

**MINUTES OF THE ST. MARY'S COUNTY PLANNING COMMISSION MEETING
ROOM 14 * POTOMAC BUILDING * LEONARDTOWN, MARYLAND
Monday, May 12, 2008**

Members present were Stephen Reeves, Chairman; Howard Thompson, Lawrence Chase, Brandon Hayden, Shelby Guazzo and Merl Evans. Susan McNeill was excused. Department of Land Use & Growth Management (LUGM) staff present were Denis Canavan, Director; Bob Bowles, Planner IV; Jeff Jackman, Senior Planner; Yvonne Chaillet, Zoning Administrator; and Jada Stuckert, Recording Secretary. Christy Chesser, County Attorney was also present.

The Chair called the meeting to order at 6:32 p.m.

APPROVAL OF THE MINUTES – The minutes of March 10, 08, April 14, 08, and April 28, 08 were approved as presented.

PUBLIC HEARINGS

Adequate Public Facilities (APF) – Mr. Canavan gave a brief overview stating the public hearing was held March 10, 2008 and continued until May 12, 2008. Mr. Canavan stated representatives of the community based task force met with the Planning Commission on April 14, 2008 to discuss the proposed amendments. Mr. Canavan stated staff received correspondence from Mr. Martirano, Superintendent of Schools regarding APF, this correspondence was distributed to the Planning Commission members at this meeting.

Mr. Reeves asked if the Board of County Commissioners could adjust the school level percentages on an annual basis. Mr. Canavan stated yes they could adjust the percentages at any given time with the proper hearing process. Ms. Guazzo stated she would not be willing to make a decision tonight considering she was not given sufficient time to read the additional information. Mr. Canavan stated staff is only asking for direction from the Commission.

Mr. Evans stated Commissioner Raley posed several questions which he feels need to be adequately answered prior to moving forward. Mr. Canavan agreed. Mr. Canavan asked the Commission hear testimony from the School System regarding their correspondence. Ms. Guazzo stated she would hear the testimony however would not be able to discuss the information as she has not had time to read the correspondence.

Mr. Clements stated the Board of Education has conducted two work sessions regarding the Adequate Public Facilities (APF) Ordinance. Mr. Clements stated the work sessions focused on the March 28, 2008 letter from the Chamber of Commerce Task Force on APF for schools. Mr. Clements stated the school system has concerns with three of the eight topics covered in the letter. Mr. Clements listed the three concerns as follows:

The task force recommends one district for all three levels: i.e., elementary, middle, and high. The school system supports one district at the middle and high school levels, but recommends that two districts be considered at the elementary school level.

The task force recommended that all projects within the six years be counted for the purpose of determining adequacy of schools. The school system would recommend that only projects within the first three years of the capital improvement program should be considered for determining adequacy. In addition, we recommend that these projects only be counted when a site is designated for the project.

The task force does not recommend mitigation of adequacy of schools based on the donation of a school site. The school system believes that mitigation should be allowed for adequacy of schools when the site to be donated is identified as the chosen site for a school project within the three year capital improvement program. In addition, the school

system believes that the development should be approved for yearly incremental allocations in accordance with the annual allocation procedures.

Ms. Howe gave an overview of the per year new housing analysis stating the student yield rate reflects the fact that not all students come from new home construction and that each home type does not generate the same number of students. Ms. Howe stated the yield accounts for the fact that not all homes have students, new students come from existing homes and new students come from migration into the County through resale homes. Ms. Howe stated the average new students are 1,200 and the average students from new housing are 180 for elementary, 91 for middle, and 131 for high school. Ms. Howe stated the average of 796 students or 66.4% come from migration and existing homes. Ms. Howe stated the total new students in the RPD are 1,000; total new students in other areas are 2,333 and total new students are 3,333 over the next seven years. Ms. Howe stated the school system based their numbers of 103% in Rural areas and 108% in other areas for elementary, 110% for middle and 116% for high school based on the 30% RPD and 70% areas other than RPD.

