

BOARD OF COUNTY COMMISSIONERS' MEETING

Tuesday, August 27, 1985

Present: Commissioner Richard D. Arnold  
Commissioner Ford L. Dean  
Commissioner David F. Sayre  
Edward V. Cox, County Administrator  
Judith A. Spalding, Recording Secretary

(Commissioner President George R. Aud was not present due to illness.)

CALL TO ORDER

The meeting was called to order at 10:05 a.m.

APPROVAL OF MINUTES

Commissioner Arnold moved, seconded by Commissioner Sayre, to approve the minutes of the Commissioners' meeting of Tuesday, August 20, 1985. Motion carried.

APPROVAL OF BILLS

Commissioner Arnold moved, seconded by Commissioner Sayre, to approve payment of the bills as submitted. Motion carried.

COUNTY ADMINISTRATOR ITEMS

Present: Edward V. Cox, County Administrator

1) DONCASTER YOUTH CENTER

The County Administrator presented correspondence from Charles County Commissioners expressing concern about the State's efforts to construct a youth center in Doncaster. The modifications to the proposal for the Center do not adequately address the communities' needs and would be inferior to the other youth centers throughout Maryland. St. Mary's County's support was requested, and, therefore, Mr. Cox presented correspondence to Governor Hughes concurring with Charles' County's position.

The Commissioners agreed to sign and forward said letter.

2) PERSONNEL

The County Administrator presented the following personnel items for the Commissioners' review and consideration:

a) Sheriff's Department  
Typist Clerk III

Memorandum dated August 26, 1985 from Personnel Officer recommending the appointment of Patricia Hohneck to the Typist Clerk III position, Grade 7/5-0, effective September 3, 1985.

Commissioner Arnold moved, seconded by Commissioner Sayre, to accept this recommendation. Motion carried.

b) Office of Economic & Community Development  
Fiscal Clerk Position - Conversion to Full-Time

Memorandum dated August 26, 1985 from Personnel Officer advising that the Director, Mr. Mitchell, has requested conversion of the part-time Fiscal Clerk position, Grade 8/6 occupied by Brenda Hewitt, to full-time because of the increase in Block Grant programs.

Commissioner Sayre moved, seconded by Commissioner Arnold, to grant this request. Motion carried.

c) County Commissioners' Office  
Typist Clerk II

Memorandum dated August 27, 1985 from Personnel Officer recommending the appointment of Judy Landram to the Typist Clerk position, Grade 6/4, vacated by Paula Russell, effective August 28, 1985.

Commissioner Sayre moved, seconded by Commissioner Arnold, to accept this recommendation. Motion carried.

HOUSING CONSTRUCTION CONCERNS

In light of recent stormwater damage to homes in the Fifth District, Commissioner Arnold discussed with the Board how such problems could be avoided in the future. He stated that he looked at two or three homes that had just been built or were being built that had collapsed following the recent rainstorm last weekend.

After discussion about whether there was a need for a building code in the County, the Commissioners agreed to request the Director of Planning and Zoning to come before them next week to discuss what is being done and what should be done in regard to this situation.

EXECUTIVE SESSION

Present: Edward V. Cox, County Administrator

Commissioner Arnold moved, seconded by Commissioner Sayre, to meet in Executive Session in order to discuss matters of Personnel. Motion carried. The Session was held from 10:40 a.m. to 11:20 a.m.

EMBRY-RIDDLE AERONAUTICAL UNIVERSITY

Present: Gene Wood, Director, Patuxent River Campus

Mr. Wood appeared before the Commissioners to inform the Commissioners of the existence of Embry-Riddle University at the Patuxent River Naval Air Station. The University provides a full range of educational opportunities relative to aviation. Mr. Wood showed a film depicting the history, expansion, programs and enrollment of Embry-Riddle and distributed brochures and a catalogue about the college. Mr. Wood further advised that it is his intention to make a presentation to the schools in order for students to make intelligent decisions regarding furthering their education.

The Commissioners expressed their appreciation to Mr. Wood for his presentation.

COMMENDATION  
MATT KAYE

The Commissioners presented a Commendation to Matt Kaye, Radio Station WKIK news reporter, upon his leaving the County to assume a new position in Washington, D. C.

OFFICE OF PLANNING AND ZONING

REZONING HEARINGS

1:00 P.M.

