



MONTGOMERY COUNTY PLANNING DEPARTMENT
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB
Item #
4/28/11

MEMORANDUM - REVISED

DATE: ~~April 18, 2011~~ - April 20, 2011

TO: Montgomery County Planning Board

VIA: Glenn Kreger, Acting Chief, Area 2 Planning Division
Shahriar Etemadi, Planner Supervisor, I-270 Corridor Team
Area 2 Planning Division

FROM: Carlton W. Gilbert, Planner Coordinator (301) 495-4576
I-270 Corridor Team, Area 2 Planning Division

SUBJECT: **Special Exception Modification No. CBA-1383-A: Tilden Woods Recreation Assoc., Inc.**, applicant requests a major modification to an existing community swimming pool; R-90 Zone; located at 6806 Tilden Lane, Rockville, MD

MASTER PLAN: 1992 Approved and Adopted North Bethesda-Garrett Park Master Plan

FILING DATE: December 30, 2010
PUBLIC HEARING: May 6, 2011

Staff recommends that the special exception modification request be Granted in part and Denied in part:

1. Deny the request to allow the applicant to host an Annual 5K Run Special Event on the site.

Staff recommends Approval of the special exception major modification request, subject to the following conditions:

1. The applicant is bound by all of its evidence, testimony and exhibits of record.
2. All terms and conditions of the approved special exception shall remain in full force and effect, except as specifically modified by this modification request.
3. The membership of the community swimming pool is limited to 350 families and a maximum of 12 employees on the site at any one time.
4. The community swim club operating season must begin the weekend of May (Memorial Day weekend) and end after the first weekend in September (Labor Day weekend).

5. Hours of Operation are limited to:
 - a. Sunday – 11:00 a.m. to 9:00 p.m. and 9:00 a.m. to 9:00 p.m. Monday-Saturday. Six late nights of operation are permitted until 11:00 p.m.
 - b. Early Morning Lap Swim for members of the pool only, Monday through Friday 7:00 a.m. to 8:00 a.m., and must be restricted to no more than 25 members.
 - c. Swim Team Weekday practice must begin no earlier than 8:30 a.m.
6. Swim Meets Hosted at Swim Club are limited to:
 - a. The maximum number of swim meets conducted at the site during the swim meet season must be limited to a maximum of nine (9). A maximum of five meets (5) must occur on Saturdays, starting at 9:00 a.m. and ending no later than 1:00 p.m. and a maximum of four (4) must occur on weekday evenings, starting at 5:30 p.m. and ending no later than 9:00 p.m.
 - b. Warm-up for swimmers during Swim Meet season must begin no earlier than 7:30 a.m. on Saturdays.
 - c. The swim club may host a Time Meet on one (1) Saturday per the meet season within the approved hours of operation and a Mini-Meet on a weekday that starts at 5:30 p.m. and ends no later than 8:00 p.m.
 - d. The swim club may host the Annual Lock-in Event to be held in late July to no later than 11:00 p.m.
7. The organized and neighborhood events may be allowed to continue in accordance with the limitations as specified in the amended Statement of Operations. The total number of organized events must not exceed ten (10) during the operation season and must avoid overlap with any swim meets.
8. No more than two (2) organized group activities, including swim team activities or social events, shall take place between Labor Day and the end of October.
9. The applicant must implement the traffic management program described in the Transportation Management Plan (TMP), as submitted to comply with the conditions set forth herein.
10. All operations must conform to the requirements of the Montgomery County Noise Control Ordinance (Chapter 31B of the County Code). Specifically, noise levels cannot exceed 65 dBA at the property line during daytime hours, and cannot exceed 55 dBA at the property line during nighttime hours. Daytime is defined as the hours between 7:00 a.m. to 9:00 p.m. weekdays and between 9:00 a.m. and 9:00 p.m. on weekends and holidays; nighttime is between 9:00 p.m. to 7:00 a.m. weekdays and between 9:00 p.m. and 9:00 a.m. weekends and holidays.
11. There must be no amplified noise permitted before 9:00 a.m. or after 9:00 p.m. on the pool property except that the use of a standard swim meet starting system with a "buzzer" or "tone" in compliance with the Montgomery County Noise Ordinance is permitted to regulate swim meets.

