

**MINUTES OF THE ST. MARY'S COUNTY PLANNING COMMISSION MEETING  
ROOM 14 \* GOVERNMENTAL CENTER \* LEONARDTOWN, MARYLAND  
Monday, March 10, 2008**

Members present were Stephen Reeves, Chairman; Howard Thompson, Lawrence Chase, Brandon Hayden, Shelby Guazzo, and Susan McNeill. Department of Land Use & Growth Management (LUGM) staff present were Denis Canavan, Director; Phil Shire, Deputy Director; Bob Bowles, Planner IV; Jeff Jackman, Senior Planner; Yvonne Chaillet, Zoning Administrator; and Jada Stuckert, Recording Secretary.

The Chair called the meeting to order at 6:35 p.m.

**APPROVAL OF THE MINUTES** – The minutes of February 25, 2008 were approved as presented.

**PUBLIC HEARINGS**

**Accessory Dwelling Unit Text Amendment**

Ms. Chaillet gave a brief overview of the February 11, 2008 public hearing stating staff has raised the maximum square footage to 900 feet rather than 600 feet and added design standards per the Planning Commissions request. Mr. Reeves asked if these standards would prevent houses from looking like a duplex. Ms. Chaillet stated it would. Mr. Reeves questioned the extent to which single family homes are being turned into multi-family units. Ms. McNeill brought up an example which she felt might reflect that issue. Ms. McNeill referenced a picture of a house on Sotterly Road, stating this house looks like a duplex to her considering there are two garages; one, two bay garage not facing the street and a one bay garage facing the street on the other side of the house.

Ms. Guazzo recommended 50% of the principal dwelling in the principal structure should be allowed rather than 30% with 900 square feet maximum. Ms. Guazzo stated 30% is not large enough. Ms. Guazzo asked the definition of floor area. Mr. Canavan explained gross floor area is everything within the exterior walls with a six foot clearance and not below grade level. Ms. Guazzo stated gross floor area should not include garages. Ms. Guazzo asked if she could build an accessory apartment without a detached garage. Mr. Canavan stated no, not unless you meet the density requirements of one house per five acres per the zoning ordinance. Ms. Guazzo asked why. Mr. Canavan stated this would be considered a second principal dwelling.

Mr. Keenon James stated while he appreciates the Commissions diligence in working with the text amendment this issues is still a major concern. Mr. James stated by definition alone if the accessory unit is allowed to be 50% of the principal dwelling it is then classified as a duplex. Mr. James stated this issue should be homeowner "permitted", not developer permitted,

Mr. Xavier Prines stated the issue is not just the appearance; the real issue is the doubling of the population in a particular area. Mr. Prines stated he does not believe the proposed text amendment will remedy the problem. Mr. Prines stated these units in the development that he lives in and which has caused the problem have two different street addresses, two meter systems and are walled off from each other. Mr. Prines stated he believes only homeowners should be permitted to have an accessory apartment that is he would change the proposed regulation to prevent any commercial development for the purpose of creating apartments.

Mr. Canavan reiterated that the language of the proposed regulation would require that appearance of a single family dwelling with an accessory apartment shall be that of a single family dwelling.

Mr. Prines replied that the language of "the appearance of a single family dwelling" is very subjective.

Ms. Challet said that the proposed language of the ordinance could be drawn to require the submission of architectural drawings.

Ms. Guazzo asked about having owner occupancy. Mr. Canavan explained the original intent of having a house with an accessory apartment was that the owner would live in one of the two units, however, there are complications of enforcing such a rule especially with the number of military residents we have in St. Mary's County.

Mr. Reeves said that if the owner applied for the building permit and then the house with the apartment went vacant, that was one thing, but in this circumstance we are facing here we have professional contractors who are building them to rent them out.

Ms. McNeill stated the Commission is not ready to make a vote on this amendment as there are basic questions remaining: who is the permittee is important; who is the owner is important. Mr. Thompson also commented that there were architectural concerns as well.

Mr. James stated that there were also enforcement concerns. He said that red flags should be raised when multiple permit requests come in for the same development for this type of unit.

