

**MINUTES OF THE ST. MARY'S COUNTY PLANNING COMMISSION
MEETING
ROOM 14 * GOVERNMENTAL CENTER * LEONARDTOWN, MARYLAND
Monday, September 8, 2003**

Members present were Larry Greenwell, Vice Chair; Lawrence Chase, Julie King, Steve Reeves, and Joe St. Clair. Members John F. Taylor, Sr. and Jim Raley were excused. LUGM staff present were Denis Canavan, Director; Jeffrey Jackman, Senior Planner; Trish Guy, Planner II; Bob Bowles, Planning Specialist; and Peggy Childs, Recording Secretary.

A list of attendees is on file in DPZ. The Chair called the meeting to order at 6:30 p.m.

APPROVAL OF MINUTES

The minutes of August 25, 2003 were approved as recorded.

DEVELOPMENT REVIEW

CCSP #03-132-013 – BRUBACHER BUILDING

Requesting Concept review and approval for a 9,800 square foot custom production

building. The property contains 21.29 acres, is zoned RPD, and is located on the west

side of MD 247, approximately 1800 feet north of its intersection with MD 5; Tax

Map 19, Block 13, Parcel 138.

Owner: William B. Peterson

Present: Ethan Brubacher, Contract Purchaser

Pat Mudd, of DayTech Engineering, Inc., Agent

This property is going through subdivision review and the 5-lot subdivision is close to approval. The subject property will constitute Lot 1 of the subdivision, when recorded. Mr. Brubacher will be constructing gazebos, mini-barns, and sheds in the proposed building. A pre-application conference was held in June of this year and the concept plan was reviewed by all TEC agencies in the July 2003 review cycle. Staff believes that the project has met the objectives of Section 60.5.3 of the Ordinance and the 9/8/03 Staff Report contains findings in support of the application. Staff recommends additional landscaping of the display area along MD 247 and the screening of the work areas along the north side of the building adjacent to the residential use and that the noise from the equipment for the production activity be mitigated. Hours of operation will be from 7:00 a.m. to 5:00 p.m.

Mr. Mudd said the applicant is interested in constructing a new, larger facility for his existing business and that he has worked with staff to push the building back farther from the road, to provide additional landscaping, to realign his proposed driveway with the driveway across the street, and is working with the State Highway Administration to provide adequate sight distance. The

SHA also wants curb-and-gutter, full-depth shoulder pavement, and accel/decel lanes, and Mr. Mudd said they are negotiating with SHA regarding curb-and-gutter.

Mr. St. Clair said Mr. Brubacher's operation is an asset to the County, however he had concerns regarding noise from the air compressors and how much bigger the operation could get in the RPD in the event of any future expansion, particularly in light of the residential subdivision proposed for the rest of the property. Mr. Brubacher replied that the compressors will be contained within a separate, totally enclosed cinderblock building and said he will use noise reduction panels for sound absorption if necessary. He said he is currently operating with two mufflers on the exhaust system, which has reduced the exhaust noise to substantially less than that of a lot of diesel pickups. Regarding future expansion, Mr. Brubacher is only using about 1% of the maximum 5% FAR capacity in this application; however, any expansion would require a full review and site plan approval by the TEC agencies.

The Commission discussed the application at some length, including ways to notify potential purchasers in the residential subdivision that the business is there, the possibility of further subdivision of the 21+ acre lot, and what would happen if the property owner or the use of the property were to change. County Attorney John Norris said this subdivision plat would not be in the chain of title for purchasers in the residential subdivision, so they would not see a note on this plat. In addition, he said there is a provision in the Annotated Code of Maryland that favors agricultural operations and he would have to research the provision to see whether this is one of the farm-related uses it protects. Ms. Guy said the balance of the property could be subdivided if Mr. Brubacher could get perc tests and all other requirements could be met. Mr. Brubacher said there will be not a sawmill and that he intends to live on the property, which Mr. St. Clair said makes him feel better about the application. Ms. King pointed out that the purpose of the RPD is to protect the rural area, rather than any subdivision that might come down the line.

Although not a public hearing, the Chair invited public comment. Clare Whitbeck, of Leonardtown, said perhaps the production building could be subdivided from the rest of the lot, adding that a 9800 square foot cottage industry is a pretty intensive use for the RPD and a 46,000 square foot one would really be excessive. William Hancock, a contiguous property owners, said that is what worries him. He said he doesn't mind what he sees now but he doesn't want to see it get any larger and would like to see the use restricted to a portion of the 21 acres.

Mr. Canavan responded by reiterating that any modification to enlarge the building would trigger a full review. He said the way to ensure that the use won't increase would be to carve out a lot around the building, but the lot would have to meet all the necessary requirements. He suggested letting staff take a look at it with the applicant to consider ways of reducing the tract around the proposed use, or allow the applicant to go forward and think of other creative ideas. He said he recognizes the concern regarding the FAR and the mixture of

this use with adjoining residential. To that extent, he said we will have to review what the Ordinance actually allows; perhaps we could put a cap on the building; i.e., a no-greater-than 5% FAR with a maximum square footage for the building. That would be a text amendment and would require some thought before staff's coming back with a recommendation. As far as noise, Mr. Canavan said Mr. Brubacher must reduce the noise to meet the noise regulations at the property line with the remaining residential uses.

