

**MINUTES OF THE ST. MARY'S COUNTY PLANNING COMMISSION MEETING
ROOM 14 * GOVERNMENTAL CENTER * LEONARDTOWN, MARYLAND
Monday, October 23, 2006**

Members present were Steve Reeves, Chair; Lawrence Chase; Merl Evans; Shelby Guazzo; Brandon Hayden; and Susan McNeill. Howard Thompson, Vice Chair, was excused. Department of Land Use and Growth Management (LUGM) staff present were Denis Canavan, Director; Phil Shire, Deputy Director; Bob Bowles, Planner II; Dave Berry, Planner I; and Cindy Koestner, Recording Secretary. County Attorney, Christy Holt Chesser, and Deputy County Attorney, Colin Keohan were also present.

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

APPROVAL OF THE MINUTES – The minutes of October 10, 2006 were approved as recorded.

DEVELOPMENT REVIEW

SSUB #04-120-009 – WOODS AT MYRTLE POINT, SECTION 1, PHASE 2

The applicant is requesting preliminary review and approval of a standard subdivision for Section 1, Phase 2, 68-lots in a major subdivision. The property contains 96 acres; is zoned Residential Low-Density District (RL), Airport Environs Overlay (AE), Resource Conservation Area Overlay (RCA); and is located on the west side of Patuxent Boulevard, approximately 1,600 feet north of its intersection with MD Route 4, California, Maryland; Tax Map 34, Grid 6, Parcels 485, 585, 586 and 587.

Owner: Myrtle Point Partnership, L.L.C., c/o PF Summers
Present: Jim Gotsch, Loiederman Soltesz Associates, Inc.; Christopher Longmore, attorney for the applicant

Public Exhibit 1: Pictures taken on 9-5-06 by local resident Robert Willey of sedimentation in the Mill Creek waters.

Applicant's Exhibit 1: Table prepared by Jim Gotsch that lists the percentages of steep-sloped area for each lot of Section 1, Phase 2 and Phase 3 and Sections 4, 5 and 6 for both pre-development and post-development conditions.

Applicant's Exhibit 2: Remarks prepared by Mark G. Rinaldi, professional planner for P.F. Summers, regarding mitigation for school capacity.

Mr. Shire explained he will give one presentation for all three cases because they all involve the same subdivision and have the same outstanding issues. He noted Sections 2 and 3 of the Woods at Myrtle Point Subdivision have not come before the Planning Commission for preliminary review because they need further TEC review. The agenda states Sections 4, 5 and 6 contain 81 total lots; however, the correct number is 78 lots, bringing the total number of lots proposed for preliminary review tonight to 167 lots. Mr. Shire stated the developer received approval for the full phasing plan of the subdivision in conjunction with the final approval of Section 1, Phase 1 in 2004. The grandfathering provisions for final approval of the remaining phases of the subdivision were later extended through May 13, 2007. Mr. Shire explained this development has four outstanding issues: mitigation of school capacity, stormwater management findings, traffic mitigation and deeded covenants of the homeowners' association documents.

Mr. Shire explained there is currently sufficient elementary school capacity for this development and there are plans to construct a new high school within the current County six-

year Capital Improvement Program (CIP). Mr. Shire explained middle school capacity is not projected to be adequate for this development; however, the subdivision is grandfathered under the old Zoning Ordinance, #90-11, which allows the applicant the ability to mitigate for the insufficient middle school capacity. The mitigation required in this case will be in the form of a fee for each lot in the development. Mr. Shire recommended the Planning Commission include a condition upon preliminary approval to have the applicant provide either the fees or a letter of credit within 90 days of receiving the preliminary approval. This will allow staff to make Adequate Public Facilities (APF) findings for schools.

Mr. Shire explained any grading plans for the property will be discussed in terms of the overall grading of the parcels and not based on the grading of individual lots. He referenced the recent Board of Appeals verdict to affirm the decision of the Department of Public Works and Transportation (DPW&T) to issue the grading permit for Section 1, Phase 1 of the Woods at Myrtle Point on a parcel basis. The property of Section 1, Phase 1 was viewed on a parcel basis, rather than an individual lot basis, because the development requires an overlot grading plan. Mr. Shire noted APF findings for stormwater management will be made at the final approval.

Mr. Shire explained the traffic study found a need for two improvements on MD 4: the extension of the acceleration lane, which runs southbound on MD 4 from Patuxent Boulevard, and the conversion of the through lane to a combination left-turn/through lane on the southbound MD 4 approach to the MD 235 intersection. Mr. Shire noted both of these improvements will still not bring the traffic service to an acceptable level; therefore, DPW&T recommends additional improvements to the intersection of MD 4 and Patuxent Boulevard. Any proposed improvements will require final approval by the State Highway Administration (SHA). DPW&T recommends the installation of a "Maryland T," which will allow traffic turning left from Patuxent Boulevard to turn into a center lane and accelerate before merging into the northbound traffic. Mr. Shire noted the recommended "Maryland T" is similar to the structure in place at the MD 4 and MD 5 intersection. Mr. Reeves inquired about the installation of a timed light at the MD 4 and Patuxent Boulevard intersection. Mr. Shire replied there is not enough traffic exiting Patuxent Boulevard to meet the traffic light requirements of SHA.

