

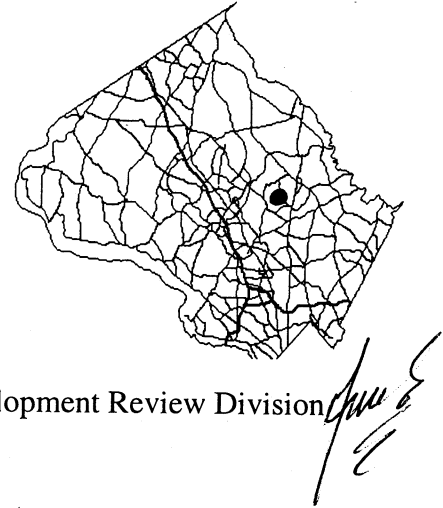


THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

Item # 9
03-13-03

MEMORANDUM

DATE: March 5, 2003
TO: Montgomery County Planning Board
VIA: Joseph R. Davis, Chief, Development Review Division
FROM: A. Malcolm Shaneman, Supervisor, Development Review Division



REVIEW TYPE: Waiver of Preliminary Plan and Record Plat
APPLYING FOR: Modifications to Private Country Club

PROJECT NAME: Norbeck Country Club
CASE NO. SRW-03004

REVIEW BASIS: Chapter 50, Section 50-38 Montgomery County Subdivision

ZONE: RE-1

LOCATION: West Side of Cashell Road between Bready Road and Cherry Valley Drive
Across from Hines Road

VICINITY: Olney

APPLICANT: Norbeck Country Club
ATTORNEY: Miller, Miller and Canby
SUBMITTED: January 31, 2003
HEARING DATE: March 13, 2003

STAFF RECOMMENDATION: Deny Waiver Request

PROJECT DESCRIPTION: Site

The subject property is located on the west side of Cashell Road between Bready Road and Cherry Valley Drive and directly across from Hines Road. The subject property is known as the Norbeck Country Club. The site is approximately 198 acres in size, identified on the tax maps as Parcel 400 and is currently zoned RE-1. Norbeck County Club originally opened in 1954 and is currently operating under Special Exception Case No. CBA-2427-C originally approved in December 1969. There have been amendments to the special exception case through the years with the most recent modifications occurring in 1993 and March 2000.

The club abuts existing residential development to the north and south and across Cashell Road. The North Branch of Rock Creek Park abuts the property to the west.

PROJECT DESCRIPTION: Proposal

The applicant is seeking Planning Board approval of a waiver of the requirements under Chapter 50 of the subdivision regulations to implement the most recent modifications to the special exception. Since these modifications require a building permit for new construction a permit cannot currently be issued on the subject property since it is not recorded by record plat. Pursuant to Section 50-20 of the Subdivision Regulations which states:

- (a) A building permit must not be approved for the construction of a dwelling or other structure, except structures of dwellings on a farm strictly for agricultural use, unless such structure is to be located on a lot or parcel of land, which is shown on a *plat recorded in the plat books of the county...*

The applicant is therefore requesting a waiver of the requirements under Chapter 50 so a record plat would not be required prior to the issuance of the building permit for the new construction.

In 1993, the Board of Appeals approved a modification to the special exception to expand membership and alter and expand the club house. Pursuant to the modification, the club expanded its membership to 600 families, but did not implement the other elements of the modification. In March 2000 the Board of appeals approved another modification to the special exception to allow expansion to the main facility and other site related improvements. The improvements include an addition to the clubhouse of 12,300 square feet bringing the total building size to 35,000. The additions to the club house include an exercise room and snack area, an expansion to the pro shop located in the club house, a new lobby area and pote cochere, meeting rooms and a ballroom, and an

expansion of the kitchen. Other improvements to the grounds include additional parking spaces and new golf cart storage building, which replaces the existing building.

DISCUSSION OF ISSUES

Conformance to Chapter 50-38

Pursuant to Section 50-38(a)(1) the applicant is requesting that the Planning Board consider a waiver of the preliminary plan and record plat requirements and release the building permit for the modifications as approved under the special exception.

