

Case No.: A-9965-C

Applicant: DASC (Smith Home Farms)

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND,
SITTING AS THE DISTRICT COUNCIL

ZONING ORDINANCE NO. 4 - 2006

AN ORDINANCE to amend the Zoning Map for the Maryland-Washington Regional District in Prince George's County, Maryland, with conditions.

WHEREAS, Application No. A-9965-C has been filed for property described as approximately 757 acres of land in the R-A Zone, located on the south side of Westphalia Road, approximately 3,000 feet east of its intersection with Pennsylvania Avenue, and south of its intersection with Melwood Road, Upper Marlboro, Maryland, to rezone the property to the R-M Zone; and

WHEREAS, the application was advertised and the property posted prior to public hearing, in accordance with all requirements of law; and

WHEREAS, the application was reviewed by the Technical Staff and the Planning Board, who filed recommendations with the District Council; and

WHEREAS, a public hearing was held before the Zoning Hearing Examiner; and

WHEREAS, the Zoning Hearing Examiner's recommendations were

filed with and considered by the District Council; and

WHEREAS, having reviewed the record in this case, the District Council has determined, based on consideration of the entire record, that the subject property should be rezoned to the R-M Zone; and

WHEREAS, as the basis for this action, the District Council adopts the recommendations of the Zoning Hearing Examiner as its findings and conclusions in this case; and

WHEREAS, to protect adjacent properties and the general neighborhood, approval of the amended basic plan is granted subject to conditions.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED:

SECTION 1. The basic plan for Application No. A-9965-C is hereby approved, as amended, subject to the following conditions:

1. The Basic Plan shall be revised as follows prior to the approval of the Comprehensive Design Plan, and submitted to the Office of the Zoning Hearing Examiner for approval and inclusion in the record:

A. Land use types and quantities:

- Total area: 757± acres*
- Land in the 100-year floodplain: 105 acres
- Adjusted Gross Area (757 less half the floodplain): 704± acres

R-M Zone Proposed Land Use Types and Quantities:

- Total area: 727± acres*
Of which residential use: 572.4 acres
Mixed Retirement Development: 154.6 acres
- Density permitted under the R-M (Residential

- Medium 3.6) Zone: 3.6-5.7 dus/ac
- Permitted dwelling unit range: 1,877 to 2,973 dwellings
- **Proposed Residential Development: 2,124 Units**
- Density permitted in a Mixed Retirement Community in the R-M (Mixed Residential) Zone: 3.6-8 dus/ac
- Permitted dwelling unit range: 551 to 1,224 Units
- **Proposed Residential Development: 1,224 Units**
- **L-A-C Zone Proposed Land Use Types and Quantities:**
- Total area: 30± acres*
Of which Theoretical Commercial/Retail: 10.7 acres
Theoretical residential use: 19.3 acres
- Residential density permitted under the L-A-C (Local Activity Center) Zone: 10-20 dus/ac
- Permitted dwelling unit range: 193 to 386 Units
- **Proposed Residential Development: 300 Units**
- Commercial density permitted under the L-A-C (Local Activity Center) Zone: 0.2-0.68 FAR
- Permitted gross floor area range: 93,218 to 316,943 Square Feet
- **Proposed Commercial Development: 140,000 Square Feet**
- Public accessible active open space: 75± acres
- Passive open space: 185± acres

*Note: The actual acreage may vary to an incremental degree with more detailed survey information available in the future.

B. The recreational area east of Melwood Road shall be

expanded to include the entire proposed environmental setting for Blythewood (approximately 33 acres).

- C. The proposed centrally located recreational area shall be expanded eastward along the Cabin Branch stream valley all the way to the eastern property line and shall be further expanded northward to connect to the Blythewood site and its environmental setting.
 - D. The Basic Plan and zoning map amendment documents shall be revised to be consistent with each other regarding, but not limited to, total site area, land in floodplain, number of units, and gross floor area in the L-A-C Zone.
 - E. The Basic Plan shall be revised to show parkland dedication and a master plan trail.
2. The following conditions of approval shall be printed on the face of the Basic Plan:
- A. At time of Comprehensive Design Plan, the Applicant shall:
 - 1. Submit a signed natural resources inventory (NRI). The NRI shall be used by the designers to prepare a site layout that results in no impacts on the regulated areas of the site.
 - 2. Provide a geotechnical study that identifies the location and elevation of the Marlboro clay layer throughout the site as part of the CDP application package.
 - 3. If recommended by the appropriate agency to be on site, provide the sites for the following public facilities to be reviewed and approved by the respective agencies:
 - (a) A fire station site
 - (b) A middle school site
 - (c) A library site
 - (d) A police office complex site
 - 4. Submit a timetable and plan for the ultimate re-use of the historic buildings for appropriate recreational or interpretive uses.