Following this discussion, Mr. St. Clair moved that, having made a finding that the objectives of Section 60.5.3 of the Zoning Ordinance have been met and noting that the project has met all requirements for concept approval, the commission grant concept site plan approval conditioned upon:

(1) Final approval and recordation of the William Peterson Subdivision prior to final site plan approval and the issuance of a building permit; and

(2) The Applicant shall work with staff regarding the concerns of the Planning Commission; i.e., noise and the issue that the use shall not exceed the maximum 5% FAR limitation in any future expansion.

The motion was seconded by Mr. Reeves and passed by 5-0.

MJSB #03-120-024 – FORREST FARMS SUBDIVISION, Section 3, Phase 5

Requesting re-review and preliminary reapproval of Phase 5, a 21-lot portion of this major subdivision. The property contains approximately 50 acres, is zoned RPD (AE Overlay), and is located on the east side of Brown Road, approximately 1.5 miles north of MD Route 4; Tax Map 33, Block 16, Parcels 24 & 273.

Owner: Qualshire Land Development
Present: John B. Norris, Jr., of NG&O Engineering, Inc.

The Planning Commission granted preliminary approval for this phase on August 27, 2001. This will bring the total to 107 lots, well within the 120 lot limit imposed by the Maryland Department of the Environment for sewage disposal. This is a vested project with an approved phasing plan. Under the new Ordinance, all phases must be recorded by May 13, 2005 or must meet the requirements of the Zoning Ordinance in effect at that time.

No questions were asked of the applicant's agent. However, Ms. Whitbeck noted for the record that the attorney representing the Planning Commission is the son of the applicant's agent. The Chair replied that he had

discussed this with the County Attorney prior to the meeting and, in fact, the County Attorney is not representing the Planning Commission in this application.

Mr. Chase moved that, having made a finding of adequate facilities except for stormwater management and noting that the project must meet all TEC requirements and return to the Planning Commission for final approval, the preliminary subdivision plan for Section 3, Phase 5 be *reapproved*, as requested. The motion was seconded by Mr. St. Clair and passed by a vote of 5-0.

CCSP #03-120-022 – LEONARDTOWN FARM, Lots 1-71

Requesting concept review and approval of a 71-lot major subdivision in order to

proceed with an administrative public hearing for a Comprehensive Water & Sewerage

Plan amendment from NPS to RW. The property contains 226.45 acres, is zoned

RPD, and is located on the east side of MD 5, approximately 100 feet north of its

Intersection with Whirlwind Road; Tax Map 49, Block 10, Parcel 45.

Owner: John B. & Margaret McNeill

Agent: R. A. Barrett & Associates, Inc.

Approval of this concept plan will allow the applicant to apply for an administrative Comprehensive Water & Sewerage Plan Amendment to change the water service categories from NPS (No Planning Service) to RW (Rural Water), in compliance with the new Ordinance requirement that any subdivision of 25 lots or more must connect to public water. A finding of adequate public facilities is not required at this time but will be required prior to final approval.

Ms. King noted for the record that there are 5 or 6 existing structures on this property and said she wants to be sure they are taken into consideration in this application. Ms. Guy responded that staff has been to the site and is aware of the structures, and that comments from the LUGM Historic Preservation Planner will be required as part of the review process.

There were no further questions and Ms. King moved that, having made a finding that the project meets the concept plan requirements to allow the applicant to proceed with the administrative CWSP amendment and noting that the plan must return to the Planning commission for preliminary approval, concept plan approval be granted. The motion was seconded by Mr. Reeves and passed by 5-0.

SUB-PLAN SERIES

CALLAWAY PLAN

Mr. Jackman provided a presentation on the status of the Callaway Plan, which was returned to the Planning Commission by the previous Board of County Commissioners for new study and a new recommendation, independent

of the Commission's previous recommendation with input from the now defunct Callaway Advisory Committee.

The County's planning consultant for the Callaway Plan, ERM Consulting, Inc., is now involved in the update of the County's Lexington Park Plan, and Mr. Jackman said staff recommends putting the Callaway Plan on hold, pending the finalization of Lexington Park Plan Update. Planning Commission work sessions on the Callaway Plan are estimated to begin in early 2004.

LEXINGTON PARK PLAN WORK SESSION

Monday, September 15, 2003, at 6:30 p.m., at the Lexington Park Elementary School.

ADJOURNMENT

The meeting was adjourned at 7:37 p.m.

Approved in open
session: September 22, 2003

Peggy Childs
Recording Secretary

John F. Taylor, Sr.
Chairperson