

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850
www.montgomerycountymd.gov/boa/
(240) 777-6600

Case No. S-596

**PETITION OF EAST GATE RECREATION ASSOCIATION, INC.
[NEW HOLDER: TENNIS CENTRAL CORP]**

RESOLUTION TO TRANSFER SPECIAL EXCEPTION

(Resolution Adopted December 3, 2025)

(Effective Date of Resolution: December 17, 2025)

The Board of Appeals granted Case No. S-596 to the East Gate Recreation Association, Inc., to permit the construction and use of a community swimming pool, on February 15, 1978. Condition numbers six (6) and eight (8) of the Opinion granting the special exception were modified on July 19, 1978, and April 30, 1980, respectively. Effective April 27, 1983, the special exception was amended to allow the sale of frozen candy bars and ice cream, and canned soda. On April 24, 2018, the Board denied an administrative modification of this special exception to allow installation of a telecommunications tower on the subject property in conjunction with its denial of the underlying conditional use for the proposed telecommunications tower.

The subject property is Block J, Par C East Gate of Potomac Subdivision, located at 10200 Gainsborough Road, Potomac, Maryland in the R-200 Zone.

The Board of Appeals has received a letter with attachments, dated November 24, 2025, from Stacy Silber, Esquire, and Vince Biase, Esquire (collectively "Counsel"), on behalf of Tennis Central Corp ("Tennis Central"), requesting an administrative modification of this special exception "to permit the seasonal addition of a temporary tennis bubble to be located over the existing tennis courts." Counsel's letter states that the "bubble is proposed for seasonal winter use from October 30th to April 1st each year," and that the "hours of use of the tennis bubble would be from 8:00 A.M. to 10:00 P.M. daily."¹ Their letter notes that when the bubble is not in place, the hours would remain

¹ Counsel request in their letter that the "Tennis" portion of Condition No. 8 of this special exception approval, which currently reads "Tennis: Year-round, weather permitting, from 8 a.m. until dark." be amended to read as follows:

8. Hours of Operation:

Tennis: Year-round, weather permitting. While the tennis bubble is in place, tennis activities may occur between 8:00 a.m. and 10:00 p.m. When the tennis bubble is not in place, tennis activities shall be limited to the hours between 8:00 a.m. and dark.

8 a.m. to dark, in accordance with current approvals. Counsel's letter states that the modification is needed "support the existing members' interest in Tennis Central's programming and to ensure the financial sustainability of Tennis Central's operations on the Property."

Counsel's letter states that the proposed bubble would be 40 feet tall, and that "[e]xisting conditions, including substantial setbacks, grade changes, tree buffers and intervening rights-of-way significantly mitigate any impact of the proposed tennis bubble on surrounding properties." With respect to setbacks, Counsel's letter states that the proposed bubble would be setback "approximately 126' from the western property line, 290' from the eastern property line, 75' from the northern property line, and 75' from the southern property line." Their letter states that the bubble is opaque, and that as a result, light from the bubble would not impact surrounding properties. Counsel's letter addresses the impact of elevations changes on the view of the proposed bubble at length, as follows:

In addition to significant distances from the proposed tennis bubble and neighboring properties, there are also significant grade changes between the subject Property and surrounding properties, as shown above and described below. Due to the significant changes in grade surrounding the property, the visibility of the proposed structures will be substantially mitigated from adjacent residential and public viewpoints.

North (Snug Hill Lane):

The properties to the north sit at elevations ranging from 244 to 258 feet, while the tennis courts sit approximately at 232 feet, a difference of about 26 feet. This notable elevation change creates a topographic berm along the northern property boundary, reducing direct lines of sight toward the bubble. The slope, combined with existing vegetation, acts to obscure views from Snug Hill Lane.

East (Gainsborough Road):

The tennis courts are buffered from Gainsborough Road and adjacent residential parcels by both grade and distance. The surrounding homes and road are elevated at approximately 242 to 246 feet, which is 10 to 14 feet higher than the courts. This elevation difference will help obscure views toward the bubble from the east.

South (Democracy Boulevard):

South of the courts, the grade drops even further toward Democracy Boulevard, which sits at approximately 224 to 230 feet. As a result, the courts are set back and upslope from the road, reducing their visibility from this direction, especially for drivers and pedestrians passing by.

West:

To the west, the elevation rises from 232 feet at the courts up to approximately 244 to 250 feet, further enclosing the eastern portion of the property in a shallow bowl of higher terrain. This grade change, combined with the setback from Snug Hill Lane and surrounding residences, minimizes potential visual intrusion from the west.

Taken together, these surrounding grade differentials, ranging from 10 to over 25 feet, form a natural enclosure around the tennis courts. The courts' position in a relatively low-lying area of the site minimizes the visual impact of the proposed bubble as shown on **Exhibit 1**. Additionally, the temporary nature of the bubble, combined with existing vegetative buffers, further minimize any potential visual impacts to adjacent properties and public rights-of-way.

Counsel's letter includes contour maps illustrating these grade changes. Their letter states that in addition to topography, "the existing foliage surrounding the subject property reduces potential visual impacts of the proposed temporary tennis bubble," noting that the property "is partially buffered on all sides by clusters of mature trees and vegetation, particularly along the northern, southern, and western boundaries," and that "[t]hese tree lines form a natural screen that obscures views into the property from adjacent residential areas and public rights-of-way." Counsel's letter includes detailed information about existing tree cover, and rendered views of the proposed bubble from the north, south, east, and west.²

Counsel's letter states that Tennis Central has done "extensive community outreach regarding the proposed modification," including sending a written notice to surrounding neighbors "updating them on the proposed seasonal bubble and inviting feedback." The letter was co-signed by the East Gate Recreation Association. Counsel's letter states that Tennis Central held "multiple in-person meetings to discuss the proposed modification" as well as "on-site visits for neighbors" and follow-up discussions. Their letter states that "[a]s of the date of this filing, Tennis Central has received multiple letters of support from neighbors, including the property owner directly adjacent to the proposed bubble, expressing support for both the seasonal bubble and the associated site improvements...." Counsel include these letters as an attachment to their submission.

