

RESOLUTION NO. 18 - 26

SEA OAKS VILLAGE RESIDENTIAL PLANNED COMMUNITY

A RESOLUTION OF THE COUNTY COMMISSIONERS OF WORCESTER COUNTY, MARYLAND, PURSUANT TO SECTION ZS 1-315 OF THE ZONING AND SUBDIVISION CONTROL ARTICLE OF THE CODE OF PUBLIC LOCAL LAWS OF WORCESTER COUNTY, MARYLAND, ESTABLISHING A RESIDENTIAL PLANNED COMMUNITY FLOATING ZONE ON A CERTAIN PARCEL OF LAND SHOWN ON TAX MAP 26 AS PARCEL 274, LOT 3A

WHEREAS, pursuant to Section ZS 1-315 of the Zoning and Subdivision Control Article of the Public Local Laws of Worcester County, Maryland, Sea Oaks Village, LLC, owner, have filed an application for the establishment of a Residential Planned Community (RPC) Floating Zone on approximately 40 acres of land shown on Tax Map 26 as Parcel 274, Lot 3A, located on the west side of MD Route 611 (Stephen Decatur Highway), north of Sinepuxent Road, in the Tenth Tax District of Worcester County, said residential planned community designated as Sea Oaks Village RPC; and

WHEREAS, the said application was referred to the Worcester County Planning Commission which gave the application a favorable recommendation during its review on November 1, 2018; and

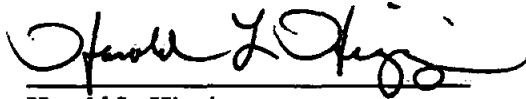
WHEREAS, subsequent to a public hearing held on November 20, 2018, following due notice and all procedures as required by Sections ZS 1-315, 1-113, and ZS 1-114 of the Zoning and Subdivision Control Article of the Public Local Laws of Worcester County, Maryland, the County Commissioners made the finding that the establishment of a Residential Planned Community Floating Zone on the subject property would be compatible with the Worcester County Comprehensive Plan and the Worcester County Zoning and Subdivision Control Article.

NOW, THEREFORE, BE IT RESOLVED by the County Commissioners of Worcester County, that the land partitioned by Sea Oaks Village, LLC, shown on Tax Map 26 as Parcel 274, Lot 3A and consisting of approximately 40 acres of land, is hereby approved and established as a Residential Planned Community Floating Zone in accordance with the provisions of §ZS 1-315 of the Worcester County Zoning and Subdivision Control Article.

BE IT FURTHER RESOLVED that the effective date of this Resolution shall be nunc pro tunc, November 20, 2018.

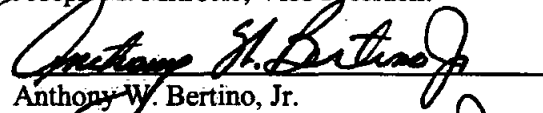
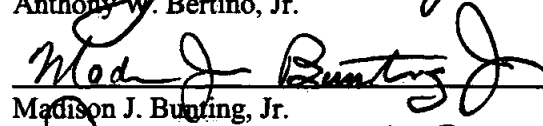
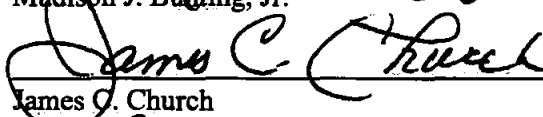
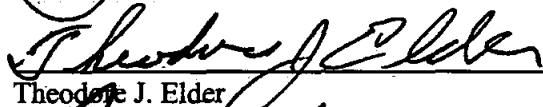
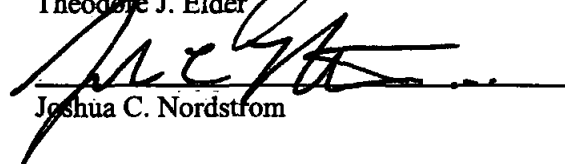
PASSED AND ADOPTED this 4th day of December, 2018.

