



MCPB

Item # 16

July 25, 2003

**MEMORANDUM**

**DATE:** July 21, 2003

**TO:** Montgomery County Planning Board

**VIA:** Charlie Loehr, Director

**FROM:** Terry H. Brooks, Special Program Coordinator  
Office of the Director of the Department of Park & Planning

**SUBJECT:** Proposed Indoor Baseball & Sports Training Facility at  
Cabin John Regional Park

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**STAFF RECOMMENDATION:**

The proposal submitted by Montgomery Lane LLC (ML) to develop and manage an indoor baseball training facility (SportsPlex) in Cabin John Regional Park should be denied.

The proposal submitted by ML should be denied because the information received and reviewed by staff:

1. Did not provide a market study to sufficiently quantify, justify or demonstrate a public need for the facility;
2. Does not provide sufficient information to support the financial feasibility of the construction and sustainability of the services offered in the facility;
3. Did not resolve the anticipated parking impacts between the parking needs of existing park operations and the parking needs of the proposed facility services offered;

4. **Did not adequately demonstrate the physical compatibility of a facility of the type and size proposed with the design scale and character of the park and the adjacent residential community;**
5. **Did not secure sufficient financial commitments from a wide range of prospective facility users that would serve to insure full public user access and financial sustainability for the indoor sports training center and the general public; and**
6. **Represents a potentially significant financial risk to the Commission in obligations for capital costs, debt service operating budget and staff resource commitments the Department of Park and Planning cannot support.**

### **Introduction:**

The proposed Indoor Baseball Training Center is a project of significance that brings into sharp focus the need to balance the use of a discrete asset, public land that is held in trust for current and future generations, with existing community interests. During the evaluation of this proposal staff identified a number of overarching policy issues that the Board must consider in reaching its decision on this proposal. They include the following:

- What is the Commission's policy framework for considering unsolicited proposals on parkland (policy revision, application, timeliness)?
- What are (should be) the permissible uses of public parkland?
- To what extent does this proposal comply with the park master plan? How far does the proposal deviate from the master plan recommendations?
- Is 1/3 active or developed land and 2/3 conservation land formula maintained if the project is approved?
- What are the public facility service benefits inherent in this proposal that warrant the use of parkland?
- Is fair competition in the private market place sustained (or is the general public well served) when non-profit or for-profit entrepreneurs are allowed to use public parkland to offer services similar to the services already offered by the private sector?

In addition to policy implications, a broader set of technical and/or community driven concerns were evaluated. They included:

- The appropriate role of solicited and unsolicited partners in meeting the needs of a growing population
- The need, demand, opportunity, market and sustainability of the proposed activity

- Public, non-profit and for profit service provision
- The viability of current public resources
- Precedence as it relates to redefining the type of park Cabin John is today and additional incremental development
- Equity – economic access by a wide variety of users and groups, location
- Community impacts and feedback

After extensive review, staff has concluded that this project falls short in facilitating a clear pathway to recommending Board support. This comes after three years of multiple efforts by the Planning Board, the proposers and the community to fairly, independently and openly evaluate the potential implied in this project against the associated need, demand and opportunity in the context of the Board's overarching fiduciary responsibilities. The review at times was also inadvertently complicated by the absence of corroborating information to judge the merits of the proposal.

Parkland is a discrete commodity. While an indoor training center may contribute to the general well-being of the community, it is not the type of project that mandates placement on existing parkland. Well-intentioned community leaders are prepared to provide an amenity that is not likely to be developed through public investments. Notwithstanding, staff is unable to advise the Planning Board that this project is the best use of this parcel of land because of overlapping policy ramifications. Opportunity and interest on the part of the proposers is strong. In the view of staff, need and demand are insufficient to substantiate a favorable recommendation to the Planning Board. A significant part of the adjacent community are opposed to additional development in this part of the Cabin John Park and several of the private sector providers have called into question the advantages that accrue to a for-profit developer whose capital investment is underwritten using public land.

## **BACKGROUND**

On December 24, 2000, an entrepreneurial organization, The Derek Hacopian Baseball Academy (DHA) approached Commission leadership staff with an unsolicited proposal. DHA's concept proposal expressed an interest in partnering with the Commission under a 40-year long term lease agreement to use park property to develop, operate, and maintain at no expense to the Commission a 14,500 square foot indoor baseball training facility called the Cabin John Baseball Training Center with 5 coin operated batting cages, a multi-use synthetic surface instructional training area, a pro-shop, and office to be located in Cabin John Regional Park, located at 7400 Tuckerman Lane, Rockville. BCC Baseball was identified as a sub-lease tenant. Hardy Construction Services was identified as the facility builder. The unsolicited facility development proposal sited the indoor baseball training structure adjacent to next to Shirley Povich Baseball Stadium Field. (See Attachment #1.)

The Commission's receipt of an unsolicited development proposal for an indoor baseball training facility generated some interest because baseball and softball facilities are in very

high demand in Montgomery County. The Commission currently has approximately 281 ballfields, which include 165 softball fields, 21 baseball fields, and 95 multi-purpose ballfields.

According to the Commission's *Park Recreation Open Space Plan* ("PROS Plan"), the County suffers from a serious shortage of ballfields. The *PROS Plan* projects that to meet these rapidly increasing County recreational needs, the Commission must increase significantly the number of ballfields and related facilities in the next decade. That *Plan* contemplates adding 88 new fields by 2005, and 189 by 2010. This surge is obviously driven by the County's growing population, now nearing 900,000 residents, of whom more than 120,000 are of school age.

In January of 2001, the Commission staff and subsequently the Planning Board, after a review of the unsolicited proposal, rejected the proposal because the demand for the facility was never quantified and because the potential parking needs and traffic patterns generated by the suggested site location, combined with existing facility parking and traffic patterns (i.e., several ballfields, a tennis complex and a new ice rink) would cause excessive parking and traffic congestion within the park.

Currently, there are no indoor baseball training facilities in the park system. The basic idea for this facility is to provide a place where individuals and teams can develop baseball and softball skills such as batting, pitching, catching and physical training. Commission staff has been informed by many of our local youth leagues that they used Montgomery County School gymnasiums as their indoor baseball/softball practice areas but a recently adopted school policy terminated this activity because of the damage that occurred to school gyms not set up for this type of indoor activity. The action taken by the school system has left many youth league coaches and their players without a place to practice during the inclement months of the year. This situation has led some leagues to find other locations to practice during the inclement weather months. Some leagues, like the Bethesda-Chevy Chase Baseball, Inc., (B-CC) 4,500member youth baseball league, to lease space outside their neighborhood area. In this case, B-CC leased the South Germantown SoccerPlex Discovery Sports Center in Germantown, Maryland for their indoor practices.

