

MINUTES OF PLANNING BOARD PUBLIC HEARING - P. B. CASE 164

AUGUST 21, 1984 - 7:30 p.m. - BANNEKER ROOM, GEORGE HOWARD BUILDING

Exhibit # 27

Date 7/22/00

Board Members Present: Sue-Ellen Hantman, Chairperson; Howard E. Harrison III, Vice-Chairperson; Gary J. Baham; Helen E. Ruther; J. Gordon Warfield

Staff Present: Thomas G. Harris, Jr., Executive Secretary; Paul T. Johnson, Senior Assistant County Solicitor and Counsel for the Board; Michael W. Antol and Lawrence F. Ripley, Division of Land Development and Zoning Administration; Sarah H. Turnage, Recording Secretary.

Mrs. Hantman opened the hearing and explained the procedure to be followed, specifically noting that the hearing would be in two parts, one to amend the boundaries of 0.60 acres of employment center-commercial land use shown on the Comprehensive Sketch Plan, and the other part for approval of a site development plan for a convenience store. She stated the Board would not decide tonight and there might be a request to continue the hearing. She requested those present to be brief.

Mr. Harris read the petition which was advertised in the Howard County Times and the Sun 30 days prior to the hearing. The applicant had provided copies of the certification of advertisement in the Times but had not received the one from the Sun; this will be submitted later. He also certified that all legal requirements had been met.

Paul T. Johnson, Counsel for the Board, read into the record a list of all legal documents to be incorporated by reference. Others might be introduced, he stated.

Mrs. Hantman requested the petitioner to make its presentation.

Mr. Walter E. Woodford, Jr., Director of Engineering for HRD, was sworn in.

Mr. Robert Levan, attorney for the opponents, 5457 Twin Knolls Road, took the stand and asked as a preliminary matter to address the Board. He felt the hearing was at a difficult time for many of his clients on vacation. They also found real questions and issues which they did not have time to address. He renewed the request for a continuance to permit them to develop their position for full presentation after the Labor Day weekend. He pointed out the notices which Mr. Harris read related to the SDP and amendment of the Comprehensive Sketch Plan; however, he suggested it is appropriate to consider an amendment to the Final Development Plan and the Criteria also. He suggested the notice is not legally sufficient. Furthermore, it was premature to consider the SDP when there are questions in connection with the FDP. The Criteria for locating the use at this location may be different. The request was 1) that the Board consider a continuance, and 2) that the Board direct the appropriate officials to place the proper notices to permit amendments and changes in the FDP as well as the Criteria.

Mrs. Hantman stated they had considered that request but felt the hearing had been posted and notice given so that it would be more confusing not to have it. The Board did agree they would continue the hearing to another date, and she suggested September 5th after the regular Planning Board meeting.

Mr. Levan asked to consult with his clients. After consulting, he stated this would be too soon for them to prepare; more importantly, they requested another evening hearing.

Mrs. Hantman said the Board strongly felt they did not want another night meeting but would be willing to have it at the next regular meeting after Sept. 5th.

Mr. Harris stated this could be on September 19th.

Mr. Walter Woodford, Director of Engineering for HRD (already sworn in), stated they would not object to continuing to Sept. 5th but objected strongly to any continuance beyond that. They felt this is not a new issue; they had been involved in it for months and had had meetings with the community. They recommended the hearing be held over to Sept. 5 but not beyond that.

Mrs. Hantman stated it was the consensus of the Board that it be Sept. 5 and not another night meeting. She was not sure whether they might need to advertise again for changes in the FDP.

Mr. Levan stated their position with regard to the FDP is really part of their motion. He did not see how it was possible to consider the SDP prior to nailing down the FDP.

Mrs. Hantman asked if they didn't have to consider the Comprehensive Sketch Plan before considering the FDP.

Mr. Levan agreed but raised another objection.

Mrs. Hantman remarked that would presume the Comprehensive Sketch Plan would be different from the adopted FDP - she asked if there were not a possibility they could be the same.

Mr. Levan stated they would have to conform, but in terms of details of location and uses they require separate and distinct proceedings.

Mrs. Hantman asked if it were to be different from the Comprehensive Sketch Plan, and since they had not heard the presentation on the sketch plan, she would like to see the presentation first. If they are the same, did they need another hearing on the FDP, she asked.

Mr. Levan understood but would like a longer continuance; however, that is within the Board's discretion. If they approved the change in the Comprehensive Sketch Plan, they would have to change the site location on the FDP and the Criteria. Without doing that, if they did not touch the FDP, they would have an inherent inconsistency. If they did one, they would have to do the other.

