



APPLICATION ACCEPTED: December 4, 2009
BOARD OF ZONING APPEALS: February 24, 2010
TIME: 9:00 a.m.

County of Fairfax, Virginia

February 17, 2010

STAFF REPORT

SPECIAL PERMIT AMENDMENT APPLICATION NO. SPA 83-V-007

MOUNT VERNON DISTRICT

APPLICANT/OWNER: Fairfax Yacht Club, Inc.

STREET ADDRESS: 10721 Old Colchester Road

TAX MAP REFERENCE: 117-1 ((2)) (A) 1-20; 117-1 ((2)) (B) 1-38;
117-1 ((2)) (C) 1-39; 117-1 ((2)) (D) 1-37;
and 117-1 ((2)) (E) 1-36

LOT SIZE: 9.15 acres

ZONING DISTRICT: R-E

ZONING ORDINANCE PROVISIONS: Sect. 3-EO3

PLAN MAP: Residential, .1 - .2 du/ac

SPECIAL PERMIT PROPOSAL: Amend previously approved special permit for a private marina to permit an increase in land area, modifications to development conditions, and site modifications.

STAFF RECOMMENDATION: Staff recommends approval of SPA 83-V-007, subject to approval of the development conditions listed 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.

Mary Ann Godfrey

Department of Planning and Zoning
Zoning Evaluation Division
12055 Government Center Parkway, Suite 801
Fairfax, Virginia 22035-5509
Phone 703-324-1290 FAX 703-324-3924
www.fairfaxcounty.gov/dpz/

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Integrity * Teamwork * Public Service



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.

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

O:\mgodf2\SP Reports\SPA 83-V-007, Fairfax Yacht Club 2-12 final.doc

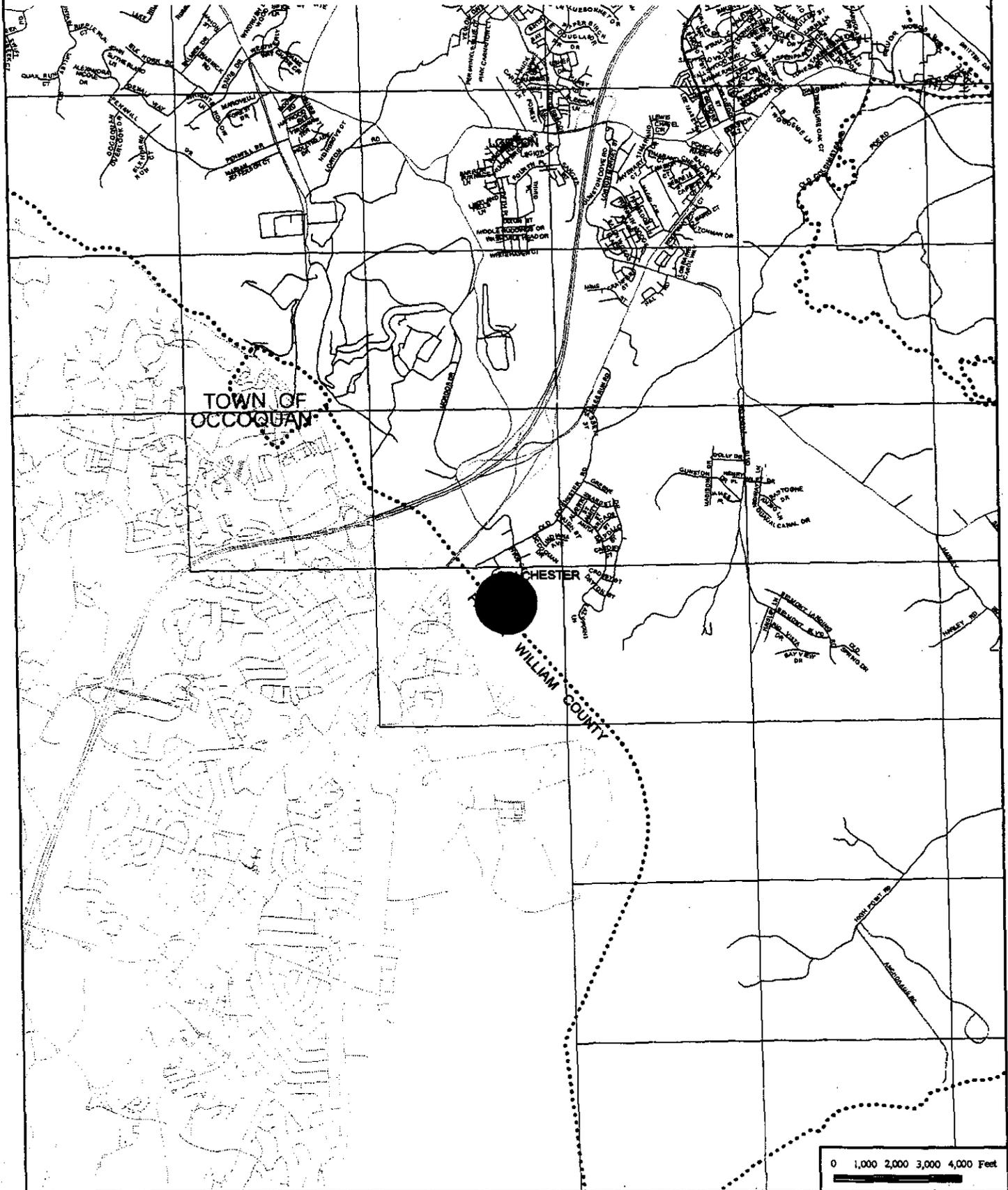


Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 7 days advance notice. For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).

Special Permit Amendment

SPA 83-V-007

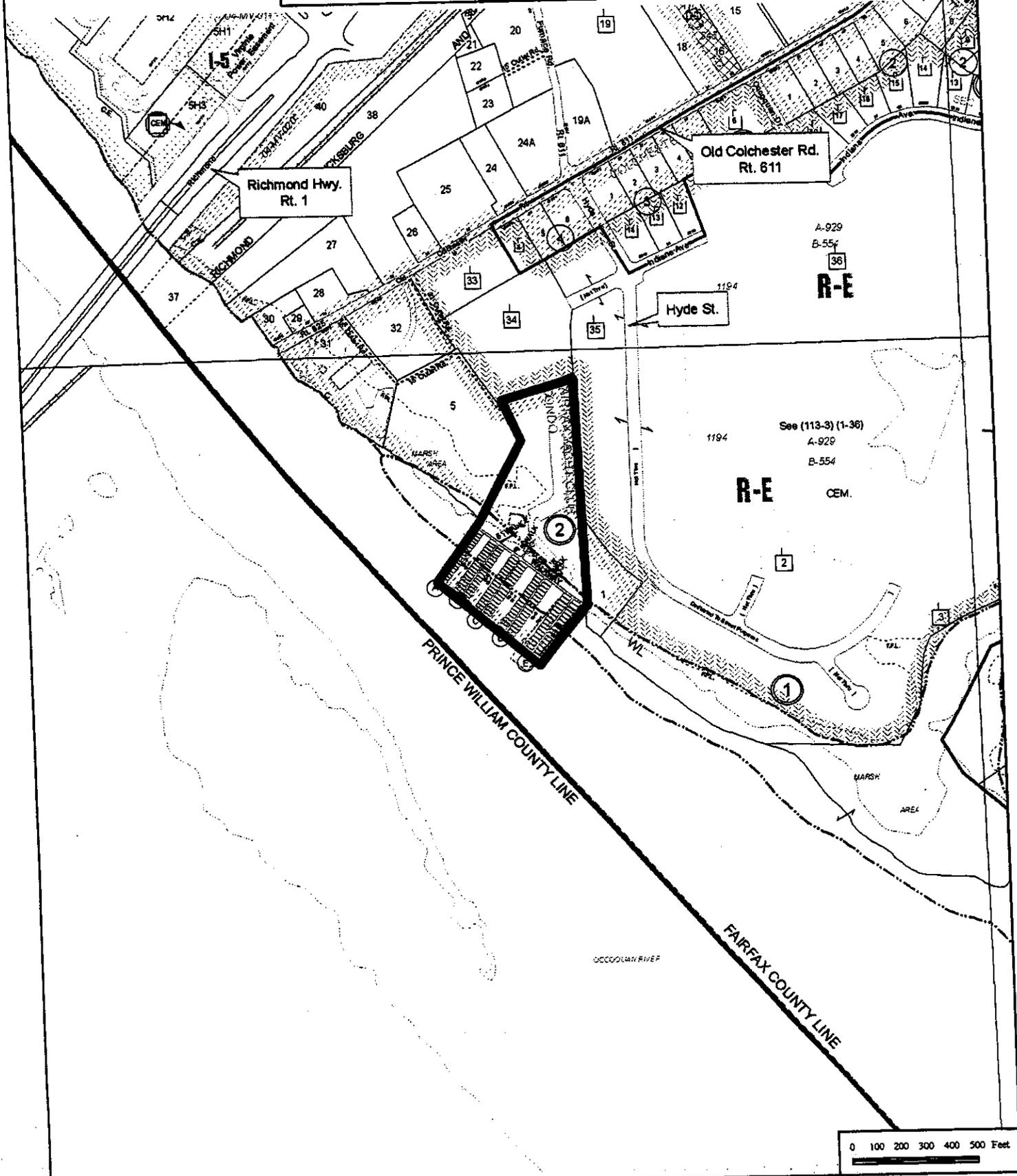
FAIRFAX YACHT CLUB, INC.



Special Permit Amendment

SPA 83-V-007

FAIRFAX YACHT CLUB, INC.



