

BOARD OF COUNTY COMMISSIONERS' MEETING

Tuesday, June 22, 1982

Present: Commissioner George R. Aud, President
Commissioner Larry Millison, Vice-President
Commissioner Richard D. Arnold
Commissioner Ford L. Dean
Judith A. Mullins, Recording Secretary

(Commissioner Sayre not present.)

The meeting was called to order at 9:10 a.m.

APPROVAL OF VOUCHERS

Commissioner Millison moved, seconded by Commissioner Arnold, to approve payment of the bills as submitted by the Director of Finance. Motion unanimously carried.

APPROVAL OF MINUTES

Commissioner Dean moved, seconded by Commissioner Arnold, to approve the minutes of the Commissioners' meeting of June 8, 1982 as submitted. Motion unanimously carried.

Commissioner Dean moved, seconded by Commissioner Arnold, to approve the minutes of the Commissioners' meeting of June 16, 1982 as corrected. Motion unanimously carried.

TASK FORCE FOR THE ELDERLY
COMMITTEE ON IMPLEMENTATION

Present: Dr. William Marek, Health Department
Dr. Richard Martin, Health Systems Agency
Mr. Joseph Carter, Dept. of Social Services
Mrs. Carole Pinckney, Health Department
Mrs. Vivian Ripple, Dept. of Social Services
Mrs. Billye McGaharn, Senior Services Coordinator
Mr. George Smith, Director, St. Mary's Nursing Home

Dr. Marek advised that the purpose of this meeting was to present the report completed by the committee formed to further develop and implement, where possible, the recommendations of the Care for the Elderly Task Force which had been presented to the Commissioners November 1979. He stated that subcommittees were formed to work each of the recommendations of the Task Force. Each of the subcommittee chairpersons gave a brief overview of their findings and conclusions.

At the conclusion of these presentations, Dr. Marek explained that all of the subcommittee findings were incorporated into the report with the resulting 12 recommendations. Dr. Marek reviewed each of the recommendations with the Commissioners and pointed out that Recommendations 10, 11 and 12 are in the process of being implemented.

By way of a chart presentation, Dr. Marek reviewed the alternative types of care available to the elderly and advised how the various county agencies interact together to provide this care.

In closing the Commissioners expressed their appreciation to the Committee for their commitment and effort in this project and advised that they would review the recommendations pertaining to the Commissioners and would advise them of their decision.

COUNTY ENGINEER ITEMS

Present: John Norris, County Engineer

VOUCHERS

Commissioner Arnold moved, seconded by Commissioner Dean, to approve and authorize Commissioner President Aud to sign the following vouchers:

No. 042525, payable to Norma M. Stauffer for bank run gravel for the Slurry Seal Coat Project No. 82-1-12, in the amount of \$246.00.

No. 041705, payable to Southern Maryland Alarm Company, Inc. for contract services for the fire/burglar alarm systems in various county buildings in the amount of \$630.00.

No. 042463, payable to Raymond Woodburn for Estimate No. 3 of the Asphalt Overlay Project No. SM 82-1-15 in the amount of \$12,791.00.

Motion unanimously carried.

EXTRA WORK AUTHORIZATIONS

The County Engineer presented the following Extra Work Authorizations for approval by the Board:

(1) Project No. SM 82-1-13 - Payable to Dean Construction Company in the amount of \$32,500 for surfacing of additional miles of highway at various locations throughout the County.

(2) Project No. SM 82-1-13 payable to Slurry Pavers, Inc. in the amount of \$16,450 for slurrly seal coat.

ASPHALT OVERLAY PROJECT - PLACEMENT OF SHOULDERS

Mr. Norris advised the Commissioners that Raymond Woodburn, Contractor for the Asphalt Overlay Project does not have the additional capacity to place the shoulders on the Asphalt Overlay Project in the Fifth Election District. Therefore, it was recommended that services of B.F. Asher be utilized at the same rate on the Woodburn contract to do this work.

The Commissioners gave their concurrence.

INSPECTION SERVICES - PLACEMENT OF SHOULDERS

With regard to the placement of shoulders as noted above, Mr. Norris recommended that Mr. George Payne be hired as Inspector for this project.

The Commissioners gave their concurrence.

