

**MINUTES OF THE ST. MARY'S COUNTY PLANNING COMMISSION MEETING
CHESAPEAKE BUILDING * LEONARDTOWN, MARYLAND
Monday, March 23, 2009**

Members present were Steven Reeves, Chairman; Brandon Hayden, Shelby Guazzo, Susan McNeill, Martin Siebert, Merl Evans, and Lawrence Chase. Department of Land Use & Growth Management (LUGM) staff present were Phil Shire, Acting 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 March 9, 2009 were tabled to the next meeting.

FAMILY CONVEYANCE

MSUB #09-110-003 – Moll Dyer Farmstead-Lot 5

Mr. Bowles gave an overview of the family conveyance for 1 additional lot stating there are no outstanding issues pertaining to the family conveyance approval.

Ms. McNeill asked if a road maintenance agreement is in place. Mr. Trautman stated there would be a road maintenance agreement in affect prior to the recordation of the plat.

Mr. Hayden made a motion in the matter of MSUB #09-110-003, Moll Dyer Minor Subdivision, 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 recordation of the plat and Mr. Siebert seconded. The motion passed by a 7-0 vote.

DEVELOPMENT REVIEW

CCSP #07-132-016 – First Colony Lot 5000 12D

Mr. Berry gave an overview of the plan to build an 8,000 square foot retail sales building stating final findings for adequate public facilities will be made administratively by the Planning Director, as a prerequisite to final site plan approval.

Ms. Guazzo asked if the building drawings are concept only or if this is how the building will look. Mr. Berry stated the drawings are concept only at this time but is a vision of what the applicant is proposing. Ms. McNeill asked if it is five tenants that are proposed. Mr. Rick Bailey stated we do not know how many tenants we will have at this time. Ms. McNeill asked what type of buffering will be placed between the hotel and this building. Mr. Keith Orick stated we have adhered to the ordinance in regards to buffering. Ms. Guazzo asked if the building size will change if the drawings change. Mr. Bailey stated the size will not change however the look may change.

Mr. Hayden made a motion in the matter of CCSP #07-132-016, First Colony Lot 5000 12D, 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 Ms. McNeill seconded. The motion passed by a 7-0 vote.

CCSP #06-132-019 – Grace Chapel Ministries

Mr. Berry gave an overview of the concept site plan for a sanctuary stating final findings for adequate public facilities will be made administratively by the Planning Director, as a prerequisite to final site plan approval.

Ms. Guazzo asked which stormwater management regulations this project will adhere to. Mr. Berry stated there is no exemption given for this therefore they will be required to adhere to the current stormwater management regulations. Ms. Guazzo asked if this building is required to have a sprinkler system. Mr. Haas stated the building will not have a sprinkler system however there will be a 2 hour firewall. Mr. Berry stated yes. Mr. Siebert stated the proposed well location is 50 feet from the bio-retention area. Mr. Mark Haas stated 50 feet is regulation however he noticed the same issue and it will be corrected.

Ms. Guazzo asked if there would be any building area left over. Mr. Haas stated there is a small forest conservation area that could be used later on. Ms. Guazzo asked if there would be class rooms in the building. Mr. Haas stated there would be

Mr. Hayden made a motion in the matter of CCSP #06-132-019, Grace Chapel Ministries, 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. Siebert seconded. The motion passed by a 7-0 vote.

CONTINUANCE OF PUBLIC HEARING

CWSP #08-200-003 – Mill Cove Manor & CWSP #08-200-004 – Mill Cove Harbor

Mr. Reeves stated the hearings were not closed to public testimony and was confused while speaking with Mr. Jackson on the phone today therefore we will allow the public to comment after the developer's presentation. Ms. Guazzo stated the developer has worked on these plans for months however the neighbors have only been aware of the project for two weeks prior to the signs being posted. Ms. Guazzo stated the neighbors have only had one meeting to make their concerns known to us. Ms. Guazzo stated she feels after the developer makes his presentation the public should be allowed to voice their concerns to the developer.

Ms. McNeill asked if the application is denied, what development can take place on the property. Mr. Chapman stated the Planning Commission recommendation would be forwarded to the County Commissioners and in the event the Commissioners did not grant the water and sewer category change the developers only other option is to pursue well and septic systems. Ms. McNeill stated this would limit the development and asked how many units they would then be allowed. Mr. Chapman stated one (1) unit per half acre could be applied for allowed with the current zoning however this could be increased by installing central water and sewer. Ms. McNeill clarified that less than 20 units per property would be allowed. Mr. Chapman agreed. Mr. Chapman stated they are required to cluster and set aside 50% for anything over 5 units if they have well and septic.

Mr. Reeves stated if we leave this category as "service in 6 to 10 years, developer financed", we would just be deferring the application for at least 6 years. Mr. Shire stated we have S-6D properties that have been projected this way for over 30 years. Mr. Shire stated the hearing tonight is for the water and sewer category change only. Ms. Guazzo stated she feels when we consider a change in the Comprehensive Water and Sewerage Plan we have to look at the fact that we are opening this area up to more intense developments.