Mr. Shire explained the homeowners' association documents for the Woods at Myrtle Point will be drafted to include deeded covenants to regulate or prohibit any future grading on the lots by the homeowners. This measure will ensure the planned and engineered stormwater management of the site is not impaired in the future. He noted the Planning Commission can require this as a condition prior to final approval. Mr. Reeves asked if the homeowner will be prohibited from any grading under these covenants. Mr. Shire replied any significant grading will be prohibited, but the homeowner can still do small things, such as install a shed.

Mr. Reeves asked Mr. Bruce Young, District Manager of the Soil Conservation District, to comment on the temporary sediment controls in use at this development. Mr. Young explained most of the erosion and sediment controls installed are temporary structures, but the plans also include some permanent structures. He noted the temporary sediment controls are only designed for two years' usage. Mr. Reeves asked who takes responsibility for erosion and sediment control once the development is completed. Mr. Young replied the development plans include the installation of some permanent stormwater management structures. Mr. Shire added each house will have a stormwater management agreement recorded. Ms. McNeill inquired about sedimentation leaving the site after the temporary stormwater management controls are removed. Mr. Young replied the temporary erosion and sediment controls are not supposed to come out until the site is stabilized. Ms. McNeill asked who decides when the site is stabilized. Mr. Young replied the Maryland Department of the Environment (MDE).

Ms. Guazzo asked Mr. Paul Summers, the developer, to address development of the outparcels. Mr. Summers replied the outparcels are mainly located in the Critical Area where only one lot is allowed for every 20 acres, so he will only be able to develop up to five additional lots. Ms. Guazzo asked when Mr. Summers acquired the property. Mr. Longmore replied the

property is held in the name of a separate entity and Mr. Summers has had an interest in the property for several years.

Mr. Gotsch explained the Woods at Myrtle Point subdivision is grandfathered under #90-11, but the stormwater management designs meet the requirements of the current *Stormwater Management, Grading, Erosion and Sediment Control Ordinance*. He explained seven stormwater management ponds designed to capture runoff from all the public roads and some of the private roads will be installed in the subdivision. Phase 1 of the subdivision utilizes drywells on many of the lots to capture stormwater runoff; but, Phases 2 and 3 will not need as many drywells because more of the stormwater will run to the ponds. Mr. Reeves asked if the ponds hold water. Mr. Gotsch responded different types of ponds will be installed: infiltration ponds, which filter the water through sandy soils into the ground; pocket ponds, which maintain a permanent wet area through the groundwater; micropool ponds, which contain deep areas that hold water; and combination sand filter/micropool ponds.

Mr. Gotsch explained there will be 362 lots when the Woods at Myrtle Point is completed, including the townhouses planned for Sections 2 and 3 and the five Critical Area lots of the outparcels. He explained the developer is willing to build the "Maryland T" if the State will allow it. Mr. Gotsch stated DPW&T has asked the developer to regrade some of the driveways of Sections 4, 5 and 6 on Myrtle Point Road; however, the developer is waiting to get information on an existing gas line prior to proceeding. Ms. McNeill inquired about the increase of the acceleration lane on MD 4. Mr. Gotsch replied SHA asked the developer to lengthen the lane from 562 feet to 1,000 feet. Ms. Guazzo asked if the developer plans to install the "Maryland T" in addition to lengthening the acceleration lane. Mr. Gotsch replied the developer wants to make both improvements because that will improve traffic leaving Patuxent Boulevard in both directions. Mr. Gotsch submitted tables of steep-slope areas for all of the lots of Section 1, Phases 2 and 3 and Sections 4, 5 and 6, for both pre-development and post-development conditions of the property, into evidence. Ms. Guazzo inquired about the steep-slope criteria of the Ordinance. Mr. Shire responded the property will meet the steep-slope criteria if grading permits are issued on a parcel basis.

Ms. McNeill inquired about the addition of a third left-hand turn lane onto southbound MD 235. Mr. Joe Caloggero, of The Traffic Group, replied SHA approved changing the through lane to a combination left-turn/through lane at the MD 235 traffic light. Mr. Evans inquired about the logistics of the "Maryland T." Mr. Caloggero replied this structure is a protected turn that allows the traffic turning left off of Patuxent Boulevard to accelerate before merging into the northbound traffic of MD 4.