12. The use of non-amplified acoustic instruments to play only the National Anthem at the start of a swim meet may be allowed.
13. All lighting must be located, shielded and maintained so that no direct light or glare or reflection intrudes into adjacent and nearby residential properties. All internal and external lights must be turned off within 30 minutes of closing.
14. The applicant must revise the landscape plan and submit to the Hearing Examiner at the time of the public hearing. The revised landscape plan shall incorporate the following:
 - a. All existing and proposed fences with identified type and height.
 - b. Show and label the proposed location of the three (3) evergreens in replacement of a dead tree adjacent to Stonewood Terrace cul-de-sac.
 - c. Planting of two evergreens in the southwest corner of the property in order to supplement landscaping in that area.
15. The applicant must create a Community Liaison Council (CLC) to discuss and address operating impacts and other issues of concern to the applicant and/or the community. The CLC shall consist of the applicant, the applicant's representative and representatives from any civic association or homeowner association with the defined neighborhood wishing to participate. Meetings must be held at least twice a year, and minutes must be kept by the applicant and filed with the Board of Appeals (BOA) annually.

SUMMARY OF APPLICATION

Site Size and Location:	The property's address is 6806 Tilden Lane, Rockville, Maryland. The site is 1.92 acres and is generally bounded by Tilden Lane to the north, Old Georgetown Road to the east, Tilden Woods Park to the south, and Stonewood Lane to the west. The area surrounding the subject site contains single-family residential homes.
Zone and Use:	The site is zoned R-90 and a community swimming pool (Tilden Woods) is currently operating under a special exception that was granted in 1963 (Case No. 2684 CBA-1383). In terms of operation, the original approval permitted a maximum membership of 350 families and the following hours of operation: 9:00 a.m. to 9:00 p.m., Monday through Saturday; 11:00 a.m. to 9:00 p.m., Sunday. Six (6) late nights of operation until 11:00 p.m. are permitted.
Proposed Use:	The applicant is seeking approval of several modifications to the existing special exception for the community swimming pool to reflect a variety of changes to the operational conditions and existing

improvements on the site. The applicant is not requesting an increase in its membership enrollment limit established under the existing special exception. The original approval permits a maximum membership of 350 families.

Master Plan Consistency: The project is consistent with the goals and objectives of the 1992 Bethesda/Garrett Park Master Plan.

Traffic Impact: A Transportation Management Plan (TMP) has been submitted and approved for implementation by staff to limit the potential impact of swim club events on adjacent public streets and on-site parking. The project will not have any substantial impact on traffic in the area.

Further Action on Application: The proposal will require approval by the Board of Appeals.

Project Summary

The applicant, Tilden Woods Recreation Association, is requesting a major modification to the approved special exception for the community swimming pool located at 6806 Tilden Lane. Generally, the applicant is seeking to modify the special exception to allow for (1) additional hours of operation, including but not limited to, early morning lap swim, swim team practice and warm-ups; swim team meets and annual swim team lock-in; (2) amplification devices and speaker systems for swim meets (3) parking; (4) number of employees, (5) landscape and lighting, (6) maintain existing physical improvements to the site, and (7) Annual 5K Run on site. The applicant is not requesting an increase in the 350 family membership enrollment limit established under the existing special exception.

The Tilden Woods Recreation Association, Inc. is a Maryland non-profit corporation organized to own and operate a community swimming pool. The subject property is known as Parcel "B", Block 14, of the Tilden Woods Subdivision, located at 6806 Tilden Lane, Rockville, Maryland and consists of approximately 1.92 acres of land in the R-90 Zone. The subject swimming pool is located on the south side of Tilden Lane between Stonewood Lane and Cushman Road. M-NCPPC's local park, Tilden Woods Stream Valley Park, is located on the east and south sides of the subject property. Vehicular access to the site's parking area is from Tilden Lane.

