

**MINUTES OF THE ST. MARY'S COUNTY PLANNING COMMISSION
MEETING
ROOM 14 * GOVERNMENTAL CENTER * LEONARDTOWN, MARYLAND
Monday, February 28, 2005**

Members present were Joseph St. Clair, Vice Chair; Brian Barthelme; Lawrence Chase; Julia King; Steve Reeves; and Howard Thompson. Larry Greenwell was excused. Department of Land Use and Growth Management (LUGM) staff present was Denis Canavan, Director; Jeff Jackman, Senior Planner IV; Phil Shire, Planner IV; Sue Veith, Environmental Planner IV; Mark Kalmus, Planning Technician; and Sharon Sharrer, Recording Secretary. County Attorney John B. Norris, III, was also present.

The Vice Chair called the meeting to order at 6:29 p.m.

APPROVAL OF MINUTES – The minutes of February 14, 2005 were approved as recorded.

PUBLIC HEARING DECISIONS

CWSP #04-110-073 – K & R SUBDIVISION CWSP AMENDMENT

The applicant is requesting amendment to service map IV-34 to change the service area category from S-6D (sewer service in six to ten years, developer financed) to S-3D (sewer service in three to five years, developer financed). The property contains 3.695 acres; is zoned Residential Mixed Use District (RMX); and is located in the Hollywood Town Center, immediately south of the intersection of Clarks Mill Road and Mervell Dean Road in Hollywood, Maryland; Tax Map 34, Grid 8, Parcel 613.

Owner: Randy M. Johnson, Constance A. Johnson, Kevin G. Cusic, and Mary C. Cusic
Agent: William Higgs, for Little Silences Rest, Inc.

The Planning Commission conducted and closed a public hearing on February 14, 2005, leaving the record open for ten (10) days for written comments. One letter was received prior to the public hearing and was provided to the Planning Commission at that time. No additional comments were received during the open record period after the public hearing.

Mr. Thompson moved that having accepted the staff report; and after conducting a public hearing on the request for amendment to the St. Mary's County Comprehensive Water and Sewerage Plan to change the service category from S-6D (service in six to ten years, developer financed) to S-3D (service in three to five years, developer financed); the Planning Commission forward a recommendation to the Board of County

Commissioners for adoption, and authorizing the Chair to review and sign the resolution when it is completed. The motion passed by a 6-0 vote.

CWSP #04-132-027 – BRUSTER’S REAL ICE CREAM CWSP AMENDMENT

The applicant is requesting amendment to service maps III-34 and IV-34 to change the service area categories from W-6D and S-6D (water and sewerage service in six to ten years, developer financed) to W-3D and S-3D (water and sewerage service in three to five years, developer financed). The property contains 0.87 acre; is zoned Town Center Mixed Use District (TMX), Airport Environs Overlay (AE); and is located at 23825 Mervell Dean Road in Hollywood, Maryland; Tax Map 34, Grid 2, Parcel 427.

Owner: Raymond Bednarcik
Agent: Larry Ludwig, of DH Steffens, Inc.

The Planning Commission conducted and closed a public hearing on January 24, 2005, leaving the record open for ten (10) days for written comments. No comments were received during the open record period.

Mr. Reeves moved that having accepted the staff report; and having conducted a public hearing on the request for amendments to the St. Mary’s County Comprehensive Water and Sewerage Plan in anticipation of community water and sewer service being extended to the proposed Bruster’s Real Ice Cream Restaurant per case CWSP #04-132-027; and having found that the requested amendment complies with the spirit and intent of both the St. Mary’s County Comprehensive Plan and the St. Mary’s County Comprehensive Water and Sewerage Plan; the Planning Commission forward a recommendation to the Board of County Commissioners for adoption, and authorizing the Chair to review and sign the resolution when it is completed. The motion was seconded by Mr. Thompson and passed by a 6-0 vote.

PUBLIC HEARING

CCSP #04-120-040 – STALLMAN SUBDIVISION, SECTION 7

The applicant is requesting review of a concept site plan for 5 lots, in order to proceed with an amendment to the Comprehensive Water and Sewerage Plan. The property contains 24.36 acres; is zoned Residential Low Density District (RL); and is located at the end of Garfield Street, south of Rutherford Boulevard, approximately 1,700 feet west of Chancellors Run Road (MD237); Tax Map 42, Grid 24, Parcel 169.

