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CITY COUNCIL OF THE CITY OF ANNAPOLIS

RESOLUTION NO. R-22-86

A RESOLUTION concerning

Conditional Use - PUD  
1010-1026 Boucher Avenue

FOR the purpose of approving the application of Clayton R. Marshall and Stanley A. Williams, t/a Eastport Associates, to establish a conditional use to permit a planned residential development consisting of 6 single-family detached dwellings at property currently owned by Charles E. and Mable Atwell located at 1010-1026 Boucher Avenue in the City of Annapolis; and all matters generally related thereto.

WHEREAS, the City of Annapolis has received the application of Clayton R. Marshall and Stanley A. Williams, t/a Eastport Associates for a conditional use to permit a planned residential development to construct 6 single-family detached dwellings on property currently owned by Charles E. and Mable Atwell located at 1010-1026 Boucher Avenue; and

WHEREAS, the Annapolis City Council conducted a public hearing on this request on January 27, 1986, at which time the Council heard a staff report presented by the Director of Planning and Zoning and the report of the Planning and Zoning Commission and received the Findings of Fact and Recommendations of the Planning and Zoning Commission dated January 16, 1986, together with a Memorandum from the Planning and Zoning Director to the Planning and Zoning Commission dated December 27, 1985; and during which hearing testimony was taken from the applicant and counsel, members of the general public were afforded the opportunity to offer testimony and documentary evidence was submitted and received; and

WHEREAS, due to an error contained in the applicant's original application, which resulted in an inaccuracy in the published notice of consideration of the application by the Planning and Zoning Commission as required by Section 22-29(d)(1) of the Annapolis City Code, the applicants requested a second hearing before the Planning and Zoning Commission which hearing was conducted after proper notice and publication; and

WHEREAS, the Annapolis City Council conducted a second public hearing on this request on March 24, 1986, at which time the Council heard a staff report presented by the Director of

1 Planning and Zoning and the report of the Planning and Zoning  
2 Commission and received the Findings of Fact and Recommendations  
3 of the Planning and Zoning Commission dated March 20, 1986,  
4 together with a Memorandum from the Planning and Zoning Director  
5 to the Planning and Zoning Commission dated December 27, 1985  
6 and also a Memorandum from the Planning and Zoning Director to  
7 the Annapolis City Council dated January 10, 1986; and during  
8 which hearing the applicant requested that all testimony  
9 presented at the public hearing of January 27, 1986 be  
10 incorporated into the record of the public hearing of March 24,  
11 1986, and also during which hearing additional members of the  
12 general public were afforded the opportunity to offer testimony  
13 and documentary evidence was submitted and received; and  
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16 WHEREAS, the Annapolis City Council has considered the  
17 standards for the approval or denial of the application for the  
18 conditional use as set forth in Section 22-29(e) of the Code of  
19 the City of Annapolis.  
20

#### 21 FINDINGS

22  
23 The Annapolis City Council, having considered all of the  
24 evidence and testimony submitted to it, and having considered the  
25 reports of the Department of Planning and Zoning to the Planning  
26 and Zoning Commission and the Findings of Fact and  
27 Recommendations of the Planning and Zoning Commission, hereby  
28 adopts the Findings of the Planning and Zoning Commission as its  
29 own.  
30

31 The City Council further finds that the imposition of the  
32 following conditions and restrictions are necessary for the  
33 public interest and to insure that the standards and requirements  
34 as set forth in Section 22-29(e) of the Code of the City of  
35 Annapolis (1969 Edition and Supplements) are complied with, and  
36 that subject to the following conditions, the conditional use  
37 application being requested should be approved:  
38

39  
40 1. The development shall be limited to 6 residential units  
41 and the site design shall be as shown on the plat entitled  
42 "Atwell Property, Sixth Assessment District, City of Annapolis,  
43 Maryland", dated April, 1985, prepared by R.L.S. Design Group.  
44

45 2. Prior to the issuance of any building permits, the  
46 large permanent open space area at and around the bulkheaded  
47 shore of Wells Cove shall be dedicated in a manner approved by  
48 the City Attorney and the Department of Planning and Zoning, as  
49 required under Section 22-30(e)(1) of the Annapolis City Code.  
50

51 3. The applicant shall provide a 4 foot wide path for  
52 public access to the open space and waterfront areas, made of  
53

1 oyster shell or similar nonpaved material. The path shall be  
2 constructed prior to issuance of occupancy permits and shall be  
3 located between Boucher Avenue and Wells Cove as shown on the  
4 Planning and Zoning Department Staff's Exhibit A.  
5

6  
7 4. The housing units to be built shall be similar in  
8 design and character to the ones presented in Applicant's Exhibit  
9 No. 4, and shall not exceed a maximum building height of 28 feet.  
10 The final design shall be approved by the Department of Planning  
11 and Zoning prior to the issuance of a building permit.  
12

