

**ST. MARY'S COUNTY  
BOARD OF COUNTY COMMISSIONERS' MEETING  
OCTOBER 8, 1996**

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, County Administrator  
Judith A. Spalding, Recorder

(Commissioner Brugman was not present at the beginning of the meeting.)

**CALL TO ORDER**

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

**EXECUTIVE SESSION**

**Commissioner Chesser moved, seconded by Commissioner Eagan, to meet in Executive Session to discuss a matter of Potential Litigation (Nursing Center), as provided for in Article 24, Section 4-210(a)1. Motion carried.**

**Potential Litigation (Nursing Center)**

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

(Commissioner Brugman did not participate.)

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

Time Held: 12:05 p.m. - 1:10 p.m.  
(continued 6:01 p.m. - 6:30 p.m.)

Action Taken: The County Attorney presented information and received direction from the Board.

(Commissioner Brugman entered the meeting.)

**APPROVAL OF MINUTES**

Commissioner Jarboe moved, seconded by Commissioner Chesser, to approve the minutes of Tuesday, October 1, 1996, as corrected. Motion carried.

**APPROVAL OF BILLS**

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

**CONSENT AGENDA**

The Consent Agenda included the following documents:

1. **Correspondence**
  - a. To Monica Cerkez regarding meeting place for Girl Scout troops and the Public School's policy for school facility use.

- b. To Joan Bowles Snodderly responding to concerns regarding an abandoned vehicle and business vehicles that are obstructing public roads in Birch Manor.
- c. To Marv Franzen regarding Potomac Storage Outdoor Storage Lot.
- d. To Gerry Emmett III, President, Southern Maryland Broadcasting Company expressing appreciation for outstanding community support over the past several years.

2. **Addendum to Public Works Agreement  
St. Mary's County Airport T-Hangars**

Extending the deadline for completion of improvements to one year from date of issuance of building permit; addendum is backed by reduced Letter of Credit with Calvert Bank & Trust Company in the amount of \$27,625

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

**COUNTY ADMINISTRATOR ITEMS**

Present: John J. Kachmar, County Administrator

1) **1997 Letter of Intent to Community Development Administration**

(certifying that St. Mary's County will be utilizing its FY '97 Maryland Housing Rehabilitation Program (MHRP) allocation in the amount of \$29,112, and advising that St. Mary's County Housing Authority, as subcontractor, will administer the Level II Program.)

**Commissioner Eagan moved, seconded by Commissioner Jarboe, to authorize Commissioner Thompson to sign the Letter of Intent as presented. Motion carried.**

2) **Budget Amendment No. 97-11  
Planning and Zoning**

Justification: To provide funding for Plumbing Inspector Salary/Fringe through December 31, 1996 (\$16,893)

**Commissioner Eagan moved, seconded by Commissioner Chesser, to approve and authorize Commissioner Thompson to sign Budget Amendment No. 97-11 as presented. Motion carried.**

3) **Resolution No. 96-31 - Impact Fees**

Amendment rescinding Resolution Nos. 91-10 and 93-28 and re-enacting Resolution No. 89-23 so that the Impact Fees are payable upon the issuance of any building permit issued on or after December 2, 1996.

**Commissioner Eagan moved, seconded by Commissioner Chesser, to approve and sign Resolution No. 96-31 as presented. Motion carried four to one with Commissioner Jarboe voting against stating he would like to see exceptions for those communities who build to historical standards (Mennonites; Amish or those who do not have electricity).**

4) **Personnel**  
a. **Interim County Health Officer**

Letter to St. Mary's County Health Department granting approval for the Health Department to pay the salary, fringe, and supplemental expenses for Dr. David Rogers as Interim Health Officer.

**Commissioner Eagan moved, seconded by Commissioner Jarboe, to sign and forward the letter to the Health Department as presented. Motion carried.**

**b. Hire of Information Systems Manager  
Waiver of County's Manual of Personnel Policies and Procedures**

Memorandum dated October 2 from Personnel Officer requesting to use a committee to select by "majority vote" the final applicants to be interviewed, that the committee interview selected applicants, and to make final selection for hire approval.

