOT 2	=	68,290 SF
TOTAL EXISTING:	=	470,375 SF

    POTENTIAL BUILDING AREA PERMITTED: (911,163 SF - 470,375 SF) = 440,788 SF
18. PURSUANT TO BCZR SECTION 235 B.7.C.1, NO RELIEF FROM HEIGHT LIMITATIONS OR SETBACKS IS REQUIRED.
19. THIS SITE IS SERVICED BY PUBLIC WATER AND SEWER.
20. LANDSCAPING SHALL COMPLY WITH THE BALTIMORE COUNTY LANDSCAPE MANUAL
21. THE SITE IS NOT WITHIN A MORATORIUM AREA OR IN AN AREA WHERE FAILURE OF BASIC SERVICES MAPS CURRENTLY EXISTS PER SECTION 4A02 (BCZR).
22. THE SITE IS NOT IN A 100 YEAR FLOODPLAIN.
23. THIS SITE IS NOT LOCATED IN THE CHESAPEAKE BAY CRITICAL AREA.
24. THERE ARE NO NON-TIDAL WETLANDS ON THIS SITE.
25. THERE ARE NO FOREST BUFFERS ON THIS SITE.
26. THERE ARE NO KNOWN REGULATED PLANT OR WILDLIFE COMMUNITIES ASSOCIATED WITH THIS SITE.
27. THERE ARE NO KNOWN HISTORICAL STRUCTURE, DISTRICT, OR ARCHEOLOGICAL AREAS ASSOCIATED WITH THIS SITE.
28. THERE ARE NO KNOWN EXISTING WELLS OR SEPTIC FIELDS WITHIN 100' OF THIS PROPERTY
29. BUILDING CONSTRUCTION SHALL COMPLY WITH BUILDING AND FIRE CODE REQUIREMENTS.
30. ALL LIGHTING SHALL CONFORM TO IES STANDARDS (ILLUMINATING ENGINEERING SOCIETY OF NORTH AMERICA) MAXIMUM HT. 18' PER SECTION 405.4.C.1.D (BCZR)
31. SIGNAGE: PROPOSED SIGNAGE SHALL BE IN COMPLIANCE WITH B.C.Z.R. SECTION 450.

RELIEF REQUESTED

SPECIAL HEARING TO CONFIRM THE MAXIMUM PERMITTED BUILDING AREA FOR EXISTING AND POTENTIAL IMPROVEMENTS, AS MORE PARTICULARLY SHOWN ON THE SITE PLAN ATTACHED HERETO.

677

MRA
MORRIS & RITCHIE ASSOCIATES, INC.
ENGINEERS, PLANNERS, SURVEYORS AND LANDSCAPE ARCHITECTS
1220-C EAST JOPPA ROAD, SUITE 505
TOWSON, MARYLAND 21286
(410) 821-1690
FAX: (410) 821-1748
MRAGTA.COM

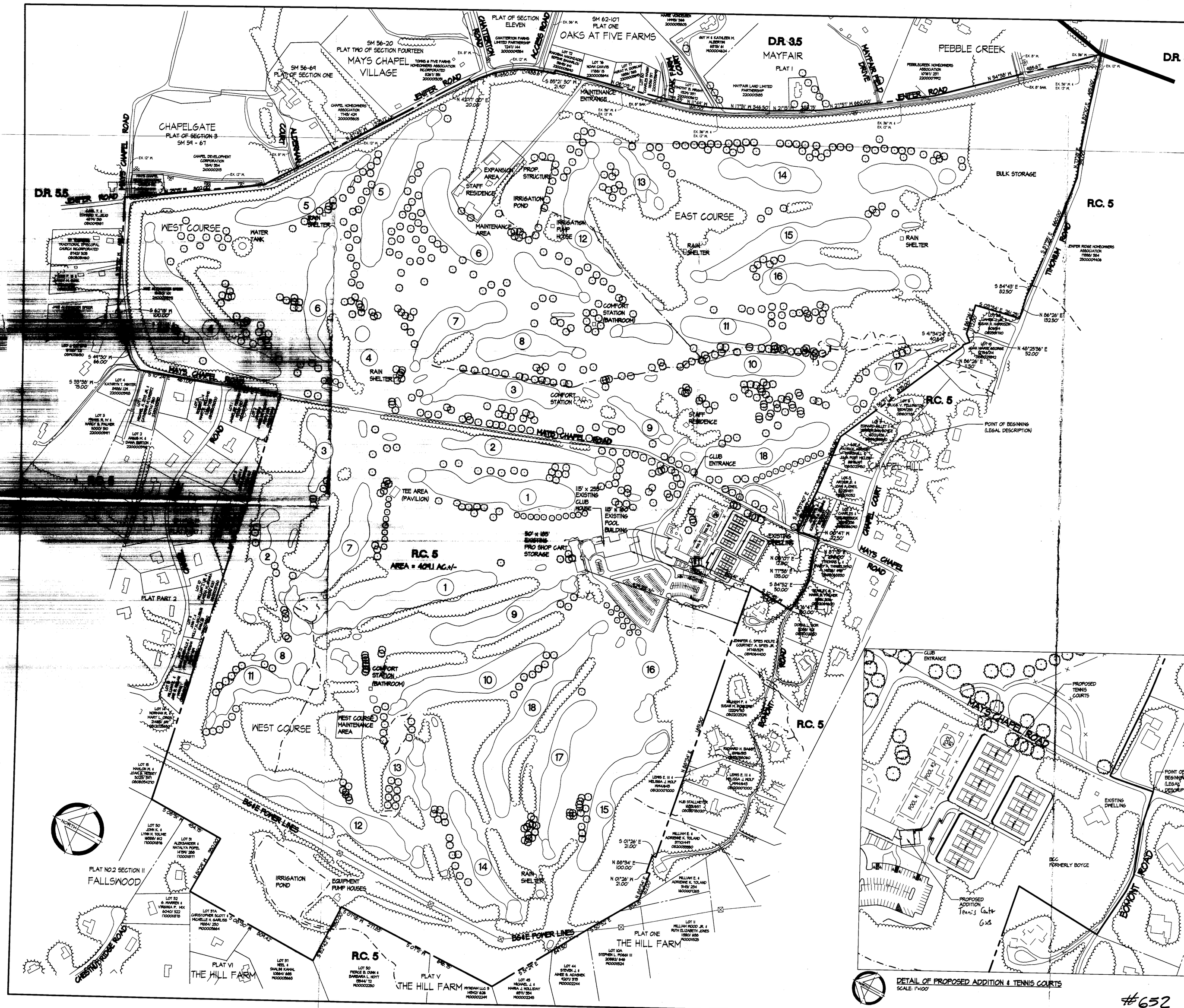
PLAN TO ACCOMPANY PETITION FOR
SPECIAL HEARING APPLICATION
LOTS 1, 2, AND 3
(A.K.A. TOWSON COMMONS AND LAFAYETTE BUILDING)
401 - 435 YORK ROAD AND 40 WEST CHESAPEAKE AVENUE

STATE OF MARYLAND - EDWARD W. PITCHER - No. 14032 - REGISTERED PROFESSIONAL ENGINEER
6/22/06

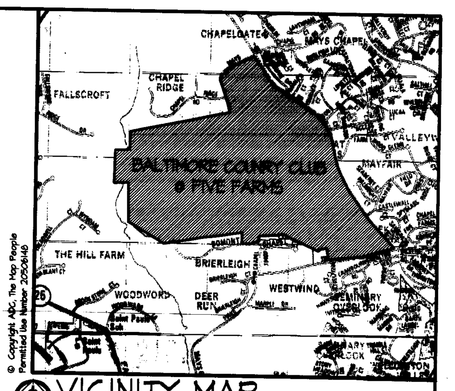
9TH ELECTION DISTRICT BALTIMORE COUNTY, MARYLAND 5TH COUNCILMANIC DISTRICT

DATE	REVISIONS	
		JOB NO.: 12552.02
		SCALE: 1"= 30'
		DATE: 06/07/06
		DRAWN BY: JAB
		DESIGN BY: WPM
		REVIEW BY: WPM
		SHEET: 1 OF 1

P:\12552.02\PLANNING\PLOT\SPECIAL EXEPTION\12552.02-SPECIAL HEARING 01.dwg, 6/22/2006 12:37:31 PM, JBrown



DETAIL OF PROPOSED ADDITION & TENNIS COURTS
SCALE: 1"=100'



VICINITY MAP 1"=2000'

General Notes

1. Owner:
Baltimore Country Club of Baltimore City, Inc.
11500 Mays Chapel Road
Timonium, MD 21093 (410) 884-4400

2. Election District 8; Councilmanic District 2;

3. Summary of Relevant Zoning History.

a. Case 93-37-SPH: On March 5, 1993, the Zoning Commissioner held that Baltimore Country Club operated a nonconforming country club on those portions of the property that were included in its ownership as of September 26, 1963, and further granted approval for various modifications/improvements, both present and proposed, to those portions of the property.

b. Case 93-386-X. On June 23, 1993, the Deputy Zoning Commissioner approved the operation of a country club on Parcels A and B, and incorporated the June 15, 1993 Agreement between the Club and several neighbors into that approval.

c. Case 97-304-SPH. On March 31, 1998, the Deputy Zoning Commissioner addressed a variety of issues raised by several neighbors regarding utilization of the Special Exception, compliance with the 1993 Agreement between the Club and several neighbors, and the need for a hearing to approve changes to the tennis court Facility.

d. Cases 04-508-SPH and 04-600-SPH. On October 22, 2004, the Deputy Zoning Commissioner issued an Order which was appealed to the Board of Appeals. On October 31, 2005, the Board denied the request for an increase in the number of tennis courts and the construction of a tennis building. That Order was also appealed and the case is currently pending before the Circuit Court for Baltimore County.

4. Zoning of the club and adjacent properties as shown.

5. The names of adjoining subdivisions are as shown.

6. Existing streets are as shown. Public utilities - water, fire hydrants, sewer, and storm drains exist Jenifer Road. They are not relevant to this petition and are not shown for purposes of clarity.

7. There are no signs on the country club property other than directional signs as authorized by Section 413.E.(5). Any future sign shall comply with the requirements of Section 450 as limited by the provisions of Section 450 BCZR.

8. All streams and stormwater management areas within 50 feet are shown.

9. The site is served by public water and currently by on-site sewage disposal. These are not relevant to the non-conforming status of the club and are not shown for purposes of clarity. Water and Sewage Plan amendment, Cycle 10, Issue 42-09, has requested that the club be allowed to connect to the public sewerage system. In accordance with staff and Planning Board recommendations, the County Council has amended the plan to show it as a continued area of no planned service, but granted a special exception for a sewer connection serving only Baltimore Country Club.

10. Building heights do not exceed the permitted 35 feet.

11. Parking required = 36 holes @ 8 spaces per hole = 288 spaces
Existing parking = 296 spaces
Provided parking = 242 spaces (excluding overflow/grass parking)

12. Tennis courts will be screened and buffered in accordance with the Settlement Agreement incorporated into this plan approval.

13. Three historical buildings are adjacent to the club and are listed on the Maryland Historical Trust Inventory. They are:

a. 11840 Mays Chapel Road; the Ridge School-BA-930.

b. 11900 Mays Chapel Road; stone church and cemetery-BA-1840

c. 11901 Mays Chapel Road; frame building and cemetery-BA-448

14. The features of the (2) Golf Courses are not field located and are shown for illustration purposes only.

15. There are no flood plains (Fema Map Panel 235 & 245 of 575) on the property.

16. Zoning relief:

Petition for Special Exception to approve use of the property as a County Club.

Petition for Special Hearing to amend the previously approved Plan and Order in Case 93-37-SPH.

Petition for Special Hearing to amend the previously approved Special Exception approved in Case 93-386-X.

PLAN TO ACCOMPANY PETITION FOR SPECIAL EXCEPTION FOR COUNTRY CLUB AND PLAN TO ACCOMPANY PETITION FOR SPECIAL HEARING TO AMEND PREVIOUSLY APPROVED SPECIAL EXCEPTION AND PREVIOUSLY APPROVED NON-CONFORMING USE

Baltimore Country Club

BALTIMORE COUNTY, MD

REVISIONS

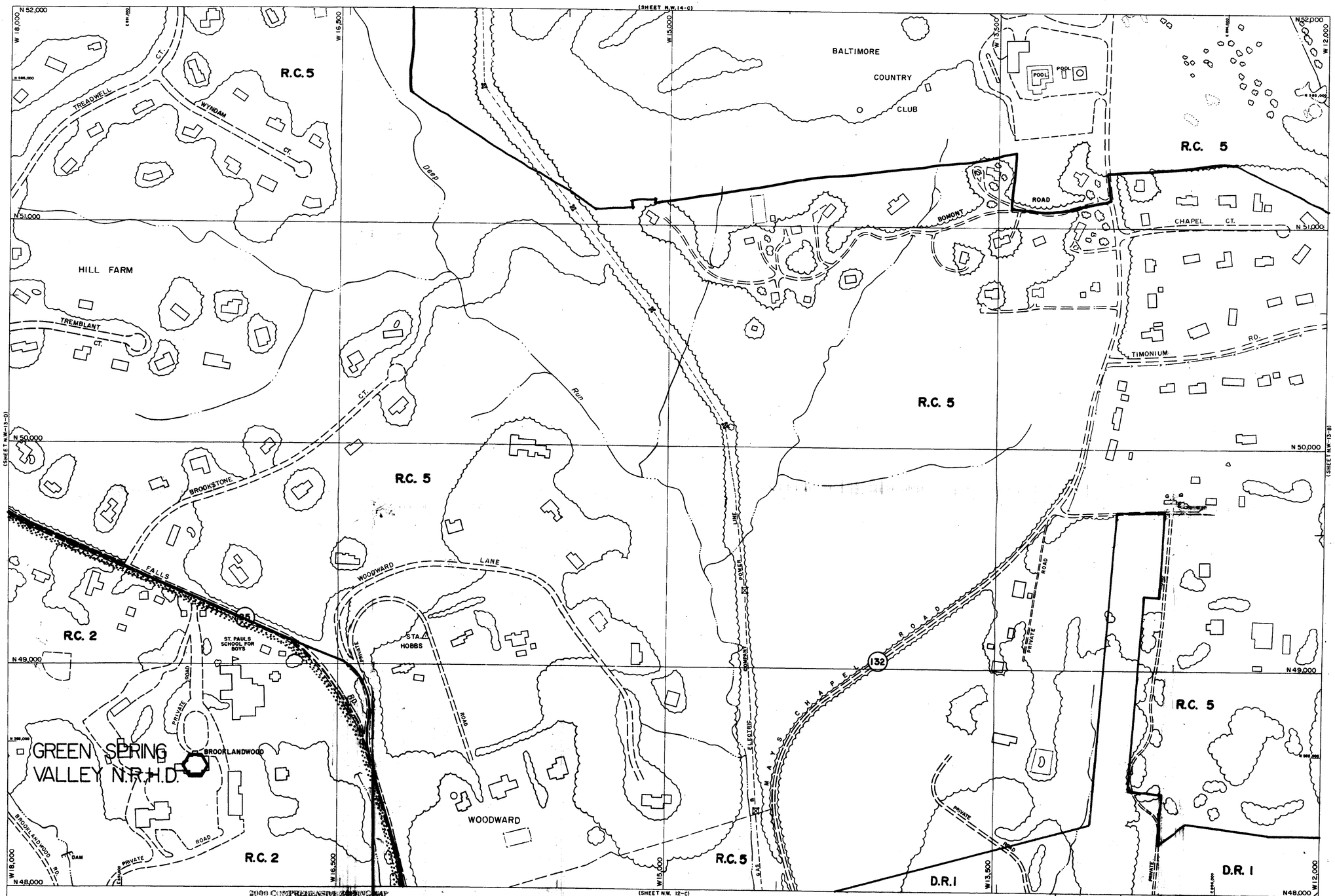
PETITIONER'S EXHIBIT NO. 1

SITE RESOURCES
Comprehensive Land Planning & Site Design Services
14315 Jarrettsville Pike • Phoenix, Maryland 21131
(410) 683-3388 • fax (410) 683-3389

DRAWN BY:	MAS	CONTRACT NO.:	
DESIGNED BY:	KPR	SCALE:	1" = 200'
CHECKED BY:	KPR/ KRK	SRI PROJECT NO:	02144.P
DATE:	06/16/06	SHEET	1 OF 1

#652

ALTERNATE PLAN 'A'



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

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

2000 COMPREHENSIVE ZONING MAP
ADOPTED BY
THE BALTIMORE COUNTY COUNCIL
OCTOBER 10, 2000
Bills Nos. 87-00, 88-00, 89-00, 90 Cal 91-00, 92-00, 93-00,

Chairman, County Council

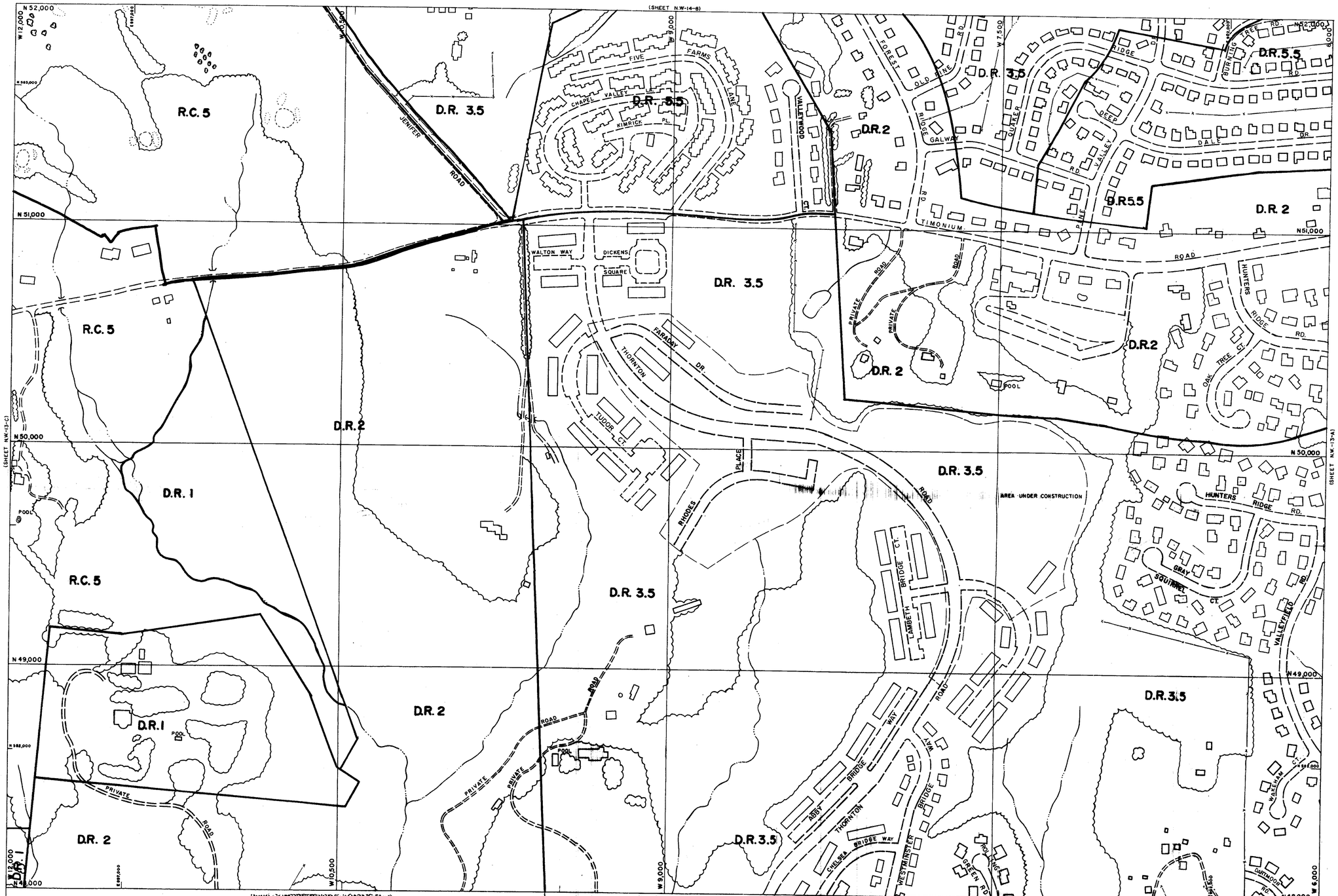
BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
OFFICIAL ZONING MAP

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

652

PLAN 'A'