Mrs. Hantman thought they had to hear the Comprehensive Sketch Plan first. If they approved the request for the Sketch Plan, it will then conform with the FDP. If they found there are changes necessary to the FDP, they would have to have a hearing on it.

Mr. Levan pointed out that the FDP had been changed but without benefit of a public hearing or notification. That was essentially their argument - there has to be a hearing on the FDP.

Mrs. Hantman asked if the FDP had a hearing.

Mr. Harris replied the FDP does not have a hearing if the proposed land use location is in accordance with the preliminary development plan. A hearing is required when the proposed FDP shows a use of land within the New Town District within 300 feet of an outside boundary that is not in accordance with the preliminary development plan. If the Board would approve the location

based on the Comprehensive Sketch Plan and it is in accordance with the FDP, a separate hearing is not required.

Mrs. Hantman asked which Preliminary Development Plan.

Mr. Harris replied the one in effect now, signed Dec. 20, 1976. He could not find that the regulations say a hearing is required for the FDP because uses and locations are established in the Comprehensive Sketch Plan.

Mr. Levan suggested this has to be considered de novo.

Mrs. Ruther observed it seems they had to hear the case.

Mr. Harris stated the first action to take is on the Comprehensive Sketch Plan and if they denied the location, the site plan is meaningless. If they approved it, then they could consider the other.

Mrs. Ruther asked if they must have a hearing on the SDP.

Mr. Harris replied it is a little cloudy.

Mrs. Ruther stated it seems they could not decide what comes next until they heard this part.

Mr. Walter Woodford, of HRD, then testified before the Board. He suggested they defer any decision on the request of the counsel until later in the hearing; they would address the matter regarding the Comprehensive Sketch Plan.

Mrs. Hantman stated to Mr. Levan that they had tried to take care of the postponement while everyone was there. She thought they would have to make that decision as they got into the hearing. It may be that if there is need to further advertise, it will have time limits.

Mr. Harris stated if they continued it to a specific date and time, they did not have to advertise, but if they waited until after the hearing, then they would have to.

Mrs. Hantman stated there is a possibility of conflict - they would make the decision as they went along. She called on Mr. Woodford.

Mr. Woodford introduced Mr. Gerald Brock, from HRD, Mr. James Lano, Director of Legal Services, and a gentleman from Besche Oil and one from Fedco Systems.

In addition to the documents already introduced, he wishes to add the following: Zoning Regulations of 1971; Amendment No. 1 adopted on May 6, 1971 (the Miller Amendment) which is particularly the basis of tonight's hearing, he stated; the approved Master Comprehensive FDP Criteria adopted on July 1, 1968, and the latest revision of December 1972 referred to in the files of the Office of Planning & Zoning as P-73-19c.

As had been indicated, he stated, HRD submitted a Comprehensive Sketch Plan in the fall of 1972 covering approximately 189 acres in the Village of Hickory Ridge, Sec. 1, Area 2, Clemens Crossing Neighborhood. This sketch plan showed the proposed land uses by acreage and location as required by the regulations for an area west of Martin Rd. south of Owen Brown Rd., and east of Freetown Road. It consisted of a map and text, the Criteria, which is comprised of applicable sections of the Master Criteria adopted by the Planning Board in 1968 and amended in 1972. A public hearing was held on the Comprehensive Sketch Plan on November 15, 1972, by the Planning Board and a decision and order rendered on December 4, 1972. He submitted:

Petitioner's Exhibit No. 1 - copy of the December Order  
and copy of an approval letter sent to HRD by Planning Board.

Petitioner's Exhibit No. 2 - Map showing an area with access off  
Quarterstaff Rd, southwest of the site covered by the petition,  
representing the site that was part of P.B. Case 54. This  
exhibit indicates the change in location from that on the  
Comprehensive Sketch Plan in 1972. The Decision & Order adopted  
land uses and text criteria for the entire area covered by the  
Comprehensive Sketch Plan. It did not include the present  
location of the neighborhood center.

Petitioner's Exhibit No. 3 - Preliminary Subdivision Plan, P-73-19,  
covering 175.5 acres. Mr. Woodford posted the plan and pointed  
out the approx. 0.6 acre neighborhood center site.

Mrs. Ruther asked if this was a preliminary subdivision plan.

Mr. Woodford responded it was the Comprehensive Sketch Plan required by regulations.  
He reviewed the steps required. The only difference between the final development  
plan and comprehensive sketch plan is that land uses are by metes and bounds.  
The criteria in the FDP is that which was approved in the comprehensive sketch plan.

