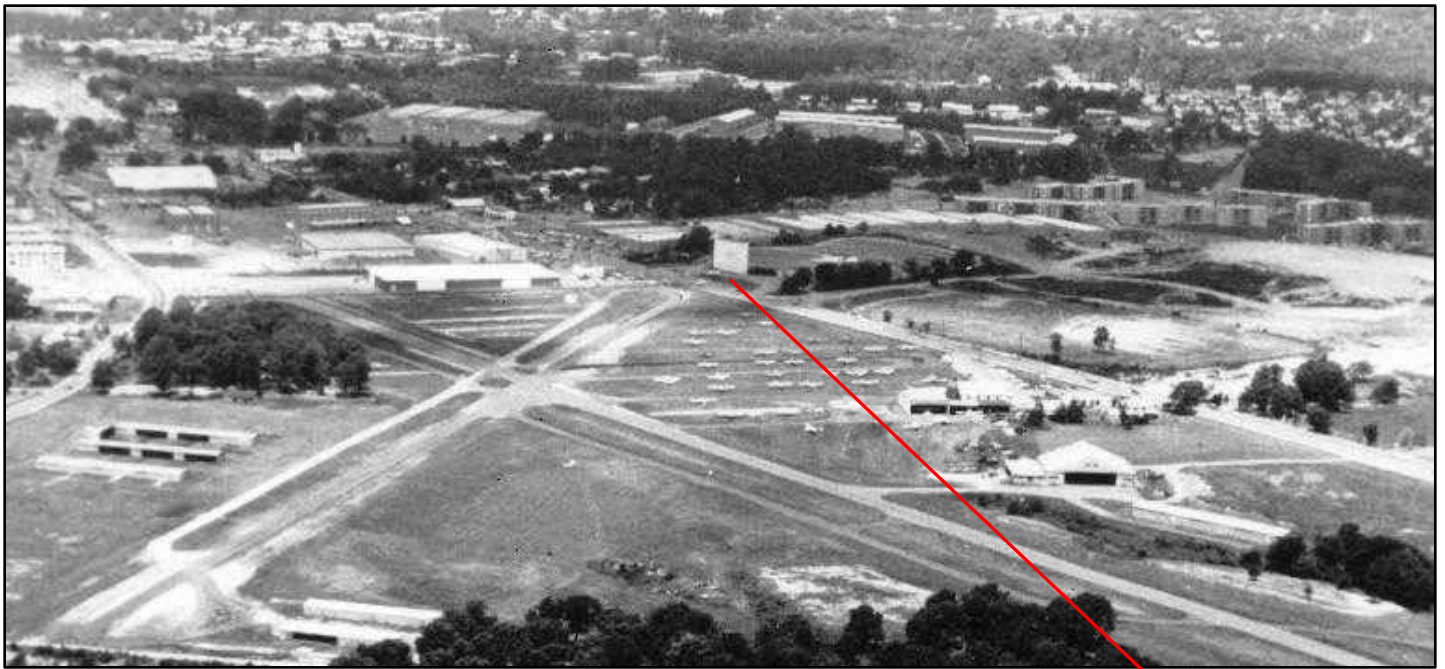


FOUND IN THE ARCHIVES, no. 46 – October 2018
Fairfax Circuit Court Historic Records Center



One of the Historic Records Center's current projects is rehousing chancery cases from the 1940s and 1950s. These court records are being preserved in sturdier, acid-free folders which will help prolong the life of the records. From a historian's perspective, the added benefit of this project has been to expose us to the fascinating history of what was a rapidly modernizing Fairfax, in the mid-twentieth century.