McGREGOR-WERNER - INSPECTION SERVICES

With respect to the decision by the Board at last week's meeting to have the County Engineer inspect the progress of the construction of the shell building for McGregor-Werner, Mr. Norris recommending utilizing the inspection services of George Raley at \$8.00 per hour, .18¢ per mile.

Commissioner Dean moved, seconded by Commissioner Arnold, to use the services of Mr. Raley for inspection as set forth above, once or twice a week, not to exceed 60 hours. Motion unanimously carried.

PAINTING PROJECT - GOVERNMENTAL CENTER

Mr. Norris advised that Leroy Buckler, Gregory Ridgell, and Frank Klear had been contracted to do painting jobs at the Governmental Center at the rate of \$6.00 per hour and are now requesting an increase to \$8.00 per hour.

Commissioner Millison moved, seconded by Commissioner Arnold to authorize this increase, pending a determination by the County Engineer as to the current rate for painters. Motion unanimously carried.

PROJECT NO. SM 81-1-11 - WILLOW RUN SUBDIVISION

Mr. Norris presented an Agreement by and between the Board of County Commissioners and Curb and Gutter, Inc. in the amount of \$41,250 relative to the referenced subdivision.

SEYMOUR JUNK YARD

Mr. Norris advised that his office has been receiving a number of complaints from residents regarding the parking of automobiles along Old Md. Rt. 5 by customers of the Seymour Junk Yard. Mr. Norris stated that he has requested the Office of Planning and Zoning to determine if Mr. Seymour is adequately providing parking for his customers according to the site plan and if not Mr. Norris indicated that a "No Parking" sign be placed along Rt. 5.

(The Commissioners agreed to discuss this at a later time.)

EXPIRED ROAD BOND STATUS

Mr. Norris distributed a list of subdivisions with expired road bonds and apprised the Commissioners of the status of each.

With regard to Hollywood Heights, Mr. Norris suggested that he forward a memorandum to the Office of Planning and Zoning advising that there is no Public Works Agreement or bond and requesting that no building permits are to be issued until appropriate surety is received.

The Commissioners gave their concurrence.

PRESS CONFERENCE

Present: Members of the Chamber of Commerce
Matt Kaye, WKIK
Mike Stover, Enterprise
Joseph O'Dell, Director, Budget and Data Services

The Commissioners conducted their regularly monthly press conference at this time. Representatives of the Chamber of Commerce were in attendance to discuss the recently passed legislation concerning the reduction of the Commercial Inventory Tax in the County. A tape of the conference is on file in the Commissioners' Office.

RUPP AND OTHERS VS. RALEY AND OTHERS
ACCEPTANCE OF SETTLEMENT

Commissioner Aud moved, seconded by Commissioner Millison, to accept the County Attorney's recommendation to accept and sign the General Release and Settlement Agreement in the above referenced matter (Civil Action #B-81-2003). Motion unanimously carried.

PETITION FOR ROAD IMPROVEMENTS
COUNTRY LAKES

Present: Charles Dulin
John Norris, County Engineer

Mr. Dulin, on behalf of certain property owners in Country Lakes, presented a petition to the Commissioners to deny the developer of Country Lakes any further extension of the bond for completion of the roads in Section I and further requesting that the roads be completed.

Mr. Norris indicated that it is a Personal Bond and that he would contact the developer to arrive at a construction schedule and report to the Commissioners with his findings.

RECLASSIFICATIONS

By unanimous vote, the Board of County Commissioners approved the following reclassifications to be effective July 5.

Office of County Engineer

Glenn Gass	G-15
Jay McGrath	G-15
Richard Thompson	G-8
Charles Hill	G-8
George Yates	G-8
Robert Cooper	G-8
Leon Daye	G-7

Permits -
Planning & Zoning

James Weber G-13

Purchasing & Logistics

Doris Hammett G-6

Personnel

Evelyn Wood G-8

Office of Children & Youth

Phebe Barth G-13

REZONING HEARING

ZONE #81-1441

HELEN RSC (BERNARD AND BETTY ANN CUSIC)

Present: Frank Gerred, Director, Planning & Zoning
F. Michael Harris, Esq.
Leonard J. Mattingly
Bernard Cusic
Betty Ann Cusic
Mary Whetstine
Anita Meridith, Recording Secretary

Requesting rezoning, based on a comprehensive study of property located on Tax Map 18 in the community of Helen, Maryland, 4th Election District, from AR, Agricultural-Residential, to RSC, Rural Service Center.

