

BOARD OF COUNTY COMMISSIONERS' MEETING

Tuesday, December 7, 1982

Present: Commissioner George R. Aud, President  
Commissioner Larry Millison, Vice-President  
Commissioner Richard D. Arnold  
Commissioner Ford L. Dean  
Edward V. Cox, County Administrator  
Judith A. Spalding, Recording Secretary

(Commissioner David F. Sayre was not present due to illness.)

The meeting was called to order at 9:15 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 Tuesday, November 30, 1982. Motion unanimously carried.

MCINTOSH ROAD

Present: John B. Norris, Jr., County Engineer

Mr. Norris advised the Commissioners that it was anticipated that this winter McIntosh Road would be permanently closed due to the construction of concrete box culverts. He advised, however, that the contractor had not received the approval of the State Highway Administration and had not received certification from the District #5 Office. Therefore, the box culvert work has not been started. During inclement weather, the County, under current conditions, must maintain traffic of the section of the road currently built. This would be costly to the County and therefore recommended that the County Engineer be authorized to temporarily close the road during periods of inclement weather in order to minimize costs.

The Commissioners gave their concurrence.

ECONOMIC IMPACT FEE  
REQUEST FOR INSTALLMENT PAYMENTS  
FRIENDLY MANOR TRAILER PARK

The County Administrator presented correspondence dated December 1, 1982 from Ken Rossignol, President, Friendly Manor Trailer Park, requesting approval for payment of the Economic Impact Fee in installment payments. Mr. Cox stated that like the Goddard case, which the Commissioners decided on at last week's meeting, this request should be denied on the same basis. This would set a precedent for other cases and would create a burden to the accounting system for the County.

The Commissioners concurred in this recommendation.

HIGHWAY NEEDS INVENTORY FOR 1982

The County Administrator presented the Highway Needs Inventory for 1982 which indicates that it is consistent with the County's plans and programs. After review, the Commissioners gave their approval of the Highway Needs Inventory.

REQUISITION NO. 8  
ST. MARY'S HOSPITAL

The County Administrator presented Requisition No. 8 in the amount of \$28,520.00 representing expenses incurred for the new hospital construction for the period of December 1, 1982 through November 30, 1982.

The Commissioners agreed to authorize Commissioner President Aud to sign said Requisition.

STATE OFFICE ON CHILDREN AND YOUTH

By previous commitment the Commissioners had agreed to correspondence with the State Legislative Committee reviewing the State Office on Children and Youth under the State Sunset Law provisions and to endorse the purpose and activities of said office. Accordingly, the Commissioners agreed to sign and forward correspondence addressed to Mrs. Helen Koss, Chairman of the Constitutional and Administrative Law Committee, House of Delegates.

CHRISTMAS COMMUTATION OF PRISONER  
ST. MARY'S COUNTY JAIL

The County Administrator presented correspondence from Sheriff Somerville dated November 30, 1982 with a listing of prisoners eligible for Christmas commutation. Sheriff Somerville indicated that the individual listed be allowed this commutation. The Commissioners gave their concurrence.

POTOMAC RIVER COMMISSION MEETING

Commissioner Arnold suggested that one of the Commissioners attend the December 10 Potomac River Commission meeting and present a County Seal and Commendation for their cooperation in the planting of seed oysters in the Potomac River adjacent to St. Mary's County. The Commissioners concurred and requested Commissioner Arnold to attend.

EXECUTIVE SESSION

The Commissioners agreed to meet in Executive Session in order to discuss a matter of Personnel (consideration of appointments to Boards, Committees, and Commissioners). The Session was held from 9:45 a.m. to 10:45 a.m.

The Commissioners then continued in Executive Session with Walter Dorsey, State's Attorney-elect from 10:45 a.m. to 10:55 a.m. to discuss a matter of personnel.

DISCUSSION/DECISION

Present: Frank Gerred, Director, Office of Planning and Zoning  
Robin Guyther, OPZ Asst. Planner  
Anita Meridith, Recording Secretary

ZONE #81-1482: MARVIN C. FRANZEN

Request to rezone approximately 50,625 sq. ft. of property located at the northeast corner of Md. Rt. 235 and Rue Purchase Road, 8th Election District, Tax Map 43, Block 2, Parcel 384, from R-1, Rural-Residential, to C-1, Moderately Intensive Commercial.

Commissioner Millison excused himself from participation in this case, stating that he had a possible conflict of interest (owns adjacent property).

Commissioner Dean led the discussion, stating that this was one of several zoning applications in this immediate area which he believed should be denied.

Commissioner Dean advised that his reasons for denial of the application were based on the same reasons, as previously outlined in his position papers for the former Lanham and Finnacom rezoning cases. He continued that this property was located in a "pocket" of residentially developed and zoned property and to "carve" this piece of property out of this residential neighborhood for commercial development would be a mistake which would ultimately result in the deterioration of this entire residential community. Mr. Dean stressed that the applicant purchased the property, knowing full well what the zoning was and what he was allowed to do with same, under its present zoning classification. Thus, he did not feel that the applicant was under, or could claim, any hardship. Commissioner Dean felt it was the responsibility of the Board to protect and preserve the residential nature of the neighborhood.

