

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

Members present were Steven Reeves, Chair; Howard Thompson; Merl Evans; Shelby Guazzo; Brandon Hayden; Lawrence Chase; and Susan McNeill. Department of Land Use and Growth Management (LUGM) staff present were Denis Canavan, Director; Phil Shire, Deputy Director; Sabrina Hecht, Planner IV; Jeff Jackman, Senior Planner; Bob Bowles, Planner II; Suzie McCauley, TEC; and Jada Stuckert, Recording Secretary. Deputy County Attorney, Colin Keohan; Christy Chessner, County Attorney were also present.

The Chair called the meeting to order at 6:33 p.m.

APPROVAL OF THE MINUTES – The minutes of April 9, 2007 were approved as presented and the minutes of April 23, 2007 were tabled to the next meeting for recommended changes.

PUBLIC HEARING DECISION

1. PUD #06-145-03 – Glazed Pine PUD

Mr. Bowles read the staff report which recommended denial of the application. McNeil stated that we have received a letter from Mr. Norris and most of us have not really had a chance to review it. Ms. McNeil stated that she believes that this is a very complex issue and she does not feel prepared to vote tonight. Mr. Thompson stated that he also feels uncomfortable voting on this tonight and would like to take the time to take in and digest all the information provided.

John Norris stated that the letter is in response to the letter from Captain Ives, the Staff report's recommendation for denial, and it addresses the information in its totality. Ms. McNeil stated that she would like to have staff and/or the county attorney respond to this letter before the Commission makes its decision. Ms. Guazzo asked if we could have some specifics as to what to expect in the next two weeks from the applicant, staff, and the attorney. Ms. McNeil stated that she is expecting a response from staff.

Ms. McNeil stated that at the last meeting Mr. Canavan stated that he could site ten (10) instances where the application did not meet the zoning ordinance standards. McNeil stated that she has trouble finding ten (10) instances in the staff report. McNeil asked for more detail in the staff report. Mr. Canavan stated that he would be happy to answer any questions the Commission has on the staff report. Mr. Canavan stated that everything is listed out on paper; there is just a difference of opinion between staff and the applicant. Again Mr. Canavan stated that he would read aloud the instances listed in the staff report. Ms. McNeil stated that she would like to see this in written form. Mr. Canavan stated that on page 3 of 5 in the staff report there are no less than ten (10) if not eleven (11) sections citing instances where the application does not meet the standards of the ordinance.

Mr. Norris stated that there are several sections cited in the staff report that staff feels would require amendments if residential PUDs are to be allowed in the office business park such as section 32.1 and section 50.4 and so on. Mr. Norris stated that staff is saying that there are a numerous sections of the ordinance that should have been amended in 2003 to allow residential planned unit developments in the OBP. Mr. Norris stated that this is a PUD-X and not a PUD-R therefore a very narrow reading of 44.6 states that you can only have a PUD-R in the OBP and 44.14 stated that a PUD-X is a sum of its components. Mr. Norris stated that these issues have been discussed with staff.

Mr. Canavan stated that on page 4 of 5 half way down the page it states, " Although Section 44.6 includes OBP Section 11.2.5 reads conflict with other laws and regulations states where a conflict occurs between this ordinance and state statutes or another county ordinance or regulation the more restrictive provision shall control." Mr. Norris stated that the issue with this is that you

disregard section 44.6 which says you can have a residential PUB in the OBP. Mr. Reeves stated that Residential PUD's which means defining the PUD by type the applicant would have a type PUD-R. Mr. Norris stated that we have a PUD-X which by 44.14 is a PUD-R and a PUD-CP. Ms. McNeil asked if this is because of an overlay.

Ms. Guazzo stated that she has read very carefully the staff report and finds it very complete. Ms. Guazzo stated that PUD's are floating zones which are intended for consideration, "Will the neighbors and surrounding areas benefit from changing the under lying zoning or overlaying it with a floating zone?" Ms. Guazzo stated that in this case the request is for a PUD-X which is a combination of Residential and Commercial and she believes that in Item 2 Section 44.4.2 states, "Is the proposed development complying with the standards set forth in this section and will otherwise be compatible with the surrounding neighborhood." Ms. Guazzo stated that she believes that this application is not compatible with its neighbor. Ms. Guazzo stated that this application also fails because the under lying zoning for these parcels states that no residential density is allowed. Ms. Guazzo stated that she would be voting for a denial of the application.

Mr. Evans stated that we need to remember that this is not a PUD this is an application for a PUD, this is an application for rezoning to establish a special floating district and this is done contractually. Mr. Evans stated that this is a contractual obligation that the County Commissioners will enter in to with the applicant if the Planning Commission so recommends.

Mr. Evans stated that this application has been very well presented and it is a great design; however, it is in the wrong place. Mr. Evans stated that we have identified Glazed Pine in a developer and beyond that there is a larger issue to address. Mr. Evans stated that we have an entire area behind Glazed Pine which ultimately is 1,100 acres in the middle of the Development District. Mr. Evans stated that we have spent hundreds of hours in the past three years in debate over TDR's, APF, Growth Policies and one of the largest things we realized was that we had to do the best we could at driving development to development districts. Mr. Evans stated that development needs to happen in the Development District.

After further discussion application #06-145-03 was tabled to the next meeting.