**Commissioner Eagan moved, seconded by Commissioner Jarboe, to waive the Personnel Manual as requested. Motion carried.**

**5. Calendar Year 1997 Legal Holiday Schedule**

The County Administrator presented the Calendar Year 1997 Legal Holiday Schedule which reflects earlier decisions made by the Commissioners.

**Commissioner Jarboe moved, seconded by Commissioner Chessier, to approve the 1997 Legal Holiday Schedule as presented. Motion carried.**

**6. Sheriff's Department - Criminal Investigation Division  
Request for Additional Sergeant Rank**

The County Administrator presented correspondence from Sheriff Voorhaar dated September 27, 1996 requesting the Commissioners' consideration for an additional sergeant's rank in the Criminal Investigation Division.

The Commissioners directed the County Administrator to request additional justification for doing this out of the regular budget cycle.

**7. Public Schools  
State Capital Improvements Program**

The County Administrator presented correspondence to the State Public School Construction program giving preliminary approval of the St. Mary's County Board of Education's State Capital Improvement Program submission.

**Commissioner Jarboe moved, seconded by Commissioner Eagan, to sign and forward the letter as presented. Motion carried.**

**CHRISTMAS IN APRIL  
PRESENTATION OF PLAQUE**

Present: John K. Parlett, Jr., President, Christmas in April  
Mary Ann Chasen  
F. Elliott Burch, Jr.  
Jesse Hawes

Representatives of the Christmas in April Board appeared before the Commissioners to present a plaque to the County Commissioners and the Department of Public Works in recognition of efforts during the Christmas in April project.

## COUNTY COMMISSIONERS' TIME

### Cedar Point Lighthouse

### Point Lookout Lighthouse

Also Present: Phil Rollins, Director, Recreation and Parks  
Michael Humphries, Director, Museum  
Judy Pedersen, Public Information Officer

Commissioner Eagan advised that she received a telephone call indicating that there was a rumor that Calvert County may be getting the Cedar Point Lighthouse cupola instead of St. Mary's County.

Ms. Pedersen reported that the Point Lookout Lighthouse will be used as a Flag House and restoration will begin next year. There will no longer be public access to the lighthouse.

Regarding the Cedar Point Lighthouse, Mr. Rollins advised that he sent correspondence in September to Captain Standridge, Commanding Officer, NAS, inquiring as to the status of relocating the lighthouse cupola and reaffirming the County's interest in relocating it to the grounds of the Piney Point Lighthouse Museum and Park.

Discussion ensued relative to the Navy's RFP for final disposition of the lighthouse and the understanding that the cupola would come to St. Mary's County.

After discussion Commissioners directed staff to prepare correspondence to Captain Standridge following up to Mr. Rollins' September 30 letter regarding the status of relocating the Cedar Point Lighthouse cupola and expressing the Board's concerns that there may be plans for the Navy to donate the cupola to the Calvert Museum.

**Later in the meeting Commissioner Eagan moved, seconded by Commissioner Chesser, to sign and forward the letter to Captain Standridge requesting clarification on the status of the Cedar Point Lighthouse cupola. Motion carried.**

## ADULT DETENTION CENTER EXPANSION PLANS

Present: Doug Devenyns, Director of Corrections

As requested by the Commissioners at last week's meeting, Mr. Devenyns appeared before the Board to present the plans for the expansion of the Adult Detention Center. He reviewed details of the expansion of the two floors showing cells, storage areas, day rooms, reception area, etc.; and explained the increase housing unit capacities (rated capacity from 172 to 236 and maximum capacity total from 202 to 267).

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

## SOLID WASTE ISSUES

Present: Dan Ichniowski, Director, DPW  
George Erichsen, "  
Steve Welkos, Director of Finance

The referenced individuals appeared before the Commissioners to continue discussion of issues relative to solid waste and to get direction from the Board.