Commissioners present: Ford Dean, David Sayre, and Richard Arnold. Commissioners Aud and Millison were absent. Staff present included: Frank J. Gerred, Director, Robin Guyther, Planner, and Anita M. Meridith, Recording Secretary.

Members of the audience included: Matt Kaye, Judy Landau, Ingrid Hebb, Howard O. Lamb, Jr., Rachelle Millison, Debbie Zalesak, Alfred Blumberg, Viki Volk, Lawrence Wayne Caples, Oliver R. Guyther, Eileen K. Straughan, William Higgs, Larry O'Brien, Louis Shaw.

Mr. Guyther read the Notice of Public Hearing aloud, as advertised on Wednesday, August 7, 1985, in "The Enterprise" Newspaper, a publication of county-wide circulation, providing legal notice for the following public hearing:

ZPUD # 84-1230: J. L. MILLISON/SHANNON FARMS

Requesting rezoning of 250 acres from R-1, Rural-Residential, to PDR 3.0, Planned Development Residential, to permit 738 dwelling units. The property is the site of the proposed "SHANNON FARMS" development on Hermanville Road in the Eighth Election District, shown on Tax Map 52, Block 10 as Parcel 8.

The applicant's legal representative, Mr. F. Michael Harris, Esq., came forward and presented for the record a photograph offering visual evidence of posting of the property and copies of correspondence attached to each postal receipt from the certified mailings of notification sent to all contiguous property owners, marked Applicant's Nos. 1 and 2, respectively.

Mr. Harris familiarized the Commissioners as to the location of the subject property - below the Patuxent River Naval Station, off Route 235 on Hermanville Road, adjacent to the Cedar Cove (Spy Glass) development. Counsel noted that this rezoning request to PUD 3.0, would allow 738 dwelling units on the 250 acre tract. In order to avoid repetitious testimony, Mr. Harris advised that he would let the record stand on its own. He reflected on several key testimonies previously offered e.g. Mr. Joseph Mitchell of the St. Mary's County Housing Authority, who had proffered testimony in an effort to provide/establish the "legal requirement of need." Counsel emphasized that under a PUD request, the change and/or mistake rule did not apply, as this zoning category was considered a "floating zone" and thus the plan was required to satisfactorily address the need (See Planning Commission Minutes of April 8, 1985). Mr. Mitchell's testimony had indicated that in order to keep up with the need for housing, based on the established 1980 rates, a number of 500 - 600 new houses would be required each year. Counsel stressed that this property was located within an area which had been designated by the County as the area for urban development. Testimonies and other statistical data previously proffered at the Planning Commission's public hearing were referenced, with regard to the traffic report and road analysis, prepared by Mr. Lee Cunningham. Following lengthy analysis, both the OPZ staff and Planning Commission issued a positive recommendation, with specific stipulations which addressed the concerns dealing with Hermanville Road, as follows:

1. Development be limited to a maximum of one hundred (100) residential units per twelve (12) month period.
2. Long Lane MUST be expanded to four (4) lanes when a total of one thousand (1,000) building permits have been issued at Cedar Cove and Shannon Farms combined.

3. The turn lane at Hermanville Road and Route 235, the deceleration lane at Hermanville Road and Long Lane, and the passing lane opposite Long Lane will be constructed prior to the one thousandth (1,000) dwelling unit building permit being issued at Cedar Cove and Shannon Farms combined.

Mr. Harris introduced Mr. Alfred S. Blumberg, II, Director of Planning with the Land Planning and Design Group, address 15861 Crabbs Branch Way, Rockville, Maryland 20855, Telephone: 301-840-9855 and Ms. Eileen K. Straughan, an environmental scientist with the Kamber Engineering Firm, who provided particulars with respect to the in-depth physical analysis and environmental studies conducted on this property.

Mr. Blumberg provided in booklet form for each of the members, a planning report, prepared for the rezoning of the Shannon Farm in Lexington Park, which contained introduction to the application, property description (physical characteristics), identification plat, development plan, vicinity map, development site information/program, tentative development schedule, design, land use plan, schematic architectural configurations, parking lot dimensions, and detailed information regarding open space provisions, purpose of the PUD zone, water service, sewer service, storm drainage, schools, transportation, solid waste management, other utilities, fiscal management, reference to the St. Mary's County Comprehensive Plan, waterfront protection zone, sedimentation and erosion control plans, and shoreline erosion control evaluation.

Mr. Blumberg made a presentation, aided by a series of maps, and he outlined the changes to the original concept, which took into consideration the parameters of the environmental analysis (includes Chesapeake Bay and Critical Areas Bills) of the property.

