

IN THE ST. MARY'S COUNTY BOARD OF APPEALS

CUAP NUMBER 24-1484

ROYAL FARMS OAK CREST

EIGHTH ELECTION DISTRICT

DATE HEARD: October 10, 2024

ORDERED BY:

**Mr. Hayden, Mr. Loughran, Mr. Payne,
Mr. Richardson, Ms. Weaver**

ENVIRONMENTAL PLANNER: STACY CLEMENTS

DATE SIGNED: November 14, 2024

Pleadings

Two Farms, Inc. DBA Royal Farms (the “Applicant”) seeks conditional use approval pursuant to CZO § 65.4.01.b.i(2) of a proposed 30’ sign.

Public Notification

The hearing notice was advertised in *The Southern Maryland News*, a newspaper of general circulation in St. Mary’s County, on September 20, 2024 and September 27, 2024. The hearing notice was physically posted on the Property by September 25, 2025. The file contains the certification of mailing to all adjoining landowners, including those located across a street. Each person designated in the application as owning land that is located within two hundred feet of the subject property was notified by mail, sent to the address furnished by the Department of Land Use and Growth Management. The agenda was also posted on the County’s website on October 4, 2024. Therefore, the Board finds compliance with all notice requirements.

Public Hearing

A public hearing was conducted at 6:30 p.m. on October 10, 2024 at the St. Mary’s County Governmental Center, 41770 Baldrige Street, Leonardtown, Maryland. All persons desiring to be heard were heard after being duly sworn, the proceedings were recorded electronically, and the following was presented about the proposed conditional use requested by the Applicant.

The Property

Applicant is the developer of property situate 23344 Three Notch Road, Hollywood, MD 20636 (“the Property”). The Property consists of 2.70 acres, more or less, is zoned entirely as Industrial, carries an Industrial Areas land use designation and an Airport Environs 4 (AE-4) overlay, is within the Oak Crest Planned Unit Development, and is identified on Tax Map 1, Grid 16, Parcels 29 and 10.

The Conditional Use & Variance Requested

The Applicant seeks a conditional use pursuant to Chapter 25 of the St. Mary's Comprehensive Zoning Ordinance ("CZO") and CZO § 65.4.01.b.i(2) to exceed the allowable height of 20 feet for a permanent, freestanding, on-premises sign on nonresidential property by up to 10 feet for a total height of 30 feet.

The St. Mary's County Comprehensive Zoning Ordinance

CZO § 65.4.01.b states that the maximum height of any permanent, freestanding sign, except for ground signs, on nonresidential property is 20 feet. That height can be increased through a conditional use approval.

The Evidence Submitted at the Hearing by LUGM

Stacy Clements, Environmental Planner at the St. Mary's County Department of Land Use and Growth Management ("LUGM"), presented the following evidence:

- According to the Maryland Department of Assessments and Taxation the property is 2.70 acres in size and is currently cleared in preparation for development.
- The Applicant has undergone the Major Site Plan process (19-133-001) for Use Type 48, Convenience Store.
- The proposed sign site plan request requires conditional use approval for the request to increase the allowable sign height according to the sign standards of CZO Section 65.4. The permit was determined not to need a variance from the area standards for a sign because State Business Regulation 10-315(f)(2) states that fuel signs are exempt from local laws pertaining to sign surface area.
- The attached site and signage plans propose a 11' x 27' permanent, free-standing, on-premises sign.

The following attachments were included with the Staff Report:

Attachment 1: Standards Letter

Attachment 2: Site Plan with Sign Detail

Attachment 3: LUGM Zoning Review

Attachment 4: Ordinance No. 2019-41 (Sign Ordinance)

Amendment 5: State Business Regulation 10-315

Attachment 6: Location Map

Attachment 7: Land Use Map

Attachment 8: Zoning Map

Attachment 9: Planned Unit Development (PUD)

Attachment 10: Airport Environs (AE) Map

Applicant's Testimony and Exhibits

The Applicant was represented by Christopher Longmore, Esq., of Dugan, McKissick & Longmore LLC, who was joined by Thomas Ruszin, a Fuel and Environmental Leader for Royal Farms. Mr. Longmore and Mr. Ruszin presented a PowerPoint containing plans, maps, and pictures, prepared a written letter addressing the standards applicable to the property, and answered many questions posed by the Board. We highlight the following evidence that was included among that presentation:

- The Applicant proposes a free-standing sign that includes both the name of the Royal Farms store and the pricing for each of the fuel products that will be sold at the location. This is required by state law.
- The additional height allows potential customers to see the sign clearly from a reasonable distance and to see the pricing of fuel products.