CURVE TAB

CL	ANGLE	INCLINED	CHORD LENGTH	CHORD BEARING	ARC LENGTH	PERCENT OF CURVE
1	90.00	0.00	33.00	S 00° 00' 00" W	33.00	33.33
2	90.00	0.00	33.00	S 00° 00' 00" W	33.00	33.33
3	90.00	0.00	33.00	S 00° 00' 00" W	33.00	33.33

AREA TABULATION

AREA	AREA	PERCENT
PHASE I	114.00	100.00
PHASE II	114.00	100.00
PHASE III	114.00	100.00
PHASE IV	114.00	100.00
PHASE V	114.00	100.00
PHASE VI	114.00	100.00
PHASE VII	114.00	100.00
PHASE VIII	114.00	100.00
PHASE IX	114.00	100.00
PHASE X	114.00	100.00
PHASE XI	114.00	100.00
PHASE XII	114.00	100.00
PHASE XIII	114.00	100.00
PHASE XIV	114.00	100.00
PHASE XV	114.00	100.00
PHASE XVI	114.00	100.00
PHASE XVII	114.00	100.00
PHASE XVIII	114.00	100.00
PHASE XIX	114.00	100.00
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PHASE XXI	114.00	100.00
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PHASE XXVIII	114.00	100.00
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NOTES

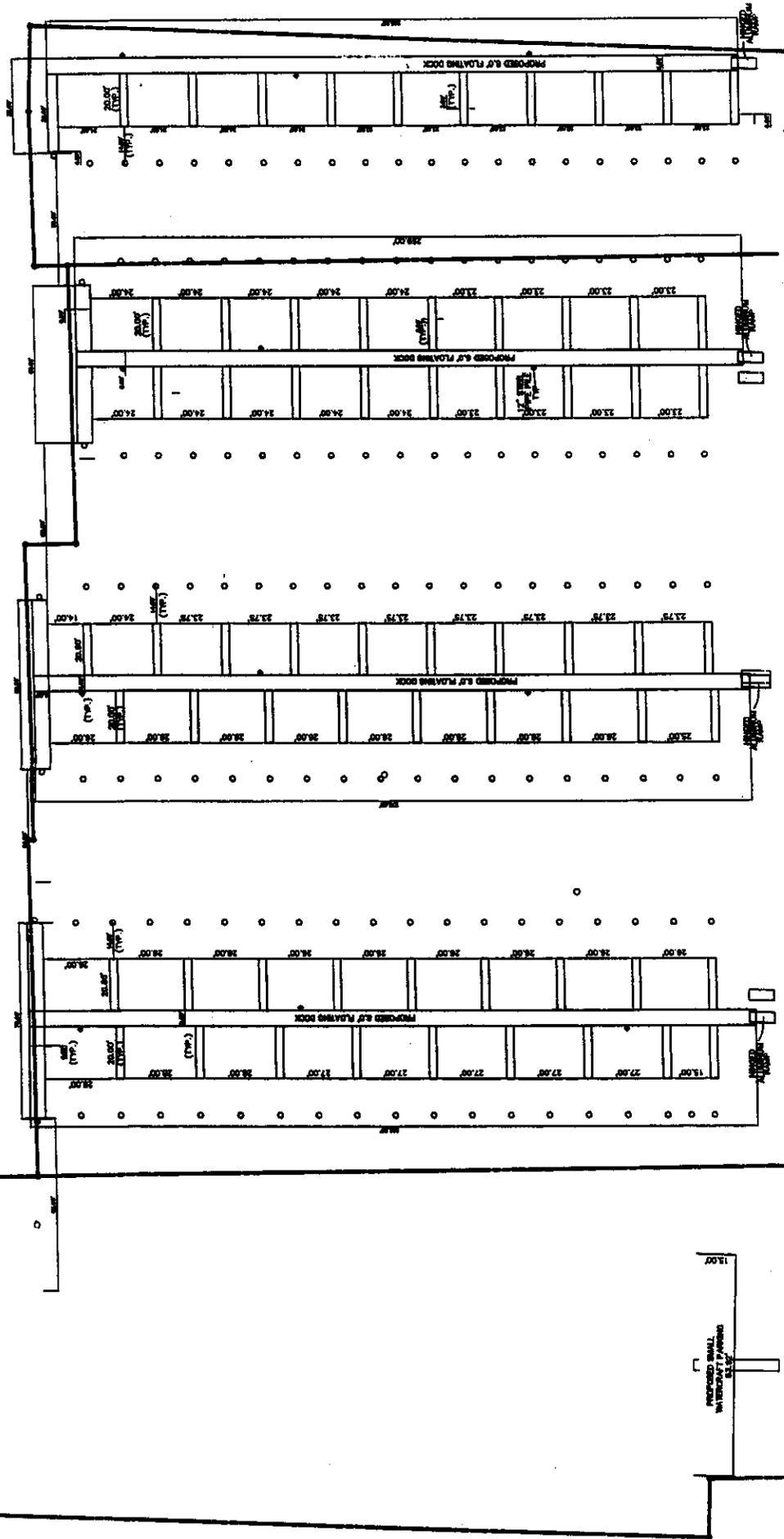
- 1) THE PROPERTY SHOWN HEREON IS LOCATED ON ADJACENT MAP 177-1-1-1(1) PARCELS 7 AND 8 ZONED R1.
- 2) NO FILE REPORT NUMBERS.
- 3) ALL MEASUREMENTS AND BOUNDARY ELEVATIONS WERE OBTAINED BY SURVEY AND RECONSTRUCTION OF THE PROPERTY BY THE SURVEYOR AND RECONSTRUCTION BY APPROXIMATELY 1/2" ABOVE MSL.

PARCEL IDENTIFICATION TABLE

PHASE	PARCEL	AREA	PERCENT
PHASE I	I-1	114.00	100.00
	I-2	114.00	100.00
	I-3	114.00	100.00
	I-4	114.00	100.00
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SEE SHEET

OCCOQUAN RIVER



SPECIAL USE POINT AGREEMENT #
 SPA 83-1-027
 PROPOSED DOCK DETAIL
**FAIRFAX YACHT CLUB
 CONDOMINIUM**
 DEED BOOK 4877 PAGE 0811
 MOUNT VERNON DISTRICT
 COUNTY OF FAIRFAX, VIRGINIA
 SCALE: 1"=20' DATE: OCTOBER 1, 2003
TARGET SURVEYS
 1000 MARKET PLACE, SUITE 201
 ANNANDALE, VIRGINIA 22010
 TEL: (703)398-8828 FAX: (703)398-8829



PROPOSED SMALL
 WATERWAY PILING
 13.00'

Entrance Gate & Parking Lot (all pictures taken Sept. 2009)



From Hyde Street



South View Into Parking Lot



Dumpster Pad View- South



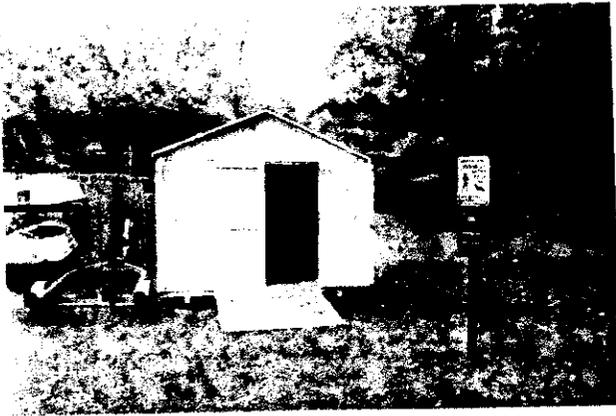
Clubhouse on right



Concrete Dumpster Pad

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Department of Planning & Zoning
OCT 13 2009
Zoning Evaluation Division

All Pictures Taken Sept. 2009

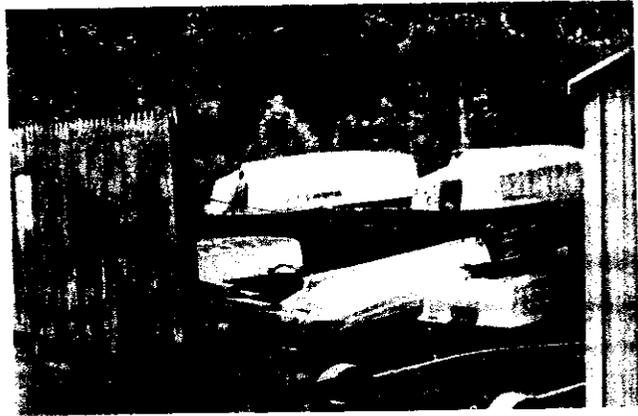


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Department of Planning & Zoning

OCT 13 2009

Zoning Evaluation Division

Shed (Temporary)..

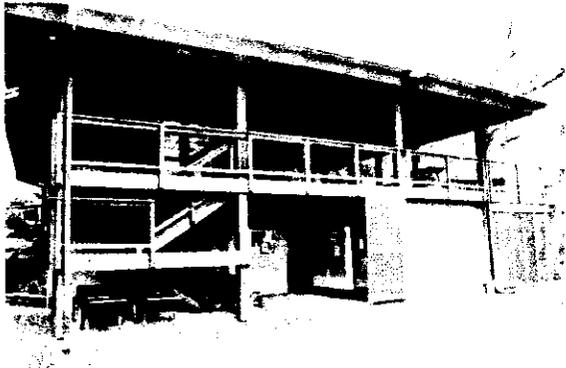


Dinghy Rack (to be rebuilt)

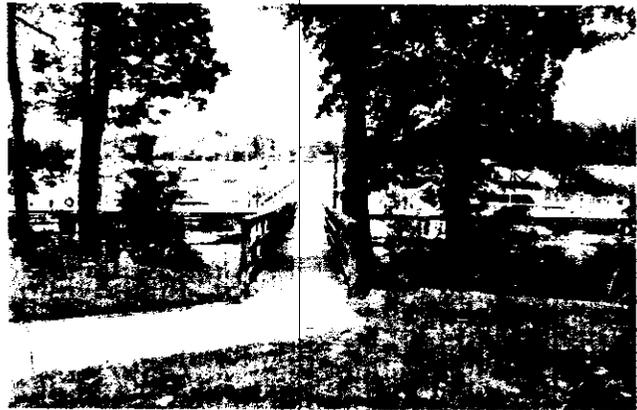


Yellow Object is Proposed Oil Tank Location
Inside Fence and On Dumpster Pad

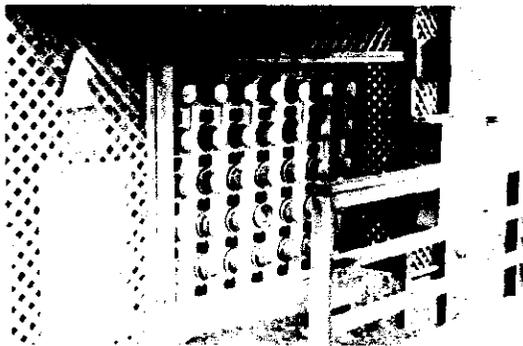
(all pictures taken Sept. 2009)



