

**Property Location**

**1318 Winding Branch Circle (LL 365)**

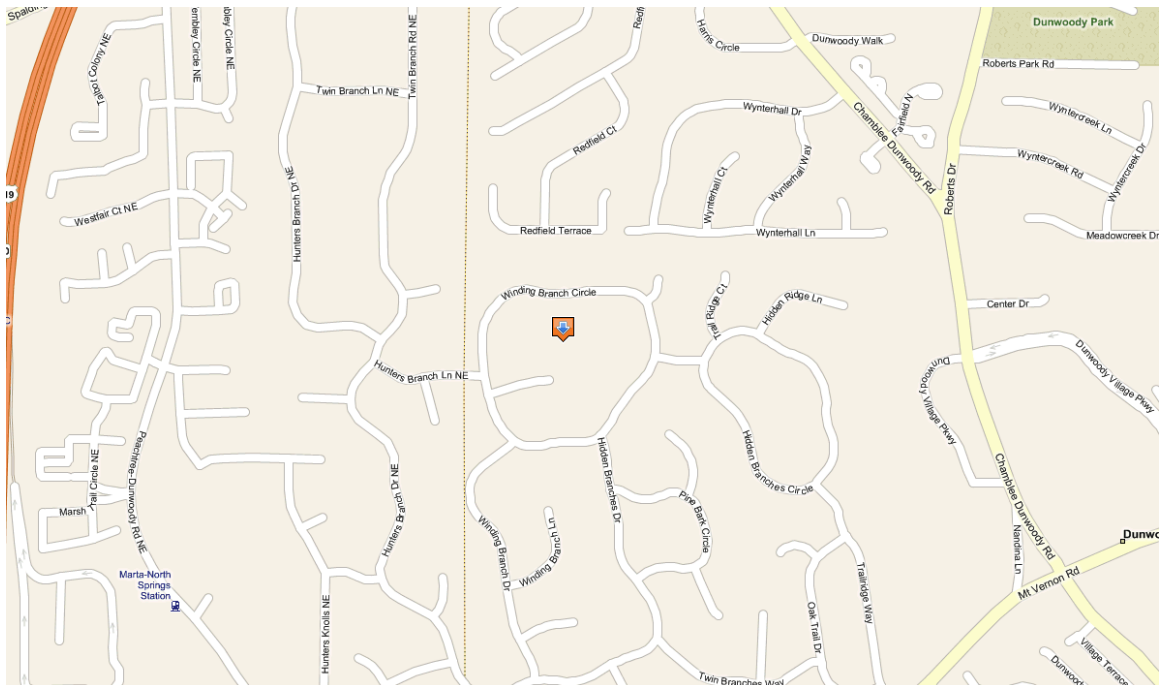
**Owner/Petitioner**

**Bryan C. Hutchinson, President  
The Branches Club  
1318 Winding Branch Circle  
Dunwoody, Georgia 30338**

**Variance Request**

**Change of previously approved DeKalb County variance conditions to permit the installation of lights on three existing tennis courts at a swim & tennis club**

**Vicinity Map**



The site is the Branches Club, a residential swim & tennis club located in the Hidden Branches subdivision. The club is situated in the center of Winding Branches Circle, in the northwest portion of the city. The property is currently zoned R-100 (Single-Family Residential district). The applicant's request is to amend the previously approved conditions of variance granted by the DeKalb County Commission to now allow for the lighting of tennis courts in the club.

**Site Plan Analysis**

The site -zoned R-100- is a nearly six-acre lot in the Hidden Branches subdivision. The property abuts single-family home development on all sides, likewise zoned R-100.

There is no plan to add any inhabitable structures or play areas to the site. This request seeks only to install lights above the tennis courts that already exist; exist by right of a conditional development variance granted by DeKalb County.

## Conditions of the Zoning Ordinance

There is no specific prohibition in the City of Dunwoody Zoning Ordinance that precludes the installation of lights on a recreational activity area in an R-100 district.

The issue related to this application is that at some point in the past under the DeKalb County system, the Branches Club was not eligible to construct a fourth tennis court at the swim & tennis club without a development variance. After negotiations with the surrounding home owners, those residents agreed to support the club's development variances for the tennis court, so long as the club chose to never light the tennis courts for night time play.

Recently there have been legal actions between the swim and tennis club and the neighboring residents regarding the installation of tennis court lights, after County Development Officials administratively approved the installation of lights on the courts. Those legal actions culminated in a DeKalb County Judge's order that the request to light the tennis courts be brought back to the variance board of record for approval of the request prior to the installation of any lighting fixtures.

Specifically, from what staff can discern from that order, the judge affirmed the BZA decision to overturn administrative decision of the County Development Department which authorized the club to install lighting without a need of a variance. Evidence was presented of an agreement reached between the club and nearby landowners in the 1970s in which the club agreed to not install lighting in exchange for support of variance the club needed to construct a fourth tennis court. The club is currently requesting relief of a condition of variance.

Article 27, Section 5D-14 identifies the following criteria for evaluation that should be examined when determining the appropriateness of a variance:

- a) Variances from the provisions or requirements of this Chapter shall be authorized only upon making all of the following findings:
  1. By reason of exceptional narrowness, shallowness, or shape of a specific lot, or by reason of exceptional topographic conditions, which were not created by the owner or applicant, the strict application of the requirements of this Chapter would deprive the property owner of rights and privileges enjoyed by other property owners in the same zoning district; *The variance requested is not a function of site development. This is a request to lift the restrictive condition associated with prior variances that precludes the installation of tennis court lights.*
  2. The requested variance does not go beyond the minimum necessary to afford relief, and does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the zoning district in which the subject property is located; *The request does not exceed the minimum required. The condition change sought is a shall-/ shall not- issue that essentially needs to be over-turned by the Board to allow the lawful installation of these lights.*

3. The grant of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zoning district in which the subject property is located; *If constructed properly and instituted using the most technologically advanced light fixtures, the impact to the neighbors of the court lighting itself could be attenuated, but it is doubtful that it would be eliminated. Further, the installation of the lights would facilitate outdoor recreation into the night directly adjacent to occupied homes.*
4. The literal interpretation and strict application of the applicable provisions or requirements of this Chapter would cause undue and unnecessary hardship; *The request is discretionary in nature and not required to avoid an undue and unnecessary hardship.*

and

5. The requested variance would be consistent with the spirit and purpose of this Chapter and the City of Dunwoody Comprehensive Plan text. *The applicant's request is consistent with the spirit and purpose of the zoning ordinance, in that the request is not prohibited by the zoning ordinance; however, it does not impact the Comprehensive Plan.*

## Recommendation

Staff **supports** the requested variance, so long as the installation of the proposed lights can be shown to have a negligible impact on those most impacted by their use.

## Attachments

1. The Branches Club Inc.'s application materials, including a copy of the judicial order which chronicles the history of the project and the issue at hand.

# Variance Application Checklist



City of Dunwoody  
400 Northridge Road, Suite 1250  
Atlanta, GA 30350  
Phone: (678) 382-6800  
Fax: (678) 382-6701

☐ Pre-Application conference: Thursday, \_\_\_\_\_, 20\_\_\_\_.

## Variance Application Requirements:

- ☒ Survey Plat of the subject property in accordance with the attached site plan checklist.
- ☒ Name, mailing address and phone number of all owners of the property.
- ☒ Signed & notarized affidavits of all owners.
- ☒ Signed & notarized affidavits for Authorization to Act as Applicant (AAA).
- ☒ Address & phone contact number for the owner's authorized agent.
- ☒ Written legal description of the property.
- ☒ Statement of current zoning classification and land use of the property, and proposed land use of the property.
- ☒ Letter of Intent: Please describe your situation and how your variance request is a result of one or more of the following conditions:
  - 1) By reason of exceptional narrowness, shallowness, or shape of a specific lot, or by reason of exceptional topographic conditions, which were not created by the owner or applicant, the strict application of the requirements of this Chapter would deprive the property owner of rights and privileges enjoyed by other property owners in the same zoning district;
  - 2) The requested variance does not go beyond the minimum necessary to afford relief, and does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the zoning district in which the subject property is located;
  - 3) The grant of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zoning district in which the subject property is located;
  - 4) The literal interpretation and strict application of the applicable provisions or requirements of this Chapter would cause undue and unnecessary hardship;
  - 5) The requested variance would be consistent with the spirit and purpose of this Chapter and the City of Dunwoody Comprehensive Plan text; and
  - 6) How although economic considerations may be taken into *consideration* as a hardship, they are *not*, of themselves, be the *sole criteria* upon which the applicant seeks this variance.

# Variance Application



City of Dunwoody  
400 Northridge Road, Suite 1250  
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If for any reason you cannot meet all the standards and regulations of the Zoning Ordinance, you may be entitled to present a request for a Variance before the Dunwoody Zoning Board of Appeals (ZBA). A Variance is a relaxation of the strict terms of the Zoning Ordinance (such as building setbacks, number of parking spaces or other regulations) for a specific property, to permit construction or use in a manner that would otherwise be prohibited because of the particular physical surroundings, shape or topographical conditions. Variances are covered in Division 5D of Dunwoody's Zoning Ordinance.