The Association originally purchased the subject property in 1962 and obtained approval of a special exception for a community swimming pool from the Board of Appeals in March of 1963, in Case No. CBA-1383-A. According to the applicant, the association seeks to improve and further enhance its ability to serve and be an asset to the surrounding community. Each active family membership (i.e., adult family, young family, single parent family or couple membership) is equivalent to one (1) family membership. Each active single membership (i.e., one individual) is equivalent to one-half (1/2) a family membership. Inactive memberships will not be included.

With the recommended conditions, the proposed modifications to the community swimming pool satisfy all applicable special exception requirements and regulations as specified in the Montgomery County Zoning Ordinance. The applicant, in this case, has met the burden of proof by demonstrating that the proposed modifications would be operated without any detriment to the neighborhood and would not be adverse to the public interest. The proposed use is consistent with the recommendations of the 1992 Bethesda/Garrett Park Master Plan.

Neighborhood Description

The subject property is located with the neighborhood that is generally bounded by the Washington Science Center to the north, Old Georgetown Road to the east, Tilden Woods Local Park to the south and Hounds Way to the west. The area to the south and east surrounding the property is the County-owned parkland that includes a softball field, tennis courts, basketball court, and a parking lot. The properties to the north and west of the community swimming pool and along Tilden Lane and Stonewood Terrace are in the R-90 zone and contain single-family detached houses.

Zoning History

The Tilden Woods Recreation Center is currently operating under a special exception that was originally granted in 1963. At that time, the Board of Appeals (BOA) granted a community swimming pool with 350 family memberships, and imposed three conditions:

1. Fencing and screening of the north and west boundaries shall comply with the submitted site plan.
2. Instead of the five-foot high chain link fence proposed on the south and east, the association shall provide a five-foot high wooden fence along the eastern and southern boundary lines setback at least three feet from the property. The three-foot planting strip between the property line and the fence shall be planted with evergreen shrubs or trees so as to adequately screen the pool from view.
3. The hours of operation shall be from 9:00 a.m. to 9:00 p.m., six days a week, and from 11:00 a.m. to 9:00 p.m. on Sunday. There may be six late nights of operation no later than 11:00 p.m.

The applicant was cited with multiple violations by DPS on June 29, 2009 for implementing changes without approval of a modification to the existing special exception. The violations included incorrect fencing, early Sunday operations, nonconformance with the site plan regarding unapproved structures and parking configuration, unapproved metal storage container, and failure to maintain landscaping. In December 2009, the applicant requested administrative modification of the special exception to approve the changes to the operational and physical conditions of the site. The administrative modification request was opposed by neighbors in the community. The Hearing Examiner concluded that the requested modifications cannot be approved under an administrative request, and that the Board must hold a public hearing to ensure that the special exception is brought into compliance with the lighting and operational standards to avoid undue impact upon the neighbors.

ELEMENTS OF PROPOSAL

The applicant, Tilden Woods Recreation Association, Inc. is requesting a major modification to an approved special exception for a community swimming pool in order to validate and/or allow the specified modifications and special events/activities to occur on the site. As previously noted, the original special exception was granted in 1963. Since that time, however, operations have evolved and staff finds that the Board of Appeals original grant did not cover all aspects of the community swimming pool operations. Accordingly, the applicant provided a revised detailed statement of operations outlining the evolutionary changes. (See attached Statement of Operations dated April 7, 2010.) Staff supports some of the operational changes with the conditions outlined at the beginning of the staff report.

The applicant proposed an operating season to begin no earlier than May 1 and end no later than October 31. Staff recommends that the operating season begin the weekend of May (Memorial Day weekend) and end after the first weekend in September (Labor Day weekend). Staff believes that the "Summer Swim Season" commonly occurs during this time.

