

**MINUTES OF THE ST. MARY'S COUNTY PLANNING COMMISSION MEETING  
ROOM 14 \* GOVERNMENTAL CENTER \* LEONARDTOWN, MARYLAND  
Monday, September 27, 2004**

Members present were John Taylor, Sr., Chairman; Larry Greenwell, Vice Chair; Lawrence Chase, Julia King, Steve Reeves, Joseph St. Clair, and Howard Thompson. Department of Land Use and Growth Management staff present was Denis Canavan, Director; Jeff Jackman, Senior Planner IV; Phil Shire, Planner IV; Trish Guy, Planner II, Chad Holdsworth, Planner II; Mark Kalmus, Planning Technician II; and Sharon Sharrer, Recording Secretary. Assistant County Attorney Heidi Dudderar was also present.

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

**PUBLIC HEARING CONTINUATION FROM SEPTEMBER 13, 2004**

**COLE PROPERTY**

Requesting a Zoning Map Amendment from Rural Preservation District (RPD) to Residential Low-Density (RL). The property is located west of Willows Road in Lexington Park, Maryland; Tax Map 51, Grid 16, Parcel 94.

Owner: Charlene Cole  
Applicant: St. Mary's County

Legal ad was published in the Enterprise on 8/25/04 and 9/1/04. Property was posted and adjoining property owners were notified. Receipts from the certified mailings are in the file.

A public hearing was conducted on September 13, 2004. At that time, the Planning Commission granted a continuance until the Planning Commission meeting on September 27, 2004 to allow staff additional time to research previous zoning changes in the archives.

Mr. Jackman explained that, after extensive research, Staff could still not find a document which would prove conclusively that the County Commissioners had intended Residential Low Density (RL) zoning on the subject property. Since no conclusive evidence of a mistake was found, the County withdrew their request to amend the zoning on this property.

**The application was withdrawn due to lack of conclusive evidence of a mistake in the zoning of subject property.**

**CWSP #04-120-023 - ESTATES AT JOY CHAPEL**

Requesting amendment of service maps III-27 & IV-27 to change the water service category from W-6D and S-6D (water and sewerage service in 6 to 10 years, developer financed) to W-3D and S-3D (water and sewerage service in 3-6 years, developer financed). The property contains 33.87 acres, is zoned Residential Mixed Use (RMX), and is located at the southeast corner of the intersection of Mervell Dean Road and Joy Chapel Road in Hollywood, Maryland; Tax Map 27, Grid 19, Parcel 431.

Owner: Dillow Revocable Trust c/o Mark Dillow  
Agent: William Higgs, of Little Silences Rest, Inc.

Legal ads were published in the Enterprise on 8/25/04 and 9/1/04. Property was posted by 8/30/04.

A public hearing was conducted on September 13, 2004. The record was left open for ten (10) days for written comments. During the open period, one letter was received which expressed concerns as to the aquifer and its capacity. Mr. Holdsworth explained that the Estates of Joy Chapel would be connecting in to Lexington Park Public Water System, so it would be supplemented by several well complexes. He also noted that the Aquia aquifer has not reached the 80% management level, and is not expected to do so for several years.

**Mr. St. Clair moved that having accepted the staff report, dated September 2, 2004, and after conducting a public hearing on the request for amendment to the St. Mary's County Comprehensive Water and Sewerage Plan in anticipation of public water and sewer service being provided to the proposed Estates at Joy Chapel Subdivision per case 04-120-023; 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 recommend that the amendment be forwarded to the Board of County Commissioners for adoption as proposed. The motion was seconded by Mr. Chase and passed by a 5-0 vote. Mr. Greenwell and Mr. Thompson did not vote since they were not present at the public hearing on September 13, 2004.**

## **PUBLIC HEARING**

### **CWSP #03-120-014 – ESSEX WOODS & ESSEX WOODS NORTH CWSP AMENDMENT**

Requesting amendment of service maps III-51 & IV-51 to change water service category from W-6D and S-6D (water and sewer service in 6-10 years, developer financed) to W-3D and S-3D (water and sewer service in 3-6 years, developer financed). The property contains 132.07 acres, is zoned Residential Mixed Use District (RMX) and Residential Low Density District (RL), and is located on the west side of Willows Road 3,600 feet south of MD 246 Great Mills Road on Essex Drive South; Tax Map 51, Block 10, Parcels 331 & 332.

