

**MINUTES OF THE ST. MARY'S COUNTY PLANNING COMMISSION
MEETING
ROOM 14 * GOVERNMENTAL CENTER * LEONARDTOWN, MARYLAND
Monday, July 25, 2005**

Members present were Joseph St. Clair, Vice Chair; Bryan Barthelme; Julia King; Steve Reeves; and Howard Thompson. Larry Greenwell and Lawrence Chase were excused. 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; Mark Kalmus, Planning Technician; Susan Mahoney, 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 6:34 p.m.

EXECUTIVE SESSION

Mr. Thompson made a motion to move into Executive Session pursuant to Article 24, Section 4-210(a), in order to discuss matters of property. The motion was seconded by Mr. Reeves and passed by a 5-0 vote.

Present: Joseph St. Clair, Vice Chair
 Bryan Barthelme, Member
 Julia King, Member
 Steve Reeves, Member
 Howard Thompson, Member
 Denis Canavan, Director, Department of Land Use & Growth
 Manager
 John B. Norris, III, County Attorney
 Sharon Sharrer, Recording Secretary

Time Held: 6:35 p.m. – 6:58 p.m.

Action Taken: The Planning Commission members discussed
property matters.

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

DECISIONS

**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

The Planning Commission heard the applicant's request for both Section 1, Phase 2, and Section 1, Phase 3, at their June 27, 2005 meeting and made the decision to table the discussion until their July 11, 2005 meeting, after the discussion with representatives from the school system. On July 11, 2005, the Planning Commission made the decision to table the discussion until their meeting on July 25, 2005 to allow an opportunity to obtain information and guidance from the legal department.

At the applicant's request, the Planning Commission voted to table further discussion on this request until their meeting at 6:30 p.m. on Monday, August 8, 2005, in Room 14 of the Governmental Center in Leonardtown, Maryland to allow the applicant time to further address Adequate Public Facilities issues relating to this project.

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

At the applicant's request, the Planning Commission voted to table further discussion on this request until their meeting at 6:30 p.m. on Monday, August 8, 2005, in Room 14 of the Governmental Center in Leonardtown, Maryland to allow the applicant time to further address Adequate Public Facilities issues relating to this project.

MSUB #04-110-104 - BREEN 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 10.1 acres; is zoned Rural Preservation District (RPD); and is located at 27420 Fred Lane in Mechanicsville, Maryland; Tax Map 14, Grid 1, Parcel 175.

Owner: Edward Breen
Agent: Jerry Nokleby, of Nokleby Surveying

The Planning Commission heard the applicant's request for preliminary review of an additional lot on a private road at their meeting on April 11, 2005. Due to public comments received at that time, the Planning Commission agreed to table further discussion on the request to allow the legal department the opportunity to review the existing documents on record, including plats, deeds, and road maintenance agreements.

Mr. Shire explained that the legal department has taken the opportunity to review the documents on record, and has determined that this property does have a right to use the right-of-way and that the Planning Commission can proceed with family conveyance approval, if the Planning Commission chooses to do so.

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

Geneva Wood Coombs, who lives on Fred Lane, explained that the decision made in a previous appeal should also have been reviewed during the review process for this application. She said that the decision of the Board of Appeals at that time had been to not allow any more parcels on the private road because the road was already overburdened. Mr. Shire explained that the original request was made about three years ago under the prior Zoning Ordinance, and that the current request is a different request which is being made under the provisions for family conveyance in the current Zoning Ordinance. Ms. Coombs explained that her family is concerned about how many more people will be allowed on this private dirt road.

Fred Wood, another resident of Fred Lane, explained that the road is overburdened now with the 11 homes currently on the road. Mr. Shire noted that Mr. Wood had made a similar request for an additional lot on the same private road for a family member last year, which was approved by the Planning Commission. Mr. Wood expressed concern with the amount of dust on the road, and explained that he is also concerned about the safety of children walking or playing along the road.