Staff does not support early morning lap swim to begin at 6:30 a.m., and warm-ups prior to various swim meets to begin as early as 6:15 a.m., as proposed. Staff supports early morning swim for members to begin at 7:00 a.m. during weekdays and no earlier than 7:30 a.m. for Saturday morning warm-ups prior to swim meets. Staff supports the proposed one day Time Trial Meet and one day Mini-Meet as discussed in the attached Statement of Operations, except that warm-ups may not begin until 7:30 a.m. Staff does not support a Divisional Meet hosted by the swim club.

In terms of special events, the applicant proposes an Annual Lock-In event that is organized by members of the Tilden Woods Swim Team and is held at the end of each season. According to the applicant, the attendance level of this event has averaged between 125-150 members, including adult chaperones. The current approval permits this event as one of the six late nights of operation to no later than 11:00 p.m. The swim club, however, is requesting to conduct the Annual Lock-In as an overnight event which would require extending the closing hour for the swim club on one Saturday evening from 11:00 p.m. to 6:30 a.m. on the following day. Staff does not support this modification request due to the potential increase in noise overnight and into the early morning hours.

Additionally, staff does not support the community swimming pool hosting a 5K Run at the site. It is not clear how the proposed 5K Run has any relationship to the existing and expected activities of a community swimming pool. Furthermore, the applicant has indicated that the race will not be held at the swim club during the 2011 swim season. Staff also understands that a race through the neighborhood must begin with an application to the County's Department of Transportation (DOT) for a permit and approval. Therefore, staff believes that the applicant should consult with appropriate County agencies about the possibility of hosting such an event rather than link the event to the existing special exception.

In developing the statement of operations, the applicant seeks to improve and further enhance its ability to serve and be an asset to the surrounding community. By detailing its operational parameters and establishing a Neighborhood Liaison Committee as other similar community swimming pool organizations in Montgomery County have done in recent years, it is the applicant's intent to foster and facilitate more open lines of communication with its neighbors and to provide a structured and accessible means of addressing concerns and/or issues that may arise with regard to the Association's operations from time to time.

With regard to physical improvements of the community swimming pool, a permit application to alter the site was approved by DPS in 1968 to construct a small addition to the existing bathhouse as well as add the two (2) wooden shade structures currently located on the south side of the site. At that time, permits for the 1968 alterations were issued and the applicant did not seek modification of the special exception. No further changes to the physical improvements of the site have occurred since the 1968 alterations.

Additionally, the 1963 BOA approval required wooden fencing along the boundaries of the site instead of the chain link fence that currently exists. The applicant is requesting that the existing chain link fence along the western, southern, and eastern boundaries of the property be allowed to remain. Staff believes that removal of the chain link fence would result in removal of mature vegetation that currently exists along the chain link fence. The mature vegetation serves as an effective screen of pool facilities. Additionally, there is a significant number of mature trees along the east side of the property that mitigates the need for a wooden fence.

ANALYSIS

Master Plan

The proposed special exception modification for a community swimming pool is consistent with the Approved and Adopted (1992) *North Bethesda-Garrett Park Master Plan*. A community swimming pool is a special exception use in the R-90 zone. There are no specific master plan recommendations for the subject property at 6806 Tilden Lane. Private recreation facilities are not addressed in the Master Plan. The Master Plan states that community facilities, such as parks and open space and libraries, "help create and reinforce a sense of social cohesion-a sense of community" (p. 227).

The Master Plan established several guidelines for special exceptions, including the following:

1. Avoid excessive concentration of special exception and other nonresidential land uses along major highway corridors.
2. Avoid over-concentration of commercial service or office-type special exception uses in residential communities.
3. Protect major highway corridors and residential communities from incompatible design of special exception uses.

"In the design and review of special exceptions, the following guidelines should be followed, in addition to those stated for special exception uses in the Zoning Ordinance. Any modification or addition to an existing building to accommodate a special exception should be compatible with the architecture of the adjoining neighborhood and should not be significantly larger than nearby structures. Front yard parking should be avoided because of its commercial appearance; however, in situations where side or rear parking is not available, front yard parking should be allowed only if it can be comprehensively landscaped and screened (p.38)."