Rear View Clubhouse



First Ramp to A & B Docks

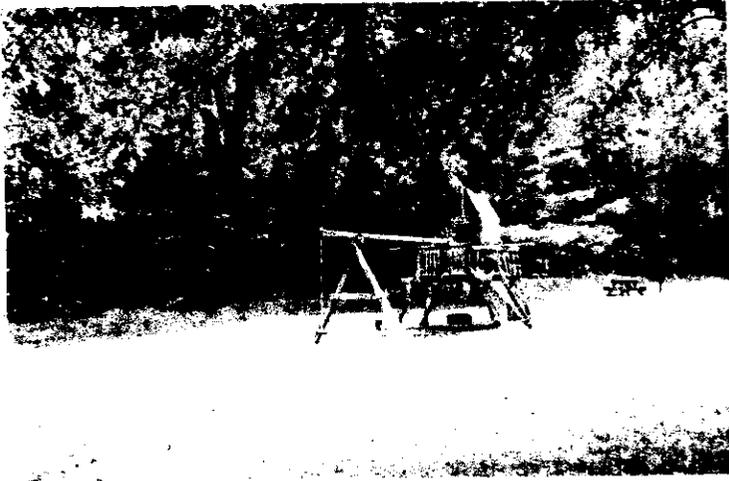


Electric Shed Structure

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Drain Field /play Ground

(All pictures taken Sept. 2009)



Playground Set



SE View Across Drain Field

De

OCT 13 2009

Zoning Evaluation Division

(all pictures taken Sept. 2009)



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View of Docks from Land
"E" Dock far Left
"D" Dock Left
"C" Dock right



"C" Dock Center
"D" Dock Left



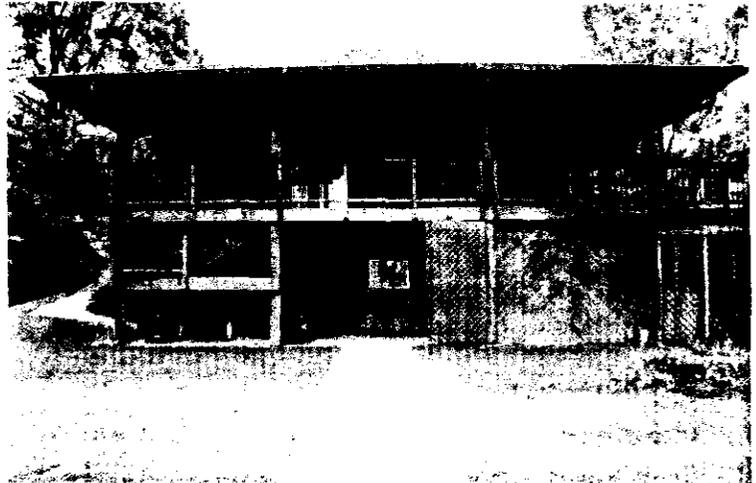
"B" Dock" Center
"A" Dock to right

Club House
(All pictures taken Sept. 2009)



Front View

Rear View

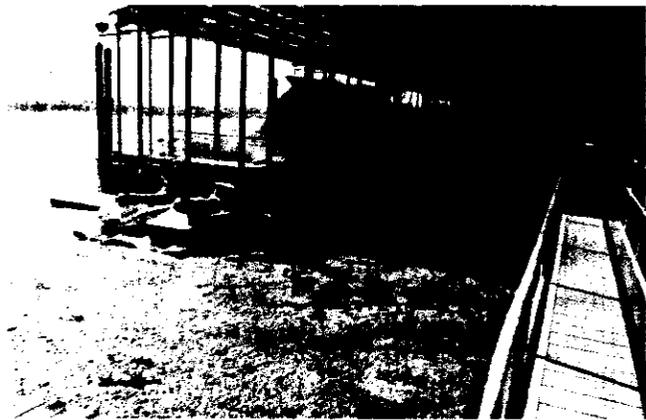


Front Flag Pole View

FYC Small Watercraft Parking Area



Area Behind E Dock



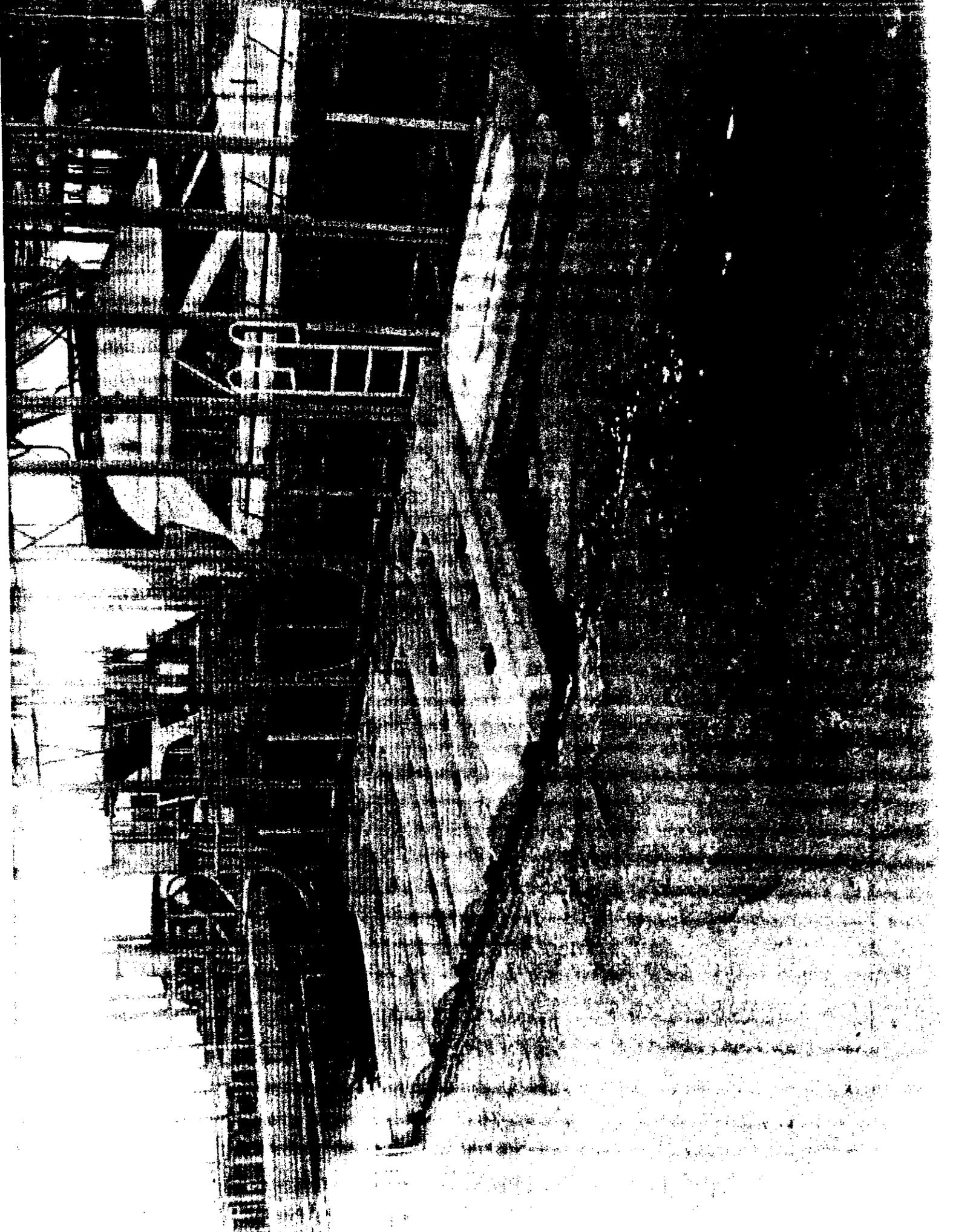
Left of E dock



View Towards Shore

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OCT 13 2009
Zoning Evaluation Division

Pictures Taken Oct. 13, 2009



DESCRIPTION OF THE APPLICATION**Special Permit Request:**

The applicant seeks to amend SP 83-V-007 previously approved for a private marina to permit an increase in land area to reflect current conditions, modifications to development conditions, and site modifications. The applicant proposes the addition of a portable 10' x 12' storage shed, the addition of a used oil collection tank for the collection and disposal of used motor oil, the addition of a dinghy storage area, the addition of a designated area in the water for small watercraft parking, and an increase in the maximum dock lengths from the 240 foot length shown on the approved SP Plat to the currently existing lengths that range from 258 feet to 287 feet. No additional site modifications are proposed. The marina operation remains unchanged.