In view of the fact that the applicant had previously testified that his ultimate reason for requesting C-1 was to locate a professional office on the property, Commissioner Dean offered that the avenue was open to the applicant to proceed to the Board of Appeals seeking a conditional use approval which would allow for said location of professional offices without opening up this piece of property in this residential community to all of the uses permitted in the C-1 zone.

Commissioner Dean moved to instruct the County Attorney to prepare the appropriate resolution, which would deny the application. The motion failed lack of a second.

Commissioner Aud moved, seconded by Commissioner Arnold, to instruct the County Attorney to draft the appropriate resolution which would approve a zoning designation of CLO - Commercial Limited Office.

Commissioner Arnold felt that a commercial office would not be detrimental to the neighborhood, would broaden the tax base and may provide limited employment.

Mr. Gerred advised that should the Board approve a zoning classification fo CLO for this property, that the case would be remanded back to the Planning Commission prior to the signing of the resolution, for review and approval of the site plan. Commissioner Dean stated that with that understanding, he would be amenable to a CLO zoning designation for this property.

The motion passed unanimously.

ZONE #82-0636: 7-11 STORE, Tex-Land Corp., Charles Norris

Requesting to rezone approximately .56 acres of property from R-1 to C-1. The property is located at the intersection of Maryland Route 235 and Gunston Drive in the 8th Election District on Tax Map 35C, Parcel 25.

Commissioner Dean distributed to the Board and staff his prepared written comments with respect to this application. The Commissioners paused to review same. Said findings of fact and recommendation incorporated a denial of the C-1 request based on minimal existing parking, no room for expansion, existing hazardous intersection, and total lack of available space to accommodate off-the-public-highway vehicles awaiting ingress to the gas pumps. In conclusion, Commissioner Dean felt that that property was totally developed as a 7-11 Store, could continue in this operation, under its present zoning status indefinitely, and that the parcel was simply too small and was totally unsuitable for the purposes outlined at the rezoning hearing. Commissioner Dean emphasized that it would be a mistake of significant magnitude to approve a rezoning which would allow gas pumps to be located in the area, as it would add to an existing bad situation from a highway safety standpoint. He added that it would indeed be a mistake to the public welfare to allow this situation to occur.

Commissioner Millison concurred in that he was also concerned with the safety of the public. However, he felt that the applicant had every right to proceed to develop his property, as long as he could safely meet the requirement, which he felt would come under the purview of the Technical Evaluation Committee agencies.

Commissioner Arnold felt that there was no question, but that there had been a mistake, as this property was developed in 1973 and had been operating since that time, as a commercial establishment. Commissioner Arnold stated that this application qualified for an approval, because it was obvious, that there had been some type of mistake. However, he also voiced concern with the safety elements pertaining to this property and application. Commissioner Arnold concurred with Commissioner Millison in that those safety requirements would be reviewed by the property TEC authorities and any development of this property, in terms of adding gas-and-go operation, would be restrictive, i.e., the applicant must meet all the requirements of those TEC agencies.

Commissioner Dean suggested that the applicant present a site plan, as part of his application, which would address the proposed operation and show how the gas pump service/operation could operate safely. He suggested that this site plan be channeled through the TEC and Planning Commission and should it meet the requirements, then the Commissioners could take that added information into their consideration. Commissioner Dean emphasized that this would not be asking anything out of the ordinary of this applicant, as the Ordinance, specifically spelled out that the Commissioners must consider various elements in all rezoning applications such as adequacy of facilities, safety to the public, traffic flow, etc.

Commissioner Millison and Arnold agreed that all applicants must be treated equally and to request this applicant to provide this technical information, at this stage, would be wrong. Both Commissioners Millison and Arnold felt that the Board must adhere to consistent guidelines. In this case, as in all other cases, the proper procedure and avenue in terms of technical review of development, would occur at the TEC stage by those knowledgeable and authorized agencies.

Following brief discussion, Commissioner Millison moved, seconded by Commissioner Arnold, to grant the change to C-1, and accordingly direct the County Attorney to draft the appropriate resolution.

ZONE #82-0636: 7-11 STORE, Tex-Land Corp., Chas. Norris (cont'd.)

Vote was called with Commissioners Millison, Arnold and Aud voting aye and Commissioner Dean naye.

Commissioner Aud stated for the record, that his affirmative vote was cast due to the fact that he felt that there had been mistake proven, as this business had operated commercially since 1973 and that there had been a significant change in the neighborhood, citing specifically, the Patuxent Inn.

Motion passed three (3) to one (1) and the application for C-1 was APPROVED.

COMMENDATION  
GREAT MILLS HIGH SCHOOL VOLLEY BALL TEAM

The Commissioners presented a Commendation to the Great Mills High School Volley Ball Team who are the Class B State Champions.

The meeting adjourned at 12:15 p.m.

Approved,

  
George R. Aud  
President