NW 13 C



S - SE
S - NE

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

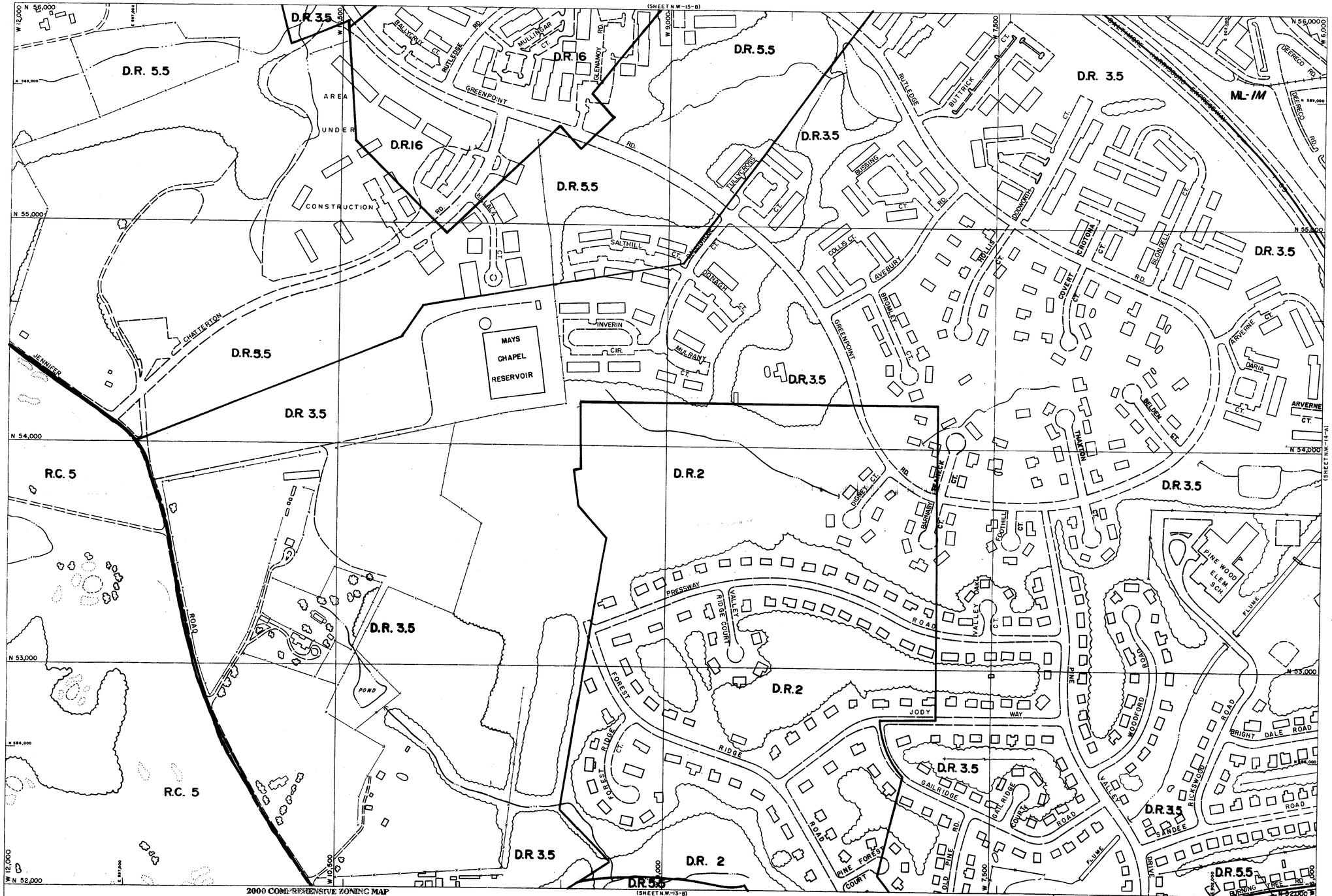
2000 COMPREHENSIVE ZONING MAP
ADOPTED by
THE BALTIMORE COUNTY COUNCIL
OCTOBER 10, 2000
Bills Nos. 87-00, 88-00, 89-00, 90-00, 91-00, 92-00, 93-00.

Chairman, County Council

BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
OFFICIAL ZONING MAP

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

NW 13 B



2000 COMPREHENSIVE ZONING MAP
ADOPTED by
THE BALTIMORE COUNTY COUNCIL
OCTOBER 10, 2000
Bills Nos. 87-00, 88-00, 89-00, 90-00, 91-00, 92-00, 93-00,

Chairman, County Council

S-NE

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

BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
OFFICIAL ZONING MAP

SCALE	LOCATION	SHEET
1" = 200'±	TIMONIUM	N.W. 14-B
DATE OF PHOTOGRAPHY JANUARY 1986		

NW 14 B

(SHEET N.W.15-C)

N-56,000 W-18,000 W-16,500 W-15,000 W-13,500 W-12,000 N-56,000

N-55,000 N-55,000 N-54,000 N-54,000 N-53,000 N-53,000 N-52,000 N-52,000

POND
PRIVATE ROAD
FALLSWOOD TERR.
CHESTNUT RIDGE
R.C. 5
B.G.&E. CO. P.L.
CHAPELWOODS RD.
CHAPEL RIDGE
MAYS CHAPEL ROAD
JENIFER CHAPEL ROAD
CEM.
D.R. 5.5
PRIVATE ROAD
TANK
SAND TRAPS
GREEN
BALTIMORE COUNTRY CLUB

(SHEET N.W.14-D) (SHEET N.W.14-C)

S-NW S-NE

2000 COMPREHENSIVE ZONING MAP
ADOPTED by
THE BALTIMORE COUNTY COUNCIL
OCTOBER 16, 2000
Bills Nos. 87-00, 88-00, 89-00, 90-00, 91-00, 92-00, 93-00,

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

BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
OFFICIAL ZONING MAP

SCALE	LOCATION	SHEET
1" = 200'±	BALTIMORE COUNTRY CLUB	N.W. 14-C
DATE OF PHOTOGRAPHY JANUARY 1986		

NW 14 C

N 52,000 W 18,000 W 16,500 W 15,000 W 13,500 W 12,000

(SHEET N.W.-14-C)

R.C.5

BALTIMORE COUNTRY CLUB

POOL POOL

R.C. 5

TREADWELL CT. WYNDAM CT.

Deep Run

N 51,000

HILL FARM

BOMONT ROAD

CHAPEL CT.

TREMBLANT CT.

TIMONIUM RD.

R.C. 5

R.C. 5

(SHEET N.W.-13-D)

N 50,000

(SHEET N.W.-15-B)

BROOKSTONE CT.

R.C. 5

FALLS ROAD (25)

WOODWARD LANE

POWER LINE

PRIVATE ROAD

R.C. 2

ST. PAUL'S SCHOOL FOR BOYS

STA HOBBS

N 49,000

PRIVATE ROAD

GREEN SPRING VALLEY N.R.H.D.

BROOKLANDWOOD

BROOKLANDWOOD RD.

ROAD

WOODWARD

MAYS CHAPEL ROAD (132)

R.C. 5

D

PRIVATE ROAD

R.C. 2

R.C. 5

D.R.1

D.R. 1

N 48,000

(SHEET N.W. 12-C)

2000 COMPREHENSIVE ZONING MAP
ADOPTED by
THE BALTIMORE COUNTY COUNCIL
OCTOBER 10, 2000
Bills Nos. 57-00, 58-00, 59-00, 60-00, 61-00, 62-00, 63-00,

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

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

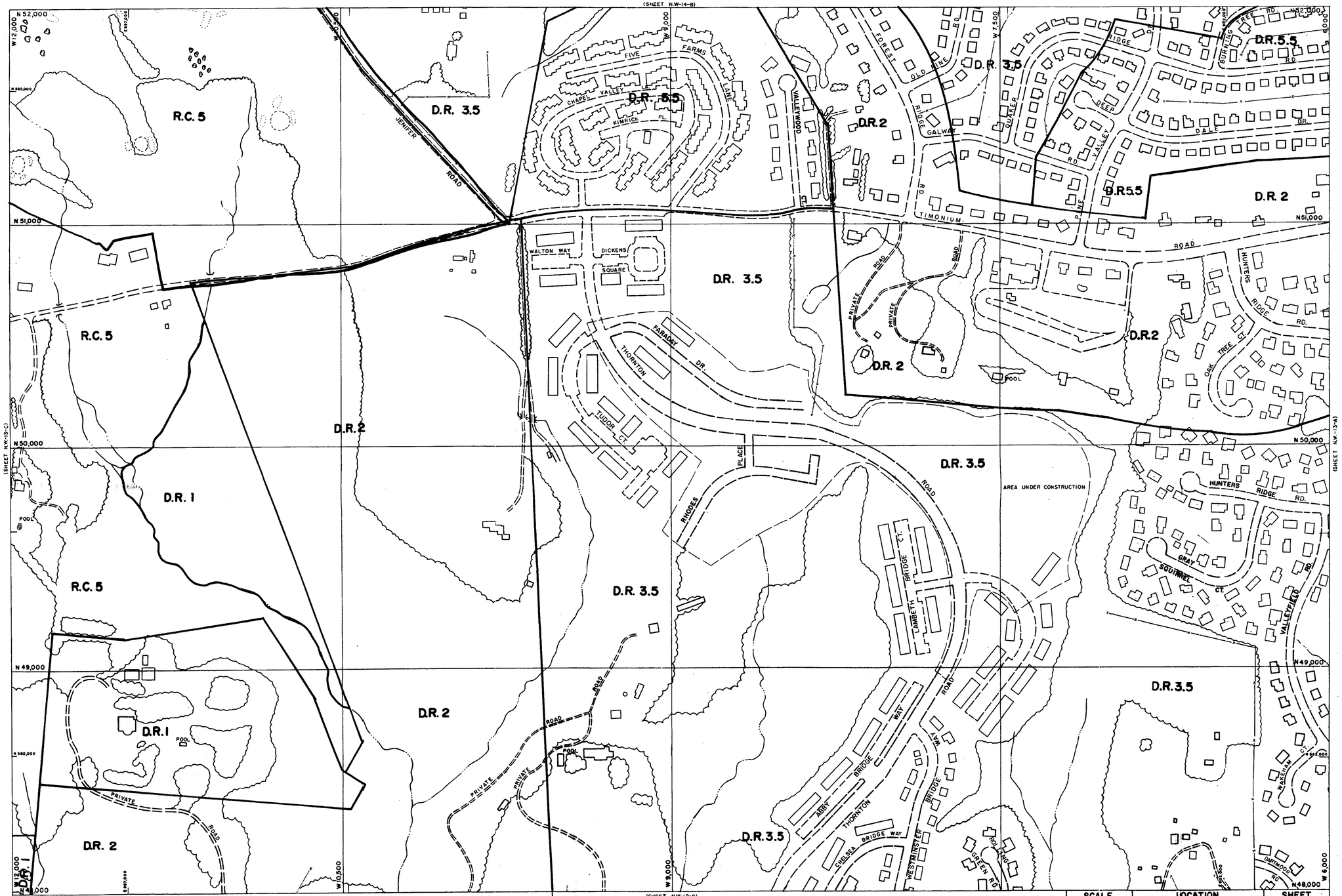
Chairman, County Council

BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
OFFICIAL ZONING MAP

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

652 PLAN IS

NW 13 C



S - SE
S - NE

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

2000 COMPREHENSIVE ZONING MAP
ADOPTED by
THE BALTIMORE COUNTY COUNCIL
OCTOBER 10, 2000
Bills Nos. 87-00, 88-00, 89-00, 90-00, 91-00, 92-00, 93-00;

Chairman, County Council

BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
OFFICIAL ZONING MAP

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

NW 13 B

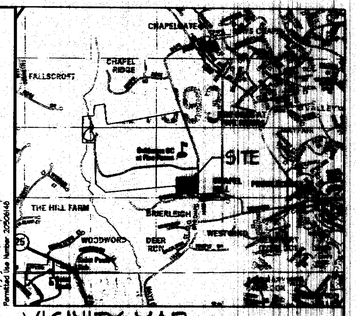
LEGEND

PROPERTY LINE
EXISTING CONTOURS
PROPOSED CONTOURS
EXISTING TREELINE
PROPOSED TREELINE
EXISTING CURB & GUTTER
PROPOSED CURB & GUTTER
EXISTING TREES
PROPOSED PLANTING

TYPICAL ORNAMENTAL PLANTINGS

KEY	BOTANICAL NAME	COMMON NAME	SIZE	QTY	COMMENTS
SHADE TREES					
AR	ACER RUBRUM 'ARMSTRONG'	ARMSTRONG RED MAPLE	2½"-3" CAL.	3	
AS	ACER SACCHARUM 'GREEN MOUNTAIN'	GREEN MOUNTAIN SUGAR MAPLE	2½"-3" CAL.	11	
FP	FRAXINUS PENNSYLVANICA 'SUMMIT'	SUMMIT GREEN ASH	2½"-3" CAL.	5	
ORNAMENTAL TREES					
CC	CERCIS CANADENSIS	EASTERN REDBUD	8'-10' HT.	3	MULTI-STEM
AC	AMALANCHIER CANADENSIS	SHADBLOW SERVICEBERRY	8'-10' HT.	6	MULTI-STEM
EVERGREEN TREES					
PG	PICEA GLAUCA	WHITE SPRUCE	8'-10' HT.	5	
IO	ILEX OPACA	AMERICAN HOLLY	8'-10' HT.	5	20' O.C.
SHRUBS/PERENNIALS					
FG	FOTHERGILLA GARDENII	DWARF FOTHERGILLA	18"-24" HT.	36	4.5' OC
IG	ILEX GLABRA 'SHAMROCK'	SHAMROCK INKBERRY HOLLY	2.5'-3' HT.	11	5' OC
IV	ITEA VIRGINIANA 'HENRY'S GARNET'	HENRY'S GARNET VIRGINIA SWEETSPIRE	2.5'-3' HT.	12	5' OC
TH	TAXUS x MEDIA 'EVERLOW'	EVERLOW ANGLO-JAP YEW	2.5'-3' HT.	26	4.5' OC
VD	VIBURNUM DENTATUM	ARROWHEAD VIBURNUM	3'-4' HT.	24	7.5' OC
PF	POTENTILLA FRUTICOSA 'GOLD DROP'	GOLD DROP POTENTILLA	2 GAL.	24	24" OC
SN	SALVIA NEMOROSA	MARCUS SAGE SALVIA	2 GAL.	46	18" OC
CA	CLETRA ALNIFOLIA	SUMMERSWEET	2.5'-3' HT.	10	5' OC

NOTE: SUBSTITUTIONS MAY BE MADE WITH OTHER NONINVASIVE PLANT MATERIAL OF SIMILAR FORM.



VICINITY MAP N.T.S.

REVEGETATION PLANTING ZONE PLANT AND COMPOSITION SCHEDULE

Sheet Flow SF: 19,490
Area Planted: 4.35

Zone E: Upland Forest

Overall Spacing (feet off center)	Quantity per acre	Frequency (%)	Species Quantity	Vegetation Strata/ Species Name	Common Name	Unit	Size	Planting Type	Minimum Number PLS
12	302			**CANOPY TREES**					
		15	16	*Carya ovata*	Shagbark hickory	Container	1" CAL	Random	51
		10	11	*Fraxinus americana*	White ash	Container	1" CAL	Random	37
		35	37	*Liriodendron tulipifera*	Tulip poplar	Container	1" CAL	Random	120
		15	16	*Quercus alba*	White oak	Container	1" CAL	Random	51
		25	26	*Quercus rubra*	Red oak	Container	1" CAL	Random	84
		100	106	= Total					
16	170			**SUB-CANOPY TREES**					
		25	15	*Amelanchier canadensis*	Shadbush serviceberry	Container	5 - 6'	Random	52
		30	18	*Prunus serotina*	Black cherry	Container	5 - 6'	Random	62
		25	15	*Sassafras albidum*	Sassafras	Container	5 - 6'	Random	52
		20	12	*Nyssa sylvatica*	Black gum	Container	5 - 6'	Random	36
		100	60	= Total					
14	222			**SHRUBS**					
		20	16	*Corylus americana*	Hazelnut	Container	2 - 3 ft	Random	51
		25	19	*Hamamelis virginiana*	Witch hazel	Container	2 - 3 ft	Random	58
		15	12	*Lindera benzoin*	Spicebush	Container	1 GAL	Random	36
		20	16	*Rhododendron nudiflorum*	Pink azalea	Container	1.5 - 2 ft	Random	51
		20	16	*Viburnum acerifolium*	Maple-leaf viburnum	Container	2 - 3 ft	Random	51
		100	79	= Total					
NA	60			**SEED**					
		25	0.25	*Andropogon elliotii*	Elliott's beardgrass	LBS	PLS	Random	NA
		25	0.25	*Andropogon scoparius*	Little bluestem	LBS	PLS	Random	NA
		3	0.03	*Sorghastrum nutans*	Indiangrass	LBS	PLS	Random	NA
		15	0.15	*Verticillata*	Whorled tickseed	LBS	PLS	Random	NA
		12	0.12	*Dichanthelium clandestinum*	Deer tongegrass	LBS	PLS	Random	NA
		25	0.25	*Elymus riparius*	Creeping red fescue	LBS	PLS	Random	NA
		2	0.02	*Panicum virgatum*	Switch grass	LBS	PLS	Random	NA
		5	0.05	*Rudbeckia hirta*	Black-eyed Susan	LBS	PLS	Random	NA
		100	1.02	= Total					
Trees/Ac	472								

PLS-Pure Live Seed

EXHIBIT 'M'

PLANTING PLAN

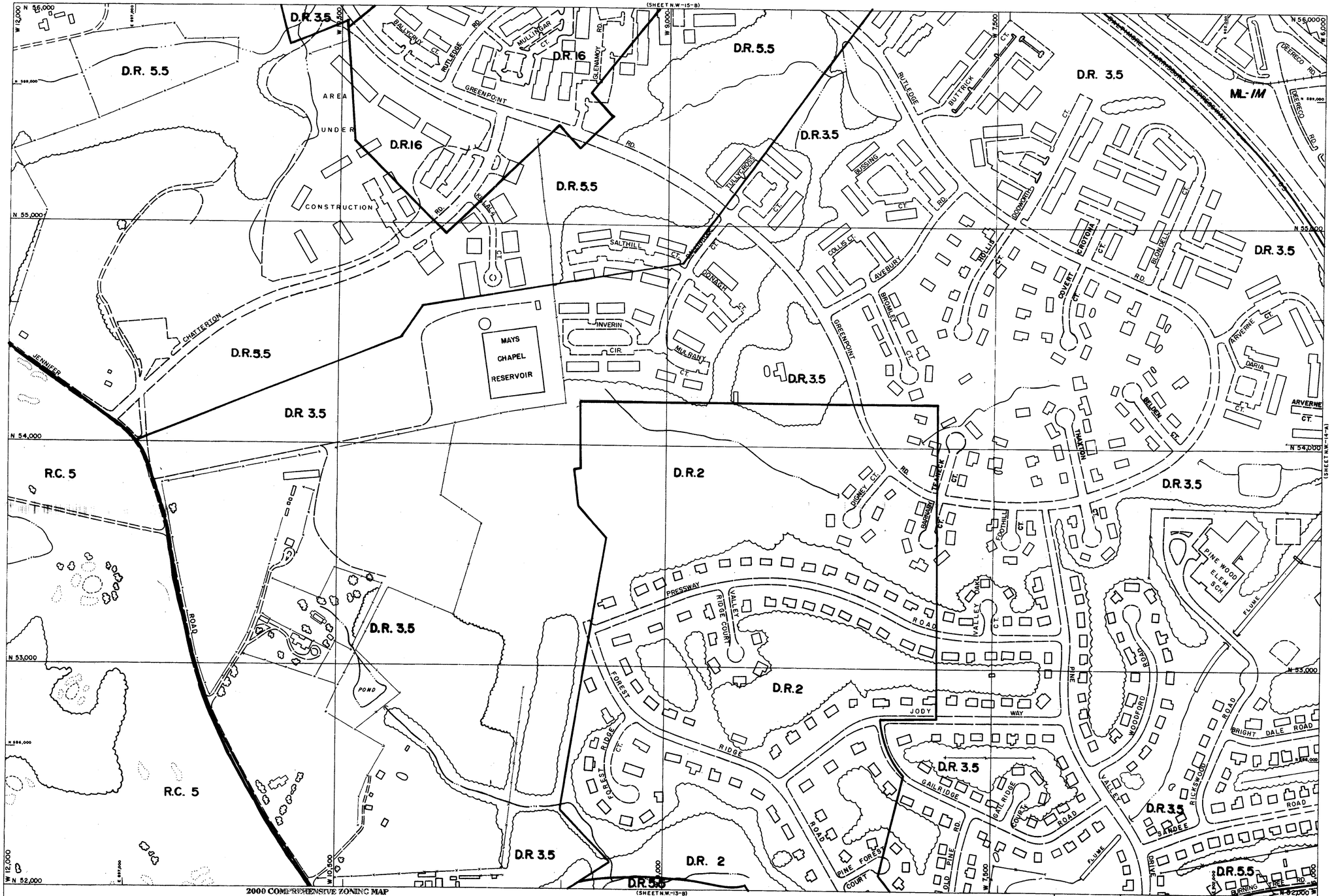
Baltimore Country Club

REVISIONS

REVISED 06/14/06 - KPR REVISED 06/20/06 - KPR REVISED 07/25/06 - KPR
REVISED 06/22/06 - KPR REVISED 06/29/06 - KPR

SITE RESOURCES
1607 Ascot Road • Forest, Maryland 21050
(410) 692-2000 • fax (410) 692-2020

DRAWN BY:	GLK	CONTRACT NO.:	
DESIGNED BY:	KPR	SCALE:	1" = 30'
CHECKED BY:	MWF	SRI PROJECT NO:	02144.H
DATE:	06/07/06	SHEET	1 OF



S-NE

2000 COMPREHENSIVE ZONING MAP
ADOPTED by
THE BALTIMORE COUNTY COUNCIL
OCTOBER 10, 2000
Bills Nos. 87-00, 88-00, 89-00, 90-00, 91-00, 92-00, 93-00,

Chairman, County Council

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

BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
OFFICIAL ZONING MAP

SCALE	LOCATION	SHEET
1" = 200'±	TIMONIUM	N.W. 14-B
DATE OF PHOTOGRAPHY JANUARY 1986		

NW 14 B

N-56,000

W-18,000

W-16,500

W-15,000

W-13,500

W-12,000

(SHEET N.W. 18-C)

E-199,000

E-198,000

N-55,000

N-54,000

N-53,000

N-52,000

POND

PRIVATE ROAD

FALLSWOOD TERR.