ATTEST:



Harold L. Higgins
Chief Administrative Officer

COUNTY COMMISSIONERS OF
WORCESTER COUNTY, MARYLAND


Diana Purnell, President
Joseph M. Mitrecic, Vice President
Anthony W. Bertino, Jr.
Madison J. Bunting, Jr.
James C. Church
Theodore J. Elder
Joshua C. Nordstrom

IN THE MATTER OF THE REQUEST	*	
FOR ESTABLISHMENT OF A	*	
RESIDENTIAL PLANNED COMMUNITY	*	SEA OAKS VILLAGE
FLOATING ZONE	*	
SEA OAKS VILLAGE, LLC	*	
BERLIN, MARYLAND	*	

FINDINGS OF FACT

Subsequent to a public hearing held on November 20, 2018 and after a review of the entire record, all pertinent plans and all testimony, the Worcester County Commissioners hereby make the following findings as the County Commissioners' findings of fact pursuant to the provisions of §ZS 1-315(k)(2)A.4 of the Worcester County Zoning Ordinance. These findings are made relative to the request submitted by Sea Oaks Village, LLC for the establishment of a residential planned community (RPC) floating zone for the proposed RPC project known as Sea Oaks Village. Furthermore, these findings are made relative to the Step I plan as submitted as part of the original application.

Regarding the relationship of the RPC with the Comprehensive Plan, zoning regulations and other established policy guidelines: The County Commissioners find that the subject property is currently in the "Existing Developed Areas" and "Green Infrastructure" land use categories of the Comprehensive Plan. The zoning boundary line between the residential and commercial districts is a fairly accurate representation of the boundary of these land use categories. The Existing Developed Areas (EDA) category is located at the front of the parcel where the property is commercially zoned, and the residentially zoned, forested wetlands are within the Green Infrastructure category.

The EDA category recognizes the importance of maintaining the neighborhood character, and strongly encourages mixed used developments. The Residential Planned Community regulations allow for the flexibility of mixing residential and commercial land uses to encourage imaginative and environmentally sensitive development. When a RPC includes commercially zoned lands within its boundaries as is proposed for the Sea Oaks Village development, the developer is required to utilize a portion of that gross acreage for commercial services within the project (in this instance, 2.11 acres). This will provide services to the residents of the development, as well as those within the general neighborhood. This project includes the necessary components, but maintains the traditional zoning distinction between residential and commercial uses.

The residentially zoned portion of the property is within the Green Infrastructure land use category, with significant amounts of forested non-tidal wetlands. The Comprehensive Plan encourages the use of low impact development and cluster techniques

in order to reduce overall impervious surface and maintain wildlife habitat. The project is shown to retain large tracts of the sensitive forested wetland areas that are an important aspect of the Green Infrastructure land use category. There will continue to be connectivity of the open space areas to larger tracts of naturally forested areas on surrounding properties. While exempt from the Forest Conservation Law, protection of these areas by easement is strongly encouraged. Since portions of this open space are labeled as "reserved lands of the developer", any future development of this property will require review and approval of the open space requirements of the RPC regulations. Overall, this project recognizes the surrounding existing development, and as currently proposed provides for protection of the green infrastructure inherent in this property, in conformance with the Comprehensive Plan.

This property is located near the Ocean City Airport, and as such, is within one of the extended runway approaches. This project is therefore subject to review by the Maryland Aviation Administration (MAA) and Federal Aviation Administration (FAA). The Town of Ocean City reviewed the initial plans, shared them with the MAA and FAA, and determined that they had no objection to the original development as presented, which provided a higher residential density than shown on the current plans. The revised plans were sent to the Town of Ocean City staff, and they reaffirmed that there were no further comments based on the reduced scale of the project. However, they are still requiring the execution of an "Avigation" easement by the property owner, which is to be recorded in the Land Records of Worcester County.

Relative to consistency with the zoning regulations, the County Commissioners find that the project site is zoned R-3 Multi-Family Residential and C-1 Neighborhood Commercial Districts, the R-3 District being a zoning classification in which residential planned communities are permitted. The County Commissioners also find that the project as proposed complies with those requirements cited in §ZS 1-315 relative to maximum density, maximum limitation for residential uses, minimum requirement for common use open space and recreational areas, and types of permitted uses. Furthermore, the County Commissioners find that the submittals relative to the proposed project comply with the requirements cited in §ZS 1-315(k)(2)A.1.

