PUBLIC HEARING
October 20, 1993

The Elkton Town Council held a Public Hearing Wednesday, October 20, 1993 at 7:00 p.m. in the council chambers with the Mayor Charles E. Dean presiding. The roll call is recorded as follows:

PRESENT

F. A. Bennett
R. C. Davis
M. B. Fuller
R. L. Snow
T. R. Whitfield III

ABSENT

W. E. Printz

Dale Davenport, Attorney, Norma Leap, Clerk, Gerald Monger, Superintendent and Warren Pence, Chief of Police were also present.

Mayor Dean stated the purpose of the hearing was to hear comments on the preliminary development plan concerning Section 3 of the Elkwood Subdivision containing in Phase 1, 26 lots and in Phase 2, 12 lots.

Mayor Dean asked Mr. Davenport to explain what the council will be considering tonight and some of the other possibilities council might consider.

Mr. Davenport explained that in order for an R-8 Planned Unit Development to have a subdivision approved, it has to comply with the requirements of the R-8 PUD Section and also must comply with the Subdivision Ordinance which is a separate ordinance of the town regulating all subdivisions. This applicant has submitted a preliminary plan and has asked that it be considered as a plan under the R-8 procedure as well as a Preliminary Plat under the Subdivision procedure. The Planning Commission considered it as both of these. The Planning Commisison approved it under the R-8 requirements with a request of some minor changes which were approved by the developers. This will now come before the council tonight to see if they approve the R-8 portion. The curb, guttering and sidewalk requirements which has been the source of some concern are not in the R-8 list of specifications. These are in the Subdivision Ordinance set of specifications which are more stringent. The Planning Commission when looking at the other half, the Subdivision Ordinance, said the plan does not meet the Subdivision Ordinance because it does not provide for curb, guttering, sidewalk and some other things to do with road specifications. This part does not come before council at this time. It possibly will come before council later if the developer brings it back as a final plat.

Mr. Davenport pointed out that there is another way council could consider this. In the Subdivision Ordinance itself there is a sort of Mini Variance Procedure. This is not the general Zoning Variance Procedure where people can appeal to the Board of Zoning Appeals. This Mini Variance is a special section at the end of the Subdivision Ordinance which states if a developer thinks there is some problem having to do with topography they can apply for a variance. It also says the Board of Zoning Appeals cannot grant that variance if either the Town Council, the Highway Engineer or the Health Department basically veto it. This gives council a veto power over the Board of Zoning Appeals granting that variance. In a normal variance council does not have this veto power, but in this section they do. Mr. Davenport stated it would not be appropriate for council to tell the Board of Zoning Appeals to grant a variance if it comes before them but council has a choice of two courses of action they can take. They can pass a resolution stating they do not chose to oppose a variance or if council feels strongly that a variance should not be granted on these specifications for curb, guttering, sidewalks, etc., they should pass a resolution saying they do not want the Board of Zoning Appeals to grant a variance thus exercising their veto power.

Mr. Kenneth Whittington, speaking on behalf of the Elkwood residents, asked council to protect the environmental standards of the Elkwood Subdivision. Several years ago when Elkwood was developed curb and gutter was not required. Today during heavy rains much of the run off is channeled into the front yards of the home owners. A mistake was made when this first section was developed and they are asking council to require curb and guttering and not make this same mistake when the next section is developed.

Another concern presented by Mr. Whittington was that trucks will be going in and out during construction. They are requesting council to make it mandatory for the developers of this addition to be responsible for the immediate clean up of any dirt, gravel or foreign matter spilled by these trucks, especially mud that will be tracked out onto the roadway. He felt another road leading into this new development would be the answer to a lot of the problems they are concerned about.

Mrs. Pat Hammer presented the following petition which was presented to the Planning Commission and signed by 56 residents and home owners in the Elkwood Subdivision:

"We the residents and home owners of Elkwood Subdivision wish to express our objections to using the present street(s) in our subdivision for the proposed "new subdivision" at the back of Elkwood. Traffic in our subdivision has doubled in the last 10 years. If 35-50 new homes are added (with an estimated 2 cars per household) the traffic would increase 70-100 cars. We are also concerned for the safety of our children if our streets are used as an access to the "new subdivision". We purchased homes in Elkwood for the relative quiet and isolation. We feel the entire atmosphere of the area would eroded by this additional traffic.

We request that every available option be pursued before a decision is made to use either Hillside Avenue or Sweetgum Street in our subdivision."

Mrs. Hazel Crider stated she feels that what Mr. Whittington said is the feeling of all Elkwood residents. She pointed out that there has been preexisting problems before now in the Elkwood Subdivision. One is water pressure. They have been told there is nothing wrong with the water pressure but the problem does exist. Another problem is the safety hazard that they have at the foot of Elkwood. There are five streets coming into this light at the intersection. The area to the left coming out of Elkwood on North Street needs to be cleaned to allow more visibility . More traffic coming into the Elkwood Subdivision from a new section will increase the problem. Mrs. Crider asked that the existing problems be taken care of regardless of this proposed development. She feels curb, guttering and sidewalks should be required in any new subdivision and that the most helpful answer for the traffic situation would be another entrance. She pointed out that she is not speaking of a thru entrance but an entrance like is in the Elkwood Subdivision.

Mr. Ray Knicely, representing the Elkwood Company which consists of Mr. & Mrs. Randal Dean, Mr. Warren Denton and Mr. Wayne Weaver, reviewed the proposed plan. He pointed out that their proposal is a continuation of the existing development which is in Elkwood now. The new section consists of approximately 17 acres divided into 38 lots which will be developed in two phases. The first phase of 26 lots would be the extension of Persimmon Street and the second phase of 12 lots would be two short cul-de-sacs. The bulk of the property is owned by the Elkwood Corporation and a one acre parcel which will be divided into two lots which is owned by Mr. Weaver. He noted that they have met all the R-8 requirements and most of the Subdivision Ordinance with the exception of curb, guttering and sidewalks. If they are required to abide by the ordinance requiring curb, gutter and sidewalks, it will be quite expensive and will increase the costs of the lots by approximately 25%. He also stated that there are very good arguments against curb, gutter and sidewalks. One is environmental. The collection of water and releasing it in one place does not provide the filtering effect that grass swells and ditches do to storm water. Also other factors which would involve the town would be the extra costs such as a

street sweeper to keep the streets clean, maintenance of the curbs, gutters and sidewalks and the cost to pipe the water away. It also creates a greater volume of water. The developers are asking for the approval under R-8 tonight and that council give them some indication of their feelings about curb and gutter.

As there were no further comments, the Public Hearing was adjourned.

MAYOR: Charles E. Dean
Charles E. Dean, Mayor

RECORDER: Norma R. Leap
Norma R. Leap, Clerk