In April 2001, the Planning Board directed staff to research this type of facility to be considered for possible use within the park system as a public facility, to explore the location of possible sites that might work within a park without adversely affecting existing park operations and neighboring streets and to report back to the Planning Board with recommendations.

In the spring of 2001, staff presented a report to the Planning Board summarizing their findings on similar facilities. Staff research revealed that athletic training facilities in other parts of the country are quite common.

Indoor sports training facilities are used for a wide array of athletic venues including baseball, softball, tennis, football, soccer, ice hockey, bike riding, and golf, to name a few. The sizes of these facilities can range anywhere from as small as 4,000 - 5,000 square feet up to and well over 40,000 square feet depending on the type of sporting venues hosted in one building.

Professional, semiprofessional, minor league, college, and high school teams, as well as youth league teams, use these facilities. The general types of services provided include: batting cages, coin operated fast and slow pitch machines, pitching mounds, sporting goods stores, video taping of player batting, catching, and/or ball fielding techniques, individual lessons, group and team lessons, and summer camp sessions. (See Attachment # 2 for a list of typical indoor baseball facilities and their services.) Staff also discovered these facilities are developed and managed by a wide variety of business arrangements ranging from privately owned commercial buildings on private land to facilities owned and managed by universities for their athletic programs.

Based upon staff's research of these facilities, an indoor sports facility site search in our park system was conducted. Staff determined that a one acre indoor baseball training facility site could be created at three possible locations (one in Cabin John Regional Park and two in Olney Manor Recreational Park located in Olney, Maryland) within the park system, which might be capable of accommodating such a facility without adversely affecting the parking capacity and/or traffic circulation system in the park or surrounding community. At the end of the indoor sports facility site search study, staff scheduled a public meeting with the Planning Board to discuss their findings.

Staff placed a public meeting notice in the Planning Board's July 19, 2001 agenda and sent approximately 800 public meeting notices requesting the Planning Board's approval to issue a Request for Proposals (RFP) for a privately developed and managed indoor baseball training facility.

Approximately 500 notices were sent to the residents surrounding the Cabin John Regional Park site and approximately 300 notices were sent to the residents surrounding Olney Manor Recreational Park. Additional notices in the form of fliers were also hand delivered by park staff to residents immediately adjacent to each park as well. (See Attachment # 3.)

In September 2001, the Planning Board approved the staff's recommendation to develop and issue an RFP for an indoor baseball training facility and to offer one or more of three sites identified in the RFP for the private sector to consider.

During the Planning Board's deliberations on the issuance of the RFP, the operator of an existing indoor baseball training facility in Rockville called The Hitting Streak complained to the Commission that issuing an RFP for the services his business currently offers is creating unfair competition and would place him out of business. The Planning Board acknowledged this issue with great care and sensitivity and instructed the staff to structure the RFP to: (a) obligate any prospective bidder to pay market rate rent; (b)

obtain proposals which would not adversely compete with existing businesses providing similar services and; (c) only receive proposals which would be developed, managed and maintained at no cost to the Commission or taxpayers of Montgomery County.

Staff drafted the RFP soliciting proposals for an indoor baseball training facility. There were six (6) key requirements contained in the RFP: (1) the facility must be at least 11,000 square feet in size and be open to the public; (2) the facility must provide scholarship opportunities for individuals and/or groups without sufficient financial resources to pay for the services offered; (3) the facility must be developed and operated at no cost to the Commission; (4) the site location for the facility is the decision of the prospective bidder based on their analysis of the market; (5) all bidders must pay a minimum base ground rent of \$ 30,000 annually; and (6) the building design and service functions offered in the facility (including the ancillary effects of parking and traffic circulation) must be compatible with and not adversely affect the existing park setting and operations of the park respectively. The RFP placed the obligation of compliance with all six (6) of these key factors on the prospective bidders to prove in their proposals.

On September 7, 2001, a RFP was issued for public distribution pursuant to the Commission's instructions to the staff and the adopted March 8, 1996 Public/Private Development Guidelines. (See Attachment ~~#4~~.)

#### **EXISTING INDOOR BASEBALL TRAINING FACILITIES AND COMMISSION POLICY**

Presently, there are three (3) private sector indoor baseball training facility providers operating in Montgomery County: one in Gaithersburg - a 4,000 square foot facility called The Derek Hacopian Baseball Academy, located at 18966 Bonanza Way; and two facilities are in Rockville: a 15,000 square foot facility called The Hitting Streak, located at 1310 East Gude Drive; and a 4,000 square foot electronic batting cage facility called Hitters Park, located at 12288 Wilkins Avenue. Each of these facilities offers batting cages, pro-shops, a small meeting area and both group and individual lessons.

No *public* park or recreation facilities in Montgomery County currently offer these indoor baseball-training opportunities.

The Commission, from a policy perspective, considered the concept of providing accommodations for an indoor baseball facility to be a desirable goal. While an indoor facility does not directly address field needs for formal baseball and softball games, the full-time availability of a skills development center would produce a public benefit by providing an indoor facility to support the sports of baseball and softball for children and adults. Particularly, it offers an opportunity for practice time in a facility that can substitute for field time, which is at peak demand and of limited availability.

Responses to the RFP were due on October 4, 2001. On September 20, 2001, a pre-bid conference was conducted to address any prospective offeror's questions. Only

representatives of ML and prospective consultant firm representatives were present. The over arching issue/complaint discussed at the pre-proposal meeting was that the Commission's required base lease rent of \$30,000 annually was too high and created an undue financial hardship on the initial financial obligations of the prospective developer/operator. Staff acknowledged the concerns expressed by ML and proceeded with the RFP as originally drafted.

On October 4, 2001, no responses to the RFP were received. ML complained to the staff that the RFP base lease rate was too high in terms of requiring an up front rent of \$30,000 annually rather than allowing the rent to grow and increase over time. ML suggested staff consider allowing the market to dictate the financial structure of the ground lease rate in the proposals. Staff considered the request and re-issued the RFP without a base lease payment requirement. The Planning Board directed the staff to re-advertise the RFP to a wider group of private developers outside the Washington Metropolitan Area.

On October 25, 2001, Addendum No.1 was issued without a requirement to provide a minimum ground lease payment of \$ 30,000 annually. The modified RFP was issued on November 30, 2001. Proposals were due on January 22, 2002.