You will need to complete and submit your Variance Application by the 1<sup>st</sup> Thursday of the month in order for the Variance request to be heard at the next available scheduled meeting. The Zoning Board of Appeals meets the first Thursday of each month at 7:00 p.m. in the Dunwoody United Methodist Church, located at 1548 Mt. Vernon Road, Dunwoody, GA 30338. See the attached ZBA calendar for deadline dates and the Variance Checklist for complete application requirements.

You must present your request to the Board in the form of a hardship that you will experience if the strict application of the zoning regulation is enforced. The process is very similar to the Zoning process, and when granting a Variance, the Zoning Board of Appeals may impose requirements and conditions to protect adjacent properties and the public interest. Any application for a Variance must be supported by written verification pursuant to the questions listed on the Variance application checklist, attached.

Some aspects of development are not allowed to be varied, including requests that would:

- Allow a structure or use not authorized in the applicable zoning district or a density of development that is not authorized within such district;
- Allow an increase in maximum height of building;
- Allow any variance which conflicts with or changes any requirement enacted as a condition of zoning or of a special land use permit by the City Council;
- Vary the requirements for an off premises sign which decreases the applicable development standard by thirty (30) percent or more, or to grant more than two (2) variances for a specific parcel of property for an off-premises sign during a five-year period of time;
- Reduce, waive or modify in any manner the minimum lot width and minimum lot area where the lot has been conditionally zoned to a specific site plan;
- Reduce, waive or modify in any manner the minimum lot area established by the City Council for any use permitted by special land use permit or by special exception;
- Extend the time period for a temporary outdoor social, religious, entertainment or recreation activity approved by the director of public works;
- Permit the expansion or enlargement of any nonconforming use of land, nonconforming use of land and buildings in combination, nonconforming use of land and structures in combination, or nonconforming use requiring special land use permit;
- Permit the reestablishment of any nonconforming use of land, nonconforming use of land and buildings in combination, nonconforming use of land and structures in combination, or nonconforming use requiring special land use permit where such use has lapsed for more than six (6) months as described in Section 5E of the City's Zoning Ordinance; or
- Permit customer contact for a home occupation authorized by this Chapter.

Please fill out the attached application form, as well as the supplemental information as required in the attached Variance Checklist.

# Variance Application Site Plan Checklist



City of Dunwoody  
400 Northridge Road, Suite 1250  
Atlanta, GA 30350  
Phone: (678) 382-6800  
Fax: (678) 382-6701

**All items must be included on the Site Plan; separate sheets may be used**

1. Key and/or legend and site location map with North arrow.
2. Boundary survey of subject property which includes dimensions along property lines that match the metes and bounds of the property's written legal description and clearly indicates the point of beginning.
3. Acreage of subject property.
4. Location of land lot lines and identification of land lots.
5. Existing, proposed new dedicated and future reserved rights-of-way of all streets, roads, and railroads adjacent to and on the subject property.
6. Proposed streets on the subject site.
7. Current zoning of the subject site and adjoining properties.
8. Existing buildings with square footages and heights (stories), wells, driveways, fences, cell towers, and any other structures or improvements on the subject property.
9. Existing buildings' locations and heights (stories), wells, driveways, fences, cell towers, and any other structures or improvement on adjacent properties within 200 feet of the subject property.
10. Location of proposed buildings with total square footage.
11. Layout and minimum lot size of proposed single family residential lots.
12. Topography on the subject site and adjacent property up to 200 feet as required to assess runoff effects.
13. Location of overhead and underground electrical and pipeline transmission/conveyance lines.
14. Required and/or proposed setbacks.
15. 100-year flood plain horizontal limits and flood zone designations as shown on survey or FEMA FIRM maps.
16. Required landscape strips, undisturbed buffers, and any other natural areas as required or proposed.
17. Required and proposed parking spaces; Loading and unloading facilities.
18. Lakes, streams, wetlands, and Waters of the State and associated buffers.
19. Proposed stormwater management facilities.
20. Community wastewater facilities including preliminary areas reserved for septic drain fields and points of access.
21. Availability of water system and sanitary sewer system.
22. Tree lines, woodlands and open fields on subject site.

# Variance Application



City of Dunwoody  
400 Northridge Road, Suite 1250  
Atlanta, GA 30350  
Phone: (678) 382-6800  
Fax: (678) 382-6701

ZBA09-062

Type	Type of Request: <input checked="" type="checkbox"/> Variance (BZA) <input type="checkbox"/> Variance (Administrative)			
	Concurrent Variance(s)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, please provide rezoning case #: N/A			
	Square Feet		Acre	
	Minimum Setback Requirements		Proposed Setback Requirements	
	Total Area of Lot		5.88	
	Building Footprint	2,754		
Project	Name of Project/Subdivision: TENNIS COURT LIGHTS FOR THE BRANCHES CLUB, INC.			
	Property Address/Location: 1318 WINDING BRANCH CIRCLE			
	Land Lot: 365	District: 18	Section:	Property ID: 1836503031
	Lot Number:	Block: 03	Present Zoning: R100	Proposed Zoning: N/A
	Name: BRYAN C. HUTCHINSON (PRESIDENT) MAIL TO: [P.O. BOX 88003 ATLANTA, GA 30356]			
	Company: THE BRANCHES CLUB, INC.			
Applicant Information	Address: 1318 WINDING BRANCH CIRCLE, DUNWOODY, GA 30338			
	Phone: 404.713.3392		Fax: N/A	
	Cell:		Email: bryanhutch@comcast.net	
	Name: BRYAN C. HUTCHINSON			
	Company: N/A			
	Address: 7360 TWIN BRANCH RD, NE			
Representative	Phone: 404.713.3392		Phone:	
	Cell:		Cell:	
	To the best of my knowledge, this variance application form is correct and complete. If additional materials are determined to be necessary, I understand that I am responsible for filing additional materials as specified by the City of Dunwoody Zoning Ordinance. I understand that failure to supply all required information (per the relevant Applicant Checklists and Requirements of the Dunwoody Zoning Ordinance) will result in the rejection of this application. I have read the provisions of the Georgia Code Section 36-67A-3 as required regarding Campaign Disclosures. My Signed Campaign Disclosure Statement is included with the Application.			
	Applicant's Signature: [Signature] FOR THE BRANCHES CLUB INC.		Date: 4.28.09	
	Representative's Signature: [Signature]		Date: 4.28.09	
	Sworn to and subscribed before me this 5th Day of May			
Notary	Notary Public: Antionette Brock		<div style="border: 2px solid black; padding: 5px; text-align: center;"> ANTIONETTE BROCK Notary Public Henry County State of Georgia My Commission Expires Jun 11, 2012 </div>	
	Signature: [Signature]			
	Date: 05/05/09			
Office Use	Fee: \$		Payment: <input type="checkbox"/> Cash <input type="checkbox"/> Check <input type="checkbox"/> CC - Visa/MC	
	Date:		Date:	
<input type="checkbox"/> Approved <input type="checkbox"/> Denied By:		Date:		

## Variance Application



City of Dunwoody  
400 Northridge Road, Suite 1250  
Atlanta, GA 30350  
Phone: (678) 382-6800  
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Request	<p>Please explain the reason for the request and attach additional information as necessary.</p> <p>THE BRANCHES CLUB, INC. WOULD LIKE TO INSTALL LIGHTS FOR 3 TENNIS COURTS. DEKALB COUNTY SUPERIOR COURT HAS PREVIOUSLY REQUIRED THE BRANCHES CLUB, INC. TO OBTAIN A VARIANCE. SEE ATTACHED CIVIL ACTION FILE NUMBER OSCY10332-1.</p>
	<p><i>Prior to the submission of a variance application, the applicant is required to schedule an orientation meeting with the appropriate planner in the Planning and Zoning Division of the Community Development Department. The purpose of this meeting is to determine the number and nature of the variances requested, become familiar with the appeals process and obtain preliminary input from staff. A meeting date before the Board of Zoning Appeals will be scheduled upon a determination of completeness and compliance of the application. The applicant or representative must attend the meeting and make the presentation. An Orientation Meeting is NOT required for an Administrative Variance.</i></p> <p>Orientation Meeting Date:</p> <p>Board Meeting Date:</p> <p>Zoning Director Comments:</p>
Remarks	<p>Planning &amp; Zoning Director:</p> <p>Date:</p>



# Campaign Disclosure Ordinance



City of Dunwoody  
400 Northridge Road, Suite 1250  
Atlanta, GA 30350  
Phone: (678) 382-6800  
Fax: (678) 382-6701

## Campaign Disclosure Ordinance

Please read the law and complete the Campaign Disclosure Statement on the following page if you are requesting a Rezoning, Concurrent Variance, or Conditional Use.