Existing and/or Approved Under SP 83-V-007

Size:	4.75 acres (Site)
FAR:	0.03
Number of Slips:	175 (No changes proposed)
Number of Members:	255 (No changes proposed)
Parking:	95 spaces (No changes proposed)
Hours of Operation:	6:00 a.m. to 12:00 p.m., seven (7) days per week (No changes proposed)
Number of Employees:	10 employees maximum (No changes proposed)

Proposed Under SPA 83-V-007

Size:	9.15 acres
FAR:	0.0346

LOCATION AND CHARACTER

Existing Site Description:

The application property is located along the northern shore of the Occoquan River, approximately 1,000 feet south of Old Colchester Road. Access to the site is provided via Hyde Street south of its intersection with Old Colchester Road. The site is zoned RE and is adjacent to properties that are either vacant or developed with single-family detached residences on the north, east, and west. The site has been fully developed since the 1980's and was developed in four phases as shown on the SPA Plat. The northern half of the site is developed with the clubhouse, driveway and parking areas, a tot lot, an enclosed dumpster area, a 20' x 25' dinghy rack, and, a drainfield and reserve drainfield, approximately half of the northern part of the site is within the RPA associated with the Occoquan River and its floodplain and wetlands. The southern portion of the site is within the Occoquan River and is developed with a fixed wooden deck that runs parallel to the shore line and is accessed by three five (5) foot walks that extend from the top of the slope and traverse the wetland area that is adjacent to the river. Extending from the fixed wooden deck are five (5) floating docks, labeled A through E from west to east, containing a total of 175 boat slips. The easternmost dock is covered. The other docks are open. The length of the docks is 268', 259', 278', 282', and 287' from Dock A through Dock E, respectively. The docks were built in 1983. The boat slips are each identified Fairfax County tax map parcels and are owned by members of the condominium association that operates the marina.

Surrounding Area Description:

SURROUNDING AREA DESCRIPTION			
Direction	Use	Zoning	Plan
North	Residential and Vacant	R-E	Residential; .1-.2 du/ac
South	Occoquan River		
East	Residential and Vacant	R-E	Residential: .1-.2 du/ac
West	Residential and Vacant	R-E	Residential; .1-.2 du/ac

BACKGROUND

On May 3, 1983, the Board of Zoning Appeals (BZA) approved SP 83-V-007 to permit a private, non-profit marina located on the north shore of the Occoquan River. A copy of the Resolution and plat approved in conjunction with SP 83-V-007 are included as Appendix 4.

On December 7, 2004, the BZA held a public hearing and accepted staff's recommendation that pursuant to Development Condition 15, which required review of the site's access, no change in access was necessary at that time. A copy of the BZA Resolution and staff's memorandum is included as Appendix 5

COMPREHENSIVE PLAN PROVISIONS

Plan Area:	Area IV
Planning District:	Lower Potomac
Planning Sector:	Mason Neck Community Planning Sector (LP3)
Plan Map:	Private Open Space and Residential, .1 - .2 du/ac

ANALYSIS**Special Permit Amendment Plat** (Copy at front of staff report)

Title of SPA Plat:	Fairfax Yacht Club Condominium
Prepared By:	Target Surveys, Inc.
Dated:	October 1, 2009
Revision Date:	January 27, 2010

Proposed Use:

The applicant seeks approval of a special permit amendment in order to obtain BZA approval of a current SPA Plat that is accurate in its depiction of the property and its existing facilities, and to permit several proposed modifications.

The Fairfax Yacht Club has operated on this site since the 1980's; however, there is no As-Built Site Plan that accurately depicts site development. The original SP Plat approved in 1983 was general and lacking in detail. The proposed Special Permit Amendment (SPA) Plat has been coordinated with DPWES to satisfy the requirements of a Minor Site Plan, which, once approved, would provide an official record of everything that has been approved on the site. The site is fully developed and no expansion of the use, number of members, hours of operation, or number of employees is proposed. There are no land disturbing activities proposed.

The proposed modifications include the following:

- Addition of a 10' x 12' portable storage shed for the storage of small amounts of flammable materials, gasoline cans, lawnmowers, and the like. The shed is proposed to be located in the north-central part of the site adjacent to the parking lot and to the dumpster pad. It is outside the RPA. As the shed will sit on blocks, no land disturbance will be required.
- Addition of a used oil collection tank for the collection of used motor oil for recycling and off-site disposal. The proposed tank has a capacity of less than 300 gallons, is double-walled with containment features, and would be operated in compliance with federal, state, and county regulations. The tank is proposed to be located within the dumpster enclosure, which is outside the RPA.
- Addition of a dinghy storage area for the storage of small (less than 12 feet) boats on wooden racks for winter or other temporary storage. The proposed rack measures 20' x 25' and is supported by six (6) wooden legs that sit on the ground. No ground disturbance would be required. The proposed location is adjacent to the dumpster enclosure outside the RPA.
- Addition of a designated parking area for small watercraft, such as canoes, "jon" boats, and jet skis. The proposed location is an area between the fixed wooden deck and Dock E. The proposed watercraft parking would be provided by portable floats that are tied to the existing dock. The maximum number of spaces needed would be fifteen (15) and the use would only occur during the summer season.
- An increase in the length of the docks from 240' as shown on the SP Plat to the lengths that currently exist, which are 268', 259', 278', 282', and 287'. The existing dock lengths were approved when they were constructed in 1983; however, as stated previously, there is no approved As Built Site Plan showing them. Currently, the applicant is in the process of replacing the existing docks with new docks of the same length. All transport of the docks is by river and there is no land disturbance.

Transitional Screening I and Barrier D, E, or F are required between land used or zoned for single-family detached development, which applies to the northern, eastern, and western sides of the subject property. Pursuant to existing Development Condition 14, a modification of the transitional screening and waiver of the barrier requirements were granted in conjunction with the previously approved SP application, in favor of existing vegetation and supplemental planting. The applicant is seeking a modification of the transitional screening requirements in favor of existing vegetation and a waiver of all barrier requirements.

Land Use Analysis

The Comprehensive Plan recommends private open space and low density residential development for this area. No expansion of the existing use is proposed. Staff believes the proposed uses and intensity are in harmony with the Comprehensive Plan recommendations for the area and there are no design or compatibility issues, as no additional on-site construction is proposed.

Transportation Analysis (Appendix 6)

There are no transportation issues associated with this application.

Environmental Analysis (Appendix 7)

Since no new land disturbance is proposed, this application does not raise environmental concerns.

Urban Forestry Analysis (Appendix 8)

The applicant's proposal is acceptable.

Environmental and Site Review Division (Appendix 9)

The site contains RPA, which was not shown on the applicant's original submission. The RPA is now delineated. A Water Quality Impact Assessment, pursuant to the Chesapeake Bay Preservation Ordinance, will be required prior to approval of the Minor Site Plan. On February 3, 2010, DPWES issued a letter stating that the proposed dock reconstruction in the floodplain is a permitted use under Par. 4 of Sect. 2-903 of the Floodplain regulations of the Fairfax County Zoning Ordinance, subject to conditions. A copy of the letter is contained in Appendix 9. There are no other issues.

ZONING ORDINANCE PROVISIONS

Bulk Standards (R-E: Residential Estate District)		
Standard	Required	Proposed
Lot Size	75,000 square feet (minimum)	9.15 acres
Lot Width	200 feet (minimum)	22 feet as previously approved
Building Height	60 feet (maximum)	35 feet
Front Yard	55° ABP but not less than 50 feet	50 feet
Side Yard	45° ABP but not less than 20 feet	465 feet
Rear Yard	45° ABP but not less than 25 feet	110 feet
FAR	0.15 (maximum)	0.0346
Parking Spaces	85 Total spaces	95 spaces
Transitional Screening (North, South and West)	TS 1: Min. 25 feet in width planted with evergreen trees or a mixture of evergreen and deciduous trees	Modification requested of the northern, eastern, and western boundaries, in favor of existing vegetation, which ranges in depth from 25' to 50'**
Barrier (North, East, and West)	D, E or F	Waiver all requirements requested**

** Transitional screening and barriers were previously modified and waived in conjunction with SPA 83-V-007.

WAIVERS/MODIFICATIONS REQUESTED

Waivers/Modification:

The applicant requests a modification of the northern, eastern, and western boundary transitional screening requirements in favor of existing vegetation and a waiver of all barrier requirements.

Basis: Par. 3 of Sect. 13-304 states that transitional screening and barrier requirements may be waived or modified where the building, a barrier and/or the land between that building and the property line has been specifically designed to minimize adverse impact through the combination of architectural and landscaping techniques. The applicant is seeking a modification of the transitional screening requirements and a waiver of the respective barrier requirements to permit the existing vegetation to satisfy these requirements. Since the proposal does not include any ground disturbing activities and existing native vegetation provides substantial screening, staff supports the continuation of all modifications and waivers previously approved by the BZA under the preceding special permit approval, SP 83-V-007.

OTHER ZONING ORDINANCE REQUIREMENTS

Special Permit Requirements (Appendix 10)

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

Summary of Zoning Ordinance Provisions

Subject to the proposed development conditions, all applicable standards have been satisfied.

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 of SPA 83-D-007, 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. Affidavit
3. Statement of Justification
4. Approved Development Conditions and Plat, SP 95-S-050
5. BZA Resolution and Staff's Memorandum Regarding Access
6. Transportation Analysis
7. Environmental Analysis
8. Urban Forestry Analysis
9. Environmental and Site Review Division Analysis
10. Applicable Zoning Ordinance Provisions

PROPOSED DEVELOPMENT CONDITIONS**SPA 83-V-007****February 17, 2010**

If it is the intent of the Board of Zoning Appeals to approve SPA 83-D-007 located on property described as Tax Map 117-1 ((2)) (A) 1-20; 117-1 ((2)) (B) 1-38; 117-1 ((2)) (C) 1-39; 117-1 ((2)) (D) 1-37; and 117-1 ((2)) (E) 1-36 to amend SP 83-V-007 previously approved for a private marina, to permit an increase in acreage, modifications to development conditions, and site modifications, pursuant to Section 3-E03 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.

