

**Planning & Zoning Meeting
Public Hearing Minutes
June 30, 2008**

Attendance: Betty Thompson, Matthew Oberholtzer, Evelyn Hansen, Commissioner James Hansen, Town Attorney Keith Baynes, Town Engineer Chris Rogers and Planning & Zoning Coordinator Dianna Battaglia.

Public Hearing called to order: 6:45 p.m.

File No. TA2008-01 – Request for text amendments to permit multi-family apartments in the Residential-Marine District (RM) with conditions and to revise the maximum height of all multi-family apartments in all zones to provide consistency with the height requirement in other sections of the Code. Applicant: Town of Perryville.

Mr. Oberholtzer read the legal notice and asked Mr. Chris Rogers to give an overview of the request.

Mr. Rogers summarized the proposed amendments to the Town Zoning Ordinance. He stated the draft ordinance reflects changes to the Zoning Ordinance to permit Apartments with conditions in the RM zone. We also propose to revise Section 205.3.f. This Section currently allows apartments to go to 45 feet in height while the Schedule of Zone Regulations says 40 feet. It was 40 feet in the previous ordinance. We have also *added* a 40 foot rear yard in the RM zone for apartments which does not currently exist in the R-3.

A copy of the draft proposal for Ordinance No.: 2008-2 is as follows for reference:

ORDINANCE NO.: 2008-2

MAYOR AND COMMISSIONERS OF THE TOWN OF PERRYVILLE

An Ordinance amending portions of Chapter 84 of the Code of Perryville, entitled Comprehensive Zoning Ordinance and Maps of the Town of Perryville, to permit multi-family apartments in the Residential-Marine District (RM) with conditions and to revise the maximum height of all multi-family apartments in all zones to provide consistency with the height requirement in other sections of the Code.

WHEREAS, pursuant to Article 66B of the Annotated Code of Maryland, the Mayor and Commissioners of the Town of Perryville have the authority to enact a zoning ordinance and zoning maps to provide for land use regulation within the Town of Perryville; and,

WHEREAS, by Ordinance 2005-1 adopted January 20, 2005 the Mayor and Commissioners of the Town of Perryville adopted a new Zoning Ordinance and Zoning Maps to implement the approved Comprehensive Plan; and,

WHEREAS, the Mayor and Commissioners of the Town of Perryville wish to amend the above Ordinance to include a definition of condominium and to permit multi-family apartments in the Residential-Marine District (RM).

NOW, THEREFORE, BE IT ORDAINED AND ESTABLISHED by the Mayor and Commissioners of the Town of Perryville that the Town of Perryville Zoning Ordinance is hereby amended as follows:

1. Subsection 1.310 of Section 161 of Article X, Table of Permissible Uses, is hereby amended to permit multi-family apartments in the RM zone with conditions (PC).
2. That Subsection 3 of Section 205, entitled Residential Structures – Single-Family Attached and Multiple Units, is hereby amended as follows:
 - (a) The first sentence of Subsection 3 of Section 205 is hereby amended to read as follows: “Apartments and other multi-family development residential units shall be permitted in the R-3, RM and PUD districts, with conditions, and may be permitted as a special exception in the TC district provided:”.
 - (b) Subsection 3 d of Section 205 (Setbacks) is hereby amended to include new subsection 3 d (6) RM District as read as follows: “(6) RM District – The minimum lot and yard requirements are set forth in Section 238, Schedule of Zone Regulations.”
 - (c) Subsection 3f of Section 205 is hereby amended by deleting the existing language as follows: "Building height. The Building height shall not exceed forty-five (45) feet." and inserting in lieu thereof the following: “Building height. The building height requirements are set forth in Section 238, Schedule of Zone Regulations.”

That in all other respects Subsection 3 of Section 205 remains unchanged and in full force and effect.

3. Section 238 of Article XII, Schedule of Zone Regulations, is amended to include under the subheading RM Residential Marine, the subheading multi-family apartments, with the following minimum lot, yard and height requirements:

Total = 40,000, Per Family = 3,400, Width (feet) 125, Depth (feet) 100, Front (feet) 25, Side (feet) 20, Aggregate (feet) 40, Rear (feet) 40, Height (feet) 40, Stories --.

BE IT FURTHER ORDAINED AND RESOLVED that in all other respects Chapter 84 of the Code of Perryville, entitled Comprehensive Zoning Ordinance and Maps of the Town of Perryville, remains unchanged and in full force and effect; and,

BE IT FURTHER ORDAINED AND RESOLVED that this Ordinance shall become effective upon the expiration of twenty (20) calendar days following approval by the Mayor and Commissioners.

Mr. Oberholtzer asked if there were any questions from the public.

Mr. Joseph Snee Jr., attorney with Gessner, Snee, Mahoney & Lutche, P.A., Bel Air, Maryland, spoke on behalf of Robert Wilson of DFW, LLC, property owner of Perryville Yacht Club Phase II. Mr. Snee proposed some suggestions for the amendments to Ordinance No.: 2008-2. Mr. Snee's handout summarizes his proposed changes and are attached hereto for reference.

