



County of Fairfax, Virginia

July 29, 2008

STAFF REPORT

SPECIAL PERMIT AMENDMENT APPLICATION NO. SPA 82-C-067-03

SULLY DISTRICT

APPLICANT: Oakton Swim and Racquet Club, Inc.

STREET ADDRESS: 11714 Flemish Mill Court

TAX MAP REFERENCE: 46-2 ((13)) A2

LOT SIZE: 6.75 acres

ZONING DISTRICT: R-1

ZONING ORDINANCE PROVISION: 3-103

SPECIAL PERMIT PROPOSAL: To amend SP 82-C-067 previously approved for a swim and racquet club to permit site modifications, building addition and modification of development conditions.

STAFF RECOMMENDATION: Staff recommends approval of SPA 82-C-067-03 subject to the proposed development conditions contained in Appendix 1.

It should be noted that it is not the intent of staff to recommend that the Board, in adopting any conditions, relieve the applicant/owner from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

It should be further noted that the content of this report reflects the analysis and recommendations of staff; it does not reflect the position of the Board of Zoning Appeals. A copy of the BZA's Resolution setting forth this decision will be mailed within five (5) days after the decision becomes final.

O:\dhedri\Special Permits(8-5) SPA 82-C-067-3 Oakton Swim & Racquet Club Incl\SPA 82-C-067-3 Oakton Swim & Racquet Club staff report.doc
Deborah Hedrick



The approval of this application does not interfere with, abrogate or annul any easements, covenants, or other agreements between parties, as they may apply to the property subject to the application.

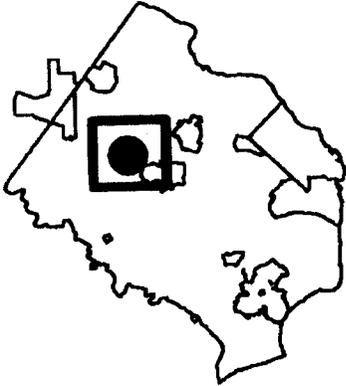
For additional information, call Zoning Evaluation Division, Department of Planning and Zoning at 703-324-1280, 12055 Government Center Parkway, Suite 801, Fairfax, Virginia 22035. **Board of Zoning Appeals' meetings are held in the Board Room, Ground Level, Government Center Building, 12000 Government Center Parkway, Fairfax, Virginia 22035-5505.**



Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 7 days advance notice. For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).

Special Permit Amendment

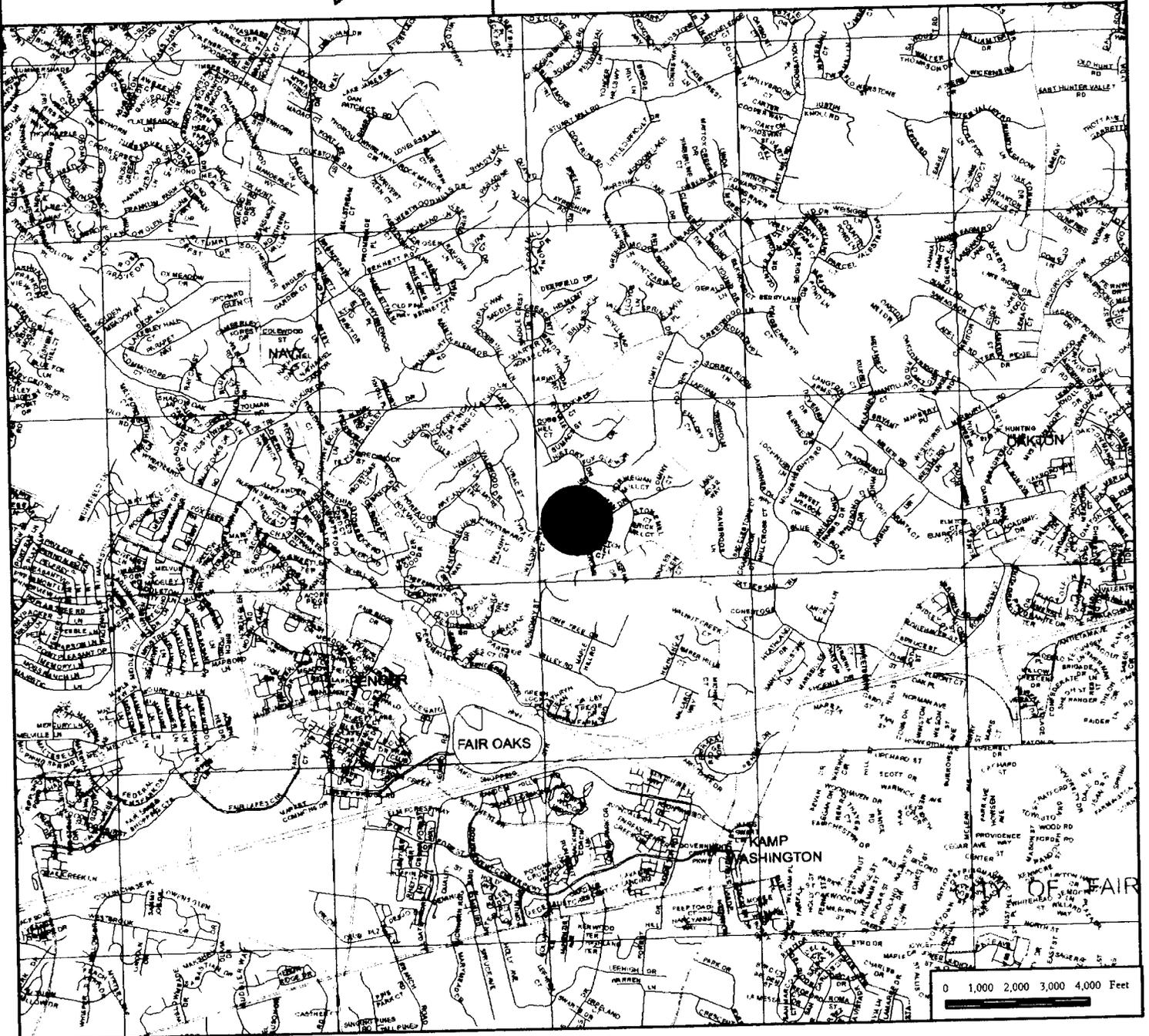
SPA 82-C-067-03



Applicant:
Accepted:
Proposed:

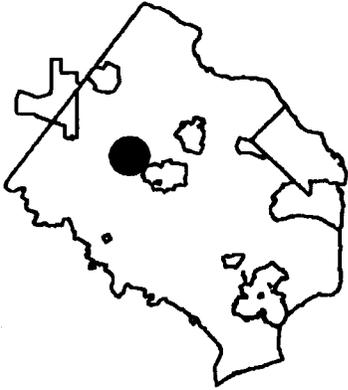
OAKTON SWIM AND RACQUET CLUB, INC.
05/09/2008
TO AMEND SP 82-C-067 PREVIOUSLY APPROVED FOR SWIM AND RACQUET CLUB TO PERMIT SITE MODIFICATIONS, BUILDING ADDITION AND MODIFICATIONS OF DEVELOPMENT CONDITIONS

Area: 6.75 AC OF LAND; DISTRICT - SULLY
Zoning Dist Sect: 03-0103
Art 8 Group and Use: 4-02
Located: 11714 FLEMISH MILL COURT
Zoning: R-1
Overlay Dist:
Map Ref Num: 046-2- /13/ / A2



Special Permit Amendment

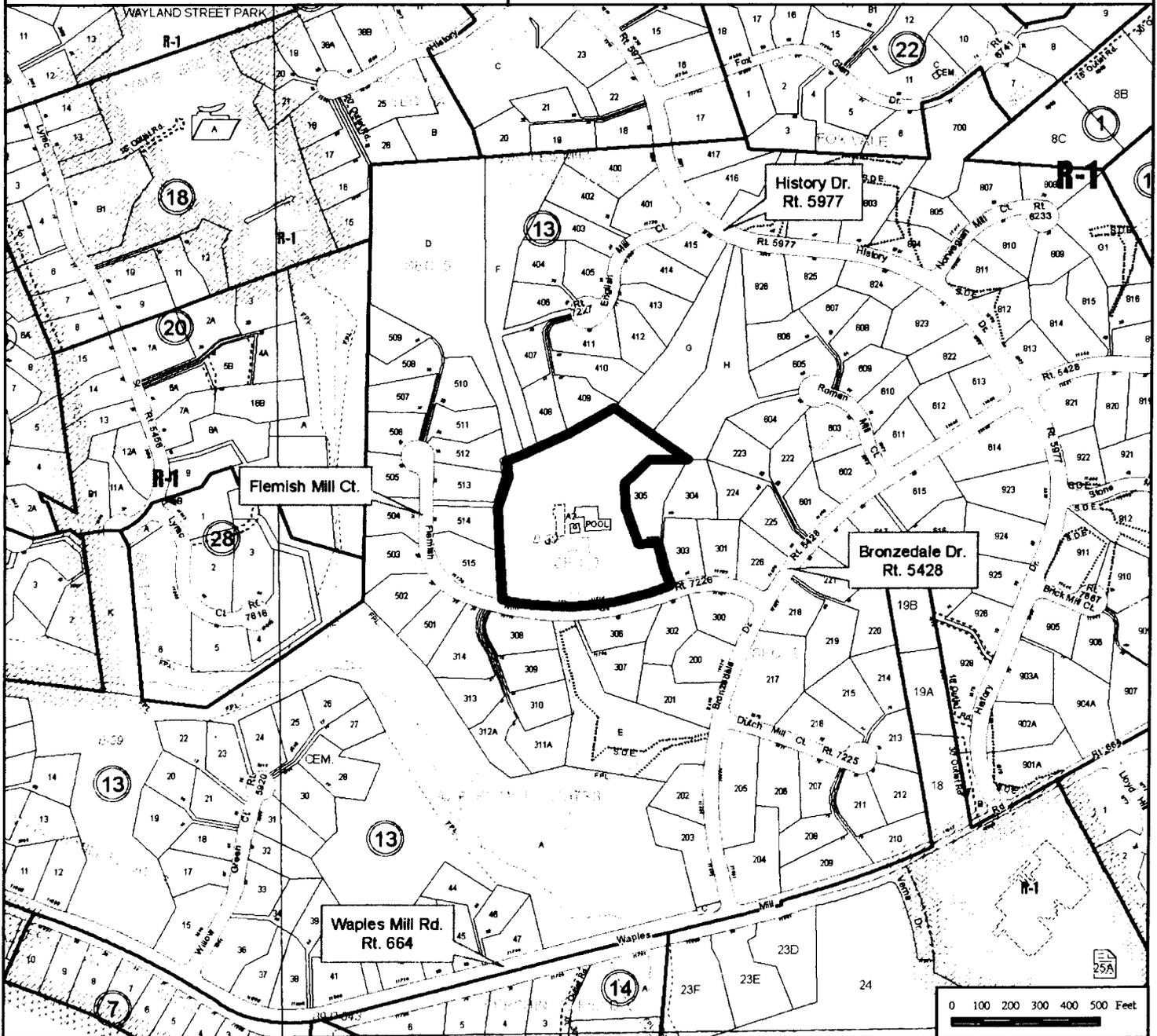
SPA 82-C-067-03



Applicant:
Accepted:
Proposed:

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SWM/BMP NARRATIVE

FOR PURPOSES OF THIS APPLICATION, THE SITE AREA IS 6,000 SQ. FT. (21.41 ACRES) (SEE PLAN SHEET 1). THE SITE IS LOCATED IN THE CITY OF OAKTON, VIRGINIA, AND IS ADJACENT TO THE OAKTON RAILROAD TRACKS. THE SITE IS CURRENTLY UNDEVELOPED AND IS BEING DEVELOPED FOR RESIDENTIAL USE. THE DEVELOPMENT WILL CONSIST OF 12 SINGLE-FAMILY HOMES, EACH WITH AN ATTACHED GARAGE. THE DEVELOPMENT WILL BE DESIGNED TO MEET THE REQUIREMENTS OF THE SWM/BMP MANUAL AND THE OUTFALL MANUAL. THE DEVELOPMENT WILL BE DESIGNED TO PREVENT POLLUTION OF THE ADJACENT RAILROAD TRACKS AND TO PREVENT POLLUTION OF THE ADJACENT RESIDENTIAL DEVELOPMENT. THE DEVELOPMENT WILL BE DESIGNED TO PREVENT POLLUTION OF THE ADJACENT RAILROAD TRACKS AND TO PREVENT POLLUTION OF THE ADJACENT RESIDENTIAL DEVELOPMENT. THE DEVELOPMENT WILL BE DESIGNED TO PREVENT POLLUTION OF THE ADJACENT RAILROAD TRACKS AND TO PREVENT POLLUTION OF THE ADJACENT RESIDENTIAL DEVELOPMENT.