1. This approval is granted to the applicant only, Fairfax Yacht Club, Inc., and is not transferable without further action of this Board, and is for the location at 10721 Old Colchester Road indicated on the application and is not transferable to other land.*
2. This approval is granted for the uses indicated on the plans submitted with this application indicated on the special permit plat prepared by Target Surveys, Inc. dated October 1, 2009, revised through January 27, 2010, except as qualified below and approved with this application.*
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. The hours of operation shall be from 6:00 a.m. to 12:00 midnight seven (7) days a week. Boat owners shall be allowed to spend the night on their boats occasionally, but not on a permanent basis.*
5. The total number of members shall be two hundred fifty-five (255) and there shall be no associate members.*
6. The total number of parking spaces shall be ninety-five (95).*
7. The number of boat slips shall be restricted to one hundred seventy-five (175).*
8. The maximum number of employees shall be ten (10).*
9. With the exception of the 20' x 25' dinghy storage rack, there shall be no on-site dry-dock boat storage, no gasoline pumps, no boat ramps, nor any other public service facility.*

10. No more than fifteen (15) small watercraft may be parked in the floating watercraft parking area at any one time.
11. No clearing shall be allowed within fifty feet (50') of the shore property line except for a minimal area around the proposed building which may be located twenty-five feet (25') from the shore property line and three (3) walkways across the marshland to the piers.*
12. Conditions of all State and Federal permits shall be met.*
13. No fill or grading shall be allowed within the 100 year floodplain or the Resource Protection Area (RPA).*
14. Any exterior lighting and parking lot lights shall be the low 18 to 22 foot high design which directs the light directly downward.*
15. The existing trees and vegetation may be substituted for the required Transitional Screening 1 along the northern, southern, and western lot lines provided supplemental screening is provided if it is deemed necessary by Urban Forest Management. A forty foot (40') area along the eastern property line adjacent to the parking lot shall be provided and the existing trees and vegetation shall be supplemented with low evergreen plantings to screen the vehicle lights from the adjacent potential development. The barrier along this property line may be waived until such time as the adjacent property is developed. The requirement for a barrier along the other property lines may be modified. All vegetation shall be maintained in a healthy condition and dead/dying vegetation replaced as necessary to maintain screening.*
16. Boardwalks and steps on piles shall be used to provide access from the proposed building down the steep bank and across the marsh to the piers.*
17. Notwithstanding that shown on the SPA Plat, all accessory structures shall conform with the requirements of Sect. 10-104 of the Zoning Ordinance, subject to DPWES approval.

These conditions incorporate and supersede all previous conditions. This approval, contingent on the above noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinance, 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.

Under Section 8-014 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, thirty (30) months after the effective date of the special permit unless construction has commenced and been diligently prosecuted. 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

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

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: January 11, 2010
 (enter date affidavit is notarized)

I, Harry D. Croft, 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 *106354v*

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)
Fairfax Yacht Club, Inc. (aka Fairfax Yacht Club Unit Owners Association)	10721 Old Colchester Road, Mason Neck, VA 22079	Applicant/Agent for Unit Owners of: TM 117-1((2))(A) parcels 1-20; 117-1((2))(B) parcels 1-38; 117-1((2))(C) parcels 1-39; 117-1((2))D parcels 1-37; 117-1((2))(E) parcels 1-36.*
*No individual unit owner owns 10% or more of the units in the condominium; therefore, the names of the individual unit owners are not required to be listed on the affidavit.		
Harry D. Croft	6610 Maisail Court, Burke, VA 22015	Agent/Attorney-in-Fact for Applicant
Gayle A. Wix	11350 Occoquan Oaks Lane, Woodbridge, VA 22192	Agent/Attorney-in-Fact for Applicant
Joseph P. Underwood, Esq.	10449 Carriagepark Court, Fairfax, VA 22032-2367	Attorney/Agent

(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).

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SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: January 11, 2010
(enter date affidavit is notarized)

1063546

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)

Fairfax Yacht Club, Inc., 10721 Old Colchester Road, Mason Neck, VA 22079

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)

Fairfax Yacht Club, Inc. is a non-stock, non-profit corporation organized and operating under the laws of the Commonwealth of Virginia, and consisting of all of the Unit Owners owning Condominium Units in the Condominium.

(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.

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DATE: January 11, 2010
(enter date affidavit is notarized)

1063546

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)

-- NONE --

(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)

-- N/A --

(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): _____
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DATE: January 11, 2010
(enter date affidavit is notarized)

106354v

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: January 11, 2010
(enter date affidavit is notarized)

1063546

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)

Harry D. Croft
[] Applicant [x] Applicant's Authorized Agent

Harry D. Croft, Agent/Attorney-in-Fact, Applt./Unit Owners
(type or print first name, middle initial, last name, and title of signee)

Subscribed and sworn to before me this 11 day of January 2010, in the State/Comm. of VA, County/City of Fairfax.

Sara Jamir

Notary Public

My commission expires: 09/30/2013



RECEIVED
Department of Planning & Zoning

OCT 23 2009

Zoning Evaluation Division

SPECIAL PERMIT STATEMENT OF JUSTIFICATION

Application by

FAIRFAX YACHT CLUB, INC.

Application No. SP-83-V-007

- A. Type of Operation: A private, non-profit yacht club.
- B. Hours of Operation: Maximum hours of operation will be from 6:00 a.m. to 12:00 midnight, seven (7) days per week.
- C. Number of Members: The Articles of Incorporation of the Applicant, Fairfax Yacht Club, Inc., provide that there is to be one (1) class of membership, limited to a total of two hundred and fifty-five (255) membership certificates. However, there are only one hundred and seventy (170) unit owner-members, in direct correspondence to the number of the Applicant's existing boat slips, and which is less than the maximum number of slips allowed (175) under the Applicant's original Special Use Permit ("SUP").
- D. Number of Employees: It is expected that the maximum number of employees, at any one time, will be ten (10).
- E. Application Qualifications: The Applicant is a non-stock, not-for-profit corporation organized and operating under the laws of the Commonwealth of Virginia, pursuant to Chapter 10, Title 13.1 of the Code of Virginia, 1950, as amended. Its purpose is to provide yacht club and boating facilities to its members, who include residents of nearby residential areas for their pleasure and recreation, as well as to encourage yachting and the cultivation of naval science.
- F. Estimated Traffic Impact: As based upon the monitoring of the traffic generated through the consistent use of the facility since 1983, minimal traffic impact is expected from this use.
- G. Description of building façade and architecture of proposed new buildings or additions: The buildings and additions under consideration in this Application are as originally approved in the Applicant's original Special Use Application, which was approved on May 3, 1983, with the following proposed additions, as originally submitted to the Fairfax County Department of Planning and Zoning on June 20, 2008 and incorporated into this Special Use Application:
1. Acceptance of a revised Plat of the Applicant's premises to reflect and incorporate the current features of the Applicant's premises, to formally recognize the features of such premises as based upon those existing and/or approved at or subsequent to the issuance of the original SUP, and to eliminate several *de minimus* variations from the plat originally filed with Applicant's SUP Application. While the county has repeatedly found the Applicant to be in conformance with the original

SUP conditions during on-site inspections relating to various issues (i.e., “right-of-way”, etc.), a review of both the Applicant’s and county records indicate that apparently no “as built” plat was ever made or filed with the county by the Applicant’s initial developers after such development was completed in 1989, and the initial site plat submitted with the original SUP application has been relied upon by all relevant parties for compliance purposes. The plat which is attached to this Application is an accurate representation of the Applicant’s premises and facilities, as well as denoting those proposed additions which are included below for consideration. The attached plat also illustrates and reinforces the Applicant’s continuing compliance with all conditions indicated in the original SUP, with the exception of maximum dock lengths, as further discussed below at Section G(6).

2. Addition of a portable, 10’ x 12’ storage shed for the storage of negligible amounts of flammable materials, gasoline cans, lawnmowers, chain saws, and similar appliances and materials. The storage shed would be placed on concrete blocks in the location denoted on the accompanying plat, as per the advice and direction of the Fairfax County Fire Marshall’s Office.
3. Addition of a Used Oil Collection Tank for the collection and ultimate offsite disposal of used motor oil, in order to promote recycling and ensure the proper disposal of used motor oil from members’ boats. The proposed tank would have the capacity of less than 300 gallons, be double-walled with containment features, and operated in full accordance with federal, state, and county rules and regulations governing such tanks. The tank also would incorporate all necessary features to prevent spills, and to contain any inadvertent spills that could occur. The proposed location of the tank, as denoted on the accompanying plat, is of a considerable distance from any water feature, would be located more than 240 feet from the edge of the Occoquan River, and would be locked and securely stored behind a latch-gated fence. The Applicant’s Dockmaster would oversee the tank’s use and will supervise all owner-members who would use the facility.
4. Addition of a dinghy storage area for the storage of small (i.e., less than 12 feet) boats that would be stored on wooden racks for winter or temporary storage. The proposed location of the dinghy storage area, as denoted on the accompanying plat, which is in full compliance with the current Special Use Permit, would replace an existing one which is in poor condition (a photograph of which is enclosed). The new dinghy area, if approved, would be located in the same location as the current rack. Furthermore, no trailers, gasoline engines, multi-storage units, or other visual blight features would be permitted in the proposed storage area. Finally, the proposed storage area would not constitute “on land boat storage”, as prohibited in the original SUP, as the proposed area would merely be used for small dinghies, rather than the prohibited larger boats.
5. Addition of a designated area for small watercraft parking, as denoted on the accompanying plat, which would be suitable for canoes, “jon” boats, and jetskis during the summer boating season (i.e., May to September). The proposed area

would also allow for the use of portable floats for jetskis (a photograph of which also is enclosed), which require a float to rest upon when not in use. The portable floats would be tied to an existing dock, will have no structural burden on the docks, and would create negligible environmental impact to the area. It is estimated that no more than 15 spaces would be needed, and members using the area would be under the strict supervision of the Board of Directors and be in full compliance with all of applicant's requirements. The need for such an area was not contemplated at the time of the issuance of the original Special Use Permit, but current use of the facility by the Applicant's members necessitate the request made herein.