Counsel's letter states that the proposed modification can be granted administratively under Section 59-G-1.3(c)(1) of the Zoning Ordinance (2004) because

² Counsel's letter states, with respect to the views of the proposed bubble from the north and south, that "[t]o the north, tree cover exists along parts of Snug Hill Lane and the neighboring properties, offering year-round visual buffering, similarly to the south, a dense belt of trees separates the property from Democracy Boulevard and the lower-elevation residential lots beyond. This vegetative buffer, in combination with the site's topographic elevation changes, ensures that passersby and adjacent homeowners will have limited views of the tennis bubble." With respect to the views from other directions, their letter states that "To the east, tree coverage exists on both the subject Property and across Gainsborough Road providing effective screening of residences. Taken together, the foliage coverage—both on and off site—acts as a natural and effective visual barrier of the seasonable bubble to surrounding uses."

the proposed tennis bubble “will not substantially change the nature, character or intensity of Tennis Central’s tennis use,” and the proposed modification “does not involve any change in the number of allowed members, but rather will allow a continuation of Tennis Central’s existing tennis program throughout the winter months.” In addition, Counsel’s letter states that “the proposed bubble will be buffered by significant setbacks, grade changes and landscaping,” and that it is “designed with materials and lighting that will prevent all light spillage.” Counsel’s letter concludes that “[a]s such, the proposed temporary bubble will not substantially change the nature, character or intensity of the Tennis Central use.”

In addition to their letter with attachments, Counsel also submitted a letter from Steven Mister, President, East Gate Recreation Association, Inc., authorizing Tennis Central to seek this modification, as well as a copy of the lease between Tennis Central Corp and East Gate Recreation Association, Inc. This letter also authorized Tennis Central Corp to seek a transfer of this special exception from East Gate Recreation Association, Inc.

The Board of Appeals considered Counsel’s letter at its Worksession on December 3, 2025. Mr. Biase appeared at the Worksession in support of the requested modification. Yann Auzoux, the CEO of Tennis Central, and Steve Staudenmier of Staudenmier Sales & Services were also present to answer questions. Mr. Biase described the proposed modification and answered Board questions. That discussion is not recounted here because Mr. Biase ultimately requested that the Board defer consideration of the modification portion of this request until a fifth Board Member could be seated, and the Board voted to grant the requested deferral on a motion by Caryn L. Hines, Chair, seconded by Richard Melnick, Vice Chair, with Donald Silverstein in agreement and Alan Sternstein not in agreement.

In addition to reviewing the proposed modification for the Board members, Mr. Biase also requested that the special exception be transferred from East Gate Recreation Association, Inc., to Tennis Central Corp, and he provided the Board with a letter formally making this request. That letter notes the existence of Tennis Central’s long term lease for the property, and states that the “approved facility will continue to operate in accordance with applicable approvals.” Mr. Biase noted at the Worksession that the letter of authorization provided by Mr. Mister on behalf of the East Gate Recreation Association, Inc., not only gives Tennis Central permission to pursue the modification, but also contemplates and consents to this transfer.

As noted above, the Board’s consideration of the requested administrative modification was deferred until a fifth Board Member is appointed by the County Council. Thus the instant Resolution only addresses the requested transfer of the special exception. Because Case No. S-596 was approved prior to October 30, 2014, under Section 59.7.7.1.B of the current Zoning Ordinance, this modification request must be reviewed under the standards and procedures in effect on October 29, 2014, unless the applicant elects otherwise. Rule 12.2 of the Board of Appeals Rules of Procedure [Resolution Numbers 12-865 (Adopted October 27, 1992), 14-742 (Adopted January 30,

2001) and 15-554 (Adopted March 23, 2004)] provides that the transfer of a special exception is a modification under Section 59-G-1.3 of the Zoning Ordinance (2004). Section 59-G-1.3(c)(1) of that Ordinance provides:

If the proposed modification is such that the terms or conditions could be modified without substantially changing the nature, character or intensity of the use and without substantially changing the effect on traffic or on the immediate neighborhood, the board, without convening a public hearing to consider the proposed change, may modify the term or condition.

The Board finds that absent any modification to the terms and conditions currently applicable to this special exception, the transfer of the special exception from one holder to another will not change the nature, character, or intensity of the use or substantially change its impact on the immediate neighborhood or on traffic, and can be granted. The Board reminds the new holder of this special exception that because the Board has not yet acted on the requested modification, the new holder must operate this special exception in accordance with the terms and conditions that are in effect as of the date of this Resolution, and must continue to operate this special exception in accordance with those terms until such future time as they are modified by the Board. Therefore, on a motion by Caryn L. Hines, Chair, seconded by Richard Melnick, Vice Chair, with Alan Sternstein and Donald Silverstein in agreement:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland, that the record in Case No. S-596 is re-opened to receive Counsel's November 24, 2025, letter with attachments; the letter from Steven Mister, on behalf of the East Gate Recreation Association, Inc., authorizing Tennis Central to seek this modification and transfer; the copy of the lease between Tennis Central and East Gate Recreation Association, Inc.; and the letter from Tennis Central formally requesting a transfer of this special exception; and

BE IT FURTHER RESOLVED by the Board of Appeals for Montgomery County, Maryland, that the request to transfer the special exception from East Gate Recreation Association, Inc., to Tennis Central Corp is granted; and

BE IT FURTHER RESOLVED by the Board of Appeals for Montgomery County, Maryland, that all terms and conditions of the original special exception, together with any modifications previously granted by the Board of Appeals, remain in effect.



Caryn L. Hines

Chair, Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 17th day of December, 2025.



Barbara Jay
Executive Director

NOTE:

Any party may, within fifteen (15) days of the date of the Board's Resolution, request a public hearing on the particular action taken by the Board. Such request shall be in writing, and shall specify the reasons for the request and the nature of the objections and/or relief desired. In the event that such request is received, the Board shall suspend its decision and conduct a public hearing to consider the action taken.

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book. Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County, in accordance with the Maryland Rules of Procedure. It is each party's responsibility to participate in the Circuit Court action to protect their respective interests. In short, as a party you have a right to protect your interests in this matter by participating in the Circuit Court proceedings, and this right is unaffected by any participation by the County.

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for
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(240) 777-6600

Case No. S-596

PETITION OF EAST GATE RECREATION ASSOCIATION, INC.

