

MINUTES

BREVARD BOARD OF ADJUSTMENT – REGULAR MEETING

Tuesday, August 7, 2018– 3:00 PM – Council Chambers

The Brevard Board of Adjustment met in regular session on Tuesday, August 7, 2018 at 3:00 PM in Council Chambers of City Hall.

Members Present: Judith A. Mathews, Chair
Tom Tartt, Vice Chair
Paul Welch
Kevin Jones
Tad Fogel
Allen Delzell

Members Absent: Coty Ferguson

Staff Present: Daniel Cobb, Planning Director
Janice H. Pinson, Board Clerk
Brian Gulden, Board Attorney

Others: Chief Phil Harris, Brevard Police Department
Mike Vandergrift – Brevard Racquet Club, Owner
Josh Vandergrift – Brevard Racquet Club, General Manager
James and Lois Bollini, Adjoining Neighbor, Country Lane
Rachel Cathey Daniels, Neighbor, Country Lane

I. Welcome and Introduction of Board Members

Judy Mathews, Chair, called the meeting to order at 3:00 PM, and the board members introduced themselves. She explained the procedures for a quasi-judicial hearing.

II. Certification of Quorum

Chair Mathews certified that a quorum of the board was present.

III. Approval of Agenda

J. Mathews requested a motion to approve the agenda.

P. Welch made a motion to allow the City of Brevard Police Department (SUP-18-001)

application for a special use permit to be tabled to a later meeting date, seconded by K. Jones and unanimously carried.

P. Welch made a motion to approve the agenda as amended, seconded by K. Jones and unanimously carried.

IV. Approval of Minutes

J. Mathews requested a motion to approve the Minutes of the June 5, 2018 meeting. Motion by T. Fogel to accept the minutes as presented, seconded by P. Welch and unanimously carried.

V. New Business

a. Consideration of Brevard Racquet Club to amend Special Exception Permit #00-22 (SUP-18-002).

J. Mathews requested that Brian Gulden, Board Attorney, explain the meaning of legal standing, which he did. She polled the board as to ex parte communications, and there were none. She further asked if there were any conflicts of interest. P. Welch stated that through his spouse, he had been provided information about the matter, and further that he has been long time friends with the Bollinis. He requested that the board allow him to recuse himself, because he did not feel that he could be fair and impartial.

T. Tartt moved that the board allow P. Welch to recuse himself, seconded by A. Delzell and unanimously carried.

P. Welch left the meeting at 3:15 PM.

T. Fogel explained that he is casual friends with the Bollinis and familiar with the Vandergrifts, and he formerly was a member of their club; and that he is currently doing business with the Brevard Racquet Club in the planning of a party for his grandchild. He further explained that he believed he could be fair and impartial in hearing the case.

B. Gulden asked Mr. Fogel if he could be fair and impartial with the dealing of the matter. He stated that the board could make the decision as to whether or not to recuse Mr. Fogel. He further asked if anyone had an objection to Mr. Fogel, there was no response.

No motion was made to recuse T. Fogel.

T. Tartt explained that he and his wife have been members of the Brevard Racquet Club for years. He explained that he no longer plays tennis, but that his wife is still using the membership. He further stated that he felt he could hear the case and be fair and impartial.

The parties were asked if anyone had a conflict with any of the board members. There were none.

The following people were sworn: Daniel Cobb, Mike Vandergrift, Josh Vandergrift, James and Lois Bollini, and Rachel Cathey Daniels.

D. Cobb stated that the hearing was properly advertised, neighbors notified and property posted.

D. Cobb presented his staff report, outlining the history of the permits for the Brevard Racquet Club. His staff report is attached hereto and labeled Exhibit "A".

D. Cobb explained the application before the board was a request to amend the existing special exception permit to allow the existing fabric building, which was approved as tennis courts, to be used as an athletic building.

There were no questions for D. Cobb.

Mike Vandergrift thanked the board for hearing his application and D. Cobb for his time.

Mr. Vandergrift testified that with the down turn of the economy in 2012 they lost many tennis members. They had courts that were within 150 feet of the Bollini property. In 2012 they applied for and obtained a permit to cover these courts with a steel truss, fabric building. He explained the history of the club from the time that they purchased it in 1994. He testified that 90 percent of their current membership is swim and fitness. He testified that the special exception permit was approved with no conditions in 2001.

Mr. Vandergrift testified that Brad Burton, former Planning Department employee, came out and met with them and that they asked if they could place a fabric dome over the courts, and that he responded that the board did not place any conditions on them.

Mr. Vandergrift explained that the dome over the clay courts did not work because of moisture issues and that is when they decided to hard surface the courts. They used the courts for children's lessons with music for a while, but the neighbors started trying to drown out the music with other music, and the tennis professional had to quit using those courts.

He further testified that outside of the fabric structure you cannot tell if someone is hitting a tennis ball or lifting a kettle bell. He explained that they had measured decibel levels at 50 to 70 along the tree line, stating that the letter complaining of the noise level was written in October when there are no leaves on the trees and that the Bollini's property occupies 100 ' of the one mile perimeter of their property.

Mr. Vandergrift testified that since the fabric building was installed, the only complaints have been from the Bollinis.

He further explained that they have made some changes instructing members that dropping weights is prohibited in the facility.

K. Jones asked Mr. Vandergrift who did the decibel testing and if there was a report. Mr. Vandergrift explained that Josh's wife, who has a master's degree in speech pathology, performed the testing.

T. Fogel asked if it was not customary for weight lifters to drop weights.

Mr. Vandergrift stated that they are trying to rectify problems. He answered that if weight lifters lose control, then yes, weights are sometimes dropped.

A. Delzell asked Mr. Vandergrift if he felt he got permission from Brad Burton to operate under that dome and further did you tell him that you were going to put heavy weights in the dome.

Mr. Vandergrift answered, "Yes." He also stated that functional training is different from traditional weight lifting.

Josh Vandergrift testified that the heart of the matter is about the fitness dome. that the club is a tennis, fitness and swim club. He explained that the dome over the clay courts did not work out, they placed a hard surface over the courts to make room for a more popular fitness use. He said they believed this to be an extension of their 25 years of being an athletic club. They do not have room on their property to extend the club for this fitness use, and they had the space that was not being used so they decided to use it as an extension. He explained that their stance was that they did not need to come to the board for permission, but that Daniel Cobb, Planning Director believed that they needed to do so.

J. Mathews stated, when you decided to make this change of use you contacted the Planning Department and they sent Mr. Burton out. Mr. Burton stated to you that you did not need to get a permit to make this change, because there were no restrictions placed on the permit in 2001.

M. Vandergrift answered, "Yes."

J. Mathews asked if athletic building is a use specified in the ordinance, and if not, why the matter is before the board.

Daniel Cobb read the UDO definition of athletic indoor which follows, : *Recreation facilities, indoor*: Uses or structures for active recreation including, without limitation, gymnasiums, natatoriums, athletic equipment, indoor running tracks, climbing facilities, court facilities and their customary accessory uses. This definition is inclusive of both non-profit and for-profit operations (UDO Chapter 19, Definitions).

Daniel went over a history of the permits for the Brevard Racquet Club and noted that athletic building comes right off of their application.

J. Mathews asked if athletic building is not a use defined in the ordinance, why the City accepted the application.

D. Cobb went over the history of the permits, explaining that the permit issued by B. Burton was for a 65' X 120' steel truss and fabric building over a tennis court. Explaining further, that what is out there today is what was approved in 2001, indoor athletics, racquet courts, pool, basketball courts. They have had an operation for several years and there were no conditions on them, as Mr. Vandergrift has stated; and they are trying to amend their permit to allow a more broad use for this structure.

J. Mathews asked why Mr. Vandergrift did not discuss the use with the Planning Department based on his prior history with them.

Mike Vandergrift stated how the recession really hurt their business, and that there are only approximately 120 tennis members currently. He explained that they changed it to a fitness facility to accommodate the majority of the current membership. He noted that maybe they should change their application from athletic building to recreation facility.

J. Mathews stated that the board cannot change the laws made by City Council and that the board is constrained by state and local laws and that permits cannot be issued for things that are not in the law.

K. Jones stated that he believed there is a gray area and that if you were so inclined you could find verbiage to go either direction. He further stated that the applicant is requesting changes and that is what is before the board.

D. Cobb responded that the minutes reference tennis courts, pools, and that the site plan references a new fitness building, tennis is specifically referenced in every single set of minutes. There was a permit issued to cover the tennis courts, but the fitness dome is not a permitted use.

D. Cobb explained that the request of the Applicant is to amend their special exception permit to allow an athletic facility. If the board is in favor of this change, then please make sure to specify in the conditions, so that future administrators will have clear direction.

L. Bollini testified that all the mention of Brad Burton was just hearsay and that he never came to their house to see the vantage point of the fabric building. She welcomed anyone to come and stand on her deck and look down at the racquet club. She explained the history of the Brevard Racquet Club's growth and additions to the facility.

Ms. Bollini testified that they have lived in their home for 30 years and that they sit above the racquet club. She stated when the 12,000 sf metal building addition was being built they had concerns and read from the minutes from the 2000 and 2001 meetings. She offered a copy of the site plan from the Board of Adjustment hearings of 2000 and 2001, which is attached hereto and labeled, Exhibit "B". She explained that 17 years later a very different fabric building was built without permission from the board. The dome is 62 feet from her property and the noise and lights at night are disruptive to their enjoyment of their deck and home. She stated that the dome was used for tennis until converted to fitness facility with weights and exercise equipment in August 2017. For 28 years they were never bothered by noise from the club; but now there is music and clanging metal and the noise is like a construction site with thumping music, not melodic music. They are awakened by noise under the dome each morning around 5:40 to 6:00 AM, and there is also disturbance in the evenings. Since this change took place they are unable to enjoy their property and she feels that the use of the dome is not within the spirit and intent of the ordinance.

Further testimony revealed that she is a licensed real estate agent and believes that the dome will reduce their property value; it is not compatible with the surrounding neighborhood. She stated that the board should be reminded that the racquet club is a private for profit business, operating in a general residential neighborhood. Ms. Bollini's notes are attached hereto and labeled, Exhibit "F" for the record.

She asked that the board deny the request and help them protect their neighborhood.

T. Tartt asked Ms. Bollini if the Racquet Club or their house was there first.

L. Bollini stated that their house was built after 2 or 3 others, and the club was already in existence. She explained that she and her husband were tennis players and hung out there all the time, but it was just tennis courts. The club has grown and changed and that is not their issue. The club chose to buy in a residential neighborhood, and it is maxed out. There is no room for expansion, but back. She explained that they expected to live next to a racquet club but not a fabric fitness dome.

She requested that the building just be used for tennis courts because there is no way to contain the noise of the exercise equipment in the fabric building.

A. Delzell asked Ms. Bollini that if the applicant could mitigate the noise and lights to their satisfaction, would it be acceptable.

L. Bollini responded if the noise could be mitigated, the lights could remain.

Ms. Daniels testified that she is a neighbor to the Bollinis. She has a screened porch that she likes to use for reading, talking to friends and to dine on. She testified that she can hear the noise and things hitting the floor and that she can especially hear it in the mornings. She said the pool noise is different from hard weights being dropped on the hard surface. She further explained her concerns about the traffic along Country Club Road and stated that if this business was located on Maple or Rice Street and annoyed the neighbors and devalued property that someone would be right out to take care of the matter. She testified that she was out on Lois' porch talking with her, and they had to go inside due to the noise.

J. Bollini thanked the board for their service. Mr. Bollini stated that the fabric building was not placed in a proper place. He testified that there were concerns about all the asphalt and metal going into the neighborhood and that Mr. Vandergrift responded that there are nice trees and a stream which is a lovely buffer. He further testified that the stream is now gone and of the nine trees only one remains. He also stated that pine trees along Country Club have also been removed.

Mr. Bollini testified that he believes that during the construction of the fabric dome the club was on his property, that he had a survey to prove this and then wrote a letter to Mr. Vandergrift stating that thousands of dollars in damage had occurred and that he believed he should give the neighbors free memberships to compensate them. He got no response from this letter and a note he left on Josh Vandergrift's desk requesting a meeting.

Mr. Bollini stated that the hard driving noise is not harmonious, cross fit is not harmonious with the neighborhood. The proposed use and structure is not visibly compatible with the surrounding area and will be injurious because of the steel crashing noise and lighting.

K. Jones stated that he appreciated the opinions on the matters but that there are no statements of fact being presented to the board. He asked if the stream that disappeared was on Mr. Bollini's property. If so then he believes he did intrude on the Bollini property when cutting a path and the noise would also be an intrusion.

J. Bollini stated yes to the path and that the noise is intrusive. Mr. Vandergrift stated that the stream is totally on the tennis club property.

D. Cobb requested permission of the applicants to present site plan maps of the Brevard Racquet Club to the board.

M. Vandergrift approved showing the maps.

D. Cobb explained the site plan to the board and reminded them that everything on the current site had been issued permits. He further reminded the board of the request before them to use the dome as an athletic building.

L. Bollini asked D. Cobb if typically buildings within the City or ETJ have expected materials that are required to be used and is fabric ok.

D. Cobb stated that he would have to review the ordinance before he could respond.

M. Vandergrift testified that Mr. Burton approved the permit for the steel truss and fabric building. He further stated that the fabric building is 120 feet from the Bollini's property. He explained that the pine trees were taken down because they were diseased and that an arborist recommended removal. He explained that the tennis court lights have not been used in 17 years. The stream that was on the property had to be diverted into an underground culvert due to drainage issues on their property.

Lois Bollini's closing statement was that the existing fabric dome cannot contain the noise and it is not appropriate for a residential neighborhood. It affects the enjoyment of their home and property value. The noise wakes us up in the morning at 6 AM and keeps us from enjoying our deck. The decision by the racquet club to change to a fitness business is their business decision and we should not have to pay the price for their poor business decision. She stated that they should have built a sound proof building and that it is not fair or appropriate. L. Bollini showed pictures to the board of the view of the fabric building from their deck and of tennis players on the court when the dome was used as tennis courts. Pictures are included and labeled Exhibit "C". A letter from Jim and Lois Bollini addressed to the Board of Adjustment and dated July 29, 2018 is attached and labeled Exhibit "D"

Jim Bollini declined to make a closing statement.

D. Cobb stated that the request is for the existing fabric building to be used as an athletic facility.

K. Jones asked if there was a noise ordinance, and if there had been any noise complaints.

D. Cobb responded that the only noise complaint received by the Planning Department had been from the Bollinis. He offered a copy of the noise ordinance for the board's review.

K. Jones said that there was a letter from property owner Tim Moore and asked that it be entered into evidence. It is attached hereto and labeled, Exhibit "E".

T. Fogel asked if there is a meter to measure decibel levels. D. Cobb said that he believes that the Brevard Police Department has an instrument to measure decibel levels.

M. Vandergrift said that the matter seems to be the noise issue and that they are willing to make strong rules about dropping weights and to put monitors between their property and the Bollini's. He further stated that they have been operating the club for 25 years and the Bollini's complaint is the only one they have ever received and that he believes that it is much exaggerated. The club has tried to be good neighbors. He stated that in 2001 they tried to stop him from building a nice club for the community and had neighbors testify, and some of them later apologized for doing so. He shared that his club loses money every year, and that they keep the club going for the community.

In closing, Mike Vandergrift stated that their facility is very expensive to operate. There is a health crisis in our country and in our community. He explained that they are trying to do their best to provide multiple activities and services, including swim, fitness and tennis and that his club has the second largest swim program. We offer multiple swim and aerobic classes for those suffering from arthritis. The club offers swim and tennis lessons for children and do not require them to be club members, and often for no charge.

Mr. Vandergrift explained that functional strength training is the most popular exercise across the country in the last decade and that the fit dome provides this to our community, and he asked the board to please understand the impact this will have on the Brevard residents if this request for this dome to remain in use is denied.

A. Delzell asked if they have discussed sound mitigation.

M. Vandergrift stated that since he has been informed of the problem that he had been talking with Josh about putting hard fast rules in place.

Josh Vandergrift stated that they can certainly institute some policies to take care of weight dropping and things of that nature. A large group dropped out of the club to join the new cross fit gym, so a lot of the people dropping weights are no longer members. The noise can be mitigated, according to Josh Vandergrift, by putting hard, fast rules in place.

M. Vandergrift said the noise issue goes both ways.

J. Vandergrift said they will definitely take a look at the noise ordinance, because their club does open at 6 AM, and that they could wait until 7 AM to open the dome if that is what needs to happen. J. Bollini asked if he could speak, and J. Mathews told him that he was asked and declined his opportunity.

J. Mathews closed the hearing.

K. Jones stated that he would like to make a comment. He stated that this is the first time that he had believed there were two (2) sides that he would like to support. He explained that additional points could be made by both parties, but that there have been no expert witnesses. He stated that he would love for the parties to mediate and come up with an answer. He explained that he did not believe that he had the authority to vote outside the Board's parameters.

A. Delzell said that he was in agreement with K. Jones, and that he could not vote to grant the special use permit.

T. Tartt stated that no concrete facts had been presented, only opinions. He shared that he wished the parties could get together and work it out, that the noise levels need to be measured, and that the board does not have any facts upon which to make a decision.

J. Mathews stated that the applicants have testified that they are willing to make changes, and the Bollinis have testified that they play tennis and were members of the club.

J. Mathews asked board attorney, Brian Gulden, if the decision could be delayed until the next regular meeting to allow parties to come back with more information. Brian Gulden explained that the applicant and neighbors have to decide whether or not to table the matter.

J. Mathews explained that she was getting the feeling that the board would not approve the request.

B. Gulden explained that the board could deliberate the matter and make conditions if they desire.

Upon being asked, Mike Vandergrift stated he wanted to move forward and hear the matter.

J. Mathews requested a motion to grant and approve the request based on the suggested motion.

K. Jones asked if the board had the ability to leave the matter open if the parties agree to discuss the matter.

B. Gulden stated that he believed the question is could the decision be deferred until the parties discuss and agree to conditions that could be placed on the permit. He further said that the applicant would have to request that the board do so, and the applicant had been asked and did not like that idea.

K. Jones made the following motion:

The use of the property does not meet all requirements and specifications of the Ordinance and any adopted land use plan and is not proven to be in harmony with the general purpose and intent and preserve its spirit;

I move that we deny this request. The motion was seconded by Mr. Delzell.

J. Mathews asked for discussion.

A. Delzell stated that he personally believes that the facility was not compatible with the surrounding area because of the noise issue. It could possibly be detrimental to the surrounding properties, the board did not have expert testimony on this but it could possibly be. If you have any findings that are negative you cannot grant the request.

J. Mathews called for any further discussion, and there was none.

J. Mathews stated that each of the three factors has not been met and there are no findings of fact to support each of those in a positive manner.

B. Gulden stated that as he understood the motion, that the board is not able to make findings of fact that the use meets the specifications, that the board cannot make findings of fact that the use will not

be injurious to the public health, and that the board cannot make findings of fact that the proposed structure will not be visually and functionally compatible. He further stated that the motion was an appropriate one to make.

J. Mathews called for a vote on the motion not to grant the request.

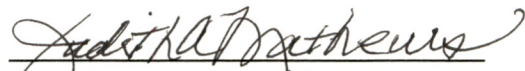
The vote carried unanimously not to grant the request and J. Mathews informed the applicant that their request had not been granted.

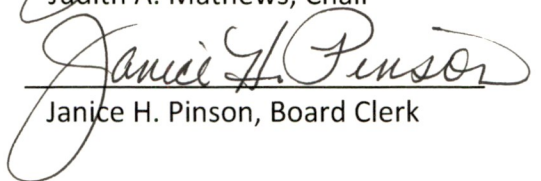
VII. Remarks

There were none.

X. Adjourn

There being no further business, T. Tartt moved to adjourn, seconded by K. Jones and unanimously carried. The meeting adjourned at 5:45 PM.


Judith A. Mathews, Chair


Janice H. Pinson, Board Clerk



CITY of BREVARD

The mission of the City of Brevard is to promote a high quality of life, support economic prosperity, and cultivate community while honoring its heritage and culture.

BOARD OF ADJUSTMENT STAFF REPORT

AUGUST 7, 2018

TITLE: Special Use Permit Request 18-002
SPEAKER: Daniel P. Cobb, AICP, CFM, CZO – Planning Director
PREPARED BY: Daniel P. Cobb, AICP, CFM, CZO – Planning Director

Executive Summary

The Board will hear a request of Michael A. Vandegrift for an amendment to Special Exception Permit (SEP) #00-022 for the Brevard Tennis and Athletic Club (the Club), which was granted on January 9, 2001.

The original permit to construct the Brevard Racquet Club was issued in 1977. An amendment was approved in January 2001. Staff has received a complaint from a neighbor indicating the Club is operating outside the approved uses from 2001. Specifically, that an approved tennis court has been converted to an indoor workout facility. The Club is advertising this area as the Fit Dome.

The Club's website offers the following description of this facility, "The Fit Dome at BHRC features TRX training, equipment from Matrix and Rogue, Rogue Sleds, dumbbell equipment, kettlebells, rowing machines, rings, a rope climb, 30 yards of turf as well as other multifunction equipment."

Applicant: Michael A. Vandegrift
 1325 N. Country Club Rd.
 Brevard, NC 28712

Meeting Date: August 7, 2018 – 3:00PM

Proposed Use: Athletic Facility

Zoning: General Residential – 4

Project Site: 1325 N. Country Club Rd.
 Brevard, NC 28712

Background

The original approval (1977) came with very few details. The amended SEP in 2001 included discussion in the meeting minutes that "a couple tennis courts" would be covered

by a bubble. Exactly which courts and when they would be covered is not clear in the record. What is clear is the fact they were to be used as tennis courts. The dome in question is now home to workout equipment, free weights, and many other devices. The tennis courts under the dome are no longer in existence. The dome structure was legally permitted in 2013 via Permit 12-415. This did not include a change of use, simply the physical structure.

Generally speaking, upon successful approval of a SUP application properties are then developed according to their original plans. Minor field alterations or minor revisions may be reviewed by staff. However, *substantial change[s] to a special use permit that results in the increase of the intensity, density, or character of the use shall be approved or denied by the BOA as an amended special use permit*¹.

Due to the fact the tennis courts are no longer in operation under the dome and that area is now used for something completely unrelated to tennis, it is Staff's opinion this constitutes a substantial change to SEP 00-022. In order to maintain use of this facility in this manner the applicant is requesting an amendment to SEP 00-022.

The specific request before the Board on application 18-002 is to allow the "existing fabric building to be used as an athletic building." The application does not indicate what an *athletic* building includes, nor does the Unified Development Ordinance include such a definition. The closest allowable use based on discussions with the applicant, review of the submitted complaint documents and the website (brevardhealthandracquetclub.com) is that of a *recreation facility, indoor*². Indoor recreation facilities are defined as

Uses or structures for active recreation including, without limitation, gymnasiums, natatoriums, athletic equipment, indoor running tracks, climbing facilities, court facilities and their customary accessory uses. This definition is inclusive of both non-profit and for-profit operations

Staff suggests the Board consider a specific list of uses or a set of criteria by which Staff can review future permits for use of this structure. An *athletic* building is far too broad of a term.

Athletic, as defined by the Merriam-Webster dictionary is "of or relating to athletes or athletics, characteristic of an athlete, used by athletes."

In an effort to provide context and explain how the Club has developed over the years, below is a summary of events leading to the request before the Board.

January, 1977 the Brevard Board of Adjustment granted approval of the Special Exception of the Brevard Racquet Club (Attachment A).

¹ Brevard UDO Chapter 16.11.E – Substantial Changes

² Brevard UDO Chapter 19.3 – Definitions

October 23, 2000 application 00-019 was filed by Michael A. Vandegrift to add to the clubhouse building, install junior Olympic pool with a bubble for indoor use, three additional tennis courts, a bubble over two tennis courts, and a well for the pools (Attachment B).

November 14, 2000 application 00-019 was denied by the Board (Attachment C).

November 20, 2000 application 00-022 was filed by Michael A. Vandegrift requesting a rehearing before the Board (Attachment D)

December 12, 2000 the Board granted approval of the request for a rehearing and set a date of January 9, 2001 (Attachment E).

January 9, 2001 the Board of Adjustment granted SEP 00-022 based on the following findings of fact (Attachment F):

1. The zoning of the property is R-1 Residential and Flood Hazard District.
2. The proposed use is not detrimental to the public health or general welfare.
3. The proposed use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal and similar services.
4. The proposed use will not violate neighborhood character nor adversely affect surrounding land uses.
5. Additional findings Board (may or may not) wish to add specific to the case. None.
6. The statements of the applicant and representations of the City of Brevard staff and members of the Board of Adjustment are the true facts of the case.

August 8, 2011 the Planning Department issued approval of permit 11-230 for additions to the pools, a covered passage, and wheelchair ramps (Attachment G).

January 28, 2013 the Planning Department issued approval of permit 12-415 for a steel truss fabric building over one tennis court (Attachment H).

October 21, 2017 the Planning Department received a written complaint (Attachment I) from Mr. James C. Bollini and Mrs. Lois J. Bollini describing noise disturbances from the new fitness dome at the Club.

June 4, 2018 the Planning Department sent a certified letter to Mr. Vandegrift, President of the Club (Attachment J) informing him of his options with regards to a change of use under an existing Special Exception Permit.

June 18, 2018 the Planning Department received no response to the June 4, 2018 letter so sent a follow up letter to Mr. Vandegrift (Attachment K) stating the Board will consider this change of use at their meeting on August 7, 2018. Procedurally this was a mistake, a formal Notice of Violation should have been sent prior to scheduling a hearing with the Board.

July 16, 2018 a formal Notice of Violation (Attachment L) was sent to Mr. Vandegrift. The alleged violation indicates an unpermitted change of use from what was approved via SEP 00-022.

July 18, 2018 the Planning Department received an application to amend SEP 00-022. Special Use Permit 18-002 (Attachment M) was filed to "request existing fabric building to be used as an athletic building."

Special Use Permits

Special uses are generally compatible with the land uses permitted by right in a zoning district, but require individual review of their location, design, and configuration so as to Evaluate the potential for adverse impacts on adjacent property and uses. Special uses ensure the appropriateness of the use at a particular location within a given zoning district.

Only those uses enumerated as Special Uses in a zoning district, including but not limited to hours of operation, height, and bulk, mass, intensity of use, etc. shall be authorized by the BOA.

The evaluation and approval of the Special Use Permit shall be based upon the sworn testimony and evidence presented at the hearing relevant to the following findings of fact:

- a) The use meets all requirements and specifications of the Ordinance and any adopted land use plans and is in harmony with the general purpose and intent and preserves its spirit; and
- b) The proposed use or structure will, if developed according to the plan submitted and approved, be visually and functionally compatible to the surrounding area; and
- c) The proposed use or structure will not be injurious to the public health, safety, and welfare, and will not be detrimental to the value of adjoining property and associated uses.

In approving an application for a Special Use Permit, the BOA may attach fair and reasonable conditions which support the required Findings of Fact. The BOA may not require the landowner to waive a vested right as a condition of the Special Use Permit approval. The burden of proof of producing evidence to support these Findings and to overcome any challenges that approval of the plan would be contrary to one or more of these Findings shall rest entirely with the applicant or landowner.

Summary

The applicant is seeking approval to change the approved use (tennis courts) under the dome to an athletic building. In the Board's Findings of Fact, a further explanation or definition of an athletic building will help future administrators, boards, and neighbors determine if a proposed future use is allowable.

In addition to the materials provided by Staff in the following attachments, several letters and were provided by the public for the Board's review. These letters and supplemental materials will be provided to the Board once the hearing begins on August 7, 2018.

Attachments

- | | |
|----------------------|---|
| A. January 1977 | Approval of Original Special Exception Permit |
| B. October 23, 2000 | Application 00-019 |
| C. November 14, 2000 | Meeting Minutes |
| D. November 20, 2000 | Application 00-022 |
| E. December 12, 2000 | Meeting Minutes |
| F. January 9, 2001 | Meeting Minutes |
| G. August 8, 2011 | Permit 11-230 |
| H. January 28, 2013 | Permit 12-415 |
| I. October 21, 2017 | Written Complaint |
| J. June 4, 2018 | Certified Letter |
| K. June 18, 2018 | Follow Up Letter |
| L. July 16, 2018 | Notice of Violation |
| M. July 18, 2018 | Application for Special User Permit 18-002 |

City Of Brevard -- Transylvania County

INSPECTIONS DEPARTMENT



February 2, 1977

Mr. Tom Willson
Route 3, Box 52-E
Brevard, North Carolina

Dear Tom:

As you know, the Brevard Board of Adjustment approved the Special Exception for the Brevard Racquet Club. A building permit will be granted as soon as you apply for a permit.

If you need any further assistance on floodway information or zoning, do not hesitate to call.

Sincerely,

fat
Patricia Thomson,
City/County Planner

PT:dp

City Of Brevard -- Transylvania County

INSPECTIONS DEPARTMENT



Dear Property Owner:

The Brevard Board of Adjustment will review the Special Exception/
Variance described below at their meeting on February 1, 1977.
The City of Brevard Zoning Ordinance requires
that all property owners within two hundred feet (200') be notified
of the public hearing. You are invited to attend this hearing to voice
your comments. If you have any questions concerning this matter,
please contact the Department of Inspections in the Municipal Building.