GA Citation/Title

GA Code 36-67A-3, Disclosure of campaign contributions

\*38069 Code, 36-67A-3

## CODE OF GEORGIA TITLE 36. LOCAL GOVERNMENT PROVISIONS APPLICABLE TO COUNTIES AND MUNICIPAL CORPORATIONS CHAPTER 67A. CONFLICT OF INTEREST IN ZONING ACTIONS (Current through 2000 General Assembly)

### 36-67A-3 Disclosure of campaign contributions.

- a) When any applicant for rezoning action has made, within two years immediately preceding the filing of that applicant's application for the rezoning action, campaign contributions aggregating \$250.00 or more to a local government official who will consider the application, it shall be the duty of the applicant to file a disclosure report with the governing authority of the respective local government showing:
  - 1) The name and official position of the local government official to whom the campaign contribution was made; and
  - 2) The dollar amount and description of each campaign contribution made by the applicant to the local government official during the two years immediately preceding the filing of the application for the rezoning action and the date of each such contribution.
- b) The disclosures required by subsection (a) of this Code section shall be filed within ten days after the application for the rezoning action is first filed.
- c) When any opponent of a rezoning action has made, within two years immediately preceding the filing of the rezoning action being opposed, campaign contributions aggregating \$250.00 or more to a local government official of the local government which will consider the application, it shall be the duty of the opponent to file a disclosure with the governing authority of the respective local government showing:
  - 1) The name and official position of the local government official to whom the campaign contribution was made; and
  - 2) The dollar amount and description of each campaign contribution made by the opponent to the local government official during the two years immediately preceding the filing of the application for the rezoning action and the date of each such contribution.
- d) The disclosure required by subsection (c) of this Code section shall be filed at least five calendar days prior to the first hearing by the local government of any of its agencies on the rezoning application.

(Code 1981, 36-67A-3, enacted by Ga. L. 1986, p. 1269, 1; Ga. L. 1991, p. 1365, 1; Ga. L. 1993, p. 91, 36.)  
*Official Code of Georgia Annotated Copyright 1982 – 2000 State of Georgia.*

# Campaign Disclosure Statement



City of Dunwoody  
400 Northridge Road, Suite 1250  
Atlanta, GA 30350  
Phone: (678) 382-6800  
Fax: (678) 382-6701

Have you, within the two years immediately preceding the filing of this application, made campaign contributions aggregating \$250.00 or more to a member of the City of Dunwoody City Council or a member of the City of Dunwoody Planning Commission?

☐ YES ☒ NO

Applicant / Owner	Signature: <u>BCH</u> FOR THE BRANCHES CLUB, INC.
	Address: 1318 WINDING BRANCH CIRCLE DUNWOODY, GA 30338
	Date: 4.29.09

If the answer above is yes, please complete the following section:

Date	Government Official	Official Position	Description	Amount

CITY OF DUNWOODY  
PO BOX 888074  
ATLANTA, GA 3035600000  
6783826700

Store #1001202750

05/06/09 11:07:16 AM

MO/TO Sale

**Billing Address**

Bryan Hutchinson  
7360 Twin Branch Rd  
Atlanta, GA 30328

**Credit Card Information**

CREDIT CARD NUMBER: Visa ....4051  
SWIPE CARD: No  
STATUS: APPROVED - 071597  
ORDER NUMBER: Variance-Bryan Hutchinson  
PO NUMBER: Variance-Bryan Hutchinson

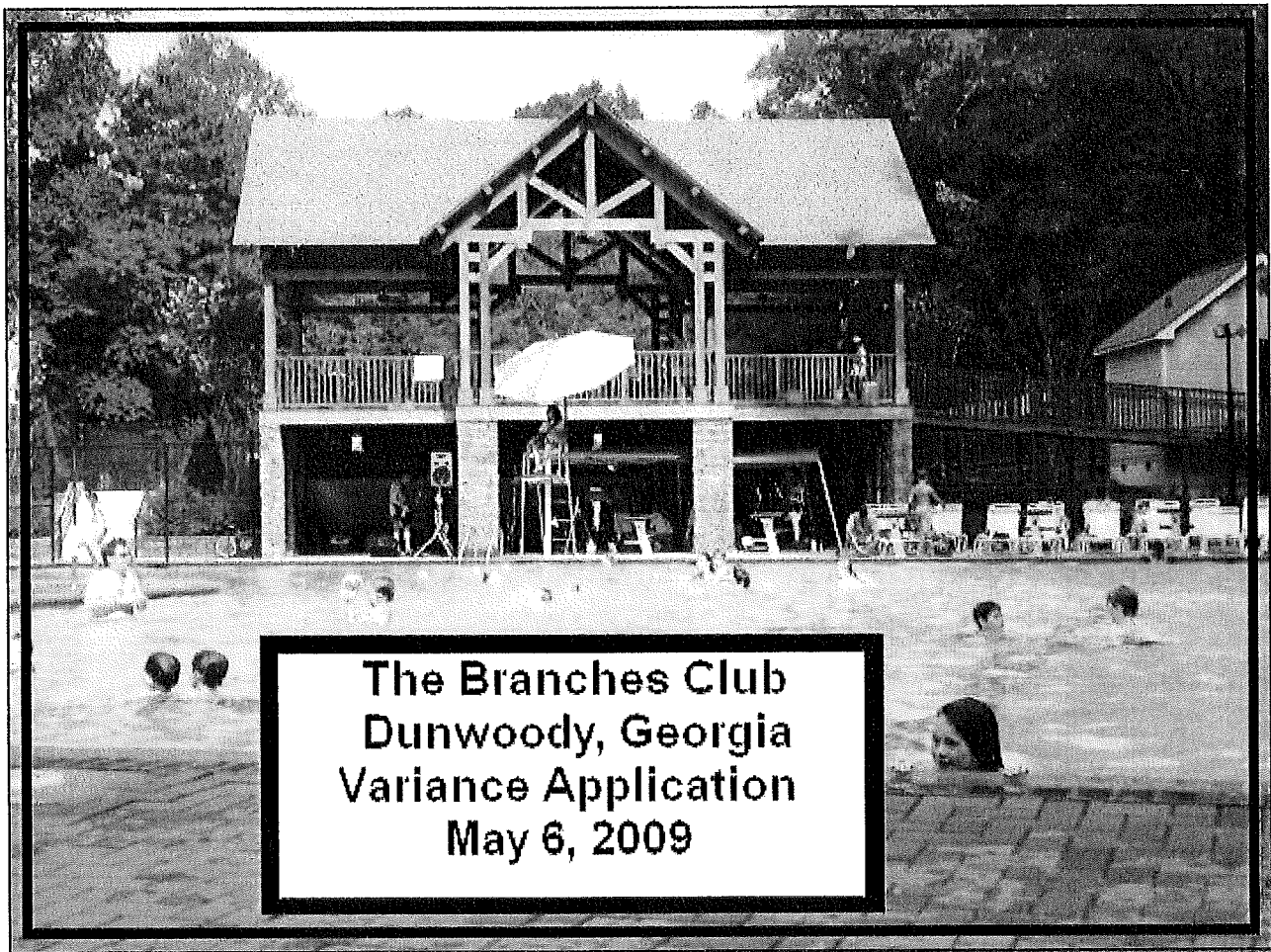
**Shipping Address**

Bryan Hutchinson  
7360 Twin Branch Rd  
Atlanta, GA 30328

Qty	Unit Cost	Extended Cost
1	250.00	250.00
<b>SUBTOTAL:</b>		<b>\$250.00</b>
<b>TOTAL:</b>		<b>\$250.00</b>

I AGREE TO PAY ABOVE AMOUNT ACCORDING TO CARD ISSUER.

SIGNATURE X \_\_\_\_\_  
Bryan Hutchinson



**The Branches Club  
Dunwoody, Georgia  
Variance Application  
May 6, 2009**

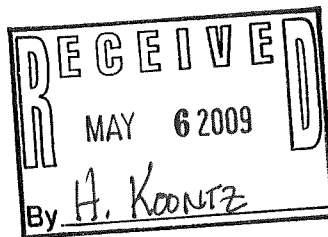
May 6, 2009

The Branches Club, Inc.  
Variance Application

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9. Property Survey	Front Insert
10. Light Layout	Back Insert



May 6, 2009

City of Dunwoody  
400 Northridge Road, Suite 1200  
Atlanta, GA 30350

Subject: Variance Application  
1318 Winding Branch Circle

Dear Sir or Madam:

The Branches Club Inc (the club) is a private neighborhood swim and tennis club made up of approximately 350 families. Our amenities include a playground area, a small clubhouse, pool, tennis pavilion(s), and 4 tennis courts.

This application for variance is made in order that the club may install lights for 3 of the 4 tennis courts. It is our understanding that the City of Dunwoody does not restrict the lighting of tennis courts such as ours, and accordingly, a "variance" may not be required; however due to the enclosed ruling by DeKalb County, we may be required to obtain such documentation.

Sincerely,

A handwritten signature in black ink, appearing to read 'BCH', with a long horizontal flourish extending to the right.

Bryan C. Hutchinson  
President, The Branches Club, Inc.

