



THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

8787 Georgia Avenue
Silver Spring, Maryland 20910-3760

Date Mailed: APR 13 2005

Action: Approved Staff Recommendation
Subject to Conditions

Motion of Commissioner Bryant,
seconded by Commissioner Perdue, with
a vote of 4 - 0.

Chairman Berlage and Commissioners
Perdue, Bryant, and Robinson voting in
favor. Commissioner Wellington recused
herself from this proceeding.

MONTGOMERY COUNTY PLANNING BOARD

OPINION

Preliminary Plan No.: 1-03075
Project: KENSINGTON SAFEWAY
Date of Hearing: July 29, 2004

APR 13 2005

The date of this written opinion is _____ . Any party authorized by law to take an administrative appeal must initiate such an appeal as provided in the Maryland Rules of Procedure. If no administrative appeal is timely filed, then this Preliminary Plan shall remain valid as set forth in Section 50-35(h) of the Montgomery County Code (the "Code").

INTRODUCTION

On March 28, 2003, Safeway, Inc. (the "Applicant") submitted an application for approval of a preliminary plan of subdivision to create one (1) lot on 2.4 acres of land in the C-2 Zone (the "Application"). The property subject to the Application is located at the northeast quadrant of the intersection of Knowles Avenue and Connecticut Avenue (MD 185) in Kensington, Maryland (the "Property"). The Applicant proposed development on the Property of 53,684 gross square feet of commercial retail space for use as a grocery store, and surface and structured parking (the "Project").

On July 16, 2004, an official notice of a public hearing before the Montgomery County Planning Board (the "Planning Board") to review the Application scheduled for July 29, 2004 (the "Public Hearing"), was sent by Planning Board Staff ("Staff") to adjoining and confronting property owners, local community associations, and other organizations that requested notice (the "Public Notice"). The Public Notice included information regarding the time, date, location and subject of the Public Hearing. The Planning Board held the Public Hearing on the Application on July 29, 2004, in accordance with the requirements of Maryland Code Ann., Article 28 ("Regional District Act"), Chapter 50 of the Code (the "Subdivision Regulations"), and the Planning Board's Rules of Procedure.

The Record includes: the information on the Preliminary Plan Application Form; the Planning Board staff-generated minutes of the Development Review Committee meeting(s) on the application; all correspondence and any other written or graphic information concerning the application received by the Planning Board or its staff following submission of the application and prior to the Board's action at the conclusion of the public hearing, from the applicant, public agencies, and private individuals or entities; all correspondence and any other written or graphic information issued by Planning Board staff concerning the application, prior to the Board's action following the public hearing; all evidence, including written and oral testimony and any graphic exhibits, presented to the Planning Board at the public hearing.

At the Public Hearing, the Planning Board heard testimony and received evidence submitted in the record, both supporting and opposing the Application. The testimony and evidence presented included, without limitation, the Preliminary Plan Application materials; plan drawings; vicinity maps; testimony and letters received from the Mayor of Kensington and town officials, individual property and business owners in the community, representatives of the "Kensington First" community group; the Town of Kensington and Vicinity Sector Plan, Approved and Adopted 1978 (the "Sector Plan"); and Staff testimony and reports which contained Staff's expert analysis of the Application (the "Staff Report"), including the Transportation Planning Division Report, dated July 23, 2004, and revised July 28, 2004. The information packets and additional materials are part of the record of the Application and are incorporated by reference herein. The record for this application ("Record") closed at the conclusion of the public hearing, upon the taking of an action by the Planning Board.

THE SUBJECT PROPERTY

The Property consists of approximately 2.4 acres zoned C-2 and located in the northeast quadrant of the intersection of Knowles Avenue and Connecticut Avenue in Kensington. The Property is bounded by Connecticut Avenue to the west, Howard Avenue to the north, Knowles Avenue to the south and Armory Avenue to the east. The Property is not located in the Kensington Historic District. The Property is currently improved with a 23,518 gross square foot Safeway grocery store and surface parking lot. In addition, a single-family residential structure is located on the Property fronting

on Armory Avenue. The grade on the site drops approximately twenty-six (26) feet from the highest elevation at the intersection of Connecticut Avenue and Howard Avenue to the lowest elevation at the intersection of Armory Avenue and Knowles Avenue.