CHESTNUT RIDGE

R.C. 5

B.G.&E. CO. R/W

CHAPELWOODS RD.

CHAPEL RIDGE

MAYS CHAPEL ROAD

LE NIEER ROAD

CEM.

D.R. 5.5

PRIVATE ROAD

TANK

SAND TRAPS

GREEN

BALTIMORE COUNTRY CLUB

(SHEET NW 14-D)

(SHEET NW 14-B)

(SHEET N.W. 13-C)

S-NW S-NE

2000 COMPREHENSIVE ZONING MAP
ADOPTED by
THE BALTIMORE COUNTY COUNCIL
OCTOBER 16, 2000
Bills Nos. 87-00, 88-00, 89-00, 90-00, 91-00, 92-00, 93-00,

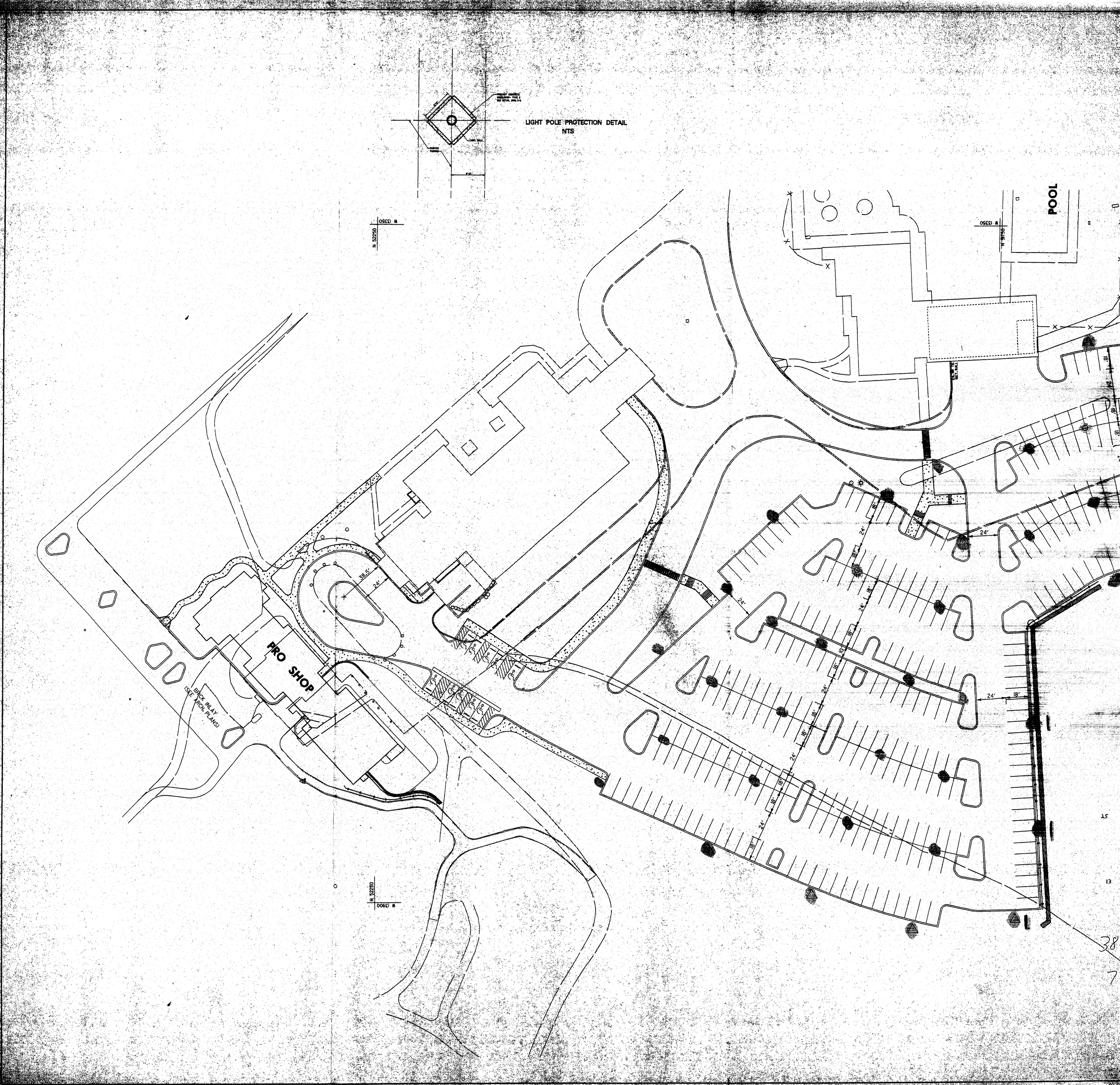
THIS MAP HAS BEEN REVISED IN SELECTED AREAS.
TOPOGRAPHY COMPILED BY PHOTOGRAMMETRIC METHODS
BY BUCHART-HORN, INC. BALTIMORE, MD. 21210

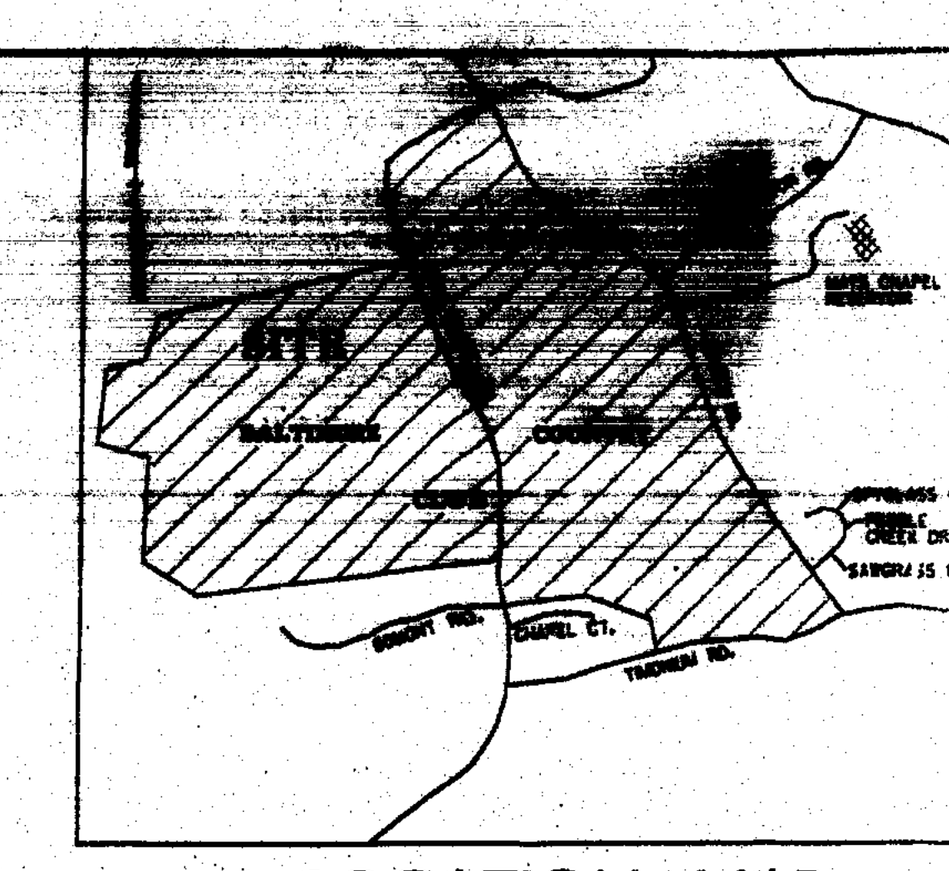
Chairman, County Council

BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
OFFICIAL ZONING MAP

SCALE	LOCATION	SHEET
1" = 200'±	BALTIMORE COUNTRY CLUB	N.W. 14-C
DATE OF PHOTOGRAPHY JANUARY 1986		

NW 14 C





LEGEND

SYMBOL	DESCRIPTION
○	LUMINAIRE A MANUFACTUER: STERNBERG LANTERNS INC. SPECULAR TOP REFLECTOR LAMP TYPE: 150 W HPS POST: CAT.
△	LUMINAIRE B W/ TYPE POST: CAT.

25
13

38 Nightsky Star Shield eliminates uplight $360.00 each

7 House Side Shield eliminates 120° arc of light $75.00 each

DMW

Daft-McCune-Walker, Inc.
200 East Pennsylvania Avenue

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

BALTIMORE COUNTRY CLUB

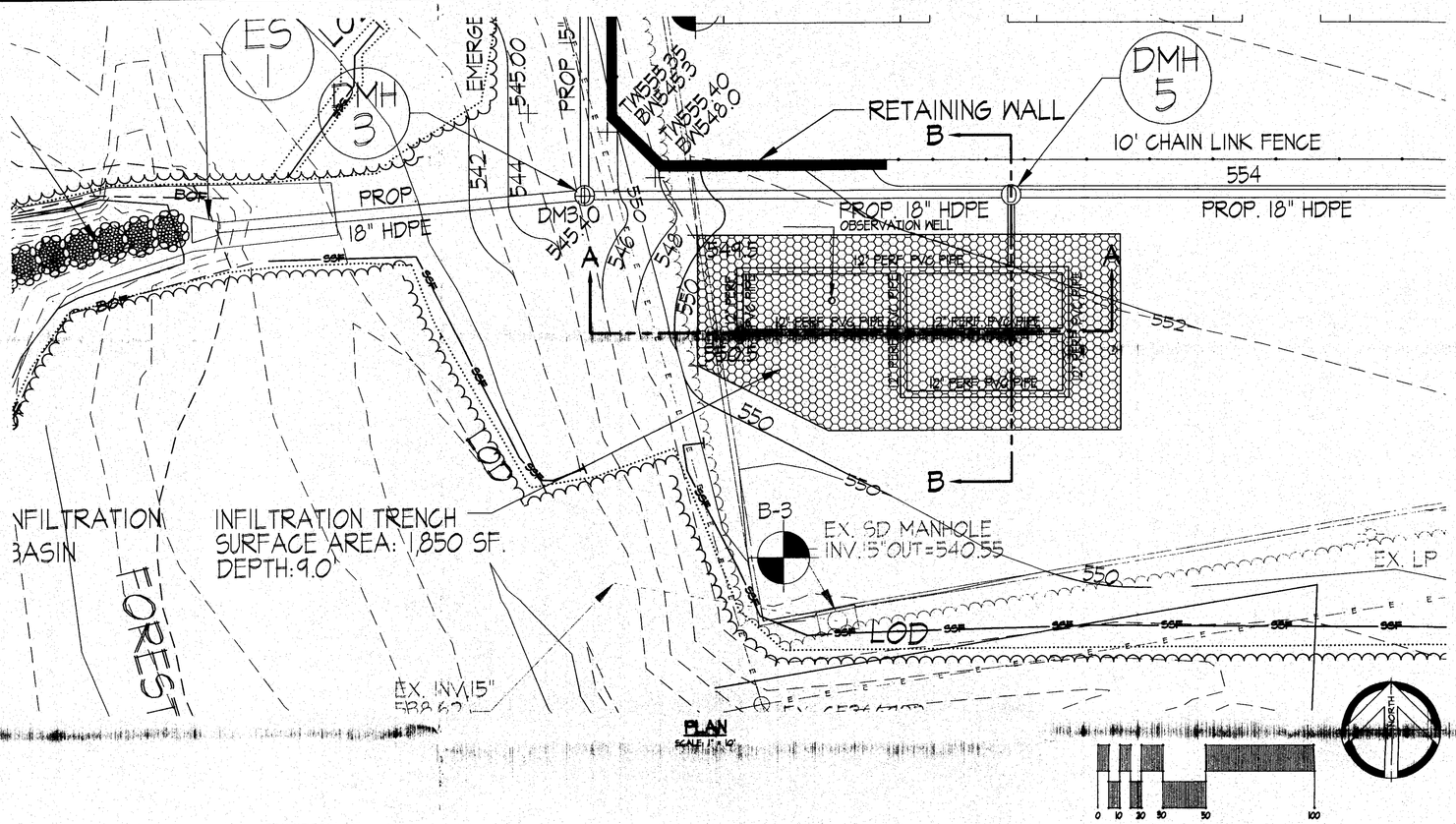
LIGHTING PLAN

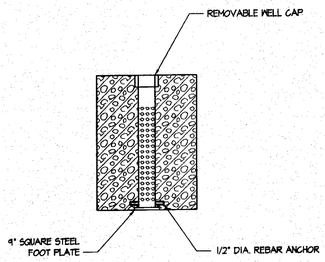
DATE	BY	REVISIONS
8-8-96		LUMINAIRE LOCATIONS

ISSUE DATES
REVIEW:
BID:
PERMIT:
CONSTRUCTION:

BASE:
DRAWN: KDE
DESIGNED: RWS
CHECKED BY: CPG
DATE CHECKED: 6/25/96
SCALE: 1"=30'
PROJECT NO.: 82032MI
DRAWING: C-3

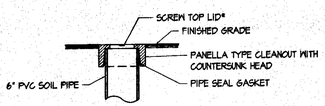
Exhibit O





TYPICAL OBSERVATION WELL

NOT TO SCALE



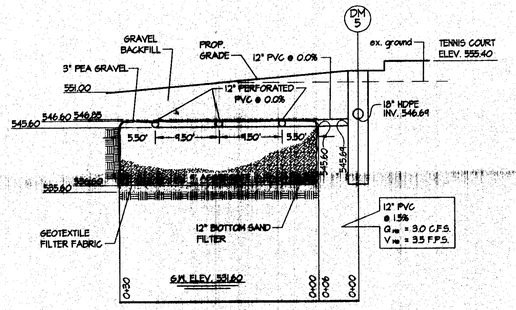
*ABOVE DETAIL PROVIDED AS SCHEMATIC SCREW TOP P.V.C. WELL CAP ONLY

EACH OBSERVATION WELL/CLEANOUT SHALL INCLUDE THE FOLLOWING:

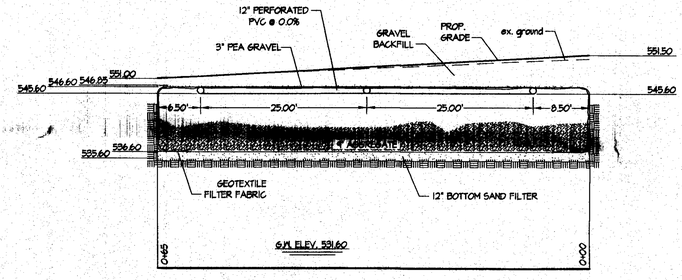
1. FOR AN UNDERGROUND FLUSH MOUNTED OBSERVATION WELL/CLEANOUT, PROVIDE A TUBE MADE OF NON-CORROSIVE MATERIAL, SCHEDULE 40 OR EQUAL, AT LEAST THREE FEET LONG WITH AN INSIDE DIAMETER OF AT LEAST 6 INCHES.
2. THE TUBE SHALL HAVE A FACTORY ATTACHED CAST IRON OR HIGH IMPACT PLASTIC COLLAR WITH RIBS TO PREVENT ROTATION WHEN REMOVING SCREW TOP LID. THE SCREW TOP LID SHALL BE CAST IRON OR HIGH IMPACT PLASTIC THAT WILL WITHSTAND ULTRA-VIOLET RAYS.

OBSERVATION WELL DETAIL

NOT TO SCALE



SECTION B-B



SECTION A-A

INFILTRATION TRENCH DETAIL

SCALE: 1" = 10'

INFILTRATION TRENCH GENERAL NOTES AND SPECIFICATIONS

An infiltration trench shall not receive run-off until the entire contributing drainage area to the infiltration trench has received final stabilization.

1. Heavy equipment and traffic shall be restricted from traveling over the proposed location of the infiltration trench to minimize compaction of the soil.
2. Excavate the infiltration trench to the design dimensions. Excavated materials shall be placed away from the trench sides to enhance trench wall stability. Large tree roots must be trimmed flush with trench sides in order to prevent fabric puncturing or tearing of the filter fabric during subsequent installation procedures. The side walls of the trench shall be roughened where sheared and scarred by heavy equipment.
3. A Class "C" geotextile or better (see Section 24.0, Material Specifications, 1994 Standards and Specifications for Soil Erosion and Sediment Control, MDE, 1994) shall interface between the trench side walls and between the stone reservoir and gravel filter layers. A partial list of non-woven filter fabrics that meet the Class "C" criteria follows. Any alternative filter fabric must be approved by the plan approval authority

Amoco 4552	Carthage FX-80S
GEOLON N10	Mirafi 180-N
MEBTEC NO1	

   The width of the geotextile must include sufficient material to conform to trench perimeter irregularities and for a 6-inch minimum lap overlap. The filter fabric shall be tucked under the sand layer on the bottom of the infiltration trench for a distance of 6 to 12 inches. Stones or other anchoring objects should be placed on the fabric at the edge of the trench to keep the trench open during windy periods. When overlaps are required between rolls, the uphill roll should lap a minimum of 2 feet over the downhill roll in order to provide a shingled effect.
4. The 12 inch sand filter placed on the bottom of the infiltration trench shall be washed and meet AASHTO-M-43, Size No. 9 or No. 10. Any alternative sand gradation must be approved by the plan approval authority.
5. The stone aggregate should be placed in a maximum loose lift thickness of 12 inches. The gravel (rounded "bank run" gravel is preferred) for the infiltration trench shall be washed and meet one of the following AASHTO-M-43, Size No. 2 or No. 3.
6. Following the stone aggregate placement, the filter fabric shall be folded over the stone aggregate to form a 6-inch minimum longitudinal lap. The desired fill soil or stone aggregate shall be placed over the lap at sufficient intervals to maintain the lap during subsequent backfilling.
7. Care shall be exercised to prevent natural or fill soils from intermixing with the stone aggregate. All contaminated stone aggregate shall be removed and replaced with uncontaminated stone aggregate.
8. Voids may occur between the fabric and the excavation sides and shall be avoided. Removing boulders or other obstacles from the trench walls is one source of such voids. Therefore, natural soils should be placed in these voids at the most convenient time during construction to ensure fabric conformity to the excavation sides.
9. Vertically excavated walls may be difficult to maintain in areas where the soil moisture is high or where soft cohesive or cohesionless soils or dominant. These conditions may require laying back of the side slopes to maintain stability.
10. PVC distribution pipes shall be Schedule 40 and meet ASTM-D-1785. All fittings shall meet ASTM-D2729. Perforations shall be 3/8 inch in diameter. A perforated pipe shall be provided only within the infiltration trench. Note: PVC pipe with a wall thickness classification of SDR-35 meeting ASTM-D-3034 is an acceptable substitute for the Schedule 40 pipe.
11. The observation well is to consist of 6-inch diameter perforated PVC Schedule 40 pipe (M27B OR F758, Type PS 28) with a cap set 6 inches above ground level and is to be located near the longitudinal center of the infiltration trench. The pipe shall have a plastic collar with ribs to prevent rotation when removing the cap. The screw top lid shall be a cleanout with a locking mechanism or special bolt to discourage vandalism. the depth to the invert shall be marked on the lid. The pipe shall be placed vertically within the gravel portion of the infiltration trench and a cap provided at the bottom of the pipe. The bottom of the cap shall rest on the infiltration trench bottom.
12. Infiltration Maintenance Criteria:

    Infiltration trench shall not serve as a sediment control device during the site construction phase. In addition, the erosion and sediment control plan for the site must clearly indicate how sediment will be prevented from entering the infiltration site.

