

BOARD OF COUNTY COMMISSIONERS' MEETING

Tuesday, August 29, 1989

Present: Commissioner Carl M. Loffler, Jr., President
 Commissioner W. Edward Bailey
 Commissioner John G. Lancaster
 Commissioner Rodney Thompson
 Edward V. Cox, County Administrator
 Judith A. Spalding, Recording Secretary

(Commissioner Jarboe was not present at the meeting.)

(Commissioner Bailey was not present at beginning of meeting.)

The meeting was called to order at 9:05 a.m.

APPROVAL OF MINUTES

Commissioner Thompson moved, seconded by Commissioner Lancaster, to approve the minutes of the Commissioners' meeting of Tuesday, August 22, 1989. Motion carried.

APPROVAL OF BILLS

Commissioner Thompson moved, seconded by Commissioner Lancaster, to approve payment of the bills as presented. Motion carried.

COUNTY ADMINISTRATOR ITEMS

Present: Edward V. Cox, County Administrator

1) SURPLUS PROPERTY - HOLLYWOOD SHORES

The County Administrator advised that some time ago the Commissioners were requested to dispose of Lot 12 in Hollywood Shores, and the Commissioners directed that it be disposed of through a sealed bid process. He stated that the sale has been completed and the Deed conveying the property to the successful bidder is prepared for the president of the Board's signature.

Commissioner Thompson moved, seconded by Commissioner Lancaster, to authorize Commissioner Loffler to sign the Deed as presented. Motion carried.

2) CALLING LETTERS OF CREDIT

On behalf of the Director of Public Works, the County Administrator presented the following correspondence calling letters of credit:

- ° Forest Run Drive To Maryland Bank and Trust calling Letter of Credit #61-A in the amount of \$14,300 for The Winston Corporation Public Works Agreement.
- ° Hickory Nut of Wildewood To Maryland Bank and Trust calling Letter of Credit #281 in the amount of \$52,000 for Paragon Builders, Inc.
- ° Country Lakes Subdivision Section III To First National Bank of St. Mary's calling Letter of Credit #A1-7-22-1988 in the amount of \$10,000.
- ° Country Lakes Subdivision, Section III - To First National Bank of St. Mary's calling Letter of Credit #A3-10-1-1987 in the amount of \$75,000.

- ° Wildewood Boulevard Mall Entrance To Maryland Bank and Trust Co. calling Letter of Credit #277 in the amount of \$121,500.

Commissioner Thompson moved, seconded by Commissioner Lancaster, to authorize Commissioner Loffler to sign the correspondence as presented. Motion carried.

3) REQUEST FOR BY-LAWS

The County Administrator advised that early this year a number of Boards, Committees and Commissions had submitted by-laws for approval by the Commissioners; however, there are some that had not been requested to do so at that time; therefore, Mr. Cox presented correspondence addressed to various Boards, Committees and Commissions requesting the submission of by-laws.

The Commissioners agreed to sign and forward correspondence.

4) MARYLAND SHIPPING POINT ADVISORY BOARD

The County Administrator presented correspondence addressed to Secretary of Office on Aging, Rosalie Abrams, submitting names of St. Mary's County's representatives to the Maryland Shipping Point Advisory Board as previously appointed by the County Commissioners.

The Commissioners agreed to sign and forward the letter as presented.

5) HIGHWAY NEEDS INVENTORY

As a follow up to discussion held August 22, the County Administrator presented correspondence addressed to State Highway Administration expanding the County's Highway Needs Program.

The Commissioners agreed to sign and forward the letter as presented.

6) CHARLES COUNTY COMMUNITY COLLEGE INSTRUCTIONAL PROGRAMS

The County Administrator presented a response to correspondence dated July 10, 1989 from the Community College Advisory Board stating that the Commissioners would not be able to approve the request for funds for new instructional programs and recommending that the request be resubmitted in the Fiscal Year 1991 budgetary process.

Commissioner Lancaster moved, seconded by Commissioner Thompson, to sign the letter as presented. Motion carried.

7) OLD ROUTE 5/ROUTE RAILROAD RIGHT-OF-WAY

As a follow up to last week's discussion, the County Administrator presented correspondence addressed to the Maryland Veterans Home Commission at Charlotte Hall stating that the Department of Public Works has reviewed the situation and will be cleaning up the area, signs prohibiting dumping will be posted, and signs placed at both entrances prohibiting motorized vehicles.

