

**MINUTES OF THE ST. MARY'S COUNTY PLANNING COMMISSION
MEETING
ROOM 14 * GOVERNMENTAL CENTER * LEONARDTOWN, MARYLAND
Monday, October 24, 2005**

Members present were Larry Greenwell, Chairman; Joseph St. Clair, Vice Chair; Lawrence Chase; Julia King; Steve Reeves; and Howard Thompson. Department of Land Use and Growth Management (LUGM) staff present was Denis Canavan, Director; Jeff Jackman, Senior Planner IV; Phil Shire, Planner IV; Bob Bowles, Planner II; Dave Berry, Planner I; Keona Courtney, Recording Secretary; and Sharon Sharrer, Office Manager. County Attorney John B. Norris, III, was also present.

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

APPROVAL OF MINUTES – The minutes of October 11, 2005 were approved as recorded.

FAMILY CONVEYANCE

MSUB #05-110-067 – LAND OF LUCKETT, RESUBDIVISION OF PARCEL 274

The applicant is requesting review of an additional lot on a private road in accordance with the St. Mary's County Subdivision Ordinance 02-02, Section 30.11.4, Family Conveyance provision. The property contains 8.2 acres; is zoned Rural Preservation District (RPD); and is located at 29620 Whalen Road in Charlotte Hall, Maryland; Tax Map 4, Grid 9, Parcel 274.

Owner: James D. Moran, Sr.
Agent: Mr. Jerry Nokleby, Nokleby Surveying, Inc.

Mr. Shire stated that the certified mail receipts are on file. He explained that this lot will become the 14th lot on this private road. A Road Maintenance Agreement and a family conveyance agreement will be executed and recorded with the record plat.

The Chair allowed comments from the public regarding the applicant's request.

Sheryl Hoffman, a resident of Whalen Road, stated that six lots have been built since she moved there in 1997, and that the subdivision has nearly doubled in size. She added that there have not been any road improvements made on her side of the road. Ms. Hoffman asked how many more approvals will be granted under the Subdivision Ordinance, and at what point the County or

community will need to provide maintenance to this road. She explained that she feels she will have to take full responsibility for improving the road if she chooses to sell her property and not convey it to a family member.

Mr. Shire explained that under the Family Conveyance provision, there is no limit to the number of lot approvals that may be granted as long as the property meets the standards of the provision. He stated that the provision is the only means of increasing the number of users on a private road above five users, unless the Board of Appeals grants a variance. He added that the maximum number of lots permitted on a private road is five, except for family conveyance subdivisions. He suggested that a new Road Maintenance Agreement be drafted, stating that the owner's of this property will be responsible for their share of the road.

Mr. Thompson moved that having accepted the staff report, dated September 29, 2005, 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 approve the Family Conveyance subdivision plan, as requested. The motion was seconded by Mr. St. Clair and passed by a 6-0 vote.

MSUB #05-110-072 – LITTLE CLIFFS SUBDIVISION

The applicant is requesting review of an additional lot on a private road in accordance with the St. Mary's County Subdivision Ordinance 02-02, Section 30.11.4, Family Conveyance provision. The property contains 4.607 acres; is zoned Rural Preservation District (RPD); and is located at 43439 Little Cliffs Road in Hollywood, Maryland; Tax Map 20, Grid 11, Parcel 309.

Owner: Carmen Hodges
Agent: Mr. Robert Trautman, Professional Land Surveyor

Mr. Shire said that the certified mail receipts are on file. Approval of this request would bring the total number of users on this private road to eleven. He explained that Little Cliffs Road is the designated road for this lot. He added that the Road Maintenance Agreement will be recorded with the plat, as well as the Family Conveyance Agreement containing all of the provisions of the conveyance. He advised the Planning Commission that there is a homeowner's association which oversees the maintenance of Little Cliffs Road. Mr. Trautman confirmed that there is a homeowner's association, but there is not a written Road Maintenance Agreement.

