

COUNTY COUNCIL

OF

TALBOT COUNTY

2004 Legislative Session, Legislative Day No. October 12, 2004

Bill No. 965

Expiration Date December 16, 2004

Introduced by: Mr. Carroll, Mr. Duncan, Mr. Foster, Ms. Harrington, Ms. Spence

A BILL TO REPEAL AND REENACT ZONING MAP 30 OF TALBOT COUNTY, WITH AMENDMENT CHANGING THE CLASSIFICATION OF TWO PORTIONS OF PARCEL 1, THE FIRST AREA KNOWN AS "BOLTON HOUSE" BUILT BY THE KEMP FAMILY, AND THE SECOND AREA ENCOMPASSING THE "BOLTON CEMETERY", TO A HISTORIC DISTRICT OVERLAY ZONE

By the Council: October 12, 2004

Introduced, read first time, ordered posted, and public hearing scheduled on Tuesday, November 9, 2004 at 1:45 p.m. in the County Council Meeting Room, Talbot County Government Building, 142 N. Harrison Street, Easton, Maryland.

By order

Susan W. Moran

Secretary

A BILL TO REPEAL AND REENACT ZONING MAP 30 OF TALBOT COUNTY, WITH AMENDMENT CHANGING THE CLASSIFICATION OF TWO PORTIONS OF PARCEL 1, THE FIRST AREA KNOWN AS "BOLTON HOUSE" BUILT BY THE KEMP FAMILY AND THE SECOND AREA ENCOMPASSING THE "BOLTON CEMETERY", TO A HISTORIC DISTRICT OVERLAY ZONE

SECTION ONE: BE IT ENACTED by the County Council of Talbot County, Maryland, that Zoning Map Number 30 be and the same is hereby repealed.

SECTION TWO: BE IT FURTHER ENACTED that a portion of Parcel 1 consisting of .368 acres surrounding the residential structure known as "Bolton House" built by the Kemp Family and a second area consisting of .212 acres encompassing the "Bolton Cemetery" outlined on Zoning Map 30, which is attached hereto and incorporated herein by reference, is reclassified from (RC) Rural Conservation Zoning District to (RC-HD) Rural Conservation - Historic District Overlay Zone. The remainder of Parcel 1 and all other parcels on Zoning Map 30 remain in their respective existing zoning designations. The Zoning Map 30 incorporated herein by reference and is hereby adopted as an Official Zoning Map of Talbot County, Maryland.

SECTION THREE: BE IT FURTHER ENACTED that this Bill shall become effective sixty (60) calendar days from the date of its passage.

PUBLIC HEARING

Having been posted and Notice of time and place of hearing and Title of Bill No. 965 having been published, a public hearing was held on Tuesday November 9, 2004, at 1:45 p.m. in the County Council Meeting Room, 142 North Harrison Street, Easton, Maryland 21601.

BY THE COUNCIL

Read the third time.

ENACTED: November 23, 2004

By Order

Susan W. Moran

Secretary

Foster -	Aye
Harrington -	Aye
Duncan -	Aye
Spence -	Aye
Carroll -	Aye(via ballot)

ESADEAKE BAY

-BOLTON GRAVEYARD-

-MAIN HOUSE-
NON-CONTRIBUTING

-OUT BUILDINGS-
NON-CONTRIBUTING

BOLTON
T-336

BOLTON T-336
HISTORIC DISTRICT
OVERLAY ZONE
August 2004

10.845 Ac. 2

5 41' 13" 50" W - 14'

QUINN

COBER

FROM 1972 SURVEY

TWO(2) TRACTS OF LAND
SURVEYED FOR
ROBERT K. KELLER

BEFORE THE TALBOT COUNTY COUNCIL

IN THE MATTER OF REZONING OF :

PORTIONS OF THE BOLTON FARM :

a/k/a KEMP FARM FOUND ON TAX MAP 30, :

BILL NO. 965

PARCEL NO.1 FROM RC ZONE TO A :

HISTORIC DISTRICT OVERLAY ZONE :

FINDINGS OF FACT

Section 190-37, Talbot County Code, provides that the County Council may establish, change, lay out, and define historic districts which are of local, state, or national historic or architectural significance following the procedures set forth in Chapter §190 for the zoning reclassification of property .

Section 190-109 B. establishes the procedures for amendments to the Official Zoning District Maps applicable to the subject request. Those procedures include the following requirements:

- A. An amendment to the Official Zoning District Maps may be initiated by the County Council, Planning Commission, Planning Officer or by a person with a committed financial, contractual or proprietary interest in the property to be affected by the proposed amendment.

Finding: The Council finds that this requirement has been satisfied because of the application has been filed by the property owners.

- B. An application for an amendment to the Official Zoning District Maps shall be filed in the Planning Office on the prescribed application forms with the accompanying filing fee where applicable. Each application shall also be accompanied by a plat drawn to scale showing the existing and proposed boundaries and other information the Planning Officer may need in order to locate the amendment on the Official Zoning District Maps. Such plat shall not be required for sectional or comprehensive redistricting.

Finding: The Council finds that this requirement has been satisfied based upon a review of the information contained in the record on file in connection with this rezoning request.

- C. The application shall first be referred by the Council to the Planning Officer for an investigation and recommendation.

- (1) The Planning Officer shall cause such investigation to be made as he deems necessary.
- (2) The Planning Officer may hold such informal public hearings as he deems appropriate.
- (3) The Planning Officer shall refer all such amendments to the Planning Commission for its review and subsequent recommendations.

- (4) The Planning Officer shall submit his recommendation, the recommendation of the Planning Commission and any pertinent information to the County Council within 60 days of application filing.