Regarding the general location of the site and its relationship to existing land uses in the immediate vicinity: The County Commissioners find that the subject property is located on the westerly side of MD Route 611 (Stephen Decatur Highway), just north of Sinepuxent Road. They find that this area can best be characterized as a mix of residential and commercial land uses. The neighboring developments of Whispering Woods, Mystic Harbor, Deer Point, and Ocean Reef all consist of primarily single-family dwellings. While this development will consist of clusters of townhouse multi-family buildings, the development is more densely placed so as to protect the natural green infrastructure of the property. The R-3 Multi-Family Residential District encourages infill development and higher densities to encourage traditional neighborhood development while still utilizing conservation features in its design.

Relative to the commercial uses, there are many commercial developments along MD Route 611 (Stephen Decatur Highway) to serve the needs of this development. As part of the 2017 text amendment which permitted an increase in the percentage of commercially zoned lands within a RPC, at least 50% of the acreage zoned commercially

has to be utilized for such purpose within the development. Generally, those commercial uses are assumed to first serve the needs of the development in which they are located, though not exclusively. Allowing the developer the flexibility to rearrange the uses within the development will achieve the holistic goal of the RPC regulations. However as previously stated, this project includes the necessary components, but maintains the traditional zoning distinction between residential and commercial uses. In summary, the County Commissioners find that the proposed use as a townhouse and mixed use commercial development is consistent with existing land uses in the vicinity.

Regarding the availability and adequacy of public facilities, services and utilities to meet the needs of the RPC and the long-term implications the project would have on subsequent local development patterns and demand for public facilities and services: The County Commissioners find that the properties proposed to be developed into the Sea Oaks Village RPC are presently zoned R-3 Multi-Family Residential District and C-1 Neighborhood Commercial District. The surrounding undeveloped lands to the north are similarly zoned for residential and commercial uses. Based upon the R-3 Multi-Family Residential District zoning classification, townhouse residential development at a density of six dwelling units per one acre is permitted by zoning. Furthermore, residential planned communities of the same density are permitted by that zoning district. Thus, the proposed density of 1.65 dwelling units per acre was anticipated for this immediate vicinity. The townhouse dwelling units and mixed use commercial development are consistent with the surrounding residential and commercial developments located within this area. In addition, the development proposes to cluster the residential dwelling units in an effort to preserve the existing forested areas and wetlands, resulting in approximately 79.8% of the lands being shown as open space which is encouraged by the Comprehensive Plan. However, the concept plan indicates that there are also reserved lands of the developer, of an undisclosed amount that has also been included in the open space calculation. For those areas that are required to be set aside to meet the active and passive recreation requirements, they shall be dedicated, developed and perpetually protected as outlined in §ZS 1-315(d)(2)B.5(iv). Therefore, the County Commissioners conclude that the proposed Sea Oaks Village RPC will not have an adverse long-term implication on development patterns in the area.

The applicants have indicated that fee simple lots will be proposed for the townhouse development. All roads within the development shall be constructed to one of the RPC road standards and will be reviewed and approved by the County Roads Division of the Department of Public Works. Should the applicant propose approved private roads, they should include the RPC Approved Private Road Standard WO 200-06 on future plans. Approved private roads will require review and approval by the County Commissioners under the provisions of §ZS 1-123 Approved private roads.

