

BOARD OF COUNTY COMMISSIONERS' MEETING

Tuesday, March 12, 1991

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

CALL TO ORDER

The meeting was called to order at 9:00 a.m.

APPROVAL OF MINUTES

Commissioner Jarboe moved, seconded by Commissioner Lancaster, to approve the minutes of the Commissioners' meeting of Tuesday, March 5, 1991. Motion carried.

APPROVAL OF BILLS

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

COUNTY ADMINISTRATOR'S ITEMS

Present: Charles H. Wade, Director of Finance (on behalf of
Edward V. Cox, County Administrator

1) 1991 LEGISLATIVE UPDATE

For the Commissioners' information Mr. Wade distributed a status report of the county's 1991 legislative items.

**2) INFORMATION RELEASE
ECONOMIC CONDITION OF ST. MARY'S COUNTY**

Mr. Wade distributed an Information Release inviting the public to attend an informational meeting at which the County's general economic condition and financial outlook will be presented by Director of Finance Wade and Director of Economic and Community Development Mitchell.

3) SELECTION OF COUNTY AUDITOR

Mr. Wade distributed a memorandum requesting the Commissioners' concurrence to select the firm of Cox, Long, and Colvin as the County's auditor for Fiscal Year 1991. he stated that Chapter 8 of the Code of Public Local Laws requires the Commissioners to appoint an auditor by June 1 of each year.

During discussion Commissioner Loffler requested Mr. Wade that prior to the Board making a decision that he get letters of inquiry from other firms in order to see what options are available to the County.

4) ST. MARY'S COUNTY ETHICS ORDINANCE

Mr. Wade distributed a memorandum dated March 4, 1991 from the Ethics Commission setting forth suggestions for revisions to Ordinance No. 87-18 - St. Mary's County Ethics Ordinance. The purpose of the revisions are to simplify and clarify language in the current Ordinance. A public hearing would be required to present the recommended changes to the public.

The Commissioners gave their concurrence to proceed with scheduling a public hearing.

5) **PERSONNEL**
LEAVE WITHOUT PAY REQUEST

Mr. Wade presented a memorandum dated March 5, 1991 from the Personnel Officer advising that the Director of Public Works has requested a 30-day extension of the original Leave Without Pay request for Charles F. Evans. According to the County's Manual of Personnel Policies and Procedures, the Commissioners may approve periods of unpaid leave that exceed 30 days.

Commissioner Bailey moved, seconded by Commissioner Lancaster, to approve the LWOP as requested. Motion carried.

6) **PERSONNEL**
LENGTH OF SERVICE AWARDS PROGRAM
FIRE DEPARTMENTS/RESCUE SQUAD VOLUNTEERS

Mr. Wade presented a listing of the 546 fire department and rescue squad volunteers who qualified for service credit in 1990. The Commissioners' approval and signatures are required after which the lists will be displayed for review in the appropriate departments for at least 30 days. Also presented was a listing of retired volunteers who served an additional year in 1990 and those will receive LOS pay for the first time in 1991/1992.

Commissioner Bailey moved, seconded by Commissioner Jarboe, to approve and sign the listings as presented. Motion carried.

7) **PERSONNEL**
RECLASSIFICATION REQUEST
FISCAL CLERK I - DEPARTMENT OF PUBLIC WORKS

Mr. Wade presented a memorandum dated March 5, 1991 from the Personnel Officer advising that the Director of Public Works has requested approval to change the vacant Fiscal Clerk I, Grade 12 position, to an Inventory Supply Clerk, Grade 12, position.

Commissioner Jarboe moved, seconded by Commissioner Bailey, to approve the request as presented. Motion carried.

8) **CORRESPONDENCE TO FIRE DEPARTMENTS/RESCUE SQUADS**
FIRE/RESCUE APPRECIATION DAY

Mr. Wade presented correspondence addressed to the Presidents of the volunteer fire departments and rescue squads inviting them to attend a Fire and Rescue Appreciation Day in order to recognize the quality services provided by these companies and auxiliaries. Details are being worked on and will be provided at a later date.

The Commissioners agreed to sign and forward the letters.

9) **BUDGET AMENDMENT NO. 91-48**
DEPARTMENT OF PUBLIC WORKS

Mr. Wade presented the referenced Budget Amendment recommended for approval with the following justification: To provide funding to complete guardrail installation and to take advantage of excellent price for the project.

Commissioner Bailey moved, seconded by Commissioner Lancaster, to approve and authorize Commissioner Loffler to sign the Budget Amendment as presented. Motion carried.

LIBRARY BOARD OF TRUSTEES

Present: Mary Ann Chasen, President
Barbara Hayden
Everlyn Holland
Lynn Redmond
Charles Young
Katherine Hurrey, Director, SMRLA
Janice Hummel, Lexington Park Library
Mary Wood, Leonardtown Library
Dan Ichniowski, Director, Public Works
Deputy Mickey Bailey, Sheriff's Department
Mary Pat Pope, Administrative Officer

Representatives of the Library Board and library staff appeared before the Commissioners to express concern for the safety of the staff and patrons of the Lexington Park Library because of the deterioration of the surrounding neighborhood. Mrs. Chasen stated that the Library Board would prefer a new location; however, because of current economic conditions, the Board realizes that this would not be possible. She did request that the Commissioners keep the Library in mind when developers offered land for schools that could not be used for schools. Actions taken by the Board include: requesting surrounding property owners to join with them in trying to resolve the problem, changing working hours for library staff to open one hour earlier in the morning and closing one hour earlier in the evening, keeping a log of patron's complaints, and working with the Sheriff's Department.

During discussion recommendations from the Library Board and Deputy Bailey were offered as follows:

1. Razing the old Felix Johnson Center and the old Head Start building;
2. Installing lighting in the parking area and around building;
3. Placing "No Trespassing After Hours" signs;
4. Installing a secondary alarm system in the meeting room.
5. Removing shrubbery from around the building.

After discussion Commissioner Jarboe moved, seconded by Commissioner Bailey, to approve proceeding with Items two through five and that the razing of buildings be discussed during FY '92 budget deliberations. Motion carried.

