

**MINUTES OF THE ST. MARY'S COUNTY PLANNING COMMISSION MEETING  
ROOM 14 \* GOVERNMENTAL CENTER \* LEONARDTOWN, MARYLAND  
Monday, June 26, 2006**

Members present were Joseph St. Clair, Chair; Steve Reeves, Vice Chair; Lawrence Chase; Merl Evans; Brandon Hayden; Susan McNeill; 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; and Keona Courtney, Recording Secretary. County Attorney, Christy Holt Chesser, and Deputy County Attorney, Colin Keohan, were also present.

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

**ANNOUNCEMENT**

Mr. St. Clair announced that he will resign his position as Chairman of the Planning Commission effective June 27, 2006. He thanked the County staff and his family for their work and support.

**APPROVAL OF THE MINUTES** - The minutes of June 12, 2006 were approved.

**PUBLIC HEARING**

To consider an amendment to the Official Zoning Maps of the St. Mary's County Comprehensive Zoning Ordinance 02-01.

Zoning Map Proposal:

Tax Map 41, Grid 7, Parcel 7 (Ryken High School), in the Third Election District, Leonardtown, Maryland: Rezone from Resource Conservation Area (RCA) Critical Area Overlay to Intensely Developed Area (IDA) Critical Area Overlay.

Legal advertisements were published in the *St. Mary's Today* on 6/11/06 and 6/18/06. The property was posted and notices were mailed to the adjoining property owners.

Mr. Jackman explained that the property was classified RCA in 1990 when Zoning Ordinance #90 -11 and the Critical Area Program were adopted, and that the zoning remained with the adoption of the current Zoning Ordinance in 2002. According to the current Zoning Ordinance, the school is a nonconforming use in the RCA Critical Area Overlay and should be classified as IDA Critical Area Overlay pursuant to Section 41.3.3.c (1) b of the Ordinance.

Mr. Reeves asked what affect the zoning change to IDA will have on the Critical Area. Mr. Jackman explained that if the zoning is changed to IDA, then the base zoning regulations will be applied. The base zoning of the property is Residential Low-Density (RL) district. IDA zoning will establish a 10 percent limit on the amount of pollution generated by the property entering into the Chesapeake Bay. Mr. Jackman also pointed out all of the environmental constraints on the property including highly erodible soils, non-tidal wetlands, and slopes. He said that if the zoning is changed to IDA, then the property owner will not have much more developable area than the area currently being used.

Mr. Thompson asked how this matter began. Mr. Jackman explained that the school board desires for the school to be annexed into the Town of Leonardtown and wants to take advantage of zoning regulations that will better accommodate their future plans for the property; however, there is nothing planned at this time. A change in zoning will also provide more availability to public sewer.

Ms. McNeill asked if the property can be annexed with its current zoning classification. Mr. Jackman explained that the Critical Area zoning needs to be changed into compliance with the County regulations, regardless of if the property is annexed into the Town of Leonardtown.

Glenn Gass, member of St. Mary's Ryken Board of Directors of the institution, explained that the property has been in institutional use since the 1950s, beginning as a camp and later developing into a high school site. The property is served by Leonardtown's water and sewer services. Mr. Gass explained that the school is not publicly funded, and the fact that it is considered a nonconforming use presents a major problem to bonding and lending institutions. He explained that Ryken High School is different from other schools in the County because it has a campus with multi-building and waterfront uses. The school board feels that it is appropriate for the zoning change to take place, and would be better for the school to be officially part of the Town of Leonardtown for future planning purposes. Until this matter is resolved, the school cannot move forward with the annexation.

Mary Joy Hurlburt, President of St. Mary's Ryken, thanked the Planning Commission for their consideration in this matter.

The Chair opened the hearing to public comment.

Gene Carter, an adjacent property owner, asked staff if the zoning will remain IDA or change back to RCA if the school sells a portion of the property to a private owner. Mr. Jackman explained that the zoning classification will remain with the property; however, if the property is annexed into the Town of Leonardtown, then it will assume the Town's base zoning plus the IDA Critical Area zoning restrictions.

