

IN THE MATTER OF * **BEFORE THE**
THE APPLICATION OF SYLVESTER * **COUNTY COMMISSIONERS OF**
FARMS, INC. FOR THE REZOING * **QUEEN ANNE’S COUNTY**
OF A 55.4 AC. +/- PORTION OF TAX * **MAP 69, PARCEL 14 FROM** * **AGRICULTURAL (AG) TO SUBURBAN**
COMMERCIAL (SC) *

FINDINGS AND DECISION

A Petition was filed in accordance with Article XXIX of Chapter 18 of the Code of Public Local Laws of Queen Anne’s County (“Code”) by Sylvester Farms, Inc. (“Petitioner” or “Sylvester”) the owner of property located at the intersection of Md. Rte. 404 and 309, Queen Anne, Maryland containing 55.4 acres of land, more or less (a portion of Parcel 14 of Queen Anne’s County Tax Map 69) (“the Property”). As provided in Section 18:1-216 and 218 of the Code, Sylvester has requested as part of the Comprehensive Rezoning process that the Property be rezoned from Agricultural (AG) to Suburban Commercial (SC).

The Planning Commission held a public hearing on the request (as well as many other Comprehensive Rezoning requests) on February 10, 2011 and made an unfavorable recommendation in its March 10, 2011 report to the County Commissioners stating that the request was “inconsistent with the Comprehensive Plan and the Land Use Map” but noting their belief that “the area deserves further study.” The County Commissioners conducted a hearing on May 24, 2011 and as part of their decision making process have considered and evaluated the Planning Commission recommendations and the record of its proceedings, the Queen Anne’s County 2010 Comprehensive Plan, the proposed amendment, Chapter 18 of the Code, Article 66B of the Annotated Code of Maryland and the testimony and written record of the May 24, 2011 hearing.

The Property is located at the intersection of Maryland Route 404 and 309 and has road frontage on both roads. The property across Route 309 is zoned Countryside (CS) but is used as a National Guard Armory with a substantial structure and parking areas. There are a number of properties on the other side of Route 404 which are zoned and/or used for commercial purposes including two convenience stores and gas stations, a chiropractic office, a “strip-type” office and retail center and a tractor sales and service establishment. A vacant parcel to the south of one of the convenience stores is zoned Suburban Industrial (SI). The Property is in close proximity to the municipal limits of the Town of Queen Anne.

The Petitioner has requested that a 55.4 acre +/- portion of its property be designated Suburban Commercial (SC). The Suburban Commercial District “is intended to provide primarily for a variety of commercial uses and limited light

industrial uses in predominately rural or suburban areas not served by public sewer” (Code §18:1-21). The Property is clearly in a “predominately rural or suburban area not served by public sewer.” The portion of Petitioner’s property sought to be designated SC would be immediately adjacent (across Rt. 404) to other SC lands and adjacent (across Rt. 309) from the Maryland National Guard Army. The properties currently zoned SC in the area are not in a Growth Area, nor are they serviced by or in the planning area for public utilities such as sewer and water. The SC zone is similar to other zoning districts in the County such as Light Industrial Highway Service (LIHS) and Suburban Industrial (SI) Districts in that these districts are primarily located outside of Growth Areas and permit business and commercial development in areas where public water and/or sewer is not available.

With that background and based on the evidence presented and the testimony received, the County Commissioners do hereby make the following findings:

1. The Queen Anne’s County 2010 Comprehensive Plan, (“Comprehensive Plan”) Section 6, Economic Development & Tourism Element, has numerous goals, principles, policies and strategies to “create a balance between the need of job creation and expansion of the tax base to support County residents and the responsibility for protecting the natural environment.” Section 6.2.2. specifically calls for the “increase in property tax base by increasing the number of commercial properties” and Section 6.4.2 proposes the County provide “sufficient land and incentives to grow economic opportunities that balance the County’s tax base including: tourism, business and employment center expansion. We believe that approving the rezoning request is consistent with and can help achieve these stated goals, policies and strategies (as well as numerous other such goals and policies not specifically referenced herein) of the Comprehensive Plan. It is noted that the 2010 Comprehensive Plan (see Section 5.4) envisions the development of a community plan for the Town of Queen Anne but no such plan has been formulated or adopted. It is highly likely that the Property will be included within the Planning Area for the municipality once a Community Plan is developed.

2. As best we understand it, the Planning Commission did not make a favorable recommendation for the rezoning because the area was not designated a Growth Area in the Comprehensive Plan and the rezoning would be inconsistent with the land use map. The SC designation (and other similar districts), however, is currently applied to properties in the County that are not in Growth Areas (some of which are not identified for rural business development on the land use maps contained in the Comprehensive Plan) but where rural business development and LIHS, SC or SI zoning exists nonetheless. Applying the SC zoning designation to the subject Property is consistent with those practices. We do not believe the Comprehensive Plan prohibits the rezoning of this Property given the current concentration of institutional, industrial, and commercial zoning and uses in the area.