The Chair allowed comments from the public regarding the applicant's request.

Richard Mora, an area resident and right-of-way owner, stated that according to the plat there would be only one single family dwelling per lot. He added that the condition of the road is pathetic. He explained that it is difficult to obtain the participation of neighbors to work on the road or to obtain money toward maintenance of the road. He expressed concern about adding additional users to the road since it is in poor condition. Mr. Mora stated that he opposes this request and that he will secure a lawyer if this request is approved.

William Faries, an area resident and right-of-way owner, agreed that according to the plat there would be only one single family dwelling per lot. He added that Ms. Hodges could move her mother into the apartment she has attached to her existing home. He feels that if this request is approved, then there will be similar requests. Mr. Faries is highly opposed to this request and stated that he will also secure a lawyer if it is approved.

Charles Ray, an area resident and right-of-way owner, stated that he bought his lot for privacy. He expressed concern about the subdivision having more than eight lots and the impact this may have on the maintenance of the road. He asked if the road would have to be paved if this request is approved. Mr. Shire stated that the road would not have to be paved. Mr. Ray concluded by stating that he is opposed to this request.

Lorraine Rhein, an area resident and right-of-way owner, stated that she is opposed to this request. The Chair asked her about the condition of the road. She stated that the road is in poor condition from the rain, and that it has potholes. Ms. Rhein added that Mr. Mora and Mr. Gray have graded the road in the past, and that the homeowners paid for both gentlemen's gas and time devoted each time.

Harry Pool, an area resident and right-of-way owner, explained that he and his wife were under the assumption that no other homes, in addition to the existing eight lots, would be built in the subdivision. He advised the Planning Commission and staff that he was given an estimate of over \$15,000 to grade the road and bring it to County standards. If the request is approved, he feels that Ms. Hodges should be required to use the old right-of-way road instead of using Little Cliffs Road. Mr. Pool stated that he is opposed to this request.

Robert Parkinson, who owns neighboring property and travels the road, stated that he feels responsible for contributing to the maintenance of Little Cliffs Road. He expressed concern about the property density in Little Cliffs Subdivision as it impacts the number of road users. He advised the Planning Commission and staff that his plat needs to be corrected to reflect the right-of-way on the front of his property and to reflect the Road Maintenance Agreement. Mr. Parkinson submitted a letter and a proposed Road Maintenance Agreement to the Commission for the file. He stressed that he wants a Road Maintenance Agreement that is enforceable by the Sheriff's Department. He also requested

review of the legal responsibilities and ownership rights of Little Cliffs Road, as they relate to a new lot owner.

An area resident expressed concern about having not reviewed Mr. Parkinson's proposed Road Maintenance Agreement. Mr. St. Clair advised the resident that the Planning Commission accepted the proposal under advisement only.

Jeremy Hall, an area resident and right-of-way owner, explained that he once owned a tractor and used it to help maintain the road. He stated that it was difficult to receive money from the members of the homeowner's association for his work. He reiterated that the road is in terrible condition and that he is opposed to Ms. Hodges' request.

Mr. Norris, County Attorney, informed the Commission and staff that plats are private declarations of covenants and restrictions. He stated that the County does not enforce private covenants or private agreements.

The Chair asked Mr. Parkinson and other members of the homeowner's association how often they meet. Mr. Mora stated that the association has not held a meeting since Ms. Hodges became President. Mr. Mora explained that there have been several presidents prior to Ms. Hodges, and that they used to meet every two months.

The Chair expressed concern to Mr. Shire about the condition of Little Cliffs Road. He stated that there are inconsistencies between the description of the road provided in the staff report and the descriptions of the road as expressed by the residents. He also stated that the request must go back to Mr. Trautman so that the residents can work through the various issues. The Chair expressed concern about the residents not being given the opportunity to review Mr. Parkinson's proposed Road Maintenance Agreement prior to this evening's meeting.