Mr. Canavan suggested that a new paragraph (f) be added: "In no case shall there be a multiplicity of accessory apartments in newly constructed home within the same neighborhood at time of construction of the principle dwelling".

Mr. William Grube stated he would like to build an accessory apartment in the future for a family member and hopes the Commission can reach a conclusion on this text amendment as soon as possible.

Hayden Hammet said the individual home owners should challenge these problems through home owners associations to have architectural standards and not try to apply this issue across the whole county.

Mr. Prines spoke again as the president of a homeowners association it was his understanding that, as ruled by Judge Railey in the last six months, the homeowners' association may not enforce the covenants and restrictions on the builder of the development because of what is called the declarant. The declarant writes the rules, as long as the property has not changed hands to a buyer and they have not because they are just rentals, the homeowners' association has no way to enforce its own rules against the builder.

A motion was made and seconded to continue the public hearing to April 28, 2008. The motion passed by a 6-0 vote.

#### **Adequate Public Facilities Text Amendment**

Mr. Canavan gave a brief overview of the growth policy stating on January 15, 2008 the County Commissioners hosted a first reading of the amendments and asked that the Planning Commission proceed with a public hearing. Mr. Shire stated notice of the March 10, 2008 hearing and a copy of the proposed text amendments have been posted on the County web site and sent to the local public libraries. Mr. Shire stated legal ads for the hearing have been published in the February 22 and 27, 2008 issues of the Enterprise.

Mr. Canavan stated staff recommends adoption of the Annual Growth Policy (AGP) and much of the text amendments proposed by the Task Force. Mr. Canavan stated the analysis contained in the staff report indicates general agreement with the draft amendments, and provides discussion where staff position differs from the proposal. Mr. Canavan stated there five attachments to the staff report which include "A" Recommendations to the BOCC Regarding School Capacity pages

6-24, "B" Amended Ordinance pages 25-40, "C" Planning Commission Resolution #07-10 pages 41-42, "D" July 11, 2007 Letter to BOCC pages 43-46, "E" Proposed Resolution pages 47-51.

Mr. Jack Candella, St Mary's Chamber of Commerce, introduced the members of the APF Committee who would speak on their behalf and stated that the process started in January 2006 as a subcommittee of the Government Affairs Committee of the Chamber of Commerce and then moved beyond just consideration of APF.

Mr. Ford Dean stated the problem was that two of the high school service areas in the country are currently closed to major residential development (Chopticon and Leonardtown service areas) and the third, Great Mills, will be closed shortly. The Leonardtown service area will be shut down for eight years if we continue to calculate APF school capacity per the current APF regulations. The Task Force proposes a solution to this problem which is to adopt the proposed growth policy, along with the implementing text amendments, which would allow continued growth at a rate which would allow the infrastructure to support the growth. Managing growth would bring into alignment a rate of growth with the public infrastructure sufficient to support the growth.

The basic tenet would be that the County would establish an annual growth rate. The proposed AGR would place a cap on the number of dwelling units that may be approved within a year by applying a growth factor, measured at 2.25, to the cumulative number of dwelling units in the County. Phasing of the project would be required based upon the size of the development and each project would be allocated a number of units annually depending on where they were in the queue.

Mr. Dean stated the resultant number of dwellings may be approved by the Planning Commission at subdivision plan or site plan review within the year. Mr. Dean stated the growth factor of 2.25% suggested in the draft policy is lower than the yearly average of 2.64% experienced from 1992-2004 and further documented by the Task Force. At the current time the 2.25 AGR factor would make available about 900 lots. He said they were also recommending that they would make the calculation of school capacity the County more in line with the allocation of state formula for acquiring school construction funds.

Mr. Dean further explained the second element of the AGP is the allocation of dwelling units in residential districts. Mr. Dean stated this is the distribution of the intended allotment of dwellings. Mr. Dean stated the suggested allocation would allow a maximum of 30% in the RPD zone and 70% in districts other than RPD zone. Mr. Dean also stated any unused allocation in the RPD may be assigned to the growth areas. Mr. Dean explained the allocation would include both minor and major subdivisions for single family and site plans for multi-family projects. Mr. Dean stated the only exemption to the allocation would be a single lot to be created in the RPD for a family member.