An aerial photograph of the property provided orientation as to the location and natural features of the site, contiguous properties and landmarks. A survey plat was displayed, indicating the tract as 246.174 acres. The major portion of the property is heavily wooded with a cleared 25 acre field located in the north-eastern corner. The property is bounded on the east by the Chesapeake Bay and on the north and south by some wetlands with two small streams running up into the property. An Elevation and Drainage map was displayed, also a Slopes Analysis Plat and Soils Analysis Map. Areas of critical concern were identified on the latter display in dark green, included in a 150 ft. buffer all around the conservation area, which would not exceed 10% impervious surface. In addition, there is a 25 ft. area (indicated in blue) buffer where no development would occur. Map entitled Land Use Plan was displayed, explained by Mr. Blumberg, illustrating in yellow, single family detached units, orange area designated for townhouses, lighter orange area will contain small villas. Also noted on the plat, was the 1,000 ft. set-back from the bay, wherein the applicant was proposing maximum of 3 d.u.'s per acre. The area of some of the recreation facilities was designated in light green (ballfields, central recreation to include swimming pool, etc.). Over 50% of the property will be retained as open space. The development envelopes, previously outlined by color codes, thus constitute less than 50% of the property. Mr. Blumberg spoke at length to the characteristics of the plan and further noted areas of pedestrian and bicycles paths, equestrian center and riding paths, small commercial area - shifted from the previous site more towards the interior, and area to the south where a small boat ramp and parking facilities will be provided (this amended plan does not provide for a pier as incorporated in the previous plan). The commercial area will provide for a combination of office and small retail spaces, aimed to serve the residential needs of this community.

Commissioner Dean asked for a clarification in terms of the percentage of impervious surface. Mr. Blumberg advised that within the designated critical area/conservation areas, in accordance with the Patuxent Study, there would be less than 10% impervious surface within said 150 ft. area. Mr. Blumberg ventured that the total amount of imperviousness for the entire site would be somewhere in the range of 15% - 20%.

Commissioner Arnold asked Mr. Blumberg to elaborate on the proposed water and sewer systems for this proposed project. Mr. Blumberg advised that he had discussed the concept with the St. Mary's Metropolitan Commission with regard to capacities, etc. and had been advised that the force main ran through a portion of the property along Hermanville Road and that capacity was available to run smaller force mains from this development into that feeder. With regard to water, Mr. Blumberg advised that there would be need for additional water storage. Mr. Harris injected that the Planning Commission had pondered over this consideration (allocation of sewage capacity) and had included in their recommendation, a "cap" of 100 units per year (seven year build out projected for this development). Mr. Guyther injected that the Metropolitan Commission had just provided the Planning Commission with a report on the available EDU's (as of August 12, 1985 there are 3,400 EDU's remaining).

Commissioner Dean remarked that he realized that the matter of the water appropriation process was a function of the State, however, he questioned at what point the County should consider accessing the Potomac Sands Aquifer for large scales projects such as this, as opposed to the Aquia. Mr. Guyther advised that just recently, the newer water resources for the larger multi-housing projects were being required to go to the deeper aquifer. Mr. Guyther emphasized that if a new well was required for this project, that source would definitely be required to tap into the Potomac Sands.

Commissioner Dean noted that as presented, this proposal had been plotted against the requirements of the Chesapeake Bay Critical Areas Legislation and he asked specifically whether the plan was in conformance with those regulations. Mr. Gerred responded that the proposal as submitted, had indeed, met the criteria for limited development as proposed by the Chesapeake Bay Critical Area Bill. With regard to this concern, Ms. Eileen Straughan came forward and advised how the referenced legislation/definitions had been used in her analysis in deriving this plan which provide for preservation of water quality and the natural habitat. Mrs. Straughan advised that this plan was realized only after numerous meetings with the Department of Naural Resources, staff from the Patuxent Naval Air Station, Department of Health and Mental Hygiene, State Planning and numerous evaluations of the site. She elaborated on the process followed with respect to identification of the vegetation and wildlife found on the site, evaluation of that habitat, and other pertinent elements considered in formulating her report and subsequent recommendations.

Mr. Gerred felt that the Commissioners should be aware of the fact that the Maryland Natural Heritage group had walked the site and made some recommendations, which were also followed by the developer.