*A request for a Special Exception for the Brevard Racquet Club
on Country Club Road for the construction of three (3) tennis
courts (R-1 zone). A public hearing will be held in Council
Chambers, Municipal Building on February 1, 1977.*

Patricia Thomson,
City/County Planner

REQUEST FOR VARIANCE/SPECIAL EXCEPTION
CITY OF BREVARD, NORTH CAROLINA

Name and address of owner/optionee BREVARD RACQUET CLUB

Name and address of agent (if any) TOM WILLSON 883-2794

KT 3, BOX 52-E BREVARD

Location of property COUNTRY CLUB RD

Tax Map reference TRA-34-2 Lot #26 (portion)

Variance/Special Exception requested for ~~3000~~ Tennis Club
on Country Club Rd Primary construction is for 3 tennis
courts. Later construction will include a club house
& 3 more courts

Names and address of property owners within two hundred feet (200') _____

Tom Willson

Signature of applicant

1-11-77

Date

**REQUEST FOR SPECIAL EXCEPTION PERMIT
CITY OF BREVARD, NORTH CAROLINA**

Case # 00-019

Name/Address/Telephone Number of applicant/optionee:

Michael A. Vandegrift
BREVARD (RACQUET) TENNIS & ATHLETIC CLUB
COUNTRY CLUB ROAD
(828) 883-3005 PO Box 1520, Brevard,

Name/Address/Telephone Number of property owner if different than applicant:

 ()

Location of property:

1/2 mile south of Brevard High School
on Country Club Road

PIN Reference: 8585-31-5597-000 Zoning District: R1

Special Exception Requested:

- Addition to clubhouse building
- New Junior Olympic Pool w/ bubble for indoor
- Additional tennis courts 3+
- Bubble over 2 tennis courts
- Well dug for pools

Michael A. Vandegrift
 Signature of Applicant

10/23/00
 Date

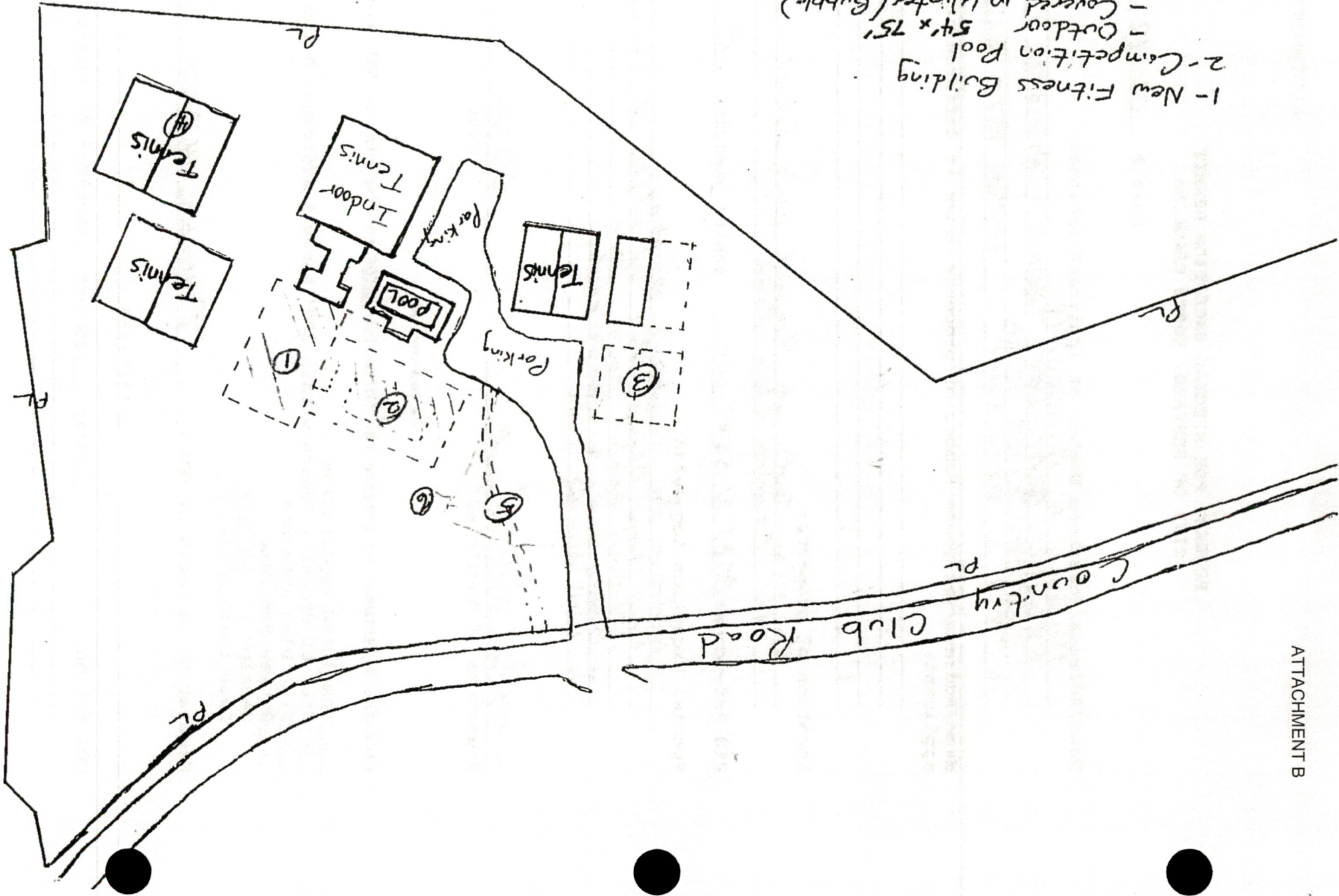
Planning Department to receive the following PRIOR to placement on BOA agenda:

☒ Completed Application
☒ List of Property Owners within 200' Names & Addresses Attached
☒ Site Plan Attached
☒ Review Fee Paid
 Receipt # 20676
 Date Paid 10-23-00

Request to be heard by BOA on: November 14, 2000

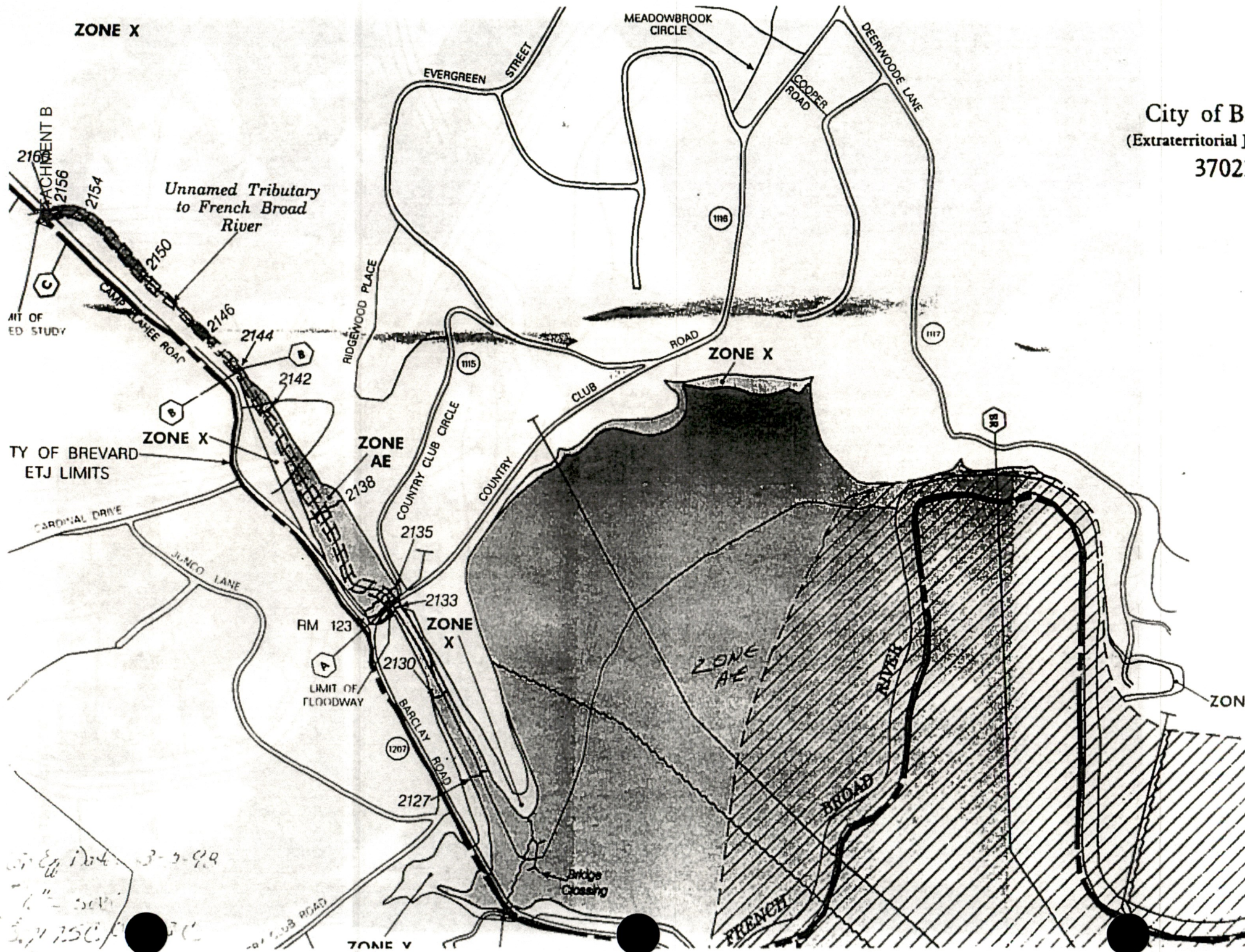
BOA Action: Deny Approve Approved W/ Conditions

- 1 - New Fitness Building
- 2 - Competition Pool
- Outdoor 54' x 75'
- Covered in winter (Bubble)
- 3 - Additional Tennis Courts
- 4 - Bubble over Courts for winter
- 5 - Additional Parking



ZONE X

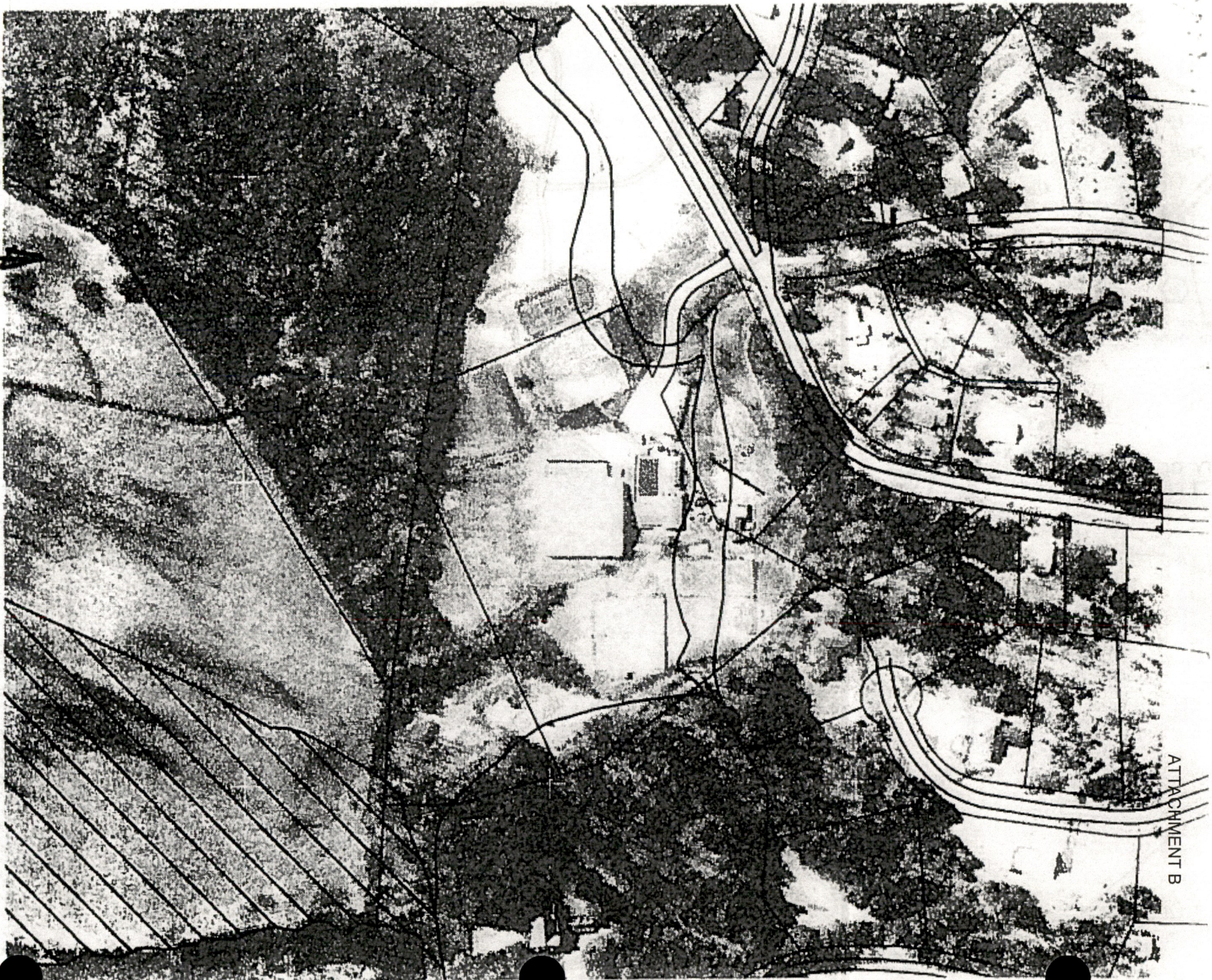
City of B
(Extraterritorial J
3702:



City of B
3-3-98
1" = 500'
5.7.150.0

N

1" = 200'



ATTACHMENT B

EXCERPT FROM BOA MINUTES – NOVEMBER 14, 2000 MEETING

Case #00-091 Michael Vandegrift (Brevard Tennis & Athletic Club) – Special Exception Permit Request of Mr. Michael A. Vandegrift, Brevard (Racquet) Tennis and Athletic Club, to expand a use permitted by a Special Exception Permit. Applicant desires to expand the existing private club facility by adding to the clubhouse building, construct a covered junior olympic pool, and construct additional covered tennis courts. Property is located on Country Club Road within a R-1 Residential District, PIN 8585-31-5597-000.

Mr. Warren explained and presented information regarding the request as detailed in his November 8, 2000 staff report. Within the staff report Mr. Warren posed some questions the Board may want to discuss with the applicant. Copies of two letters received from neighboring property owners were given to Board members; both letters expressed they are not in favor of the Board granting the request. Letters dated November 14, from R. Hugo and Beverly H. Martin, and Jacob Wade Carpenter, are one file.

Mr. Vandegrift, Brevard Tennis and Athletic Club, was sworn in. Mr. Vandegrift stated that it is his desire to expand the Club by making an addition to the clubhouse; add additional tennis courts (3 or 4); and add a junior olympic pool, which would be uncovered during summer use and covered during winter use. The existing (smaller) covered swimming pool would remain. He explained that the Club presently has a membership of 700; anticipate with the additions that they could expand their membership to approximately 1000 members. Presently, the number of members that use the Club on any given day varies from 100 to 225. In answer to the questions Mr. Warren has posed, Mr. Vandegrift offered the following:

1. He does not propose any changes in their hours of operation. Operation hours, as approved when the Club received their Special Exception Permit, are 6:00 AM until 9:00 PM.
2. There would be some additional lighting within the proposed new swimming pool; however, he does not anticipate it to create a negative impact or difficulty on anyone. The existing tennis courts already have lighting; by adding the proposed "bubble" over the two courts would not change the lighting. Although the area proposed for the pool and the clubhouse addition are in open areas, their property currently has a substantial amount of trees providing a natural screen.
3. Additional parking area could be provided; however, they do not propose any changes to their on-site traffic pattern. Currently they exceed their required number of parking spaces; however, if needed, their property has adequate area to provide for additional parking spaces. Their existing entrance/exit will not be changed. In his seven (7) years of operation they have not had any traffic accidents at or near their entrance. There have been some accidents up the road from the Club (near Deerwood Lane) however, he's not aware that Club traffic has contributed to this. It's been his understanding that they are usually caused by people attempting to make a u-turn in the area or not traveling at a safe speed for the conditions (ice/snow) or allowing for the curve in the road.

Mr. Vandegrift explained that they are proposing these changes in order to meet the needs and requests of Club members, as well as, needs expressed by the community (County School system and Transylvania Hospital). The Club would be willing to provide swimming practice time and meet (competition) time for the High School Swim Team, as they will no longer be able to use Brevard College's pool. Also, the pool could be used to provide aquatic therapy classes.

Mr. Max McCracken, neighboring property owner, was sworn in. Mr. McCracken stated that he lives above the Racquet Club and that during the hours of 7:30 AM – 8:30 AM and 2:30 PM – 4:00 PM, there is lots of traffic on Country Club Road. He has lived at this residence since 1967; the curb in the road is dangerous; and, he can see the Clubs lights from his house.

Mr. Terry Holiday, Transylvania County School Superintendent, was sworn in. Mr. Holiday stated that the School system is in critical need of swimming facilities. Soon, due to the College expanding and therefore they can longer provide use of their swimming pool, our high school students will not have a swimming pool for practice. Within the City's Focus 2020 Report, a need for a community swimming pool was identified. Having a private entrepreneur willing to provide an appropriate size swimming pool, and willing to contract with the School for its use, would provide for the students needs as well as provide a substantial cost savings for our Community at large. The School could lease pool time at a fraction of the cost of constructing a pool and providing for its necessary maintenance.

Ms. Rachel Daniels, 14 Country Lane, was sworn in. Ms. Daniels asked if the Club would be selling alcoholic beverages on the premises?

Mr. Vandegrift stated, no, they would not.

Mrs. Lois Bollini, 7 Country Lane, was sworn in. Mrs. Bollini stated that her house is located within the cul-de-sac on County Lane and that her property adjoins the Club. In fact, due to the topography of the area, her house overlooks the backside of the Club where the tennis courts are approximately 200 to 250 feet away from her property. By placing a bubble over the tennis courts, that would encourage extended use of them and therefore she would see the lights more frequently. During the summer time this would not be a difficulty due to the trees; however, in the winter time with the leaves gone it would be a different story. The proposed addition to the building is more of an issue to her due to the fact it would provide for a more intense use and provide more noise. Asked that the Board remember this is not a community facility as it is only open to Club members. Believes the proposal would have a negative impact on her neighborhood. Mrs. Bollini stated that when she purchased her property, knowing that the Club was there, she thought the fact that the Club and the adjoining neighborhood being zoned R-1 Residential would (and should) provide her some protections.

Ms. Susan Peterson, 870 Country Club Road, was sworn in. Ms. Peterson stated that when she purchased her home five years ago, she purchased it knowing that the Club was there. Although she has no objection with the Club remaining as it is, she does not want them to expand as it would increase the amount of noise (people conversing outside and hearing tennis balls bouncing on the court) and the amount of lights seen from her property. Also, if they were

to be allowed to expand, the noise during the construction progress would be a negative impact on her neighborhood, and she does not want to have to look upon a metal or steel building with its lights. The increase in traffic and noise due to the swim team is also a concern to her.

Mr. Jim Bollini, 7 Country Lane, was sworn in. Mr. Bollini questioned if the requested expansion would not in fact make this "too commercial" for a neighborhood Special Exception Permit? In light of the size of the addition, proposed food services within the Club's café, etc, it seems this is becoming too commercial. If the Board were to consider granting the request, he hopes that they would require additional trees for noise, and require that the building be painted green. Also, would the proposed expansions create changes in the stream?

Mr. Roger Borth, 59 Deerwood Lane, was sworn in. Mr. Borth asked if the pool was used by the High School, would they (School) have long term use of the pool?

Mr. Vandegrift explained, yes, he has already expressed to the School a willingness to enter into a lease agreement similar to what the School system has had with Brevard College in the past.

Ms. Mary Lisa Patty-Abbey, 501 Shepherd Square, was sworn in. Ms. Patty-Abbey stated that she is concerned over the number of people, school buses, students walking and biking to the pool, swim teams and spectators coming to the facility. Such an increase would really change the neighborhood.

Mr. Holiday responded and explained to those present that: (a) There are only thirty to forty students involved with the high school swim team program and that the primary use of the pool would be for swim practice time; (b) Competition meets do not bring multiple buses; (c) Typically there would only be one or two meets in a given school year; and, (d) His wishes that he could say the swim team is met with large support from the Community; however, typically only a few parents and supporters attend swim meets.

Mr. Vandegrift again addressed the Board and explained that, in all honesty, he's a bit taken back at comments he's hearing tonight from the neighboring residents. During the past seven years while he's owned and operated the Club, no one has called him or come by expressing these concerns. He, or his contractor, will try and answer some of the questions and address concerns expressed.

1. Regarding changes to the stream. No, there would not be any changes to the stream due to the proposed expansion.
2. Additional traffic, school buses, etc. to the Club. Students have already been coming to the Club to use the existing pool, as well as tennis courts. There is a bus stop very close to the Club's entrance. He's not aware of any dangers to students as they might walk from the bus stop to the Club's driveway. In fact, he believes most of the students coming to the Club either drive themselves or have parents drive them to the Club. Typically, the School does not transport the swim team for practice. However, should there be need for a school bus to do so for a practice or meet, the Club property has adequate area for a bus to safely enter/exit and drop off students.

3. As for the proposed addition to the clubhouse. The addition would be smaller than the indoor tennis building addition that was approved a few years ago. It is his understanding that the proposed addition would not create noise or lighting difficulties for the neighbors; however, he will allow his contractor to explain these details to the Board.

Mr. Jesse Johnson, contractor, was sworn in. Mr. Johnson explained that although there would be some additional lighting to the proposed pool area, its impact would be nominal due to the type of construction and design of the cover over the pool. And, as previously stated, placing a bubble over the existing tennis courts would not create any changes to the lighting. The lights are currently shielded to have the light shine in the direction of the courts, this would not be changed. With respect to the expressed concerns over the color of the building, possible screens provided around lights, etc. Although they were not aware of the concerns and are therefore are not prepared tonight to produce details for such provisions, he can assure the Board and those present that such consideration can be made. He would be willing to provide such drawings and information for the Board in the future, if they so desire.

Mr. Chris Cormiar, contractor, was sworn in. Mr. Cormiar explained that the proposed addition to the clubhouse would not provide additional noise or light to the neighbors. The structure would have a solid back wall, which would therefore not provide additional lighting or allow noise to penetrate as it would be a well insulated structure. During this hearing he's heard the neighbors speak of the Club being within the neighborhood. The fact is, there are several non-residential uses which have been approved, such as the High School, a restaurant, a veterinary clinic, a day care, etc., all of these uses are located on Country Club Road in close proximity to the Club and are within the residential district. It seems to him that the proposed expansion is in keeping with the character of Country Club Road.

Mrs. Bonnie Vandegrift, Brevard Tennis and Athletic Club, was sworn in. Mrs. Vandegrift explained that they are proposing the expansions in response to what they have been hearing from the Community for quite some time. The Club has been "thanked" by the Hospital and others for the fact that they provide the means and opportunity for services like aquatic therapy for rehabilitation, etc., in fact, they continue to hear that more is needed. The Club is providing a much-needed service for the senior adults within our Community.

P. Welch moved, seconded by L. Deavor, that the Board find the following Findings of Fact:

1. The zoning of the property is R-1 Residential District.
2. The proposed use is not detrimental to the public health or general welfare.
3. The proposed use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal and similar services.
4. The proposed use will not violate neighborhood character nor adversely affect surrounding land uses.
5. Additional findings Board (may or may not) wish to add specific to the case. None
6. The statements of the applicant and representations of the City of Brevard staff and members of the Board of Adjustment are the true facts of the case.

Discussion:

Chairman Long stated that although twenty-three years ago the Club was granted a Special Exception Permit for the Club, and an addition to the Club was granted a few years ago, the proposed expansion would create a substantial increase in the use and membership and he has to question, as stated by the neighboring residents present tonight, if this would not in fact be a negative impact on the neighborhood. Chairman Long commended them on their willingness to provide use of a pool for the High School, however, the project seems too large and exceeding the scope of a neighborhood use.

G. Dubia stated that the increase in traffic would be a concern, and he feels that based upon the neighbors comments that it will violate neighborhood character.

T. Benton stated that he too feels that the projected increase in the membership, additional use by the High School swim team, and additional noise level during swim team activities would violate neighborhood character.

Vote on the Motion:

Ayes: P. Welch and L. Deavor

Noes: T. Benton, G. Dubia and Chairman Long

Motion failed.

T. Benton moved, seconded by G. Dubia, that the Board find the following Findings of Fact:

1. The zoning of the property is R-1 Residential District.
2. The proposed use is not detrimental to the public health or general welfare.
3. The proposed use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal and similar services.
4. The proposed use would violate neighborhood character nor adversely affect surrounding land uses.
5. Additional findings Board (may or may not) wish to add specific to the case. None
6. The statements of the applicant and representations of the City of Brevard staff and members of the Board of Adjustment are the true facts of the case.

Ayes: T. Benton, G. Dubia and Chairman Long

Noes: P. Welch and L. Deavor

Motion carried.

T. Benton moved, seconded by G. Dubia, that Mr. Vandegrift's, Brevard Tennis & Athletic Club, request to expand the Club's facilities be denied based upon the Board's findings.

Ayes: T. Benton, G. Dubia and Chairman Long

Noes: P. Welch and L. Deavor

Motion carried.

**REQUEST FOR SPECIAL EXCEPTION PERMIT
CITY OF BREVARD, NORTH CAROLINA**

Case # 00-022

Name/Address/Telephone Number of applicant/optionee:

Brevard Tennis & Athletic Club - Michael Vandegrift
815 Country Club Road - PO Box 1520
Brevard, NC 28712
(828) 883-3005

Name/Address/Telephone Number of property owner if different than applicant:

 ()

Location of property:

North Country Club Road
.7 of a mile south of Brevard H.S.

PIN Reference: 8585-31-5597-000Zoning District: R-1

Special Exception Requested:

Please see attached

Michael A. Vandegrift
 Signature of Applicant

11/20/00
 Date

Planning Department to receive the following PRIOR to placement on BOA agenda:

☒ Completed Application
☒ List of Property Owners within 200' Names & Addresses Attached
☒ Site Plan Attached
☒ Review Fee Paid
 Receipt # 20704
 Date Paid 11-20-00 120.00

Request to be heard by BOA on: December 12, 2000

* 12-13-00 Board granted request for a rehearing. Rehearing to be held on 1-9-01

BOA Action: Deny Approve Approved W/ Conditions

I would like to request another hearing in front of the Board of Adjustment on December 12, 2000 for the expansion of The Brevard Tennis and Athletic Club. At the November 14th meeting, we were denied a special exemption in a vote based on the fourth criteria which was that the expansion of the club would change the character of the neighborhood. I feel that this is far from the truth. The club has been an asset to the area for 23 years and many of the members have moved to the surrounding neighborhoods so that they could be close to the club. This club expansion is of great importance not only to the neighbors in Illahee and Illahee Hills, but also to the city of Brevard and to Transylvania County as well.

The testimony given, primarily by two individual parties can be refuted by the vast majority of the residents in the area. Given that the concerns about noise, traffic and traffic accidents were never brought to our attention before the meeting, I did not know it was necessary to have data available pertaining to these issues. Much more information can be given on the traffic count of the club in relationship to normal Country Club traffic (using an unbiased counter) along with noise, light effects and data to show the # of accidents which may in some way be related to the club. Some of these take some time to evaluate. Again, I hope you will grant us a hearing to present these important facts along with listening to the feelings of the entire community.