- The design of the sign is to have two posts on the lower portion of the sign to allow customers and drivers to see through the lower portion to see other vehicles and pedestrians

Public Testimony

No members of the public provided testimony at the public hearing. Written comments were received from Meredith Johnson and Lois Beverage, and are incorporated as part of the record. Ms. Johnson and Ms. Beverage made general objections to the development of the proposed Royal Farms sites in St. Mary's County.

Decision

County Requirements for Granting Conditional Uses

The St. Mary's County Comprehensive Zoning Ordinance § 25.6 sets forth eight separate requirements that must be met for a conditional use to be granted:

1. The conditional use complies with the standards of the district in which it is to be located and standards applicable to that use;
2. The establishment, maintenance, and operation of the conditional use will not be detrimental to or endanger the public health, safety, convenience, morals, order, or general welfare;
3. The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, and will not substantially diminish or impair property values within the neighborhood;
4. The proposed use at the proposed location will not have adverse effects above and beyond those inherently associated with the proposed use irrespective of its location within the zoning district;

5. Adequate utilities, access roads, drainage, and/or necessary facilities have been or are being provided;
6. Adequate measures have been or will be taken to provide ingress and egress following a design that minimizes traffic congestion in the public streets;
7. The proposed conditional use is not contrary to the goals, objectives, and policies of the St. Mary's County, Maryland Comprehensive Plan ("Comprehensive Plan"); and
8. The conditional use, in all other respects, conforms to the applicable regulations of the district in which it is located or to the special requirements established for the specific conditional use in the Ordinance.

Id.

Conclusions as to Request for Conditional Use

Upon review of the facts and circumstances, the Board concludes that the Applicant has met the standards for granting conditional use approval of the heightened sign.

First, the proposed sign complies with the general standards of the relevant zoning district. Chapter 65, which governs sign development, does not contain restrictions by each zoning district but does include broad designations of properties as residential or nonresidential. The staff report conveyed was that this particular facet of the project appears to meet all applicable general standards associated with a commercial sign proposed on nonresidential property, save for the sign's height and its proximity. In short, the proposed appears to the Board to meet all specific standards prescribed by the CZO, leaving only the following discretionary reviews to be conducted by the Board itself.

Second, the requested conditional use approval will not jeopardize or endanger public health and welfare. It is well-established in Maryland that conditional uses, provided they satisfy

all specific and general standards prescribed by a zoning ordinance, are presumed to further the general welfare. *People's Counsel for Baltimore County v. Loyola College*, 406 Md. 54, 88 (2008). Absent express language in the controlling ordinance that presumption can only be rebutted if unique circumstances or location of a particular property would lend a particular proposed conditional a heightened impact upon neighboring properties. St. Mary's County's Sign Ordinance is a lengthy, detailed, and highly specific compendium of regulations that is patently the product of much thought and deliberation. It authorizes a conditional use approval – versus a variance or outright prohibition – to raise a sign to the requested height. Accordingly, we find the presumption of validity attaches in full and we find no suggestion that any neighboring properties would be unduly affected by what is, at its heart, simply one more gas station sign.

Third, the Board does not find this project will be injurious to the property values of adjoining properties or curtail the use and enjoyment of any neighboring parcels. As mentioned above, a strong presumption of validity attaches to a conditional use approval. Other written objections received were general in nature and made against all Royal Farms being developed in the County – developments that are permitted by right and have already been approved.

Fourth – as discussed previously - the Project does not appear to have adverse impacts above and beyond those typically associated with a sign. As discussed previously, the only difference between this sign and a sign that would be permitted-by-right is seven feet of height, although the Applicant requests an allowance to for as much of ten feet of height. Neither height is so meaningful the eventual sign to be installed will be materially more impactful than a twenty-foot-tall sign.