The hearing was opened by Commissioner President George Aud. Other Commissioner members present included: Ford L. Dean, Larry Millison and Richard Arnold. The Chair advised that while Commissioner Sayre was not in attendance, he retained the option of availing himself of the taped recording of the proceedings and minutes of this hearing and could actively participate in the discussion and decision of the subject request.

Mr. Gerred, Director of the Office of Planning and Zoning, read the advertised hearing notice aloud, as it appeared in the published issue of the Wednesday, June 22, 1982 Enterprise newspaper, providing due legal notification of the following hearing:

Entered into the formal record at this point, was the complete Planning Commission record and staff recommendation pertaining to this consideration.

Received this date and entered into the record were letters written by residents of the area, which will be copied and made available to each member of the Board for review.

Mr. Gerred advised that the Commissioners had approved the study for the Helen area in 1981. Following staff's review, a recommendation was offered to the Planning Commission, which outlined that the Helen area met the requirements for a Rural Service Center in that it had the requisite number of existing commercial establishments and was located properly. The staff did not find sufficient area to demand a rezoning at this time and subsequently made a recommendation that this was a policy decision on the population or service area on whether or not to recommend approval. The Planning Commission's recommendation was for denial of the requested RSC; said motion based on the insufficiency of proof and evidence that need existed.

Mr. Gerred advised that while the staff did not find sufficient population to indicate such a designation, should the Board of Commissioners find sufficient reason to plan ahead, they could make such a designation at this juncture.

Commissioner Millison reflected that while there were no confirmed population figures for the Helen area, he felt in all fairness to the people of the County, that some criteria should be established which would indicate and recognize that a certain percentage of population would constitute need for a Service Center designation. Commissioner Millison stated that there should be "a more accurate and intelligent way of finding whether there is need, or is not need."

The Chair inquired whether anyone wished to speak in favor of the proposal.

Mr. Michael Harris introduced himself as a representing counsel for Mr. and Mrs. Bernard and Betty Ann Cusic, the initiators of this RSC request, which had resulted in the facilitation of the study for the Helen area.

Counsel stressed that both the staff and Planning Commission recognized that the criteria for the RSC designation had been met and he agreed with Mr. Gerred's former statement that the issue, was, in fact, a policy issue encumbered the County Commissioners.

Counsel reflected that the safety concerns raised by the residents at the preliminary informational gathering meeting (held at the Margaret Brent School) and at the Planning Commission meeting, had concerned the highway and commercial access, in that the area requested by the Cusic's for commercial development, was located on a somewhat dangerous curve on Rt. 5. Counsel gave a visual presentation to the Board, aided by a large area plat, noting that the former area recognized was only a portion of the area requested for rezoning by the Cusic's. Counsel advised that the actual area requested would extend 350 feet past the point of the intersection of Rt. 238 and Rt. 5 and would extend more to the northwest. Mr. Harris stated that he did not believe that lot 5 would present a problem, in terms of access onto Rt. 5, as it was located at the intersection itself and that lots 3 and 4 did not present a safety problem as "any access to this property from the state highway or Rt. 238 would require the State Highway's input as to a safe commercial entrance, as well as the County Engineer's input, and if there is a safety problem there, there will be no access to Rt. 5, because the State Highway Administration is not going to allow it." Counsel emphasized, "The Cusic's are not requesting this property so that they would have access to Rt. 5, because they are not asking for commercialization that would require access to a major highway." Mr. Harris stressed that a critical factor to be considered for any commercial development was site. Mr. Harris questioned, "Will someone see it from the road if we put it back here; it's gonna be hard to see, where if there is some site advantage on Rt. 5, it would be able to be seen and then we would have the entrance, assuming on Rt. 238 and I think that would cover the safety problem that has been expressed both at the informational meeting, as well as the Planning Commission meeting."

Mr. Harris felt that the question of need had been addressed by the fact that the staff report indicated that the designation, at this time, of the area for a Rural Service Center would provide for an orderly expansion of commercial uses in that area. Counsel stressed that the total property being requested by the Cusic's, comprised approximately 3 acres. Mr. Harris emphasized that the size of the property would restrict any large shopping center and would be amenable to a small enterprise such as a 7-11 Store, or High's Store or "something of that nature."