Ms. McNeill asked Mr. Gass if there were originally any limitations on the dedication of the land when it was first acquired by the Xaverian Brothers. Mr. Gass explained that the school board does not have the right to sell any of the property. That right rests with a different chain of authorities.

The Chair closed the hearing to public comment.

**Mr. Thompson moved that having accepted the June 7, 2006 staff report that confirms a mistake in the Critical Area classification for said Parcel 7 as shown on Zoning Map 41; and following a public hearing held for the purpose of considering an amendment to the St. Mary's County Official Zoning Maps to correct this mistake; and noting that a portion of Parcel 7 of Grid 7 of Tax Map 41, the location of Ryken High School, lies within the Chesapeake Bay Critical Area defined by Section 41.1.1 of the Ordinance and is a water dependant facility consisting of 87 acres; the Planning Commission recommends to the Board of County Commissioners that Zoning Map 41 be amended to change the Critical Area zoning overlay from RCA to IDA on said Parcel 7; and to authorize the Chair to sign a resolution on behalf of the Planning Commission to convey this recommendation to the Board of County Commissioners. The motion was seconded by Mr. Hayden and passed by a 7-0 vote.**

Mr. Jackman stated that the Board of County Commissioners (BOCC) will conduct a public hearing for this proposal on July 11, 2006.

## **DEVELOPMENT REVIEW**

### **SSUB #06-120-002 – HUNTING CREEK, SECTION 1**

The applicant is requesting preliminary review and approval of 6 lots in a major subdivision. The property contains 20.1 acres; is zoned Planned Unit Development (PUD) 5.0; and is located on the west side of Willows Road; Tax Map 51, Grid 17, Parcel 433.

Owner: Southern Maryland Tri-County  
Agent: John B. Norris, Jr., NG&O Engineering, Inc.

Mr. Bowles explained that both sections 1 and 2 have been reviewed and found to be in compliance with the approved PUD plan. There are no outstanding issues for either section except for stormwater management. Preliminary approval of each section will allow the applicant to proceed with final engineering and return to the Planning Commission for final approval. Both sections have received preliminary approval from all applicable TEC agencies.

**Mr. Thompson moved that having accepted the staff report, dated June 26, 2006, 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 except for stormwater management, as described in the Director's Report, and return to the Planning Commission for final approval, the Planning Commission grant approval of the preliminary subdivision plan, for lots 1 through 6. The motion was seconded by Mr. Evans and passed by a 7-0 vote.**

**SSUB #06-120-005 – HUNTING CREEK, SECTION 2**

The applicant is requesting preliminary review and approval of 24 lots in a major subdivision. The property contains 20.1 acres; is zoned Planned Unit Development (PUD) 5.0; and is located on the west side of Willows Road; Tax Map 51, Grid 17, Parcel 433.

Owner: Southern Maryland Tri-County  
Present: John B. Norris, Jr., NG&O Engineering, Inc.

Mr. Thompson asked Mr. Norris why lot 15 appears to be so close to the 25 foot wetlands buffer, and if this complies with the regulations. Mr. Norris explained that that the 25 foot buffer is made up of fastlands and helps ensure that the development will not encroach on the wetlands. He said that it is normal practice for engineers in the County to build to the buffer line. Staff added that the structure may not reach the buffer line. Mr. Norris explained that there is a roadway that goes through the non-tidal wetlands, which they plan to use for utilities. Mr. Thompson expressed concern about runoff from the property into the nearby stream. Mr. Norris explained that wetlands have the ability to retain, restrict, and absorb runoff.

Mr. Reeves asked about the conservation easement area, and if any future development is planned for that area. Mr. Norris explained that there will probably be three 50 acre lots in that area. Mr. Reeves asked if these lots will have access through Blue Bell Street. Mr. Norris explained that two of them will have access.

**Mr. Chase moved that having accepted the staff report, dated June 26, 2006, 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 except for stormwater Management, as described in the Director's Report, and return to the Planning Commission for final approval, the Planning Commission grant approval of the preliminary subdivision plan, for lots 7 through 30. The motion was seconded by Mr. Reeves and passed by a 7-0 vote.**

Mr. St. Clair excused himself from the next three cases due to a possible conflict of interest.