John Leona, another resident of Fred Lane, explained that there is a tractor trailer entering and leaving the private road both early in the morning and late in the evening, creating a great deal of dust. Mr. Thompson asked if the tractor was simply making one trip out in the morning and one back in the evening, or if it was hauling onto and off of the property multiple times daily. Mr. Leona responded that multiple trips are made on some days. Mr. Nokleby explained that Mr. Breen had told the Planning Commission at the previous discussion on this request that he had no knowledge of the tractor trailer traffic mentioned. He suggested that the current tractor trailer traffic could be from a property further back along the private road.

Mr. Reeves moved that having accepted the staff report, dated April 4, 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 Family Conveyance subdivision plan approval, as requested. The motion was seconded by Mr. Thompson and passed by a 5-0 vote.

**PSUB #04-120-015 – GRANDVIEW HAVEN SUBDIVISION,
Phase 1**

The applicant is requesting preliminary review of a 111-lot major subdivision. The property contains 63.5 acres; is zoned Rural Preservation District (RPD); and is located on the west side of Morganza-Turner Road, approximately 3,600 feet north of its intersection with MD Route 5; Tax Map 12, Grid 23, Parcel 35.

Owner: Norman & Richard Bernstein
Agent: Randy Barrett, of R. A. Barrett and Associates
Christopher Longmore, of Dugan, McKissick, Wood,
and Longmore

At their meeting on July 11, 2005, the Planning Commission made a decision to table further discussion on this request until their meeting on July 25, 2005 to allow the opportunity for someone from the Department of Public Works & Transportation (DPW&T) to be available to answer questions and to provide information concerning the traffic study done for this development and other area traffic concerns.

Mr. Shire explained that letters received from area residents concerned with traffic, the water table, and aesthetics had been forwarded to the Planning Commission members. At the request of the Planning Commission, John Groeger, Deputy Director of DPW&T; and Steve King, Director of the Metropolitan Commission (MetCom); as well as the developer's traffic consultant, Mike Lindhardt, from the Traffic Group; were in attendance to answer questions.

The Vice Chair explained that he frequently travels on Morganza-Turner Road, and does experience backups of traffic in the mornings in that area. Mr. Groeger explained that the traffic consultant did a Two Way Stop Control Level of Service Analysis and found that the Level of Service (LOS) for the MD Route 5 approaches is a LOS-A in both the morning and afternoon peak hours. On the stop sign approaches, Morganza-Turner Road, there is a LOS-C in the morning for the left turn and LOS-B for the right turn; southbound there is LOS-C for all movements since there is only one lane. In the afternoon peak, there is a LOS-D for northbound and LOS-C for southbound. While there are some delays, Mr. Groeger explained that some delays are acceptable based on the analysis for an unsignalized location. He said that a signal may be needed at some time in the future; additional lanes may be needed; left-turn lanes may be needed for safety. He explained that if and when a signal was installed, the intersection would be back at LOS-A. The code requires the Signalized Analysis for the ultimate capacity, assuming there is a traffic signal there, and the Two Way Stop Analysis just to see how it would operate with no signal. Mr. Groeger explained that there is currently not enough traffic to warrant a signal at that location.

Members expressed concern with the location of the proposed road connecting Phase 1 to Phase 2 of this development, and discussed the possibility of area traffic using this connection to go from Morganza-Turner Road to MD Route 5. Mr. Groeger said that he does not think the alignment of the connecting road is as important as the fact that a connection is made, explaining that the alignment will vary based on the wetlands and stream use and where the developer is able to get a permit for a wetlands crossing. Mr. Thompson asked about the traffic analysis which was done, explaining that it did not show any road connecting the two phases of the development. Mr. Barrett explained that the connecting road was added after preliminary plans were made due to input from the Planning Commission, and that the traffic analysis shows a worst case scenario with all of the traffic generated by Phase 1 using the MD Route 5 and Morganza-Turner Road intersection.