Relative to certain public facilities, according to the applicants' written narrative, the developer is requesting that the townhouse units and commercial development be served by public water and sewer via connection to the Mystic Harbour service area. At their meeting of Tuesday, September 18, 2018, the County Commissioners reviewed a request for allocation of EDUs for the Sea Oaks Village RPC. The developer requested a total of 63 EDUs, with 59 EDUs being requested for the townhouse (residential) development, and

4 EDUs being requested for the commercial component (originally consisting of 24,000 square feet of retail/ office uses). According to the staff report prepared by Kelly Shannahan, AICP on behalf of the Worcester County Sewer Committee dated September 11, 2018 this property currently has a designation of Sewer Service Category S-3 (service within 6 to 10 years) in the Mystic Sewer Planning Area. At that meeting, the County Commissioners approved the request for the 63 EDUs, subject to six conditions of approval. Three of the conditions reflect the required amendment from a designation of S-3 to S-1 via a Water and Sewerage Plan Amendment. At their meeting of Thursday, October 4, 2018, the Planning Commission reviewed a request for recommendation of the Water and Sewerage Plan Amendment from a designation of S-3 to S-1, and forwarded a favorable recommendation to the County Commissioners. This was in turn approved by the County Commissioners at the November 20, 2018 meeting. The remaining three conditions involve the review of the revised Step I concept plan by the Technical Review Committee, Planning Commission and County Commissioners by November 20, 2018.

In consideration of their review, the County Commissioners find that there will be no negative impacts to public facilities and services resulting from the proposed RPC, provided that the property owner is able to acquire sufficient sewer EDUs from the Mystic Harbor Sanitary District to serve any proposed use(s) on the petitioned area.

Regarding the consistency of the RPC with the general design standards as contained in Subsections (j)(1) through (j)(5): The County Commissioners find that the development has taken steps to protect the sensitive areas on the subject property, such as the large tracts of existing forested areas and non-tidal wetlands. The open space provided well exceeds the minimum required under the RPC regulations. There will be minimal impact to the existing forested area, wetlands and associated buffer. Given the significant amount of forested non-tidal wetlands being protected, the project may be exempt from the Forest Conservation Law. In addition, this project is not subject to the Atlantic Coastal Bays Critical Area regulations.

Relative to the general layout and clustering of the development, the County Commissioners find that the proposed RPC consists of clustered townhouse buildings, minimizing land impacts, especially to environmentally sensitive lands, while maximizing contiguous open spaces. The traffic circulation patterns promote connectivity within the proposed development, and limit access to the public road system to one commercial entrance that will be designed to meet the State Highway Administration (SHA) standards.

Access to the available commercial development without accessing the public road system will be a convenience for the residential unit owners. Consideration has been given to sidewalks for pedestrian access to and from the commercial areas which will promote walkability. A note has been added to the concept plan indicating interconnecting sidewalks will be shown in more detail on the Step II plans. Overall, the County Commissioners find that the RPC has demonstrated consistency with the general design standards contained in §ZS 1-315(j)(1) through (j)(5).

Regarding the relationship of the RPC's proposed construction schedule, including any phasing, and the demand for and timely provision of public facilities, services and

utilities necessary to serve the project: The County Commissioners find that within the narrative, the applicant states that all water, sewer and road infrastructure for both the commercial and residential portions of the development will be constructed within the first phase. Construction of the residential portion of the development will occur based on market demand, with a temporary sales office to be placed within the commercial area. The recreational open space will be prorated based on the number of units constructed within the phases. Since there are very minimal active recreational facilities (a pool and several playgrounds), the Zoning Division strongly encouraged the Planning Commission to consider how the passive and active recreation will be phased in during their Step II review, to ensure that adequate facilities are being provided as the project is developed, and are not an afterthought as the last improvements to be made. The Planning Commission agreed that this should be further addressed in the Step II process.

Regarding the capacity of the existing road network to provide suitable vehicular access for the RPC, the appropriateness of any existing or proposed improvements to the transportation network, the adequacy of the pedestrian and bicycle circulation, and the proposed means of connectivity of the project to surrounding residential, commercial and recreational development and uses: The County Commissioners find that connectivity to main transportation networks are another feature of the proposed development that are consistent with the Comprehensive Plan. Access will be via a single commercial entrance onto MD Route 611 (Stephen Decatur Highway) for both the commercial uses as well as the residential uses, therefore limiting multiple points of access. A Traffic Impact Analysis was conducted by The Traffic Group during the first Step I review (2017) to evaluate the existing and proposed levels of service based on the previous development plans which had a higher number of residential units. The traffic study also assumed that the entire 24,000 square feet of commercial development would be retail in nature according to many of the exhibits. This has been scaled back to 10,000 square feet of retail, 2,570 square feet of office and a 12,000 square foot contractor shop building. Based on the original study, all intersections were operating or projected to operate at a Level of Service A or B during peak travel times. The traffic study also determined that a left turn lane from the northbound travel lanes of MD Route 611 (Stephen Decatur Highway) is warranted.