    The observation well shall consist of an anchored six-inch diameter perforated PVC pipe with a lockable cap. (See Detail)

    It is recommended that infiltration designs include dewatering methods in the event of failure. This can be done with underdrain pipe systems that accomodate cleanout.

    Direct access shall be provided to all infiltration practices for maintenance and rehabilitation.

    Infiltration practices should not be covered by an impermeable surface.

    OSHA safety standards should be consulted for trench excavation.

EXHIBIT "K"

STORMWATER MANAGEMENT FACILITY

Baltimore Country Club Tennis Facility

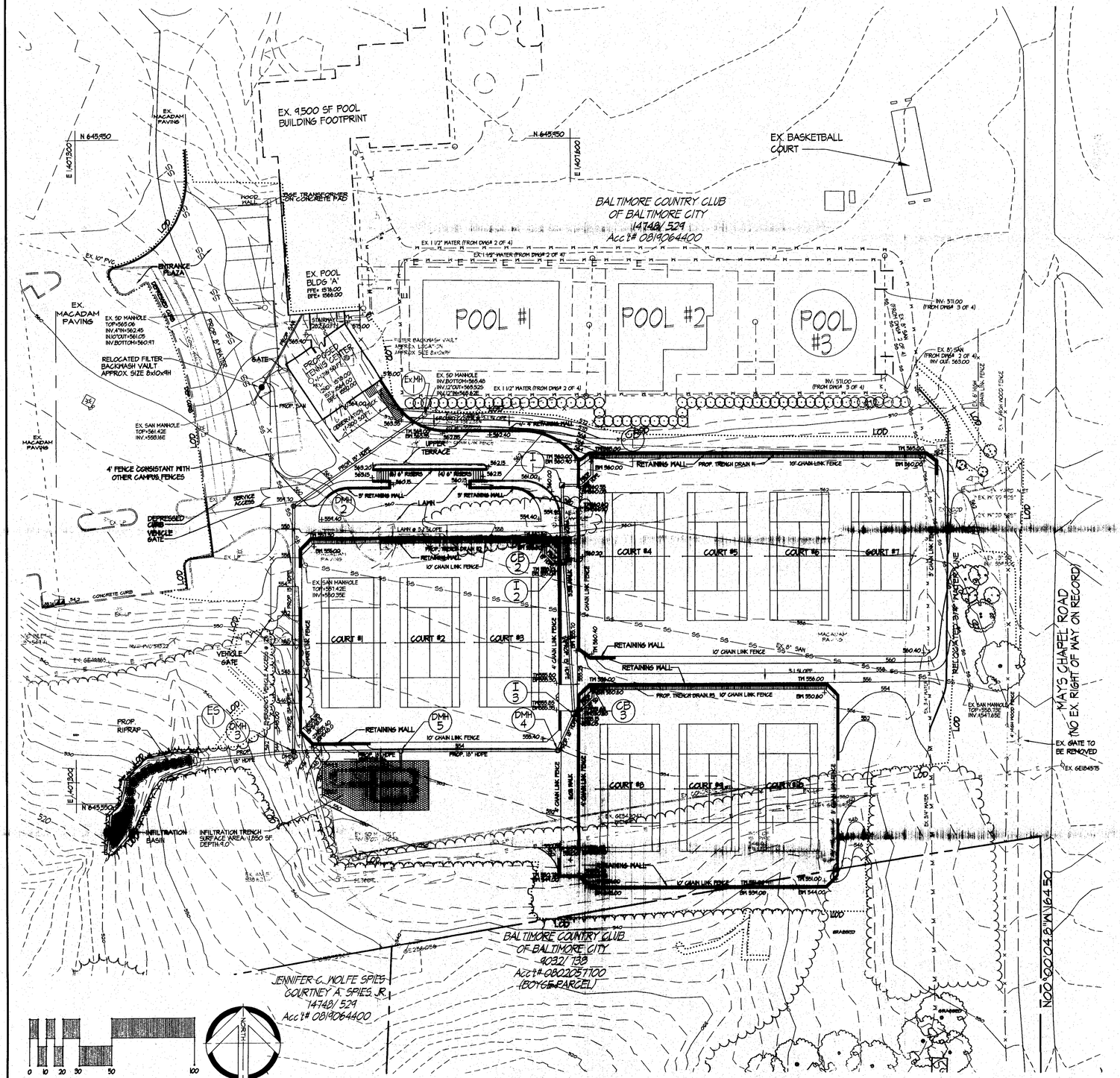
BALTIMORE COUNTY, MD

REVISIONS

SITE RESOURCES
Comprehensive Land Planning & Site Design Services
14307 Jarrettsville Pike • Phoenix, Maryland 21131
(410) 683-3300 • Fax (410) 683-3329

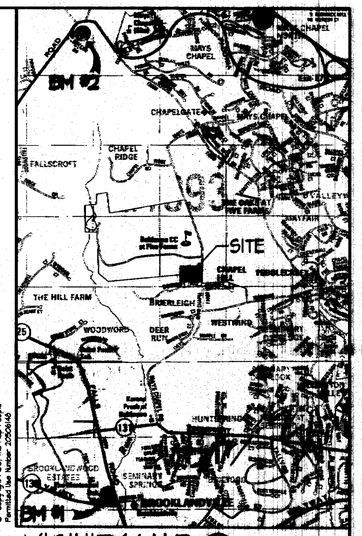
DRAWN BY:	AM	CONTRACT NO.:	
DESIGNED BY:	GDS	SCALE:	AS SHOWN
CHECKED BY:	MNF	SRI PROJECT NO:	02144.M
DATE:	06/07/06	SHEET	1 OF 3

REVISED 06/14/06 - KPR
REVISED 06/22/06 - KPR
REVISED 07/25/06 - KPR



LEGEND

- PROPERTY LINE
- EXISTING CONTOURS (350 / 348)
- PROPOSED CONTOURS (350 / 348)
- EXISTING TREELINE
- PROPOSED TREELINE
- EXISTING CURB & GUTTER
- PROPOSED CURB & GUTTER
- EXISTING STORM DRAINS (15" SD)
- EXISTING SANITARY SEWER (8" SAN)
- EXISTING WATER (8" WATER)
- EXISTING ELECTRIC
- EXISTING BUILDINGS
- PROPOSED BUILDING
- PROPOSED STORM DRAIN (PROP. 18" SD)
- PROPOSED SANITARY SEWER (PROP. 6" SAN)
- SPOT ELEVATIONS (220.8 EXISTING / 220.8 PROPOSED)
- EXISTING TREES



VICINITY MAP 1"=2000'

BENCHMARKS:

BM #1	BCO # 418	N 634,023.13 E 1,405,969.54	ELEV. 324.45
	5/8" REBAR GREENSPRING VALLEY RD. @ FALLS RD.		
BM #2	NGS PARKS	N 632,786.42 E 1,404,801.21	ELEV. 656.44
	STANDARD CONCRETE MONUMENT NGS @ NORTH SIDE OF BROADWAY-TEXAS ROAD.		

NAD83/91 & NAVD88 IN USE.

NOTES

1. Property Owners: Baltimore Country Club of Baltimore City
   Mailing Address
   4712 Club Road
   Baltimore, MD 21212
   Site Address
   11500 Mays Chapel Road
   Baltimore, MD 21210
   Tax Acct. No.: 0802001650 & 0802057100

EXHIBIT "J"

SITE PLAN

Baltimore Country Club Tennis Facility

BALTIMORE COUNTY, MD

REVISIONS

SITE RESOURCES
Comprehensive Land Planning & Site Design Services
16297 Jarrettsville Pike • Phoenix, Maryland 21131
(410) 683-3300 • fax (410) 683-3309

DRAWN BY:	AM	CONTRACT NO.:	
DESIGNED BY:	KPR	SCALE:	1" = 30'
CHECKED BY:	MWF	SRI PROJECT NO:	02144.M
DATE:	06/07/06	SHEET	1 OF 1

REVISED 06/14/06 - KPR
REVISED 06/22/06 - KPR
REVISED 06/26/06 - KPR

Z:\02\02144.M-BallCC-Settlement Plans\Engr\Exhibits for Hearing\Exhibit J.dwg, 6/26/2006 4:43:11 PM

Zoning Notes

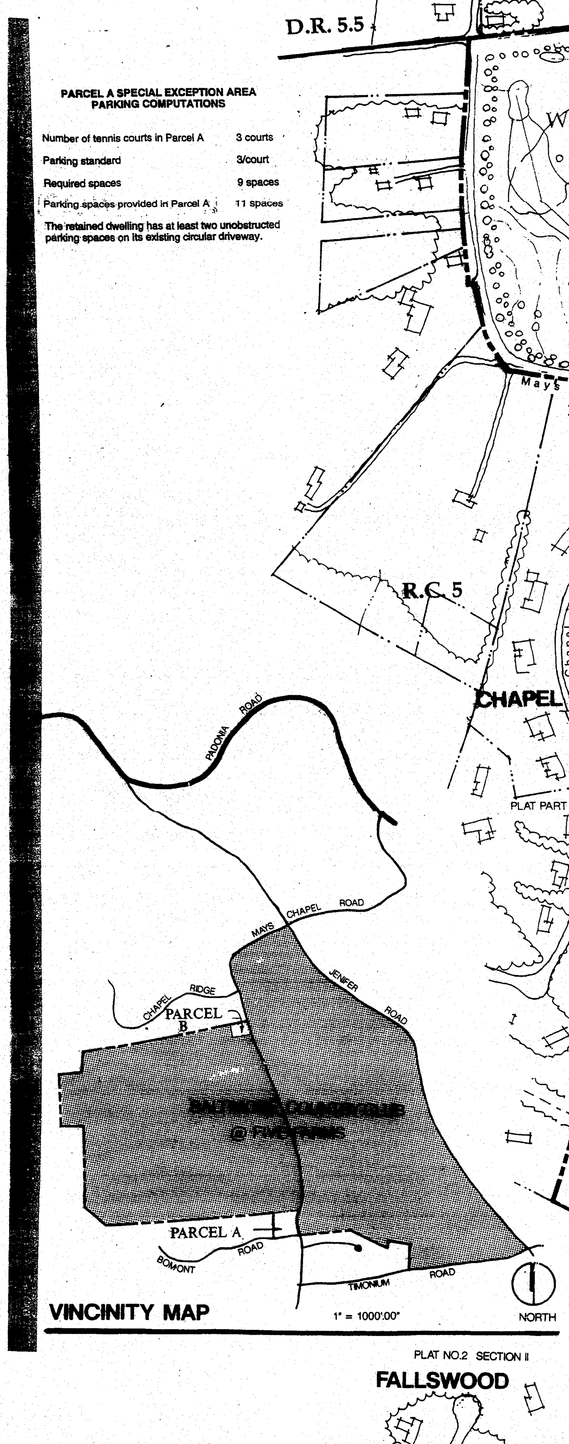
Baltimore Country Club at Five Farms Special Exception Petition

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

PARCEL A SPECIAL EXCEPTION AREA PARKING COMPUTATIONS

Number of tennis courts in Parcel A	3 courts
Parking standard	3/court
Required spaces	9 spaces
Parking spaces provided in Parcel A	11 spaces

The retained dwelling has at least two unobstructed parking spaces on its existing circular driveway.



Gene

1. The address of Baltimore Country Carms is:

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

   Zoning Case 93-37 SPH. On Marca Zoning Commissioner issued an order establishing that those portub included in its ownership as of September 26, 1963, are a validding country club use and approving modifications.

   The order denied the right to extenforming country club use to three properties not included in its r of September 26, 1963. This petition seeks a special exception fs, A and B, to authorize their use as a country club. The third parcel ed so as to require authorization by special exception.
4. Zoning of the club and adjacent prcs shown.
5. The names of adjoining subdivisiorwn.
6. Existing streets are as shown. Pulwater, fire hydrants, sewer, and storm drains exist on Jenifer Roadut relevant to this petition and are not shown for purposes of clarity.
7. There are no signs on the country other than directional signs as authorized by Section 413.1E.(3). gn shall comply with the requirements of Section 413.1 as ll provisions of Section 413.5 BCZR.
8. All streams and stormwater manag within 50 feet are shown.
9. The site is served by public water r by on-site sewage disposal. These are not relevant to the non-status of the club and are not shown for purposes of clarity. Storage Plan amendment, Cycle 10, issue 92-03, has requested that thread to connect to the public sewerage system. In accordance l Planning Board recommendations, the County Counded the plan to show it as a continued area of no planned rental a special exception for a sewer connection serving ealy Belry Club.
10. Building heights do not exceed the feet.
11. Parking provided under existing case total club comprises 233 spaces and 200 spaces other prgons. Any overflow parking is and has been accommodated in the confon of the existing club.
12. Tennis courts will be contained with 10 to 12 foot high evergreen hedges. See plan of Parcel A for tennis component of the club.
13. Three historical buildings are adjacb and are listed on the Maryland Historical Trust Inventory. They ar

    a. 11840 Mays Chapel Road; shool - BA-970
    b. 11900 Mays Chapel Road; sand cemetery - BA-1890
    c. 11901 Mays Chapel Road; fr and cemetery - BA-948

Daft·McCune·Walker, Inc.
200 East Pennsylvania Avenue Towson, MD 21286
PROJECT NO 82032.G1

MAY 3, 1993 RVISED JUNE 11, 1993

Parcel & Plano Accompan
Special Exception Pon

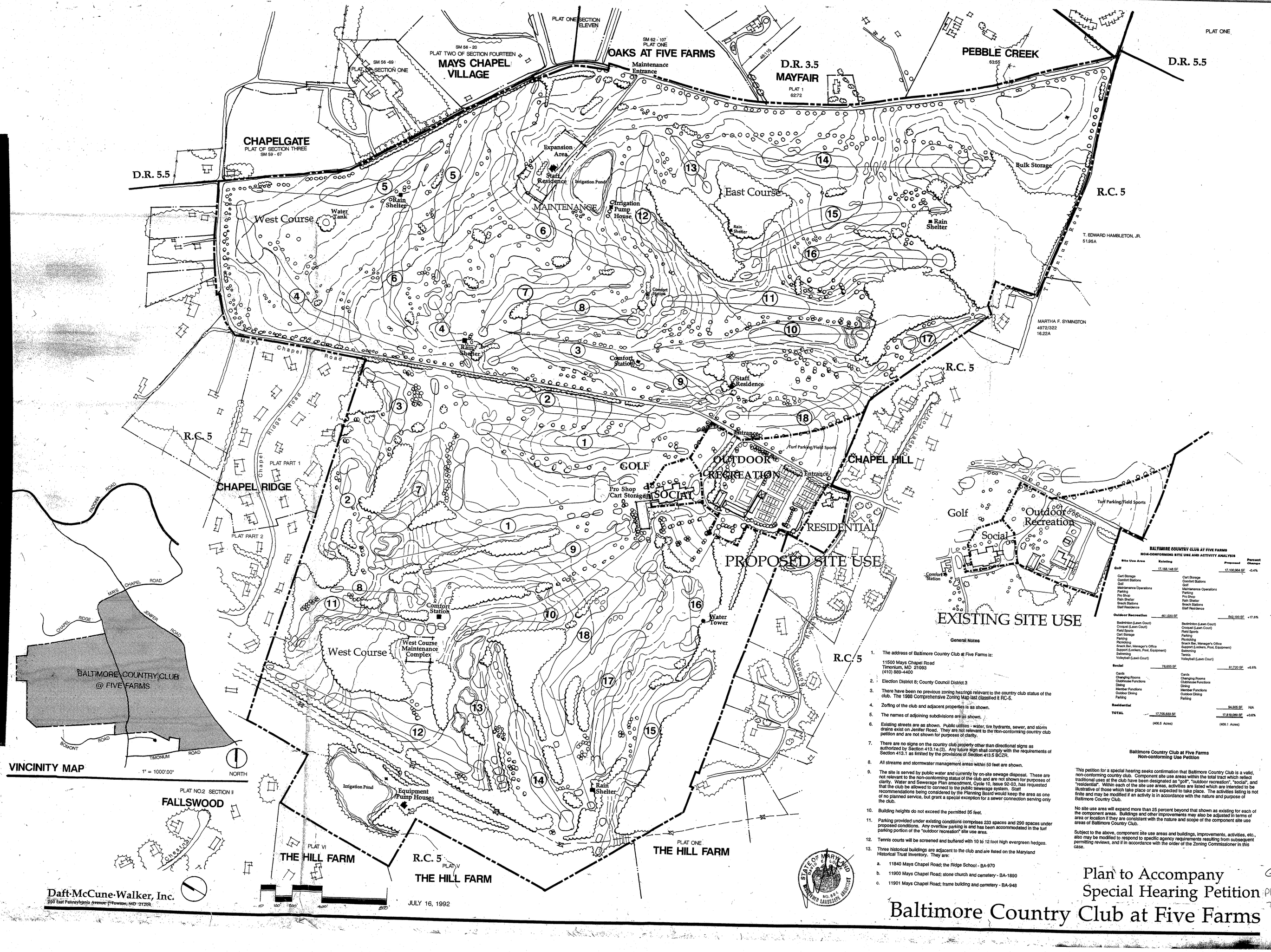
Plan Dated - 6/11/93

Baltimor Coutr Clu at Five Fns

Two of Two

GJ3
gHA

Community Exhibit 4



EXISTING SITE USE

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

Site Use Area	Existing	Proposed	Percent Change
Golf	17,168,148 SF	17,100,964 SF	-0.4%
Cart Storage		Cart Storage	
Comfort Stations		Comfort Stations	
Golf		Golf	
Maintenance Operations		Maintenance Operations	
Parking		Parking	
Pro Shop		Pro Shop	
Rain Shelter		Rain Shelter	
Snack Stations		Snack Stations	
Staff Residence		Staff Residence	
Outdoor Recreation	461,000 SF	542,100 SF	+17.6%
Badminton (Lawn Court)		Badminton (Lawn Court)	
Croquet (Lawn Court)		Croquet (Lawn Court)	
Field Sports		Field Sports	
Cart Storage		Parking	
Parking		Picnicking	
Picnicking		Snack Bar, Manager's Office	
Snack Bar, Manager's Office		Support (Lockers, Pool, Equipment)	
Support (Lockers, Pool, Equipment)		Swimming	
Swimming		Tennis	
Tennis		Volleyball (Lawn Court)	
Volleyball (Lawn Court)			
Social	78,655 SF	81,730 SF	+6.6%
Cards		Cards	
Changing Rooms		Changing Rooms	
Clubhouse Functions		Clubhouse Functions	
Dining		Dining	
Member Functions		Member Functions	
Outdoor Dining		Outdoor Dining	
Parking		Parking	
Residential		94,305 SF	N/A
TOTAL	17,705,833 SF	17,819,099 SF	+0.6%
	(406.5 Acres)	(409.1 Acres)	

General Notes

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

Baltimore Country Club at Five Farms
Non-conforming Use Petition

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

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

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

STATE OF MARYLAND
EDWARD LANGSDALE ARCHITECT
NO. 6841

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

JULY 16, 1992

Plan to Accompany
Special Hearing Petition

Baltimore Country Club at Five Farms

G83 Plan Dated 7/16/92

BALTIMORE COUNTRY CLUB – TENNIS CENTER

11500 MAYS CHAPEL RD
TIMONIUM, MD 21093

OWNER
BALTIMORE COUNTRY CLUB

ARCHITECT
RUBELING & ASSOCIATES
1104 KENILWORTH AVE.
TOWSON, MD 21286
TELEPHONE: (410) 337-2886
FAX: (410) 337-2974

CIVIL ENGINEER
SITE RESOURCES, INC.
14315 JARRETTSVILLE PIKE
PHOENIX, MD 21131
TELEPHONE: (410) 683.3388
FAX: (410) 683.3389

STRUCTURAL ENGINEER
MORABITO CONSULTANTS, INC.
2526 SAINT PAUL STREET
BALTIMOE, MD 21218
TELEPHONE: (410 467-2377
FAX: (410) 467-4132

DESIGN DEVELOPMENT PACKAGE FOOTPRINT AND EXTERIOR ELEVATIONS ARE CONSIDERED TO BE COMPLETE. INTERIOR LAYOUTS AND MATERIAL SELECTIONS ARE SUBJECT TO REFINEMENTS.