**RESOLUTION TO DENY ORAL ARGUMENT AND DENY MODIFICATION OF
SPECIAL EXCEPTION**

(Resolution Adopted: April 11, 2018)
(Effective Date of Resolution: April 24, 2018)

The Board of Appeals granted Case No. S-596 to East Gate Recreation Association, Inc. on February 15, 1978 to permit the construction and use of a community swimming pool. Conditions numbers six (6) and eight (8) of the Opinion granting the special exception were modified on July 19, 1978 and April 30, 1980, respectively. Effective April 27, 1983, the special exception was amended to allow the sale of frozen candy bars, ice cream, and canned soda. On September 20, 2016, the Board of Appeals received a letter from Cathy G. Borten, Esquire, on behalf of East Gate Recreation Association, Inc., seeking an administrative modification of East Gate's special exception to allow installation of a telecommunications tower on the subject property. Ms. Borten's letter indicated that the proposed telecommunications tower was the subject of a new conditional use application, requested by Cellco Partnership, d/b/a Verizon Wireless, pending before the County's Office of Zoning and Administrative Hearings ("OZAH") (Conditional Use Case No. T-17-01). On October 10, 2016, the Board referred Ms. Borten's administrative modification request to the Hearing Examiner for Montgomery County for consideration in connection with the public hearing for CU-T-17-01, and for the issuance of a written report and recommendation to the Board of Appeals. On March 7, 2018, the Hearing Examiner issued a Report and Decision for denial of the proposed conditional use and a recommendation that the Board of Appeals deny the requested administrative modification in S-596 as moot, given the Hearing Examiner's denial of the conditional use application in CU-T-17-01.

The subject property is Parcel C, Block J, in the East Gate of Potomac Subdivision, located at 10200 Gainsborough Road, Potomac, Maryland in the RE-200 Zone.

The Board of Appeals has received a letter, dated March 16, 2018, from Ms. Borten, on behalf of Cellco Partnership, d/b/a Verizon Wireless, appealing the decision of

the Hearing Examiner finding the request for modification moot, and further requesting the Board grant oral argument pursuant to section 59-7.3.1.F.1.c of the Zoning Ordinance, and a letter from Steve Mister, President, East Gate Recreation Association, Inc., supporting the request for oral argument. The Board of Appeals received opposition to the request for oral argument from William J. Chen, Jr., Esquire, on behalf of Howard and Monica Finkel, Greer Dellafiora, Jeanine Resnick, Ac Tedesco, Annette Perlin, Dana Ettinger, Geralynn Franceschini, and Jamie Perry, as well as letters from Cheryl A. Wetter and from Susan M. Lee, Vice President, West Montgomery County Citizens Association, also opposing the request for oral argument.

Because Case No. S-596 was approved prior to October 30, 2014, under Section 59-7.7.1.B of the current Zoning Ordinance, this modification request must be reviewed under the standards and procedures in effect on October 29, 2014, unless the applicant elects otherwise. Section 59-G-1.3(c)(1) of the Montgomery County Zoning Ordinance (2004) provides, pertaining to modification of special exceptions:

If the proposed modification is such that the terms and conditions could be modified without substantially changing the nature, character or intensity of the use and without substantially changing the effect on traffic or on the immediate neighborhood, the Board, without convening a public hearing to consider the proposed change, may modify the term or condition.

The Board considered the Hearing Examiner's Report and Decision at its April 11, 2018 Worksession, along with the requests for, and oppositions to, oral argument. The Board finds that the record compiled by the Hearing Examiner is thorough and exhaustive, and that the Hearing Examiner's Report and Decision contains clear and detailed reasons for denial of the conditional use and recommended denial as moot of the administrative modification of the special exception. The Board finds that no further argument is necessary for it to be able to render a decision on this application. The Board adopted the Hearing Examiner's Report and Decision, and denied the proposed conditional use in CU-T-17-01. Due to the denial of CU-T-17-01, the Board finds that the proposed modification of the special exception to allow installation of a telecommunications tower on the subject property must also be denied.

On a motion by Edwin S. Rosado, Vice Chair, seconded by Stanley B. Boyd, with John H. Pentecost, Chair, Bruce Goldensohn, and Katherine Freeman in agreement:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland that the requests for oral argument are denied.

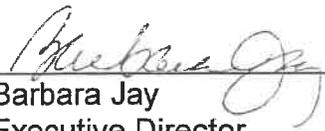
BE IT FURTHER RESOLVED by the Board of Appeals for Montgomery County, Maryland, that the request to modify this special exception as indicated herein and on the plans and elevations submitted in connection with this request is denied; and

BE IT FURTHER RESOLVED by the Board of Appeals for Montgomery County, Maryland that all terms and conditions of the original special exception, together with any modifications granted by the Board of Appeals, remain in effect.



John H. Pentecost, Chair
Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 24th day of April, 2018.



Barbara Jay
Executive Director

NOTE:

Any party may, within fifteen (15) days of the date of the Board's Resolution, request a public hearing on the particular action taken by the Board. Such request shall be in writing, and shall specify the reasons for the request and the nature of the objections and/or relief desired. In the event that such request is received, the Board shall suspend its decision and conduct a public hearing to consider the action taken.

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered into the Opinion Book. Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County, in accordance with the Maryland Rules of Procedure. It is each party's responsibility to participate in the Circuit Court action to protect their respective interests. In short, as a party you have a right to protect your interests in this matter by participating in the Circuit Court proceedings, and this right is unaffected by any participation by the County.

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

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<http://www.montgomerycountymd.gov/boa/>

Case No. S-596

PETITION OF EAST GATE RECREATION ASSOCIATION, INC.

**RESOLUTION TO REFER ADMINISTRATIVE MODIFICATION
TO THE HEARING EXAMINER FOR CONSIDERATION
IN CONNECTION WITH OZAH CASE NO. T-17-01**

(Resolution Adopted October 5, 2016)

(Effective Date of Resolution: October 10, 2016)

The Board of Appeals granted Case No. S-596 to the East Gate Recreation Association, Inc., to permit the construction and use of a community swimming pool, on February 15, 1978. Condition numbers six (6) and eight (8) of the Opinion granting the special exception were modified on July 19, 1978, and April 30, 1980, respectively. Effective April 27, 1983, the special exception was amended to allow the sale of frozen candy bars and ice cream, and canned soda.

The subject property is Parcel C, Block J, East Gate of Potomac Subdivision, located at 10200 Gainsborough Road, Potomac, Maryland in the R-200 Zone.

The Board of Appeals has received a letter, dated September 20, 2016, from Cathy G. Borten, Esquire, on behalf of East Gate Recreation Association, Inc., seeking an administrative modification of East Gate's special exception to allow installation of a telecommunications tower on the subject property. Ms. Borten indicates in her letter that the proposed telecommunications tower will be the subject of a new conditional use application, requested by Cellco Partnership, d/b/a Verizon Wireless, and currently pending before the County's Office of Zoning and Administrative Hearings ("OZAH")(Conditional Use Case No. T-17-01).