Enclosures: See *Contents* Sheet

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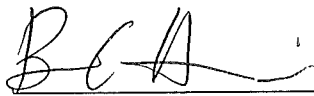
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Resolution Approving Filing of Application for Variance with the City of Dunwoody

We, the undersigned, as President and Secretary of The Branches Club, Inc. (the "Club"), hereby certify that the following resolution was duly adopted and approved by the Board of Directors of The Branches Club, Inc. at its meeting duly held on the 10th<sup>h</sup> day of February, 2009;

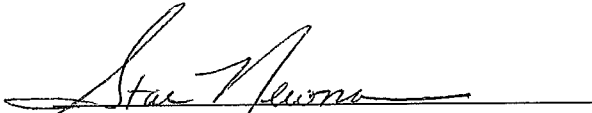
RESOLVED, that the President is authorized to file an application for variance with the City of Dunwoody to approve the installation of lights on courts 1, 2 and 3 of the Club's property. The President is also authorized to retain Lawrence B. Domenico to represent the Club in this application for variance and any related proceedings.

So RESOLVED this 10th day of February, 2009.

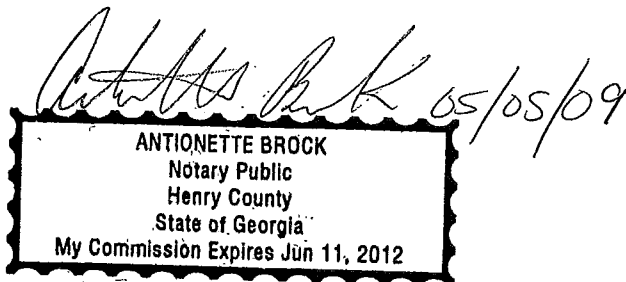


Bryan Hutchinson, President  
The Branches Club, Inc.

ATTEST:



Star Newman, Secretary  
The Branches Club, Inc.









# Property Information Results

Print

Close

## Parcel ID : 18 365 03 031

Land Data						
Neighborhood	Commercial Land Use	Zoning	Unit Type	Unit Size	Effective Rate	Adjusted Value
0002 - HBCC	N/A	R100 - Sf Res Dist	Acre	5.75	14,985.00	86,164

Building Information						
Building: 01						
Building Characteristics						
Improvement Type:	C2 - Clubhouse	Condition:	Average			
Quality Grade:	010 - FAIR +	Economic Obsolescence:	0%			
Actual Year Built:	1969	Functional Obsolescence:	0%			
Building Refinements						
Full Baths: 2	Half Baths: 0	Extra Fix: 4				
Bedrooms: 0	Fireplaces: 0	Air Conditioning: Y	Remodeled:			
Section ID	Type	Number Story	Square Footage	Basement Area	Finished Basement	Wall Type
01	CLH - CLUBHOUSE	1.00	2,754	0%	0%	Frame
02	OPH - OPEN PORCH	1.00	576	0%	0%	
*Indicates Heated Space		Total Heated Space :		0		

Miscellaneous Improvements									
ID	Type Code	Land Line	Num	Units	Length Diameter	Width Height	Quality Grade	Economic Life	Year Installed
01	POL - Swimming Pool	01	4,683	Square Foot	0	0	1	20	1969
02	TCT - Tennis Courts	01	4	UNIT	0	0	1	20	1969
03	BHS - Bath House	01	84	Square Foot	7	12	1	20	2006
04	EXF - Extra Fixture	01	4	UNIT	0	0	1	20	2006
05	OPH - Covered Deck/patio	01	738	Square Foot	41	18	2	20	2005
06	PAT - Detached Patio	01	738	Square Foot	41	18	1	20	2005

Building Permit Data					
ID	Permit Number	Permit Date	Completion Date	Permit Amount	Description
001	00-9306	12/17/1998	03/01/2000	5,000	Fire
002	00-1632	03/17/2005	11/04/2005	300,000	Renovation/alteration

History of Values				
Tax Year	Land Value	Building Value	Miscellaneous Improvement Value	Total Value
2009	86,100	73,300	41,000	200,400
2008	86,100	73,300	41,000	200,400

2007	86,100	73,300	41,000	200,400
2006	86,100	73,300	41,000	200,400
2005	86,100	73,300	29,700	189,100

Appeal Status
Date Value Changed:
Appeal Code : -
Hearing Date :
Hearing Time :



FILED & RECORDED  
DEKALB CO. GA.

DEC 3 1 45 PM '80

*Callie H. Kelley*  
CLERK OF SUPERIOR COURT

In Re: Property of THE BRANCHES  
CLUB, INC.

Deed Book 2403, Page 375

DeKalb County, Georgia

GENERAL RELEASE

KNOW ALL MEN BY THESE PRESENTS, THE BRANCHES CLUB, INC.,  
hereinafter referred to as releasor the legal owner of property  
located at:

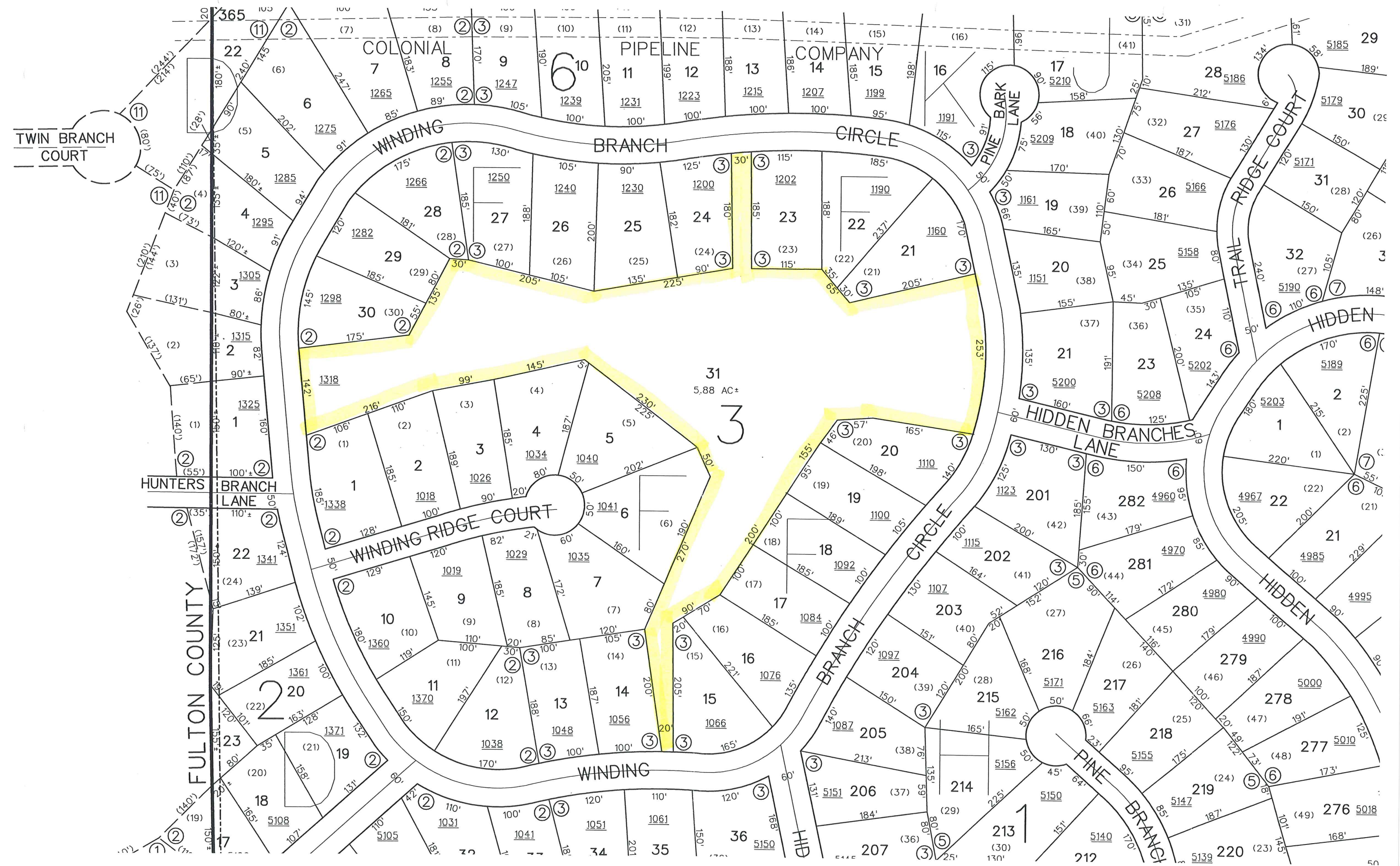
All that tract or parcel of land lying and being in Land  
Lot 365 of the 18th District, DeKalb County, Atlanta, Georgia,  
which is more particularly described as follows:

BEGINNING at a point on the eastern right of way of  
Winding Branch Circle, which has a 60-foot right of way, which  
point is located 185.0 feet North, as measured along said  
eastern right of way, from the intersection of said eastern  
right of way with the northern right of way of Winding Ridge  
Court, which point is the northwestern corner of Lot 1, Block  
F, Unit III, Hidden Branches subdivision; thence northerly  
along said eastern right of way of Winding Branch Circle 142.00  
feet to a point; thence along the boundaries of Lots 30, 29 and  
28 of Block F, Unit Three, Hidden Branches Subdivision, the  
following courses and distances: North 83° 00' East 175.00 feet  
to a point; North 31° 03' East 135.00 feet to a point; South  
83° 36' East 30.0 feet to a point; thence South 77° 17' 30"  
East 205.00 feet to a point; thence North 78° 37' 30" East  
225.00 feet to a point; thence due North 180.00 feet to a point  
located on the southern right of way of Winding Branch Circle;  
thence North 85° 16' 30" East along said southern right of way  
of Winding Branch Circle, 30.0 feet to a point; thence due  
South 185.00 feet to a point; thence due East 115.00 feet to a  
point; thence South 39° 54' East 65.00 feet to a point; thence  
North 75° 38' East 205.00 feet to a point located on the  
western right of way of Winding Branch Circle; thence southerly  
along said western right of way of Winding Branch Circle, and  
following the curvature thereof, 253.42 feet to a point (the  
preceding course having a chord of South 02° 06' East 249.39  
feet); thence North 82° 38' West 215.00 feet to a point; thence  
South 36° 08' 30" West 155.00 feet to a point; thence South 31°  
30' West 200.00 feet to a point; thence South 57° 57' West  
90.00 feet to a point; thence South 01° 14' 30" East 205.00  
feet to a point located on the northern right of way of Winding  
Branch Circle; thence South 89° 46' West along said northern  
right of way 20.0 feet to a point; thence North 09° 20' 30"  
West 200.28 feet to a point; thence along the boundaries of Lots  
7, 6, 5, 4, 3, 2 and 1 of Block F, Unit Three, Hidden Branches  
Subdivision, the following courses and distances: North 24°  
01' East 270.00 feet to a point; North 25° 59' West 50.00 feet  
to a point; North 54° 59' West 225.00 feet to a point; South  
75° 01' West 145.00 feet to a point; South 81° 11' West 99.00  
feet to a point; South 70° 46' West 216.20 feet to the POINT OF  
BEGINNING, said tract containing 5.88 acres.

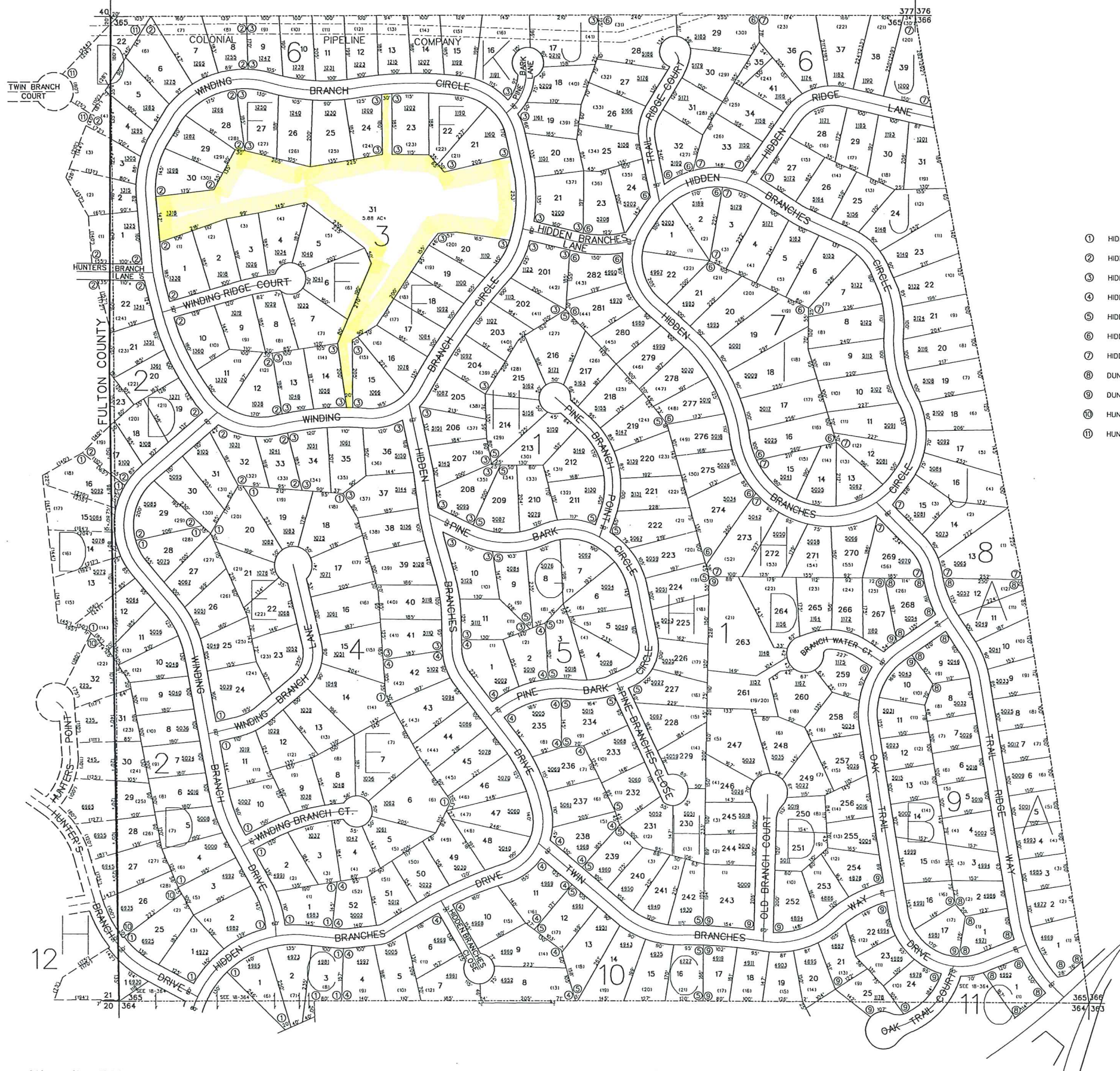
SWIFT, CURRIE,  
MCGHEE & HIERS  
771 SPRING ST., N.W.  
ATLANTA, GEORGIA  
30379

1-0844









- ① HIDDEN BRANCHES-UNIT 2-P.B.58-P.87
- ② HIDDEN BRANCHES-UNIT 3-P.B.56-P.141
- ③ HIDDEN BRANCHES-UNIT 4-P.B.67-P.118
- ④ HIDDEN BRANCHES-UNIT 5-P.B.56-P.142
- ⑤ HIDDEN BRANCHES-UNIT 6-P.B.56-P.143
- ⑥ HIDDEN BRANCHES-UNIT 7-P.B.67-P.119
- ⑦ HIDDEN BRANCHES-UNIT 8-P.B.64-P.139
- ⑧ DUNWOODY WEST-UNIT 1-P.B.69-P.124
- ⑨ DUNWOODY WEST-UNIT 2-P.B.70-P.95
- ⑩ HUNTERS BRANCH-UNIT 5-P.B.96-P.98-FULTON CO.
- ⑪ HUNTERS BRANCH-UNIT 2-P.B.94-P.18-FULTON CO.

This Map was compiled from an aerial survey. It is to be used for tax purposes only. DeKalb County assumes no responsibility for the accuracy of information contained herein.

LAND DIST.	LAND LOT
18	365
DATE:05/09/07	SCALE:1"=200'



received  
01-17-06

IN THE SUPERIOR COURT OF DEKALB COUNTY  
STATE OF GEORGIA

FILED

2006 JAN 12 P 4:11

THE BRANCHES CLUB, INC.,

Petitioner,

CLERK OF SUPERIOR COURT  
DEKALB COUNTY GA

v.

CIVIL ACTION FILE  
NUMBER 05CV10332-1

DEKALB COUNTY ZONING BOARD  
OF APPEALS,

Respondent, and

DEKALB COUNTY, GEORGIA;  
TIMOTHY A. HAYES; HAROLD  
R. MELENDY; and DR. THOMAS  
S. TUCKER,

Defendants.

**ORDER**

This action came before the court on a petition for writ of certiorari, filed pursuant to O.C.G.A. § 5-4-3 *et seq.* and Section 27-921 of the DeKalb County Zoning Ordinance. In this petition, The Branches Club, Inc. (hereafter, the club), seeks the court's review of the August 10, 2005 final decision rendered by the DeKalb County Zoning Board of Appeals (hereafter, ZBA). In this final decision, the ZBA approved the appeal filed by Messrs. Hayes, Melendy and Tucker (hereafter, homeowners), thereby overturning the prior administrative decision of the DeKalb County Development Department pursuant to which the club was authorized, without the need for a variance, to erect and install lights around three of the four tennis courts at issue, all of which are located on a 5.88 acre tract of land, the

club's Recreation Center (hereafter, 5.88 acre tract), within the perimeter of Winding Branch Circle in DeKalb County, Georgia. See, petitioner's Exhibit 7, map. The club contends the ZBA erroneously failed to rely on the record below, authorizing a reversal of the latter's decision.

Upon due consideration of all matters of record as well as oral argument presented, and for reasons that follow, the court finds the ZBA properly relied and based its decision on the record presented below and, therefore, *affirms* the decision rendered by the ZBA.