The Commissioners agreed to sign and forward the letter as presented.

8) CHARLES COUNTY COMMUNITY COLLEGE AT ST. MARY'S

The County Administrator presented a request from the Dean of Charles County Community College requesting a waiver of the building permit fee for the construction of three temporary modular units.

In that the request complies with Resolution 75-53, Commissioner Lancaster moved, seconded by Commissioner Thompson, to approve the request for waiver. Motion carried.

9) OFFICE ON AGING
REORGANIZATION

The County Administrator advised that the Director of Office on Aging has requested approval to reorganize that office and, therefore, presented a memorandum dated August 28 from the Personnel Office with an attached organization chart for the Office on Aging. Mr. Cox requested the Board's approval of the reorganization as described in the memorandum and attachment.

Commissioner Lancaster moved, seconded by Commissioner Thompson, to approve the reorganization plan for the Office on Aging as requested. Motion carried.

(Commissioner Bailey entered meeting - 9:25 a.m.)

ALLIANCE FOR ALCOHOL AND DRUG ABUSE PREVENTION
SECOND ANNUAL FUNDRAISER GOLF TOURNAMENT

Present: Joseph Dick, Alliance Coordinator

Mr. Dick appeared before the Board to invite the Commissioners to participate in the Second Annual Fundraiser Golf Tournament to be held at the Wicomico Shores Golf Course on September 29. The tournament is to raise funds for the Alliance for Alcohol and Drug Abuse Prevention Program.

OFFICE OF PLANNING AND ZONING
9:30 a.m.

Present: Jon Grimm, Director
Peggy Childs, Recording Secretary.

CRITICAL AREA CONTRACT

Mr. Grimm announced that the letter to the Critical Area Commission outlining the Scope of Work had been accepted and sent back for the Commissioners' signature. Mr. Lancaster moved to authorize President Loffler to sign the \$45,500 Contract for St. Mary's County. Commissioner Thompson seconded; motion passed. Mr. Cox requested a copy be provided to the Director of Finance when executed by the State.

ZONING DECISION

ZONE #89-0433 - LAND OF T. KING CLARKE
Requesting rezoning of 1.091 acres from R-2, Rural-Residential, to C-2, Commercial, for this site within the development district of Lexington Park, located along the north side of MD Route 235 between Town Creek Drive and Maple Road; shown on Tax Map 35C as Parcel 17.

The public hearing having been held on August 15, 1989 and consideration given, Commissioner Bailey moved to approve this rezoning from R-1 to C-2, on the basis of "change in the neighborhood" as supported in the applicant's Findings of Fact. Commissioner Lancaster seconded; motion passed.

SEWER CATEGORY CHANGE

SPEC #89-1187 - MACKALL & MARTEL RICKETTS
Requesting sewer category change from S-5 to S-3 for three lots off of Rosebank Road, zoned R-1/RCA & RPD, located in Compton, 3rd Election, shown on Tax Map 39, Block 24, as Parcels 48, 50 and 102.

This public hearing was also held on August 15th. The applicants are requesting w/s approval to allow them to "get in line" should additional capacity be found in the St. Clements Shores WWTP, and to begin engineering to lay their own sewer line, if necessary. All capacity available in the plant

currently has been allocated. MetComm states additional capacity may be allowed by the State, but not for probably another two years. Staff recommends a comprehensive study by OPZ, Health Department and MetComm be done for the entire area to determine how much capacity is needed and where the sewer lines will go, and that this approval be denied at this time or at least deferred pending the completion of the comprehensive study, which, if undertaken, should follow the same time frame of the 1992 Comprehensive Water & Sewer Plan Update.

Commissioner Bailey moved to approve the w/s change so the Ricketts may begin their engineering process if they choose; but also staff is instructed to begin the comprehensive study immediately. The motion was seconded by Commissioner Thompson and passed unanimously.

APPEAL OF PLANNING COMMISSION DECISION

FSUB #88-0460 - SWAN'S REST SUBDIVISION
ection 2)

Requesting final approval of Lots 1 thru 5 of this property containing 95.681 acres total and located in the 3rd Election District off of MD Route 244, zoned R-1/RPD, and shown on Tax Map 49, Block 14, as Parcel 137.