There are no additions to the building so compatibility with surrounding residential properties will be retained. And, there are few existing special exceptions in the surrounding area; therefore, concentration of special exceptions will not occur.

Staff believes that the proposed modifications are compatible with surrounding uses and consistent with the recommendations of the Bethesda/Garrett Park Master Plan.

Transportation

Area 2 transportation planning staff recommends approval of this special exception modification request petition as it meets all the transportation-related requirements for granting its approval with the following conditions:

1. The Petitioner must limit the membership to previously-approved maximum of 350 members.
2. The Petitioner must implement their proposed transportation management plan during any event generating vehicular trips that results in overflowing the on-site parking supply.

Staff finds that the proposed modification request satisfies the Local Area Transportation Review (LATR) and Policy Area Mobility Review (PAMR) tests with the conditions above and would not adversely impact the area roadway conditions and nearby pedestrian facilities.

The existing on-site parking area has 64 parking spaces that exceed the minimum required number of 62 spaces (i.e., one space for every seven bathers). The available number of parking spaces is adequate for the community swimming pool on the typical summer day. Many of the recreation association members can walk to the community swimming pool located near their residence. The existing vehicular parking will not be altered by the proposed amendment for non-special events.

For proposed events, a Transportation Management Plan (TMP) is proposed to prevent site-generated traffic from adversely impacting the adjacent residential street. The proposed plan generally includes the following:

1. Communication with visiting swim teams and other anticipated participants prior to meets and provide notice of the parking management measures to control overflow parking.
2. Parking management by using parking attendants that would prevent vehicles blocking driveways or illegally parking on Tilden Lane and coordinate efficient vehicle queuing for on-site pick-up/drop-off.
3. Address overflow parking impacts by applying for permit parking at the adjacent M-NCPPC's Tilden Woods Local Park to reduce permitted on-street parking as much as possible.

Pedestrian Facilities

Four-foot wide sidewalks exist on both sides of Tilden Lane.

Master-Planned Roadway

Tilden Lane is designated as a primary residential street, P-7, with a Class III bikeway (i.e., a signed shared roadway) in the *North Bethesda-Garrett Park Master Plan*. Bike lanes (for on-street biking), BL-24, are designated along Tilden Lane between Hounds Way and Nicholson Lane in the *Countywide Bikeways Functional Master Plan*. The existing right-of-way for Tilden Lane is 70 feet as required for primary residential streets.

Available Transit Service

Transit service is not available on Tilden Lane. The nearest transit service is available along Montrose Road and Old Georgetown Road.

Local Area Transportation Review

The applicant's proposed modification to the operation of the community recreation association will not increase the site-generated peak-hour trips as the total maximum number of members would remain at 350. The hours of operation are proposed to be changed to open earlier for weekday morning swim team practices, later on Wednesday night for special events, and earlier on Saturday mornings for special events. Only the earlier weekday morning peak hours are within the weekday morning peak period (6:30 to 9:30 a.m.), while the weekday evening peak period (4:00 to 7:00 p.m.) should not be impacted.

Policy Area Mobility Review

The Petitioner does not have to mitigate 30% of their new site-generated vehicular trips to satisfy Policy Area Mobility Review because the proposed modification would result in generating no new weekday peak period trips.

The applicant submitted a TMP as a part of the subject special exception application to promote safe and efficient transportation operations on the swimming pool site and adjacent public streets. The TMP includes transportation management elements to manage the flow of traffic during swim meets and special events, ensure that queuing and circulation of vehicles on campus is conducted in an organized and efficient manner that supports the community swimming pool's operations.

Staff has reviewed the TMP and finds that the proposed traffic management elements are reasonable to handle the projected traffic associated with operation of the community swimming pool during the specified swim operating season in a safe and efficient manner.