Directly adjoining the Property to the west, between the existing Safeway store and Connecticut Avenue, there is a service station. Directly adjoining the Property, to the northeast, there are two, two-story commercial buildings, one facing Armory Avenue and the other facing Howard Avenue. To the east of the Property, across Armory Avenue and within the Kensington Historic District, there is a coffee shop, a service station, and one-story house with office uses and a church. To the south, across Knowles Avenue, are a park and a high-rise brick office building that faces Connecticut Avenue. To the north, across Howard Avenue, is the CSX railway. And to the west, across Connecticut Avenue, there is a service station, a bank and a strip mall with other commercial uses.

The Property is located within Kensington's Central Business District, which is covered by the Sector Plan. The Sector Plan recommends retail use for the Property and proposes an 80-foot right-of-way on Knowles Avenue, but does not have any specific recommendations for redevelopment of the Property.

THE PRELIMINARY PLAN

The Applicant proposes to construct a new 53,684 gross square foot Safeway store ("Store") as a replacement for the existing 23,518 square-foot store, of which 42,000 gross square feet will be leaseable area. The new store will be located on the eastern portion of the Property with the rear of the store adjacent to Armory Avenue and the front of the store facing Connecticut Avenue. Parking for the building is accommodated by two parking areas. A surface lot is proposed in front of the store (the "Surface Lot") with access from Connecticut Avenue, Howard Avenue and Knowles Avenue; the Connecticut Avenue entrance is right-in/right-out only, while the Howard Avenue and Knowles Avenue entrances are full movement. The second parking area will be located beneath the building and accessed from Armory Avenue (the "Parking Garage"). Patrons parking in this facility would access the store via elevator or escalator. ~~The Project proposes 259 parking spaces, of which 158 are in the Parking Garage and 101 are in the Surface Lot.~~

Large truck deliveries to the Property will be accommodated in the Parking Garage. Trucks will enter the Parking Garage by making a right turn from Howard Avenue onto Armory Avenue, and then a left-turn into the Parking Garage. Trucks leaving the Parking Garage will turn right out of the building onto Armory Avenue and make another right onto Knowles Avenue for access back to Connecticut Avenue. The access driveway to the Parking Garage will be constructed with a 25' turn radii to allow safe and efficient access by large trucks. Further, the Applicant agreed to limit large truck deliveries to between 3:00 p.m. and 8:00 a.m. The Parking Garage is on one level

and will not require ramps. The trash receptacles serving the store will also be located in the Parking Garage.

On the Armory Avenue building frontage, streetscaping and façade treatments are proposed to enhance the appearance of the store and improve pedestrian circulation along Armory Avenue. The sidewalk will be improved with pavers to a minimum width of eight feet. Planting boxes and three benches will be incorporated into the streetscape to improve the pedestrian experience. The rear façade of the building will use multiple-colored brick and stone, and lighting treatments, to break down the scale of the overall building height and length. Along the Knowles Avenue and Howard Avenue frontages of the Property, the Applicant proposes a five-foot sidewalk, separated from the curb, to accommodate a landscape strip. The landscape strip will be planted with street trees consistent with streetscape programs elsewhere in Kensington and will be reviewed by the Montgomery County Department of Housing and Community Affairs.

THE SUBDIVISION CRITERIA

Section 50-20(b) of the Subdivision Regulations provides that a building permit may not be approved for a commercial retail structure that is located on more than one lot. Because the current Safeway site is comprised of all or part of eleven lots, the Applicant seeks to subdivide the Property into one lot. An application for subdivision requires the Planning Board to undertake its legislatively delegated authority under the Regional District Act and the Subdivision Regulations. Section 50-35 of the Subdivision Regulations provides the approval procedure for preliminary subdivision plans. Section 50-35(f) provides that, after presentation to the Planning Board, the Planning Board must act to approve the plan, disapprove the plan, or approve the plan subject to conditions and/or modifications necessary to bring the plan into accordance with the Subdivision Regulations and all other applicable regulations.

