

**MINUTES OF THE ST. MARY'S COUNTY PLANNING COMMISSION MEETING
ROOM 14 * GOVERNMENTAL CENTER * LEONARDTOWN, MARYLAND
Monday, July 26, 2004**

Members present were John Taylor, Sr., Chairman; Larry Greenwell, Vice Chair; Lawrence Chase, Julia King, Steve Reeves, and Howard Thompson. LUGM staff present was Denis Canavan, Director; Phil Shire, Planner IV; Jeff Jackman, Senior Planner IV; Chad Holdsworth, Planner II; Bob Bowles, Plans Reviewer I; Teri Wilson, Historic Preservation; Janice C. Blackistone, Fiscal Specialist; and Sharon Sharrer, Recording Secretary. Assistant County Attorney Heidi Dudderar was also present.

The Chair called the meeting to order at 6:33 p.m.

APPROVAL OF MINUTES – The minutes of July 12, 2004 were approved as recorded.

PUBLIC HEARING

ZMAP #04-245-002 – BODY BY DESIGN, RE-ZONING

Requesting a Zoning Map Amendment from Residential Mixed Use District (RMX) to Corridor Mixed Use District (CMX). The property contains 2 acres and is located in California, Maryland; Tax Map 34, Block 21, Parcel 233.

Owner: Kirk T. Williams
Agent: Robin Guyther

Legal ad was published in the Enterprise on 7/7/04 and 7/14/04.

Notice was duly posted on subject property and copies of the amendment have been available for inspection in the Department of Land Use and Growth Management, in the library, and posted on county's website.

Mr. Jackman said that under Ordinance Z-90-11, the zoning district of the subject property was C General Commercial, and the instant land use was permitted. In 2002, under Ordinance Z-02-01, the County was comprehensively rezoned and the subject property was placed in an RMX Residential Mixed Use zone. Under Ordinance Z-02-01 there is no zoning classification that relates directly to the C General Commercial zone under Ordinance Z-90-11. Thus another classification had to be assigned to subject property. While the instant use may well be nonconforming in the RMX zone, subject property was included in a cluster of properties so zoned. The presence of the existing office building and the use of the subject property were specifically considered at the time that the RMX zone was designated for this cluster of properties. Requests for more intensive commercial uses on adjacent properties were considered. The

decision was to assign RMX to the entire cluster was deliberate and was discussed during the preparation of the comprehensive zoning. The petition for rezoning contends that a mistake was made when subject property was rezoned to a category in which current use is not permitted. Staff did not support the petition and concludes that the petitioner failed to demonstrate that RMX is a mistake, let alone confiscatory, and therefore recommends denial of the petition.

Mr. Guyther, representing the owner, presented receipts for registered mail. He said that the subject property was purchased by the current owner in 1999. Since that time he has done a great deal to clean up and improve the property. Prior to the most recent update of the Zoning Ordinance and accompanying maps, the subject property was zoned General Commercial, a category in which the historical and current operation was a permitted use. During the most recent revision to the Zoning Ordinance and maps, the property was rezoned RMX, creating a Nonconforming Use on the site. Given that the subject property is surrounded on two sides by public works operations, including the landfill, and on another side by an engineering office, the only “adjacent residential area” is across a major highway. He contends that a mistake was made when this property was rezoned to a category in which the current use is not a permitted use. Furthermore, the adjoining uses to the rear of the property make it an undesirable location for most RMX-permitted uses.

The chair opened the public hearing for public comment. The public hearing was closed with no comments.

Mr. Taylor explained that if approval is recommended, it must be demonstrated that a mistake was made. He feels that there is no case to recommend approval, that there was no mistake made since the current RMX zoning was the intent of the County at the time of the rezoning process.

Mr. Thompson moved that a recommendation be forwarded to the Board of County Commissioners for denial of the request for rezoning on ZMAP #04-245-002, Body for Design. Mr. Greenwell seconded the motion. The motion passed unanimously by a 6-0 vote.

ST. MARY’S COUNTY COMPREHENSIVE ZONING MAPS

46525 DENNIS POINT WAY – TAX MAP 66, GRID 21, PARCEL

63

Requesting a Zoning Map Amendment from Rural Preservation District (RPD) to Commercial Marine (CM). The property is located in Drayden, Maryland; Tax Map 66, Grid 21, Parcel 63.