Michael A. Vandegrift

RECEIVED
12-22-00

Allowed Check-ins Only - Facility Usage From 11/01/00 to 12/08/00

Visit Date	12AM 1AM	1AM 2AM	2AM 3AM	3AM 4AM	4AM 5AM	5AM 6AM	6AM 7AM	7AM 8AM	8AM 9AM	9AM 10AM	10AM 11AM	11AM 12PM	12PM 1PM	1PM 2PM	2PM 3PM	3PM 4PM	4PM 5PM	5PM 6PM	6PM 7PM	7PM 8PM	8PM 9PM	9PM 10PM	10PM 11PM	11PM 12AM	Daily Total
11/01/00	0	0	0	0	0	0	12	11	23	14	8	8	4	9	5	7	7	9	8	5	2	0	0	0	132
11/02/00	0	0	0	0	0	0	12	20	12	5	13	14	0	1	5	9	6	12	10	3	2	0	0	0	124
11/03/00	0	0	0	0	0	0	9	8	15	13	11	1	1	4	11	3	3	7	6	0	0	0	0	0	92
11/04/00	0	0	0	0	0	0	0	0	0	6	20	5	6	1	3	5	1	0	0	0	0	0	0	0	47
11/05/00	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2	1	2	0	0	0	0	0	0	0	5
11/06/00	0	0	0	0	0	0	20	12	31	19	9	6	5	6	4	10	7	8	20	7	1	0	0	0	165
11/07/00	0	0	0	0	0	0	8	23	11	6	21	14	2	1	5	9	8	14	14	1	2	0	0	0	139
11/08/00	0	0	0	0	0	0	11	11	20	12	9	9	4	6	6	11	9	11	6	4	3	0	0	0	132
11/09/00	0	0	0	0	0	0	10	14	15	2	16	12	5	5	4	6	8	8	6	3	0	0	0	0	114
11/10/00	0	0	0	0	0	0	6	8	10	19	10	4	7	6	10	3	6	6	4	1	0	0	0	0	100
11/11/00	0	0	0	0	0	0	0	0	0	10	12	6	4	5	9	1	2	0	0	0	0	0	0	0	49
11/12/00	0	0	0	0	0	0	0	0	0	0	0	0	0	2	4	4	0	0	0	0	0	0	0	0	10
11/13/00	0	0	0	0	0	0	19	11	25	22	16	4	3	7	12	6	6	13	14	5	1	0	0	0	164
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11/15/00	0	0	0	0	0	0	11	10	22	13	7	12	4	7	12	4	7	13	11	6	1	0	0	0	140
11/16/00	0	0	0	0	0	0	12	12	17	3	10	11	2	9	5	7	10	13	7	7	2	0	0	0	127
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11/18/00	0	0	0	0	0	0	0	0	0	8	9	11	3	5	3	1	1	0	0	0	0	0	0	0	41
11/19/00	0	0	0	0	0	0	0	0	0	0	0	0	0	1	1	0	0	0	0	0	0	0	0	0	2
11/20/00	0	0	0	0	0	0	3	8	12	5	4	8	5	7	4	10	10	10	11	14	4	0	0	0	115
11/21/00	0	0	0	0	0	0	7	4	9	5	11	4	2	4	6	9	13	3	8	12	3	0	0	0	100
11/22/00	0	0	0	0	0	0	6	11	13	10	3	15	3	7	6	5	4	6	7	5	0	0	0	0	101
11/23/00	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
11/24/00	0	0	0	0	0	0	1	8	6	8	10	10	3	8	5	9	10	4	6	1	0	0	0	0	89
11/25/00	0	0	0	0	0	0	0	0	0	10	8	10	2	4	10	5	6	0	0	0	0	0	0	0	55
11/26/00	0	0	0	0	0	0	0	0	0	0	0	0	0	1	8	1	0	0	0	0	0	0	0	0	10
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12/01/00	0	0	0	0	0	0	8	9	20	14	4	2	9	4	9	7	5	2	7	0	0	0	0	0	100
12/02/00	0	0	0	0	0	0	0	0	0	10	15	8	3	9	2	1	1	0	0	0	0	0	0	0	46
12/03/00	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
12/04/00	0	0	0	0	0	0	3	9	10	11	12	3	5	7	7	9	10	12	15	3	4	0	0	0	120
12/05/00	0	0	0	0	0	0	10	14	16	7	13	12	5	4	2	4	8	9	9	4	1	0	0	0	118
12/06/00	0	0	0	0	0	0	16	9	19	11	9	3	13	8	8	2	14	9	13	7	1	0	0	0	142
12/07/00	0	0	0	0	0	0	10	11	13	4	13	10	6	6	9	8	7	15	4	9	0	0	0	0	125

ATTACHMENT D

Allowed Check-ins Only - Facility Usage From 11/01/00 to 12/08/00

Visit Date	12AM	1AM	2AM	3AM	4AM	5AM	6AM	7AM	8AM	9AM	10AM	11AM	12PM	1PM	2PM	3PM	4PM	5PM	6PM	7PM	8PM	9PM	10PM	11PM	Daily Total
	1AM	2AM	3AM	4AM	5AM	6AM	7AM	8AM	9AM	10AM	11AM	12PM	1PM	2PM	3PM	4PM	5PM	6PM	7PM	8PM	9PM	10PM	11PM	12AM	
12/08/00	0	0	0	0	0	0	16	10	26	11	12	7	14	5	6	3	4	0	0	0	0	0	0	0	114
Totals:	0	0	0	0	0	0	277	302	448	311	358	261	146	196	224	202	219	223	258	135	36	0	0	0	3596

ATTACHMENT D

December 6, 2000

I spoke today with Sgt. Dunn of the North Carolina Highway Patrol (693-4141) regarding traffic accidents in the vicinity of the entrance to the Brevard Racquet Club. He provided the following data for the years 1999 and 2000.

During 1999, there were no accidents in the vicinity of the entrance to the club and there were a total of 4 accidents on the 1.7 mile stretch of road between the start of Country Club Road at Hwy 64 to Illahee Rd.

During the year 2000 to date there have been no accidents at the entrance to the club and there have been 2 accidents on the entire stretch of road stated above. Thus a decrease by 50% in the two years totals.

Due to the fact that the Brevard High School and several other commercial businesses are within this same stretch of road, to state that the club is responsible for these accidents, as was implied by several at the last meeting, is wrong. In fact, considering the number of young drivers that use the road because of the high school, I feel that there have been very few accidents.

I am also furnishing to the board, traffic count information published in 1998 that was compiled by the North Carolina Department of Transportation in the Thoroughfare Plan for the city of Brevard, which clearly shows that Country Club Rd is considered a major thoroughfare and that the 1996 traffic counts and the projected 2025 counts are well under the current practical capacity of the road. There is no way that the proposed expansion of the club could or would increase the traffic anywhere close to this capacity.

Mike Vandegrift

Bud Shapard, Research Consultant

274 LR Campground Road
Pisgah Forest, NC 28768
Telephone: 828-884-2710
Email: Bud1@citcom.net

Traffic Count

This traffic count is a count of all vehicles passing in front of or turning into the Brevard Racquet Club on December 6, 2000 between the hours of 7:00 A.M. exactly and 9:00 A.M. exactly.

Delimitation

The purpose of this study was to determine the number of motor vehicles traveling on Country Club Road during the aforesaid date and time period; to ascertain from which direction they came (south toward Brevard and north from Brevard); to ascertain the number of those vehicles turning into the Brevard Racquet Club's parking lot and from which direction the turning vehicles came.

Possible Influencing Factors

1. Unusually cold weather with residual snow on the ground. Roads were generally clear. Transylvania County Schools were operating on the normal schedule but buses were not traveling on icy roads. Country club road did not appear to be affected as several school busses passed.
2. Asplundh Tree Service was trimming trees along Country Club Road. There was a good deal of truck movement, involving two bucket trucks and a pickup. The movement of these trucks which involved pulling into the Racquet Club parking lot to turn around or to adjust their position on the road was not tracked. The company began work at 8:00 A.M. and installed cones and flag men at 8:17 A.M. on Country Club Road. The only observable effect was to slow traffic.

Definitions

Club. The Brevard Racquet Club

Club Vehicles. Vehicles turning into the club and pulling into a parking lot.

String: Two or more vehicles following one behind the other without a substantial break.

Results

Through traffic South to North (Toward Brevard) (7:00 - 8:00 A.M. — 135) (8:00 - 9:00 A.M. — 71)	.....	206
Through Traffic North to South (From Brevard) (7:00 - 8:00 A.M. — 25) (8:00 - 9:00 A.M. — 25)	.....	50
Into Club from the South (7:00 - 8:00 A.M. — 10) (8:00 - 9:00 A.M. — 12)	.....	22
Into Club from the North (7:00 - 8:00 A.M. — 5) (8:00 - 9:00 A.M. — 22)	.....	24
Traffic from Country Club Circle/_____	.....	20
Toward Brevard	17	
To the South.....	2	
Into the Club.....	1	
Total vehicles counted	.....	322
Total vehicles entering Club parking lot	.....	46
Percentage of Club vehicles to total vehicles	.....	14.2+%
From the South	6.8%	
From the North	7.4%	
From Country Club Cir./_____	.03%	
Longest string of vehicles from the south (occurred twice)	.....	6
Longest string of vehicles from the north	.....	2
Statistical average time between vehicles passing club	.....	22 seconds
Actual average time between vehicles or strings (sample)	.....	1:40 minutes
Statistical average of vehicles turning into Club	.....	2:30 minutes
Statistical average of vehicles turning into Club from South	.....	5: 30 minutes
Statistical average of vehicles turning into Club from North	.....	4: 30 minutes

I hereby certify that I personally conducted this research and the following is a true and accurate reporting of the results.

Bud Shapard (John A. Shapard, Jr.)

Date

Chapter 2

Recommended Thoroughfare Plan

Intent of the Thoroughfare Plan

Transportation is the backbone of a regions economic vitality. Without an adequate transportation system people cannot easily reach their intended destination, goods cannot be delivered to the market in a cost effective manner, and investors may look to invest in better served areas. Recent trends such as regional economies, "just in time" delivery, increased automobile ownership, and increased migration away from the central cities and town are taxing our existing transportation system and requiring that we put move emphasis on planning for our transportation future.

A thoroughfare plan study identifies existing and future deficiencies in the transportation system, as well as uncovers the need for new facilities. The thoroughfare plan also provides a representation of the existing highway system by functional use. This use can be characterized as a part of the major or minor thoroughfares plus any new facilities that are needed. A full description of these various systems and their subsystems is given in Appendix A.

This chapter presents the thoroughfare plan recommendations. It is the goal of this study that the recommended plan set forth a transportation system that will serve the anticipated traffic and land development needs for the City of Brevard. The primary objective of this plan is to reduce traffic congestion and improve safety by eliminating both existing and projected deficiencies in the thoroughfare system.

Thoroughfare Plan Recommendation

* Major Thoroughfares

These are facilities that provide for the expeditious movement of high volumes of traffic within and through the urban area.

US 64 - This multilane radial route is the main artery for the City of Brevard. Most of the commercial development is located on this corridor that goes for the northeastern planning boundary to the southwestern planning boundary. The US 64 and US 276 corridors are basically the only through travel ways in Brevard and a great demand is put on these facilities for both local and through traffic. To better explain the US 64 corridor in Brevard it has been broken into four smaller sections to describe what is occurring on the facility.

The first section of US 64 is from the northeastern plan boundary to NC 280. This two lane facility is a mix of commercial and residential development. The traffic data in this report indicates that this section of US 64 will be over capacity in the future year 2025. Due to the development and potential for future development it is recommended that this section be widened to a three lane cross section as shown in Appendix C (letter C). This improvement would eliminate back-ups caused by vehicles making left turns in this area.

The final section of US 276 is from Franklin Street to the southern Brevard Planning Area Boundary. In this section it is recommended that US 276 between Gallimore Road (SR 1118) and the Brevard Elementary School property be widened to a three lane cross section (cross section H) to help improve entering and exiting the elementary school. Due to the volume of traffic in the morning and afternoon trying to enter the elementary school parking lot and then exit the lot and turn left on to Gallimore Road toward the Brevard High School this area becomes very congested. The existing left turn lane storage area is not long enough to accommodate the traffic turning left into the school and turning onto Gallimore Road. It is also recommended if possible to move the entrance to the elementary school further to the south and increase the distance to the Gallimore Road intersection. No other improvements are recommended for this section of US 276.

NC 280 - This multilane facility located in the northern planning area connects Brevard to the Hendersonville and Asheville areas. This route has a mix of residential and commercial development with most of the commercial-development occurring at the intersection of US 64 and US 276. The current Average Daily Traffic volume along NC 280 was 10,100 vpd (vehicles per day) in 1996. Traffic projected for the planning year (2025) indicates that traffic on this facility will increase to 16,000 vpd. These volumes are well below the design capacity for this facility and no improvements are currently recommended.

Illahee Road (SR 1114) - This two lane facility is located in the southern planning area and connects into US 64 (The Rosman Highway). This route is mostly residential. The existing cross section is adequate for the design period.

Country Club Road (SR 1116) - This two lane facility connects US 64 (Broad Street) to Illahee Road (SR 1114). This is mostly a residential area with the Brevard High School located along Country Club Road. With the current pavement width of 18 ft (5.49 m) and the projected future volume, it is recommended that the pavement be widened to 22 ft (6.70 m) as a safety improvement.

Gallimore Road (SR 1118) - This two lane radial connector is used primarily by residential traffic. It is also used by many residents as a connector between the Brevard Elementary School and the Brevard High School. The existing cross section should be sufficient through the design year.

Cashiers Valley Road (SR 1344) - This facility in the southwest planning area is a two lane, 16 ft (4.88 m) wide thoroughfare that serves mostly residential traffic. It is recommended as a safety improvement that this facility be widened to 20 ft (6.10 m) cross section.

Carolina Avenue (SR 1347) - This two lane route serves mainly residential development. The existing traffic volume is 900 vpd (vehicles per day) and the projected traffic volume for the year 2025 is 2,000 vpd. It is recommended as a safety improvement that this facility be widened from 16 ft (4.88 m) to 22 ft (6.70 m) from US 64 (The Rosman Highway) to Cashiers Valley Road (SR 1344).

Main Street (SR 1349) - This facility is designated as a major thoroughfare in the heart of the Central Business District (CBD) between Oaklawn Avenue and Broad Street (US 64). This four-lane facility has parking on both sides and serves primary commercial traffic. This street has the Post Office, the Brevard Municipal Buildings, and other commercial developments that attract significant traffic to this area. The current cross section of Main Street should be adequate in the design year.

Appendix B

Thoroughfare Plan Street Tabulation and Recommendations

This appendix includes a detailed tabulation of all streets identified as elements of the City of Brevard Thoroughfare Plan. The table includes a description of each section, as well as the length, cross section, and right-of-way for each section. Also included are existing and projected average daily traffic volumes, roadway capacity, and the recommended ultimate lane configuration. Due to space constraints, these recommended cross sections are given in the form of an alphabetic code. A detailed description of each of these codes and a illustrative figure for each can be found in Appendix C.

The following index of terms may be helpful in interpreting the table:

NPB - Northern Planning Boundary

EPB - Eastern Planning Boundary

WPB - Western Planning Boundary

SPB - Southern Planning Boundary

NCL - Northern City Limits

SCL - Southern City Limits

WCL - Western City Limits

ECL - Eastern City Limits

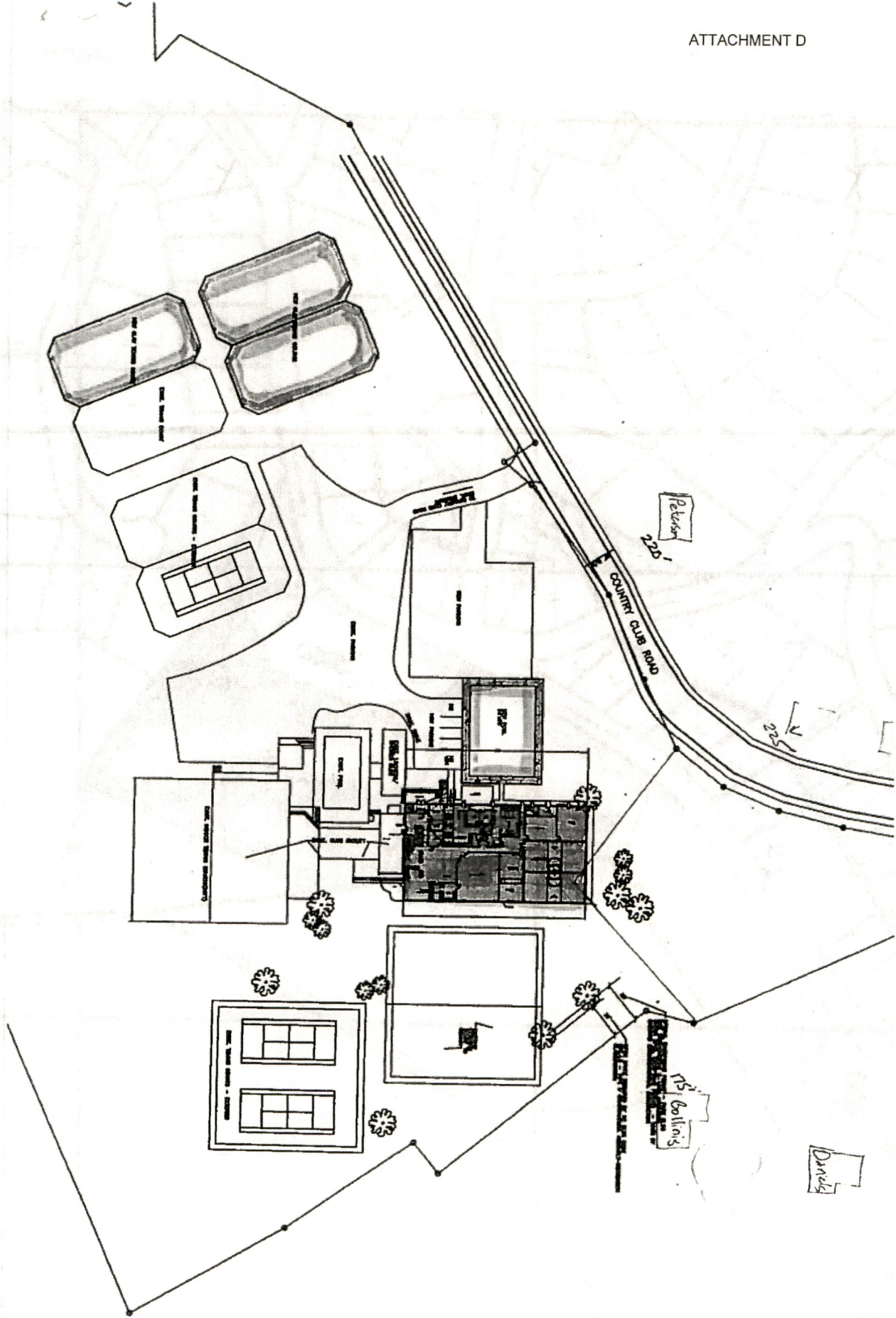
✓ADQ - Adequate

N/A - Not Available

Appendix B

Thoroughfare Plan Street Tabulation and Recommendation

FACILITY & SECTION	EXISTING CROSS SECTION						NUMBER OF LANES	PRACTICAL CAPACITY CURRENT (FUTURE)	1996 ADTS	2025 ADTS	RECOMMENDED		
	S. I. UNITS			ENGLISH UNITS							X - SECTION		
	DIST km	RDWY m	ROW m	DIST MI	RDWY FT	ROW FT					RDWY (ULT)	ROW (ULT)	
SR 1116 (Country Club Road)													
US 64 - SR 1118	0.86	7.3	N/A	0.54	24	N/A	2	13,000	5,900	7,890	ADQ		
SR 1118 - SR 1117	0.72	5.5	N/A	0.45	18	N/A	2	9,000	2,600	4,330	ADQ		
SR 1117 - SR 1114	1.11	4.9	N/A	0.69	16	N/A	2	6,000	1,700	3,230	ADQ		
SR 1118 (Gallimore Road)													
US 276 - ECL	0.68	6.1	18	0.42	20	60	2	11,000	1,850	2,980	ADQ		
ECL - SR 1116	0.66	6.1	18	0.41	20	60	2	11,000	2,300	3,580	ADQ		
SR 1344 (Cashiers Valley Road)													
Carver Ave. - WCL	0.68	4.9	N/A	0.42	16	N/A	2	6,000	1,000	1,440	ADQ		
WCL - SR 1341	1.06	4.9	N/A	0.66	16	N/A	2	6,000	650	750	ADQ		
SR 1341 - US 64	1.8	4.9	N/A	1.12	16	N/A	2	6,000	650	750	ADQ		
SR 1347 (Carolina Avenue)													
US 64 - SR 1344	0.79	4.9	N/A	0.49	16	N/A	2	6,000	900	2,000	K	21.0m	
SR 1348 (Probart Street)													
SR 1344 - SR 1350	1.58	4.9	18	0.98	16	60	2	6,000	700	1,090	ADQ		
SR 1349 (Main Street)													
Mills Ave. - England St.	0.35	11	18	0.22	36	60	2	9,000	800	1,010	ADQ		
England St. - US 64	0.24	11	18	0.15	36	60	4	22,000	2,750	3,720	ADQ		
SR 1350 (Probart Street)													
SR 1348 - WCL	0.40	4.9	18	0.25	16	60	2	6,000	400	770	ADQ		
WCL - Oaklawn Ave.	0.63	6.1	N/A	0.39	20	N/A	2	11,000	1,180	1,600	ADQ		
Oaklawn Ave. - US 64	0.47	6.1	N/A	0.29	20	N/A	2	11,000	1,000	1,500	ADQ		
SR 1351 - SR 1350	0.40	5.5	N/A	0.25	18	N/A	2	9,000	700	1,020	ADQ		
SR 1351 (Whitmire Street)													
US 64 Bus. - SR 1353	0.56	7.3	18	0.35	24	60	2	13,000	1,700	2,370	ADQ		
SR 1353 - Hampton Rd	0.55	7.3	N/A	0.34	24	N/A	2	13,000	1,100	1,760	ADQ		
SR 1353 (Tinsley Road)													
SR 1351 - SR 1356	1.58	4.9	N/A	0.98	16	N/A	2	6,000	750	910	ADQ		
SR 1356 (Fisher Road)													
US 64 - NCL	0.68	6.1	18	0.42	20	60	2	11,000	1,300	1,940	ADQ		
NCL - SR 1353	0.21	7.3	18	0.13	24	60	2	13,000	200	260	ADQ		



8585

Desiree

30

20

0868

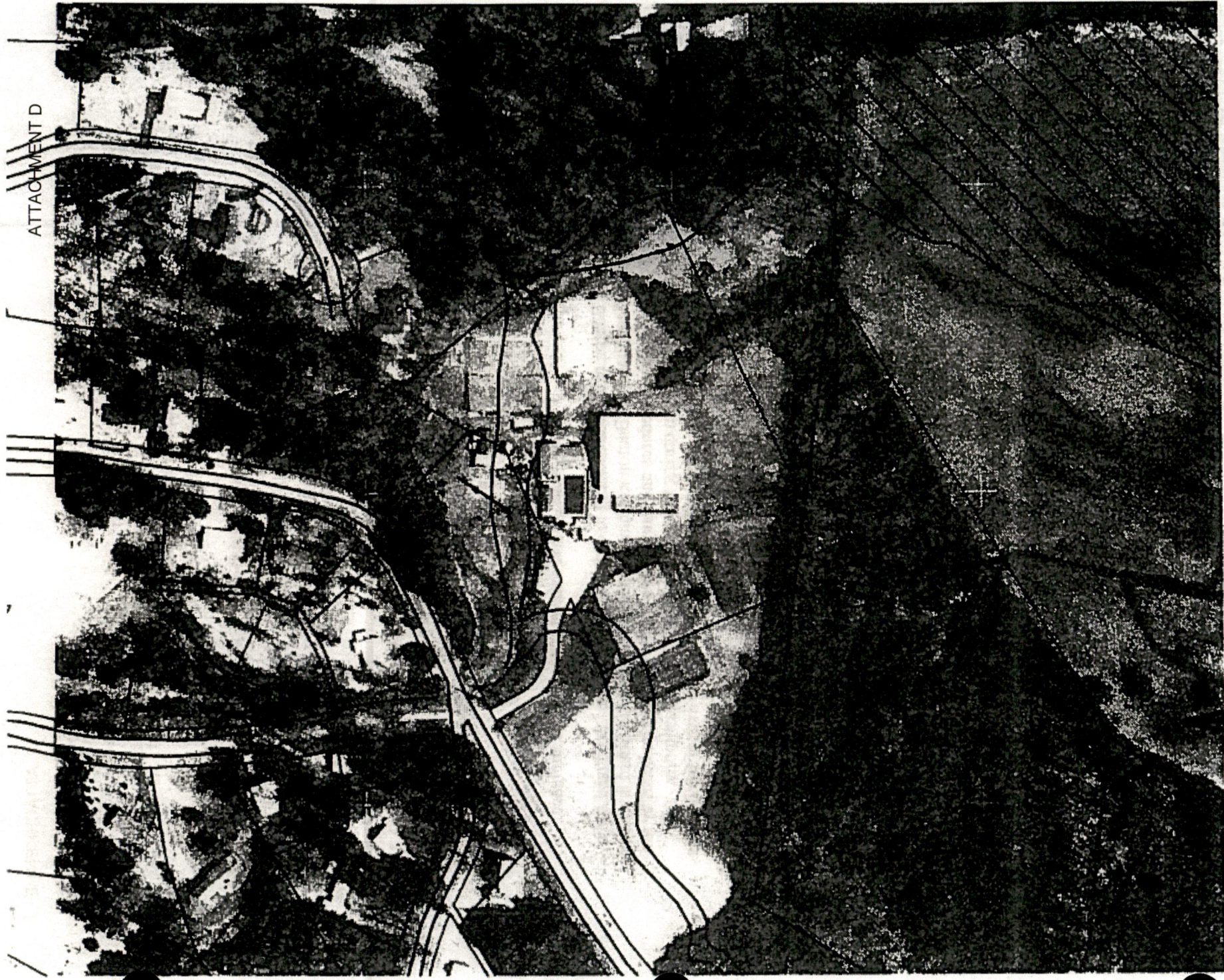
0868

0868

0868

32

21



ATTACHMENT D

1" = 200'

N

**MINUTES
BREVARD BOARD OF ADJUSTMENT
December 12, 2000**

The Brevard Board of Adjustment met in regular session on Tuesday, December 12, 2000 at 7:00 PM in Council Chambers at City Hall.

Members Present: Ty Benton, Vice-Chairman
Lucy Deavor
Paul Welch
Mava Shiflet
Russell Camp, City Alternate
Gary Dubia, County Alternate

Staff Present: Jake Gilmer, Interim Planning Director
Desiree Perry, Secretary

Others Present: Leigh Wills, Transylvania Times
There were several citizens present in the audience.

Vice-Chairman Benton called the meeting to order. Members were introduced and a quorum was present. Vice-Chairman Benton explained to all present that the Board is a quasi-judicial Board and the necessary procedures one must follow if they desire to be heard by the Board, specifically, all testimony given during the meeting shall be sworn testimony. All appeals of this Board's decision shall be made within thirty days from the date of the Board's decision to Superior Court.

P. Welch moved, seconded by G. Dubia, that the minutes from the Board's November 14, 2000 meeting be approved as written. Motion carried unanimously.

Request for Rehearing of Special Exception Permit: Request of Mr. Michael A. Vandegrift, Brevard (Racquet) Tennis and Athletic Club, to expand a use permitted by a Special Exception Permit. Applicant desires to expand the existing private club facility. Property is located on Country Club Road within a R-1 Residential District, PIN 8585-31-5597-000. Case #00-022.

Mr. Gilmer explained and presented information regarding the request for a rehearing as detailed in his December 8, 2000 staff report. Mr. Gilmer further explained that although the applicant performed a good faith effort in providing the names and addresses of all property owners within 200' of their property, it has been discovered that a few were not included and therefore, should the board decide to allow a rehearing, additional notices need to be sent before a rehearing takes place.

Board of Adjustment Rules of Procedure - VI Appeals and Applications, C-4 Rehearings
An application for a rehearing may be made in the same manner as an application for an original hearing. Evidence in support of the application shall initially be limited to what

Minutes, Brevard Board of Adjustment
December 12, 2000 Meeting

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is necessary to enable the Board to determine whether there has been a substantial change in the facts, evidence, or conditions in the case. The Board shall deny the application for rehearing if, from the record, it finds that there has been no substantial change in facts, evidence, or conditions. If the Board finds that a substantial change has occurred, it shall thereupon treat the request in the same manner as any other application.

G. Dubia moved, seconded by M. Shiflet, that the applicant be given the opportunity to give the board a forecast of his new evidence in order for the board to determine whether or not there is sufficient grounds for a rehearing. Motion carried unanimously.

Mr. Mike Vandegrift, applicant, came before the board and explained that he would like his attorney, Mr. Rick Adams, to represent him.

Mr. Rick Adams, Attorney, was sworn in. Mr. Adams explained that last month when the board heard and considered Mr. Vandegrift's request to expand the use of his Special Exception Permit, the applicant and others present during the hearing expressed their views, feelings and opinions. However, evidence or facts to help support various claims were not necessarily presented. The applicant, Mr. Vandegrift, contends that he has performed a diligent search for factual evidence and offers in support of his request for a rehearing the following:

- Two traffic documents;
- A private traffic study;
- Relevant information as provided within the City of Brevard's Transportation Plan;
- New photographs of the proposal;
- Two reports detailing potential of such a use within a residential area; and,
- There are individuals that wish to speak in support of the request.

Vice-Chairman Benton and the board noted for the record that there was a full audience present interested in the applicant's rehearing request.

G. Dubia moved, seconded by M. Shiflet, that based upon the submitted application, its accompanying information, and the described forecast of new evidence the applicant is prepared to present, the board grant the request for a rehearing.

