

**MINUTES OF THE ST. MARY'S COUNTY PLANNING COMMISSION MEETING  
ROOM 14 \* GOVERNMENTAL CENTER \* LEONARDTOWN, MARYLAND  
Monday, November 27, 2006**

Members present were Steve Reeves, Chair; Howard Thompson, Vice Chair; Lawrence Chase; Merl Evans; Shelby Guazzo; Brandon Hayden; and Susan McNeill. Department of Land Use and Growth Management (LUGM) staff present were Denis Canavan, Director; Sabrina Hecht, Planner IV; Jeff Jackman, Senior Planner; Bob Bowles, Planner II; Dave Berry, Planner I; and Cindy Koestner, 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.

**APPROVAL OF THE MINUTES** – The minutes of November 13, 2006 were approved as recorded.

**PUBLIC HEARINGS**

**CWSP AMENDMENT FOR MOHAWK DRIVE WATER MAIN EXTENSION  
(continued from 11/13/06)**

The applicant is requesting an amendment to the St. Mary's County Comprehensive Water and Sewerage Plan (CWSP) to amend service area map III-01 to change the service area category from W-6 (service in 6 to 10 years) to W-3D (service in 3 to 5 years, developer financed) for 42 properties on Tax Map 1 in the 5th election district as described below. The property is zoned Town Center Mixed Use District (TMX) and Residential Neighborhood Conservation District (RNC).

The properties affected are as follows:

Parcel 37; Parcel 47; Parcel 98 including: p/o Lot 2, Lots 3, 4, 5A, 10B, 11, 12, 13, 14A, 14C, 15A, 15B, 15B1, 15B2, 16A1, 16A2, 17B, C1 and 513-2 located on Mohawk Drive; Parcel 98, Lots 17A and 61 located on Mohawk Court; Parcel 98, Lots B1, 5B, 7, 8, 500-6 and 500-9 located on Big Horn Court; Parcel 98, Lots 16B1, 16B2 and 16B3 located on Israel Way; Parcels 85, 100, 101, 127 and Parcel 86, Lot 36B located on Mohawk Drive; Parcel 136 located on Mohawk Court.

Present: Steve King, Director, St. Mary's County Metropolitan Commission (MetCom)

Public Testimony Exhibit 1: Summary of comments made by Dale Burch, resident of Big Horn Court, and excerpts from the CWSP

The Chair announced Ms. McNeill will not participate in this case, due to the fact she was not present at the November 13th meeting.

On November 13, 2006, the Planning Commission conducted a public hearing and voted to table this issue until more information could be gathered regarding the true development potential of the properties in question and possible reduction of the planned benefit assessment charges. Mr. Jackman explained area residents raised several concerns at that meeting, including: the unwanted economic impacts they will face if a public water system is installed, and the improbability that the land can support MetCom's projected number of dwelling units due to topographical and other development constraints. MetCom's plan to pay for construction of the water system is to charge residents a benefit assessment fee based on the number of Equivalent Dwelling Units (EDUs) their property can support at one unit per acre, regardless of how many dwellings actually exist on their property. Many residents pointed out they do not plan to

subdivide their property and they do not want to abandon wells that are functioning properly. In addition, residents questioned the ability of the property to support individual sewer systems if the property is developed to MetCom's estimated potential. Staff held a follow-up meeting with MetCom to discuss alternative solutions to address these concerns. Mr. Jackman noted there are no current plans to extend public sewer service to the area and he added it is not likely for MetCom's projected build-out to ever be realized. He explained three alternatives were brought before the residents at a community meeting on Tuesday, November 21st at the Northern Senior Center in Charlotte Hall. Invitations to this meeting were hand delivered on November 17th.

Mr. Jackman discussed the three alternatives considered. The first alternative is to leave all of the subject properties in the current W-6 category and not proceed with installing the water system. This is not preferred by staff because the properties are located in a growth area that will eventually need public water service. The second alternative is to place all of the subject properties in the W-3D category as requested by MetCom. This will allow the system to be installed and benefit assessment charges to be levied against the current landowners. This is not preferred by staff because there are no current plans to extend sewerage service to the properties; thus, extension of water service to all of the properties at this time is premature. The third alternative, recommended by staff, is to place only the two known subdivisions of North Indian Creek Estates and Pueblo Estates in the W-3D category to allow the water system to be installed while keeping the other residents from having to connect or pay benefit assessment charges. The properties abutting these two subdivisions will need to be moved to the NPS (No Planned Service) category because State law requires all homeowners within 200 feet of a public water system to connect to the system and cap their wells if they are in a planned water service category. Mr. Jackman explained, under the third alternative, all remaining properties over 200 feet from the water system can remain in the W-6 category and will not be required to connect.