Owner: D. Tracy Gardiner

Legal ad was published in the Enterprise on 7/7/04 and 7/14/04.

Site was duly posted, adjoining properties were notified, and copies of the amendment were available for inspection in the Department of Land Use and Growth Management, in the libraries, and posted on the County's website.

Mr. Jackman stated that under Z-02-01, subject property was zoned Rural Preservation District (RPD). Previous zoning for this site was Commercial Marine (CM). In designating zoning districts incidental to the 2002 adoption of a new zoning ordinance the Board of County Commissioners directed that all CM zones under Ordinance Z-90-11 be carried forward as CM zones. There was a drafting error when staff prepared the zoning maps. The maps that were then adopted by the Board were based on erroneous information in the form of a misdrawn map. The way to correct this error would be to assign CM zoning to the entirety of parcel 63. Staff recommends that the Official Zoning Maps be corrected to assign CM zoning to subject property.

The chair opened the public hearing for public comment. The public hearing was closed with no comments.

Mr. Thompson moved that a recommendation be forwarded to the Board of County Commissioners for the Official Zoning Maps to be corrected to assign Commercial Marine (CM) zoning to the subject property. The motion was seconded by Mr. Reeves. The motion passed unanimously by a 6-0 vote.

17345 PINEY POINT ROAD- TAX MAP 65, GRID 17, PARCEL 14,

LOT 1

Requesting a Zoning Map Amendment from Low Density Residential (RL) to Town Center Mixed Use (TMX). The property is located in Piney Point, Maryland; Tax Map 65, Grid 17, Parcel 63, Lot 1.

Owner: Francis Jack Russell and Vickie Volk Russell

Legal ad was published in the Enterprise on 7/7/04 and 7/14/04. Site was duly posted, adjoining properties were notified, and copies of the amendment were available for inspection in the Department of Land Use and Growth Management, in the libraries, and posted on the county's website.

Mr. Jackman stated that subject property is part of a two-lot division of Parcel 14. Both lots were shown as Town Center Mixed Use (TMX) on the draft zoning map that was the subject of a public hearing in February of 2002 during the process of the comprehensive rezoning of the County. There is no evidence in the record indicating that the zoning of lot 1 should have been changed to RL, and the staff concludes that a mistake was made in drafting the

maps that were published as representing official zoning designations. Staff recommends that the Official Zoning Maps be corrected to assign TMX to the subject property.

The chair opened the public hearing for public comment.

Charles W. Cobb, who lives on adjoining property on Piney Point Road, had several questions regarding the rezoning and the development of subject property. Mr. Cobbs was raised in Piney Point and has been a current resident for 16 years. He is retired from the United States Army after 20 years of honorable service and returned to Piney Point to raise his family in a quiet, rural environment. That environment has changed, sometimes for the better, sometimes not. He wants assurance from the county that their property, privacy, and security and the well-being of his family will be taken care of. He knows that change is inevitable and natural. He just wants the best compromise for everyone concerned.

Vickie Volke Russell, who is one of the owners of the property, said that she went to all of the hearings and did see the map. She wanted to let the Commission know that it was TMX on the map she saw.

Mr. Chase expressed an interest in having the record left open since one of the members of the community did come forward with concerns. He felt that others might also come forward if the record was left open.

The Commission closed the public hearing leaving the record open for 10 days for written comments.

WEAVER PROPERTY – TAX MAP 51, GRID 6, PARCEL 386

Requesting a Zoning Map Amendment from Office and Business Park (OBP) to Industrial (I). The property is located on Three Notch Road in Lexington Park, Maryland; Tax Map 51, Grid 6, Parcel 386.

Owner: James A. Weaver, Sr. and James A. Weaver, Jr.

Legal ad published in the Enterprise on 7/7/04 and 7/14/04.

Site was duly posted, adjoining properties were notified, and copies of the amendment were available for inspection in the Department of Land Use and Growth Management, in the libraries, and posted on the county's website.