Mr. Siebert stated Mr. King commented on regulations pertaining to Nitrogen at the last meeting and asked when these regulations would become effective. Mr. Shire stated October 2009. Mr. Jackman stated the Nitrogen limits are already in place. Mr. Shire stated private septic systems are more polluting than the city sewerage. Mr. Siebert stated he believes when this kicks in the private septic systems in the critical area will be held to the same standards as METCOM's treatment plants. Mr. Tifford stated cluster development has always been denied in our area because it will change the character of the neighborhood.

Mr. John Norris Jr. introduced his team and gave a brief overview of the requested water and sewer category change. Mr. Norris stated this project will come back before the Commission for the subdivision process for approval and reiterated we are here to discuss the water and sewer category change only. Ms. Guazzo asked if a water and sewer category change is granted is there a time limit that has to be met to come forward with a preliminary application for subdivision. Mr. Norris stated no. Ms. Guazzo stated conceivably the project could be another 6 to 10 years before coming to fruition. Mr. Norris stated yes this is a possibility.

Ms. Chrisman gave an overview of the concept for a water and sewer category change. Ms. Chrisman stated the property is already within 3,000 feet of public water and sewer located on Patuxent Boulevard. Ms. Chrisman stated this property will not be developed within the next three years. Ms. Chrisman stated public water and sewer would alleviate nitrogen. Mr. Siebert asked if there was enough room to provide a pump station. Ms. Chrisman stated we would like to combine the Woods at Myrtle Point and Mill Cove Harbor and Manor into one pumping station. Ms. McNeill asked if consideration was given to route the lines for the least impact to neighbors. Ms. Chrisman stated this will only directly affect approximately three residents. Ms. McNeill asked if the developer would be willing to financially help neighbors. Mr. Norris stated neighbors are forced to connect by METCOM. Ms. Chrisman stated we can get to our property by only affecting a few people and we are willing to go out and speak to them. Mr. Norris stated financial help is a possibility and the objective is to stay away from persons not wanting this and routing towards people who do want it.

Mr. John Norris III cautioned the Planning Commission members of ex parte' communications and asked that any member having participated in ex parte' communications abstain from voting on these projects. Mr. Norris objected to the insinuation that the neighbors were not given enough notice and noted for the record the neighbors received notice of the hearings and the applicant has met all the requirements for notifications. Mr. Norris stated 6 to 10 years is used for long range planning and does not guarantee water and sewer. Mr. Norris stated a common misconception is the 6-10 years will actually guarantee water and sewer during this timeframe. Mr. Norris stated the mandatory clustering makes the development seem denser than it really is. Mr. Norris stated the Planning Commission should review, consider and make findings. Mr. Norris referenced Section 1.1.1.a and 3.1.2 of the Comprehensive Plan and stated areas designated to be served or proposed to be served by public water & sewer. Mr. Norris stated this project is consistent with the provisions of the Comprehensive Plan. Mr. Norris questioned the Planning Commission's right to deny the requests stating the developer has met all the requirements of the ordinance. Mr. Norris stated the project needs to be further designed, engineered and evaluated but is consistent with planning & zoning documents being used today. Ms. Guazzo stated the Commission has a right to use discretion when approving or denying any project. Mr. Norris disagreed.

Ms. Guazzo stated Mr. Norris's comments accurately cover the requirements for the RL zone which is the underlying zone for this area. Ms. Guazzo stated is particular area is a Limited Development area (LDA) with a Critical Area Overlay. Mr. Norris stated LDA overlay zone further limits the impervious surface limits or lot coverage for further protections of environmental features.

Mr. Norris stated John Norris Jr. misspoke earlier and stated Chapter 113 Section 10 of the County Code states when METCOM deems the system ready to accept adjoining property owners, they shall. Mr. Norris stated Mr. King testified at the last meeting that METCOM has a policy that days no one more than 200 feet away from the line shall be required to connect. Mr. Norris stated the Maryland Department of the Environment will also review and approve this category change if approved by the County Commissioners.

Mr. Reeves stated this development is aggressive for the area. Ms. Guazzo stated RL is the underlying zoning and reiterated it also has LDA which recommends not changing the overall intensity of area. Ms. Guazzo stated this is a critical area zone and has specific criteria that need

to be met. Mr. Norris stated we aren't addressing these standards now as this is simply a water and sewer category change. Ms. Guazzo stated this is a concept plan and we have to review how it will look in the future and examine all the details to gauge the affect on neighboring properties. Mr. Norris stated the concept plan was already approved in December and re-stated this is just a water and sewer category change. Mr. Norris stated all other technical issues still have to be addressed and it will come back to the Planning Commission for approval at that time.