Mr. Welkos distributed a handout setting forth revenues and expenditures for Solid Waste Operations and Other Solid Waste Costs from FY '93 through FY '97 (including tipping fees, debt service expenditures, general fund transfer - St. Andrews Landfill Capital Project, and solid waste costs funded by other general fund revenues). Mr. Welkos further reviewed available financing from General Fund Revenues, Transfer Tax Revenues and General Obligation Bonds (totaling \$6,960,649); plus unissued bond authorization in the amount of \$5,722,600.

Mr. Erichsen presented a summary of estimated annual costs and revenues for County Landfill versus privatized transfer station.

Discussion ensued regarding the possibility of participating in Calvert County's solid waste disposal (Procurement Officer Haley by memorandum advised that it was allowable for the County to "piggyback" onto Calvert County's contract), the services that Calvert County does not provide under its contract (convenience centers, white goods and tires), a draft RFP for solid waste services; and that county staff meet with Calvert County staff to negotiate being included in Calvert County's contract.

**After discussion Commissioner Eagan moved, seconded by Commissioner Jarboe, that the County Administrator and county staff continue to negotiate with Calvert County regarding St. Mary's being added to Calvert County's contract for solid waste disposal, and further that staff continue to investigate other options. Motion carried.**

#### **EXECUTIVE SESSIONS - MOTIONS**

##### **Myrtle Point**

**Commissioner Jarboe moved, seconded by Commissioner Chesser, to meet in Executive Session to discuss a matter of Property Acquisition (Myrtle Point), as provided for in Article 24, Section 4-210(a) 11. Motion carried.**

##### **Wicomico Shores**

Commissioner Eagan moved, seconded by Commissioner Chesser, to meet in Executive Session to discuss a matter of Property Acquisition (Wicomico Shores), as provided for in Article 24, Section 4-210(a) 11. Motion failed two to two to one with Commissioner Jarboe and Brugman voting against and Commissioner Eagan abstaining stating they had concerns that since Delegate Wood was a principal in Wicomico and a member of the General Assembly, which appropriates funding for Program Open Space, that the Session should be held in open session.

County Attorney Durkin stated that Delegate Wood's role with Wicomico Inc. and as a member of the General Assembly is a State Ethics issue and further pointed out that POS is an appropriation by the entire General Assembly. He indicated that the purpose of the Executive Session is for County staff to present appraisal reports. information, which is allowable under the Public Information Act (that the information is not disclosable until the transaction is completed).

**After discussion Commissioner Chesser moved, seconded by Commissioner Eagan, to meet in Executive Session to discuss a matter of Property Acquisition (Wicomico Shores), as provided for in Article 24, Section 4-210(a)11. Motion carried three to two with Commissioners Jarboe and Brugman voting against.**

##### **Personnel (Social Services Board Interviews)**

**Commissioner Jarboe moved, seconded by Commissioner Brugman, to meet in Executive Session to discuss a matter of Personnel (Social Services Board Interviews), as provided for in Article 24, Section 4-210(a)1. Motion carried.**

##### **Personnel**

**Commissioner Eagan moved, seconded by Commissioner Chesser, to meet in Executive Session to discuss a matter of Personnel, as provided for in Article 24, Section 4-210(a)1. Motion carried three to two with Commissioners Brugman and Jarboe voting against.**

**EXECUTIVE SESSIONS**

**Property Acquisition (Wicomico Shores)**

Present: Commissioner Barbara R. Thompson, President  
Commissioner Paul W. Chesser  
Commissioner Frances P. Eagan  
John J. Kachmar Jr., County Administrator  
Doug Durkin, County Attorney  
Phil Rollins, Director, Recreation and Parks  
Judith A. Spalding, Recorder

(Commissioners D. Christian Brugman and Lawrence D. Jarboe did not participate in the discussion.)

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

Time Held: 3:45 p.m. - 3:58 p.m.

Action Taken: Staff presented appraisal information and received direction from the Board.

**Personnel - Social Services Board (Interviews)**

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: 4:05 p.m. - 4:25 p.m.

Action Taken: The Commissioners conducted an interview for the Social Services Board.

**Property Acquisition (Myrtle Point)**

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)11

Time Held: 4:35 p.m. - 6:01 p.m.