Mr. Jackman said that the category shown on the public hearing maps in February of 2002 was for Industrial (I) zoning. There is no evidence in the record indicating that the zoning of subject property should have been changed. This property was zoned Office and Business Park (OBP) initially, and

the Weavers made a request to the Board of County Commissioners to change it to Industrial (I). They agreed with that change, and the result was that an Industrial zone was shown at public hearing. By the time it was adopted there was a drafting error on the maps that were published as representing official zoning designations. Staff recommends that the Official Zoning Maps be corrected to assign Industrial (I) zoning district to subject property.

The chair opened the public hearing to public comment.

Jim Weaver, Jr., one of the owners of the subject property, said that when they bought the property it was zoned Industrial and he was surprised to see it downzoned to OBP when he reviewed the electronic map on the internet. He thought that their request for Industrial zoning was straightened out until he viewed this electronic map.

The chair closed the public hearing.

Mr. Chase moved to recommend to the Board of County Commissioners that the official zoning maps be corrected to assign Industrial (I) zoning to subject property. Mr. Reeves seconded the motion. The motion passed unanimously by a 6-0 vote.

ST. MARY'S COUNTY COMPREHENSIVE ZONING ORDINANCE TEXT AMENDMENTS

Mr. Canavan opened the discussion on two zoning text amendments before the Commission. He said that he wants the Commission to entertain a request to include an Auction House as a conditional use in the Rural Preservation District (RPD), used solely for wholesaling of agricultural products and handmade crafts. By restricting an auction house to the RPD with conditional use approval, it can be assured that the use does not adversely affect adjoining properties, that the use is not detrimental to the public health or safety, and that the use complies with the goals and policies of the Comprehensive Plan. This use is presently not defined in the Zoning Ordinance, so several sections of the Ordinance would have to be amended as outlined below:

Page 32-2: Schedule 32.1 Development Standards: Add footnote 11, "Commercial structures for agricultural uses only may be increased to 20,000 square feet with TDRs in the RPD."

Schedule 50.4 add a new Use Type 7, Auction House and add the word "Low" under the "Use Intensity" column and add a 'C' under the "RPD" column. Under the description column add: "Wholesaling of agricultural and handcrafted goods, excluding livestock, and produced in St. Mary's County, to the highest bidder

on a property usually separate from that where the items for sale were grown or made.” Renumber the succeeding uses.

Page 51-3: add a new “7. Auction House” and renumber the succeeding uses.

7. Auction House.

a. *General Standards.*

- (1) Minimum lot size shall be five (5) acres.
- (2) Frontage shall be on a collector or arterial road and access shall be from a local, or higher, road classification.
- (3) Minimum setback of the auction building, whether or not it is enclosed, shall be 100 feet from all property lines.

b. *Conditional Standards:*

- (1) The application submitted by the applicant to the Board of Appeals for an auction house shall meet the requirements of Chapter 25 of this Ordinance, as amended from time to time.
- (2) Evening and weekend operations may be permitted as long as such operations do not have an adverse impact on adjoining uses.
- (3) The Board of Appeals may require additional loading spaces as needed.

Page 64-4, Schedule 64.3.1: Off-Street Parking Standards and Loading Space Group Reference: Add a new “7. Auction House” under Agricultural Use Classifications and renumber the succeeding uses. In the second column titled Off-Street Parking Spaces, add “2 per 1,000 sq. ft. of building size” for “7. Auction House.” In the third column titled Off-Street Loading Space Group, add the number 2 for “7. Auction House.”

Mr. Canavan moved on to the second requested text amendment, which he feels clears up an ambiguity within the Zoning Ordinance as adopted. This text amendment deals with Type 61, Personal Improvement Services. These establishments provide facilities for and instruction in, but not limited to, photography, fine arts, crafts, dance, music, gymnastics, martial arts, driving, scuba instruction, sailing, and weight management. By comparison, Type 66, Recreational Facility, which is minor and indoor, includes such things as dance halls, health or fitness club, and gyms. Use Type 66 is a use which is permitted in the Industrial District (I). Use Type 61 is allowed in many zones but is not allowed in the Industrial District (I). As a result, you can have a gym or fitness club in the industrial district but you can not teach gymnastics or weight management in the same district. A text amendment is needed to clarify this oversight.

Mr. Canavan also suggests that a spelling error in the same chapter be corrected when this text amendment is made.

Following are the proposed text amendments to Use Type 61 under Schedule 50.4 of the Comprehensive Zoning Ordinance:

Page 50-13, Use Type 61: Under the "I" column, change "-" to "P."

