

**MINUTES OF THE ST. MARY'S COUNTY PLANNING COMMISSION MEETING  
ROOM 14 \* GOVERNMENTAL CENTER \* LEONARDTOWN, MARYLAND  
Monday, June 25, 2007**

Members present were Stephen Reeves, Chair; Howard Thompson, Lawrence Chase, Brandon Hayden, Shelby Guazzo, and Merl Evans. Members absent were Susan McNeil. Department of Land Use & Growth Management (LUGM) staff present were Denis Canavan, Director; Phil Shire, Deputy Director, Sabrina Hecht, Planner IV; Jeff Jackman, Senior Planner; Bob Bowles, Planner II; Sue Veith, Environmental Planner; Adam Knight, Building Code Coordinator; Jeanine Harrington, Intern; and Jada Stuckert, Recording Secretary. County Attorney, Christy Chesser was also present.

The Chair called the meeting to order at 6:36 p.m.

**APPROVAL OF THE MINUTES** – The minutes of June 11, 2007 were approved as presented.

**PUBLIC HEARING DECISION**

1. Minor Subdivision #05-110-056 – Perotta Property Growth Allocation

Ms. Veith gave a brief overview of the property growth allocation and the staff report's recommendation. Mr. Reeves stated he visited the property and noticed Ben Morgan road is very narrow. Ms. Guazzo stated she also visited the property and agrees the road is narrow; however, it is a 1000' county public road and therefore, county maintained. Ms. Guazzo stated this is a difficult situation because the County would receive a larger contiguous parcel if approved.

After further discussion **Ms. Guazzo made a motion in the matter of the request for Critical Area Growth Allocation and amendment of Critical Area Zoning Overlays for the "Boundary Line Adjustment Plat – Perotta Property", case No. 05-110-056, having conducted a public hearing and having found that the request is consistent with Comprehensive Plan and with the requirements for Growth Allocation found in the Comprehensive Zoning Ordinance (CZO) at § 41.9.1., I move that the Planning Commission recommend to the Board of County Commissioners as follows:**

1. That the Board accept the findings of staff and the Planning Commission as to the consistency of the request with the County Comprehensive Plan and ordinances; and
2. That the Board approve the request to revert 3 acres of Growth Allocation returning the LDA zoned land to RCA and award 1.5 acres of Growth Allocation to allow a boundary line adjustment to relocate and existing approved lot; and
3. That the Board forward to the Critical Area Commission a Notice of Intent to return 3 acres of allocation to an RCA designation for the LDA portions of the property as defined in the plans submitted on March 22, 2007 (tax Map 39, Block 180, Parcel 288 called out as "New Parcel A" containing 6.986 acres and "New Parcel B" containing 3.872 acres) and to award 1.5 acres of the County's Growth Allocation for the property proposed as Tax Map 39, Block 180, Parcel 288 adjusted Lot 500-2 as defined in the plans submitted on March 22, 2007.

I further move that this recommendation is made subject to the following, which the Planning Commission requests the Board of County Commissioners to impose as conditions on approval for award of Growth Allocation:

1. No further subdivision or development of the areas identified on exhibit 3 as New Parcel A(6.986 acres) and New Parcel B (3.872 acres) is allowed. Plat notes and a deed restriction to this effect shall be recorded at the time of final subdivision approval.

2. **All TEC comments shall be addressed and all ordinance provisions (including those for adequate public facilities) for subdivision approval shall be met prior to final subdivision approval by the Planning Commission. All ordinance criteria for development review and approval shall be met prior to issuance of grading, environmental, or building permits.**
3. **The 7.5 foot dedication along Ben Morgan Road as shown on the original Perrotta property plat is continued to the new Boundary Line Adjustment Plat.**

**I further move that the Chair be authorized to sign a resolution on behalf of the Planning Commission to convey this recommendation to the Board of County Commissioners and Mr. Thompson seconded. The motion passed by a 5-1 vote with Mr. Reeves opposed.**

## **PUBLIC HEARING**

2. Amendment to the Building Code, Sprinklers for single family homes

Mr. Knight gave an overview of the proposed amendment to Chapter 203, Building Construction, Section 203-13 of the Code of St. Mary's County for a modification to the one and two family dwelling code. Mr. Knight stated the public hearing was scheduled and advertised in The Enterprise on June 8, 2007 and June 13, 2007.