Owner: Empire Homes, LLC

Withdrawn from agenda.

DEVELOPMENT REVIEW

CWSP #04-120-041 – WOODLAND ACRES, SECTION THREE

The applicant is requesting review of a concept subdivision plan for 8 lots in order to proceed with an amendment to the Comprehensive Water and Sewerage Plan. The property contains 10.0 acres; is zoned Residential Neighborhood Conservation District (RNC); and is located on the south side of Pine Court, at the end of Oak and Potter Drive; Tax Map 34, Grid 17, Parcel 87.

Owner: Corey Allan Properties LLC
Agent: Jerry Nokleby, of Nokleby Surveying, Inc.

Mr. Shire explained that the Beck Office Building, which will be adjacent to this property, is nearing final approval stages. Water and sewer lines will be available at the adjacent property, so it will only have to be extended through and from the adjacent parcel.

Mr. Thompson expressed concern with the intermittent stream noted on the corner of the site plan. Mr. Nokleby explained that the stream stops beyond the property, and does not run through the property. He explained that the property is in the Development District and must hook up to water and sewer, even though the property did successfully perc. Mr. Nokleby suggested that all property within the Development District should automatically have the water and sewer categories changed to W-3D and S-3D, since these properties must hook into the water and sewer lines.

Mr. Chase made a motion that having accepted the staff report, dated February 17, 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 category from W-6D and S-6D (water and sewerage service in six to ten years, developer financed) to W-3D and S-3D (water and sewerage service in three to five years, developer financed); the Planning Commission approve the concept plan, as requested. The motion was seconded by Mr. Barthelme and passed by a 6-0 vote.

CWSP #04-132-006 – SOTTERLEY ROAD CENTER (aka Hollywood Commercial Center)

The applicant is requesting review of a concept site plan for a 160,775 square foot Commercial Center to proceed with an amendment to the Comprehensive Water and Sewerage Plan. The property contains 22.493 acres; is zoned Town Center Mixed Use

District (TMX); and is located at the northeast corner of the intersection of MD Route 245 and MD Route 235 in Hollywood, Maryland; Tax Map 26, Grid 11, Parcel 179.

Owner: The Dean Partnership c/o Frank Dean
Agent: Billy Higgs, of Little Silences Rest, Inc.

Mr. Shire explained that the proposed square foot floor area amounts to a Floor Area Ratio (FAR) that is less than the base allowed in the zone. Mr. Higgs said that they are already working with the Metropolitan Commission (MetCom) to try to determine the best path to take with when extending the water and sewer lines to the property.

Mr. Barthelme moved that having accepted the staff report, dated February 18, 2005; and having made a finding that the referenced project meets concept plan requirements to proceed with a Comprehensive Water and Sewer Plan amendment to change the water category from W-6D and S-6D (water and sewerage service in six to ten years, developer financed) to W-3D and S-3D (water and sewerage service in three to five years, developer financed); and the Site Plan must return to the Planning Commission for Concept Site plan approval; the Planning Commission approve the concept plan to proceed with Comprehensive Water and Sewer amendment, as requested. The motion was seconded by Mr. Thompson and passed by a 6-0 vote.

DISCUSSION/REVIEW

ACQUISITION OF SCHOOL SITES

Dr. R. Lorraine Fulton, Interim Superintendent of Schools for St. Mary's County Public Schools (SMCPS); J. Bradley Clements, Chief Administrative Officer for the Division of Supporting Services for SMCPS; and Kimberly Howe, Capital Planning Coordinator for SMCPS; presented an overview of their enrollment projections, Capital Improvements Program, school site search process, current sites under investigation, and those sites currently in the process of being acquired. Dr. Fulton summarized the discussion by explaining that the goal is to build the right school, in the right location, for the right reason. They expressed a willingness to provide quarterly updates to the Planning Commission.

LEXINGTON PARK DEVELOPMENT DISTRICT MASTER PLAN – RECONSIDERATION

The Planning Commission continued the discussion on the reconsideration of the "Planning Commission Recommended Draft – Lexington

Park Development District Master Plan – December 13, 2004”, which started on February 14, 2005.