At the Public Hearing, the Planning Board's legal counsel advised the Board that in order to approve the Application, the Application must meet the applicable requirements and approval criteria of the Subdivision Regulations.¹ In particular, the Board's legal counsel explained that the general requirements for the Board's review of lot design for a subdivision are set forth in Section 50-29(a)(1) of the Subdivision Regulations. Lot size, width, shape and orientation must be appropriate for the location of the subdivision and for the type of use contemplated in order to be approved by the Planning Board. Lots must abut a dedicated street or public road. Further, pursuant to Section 50-29(c), for non-residential lots, depth and width of lots must be adequate for

¹ The Chairman of the Board, as a preliminary matter, advised the participants at the Public Hearing, that review of the Application was necessarily limited to the criteria set forth in the Subdivision Regulations as identified by the General Counsel. Therefore, the Board would only address issues raised at the Public Hearing that were relevant to the scope of the Board's review as set forth in the Subdivision Regulations.

the off-street service and parking requirements for the type of development and use proposed.

Additionally, Section 50-35(j) of the Subdivision Regulations provides that the plan must include provisions for erosion and sediment control. Section 50-35(k) of the Subdivision Regulations (the "Adequate Public Facilities Ordinance" or "APFO") requires the Planning Board, for approval of preliminary plans of subdivision, to make a finding that public facilities will be adequate to support and service the area of the proposed subdivision. Further, Section 50-35(l) provides that the preliminary plan must substantially conform to the applicable master plan or sector plan unless the Planning Board finds that events have occurred to render the relevant master plan recommendations no longer appropriate. Finally, Section 50-35(o) provides that the Board must not approve a plan unless all requirements of Chapter 22A of the Code, "Forest Conservation," for plan approval are satisfied.

Public Hearing

1. Staff Testimony and Evidence

At the commencement of the hearing, Chairman Berlage summarized the matters that are before the Board for decision during the course of this hearing, including size of lot; issues of erosion and sediment control; the adequacy of public facilities; whether the project conforms with the applicable master plan; and compliance with Montgomery County's Forest Conservation Law. The Chairman noted that issues related to building design, architectural design, façade design, streetscaping, landscaping and lighting are not within the Planning Board's jurisdiction to govern in this proceeding.²

In its reports and through testimony and exhibits at the Public Hearing, Staff described the Property, the Project, the surrounding neighborhood, existing traffic conditions and planned road improvements. Staff testified that the Applicant's design, including exterior architectural design and Parking Garage access, had evolved as the Applicant responded to concerns raised by the representatives of the Town of Kensington and by Staff, particularly regarding access to the Parking Garage. Specifically, staff recommended that the Applicant will reconstruct Knowles Avenue along the frontage of the Property to provide two westbound lanes and one eastbound lane to improve local circulation in the immediate vicinity of the Property. Staff noted that these improvements are not required to satisfy adequate public facility requirements, but rather to provide safe and efficient access to the site.

² Nonetheless, there was considerable testimony on these issues, including concerns raised by witnesses during the hearing and details regarding proffers offered by the Applicant addressing some of these concerns.

Transportation Planning Staff also reviewed in detail the proposed large truck access from Armory Avenue into the Parking Garage. In particular, Staff reviewed for the Board an exhibit prepared by the Applicant that showed the turning movements into and out of the Parking Garage by a typical delivery truck. Staff concluded, based on the exhibit and other evidence in the record, that the large truck access as proposed by the Applicant would be safe and efficient.

Staff also testified that the Project proposed adding a further access point to the site at Knowles Avenue, which would improve vehicular circulation around the Project. Staff also testified that the Application satisfies the policy area and local area components of the Subdivision Regulations for APFO review. In particular, regarding Policy Area Review/ Staging Ceiling Analysis ("PAR"), Staff testified that this Property is located within the Kensington/Wheaton Policy Area, which has a remaining staffing ceiling capacity of 2,770 jobs and 2,524 housing units as of May 31, 2004. Therefore, no policy area improvements are required to satisfy PAR.