ST. MARY'S WOMEN'S CENTER

Present: Susan Borneman
Ann Waring
Nancy Hutson
Janet Hanke
Fran Jones

The referenced representatives of the Women's Center appeared before the Commissioner to bring the Board up to date on the Center's activities and to request financial assistance in the amount of \$25,000. Ms. Borneman distributed a statistical report from the period July 1, 1990 - February 28, 1991 which demonstrated the number of contacts, types of services in demand and needed and list of agencies seeking the Center's services. Also distributed was a handout showing demographics of users of the Center for the period July 1, 1990 to December 31, 1990.

During discussion Ms. Borneman pointed out that many agencies are experiencing cuts in state funding and that the pool of funding sources has dwindled. She expressed appreciation to the Commissioners for past

support and requested the Board's consideration for this additional funding for Fiscal Year 1992. With a budget of approximately \$92,000, Ms. Borneman stated that the Center has numerous fundraisers and does receive donations, but an additional \$25,000 is needed to keep the Center stabilized.

Commissioner Loffler suggested that the Center work with Mary Pat Pope, the County's Administrative Officer, to develop a list of programs offered by the Women's Center that will be impacted by state budget cuts and from what agencies and what amounts in order to determine what is available. Mrs. Hutson noted that the Board of Directors of the Center has been working with Mrs. Pope in setting up a meeting with appropriate human service agencies to look at this.

DEPARTMENT OF PUBLIC WORKS

Present: Dan Ichniowski, Director

1) ORDINANCE NO. 91- WICOMICO SHORES SPECIAL TAXING DISTRICT

Mr. Ichniowski presented the referenced Ordinance which amends Ordinance No. 88-35 in that certain residential lots in Section 1 were inadvertently omitted from Ordinance No. 88-35 which established the Wicomico Shores Special Taxing District. County Attorney Densford had indicated that because this omission was an oversight, and it was the intention that those lots be included that no public hearing would be required.

Commissioner Thompson moved, seconded by Commissioner Lancaster, to approve and sign Ordinance No. 91- as presented. Motion carried.

2) ROAD ORDINANCE REVISION PROCEDURES

Mr. Ichniowski presented a handout that explained the reasons and procedures for revisions to the County's Road Ordinance. Reasons included: To resolve and document questions and interpretation in the "Specifications and Standards for Highway and Street Construction;" to allow a quick dissemination of revisions to Standards; and to document administrative procedures not contained in the Ordinance.

3) HIGHWAY PROGRAMS

For the Commissioners' information Mr. Ichniowski presented handouts setting forth the highway programs broken down by election district, route number, route name, and route length for Fiscal Year 1991. The Programs include Surface Treatment, Slurry Seal, and Asphalt Overlay.

4) CLEMENTS LANDFILL CLOSURE DOCUMENTS

Mr. Ichniowski presented the title sheet and plans for the closure of 17 acres of the Clements Landfill and requested the Commissioners' authorization for Commissioner Loffler to sign the title sheet.

Commissioner Lancaster moved, seconded by Commissioner Jarboe, to approve and authorize Commissioner Loffler to sign the title sheet as presented. Motion carried.

5) 1991 QUALITY ASPHALT PAVING AWARDS FOR COUNTY HIGHWAYS

Mr. Ichniowski presented correspondence from The Maryland Asphalt Paving Conference advising that the County's Morganza-Turner Road rehabilitation project has been selected for the 1991 County Asphalt Paving Award.

6) PUBLIC WORKS AGREEMENT
BRETON BAY PUD - BUNKER COURT

Mr. Ichniowski presented a Public Works Agreement dated March 7, 1991 between Cherry Cove Land Development and St. Mary's County guaranteeing completion of Bunker Court in Breton Bay PUD by September 1, 1991. The Agreement is backed by a Letter of Credit in the amount of \$35,000 with The First National Bank of St. Mary's.

Commissioner Jarboe moved, seconded by Commissioner Lancaster, to approve and authorize Commissioner Loffler to sign the Public Works Agreement as presented. Motion carried.

7) FISHER ROAD

Mr. Ichniowski advised that he has received unofficial word that St. Mary's College is interested in acquiring Fisher Road. He stated that he will work on setting up a public hearing on the abandonment of Fisher Road by the County.

PROPOSED 2020 STATE LEGISLATION

Present: Jon Grimm, Director, Planning and Zoning
Jeff Jackman, Planner, OPZ

Mr. Grimm appeared before the Commissioners to discuss the proposed 2020 legislation and the impact, if passed, it would have on St. Mary's County. Mr. Grimm provided an initial assessment as to the ramifications certain sections of the legislation would have on local planning decisions. He stated that the Planning Commission had accepted the staff's recommendations to suspend work on the update of the Comprehensive Plan until a decision has been made by the General Assembly on the 2020.

Requirements of the proposal that would affect St. Mary's County include: designation of four land categories in the Comprehensive Plan and Zoning Ordinance, which are to be applied to the zoning maps and must be approved by the State; designation of sensitive areas - habitats of endangered species; and provision for grandfathering.

In order to allow time for local jurisdictions to set up its growth management program and for the development of regulations, Mr. Grimm advised that there will be an Interim Program, to be effective July 1, 1991. The Interim Program, to be effective July 1, 1991 and to continue for approximately four to five years until the jurisdiction has an approved growth program. The Program is based on zoning maps and sewer plans which are already in existence in local jurisdictions. Mr. Grimm further advised that the Interim Program specifies that there will be no rezonings unless it can be demonstrated that a mistake was made. There is no provision for "change of neighborhood."

Mr. Grimm advised that the County's AICUZ (Air Installation Compatible Use Zone) meets the requirements as written to allow development. He stated that it falls within the Interim Growth Area. In order for AICUZ to stand as locally adopted, Mr. Grimm stated he was trying to get an exemption to have AICUZ excluded from this legislation.

During discussion of the sewer category requirements for development, Commissioner Loffler emphasized that it was important for the County to have everything in order should the legislation pass so that the County does not have an economic disaster. Discussion ensued regarding whether the April 15 deadline applied to local rezoning classifications or sewer categories. Mr. Grimm stated that the Department of State Planning had indicated that the Water and Sewer Plan could be amended at any time. Commissioner Loffler requested that Mr. Grimm get this statement in writing.