Appellant/Applicant: Donald Cryer
Attorney for Applicant: Oliver Guyther

This is an appeal by applicant from the Planning Commission's decision that the road for this subdivision be paved not only for Section 2, at the front of this property, but for its entire length through the 7 lot minor subdivision which exists on the water. Applicant contends he should only be required to pave that portion of the road which serves the proposed subdivision, or to the cul-de-sac which serves Section 2. DPW states, and their position was summarized and reaffirmed in a memorandum to the County Commissioners dated August 25, 1989, that the applicant was told from the beginning that any development beyond the approved minor subdivision would require building the road to public standards.

Commissioner Bailey maintained he doesn't think the County has the authority to require paving the road through the minor subdivision, which is deeded and maintained to those individual property owners, who do not want a public road. However, Commissioner Loffler stated our regulations say the road has to be paved all the way down, and, although he can understand the applicant's position from a common sense approach, he is concerned about the precedent this will set, if approval is given. This was also the Planning Commission's concern.

Mr. Grimm advocated to the Commissioners a clarification in the rewrite of the Subdivision Regulations that a minor subdivision will be for "X" number of lots only, and anything over that number will be a major subdivision and public road standards will apply.

It was a consensus of the Commissioners to delay a decision on this matter for 90 days, pending a rewrite of the Subdivision Regulations by staff.

BOATEL CALIFORNIA

Present: Joe Densford, Asst. County Attorney

Commissioner Loffler abstained from participation in this matter. Vice President John Lancaster chaired this portion of the meeting.

Mr. Densford advised that he had been asked by the Planning Commission to look at the deed from the previous owner of this property to the current owner to determine whether the title was in order. Mr. Densford said the deed to Mr. Goldberg did not include the strip of land on the River side of Patuxent Beach Road nor any conveyance of Patuxent Beach Road, a County road, nor First Street, nor "A" Street. The most recent deed, however, contains those property descriptions, conveying whatever right, title, or interest Mr. Goldberg had to the present owner.

Mr. Densford stated he was concerned about that, and, in response, the applicant and present owner agreed to convey QuitClaim Deeds to the County Commissioners for the strip of land bordering the Patuxent River, for any interest they had in Patuxent Beach Road, and any interest they may have in First Street or A Street, reserving a 20' easement across that strip of land for ingress/egress to the pier on the Patuxent River, and containing a statement that the County has no right, title, or interest to that pier. Mr. Densford said the use and ownership of the pier has always been associated with the 7 Gables Hotel property and he sees no County ownership in the pier, and recommends acceptance of the QuitClaim Deeds to clear up any title problems.

Mr. Densford said he is holding the signed QuitClaim deeds, ready to be accepted by the County Commissioners if site plan approval is granted by the Planning Commission.

Commissioner Bailey moved that the County Commissioners express the intent to accept the QuitClaim Deeds if the Planning Commission approves the site plan. Commissioner Thompson seconded; motion passed unanimously.

EXECUTIVE SESSION

Present: Edward V. Cox, County Administrator

Commissioner Bailey moved, seconded by Commissioner Lancaster to meet in Executive Session in order to discuss matters of Personnel, Litigation and Property Acquisition. Motion carried. The sessions were held as follows:

Personnel

Held from 10:35 a.m. to 10:55 a.m.

Property Acquisition

Held from 10:55 a.m. to 11:10 a.m.

Litigation

Also Present: Joseph Densford
Jon Grimm

(Commissioner Loffler did not participate)

Held from 11:10 a.m. to 11:15 a.m.

AFFORDABLE HOUSING TASK FORCE MEETING

The Commissioners departed to attend the referenced meeting at Old Breton Inn.

OFFICE OF PLANNING & ZONING - PUBLIC HEARINGS

These public hearings were advertised, as required by law, in The Enterprise newspaper on August 8th and August 16, 1989. A list of attendees is on file in the Office of Planning & Zoning.

