

CITY COUNCIL MEETING

May 9, 2016

BUSINESS: CONSIDERATION OF THE APPLICATION OF PORT OF ST. MARYS, LLC TO AMEND THE CITY OF ST. MARYS, GEORGIA ZONING ORDINANCE BY ADOPTING THE PORT OF ST. MARYS INDUSTRIAL AND LOGISTICS CENTER PLANNED DEVELOPMENT DISTRICT TEXT, J-25467.0001

PURPOSE: Consider the application of Port of St. Marys, LLC to amend the City of St. Marys, Georgia Zoning Ordinance by adopting the Port of St. Marys Industrial & Logistics Center Planned Development District Text, J-25467.001 regulating the use of property known as the “Old Gilman Mill Site”.

RECOMMENDATION: Planning Commission & Staff recommends approval of the Ordinance for the rezone to Planned Development Industrial, Mixed-Use and Conservation Area, with the Special Conditions attached.

HISTORY/ANALYSIS: Old Weed & Ready Plantation, LLC submitted a letter to the City of St. Marys on November 17, 2015 authorizing Port of St. Marys, LLC and its designated agents, permission to apply for a rezoning request, site plan approval or related applications. The Port of St. Marys, LLC submitted a request to rezone Tax Parcel 149 004, previously known as Durango Paper Mill, located on Osborne Street and approval of the Planned Development Zoning Master Plan. The present zoning for this parcel is PD-Mixed Use. The applicant is requesting to rezone the parcel to PD-Industrial to include Industrial, Logistics, Marine Facilities and Commercial Uses. The total property is approximately 722 acres consisting of approximately 557 acres of combined uplands and freshwater wetlands, and approximately 165 acres of salt marsh.

The intent of the Port of St. Marys Industrial & Logistics Center Planned Development District is to create a rail served industrial, manufacturing and maritime facility on the former Gilman/Durango Paper Mill site. The proposed Planned Development will promote economic development along with manufacturing and logistic jobs for St. Marys and Camden County. The Port of St. Marys Industrial & Logistics Center Planned Development District is anticipated to be constructed in multiple phases over a period of approximately 15 years. The PD Text and Zoning Master plan are non-specific in regard to the final location of land uses to allow flexibility in the future.

This plan includes zoning for manufacturing with a barge dock and ship berths, cargo handling and rail intermodal facilities, as well as, shore based infrastructure. Initial plans indicate approximately 3000 linear feet of barge & vessel berthing is attainable on the North River. Proposed facilities are subject to Georgia Department of Natural Resources and USACE permitting. The marine facilities will enable industrial operations to access the North River. St. Marys River, Intracoastal Waterway, and the Atlantic Ocean and serve as a key component to the vision and success of the project.

Due to the anticipated size of the industry and the amount of land impacted, the rezone application and development plans submitted on November 3, 2015 were forwarded to the Coastal Regional Commission of Georgia as part of a Development of Regional Impact (DRI) application (Exhibit I)

forwarded for their review. The DRI Findings Report (Exhibit J), submitted on December 1, 2015, stated the project is consistent with the St. Marys Vision, Comprehensive Plan Goals and Policies. The Regional Future Development Map illustrates this area as Developing and Developed which is consistent with the proposed development. The DRI report provided analysis showing consistency between the proposed DRI plan and the Guiding Principles in the Regional Plan.

The applicant held two open houses to provide information and answer questions with regard to the proposed rezoning for the old Durango Mill site. Nearly 100 citizens to the first meeting held on Saturday, December 5, 2015 at the St. Marys Elementary School. There were about 75 citizens present at second meeting which was held on December 15, 2015 at the St. Marys Elementary School also hosted by Chris Ragguci of the Port of St. Marys, LLC.

The Planning Commission held Public Hearings on February 18 & 25, 2016, pursuant to Section 110-185(a) of the St. Marys Municipal Code and received 49 letters or e-mails, along with nearly five hours of public comment and testimony, on public record, which was closed at 5:00 PM on March 7th, 2016. A duly noticed Special Called meeting was held on March 14th, whereupon the Planning Commission unanimously moved to approve, with Conditions the Rezone application to PD Port Industrial, PD Mixed Use and PD Conservation Area, as identified on "Exhibit A."

The City Council held a duly noticed Public Meeting on April 4, 2016 and continued until date certain. Special Conditions were proposed at that meeting and Revised Special Conditions are attached. Also attached, a letter of recommendation from Frank E. Jenkins, III, of Jenkins & Bowen, Attorneys at Law, upon request of the Council, as well as, the Wetlands Jurisdictional Determination provided by the Army Corps, with cover letter from the applicant's team and the Revised Height Overlay District map, "Exhibit – C".

These materials, along with the Planning Commission's Recommendations provide ample evidence for a rezone of the property to the Planned Development Port of St. Marys Industrial and Logistics PD. The Special Conditions provide protections well beyond a General Industrial zoning request and provisions are provided through Special Use Permitting for local control of industries who wish to exceed zoning requirements.

ATTACHMENTS: City of St. Marys Planning Commission *Recommendations; Revised Special Conditions, "Exhibit H- Explained"; Revised Special Conditions, "Exhibit H- Clean Version"; Letter from Frank E. Jenkins, III, review of Special Conditions, on behalf of the City; Jurisdictional Wetlands Determination, with Cover Letter; Revised "Exhibit- C, Height Overlay District".*

Department Director: _____
Jeffrey S. Adams, PhD, Community Development Director

City Manager: _____
John J. Holman, City Manager



CITY OF ST. MARYS

418 OSBORNE STREET
ST. MARYS, GEORGIA 31558

COMMUNITY DEVELOPMENT DEPARTMENT
TELEPHONE: 912-510-4032 FAX: 912-510-4014

CITY OF ST. MARYS PLANNED DEVELOPMENT MASTER PLAN & REZONE REQUEST PORT OF ST. MARYS, LLC

APPLICANT: Port of St. Marys, LLC
31 Hylan Blvd., 14th Floor
Staten Island, NY 10305

Staff Report: Planning Commission Hearing
Date: March 14, 2016
By: J.S. Adams, PhD

PLANNING COMMISSION RECOMMENDATION

REQUESTED ACTION: Old Weed & Ready Plantation, LLC submitted a letter to the City of St. Marys on November 17, 2015 authorizing Port of St. Marys, LLC and its designated agents, permission to apply for a rezoning request, site plan approval or related applications (Exhibit H). The Port of St. Marys, LLC submitted a request to rezone Tax Parcel 149 004, previously known as Durango Paper Mill, located on Osborne Street and approval of the Planned Development Zoning Master Plan (Exhibit 2). The present zoning for this parcel is PD-Mixed Use. The applicant is requesting to rezone the parcel to PD-Industrial to include Industrial, Logistics, Marine Facilities and Commercial Uses. The total property is approximately 722 acres consisting of approximately 557 acres of combined uplands and freshwater wetlands, and approximately 165 acres of salt marsh.

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I. GENERAL BACKGROUND, NOTICE AND EXHIBITS

1. This rezone was initiated by the applicant, Port of St. Marys, LLC on November 3, 2015, pursuant to Article VII Amendments of the Zoning Regulations Section 110-182.
2. **NOTICE** of the February 18, 2016 & February 25, 2016 hearing before the Planning Commission was provided pursuant to Sec. 110-185 (a), St. Marys Municipal Code as follows:
 - A. Published in the Tribune & Georgian on January 28, 2016 & February 4, 2016;
 - B. Sent to all property owners abutting the external boundaries of the rezone area on January 25, 2016;
 - C. Sent to all Camden County political subdivisions on January 7, 2016;
 - D. Posted on the subject property on January 20, 2016, as evidenced by affidavit in file; and
 - E. Posted at City Hall and on the City of St. Marys Website www.stmarysga.gov on January 08, 2016.

The Public Hearings were called to order at 6:00 PM February 18 & 25, 2016, by Chairman Johnson and the Public Hearing and receipt of Public Comment was adjourned at 5:00PM on March 7th, 2016.

A duly noticed special called meeting was called for 5:30 PM by Chairman Johnson and recommendation reached on March 14, 2016.

3. **EXHIBITS** attached to this report include:

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A - Exhibits from Application

- A Port of St. Marys Master Plan**
- B Boundary Survey, Legal Description and Adjacent Property Owners List**
- C Height Overlay District**
- D 2013 Aerial Photograph**
- E Topographic Map**
- F Water and Sewer Demands**
- G Jurisdictional Wetlands Survey**
- H Old Weed & Ready Plantation, LLC Authorization Letter**
- I Development of Regional Impact (DRI) Application**
- J Additional DRI Information**
- K DRI Findings Report, #2524**
- L City of St. Marys Request Letter for Additional Analysis**
- M DRI Detailed Analysis Report, #2524**
- N Conceptual Layout of the Port of St. Marys Industrial & Logistics Center**

B - Exhibits - Public Comments

- B-1 City of Kingsland - November 12, 2015**
- B-2 Department of the Navy - November 24, 2015**
- B-3 Robert Divine - November 24, 2015**

- B-4 St. Marys Earthkeepers - November 24, 2015**
- B-5 Southern Environmental Law Center - November 25, 2015**
- B-6 Robert Divine - December 28, 2015**
- B-7 Robert Divine - December 29, 2015**
- B-8 Faith Ross - February 5, 2015**
- B-9 Bill Bruce - February 9, 2016**
- B-10 Boyd Lemon - February 15, 2016**
- B-11 Robert Divine - February 17, 2016**
- B-12 Downtown Development Authority - February 17, 2016**
- B-13 Chamber of Commerce - February 17, 2016**
- B-14 Alex Kerns - February 18, 2016**
- B-15 Robert Divine - February 20, 2016**
- B-16 Robert Divine - February 20, 2016 Attachment**
- B-17 Robert Divine - February 20, 2016**
- B-18 Kay Westberry - February 20, 2016**
- B-19 Joe Lembo - February 22, 2016**
- B-20 Rachel Knight - February 21, 2016**
- B-21 Lucy Lyons and et al - February 22, 2016**
- B-22 Jan Meriwether - February 22, 2016**
- B-23 Donna Hooten - February 23, 2016**
- B-24 Rick Frey - February 23, 2016**
- B-25 Mary Lynn Howard - February 24, 2016**
- B-26 David Kyler, February 24, 2016**
- B-27 Ken Nelms, February 25, 2016**
- B-28 Maris Cato. February 25, 2016**
- B-29 Lucy Lyons, February 25, 2016**
- B-30 Donna Hooten, February 25, 2016**
- B-31 Providence Bank, February 25, 2016**
- B-32 Danny O'Sullivan, February 26, 2016**
- B-33 Reeney Adams, February 29, 2016**
- B-34 Danny O'Sullivan, February 29, 2016**
- B-35 Roland & Patricia Simard - March 1, 2016**
- B-36 Stephanie Bowen - March 1, 2016**
- B-37 Alex Kearns - March 3, 2016**
- B-38 Mike Desmond - March 7, 2016**
- B-39 Danny O'Sullivan - March 7, 2016**
- B-40 Sean Myers - March 7, 2016**
- B-41 Monty Baus & Les Warner - March 7, 2016**
- B-42 Southern Environmental Law Center- March 7, 2016**
- B-43 J G Bowen - March 7, 2016**
- B-44 Jane Orr - March 7, 2016**
- B-45 Bob Devine - March 7, 2016**
- B-46 John Toshach - March 7, 2016**
- B-47 Stephanie Bowen - March 7, 2016**
- B-48 Stephanie Bowen - March 7, 2016**
- B-49 Joan Holland - March 7, 2016**

C - Exhibits - Additional Materials

- C-1 Port of Fernandina accounts for 4% of city truck traffic, Thamm, Fernandina Observer, October 26, 2015, excerpts taken from Port of Fernandina Truck Circulation Study, October 2015**
- C-2 DRI for Landmar Durango Mill Property, #1160**
- C-3 Phase One Environmental Assessment, McNair Law Firm, October 2003**
- C-4 Additional Durango Environmental Records, Miscelaneous Sources**
- C-5 An investigation of the Economic Feasibility of Constructing a Multi-purpose Barge Terminal on the North River at St. Marys, Georgia, Dr. E. Cameron Williams and Dr. Jerry W. Wilson, 1993**
- C-6 Examples of recent manufacturing facilities in the region, applicant 2.18.2016**
- C-7 Buffering with Figures**
 - C-8 Staff Report for the Port of St. Marys Rezone Application (02/22/2016)**
 - C-9 Revised Conditions, March 3, 2016**
 - C-10 Revised Special Conditions, March 10, 2016**
 - C-11 Revised Application Text, March 14, 2016**

II. RECOMMENDATION DELIBERATION UNDER REZONE CRITERIA: Sec. 110-185(d)

Commissioner Rich stated that there has been significant public interest in this application for rezoning. It has been the subject of a number of press articles and public meetings that preceded the formal hearing process conducted by the Planning Commission. At its work session in January, the Planning Commission encouraged public comment at two hearings and by written submission. All documents related to this application were posted on the City’s website. Under Section 110-185 of the City’s zoning code, it is provided that a public hearing on a rezoning matter shall be conducted by the Planning Commission and Section 110-185(b)(7) states, in part, that the primary goal of the public hearing is “to solicit pertinent factual information which will be beneficial in helping the planning commission and the city council judge the merits of each specific proposed amendment.”

