

**MINUTES OF THE ST. MARY'S COUNTY PLANNING COMMISSION MEETING
CHESAPEAKE BUILDING * LEONARDTOWN, MARYLAND
Monday, May 11, 2009**

Members present were Steven Reeves, Chairman; Brandon Hayden, Shelby Guazzo, Merl Evans, Martin Siebert, and Lawrence Chase. Susan McNeill was excused. Department of Land Use & Growth Management (LUGM) staff present were Derick Berlage, Director; Bob Bowles, Planner IV; Jeff Jackman, Senior Planner; Dave Chapman, Capital Facilities Planner; Dave Berry, Planner II; Sue Veith, Environmental Planner; and Jada Stuckert, Recording Secretary. Deputy County Attorney David Weiskopf was also present.

The Chair called the meeting to order at 6:30 p.m.

APPROVAL OF THE MINUTES – The minutes of April 27, 2009 were approved as presented.

DECISION

CWSP #08-200-003 – Mill Cove Manor & CWSP #08-200-004 – Mill Cove Harbor

Mr. Chapman gave an overview of the two requests stating the Planning Commission held a public hearing on February 23, 2009 and on March 23, 2009 at which time the requests were continued for decision to tonight. Mr. Chapman stated there are no outstanding issues that would affect a decision being made tonight. Mr. Chapman stated staff continues to recommend approval of the water and sewer category changes.

Mr. Norris III gave an overview of the response letter dated May 11, 2009 regarding these two requests. Mr. Norris stated the two requests are in compliance with the Zoning Ordinance and Comprehensive Plan. Mr. Norris stated none of this property is in the "Green Print" area as defined by the Maryland Department of the Environment.

Ms. Guazzo read the following statement for the record. The applicants' lawyer has stated we must approve the request for a water and sewer category change. If this is so, why was there a public hearing before the Planning Commission? We are here to judge if the request before us in all its aspects and to look for unintended consequences. We are representatives of this County's citizens. We are to act as the interface between the paperwork and the character of the neighborhood. Having said that let me describe the neighborhood and how it relates to the applicants proposals.

We are speaking about a very well defined peninsula of single family homeowners. This peninsula is bounded by the Woods at Myrtle Point property to the south and is surrounded by the waters of Mill Creek on the west and north and Sam Abell Cove on the east. This peninsula begins 1200 feet after the turn onto Mill Cove Road. It is entirely within the Chesapeake Bay Critical Area.

There are 101 acres belonging to the neighbors of the applicant. They comprise 53 lots with 48 homes a density of 1.91 acres. The applicant controls two parcels totaling 22 acres. He proposes to build 54 homes. This will double the number of homes in the neighborhood and consumes only 18% of the total peninsula. The actual building lots will be 0.17 acre or 17 one hundredths.

These proposals will double the house sites on this peninsula with tiny lots. According to a letter from the State Critical Area Commission, the tiny lots will restrict the size of the houses to be built and compromise or prohibit the addition of any sheds, decks, or extra parking area by the new owners. Only 25% of the lots can be impervious surface therefore water will run off rather than soak in to the ground where it falls.

These proposals will double the traffic on the peninsula's roads. This will cause the narrow roads of the peninsula to be widened thus paving over even more of the peninsula. I think that to double the size of the neighborhood using tiny lots will indeed change the character of the

neighborhood. I think the usual and customary things that a new homeowner likes to add to his home would be severely restricted by the tiny size of the proposed lots.

Given the financial non-performance of Woods at Myrtle Point there are too many question marks about near future or far future, especially in the down economy. Remember also this developer depends upon hooking his water and sewer pipes to those of Woods at Myrtle Point.

In conversations with staff, I learned that if this request for water and sewer category change goes on to be approved by the County Commissioners, no clock starts ticking for the developer to return with a serious preliminary plan proposal. Apparently a sewer and water category change is good forever. This must be the only land improvement permit that does not have a drop dead date in the process.

Neighbors have stated they have no failing water or sewer problems. They do not want water or sewer for their properties. And 20 lot owners especially do not want the privilege of paying for public facilities they don't need. Many of them already paid money to the County system for public school facilities they have no need for.