STORM WATER MANAGEMENT PLAN: THE DEVELOPMENT WILL BE DESIGNED TO PREVENT POLLUTION OF THE ADJACENT RAILROAD TRACKS AND TO PREVENT POLLUTION OF THE ADJACENT RESIDENTIAL DEVELOPMENT. THE DEVELOPMENT WILL BE DESIGNED TO PREVENT POLLUTION OF THE ADJACENT RAILROAD TRACKS AND TO PREVENT POLLUTION OF THE ADJACENT RESIDENTIAL DEVELOPMENT. THE DEVELOPMENT WILL BE DESIGNED TO PREVENT POLLUTION OF THE ADJACENT RAILROAD TRACKS AND TO PREVENT POLLUTION OF THE ADJACENT RESIDENTIAL DEVELOPMENT.

CONSTRUCTION EROSION CONTROL PLAN: THE DEVELOPMENT WILL BE DESIGNED TO PREVENT POLLUTION OF THE ADJACENT RAILROAD TRACKS AND TO PREVENT POLLUTION OF THE ADJACENT RESIDENTIAL DEVELOPMENT. THE DEVELOPMENT WILL BE DESIGNED TO PREVENT POLLUTION OF THE ADJACENT RAILROAD TRACKS AND TO PREVENT POLLUTION OF THE ADJACENT RESIDENTIAL DEVELOPMENT. THE DEVELOPMENT WILL BE DESIGNED TO PREVENT POLLUTION OF THE ADJACENT RAILROAD TRACKS AND TO PREVENT POLLUTION OF THE ADJACENT RESIDENTIAL DEVELOPMENT.

OUTFALL NARRATIVE

THE OUTFALL SYSTEM WILL BE DESIGNED TO PREVENT POLLUTION OF THE ADJACENT RAILROAD TRACKS AND TO PREVENT POLLUTION OF THE ADJACENT RESIDENTIAL DEVELOPMENT. THE OUTFALL SYSTEM WILL BE DESIGNED TO PREVENT POLLUTION OF THE ADJACENT RAILROAD TRACKS AND TO PREVENT POLLUTION OF THE ADJACENT RESIDENTIAL DEVELOPMENT. THE OUTFALL SYSTEM WILL BE DESIGNED TO PREVENT POLLUTION OF THE ADJACENT RAILROAD TRACKS AND TO PREVENT POLLUTION OF THE ADJACENT RESIDENTIAL DEVELOPMENT.

YARD INLET COMPUTATIONS

NO.	AREA	C	INLET	Q TO	PROPOSED	EXISTING	PROPOSED	EXISTING	COMMENTS
INLET			TYPE	INLET	DEPTH	DEPTH	DEPTH	DEPTH	
EA	1800	0.4	11.1	51.88	2.88	100	51.88	100	INLET IS 11.1 FEET DEEP
EB	1800	0.4	11.1	51.88	2.88	100	51.88	INLET IS 11.1 FEET DEEP	
EC	1800	0.4	11.1	51.88	2.88	100	51.88	INLET IS 11.1 FEET DEEP	

STORM SEWER COMPUTATIONS

NO.	AREA	C	INLET	Q TO	PROPOSED	EXISTING	PROPOSED	EXISTING	COMMENTS
INLET			TYPE	INLET	DEPTH	DEPTH	DEPTH	DEPTH	
EA	1800	0.4	11.1	51.88	2.88	100	51.88	100	INLET IS 11.1 FEET DEEP
EB	1800	0.4	11.1	51.88	2.88	100	51.88	100	INLET IS 11.1 FEET DEEP
EC	1800	0.4	11.1	51.88	2.88	100	51.88	100	INLET IS 11.1 FEET DEEP



PACULLI

**OAKTON
SWIM & RAQUET CLUB**

SULLY DISTRICT, FAIRFAX COUNTY, VIRGINIA



SIMMONS

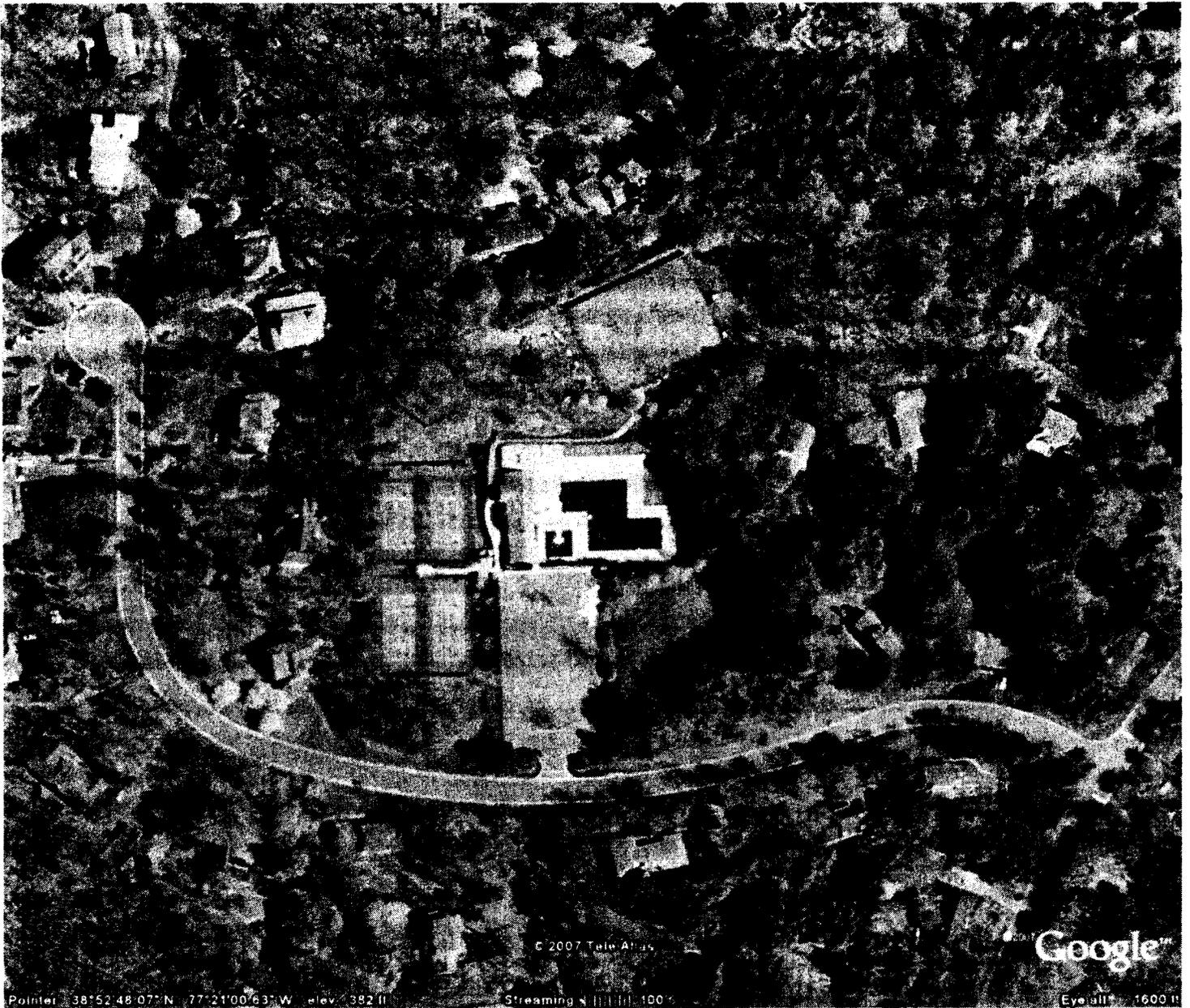
RESOURCES



Professional Engineer
No. 12345
State of Virginia

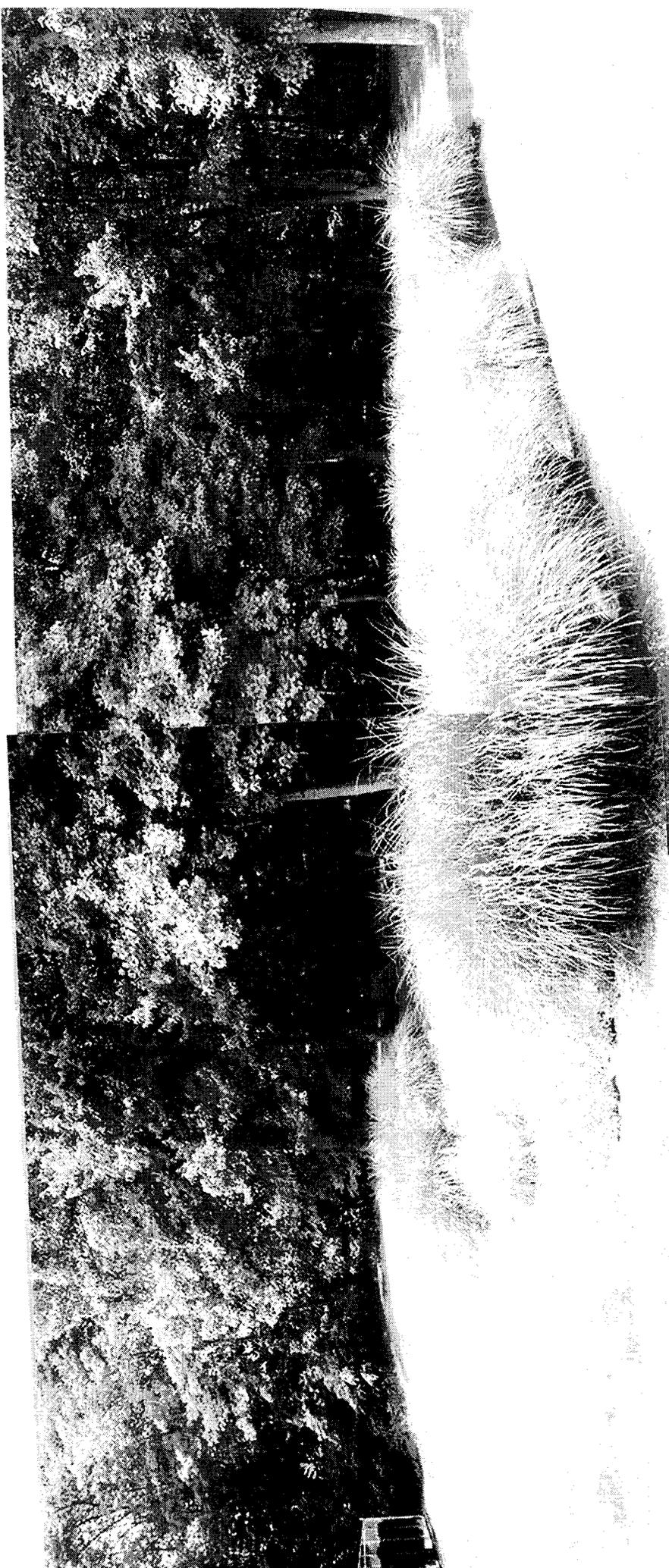
**SWM/BMP NARRATIVE;
OUTFALL NARRATIVE**