Ms. King requested clarification on the location of Ms. Hodges' apartment and whether or not it is attached to her existing home. Several residents stated that the apartment is attached to Ms. Hodges' home. Mr. Shire explained that any lot owner has the right, under the Subdivision Ordinance, to an accessory apartment on their lot as long as it meets the requirements. He stated that it is strictly a permitting process and does not go through subdivision or site plan review.

Mr. Shire addressed the residents' concerns about not receiving sufficient notification of Ms. Hodges' request. He explained that the notification requirements were met for this request and that it did not require a public hearing, legal advertisement, or posting. The Chair stated that public hearings,

legal advertisements, and postings may be needed for this type of request in future.

Carmen Hodges, the applicant, stated that the road had worsened after the rain. She explained that her lot is the first on Little Cliffs Road, and that her traffic does not pass by any other residents' home. She stated that she has someone scheduled to come out and grade the road within the next two weeks. Ms. Hodges said that she plans to pay for the road maintenance in an effort to satisfy the neighbors.

Mr. Canavan requested a meeting with the residents of Little Cliffs Road and members of the Planning Commission to iron out the various issues regarding the applicant's request.

Mr. St. Clair moved that the discussion be tabled, instructing staff to meet with the users of the private road to work out the details. His motion was seconded by Mr. Reeves and passed by a 6-0 vote.

MSUB #05-110-017 – BASHFORD MANOR RESUBDIVISION

The applicant is requesting review of an additional lot on a private road in accordance with the St. Mary's County Subdivision Ordinance 02-02, Section 30.11.4, Family Conveyance provision. The property contains 11.8908 acres; is zoned Rural Preservation District (RPD), Resource Conservation Area Overlay (RCA); and is located at 36240 Bashford Lane in Chaptico, Maryland; Tax Map 22, Grid 11, Parcel 63.

Owner: Charles & Marjorie Boyers
Agent: Mr. William Tomlinson, Ben Dyer Associates Inc.

Mr. Shire stated that the legal review had determined that this lot has the right to use Bashford Lane as the right-of-way. Mr. Reeves stated that Bashford Lane is a dangerous road. He explained that the road ends at the bottom of a hill, and that it is difficult to see traffic coming over the hill. He inquired if the new road is being utilized, and he recommended closing Bashford Lane. Mr. Shire stated that he would look into this. Mr. Shire added that no concerns were raised about the road during the Technical Evaluation Committee (TEC) review. Mr. Reeves stressed that Bashford Lane is a hazard and he feels that someone is going to get hurt while traveling on that road. A resident of Bashford Manor stated that she uses the new road to enter and exit the neighborhood. Mr. Reeves asked her if she has the legal right to use the new road as a right-of-way. The Commission agreed to discuss this further.

William Tomlinson, the applicant's agent, explained that Bashford Lane is a well maintained gravel road which is approximately 16 feet wide. He stated that the Boyers have been in contact with some of the neighbors to ensure the

continued maintenance of the road. He added that the Boyers recognize that a Road Maintenance Agreement is necessary, and that they are willing to take the proper steps to create one.

Sharon Montillo, owner of the right-of-way, explained that the right-of-way is only 25 feet, as opposed to the 50 feet shown in the staff report. She stated that she does not object to the Boyers using the right-of-way. She also explained that there is no agreement for the maintenance of the road. She stated that Mr. Greg Austin is the only person who tries to maintain the road, and that he has never received any money for his work. She added that the road is in great condition due to Mr. Austin's efforts.

Mr. Greenwell expressed a concern about the inaccuracy of the information provided for this request. He requested that Mr. Canavan arrange a meeting to involve the staff, a member of the Planning Commission, and all parties involved in the use of Bashford Lane in order to iron out the details.

Mr. St. Clair stated to Mr. Canavan that a special meeting may need to be held with the staff and the Commission members regarding the Family Conveyance provision. He explained that the Family Conveyance provision is becoming much more involved than was the original intent of the provision.