Counsel addressed another issue eluded to in former discussions before the Planning Commission by a spokesperson for the residents, as that an establishment of a commercial area would spawn an incentive to the young children attending nearby schools to truant classes and hang out at this proposed commercial enterprise. Mr. Harris offered, "I have more faith in the youth of this County...they're gonna go over there and spend eight or nine hours a day hanging around...that's just not what's gonna happen here.

In summation, counsel offered that this proposal provided an opportunity where the community could become involved in this project, "we can work together on this project, designate some areas for commercial use, it can be expanded in an orderly fashion, with input from the community as to design. We're still gonna have to come before the County Government to get design approval for what would go in there and if we work together, we can have something good."

Mr. Leonard J. Mattingly spoke in favor of the RSC designation for the Helen area. He elaborated on the development history of the Helen area for both past and present commercial enterprises and residential growth. Mr. Mattingly felt that a small convenience store was direly needed in this area and reflected on the numerous "small stores" which no longer existed in the adjacent areas of Morganza, Clements and Chaptico.

The Chair inquired whether anyone wished to speak in opposition.

Mrs. Mary Whetstine noted that she spoke as a concerned citizen rather than a spokesperson for the area. She referenced the letters formerly entered into the record by staff, which all offered opposition to the proposal. Mrs. Whetstine felt that an RSC designation would breed commercialization which would ruin the country setting of this small residential community. She acknowledged that while a large shopping center was very unlikely to be developed, the RSC designation did allow many uses which caused the residents serious concern. Mrs. Whetstine stated that when she had circulated letters to homes in the area, she had counted 78 homes in the area and in view of this residential count, she questioned if there was justified population to support such commercialization. Mrs. Whetstine stated, "They've got all those things and Mechanicsville and Leonardtown and they're already dying." She envisioned that if the designation were approved and commercial businesses established, that in several years they may go out of business and thus create "slums." Mrs. Whetstine felt that if this RSC were approved, it would create a nuisance factor wherein children would truant school and hang out in the area. In addressing "the traffic problem", Mrs. Whetstine offered, "No matter where they put the entrance into the shopping center, what we're concerned about is anybody who wants to get on Rt. 5, has to exit on either side of that triangle where the post office is." She felt that any commercial development would add to the existing traffic hazards on the roadway.

At Commissioner Arnold's request, Mrs. Whetstine advised that she was a resident of Helen Estates, Lot 35. The members reviewed the map provided in their "briefing packages."

Commissioner Millison asked if there was an existing problem with truanting children at the Hill's General Store. Mr. Gerred advised that the Hills were concerned residents of the community and did not allow children to hang around on the premises.

Commissioner Dean asked the applicant whether he had a specific use "that you wish to make of the property, should it be rezoned?" Mrs. Cusic responded negatively.

There was discussion among the Board and Mr. Gerred reiterated the staff's findings and recommendation. The Planning Commission, finding insufficient proof and evidence that said need existed, recommended a denial of the request.

Commissioner Arnold asked what the requirements were, in this instance, regarding notification to property owners. Mr. Gerred explained that in an ordinary rezoning, all contiguous property owners within 200 ft. would require confirmed postal notification. In a comprehensive rezoning, such as this case, said notification is not required, however, staff did advertise in the local paper, sent letters to all identifiable property owners in the general area and posted four placards in the general area, referencing this proposal, date, time and place of hearing.

Commissioner Dean asked whether any favorable comments had been received from any of the other "identified" parcels, for inclusion from any of the other "identified" parcels, for inclusion in the rezoning request. Mr. Gerred advised that the owners of those other parcels "were all willing to participate."

There being no other testimony, the hearing was closed, with the matter being taken under advisement by the Board.

ZONING AMENDMENT RESOLUTIONS

Present: Frank Gerred, Director, Planning & Zoning
Anita Meridith, Recording Secretary

Mr. Gerred rebriefed the Board as to the purpose and intent of each of the following:

GREENVIEW KNOLLS DEVELOPMENT PLAN

To officially recognize a document that was not identified properly in the records. Following staff's review with the applicant, County Attorney and Planning Commission, the Planning Commission recommended that the County Commissioners officially recognize the drawing entitled "Greenview Knolls West - preliminary concept" as the development plan.