DATE: 10/1/01
DRAWN BY: J. L. B.
CHECKED BY: J. L. B.
SHEET 2 OF 2
JOB NO. 017-488-01



RECEIVED
Department of Planning & Research
FEB 21 2008
Planning Administration Unit

Aerial view of Oakton Swim & Racquet



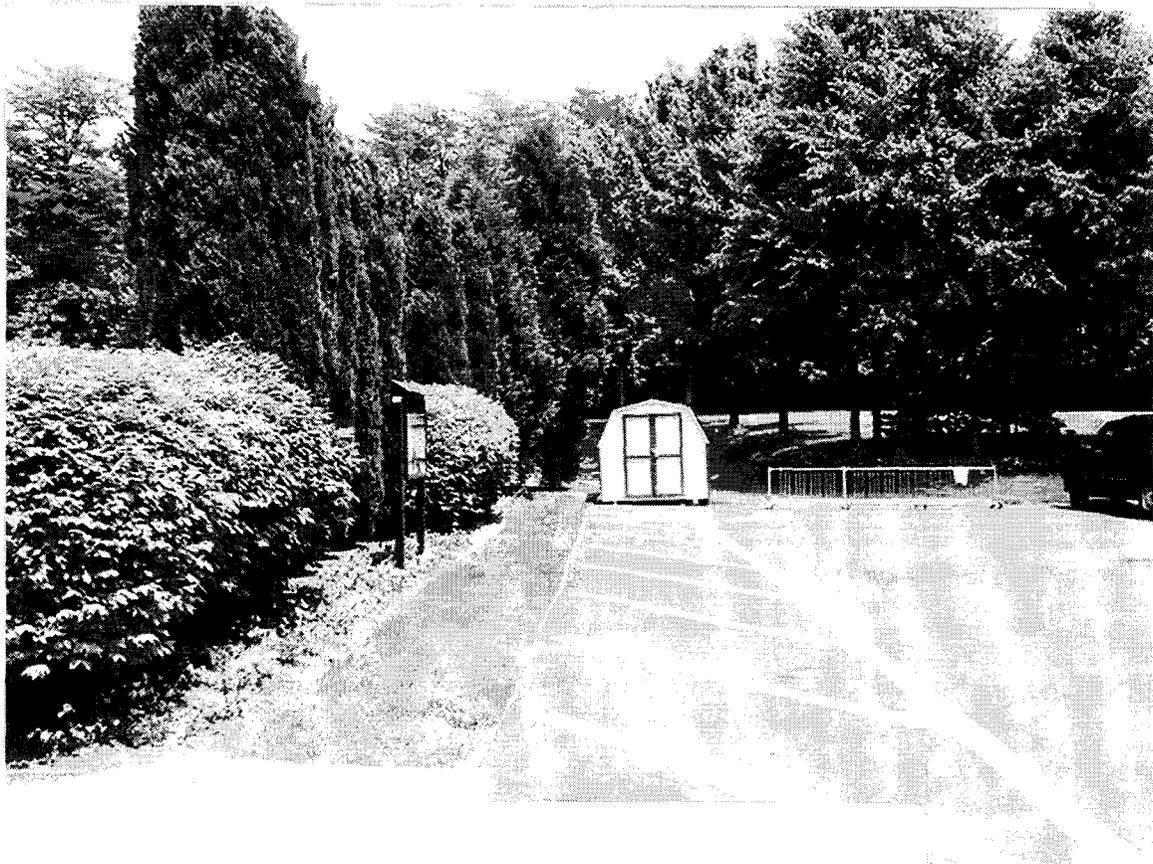
Western view from proposed
snack bar facility

RECEIVED
Department of Planning & Zoning
FEB 21 2008
Zoning Evaluation Division



RECEIVED

Department of Planning
FEB 21 2008
Zoning Evaluation Unit

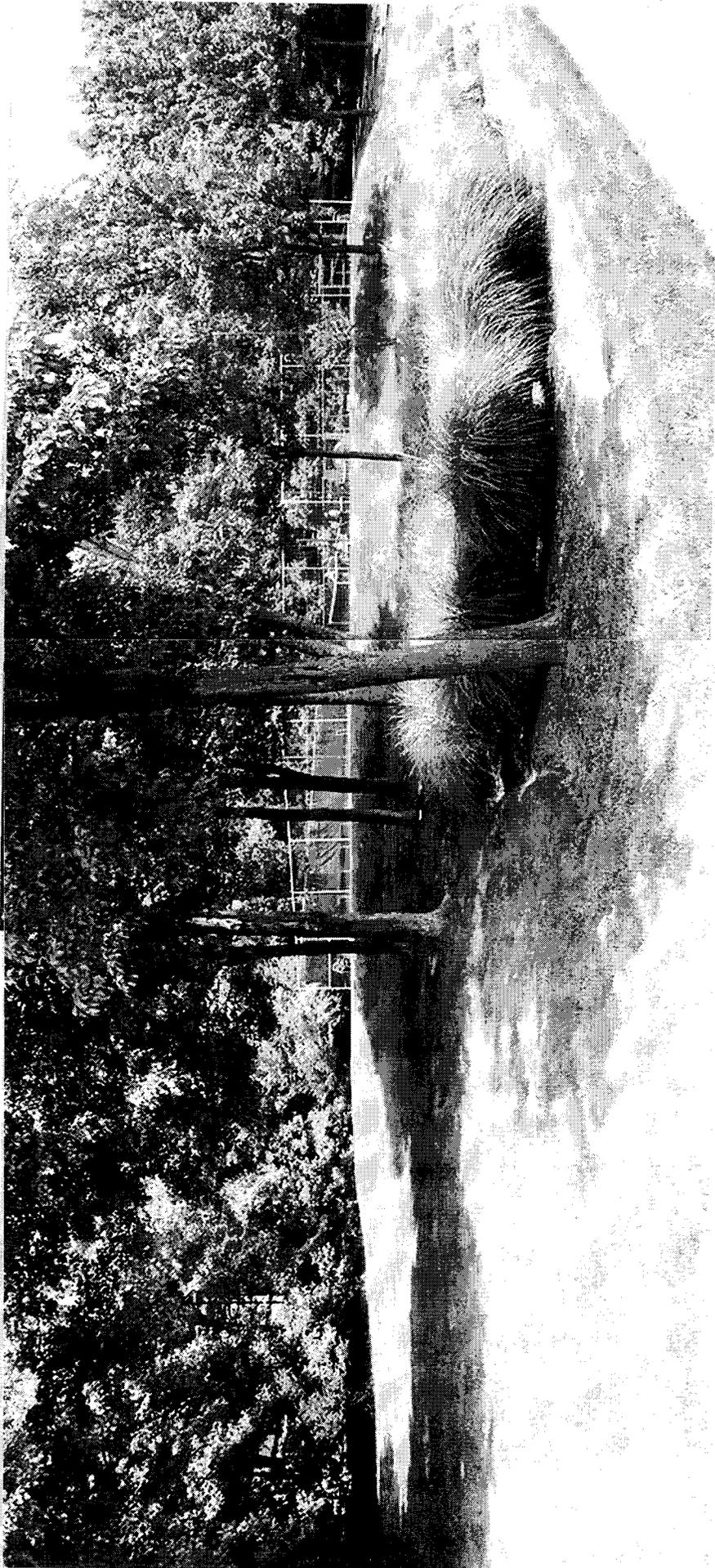


Proposed area of new storage structure



**Existing clubhouse facility. Proposed
snack bar facility will be placed to
left of existing building**

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Department of Planning
FEB 21 2008
Zoning Evaluation

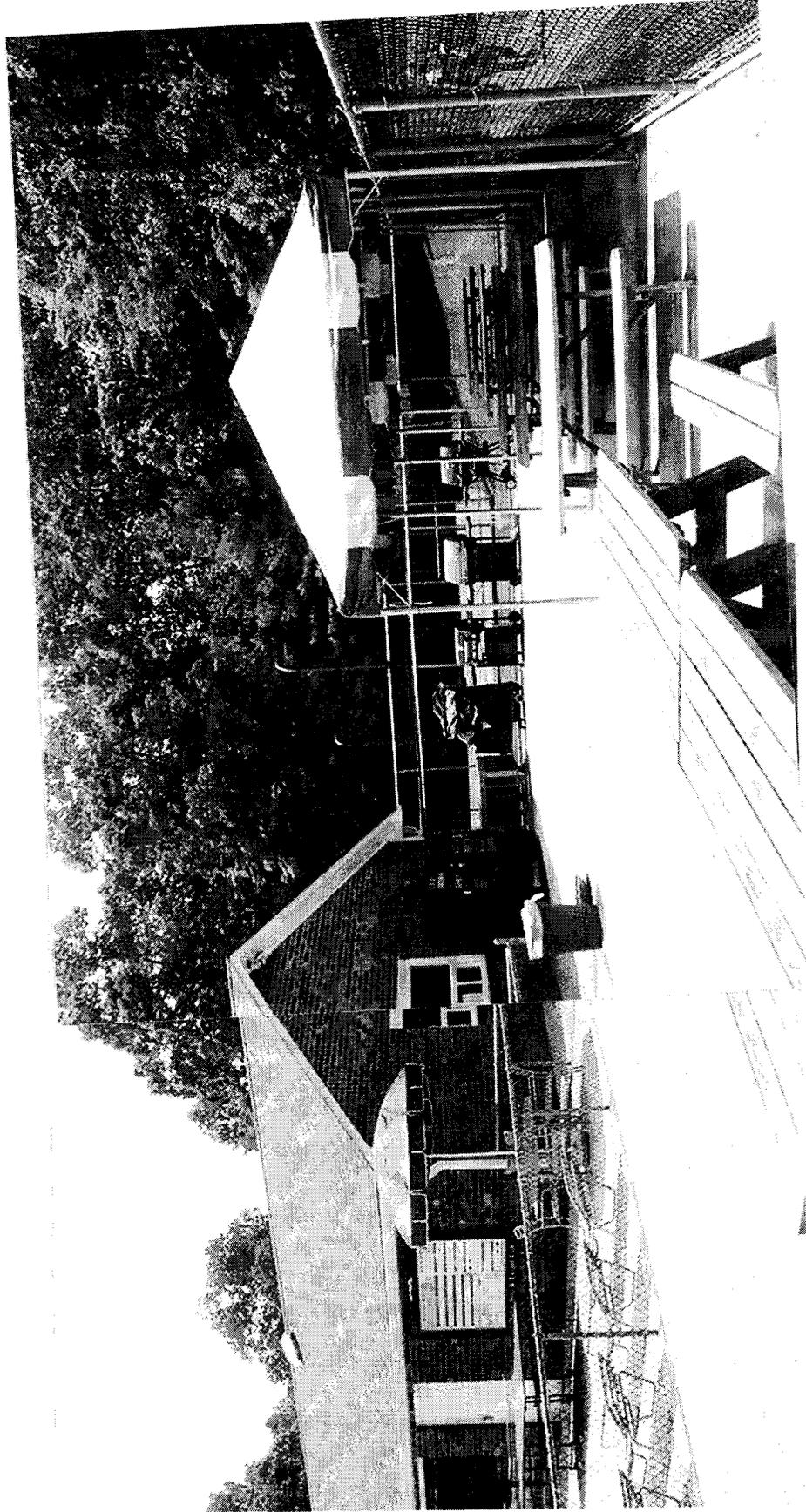


Northern view from proposed
snack bar facility

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Department of Planning & Zoning

