

**MINUTES OF THE ST. MARY'S COUNTY PLANNING COMMISSION MEETING
CHESAPEAKE BUILDING * LEONARDTOWN, MARYLAND
Tuesday, October 14, 2008**

Members present were Steven Reeves, Chairman; Howard Thompson, Shelby Guazzo, Susan McNeill, Merl Evans, and Lawrence Chase. Brandon Hayden was excused. Department of Land Use & Growth Management (LUGM) staff present were Phil Shire, Deputy Director; Bob Bowles, Planner IV; Jeff Jackman, Senior Planner; Dave Berry, Planner II; 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 September 22, 2008 were approved as amended.

DEVELOPMENT REVIEW

CCSP #05-132-019 – St. Mary's Marketplace

Mr. Reeves announced the applicant for this case has submitted a letter requesting the application be withdrawn, however reserves the right to reapply without going through the TEC process.

CCSP #08-132-009 – PNC Bank

Mr. Berry read the staff report which recommended approval of the concept site plan for PNC Bank to be located at 22610 Three Notch Road in Lexington Park. Mr. Berry stated the final findings for adequate public facilities will be made administratively by the Planning Director, as a prerequisite to final site plan approval. Ms. McNeill asked if this is a standard building for PNC Bank. Ms. Aubry Macky stated yes this is the typical LEED design. Mr. Reeves asked if this branch would replace the existing branch. Mr. Berry stated this building would replace the existing branch. Ms. McNeill asked if the gas tanks have been removed from the site. Ms. Noel Trent stated the tanks have already been removed.

Mr. Evans made a motion in the matter of CCSP #08-132-009, PNC Bank, 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. Chase seconded. The motion passed by a 7-0 vote.

SSUB #04-120-009 – The Woods at Myrtle Point Section 1, Phase 2

Mr. Berry read the staff report which recommended approval of the 68 lot major subdivision. Mr. Berry stated stormwater management and traffic mitigation are the only two outstanding issues. Ms. Guazzo stated this development needs a full service traffic signal at Patuxent and Route 4. Ms. Guazzo referenced the State Highway Administration (SHA) letter which stated the light will be constructed and be flashing until SHA warrants the signal light be turned on. Mr. Groeger stated he is unaware if the signal is warranted now and how long it will take to turn the signal on. Mr. Berry stated the plans for the traffic light have been submitted to SHA and it is his understanding that once the plans are approved construction can begin on the traffic signal.

Ms. Guazzo inquired about the performance bonds and asked if the amounts of the bonds have been revised. Mr. Groeger stated the performance bonds are all the same and are adequate for the development.

Ms. Guazzo asked how many of the roads in the development will become public roads. Mr. Groeger stated all roads except "lanes" will become public roads. Ms. McNeill asked if an updated traffic study has been done. Mr. Groeger stated the traffic study was done 10/29/03 and the warrant study was done in 2007 however nothing else has been submitted. Mr. Groeger stated

the development will open with a level "F" once buildout is complete. Ms. McNeill stated this development has a bad impact on traffic in the area as well as the corner of Route 235 and Route 4. Mr. Groeger stated even with the improvements of the development it will still operate at a level "F" and the rest will be mitigated. Mr. Evans stated when SHA first opened the intersection of Route 235 and Route 4 it was operating at a level "E". Mr. Evans stated we can't require a developer to mitigate a situation that was failing to begin with. Ms. Guazzo recommended a condition be added to the motion to require the traffic light be able to function.

Mr. Patt Mudd gave a quick overview stating there will also be an acceleration lane and a free right turn lane with 1,300 feet onto Route 4 as well as the full traffic light which is required by the time the 124th building permit. Mr. Mudd stated traffic light construction will begin as soon as SHA approval is granted.

Ms. Guazzo stated she has concerns with and asked about the homeowners agreements. Mr. Reeves recommended hearing from the homeowners first.

Mr. George Skouzes stated he lost trust when the developer up and left. Mr. Skouzes stated no maintenance of the common property has been done therefore the appearance of the property is a concern. Mr. Skouzes stated the homeowners put together their own time and money to mow some of the common areas even though some of their punch lists haven't been completed. Mr. Skouzes stated the condition of the silt fences and unfinished road are also a concern as well as the payment for the SMECO light posts. Mr. Skouzes stated more sections of Myrtle Point should not be opened for building until the first section is done. Ms. Guazzo asked if Mr. Skouzes paid the \$1,500 for maintenance and the \$400 for the Homeowners Association (HOA). Mr. Skouzes stated yes he paid a prorated amount for maintenance and the HOA.

Ms. Laurie Ludlow stated she is concerned that the other phases will be granted and begun then the builder will leave again. Ms. Ludlow stated she agrees with Mr. Skouzes comments and stated her punch list has not been completed.

Ms. Sherry Norris stated she owns one of the six homes not completed and she agrees with Mr. Skouzes comments. Ms. Norris asked the Commission to place a condition on the project stating phase one has to be completed prior to the opening of any other phases.

Ms. Allison Swift stated she agrees with Mr. Skouzes comments and her punch list has not been completed.

Mr. Reeves asked if Mr. Summers was building the homes himself. Mr. Summers stated P.F. Summers Construction went out of business. Mr. Paul Summers stated it was never his intention to walk away from his obligations and he is not proud of the lack of maintenance on the property. Mr. Summers explained with the slow collapse of the economy P.F. Summers Construction went south and by the time he realized it was too late and he had to close immediately. Mr. Summers stated a local bank has bonded the project. Ms. Guazzo asked what type of equity was put up for this. Mr. Summers stated none; the bond is pledged against the property.

