

**MINUTES OF THE ST. MARY'S COUNTY PLANNING COMMISSION MEETING
ROOM 14 * POTOMAC BUILDING * LEONARDTOWN, MARYLAND
Monday, April 28, 2008**

Members present were Steven Reeves, Chairman; Howard Thompson, Brandon Hayden, Susan McNeill, Merl Evans and Lawrence Chase. Department of Land Use & Growth Management (LUGM) staff present were Denis Canavan, Director; Bob Bowles, Planner IV; Jeff Jackman, Senior Planner; Yvonne Chaillet, Zoning Administrator; Teri Wilson, Historical Planner; and Amber Guy, Office Manager. County Attorney Christy Holt Chesser was also present.

The Chair called the meeting to order at 6:35 p.m.

APPROVAL OF THE MINUTES – The minutes of March 10, 2008 and April 14, 2008 were tabled to the next meeting.

Briefing and Overview of Corridor Management Plan – Religious Freedom By-way – Ms. Wilson gave a brief overview stating historic and scenic roads are significant heritage resources both as key elements of local landscapes and as tourism assets connecting cultural historic and natural attractions. Ms. Wilson stated St. Mary's and Charles County have received a grant from the State Highway Administration to develop a corridor management plan for the religious freedom scenic by-way. Ms. Wilson introduced Mr. Jim Klein of Lardner Klein who will brief the Commission on the work that has been done so far.

Mr. Klein stated the designation of a by-way by the Federal Highway Administration has a lot of benefits such as funding and tourism marketing. Mr. Klein stated the plan was developed through a series of seven steps which are 1) define vision and goals, 2) define preservation strategies, 3) define enhancement strategies, 4) discussion of tourism development strategies, 5) interpretative development strategies, 6) roadside safety and signage, 7) draft corridor management plan.

Mr. Klein stated between April and early June Lardner/Klein will prepare the final draft of the Corridor Management Plan and submit to the planning staff of St. Mary's and Charles Counties. Mr. Klein stated they will also brief the Planning Commissions and Boards of County Commissioners in both counties about the draft Corridor Management Plan prior to the presentation of the plan at public hearings. Mr. Klein stated the public hearing before the St. Mary's County Planning Commission will be scheduled for June 23, 2008.

Mr. Evans asked if some of the signs could be consolidated rather than placing new signs. Mr. Klein stated he would look into consolidating signs in all places possible. The board thanked Mr. Klein for the briefing. Mr. Evans stated he would like some discussion about local investment when the public hearings begin on this matter.

PUBLIC HEARINGS

Zoning text amendment to Section 52.2 of the Ordinance to allow existing mobile homes to be replaced – Ms. Chaillet stated the purpose is to allow property owners who live in mobile homes to replace those mobile homes without having to go before the Board of Appeals for the nonconforming use expansion process. Ms. Chaillet stated mobile homes are permitted in the Rural Preservation District and is permitted as a limited use in the Residential, Low Density District, the Residential, High-Density District and the Residential Neighborhood Conservation District.

Ms. Chaillet stated a mobile home is an affordable housing type, yet many of the existing mobile homes are nonconforming, old, and dilapidated beyond repair. Ms. Chaillet stated they need to be replaced, but existing regulations restrict the size of the replacement mobile home and increase the cost and time to obtain a building permit. Ms. Chaillet explained the application fee to expand a nonconforming use or structure is \$675.00 plus a \$50.00 advertising fee and the Board of

Appeals process can add two to four months to the time it takes to obtain a building permit. Ms. Chaillet stated these are the reasons staff would like to amend the ordinance to allow property owners to replace their existing nonconforming mobile homes with other mobile homes without limiting the size of the square footage of living space and without the need to obtain approval from the Planning Director or the Board of Appeals.

Mr. Reeves opened the hearing to public comment, hearing none, closed the hearing to public comment.

Mr. Thompson made a motion for the zoning text amendment to Section 52.2 of the Ordinance to allow existing mobile homes, having read the report and taken the text amendment that would amend the following section #1 52.2 Continuation and Maintenance to provide an exception for a nonconforming mobile home, lawfully occupying a site on the effective date of this Ordinance, or of amendments thereto, that allows the mobile home to be replaced or expanded without the size limitations contained in the nonconforming provisions.

Section 52.2 with the addition of paragraph 5 to read as follows: A nonconforming mobile home, lawfully occupying a site on the effective date of this Ordinance, or of amendments thereto, may be replaced or expanded. The replacement or expanded mobile home is exempt from the requirements of Section 52.3.3 pertaining to the expansion and enlargement of nonconforming uses and structures. I also move to allow the Chairman to sign a resolution for this amendment at the next meeting and Ms. McNeill seconded. The motion passed by a 6-0 vote.