The RFP process did not spark much public interest, and the group that originated the concept (ML) was the only party to tender a proposal. On January 22, 2002, the Commission received one proposal from Montgomery Lane, LLC (ML) to develop an indoor baseball training facility in Cabin John Regional Park at the staff recommended site across the parking lot from ballfields #5 and #6.

### **The Proposal**

The ML bidder is a wholly owned subsidiary of Sandy Spring Builders, a local residential builder and builder of Povich Baseball Stadium Field at Cabin John Regional Park. ML proposed to serve as both developer and contractor for the facility. The partners of ML consist of: Phil Leibovitz, Construction Manager, and President of Sandy Spring Builders; Mimi Brodsky Kress, General Partner; and Richard Mandell, General Partner. Mr. Derek Hacopian (Hacopian Baseball) was identified as a sublease tenant and the facility manager. Mr. Hacopian's lease payments were identified as the principal source of income used to retire the debt of constructing the building.

One of the principal concerns with the original proposal was that Mr. Hacopian's lease was for only 15 years while ML's lease request to the Commission was for a 40-year period. There was no supporting information on how the balance of the remaining 25 years of the facility mortgage would be financed. ML proposed the development of a \$1.1 million, 14,500 square foot indoor baseball training facility (with the right to expand up to 17,000 square feet) with 5 batting cages; 2 training cages; office and conference room; pro shop; a private lesson training room with supporting storage, rest rooms and a mechanical equipment room.

During the course of staff discussions with ML, additional questions were raised requesting clarification about several of the details contained in their proposal. Such issues as "How will income be generated from the programmed uses proposed to be managed by Hakopian Baseball?" were not clearly articulated relative to the projected income originally proposed by ML. There were no calculations provided supporting how an expanded 17,000 square foot building would be financed for construction, operations, and/or maintenance. All projected development and income fees were derived using a 14,500 square foot facility. ML subsequently made adjustments to their proposal to reflect their preferred development option.

Staff reviewed ML's January 22, 2002 RFP proposal and determined that several of the responses submitted by ML were either deficient or needed further clarification. On March 8, 2002, a letter was sent to acquire the additional information. Additional documentation was received from ML on March 18, 2002. The information received from ML was still missing critical information (such as a site plan and a scaled floor plan, and a traffic and parking study) from the proposal and another letter was sent on April 17, 2002 requesting clarification on several components of the development proposal. On April 26, 2002, staff received a response from ML.

On June 5, 2002, staff prepared a very detailed assessment of the ML proposal and found the proposal to be confusing and/or incomplete in the areas of corporate experience in similar facilities, the proposed development and operations plan, the lack of a facility management plan, the identification of a public access program, and an unclear financial structure and income stream relationship to their program of services and facility debt obligations.

Over the course of the next five months, staff worked with ML by evaluating, in detail, their financial structure to plan, develop and operate the facility, their program of services, their scholarship proposal, and their site development and design proposals. During this period of time, ML changed their business plan to replace The Dereck Hacopian Baseball Academy as their prime tenant with Bethesda-Chevy Chase Baseball, Inc. (B-CC), a non-profit youth baseball league based in the Bethesda Community, as their new principal tenant.

B-CC agreed to enter into a 15-year lease (with renewal options) with ML and to pay \$320,000 annually to ML. The size of the facility was increased to 20,000 square feet.

Staff suggested, among other things, that ML should: (a) contact the Montgomery County Recreation Department in order to secure possible additional indoor recreation facility lessee clients, (b) contact the Montgomery County Board of Education in order to secure the possible use of their proposed facility by school league teams, (c) reach out to other organizations that may need the use of an indoor sports and recreation facility, (d) contact the Housing Opportunities Commission (HOC) in order for ML to engage in a dialogue with prospective HOC youth organizations for possible scholarship



opportunities, and (e) contact various senior citizen organizations in an effort to provide indoor recreation facility opportunities and possible additional revenues for ML.

On October 28, 2002, a letter was issued to ML indicating that, the Commission had concluded that more input from user groups and the surrounding community was required before this project could proceed to the Planning Board. The letter also indicated that the ML proposal was a significant departure from the scope of the RFP and the RFP solicitation was canceled, and no contract as defined by the RFP would be awarded. Staff proceeded to negotiate with ML on the proposal as a modification to the original RFP solicitation.

On December 6, 2002, staff hosted a public outreach meeting with prospective indoor sports facility users as a method to continue to test the possible viability and support for an indoor baseball training facility. The attendees included ML, Bethesda Community Baseball Club (BCBC), Bethesda Chevy Chase Baseball (BCC), the Montgomery County Recreation Department, and Montgomery Soccer, Inc. (MSI) in order to evaluate and confirm league user needs and support for the facility proposed by ML.

Staff also later met with the Montgomery County Recreation Advisory Board to solicit its input.

The outcome of the meeting revealed that there is an interest and desire by the ballplayer leagues for an indoor training facility to provide sports-training instruction.

Staff also confirmed the fact that there were also other indoor sports needs that were not being well served. Sports activities like senior exercise walks and special classes, volleyball, corporate basketball, and therapeutic exercise programs associated with either Montgomery Public Schools or the Recreation Department were also needed.

However, staff concluded that there was a clear need for a market study in order to determine a quantitative need for an indoor training facility in Cabin John Regional Park. Staff strongly encouraged ML to develop a market study in order to quantify, verify and validate their proposed program of indoor services.

Due to the Commission's interest in exploring the feasibility to provide an indoor baseball training facility to the public at no cost to the Commission, a determination was made to continue a dialogue with ML in order to determine if project development and program management accommodations could be made that would serve to benefit both the ballplayer and general indoor sports and recreation activity public.

In January 2003, the Planning Board directed a special project review team, consisting of the Executive Director, the Associate General Counsel and the Special Program Coordinator in the Director's Office, to enter into negotiations with ML in order to pursue and finalize the feasibility of developing an indoor baseball training facility in Cabin John Regional Park. The special project review team was subsequently expanded to include

the Secretary-Treasurer, the transportation planning staff, the park development staff and the Enterprise staff in order to review and evaluate all aspects of ML's evolving proposal to develop an indoor sports training facility in Cabin John Regional Park.

The Planning Board was very prescriptive in their instructions to the staff that: (a) the project must be self sufficient economically and not impact the Commission resources; (b) that the facility must be open to the public at all times and provide scholarships to those who could not afford the user fees; and (c) the operations of the facility must not adversely affect current park facilities or program operations within the park.