Mr. Evans asked if the school system is in favor of mitigation for school seats. Ms. Howe stated yes but only when the site to be donated is identified as the chosen site for a school project within the three year capital improvement program and the development should be approved for yearly incremental allocations in accordance with the annual allocation procedures. Mr. Evans stated in the two years of discussing the APF this is the first time he has heard of the two school districts for elementary. Mr. Evans asked where this is coming from. Mr. Clements stated comments and concerns from the parents of students and parent teacher association fueled the two districts.

Mr. Reeves opened the hearing to public comment. Mr. John Norris Jr. stated the Building Industry Association established a subcommittee to establish a recommendation to offer at this public hearing. Mr. Norris stated the need to co-mingle a growth policy with APF schools is not necessary, even though there may be interaction with consequences. Mr. Norris stated it is apparent that there are three main components to an APF school policy being 1) the need to determine the type of school and when it is needed; 2) the location of the proposed school; 3) the willingness to fund the A/E portion of a school construction project by the Board of County Commissioners.

Mr. Norris stated the County's prior zoning ordinance recognized the need to allow mitigation for school seats due to the many variables that influence the need for a school, including the lead/lag between approval of a development and the generation of school-age children, the State's requirements for a school to be or projected to be over capacity before school construction qualifies for state funding. Mr. Norris stated that a development project be issued "Capital Credits" for any contribution made to assist the Board of Education in the acquisition of a needed school site in a location and of a size approved by the Board of Education. Mr. Norris recommended that all proposed developments, regardless of size, be issued Capitol Credits for the projects assistance to undertake any item listed by the board of Education on their approved current fiscal year Capitol Project list. Mr. Norris stated the additional requirement before Capitol Credits could be issued there would be a requirement that there be no existing or projected school seat deficiency within three years, and that the future school site be identified to eliminate any deficiency and transferred to the Board of Education.

Mr. Norris stated in addition projects fewer than 24 lots could elect to transfer funds equivalent to their development's Capitol Credit requirement so long as the above conditions are met. Mr. Norris stated the value of a Capitol Credit vs. and EDU would be determined by the Director of Land Use and Growth Management after consultation with the Board of Education and the Planning Commission.

Mr. Reeves closed the hearing to public comment. **Mr. Reeves stated we will have this item back on the agenda in two weeks.**

Accessory Apartments in the Critical Area – Mr. Canavan gave a brief overview of the text amendment stating the public hearing was advertised in the Enterprise on April 25, 2008 and April 30, 2008. Mr. Canavan stated the State currently allows accessory apartments in the Critical Area and we do not, which is what prompted the text amendments. Mr. Canavan stated the amendment are to Chapter 41 “Chesapeake Bay Critical Area (IDA, LDA, RCA)” to add language regulating accessory apartments in the critical area; Chapter 51 “Use Regulations and Standards” to add language regulating accessory apartments in the Resource Conservation Area (RCA) overlay zone; Chapter 64 “Off-Street Parking and Loading” Schedule 64.3.1: Off-Street Parking Standards and Loading Space Group Reference to modify language regarding accessory use classifications; Chapter 90 “Definitions” to modify definitions regarding accessory dwelling units.

Mr. Reeves opened the hearing to public comment. Mr. Lewie Aldridge stated the language is not clear as to if an accessory apartment has to be located within another building. Mr. Reeves closed the hearing to public comment.

Ms. Guazzo asked if the accessory apartment could stand on its own or if it had to be located within another structure. Ms. Chaillet stated it had to be located within another structure because if it stood alone it would be considered a second dwelling unit on a single lot. Ms. Guazzo stated she does not agree with this.