Because Case No. S-596 was approved prior to October 30, 2014, under Section 59-7.7.1.B of the current Zoning Ordinance, this modification request must be reviewed under the standards and procedures in effect on October 29, 2014, unless the applicant elects otherwise. Section 59-G-1.3(c)(1) of the Montgomery County Zoning Ordinance (2004) provides, pertaining to modification of special exceptions:

If the proposed modification is such that the terms or conditions could be modified without substantially changing the nature, character or intensity of the use and without substantially changing the effect on traffic or on the immediate neighborhood, the Board, without convening a public hearing to consider the proposed change, may modify the term or condition.

The Board of Appeals considered Ms. Borten's letter at its Worksession on October 5, 2016. The Board finds that the effect of the proposed telecommunications tower and related equipment cabinet on the immediate neighborhood will be addressed in the context of the pending conditional use proceedings. Accordingly, the Board finds that the effect of these proposed additions to the swim club property on the immediate neighborhood cannot be known with certainty prior to the conclusion of the conditional use proceedings. For this reason, the Board voted to refer this administrative modification to the Hearing Examiner pursuant to its authority under Section 59-A-4.125(a)(2) of the Zoning Ordinance (2004),¹ for consideration with Conditional Use Case No. T-17-01, and for the issuance of a report and recommendation on the requested modification.

On a motion by John H. Pentecost, Vice Chair, seconded by Bruce Goldensohn, with Carolyn J. Shawaker, Chair, Stanley B. Boyd, and Edwin S. Rosado in agreement:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland, that the record in Case No. S-596 is opened to receive Ms. Borten's letter dated September 20, 2016; and

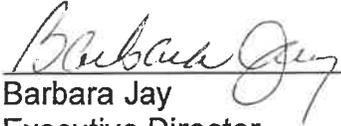
BE IT FURTHER RESOLVED by the Board of Appeals for Montgomery County, Maryland that, pursuant to the authority granted in Section 59-A-4.125 of the Montgomery County Zoning Ordinance (2004), the Board refers the above-described administrative modification to the Hearing Examiner for Montgomery County for consideration in connection with the public hearing for Conditional Use Case No. T-17-01, and for the issuance of a written report and recommendation to the Board of Appeals.


Carolyn J. Shawaker
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for

¹ The Board notes that similar authority exists under Section 59-7.6.2.B.2 of the current Zoning Ordinance, which states in relevant part that "The Hearing Examiner may schedule and conduct a hearing or write a report and recommendation for any other matter pending before the Board of Appeals upon request of the Board of Appeals and with approval of 3 of its members."

Montgomery County, Maryland
this 10th day of October, 2016.



Barbara Jay
Executive Director

NOTE:

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book. Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

COUNTY BOARD OF APPEALS
FOR
MONTGOMERY COUNTY

COUNTY OFFICE BUILDING
100 MARYLAND AVENUE
ROCKVILLE, MARYLAND 20850

Telephone
Area Code 301
279-1226

Case No. S-596

PETITION OF EAST GATE RECREATION ASSOCIATION, INC.

ORDER TO AMEND SPECIAL EXCEPTION
(Resolution adopted April 21, 1983)

The Board has received a letter from David J. Levine, President, East Gate Recreation Association, Inc., which states, in part, that:

"...We would like to have permission to sell prewrapped foodstuff consisting of frozen candy bars and ice cream as well as cans of soda in place of the current machines existing at the facility. The current machines have been very difficult to deal with and have required an individual on a daily basis to operate them because of breakdowns and other problems. In addition, the ice cream trucks come into the parking lot two and three times an hour, are noisy, have created a traffic jam and also have presented a danger to small children who line up for treats. We would like to prevent these trucks from coming into our facility.

"In order to accomplish both these goals; removal of the machines and ice cream trucks, we would like to obtain our own freezer and refrigerator and dispense prewrapped goods as mentioned above. We feel we would also be able to make some extra profit to help defray some of our overhead costs. We are currently obligated to Special Exception #S-596 and have conformed entirely to this special exception. ..."

Based on the forgoing information, the Board finds that the request can be considered a minor modification to the special exception and can be granted without changing the effect on traffic or on the immediate neighborhood; therefore,

BE IT RESOLVED by the County Board of Appeals for Montgomery County, Maryland, that the special exception holder in this Case, Case No. S-596, may be permitted to sell the items mentioned above, i.e., frozen candy bars, ice cream and cans of soda.

The foregoing Resolution was proposed by Joseph E. O'Brien, Jr., Chairman, and concurred in by Doris Lipschitz, Rita Morgan, Harry M. Leet and Richard E. Frederick.

Entered in the Minute Book of the
County Board of Appeals for Montgomery
County, Maryland, this 27th day of
April, 1983.


Clerk to the Board

COUNTY BOARD OF APPEALS
FOR
MONTGOMERY COUNTY

COUNTY OFFICE BUILDING
ROCKVILLE, MARYLAND 20850
Case No. S-596

Telephone
Area Code 301
279-1226

PETITION OF EAST GATE RECREATION ASSOCIATION, INC.

RESOLUTION TO REOPEN THE RECORD AND RESCIND THE
BOARD'S RESOLUTION PERMITTING CONSTRUCTION OF
BASKETBALL BACKBOARD
(Resolution adopted September 18, 1980)

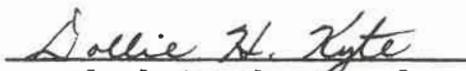
The Board has received letters dated September 12 and September 14, 1980, from Helen and Euthimios K. Stefanou protesting the Board's Resolution of September 10, 1980, granting permission to install and use a single basketball backboard along the north edge of the parking lot. The letters having been received within fifteen (15) days of the date of the Board's Resolution, therefore, pursuant to the requirements set forth in the Zoning Ordinance,

BE IT RESOLVED by the County Board of Appeals for Montgomery County, Maryland, that the Resolution issued by the Board and entered in the Minute Book on September 10, 1980, shall be, and hereby is rescinded and it shall become null and void.

Should the special exception holder wish to pursue its request, i.e., re-submit the application on proper forms for an amendment and pay the filing fee (one-third the fee for the grant of a special exception for a community swimming pool, less the \$50.00 fee already paid) for the public hearing, the Board will schedule a public hearing to consider the request.