Relative to the adequacy of pedestrian and bicycle circulation, as stated above, consideration has been given to sidewalks for pedestrian access to and from the commercial areas which will promote walkability. A note has been added to the concept plan indicating interconnecting sidewalks will be shown in more detail on the Step II plans.

Based on the traffic analysis and notes provided, the County Commissioners conclude that the access point to MD Route 611 (Stephen Decatur Highway) will not have a significantly adverse impact on traffic patterns in the area. The County Commissioners also conclude that the State Highway Administration is ensuring that all public road improvements and entrance design requirements are being met.

Regarding the relationship of the proposed method of wastewater disposal and provision of potable water service with the goals, objectives and recommendations of the

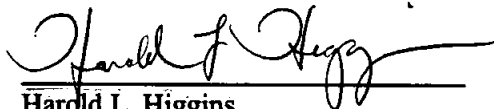
Comprehensive Plan, Comprehensive Water and Sewer Plan, and other established policy guidelines: The County Commissioners find that the Comprehensive Plan notes that "[s]ewer service...is one of the county's most powerful growth management tools" (Chapter 6). As stated within the Water and Sewerage Plan Amendment transmittal, dated September 28, 2018, the requested sewer service for this project "does not require the expansion of the treatment facilities capability and can be adequately handled in the recently upgraded Mystic Harbour WWTP." The Water and Wastewater Division of the Department of Public Works has noted in their TRC comments that an evaluation of Pump Station D will have to be conducted to determine whether any upgrades to the pump station will be needed to accommodate the flow from this project.

The County Commissioners find that, based on the approvals granted to the developer thus far for public water and sewer, provisions for public facilities have been made to serve this development in the Mystic Harbour service area, provided that the property owner is able to acquire sufficient sewer EDUs from the Mystic Harbor Sanitary District to serve any proposed use(s) on the petitioned area.

Based upon their review, the County Commissioners hereby approve the request for the establishment of the residential planned community floating zone for the Sea Oaks Village RPC.

Adopted as of this 20th day of November, 2018. Reduced to writing and signed this 4th day of December, 2018.

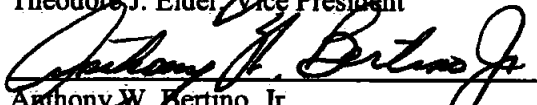
ATTEST:


Harold L. Higgins
Chief Administrative Officer

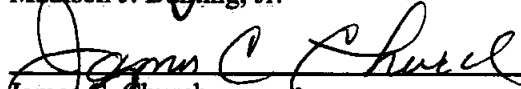
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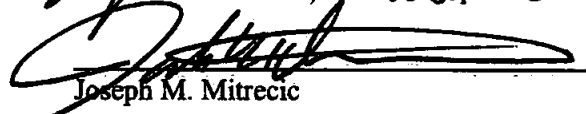

Anthony W. Bertino, Jr.


Madison J. Bunting, Jr.


James C. Church


McCall W. Leekfaw, Jr.


Joshua C. Nordstrom


Joseph M. Mitrecic

APPLICANT'S UNCONDITIONAL ACCEPTANCE OF APPROVAL

I, _____, managing member, on behalf of Sea Oaks Village, LLC, applicant, hereby accept the Worcester County Commissioners' approval with respect to my application for establishment of the Residential Planned Community Floating Zone for Sea Oaks Village RPC, including any and all conditions of approval set forth in Residential Planned Community Resolution No. 18:_____ dated _____.

_____, managing partner, on behalf of Sea Oaks, LLC

Witness