Mr. Reeves asked who will bear the cost of the water system under the third alternative. Mr. Jackman responded the developers of North Indian Creek Estates and Pueblo Estates. Mr. Reeves asked how many lots are included in these two subdivisions. Mr. Jackman replied North Indian Creek Estates includes one lot of record and proposes five additional lots. Pueblo Estates, a five lot subdivision, previously received a waiver from the requirement to connect to public water; however, the waiver contains a condition that will require connection if water service is made available. Mr. Reeves expressed concern over spreading the cost of the water system, estimated by MetCom to be around \$108,000, over so few lots. He asked for additional clarification on the Pueblo Estates situation. Mr. King replied Pueblo Estates will be allowed to proceed with development if the property is not approved for a service category change by December 31, 2006. If these two subdivisions are moved into the W-3D category prior to December 31, 2006 and the construction of the water main proceeds, both developers will share in the construction cost. If the two subdivisions are moved into the W-3D category after December 31, 2006 and construction of the water main proceeds, only North Indian Creek Estates will pay for the construction costs. Mr. King noted there is still a risk for the developer of Pueblo Estates if he proceeds to dig wells for his houses because he will have to cap the wells and connect to public water when the new water line is constructed.

Mr. King commented the laws behind this case are State laws and not MetCom regulations. He added MetCom does not have the ability to ascertain to what extent a piece of property can be developed. He pointed out, if the total number of dwelling units is reduced, the cost per dwelling unit will only increase because the cost of the project will still be the same. He explained this project is unique because there is no existing debt to pay for the water main extension.

Ms. Guazzo estimated the cost per lot to be \$18,000 for North Indian Creek Estates if they are left to bear the full burden of the project cost. She asked how much a well in the area costs. Mr. King replied around \$6,500 if the well is dug to the Aquia Aquifer. He noted there may be problems with water levels in the Aquia in the future if the area is fully developed without public water.

The Chair opened the hearing to public comment.

Janet Griffen, resident of Mohawk Drive, explained she is opposed to any extension of public water service to the area. She feels she will still be affected even if only a portion of the properties are moved into the W-3D category. She pointed out the developer of North Indian Creek Estates has also stated he does not want public water service. She asked that the subject properties be removed from the Charlotte Hall Town Center.

Linda Travers, resident of Mohawk Drive, explained she is opposed to extension of public water service. She expressed concern the project will allow for even more development close to her property and she already lives next to a proposed lumber yard and the proposed subdivision of Pueblo Estates. She agreed the properties should be removed from the Charlotte Hall Town Center.

Linda Reno, resident of Mohawk Drive, stated she is opposed to extension of public water service and she too requested removal from the Charlotte Hall Town Center.

John. R. Wheeler, Chairman of the Water Policy Task Force for St. Mary's County, explained the levels of the Aquia Aquifer are likely to be severely depleted by the year 2030 if the Patapsco Aquifer is not used more extensively. He noted this issue provides another rationale for extending public water to development areas.

Mr. Thomas Williams, resident of Mohawk Drive, explained he is not directly affected by the proposed project, but he is opposed to any extension of public water to the area, especially since the two subdivision developers made it clear they do not want public water service.

Mr. William Mehaffey, of Mehaffey & Associates, explained he is representing Kevin Austin, developer of Pueblo Estates. He stated a waiver was requested for Pueblo Estates because the cost estimates of extending public water service to the development proved that it was not feasible for Mr. Austin to bear the sole cost of the project. Mr. Mehaffey explained Mr. Austin agreed to pay his share of the cost if the extension of water service was moved forward as a community project. Mr. Mehaffey noted Mr. Austin will be in the same position as he was before receiving the waiver if the properties of the two minor subdivisions are the only properties moved into the W-3D category.