Mrs. Ruther asked what was the date of this preliminary plan.

Mr. Woodford stated this preliminary subdivision plan was presented to the Planning  
Board for comments, which is unusual. During the comprehensive sketch plan stage there  
were several major issues - road patterns, location of the elementary school site, etc.  
which was proposed under the comprehensive sketch plan. There were efforts to try to  
resolve those which were reflected in the preliminary subdivision plan. The preliminary  
sketch plan was approved on March 30, 1973. The final subdivision plan and the final  
development plan, Phase 136, Part I, was also approved by the Board on May 16, 1973.  
At that time the school site still had not been resolved. The position of the  
Dept. of Education was that they were satisfied that the 14 acres at the inter-  
section of Quarterstaff and Martin Roads provided them with the flexibility, and  
the other site would be utilized for a neighborhood center and community center.  
The preliminary subdivision plan was approved without the detail within that 14  
acres. So the FDP only covered 171 acres of the 185, leaving 14 acres still to be  
covered. The final resolution of that school site did not come about until the  
fall of 1973, five or six months after the adoption of the FDP. However, the FDP  
approved by the Planning Board on May 16 and recorded on May 18, 1973,  
included the full criteria for the entire acreage, including land uses. He  
introduced the following exhibits:

Petitioner's

- Exhibit No. 4: Approval letter for preliminary subdivision plan
- " 5: Approval letter for final development plan, Phase 136, Part I
- " 6: FDP 136, Part I
- " 7: Section 7.c.1. of the Master Criteria (which he read)
- " 8: Copy of zoning regulations from 1971 in effect at the time  
and the section dealing with permitted land uses in B-1  
and SC districts.

Mr. Woodford continued. The next step was the Final Development Plan  
Phase 136, Part II, which covered the 14 acres which were excluded in the first  
part. The school site was finalized and the criteria had already been recorded  
under Part I so that criteria for this phase was recorded in Phase 136 Part I. This  
was added at the requirement of OPZ. He entered the following:

Exhibit No. 9: FDP, Phase 136, Part II, recorded March 28, 1974.

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(Mr. Woodford's testimony, continued):

That culminated the zoning process in New Town, he stated.

Mrs. Ruther asked if it were unusual to separate the map submission from criteria.

Mr. Woodford answered it has happened before. This was an unusual situation. He then addressed what is known as the "Miller Amendment" which was Amendment No. 1 to the 1971 zoning regulation changes. The present zoning regulations have Section 119.c.8 and in 1971 it was section 17.037.e. These were the subject of a public hearing in Feb. 1971 and were adopted on May 6, 1971, to be effective on June 1, 1971. They require a comprehensive sketch plan which was defined as a map at a certain scale and text

TAPE 2

The intent of the Miller Amendment, Mr. Woodford continued, was to provide an opportunity for a public hearing somewhere along the way. If held then, it did not have to be held subsequently, as long as there was no change. Therefore, their conclusion in this case is that this public hearing tonight is necessary only because at the time of the comprehensive sketch plan a public hearing was held, but the location is different for the land uses from that subsequently recorded on the FDP. He then offered testimony indicating their feeling that this is also a technicality:

Exhibit No. 9: Part II of Phase 136

Exhibit No. 10: Letter from Mr. Lano of HRD to Paul Johnson regarding HRD's position as to the authority of the Planning Bd.

From the beginning, Mr. Woodford stated, they thought the intent of the Miller Amendment was to provide public input, particularly for non-New Town residents, and they believe that in this case the intent of the amendment has been met. He introduced:

Exhibit No. 11: Map of Atholton Manor

Exhibit No. 12: Map of Clemens Crossing Neighborhood, at scale 1" = 400'.

Mr. Woodford reviewed the boundaries of Clemens Crossing neighborhood shown on the map, with the outparcels within the neighborhood. At the time of these proceedings Atholton Manor was zoned R-20, which it still is. Land to the south was R-40 and is now R-12. Land between two NT parcels was R-40 and is now R-12; to the north was R-40 which is now R-20. Basically the residential character of the outparcels is the same except for greater densities in some areas.

Records show there was intensive involvement with non-New Town residents, primarily of Atholton Manor and Owen Brown Road. In Planning Board Case 54, three or four residents gave testimony. Letters have been presented to the Office of Planning & Zoning by HRD and the residents. Suggestions have been addressed concerning: lotting, particularly patio lotting; land uses and landscaping and fencing, among others, as well as the road network. He introduced the following exhibits:

Exhibit No. 13: letter dated May 1, 1973 to the Planning Board from Charles Lyons and Edward H. Livesay, both of Atholton Manor, regarding the entrance, which they requested be moved to the south, which could not be done.