FEB 21 2008

Zoning Evaluation Department



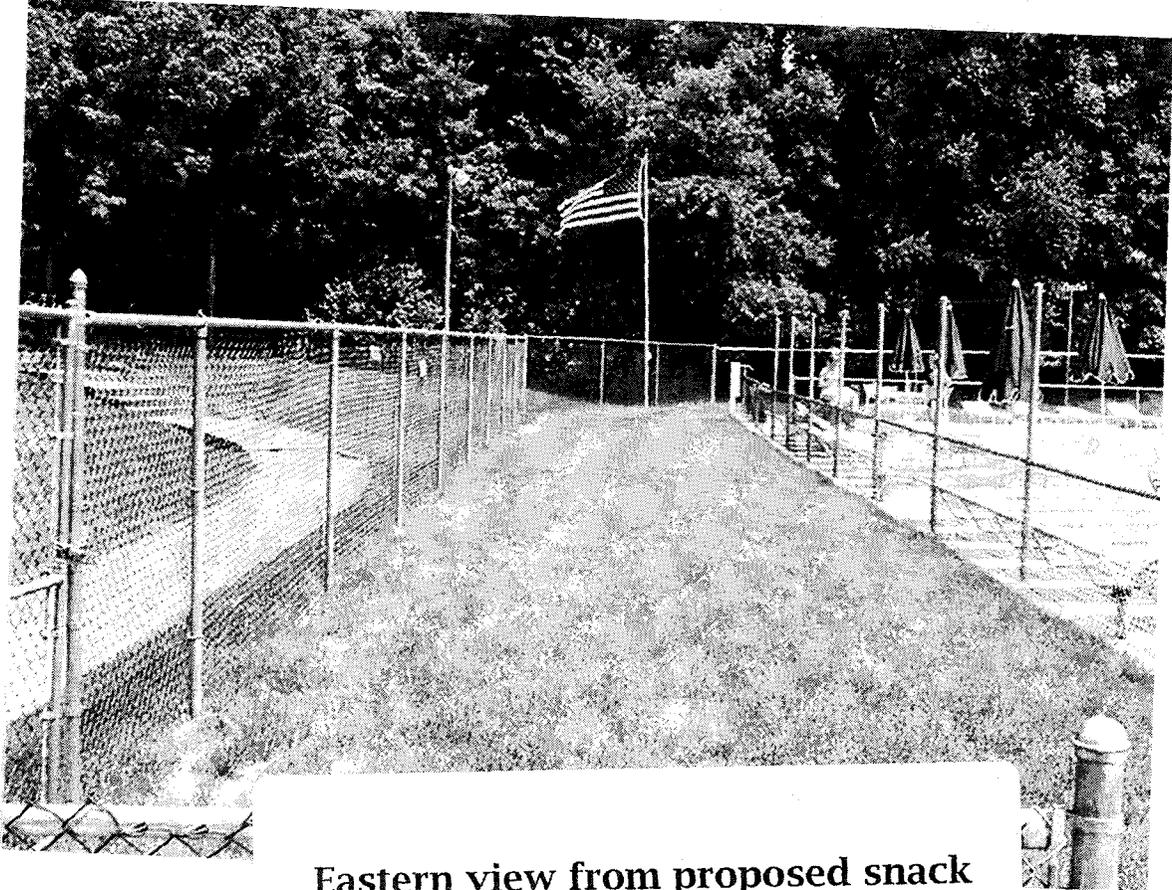
Proposed snack bar facility will be
sited on the concrete area where
the grills are now placed

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Department of Planning
FEB 21 2008
Zoning Evaluation Division

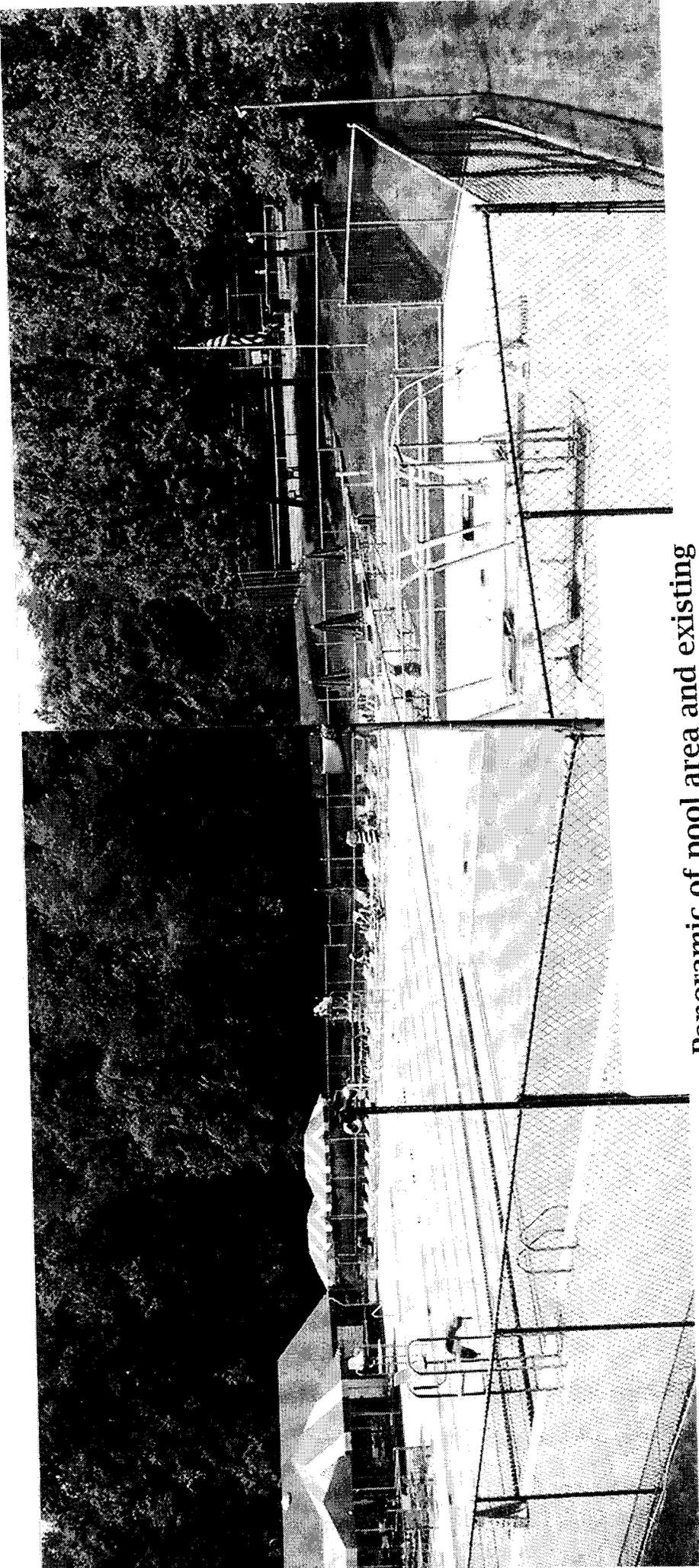


FEB 21 2008

Zoning Evaluation Division



Eastern view from proposed snack bar facility



Panoramic of pool area and existing buffers

RECEIVED
Department of Planning & Zoning
FEB 21 2008
Zoning Evaluation Division

DESCRIPTION OF THE APPLICATION

Special Permit Amendment Request: To amend SP 82-C-067 previously approved for a swim and racquet club to permit site modifications, building addition and modification of development conditions.

Existing and Proposed

Size: 6.75 acres
Membership: 500 families maximum
Parking: 76 spaces
Hours of operation: 9:00 a.m. – 9:00 p.m.
Swim practice hours: 7:00 a.m.

Existing

Proposed

Masters (adult) swim practice: Not applicable 6:30 a.m.

Waivers and Modifications Requested:

The applicant requests a waiver of the barrier requirement and a modification of the transitional screening requirements which allowed the existing vegetation, with supplemental evergreen plantings along the western lot line, to fulfill the transitional screening requirements, approved in conjunction with SPA 82-C-067-02.

LOCATION AND CHARACTER

Existing Site Description:

The subject property is located at 11714 Flemish Mill Court, within the Waples Mill Estates subdivision on Flemish Mill Court. Bronzedale Drive is located to the east, and Waples Mill Road is located to the south. The subject property is bounded by single family detached dwellings. The lot consists of a community swim and tennis facility which includes a clubhouse, pool, four lighted tennis courts and 76 parking spaces.

Surrounding Area Description:

Direction	Use	Zoning	Plan
North	Single family detached dwellings and open space	R-1	Residential .5-1 du/ac
South	Single family detached dwellings	R-1	Residential .5-1 du/ac
East	Single family detached dwellings	R-1	Residential .5-1 du/ac
West	Single family detached dwellings	R-1	Residential .5-1 du/ac

BACKGROUND

Special permit application SP 82-C-067 was approved by the Board of Zoning Appeals (BZA) on September 21, 1982 to permit the establishment of a community swim and racquet club. With the approval of this special permit, the BZA limited the memberships to 500 families, waived the barrier requirement and approved a modification of the transitional screening requirements which allowed the existing vegetation, with supplemental plantings along the western lot line, to fulfill the transitional screening requirements. SPA 82-C-067 was denied on March 22, 1983 which requested deletion of a previously imposed development condition which required a dustless surface parking lot for a maximum of 49 spaces. SPA 82-C-067-2 was approved on December 25, 1991 which requested construction of three (3) additional tennis courts. A copy of the minutes and plat approved in conjunction with SPA 82-C-067-2 are included as Appendix 4.

COMPREHENSIVE PLAN PROVISIONS

Plan Area:	Fairfax Planning District; Area II
Planning Sector:	Fox Lake Community Planning Sector
Plan Map:	Residential, .5-1 dwelling units per acre (du/ac)

ANALYSIS

Special Permit Plat	(Copy at front of staff report)
Title of SP Plat:	Special Permit Plat Amendment, Oakton Swim & Racquet Club
Prepared By:	Paciulli, Simmons & Associates Ltd.

Dated: April 14, 2008 as revised through June 26, 2008

Proposed Use:

To amend SP 82-C-067 previously approved for a swim and racquet club to permit several site modifications and building additions. The applicant intends to remove an existing storage structure now located in the northeast corner of the parking lot. The applicant also proposes the construction of a new 250 square foot storage/bathhouse structure to be located in the general vicinity of the existing structure but is proposed to be located closer to the pool decking for easier access of wet pool items. A building addition is proposed to be located adjacent to the existing club house on existing impervious surface (pool decking) which will include the construction of a new 416 square foot snack bar structure. The addition of a gate to the existing decking area and the addition of 92.5 feet x 12.5 feet of wood decking on top of grass area are proposed to the site as well. The proposed wood decking will be placed on top of a grassed area. The applicant also proposes a modification to the development conditions to include a "masters adult swim practice" which is proposed to begin at 6:30 a.m.

Land Use Analysis

The site has been designated for residential use at a density of .5-1 dwelling units per acre in the Comprehensive Plan. The proposed use and intensity are in keeping with the recommendations of the Comprehensive Plan.

Additionally, there are no Transportation, Environment or Stormwater Management issues related to the proposed requests.

