

OBJECTIVE REVIEW OF REZONING APPLICATION STAFF REPORT

The following is a copy of the Rezoning Application Staff Report, with charts, graphs and much of the detailed text omitted for brevity. The entire Staff Report is available on the City website. Comments by Bob Divine, former Chairman of the Development Authority of St Marys, are shown in **BLUE type**.

Community Development Department Staff Report, 2/11/2016

REZONE CRITERIA: SEC. 110-185(d)

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

The ten standards for judging the application under 110-185(d) Zoning Amendment Criteria - guide the City's decision and asks the Planning Commission to "recommend that the application be granted as requested, or it may recommend a modification of the zoning amendment requested in the application, or it may recommend that the application not be granted. These recommendations shall then be certified to the city council." None of which require the Planning Commission to make a determination on the qualifications of the developer.

Although the Planning Commission is not required to make a determination on the qualifications of the "developer" , **it must be noted that neither the applicant (Port of St Marys, LLC) nor its affiliated company, ASM Capital, is a developer.** Port of St Marys, LLC, was chartered in Delaware in June, 2016, and is owned by the principals of ASM Capital and Mr. Christopher Ragucci. According to its website, ASM Capital is an investor in bankruptcy debt, presumably purchased at discount from impatient or frustrated creditors. After settlement of the bankruptcy estate, ASM hopes to profit by the sale of the assets acquired through this process. **Neither ASM Capital, nor Port of St Marys, LLC, has demonstrated any successful experience in making a meaningful contribution to the success of a project such as this. To the contrary, their profit expectations on the sale or leasing of this property to an end-user will raise the cost of redevelopment, thus making it more difficult if not impossible to return this property to productive use.**

The City Council is given the authority to "consider the recommendations of the planning commission, and vote on the proposed amendment to the text or map of the zoning ordinance after the planning commission's public hearing."

Without a concrete development attached to the zoning request, the conditions and perhaps a development agreement, will be the avenue for the city to share its expectation of prospective industrial development.

As suggested in the paragraph above, the rezoning application does not include a "concrete" development plan. **In fact, the applicant representative, Mr. Christopher Ragucci, has admitted in a public**

meeting that he “has no idea what uses may be found for the property” . The applicant has asked that the property be rezoned, with no assurances of what requests may be made in the future for special use permits. Although this would allow the City to have some degree of control, future use permit requests may indeed include difficult choices between undesirable uses and the promise of jobs and tax revenue. And despite the best intentions of the present Planning Commission and City Council, these decisions will be made by currently unknown elected and appointed officials.

The application for rezoning does not comply with Standard #1 because is NOT “a logical extension of a zoning boundary which would improve the pattern of uses in general area” . It is in fact an intrusion of industrial activity into an area that has enjoyed residential and light commercial status for the past fourteen years. Many people have bought homes in the area with no expectation that the zoning would be changed to allow for industrial activity.

(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. Please see comments in Standard (3), below.

The application does not comply with Standard #2 because it would permit “an illogical extension of a zone boundary which would intrude a damaging salient of a commercial, industrial---use into a stable neighborhood of well-maintained single family homes, etc” .

(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.

(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 major points of ingress and egress from the site are proposed to be located six blocks off Georgia Highway 40/Osborne St. at Finley Street and immediately off Hwy 40 at St. Patricks’ Street. These access points are proposed to handle the majority of truck traffic from the development, while a portion of traffic is proposed to be handled via St. Marys Rail.

Compare the Peak Demand projected at approximately 3,400 trips for the Port application compared to the Land Mar application of 3,800 and one might conclude that this is asking for less of an impact than the previous scenario. Such a scenario is indeed possible, however truck traffic is very different from automobile traffic.

Access for trucks via Finley Street would be through a residential neighborhood.

Comparison to the projected use by the LandMar development is irrelevant; comparing the zoning application that was approved at a different time, under different conditions, and by a different Planning Commission and City Council with different issues in mind.

As noted above, the rezoning application envisions significant, but not quantified, truck traffic. As stated by CRC in Exhibit M, Section 13.9 through 13.12 “The existing roadway network will not be adequate to accommodate the proposed development.” Because of this, the City will face unknown costs for roadway improvements.

The application does not comply with Standard #4 because it would “create traffic which would traverse established single-family neighborhoods on minor streets, leading to congestion, noise and traffic hazards” , and because it does not adequately provide for protection against damages from the use and storage of hazardous materials.

(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.

Back when the mill was operational the on-site water flow being pulled from the artesian wells reached 26,000 gallons per minute. Flows of this magnitude have quite an impact on surrounding water tables and are highly sought after, especially in coastal communities, which are rife with salt water intrusion. The Port proposal identifies the use of City water, however there is also discussion regarding the use of on-site wells. Clarification through a development agreement, with proportionate use clauses could alleviate any concerns that the applicant might forego utilizing City Water and the revenue attached. The applicant has stated that the on-site wells would be used for industrial production, while City water would be used for domestic flows. The City should understand the attraction to prospective industrial operations of these artesian wells, yet balance that with what might be expected from industrial use on City property. The City might consider an agreement that allows only City water usage, unless a special permit is issued for a designated industrial use.