Mr. Thompson made a motion to accept the text amendments of the St. Mary's County Comprehensive Zoning Ordinance Chapter 41 “Chesapeake Bay Critical Area (IDA, LDA, RCA)” to add language regulating accessory apartments in the critical area; Chapter 51 “Use Regulations and Standards” to add language regulating accessory apartments in the Resource Conservation Area (RCA) overlay zone; Chapter 64 “Off-Street Parking and Loading” Schedule 64.3.1: Off-Street Parking Standards and Loading Space Group Reference to modify language regarding accessory use classifications; Chapter 90 “Definitions” to modify definitions regarding accessory dwelling units and to allow the chairman to sign a resolution to this matter and forward to the Board of County Commissioners and Mr. Evans seconded. The motion passed by a 4-2 vote with Ms. Guazzo and Mr. Chase opposed.

Comprehensive Plan Amendment – Mr. Jackman gave a brief overview of the amendments stating the public hearing was advertised in the Enterprise on April 25, 2008 and April 30, 2008. Mr. Jackman stated it is ideal to amend figures 2-1 through 2-5 of the Lexington Park Development District Master Plan (adopted per County Commissioners Ordinance 05-11, and incorporated by reference into the Comprehensive Plan) to change the boundary of the Lexington Park Development District to include therein approximately 87 acres described as Tax Map 42, p/o Parcel 24, Parcels A and B; these acres are generally known as being a portion of the proposed St. Mary's Crossing Planned Unit Development, or as the Johnson Property. Mr. Jackman stated the property in question is in the low-density residential (RL) zoning district and adjoins similarly zoned property within the Lexington Park Development District.

Ms. Guazzo stated this property was given RL zoning and the Board of County Commissioners specifically votes to leave this property out of the last revision of the Lexington Park Development District Master Plan.

Mr. Reeves opened the hearing to public comment. Mr. Victor Johnson stated he is the son of Claude and Agnes Johnson who owned a large farm off of St. Andrew's Church Road that included the 87 acres that are the subject of this public hearing. Mr. Johnson stated these 87 acres were the subject of a boundary dispute between the State of Maryland and my parents in the late 1980's and Judge Levine decided the dispute in March 1988 awarding my parents ownership of this land.

Mr. Johnson stated the 1988 Comprehensive Land Use Plan identified this 87 acres of being within the Development Area however it was discovered in 1997 that the 87 acres was incorrectly

identified by the State as being owned by the State. Mr. Johnson stated because of the error in 1997 the 87 acres was excluded from the Development District. Mr. Johnson stated after sending several letters to the Commissioners and Planning Director in 2000 I was assured that the land was in the Development District. Mr. Johnson stated despite my letters there have been allegations that the 87 acres are outside the Lexington Park Development District and that this information was kept from decision makers when granting public water and sewer access to this property. Mr. Johnson stated since the County intends this land be used as part of the Development District since water and sewer can not be extended outside the Development District. Mr. Johnson stated his family has owned this land since 1947 until it was sold to St. Mary's Crossing. Mr. Johnson stated Planning Commission members and County Commissioners have said that their intent has been that my family's land be in the Development District, only the State-owned land and County landfill are outside the Development District in this area. Mr. Johnson stated the 87 acres is adjacent to the remainder of my parent's farm, all of which is in the Development District. Mr. Johnson stated he respectfully requests the commission place the 87 acres within the Development District since the only reason for excluding it has been errors in County and State records incorrectly reflecting State ownership of the land.

Ms. Mary Broadhurst stated she is concerned that if this land is incorporated into the Development District the land will be developed. Ms. Broadhurst stated if and when the land is developed she is very concerned about the environmental aspects of the property. Ms. Broadhurst asked the Commission to take into consideration making these 87 acres undevelopable or allow only limited development to protect the environmental features on this portion of the property. Mr. Reeves closed the hearing to public comment.

Mr. Thompson made a motion in the matter of proposed amendments to the Lexington Park Development District Master Plan to include within the Lexington Park Development District approximately 87 acres described as Tax Map 42, Grid 9, Parcel A and Parcel B, being parts of Parcel 24: having accepted the April 21, 2008 staff report describing, analyzing and recommending the amendments, and having conducted a public hearing, and having complied with all other requirements of Article 66B of the Maryland Annotated Code, I move that the Planning Commission approve the proposed amendments and recommend to the Board of County Commissioners that they be adopted; I move further that the Chair be authorized to sign a Resolution on behalf of the Planning Commission to convey this recommendation to the Board and Mr. Chase seconded. The motion passed by a 4-1-1 vote with Ms. Guazzo opposed and Mr. Evans abstaining.