Mr. Rogers noted that Mr. Snee's proposed changes include a 10 foot rear yard and 55 foot maximum height.

Mr. Wilson, of DFW, LLC, reiterated that the building will be located in the floodplain and the proposed height of 40' could not be met since the project is to have ground level parking, 3 levels of living space, and up to roof peak.

Ms. Hansen replied that 55' is too high.

Mr. Wilson stated that he believes that the existing Owens Landing buildings are 55 feet high.

Mr. Rogers stated he would need to verify the height of existing buildings. He also stated the existing buildings were allowed under the old zoning regulations, which determined structure height differently.

Ms. Thompson stated that Owens Landing does not have parking under it.

Mr. Rogers replied in agreement.

Mr. Tom Close responded that the next buildings will be right in line of existing structures.

Mr. Wilson stated that the new buildings will have a low pitched roof.

Mr. Oberholtzer asked if there were any other comments from the planning department.

Ms. Hansen stated she would propose to table the discussion until research was done on the height of existing buildings.

The amendments to Residential Marine district is scheduled to be introduced to the Mayor and Commissioners at their meeting scheduled for Tuesday, July 1, 2008.

Mr. Oberholtzer closed the public hearing **at 7:05 p.m.**

MOTION was made by Evelyn Hansen and seconded by Betty Thompson to table discussion of RM amendment pending information being provided on the height of the existing buildings at Owens Landing until the next scheduled meeting on Monday, July 21. **All in Favor. Motion Carried.**

Mr. Rogers gave a summary of the recent R-2 Zoning text amendment discussion with the Planning Commission on 6/16/08.

The issue of Townhouses being permitted in the R2 Zone started with the recent proposal of townhouses on the Easton Diocese property (Honaker Woods) at the end of Honaker Street. The issues are:

- townhouses are permitted with conditions in the R2 zone in the Table of Permissible Uses.
- Section 205.2. clearly mentions the R2 zone when describing those conditions;
- However, the Schedule of Zone Regulations, Section 238 (table that provides for setbacks, lot sizes, etc.,) does not have a category for townhouses in the R2 Zone.

When reviewing the Diocese Plan, the applicant was told to use the R3 requirements for setbacks, etc., and our review letter of 4/21/08 deferred to the Town Attorney on whether or not the Schedule of Zone Regulations would need to be amended to provide for Townhouse requirements in the R2 Zone.

Upon further review of the R2 Townhouse issue by URS, it may not be a straightforward issue. That is, instead of amending the Schedule of Zone Regulations to provide for Townhouses in the R2 Zone, it may be appropriate to eliminate the other references to townhouses in the R2 Zone, thus making townhouses not permitted. The reasons are:

1. Townhouses were not previously permitted in the R2 zone in the previous zoning ordinance.
2. All of the R2 zones are generally single family detached house neighborhoods.

In discussing the above with the Planning Commission, we stated that we would look at the Zoning Ordinance to determine if there would be any negative repercussions if we eliminated townhouses in the R2 zone. If the Zoning Ordinance is amended to not permit townhouses in the R2 Zone, townhouses would not be permitted in the Woodlands MUD (See section 113.1.a of the Zoning Ordinance).

Mr. Rogers stated that the options are generally to not do any amendments in which case there will be no specific lot size, setback, etc., requirements in the Schedule of Zone Regulations, amend the Ordinance to eliminate townhouses in the R2 zone or amend the Ordinance to keep townhouses in the R2 zone but with medium density requirements.

Mr. Amato, of Perryville, stated he is concerned with changes regarding R2 district behind Keesey Lane. He stated that he understands the developer wants to build townhouses and is concerned with how it would impact us financially.

Mr. Rogers stated the next step would be town staff would prepare the wording for changes to the amendment and it would need to be reviewed by the public before any changes were made.

Mr. Amato asked how old the current zoning is.

Mr. Rogers stated April 2005.

Ms. Thompson brought up environmental issues and critical areas to consider, and the existing project Frenchtown Crossing with townhouses.

Mr. Rogers reminded the members to not consider specific projects, but to look at the zoning requirements.

Mr. Amato stated he wonders what impact the cascading effect on property owners will be and hopes the board will consider all aspects.

Mr. Oberholtzer asked if there were any other comments from the floor regarding R2 with no replies.

Ms. Thompson asked if the Honaker Woods developer could apply for PUD (Planned Unit Developments).

Mr. Rogers said would prefer to review PUD in R2 district for all aspects of the code before giving an answer to that question.

It was decided to table the discussion of changes to R2 until the next scheduled meeting when all members are present and have a general discussion.

Motion was made by Matthew Oberholtzer and seconded by Evelyn Hansen to adjourn the meeting at 7:25 p.m. **All in Favor; Motion Carried.**

Respectfully Submitted,

Dianna Battaglia
Planning & Zoning Coordinator