Letter from Doug MacGregor to Mr. Charles Lyons dated May 16, 1973.

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With respect to New Town residents, Mr. Woodford stated that when a FDP and final subdivision plan are adopted, these matters have all been discussed, according to the regulations of a planned community. They contended that the intent of the Miller amendment was met through the process which was followed and what they were now faced with is only a technicality.

Mr. Woodford addressed the Columbia concept itself. Each neighborhood has an elementary school, commercial and neighborhood center, all adjacent to one another, to meet the immediate needs of the neighborhood. This has been a basic concept from the beginning. It is based upon population, which is somewhere around 5,000 people in the neighborhood, excluding non-New-Town land.

Mrs. Hantman asked if Mr. Woodford knew the population of the area in question.

Mr. Woodford replied no, he did not. He posted a map which he entered as

Exhibit No. 14: showing neighborhood centers in Columbia, scale 1" = 800'

He stated they had shown neighborhood centers recorded to date, convenience stores and day care centers and other uses yet to be developed. There are presently in existence 6 convenience stores, one under construction. There is one employment center-commercial. A WaWa store on Hickory Ridge Road, and a convenience store in Bryant Woods, which once served food but this was not economical. These sites are related to population and not to distance from each other.

Mr. Baham asked what are the criteria for location of these.

Mr. Woodford stated first, there would be an elementary school, neighborhood center and community center adjacent to each other. The big question is where the elementary school will go. It has to be compatible with Dept. of Education requirements and approved by the State. In response to Mr. Baham's question, he stated he believed there is sufficient population.

Mrs. Ruther noted there are only 6 and obviously several neighborhoods have not been able to sustain one.

Mr. Woodford stated that is because of market demand. Example - in Hawthorn there will be a day care center. Someone came forward and said they would like to put in a day care center. He introduced

Exhibit No. 15: Letter dated Aug 3, 1974 relating to covenants associates with the deed.

Mr. Woodford then addressed the subject of traffic. Martin Road is shown as a major collector. He reviewed proposed extension of Martin Rd. to the north. The Design Manual shows a major collector carrying 1500 to 6,000 vehicles per day. At the time of the comprehensive sketch plan, HRD had a traffic study made based on projected traffic count of approximately 5300 vpd, assuming a road was closed when the new entrance was constructed. If that is not closed, the study gave a count of 4560 vpd. Recently a study by DeLeuw Cather determined that 4800 vpd would use Martin Road. These are predicated on full development of the area. Mr. Woodford also suggested that traffic on Martin Rd. will not increase as a result of the convenience center. People are now using Bradley Lane as a cut off; there will be more as congeation on Owen Brown Road and 29 increased until the interchange is built, when Bradley Lane will be closed. Although traffic has and will increase this is because of congestion and not because of this proposed facility.

There are four peak periods for convenience centers: early morning; around noon; 4:30 to 5:30; and later around 9:00 to 10:30. In NT there are many combined trips.

(Mr. Woodford's testimony continued)

Combined trips mean stopping at a store when making another trip. An average single family household generates 9 trips per day. In addition, there is a pathway system which is used to some extent. In conclusion, the fact that it is a neighborhood center plan was already considered at the time the traffic studies were made.

With regard to parking, Mr. Woodford stated, the regulations and FDP state the parking requirements. This convenience store will have to provide parking on site to serve that use. There will be relatively short stays by people coming in and out. There is now parking on Martin Road associated with the swimming pool.

Regarding the entrance location, this is dictated by the Design Manual. Health requirements are not specified in the FDP, but must conform to Health Dept. regulations. Landscaping is a requirement of the FDP criteria; HRD has landscaping requirements more stringent than those of Howard Co. There has been extensive discussion with the Village Bd. and Architectural Committee.

In summary, Mr. Woodford stated, the FDP process has been interpreted over the last 10-11 years. A hearing is required at some point, and if that takes place, one is not required later. The intent of the regulations was met through involvement of non-New Town residents, and development has all occurred in the last ten years on the basis of action by the Planning Board. Land uses in the area are the same. There is no other location within the neighborhood available for this particular use. Therefore, Mr. Woodford requested that the amended comprehensive sketch plan be approved; that the FDP remain as recorded; and that the SDP be approved as presented.