EXECUTIVE SESSION

Present: Charles Wade, Director of Finance
Joseph Densford, County Attorney
George Foster, Personnel Officer

Commissioner Thompson moved, seconded by Commissioner Lancaster, to meet in Executive Session to discuss a matter of Personnel. Motion carried. The Session was held from 11:55 a.m. to 12:30 p.m.

BOARD OF EDUCATION

Present: William Burroughs, Superintendent of Schools
Joan Marsh, President, Bd/Ed
Jean Campbell, "
Robert Kirkley, "
Al Lacer, "
Jonathan Nelson, "
Frank Barnett, Asst. Superintendent of Adm.
Joan Kozlovsky, Asst. Superintendent of Cur.
Don O'Neal, Coordinator, Health & Security

1) Student Population Forecasting

Dr. Burroughs stated that the Board of Education passed a resolution to request the County Commissioners to join them in obtaining a computer model for long-range population forecasting. He suggested that if the Boards agree with proceeding, that Don O'Neal of the school staff and a representative from county staff work together to write specifications, get quotes, and then report back to the two boards with a recommendation for a firm to do the model.

Commissioner Loffler recommended that County Administrator Ed Cox and Director of Finance Wade coordinate designation of county staff to work with Mr. O'Neal.

2) Fiscal Year 1992 Budget

Dr. Burroughs presented an overview of revenues of the revenue picture for the Board of Education for Fiscal Year 1992 and pointed out that federal and state funding has decreased and in order to fund the budget, revenues need to be increased by \$7.8 Million, which includes \$2 Million from the State. To cover costs for base budget with no growth, \$2.4 Million new money is needed; to cover base costs plus allowing for increased student population, an additional \$4.4 Million is needed; and to cover expanded services, an additional \$1.4 Million is needed. He stated that the FY '92 Budget was based on three main considerations: (1) 3% growth in the County; (2) 5% inflation; and (3) Board of Education is committed to make some progress towards goals for the County.

Dr. Burroughs presented a handout which outlined areas that have not been included in the FY '92 budget, which included certain instructional salaries, instructional costs, pupil services, health service, and special education.

3) Fiscal Year 1991 Status Report

Dr. Burroughs distributed a handout indicating the following with regard to the Board of Education's FY '91 Budget:

Budget status was evaluated excluding funds resulting from the supplemental appropriation.

Unallocated fund balance from the General Fund will range from \$250,000 to \$500,000.

Wage variances are project to be approximately \$150,000 over all categories.

Most non-salary costs are within budgets, but categorical transfers will be needed for maintenance and data processing.

Discussion ensued regarding the County's capital budget and the Commissioners pointed out that the Board of Education should put more emphasis on routine and preventative maintenance so that major repairs can be avoided. It was agreed that there would be a work session to talk about capital projects.

4) Executive Session

Present: Charles Wade, Director of Finance
Dr. William Burroughs, Superintendent
Dr. Joan Kozlovsky
Board of Education Members
Frank Barnett
Jerry Himmelheber

Commissioner Thompson moved, seconded by Commissioner Lancaster, to meet in Executive Session to discuss a matter of property acquisition. Motion carried. The Session was held from 2:10 p.m. to 2:40 p.m.

SHERIFF'S DEPARTMENT RETIREMENT PLAN

Present: Jerry Colvin
Charles Wade
George Foster
Cprl. Steven Doolan
James Raley

Members of the Sheriff's Department Retirement Plan appeared before the Commissioners to present the Plan's Annual Report for 1990. Mr. Colvin reviewed the report and highlighted the group's significant activities for 1990 and plans for the current year. No problems or challenges have been encountered.

A copy of the report is on file in the Commissioners' Office.

COMMUNITY MEETINGS

Commissioner Loffler advised that he was scheduling another community meeting which will be held April 13 at T's Cove. Commissioners Bailey and Jarboe indicated a preference to have these community meetings on Tuesdays.

OFFICE ON AGING

TRANSPORTATION PROGRAMS - FISCAL YEAR 1992

Present: Gene Carter, Director, Office on Aging

Mr. Carter appeared before the Commissioners to present and request approval of the Public Rural Transportation Program and Statewide Special Transportation Assistance Program Grant. The Public Rural Transportation Program is funded under Section 18, Urban Mass Transit Act and provides service to rural areas. The SSTAP is a state supported program that provides transportation for the elderly and disabled.

Mr. Carter reviewed the transportation services that are available through the Office on Aging and discussed the goals for 1992.

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After discussion Commissioner Jarboe moved, seconded by Commissioner Lancaster, to approve and authorize Commissioner Loffler to sign the grant as presented. Motion carried.

(A copy of Mr. Carter's report is on file in the Commissioners' Office.)

**OFFICE OF PLANNING AND ZONING
PUBLIC HEARINGS - WILDEWOOD PUD**

Present: Jon Grimm, Director
Peggy Childs, Recording Secretary
Joe Densford, County Attorney.

Present for Wildewood were: Developer Eddie Wettengel; Attorney Jim Kenney; Surveyor Larry Day; Mike Wettengel; Cindy Wettengel Greb; Tommy Wettengel; John Brigham; Kevin Kelly, Environmental Systems Analyses, Inc.; and Rick Collins, of Collins & Kronstadt, Architects.

A three-page list of attendees is on file in the Office of Planning & Zoning.

Prior to commencement of the Public Hearing, Commissioner Barbara Thompson stated for the record that her husband's family owns property across Lawrence Hayden Road from the proposed PUD. Ms. Thompson said she just wanted to apprise everyone of that, but she doesn't feel that will influence her decision, and she will be as objective as she would be in any other zoning decision. Attorney Jim Kenney responded that the applicant certainly has no objections to Commissioner Thompson's participation, and Commissioner Loffler asked, if anyone did have an objection, that it be stated during the public hearing portion of the hearing.

**PUBLIC HEARINGS - 3:30 p.m.
SPEC #89-1819 - WILDEWOOD PUD**

Requesting a water category change from W-6 to W-3D and a sewer category change from S-6 to S-3D. The property is the same as below.