In order to approve an application for waiver the Planning Board must find that practical difficulties or unusual circumstances exist that prevent full compliance with the requirements of the Chapter 50. Section 50-38 (a)(1), which states:

(a) Authority of Board

- (1) The Board may grant a waiver from the requirements of this Chapter upon a determination that practical difficulties or unusual circumstances exist that prevent full compliance with the requirements from being achieved, and that the waiver is: 1) the minimum necessary to provide relief from the requirements; 2) not inconsistent with the purposes and objectives of the General Plan; and 3) not adverse to the public interest.

The applicant states that the practical difficulty in this case hinges on the applicant's inability to obtain a building permit without recording a plat. The applicant also states "While it is not impossible to plat Norbeck Country Club property, it is certainly impractical." The applicant argues that the impracticality relates to the expense and hardship for the family oriented club.

In this case, the Board's authority to grant waivers under the provisions of Section 50-38 is limited to situations where practical difficulties or unusual circumstances exist that prevent full compliance with the requirements of subdivision regulations. Applicant's stated difficulties stem from the process, not the property, and do not prevent full compliance with the requirements of the regulations. Moreover, as set forth in the conclusion section below, the applicant has the option of submitting a preliminary plan application for a portion of the property limited to the area immediately surrounding the clubhouse and associated structures, including the area of the proposed improvements.

The minor subdivision process does not currently cover the present situation. Staff believes that it may be appropriate to amend the minor subdivision process to include similar situations. That course would be more appropriate than granting waivers that go beyond the intent and scope of the waiver provision.

CONCLUSION

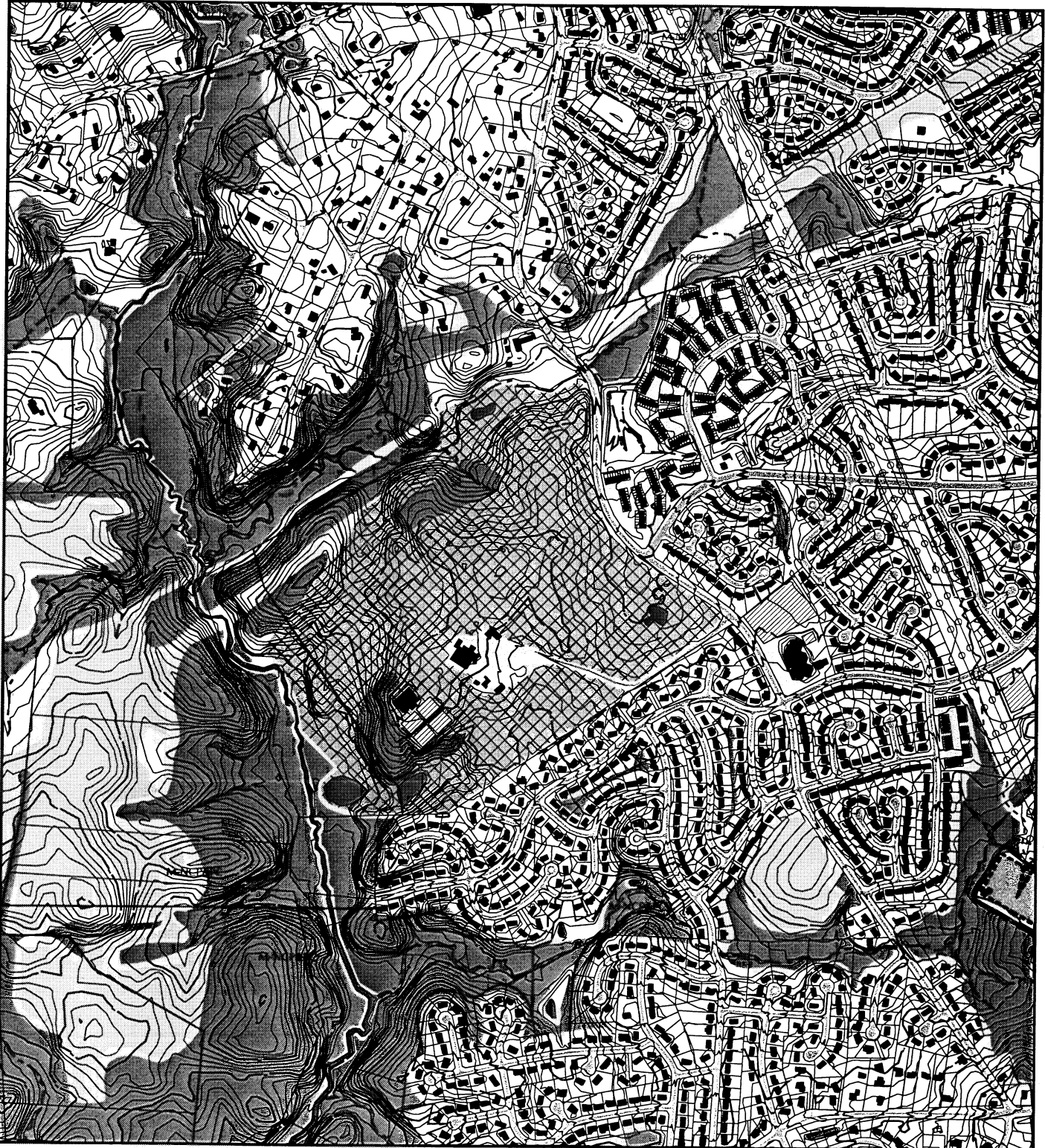
Staff has reviewed the applicant's request for waiver and recommends that the waiver not be granted. Staff is not convinced that the practical difficulties cited by the applicant would prevent full compliance under Chapter 50. The applicant could submit a preliminary plan for the entire 198 acres or may elect to submit a preliminary plan for a portion of the site that would encompass the building areas. It is conceivable that a smaller lot area and boundary survey could result in a less expensive undertaking. Staff is not aware of any issues that would prevent the property from obtaining preliminary plan approval. Staff recommends that the applicant submit a complete preliminary plan application, in whole or in part, for staff review and Planning Board action and record a record plat in the land records prior to issuance of a building permit for the modifications approved under the Special Exception.

