

**MINUTES OF THE ST. MARY'S COUNTY PLANNING COMMISSION MEETING
ROOM 14 * GOVERNMENTAL CENTER * LEONARDTOWN, MARYLAND
Monday, May 8, 2006**

Members present were Joseph St. Clair, Chair; Steve Reeves, Vice Chair; Lawrence Chase; Merl Evans; Brandon Hayden; Susan McNeill; and Howard Thompson. Department of Land Use and Growth Management (LUGM) staff present was Denis Canavan, Director; Jeff Jackman, Senior Planner IV; Yvonne Chaillet, Planner IV; Phil Shire, Planner IV; Bob Bowles, Planner II; and Keona Courtney, Recording Secretary. County Attorney, Christy Holt Chesser, and Deputy County Attorney, Colin Keohan, were also present.

The Chair called the meeting to order at 6:30 p.m.

APPROVAL OF MINUTES – The minutes of April 24, 2006 were approved as recorded.

FAMILY CONVEYANCE

MSUB #06-110-017 – TIBURZI SUBDIVISION, LOT 3

The applicant is requesting preliminary review of an additional lot on a private road. The property contains 2.0 acres; is zoned Residential Low-Density (RL), Airport Environs (AE) Overlay; and is located at 23431 Huckleberry Way in California, Maryland; Tax Map 33, Grid 12, Parcel 161.

Owner: Jacob R. Lorence
Present: Robert Trautman

Mr. Bowles explained that a minor subdivision plan for an additional lot on the property was reviewed during the March 2006 Technical Evaluation Committee (TEC) review cycle and there are no outstanding issues. The approval of this lot will bring the total number of lots to seven on this private road. Mr. Trautman explained that a house has already been built on the lot. Mr. Reeves asked if there is a road maintenance agreement. Mr. Trautman said that work is being done on the road maintenance agreement.

Mr. Reeves moved that having accepted the staff report, dated April 17, 2006; and having made findings pursuant to Section 30.11.4 of the St. Mary's County Subdivision Ordinance (*Criteria for Approval of a Family Conveyance*), the Planning Commission grant Family Conveyance subdivision plan approval, with the condition that agreements ensuring access to, and use and maintenance of, the road shall be recorded prior to recordation of the plat. The motion was seconded by Mr. Thompson and passed by a 7-0 vote.

PUBLIC HEARING

For the purpose of receiving public testimony and to consider amendments to the text of the St. Mary's County Comprehensive Zoning Ordinance (Z-02-01), as amended, (the "Zoning Ordinance"). Amendments proposed for consideration are as follows:
Text amendments to Zoning Ordinance:

1. In Chapter 51, "Use Regulations and Standards," Section 51.3.112, "Home Occupation," amend language to allow off-site advertising for directional purposes only
2. In Chapter 65, "Signs," Section 65.2.4, "Temporary and Miscellaneous Signs," amend language to allow off-site advertising of special events and the civic or non-profit organizations sponsoring such events

3. In Chapter 65, "Signs", Section 65.4, "Regulations for Off-Site Advertising Signs," amend language to allow civic and non-profit organizations to place one permanent freestanding sign on private property only

Legal advertisements were published in *St. Mary's Today* on 4/23/06 and 4/30/06.

Mr. Canavan's Exhibit 1:	Southern Maryland Heritage Area Plan
Ms. Martino's Exhibit 1:	Letter to Planning Commission dated 5/8/06 regarding Z-02-01 Amendments to Chapter 65 Signs of the St. Mary's County Comprehensive Zoning Ordinance

Mr. Canavan explained that currently one sign is allowed on site for advertisement of home occupations, and the proposed amendments to Sections 51.3.112 and 65.4 of the Ordinance will allow off-site advertisement of these businesses. Staff recommends denial of the proposed text amendment due to several concerns, including legal issues involving the First Amendment. The number of home occupations throughout the County is another concern, considering that LUGM has already approved over 500 home occupation permits in the past several years. Staff is also concerned about protecting scenic corridors in the County as provided in the Southern Maryland Heritage Area Plan, and do not want to allow signs that will diminish the character of these areas. Staff does support the location of signs that will enhance businesses for tourism purposes but does not want this text amendment to lead to a voluminous increase in signage.