The Planning Commission heard almost 5 hours of public comment. Including those who spoke more than once, there were 41 comments made by members of the public. Not including documents of public record and the report and detailed analysis of the regional impact by the Coastal Regional Commission, there were 21 documents posted on the website from the Applicant and the Planning Department as well as 49 written comments by residents and non-residents alike. The time to submit additional written comments was extended to March 7th at which time the public hearing was closed. Once the public hearing is closed, the Planning Commission and City Council conduct their review and determination of the application with no further opportunities for public hearings or comment.

In addition to the ten factors set forth in §110-185, the law requires consistency with other public documents that are incorporated by reference into the zoning code such as the city’s comprehensive plan. Other documents of record like the resolutions of the Joint Development Authority, the City’s Downtown Development Authority and the Camden Kings Bay Joint Land Use Study are important insofar as they identify the city’s commitment to economic growth as a factor in how this application is considered against the criteria set forth in the zoning code.

Commissioner Rich stated that he has read all of the material submitted to the Planning Department and listened closely to the statements that were made at the hearings both for and against the application. Commissioner Rich states that his support for the motion does not discount the objections and caveats that were expressed. Nor does it mean that the applicant’s request should be

granted unconditionally. However, the weight of all of the oral and written information received by the Planning Commission is more persuasive in favor of the motion than against it.

Commissioner Rich states that his notes indicate that a majority of the public comment received through written submissions to the planning department and the oral statements at the two public hearings were in favor of the rezoning. Many of those in favor also favored conditions being imposed that would assure environmental friendly uses, traffic and safety controls and environmental stewardship. The public comment in opposition to the application was somewhat evenly split between those who felt the application should be denied outright and those who felt rezoning was necessary but were concerned that the application was too vague as to what types of industry might come to St. Marys if the zoning change were approved as filed. A few of the opponents felt that it was more appropriate for the Joint Development Authority to find users rather than allowing the applicant to do so. One uniform objection was that the noise, traffic and safety concerns would be inconsistent with the residential nature of the surrounding properties.

The Gillman plant was first erected in the 1940s and the property on which it was located was zoned industrial from that time through 2007 when LandMar sought and received a rezone to planned development residential mixed use. For sixty years the plant was the economic driver for city and the various land uses surrounding the plant. When the plant ceased operation, it was clear that any future use would have to deal with the fact that the site had become an environmental brownfield and that any use of the mill site thereafter would have to meet federal and state environmental clean-up laws and regulations. As was expressed at the hearings, the clean-up requirements differ for industrial uses compared to residential uses.

Because the site is under the control of the federal bankruptcy court, the application is being made with the consent of Michael Newsome, the trustee in bankruptcy. Mr. Newsome spoke at the public hearing and described how he has tried, without success until now, to market the property. Mr. Newsome's statement at the February 25th session was very clear that there was no likelihood of a sale under the present zoning and that the current cash balance in the estate was being diminished by marketing costs and taxes. Once that fund is depleted, the property would be put out for public auction and could be bought on speculation by any buyer with or without a plan for its use. In this case, the sale to the Applicant is contingent on rezoning and the Applicant has spent considerable time and effort in submitting a rationale for a rezoning to Industrial. The Applicant has also agreed to the special conditions which are a part of this motion.

The trustee in bankruptcy and the Joint Development Authority (JDA) noted that attempts to find a buyer for the property have been in vain because the property is not zoned industrial. The JDA noted that it is hampered in its ability to use state resources to market the property because it is not zoned for industrial use and that effective negotiations with potential buyers could not take place because of the current zoning classification.

Both the Chamber of Commerce and the city's Downtown Development Authority support the application. The Costal Regional Commission, in its final report of January 26th recommended that the city approve the zoning amendment contingent upon the developer and/or City ensuring adequate public facilities are in place to support the proposed development including water, wastewater removal and transportation facilities. The CRC also recommended that the site be adequately buffered, an item which is addressed in the special conditions proposed by the City.

A number of comments addressed the navigation issues and the environmental and conservation issues related to the site. To the extent other federal and state agencies have superseding jurisdiction over future uses of the site, any action by the City on this rezoning application will have no effect on the owner's or developer's obligations to comply with the laws, regulations and rulings from the agencies that have superseding authority. While the application and the special conditions do not go as far as some might prefer, I am satisfied that the planned conservation area, the public access way and the buffering requirements, along with the requirements for site plan approval and special uses, are sufficient to reconcile the industrial development of the site and the environmental concerns that have been expressed.

What many people may not appreciate is the extent to which the zoning code allows the City to oversee the future use of this property if the rezoning is ultimately approved. The application provides that uses permitted in a light industrial or general industrial zone would be permitted in this proposed planned development. However, the current zoning code is explicit in that any use that will cause excess noise, fumes, dust, smoke, fire hazard or similar condition is not permitted unless the applicant for the use files a request for a special use permit. The conditions attached to this motion along with the existing provisions in the zoning code that relate to special uses provide limitations on development that meet the concerns expressed at the public hearings about how the property might be used in the future. Further, in addition to the role the city plays in the permitting process, the record in this application recognizes that agencies like the Navy, Coast Guard, Corps of Engineers, the State Department of Transportation, the State Department of Community Affairs and the State Department of Natural Resources all have roles to play in how the property is used irrespective of its zoning classification.

The concerns about noise, traffic, visual impact, pollution, odor, public safety and similar aspects of industrial uses that have created the most concern among those who object to the rezoning would fall within the special use provisions in the zoning code. The grant of a special use is discretionary and to the extent a special use is sought for a tract within the planned development, an application will have to be made for the use and will be subject to review by the planning department, a public hearing before the Planning Commission and ultimately, review by the City Council.

As it does with all matters presented to the Planning Commission for review, the city's planning department and the Community Development Director performed a comprehensive review on the application as part of the city's due diligence. Mr. Adams' report was well researched, documented and thorough. The report recommends approval of the application along with enumerated conditions that provide greater city control over the platting and permitting process to assure continuing city oversight should the application receive final approval. The final list of conditions completed on March 10th are well considered and add the kinds of protections that were sought through the verbal and written comments.

As was noted at the working session of the Planning Commission in January, the zoning code affirmatively requires that the Planning Commission determine whether the factors in favor of a rezone outweigh the ten factors set forth in §110-185(d) as a condition of approving a recommendation to the City Council that a property be rezoned.

(1) The zoning request should be a logical extension of a zoning boundary which would improve the pattern of uses in general area.

(2) The request should not be an illogical extension of a zone boundary which would intrude a damaging salient of a commercial, industrial, or high-density apartment use into a stable neighborhood of well-maintained

single-family homes, and would be likely to lead to neighborhood deterioration, the spread of blight, and requests for additional zoning of a similar nature which would expand the problem.

(3) The request should not result in spot zoning or generally be unrelated to either existing zoning or the pattern of development of the area.

The first three requirements relate to the legal appropriateness of the application; namely, does the rezone constitute a spot zone or a use or extension of a use that would be detrimental to the adjoining uses. Most of the residents' objections to the application related to the peaceful and quiet enjoyment of their properties and would fall into these three categories. There is no doubt that, when partially or fully developed as an industrial use, there will be traffic, noise, visual and safety concerns for the residents who live at or near the site. Nevertheless, this site has historically been used as an industrial site and the fact that it's a brownfield suggests that it will never be suitable for residential use because the remediation costs on top of the purchase price would likely not be recoverable by a developer. Also, as noted in the public comment, there is infrastructure already installed in the way of wells, rail service and gas lines to support an industrial use. Traffic concerns are speculative and the written record acknowledges that a Georgia Department of Transportation study would be required in conjunction with any future industrial use of the property. When balancing the objections by the residents living in proximity to the site against the historic use of the property, the likelihood that it will not be useable as a residential development in the future and the stated need for a more diverse economy in the city as expressed by the comments in favor of the application, there is a sufficient factual and legal basis to find that a rezone would not contravene the first three requirements.

(4) The request should not create traffic which would traverse established single-family neighborhoods on minor streets, leading to congestion, noise and traffic hazards.

The fourth requirement relates to traffic patterns through residential neighborhoods. While an industrial use may increase traffic volume, there's no clear basis to assume that any future increase in traffic done in compliance with city permitting and GA DOT approval will necessarily create congestion, noise or safety concerns that would be adverse to the residential uses near the site. It should be noted that Osborne Street would be the likely avenue of ingress and egress and Osborne Street now bears the brunt of virtually all traffic into the downtown area for residences, city offices, places of worship, Cumberland Island, and downtown businesses.

(5) The request should conform to the general expectations for population growth and distribution.

(6) The request should not limit options for the acquisition of future planned public facility sites, roads, open-space, etc.

Items 5 and 6 relate to expected growth and current plans for the city to acquire land for infrastructure services. There is no indication that a change of zone would affect the city's ability to provide infrastructure services to the site and any other area of the city.

(7) This request should not result in major changes in existing levels of public service, and/or fiscal stability.

(8) This request should not achieve short term goals at the expense of long-term, development goals.

(9) This request should not result in changes to market values and/or tax rates of nearby properties.

With respect to the requirements in subsections 7, 8 and 9, the acquisition and use of the property will only improve the city's fiscal stability. It will not detrimentally affect levels of public

service. Based on the public comment, it is in the interest of the city's short and long term development goals to have this property become useful. Public comment observed that the 2007 economic downturn had more effect on property values than the likelihood of this change of zone. If anything, failure to approve this application could result in detrimental changes to the city's fiscal stability, its long term development goals and the market values and tax rates of nearby properties.

(10) The request should conform to policies and recommendations contained in the St. Marys/Camden County Comprehensive Plan.

The last requirement relates to the integration of a zone change with the city's master plan. In 2008, St. Marys, along with Kingsland, Woodbine and the County adopted a Joint Comprehensive Plan for the 20-year time period from 2007-2027. In the St. Marys portion of the plan, there are references to the need for the city to provide an opportunity for commercial and industrial growth in the city.

More recently, the city and the Navy participated in the Camden Kings Bay Joint Land Use Study published May 13, 2014, and adopted unanimously by the City Council on July 21, 2014. That study made several references to the Gillman site and the conclusions in that study are important insofar as it is a matter of public record in the city and underscores the city's commitment to play a role in facilitating business development in the city.

To the extent that the spur line operated by the St. Marys Railroad Company would be a compliment to the proposed industrial use if rezoned, the Camden Kings Bay Joint Land Use Study notes that development of the site would benefit both the Navy and the rail operator by making the railroad more efficient and profitable. The ability to use the rail line as an additional modality of ingress and egress to the Gillman site supports a finding that a change of zone for the mill site is appropriate. That study further stated that "[i]ncreasing employment opportunities and availability of services . . . will allow community residents and military families to be less reliant on distant economic centers and improve community economic sustainability." The study also went on to say that "[t]here is a need to develop and fill industrial space for economic development purposes, to benefit the community and SUBASE Kings Bay."

A negative finding on one or more of these criteria shall not preclude approval of a rezoning.