Mr. Reeves asked if St. Mary's County is the first to adopt such an amendment. Mr. Knight stated no, about half the counties in Maryland has adopted similar amendments. Ms. Guazzo asked for a list of the counties that have adopted such amendments. Ms. Guazzo also asked for actual numbers, not percentages of the fatalities in Maryland by county per single family and duplex housing. Mr. Knight agreed to provide this information to the Commission. Mr. Knight stated since Prince George's County has adopted a similar amendment there have been no fatalities in that County. Mrs. Guazzo asked Mr. Knight to review the smoke detector requirements for this type of housing. One detector per floor and one per bedroom are required. The detectors are hard wired in the house circuitry with a battery backup. Mr. Knight also stated that bedroom windows must be sized to admit a firefighter.

Mr. Evans asked about special licensing to be allowed to install these systems. Mr. Knight stated there is a special license required by the Fire Marshall. After further discussion Mr. Reeves opened the public hearing for comment, having none, **it was the consensus of the Commission to leave the hearing open for ten (10) days for additional public comment and table the issue to the next meeting.**

3. Amendment to the Zoning Ordinance, Residential in the APZ

Mr. Canavan gave an overview of the proposed amendment to prohibit new residences in the APZ-2 zone. Mr. Canavan stated Webster Field would not be affected by this text amendment. Mr. Canavan stated the public hearing was scheduled and advertised in The Enterprise on June 8, 2007 and June 13, 2007.

Mr. Reeves asked what other uses are permitted in the Residential Low (RL) District. Mr. Canavan stated there are more uses in the Rural Preservation District (RPD) than in the RL. Mr. Evans asked about provision (d) which speaks to properties located in two zones and how many properties are in this situation. Mr. Canavan stated there is only one (1) property that is dully zoned. Ms. Guazzo asked about the word "altered". Mr. Canavan stated an owner would be able to increase their footprint by 50%, adding on to their structure, or remove from their structure. Ms. Guazzo asked if accessory dwellings would be allowed. Mr. Canavan stated accessory dwellings are allowed.

Mr. Reeves opened the public hearing for comment.

Bill McKissick stated his first issue was indicated by staff, we are really dealing with is a noise problem not the accident potential. Mr. McKissick stated staff has actually changes the accident potential zone and there is no basis for this kind of a change. Mr. McKissick stated the second issue is staff has now made the APZ-2 section internally inconsistent by having residential uses which are deemed to be too great a risk in the APZ-2 but allowing personal service establishments, retail sales, professional offices, and playgrounds which are now deemed not as great a risk as a house. Mr. McKissick stated the third issue is the footnote sections pointed out by the Director. McKissick stated he understands what staff was trying to do here, however feels the task was not accomplished. After further discussion Mr. McKissick stated he feels with a few minor changes this text amendment could move forward. Mr. McKissick was asked to provide a list of his concerns to the Commission.

Guy Curley stated while the Commission is considering the amendment which prohibits residences in the APZ-2 zone please consider the interparcel transfer of density for the protection of the mission of Naval Air Station Patuxent River. Mr. Curley stated the Comprehensive Plan and the Lexington Park Master Plan state the Air installation Compatible Use Zone (AICUZ) shall create predictability for property owners with respect to land development within the AICUZ to create a town center with large amounts of green space. Mr. Curley stated though the Navy did not object to the 2005 and 2006 adoption of the Lexington Park Plan and subsequent rezoning actions, they have recently expressed concern regarding residential and commercial development in and adjacent to AICUZ. Mr. Curley asked the Commission to recognize and allow TDR's to be transferable to non-contiguous property.

Alan Hewitt stated he believes this amendment was drafted in haste and there is no need to prohibit new residential housing in the AICUZ. Mr. Hewitt asked the Commission to deny the amendment and direct the staff of Land Use and Growth Management to take on the following:

1. Establish a group that includes representatives of a variety of interests to work with the Navy to determine the nature and location extent of the encroachment threat.
2. Enlist a group to work with the Navy to reevaluate the Air Installation Compatible Use Zone Ordinance (AICUZ) and to conduct a joint comprehensive land use study to decide how to craft the amendment for the zoning ordinance.
3. Reevaluate existing boundaries of the Development district to determine if shifting the boundaries North would help resolve the problem of encroachment.
4. Determine to what extent Noise is the primary encroachment problem and develop amendments to the noise contour map to prohibit development in areas where noise levels may be an issue.
5. Provide language in any subsequent amendments that will permit any property owner who would be prohibited from developing their property to transfer densities from their affected property to designated sending areas elsewhere in the county to mitigate the financial burden on the affected property owners.