"The writ of certiorari shall lie for the correction of errors committed by any inferior judicatory or any person exercising judicial powers... The appropriate standard of review to be applied to issues of fact on a writ of certiorari to the superior court is whether the decision below was supported by any evidence." *City of Atlanta v. Harper*, 05FCDR3646 (11/18/05), at 3646. Viewed in a light most favorable to the defendant homeowners, the prevailing parties before the ZBA, and with every presumption in favor of the ZBA's decision indulged, the record supports the ZBA's decision.

It has been held that the "superior court is bound by the facts presented to the local governing body." *Dougherty County v. Webb*, 256 Ga. 474, 477-478(2) (1986), fn. 3. Therefore, the court will consider the record as established below, a review of which shows that on March 12, 1969, the club received a permit for use from the DeKalb County Planning Commission

for a private recreation club regarding the 5.88 acre tract, specifying as one of the conditions that "lighting be directed away from residences." See, petition, Exhibit 1 (permit #690038 and map). This permit is silent as to the use to which this tract was to be put. It is not contested, however, that among other things, two tennis courts were constructed on this tract in 1969 and a third court was added in 1973. The club did not, at that time, request a permit for or install tennis court lighting. See, petition for writ of certiorari, para. 14.

On May 19, 1976, the ZBA approved the club's request for a variance "to reduce distance of tennis court lights from 100' to 60' on south property line", expressly conditioned on "Lights to be out by 10:00 p.m.", "Automatic switch installed", and "no on-street parking." *Id.*, para.5; Exhibit 3, notice of decision and map. A neighbor (Ms. Robertson) appealed the grant of the variance to the Board of Commissioners, the appeal to be heard on June 22 (26?), 1976. *Id.*, Exhibit 4, DeKalb County Board of Commissioners, Notice of Public Hearing. It was noted in the June 22 (26?), 1976 minutes this neighbor appealed the decision by the Board of Appeals approving the club's application for a variance to reduce the distance of the neighborhood recreation center tennis court lights on the south property line from 100' to 60', the courts being located on the 5.88 acre tract; that a variance from dimensional requirements was needed to provide lights "for three existing

tennis courts"; and the "variance request is to add lighting to existing tennis courts." Administrative Appeal, tab 3, Item 40. The recommendation was to approve the variance, subject to "lights to be out at 10:00 p.m." and "no on-street parking." *Id.*

These June 1976 minutes also indicate one of the owners of property adjacent to the existing tennis courts (Mr. Roberts) furnished background information as to the construction of the three tennis courts for which the club sought a variance to install lights; that a number of adjacent homeowners felt installation of four 30' lighting towers would be detrimental to the value of their homes, and lighting and noise problems would ruin their investment; and that suitability of various lightings and configurations, among other things, had not been discussed so that he and other neighbors did not agree with the club's variance request. *Id.* Again, the recommendation was lights out by 10:00 p.m. and no on-street parking. *Id.* Tennis court level lighting and 10:00 p.m. curfew were discussed, but a motion to defer to the July 27, 1976 Board of Commissioners' meeting, "and to come back with something definitive about the lighting", was unanimously passed. *Id.*

The matters deferred from June 1976 were to be heard on July 27, 1976; however, as the agenda for that day also included the club's proposal to construct two additional courts in the area, although not on the 5.88 acre

tract, a motion was made to defer to August 10, 1976. *Id.*, tab 4.

The minutes of the August 10, 1976 Board of Commissioners' meeting indicate the club proposed to acquire land across the street from the 5.88 acre tract in order to construct additional tennis courts as the existing three tennis courts were deemed inadequate to accommodate the club's membership. *Id.*, Exhibit 6 (also, Admin. App., tab 5). The staff recommendation was for approval of a reduction of setback requirements for the proposed tennis courts from 75' to 10' from the north property line, with the conditions of "no lights" and "subject to complete drainage study to evaluate impact of courts on drainage system." *Id.* It should be noted that according to the minutes, Mr. Bill Phinney, then the club's vice president, stated during the presentation that "if this portion is approved, [the club] *will not request lights on the present three courts*" (Emphasis added.) *Id.* However, the 5.88 acre tract was not the subject of review by the Board of Commissioners at that time.

The Board of Commissioners granted the variance as to the parcel of land slated to be developed into the two additional tennis courts outside the 5.88 acre tract, approving by a vote of 5 - 1 "two courts no closer than 100 feet from any portion of [neighboring resident] Mr. Wethern's house subject to no lights and a complete drainage study." *Id.*, minutes, Sect. 37, and map. It is undisputed the club did not acquire these two additional lots

located outside the 5.88 acre tract. See, Exhibit A attached to petition, letter from Branches Club's legal counsel addressed to DeKalb County Board of Appeals, dated August 10, 2005, p. 3; Admin. App., tab 8, departmental recommendation.

With regard to neighbor Robertson's appeal, deferred from the July 27, 1976 meeting, the minutes of the August 10, 1976 Board of Commissioners' meeting make clear the club made this variance request with regard to lighting at the three existing tennis courts located on the 5.88 acre tract. Specifically, the minutes indicate although the staff recommendation respecting lighting at the three "existing tennis courts" was for "lights to be out at 10:00 p.m." in addition to "no street parking" and "additional parking be provided on site", the unanimous decision was to deny Ms. Robertson's appeal altogether "due to conditions re: Item 37 of no lights", i.e., no lights at the two proposed tennis courts across the street. See, Branches Club D.C. Record 000065, Item 40 (also, Admin. App., tab 6). As noted, however, the club did not acquire these two lots, which were instead used for construction of single family homes. See, Admin. App., tab 8, departmental recommendation.

In a letter dated December 16, 1977, and addressed to the Planning Department Development Coordinator, the club requested certain setbacks respecting the property located on the 5.88 acre tract involving the

construction of a fourth tennis court within this tract, contiguous to the three existing courts. See, Admin. App., tab 7, letter and maps. In this letter, the club stated specifically it currently had three tennis courts, had been denied the opportunity to develop the only available adjacent land, *and had been denied a variance to light its presently overcrowded courts. Id.* The only "courts" then "presently" in existence were the three tennis courts located on the 5.88 acre tract.

The minutes of the Board of Appeals' February 8, 1978, meeting indicate the club made a request for setback variances in order to accommodate construction of a fourth tennis court. See, Admin. App., tab 8. However, the departmental recommendation was to deny the request for setbacks. *Id.* The recommendation notes "this is the first application for these variances" *and* that "previous requests to light *these courts* were denied" (emphasis added) while property across the street, approved for two courts, was instead developed into single family homes. *Id.* Again, the only "courts" then existing were the three located on the 5.88 acre tract. The February 6, 1978 site plan of the three tennis courts makes no provisions for lights. *Id.*, tab 10.

On March 14, 1978, the Board of Commissioners considered the club's appeal from the foregoing Board of Appeals' denial of the variances the club required for the construction of a fourth tennis court to be located on the

5.88 acre tract, contiguous to the three tennis courts already in existence. *Id.*, tab 9. At the hearing, the club's representative presented a plan for that proposed fourth tennis court, detailing location and plans for extensive landscaping. *Id.* He presented resolutions to three objections, none of which involved lighting. *Id.* It is noted in the minutes homeowner Mrs. Werthern opposed the proposed variances, remarking that "first there were only two courts, then three", with the club asking for a fourth, and there was "no doubt in her mind that they will next request lights..." *Id.* These minutes indicate further that in January of 1978, Mr. Warren's home had belonged to Mr. Roberts, the latter of whom had opposed lights, and that the club "amended their plans substantially" and provided a development plan "committed to constructing *the courts* with that plan", i.e., apparently in accordance with Mr. Roberts' wishes. (Emphasis added.) *Id.* As noted, the site plan presumably dated February 6, 1978 and bearing the county's "approved for construction" stamp date of May 6, 1978, makes no provision for lights respecting the three existing tennis courts. *Id.*, tab 10.

The Board of Commissioners reversed the Board of Appeals, recommending approval of the club's appeal respecting this fourth tennis court, conditioned on "no lights to be installed, complete hydrological study, and prohibition of specified on-street parking." This recommendation was approved unanimously. *Id.*, tab 9.



Having reviewed and relying upon the foregoing minutes, letters and other documentation that is part of the record presented below, the court finds there is evidence in the record the club agreed with adjacent property owners not to seek installation of lights around the existing three tennis courts at issue.

In addition and apart from that record, the sworn statements provided by Frank Pritchard and Jim Cahillane support the court's interpretation of the record as presented below.

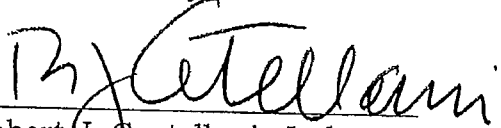
Jim Cahillane, the club's tennis chairman from January through December 1976, states in his affidavit sworn August 4, 2005, he attended the August 10, 1976 meeting of the DeKalb Board of Commissioners at which the club agreed not to install lights on the three tennis courts that were located on the 5.88 acre tract "in return for the DeKalb County Board of Commissioners granting the Club the variances the Club needed to construct two additional tennis courts on an adjacent parcel of property", and that the "minutes of the August 10, 1976 meeting of the DeKalb County Board of Commissioners accurately reflect the intent of the Club in 1976, which was to abandon its request for lighting for the three tennis courts that were located [on the 5.88 acre tract] in return for the Board of Commissioners granting the Club the variances the Club needed to construct two additional courts on an adjacent parcel of land."

