

**MINUTES OF THE ST. MARY'S COUNTY PLANNING COMMISSION MEETING
ROOM 14 * GOVERNMENTAL CENTER * LEONARDTOWN, MARYLAND
Monday, November 26, 2007**

Members present were Stephen Reeves, Chairman; Howard Thompson, Shelby Guazzo, Brandon Hayden, Susan McNeill, Lawrence Chase, and Merl Evans. Department of Land Use & Growth Management (LUGM) staff present were Denis Canavan, Director; Phil Shire, Deputy Director; Jeffrey Jackman, Senior Planner; Bob Bowles, Planner II; Sue Veith, Environmental Planner; and Jada Stuckert, Recording Secretary. Deputy County Attorney, Colin Keohan was also present.

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

APPROVAL OF THE MINUTES

The minutes of November 13, 2007 were approved as presented.

Ms. Guazzo stated she attended the Board of County Commissioners Meeting regarding the proposed revisions to the Comprehensive Water and Sewerage Plan (CWSP). Ms. Guazzo stated she attended as a listener however felt that staff did not depict the Planning Commission's motion or intentions as they pertained to the CWSP revisions. Ms. Guazzo explained this is why she felt it necessary to speak at the Commissioners meeting. Mr. Reeves thanked Ms. Guazzo stating he watched the hearing on Channel 95 and agrees with Ms. Guazzo's comments.

PUBLIC HEARINGS

Minor Subdivision #06-245-026 – Hodges Growth Allocation

Ms. Veith gave an overview of the staff report which recommended approval of a request for award of the County's Critical Area growth allocation and mapping of LDA in accordance with CZO §41.9.1 to allow subdivision to create two buildable lots on two agricultural parcels. Mr. Reeves asked if alternative systems would be allowed. Ms. Veith explained the mound system is the alternative system.

Ms. McNeill asked how often growth allocation requests are received. Ms. Veith stated they are rare but increasing. Mr. Evans asked about the 300 foot buffer. Ms. Veith stated plat notes would help enforce the 300 foot buffer for the septic. Ms. Guazzo stated essentially we are re-zoning this parcel from rural to LDA and asked if the neighboring "Wilkerson" family could ask for a growth allocation as well. Ms. Veith stated yes, any property owner can ask for a growth allocation.

Mr. Jerry Nokelby gave an overview of the notification given to surrounding neighbors and submitted Exhibit #1 – 4 pictures of the private road and posted public hearing signs. Ms. Margaret Hodges Bailey stated her father gave this property to her and her siblings and was of sound mind when he signed his will stating as much. Ms. Bailey stated her father wanted the family to build on the property whenever they got the chance. Mr. John Colton stated he is a neighboring property owner with a 130 acre tree farm. Mr. Colton stated he is unopposed to the growth allocation and wants to see the trees on the property.

