

**MINUTES OF THE ST. MARY'S COUNTY PLANNING COMMISSION
MEETING
ROOM 14 * GOVERNMENTAL CENTER * LEONARDTOWN, MARYLAND
Monday, June 27, 2005**

Members present were Larry Greenwell, Chairman; Joseph St. Clair, Vice Chair; Bryan Barthelme; 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, Plans Reviewer I; Mark Kalmus, Planning Technician; and Sharon Sharrer, Recording Secretary. County Attorney, John B. Norris, III, was also present.

The Chair called the meeting to order at 6:32 p.m.

APPROVAL OF MINUTES – The minutes of June 13, 2005 were approved as recorded.

PUBLIC HEARING DECISION

**CWSP #05-120-003 – GRANDVIEW HAVEN, Phase II, CWSP
AMENDMENT**

The applicant is requesting amendment to service map III-18 to change the water service category from NPS (No Planned Service) to RW (Rural Water, developer financed). The property contains 151.98 acres; is zoned Rural Preservation District (RPD); and is located at 29282 Point Lookout Road; Tax Map 18, Grid 11, Parcel 13.

Owner: Arrowhead LLC
Agent: Dean Wilkinson, of R. A. Barrett Associates, Inc.

The property was posted, legal advertisements were published on 5/4/05 and 5/11/05, and notices were mailed to the adjoining property owners.

On May 23, 2005, the Planning Commission conducted and closed a public hearing, leaving the record open for ten (10) days for written comment. At the Planning Commission meeting on June 13, 2005, Commission members expressed concern that the two members of the Planning Commission who were unable to attend this meeting had previously had questions about this development, and made a motion to delay making a decision on this request until the full Planning Commission could be present for the discussion.

Commission members expressed concern that only one well seemed to be planned for both Phase I and Phase II of this development. The applicant explained that MetCom will make the final determination on the number of wells required by the development. Chet Frederick, representing MetCom, explained that subdivisions of this size do normally require a second well to act as a

backup, though the second well may not need to be as large as the primary well for the development. Both wells would use the same aquifer, in this case the Patapsco.

In response to questions from Commission members, Mr. Wilkinson provided information on the acreage preserved through open space and the use of Transferable Development Rights (TDRS) for the two phases of the development. Phase II provides for 76 acres of open space on site and 126 acres of land preserved offsite through the use of TDRS and Phase I provides 188 acres of open space on site and 264 acres of land preserved offsite through the use of TDRS.

Commission members expressed concern with the volume of traffic a development of this size will add to area roads, which are already congested. Mr. Wilkinson explained that a traffic study was required as a part of concept review, but the review of this study is still in process. Mr. St. Clair asked that the full report be provided to the Planning Commission when the development returns for further review.

Mr. Thompson moved that having accepted the staff report, dated May 6, 2005; and having held a public hearing on the request for amendment to the St. Mary's County Comprehensive Water and Sewerage Plan (CWSP); and having made findings of adequacy with respect to the objectives and policies of the CWSP as required by the *Environment Article* of the Maryland Annotated Code and of consistency with the St. Mary's County Comprehensive Plan; the Planning Commission forward a recommendation to amend the service categories from No Planned Service (NPS) to Rural Water Service (RW) to the Board of County Commissioners, and authorize the Chairman to sign a resolution transmitting this recommendation. The motion was seconded by Mr. Chase and passed by a 7-0.

PUBLIC HEARING

CWSP #05-132-016 – TOM HODGES AUTO SALES CWSP AMENDMENT

The applicant is requesting amendment to service area maps III-27 and IV-27 to change the service area categories from W-6D and S-6D (water and sewerage service in 6 to 10 years, developer financed) to W-3D and S-3D (water and sewerage service in 3 to 5 years, developer financed). The property contains 4.75 acres; is zoned Town Center Mixed Use (TMX); and is located at Tax Map 27, Grid 19, Parcel 855, Lots 1 and 4.

Owner: Thomas H. Hodges
Agent: David Herring, of D.H. Steffens Company
John Parlett, of CMI General Contractors

The property was posted and legal advertisements were published on June 8, 2005 and June 15, 2005.

Mr. St. Clair asked if the car wash would be open to the public. Mr. Parlett explained that the car wash will be used for cars being sold as well as open to the public.

The Chair opened the hearing to the public. The public hearing closed with no comments.

Mr. St. Clair moved that having accepted the staff report, dated June 15, 2005; and having held a public hearing on the request for amendment to the St. Mary's County Comprehensive Water and Sewerage Plan (CWSP); and having made findings of adequacy with respect to the objectives and policies of the CWSP as required by the *Environment Article* of the Maryland Annotated Code and of consistency with the St. Mary's County Comprehensive Plan; the Planning Commission forward a recommendation to amend the service categories from W-6 and S-6 to W-3D and S-3D to the Board of County Commissioners, and authorize the Chairman to sign a resolution transmitting this recommendation. The motion was seconded by Mr. Barthelme and passed by a 7-0 vote.

