

**MINUTES OF THE ST. MARY'S COUNTY PLANNING COMMISSION MEETING
CHESAPEAKE BUILDING * LEONARDTOWN, MARYLAND
Monday, October 27, 2008**

Members present were Steven Reeves, Chairman; Howard Thompson, Shelby Guazzo, Merl Evans, and Lawrence Chase. Brandon Hayden and Susan McNeill were excused. Department of Land Use & Growth Management (LUGM) staff present were Bob Bowles, Planner IV; Jeff Jackman, Senior Planner; Yvonne Chaillet, Zoning Administrator; 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 October 14, 2008 were approved as amended.

PUBLIC HEARINGS

Text Amendment – Small Wind Energy System

Ms. Chaillet stated this is a continuation of the public hearing from September 22, 2008. Ms. Chaillet explained the hearing was opened to public testimony and continued to tonight's meeting. Ms. Chaillet stated there have been no changes made to the original language and that the Board of County Commissioners will be hearing this text amendment on November 3rd.

Mr. Richard Johnson stated he asked for this text amendment to be able to place a wind turbine on his property to offset the cost of his electric. Mr. Johnson gave a power point presentation describing wind study analysis, description and configuration of system, specifications for inverter, design features, and noise levels. Ms. Guazzo asked if Mr. Johnson proposed to place his turbine within the 200 foot Critical Area Buffer. Mr. Johnson stated yes. Ms. Chaillet explained the Critical Area Commission would require a variance and the applicant would have to demonstrate unwarranted hardship.

Mr. Thompson asked if this particular system has guy wires. Mr. Johnson stated no and explained there are three legs spread 15 feet apart. Mr. Reeves questioned the wind speed average. Mr. Johnson stated being right on the creek yes there is a constant wind. Mr. Reeves stated he is not convinced about the wind speeds. Ms. Chaillet explained the systems being built now are made to function with minimal wind.

Mr. Richard Schmidt stated the Maryland Energy Association's (MEA) website confirms the wind speeds. Mr. Schmidt stated he is very supportive of Mr. Johnson and hopes to install a turbine of his own in the future. Mr. Schmidt pointed out that Maryland is a net metering state therefore Mr. Johnson will not get paid for any additional power generated it will just zero out his bill for the year. Mr. Schmidt stated Southern Maryland Electric Cooperation (SMECO) is very supportive of this initiative.

Mr. Reeves stated he would rather implement a pilot program prior to allowing turbines in every zone in the county. Mr. Reeves stated he would like to see exactly the turbine works and how much power it would generate. Mr. Evans stated due to the acreage requirement some parcels of land would be prohibited. Mr. Evans stated he believes we should embrace alternative energy systems and should not discount the system in full.

Ms. Guazzo asked what happens if there is too much wind. Mr. Johnson stated this particular system can withstand up to 120 mph. Ms. Guazzo asked if antennas would be allowed to be attached to the turbines. Ms. Chaillet stated no, telecommunication towers only.

Ms. Guazzo stated she would like to see the following conditions added to this text amendment:

1. Have a minimum size of 1 acre.

2. No placement in the development districts or town centers.
3. No commercial antennas.
4. Add an abandonment or disuse clause.
5. The tower and its guy wires and other supports should be set back at a one to one ratio. Also the setback for guy wires includes other existing uses.
6. All other components of the system should be set back 20 or 30 feet from the property line.
7. The blade of any turbine shall not exceed the manufactures recommended limits.
8. The lot or parcel must be a minimum of 1 acre and must not be divided by public right of way or a jointly used road way.
9. Add a definition of "tower" into the glossary.
10. All towers for generating electricity must be mounted on the ground including the guy wires.
11. All components of the system must be located away from living areas for safety.
12. No variances for reducing the setbacks should be allowed.
13. The ladder should be designed to prohibit step bolts or a ladder readily accessible to the public for a minimum height of 15-20 feet above the ground.
14. 100 foot maximum height limit on the turbines.

Ms. Guazzo stated she would like to see correspondence from the Critical Area Commission (CAC) regarding these types of systems in the buffer. Ms. Chaillet agreed the Governor's Office and the CAC need to speak regarding these issues.

Mr. Thompson asked if these systems are built to collapse on themselves. Ms. Chaillet stated no however this is the reasoning for the one to one ration for the setbacks.