After discussion, Ms. McNeill made a motion in the matter of the request for recommendation for award of 6.24 acres growth allocation to change the Critical Area overlay from Resource Conservation Area (RCA) overlay to the Limited Development Area Overlay for ISUB #06-245-002, Hodges Growth Allocation, having found that the request is substantially consistent with the Comprehensive Plan and with the requirements for growth allocation found in the Comprehensive Zoning Ordinance (CZO) §41.9.1, I move that the Planning Commission make recommendation 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 St. Mary's County Comprehensive Plan and Ordinances;*
2. *That the Board approve the request for award of growth allocation;*
3. *That the Board forward to the Critical Area Commission a "Notice of Intent to Award" 6.24 acres of the County's Growth Allocation to allow subdivision to create two buildable lots on two agricultural parcels (Tax Map 47, Grid 3, Parcel 328, submitted under ISUB #06-110-148, containing 3.62 acres owned by Barbara Hodges Link, and Tax Map 47, Grid 3, Parcel 340, submitted under ISUB #06-110-153 containing 2.62 acres owned by Louis C. Hodges), which were deeded (in accordance with a will to settle an estate) in 1993 and 2003 respectively from a property, Tax Map 47, Grid 3, Parcel 15, owned by Margaret Hodges Bailey, which contained approximately 36.80 acres entirely in the Chesapeake Bay Critical Area;*
4. *That the approval for award for growth allocation and subsequent subdivision approval be subject to the following conditions:*
 - a. *Mapping of LDA on the official Critical Area maps over Lots 2 and 3 is subject to the condition that no further division of Tax map 47, Grid 3, Parcel 15 is allowed to create additional dwelling sites within the Critical Area.*
 - b. *The 300-foot expanded Critical Area Buffer on all lands within Lots 2 and 3 (excluding the sewage reserve areas) shall be allowed to regenerate as natural forest in all areas that are not actively farmed. If farming activities cease then those farmed areas shall be planted in diverse natural forest vegetation. No mowing or other vegetation management, except as recommended by the St. Mary's County forester to assure growth Management, shall be allowed within the expanded Critical Area Buffer. Afforestation may be required at the time of permitting of development on each lot to assure minimum fifteen percent forest cover is provided on the individual lots. Clearing of and mitigation for clearing of any existing forest shall be in accordance with the Comprehensive Zoning Ordinance.*
 - c. *All TEC comments shall be addressed and all ordinance provisions (including those for adequate public facilities) for subdivision shall be met prior to final subdivision approval. The planting agreement assuring reforestation of the expanded buffer shall be executed at the time the subdivision is recorded. All ordinance criteria for development review and approval shall be met prior to issuance of grading, environmental, or building permits.*

Mr. Evans seconded the motion and the motion passed by a 7-0 vote.

PRESENTATION

St. Mary's River Watershed Association on the status of the St. Mary's River

Dr. Robert Paul stated the St. Mary's River is the largest watershed entirely within St. Mary's County that is approximately 45,336 acres. Dr. Paul stated the river stretches approximately 10 miles from the river's mouth to the head of tide. Dr. Paul stated St. Mary's County has over 300 miles of freshwater perennial and intermittent streams; there are 19 principal subwatersheds with wide levels of impact from development in the various subwatersheds.

Dr. Paul stated the association samples 15 non-tidal sites (streams) and 10 tidal sites, sampling tidal and non-tidal over a long period of time gives a good picture of the river's health. Dr. Paul stated water quality is primarily controlled by runoff and landscape practices. Dr. Paul stated many soil types are unstable and easily eroded, storm events and soil erosion carry nutrients and sediment into the tidal river.

Dr. Paul stated the Catalyst for Improving the Environment Evaluation Report states, "EPA and its Chesapeake Bay watershed partners will not meet load reduction goals for developed lands by 2010 as established in the Chesapeake 2000 Agreement. In fact, new development is increasing nutrient and sediment loads at rates faster than restoration efforts are reducing them."

Dr. Paul stated we need to protect our water resources by maintaining wetlands, reducing erosion, and protecting biological integrity. Dr. Paul stated we need to use best management practices to ensure appropriate development, manage storm water, and to curb nutrient and sediment inputs. Dr. Paul recommended generating incentives for responsible development, promoting green designs and green building practices, and establishing stronger standards for storm water, site design, building codes, concentrating development, and transportation.

FAMILY CONVEYANCE

Minor Subdivision #07-110-051 – Greenmount Minor Subdivision

Mr. Bowles gave an overview of the staff report which recommended preliminary review approval of an additional lot on a private road. Mr. Reeves asked for clarification of the deed stating it was deeded in 1993 according to the tax records. Mr. William Higgs stated this parcel has never been deeded. Mr. Higgs stated parcel 1 is to the north of the property in question. Ms. McNeill asked about the road maintenance agreement. Mr. Higgs stated this is still being worked on.

Mr. John Baitland stated he disagrees with the additional lot. Mr. Baitland stated he is the one and only person that maintains the road, including the gravel which is expensive. Mr. Baitland stated Ms. Wood does not even own the property she is trying to convey to her son. Mr. Baitland stated there are six family members that own the property, Ms. Wood only lives there. Ms. Guazzo stated there may be legal issues involved and staff should review this case more carefully. Staff agreed.

After discussion, Ms. Guazzo made a motion to table #07-110-051, Greenmount Minor Subdivision to a future date for further review by staff and Ms. McNeill seconded. The motion passed by a 7-0 vote.