Mr. Canavan explained that the next issue that the Planning Commission members had expressed a desire to discuss was the expansion of Wildewood. He explained that he felt that inclusion in the Development District would be advantageous as it would increase the available access to the Wildewood community, provide a logical extension of water and sewer from Wildewood, and provide the opportunity for a school site.

Commission members questioned the possible extension and re-alignment of Lawrence Hayden Road; expressing concern with the quality and safety of some of the roads further north. Mr. Jackman explained that the plan would be to extend the road to St. Johns Road, continuing out to MD Route 235 at that point. Ms. Veith added that her understanding is that the end of St. Johns Road would be upgraded in the process.

Mr. St. Clair asked for a time frame for the complete build out of Wildewood. Mark Dubick, representing the developers of Wildewood, explained that it would be extremely difficult to project the time of the buildout since the construction will be market driven. He said that it will be a long term endeavor. Mr. Dubick explained that there is a tremendous amount of support within the Wildewood community for an elementary school in Wildewood. Mr. St. Clair pointed out that the expansion of Wildewood does not have any guarantee of school seats, but would have to compete with other developers for the availability of school capacity.

Ms. King expressed her feelings that the information provided by the representatives of St. Mary’s County Public Schools was very helpful. She explained that she felt much better informed and more capable of making an informed decision than she had at the previous Planning Commission meeting, when a vote was taken on the Indian Bridge Road school site. Mr. Canavan explained that some information must be protected, both for the privacy of the landowner and to make sure that it is clearly separated from any legislative decision on the part of the County Commissioners.

Mr. Chase made a motion to include the Wildewood expansion in the Development District and recommended PUD approval with a density of 4.28 units per acre. The motion was seconded by Mr. Reeves and passed by a 6-0 vote.

Mr. Canavan reminded the Planning Commission members that Ms. Glockner spoke at the meeting on February 14, 2005, asking the Planning Commission to reconsider her request that the zoning for the properties on the easterly side of MD Route 235, between Shady Mile Drive and MD Route 4, be changed to Community Commercial (CC). Mr. Canavan explained to the

Planning Commission members that they were not considering rezoning properties at this time, but merely a land use plan showing intensification. The land use plan would then be followed by the comprehensive zoning.

Commission members asked for information on the differences between the current zoning and the zoning requested by Ms. Glockner. Mr. Canavan explained that CC zoning allows a height limit of 100 feet, whereas the current Residential Mixed Use (RMX) zoning allows a height limit of 40 feet. A variety of uses would also be introduced with a change to CC zoning, which would not necessarily be compatible with the residential community to the back side of the RMX area. He added that, during the previous comprehensive zoning, the intention was to recommend a transitional zone MD Route 235 and the neighboring residential property to the back side of this RMX zoned area. Mr. Canavan explained that staff has recommended that the current intensity be maintained, to maintain that transitional area.

Mr. Reeves made a motion that the suggested land use intensity for this area be kept at the level that currently exists. The motion was seconded by Mr. Chase and passed by a 6-0 vote.

Mr. Canavan explained that the next outstanding issue was the William Smith Mobile Home Park, in the Hermanville Road area. The request was to allow a higher intensity of use, which would subsequently be complemented by a Residential High Density (RH) zoning of the property. Mr. Jackman explained that the property is currently zoned Residential Low Density (RL), even though recommendations were made during the last comprehensive rezoning to give the property RH zoning similar to other trailer parks. The recommended zoning change was not completed during the comprehensive rezoning. Mr. Jackman explained that trailers are not a permitted use in the RL; but are non-conforming in that zone.

Mr. Chase made a motion to recommend a zoning intensity of medium density residential for the William Smith Mobile Home Park. The motion was seconded by Mr. Barthelme and passed by a 5-1 vote, with Mr. Reeves voting against the motion.

Mr. Canavan explained that the next item for reconsideration was the Beavan property, on Indian Bridge Road. He explained that Mr. Beavan's property is located on the westerly side of Indian Bridge Road, and is currently zoned RL. The Planning Commission's decision in December of 2004 was to exclude this property from the Development District. Mr. Beavan has requested a reconsideration of that decision.