Between January 2003 through March 2003, staff continued discussions on a weekly basis on various aspects of ML's development proposal, often providing advice on how to best address and/or present the required information needed to address the Commission's concerns. Staff met with ML at least twice a month (including walking the site with the developer) in order to clarify their proposal and to better understand the developer's facility user market, financial structure, program of service schedule, facility management roles and responsibilities between ML and B-CC, fee structure and facility design and development plans.

### **THE NEW DEVELOPMENT PROPOSAL**

After considerable discussion, on March 17, 2003 ML developed and submitted a third substantially revised proposal called the Cabin John. ML changed the name of the facility because they wanted to expand the indoor sports activities beyond baseball and into other activities.

The developer's latest proposal consisted of ML as the building developer and manager, with B-CC as their principal tenant under a 20-year lease term with an annual rent of \$ 340,500. Other nonprofit organizations were introduced in the proposal as prospective users with expressions of interest in using the facility but at no cost.

ML's newest development proposal proposes to develop a \$1.8 million, 28,000 square foot building with a sports training program that could accommodate a wide range of recreational services (including indoor baseball as their principal activity) for youth, adults and seniors.

Several new features were also being offered as part of the facility: (a) a multi- purpose indoor baseball infield with a 90-foot baseline. This indoor field would be converted for other sports such as basketball, volleyball, soccer, and a large meeting or classroom space; (b) four 60 foot batting cages; (c) one 75 foot pitcher/catcher cage; (d) four offices and reception desk area; (e) handicapped accessible restrooms and showers; and (f) an upstairs mezzanine with an observation deck and party room overlooking the multipurpose ballfield below.

ML proposes to sublease to B-CC as their principal form of financial support and to retire their debt on the cost of the facility. ML has also solicited the interest of several prospective tenants interested in using the facility such as: The Regional Institute for Children and Adolescents, The Jewish Council for The Aging, and the Keen Foundation, a non-profit organization that provides exercise programs for disabled children. ML proposes to pay the Commission \$1.7 million over the course of the term of the 40-year lease period for the use of park property. At the end of the 40-year lease term, the SportsPlex would be turned over to the Commission. (See Attachment # 5.)

## **PUBLIC REVIEW AND COMMENTS**

In order to expand public discussion on the ML proposal, staff hosted and conducted three (3) local community meetings in Cabin John Regional Park.

The first meeting was conducted on January 23, 2003 and the second meeting was conducted on February 4, 2003. (See Attachment #6 for meeting notice and minutes.) These public meetings were conducted this past winter and were not well attended. The third community meeting was conducted on June 26, 2003. Approximately 140 people attended the third public meeting. Most of the 25 people who spoke were in opposition to the proposal.

The primary bases for opposition included:

1. Inappropriate use of green space. The existing open space is used for non-baseball recreational pursuits;
2. The park is becoming predominantly a benefit for baseball users, not serving the general community;
3. The proposed project will increase traffic and parking congestion. The local community already suffers from parking problems due to ballfield users parking on Westlake Terrace and in the parking lots of the adjacent apartments like Chelsey Towers due to insufficient parking in the parking lot next to ballfields # 5 & # 6;
4. ML's financial projections and proposed payments to the Commission seem to be extremely understated, and/or suspect respectively;
5. The proposed facility would bring unwanted noise into the adjacent local community;
6. The proposed facility is unnecessary because the services proposed are already being offered by private sector businesses. Allowing ML to develop on park

property at the lease rate proposed appears to be an unnecessary and inappropriate subsidy arrangement, if accepted by the Commission; and

7. The proposed project will adversely affect local property values of the residents located immediately adjacent to the proposed site.

The president of BCC Baseball testified in support of the indoor athletic facility, noting that last year BCC spent \$170,000 at the SoccerPlex and the 4,600 children in BCC have to travel a long way to get there. BCC also testified that other existing facilities do not provide the quality or capacity that this proposal offers. There were also concerns that this project would exceed the Commission's park development policy for regional parks which limits only one-third of the park for development and preserves the remaining two-third's of the park in its natural setting or as open space.

Because the proposed project is located within an already developed area of the park, the development percentage of Cabin John Regional Park has not been affected.

Mr. Mike Mahoney, owner and manager of The Hitting Streak, a private for-profit enterprise located in Rockville, also testified in opposition to the project on the grounds that ML would receive a subsidized rental structure. In his opinion, the SoccerPlex and Rockville both are suitable locations to serve the user groups that would use the training facility. The Hitting Streak pays \$12,000 a month in rent for 15,000 square feet of space. These concerns echo those of Mr. Dustin Pizza and Mrs. Wendy Caputo-Pizza, owners of Hitters Park, an indoor hitting/pitching facility that recently opened on 1288 Wilkins Avenue in Rockville, Maryland. (See Attachment # 7 - January 28, 2003 letter.) The Hitter's Park letter indicates several concerns shared by staff:

By enabling ML the opportunity to use parkland for this facility, ML's up-front cost of development is reduced significantly. If this were not the case, they would have already developed their facility on private land. By opening another facility, the county is at high risk of putting one or more of the existing facilities out of business. (See Attachment # 6 - Summary of Public Outreach and Comments.)

#### -Community Assessment of the Proposal:

On July 24, 2003 staff received correspondence from Mr. Norman Knopf, an Attorney representing a local community group called People for the Preservation of Parks (PPP). PPP is a civic organization comprised of organizations and individuals seek to preserve parks for open space use and enjoyment. PPP's membership is reported to represent approximately 1,000 units located in the immediate vicinity of the proposed facility. PPP's members are residents of Chelsea Condominiums, Westlake Towers C Condominiums, Westlake B Condominiums, and Springlake Condominiums. The group is opposed to the proposal and states in their letter that both the need for the facility as well as the site selected has not been justified (See Attachment # 8). They also call into question the financial viability of the proposal and question the market assumptions made

by ML. Staff also received a letter dated July 23, 2003 from the President of Chelsea Tower Condominium. The letter goes into great detail and questions the rational of the assumptions made in the ML pro forma. (ATTACHMENT #9)

## STAFF REVIEW AND ANALYSIS

Over the course of the past three years, during the period when staff worked with the representatives of ML, we believe that the developers were sincerely committed to providing what they believed to be a project which would be a significant asset to the park system in general and to Cabin John Regional Park in particular. Staff makes this assumption in part because the principals of ML were the developers of the very popular Shirley Povich Baseball Stadium Field, a unique one-of-a-kind baseball stadium facility located in Cabin John Regional Park.

However, staff has also found that the information submitted by ML in support of their proposal did not support or sustain the burden of proof required to approve their proposal.