DESIGN DEVELOPMENT DRAWINGS 024 MAY 2006

ABBREVIATIONS

A.B.	ANCHOR BOLT
ACP.	ACOUSTICAL CEILING PANEL
ACT.	ACOUSTICAL TILE
AHU	AIR HANDLING UNIT
AIR COND.	AIR CONDITIONING
AIR COND.	AIR CONDITIONING
ALUM.	ALUMINUM
A.P.	ACCESS PANEL
APPVD.	APPROVED
ARCH.	ARCHITECTURAL
ARCHT.	ARCHITECT
@	AT
BD.	BOARD
BIT.	BITUMINOUS
BLKG.	BLOCKING
BLDG.	BUILDING
BETWN.	BETWEEN
CAB.	CABINET
CAP.	CAPACITY
CL.	CENTER LINE
CLG.	CEILING
CLR.	CLEAR, CLEARANCE
CMU.	CONCRETE MASONRY UNIT
COL.	COLUMN
CONC.	CONCRETE
CONT.	CONTINUOUS
CONST.	CONSTRUCTION
CONTR.	CONTRACTOR
CONV.	CONVECTOR
CPT.	CARPET
CTR.	COUNTERSUNK
C.T.	CERAMIC TILE
C.W.	COLD WATER
DBL.	DOUBLE
DEPT.	DEPARTMENT
DTL.	DETAIL
DIA.	DIAMETER
DIM.	DIMENSION
DN.	DOWN
DR.	DOOR
D.T.	DRAPERY TRACK
DWGS.	DRAWING
EA.	EACH
ELEV.	ELEVATION
ELEC.	ELECTRICAL
EN.	ENAMEL
EPS.	EXPANDED POLYSTYRENE
EQ.	EQUAL
E.T.R.	EXISTING TO REMAIN
E.I.F.S.	EXTERIOR WALL FINISH SYSTEM
EXIST.	EXISTING
EXT.	EXTERIOR
FAB.	FABRICATED
F.D.	FLOOR DRAIN
F.E.	FIRE EXTINGUISHER
FF.	FACTORY FINISH
FIN.	FINISH
F.I.O.	FURNISHED & INSTALLED BY OWNER
F.O.I.C.	FURNISHED BY OWNER, INSTALLED BY CONTRACTOR
FLR(G.)	FLOOR(ING)
FT.(G)	FOOT(ING)
GA.	GAUGE
GALV.	GALVANIZED
G.C.	GENERAL CONTRACTOR
GENL.	GENERAL
GL.	GLASS
GWB.	GYPSUM WALL BOARD
H.C.	HOLLOW CORE
H.D.	HEAVY DUTY
HDR.	HEADER
HDWD.	HARDWOOD
H.M.	HOLLOW METAL
HORT.	HORIZONTAL
HT.	HEIGHT
HVAC	HEATING/VENTILATING & AIR CONDITIONING
H.W.	HOT WATER
H.W.H.	HOT WATER HEATER
INT.	INTERIOR
JT.	JOINT
L.	LONG, LENGTH
LAM.	LAMINATE
LAV.	LAVATORY
LT.(G)	LIGHT(ING)
MAS.	MASONRY
MATL.	MATERIAL
MAX.	MAXIMUM
MDO.	MEDIUM DENSITY OVERLAY
MECH.	MECHANICAL
MIN.	MINIMUM
MISC.	MISCELLANEOUS
MLDG.	MOULDING
MS.	METAL STUD
MTD.	MOUNTED
MTL.	METAL
MWK.	MILLWORK
NAT.	NATURAL
N.I.C.	NOT IN CONTRACT
NO.	NUMBER
N.T.S.	NOT TO SCALE
O.A.	OVERALL
O.C.	ON CENTER
O.D.	OUTSIDE DIAMETER
OHD.	OVERHEAD
OPP. HD.	OPPOSITE HAND
OPNG.	OPENING
P. LAM.	PLASTIC LAMINATE
P. PL.	POLISHED PLATE
PART.	PARTITION
PL.	PLATE
PLY.	PLYWOOD
PNL.(G)	PANEL(ING)
PR.	PAIR
PREFIN.	PREFINISHED
PT.	POINT
P.T.	PRESSURE TREATED
PTD.	PAINTED
PVF.	POLYVINYLFLUORIDE
QT.	QUARRY TILE
R.	RADIUS
RB.	RUBBER BASE
REF.	REFERENCE
REINF.	REINFORCED
REQD.	REQUIRED
RES.	RESILIENT
REV.	REVISED, REVISION
RM.	ROOM
S.	STAIN
S.C.	SOLID CORE
SECT.	SECTION
S.EN.	SATIN ENAMEL
SGLEN.	SEMI-GLOSS ENAMEL
SHT.	SHEET
SIM.	SIMILAR
SOL.	SOLID
SPEC.(S)	SPECIFICATION(S)
SQ.	SQUARE
S.STL.	STAINLESS STEEL
STD.	STANDARD
STL.	STEEL
STOR.	STORAGE
STRUC.	STRUCTURAL
SUSP.	SUSPENDED
S.V.	STAIN & VARNISH
SVC.	SERVICE
SW.	SWITCH
TEL.	TELEPHONE
TEMP.	TEMPORARY
T.&G.	TONGUE & GROOVE
T.H.B.	TEMPERED HARDBOARD
T.S.	TUBE STEEL
TYP.	TYPICAL
U.N.O.	UNLESS NOTED OTHERWISE
VAR.	VARIES
V.C.T.	VINYL COMPOSITION TILE
VERT.	VERTICAL
VG.	VERTICAL GRAIN
W.	WIDE
W/	WITH
W.C.	WATER CLOSET
WD.	WOOD
W/O	WITHOUT
WT.	WEIGHT

SYMBOLS

NEW CONSTRUCTION

DRAWING NOTE 4.08A

ROOM NUMBER ROOM 101

DOOR NUMBER 101

TOILET ROOM ACCESSORY * 3

ELEVATION — ELEVATION SHEET NUMBER (A5.01)

WALL SECTION — SECTION SHEET NUMBER (A5.01)

BUILDING SECTION — SECTION SHEET NUMBER (A5.01)

DETAIL — DETAIL SHEET NUMBER (A5.01)

COLUMN REFERENCE 2 / B

MATERIALS

EARTH; STONE; GRAVEL/CRUSHED STONE; MORTAR/PLASTER/GWB; CONCRETE; PRECAST CONCRETE; BRICK; CONCRETE MASONRY UNIT; STEEL (SMALL SCALE); STEEL; FIN. STONE; METAL (ELEVATION); WOOD (FINISHED); WOOD (CONTINUOUS BLOCKING); WOOD BLOCKING; PLYWOOD; GLASS (LARGE SCALE); GLASS (SMALL SCALE); INSULATION (RIGID); INSULATION (BLANKET)

1. WALLS:

2. FLOORS:

NOTE:

DRAWING INDEX

CODE REVIEW

RUBELING
& ASSOCIATES, INC.
ARCHITECTURE
INTERIOR DESIGN
1104 KENILWORTH DRIVE
SUITE 500
TOWSON, MARYLAND
21204-2101
410-337-2886
FAX: 410-337-2974

I certify that these documents were prepared or approved by me, and that I am a duly licensed architect under the laws of the State of Maryland.
License number 5723-A
Expiration date: May 10, 2007

BALTIMORE COUNTRY CLUB
TENNIS CENTER
11500 MAYS CHAPEL RD
TIMONIUM, MD 21093

REVISIONS:

NO.	DESCRIPTION	DATE

LAST REV.:
PROJECT NO.: 06-044
DATE: 15 MARCH 2006
SCALE: NOT TO SCALE
TITLE: COVER SHEET
SHEET: A
001

BALTIMORE COUNTRY CLUB - TENNIS CENTER

11500 MAYS CHAPEL RD
TIMONIUM, MD 21093

OWNER

BALTIMORE COUNTRY CLUB

ARCHITECT
RUBELING & ASSOCIATES
1104 KENILWORTH AVE.
TOWSON, MD 21286
TELEPHONE: (410) 337-2886
FAX: (410) 337-2974

CIVIL ENGINEER
SITE RESOURCES, INC.
14315 JARRETTSVILLE PIKE
PHOENIX, MD 21131
TELEPHONE: (410) 683.3388
FAX: (410) 683.3389

STRUCTURAL ENGINEER
MORABITO CONSULTANTS, INC.
2526 SAINT PAUL STREET
BALTIMOE, MD 21218
TELEPHONE: (410 467-2377
FAX: (410) 467-4132

DESIGN DEVELOPMENT PACKAGE FOOTPRINT AND EXTERIOR ELEVATIONS ARE CONSIDERED TO BE COMPLETE. INTERIOR LAYOUTS AND MATERIAL SELECTIONS ARE SUBJECT TO REFINEMENTS.

DESIGN DEVELOPMENT DRAWINGS 024 MAY 2006

ABBREVIATIONS

A.B.	ANCHOR BOLT	LAV.	LAVATORY
ACP	ACOUSTICAL CEILING PANEL	LT/(G)	LIGHT(ING)
ACT.	ACOUSTICAL TILE		
AHU	AIR HANDLING UNIT	MAS.	MASONRY
AIR COND.	AIR CONDITIONING	MATL.	MATERIAL
AIR COND.	AIR CONDITIONING	MAX.	MAXIMUM
ALUM.	ALUMINUM	MDO.	MEDIUM DENSITY OVERLAY
A.P.	ACCESS PANEL	MECH.	MECHANICAL
APPVD.	APPROVED	MIN.	MINIMUM
ARCH.	ARCHITECTURAL	MISC.	MISCELLANEOUS
ARCHT.	ARCHITECT	MLDG.	MOULDING
@	AT	MTD.	METAL STUD
		MTD.	MOUNTED
BD.	BOARD	MTL.	METAL
BIT.	BITUMINOUS	MWK.	MILLWORK
BLKG.	BLOCKING		
BLDG.	BUILDING	NAT.	NATURAL
BETWN.	BETWEEN	N.I.C.	NOT IN CONTRACT
		NO.	NUMBER
CAB.	CABINET	N.T.S.	NOT TO SCALE
CAP.	CAPACITY		
CL	CENTER LINE	O.A.	OVERALL
CLG.	CEILING	O.C.	ON CENTER
CLR.	CLEAR, CLEARANCE	O.D.	OUTSIDE DIAMETER
CMU	CONCRETE MASONRY UNIT	OHD.	OVERHEAD
COL.	COLUMN	OPP. HD.	OPPOSITE HAND
CONC.	CONCRETE	OPNG.	OPENING
CONT.	CONTINUOUS		
CONST.	CONSTRUCTION	P. LAM.	PLASTIC LAMINATE
CONTR.	CONTRACTOR	P. PL.	POLISHED PLATE
CONV.	CONVECTOR	PART.	PARTITION
CPT.	CARPET	PL.	PLATE
CS.	COUNTERSINK	PLY.	PLYWOOD
C.T.	CERAMIC TILE	PNL/(G)	PANEL(ING)
C.W.	COLD WATER	PR.	PAIR
		PREFIN.	PREFINISHED
DBL.	DOUBLE	PT.	POINT
DEPT.	DEPARTMENT	P.T.	PRESSURE TREATED
DTL.	DETAIL	PTD.	PAINTED
DIA.	DIAMETER	PVF	POLYVINYLFLUORIDE
DIM.	DIMENSION		
DN.	DOWN	Q.T.	QUARRY TILE
DR.	DOOR		
D.T.	DRAPERY TRACK	R.	RADIUS
DWG.	DRAWING	RUB.	RUBBER BASE
		REF.	REFERENCE
E.A.	EACH	REINF.	REINFORCED
ELEV.	ELEVATION	REQD.	REQUIRED
ELEC.	ELECTRICAL	RES.	RESILIENT
EN.	ENAMEL	REV.	REVISED, REVISION
EPS	EXPANDED POLYSTYRENE	RM.	ROOM
EQ.	EQUAL		
E.T.R.	EXISTING TO REMAIN	S.	STAIN
EIFS.	EXTERIOR WALL FINISH SYSTEM	S.C.	SOLID CORE
EXIST.	EXISTING	SECT.	SECTION
EXT.	EXTERIOR	S. EN.	SATIN ENAMEL
		SEMI-GLOSS EN.	SEMI-GLOSS ENAMEL
FAB.	FABRICATED	SHT.	SHEET
F.D.	FLOOR DRAIN	SIM.	SIMILAR
FE.	FIRE EXTINGUISHER	SOL.	SOLID
FF.	FACTORY FINISH	SPEC.(S)	SPECIFICATION(S)
FIN.	FINISH	SQ.	SQUARE
F.O.I.	FURNISHED & INSTALLED BY OWNER	S.STL.	STAINLESS STEEL
F.O.I.C.	FURNISHED BY OWNER, INSTALLED BY CONTRACTOR	STD.	STANDARD
FLR/(G)	FLOOR(ING)	STL.	STEEL
FT/(G)	FOOT(INGS)	STOR.	STORAGE
		STRUC.	STRUCTURAL
GA.	GAUGE	SUSP.	SUSPENDED
GALV.	GALVANIZED	S.V.	STAIN & VARNISH
G.C.	GENERAL CONTRACTOR	SVC.	SERVICE
GENL.	GENERAL	SW.	SWITCH
GL.	GLASS		
GWB.	GYPSUM WALL BOARD	TEL.	TELEPHONE
		TEMP.	TEMPORARY
H.C.	HOLLOW CORE	T.&G.	TONGUE & GROOVE
H.D.	HEAVY DUTY	TEMPERED HARDBOARD	
HDR.	HEADER	T.S.	TUBE STEEL
HDWD.	HARDWOOD	TYP.	TYPICAL
H.M.	HOLLOW METAL		
HORIZ.	HORIZONTAL	U.N.O.	UNLESS NOTED OTHERWISE
HT.	HEIGHT		
HVAC	HEATING/VENTILATING & AIR CONDITIONING	VAR.	VARIES
		V.C.T.	VINYL COMPOSITION TILE
		VERT.	VERTICAL
H.W.	HOT WATER	V.G.	VERTICAL GRAIN
H.W.H.	HOT WATER HEATER		
		W.	WIDE
INT.	INTERIOR	W/	WITH
		W.C.	WATER CLOSET
JT.	JOINT	WD.	WOOD
		W/O	WITHOUT
L.	LONG, LENGTH	WT.	WEIGHT
LAM.	LAMINATE		

SYMBOLS

NEW CONSTRUCTION

DRAWING NOTE 4208A

ROOM NUMBER ROOM 101

DOOR NUMBER 101

TOILET ROOM ACCESSORY * 3

ELEVATION — (A5/A501) ELEVATION SHEET NUMBER

WALL SECTION — (A5/A501) SECTION SHEET NUMBER

BUILDING SECTION — (A5/A501) SECTION SHEET NUMBER

DETAIL — (A5/A501) DETAIL SHEET NUMBER

COLUMN REFERENCE — 2 / B

MATERIALS

EARTH, STONE, GRAVEL/ CRUSHED STONE, MORTAR/PLASTER/ GWB, CONCRETE, PRECAST CONCRETE, BRICK, CONCRETE MASONRY UNIT, STEEL (SMALL SCALE), STEEL, FIN. STONE, METAL (ELEVATION), WOOD (FINISHED), WOOD (CONTINUOUS BLOCKING), WOOD BLOCKING), PLYWOOD, GLASS (LARGE SCALE), GLASS (SMALL SCALE), INSULATION (RIGID), INSULATION (BLANKET)

1. WALLS:

2. FLOORS:

NOTE:

DRAWING INDEX

CODE REVIEW

RUBELING
& ASSOCIATES, INC.
ARCHITECTURE
INTERIOR DESIGN
1104 KENILWORTH DRIVE
SUITE 500
TOWSON, MARYLAND
21204-2181
410-337-2886
FAX: 410-337-2974

I certify that these documents were prepared or approved by me, and that I am a duly licensed architect under the laws of the State of Maryland.
License number 5223-A
Expiration date: May 10, 2007

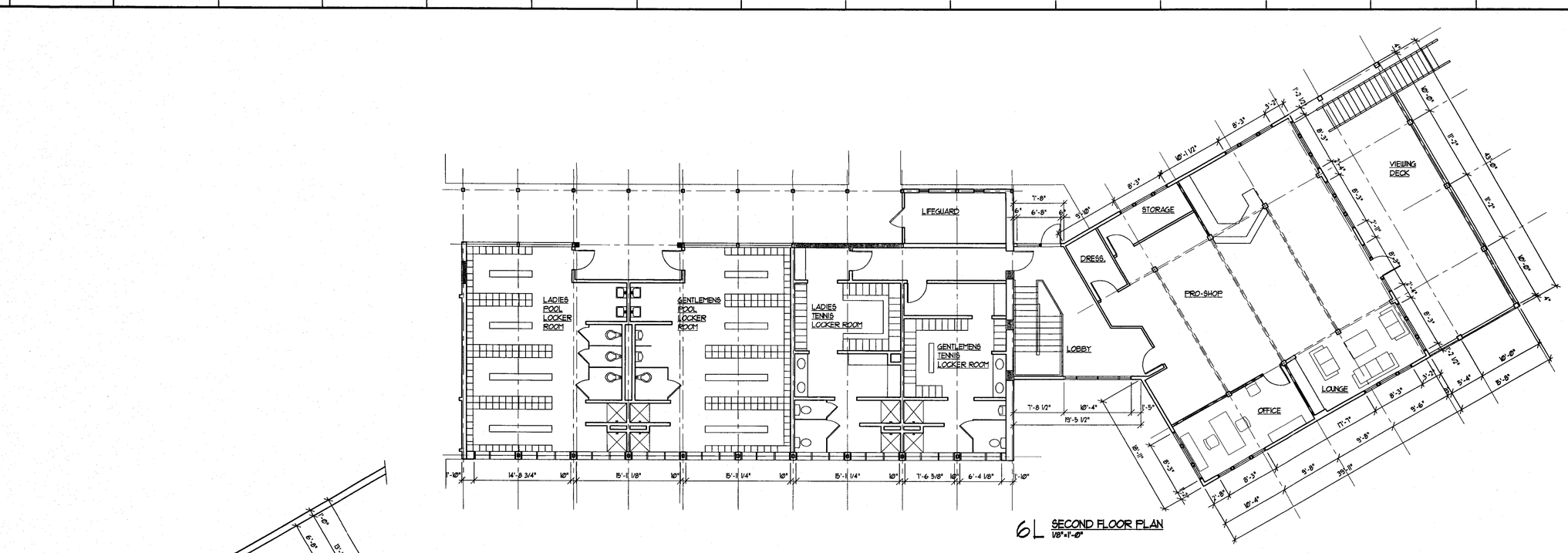
BALTIMORE COUNTRY CLUB
TENNIS CENTER
11500 MAYS CHAPEL RD
TIMONIUM, MD 21093

REVISIONS:

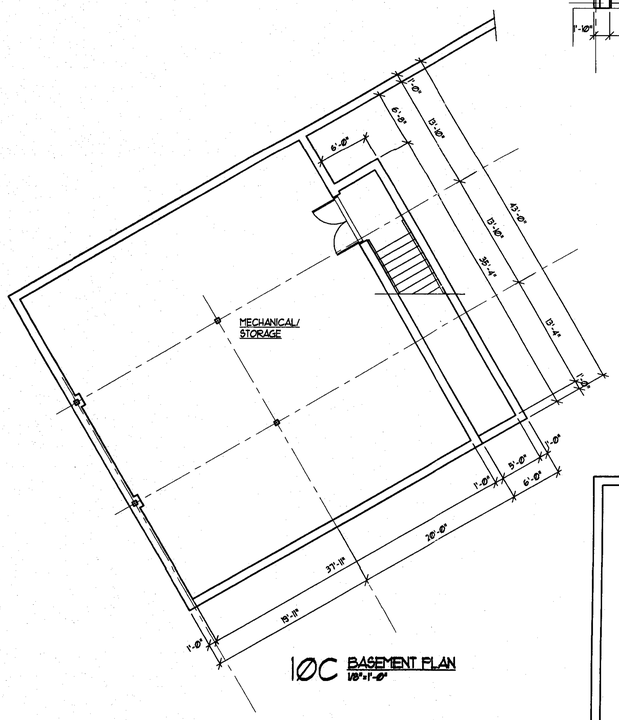
NO.	DESCRIPTION	DATE

LAST REV.:
PROJECT NO.: 06-044
DATE: 15 MARCH 2006
SCALE: NOT TO SCALE
TITLE: COVER SHEET

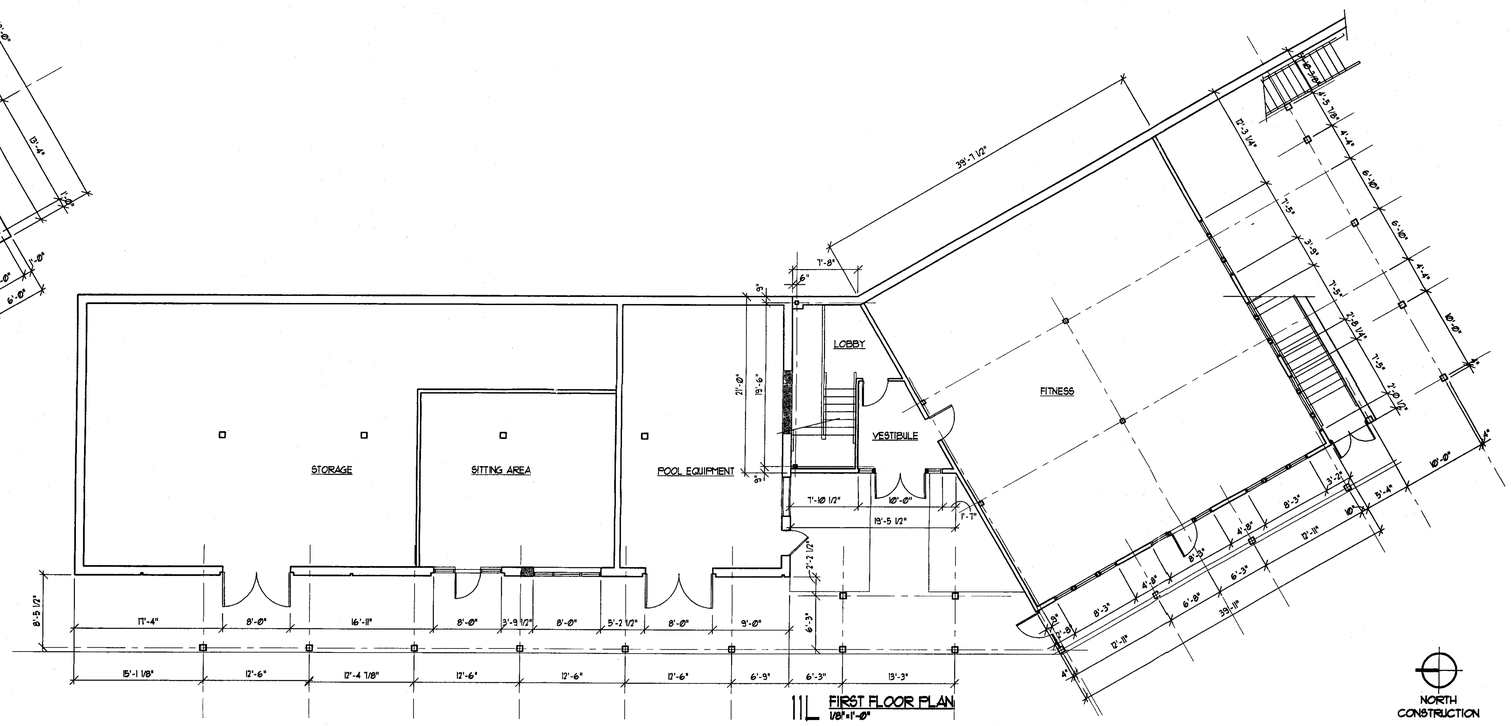
SHEET: A 001



6L SECOND FLOOR PLAN
1/8"=1'-0"



10C BASEMENT PLAN
1/8"=1'-0"



11L FIRST FLOOR PLAN
1/8"=1'-0"

NORTH
CONSTRUCTION

RUBELING
& ASSOCIATES, INC.
ARCHITECTURE
INTERIOR DESIGN
1104 KENILWORTH DRIVE
SUITE 500
TOWSON, MARYLAND
21204-2101
410-337-2886
FAX: 410-337-2974

I certify that these documents were prepared or approved by me, and that I am a duly licensed architect under the laws of the State of Maryland.
License number 5225-A
Expiration date: May 10, 2007

BALTIMORE COUNTRY CLUB TENNIS CENTER

REVISIONS:

NO.	DESCRIPTION	DATE

LAST REV.:
PROJECT NO.: 06044
DATE: 5.25.06
SCALE: 1/8"=1'-0"
TITLE: FLOOR PLANS
SHEET: A 101

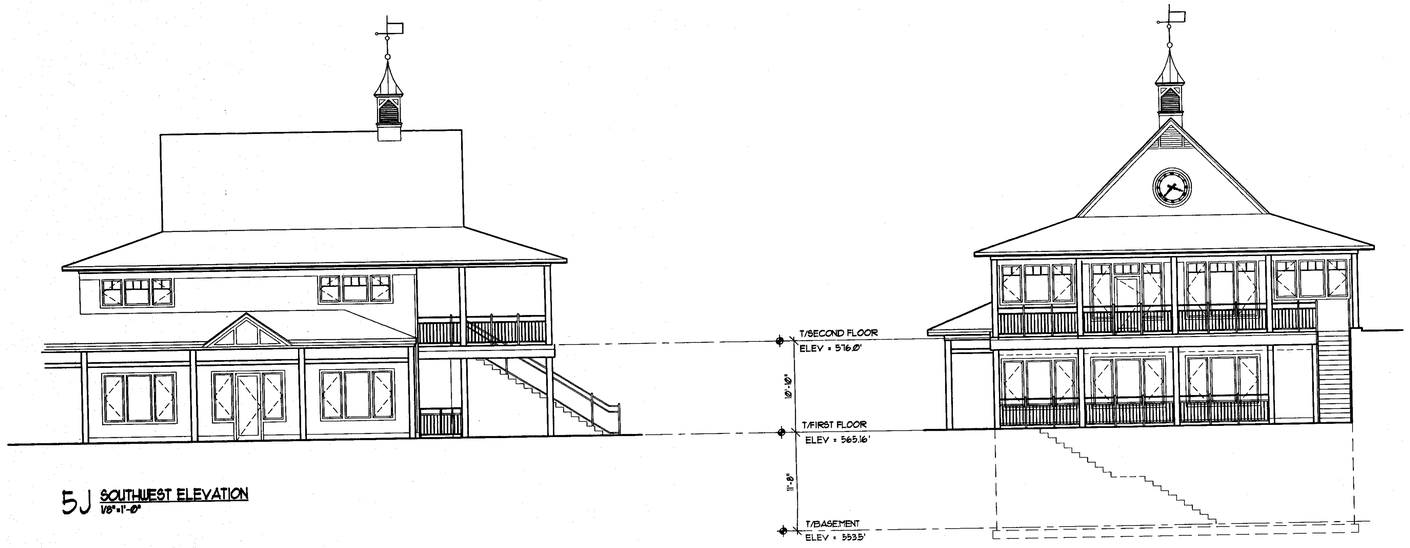
044A101

BALTIMORE COUNTRY CLUB
TENNIS CENTER

1898

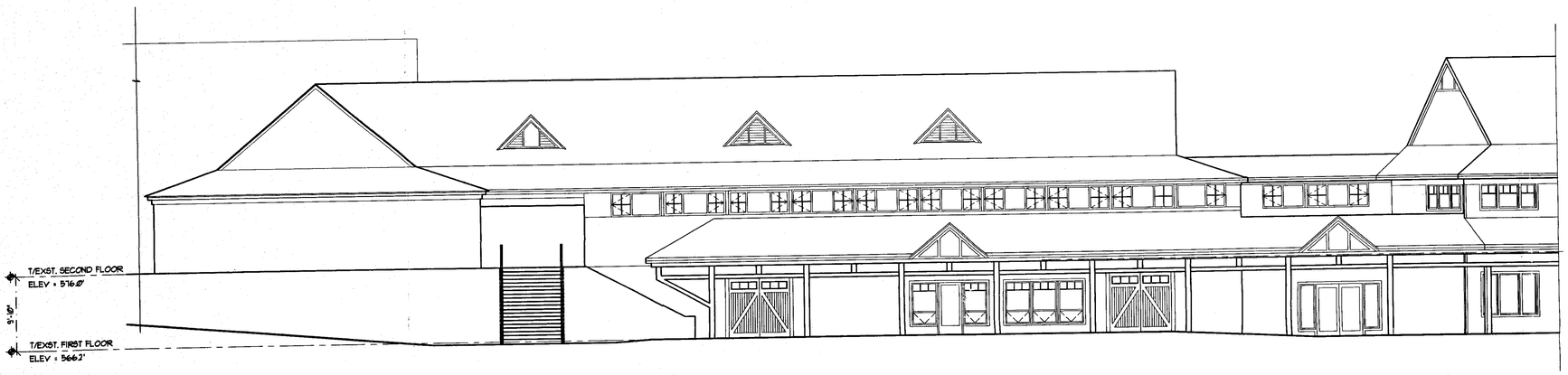
RUBELING
& ASSOCIATES,
ARCHITECTURE
INTERIOR DESIGN
1104 KENILWORTH DRIVE
SUITE 500
TOWSON, MARYLAND
21204-2101
410-337-2886
FAX: 410-337-2974

GSR



5J SOUTHWEST ELEVATION
1/8"=1'-0"

5K SOUTHEAST ELEVATION
1/8"=1'-0"



10C WEST ELEVATION
1/8"=1'-0"

DRAWING NOTES

RUBELING
& ASSOCIATES, INC.
ARCHITECTURE
INTERIOR DESIGN
1104 KENILWORTH DRIVE
SUITE 500
TOWSON, MARYLAND
21204-2101
410-337-2886
FAX: 410-337-2974

I certify that these documents were prepared or approved by me, and that I am a duly licensed architect under the laws of the State of Maryland,
License number 5273-A
Expiration date: May 10, 2007

BALTIMORE COUNTRY CLUB
TENNIS CENTER

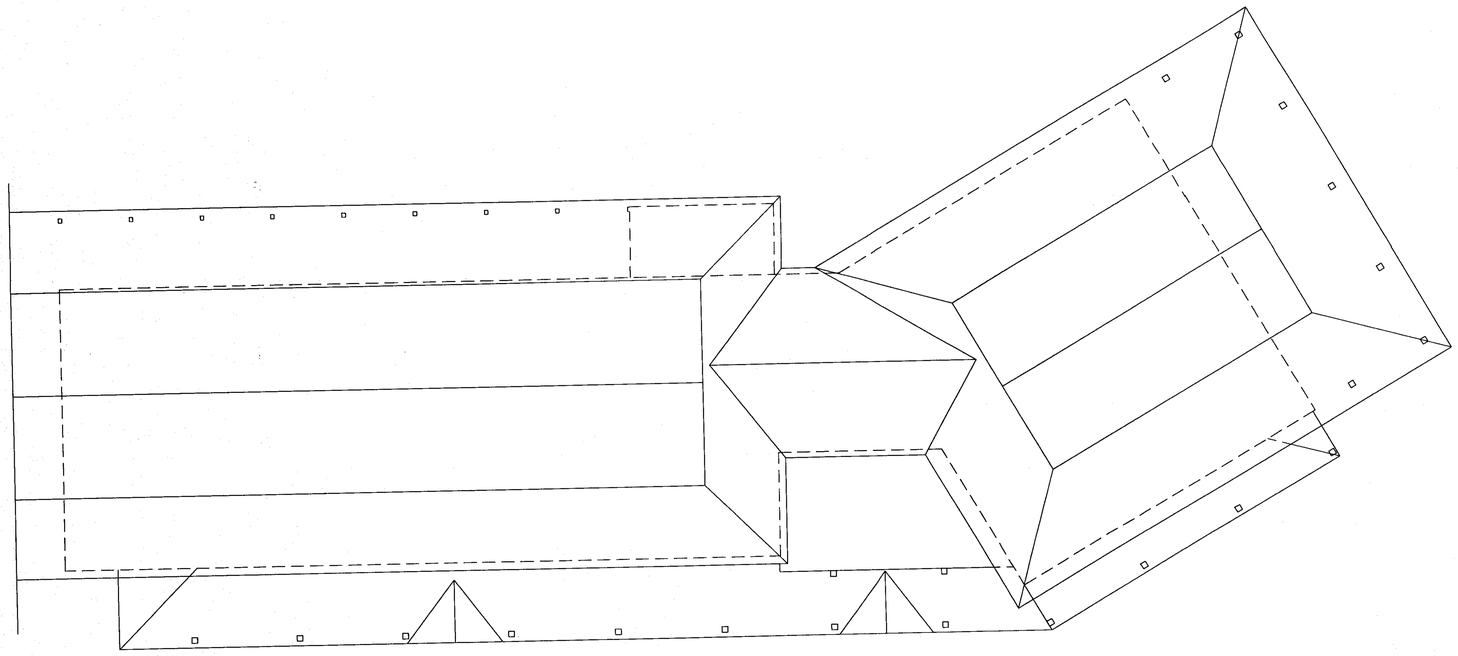
REVISIONS:

NO.	DESCRIPTION	DATE

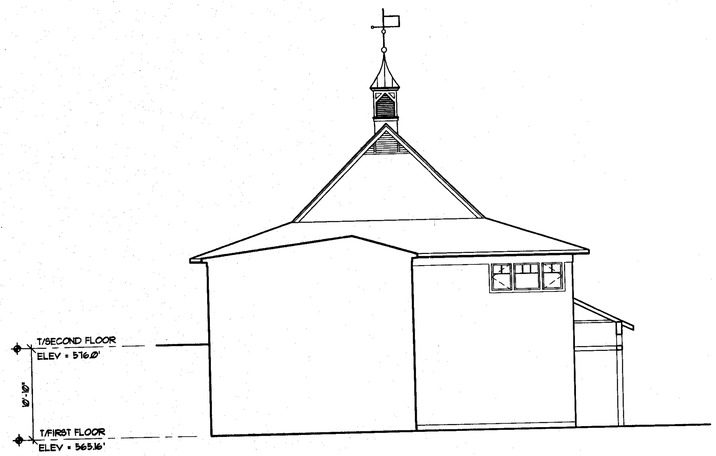
LAST REV.:
PROJECT NO.: 06044
DATE: 5.25.06
SCALE: 1/8"=1'-0"
TITLE: ELEVATIONS

SHEET: A 201

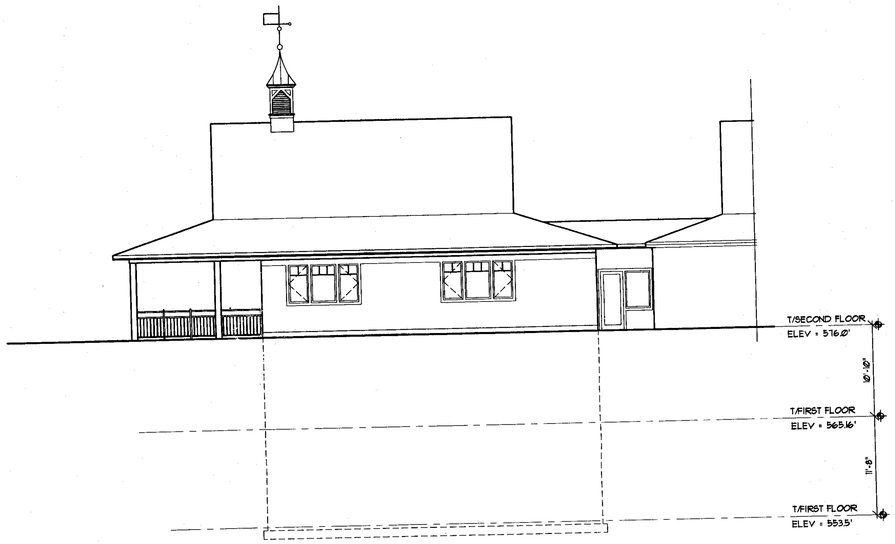
06044A201



6D ROOF PLAN
1/8"=1'-0"



10C NORTHWEST ELEVATION
1/8"=1'-0"



10J NORTHEAST ELEVATION
1/8"=1'-0"

DRAWING NOTES

RUBELING
& ASSOCIATES, INC.
ARCHITECTURE
INTERIOR DESIGN
1104 KENILWORTH DRIVE
SUITE 500
TOWSON, MARYLAND
21204-2101
410-337-2886
FAX: 410-337-2974

I certify that these documents were prepared or approved by me, and that I am a duly licensed architect under the laws of the State of Maryland.
License number 5223-A
Expiration date: May 10, 2007

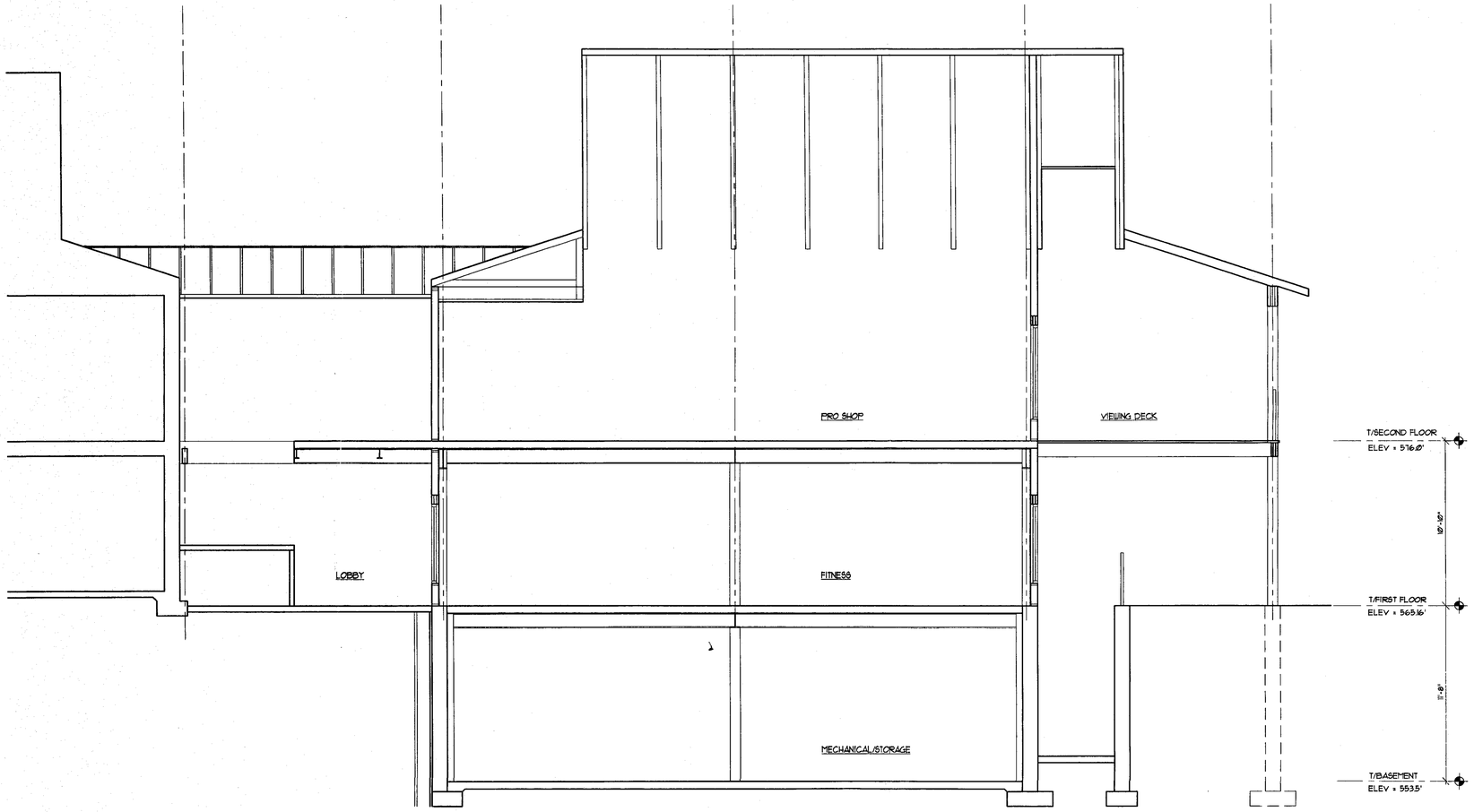
BALTIMORE COUNTRY CLUB
TENNIS CENTER

REVISIONS:

NO.	DESCRIPTION	DATE

LAST REV.:
PROJECT NO.: 06044
DATE: 5.25.06
SCALE: 1/8"=1'-0"
TITLE: ELEVATIONS
SHEET: A
202

06044A202



10E BUILDING SECTION
1/4"=1'-0"

DRAWING NOTES

RUBELING
& ASSOCIATES, INC.
ARCHITECTURE
INTERIOR DESIGN
1104 KENILWORTH DRIVE
SUITE 500
TOWSON, MARYLAND
21204-2101
410-337-2886
FAX: 410-337-2974

I certify that these documents were prepared or approved by me, and that I am a duly licensed architect under the laws of the State of Maryland.
License number 5723-A
Expiration date: May 10, 2007

BALTIMORE COUNTRY CLUB
TENNIS CENTER

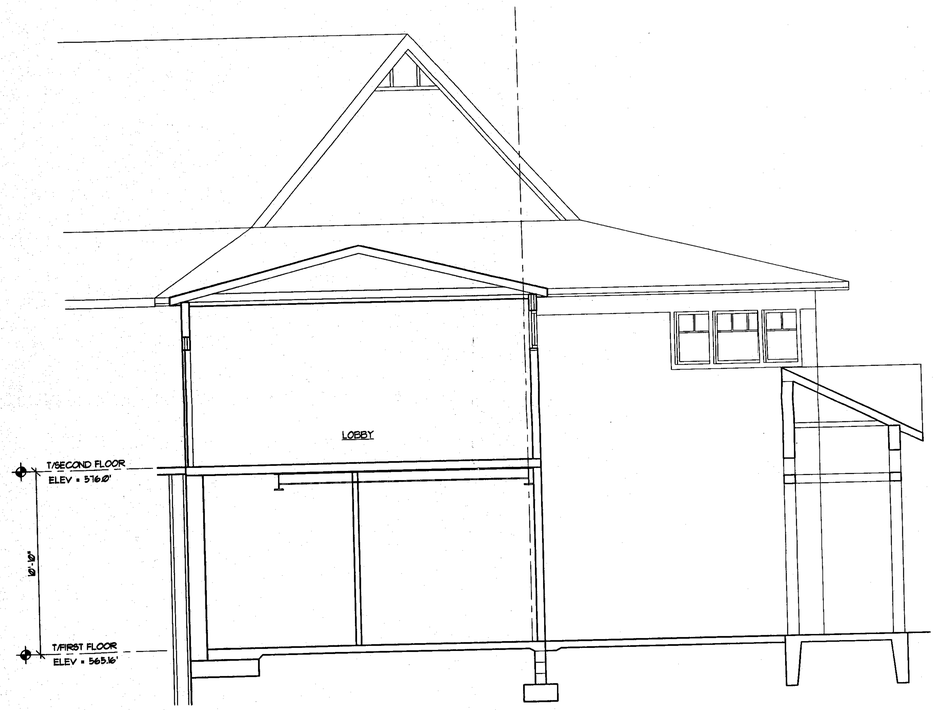
REVISIONS:

NO.	DESCRIPTION	DATE

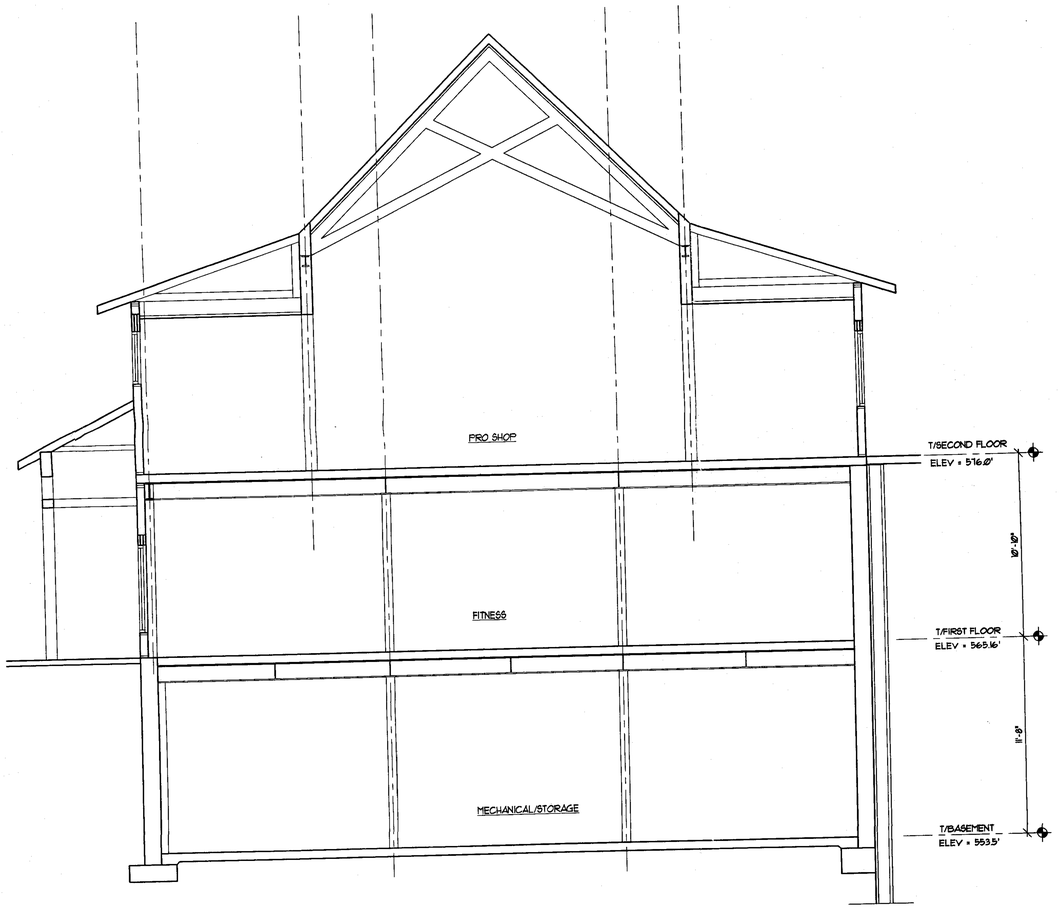
LAST REV.:
PROJECT NO.: 06044
DATE: 5.25.06
SCALE: 1/4"=1'-0"
TITLE:
ELEVATIONS

SHEET:
A
302

06044A201



8E BUILDING SECTION
1/4"=1'-0"



10J BUILDING SECTION
1/4"=1'-0"

RUBELING
& ASSOCIATES, INC.
ARCHITECTURE
INTERIOR DESIGN
1104 KENILWORTH DRIVE
SUITE 500
TOWSON, MARYLAND
21204-2101
410-337-2886
FAX: 410-337-2974

I certify that these documents were prepared or approved by me, and that I am a duly licensed architect under the laws of the State of Maryland,
License number 5023-A
Expiration date: May 10, 2007

BALTIMORE COUNTRY CLUB
TENNIS CENTER

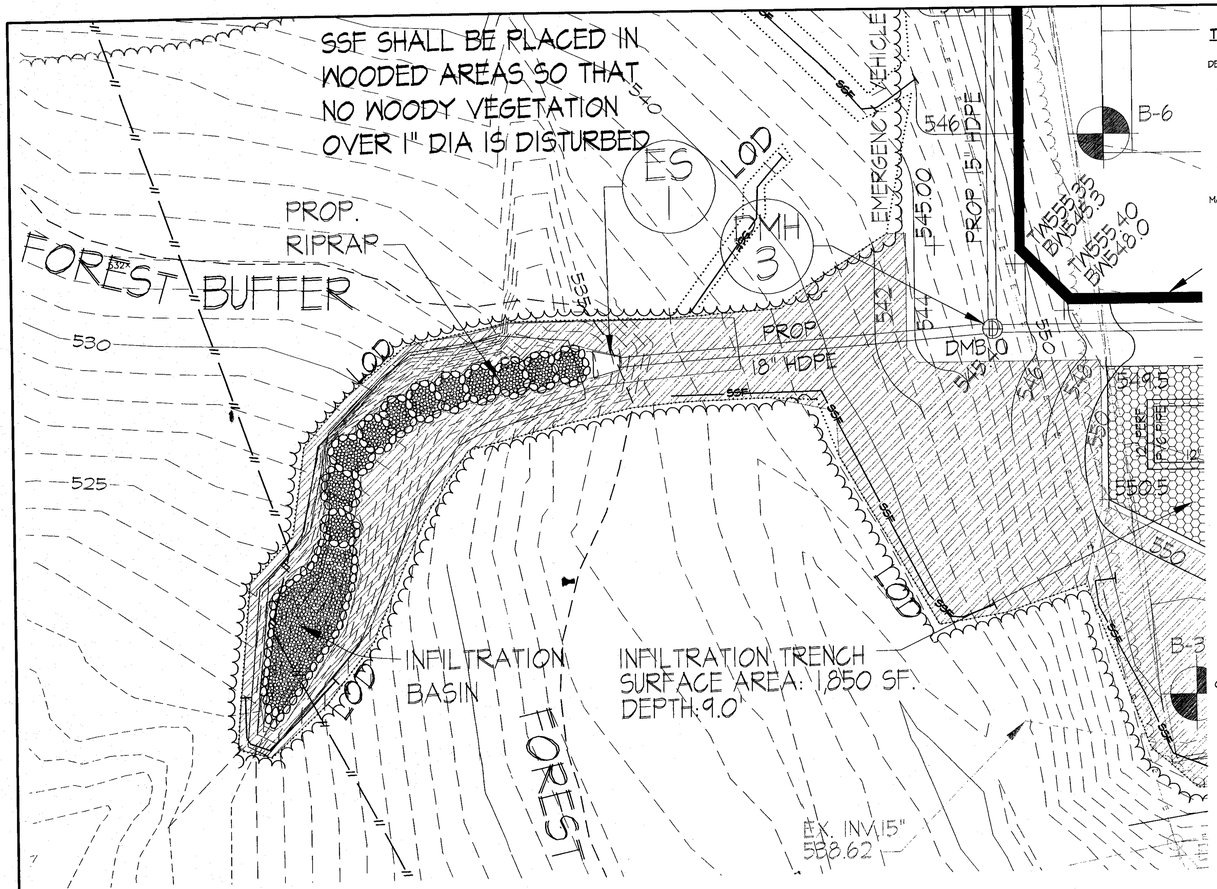
REVISIONS:

NO.	DESCRIPTION	DATE

LAST REV.:
PROJECT NO.: 06044
DATE: 5.25.06
SCALE: 1/4"=1'-0"
TITLE: ELEVATIONS

SHEET: A
301

06044A201



TREE AND SHRUB PLANTING SPECIFICATIONS

DESCRIPTION

A. This work shall consist of furnishing and installing trees and shrubs to complete the work for the planting plan as specified in the Contract Documents, or as directed by the Owner's Representative.

B. Prior to start of work, the Contractor shall submit a proposed planting schedule, including source of plant material, to the Owner's Representative for review. No work shall be performed until this schedule is approved by the Owner's Representative.

C. Baltimore County may request the Contractor to stake the location of individual plants within the approved Planting Zones.

MATERIALS

A. Plant Material

1. All plant material shall conform to the current issue of the American Standard for Nursery Stock published by the American Nursery and Landscape Association.
2. Plant materials must be selected from certified nurseries that have been inspected by state and/or federal agencies. Nursery inspection certificates shall be furnished to the Owner's Representative upon request.
3. The nursery supply source shall certify that the origin of the seeds from which the trees and shrubs were produced is from Hardiness Zone 7, east of the Mississippi River.
4. Plant material collected from the wild is prohibited.
5. Container grown stock shall have been grown in a container long enough for the root system to have developed sufficiently to hold its soil. Roots shall visibly extend to the inside face of the growing container. All container grown plants shall be grasped and kept moist until they are planted.
6. The owner's representative may reject plants damaged in handling or transportation.
7. No plants shall be installed unless the owner's representative approves both the condition of the plantings and the process of installation.

B. Substitute Plant Material

1. Prior to NOTICE-TO-PROCEED, the owner's representative must approve all plant substitutions.
2. If a substitute is selected, it must be native to the Central Maryland Piedmont and of the same size, value, and quality as the original plant.

C. Water

Water used in the establishment or caring of plants and seed shall be free from any substance that is injurious to plant life.

D. Fertilizer

Plant fertilizer is to be applied only to containerized plants. The Contractor shall use organic fertilizers in lieu of petroleum based fertilizers. Suitable products that are commercially available are marketed and certified as "organic" or "natural" fertilizers. Organic materials shall include such items as: sea grasses/kelp, rock powder, bone meal, whey, bean meal, blood meal, composted manure, etc. Product nutrient content shall be identified in the standard form of Nitrogen (N), Phosphorus (P) and Potassium (K) ratios. Fertilizer nutrient content shall be 5-10-10 based on soil nutrient requirements derived from site soil tests. The application rate should be 400 lbs. per acre. Any proposed substitution to this nutrient content must be approved by the owner's representative.

E. Mycorrhizal Fungi

Mycorrhizal fungi applied to trees and shrubs shall consist of live spores of both endo- and ectomycorrhizal fungi.

CONSTRUCTION

A. Installation

1. All areas disturbed by construction shall be planted in accordance with the composition and planting schedules for each designated planting zone. Areas within designated planting zones not disturbed by construction shall be supplemented with trees and shrubs to meet the acre quantities specified in the composition schedule.
2. The Contractor shall refer to the planting plan and plant schedule on the plans for specific spacing requirements.
3. In the plant schedule, the Contractor shall use the overall spacing figure to determine the spacing between each species of vegetation. The Contractor shall use the individual spacing figure to determine the spacing between each plant of the same species.
4. Immediately after site preparation and approval, trees and shrubs shall be planted. Planting shall be conducted between March 1 and June 1 or September 15 and November 30, or as directed by the owner's representative.
5. Root stock of the plant material shall be kept moist during transport, from the source, to the job site and until planted.
6. The Contractor may be required to flag and label individual planting pits at specific locations. Upon planting a typical area within each planting zone, the Contractor shall have the owner's representative inspect and approve plant spacing and planting techniques before proceeding.
7. All planting pits shall be dug by hand. Walls of planting pits shall be dug so that they are vertical, or sloping outward in heavy soils. Scarify the walls of the pit after digging.
8. Excavate the planting pit to 1 1/2 times the width of the root mass.
9. The planting pit shall be deep enough to allow the first lateral root of the root mass to be flush with the existing grade.
10. Remove all non-organic debris from the pit and tamp loose soil in the bottom of the pit by hand.
11. Remove the plant either by cutting or inverting the container.
12. Do not handle the plant by the branches, leaves, trunk or stem.
13. Place the plant straight in the center of the planting pit, carrying the plant by the root mass. Never lift or carry a plant by the trunk or branches.
14. Place 4 ounces of fertilizer in each plant pit for up to 1 gallon size containers, 6 ounces for up to 3 gallon container size and place 8 ounces for up to a 5 gallon container size. Place the fertilizer in the planting pit completely surrounding the plant ball prior to backfilling.
15. Mix a minimum of 500 spores of endomycorrhizal fungi and 30 million spores of ectomycorrhizal fungi to each cubic foot of backfill for trees and shrub planting.
16. Backfill planting pit with existing soil and hand tamp as pit is being backfilled to completely fill all voids and air pockets. Do not over compact soil. Make sure plant remains straight during backfilling/tamping procedure.
17. Do not cover the top of the root mass with soil.
18. An 18 inch diameter area of mulch shall be placed around each plant. Mulch shall be 2-3 inches thick. Mulch shall NOT be placed directly against the stem of the plant.
19. Water plant thoroughly immediately after planting, unless otherwise directed by the owner's representative.
20. The Contractor shall leave no open planting pits at the close of each day.

B. Clean Up

1. During installation of trees and shrubs, all areas shall be kept neat, clean and free of all trash and debris, and all reasonable precautions shall be taken to avoid damage to existing plants, turf, structures, and private property.
2. The Contractor shall be responsible for off-site removal and disposal of all trash, excess backfill and any materials incidental to the project and disposing of them off-site.

MAINTENANCE

A. Remove all tags, labels, strings and wire from the plant materials, unless otherwise directed by the owner's representative.

B. The plant material shall be maintained and monitored for 1 year after completion, final inspection and approval of the planting.

C. It will be the Contractor's responsibility to supply water if there is none available on the site. Any costs associated with supplying water shall be the responsibility of the Contractor.

MEASUREMENT AND PAYMENT

Planting trees and shrubs shall be measured and paid for at the Contract unit price per each (EA) plant in accordance with the plant schedule and planting plan. Payment for planting trees and shrubs shall be full compensation for furnishing, installing, maintenance and warranty, including all materials, labor, equipment, tools, and incidentals necessary to complete the work as specified in the Contract Documents, or as directed by the owner's representative.

HERBACEOUS SEEDING SPECIFICATIONS

DESCRIPTION

A. This work shall consist of furnishing and installing all herbaceous seed for the Planting Zones as specified in the Contract Documents, or as directed by the owner's representative.

B. Prior to start of work on this item, the Contractor shall submit a proposed seeding schedule, including the source of the seed, to Baltimore County for review. No work shall be performed until this schedule is approved by the owner's representative.

MATERIALS

A. Herbaceous Seed

Herbaceous Seed shall consist of seed varieties specified in the composition and planting schedules for all Zones.

1. Seed shall be certified that the Pure Live Seed (PLS) percentage is equal to or greater than that which is specified on the Plant Schedules. If the PLS is less than specified, the Contractor shall increase the seeding rate to compensate for the PLS difference at his/her own expense.
2. All seed and seed varieties shall be free from State and Federal prohibited noxious weed seeds and the following:

Annual bluegrass	Corn cockle	Sparred anoda
Bermuda grass	Dodder	Wild garlic
Bindweed	Giant foxtail	Wild onion
Cocklebur	Horse nettle	

B. Mulch

Seed mulch shall consist of straw or wood cellulose fiber.

C. Water

Water used in the establishment or caring of plants and seed shall be free from any substance that is injurious to plant life.

D. Fertilizer

Herbaceous seeding areas shall not be fertilized.

E. Limestone

Limestone shall not be applied to any areas receiving herbaceous seeding.

CONSTRUCTION

A. Installation

1. All areas disturbed by construction shall be seeded in accordance with the planting plans and schedules. The herbaceous plant seed mix is specified on the composition and planting schedules. Areas not disturbed, shall not be seeded.
2. All areas to be seeded shall conform to the finished grades as specified on the plans and be free of all weeds, trash, debris, brush, clods, loose rocks and other foreign materials larger than 3 inches in diameter or length that would interfere with seeding. All gullies, washes or disturbed areas that develop subsequent to final dressing shall be repaired prior to seeding.
3. Seeding shall be performed from March 1 through November 30 or as directed by the owner's representative. No seeding shall be performed on frozen ground or when the temperature is 32.0F/00.0C or lower.
4. Seeding shall be accomplished by using a broadcast spreader. Any alternative seeding methods must be approved by the owner's representative, prior to Bid Submittal. All seeding equipment shall be calibrated before application to the satisfaction of the owner's representative so that the material is applied accurately and evenly to avoid misses and overlaps. Seed installed by a broadcast spreader shall be capable of placing seed at the specified rate.
5. Seed shall be applied within the top 1/4 inch of the soil in two different directions. The Contractor shall maximize the seed/soil contact by firming soil around the seed with a cultipacker, other similar equipment, or by dragging the surface with chain link fence.
6. Immediately after seeding, the site shall be watered lightly but thoroughly so that the top 4 inches of soil is saturated.
7. The Contractor shall mulch and tack all seeded areas within 24 hours after seeding.

B. Clean-up

1. The Contractor shall be responsible for the removal of all trash and any other materials incidental to the project and disposing of them off-site.

WARRANTY

The Contractor shall maintain a minimum 85% aerial coverage of herbaceous seeding for 2 years after final inspection. This shall include necessary care and replacement to achieve the required coverage.

