

April 27, 2004  
Home Builders Association of Washington County  
827 West Washington Street  
Hagerstown, MD 21740

### **APFO Amendment Testimony**

When the Board of County Commissioners made the determination that the APFO for schools should be revised and put into place, we were involved in discussions with Public Works Director Gary Rohrer as to how the APFO should be applied. Our concern was that it be fair and equitable to all involved. A major part of our discussions revolved around determining how and when the fee should be applied. The major question was, if an elementary school failed the adequacy test, should the developer then be required to pay the APFO fee only for the elementary school, or should he be required to pay it for the middle and high schools as well. It was, and still is our opinion that there is no data to support that every child that enters an elementary school will graduate from the high school in the same district. Therefore, it was, and is our opinion that the developer should only pay for the school that failed the adequacy test, to require payment for all three schools is a fee without merit.

We were disappointed when the previous revisions to the Ordinance were adopted as it requires the developer to pay a fee for all three schools, taking into consideration in most cases the adequacy test of only one school.

As you are aware, our county today is facing a shortage of median income housing. Housing that is necessary if we are to keep those employed in the County on the county tax rolls. While we will agree that current market conditions play some part in the cost of housing today, the numerous taxes and fees enacted by the BOCC over the last 18-24 months have also played a major part in the increased price of housing. Many would say that this fee is a minor percentage of the cost of some of the new homes being built in the county today, and we would agree, however it is not those homes we are most concerned with, it is the homes that those county residents currently living in rental homes, or who wish to move-up we are concerned with. While there are those that feel those in the shelter industry make far too great a profit, while having no real idea exactly what their profit margin may be, we believe that they are entitled to make a profit on their product the same as those in other industries.

We have read the revisions to the APFO you are considering today, and we are here to encourage you to adopt the revisions in Section 5.4 addressing adequacy, as this makes the Ordinance more fair and equitable. Those in the shelter industry realize that there are costs associated with doing business.

None would argue with the fact that school children in Washington County deserve the best learning environment we can provide, however they do not feel that requiring them to shoulder the majority of the responsibility of supplying that environment is fair and equitable. An important fact that needs to be kept in mind is that any school built as a result of a developer's APFO contribution will be used not only by the students from the development which resulted in the fee, but by other children in the area as well. We realize that restructuring these considerations will result in less than the projected budgeted amount set forth in the county's upcoming budget. However we hope that the BOCC realizes that the continual increase of fees and taxes are hurting the hard working families already living here in the county.

Additionally we draw your attention to section 9.8 on the last page of the revisions. It is our understanding that this section is meant to address the means under which a developer may choose to pay the APFO fee over a period of time. As stated it implies that a developer must put a bond in place until the work is completed. We believe that it was meant to say:

"Any deferred payment agreement reached with the BOCC shall require the entity to place with the County a Letter of Credit drawn on a Federally Insured Institution in the full amount of the APFO consideration. This Letter of Credit will be reduced as cash payments are made to the County under the payment arrangement. Should the entity entering into the Agreement with the County default, the Board shall have the authority to redeem the Letter of Credit, and to proceed with any other remedy provided by law."

The above verbiage more accurately reflects the intent of the deferred payment arrangements we agreed to in our discussions with Mr. Rohrer.

In closing we would like to suggest that an additional revision be added to the APFO, one that assures the developer/builders right to take a sub-division to completion in a timely manner once the APFO consideration is paid to the County. The current Ordinance contains no protection for the developer once the fee is paid. While we would like to believe that once the fee is paid the developer/builder would not have permits in his area suspended or stopped, we have heard discussion in this room stating that if development "gets ahead of school construction we can stop permits." It is our consensus that once a fee is paid the project should be allowed to proceed without County intervention to completion. As in any business, every developer/builder has a business plan and in most cases loans for his project. Stopping or even delaying a project could, and in most cases would, result in an unfair hardship. It would be no different than the Federal Government deciding half way through the airport project that it can't afford to pay the County back the monies it agreed to. We believe that it is the responsibility of the BOCC and the Board of Education to examine the fees

collected and implement an aggressive plan to accommodate the seats paid for by the fees. While we would like to believe that the BOCC would not find it necessary to stop the issuance of permits to a project for which the fee was paid, we are requesting that this assurance be placed in the Ordinance.