**SSUB #04-120-037 – FORREST FARM, SECTION 3, PHASE 8-B**

The applicant is requesting preliminary review and approval for 12 of the 21 lots in a major subdivision. The property contains approximately 25.60 acres; is zoned Rural Preservation District (RPD), Airport Environs (AE) Overlay; and is located on the east

side of Brown Road, approximately 1.5 miles north of MD Route 4; Tax Map 33, Grid 16, Parcel 273.

Owner: Qualshire Land Development, LLC  
Present: John B. Norris, Jr., NG&O Engineering, Inc.  
Andy Bice, Quality Built Homes

Mr. Shire's Exhibit 1: Excerpt from Adequate Public Facilities (APF) Section 40.10 of Zoning Ordinance #90-11 regarding schools  
Mr. Shire's Exhibit 2: Capital Improvement Projects worksheet for FY07 through FY12  
Mr. Shire's Exhibit 3: Formula for Calculating Mitigatory Compensation for Grandfathering – Phasing Projects Governed by Zoning Ordinance #90 – 11 dated 3/24/06

Mr. Shire explained that Forrest Farm is a project which was vested under Zoning Ordinance #90 -11 and must receive preliminary approval by May 13, 2007. If preliminary approval is not received by that time, then the project must abide by the current Zoning Ordinance.

Mr. Shire explained that there is a provision that allows mitigation for schools under Zoning Ordinance #90 -11. He noted that there is no capacity in the Leonardtown school district at the middle school and high school levels, but that money is allotted in the FY09 budget for a new high school and in the FY12 budget for a new middle school. Mr. Shire explained that Exhibit 3 shows both the County's and State's share of school construction costs. He explained that each dwelling unit generates a certain number of students; however, staff does not know the exact number of students that will be generated by this project and this must be worked out with the developer. Mr. Shire asked that the Planning Commission to consider preliminary approval of each section of the project contingent upon school mitigation.

Mr. Reeves asked about the calculation for school mitigation cost. Mr. Shire explained that Exhibit 3 shows a portion of the \$4,500 impact fee per lot that will be attributed to school construction. The remainder will be attributed to roads and parks. Considering that this is a grandfathered project, Ms. McNeill asked if the portion of the impact fee that will be attributed to school construction is equivalent to what would be required by Zoning Ordinance #90 – 11. Mr. Shire replied that it is and will be paid at the time of the building permit. Ms. McNeill said that she wants to see this additional language reflected in the motion.

Mr. Thompson asked staff why the exact numbers were not worked out prior to requesting preliminary approval. Mr. Canavan explained that the school mitigation cost is based on the school construction cost of a school that is forthcoming in the FY07 budget which becomes effective July 1, 2006. If the cost of new school construction increases, then the mitigation cost will be adjusted. Neither the new middle school or high school have state funding for construction, and therefore the applicant must pay both the State's and County's share of school construction costs.

Mr. Shire explained that density will only permit 258 lots on the entire 775.3 acres of land. He said that the total number of lots proposed is 260; however, two lots in Phase 10 will be dropped and used as stormwater management easement areas.

Mr. Thompson asked about the status of construction and the recreational center. Mr. Shire explained that the site plan for the recreational center was approved in 2003 and a building permit for the clubhouse was issued in 2005. Mr. Bice explained that they began construction of the clubhouse in March 2006. The clubhouse has some walls at the sub-foundation level and the building should have a roof within the next couple of months. There is a contract and site plan for the pool and construction is expected to begin in September. Mr. Bice said that all construction is on schedule and they anticipate opening the clubhouse in Spring 2007. He added that Brown

Road is complete. Ms. McNeill asked Mr. Bice where the community center will be located. Mr. Bice explained that it will be in a central location within the development near Phase 5. He added that there is a water tower and that a second well is under construction nearby.