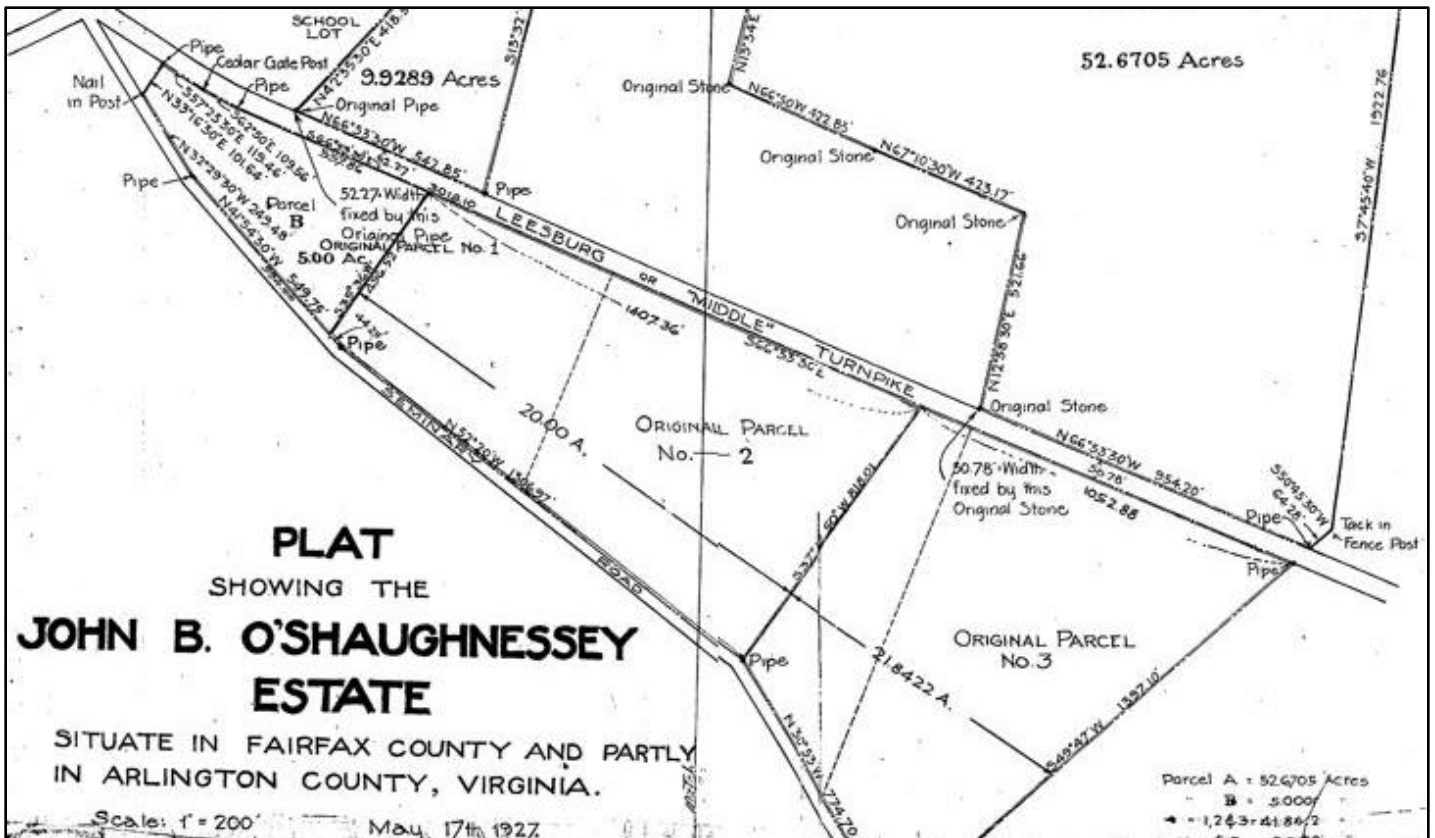


Washington-Virginia Airport's North-South Runway, showing Sunset Drive-In Theater's 52 foot Screen (Courtesy of www.driveins.org)

In 1949, Baileys Crossroads was still rural, making it ideal for booming business ventures needing room to grow. Two such businesses, Washington-Virginia Airport, Inc. and Sunset Drive-In Theater Corporation, found themselves in direct competition for airspace. As can be seen in the photograph above, Route 7, known then, and still, as Leesburg Turnpike, bisected the airport and drive-in theater, marking their respective territories.

