

DORCHESTER COUNTY PLANNING COMMISSION

MINUTES – February 1, 2017

The Dorchester County Planning Commission held their regular meeting on February 1, 2017 at 12:00 pm in the County Office Building, Room 110 in Cambridge MD. Members present were: Robert Hanson, Chair, Laura Layton, Bill Giese, Ralph Lewis, Jeffrey King and Mary Losty. Also present were Steve Dodd, Director, Rodney Banks, Deputy Director, Brian Soper Critical Area Planner and Christopher Drummond, Attorney.

Mr. Hanson called the meeting to order at 12:00 p.m.

Mr. Hanson asked for a motion to approve the minutes of January 4, 2017. Mr. Lewis made a motion to approve the minutes and Mrs. Layton seconded. The motion unanimously carried.

OLD BUSINESS

A. None

NEW BUSINESS

A. Critical Area Administrative Variance Case #AV-28, Gregory Peters, owner – 3618 Fox Run Road, East New Market, Maryland 21631. Requesting an administrative variance to construct a new accessory structure within the Chesapeake Bay Critical Area Expanded Buffer.

Gregory Peters and any other person who would be testifying in this case, were sworn in.

Brian Soper reviewed the case. Property is 4.46 acres, zoning is RR (Rural Residential) and the Critical Area overlay is LDA (Limited Development Area). The new accessory structure will be 24 x 30 sq. ft. in the expanded buffer. Applicant will be removing an existing 9 x 18 sq. ft. accessory structure. The new structure will not be located any further shoreward than the closest point of the existing primary structure. The new accessory structure will not exceed more than 30% of the footprint of the primary structure as it existed on March 8, 2010 (when the expanded buffer was adopted). Proposed development will increase lot coverage to 3,922 sq. ft. or 2%. Allowable lot coverage is 29,141 sq. ft. Critical Area received a copy of the application, and in a letter dated January 25, 2017, Julie Roberts stated that the Commission does not oppose the request, provided 1,998 sq. ft. of mitigation is performed. A buffer management plan will be required at the time of permit application.

Mr. Hanson asked for a motion to send a favorable recommendation to the Director with the understanding that a buffer management plan is provided at the time of permit application. Mr. Lewis made the motion and Mr. Giese seconded. The motion unanimously carried.

B. Critical Area Administrative Variance Case #AV-29, David and Stephen Van Scott, owners – 1707 Perseus Rd, Church Creek, Maryland 21622. Requesting an administrative variance to construct a new single family dwelling to replace the existing dwelling partially within the Chesapeake Bay Critical Area 100' Buffer.

Steve Whitten, Fink, Whitten & Associates and any other person who would be testifying in this case, were sworn in.

Mr. Soper presented the request. Property is 292,156 sq. ft., zoning is RC, Resource Conservation and the Critical Area overlay is RCA, Resource Conservation Area. Lot was developed prior to Critical Area Law. The replacement structure will not encroach any closer than the existing 29.7 ft. Proposed development will decrease lot coverage to 13,942 sq. ft. The allowed lot coverage is 43,777 sq. ft.

Julie Roberts, Critical Area staff stated in a letter dated January 25, 2017 that the Commission has no objection to the request. The owners will be required to mitigate 5,767 sq. ft.

A buffer management plan will be required at the time of permit application.

Mr. Whitten reviewed the site plan, noting the new house, driveway, septic drain field and accessory structure that will be moved from the buffer. Mr. Dodd noted that the new house will not be in the floodplain.

Mr. Hanson asked for a motion to send a favorable recommendation to the Director with the understanding that a buffer management plan must be provided at the time of permit application. Mr. Giese made the motion and Ms. Losty seconded. The motion unanimously carried.

C. P&Z #1317 - Shared Driveway Request – Coastal Seafood, Inc. For property identified on Tax Map 50, Grid 12, Parcel 23, and Tax Map 50, Grid 18, Parcel 196.

Rob Hughes, Surveyor, Aubrey Vincent, Applicant, and any other person who would be testifying in this case, were sworn in.