The foregoing Resolution was proposed by Mrs. Marjorie H. Sonnenfeldt, Chairman, and concurred in by Mrs. Shirley Lynne, Mrs. Doris Lipschitz, Mr. Wallace I. Babcock and Mr. Joseph E. O'Brien, Jr.

Entered in the Minute Book of the
County Board of Appeals this 24th
day of September, 1980.


Clerk to the Board

COUNTY BOARD OF APPEALS
FOR
MONTGOMERY COUNTY

COUNTY OFFICE BUILDING
ROCKVILLE, MARYLAND 20850

Case No. S-596

Telephone
Area Code 301
279-1226

PETITION OF EAST GATE RECREATION ASSOCIATION, INC.

RESOLUTION TO AMEND PETITION
(Resolution adopted September 4, 1980)

The Board has received a letter dated August 5, 1980, signed by James H. Slavin, President, East Gate Recreation Association, Inc., to request: "...that our Special Exception be amended or modified to allow the installation of a single basketball backboard along the north edge of the parking lot just west of the tennis courts. The only construction involved is that necessary to erect the backboard and its support. No additional paving will be installed.

"We believe that a basketball backboard is an appropriate feature in a community recreation facility and would not be detrimental to the community..."

Based on the aforementioned request, the Board finds that the installation of a single basketball backboard, as proposed, will not substantially change the nature, character or intensity of the use of the property, and will not substantially change the effect on traffic or on the general neighborhood; therefore, pursuant to the authority granted the Board in Section 59-G-1.3(c)(1) of the Zoning Ordinance,

BE IT RESOLVED by the County Board of Appeals for Montgomery County, Maryland, that Case No. S-596 shall be, and hereby is amended in the following manner:

The petitioner may install a single (one) basketball backboard along the north edge of the parking lot immediately west of the tennis courts. No additional paving will be connected with the installation of the backboard.

All other terms of the special exception shall remain in full force and effect.

The foregoing Resolution was proposed by Mrs. Marjorie H. Sonnenfeldt, Chairman, and concurred in by Mrs. Shirley S. Lynne, Mr. Joseph E. O'Brien, Jr., and Mr. Wallace I. Babcock. Mrs. Doris Lipschitz was necessarily absent and did not participate in the foregoing Resolution.

Entered in the Minute Book of
the County Board of Appeals
this 10th day of September, 1980.

Dollie H. Kyte
Clerk to the Board

"...Any party may, within fifteen days of the date of the Board's Resolution, request a public hearing on the particular action taken by the Board. Such request shall be in writing, and shall specify the reasons for the request and the nature of the objections and/or relief desired. In the event that such request is received, the Board shall suspend its decision..."

COUNTY BOARD OF APPEALS
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COUNTY OFFICE BUILDING
ROCKVILLE, MARYLAND 20850
Case No. S-596

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PETITION OF EAST GATE RECREATION ASSOCIATION, INC.

RESOLUTION TO CLARIFY THE BOARD'S OPINION
(Resolution adopted April 24, 1980)

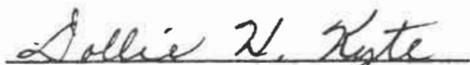
It has been brought to the Board's attention that testimony in this case indicated that (as cited in the body of the opinion of Case No. S-596) "...The Club anticipates social functions not exceeding 10 evenings per season, on which nights the club would be open until midnight." The conditions attached to the grant of the special exception however made no specific reference to limitations on night time use of the club. Therefore, the Board wishes to clarify its opinion by addition of the following language to Condition No. 8:

Evening social functions:

The Club may schedule not more than ten (10) evening social functions, which may extend until 12:00 midnight.

The foregoing clarification was proposed by Mrs. Marjorie H. Sonnenfeldt, Chairman, and concurred in by Mrs. Doris Lipschitz, Mrs. Shirley Lynne, Mr. Wallace I. Babcock and Mr. Joseph E. O'Brien, Jr.

Entered in the Minute Book of the
County Board of Appeals this
30th day of April, 1980.


Clerk to the Board

COUNTY BOARD OF APPEALS
For
MONTGOMERY COUNTY

Case No. S-596

PETITION OF EAST GATE RECREATION ASSOCIATION, INC.

RESOLUTION TO AMEND THE OPINION OF THE BOARD
(Resolution adopted July 13, 1978)

BE IT RESOLVED by the County Board of Appeals for Montgomery County, Maryland, that the record of this case shall be, and hereby is re-opened to enter the memorandum, dated July 3, 1978, received from Sharon E. Martin, Chief, Division of Public Facilities, as Exhibit No. 32.

Upon reviewing the memorandum, which states that there is a conflict between conditions set forth in the Opinion of the Board and Executive Regulation 3-71 which regulates public swimming pool construction, the Board, therefore, amends Condition No. 6 of its Opinion in the following manner: Condition No. 6 on page 9 of the Opinion of the Board issued February 15, 1978, shall be deleted and re-instated as follows:

6. Lighting shall be the minimum required against vandalism and trespassing, and shall also comply with all applicable regulations governing swimming pool facilities. Petitioner shall submit any further revised site plans showing location and type of additional lighting to the Board of Appeals.

The foregoing Resolution was proposed by Mrs. Marjorie H. Sonnenfeldt, Chairman, and concurred in by Mrs. Shirley S. Lynne, Mrs. Doris Lipschitz, Mr. Sheldon P. Schuman and Mr. Joseph E. O'Brien, Jr.

Entered in the Minute Book of
the County Board of Appeals this
19th day of July, 1978.


Clerk to the Board

COUNTY BOARD OF APPEALS
For
MONTGOMERY COUNTY

Case No. S-596

PETITION OF EAST GATE RECREATION ASSOCIATION, INC.
(Hearing held January 12, 1978)

OPINION OF THE BOARD

These proceedings are on the petition filed for a special exception pursuant to Section 59-175 of the Zoning Ordinance (Chap. 59, Mont. Co. Code 1972, as amended) to permit the construction and use of a community swimming pool. The subject property is Parcel C, Block J, East Gate of Potomac Subdivision, Potomac, Maryland, in an R-200 Zone.

Decision of the Board: Special exception granted, subject to conditions enumerated herein.

Petitioner's Proposal

Petitioner presented testimony, exhibits, and evidence binding upon the petitioner to the effect that: The applicant requests a special exception to permit a community recreation facility including a 25 meter swimming pool, wading pool, bathhouse, 3 lighted tennis courts, and a parking area accommodating 79 cars. The Association is a non-profit Maryland corporation, and the club will be limited to 350 family memberships.