In his affidavit, sworn August 6, 2005, Frank Pritchard, who, as the club's president "during one point in the 1970s", participated in the management of the club, states the club sought to install lights around the three tennis courts at issue but was "unsuccessful because the adjacent property owners opposed the installation of the lights", and that an "agreement was ultimately reached in the 1970s between the adjacent property owners and the Club" that the club would not install lights around the three tennis courts at issue in exchange for adjacent property owners' support of variances the club needed to construct a fourth tennis court. *Id.*, tab 12. It is not disputed this fourth tennis court was, in fact, constructed.

In light of the foregoing, and mindful the appropriate standard of review to be applied to issues of fact on a writ of certiorari is whether the decision below was supported by "any evidence", the court finds the ZBA's decision to reverse the earlier administrative decision for issuance of a tennis court lighting electrical permit to the club for the three tennis courts at issue was properly based on the record and is, therefore, not subject to reversal by this court. *City of Atlanta v. Harper, supra* at 3646. (Distinguish, *Russell v. Smokerise Bath &c. Club*, 243 Ga. 724 (1979), in which case the trial court had appropriately found it was clear the application for the variance from the setback requirements submitted and granted did not involve the original tennis courts, so that it was appropriate for the trial court to hold the

lighting condition should not be applied "beyond its plain terms", i.e., the "no lights" condition was not be applied to the courts already in existence.)

SO ORDERED, this 12 day of January, 2006.

  
Robert J. Castellani, Judge  
Superior Court of DeKalb County

cc: Kathryn M. Zicker~~s~~, Esq.  
George E. Harvey, Esq.  
Michael J. Lober, Esq.  
Vivian Ernstes, Esq.

LIGHT TYPE - RECESSED LAMP / LOW-IMPACT  
FOCUSED BEAM



# tennis optics™

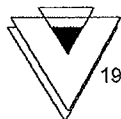
SPORTS LIGHTING

## Installation and Assembly Instructions

### Tennis Arm and Adaptor

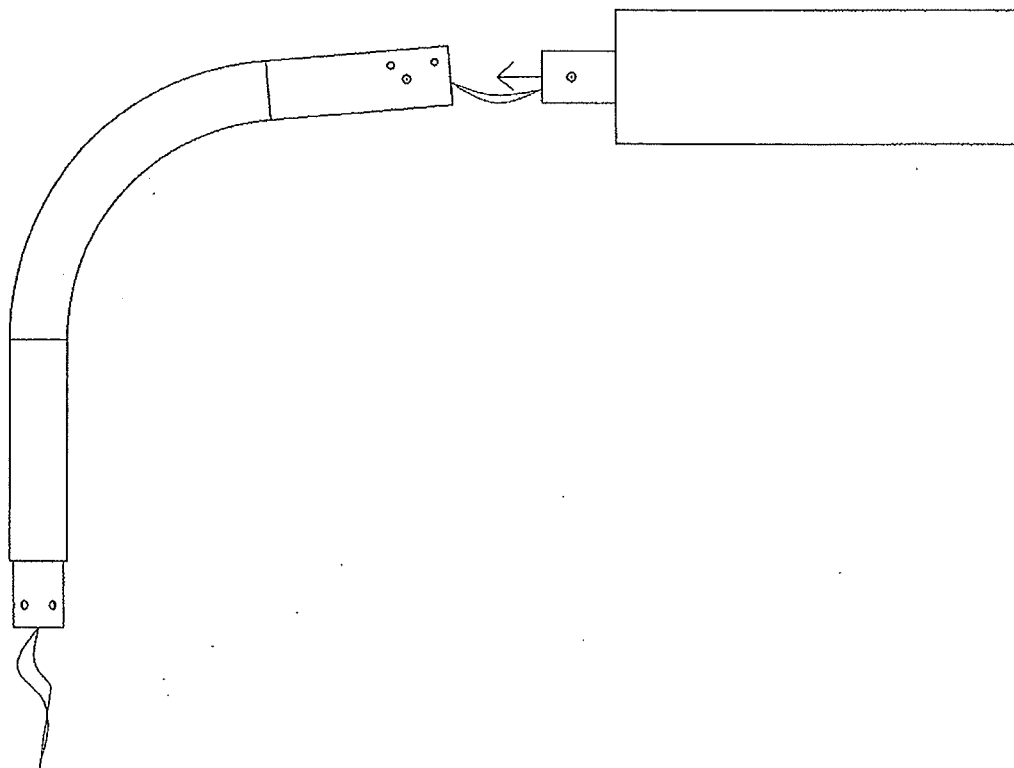
#### **WARNING: RISK OF FIRE OR ELECTRICAL SHOCK**

THIS PRODUCT MUST BE INSTALLED IN ACCORDANCE WITH THE APPLICABLE  
INSTALLATION CODE BY A PERSON FAMILIAR WITH THE CONSTRUCTION AND  
OPERATION OF THE PRODUCT AND THE HAZARDS INVOLVED



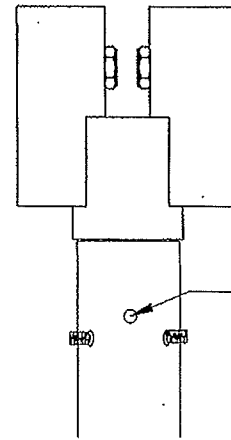
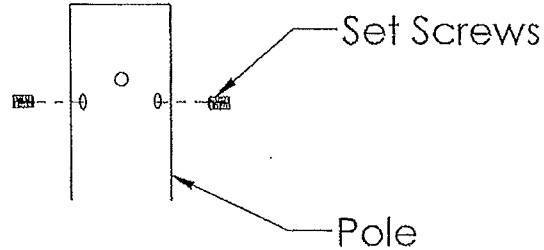
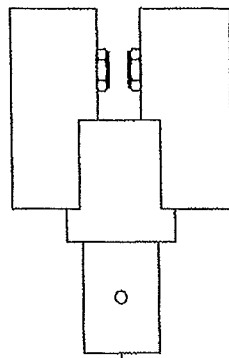
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## Installing Fixture onto Arm

- Push electrical wires into the arm and through the adaptor and into the pole
- Slide Fixture fitter into arm and install thru bolt
- Install set screws and tighten until fixture is secure

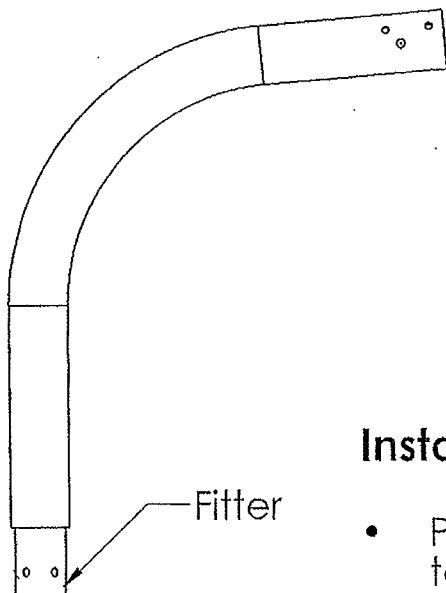


For Thru bolt

### Installing Adaptor

- Put Adaptor into the top of the pole
- Line thru bolt holes and install thru bolt
- Install set screws into the drilled and tapped holes on the pole