Patt Mudd of the Chamber of Commerce Encroachment Task Force stated the task force believes the text amendment under consideration tonight is in reaction to a specific project and is a stop-gap measure and as such may not be the best solution. Mr. Mudd stated the task force believes a more comprehensive review of the issues should be studied and set of recommendations should come forward to the Board of County Commissioners to balance the concerns. Mr. Mudd stated in the course of the task force meetings he was informed the Navy would be looking to undertake a new ACIUZ study near the end of this fiscal year. Mr. Mudd stated once the ACIUZ study is initiated it is understood that Navy would like to begin a joint land use study (JLUS) with St. Mary's

County. Mr. Mudd stated the Chamber of Commerce Encroachment Task Force urges the Commission to not take action and instead wait for a more comprehensive study on encroachment.

Jerry Nokleby stated the Essex Woods Subdivision is the one property Mr. Canavan was referring to earlier in the meeting. Mr. Nokleby stated this subdivision has been in the works for 4 years and is now near completion. Mr. Nokleby stated his clients have paid over two (2) million dollars for the property itself and have invested a half (½) a million dollars on the design of the property. Mr. Nokleby stated he feels this text amendment would be disastrous to Essex Woods unless preliminary approval was granted prior to the adoption of the text amendment. After further discussion Mr. Canavan stated he believed the Essex subdivision would be recorded prior to the effective date of the text amendment. Mr. Canavan stated consideration will be given to modifying paragraph (b) of the text amendment to include approved preliminary plans.

Dennis Edwards asked that Essex Woods Subdivision be grandfathered or preliminary approval be granted prior to the effective date of the text amendment.

Tim Wood stated he is in agreement with all statements made tonight in regards to this text amendment.

John Norris stated he agrees with Mr. McKissick. Mr. Norris further stated the provision in the ordinance that states wherever conflict between standards of the ordinance are found the more restrictive standard shall apply will interfere with this text amendment. After further discussion Mr. Reeves opened the public hearing for comment, having none, **it was the consensus of the Commission to leave the hearing open for ten (10) days for additional public comment and table the issue to the next meeting.**

#### **DEVELOPMENT REVIEW DECISION**

##### **4. Concept Site Plan #06-132-017 – FDR Colonial Square Office Building**

Mr. Bowles read the staff report which recommended denial and explained on May 14, 2007 the Planning Commission discussed and a motion was made to defer this application to the second meeting in June in order to receive information from the County Attorney.

Mr. Reeves asked if this property has been surveyed or platted. John Groeger of the Department of Public Works and Transportation (DPW&T) stated the alignment of FDR Boulevard has been shown as far back as the 80's and more recently in 2000 we had a plat prepared by PBS&J. Mr. Groeger stated this plat was approved by our department however it was not adopted or recommended by the Planning Commission or adopted by the Board of County Commissioners. Mr. Groeger stated there is a site plan that roughly shows the alignment.

Mr. Groeger stated at the Transportation Plan public hearing it was established and is part of the public testimony that owners were notified and was aware of the alignment. Mr. Thompson asked about the rough alignment of FDR Boulevard. Mr. Groeger stated looking at the full view it looks very close or exact. Mr. Thompson asked if it is known exactly where the road is going to be built or if this is movable. Mr. Groeger stated it is not movable in this area, the wetlands have been delineated, and there are other properties that have been developed north of this property. Mr. Groeger stated if the alignment was moved to the East or the West it would run into large established commercial buildings. Mr. Groeger stated on the property to the South we would not be able to make a curve in the road. Mr. Thompson stated DPW&T is going by what is already on the properties. Mr. Groeger stated the plat was developed by using what already exists on the surrounding properties.

John Norris stated he has not seen this map before and is wondering if there are two (2) different lines. Mr. Jackson stated the size of the scale is not full on this map, this map just shows schematically where the alignment of FDR Boulevard. Mr. Reeves asked Mr. Groeger if he feels he has an accurate plat or leaps and bounds description of the property. Mr. Groeger stated he feels he has all pertinent information.

Mr. Thompson stated he would like to see the other end of FDR because it seems that you could bring the road in at a softer angle. Ms. Guazzo asked if there were 200 scale drawings for FDR Boulevard. Mr. Groeger stated they are available in his office. Mr. Groeger stated the alignment shown in the Transportation Plan is from an AutoCAD drawing that came from PBS&J and was placed on the map with a high degree of accuracy. Mr. Evans asked when this was done. Mr. Groeger stated it was completed in 2000 and was adopted into the Transportation Plan in August of 2000.