6. Expansion of the maximum dock lengths under the SUP from 240 feet to currently-existing lengths. The original SUP recommendations, as well as the original plat filed with the county, designated the maximum dock lengths of the five existing docks to be established at 240 feet. The county, as well as the relevant federal and state agencies (i.e., U.S. Army Corps of Engineers, and Virginia Marine Resources Commission) responsible for approving and subsequently regulating applicant's premises, approved the installation and construction of the original docks, which actually were built to the following respective lengths: "A" Dock – 268'; "B" Dock – 259'; "C" Dock – 278'; "D" Dock – 282'; & "E" Dock – 287'. As well, the Fairfax County Department of Planning and Zoning ("FCDPZ"), in reviewing the premises in 1989 and 2004 as required under the conditions of the original SUP relating to then-existing, right-of-way issues, found the Applicant to be in full compliance with all of the conditions as stated in the original permit. Indeed, a Memorandum dated November 30, 2004 from the FCDPZ to the Fairfax County Board of Zoning Appeals involving the "right-of-way" issue includes the following: "A visit to the site by staff revealed that the applicant continues to comply with the conditions of the original approval. The clubhouse, *decks*, *piers*, parking areas and entrance driveways are in place as indicated on the approved plat." (emphases added) Furthermore, all plats submitted by the Applicant during each development phase of its premises were approved as submitted by county officials without further inquiry or comment.

Applicant did not learn of the discrepancy in the dock lengths until it applied for a building permit with the FCDPZ in June 2009 to replace the original docks and was told at that time that both the existing and proposed docks exceeded the maximum 240 foot length as designated in the original SUP.

As stated above, the original docks, which were constructed by Applicant's founders and developers in 1983, have been at the present lengths since the inception of the Applicant's existence, and subsequent leaderships of the Applicant were not aware of such discrepancies until mid-2009. As noted above, a review of both the Applicant's and county records indicate that apparently no "as built" plat was ever made or filed with the county after construction of the

current docks, and all parties apparently relied on the plat submitted with the original SUP application for compliance purposes.

The current dock lengths for well over 20 years have not created any apparent ingress/egress, environmental, or other issues whatsoever involving the Applicant's facilities or its surrounding areas, and no governmental agencies have taken issue with the noncompliance until mid-2009, when the FCDPZ first raised the issue with the Applicant.

Furthermore, placing the number of boat slips allotted under the original specifications would create a very severe hardship on the Applicant, as the resultant size of such slips would be incapable of accommodating existing owners in docking their watercraft. A considerable number of the Applicant's current slip owners, many of whom have owned and paid county real estate taxes on their slips since, or shortly after the inception of the Applicant's existence, would be forced to abandon their existing slips if the 240 foot maximum is maintained. As well, many of those owners remaining would find it necessary to remove their watercraft from Applicant's premises and abandon their units, as the resultant slip sizes would not be compatible with such owners' minimum docking needs. Finally, any owners wishing to sell their slips under such circumstances would find the marketability of such slips to be impossible, and the property values of all slips would be drastically reduced.

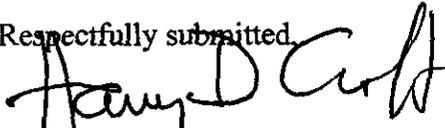
Therefore, in consideration of the interests discussed above, the Applicant respectfully requests that the maximum dock lengths at its premises be increased under the proposed SUP to their currently-existing lengths, in order to facilitate the needs of its owner-members, and to remedy a mutually-mistaken nonconformity which has existed virtually without objection since the Applicant's inception.

H. Listing of all Hazardous or Toxic Substances, etc.: The only currently-known hazardous substances which would be stored on the Applicant's common areas would be a negligible amount of gasoline and other solvents as needed for the upkeep of its common areas, as described at Section G(2) above, and such materials would be securely kept in the proposed storage shed upon approval of the same; and used motor oil, which would be securely stored in the proposed Used Oil Collection Tank, as described at Section G(3) above, and would be subject to the specifications as denoted at Section G(3). As well, power boats docked in numerous slips at the Applicant's premises contain routine, negligible amounts of hazardous substances (i.e., marine batteries, motor oil, and fuel). Otherwise, no hazardous substances will be generated, utilized, stored, treated, and/or disposed of on site at the Applicant's premises.

I. Statement of Compliance: The Applicant has continuously operated under a Special Use Permit since the approval of its application by the Fairfax Board of Zoning Appeals on May 3, 1983. With the sole exception of the recently-discovered noncompliance with the maximum dock length provisions as discussed above at Section G(6), Applicant has been in full compliance with all applicable ordinances, regulations, standards, and conditions set forth by federal, state,

and county authorities since its inception. Likewise, the Applicant's proposed use under the instant Application consists of *de minimus* additions to the conditions contained within its original Special Use Permit, and is fully consistent with both the letter and spirit of the original conditions upon which the 1983 permit was issued, while facilitating and updating the needs of the Applicant's owner-members. The one notable exception relates to the maximum dock lengths, in which the originally-constructed docks, while technically noncompliant, have created no apparent negative impacts, and the expansion of which is vital to the interests of both Applicant and all of its owner-members.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Harry D. Croft". The signature is written in a cursive style with a large, prominent "H" and "C".

Harry D. Croft, Commodore / Director
Fairfax Yacht Club, Inc.

Page _____, June 13, 1989, (Tape 2), Scheduled case of:

11:15 A.M. FAIRFAX YACHT CLUB, INC., SP 83-V-007, approved under Sect. 3-E03 of the Zoning Ordinance for a private, non-profit marina by the BZA on May 3, 1983, located at 10721 Old Colchester Road, on approximately 4.7506 acres of land, Mount Vernon District, Tax Map 117-1((11))4. Five Year review to determine location and design of a direct access to Old Colchester Road per condition 15.

Jane C. Kelsey, Chief, Special Permit and Variance Branch, presented the staff report which was prepared by the Staff Coordinator, Bernadette Bettard, who was absent from the hearing.

Ms. Kelsey stated that the Special Permit application was for the purpose of reviewing access and that staff had determined at this time that the existing location is preferable. Ms. Kelsey said there are environmental concerns about crossing Lots 3 and 34. She stated a site visit had been conducted and it appears the Special Permit is operating in accordance with all of the previous development conditions, satisfying number 15.

Chairman Smith asked if the continuance of the operation is the only issue.

Ms. Kelsey replied that it was.

Jack Connor, Esq., Miles & Stockbridge, 11350 Random Hills Road, Suite 500, Fairfax, Virginia, attorney for the applicant, stated they had one additional request. He suggested the deletion of development condition number 15 so as not to be required to come forth in another five years.

Chairman Smith was not in agreement, and Mr. Connor withdrew his request.

Kathy Dove, 14608 N. Ashdale Avenue, Dale City, Virginia, co-owner of Lots 31 and 32, Old Colchester Road, Mount Vernon, Virginia, stated that Old Colchester Road is not well maintained and neighbors have been filling in the potholes themselves. Ms. Dove believed that access to the yacht club should continue as it has been for the sake of less adverse impact.

Mr. Connor was advised that no new Non-Residential Use Permit is required since there were no changes made in the Special Permit.

There being no further speakers, and staff having no further comment, Chairman Smith closed the public hearing.

Mr. Ribble, having found that the applicant presented testimony indicating compliance for Special Permit Use, moved to grant SP 83-V-007.

Mr. Ribble commented that although the law firm of Miles & Stockbridge once represented his company, it did not affect his vote.

//

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 83-V-007 by FAIRFAX YACHT CLUB, INC., under Section 3-E03 of the Zoning Ordinance to permit a five year review of a

private, non-profit marina approved by the BZA on May 3, 1983 to determine location and design of a direct access to Old Colchester Road per Development Condition 15, on property located at 10721 Old Colchester Road, Tax Map Reference 117-1((11))4, Mr. Ribble 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 June 13, 1989; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-E.
3. The area of the lot is 4.7506 acres of land.
4. The applicant has presented testimony indicating compliance with conditions necessary for Special Permit use.

AND 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 the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that **NO CHANGE IN ACCESS TO THE PROPERTY** will be made at this time. The following conditions continue to apply to this use:

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 approval is granted for the uses indicated on the plans submitted with this application except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a special permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this special permit.
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. The hours of operation shall be from 6:00 a.m. to 12:00 midnight seven (7) days a week. Boat owners shall be allowed to spend the night on their boats occasionally, but not on a permanent basis.

5. The total number of members shall be two hundred fifty-five (255) and there shall be no associate members.
6. The total number of parking spaces shall be ninety-four (94).
7. The number of boat slips shall be restricted to one hundred seventy-five (175).
8. The maximum number of employees shall be ten (10).
9. There shall be no on-site dry-dock boat storage, no gasoline pumps, no boat ramps, nor any other public service facility.
10. No clearing shall be allowed within fifty feet (50') of the shore property line except for a minimal area around the proposed building which may be located twenty-five feet (25') from the shore property line and the three (3) walkways across the marshland to the piers.
11. Conditions of all State and Federal permits shall be met.
12. No fill or grading shall be allowed within the 100 year floodplain.
13. Any exterior lighting and parking lot lights shall be the low 18 to 22 foot high design which direct the light directly downward.
14. The existing trees and vegetation may be substituted for the required Transitional Screening 1 along the northern, southern, and western lot lines provided supplemental screening is provided if it is deemed necessary by the Director of Environmental Management. A forty foot (40') area along the eastern property line adjacent to the parking lot shall be provided and the existing trees and vegetation shall be supplemented with low evergreen plantings to screen the vehicle lights from the adjacent potential development. The barrier along this property line may be waived until such time as the adjacent property is developed. The requirement for a barrier along the other property lines may be modified.
15. At such time as easements or rights-of-way adequate for the proposed use are available to provide direct access to the subject site from Old Colchester Road, or at the end of five (5) years, whichever occurs first, this application shall be reviewed by the Staff to include the Office of Transportation, and the BZA, to determine the location and design of a direct site access to Old Colchester Road.
16. A ten foot (10') wide strip of existing vegetation shall be preserved adjacent to the access easement until such time as this access may be relocated. If the adjacent property develops prior to the relocation of the access road, the vegetation shall remain and be supplemented by additional screening at the discretion of the Director of DEM.
17. Boardwalks and steps on piles shall be used to provide access from the proposed building down the steep bank and across the marsh to the piers.