Action Taken: The Commissioners discussed options and gave direction to staff.

**Personnel**

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

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

Time Held: 6:30 p.m. - 7:00 p.m.

Action Taken: The Commissioners discussed a personnel matter.

**FOLLOW UP TO EXECUTIVE SESSIONS**

**Commissioner Eagan moved, seconded by Commissioner Chesser, to direct staff to negotiate with Wicomico, Inc. as discussed in Executive Session. Motion carried 4-0-1 with Commissioner Brugman abstaining since he did not participate in the discussion.**

Commissioner Jarboe moved, seconded by Commissioner Chesser, to direct staff to proceed with negotiations for the purchase of Myrtle Point. Motion carried four to one with Commissioner Brugman voting against stating it violates his personal standards for honest, open government.

Commissioner Jarboe moved, seconded by Commissioner Eagan, to direct the County Attorney to proceed as discussed in executive session regarding the Nursing Center. Motion carried.

**PUBLIC HEARING  
SHANNON FARMS**

All County Commissioners were present as was County Attorney Doug Durkin. DPZ staff present were Jon Grimm, Director, Mike Paone, Deputy Director, Keith Lackie, Environmental Planner and Diane Sullivan, Recording Secretary.

Other County staff present were Department of Public Works Dan Ichniowski, Director and George Erichsen,

A list of attendees is on file in DPZ.

Commissioner Thompson called the meeting to order at 7:18 p.m.

**PUBLIC HEARING**

**CDSP #95A-0584 - SHANNON FARMS PUD**

**Requesting a major amendment to the PUD Concept Development Plan and review and approval of a Concept Plan for a Water Dependent Facility per Section 38.2.14.g of the Zoning Ordinance. The property contains 256.17 acres, is zoned PUDR 3.0 (Partial RCA Overlay), and is located in the 8th Election District, approximately 6,500 ft. from MD Route 712 on Long Lane, south of Cedar Cove; Tax Map 52, Block 4, Parcel 8.**

**Owner/Applicant:** Millison Development  
**Present:** Rachelle Millison and Gene Kopp, of Millison Development  
Attorney Nancy Paige, representing Millison Development  
John Norris and Glenn Gass, of NGO Inc., Agent

References made to a September 25, 1996 staff report to the County Commissioner from the Planning Commission by Mr. Grimm.

Mr. Grimm verified that the property was posted by staff and entered the certified receipts into the record. Property is zoned RCA within the critical area which is Resource Conservation Area overlay which has a one unit per 20 acres density associated with it however, this project density is grandfathered by virtue of language which is in the county's critical area portion of the zoning ordinance. The major amendment is necessitated by the provision of the zoning ordinance that call for changes in land use, transportation or access systems to be defined as a major amendment which require that the county commissioners after review by the Planning Commission hold a public hearing and pass judgement on the proposed development plan.

The project as it has been worked out and recommended by the Planning Commission contains a request for approval of 479 units broken up into single family, detached, townhouse and multi-family units in midrise apartment buildings. The applicant also has a number of alternative and innovative design standards. The design standards relate to the layout of the residential development, the types of road systems and certain conditions that were included in the original resolution that the Board of County Commissioners approved in 1985. Much of the review that has gone back and forth between the applicant and the various reviewing agencies is related to the protection and the enhancement of a an existing forested area on the site that is considered prime habitat for forest

interior dwelling birds the species that the Critical Area regulations indicates must be protected within their habitat. Attempts have been made to limit or minimize the amount of disturbance to that forest habitat for that species of birds.

During the latest amendment process Planning & Zoning has worked cooperatively with other agencies in the county and the state review process and with the developer trying to fashion a project which maintains the grandfathered status of the density in the Critical Area and which meets or exceeds the requirements of the Critical Area regulations for environmental protection, water quality improvements and habitat protection. These issues have been done over the past year with several re-submissions to the Planning Commission who presented their recommendations. The reason for the major amendment is because of wetland avoidance issues. The access to the property is being changed to avoid non-tidal wetlands that the review agencies have indicated could not be impacted as well as to change the lot line layout the market component of residential development to meet current market demands so that the unit mix and the type are being proposed to change somewhat.