Over the course of the past several years, the Commission has engaged itself with several public/private partnership projects. While each project was unique, there were 11 key factors that are common to them all.

Staff considered these same 11 key factors as part of the evaluation of ML's March 17, 2003 public/private partnership proposal:

- 1.) *Project/Service Need*
- 2.) *Project Benefits/Impact*
- 3.) *Project Cost/Ability to Sustain*
- 4.) *Risks*
- 5.) *Relationship to Plans*
- 6.) *Uniqueness*
- 7.) *Project Advancement*
- 8.) *Leveraging Capacity*
- 9.) *Access*
- 10.) *Market*
- 11.) *Fee Structure*

Each factor (posed as questions) was considered to be critical in terms of complying with the Commission's objective to create sound and productive partnerships with organizations wishing to provide recreational opportunities for the public on park property. The following listing describes each review factor, comments on ML's proposal and provides as appropriate, a detailed memorandum of comments from staff on the relevant issue(s) highlighted:

The following staff served on the project review team and contributed in the evaluation and recommendations contained in the staff report:

- The Executive Director
- The Secretary Treasurer
- The Park Development Division
- The Cabin John Regional Park Manager
- The Enterprise Program Administrator;
- The Transportation Planning Coordinator;
- The Park Public Relations staff; and
- The Special Program Coordinator

1. *Project/Service Need: Is the project or service in a priority area established by the Planning Board? Does the project address a need identified by master plans or the PROS plan and not able to be met by existing resources? Does it respond to a service reduction made because of budget limitations?*

Staff reviewed five (5) documents relative to the subject proposal in terms of assessing need:

- (1) The Park Recreation and Open Space Plan (PROS) which serves as a critical park development guide for the Commission, (2) the Public/Private Partnership Guidelines, (3) the Draft Cabin John Regional Park Master Plan, (4) the RFP, and (5) ML's market study.

The PROS plan has identified ballfield development as one of the most significant recreational service needs in the park system with a demand of an additional 88 ballfields by 2005 and another 101 by the year 2010. Both The Public/Private Partnership Guidelines and the RFP clearly require the proposing developer to provide sufficient factual proof in support of the proposal. That obligation is placed on the proposing developer to provide as part of the proposal. The Draft Cabin John Master Plan recognized problems within the park with the overcrowding of uses, circulation and traffic congestion at peak park patron arrival and departure times. The draft master plan also recognized the fact that the ballfields within the park as the second most popular activity within the park (17.5%) next to playgrounds (22.4%) and identified the need for the Commission to consider expanding the use of limited active recreational resources within their existing areas. ML's proposal did not quantify (in the form of a typical market study) the need for their proposed facility. The ML proposal, while not specifically mentioned in the PROS plan, could provide for a form of ballfield user service relief by providing practice and training opportunities in an area where limited ballfield resources are located.

Staff requested ML provide a market analysis validating the feasibility, and projecting the sustainability of the proposed facility. The final report, prepared by

Woelfel Research, Inc. dated June 6, 2003, was presented to the community in June 2003. (See Attachment # - Final Report.) Subsequently, at staff's request, ML provided its specific statistical background information that formed the basis for the final report. (See Attachments A & B: Statistical Background for Final Report.) In staff's opinion, ML did not provide a thorough market analysis, but a prospective user survey instead. For example, the market analysis does not assess local area demographics, calculate national or local user patterns in any attempt to assess potential demand, quantify distances users would likely to travel, or identify existing facilities within those travel distances that might provide competition to this facility (either through distance or through price).

Jerry Bush, Administrative Supervisor for the Enterprise Program, notes in his July 11, 2003 memorandum (See Attachment # 10.) that in his opinion the market study offered by ML is more in the form of "an opinion survey or expression of interest than a market analysis." In spite of the sketchy information that was provided in the market analysis, staff reviewed the limited information that was contained in the report and offers the following specific comments:

- a. The sampling size is very small (i.e. 55 – ten minute interview telephone calls), calling into question the statistical accuracy of the results. For example, the graphic contained in the report that shows "Potential Usage by Day of Week" illustrates that 50% of the Montgomery County high schools "definitely/probably/ **might**" use the facilities on weekdays, and 50% of those same high schools "definitely/ probably/**might** use it on both weekdays and weekends. In each case, the 50% represents **one** response (from the one high school that indicated it definitely/probably/might use the facility.
- b. Of the various user groups projected in ML's business plan to use the facility, several were not included in the interviews, including corporate users (basketball), Montgomery County Department of Recreation (classes and sports camps), and various non-profit organizations (various activities). Thus, there is no empirical information in ML's market report to give staff any indication of whether these projected user groups in fact are likely to use the facility.
- c. The result of the report does not connect to the financial projections presented in ML's development proposal. For example, although the report indicated that selected groups would use the facility during certain times and days of the week, there is no attempt to assess whether the "demand" can be met for all groups, who largely are competing for the same time priorities. The market study does not support ML's blanket conclusion that a 100% occupancy rate can be supported by multiple user groups competing for the same limited time slots.

- d. The market study does not consider the distance people would have to travel to use the facility; when distance is “a very strong, if not the primary determining, factor in why people use certain facilities”; and the actual number of respondents who said they would use the facility was fairly low (e.g., only 49% of the leagues said they “definitely/probably use the facility.” Staff also noted that the most popular use times indicated by the survey respondents (4:00-8:00 p.m.) are peak times for the prime tenant user (BCC), and these are the times that the survey respondents indicated would be their preferred usage times.
  - e. The market study reflects a “wide variation” between the amount of money that teams currently spend at training facilities, and the amount those same teams indicate they will spend at this facility. “Of the top three team responders, current spending was \$4,300, \$6,500, and \$7,500 and spending at the new facility was estimated to be \$10,000 for two respondents and \$40,000 for one. (See Attachment #11 - p.2.) This reflects significant increases in current training expenditures from the three teams most interested in the proposed facility, without any substantiation in the market study or business plan to support these projections, simply elicited during a ten-minute telephone survey with each of the three respondents.
2. ***Project Benefits/Impact:*** *Does the project result in improved levels of service? Will significant numbers of people be served? Would the facility or service otherwise not be provided?*

ML proposes to provide a 28,000 square foot indoor baseball and softball practice and training facility with services primarily from November through March (winter season training) and April through October (Spring through Fall season, spring break and summer camp season). ML’s proposal is difficult to determine the levels of service because the only lessee user committed to the proposed facility is B-CC. All other prospective lessee users are: either without cost or conditionally committed. The only confirmed user is B-CC. B-CC’s facility user schedule also contains the majority of prime time use within the facility.