Attachments

Vicinity Map	5
Norbeck Country Club Site Plan	6
Applicants Waiver Request	7 -

VICINITY MAP FOR

NORBECK COUNTRY CLUB (SRW-03004)



Map compiled on February 20, 2003 at 12:20 PM | Site located on base sheet no - 223NW04

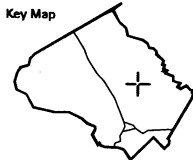
NOTICE

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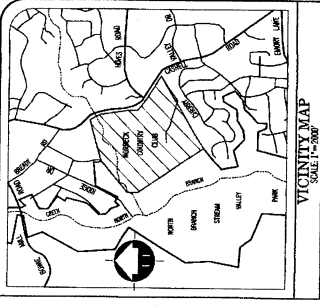
Property lines are compiled by adjusting the property lines to topography created from aerial photography and should not be interpreted as actual field surveys. Planimetric features were compiled from 1:14400 scale aerial photography using stereo photogrammetric methods.

This map is created from a variety of data sources, and may not reflect the most current conditions in any one location and may not be completely accurate or up to date. All map features are approximately within five feet of their true location. This map may not be the same as a map of the same area plotted at an earlier time as the data is continuously updated. Use of this map, other than for general planning purposes is not recommended. - Copyright 1998

Key Map



1 : 14400



SITE DATA

OWNER: RES-1
 LAND USE: 18 HOLE GOLF COURSE
 CROSS TRACT AREA: 198.68 ACRES
 SUBJECT TO SPECIAL EXCEPTION CD-2294

GENERAL NOTES

1. SHOWN ARE UNIMPROVED DATA AND THESE PERMITS ARE
 OBTAINABLE ONLY AS SHOWN. (FORMS: 22000, 22000 & 22000)

<p>PROPERTY LOCATION MAP NORBECK COUNTRY CLUB PARCEL NO. 1, SHEET NO. 1 FOR ELECTRIC SERVICE MONTGOMERY COUNTY, MARYLAND</p>		<p>1" = 200'</p> <p>1" = 1'</p>
<p>OWNER: NORBECK COUNTRY CLUB 1700 CASSELL ROAD ROCKVILLE, MARYLAND 20863</p>		<p>DATE: _____</p> <p>BY: _____</p>
<p>SITE SOLUTIONS, INC. 10000 GOLF COURSE ROAD, SUITE 100 GAITHERSBURG, MARYLAND 20878-3000 TEL: (301) 251-7000 FAX: (301) 251-7001</p>		<p>DATE: _____</p> <p>BY: _____</p>