Section 110-185(d) also provides that "A negative finding on one or more of these criteria shall not preclude approval of a rezoning." The issue of how a rezone would affect the immediately adjacent residences in terms of safety and traffic flow is an issue of deep personal concern to those who spoke at the public hearings and to the members of the Planning Commission. Given the conditions attached to this motion, it is my conclusion that any negative finding that could be made with respect to traffic, noise, pollution and residential use adjoining the site is outweighed by the ability of this application to satisfy the other requirements of section 110-185. The zoning process is designed to allow an owner to use his or her property for its highest and best use based on the conditions that exist at the time of the application. On balance, the prospective benefits of a rezone warrant a finding that a change of zone is appropriate and for those reasons I support the application and will vote to approve the application with the conditions suggested by the Planning Department.

IV. RECOMMENDATION TO THE ST MARYS PLANNING COMMISSION WITH POSSIBLE CONDITIONS

**Sec. 110- 185 – Public hearings, public hearing procedures, and rezoning standards
(b)7(b)**

► **MOTION FOR RECOMMENDATION WITH CONDITIONS:**

Upon a motion by Commissioner Rich that the application to rezone Tax Parcel 149-004 owned by Old Weed and Ready Plantation, LLC from PD Mixed Use to PD Industrial (PD I), PD Mixed Use (PD MU) and PD Conservation Area (PD CA) be approved and a recommendation granting the rezone be certified to the City Council subject to the following conditions:

That, to the extent the approval conflicts with the Camden County Joint Comprehensive Plan, the Planning Commission approves such amendments as may be necessary to allow the development of an industrial planned development in the City of St. Marys and directs the Community Development Director to amend the St. Marys portion of the Camden County Joint Comprehensive Plan to conform to this approval;

That the amended special conditions filed by the Planning Department be made a part of the Plan and be attached to the recommendation of approval certified to the City Council; and

That the conditions presented by the Planning Department shall prevail in the event of a conflict between the conditions and the Plan;

and a second by Commissioner Cooper, and a unanimous vote in favor, the Planning Commission recommends approval with conditions, as found in “Exhibit H: Special Conditions” of the proposed Rezone of the Port of St. Marys area from “PD Mixed Use” to “PD Port Industrial (PD I-P), PD Mixed Use (PD MU) and Conservation Area (PD CA)”, as identified on “Exhibit A”.

SPECIAL CONDITIONS OF APPROVAL:

EXHIBIT H SPECIAL CONDITIONS

The following Special Conditions are made a part of the Port of St. Marys Industrial & Logistics Center Planned Development District Text, J-25467.0001 (hereafter “PD Text”) and included therein as Exhibit H. In the event of any conflict between these Special Conditions and any portion of the Port of St. Marys Industrial & Logistics Center Planned Development District Text, J-25467.0001 or the City of St. Marys, Georgia Zoning Ordinance (hereafter “Zoning Ordinance”), these Special Conditions shall govern.

- 1. Special Use Permits.** Any Special Use Permit (also known as a Special Permit Use) (hereafter “SUP”) issued for a use to be conducted upon property entirely within the territory of the Port of St. Marys Industrial & Logistics Center Planned Development District as defined in the Port of St. Marys Industrial & Logistics Center Planned Development District Text which is owned by Old Weed & Ready Plantation, LLC as shown on Exhibit B to the PD Text– Boundary Survey dated October 26, 2015 (Parcel A, Parcel B, Parcel C, and Parcel D) (hereafter “the Property”) shall continue to be valid so long as the use for which it was issued shall be continuously conducted without interruption and shall not be limited to an annual duration as set forth in the Zoning Ordinance Section 110-145 (5). The SUP shall be transferrable or assignable to any future owner.
- 2. Development Plan.** Prior to any development, a Plot Plan for Planned Development, as described in 110-68(c), shall be submitted to the Community Development Department, for review and approval by the Planning Commission, that addresses all Special Conditions set forth herein, the applicable portion of the Zoning Ordinance, Subdivision Regulations and any development agreement. Without the submittal and approval of a Plot Plan, all subsequent development not shown thereon will not be approved nor any building permits issued therefor. Prior to any development, a Final Plot Plan (Development Plan), as described in 110-68(c), shall be submitted to the Community Development Department, for review and approval by the Planning Commission, that addresses all applicable conditions. Without the submittal and approval of a Final Plot Plan, all subsequent development, including building permits, will not be issued or approved. In addition to the PD conditions of approval, the developers shall comply with all St. Marys ordinances. The Developer has acknowledged that the site must adhere to a Brownfield Corrective Action Plan, administered by the Georgia Environmental Protection Division and will cooperate with all parties to achieve the Plan as it now exists or as it may be amended from time to time.
- 3. Height Overlay District.** No buildings may be constructed or permitted on the Property which exceed 65 feet in height unless 1) the building is clearly shown on the Plot Plan and is subsequently approved and 2) the property owner at its own expense provides all funds necessary for the City of St. Marys (SM) to purchase firefighting equipment and provide the SM Fire Department personnel training in the use of the equipment and firefighting methods sufficient for the SM Fire Department to combat fires in the building contemplated considering the size and contents of the contemplated building. The equipment and training shall be those identified by SM and the equipment shall be and remain the property of SM. The property owner’s obligations may be placed in a development agreement between the owner and SM.
- 4. Maritime Heritage District.** The Property shall not be considered a part of the Maritime Heritage District (MHD) and the provisions of Sec. 110-78. - Maritime Heritage District (MHD) shall not apply thereto.

5. **Water and Sewer Services.** Any water or sewer lines and improvements necessary or desirable but not extant at the time of this rezoning serving the Property shall be constructed in conformity with SM design standards by the owner of the Property at owner's sole expense. Once completed, the improvements shall be dedicated to SM at no expense to the city.

SM water system shall be utilized as the source for all domestic service. The City of St. Marys Point Peter Wastewater Treatment Facility shall receive all industrial and domestic wastewater from this site. All industrial wastewater shall only be treated by SM pursuant to contract with the owner of the Property setting conditions, pretreatment required and rates for such effluent. Use of the on-site wells for industrial purposes is regulated by GA EPD.

6. **Storage.** There shall be no storage of refuse not generated on site, coal ash, or any particulate matter that may escape or emit noxious odors to surrounding areas, including trash to steam processing. Rail cars or containers shall only be stored (defined as remaining in place for more than 48 hours) processed (loaded or unloaded) or repaired in the areas designated on the Plot Plan.
7. **Streets and Roads.** All transportation facilities will be to City standards and a traffic study for required improvement should be a condition of approval. Proposed Port of St. Marys Industrial & Logistics Center Planned Development District (PDD) Section II shall meet minimum design standards for Streets, Lanes, Alleys, Right of Ways, Lots, Blocks, Utility Easements, easement locations and open space. Overall site design should be harmonious in terms of landscaping, enclosure of principal and accessory uses, sizes and street patterns, and use relationships. Access to the Property by truck traffic shall be limited to Finley Street and St. Patrick Street, while keeping all storage yards interior and well-protected from surrounding uses through buffering and screening. Access to portions of the Property abutting Meeting Street shall be limited where possible to limit the impact to surrounding commercial and residential areas. All transportation facilities will be built and maintained to City standards and a traffic study for required improvement should be a condition of approval.

All roads shall be privately maintained unless and until dedicated to and accepted by the SM. Prior to Development, the Property Owner shall provide a ten-foot wide non-motorized public access easement to the Camden County PSA or SM, at SM's option, for use by citizens of St. Marys for a multi-use path along the western boundary of the site.

8. **Parking.** Parking standards for the City should be amended to provide parking requirements for each new facility at time of plot plan and special use permitting.
9. **Amendments to Existing Planned Development Districts.**
 - a. Any request pertaining to amending a PD District shall be considered an amendment to the Zoning Ordinance and shall be processed in accordance with the regulations set forth in article VII, amendments of the St. Marys Zoning Ordinance.
 - b. All information required in subsections (c) and (d) of this section shall be submitted to the planning commission and subsequently forwarded to the city council with the recommendations of the planning commission.
 - c. If the amendment is approved by the city council, all information pertaining to the proposal, presented or agreed to by the applicant shall be deemed conditions of approval. All permits granted in the PD District shall be in conformance with those conditions.

- d. Before approval of an amended Planned Development District, the city council may require a contract with safeguards satisfactory to the city attorney guaranteeing completion of the development according to the criteria listed herein. Such guarantee may include the submission of a performance bond or letter of credit in an amount set by the city council.

10. Buffers and Open Areas. Setbacks, buffers and open areas shall meet the minimum requirement established herein provided, however, that any required wetlands and salt marsh jurisdictional setbacks shall also apply according to law throughout the Property. There shall be a 200' buffer around the designated Conservation Area (CA) a portion of which must be a planted buffer as set forth herein. There shall be a 300 foot buffer from all storage, processing and portage of hazardous material facilities, as identified on the Final Plot Plan, and adjacent to residential property lines. All boundaries adjacent to other properties not part of the PD zone shall be separated by a continuous planted **30 foot** buffer sufficient to block all views from ground level at the property line of the I-P portions of the property from view from adjacent properties and roads (except at two entry gates). Such buffer strip shall be composed of healthy plants which possess growth characteristics of such a nature as to produce a dense, compact planting screen that are opaque from ground level to a minimum of six feet from ground level. The plantings shall be not less than six feet high at planting and shall contain sufficient plants which have a growth potential height of 30 feet and can block views continuously up to that height in the locations required herein. Landscaped earthen berms 10 feet high can be substituted for the buffers required herein. Property owner shall be responsible to nurture, maintain and replace any plantings in any buffer.

11. Changes to Definitions. The following changes are made to Section 2, E Definitions of Land Use Terms and Density Terms:

- a. Section 2 Marine Facilities listing of allowed uses is amended to replace the first listed allowed use with the following: "Shipping facilities for shallow draft barges and vessels"
- b. Section 2 Marine Facilities listing of allowed uses is amended to replace the tenth listed allowed use with the following: "Bunker (Fuel) storage facilities limited to 100,000 gallons"
- c. Section 3 Neighborhood Commercial listing of permitted uses is amended to add the following provisions:
 - i. (3) No Drive Thru facilities permitted
 - ii. (4) No Single-family dwellings permitted
 - iii. (5) All non-specified commercial uses shall be special permitted uses (SUP)

12. Utilities. A 10' Public Utility Easement to SM is required on all interior lot lines, and adjacent to all exterior boundary lines.

13. Timing of Development. The provisions of Section 110-185 (b)(7)(f) shall not apply to this rezoning of the Property. SM shall not take action to rezone property to original zoning as described therein.

EXHIBIT H

SPECIAL CONDITIONS

The following Special Conditions are made a part of the Port of St. Marys Industrial & Logistics Center Planned Development District Text, J-25467.0001 (hereafter “PD Text”) and included therein as Exhibit H. These conditions apply to all property depicted in that Text and all exhibits thereto which are incorporated herein by reference as modified by these Special Conditions (hereafter “Property” or “the Property”). In the event of any conflict between these Special Conditions and any portion of the Port of St. Marys Industrial & Logistics Center Planned Development District Text, J-25467.0001 or the City of St. Marys, Georgia Zoning Ordinance (hereafter “Zoning Ordinance”), these Special Conditions shall govern. These Special Conditions are conditions of the Port of St. Marys Industrial & Logistics Center Planned Development District. Before any building permits for improvements on the Property may be applied for or issued, there must be a ~~site-Plot pPlan prepared in accordance with § 110-68(c) of the St. Marys Zoning Ordinance. showing the improvement which has been approved by the City of St. Marys (hereafter called “City”).~~

~~Special Use Permits.~~ Any Special Use Permit (also known as a Special Permit Use) (hereafter “SUP”) issued for a use to be conducted upon property entirely within the territory of the Port of St. Marys Industrial & Logistics Center Planned Development District as defined in the Port of St. Marys Industrial & Logistics Center Planned Development District Text which is owned by Old Weed & Ready Plantation, LLC as shown on Exhibit B to the PD Text– Boundary Survey dated October 26, 2015 (Parcel A, Parcel B, Parcel C, and Parcel D) (hereafter “the Property”) shall continue to be valid so long as the use for which it was issued shall be continuously conducted without interruption and shall not be limited to an annual duration as set forth in the Zoning Ordinance Section 110-145 (5). The SUP shall be transferrable or assignable to any future owner.

Any SUP requested by Property Owner in the future shall be first considered by the St. Marys Planning Commission which shall make its recommendation thereon to the St. Marys City Council which shall make the final decision.