DEVELOPMENT REVIEW

2. Concept Site Plan #06-132-17, FDR Colonial Square Office Building

Mr. Bowles read the staff report which recommended denial of the application. Ms. Guazzo stated that she sees the center line on the plat and she sees a 50 foot line to the edge of the right-of-way, and another line labeled future 50 foot setback from the FDR right-of-way. Ms. Guazzo asked what the implications of the right-of-way are. Mr. Bowles stated that if this were to go into affect as it is, the 50 foot setback is required because of the type of roadway. Mr. Bowles explained that no structures are allowed within the 50 foot setback. Mr. Bowles stated that as it sits right now, the building would be 20 feet from the right-of-way. Mr. Thompson asked if the building could be constructed at an alternate location. Mr. Bowles stated that a smaller building could be placed elsewhere on the property.

Mr. Reeves asked if the right-of-way was platted before the applicant started the process for this building. Mr. Bowles stated that this is correct. Mr. Thompson asked if this is the final version of the FDR coming through. Mr. Bowles stated that this is on the transportation plan. Peggy Lewis, St. Mary's County Department of Public Works and Transportation stated that the alignment shown is the platted FDR alignment which was adopted in 2005. Ms. Lewis stated that she does not feel the site can go forward as shown. Ms. Lewis stated that the 100 foot FDR Blvd. is just the centerline alignment; this does not show any grading or easements. Ms. Lewis stated that this will impact the building, parking lot, drainage, and grading. Ms. Lewis stated that Department of Public Works and Transportation fully support denial of this project and stated that it is just too close to the FDR.

Mr. Reeves stated that he wants to figure out when the applicant would have had first notice. Mr. Canavan stated that LUGM notified the previous owner of the property that it was in the right-of-way of FDR Blvd. Mr. Canavan stated that it is noted in the 2002 Comprehensive Plan, it is clearly shown in the November 2005 Lexington Park District Plan and also clearly noted the same alignment in the August 2006 Transportation Plan.

Ms. Lewis stated that there is another building near this building where we notified the owner of the alignment of FDR Blvd. and the owner improved the property which will end up costing St. Mary's County a great deal of money to acquire. Mr. Canavan stated that this was an existing residence; it was a non-conforming residential building. Mr. Canavan stated that as a non-conforming residential structure the owners could expand that structure. Mr. Canavan stated that the owners made use of the existing structure still non-conforming and expanded it.

Mr. Norris stated that this residential structure was permitted for approval in January 2006. Mr. Norris stated that in May 2006 the applicant was told that the structure could not be built because of FDR Blvd. Mr. Norris stated that if the Planning Commission is accepting the staff's position on this project every time the county wanted to build a new road it would be a taking of personal property. Mr. Norris cited three (3) court cases.

Mr. Norris stated that the applicant has met all the requirements of the ordinance, the only issue is that the property is inside the FDR Blvd. Mr. Norris stated that Ms. Lewis commented that this is the platted property yet there has not been a survey completed in order to lay out the road. Mr. Norris stated that until the road is laid out there can be no setback from a right-of-way that does not exist.

Mr. Reeves stated that this is something that the lawyers should be dealing with. Mr. Norris stated that the applicant has taken this to court already. Mr. Norris stated that we asked the court to declare that the County will either condemn it or let us move forward and build what we can build with the DMX in complying with the Zoning Ordinance. Ms. Guazzo stated that she cannot listen to this and take it all in, Mr. Norris would need to speak to the County Attorney. Ms. McNeil asked that Mr. Norris prepare a memorandum stating all the information that he just stated.

Rick Benefield quoted from Lexington Park development District Master Plan dated November 1, 2005 Section 3.11.8 "The 2000 plan was not adopted that included FDR Blvd. from Schangrolot to St. Andrews Church Road that encompasses my property. "We need to determine the status of FDR Blvd." Page 69 "The future of FDR Blvd. is a critical element in the planning of this area. A decision on the ultimate extent and configuration of this road needs to be made to allow this area to be planned appropriately. Section 3.12.4 "Questions by some concerning the desirability of completing the entire length of FDR Blvd. as proposed in the Lexington Park Transportation Plan." Mr. Benefield stated that he has three (3) pieces of documentation which show some mapping of the FDR Blvd. centerline and each of the mappings vary by 45 feet in one direction or another across my property. Mr. Benefield stated he disagrees how FDR. Blvd. is mapped and recorded.

After further discussion Ms. Guazzo made a motion to defer Concept Site Plan #06-132-17, FDR Colonial Square Office Building to the second meeting in June. The motion was seconded by Mr. Thompson and passed by a 7-0 vote.

3. Concept Site plan #06-132-28, Charlotte Hall Station

Mr. Bowles read the staff report which recommended approval of the application. Mr. Chase asked if the property was serviced by water and sewer. Jonathan Blasco stated that the property is serviced by water and sewer.

Mr. Basco stated that the shopping center would be located in Charlotte Hall. Mr. Blasco stated that rather than construct yet another long strip mall they have used the entire twelve (12) acres to separate the structures. Mr. Basco stated that there will be access from all sides of the building, there will be plenty of parking, and extensive plantings around the site will make everything as green as possible.

After further discussion Mr. Thompson made a motion in the matter of CCSP #06-132-28, Charlotte Hall Station, 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. The motion was seconded by Mr. Evans and passed by a 7-0 vote.

ANOUNCEMENTS

The Board of County Commissioners will hold their Public Hearing for the TDR Text Amendment on May 15, 2007 at 6:30 p.m. at the College of Southern Maryland, Bldg. A in Room 206.

ADJOURNMENT

The meeting was adjourned at 8:40 p.m.

Jada Stuckert
Recording Secretary

Approved in open session:

Stephen T. Reeves
Chairman