Staff further testified that, to satisfy Local Area Transportation Review ("LATR"), a Traffic Impact Study ("TIS") was prepared and submitted by the Applicant in accordance with the Board's LATR Guidelines, Approved and Adopted July 2002 (the "LATR Guidelines"), to determine the impact of the proposed development on the local area roadway network.³ The TIS analyzed trips projected to be generated from the Project, added to existing and background traffic, to estimate the total future traffic at eight intersections in the vicinity of the Property. Staff testified that all intersections analyzed are projected to operate within the 1650 Critical Lane Value (CLV) congestion standard for the Kensington/Wheaton Policy Area, as set forth in the County's Fiscal Year 2003 Annual Growth Policy (the "FY03 AGP") applicable to the review of the Application, except for the intersection of Connecticut Avenue and Plyers Mill Road. Staff testified that the TIS showed that the CLV for this intersection, without taking into account the traffic generated by the Project, is 1735 in the evening peak hour, which exceeds the 1650 CLV standard for the Policy Area. After adding the traffic generated by the Project (estimated to be 11 additional trips at this intersection in the evening peak hour) the CLV for this intersection is estimated to be 1746 in the evening peak hour. In order to mitigate the impact of site-generated traffic at this intersection, Staff recommended that the Applicant reconstruct the westbound approach of Plyers Mill Road at Connecticut Avenue by relocating the median to the south to provide for two left turn lanes, one thru lane, and one right turn lane within the existing curbs and right-of-way. Staff testified that the TIS showed this improvement would reduce the CLV from

³ Staff advised the Board that the TIS as originally submitted projected the trips generated from the proposed store based on the net square footage of the proposed store, instead of the total square footage of the proposed store as required by applicable LATR Guidelines. The Applicant subsequently revised the TIS based on the total square footage of the proposed store. Staff advised the Board that the revisions to the TIS did not change Staff's conclusion that LATR had been satisfied as discussed herein.

1746 to 1644 for the evening peak hour. Therefore, Staff explained, the Applicant's proposed improvement would mitigate more trips at this intersection than the Project would generate.

The TIS also evaluated pedestrian activity in the area. Sidewalks are located along the frontage of the Property on Knowles Avenue, Howard Avenue, Connecticut Avenue and Armory Avenue. At the intersection of Connecticut Avenue and Knowles Avenue, there is a traffic signal for efficient movement of pedestrians and vehicles. Pedestrian access from the rear of the building, along Armory Avenue, is accommodated by either entering the Parking Garage through the vehicle entrance or by entering a side door located on the Knowles Avenue frontage.

2. Applicant's Testimony and Evidence

Through testimony at the Public Hearing, representatives of the Applicant testified that the existing store, which had been built on the site in 1964 and replaced a store that had been on the site since the 1930's, was outdated and the purpose of the Project was to provide a modern, full service store to meet community needs. The Applicant's representative also testified that the Project incorporated an urban design with efficient parking that had been successfully implemented in other locations. Finally, the Applicant explained that the large trucks delivering to the existing store generally only delivered half of their load to the existing store, with the other half delivered to other smaller Safeway stores. The expanded store will require the delivery of a full truckload of products by each truck and, therefore, the expansion would result in only one or two additional large truck deliveries per week. The impact of the large truck deliveries on the surrounding road network would be further mitigated by the Applicant's agreement to limit deliveries from 3:00 p.m. to 8:00 a.m.

The Applicant's architect testified at length regarding the multi-level design of the Safeway store, which resulted from site constraints including grade changes, and that the resulting design for both the surface and structured parking areas was user friendly and provided easy access for store customers and deliveries. The Applicant's architect also testified about the building façade design, using materials and treatments to enhance the store's appearance from the adjoining roadways, and testified about the size and height of the building.

The Applicant concurred with staff's recommendation of approval, and with the conditions of approval recommended by staff.

3. Town of Kensington, Neighborhood and Community Association Testimony and Evidence

Officials from the Town of Kensington and several residents in the vicinity of the Property submitted correspondence into the record and testified at the Public Hearing in support of the Application Plan, while a group identified as "Kensington First" and other

residents and business owners from the neighborhood around the Property submitted correspondence into the record and testified at the Public Hearing in opposition to the Preliminary Plan.

The Mayor and Council of Kensington testified that the Project had been reviewed and recommended for approval by the Town's Commercial Development Review Committee (the "CDRC"), an advisory committee on the redevelopment to the Kensington Central Business District. The Mayor and several members of the Town Council of Kensington also testified that the Applicant had worked with the Town over the course of several years to revise the design of the Project to address the Town's concerns, particularly regarding building design. One member of the Town Council testified that the proposal conforms to the Master Plan recommendations, noting that the redevelopment of the existing commercial use would be compatible with the surrounding residential neighborhood communities. Additionally, a member of the Council and the CDRC submitted written evidence into the record describing Safeway's efforts to work with the Town representatives to respond to community design recommendations for the Project, and indicating that numerous public meetings were held over the next few years to refine the Project's design to accommodate community comments. Design changes included a reduction in building heights along Armory Avenue by one to two feet, an increase in setbacks along Armory Avenue by five feet, and a reduction in the width of the garage entrance on Armory Avenue.