The subject site includes 4.48 acres fronting along Snug Hill Lane, Gainsborough Road, and the future westerly extension of Democracy Boulevard. The property, which is undeveloped, was delineated on the preliminary plan of subdivision as well as on the record plat (No. 508-29, recorded July 30, 1970) as a future recreation area to be conveyed by the developer of the surrounding subdivisions to the East Gate Recreation Association, Inc. The site, which slopes in a southerly and westerly direction, is bounded to the east, across Gainsborough Road, by "Worland" complex of attached single-family homes. To the north, across Snug Hill Lane, are large, well-maintained single-family residences; to the west, several single-family residences fronting on Snug Hill Lane. To the south, across the proposed future right-of-way (160 feet wide) for the extension of Democracy Boulevard, there is a strip of community property belonging to the Ridgeleigh Homes Association, beyond which there are large, well-maintained single-family residences at an elevation higher than that of the proposed community pool. (Democracy Boulevard, a major county highway, is proposed by both the Cabin John and Potomac-Travilah Master Plans to be extended westward to Falls Road from its present terminus at Gainsborough Road, adjacent to the subject site. No funds are included in the Montgomery County Capital Improvements Program, Fiscal Years 1978-1983, for the proposed extension.)

James Slavin, a member of the Board of Directors and Chairman of the Development Committee of the East Gate Recreation Association, Inc., testified that the Association proposes to construct the facility according to plans entered in the record as Exhibit No. 9. Additional landscape screening would be installed as shown in Exhibit No. 29, which was prepared in response to recommendations by the Maryland-National Capital Park and Planning Commission (MNCPPC) technical staff. The Association proposes that the swimming pool be open from approximately Memorial Day through Labor Day weekend, 9:00 a.m. to 9:00 p.m. daily, with supervised lessons or swim team practice starting at 8:00 a.m. The three tennis courts are proposed for use year-round, weather permitting, from sunrise to 10:00 p.m., with metered lights which would be turned on only when the courts were in use. Mr. Slavin stated that the Association had selected the Devoe lighting system, which uses a continuous strip of lighting suspended on poles some 16 to 18 feet above ground level, as causing a minimum of glare and intrusion on the surrounding area. The club would add evergreen trees, 6 to 8 feet high at the time of planting, adjacent to the tennis courts to further reduce any possible glare.

The club anticipates social functions, not exceeding ten evenings per season, on which nights the club would be open until midnight. If club members decide to establish a swimming team, the Association proposes that not more than seven competitive meets per year be conducted at the subject site, with meets starting not earlier than 9:00 a.m. Any public address system would be limited to necessary announcements during swim meets or in emergencies; no music or other non-essential broadcasts would be permitted.

The Association expects to contract for management of the facility, and anticipates a maximum of ten full and/or part time employees at any one time.

Mr. Slavin stated that the covenants governing development of the four Eastgate area subdivisions (Ridgeleigh, Worland, Snug Hill, and Potomac Preserve) grant property owners in those subdivisions eligibility for membership in the East Gate Recreation Association. Property owners would not be required to join the Association. Association by-laws give preferential initial membership to families owning property in these four subdivisions; memberships could be accepted from outside these subdivisions, however, and the Association has advertised for such outside members.

The proposed pool and tennis complex is estimated to cost \$325,000. The Association has a loan commitment for \$150,000, and as of Mid-January, 1978, 66 individuals had subscribed to the full membership. Mr. Slavin testified that he had discussed the Recreation Association plans with almost all owners of properties immediately adjacent to the site; that the Association

had tried to take into account comments made by nearby property owners; and that 12 owners had signed a petition in support of the pool plans.

Mrs. Cheryl Wetter, President of the East Gate Recreation Association, Inc., testified that the developer who had dedicated the subject site to the East Gate Recreation Association, Inc., had recorded covenants showing that any property owner within the four subdivisions named above would be eligible for membership in the Association, and that development of the subject property for use as a recreation area was well known in advance. She stated that there are presently no community swimming pools within the subdivisions of Ridgeleigh Worland, Snug Hill, Potomac Preserve, Bells Mill Village, and the Briars; that these subdivisions include 521 homes, of which nearly 400 are within an easy walking distance from the subject site. All of the three existing community swim pools which are within 1.2 miles of this site are fully subscribed, and have waiting lists of two to three years for membership. As new homes continue to be built in the area (nearly 100 homes under construction at present), existing pool waiting lists will continue to grow. In her opinion, families residing in subdivisions eligible to join the East Gate pool would probably give up memberships in existing pools for the convenience of using facilities within walking distance of their homes. Using a color coded map (Exhibit No. 21) she indicated the location of the 66 families already subscribed, plus 50 additional families who had reserved the right to join the club, and noted that these prospective members include many owners of properties immediately adjacent to or confronting the pool site. In her opinion, pool membership would be fully subscribed; although the initial membership might include families from outside the four East Gate subdivisions, by-laws provisions favoring "in-area" families in membership turnover would mean that membership would increasingly be drawn from residents of the immediate area, most of whom would be able to walk to the club site.

David Marshall, the architect and planner responsible for the building and site plans, testified that portions of the site where the pool and tennis courts are to be located had been used by the developer for dumping spoilage, and could not support substantial structures. Existing trees west and south of the tennis courts would not be disturbed. Pool and tennis court areas would be graded so that a series of berms would be constructed along the northwest, north, east, and south boundaries of the site. These berms would not exceed a one-to-three slope (the maximum maintainable slope) and would shield the view of the site from properties to the north and east of the club.

The architect testified that all buildings and facilities meet setback requirements for the R-200 Zone, that the pool would be 126 feet away from the nearest residential property to the

northeast, and the tennis court 126 feet from the west property line. Homes in the Ridgeleigh subdivision to the south are at a higher elevation than the pool site and would overlook the club; they would be separated from the club site, however, by the 160-foot width reserved for the extension of Democracy Boulevard, plus the strip of Ridgeleigh Homes Association common property. Thus the rear (north) property line of the closest home in Ridgeleigh would be some 280 feet from the south property line of the club site, or some 355 feet from the pool deck area. In the opinion of the architect, the proposed site plan, with landscaping supplemented in accordance with MNCPPC technical staff recommendations, would be adequate to shield adjacent residential properties from any adverse visual or noise effects caused by activity at the pool site, despite the difference in elevations between the homes and the pool site.