3. The SC district, like the LIHS and SI districts is applied throughout the County principally in areas not designated as Growth Areas, and without planned public sewer and water. For example, the Kingstown area located in the northern section of the County contains many acres (both improved and vacant) of land zoned SC, some identified as such on the land use map and some not. The Kingstown area is also not a Growth Area, but provides services to the region and potential for further expansion of business development. The Property is located in an area comprised largely of SC and SI zoning and a hybrid of many commercial, institutional and industrial uses as noted previously. It is not inconsistent with the Comprehensive Plan to zone the Property so as to allow business development similar to those adjacent and nearby properties. We find approving the SC zone on the property is consistent with the development patterns and land uses in the area, and that the SC zoned area will have development density and intensity similar to other zones adjacent to, or near that area.

4. The Property is currently in agricultural use. We believe the development of the property under current laws and regulations, including stormwater management techniques, Environmental Site Design and other criteria and regulations may actually improve run-off from, and the environmental impacts of, an agricultural operation.

5. Zoning the Property as requested will further the economic development potential of the area.

6. The State Highway Administration is currently undertaking the dualization of a large portion of Maryland Route 404 and such road, as improved, should be more than adequate to address any traffic concerns arising from the development of the Property.

7. We further find that the rezoning of the Property as requested is consistent with the intent of Article 66B of the Annotated Code of Maryland, specifically Section 4.03, as follows:

(a)(1) In accordance with the Plan.

Response: See Findings 1 and 2 above.

(a)(2) With reasonable consideration for, among other things, the character of the district and its suitability for particular uses:

Response: We believe that uses allowed in the SC zone are suitable, consistent and complimentary with those in the area, as identified above.

(a)(3) With view to conserving the value of building and encouraging orderly development and the most appropriate use of land.

Response: For the reasons discussed above, the rezoning of the Property will conserve and enhance building values in the area. Furthermore,

given the land use patterns in the area, the proposed zoning encourages orderly development and is an appropriate use of the Property.

(b) The regulations are designed to:

(b)(1) Control congestion in streets;

Response: See Finding 6.

(b)(2) Secure Public Safety;

Response: See Finding 6.

(b)(3) Promote the health, safety and general welfare;

Response: The proposed zoning will promote the health, safety and general welfare of the County in that it will stimulate economic growth, help create jobs and increase the County nonresidential tax base.

(b)(4) Provide adequate light and air;

Response: Regulations regarding design, environmental controls and other provisions which concern providing “adequate light and air” remain unchanged by rezoning of the Property.

(b)(5) Promote the conservation of natural resources;

Response: The Property is primarily farm land and is not located within the Chesapeake Bay Critical Area. All natural resource protection regulations applicable in the County such as stormwater management, natural resource protection, forest conservation, landscaping and buffering, mandatory open space, architecture and environmental design remain unchanged by this rezoning and shall apply to the Property.

(b)(6) Prevent environmental pollution and prevent undue concentration of pollution;

Response: See Response to (b)(5) and Finding 4.

(b)(7) Facilitate the adequate provisions for transportation, water, sewerage, schools, recreation, parks, and other public requirements.

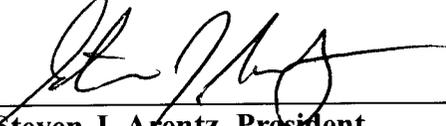
Response: Local laws concerning adequacy of public facilities including transportation, sewer, water, school, parks, emergency services and other facilities will remain unchanged by the rezoning and will apply to development of the Property. Furthermore we believe that creating the opportunities for economic development as described in detail herein will generate greater tax revenue to help the County fund public facilities such as schools, for which eventual development of the Property has little or no burden.

FOR THE REASONS SET FORTH HEREIN, the County Commissioners hereby approve Comprehensive Zoning Request No. 23, Tax Map 69, part of Parcel

14, 55.4 Ac. +/- from Agricultural (AG) to Suburban Commercial (SC) as detailed in the Petition.

ATTEST:

THE COUNTY COMMISSIONERS OF
QUEEN ANNE'S COUNTY



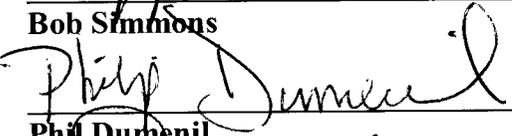
Steven J. Arentz, President

opposed

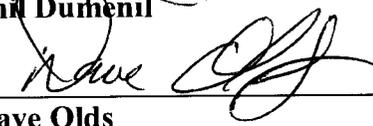
David L. Dunmyer

opposed

Bob Simmons



Phil Durhenil



Dave Olds



Mary C. Houck

Date: 11/8/11, 2011