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Mr. Larry Ripley, Planner with the Office of Planning and Zoning, was sworn in and stated the plan was submitted and sent out on July 17th to reviewing agencies which have all submitted it back with either "no comment" or approved as submitted for land use only.

Mrs. Hantman asked for questions and stated the Board would consider the comprehensive sketch plan.

RECESS -9:25-9:35

Following the recess, Mrs. Hantman reopened the meeting and called the following:from the speakers' list:

Mr. Levan, attorney for protestants, 5456 Twin Knolls Road, Columbia. Mr. Levan stated a number of people will withhold their testimony until Sept. 5th. There are a lot of documents introduced by HRD which they would like to review. He raised the following points:

They disagreed most heartily with the sentiments expressed by the applicant that this is a technical matter. The only hearing held was on the comprehensive sketch plan which identified the commercial center at a location more than 600 ft. from the current proposed location. It was submitted at the time that the criteria had not been changed. That was the only public hearing. With reference to Petitioners' Exhibit 13, letters to indicate the community was involved, they do not know how that involvement took place - certainly not in a public hearing, or property being posted or in terms of notice. To call that a technicality is untrue in the practical as well as the legal sense.

The fact is, Mr. Levan continued, in considering this comprehensive sketch plan, it seems the Planning Board must take into account the fact that the criteria at that time dealt with a site we are not dealing with today - and the preliminary plan later moved the site. It took upon itself the criteria previously submitted as part of the comprehensive sketch plan. This piece of property has never had a public hearing or been considered in terms of the criteria. The applicant says they approved the criteria in advance - and talked to people and got a couple of letters. That is supposed to be satisfactory. It may be - and of course, the applicant puts forward the fact that the plan calls for an employment site and this is the only site left, so we should have it here. As far as I am concerned, the fact is no one has analyzed the criteria which you have in front of you by public hearing in terms of the site.

It may be, Mr. Levan continued, that HRD, in 1972 or 1973, made efforts to analyze the site with non-New Town residents - but it did not - but we submit this constitutes a change from the comprehensive sketch plan and it does not make sense to consider a general change without considering the specifics. The new location affects adjacent property owners differently from the original sketch plan - it is only 30 feet from the nearest residence. It seemed it makes sense to look at this property in terms of the criteria. In addition, the concept of a convenience store has changed significantly. There is in this proposal a fast food element which was not present 10 years ago. The fact there are sit-down customers means the traffic patterns will certainly be different. The citizens ask that you consider the proposal in 1984 terms rather than 1969,

Mr. Levan yielded time to those who could not return on the 5th.

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TAPE 3

Ms. Pat Linblad, Chairperson of the Hickory Ridge Village Board, was sworn in and submitted:

Protestants' Exhibit No. 1: map sent to Hickory Ridge Board last week from OPZ entitled "Original Comprehensive Sketch Plan" dated Sept. 1972, received by Division of Land Development Oct. 10, 1972.

Ms. Lindblad stated that the Village Board, after reviewing the Sept. 1972 comprehensive sketch plan, believes the original location of the commercial lot was good planning because 1) the location provided reasonable traffic patterns and lot coverage; 2) the site provided a good buffer from the residential community; and 3) the topography allowed for minimal impact on the neighborhood. The site now proposed is inadequate because it allows poor ingress and egress, limited traffic visibility and would create hazards; furthermore, the topography of this parcel is the highest in the surrounding neighborhood and would have a large impact. The Clemens Crossing Board has a history of supporting good planning. This is not good planning; it is simply settling for what is left. There should be a public process; they felt they are now faced with foregone conclusions. Mr. Linblad also stated that the second portion of tonight's hearing presumes that the sketch plan will be approved. Besche Oil has already decided to build and has submitted a SDP. They did not have the opportunity to testify in the 1970's; but in 1984 the circumstances have pushed the Planning Board into a tight corner. Nevertheless, the Hickory Ridge Board asks the Planning Board to deny the location of the commercial lot as proposed. She submitted written testimony as

Protestants' Exhibit No. 2

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Mr. James Wu, 10346 Tailcoat Way, was sworn in and addressed three issues:  
 1) adverse effect of change in location on surrounding properties. In his opinion the request for an amended comprehensive sketch plan should not be granted because the change will adversely affect surrounding properties. He felt the intent of the 1972 Planning Board resolution has not been adequately addressed. The resolution on Nov. 15, 1974, where the Planning Board approved the comprehensive sketch plan for a convenience store, was based on the assumption that the plan would not adversely affect surrounding properties or public health, safety, security, morals or general welfare or create a traffic hazard. The proposed change will causes adverse impacts on surrounding properties due to

- a) the close proximity of residential properties;
- b) the placement of the entrance driveway at a location which will create traffic hazards because of line of sight; and
- c) elevation of proposed site relative to surrounding properties.