Ms. McNeill asked if there is a business in particular that requested an amendment to the Ordinance. Mr. Canavan explained that the owner of a home occupation, whose business is located in Valley Lee, Maryland made a request to the Board of County Commissioners (BOCC). The business is not located on a major road or highway, therefore making it difficult to find. He added that there are many other home occupations located in rural areas of the County.

Mr. Canavan explained that staff also recommends denial of the proposed text amendment to Section 65.2.4 of the Ordinance. He explained that the Ordinance currently provides that temporary signs must be placed on the site where the special event is going to take place. The proposed amendments to this section will provide additional standards for temporary signs that advertise civic and non-profit organizations. Proposed amendments to Section 65.4 of the Ordinance will also allow non-profit and civic organizations to have one permanent freestanding sign on private property only to identify the organization, provide contact information, and note upcoming meetings or events. Mr. Canavan explained that there is a non-profit organization in the County that desires to locate a permanent sign to advertise their existence, as well as civic organizations in the County that do not have a permanent meeting location.

Considering that there are already signs posted in the County for some non-profit and civic organizations, Mr. Reeves asked if these permanent signs will be similar. Mr. Canavan explained that they will be similar to those that already exist, but must be located on residential zoned property. Mr. St. Clair asked if the proposed amendment means that an organization can place one permanent sign on any agreed upon private property, or if the sign is to be placed on the property where their meetings will take place. Mr. Canavan explained that an organization may not have a permanent meeting location; therefore, the proposed amendment will allow the organization to place one permanent sign at a suitable location to advertise their meetings.

Mr. St. Clair asked if an organization is only allowed to post one permanent sign in the entire County. Mr. Canavan said that each organization can only post one permanent sign. Mr. St. Clair expressed concern about the language of the proposed amendment and whether or not it clearly states that only one permanent sign is allowed for each organization, so that each organization will not have a sign on multiple private properties. Ms. Chaillet explained that each organization will be permitted to have one permanent sign on private property in the entire County. Mr. Thompson asked if each separate organization can have one permanent sign in the

County, such as the Leonardtown Lions and Mechanicsville Lions. Mr. Canavan said that each separate organization will be able to have one permanent sign. Mr. Canavan agreed to consider a modification to the language of the proposed amendment to Section 65.4 of the Ordinance.

Ms. McNeill considered the fact that the proposed amendment states that a permanent sign must be placed on private property; however it does not indicate that the private property must be residential property as staff indicated. Mr. Canavan explained that staff will clarify the language to make it easier to understand. Ms. McNeill asked if the organization that requested the amendment intends for their sign to be on residential property. Mr. Canavan said that this is their intention.

Mr. Canavan explained that he feels that the sign provisions of the Ordinance need a comprehensive review. He stated that in his opinion off-site signs are acceptable; however, they should be limited to commercial and industrial zones because this would be a more suitable location for them. He reiterated that he is concerned about the number of signs in residential zones, and that the proposed amendments may be contrary to the direction of the County and its sign provisions.

The Chair opened the hearing to public comment.

Paula Martino, Government Affairs Director for Southern Maryland Association of Realtors (SMAR) Inc., explained that they are willing to work with staff on a comprehensive review of the sign provisions. She explained that SMAR supports any measure that seeks to lessen the burden of government regulation to encourage the growth of small business and to benefit organizations that exist solely to serve the community. Ms. Martino explained that SMAR believes that the proposed text amendment for the placement of permanent off-site signs is limited to home occupations, only one sector of the business community. They also feel that Section 65.2.6(i)(3) of the Ordinance unfairly targets the Realtor industry, placing several burdensome restrictions on off-site directional signs, which are a vital marketing tool for them. SMAR requests that language be added to the sign provisions that will allow Realtors a similar, less restrictive opportunity to locate off-site directional signs as other businesses will have. They also feel that an amendment to the language will lift the restrictions in Section 65.2.6(i)(3) pertaining to the type, number, size, and duration of off-site directional signs commonly used by realtors resulting in sign provisions that are more fair.