Environment

A Forest Conservation Plan (FCP) exemption has been granted. The exemption (#42011092E) was issued by the Environmental Planning staff on December 22, 2010.

With regard to noise, staff notes that all operations must conform to the requirements of the Montgomery County Noise Control Ordinance (Chapter 31B of the County Code). Specifically, noise levels cannot exceed 65 dBA at the property line during daytime hours, and cannot exceed 55 dBA at the property line during nighttime hours. Daytime is defined as the hours between 7:00 a.m. and 9:00 p.m. weekdays and between 9:00 a.m. and 9:00 p.m. on weekends and holidays; nighttime is between 9:00 p.m. and 7:00 a.m. weekdays and between 9:00 p.m. and 9:00 a.m. weekends and holidays.

In terms of limiting noise impacts on adjacent neighbors, the applicant must abide by the terms of the revised Statement of Operations dated April 7, 2011. In the memo to M-NCPPC Technical Staff that accompanied this application, the applicant requests "the ability to have CD player-type equipment on the site to play background music for certain organized events" as detailed in the revised Statement of Operations. It is staff's opinion that the term "background music" suggests a low level of amplification that would permit people to talk over it in normal conversational tone.

Community Concerns

The adjacent neighbors located at 6804 Stonewood Terrace have submitted letters of opposition to the special exception modification request. Additionally, an opposition letter was submitted by a neighbor who resides across the street of the subject property at 6807 Tilden Lane (see attached letters). Generally, the neighbors believe that the community swimming pool is operating outside the limitations set forth under the original intent of the special exception. Furthermore, the neighbors feel that the operational issues go further than just the expanded hours of operation of the community swimming pool that were implemented without prior Board of Appeals approval. They believe that noise, traffic and parking are issues that negatively impact the neighborhood as a result of the operational changes.

59-G-1.2.1 Standard for evaluation.

A special exception must not be granted absent the findings required by this 59-G-1. In making these findings, the Board of Appeals, Hearing Examiner, or District Council, as the case may be, must consider the inherent and non-inherent adverse effects of the use on nearby properties and the general neighborhood at the proposed location, irrespective of adverse effects the use might have if established elsewhere in the zone. Inherent adverse effects are the physical and operational characteristics necessarily associated with the particular use, regardless of its physical size or scale of operations.

Inherent adverse effects alone are not a sufficient basis for denial of a special exception. Non-inherent adverse effects are physical and operational characteristics not necessarily associated with the particular use, or adverse effects created by unusual characteristics of the site. Non-inherent adverse effects, alone or in conjunction with the inherent effects, are a sufficient basis to deny a special exception.

As established in previous special exception cases, general criteria are used to identify the physical and operational characteristics of a use. Those criteria are size, scale, scope, lighting, noise, traffic, and the environment. The inherent characteristics of a community swimming pool include: (1) early and long hours of operation; (2) traffic to and from the site by members, staff and visitors; (3) noise associated with the various activities on the site; (4) lighting and; (5) landscape and fencing.

In reviewing the application, staff finds that the inherent characteristics of size, scale and scope associated with a community swimming pool and associated activities have been mitigated through the applicable conditions of approval and not likely to result in any unacceptable noise, traffic disruption, or environmental impacts at the proposed location. Adequate parking is available for the employees and swim team events and activities under the existing special exception. There are no new buildings proposed for the property.

In reviewing the landscaping coverage around the property, staff notes that the foliage of trees and plants are beginning to fill in. Because the property is adjacent to public park property to the east and south, staff finds the level of landscaping screening to be adequate. At the northern boundary line behind the residential lots facing Tilden Woods, staff finds that the existing wooden fence and tall hedges provide adequate screening from the parking lot. At the western boundary line shared with single-family homes facing Stonewood Terrace, the planting along the chain linked fence provide a thicket that provides adequate screening. Within the coming weeks, it is expected that the visibility from the Stonewood Terrace property will be reduced further as more foliage appears.