He referred to Mr. Woodford's remarks regarding the Columbia concept. The fact remains there are three convenience stores within a 2-mile radius. Reagrdsless of the fact that two of these are not in Columbia, they serve surrounding community.

He referred to a letter of Aug 7, 1984, to Mr. Thomas G. Harris, Jr., from Walter E. Woodford, Jr. and Michael Besche of Besche Oil Co. In this letter Messrs Woodford and Besche refer to certain deed restrictions and controls which will be applicable. They state "in light of the agreements reached... and the existing controls, we believe concerns.... have been adequately addressed." Mr. Wu did not think they were adequately addressed. It is true negotiations were held by HRD, Besche Oil and representatives of the community. In fact, a meeting was held on April 12, 1984, to discuss specific agenda items and agree to agree or disagree. In his opinion, the citizens agreed to disagree. They discussed the cooking and inside seating, which are unacceptable to the community. The evening ended with no resolution. He requested continuance to an evening meeting beyond Sept. 5. He also reiterated the change in location represents a substantial change due to the major impact on surrounding properties. He recommended the request to amend the comprehensive sketch plan be denied.

Mr. Harrison asked Mr. Wu if his home backg to the subject site.

Mr. Wu replied yes. They moved in in March of 1978.

Mr. Harrison asked what he assumed was going in there.

Mr. Wu assumed a neighborhood center or convenience store without inside seating.

Mr. Harrison continued and asked what led him to believe this.

Mr. Wu replied words from the realtor and the fact that people referred to it as a neighborhood center or employment center. He thought possibly a professional building or convenience store.

Mr. Baham noted he mentioned there were 3 convenience stores in a two-mile radius which would sufficiently supply his needs.

Mr. Wu responded yes,, that 3 stores are more than adequate to supply the needs of the community.

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Dr. Jerry Pell, 10310 Tailcoat Way, Columbia, was sworn in and responded to Mr. Woodford's testimony concerning technicality - he reminded the Board millions of dollars is being affected; the fact that Columbia is a planned community, HRD is the very entity they had entrusted with such planning. Referring to traffic, both morning and noon peaks coincide with children going to school. The interest of Besche Corp. is to increase traffic flow to render the operation lucrative. As Mr. Wu pointed out, they had more than enough facilities in the area. He had grave reservations about traffic flow and as for the in-and-out factor, the younger the customer, the longer the period. During the past 11-12 years the development of these homes has occurred. Also, they had the most active swimming pool in Columbia. The fact there is no other available site does not justify this proposed use. Regarding pollution, he has a PhD in Meteorology and was a certified consultant; he knew something about the subject. The opinion of the County Solicitor is the Aug. 1 letter that the Planning Board has no power to regulate hours of operation, noise, odors, etc., is a matter of great concern to the citizens. It becomes all the more important that the petition be denied. As for the control of emissions being regulated by Howard County Laws, under the State laws this facility would not be covered. However, it would be very difficult for them to hire counsel as a recourse. The impact of the odors will also be on the swimming pool. Also volume of trash will increase.

Mr. Harrison asked Dr. Pell when he moved in and was it a new home.

Dr. Pell stated it was new; he moved in approximately a month prior to Dr. Wu. They saw blueprints - not of the convenience store.

Dr. Wu stated he previously lived in Wilde Lake but never imagined fried chicken and donuts (when he moved to his present address).

Mr. Harrison asked if he was aware the property was zoned for a convenience store.

Dr. Wu replied yes, in the context of what he knew a convenience store to be.

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Mr. Lew Neuwelt, 10331 Tailcoat Way, Columbia - would wait until Sept 5th.  
Mrs. Rosemary Mortimer, 10222 Westwood Dr., Columbia " " " "  
Mrs. Anne Bowman, 10221 Bradley Lane, Columbia, " " " "

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Ms. Betty Jesneck, 10222 Bradley Lane, was sworn in and stated she was present because of health concerns. She read a statement as Principal of Clemens Crossing Elementary, concerning the attractiveness of the facility to school children who would be drawn to it.

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Mr. Roger Stull, 10205 Tanager Lane - would return for next meeting on Sept 5.  
Ms. Cathy Stefano - 6638 Windsor Court, would return Sept. 5th.  
Ms. Alice Evans, Hickory Ridge Village Rd., - had to leave.