Owner: Dennis Edwards  
Agent: Jerry Nokleby, of Nokleby Surveying

Legal ad was published in the Enterprise on 9/10/04 and 9/17/04. Property was posted and adjoining property owners were notified.

Mr. Holdsworth explained that this property is within the Lexington Park Development District and, as such, requires connection to the public sewer and water systems.

Mr. Nokleby said that most property around the subject property is already zoned S-1 and W-1. He explained that the agreement worked out with MetCom for the sewer was to connect into Essex South on Thomas Drive to serve the 90-lots shown on the plan as Essex Woods North and to provide a system of lift pumps to pump it out for the remainder of the development. The agreement for the water system is to connect into Essex South Subdivision, for a portion of the development not to exceed 144 lots. The developer has agreed to provide additional water storage and a possible additional well after the development of the 144<sup>th</sup> lot on the property.

The Chair opened the hearing to the public.

Dave Barry, a resident of Essex South since 1980, expressed his concerns with the continued flooding of the area. He also mentioned concerns with the single entrance to the development, overcrowding of the schools and the possibility of homes with basements being put in an area that is basically a swamp.

Harry Botsford, an area resident for 32 years, agreed with the concerns expressed by Mr. Barry. He also mentioned concerns about the tax structure. Since the new areas will include changes in the roads and curbs, he questioned what would be done to the existing areas.

Dave Kobus, another area resident, was concerned with the proximity of the development to the rifle and pistol range. He wanted to make sure that the safety issues are being considered.

The Chair noted that this public hearing is for water and sewer changes only. He asked that staff take these comments under advisement, since the Planning Commission will not see this development again.

**The Chair closed the public hearing, leaving the record open for ten (10) days for written comments.**

**CWSP #04-120-015 – GRANDVIEW HAVEN SUBDIVISION CWSP  
AMENDMENT**

Requesting amendment of service map III-18 to change water service category from NPS (No Planned Service) to RW (Rural Water service, developer financed). The property contains 295.73 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 5 in Maryland; Tax Map 18, Grid 5, Parcel 12.

Owner: Norman & Richard Bernstein  
Agent: Dean Wilkinson, of R. A. Barrett Associates, Inc.

Legal ad was published in the Enterprise on 9/10/04 and 9/17/04. Property was posted and adjoining property owners were notified.

Mr. Holdsworth said that the current proposal is for 121 single family lots. There is currently acreage enough, at current density levels, to accommodate 98 lots at one (1) lot per three (3) acres. Adjacent acreage would need to be acquired to reach the proposed density.

The Chair opened the hearing to the public.

Donna Crown, representing eight homeowners from the Morganza-Turner Road area, expressed concern that the rural character of the area would be lost if development of this type in the RPD continues. She also mentioned concerns with traffic and school overcrowding.

Richard Steiber, a resident of Morganza-Turner Road, agreed with the comments of Ms. Crown. He also expressed concern with the water supply. He wanted to know what would happen when his well goes dry after the new development is built.

Daphne McGuire, a Mechanicsville resident, questioned where the additional land needed for the proposed density would come from. Mr. Wilkinson responded that they are currently looking at revisions to the plan through Health Department review, and will determine whether to move forward with additional density on adjacent property at that time.

Mr. Holdsworth explained that since the proposed development is for over 25 homes, the Zoning Ordinance requires a community water system. The private wells in this area utilize the Aquia Aquifer. The aquifer proposed to be used for this development would be the Patapsco Aquifer.

Maurice Daily, representing MetCom, explained that the Patapsco Aquifer is approximately 150 to 200 feet deeper than the Aquia Aquifer. There is a confined layer of clay between the two aquifers.