Page 50-14, Use Type 62: Change the word "trailors" (which is spelled incorrectly and used incorrectly) to "tailors."

The chair opened the public hearing for public comment. The public hearing was closed with no comments.

Mr. Greenwell moved that a Resolution be signed and forwarded to the Board of County Commissioners recommending approval for these text amendment changes to the Ordinance. Mr. Thompson seconded the motion. The motion passed unanimously by a 6-0 vote.

DEVELOPMENT REVIEW

PSUB #03-120-036 – BROADCREEK SUBDIVISION

Requesting preliminary approval of a 183 lot Major Subdivision. The property contains 92.83 acres, is zoned Rural Preservation District (RPD), Residential, Low-Density District (RL), Airport Environs (AE), and is located on the west side of St. John's Road at its intersection with MD Route 235; Tax Map 26, Block 24, Parcel 86.

Owner: Thomas M. & Patricia Dillow
Agent: R. A. Barrett Associates, Inc.

Mr. Shire said that subject property meets all of the criteria of the findings that the Planning Commission has to make pursuant to Section 30.5.5 of the Subdivision Ordinance. It has a seemingly complex access issue, but generally there are four potential access points in this development. The developer has control of two of these access points. Ultimately, the ideal plan would be to tie this into the adjacent Twin Ponds Subdivision at two different locations. It meets all of the appropriate finding for Adequate Public Facilities.

Randy Barrett, from R. A. Barrett & Associates, said that they meet their open space requirements, their recreation area requirements, and their forest retention requirements. He says that they have been working closely with the developer of the adjacent site on a shared water and sewer cost agreement. He anticipates continuing to work closely with them as they move forward with the rest of the development process. He hopes to be able to help the developer of the adjacent property fund their entrance, and make it a shared entrance.

Ms. King asked if there are any existing structures on the property. If there are any structures on the property, would they allow access to the Historic Preservation Planner or to the District Commission to inspect, review, photograph, and log any existing structure.

Mr. Barrett responded that there is one shed type building on the property. The barn is actually on an adjacent property. He is sure that there will be no problem with providing access to any existing structure.

Mr. Thompson moved that having accepted the staff report, and having made a finding pursuant to Section 30.5.5 of the Subdivision Ordinance (Criteria for Approval of a Preliminary Plan), including adequate facilities as described in the file, the Commission approved the preliminary subdivision plan for 183 lots with the following conditions: (1) that only the first 75 lots may be recorded and developed with sole access to St. John's Road bonded and approved, (2) that the plat for the second 75 lots may not be recorded until a second access point is approved and constructed or bonded, and (3) that plats for the remaining 33 lots shall not be recorded until the final access point is provided through to Route 245. Mr. Chase seconded the motion. The motion passed unanimously by a 6-0 vote.

PSUB #03-120-033 – ST. JAMES SUBDIVISION, SECTION 5

Requesting review of a 9-lot Major Subdivision. The property contains 75.67 acres, is zoned Rural Preservation District (RPD), and is located on the south side of King James Parkway, off King James Road, approximately 500 feet west of its intersection with MD Route 235; Tax Map 63, Block 3, Parcel 13.

Owner: Arrowhead, LLC
Agent: NG&O Engineering, Inc.

Mr. Shire said that this is the final section in this major subdivision. It is vested under the prior ordinance. Staff has no issues. Being preliminary approval, findings may be made on everything except storm drainage and stormwater management which will be made at final approval at a subsequent meeting.

Mr. Chase moved that having accepted the staff report, and having made a finding of adequate facilities except stormwater management, as noted on checklist in the file, and having made a finding that the referenced project meets all TEC agency requirements, that the preliminary subdivision plan be approved. Mr. Thompson seconded the motion. The motion passed unanimously by a 6-0 vote.

CCSP #04-132-013 – FIRST COLONY HOTEL

Requesting review of a Concept Sit Plan for an 11,920 square foot hotel. The property contains 3.35 acres, is zoned Planned Unit Development (PUD-4.2) Community Commercial District (CC) and Airport Environs (AE), and is located on the northwest corner of MD Route 235 and MD Route 4; Tax Map 34, Block 22, Parcel 689.

Owner: Sudah Investment
Agent: Loiederman Soltesz Associates, Inc.