**Mr. Thompson moved that having made a finding of adequate facilities, except for stormwater management, and having accepted the staff report dated June 26, 2006, and having made a finding that the referenced project must meet all TEC agency requirements and return to the Planning Commission for final approval, and having made the finding that the applicant is entitled to school mitigation per Zoning Ordinance #90-11, the Planning Commission grant approval of the preliminary subdivision plan for lots 205 through 216. The motion was seconded by Mr. Evans and passed by a 6-0 vote.**

**SSUB #06-120-001 – FORREST FARM, SECTION 3, PHASE 9**

The applicant is requesting preliminary review and approval of a standard subdivision plan for 14 lots in a major subdivision. The property contains 775.3 acres; is zoned Rural Preservation District (RPD); and is located on the east side of Brown Road, approximately 1.5 miles north of MD Route 4; Tax Map 33, Grid 16, Parcel 24.

Owner: Qualshire Land Development, LLC (Rodney Gertz)  
Agent: John B. Norris, Jr., NG&O Engineering, Inc.

**Mr. Chase moved that having made a finding of adequate facilities, except for stormwater management, and having accepted the staff report, dated June 26, 2006, and having made a finding that the referenced project must meet all TEC agency requirements and return to the Planning Commission for final approval, and having made the finding that the applicant is entitled to school mitigation per Zoning Ordinance #90-11, the Planning Commission grant approval of the preliminary subdivision plan for lots 226 through 239. The motion was seconded by Mr. Hayden and passed by a 6-0 vote.**

**SSUB #06-120-004 – FORREST FARM, SECTION 3, PHASE 10**

The applicant is requesting preliminary review and approval of a standard subdivision plan for 19 lots in a major subdivision. The property contains 775.3 acres; is zoned Rural Preservation District (RPD); and is located on the east side of Brown Road, approximately 1.5 miles north of MD Route 4. Tax Map 33, Grid 16, Parcel 24.

Owner: Qualshire Land Development, LLC (Rodney Gertz)  
Present: John B. Norris, Jr., NG&O Engineering, Inc.

Mr. Shire explained that the staff report stated that 24 lots are proposed in this section which is incorrect. He said that only 21 lots are proposed in this section with the exception of the two lots that will be used for stormwater management and the motion must reflect the specific lots that will be considered for preliminary subdivision plan approval. Mr. Norris suggested the deletion of lots 249 and 250.

**Mr. Thompson moved that having made a finding of adequate facilities, except for stormwater management, and having accepted the staff report, dated June 26, 2006, and having made a finding that the referenced project must meet all TEC agency requirements and return to the Planning Commission for final approval, and having made the finding that the applicant is entitled to school mitigation per Zoning Ordinance #90-11, the Planning Commission grant approval of the preliminary subdivision plan for lots 240 through 248 and lots 251 through 260. The motion was seconded by Mr. Hayden and passed by a 6-0 vote.**

**DISCUSSION/UPDATES**

Mr. Canavan explained that that the Board of County Commissioners (BOCC) conducted a public hearing on the proposed changes to the boundary of the Lexington Park Development District Plan (LPDDP) on June 13, 2006, and that he expects a decision on July 11, 2006. Staff will then move forward with text amendments and comprehensive zoning to implement the LPDDP.

The BOCC will conduct a public hearing on June 27, 2006 in Room 14 of the Governmental Center to consider the proposal to prohibit the use of TDR's to increase density above one dwelling unit per five acres in a Rural Legacy Area. The comprehensive revision of the TDR provisions is anticipated for public hearing by the BOCC on July 18, 2006 at 6:30 p.m. in Room 14 of the Governmental Center.

The BOCC will conduct a public hearing on June 27, 2006 in Room 14 of the Governmental Center to consider text amendments to allow off-site advertising for non-profit and civic organizations and to allow off-site advertising for home occupations.

The BOCC will conduct a public hearing on July 11, 2006 at 6:30 p.m. in Room 14 of the Governmental Center to consider the County-wide Transportation Plan.

#### **ADJOURNMENT**

The meeting was adjourned at 7:50 p.m.

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Keona L. Courtney  
Recording Secretary

Approved in open session: July 10, 2006

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Joseph St. Clair  
Chairman