Mr. St. Clair asked if the Planning Commission's recommendation to the BOCC should include that off-site directional signs for home occupations must follow the guidelines of the Southern Maryland Heritage Area Plan. Ms. Chaillet explained that staff's amendment to the language of Section 65.4 of the Ordinance is to include off-site signs for home occupations, and therefore not limit signs to only those businesses listed in the Plan. Mr. Canavan added that it is not necessary to amend the Plan to include home occupations. Mr. St. Clair asked if the provisions for off-site signs for home occupations must follow the regulations of the Plan. Ms. Chaillet explained that this section of the Ordinance is the only one that refers to off-site advertising signs and is where a reference is made to the Plan.

Mr. Canavan explained that Ms. Martino's comments emphasize his concerns about the legal issues involved, and justify the reasons that staff recommends denial of the proposed text amendment. Ms. Chaillet added that the proposed text amendment will give a privilege to certain groups if it is approved.

Mr. Evans asked how many home occupations there are in the County. Mr. Canavan said that LUGM approved 572 home occupation permits in the past three years; however, staff does not know if all of these businesses are in operation. Mr. Evans asked how many realtors there are in Southern Maryland. Ms. Martino said that there are 1,600 realtors. Mr. Evans considered these numbers and the number of possible signs that may be advertised, explaining that this text amendment may not be in the best interest of the County. Mr. St. Clair explained

that a work session may be needed for the sign provisions. Mr. Evans also expressed concern about signs that are advertised over the weekends. Mr. Canavan explained that real-estate signs are permitted to be advertised over the weekends as long as they are removed.

The Chair closed the hearing to public comment.

Mr. St. Clair asked for feedback from the Planning Commission. Ms. McNeill explained that she realizes that there are businesses and organizations that want to advertise; however, she is concerned about the legal issues involved and recommends denial of the proposed text amendment. Mr. Hayden explained that the sign provisions need to be fair to all businesses and not favorable to certain ones, and that more works need to be done to help those businesses that need advertisement. Mr. Evans agreed that a comprehensive review of the sign provisions is necessary to make them fair to everyone, and recommended denial of the proposed text amendment. Mr. Chase recommended that the record be left open for 10 days. Ms. McNeill said that she would like to hear comments from the businesses and organizations who are requesting off-site sign advertisement, and several other members agreed. Mr. Canavan said that he will contact those individuals and encourage them to participate in discussions with the Planning Commission before a decision is made. He said that he will place this on a forthcoming agenda. Mr. Evans recommended that these individuals, including realtors, be invited to participate in any discussions regarding the sign provisions.

Mr. St. Clair explained that by the time the Planning Commission is able to hear comments from these individuals, the open record period may be closed, and they may only have written comments from them. Mr. Canavan explained that he is going to place this item on a forthcoming agenda, and if their written comments are received during the open record period, then they can speak at the scheduled meeting. The Planning Commission will also have the opportunity to ask questions at that time. Mr. St. Clair asked Ms. Chesser if this would be acceptable. Ms. Chesser explained that in order to go into executive session, the discussion must be in reference to employment or personnel matters. She explained that the parties can also choose to discuss the matter in open session.

Mr. Thompson moved to leave the record open for ten (10) days for written comments. The motion was seconded by Mr. Reeves and passed by a 7-0 vote.

Ms. McNeill asked Ms. Chesser about the process if the matter to be discussed is privileged communication. Ms. Chesser explained that there are certain guidelines.