Mr. St. Clair moved that further discussion be tabled, instructing staff to meet with all users of the private road to work out the details. His motion was seconded by Mr. Chase and passed by a 6-0 vote.

DEVELOPMENT REVIEW

CCSP #05-132-037 – INDIAN BRIDGE KENNELS

The applicant is requesting review and approval of a concept site plan for a 4,800 square foot dog kennel and a 1,800 square foot office. The property contains 12.50 acres; is zoned Rural Preservation District (RPD); and is located at 21351 Indian Bridge Road in Great Mills, Maryland; Tax Map 50, Grid 5, Parcel 31.

Owner: Brian R & Kristine L. Selway
Agent: Mr. John B. Norris, Jr., NG&O Engineering, Inc.

Mr. Shire explained that the request meets all of the requirements for a dog kennel, including the minimum acreage requirements. Staff feels that this request should be able to meet final site plan approval.

Ms. King expressed concern about the residents who would live near the dog kennel. Mr. Shire explained that the parcel does meet the standards and set-back requirements. He stated that areas of outside confinement must be 200 feet or more from neighboring homes or

property lines. Inside kennels have to be at least 100 feet from neighboring homes or property lines. Ms. King asked if the neighbors will be bothered by barking. Mr. Norris explained that there should be no interference with the adjoining property owners as the lot is isolated.

Mr. St. Clair asked what kind of buffers are present near the property. Mr. Shire stated that the property is forested.

Mr. Norris added that there will be a metal building to house the kennel and the office space.

Mr. St. Clair moved that having accepted the staff report, dated October 14, 2005; and having made a finding that the objectives of Section 60.5.3 of the St. Mary's County Zoning Ordinance have been met; and noting that the referenced project has met all requirements for concept approval as a prerequisite for final site plan approval; the Planning Commission grant the concept site plan approval, as requested. The motion was seconded by Mr. Reeves and passed by a 6-0 vote.

PSUB #03-120-037 – BIG CHESTNUT SUBDIVISION

The applicant is requesting review and approval for 9 of the 22-lots in a major subdivision. The property contains 189.096 acres; is zoned Rural Preservation District (RPD); and is located on the south side of Big Chestnut Road, approximately ½ mile south of MD Route 234; Tax Map 31, Grid 18, Parcel 70.

Owner: Estate of Jay Millison, Rachelle Millison,
Personal Representative

Agent: Mr. John B. Norris, Jr., NG&O Engineering Inc.

Mr. Shire explained that on July 11, 2005 the Planning Commission held a discussion on adequate school facilities for pending residential development in the Leonardtown school district. Big Chestnut Subdivision was included in the discussion, and was allotted 9 of the available lots at that meeting.

Mr. St. Clair asked Mr. Norris about the outcome of the meeting with the citizens of Big Chestnut Subdivision. Mr. Norris responded that there are several improvements to be made to the public infrastructure. He stated that the meeting generated comments about the portion of the road between MD 234 and the entrance to the subdivision. The applicant has agreed to pay the cost, estimated by the Department of Public Works and Transportation (DPW&T), for resurfacing and overlaying the above named portion of the road. Mr. Norris added that the applicant is also willing to reimburse DPW&T for upgrading necessary because of drainage in another watershed which is near the other end of the property. Mr. St.

Clair explained that DPW&T is supposed to widen the entrance of the road because of the school bus activity. Mr. Norris stated that the majority of the funds are being provided by the developer for these upgrades, but that DPW&T may be responsible for the cost of widening the road.