13  
14 5. The footprint of the units shall not exceed the  
15 dimension of 24 feet by 36 feet, as shown on the proposed site  
16 plan.  
17

18 6. The applicant shall install, at its expense, street  
19 trees, and also a 4 foot wide sidewalk, along the Boucher Avenue  
20 frontage of the property prior to the issuance of occupancy  
21 permits. This shall be subject to the approval of the  
22 Departments of Planning and Zoning and Public Works.  
23

24 7. The applicant shall use pervious paving materials for  
25 all paved surfaces. The material shall be approved by the  
26 Departments of Planning and Zoning and Public Works prior to the  
27 issuance of a building permit.  
28

29 8. Construction of any impervious recreational facilities,  
30 including but not limited to swimming pools and tennis courts,  
31 shall be prohibited in the common open space areas.  
32

33 9. Any project identification signs shall be subject to  
34 the approval of the Department of Planning and Zoning.  
35

36 10. Prior to the issuance of any use or occupancy permits  
37 for any improvement in the planned unit development, a draft of  
38 the proposed protective covenants or condominium documents  
39 whereby the owner proposes to regulate land use and otherwise  
40 protect the proposed development, a draft of any proposed  
41 articles of incorporation, and a draft of any by-laws or easement  
42 declarations concerning maintenance of recreational or other  
43 common facilities shall be submitted to the Department of  
44 Planning and Zoning for review and approval. The proposed  
45 condominium documents shall include a provision requiring the  
46 collective maintenance of any infrastructure or other mechanism,  
47 whether natural or man-made, installed for the purpose of storm  
48 water management.  
49

50 11. All landscaping requirements, including a schedule for  
51 the retention and installation of plant materials, shall be shown  
52 on a landscape plan which shall be reviewed and approved by the  
53

1  
2 Department of Planning and Zoning prior to the issuance of any  
3 building permits. The landscape plan for the common areas  
4 shall take into consideration the recommendations regarding  
5 planting types made by the Environmental Commission.  
6

7 12. Landscaping shall be installed prior to the issuance of  
8 any occupancy permits, unless the time of year is inappropriate  
9 for planting, in which event the applicant shall forward a bond  
10 or letter of credit to the City in such form and amount as  
11 approved by the City Attorney and Department of Planning and  
12 Zoning to secure the installation of all landscaping approved in  
13 the landscaping plan and which installation shall occur as soon  
14 as is practicable.  
15

16 13. A landscape maintenance agreement approved by the  
17 Department of Planning and Zoning shall be executed prior to the  
18 issuance of a building permit.  
19

20 14. A sediment and erosion plan shall be submitted and  
21 approved by the Department of Public Works and the Anne Arundel  
22 Soil Conservation District prior to the issuance of any building  
23 permits. This plan shall address the specific best management  
24 practices which will be used to minimize the intrusion of any  
25 debris from demolition or construction into Wells Cove/Spa Creek.  
26

27 15. The applicant shall not construct any fencing without  
28 approval from the Department of Planning and Zoning.  
29

30 16. The applicant shall submit a stormwater management plan  
31 in accordance with Section 6-83 of the Annapolis City Code. This  
32 plan shall be approved by the Department of Public Works prior to  
33 the issuance of building permits. Applicant shall be responsible  
34 for the maintenance of any approved stormwater management plan.  
35

36 17. The conditional use approval shall only be applicable  
37 to the premises so long as the project is constructed and  
38 maintained in accordance with the approved plans and conditions  
39 and the approvals shall cease and terminate upon any changes to  
40 the approved plans and conditions.  
41

42 18. The use and operation of the conditional use shall be  
43 in conformance with all applicable rules, regulations, and codes,  
44 including but not limited to building and fire codes, health  
45 standards, police and zoning regulations.  
46

47 19. The conditions specified herein are mutually  
48 interdependent. If any condition is found to be invalid or  
49 modified by any court, the conditional use shall be deemed  
50 rescinded and any use of the site dependent upon the conditional  
51 use shall cease.  
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20. All environmentally hazardous materials shall be removed from the existing house on the site prior to its demolition and shall be disposed of in an appropriate toxic waste facility.

21. The conditions stated in this Resolution shall be binding upon the applicant, his assigns and any successors in interest for the duration of the conditional use.

DECISION

NOW THEREFORE BE IT RESOLVED BY THE ANNAPOLIS CITY COUNCIL that the application of Clayton R. Marshall and Stanley A. Williams, t/a Eastport Associates, to establish a conditional use to permit a planned residential development consisting of 6 single-family detached dwellings at property currently owned by Charles E. and Mable Atwell located at 1010-1026 Boucher Avenue in the City of Annapolis be and the same is hereby approved, subject to compliance with each of the conditions hereinabove set forth.

ADOPTED this 14th day of April, 1986.

THE ANNAPOLIS CITY COUNCIL

BY: [Signature] DENNIS CALLAHAN, MAYOR

ATTEST:

[Signature] Patricia L. Bembe, City Clerk

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