**The Chair closed the public hearing, leaving the record open for ten (10) days for written comments.**

**CWSP #04-120-016 – HERITAGE MANOR SUBDIVISION CWSP AMENDMENT**

Requesting amendment of service map II-63 to change water service category from NPS (No Planned Service) to RW (Rural Water service, developer financed). The property contains 111.64 acres, is zoned Rural Preservation District (RPD), and is located on the west side of MD 5 two miles south of Mattapany Road at the end of Heritage Hill Lane in St. Mary's City, Maryland; Tax Map 63, Block 23, Parcels 36, 37, 362, and lot 7.

Owner: Evelyn S. Clark  
Agent: Dean Wilkinson, of R. A. Barrett Associates, Inc.

Legal ad was published in the Enterprise on 9/10/04 and 9/17/04. Property was posted and adjoining property owners were notified.

Mr. Holdsworth explained that the current proposal is for 37 single family units.

The Chair opened the hearing to the public.

Jack Lynch, previous owner of the subject property, is concerned that the current proposal is for too many units. He strongly objects to the proposed service map amendment, and feels that this type of development would not preserve the rural heritage of the area.

Mike Johnston, a resident of the adjacent subdivision Heritage Hills, agrees with Mr. Lynch's comments. In addition to a concern for preserving the rural character of the area, he is concerned about possible encroachment into the Webster Field area. He feels that developments of this type are inconsistent with Navy plans for future flight testing, and urges denial of this request.

Paul Lynch, Ron Harding, and Nancy Danganan all spoke for preserving the rural character of the area. This area is in the Rural Preservation District (RPD), and these area residents want the RPD to be preserved.

**The Chair closed the public hearing, leaving the record open for ten (10) days for written comments.**

**CWSP #04-120-018 – ELDORADO FARM SUBDIVISION, Tract B**

Requesting amendment of service map III-04 to change water service category from NPS (No Planned Service) to RW (Rural Water service, developer financed). The property contains 115.6 acres, is zoned Rural Preservation District (RPD), and is located at 29844 Eldorado Farm Lane in Mechanicsville, Maryland; Tax Map 4, Block 6, Parcel 247.

Owner: Raymond & Lois A. Leicht  
Agent: Dean Wilkinson, of R.A. Barrett and Associates, Inc.

Legal ad was published in the Enterprise on 9/10/04 and 9/17/04. Property was posted and adjoining property owners were notified.

Mr. Holdsworth explained that the current proposal is for a 37-lot subdivision. He explained that the acreage of the property is 115.6 acres, not 111.64 as mentioned in the Staff Report.

The Chair opened the hearing to the public.

Dean George, who lives at the end of Laurel Ridge Drive, explained that at least 16 of the homeowners in his subdivision have had to replace their septic system at least once, with several having to replace their septic systems more than once. This subdivision is about 14 years old. He also expressed concerns about the water runoff, which is already a problem; and that access to the proposed subdivision would be through Laurel Ridge Drive.

Dave Hanson, an adjacent property owner, bought his property because it was private. He objects to the proposed change because he would like to it to have the area remain private.

Mr. Reeves expressed concern with having only one access point to the proposed development, especially with the number of homes already in Laurel Ridge.

Mr. Wilkinson explained that they are currently working on an access point that comes directly off of Golden Beach Road. They are in the process of performing the necessary title searches, to verify whether or not that access point is legally viable.

Robert Ehrhardt, another Laurel Ridge resident, spoke about his next door neighbor's overflowing septic system. He asked how many homes would be in the proposed development. Mr. Wilkinson explained that they have the density to allow 38 homes, but are only proposing 37 at this time.

**The Chair closed the public hearing, leaving the record open for ten (10) days for written comments.**

## **FAMILY CONVEYANCE**

### **MSUB #04-110-044 – FRED WOOD SUBDIVISION**

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 15.818 acres, is zoned Rural Preservation District (RPD), and is located on the north side of Fred Lane approximately 1,000 feet north of MD Route 235 in Maryland; Tax Map 13, Grid 6, Parcel 240.

Owner: James F. Wood  
Agent: Robert Trautman

Mr. Shire explained that approval of this request for family conveyance would bring the number of lots on this private road to ten (10).