PUBLIC HEARING DECISION

To consider amendments to the Comprehensive Plan, "Quality of Life in St. Mary's County a Strategy for the 21st Century", amended November 1, 2005 to incorporate the Lexington Park Development District Master Plan, adopted under the authority of Article 66B of the Annotated Code of Maryland. Amendments to be considered are as follows: Amend Figures 2-1 through 2-5 of the Lexington Park Development District Master Plan to change the boundary of the Lexington Park Development District to include therein the 55-acre Wildewood school site (described in Deed EWA/2688/246) and to exclude from the Development District the 192.5 acres that are Myrtle Point Park (described as Parcel 18 of Tax Map 26); and Amend Figures 2-1 through 2-5 of the Lexington Park Development District Master Plan to change the boundary of the Lexington Park Development District to include therein the following:

- A. Tax Map 42, Parcel 119;
- B. Tax Map 42, p/o Parcel 24, Parcels A and B
- C. Tax Map 34, Parcel 689 and
- D. Tax Map 34, Parcels 116 and 136

Mr. Jackman explained that numerous letters were received during the open record period. These were entered into the record and provided to the Planning Commission. Mr. St. Clair explained that LUGM received a letter and video on 5/8/06 and that he wants to acknowledge receipt of these; however, he did not view the video because it was received after the open record period closed. Mr. Canavan explained that the video tape pertained to urban sprawl; however, it is only a portion of the broadcasted program. He said that he contacted the individual who submitted the video and he agreed to purchase the DVD of the full broadcasted program and forward this to the BOCC along with the letter. Mr. Canavan also invited the individual to participate at the BOCC's public hearing.

Mr. Thompson noted that during the open record period, several property owners expressed a desire for their property to be included in the Lexington Park Development District (LPDD) if Mr. Beavan's property is returned to the LPDD. Mr. Canavan explained that any of these property owners can request that their property be included in the LPDD; however, the request will have to be considered by the BOCC and will not be considered at this time. He also explained that according to State law, county-wide plans and small area plans must be reviewed every six years. Mr. St. Clair asked if rezoning requests can be addressed in 2008. Mr. Canavan said that they can be addressed at that time.

Ms. McNeill asked what factors make each of the listed properties eligible for inclusion in the LPDD. Mr. Canavan explained that the Wildewood school site is located in the Rural Preservation District (RPD), and the school is an approved conditional use. The Board of Appeals granted conditional use approval of the school site upon the condition that the school site connect to water and sewer services, due to the fact that the land does not perc properly. An amendment to the CWSP was prepared last year and provides that water and sewer services may be extended to schools located in the RPD; however, access to the property must be through the development district. He explained that due to concerns about extending water and sewer services to the RPD, the BOCC directed him to do a LPDD Master Plan amendment to include the school site in the LPDD.

Mr. Canavan explained that Myrtle Point Park is located in the Residential-Low Density (RL) zone and has a Planned Unit Development (PUD) overlay. There are environmental constraints and archaeological digs on the property that prevent it from being developed for residential use, as originally intended. A park plan has been adopted for the Park. Mr. St. Clair asked if the Park will have a septic system. Mr. Canavan explained that the Park will have wells and an on-site septic system will have to be designed. Considering the park plan, and that the Park may be more intensely used in the future, Mr. St. Clair expressed concern about a septic system on the property. Several Planning Commission members also expressed concern about when water and sewer services can be extended to the property, as this may be a better option than having a septic system. Mr. Canavan explained that in order to protect the future extension of public facilities to the property and be in compliance with the CWSP, the Park may have to be included in the LPDD. The LPDD would have to be amended, and the property would have to be included in the CWSP. If public facilities are not extended to the Park, a private septic system would have to be used, the Park would have to be removed from the LPDD, and the CWSP would have to be amended.