The following applicant's exhibits were entered into the record:

- #A-2 1985 Approved PUD Document
- #A-3 1984 Critical Area Review
- #A-4 10/10/89 letter from Judge North, of the Critical Area Commission, acknowledging grandfathering status
- #A-5 November 1989 Vegetation Study
- #A-6 August 1990 Critical Area Report: Cedar Cove on the Chesapeake
- #A-7 Photographs of Stennet Road Timber Bridge
- #A-7a Magazine Article on Key Wallace Drive Timber Bridge
- #A-8 Corps of Engineers' letter of 5/23/96 supporting timber bridges
- #A-9 SMCo Typical Rural Street Section, Major Collector Road
- #A-10 Pavement & Median / Radius Diagrams
- #A-11 12/12/95 letter from Chris Athanas re: delineation of wetlands
- #A-12 May 1996 letter from Corps of Engineers verifying delineation of wetlands
- #A-13 Typical apartment elevation
- #A-14 Typical townhouse elevation
- #A-15 Typical House Location Survey for the Moorings
- #A-16 Typical House Location Survey for Greenbrier
- #A-17 Cedar Cove Community Association By-Laws
- #A-18 Covenants & Restrictions for Cedar Cove
- #A-19 Covenants & Restrictions for The Moorings
- #A-20 12/11/95 letter from CAPT Standridge regarding AICUZ
- \*#A-21 Notification of Public Hearing
- \* #A-22 Photograph of Notice of Public Hearing
- \* #A-23 Map of Shannon Farm Area
- \* #A-24 Return Receipts
- \* #A-25 Shannon Farm Report - NGO
- \* #A-26 Project Comparison of Shannon Farm 11/85 Plan vs. 8/96 Plan

\* These exhibits were entered into the record on 10/8/96's meeting.

The PUD is called a floating zone under article 66B and the application is for approval of an amendment to the floating zone that was established by the Commissioners back in 1985. It must be a major amendment because of the conditions relating to the access to the property and the changes to the land use mix. The property previously had a commercial component associated with it. The current amendment request does not have a commercial component. It is entirely a residential proposal that has recreational amenities associated with it. Attached to the back of the staff report is a memo that details that there will be a parallel track processed to amend the zoning ordinance. After going through the Planning Commission, the Critical Area Commission advised that we would need to amend a line in the Critical Area regulations with regard to the grandfathering of this project. The plan is to process through the Planning Commission on the 10/15/96 meeting a proposed amendment that would add a special exemption for this particular project should the Commissioners



endorse the development plan amendment as being presented tonight.

Nancy Paige, Attorney for Millison Development came before the Commissioners and summarized the size/style of the PUD, the fact that there is no commercial development and that 117 acres has been permanently preserved as forest area for the forest interior dwelling birds habitat which is a major environmental amenity. Ms. Paige pointed out that a Planned Unit Development was an option provided legislatively so that our local government (in our case the Board of County Commissioners) could provide flexibility to a developer to encourage innovative and creative designs. Ms. Paige hopes that the Board would act favorably as the Planning Commission did on the recommendations. Ms. Paige pointed out that there were a few technical aspects of the recommendations that she would like the Commissioners to reconsider and modify.

John Norris, Engineer for Norris, Gass, & Oker made a presentation to the Commissioners explaining that he had met with the Planning Commission and the Critical Area Commission who had also done site visits on the property. Mr. Norris brought along the aerial photographs and the maps which he used to explain the innovative ideas of this particular PUD. Shannon Farms is located off of the entrance to the South Gate Route 712, Long Lane is the primary access through Cedar Cove PUD and a portion of 235 is also used. Mr. Norris stated that originally this PUD was only slated for 64 acres but with input from DNR and the Natural Heritage Foundation they have now increased the acreage to 117 to achieve the forested area that would act as an access for the habitat. By doing this the developers lost some of the density and had to redesign some points. Mr. Norris stated that streets and roads will be constructed in accordance with county road requirements and classifications, based on the number of lots served. There will be a sidewalk system along all the roadways in the PUD, offset from the back edge of the curve to allow a greenway and planting area.