ZONING ORDINANCE PROVISIONS

R-1 DISTRICT REGULATIONS	REQUIRED	PROVIDED
Bulk Regulations R-1		
Lot Size	36,000 square feet	6.75 acres
Lot Width	150 feet	588 feet
Building Height	35 feet	15.1 feet
Front Yard	40 feet	84 feet
Side Yard	20 feet	31 feet and 42 feet respectively
Rear Yard	25 feet	98 feet
FAR	0.15	0.13
Parking		
Parking Spaces	71	76

Standard	Required	Provided
Transitional Screening		
North (single family residential)	T/S 1 - 25 feet in width Planted with evergreen trees or a mixture of evergreen and deciduous trees	T/S 1 - 25 feet in width Planted with evergreen trees or a mixture of evergreen and deciduous trees

Standard	Required	Provided
East (single family residential)	T/S 1 - 25 feet in width Planted with evergreen trees or a mixture of evergreen and deciduous trees	T/S 1 - 25 feet in width Planted with evergreen trees or a mixture of evergreen and deciduous trees
South (single family residential)	T/S 1 - 25 feet in width Planted with evergreen trees or a mixture of evergreen and deciduous trees	T/S 1 - 25 feet in width Planted with evergreen trees or a mixture of evergreen and deciduous trees
West (single family residential)	T/S 1 - 25 feet in width Planted with evergreen trees or a mixture of evergreen and deciduous trees	T/S 1 - 25 feet in width Planted with evergreen trees or a mixture of evergreen and deciduous trees
Barrier		
North (single family residential)	Barrier D, E or F	Waived
South (single family residential)	Barrier D, E or F	Waived
East (single family residential)	Barrier D, E or F	Waived
West (single family residential)	Barrier D, E or F	Waived

WAIVERS/MODIFICATIONS REQUESTED

The applicant requested a waiver of the barrier requirement and a modification of the transitional screening requirements which allowed the existing vegetation, with supplemental evergreen plantings along the western lot line, to fulfill the transitional screening requirements, approved in conjunction with SPA 82-C-067-02.

ZONING ORDINANCE REQUIREMENTS

Special Permit Requirements (See Appendix 5)

- General Special Permit Standards (Sect. 8-006)
- Group 4 Standards (Sect. 8-403)
-

Summary of Zoning Ordinance Provisions

All applicable standards have been satisfied with the proposed development conditions.

CONCLUSIONS

Staff concludes that the subject application is in harmony with the Comprehensive Plan and in conformance with the applicable Zoning Ordinance provisions with the implementation of the Proposed Development Conditions contained in Appendix 1 of the Staff Report.

RECOMMENDATIONS

Staff recommends approval subject to the Proposed Development Conditions in Appendix 1.

It should be noted that it is not the intent of staff to recommend that the Board, in adopting any conditions, relieve the applicant/owner from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

It should be further noted that the content of this report reflects the analysis and recommendations of staff; it does not reflect the position of the Board of Zoning Appeals.

APPENDICES

1. Proposed Development Conditions
2. Applicant's Affidavit
3. Applicant's Statement of Justification
4. Minutes and Approved Plat
5. Applicable Zoning Ordinance Provisions

PROPOSED DEVELOPMENT CONDITIONS**SPA 82-C-067-03****July 29, 2008**

If it is the intent of the Board of Zoning Appeals to approve SPA 82-C-067-03 located at Tax Map 46-2 ((13)) A2 to amend SP 82-C-067 previously approved for a swim and racquet club to permit site modifications, building addition and modification of development conditions to Section 3-103 of the Fairfax County Zoning Ordinance, staff recommends that the Board condition the approval by requiring conformance with the following development conditions. Those conditions carried forward from the previous special permit are marked with an asterisk (*). Minor edits have been made to these conditions to conform to current terminology and have been underlined.

1. This approval is granted to the applicant only, Oakton Swim and Racquet Club, and is not transferable without further action of this Board, and is for the location indicated on the application, 11714 Flemish Mill Court (6.75 acres), and is not transferable to other land.*
2. This special permit is granted only for the purpose(s), structures and/or use(s) indicated on the special permit plat prepared Paciuilli, Simmons & Associates, Ltd., dated April 14, 2008, as revised through June 26, 2008, and approved with this application, as qualified by these development conditions.*
3. A copy of this special permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.*
4. This special permit is subject to the provisions of Article 17, Site Plans, as may be determined by the Director, Department of Public Works and Environmental Services (DPWES). Any plan submitted pursuant to this special permit shall be in substantial conformance with these development conditions. Minor modifications to the approved special permit may be permitted pursuant to Par. 4 of Sect. 8-004 of the Zoning Ordinance.
5. There shall be a maximum of 500 family memberships. Residents of the surrounding Waples Mill Estates Subdivision shall be granted priority for membership.*
6. There shall be 77 parking spaces provided as shown on the special permit plat. All parking shall be on site.*

7. Tennis court lights for the new courts shall be on standards which do not exceed 20 feet in height. All tennis court lights shall be equipped with an automatic shut-off mechanism designed to ensure that the lights are only on when the courts are in use during the approved hours of operation. This mechanism shall be tested monthly and adjusted or repaired as necessary to ensure compliance. To further minimize the impact of the lights on adjacent properties, the lights shall be directed downward, and shall be shielded to prevent glare on adjacent properties.*
8. The maximum hours of operation for all tennis courts on the site shall be between 7:00 a.m. and 10:00 p.m. The regular hours of operation for the swimming pool shall be 9:00 a.m. to 9:00 p.m., except that competitive teams from the swim club shall be allowed to practice as early as 7:00 a.m. The 7:00 a.m. swim practice shall not involve the use of amplified sound including but not limited to amplified timing systems, pre-recorded music, starters pistols, or public address systems. A masters (adult) swim practice may begin at 6:30 a.m. After hour parties for the swimming pool shall be governed by the following:

Limited to six (6) per season.

Shall not extend beyond 12:00 midnight.*

~~The applicant shall provide a written request at least ten (10) days in advance and receive prior written permission from the Zoning Administrator for each individual party or activity.~~

~~Requests shall be approved for only one (1) such party at a time and such requests shall be approved only after the successful conclusion of a previous after hour party.~~

9. During discharge of swimming pool waters, the following operation procedures shall be implemented:

Sufficient amounts of lime or soda ash shall be added to the acid cleaning solution in order to achieve a pH approximately equal to that of the receiving stream. The Virginia Water Control Board standards for the class II and III waters found in Fairfax County range in pH from 6.0 to 9.0. In addition, the standard dissolved oxygen shall be attained prior to the release of pool waters and shall require a minimum concentration of 4.0 milligrams per liter.

If the water being discharged from the pool is discolored or contains a high level of suspended solids that could affect the clarity of the receiving stream, the water shall be allowed to stand so that most of the solids settle out prior to being discharged.*
10. If a public address system is used, its use shall be limited to swim meets, special parties and emergencies and its volume shall be modulated to comply with the requirements of the Noise Ordinance.*

11. To fulfill the requirements for Transitional Screening, all existing vegetation, including the supplemental evergreen plantings on the western lot line ~~required in the approval of SP 82-C-067, shall be retained and supplemented with plantings consisting of a and the row of evergreen trees to be planted 10 feet on center along the site's boundary with Lots 408, 409, and 305 shall be maintained. Any dead or dying vegetation shall be replaced with like kind a minimum of as determined appropriate by the Urban Forestry Branch. All evergreens used as supplemental plantings shall have a planted height of 8 feet in height and have an ultimate heights of a least 25 feet as determined feasible by the Urban Forestry Branch. Existing evergreens may be used to fulfill the requirement for supplemental plantings along Lots 408, 409, and 305 provided the existing trees are determined by the Urban Forestry Branch to be of a height and quality which will provide effective screening of the tennis courts and lights. Existing vegetation along the remaining portions of the eastern, northern, and western lot lines shall be reviewed by the Urban Forestry Branch and supplemental plantings may be required if necessary to meet the intent of Transitional Screening 1.~~
12. The Barrier requirement shall be waived.*
13. ~~Runoff attributable to the three (3) new tennis courts shall be in accordance with requirements for Stormwater Best Management Practices (BMP's). On site BMP's or contributions to off-site detention facilities based on the runoff generated by the three (3) new tennis courts shall be provided as determined necessary and feasible by DEM The applicant shall meet Stormwater Management and Best Management Practices (BMP's) as determined by the Department of Public Works and Environmental Services (DPWES).~~
14. To ensure that any water or runoff which may flow across the site does not adversely impact adjoining property owners, the grading plan for the new tennis courts shall be designed and engineered with swales or other methods as determined appropriate by DEM (DPWES) to ensure that runoff is properly channeled into the existing inlet located southeast of the new tennis courts. ~~as may be deemed appropriate by DEM.~~
15. Sales activity from the tennis hut shall be limited to members of the club.*
16. A written copy of all applicable development conditions shall be provided to the individual responsible for any after-hours party or event, to all members, to contractors providing services at the club, and to parties who may rent the club's facilities. *

These development conditions incorporate and supersede all previous development conditions. This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this special permit shall not be valid until this has been accomplished.

Pursuant to Sect. 8-015 of the Zoning Ordinance, this special permit shall automatically expire without notice, thirty (30) months after the date of approval unless construction has commenced and been diligently pursued. The Board of Zoning Appeals may grant additional time to commence construction if a written request for additional time is filed with the Zoning Administrator prior to the date of expiration of the special permit. The request must specify the amount of additional time requested, the basis for the amount of time requested and an explanation of why additional time is required.

Application No.(s): _____
 (county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: April 25, 2008
 (enter date affidavit is notarized)

I, Sonia I Bergh, do hereby state that I am an
 (enter name of applicant or authorized agent)

(check one) applicant
 applicant's authorized agent listed in Par. 1(a) below 99121a

and that, to the best of my knowledge and belief, the following is true:

1(a). The following constitutes a listing of the names and addresses of all **APPLICANTS, TITLE OWNERS, CONTRACT PURCHASERS, and LESSEES** of the land described in the application,* and, if any of the foregoing is a **TRUSTEE,**** each **BENEFICIARY** of such trust, and all **ATTORNEYS** and **REAL ESTATE BROKERS**, and all **AGENTS** who have acted on behalf of any of the foregoing with respect to the application:

(NOTE: All relationships to the application listed above in **BOLD** print must be disclosed. Multiple relationships may be listed together, e.g., **Attorney/Agent, Contract Purchaser/Lessee, Applicant/Title Owner**, etc. For a multiparcel application, list the Tax Map Number(s) of the parcel(s) for each owner(s) in the Relationship column.)

NAME (enter first name, middle initial, and last name)	ADDRESS (enter number, street, city, state, and zip code)	RELATIONSHIP(S) (enter applicable relationships listed in BOLD above)
Oakton Swim and Racquet Club Inc.	11714 Flemish Mill Court Oakton, Va 22124	Applicant/Title Owner
Sonia I Bergh	11708 Flemish Mill Court Oakton, VA 22124	Agent
Pamela A. Burke	11444 Norwegian Court Oakton, VA 22124	Agent
Douglas I. Smith	2800 Pine Hollow Road Oakton, VA 22124	Agent
PACIULLI SIMMONS & ASSOCIATES, LTD. AGENTS: Nancy J. Cramer Peter J. Rigby, Jr. Ann O. Germain	11212 Waaples Mill Road #100 Fairfax, VA 22030	Engineers/Planners/Agents

(check if applicable) There are more relationships to be listed and Par. 1(a) is continued on a "Special Permit/Variance Attachment to Par. 1(a)" form.

* In the case of a condominium, the title owner, contract purchaser, or lessee of 10% or more of the units in the condominium.

** List as follows: Name of trustee, Trustee for (name of trust, if applicable), for the benefit of: (state name of each beneficiary).

Application No.(s): _____
(county-assigned application number(s), to be entered by County Staff)

Page Two

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: April 25, 2008
(enter date affidavit is notarized)

99121a

1(b). The following constitutes a listing*** of the **SHAREHOLDERS** of all corporations disclosed in this affidavit who own 10% or more of any class of stock issued by said corporation, and where such corporation has 10 or less shareholders, a listing of all of the shareholders:

(NOTE: Include **SOLE PROPRIETORSHIPS, LIMITED LIABILITY COMPANIES, and REAL ESTATE INVESTMENT TRUSTS** herein.)