ZPUD #89-1819 - WILDEWOOD PUD AMENDMENT (Also 78-166)

Requesting review of revised plans and documentation for Planned Unit Development rezoning. The intent of the application is to extend the current Resolution and present development standards to the land to be incorporated into the existing Wildewood PUD. The land to be incorporated contains 347.88 acres, is zoned RL and Industrial, and is located on Lawrence Hayden Road, adjacent to the existing Wildewood Planned Unit Development; Tax Maps 33/34, Block 18, Parcels 82 and 166.

Owner/Applicant: Edmund W. Wettengel / Paragon Builders

These public hearings were advertised in The Enterprise on February 20 and February 27, 1991. Mr. Grimm stated the requested W/S category change is consistent with the Comprehensive Plan. The Planning Commission voted at their meeting of 3/11/91 to recommend approval of W/S change contingent upon approval of the PUD Amendment.

Mr. Grimm advised that the PUD Amendment was filed in November 1989 and has been long in the development and review stage, with considerable meetings held with the developer at the both the staff and Planning Commission level. The Planning Commission held a Public Hearing on the PUD Amendment on January 30, 1991, a Commission Work Session on March 4, 1991 and the decision meeting on March 11, 1991, culminating in a motion

for approval per recommendations of the 3/8/91 Staff Report, with modifications, presented in writing to the Commissioners this date. Offered as Staff Exhibit #S-1 were photographs showing the property posted as required.

The PUD Amendment is presented in two parts: (1) The "Green Book"; and (2) A series of maps and plans showing conceptual locations and diagrams for proposed land use circulation patterns and provisions of housing, commercial and recreational facilities within the area of the development. Section 38.06 of the Ordinance calls for PUD zoning to be accomplished only in accordance with a Development Plan submitted and considered by the Planning Commission and approved by the Board of County Commissioners, including detail of the submission requirements to be contained in the document. Staff has reviewed and believes that all of those submission requirements have been met by this application. Staff has also debated a series of issues with the applicant and have reached a consensus among the reviewing agencies about the content of the application and development plan.

Mr. Kenney offered Applicants #A-1 (Book 1 of 2) and #A-2 (Book 2 of 2) containing certified letters providing notification of this hearing. He stated at one of the Planning Commission hearings it was indicated there may have been an individual who did not receive notice; in rechecking they determined there was an error on the tax maps and they did find the property owner and sent notice to him immediately. In addition, they found some transfers made since the last notice and updated the notices accordingly.

Mr. Kenney outlined the development plan, stating the purpose is to amend the original PUD boundaries to incorporate 347+ acres, expanding the Wildewood community to 1,415 acres, plus or minus, increasing maximum buildout from 2,191 units to 3,902 dwelling units, for an overall density of 4.28 units per acre. He stated the County Attorney is presently reviewing certain material with regard to use of development standards and they will provide with him other documentation for his interpretation, but they are proceeding under the "floating zone" aspect and the standards that they have developed. Offered as #A-3 was a copy of the St. Mary's County Comprehensive Plan, one of the key aspects of which is that growth within the County is directed to the designated development area, in which Wildewood is situated.

As to the immediate neighborhood, Mr. Kenney said, to a great extent Wildewood is a neighborhood to itself, bounded on one side by Route 235/St. Andrews Church Road, Lawrence Hayden Road, and the SMECO Right-of-Way. The surrounding neighborhood consists of commercial and residential uses on the other side of Route 235, the Industrial Park, the Hollywood Town Center Plan, and is, without question, in the designated area and the appropriate neighborhood for this type of application. One of the issues before the Board is compatibility, and Mr. Kenney said they are looking at natural buffers and separation factors, which are important for the Board to be looking at. The property is presently served by water and sewer, Mr. Kenney said.

Called as applicant's first witness was Cindy Wettengel Greb, who stated they had taken the requirements of the 1978 Zoning Ordinance and the history of the PUD, including previous approvals up to their current design and development standards, and put them into one document to help facilitate the understanding of what they are trying to do and to continue their current standards into the new PUD section. Current TEC comments and the points that they have negotiated are contained in the top section of the Green Book. Ms. Greb stated she has been responsible for compiling the PUD document, working with Consultant John Rahenkamp as well the Collins and Kronstadt Architectural firm, stating she had studied environmental planning/design and landscape architecture from Rutgers University, with studies in natural science at St. Mary's College, and residential planning and design from Harvard Graduate School of Design.

Mike Wettengel stated he holds a degree in architecture from Lehigh University in Bethlehem, PA and has been with Wildewood since its inception in the early 1970s. Mr. Wettengel gave an overview of the project, noting the site location and some of the studies and analyses that have been prepared, including slope analysis, watercourse and drainage area map with natural features and soils analysis, traffic analysis to accommodate development preservation and growth and some additional commitments to perform incremental traffic analysis as necessitated by the development project, fiscal impact analysis, proposed land use plan, wetlands studies, buffer studies, stormwater management analysis, sewer/sewer concept plan, for which all the detail levels are spelled out in the Ordinance for PUDs.

Mr. Wettengel walked the Commissioners through the Development Plan, stating there are 9 subsections; all of Wildewood is served by public water system and all the PUD is served by central sewage; all of Wildewood is served by Simmons Cable TV, with covenants prohibiting antennas and keeping the service underground; Wildewood is in the 8th, 6th and 3rd Election Districts, falling under the Hollywood Volunteer Fire Department and Rescue Squad, and have a designated emergency medical helicopter for the project which was used last year maybe three times. Specifically, Neighborhood One, the original neighborhood, contains 220 acres with single family homes; Neighborhood Two is 116 acres at PDR 5.0; Neighborhoods Three and Four are 421 acres at PDR 3.5; yielding an average density of 4.28.

In the developmental land planning analysis prepared by consultants Rick Collins, Larry Day, John Rahenkamp, Kevin Kelly, and Phil Marshal, Mr. Wettengel said, they have been able to take their input mixed with a combination of existing characteristics and propose and perpetuate some of the continuous development throughout Wildewood provided today, creatively interacting with nature to provide a better ecological community and a more environmentally sensitive project than anyone in the State; they are rated #1.