Jerry Nokleby, Nokleby Surveying, explained he is representing Israel Swarey, who is the developer of North Indian Creek Estates. He noted MetCom's cost estimates on the water line construction are half of what they should be. He asked Mr. King if MetCom has prepared construction drawings for this project. Mr. King replied no. Mr. Nokleby explained the original plans for this subdivision were submitted back in 2000 and the development was one signature away from approval before MetCom performed their feasibility study on public water extension in the area. He noted MetCom does not sign the record plats for minor subdivisions and he is unsure why they are making the effort to build a water system to serve so few lots. He expressed concern Mr. Swarey now has to wait for design and construction of a water line and then wait while the subdivision goes through the approval process again before the lots can be developed. He further expressed concern over the extreme cost per lot Mr. Swarey will have to pay if this project moves forward. Mr. Nokleby stressed both he and Mr. Swarey are upset over the time delay of this project and they are both opposed to the extension of public water.

Mr. King responded the \$108,000 construction cost estimate was prepared by one of their engineers and is very conservative. He explained the estimate is based on current construction costs and includes contingencies; therefore, it should be adequate. He noted MetCom may even be able to reduce this cost. Mr. Reeves asked if this water line is vital to the Charlotte Hall Town Center. Mr. King replied the line will eventually be looped through other subdivisions that are already being proposed for the vicinity. He noted the subject properties are

located in the Charlotte Hall Town Center and public water and sewerage service are required, whenever possible, in growth areas. He added this area is likely to be much more developed in the future.

Pat Croson, resident of Mohawk Drive, expressed concern that residents are not getting all of the information surrounding this project. She noted the residents did not have enough notice of the community meeting to make arrangements to attend or prepare.

Julian Croson, resident of Mohawk Drive, expressed concern the residents never received notice their properties were being moved into the Charlotte Hall Town Center in the first place. He asked why MetCom would go through so much trouble to build a water line for so few lots.

Mr. King responded the community meeting was called by LUGM and a quick meeting was needed due to the timing of tonight's Planning Commission meeting. He stressed this issue only developed because the Comprehensive Plan calls for public water service in growth areas, which includes the Charlotte Hall Town Center.

Dale Burch, resident of Big Horn Court, explained some issues brought forward at the community meeting. He asked the Planning Commission to recommend removing all of the subject properties from the Charlotte Hall Town Center or placing them all in the NPS category. He explained providing public water service to the area may lead to the extension of public sewer service, which will negatively impact the property owners and the environment.

Paul Thorne, resident of Big Horn Court, explained a water line is not needed to serve two minor subdivisions. He noted there is no guarantee the properties abutting these two subdivisions will remain in the NPS category if they are changed now. He stressed he is opposed to any extension of public water service to the area.

The Chair closed the hearing to public comment.

Ms. Guazzo expressed concern over the County's method of approach to this project, especially regarding the timing. She noted the current property owners have resided in this area for a long time. She added interspersing NPS, W-6 and W-3D categories in the same area is not a good plan. Mr. Thompson agreed and expressed concern the residents were not made aware their properties were being moved into the Charlotte Hall Town Center. Mr. Evans agreed and noted the County must come up with a more comprehensive way of addressing growth areas. He explained to the residents that driving growth in village centers and town centers is part of the County's plan to preserve rural areas. He encouraged the residents to stay engaged and stressed public water and sewer will probably be extended to the area in the future because it is a town center. Ms. Guazzo noted Mr. King is required to deal with the current regulations and State laws and is not to blame for attempting to extend public water service to an area projected to be a growth area in the Comprehensive Plan.

**Ms. Guazzo moved that having held a public hearing on the proposed amendment to the St. Mary's County Comprehensive Water and Sewerage Plan (CWSP), the Planning Commission voted to recommend to the Board of County Commissioners to deny the request to amend service area map III-01; the Planning Commission further voted to authorize the Chair to sign a resolution to transmit this recommendation to the Board of County Commissioners. The motion was seconded by Mr. Thompson and passed by a 6-0 vote. Ms. McNeill abstained.**

The Chair called a recess at 8:30 p.m.

The Chair called the meeting back to order at 8:35 p.m.

### **CWSP #06-120-015 – WILLOWS RUN SUBDIVISION**

The applicant is requesting an amendment to the St. Mary's County Comprehensive Water and Sewerage Plan (CWSP) to amend service area maps III-51 and IV-51 to change the service area category from W-6 and S-6 (service in 6 to 10 years) to W-3D and S-3D (service in 3 to 5 years, developer financed) in anticipation of providing community water and sewerage service to a 50-lot subdivision. The property contains 23.75 acres; is zoned Residential Low-Density District (RL); and is located on Tax Map 51, Grid 22, Parcel 72.

