

**ST. MARY'S COUNTY  
BOARD OF COUNTY COMMISSIONERS' MEETING  
November 25, 1997**

Present: Commissioner Barbara R. Thompson, President  
Commissioner D. Christian Brugman  
Commissioner Paul W. Chesser  
Commissioner Frances P. Eagan  
Commissioner Lawrence D. Jarboe  
John J. Kachmar Jr., County Administrator  
Judith A. Spalding, Recorder

**CALL TO ORDER**

The meeting was called to order at 12:05 p.m.

**EXECUTIVE SESSION**

**Commissioner Eagan moved, seconded by Commissioner Jarboe, to meet in Executive Session to discuss a matter of Personnel (County Attorney's Evaluation), as provided for in Article 24, Section 4-210(a)1. Motion carried.**

**Personnel (County Attorney Evaluation)**

Present: Commissioner Barbara R. Thompson, President  
Commissioner D. Christian Brugman  
Commissioner Paul W. Chesser  
Commissioner Frances P. Eagan  
Commissioner Lawrence D. Jarboe

Authority: Article 24, Section 4-210(a)1

Time Held: 12:10 p.m. - 1:10 p.m.

Action Taken: The Commissioners continued review of the County Attorney's evaluation.

**APPROVAL OF MINUTES**

**Commissioner Brugman moved, seconded by Commissioner Eagan, to approve the minutes of Tuesday, November 18, 1997 as corrected and the Planning and Zoning portion of the November 18 meeting as presented. Motion carried.**

**APPROVAL OF CHECK REGISTER**

**Commissioner Eagan moved, seconded by Commissioner Chesser, to authorize Commissioner Thompson to sign the Check Register. Motion carried.**

**ADDITIONS/DELETIONS TO AGENDA**

**Commissioner Eagan moved, seconded by Commissioner Chesser, to accept the agenda as amended (adding an executive session for property acquisition - Board of Education administrative facilities). Motion carried.**

**CONSENT AGENDA**

**Correspondence:**

1. Oran Wilkerson concerning the sound systems in the Carter State Office Building and the Governmental Center.
2. To various individuals regarding the proposal to abandon Millstone Landing Road: Richard & Agnes Bean; Ann Kaplan; Jeffrey J. Taylor; Bill McCarthy; Annie Dejong; George Donely; Kathrine Bradley.



3. Thomas Daugherty expressing appreciation for his efforts in connection with the proposed abandonment of Millstone Landing Road.
4. President of Potomac River Association concerning the Draft Comprehensive Land Use Plan.
5. Fran Schmalgemeyer concerning growth in St. Mary's County.
6. Chairs and Co-chairs of Boards, Committees, Commissions concerning recent training sessions.
7. William Bartlett regarding use and placement of bank traps and pound nets in waters of St. Mary's County.
8. Various individuals concerning Smart Growth Initiatives.
9. Various boy scouts congratulating them on the award of the rank of eagle scout: Ryan Woodford; Jeremy Mercure.

**Commissioner Eagan moved, seconded by Commissioner Jarboe, to approve the Consent Agenda as presented. Motion carried.**

#### **COUNTY ADMINISTRATOR ITEMS**

Present: John J. Kachmar Jr., County Administrator

1. **Budget Amendment No. 98-13 - Office of Community Services**  
(Continuation of the Operation Link Program - \$13,745)

**Commissioner Eagan moved, seconded by Commissioner Chesser, to approve and authorize Commissioner Thompson to sign the Budget Amendment as presented. Motion carried.**

2. **Grant Agreement - Sheriff's Office**  
(Local Law Enforcement Block Grant Program - Federal: \$62,816; County: \$6,980)

**Commissioner Eagan moved, seconded by Commissioner Chesser, to approve and authorize Commissioner Thompson to sign the Grant Agreement as presented. Motion carried.**

(Commissioner Thompson suggested, and the Board agreed, that the Sheriff be advised that the Commissioners have approved the Grant Agreement with the stipulation that he cooperate with MCI officials in the Records Management System.)

3. **Public Works Agreement Addendum  
Chestnut Hills Subdivision, Section 3**  
(extending deadline for completion of improvements to 10/1/98; backed by Letter of Credit with Crestar Bank in the amount of \$60,000)

**Commissioner Chesser moved, seconded by Commissioner Eagan, to approve and authorize Commissioner Thompson to sign the Addendum as presented. Motion carried.**

4. **Colton Endowment Senior Housing Project RFP**  
(correction to C-1 regarding composition of the Technical Evaluation Committee--that the Board of County Commissioners exclusively be the TEC on this project)

**Commissioner Eagan moved, seconded by Commissioner Chesser, to accept the correction as presented and to approve the Colton Endowment Senior Housing Project RFP. Motion carried.**



5. **Assignment and Assumption of Liability of Airpark Sales & Services, Inc. to Allied Hangars, Inc.**  
(Request for Commissioners to sign the Consent of Lease Assignment prepared by the County Attorney)

Commissioner Brugman moved, seconded by Commissioner Chessser, to approve and sign the Consent of Lease Assignment as presented. Motion carried.

6. **Resolution No. 97-  
Local Management Board  
Provision of Incorporation Legal Counsel and Services**

Commissioner Eagan moved, seconded by Commissioner Chessser, to approve and sign Resolution No. 97- - Authorization for the County Attorney to provide incorporation legal services to the Local Management Board of St. Mary's County, Inc., as presented. Motion carried.