MEASUREMENT AND PAYMENT

Herbaceous seeding shall be measured and paid for at the contract unit price per square foot (SF) of area seeded. Payment will be full compensation for furnishing and incorporating all seed, including all maintenance and warranty, materials, labor, equipment, tools, and incidentals necessary to complete the work as specified in the Contract Documents, or as directed by the owner's representative.

EXHIBIT 'K'

STORMWATER MANAGEMENT FACILITY

Baltimore Country Club Tennis Facility

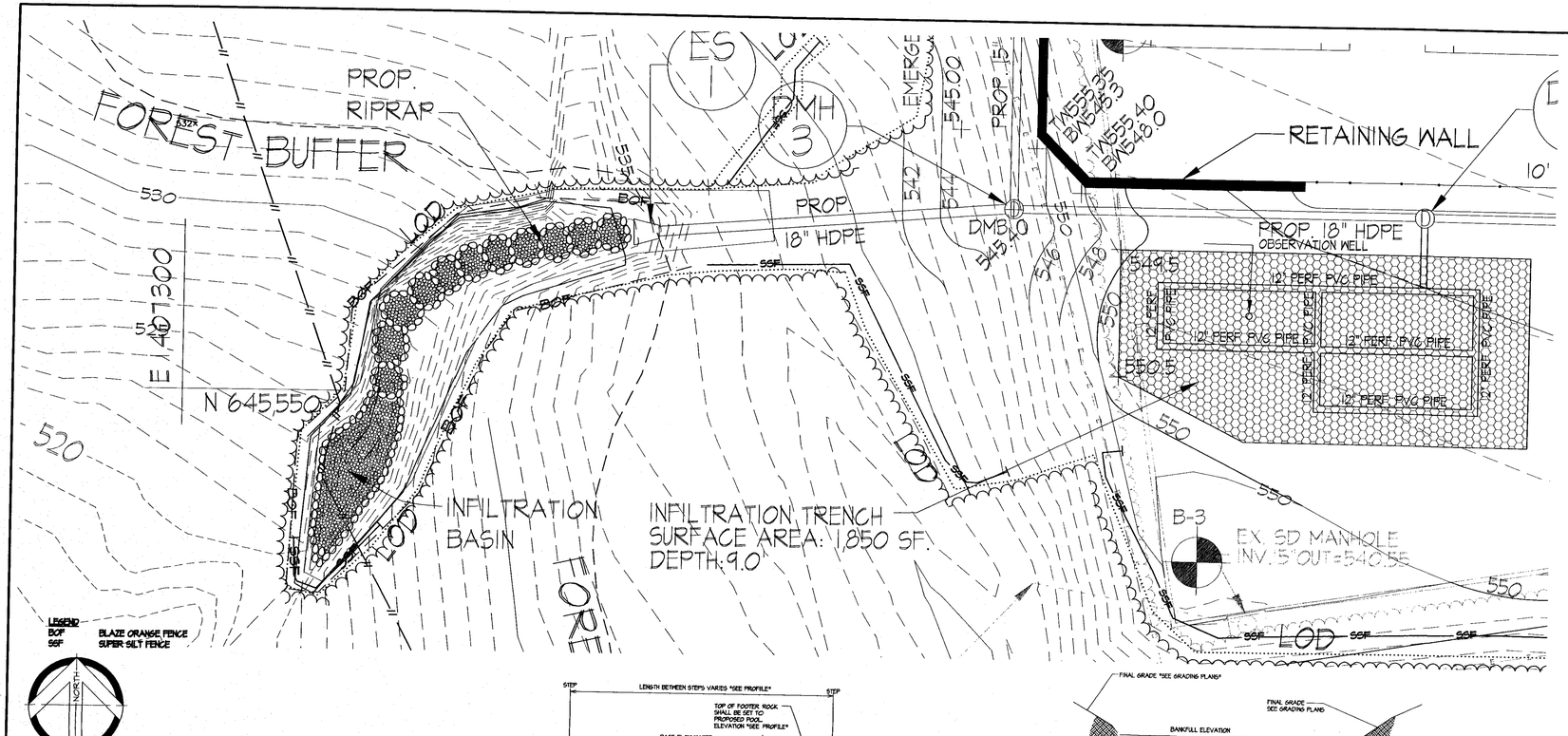
BALTIMORE COUNTY, MD

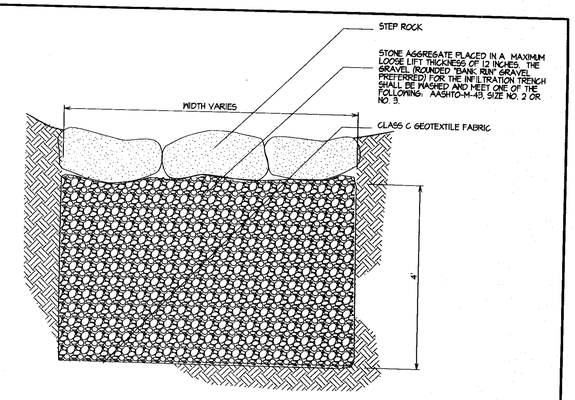
REVISIONS

SITE RESOURCES incorporated
Comprehensive Land Planning & Site Design Services
14307 Jarrettsville Pike • Phoenix, Maryland 21131
(410) 683-3388 • fax (410) 683-3389

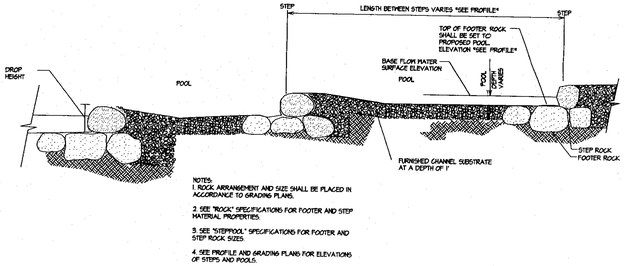
DRAWN BY:	GLK	CONTRACT NO.:	
DESIGNED BY:	KPR	SCALE:	1" = 30'
CHECKED BY:	MWF	SRI PROJECT NO:	02144.M
DATE:	06/07/06	SHEET	3 OF 3

REVISED 06/14/06 - KPR
REVISED 06/22/06 - KPR
REVISED 07/25/06 - KPR



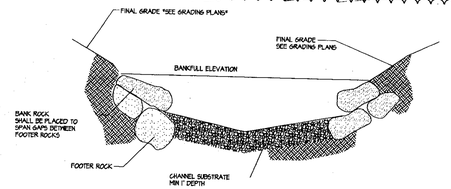


INFILTRATION BASIN
CROSS SECTION - TYPICAL
NOT TO SCALE



NOTES:
1. ROCK ARRANGEMENT AND SIZE SHALL BE PLACED IN ACCORDANCE TO GRADING PLANS.
2. SEE "ROCK" SPECIFICATIONS FOR FOOTER AND STEP MATERIAL PROPERTIES.
3. SEE "STEP/POOL" SPECIFICATIONS FOR FOOTER AND STEP ROCK SIZES.
4. SEE PROFILE AND GRADING PLANS FOR ELEVATIONS OF STEPS AND POOLS.

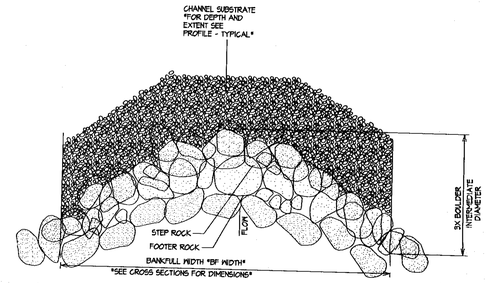
STEP/POOL SEQUENCE
PROFILE - TYPICAL
NOT TO SCALE



NOTES:
1. ROCK ARRANGEMENT AND SIZE SHALL BE OF RANDOM IN NATURE SO NO TWO STEPS ARE IDENTICAL.
2. SEE "ROCK" SPECIFICATIONS FOR FOOTER AND STEP MATERIAL PROPERTIES.
3. SEE "STEP/POOL" SPECIFICATIONS FOR FOOTER AND STEP ROCK SIZES.

FOR LOCATIONS, DIMENSIONS AND ELEVATIONS SEE GRADING PLAN, CROSS SECTIONS AND PROFILE.

STEP/POOL - POOL
CROSS SECTION - TYPICAL
NOT TO SCALE



FOR LOCATIONS, DIMENSIONS AND ELEVATIONS SEE GRADING PLAN, CROSS SECTIONS AND PROFILE.

STEP/POOL - STEP
PLAN VIEW - TYPICAL
NOT TO SCALE

STEP POOL SPECIFICATION

DESCRIPTION

This work shall consist of furnishing, transporting, installing and maintaining all step/pool structures within the stream channel, as specified in the Contract Documents, or as directed by the Engineer.

MATERIALS

1. Channel Substrate

   Channel substrate shall meet the specifications for 'Furnishing and Placing Channel substrate' contained in the Contract Documents. Channel substrate consists of natural field rock or natural river rock placed upstream of the step rocks and footer rocks to provide chinking and in lining the proposed pools along the step/pools.

2. Footer Rock

   Footer rock shall meet the specifications for 'Rock' contained in the Contract Documents. Footer rock consists of rock placed below the invert of the proposed channel to provide support for the step/pool rock and prevent downstream scour.

   The dimensions of the rock shall be a minimum of 3 feet and maximum of 4 feet along the long (a) axis, a minimum of 1.5 feet and maximum of 2.5 feet along the median (b) axis, a minimum of 1 foot and a maximum of 2 feet along the short (c) axis. Samples shall be submitted to the Engineer for approval.

3. Step Rock

   Step rock shall meet the specifications for 'Rock' contained in the Contract Documents. Step rock consists of rock placed upon the footer rock.

   The dimensions of the rock shall be a minimum of 3 feet and maximum of 4 feet along the long (a) axis, a minimum of 1.5 feet and maximum of 2.5 feet along the median (b) axis, a minimum of 1 foot and a maximum of 2 feet along the short (c) axis. Samples shall be submitted to the Engineer for approval.

4. Perimeter Rock

   Perimeter rock shall meet the specifications for 'Rock' contained in the Contract Documents. Perimeter rock consists of rock placed upon the footer rock lining the outside edge (perimeter) of the pool.

   The dimensions of the rock shall be a minimum of 3 feet and maximum of 4 feet along the long (a) axis, a minimum of 1.5 feet and maximum of 2.5 feet along the median (b) axis, a minimum of 1 foot and a maximum of 2 feet along the short (c) axis. Samples shall be submitted to the Engineer for approval.

CONSTRUCTION

Step Installation

1. The step shall be constructed so that rocks perpendicular to the channel taper downstream in an arc formation with the center of the arc set in the thalweg of the stream channel furthest upstream.
2. The footer rocks shall be installed by excavating a trench to accommodate both the footer rocks and a 2 foot area upstream.
3. If bedrock is present at the channel invert, footer rock shall still be required unless approval for elimination of footer rock is obtained from the Engineer. For example, where bedrock is friable and weathered and can be trenched, footer rock will be required. In areas where bedrock is resistant and blasting would be required, the Engineer shall determine whether or not to eliminate footer rock.
4. Footer rocks shall be placed at the bottom and downstream side of the trench and shall abut one another. The top elevation of the footer rock placed at the centerline of the stream shall be flush with the proposed stream grade immediately below the step/pool structure. Footer rocks shall be firmly embedded into the stream bottom substrate. The trench behind the footer rocks shall be backfilled with channel substrate before the step rocks are set.
5. In the event where installation of the step may damage tree roots, excavation shall be minimized. This may include reducing the length of the step or eliminating trenching for footer rocks and channel substrate. This decision shall be field determined and authorized by the Engineer.
6. Step rocks shall be placed directly on top of the footer rocks and fit snugly against each other. Care should be taken when placing step rocks that the seams between step rocks do not line up with the seams between the footer rocks. The top elevation of the step rock placed at the centerline of the stream shall be flush with the proposed stream grade immediately above the step structure. Starting at the thalweg, adjacent rocks shall taper up to bankfull elevation.
7. Immediately below the step rock placed at the thalweg, the structure should fall the distance of the drop height as defined on the stream profile shown on the plan sheets.
8. Step rock should rise in elevation to a height of bankfull at the defined width of bankfull shown on the cross sections.
9. The outermost step rocks shall be installed with the rock keyed into the bank and oriented so that the rock face follows the proposed grade. The trench behind the step rocks shall be back-filled with channel substrate.
10. Channel substrate shall be placed a minimum of 5 feet upstream of the step rocks. Channel substrate shall be placed to a minimum depth of 1 foot. The channel substrate shall be placed to the proposed invert elevation shown in the Contract Documents.

Perimeter Rock Installation

1. In areas where perimeter rock and footer rock are shown on the grading plans, a trench shall be excavated for the footer rocks and perimeter rocks. The footer rocks shall be installed by excavating a trench to accommodate the footer rocks.
2. Footer rock shall be placed at the bottom and downstream side of the trench and shall abut one another. Footer rocks shall be firmly embedded into the stream bottom substrate and shall be placed so that the tops of the rocks are flush with the proposed channel invert.
3. In the event where installation of the step/pool perimeter rock may damage tree roots, excavation shall be minimized. This may include eliminating a perimeter rock and footer rock. This decision shall be field determined and authorized by the Engineer.
4. Perimeter rock shall then be placed on top of the footer rock and shall be placed adjacent and tight against one another. Perimeter rock shall be placed to a height not to exceed one layer of perimeter rock and shall be oriented so that the rock face follows the proposed grade.
5. All voids shall be plugged with smaller rock. The backfill material shall be placed and tamped after the perimeter rock is installed.
6. Care should be taken when placing perimeter rock so that the seams between perimeter rocks do not line up with the seams of the footer rock.

Clean-up:

1. Upon completion of work, reshape slopes and stream bottom to specified elevations.
2. Remove unsuitable and surplus rock, Channel substrate and excavated materials to fill areas or approved off-site locations.

MEASUREMENT AND PAYMENT

Step/pools will be measured and paid for at the Contract unit price per square yard of step/pool structure installed. Payment will be full compensation for furnishing, transporting, installing and maintaining step/pool structures, and for all material, labor, equipment, tools, and incidentals necessary to complete the work as specified in the Contract Documents, or as directed by the Engineer.

EXHIBIT 'K'

STORMWATER MANAGEMENT FACILITY

Baltimore Country Club Tennis Facility

BALTIMORE COUNTY, MD

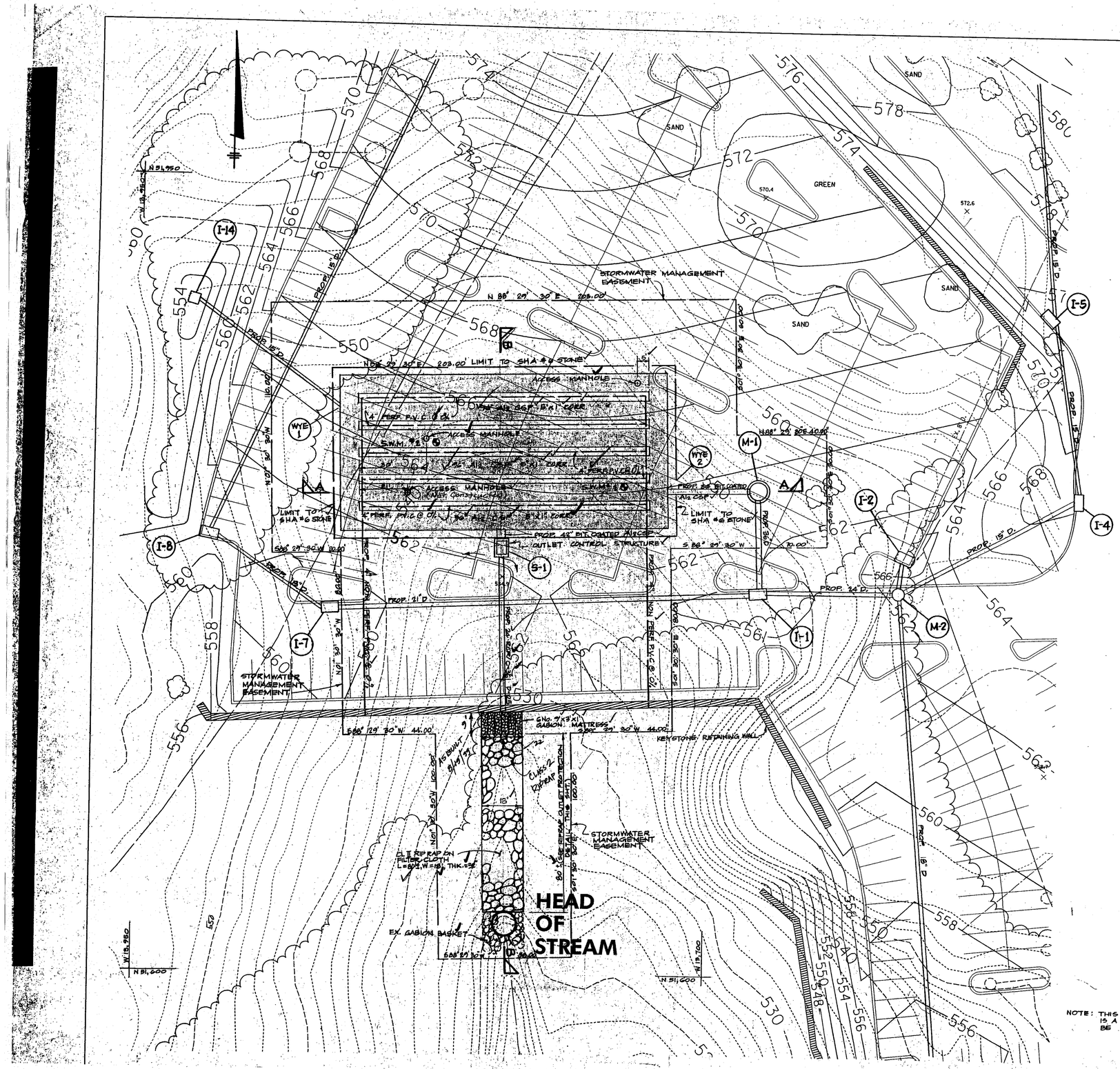
REVISIONS

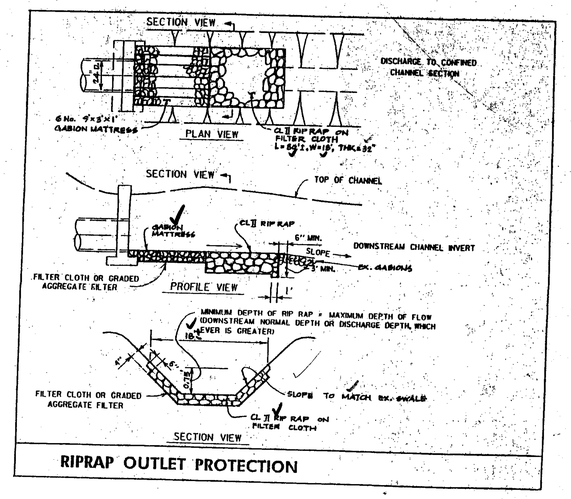
SITE RESOURCES incorporated
Comprehensive Land Planning & Site Design Services
14307 Jarrettsville Pike • Phoenix, Maryland 21131
(410) 683-3388 • fax (410) 683-3389

DRAWN BY: GLK	CONTRACT NO.:
DESIGNED BY: KPR	SCALE: 1" = 30'
CHECKED BY: MAF	SRI PROJECT NO: 02144.M
DATE: 06/07/06	SHEET 2 OF 3

REVISED 06/14/06 - KPR
REVISED 06/22/06 - KPR
REVISED 07/25/06 - KPR

Z:\02\02144.M-BallCC-Settlement Plans\dwgs\Exhibit for Hearing\Exhibit K-2.dwg, 7/25/2006 2:38:48 PM, - Copyright, Site Resources, Inc.





RIPRAP OUTLET PROTECTION

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

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

AS-BUILT

GGS

EXHIBIT 'R'

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

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

Baltimore Country Club

Underground Facility Plan

AS-BUILT

Fire Pump House II
Clubhouse Improvements
Parking and Tennis Court Plan

STATE OF MARYLAND — PAUL S. NEWCOMER — No. 10302 — REGISTERED PROFESSIONAL ENGINEER

DATE	BY	REVISIONS

ISSUE DATES
REVIEW:
BID:
PERMIT:
CONSTRUCTION:

SCALE: 1"=20'
PROJECT NO.: 82032M1

BASE: PSN
DRAWN: DBS
DESIGNED: PSN
CHECKED BY: JWR
DATE CHECKED: 08/20/96
DRAWING: 2 OF 6