Mr. Dodd reviewed the request for Lindy's Seafood, Woolford, MD. The request is to revise the boundary lines between the two properties. One parcel contains the business and a dwelling and the second parcel contains a dwelling. Mr. Dodd advised that the Shared Driveway Request is before the Planning Commission today for approval. The lot line revision does not require Planning Commission approval. This revision would make the business parcel larger than the second parcel. There is a shared driveway for the two parcels that pre-dates the zoning. Mr. Dodd advised that approval of the shared driveway will require a maintenance agreement. He noted that should the one parcel ever be sold, the business lot would retain the right to use the shared driveway. Mr. Dodd also advised that these properties are on a State road and the State had no concerns with the request. Ultimately the

owners will be coming back to the Planning Commission with a site plan to expand the office and make some other modifications.

Mr. Hanson asked for a motion to approve the Shared Driveway request with the stipulation that a Maintenance Agreement be provided. Mr. Giese made the motion and Mr. Lewis seconded. The motion unanimously carried.

D. Board of Appeals Cases – Review and recommendation.

**Case # 2601- Mark & Melinda Lowe - Owner
Robert S. Collison, P.A. - Applicant**

To request a variance for a 25 foot variance from the 35 foot front yard setback requirement to allow an accessory structure to be located 10 foot from the property line abutting a private road. Property is located at 5302 Bucktown Road, Cambridge, MD 21613. Zoned SR- Suburban Residential.

Based on the information provided, the Planning Commission would like the Board of Appeals to consider any hardship; also insure that the property owner in back of this property has been notified and consider any comments they may have.

**Case # 2600- One Energy Sunnee Bee Solar, LLC (CONTINUED)
Ryan Showalter Esq., Applicant**

INFORMATION

Mr. Dodd gave a brief overview of the Sunnee Bee solar project that was heard at the January Board of Appeals meeting. Mr. Dodd stated that he believes the Board will make a decision at their February meeting. Mr. Hanson advised that he and Mr. Giese had attended the Linkwood public meeting about the Sunnee Bee project. He stated that all present were invited to voice their concerns about the project. Mr. Dodd advised that One Energy has documented the changes made based on citizen concerns and submitted them to the Board of Appeals.

Mr. Lewis asked Mr. Dodd if he thought whoever wins or loses would appeal to the Court. Mr. Dodd stated that they are prepared for this to occur. Mr. Drummond noted that if the applicant losses, it is possible they will say that local zoning is pre-empted and will take their application to the Public Service Commission for a ruling. He noted that the Public Service Commission would have to give due consideration for the Board of Appeals ruling. Mr. Drummond also pointed out that if a CPCN is granted by the Public Service Commission and the applicant returns to the local jurisdiction for a permit to build, the question becomes how can a permit be granted when the county did not consider the project legal according to zoning or building code requirements.

Mr. Drummond also noted that the Public Service Commission has decided that the local Forest Conservation Act does not apply but the State Forest Conservation Act does apply. Mr. Drummond stated that his understanding is that the Public Service Commission requires the counties to decide if the State Forest Conservation Plan has been complied with. Mr. Giese asked

about the differences between the two. Mr. Drummond stated that requirements differ from county to county, however most counties tend to follow State law.

Mr. Dodd advised that he has been told that it is the intention of the County Council to fund a Comprehensive Plan update next year. The Council has asked for an estimate of cost to include comprehensive rezoning and rewrites to the zoning and subdivision codes. Mr. Banks is working on obtaining costs from other counties.

Mr. Drummond spoke about a possible referendum in Maryland concerning the use of recreational marijuana. He spoke about Queen Anne's County and the lawsuit brought against them. Mr. Dodd advised that several years ago Dorchester County had looked at this issue and the opinion at that time was, there is nothing in the Code that regulates marijuana as a medical, agricultural or retail use, and the County must permit it. Mr. Drummond noted that it can't be zoned out, but it can be regulated. He advised that Anne Arundel and Baltimore Counties have amended the zoning codes to regulate where they can go, creating setbacks from churches and schools. They have also limited use to certain zoning districts. Mr. Hanson asked Mr. Dodd to work with Mr. Drummond to draft a memo to the County Council to advise them of this issue.

With no further business, Mr. Giese made a motion to adjourn and Ms. Losty seconded. The motion unanimously carried. The meeting was adjourned at 12:52 pm.

Respectfully submitted,

A handwritten signature in black ink, appearing to be "John Giese", written in a cursive style.