#### **COUNTY COMMISSIONERS' TIME**

##### **First Colony Public Hearing** **Time Allowance for Speakers**

During discussion of the Calendar and the public hearing scheduled for this evening on First Colony, Commissioner Thompson suggested allowing ten minutes for groups and five minutes for individuals to speak at the hearing. The Commissioners gave their concurrence.

##### **Nursing Center Audit**

Commissioner Chessser referred to the voice mail from the County Attorney indicating that the legal audit of the Nursing Center will not be available until the first of the year. He further referred to an article in *The Enterprise* newspaper regarding the audit, and he requested from the County Administrator any information in addition to what he had already received regarding the 1997 audit and any information that is not covered by the confidentiality clause.

Commissioner Thompson suggested, and the Board concurred, having Diversified Health meet with the County Commissioners to address those issues that have not been resolved so that this can be brought to closure.

#### **PRESENTATION OF COMMENDATION TO HEALTH DEPARTMENT STAFF**

Present: Dr. Ebenezer Israel, County Health Officer  
Health Department Staff

The Commissioners presented a Commendation to the Health Department Staff in recognition of their performance during the food-borne bacteria outbreak.

#### **PUBLIC HEARINGS** **PROPERTY DISPOSITION**

In accordance with Article 25, Section 11A(b)(3-1)(ii) and Article 25, Section 3(r) the Board of County Commissioners conducted public hearings to receive comments on the disposition of the following properties:



**Right-of-Way on Waterside Drive - Brubacher Subdivision**

(Near Lots 10 and 11 - 1800 square feet)

Present: Steven Norman, Assistant County Attorney  
Michael Davis, Attorney for Applicant  
John Windolph, Applicant

Mr. Norman read the Notice of Public Hearing, advised that it was published in the November 12 and 19 issues of *The Enterprise* newspaper, and reported that the Attorney for the Applicant sent certified letters regarding the hearing to adjacent property owners. The specific request is for Mr. Windolph to be deeded from the County approximately 1800 square feet at a cost of \$300, which the Department of Assessment and Taxation indicated was fair market value of the property. Mr. Windolph purchased the property in 1996 and the house was lost in a fire. He received a building permit to replace the house, and through a complaint by a neighbor to the Department of Public Works, he learned that the foundation of the new house was within the boundaries of the county's right-of-way. The Department of Planning and Zoning issued a Stop Work Order.

Mr. Norman went on to explain the background including the conveyances of the property stating that the Brubachers deeded a parcel of land in 1965 to the County for a right-of-way, and the last 45 feet of the right-of-way was subsequently deeded to the Hyde's, Mr. Windolph's predecessors in title. Research indicated that the Brubachers did not own the last 45 feet of Waterside Drive at the time it was conveyed. Mr. Norman concluded that he did not believe that this last 45 feet of the County's right-of-way would serve any public purpose and was not a buildable parcel.

Mr. Davis advised the Commissioners that Mr. Windolph was not aware that he did not totally own the entire property. During his presentation Mr. Davis distributed the following documents for the record: plat of the property prepared by DH Steffens Co.; Letter and Return Receipts notifying property owners of this hearing; and site plan of the Brubacher Subdivision; a memorandum dated October 27, 1997 from the Department of Assessment and Taxation indicating that \$300 was a reasonable value for the 1800 square feet parcel; and a draft Quitclaim Deed between the Commissioners and Mr. Windolph.

The hearing was opened for comments from the audience:

**Cheryl Billiter** - Stated that the property in question was used as a turn around and suggested that another arrangement be worked out (e.g. deed half of the property to Mr. Windolph).

**Susan Rush** - Expressed support for Mr. Windolph stating that there would probably be less turning around because people would see the house and realize there was no access to the water.

**Gary Lewis** - Expressed support for Mr. Windolph stating that his home would be an asset to the neighborhood.

**Ray Wetzel** - Stated that Mr. Windolph's home would add to the value of the property and would complete the development of the area.

The public hearing was closed.

Mr. Davis and Mr. Windolph inquired whether the decision could be expedited. The Commissioners agreed to take action at next week's meeting.

A tape of the proceedings is on file in the Commissioners' Office.



**Portion of the Clements Landfill**

(6.0 acres)

Present: Linda Opdyke, Paralegal, County Attorney's Office  
Louise Somerville  
Wilma Reeves  
Steve Reeves

Ms. Opdyke gave the background of this property, stating that a previous Board of County Commissioners had approved a Memorandum of Understanding with Ms. Somerville. The MOU set forth the terms by which the County would consider the sale of the property. It offered the sale of the property through a private sale. Ms. Somerville appeared before the Commissioners on August 19 to express her interest in the property and has requested consideration to complete the MOU.

The hearing was opened for questions and comments from the audience:

**Steve Reeves (owner of adjacent property)** - Stated that he was interested in maintaining a buffer area around his property; that the County needs to determine the boundary lines; and that he was interested in purchasing a portion of the property to protect his property.

**Wilma Reeves** - Referred to a waiver signed by her husband that the land could be used for the landfill (It was later determined that this was a different piece of property than that in question)

Areas of discussion included: the issue of notification to adjacent property owners (not currently a requirement); the fact that there were other adjacent property owners other than Ms. Somerville; whether a survey needed to be done; clear description of the property in question; the possibility of an auction; and how the property could be divided among adjacent property owners.

The public hearing was closed; the record will remain open for ten days for written comment.

In conclusion Ms. Somerville and Mr. Reeves indicated they would work with the County to work out a compromise and the proposed solution will be presented to the Commissioners for consideration.