Mr. Harris offered closing remarks and stressed that it was most important that the Commissioners understand and fully recognize the length and breath of the analysis and process undertaken by the applicant in reaching this final plan.

Commissioner Dean asked whether anyone wished to speak either in favor or opposed to this project.

Ms. Debbie Zalesak, resident of Cedar Cove, mailing address: 100 Defender Street, Lexington Park, stated that she had three concerns relative to this proposal, i.e. rationale for this type of high density housing, increase in traffic on Long Lane and the need to place a covenant which would provide notification to potential buyers that this was a high noise area. In response to Ms. Zalesak's testimony, Mr. Guyther advised that Cedar Cove recently had 95 single family lots approved and thus, they

were planning on building additional detached housing. With regard to noise attenuation, he advised that indeed this property was located in a noise attenuation zone and thus the applicant must provide specific types of insulation and window insulation, the same as Cedar Cove. Additionally, Mr. Guyther advised that there were provisions in the Ordinance that plats and deeds must notify potential buyers regarding the high noise zone. With regard to Ms. Zalesak's second concern, Mr. Guyther advised that the Planning Commission had recommended, as part of their approval, that Long Lane must be expanded to four lanes, at such point that 1,000 building permits had been issued for either Cedar Cove or Shannon Farms, combined. Staff advised that there were currently approximately 600 units in Cedar Cove. Thus, when fully developed, Long Lane would be constructed with two travel lanes in each direction, as opposed to one, thereby improving the traffic flow in this area.

Viki Volk, Enterprise reporter, asked for a clarification regarding the set-backs in the buffer zones; said explanation provided by Mr. Gerred.

Hearing no further testimony, the hearing and record was closed. The Commissioners will take the matter under advisement and make decision at a later date.

NOTE: MR. ROBIN GUYTHER, PLANNER, OPZ, DID NOT PARTICIPATE IN THE FOLLOWING CASE.

ZONE # 85-0599: NEW COLONY HOMES

Requesting rezoning of 39 acres from R-1, Rural-Residential, to R-2, Low Density Urban Residential. A 74 lot subdivision to be served by public water and sewer is proposed for the site. The property is located on Essex Drive, Lexington Park, in the Eighth Election District, shown on Tax Map 51, Block 4 as Parcel 376.

Mr. Gerred, Director of the Office of Planning and Zoning, read the public hearing notice aloud into the record, as published in the August 7, 1985 issue of the "The Enterprise" Newspaper, a publication of general county-wide circulation, thereby offering legal notification of this public hearing process.

Legal representative, Oliver R. Guyther, Esq. came forward, accompanied by Bill Higgs, of the J. R. McCrone Engineering firm. Entered into evidence, marked Applicant's No. 1, find postal receipts from the certified letters of notification sent to all contiguous property owners within 200 ft. of the subject property. Counsel verified that the property had been legally posted with the placard, as provided by the OPZ.

The Planning Commission record was formally entered into the record at this point.

Mr. Guyther advised that the subject property was comprised of 39 acres and was an extension of Essex Drive. Referencing a large posted site map of the area, counsel referenced the Great Mills Road and reiterated that the neighborhood was being defined as Willows Road on the west, Route 246 on the north and the SMECO transmission lines on the east. Mr. Guyther advised that he would refrain from repetitive testimony and would therefore rely on those testimonies previously submitted into evidence during the Planning Commission's public hearing.

Mr. Bill Higgs came forward and spoke to the engineering aspects of the property. An aerial photograph of the property was posted and Mr. Higgs offered a visual presentation of the boundaries of the property and contiguous properties and landmarks. Mr. Higgs identified the zoning categories of the surrounding area, several contiguous properties having recently been rezoned. He advised that this 39 acre parcel was completely wooded. Entrance to this property will enter from Essex South (extension through) with connection streets provided to Willows Road.

Mr. Michael O'Brien advised that the owners of the property are James R. and Hazel G. Owens. New Colony Homes, Inc., is listed as the contract purchaser (Larry O'Brien, President).

A large map of the site, drawn to 1" = 100' ft. scale, was posted of the entire site. Mr. Higgs provided a visual presentation as to the street/road patterns. He noted the area of an existing ridge line where the majority of the natural drainage was directed; 4.3 acres drains towards Essex South with a smaller portion draining towards Hilton Run (the latter area being in the vicinity of the 14 acres of designated open space = 30% of the total site). Mr. Higgs stressed that while R-2 zoning only required 6% open area, this plan far exceeded that amount.