4. Staff: The last paragraph was added to clarify that City Council reviews SUP requests in response to that question from Developer.

~~Any SUP requested by Property Owner in the future shall be first considered by the St. Marys Planning Commission which shall make its recommendation thereon to the St. Marys City Council which shall make the final decision.~~

Staff: The last paragraph was added to clarify that City Council reviews SUP requests in response to that question from Developer.

1. Development Plan. Prior to any development, a Plot Plan for Planned Development, as described in 110-68(c), shall be submitted to the Community Development Department, for review and approval by the Planning Commission, that addresses all Special Conditions set forth herein, the applicable portion of the Zoning Ordinance, Subdivision Regulations and any development agreement. Without the submittal and approval of a Plot Plan, all **subsequent** development not shown thereon will not be approved nor any building permits issued therefor. In addition to the **Planned Development (PD)PD** conditions of approval, the Property Owner (as used herein, that term shall mean any owner, developer, user or person or entity holding a leasehold interest or other interest entitling them to possess the Property or any portion thereof and any subsequent transferee of such person) shall comply with all St. Marys¹ ordinances. The Property Owner has acknowledged that the site must adhere to a Brownfield Corrective Action Plan, administered by the Georgia Environmental Protection Division and will cooperate with all parties to achieve the Plan as it now exists or as it may be amended from time to time.

~~2. *Staff: definition of Property Owner changed to agree with Applicant while maintaining the original intent.*~~

~~Staff: definition of Property Owner changed to agree with Applicant while maintaining the original intent.~~

2. Height Overlay District. No buildings, structures, **or manned equipment** may be constructed or permitted on the Property which exceeds **s** 65 feet in height unless 1) the building **or structure** is clearly shown on **a SUPan SUP Application** and is subsequently approved and 2) the Property Owner at its own expense **agrees in a Developmental Agreement with City** to provide **at a minimum** all funds necessary for the City of St. Marys to purchase firefighting equipment and provide the City Fire Department personnel training in the use of the equipment and firefighting methods sufficient for the City Fire Department to combat fires in the building contemplated considering the size and contents of the contemplated building. The equipment and training shall be those identified by City and the equipment shall be and remain the property of City. The Property Owner's obligations may be placed in a development agreement between the owner and City.

The height chart contained in the PD text is superseded by these conditions and should be overwritten with “See Special Conditions”.

Staff: The term “manned equipment” is included to cover a crane holding an operator. This section now requires a Developmental Agreement with developer to exceed 65 feet. Previously required equipment and training are now minimum requirements of the Developmental Agreement.

~~3.~~

~~Staff: The term “manned equipment” is included to cover a crane holding an operator. This section now requires a Developmental Agreement with developer to exceed 65 feet. Previously required equipment and training are now minimum requirements of the Developmental Agreement.~~

~~4.3.~~ **Maritime Heritage District.** The Property shall not be considered a part of the Maritime Heritage District (MHD) and the provisions of Sec. 110-78. - Maritime Heritage District (MHD) shall not apply thereto.

~~5.4.~~ **Water and Sewer Services.** Any water or sewer lines and improvements necessary or desirable but not extant at the time of this rezoning serving the Property shall be constructed in conformity with City design standards by the owner of the Property at owner’s sole expense. Once completed, the improvements shall be dedicated to City at no expense to the City.

City water system shall be utilized as the source for all **non-industrial use domestic service** non-industrial use. The City of St. Marys Point Peter Wastewater Treatment Facility shall receive all industrial and non-industrial wastewater from this site. All industrial wastewater shall only be treated by City pursuant to contract with the owner of the Property setting conditions, pretreatment required and rates for such effluent. Use of the on-site wells for industrial purposes is regulated by GA EPD.

Staff: Use of the term “non-industrial use” distinguished from “domestic service” to avoid residential connotation as suggested by public comments. There is no residential use zoning in the Property.

~~Staff: Use of the term “non-industrial use” distinguished from “domestic service” to avoid residential connotation as suggested by public comments. There is no residential use zoning in the Property.~~

5. **Storage.** There shall be no storage of refuse not generated on site, **and there shall be no** coal ash, or any particulate matter **stored on site** that may

escape or emit noxious odors to surrounding areas, including trash to steam processing. Rail cars or containers shall only be stored (defined as remaining in place for more than **48 96** hours), processed (loaded or unloaded) or repaired in the areas designated on the Plot Plan.

Staff: 96 hours was thought to be more reasonable than 48 hours for loading and unloading of rail cars.

~~6.~~

~~7.~~ **Streets and Roads.** All transportation facilities will be to City standards and a traffic study for required improvement ~~should~~ **shall** be a condition of approval **for any streets or roads**. Proposed Port of St. Marys Industrial & Logistics Center Planned Development District (PDD) Section II shall meet minimum design standards for Streets, Lanes, Alleys, Right of Ways, Lots, Blocks, Utility Easements, easement locations and open space. Overall site design should be harmonious in terms of landscaping, enclosure of principal and accessory uses, sizes and street patterns, and use relationships. Access to the Property by truck traffic shall be limited to Finley Street and St. Patrick Street, while keeping all storage yards interior and well-protected from surrounding uses through buffering and screening **subject to approval by the city**. Access to portions of the Property abutting Meeting Street shall be limited where possible to minimize the impact to surrounding commercial and residential areas. All transportation facilities will be built and maintained to City standards **and the city in its discretion may require** ~~and~~ a traffic study **for required improvements as a condition to approval of any permit.** ~~should be a condition of approval.~~

6. All roads shall be privately maintained unless and until dedicated to and accepted by the City. Prior to Development, the Property Owner shall provide a ten-foot wide non-motorized public access easement to the Camden County PSA or City, at City's option, for use by citizens of St. Marys for a multi-use path along the western boundary of the site.

~~8.7.~~ _____ **Parking.** Parking standards for the City should be amended to provide parking requirements for each new facility at time of plot plan and special use permitting.

~~9.8.~~ _____ **Amendments to Existing Planned Development Districts.**

- a. Any request pertaining to amending a PD District shall be considered an amendment to the Zoning Ordinance and shall be

processed in accordance with the regulations set forth in the City of St. Marys, Georgia Zoning Ordinance, Article VII, Amendments.

- b. All information required in subsections (c) and (d) of Section 110-68 of the Zoning Ordinance shall be submitted to the planning commission and subsequently forwarded to the city council with the recommendations of the planning commission.
- c. If the amendment is approved by the city council, all information pertaining to the proposal, presented or agreed to by the applicant shall be deemed conditions of approval. All permits granted in the PD District shall be in conformance with those conditions.
- d. Before approval of an amended Planned Development District, the city council may require a contract with safeguards satisfactory to the city attorney guaranteeing completion of the development according to the criteria listed herein. Such guarantee may include the submission of a performance bond or letter of credit in an amount set by the city council.

10.9. Buffers and Open Areas. Setbacks, buffers and open areas shall ~~meet the minimum requirement~~ be established as herein provided, ~~however, that~~ and any required wetlands and salt marsh jurisdictional setbacks shall also apply according to law throughout the Property. There shall be a 200' buffer around the designated Conservation Area (CA) a portion of which must be a planted buffer as set forth herein. There shall be a 300 foot buffer from all storage, processing and portage of hazardous material, as identified on the Final Plot Plan, and adjacent to residential property lines.

All boundaries adjacent to other properties not part of the PD zone shall be separated by a continuous planted 30 foot buffer sufficient to block all views from ground level at the property line of the I-P portions of the property from view from adjacent properties and roads (except at two entry gates). Such buffer strip shall be composed of healthy plants which possess growth characteristics of such a nature as to produce a dense, compact planting screen that are is opaque from ground level to a minimum of six feet from ground level. The plantings shall be not less than six feet high at planting and shall contain sufficient plants which have a growth potential height of 30 feet and can block views continuously up to that height in the locations required herein. Landscaped earthen berms 10 feet high with plantings of a minimum of six feet high with growth potential

of at least 20 feet can be substituted for the buffers required herein. Property Owner shall be responsible to nurture, maintain and replace any plantings in any buffer.

The entranceways to the industrial portion of the Property, the pond at Osborne and Meeting Streets, and a 200 foot ~~deep~~wide buffer along those portions of Osborne and Meeting Streets which abut any portion of the Property shall be landscaped with grass and various plantings to make these areas aesthetically pleasing. A planting plan and details of any proposed earthen berm or other buffering improvements shall be shown on a site plan containing the other improvements proposed at that time submitted to City for approval prior to any development of the Property and constructed at the same time as the improvements on the site plan. The said site plan to contain a waiver of Property Owner's rights under the Georgia's "Development Impact Fee Act" as it reads now or as it may be amended, as it may apply. It is understood that any proposed landscaping or berm or any other proposed improvements which would lie within jurisdictional wetlands are subject to approval by the appropriate federal and state agencies. The buffer, plantings and other improvements in ~~this~~the area of ~~a~~ buffer must be continuously maintained in good and attractive order by Property Owner.

Developer/Property Owner/Users shall install a fountain on the existing pond within this buffer and a lighted sign within 50 feet thereof with only the words "Welcome to Historic St. Marys" placed thereon in lettering of sufficient size to be viewed from Osborne Street. A site plan for the fountain and sign shall be submitted to City for approval within ~~30~~ ~~60~~ 60 days of any approval of this Planned Development District and the fountain and sign shall be completed within 6 months of the approval of the site plan. Property Owner shall complete removal of concrete and asphalt debris and clean up the 18 acre mixed use area so as to make it aesthetically pleasing within 6 months of the time the Planned Development District rezoning is approved. The 18 acre site is bounded on the west by Osborne Street, on the east by the North River, on the south by Meeting Street and on the north by Gallop Street.

Staff: Two other subsections (15. Entranceways and 27. Buffer) were combined into this subsection for ease of future enforcement. This section is amended to allow an additional 30 days for design of the fountain and sign and to ensure that the "Development Impact Fee Act" does not apply.

11.10. Changes to Definitions. The following changes are made to Section 2, E Definitions of Land Use Terms and Density Terms:

- a. Section 2 Marine Facilities listing of allowed uses is amended to replace the first listed allowed use with the following: “Shipping facilities for shallow draft barges and vessels”
- b. Section 2 Marine Facilities listing of allowed uses is amended to replace the tenth listed allowed use with the following: “Bunker (Fuel) storage facilities limited to 100,000 gallons”
- c. Section 3 Neighborhood Commercial listing of permitted uses is amended to add the following provisions:
 - i. (3) No Drive Thru facilities permitted
 - ii. (4) No Single-family dwellings permitted
 - iii. (5) All non-specified commercial uses shall be special permitted uses (SUP)

12.11. Utilities. A 10’ Public Utility Easement to City is required on all interior lot lines, and adjacent to all exterior boundary lines.

13.12. Timing of Development. The provisions of Section 110-185 (b)(7)(f) shall not apply to this rezoning of the Property. City shall not take action to rezone property to original zoning as described therein.

14.13. Materials.

- a. Total Prohibition. The handling, storage, production or transit through the property of coal or coal ash, wood chips, wood logs, wood pellets, medical waste, hazardous waste materials (as defined in the U.S. Comprehensive Environmental Response, Compensation & Liability Act of 1980 (CERCLA)) (as defined in the U.S. Resource Conservation and Recovery Act and regulations enacted pursuant thereto) not produced on site, bulk petroleum or other fuels (except for above- ground storage of the amount permitted in Special Condition 11 (b)) including, without limitation, Liquid Natural Gas, medical waste (disposable equipment, instruments, utensils, human tissue, laboratory waste, blood specimens, or other substances that could carry pathogenic organisms), radioactive materials, radioactive waste, sawdust, scrap metal or other recyclables, municipal solid waste(as defined in O.C.G.A. 12-8-22) garbage not generated on site, or waste material or more than 100 cubic feet of

concrete or other aggregates are prohibited on the Property. The temporary storage prior to off-site disposal of garbage and waste material generated on site are is allowed.