This peninsula is zoned Residential Low Transitional in the Limited Development Area Floating Zone. Ms. Guazzo quoted the Zoning Ordinance as follows:

41.5.1 The purpose of the Limited Development Area is to:

- a. Maintain or, if possible, improve the quality of runoff and groundwater entering the Chesapeake Bay and its tributaries.
- b. Maintain, to the extent practicable, existing areas of natural habitat.
- c. Protect water quality, aquifer recharge areas, habitats, and the prevailing character of the areas when accommodating additional low or moderate intensity development.
- d. Assure that the overall intensity of development in the Limited Development Area is not increased beyond the level established in a particular area so as to change the prevailing character as identified by density and land use currently established in the area.

My objections are those for the current conditions of growth in that area and the character of the neighborhood of this small peninsula, which will face heavy development next to it that has already been permitted. If something changes in the future, the applicant is free to make another application. Ms. Guazzo stated she can not at this time support these requests.

Mr. Reeves stated he agrees with Ms. Guazzo's comments and concerns. Mr. Siebert asked if the applicant will pay for the hook up fees for surrounding property owners who may be forced to hook up. Mr. Siebert stated to simply meet the requirements isn't enough sometimes.

Mr. Evans stated clearly these requests have a long way to go however he is in support of the requests because they meet the requirements of the Comprehensive Plan and the Zoning Ordinance. Mr. Evans stated until the County Commissioners change the Comprehensive Plan he will continue to support water and sewer changes in the development districts. Mr. Chase agreed with Mr. Evans stating the Planning Commission has had the chance to remove these properties from the Development District in the past.

Ms. Guazzo made a motion in the matter of CWSP #08-200-003, Mill Cove Manor to amend service area maps III-27 and IV-27 to change the service categories from W-6D and S-6D (service in 6 to 10 years, developer financed) to W-3D and S-3D (service in 3 to 5 years, developer financed) I move that the application be denied and Mr. Siebert seconded. The motion failed with a tie vote of 3-3 with Mr. Hayden, Mr. Evans, and Mr. Chase opposed.

Ms. Guazzo made a motion in the matter of CWSP #08-200-004, Mill Cove Harbor to amend service area maps III-27 and IV-27 to change the service categories from W-6D and S-6D

(service in 6 to 10 years, developer financed) to W-3D and S-3D (service in 3 to 5 years, developer financed) I move that the application be recommended for denial to the Board of County Commissioners and Mr. Siebert seconded. The motion failed with a tie vote of 3-3 with Mr. Hayden, Mr. Evans, and Mr. Chase opposed.

Mr. Norris III objected to the vote stating the Planning Commission Rules of Procedure refer to utilizing Robert's Rules of Order which stipulate the Chairman can only vote in a tie breaking situation. Mr. Weiskopf stated this is correct, the Planning Commission's Code of Conduct refers to Roberts Rules of Order however, he would like a chance to review these Rules prior to providing a legal opinion. Ms. Guazzo stated she would like to see this in writing. Legal council met with Mr. Norris privately to discuss the matter while the Planning Commission continued with the scheduled agenda items.

DEVELOPMENT REVIEW

PSUB #09-120-004 – Estates at Joy Chapel

Mr. Berry gave an overview of the request for 25 lots stating there are no outstanding issues that would affect a decision being made this evening. Ms. Guazzo asked about unassigned allocations and if the applicant could come back to ask for the remaining two lots. Mr. Berry stated this is the applicant's second request for allocations this year.

Mr. Hayden made a motion in the matter of PSUB #09-120-004, Estates at Joy Chapel, Phase 3, containing 25 lots, having accepted the staff report and having previously made findings pursuant to Section 30.5.5 of the Subdivision Ordinance (Criteria for Approval of a Preliminary Plan), including adequate public facilities, except for schools and compliance with the Annual Growth Policy and a new finding of Adequate Public Facilities for schools and compliance with the Annual Growth Policy and a new finding of Adequate Public Facilities for schools and compliance with the Annual Growth Policy for Phase 3 (25 lots), as described in the Director's Report, I move that the preliminary subdivision plan for Phase 3 be approved and Mr. Chase seconded. The motion passed by a 6-0 vote.

MSUB #07-1120-013 – Pembroke Phase 5

Mr. Berry gave an overview of the request for a 17 lot major subdivision stating there are no outstanding issues that would prevent a decision at this time.