This approval, contingent on the above noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinance, 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.

Under Section 8-014 of the zoning Ordinance, this Special Permit shall automatically expires, without notice, eighteen (18) months after the effective date* of the Special Permit unless the activity authorized has been established, or unless construction has commenced, or unless an extension is granted by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of approval of the Special Permit. A request for additional time must be justified in writing, and shall be filed with the Zoning Administrator thirty (30) days prior to the expiration date.

Mrs. Harris seconded the motion. The motion carried by a vote of 4-0. Mrs. Thonen and Messrs. DiGiulian and Hammack were absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on June 21, 1989. This date shall be deemed to be the final approval date of this special permit.

//

**FAIRFAX
COUNTY****DEPARTMENT OF PLANNING AND ZONING**

Zoning Evaluation Division
Special Permit and Variance Branch
12055 Government Center Parkway, Suite 801
Fairfax, Virginia 22035-5510

(703) 324-1280

Fax (703) 324-3924

V I R G I N I A

December 15, 2004

Joseph P. Underwood
Attorney and Counsellor at Law
10449 Carriagepark Court
Fairfax, Virginia 22032-2367

Re: Special Permit Application SP 83-V-007
Fairfax Yacht Club, Inc.

Dear Mr. Underwood:

At its December 7, 2004 meeting, the Board of Zoning Appeals accepted staff's recommendation that pursuant to Development Condition 15, no change in access to the above-referenced site is necessary at this time. A copy of staff's memorandum to the Board of Zoning Appeals is attached.

If you have any questions, please contact Susan Langdon at 703-324-1280.

Sincerely,

Kathleen A. Knoth,
Clerk to the Board of Zoning Appeals

Enclosure: As stated

CC: Jim Taylor, Treasurer
Fairfax Yacht Club, Inc.



American with Disabilities Act (ADA): This information will be provided in alternative format upon request with seven days advance notice. Please call 703-324-1334 (TTY 711 Virginia Relay Center).

FAIRFAX COUNTY, VIRGINIA

MEMORANDUM

DATE: November 30, 2004

TO: John DiGiulian, Chairman
Members, Board of Zoning Appeals

FROM: Susan C. Langdon, Chief
Special Permit & Variance Branch

SUBJECT: Review of Site Access for Fairfax Yacht Club, Inc., SP 83-V-007, 10721 Old Colchester Road, Tax Map 117-1((11))4

This is a review initiated because of one of the development conditions adopted pursuant to the approval of SP 83-V-007 by the Board of Zoning Appeals on May 3, 1983. The subject of the application was the Fairfax Yacht Club's request to operate a marina. Condition 15, approved in conjunction with SP 83-V-007 states:

15. At such time as easements or rights-of-way adequate for the proposed use are available to provide direct access to the subject site from Old Colchester Road, or at the end of five (5) years, whichever occurs first, this application shall be reviewed by the Staff to include the Office of Transportation, and the BZA, to determine the location and design of a direct site access to Old Colchester Road.

Recently, members of the Fairfax Yacht Club requested that the Department of Planning and Zoning review their special permit to determine if they are still in compliance with this condition. Outlined below is a brief history of the application and staff's analysis. Included as Attachment 1 is the property location map and as Attachment 2 is a copy of the Resolution containing the approved development conditions and plat.

BACKGROUND

On May 3, 1983, the Board of Zoning Appeals (BZA) approved a request by the applicant, Fairfax Yacht Club, Inc., for the operation of a private, non-profit marina on 4.75 acres in the Mt. Vernon District. The marina is located along the northern shore of the Occoquan River, approximately 1000 feet south of Old Colchester Road. Surrounding properties are zoned R-E and are vacant or developed with single family detached dwellings. The application was approved for a clubhouse, a maximum of 175 boat slips, 255 members, 94 parking spaces and hours of operation from 6:00 a.m. to 12:00 midnight.

In the original staff report published with SP 83-V-007, two issues were identified. One of the issues involved an environmental concern and the other involved access to the site. The environmental analysis noted that clearing along the shoreline of the Occoquan River was proposed and could create an adverse environmental impact. As a result, the plat was amended to delete all clearing except that needed for the three walkways to the piers and minimal intrusions by the clubhouse and a deck.

Access to the site was proposed by constructing a 22 foot wide driveway within a 30 foot wide access easement across adjacent parcel 35 and within a platted and dedicated 50 foot right-of-way for Hyde Street extended. The Office of Transportation (now the Department of Transportation, DOT) expressed a desire for the provision of a more direct access to Old Colchester Road along an existing 30 foot outlet road. However, the applicant did not control the entire outlet road and therefore DOT did not object to the approval of the proposed access as long as the driveway was paved and a development condition (number 15) was included so that the issue could be revisited at a later date.

Based on the five year time limit as required by Condition 15, staff published a report on June 6, 1989, noting that DOT recommended continued use of the existing access due to its continual operation without significant problems, and the non-availability of access through the adjacent parcels. The BZA accepted staff's recommendation.

ANALYSIS

At the request of the applicant, staff has again reviewed the site based on the requirement outlined in Condition 15. A visit to the site by staff revealed that the applicant continues to comply with the conditions of the original approval. The clubhouse, decks, piers, parking areas and entrance driveway are in place as indicated on the approved plat. Since there have been no changes to the site or the surrounding properties, DOT recommends continued use of the existing access. The majority of the 30 foot outlet road has not been developed and remains fully wooded. To replace the existing driveway with a new driveway along the outlet road would require the removal of significant vegetation and either significant fill of a low area or a bridge.

CONCLUSION

Staff concludes that at this time there is no need for any other access to this site and asks that the Board of Zoning Appeals accept this recommendation.



SPECIAL PERMIT APPLICATION

Number: SP83-V-007

Acresage: 4.7506

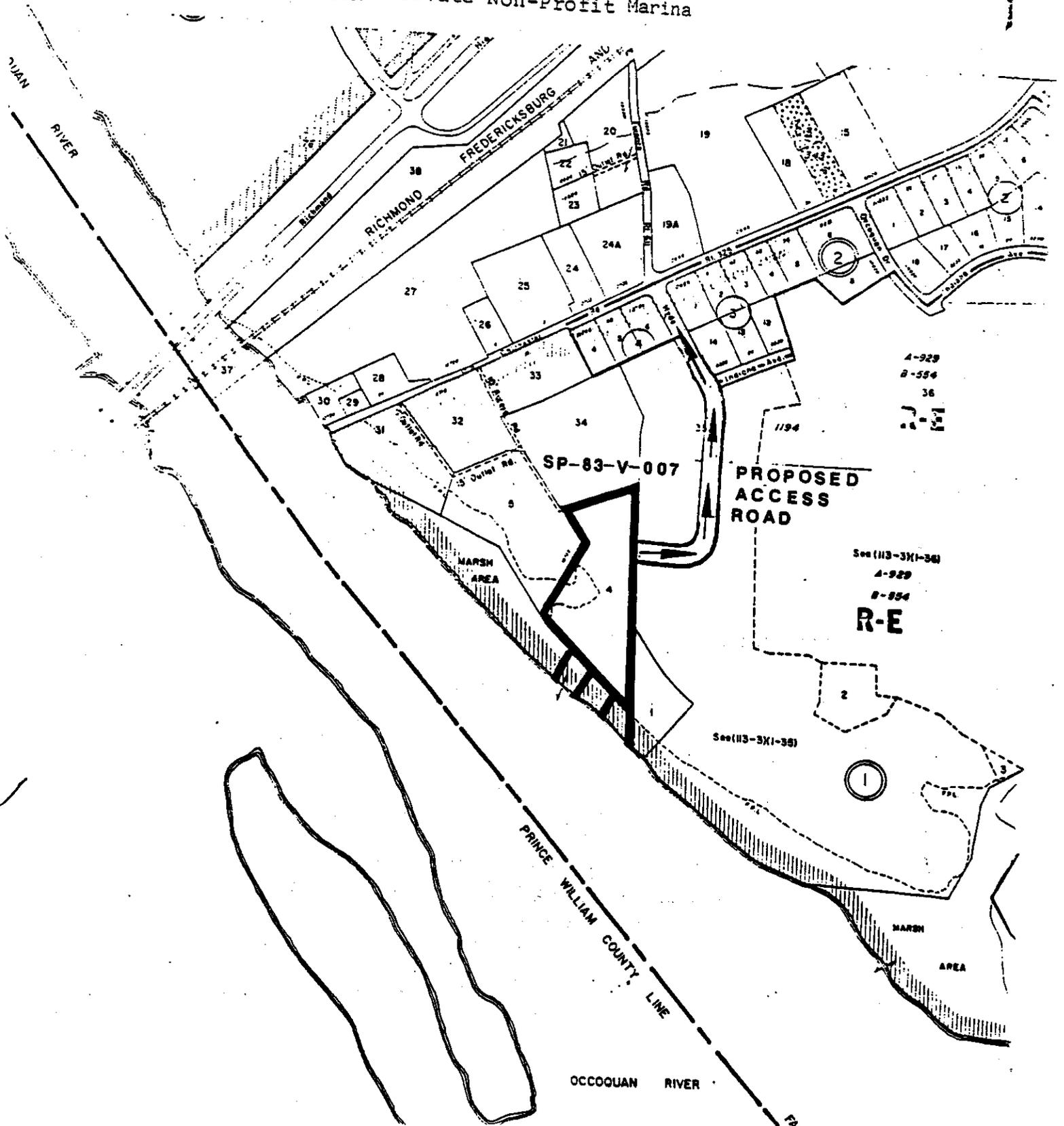
Existing Zoning: R-E

District: MT. VERNON

Subject Parcel: 117-1((1))14

Applicant: FAIRFAX YACHT CLUB, INC.