Zoning text amendment to Chapter 32 “Property Development Regulations,” Amend language of Schedule 32.1 “Development Standards” to change the base density in the Commercial Marine (CM) District – Ms. Chaillet stated the purpose of this amendment is to correct a discrepancy in Schedule 32.1 of the Ordinance. Ms. Chaillet explained it currently states no density is permitted in the CM district and in schedule 50.4 use 11 states a detached dwelling unit is permitted as an accessory. Ms. Chaillet explained this is where the conflict occurs. Ms. Chaillet stated the purpose is to allow one dwelling unit in the CM District so that it compliments schedule 50.4.

Ms. Chaillet explained the purpose for allowing this as an accessory use was to accommodate those property owners who wanted to live on their marina or whomever they hired to manage the marina could live there. Ms. McNeill asked what the accessory unit would be accessory to. Ms. Chaillet explained that the marina is the principal use and the apartment or house would be accessory to the marina. Ms. Chaillet explained the CM District is sometimes used for marina sales, yacht clubs, marina restaurants, etc. Mr. Thompson stated this will still hold the line at one dwelling unit per site. Ms. Chaillet agreed.

Mr. Reeves opened the hearing to public comment, hearing none, closed the hearing to public comment.

Mr. Thompson made a motion for the zoning text amendment to Chapter 32 property development rights to amend the language of 32.1 of the development standards to change the base density in the Commercial Marine District, having agreed with the staff report and the recommendation to allow one single-family dwelling or one accessory-dwelling per property zoned Commercial Marine. The text amendment would amend one section of the zoning ordinance to amend Schedule 32.1, Development Standards, to add footnote #14 in the CM district under residential base density to read, “One single-family dwelling is permitted per site. Also under the column marked CM in the row marked “Base Density (units per acre)” add footnote #14 as follows: none ¹⁴ to read one single-family dwelling is permitted per site. Also move to allow the Chairman to sign a resolution for

this amendment at the next meeting and Mr. Evans seconded. The motion passed by a 6-0 vote.

Zoning text amendment to Chapter 52 “Nonconforming Uses, Structures, and Signs,” Amend Section 52.2 “Continuation and Maintenance” to provide an exception for a nonconforming mobile home. Amend Section 52.4 “Abandonment of the Nonconforming Use” to include an exemption for restoration of a damaged structure. Amend Section 52.5 “Restoration of a Damaged Structure” to extend the time period for starting a restoration – Ms. Chaillet explained this amendment has to do with how we view nonconforming structures. Ms. Chaillet explained the purpose of nonconforming uses and structures in creating regulations for them is that the intent is at some point they will cease to exist. Ms. Chaillet stated currently in the ordinance a nonconforming use or structure shall cease to exist if it’s been abandoned for one year or more regardless of the intent to abandon. Ms. Chaillet stated the Critical Area Commission section 41.2 refers the reader to chapter 52 for the nonconforming standards for this ordinance.

Ms. Chaillet stated to give property owners more time to restore a nonconforming structure or a structure containing a nonconforming use that is destroyed by fire or other calamity. Ms. Chaillet explained currently they may be repaired or replaced entirely as long as that replacement occurs within one year after the structure has been damaged. Ms. Chaillet stated if more than one year has passed since a fire or hurricane (Isabel) it ceases to exist and can not be replaced. Ms. Chaillet stated this text amendment extends this time period for replacing a damaged structure from one year to two years.

Mr. Thompson asked what happens if the project has been started but has not been finished within the 24 months. Ms. Chaillet stated the current language says as long as you begin the project and make progress on the project within the 24 month period you are okay. Ms. McNeill asked if there was a way to reach back and help the persons already affected by this. Ms. Chesser stated there were some special provisions made after hurricane Isabel to aid these persons in their pursuit of rebuilding.

Ms. McNeill asked if two years is enough time. Mr. Thompson stated two years is plenty of time to come forward and at least begin the process. Ms. McNeill stated she wants to make sure the department will work with those who begin the process but aren’t quite finished by the end of the 24 months. Ms. Canavan stated as long as the applicant has shown a good faith effort to move forward with the project the department will support the applicant.

Mr. Reeves opened the hearing to public comment, hearing none, closed the hearing to public comment. Ms. McNeill stated she “insofar as possible” seems vague to her and she would like the language stronger.

Mr. Thompson made a motion for the zoning text amendment section 52.4, section 52.5, and section 41.2 of the zoning ordinance to extend the time period to restore a damaged nonconforming use and having agreed with the staff report and having had the public hearing, I move to make the following changes to the three sections of the zoning ordinance. 41.2 any use or structure within St. Mary’s County Critical Area existing or established before March 27, 1990, that has been abandoned for more than two years, regardless of any intention to abandon or not, but which does not conform with the provisions of this chapter may continue. Such use or structure however, may not be reconstructed, intensified or expanded except in accordance with this Ordinance.