Mr. Shire said that we are following the guidelines set forth in the original PUD plan as to processing. Basically a site plan like this has to go through a pre-application meeting with the appropriate agencies and then on to the Planning Commission for discussion and direction, should the Planning Commission have any direction to offer. It is not for approval. Once we get through tonight's meeting, then the next step would be to submit the engineered site plans through TEC for their final reviews and go on to administrative approval.

Mr. Taylor said that since there is no vote in this one, there is no motion. He said that any comments can be made at this time. Concerns about safety issues with the intersection of FDR Blvd. and St. Andrews Church Road were noted.

Concept approval is not required in this case and no formal motion is recommended. The Planning Commission reviewed the site plan and sent to TEC for review.

CCSP #04-132-022 – FIRST COLONY OFFICE BUILDING

Requesting review of a Concept Site Plan for a 26,836 square foot office complex. The property contains 7.49 acres, is zoned Planned Unit Development (PUD-4.2) Community Commercial

District (CC) Airport Environs (AE), and is located at the northeast side of FDR Boulevard, approximately 150 feet southeast of Worth Lane; Tax Map 34, Block 22, Parcel 689.

Owner: CMI General Contractor
Agent: Loiederman Soltesz Associates, Inc.

Mr. Shire said that we are following the guidelines set forth in the original PUD plan as to processing. Basically a site plan like this has to go through a pre-application meeting with the appropriate agencies and then on to the Planning Commission for discussion and direction, should the Planning Commission have any direction to offer. It is not for approval. Once we get through tonight's meeting, then the next step would be to submit the engineered site plans through TEC for their final reviews and go on to administrative approval.

Concept approval is not required in this case and no formal motion is recommended. The Planning Commission reviewed the site plan and sent to TEC for review.

PUBLIC HEARING DECISION

CWSP #04-120-001 - ST. GEORGES PENINSULAS - LOTS 12-65

Requesting amendment to service map III-61 to change service category from NPS (No Planned Service) to RW (Rural Water) and RSS (Rural Shared System). The property contains 467.97 acres, is zoned RPD, RCA Overlay, and is located on the east side of Maryland 249 on the south of its intersection with Andover Road: Tax Map 61, Grid 17, Parcel 70/80.

Owner: WLM, LLC
Agent: Pat Mudd, of Day Tech Engineering, LLC

Mr. Shire said that no written comment was received during the period the record was open to public comment other than a mail version of a faxed letter from the Critical Area Commission which was reviewed during the July 12, 2004 hearing. He said that the general concept of lots being served by rural septic systems is no problem, it is just the technical aspects of where that should go and the water quality issues raised. The growth allocation process will require a number of public hearings.

Mr. Thompson moved that having accepted the staff report, and having held a public hearing on the request for amendment to the St.

Mary's County Comprehensive Water and Sewerage Plan in anticipation of a shared sewerage system and rural water service being provided to the proposed St. George's Peninsulas Subdivision per case 04-120-001; and having made a finding that the subdivision concept complies with the spirit and intent of the both the St. Mary's County Comprehensive Plan and the St. Mary's County Comprehensive Zoning Ordinance, that the Commission forward recommendation to the Board of County Commissioners for adoption as proposed. The motion was seconded by Mr. Chase. The vote passed 5-1, with Ms. King opposing.

DISCUSSION/REVIEW

LEXINGTON PARK DEVELOPMENT DISTRICT WORK SESSION FOR NAVY AICUZ

Mr. Jackman led a brief discussion about the Lexington Park Development District Master Plan inclusion of Patuxent River Naval Air Station in development district boundaries. The Planning Commission took no action, but doubt was expressed by several members regarding the reasons for inclusion of the federal government property in the Development District. Staff was unable to provide acceptable reasons for the change.

INVITATION FROM HISTORIC PRESERVATION COMMISSION TO PARTICIPATE IN HISTORIC TOUR

A letter was received from The Historic Preservation Commission extending an invitation to the Planning Commission to attend a tour of selected historic resources in St. Mary's County. Staff is to send out email to Commission Members to arrange date for tour.

ADJOURNMENT – 8:44 p.m.

Sharon J. Sharrer
Recording Secretary

Approved in open session: August 9, 2004

John F. Taylor
Chairperson