Ayes: G. Dubia, M. Shiflet, R. Camp, L. Deavor, P. Welch and Vice-Chairman Benton.

Noes: None

Motion Carried.

Vice-Chairman Benton explained to those present that the rehearing will be held during the Board's next regular meeting that is scheduled for Tuesday, January 9, 2001.

Other Business – In order to fill the vacancy on the board due to Ben Long's term expiring, Council has appointed Paul Welch. Therefore, Paul has changed from alternate member status to regular member status. Also, on December 8, Sue Robinson notified the City that due to changes in her job and its requirement that she often be out of town, she feels she must resign from serving on the board.

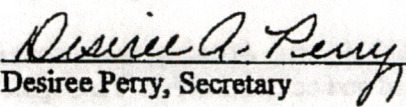
Minutes, Brevard Board of Adjustment
December 12, 2000 Meeting

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Election of Officers – P. Welch nominated Ty Benton to serve the coming year as Chairman. G. Dubia seconded the nomination. Nomination passed unanimously.

M. Shiflet nominated Paul Welch to serve the coming year as Vice-Chairman. G. Dubia seconded the nomination. Nomination passed unanimously.

There being no further business before the board, a motion was made, seconded and approved that the meeting be adjourned. Meeting was adjourned at 7:45 PM.


Ty Benton, Vice-Chairman
Desiree Perry, Secretary

MINUTES
BREVARD BOARD OF ADJUSTMENT
January 9, 2001

The Brevard Board of Adjustment met in regular session on Tuesday, January 9, 2001 at 7:00 PM in Council Chambers at City Hall.

Members Present: Ty Benton, Chairman
Lucy Deavor
Paul Welch
Mava Shiflet
Rick Lasater
Russell Camp, City Alternate
Gary Dubia, County Alternate

Staff Present: Jake Gilmer, Interim Planning Director
Desiree Perry, Secretary

Others Present: Leigh Wills, Transylvania Times
There were several citizens present in the audience.

Chairman Benton called the meeting to order. Members were introduced and a quorum was present. Chairman Benton explained to all present that the Board is a quasi-judicial Board and the necessary procedures one must follow if they desire to be heard by the Board, specifically, all testimony given during the meeting shall be sworn testimony. All appeals of this Board's decision shall be made within thirty days from the date of the Board's decision to Superior Court.

L. Deavor moved, seconded by R. Camp, that the minutes from the Board's December 12, 2000 meeting be approved as written. Motion carried unanimously.

Rehearing of Special Exception Permit: Request of Mr. Michael A. Vandegrift, Brevard (Racquet) Tennis and Athletic Club, to expand a use permitted by a special Exception Permit. Applicant desires to expand the existing private club facility by making an addition to the clubhouse, construct a junior olympic sized swimming pool, add more tennis courts, and to cover some of the existing tennis courts. Property is located on Country club road within a R-1 Residential District, PIN 8585-31-5597, 8585-31-5989, 8585-31-3880, 8585-21-8580, and 8585-32-5157, Case #00-022.

Mr. Gilmer explained and presented information regarding the applicant's request as detailed in his January 5, 2001 staff report. Planning Department has received letters from members of the community expressing their favor or opposition for the request; copies have been provided to the board members. The following letters are on file with the case records:

- 12/09/00 – Letter from Elizabeth Reshower
- 12/10/00 – Letter from Richard Stricker

- 12/11/00 – Letter from Robert McKown, Jr.
- 12/11/00 – Letter from Julie T. Ramsey and Frances T. Fletcher
- 12/12/00 – Letter from Gerald R. Martin, MD and family
- 12/12/00 – Letter from Margaret M. Hunt
- 12/12/00 – Postcard from David & Sally Sowersby
- 12/12/00 – Letter from Sue A. Green
- 12/12/00 – Letter from Tracey L. Love
- 12/28/00 – Letter from Jean (Chishom) Bittman
- 12/31/00 – Letter from Lois Bollini
- 01/02/01 – Letter from Susan Peterson, R. Hugo Martin, Beverly Martin, Wade Carpenter
Cindy Carpenter, James C. Bollini and Lois J. Bollini
- 01/02/01 – Letter from Susan Peterson

P. Welch explained to the board and those present in the audience that he disclosed during the Board's meeting in November when the request was first presented to the board that he is a member of the club. However, he does not have economic benefit or ownership in the club, neither does he have a close personal or business relationship with the applicant. Mr. Welch stated he has reviewed the Institute of Government's model ordinance on "conflict of interest" and believes he does not have a conflict of interest and is therefore willing to sit and deliberate on the request. However, in light of the fact the board has received a letter dated January 2, 2001 from a citizen questioning conflict of interest and his (Mr. Welch's) ability to participate, he would like for the board to vote on whether he participate and will abide by the Board's decision.

M. Shiflet moved, seconded by L. Deavor, that Paul Welch be a voting member during the rehearing of the Brevard Tennis and Athletic Club's request. Motion carried unanimously.

Voting members for Case #00-022 are: Chairman Benton, L. Deavor, M. Shiflet, R. Laseter and P. Welch.

Mr. Richard Adams, attorney for applicant, was sworn in. Mr. Adams stated that in November the board denied the request for expanding the SEP because it deemed to do so would "violate neighborhood character"; also traffic concerns, noise and lighting were an issue. Therefore, it is important to decide, what is the "neighborhood"? Second, Country Club Road has been identified as one of Brevard's a major thoroughfares as it carries high school, restaurant, veterinary clinic, homes, Racquet Club, as well as other motoring traffic throughout this portion of Brevard. The N.C. Highway Patrol records indicate no reported accidents in this area of Country Club Road during the past two years. According to the City's Transportation Plan the road is currently well under capacity today with a projection that in the year 2020 it's use will remain less than capacity. The Club is not an exclusive club and the proposed swimming pool would be available to anyone provided they pay members fees.

Mr. Mike Vandegrift, applicant and owner of Brevard Tennis and Athletic Club, was sworn in. Mr. Vandegrift explained he desires to construct an addition to the clubhouse in order to provide more space for exercise classes, locker room area for the proposed junior-olympic

sized pool, and associated office/work area for club employees. Also proposed is to construct additional tennis courts and to cover some of the existing tennis courts.

In evidence to support his belief and testimony that to allow the proposed facility expansion would not violate neighborhood character, create traffic hazards, excessive noise, or adverse affects due to the lighting used at the facility, he provided the following to the board members (copies are on file with the case records):

- Petition signed by 200 community residents in favor of the proposed expansion;
- Brevard Racquet Club - Impact upon surrounding land values, by Bud Shapaard;
- Facility Usage figures (daily and hourly) from 11/01/00 to 12/08/00;
- Photographs showing club grounds, facilities, topography difference from club to some of the neighboring residences, and existing vegetative screen;
- Letter dated 12/06/00 detailing information gathered from Sgt. Dunn of the NC Highway Patrol;
- Bud Shapard, Research Consultant's private traffic study; and
- Excerpts from the City of Brevard's Thoroughfare Plan as it defines and details Country Club Road

Mr. Vandegrift explained that (1) the club facility is located outside and is not a part of the Illahee and Deerwood developments; (2) club is separated by Country Club Road, elevation and an existing buffer of trees and vegetation; (3) club is located 150' or more from any neighboring residential structure; (4) according to Sgt. Dunn of the NC Highway Patrol, within the past two years there were no reported accidents within one-half mile of the club's entrance; (5) according to Mr. Shepard's traffic study only 14% of the traffic during a 12-hour daytime period was generated from the club; (6) with respect to noise at a pool, the City's Franklin Park is located within 60 to 80 feet of residences, whereas his proposed pool would be more than 200' away from a neighboring residence; (7) tennis players require quiet; (8) most common noise heard at the club would be occasional mowing to maintain the property, as do adjoining residential property owners to maintain their property — barking dogs are common; (9) with respect to lighting concerns, the lighting will be the same as used for the past twenty-three years to light the facility until 9:00 PM (applicant stated he would be willing to reduce the hours to 8:00 PM, if the board so desires); (10) with respect to the expansion "devaluing" neighboring property, according to the provided land value study adjacent properties are increased due to the location of a facility like his; (11) he believes the club has provided a benefit to the neighbors as well as the Brevard community at large as they have been providing physical therapy, water therapy and assistance to the middle and high school athletic programs; (12) while it is true he has a willingness to allow the school system to lease time for the swim team practice, the primary purpose for the new swimming pool is to meet the needs of the club membership; (13) currently the club has a membership of 650, with the proposed expansion it is hoped to grow and serve approximately 1,000 members; and, (14) on the average ten-percent of the members come to the facility daily.

M. Shiflet asked Mr. Vandegrift to explain the proposed lighting for the clubhouse expansion.

Mr. Vandegrift explained that the lighting would be all interior, no new outside lighting is proposed. The tennis courts that are proposed to be covered will utilize existing lighting.

R. Lasater asked if the proposal includes adding vegetation between the proposed new tennis courts and the road?

Mr. Vandegrift stated no, however, additional planting near the driveway is proposed.

In an effort to assist the public in understanding the board's guidelines and criteria when considering a SEP or an amendment to a SEP, Chairman Benton read aloud the review criteria as found in Section 800 of the Zoning Ordinance.

Mr. Jack Jaisler, Chairman of the County Recreational Advisory Board, was sworn in. Mr. Jaisler, a former swim coach, expressed his favor for the request. Currently the college is having to make repairs to their pool which is preventing the high school from using it; as well as, with the college's growth it is likely that in the future the high school will not be able to continue to use the pool as they have in the past.

Mr. Randy Lentz, swim coach for Brevard High School, was sworn in. Mr. Lentz spoke in favor of the expansion and explained that (a) currently there are between 30 and 50 students participating; (b) if a swim meet were to be held at the club, typically it would last from 9:00 AM until 1:00 PM and would have 5 school buses from neighboring schools, as well as 20 to 30 automobiles from parents or others attending the meet.

Ms. Beverly Martin, neighbor, was sworn in. Ms. Martin spoke in opposition of the expansion. Ms. Martin explained that her driveway is within one of the curves on Country Club Road and it is therefore very difficult for her to get in and out of her driveway due to visibility and traffic. Upon discussion with the board members, Ms. Martin contended that while the Racquet Club is not directly responsible for her difficulties (her driveway is quite a distance from the Club), to allow an expansion would encourage additional traffic along the road which would affect her.

Ms. Beth Pickelsimer, Illahee resident, was sworn in. Ms. Pickelsimer spoke in favor of the expansion and explained that she was attracted to the neighborhood because of the club being there and the benefit to her and her children, as well as the increase value of her real estate.

Mr. Bill Huff, area resident, was sworn in. Mr. Huff stated that he is in favor of the expansion and explained that he is 82 years old and continues to enjoy playing tennis; he also commented that many of the houses around the club have been constructed since the club was established years ago.

Mr. Huff explained he was asked to read aloud to the board a letter from Mr. Nels Glesne of 29 Country Club Circle, as Mr. Glesne could not be in attendance tonight. (Letter expressing favor for the request is on file.)

Mrs. Cindy Carpenter, 862 Country Club Road, was sworn in. Mrs. Carpenter spoke in opposition to the expansion and explained her concerns as detailed within her letter read aloud and presented to the board (on file).

Mr. Morris Denton, Focus 2020, was sworn in. Mr. Denton spoke in favor of the expansion and explained that all seem to agree that our community is in need of such a facility (pool), the question is how to get it. Some have mentioned a YMCA or similar facility, to have one would cost the community as a whole to have, as well as individuals upon its use. A public pool would be funded by everyone in the County, would probably call for a bond referendum, as well as require users fees. It seems that the Racquet Club's (private business) proposal to provide such a facility whereby only those that use it pay for it is a very good alternative for our community at this time.

Ms. Lois Bollini, adjoining property owner, was sworn in. Mrs. Bollini spoke in opposition of the expansion and explained that she is still concerned that (1) she will hear additional noise from the proposed building; (2) existing lighting is noticeable from her home now and by covering the tennis courts to allow extended use in the winter will only enhance the problem (presented a photograph of view from home (on file); (3) would like consideration made to have the tennis courts lights changed to ones that are installed within the bubble and would reflect from the top down; (4) questioned if the club would be open seven days a week; and, (5) the proposed floor plan identifies a café area – is a restaurant being proposed with the expansion? Mrs. Bollini addressed her concerns to Mr. Vandegrift and asked him for a response.

In response Mr. Vandegrift answered that the club has been and will continue to operate on a 7-days per week (weekend hours are less than weekdays); a restaurant or café is not proposed, it will be a juice bar that would be used by staff and club members only; again, no additional outdoor lighting is proposed. To change the tennis courts lighting to the indoor type as describe by Mrs. Bollini would be very expensive; such a change could be considered when the lights are in need of replacement.

***** Board took a 15 minute recess, will continue at 8:40 PM. *****

Mr. Frank Duckworth was sworn in. Mr. Duckworth spoke in favor of the expansion and explained that he is a life-long resident of Brevard and that while considering "neighborhood character" the history of the neighborhood is recreation. Where many of the neighboring houses, as well as the club, is located was once a golf course and country club (country club bldg. is now a restaurant) — that's why the road was named, Country Club Road.

Ms. Marge Mullin, resident, was sworn in. Ms. Mullin asked, if the request were granted, would the club be limited to no further expansions?

Chairman Benton explained that anytime the holder of a special exception permit were to propose substantial improvements it requires review by this board. If the board were to grant this expansion, doing so would not prohibit a request for additional expansion in the future.

Attorney Rick Adams (previously sworn in) explained that it seems many of the comments and concerns expressed by some of the neighboring residents has to do with the curves on Country Club Road. Perhaps the residents could consult with NC DOT as there should be sufficient open right-of-way in which to widen or straighten out some of these areas.

G. Dubia stated that in light of the comments and concerns expressed during the board meeting in November, he has made a night visit to the club as well as to the Bollini's property overlooking the club in order to see the impact the outdoor lighting was having on the area. Unlike the testimony he heard during the meeting, in his opinion, the lighting was not unreasonable or intrusive.

Board discussed whether or not to require the applicant to provide additional trees for screening; modify hours of operation; suggest or request the color of the building, etc. The fact that most of the complaints regarding lights come from people living above and therefore look down onto the club property, in all likelihood to require planting of additional trees would not benefit them. It seems the applicant's requirement to meet the City's landscaping standards would be sufficient.

P. Welch moved, seconded by M. Shiflet, that in consideration of the Brevard Tennis and Athletic Club's request for expansion, the board finds the following findings of fact:

1. The zoning of the property is R-1 Residential and Flood Hazard District.
2. The proposed use is not detrimental to the public health or general welfare.
3. The proposed use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal and similar services.
4. The proposed use will not violate neighborhood character nor adversely affect surrounding land uses.
5. Additional findings Board (may or may not) wish to add specific to the case. None
6. The statements of the applicant and representations of the City of Brevard staff and members of the Board of Adjustment are the true facts of the case.

Ayes: P. Welch, M. Shiflet, L. Deavor, R. Lasater, and Chairman Benton

Noes: None

Motion Carried

P. Welch moved, seconded by L. Deavor, that based upon the board's findings of fact, the board grant Brevard Tennis (Racquet) and Tennis Club's request to expand their facility as described on their submitted site plan and application.

Ayes: P. Welch, L. Deavor, M. Shiflet, R. Lasater and Chairman Benton

Noes: None

Motion Carried

Request for Variance: Request of Brevard Management Group, LLC (Mr. Keith Vinson) for a variance in the minimum side yard setback for a residential dwelling. Zoning Ordinance Section 704.5511 requires that a residential structure have a minimum side yard of eight (8) feet. Applicant requests a four (4) foot variance to allow a residential dwelling to be within four (4) feet of the western side property

line. Subject property is located just west of 220 Whitmire St. near the intersection of Whitmire and Caldwell St. and is within the R-3 residential district; out parcel of PIN 8586-52-6765. Case #00-023.

Mr. Gilmer explained and presented information regarding the applicant's request as detailed in his January 5, 2001 staff report. The Breese House was relocated from the corner of Whitmire to Caldwell to where it presently is on Whitmire Street. A zoning violation was created as the house was moved and placed four (4) feet from the side property boundary; ordinance requires a minimum of eight (8) feet for a residential structure.

Mr. Scott Neumann, attorney for Brevard Management Group (Keith Vinson), was sworn in. Mr. Neumann stated that originally the Breese house (old sharing house) was scheduled for demolition; however, his client was approached by the Historic Preservation Commission (HPC) to save the house. The developer (Keith Vinson) was willing to save it provided the HPC find a place to move it to; however, there was no action taken by HPC to move it. Then the developer bought a seventy-five foot wide lot from his neighboring property owner in order to relocate the house. (The house has already been relocated, however, it remains on the moving blocks or skids and could therefore be moved again.) The HPC is trying to get this structure on the historical register. One of the requirements is that the parking area must go behind the house as it is not allowed in the front, therefore a driveway to the side would be provided for the rear parking. Mr. Neumann stated that his clients are seeking a four foot variance to allow the moved house to remain as it is presently situated, and that they believe the intent of the zoning ordinance has been met because there is more than a sixteen (16) foot separation between the moved Breese house and the adjoining property owner (Delk's) house.

Mr. Neumann offered the following answers to the review criteria for granting a variance as detailed in Section 1213.2 of the zoning ordinance:

- 1213.21 – Not applicable to other property as this is a historic landmark, and the structure can not be moved any further on the lot than they have presently placed it;
- 1213.22 – No special privileges. As the building has been moved there is more than the required sixteen (16) foot separation between buildings;
- 1213.23 – Would deny applicants of rights commonly enjoyed by others residents as other homes in this neighborhood are closer to one another than the Breese house is now to the Delk's residence; (2) it is important to save this historic structure like the Deavor House was saved and is being used; and
- 1213.25 – Mr. Vinson was originally planning to raze the structure; therefore, the results are not from the actions of the applicant. In order to provide for parking in the rear of the structure and have room for a driveway, the house needed to be situated as it presently is.

In response to the above (1213.22) Chairman Benton explained that the zoning ordinance does not define or measure setbacks from structure to structure, they are measured and determined from property boundaries or rights-of-way.

In response to the above (1213.23) board members questioned what is the intended immediate and future use of the structure? Is it being considered for use like the Deavor house which is a community or museum open to the public? Is it being considered for commercial use?

Mr. Neumann answered that after the HPC has it registered that it will be marketed for sale and use as a residence.

Mr. Willie Delk, adjoining property owner, was sworn in. Mr. Delk spoke in opposition of the granting of the variance. Mr. Delk explained that when Mr. Vinson approached him about purchasing some of his property (75' wide area) he was reluctant to part with it; however, he did agree to sell because he was told that the house would be relocated as far away as possible from his house, and that it would not be any closer to the street than his house is (setback approximately 74 feet from Whitmire Street). Mr. Vinson told him that if there should be a setback problem than he would ask for a variance; if not granted, than he would use his own land to make the lot large enough for the Breese house. Mr. Delk stated that when the house was in the process of being moved he saw that it was about to be placed too close to his property so he went out and spoke with Mr. Mitchell (house moving contractor). They then measured and moved the house back off from his property line. He (Mr. Delk) left his home for a while only to return to find that the house had been moved back too close to his property. When he asked Mr. Mitchell why, he responded that Mr. Vinson told him to move it back.

Ms. Gail Brown was sworn in. Ms. Brown spoke in opposition to the granting of the variance and explained that the applicant intentionally moved the house too close to Mr. Delk's property line. She reminded the board that not long ago her architect made an honest mistake (error) on her building design and therefore the building would not have been in compliance, she applied for a variance and the board denied the request. In this situation the people intended to do what they did.

Mr. Bill Robertson, Historic Properties Commission, was sworn in. Mr. Robertson stated that it is hoped to save the structure; have it registered as a historic structure; and that as it is advertised for sale, it will be advertised as a residence.

Chairman Benton asked who holds the title for the structure? Mr. Robertson answered that Mr. Vinson is the title holder.

Ms. Ellen Harris, Historic Properties Commission, was sworn in. Ms. Harris stated that Preservation North Carolina has an option to purchase the property with the intention to place covenants on it and then re-sell the structure. Ms. Harris explained the structure was moved close to Whitmire Street in order to help maintain the integrity of its historical location. Although there is not room to place a vegetative buffer on the Delk's side of the property, perhaps some could be placed between the Breese house and the coming post office, on the post office property.

G. Dubia asked Ms. Harris if it is guaranteed that (1) the structure will be classified or registered as a historic property; (2) if Preservation NC will be purchasing the structure; and (3) that it would only be sold and used as a residential structure.

Ms. Harris stated that, no, it is not guaranteed.

Ms. Jackie Stone, daughter of Willie Delk, was sworn in. Ms. Stone stated that she is opposed to the granting of the variance request. While it is true her father sold some of his property to help provide space for the house to be relocated, he also understood that it would be moved and kept away from his property line and that there would be landscaping and trees planted between the Breese house and his property. With only four feet of land they've not left room for trees. Despite what has been told tonight, there has been much discussion about the structure being restored and used for purposes other than a residence. A residence does not require rear parking or a wide driveway to be provided. Ms. Stone presented photographs to the board showing the house and its close proximity to her father's property line (top of embankment). (Photos are on file). Ms. Stone stated that she believes the applicant had full knowledge to what was done as it was a part of the overall development deal for the applicants large tract of land. Claiming "historical preservation" has been the means to do what they have done.

Mr. Keith Vinson, Brevard Management Group, was sworn in. Mr. Vinson stated he originally planned to raze the house because it was known to be an eyesore. However, in response to the request to save it he did approach Mr. Delk to purchase some additional land in order to relocate the house. Mr. Vinson stated that if Mr. Delk is willing to sell additional land to remedy the situation that they would be interested.

P. Welch asked why the house was not placed the required eight feet off of Mr. Delk's property knowing that (1) it would meet setbacks adjoining Mr. Delk, and (2) since he (Mr. Vinson) owns the adjoining parcel he could combine some property to create a conforming lot?

Mr. Vinson explained that he currently has a contract with the United States Post Office for the adjoining property and that he therefore can not change the lot line.

Mr. Welch asked when the contract was signed with the US Post Office?

Mr. Vinson stated on March 31, 2000.

Mr. Welch responded that, according to what's been stated, the applicant agreed to save the house after the date of signing a contract for the sale of his adjoining land. Also, the applicant had knowledge that the lot he purchased from Mr. Delk was not sufficient for the Breese house and therefore knew it could not meet setbacks.

M. Shiflet explained to the board that she would like to abstain from deliberating and voting on the request due to her working relationship with the applicant, Mr. Vinson. Mr. Vinson is a contractor and developer at Straus Park, where she is employed.

Voting members for Case #00-023 are: Chairman Benton, L. Deavor, R. Lasater, P. Welch and R. Camp.

Board reviewed condition 1213.25 requiring that the special circumstances are not the result of the action of the applicant. According to the application, submitted site plan and tonight's testimony, the house was originally facing onto Caldwell Street, it has been moved straight back from it's original location and then the house was rotated to where it now faces Whitmire Street. The applicant had the structure blocked up ready for moving for a considerable amount of time and was aware that the 75' foot wide lot was not of sufficient width to place the house and meet setbacks, and yet, without first seeking a variance, obtaining a site plan or building permit, the house was moved knowing it was too close to the side property line. Also, the applicant did own the adjoining property (to right of moved house) and had opportunity to remedy the situation, and, the structure is still blocked up for relocation, should it be found necessary.

P. Welch moved, seconded by R. Camp, that in consideration of the variance request by Brevard Management Group, the board finds the following findings of fact:

1. The zoning of the property is R-3 Residential District.
2. There are no extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography that are not applicable to other lands or structure in the same district.
3. Granting the requested variance would confer upon the applicant special privileges that are denied to other residents of the district in which the property is located.
4. A literal interpretation of the provisions of this Ordinance would not deprive the applicant of rights commonly enjoyed by other residents of the district in which the property is located.
5. The requested variance will not be in harmony with the purpose and intent of this ordinance and would be injurious to the neighborhood or to the general welfare.
6. The special circumstances are the result of the actions of the applicant.
7. The variance requested is the minimum variance that will make possible the legal use of the land, building or structure.
8. The variance is not a request to permit a use of land, building or structure which is not permitted in the district involved.
9. Additional findings the Board may or may not wish to add specific to the case. None
10. The statements of the applicant and representation of the City of Brevard staff and members of the Board of Adjustment are the true facts of the case.

Ayes: P. Welch, R. Camp, R. Lasater, L. Deavor and Chairman Benton

Noes: None

Motion Carried

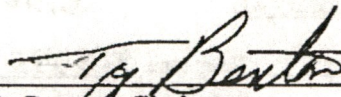
P. Welch moved, seconded by Chairman Benton, the board deny Brevard Management Group's request for a variance based upon the board's findings of fact.

Ayes: P. Welch, Chairman Benton, R. Lasater and R. Camp

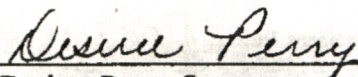
Noes: L. Deavor

Motion Carried

There being no further business before the board, P. Welch moved, seconded by G. Dubia, that the meeting be adjourned. Motion carried. Meeting was adjourned at 10:20 PM.



Ty Benton, Chairman



Desiree Perry, Secretary

RECEIVED
08/19/2011

11-230

CITY OF BREVARD, NORTH CAROLINA
Planning Department

APPLICATION FOR ZONING SITE PLAN APPROVAL

Bub Thompson
231-4514
Caroline Siler
Structures,
Builder

Property Owner or Business Name BREVARD RACQUET CLUB Telephone 828 883-3005
Owner Mailing Address 1325 N. 1520 COUNTRY CLUB RD email _____
Applicant/Agent Name (if different than Owner)* MIKE VANDERGAUFF Telephone 828 883-3005
Applicant Mailing Address 1325 N. 1520 COUNTRY CLUB RD email _____
Location of Property _____
Property Identification Number (PIN) 8585-31-5597-000

Site Plan Requested for:
RESIDENTIAL (circle)

New House Mobile Home Addition/Alteration Garage Carport
Accessory/Storage Bldg Repair to Res Demolition Other _____

COMMERCIAL (circle)

New Commercial Addition/Alteration Accessory/Storage Bldg. Repair Demolition
Other: _____

INDUSTRIAL (circle)

New Industrial Addition/Alteration Accessory/Storage Bldg. Repair Demolition
Other: _____

DESCRIBE PROJECT (ie: New house with basement, garage, rear deck, front porch OR Restaurant one-story seating 120, etc.)

The addition of 15' x 30' to the swimming pool and a 16' x 45' " addition to the pool. A 4' x 35' passage will connect main building to pool enclosure with wheelchair ramp.

PROJECT COST \$ 94,000

TAX or APPRAISED VALUE \$ _____

Utilities: City Water and Sewer Yes Individual/Private Well and Septic _____

Are there any other existing structures on this property? If so, please identify. Existing pool and club house

ATTACH SITE PLAN - Applicant shall provide a site plan, accurately and neatly drawn to scale showing the property boundaries, proposed building location, any existing buildings, proposed and/or existing utility services, driveway or street access location and method of storm drainage. The outside dimensions of the proposed new building or addition and its distances from the front, rear and side boundaries of the lot shall be shown.

* If the applicant/agent is other than the property owner, proof of owner's consent is required. Owner's signature proves consent. The applicant/agent will be the liaison with the City and will be the party to receive official notice. Notice communicated to the applicant/agent will be deemed communicated to the owner. By signing this application, the applicant/agent is consenting to the designation for these purposes.

SIGNATURE OF PROPERTY OWNER Mike Alliff Date 8-18-11

SIGNATURE OF APPLICANT/AGENT Robert A. Thompson Date 8-18-11

Zoning District: GR-4 (sup) Office Use Only
Subject to Flood Hazard Standards: Yes X No MP
The district minimum zoning requirements for the proposed use along with related Planning staff review information is provided on reverse.

Zoning Site Plan (circle one) APPROVED DENIED {Decision for denial to be detailed on reverse or attached.}

Approval Comments/Conditions: Floodplain Development permit attached. Building shall be
located where survey proposed.

APPLICATION DECISION BY Lash Luty-Pietri Review Date 8/23/11

Review Fee Collected \$ 100.00 Receipt # 018983 Issued Date 8/23/11

Permit Number 11-230

CAROLINA SOLAR STRUCTURES

P.O. Box 905
Arden, NC 28704

Airport Road Industrial Park
8 Loop Road
Arden, NC 28704

Fax: (828) 684-9900
(828) 684-9977

Proposal

FOR: Brevard Racquet Club
1520 Country Club Rd.
Brevard, NC 28712

JOB: _____

NAME: _____
PHONE: 828-883-3005
DATE: 8.1.2011

email: idenichev@gmail.com

NAME: _____

Furnish materials and labor to install a 4' wide by 35' long passageway to extend from fitness room parallel with the sidewall of the pool enclosure as follows:

- (a) Passageway will be glazed in 10mm bronze polycarbonate.
- (B) For ventilation, four (4) foot sliding panels can be opened to match openings in enclosure sidewall.

Misc:

- 1 All electric and utility connections, plumbing, drainage, concrete work by others.
- 2 Purchaser shall provide all building permits, licenses and authorizations necessary to comply with local building requirements.