Section 52.4.1 to read as follows: a nonconforming use, structure or any part thereof, that is discontinued or changed to a conforming use for a continuous period of one year or more shall not be reestablished, and the use of the structure or site thereafter shall be in conformity with the regulations of the district in which it is located. Abandonment or discontinuance shall include cessation of a use regardless of intent to abandon or resume

the use of the nonconforming use, structure or any part thereof. A nonconforming structure or a structure containing a nonconforming use, which is destroyed by fire or other calamity, may be restored in accordance with Section 52.5 of the Ordinance.

Section 52.5 to read as follows: If a nonconforming structure or a structure containing a nonconforming use is destroyed by fire or other calamity, the structure may be restored and the nonconforming use may be resumed, provided that appropriate approvals and permits are secured and the standards of this Ordinance are met insofar as possible. If the restoration is not started within two years and diligently brought to completion, the building or structure shall be removed and the area cleared. Also move to allow the Chairman to sign a resolution for this amendment at the next meeting and Mr. Hayden seconded. The motion passed by a 6-0 vote.

CONTINUATION OF PUBLIC HEARING FROM 3/10/08

Zoning text amendment in Chapter 50, "Use Classifications," Section 50.4, "Use Classifications, Use Types and Location with Zoning Districts," amend language of Schedule 50.4 to change the description of use type 105, accessory dwelling unit. In Chapter 51, "Use Regulations and Standards," Section 51.3.105, Accessory Dwelling Unit, amend language to modify the requirements for an accessory dwelling unit. In chapter 90, "Definitions," amend the language to revise the definition of "accessory dwelling". - Ms. Chaillet stated staff has no recommended revisions or changes from the last hearing regarding owner occupancy. Ms. Chaillet stated staff believes owner occupancy should not be a requirement for the reasons stated previously. Ms. Chaillet stated we have a lot of military personal in the area and if they were deployed they would not be allowed to rent out their house or apartment therefore staff is not recommending owner occupancy as a requirement.

Mr. Reeves asked what staff's intent was and how staff is trying to define these apartments. Mr. Reeves asked if they are supposed to be accessory apartments for a single-family residence or are they supposed to be a separate parcel. Mr. Reeves stated he believes accessory apartments to be used for in-laws or elderly persons. Ms. Chaillet stated the intent of the prior ordinance 90-11 may have intended this however this was not captured in the current regulations. Ms. Chaillet explained now accessory apartments actually serve as a means of income for a widow or widower and they provide affordable housing.

Mr. Reeves stated you're taking a property in a single family area and making a change in the ordinance to make it multi-family. Mr. Canavan stated accessory apartments are currently allowed. Mr. Evans asked if we limit accessory apartments to be occupied by handicap or elderly persons only what happens to the apartment when these persons pass away. Mr. Canavan stated you would either convert the apartment back into the house or wait until another handicap or elderly person rents the space. Mr. Evans stated this seems very constraining.

Mr. Reeves stated we are looking at what a developer can build on a large scale. Mr. Evans stated he does not believe developers should be building houses with accessory apartments in them, I believe homeowners should be converting a space when and if they see it necessary.

Mr. Xavier Prines stated Judge Raley found that the builder is not subject to the HOA regulations. Ms. McNeill stated the question is whether or not a developer should be allowed to mass build homes with accessory apartments. Mr. Canavan stated the developer may not even be the builder as we see in most situations. Mr. Prines stated he still is not clear as to what hook there is for developers. Mr. Prines stated it is mildly offensive to think that this Commission is more knowledgeable to the treatment of military personal than the County of San Diego who has had a base there for a number of years. Mr. Prines stated he and his community doesn't understand why developers believe spec homes with these features is marketable as opposed to the single-family which is what the neighborhood was built and advertised as. Mr. Prines challenged the

Commission to come to the neighborhood and see that this is not just a matter of which way the door is facing.

Mr. Thompson asked staff to provide the board with copies of other counties regulations regarding accessory apartments. Mr. Thompson asked if it's possible to give LUGM more teeth to be able to enforce these regulations. Ms. Chaillet asked for more direction from the Commission stating she can site the regulations from other counties. Mr. Thompson stated the Commission would like to have copies of these regulations.

After further discussion, it was the consensus of the Commission to hold a work session on this issue. It was the consensus of the Commission to leave the public hearing and record open for ten days.

ANNOUNCEMENTS

ADJOURNMENT

The meeting was adjourned at 8:47 p.m.

Jada Stuckert
Recording Secretary

Approved in open session: May 12, 2008

Stephen T. Reeves
Chairman