Mr. Jim Bacot recommended not limiting the turbines to the ground as they can be placed on roof tops and on a pier's edge. Mr. Bacot also stated limiting the turbine height to 100 foot is restrictive and stated 120 feet is more feasible especially for larger properties and have a 40 foot diameter for the base of the system.

Mr. Evans made a motion to recommend to the Board of County Commissioner's support for alternative energy system including wind turbines and solar energy sources and Mr. Chase seconded. The motion passed by a 5-0 vote.

Ms. Guazzo made a motion to close the public hearing and leave the record open for ten (10) days and have staff schedule a work shop to discuss the text amendment and Mr. Thompson seconded. The motion passed by a 5-0 vote.

Text Amendment – Warehousing and Storage in the Office Business Park (OBP)

Mr. Shire gave an overview of the text amendment stating the purpose is to facilitate development potential of the Office Business Park (OBP) zone pursuant to the purpose statements of both the Comprehensive Zoning Ordinance and the 2002 Comprehensive Plan by adding warehousing and personal storage as permitted uses in the OBP.

Mr. Reeves asked how large these buildings would be. Mr. Shire stated the building sizes are already built into the ordinance. Mr. Reeves stated he is concerned about the traffic a warehouse might generate. Mr. Shire stated there would be limited traffic.

Mr. Reeves opened the hearing to public comment, hearing none, closed the hearing to public comment. Mr. Evans asked that staff check with the Navy regarding the AICUZ zone. Mr. Shire stated staff has already spoken with the Navy and they are supportive of the text amendment. Ms. Guazzo asked if it would be necessary to amend the language to include no retail sales at the warehouse except those associated and accessory to the principal use. Mr. Shire stated this is already addressed in the ordinance.

Mr. Thompson made a motion in the matter of the proposed zoning text amendments to CZO Schedule 50.4 to permit Use #64, Personal Storage and Use #78, Warehousing and Storage, in the Office Business Park (OBP) zone I move that the Planning Commission accept the amendments as proposed and authorize the Chairman to sign a resolution for positive recommendation to the Board of County Commissioners for adoption and Mr. Evans seconded. The motion passed by a 5-0 vote.

DEVELOPMENT REVIEW

#08-140-010 – Friendly Farm

Mr. Shire gave an overview stating if the Planning Commission finds this project warrants removal of the intrafamily transfer restriction, a revised plat with the intrafamily notes removed can be recorded. Mr. Shire reminded the Commission by virtue of the original recording date of Lot 3 in 1991, the tract is currently ineligible to seek a variance from provisions of the Critical Area Program and the prohibition on seeking a variance will remain in effect.

Mr. John Norris III gave an overview stating Ms. Liebert has asked all family members if they are willing to purchase the property and each person has declined. Mr. Norris stated the taxes are expensive and are 1/3 of the income Ms. Liebert makes in her retirement. Mr. Norris stated the deed offers first right of refusal to a Mr. Gray who was contacted and also declined.

Ms. Guazzo made a motion in the matter of #08-140-010, Friendly Farm, having made a finding that the lot was originally created as part of a bonafide intrafamily transfer and that a legitimate change of circumstances has occurred warranting the exception, I move to allow the property to be conveyed to a person other than a family member and Mr. Thompson seconded. The motion passed by a 5-0 vote.

PSUB #06-120-008 – Belle Arbor Section 1 and 2

Mr. Berry gave an overview of the 149 lot major subdivision stating the only outstanding issue is to mitigate traffic impact at the intersection of MD Route 5 and Willows Road intersection in which fees will be collected.

Mr. Chase made a motion in the matter of PSUB #06-120-008, Belle Arbor Subdivision Section 1 and 2, having accepted the staff report and having made findings as recommended therein pursuant to 30.5.5 of the Subdivision Ordinance, I move as follows:

- 1. That with the exception of adequacy for schools, that public facilities for this subdivision be deemed adequate, and***
- 2. That in accordance with the Annual Growth Policy and with regard to adequacy for public schools, that this project be deemed adequate for Phase 1, 30 lots, and must return to the Planning Commission for approval of each successive phase with regard to Adequate Public Facilities for schools and compliance with the Annual Growth Policy.***

And Mr. Evans seconded. The motion passed by a 5-0 vote.

PSUB #07-120-020 – Essex Woods Section 4

Mr. Berry gave an overview of the 24 lots and phasing plan per the Annual Growth Policy stating there are no outstanding issues that would prevent a decision at this time.