The architect testified that the parking area accommodating 79 cars would be adequate to serve the needs of 350 member families, since many families would live within easy walking distance of the pool, and pedestrian paths and sidewalks would be provided. The entrance to the parking area would be from Gainsborough Road, as approved by the Montgomery County Department of Transportation; it is anticipated that a second entrance would be opened from Democracy Boulevard at the west end of the parking area when Democracy Boulevard is extended. The witness stated that it would be possible to decrease the depth of the parking area in order to have space for additional berming along the south property line; in his opinion, however, evergreen trees ten to twelve feet high would probably be a better noise barrier than a 3-foot high berm in the narrow strip between the parking area and the south property line.

Security lights would be mounted on the bathhouse building and in the parking lot. In the architect's opinion, ten light fixtures mounted on ten poles each 30 feet high would provide the best parking lot lighting; if properly shrouded, they would not adversely affect the area south of Democracy Boulevard. He submitted a diagram (Exhibit No. 28) demonstrating the scope of light fall from such fixtures, which he believes would be superior to the low-level lighting recommended by the MNCPPC technical staff. The architect indicated that the client's choice of the more expensive low-level Devoe lighting system for the tennis courts was contrary to his preference for lights mounted on tall standards.

Mr. Marshall noted that the adopted Area Master Plan designates the subject site for recreational use, and that the developer's dedication of the property to recreational use had been required as a condition of subdivision. In his opinion, community swimming pools are an asset to a community and serve as a focal point for neighborhood activities. Considering the design, proposed landscaping and screening, and the distance from nearby residential properties, he testified that the proposed use would have no adverse effect on the use, enjoyment or value of any adjacent or nearby residential property.

In response to questions from the opposition, the architect noted that the site is a natural drainage area; he knows of no underground springs, but if such were encountered, he anticipates no problem in piping ground water to existing storm sewers. Since the site is at an elevation lower than that of surrounding properties, no surface water runoff problems are anticipated.

In response to opposition concerns regarding security on the property and parking area, Association spokesmen indicated that it would not be feasible to chain the entrance to the parking area, but they would be willing to light the parking area and to request regular police patrols. Pool spokesmen noted that there was disagreement among area residents regarding possible all-night lighting in the parking lot.

The petitioner testified that he had applied for public water and sewer service, and asked that the record be held open to receive the required documentation. By letter of February 8, 1978, the Washington Suburban Sanitary Commission indicates that public water and sewer service is available for the proposed use (see Exhibit No. 31).

Supporting Testimony

Several individual area residents appeared in support of the petition, and a number of letters in support were received in the record. They stressed that many area residents had bought homes in full understanding that the site would be developed as a recreation area, and in anticipation that the facilities would include a community swimming pool. In their opinion, such a pool would be an asset to the community and would enhance the value and enjoyment of their properties. Two witnesses, stating that their homes would be closest to the pool site on the north and south sides respectively, testified that in their opinion, the advantages of proximity outweigh any inconvenience caused by noise or lights. One indicated that she chose her lot so that she could overlook the recreation area; she felt that development as proposed would be preferable to the present unattractive appearance and undesirable activity on the site.

Opposition Testimony

Several witnesses testified in opposition to the petition, and numerous opposition letters were received in the record. The opposition's concerns can be summarized as follows:

1. Visual Impact: Opponents contend that the site is so clearly exposed to view from surrounding residential properties that it is virtually impossible to screen in a manner that would avoid adverse impact on the use and enjoyment of certain properties, particularly the homes in the Ridgeleigh Subdivision which lie to the south at a higher elevation than the club site.

One property owner in this area, Eugene Brake, proposed more stringent berming and screening to overcome some of these problems.

2. Noise: Witnesses testified that sounds seem to be magnified and carried over unusually long distances in the peculiar topography of this area, with the Association property lying in a bowl surrounded by homes built at somewhat higher elevations. Opponents said that the noise that would be generated by club activities on the site would be objectionable.

3. Economic Feasibility: Opponents questioned whether the Association would be able to attract membership as planned, noting that this pool membership would be more expensive than membership in existing community pools, and that many area homeowners already have memberships elsewhere. They note that the Association has already advertised to attract members from outside the four East Gate subdivisions, and expressed concern that the club would have to draw heavily from persons living outside the area, and might even create problems by draining the waiting lists of existing community swim clubs.

4. Vehicle Traffic and Overflow Parking: Because in their opinion, the Association would have to draw heavily from outside the East Gate area, opponents expressed concern that vehicle traffic into the area would be significantly increased. In their opinion, even residents living within walking distance of the site would tend to drive to the pool, creating both traffic and overflow parking problems. They noted that traffic problems along Gainsborough Road had been widely recognized; only recently has the County Department of Transportation taken measures to relieve pressure of traffic on Gainsborough.

5. Increasing Pedestrian Traffic, Annoyance, and Vandalism: A witness from the Worland community stated that pedestrian traffic through the walled areas of that subdivision had created a nuisance of noise and vandalism, and he felt that the recreation facility would lead to an increase in that nuisance.

6. Concern for Security: Area residents expressed concern regarding use of the parking area at night or during hours when Association facilities were not in operation. Some witnesses seemed to prefer appropriate lighting of the parking area as the "least worst" solution.

7. Adverse Effect Upon Use, Enjoyment and Value of Nearby Properties: Many area property owners cited one or more of the above reasons as evidence that construction and use of the site as proposed would adversely affect their property.

Maryland-National Capital Park and Planning
Commission Advisory Recommendation

The Montgomery County Planning Board unanimously endorsed the recommendation of the MNCPPC technical staff for approval of the petition, subject to certain conditions governing lighting and landscaping (see Exhibits Nos. 14(a) and (b)). The staff notes that the site had been delineated on both the preliminary plan of subdivision and the record plat as a future recreation area to be conveyed to the East Gate Recreation Association, Inc., and that such areas in cluster subdivisions are generally developed as community swimming pools. The staff reports that the proposed use would not adversely affect the Master Plan for the area, nor would it have a detrimental effect on the neighborhood if the staff's landscaping, screening and lighting recommendations were followed. The major impact of the facility would be the visual intrusion and noise at existing homes immediately north of the club site, and the view from homes to the south, although a distance of some 200 to 300 feet from the site. Therefore, the staff recommends that tennis court lighting be prohibited; that pool deck and security lighting on the clubhouse be carefully oriented to avoid intrusion on the residential areas; that the lighting scheme for the parking lot be revised to use lower-level poles; that additional screen planting be installed along the south property line and along Snug Hill Lane, and that final landscaping, lighting, and screening plans be submitted to the staff for review and approval. (Many of the staff recommendations, including adjustment of the driveway entrance to the parking area, are embodied in the revised landscape and site plan submitted as Exhibit No. 29).