CONTINUED PUBLIC HEARING FROM OCTOBER 22, 2007

PUD #06-145-004 – St. Mary's Crossing, PUD

Mr. Bowles gave an overview of the project and previous hearings. Mr. John Norris III gave an overview of the revisions to the original plan such as workforce housing being included with 57% of the site still remaining undeveloped. Mr. John Norris Jr. gave an overview of the locations of the proposed workforce housing within the proposed development. Ms. Guazzo asked if the workforce housing would be rental properties. Mr. Norris Jr. stated the multi-family dwellings would probably be rentals. Mr. Norris Jr. stated the developer is still working with the Army Corps of Engineers in regards to the road over the pond however the developer has every intention of maintaining and improving the environmental features of the pond. Ms. Guazzo stated she would be requesting the developer to abide by the new stormwater management legislation. Mr. Norris III stated the developer would be willing to meet this requirement.

Ms. Guazzo asked if the secondary entrance on Old St. Andrews Church Road had been secured. Mr. Norris III stated they are still working on this. Ms. Guazzo asked what the restrictions were for Johnson Pond Lane. Mr. Norris III stated the lane from the well site is supposed to be

deeded to the Board of Education for the future school site. Mr. Norris III explained that once the Board of Education requests the lane, the developer will have 12 months to deed the lane to the school.

Ms. Guazzo asked about the St. Andrews Landfill and its cell "D". Mr. Norris III explained the Board of Appeals set a 200 foot buffer in which no houses may be located; the state regulations require a 500 foot buffer in which no houses are to be located. Ms. McNeill asked that the Commission members receive a copy of all the conditions set by the Board of Appeals in regards to the landfill for future reference.

Mr. Dan Ball showed photos of the building series architecture and layout including the Heritage (24 multi-dwellings), Discovery (6 family townhouse), Founder (5 family townhouse with garage) Villa (2 unit duplex with garage), and Manor (single family with garage). Mr. Ball stated there will also be a 2,000 sq. foot clubhouse with a pool.

Ms. Guazzo stated when approving a PUD document you get stuck with it unless you fine tune it. Ms. Guazzo stated in the new plan, the project will take 6 to 8 years and will be completely finished in 10 years unless the Planning Director grants an extension. Ms. Guazzo stated she believes the Planning Director would be better served by taking the extension to the Planning Commission. Ms. Guazzo stated at the end of 10 years all undeveloped lots would lose their approvals and expire with the PUD document unless the County Commissioners grand the PUD extension; or if there is no above ground development within 30 months the developer must go through the major amendment process.

Ms. Guazzo stated she believes this development needs to own all access roads to MD Route 4 and access to Old St. Andrews Church Road. Ms. Guazzo stated she is concerned about the drainage; Wildewood still has 2,137 that are approved which translate to more impervious surface. Ms. Canavan stated Wildewood still has to satisfy state stormwater management requirements. Mr. John Groeger stated Wildewood has voluntarily cooperated by the curb and gutter requirements. Mr. Norris III stated staff recommendation #1 would need to be changed to include the new stormwater management legislation rather than the existing.

Ms. Guazzo stated on page 20 there is no schedule for recreational uses and when they will come online to serve the people in this development. Ms. Guazzo stated on page 21 there is no phasing plan. Ms. Guazzo stated on page 28 the building separation has been reduced from 15 feet to 10 feet and she would prefer 15 feet for the building separation. Ms. Guazzo stated page 36 talks about signage not to exceed 30 feet. Ms. Guazzo stated this is a wonderful time to show the public what monument signs can do for the look of a neighborhood and they should only be 10 feet high. Ms. Guazzo stated page 37 refers to sign faces of 600 sq. feet and she feels the maximum should only be 300 sq. feet.