Commissioner Loffler asked about future transportation corridors. Mr. Wettengel replied a traffic analysis has been completed to serve the entire project; that will be updated in the future to analysis the possibility for exterior routes; there is a current proposal before the Army Corps of Engineers for road crossings across some stream sections for future tertiary access through Cottonwood Parkway out to Airport Road. There is also the primary question as to whether Lawrence Hayden Road should be used for access, and they are in the process of analysis with the County on this, having had several lengthy meetings with DPW; right now it is their intent not to use it, he said. They have made a commitment to DPW and the County to have the traffic study prepared by January 1, 1992.

Eddie Wettengel stated they had done the upgrade to Md. Rt. 235, working with the State as to how to phase those entrances in, they have more lanes there in either direction than anyplace else in the County, and they did all of that up front. Mike Wettengel added there is an analysis for each of these factors referenced in the Green Book.

Commissioner Loffler asked if the amendment is under the old or new Ordinance. Mr. Grimm replied staff has processed this under the 1978 Ordinance because of the submission date, and the PDR designation of 5.0 with 4.28 overall would be permissible under that Ordinance. Mr. Wettengel added the property is in the middle of the development district and should be to the highest and best use of the land under the Comprehensive Plan.

Regarding open space, the calculation for the entire proposal is 174 acres in open space, of the 347 acres only 172 acres, or approximately one-half, will be developed, the rest will be left in open space. When they finished their last stormwater management update in June of 1990, 84% percent of the land was still in its natural state with only 16% developed, and that is unheard of in the development industry, Mr. Wettengel said, he will match this project with anybody.

Mr. Kenney stated for the record that the charts used by Mike Wettengel are the same as in the Green Book. Rick Collins, of Collins & Kronstadt, Architects and Planners located in the Silver Spring area, stated he has been involved with Wildewood for 12 years, and testified that this is one of the most environmentally sensitive developments they have ever worked with, and that includes Hilton Head Island in South Carolina and other places of national reputation, and addressing buffers and preservation of the wetlands and major watercourses in the amendment area. Kevin Kelly, of Environmental Systems Analysis in Annapolis also testified regarding wetlands and water quality protection, saying they had found trap efficiencies of 95%, and stated the project is one of the most environmentally sensitive they have ever seen. Mr. Collins and Mr. Kelly both stated they see no reason why the methodology and formula used in the first part of the project should not be continued in the amendment area.

Mr. Kenney entered into the record by reference the previous plans and the report by John Rahenkamp to the Planning Commission. John Brigham, CFO for Wildewood, presented a Fiscal Analysis Summary (#A-4) including net fiscal impact and addressing adequate public facilities.

Commissioner Loffler pointed that Wildewood went through an experimental program which the rest of the County does not have the benefit of, and that is the number of homes on private roads. He said that is still going to be a discussion point, and he thinks one of two things have to happen - either the standards agreed to in Wildewood will become the County standard, which he said he thought we'd have problems with, or Wildewood's private drives will have to come to a standard established by the County Commissioners. Mike Wettengel said those standards are set up by criteria, by the stormwater management regulations, by the best management practices, and the trade-off on the driveways is the environmental sensitivity that you are able to maintain. To go away from that, he said, promotes mass clearing and mass grading. It is more economical to mass grade he said, one of the toughest things they have to do is work around Mother Nature and trees; there is a balance, he said, and the balance they have reached with all the technical agencies is 8 lots on a private driveway.

Commissioner Loffler replied the homes on private roads is an issue that is going to be discussed and Mr. Wettengel must be prepared to defend it. Eddie Wettengel said PUDs are a very complicated thing, and he has one of the first and best PUDs in the entire State, and the concept of a PUD is the development of a set of standards that works economically and environmentally. Those driveways are a key piece of this operation, as are the land plans, water and sewer, and everything, and if you take a piece of it out, then take it all away from him, because if he can't do it the way that he's got it he doesn't want any parts of it. He said he has fought and argued and come up with standards that he is comfortable with and that OPZ endorses, he said he has been in review for 16 months and nobody put that on the table until right now, today.

Commissioner Loffler noted condition #5 of the Planning Commission's recommendation and said that issue has got to come back up. Mr. Wettengel replied that he cannot build under the Yellow Book (1978 Ordinance), he cannot even transfer a piece of property; he said putting all of the infrastructure in up front is the price you pay for a PUD, and he has made a total commitment to the County, and he finds it hard to believe that this is coming up at the 11th hour. Mr. Kenney said the condition says "... that is NOT contained in the Development Plan...", and the approval is that, to the extent that there is not a standard in the Green Book, then it would fall back on whatever standard the County requires. Mr. Kenney said the whole purpose of the testimony of Mike Wettengel, Kevin Kelly and Rick Collins was the workability of the design and how the development works, and the protection of it, and he said they think the standards set forth are approvable. Commissioner Loffler said he needs DPW to specifically speak to the private road issue.

Developer Eddie Wettengel talked about the next piece of the development, which will be a Retirement Community, stating he would come back before the Board to ask for relief from impact fees, that it would be for sale to everybody in the Washington Metropolitan area but would be a total community compatible with the residents of the County. The little bit of knowledge he has on retirement communities is that the ones that are successful are the ones that are absolutely secure, with a security gate, recreational facilities confined to that community, a meal service and gathering area and some service and assistance needed for people in that age bracket. Planned for the retirement community are housing, a community center, and a theater.

Commissioner Loffler asked Mr. Wettengel whether he has specific sites that would be adequate for schools, fire and rescue, etc., adding they cannot be tucked way back into the community, they would need to have main access. Mr. Wettengel responded he would provide whatever is reasonable if the community needs them, but we need to get somebody qualified to make those decisions because he doesn't know where to put them. He said he has a little bit of a problem putting a school inside the project. Mr. Loffler said he would prefer sites in the industrial area. Mr. Wettengel will get back to the Commissioners with some specifics in writing.

Commissioner Loffler advised staff he needs two things: (1) Clarification of PC Condition (5) re public health and safety; (2) Communicate with DPW regarding private road system and how the argument holds outside of the PUD.