9

LAW OFFICES

MILLER, MILLER & CANBY

HEARING DATE: MARCH 13, 2003

AGENDA ITEM #: _____

CHARTERED

200-B MONROE STREET
ROCKVILLE, MARYLAND 20850

(301) 762-5212
FAX (301) 762-6044

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MICHAEL G. CAMPBELL
SOO LEE-CHO**
W. CHRISTOPHER ANDREWS***
**Of Counsel*
***Admitted in Maryland and California*
****Admitted only in Tennessee*

March 7, 2003

Montgomery County Planning Board
Maryland-National Capital Park
and Planning Commission
8787 Georgia Avenue
Silver Spring, MD 20910-3760

Re: Subdivision Waiver Request
Application of Norbeck Country Club, Inc.

Dear Mr. Berlage and Members of the Planning Board

I am writing to you on behalf of Norbeck Country Club in support of its request that it not be required to plat its 198.68 acre property as a precondition to the issuance of building permits to improve the Club's facilities.

BACKGROUND

On April 5, 2000, the Montgomery County Board of Appeals approved (Special Exception Case No. CBA-2724-C) the petition of Norbeck Country Club to undertake the following improvements to the Club's facilities:

1. Expansion/renovation of the dining area/ballroom and kitchen.
2. Addition of an exercise room*.
3. Relocation of the existing pro shop to the main building*.
4. Construction of a golf cart barn.
5. Modification and enlargement of the parking lot.

* The Board of Appeals subsequently administratively modified its grant of special exception to allow the pro shop to be contained in an expansion of the indoor tennis building, rather than within the clubhouse, and approved a canopy connecting the new fitness center to the clubhouse.

Permit applications to implement the improvements described above have been submitted to the Montgomery County Department of Permitting Services. One or more of those permit applications have been forwarded, per normal building permit review practices, to the Development Review Division, Maryland-National Capital Park and Planning Commission, for review and for verification of the subdivision status of the Club's property. Norbeck's property holdings of 198.68 acres of land are unplatted. Therefore, the Development Review Division has withheld "signing off" on the building permit applications until the Club's property has gone through the preliminary plan and record plat

process. In response, Norbeck Country Club has filed a request asking that it be waived from having to plat its property.

The following points are presented as a basis for the Club's waiver request.

ARGUMENT

1. The Planning Board's Waiver granted in 1994 covers the current proposed Club improvements.

In January and February, 1993, Norbeck obtained Board of Appeals approvals (CBA-2724-A and CBA-2724-B) to make certain modifications to its physical facilities (e.g., building for golf course maintenance equipment, modification of driveway entrance, expansion of the clubhouse and addition of a porte cochere) as well as receiving approval to increase its membership from 425 to 600 families.

Condition No. 3 in both of the 1994 opinions of the Board of Appeals for Special Exception Nos. CBA-2724-A and CBA-2724-B stated:

- “3. Petitioner must obtain approval of a preliminary plan of subdivision by the Planning Board, if necessary. Relief from this requirement may be obtained by seeking a variation from the Planning Board.”

In satisfaction of Condition No. 3 above, Norbeck Country Club applied for and received a waiver of subdivision from the Planning Board by letter dated January 11, 1994 (attached). That letter specifically stated that the waiver was granted with the condition that:

“.... Any future proposals which will not result in an increase of membership may be approved by staff. Modifications which would result in an increase of membership will require further Planning Board review.”