A tape of the proceedings is on file in the Commissioners' Office.

**WICOMICO SCENIC RIVER COMMISSION  
ANNUAL REPORT**

Present: Scott Cosenza, Charles County, Chair  
Joan Bowling, "  
Sue Veith, Environmental Planner, DPZ

The referenced representatives of the Wicomico River Commission (members of which are appointed to represent the interests of the Wicomico Scenic River and its tributaries in Charles and St. Mary's County) appeared before the Commissioners to present the Annual Report and to request direction from the Board. Mr. Cosenza stated that the Commission members were concerned as to what was expected of them and what they were allowed to do.

Areas of discussion included the Commission's purpose; the bylaws; Stewardship Exchange Program; and implementation of the Recommendations of the Exchange Team (including a regular meeting time and place, establishment of subcommittees, development of a logo).



During the presentation the Commission members requested direction from the Board (including: (1) the format for making comments about specific development or permitted activities (what form and to whom); (2) process in getting Commissioners' approval for projects; (3) fund raising and handling of funds (establishment of a 501(c)(3) status; setting up of accounts within one or both counties to be managed by county staff); (4) establishment of citizen membership group to work on subcommittees).

In conclusion the Commissioners agreed to review the four referenced areas and would have staff draft a response.

#### **NURSING CENTER STAFF PRESENTATION OF WEBSITE**

Present: Steve Helwig, Controller, St. Mary's Nursing Center  
Dan O'Brien, Food Services Director  
Melinda Lyon, Administrative Assistant  
Jerry Smith, Website Coordinator

The referenced individuals appeared before the Board to make a visual presentation on the Nursing Center's newly established Website. The Center's webpage included background of the Nursing Center, its location, professional services provided, a visual tour of the facility, staff members, rates, and a form to complete for further information.

#### **MEREDITH PROPERTY DRUG FORFEITURE**

Present: Douglas Durkin, County Attorney

As requested by Commissioner Jarboe at a previous meeting, the Commissioners discussed documentation relative to the forfeiture of a residence and property located on Thompson Corner Road in Mechanicsville. Commissioner Jarboe referred to correspondence dated August 12, 1997 from the Sheriff notifying the County Attorney that the forfeiture agreement allowed the mother and her daughter-in-law and grandson to continue to occupy the property for six months from June 22, 1995, the effective date of the forfeiture; however, as of July 15, 1997 (well beyond the six-month grace period), the property has been continually occupied by the original tenants as well as the individual who was convicted, and therefore requested that the eviction process be instituted.

Areas of discussion included that the property has an illegal septic tank and it is an illegal lot; whether the trailer was part of the confiscated property; liens on the property; and questionable activity taking place at the property.

**After discussion Commissioner Chesser moved, seconded by Commissioner Jarboe, to direct staff to investigate options as to the best course of action to take to clear the land and to evict the occupants. Motion carried.**

#### **DEPARTMENT OF RECREATION AND PARKS CHAPTICO WHARF PUBLIC LANDING/YOWAISKI PROPERTIES PROPERTY LINE AGREEMENT REQUEST**

Present: Phil Rollins, Director

As a follow up to last week's discussion (the decision of which was deferred pending further review of the property boundary line agreement), Mr. Rollins advised that the proposed boundary line was acceptable to the County and to Mrs. Yowaiski. Commissioner Jarboe advised that he and Commissioner Chesser visited the site and were in agreement to proceed with the boundary line adjustment.



After discussion Commissioner Jarboe moved, seconded by Commissioner Chesser, to accept the property line adjustment as proposed by the Department of Recreation and Parks and Mrs. Yowaiski. Motion carried.

Commissioner Eagan moved, seconded by Commissioner Jarboe, to approve and authorize Commissioner Thompson to sign the Deed and Boundary Line Agreement as presented. Motion carried.

#### **EXECUTIVE SESSIONS**

Commissioner Chesser moved, seconded by Commissioner Eagan, to meet in Executive Session to discuss a matter of Personnel (upcoming vacancy in the Department of Public Works), as provided for in Article 24, Section 4-210(a)1. Motion carried.

Commissioner Eagan moved, seconded by Commissioner Chesser, to meet in Executive Session to discuss a matter of Litigation (Special Taxing Districts), as provided for in Article 24, Section 4-210(a)8. Motion carried four to one with Commissioner Jarboe voting against.

Commissioner Eagan moved, seconded by Commissioner Chesser, to meet in Executive Session to discuss a matter of Property Acquisition (Board of Education Facilities), as provided for in Article 24, Section 4-210(a)11. Motion carried four to one with Commissioner Brugman voting against.

#### **Personnel (Department of Public Works)**

Present: Commissioner Barbara R. Thompson, President  
Commissioner D. Christian Brugman  
Commissioner Paul W. Chesser  
Commissioner Frances P. Eagan  
Commissioner Lawrence D. Jarboe  
John J. Kachmar, Jr., County Administrator  
Judith A. Spalding, Recorder

Authority: Article 24, Section 4-210(a)1

Time Held: 4:45 p.m. - 5:15 p.m.

Action Taken: The Commissioners discussed the referenced vacancy and gave direction to staff.

#### **Property Acquisition (Board of Education Facilities)**

Present: Commissioner Barbara R. Thompson, President  
Commissioner D. Christian Brugman  
Commissioner Paul W. Chesser  
Commissioner Lawrence D. Jarboe  
John J. Kachmar Jr., County Administrator  
George Erichsen, DPW  
Judith A. Spalding, Recorder

(Commissioner Frances P. Eagan did not participate once she learned that the discussion involved the First National Bank of St. Mary's because she is on the Board of Directors of that bank.)