Mr. Evans stated after the adoption is when you would contact property owners, how did this end up like this. Mr. Groeger stated there was a public hearing conducted for the adoption of the Transportation Plan and it was advertised in the newspapers throughout the County. Mr. Groeger stated they do not notify specific individual properties through this process. Mr. Groeger stated they wait until the drawings for the roadway are complete, budget the money, and have then they begin to acquire the property.

Mrs. Guazzo stated that it is her belief that the Planning Commission's job is to review the concept plan as presented, it is not our job to decide an issue of "takings". Ms. Guazzo stated the owners have other legal recourse to seek a decision as to takings.

After further discussion, **it was the consensus of the Commission to continue the case until July 9, 2007 to collect information from County Attorney Christy Chesser and to schedule a work session with DPW&T to review all the facts of this case.**

## **DEVELOPMENT REVIEW**

### 5. Concept Development Plan #07-120-007 – Willows Run, Lots 47-90, CWSP

Mr. Bowles read the staff report which recommended approval to proceed with an amendment to the Comprehensive Water and Sewer Plan. Ms. Guazzo asked if this is a different phase of Willows Run. Mr. Bowles explained it is a different parcel and further stated they are trying to connect all parcels.

Ms. Guazzo asked if the water and sewer would be coming from Pembroke. Mr. Bowles stated the applicant is in the process of obtaining an easement from Pembroke. Dean Wilkerson stated the water and sewer will be a continuation from phase one (1) and they are working with Pembroke to record the easement.

After further discussion **Mr. Chase made a motion in the matter of CDSP 307-120-007, Willows Run, Lots 47 to 90, having accepted the staff report and having made a finding that the referenced project meets concept development plan requirements to proceed with a Comprehensive Water and Sewer amendment to change the water and sewer categories from S-6 and W-6 to S-3D and W-3D, and noting that the subdivision plan must return to the Planning Commission for preliminary approval, I move that the concept plan be approved and Mr. Evans seconded. The motion passed by a 6-0 vote.**

### 6. Concept Site Plan #06-132-033 – Watts Commercial Center

Mr. Bowles read the staff report which recommended approval for a 28,700 square foot commercial center. Jonathan Blasco stated this would be of limited retail use and the owners are trying to provide a natural aesthetic for the property including lots of greenery. Mr. Reeves asked

about the loading docks to the rear of the property. Mr. Blasco stated they have turned one (1) of the buildings towards Two Guys to provide plenty of buffering. Ms. Guazzo asked if this space could be used as a self storage unit. Mr. Bowles stated the ordinance would permit this. Mr. Blasco stated this was not the intent of the owners.

After further discussion **Mr. Evans made a motion in the matter of CCSP #06-132-033, Watts Commercial Center, having accepted the staff report and having made a finding that the objectives 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. Hayden seconded. The motion passed by a 6-0 vote.**

7. Concept Site Plan #07-132-003 – Lexington Village

Mr. Bowles read the staff report which recommended approval for a 175,210 square foot commercial retail center. Mr. Bowles stated this project exceeds the allowable amount of buildings for the parcel so the owners will be using a total of thirty-five (35) TDR's. Ms. Guazzo asked what access White Oaks has to a public road. Mr. Bowles stated the applicant and White Oaks are in the process of constructing this portion of FDR Boulevard. Craig Cohen used the map to explain the road right-of-ways. Ms. Guazzo asked what the use would be. Mr. Cohen stated the use would be commercial retail and the owners will develop and lease out the property.

Ms. Guazzo asked what the requirements for relocating the existing homeowners on the property. Mr. Cohen stated most of the tenants are renters. Mr. Cohen stated homeowners receive one (1) years notice and all tenants receive some type of relocation assistance. Mr. Cohen stated they have successfully relocated all by three owners and negotiations with the remaining three are being wrapped up.

After further discussion **Mr. Thompson made a motion in the matter of CCSP #07-132-003, Lexington Village, having accepted the staff report and having made a finding that the objectives 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. Evans seconded. The motion passed by a 6-0 vote.**

## **ANNOUNCEMENTS**

A presentation of the annual report will be given at the next meeting.

## **ADJOURNMENT**

The meeting was adjourned at 9:39 p.m.

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Jada Stuckert  
Recording Secretary

Approved in open session: July 23, 2007

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Stephen T. Reeves  
Chairman