Proposed Use: Private Non-Profit Marina





County of Fairfax, Virginia

MEMORANDUM

DATE: January 14, 2010

TO: Regina Coyle, Director
Zoning Evaluation Division

FROM: Angela Kadar Rodeheaver, Chief
Site Analysis Section
Department of Transportation 

SUBJECT: Transportation Impact

FILE: 3-6 (SP 83-V-007)

REFERENCE: SPA 83-V-007; Fairfax Yacht Club
Traffic Zone: 1640
Land Identification: 117-1 ((2)) A1-20, B1-38, C1-39, D1-37

The following comments reflect the position of the Department of Transportation, and are based on the applicant's statement of justification provided by Mr. Harry D. Croft and the Special Permit Plat dated October 1, 2009. Because this review is based in part on the information submitted, expansion of the use in accordance with this information should be made a condition of any approval.

The applicant is seeking approval to reflect minor changes to the site and to the length of boat piers. There are on transportation issues associated with the application.

AKR/CAA

Michelle Brickner, Director, Office of Site Development Services, Department of Public Works and Environmental Services.



County of Fairfax, Virginia

MEMORANDUM

January 22, 2010

TO: Regina Coyle, Director
Zoning Evaluation Division, DPZ

FROM: Pamela G. Nee, Chief *PGN*
Environment and Development Review Branch, DPZ

SUBJECT: Environmental Assessment: SPA 83-V-007
Fairfax Yacht Club, Inc.

This memorandum has been prepared by Mary Ann Welton based on information provided on the Special Permit Plat Amendment, dated October 1, 2009. This special permit plat amendment seeks to provide a current and accurate record of the existing yacht club uses on the subject property. No new land disturbance is proposed as part of this special permit plat amendment. This application does not raise significant environmental concerns.

PGN: MAW



County of Fairfax, Virginia

MEMORANDUM

January 12, 2010

TO: Mary Ann Godfrey, Staff Coordinator
Zoning Evaluation Division, DPZ

FROM: Phyllis Wilson, Urban Forester III
Forest Conservation Branch, DPWES

SUBJECT: Fairfax Yacht Club Condominium, SPA 83-V-007

As proposed, the subject Special Permit application and plat are acceptable to the Urban Forest Management Division.

Due to the minor nature of the proposed changes to the exiting uses on the site, as noted on the plat dated October 13, 2009, no revisions to the use or Special Permit Plat are deemed necessary in regard to the current required tree and landscape requirements at this time.

PAW/
UFMID #: 148344

cc: RA File
DPZ File

Department of Public Works and Environmental Services
Land Development Services, Urban Forest Management Division
12055 Government Center Parkway, Suite 518
Fairfax, Virginia 22035-5503
Phone 703-324-1770, TTY: 703-324-1877, Fax: 703-803-7769
www.fairfaxcounty.gov/dpwes





County of Fairfax, Virginia

MEMORANDUM

DATE: December 23, 2009

TO: Mary Ann Godfrey, Staff Coordinator
Zoning Evaluation Division
Department of Planning and Zoning

FROM: Beth Forbes, Stormwater Engineer *BF*
Environmental and Site Review Division
Department of Public Works and Environmental Services

SUBJECT: Special Permit Amendment Application #SPA 83-V-007, Fairfax Yacht Club, Special Permit Plat dated October 1, 2009, LDS Project #5416-ZONA-001-1, Tax Map #117-1-02, Mount Vernon District

We have reviewed the subject application and offer the following stormwater management comments.

The applicant has not provided a Stormwater Information Sheet (LTI 06-06).

Chesapeake Bay Preservation Ordinance (CBPO)

There is Resource Protection Area (RPA) on this site. The county-mapped RPA limits must be shown on this plat. A site-specific RPA boundary delineation will be required before a minor site plan approval (LTI 08-12). A Water Quality Impact Assessment will be required for the replacement of the existing docks and any other disturbance within the RPA before minor site plan approval (CBPO 118-3-3(c)). A encroachment exception under CBPO 118-6-8 will be required should any proposed accessory structures create new impervious area within the RPA.

Water quality controls or an approved waiver are required for this redevelopment (PFM 6-0401.2B). No controls are shown on the plat nor does the applicant provide a statement indicating a waiver will be pursued (ZO 8-011 paragraph 2.J(2)(a)).

Floodplain

There are regulated floodplains on the property. The location of the proposed Used Oil Collection Tank is not depicted on the plat. This use will not be allowed in the floodplain (ZO 2-905, paragraph 6).

Downstream Drainage Complaints

There are no downstream drainage complaints on file.

Department of Public Works and Environmental Services
Land Development Services, Environmental and Site Review Division
12055 Government Center Parkway, Suite 525
Fairfax, Virginia 22035-4005
Phone 703-324-1720 • TTY 711 • FAX 703-324-8359



Mary Ann Godfrey, Staff Coordinator
Special Permit Amendment Application #SPA 83-V-007, Fairfax Yacht Club
December 23, 2009
Page 2 of 2

Stormwater Detention

Stormwater detention or an approved waiver will be required before minor site plan approval (PFM 6-0301.3). No detention facility is shown on the plat nor is there any statement indicating a waiver will be requested (ZO 8-011 paragraph 2.J(2)(a)). The limits of disturbance and the location of the construction access to the docks has not been provided (ZO 8-011 paragraph 2.M).

Site Outfall

A description of the outfall to 100 times the area of disturbance has not been provided (Paragraph 2.J(2)(c) of ZO 9-011).

Dam Breach

Most of this property is within the dam breach inundation zone for the Occoquan Water Supply Dams. The limits of the dam breach zone will be required to be depicted on the minor site plan (LTI 09-10).

Please contact me at 703-324-1720 if you require additional information.

BF/

cc: Craig Carinci, Director, Stormwater Planning Division
Jeremiah Stonefield, Chief, Stormwater & Geotechnical Section, ESRD, DPWES
Zoning Application File

Mary Ann



County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County

FEB 3 2010

Mr. Harry Croft
Commodore
Fairfax Yacht Club
10721 Old Colchester Road
Lorton, VA 22015

Subject: Fairfax Yacht Club, Special Permit Amendment Application #SPA 83-V-007,
Special Permit Plat dated October 1, 2009, Tax Map #117-1-02, Mount
Vernon District

Reference: Your Letter Received January 13, 2010

Dear Mr. Croft:

In response to your request, it has been determined that the proposed dock reconstruction in the floodplain qualifies as a permitted use under the Floodplain Regulation of the Fairfax County Zoning Ordinance (ZO), Section 2-903, Paragraph 4, subject to the following conditions:

1. No more land within the floodplain shall be disturbed than is necessary for the proposed reconstruction (ZO Section 2-905.7B).
2. The reconstruction shall be in conformance with the Virginia Uniform Statewide Building code (ZO Section 2-905.8)
3. No additional fill to be placed within the floodplain (ZO Section 2-903.9).

Department of Public Works and Environmental Services
Land Development Services, Environmental and Site Review Division
12055 Government Center Parkway, Suite 535
Fairfax, Virginia 22035-5503
Phone 703-324-1720 • TTY 711 • FAX 703-324-8359



Mr. Harry Croft

Special Permit Amendment Application #SPA 83-V-007

Page 2 of 3

4. To the extent possible, stable vegetation shall be protected and maintained in the floodplain (ZO Section 2-905.5).
5. There shall be no storage of herbicides, pesticides, or toxic or hazardous substances as set forth in Title 40, Code of Federal Regulations, Parts 116.4 and 261.30 et. seq., in the floodplain (ZO Section 2-905.6).
6. The construction is proposed within the Occoquan floodplain and is designated by the Federal Emergency Management Agency (FEMA) as a Special Flood Hazard Area (SFHA). The base flood elevation (BFE) shall not be altered without prior approval from FEMA (ZO Section 20-300).
7. A hold-harmless agreement (copy enclosed) holding Fairfax County harmless from all adverse effects which may arise as a result of the reestablishment of the proposed use within the floodplain must be executed and recorded among the land records of Fairfax County prior to the approval of a minor site plan (Public Facilities Manual 6-705.4). It should be noted that this reconstruction is located within the dam breach inundation zone for the Occoquan Water Supply Dams and water levels above the BFE are possible in the event of a dam breach.
8. The reconstruction and all activities associated with the use shall comply with the provisions of the Chesapeake Bay Preservation Ordinance (ZO Section 2-905.11).

This determination is valid as of the date of this letter and does not relieve you of the responsibility to comply with any federal or state regulation, the Zoning Ordinance or other County regulation currently in effect or which the Board of Supervisors may adopt at a future date.

Mr. Harry Croft
Special Permit Amendment Application #SPA 83-V-007
Page 3 of 3

Please ensure a copy of this letter is made part of the minor site plan.

If further assistance is desired, please contact Beth Forbes, Stormwater Engineer, Stormwater and Geotechnical Section, Environmental and Site Review Division (ESRD) at 703-324-1720 or Beth.Forbes@FairfaxCounty.gov.

Sincerely,



Jeremiah Stonefield, Chief
Stormwater and Geotechnical Section
ESRD

JBS/tg

cc: Craig Carinci, Director, Stormwater Planning Division, DPWES
Debra McMahon, Complaint Coordinator II, Permits, LDS, DPWES
Gursharan Sidhu, Chief Site Review Engineer, ESRD East, DPWES
Beth Forbes, Stormwater Engineer, Stormwater and Geotechnical Section, ESRD,
DPWES
Location File
Zoning Action File

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.

8-903 Standards for All Group 9 Uses

In addition to the general standards set forth in Sect. 006 above, all Group 9 special permit uses shall satisfy the following standards:

1. All uses shall comply with the lot size and bulk regulations of the zoning district in which located, except as may be qualified below.
2. All uses shall comply with the performance standards specified for the zoning district in which located.
3. Before establishment, all uses, including modifications or alterations to existing uses, shall be subject to the provisions of Article 17, Site Plans, or other appropriate submission as determined by the Director.

