

Planning Board Minority Report on the Request for Homestead Preliminary and Final Approval

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Chris Walker, Board Member

On 6 December, the Planning Board considered a request for preliminary and final approval of the Homestead, now being called the Legacy. The Homestead received sketch design approval from the Board of Commissioners in March, 2004, although the Planning Board had rejected the proposal by a 7 to 3 vote. The majority of the Planning Board has now voted to recommend preliminary and final approval of this project and, in my opinion, has passed over potentially serious issues that should prevent any consideration of final approval at this point. Those issues are:

- ☐ Pending investigation by the Division of Water Quality (DWQ) of possible sediment violations
- ☐ An inadequate Environmental Impact Assessment
- ☐ An unclear situation regarding the "community area" that could possibly be in conflict with the Watershed Protection Ordinance

At the public input portion of the Planning Board meeting, Loyse Hurley presented a status report on citations issued by DWQ to developers who were in violation of sediment control rules. She was representing Allison Weakly, who had compiled the report, but was unable at the last minute to attend the meeting. In addition to reporting on citations already issued, she pointed out that the Homestead is to be investigated by DWQ in early January of 2006. Since Ms. Hurley did not compile the report, she could not elaborate on this. It is unfortunate that Ms. Weakly was unable to attend as she could have personally confirmed her communications with DWQ. It is also unfortunate that the temporary chairperson characterized the communications as "hearsay," as if this had been a judicial hearing. This was not a trial and the "rules of evidence" were not in force. In a subsequent conversation, Ms. Weakly assured me that Eric Culls of DWQ intended to visit the site as soon as possible because of complaints that had been received. I tried to reach Mr. Culls on 7 December to verify his intentions, but he was in the field and not available. Ms. Weakly is a respected citizen of the county and would not "allege" that a visit would take place. In any case, there was absolutely no reason to rush to final approval of a project if there was even the shadow of a doubt as to whether the project was being handled properly. The Planning Board has three meetings to consider this request and would have had the results of this investigation by the February, if not the January, meeting. Mark Ashness, representing the developer, pointed out that Joel Idle of DWQ, on an earlier visit, had not found the developer in violation; however, Mr. Culls is in a different section of DWQ and will investigate on a different basis. I hope to confirm Mr. Culls's intentions to the Commissioners before their meeting of 12 December. Handing an applicant final approval of a project when valid concerns are still on the table would be imprudent, to say the very least.

The developer provided an Environmental Impact Assessment that Planning Board members did not receive until 1 December and was not available to the public on the county Web site until 5 December. Both the timing and inadequacy of the assessment are reminiscent of the Buck Mountain application. If we are to believe this report, this 463-lot development will have no environmental impact at all. I think the assessment would suffer under a peer review, but the majority's recommendation that the Commissioners grant final approval to this project less than two weeks after the assessment was first made available guarantees no reasonable review of the assessment. The applicant does not have the "right" to approval simply because he has submitted an assessment; it is supposed to be incumbent upon Planning Board members and Commissioners to judge the adequacy of the report and to ask tough questions about its findings before considering final approval. That can hardly happen in less than two weeks. Following are two examples of weakness in the assessment:

Page 5-3—"In addition, the Site compromises only 628 acres out of approximately 437,000 acres in Chatham County. The County is largely forested, and the impacts to land use on the Site are insignificant in the context of the County as a whole."

In the first place, talking about the "context of the County as a whole" is irrelevant. Compromising 628 acres in a watershed that includes critical areas and is located on steep terrain next to a major drinking water supply is what is relevant. The issue is only avoided, not addressed, by trying to compare this site to 436,372 acres that have nothing to do with it. Secondly, even if this comparison were valid, this "largely forested" county is not static—it is rapidly becoming deforested as timber farms sell off to residential development, so the implicit argument that there are plenty of trees left simply is not true.

Page 5-8—"Immediately following completion of the project, noise levels will be similar to other residential areas. The preserved open space on the property will help reduce this noise to surrounding areas."

In fact, much of the open space is clear-cut timberland that is now to be called "meadows." Clear-cut open space does not reduce noise, it transmits it. Trees and vegetative buffers are what reduce noise. The thin buffer of trees between Big Woods Road and the now large expanses of open field that used to be forest will do little to mitigate the sounds of the increased traffic flow on Big Woods Road. Conclusions such as these cast doubt on the reliability of the assessment as a whole.

Finally, there are questions concerning the "community area," which is located in a watershed critical area. My understanding at the time of this writing is that the developer still does not have easement from the Army Corps of Engineers to access the designated community area from the adjoining Preserve Trail. Perhaps the Commissioners can verify this at their meeting. If that is the case, then, by the developer's latest map, there is no other access to that area. Final approval of a project should not be granted while there are still pending easement questions. In addition, what exactly are to be the activities in the community area? According to the Environmental Impact Assessment: "Herbicides and pesticides may be used by homeowners to maintain their landscaping; they may also be applied to landscaping in the open space areas, particularly on the

gold [sic] practice area." I am assuming "gold" is a typo for "golf" practice area, which I believe refers to a putting green located in the community area. A large practice putting green would be maintained in the same way that a full-sized golf course would be. Golf courses are not listed as a permitted use in critical areas, presumably in large part because of the chemicals used to preserve them. Unless the activities in, and the access to, this community area are clarified and found to be fully within the permitted uses inside a watershed critical area, final approval of the project should not be granted.

In summary, although the applicant has met many of the requirements for preliminary approval of the project, there are clearly open issues that it would be unwise to ignore by granting final approval at this time. Once final approval is granted, the county loses much of its oversight ability.