Ms. Guazzo asked if the public access to Willows Road was provided. Mr. Jerry Nokleby stated it was provided and is shown on the plat for section 1.

Mr. Thompson made a motion in the matter of PSUB #06-120-020, Essex Woods Subdivision Section 4, containing 76 duplex and townhouse lots, "having accepted the staff report and having made findings pursuant to Section 30.5.5 of the Subdivision

Ordinance (Criteria for Approval of a Preliminary Plan), including adequate public facilities, except for schools and compliance with the annual growth policy and a finding of Adequate Public Facilities for schools and compliance with the Annual Growth Policy for Phase 1 (24 lots), as described in the attached Director's Report, I move that the preliminary subdivision and phasing plan be approved with the following conditions:

- a. The applicant must return to the Planning Commission for approval of each successive Phase with regard to APF for schools and compliance with the Annual Growth Policy.***

Mr. Evans seconded. The motion passed by a 5-0 vote.

PSUB #05-120-017 – Sunset Ridge Manor Subdivision

Mr. Berry gave an overview of the 23 lot major subdivision stating there are no outstanding issues that would prevent a decision at this time.

Mr. Thompson asked if there are any gravel pits on this road. Mr. Bill Higgs stated all the gravel pits have finished mining and the properties have been reclaimed and seeded.

Mr. Evans made a motion in the matter of PSUB #05-120-017, Sunset Ridge Subdivision, containing 23 detached single family lots, "having accepted the staff report and having made findings pursuant to Section 30.5.5 of the Subdivision Ordinance (Criteria for Approval of a Preliminary Plan), including adequate public facilities, and compliance with the annual growth policy, as described in the attached Director's Report, I move that the preliminary subdivision plan be approved and Mr. Thompson seconded. The motion passed by a 5-0 vote.

PSUB #04-120-023 – Estate at Joy Chapel

Mr. Berry gave an overview of the 25 lot major subdivision stating there are no outstanding issues that would affect a decision being made.

Mr. Thompson stated he would like to see more of a buffer by the Duke and Greenwall properties. Mr. Higgs stated the ordinance has no requirements for this however can plan for this. Mr. Thompson stated due to the new traffic it would be a courtesy. Ms. Guazzo asked about the small strip of land between the Duke and Greenwall properties. Mr. Higgs stated this is a fee simple piece of land used for the stormwater pond and stated the homeowners association would maintain ownership of this land.

Mr. Chase made a motion in the matter of PSUB #04-120-023, Estates at Joy Chapel, containing 60 lots, "having accepted the staff report and having made findings pursuant to Section 30.5.5 of the Subdivision Ordinance (Criteria for Approval of a Preliminary Plan), including adequate public facilities, except for schools and compliance with the Annual Growth Policy and a finding of Adequate Public Facilities for schools and compliance with the Annual Growth Policy for Phase 2 (25) lots, as described in the attached Director's Report, I move that the preliminary subdivision and phasing plan be approved with the following condition:

- a. The applicant must return to the Planning Commission for approval of each successive Phase with regard to APF for schools and compliance with the Annual Growth Policy.***

Mr. Evans seconded. The motion passed by a 5-0 vote.

ALPD #08-150-002 – Vallandingham Farms MALPF

Ms. Donna Sasscer gave a brief overview of the project stating the landowner wants to submit an application to sell an easement to the Maryland Agricultural Land Preservation Foundation (MALPF).

Mr. Thompson made a motion, having made the finding that ALPD #08-150-002 property owned by Vallandingham Farms, LLC meets the Maryland Agricultural Land Preservation Foundation criteria, we recommend that the property be forwarded to the St. Mary's County Board of Commissioners for review and approval and Ms. Guazzo seconded. The motion passed by a 5-0 vote.

DISCUSSION

Capital Improvement Program

Ms. Elaine Kramer gave an overview of the difference between the FY 09 and FY 10 budgets.

Comprehensive Plan Update

Mr. Jackman gave an overview of the Department on the Environment's new stormwater regulations to help protect the Chesapeake Bay and Urban Waterways. Mr. Jackman stated staff will have the draft by the end of November for the introduction.

ADJOURNMENT

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

Jada Stuckert
Recording Secretary

Approved in open session: November 10, 2008

Stephen T. Reeves
Chairman