Mr. Lindhardt explained that a LOS-C or better is the requirement in rural areas, and that the Ordinance specifies that an intersection be measured using a Critical Lane Volume procedure which looks at the intersection as a whole to evaluate the operations. He said that the Critical Lane Volume Analysis shows a LOS-A in both morning and evening rush hours.

Mr. Barrett explained that the developer has met all criteria for Planning Commission approval. The application was submitted and reviewed through all required agencies, and any comments from the agencies or the Planning Commission have been addressed by the applicant. Mr. Longmore explained that he would like to highlight what the role of the Planning Commission is under the Subdivision Ordinance. He said that there are only six criteria that the Planning Commission is supposed to consider when granting a preliminary plan approval, and explained that he felt that the Ordinance was very specific on what

should be considered. Commission members expressed concern that the plans of the developer may not meet the intent of the Comprehensive Land Use Plan.

In response to concerns expressed by Commission members regarding the need for future traffic analyses and a signalized intersection with the increase in the number of area residents, Mr. Beck made a proffer to do an additional study after 75 lots have been built out, and to fund \$60,000 of the traffic light if it is determined that a signal is warranted.

The Vice Chair opened the hearing to brief comments from the public.

William Johnson, who lives on a farm in Morganza, explained that he had sent a letter to the Commission members expressing his questions and concerns regarding the development. He noted that the traffic studies done by the state were not conducted at the intersection in question, and were conducted during the summer months when school was not in session. Mr. Johnson expressed doubts as to the available school capacity at the schools which would be impacted by this development.

Andrew Dowdell, a resident of Morganza-Turner Road, explained that he moved to Morganza in 1978, primarily because he liked the rural setting. He expressed concern about the direction of development in rural areas, and especially the plans for Grandview Haven. He explained that he had sent a letter to the Planning Commission which was signed by about 60 area residents expressing concern about traffic, water supply, and school crowding. Mr. Dowdell explained that he feels that the rural landscape is quickly being depleted. Mr. Beck explained that a 100 foot landscaped buffer and berm are planned along MD Route 5 to block the view of the houses from the road, and that he has asked the surveyors and engineers to put a 30 foot strip of no clear, no cut buffer along Morganza-Turner Road to try to preserve the trees along that road.

Elizabeth DeLorme, another resident of Morganza-Turner Road, read from a letter sent to the Planning Commission explaining that the beauty and diversity of the area is something she truly enjoys. She expressed concern with the addition of more traffic to a hilly, two-lane country road with no shoulders.

In order to allow Planning Commission members the opportunity to consider amendments to and discussion of the suggested motion, Mr. Reeves made a motion that having accepted the staff report and having made findings pursuant to Section 30.5.5 of the Subdivision Ordinance (Criteria for Approval of a Preliminary Plan), including adequate facilities as described in the Director's Report in the file; the Planning Commission grant preliminary subdivision plan approval. The motion was seconded by Mr. Barthelme and the Planning Commission discussed options for amending the motion to include conditions for the location and timing of the connecting road, as well as the timing for any additional traffic studies.

After discussion was completed with no agreed upon conditions, the resulting vote was 0-5.

Mr. Norris explained to the members of the Planning Commission that they could exercise their judgment as to whether or not the information put into the record satisfies the requirements of the Zoning and Subdivision Ordinances. While the criteria given to the Planning Commission must be applied, the decision whether information provided meets the criteria of the Subdivision Ordinance is within the boundaries of the Planning Commission to decide.

Marybeth Dowdell expressed concern that traffic counts are not done by the state, or at least required to be completed by an unbiased party. She explained that the times for the traffic counts did not make sense considering school hours. Other concerns expressed by Ms. Dowdell included the safety of area roads and overcrowding in schools. Mr. Lindhardt explained that the traffic studies were conducted in accordance with SHA guidelines and were reviewed by both SHA and DPW&T.