The ability of other prospective ballfield users appears to be extremely limited, raising the question of true public access and benefit. In order, for the proposal, to demonstrate full public access and use, ML’s proposal should contain a series of financial commitments from other prospective facility users along with their requested facility user times. ML should have also confirmed from each prospective facility user time slots without conflicts by other users in order to clearly demonstrate a fully accessible public facility. The ML proposal does not contain this level of commitment.

The ML’s lease arrangement with BCC calls into question a potential policy issue of true public access. Even though BCC has a membership of approximately



4,500, is it appropriate for the Commission to allow what appears to be essentially a one league supported, 28,000 square foot building on park property? And, would the Commission be setting a precedent for other leagues to request similar park facilities for their league membership?

Staff believes ML's facility/lease user arrangement does not provide sufficient guarantees for full public use and scheduling access to the indoor athletic services proposed.

3. ***Project Cost/Ability to Sustain:*** *Will all or a significant portion of the development costs be borne by the private partner? Will the Commission be required to provide operating/maintenance costs and can they be sustained through the budget process?*

ML's proposal asserts the Commission will bear no capital or operating costs associated with the indoor sports facility. All construction costs including site clearing and development, building construction, interior fit-up and equipment, on-going maintenance costs, and facility management costs would be borne by ML at no cost to the Commission during the proposed 40-year lease term.

However, the ML proposal states:

*"Other than the front entrance, the Parks Department will be responsible for all landscaping at the site, and all future maintenance of the landscaping."*

This statement is unclear because no site landscape boundary has been established in ML's site development plans. The statement contained in the proposal implies a landscape maintenance obligation by the Department around the other three sides of the building. Neither the original RFP nor current negotiations with ML conveyed any change in the Commission's position that all costs associated with the development of the proposed indoor baseball training facility must be borne by ML. One of the most significant factors in the proposal is the proposed lease commitment between ML and BCC. BCC has submitted a lease commitment with ML for a period of 20 years with options to renew the lease. Because ML is requesting a 40-year lease period, the staff believes there is a critical flaw in the proposal because there is no confirmed or conditionally committed verification of any financial support for the project for the balance of the 20 years remaining in the requested lease period. This financial shortcoming in ML's proposal creates an unwanted liability for the Commission to be obligated to: (a) pay the lender for the outstanding balance of the loan for the construction of the facility; (b) pay for the management and maintenance of the building; (c) pay for the renovation and/or demolition of the facility if the proposed facility use has not been supported in the market place for the services proposed, and (d) places the park system's limited capital improvements and operating budget resources at risk if

these funds are required to sustain the development and operations of the proposed facility if ML is not successful.

4. **Risks:** *What level of the risk will the Commission assume in relation to the partners risk? What is the impact to the Commission if the project fails?*

ML proposes to construct a \$1.8 million facility by financing \$1,481,703 and personally investing among ML's partners \$350,000. ML's proposal is predicated upon a financial relationship with one principal lessee, B-CC. B-CC has submitted a March 20, 2003 letter of intent to pay ML the annual lease rate of \$340,550, including an annual increase of 2.5 % per year for a term of 20 years. ML is requesting a 40-year lease with the Commission. ML's lessee term is only for 20 years. The Commission would be at-risk because after the first 20 years there is no guaranteed tenant in place to recover the project's debt service. ML proposes to raise additional annual revenues through a combination of fees charged to other facility users, i.e., girl's softball camp (\$30,000), vending machine income (\$6,000), lunchtime corporate basketball leagues (\$50,000), senior activities (\$10,000), and birthday parties (\$10,000). The additional annual revenue projections have not been supported by either a market study and/or letters of intent. It is therefore prudent not to assume the additional revenue as a consistent or reliable fund source over the proposed 40-year term of the requested lease period.

Given the facts stated above, staff can only assume the Commission could be open to substantial financial risk beyond a period of 20 years. (See the July 21, 2003 memo from the Secretary-Treasurer, Attachment # **12** ).

The Secretary Treasurer's and Park Development Division staff comments on risks to the Commission states:

***"The partner's projected financial performance is critical to the project's ultimate success, and it has significant impact on the Commission's exposure to financial risk. The Commission's risk falls within three primary areas:***

- a. ***Will the partner have sufficient funds to complete the construction?***
- b. ***Will the Commission receive the rental stream from the project for the lease of the land?***
- c. ***Will the project's cash flow be sufficient to cover the debt service?***

a. ***Completion of the Project:***

***"The first risk to the Commission is that ML would not be able to complete the construction of the project, and that the Commission would be left with a partially built facility on its parkland. This risk would be partially offset by the required performance and labor and materials bonds. However, if the construction costs were significantly higher, as***

*the Park Development Division (PDD) staff believes, some risk would remain along with potential staff costs to enforce the bond and provide increased project oversight. "*

***FACILITY CONSTRUCTION COST ESTIMATE:***

ML originally projected the development will cost \$1,856,703. In addition to the Park Development Division's (PDD's) staff technical concerns about the facility development plans (See Attachment <sup>#13</sup>), PDD staff is also concerned that the overall development cost. Projections are understated; they are also lacking in several specific areas including: (a) the cost of performance and payment bonds for construction are not included (typically at least 1% of the overall project cost - in this case \$18,500); (b) the proposal indicates that ML will be financing \$1,481,703 and personally guaranteeing \$350,000, leaving a \$25,000 shortfall; and BCC's \$98,000 investment needs should have been described in detail and confirmed in writing and (c) B-CC's \$98,000 investment should have been described in detail and confirmed in writing. PDD staff also believes the estimated construction cost does not adequately cover the costs of site work or design fees. For example, the building cost estimate alone is \$1.5 million, yielding a square foot cost of \$62.50 per square foot based upon a 24,000 square foot building; however, the true estimate should be based on a gross square footage of 28,000 (because there is a second floor mezzanine of almost 4,000 square feet resulting in a square foot cost of \$54.00 per square foot). According to PDD staff, "for this type of building square foot costs in the range of \$100.00/SF would normally be expected."

This disparity is illustrated by the fact that the construction estimates are based on a 24,000 square foot footprint, while the building plans reviewed by PDD reflected the development of a 28,000 square foot building. In addition to this fundamental error in the base information, costs for some major items appear to be missing from the estimate, including stormwater management and sports flooring.

