TITLE: Casey PUD DRRA

FILE NUMBER: DRRA 13-01

REQUEST: Finding of Consistency
Review of the Development Rights and Responsibilities Agreement (DRRA) for the Casey PUD project to make a finding if the proposed agreement is consistent with the County Comprehensive Plan.

PROJECT INFORMATION:
LOCATION: West side of MD 75
ZONING: Agricultural
REGION: New Market
WATER/SEWER: Planned Service (PS)
COMP. PLAN/LAND USE: Low Density Residential and Natural Resource

APPLICANT/REPRESENTATIVES:
APPLICANT: Casey Foundation
OWNER:
ENGINEER:
ATTORNEY: Bob Dalrymple

STAFF: Jim Gugel, Planning Director

RECOMMENDATION: Staff recommends that the Frederick County Planning Commission find that the location, character, and extent of the proposed Development Rights and Responsibilities Agreement for the Casey PUD project are consistent with the County Comprehensive Plan.

ATTACHMENTS:
1. Draft Development Rights and Responsibilities Agreement
2. Draft Letter of Understanding (LOU)
STAFF REPORT

ISSUE
The Planning Commission role in the review of the Development Rights and Responsibilities Agreement (DRRA) for the Casey PUD project is to determine whether the proposed DRRA is consistent with the County Comprehensive Plan.

BACKGROUND
The petition was submitted on June 27, 2013 and includes the draft DRRA and exhibits. This property has a concurrent review for a PUD rezoning application and will be including the APFO component with the DRRA.

Figure 1 shows the Casey PUD Property (634 acres) that would be subject to the DRRA.

The property is currently zoned Agricultural (A) and is designated Low Density Residential and Natural Resource on the Comprehensive Plan. It is located in the Linganore community growth area. The request for PUD zoning, Case # R-13-03, proposes a concept plan with a total of 1,017 dwellings with a mix of single-family and townhouses.

SUMMARY OF DRAFT DRRA
The Applicant is proposing that the DRRA be in effect for a period of 20 years. Described below is a summary of the rights and the responsibilities applicable to this development. The attached draft DRRA and accompanying exhibits include the specific development approvals and conditions of approval, including the timing of construction, payments, and/or dedication of certain public infrastructure with respect to the development timing.

Development Rights
- Maintain the Planned Unit Development (PUD) zoning with a maximum of 1,017 dwelling units.
- Maintain or obtain other approvals based on current regulations or, if applicable, the regulations in effect when the approvals were granted.
- Receive APFO approval for the PUD concurrent with the DRRA approval.
- Proceed with project build out for the various phases as outlined in the DRRA.
- Freeze current County development regulations for the duration of the DRRA.
- Maintain the terms of the DRRA for a period of 20 years.

Development Responsibilities
This is a summary of the major conditions of approval. The attached draft LOU provides additional details on other conditions and the timing of approvals for the development.
- Construct or pay for/guarantee water and sewer improvements including a sewer interceptor line, improvements to a sewer pump station, water distribution line, and a water storage tank, as detailed in the LOU.
- Pay the APFO school construction fees (based on failure at the elementary and high school levels) as detailed in the LOU.
- Remit the payment in lieu fees under the Moderately Priced Dwelling Unit regulations.
- Pay all normal and customary development review fees and impact fees.
- Dedicate a +/- 20 acre elementary school site.
- Dedicate +/- 20 acres of parkland (subject to approval by the County).
- Pay into five (5) escrow accounts totaling approximately $55,050 for various road improvement projects on MD 75 and Old National Pike.
- Road improvements that will be required at various stages of development.
FINDING OF CONSISTENCY REVIEW

State Code and Guidelines
The Land Use Article of the Annotated Code of Maryland provides general requirements with regards to a finding of consistency with a comprehensive plan. Section 1-303 Consistency – General requirement of the Land Use Article further defines consistency with a comprehensive plan to mean “an action taken that will further, and not be contrary to the following items in the plan:

1) Policies;
2) Timing of the implementation of the plan;
3) Timing of development;
4) Timing of rezoning;
5) Development patterns;
6) Land uses; and
7) Densities or intensities

The Maryland Department of Planning in its Models and Guidelines document titled: ‘Achieving Consistency under the Planning Act’ also provides guidance on determining consistency with a comprehensive plan. It states:

“...land use regulations and decisions should agree with, and implement what the Plan recommends and advocates. A consistent regulation or decision may show clear support for the Plan. It may also be neutral – but it should never undermine the Plan.”

Findings of Consistency with the Comprehensive Plan
- The Casey PUD project is designated Low Density Residential on the County Comprehensive Plan and is located within the Linganore community growth area.
- The proposed PUD zoning with 1,017 dwellings at a gross density of 1.6 dwellings/acre is actually below the 3-6 dwellings/acre range for the Low Density Residential land use plan designation.
- An elementary school site and a possible county park site are proposed to be dedicated to the county. These facilities are identified on the County Comprehensive Plan.
- The timing of the development relative to providing necessary water/sewer infrastructure will be governed by the approved LOU.

STAFF RECOMMENDATION
Staff recommends that the Frederick County Planning Commission find:
That the location, character, and extent of the proposed Development Rights and Responsibilities Agreement for the Casey PUD project is consistent with the Frederick County Comprehensive Plan.

PLANNING COMMISSION ACTION

MOTION TO FIND CONSISTENT
I move to find that the that the location, character, and extent of the proposed Development Rights and Responsibilities Agreement (DRRA 13-01) for the Casey PUD project is consistent with the Frederick County Comprehensive Plan.

MOTION TO FIND INCONSISTENT
I move to find that the that the location, character, and extent of the proposed Development Rights and Responsibilities Agreement (DRRA 13-01) for the Casey PUD project is not consistent with the Frederick County Comprehensive Plan.

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June 18, 2014
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