CORPORATION INFORMATION

NAME & ADDRESS OF CORPORATION: (enter complete name, number, street, city, state, and zip code)

Oakton Swim and Racquet Club, Inc.

11714 Henrich Mill Ct.

Oakton, VA 22124

DESCRIPTION OF CORPORATION: (check one statement)

- There are 10 or less shareholders, and all of the shareholders are listed below.
- There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
- There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

NAMES OF SHAREHOLDERS: (enter first name, middle initial, and last name)

(check if applicable) There is more corporation information and Par. 1(b) is continued on a "Special Permit/Variance Attachment 1(b)" form.

*** All listings which include partnerships, corporations, or trusts, to include the names of beneficiaries, must be broken down successively until (a) only individual persons are listed or (b) the listing for a corporation having more than 10 shareholders has no shareholder owning 10% or more of any class of stock. *In the case of an APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land that is a partnership, corporation, or trust, such successive breakdown must include a listing and further breakdown of all of its partners, of its shareholders as required above, and of beneficiaries of any trusts. Such successive breakdown must also include breakdowns of any partnership, corporation, or trust owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER or LESSEE* of the land. Limited liability companies and real estate investment trusts and their equivalents are treated as corporations, with members being deemed the equivalent of shareholders; managing members shall also be listed. Use footnote numbers to designate partnerships or corporations, which have further listings on an attachment page, and reference the same footnote numbers on the attachment page.*

Application No.(s): _____
(county-assigned application number(s), to be entered by County Staff)

Page 1 of 1

Special Permit/Variance Attachment to Par. 1(b)

DATE: April 25, 2008
(enter date affidavit is notarized)

99121a

NAME & ADDRESS OF CORPORATION: (enter complete name, number, street, city, state, and zip code)
PACIULLI SIMMONS & ASSOCIATES, LTD.
11212 WAPLES MILL ROAD
#100
FAIRFAX, VA 22030

DESCRIPTION OF CORPORATION: (check one statement)

- There are 10 or less shareholders, and all of the shareholders are listed below.
- There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
- There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

NAMES OF THE SHAREHOLDERS: (enter first name, middle initial, and last name)

HOWELL B. SIMMONS
JOSEPH P. PACIULLI
PETER J. RIGBY, JR.

NAME & ADDRESS OF CORPORATION: (enter complete name, number, street, city, state, and zip code)

DESCRIPTION OF CORPORATION: (check one statement)

- There are 10 or less shareholders, and all of the shareholders are listed below.
- There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
- There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

NAMES OF THE SHAREHOLDERS: (enter first name, middle initial, and last name)

(check if applicable) There is more corporation information and Par. 1(b) is continued further on a "Special Permit/Variance Attachment to Par. 1(b)" form.

Application No.(s): _____
(county-assigned application number(s), to be entered by County Staff)

Page Three

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: April 25, 2008
(enter date affidavit is notarized)

99121a

1(c). The following constitutes a listing*** of all of the **PARTNERS**, both **GENERAL** and **LIMITED**, in any partnership disclosed in this affidavit:

PARTNERSHIP INFORMATION

PARTNERSHIP NAME & ADDRESS: (enter complete name, number, street, city, state, and zip code)

(check if applicable) The above-listed partnership has no limited partners.

NAMES AND TITLE OF THE PARTNERS (enter first name, middle initial, last name, and title, e.g. **General Partner, Limited Partner, or General and Limited Partner**)

(check if applicable) There is more partnership information and Par. 1(c) is continued on a "Special Permit/Variance Attachment to Par. 1(c)" form.

*** All listings which include partnerships, corporations, or trusts, to include the names of beneficiaries, must be broken down successively until: (a) only individual persons are listed or (b) the listing for a corporation having more than 10 shareholders has no shareholder owning 10% or more of any class of stock. *In the case of an APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land that is a partnership, corporation, or trust, such successive breakdown must include a listing and further breakdown of all of its partners, of its shareholders as required above, and of beneficiaries of any trusts. Such successive breakdown must also include breakdowns of any partnership, corporation, or trust owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land. Limited liability companies and real estate investment trusts and their equivalents are treated as corporations, with members being deemed the equivalent of shareholders; managing members shall also be listed.* Use footnote numbers to designate partnerships or corporations, which have further listings on an attachment page, and reference the same footnote numbers on the attachment page.

Application No.(s): _____
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: April 25, 2008
(enter date affidavit is notarized)

99121a

1(d). One of the following boxes **must** be checked:

In addition to the names listed in Paragraphs 1(a), 1(b), and 1(c) above, the following is a listing of any and all other individuals who own in the aggregate (directly and as a shareholder, partner, and beneficiary of a trust) 10% or more of the **APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE*** of the land:

Other than the names listed in Paragraphs 1(a), 1(b), and 1(c) above, no individual owns in the aggregate (directly and as a shareholder, partner, and beneficiary of a trust) 10% or more of the **APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE*** of the land.

2. That no member of the Fairfax County Board of Zoning Appeals, Planning Commission, or any member of his or her immediate household owns or has any financial interest in the subject land either individually, by ownership of stock in a corporation owning such land, or through an interest in a partnership owning such land.

EXCEPT AS FOLLOWS: (NOTE: If answer is none, enter "NONE" on the line below.)

NONE

(check if applicable) There are more interests to be listed and Par. 2 is continued on a "Special Permit/Variance Attachment to Par. 2" form.

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: April 25, 2008
(enter date affidavit is notarized)

99121a

3. That within the twelve-month period prior to the public hearing of this application, no member of the Fairfax County Board of Zoning Appeals, Planning Commission, or any member of his or her immediate household, either directly or by way of partnership in which any of them is a partner, employee, agent, or attorney, or through a partner of any of them, or through a corporation in which any of them is an officer, director, employee, agent, or attorney or holds 10% or more of the outstanding bonds or shares of stock of a particular class, has, or has had any business or financial relationship, other than any ordinary depositor or customer relationship with or by a retail establishment, public utility, or bank, including any gift or donation having a value of more than \$100, singularly or in the aggregate, with any of those listed in Par. 1 above.

EXCEPT AS FOLLOWS: (NOTE: If answer is none, enter "NONE" on line below.)

None

(NOTE: Business or financial relationships of the type described in this paragraph that arise after the filing of this application and before each public hearing must be disclosed prior to the public hearings. See Par. 4 below.)

(check if applicable) [] There are more disclosures to be listed and Par. 3 is continued on a "Special Permit/Variance Attachment to Par. 3" form.

4. That the information contained in this affidavit is complete, that all partnerships, corporations, and trusts owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land have been listed and broken down, and that prior to each and every public hearing on this matter, I will reexamine this affidavit and provide any changed or supplemental information, including business or financial relationships of the type described in Paragraph 3 above, that arise on or after the date of this application.

WITNESS the following signature:

(check one)

[Signature]
 Applicant Applicant's Authorized Agent

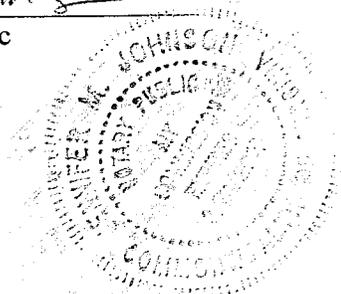
SONIA I. BERGH, President of Board of Directors
(type or print first name, middle initial, last name, and title of signee)

Subscribed and sworn to before me this 25th day of April 2008, in the State/Comm. of VIRGINIA, County/City of FAIRFAX.

[Signature]
Notary Public

My commission expires: 8/31/2010

#7011682



RECEIVED
Department of Planning & Zoning

APR 30 2008

Zoning Evaluation Division

OAKTON SWIM & RACQUET CLUB, INC
SPECIAL USE PERMIT APPLICATION
WRITTEN STATEMENT
April 25, 2008

A. Type of Operation:

Oakton Swim and Racquet Club is a non-profit community association. The applicant is seeking approval to construct a snack bar facility to serve the Oakton Swim and Racquet Club membership. This additional structure will be 416 sq feet and will sit adjacent to the existing club house. An additional storage facility of 250 sq feet is also part of this request. This structure will replace a storage shed currently in this location.

B. Hours of Operation:

The existing community club consists of a six lane, 25 meter outdoor swimming pool and bathhouse, seven lighted tennis courts and an area reserved for picnic and active recreation. This community pool is operational from Memorial Day Weekend to Labor Day Weekend.

The maximum hours of operation for all tennis courts on the site shall be between 7:00 a.m. and 10:00 p.m. The regular hours of operation for the swimming pool shall be 9:00 a.m. to 9:00 p.m., except that competitive teams from the swim club shall be allowed to practice as early as 7:00 a.m. The 7:00 a.m. swim practice shall not involve the use of amplified sound including but not limited to amplified timing systems, pre-recorded music, starters pistols, or public address systems. After hour parties for the swimming pool shall be governed by the following:

Limited to six (6) per season.

Shall not extend beyond 12:00 midnight.

The applicant shall provide a written request at least ten (10) days in advance and receive prior written permission from the Zoning Administrator for each individual party or activity.

Requests shall be approved for only one (1) such party at a time and such requests shall be approved only after the successful conclusion of a previous after-hour party.

The applicant is requesting a masters (adult) swim practice be allowed to begin at 6:30 a.m. The restrictions on amplified sound shall be in effect during this time.

C. Estimated Number of Patrons:

The community club is approved for a maximum membership of 500 families. This application does not request to change the maximum membership numbers.

D. Proposed Number of Employees:

Oakton Swim and Racquet Club currently operates a small snack bar. The proposed snack bar facility may require an additional employee. Employees will be limited to those necessary to provide safe supervision, operations and maintenance for the community facilities.

E. Estimate of Traffic Impact:

The existing community club is centrally located within the surrounding community it serves. Many members walk or bike to the community club. No additional family memberships are proposed with this application. Therefore, the additional snack bar facility will pose no additional traffic impacts with the subdivision.

F. General Area Served:

The vicinity or general area served by the existing community club is the 191 homes in the Waples Mill Estates community and homeowners in the surrounding communities. Of the 480 outstanding memberships, 455 members reside in the 22124 zip code.

G. Description of Building Façade and Architecture:

The proposed snack bar facility will compliment the existing clubhouse facility. The roof lines will be similar in nature to the rooflines of the one story clubhouse facility. The siding will compliment the siding of the clubhouse facility. The brick will match or compliment the brick found on the clubhouse facility. The goal is to build a snack facility that seamlessly blends with the existing clubhouse facility. The proposed storage shed will have the same architectural elements of the snack bar facility. Please see the attached renderings for illustration of the proposed facility.

H. Known Hazardous or Toxic Substances:

No known hazardous or toxic substances are generated or disposed of on this site. Chemicals that are required for the servicing and maintenance of the existing swimming pool are appropriately stored and maintained as required.

I. Conformance of Provisions:

The proposed use conforms to the provisions of all applicable ordinances, regulations adopted standards and applicable conditions, except as noted below. The applicant wishes to maintain previous agreements and modifications approved during prior special use permits.

The applicant is requesting a masters (adult) swim practice be allowed to begin at 6:30 a.m. The restrictions on amplified sound shall be in effect during this time.

The applicant is requesting that the provision requiring residents of the surrounding Waples Mill Estates Subdivision shall be granted priority for membership be removed.

J. Statement Confirming Ownership:

Oakton Swim and Racquet Club, Inc. is the owner of the subject property and is governed by its Board of Directors. Authorization has been granted to its president, Sonia J. Bergh, by both the board of directors and its club membership to act on behalf of the aforesaid corporation.