- a. ~~Total Prohibition. The handling, storage, production or transit through the property of coal or coal ash, wood chips, medical waste, hazardous waste (as defined in the U.S. Resource Conservation and Recovery Act and regulations enacted pursuant thereto) not produced on site, bulk petroleum or other fuels (except for above-ground storage of the amount permitted in Special Condition 11 (b)) including, without limitation, Liquid Natural Gas, medical waste (disposable equipment, instruments, utensils, human tissue, laboratory waste, blood specimens, or other substances that could carry pathogenic organisms), radioactive waste, municipal solid waste (as defined in O.C.G.A. 12-8-22) garbage not generated on site, waste material are prohibited on the Property. The temporary storage prior to off-site disposal of garbage and waste material generated on site are allowed.~~
- b. Manufacturing. The handling, storage, production or transit through the Property of the following materials: construction or demolition waste, rigid plastic bottles, rigid plastic containers, retreadable casings, radioactive materials, scrap tires, used tires, yard trimmings, concrete and other aggregates all as defined in O.C.G.A. § 12-8-22, concrete and other aggregates, wood pellets, sawdust, scrap metal or other recyclables and radioactive materials are prohibited except in connection with manufacturing or processing on site and shipment of materials manufactured or processed on site, provided, however, that all such materials shall be stored within completely enclosed buildings while on site. All raw materials shall be kept in enclosed buildings while on the Property except when being handled.
- c. Special Use Permit. The handling, storage, or transit through the property of the following materials: explosives, blasting agents, detonators, all as defined in 18 U.S.C.A. § 841 on the Property are prohibited. Production of those items is only allowed pursuant to a SUPan SUP issued by City Council with any conditions the Council may choose to impose.

Staff: This section has been divided into three sections and headings added for clarity of understanding the different requirements for particular materials.

- a. The definition of hazardous materials was altered in response to Applicant's request. The original intent was maintained. Wood pellets are allowed on

site as their transport and storage is safer than logs. Storage of fuel in above ground tanks up to 100,000 gallons which was permitted under Special Condition 11(b) is not allowed in underground tanks for environmental reasons. Sawdust, scrap metal or other recyclables and radioactive materials have been removed to (b) and would be allowed because they are part of many manufacturing processes. They are further regulated in (b). "Municipal Solid Waste" was placed in this section and removed from (c) to include it with other totally forbidden materials. "Concrete or other aggregates" were removed from this total prohibition and placed in b to allow their use in manufacturing. A clarification was made that the prohibition of garbage does not include garbage generated on site. The last sentence was modified to clarify that temporary storage on the Property of on-site generated garbage and waste material prior to disposal off-site are permitted.

b. This subsection allows certain materials to be on the Property when they are to be used in manufacture or processing on site if they are kept in enclosed buildings. Sawdust, scrap metal or other recyclables, rigid plastic bottles, rigid plastic containers, retreadable casings, radioactive materials, scrap tires and used tires, were placed here and their total prohibition removed to allow their use in manufacturing processes if properly stored while on site. "Concrete or other aggregates" were placed in this section to allow their use in manufacturing if they are kept in enclosed buildings. Applicant proposed to include the words "or export" at the end of this subsection. By this they mean to allow importing and exporting the material with attendant storage even if for short times. Staff declined to make that change because staff unanimously feels that the inclusion of those words would then actually allow all the acts prohibited by the subsection making the entire subsection meaningless.

c. Manufacturing of the materials in this subsection is allowed with an SUP from the city council. A process for production of certain materials is allowed if approved as an SUP with any conditions Council may impose.

e. _____

~~Staff: This section has been divided into three sections and headings added for clarity of understanding the different requirements for particular materials.~~

~~a. The definition of hazardous materials was altered in response to Applicant's request. The original intent was maintained. Wood pellets are allowed on site as their transport and storage is safer than logs. Storage of fuel in above ground tanks up to 100,000 gallons which was permitted under~~

~~Special Condition 11(b) is not allowed in underground tanks for environmental reasons. Sawdust, scrap metal or other recyclables and radioactive materials have been removed and would be allowed because they are part of many manufacturing processes. They are regulated in (b). "Municipal Solid Waste" was placed in this section and removed from (c) to include it with other totally forbidden materials. A clarification was made that the prohibition of garbage does not include garbage generated on site. The last sentence was modified to clarify that temporary storage on the Property of on-site generated garbage and waste material prior to disposal off-site are permitted.~~

~~b. This subsection allows certain materials to be on the Property when they are to be used in manufacture or processing on site if they are kept in enclosed buildings. Sawdust, scrap metal or other recyclables and radioactive materials were placed here and removed from (a) to allow their use in manufacturing processes if properly stored while on site. Applicant proposed to include the words "or export" at the end of this subsection. By this they mean to allow importing and exporting the material with attendant storage even if for short times. Staff declined to make that change because staff unanimously feels that the inclusion of those words would then actually allow all the acts prohibited by the subsection making the entire subsection meaningless.~~

~~c. Manufacturing of the materials in this subsection is allowed with a SUP from the city council. A process for production of certain materials is allowed if approved as a SUP with any conditions Council may impose.~~

15-14. Lighting. All lighting on the property must be shielded so the source of the light is not visible off the Property. Normal street lighting is excepted from this provision.

15. Brownfield Program. The Property Owner shall not seek to remove ensure that not seek to remove the Property remains in from the from the Georgia Environmental Protection's Division's (EPD) Brownfield Program other than by complying with the remediation requirements thereof ~~other than by complying with the remediation requirements thereof~~ and the owner shall cooperate with the EPD and all parties to achieve the Plan as it now exists or as it may be amended from time to time.

Staff: This section has been amended to meet Property Owner/Developer's objection that it does not have the ability to ensure the Property remains in the Brownfield Program. The language now makes it clear that Property Owner shall not itself seek to remove the Property from the Brownfield Program while

allowing remediation efforts to proceed in accordance with the Brownfield Program. Removing the property from the Brownfield Program by actually performing the remediation required is now specifically allowed.

16. —

Staff: This section has been amended to meet Property Owner/Developer's objection that it does not have the ability to ensure the Property remains in the Brownfield Program. The language now makes it clear that Property Owner shall not itself seek to remove the Property from the Brownfield Program while allowing remediation efforts to proceed in accordance with the Brownfield Program.

17.16. Storage containers. Storage containers, such as gas or oil barrels or conex boxes which are located or stored on the property should be screened so they cannot be seen by a person standing on the ground at the perimeter of the Property.

17. Rookery. Owner of Property (not including owner at the time this rezoning application was made) ~~(not including owner at the time this rezoning application was made)~~ shall make best efforts to obtain appropriate permitting for and to ~~make best efforts to obtain appropriate permitting for and to~~ provide at no expense to City at least four observation blinds for viewing of the rookery without disturbing the rookery together with access and parking for the public use thereof, all to be shown and located on a site plan submitted to City for approval prior to any development of the Property. Property Owner will use its best efforts to secure any necessary permits for the improvements required in this provision. Owner of Property shall preserve the Conservation Area as a natural area and area suitable for use as ~~area suitable for use as~~ a rookery for wood storks perpetually.

18. Staff: Provision of these observation blinds is made the responsibility of subsequent owner owing to probable time requirement for permitting. Other changes were made for the sake of clarity while retaining the original intent. The term "perpetually" was retained.

Staff: Provision of these observation blinds is made the responsibility of subsequent owner owing to probable time requirement for permitting. The term "perpetually" was retained.

18. Wetlands. All wetlands and salt marshes on Property shall be **used, protected, protected** and maintained as part of all development plans in accordance with state and federal laws, regulations and permitting requirements.

Staff: Some of the wetlands are to be part of the buffer though still subject to state and federal regulations, hence, insertion of the term "used".

19.——

Staff: Some of the wetlands are to be part of the buffer though still subject to state and federal regulations, hence, insertion of the term "used".

19. Barge Limit. No more than **——** vessels designed to carry cargo shall be allowed to access the Property during any given 24 hour day. **barques or other vessels may be moored in the North River.**

Staff: It is not clear what capacity any barge port facility may have at this time. Hence it is not clear what would be a reasonable limitation to the number of barges allowed to have access to the Property. Preventing barges and other vessels being moored in the North River should limit the number of vessels in the area, limit any environmental impacts and prevent their being an eyesore.

20. Dredging. Property Owner shall not request any dredging or deepening of the North River except to maintain current depth in strict compliance with Federal and State regulations.

~~20. Barge Limit. No barges or other vessels may be moored in the North River unless granted special permission during a construction process.~~

~~Staff: It is not clear what capacity any barge port facility may have at this time. Hence it is not clear what would be a reasonable limitation to the number of barges allowed to have access to the Property. Preventing barges and other vessels being moored in the North River should limit the number of vessels in the area, limit any environmental impacts and prevent their being an eyesore.~~

~~21.—— Dredging. Property Owner shall not request any dredging or deepening of the North River except to maintain current depth in strict compliance with Federal and State regulations.~~

21. Fossil Fuel Exploration. No off-shore fossil fuel exploration staging/support facilities shall be allowed on the Property unless as a SUPan SUP.

~~22. Staff: Developer objects that such exploration is not possible for 5 years under a March 2016 decision of the U.S. Department of the Interior. It is not clear if such exploration would ever be legal in the future. Developer also feels there may be a manufacturing or fabricating possibility that could create or sustain employment in St. Marys. If and when such exploration is legally permitted, the use of the property in that endeavor would be subject to approval of an SUP by council.~~

~~Staff: Developer objects that such exploration is not possible for 5 years under a March 2016 decision of the U.S. Department of the Interior. It is not clear if such exploration would ever be legal in the future. If and when such exploration is legally permitted, the use of the property in that endeavor would be subject to approval of a SUP by council.~~

22. Odors. No odor shall be produced on the Property that is detectable at or beyond the Property boundary which are objectionable to an ordinary, reasonable man. No industrial use that may produce injurious or noxious noise, vibration, smoke, gas, fumes, odor, dust, fire hazard or other conditions objectionable to an ordinary, reasonable person as a result of its operation shall be allowed unless permitted by an SUP granted by City Council. Such uses shall be located a minimum of 200 feet from adjoining property lines and must be in conformance with all applicable rules and regulations administered by the Environmental Protection Division of the Georgia Department of Natural Resources.

~~Staff: This provision is rewritten to specifically incorporate standards in the General Industrial provisions of our current Zoning Ordinance Sec. 110-72 (b)(2) to this district.~~

23. Height Restriction. No building or other structure shall be allowed to be constructed or emplaced on the Property exceeding 65 feet in height. Property Owner may request an amendment to this provision and any site plan applicable thereto with the need therefor clearly spelled out.

~~Note: This condition removed entirely in favor of # 2 which has been amended.~~

24. Timeline. Property Owner at its sole expense shall bring the greater of 10% of the buildable portion of the Property or 50 acres thereof to a “shovel ready” condition each and every year after any approval of this Planned Development District. For purposes of this section, “shovel ready” means all environmental pollution remediated, the property brought to finish grade and provided with all utility lines (water, sewer, electrical and gas) and road and other appropriate transport lines such as rail service provided. If Property Owner fails to meet the requirements of this condition of approval for three one year periods, the City may rescind the approval of this Planned Development District and no further improvements consistent therewith shall be permitted thereafter.

Staff: This provision was removed completely. The Brownfield Program requires remediation before a new development is built and the nature of the remediation depends upon the nature of the new use. Hence, until subsequent development takes place remediation is neither required nor defined. Given the requirement of item 15, the property owner is committed to following the Brownfield Program.

~~23. Odors. No industrial use that may produce injurious or noxious noise, vibration, smoke, gas, fumes, odor, dust, fire hazard or other conditions objectionable to an ordinary, reasonable person as a result of its operation shall be allowed unless permitted by a SUP granted by City Council. Such uses shall be located a minimum of 200 feet from adjoining property lines and must be in conformance with all applicable rules and regulations administered by the Environmental Protection Division of the Georgia Department of Natural Resources.~~

~~Staff: This provision is rewritten to specifically incorporate standards in the General Industrial provisions of our current Zoning Ordinance Sec. 110-73 (b)(2) to this district.~~

~~Staff: This section is amended to allow an additional 30 days for design of the fountain and sign and to ensure that the “Development Impact Fee Act” does not apply.~~

25. Naval Vessels. Property Owner shall coordinate routes and shipping volumes for vessels entering or leaving the Property and shall develop a de-confliction procedure with the U. S. Navy and Coast Guard and conform thereto. The transit of naval assets in and out of the Intracoastal Waterway shall not be interfered with by vessels entering or leaving the Property.