The Mayor and Council also testified that that the current design reflected the Mayor's and Council's desire to enclose all loading activity within the parking structure, which would be an improvement over the existing loading and trash receptacle area located outside the existing building along Armory Avenue. Finally, the Mayor and Council testified that the redevelopment of the Property with a new store would enhance the appearance and retail services of the Central Business District and that the surrounding businesses would benefit by the increased patronage of the renovated Safeway.

A representative of the Wheaton/Kensington Chamber of Commerce also testified in support of the project, based on a desire to see the aging existing store redeveloped, expressing the opinion that it would be helpful for the overall general redevelopment of Kensington. Other speakers expressed a similar desire to see the store upgraded.

Numerous individuals, including residents both within and outside of the Town limits, and business owners within the Town of Kensington, testified in opposition to the Project based on a number of concerns. Several speakers raised concerns about increased traffic presumed to be generated by the new store. Other testimony opposed the project based upon stated adverse impacts of the garage entrance on Armory Avenue on businesses located on the opposite side of Armory Avenue, and of concerns about pedestrian safety given the design of the garage access. Other opposition was grounded in objections to the height and bulk of the building. Additionally, there was

opposition to the proposed architectural detailing as being out of character with the surrounding community, and potentially having a negative impact on the adjoining Historic District. Finally, there was opposition to Safeway's plans to sublet space within the store for other retailers such as a Starbucks, bank and dry cleaners. The opposition also testified that the proposed building design, height and length do not comply with the Sector Plan recommendation, which encourages "low density" commercial development and traditional "small-town character." A representative of a private group identified as Montgomery Preservation, Inc. also testified that the building wall along Armory Avenue should be redesigned to reduce its height and mass.

The attorney for Kensington First, a local civic organization that includes Kensington residents and property owners, and attorney for Café Monet, a business located across the street from the Project, raised several procedural issues in his testimony in opposition to the Application. First, he claimed that the Planning Board did not comply with Annotated Code of Maryland, State Government Article, Chapter 10 (the "APA"). Based on that assertion, Kensington First asserted that (1) notice of the public hearing was deficient; and (2) that Kensington First had the right to call and to cross-examine witnesses. Additionally, Kensington First claimed that the Staff Report was not publicly available far enough in advance of the Public Hearing. Based on those grounds, Kensington First asked that the hearing be postponed.

Kensington First also claimed that the project should be denied because there is no internal connection between the two parking levels in the Project's parking facilities; access to each level is solely from a public street. Kensington First asserted that this does not provide for adequate and safe vehicular access to the site. Additional testimony stated that pedestrian access to the Store is not safe. The testimony suggested that the design deters pedestrian access, in that access from Armory is through the Parking Garage to an elevator entrance to the Store, and asked that the Board require redesign of the building to address this concern. Finally, Kensington First testified that an Historic Preservation Commission ("HPC") report was necessary before the Board could proceed with its review of the Application in order for the Board to assess the impact of the Project on the Historic District located across Armory Avenue from the Property. In response to a question from Commissioner Robinson, Kensington First's attorney admitted that there was no requirement under County law for an HPC report to be submitted on the Application.

Kensington First also testified that the Board should look to Section 50-2 of the Subdivision Regulations to provide for the "harmonious development" of the Project, and require redesign of the building, including a reduction in building height, reorientation of the building facade (facing Connecticut Avenue rather than Armory Avenue), and the redesign of the parking garage.

The President of Kensington First testified that Knowles Avenue, which will be widened as a condition of approval of this Project, will not address the congestion that exists at the intersection of Knowles and Connecticut Avenues. She testified that the

Town has issued a report that indicates this intersection is at a failing level of service. She also noted, however, that the standards used in this report are not the standards used by the Commission's Transportation Staff in evaluating adequate public facilities for purposes of subdivision review. She also presented extensive photographic evidence of road conditions on Knowles and Armory, demonstrating parking spaces and driving congestion. She testified that the design of the Parking Garage would create vehicular conflicts with pedestrians on the existing sidewalks. She also testified that these potential conflicts could be minimized with site planning design, and suggested a number of project design changes to achieve this goal, most significantly by relocating the front of the store from Connecticut Avenue to another street frontage. She also testified that the Planning Board should have recommendations from the HPC before reaching a decision in this matter.