Authority: Article 24, Section 4-210(a)11

Time Held: 5:25 p.m. - 5:50 p.m.

Action Taken: The Commissioners discussed the referenced issue and gave direction to staff.



**Litigation (Special Taxing Districts)**

Present: Commissioner Barbara R. Thompson, President  
Commissioner D. Christian Brugman  
Commissioner Paul W. Chesser  
Commissioner Frances P. Eagan  
Commissioner Lawrence D. Jarboe  
Douglas Durkin, County Attorney  
George Erichsen, Supervisor, Engineering Services, DPW  
Scott Alexander, DPW  
Robert P. Gaudette, DNR  
Judith A. Spalding, Recorder

Authority: Article 24, Section 4-210(a)8

Time Held: 5:50 p.m. - 6:30 p.m.

Action Taken: The Commissioners discussed the referenced issue and gave direction to staff.

**FOLLOW UP TO EXECUTIVE SESSIONS**

**Commissioner Jarboe moved, seconded by Commissioner Chesser to direct staff to proceed as discussed in Executive Sessions regarding Property Acquisition (Board of Education Administrative Facilities) and Litigation (Special Taxing Districts). Motion carried 4-0-1 with Commissioner Eagan abstaining.**

**PUBLIC HEARING – 6:45 p.m.**

**ZPUD #96-1607 - FIRST COLONY PUD**

**(Held at Carter State Office Building)**

All Commissioners were present. DPZ staff present were Jon Grimm, Director; Planner Phil Shire; and Peggy Childs, Recording Secretary.

A list of attendees is on file in DPZ.

Requesting approval of Development Plan and proposed zoning change from Low Density Residential (RL) and Commercial (C) to Planned Unit Development - Mixed Use (PUD-X). The property contains 228.89 acres and is located at the southern quadrant of MD Routes 235/4; TM 34, Blocks 22/23, Parcels 444, 455, 456, 490 & 516.

Owner: Casimir Szlendak / Porto Bello Development, Inc.

Present: Mr. Szlendak, Donald Cropp, Pat Mudd, Attorney Bill McKissick and other members of the First Colony Development Team  
County residents

Commissioner Thompson called the meeting to order at 6:45 p.m., stating that the hearing would be extended to 10:20 p.m. because of the late start and if we don't finish tonight the hearing will be continued to December 9th. First Colony will be given 1-1/2 hour to present their plan, followed by questions from the Commissioners; then public comment. Individual speakers will be given 5 minutes, speakers representing a group will be given 10 minutes.

Members of the public protested. Len Greess stated some of them have spent a great deal of time on this, and 5 minutes will not begin to allow them to tell the story of what they have found. He wanted it in the record that he feels the rules are arbitrary and inequitable. Vernon Gray, representing the Association of Concerned Taxpayers (ACT), said he has retained the services of an attorney and four expert consultants. He asked that the decision to continue the hearing be made right now and that, at the continuation, his consultants be given an unlimited time, or at least equal time to that given to the developer to present his plan. Commissioner Thompson replied that Mr. Gray's consultants can submit their credentials in writing, and there will also be an open record period for public comment.



Staff Exhibits:

- #S-1 - Legal Ad published in The Enterprise on 11/5/97 & 11/12/97
- #S-2/#S-3 - Evidence of posting of property by staff
- #S-4 - 11/17/97 Staff Report & Planning Commission Hearing Record and Recommendation for approval with 18 conditions
- #S-5 - Letters received by DPZ since advertisement of this County Commissioner Public Hearing

Presentation by First Colony Development Team

Applicant Exhibits:

- #A-1 - Certified Receipts of notification to property owners within 200 ft. of the subject property by the applicant
- #A-2 - PUD Development Plan
- #A-3 - PUD Submission, including profiles of the Development Team,
  - Rezoning Outline, reduced copies of all plans, renderings, and schematics

Members of the First Colony Development Team presenting the plan were: Donald Cropp of Porto Bello Development/Colony Builders; Attorney Bill McKissick of the firm of Dugan & McKissick; Pat Mudd of Mudd Engineering, Inc.; Howard Biel and Pat Coggins of FAISON; Christopher Cowie, of Rounds Vanduzer Cowie Architects; and Nancy Randall of Wells & Associates Transportation Consultants. Their profiles are included in Applicant's Exhibit #A-2.

General Overview

Attorney Bill McKissick stated this mixed-use project consists of three components: commercial/retail, commercial/office, and residential; it is not true that the commercial/retail areas are 5 times the size of Wildewood. Two (2) commercial/retail areas are proposed at no more than 200,000 sq. ft. each; the Wildewood Shopping Center contains approximately 258,000 sq. ft. A third commercial site will include a hotel, multiplex theater, and restaurants. The residential component includes both condos and single-family residential, with pedestrian trails and walkways connecting all three components of this integrated, pedestrian-friendly project so that people who live in the residential areas can also work, shop, and play there.

Approximately 61 acres will be retained in conservation areas, with 14 acres dedicated for roads and public use activities. The amenities package includes a recreational center (swimming pool, clubhouse, tennis courts, multi-purpose fields) which will be located in the residential area for easy access. The developer will build and dedicate a road system, including First Colony Boulevard and a second major road which is being called FDR Boulevard because it follows what is the county's preferred alternative for that road. If in fact that is not the chosen route for FDR Boulevard, this road will be able to tie into that selected route. The developer will contribute \$1,000,000 to SHA for improvements to Route 235.