The Chair opened the hearing to public comment at 5:09 p.m. Each speaker was allowed three minutes, with additional time to be allowed, if desired, after everyone had had a chance to be heard. In one or two instances, some present gave up their time so the speaker before the Commissioners could continue.

Ellie Mowbray, of Red Cedar in Wildewood:

Representative of retired (?) and object to the amendment to PUD5.0. if PUD 5.0 is based on 172 buildable acres, and the number of units planned is 1,737, then each lot is 1/10 acre per unit, and her concern is for immediately adjacent areas. She said they all love Wildewood, she bought there a few years ago, but it is changing, in the last year and the last few months particularly. They are concerned about property values, the character of the community, the lack of complete plans for review; she finds it extraordinary that Paragon can't submit detailed plans on everything for approval prior to development as other builders do. They are also very concerned about community services - the sewer, water supply, heavy traffic; environmental concerns - how many acres of forest will be cut? How many acres of farmland will be taken out of production? How many acres of wetlands will be lost? Has the historical significance of the property been assessed? What will be the effect on wildlife?

This proposed project will have a tremendous effect on the environment - has there been any study made to determine what the impact will be?

All of Wildewood, including this proposed property, is the drainage for the headwaters for the St. Mary's River. Does Paragon have permits what what is being done right now? And/or what is Paragon doing out there? The world has changed - we now have a new County Land Use Plan. There are Critical Areas to consider; stormwater management and sediment control to save the Bay. The Commissioners should not approve this request for zoning change until Paragon submits detailed plans for the overall land and, in any case, it should not exceed the 3.5 units per acre.

David W. Long, Benswood Road, California, Maryland: Mr. Long said he has been to all of the meetings, and the past performance of Wildewood doesn't look too good, in his mind - they've had six years of sewerage problems, the residents there have called the builder, they've called Public Works, and they've called MetComm, and up to today nothing has been done.

At the (Planning Commission) meeting (of January 4th) they said "the pumps are on order"; that's like saying, "the check is in the mail." He said is also very concerned about Mr. Wettengel's remark to the Commissioners about waiving the Economic Impact Fee for the Retirement Community. Well then, Mr. Long said, he is eligible also - he's retired and he's been retired for seven years - if you give it to one person, you should give it to all who are eligible.

His next concern is the latest development they have there - the large condos and apartment buildings. There's no open areas whatsoever that were promised to those people. There are no wetlands in the 1,000 acres that they've developed Mr. Long said - what happened to the wetlands? They have 781 units now on 1,000 acres. Under the new PUD they're talking about 1,700 more homes. They should have coordinated with schools, highways, and sewer, and an environmental impact study to see what this would do to the community, instead of putting the burden on the taxpayers - he doesn't know who is going to pay for these new pumps and new generators to take care of their sewer system out there, probably the taxpayer.

Lots on a private drive - there are 8-10. No stormwater management - all there is is a ditch with a pipe going underneath the driveway. They're talking about a cemetery going in there, retirement homes, hotel/motel complex, movie theater, mom and pop grocery stores - he doesn't know where all this is coming from, Mr. Long said, they've only got 347 acres and 90-some of it is wetlands.

Site plans - when he does a site plan he has to have it surveyed, he has to have where the sewer easements are, wetlands, where the houses are going to be - this plan doesn't show you anything, he said, on the 347 acres, and approving this PUD is like signing a blank check for it. Mr. Long had another point, but was asked to wait, as his 3 minutes were up.

Jacqueline Vigeant, 302 Greenacre Lane, Wildewood: Mrs. Vigeant said she moved into Wildewood in 1977 and is one of the "old-timers"; she said she has seen a lot of changes and most of them she's been quite pleased with, but over the last two years she has been somewhat disenchanted with the traffic problems. She said she uses the shopping center, but since it went in the traffic is horrendous. Ms. Vigeant said she lives at the corner of Greenacre Lane and Wildewood Parkway, and she moved into Wildewood to be able to walk her pets, to walk children, to ride bicycles or just jog, and now the at 7:00 a.m. and 5:00 p.m. from the industrial area is just horrendous. It's not very pleasing to walk, she said, it's not quiet, and that's the reason she moved in there - the roads are a mess, people drive off on the grass. She said she likes the place, but she is disappointed with the traffic and she thinks perhaps if the roadway where the offices are were closed they would have just homeowner traffic and some of the shopping center. She said she doesn't know of another development in St. Mary's County where they have through traffic going through there, going to the shopping center, and going to the industrial area. She said she is not against the amendment, she is not against the theater or the retirement community, she thinks the community would be well-served by that, but she is concerned about the traffic, and she thinks that should be looked at.

Eve Palmer, 713 Poplar Wood Drive, in Hickory Nut Neighborhood:

Ms. Palmer said in her opinion there are many, many problems in Wildewood and her issues should be of record, but there are reasons for them. She said the existing Wildewood and the proposed expansion is a process of

appeals by the developer to the Planning Commission and the Commissioners to go through the process of exemptions from the PUD regulations in favor of the developer regardless of how adversely they affect the residents, all the taxpayers in St. Mary's County, and the environment. Specifically, in complete compliance with the development plan and the complete zoning of this land, to her knowledge there is only one Zoning Resolution which covers only approximately 507 acres out of approximately 1,100 acres - she said she doesn't know where the other acreage was ever accounted for. Total exemption from the site plan requirements and approvals, thereby adversely affecting the homeowners, and by not defining the open space and the specific clustered area on the site plan, thereby being exclusive from the resultant open space and resultant maintenance agreements of the open space space and paved areas that are to be approved by the Planning Commission.

This open space does not include a Master Association, she said, which is separate, not applicable to County approval, and is not mandatory through the PUD - membership (in the Association) is voluntary and not mandatory.