Findings of the Board

The Board has carefully reviewed all testimony, evidence, and exhibits binding upon the petitioner, as well as both oral and written testimony of opponents and the report and recommendation of the MNCPPC. Members of the Board visited the site and viewed the property from the surrounding homesites. After considering all evidence in the record, the Board finds that the proposed use, as conditioned herein, meets the requirements of Section 59-175, as follows: the site plan meets Zoning Ordinance setback requirements; the bathhouse building is small and residential in character; and a public water supply is available. In the face of conflicting testimony from individual community residents, none of whom is an expert on the organization and financing of community recreation facilities, the Board finds more persuasive the testimony of pool proponents that the bulk of the pool membership of 350 families will be drawn from the 521 households within the four East Gate subdivisions and the nearby subdivisions of Bells Mills and the Briars. Since a large proportion of the membership will live near the site, the Board finds that vehicle traffic to and from the site will consist largely of vehicles already in the community, and that the facility will not create a hazard or adversely affect the area

as a result of increased traffic from outside the community. The Board notes, moreover, that the peak hours for use of a community swimming pool are generally different from the morning and evening peak commuter travel hours. Considering the nature and location of prospective membership and the existence of pedestrian paths and sidewalks in the area, as well as provision of 79 car parking spaces on the site, the Board finds that on-site parking is adequate and on-street parking will not adversely affect adjacent properties or the surrounding area.

The Board notes the topographical peculiarities of the site. Considering that the closest properties to the north are at a considerably higher elevation than the site, while the closest homes to the south would be separated from the pool site by a four-lane divided highway and a strip of community property, totalling 280 feet (or almost the length of a football field), the Board finds that the proposed use as conditioned herein would not adversely affect the use, enjoyment, and value of the surrounding properties. The facilities to be developed are not inherently unattractive or obnoxious in a residential community: a swimming pool, bathhouse and tennis courts are community amenities which can enhance the enjoyment and value of the community as a whole, and as conditioned herein, the Board finds that they would be adequately screened from view from nearby residential properties, in a manner consistent with the requirements of Section 59-175(c). The Board finds however, that nighttime use of lighted tennis courts would create a nuisance that would adversely affect nearby properties, and therefore the lighting of tennis courts shall be prohibited. With regard to concern for noise, the Board notes that the site was required to be dedicated for recreational uses as a condition of approval of the subdivision plan, and the Board finds that the proposed use, as conditioned herein, would not create noise that would be detrimental to the community.

Therefore, the proposed community swimming pool shall be and is hereby granted, subject to the following conditions:

1. Location and construction of the swimming pool, bathhouse, and tennis courts shall be according to plans entered in the record as Exhibit No. 9.
2. Tennis courts shall not be illuminated for nighttime play.
3. Plans for landscape screening, lighting, and fencing shall be subject to review and approval by the technical staff of the MNCPPC. Using the plan entered as Exhibit No. 29 as a basis, special attention shall be given to areas along the perimeter of the property, particularly along the north and south property lines, and to the fencing and screening between the pool area and the parking area. Berms, shrubs, trees, and opaque fencing shall be employed in a manner

designed to give maximum feasible screening from view of adjacent properties. Two copies of the final approved plans shall be filed in the record at the Board of Appeals' office.

4. The parking area shall accommodate at least 79 vehicles. Configuration of the parking area may be altered from the design shown in Exhibit No. 29, subject to requirements for landscape screening and lighting.
5. The driveway entrance to the parking area shall be located as shown on Exhibit No. 29, subject to approval by the Montgomery County Department of Transportation. At such time as Democracy Boulevard is extended westward, a second driveway entrance to the property shall be provided from that street, with location subject to approval by the Montgomery County Department of Transportation.
6. Lighting of building and parking areas shall be the minimum required for adequate security against vandalism and trespassing. The lighting plan shall be subject to review and approval by the MNCPPC technical staff, and two copies of the approved plan shall be submitted to the Board of Appeals.
7. The parking area shall be used only for members' and guests' vehicles on the site in connection with use of club facilities.
8. Hours of Operation:
 - Swimming: 9:00 a.m. to 9:00 p.m., from May 15 through September 30. Swimming instruction or supervised swim team practice may begin at 8:00 a.m.
 - Tennis: Year-round, weather permitting, from 8:00 a.m. until dark.
9. Any public address system for outdoor use shall be limited to necessary announcements during swimming meets or in emergencies, and shall not be used at any time to broadcast music out of doors. Performance of live music out of doors shall not be permitted.
10. The Association may host a maximum of 7 competitive swimming meets per season. Swimming meets shall start not earlier than 9:00 a.m.

11. Starting guns may be used only at swimming meets and not for practice sessions. Whistles shall be restricted to use by the pool manager, lifeguards and swimming coach.
12. Alcoholic beverages may not be consumed on Association property except on special occasions designated by the Board of Directors; nor shall any person possessing or suspected of being under the influence of alcohol, narcotics or other mind-altering drugs be admitted to the club or pool facility.
13. No food service shall be provided on the premises other than vending machines for drinks or snacks.
14. Petitioners shall maintain the buildings and grounds of the subject property throughout the year, including the collection and disposal of any trash, debris, leaves and clippings.
15. To prevent trespass and unauthorized use, the petitioner shall lock and secure the swimming pool area when the pool is not in operation.

The Board adopted the following Resolution:

"Be it Resolved by the County Board of Appeals for Montgomery County, Maryland, that the opinion stated above be adopted as the Resolution required by law as its decision on the above-entitled petition."

The foregoing Resolution was proposed by Mrs. Marjorie H. Sonnenfeldt, Chairman, and concurred in by Mrs. Doris Lipschitz, Mr. Sheldon P. Schuman and Mr. Joseph E. O'Brien, Jr. Mrs. Shirley S. Lynne was necessarily absent and did not participate in the foregoing Resolution.

I do hereby certify that the foregoing Minutes were officially entered in the Minute Book of the County Board of Appeals this 15th day of February, 1978.


Clerk to the Board

NOTE: See Section 59-A-4.53 of the Zoning Ordinance regarding the 12-months' period within which the right granted by the Board must be exercised.

Any decision by the County Board of Appeals may, within thirty days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County in accordance with the Maryland Rules of Procedure.