ZPUD #88-1868 - PATUXENT PARK WEST

Requesting a PUD amendment to allow 75 additional residential units and increase commercial use from one acre to 3.35 acres for this property located in the Lexington Park Development District, containing 81.96 acres, zoned PDR5.0, and shown on Tax Map 43, Block 21, as part of Parcel 377.

Owner: Liberty Land Development Corporation
Applicant: Lorenzi, Dodds & Gunnill, Agent

Present: Karen Abrams, Attorney for Applicant
Jim Lorenzi, Lorenzi, Dodds & Gunnill

Applicant's Exhibits:

- A-1 - Certified Letters and Receipts notifying property owners within 200 ft. of this public hearing.
- A-2(a) - Photographs showing posting of placard
- A-2(b) on property
- A-3 - Concept Plan for Patuxent Park West
- A-4 - Rezoning Report dated 4/24/89 prepared by Lorenzi, Dodds & Gunnill

Mr. Lorenzi presented plans showing the original design for this project, and stated that, when Pegg's Road came through the property it hindered development of a portion of the property, causing them to abandon Atlantic Drive, and leaving them with a 3.35 acre site bordered by Pegg's Road which they would like to use as commercial. This increase from 1 acre to 3.35 acres is still within their approved commercial acreage. Also offered by Mr. Lorenzi was a composite of proposed development along Pegg's Road.

Also, applicant is asking for an additional 75 residential units to offset the economic loss caused by Pegg's Road and the applicant's cost of \$800 per unit to fund the road. Ms. Abrams stated the reason there was no one present speaking against the project was because the opponents' concern was that they did not want multi-family housing bordering Patuxent Park, and they did not want Midway Drive to connect through to Patuxent Park West, and the applicant has taken pains to plan accordingly.

Ms. Abrams said the applicant has been operating under the assumption that he is proceeding according to the County's wishes, and proffered a letter from Donnie Ocker, formerly of DPW, dated October 7, 1989 stating that DPW will support the PUD amendment. Now, she said, the applicant finds that he has problems. Ms. Abrams added staff recommendation and the Planning Commission approval was to put the 3 acres of commercial on Parcel E, and she said she has discussed that with her client and it does not work as well for him. She said impact on schools was cited in discussion regarding the 75 additional units, but she said these will be townhouses and apartments with a 10-12 year buildout, which do not generate a lot of school age children, and applicant asks rezoning approval per his request.

Mr. Marsh stated that the applicant probably does deserve some consideration as a result of the location of Pegg's Road, but said one of the major issues the County must decide is the purpose of Pegg's Road - is it to be another corridor for commercial development? He said staff understood that Pegg's Road was intended to serve the PUDs and residences along it as a bypass for Great Mills Road. He said he thought we really want to limit those entrances and keep commercial from cluttering it up, and not have another 235 or Great Mills Road with the same mistakes.

Mr. Marsh said the developer is not going to lose any density, he loses only the option to put it where he originally intended, and said further that the purpose of commercial sites in a PUD is to serve the people in that PUD, and to put it on the other side of Pegg's Road would make it highway commercial. He said the Planning Commission's recommendation was to relocate the commercial to Parcel "E" and adding 27 units elsewhere in the plan. So the applicant will actually be gaining 27 additional units and the increase of commercial to 3.35 acres. He said he thinks this is a good compromise - the applicant will still get his commercial, they still get the exposure on Pegg's Road and they actually have better access and a better planned shopping center with two accesses.

Commissioner Bailey asked if Atlantic Drive is abandoned where the second exit will be there to satisfy HUD requirements. DPW will have to address this issue, but commercial at that location will have a much greater traffic impact, whereas on the other side, on Parcel "E", there are two entrances and exits already which were planned as part of the road design, Mr. Marsh said.

Commissioner Loffler opened the hearing to public comment. Hearing none, and there being no further questions from the Commissioners, he advised the record will remain open for 10 days, and the Commissioners will make their decision in two weeks.

ZPUD #89-0356 - BAY DISTRICT VOLUNTEER FIRE DEPT.
(Bailey Station)

Requesting rezoning of 13.725 acres + from R-2, Low Density Urban Residential, to C-2, Commercial. The property is located on the east side of MD Route 237, Chancellor's Run Road, adjacent to the railroad right-of-way. Shown on Tax Map 43, Block 1, Parcel 398.