Washington-Virginia Airport was a public airfield mostly used by hobby-pilots, although it did service some limited commercial flights. The airport also operated a flying school, and served

as an alternative to other area airfields (including Washington National Airport) during inclement weather.



Plat of O'Shaughnessey Estate drawn May 17, 1927, Fairfax Deed Book D-10, p. 578-A & B

As can be seen in the O'Shaughnessey Plat, the airport was situated on what had been mostly farmland owned by two neighbors, Mary Cornelius and John O'Shaughnessey. In 1941, Mary Cornelius leased part of her land to Everett G. Germain, who set up a small airport. Abingdon Plaza Corporation bought the property and, in 1945, sold it to John D. Benn, on one condition: that he buy "adjoining property to the airport to lengthen the runway by 500 ft" (Fairfax Deed Book 454, p. 126). Benn did just this, buying various surrounding parcels from the O'Shaughnessey heirs. Benn expanded his lands in 1946, with acquisitions of neighboring land from the Heirs of Mary Cornelius, including a parcel with "barn and milkhouse" (Fairfax Deed Book 495, p. 432). With his new land in hand, Benn applied to the Fairfax County Board of Supervisors for permission to enlarge the airport. In May 1947, the Board of Supervisors passed a "Resolution Granting Rezoning Application," rezoning Benn's land from a Suburban Residence District to a General Business District.

THIRD. The nature of the business and the objects and purposes to be transacted, promoted and carried on are to do any or all of the things herein mentioned as fully and to the same extent as natural persons might or could do, and in any part of the world, viz.·

To maintain and operate a public airport; to deal generally in airplanes, flying machines, and dirigible balloons of any and all types whatsoever, of every name and nature, whether of domestic or foreign make; to deal in parts and supplies for said machines; to carry for hire passengers or freight in said machines on special trips; to maintain and conduct a flying school for the general public; to maintain a service station for the repair

Washington-Virginia Airport Incorporated Charter, May 29, 1947, Fairfax Charter Book 6, p. 305

Washington-Virginia Airport, Inc. was incorporated a few days after Benn's application was granted, and Benn became the president, manager and controlling owner of the company. A portion of the charter can be seen at left. Benn continued to own the airport's land, leasing it to the company.



Sunset Drive-In Theater, Baileys Crossroads, c. 1966 (Courtesy of www.drive-ins.org)

Inc. brought suit against Wilson's Drive-In Theater, and were granted a temporary injunction, calling a halt to further construction of the enormous screen.

According to the Bill of Complaint, prevailing winds usually meant that planes had to take off and land at the Route 7 end of the runway, just a handful of feet from the road. For take-off, the planes needed plenty of height clearance to increase their altitude, and for landing, planes needed height to reduce their altitude. According to the complaint, the Sunset Drive-In's

The Sunset Drive-In Theater Corporation was chartered in April 1949. The theater was located at 5500 Leesburg Pike, on land leased directly from Amanda Payne. The corporation president and treasurer, Henry Wilson, signed a ten year lease, and began construction of the theater in May 1949. The projection screen was planned to be 50 feet high, held in place by support towers, and the parking zone was to have a 400-car capacity. However, just after erection of the support towers commenced, Benn and Washington-Virginia Airport, Inc.