Mr. Longmore submitted comments prepared by Mark G. Rinaldi, engineer for P.F. Summers, regarding the issue of school capacity into evidence and he explained the developer is still working with staff on a final figure for the middle school capacity mitigation. Ms. McNeill asked who proposed the formula for the school mitigation. Mr. Shire replied the County proposed the formula. Mr. Longmore noted the County has allowed the developer to give input on the formula.

The Chair agreed to allow public comments.

Mr. Robert Willey, local resident on Mill Cove Road, submitted pictures into evidence depicting the discoloration of Mill Creek from sedimentation runoff. He expressed concern there is already a lot of erosion, yet the development has just started. Mr. Reeves asked how many inches of rain cause the discoloration. Mr. Willey replied large amounts of runoff can occur with only one inch of rain and there are many times when the water becomes very muddy. Mr. Reeves asked if this happens every day. Mr. Willey replied it occurs only when it rains.

Ms. Carolyn Huff, local resident of Mill Cove Road, expressed concern the intersection of Patuxent Boulevard and MD 4 is dangerous for any vehicle trying to make a left-hand turn. She

explained there is sometimes a small gap for cars to turn left in the mornings; however, many people trying to go northbound on MD 4 have to make a right hand turn and then turn around at Oak Drive. She further explained this option is not possible in the afternoons when there are no gaps in traffic. She estimated the Woods at Myrtle Point will add around 700 vehicles to the traffic trying to exit Patuxent Boulevard because the Woods at Myrtle Point proposes 365 lots and most families have at least two vehicles. She feels there will be even greater potential for a serious accident unless traffic improvements are made to assist left-hand turns. Ms. Huff noted it was discussed at the Board of Appeals hearing that the stormwater management measures for the subdivision are designed to capture runoff of a one to two year rain event. She expressed concern anytime there is more than a one to two year rain event, sediment will flow into Mill Creek.

Ms. Guazzo expressed concern the traffic situation at Patuxent Boulevard needs to be improved and asked the Planning Commission to consider adding verbiage to the motion that will require the developer to fund the "Maryland T" if it is approved by SHA. Mr. Shire explained the preliminary approval is only good for two years, which may not be enough time to get approval of the "Maryland T" from SHA. Mr. Summers noted he is willing to fund the "Maryland T;" however, he expressed concern he will not be allowed to move forward on Phase 2 if the language of the motion is too restrictive and SHA does not make the recommendation for the "Maryland T" structure. He explained he is willing to post a letter of credit to ensure his commitment to funding the improvement if SHA approves it. John Groeger, Deputy Director of DPW&T, explained SHA wants further traffic analysis before making any decision on the Patuxent Boulevard and MD 4 intersection. Ms. Guazzo asked if SHA is currently working on this request. Mr. Groeger replied SHA will not even review the request until another traffic analysis is completed. Mr. Reeves expressed concern the developer will not be able to complete the development if the language of the motion is restricted to installation of a "Maryland T" and SHA decides a different structure is needed. Mr. Summers stated Section 1, Phase 2 will probably come to final approval before the traffic study is completed. Ms. Guazzo asked if the traffic mitigation decision can wait until the final approval. Mr. Shire responded no; because, the Planning Commission is required to make APF findings for traffic at preliminary approval. Mr. Pat Mudd, engineer for P.F. Summers, explained the current traffic study states traffic mitigation improvements must be made before the 124th building permit can be issued; the 124th home is planned in Section 1, Phase 3. This will allow the developer to proceed with Phase 2 while they wait for SHA to make a final traffic determination.

Mr. Evans moved that having accepted the staff report, dated October 3, 2006, and having made the following findings: of adequate facilities pursuant to Section 40.10 of Zoning Ordinance #90-11 except for stormwater management as noted on the attached adequate facilities checklist; that the applicant is entitled to providing school mitigation; and that the project must meet all TEC agency requirements and return to the Planning Commission for final approval, the Planning Commission grant approval of the preliminary subdivision plan for Section 1, Phase 2, with the conditions that school mitigation fees be approved by the Planning Director and paid within 90 days of preliminary approval, and determination of adequate traffic mitigation be completed, prior to final subdivision approval. The motion was seconded by Mr. Chase and passed by a 5-1 vote. Ms. McNeill was opposed.

SSUB #04-120-020 – WOODS AT MYRTLE POINT, SECTION 1, PHASE 3

The applicant is requesting preliminary review and approval of a standard subdivision for Section 1, Phase 3, 21-lots in a major subdivision. The property contains 96 acres; is zoned Residential Low-Density District (RL), Airport Environs Overlay (AE), Resource Conservation Area Overlay (RCA); and is located on the west side of Patuxent Boulevard, approximately 1,600 feet north of its intersection with MD Route 4, California, Maryland; Tax Map 34, Grid 6, Parcels 485, 585, 586 and 587.