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

The applicant is requesting amendment to service area maps III-43 and IV-43 to change the service area categories from W-6 and S-6 (service in 6 to 10 years) to W-3D and S-3D (service in 3-5 years, developer financed). The property contains 6.9 acres; is zoned Corridor Mixed Use (CMX); and is located at Tax Map 43, Grid 9, Parcels 44, 45, 157, 281, and 426.

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

The property was posted and legal advertisements were published on June 8, 2005 and June 15, 2005.

The Chair opened the hearing to the public. The public hearing closed with no comments.

Mr. Reeves moved that having accepted the staff report, dated June 15, 2005; and having held a public hearing on the request for amendment to the St. Mary's County Comprehensive Water and Sewerage Plan (CWSP); and having made findings of adequacy with respect to the objectives and policies of the CWSP as required by the *Environment Article* of the Maryland Annotated Code and of consistency with the St. Mary's County Comprehensive Plan; the Planning Commission forward a recommendation to amend the service categories from W-6 and S-6 to W-3D and S-3D to the Board of County Commissioners, and authorize the Chairman to sign a

resolution transmitting this recommendation. The motion was seconded by Mr. Thompson and passed by a 7-0 vote.

FAMILY CONVEYANCE

MSUB #05-110-033 – JOSEPH WHEELER RESUBDIVISION OF LOT 1

The applicant is requesting preliminary review of two additional lots 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 4.293 acres; is zoned Residential Low Density (RL); and is located at 20870 Old Gravel Road in Lexington Park, Maryland; Tax Map 51, Grid 21, Parcel 9, Lot 1.

Owner: Mark A. & Dana W. Cullison
Agent: Robert E. Trautman

Receipts of certified mailings are on file.

Mr. Shire explained that approval of this request would bring the total number of users on the private road to nine (9). Two formal agreements will be executed and recorded concurrently with the record plat; the first being a family conveyance agreement and the second a supplemental private road maintenance agreement to add to the maintenance agreements already in effect.

Mr. Thompson moved that having accepted the staff report, dated June 15, 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 grant subdivision plan approval, as requested. The motion was seconded by Mr. St. Clair and passed by a 7-0 vote.

DEVELOPMENT REVIEW

CCSP #05-132-006 – MECHANICSVILLE OFFICE BUILDING EXPANSION

The applicant is requesting review and approval of a concept site plan for an 18,000 square foot medical office building. The property contains 4.0 acres; is zoned Town Center Mixed Use (TMX); and is located on the west side of MD Route 5, approximately 6,800 feet north of the MD Route 5 and MD Route 235 split; Tax Map 9, Grid 14, Parcel 320.

Owner: Garner Morgan
Agent: Jon Grimm, of Loiederman Soltesz Associates, Inc.

The Chair stressed that the developer must maintain a good buffer between this office space and the adjoining residential property. Mr. Grimm explained that a full 30 foot type "C" buffer will be used, as well as retaining some

forest conservation area in its natural state in that area. Mr. Grimm explained that the plan is actually for two single story 9,000 square foot buildings, not one single 18,000 square foot building.

Mr. Barthelme moved that having accepted the staff report, dated June 16, 2005; and having made a finding that the objectives of Section 60.5.3 of the St. Mary's County Comprehensive 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 7-0 vote.

CDSP #05-132-017 – TAZELAAR PROPERTY

The applicant is requesting review of a concept plan for 15 lots in a subdivision, in order to proceed with an amendment to the Comprehensive Water and Sewerage Plan. The property contains 6.22 acres; is zoned Residential Mixed Use (RMX), Airport Environs (AE) Overlay; and is located on the north side of Three Notch Road at By the Mill Road in California, Maryland; Tax Map 34, Grid 16, Parcels 33 & 441.

Owner: Russell E. Tazelaar, Trustee
Agent: Billy Mehaffey, of Mehaffey & Associates, PC

Mr. St. Clair moved that having accepted the staff report, dated June 16, 2005; and having made a finding that the referenced project meets concept plan requirements to proceed with a Comprehensive Water and Sewerage Plan amendment to change the water and sewer categories from S-6D and W-6D to S-3D and W-3D; and noting that the subdivision plan must return to the Planning Commission for preliminary approval; the Planning Commission grant concept plan approval, as requested. The motion was seconded by Mr. Barthelme and passed by a 7-0 vote.