Commissioner Dean suggested that there be an addition to the Resolution as prepared, which would specifically outline "what that designation and ordination does do and what it does not do." Commissioner Dean emphasized that even though the resolution would reaffirm that this was a concept development plan, that prior to there being any development, the applicant would have to submit an individual site plan and go through the process and he felt that this should be specifically spelled out. The members concurred. Accordingly, staff will add the appropriate text.

ZONE # 82-0112: TEXT CHANGE TO ZONING ORDINANCE

To add under Article 31.00.1 and 32.01.1 provisions for the protection of agricultural uses in an AR, Agricultural-Residential District and R-1, Rural-Residential District.

This text would add to the purpose clause of the AR and R-1 Districts that "the farmer has the right to farm."

In reviewing the language incorporated in the prepared Resolution, under item d., the members concurred that the text needed to be reworded to read, "The sale of farm products produced on the farm is permitted."

ZONE # 82-0282:MINOR SUBDIVISIONS

Changes to the Zoning Ordinance and Subdivision Regulations to provide notice to buyers, adequate site distances and utility access in Minor Subdivisions and to correct the text of the Zoning Ordinance.

This proposed change would offer warning to the prospective lot owners that they would not have a county road, would improve the adequate site distance requirement for private lanes and would improve the definition of minor and major subdivision.

Discussion ensued regarding the proposed notice requirement attached to sales contracts, record plats and deeds with respect to transfer for development purposes. Commissioner Dean remarked by the Planning Office, however P&Z could not administer if same was included on the deed or sales contract.

Commissioner Dean suggested that this requirement be taken out of the Subdivision Regulations (deeds and sales contracts) and the Board derive some mechanism wherein it could be included in the sales contract.

In reference to the Board's discussion of the definition change for minor/major subdivision, Mr. Gerred advised that the County needed to set aside from the Subdivision Regulations, the addition of land to an existing buildable lot which would not involve reducing the residue of the other piece to less than the Ordinance required. This would enable the Planning Office to "handle those easily by deed." Mr. Gerred felt that the applicant should not have the record that trading of land on a plat, as it could be accomplished by deed.

A typographical error was noted under # 82-0282 (Subdivision Regulations), second page of the proposed Resolution, fourth line, wherein the sentence should read: "A subdivision of land resulting in eight (8) lots or less, not involving construction of new public roads, and limited to one such subdivision of eight (8) lots, per..."

ZONE # 82-0418: TEXT CHANGES

- (1) Sec. 20.03, 31.00.2.k, 32.01.2.e, 32.01.3, 38.06.5, Page 3-90, Sec. 60.04, and Schedule of Lot Dimensions - minor text corrections.
- (2) Sec. 32.04.6 - change minimum tract size to 3 acres in R-15 District.
- (3) Sec. 48.05.2 - change minimum side yard requirement for nonconforming lots of record to eight (8) feet.
- (4) DEFINITIONS - To BUILDING, COMPLETELY ENCLOSED, add: "except a building may be separated from another building by a firewall."

These were explained as editorial changes which would provide correction of typographic errors and conformance of text.

ZONE # 82-0132: TEXT CHANGES

Articles 34.02.2.g and 34.03.2.c, Residential uses in C-1 and C-2 DIstricts. Remove restriction that the maximum FAR for residential uses shall not exceed 50% of FAR for commercial uses. Add restriction that density shall not exceed requirements of R-15 and R-20, respectively.

Staff reviewed the purpose and intent and the Board discerned no problem.

ZONE # 81-1513: TEXT CHANGE

Deletion of the minimum lot area, dimension and frontage requirements for C-1 and C-2 zoning districts, as required in Schedule of Lot Dimensions.

Staff reviewed the purpose and intent of the afornted and the Commissioners concurred with the Resolution, as proffered.

Commissioner Dean moved, seconded by Commissioner Millison, to approve the following Resolutions reviewed this date: #81-1513, # 82-0132, #82-0418 and # 82-0282 (Zoning Amendments).

The motion unanimously passed.

The Board subsequently agreed that Resolutions numbers # 82-0112 (item d.) and # 92-0282 (Amendment to Subdivision Regulations - deed and contract requirement) would be held in abeyance, pending staff's correction(s) and amendment to text.

The meeting adjourned at 3:30 p.m.

Approved,


George R. Add
President