The Planning Commission meeting of March 4, 1991, Ms. Palmer said, exempted the open space, regulations, and approvals therefor. To correct Mr. Grimm's statement that yards and paved areas were a part of the open space for the PUD, in other words, she said, Mr. Grimm stated the open space did not have to be in the clustered PUD area, exclusions for open space are: (Ms. Palmer said she was taking this directly from the Zoning Ordinance and Article 66B.) "Exclusions for open space are structures, roads, parking areas, and vehicle turn-around circulation, paved areas. Yards are exclusive of open space configuration in the clustered area. The clustered open space must be visible throughout the area from a significant number of units in the cluster and lead from private streets."

To correct Mr. Grimm's and Mr. Densford's statements that they, the County, had no approval authority for this open space and the maintenance thereof; i.e., the Homeowners' Association for the individual clusters, Ms. Palmer quoted from Article 66B and the Zoning Ordinance: "Private ownership HOAs shall be protected by legal agreements by virtue of covenants which shall define the open space as shown and approved on the site plan for the clustered area. This shall be guaranteed, satisfactorily approved by the Planning Commission to assure maintenance of preservation for whatever purpose intended, and any association formed must meet these requirements and must not be dissolved without the consent of the Planning Commission. No authority to build in a clustered area is allowed without site plan approval." (Note: This language was paraphrased from pages 4-13 through 4-15 of the 1978 Ordinance re Cluster Open Space Requirements.)

This document is the homeowners' protection from all the problems homeowners have incurred and that harm it financially, morally and their general health and welfare. This final approved document defining the clustered open space shall reserve a blank space 3" high, 5" wide for the approving authority, which is the Planning Commission. No five-lot subdivisions are allowed in a PUD under any circumstances. Such divisions of land do not require the necessary information to be approved by any of the approval authorities, Public Works, MetComm, Soil Erosion, Health Department, etc., or to address adequate public facilities issues."

As all this information appears on the site plan that must be approved, this is their guarantee, Ms. Palmer said. The Annotated Code and the Zoning Ordinance dictate that if such approval is not done by the Planning Commission, and the so-called individual lot plats, or side lot plats are recorded without the site plan approval, it legally means that it never existed. Ms. Palmer said she rests her case - this body of officials and the Planning Commission have violated her consumer rights

by not providing her with what she paid for and am triply taxed upon because the open space is not provided along with other amenities defined on site plans. To her, she said, the open space is provided to the developer to build on, and allows the County to collect unauthorized taxes on this land - land that they have purchased. According to State Legislature, Article 66B of the Annotated Code, Ms. Palmer said, the County has, in fact, provided her with a home that does not meet the legal requirements to be purchased and have clear title in a planned community. This issue must and will be resolved, and resolved immediately, before any work and expansion continues in Wildewood, she said.

Debbie Willis, 24 White Elm Court, Wildewood: Ms. Willis said they have a very special group of people that live on their street that are sort of the heart of their community. She said they do special things, they recycle a couple of times every month, they have newsletters, they have meetings, they go out to breakfast, they have soccer coaches, scout leaders, they re just very, very in touch with the base of the community. She said she would like to see the quality of life in Wildewood improve, not deteriorate, and if adequate facilities are not planned for and in place for this new addition, she is very concerned that a deterioration would occur.

Ms. Willis said she does like living in Wildewood, but as other people have expressed, there has been a change over the last several years. Traffic has gotten really bad, she said, and she has a 13, 9 and 6 year old and wouldn't even think of letting her 9 or 6 year old go out on the street and ride their bicycles. She said she walks in the morning and at 6:00 in the morning traffic is so bad it is unbelievable.

She said Paragon is in business to develop, and should be allowed to do so as long as County, State and Federal guidelines are followed. The County is also in business, and must keep the many needs of all its residents in mind. The developers cannot rule the County; the County must set guidelines and follow through with them; most importantly, everybody must play by the same set of rules. It is her impression, she said, that the infamous "Green Book" is nothing more than an explanation and justification so that Paragon can change the rules - why have these regulations if all it takes is a Green Book to change them? Ms. Willis said she has been trying to obtain information about the PUD, and it seems the more question she asks, the more questions she has. The County has been very has been very fuzzy in its understanding of the PUD Regulations, in particular the open space; while this is only causing confusion for the County, it is causing hardship for the Wildewood residents, particularly the children. Just as the children need a school because they are running out of classroom space, the children in Wildewood have run out of open space to play. How can the County even consider approval of this expansion, she said, until the guidelines are in place, and she also doesn't understand why we are following the 1978 Ordinance instead of the 1991.

It is her understanding, Ms. Willis said, that the concept behind cluster zoning is to cluster the homes together and provide space for the community - take a drive in Wildewood, particularly the newer sections, and try to figure out where the open space is. In many instances the children have nowhere to play except the driveways and the streets, and it is her understand that yards and driveways will again be calculated as open space. They do, however, have a soccer field and a baseball field, but as a result of poor drainage and standing water the one facility they do have is often unusable - during the soccer season there will be as many as 5-6 teams on the soccer field. Are there more recreational facilities planned in their area?

In her community, Ms. Willis said, there are plans for a pool and tennis court, however, Paragon is also trying to change the original plan for this as well - the original plan is for a pool only, located in a spot secluded from the residents' homes; now the pool is changed into a sports complex with tennis courts and the location has changed making it

extremely close to the road and residents' homes, which is unacceptable. Her home is one that will be affected, she said, and she would never have purchased a home directly in front of a community pool, but she thought she was protected by the original zoning, which doesn't seem to be the case in the long run.

The residents have paid a lot of money to be in a Planned Unit Development, and their taxes are based on it; however, she said, they are not receiving all of the amenities they are entitled to, that they have paid for and continue to pay for. Another problem is the lack of water pressure in the summertime, she said she hopes this is being taken care of as well as the raw sewage that is spilling out in their community.

Schools - she said she is very happy to hear that Mr. Wettengel is planning to donate some land. Another issue is the umbrella association (Master Association) - there is a lot of confusion about it and she hopes that in the new development that that is all made very clear. She also would like to see everything mapped out and that the developer not be given a blank check. Talking about driveways, she said, when they share driveways it is very difficult when they have more than one vehicle - a couple of weeks ago she had a friend of hers back out of her driveway and right into her mailbox, because there was no place to turn around. They have severe drainage problems in her community, she said - her house is lower than the soccer field behind it and she has a problem with runoff. Mr. Wettengel said any problem that they have, he can handle, but she's called the office every Spring and Fall and hasn't gotten any help on this issue. Is Mr. Wettengel willing to help, she asked? Finally, she said, she is concerned that Lawrence Hayden Road is not going to be an access road and the vehicles that will be going through their tract.