**Mr. Reeves moved that having accepted the staff report, dated September 13, 2004, 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 Commission grant Family Conveyance subdivision plan approval, as requested. The motion was seconded by Mr. St. Clair and passed by a 7-0 vote.**

### **MSUB #04-110-049 – PINEFIELD SUBDIVISION**

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 11.258 acres, is zoned Rural Preservation District (RPD), and is located on the northwest side of Sotterley Road approximately 4,000 feet east of its intersection with MD Route 235 in Maryland; Tax Map 21, Grid 19, Parcel 312.

Owner: Leroy H. Jones  
Agent: Robert E. Trautman

Mr. Shire explained that the request is actually for one additional lot on a private road, not two additional lots as is shown on the agenda and staff report. Approval of this request would bring the number of users on this private road to eight (8).

Copies of a letter received from Brad Anderson, an area resident, were given to the Planning Commission members. The letter stated that a road maintenance agreement would be useful and expressed concerns that the 20 foot right of way shown on the plat would double the disturbed area at the stream crossing, and for a few hundred feet in each direction.

Ms. King asked if the concerns of Mr. Anderson had been addressed, and if there would be a road maintenance agreement. Mr. Shire said that there would be a road maintenance agreement. He added that the plat would not be recorded without a new road maintenance agreement.

Mike Adams, a personal representative of Frank and Hope Adams who own the adjoining property, said that they are not opposed to the approval of this request. He asked that the new section of private road be moved off of the property line.

Mr. Trautman said that they could look into widening the buffer between the road and the property line. Mr. Taylor asked the developer to work with Mr. Adams, if possible. Mr. Trautman responded that they would try.

Larry Joy, another adjacent property owner, asked exactly where the proposed access is located. This was pointed out to him on the plat.

**Mr. Greenwell moved that having accepted the staff report, dated September 14, 2004, 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 Commission grant Family Conveyance subdivision plan approval, as requested. The motion was seconded by Mr. Thompson and passed by a 7-0 vote.**

## **DEVELOPMENT REVIEW**

### **CCSP #04-132-016 – LOVEVILLE PRODUCE AUCTION**

Requesting review and approval of a concept site plan for a 14,625 square foot Auction House/ Farmers Market. The property contains 5.27 acres, is zoned Rural Preservation District (RPD), and is located at 40454 Bishop Road in Loveville, Maryland; Tax Map 19, Grid 13, Parcel 81.

Owner: Joseph N. & Loretta Wathen  
Agent: Billy Mehaffey, of Mehaffey & Associates, PC

Mr. Shire said that completion of the TDR process should have been mentioned on the staff report as a third item under outstanding issues. Completion of the TDR process will be required to increase the structure to anything over 5,000 square feet. Staff has discussed this with the applicant's engineer.

Commission members expressed concern about exactly what types of goods could be auctioned, and what would happen if the property is transferred at a future date. Mr. Shire explained that the conditional use normally goes with the property when it is transferred, so if the property was transferred to another owner it could continue with the same use after the transfer. Mr. Canavan added that the conditional use is strictly for the wholesale of agricultural produce and hand crafted items, not for any other items.

**Mr. St. Clair moved that having accepted the staff report, dated September 15, 2004, 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 having noted that the referenced project has met all requirements for concept approval, the Commission grant concept site plan approval conditioned upon appropriate finalization of the TDR process. The motion was seconded by Mr. Greenwell and passed by a 7-0 vote.**

**CCSP #04-132-019 – MORROW OFFICE BUILDING**

Requesting review and approval of a concept site plan for a 10,000 square foot office building. The property contains 2.3785 acres, is zoned Residential Mixed Use (RMX) Airport Environs (AE) overlay, and is located at 22888 Three Notch Road in California, Maryland; Tax Map 34, Grid 24, Parcel 1.

Owner: Michael O'Brien  
Agent: Billy Mehaffey, of Mehaffey & Associates, PC

The Chair asked if there were any public comments, but no comments were made.