Owner: Frances Ione Tolson Trust  
Present: Dean Wilkinson, R. A. Barrett & Associates

Legal advertisements for this public hearing were published in the *St. Mary's Today* on 11/12/06 and 11/19/06. The property was posted and notice was mailed to adjoining property owners. Copies of the proposed amendments were placed on the County website; at the Public Information Office, located at 23115 Leonard Hall Drive, Leonardtown, Maryland; and in all branches of the County libraries.

Mr. Jackman explained the Planning Commission granted concept approval for this proposed 50-lot subdivision on November 13, 2006. He noted the Lexington Park water distribution system and the Marley Taylor wastewater treatment plant will provide service for the subdivision. Mr. Jackman added the developer will pay all installation costs and no other properties are anticipated to receive service under this amendment.

The Chair opened the hearing to public comment. The hearing closed with no comments.

**Mr. Thompson moved that having accepted the staff report, dated November 9, 2006, and having held a public hearing on the proposed amendment to the St. Mary's County Comprehensive Water and Sewerage Plan (CWSP), and having made findings of adequacy with respect to the objectives and policies of the CWSP as required by the Environment Article of the Maryland Annotated Code and of consistency with the St. Mary's County Comprehensive Plan, the Planning Commission voted to recommend to the Board of County Commissioners to amend service area maps III-51 and IV-51 to change the service category from W-6 and S-6 (service in 6 to 10 years) to W-3D and S-3D (service in 3 to 5 years, developer financed) for 23.75 acres described as Parcel 72 of Tax Map 51 in the 8th Election District; the Planning Commission further voted to authorize the Chair to sign a resolution to transmit this recommendation to the Board of County Commissioners. The motion was seconded by Mr. Evans and passed by a 7-0 vote.**

### **DEVELOPMENT REVIEWS**

#### **CWSP #05-110-004 – STRICKLAND SUBDIVISION, LOT 1**

The applicant is requesting review of a concept development plan, in order to proceed with an amendment to the Comprehensive Water and Sewerage Plan (CWSP). The property contains 76.93 acres; is zoned Residential Low-Density District (RL); and is located on Strickland Road, Great Mills, Maryland; Tax Map 43, Grid 19, Parcel 122.

Owner: Bruce N. Strickland  
Present: Robin Guyther, agent for the applicant

Mr. Bowles noted the staff report incorrectly lists the total acreage for this property at 2.89 acres; however, the property actually contains a total of 76.93 acres. He explained there are no outstanding issues pertaining to approval of this concept development plan. The property is located in the Lexington Park Development District and findings for Adequate Public Facilities

(APF) are not required. Mr. Bowles noted the applicant received a waiver from connecting to public sewer because the property is so far away from the sewer line.

**Mr. Evans moved that having accepted the staff report, dated November 16, 2006, and having made a finding that the referenced project meets concept plan requirements to proceed with a Comprehensive Water and Sewerage Plan amendment to change the service area category from W-6 (service in 6 to 10 years) to W-3D (service in 3 to 5 years, developer financed), the Planning Commission granted approval of the concept plan. The motion was seconded by Mr. Hayden and passed by a 7-0 vote.**

**CCSP #05-132-010 – PALMIRA SUBDIVISION (AKA SOUTHGATE CENTER)**

The applicant is requesting re-review and re-approval of a concept site plan for eight townhouse units. The property contains 1.74 acres; is zoned Rural Residential Low-Density District (RL); and is located on the south side of MD 235, 300 feet southeast of Hermantown Road; Tax Map 52, Grid 8, Parcel 426.

Owner: Emmet B. Potter  
Present: Jerry Nokleby, Nokleby Surveying Inc.

Mr. Bowles explained there are no outstanding issues pertaining to re-approval of this concept site plan and APF findings will be made prior to final site plan approval. He noted this concept site plan was originally approved by the Planning Commission on June 27, 2006, but the approval expired.