David Long spoke again, saying at Chestnut & White Birch Condominiums, two condominiums with driveway and parking in the middle, the driveway goes out onto Wildewood Parkway; there are 108 units and probably 170 cars. Right up the street they just built another two big units; on the way out going toward Rt. 235 you have one lane with another street coming into it, you have the Wildewood Shopping Center coming into it, and it's a very bad safety problem. Going south to St. Andrews Church Road, you have all those feeder streets coming in. Wildewood, at one time, he said, was a beautiful community, when they had homes, but last night at the Planning Commission meeting besides this PUD they asked for another building with 156 units and another with 90 units, all in this congested area. Mr. Long said he certainly wishes the Commissioners would take that into consideration because the 347 acres in question are zoned one unit per acre.

Eve Palmer stated she would like to readdress the private driveways - she said she realizes that this was an experiment, but it was not pre-approved on a site plan, so therefore, there was no authority to use the private drives. More importantly, she said she feels the private drives have been an extreme problem, they have not been properly paved or drained, but she thinks the most attractive part of the private drives was so that homeowners could be responsible for the problems and the maintenance. This goes back to HOA again, she said, and the open space that has not been approved by the County; it is absolutely clear that they do not have a bona fide, established homeowners association for their open space, their homeowners' land in their cluster.

Ms. Palmer said she is very disturbed about this and how the assessments are being spent to maintain unapproved areas and maintain County property. She said she has heard a lot about the trees, she loves the trees, however, she thinks it should be established that the bulk of the trees is on the County right-of-way and on the inside of the lot lines, not open space. The homeowners' assessments, which are not valid and should not be in effect, nor should the HOA, under these conditions,

are primarily being used to pay the County maintenance on all the rights-of-way throughout over 1,000 acres of land; there are now sidewalks and lights in the middle of the County right-of-way--through what authority, she asked, what approval? They were not on a site plan, or pre-approved, The fact that there's a sidewalk there, or lights, doesn't bother her, she said, what does bother her is the fact that the sidewalks are requirements for the townhomes in the clustered areas and they're not there because there's no open space for pedestrian access. This is a violation.

More importantly, she said, the lights that are on the County right-of-way--this money is being extorted out of the homeowners' assessments, that have not been legally established, and it is not the problem of the homeowners to pay for County maintenance. She said she feels this is a very serious problem and it should be addressed immediately.

Harold Siskind, President of HOA of Holly Hill, said he doesn't quite understand all of this, but he knows they maintain and pay for their street lights, and he understands they are to be paid for by the HOA.

Gene Rea stated he is not a resident of Wildewood, but he is a citizen of St. Mary's County, and said he wanted to reinforce most of the things that Ms. Palmer has said; he said regarding the homeowners' association, it would seem to him that it would behoove this Commission to conduct an audit on the homeowners' associations to determine whether or not they are legal organizations. He said because Ms. Palmer had felt it was not a viable organization she refused to pay her dues; as a result they filed a lien against her house and she was subject to foreclosure.

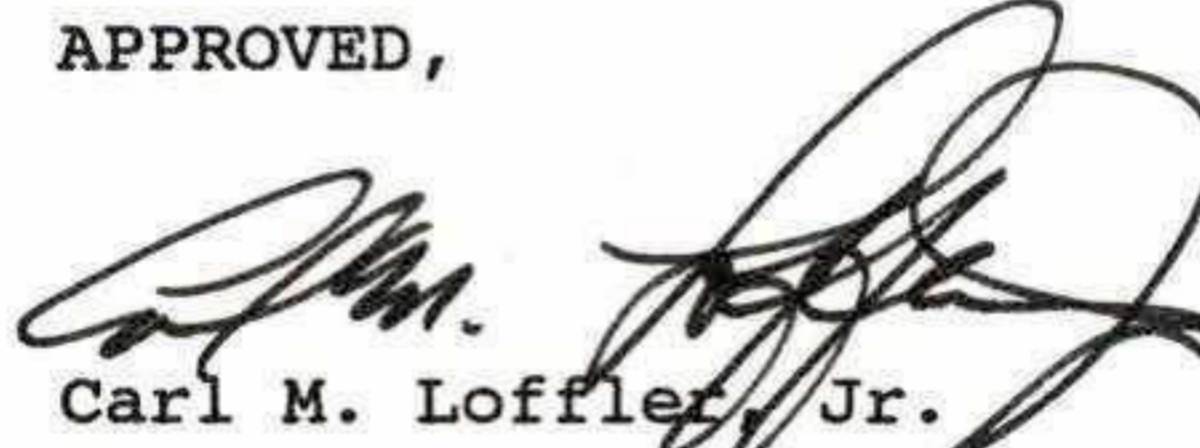
Commissioner Loffler asked that testimony be relevant to the PUD Amendment, stating the homeowners' associations require State approval, not the County's. Mr. Rea replied nevertheless he thought it should be investigated. He said he thinks it is time for the Commissioners to determine (1) If there is a PUD approved under 1978 or any other year. If not, Paragon doesn't have a right to be here, and they certainly don't have any right to extort under the guise of a homeowners' association. Mr. Rea said Jon Grimm has also told them that he has no approved PUD; Mr. Grimm replied that is not true.

Commissioner Loffler, stating that he was very concerned with the relevance of the testimony, closed the public portion of the meeting at 5:43 p.m. The record will remain open for ten days for written comment. Staff will provide the Commissioners with copies of any comments that come in during that period and will respond to the two requests made earlier. Mr. Grimm said he would provide a very basic premise for the way the plan has come forward. Commissioner Loffler asked that specific language be provided from 66B regarding what is specifically in the Green Book that constitutes approval of the site plan.

ADJOURNMENT

The meeting adjourned at 6:00 p.m.

APPROVED,



Carl M. Loffler, Jr.
President

March 12, 1991
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