Additionally, Mr. Dean said the Task Force are also recommending that the three districts be done away with and that the County would get back to the 2002 system of having a County-wide school district and said that if the three zones are retained, the growth policy as proposed will not work.

Mr. Thompson stated that he wanted to hear what the school system had to say about combining the present three districts into one.

Mr. Canavan asked Mr. Dean if what he meant was that if they reached capacity with the percentages then that would be the stop-gap measure for the growth policy. Mr. Dean concurred with that interpretation. Mr. Canavan's interpretation of the proposed text amendment was that the annual growth policy would supersede the percentages found elsewhere in the zoning ordinance. If the growth policy says it's acceptable to build 900 units regardless of the capacity at the school, he said he thought you would still be allowed to build 900 dwelling units. Mr. Dean said the Growth Policy as proposed said just the opposite.

Ms Guazzo was also concerned about Mr. Dean's comment that if a school was in the 6 year CIP that that would count as added capacity. Ms Guazzo said sometimes the proposed schools just stay static as place-holders and nothing happens and she would prefer the language in the current ordinance that says you may count the school seats if the design costs are budgeted in the CIP. It seems appropriate to consider the state rated capacity of existing schools and count those in the CIP.

Ms Guazzo pointed out that this AGP at the currently proposed percentage of 107% would yield 5000 new dwelling units available for development potential right away at the annual rate of 900 a year. So if they jettisoned the school districts, these units could be anywhere in the County and the school system would manage wherever this bulge would go and there may be 50% of the students in that one or two schools present to require design funds for a new school. This, she said is why she would prefer to make the standard having design funds in the current year CIP which would mean that they have acquired a school site. Mr. Dean stated that the only reason that a school would not be dropped from the 6 year CIP would be that the County Commissioners chose not to fund design and acquisition or that the Board of Education enrollment projections had changed.

Ms McNeill asked if the Task Force had recommended any other ways of mitigating for school seats. Mr. Dean said under the Task Force's proposal there should be no mitigation for school seats just as it stands under the current ordinance. He said that that went in the face of everything being proposed in the Growth Policy.

Mr. Clements from the St Mary's County Public Schools supports the Task Force review because the current system needs work that the School System does not control growth He said redistricting is not a way of addressing APF. The schools are growing at a rate of 1.86. They do have concerns with the 6 year CIP issue because a three year projection is more realistic. They are still reviewing the proposals to see what effect they have on each other. Ms. Kim Howe added that the phasing plan part of the recommendation does help them with their planning. They have been having problems acquiring school sites.

Mr. Reeves opened the hearing for public comment. Ms. Anna Long asked about the Spalding Farm Subdivision and how the queuing system works because some prospective residents have been in the queue a long time. Mr. Canavan stated the queuing system has been in place for awhile now and if he remembers correctly this particular subdivision would be allotted its remaining seven lots within the first year. Mr. Canavan also stated that with regard to the queuing system that in December 2004 the lack of capacity issue was brought to the Planning Commission and after December 2004, the LUGM did not have the authority to grant approval for a subdivision of 6 or more lots. At that time the queue was established for major subdivisions.

Ms Guazzo pointed out that real number of school seats represented in minor subdivision would be captured this new ordinance.

Mr. John Parlett asked that the Commission continue the public hearing to allow for additional testimony and comments. Mr. Parlett stated as a member of the APF Task Force it would be incumbent of the County Commissioners to change the 2.25% if necessary either up or down according on a yearly basis.

**Mr. Thompson made a motion to continue the public hearing to May 12, 2008 and Mr. Chase seconded. The motion passed by a 6-0 vote.** It was decided to hold a work session on the issue to be scheduled by staff. It was also decided to have the APF Task Force briefly update the Commission on April 14, 2008.

**ANNOUNCEMENTS - None**

**ADJOURNMENT**

The meeting was adjourned at 9:32 p.m.

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Jada Stuckert  
Recording Secretary

Approved in open session:      May 12, 2008

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Stephen T. Reeves  
Chairman