Mr. Reeves explained that he had looked at the tax maps and found the Mr. Beavan has been paying taxes on agricultural use for the land, so the costs to own this land have not been higher than the cost to own other farm land in the

County. Mr. Canavan explained that tax assessment is based, in part, on the use of the land. Property used for woodland, cultivation, or left fallow may be the foundation for an agricultural assessment. There is no requirement to have the property actively farmed. Mr. Reeves explained that he had originally looked into the situation because he had received letters which said that taxes were paid based upon the RL assessment.

Concerns were raised regarding fair treatment of properties on both sides of the road, and allowing water and sewer access on one side of the road but not on the other. Mr. Jackman explained that the water and sewer lines have not come down Indian Bridge Road at all. Mr. Canavan explained that Indian Bridge Road is a ridge line; and lands on the easterly side would gravity flow while lands on the westerly side would have to do a pump over. He added that Indian Bridge Road is a natural line for a zoning demarcation because of the ridge line.

Bernie Beavan, who owns the property, explained that he did not believe that he had ever said that he paid any specific type of tax on that property, based on zoning. He said that this property was always in the Development District from the inception of the Development District, and that he did not know that his property had been taken out of the Development District until May of 2002. He explained that he feels he was mistreated when the property was taken out of the Development District, without notification to him of the intent to do so. He asked that the Planning Commission reconsider his request to have the property put back in the Development District.

Marc Cohen, counsel for Mr. Beavan, explained that Mr. Beavan held onto the property until it was time for him to retire. Mr. Cohen said that the property has always had water and sewerage service categories of W-6 and S-6, and that that changing the property to No Planned Service is like breaking a promise that was made to the landowner. He asked the Planning Commission to take into consideration that the County Commissioners had felt that RL zoning was appropriate for this property as recently as 2002.

Linda Vallandingham, an Indian Bridge Road resident, explained that she felt that allowing one property owner on the west side of Indian Bridge Road back into the Development District would not be fair to everyone else, when all of the properties on the west side of Indian Bridge Road were taken out of the Development District at the same time. She asked if it would be possible to allow Mr. Beavan to retain the RL zoning for the property, while remaining outside of the Development District. Mr. Canavan responded that the RL zoning could be retained even if the property is not included in the Development District. Ms. Vallandingham requested that the Planning Commission allow Mr. Beavan to keep the RL zoning, while keeping the property outside of the Development District.

Mr. Jackman explained that, even though Mr. Beavan could keep the RL zoning while remaining outside of the Development District, extension of water and sewer service is not allowed outside of the Development District. Mr. Reeves asked if Mr. Beavan could be included in the Development District with downgraded capacity for development, or if there would be any way to prevent the property from being developed to the maximum allowable density through the use of Transferable Development Rights (TDRS). Mr. Canavan explained that any development would have to pass the Adequate Public Facilities (APF) tests. Mr. Canavan reminded the members that the issue before them was whether or not to include the property in the Development District, not to decide the zoning.

Benjamin Abell, Jr., a resident of Leonardtown, explained that Mr. Beavan was never officially notified that his property was taken out of the Development District. He said that he felt there should be strong consideration to putting the property back into the Development District because of this lack of notification. Mr. Canavan explained that there was no legal requirement to notify individual property owners of inclusion in or deletion from the Development District. Mr. Jackman explained that there was County-wide legal advertisement of the entire process.

Mr. Barthelme made a motion that the Beavan property be included in the Development District. The motion was seconded by Mr. Chase and passed by a vote of 3-2; with Ms. King and Mr. Reeves voting against the motion, and Mr. Thompson abstaining from the vote.

Mr. Canavan explained that Raymond Dudderar had made a request for reconsideration of Myrtle Point Park and those lands that are part of the Critical Area. A decision was made to keep Myrtle Point Park in the Development District, but no discussion took place on the lands adjacent to Myrtle Point Park.