Mr. Evans asked for some answers to the public comments. Mr. Summers stated the unfinished road is under contract and he will try to get the maintenance on the property taken care of. Mr. Summers stated Frank Walters would be appointed as Treasurer of the HOA, Chuck Miller is the President and one other member at large would be appointed.

Ms. Guazzo stated she is very concerned with the HOA which refers to a deed of trust and also refers to by-laws. Ms. Guazzo stated she would like to have a copy of the by-laws. Mr. Summers stated the trustees are three persons from Fulton Bank. Mr. Longmore stated it is not uncommon to have the financiers as the trustees of a HOA. Ms. Guazzo asked who is on the Board of Directors and how they are elected and how they are removed. Mr. Summers was unclear as to

how many members there were on the Board of Directors stated there were less than ten with two non-voting homeowners.

Mr. Summers stated he hopes to have the HOA documents and by-laws changed while he still has some control over the development. Mr. Summers stated he would like to add more transparencies. Mr. Evans asked about the unfinished punch lists. Mr. Summers stated he hopes to finish these however everything hinges on the approval of these prior to October 23, 2008. Mr. Summers stated his first step would be to complete the homes that are not completed. Mr. Reeves asked that Mr. Summers meet with the homeowners to address more of their concerns. Mr. Summers agreed to do so.

The Planning Commission took a ten minute recess.

Mr. Skouzes recommended returning the \$1,500 to the homeowners as "good faith" so they may be able to finish projects on their punch lists. Mr. Skouzes stated the \$1,500 can then be reconstituted to the development when it's time for the pool to be installed.

Ms. Guazzo highlights a portion of property on the south side of Route 4 and stated this property should be included in Mr. Summers assets. Mr. Summers stated this property is an estate without heirs however he may have the potential to purchase the land through the State. Ms. Guazzo asked that staff look into this.

Mr. Longmore stated we are here tonight to vote on the stormwater management portion of the project however he is glad his client has had the opportunity to discuss the issues and stated he is trying to remedy the situation. Ms. Guazzo agreed and stated in this situation the Commission must place conditions on the project to refine the progress of the build-out. Mr. Summers agreed with the conditions. Ms. McNeill asked that the developer return yearly to give the Commission an update.

Mr. Shire stated once the final approval is granted the applicant has one year from the date of the approval to record the lots at which time we will be dealing with private homeowners. Mr. Summers stated by phasing the development it gives more control and asked if he could opt to abide by the new Annual Growth Policy. Mr. Shire stated he would have to research this with the legal department. Mr. Longmore reaffirmed his client agrees with the conditions.

Ms. Guazzo made a motion in the matter of SSUB #04-120-009, Woods at Myrtle Point, Section 1, Phase 2, containing 68 lots, having accepted the staff report and having made the following findings: of adequate facilities pursuant to Section 40.10 of the Zoning Ordinance #90-11 for current stormwater management requirements, with the condition that before the first building permit for Section 1, Phase 2 is issued the developer will have had 85% of the building permits for Section 1, Phase 1 issued, I move that the final subdivision plan for Section 1, Phase 2, be approved that and Mr. Evans seconded. The motion passed by a 7-0 vote.

SSUB #04-120-020 – The Woods at Myrtle Point Section 1, Phase 3

Ms. Guazzo made a motion in the matter of SSUB #04-120-020, Woods at Myrtle Point, Section 1, Phase 3, containing 21 lots, having accepted the staff report and having made the following finding: of adequate facilities pursuant to Section 40.10 of the Zoning Ordinance #90-11 for current stormwater management requirements, with the condition that before the building permit is issued for the tenth house in Section 1, Phase 3 road improvements for the intersection of Patuxent Boulevard and MD Route 4 shall be finished and a full service traffic signal will be built and can be operational, I move that the final subdivision plan for Section 1, Phase 3, be approved and Mr. Thompson seconded. The motion passed by a 7-0 vote.

SSUB #04-120-032 – The Woods at Myrtle Point Section 4, 5, and 6

Ms. Guazzo made a motion in the matter of SSUB #04-120-032, Woods at Myrtle Point, Sections 4, 5, and 6, containing 81 lots, having accepted the staff report and having made the following finding: of adequate facilities pursuant to Section 40.10 of the Zoning Ordinance #90-11 for current stormwater management requirements, with the condition that before Sections 4, 5, and 6 move forward with grading and building permits the developer will appear before the Planning Commission to present the development plan for the community facilities to be located within the Woods at Myrtle Point to include location and time of implementation, I move that the final subdivision plan for Sections 4, 5, and 6 be approved, I further move that if more than a year has passed before commencement of Sections 4, 5, and/or 6 the developer shall appear before the Planning Commission to give updates on the disposition of lots and planning for the Woods at Myrtle Point and Mr. Hayden seconded. The motion passed by a 7-0 vote.

Mr. Evans stated he appreciated Mr. Summers attending the meeting and asked that he meet with the homeowners to address more of their concerns.

DISCUSSION

Comprehensive Plan Update

Mr. Jackman gave an update on the Comprehensive Plan stating a draft will be presented to the Commission on 11/24/08 with the first public hearing being held at the end of January.

Annual Growth Policy Procedures

Mr. Bowles read the Annual Growth Policy Procedures to the Commission. ***Mr. Evans made a motion to accept the procedures and forward those to the Board of County Commissioners and Ms. Guazzo seconded. The motion passed by a 7-0 vote.***

ADJOURNMENT

The meeting was adjourned at 9:50 p.m.

Jada Stuckert
Recording Secretary

Approved in open session:

Stephen T. Reeves
Chairman