Finding: The Council finds that these procedural requirements have been satisfied based upon a review of the information contained in the record on file in connection with this rezoning request.

- D. After receiving the recommendations of the Planning Officer and Planning Commission concerning a proposal for an amendment to the Official Zoning District Maps and before approval or denial, the Council shall introduce a bill (legislation) for the proposed amendment and hold a public hearing in order that interested parties and citizens shall have an opportunity to be heard. The Council shall provide public notice of such hearing in accordance with the provisions set forth in § 190-112.

Finding: The Council finds that these requirements have been satisfied, as shown by the information contained in the record on file in connection with this rezoning request.

- E. Site visit. The Council shall not approve or disapprove any application for an Official Zoning Map amendment unless and until a site visit has been made by at least a majority of the Council members in order to inspect the physical features of the property and to determine the character of the surrounding area.

Finding: The Council members visiting this site included: Councilmember Philip Cary Foster, Councilmember Hope Harrington, and Councilmember Peter Carroll. These three Council members constitute a majority of the Council.

- F. In granting approval for an amendment to the Official Zoning Maps, the Council shall take into consideration findings of fact in each specific case including but not limited to the following:

- (1) Consistency with the purposes and intent of the Talbot County Comprehensive Plan;

Finding: Council finds that the proposed rezoning is consistent with the purposes and intent of the Talbot County Comprehensive Plan based on the following excerpt from the Comprehensive Plan:

"Historic and Cultural Preservation", page 13-1 *et seq.* of the Talbot County comprehensive plan, includes as one of the goals of the comprehensive plan to preserve and enhance the County's rich cultural and historic heritage. That chapter closes with a summary stating, "It is important that the County continually strive to protect and preserve our historical and cultural past through the preservation of historic properties and promotion of cultural events."

- (2) Compatibility with existing and proposed development and land use in the surrounding area;

Finding: The subject structures and family graveyard are existing, and have been for many years, and therefore, by definition they are compatible with existing development and land use in the surrounding area.

(3) Availability of public facilities;

Finding: Designation of these properties as part of the Historic District Overlay Zone will have no effect on availability of public facilities.

(4) The effects on present and future transportation patterns;

Finding: Designation of these properties as part of the Historic District Overlay Zone will have no effect on present and future transportation patterns.

(5) The effect on population change within the immediate area.

Finding: Designation of these properties as part of the historic District overlay zone will have no effect on population change within the immediate area.

G. Section 190-109 B. (7) provides that after a review of the applicable findings, the Council may grant the amendment based upon a finding that there was a substantial change in the character of the neighborhood where the property is located; or grant the amendment based upon the fact that there was a mistake in the existing zoning classification. Because the Historic District Overlay Zone is it is floating zone, change or mistake need not be demonstrated under State law. *Aubinoe v. Lewis*, 250 Md. 645, 2 44 A.2d 879 (1968).

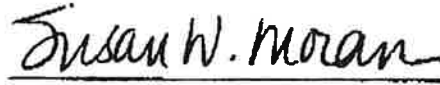
H. The Council adopts the findings and recommendations of the Planning Officer and the Historic District Commission on record in the file. Based on the foregoing, the County Council finds that the application complies with the purposes of the Historic District Overlay Zone and is compatible with adjoining uses.

The foregoing findings of fact were duly adopted by vote of the County Council on November 23, 2004, by the following vote:

Foster	Aye
Harrington	Aye
Duncan	Aye
Spence	Aye
Carroll	Aye

In accordance with the requirements of §190-109 (B) (11), Talbot County Code, the Planning Officer shall change the Official Zoning Maps within 60 days after the adoption of any amendments to the Official Zoning Maps, in order that said maps shall always be an up-to-date public record of the zoning districts in Talbot County.

Attest:


Susan W. Moran, Secretary
Date: November 23, 2004

REVISED STAFF REPORT

Planning Commission Meeting: September 1, 2004

Prepared by: Mary Kay Verdery

Case Number: C 447

General Information:

Applicant: Mr. & Mrs. Robert Keller

Owner: Same

Tax Map No: Map 30, Parcel 1

Location: 8612 Tilghman Island Road, Wittman, MD

Requested Action: Recommendation to County Council.

Purpose: The applicant is requesting Historic District Overlay Zoning for a portion of the above noted parcel which includes the existing residence known as "Bolton" built by the Kemp family and its associated private cemetery.

Existing Zoning: The property is currently zoned RC & RAC - Rural Conservation and Rural Agricultural Conservation.

Size: 147.37 Acres

Existing Land Use: Residential/Agricultural

Surrounding Land Use: North: Residential/Agricultural
South: Agricultural
East: Tilghman Island Road
West: Chesapeake Bay

Comprehensive Plan:

The Historic and Preservation Goal within the Comprehensive Plan is to preserve and enhance the County's rich cultural and historic heritage.

A policy of the Comprehensive Plan states that the County should continue to support the efforts of the Talbot County Historic District Commission to;
"Protect historic properties and sites within the County by designating them as Local Historic districts and otherwise supporting the work of the Commission".

Applicable Regulations:

The Talbot County Code states under Article VIII, § 190-36 that the County Council may establish and define historic districts which are of local, state or national historic significance following the procedures set forth within the Ordinance for reclassification of zoning.

Staff Recommendation:

The Historic District Commission made two site visits to the property and have completed a final review of Mr. & Mrs. Keller's request for Historic District Overlay Zone at their August 16th meeting. The Preservation Commission voted unanimously to recommend creation of a .368 acre overlay zone for the Bolton residence built by the Kemp Family and a .212 acre area to include the Bolton Graveyard.

Attachments:

Historic Preservation Commission recommendation
Nomination Checklist and associated documentation
Letter of Application
Site Plan