***b. Rental Revenue Stream :***

*"Without a level of comfort on the projected cash flow, there is a greater risk that the Commission would not receive a portion of these payments. The majority of the rental stream is projected to occur during years 21-40; however during this time period, no operator/tenant has been identified. The lack of a tenant increases the risk to the project.*

*The other risk is that BCC would be unable to make their rental payment to ML. Although we have no details on ML's planned financing arrangement, based on our experience, these loans typically are secured by the project's revenue stream and a leasehold mortgage interest in the*

*improvements on the land. Upon the event of a monetary default, the loan terms would dictate who assumes the leasehold interest and what actions the lender may take to recover their investment. In this situation, the question of first right of refusal presents another risk; that is would the Commission if it desired to be able to buy out the leasehold interest and if so at what cost?*

**c. Project Cash Flow:**

The Secretary-Treasurer reviewed the ML proposal under a worse case cash flow scenario in order to conservatively assess the maximum risk to the Commission. A summary of these findings is as follows:

***Projections for Worse Case Scenario:***

*In year 1, the negative cash flow is projected to be approximately \$305,000 due to additional outlay for a new parking lot. In year 2, the negative cash flow is projected at \$ 150,000. Over the 20-year period, the worse case cumulative loss is projected to be \$ 2.7 million. Assuming 85% of the revenues projected by BCC results in a cumulative projected loss over the 20 years of about \$ 1.4 million."*

*The Board needs to consider whether the amount of risk is acceptable given the nature of the project. The financial risk could be reduced by obtaining a market study including financial projections; obtaining a personal guarantee on the loan by the partners; and by requiring that the Commission certify that all funds are in hand prior to any construction. "*

- 5. Relationship to Plans:** *Is the project consistent with master, sector and/or park plans? Is it consistent with the "one-third active/two-thirds conservation" policy for regional parks? Does it advance the goals of the PROS plan?*

These questions were answered, in part, by staff in key factor number one above. The proposed site identified in the RFP by staff and selected by ML also conforms to the Commission's park development policy of not developing more than one-third of a regional park's acreage for active development. The proposed site is already considered a developed area. The Draft Cabin John Regional Park Master Plan states:

*"the developed areas of Cabin John Regional Park currently account for 27.3% of the total park area; clearly fulfilling the M-NCPPC PROS Plan goal of a "1/3:2/3" development versus conservation ratio for regional parks."*

ML's proposal is not mentioned in the PROS plan, the sector plan or master plan for the Cabin John Regional Park area. The only relevant passage that can relate to the proposal is contained in the PROS plan which states:

*"Recreation Facility Recommendations;  
Develop Means to Reduce Ballfield Deficiencies;  
Provide new ballfield initiatives to help meet local field needs in ways that provide the least impact on the community."*

6. **Uniqueness:** *Is this an opportunity that if not acted on now may never be available again, or at least not for a long period of time?*

ML's proposal to develop a sportsplex is not unique in the fact that there are three (3) other privately managed indoor baseball training facilities surrounding the park within a 15 mile radius (i.e., the Derek Hakopian Baseball Academy; Hitting Streak; and Hitter's Park).

The proposed facility could be considered partially unique because it proposes to contain an indoor training infield multipurpose playing field area in addition to the batting cages areas and would be the only facility of its type within the Montgomery Parks System.

The ML proposal was never contemplated by the Commission and is therefore not in our six-year capital improvements program (CIP) budget. If the Commission were to consider developing this facility, it would either be planned six years later, or if developed today or within six years, would modify the development priorities contained in our currently adopted CIP and would defer one or more of our current park development projects. Staff believes the proposed project may be considered unique, but the need and demand is not substantiated in the ML market study.

7. **Project Advancement:** *Would the timetable for a planned project be advanced without overburdening demands on operating/maintenance budgets?*

The staff responses to these questions are addressed in key factor 6 above. Any plans by the Commission to develop an indoor baseball training facility would be severely hampered by the Commission's current and projected future operating budget constraints. Under the Commission's current fiscal circumstances, there would not be sufficient operating budget funds in the tax supported Park Fund or the user fee supported Enterprise Program to support an indoor baseball training facility. All current operating funds are primarily devoted to the maintenance of outdoor ballfields.

8. **Leveraging Capacity:** *Does the project allow for a limited investment of public dollars that will result in the more significant investment of private, state and/or federal resources?*

The information submitted by ML in their market study is inconclusive and cannot leverage public funds over the requested 40-year lease term because the public need has not been quantified as previously stated in key factor 1 above.

9. *Access: Does the project result in access to services by underserved populations? Would access by the general public be restricted?*

ML is to be commended for their public access program. ML's proposal reflects their public outreach efforts by including user groups for different indoor sport and recreation needs populations. Their proposal includes contacts with the Regional Institute for Children & Adolescents, a Montgomery County Public Schools therapeutic program for emotionally disabled children; the Jewish Council for the Aging; the Keen Foundation, a non-profit organization for disabled children and young adults (ages 5-32); Wheaton & Einstein High Schools; the Montgomery County Recreation Department; and the Catholic Youth Organization. ML has also proposed a scholarship fund in order to provide opportunities for participants requiring financial assistance. In addition, ML will open their batting cage and pitching machines free of charge once a month to local organizations and schools, as well as youth from low-income housing and other groups recommended by civic associations.

10. *Market: Has a market analysis or other means determined that the project/service is needed and has a high likelihood to meet projected participation levels and revenue forecasts?*

No, ML's market survey has not determined that there is a service need. The survey sample used was too small and no comparisons were made between ML's SportsPlex facility services and fees for services offered and the 3 privately operated facilities offering similar services. These questions were addressed by staff in key factor 1 above.

11. *Fee Structures: Would projected fees allow for reasonable public access? Are there provisions for access by those who cannot afford the fees?*

ML's service fee structure proposal appears to be reasonable on average, though there is no clear explanation of the reasons behind the wide range of fees or the different charges per user type and time block.

## TRAFFIC ANALYSIS

ML's traffic and parking consultant is Lee Cunningham & Associates, Inc. ML submitted a Local Area Review Transportation Analysis in June 2003, which Ron Welke, Supervisor, Transportation Planning Staff, reviewed and concluded that "traffic from the proposed indoor athletic facility can be accommodated safely and efficiently on the

existing local road network.” (See Attachment #14 p.3.) Consequently, traffic issues pose no impediment to the training facility.

## **PARKING ANALYSIS**

Lee Cunningham & Associates, Inc. also submitted a parking analysis for a 24,000 square foot facility, reflecting the impact of the parking needs of the training facility on the existing parking supply within Cabin John Regional Park. (See Attachment #15- Parking Accumulation Analysis - Cabin John Indoor Athletic Facility.) In understanding the parking issues, it is important to understand the layout of the park.