Mrs. Eagan questioned whether the houses on the bay had access to the bay and were each considered waterfront? Mr. Norris responded that they were waterfront but the critical area law has a 100 foot buffer where there is not vegetation today (trees & shrubs) but that the vegetation does have to be planted under specific recommendations. Could each house build a pier? No.

Mrs. Thompson questioned whether the access to the water will be a public access? Mr. Norris replied that access to the water will be restricted to the community.

Mr. Chesser wanted to know why there was only one access coming into a community with this many dwellings? Mr. Norris stated that the environmental features that are within this PUD restricted them to a single access point.

Mr. Jarboe stated that Golden Beach has one access that holds 2000 people and works fine.

One of the conditions of grandfathering status is that all the original conditions of any rezoning resolution be adhered to. In 1985 when the Critical Area legislation was being drafted there were different distances for buffers so the original resolution contains a requirement that a 200 foot setback off the bay be adhered to within 300 feet which limits the amount of impervious surface that can be developed. This Planning Commission recommendation does not carry those 200 and 300 foot distances forward but rather uses the 100 foot standard critical area setback along the bayfront.

The Planning Commission's recommendations is for a favorable amendment including the changes to the development plan, the change to the access and the approval of certain innovative features. The ultimate zoning density would be reduced from 3 units per acre to approximately 2.03 per acre. This is one of the principal concessions the critical area commission has indicated a willingness to grant us in continuing an overall grandfathering of the project, bringing the density down by 1/3.

Mr. Grimm summarized the recommended conditions and modifications which were reviewed and discussed by the Commissioners.

The Planning Commission supports the concept of the rotary, the eyebrow, and the glulam bridge, with the engineering details to be worked out between the developer and the Department of

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Public Works.

Ms. Paige requested the changing of some of the wording of the recommendations. One concern was to issue some parameters on the responsibility of maintenance of the glulam bridge.

Commissioners opened the discussion up to public comment. Mr. James Owens, adjoining property owner was concerned with a phone call he received from Lillian S. Palm regarding 10 acres of land that he said was retained for her. Mr. Grimm pointed out that Ms. Palm was a receiver of a certified letter and she had spoken with Mr. Paone and pointed out that she was an adjoining property owner. Mr. Owens also wanted to know if this would be a "low income" housing project. Mr. Norris stated it was not.

Mr. Brugman expressed his concerns about the authority of the Commissioners in deleting some of the conditions and the rewording of such.

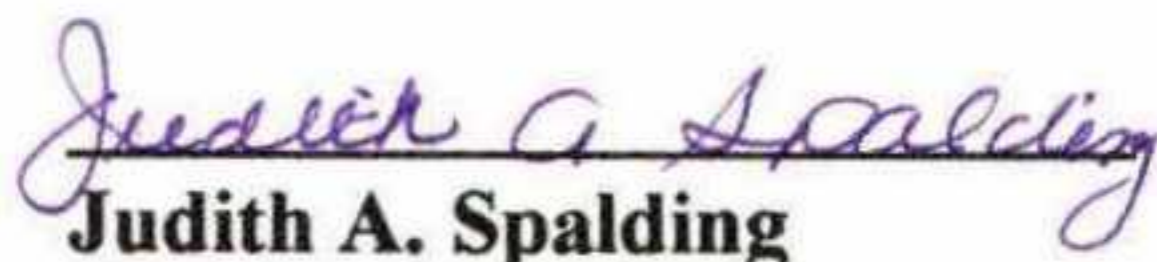
Mrs. Thompson suggested since the open record was for ten days that they take all items under consideration, discuss them and remand back to the Planning Commission.

Mrs. Thompson closed the public hearing and will keep the record open for ten days.

#### ADJOURNMENT

The meeting adjourned at 8:30 p.m.

Minutes Approved by Board of  
County Commissioners on 10/15/96

  
Judith A. Spalding  
Recording Secretary

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Diane L. Sullivan  
Recording Secretary