For the total sum of: Ten Thousand Five Hundred TOTAL: \$10,500.00

Payment as follows:

If the payments are not paid according to the payment schedule below Carolina Solar Structures, Inc. reserves the right to leave the project and return when the payment terms are met. All labor and expenses incurred to leave and return to the project will be added to the contract price and due upon return.

I (We) understand interest at 1-1/2% per month will be charged on any past due account.

Payment Schedule:

30% w/contract. \$3,150.00

60% on delivery: \$6,300.00

10% upon completion. \$1,050.00

expenses incurred to leave and return to the project will be added to the contract price and due upon return.

I (We) understand interest at 1-1/2% per month will be charged on any past due account.

Payment Schedule:

30% w/contract: \$5,790.00

60% on delivery: \$11,580.00

10% upon completion: \$1,930.00

For Carolina Solar Structures

By Robert Thompson

Date: 8.1.2011

The above prices, specifications and conditions on reverse side are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.

Acceptance of proposal: By _____

Date: _____

CAROLINA SOLAR STRUCTURES

P.O. Box 905
Arden, NC 28704

Airport Road Industrial Park
8 Loop Road
Arden, NC 28704

Fax: (828) 684-9900
(828) 684-9977

Proposal

FOR: Brevard Racquet Club JOB: _____
1520 Country Club Rd. _____
Brevard, NC 28712 _____
 NAME: _____
 PHONE: 828-883-3005 email: identchev@gmail.com
 DATE: 8.1.2011 NAME: _____

Furnish material and labor to install a 16' 4" x 45' 6" addition to the existing pool enclosure at Brevard Racquet Club as follows:

- (A) Entire existing gable end will be moved to new gable position.
- (B) A new structural load bearing 2' x 10' frame will be put in place.
- (C) Remove three (3) 8' 0" x 6' 8" sliding glass doors from existing gable and install in new addition sidewall. Reglaze opening in gable with clear 16mm polycarbonate.
- (D) Roof glazing will be bronze 16mm polycarbonate.

Misc:

- 1 All electric and utility connections, plumbing, drainage, concrete work by others.
- 2 Purchaser shall provide all building permits, licenses and authorizations necessary to comply with local building requirements

For the total sum of: Nineteen Thousand Three Hundred

TOTAL: \$19,300.00

Payment as follows:

If the payments are not paid according to the payment schedule below Carolina Solar Structures, Inc. reserves the right to leave the project and return when the payment terms are met. All labor and

CAROLINA SOLAR STRUCTURES

P.O. Box 905
Arden, NC 28704

Airport Road Industrial Park
8 Loop Road
Arden, NC 28704

Fax: (828) 684-9900
(828) 684-9977

Appraisal Value

FOR: Brevard Racquet Club
Box 1520 Country Club Rd.
Brevard, NC 28712
NAME: Mike Vandegrift
PHONE: 883-3005
DATE: 8.5.11

JOB: _____

email: vandeg m@yahoo.com
NAME: _____

Estimated value of existing C.S.S. pool enclosure structure;
(45'-6" x 73') located at Brevard Racquet Club (above address).

80% of \$113,700 (original cost) = \$90,960

For: Carolina Solar Structures

By _____

Date: _____

The above prices, specifications and conditions on reverse side are satisfactory and are hereby accepted
You are authorized to do the work as specified. Payment will be made as outlined above.

Acceptance of proposal: By: _____

Date: _____



August 8, 2011

To: Mike Vandergrift

Subject: Brevard Racquet Indoor Pool

I. Please find below our estimate of the current value for the indoor pool facility:

Pool includes:

- * 1800 sq ft surface area
- * Exposed aggregate finish
- * 1200 sq ft concrete with a textured topping
- * Walk in steps
- * Salt sanitation system
- * 250K BTU NG heater
- * 2 - TR100 filters
- * 1 - 3hp pump

Current Value: \$157,200.00

II. Please find below our quote for proposed renovation:

- * Partial removal and replacement of deck
- * Pool extension of 15 lineal feet
- * Upgrade filtration system

Estimate to renovate: \$60,000.00

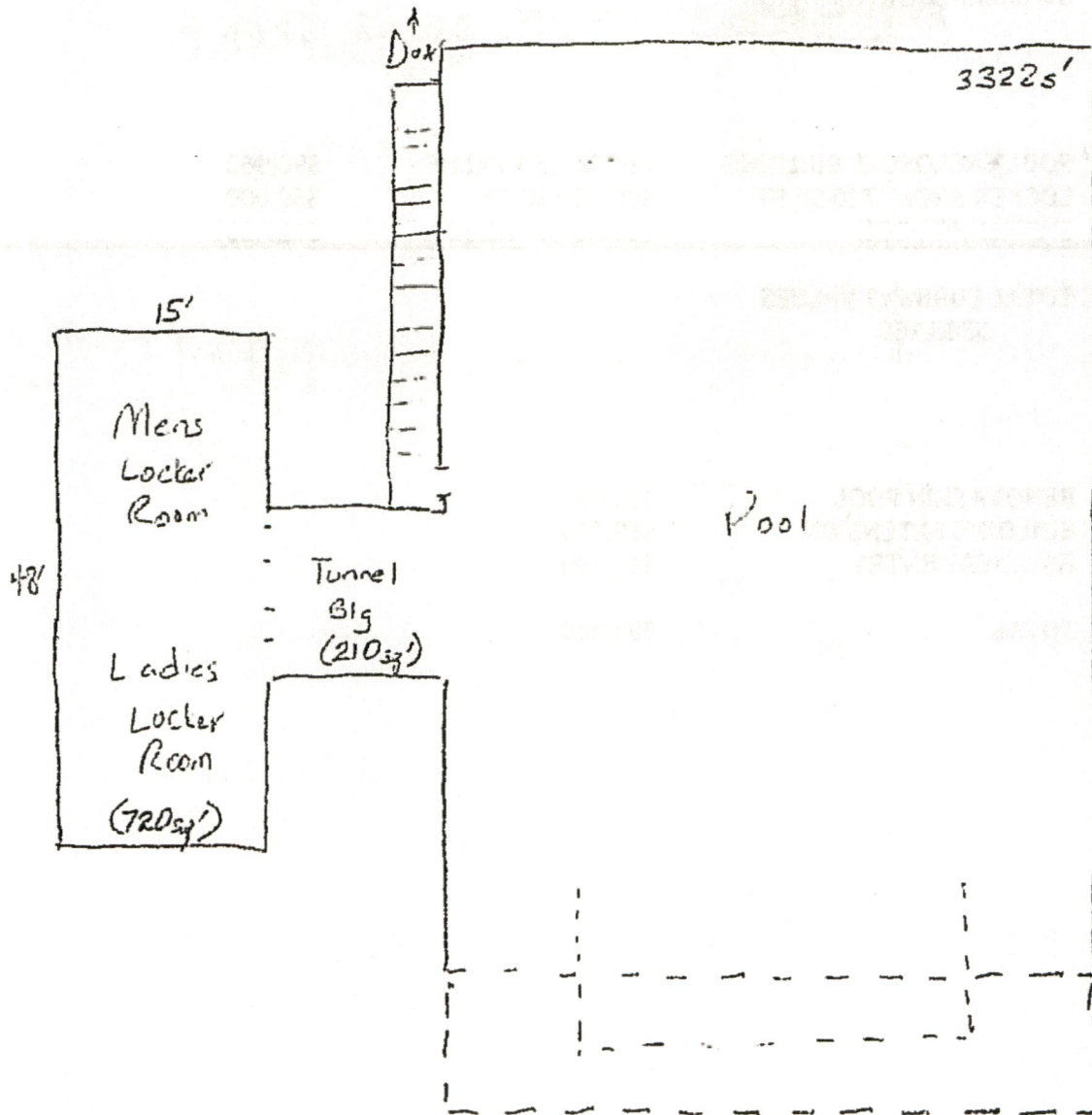
Please let me know if you have any questions.

Sincerely,
Dan Ball
(864) 270-7050

1217 NE Main Street ~ PO Box 1076 Simpsonville, SC 29681

(864) 967-8918 (864) 967-8907 fax

www.gencopools.com



- ① Add 15' to pool. 60' to 75' 25% increase
- ② Add 16' to building (728sq') 17% increase
4252sq' to 4980sq'

BREVARD HEALTH AND RACQUET CLUB

SWIM BUILDING ADDITION

POOL ENCLOSURE BUILDING	APPRAISED VALUE	\$90,960
LOCKER ROOM 720 SQ FT	\$80-120 SQ FT	\$60,000
SWIMMING POOL	CURRENT VALUE	\$157,200

TOTAL CURRENT VALUES
\$308,160

RENOVATION POOL	\$60,000
BUILDING EXTENSION	\$19,300
HANDICAP ENTRY	\$10,500
TOTAL	\$89,800

Application # _____
Page 1 of 4**FLOODPLAIN DEVELOPMENT PERMIT APPLICATION**

This form is to be filled out in duplicate.

SECTION I: General Provisions (APPLICANT to read and sign):

1. No work of any kind may start until a permit is issued.
2. The permit may be revoked if any false statements are made herein.
3. If revoked, all work must cease until permit is re-issued.
4. Development shall not be used or occupied until a Certificate of Compliance is issued.
5. The permit will expire if no work is commenced within six months of issuance.
6. Applicant is hereby informed that other permits may be required to fulfill local, state, and federal regulatory requirements.
7. Applicant hereby gives consent to the Local Administrator or his/her representative to make reasonable inspections required to verify compliance.
8. THE APPLICANT, CERTIFY THAT ALL STATEMENTS HEREIN AND IN ATTACHMENTS TO THIS APPLICATION ARE, TO THE BEST OF MY KNOWLEDGE, TRUE AND ACCURATE.

(APPLICANT'S SIGNATURE) Michael Vandegrift DATE 8/23/11**SECTION 2: Proposed Development (To be completed by APPLICANT)**

NAME	ADDRESS	TELEPHONE
<u>Michael Vandegrift</u>	<u>1325 No Country Club</u>	<u>883-3005</u>
APPLICANT <u>Carolyn Solar Structures</u>		
BUILDER <u>Tony Beale</u>		
ENGINEER _____		

PROJECT LOCATION:

To avoid delay in processing the application, please provide enough information to easily identify the project location. Provide the street address, lot number or legal description (attach) and, outside urban areas, the distance to the nearest intersecting road or well-known landmark. A sketch attached to this application showing the project location would be helpful.

At Brevard Racquet Club, project is additional 16' added
to the swim building as is.

Application # _____
Page 3 of 4

SECTION 4: Additional Information Required (To be completed by Local Administrator)

The applicant must submit the documents checked below before the application can be processed:

- ☐ A site plan showing the location of all existing structures, water bodies, adjacent roads, lot dimensions; and proposed development.
- ☐ Development plans, drawn to scale, and specifications, including where applicable: details for anchoring structures, proposed elevation of lowest floor (including basement), types of water-resistant materials used below the first floor, details of floodproofing of utilities located below the first floor, and details of enclosures below the first floor.

Also, _____

- ☐ Subdivision or other development plans. (If the subdivision or other development exceeds 50 lots or 5 acres, whichever is the lesser, the applicant must provide "100-year" flood elevations if they are not otherwise available).
- ☐ Plans showing the extent of watercourse relocation and/or landform alterations.
- ☐ Change in water elevation (in feet) _____ ☐ Meets ordinance limits on elevation increases
☐ YES ☐ NO
- ☐ Top of new compacted fill elevation _____ ft. NGVD (MSL).
- ☐ Floodproofing protection level (non-residential only) _____ ft. NGVD (MSL). For floodproofed structures, applicant must attach certification from registered engineer or architect.
- ☐ Certification from a registered engineer that the proposed activity in a regulatory floodway will not result in any increase in the height of the "100-year" flood. A copy of all data and hydraulic/hydrologic calculations supporting this finding must also be submitted.
- ☐ Other: _____

SECTION 5: PERMIT DETERMINATION (To be completed by LOCAL ADMINISTRATOR)

I have determined that the proposed activity: A. ☐ Is
B. ☐ Is not
in conformance with provisions of Local Law # _____, 19____. The permit is issued subject to the conditions attached to and made part of this permit.

SIGNED _____ DATE _____

If Box A is checked, the Local Administrator may issue a Development Permit upon payment of designated fee.

If Box B is checked, the Local Administrator will provide a written summary of deficiencies. Applicant may revise and resubmit an application to the Local Administrator or may request a hearing from Board of Appeals.

Steven E. Smith, M.P.A.
Health Director

Timothy J. Shea, M.D.
Medical Director



Public Health
Prevent. Promote. Protect.

Transylvania County
Department of Public Health

August 15, 2011

Mike Vandegrift
Brevard Athletic Club
PO Box 1520
Brevard, NC 28712

Re: Brevard Athletic Club Therapy Pool
Plans dated 8/10/2011

Dear Mike:

This department has reviewed the plan submitted by Dennis McCrary, P.E., for remodeling of the Brevard Athletic Club Therapy Pool, located at 1325 North Country Club Road, Brevard, NC. The plan is approved as submitted on 8/12/11 contingent on the listed provisions below. This plan review was conducted in accordance with the current North Carolina *Rules Governing Public Swimming Pools* (15A NCAC 18A .2500). This approval is valid for one year from the date of this letter and applies only to the pool and related appurtenances. If construction is not initiated within one year from the date of approval, the approval shall expire and plans must be re-submitted. Please contact the Transylvania County Building Permitting and Enforcement Office at 884-3209 for their requirements for your planned project.

This approval is contingent upon your compliance with the following conditions:

1. New decking must be sloped to drain (.2522 (f)).
2. Provisions for filling the pool (hose from protected faucet, fill spout, etc.) must be designated. Make-up water must be from an approved potable source—city water—and cannot be from any on-site wells. (Wells may only be used for the initial fill of the pool.) (.2512)
3. Junction box location for each of the pool lights may not obstruct the walkway or create a trip hazard (.2524 (d)).
4. Depth markers as shown on the plan are inadequate. Depth markings must be placed at each end of the pool, at the 8 feet and 3 feet depths along the side of the pool (minimum and maximum depths), at the transition point at 5 feet in depth, and as needed to meet the requirement that distance between markers can be no more than 25 feet (measured along the perimeter of the pool). (.2523)
5. No diving markers must be placed in all areas of the pool less than 5 feet in depth, be no more than 25 feet apart, either in lettering at least 4 inches high stating "No Diving" and of a color contrasting with the background, or may be a 6 inch x 6 inch international symbol for no diving in red and black on a white background (.2523).
6. Pool piping must be sized to handle 100% of the flow without exceeding 6 feet /second velocity on the suction side and 10 feet/second on the discharge side (.2518)
 - a. Piping from the main drains to the pump room must be 6 inches in diameter, not 4 as shown on the plans.
 - b. Piping for the skimmers must be sized to accommodate each skimmer at a flow of 45gpm:
 - i. For the building side from the skimmer most distant from the pump room, begin with 2", increase to 2.5" at skimmer 2 until juncture with other side of pool piping.
 - ii. For the parking lot side from the skimmer most distant from the pump room, begin with 2", increase to 2.5" at skimmer 2, 3" at skimmer 3, and 4" at skimmer 4.

August 15, 2011
Letter to Mike Vandegriff

Page 2

- iii. Where both sides join, piping should be 6" in diameter to the pump room.
- iv. Piping in the Equipment Schematic would then be 6" coming in to the pumps, not 4".
- 7. Pump room piping: piping and valve cut offs cannot allow one or both pumps to only pull from the main drain; a suction hazard would be created. (.2539)
- 8. The filter option for an increased flow rate of 20 gpm per square foot of filter media must be chosen. (.2519 (c))
- 9. Verify the condition of the hydrostatic relief valve.

It is strongly recommended that the drawings be revised and resubmitted with these changes. Under the current provisions of the North Carolina Rules Governing Public Swimming Pools (15A NCAC 18A .2500), the pool shall be constructed by a swimming pool contractor licensed by the North Carolina Licensing Board for General Contractors.

Prior to issuance of the operation permit, the owner shall submit to this department a statement signed by a registered architect/registered professional engineer stating that construction is complete and in accordance with the approved plans. Any changes or modifications to the plans must be approved by this department prior to construction. Periodic observations of construction and a final inspection for design compliance by the certifying registered architect/registered professional engineer or his/her representative shall be required for this statement.

Please notify me prior to placement of concrete so an inspection can be made of the pool piping.

Because this is a remodel, it may be necessary to contact us for job-specific considerations. Please feel free to contact me at any time during construction. Upon completion of construction, a final inspection must be made. Both construction and water quality must be approved before bathers can use the pool.

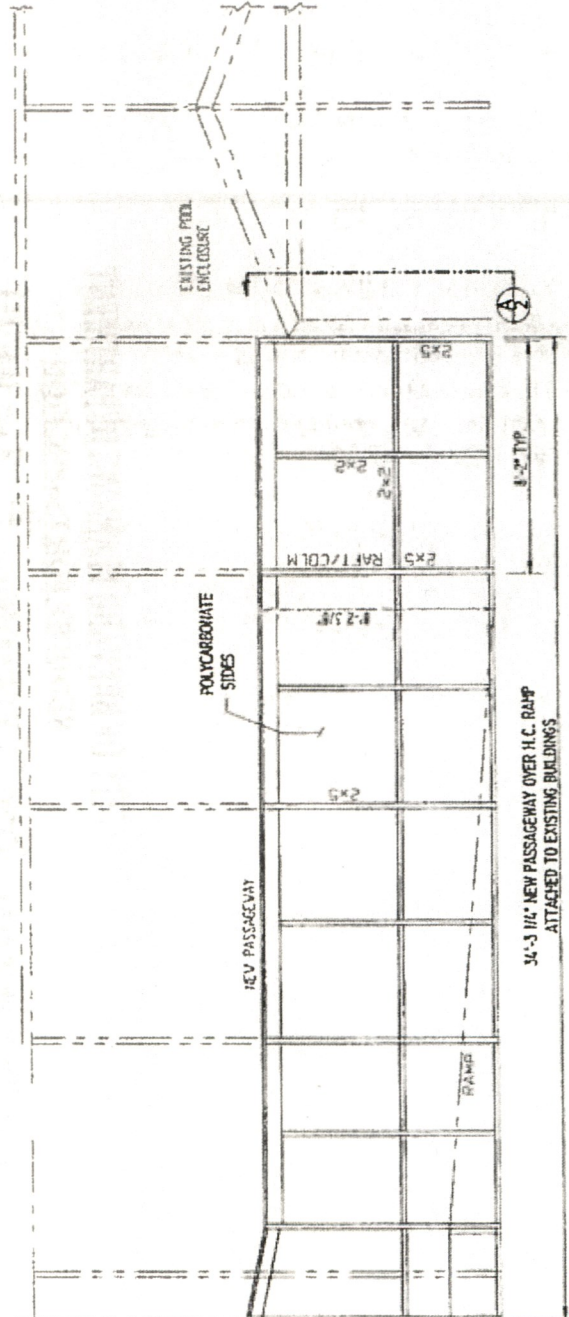
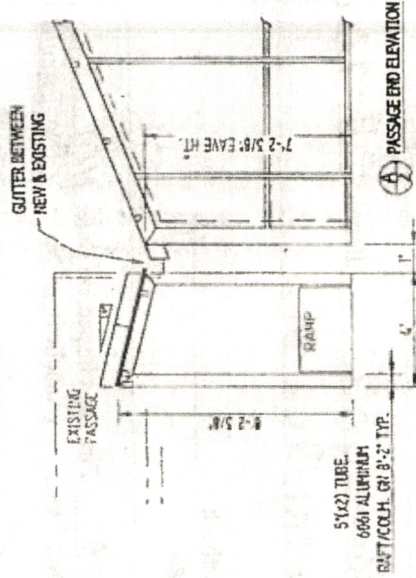
If you have any questions regarding this matter or if I can provide any additional assistance, please call me at 828-884-3139 x242. If you are unable to reach me at this number, please try 862-3319.

Sincerely,

Patricia Hawkins, REHS
Patricia Hawkins, REHS

cc: Dennis McCrary, P.E., Genco Pool & Spas, 1217 NE Main St., Simpsonville, SC 29681
Jeff Fisher, Chief, Transylvania County Building Permitting & Enforcement

PASSAGEWAY (ENLARGED VIEW)		DATE: 11/15/11	BY: JLD
JOB NAME: BREVARD RAQUET CLUB		DATE: 11/15/11	BY: JLD
BREVARD, NC 28712		DATE: 11/15/11	BY: JLD
BREVARD		DATE: 11/15/11	BY: JLD



CITY OF BREVARD PLANNING DEPARTMENT

REQUEST FOR INSPECTION

Inspection Requested by: Bob Thompson #231-4514
Date: 9/27/11 Time: 9 am

Property Owner Name: Mike Vandergriff Permit # 11-230

Location: 1325 N. Country Club Rd.

Type of Inspection Requested:

Preliminary Setback ☒ Final Setback ☐

Preliminary Sign ☐ Final Sign ☐

Other (describe) _____

Knox Box Installed: Yes ☐ No N/A Fire Dept Inspection Date: N/A

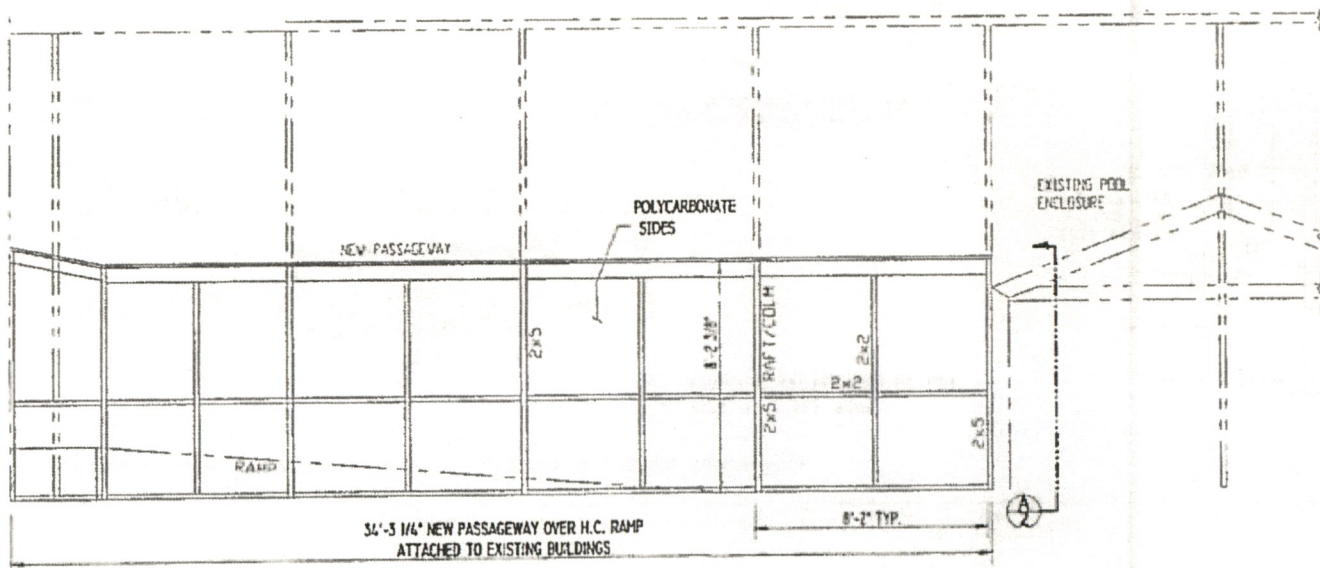
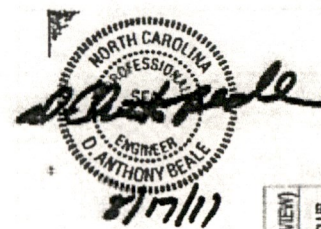
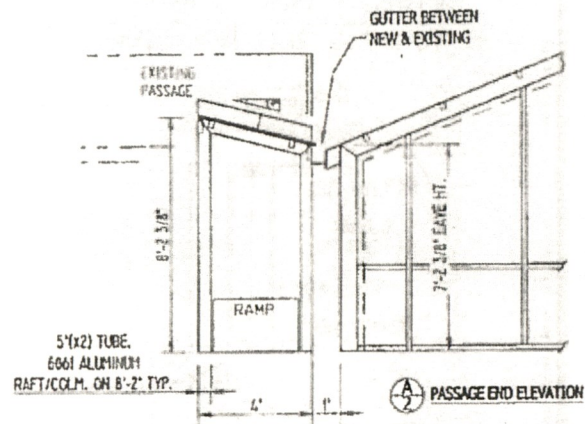
Flood Development Elevation Certificate: Yes ☐ (Attached) ☒ No (Not Required)

RESULTS of Inspection: Approved ☒ Approved w/Conditions ☐ Denied ☐

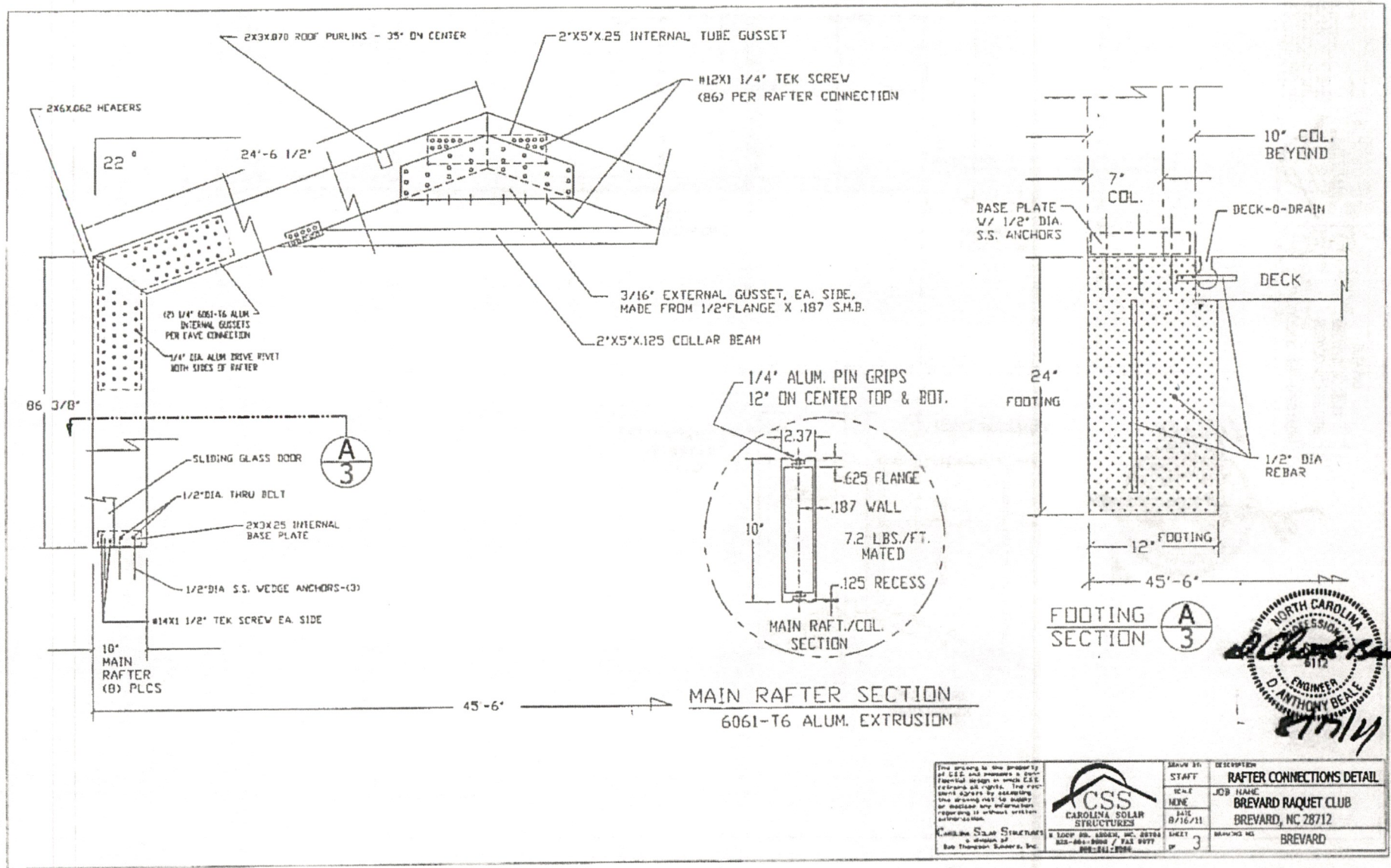
Inspected By: [Signature] Date 9/27/11

Comments and/or Conditions: _____

Called to County: 9/27/11 @ 4:00pm DE



	DATE	8-15-11	SCALE	2"
	START	8-15-11	END	8-15-11
CSS CAROLINA SOLAR STRUCTURES 1200 E. 10TH AVE. SUITE 100 BREVARD, NC 28712 800-331-7888	PROJECT	PASSAGEWAY (ENLARGED VIEW)		
	CLIENT	BREVARD RACQUET CLUB BREVARD, NC 28712		
Carolina Solar Structures, Inc. 1200 E. 10TH AVE. SUITE 100 BREVARD, NC 28712 800-331-7888	DESIGNED BY	D. ANTHONY BEALE		
	CHECKED BY	D. ANTHONY BEALE		



#12-415 BRAD

Sent 12-12-12

CITY OF BREVARD, NORTH CAROLINA

Planning Department

APPLICATION FOR ZONING SITE PLAN APPROVAL

Mike Vandergriff
681-3041/506-8028

Property Owner or Business Name Brevard Tennis & Athletic Club Inc Telephone 828-883 3005
 Owner Mailing Address 8005 1520 Brevard NV 28714 email identcher@gmail.com
 Applicant/Agent Name (if different than Owner)* _____ Telephone _____
 Applicant Mailing Address _____ email _____
 Location of Property 1325 N Country Club Rd Brevard NC
 Property Identification Number (PIN) 858531 5597 000

Site Plan Requested for:
RESIDENTIAL (circle)

New House Mobile Home Addition/Alteration Garage Carport
 Accessory/Storage Bldg Repair to Res Demolition Other _____

COMMERCIAL (circle)

New Commercial Addition/Alteration Accessory/Storage Bldg. Repair Demolition
 Other: Fabric Tennis Bldg over one tennis court

INDUSTRIAL (circle)

New Industrial Addition/Alteration Accessory/Storage Bldg. Repair Demolition
 Other: _____

DESCRIBE PROJECT (ie: New house with basement, garage, rear deck, front porch OR Restaurant one-story seating 120, etc.)
65' x 120' Steel Truss/Fabric Building over one tennis court

PROJECT COST \$ 110,000 (2013) TAX or APPRAISED VALUE \$ _____

Utilities: City Water and Sewer Yes (already on site) Individual/Private Well and Septic City Water & Well

Are there any other existing structures on this property? If so, please identify. Swim, tennis, fitness club

ATTACH SITE PLAN - Applicant shall provide a site plan, accurately and neatly drawn to scale showing the property boundaries, proposed building location, any existing buildings, proposed and/or existing utility services, driveway or street access location and method of storm drainage. The outside dimensions of the proposed new building or addition and its distances from the front, rear and side boundaries of the lot shall be shown.