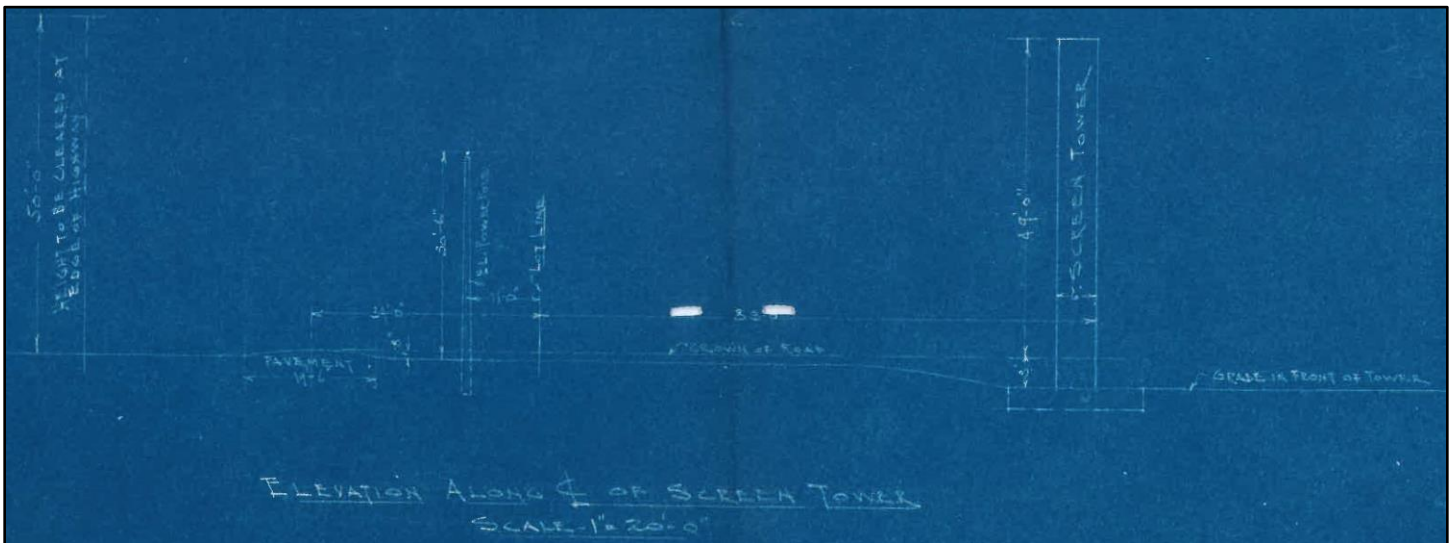
60.107 Minimum safe altitudes. Except when necessary for take-off or landing, no person shall operate an aircraft below the following altitudes:
 (a) **Anywhere.** An altitude which will permit, in the event of the failure of a power unit, an emergency landing without undue hazard to persons or property on the surface;
 (b) **Over congested areas.** Over the congested areas of cities, towns, or settlements, or over an open-air assembly of persons, an altitude of 1,000 feet above the highest obstacle within a horizontal radius of 2,000 feet from the aircraft. Helicopters may be flown at less

Civil Air Regulations - Air Traffic Rules, October 8, 1947

projection screen and support towers were to be located opposite and within 60

feet of the end of the runway, and they would be a “hazard and nuisance to aircraft, ... [and] persons using the said airport and [the construction] is in opposition to the laws of the Civil Aeronautics Administration.” The CAA, created by FDR in 1938, was the precursor to today’s Federal Aviation Administration (FAA).

Benn further complained to the Court that the screen could be a danger to motorists and pedestrians, as planes might hit the screen or “be drawn into a down-draft created by the ... towers and screen” and come down onto Route 7. Civil Air Regulations (see above) stipulated that planes shouldn’t fly at low altitudes over “an open-air assembly of persons,” therefore, the drive-in theater’s operation would be an inherent violation of this regulation.