As explained in the “BACKGROUND” explanation above, Norbeck's April, 2000 approval from the Board of Appeals (CBA-2427-C) did not increase the membership of the Club (which has not reached the 600 family level established by the Board of Appeals in February, 1994). The subdivision waiver granted in 1994 by the Planning Board was restricted in its authorization for new construction only in the event the Club sought to increase its membership above 600 families. Therefore, the subdivision waiver granted by the Planning Board on January 11, 1994 covers and allows the current proposed construction, and no new waiver review and approval is necessary.

As further support for this position, neither the Technical Staff recommendations, nor the Board of Appeals' decision in CBA-2724-C (April 5, 2000) dictated that platting, or a waiver of subdivision was required (as had appeared in the Board's previous decisions) as a pre-requisite to new construction. The clear message from the absence of any such direction in the April, 2000 Special Exception Modification is that the current

proposed improvements are covered by the Planning Board's waiver dated January 11, 1994, and Norbeck should not have been forced to file a new subdivision waiver request.

2. The subject waiver request is justified under the standards of Section 50-38(a)(1).

The Planning Board has regularly reviewed and granted requests for waivers for country clubs and golf courses under the provisions of Section 50-38(a)(1) of the Subdivision Regulations ("Hardship"). That section states:

"Where the land involved in a subdivision is of such size, shape or is subject to such title limitations of record or is affected by such topographical conditions that is impossible or impractical or would cause singular and unnecessary hardship to conform fully to this chapter, the Board may consider such variation from the provisions of this chapter as may be reasonably necessary to grant relief;..."

In this instance, Norbeck Country Club owns 198.68 acres of land (see tax plat map attached). Preparation of a boundary survey alone for a tract of this size is in the tens of thousands of dollars, to say nothing of the costs of a topographic survey, natural resources inventory/forest stand delineation, stormwater management concept plan and the myriad other engineering plans and studies required to be submitted as part of subdivision review process. While it is not impossible to plat the Norbeck Country Club property, it is certainly impractical. The total costs of the subdivision and platting process are a distinct hardship for a family-oriented club such as Norbeck and could probably only be funded through a special assessment which would be a not insignificant financial burden on its members.

Attached to this letter is a list of the golf courses and country clubs (31) situated in Montgomery County. The vast majority of these properties are unplatted, even the public-owned courses, after decades in existence and operation

The Board will note that in most instances where golf courses and country clubs are platted, these are new golf courses (e.g., Four Streams, Blue Marsh, Little Bennett) or are golf courses that exist in conjunction with coordinated surrounding residential development (e.g., Montgomery Country Club, Avenel, Hampshire Greens, Rossmoor). In all of these examples, the cost, timing and efficiency of the subdivision and platting process could be accounted for at the beginning of the development process rather than constitute an onerous charge imposed on family members after the club had been in existence for many years. Indeed, it would appear that Bretton Woods is the only platted golf course within the County that doesn't fit in one of these two major exceptions.

We have also attached a schedule prepared from the records of M-NCPPC showing (what we believe to be only a partial list) of waivers of subdivision previously granted to golf courses and country clubs in the County. From this schedule, the Board will note that it has frequently been presented with waiver requests for situations essentially identical to Norbeck's and the Planning Board has granted those requests. There is, therefore, adequate precedent for Norbeck's request for a waiver of a

subdivision. The Planning Board in the past has apparently recognized the hardship that platting of large tracts of land causes private organizations.

3. No public benefit would be achieved by platting the Club's property.

Norbeck's land use planner, Al Blumberg of Site Solutions, Inc., has already submitted a "Letter of Justification" (attached) in support of the Club's request for a waiver. Mr. Blumberg has pointed out in his Letter that all of the public benefits that accrue from the subdivision process have already been accomplished, including:

1. The establishment of known boundaries and corners (which is why subdivision regulations were promulgated in the first place) is already accomplished by virtue of the fact that properties to the north and south are already platted for residential purposes, the dedication of Cashell Road establishes the eastern boundary of the property and public land acquired by deed fixes the western boundary.
2. Cashell Road was dedicated to arterial road standards (70' ROW) in 1980 and a portion of the roadway alongside the Club's property is being considered in the Olney Master Plan amendment for reduction to primary standards (70' ROW).
3. As set forth in a Traffic Statement submitted in conjunction with Norbeck's waiver request, the applicant has explained how the proposed improvements will not add traffic to the local transportation network but will only provide additional amenities to Club members.
4. By virtue of the fact that the property is subject to a special exception, such issues as forest conservation and stormwater management have been addressed, the latter being the subject of a revised Stormwater Management Plan approved by Montgomery County as recently as February, 2003.