CCSP #05-132-010 – SOUTHGATE CENTER, PARCEL A

The applicant is requesting review and approval of a concept site plan for 8 townhouse units. The property contains 1.74 acres; is zoned Residential Low Density (RL); and is located on the south side of MD Route 235, 300 feet south of Hermanville Road in Lexington Park, Maryland; Tax Map 52, Grid 8, Parcel 426.

Owner: Emmet B. Potter, Trustee
Agent: Jerry Nokleby, of Nokleby Surveying

Mr. Shire explained that the proposed development is adjacent to and part of the existing Southgate development, and is located within the Lexington Park Development District. Mr. Nokleby explained that these eight townhouses will finish out the corner of the townhouse development.

Mr. Thompson moved that having accepted the staff report, dated June 16, 2005; and having made a finding that the objectives of Section 60.5.3 of the St. Mary's County Comprehensive 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 concept site plan approval, as requested. The motion was seconded by Mr. Reeves and passed by a 6-0 vote, with Mr. St. Clair abstaining from the vote.

PSUB #04-120-023 – ESTATES AT JOY CHAPEL

The applicant is requesting preliminary plan review and approval of a 60-lot major subdivision. The property contains 33.87 acres; is zoned Residential Mixed Use (RMX), Airport Environs (AE) Overlay; and is located on the southeast side of Joy Chapel Road at its intersection with Mervell Dean Road in Hollywood, Maryland; Tax Map 27, Grid 19, Parcel 431.

Owner: Dillow, Mark & Joanne M. Trust
Agent: Bill Higgs, of Little Silences Rest, Inc.

Mr. Shire explained that this site is within the Leonardtown High School service area, and staff can not support approval of the applicant's request for preliminary approval at this time due to the lack of elementary school capacity in the Leonardtown area.

Mr. Thompson asked if access to this development off of Old MD 235 had been pursued. Mr. Higgs responded that State Highway Administration (SHA) did not want them to have access off of Mervell Dean Road. He explained that major improvements to the intersection of Joy Chapel Road will be made. Mr. Thompson explained that he would like to have had the opportunity to see the full comments from either SHA or DPW&T.

Mr. Higgs explained that the applicant requested a place on the Planning Commission agenda even though they realize that there is no school capacity because they want to know what the policy will be for allocation of school seats when capacity becomes available in the future. He explained that they want to be on record as having a plan that has met all of the requirements for approval except for school capacity, to ensure that they are where they need to be when the capacity becomes available.

Mr. Canavan explained that the effective date of the FY06 budget, as approved, is July 1, 2005. There are monies in the FY06 budget for an addition to Leonardtown Elementary School. School capacity for this addition can be counted as of July 1st. Mr. Canavan explained that LUGM is working on an allocation policy. As capacity becomes available, LUGM will look at what subdivisions are in the queue and assign that available capacity. In terms of developing an allocation policy the development requests that may be in the Town of Leonardtown, grandfathered subdivisions, multi-family developments,

and single family detached homes in those subdivisions that have been submitted must all be taken into account.

The Chair explained that the Adequate Public Facilities report provided with the staff report seemed to show a shortage of high school seats in the Leonardtown district. Mr. Canavan explained that the negative number of high school seats could be corrected if the Forrest Tech Center were taken into account.

Mr. Canavan explained that he feels the County has come a long way in terms of budgeting money for future land acquisition, as well as design funds. He explained he can not give an exact number for the capacity that will be available as of July 1st due to the recent reduction of class size made by the state. This must be taken into consideration when working out the exact numbers for capacity at the elementary school level.

Mr. Thompson moved that the Planning Commission table the discussion until their July 11, 2005 meeting, after the discussion with representatives from the school system. Staff will provide further information on the school seat allocation policy at that time. The motion was seconded by Mr. Barthelme and passed by a 7-0 vote.

Commission members expressed concern that subdivisions could lose their place in the queue if their request for approval was denied, or if other applicants took legal action on possible denials. Mr. Canavan explained that subdivision would not lose their place in the queue if denied simply because there is not adequate capacity at the schools. Mr. Norris explained that any applicants taking legal action because of a denial by the Planning Commission would first go to the Board of Appeals, before going to the Circuit Court. He explained that a case can not be settled by giving something the County does not have, in this case available school capacity. Mr. Norris said that neither denying nor tabling the request would give the applicant any different rights than they had before the decision was made.

SSUB #04-120-009 – WOODS AT MYRTLE POINT, Section 1, Phase 2

The applicant is requesting preliminary review of Section 1, Phase 2, 68-lots in a major subdivision. Section 1 of the property contains approximately 101.7 acres; is zoned Residential Low Density (RL), Airport Environs (AE) Overlay, Resource Conservation Area (RCA) Overlay; and is located on the west side of Patuxent Boulevard, approximately 1,600 feet north of its intersection with MD Route 4; Tax Map 34, Grid 6, Parcels 485, 585, 586, & 587.