Commissioner Arnold asked whether the development of this property might alleviate some the existing drainage problems occurring on an adjacent property. Mr. Higgs responded that the applicant had proposed to "over-manage" this site to help correct some of the problems. He stressed that certainly the applicant could not be expected to correct the entire problem on adjacent properties, that this would have to be a joint effort between the County and several of the adjoining property owners to effect a revision of the drainage pattern in the lower part of Essex South.

Commissioner Dean also had question with regard to stormwater management and asked whether the applicant was in concurrence with the TEC remarks submitted by the Office of Public Works (i.e. "This project cannot be developed until the drainage problems which currently exist at the end of Williams Drive, Lynn Drive and Essex Drive are resolved. The drainage problems with Essex Drive resulted in court litigation unfavorable to development.") Mr. Higgs responded negatively and reiterated that the applicant was proposing to manage all the increased water from their site and in doing so would resolve some of the problems occurring on contiguous land. Mr. Gerred injected that it should be noted for the record, that the applicant had offered to "over-manage" that four acre drainage that went into the Essex South problem area. Thus, Mr. Gerred explained that the Planning Commission had felt that the applicant was "doing his part." Mr. Higgs added that if some arrangement could be made that the problems occurring in this drainage area could be resolved as a group, then the applicant would be willing to participate in that effort.

Commissioner Dean asked whether the request was based on change or mistake. Mr. Higgs responded that it was based on both. He explained that it was felt that since the property was completely surrounded by high density development, this restricted zoning was viewed as incompatible with the neighborhood, also considering the fact that central water and sewer was readily available. Mr. Higgs stated, "To develop this in acre lots, it doesn't make it quite cost feasible, when in fact, the entire area around here is surrounded by higher density." Mr. Gerred advised that the R-1 zoning was put in place prior to the establishment of the Aircraft Overflight Areas (AOA) and was held at R-1, anticipating that impact. However, when the study was completed, it was no longer necessary to retain the lower density and thus, there should have been a comprehensive rezoning of that R-1 exclusive area.

The Chair asked whether anyone wished to speak either in support or opposed to this proposed rezoning.

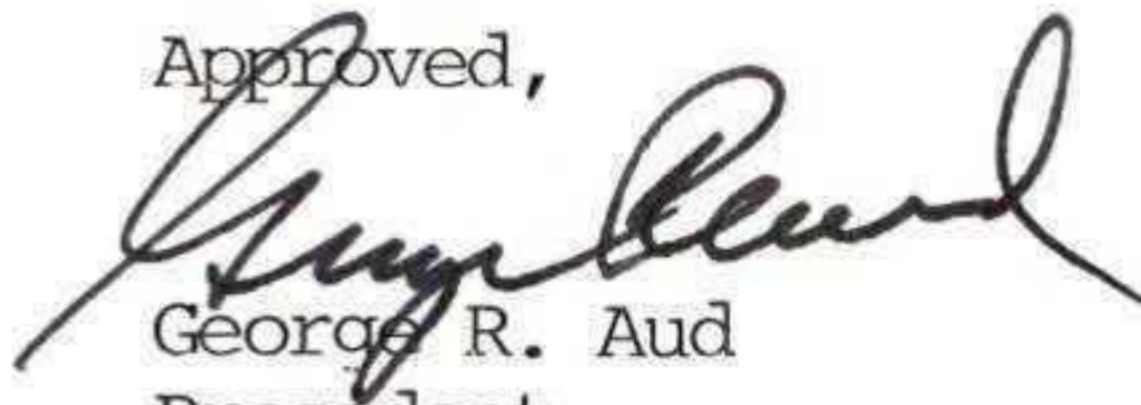
Judy Landau, reporter with WPTX-MDM Radio, asked how many units per acre were being considered. Mr. O'Brien advised that if approved, 79 units would be allowed. Ms. Landau asked what type of housing was being considered and the price range for same. Mr. O'Brien advised that plans were to stay compatible with the existing neighborhood of Essex South, Sections I and II and thus, the units would be in the \$70,000 to \$100,000 price range.

Hearing no further testimony, the Chair announced that the hearing and record would be closed. The Commissioners would thus, take the matter into consideration and will make a decision at a later date.

ADJOURNMENT

The meeting adjourned at 2:20 p.m.

Approved,

A handwritten signature in black ink, appearing to read "George R. Aud". The signature is written in a cursive style with a large initial "G".

George R. Aud  
President