Mr. Canavan explained that the Beavan property has RL zoning and is located on the west side of Indian Bridge Road. He explained that properties on the east side of Indian Bridge Road are located in the LPDD. The Beavan property adjoins commercial properties and has development constraints because it has few percs. A subdivision plan has been submitted for the property, and the only way that it can be developed for residential use is to connect to water and sewer services. Mr. Canavan explained that water and sewer services could be extended to the east side of Indian Bridge Road, with a pump over from the Beavan property that ultimately feeds to the Marlay-Taylor treatment facility. Mr. Reeves asked about the number of homes included in the subdivision plan and about the density. Mr. Canavan explained that the RL zone has a base density of one unit per acre. With the use of Transferable Development Rights (TDRs), there can

be a density of up to five units per acre. He added that 200 homes are anticipated with the subdivision plan.

Mr. Canavan explained that the Johnson property is located in the RL zone, and is contiguous and accessible through properties in the LPDD. The Johnson property is permitted water and sewer services because it is under the CWSP. The property is also part of the St. Mary's Crossing subdivision. He explained that the property was kept out of the LPDD because it was previously thought that the State had ownership of the property, and State owned properties were outside of the LPDD. It was later determined that the property was held in private ownership. Mr. Canavan stated that staff feels that there is no reason to exclude the property from the LPDD because it has a water and sewer service category and can be developed for residential use.

Mr. Canavan explained that the portion of the First Colony PUD being considered is approximately 15 acres, and is open space. The property has RL zoning, and has a PUD overlay. He explained that staff feels that there is no reason to exclude the property from the LPDD because it meets the open space requirement associated with the PUD. He said that development is not anticipated on this portion of the property due to environmental constraints.

Mr. Canavan explained that the lands adjacent to Chancellor's Run Regional Park have RL zoning and a water and sewer service category of W-3D and S-3D. Some of the Park's facilities are located on these lands. He explained that the maps need to be reconciled to add the acreage of the land to the Park, and include the entire land in the LPDD.

Mr. Chase moved that having conducted a public hearing April 24, 2006, and having complied with all other requirements of Article 66B of the Maryland Annotated Code, the Planning Commission grant approval of the proposed amendments and recommend to the Board of County Commissioners that they be adopted as follows: Amend Figures 2-1 through 2-5 of the Lexington Park Development District Master Plan to change the boundary of the Lexington Park Development District to include therein the 55-acre Wildewood school site described in Deed EWA/2688/246; and to authorize the Chairman to sign a resolution to convey this recommendation to the Board. The motion was seconded by Mr. Thompson and passed by a 6-1 vote. Mr. Evans was opposed.

Mr. Thompson moved that having conducted a public hearing April 24, 2006, and having complied with all other requirements of Article 66B of the Maryland Annotated Code, the Planning Commission grant approval of the proposed amendments and recommend to the Board of County Commissioners that they be adopted as follows: Amend Figures 2-1 through 2-5 of the Lexington Park Development District to exclude from the Development District the 192.5 acres that are Myrtle Point Park described as Parcel 18 of Tax Map 26; and to authorize the Chairman sign a resolution to convey this recommendation to the Board. The motion was seconded by Ms. McNeill and failed by a 3-4 vote. Mr. Evans, Mr. Hayden, Mr. St. Clair, and Mr. Reeves were opposed.

Mr. Evans explained that he is concerned about what may happen with the Park in the future, and therefore recommends that the Park remain in the LPDD.

Mr. Chase moved that having conducted a public hearing April 24, 2006, and having complied with all other requirements of Article 66B of the Maryland Annotated Code, the Planning Commission grant approval of the proposed amendments and recommend to the Board of County Commissioners that they be adopted as follows: Amend Figures 2-1 through 2-5 of the Lexington Park Development District Master Plan to change the boundary of the Lexington Park Development District to include therein Tax Map 42, Parcel 119; and to authorize the Chairman sign a resolution to convey this recommendation to the Board. The motion was seconded by Mr. Hayden and passed by a 4-3 vote. Ms. McNeill, Mr. Reeves, and Mr. Evans were opposed.