As with other aspects of this proposal, there is no specificity regarding use of artesian wells that could have a significant impact on the surrounding water tables. While increased use of currently under-utilized City water and sewer capacity is considered a financial benefit, unregulated depletion of the aquifer could have disastrous impact not only on St Marys but also on a vast contiguous area.

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

The request to maintain the Maximum Building Height allowances from the existing Planned Development zoning code would require the City of St. Marys Fire Department service structures up to 100' for approximately 557 acres (12%) of the site. Currently the City does not have the aerial capacity to service such heights. In fact, the ability to serve a 100' structure from an emergency service perspective may be the most pertinent point to address in conditioning such an application.

Another area that should be addressed, if we are to consider the Phase One Environmental Assessment and the possibility of additional industrial uses, is to condition any future special use permit that asks for permission to handle, store or transport hazardous or toxic materials with a development agreements that secures the City the training, equipment and personnel for handling additional risk.

The projected increase in industrial and commercial activity will naturally require an increase in fire and police activity, waste and garbage service, road maintenance and other municipal services. If industrial activity increases as projected, the increased need for municipal services will be significant.

The application does not comply with Standard #7 in that it would “result in major changes in existing levels of public service”.

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

The current Planned Development Mixed-Use zoning has not resulted in a development opportunity on the property over the past ten years. Whether the rezoning would allow for more economic opportunities may not be answered by a simple rezoning. However, a Feasibility Study produced by Georgia Southern, back in 1993, by Dr. E. Cameron Williams and Dr. Jerry W. Wilson of Georgia Southern University's Center for Management Development, unequivocally stated a belief that a bargeport would be a profitable proposal for the site:

“It is the opinion of the investigators that, based upon the findings reported here, a barge terminal on the North River site in St. Marys is feasible.”

It must be said that the report was written not only while the Gilman Paper Company was still operational, and when Gilman was also projected to be a significant provider of cargo for the study and over twenty years ago, yet it is conceivable that many of the potential industries and products to be transported in the study are still at play today.

Unfortunately, this is misleading. The comment in the report regarding barge port feasibility was made when Gilman Paper was operating with significant quantities of inbound and outbound freight shipments suitable for barge traffic—heavy and bulky. The freight requirements of the type of modern industry we would hope to attract are lighter and less bulky--more suitable to truck or air shipping. **The concluding paragraph of the**

Executive Summary of this report concludes “--it is felt that the initial success of the facility is heavily dependent upon the support and patronage of Gilman Paper Company” . Further in the report is the finding that the depth and width of the North River prevents use of ocean-going barges, so any barge shipments in or out would have to be re-loaded at Fernandina or other ICW port—a prohibitively expensive extra logistics function. **The conclusion must be that a barge port is not economically feasible.**

The most prohibitive barrier to any development on such a site is the Brownfield conversion of a highly degraded industrial site into a developable site. LanMar bought the property in 2005, for \$36.5 Million, hoping to transform it into a multi-use real estate development, ending in bankruptcy and not answering the question of whether the site could ever be reclaimed for residential or commercial development. The site is currently under the Georgia Environmental Protection Division’s Brownfield program, where a Corrective Action Plan (CAP) is in place and monitored to limit exposure to surrounding areas. The CAP limits the liability of development, where any future development will be monitored by the Georgia EPD and risk carried by the Trustee. The Phase One Environmental was prepared in October 2003, with a laundry list of potential hazards and contaminants. LandMar removed all hazardous materials from the site but the site still contains black liquor and many hazardous conditions, including a landfill that might be the highest point in Camden County. Yet with all of these concerns LandMar successfully rezoned the property to mixed-use residential-commercial, which should answer any questions on whether it can be once again returned to the less risky use designation of industrial.

Although the City did approve the LandMar rezoning approval, LandMar did not get so far as to comply with the necessary remediation; **in fact the cost of this remediation was one of the factors that contributed to failure of the LandMar project.** LandMar attempted to have the citizens approve a TAD program to be used in covering the remediation costs. This was not approved, thus LandMar could not count on favorable tax treatment to help mitigate the costs. Since that time, the City has acquired Redevelopment Powers and has implemented a TAD program. Presumably many of the infrastructure and remediation costs in a future development could be financed through the TAD program. **The bad news is that the City will not see any increase in property tax revenues for many years, until the TAD-secured financing has been paid. But the increased cost of City services for public safety and roadwork will begin immediately, resulting in a net cost to the City.**

The number of jobs projected for the site, according to the calculations for the DRI, 5,300, is of course, unattainable. The current number of jobs for the whole of St. Marys is just over 6,800 and the most ever employed at the site, when the paper mill was at full employment was never more than 1,000. One must understand that the numbers projected in the application are the upper-story or ceiling projections to show the full impact potential, from an engineer’s table that relates much more to our grandfather’s manufacturing world or prior, than to today’s industry.