* If the applicant/agent is other than the property owner, proof of owner's consent is required. Owner's signature proves consent. The applicant/agent will be the liaison with the City and will be the party to receive official notice. Notice communicated to the applicant/agent will be deemed communicated to the owner. By signing this application, the applicant/agent is consenting to the designation for these purposes.

SIGNATURE OF PROPERTY OWNER Mike Vandergriff Date 12/12/12

SIGNATURE OF APPLICANT/AGENT Mike Vandergriff Date 12/12/12

Zoning District: GR4 Office Use Only
 Subject to Flood Hazard Standards: Yes _____ No _____
 The district minimum zoning requirements for the proposed use along with related Planning staff review information is provided on reverse.

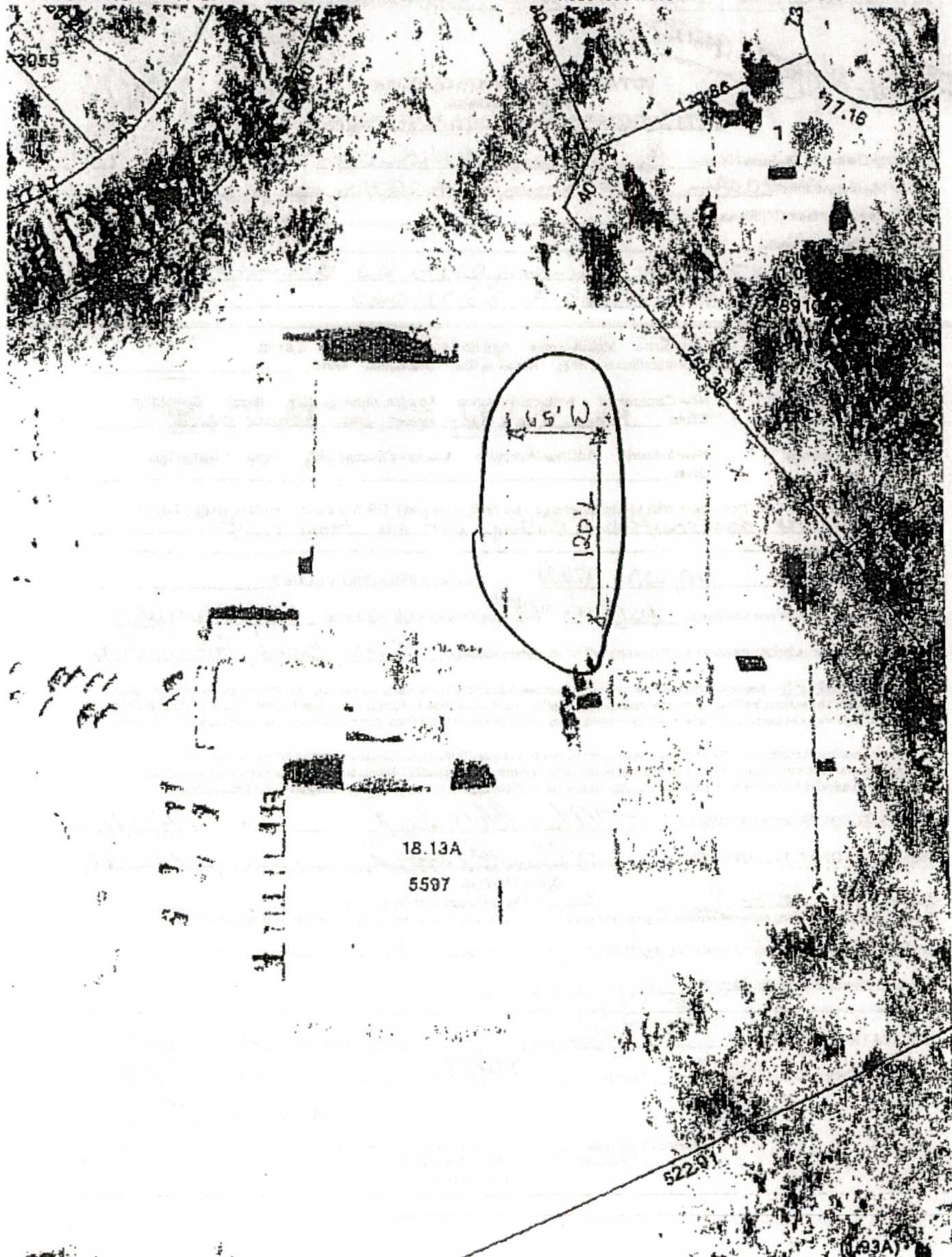
Zoning Site Plan (circle one) APPROVED / DENIED (Decision for denial to be detailed on reverse or attached.)

Approval Comments/Conditions: _____

APPLICATION DECISION BY [Signature] Review Date 01/28/2013

Review Fee Collected \$ 50.00 Receipt # 234560 Issued Date 01/28/2013

Permit Number 12-415



Application # 12-415
Page 1 of 4**FLOODPLAIN DEVELOPMENT PERMIT APPLICATION**

This form is to be filled out in duplicate.

SECTION I: General Provisions (APPLICANT to read and sign):

1. No work of any kind may start until a permit is issued.
2. The permit may be revoked if any false statements are made herein.
3. If revoked, all work must cease until permit is re-issued.
4. Development shall not be used or occupied until a Certificate of Compliance is issued.
5. The permit will expire if no work is commenced within six months of issuance.
6. Applicant is hereby informed that other permits may be required to fulfill local, state, and federal regulatory requirements.
7. Applicant hereby gives consent to the Local Administrator or his/her representative to make reasonable inspections required to verify compliance.
8. THE APPLICANT, CERTIFY THAT ALL STATEMENTS HEREIN AND IN ATTACHMENTS TO THIS APPLICATION ARE, TO THE BEST OF MY KNOWLEDGE, TRUE AND ACCURATE.

(APPLICANT'S SIGNATURE) [Signature]DATE 12/17/12**SECTION 2: Proposed Development (To be completed by APPLICANT)**

NAME	ADDRESS	TELEPHONE
APPLICANT		
Brevard Tennis & Athletic Club	1325 No Country Club, Brevard	883-3005
BUILDER		
Clearspan	1395 John Finch Blvd. South Windsor, CT	06074 1800 603 4445 #249
ENGINEER		
John Schemmel	1440 Field & Arams Way, Dyersville IA	52040 846 643 1010 x7779

PROJECT LOCATION:

To avoid delay in processing the application, please provide enough information to easily identify the project location. Provide the street address, lot number or legal description (attach) and, outside urban areas, the distance to the nearest intersecting road or well-known landmark. A sketch attached to this application showing the project location would be helpful.

1325 No Country Club Rd. Outdoor back clay tennis court
to install fabric building. Behind the clubhouse.

DESCRIPTION OF WORK (Check all applicable boxes):Application # 12-415
Page 2 of 4A. STRUCTURAL DEVELOPMENTACTIVITYSTRUCTURE TYPE

- ☐ New Structure
☐ Addition
☐ Alteration
☐ Relocation
☐ Demolition
☐ Replacement

- ☐ Residential (1-4 Family)
☐ Residential (More than 4 Family)
☐ Non-residential (Floodproofing? ☐ Yes)
☐ Combined Use (Residential & Commercial)
☐ Manufactured (Mobile) Home (In Manufactured Home Park? ☐ Yes)

ESTIMATED COST OF PROJECT \$ _____

B. OTHER DEVELOPMENT ACTIVITIES

- ☐ Clearing ☐ Fill ☐ Mining ☐ Drilling ☐ Grading
☐ Excavation (Except for Structural Development Checked Above)
☐ Watercourse Alteration (Including Dredging and Channel Modifications)
☐ Drainage Improvements (Including Culvert Work)
☐ Road, Street or Bridge Construction
☐ Subdivision (New or Expansion)
☐ Individual Water or Sewer System
☐ Other (Please specify) _____

After completing SECTION 2, APPLICANT should submit form to the Local Administrator for review.

SECTION 3: Floodplain Determination (To be completed by the Administrator)

The proposed development is located on FIRM Panel No. _____, Dated _____.

The Proposed Development:

- ☐ Is NOT located in a Special Flood Hazard Area (Notify the applicant that the application review is complete and NO FLOODPLAIN DEVELOPMENT PERMIT IS REQUIRED).

- ☐ Is partially located in the SFHA, but building/development is not.

- ☒ Is located in a Special Flood Hazard Area *temporary, uninsurable structure*
 FIRM zone designation is _____
 "100-Year" flood elevation at the site is: _____ ft. NGVD (MSL)
☐ Unavailable

- ☐ Is located in the floodway.

FBFM Panel No. _____ Dated _____
 (if different from the FIRM panel and date)

- ☐ See Section 4 for additional instructions.

SIGNED _____ DATE _____

Application # 12-415
Page 3 of 4**SECTION 4: Additional Information Required (To be completed by Local Administrator)**

The applicant must submit the documents checked below before the application can be processed:

☒ A site plan showing the location of all existing structures, water bodies, adjacent roads, lot dimensions; and proposed development.☐ Development plans, drawn to scale, and specifications, including where applicable: details for anchoring structures, proposed elevation of lowest floor (including basement), types of water-resistant materials used below the first floor, details of floodproofing of utilities located below the first floor, and details of enclosures below the first floor.

Also, _____

☐ Subdivision or other development plans. (If the subdivision or other development exceeds 50 lots or 5 acres, whichever is the lesser, the applicant must provide "100-year" flood elevations if they are not otherwise available).☐ Plans showing the extent of watercourse relocation and/or landform alterations.☐ Change in water elevation (in feet) _____ ☐ Meets ordinance limits on elevation increases
☐ YES ☐ NO☐ Top of new compacted fill elevation _____ ft. NGVD (MSL).☐ Floodproofing protection level (non-residential only) _____ ft. NGVD (MSL). For floodproofed structures, applicant must attach certification from registered engineer or architect.☐ Certification from a registered engineer that the proposed activity in a regulatory floodway will not result in any increase in the height of the "100-year" flood. A copy of all data and hydraulic/hydrologic calculations supporting this finding must also be submitted.☐ Other: _____**SECTION 5: PERMIT DETERMINATION (To be completed by LOCAL ADMINISTRATOR)**

I have determined that the proposed activity:

A. ☒ Is
B. ☐ Is not

in conformance with provisions of Local Law # _____, 19____. The permit is issued subject to the conditions attached to and made part of this permit.

SIGNED _____

DATE 12-17-12If Box A is checked, the Local Administrator may issue a Development Permit upon payment of designated fee.If Box B is checked, the Local Administrator will provide a written summary of deficiencies. Applicant may revise and resubmit an application to the Local Administrator or may request a hearing from Board of Appeals.

Application # 12-415
 Page 4 of 4

 APPEALS: Appealed to Board of Appeals? ☐ Yes ☐ No

Hearing date: _____

 Appeals Board Decision - Approved? ☐ Yes ☐ No

 Reasons/Conditions: _____

SECTION 6: AS-BUILT ELEVATIONS (To be submitted by APPLICANT before Certification of Compliance is issued)

The following information must be provided for structures that are part of this application. This section must be completed by a registered professional engineer or a licensed land surveyor (or attach a certification to this application). Complete 1 and 2 below.

1. Actual (As-Built) Elevation of the top of the lowest floor, including basement (in Coastal High Hazard Areas, bottom of lowest horizontal structural member of the lowest floor, excluding piling(s) and columns) is: _____ ft. NGVD (MSL).
2. Actual (As-Built) Elevation of floodproofing protection is _____ ft. NGVD (MSL).

SECTION 7: COMPLIANCE ACTION (To be completed by LOCAL ADMINISTRATOR)

The LOCAL ADMINISTRATOR will complete this section as applicable based on inspection of the project to ensure compliance with the community's local law for flood damage prevention.

INSPECTIONS DATE: _____	BY _____	DEFICIENCIES? ☐ Yes ☐ No
DATE _____	BY _____	DEFICIENCIES? ☐ Yes ☐ No
DATE _____	BY _____	DEFICIENCIES? ☐ Yes ☐ No

SECTION 8: CERTIFICATE OF COMPLIANCE (To be completed by LOCAL ADMINISTRATOR)

Certificate of Compliance issued: DATE _____ BY _____

CITY OF BREVARD

STATEMENT OF FEES

CUSTOMER INFORMATION

Customer name: Brevard Tennis & Athletic Club, Inc Telephone: 883-3005
 Contractor name: _____ Telephone: _____
 Development Permit Number 12-415
 Location (911 Property Address): 1325 N. Country Club Rd.
 Billing address: _____
 Tax ID or Fed. #: _____

FEES

Category	Fee	Account Code	By
Business License		10-1260-0300	
Utility Account Deposit		30-2360-0200	
Water Tap Fee		30-3730-0100	
Sewer Tap Fee		30-3730-0200	
Water Impact Fee ¹		35-3730-0100	
Sewer Impact Fee ¹		35-3730-0200	
Zoning Permit	\$50. ⁰⁰	10-3350-0200	5/10
Stormwater Fee-In-Lieu		35-1010-0480	
Parking Fee-In-Lieu		10-3350-0600	
Sidewalk Fee-In-Lieu		35-1010-0460	
Sign Permit Fee		10-3350-0200	
Miscellaneous Bonds		10-3350-0800	
Other (Describe)			
Total Fee ²	\$50. ⁰⁰	Receipt Number: <u>234560</u>	Date: <u>12/21/12</u>

*Note to Planning Staff: Knox Box fees should be collected separately and forwarded to the vendor.

Please bring this form with you to the Water Dept to pay fees and we will be happy to give you a receipt for necessary permits.

Day meter to be set (if applicable): _____

CITY OF BREVARD PLANNING DEPARTMENT
REQUEST FOR INSPECTION

FINAL

Request received by: Janice Ponso Referred to: Brad BURTON

Inspection Requested by: Mike Vandergrift requested
Date: 5/24/13 Time: 3:15 PM Ready to Inspect (time/date): now Tues
Property Owner Name: Brevard Tennis... Permit# 12-415 inspection
Location: 1325 N. Country Club Road
Type of Inspection Requested:

Preliminary Setback _____ Final Setback ☒

Preliminary Sign _____ Final Sign _____

Other (describe) _____

Knox Box Installed: Yes _____ No _____ Fire Dept Inspection Date: _____
Flood Development Elevation Certificate: Yes _____ (Attached) No _____ (Not Required)

RESULTS of Inspection: Approved ☒ Approved w/Conditions _____ Denied _____
Inspected by: [Signature] Date: 05/28/2013

Comments and/or Conditions: _____ BCRA 13-016
Called to County Inspections Summary 1100 A

CITY OF BREVARD PLANNING DEPARTMENT
REQUEST FOR INSPECTION

Request received by: Janice Pinson Referred to: Josh Freeman

Inspection Requested by: Mike Vandegriff

Date: 5/1/13 Time: 4:00pm Ready to Inspect (time/date): NOW

Property Owner Name: Brevard Tennis Permit# 12-415

Location: 1325 N. County Club Rd. Athletic Club

Type of Inspection Requested: _____

Preliminary Setback ✓ Final Setback _____

Preliminary Sign _____ Final Sign _____

Other (describe) _____

Knox Box Installed: Yes _____ No _____ Fire Dept Inspection Date: _____

Flood Development Elevation Certificate: Yes _____ (Attached) No _____ (Not Required)

RESULTS of Inspection: Approved _____ Approved w/Conditions _____ Denied _____

Inspected by: _____ Date: _____

Comments and/or Conditions: _____

BCR A13-0160 Sheing OK per
Called to County Inspections JOSH: JR 5/1/13

October 21, 2017

To: Planning Department, City of Brevard
Daniel Cobb, Director

This note is a follow up to a conversation we had on October 13, 2017 with Paul Ray regarding an issue we are having with our closest neighbor, The Brevard Racquet Club. We are being consistently bothered by noise from their new "fitness dome". The disturbances happen off and on throughout the day. We have been awakened by the clanging of bar bells against their racks, radio, voices, and lights for the past several weeks. The noise, although not consistent, happens in the early mornings, afternoons, and dinnertime. Weekends, Friday evenings, Sunday afternoons.... We would like to share with you our relationship and history with the Racquet Club as it relates to the City and the Planning Board.

We have lived in our home at 241 Country Lane, in Deerwood Acres, for 29 years. We sit above the racquet club and look down on two tennis courts that sit behind the Clubhouse/tan metal building. There is a small stream that is *subject to the Clean Streams legislation* that runs along our shared property line. In 2000 the owners of BRC approached the City with a plan to do a major expansion to the Club....which was operating under a "Special Exception Permit". The Club was required to present their plan to the Board of Adjustment. There were two hearings before the BOA, November 14, 2000 and January 9, 2001. The Club was turned down at the first hearing. Within days the BRC owner submitted a request for a rehearing. At that second hearing, the Board found in favor of the BRC and they were granted a permit for some specific improvements to the Club.

The original denial on Nov. 14, 2000 was opposed by close neighbors and the board felt that the "the project seems too large and exceeding the scope of a neighborhood use". The 2nd hearing (January 9, 2001) was attended by many members of the club as well as the community at large who mostly favored the expansion as it included a Jr. Olympic Swimming Pool that would be covered in the winter and made available to the High School Swim Team.

Since our property abuts the Racquet Club, our concerns were how we would be affected both visually and by noise. The minutes of the two meetings indicate several times that the Owners assured us and the Board (under sworn oath) that we would not be affected by any additional noise or lights. (Nov: "would not create additional noise or light to the neighbors " Jan: "most common noise heard at the club would be occasional mowing to maintain the property" "lighting will be the same as used for the past twenty-three years to light the facility") **The Board decided at that time that the plan, as presented, would not violate neighborhood character nor adversely affect surrounding land uses.**

The property was built, the building replaced grass and trees, and we accepted the visual changes. True to their word, sound did not penetrate the building and there were no lights on the backside of the building. The pool, however, did not materialize as a year round pool for the High School Swim Team.

Many years have passed and the Racquet Club has made several additional changes and improvements. Some of these (adding to the clubhouse and expanding the size of the indoor pool) has had no effect on us. **There have been other changes, however, that have had a direct effect on us.**

The Club installed street lights to illuminate their front parking lot. The lights are much higher than necessary and the affect is light pollution coming over the buildings and lighting our night sky. We have

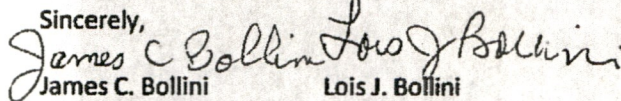
not seen a star from our backyard since the lights were installed. A shorter, landscaping type light could have been used serving the same purpose for them. We spoke with the Manager at the time but nothing was done to improve the light pollution. We accepted this unfortunate change in "lighting".

Several years ago, the Club got permission from the City to cover one of the courts that sit between their (new) clubhouse and our property. They claimed they needed an additional indoor court. The end result, for us, was seeing a canvas dome from our kitchen window and decks. The dome includes lights that illuminate the dome when being used. **This addition is beyond the permission granted to the Club thru their Special Exception Permit.** We are the only neighbors this affects. We accepted the new Dome with lights as another change that was unfortunate for us.

A couple years ago, the Club resurfaced the court under the Dome. That court had always been a "hard-tru (clay)" court. We were told they wanted to make it a hard surface court so they could convert the court to Pickleball Courts. Knowing Pickleball can be a noisy sport, we expressed concern to the Planning Board. The Planning Board said they allowed the Club to surface the court to correct a "moisture" problem under the dome. According to Janice Pinson (Brevard Planning Dept.), she received an e-mail from the Manager of the Club, Josh Vandergrift, explaining that Pickleball was a racquet sport much like tennis and that he felt they had not changed the purpose of the court/dome. The City agreed and Pickleball was added.

The latest change has been converting the vinyl Dome into a weight room/exercise room. The noise from this uninsulated, non-soundproof dome is extremely disruptive to the enjoyment of our home and yard. The metal on metal noise from heavy barbells dropping on their racks is extremely disturbing as is the canvas jumping blocks. The music/radio, voices, and loud noises from various exercise equipment travel right up the hill to our home. **We have been woken by the noise under the dome each weekday morning for the past two weeks. The time ranges from 5:50 to 6:40.** Again, we are exposed to the noise in the mornings, afternoons, evenings, Friday nights, weekend afternoons.... We were visiting with guests at 3:00 last Friday afternoon on our deck. We literally had to go into the house and close the door as the clanging of weights was so disruptive. We've left our deck at dinnertime more than once for the same reason.

This change in the Club has a direct, serious effect on us and is truly NOT in the spirit of intent when the Board of Adjustment granted the Club a Special Exception Permit. If you examine the testimony given by the owners and their agents to the Board of Adjustment on Nov. 14, 2000 and Jan. 9, 2001 we believe you will agree. We have always been good neighbors to the Club but in this situation we must ask the City require them to cease all activity that disturbs our peace and quiet.

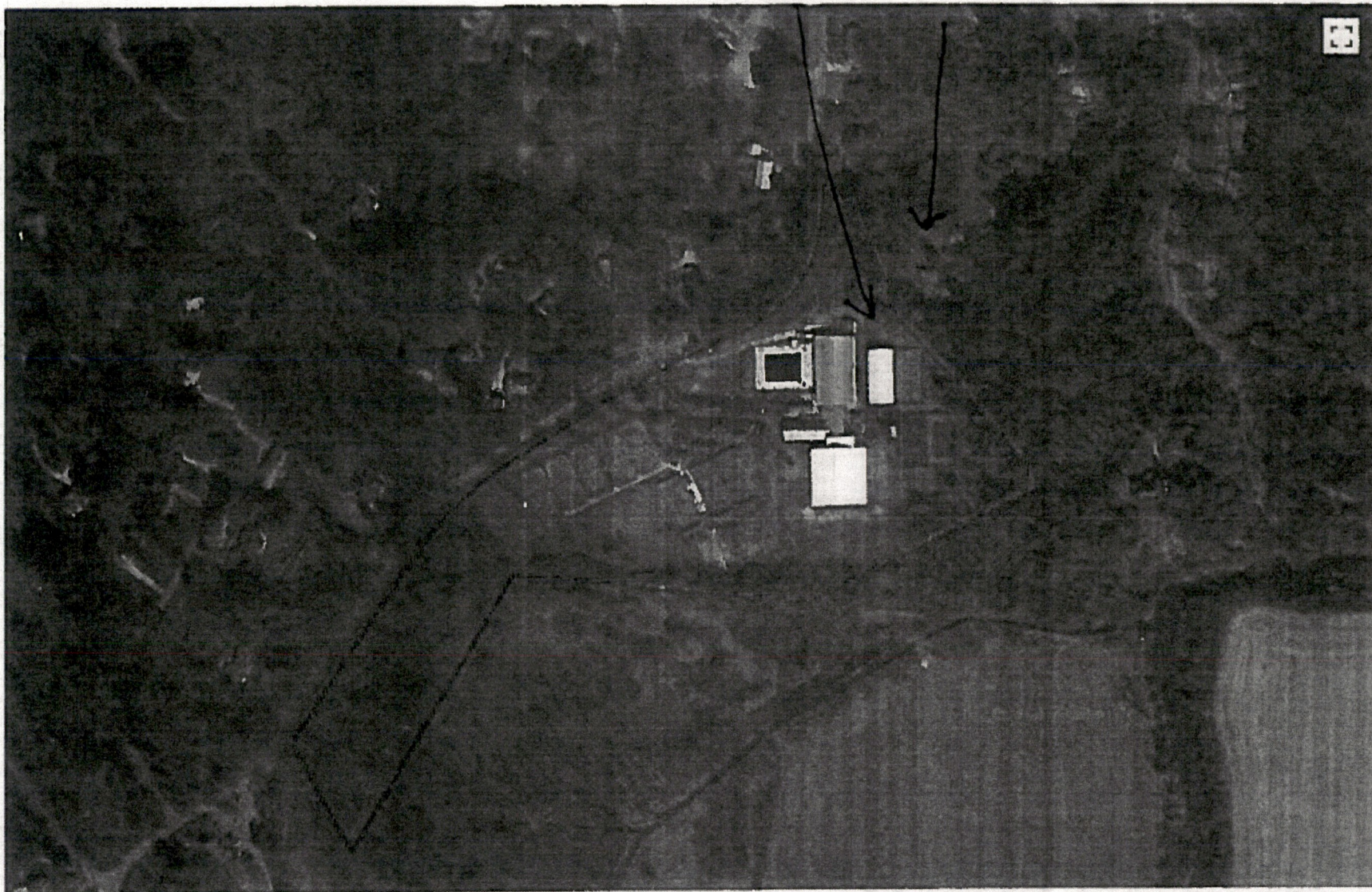
Sincerely,

 James C. Bollini Lois J. Bollini

884-7748
 828-316-1035

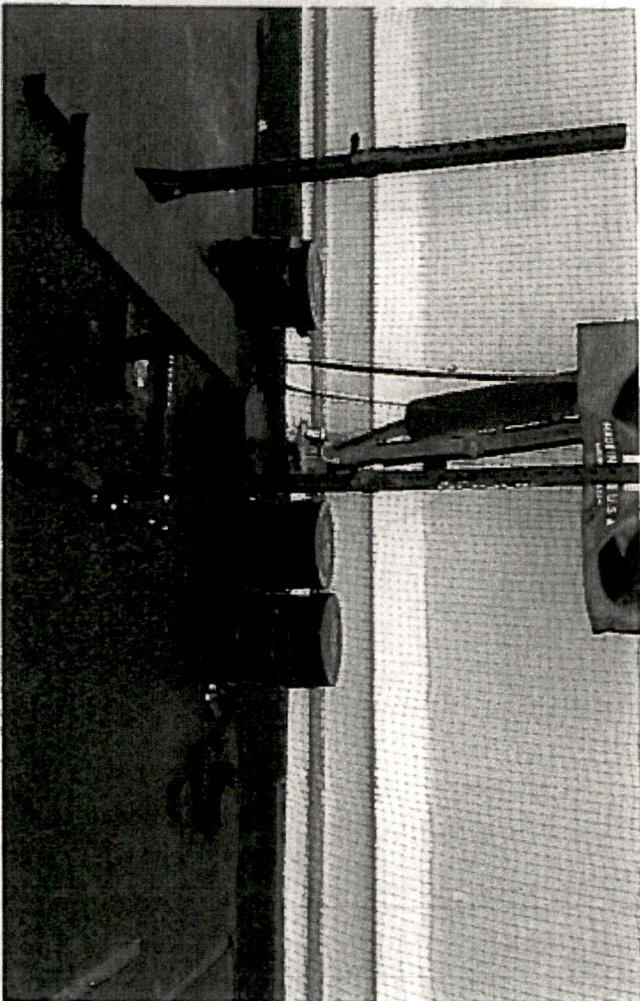
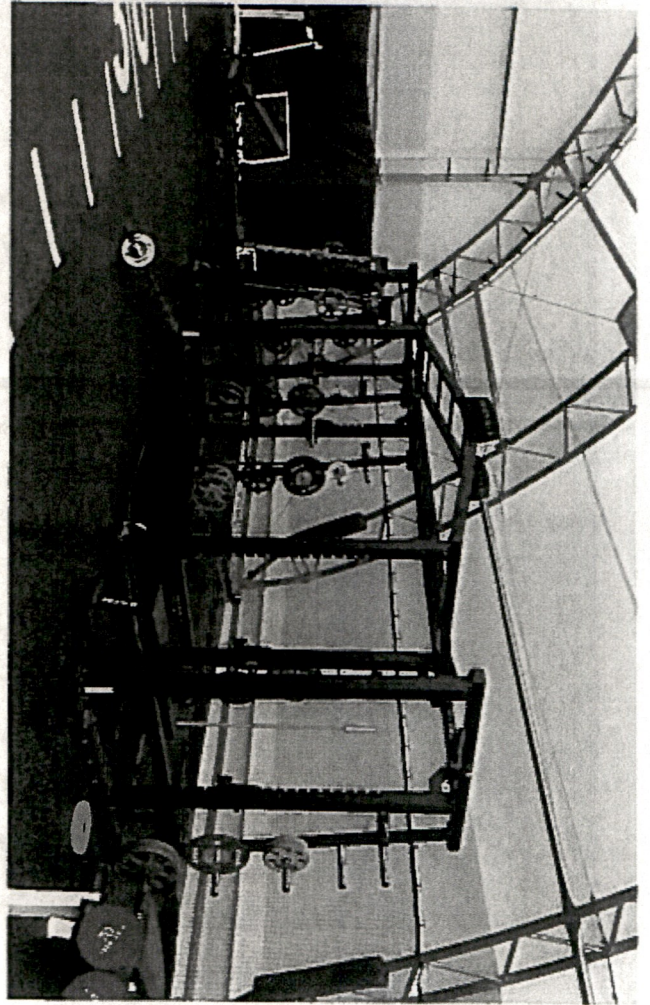
dome