Mr. McKissick said the decision for growth in the county has already been made; it is coming and we must decide how to handle it. He pointed out the benefits of Planned Unit Developments; i.e., greater oversight, uniform architectural controls, construction of roads, centralized stormwater management, as well as quantitative and qualitative controls.

Following statements by Casimir Szlendak, the owner/developer who grew up in the county, and by Project Manager Donald Cropp of Porto Bello Development, the Development Team presented specifics of the plan.

Commercial/Retail - Howard Biel, of FAISON, Inc.

Mr. Biel offered FAISON's credentials and said they are purchasing three (3) tracts of land from the developer for commercial uses, as follows:

Retail/Commercial Area 1 - 180,000 sq. ft. total

- A "food-anchored" community shopping center of 160,000 sq. ft.  
(Giant Super-G (55,000-60,000 sq. ft.) and 2-3 department/apparel stores
- Outparcel development (small, specialty stores) - 20,000 sq. ft.



Retail/Commercial Area 2 - 200,000 sq. ft. total

A "destination shopping center" of 190,000 sq. ft.  
(129,000 sq. ft. Lowe's and 2-3 electronic/office supply/music, etc. stores)  
Outparcel development - 10,000 sq. ft.

Mixed Commercial Area 3 - 38,000-40,000 sq. ft.

Hoyt Cinema - 10-12 screen, 2,000 seats, 38,000-45,000 sq. ft. theater  
Hotel; 2 "lifestyle" restaurants

Parking

Areas 1 & 2 - 2200-2300 spaces (5 spaces per 1,000 sq. ft. gross leasable area)  
Area 3 - 550 spaces for hotel + 5 spaces per 1,000 sq. ft. for restaurants

Architecture/Land Planning/Roads - Chris Cowie, of Rounds Vanduzer Cowie

Georgian-Colonial architecture is proposed, with a pedestrian network and hiker/biker trails to connect the variety of uses. This network not only links the community but cuts down on vehicular traffic and parking requirements by encouraging pedestrian access. The proposed boulevards - First Colony and the future FDR - will be two lanes in each direction with a landscape median, street trees, additional perimeter landscaping with street trees, lighting, pedestrian sidewalk, crosswalk and paths, and an outside landscaped area to create a buffer between the boulevard and the adjacent areas.

The development will be separated from Route 235 by existing commercial properties and the railroad right-of-way. Mr. Cowie offered plans for each section through the retail/commercial areas, showing landscaped buffers, street trees, building setbacks, etc. for each one. Landscaped buffers will be provided between the railroad right-of-way and the retail areas at the front of the property and also from the rear of the retail areas to the commercial/office sections. A 75 ft. buffer will be provided from Route 4 to the First Colony construction or paved areas. Commissioner Chesser stated he remembers there being a lot of steep slopes back in this area. Mr. Cowie replied that there are steep slopes there.

The Georgian-Colonial architecture will extend to the signs to serve the development. Mr. Cowie offered sketches of the signs proposed at Route 235 and at Route 4, as well as interior signs for the shopping and office centers, businesses, and each residential neighborhood. He offered slides showing architectural styles employed at other projects, including Oxford Oaks in Pennsylvania, Bowie-Gateway in Bowie, and Annapolis Mall.

Traffic - Nancy Randall of Wells & Associates, Transportation Consultants

Ms. Randall said her company looked at existing conditions, background conditions, and the Base growth, including the planned 235 improvements and critical movements north/south and east/west. They looked at the Route 235/Old Rolling Road intersection, the 235/4 intersection, the proposed access at 235/First Colony Boulevard, and Route 4/proposed FDR Boulevard. Then they looked at the traffic First Colony will generate and added those figures to get the "Critical Lane Volume," which is the how the Level of Service is determined. St. Mary's County's accepted level of service is "D" in the development district and "C" anywhere else. Levels of Service are defined as "A" through "F," with "A" being the best and "F" the worst situation, as follows:

- "A" - No congestion; free movement.
- "B" - Aware of other drivers on the road, occasionally you can't change lanes, several people in front of you, but you almost always get through the signal.
- "C" - Similar to B, but more delays getting through intersections and the ability to change lanes is slightly less.
- "D" - Maximum volume you want to see, with problems which need to be addressed. Delays at intersections; movement more constrained.
- "E" - Ultimate capacity of intersection before gridlock.
- "F" - Gridlock. Total breakdown.

| <u>Current levels AM/PM</u> | <u>With SHA Improvements</u> | <u>W/FirstCol Improvemts</u> |
|-----------------------------|------------------------------|------------------------------|
| 235/4 - C/D                 | C/C                          | C/D bordering "C"            |
| 235/ORR - C/E               | C/D bordering "E"            | C/D bordering "C"            |
| 235/First Col Blvd          |                              | D/D both bordering "C"       |



In addition to the new north and southbound lanes proposed by the State, the applicant will build: an additional northbound lane on 235 for through traffic, which will become the right-turn lane at Route 4; a double left turn lane into the site from 235 at First Colony Boulevard, with signalization; a left turn lane into the site from Route 4 at FDR Boulevard, with accel/decel lanes. SHA is also proposing some interim road improvements. If funded this year as anticipated, SHA will begin construction to use the existing shoulders of 235 as shared right-turn lanes in both directions from Route 4 to Pegg Road. The 3 lanes will be maintained by SHA throughout the 235 construction. The estimated time for the shoulder construction is from 6 months to a year. SHA has also committed to doing the 235 improvements at night. A traffic analysis and First Colony proposals was entered as #A-4.