Owner: Myrtle Point Partnership, L.L.C., c/o PF Summers

Present: Jim Gotsch, Loiederman Soltesz Associates, Inc.; Christopher Longmore, attorney for the applicant

The Planning Commission members discussed wording the motions for Section 1, Phase 3 and Sections 4, 5 and 6 to ensure the developer is held responsible for installing traffic improvements on MD 4. Mr. Canavan explained the traffic in this area is a major concern and he suggested adding language that will require installation of a left-turn maneuver at Patuxent Boulevard by the developer. He explained this wording will not allow the Planning Commission to make APF findings for traffic if SHA does not approve a left-turn maneuver improvement. Mr. Summers asked the Planning Commission to not restrict the motion to design detail so that he will have freedom to fund whichever design is approved by SHA. He expressed concern he will lose his right to complete the development if the motion is restricted to the construction of one type of traffic mitigation structure and SHA does not approve that specific type of structure. Ms. Guazzo asked if the Planning Commission can wait until after they receive information about SHA's plans to grant preliminary approval. Mr. Summers replied SHA is only going to respond to a full traffic study, which will not be completed in time for preliminary approval. He stressed he is willing to post a bond to fund any type of traffic mitigation SHA approves. Mr. Shire noted the County is not obligated to grant final approval if SHA does not require any traffic mitigation at this intersection. Mr. Caloggero explained SHA has numerous traffic mitigation options to choose from; therefore, tying the developer to only one option is unfair, especially when there is no one present to speak on behalf of SHA.

Mr. Evans expressed concern the motion should not reference a specific traffic structure because there may be a better type of traffic mitigation for this intersection than the "Maryland T." Mr. Reeves asked Ms. Chesser if the Planning Commission can amend the motions at a later meeting should the wording cause legal problems for the developer. Ms. Chesser responded yes, the Planning Commission has some criteria under which a motion can be revised. Mr. Longmore explained the applicant is generously offering the funding for whatever traffic improvements SHA approves and he should not be bound to one type of traffic structure that may cause his project to lapse if SHA does not approve that specific type of structure. He pointed out SHA is the State administration responsible for keeping the State roads safe; thus, they should be trusted to make the decision on what type of traffic improvements are warranted.

Ms. Guazzo moved that having accepted the staff report, dated October 3, 2006, and having made the following findings: of adequate facilities pursuant to Section 40.10 of Zoning Ordinance #90-11 except for stormwater management as noted on the attached adequate facilities checklist; that the applicant is entitled to providing school mitigation; and that the project must meet all TEC agency requirements and return to the Planning Commission for final approval, the Planning Commission grant approval of the preliminary subdivision plan for Section 1, Phase 3, with the conditions that school mitigation fees be approved by the Planning Director and paid within 90 days of preliminary approval, and that adequate traffic mitigation, as determined by the State Highway Administration, be funded and/or constructed by the developer as required prior to final subdivision approval. The motion was seconded by Mr. Chase and passed by a 5-1 vote. Ms. McNeill was opposed.

SSUB #04-120-032 – WOODS AT MYRTLE POINT, SECTIONS 4, 5 AND 6

The applicant is requesting preliminary review and approval of a standard subdivision for Sections 4, 5 and 6, 78-lots in a major subdivision. The property contains 45 acres; is zoned Residential Low-Density District (RL), Airport Environs Overlay (AE), Resource Conservation Area Overlay (RCA); and is located at 23983 Patuxent Boulevard, California, Maryland; Tax Map 34, Grid 6, Parcels 485, 585, 586 and 587.

Owner: Myrtle Point Partnership, L.L.C., c/o PF Summers

Present: Jim Gotsch, Loiederman Soltesz Associates, Inc.; Christopher Longmore, attorney for the applicant

Mr. Evans moved that having accepted the staff report, dated October 3, 2006 and having made the following findings: of adequate facilities pursuant to Section 40.10 of Zoning Ordinance #90-11 except for stormwater management as noted on the attached adequate facilities checklist; that the applicant is entitled to providing school mitigation; and that the project must meet all TEC agency requirements and return to the Planning Commission for final approval, the Planning Commission grant approval of the preliminary subdivision plan for Sections 4, 5 & 6, with the conditions that school mitigation fees be approved by the Planning Director and paid within 90 days of preliminary approval, and that adequate traffic mitigation, as determined by the State Highway Administration, be funded and/or constructed by the developer as required prior to final subdivision approval. The motion was seconded by Mr. Hayden and passed by a 5-1 vote. Ms. McNeill was opposed.

ADJOURNMENT

The meeting was adjourned at 8:50 p.m.

Cindy R. Koestner
Recording Secretary

Approved in open session: November 13, 2006

Stephen T. Reeves
Chairman