However, staff does not support the community swimming pool hosting a 5K Run at the site. It is not clear how the proposed 5K Run has any relationship to the existing and expected activities of a community swimming pool. Furthermore, the applicant has indicated that the race will not be held at the swim club during the 2011 swim season. Staff also understands that a race through the neighborhood must begin with an application to the County's Department of Transportation (DOT) for a permit and approval. Therefore, staff believes that the applicant should consult with appropriate County agencies about the possibility of hosting such an event rather than link the event to the existing special exception.

59-G-1.23 General Development Standards

- (a) Development Standards. The special exception is subject to the development standards of the applicable zone where the special exception is located, except when the standard is specified in Section G-1.23 or in Section G-2.

Staff finds that the proposed modification would comply with all development standards as shown in the following table:

Development Standard Table

	<u>Required</u>	<u>Proposed/Existing</u>
Minimum lot area	9,000 sq. ft.	1.92 acres (approx. 84,635 s.f.)
Setbacks		
Front	30 feet	210 feet approx.
Side (1)	8 feet	111.3 feet
Sum of Both	25 feet	280 feet
Rear	30 feet	102.6 feet
Minimum lot width (59-C-1.322)		
at street line	25 feet	87 feet
at building line	75 feet	325 feet
Maximum building height	2½ stories or 35 feet	1-story
Parking Spaces		
1 space per 7 persons of pool capacity. Pool capacity = 428	62 spaces	64 spaces

- (b) **Parking Requirements.** Special exceptions are subject to all relevant requirements of Section 59-E.

The use is in compliance with the requirements of Section 59-E for parking requirements since the existing parking facilities were approved as part of the existing special exception and the number of parking spaces will not change under the modification to the special exception. The existing parking lot is proposed to be re-striped as shown on the attached special exception site plan. Section 59-E-3.7 requires one space for every seven bathers. As such, the required parking number is calculated by first determining the combined total pool capacity of the main swimming pool and tot pool located on site pursuant to COMAR 10.17.01.19 user load requirements. The Montgomery County Department of Health and Human Services has confirmed the user load of the Swim Club's existing pool surface areas to be 428 bathers. Therefore, in accordance with Section 59-E-3.7, the number of parking spaces required to be provided on site is 62 spaces (428÷7). The proposed site plan provides 64 spaces.

- (c) **Minimum Frontage.** *Not applicable*

- (d) **Forest Conservation.** If a special exception is subject to Chapter 22A, the Board must consider the preliminary forest conservation plan required by that Chapter when approving the special exception application and must not approve a special exception that conflicts with the preliminary forest conservation plan.

The subject site is not located within a special protection area or primary management area nor is subject to a tree save plan. An exemption from having a Forest Conservation Plan has been granted because the modification is to an existing special exception that was approved. The requested modification will not result in the clearing of forest. The attached exemption letter #42011092E was issued by the Environmental Planning Division on December 22, 2010. Therefore, it is not necessary for the Board to act on a forest conservation plan.

- (e) **Water quality plan.** *There is no approved preliminary water quality plan applicable to the site. The applicant's modification request includes no land disturbance activities.*
- (f) **Signs.** *The swim club has an existing sign at the front entrance gate. There is no proposal for new signage on the property as part of this modification request.*
- (g) **Building compatibility in residential zones.** *The scale and height of the existing buildings/structures are in harmony with the single-family homes in the neighborhood.*
- (h) **Lighting in residential zones.** All outdoor lighting must be located, shielded, landscaped, or otherwise buffered so that no direct light intrudes into adjacent residential properties.

The attached lighting plan, dated December 15, 2010, identifies all existing locations of light fixtures on the site. Fixtures are roof/wall mounted or located on poles that are either 12 feet or 15 feet in height. Those that were previously identified as being problematic in terms of glare issues by confronting neighbors are proposed for replacement with new shielded fixtures. The rest of the site lighting is controlled under the existing special exception. The photometric analysis provided in the applicant's submittal states that lighting levels at the property lines do not exceed the specified maximum of 0.1 foot candles.