~~24.~~ Staff: The “Coast Guard” was inserted in recognition of its role in controlling the waterway.

~~25-26.~~ **Traffic.** The Property Owner will coordinate with the City of St. Marys and the Georgia Department of Transportation (GDOT) regarding traffic and site access and to that end will, at no expense to City, provide a detailed traffic study acceptable to GDOT.

~~27.~~ **Noise.** All present or future Property Owners ~~Property Owners~~ or occupiers of any portion of the Property shall strictly comply with all St. Marys Ordinances including, without limitation, the noise ordinance Section 46-69.

Staff: The term “Property Owner” used to synchronize with definition of that term that was amended in #1.

~~26.~~—

~~Staff: The term “Property Owner” used to synchronize with definition of that term that was amended in #2.~~

~~27.~~ **Process.** The Port of St. Marys Industrial & Logistics Center Planned Development District (hereinafter referred to as “District” or “the District”) and each of the exhibits attached thereto (Exhibits A through H) as altered by these Special Conditions are incorporated into this rezoning planned development ordinance and made a part hereof. The applicants and any successors in interest in the developments of the District shall comply with and be bound by the Planned Development District text and each of the aforesaid exhibits. The District shall be rezoned to those zoning classifications as shown on exhibit A and only those uses authorized by the District plan in the respective zoning classifications as identified in SECTION II B. Allowed Land Uses shall be permitted, except as amended by these conditions. Prior to any development or improvement including any building or structure on any property or portion of the Property within the District, a Plot Plan or Site Plan (those terms being used interchangeably in this Exhibit H and the entire PD Text and Exhibits) of any area to be improved at such time must be filed with the City requesting approval as provided in Sec. 110-68(c) of the Zoning Ordinance of the City of St. Marys. No building permit or other development permit required under the ordinances of St. Marys shall issue nor shall any application

therefor be accepted until the Plot Plan is approved by the City **Planning Commission** under the provisions of the Zoning Ordinance.

28.

Staff: "Planning Commission" was inserted to clarify the process now used to review plot plans.
~~*Staff: "Planning Commission" was inserted to clarify the process now used to review plot plans.*~~

29. Independent Port. No portion of the Property shall be used as a laydown yard or storage area for another port or as an accessory or subsidiary operation to any other port. **Normal, non-preferential, not regularly recurring trade with any port is not prohibited hereby.**

Staff: The last sentence was added to further define an independent port consistent with the original intent.

~~**28. Normal, non-preferential, not regularly recurring trade with any port is not prohibited hereby.**~~

~~*Staff: The last sentence was added to further define an independent port consistent with the original intent.*~~

1 **EXHIBIT H**

2 **SPECIAL CONDITIONS**

3 The following Special Conditions are made a part of the Port of St. Marys
4 Industrial & Logistics Center Planned Development District Text, J-25467.0001
5 (hereafter “PD Text”) and included therein as Exhibit H. These conditions apply
6 to all property depicted in that Text and all exhibits thereto which are
7 incorporated herein by reference as modified by these Special Conditions
8 (hereafter “Property” or “the Property”). In the event of any conflict between
9 these Special Conditions and any portion of the Port of St. Marys Industrial &
10 Logistics Center Planned Development District Text, J-25467.0001 or the City of
11 St. Marys, Georgia Zoning Ordinance (hereafter “Zoning Ordinance”), these
12 Special Conditions shall govern. These Special Conditions are conditions of the
13 Port of St. Marys Industrial & Logistics Center Planned Development District.
14 Before any building permits for improvements on the Property may be applied for
15 or issued, there must be a Plot Plan prepared in accordance with § 110-68(c) of
16 the St. Marys Zoning Ordinance. Any Special Use Permit (also known as a Special
17 Permit Use) (hereafter “SUP”) issued for a use to be conducted upon property
18 entirely within the territory of the Port of St. Marys Industrial & Logistics Center
19 Planned Development District as defined in the Port of St. Marys Industrial &
20 Logistics Center Planned Development District Text which is owned by Old Weed
21 & Ready Plantation, LLC as shown on Exhibit B to the PD Text– Boundary Survey
22 dated October 26, 2015 (Parcel A, Parcel B, Parcel C, and Parcel D) (hereafter “the
23 Property”) shall continue to be valid so long as the use for which it was issued
24 shall be continuously conducted without interruption and shall not be limited to
25 an annual duration as set forth in the Zoning Ordinance Section 110-145 (5). The
26 SUP shall be transferrable or assignable to any future owner.

27 Any SUP requested by Property Owner in the future shall be first considered by
28 the St. Marys Planning Commission which shall make its recommendation
29 thereon to the St. Marys City Council which shall make the final decision.

- 30 1. Development Plan. Prior to any development, a Plot Plan for Planned
31 Development, as described in 110-68(c), shall be submitted to the
32 Community Development Department, for review and approval by the
33 Planning Commission, that addresses all Special Conditions set forth
34 herein, the applicable portion of the Zoning Ordinance, Subdivision
35 Regulations and any development agreement. Without the submittal and
36 approval of a Plot Plan, all development not shown thereon will not be
37 approved nor any building permits issued therefor. In addition to the
38 Planned Development (PD) conditions of approval, the Property Owner

1 (as used herein, that term shall mean any owner, developer, user or
2 person or entity holding a leasehold interest or other interest entitling
3 them to possess the Property or any portion thereof and any subsequent
4 transferee of such person) shall comply with all St. Marys ordinances.
5 The Property Owner has acknowledged that the site must adhere to a
6 Brownfield Corrective Action Plan, administered by the Georgia
7 Environmental Protection Division and will cooperate with all parties to
8 achieve the Plan as it now exists or as it may be amended from time to
9 time.

- 10 2. **Height Overlay District.** No buildings, structures, or manned equipment
11 may be constructed or permitted on the Property which exceeds 65 feet in
12 height unless 1) the building or structure is clearly shown on an SUP
13 Application and is subsequently approved and 2) the Property Owner at
14 its own expense agrees in a Developmental Agreement with City to
15 provide at a minimum all funds necessary for the City of St. Marys to
16 purchase firefighting equipment and provide the City Fire Department
17 personnel training in the use of the equipment and firefighting methods
18 sufficient for the City Fire Department to combat fires in the building
19 contemplated considering the size and contents of the contemplated
20 building. The equipment and training shall be those identified by City and
21 the equipment shall be and remain the property of City. The Property
22 Owner's obligations may be placed in a development agreement between
23 the owner and City. The height chart contained in the PD text is
24 superseded by these conditions and should be overwritten with "See
25 Special Conditions".
- 26 3. **Maritime Heritage District.** The Property shall not be considered a part of
27 the Maritime Heritage District (MHD) and the provisions of Sec. 110-78. -
28 Maritime Heritage District (MHD) shall not apply thereto.
- 29 4. **Water and Sewer Services.** Any water or sewer lines and improvements
30 necessary or desirable but not extant at the time of this rezoning serving
31 the Property shall be constructed in conformity with City design
32 standards by the owner of the Property at owner's sole expense. Once
33 completed, the improvements shall be dedicated to City at no expense to
34 the City.

35 City water system shall be utilized as the source for all non-industrial use.
36 The City of St. Marys Point Peter Wastewater Treatment Facility shall
37 receive all industrial and non-industrial wastewater from this site. All
38 industrial wastewater shall only be treated by City pursuant to contract

1 with the owner of the Property setting conditions, pretreatment required
2 and rates for such effluent. Use of the on-site wells for industrial purposes
3 is regulated by GA EPD.

4 5. **Storage.** There shall be no storage of refuse not generated on site, and
5 there shall be no coal ash, or any particulate matter stored on site that
6 may escape or emit noxious odors to surrounding areas, including trash
7 to steam processing. Rail cars or containers shall only be stored (defined
8 as remaining in place for more than 96 hours), processed (loaded or
9 unloaded) or repaired in the areas designated on the Plot Plan.

10 6. **Streets and Roads.** All transportation facilities will be to City standards
11 and a traffic study for required improvement shall be a condition of
12 approval for any streets or roads. Proposed Port of St. Marys Industrial &
13 Logistics Center Planned Development District (PDD) Section II shall meet
14 minimum design standards for Streets, Lanes, Alleys, Right of Ways,
15 Lots, Blocks, Utility Easements, easement locations and open space.
16 Overall site design should be harmonious in terms of landscaping,
17 enclosure of principal and accessory uses, sizes and street patterns, and
18 use relationships. Access to the Property by truck traffic shall be limited
19 to Finley Street and St. Patrick Street, while keeping all storage yards
20 interior and well-protected from surrounding uses through buffering and
21 screening subject to approval by the city. Access to portions of the
22 Property abutting Meeting Street shall be limited where possible to
23 minimize the impact to surrounding commercial and residential areas. All
24 transportation facilities will be built and maintained to City standards and
25 the city in its discretion may require a traffic study as a condition to
26 approval of any permit. All roads shall be privately maintained unless and
27 until dedicated to and accepted by the City. Prior to Development, the
28 Property Owner shall provide a ten-foot wide non-motorized public
29 access easement to the Camden County PSA or City, at City's option, for
30 use by citizens of St. Marys for a multi-use path along the western
31 boundary of the site.

32 7. **Parking.** Parking standards for the City should be amended to provide
33 parking requirements for each new facility at time of plot plan and special
34 use permitting.

35 8. **Amendments to Existing Planned Development Districts.**

36 a. Any request pertaining to amending a PD District shall be
37 considered an amendment to the Zoning Ordinance and shall be

1 processed in accordance with the regulations set forth in the City
2 of St. Marys, Georgia Zoning Ordinance, Article VII, Amendments.

3 b. All information required in subsections (c) and (d) of Section 110-
4 68 of the Zoning Ordinance shall be submitted to the planning
5 commission and subsequently forwarded to the city council with
6 the recommendations of the planning commission.

7 c. If the amendment is approved by the city council, all information
8 pertaining to the proposal, presented or agreed to by the applicant
9 shall be deemed conditions of approval. All permits granted in the
10 PD District shall be in conformance with those conditions.

11 d. Before approval of an amended Planned Development District, the
12 city council may require a contract with safeguards satisfactory to
13 the city attorney guaranteeing completion of the development
14 according to the criteria listed herein. Such guarantee may include
15 the submission of a performance bond or letter of credit in an
16 amount set by the city council.

17 9. **Buffers and Open Areas.** Setbacks, buffers and open areas shall be
18 established as herein provided, and any required wetlands and salt marsh
19 jurisdictional setbacks shall also apply according to law throughout the
20 Property. There shall be a 200 foot buffer around the designated
21 Conservation Area (CA) a portion of which must be a planted buffer as set
22 forth herein. There shall be a 300 foot buffer from all storage, processing
23 and portage of hazardous material, as identified on the Final Plot Plan,
24 and adjacent to residential property lines.

25 All boundaries adjacent to other properties not part of the PD zone shall be
26 separated by a continuous planted 30 foot buffer sufficient to block all
27 views from ground level at the property line of the I-P portions of the
28 property from view from adjacent properties and roads (except at two entry
29 gates). Such buffer strip shall be composed of healthy plants which
30 possess growth characteristics of such a nature as to produce a dense,
31 compact planting screen that is opaque from ground level to a minimum of
32 six feet from ground level. The plantings shall be not less than six feet high
33 at planting and shall contain sufficient plants which have a growth
34 potential height of 30 feet and can block views continuously up to that
35 height in the locations required herein. Landscaped earthen berms 10 feet
36 high with plantings of a minimum of six feet high with growth potential of at
37 least 20 feet can be substituted for the buffers required herein. Property

1 Owner shall be responsible to nurture, maintain and replace any plantings
2 in any buffer.

3 The entranceways to the industrial portion of the Property, the pond at
4 Osborne and Meeting Streets, and a 200 foot wide buffer along those
5 portions of Osborne and Meeting Streets which abut any portion of the
6 Property shall be landscaped with grass and various plantings to make
7 these areas aesthetically pleasing. A planting plan and details of any
8 proposed earthen berm or other buffering improvements shall be shown on
9 a site plan containing the other improvements proposed at that time
10 submitted to City for approval prior to any development of the Property and
11 constructed at the same time as the improvements on the site plan. The
12 said site plan to contain a waiver of Property Owner's rights under the
13 Georgia's "Development Impact Fee Act" as it reads now or as it may be
14 amended, as it may apply. It is understood that any proposed landscaping
15 or berm or any other proposed improvements which would lie within
16 jurisdictional wetlands are subject to approval by the appropriate federal
17 and state agencies. The buffer, plantings and other improvements in the
18 area of a buffer must be continuously maintained in good and attractive
19 order by Property Owner.