Engineering/Environmental Issues - Pat Mudd of Mudd Engineering, Inc.

Mr. Mudd described the property as 95% wooded with gently rolling hills, draining toward the county landfill. Three intermittent streams run through the property with approximately 11.4 acres of non-tidal wetlands. These will not be disturbed except for the road-crossing at the future FDR Boulevard, which is approximately 28,000 sq. ft., or .6 acres. Seventy-two (72) acres or 32% of woodlands will be preserved - 60 acres plus 12 acres in buffers scattered throughout the development in buffers and defined in the site plan process. Two (2) major regional stormwater management facilities will be constructed on-site to serve the development; they will be built up front with the road construction work, and will be in place before any building construction is commenced. Runoff will be pre-treated, passing first through facility number one to remove trash and oil. It will then be piped to facility number two, a detention facility which will allow more sediment to filter out prior to being released at pre-development rates into the downstream receiving channels. They are making every effort to be conscious of where the development is and to remove as many pollutants as possible before release from the site. First Colony has coordinated with SHA to incorporate stormwater management for this section of 235/4 into this project.

Adequate Public Facilities

- (1) Fire Suppression & Protection - all buildings over 12,000 sq. ft. and all multi-family units will be sprinklered. Fire hydrants will be installed along the road in the office complex areas to meet the APF provision.
- (2) Water service will be served by the existing public water system along Route 235 and Route 4. An elevated storage tank will be provided, if necessary, to provide adequate pressure and capacity.
- (3) Sewer - the sewer system for the development will tie into the existing public sewer line which runs down the county right-of-way. It is a large line, with adequate capacity at the Pine Hill Run Treatment Plant.
- (4) Roads - addressed by Nancy Randall.
- (5) Stormwater Management - see above.
- (6) Schools - St. Mary's County Public Schools has commented that the 6-year Capital Improvement Program addresses the growth generated by this project and that actual impact will be dependent upon the phasing of construction and occupancy of the development. Under the School Board's guidelines, the APF provision has been met.

Mr. Mudd stated that extra steps have been added to the review process for this development which are not enforced on any other commercial project, as follows, in that the developer will prepare a Concept Plan for the development and meet with staff to discuss important issues. A Memorandum of Understanding will be drawn up and the plan will be reviewed by the Planning Commission. This allows the county to have input into the planning process at a very early stage, and to participate in design of the project. When all the issues have been addressed, the project will then move forward into the standard site plan review process.

This concluded the developer's presentation and the development team responded to the Commissioners' questions. DPW has stated that, if FDR is not at this alignment, it will be off the First Colony property and First Colony will provide tie-ins. However, if the FDR location changes after construction of the development road has begun, First Colony will not be able to move their road. Construction costs of the First Colony portion of FDR Boulevard was estimated at \$1.3 Million, plus the 8-acre dedication, or roughly \$1.4 Million.



The PUD plan shows the project being built out by 2002, but Mr. Szlendak, in his comments, referred to a 7-8 year buildout. Commissioner Thompson asked if that would require an amendment to the PUD, adding she thought an extended buildout would alleviate some of the concerns regarding 235 traffic and schools. Mr. Grimm responded that the Planning Commission has recommended and the developer has agreed to at least annual updates, which would allow for amendments, if needed. Mr. McKissick said they figured the quickest buildout to calculate the maximum impact to the county and will build toward that; however, based on marked conditions, it could be longer. The developer has agreed to extend the buildout for the residential development to try and accommodate the school situation.

Ms. Randall added the start of construction for 235 improvements is July 1999 and SHA estimates they will take 2 years, and First Colony will not be opening anything in the shopping centers until the fall of 1999. There will be a short overlap with the beginning portions of the development but the project will not be built out before the completion of 235. At this time, SHA expects to begin the improvements at Route 4 and work their way south, so that portion of the road could be open within that first year. It depends on SHA's construction schedule and whether they work down just one side of the road or both, and that has not yet been decided by the State. SHA has asked that this section of First Colony Boulevard and future FDR Boulevard be in place before the shopping center opens so they can use those intersections to detour traffic during the 235 construction. The stormwater management facilities also need to be in place to handle runoff from the road improvements, and would not have been available to SHA without this PUD. FAISON has contacted some of the commercial property owners fronting on 235 to consolidate some of the entrances and allow for some internal traffic through the development rather than vehicles having to go back out 235.

Mr. Grimm entered into the record as #S-5 written comments received by DPZ between the time the Planning Commission closed their public hearing and the start of this hearing and comments received tonight. The comments were from Anthony De Vico, one anonymous E-Mail and one from Tom Lanzi, letter from Claire Whitbeck, a petition from the G.F.W.C. Woman's Club of St. Mary's County, and a letter from Robert J. Lewis. Copies of all comments received will be provided to the Commissioners.

Commissioner Thompson opened the hearing to public comment. Of the 33 individuals who were signed up to speak, only 3 spoke in favor of the development: Buddy Loffler, Tana Glockner Shultz, and Bill Durkin.