5. Document the Moore Farmhouse to HABS standards, including photo documentation and floor plans, to add to the database of late 19th-/early 20th-century vernacular farmhouses. Appropriate interior and exterior architectural components shall be donated to the Newel Post.
6. Define an environmental setting for Blythewood and submit a security and maintenance plan for all structures within the Blythewood environmental setting, to be documented by semi-annual reports to the historic preservation staff, until the final plan for this area is implemented.
7. Obtain a protocol for surveying the locations of all rare, threatened and endangered species within the subject property from the Maryland Department of Natural Resources prior to acceptance of the CDP. This protocol shall be part of the submittal package. The completed surveys and required reports shall be submitted as part of any application for preliminary plans.
8. Provide a multiuse stream valley trail along the subject site's portion of Cabin Branch, in conformance with the latest Department of Parks and Recreation ("DPR") guidelines and standards. Connector trails should be provided from the stream valley trail to adjacent residential development and recreational uses.
9. Preserve as much of Melwood Road as feasible, for use as a pedestrian corridor. Before approval of a preliminary plan of subdivision for the area of the subject property adjoining Melwood Road, the applicant shall ask the technical staff, working with the Department of Public Works and Transportation, to determine the disposition of existing Melwood Road. Staff's evaluation should include review of signage and related issues.
10. Provide standard sidewalks along internal roads. Wide sidewalks may be recommended within the community core or at the L-A-C. A detailed analysis of the internal sidewalk network will be made at the time of specific design plan.

11. Submit an exhibit showing those areas where seasonally high water tables, impeded drainage, poor drainage and Marlboro clay will affect development.
- C. At the time of preliminary plan of subdivision, the Applicant shall dedicate 75 acres of developable land suitable for active recreation and convey Cabin Branch Stream Valley to the M-NCPPC. The location of the dedicated parkland shall be established at the time of comprehensive design plan review and be approved by the DPR. The Applicant may be required to dedicate an additional 25 acres of developable parkland, suitable for active recreation to the M-NCPPC, at the time of Comprehensive Design Plan. The acreage may be provided on-site or off-site, and shall conform to the final Westphalia Comprehensive Conceptual Plan if, and only if that Plan is ever adopted and approved by the District Council. Prior to approval of the Comprehensive Design Plan, DPR and the Development Review Division shall determine the need for the additional acreage of parkland.
- D. The land to be conveyed to M-NCPPC shall be subject to the conditions labeled "Exhibit B Conditions for Conveyance of Parkland to the Maryland-National Capital Park and Planning Commission", an attachment to Exhibit 6 (the Technical Staff Report in A-9965/A-9966).
- E. The Applicant shall provide adequate private recreational facilities to meet the future subdivision requirements for the proposed development. The private recreational facilities shall be determined at time of Specific Design Plan and be constructed in accordance with the standards outlined in the *Parks and Recreation Facilities Guidelines*.
- F. The Applicant shall construct public recreational facilities on the dedicated parkland and granted as a credit against the Westphalia "Park Club." The recreational facilities package shall be reviewed and approved by the DPR and the Planning Department prior to Comprehensive Design Plan approval.
- G. The public recreational facilities shall be

constructed in accordance with the standards outlined

in the Parks and Recreational Facilities Guidelines. The concept plan for the development of the parks shall be shown on the Comprehensive Design Plan.

- H. At the time of the first Specific Design Plan, the Applicant shall:
 - 1. Provide a comprehensive trail and sidewalk map for the entire site.
 - 2. Provide noise mitigation construction methods to reduce the internal noise level of the residential buildings to 45 dBA (Ldn) or lower.
- I. At time of Comprehensive Design Plan, the Transportation Planning staff shall make recommendations regarding significant internal access points along master plan roadways, along with intersections of those roadways within the site, for detailed adequacy study at the time of preliminary plan of subdivision.
- K. At time of preliminary plan of subdivision,
 - 1. The timing for the construction of the Pennsylvania Avenue/Westphalia Road Interchange shall be determined. The Applicant shall be required to build the interchange.
 - 2. If it is determined that potentially significant archaeological resources exist in the project area, the Applicant shall either provide a plan for evaluating the resource at the Phase II level, or avoiding and preserving the resource in place. The study shall be conducted according to Maryland Historical Trust (MHT) guidelines, *Standards and Guidelines for Archeological Investigations in Maryland* (Shaffer and Cole 1994), and a report shall be submitted according to the MHT guidelines and the American Antiquity or Society of Historical Archaeology style guide. Archeological excavations shall be spaced along a regular 20-meter or 50-foot grid and excavations should be clearly identified on a map to be submitted as part of the report.