A co-owner of the adjoining Café Monet also testified in opposition to the Project. She stated that the construction phase of the Safeway would result in economic hardship for the Café, as would the permanent loss of on-street parking spaces in front of the Café. She further testified that the scale of the parking garage would create a visual blight; the loss of existing surface parking on the Safeway site would result in fewer customers for the Café; and she concurred with a former Town Councilmember who testified that putting a Starbucks, dry cleaners and bank in the Safeway will duplicate existing services and have a significant negative impact on the Café's business, as on other local businesses.

The Bakery Confectionary International Union ("Union"), a nearby property owner, also testified through its legal counsel, first asserting that it had not received notice of the Project. The Union's main concern was that the land needed to widen Knowles Avenue came from their side of the street, including the loss of mature trees within the Town's right-of-way. Left turns to Connecticut Avenue also will be extinguished, raising access concerns to for the employees of the Union.

Montgomery Preservation Inc. ("MPI") also testified on behalf of Kensington First, the local chapter of the Sierra Club, and a member of the Kensington Historical Preservation Society. MPI testified that Safeway was responding to the request of many of its current customers for a larger store, and additionally that Safeway responded to many of the issues and concerns expressed by the Town officials, and responded through design changes in response to those concerns. MPI, however, urged additional architectural and design changes to the façade, and suggested that Safeway work with the historic societies to modify its exterior design.

4. Applicant's Rebuttal and Response

In response to the testimony in opposition to the Preliminary Plan, the Applicant's counsel testified that the HPC had no jurisdiction over the Preliminary Plan under the Subdivision Regulations or any other applicable law because the Property was not within the Kensington Historic District and did not contain any historical resources. Applicant's counsel also advised the Planning Board that to her knowledge the HPC

had not provided any testimony on the Preliminary Plan to date, although the Applicant had been working with public officials and Staff on the design of the Project for over three years.

Further, the Applicant's traffic expert testified, in response to comments from the opposition, that the TIS conforms to all applicable Planning Board requirements, including the LATR Guidelines, and that the TIS was reviewed and approved by State, County and Planning Board Transportation Planning Staff. He also testified that the TIS demonstrates that the Application meets all APFO requirements regarding traffic conditions at all intersections studied in the TIS. The Applicant noted that pedestrians now walk through the parking lot to access the store from Howard and Armory Roads. He further testified that the two parking areas proposed for the Project will operate in an efficient manner and will not result in any unsafe traffic conditions for either pedestrians or drivers circulating around the Property. The Applicant also confirmed staff's earlier testimony indicating that the improvements to Knowles are not required to meet adequate public facility standards. Instead, they were requested by staff and the Town Mayor, and concurred to by the State Highway Administration and was proffered by the Applicant but also will increase capacity. He also noted that these improvements will occur within publicly owned right-of-way, and will take 12 feet of the existing 39 feet of right-of-way.

The Applicant testified that there is a 12% grade from Armory to the existing parking lot, going from Armory to the front of the existing store, has a 12% grade, which does not comply with current Americans with Disabilities Act ("ADA") standards. The Applicant testified that the new parking facilities will be ADA compliant.

Finally, the Applicant refuted the testimony of the Union that there would be a median to preclude turning movements on Knowles.

5. Responding Staff Testimony

A. Procedural Issues

The Chairman of the Planning Board noted that the procedures followed in this case were identical to the procedures used in other preliminary plans, and thus the process was consistent with agency practice and the Planning Board's Rules of Procedure as applied in other cases.

The Chairman also asked the Planning Board's legal counsel to respond to the procedural issues raised by Kensington First's counsel regarding the adequacy of notice of the Public Hearing, the availability of the Staff Report prior to the Public Hearing and the right to cross-examine witnesses. With regard to the adequacy of notice of the Public Hearing on the Application, the Board's attorney advised the Board that the Administrative Procedures Act ("APA") did not, in fact, govern the Public Hearing procedures because neither the Subdivision Regulations nor any other County law