Owner: Myrtle Point Partnership, LLC c/o PF Summers
Agent: Christopher Longmore, Dugan, McKissick, Wood, and Longmore

Mr. Shire explained that both Phase 2 and Phase 3 of Section 1 of The Woods at Myrtle Point are projects which are grandfathered under the prior Zoning Ordinance (90-11). Mr. Shire explained that one of the issues being questioned was whether a vested project has more standing in the hierarchy of the projects waiting in the queue for the availability of school capacity. Even under the prior Zoning Ordinance, the Planning Commission must make findings of Adequate Public Facilities (APF) for all adequate facilities except for stormwater management to grant preliminary approval.

Paul Summers, Member Manager of Myrtle Point Partnership, LLC, explained that there are certain timing issues unique to the grandfathered projects that are different from projects being reviewed under the current Ordinance. He explained that projects under Ordinance 90-11 are tested differently from projects submitted under the current Zoning Ordinance as far as APF are concerned. Since projects under the prior Ordinance had to invest substantially more in the project prior to the preliminary plan approval stage, he explained that he felt they should not be penalized by having to meet the current Zoning Ordinance standards for APF for schools; they should be allowed to meet the APF tests from the prior Ordinance. Mr. Summers explained that his original approval had a phasing plan that extended to 2014, but now he must be completely approved by May 13, 2007 or begin the project over with the current Zoning Ordinance. Mr. Summers said that he feels his project clearly meets the requirements of the prior Ordinance for adequacy of schools.

Mr. Longmore explained that the applicant has met the requirements of the prior Ordinance at substantial more cost to him than would have been required under the current Ordinance, and asked that he now receive the benefits provided under that prior Ordinance. He explained that both he and the applicant believe that there is adequate school capacity, based on the standards of Zoning Ordinance 90-11, and approval should be granted on that basis.

Mr. Canavan explained that he would consider a text amendment to extend the May 2007 deadline. All of the engineering work that has gone forward could then still be recognized, but the actual development and the APF approval would be timed appropriately with the infrastructure. He explained that the service areas for schools were not defined under the prior Ordinance. He said that he felt it was incumbent upon the County to recognize that residential development should have adequate capacity. Mr. Canavan explained that he can not draw the conclusion that there are adequate facilities for this residential development to move forward at this time, and therefore can not recommend approval of the applicant's request.

Ms. King expressed concern about the differing interpretations of the school service areas by the County and the applicant. Mr. Norris explained that he feels that Mr. Canavan's interpretation of school service areas is a reasonable interpretation that he would be willing to defend.

Commission members expressed concern about denying the applicant's request before hearing from representatives of St. Mary's County Public Schools at their meeting on July 11, 2005. Mr. Summers and Mr. Longmore both expressed concern that it could be much worse for the status of this project to delay the decision than it would be to deny the request, because they feel that they could lose some of their rights after July 1, 2005. They asked the Planning Commission to make a decision on the project at this meeting, even if that decision must be a denial. Commission members expressed a concern about voting to deny the request simply because they feel that more information is needed prior to making a decision.

Mr. Thompson voted that the Planning Commission table the discussion until their July 11, 2005 meeting, after the discussion with representatives from the school system. Staff will provide further information on the school seat allocation policy at that time. The motion was seconded by Mr. Chase and passed by a 7-0 vote.

SSUB #04-120-020 – WOODS AT MYRTLE POINT, Section 1, Phase 3

The applicant is requesting preliminary review of Section 1, Phase 3, 21-lots in a major subdivision. Section 1 of the property contains approximately 101.7 acres; is zoned Residential Low Density (RL), Airport Environs (AE) Overlay, Resource Conservation Area (RCA) Overlay; and is located on the west side of Patuxent Boulevard, approximately 1,600 feet north of its intersection with MD Route 4; Tax Map 34, Grid 6, Parcels 485, 585, 586, & 587.

Owner: Myrtle Point Partnership, LLP c/o PF Summers
Agent: Christopher Longmore, Dugan, McKissick, Wood, and Longmore

Mr. Thompson voted that the Planning Commission table the discussion until their July 11, 2005 meeting, after the discussion with representatives from the school system. Staff will provide further information on the school seat allocation policy at that time. The motion was seconded by Mr. Chase and passed by a 7-0 vote.

ADJOURNMENT

The meeting was adjourned at 10:12 p.m.

Sharon J. Sharrer
Recording Secretary

Approved in open session: July
11, 2005

Larry Greenwell
Chairman