Owner: Bay District Volunteer Fire Department
Applicant/Contract Purchaser: Irene Graves

Present: Jim Kenney, Attorney for Applicant
Irene Graves and John William Quade
Keith Fairfax, Bay District VFD
Herb Redmond/Dave Jenkins, DH Steffens Co.

Mr. Kenney presented the following exhibits for the applicant:

- A-1 Notification letters and Certified Receipts for this public hearing.
- A-2 Photograph showing posting of property.
- A-3 Zoning Report prepared by D. H. Steffens.

Mr. Kenney advised that the Bay District Fire Department had purchased this property to build an ancillary fire station in the California area, and the sale of this piece of property will finance that. He then introduced Mr. Dave Jenkins, Land Planner with D. H. Steffens Co., who summarized the Zoning Report, containing the findings of fact, and stated the basis for this rezoning is "change in the neighborhood", which neighborhood is also defined in the Report and which has been accepted for other properties in this area as the recognized neighborhood. Mr. Jenkins stated there have been 25 zoning changes in this neighborhood since 1974.

The property has 551 ft. of road frontage on Chancellor's Run Road and is 1,270 ft. deep, from front to rear. The conceptual use is for an office complex, and the property is surrounded by a church and the Elks Lodge, which Mr. Jenkins terms "institutional uses", compatible with the proposed use and providing a gradual degrading from the highway commercial of 235 to the residential property to the south. The property is located within the proposed Lexington Park Development District, and central water/sewer are available, and the proposed use will be a cash flow positive as it will increase the tax base with no impact on schools.

Mr. Redmond, Professional Land Surveyor, also of D. H. Steffens Co., testified as to the "developability" of the site, and said, to his knowledge, the taking of r/w for the widening of Chancellor's Run Road will be on the other side of that road and this property will remain intact. Another access to 235, called Mercedes Drive, is proposed by applicant.

Commissioner Loffler asked what is unique about this property that requires C-2 zoning rather than C-1. Mr. Kenney replied that it is adjacent to the 235 corridor and "office complex" could possibly include NAS contractors with warehouses, and to meet the market that is out there, C-2 is a more logical approach.

Mr. Marsh said the question is, "What is the neighborhood?" He added at the Planning Commission the night before the same engineering firm had defined that neighborhood as bounded by the railroad r/w and pointed out that most of the changes have been between 235 and the R/R r/w. Mr. Marsh said the only uses on the other side are residential, other than the church and the Elks Lodge, which are permitted uses in a residential area. Staff argues that this is not a change, and is not a mistake, and recommends denial, even though the Planning Commission has recommended approval, stating that approval would move commercial across the railroad r/w into residential.

Mr. Kenney replied this is a different neighborhood from the case at the Planning Commission last night, and if FDR is built, it would isolate this property from the residential. However, Commissioner Loffler stated that if FDR is built as proposed, it will come through this piece of property, and in that case it would be ridiculous to allow commercial zoning in that area.

Commissioner Loffler opened the hearing to public comment.

John William Quade, representing both the Fire Department and the contract purchaser, Mrs. Graves, spoke in support of the rezoning, saying that Mrs. Graves has no intention of allowing warehouses, but has no interest in the property unless it obtains C-2 zoning. He said the space is ideal for what the applicant proposes, adding he doesn't think the County wants to see 500 townhouses on that property.

Commissioner Loffler asked if the applicant would be willing to accept as part of the rezoning that the property would be realigned with FDR Boulevard. Mr. Fairfax, President of Bay District Fire Department, stated that the Fire Department has said from the first that they would absorb that loss of approximately 1.5 acres and give it to the County for FDR if and when the County decides they would like to do that. He said in fact they have an agreement with the County and the contract purchaser that the cash representing that property would be set aside in escrow. If FDR is built that money will go to the contract purchaser; if it is not, it will revert to the Fire Department.

There being no other comments, Commissioner Loffler closed the public comment portion and closed the public hearing at 4:10 p.m.

Immediately thereafter, it was moved by Commissioner Bailey, seconded by Commissioner Thompson to adjourn the County Commissioners' meeting. Motion carried.

ADJOURNMENT

The meeting adjourned at 4:15 p.m.

Approved,


Carl M. Loffler, Jr.
President