Sec. 59-G-2.56. Swimming pool, community.

The provisions of subsection 59-G-1.21(a) do not apply to this section. In any zone, a community swimming pool may be allowed provided that such use of land will conform to the following minimum requirements:

- (a) The swimming pool, including the apron and any buildings, must not at any point be closer than 75 feet from the nearest property line nor closer than 125 feet from any existing single-family or two-family dwelling; provided, that where the lot upon which it is located abuts a railroad right-of-way, publicly owned land or land in a commercial or industrial zone such pool may be constructed not less than 25 feet at any point from such railroad right-of-way, publicly owned land or commercial or industrial zone. Any buildings erected on the site of any such pool must comply with the yard requirements of the zone in which the pool is located.

The proposed modification request does not include any new buildings on the site.

- (b) A public water supply must be available and must be used for the pool or use of a private supply of water for the pool will not have an adverse affect on the water supply of the community.

The water supply is not an issue as it was approved under the existing special exception.

- (c) When the lot on which any such pool is located abuts the rear or side lot line of, or is across the street from, any land in a residential zone, other than publicly owned land, a wall, fence or shrubbery must be erected or planted so as to substantially screen such pool from view from the nearest property of such land in a residential zone.

The landscape plan shows that significant mature vegetation exists around the property's perimeter. The applicant proposes to install three evergreens as shown on its Landscape Plan; replace a dead tree that is located adjacent to the Stonewood Terrace cul-de-sac, and plant two evergreens in the southwest corner of the property to supplement landscaping in that area.

- (d) The following additional requirements must also be met: Special conditions deemed necessary to safeguard the general community interest and welfare, such as provisions for off-street parking, additional fencing or planting or other landscaping, additional setback from property lines, location and arrangement of lighting, compliance with County noise standards and other reasonable requirements, including a showing of financial responsibility by the applicant, may be required by the Board as requisite to the grant of a special exception. Financial responsibility must not be construed to mean a showing of a 100 percent cash position at the time of application but is construed to mean at least 60 percent.

The applicant has revised the original submission relative to amplified music/sound to dramatically reduce any negative effects experienced by neighbors. No amplified music will be allowed during swim meets, and the speaker system will only be for announcing events or making other safety/emergency announcements. The applicant does request the ability to

have members of the swim team play the National Anthem prior to swim meets hosted at the site with non-amplified acoustic instruments. At no time and at no other occasion would non-amplified acoustic instruments be allowed on site to generally play music of any other type or for any other event. In addition, the applicant is requesting the ability to have a CD player type equipment on the site to play background music for certain organized events.

Additionally, a Transportation Management Plan (TMP) was submitted by the applicant in an effort to address traffic patterns which are discussed in the traffic report submitted with the special exception. The recommendations in the Traffic Management Plan (TMP) to modify on-site traffic flow and special event parking would be implemented under the special exception modification. The TMP implementation would improve internal circulation and minimize the impact on Tilden Lane. The swim meet-generated traffic volumes would not change as a result of the modification. There would be no adverse effect on the neighborhood due to the volume of traffic on neighborhood streets based on the traffic analysis.

CONCLUSION

Staff recommends approval of Special Exception modification CBA-1383-A, subject to the conditions found at the beginning of the technical staff report. The proposed modifications to the existing special exception would not have an adverse affect on the neighborhood, and would comply with the requirements of the Zoning Ordinance.

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Attachments:

1. Location Map
2. Zoning Map
3. Aerial View of Subject Site
4. Site Plan
5. Landscape Plan
6. On-Site Structure Photographs
7. Views from Stonewood Terrace Photographs
8. Notice of Hearing
9. Statement of Operations (April 7, 2011)
10. Transportation Management Plan (April 7, 2011)
11. Master Plan Memo
12. Transportation Planning Memo
13. Environmental Planning Memo
14. FCP Exemption Letter
15. Fence Height Justification Letter
16. DPS Opinion Letter for 5K Run
17. Letters from Opposition