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Mr. David Claiborne, 10350 Tailcoat Way, Columbia resident for nine years, and one of three residents within 30 feet of the proposed site, was sworn in. He remarked the existing six commercial sites in Columbia all have something in common that the proposed site lacks: all are totally surrounded by New Town zoning. Secondly, all but one, the WaWa in Thunder Hill, are immediately adjacent to high density areas and across the street from residential areas. None are within 30 feet from a residential lot.

The proposed size of the store is 2700 sq. ft. on one floor, which will make it the largest building in the neighborhood except for the school. It is on only a half-acre lot.

Concerning lot size, about three weeks ago a notice appeared in the Columbia

David Claiborne, Continuing:

Flier that the Zoning Board denied permission to Kentucky Fried Chicken to operate on US Route 1 because the lot size was too small. That lot was also 1/2 acre. He noted a store on Rt. 108 is on a 1-acre lot with adjoining commercial and you can't get a car in and out at lunch time. He was not opposed to convenience stores but thought this would be too much and he was opposed to a restaurant in a residential neighborhood.

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Mr. Tony Burke, 10321 Lograft, Columbia, was sworn in and stated he had come to listen. He did not live on the street that abuts the proposed store; nevertheless it bothered him a great deal. Mr. Woodford had said the neighborhood concept is based on the needs of the residents. The neighborhood has changed dramatically from 1973; there are many single family dwellings. The needs of the residents have probably changed. We should ask if the residents now want that commercial establishment in their backyard. He did not think so.

The criteria also are nebulous. Is there really enough population to justify another convenience store? With today's mobility, it is easy to get to one of the others.

He doubted there is a need for this store. HRD and Besche Oil are driving it down the throats of the residents.

Mr. Baham asked if he would prefer to drive to Hickory Ridge or Rt. 29 to buy things.

Mr. Burke replied he worked in Washington and had a phone in his office; his wife would call and ask him to pick up something at Highs. He didn't need another convenience store in their neighborhood.

Mr. Baham asked if he objected to the concept in general or just in his neighborhood.

Mr. Burke stated he thought it is not necessary in his neighborhood.

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Dr. Jerry Pell (formerly testified) stated they would all like to come back for the continuance of the hearing. He implored the Board to consider an evening hearing, since some people can't attend except in the evening. He suggested the evening of the 5th or 19th.

Mrs. Hantman stated the consensus is they would continue to Sept 5th. If they feel an evening meeting is needed, they would decide at that time. She believed they had accommodated the residents by having this night hearing. And they had spent an inordinate amount of time going to the site and reviewing.

Mr. Woodford felt it was obvious from the testimony there is an interweaving of the sketch plan with the site plan. He thought it necessary for the Board to hear testimony regarding the site plan in order to consider the opposition to the plan. The Board should be able to hear and consider the site plan and testimony in connection with it before they make a decision with regard to the sketch plan.

Mrs. Hantman questioned that. Most of the testimony they had heard had been in opposition to the restaurant and seating. The legal opinions indicate they could reconsider the criteria. Conceivably that means they could say no to the restaurant but yes to the convenience store. You do not need a 2700 sq. ft. building for a convenience store. And Parking would be different, as well as landscaping.

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Mr. Woodford agreed insofar as consideration of the site plan is concerned, but believed there needs to be testimony regarding the use and market resources associated with this particular use at this site.

Mrs. Hantman thought the petitioner has the opportunity to address those issues. She had no problem with that.

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Mr. Richard Cromley, Division Manager for Quik Shop Stores, Besche Oil Co., was sworn in and testified that when they first investigated the site, before committing themselves to purchase, they had extensive market studies done as to volume and profitability. MPSI of North America and CACI, a company in Roslyn, were chosen to do the studies. Findings of both indicated that the site vis a vis its profitability had every indication of being very successful. Besche Oil contemplates development of this site will cost 1/2 million. You don't make that kind of investment without being very careful. Both studies were done as computer models. The MPSI study was made in September of last year and concluded the site had 1900 potential customers a day.

Mrs. Hantman asked where the study envisioned the (market) area to be.

Mr. Cromley stated it is within 1.5 miles of the site.

Mrs. Hantman asked was this in terms of residents or those travelling through.

Mr. Cromley stated it has nothing to do with traffic. The CACI study in October was based on census data - families within that 1.5 mile radius. It makes no reference to traffic patterns. It uses Gallup polling of people as to their attitudes and manner of shopping and habits in daily conduct of their lives. The CACI study is the one they based their decision on to develop the convenience store. The MPSI study is a general study for retail accounts, including a convenience store and other things. But specifically the CACI study was done for one purpose: a convenience store of their type based on census data and polling. The result was they had no doubt the store would be successful. So, based on their data, they went forward with the site development.