FAMILY CONVEYANCE

Minor Subdivision #07-110-085 – Hancock Subdivision Lots 1 & 2 – Mr. Bowles gave a brief overview of the project stating there are no outstanding issues pertaining to family conveyance approval and recommended approval with the condition that agreements ensuring access to, and use and maintenance of the road shall be recorded prior to the recordation of the plat.

Ms. Guazzo asked if the property to the south (Spalding Property) also has access to Bowling Road. Mr. Bowles stated yes.

Mr. Hayden made a motion in the matter of MSUB #07-110-085, Hancock Subdivision, Lot-2, having accepted the staff report and having made findings pursuant to Section 30.11.4 of the Subdivision Ordinance (Criteria for Approval of a Family Conveyance), I move that the Family Conveyance subdivision plan be approved, with the condition that agreements ensuring access to, and use and maintenance of, the road shall be recorded prior to the recordation of the plat and Mr. Thompson seconded. The motion passed by a 6-0 vote.

DEVELOPMENT REVIEW

Concept Site Plan #07-132-010 – Glazed Pine Phase B – Mr. Bowles gave a brief overview of the project stating outstanding issues are density for 5 units per acre will be achieved by design enhancements and the final findings for adequate public facilities will be made administratively by the Planning Director, as a prerequisite to final site plan approval. Mr. Bowles stated staff is recommending approval of the concept site plan for the total 228 units.

Ms. Guazzo asked where the access points are located. Mr. Bowles stated they are located on Hermanville Road and Route 235. Ms. Guazzo asked if there was open space or recreational uses on the property. Mr. Norris pointed out two areas where open space recreational use could occur. Mr. Guy Curley stated they are working on connecting with Lancaster Park.

Mr. Thompson asked if any correspondence has been received from PAX Naval Air Station regarding the AICUZ zone. Mr. Bowles stated nothing has been received to date and PAX Naval Air Station was represented during TEC.

Mr. Thompson made a motion in the matter of CCSP #07-132-010, Glazed Pine, 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 6-0 vote.

Major Subdivision #07-120-019 – Glazed Pine Phase A – Mr. Bowles gave a brief overview of the project stating outstanding issues are density for 5 units per acre which will be achieved by design enhancements. Mr. Bowles stated staff is recommending approval of the preliminary plan for 180 lots in a major subdivision.

Ms. Guazzo stated she would like a provision added into the motion for 2.88 acres of recreational space. Mr. Norris and Mr. Curley agreed.

Mr. Thompson made a motion in the matter of PSUB #07-120-019, Glazed Pine Subdivision, Phase A, containing 180 lots, having accepted the staff report and having made findings pursuant to Section 30.5.5 of the Subdivision Ordinance (Criteria or Approval of a Preliminary Plan), including adequate public facilities as described in the attached Director's Report, and include 2.88 acres for passive recreational or open space, I move that the preliminary subdivision plan be approved and Mr. Chase seconded. The motion passed by a 6-0 vote.

DISCUSSION

Planning Commission Annual Report – Mr. Jackman gave an overview of the annual report and asked the Commission for comments. Ms. Guazzo commended staff for a fine presentation of the Annual Report.

Ms. Guazzo made a motion to accept the Planning Commission Annual Report as presented with one correction as noted in the presentation and that the Chairman be allowed to sign a letter forwarding the annual report to the Board of County Commissioners and Mr. Hayden seconded. The motion passed by a 6-0 vote.

ADJOURNMENT

The meeting was adjourned at 10:04 p.m.

Jada Stuckert
Recording Secretary

Approved in open session:

Stephen T. Reeves
Chairman