Buddy Loffler, Individual

Mr. Loffler said those most interested in the development are those in competition, who choose not to come and speak in the open but to operate from back alleys. He said this development in the LexPark development district will help maintain the rural character by taking pressure off the RPD. Some would have government direct what business will go at what location, but he urged the Commissioners to not take this socialistic approach but to remember that this country was built on private enterprise, and judge the development for what it is -the right project, at the right time, in the right place.1.5

Tana Glockner Shultz - Individual

Owns insurance agency across 235 from the development. Feels the county needs this development and that business owners welcome it because it will be good for them. Says people come to her office on a daily basis making negative comments that there are no quality shopping centers or restaurants. Keep revenue in the county but don't give large businesses tax breaks that smaller ones do not have, Ms. Shultz asked.

Bill Durkin, Individual

Mr. Durkin is the realtor who listed the property for sale. He said it seems we want Mr. Szlendak to take care of all the worries of the county. The developer has followed all the rules and regulations and has gone out of his way to do what he can in this project and it should be approved.

The following spoke in opposition to the project:

Ken Hastings, Individual

Asked that his time be given to Vernon Gray and his consultants.



James Owens, Individual/Farm Bureau Board of Directors

Farm Bureau (500 member families) voted that this development is not needed at this time. Mr. Owens questioned whether sewer line is large enough to handle existing development plus this development too. Ponds on his farm which are supposed to overflow once every 100 years have overflowed 3 times in 20 years; concerned about stormwater runoff into the rivers and bay and will look into as member of the Lower Potomac/Chesapeake Bay Strategy Committee.

Elinor Cofer, Friends of the Chesapeake

Members of 1987-88 Comprehensive Plan Land Use Committee who established the development district never envisioned this type of development for Lexington Park; it is far too big. The entire county is a watershed for the Chesapeake Bay and Potomac River, and all our talk about the environment doesn't take away what this project will do to them. Consider what the people want and don't turn Lexington Park into New York City.

Richard Kline, Environment Consultant hired by Association of Concerned Taxpayers (ACT) and California Protection League

Mr. Kline and three experts looked at this project and found that it does not meet the APF Provision for traffic and schools. Traffic has been understated by 20%. First Colony will cause a 12-fold nutrient increase into the St. Mary's River and impact 7 miles of streams; proposed regional stormwater management ponds will not handle runoff effectively. Also of serious concern is the release of carcinogenic gases from the adjacent solid waste landfill; studies have not yet been done to determine how much is being released. Urged Commissioners to deny First Colony until more accurate information is available on these issues or allow the experts to present their findings at the continued hearing.

Mr. Kline distributed to the Commissioners copies of the experts' resumes and some of the written reports.

Woody Bolton, representing the Wildewood Shopping Center

Offered statistics on the county's retail market. He said it is important to retailers to have access and visibility, and is typically proper to have off-site infrastructure in place prior to on-site development. Applicant has put together a fine development team, but Mr. Bolton said it is important for the county to look at the retailers and see what we are getting and whether the mix makes sense for the community.

Nancy Paige Smith, representing St. Mary's River Watershed Project

Ms. Smith said St. Mary's County is not doing ecological assessments of watershed as part of the comprehensive land planning process that it should be doing. She urged protection of the St. Mary's River Watershed, one of the most beautiful watersheds on the eastern coastal plain, but which is in trouble, with two major problems - nutrient load and bacterial contamination. The River is totally contained within the county and we have the opportunity to protect an entire ecosystem, but instead we are cutting a wide swath of forestlands in the development district, and these thousands of square feet of residential and commercial development put the river at risk.

Robert Thompson, Individual

The last thing we need here is another shopping center, and the proposed retailers are the same as the ones we have now. Eighteen months to 2 years ago the county asked what the citizens wanted to see here, and the overwhelming response was to maintain the rural character. Mr. Thompson said he is happy to drive to Annapolis to shop because he doesn't want to see a megapolis here.

Len Greess and Oran Wilkerson

Reserved their comments for the continuation of the hearing.

Edward Dowgiallo, Individual

The harm to the St. Mary's River could be minimized if the 72 acres of parking lots were constructed with a surface that will allow water to soak through the base material into the ground, which avoids thermal heat effect on the water and helps to prevent erosion. The reason these groups don't look into this is because it costs too much, but the development should not be approved until it is re-engineered by people who specialize in this new school of engineering, which is absolutely necessary for our survival. Mr. Dowgiallo offered the name of such an environmental engineering firm: Bessman Green Systems in Salem, Maine.



Dee Jay Gordon, of Southern Maryland On-Line Computer Magazine

Offered for the record E-Mail received from readers of her magazine.

Laura Edons, contiguous property owner

Very distressed by First Colony; finds it very intrusive. Donated her time to Vernon Gray and consultants.

Scott Sanders

Concerned regarding additional traffic light at First Colony Boulevard and its impact on existing traffic situation; concerned about schools. Incorrect statement at Planning Commission hearing that adequate facilities exist at Hollywood Elementary School was never corrected. Offended by Mr. McKissick's statement that if this development is not approved we will have rampant sprawl. Hollywood Elementary will never have excess capacity and a solution to high school problem is needed right now. Need to slow down a little bit before we starting putting more retail growth on 235. Wouldn't mind First Colony so much if it was slowed down a little bit.

Alan Brylawski, Individual

Attested to Richard Kline's success in stopping silt in Cuckhold's Creek. With Mr. Kline and the people he wants to bring down, pollution can be stopped. Particularly impressed with what Mr. Kline says about pollution and losing our waterfront; need to keep our waters clean. Mr. Brylawski is a real estate agent who travels the county and says he sometimes has to wait for 5 light changes at Route 4/235; he avoids 235 from Great Mills Road to Route 4 because of the traffic. Mr. Brylawski said the development is beautiful and he would like to shop there and go to the movies there; but he wants to do it in 2005.