Raymond Dudderar, a resident of California, explained that his concern is the inclusion of land in the Lexington Park Development District which is clearly not, and should not be, the target of development. He said that the Chesapeake Bay Critical Area, and most specifically the Resource Conservation Areas (RCA), should all be removed from the Development District. Mr. Dudderar said that inclusion of these lands in the Lexington Park Development District sends a message that is contrary to the intent of the State law, and implies that our County has no respect for protecting our resources. He asked that the Planning Commission take the all of the RCA out of the Development District.

Mr. Canavan explained that he did not believe it was ever recommended to remove all of the RCA areas from the Development District; by the consultant, the department, or as a part of any discussion before the Planning Commission. Ms. Veith explained that other jurisdictions do include RCA lands in their development envelopes. Mr. Canavan said that inclusion of a property in the

Development District does not necessarily invite redevelopment; it affords the opportunity to request redevelopment.

Ms. King explained that the archeological easements, as well as the RCA overlays, provide protection to these sensitive areas. Ms. Veith concurred that the RCA overlay trumps the underlying zoning.

Ms. King made a motion to remove the low density area adjacent to Myrtle Point Park, as reflected on slide 22, from the Development District. The motion failed due to the lack of a second.

Mr. Canavan explained that he would like to raise an issue not previously discussed by the Planning Commission during their reconsideration of the Lexington Park Development District. He explained that a subdivision request has recently come in for the Ranieri property, north of MD Route 5 and west of Willows Road. The property is currently zoned RL. Due to the lack of activity in the area, the fact that it was adjoining other lands that are protected by agriculture easement, and the nature and character of the area, it was recommended that that the property be deleted from the Development District. He explained that he felt the recent proposal for residential development should be brought to the attention of the Planning Commission during their reconsideration of the Lexington Park Development District Master Plan. He explained that staff's recommendation would be to include this property within the Development District based on this recent development process initiated by the applicant. Ms. Thompson noted that this property is right in Lexington Park.

Ms. King expressed concern because this matter was not raised at a public hearing. Mr. Canavan explained that he did not see any problem as far as notification because it is all part of the Development District, more specifically the boundary of the Development District. Since the Planning Commission asked to have reconsideration of the Plan, the entire Lexington Park Development District Master Plan was up for reconsideration. He explained that he feels it is very much a part of the document, as originally advertised for public hearing.

Ms. King made a motion to include the Ranieri property in the Development District. The motion was seconded by Mr. Thompson and passed by a 6-0 vote.

Mr. Canavan explained that all of the items on his list for discussion had been completed. He asked if there were any other outstanding issues with the Lexington Park Development District Master Plan. Mr. Jackman noted that the transportation recommendations of the Lexington Park Development District Master Plan would need to be reconciled with those of the County-wide Transportation Plan. Since the County-wide Transportation Plan has not yet been released, this reconciliation would need to be discussed at a later time. Mr. Canavan explained that both the Lexington Park Development District Master

Plan and the Transportation Plan are moving forward on a parallel track to the County Commissioners, so reconciliation to make sure that both Plans complement each other can be completed as things move along.

Mr. Thompson made a motion that the Planning Commission recommended that the Lexington Park Development District Master Plan, as discussed at the Planning Commission meetings on February 14, 2005 and February 28, 2005 be transmitted to the Board of County Commissioners; and authorize the Vice Chair to review and sign a resolution to transmit to the Board of County Commissioners. The motion was seconded by Mr. Barthelme and passed by a 6-0 vote.

OFFICE BUSINESS PARK (OBP) ZONING ORDINANCE TEXT AMENDMENT

Mr. Canavan explained that all correspondence received on the proposed amendment has already been forwarded to the Planning Commission members. Staff will provide its recommendation for the proposed text amendment to the Planning Commission for consideration at their next meeting. Correspondence received reflected interest in raising the base density in the OBP raised to 10 units per acre. Mr. Canavan explained that he is still analyzing the impact of this request. Ms. King asked for more information on the Lexington Park Revitalization Plan, the DMX zone, and examples of various densities. This information will be provided to the Planning Commission members prior to the next meeting. Discussion will continue at the Planning Commission meeting on March 14, 2005.

ADJOURNMENT

The meeting was adjourned at 10:16 p.m.

Sharon J. Sharrer
Recording Secretary

Approved in open session:
March 14, 2005

Joseph St. Clair

Vice Chair