The City of St. Marys has just recently completed a Downtown Renaissance Visioning Plan, which will be incorporated into the city-wide Master Plan and Visioning work that is just

reaching the community engagement phase. The Renaissance plan, led by UGA's Carl Vinson Institute, envisions a revitalized waterfront and downtown that is a regional and national draw, building on the destination Cumberland Island provides guests. What isn't mentioned in the plan and essential to drawing those guests and the businesses, such as the restaurants and shops that follow, are the population and densities required to keep the downtown vibrant. It will take more than streetscape improvements and blight control to revitalize the downtown.

This application is the largest contiguous piece of property under single-ownership in the City of St. Marys, holding quite conceivably the single most impactful piece to a downtown renaissance the City might see in the next fifty years. With limited 'greenfield' or 'brownfield' opportunities remaining in the City proper, this rezone provides an opportunity to place an employment center in that vital stretch between downtown and midtown St. Marys.

With over half of the available platted lots located five miles or more from downtown St. Marys, the daily trips from work, to school, to shopping, from this growth, never reaches the downtown district, leaving the downtown a tourism destination a growing number of current residents. Each rezone, each development, each decision by Commission and Council must begin to address these concerns, as millennials and the new workforce demand more walkable, compact communities.

While it is perhaps commendable to have a significant number of employees at the mill site property, it is inconceivable that many of them will walk to the Downtown area before getting in their cars to drive home from work, just as they did not do so when Gilman/Durango was operating.

It is not realistic to think that rezoning this property to industrial use will result in desirable development, increased property taxes, employment, etc. in the foreseeable future, and it would come at the cost of not being able to consider more realistic opportunities with an end-user or a responsible, experienced industrial developer.

The application does not comply with Standard #8 because it facilitates the sale of the mill site property to ASM Capital (not a developer but an investor), that will want to make a profit on its investment, thus making it more difficult if not impossible to find a job-creating end user that can return the property to productive use. This action would come "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.

The City's Tax Digest continues to decline and available industrially zoned sites are limited.

As mentioned above, it could be up to 25 years before TAD financing is repaid and the City sees any increase in property tax, revenue, although cost of City services will increase when development starts, thus shifting tax burden to other City property owners.

The application does not comply with Standard #9 because it would “ result in changes in market values and/or tax rates of nearby properties ” . The required increase in City services will cost money. Because any increase in property tax revenues will be diverted to repayment of TAD-secured financing, this increased cost must be borne by other property owners in the City.

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

The most recent Camden County Joint Comprehensive Plan, of 2011, shows the site as Suburban Development, presumably influenced by the recent purchase and marketing of the site as a Master Planned mixed-use commercial-residential area, under the guidance at the time of the writing by the vision of the Land Mar purchase.

The return of America’s manufacturing sector, with the ‘reshoring’ of jobs from China and elsewhere is a continuing and controversial subject, with many linking the continuing wage suppression to the rise in China’s labor costs and the return of many U.S. plants and jobs without the salaries that left years ago. Whether this growth continues and revitalizes the American economy can be debated, but the question of whether to rezone the property back to industrial may be timely in that it allows opportunities for transport, logistics, as well as manufacturing and industry. The flexibility of these industrial opportunities can be conditioned to allow only those industries the City prefers to see, while limiting the opportunity that this vital piece of the City be positioned for residential development that may be years in the making.

A perhaps more realistic view is that there are good reasons why this property, and other industrial property such as the 56 acre dry-ground industrial park owned by the Development Authority of St Marys, has been vacant for so many years. St Marys is ten miles from the Interstate highway. Sites with immediate I-95 access are available and can draw upon the same labor force as the mill site property.

While the property does have the advantage of rail access, the idea of a barge port has been dis-credited, and most desirable industries these days do not need to ship bulky, heavy items. In terms of employment, even achieving the revised projection of 500 jobs “at build-out” , fifteen years hence, is only 2-3 per cent of the current employment in Camden County.

The application does not comply with Standard #10 in that the current Comprehensive Plan designates this area as “Suburban Development ” . We cannot guess at what changes, if any, may result from the ongoing Master Planning and Visioning project. In the meantime, we are bound to conform to the currently-in-force Comprehensive Plan. This is in fact the approved plan. What may happen in the future is conjecture.

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

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

SUGGESTED CONDITIONS OF APPROVAL:

(Note: See City website for the lengthy list of suggested conditions. Not shown here in the interest of brevity.)

In conclusion: This application has been described by some as “pie-in-the-sky” , while other call it a “pig-in-a-poke” A better idea is to not try to make this or “sow’ s ear into a silk purse” (or call it what you will) in order to tie the applicant to a series of restrictions and regulations. It would be better to disapprove the application based on its failure to comply with at least eight of the ten rezoning criteria standards.

Then the City Council can pass a resolution informing the Bankruptcy Trustee, Joint Development Authority and others that the Council will consider favorably an application to rezone for specific uses if submitted by an end-user with successful operating experience, or an industrial developer with a successful track record in similar projects.