Mr. Reeves explained that he feels that by including Mr. Beavan's property in the LPDD, more density will be provided to his property than any other properties located in the same area, and there will be more density on the outskirts of the LPDD. Mr. Evans agreed with Mr. Reeves' comments. Mr. St. Clair recommended that during the next comprehensive rezoning, a new zone is considered for lands that abut the LPDD, so that they will have a lower density than the density of an RL zone. Considering the properties under review, Ms. McNeill asked how long these property owners have to come back and request inclusion in the LPDD. Mr. Canavan explained that the property owners can seek a master plan amendment for inclusion in the LPDD at a future date and that there is not a time limit of two to three years to make such a request. Mr. Chase explained that the Planning Commission will still have an opportunity to look at the developing subdivision plan. Mr. Reeves explained that after you include a property in the LPDD, the property owner has a legal right to the density of that zone and that you must consider this now. Mr. Chase explained that it is also necessary to ensure that the property will be a compatible use in the LPDD. Mr. Canavan explained that there will be a forthcoming subdivision plan in accordance with the RL zone and no less than 50 percent of the acreage must be set aside as open space. He said that the development of the property also depends on the extension of water and sewer services and other development constraints on the property.

Mr. Thompson moved that having conducted a public hearing on April 24, 2006, and having complied with all other requirements of Article 66B of the Maryland Annotated Code, the Planning Commission grant approval of the proposed amendments and recommend to the Board of County Commissioners that they be adopted as follows: Amend Figures 2-1 through 2-5 of the Lexington Park Development District Master Plan to change the boundary of the Lexington Park Development District to include therein Tax Map 42, p/o Parcel 24, Parcels A and B; and to authorize the Chairman to sign a resolution to convey this recommendation to the Board. The motion was seconded by Mr. Chase and passed by a 7-0 vote.

Mr. Thompson moved that having conducted a public hearing April 24, 2006, and having complied with all other requirements of Article 66B of the Maryland Annotated Code, the Planning Commission granted approval of the proposed amendments and recommend to the Board of County Commissioners that they be adopted as follows: Amend Figures 2-1 through 2-5 of the Lexington Park Development District to include therein Tax Map 34, Parcel 689; and authorize the Chairman to sign a resolution to convey this recommendation to the Board. The motion was seconded by Mr. Hayden and passed by a 7-0 vote.

Mr. Chase moved that having conducted a public hearing April 24, 2006, and having complied with all other requirements of Article 66B of the Maryland Annotated Code, the Planning Commission grant approval of the proposed amendments and recommend to the Board of County Commissioners that they be adopted as follows: Amend Figures 2-1 through 2-5 of the Lexington Park Development District to include therein Tax Map 34, Parcels 116 and 136; and authorize the Chairman to sign a resolution to convey this recommendation to the Board. The motion was seconded by Mr. Thompson and passed by a 7-0 vote.

DISCUSSION - Update on Transferable Development Rights (TDRs) Provisions

The Chairman announced that the Transferable Development Rights (TDRs) public hearing is scheduled for May 22, 2006 at 6:30 p.m. in the Central Hall of the Southern Maryland Higher Education Center, located at 44219 Airport Road in California, Maryland.

Mr. Canavan explained that the proposed text amendments for Chapters 26 and 32 and Schedules 32.1 and 32.2 of the St. Mary's County Comprehensive Zoning Ordinance are available on the County's website at:

<http://www.co.saint-marys.md.us/planzone/docs/PublicHearings/PHtr5-22.pdf>

They are also available in the public libraries. There will be a staff report on the proposed text amendments that will be available on the website prior to the public hearing.

ADJOURNMENT

The meeting was adjourned at 8:40 p.m.

Keona L. Courtney
Recording Secretary

Approved in open session: May 22, 2006

Joseph St. Clair
Chairman