Unsaid by Mr. Blumberg in his letter is the fact that Norbeck Country Club has been a responsible steward of its 198.68 acres property, mostly open space, since its inception in 1954 and has demonstrated that its activities will not cause the problems that subdivision is intended to forestall.

4. Embarking now on the subdivision and platting of its property would cause an unnecessary hardship.

One of the building permits sought by Norbeck was intended for kitchen renovations scheduled to commence in January, 2003. The Club has reluctantly cancelled that work because delays due to non-issuance of the building permit would have pushed the work into the summer months which is unacceptable because food service during the bush summer months is essential to the Club's operations.

On the other hand, a construction loan to finance the proposed improvements package has been in place for some time. Contracts have been awarded for the exercise room and for renovation to the indoor tennis facility, work that can (and, in the case of

the indoor tennis building, should) occur in the summer. Delays attributable to proceeding through the subdivision process could (a) cause the Club to lose preferred contractors, and (b) cause contract prices to increase. Therefore, it is important that the Club's projects move forward to construction as quickly as is practicable in order to avoid further hardship.

Thank you for your consideration of this information. Members of Norbeck Country Club will be available to elaborate on these points at your public hearing scheduled for Thursday, March 13.

Sincerely yours,

MILLER, MILLER & CANBY

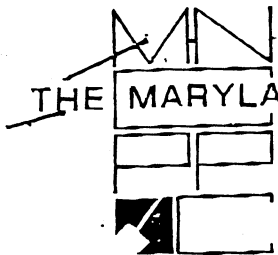
Jody KLINE

Jody S. Kline

JSK:dlt

Enclosures

cc: Malcolm Shaneman
Rich Weaver
Michele Rosenfeld, Esquire
Gene Korth
Jeff Abramson
Dr. Neil Stillman
Bob Rosenbaum, Esquire
Al Blumberg



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
8787 Georgia Avenue • Silver Spring, Maryland 20910-3760

January 11, 1994

Mr. Maury Epstein
General Manager
Norbeck Country Club
17200 Cashell Road
Rockville, Maryland 20853-1098

Re: Variation under Section 50-38
Subdivision Regulations

Dear Mr. Epstein:

This is to inform you that the Montgomery County Planning Board considered your request for a variation from the Subdivision Regulations for the Norbeck Country Club at its regularly scheduled meeting of December 9, 1993. At that time, the Planning Board granted the requested variation, subject to:

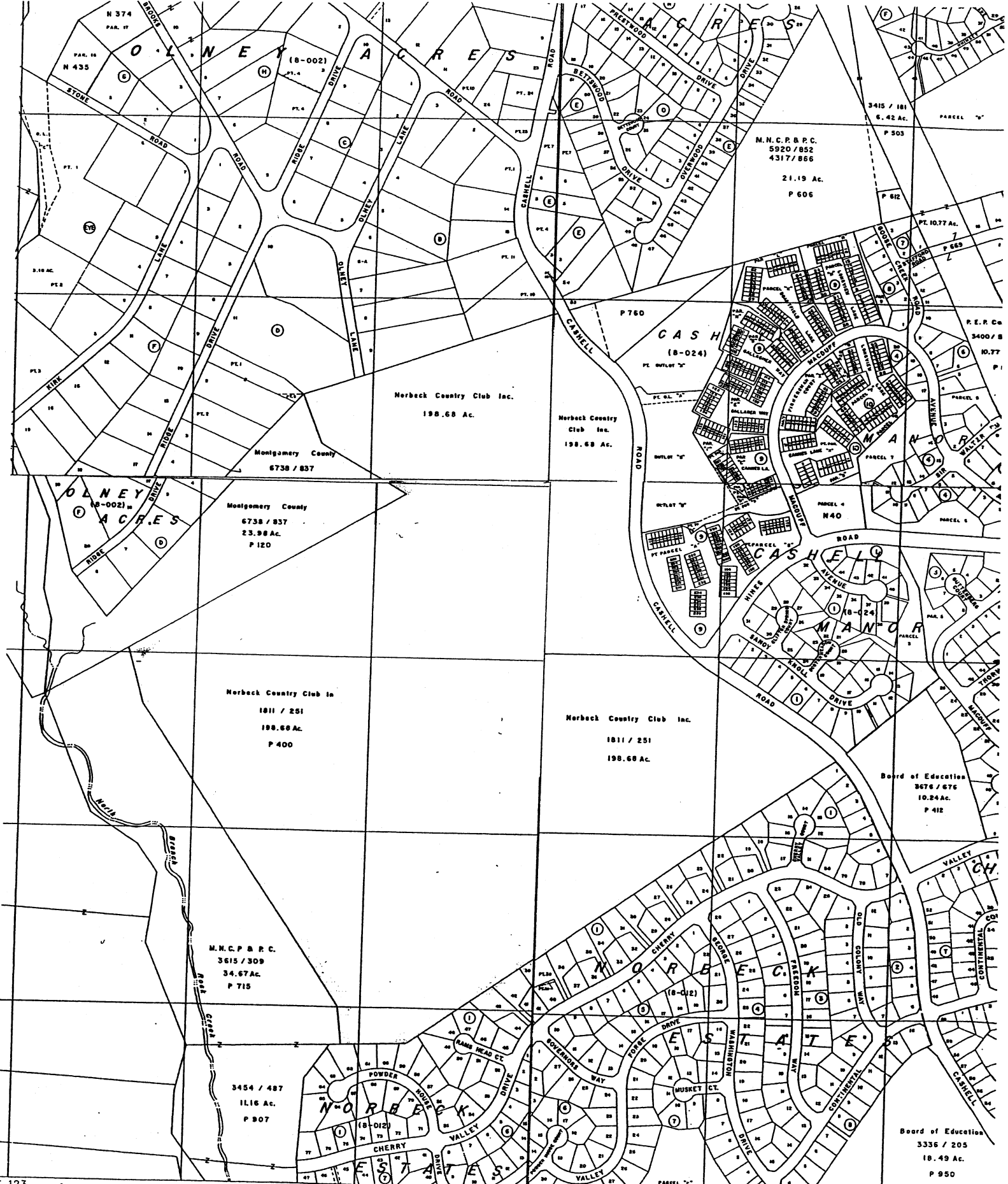
Agreement with Planning Board to limit use to accommodate the existing membership. Any future proposals which will not result in an increase of membership may be approved by staff. Modifications which would result in an increase of membership will require further Planning Board review.

Please give me a call at 495-4585 if you have any questions concerning this Board action.

Sincerely,

A. Malcolm Shaneman
A. Malcolm Shaneman
Development Review Division

AMS:sb

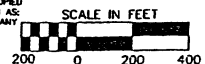


REPORT LINE
 MONTGOMERY COUNTY
 PLAT NO. 2
 DATE: 12/20/07 (REV. 5-24-00)

H 2
 MONTGOMERY CO.,
 MARYLAND

MAP HT
 W.S.S.C. 22
 LOCATION: NORBECK

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MARYLAND
 DEPARTMENT OF
 PLANNING
 REVISED 10/07

**MONTGOMERY COUNTY COUNTRY CLUBS AND GOLF COURSES
NOT PLATTED AS A SINGLE TRACT**

Private (12)

Argyle Country Club
Bethesda Country Club
Burning Tree Club
Chevy Chase Club
Columbia Country Club
Congressional Country Club
Indian Spring Country Club
Kenwood Country Club
Manor Country Club
Montgomery Village Golf Club
Trotter's Glen Golf Course
Woodmont Country Club

Public (8)