The training facility is proposed to be located in what is currently an open field with a volleyball court and practice tennis and handball courts. The proposed site is located across a parking lot from two existing ballfields known as five and six. (See Attachment - Site Plan.) Located immediately adjacent to the proposed site is a grass field used as an informal soccer field and for overflow parking during Big Train Baseball Tournament games. There are 96-99 marked parking spaces associated with Fields #5 and #6, which are the same parking spaces that training facility users would occupy. Fields #5 and #6 each need approximately 62 spaces when in use. ML's parking study therefore reflects the fact that currently there is inadequate parking when both fields are in use.

ML's traffic and parking consultant concluded, and staff agreed, that the training facility would generate a need for 70 parking spaces on weekdays, and 62 parking spaces on weekends. During those times that only Field #5, or only Field #6, are in use, then there are 30 spaces available for the training facility. According to our transportation staff, an additional 100 spaces are required for the times when both fields and the training facility will be in use.

Staff's assessment of the parking needs of the proposed facility as it relates to the needs of existing park facility needs is as follows:

- a. There is insufficient parking available to accommodate activities at the indoor athletic facility if either one or both of the existing ballfields (#5 and #6) are in use.
- b. An additional 100 parking spaces are needed to provide adequate parking for both the ballfields (#5 and #6) and the proposed indoor athletic facility should the three facilities be used simultaneously. The absence of 100 parking spaces is a major issue affecting the ability of the proposed project to mitigate the projected parking impacts associated with this project.
- c. Approximately 30 parking spaces would be available for activities at the indoor athletic facility when one of the two ballfields (#5 and #6) are in use.

ML, in their June 18, 2003 correspondence letter providing final clarifications to their proposal, (See Attachment #16 asserts "we do not see any issues with parking."

Nevertheless, ML offers "to close the facility from May through August during "Big Train" games and other tournament events that generate more traffic."

The problem with this offer is three-fold. First, it offers to close the facility based on traffic, not parking. Second, the parking analysis clearly shows that the primary parking shortage occurs not during Big Train or tournament events, but rather when either or both Fields #5 and #6 are in use. Consequently, ML's offer to alter its schedule to address "traffic" (assuming they really mean parking) does not go to the actual times that parking is an issue. Third, ML states that its peak season is November through March; however, their pro forma reflects 25 weeks of peak revenue. There are only 21.5 weeks between November and March, and so their peak season may extend into April and October. The ballfields are permitted for use from April through October, and occasionally into November (if bad weather requires makeup games that go beyond the standard season). ML did not project significant revenues from April to October; their projections during this time frame indicated indoor use on weekdays between 9 a.m. – 1 p.m. and summer camps. ML's cash-flow analysis does not account for the possibility of reduced revenue resulting from parking related closures.

In short, staff believes that the current parking shortage is clearly demonstrated by ML's own parking analysis, and further that ML's parking assessment shows that construction of the training facility will exacerbate the problem.

Staff offers as anecdotal information comments received from both the Cabin John Regional Park management staff and the local community that the informal soccer field located immediately adjacent to the proposed indoor sportsplex site is used frequently for playing soccer and as a social meeting place for park patrons.

Any consideration for converting this area into a permanent parking lot must weigh such a decision against the current informal public use benefits of the site.

An additional consideration relative to this area is the staff estimate for the cost of constructing a 100 space parking lot is approximately \$150,000. ML's proposal does not include funds to provide any additional parking. ML also indicates they have no plans to construct any parking to support the operations of the facility. The Commission has no plans or funds to support the construction of a new parking lot in Cabin John Regional Park.

## **FACILITY MANAGEMENT PLAN**

ML indicated that it would staff the facility with one full-time manager (\$45,000 annually) and part-time help (\$15,000 annually). There is no indication of the hourly rate of pay, the number of part-time employees, or the duties they will be performing. Finance staff assessed these salaries against the projected number of annual hours to be worked, and estimates that the part-time help would be paid \$6.00 an hour, a low rate based on Commission experience. Nor does the plan appear to address coverage during absences



or on weekends when the full-time manager is not present. Finance staff also notes that the part-time help appears to be scheduled to work during some of the busiest operating times. In the scheme of things, this is a secondary issue.

### **FACILITY RENTAL INCOME FROM SUB-TENANTS**

ML's cash flow projections are entirely dependent on the projected \$340,00 rental payment to be received from BCC Baseball. Staff strongly suggested to ML that they solicit and secure financial commitments from other indoor sports facility users in order to expand the users base, create broader public user access and increase revenues to support the facility. ML only provides letters of interest from other prospective users who would not pay for use of the facility. Based on ML's pro forma, the project is entirely dependent on the financial success of BCC.

### **CONCLUSION AND RECOMMENDATION**

**Based upon all the aforementioned factors of evaluation, staff believes the burden of proof in the areas of public need, financial sustainability, parking impact, facility management, facility development costs, facility design features, and the impacts on the adjacent community, Cabin John Regional Park and existing private businesses have not been adequately addressed in ML's proposal. Staff therefore recommends that the proposal be denied.**

## **Index of Attachments:**

Attachment # 1	Derek Hacopian Baseball Academy Proposal.....P. 26
Attachment # 2	Indoor Baseball Facilities (Examples).....P. 35
Attachment # 3	July 30, 2001 Public Meeting Notice.....P. 36
Attachment # 4	Public / Private Development Guidelines.....P. 46
Attachment # 5	Cabin John Sportsplex Proposal.....P. 59
Attachment # 6	M-NCPPC Community Outreach Report.....P. 91
Attachment # 7	Hitter's Park January 28, 2003 Letter.....P. 100
Attachment # 8	Mr. Norman G. Knopf -People for the Preservation of Parks July 2, 2003 Letter.....P. 102
Attachment # 9	Chelsea Towers Letter -July 23, 2003.....P. 107
Attachment # 10	Jerry Bush, M-NCPPC /Enterprise Memo.....P. 115
Attachment # 11	ML -Woelfel Research, Inc. Market Study.....P. 123
Attachment # 12	M-NCPPC Secretary-Treasurer -Financial Review .....P. 213
Attachment # 13	M-NCPPC - Park Development Memo.....P. 219
Attachment # 14	M-NCPPC -Transportation Planning Memo.....P. 222
Attachment # 15	ML -Lee Cunningham Parking Analysis.....P. 225
Attachment # 16	ML -Final Comment Letter.....P. 229
Appendix	73 Letters in Support
Appendix	27 Letters in Opposition