The motion was made for the second time by Mr. Reeves to approve the preliminary subdivision plan as requested. The motion died due to lack of a second. No further motion was forthcoming.

DEVELOPMENT REVIEW

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

The applicant is requesting review and approval of a concept site plan for a 1,153 square foot Ice Cream Products Carryout. The property contains 0.67 acres; is zoned Town Center Mixed Use (TMX) District; and is located at 23825 Mervell Dean Road in Hollywood, Maryland; Tax Map 34, Grid 2, Parcel 427.

Owner: Southern Maryland Creamery c/o Raymond
Bednarcik

Agent: David Herring, of D. H. Steffens

Mr. Thompson asked for details about the high opaque fence shown on the plan. Mr. Herring explained that the fence will be made of wood or some other material that will provide a visual barrier at the end of the property. Mr. Bednarcik explained that there will also be vegetation in the same area to help to block light from the adjoining property. He explained that the dumpster will be totally enclosed.

Mr. Barthelme moved that having accepted the staff report, dated July 18, 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 5-0 vote.

PSUB #04-120-016 – HERITAGE MANOR SUBDIVISION

The applicant is requesting preliminary review of a 24 lot major subdivision. The property contains 96.60 acres; is zoned Rural Preservation District (RPD); and is located at Tax Map 63, Grid 17, Parcel 36.

Owner: Arrowhead LLC
Agent: Randy Barrett, of R. A. Barrett and Associates

Mr. Shire explained that this plan had been revised since the last time it appeared before the Planning Commission, and will not require an amendment to the Comprehensive Water and Sewerage Plan. Mr. Shire told to the members of the Planning Commission that an email had been received from Leroy Mattingly, who is with Air Operations on the Naval Air Base, explaining that there is a fairly new program and that any possible ramifications to this property resulting from that program are not yet known. The email from Mr. Mattingly explained that the Range Safety Group needed a little bit more time to study the area further, and that he would not advise approval at this time. Mr. Shire explained that, due to this communication from the Navy, staff would now suggest that the project be tabled until additional input is received from the Navy regarding Webster Field operations.

Mr. Barrett asked that the Planning Commission grant preliminary subdivision approval subject to working this out prior to final approval, explaining that that the applicant does need to be vested under the existing adequate public facilities status for school capacity. In light of the student population capacity concerns Mr. Canavan recommended that, if the Planning Commission chose to move forward with approval at this time, any approval would be subject to a condition that this residential development would be in keeping with any concerns that the naval officials might have at Webster Field. Mr. Beck asked that a timeframe be included with any condition made as a part of the motion. Mr. Canavan explained that he would follow up with Navy officials, and would get an answer from the Navy in writing.

Mr. Thompson made a motion that having accepted the staff report, dated July 18, 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 facilities as described in the Director's Report in the file; the Planning Commission grant preliminary subdivision plan approval subject to the condition that this residential

development would be in keeping with any concerns that officials from the Navy may have at Webster Field. The motion was seconded by Mr. Barthelme and passed by a 5-0 vote.

PSUB #04-120-003 – TWIN PONDS, Section 2

The applicant is requesting preliminary review of a 64 lot major subdivision. The property contains 67.8 acres; is zoned Residential Low-Density (RL); and is located at the end of FWD Drive, approximately 1,600 feet east of its intersection with MD Route 245; Tax Map 26, Block 18, Parcel 95.

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

Mr. Shire explained that this was one of the subdivisions in the queue for the limited school seat availability in the Leonardtown school system. At the previous Planning Commission meeting, it was determined that Twin Ponds could be allotted nine (9) of the 44 available lots. The applicant has selected the specific lots they would like to have approval on at this time.

Mr. Thompson moved that having accepted the staff report, dated July 19, 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 grant preliminary subdivision plan approval for lots 1 through 4 and lots 43 through 47, as requested. The motion was seconded by Mr. Reeves and passed by a 5-0 vote.