Set Sc



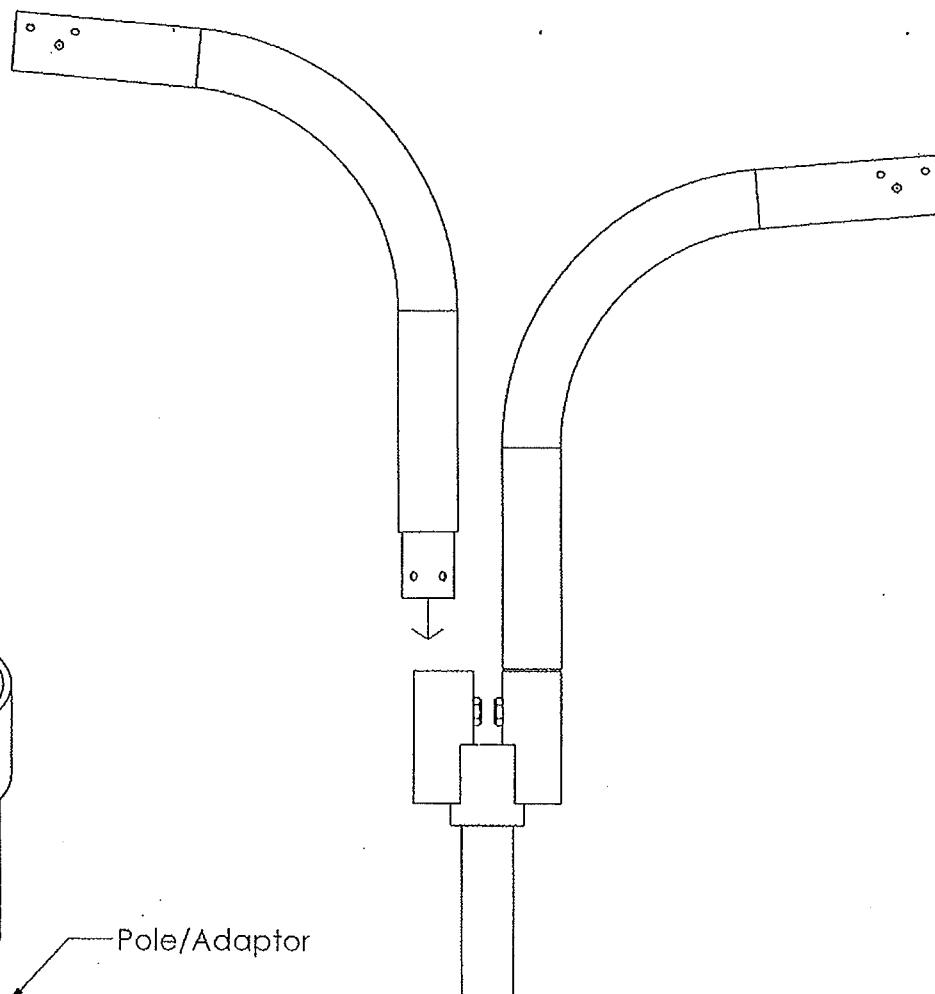
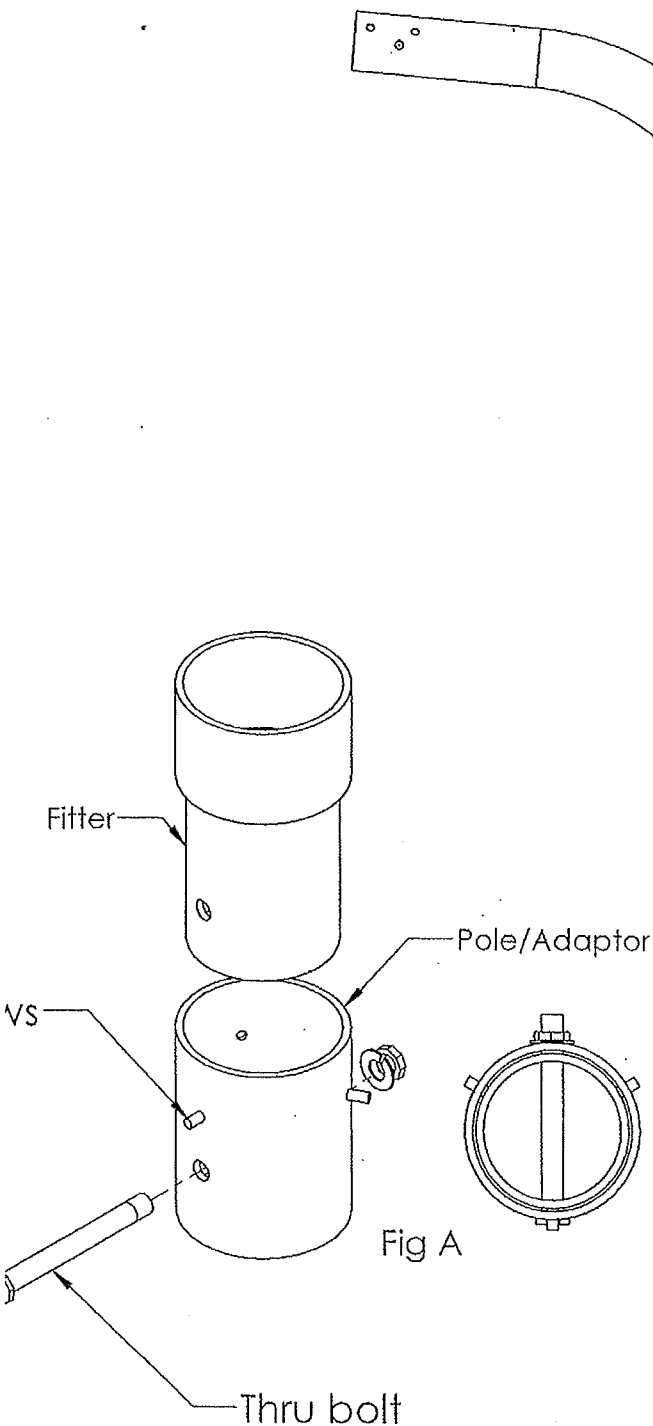
Fitter



Pole

### Install Single Arm into pole

- Put fitter into the top of the pole
- Line thru bolt holes and install thru bolt
- Install set screws into the drilled and tapped holes on the pole



### Install Arms into Adaptor

- Put fitter into top of the adaptor receiver
- Line thru bolt holes and install thru bolt
- Install set screws into the drilled and tapped holes on the pole

### \*Installing wires\*

Make sure to route wires through arms, poles, and adaptors for electrical connections to the fixtures before final assembly! The adaptors and nut plates have holes to route wires internally.





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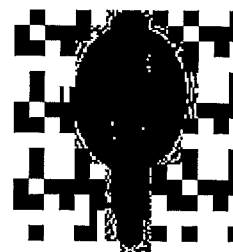
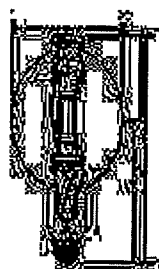
## 41826 – MVR1000/U

GE Multi-Vapor® Quartz Metal Halide BT56

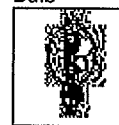


### GENERAL CHARACTERISTICS

Lamp type	High Intensity Discharge - Quartz Metal Halide
Bulb	BT56
Base	Mogul Screw (E39)
Bulb Finish	Clear
Wattage	1000
Rated Life (Hor)	11000 hrs
Rated Life (Vert)	15000 hrs
Bulb Material	Hard glass
Lamp Enclosure Type (LET)	Open Fixture-Restricted Position (S-Rated)
LEED-EB MR Credit	116 picograms Hg per mean lumen hour



Bulb



Base



[View Larger](#)

### PHOTOMETRIC CHARACTERISTICS

Initial Lumens (Hor)	100280
Initial Lumens (Vert)	108000
Mean Lumens (Hor)	79000
Mean Lumens (Vert)	86000
Nominal Initial Lumens per Watt	100
Color Temperature	4000 K
Color Rendering Index (CRI)	65
Effective Arc Length	3 1/2

### ADDITIONAL RESOURCES

[Catalogs](#)

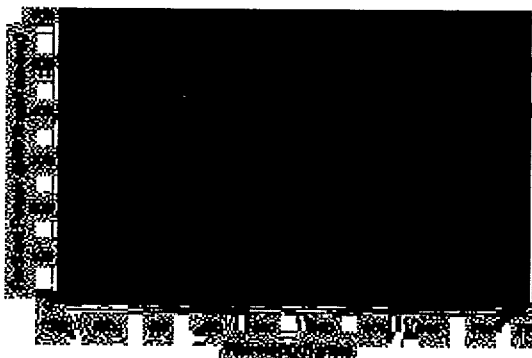
[Testimonials](#)

[MSDS \(Material Safety Data Sheets\)](#)

[Disposal Policies & Recycling Information](#)

### GRAPHS & CHARTS

[Spectral Power Distribution](#)



### ELECTRICAL CHARACTERISTICS

Burn Position	Universal burning position
Open Circuit Voltage (peak lead ballast) (MIN)	750 V
Open Circuit Voltage (RMS lag ballast) (MIN)	530 V
Warm Up Time to 90% (MIN)	2 min
Warm Up Time to 90% (MAX)	5 min
Hot Restart Time to 90% (MIN)	10 min

Hot Restart Time to 90% 15 min  
(MAX)

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**DIMENSIONS**

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Maximum Overall Length (MOL)	15.3700
Nominal Length	15.370
Bulb Diameter (DIA)	7
Light Center Length (LCL)	9 1/2

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**PRODUCT INFORMATION**

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Product Code	41826
Description	MVR1000/U
ANSI Code	M47
Standard Package	Case
Standard Package GTIN	10043168418260
Standard Package Quantity	6
Sales Unit	Unit
No Of Items Per Sales Unit	1
No Of Items Per Standard Package	6
UPC	043168418263

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**COMPATIBLE GE BALLASTS**

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Product Code	Description	# of Bulbs	Power Factor	Ballast Factor
<u>86650</u>	GEM100048TAC5-5	1	90.0	1.0
<u>87213</u>	GEM1000ML5AA5-5	1	90.0	1.0
<u>86655</u>	GEM1000MLTAA5-5	1	90.0	1.0

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**▲ CAUTIONS & WARNINGS**

**R-** WARNING: This lamp can cause serious skin burn and eye inflammation from shortwave ultraviolet radiation if outer envelope of the lamp is broken or punctured, and the arc tube continues to operate. Do not use where people will remain for more than a few minutes unless adequate shielding or other safety precautions are used. Certain types of lamps that will automatically extinguish when the outer envelope is broken or punctured are commercially available. Visit the FDA website for more information:  
<http://www.fda.gov/cdrh/radhealth/products/urburns.html>

See list of cautions & warnings.

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