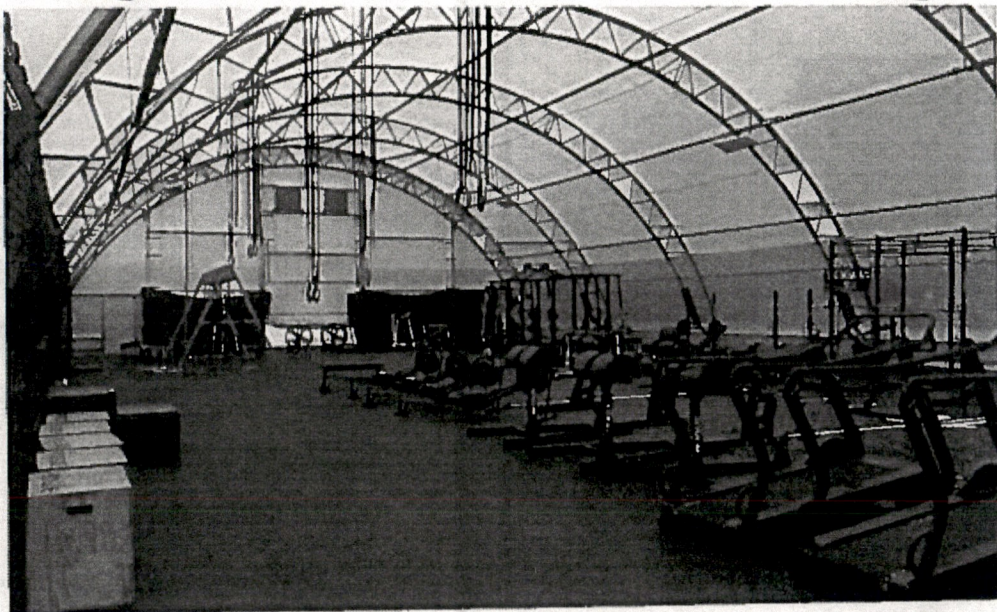
our home

Note: 

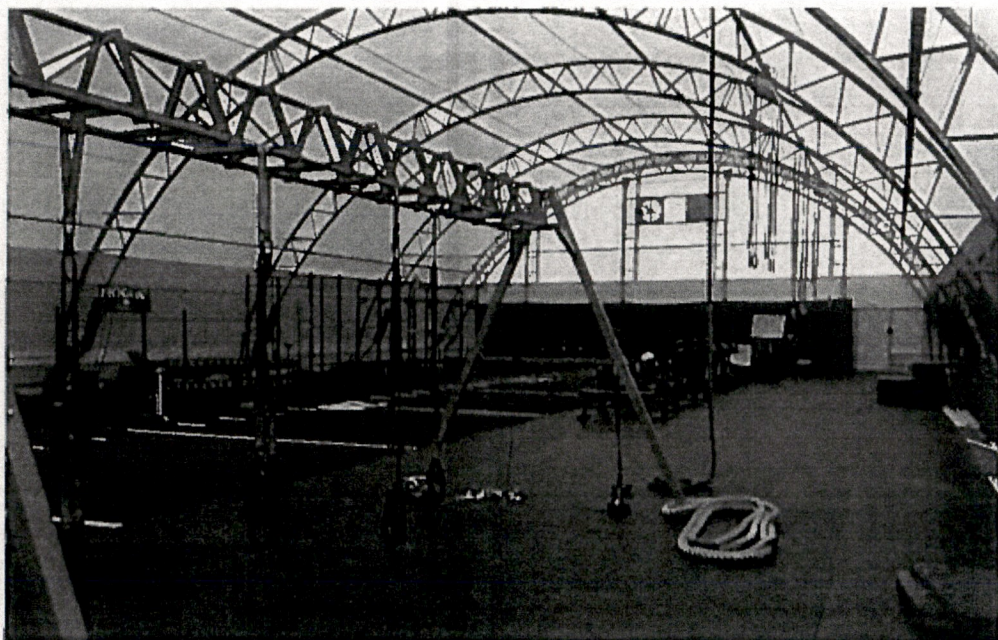


ATTACHMENT I





The heavy barbell equipment
is along this back wall of
the dome.





CITY of BREVARD

The mission of the City of Brevard is to promote a high quality of life, support economic prosperity, and cultivate community while honoring its heritage and culture.

SENT VIA U.S. CERTIFIED MAIL ON JUNE 4, 2018

June 4, 2018

Mike Vandegrift, President
Brevard Tennis and Athletic Club
1325 N. Country Club Rd.
Brevard, NC 28712

Dear Mr. Vandegrift,

I hope this letter finds you well. I am writing in response to a complaint from a neighboring property of the Brevard Health & Racquet Club. We understand one of the tennis courts previously approved under Special Exception Permit #00-22 has been converted to a cross-fit style workout facility. If this the case you may be operating outside the limits of SEP #00-22.

There are a couple options to move forward; 1) you apply to the Board of Adjustment to amend your original SEP to allow this type of use, or 2) convert the space back to indoor tennis courts.

Please contact me or Paul Ray at your earliest convenience so we may discuss the next steps. We are both available at (828) 885-5630.

Best regards.

Daniel Cobb, AICP, CFM, CZO
Planning Director

cc: Paul Ray, CZO – Senior Code Enforcement Officer



CITY of BREVARD

The mission of the City of Brevard is to promote a high quality of life, support economic prosperity, and cultivate community while honoring its heritage and culture.

SENT VIA U.S. CERTIFIED MAIL ON JUNE 18, 2018

June 18, 2018

Mike Vandegrift, President
Brevard Tennis and Athletic Club
1325 N. Country Club Rd.
Brevard, NC 28712

Dear Mr. Vandegrift,

We have not heard from you or anyone from the Brevard Tennis and Racquet Club following my original letter dated June 4, 2018. On August 7, 2018 this case will be presented to the Board of Adjustment for consideration.

Please attend this meeting so the Board may hear from you and your plans for the site. If they do not vote to approve an amendment to SEP #00-22 then you will need to cease operations in what we know to be The Fitness Dome (<https://www.brevardhealthandracquetclub.com/>). You may still use this space for its original purpose (tennis courts).

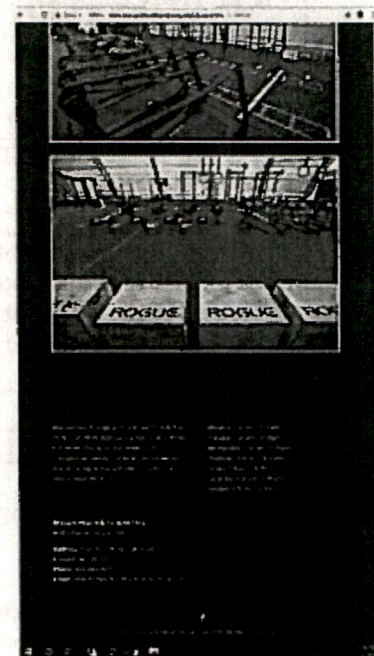
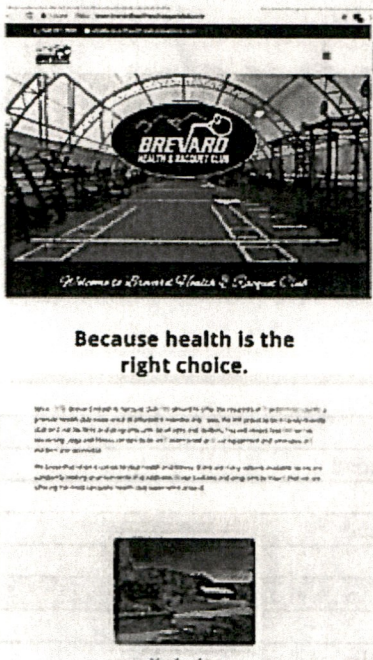
See the reverse side of this letter for images of the facility in question.

Please contact me or Paul Ray at your earliest convenience so we may discuss the next steps. We are both available at (828) 885-5630.

Best regards.

Daniel Cobb, AICP, CFM, CZO
Planning Director

cc: Paul Ray, CZO – Senior Code Enforcement Officer





The City of
Brevard
North Carolina

NOTICE OF VIOLATION

SENT VIA U.S. CERTIFIED MAIL ON JULY 16, 2018

DATE:	07/16/2018
SUBJECT PROPERTY ADDRESS:	1325 N. Country Club road
PARCEL IDENTIFICATION #:	8585-31-5597-000
GENERAL LOCATION:	North Country Club Road
CLOSEST INTERSECTION:	
OWNER/MANAGER NAME:	Josh Vandergrift
OWNER ADDRESS:	Brevard Tennis and Athletic Club 1325 N. Country Club Road Brevard, NC 28712
VIOLATION SECTION:	UDO Chapter 18.1.D
VIOLATION DESCRIPTION:	Use in violation. To erect, construct, reconstruct, alter, repair, convert, maintain, or use any building or structure, or to use any land, or to conduct any activity in violation or contravention of this ordinance or any other regulation made under the authority conferred thereby.
PRESCRIPTIVE REMEDY:	Request amendment from BOA or cease operations as a workout facility as shown in the photos below and return the space to its originally permitted use (tennis courts).
Penalties. Any person who violates any provision of this ordinance shall be subject to assessment of a civil penalty in the amount of: 1. \$50.00 for the first violation; 2. \$100.00 for the second violation; 3. \$200.00 for the third violation; 4. \$500.00 for the fourth and each succeeding violation. Each day out of compliance beyond the deadline below is a separate offense. Penalties are cumulative.	

COMPLIANCE DEADLINE:	07/23/2018
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DEAR PROPERTY OWNER(S) / PERSON(S) IN CARE OR CONTROL OF SUBJECT PROPERTY:

The City of Brevard Planning Department has verified the above violation existing on the subject property. You are hereby required to correct such violation by the issued compliance deadline in order to avoid the City exercising the aforementioned penalties authorized by law. Please call the

Planning Department at, (828) 885-5626 if you have any questions or feel that you received this notice in error.

Thank you in advance for your cooperation.

Daniel Cobb, AICP
Planning Director
Brevard Planning Department
(828) 885-5630
Daniel.cobb@cityofbrevard.com

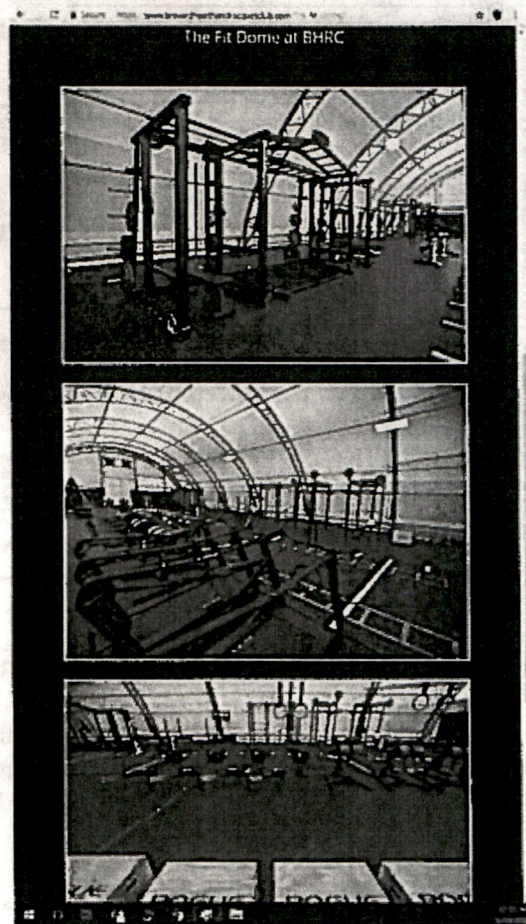
The images shown below were taken from a screenshot of the facility's website on June 4, 2018.



Because health is the right choice.

Since 1978, Brevard Health & Racquet Club has strived to offer the residents of Brevard County a premier health club experience at affordable membership rates. We are proud to be a family friendly club and our facilities and programs cater to all ages and abilities. You will always find our tennis, swimming, yoga and fitness centers to be well-maintained and our equipment and amenities are modern and accessible.

We know that when it comes to your health and fitness, there are many options available, so we are constantly making improvements and additions to our facilities and programs to ensure that we are offering the most complete health club experience available.



**City Of Brevard, North Carolina
BREVARD BOARD OF ADJUSTMENT**

Application for Special Use Permit (SUP)

SUP-18-002

SUP File Number: # DD-022**Property Owner:**

Name Michael Vandegrift
 Address 1325 N. Country Club Rd.
 City/State/Zip Code Brevard, NC 28712
 Telephone Number 828-883-3005 Email Address bhrc1978@gmail.com

Applicant and/or Agent (if different than property owner):

Name Same as above
 Address _____
 City/State/Zip Code _____
 Telephone Number _____ Email Address _____

Location of Property:

1/2 mile south of Brevard High School on Country Club Rd.
-3/4

Property Identification Number (PIN): 8585-31-5597-000
 Zoning District(s): GR4 Within City Limits? Yes ☐ No ☒

Request SUP as permitted in Unified Development Ordinance Section(s) _____

REQUESTING SPECIAL USE PERMIT TO ALLOW:

Request existing fabric building to be used as an
athletic building

Following must be included with Application:

1. _____ Site Plan
2. _____ Listing of names and mailing addresses of all property owners within two-hundred feet (200') from the boundaries of the property in question.
3. _____ Application filing fee - \$250. Receipt # _____

Michael Vandegrift
 Signature of Property Owner

 Signature of Agent (if different than property owner)

7/18/18
 Date

 Date

SPECIAL USE PERMIT Request to be heard by TRC on: N/A
 SPECIAL USE PERMIT Request to be heard by BOA on: August 7, 2018

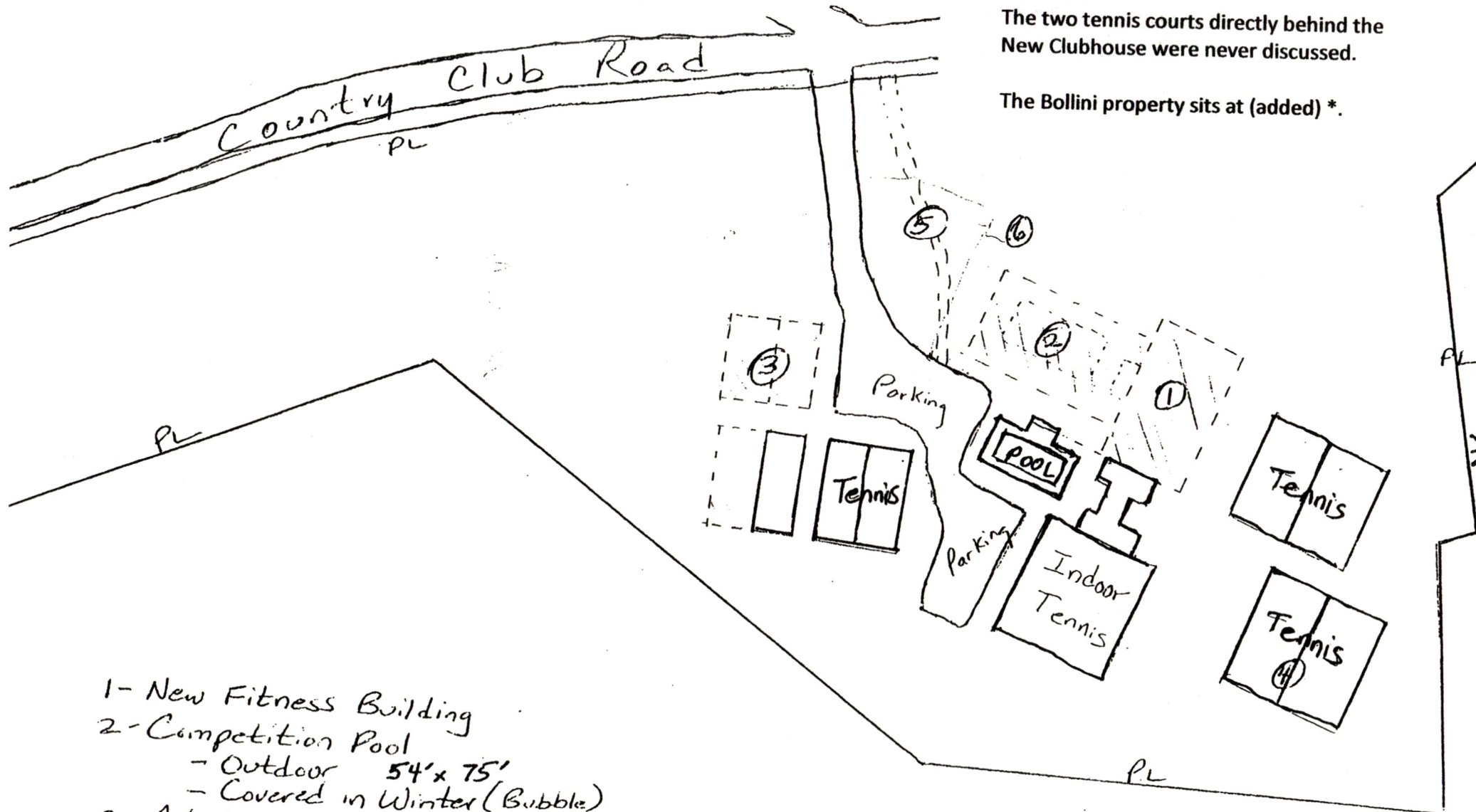
EXHIBIT "B"

This is the site plan given to the BOA at the hearings in 2000 and 2001. The Requested and approved changes are indicated By numbers 1,2,3,4,5.

The pool is #2, the 12,000 sq ft building is #1, the "bubbled" tennis courts are #4.

The two tennis courts directly behind the New Clubhouse were never discussed.

The Bollini property sits at (added) *.



- 1- New Fitness Building
- 2- Competition Pool
 - Outdoor 54' x 75'
 - Covered in Winter (Bubble)
- 3- Additional Tennis Courts
- 4- Bubble over Courts for winter
- 5- Additional Parking

EXHIBIT "C"



(Above) F
emy defend
ished with
Tigers won
the Oskar B
the fifth year



(Left) Brevard senior
Noah Graham capped
off his high school ca-
reer as a nine-time state
champion and just



CITY of BREVARD

The mission of the City of Brevard is to promote a high quality of life, support economic prosperity, and cultivate community while honoring its heritage and culture.

BOARD OF ADJUSTMENT SUPPLEMENTAL INFORMATION

AUGUST 7, 2018

TITLE: Bollini Letter – Dated July 29, 2018
REGARDING: History of Property

Summary

The following information (letter, minutes from November 2000 and January 2001) were provided to the Planning Department from Jim and Lois Bollini in preparation for the Board's meeting on August 7, 2018. They have requested the Board receive a copy of their letter and photocopies of the Board's minutes.

July 29, 2018

To: Members of the Board of Adjustment,

The hearing on August 7th will be about a Fabric Dome at the Racquet Club. As innocent as this Dome may sound, for us it is a major issue.

This Dome sits directly behind the clubhouse and is not visible from the front of the property or from Country Club Road. The 5 year old Dome, however, has been a visual eyesore for us since Day One. The Dome, 60 feet from our property line, was originally erected to cover a clay tennis court, thus making it an indoor court. Last summer this "dome covered tennis court" evolved into a 7200 square foot fitness center. It did not take long for us to realize that fabric domes are not well insulated nor are they soundproof. The noises from the activities within are very intrusive.

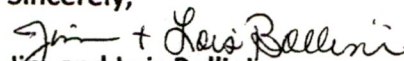
We know, first hand, that fabric/vinyl is not an adequate medium for an Athletic Building. Most Athletic activities are loud and energetic and sound cannot be contained within the walls of this type of structure.

The Dome in question became the Fitness Dome last August and we, **residential neighbors**, have been plagued by loud noise from this Dome ever since. Please keep in mind that although a "Club", the Racquet Club is, in fact, a For Profit, Private Business operating in a Residential Neighborhood. Please do not let the growth of a private business override the quality of life of neighbors that live close by.

We respectfully ask that you deny this request for a fabric dome to become an Athletic Building as it will be disruptive to the peace and enjoyment of our home as well as two neighboring homes.

At the BOA hearings in 2000 and 2001 the owners of the Racquet Club assured us that we would not be bothered by noise from their expansion. We have attached the minutes of those hearings, highlighting the issues of noise and lights. They promised no noise. Please keep them true to their word.

Sincerely,


Jim and Lois Bollini

2 Enclosures

Ayes: T. Benton, P. Welch, L. Deavor, G. Dubia and Chairman Long

Noes: None

Motion Carried.

T. Benton moved, seconded by P. Welch, that the Board grant the applicant, Mr. Massie a variance of four (4) feet in the side yard setback requirement for the placement of a ground sign at his place of business, McDonald's Restaurant, on the Asheville Highway.

Ayes: T. Benton, P. Welch, L. Deavor, G. Dubia and Chairman Long

Noes: None

Motion Carried.

Case #00-091 Michael Vandegrift (Brevard Tennis & Athletic Club) - Special Exception Permit Request of Mr. Michael A. Vandegrift, Brevard (Racquet) Tennis and Athletic Club, to expand a use permitted by a Special Exception Permit. Applicant desires to expand the existing private club facility by adding to the clubhouse building, construct a covered junior olympic pool, and construct additional covered tennis courts. Property is located on Country Club Road within a R-1 Residential District, PIN 8585-31-5597-000.

Mr. Warren explained and presented information regarding the request as detailed in his November 8, 2000 staff report. Within the staff report Mr. Warren posed some questions the Board may want to discuss with the applicant. Copies of two letters received from neighboring property owners were given to Board members; both letters expressed they are not in favor of the Board granting the request. Letters dated November 14, from R. Hugo and Beverly H. Martin, and Jacob Wade Carpenter, are one file.

Mr. Vandegrift, Brevard Tennis and Athletic Club, was sworn in. Mr. Vandegrift stated that it is his desire to expand the Club by making an addition to the clubhouse; add additional tennis courts (3 or 4); and add a junior olympic pool, which would be uncovered during summer use and covered during winter use. The existing (smaller) covered swimming pool would remain. He explained that the Club presently has a membership of 700; anticipate with the additions that they could expand their membership to approximately 1000 members. Presently, the number of members that use the Club on any given day varies from 100 to 225. In answer to the questions Mr. Warren has posed, Mr. Vandegrift offered the following:

1. He does not propose any changes in their hours of operation. Operation hours, as approved when the Club received their Special Exception Permit, are 6:00 AM until 9:00 PM.
2. There would be some additional lighting within the proposed new swimming pool; however, he does not anticipate it to create a negative impact or difficulty on anyone. The existing tennis courts already have lighting; by adding the proposed "bubble" over the two courts would not change the lighting. Although the area proposed for the pool and the clubhouse addition are in open areas, their property currently has a substantial amount of trees providing a natural screen.

3. Additional parking area could be provided; however, they do not propose any changes to their on-site traffic pattern. Currently they exceed their required number of parking spaces; however, if needed, their property has adequate area to provide for additional parking spaces. Their existing entrance/exit will not be changed. In his seven (7) years of operation they have not had any traffic accidents at or near their entrance. There have been some accidents up the road from the Club (near Deerwood Lane) however, he's not aware that Club traffic has contributed to this. It's been his understanding that they are usually caused by people attempting to make a u-turn in the area or not traveling at a safe speed for the conditions (ice/snow) or allowing for the curve in the road.

Mr. Vandegrift explained that they are proposing these changes in order to meet the needs and requests of Club members, as well as, needs expressed by the community (County School system and Transylvania Hospital). The Club would be willing to provide swimming practice time and meet (competition) time for the High School Swim Team, as they will no longer be able to use Brevard College's pool. Also, the pool could be used to provide aquatic therapy classes.

Mr. Max McCracken, neighboring property owner, was sworn in. Mr. McCracken stated that he lives above the Racquet Club and that during the hours of 7:30 AM – 8:30 AM and 2:30 PM – 4:00 PM, there is lots of traffic on Country Club Road. He has lived at this residence since 1967; the curb in the road is dangerous; and, he can see the Clubs lights from his house.

Mr. Terry Holiday, Transylvania County School Superintendent, was sworn in. Mr. Holiday stated that the School system is in critical need of swimming facilities. Soon, due to the College expanding and therefore they can longer provide use of their swimming pool, our high school students will not have a swimming pool for practice. Within the City's Focus 2020 Report, a need for a community swimming pool was identified. Having a private entrepreneur willing to provide an appropriate size swimming pool, and willing to contract with the School for its use, would provide for the students needs as well as provide a substantial cost savings for our Community at large. The School could lease pool time at a fraction of the cost of constructing a pool and providing for its necessary maintenance.

Ms. Rachel Daniels, 14 Country Lane, was sworn in. Ms. Daniels asked if the Club would be selling alcoholic beverages on the premises?

Mr. Vandegrift stated, no, they would not.

Mrs. Lois Bollini, 7 Country Lane, was sworn in. Mrs. Bollini stated that her house is located within the cul-de-sac on County Lane and that her property adjoins the Club. In fact, due to the topography of the area, her house overlooks the backside of the Club where the tennis courts are approximately 200 to 250 feet away from her property. By placing a bubble over the tennis courts, that would encourage extended use of them and therefore she would see the lights more frequently. During the summer time this would not be a difficulty due to the trees; however, in the winter time with the leaves gone it would be a different story. The proposed addition to the building is more of an issue to her due to the fact it would provide for a more intense use and provide more noise. Asked that the Board remember this is not a community

facility as it is only open to Club members. Believes the proposal would have a negative impact on her neighborhood. Mrs. Bollini stated that when she purchased her property, knowing that the Club was there, she thought the fact that the Club and the adjoining neighborhood being zoned R-1 Residential would (and should) provide her some protections.

Ms. Susan Peterson, 870 Country Club Road, was sworn in. Ms. Peterson stated that when she purchased her home five years ago, she purchased it knowing that the Club was there. Although she has no objection with the Club remaining as it is, she does not want them to expand as it would increase the amount of noise (people conversing outside and hearing tennis balls bouncing on the court) and the amount of lights seen from her property. Also, if they were to be allowed to expand, the noise during the construction progress would be a negative impact on her neighborhood, and she does not want to have to look upon a metal or steel building with its lights. The increase in traffic and noise due to the swim team is also a concern to her.

Mr. Jim Bollini, 7 Country Lane, was sworn in. Mr. Bollini questioned if the requested expansion would not in fact make this "too commercial" for a neighborhood Special Exception Permit? In light of the size of the addition, proposed food services within the Club's café, etc, it seems this is becoming too commercial. If the Board were to consider granting the request, he hopes that they would require additional trees for noise, and require that the building be painted green. Also, would the proposed expansions create changes in the stream?

Mr. Roger Borth, 59 Deerwood Lane, was sworn in. Mr. Borth asked if the pool was used by the High School, would they (School) have long term use of the pool?

Mr. Vandegrift explained, yes, he has already expressed to the School a willingness to enter into a lease agreement similar to what the School system has had with Brevard College in the past.

Ms. Mary Lisa Patty-Abbey, 501 Shepherd Square, was sworn in. Ms. Patty-Abbey stated that she is concerned over the number of people, school buses, students walking and biking to the pool, swim teams and spectators coming to the facility. Such an increase would really change the neighborhood.