Ms. Guazzo inquired about the asphalt road that runs across the subject property and provides access for two residences at the rear of the subject property. Mr. Nokleby responded the existing road was not constructed in the approved location. He added the developer plans to provide an asphalt connection and easement over the existing road to guarantee the residents of these two properties will still have adequate ingress and egress. Ms. Guazzo inquired about MetCom's use of this road. Mr. Nokleby confirmed MetCom does use the road and will also be granted an easement. Ms. Guazzo asked if the developer has contacted the two residents at the rear of the subject property. Mr. Nokleby replied no, but the developer has tried to contact them and he has no problem meeting with them. Ms. Guazzo asked why the townhouse units only have six extra parking spaces. Mr. Nokleby replied the Ordinance does not allow a development to exceed a certain number of parking spaces; however, the townhouses are garaged units and should have adequate parking space.

**Mr. Hayden moved that having accepted the staff report, dated November 16, 2006, and having made a finding that the objectives of Section 60.5.3 of the Zoning Ordinance have been met, and noting that the referenced project has met all requirements for concept approval as a prerequisite for final site plan approval, and noting the applicant agrees to provide an easement to grant ingress and egress to the abutting property owners at the rear of the subject property over their existing road, the Planning Commission granted approval of the concept site plan. The motion was seconded by Mr. Thompson and passed by a 7-0 vote.**

**CCSP #06-132-034 – HOWLIN INDUSTRIAL PARK**

The applicant is requesting review and approval of a concept site plan for a 7,500 square foot maintenance shop. The property contains 14.3 acres; is zoned Industrial District (I); and is located at 29010 Commerce Park Road, Mechanicsville, Maryland; Tax Map 4, Grid 3, Parcel 458.

Owner: Edward B. Howlin, Inc.  
Present: John Norris, NG&O Engineering

Mr. Bowles explained there are no outstanding issues pertaining to approval of this concept site plan and APF findings will be made prior to final site plan approval. Mr. Norris explained vehicle maintenance is currently being performed outdoors on the subject property and the applicants wish to move the maintenance operations into a shop. Ms. Guazzo inquired about a road leading to a neighboring residential property. Mr. Norris replied there is an existing easement for the road and the applicant plans to keep that easement. He added the road is not the only means of ingress and egress for the neighboring residential property.

**Mr. Thompson moved that having accepted the staff report, dated November 17, 2006, and having made a finding that the objectives of Section 60.5.3 of the Zoning Ordinance have been met, and noting that the referenced project has met all requirements for concept approval, the Planning Commission granted approval of the concept site plan. The motion was seconded by Mr. Chase and passed by a 7-0 vote.**

**ALPD #06-150-023 – HOLLEY MALPF DISTRICT**

The applicant is requesting recommendation to the Board of County Commissioners for approval on a proposed Agricultural Land Preservation District (ALPD) establishment. The property contains 53.2 acres; is zoned Rural Preservation District (RPD); and is located at 40333 Holley Acres Farm Lane, Leonardtown, Maryland; Tax Map 40, Grid 1, Parcel 97.

Owner: Cecelia Ann Holley and Elizabeth Mason Holley

Mr. Bowles explained the County's Agricultural Land Preservation Advisory Board conducted a meeting on June 8, 2006 and found the subject property to be in compliance with the qualifying criteria for the Maryland Agricultural Land Preservation Foundation (MALPF). The property will be used for continued agricultural production; approximately 74% of the land is composed of soils classified by the USDA Conservation Land Classification as Class I, II or III soils; the property consists of over 50 contiguous acres and abuts one other easement property containing 147.398 acres; and the land is not located within the boundaries of a 10-year water and sewerage district.

**Ms. Guazzo moved that having made a finding that ALPD #06-150-023 property, owned by Cecelia Ann Holley and Elizabeth Mason Holley, meets the Maryland Agricultural Land Preservation Foundation criteria, the Planning Commission voted to recommend to the Board of County Commissioners that the property be forwarded to the Maryland Agricultural Land Preservation Foundation; the Planning Commission further voted to authorize the Chair to sign a resolution to transmit this recommendation to the Board of County Commissioners. The motion was seconded by Mr. Thompson and passed by a 7-0 vote.**

**ANNOUNCEMENT**

Mr. Reeves announced the Maryland Department of Planning (MDP) is hosting a workshop on December 7, 2006 in La Plata, MD titled "Understanding and Implementing House Bills 1141 and 2." He encouraged area planners to attend this seminar. More information is available on MDP's website at <http://www.mdp.state.md.us>.

**ADJOURNMENT**

The meeting was adjourned at 9:10 p.m.

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Cindy R. Koestner  
Recording Secretary

Approved in open session: December 11, 2006

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Stephen T. Reeves  
Chairman