Defendant’s Exhibit 3: Location Sketches for Wilson Drive-In Theatre, June 13th, 1949

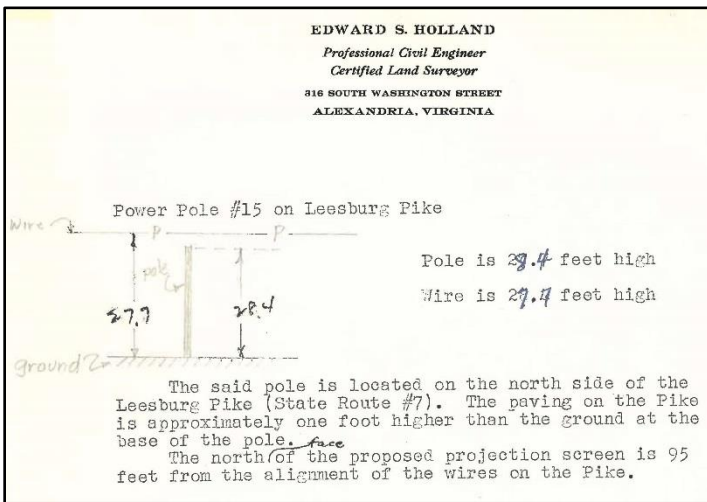
The Sunset Drive-In Theater replied that they were operating under a construction permit from Fairfax’s Commissioner of Revenue. Prior to their lease of the property, their landlady, Amanda Payne, had applied to the Board of Supervisors to rezone the property as a Rural Business District, giving proper public notice. Zoning regulations for this type of district allowed structures to be up to 75 feet high. The Drive-In argued to the Court that they had made a considerable outlay on the lease and construction costs, and a permanent injunction against building would cause an “irreparable loss” to their finances.

Addressing the airport's specific charges, the Drive-In stated that they would not be breaking the Civil Air Regulation concerning open-air assemblies, as drive-in theaters showed films after dark, when the airport was closed to air traffic. As the blueprint shows, the screen towers were to be located 82 to 83 feet away from the opposite bank of Route 7, not 60 feet from the runway, as had been argued by the Airport. The Drive-In further argued that the hobby-pilots and flying students had no legal right to fly over Amanda Payne's property, as the Airport had never sought permission for them to do so and the Payne's had "never granted to the complainant any easement or right to fly over this property at levels not included in the public domain of the air."



As acknowledged by both sides, at the end of the Washington Virginia Airport runway was a rather tall pole supporting electrical cables. Planes taking off or landing had to be able to safely clear this obstruction. Defendant's exhibit number 2 shows a plane coming into land, clearing the electricity pole by a wide margin.

Defendant's Exhibits 1 & 2: Photographs showing Telegraph Pole at end of Runway, and Plane coming in to land, June 1949



Wilson and his Drive-In went to even greater lengths to prove that planes could safely clear the theater's projection screen. The Certified Civil Engineer's sketch at left states that the projection screen was 95 feet from the electricity pole, which would have given outgoing planes the trajectory needed to increase their elevation.

Certified Civil Engineer's Sketch of Telegraph Pole Clearance, June 1949

The Drive-In concluded that the airport itself “creates a menace to the community ... and a threat to the people of the community who are entitled to expect and enjoy the enhancement of real estate values.” If local businesses couldn’t open and operate, real estate values would not rise.

On June 23, 1949, the presiding judge passed a decree dissolving the temporary injunction imposed on the Sunset Drive-In Theater’s construction, denying a permanent injunction and dissolving the case.

The Sunset Drive-In Theater began showing movies in August 1949. By the 1970s, demand for drive-in theaters had shrunk, and the theater switched to showing X-rated movies to stay afloat. Owing to encroachment on the theater by surrounding apartment blocks whose inhabitants could see the non-kid-friendly movies from their windows, the theater was forced to close in 1974. The site is now occupied by a DSW shoe store.

The Washington-Virginia Airport closed in 1970, following a decline after the death of John D. Benn. The Benn family partnered with developers and the site became part of what is now the Skyline Towers complex in Falls Church.

For more information on these and other records held at the Fairfax Circuit Court Historic Records Center, please call 703-246-4168 or email CCRHistoricRecords@fairfaxcounty.gov.

Sign up for *Found in the Archives*, the monthly newsletter of the HRC:

<https://www.fairfaxcounty.gov/circuit/historic-records-center>