Mr. Chase made a motion in the matter of MSUB #07-120-013, Pembroke Subdivision, Phase 5, containing 17 of a total of 471 single family and townhouse lots, having accepted the staff report and having made findings pursuant to Section 30.5.5 of the Subdivision Ordinance (Criteria for Approval of a Preliminary Plan) and Resolution 08-40 (Annual Growth Policy), and a finding of Adequate Public Facilities for schools and compliance with the Annual Growth Policy for Phase 5 (17 lots), as described in the Director's Report, I move that the preliminary subdivision plan for Phase 5 be approved and Mr. Siebert seconded. The motion passed by a 6-0 vote.

MSUB #09-120-002 – Essex Woods Section 4 Phase 2

Mr. Berry gave an overview of the request for 24 lots stating there are no outstanding issues that would prevent a decision at this time. Mr. Nokleby gave an overview of section 4 phase 2 and passed out an updated overall concept plan to show all sections and phases of the Essex Woods Subdivision. Mr. Nokleby stated pedestrian access to Willows Road has been provided as requested by the Planning Commission in a previous meeting.

Mr. Siebert made a motion in the matter of MSUB #09-120-002, Essex Woods Subdivision Section 4, Phase 2, containing 24 of a total of 76 duplex and townhouse lots, having accepted the staff report and having made finding pursuant to Section 30.5.5 of the Subdivision Ordinance (Criteria for Approval of a Preliminary Plan) and Resolution 08-40 (Annual Growth Policy), and a finding of Adequate Public Facilities for schools and compliance with the Annual Growth Policy for Phase 2 (24 lots), as described in the

Director's Report, I move that the preliminary subdivision plan for Phase 2 be approved and Ms. Guazzo seconded. The motion passed by a 6-0 vote.

CCSP #08-132-013 – Lexington Village Phase II

Mr. Berry gave an overview of the request for a 101,824 square foot office building stating final findings for adequate public facilities will be made administratively by the Planning Director as a prerequisite to final site plan approval.

Mr. Reeves asked if FDR Boulevard has been completed. Mr. Berry stated the portion of FDR is now paved. Ms. Guazzo asked what type of road FDR Boulevard will be when completed. Mr. Berry stated it will be a major collector. Ms. Guazzo asked about the traffic stating a representative of Public Works is not present. Ms. Guazzo asked what type of improvements would be made to the intersection of Buck Hewitt Road. Mr. Siebert referenced an email dated April 21, 2009 from Margaret Lewis regarding access to FDR Boulevard. Mr. Craig Cohen stated this is the only information given to him regarding FDR Boulevard. Ms. Guazzo asked which intersections the traffic analysis addressed. Mr. Cohen stated MD 235, Buck Hewitt, and FDR Boulevard.

Mr. Hayden made a motion in the matter of CCSP #08-132-013, Lexington Village Phase II, having accepted the staff report and having made a finding that the objects of Section 60.5.3 of the zoning ordinance have been met, and noting that the referenced project has met all requirements for concept approval, I move that the concept site plan be approved and Mr. Chase seconded. The motion passed by a 6-0 vote.

DISCUSSION

PC Review and Recommendation of the AGP

Mr. Chapman gave an overview of the AGP recommending the 70/30 percentages remain the same throughout the FY 2010 year. Mr. Chapman stated the economy has played a big part in these numbers.

Ms. Guazzo made a motion in consideration of the Annual Growth Policy review to recommend to the Board of County Commissioners that the AGP remains the same and Mr. Chase seconded. The motion passed by a 6-0 vote.

Comprehensive Plan

Mr. Jackman gave an overview of Chapter 4 of the Comprehensive Plan pertaining to land use. Mr. Jackman reminded the Planning Commission of the Comprehensive Plan public hearing to be held on Monday, June 22, 2009 at the Bay District Volunteer Fire Department to begin at 6:30 p.m. Mr. Jackman stated the draft comprehensive plan is available to the public on the County's website and is also located in the local libraries. Ms. Guazzo requested staff keep their presentation to a minimum so the public will have ample time to comment on the draft plan. Mr. Jackman stated the facilitator will keep everything timely.

ADJOURNMENT

The meeting was adjourned at 9:00 p.m.

Jada Stuckert
Recording Secretary

Approved in open session: May 26, 2009

Stephen T. Reeves
Chairman