Rayner Blair, owner of Blair's

Proposed project is beautiful but will be devastating to local businesses, and cited the Wildewood and San Souci Shopping Centers where there are vacant stores. Mr. Blair said the Waldorf Mall was supposed to be made up of local stores, but it is chain stores and it wiped his business out. He said the project will put money into the county, but the county better build another road to carry the money the development takes out.

Jack Witten, Potomac River Association

Mr. Witten stressed the importance of nurturing what we have at NAVAIR - a \$16 Billion project and the only facility of its type in the world; it is a national treasure. The Air Force would love to get ahold of what we have inside the Navy fence. He said we need to create a magnetic field and a quality of life to attract and maintain the talent that John Paradis put together and the computer center that Jim Raley built at NAS. What we have in this development is inadequate information and not enough time to evaluate it. We have marginal shopping centers in the county now; we don't need another one.

Millicent Witten, Individual

Ms. Witten said the project is coming along at the wrong time and wrong place, and reserved the rest of her time for Vernon Gray.

Larry Harvey, representing property owners of Settlers Lane

Mr. Harvey said he is not opposed to the project but reported that the developer has offered the Settlers Lane property owners a 25 ft. right-of-way between his property and Settlers Lane. The property owners have agreed in principle and Mr. Harvey offered for the record letters asking that the offer be accepted and that a condition be imposed to the effect that no access will be provided to the Szlendak property via the 25 ft. right-of-way.

Kathy Tourtelot, Individual

Originally from Santa Clara, California, which she said has been ruined by development constructed by Mr. Szlendak. Ms. Tourtelot said she is very happy here and has never met more beautiful people, and will never go back to the Santa Clara area. She asked what the county gets from large corporations and developments like this except for taxes and minimal paying jobs; the bulk of the money is transferred out of the county to the company's headquarters. She said Mr. Cropp has no concern for Wildewood, which he helped developed, and asked the Commissioners to take their time with this project and to look into what happened in the Santa Clara/San Francisco area.



Elizabeth Weaver, Individual

Newcomer to the county who came to here because she liked the flavor and rural atmosphere but has started to see some change already - traffic has gotten worse and people are becoming a little less tolerant of each other. Growth will come, but we do not need to invite it, and First Colony will not help us to retain the rural character of the county; what she has seen in Bowie is acres and acres of parking. The county isn't ready for it and the people aren't ready for it.

She said St. Mary's County is a precious jewel but, unlike precious stones, that you can sell off and buy back when you want them, if you sell off St. Mary's County you will never get it back.

Claire Whitbeck, Individual

First Colony cannot meet the Adequate Public Facilities provision; no one can say 235 is adequate and SHA says funds have not been appropriated for 235 improvements. Ms. Whitbeck said she can drive Connecticut Avenue and 17th Street in Washington faster than she can drive 235 at 3:00 in the afternoon; it took her 40 minutes and there is no relief in hand and no reason to think relief is coming unless it is funded. Georgian architecture is lovely but this is not the right time for the project. Ms. Whitbeck entered into the record a petition signed by the members of the St. Mary's Community Chorale opposing the development.

John Horton, Individual

Appealing project but in the wrong place at the wrong time. County should not allow another "paving over" of this magnitude, in addition to the shopping centers already in place; water runs off that much faster and will erode the banks and degrade the St. Mary's River, adding more contaminants to the River and the Bay. This mega mall will benefit the developer and the distributors but does little for the county. The Waldorf Mall has sucked the soul out of Charles County; let St. Mary's keep its own character.

Eric Jansson, Potomac River Association

Potomac River Association voted unanimously to oppose First colony for reasons stated at this meeting. He urged the Commissioners to talk to Mr. Kline's experts because the adequate facilities are just not there. First Colony would put a cork in our entire road system and we don't need it - we need to repair what we have.

Elizabeth Reeves, Chattanooga Project

Opposed to First Colony because of its impact on the market and our already developed areas; also when we have so much unrented commercial space which leaves it open to crime. When we are dealing with the traffic and other negative impacts from First Colony the developer will be back in Malibu. Urged the Commissioners to turn this development down for the sakes of the voters who have elected them and entrusted them with these decisions.

J. W. Duchesne, Individual

Location, location, location! This is a gridlocked location, probably the worst in the county; how can the county even consider putting this shopping center at this location? Travels Route 4 from Leonardtown and has waited as long as 7 lights for left turn onto 235 at that intersection.

Do we need a Giant? Do we need an extended Lowe's? Other concerns - proximity to landfill and the danger of grading the steep slopes which were referenced by Commissioner Chesser.

This concluded the public comment.

Following discussion, Commissioner Brugman voted to continue the public hearing to December 9th, for *two hours*, beginning at 6:30 p.m., here in the Carter Building; one hour will be given to Mr. Kline and the consultants hired by Vernon Gray for the Association of Concerned Taxpayers and one hour will be devoted to further comments from the general public. The motion was seconded by Commissioner Jarboe and passed by unanimous vote.

**ADJOURNMENT**

The meeting adjourned at 10:30 p.m.

**Minutes Approved by Board of  
County Commissioners on 12/2/97**

Judith A. Spalding  
**Judith A. Spalding**  
**Recording Secretary**