PSUB #03-120-026 – ESSEX WOODS NORTH, Phases II & III

The applicant is requesting preliminary review and approval of Phases II & III, 202 lots in a major subdivision. The property contains 39.48 acres; is zoned Residential Mixed Use (RMX) District; and is located south of MD Route 246, at the end of Essex Drive South; Tax Map 51, Grid 4, Parcels 331 & 332.

Owner: Dennis Edwards
Agent: Jerry Nokleby, of Nokleby Surveying, Inc.
Christopher Longmore, of Dugan, McKissick, Wood, and Longmore

Mr. Shire explained that the Great Mills school district has reached the point where the demand exceeds the number of class seats and corresponding lots available. He explained that staff has recommended that allocations be approved in segments of 25 lots due to the limited school seat capacity of the district.

Mr. Nokleby pointed out that this development is located in the Lexington Park Development District, and explained that he feels that development which is located in the Development District deserves a little more consideration than those located in the RPD. He said that he is confused about the recommendation of staff, and feels that this recommendation goes against those made previously in other school districts. He asked that all lots, or at least the 92 lots in Phase II, of this development be approved since there is adequate capacity available in the Great Mills school district. He explained that the property owner is willing to put the townhouses in Phase III on hold until the September numbers are available from the school system, but explained that this is a complex subdivision, with a series of sewer pumps because of the rolling terrain, and to allow only 25 lots would put a tremendous burden on the developer.

Mr. Longmore said that there is adequacy of schools, and that the Director has no authority under the Zoning Ordinance to decide how many seats he will let each development have. Mr. Shire explained that APF findings for subdivisions are made by the Planning Commission during the preliminary approval stage, but APF findings for site plans are made administratively. He said that there are a number of site plans at approximately the same stage as the plan currently before the Planning Commission. Mr. Shire asked for the length of time estimated until full buildout for this development, explaining that all applicants must be treated fairly and that there are more than enough projects in the queue to fill all available capacity in the Great Mills school district. Mr. Edwards estimated a timeframe of two years for the full buildout of the 92 single family homes requested in Phase II. Mr. Longmore said that the position that staff has taken is not supported in the Ordinance, and if the school seats are available the school seat capacity must be considered adequate..

Mr. Canavan explained that there has been a recent review of the seriousness of the school capacity issue and the fact that more than 15 subdivisions are in the queue for the Great Mills school district, for a total number of lots in excess of 1,000. He explained that he is looking for a sense of equity, and a way to spread the allocation around to as many subdivisions as possible. Mr. Longmore stressed that there are three different school districts, and the policy of making allocations in advance of lack of school capacity was not followed with the Leonardtown school district.

Steve King explained that he supports the concerns expressed by Mr. Canavan, since MetCom is currently facing a problem with the allocation of sewer capacity to developments that might not be completed for many years. He recommended the phasing of projects, and matching allocations as closely as possible to the actual buildout by looking realistically at market projections. Mr. St. Clair asked if the phasing of projects would slow the rate of development, or allow development at a more controlled rate. Mr. Canavan explained that it does

control the rate of development, but that it also allows the spreading of the limited available capacity to multiple developments.

Mr. Thompson moved that having accepted the staff report, dated July 19, 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 grant preliminary subdivision plan approval for the 92 lots in Phase II. The motion was seconded by Mr. Reeves and passed by a 5-0 vote.

DISCUSSION

MARLAY-TAYLOR TREATMENT PLANT ALLOCATIONS

The scheduled discussion of allocations for the Marlay-Taylor Treatment Plant was postponed to a future Planning Commission meeting.

ADJOURNMENT

The meeting was adjourned at 10:55 p.m.

Sharon J. Sharrer
Recording Secretary

Approved in open session:
August 8, 2005

Joseph St. Clair
Vice Chair