RECEIVED
Department of Planning & Zoning

MAR 19 2008

Zoning Evaluation Division

**OAKTON SWIM & RACQUET CLUB, INC
SPECIAL USE PERMIT APPLICATION
WRITTEN STATEMENT
February 1, 2008**

RECEIVED
Department of Planning & Zoning

FEB 21 2008

Zoning Evaluation Division

A. Type of Operation:

Oakton Swim and Racquet Club is a non-profit community association. The applicant is seeking approval to construct a snack bar facility to serve the Oakton Swim and Racquet Club membership. This additional structure will be 416 sq feet and will sit adjacent to the existing club house. An additional storage facility of 250 sq feet is also part of this request. This structure will replace a storage shed currently in this location.

B. Hours of Operation:

The existing community club consists of a six lane, 25 meter outdoor swimming pool and bathhouse, seven lighted tennis courts and an area reserved for picnic and active recreation. This community pool is operational from Memorial Day Weekend to Labor Day Weekend. The current hours of operation for the community club is 9:00 a.m. to 9:00 p.m. for the pool, with swim practice allowed to begin at 7:00 a.m. The snack bar facility is planned to be operational at the same time that the pool is open. The tennis courts are operational from 7:00 a.m. to 10:00 p.m. The applicant is requesting a masters (adult) swim practice be allowed to begin at 6:30 a.m.

C. Estimated Number of Patrons:

The community club is approved for a maximum membership of 500 families. This application does not request to change the maximum membership numbers. The community currently has 480 outstanding memberships.

D. Proposed Number of Employees:

Oakton Swim and Racquet Club currently operates a small snack bar. The proposed snack bar facility may require an additional employee. Employees will be limited to those necessary to provide safe supervision, operations and maintenance for the community facilities.

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The existing community club is centrally located within the surrounding community it serves. Many members walk or bike to the community club. No additional family memberships are proposed with this application. Therefore, the additional snack bar facility will pose no additional traffic impacts with the subdivision.

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The vicinity or general area served by the existing community club is the 191 homes in the Waples Mill Estates community and homeowners in the surrounding communities. Of the 480 outstanding memberships, 455 members reside in the 22124 zip code.

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The proposed snack bar facility will compliment the existing clubhouse facility. The roof lines will be similar in nature to the rooflines of the one story clubhouse facility. The siding will compliment the siding of the clubhouse facility. The brick will match or compliment the brick found on the clubhouse facility. The goal is to build a snack facility that seamlessly blends with the existing clubhouse facility. The proposed storage shed will have the same architectural elements of the snack bar facility. Please see the attached renderings for illustration of the proposed facility.

H. Known Hazardous or Toxic Substances:

No known hazardous or toxic substances are generated or disposed of on this site. Chemicals that are required for the servicing and maintenance of the existing swimming pool are appropriately stored and maintained as required.

I. Conformance of Provisions:

The proposed use conforms to the provisions of all applicable ordinances, regulations adopted standards and applicable conditions, except as noted below. The applicant wishes to maintain previous agreements and modifications approved during prior special use permits.

Modification of transitional screening yards to allow use of existing vegetation.

Waiver of barrier requirement

J. Statement Confirming Ownership:

Oakton Swim and Racquet Club, Inc. is the owner of the subject property and is governed by its Board of Directors. Authorization has been granted to its president, Sonia Bergh, by both the board of directors and its club membership to act on behalf of the aforesaid corporation.

Page _____, December 17, 1991, (Tape 1), Scheduled case of:

8:30 P.M. OAKTON SWIM & RACQUET CLUB, INC., SPA 82-C-067-2, appl. under Sect. 3-103 of the Zoning Ordinance to amend SP 82-C-067 for community swim and tennis club to allow addition of 3 tennis courts on approx. 6.75214 acres, located at 11714 Flemish Mill Ct., zoned R-1, Sully District (formerly Centreville), Tax Map 46-2((13))A2. (DEFERRED FROM 10/15/91 FOR MORE INFORMATION FROM APPLICANT AND STAFF)

Chairman DiGiulian advised that, when the decision to defer was made, it was also stated that testimony from both sides would be limited to a total of five minutes.

Mark W. Baker, with the firm of Paciulli, Simmons & Associates, 1821 Michael Faraday Drive, Reston, Virginia, represented the applicant and stated that the Oakton Swim & Racquet Club, Inc., worked hand-in-hand with the Homeowners Association; however, the Club represents its membership which, through a democratic process, had voted for the three proposed tennis courts to go forward.

Mr. Baker said that the Club is very open with its membership and tries to keep them informed. He said that the proposed three new tennis courts would meet the general standards of the County. The courts are located in a position further away from the surrounding homeowners than the existing four tennis courts. Mr. Baker said that the Club had made a conscientious effort to select lower light poles in order not to impact adjacent properties. He said that they have made an effort to minimize impervious surface and address water quality issues. Mr. Baker said that the Club intends to work with the various County agencies through the next steps of the process, and intends to work within the Conditions imposed by the County.

Mr. Baker called the BZA's attention to the information which had been submitted, addressing the issues raised at the previous public hearing.

Mrs. Harris called Mr. Baker's attention to the open space areas to the northeast and asked why the proposed tennis courts could not be rotated, with more impact on that lot line, as opposed to the lot line of Lot 86.

Mr. Baker said that the point of the corner of the court is closest to the open space parcels than any other point. Mrs. Harris said she understood that, but she was referring to rotating the three tennis courts to distance them from the residential property and impact open space. Mr. Baker said the reason for placing the proposed courts in the position chosen was to take advantage of the optimum playing area and the best conditions; i.e., when a player was serving, the sun would not be in their eyes, etc. He said the positioning was the most highly recommended and optimum to the orientation for playing conditions.

Mrs. Harris said that she was questioning whether the alternative had been considered from the standpoint of less impact on the contiguous neighbors. Mr. Baker said that the position was planned with consideration to drainage.

Mr. Pammel said that he had been trying unsuccessfully to locate the tennis hut on the plans. Mr. Baker said that the tennis hut was labeled "gazebo" on the plans.

Mr. Hammack asked Mr. Baker if he was agreeable to the Development Conditions dated December 16 and he said that he was.

Hal Hughes, 11708 Flemish Mill Court, Reston, Virginia, spoke in opposition to the application. He thanked the BZA and staff for their interest in the points raised by all in opposition at the last hearing. He said that sending staff back to research and consider had produced some very meaningful improvements to the Conditions recommended, particularly the lower lights, the limits on the sound system and parties, the adding of missing adjoining properties, channeling the water runoff, and limits on commercial activities.

Mr. Hughes said the property owners still were concerned about Condition 11, which stated that plantings would be supplemented as determined appropriate by the Urban Forestry Branch; elsewhere it said that such planting shall be required if necessary. Mr. Hughes said that the BZA had previously noted that the existing vegetation was quite thin and he suggested that the Condition provide that supplemental evergreen plantings be required to provide effective screening, to be located as directed by the Urban Forestry Branch; thereby recognizing that they are needed and the location would be left to the Branch.

Mr. Hughes said that the swim club admits claims made by opponents, but promises to do better with its more intensive land use. As to visibility, he said that they admit to "sparse vegetation," but are willing to plant "if deemed necessary"; they admit that timers don't work properly, but say they will be fixed. On trespassing, Mr. Hughes said that the Club's minutes reflect that all members present recognized the problem of cutting through and said that efforts were underway to put in trails. Concerning the noise and use of loudspeakers before 9:00 a.m., Mr. Hughes said that a suggestion was made that announcements heard across the public address system, which are considered non-essential, will be reviewed and alternatives would be discussed. As to meeting existing conditions, Mr. Hughes said that what was described as a tennis shop in the flyer submitted previously, is now described as a portable tennis hut. He said that the flyer from the tennis club admits that they are advertising and that calling it a shop was somewhat misleading. As to after-midnight socials, Mr. Hughes said that the Club admits that the one described by opponents had occurred and that no County authorization had been obtained, as necessary; that about ten percent of the membership comes from outside of the zip code, which is not defined as a community identifier. Regarding the flooding, Mr. Hughes said that the BZA saw the pictures and could judge for itself whether the flooding was apparent or real. He said the Club admitted that their findings were inconclusive and further study would be required. He said that the opponents would submit that, on the record submitted by the applicant, that would justify denial at this time, or at least a suspension of activities on more intensive use until existing problems were solved.

Mr. Hughes said that there had been a suggestion that the opponents had faked their photographs, that no one had called to complain first, and that there was some obligation to report flooding, trespassing, and violations, when the flooding was apparent.

Mr. Hammack referred to the revised Proposed Development Conditions which were distributed that evening and said he was taken aback by Condition 5. He believed it was presumptuous to tell the swim and racquet club that they should amend their by-laws and in telling them from which zip codes they are limited to accept membership.

Mr. Riegle said that there was considerable discussion at the initial hearing about the fact that members of the Club resided well out of Northern Virginia and Fairfax County, and a situation existed whereby the Club had been established before the houses were constructed. He said that the original residents of the newly constructed homes were apparently given an opportunity to join the Club, but no system existed whereby buyers of the homes at a later date would have an opportunity to participate in the Club. Mr. Riegle said that the applicant recognized the foregoing as an issue and much of the language of Condition 5 was suggested by the applicant as a means of rectifying the situation and keeping the membership reasonably restricted to residents of the subdivision and the surroundings environs. Mr. Riegle said that staff had no objection to the applicant being willing to regulate the membership in that manner and it seemed to be in keeping with the spirit of a Group 4 use. Mr. Hammack asked Mr. Riegle what would happen to the Club if the membership voted against the restriction. Mr. Riegle said that the applicant would not be in compliance if the membership voted against the restriction. Mr. Hammack said he believed the restriction to be unnecessary and, in such cases where owners wished to sell their memberships as incentives to sell their house, they would be deprived of their property rights.

Jane C. Kelsey, Chief, Special Permit and Variance Branch, said that she was not at the previous public hearing of this application; however, she was at the original public hearing and supervised the writing of the staff report for the original hearing and, at that time, the Club had been established by persons outside the subdivision because the subdivision had not yet been developed. Since it was in the open space of this particular subdivision, and the Zoning Ordinance requires that the open space for the subdivision be for the benefit of those people who reside within, that was the reason for the original condition that the people who lived within the subdivision had the first right of refusal, intended to assure that the open space would still run to the benefit of those people within the subdivision. She said that the applicant had agreed to the Condition, even though it was restrictive. Mr. Hammack said that he believed it was a bad policy to have staff require the swimming clubs to amend their by-laws and telling them where their membership must come from.

Mrs. Thonen said that the BZA had always recommended priority membership to respective subdivision residents. Ms. Kelsey said that staff had no problem with going back to the originally written condition. Mr. Hammack said he also had a question with Condition 8, dealing with the restrictive limitation on parties, which he said the BZA did not impose on any other Club in Fairfax, to his knowledge, where the parties was limited to Friday, Saturday and pre-holiday, and then put veto power in the hands of the adjoining neighbors. He said that if this was done in this instance, it should be done in all instances, which he did not approve of. He said he did not believe that neighbors should have the right to veto parties of a particular organization.

Mr. Riegle said that Condition 8 had been conceived as part of the standard condition most recently imposed on all the swimming clubs. Mr. Hammack said he could not recall ever seeing a condition whereby the next-door neighbors had the right to veto any party. Mr. Riegle said that the difference here was that staff specified the lots which had input into whether or not the Club had a weekday party because, in this case, there were several portions of common open space that abut the site and it would be deceiving to say all contiguous property owners must concur. Mr. Hammack said that the BZA has never had a policy to regulate so restrictively, and that it was totally inappropriate.

Ms. Kelsey said that there was a time when the BZA had wished to allow a particular swim club to have a week-night party and had to change their policy in order to do so. Mr. Hammack said that they did not change the policy to give veto power to the next door neighbor. Mr. Riegle said that the policy previously was to state that written proof had been provided to show that contiguous property owners concur. He said that the reason for specificity in naming the particular lots was as stated previously, the fact that open space created a unique situation.