Falls Road Golf Course
Laytonsville Golf Course
Needwood Golf Course
Northwest Park Golf Course
Poolesville Golf Course
Redgate Golf Course
Sligo Park Golf Course
White Oak Golf Course

**MONTGOMERY COUNTY COUNTRY CLUBS AND GOLF COURSES
PLATTED**

Private (7)

Blue Mash Golf Course
Bretton Woods Golf Course
Four Streams Golf Course
Lakewood Country Club (City of Rockville)
Montgomery Country Club
Rossmoor (Leisure World)
TPC at Avenel

Public (3)

Gunpowder Golf Course
Hampshire Greens Golf Course
Little Bennett Golf Course

**MONTGOMERY COUNTY COUNTRY CLUBS AND GOLF COURSES FOR
WHICH SUBDIVISION WAIVERS HAVE BEEN GRANTED
1996 – PRESENT**

<u>Club</u>	<u>Waiver #</u>	<u>Date</u>	<u>Reason for Waiver</u>
Congressional Country Club	VAR 96-3	12/4/97	Club renovations
Columbia Country Club	VAR 96-17	3/21/96	Erection of small shed to screen pumping equipment
Manor Country Club	VAR 97-14	1/16/97	Renovations to existing clubhouse
Montgomery Village Golf Club	VAR 97-15	12/12/96	Enclosure and replacement of Clubhouse deck area
Montgomery Village Golf Club	SRW 98-3	7/29/99	Construction of single-family home for greenskeeper
Rossmoor (Leisure World)	SRW 98-4	5/7/98	Transfer of one acre from golf course to abutting apartment building site without the need to replat the golf course lot.
Bethesda Country Club	SRW 99-1	11/12/98	Modest extension to existing maintenance building
Congressional Country Club	SRW 00-14	9/14/00	Construction of residence for General Manager and expansion of existing tennis facility

NORBECK COUNTRY CLUB
SUBDIVISION REGULATION WAIVER REQUEST
LETTER OF JUSTIFICATION

The Norbeck Country Club located at 17200 Cashell Road in Olney hereby requests a waiver from the requirements of the Montgomery County Code, Chapter 50, titled Subdivision Regulations. Norbeck Country Club consists of approximately 200 acres and incorporates an 18-hole golf course, tennis courts and swimming pool, as well as a clubhouse, dining facilities and associated parking.

The Club is operating in accordance with a Special Exception originally granted in December 1969, and is zoned RE-1. As such it comprises a major Open Space element in the eastern Olney area. The club abuts existing residential development to the north and south as well as to the east, across Cashell Road. To the west, it abuts the North Branch of Rock Creek and its' M-NCPPC stream valley park. Thus, the property is virtually surrounded by established land uses and subdivisions. Cashell Road has a 70-foot right-of-way across the entire frontage of the Club. To the best of our knowledge, no further right-of-way is necessary for that roadway.

In compliance with the Special Exception approvals, the club recently submitted a building permit for several modest improvements to the Clubhouse. The permit has not been issued because the property is not platted. This request is being made because the proposed improvements should be concluded during the winter in order to minimize disruption to club members. (Golf, tennis and swimming activities obviously experience minimal usage during the winter.) Together all of the existing and proposed improvements comprise less than five percent (5%) imperviousness. In conjunction with the recently approved Special Exception modification (CBA-2724-C) the club has submitted and had approved a Stormwater Management Concept Plan to address water quantity and quality controls for the developed portion (impervious areas) of the site.

Based on all of the above, the Norbeck Country Club requests a waiver from the Subdivision and Record Plat requirements for the property. We believe that such a waiver will not be adverse to the public interest, is not inconsistent with the purposes or objectives of the Olney Master Plan or General Plan and is the minimum necessary to provide relief from the requirements. The club further

agrees to meet all of the standards and conditions associated with the Special Exception, including Forest Conservation and provision of Stormwater Management facilities for all new construction thus protecting the environment as would be required by the Subdivision regulations.

Therefore, the approval of a waiver from subdivision and platting requirements will have no meaningful impact or effect on the residents of Montgomery County.

January 28, 2003