Ms. Guazzo stated we really need to discuss the sunset provisions that go with the PUD and there should be an interim plan in case the PUD dies and there is no above ground activity. Mr. Thompson asked why the traffic study did not include Bellwood Lane. Mr. Mike Nalipa stated according to the guidelines you analyze the site access where it empties onto Route 4 and from that point in each direction until we hit the next major intersection. Mr. Nalipa stated Bellwood Lane is not a major intersection. Mr. Thompson disagreed stating more residents from St. Andrews Estates use Bellwood Lane due to the site lines. Mr. Norris III stated the lane capacity was taken into consideration in the traffic study however the conflict in turning movement would not change therefore is not taken into consideration. Ms. Guazzo and Mr. Thompson both reiterated there needs to be a signal light installed. Ms. Guazzo stated the developers are willing to pay for the cost of a light at Hunt Club Road and contribute money towards the Wildewood Parkway light. Mr. Norris III stated yes, these are conditions in the staff report.

Comment:

Mr. Dan Ichniowski stated the developer will contribute 7.19% of the cost of the traffic signal which would equate to approximately \$150,000. Mr. Reeves opened the hearing for public

comment. Mr. Michael Barnes Sr. submitted Exhibit #1 – Letter from Mr. & Mrs. Michael & Susan Barnes to the Planning Commission. Mr. Barnes stated he purchased the parcel in 1988 and it abuts St. Mary's Crossing and contains the private right-of-way. Mr. Barnes stated this is a private right-of-way originally created for three twenty acre lots. Mr. Barnes stated his concern is the 60 foot right-of-way and pond area which continues to be the back of his property. Mr. Barnes stated the original intent of the 60 foot right-of-way was to ensure that the third 20 acre lot would have access to the property. Mr. Barnes stated the right-of-way was originally 10 foot wide and has since been upgraded by St. Mary's Crossing to 20 feet with a soil conservation permit. Mr. Barnes stated no money has been discussed for the purchase of the right-of-way, however, a letter was sent to LUGM stating they offered \$250,000. Mr. Barnes stated St. Mary's Crossing has a right to use the right-of-way to access their property but they do not have a right to upgrade the road. Mr. Barnes stated Old St. Andrews Church Road has not been mitigated. Ms. Guazzo asked if Mr. Barnes would entertain an offer from St. Mary's Crossing to purchase the right-of-way. Mr. Barnes stated that he would be willing to negotiate.

Mr. Andy Yea stated he agrees with the concerns of Mr. Barnes. When asked if Mr. Yea would be willing to entertain an offer from St. Mary's Crossing to purchase the right-of-way he stated yes he would be willing to negotiate.

Ms. Mary Ruth Horton stated she is still concerned with the traffic mitigation. Ms. Horton stated there has not been a lot of discussion about the major school site proposed for this property. Ms. Horton stated school sites have a lot of traffic of their own and it isn't just Monday through Friday anymore because you have after hour's activities and other functions. Ms. Horton stated she has repeatedly heard the road is already failing. Ms. Horton stated this is a bad traffic situation and the major issue is a stop light.

Ms. Mary Broadhurst stated she is disappointed in the increase of housing units and the workforce housing. Ms. Broadhurst asked why a 26 acres school site is being proposed when the requirement is 30 acres for a school site. Ms. Broadhurst stated she still has environmental concerns and request that the Planning Commission holds to the environmental standards and that there be no recreational activity on the pond. Ms. Broadhurst asked why the sewer line is being constructed across the landfill area instead of down the road where people can actually hook into the sewer line.

Mr. Evans made a motion to continue the case and leave the record open during this period and Ms. McNeill seconded. The motion passed by a 7-0 vote.

DRARA #07-146-001 – St. Mary's Crossing, DRARA

Mr. Evans made a motion in the matter of DRARA #07-146-004 and PUD #06-145-004 to continue both cases to January 14, 2008 and leave the record open during this period and Mr. Hayden seconded. The motion passed by a 7-0 vote. It was decided that these cases would be first on the January 14, 2008 agenda.

DISCUSSION

Planning Commission and TEC Meeting Schedules for 2008

Ms. McNeill made a motion to approve the schedules and Mr. Thompson seconded. The motion passed by a 7-0 vote.

ADJOURNMENT

The meeting was adjourned at 10:25 p.m.

Jada Stuckert
Recording Secretary

Approved in open session:

Stephen T. Reeves
Chairman