**Mr. Thompson moved that having accepted the staff report, dated September 15, 2004, 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 having noted that the referenced project has met all requirements for concept approval, the Commission grant concept site plan approval, as requested. The motion was seconded by Mr. Reeves and passed by a 7-0 vote.**

**SSUB #04-120-019 – WESTBURY PUD, Phase II, Sections 3-5**

Requesting preliminary review of Phase II, 228-lots in a major subdivision. The property contains 67.76 acres, is zoned Planned Unit Development – Residential (PUDR 4.5), and is located at the end of Westbury Boulevard approximately 1,400 feet north of its intersection with Pegg Road in Maryland; Tax Map 51, Grid 2, Parcel 147.

Owner: Artery Westbury, LLC  
Agent: Jon Grimm, of Loiederman Soltesz Associates, Inc.

Mr. Grimm noted that 228 is the correct number of lots in Phase II. One section of the staff report had shown an incorrect number of lots. He explained that to the Commission members that the owner of this property has changed since the last time the PUD came before the Planning Commission in December 2003.

**Mr. Thompson moved that having accepted the staff report, dated September 16, 2004; and having made a finding of adequate facilities except for Stormwater management, as noted on the checklist in the file; and having made a finding that the referenced project meets all TEC agency requirements, the Commission grant preliminary subdivision plan approval, as requested. The motion was seconded by Mr. Greenwell and passed by a 7-0 vote.**

**FSUB #03-120-033 – ST. JAMES SUBDIVISION, Section 5**

Requesting final review of a 9-lot major subdivision. The property contains 75.67 acres, is zoned Rural Preservation District (RPD), and is located on the south side of King James Parkway off King James Road approximately 500 feet west of its intersection with MD Route 235 in Maryland; Tax Map 63, Grid 3, Parcel 13.

Owner: Arrowhead, LLC  
Agent: Don Ocker, of NG&O Engineering, Inc.

Mr. Shire explained that on November 24, 2003, as a condition of approval of Section 4 of St. James Subdivision, the Planning Commission had stipulated that the recreational amenities on Parcel C be constructed or fully guaranteed by the posting of a bond approved by the County prior to the final approval of Section 5. Bonding efforts were attempted, but in lieu of that the developer decided to go ahead with the construction of the recreation area. Building permits have been issued for the community center. Mr. Shire said that, as he understands it, the building is under construction, but the pool has not been completed.

Mr. Ocker explained there is no means to bond the construction of a building within the County's bonding structure. He said that the only course they had was to build the recreational facility. The builder is expecting completion of the recreational facility by Memorial Day of 2005.

Ms. Dudderar recommended that, given the condition found in the minutes on the approval of Section 4 of this development, this approval be conditioned upon the completion of the recreational facilities prior to recordation.

In response to questions from builder's agent, Mr. Canavan explained that the Grandfather Provisions of the Comprehensive Zoning Ordinance Z02-01, Section 27.3.1, stipulate that from the date of final subdivision approval a project will have two years in which to record the final record plat, else be subject to the requirements of this ordinance.

**Ms. King moved that having accepted the staff report, dated September 16, 2004; and having made a finding of adequate facilities including stormwater management, as noted on the checklist in the file; and having made a finding that the referenced project meets all TEC agency requirements; the Commission grant final subdivision plan approval conditioned upon the completion of the community center and pool prior to recordation of the plat, which must be recorded prior to September 27, 2006. The motion was seconded by Mr. Thompson and passed by a 7-0 vote.**

## **DISCUSSION/REVIEW**

### **LEXINGTON PARK DEVELOPMENT DISTRICT FINAL DRAFT MASTER PLAN**

This discussion was deferred until a work session scheduled for 6:30 p.m., Monday, October 4, 2004, in Room 14 of the Governmental Center located at 23115 Leonard Hall Drive in Leonardtown, Maryland.

## **ADJOURNMENT**

The meeting was adjourned at 8:20 p.m.

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Sharon J. Sharrer

Recording Secretary

Approved in open session: October 12, 2004

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John F. Taylor, Sr.  
Chairperson