20 Developer/Property Owner/Users shall install a fountain on the existing
21 pond within this buffer and a lighted sign within 50 feet thereof with only
22 the words "Welcome to Historic St. Marys" placed thereon in lettering of
23 sufficient size to be viewed from Osborne Street. A site plan for the
24 fountain and sign shall be submitted to City for approval within 60 days of
25 any approval of this Planned Development District and the fountain and
26 sign shall be completed within 6 months of the approval of the site plan.
27 Property Owner shall complete removal of concrete and asphalt debris and
28 clean up the 18 acre mixed use area so as to make it aesthetically pleasing
29 within 6 months of the time the Planned Development District rezoning is
30 approved. The 18 acre site is bounded on the west by Osborne Street, on
31 the east by the North River, on the south by Meeting Street and on the
32 north by Gallop Street.

33 **10. Changes to Definitions. The following changes are made to Section 2, E**
34 **Definitions of Land Use Terms and Density Terms:**

- 35 a. Section 2 Marine Facilities listing of allowed uses is amended to
36 replace the first listed allowed use with the following: "Shipping
37 facilities for shallow draft barges and vessels"

- 1 **b. Section 2 Marine Facilities listing of allowed uses is amended to**
2 **replace the tenth listed allowed use with the following: “Bunker**
3 **(Fuel) storage facilities limited to 100,000 gallons”**
- 4 **c. Section 3 Neighborhood Commercial listing of permitted uses is**
5 **amended to add the following provisions:**
- 6 **i. (3) No Drive Thru facilities permitted**
- 7 **ii. (4) No Single-family dwellings permitted**
- 8 **iii. (5) All non-specified commercial uses shall be special**
9 **permitted uses (SUP)**
- 10 **11. Utilities. A 10’ Public Utility Easement to City is required on all interior**
11 **lot lines, and adjacent to all exterior boundary lines.**
- 12 **12. Timing of Development. The provisions of Section 110-185 (b)(7)(f) shall**
13 **not apply to this rezoning of the Property. City shall not take action to**
14 **rezone property to original zoning as described therein.**
- 15 **13. Materials.**
- 16 **a. Total Prohibition. The handling, storage, production or transit**
17 **through the property of coal or coal ash, wood chips, wood logs,**
18 **medical waste, hazardous waste (as defined in the U.S. Resource**
19 **Conservation and Recovery Act and regulations enacted pursuant**
20 **thereto) not produced on site, bulk petroleum or other fuels**
21 **(except for above- ground storage of the amount permitted in**
22 **Special Condition 10 (b)) including, without limitation, Liquid**
23 **Natural Gas, medical waste (disposable equipment, instruments,**
24 **utensils, human tissue, laboratory waste, blood specimens, or**
25 **other substances that could carry pathogenic organisms),**
26 **radioactive waste, municipal solid waste(as defined in O.C.G.A. 12-**
27 **8-22) garbage not generated on site or waste material are**
28 **prohibited on the Property. The temporary storage prior to off-site**
29 **disposal of garbage and waste material generated on site is**
30 **allowed.**
- 31 **b. Manufacturing. The handling, storage, production or transit**
32 **through the Property of the following materials: construction or**
33 **demolition waste, rigid plastic bottles, rigid plastic containers,**
34 **retreadable casings, radioactive materials, scrap tires, used tires,**
35 **yard trimmings, all as defined in O.C.G.A. § 12-8-22, concrete and**
36 **other aggregates, wood pellets, sawdust, scrap metal or other**

1 recyclables and radioactive materials are prohibited except in
2 connection with manufacturing or processing on site and
3 shipment of materials manufactured or processed on site,
4 provided, however, that all such materials shall be stored within
5 completely enclosed buildings while on site. All raw materials
6 shall be kept in enclosed buildings while on the Property except
7 when being handled.

8 c. **Special Use Permit.** The handling, storage, or transit through the
9 property of the following materials: explosives, blasting agents,
10 detonators, all as defined in 18 U.S.C.A. § 841 on the Property are
11 prohibited. Production of those items is only allowed pursuant to
12 an SUP issued by City Council with any conditions the Council
13 may choose to impose.

14 **14. Lighting.** All lighting on the property must be shielded so the source of
15 the light is not visible off the Property. Normal street lighting is excepted
16 from this provision.

17
18 **15. Brownfield Program.** The Property Owner shall not seek to remove the
19 Property from the Georgia Environmental Protection's Division's (EPD)
20 Brownfield Program other than by complying with the remediation
21 requirements thereof and the owner shall cooperate with the EPD and all
22 parties to achieve the Plan as it now exists or as it may be amended from
23 time to time.

24
25
26 **16. Storage containers.** Storage containers, such as gas or oil barrels or
27 conex boxes which are located or stored on the property should be
28 screened so they cannot be seen by a person standing on the ground at
29 the perimeter of the Property.

30
31 **17. Rookery.** Owner of Property (not including owner at the time this rezoning
32 application was made) shall make best efforts to obtain appropriate
33 permitting for and to provide at no expense to City at least four
34 observation blinds for viewing of the rookery without disturbing the
35 rookery together with access and parking for the public use thereof, all to
36 be shown and located on a site plan submitted to City for approval prior
37 to any development of the Property. Owner of Property shall preserve the
38 Conservation Area as a natural area and area suitable for use as a
39 rookery for wood storks perpetually.
40

- 1 **18. Wetlands.** All wetlands and salt marshes on Property shall be used,
2 protected and maintained as part of all development plans in accordance
3 with state and federal laws, regulations and permitting requirements.
- 4 **19. Barge Limit.** No barges or other vessels may be moored in the North
5 River.
- 6
- 7 **20. Dredging.** Property Owner shall not request any dredging of the North
8 River except to maintain current depth in strict compliance with Federal
9 and State regulations.
- 10
- 11 **21. Fossil Fuel Exploration.** No off-shore fossil fuel exploration
12 staging/support facilities shall be allowed on the Property unless as an
13 SUP.
- 14
- 15 **22. Odors.** No industrial use that may produce injurious or noxious noise,
16 vibration, smoke, gas, fumes, odor, dust, fire hazard or other conditions
17 objectionable to an ordinary, reasonable person as a result of its
18 operation shall be allowed unless permitted by an SUP granted by City
19 Council. Such uses shall be located a minimum of 200 feet from adjoining
20 property lines and must be in conformance with all applicable rules and
21 regulations administered by the Environmental Protection Division of the
22 Georgia Department of Natural Resources.
- 23
- 24 **23. Naval Vessels.** Property Owner shall coordinate routes and shipping
25 volumes for vessels entering or leaving the Property and shall develop a
26 de-confliction procedure with the U. S. Navy and Coast Guard and
27 conform thereto. The transit of naval assets in and out of the Intracoastal
28 Waterway shall not be interfered with by vessels entering or leaving the
29 Property.
- 30
- 31 **24. Traffic.** The Property Owner will coordinate with the City of St. Marys and
32 the Georgia Department of Transportation (GDOT) regarding traffic and
33 site access and to that end will, at no expense to City, provide a detailed
34 traffic study acceptable to GDOT.
- 35 **25. Noise.** All present or future Property Owners or occupiers of any portion
36 of the Property shall strictly comply with all St. Marys Ordinances
37 including, without limitation, the noise ordinance Section 46-69.
- 38
- 39 **26. Process.** The Port of St. Marys Industrial & Logistics Center Planned
40 Development District (hereinafter referred to as “District” or “the

1 District”) and each of the exhibits attached thereto (Exhibits A through H)
2 as altered by these Special Conditions are incorporated into this rezoning
3 planned development ordinance and made a part hereof. The applicants
4 and any successors in interest in the developments of the District shall
5 comply with and be bound by the Planned Development District text and
6 each of the aforesaid exhibits. The District shall be rezoned to those
7 zoning classifications as shown on exhibit A and only those uses
8 authorized by the District plan in the respective zoning classifications as
9 identified in SECTION II B. Allowed Land Uses shall be permitted, except
10 as amended by these conditions. Prior to any development or
11 improvement including any building or structure on any property or
12 portion of the Property within the District, a Plot Plan or Site Plan (those
13 terms being used interchangeably in this Exhibit H and the entire PD Text
14 and Exhibits) of any area to be improved at such time must be filed with
15 the City requesting approval as provided in Sec. 110-68(c) of the Zoning
16 Ordinance of the City of St. Marys. No building permit or other
17 development permit required under the ordinances of St. Marys shall
18 issue nor shall any application therefor be accepted until the Plot Plan is
19 approved by the City Planning Commission under the provisions of the
20 Zoning Ordinance.

21
22 **27. Independent Port.** No portion of the Property shall be used as a laydown
23 yard or storage area for another port or as an accessory or subsidiary
24 operation to any other port. Normal, non-preferential, not regularly
25 recurring trade with any port is not prohibited hereby.
26

27

**JENKINS
& BOWEN** P.C.
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SAVANNAH OFFICE
11 CEDAR VIEW DRIVE
SAVANNAH, GEORGIA 31410

REPLY TO: CARTERSVILLE

May 2, 2016

VIA EMAIL ONLY gary@gmoorelaw.net

Mr. Gary Moore
135 Ledbetter Avenue
Saint Simons Island, GA 31522

RE: Motion and Rezoning Conditions Governing Adoption of Rezoning Ordinance for Port of St. Marys' PD District

Dear Gary:

Thank you for asking me to review and advise you on the rezoning motion and conditions of rezoning for the Port of St. Marys' PD district.

As you requested, I reviewed the draft of the motion to adopt the rezoning ordinance and the conditions of rezoning and have provided my comments addressed to changes in the ordinance. I think the ordinance as drawn is clear and unambiguous; the conditions in my opinion are enforceable by the city and will give the city sufficient control over the development of the PD district. At every turn and request for development of the district, I think the conditions amply provide the city through its enforcement powers an opportunity to ensure that the development will conform to what the city intended in adopting this rezoning ordinance.

Please let me know if you have any questions.

Very truly yours,

JENKINS & BOWEN, P.C.



Frank E. Jenkins, III

ENVIRONMENTAL SERVICES, INC.

P.O. Box 2383
Savannah, GA 31402

Phone 912-236-4711 * Fax 912-236-3668

www.environmentalservicesinc.com

3 March 2016

Mr. Michael Newsom
Bankruptcy Estate of Durango Georgia Paper Company
2519 North McMullen Booth Road
Suite 510-350
Clearwater, FL 33761

**RE: Durango Mill Redevelopment
Camden County, Georgia
CE Reg. Branch Number # SAS-2015-00696**

ES14076.00

Dear Mr. Newsom:

Attached is a copy of a letter from the U.S. Army Corps of Engineers (CE), dated 22 February 2016, that represents both the Preliminary Jurisdictional Determination (JD) and Approved Jurisdictional Determination (AJD) regarding the above-referenced property located at the Durango Paper Mill, in the City of St. Mary's, Camden County, Georgia. This letter states that the CE, upon reviewing the Jurisdictional Determination Request (JDR) submitted by Environmental Services, Inc. (ESI), agrees with the delineation performed by ESI on the subject property and provides both an Expanded Preliminary JD and an Approved JD. Both JDs will be valid for five (5) years, expiring **22 February 2021**.

Paragraph 3 of the attached JD letter states that the survey entitled "Wetland Survey of Port of St. Mary's Industrial and Logistics Center, 29th G.M.D., City of St. Mary's, Camden County, Georgia, Sheets 1-17 of 17," dated 15 December 2015, and signed by registered land surveyor Mr. Wright C. Powers, is an accurate delineation of all the jurisdictional boundaries on the site. Disturbance to these areas would require prior authorization from the CE pursuant to Section 404 of the Clean Water Act. The delineation as depicted on the survey will remain valid for a period of five (5) years, expiring **22 February 2021**, unless new information warrants revision prior to that date.