He stated that the store is 2700 sq. ft.; however, the industry standard is 2400 sq. ft., and the trend in the convenience store industry has been to slightly larger stores. Stores currently being built are even larger than theirs. He granted the concept of a convenience store is changing, but their store is not a fast food restaurant - not even really a restaurant - their whole thrust is towards carry-out rather than sit-down. Seating is designed as another convenience, but they only have 26 seats. It does not come close to meeting the definition of a convenience store. All normal items are found in their stores. HRD's covenants in the deed clearly prohibit it from being anything else.

Mr. Cromley stated they operate in four counties and have 3 stores under construction, 2 in Virginia and one in Maryland. The store in Columbia is the same store they build everywhere. This is their prototype.

Mrs. Hantman asked where the stores were.

Mr. Cromwell replied in Anne Arundel Co., Rt. 214; St. Mary's Co., Great Mills Rd.; 2 stores on Rt. 301, one on the border of Prince George's and Charles Counties, and another approximately three miles south of La Plata.

Mrs. Ruther asked if any were within residential communities.

Mr. Cromwell asked if she were familiar with St. Charles. It is small compared to Columbia but is a planned development in excess of 6,000 homes with plans for 10,000 more. It is directly in the middle of it (the store). St. Charles does not

have a village center concept. Commercial sites are scattered. Theirs was at the entrance to a section which is a collection of single family homes and townhouses.

Mrs. Ruther asked if it were near another convenience store.

Mr. Cromwell stated about 1.5 miles is a 7-11 store, a High's store at a swimming pool in another neighborhood; and a second 7-11 in a 4th neighborhood.

Mrs. Ruther asked for a breakdown of percentages of business.

Mr. Cromwell stated 20% fast food and the rest 80%.

Mrs. Ruther said they expected how many visits a day? 1900?

Mr. Cromwell stated that is their potential. He wished he had brought the computer study. There are 4600 residents within that 1.5 mile, not all within Clemens Crossing.

Mrs. Ruther asked how he saw the impact of traffic.

Mr. Cromwell stated they had used the State of Maryland traffic study 2 years ago which said the opening of a convenience store with a full set of gas pumps, which the present proposed store does not have, would increase traffic by about 30 cars an hour, 26 of which would be attributed to gas.

Mrs. Ruther asked if he thought there would be an increase of 4 cars.

Mr. Cromwell said an increase. He hoped traffic would use their store.

TAPE 4

Mr. Baham stated you have a minor increase in traffic. How can you get three sales a minute?

Mr. Cromwell replied in this study we are saying there are that many people who avail themselves of a convenience store.

Mr. Baham stated most of these are little kids buying penny bugle gum. He asked if Mr. Cromwell were going to submit the study for the Board's review.

Mr. Cromwell stated he would be glad to.

Mr. Baham asked if the responses were in the report.

Mr. Cromwell stated that was confidential information which they would not release to him or anybody. It is a statistical representation of how each one feels. He would be glad to bring it with him on the 5th. But 1900 is the total potential - he did not expect that many people a day.

Mr. Baham stated he knew he had a marketing projection that is a lower number. He asked what that was.

Mr. Cromwell summed up regarding the proposed convenience store. There is no broiler, no pit barbecue; the only emissions are in the form of steam which is 85% make up air, so that it is minimized and also they had taken measures to screen everything which has noise capability. They felt the store was very attractive and the landscaping probably exceeds anything he had seen in Columbia, definitely exceeds anything he had seen on any other commercial site.

Mrs. Ruther asked if the landscaping were common to their other stores.

Mr. Cromwell replied no, it is not. They had met the requirements of the counties, but this is in consideration of the residents around the site.

Mr. Baham asked for specifics relating to odors. He asked if they had done studies.

Mr. Cromwell replied no. The masonry wall used is all approved by the State and beyond that they had screened the equipment beyond what the State requires. They have exceeded the State's requirements regarding emissions.

Mrs. Hantman thanked those present for attending and stated the hearing on Sept. 5th would begin at approximately 10:30 a.m.

Mr. Harris stated the Board normally meets in the Ellicott Room but they will try to reserve this room (Banneker Rm) so they could move to it.

Mrs. Hantman told those present they could submit testimony in writing and it would become part of the record.

THERE BEING NO FURTHER BUSINESS, THE MEETING ADJOURNED AT 11:15 p.m.