- L. The development of this site should be designed to minimize impacts by making all road crossings perpendicular to the streams, by using existing road crossings to the extent possible and by minimizing the creation of ponds within the regulated areas.
 - M. The woodland conservation threshold for the site shall be 25 percent for the R-M portion of the site and 15 percent for the L-A-C portion. At a minimum, the woodland conservation threshold shall be met on-site.
 - N. All Tree Conservation Plans shall have the following note:

"Woodland cleared within the Patuxent River Primary Management Area Preservation Area shall be mitigated on-site at a ratio of 1:1."
 - O. No woodland conservation shall be provided on any residential lots.
 - P. Prior to issuance of any residential building permits, a certification by a professional engineer with competency in acoustical analysis shall be placed on the building plans stating that building shells of structures have been designed to reduce interior noise level to 45 dBA or less.
 - Q. The following note shall be placed on the Basic Plan for the subject property and the Final Subdivision Plat for any part of the property:

"Properties within this subdivision have been identified as possibly having noise levels that exceed 70 dBA Ldn due to military aircraft overflights. This level of noise is above the Maryland designated acceptable noise level for residential uses."
3. Before approval of the first Specific Design Plan, staff and Planning Board shall review and evaluate the buffers between this development project and the adjoining properties, to determine appropriate buffering between the subject property and existing development on adjacent properties.

SECTION 2. The Zoning Map for the Maryland-Washington Regional District in Prince George's County, Maryland, is hereby amended by rezoning the property which is the subject of Application No. A-9965-C from the R-A Zone to the R-M Zone.

SECTION 3. BE IT FURTHER ENACTED that this Ordinance shall become effective on the date of its enactment, and the rezoning approved herein shall become effective when the applicant accepts in writing the condition in Section 1.

SECTION 4. BE IT FURTHER ENACTED that this Ordinance shall become effective on the date of its enactment.

Enacted this 13th day of February, 2006, for initial approval, by the following vote:

In Favor: Council Members Dernoga, Bland, Campos, Dean, Exum, Knotts and Peters

Opposed:

Abstained:

Absent: Council Members Harrington and Hendershot

Vote: 7-0

COUNTY COUNCIL OF PRINCE GEORGE'S
COUNTY, MARYLAND, SITTING AS THE
DISTRICT COUNCIL FOR THAT PART OF
THE MARYLAND-WASHINGTON REGIONAL
DISTRICT IN PRINCE GEORGE'S
COUNTY, MARYLAND

BY: _____
Thomas E. Dernoga, Chairman

ATTEST:

Redis C. Floyd
Clerk of the Council

Case No.: A-9965-C

Applicant: DASC (Smith Home Farms)

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL

FINAL CONDITIONAL ZONING APPROVAL

AN ORDINANCE to incorporate the applicant's acceptance of conditional zoning and to grant final conditional zoning approval.

WHEREAS, the District Council in approving Application No. A-9965-C, to rezone the subject property from the R-A Zone to the R-M Zone, attached conditions; and

WHEREAS, the applicant has duly consented in writing to the conditions; and

WHEREAS, the District Council, having reviewed the application and the administrative record, deems it appropriate to accept the applicant's consent to the conditions and to approve final conditional rezoning.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED:

SECTION 1. Final conditional zoning approval of Application No. A-9965-C is hereby granted. The applicant's written acceptance of the conditions referred to above, at the time of initial conditional zoning approval, is hereby incorporated into this amendment of the Zoning Map for the Maryland-Washington Regional District in Prince George's County, Maryland.

SECTION 2. Use of the subject property as conditionally

reclassified shall be subject to all requirements in the applicable zones and to the requirements in the conditions referred to above. Failure to comply with any stated condition shall constitute a zoning violation and shall be sufficient grounds for the District Council to annul the rezoning approved herein; to revoke use and occupancy permits; to institute appropriate civil or criminal proceedings; or to take any other action deemed necessary to obtain compliance.

SECTION 3. This Ordinance is effective on March 9, 2006, the date of receipt of the applicant's acceptance of the conditions imposed.

COUNTY COUNCIL OF PRINCE GEORGE'S
COUNTY, MARYLAND, SITTING AS THE
DISTRICT COUNCIL FOR THAT PART OF
THE MARYLAND-WASHINGTON REGIONAL
DISTRICT IN PRINCE GEORGE'S COUNTY,
MARYLAND

BY: _____
Thomas E. Dernoga, Chairman

ATTEST:

Redis C. Floyd
Clerk of the Council