Fifth, there are few, if any, strains on existing utilities that the proposed sign will engender. The only public facilities this sign may palpably impact will be operations on the adjacent highway, which the Board finds will not be so disruptive as to disturb the presumption of conformity.

Sixth, concerning ingress and egress, all applicable agencies have reviewed existing access and found them to be adequate for Applicants' intended use. Insofar as this standard may contemplate the sign's effect on the safety of these access points, we find that the proposed sign – without the requested variance – will not prejudice drivers' ability to safely navigate.

Seventh, we find that the sign is consistent with the County's Comprehensive Plan, which calls for the development of transportation corridors and encourages, in particular, the redevelopment of existing properties to reduce sprawl. And more definite than these broad concepts and principles is the proposed sign's overall conformity with the Comprehensive Zoning Ordinance which is, at its heart, a tool the local governing body of this County adopted to implement the Comprehensive Plan. Conformity with the standards of the CZO establishes a strong presumption of conformity with the Comprehensive Plan itself.

Finally, the proposed conditional use is consistent with all apparent development standards associated with a sign on nonresidential property. As noted above, Chapter 65 of the CZO is thick with regulations for signs. Staff carefully reviewed this proposal and concluded conditional use approval was all that is required to bring the sign into full conformity with the CZO; the Board finds no evidence to suggest staff were mistaken in that conclusion.

Accordingly, we find the Applicants entitled to conditional use approval of the heightened sign.

ORDER

PURSUANT to the application of Two Farms, Inc DBA Royal Farms for conditional use approval pursuant to CZO § 65.4.01.b.i(2) of a sign up to 30' in height; and

PURSUANT to the notice, posting of the property, and public hearing and in accordance with the provisions of law, it is

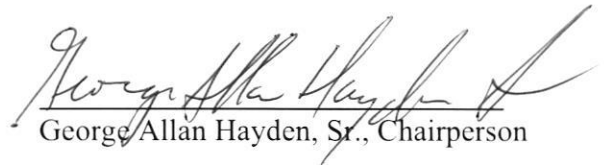
ORDERED, by the St. Mary's County Board of Appeals, that the Applicant is granted conditional use approval to build the proposed sign at a height of up to 30' upon its property

provided it conforms to all applicable standards.

Additionally, the foregoing conditional use is also subject to the following condition that the Applicant shall comply with any instructions and necessary approvals from the Department of Land Use and Growth Management.

This Order does not constitute a building permit. In order for the Applicant to construct the structures permitted in this decision, they must apply for and obtain the necessary building permits, along with any other approvals required to perform the work described herein.

Date: November 14, 2024

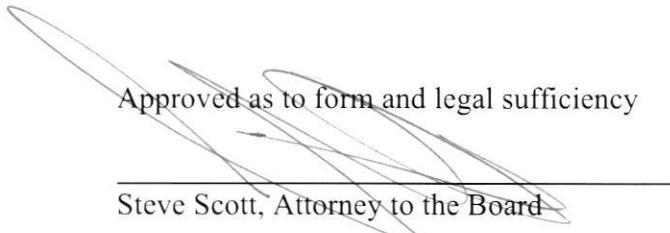

George Allan Hayden, Sr., Chairperson

Those voting to grant the conditional use:

Mr. Hayden, Mr. Loughran, Mr. Payne,
Mr. Richardson, and Ms. Weaver

Those voting to deny the conditional use:

Approved as to form and legal sufficiency


Steve Scott, Attorney to the Board

NOTICE TO APPLICANTS

Within thirty days from the date of this Decision, any person, firm, corporation, or governmental agency having an interest therein and aggrieved thereby may file a Notice of Appeal with the St. Mary's County Circuit Court.

Further, St. Mary's County Comprehensive Zoning Ordinance § 25.9 provides, "Subject to an extension of time granted by the Board of Appeals for cause, no conditional use permit shall be valid for a period longer than one year unless a site plan is approved, a building permit is issued, construction is actually begun within that period and is thereafter diligently pursued to completion, or a certificate of occupancy is issued and use commenced within that period."

If this case is not appealed, exhibits must be claimed within 60 days of the date of this Order; otherwise, they will be discarded.