As stated in paragraph 5, the AJD has been completed and there are also wetlands/other waters on the subject property, specifically those identified as Pond areas 1-9, as depicted on exhibit "Non-jurisdictional industrial waste pond survey, portion of the Port of St. Mary's Industrial and Logistics Center, 29th G.M.D., City of St. Mary's, Camden County, Georgia, Sheets 1-6 of 6," dated 3 December 2015, and signed by registered land surveyor Wright C. Powers, Jr. that *are not* waters of the United States. Disturbance to these areas would not require prior authorization from the CE pursuant to Section 404 of the Clean Water Act. The delineation as depicted on the survey will remain valid for a period of five (5) years, expiring **22 February 2021**, unless new information warrants revision prior to that date.

Should you require future assistance, have any questions or wish to discuss this information further, please do not hesitate to contact us at the number listed above.

Sincerely,
ENVIRONMENTAL SERVICES, INC.



Michael J. DeMell
Senior Vice President II/Technical Director



Kristen Stauff
Project Scientist

MD/ks
ES14076.00/Durango client verif.Ltr
March 2016



DEPARTMENT OF THE ARMY
SAVANNAH DISTRICT, CORPS OF ENGINEERS
100 W. OGLETHORPE AVENUE
SAVANNAH, GEORGIA 31401-3604

REPLY TO
ATTENTION OF:

FEBRUARY 22 2016

Regulatory Division
SAS-2006-02277

Mr. Michael Newsom
Bankruptcy Estate of Durango Georgia Paper Company
2519 North McMullen Booth Road, Suite 510-350
Clearwater, Florida 33761

Dear Mr. Newsom:

I refer to a letter dated January 8, 2016, submitted on your behalf by Mr. Stuart Bryan of Environmental Services, Inc., requesting a Jurisdictional Determination (JD) for your site located at the Durango Paper Mill, in the City of St. Marys, Camden County, Georgia (Latitude 30.745358, Longitude -81.544571). This project has been assigned number SAS-2006-02277 and it is important that you refer to this number in all communication concerning this matter.

We have completed a preliminary JD for the site. The wetlands were delineated in accordance with criteria contained in the 1987 "Corps of Engineers Wetland Delineation Manual," as amended by the most recent regional supplements to the manual.

The wetlands/other waters on the subject property may be waters of the United States within the jurisdiction of Section 404 of the Clean Water Act (33 United States Code (U.S.C.) 1344) and/or Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403). The enclosed survey entitled "Wetland Survey of Port of St. Mary's Industrial and Logistics Center, 29th G.M.D., City of St. Mary's, Camden County, Georgia, Sheets 1-17 of 17", dated December 15, 2015, and signed by Registered Land Surveyor Wright C. Powers, Jr., is an accurate delineation of all the jurisdictional boundaries on the site. This delineation will remain valid for a period of 5-years unless new information warrants revision prior to that date. The placement of dredged or fill material into any waterways and/or their adjacent wetlands or mechanized land clearing of those wetlands would require prior Department of the Army authorization pursuant to Section 404.

Preliminary JDs are advisory in nature and may not be appealed (see 33 Code of Federal Regulations 331.2). If you are not in agreement with this preliminary JD, then you may request an approved JD for your project site or review area.

We have also completed an Approved Jurisdictional Determination. There are also wetlands/other waters on the subject property, specifically those identified as Pond Areas 1-9, as depicted on exhibit "Non-jurisdictional Industrial Waste Pond Survey, Portion of the Port of St. Mary's Industrial and Logistics Center, 29th G.M.D., City of St. Mary's, Camden County, Georgia, Sheets 1-6 of 6", dated December 3, 2015, and signed by Registered Land Surveyor Wright C. Powers, Jr., that are not waters of the United States and are therefore not within the jurisdiction of Section 404 of the Clean Water Act (33 U.S.C. 1344) and/or Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403). This approved JD will remain valid for a period of 5-years unless new information warrants revision prior to that date. The placement of dredged or fill material into these wetlands/other waters would not require prior Department of the Army authorization pursuant to Section 404.

You may request an administrative appeal for any approved JD under the Corps regulations at 33 CFR Part 331. Enclosed you will find a Notification of Administrative Appeal Options and Process and Request for Appeal form.

If you intend to sell property that is part of a project that requires Department of the Army Authorization, it may be subject to the Interstate Land Sales Full Disclosure Act. The Property Report required by Housing and Urban Development Regulation must state whether, or not a permit for the development has been applied for, issued or denied by the U.S. Army Corps of Engineers (Part 320.3(h) of Title 33 of the Code of Federal Regulations).

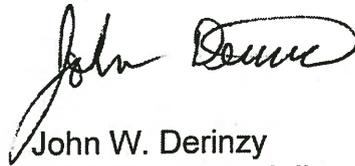
This communication does not convey any property rights, either in real estate or material, or any exclusive privileges. It does not authorize any injury to property, invasion of rights, or any infringement of federal, state or local laws, or regulations. It does not obviate your requirement to obtain state or local assent required by law for the development of this property. If the information you have submitted, and on which the U.S. Army Corps of Engineers has based its determination is later found to be in error, this decision may be revoked.

A copy of this letter is being provided to the following party: Mr. Stuart Bryan, Environmental Services, Inc., 131 Hutchinson Island Road, Suite 100, Savannah, Georgia 31421.

Thank you in advance for completing our on-line Customer Survey Form located at http://corpsmapu.usace.army.mil/cm_apex/f?p=regulatory_survey. We value your comments and appreciate your taking the time to complete a survey each time you have interaction with our office.

If you have any questions, please call me at 912-652-5051.

Sincerely,

A handwritten signature in black ink, appearing to read "John Derinzy". The signature is written in a cursive style with a large initial "J" and a circular flourish at the end.

John W. Derinzy
Regulatory Specialist, Coastal Branch

Enclosures

**EXHIBIT C
HEIGHT OVERLAY DISTRICT
FOR
PORT OF ST. MARYS INDUSTRIAL
& LOGISTICS CENTER
PLANNED DEVELOPMENT DISTRICT**

ST. MARYS, CAMDEN COUNTY, GEORGIA

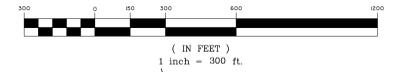
PREPARED FOR:
PORT OF ST. MARYS, LLC
212-726-9000

PREPARED BY:
THOMAS & HUTTON ENGINEERING CO.
912-466-0536

PRIVETT & ASSOCIATES
912-882-3738

REVISED: APRIL 18, 2016
J-25467.0001

GRAPHIC SCALE



**65' MAX. BLDG.
HEIGHT ZONE**
±428 AC.

**45' MAX. BLDG.
HEIGHT ZONE**
±111 AC.

**CONSERVATION
AREA (CA)**
±18 AC.

PORT INDUSTRIAL (I-P)
±521 AC

PARCEL "A"
±703 ACRES
(±557 ACRES UPLAND)
(±146 ACRES SALT MARSH)

SALT MARSH
±83 ACRES

HEIGHT OVERLAY DISTRICT SUMMARY

HEIGHT OVERLAY ZONE	TOTAL ACRES	% OF LAND USE
65' MAXIMUM BUILDING HEIGHT	±428	77%
45' MAXIMUM BUILDING HEIGHT	±129	23%

GROSS DEVELOPMENT ACREAGE	±557	100%
SALT MARSH	±165	
TOTAL PROPERTY	±722	

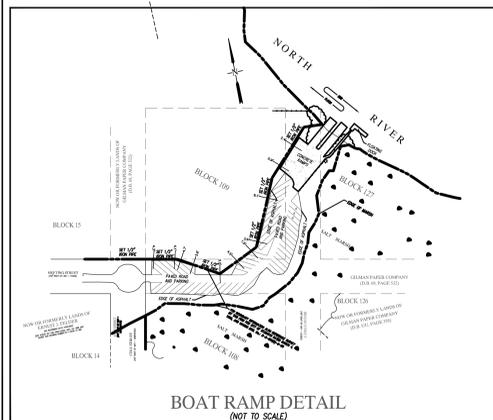
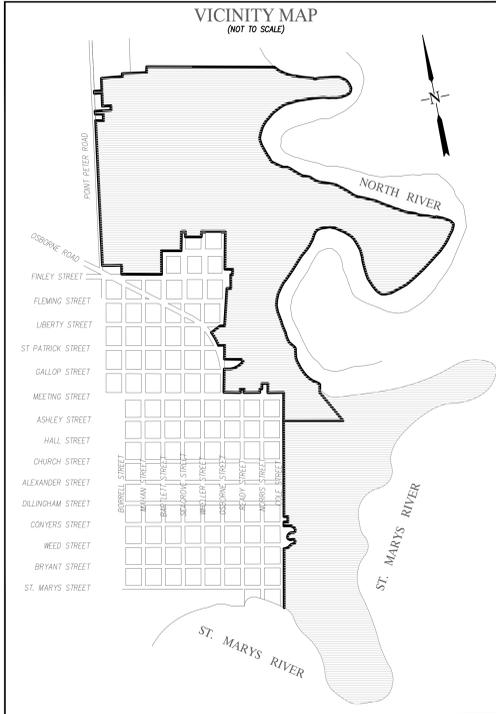
LAND USE DESIGNATION

CA - CONSERVATION AREA	AMBIENT/RESTORED WETLANDS
MU - MIXED USE	SALT MARSH
I-P - PORT INDUSTRIAL	MARSH BUFFER
PROPERTY LINE	ACCESS POINT

NOTES:
1.) ALL BOUNDARY INFORMATION PROVIDED BY PRIVETT & ASSOCIATES SURVEY DATED 10/26/15.
2.) AREAS ARE APPROXIMATE AND ARE SUBJECT TO CHANGE WHEN LAND USES AND PARCEL BOUNDARIES CHANGE. THESE CHANGES WILL BE IN ACCORDANCE WITH THE PORT OF ST. MARYS INDUSTRIAL & LOGISTICS CENTER PLANNED DEVELOPMENT DISTRICT TEXT.
3.) WETLANDS ON THIS ZONING MASTER PLAN ARE APPROXIMATE & SHOWN SOURCE: THOMAS & HUTTON "WETLAND SURVEY OF PORT OF ST. MARYS INDUSTRIAL AND LOGISTICS CENTER" DATED 4/22/15.

DISCLAIMER

THIS MAP ILLUSTRATES A GENERAL PLAN OF THE DEVELOPMENT WHICH IS FOR DISCUSSION PURPOSES ONLY. DOES NOT LIMIT OR BIND THE OWNER, AND IS SUBJECT TO CHANGE AND REVISION WITHOUT PRIOR WRITTEN NOTICE TO THE HOLDER. DIMENSIONS, BOUNDARIES AND POSITION LOCATIONS ARE FOR ILLUSTRATIVE PURPOSES ONLY AND ARE SUBJECT TO AN ACCURATE SURVEY AND PROPERTY DESCRIPTION.



**45' MAX. BLDG.
HEIGHT ZONE**
±18 AC.

NOTE: Height Overlay District. No buildings or manned equipment may be constructed or permitted on the Property which exceed 65 feet in height unless 1) the building is clearly shown on a SUP Application and is subsequently approved and 2) the Property Owner enters into an approved Development Agreement with the City.

**NOW OR FORMERLY
LANDS OF
THE CITY OF
ST. MARYS
(D. B. 744, Pg. 229)**
±2.52 ACRES

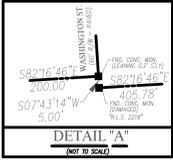
(SEE SURVEY BY THE CITY OF ST. MARYS DATED: MARCH 4, 1999 AND HAVING OUR DRAWING NUMBER: P-2-001014-18)

DNR MARSH LINE AS FLAGGED BY COASTAL ENVIRONMENTAL CONSULTING SERVICES ON 10/26/05. NOTE: THIS LINE HAS NOT BEEN VERIFIED BY ANY CA. DNR AUTHORITIES

**PROPERTY LINE
(TYP.)**
SALT MARSH

MIXED USE (MU)
±18 AC

PARCEL "B"
SALT MARSH
±19 AC



LEGEND:

- - SET 1/2" IRON PIPE "T.L.S. #2218"
- SET 1/2" IRON PIPE "TRAVERSE POINT"
- END 1/2" IRON PIPE "TRAVERSE POINT"
- - WOODEN POWER POLE
- - FIRE HYDRANT
- - TELEPHONE RISER

