

Groups fight Chestertown development

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Say proposal 'makes a mockery of smart growth'

By PETER HECK

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CHESTERTOWN — The Chester River Association and the Queen Anne's Conservation Association have joined an ongoing fight against a proposed housing development. The Highlands development, on a 275-acre parcel between Round Top Road near Chester Harbor and Route 544, would create a minimum of 49 residential lots. Opponents say development in that area endangers both the river and a nearby conservation reserve, Grasslands Plantation. They also contend that it violates the county's comprehensive plan.

In support of that position, Grasslands Plantation has filed a suit in the Court of Appeals, Maryland's highest court, asking to have the case returned to Queen Anne's County planners for reconsideration. CRA and QACA have filed amicus briefs, joining Grasslands in opposition to the proposed development. The suit will be heard by the Court of Appeals later this year.

A joint press release by the two conservation groups says that The Highlands "could have a negative impact on the Chester River and the surrounding area."

Jay Falstad, director of com-

munications for QACA, added, "The project proposal does not comply with the comp plan and it makes a mockery of smart growth."

The Queen Anne's County planning commission approved a subdivision plan in April 2006. The approval has since been confirmed by the Queen Anne's board of appeals, and in Circuit Court and the Court of Special Appeals.

The development proposal was originally submitted by Home Farm Limited Partnership of Church Hill. A month after receiving approval from the planning commission, Home Farm sold the property to Frizz-King Enterprises of Marriotsville. The selling price was \$2,097,500. Principals of Frizz-King are Mark Frizzera and Karl King.

According to CRA and QACA, the entire development would be on well and septic, and is not within an established growth area. CRA and QACA also cite a January 2008 county law stating that "all development shall conform to the Comprehensive Plan." The law was passed while The Highlands' case was on appeal, but the plaintiffs argue that it was meant to apply to such cases.

Environmentalists took an interest because the plot on which The Highlands is projected adjoins Grasslands Plantation, a 5,400-acre tract mixing farmland with natural habitat in an effort to restore grasslands and bird species native to the Eastern Shore. Grasslands, which includes

Chino Farms, is owned by Henry Sears, and consists of parcels in both Kent and Queen Anne's counties.

Grasslands is protected by a perpetual conservation easement. It has a 3½-mile frontage on the Chester River, as well as a number of lakes and ponds. According to the Grasslands Web site, ornithologists have sighted or banded 238 species of birds there.

Grasslands expressed its opposition to the Highlands development as early as 2004, when it received notification that the subdivision was being considered by the planning commission. Chestertown attorney Philip Hoon, who represented Sears in his efforts to obtain conservation easements for Grasslands, has continued to represent him in the fight against The Highlands.

In a press release Hoon said, "The decision by the Court of Appeals has the potential to be an important benchmark for Maryland's efforts to accomplish real and effective measures to implement the intent and goals for 'Smart Growth' that have been espoused by elected officials for many years."

Hoon also noted that the ruling, while it concerned a Queen Anne's County case, would provide guidance to "the legal efficiency and enforceability of local comprehensive plans in connection with land use development proposals" throughout the state. Several zoning issues have arisen regarding the relative force of the com-

prehensive plan and other zoning regulations in Kent County.

In granting the appeal, the Court of Appeals noted that the case raises the issue, "What statutory enactment must be made by a local jurisdiction if it intends for its comprehensive plan to be elevated to a status of legal enforceability and 'the level of regulatory device?'"

Or, as Falstad said in a phone interview Monday, "It's a chance for the court to say that comprehensive plans mean something." Falstad, who is on the Queen Anne's County comprehensive plan committee, cited the Court of Appeals' March 2008 Terrapin Run decision as casting doubt on the efficacy of comp plans in directing growth.

In that decision, the court ruled in favor of a developer who planned a 4,300-home community in a rural part of Allegany County. In a split decision, the court rejected a citizens group's challenge to the county planning commission's approval of the project. The court also rejected an argument by the O'Malley administration that a 1992 state law on growth management applied in the case.

"Terrapin Run was such a disaster," Falstad said. "It seems to fly in the face of reasonable smart growth." He said that a clarification by the court has the potential to be "a landmark."

Representatives of Frizz-King and The Highlands could not be reached for comment at press time.