Mr. Reeves moved that having accepted the staff report, dated October 14, 2005; and having made findings pursuant to Section 30.5.5 of the St. Mary's County Subdivision Ordinance (Criteria for Approval of a Preliminary Plan), including adequate public facilities, as described in the Director's Report in the file, the Planning Commission approve the preliminary subdivision plan, for lots 7, 8, 12, 13, 14, 16, 17, 21 & 22, conditioned upon the requirement that all covenants and deeds pertaining to perpetual ownership, maintenance and restrictions of the open space lands shall be in recordable form and shall be approved as to form and sufficiency by the County Attorney. The motion was seconded by Mr. St. Clair and passed by a 6-0 vote.

CCSP #05-132-011 – TOYOTA OF SOUTHERN MARYLAND

The applicant is requesting review and approval of a concept site plan for a 32,800 square foot auto dealership. The property contains 6.90 acres; is zoned Corridor Mixed Use District (CMX); and is located on the northbound side of MD Route 235, approximately 1400 feet south of Rue Purchase Road; Tax Map 43, Grid 9, Parcel 281.

Owner: 235 Realty, LLC
Agent: Mr. Richard McGill, R.A. Barrett & Associates

Mr. Shire explained that the Planning Commission approved the concept plan for Toyota of Southern Maryland on April 11, 2005. A Public Hearing was held on June 27, 2005 on the request to amend the Comprehensive Water and Sewerage Plan (CWSP), and the Planning Commission recommended that the amendment be forwarded to the Board of County Commissioners for adoption. The Board of County Commissioners held a public hearing on the request to amend the CWSP, and signed an Ordinance adopting this recommendation on October 11, 2005. Mr. Shire stated that the amendment to the CWSP is pending final approval at the Maryland Department of the Environment (MDE). He added that the property has the appropriate buffers along the front.

Mr. Chase moved that having accepted the staff report, dated October 14, 2005; and having made a finding that the objectives of Section 60.5.3 of the St. Mary's County Zoning Ordinance have been met; and noting that the referenced project has met all requirements for concept approval; the Planning Commission grant concept site plan approval, as

requested. The motion was seconded by Mr. Thompson and passed by a 6-0 vote.

DISCUSSION

ADEQUATE PUBLIC FACILITIES (APF)

Present: Jack Candela, Chairperson of APF Task Force; Merl Evans, APF Task Force; Patt Mudd, APF Task Force; John Parlett, APF Task Force; Kimberly Howe, St. Mary's County Public Schools

Mr. Candela, Chairperson of the APF Task Force, advised the Planning Commission on the APF Task Force's organizational structure, members, mission, and current focus. Mr. Parlett, a member of the APF Task Force, provided an overview of the St. Mary's County growth patterns as related to residential growth, population statistics, electric meter statistics, and public school enrollment. The growth patterns were compiled from data collected annually from 1992 to 2004. Mr. Parlett stated that given these growth trends, the county is at a reasonable level of growth. Mr. Mudd, a member of the APF task force, provided an overview of the development approval process and a timeline for this process. He explained that this timeline from the preliminary plan to the time of home occupancy has been consistent over the years. Ms. Howe, from St. Mary's County Public Schools, provided an explanation of how schools project their enrollments and allocate seats for their students. She noted that there is no justification, to date, for a third elementary school. Mr. Parlett reviewed school construction costs and funding for school construction. He provided an APF analysis in which enrollment figures and seat allocations were reviewed to show how they affect the available capacity of schools. Mr. Candela provided the Commission with target areas that the APF task force would like to focus on in the future, explaining the necessity for: (1) managing growth, (2) developing phasing schedules for new homes, (3) reviewing the 6 year CIP, and (4) finding a mechanism for school funding. Mr. Canavan added that forward funding would pay for materials for future schools at today's prices.

The Chair recommended that the Chamber of Commerce make a similar presentation to the County Commissioners. He stated that he wants the Chamber of Commerce and LUGM to meet with the APF Task Force to discuss the various components more fully.

ADJOURNMENT

The meeting was adjourned at 9:35 p.m.

Keona L. Courtney
Recording Secretary

Approved in open session:
November 14, 2005

Larry Greenwell
Chairman