Mr. Siebert asked about #5 in the staff report which states the applicant will bear all costs. Mr. Norris explained "all costs" is for extending water and sewer to the property where we want it including the lines and pump stations. Mr. Siebert asked if MDE will want a straight line not one that winds though the property. Mr. Norris stated MDE will look at the Comprehensive Plan and the Lexington Park Master Plan and then approve the change. Mr. Norris stated the design has to follow METCOM engineering and design standards.

Guy Curley gave a brief presentation of the water and sewer category change stating after the 2-23-09 hearing he considered returning tonight to address all citizen concerns and comments. Mr. Curley stated he then realized we're only asking for water and sewer category change. Mr. Curley stated all concerns stated at the last meeting will be discussed and addressed during design phase. Mr. Curley stated for the record that he is looking at providing cottage style homes. Mr. Curley stated one of the TEC comments was concerning town homes on this site. Mr. Curley stated after consideration it was decided to use cottage style homes and limit the town homes.

Ms. McNeill stated she is having trouble with the concept and asked who the product is being aimed towards. Mr. Curley stated he hasn't put a specific product out there to analyze at this time.

Mr. Reeves re-opened the hearing for pubic comment as follows.

Mr. Joe St. Clair of METCOM commented to make the record clear that METCOM only goes where the Planning Commission and Board of County Commissioners tell us to go. Mr. St. Clair stated we do not, on our own, determine where water and sewer go. Mr. Evans stated we have a development district where we encourage development and then we drag applicants through the muck to put in their development.

Mr. Joe Roberts asked if METCOM were going to this peninsula and install a water and sewer system wouldn't it have to be sized to accommodate every single lot? Mr. St. Clair stated yes.

Mr. Greg Shields stated this development will change nature of the neighborhood and is too much development too fast. Mr. Shields stated this development proposes only .2 acres per house. Mr. Shields stated voting not to amend is voting for a better plan not denial. Mr. Shields stated this is not the best option for us right now and asked the Commission to vote for a better plan.

Ms. Deborah Shields submitted a petition marked as Exhibit 1 by the Recording Secretary and read the petition to the Commission. Mr. Shire stated there is an automatic 10 day open period for written comments so these documents can be submitted later on. Mr. Norris objected to the statement of automatically having a 10 day open period.

Mr. Ken Berry submitted comments marked as Exhibit 2 by the Recording Secretary and showed a photo of where topsoil ends up in the creek. Mr. Berry explained where they want to put the beach house and stated it is nothing but mud. Mr. Berry stated this development and/or water and sewer is not wanted or needed in this area.

Mr. Robert Willey submitted comments marked as Exhibit 3 by the Recording Secretary and gave an overview of neighborhood stats including square footage, acres, location, etc.

Mr. Paul DiBeneditto stated MDE clustering is not meant to be placed in Critical Area. Mr. DiBeneditto stated this development is increasing impervious surface and is not "smart growth".

Mr. DiBeneditto stated we need proper management of developments before we begin to look like D.C.

Mr. Guss Eggert stated we should be looking at density. Mr. Eggert stated he does not object to water and sewer however, is concerned with the density and how it will affect the Mill Cove area.

Mr. Joe Cullison stated he contacted Mary Owens of the Critical Area Commission who stated she would fax in a letter of objection to this project. Mr. Cullison stated he objects to this request and asked if this letter has been received. Mr. Chapman submitted all comments received to date and stated a letter from Ms. Owens has not been received.

Mr. Joe Roberts asked how the installation would benefit the community. Mr. Roberts stated the project seems very targeted towards the two developments and recommended it be sized for every lot in the neighborhood.

Ms. Guazzo made a motion to close both hearings and leave record open for 30 days and Mr. Hayden seconded. The motion passed by a 7-0 vote.

BREAK – The Commission took a five minute recess.

Ms. Stuckert stated she spoke with Deputy County Attorney David Weiskopf during the break and Mr. Weiskopf agrees the motion needs to be clarified. Ms. Stuckert stated the original motion on tape only recognizes leaving the record open for 30 days and does not specify different times for the applicant versus the citizens. ***Ms. Guazzo made a motion to close the public hearing for both CWSP #08-200-003 Mill Cove Manor and CWSP #08-200-004 Mill Cove Harbor and leave the record open for 10 days for the public and allow the developer 30 days to respond and Mr. Hayden seconded. The motion passed by a 7-0 vote.*** Ms. McNeill clarified the record is left open for a period of 10 days for the public and 30 days for the applicant from tonight. The Commission agreed.

DISCUSSION

Comprehensive Plan

Mr. Jackman gave an overview of the 6 year review of the comprehensive plan and submitted the first half of the staff draft. Mr. Jackman asked for feedback from the Commission for the April 13, 2009 meeting.

ADJOURNMENT

The meeting was adjourned at 9:45 p.m.

Jada Stuckert
Recording Secretary

Approved in open session: April 13, 2009

Stephen T. Reeves
Chairman