Mrs. Harris said that she believed the BZA was getting into establishing covenants, rather than land use issues, and was concerned that the Conditions had gone overboard in what they were restricting.

Mrs. Harris asked Mr. Baker who owned Lots 89, 90, and 92 and he said they were not owned by the Club, but by private owners. In answer to a question from Mrs. Harris, Mr. Baker said that the proposed tennis courts would be further from the residences than the existing courts.

Mrs. Harris questioned Mr. Baker about the lights and he stated that the new lights would be lower, but there was no plan to replace the existing lights as there had been no complaints.

Mr. Hammack said he believed that some of the issues raised were not appropriate for this forum. He said he believed there were other means to address issues such as trespass, whether community paths have been maintained and available to the children, and whether they were allowed to trespass. He said he was very concerned about the addition of the tennis house, partly because the plats had been approved as submitted and the tennis house is obviously much larger and in a different location than what was previously approved. He said that no explanation had been given for the construction of that house and it was built in violation of the original special permit. He said that the Club must recognize that, if they wished to be in compliance with Development Conditions, they would be required to come back before the BZA and submit proposed changes and go through the hearing process and allow compliance issues to be aired. Mr. Hammack said that he was not sure that the use had been abused and would address that in the Development Conditions. He said he also was concerned about the runoff and was sympathetic to the argument made by the opposition that compliance should be shown but, as is the case with much of the County which is developed, compliance comes with development and the Development Conditions would require that the water runoff be diverted away from the adjoining property owners so that it would not impact the adjoining properties, if they do now. This would also be an issue

when the applicant develops the proposed additional tennis courts.

Mr. Hammack said that three additional tennis courts at a Club like this is good land use. He said he realized that some of the club members were not in agreement, but that was an internal club matter and the BZA's duty was not to veto the Club's Board of Directors or membership, nor to solve internal squabbles. Mr. Hammack said he believed that, overall, the Development Conditions had been met.

Mr. Hammack made a motion to grant SPA 82-C-067-2 for the reasons outlined in the Resolution, subject to the amended Proposed Development Conditions dated December 9, 1991.

Mr. Hammack changed Condition 8 by deleting the language starting with, "limited to Friday, Saturday and pre-holiday evenings (New Year's Day, Memorial Day, Labor Day, Independence Day, Thanksgiving Day, Christmas Day). Of the six total parties, three may be week-night parties, provided written proof is submitted which shows all contiguous property owners concur. For purposes of administering this Development Condition, contiguous property owners shall be defined as residents of the following Lots: 305, 303, 302, 306, 308, 515, 514, 513, 48 and 49." The remainder of the Condition shall remain the same. Mr. Hammack said he believed this would make the special permit consistent with the BZA's approved policies which apply to clubs throughout Fairfax County. Mr. Hammack said that the reason the number of parties was limited to six was to hold down abuses. Any non-conformance could be called to the attention of the Zoning Administrator.

Mr. Hammack changed Condition 15 to read: "Sales activity from the tennis hut shall be limited to members of the Club only." He said that if there is non-compliance or need for more refinement of the Conditions, the BZA can always take some action later, since there has been no testimony concerning violations.

Mr. Kelley seconded the motion and asked if Mr. Hammack had struck the words, "...shall not extend beyond 12 Midnight...." Mr. Hammack said that he had not.

Mr. Kelley and the other members present, agreed that the BZA should not impose conditions to control the internal issues of swim clubs in the area.

//

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Amendment Application SPA 82-C-067-2 by OAKTON SWIM & RACQUET CLUB, INC., under Section 3-103 of the Zoning Ordinance to amend SP 82-C-067 for community swim and tennis club to allow addition of 3 tennis courts, on property located at 11714 Flemish Mill Ct., Tax Map Reference 46-2((13))A2, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on December 17, 1991; and

WHEREAS, the Board has made the following findings of fact:

1. The applicant is the owner of the land.
2. The present zoning is R-1.
3. The area of the lot is 6.75214 acres.
4. Three additional tennis courts for a club like this is a good land use.
5. The fact that some members do not approve of this use is an internal club affair and should be handled by the Club's Board of Directors or, possibly, by membership vote.
6. Overall, the development conditions have been met, in spite of some issues having been raised; and the tennis courts should be allowed on the basis that the proposed development conditions will be complied with.

WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Section 8-403 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is **GRANTED** with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This Special Permit is granted only for the purpose(s), structure(s) and/or use(s) indicated on the special permit plat (prepared by Paciulli, Simmons and Associates, LTD., dated May 1991, revised through July 11, 1991) approved with this application, as qualified by these development conditions.
3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. This Special Permit is subject to the provisions of Article 17, Site Plans. Any plan submitted pursuant to this special permit shall be in conformance with the approved Special Permit plat by Paciulli,

Simmons and Associates, LTD., dated May 1991, revised through July 11, 1991 and these development conditions.

5. There shall be a maximum of 500 family memberships. Residents of the surrounding Waples Mill Estates Subdivision shall be granted priority for membership.
6. There shall be 77 parking spaces provided as shown on the special permit plat. All parking shall be on site.
7. Tennis court lights for the new courts shall be on standards which do not exceed 20 feet in height. All tennis court lights shall be equipped with an automatic shut-off mechanism designed to ensure that the lights are only on when the courts are in use during the approved hours of operation. This mechanism shall be tested monthly and adjusted or repaired as necessary to ensure compliance. To further minimize the impact of the lights on adjacent properties, the lights shall be directed downward, and shall be shielded to prevent glare on adjacent properties.
8. The maximum hours of operation for all tennis courts on the site shall be between 7 a.m. and 10 p.m. The regular hours of operation for the swimming pool shall be 9 a.m. to 9 p.m., except that competitive teams from the swim club shall be allowed to practice as early as 7 a.m. The 7 a.m. swim practice shall not involve the use of amplified sound including but not limited to amplified timing systems, pre-recorded music, starters pistols, or public address systems. After hour parties for the swimming pool shall be governed by the following:
 - Limited to six (6) per season.
 - Shall not extend beyond 12:00 midnight
 - The applicant shall provide a written request at least ten (10) days in advance and receive prior written permission from the Zoning Administrator for each individual party or activity.
 - Requests shall be approved for only one (1) such party at a time and such requests shall be approved only after the successful conclusion of a previous after-hour party.
9. During discharge of swimming pool waters the following operation procedures shall be implemented:

Sufficient amounts of lime or soda ash shall be added to the acid cleaning solution in order to achieve a pH approximately equal to that of the receiving stream. The Virginia Water Control Board standards for the class II and III waters found in Fairfax County range in pH from 6.0 to 9.0. In addition, the standard dissolved oxygen shall be attained prior to the release of pool waters and shall require a minimum concentration of 4.0 milligrams per liter.

If the water being discharged from the pool is discolored or contains a high level of suspended solids that could affect the clarity of the receiving stream, the water shall be allowed to stand so that most of the solids settle out prior to being discharged.

10. If a public address system is used, its use shall be limited to swim meets, special parties and emergencies and its volume shall be modulated to comply with the requirements of the Noise Ordinance.
11. To fulfill the requirements for Transitional Screening, all existing vegetation, including the supplemental evergreen plantings on the western lot line required in the approval of SP 82-C-067, shall be retained and supplemented with plantings consisting of a row of evergreen trees to be planted 10 feet on center along the site's boundary with Lots 408, 409, and 305 as determined appropriate by the Urban Forestry Branch. All evergreens used as supplemental plantings shall have a planted height of 8 feet and an ultimate height of at least 25 feet as determined feasible by the Urban Forestry Branch. Existing evergreens may be used to fulfill the requirement for supplemental plantings along Lots 408, 409, and 305 provided the existing trees are determined by the Urban Forestry Branch to be of a height and quality which will provide effective screening of the tennis courts and lights. Existing vegetation along the remaining portions of the eastern, northern, and western lot lines shall be reviewed by the Urban Forestry Branch and supplemental plantings may be required if necessary to meet the intent of Transitional Screening 1.
12. The Barrier requirement shall be waived.
13. Runoff attributable to the three (3) new tennis courts shall be in accordance with requirements for Stormwater Best Management Practices (BMP's). On-site BMP's or contributions to off-site detention facilities based on the runoff generated by the three (3) new tennis courts shall be provided as determined necessary and feasible by DEM.
14. To ensure that any water or runoff which may flow across the site does not adversely impact adjoining property owners, the grading plan for the new tennis courts shall be designed and engineered with swales or other methods as determined appropriate by DEM to ensure that runoff is properly channeled into the existing inlet located southeast of the new tennis courts as may be deemed appropriate by DEM.
15. Sales activity from the tennis hut shall be limited to members of the club.
16. A written copy of all applicable development conditions shall be provided to the individual responsible for any after-hours party or event, to all members, to contractors providing services at the club, and to parties who may rent the club's facilities.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Permit shall not be legally established until this has been accomplished.

Pursuant to Sect. 8-015 of the Zoning Ordinance, this special permit shall automatically expire, without notice, thirty (30) months after the date* of approval unless the use has been established or construction has commenced and been diligently prosecuted. The Board of Zoning Appeals may grant additional time to establish the use or to commence construction if a written request for additional time is filed with the Zoning Administrator prior to the date of expiration of the special permit. The request must specify the amount of additional time requested, the basis for the amount of time requested and an explanation of why additional time is required.

Mr. Kelley seconded the motion which carried by a vote of 5-0. Mrs. Thonen was not present for the vote. Mr. Ribble was absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on December 25, 1991. This date shall be deemed to be the final approval date of this special permit.

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8-006 General Standards

In addition to the specific standards set forth hereinafter with regard to particular special permit uses, all special permit uses shall satisfy the following general standards:

1. The proposed use at the specified location shall be in harmony with the adopted comprehensive plan.
2. The proposed use shall be in harmony with the general purpose and intent of the applicable zoning district regulations.
3. The proposed use shall be such that it will be harmonious with and will not adversely affect the use or development of neighboring properties in accordance with the applicable zoning district regulations and the adopted comprehensive plan. The location, size and height of buildings, structures, walls and fences, and the nature and extent of screening, buffering and landscaping shall be such that the use will not hinder or discourage the appropriate development and use of adjacent or nearby land and/or buildings or impair the value thereof.
4. The proposed use shall be such that pedestrian and vehicular traffic associated with such use will not be hazardous or conflict with the existing and anticipated traffic in the neighborhood.
5. In addition to the standards which may be set forth in this Article for a particular group or use, the BZA shall require landscaping and screening in accordance with the provisions of Article 13.
6. Open space shall be provided in an amount equivalent to that specified for the zoning district in which the proposed use is located.
7. Adequate utility, drainage, parking, loading and other necessary facilities to serve the proposed use shall be provided. Parking and loading requirements shall be in accordance with the provisions of Article 11.
8. Signs shall be regulated by the provisions of Article 12; however, the BZA, under the authority presented in Sect. 007 below, may impose more strict requirements for a given use than those set forth in this Ordinance.

8-403 Standards For All Group 4 Uses

- 1. Except for Use 2 set forth in Sect. 401 above, all uses and their related facilities shall be under the control and direction of a board of managers composed, at least in part, of the residents of the area intended to be served by the facility. Further, no Group 4 use shall be operated on a profit-making basis, and the owner of the facility shall be a nonprofit organization where membership thereto is limited to residents of nearby residential areas.
- 2. All uses shall comply with the bulk regulations of the zoning district in which located.
- 3. All uses shall comply with the performance standards specified for the zoning district in which located.
- 4. Before establishment, all uses, including modifications or alterations to existing uses, shall be subject to the provisions of Article 17, Site Plans.