Mr. Holiday responded and explained to those present that: (a) There are only thirty to forty students involved with the high school swim team program and that the primary use of the pool would be for swim practice time; (b) Competition meets do not bring multiple buses; (c) Typically there would only be one or two meets in a given school year; and, (d) His wishes that he could say the swim team is met with large support from the Community; however, typically only a few parents and supporters attend swim meets.

Mr. Vandegrift again addressed the Board and explained that, in all honesty, he's a bit taken back at comments he's hearing tonight from the neighboring residents. During the past seven years while he's owned and operated the Club, no one has called him or came by expressing these concerns. He, or his contractor, will try and answer some of the questions and address concerns expressed.

1. Regarding changes to the stream. No, there would not be any changes to the stream due to the proposed expansion.
2. Additional traffic, school buses, etc. to the Club. Students have already been coming to the Club to use the existing pool, as well as tennis courts. There is a bus stop very close to the Club's entrance. He's not aware of any dangers to students as they might walk from the bus stop to the Club's driveway. In fact, he believes most of the students coming to the Club either drive themselves or have parents drive them to the Club. Typically, the School does not transport the swim team for practice. However, should there be need for a school bus to do so for a practice or meet, the Club property has adequate area for a bus to safely enter/exit and drop off students.
3. As for the proposed addition to the clubhouse. The addition would be smaller than the indoor tennis building addition that was approved a few years ago. It is his understanding that the proposed addition would not create noise or lighting difficulties for the neighbors; however, he will allow his contractor to explain these details to the Board.

Mr. Jesse Johnson, contractor, was sworn in. Mr. Johnson explained that although there would be some additional lighting to the proposed pool area, its impact would be nominal due to the type of construction and design of the cover over the pool. And, as previously stated, placing a bubble over the existing tennis courts would not create any changes to the lighting. The lights are currently shielded to have the light shine in the direction of the courts, this would not be changed. With respect to the expressed concerns over the color of the building, possible screens provided around lights, etc. Although they were not aware of the concerns and are therefore are not prepared tonight to produce details for such provisions, he can assure the Board and those present that such consideration can be made. He would be willing to provide such drawings and information for the Board in the future, if they so desire.

Mr. Chris Cormiar, contractor, was sworn in. Mr. Cormiar explained that the proposed addition to the clubhouse would not provide additional noise or light to the neighbors. The structure would have a solid back wall, which would therefore not provide additional lighting or allow noise to penetrate as it would be a well insulated structure. During this hearing he's heard the neighbors speak of the Club being within the neighborhood. The fact is, there are several non-residential uses which have been approved, such as the High School, a restaurant, a veterinary clinic, a day care, etc., all of these uses are located on Country Club Road in close proximity to the Club and are within the residential district. It seems to him that the proposed expansion is in keeping with the character of Country Club Road.

Mrs. Bonnie Vandegrift, Brevard Tennis and Athletic Club, was sworn in. Mrs. Vandegrift explained that they are proposing the expansions in response to what they have been hearing from the Community for quite some time. The Club has been "thanked" by the Hospital and others for the fact that they provide the means and opportunity for services like aquatic therapy for rehabilitation, etc., in fact, they continue to hear that more is needed. The Club is providing a much-needed service for the senior adults within our Community.

P. Welch moved, seconded by L. Deavor, that the Board find the following Findings of Fact:

1. The zoning of the property is R-1 Residential District.
2. The proposed use is not detrimental to the public health or general welfare.
3. The proposed use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal and similar services.
4. The proposed use will not violate neighborhood character nor adversely affect surrounding land uses.
5. Additional findings Board (may or may not) wish to add specific to the case. None
6. The statements of the applicant and representations of the City of Brevard staff and members of the Board of Adjustment are the true facts of the case.

Discussion:

Chairman Long stated that although twenty-three years ago the Club was granted a Special Exception Permit for the Club, and an addition to the Club was granted a few years ago, the proposed expansion would create a substantial increase in the use and membership and he has to question, as stated by the neighboring residents present tonight, if this would not in fact be a negative impact on the neighborhood. Chairman Long commended them on their willingness to provide use of a pool for the High School, however, the project seems too large and exceeding the scope of a neighborhood use.

G. Dubia stated that the increase in traffic would be a concern, and he feels that based upon the neighbors comments that it will violate neighborhood character.

T. Benton stated that he too feels that the projected increase in the membership, additional use by the High School swim team, and additional noise level during swim team activities would violate neighborhood character.

Vote on the Motion:

Ayes: P. Welch and L. Deavor

Noes: T. Benton, G. Dubia and Chairman Long

Motion failed.

T. Benton moved, seconded by G. Dubia, that the Board find the following Findings of Fact:

1. The zoning of the property is R-1 Residential District.
2. The proposed use is not detrimental to the public health or general welfare.
3. The proposed use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal and similar services.
4. The proposed use would violate neighborhood character nor adversely affect surrounding land uses.
5. Additional findings Board (may or may not) wish to add specific to the case. None
6. The statements of the applicant and representations of the City of Brevard staff and members of the Board of Adjustment are the true facts of the case.

Ayes: T. Benton, G. Dubia and Chairman Long

Noes: P. Welch and L. Deavor
Motion carried.

T. Benton moved, seconded by G. Dubia, that Mr. Vandegrift's, Brevard Tennis & Athletic Club, request to expand the Club's facilities be denied based upon the Board's findings.

Ayes: T. Benton, G. Dubia and Chairman Long

Noes: P. Welch and L. Deavor
Motion carried.

Case #00-020 Transylvania County School - Special Exception Permit

Request of Transylvania County School to expand a use permitted by a Special Exception Permit. Applicant desires to place a modular (24'x72') classroom behind the existing Davidson River School located on Ecusta Road within a Office-Institutional District, PIN 8596-49-2895.

Mr. Warren explained and presented information regarding the request as detailed in his November 8, 2000 staff report.

Mr. Terry Holiday, Transylvania County School Superintendent, was previously sworn in. Mr. Holiday explained that the proposed modular classroom would be moved from another school facility to the Davidson River School property. The classrooms primary use would be to provide for student computer labs. Classroom would not create a substantial increase in the number of students or teachers; and, the school currently has adequate space for any additional parking needs. The modular classroom would be placed on a foundation as it is their intention to use it permanently.

T. Benton moved, seconded by P. Welch, that the Board find the following Findings of Fact:

1. The zoning of the property is O-I Office-Institutional District.
2. The proposed use is not detrimental to the public health or general welfare.
3. The proposed use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal and similar services.
4. The proposed use would not violate neighborhood character nor adversely affect surrounding land uses.
5. Additional findings Board (may or may not) wish to add specific to the case. None
6. The statements of the applicant and representations of the City of Brevard staff and members of the Board of Adjustment are the true facts of the case.

Ayes: T. Benton, P. Welch, L. Deavor, G. Dubia and Chairman Long
Noes: None
Motion Carried.

T. Benton moved, seconded by P. Welch, that the Board grant the School Board the requested Special Exception Permit to place the classroom unit at Davidson River School
Ayes: T. Benton, P. Welch, L. Deavor, G. Dubia and Chairman Long

MINUTES
BREVARD BOARD OF ADJUSTMENT
January 9, 2001

The Brevard Board of Adjustment met in regular session on Tuesday, January 9, 2001 at 7:00 PM in Council Chambers at City Hall.

Members Present: Ty Benton, Chairman
Lucy Deavor
Paul Welch
Mava Shiflet
Rick Lasater
Russell Camp, City Alternate
Gary Dubia, County Alternate

Staff Present: Jake Gilmer, Interim Planning Director
Desiree Perry, Secretary

Others Present: Leigh Wills, Transylvania Times
There were several citizens present in the audience.

Chairman Benton called the meeting to order. Members were introduced and a quorum was present. Chairman Benton explained to all present that the Board is a quasi-judicial Board and the necessary procedures one must follow if they desire to be heard by the Board, specifically, all testimony given during the meeting shall be sworn testimony. All appeals of this Board's decision shall be made within thirty days from the date of the Board's decision to Superior Court.

L. Deavor moved, seconded by R. Camp, that the minutes from the Board's December 12, 2000 meeting be approved as written. Motion carried unanimously.

Rehearing of Special Exception Permit: Request of Mr. Michael A. Vandegrift, Brevard (Racquet) Tennis and Athletic Club, to expand a use permitted by a special Exception Permit. Applicant desires to expand the existing private club facility by making an addition to the clubhouse, construct a junior olympic sized swimming pool, add more tennis courts, and to cover some of the existing tennis courts. Property is located on Country club road within a R-1 Residential District, PIN 8585-31-5597, 8585-31-5989, 8585-31-3880, 8585-21-8580, and 8585-32-5157, Case #00-022.

Mr. Gilmer explained and presented information regarding the applicant's request as detailed in his January 5, 2001 staff report. Planning Department has received letters from members of the community expressing their favor or opposition for the request; copies have been provided to the board members. The following letters are on file with the case records:

- 12/09/00 – Letter from Elizabeth Reshower
- 12/10/00 – Letter from Richard Stricker

- 12/11/00 – Letter from Robert McKown, Jr.
- 12/11/00 – Letter from Julie T. Ramsey and Frances T. Fletcher
- 12/12/00 – Letter from Gerald R. Martin, MD and family
- 12/12/00 – Letter from Margaret M. Hunt
- 12/12/00 – Postcard from David & Sally Sowersby
- 12/12/00 – Letter from Sue A. Green
- 12/12/00 – Letter from Tracey L. Love
- 12/28/00 – Letter from Jean (Chishom) Bittman
- 12/31/00 – Letter from Lois Bollini
- 01/02/01 – Letter from Susan Peterson, R. Hugo Martin, Beverly Martin, Wade Carpenter
Cindy Carpenter, James C. Bollini and Lois J. Bollini
- 01/02/01 – Letter from Susan Peterson

P. Welch explained to the board and those present in the audience that he disclosed during the Board's meeting in November when the request was first presented to the board that he is a member of the club. However, he does not have economic benefit or ownership in the club, neither does he have a close personal or business relationship with the applicant. Mr. Welch stated he has reviewed the Institute of Government's model ordinance on "conflict of interest" and believes he does not have a conflict of interest and is therefore willing to sit and deliberate on the request. However, in light of the fact the board has received a letter dated January 2, 2001 from a citizen questioning conflict of interest and his (Mr. Welch's) ability to participate, he would like for the board to vote on whether he participate and will abide by the Board's decision.

M. Shiflet moved, seconded by L. Deavor, that Paul Welch be a voting member during the rehearing of the Brevard Tennis and Athletic Club's request. Motion carried unanimously.

Voting members for Case #00-022 are: Chairman Benton, L. Deavor, M. Shiflet, R. Laseter and P. Welch.

Mr. Richard Adams, attorney for applicant, was sworn in. Mr. Adams stated that in November the board denied the request for expanding the SEP because it deemed to do so would "violate neighborhood character"; also traffic concerns, noise and lighting were an issue. Therefore, it is important to decide, what is the "neighborhood"? Second, Country Club Road has been identified as one of Brevard's a major thoroughfares as it carries high school, restaurant, veterinary clinic, homes, Racquet Club, as well as other motoring traffic throughout this portion of Brevard. The N.C. Highway Patrol records indicate no reported accidents in this area of Country Club Road during the past two years. According to the City's Transportation Plan the road is currently well under capacity today with a projection that in the year 2020 it's use will remain less than capacity. The Club is not an exclusive club and the proposed swimming pool would be available to anyone provided they pay members fees.

Mr. Mike Vandegrift, applicant and owner of Brevard Tennis and Athletic Club, was sworn in. Mr. Vandegrift explained he desires to construct an addition to the clubhouse in order to provide more space for exercise classes, locker room area for the proposed junior-olympic

sized pool, and associated office/work area for club employees. Also proposed is to construct additional tennis courts and to cover some of the existing tennis courts.

In evidence to support his belief and testimony that to allow the proposed facility expansion would not violate neighborhood character, create traffic hazards, excessive noise, or adverse affects due to the lighting used at the facility, he provided the following to the board members (copies are on file with the case records):

- Petition signed by 200 community residents in favor of the proposed expansion;
- Brevard Racquet Club - Impact upon surrounding land values, by Bud Shapaard;
- Facility Usage figures (daily and hourly) from 11/01/00 to 12/08/00;
- Photographs showing club grounds, facilities, topography difference from club to some of the neighboring residences, and existing vegetative screen;
- Letter dated 12/06/00 detailing information gathered from Sgt. Dunn of the NC Highway Patrol;
- Bud Shapard, Research Consultant's private traffic study; and
- Excerpts from the City of Brevard's Thoroughfare Plan as it defines and details Country Club Road

Mr. Vandegrift explained that (1) the club facility is located outside and is not a part of the Illahee and Deerwood developments; (2) club is separated by Country Club Road, elevation and an existing buffer of trees and vegetation; (3) club is located 150' or more from any neighboring residential structure; (4) according to Sgt. Dunn of the NC Highway Patrol, within the past two years there were no reported accidents within one-half mile of the club's entrance; (5) according to Mr. Shepard's traffic study only 14% of the traffic during a 12-hour daytime period was generated from the club; (6) with respect to noise at a pool, the City's Franklin Park is located within 60 to 80 feet of residences, whereas his proposed pool would be more than 200' away from a neighboring residence; (7) tennis players require quiet; (8) most common noise heard at the club would be occasional mowing to maintain the property, as do adjoining residential property owners to maintain their property --- barking dogs are common; (9) with respect to lighting concerns, the lighting will be the same as used for the past twenty-three years to light the facility until 9:00 PM (applicant stated he would be willing to reduce the hours to 8:00 PM, if the board so desires); (10) with respect to the expansion "devaluing" neighboring property, according to the provided land value study adjacent properties are increased due to the location of a facility like his; (11) he believes the club has provided a benefit to the neighbors as well as the Brevard community at large as they have been providing physical therapy, water therapy and assistance to the middle and high school athletic programs; (12) while it is true he has a willingness to allow the school system to lease time for the swim team practice, the primary purpose for the new swimming pool is to meet the needs of the club membership; (13) currently the club has a membership of 650, with the proposed expansion it is hoped to grow and serve approximately 1,000 members; and, (14) on the average ten-percent of the members come to the facility daily.

M. Shiflet asked Mr. Vandegrift to explain the proposed lighting for the clubhouse expansion.

Mr. Vandegrift explained that the lighting would be all interior, no new outside lighting is proposed. The tennis courts that are proposed to be covered will utilize existing lighting.

R. Lasater asked if the proposal includes adding vegetation between the proposed new tennis courts and the road?

Mr. Vandegrift stated no, however, additional planting near the driveway is proposed.

In an effort to assist the public in understanding the board's guidelines and criteria when considering a SEP or an amendment to a SEP, Chairman Benton read aloud the review criteria as found in Section 800 of the Zoning Ordinance.

Mr. Jack Jaisler, Chairman of the County Recreational Advisory Board, was sworn in. Mr. Jaisler, a former swim coach, expressed his favor for the request. Currently the college is having to make repairs to their pool which is preventing the high school from using it; as well as, with the college's growth it is likely that in the future the high school will not be able to continue to use the pool as they have in the past.

Mr. Randy Lentz, swim coach for Brevard High School, was sworn in. Mr. Lentz spoke in favor of the expansion and explained that (a) currently there are between 30 and 50 students participating; (b) if a swim meet were to be held at the club, typically it would last from 9:00 AM until 1:00 PM and would have 5 school buses from neighboring schools, as well as 20 to 30 automobiles from parents or others attending the meet.

Ms. Beverly Martin, neighbor, was sworn in. Ms. Martin spoke in opposition of the expansion. Ms. Martin explained that her driveway is within one of the curves on Country Club Road and it is therefore very difficult for her to get in and out of her driveway due to visibility and traffic. Upon discussion with the board members, Ms. Martin contended that while the Racquet Club is not directly responsible for her difficulties (her driveway is quite a distance from the Club), to allow an expansion would encourage additional traffic along the road which would affect her.

Ms. Beth Pickelsimer, Illahee resident, was sworn in. Ms. Pickelsimer spoke in favor of the expansion and explained that she was attracted to the neighborhood because of the club being there and the benefit to her and her children, as well as the increase value of her real estate.

Mr. Bill Huff, area resident, was sworn in. Mr. Huff stated that he is in favor of the expansion and explained that he is 82 years old and continues to enjoy playing tennis; he also commented that many of the houses around the club have been constructed since the club was established years ago.

Mr. Huff explained he was asked to read aloud to the board a letter from Mr. Nels Glesne of 29 Country Club Circle, as Mr. Glesne could not be in attendance tonight. (Letter expressing favor for the request is on file.)

Mrs. Cindy Carpenter, 862 Country Club Road, was sworn in. Mrs. Carpenter spoke in opposition to the expansion and explained her concerns as detailed within her letter read aloud and presented to the board (on file).

Mr. Morris Denton, Focus 2020, was sworn in. Mr. Denton spoke in favor of the expansion and explained that all seem to agree that our community is in need of such a facility (pool), the question is how to get it. Some have mentioned a YMCA or similar facility, to have one would cost the community as a whole to have, as well as individuals upon its use. A public pool would be funded by everyone in the County, would probably call for a bond referendum, as well as require users fees. It seems that the Racquet Club's (private business) proposal to provide such a facility whereby only those that use it pay for it is a very good alternative for our community at this time.

Ms. Lois Bollini, adjoining property owner, was sworn in. Mrs. Bollini spoke in opposition of the expansion and explained that she is still concerned that (1) she will hear additional noise from the proposed building; (2) existing lighting is noticeable from her home now and by covering the tennis courts to allow extended use in the winter will only enhance the problem (presented a photograph of view from home (on file); (3) would like consideration made to have the tennis courts lights changed to ones that are installed within the bubble and would reflect from the top down; (4) questioned if the club would be open seven days a week; and, (5) the proposed floor plan identifies a café area – is a restaurant being proposed with the expansion? Mrs. Bollini addressed her concerns to Mr. Vandegrift and asked him for a response.

In response Mr. Vandegrift answered that the club has been and will continue to operate on a 7-days per week (weekend hours are less than weekdays); a restaurant or café is not proposed, it will be a juice bar that would be used by staff and club members only; again, no additional outdoor lighting is proposed. To change the tennis courts lighting to the indoor type as describe by Mrs. Bollini would be very expensive; such a change could be considered when the lights are in need of replacement.

**** Board took a 15 minute recess, will continue at 8:40 PM. ****

Mr. Frank Duckworth was sworn in. Mr. Duckworth spoke in favor of the expansion and explained that he is a life-long resident of Brevard and that while considering "neighborhood character" the history of the neighborhood is recreation. Where many of the neighboring houses, as well as the club, is located was once a golf course and country club (country club bldg. is now a restaurant) --- that's why the road was named, Country Club Road.

Ms. Marge Mullin, resident, was sworn in. Ms. Mullin asked, if the request were granted, would the club be limited to no further expansions?

Chairman Benton explained that anytime the holder of a special exception permit were to propose substantial improvements it requires review by this board. If the board were to grant this expansion, doing so would not prohibit a request for additional expansion in the future.

Attorney Rick Adams (previously sworn in) explained that it seems many of the comments and concerns expressed by some of the neighboring residents has to do with the curves on Country Club Road. Perhaps the residents could consult with NC DOT as there should be sufficient open right-of-way in which to widen or straighten out some of these areas.

G. Dubia stated that in light of the comments and concerns expressed during the board meeting in November, he has made a night visit to the club as well as to the Bollini's property overlooking the club in order to see the impact the outdoor lighting was having on the area. Unlike the testimony he heard during the meeting, in his opinion, the lighting was not unreasonable or intrusive.

Board discussed whether or not to require the applicant to provide additional trees for screening; modify hours of operation; suggest or request the color of the building, etc. The fact that most of the complaints regarding lights come from people living above and therefore look down onto the club property, in all likelihood to require planting of additional trees would not benefit them. It seems the applicant's requirement to meet the City's landscaping standards would be sufficient.

P. Welch moved, seconded by M. Shiflet, that in consideration of the Brevard Tennis and Athletic Club's request for expansion, the board finds the following findings of fact:

1. The zoning of the property is R-1 Residential and Flood Hazard District.
2. The proposed use is not detrimental to the public health or general welfare.
3. The proposed use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal and similar services.
4. The proposed use will not violate neighborhood character nor adversely affect surrounding land uses.
5. Additional findings Board (may or may not) wish to add specific to the case. None
6. The statements of the applicant and representations of the City of Brevard staff and members of the Board of Adjustment are the true facts of the case.

Ayes: P. Welch, M. Shiflet, L. Deavor, R. Lasater, and Chairman Benton

Noes: None

Motion Carried

P. Welch moved, seconded by L. Deavor, that based upon the board's findings of fact, the board grant Brevard Tennis (Racquet) and Tennis Club's request to expand their facility as described on their submitted site plan and application.

Ayes: P. Welch, L. Deavor, M. Shiflet, R. Lasater and Chairman Benton

Noes: None

Motion Carried

Request for Variance: Request of Brevard Management Group, LLC (Mr. Keith Vinson) for a variance in the minimum side yard setback for a residential dwelling. Zoning Ordinance Section 704.5511 requires that a residential structure have a minimum side yard of eight (8) feet. Applicant requests a four (4) foot variance to allow a residential dwelling to be within four (4) feet of the western side property



CITY of BREVARD

The mission of the City of Brevard is to promote a high quality of life, support economic prosperity, and cultivate community while honoring its heritage and culture.

BOARD OF ADJUSTMENT SUPPLEMENTAL INFORMATION

AUGUST 7, 2018

TITLE: Moore Letter – Dated August 1, 2018
REGARDING: Opinion of Decision

Summary

The following letter was provided to the Planning Department from Mr. Moore expressing his opinions Special Use Permit Request 18-002.

August 1, 2018

TO: Board of Adjustment

I live on Country Lane which is outside the City but in the EJT. Country Lane is a small private road that wanders past Cooper Cemetery and ends near the backside of the Racquet Club. I live on the Racquet Club end of Country Lane.

Because of my work schedule, I cannot be at the BOA hearing, but want you to know that I am concerned by the recent activities at the Racquet Club. The residents on our road are being bothered by the activities that take place under the Fitness Dome. Music, loud banging, echoes, and group activities being held inside the "fitness dome" are displacing our quiet little neighborhood. The noise is from early morning until dusk.

I request that the City require the Racquet Club cease the activities under the dome that are disturbing to the neighbors. To allow the Dome to be an Athletic Building would be a disservice to the residents that live behind and above the Racquet Club. Please make a wise decision in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Tim Moore". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Tim Moore

167 Country Lane, Brevard, NC

We have lived in our home 30 years this month. We are on Country Lane, directly behind the RC. Our home sits above the club and looks down on two tennis courts. We have a well beaten path that leads from our yard thru the woods to the Racquet Club where we had been members off and on for thirty years.

The club has been operating under a Special use permit since 1978 when it was the original Racquet Club. In 2001 the owners went before this board asking for an amendment to their Special Exception Permit. There were actually two hearings, one in Nov. 2000 and one in Jan. 2001. I mention these two hearings because there was sworn testimony at both of these hearings that are relevant today. At the 2nd hearing the Board voted in favor of the Racquet Club and their Permit was amended allowing the owners to build a junior Olympic pool with a removable bubble cover, a 12,000 square foot Clubhouse building, five outdoor tennis courts, and a "bubble" over two existing tennis courts, specifically, the two tennis courts that had outdoor lighting already in place.

During those hearing in 2000 and 2001, we were very concerned with the changes proposed for the property. It was a very large expansion, especially for a private business sitting in a residential neighborhood. We were not excited to see a 12,000 sq ft metal building being built 153 ft from our property but Our bigger concerns at the time were noise and lights. (**) We were assured over and over by the owner and the contractor that we would not be bothered by noise or lights. The words used were, and I'm getting this from the minutes of those meetings.... Mr. Vandergrift said, *quote...* "this would not create noise or lighting difficulties for the neighbors". And the contractor stated ... , *quote* "The solid back wall would not allow noise to penetrate as it will be well insulated ... Mr Vandergrift also said *that the most common noise heard at the club would be occasional mowing to maintain the property..*

Based on the testimony at those hearings, the Permit was issued. The club was expanded and true to their word, we did not hear noises coming from the building. As promised, no lights were added to the backside of the property/building. The Bubble was built over the two courts that have outdoor lighting, albeit, it was later removed.

exercise
equipment
and Rac-
quet ball

Today, 17 years later, it's a different story. Somehow, somehow the Club was allowed to construct a 7200 square foot fabric and steel dome over the tennis court that is practically "in our backyard". The reason was to make an indoor tennis court. There was no public hearing, the neighbors were not notified, and The Racquet Club was not required to go before the Board of Adjustment for an amendment to their Special Use Permit. *Pause/* It was quite a shock for us to come home from a winter vacation to find this HUGE structure sitting practically in our backyard. *Pause/picture* Their 2001 Special Exception Permit included a "bubble over tennis courts" ... but this tennis court is not the court that was permitted to have a bubble. This fabric Dome sits 60' from our property. *PAUSE* It is 7200 square feet. *PAUSE* It has interior lights that light up the top half of the Dome. It is visually offensive to us during the day, and at night, we look down on a humongous glowing nightlight. This structure went up in 2013.

ⓧ Picture to Board

In 2015 the owners were allowed to change the surface of the tennis court from clay, which it had been for 40 years.... to asphalt. When requesting permission of the City to change the surface to asphalt because of moisture issues, Josh Vandergriff confirms in an email to the Planning Department in June of 2014 that **the court would continue to be used for racquet sports only.** ... The *asphalt "indoor" tennis court* was used as a tennis court for two years. Here's a photo of the High School Tennis team on that court in 2017. This photo is from the TTimes.

Picture to Board

In August 2017, this asphalt "indoor" court was converted to a fitness facility – with weights and workout equipment. This use was not in compliance with their Special Use Permit or their local Building Permit.

****photos in pkt
from City - near back

Let me mention that for 28 years, we were never really bothered by noise from the Racquet Club. It isn't unusual to hear a tennis match or to hear the kids playing in the pool, the sound of the pickleball players in the distance....Nothing really bothersome..... But that all changed in August of 2017. That is when we started hearing music, clanging metal, and a variety of sounds coming from the Dome. Right away I met with Josh and I explained to him that the noise coming from the Dome was loud and disruptive to us. He said he'd "see what he

Sept 4.

could do".

A few Days after our conversation, the noise *level increased and the type of sounds became quite varied .. very intrusive and very unpredictable*. One noise sounds like a rifle going off in our woods. There are times it sounds like a construction site. One annoying sound is the crashing sound of metal-on- metalThen there was the music. Sometimes it's melodic but more often it is the steady **Beat...Beat...Beat...Beat** of exercise music. The music/radio, the voices, and the loud noises from an assortment of exercise equipment travel right up the hill to our home. **We are awoken by noise under the dome nearly/almost every weekday morning....**Typically, it's the sound of weights dropping. **The noise begin anywhere from 5:40 am to 6:45am.** But not only in the early mornings.....we are exposed to the noise in the mo afternoons, evenings. Friday nights, Saturday mornings, weekend afternoons, *dinnertime*. The clanging and dropping of barbells, music and group classes have, on occasion, been so disruptive that we have literally left our deck at dinnertime to go inside *and close our windows and doors to muffle the sound*.

..One exerciser/ one person working out

..Fabric Dome.....not insulated or sound proofed

.....This change that took place in August has had a direct, serious effect on us. We are unable to freely use our decks for our own enjoyment. We have been disrupted while entertaining guests we've been disrupted while sitting reading a book. We are awoken early in the morning. We hear much of the noise indoors with our windows and doors closed. This use of the Dome is clearly NOT within the "spirit of intent" of the Special Use Permit granted by the Board of Adjustment. Obviously, we are very concerned about the current activities as well what future activities might be in store for this Dome if you approve this request. *And.... We can't help but wonder what happened to all their promises of "no noise".*

My husband Jim and I are both retired Realtors. I am still a licensed Real Estate Agent here in Transylvania County and have been for over 25 years. I knooow that having the Dome visible from our home has decreased our property value. I am also aware that noise issues from inside the Dome will certainly affect not only the value of our home and our neighbors homes, but the marketability of these homes ... Not many people are willing to purchase a home that has a noise problem from the neighbor. Not unless the price is reduced accordingly.

In evaluating this request for an "Amended Special Use Permit" we would ask this Board to be mindful that this requested Special Use

does not support adopted land use plans and that it *is not in harmony with a residential zoned neighborhood.*

NOR is it visually and functionally compatible *with the surrounding residential area.*

Finally, that it would, *in fact, be detrimental to the value and use of the adjoining residential properties and neighborhood.*

In ending, I'd like to remind the Board that this is a Private For Profit Business operating in a residential zone. I am asking that the Board deny this request to make the fabric Dome an Athletic Building/recreational building and that the space under the Dome be reverted back to a tennis court..... Which is what it's been for 40 plus years. Please help us protect the integrity of our neighborhood.

Hand out copies.